

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD JANUARY 21, 2013, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5TH STREET.

Pledge of Allegiance

1 – Roll Call: Present: Mayor Schuster, Councilmembers Carey, Catlin, Cook, Fairbanks, Langdale, Parde, Tiemann
Absent: Councilmember Moore

Mayor Schuster announced that a copy of the Open Meetings Act is posted in the meeting room and is accessible to members of the public.

2 - Consent Agenda

- a. Approve agenda as submitted.
- b. Receive and place on file all notices pertaining to this meeting.
- c. Receive and place on file all materials having any bearing on this meeting.
- d. Approval of minutes of regular meeting on January 7, 2013, as on file in the City Clerk's Office.
- e. Approval of Treasurer's Report of Claims
 - (1) Approval of claim of Robert L. Tiemann Construction in the amount of \$357.50
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$580,031.25
- f. Approval of BASWA Report of Claims in the amount of \$38,441.74.
- g. Approval of contract with Pavers, in the amount of \$128,581.00 for the Mill & Overlay Project 13-498 and Alternate A in the amount of \$46,381.00 for the Chautauqua Park Campground Road.
- h. Approval of special designated permit application of St. Joseph Catholic Church for a fundraiser on March 3, 2013 from 4:30 p.m. to 7:30 p.m.
- i. Resolution Number 5487 appointing Jason Moore and Philip Cook to the Library Steering Committee.

Moved by Catlin, seconded by Langdale, that the items listed under the consent agenda, be approved, accepted and/or ratified as presented, with Councilmember Tiemann abstaining from e(1) and Cook abstained from 2(h)

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Parde, Tiemann
Nay: None

Motion carried.

3 - Public Hearings/Bids:

- a. Hearings:
 - (1) **Public hearing on application of El Chango LLC dba Playa Azul, 2102 N 6th Street for a Class I Liquor License.**

Mayor Schuster announced that a public hearing be held on the application of El Chango LLC dba Playa Azul, 2102 North 6th Street, for a Class I Liquor License.

Police Chief, Bruce Lang, under oath, presented the Investigative Report and Traffic Engineers Reports; the standard background investigation was conducted and nothing was uncovered that would preclude issuance of the license. Code Enforcement Officer, Steven Printy, under oath, presented the Planning & Inspection Report, showing no changes to the current business location. Clemente Salazar, Playa Azul manager, to request approval of the application, that the company is simply changing corporation names. No one appeared in opposition.

Moved by Catlin, seconded by Langdale, that the public hearing be closed at 7:09 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Parde, Tiemann
Nay: None

Motion carried.

Councilmember Moore arrived at 7:09 p.m.

Moved by Catlin, seconded by Tiemann, that the application of El Chango LLC dba Playa Azul, 2102 North 6th Street, for a Class I Liquor License, be recommended to the Nebraska Liquor Control Commission for approval.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Parde, Tiemann
Nay: None
Abstain: Moore

Motion carried.

(2) Public hearing on the proposed One and Six Year Road and Street Plan.

Mayor Schuster announced that a public hearing be held on the Proposed One and Six Year Road and Street Plan.

City Engineer, Rex Behrends, presented the proposed projects for street improvements in 2013 and the plan for years two through six. In year one, the main project is the City-wide Mill & Overlay which is a large federal aid project; year two includes two more federal-aid projects, the asphalt overlay of South 6th Street and 2nd Street brick replacement project; year three is a small year during the transition from federal-aid projects to 2016 when the City will receive funding from the State without federal guidelines attached to it; years four, five and six, the City is projecting to receive \$400,000 each year for concrete reconstruction projects. Discussion followed.

Moved by Catlin, seconded by Cook, that the public hearing be closed at 7:22 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Moved by Catlin, seconded by Tiemann, that the One and Six Year Road and Street Improvement Plan for the City of Beatrice be approved as presented.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

(3) Public hearing on the application of Laura Miller to rezone property located on the East side of Hwy 77 between Sargent & Woods Ave, from GC and AG to Lot 1 – GC and Lot 2 - AG.

Mayor Schuster announced that a public hearing be held on the application of Laura Miller to rezone property located on the East side of Hwy 77 between Sargent & Woods Ave, from "GC" General Commercial and "AG" Agricultural to identify the zoning of Lot 1 as "GC" General Commercial and Lot 2 as "AG" Agricultural for the proposed Miller's First Addition Plat.

City Engineer Behrends presented the proposed application which splits off the one lot being sold from the agricultural use lot.

Moved by Catlin, seconded by Carey, that the public hearing be closed at 7:25 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

(4) Public Hearing on the application of Laura Miller for annexation of Lot 1 & 2, Miller's First Addition.

Mayor Schuster announced that a public hearing be held on the application of Laura Miller for annexation of the proposed Lot 1 & 2, Miller's First Addition.

Mayor Schuster explained that state law requires that a separate hearing be held in order to annex a new addition at the time the plat is considered for approval as requested by the property owner.

Moved by Catlin, seconded by Langdale, that the public hearing be closed at 7:28 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

(5) Public hearing on the application of Larry Wilkinson to rezone property located along South 13th Street south of Oak Street, from AG to R-2.

Mayor Schuster announced that a public hearing will be held on the application of Larry Wilkinson to rezone property located along South 13th Street south of Oak Street, from "AG" Agricultural to "R-2" Single Family Residential for the proposed Wilkinson's First Addition Plat.

City Engineer Behrends explained that this is a one-lot addition, which the property owner is selling off a piece of his agricultural land.

Moved by Catlin, seconded by Cook, that the public hearing be closed at 7:29 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

(6) Public Hearing on the application of Larry Wilkinson for annexation of Wilkinson's First Addition.

Mayor Schuster announced that a public hearing will be held on the application of Larry Wilkinson for annexation of the proposed Wilkinson's First Addition.

City Engineer Behrends explained that the addition is adjacent and contiguous to the City limits and already receives city utilities, therefore, at the request of the landowner, a separate hearing is held to annex the addition at the time the plat is presented.

Moved by Catlin, seconded by Cook, that the public hearing be closed at 7:31 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

4- Resolutions:

- a. **Resolution entering into an Interlocal Agreement with Diller Rural Fire District for the City to provide EMS Services.**

Mayor Schuster introduced Resolution Number 5488 entering into an Interlocal Agreement with Diller Rural Fire District for the City to provide EMS Services.

Moved by Catlin, seconded by Langdale, that Resolution Number 5488 be passed and adopted.

Fire Chief, Brian Daake, explained the proposed agreement with Diller Rural Fire District to which the City currently provides paramedic intercept services, when available. This agreement provides for reimbursement to the City for this assistance which will be billed directly to the Rural Fire District.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Passed and adopted Resolution Number 5488.

b. Resolution establishing building permit fees.

Mayor Schuster introduced Resolution Number 5489 establishing building permit fees.

Moved by Catlin, seconded by Langdale, that Resolution Number 5489 be passed and adopted.

Mayor Schuster explained that an ordinance adopting the new building codes will be considered later in the meeting and the intention was to remove the fees from the ordinance and adopt a resolution setting the fees which can then be reviewed periodically and more easily changed. The fees set forth in this resolution are the current fees, no changes are being proposed at this time.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
 Nay: None

Motion carried.

Passed and adopted Resolution Number 5489.

c. Resolution to call the 2009 Combined Utilities Revenue Bonds.

Mayor Schuster introduced Resolution Number 5490 to call the 2009 Combined Utilities Revenue Bonds.

Moved by Catlin, seconded by Cook, that Resolution Number 5490 be passed and adopted.

City Administrator, Tobias Tempelmeyer, explained that the Board of Public Works has the opportunity to refinance the 2009 Bonds and realize an estimated cost savings of \$171,000. The City first needs to approve to call the 2009 Bonds in order to proceed with the issuance of the 2013 advance refunding bonds. Marc Mumford, Ameritas Investment Corp representative, appeared to explain the advance refunding issue allowed and proposed due to rates being so low at this time; the average coupon rate will be 1.62% and with fees factored in the all-inclusive cost is 1.88%.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
 Nay: None

Motion carried.

Passed and adopted Resolution Number 5490.

5 – Ordinances:

a. Ordinance approving the plat of Miller’s First Addition.

Mayor Schuster introduced an ordinance approving the plat of Miller’s First Addition.

Moved by Catlin, seconded by Tiemann, that said ordinance be given number 13-002, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
 Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-002 by number only the first, second and third times.

Moved by Catlin, seconded by Tiemann, that Ordinance Number 13-002 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann

Nay: None

Motion carried.

Passed and approved Ordinance Number 13-002.

b. Ordinance approving the zoning of Miller's First Addition.

Mayor Schuster introduced an ordinance approving the zoning of Miller's First Addition.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 13-003, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-003 by number only the first, second and third times.

Moved by Catlin, seconded by Carey, that Ordinance Number 13-003 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Passed and approved Ordinance Number 13-003.

c. Ordinance annexing Miller's First Addition.

Mayor Schuster introduced an ordinance annexing Miller's First Addition.

Moved by Catlin, seconded by Cook, that said ordinance be given number 13-004, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-004 by number only the first, second and third times.

Moved by Catlin, seconded by Cook, that Ordinance Number 13-004 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Passed and approved Ordinance Number 13-004.

d. Ordinance approving the plat of Wilkinson's First Addition.

Mayor Schuster introduced an ordinance approving the plat of Wilkinson's First Addition.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 13-005, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-005 by number only the first, second and third times.

Moved by Catlin, seconded by Langdale, that Ordinance Number 13-005 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None Motion carried.

Passed and approved Ordinance Number 13-005.

e. Ordinance approving the zoning of Wilkinson’s First Addition.

Mayor Schuster introduced an ordinance approving the zoning of Wilkinson’s First Addition.

Moved by Catlin, seconded by Tiemann, that said ordinance be given number 13-006, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None Motion carried.

Mayor Schuster read Ordinance Number 13-006 by number only the first, second and third times.

Moved by Catlin, seconded by Carey, that Ordinance Number 13-006 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None Motion carried.

Passed and approved Ordinance Number 13-006.

f. Ordinance annexing Wilkinson’s First Addition.

Mayor Schuster introduced an ordinance annexing Wilkinson’s First Addition.

Moved by Catlin, seconded by Tiemann, that said ordinance be given number 13-007, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None Motion carried.

Mayor Schuster read Ordinance Number 13-007 by number only the first, second and third times.

Moved by Catlin, seconded by Tiemann, that Ordinance Number 13-007 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None Motion carried.

Passed and approved Ordinance Number 13-007.

g. Ordinance Number 12-048 to amend sections of the City Code to adopt the International Building, Mechanical, Plumbing, Residential, Energy Conservation, Property Maintenance, Fuel Gas, and Existing Building Codes, 2009 Edition, published by ICC. Final Reading.

Mayor Schuster introduced consideration of the final reading of Ordinance Number 12-048 to amend sections of the City Code to adopt the International Building, Mechanical, Plumbing, Residential, Energy Conservation, Property Maintenance, Fuel Gas, and Existing Building Codes, 2009 Edition, published by ICC.

Moved by Catlin, seconded by Cook, that Ordinance Number 12-048, the title thereof be approved, and said ordinance be read by title the third and final time tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 12-048 by title the third time:

“An ordinance to amend Sections 7-10, 7-11, 7-20, 7-21, 7-30, 7-31, 7-60, 7-61, 7-70, 7-71, 7-90, 7-91, and 7-317; to repeal Sections 7-12, 7-22, 7-92, 7-93, 11-1, 11-2, 11-3, 11-3.1, 11-3.2, 11-3.3, 11-3.4, 11-3.5, and 11-3.6; to adopt the *International Building Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Mechanical Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Plumbing Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Residential Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Energy Conservation Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Property Maintenance Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Fuel Gas Code*, 2009 Edition, published by the International Code Council with amendments; to adopt the *International Existing Building Code*, 2009 Edition, published by the International Code Council with amendments; to add Sections 7-7, 7-330, 7-331, 7-340, and 7-341 to the Beatrice City Code; to repeal all other conflicting ordinances or parts of ordinances; and to provide for publication in pamphlet form and an effective date of this ordinance.”

Moved by Catlin, seconded by Carey, that Ordinance Number 12-048 be passed and approved.

Code Enforcement Officer Printy reported that he had met with contractors regarding the new codes and was considering the creation of a mechanical board, either independently or merging it with the plumbing board. Other concerns discussed and any possible amendments will be brought forth at a future meeting by separate ordinance for consideration.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Passed and approved Ordinance Number 12-048.

h. Ordinance approving the Series 2013 Combined Utilities Revenue Refunding Bond Issue.

Mayor Schuster introduced an ordinance approving the Series 2013 Combined Utilities Revenue Refunding Bond Issue.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 13-008, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-008 by number only the first, second and third times.

Moved by Catlin, seconded by Langdale, that Ordinance Number 13-008 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann

Nay: None

Motion carried.

Passed and approved Ordinance Number 13-008.

i. Ordinance to amend Section 16-21 of the City Code regarding proof of financial responsibility.

Mayor Schuster introduced an ordinance to amend Section 16-21 of the Beatrice City Code regarding proof of financial responsibility.

Moved by Catlin, seconded by Cook, that said ordinance be given number 13-009, the title thereof be approved, (the rules be suspended,) and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-009 by number only the first, second and third times.

Moved by Catlin, seconded by Moore, that Ordinance Number 13-009 be passed and approved.

City Attorney, Greg Butcher, explained that the proposed ordinance updates the City Code per changes in state law last summer.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Moore, Parde, Tiemann
Nay: None

Motion carried.

Passed and approved Ordinance Number 13-009.

j. Ordinance to add Section 2-7 to the City Code regarding prohibition of contracts with City officers.

Mayor Schuster introduced an ordinance to add Section 2-7 to the Beatrice City Code regarding prohibition of contracts with City officers.

Moved by Catlin, seconded by Moore, that said ordinance be given number 13-010, the title thereof be approved, and said ordinance be read by title only one time tonight.

City Attorney Butcher explained the provision of the proposed ordinance which is defined per the Nebraska Accountability and Disclosure Act; as presented the council has the ability to prohibit contracts and as proposed sets the amount at zero, but the council could specify an amount for the contracts. Pat Ratigan, 668 E Dorsey Road, voiced his concern that in a community our size this could limit who the City does business with and be of a negative benefit to the City or the individual organization and to let the bidding process work to protect the citizens of Beatrice. A lengthy discussion followed regarding the public perception that public officials have an inside track; that we need to make citizens understand we respect how their tax dollars are being spent; that for items that do not go through a formal bid process, proposals or quotes are being obtained, however, a formal policy should be in place.

Roll Call: Yea: Moore, Carey, Fairbanks
Nay: Catlin, Cook, Langdale, Parde, Tiemann

Motion Failed.

6 – Public Forum:

No one appeared at public forum.

7 – Discussions/Reports:

a. NGAge Quarterly Report and Incentive Guidelines

Bill Demuth, NGage Executive Director, Pat Ratigan Vice President, and Myron Dorn, County Representative, appeared to present the NGage quarterly report of activities and financial overview. Also discussed was developing incentive guidelines, which would allow NGage to work with individuals/companies and present packages that they feel would meet with the final approval of the City/County.

b. City Administrator's Monthly Report

Mayor Schuster referred to the City Administrator's Report as printed in the packet and councilmembers brought forth any questions regarding the information.

8 – Miscellaneous:

The next regular council meeting is February 4, 2013 at 7:00 p.m. in the BPS Admin Bldg Meeting Room and the worksession will be January 28, 2013 at 7:00 p.m. in the Beatrice Public Library Sargent Room.

Moved by Catlin, seconded by Langdale, that the meeting be adjourned at 9:16 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Fairbanks, Langdale, Parde
 Nay: Moore, Tiemann

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster