

The Battle Lake City Council met in regular session on Tuesday, September 12, 2017, 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 Don Maslow, Marjorie Quammen, John A. Salvevold and Ryan Christensen present. Also present were City Attorney, JJ Cline; Clerk/Treasurer, Val Martin; Police Chief, Kent Kortlever; Liquor Store Manager, Adam Freyholtz Fire Chief, Derek Tysdal and Public Works Superintendent, Steve Seufert. Additional visitors were also in attendance.

The Pledge of Allegiance was recited.

The public hearing to consider a variance request was opened. The request: *Mark and Cathy Welle at 611 North Shore Drive are requesting a variance from the set-back requirements to replace the existing garage with a larger garage. They are asking to reduce the side yard set-back from 10 feet to five feet and the right-of-way set-back from 30 feet to 10 feet. Their request: We are requesting a variance to right-of-way and side-yard set-backs. Our current garage is set back five feet from the property line and ten feet from the street set-back. Would like to remove the 20x24 garage built in 1955 and replace it with a 30x40 garage in the same location. In the event we do not get a variance, we would need to remove one very large, very old tree and a medium sized tree. We also would limit the usable "green space" of our street-side yard to essentially very little. Also, if we moved the garage to a different location, we would not have any impervious % left to add a driveway. Our intent is to improve the property for now and the future. This will be an increase for the tax base for the future and a betterment of the property going forward.*

Martin presented her staff report:

Findings of Fact:

1. **Is the request reasonable?** *It would seem to be reasonable to consider replacing the existing garage with a larger one in the same location.*
2. **Unique Circumstances – When** *considering uniqueness, you can consider factors such as wetlands or trees. As stated in the application, there is a large tree that would have to be cut down to accommodate the request.*
3. **Essential Character –** *In my opinion, the request would not change the essential character of the neighborhood.*
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?** *No*
7. **Does the sewage system need upgrading?** *NA*

The initial recommendation from the August Planning Commission meeting was as follows:

A motion was passed to recommend that the council approve the variance with the following contingencies:

- *Remove the side-yard variance request and build the garage 10 feet from the side yard.*
- *Approve the set-back at 15 feet, rather than 10 feet from the right-of-way.*
- *Change the size of the garage from 30 x 40 to 30 x 35.*

The council meeting in August was postponed due to a lack of quorum. Because of this, the hearing for the variance application was postponed until the September 12, 2017 City Council meeting. Attorney Jensen spoke with the property owners prior to the meeting and they agreed to an extension of the "60-day rule" per MN Statute 15.99. The extra time is needed to extend it to the September 12th meeting in order to print the change and mail notification.

- *After the August meeting, Seufert and Martin returned to the property and found the corner pin location for the lot line. The garage was set back 10 feet from the right-of-way and 3 feet from the side yard. At the prior meeting, it was noted that the garage may only be 7 feet back and the side yard was 5 feet from the property line. It was decided to address the request again at the location of the variance which is where the September 5, 2017 Planning Commission met. After meeting with the Welle's at their property to view the request and to ask questions, the commissioners moved to City Hall to continue the meeting. After*

discussion, an amended recommendation for the council was passed: Remove the side-yard variance request and build the garage 10 feet from the side yard.

- *Approve the set-back at 15 feet, rather than 10 feet from the right-of-way.*
- *Allow the Welle's to build either a 30 x 35 or the 30 x 40 garage as suits their needs. If they build the large garage, they may need to remove some impervious surface (shed or shuffle board) in order to stay under 25%. They will need to work with the zoning officer on this.*

Mr. Welle asked the council to reconsider the recommendation from the Planning Commission and to consider his initial variance request. He is especially concerned about the side set-back as it will create even more unusable space as the storage building on the adjacent property is right on the line.

Mayor Kelm called for public comment. John Everts stated his concern moving forward with similar projects. How will the council react? Are there changes that need to be made to the zoning ordinances? He also felt that some people may argue that a 30 x 40 garage is excessive and not reasonable.

The public hearing was closed. Christensen made a motion to approve the variance with the following conditions:

- Approve the set-back at 15 feet, rather than 10 feet from the right-of-way.
- Approve the side set-back at 5 feet.
- Allow the Welle's to build either a 30 x 35 or the 30 x 40 garage as suits their needs. If they build the large garage, they may need to remove some impervious surface (shed or shuffle board) in order to stay under 25%.

Salvevoid seconded. MCU

Christensen moved to approve the agenda. Maslow seconded. MCU

Visitors

Gary and Karalyn Harrington, chairs of the capital campaign committee, gave a presentation on the proposed childcare center. The capital campaign is going well and they are about \$50,000 away from funds needed to start planning construction. Their presentation included statistics to show the need, what they have received for grant funding, donations, & pledges; along with plans for management and operations of the center. Quammen commented about how important it is to the community and there is a need for the City and individuals to support the project. Members of the audience spoke on the necessity of the childcare center and how this could impact the City economically. Mayor Kelm thanked the board for the work they've been doing and how important this issue is. He also stated that Battle Lake is being discussed at the legislative level.

Patty Johnson and Dave Marso, board members for the childcare center were present to give an update from the board:

- Their architect did a little more research on the need for a fire suppression (sprinklers) system. They found they do not need it if the building is less than 12,000 square feet.
- The board is finalizing the contract with Tiny Tykes from Wahpeton. It will be a 5 year contract. The owners of Tiny Tykes have both been very involved through the process.
- The hours of the center will be flexible, dependent on the need.
- A big part of the goal behind the childcare center is to attract new families to the community.

A proposed TIF worksheet for the project was reviewed providing information to the group of the amount of increment that will be received for the childcare center.

Martin and Attorney Cline did some limited research on whether the City can donate to a childcare center. Attorney Cline said that you can argue that the donation would be considered a "public purpose" but it is not clear if there is a state statute that allows the donation. Martin and Cline will check with the state auditor's office for an opinion.

A number of people were in attendance from the Prospect House Museum. They thanked the council for the donation last year and requested the council consider ongoing support. They continue to work on additional displays and will be dedicating a special area to display Battle Lake history. The museum currently has many

items related to Battle Lake's history but not one dedicated area. The museum is listed on the National Registry of Historical Places. They have 2000 plus visitors each year with many driving from the metro area and farther just to see the museum. Prospect House made a request from the council for a \$2,500 donation for 2018. Quammen made a motion to donate \$2,500 to the Prospect House. Due to a lack of a second, the motion was not carried. Council will discuss it with the budget later in the meeting.

Maslow moved to approve the consent agenda:

- Treasurer's Report*
- Minutes*
- Claims List for a total of \$209,973.09*
- Extra Hours Report*
- Special Event Permit for Pumpkin Fest contingent on insurance*
- Special Event Permit for Pumpkin Fest Color Run/Walk contingent on insurance*

Salvevold seconded. MCU

Liquor Store Report: Freyholtz reported on the municipal liquor store. Sales for August were down .4% over last year's sales. Yearly sales are up 3.9% overall. Liquor store had a successful Labor Day weekend primarily due to being open on Sunday with sales of over \$10,000. Previously, being open Labor Day Monday saw sales of about \$2,000.

Police Department Report: Police Chief Kent Kortlever reported on August activities, mileage and training. The OSHA safety grant was approved for City Hall security – panic buttons, security cameras, and outside lighting. This is a cost-sharing program with the City paying \$2,059.50. Kortlever presented estimates for cameras in the downtown commercial area. The businesses are very supportive with some of them already pledging to donate if the project is done. The estimate from S & S Security was the lowest at \$3,811.97. The cost for getting electricity to the pole was not established yet. Council tabled until Kortlever can get this information.

Rescue Squad Report: Written report received. Member of BLAFRA were also in attendance to discuss some changes to the Rescue By-Laws. There is a specific requirement in the by-laws that do not allow members to report to duty if they had any alcohol within an eight hour period. There were concerns on this requirement on both sides. Is it too stringent? What about liability? Who would make the call whether someone should report or not? It is noted that the captain has discretion and can oversee the situation. After a lengthy discussion, the council agreed that it would be best to remove the requirement completely and leave it in the hands of the captain.

Fire Department Report: Written report received. Tysdal was also there to report. Tysdal made a request to change the Fire Chief's job description which requires him to come to council meetings. It has already been changed to quarterly rather than monthly but Tysdal felt he should only have to come if specifically needed for a discussion. He is concerned with the number of meetings he already has to attend. With the BLAFRA members in attendance, they were in support of the Fire Chief and why is there a requirement to attend council meetings and not township meetings? Attorney Cline stated there is a difference – fire department members are City employees, not BLAFRA employees. He also stated that there are other employment issues to deal with other than workers compensation. The City's role with the fire department members is to deal with personnel issues and requirements. BLAFRA's roll is centered on operations. Council felt that the attendance at council meetings on a quarterly basis is still important but it doesn't always have to be the Fire Chief. It could be another member of the department. Jim Adamietz said that BLAFRA is planning an annual meeting for townships and the council to attend. This will be held sometime in March or April, after all the townships have had their annual meeting.

Tysdal stated that two fire hydrants are in need of repair. Seufert said that he just found out today and will work on this. Tysdal also said that he received a call from a Fargo newspaper on his personal cell phone after a recent fire and was told they got his number from the City's administrative staff. Martin said that she was certain that all staff members know that he does not want his personal cell phone number given out but she will check with them tomorrow.

Public Works Report: Street committee report was reviewed. The committee discussed the new ordinance requirements for parking during snow season. A proposal for crack sealing was discussed. Seufert is working on getting another proposal.

Project List: The change order was discussed, along with the addition information from Design Tree Engineering on the items that were completed after the project completion date. The council tabled any decision and would like information on liquidated damages for getting the project done after the completion date.

COMMITTEE REPORTS:

BL Motor Patrol – Employee evaluations will be conducted next month. They discussed hiring drivers. There continues to be a discussion on the refund to Nidaros Township from the building fund. Attorney Cline stated that they are not entitled to a refund and Christensen should relay to the board that this should be considered resolved.

BL Area Fire & Rescue – minutes received. Maslow reported on last meeting.

LACC: Kelm reported. They are working on a project for the County 150th anniversary next year and it is also LACC's 10th anniversary. They are considering doing a concert to be held at the school.

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

Economic Development Authority: Minutes and financials received. Maslow moved to approve the 2018 EDA budget. Christensen seconded. MCU Martin reported that she wrote a grant to the Blandin Foundation for the EDA to do a visioning project under the direction of Duet Designs Architects for Hatchery Row. The grant was awarded and the project will begin this fall. The Moser building has been sold to owners of The Market in Fergus Falls with plans to have a Battle Lake Market.

UNFINISHED BUSINESS:

Council reviewed the draft Capital Improvement Plan for 2018. Martin and Seufert explained some minor changes. The final plan will be presented in December for approval.

The General Fund budget was discussed. Kelm suggested the council look at making some cuts to the budget. Clerk Martin mentioned that she provided a detailed presentation to the committee and the council in the month of August. In order to consider additional cuts at this point, there needs to be another thorough discussion which would likely mean an additional council meeting in September as the preliminary levy is due by the end of September. The levy can be approved now and lowered at the December council meeting, if the council felt there were cuts that needed to be made. Council was in agreement that they could consider cuts in December. Martin said they may want to know the actual tax rate after tax capacity information is received.

Cost for snow removal on the sidewalks in the downtown area was reviewed with no action taken.

There was a discussion on liquor store transfers for 2018. These will be included in the budget for approval.

Martin asked the council if they want to continue with the budget process in place: Martin works with department heads to come up with a budget recommendation, the finance committee reviews with this with Martin, and council holds a work session at the 2nd council meeting in August. Council all agreed to continue with this process.

In reviewed the budget, council requested that Martin include a \$2,000 donation to the Prospect House. There is enough room in the budget to add this without increasing the levy. The childcare center was tabled until more information is received.

Christensen made a motion to approve **Resolution 2017-09-12A Approving 2018 General Fund Budget and 2017 Levy for Taxes Payable in 2018 to include a \$2,000 donation to the Prospect House.** Maslow

seconded. Roll call vote: those voting for – Maslow, Kelm, Quammen, Christensen and Salvevold and those voting against – none. MCU

Forms and fees for use of City Hall – tabled.

A Limited Use Permit (LUP) for a new sign installed by a local Boy Scout for his Eagle Scout project was presented. The sign was installed in MnDOT's right-of-way on Highway 78, north of Battle Lake. Seufert said he received a permit but MnDOT wanted this Limited Use Permit to go with it. Like the LUP for the sidewalks, attorney Cline had some issues with the permit and liability for the City. He made some recommended changes to go back to MnDOT. Quammen moved to present the changes to MnDOT. Salvevold seconded. MCU

An amendment to Ordinance 72 – Parking Regulations was reviewed. The amendment included parking regulations during snow removal. The ordinance will be presented for approval at the next council meeting. Christensen made a motion to purchase no parking signs as presented. Salvevold seconded. MCU

Martin will present updated information to the council on insurance for the docks at the next meeting.

A reminder that some council and staff still need to do NIMS training. Several Fire Department members have completed this and Kortlever received a copy of their certificates.

Business interviews are currently being conducted for the Business Retention and Expansion program.

NEW BUSINESS

Quammen made a motion to approve **Resolution 2017-09-12B Transfer of Funds**. Maslow seconded. Roll call vote: those voting for – Maslow, Kelm, Quammen, Christensen and Salvevold and those voting against – none. MCU

Christensen made a motion to approve CarlsonSV, CPAs and Advisors for the 2017 audit. It is the same firm we have used in the past but they have changed their name. Salvevold seconded. MCU

Council was provided with a copy of a letter from attorneys for CenterPoint Energy, Inc. The letter accused the City of a copyright violation on forms used for Natural Gas. Staff worked with attorney Cline and have followed the request to remove the forms from the web-site and change the current forms used, removing their copyrighted materials. Attorney Cline said that no further action is needed.

2016 TIF reporting has been completed by Ryan Consulting. Traci Ryan submitted a summary letter explaining each district. Maslow moved to approve the reports. Christensen seconded. MCU

The purchase of foldable picnic tables for special events was tabled.

The League of MN cities Regional Meeting in Ottertail is October 5th. Kelm, Martin and Deputy Clerk Brandner will attend. If other council members would like attend let Martin know.

Newcomer's picnic will be Wednesday, September 20, 2017.

Next council meeting will be October 10, 2017.

Adjourn at 10:57 p.m.

Valerie J. Martin, Clerk/Treasurer