

The Battle Lake City Council met in regular session on Tuesday, January 10, 2017 at 7:00 p.m. at the Battle Lake City Hall. Mayor, Gene Kelm called the meeting to order at 7:00 p.m. with Council members Ryan Christensen, Don Maslow, John A. Salvevold and Marjorie Quammen present. Also present were City Attorney, JJ Cline; Clerk/Treasurer, Val Martin; Police Chief, Kent Kortlever; Public Works Superintendent, Steve Seufert; and Rescue Captain, Nic Drusch. Additional visitors were also in attendance.

The Pledge of Allegiance was recited. Christensen moved to approve the agenda with additions. Quammen seconded. MCU

Visitors:

John T. Everts was in attendance to discuss his variance request for his property located at 402 Lake Ave. N. The hearing was held on 11/14/2016 and the request was tabled, per his request, until this meeting with an extension of the 60 day rule sent to Mr. Everts. During the hearing, no public comment was noted. The request is as follows: *To reduce the set-back on the south side of the property, located on East Dunton Street, from 30 feet to 14 feet. "The variance request criteria on this property are a reasonable use considering the buildable size limitations of a pre-ordinance corner lot of record. Though we have two lots (100'), the unique circumstance of the corner lot is the fact that the City lot sizes were determined and platted prior to the subsequent enactment of City zoning and land use controls. Specifically, the current code does not permit structure setbacks closer than thirty feet from a road right-of-way, twenty feet from alleys and ten feet from lot side yards. Therefore this pre-ordinance corner lot of record (50' x 134') with two streets and one alley adjoining becomes sub-standard because of the strict interpretation of the code greatly restricts the building area, in this case only an area of 10' x 94', or 940 square feet, which is only 14% of the lot area. The requested variance for the proposed home addition, if granted, would not be contrary to the intended residential character of the City; the addition would be architecturally harmonious with the existing structure; would not set a negative precedent for future concerns; would not interfere with snow removal; sight lines or other safety concerns. Since many other pre-ordinance structures in the City are not in strict compliance with the setback guidelines, a variance would allow us the same rights and privileges enjoyed by others in the locale without negative impact."*

Evert's
Variance

Everts presented his application and comments related to this type of request again as some members of the council were not in attendance when last discussed:

- The council should consider forming a committee to discuss issues with older homes as a number of them are located on small lots with little area to expand. As older residents sell their homes and the need for remodeling happens, it may be difficult to sell these homes with the current set-backs.
- Newer plats would not have the same issues as the lots are larger and in compliance with the current zoning code.
- He noted his concern for changing the addition to the east side of the building. It does not make sense with the current layout of the house.

Attorney Cline informed the council that each case for variance is individual and needs to be dealt with on a case-by-case basis. It does not set precedence for future requests.

Staff report was reviewed:

1. **Is the request reasonable?** Yes, as John stated in his application, due to the limitations of buildable area on the property, and the small size of the addition, the request is reasonable and can be justified.
2. **Unique Circumstances** - the difficulty for the expansion of property is the right-of-way on 3 sides of the property, 2 streets and an alley limiting the buildable area of the property.
3. **Essential Character** – Many of the buildings in this area are from the same era and as you view the location of each building, you can see a number of them are much closer to the property line than the current set-backs require.

4. **Is the request in harmony with the ordinance and the Comprehensive Plan?** *The request does not interfere with the intent of the zoning ordinance or the Comprehensive Plan.*
5. **Will the variance request have an adverse impact on government services?** *The request would not impact services as the addition would be set back far enough to not impact traffic visibility, snow removal or storm water.*
6. **Is the request based upon economic consideration?** *This does not appear to be a consideration.*
7. **Does the sewage system need upgrading?** *NA*

The proposed project falls within the statutory requirements of a variance and I do not see any issues in consideration for granting the variance. I do not see a need to put conditions on the request.

Martin stated there was a disagreement between the planning commission members on the Finding of Fact when they received them at their meeting. Specifically "Is the request in harmony with the ordinance and Comprehensive Plan." As they went through the Findings of Fact, 3 of the 7 disagreed that the request meets this requirement. The Planning Commission did vote to recommend that the council approve the variance but the vote was 4 to 3. Those voting against felt the owner had sufficient room on the east side of the property to complete their addition.

Evert's
Variance

Christensen moved to approve the variance. Quammen seconded. Maslow opposed. Motion carried.

Jeff Johnson from Battle Lake Oasis was present to discuss their request for a variance which was tabled from the December 13, 2016 council meeting due to weather issues from the Planning Commission meeting in December. The property is located at 114 Memory Lane. *The request is to consider a variance from the allowable impervious surface. After installation of parking lot, impervious calculation came in at 41.45%. This is 811 square feet over the allowable 22,292 square feet. A higher berm was installed on the east end of the property, along with a small stormwater area in the northeast section of the property to keep water on the property.* The public hearing was held during the December 13th council meeting. Dana Lynch and Cody Nelson, property owners next to the Battle Lake Oasis were in attendance at the public hearing to get more information. Martin said that she is planning to make a recommendation to the Planning Commission that they put a condition on their variance recommendation, after discussing the situation with the City engineer. The condition would be to build a berm just east of the parking lot to keep any storm water on their property. The variance should have no effect to their property. Lynch and Nelson said they did not have any issues with the City granting the variance.

Battle
Lake
Oasis
Variance

Martin presented her staff report:

After the Battle Lake Oasis completed their construction, Steve and I visited the property to do an impervious study as it appeared they could be very close to the maximum. After measuring and re-measuring, we came up with a percentage of 41.454%, or 811 square feet over the allowable 40%. The owners had discussed enlarging their parking lot to accommodate as many customers as possible and decided to swap a couple areas where grass would be planted but it appears the parking lot was made a little larger than discussed, making them go over the 40% impervious. I informed the owners of our findings and suggested their only option (with no guarantees) was to apply for a variance or they would have to convert some of their impervious surface to grass.

After getting their application, Steve and I did another site visit to look at the "berm" they spoke of in their application. It did not appear to us that it would take care of their water issues and I asked our city engineer to look at their property and bring back suggestions. After his site visit, he said that the berm they have is not going to do what is needed to keep the stormwater on their property. He suggested they install a 2-foot high berm next to the parking lot with a curved end on both the north and south sides to keep their water on their property. If the Planning Commission makes a recommendation to the council to grant the variance, I would recommend that this higher berm be a condition of the variance. In my opinion, I would answer the findings of fact as follows:

1. **Is the request reasonable?** *The request is reasonable, if the conditions are put on it and the stormwater is kept on their property.*
2. **Unique Circumstances** – *This test may be a little more difficult to document other than the need for drainage to remain on the property. The area of concern is quite flat thus the need for additional work to create a berm.*
3. **Essential Character** – *Granting this variance will not alter the essential character of the locality.*
4. **Is the request in harmony with the ordinance and the Comprehensive Plan?** *The request does not interfere with the intent of the zoning ordinance and is in line with the Comprehensive Plan.*
5. **Will the variance request have an adverse impact on government services?** *The request would not impact services as long as the storm water remains on the property.*
6. **Is the request based upon economic consideration?** *This does not appear to be a consideration.*

7. Does the sewage system need upgrading? No

The proposed project could fall within the statutory requirements of a variance and I do not see any issues in consideration for granting the variance. I would recommend imposing the condition of the added berm as suggested by our City engineer.

Recommendation and discussion by the Planning Commission: The Commission discussed where the berm should be installed. Close to the property line would be the best area and it can be installed with a gradual slope so there is no issue with mowing. The commission also felt there should be a deadline of June 1, 2017 for the property owners to get it done. Jeff Johnson felt this would not be an issue. The commissioners went through the findings of fact and agreed with Martin's answers. The Planning Commission unanimously voted to recommend the City Council approve the variance with the condition of the 2 foot berm as presented and to be completed by June 1, 2017.

Christensen moved to approve the variance with the conditions recommended by the Planning Commission. Maslow seconded. MCU

Maslow moved to approve the consent agenda:

- Treasurer's Report
- Minutes from Last 2 Meetings
- Claims List
- Extra Hours Report
- Zoning Permit Report
- Quarterly Financial Reports Including Collateral & Investments

Consent Agenda

Christensen seconded. MCU

The quarterly project list was reviewed and presented by Martin.

Liquor Store Report: Adam Freyholtz was not available but presented a written report. Martin went through the report with the council. It was noted that December monthly sales were up 12.3% over last year and yearly sales were up a total of 5.5% over last year. The new POS system is set to be installed very soon. Freyholtz also noted in his report that a new off-sale liquor store (privately owned) will be opening in 2017 in Ottertail City. They are coming up with ideas to be competitive with this new business.

LQ Report

Police Department Report: Police Chief Kent Kortlever reported on December activities, mileage and training. He also presented a year-end report on calls for service.

PD Report

Rescue Squad Report: Drusch presented report on the Rescue Squad. Drusch and the Employee Relations committee recently interviewed Kelci Lundquist for the Rescue Squad. Maslow moved to approve the hiring of Kelci Lundquist, contingent on passing a background check. Salvevold seconded. MCU

Rescue Report

Fire Department Report: None

FD Report

Public Works Report:

Seufert reported they are working to keep up with snow removal. There have been some natural gas freeze-ups with the need to add methanol to the system. A question came up on where people can store snow – it is illegal to store in the right of way. There have also been a number of issues with cars being parked along the streets, making it difficult to remove snow. Council would like to look at updating our ordinances regarding parking during snow removal, along with removal of snow on sidewalks.

Public Works Report

Mayor Kelm had made a request for Seufert to get pricing on placing ice melt on the sidewalks that we currently have Olson Lawn Care remove snow. The cost is \$80/hour with a maximum of 1 ½ hours plus the cost of ice melt. Olson can provide the ice melt or the City can purchase it. After discussion, the council felt the cost would be less for the City to order the ice melt plus we would purchase an eco-friendly product that is safer for the sidewalks. Sidewalks, including the amenity zone, are sealed so products should not damage them. Christensen moved to approve the proposal from Olson Lawn Care to spread ice melt on the sidewalks that he currently removes snow from. Salvevold seconded. Maslow opposed. Motion carried. Salvevold moved to approve Seufert purchasing the ice melt needed for the project. Christensen seconded. MCU

Ice Melt on Sidewalks

Project List: None

COMMITTEE REPORTS:

BL Motor Patrol – They hired an employee that quit 20 days after the hire. There has been a continued discussion on the road grader. Christensen reported that he would support keeping the one they have. natural gas is in the new building and working fine.

**BL Motor
Patrol**

BL Area Fire & Rescue – Equipment/supplies still coming in. An open house will be scheduled once the building is completely set up, possible in March. They are still waiting on the gas meter. There are a number of security lights that remain on at night but it seems to light up the whole building. They will work on making some changes to this.

BLAFRA

LACC: No report.

LACC

Tri-City Housing Meeting – Minutes received – Martin and Kelm presented report.

**Tri-City
Housing**

Economic Development Authority: Minutes received. Martin presented report. The EDA and Network Battle Lake members are ready to move forward with the Business Retention and Expansion Program. Christensen moved to approve the implementation of this program. Maslow seconded. MCU

EDA

UNFINISHED BUSINESS:

An orderly request for annexation with Clitherall Township was presented. This is for the Wright property plat which was recently approved. Just less than 1/4 of an acre of the plat is within Clitherall Township boundaries and the property owner wishes to annex this portion into the City prior to the filing of the final plat. Clitherall Township has approved the request and will meet Thursday to approve the joint resolution. The resolution notes a pay-back to Clitherall Township of \$100 per year for 8 years for their loss in revenue due to the annexation. Christensen moved to approve **Resolution 2017-01-10G In the Matter of the Orderly Annexation Between the City of Battle Lake and Clitherall Township**. Quammen seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

**Wright
Annexation**

NEW BUSINESS:

Maslow moved to approve the 2017 Committees and Appointments including newspaper, city attorney and web-site. Christensen seconded. MCU

**2017
Committees
And
Appointments**

APPOINTMENTS:

- 1. **ACTING MAYOR** ----- Maslow
- 2. **OFFICIAL NEWSPAPER** -- BL Review
- 3. **CITY ATTORNEY** ----- (per contract) J. J. Cline
- 4. **OFFICIAL WEB-SITE:** www.ci.Battle-Lake.mn.us
- 5. **ADMINISTRATIVE HEARING BOARD**--- Gene Kelm, Archie Salvevold, and 1 Staff Person (Chosen at the Time the Hearing is Requested)

COMMITTEE ASSIGNMENTS:

- AIRPORT.....Christensen, Salvevold, Richard Fugelberg, Kathy Deal
- AIRPORT MANAGER.....Steve Seufert
- STREET.....Salvevold, Christensen
- WATER/SEWER.....Kelm, Christensen
- NATURAL GAS.....Maslow, Quammen

- ORDINANCEMaslow, Quammen
- PARK AND REC.....Quammen, Kelm
- LIQUORKelm, Quammen
- PUBLIC SAFETY.....Maslow, Salvevold
- EMERGENCY MANAGEMENT/ SAFETY
COMMITTEE (+DEPT HEADS).....Maslow, Salvevold
- EMPLOYEE RELATIONS/INSURANCE.....Kelm, Maslow
- FINANCE COMMITTEE.....Kelm, Christensen
- FACILITIES COMMITTEE.....Quammen, Christensen
- TRAIL COMMITTEE.....Maslow, Salvevold
- ART ADVISORY COMMITTEE.....Reba Gilliland, John Olesen , Annette Hochstein, Kristi Kuder, Sean Scott,
& Kristi Everts
- WEED INSPECTOR.....Kelm
ASSISTANT WEED INSPECTORSteve Seufert
- BL COMMUNITY FUND Advisory Board (1).....Quammen
- LACC liaison.....Salvevold
- WELLHEAD PROTECTION COMMITTEE.....Martin, Seufert, Quammen
- SAFE ROUTES TO SCHOOL.....Martin, Seufert, Kortlever, Jeremy Anderson, Jeff Drake, Patrick Hollister,
Andrew Besold, Wayne Hurley, Salvevold
- TRI-CITY LIVING.....KELM, MARTIN
- (3) BL Fire Relief Association Trustees (Fire Chief, 1-elected official, 1-elected or appointed official).....Chief Tysdal, Mayor Kelm ,
Clerk/Treasurer-Val Martin

JOINT POWERS BOARD REPRESENTATION:

- MOTOR PATROL (1)Christensen
- BATTLE LAKE AREA FIRE & RESCUE ASSOCIATION (1)Maslow

BATTLE LAKE PLANNING COMMISSION:
MEMBERS (5) (CITIZENS) – Gary Dirckx (12/31/2017), Bev McAllister (12/31/2018), Steve Seufert (12/31/2017), Dawn Swisher (12/31/2019), Chuck Reeve (12/31/2019)
COUNCIL MEMBERS (2) –Kelm, Maslow
(ALTERNATE) COUNCIL MEMBER – Christensen
CITY ZONING OFFICER - Val Martin (serves in an advisory capacity; non-voting members of Commission)

ECONOMIC DEVELOPMENT AUTHORITY
MEMBERS (5) CITIZENS - Sara Boyum (12/31/2020), Leigh Shebeck (12/31/2021), Jeff Drake (12/31/2018), Milt Paulson (12/31/2017), Randy Dorn (12/31/2021)
COUNCIL MEMBERS (2) - Don Maslow (12/31/2019), Gene Kelm (12/31/2020)
EDA DIRECTOR – Val Martin (serves in an advisory capacity; non-voting members of Commission)

Maslow moved to approve **Resolution 2017-01-10A Appointing Official Depositories**. Christensen seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

2017
Official
Depository

Christensen moved to approve the day and time for council meetings as follows: the 2nd and 4th Tuesday at 7:00 p.m. with the March meeting being held March 8th instead of March 14th as it conflicts with Township election. Salvevold seconded. MCU

Set
Meeting
Time

Maslow moved to approve a gambling permit for the DU Banquet at Stub’s on April 20, 2017. Salvevold seconded. MCU

DU
Gambling
Permit

Christensen moved to approve **Resolution 2017-01-10B Declaring Josh Pesta Eligible for Membership in PERA Police and Fire Plan**. Salvevold seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

PERA-
Josh Pesta

Salvevold moved to approve **Resolution 2017-01-10C Banking Resolution for Official Signatures.** Christensen seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

Banking
Resolution-
Signatures

A request from Paulson Land Company came in for property that is being sold. A portion of the property will be deeded to the adjacent property owner and a portion will be deeded to the City which has a gravel drive utilized by the City. This property will be designated as an official alley. On the other side of the property, there is another issue with a home located on the City's street right-of-way and a request to vacate this street to clear up the issue with this property. This property is currently not being used as a street and a portion of it was vacated in the past.

Christensen moved to approve **Resolution 2017-01-10D Resolution Setting a Public Hearing for a Street Vacation.** Quammen seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

Street
Vacation

Quammen moved to approve **Resolution 2017-01-10E Resolution Accepting Donation of Land.** Salvevold seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

Donation
of Land
for Alley

In order for the Chief of Police and City Attorney to have access to BCA's records system, the council needs to approve a joint powers agreement. Salvevold moved to approve **Resolution 2017-01-10F Resolution Approving State of MN Joint Power Agreement.** Maslow seconded. Roll call vote: Those voting for – Quammen, Christensen, Maslow, Kelm and Salvevold. Those voting against – none. MCU

BCA
Resolutio
n

Kortlever and Martin have been working with Pat Kalk from the Shoreline regarding a request for an Ice Bar on West Battle Lake. After doing research with the County, DNR and state liquor control, they found no need for approval from the City as we do not have authority on the lake itself. Shoreline has a Caterer's permit which allows them to serve alcohol off-site, as long as they have food for sale. The Sheriff's Department issues permits for this type of thing on the lake and regulates what happens on the lake.

Shoreline
Ice Bar

Martin requested the use of DropBox for council and staff to access policies and other information. It is a secure off-site system that allows approved users access to specific files. Council okayed the use of DropBox rather than printing paper copies of all policies.

DropBox

Updated information from the Prospect House on their current project was distributed.

Prospect
House

Nic Drusch asked whether there was a continued need for the Rescue Captain and Fire Chief to be at every council meeting and the reason for the need as they also report to BLAFRA. They are asked to report to the council as rescue and fire department members are considered City employees. A number of considerations were discussed but the council decided to have Drusch, Tysdal and Maslow meet to come up with a suggestion and bring it back to the council.

Rescue &
FD
attendance
at council

The next council meeting will held January 24th at 5:30 p.m. which will consist of Council Orientation and a meal will be provided.

Adjourn at 9:30 p.m.

Valerie J. Martin
Clerk/Treasurer