

**BELLE PLAINE CITY COUNCIL  
REGULAR SESSION  
SEPTEMBER 17, 2007**

**1. PLEDGE OF ALLEGIANCE.**

Mayor Meger led those present in the Pledge of Allegiance.

**2. CALL TO ORDER. 1.1. Roll Call.**

The Belle Plaine City Council met in Regular Session on Monday, September 17, 2007 at 6:00 p.m. at the Government Center, 218 North Meridian Street, Belle Plaine, MN. Mayor Tom Meger called the meeting to order with Councilmembers Tim Lies, Dawn Underferth, Tim O'Laughlin, Jim Lange and Peter Anderly present.

Also present were City Administrator David Murphy, Community Development Director Trisha Rosenfeld, Public Works Superintendent Al Fahey, Finance Director Dawn Meyer, City Engineer Joe Duncan and City Attorney Bob Vose.

**3. APPROVAL OF AGENDA.**

Mayor Meger requested that his variance request for 121 East Church Street be removed from the agenda.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to approve the agenda with the removal of the variance request by applicant Tom Meger. ALL VOTED AYE. MOTION CARRIED.

**4. APPROVAL OF CONSENT AGENDA.**

- 4.1. Regular Session Minutes of September 4, 2007.**
- 4.2. Resolution 07-108 Appointing Members to the Design Committee.**
- 4.3. Authorizing Staff to Proceed with Internal Posting for the Assistant Public Works Superintendent Position.**
- 4.4. Authorize the Mayor and City Administrator to Execute Agreement with Foline Auto.**
- 4.5. Calling for a Public Hearing to Vacate the 600 Block of East Park Street.**
- 4.6. Resolution 07-107 Requesting the Commissioner of Transportation to Perform Speed Study on West Commerce Drive.**

MOTION by Councilmember Underferth, second by Councilmember Anderly, to approve the consent agenda as follows: 4.1. Regular Session Minutes of September 4, 2007, 4.2. Resolution 07-108 Appointing Members to the Design Committee, 4.3. Authorizing Staff to Proceed with Internal Posting for the Assistant Public Works Superintendent Position, 4.4. Authorize the Mayor and City Administrator to Execute Agreement with Foline Auto, 4.5. Calling for a Public Hearing to Vacate the 600 Block of East Park Street and 4.6. Resolution 07-107 Requesting the Commissioner of Transportation to Perform Speed Study on West Commerce Drive. ALL VOTED AYE. MOTION CARRIED.

**5. REPORTS.**

**5.1. Ambulance Department.**

The Council acknowledged receipt of the Ambulance Department report as prepared by City Administrator David Murphy.

**5.2. Police Department.**

Police Chief Steve Rost was present. The Council acknowledged receipt of the Police Department report.

### **5.3. Community Development Department.**

Community Development Director Trisha Rosenfeld was present. The Council acknowledged receipt of the Community Development Department report.

### **5.4. Building Inspection Department.**

Building Official Scott McCarty was present. The Council acknowledged receipt of the Building Inspection Department report.

### **5.5. City Administration Report.**

City Administrator David Murphy was present. The Council acknowledged receipt of the City Administration report.

## **6. VISITOR'S REQUEST.**

### **1. Laurie Mueller, 127 South Cedar Street, Fire Bill Appeal.**

Mayor Meger welcomed Ms. Laurie Mueller.

Ms. Mueller received a fire bill from the City in the amount of \$1232.00 and requested her fire bill be reduced to \$500, the maximum amount her insurance will cover.

No action taken by the Council and the bill remains as is.

### **2. Dan Cole, 929 Deer Creek Parkway, Fire Bill Appeal.**

Mayor Meger welcomed Dan Cole.

Mr. Cole asked for a reduction of his fire bill of \$1,176.00. He disputed the number of firefighters and the length of time on scene by the firefighters. Mr. Cole distributed a letter to the Council stating the purpose of his dispute. He also asked for reformation of the policies of the Belle Plaine Fire Department concerning the number of firefighters responding to an emergency call and that a system of checks and balances be implemented.

There was no Council action on the reduction of Mr. Cole's fire bill. The Council directed staff to respond to Mr. Cole's inquiries.

### **3. Ken Schwichtenberg, 517 Henry Circle, Road Safety.**

Mayor Meger welcomed Mr. Ken Schwichtenberg.

Mr. Schwichtenberg expressed concern for the speed limit of 45 mph along Kittson/Hickory and asked for speed reduction and also a barrier along the thoroughfare to protect the rear yards of the homeowners. Mr. Schwichtenberg also read a letter from Jessica Dominy, 513 Henry Circle, who expressed similar concerns.

It was the consensus of the Council to direct this issue to the Public Safety Committee for further review. The results of that meeting are to be forwarded to Mr. Schwichtenberg.

## **7. PUBLIC HEARINGS.**

The request by Tom Meger, 520 West Main Street, Belle Plaine, MN, for a variance from Section 1104.03 Subd. 4 to allow the front entrance of a proposed 4-plex building to face the side yard at 121 East Church Street, in the B-3, Central Business District, was withdrawn.

## **8. BUSINESS.**

### **8.1. Presentation of Claims. 1. Pay Request No. 15 for \$311,000.00 by ABE Construction for the Water Treatment Facility.**

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to approve Presentation of Claims and Pay Request No. 15 for \$311,000.00 by ABE Construction for the Water Treatment Facility. ALL VOTED AYE. MOTION CARRIED.

### **8.2. Resolution 07-109 Awarding the Sale of \$2,860,000 G.O. Improvement and Utility Revenue Bonds, Series 2007A for the 2007 Street Improvement Project.**

Mayor Meger referenced a memo dated September 17, 2007 from Finance Director Meyer regarding the awarding the sale of bonds. Finance Director Meyer explained that on September 4, 2007, the City Council authorized the calling for the sale of G.O. Improvement and Utility Revenue Bonds for the purpose of financing the 2007 Street Improvement Project and the North Sanitary Sewer Interceptor Project. The City proceeded with a bond rating from Standard & Poor, the conference call was held earlier today.

Mr. Todd Hagen, Ehlers and Associate, announced the City's bond rating increased from "A-" to "A" and presented Mayor Meger with a certificate. Mayor Meger then presented the certificate to Finance Director Meyer and acknowledged her fine work in obtaining the favorable bond rating. Mayor Meger also thanked the Council and staff for their diligence in the City's financial matters. Mr. Hagen then provided a summary of the bid sale, with a recommendation that the bond sale be awarded to UBS Investment Bank.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to approve Resolution 07-109 Awarding the Sale of \$2,860,000 G.O. Improvement and Utility Revenue Bonds, Series 2007A for the 2007 Street Improvement Project. ALL VOTED AYE. MOTION CARRIED.

The Council recessed at 6:40 p.m. and reconvened at 6:47 p.m.

### **8.3. Resolution 07-102 Granting Approval of a Site Plan for The Lutheran Home Association at 611 West Main Street.**

Mayor Meger referenced a memo dated September 17, 2007 from Community Development Director Rosenfeld regarding the site plan for The Lutheran Home Association.

Jim Selvy and Rick Krant of The Lutheran Home Association were present.

Community Development Director Rosenfeld explained that the proposed use for the kitchen addition will consist of expanded kitchen facilities, laundry, offices and storage. The addition will be approximately 5,290 square feet. The size of the parcel is approximately 8.8 acres and all setbacks will be maintained. The property conforms to the requirements set forth in Chapter 11 of the Belle Plaine City Code for Section 1103.07 Site Plan Review, the requirements set forth in Chapter 11 of the Belle Plaine City Code for Section 1105.08 R-7 Mixed Housing District and the Section 1105.15 PUD Overlay District. The Planning Commission recommend approval of the site plan with the contingencies listed in the proposed resolution.

Councilmember Lange inquired about a loss of parking spaces. Mr. Krant explained that there will be a loss of three parking spaces, however, the decrease in the number of patient rooms decreases the

amount of required parking spaces as well. City Attorney Vose clarified the language in the proposed resolution pertaining to the City Engineer's comments.

MOTION by Councilmember Lange, second by Councilmember Anderly, to approve Resolution 07-102 Granting Approval of a Site Plan for The Lutheran Home Association at 611 West Main Street, with clarification of language regarding the City Engineer's letter dated September 10, 2007. ALL VOTED AYE. MOTION CARRIED.

#### **8.4. Minor Subdivision for Roger Stier at 951 South Meridian Street.**

Mayor Meger referenced a memo dated September 17, 2007 from Community Development Director Rosenfeld regarding a request for a minor subdivision.

Community Development Director Rosenfeld explained that Roger Stier has requested a minor subdivision to split off is .5 acres of a 2.5 acre parcel located at 951 South Meridian Street. The site consists of a single-family home with family farm site and trucking operation on the adjacent parcels. Upon review with legal counsel and the applicant, staff is recommending Council to table action on this minor subdivision request. The existing single-family home on the parcel is a legal non-conforming use. It will continue as a legal non-conforming use. The current zoning, B-2: Highway Commercial, does not allow for single-family residential use. The guided zoning of this parcel in the Comprehensive Plan is for Medium-High Density Residential. This zoning designation also does not allow for single-family residential use. Upon subdividing land, the use shall be compliant with the existing zoning regulations. As noted previously, with the current and guided zoning designations on this parcel, the strict interpretation of the City Code would not allow for a single-family use on this parcel. Staff has had conversation with the applicant, and at this time, the applicant concurs with staff for Council to table action on this request in order to further explore alternate solutions.

MOTION by Councilmember Lies, second by Councilmember Underferth, to table action on the request by Roger Stier for a minor subdivision at 951 South Meridian Street to allow time for further review by staff. ALL VOTED AYE. MOTION CARRIED.

#### **8.5. Resolution 07-104 Declaring Intent to Cooperate with MnDOT and Scott County for the Concept of a TH169 Roadway Exit at County Road 5/Laredo Street.**

Mayor Meger referenced a memo dated September 17, 2007 from City Administrator Murphy regarding a roadway exit at Laredo Street.

City Administrator Murphy explained that Randy Kubes, owner of BP Commons, has approached staff and Council members stating that County Commissioners would pursue a right-off at Laredo Street if it meets with City approval. This resolution states that Highway 169 and Laredo Street (CSAH 5) are not in the City's jurisdiction, but if the County and State wish to pursue a right-off at Laredo Street, the City concurs.

MOTION by Councilmember Anderly, second by Councilmember Lies, to approve Resolution 07-104 Declaring Intent to Cooperate with MnDOT and Scott County for the Concept of a TH169 Roadway Exit at County Road 5/Laredo Street. ALL VOTED AYE. MOTION CARRIED.

#### **8.6. Resolution 07-106 Award Bid for the 2007 East Main Sidewalk/Trail Improvement Project.**

Mayor Meger referenced a memo dated September 17, 2007 from City Administrator Murphy regarding the bid for the 2007 East Main Sidewalk/Trail Improvement Project.

City Administrator Murphy explained that the bid opening for the 2007 East Main Sidewalk/Trail Improvement Project was held earlier today. The bids were calculated and presented to the Council. The portion of the proposed improvement from Old Highway 169 to Ash Street is listed as a trail under

the City's Comprehensive Plan. Trails are City cost and would be a spend down of the general fund. The portion to the West of Ash Street is listed as sidewalk under the comprehensive plan and would be assessable to the property owners.

The Council and staff discussed the bids. City Engineer Duncan explained that the bids came in over the engineer's estimate. This was attributed to the lateness in the construction season. City Engineer noted it was a difficult decision to determine whether the City should reject all bids and re-bid this project in the spring. Public Works Superintendent Fahey commented that the trail portion is a matter of public safety and recommended that the portion of Old Highway 169 Blvd to Ash Street be installed. The Council concurred, and determined that the sidewalk portion from Ash Street to Elm Street be removed from this project. It was proposed that this portion be added back into the 2008 Street Improvement Project.

MOTION by Councilmember O'Laughlin, second by Councilmember Anderly, to approve Resolution 07-106 Award Bid for the 2007 East Main Sidewalk/Trail Improvement Project to the low bid of \$57,200.34 by O'Malley Construction, LeCenter, MN, allowing the City to exercise paragraph 4.b., Section 004100 of the bid documents and eliminate the concrete walk and associated construction items west of Ash Street. The resulting schedule of unit prices produces a project bid of \$44,285.37. ALL VOTED AYE. MOTION CARRIED.

#### **8.7. Calling for a Public Hearing for a Proposed Ordinance Amendment to Allow Light Industrial as a Conditional Use in the B-3, Central Business District.**

Mayor Meger referenced a memo dated September 17, 2007 from Community Development Director Rosenfeld regarding conditional uses in the B-3, Central Business District.

Community Development Director Rosenfeld explained that it is important to have a viable, occupied and thriving downtown in Belle Plaine. With the upcoming commercial development on the highway, as well as the existing vacant buildings in the downtown, staff would like to see the following conditional use allowed. Staff is recommending adding the following language to Chapter 11, Section 1105.11, B-3: Central Business District as a Conditional Use: Subd. 4, (9) Other uses determined by the Planning Commission and City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and to the general public health, safety, and welfare.

MOTION by Councilmember Lange, second by Councilmember Lies, to direct staff to proceed with a public hearing for proposed amendment regarding conditional uses in the B-3, Central Business District. ALL VOTED AYE. MOTION CARRIED.

#### **8.8. Freedom to Breathe Act.**

Mayor Meger referenced a memo dated September 17, 2007 from City Administrator Murphy regarding the Freedom to Breathe Act.

City Administrator Murphy explained that the Freedom to Breathe Act goes into effect October 1, 2007. The law expands the Minnesota Clean Indoor Air Act to prohibit indoor smoking in all workplaces that employ two or more people, or serve the general public. Bars, restaurants and "any other food or liquor establishment" are explicitly listed as places where smoking is forbidden. As a result of this act, we may receive requests from bars to install outdoor patios for their customers. The City has two basic options, which are: 1) Not allow alcohol to be served and/or consumed on the patio (smoking only patio) – current conditions, or 2) change liquor ordinance to allow alcohol to be served and/or consumed on the patio. If a City wishes to allow alcohol to be consumed/served on an outdoor patio, Minnesota Rule 7515.0430 requires the license holder to obtain an amendment to their on-sale liquor license from the City. Staff is looking for direction from the Council whether or not to allow any type of alcohol consumption outside of the liquor establishment.

The Council and staff discussed this issue. Councilmember Underferth recommended that staff research other cities, such as Bloomington, that have already implemented ordinances pertaining to the Freedom to Breathe Act. Mayor Meger noted that some liquor establishments do not have available property for outdoor smoking. City Attorney Vose explained that bar owners may ask cities to consider an ordinance to allow liquor consumption on outdoor premises. It was the consensus to have the Public Safety Committee review this issue.

## **9. ADMINISTRATION.**

### **9.1. Upcoming Meetings.**

- 1. Public Works Committee, 9:30 a.m., Friday, September 21.**
- 2. Park Board, 5:30 p.m., Monday, September 24.**
- 3. City Council, 6:00 p.m., Monday, October 1.**
- 4. Planning Commission, 6:00 p.m. Wednesday, October 3.**

The Council was reminded of the upcoming meetings as listed. Mayor Meger reminded the Council of the upcoming Ambulance Research Committee meeting regarding proposals for ambulance management services. In reference the Mr. Schwichtenberg's request earlier in the evening, City Engineer Duncan noted that the Hickory/Kittson Boulevard is under the jurisdiction of Scott County. The City would need to ask Scott County to proceed with a speed study.

## **10. ADJOURN.**

MOTION by Councilmember Underferth, second by Councilmember Lies, to adjourn at 7:42 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings  
Recording Secretary