

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD AUGUST 17, 2009, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5TH STREET.

1 – Roll Call: Present: Mayor Schuster, Councilmembers Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Absent: None.

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 August 3, 2009 as on file in the City Clerk's Office.
- e. Approval of Treasurer's Report of Claims in the amount of \$474,376.90.
- f. Approval of BASWA Report of Claims in the amount of \$31,733.06.
- g. Resolution Number 5143 terminating License Agreement with Murphy Distributing for use of railroad right-of-way.
- h. Approval of bid of General Excavating in the amount of \$98,575.16 for Mosaic Trunk Sewer Replacement Project #09-253 as recommended by the Board of Public Works.

Moved by Fairbanks, seconded by Carey, that the items listed under the consent agenda be approved, accepted and/or ratified as presented.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

3 – Public Hearings/Bids:

a. Hearings

- (1) **Application of David Haner for amendment to the City Zoning Ordinance for property located at 1214 East Highway 136 from the present zoning of "AG" Agricultural District to "RR" Rural Residential District.**

Mayor Schuster announced that a public hearing will now be held for the purpose of considering the application of David Haner for rezoning property located at 1214 East Highway 136 from AG Agricultural District to RR Rural Residential District.

Stan Wirth, Chairman of Planning Zoning, reported that the Commission recommended approval of the zoning change, it was appropriate and the property qualifies for Rural Residential. John Riggs, Chief Building Inspector explained that the property is a part of the plat which will be considered later on the agenda.

Moved by Fairbanks, seconded by Schmale, that the public hearing be closed at 7:08 p.m.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

b. Bids

- (1) **Approval of bid of Fireguard in the amount of \$150,214.40 for the purchase of a 2010 Osage ALS ambulance.**

Moved by Fairbanks, seconded by Fetty, that the bid of Fireguard in the amount of \$150,214.40 for the purchase of a 2010 Osage ALS ambulance be approved.

Fire Chief, Brian Daake, reviewed the bids and recommended purchasing the 2010 Osage from Fireguard. It meets the specifications and the cost is under budget. He explained that the difference between bids was in the way they build the box with some including higher costs for electronic systems and sliding doors.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

4 – Resolutions:

- a. Entering into Interlocal Agreement with Beatrice Public Schools for employment of a school resource officer for a term of 3 years.**

Mayor Schuster introduced Resolution Number 5144 entering into Interlocal Agreement with Beatrice Public Schools for employment of a school resource officer for a term of 3 years.

Moved Fairbanks, seconded by Lytle, that Resolution Number 5144 be passed and adopted.

Mayor Schuster explained that this is the same agreement as last year, but the school asked to consider a three-year agreement. Police Chief, Bruce Lang, reported that the current resource officer Erin Byrne enjoyed the work and the school in return likes his work so there is no intention to change.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Resolution Number 5144 has been passed and adopted.

- b. Establishing the final allocation for levy authority for property taxes for the Airport Authority for the fiscal year ending September 30, 2010.**

Mayor Schuster introduced Resolution Number 5145 establishing the final allocation for levy authority for property taxes for the Airport Authority for the fiscal year ending September 30, 2010.

Moved by Fairbanks, seconded by Fetty, that Resolution Number 5145 be passed and adopted.

Airport Manager, Diana Smith, presented the Airport's property tax requirement for general purposes at the same level as last year with a decrease in the debt service requirement. Fuel sales gallons remain in line with the last 8 year average.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Resolution Number 5145 has been passed and adopted.

- c. Resolution reducing the amount of the Revolving Loan Fund for Beatrice Main Street to \$51,000.00.**

Mayor Schuster introduces Resolution Number 5146 reducing the amount of the Revolving Loan Fund for Beatrice Main Street to \$51,000.00.

Moved by Fairbanks, seconded by Fetty, that Resolution Number 5146 be passed and adopted.

City Administrator Neal Niedfeldt explained that to date no one had applied for a portion of the \$100,000 set aside for Main Street and that another applicant has applied for funding in excess of what is available, therefore, Main Street has agreed to release part of their funds. Steve Hovendick, representing Main Street, reported that they were okay with it.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Resolution Number 5146 has been passed and adopted.

- d. **Resolution authorizing execution of documents regarding a CDBG Revolving loan for 5stat, Inc. in the amount of \$606,000.**

Mayor Schuster announced that negotiations with 5stat were not in agreement and will require continued discussions.

- e. **Resolution executing the U.S. Environmental Protection Agency designation of the City of Beatrice as an Authorized Agent for the purpose of entry onto property controlled by BNSF Railway Co.**

Moved by Fairbanks, seconded by Schmale, to meet in executive session at 7:29 p.m. for the purpose of discussing litigation.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Reconvene in public session at 7:35 p.m.

Mayor Schuster introduced Resolution Number 5148 executing the U.S. Environmental Protection Agency designation of the City of Beatrice as an Authorized Agent for the purpose of entry onto property controlled by BNSF Railway Co.

Moved by Fairbanks, seconded by Schmale, that Resolution Number 5148 be passed and adopted.

City Attorney, Tobias Tempelmeyer, explained that this will allow the City to act on behalf of EPA for the purpose of hiring consultants to drill test wells on the property to check for contamination from the Former Gas Plant.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Resolution Number 5148 has been passed and adopted.

5 – Ordinances:

- a. **To amend the Zoning Map for the City of Beatrice by rezoning property described Lot One of Haner Subdivision located in the E1/2 of SW1/4 and part of W1/2 of SW1/4 of SW1/4 of Section 36-4-6, located at 1214 East U.S. Highway 136, from AG to RR.**

Mayor Schuster introduced an ordinance to amend the Zoning Map for the City of Beatrice by rezoning property described Lot One of Haner Subdivision located in the E1/2 of SW1/4 and part of W1/2 of SW1/4 of SW1/4 of Section 36-4-6, located at 1214 East U.S. Highway 136, from AG to RR.

Moved by Fairbanks, seconded by Carey, that said ordinance be given number 09-28, the title thereof approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-28 by number only the first, second and third times.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 09-28 be passed and approved.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Ordinance Number 09-028 has been passed and approved.

b. Approval of Plat of Haner Subdivision.

Mayor Schuster introduced an ordinance approving the plat of Haner Subdivision.

Moved by Fairbanks, seconded by Schmale, that said ordinance be given number 09-29, the title thereof approved, the rules be suspended, and said ordinance be read by number only three times tonight.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Mayor Schuster read Ordinance Number 09-29 by number only the first, second and third times.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 09-29 be passed and approved.

Stan Wirth, Planning & Zoning Chairman, reported that the commission recommended approval of the plat.

Roll Call: Yea: Carey, Catlin, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: None.

Motion carried.

Ordinance Number 09-029 has been passed and approved.

6- Public Forum:

No one appeared at public forum.

7- Discussions/Reports:

a. Presentation by the League Association of Risk Management (LARM)

Yvonne McConnell Svec, Consultant for the League Association of Risk Management, gave a video presentation explanation of LARM and answered questions of the Council. LARM membership consists of municipalities who contribute money into a joint-owned fund for the purpose of providing insurance protection against losses due to liability or damage and employee workers compensation. LARM strives to transfer risk and develop innovative loss control because loss prevention saves money. Reinsurance is purchased to protect against catastrophic loss. A non-binding resolution must be passed in order to request a proposal from LARM.

b. Monthly City Administrator Report

City Administrator Niedfeldt presented the Monthly City Administrator's Report which reflects financials for 10 months, showing expenditures right below budget level. To handle the loss in sales tax revenue through LB775 refunds, some street and park projects have been deferred.

8- Miscellaneous:

- a. Next regular council meeting is TUESDAY, September 8, 2009, at 7:00 p.m. (Budget Hearing)**
- b. Worksessions on August 24, 2009 AND August 31, 2009 at 7:00 p.m. at the Council Chambers in the BPS Administration Bldg.**

Moved by Fairbanks, seconded by Schmale, that the meeting be adjourned at 8:12 p.m.

Roll Call: Yea: Carey, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale
Nay: Catlin.

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster