

**MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD JUNE 3, 2013, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5<sup>TH</sup> STREET.**

Pledge of Allegiance

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

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 May 20, 2013, as on file in the City Clerk's Office.
- e. Approval of minutes of worksession on May 28, 2013 as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims in the amount of \$361,469.97.
- g. Approval of BASWA Report of Claims in the amount of \$37,772.21
- h. Approval of change order decrease of \$675.00 for the Water Park Drainage Project and progress payment to Goossen Construction in the amount of \$49,460.40, as recommended by the BPW.
- i. Resolution Number 5527 appointing Richard Moon to the Beatrice Board of Public Works.
- j. Resolution Number 5528 entering into a Right-of-Way agreement with Windstream Nebraska Inc. for fiber optic cables.

Moved by Catlin, seconded by Moore, that the items listed under the consent agenda, with the exception of item e and i, be approved, accepted and/or ratified as presented.

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

Motion carried.

e - Moved by Catlin, seconded by Cook, to approve the minutes of worksession on May 28, 2013 as on file in the City Clerk's Office.

Councilmember Fairbanks requested separate consideration to abstain from voting due to being absent from the meeting.

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

Motion carried.

i - Moved by Catlin, seconded by Fairbanks, that Resolution Number 5527 appointing Richard Moon to the Beatrice Board of Public Works, be passed and adopted.

Councilmember Fairbanks requested more information on which board member Mr. Moon was replacing. Mayor Schuster indicated that Mr. Moon was replacing Linda Clabaugh and his appointment was to produce more turn-over on boards.

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

Motion carried.

Moved by Fairbanks, seconded by Cook, to reconsider action on Consent Agenda items d and e.

Councilmember Fairbanks indicated that the item he intended to abstain from was item d.

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

d - Moved by Catlin, seconded by Cook, to approve the minutes of regular meeting on May 20, 2013, as on file in the City Clerk's Office.

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

e - Moved by Catlin, seconded by Fairbanks, to approve the minutes of worksession on May 28, 2013 as on file in the City Clerk's Office.

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

### **3 - Public Hearings/Bids:**

#### **a. Hearing:**

#### **(1) Public hearing on the liquor license application of Beatrice Heartland Foods, Inc. dba Heartland Foods, 1300 Court Street, for a Class C liquor license, to add wine/spirits and wine tasting**

Mayor Schuster announced that a public hearing be held on the liquor license application of Beatrice Heartland Foods, Inc. dba Heartland Foods, 1300 Court Street, for a Class C liquor license, to add wine/spirits and designated as restricted for wine sampling.

Police Chief, Bruce Lang, under oath, presented the investigative report; the standard investigation was conducted and nothing was uncovered that would cause disapproval of the license. City Attorney, Greg Butcher, under oath, presented the planning report on behalf of the Code Enforcement Officer Steve Printy; Mr. Printy found no concerns in regarding to this application. John Dyer, Wamego, KS, Corporation Vice President, and Teresa Archer, 1105 N 19<sup>th</sup> Street, Store Manager, under oath, appeared to request approval of the license which will allow them to add wine and spirits. City Administrator, Tobias Tempelmeyer, explained that they are requesting a Class C license to allow for wine sampling but will be a restricted from selling by the glass on site. No one appeared in opposition.

Moved by Catlin, seconded by Langdale, that the public hearing be closed at 7:11 p.m.

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

Moved by Catlin, seconded by Langdale, that the liquor license application of Beatrice Heartland Foods, Inc. dba Heartland Foods, 1300 Court Street, for a Class C liquor license, restricted for sampling, be recommended to the Nebraska Liquor Control Commission for approval.

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

#### **(2) Public hearing on the proposed annexation of a parcel of land owned by the Beatrice Country Club, (additional parcel to clarify annexation of the entire property).**

Mayor Schuster announced that a public hearing be held on the proposed annexation of a parcel of land owned by the Beatrice Country Club.

Mayor Schuster explained that this is an additional parcel to properly identify the annexation of the entire property. City Administrator Tempelmeyer explained that the initial resolution identified by parcel and legal description, the parcel ID numbers were correct but the legal did not fully identify the property. City Attorney Butcher stated that this portion also meets the requirements for annexation.

Moved by Catlin, seconded by Carey, that the public hearing be closed at 7:15 p.m.

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

Motion carried.

#### **4 – Resolutions:**

- a. Resolution setting a public hearing for June 17, 2013 at 7:00 p.m. for the proposed annexation of certain properties owned by Max L & Michelle R Manes, and Worldlawn Power Equipment.**

Mayor Schuster introduced Resolution Number 5529 setting a public hearing for June 17, 2013, at 7:00 p.m. for the proposed annexation of certain properties owned by Max L & Michelle R Manes, and Worldlawn Power Equipment.

Moved by Catlin, seconded by Langdale, that Resolution Number 5529 be passed and adopted.

City Attorney Butcher explained that he had the proposed annexation ordinances reviewed by the Gage County Register of Deeds, and found that within the parcel ID numbers, these two parcels needed to be pulled in and are contiguous and connected by tract to the other properties within the ordinance.

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

Motion carried.

Passed and adopted Resolution Number 5529.

#### **5 – Ordinances:**

- a. Ordinance authorizing issuance of Public Safety Debt Service bonds in the amount of \$520,000**

Mayor Schuster introduced an Ordinance authorizing issuance of Public Safety Debt Service bonds in the amount of \$520,000.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 13-024, 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  
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 13-024 by number only the first, second and third times.

Moved by Catlin, seconded by Langdale, that Ordinance Number 13-024 be passed and approved.

Mayor Schuster explained that as approved in the current budget were certain purchases of public safety equipment and public safety facility improvements that were to be funded with the issuance of public safety debt service bonds. Marc Mumford, representative from Ameritas, presented the bond issue numbers; a \$520,000 issue, minus the underwriter discount of 1% and bond attorney fees, will provide \$514,020 to cover the proposed \$510,000 in

expenditures. Principal payments are scheduled for June of each year, over the next three years; interest rates of .35%, .45%, and .65%; staying within the desired tax rate of 3.5 cents or less.

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

Motion carried.

Passed and approved Ordinance Number 13-024.

**b. Ordinance Number 13-021 on the proposed annexation of property owned by The Toro Company, Exmark Mfg, and Gage County, located in the Gage Co Industrial Park. (second reading)**

Mayor Schuster introduced consideration of Ordinance Number 13-021, annexing property owned by The Toro Company, Exmark Mfg, and Gage County, located in the Gage Co Industrial Park, for the second reading.

Moved by Catlin, seconded by Langdale, that said Ordinance Number 13-021, the title thereof be approved, and said ordinance be read by title only the second time tonight.

Discussion held regarding the issue of a promise made some years back to the people that own these properties that they would not be annexed, and even though these properties meet the statutory requirements to be annexed and already receive city services, should they be. Councilmember Moore stated he would abstain due to family members working at Toro. Stan Wirth, Planning & Zoning Chairperson, presented their recommendation to approve annexation on a 5-2 vote. Alan Fetty, 421 N 16<sup>th</sup> Street, spoke to the council in support of annexation of all properties being considered tonight; this would expand the tax base and protect the interest of the taxpayers that provide the readiness support for all those that are receiving benefits from the City without directly paying taxes. Pat Ratigan, 668 E Dorsey Rd, speaking as a citizen, addressed the council about his concern for the economic development impact and to consider if this meets the economic development criteria for bringing companies to town. He also noted the benefits the community receives from the current businesses.

Roll Call: Yea: Carey, Catlin, Langdale, Parde, Mayor Schuster  
Nay: Fairbanks, Cook  
Abstain: Moore

Motion carried.

Mayor Schuster read Ordinance Number 13-021 by title:

“An ordinance to extend the boundaries and include within the corporate limits of, and to annex to, the City of Beatrice, Nebraska parcels of land owned by The Toro Company, Exmark Manufacturing Company, and the County of Gage, Nebraska, located in or near Gage County Industrial Park, a Subdivision in Section 28, Township 4 North, Range 6 East of the 6<sup>th</sup> P.M., Gage County, Nebraska; to provide service benefits thereto; to repeal conflicting ordinances; and to provide for publication in pamphlet form and effective date of this ordinance.”

**c. Ordinance Number 13-022 on the proposed annexation of properties owned by Accuma Corp, Gage County Industrial LLC, J & J Wood & Wire, Mark W & Kathleen A Setzer, Neapco LLC, Naska Corp (UPS), Worldlawn Power Equip, and the County of Gage, located in the Gage Co Industrial Park. (second reading)**

Mayor Schuster introduced consideration of Ordinance Number 13-022 annexing properties owned by Accuma Corp, Gage County Industrial LLC, J & J Wood & Wire, Mark W & Kathleen A Setzer, Neapco LLC, Naska Corp (UPS), Worldlawn Power Equip, and the County of Gage, located in the Gage Co Industrial Park for the second reading.

Moved by Catlin, seconded by Moore, that said Ordinance Number 13-022, the title thereof be approved, and said ordinance be read by title only the second time tonight.

Stan Wirth, Planning and Zoning Chairperson, reported that the recommendation to annex was denied by the commission due to the controversy from property owners testimony; the commission felt that they support the community through the large number of employees who pay taxes, which outweighs the tax dollars that would be generated through annexation. Discussion followed regarding taxation and fairness and treating all taxpayers the same way. Ing Maurstad, 2011 S 19<sup>th</sup> Street, questioned however, to consider for example a taxpayer that brings in two jobs, to one that brings in 1,000 jobs, to think about treating them differently based upon what they bring to the City.

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

Motion carried.

Mayor Schuster read Ordinance Number 13-022 by title:

“An ordinance to extend the boundaries and include within the corporate limits of, and to annex to, the City of Beatrice, Nebraska parcels of land owned by the Accuma Corporation, Gage Industrial LLC, J & J Wood & Wire, Inc., Mark W. & Kathleen A. Setzer, Neapco, LLC, Naska Corporation (UPS), Worldlawn Power Equipment, Inc., and the County of Gage, Nebraska, located in or near Gage County Industrial Park, a Subdivision in Section 28, Township 4 North, Range 6 East of the 6<sup>th</sup> P.M., Gage County, Nebraska; to provide service benefits thereto; to repeal conflicting ordinances; and to provide for publication in pamphlet form and effective date of this ordinance.”

- d. Ordinance Number 13-023 on the proposed annexation of properties owned by Beatrice Country Club, Burlington Northern Santa Fe Railroad, Dennis D. Day, Timothy & Kelly Fralin, Marvin & Lisa Goossen, Hoyle Farms LLC, Max L. & Michelle R. Manes, Natural Gas Pipeline, Nebraska Public Power District, Provident Trust Co, Trustee of the Herbert T Weston Jr Testamentary Trust U/A restated July 1, 1999, Southeast Nebraska Cooperative, Vaughn M. & Valentina A. Wright, the City of Beatrice, and the County of Gage, at various locations adjacent to the City. (second reading)**

Mayor Schuster introduced consideration of Ordinance Number 13-023 annexing properties owned by Beatrice Country Club, Burlington Northern Santa Fe Railroad, Dennis D. Day, Timothy & Kelly Fralin, Marvin & Lisa Goossen, Hoyle Farms LLC, Max L. & Michelle R. Manes, Natural Gas Pipeline, Nebraska Public Power District, Provident Trust Co., Trustee of the Herbert T. Weston, Jr. Testamentary Trust U/A restated July 1, 1999, Southeast Nebraska Cooperative, Vaughn M. & Valentina A. Wright, the City of Beatrice, and the County of Gage, at various locations adjacent to the City, for second reading.

Moved by Catlin, seconded by Langdale, that said Ordinance Number 13-023, the title thereof be approved, and said ordinance be read by title only the second time tonight.

Stan Wirth, Planning and Zoning Chairperson, reported that the commission unanimously denied a recommendation to annex these properties because they were all grouped together and whether they had no issue with some properties but were against or had to abstain on other properties, they voted it all down. Discussion followed on whether to break them apart and send it back to P&Z, however, the entire process and public notice requirements would have to start over.

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

Motion carried.

Mayor Schuster read Ordinance Number 13-023 by title:

“An ordinance to extend the boundaries and include within the corporate limits of, and to annex to, the City of Beatrice, Nebraska parcels of land owned by Beatrice Country Club, Inc., the Burlington Northern Santa Fe Railroad, Dennis D. Day, Timothy & Kelly Fralin, Marvin & Lisa Goossen, Hoyle Farms, LLC, Max L. & Michelle R. Manes, Natural Gas Pipeline, Co. of America, Nebraska Public Power District, the Provident Trust Company, Trustee of the Herbert T. Weston, Jr. Testamentary Trust U/A, restated July 1, 1999, the Southeast Nebraska Cooperative Co., Vaughn M. & Valentina A. Wright, the City of Beatrice, Gage County, Nebraska, and the County of Gage, Nebraska, which are adjacent, contiguous,

and located in or near the City of Beatrice, Gage County, Nebraska; to provide service benefits thereto; to repeal conflicting ordinances; and to provide for publication in pamphlet form and effective date of this ordinance.”

**e. Ordinance on the proposed annexation of a parcel of land property owned by the Beatrice Country Club, Inc.**

Mayor Schuster introduced an Ordinance on the proposed annexation of a parcel of land property owned by the Beatrice Country Club, Inc.

Moved by Catlin, seconded by Moore, that said ordinance be given number 13-025, the title thereof be approved, and said ordinance be read by title only one time tonight.

Ing Maurstad, 2011 S 19<sup>th</sup>, spoke on behalf of the Beatrice Country Club as Vice President, with regard to the annexation of this parcel and the entire country club course, to request that the council work with them to do this in a responsible way, look at drawing the line at the major income producing property and down the road as housing around the course develops, then annex the rest of the club at that time. He expressed concern for the club’s financial position and declining membership. Les White, 1923 S 4<sup>th</sup>, spoke as a prior club member, that if the membership cost goes up and the club loses members, they will not be able to keep the pristine course as is. Al Fetty, 421 N 16<sup>th</sup> St., spoke regarding the services that are supported by taxes, such as police and fire, and it is not whether they have responded to these properties, but that they are there and ready to respond when needed; he felt it is in the best interest of the community as a whole to annex. Discussion followed about the possible impact on the country club; what entities currently respond for fire, ems and law enforcement; and that the course is used by the High School.

Tiemann arrived at 8:12 p.m.

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

Motion carried.

Mayor Schuster read Ordinance Number 13-025 by title the first time:

“An ordinance to extend the boundaries and include within the corporate limits of, and to annex to, the City of Beatrice, Nebraska a parcel of land owned by the Beatrice Country Club, Inc., located in or near in Section 10, Township 3 North, Range 6 East of the 6<sup>th</sup> P.M., Gage County, Nebraska; to provide service benefits thereto; to repeal conflicting ordinances; and to provide for publication in pamphlet form and effective date of this ordinance.”

**6 – Public Forum:**

No one appeared at public forum.

**7 – Discussions/Reports:**

**a. Legislative update**

City Administrator Tempelmeyer presented the Legislative update; LB363 impacts the public records law and how records are given out to the public; with its passage the City will need to amend our public records policy.

**b. Consider request for funding by the Beatrice Area Chamber of Commerce for the 2013 Homestead Days activities**

John Zarybnicky, 5860 W Plum Rd, Odell, NE, Chairperson of the Beatrice Area Chamber of Commerce, appeared to thank the City for their support of Homestead Days, including the in-kind assistance provided, and to thank councilmembers for putting the item on the agenda however they asked that their request for funding be tabled at this time; they plan to come back at budget time and go through the formal budget process to request funds for 2014.

Discussion followed that the event is designed to be break-even, but that corporate sponsorship was down this year. Also discussed bringing back discussion on developing a policy for requesting funds.

**8 – Miscellaneous:**

Next regular council meeting is June 17, 2013 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.  
Worksession will be June 24, 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 8:21 p.m.

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

Motion carried.

**Linda S. Koch, City Clerk**

**Mayor Dennis Schuster**