

**SUMMARY OF THE CITY COUNCIL REGULAR MEETING HELD FEBRUARY 2, 2009, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5<sup>TH</sup> 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 January 19, 2009 as on file in the City Clerk's office.
- e. Approval of Treasurer's Report of Claims in the amount of \$449,243.09.
- f. Approval of BASWA Report of Claims in the amount of \$39,712.19.
- g. Approval of Special Designated Liquor Permit for St. Joseph Catholic Church Spaghetti Dinner to be held March 1, 2009, at 612 High Street, from 4:00 p.m. to 7:00 p.m.

Moved by Fairbanks, seconded by Fetty, 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.

Moved by Fairbanks, seconded by Fetty, that the Council meet in executive session at 7:04 p.m. for the purpose of discussing possible litigation.

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

Motion carried.

Reconvened at 7:18 p.m.

**3 – Public Hearings/Bids: None.**

**a. Hearings**

**(1) One & Six Year Road and Street Improvement Plan (hearing and approval of)**

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

City Engineer, Rex Behrends, and Street Superintendent, Ron Baete, appeared before the Council to present the proposed One and Six Year Street Improvement Plan. The Nebr. Dept. of Roads requires that a plan be prepared and submitted annually. The City's share of the costs is paid with Street fund revenues. In the current year the major project is the Highway 77 and 136 improvements, which is estimated to be \$3.2 million. Also proposed is a \$500,000 federal project for the mill and overlay of collector streets, and local projects of \$144,000. Local projects will be put on hold until after the State bid-letting for the Highway 77/136 project is completed in March.

Moved by Fairbanks, seconded by Carey, that the public hearing be closed at 7:32 p.m.

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

Motion carried.

Moved by Fairbanks, seconded by Fetty, 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, Fairbanks, Fetty, Lytle, Moore, Parde, Schmale  
Nay: None

Motion carried.

**(2) Hearing request by Dan Meints per City Code Section 17-187 in regards to a Notice to Abate for 718 & 720 South 9<sup>th</sup> Street.**

Mayor Schuster announced that a public hearing will now be held at the request of Dan Meints per City Code Section 17-187 in regards to a Notice to Abate for 718 & 720 South 9<sup>th</sup> Street.

Chief Building Official, John Riggs, appeared to report that as a duty of his department to enforce nuisance violations of the City Code Section 17-187, a notice to abate was mailed by certified mail on December 2, 2008, which was returned unclaimed, the property was then physically posted on January 5, 2009, with a notice to abate and remove nuisance or request this hearing. Mr. Riggs presented copies of the notices and pictures of the property showing the nature of the complaint and recommended that the Council affirm his decision. City Attorney, Tobias Tempelmeyer, added that City Code Sections 17-181 and 17-182 also define a nuisance. No one appeared on behalf of Mr. Meints. Mayor Schuster stated that a letter had been received today by fax from an attorney that had tentatively agreed to represent Mr. Meints requesting a continuance on his behalf.

Moved by Fairbanks, seconded by Fetty, that the public hearing be closed at 7:44 p.m.

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

Motion carried.

Moved by Fairbanks, seconded by Schmale to affirm the decision of the City Chief Building Official declaring the property at 718 & 720 South 9<sup>th</sup> Street a nuisance pursuant to the Beatrice City Code and to proceed with abatement of said nuisance.

Discussion was held that the junk and trash on the property was a nuisance and needed to be cleaned up.

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

Motion carried.

Moved by Fairbanks, seconded by Fetty, to instruct the City Attorney and the Chief Building Official to clean up the property forthwith.

Discussion was held on whether to clean up the property forthwith or to allow Mr. Meints more time to clean up the property.

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

Motion carried.

**4 – Resolutions:**

**a. Resolution approving 3-year software maintenance agreement with New World Systems for the Beatrice Police Dept.**

Mayor Schuster introduced Resolution Number 5082 approving 3-year software maintenance agreement with New World Systems for the Beatrice Police Dept.

Moved by Fairbanks, seconded by Parde, that Resolution Number 5082 be passed and adopted.

Police Chief, Bruce Lang, presented his request for approval of a 3-year software maintenance agreement for the New World software package which serves all operations of the police department. The agreement does provide for a 90-day opt-out clause.

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

Motion carried.

Resolution Number 5082 has been passed and adopted.

**b. Resolution approving agreement with American Institute Architects Center (AIA) for a Sustainable Design Assessment Team Community Assistance Project, as recommended by BPW.**

Mayor Schuster introduced Resolution Number 5083 approving agreement with American Institute Architects Center (AIA) for a Sustainable Design Assessment Team Community Assistance Project, as recommended by BPW.

Moved by Fairbanks, seconded by Carey, that Resolution Number 5083 be passed and adopted.

City Engineer Behrends, and Gary Willard, Storm Water Coordinator, presented the proposed agreement with AIA, which provides an assistance grant in the amount of \$15,000 with a \$5,000 local match, to pay for expenses only, not labor costs, for a team of professionals to come into Beatrice and assess the City as a whole and provide a plan for a sustainable future. The local match will be paid through fundraising efforts of the Riverfront Steering Committee.

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

Motion carried.

Resolution Number 5083 has been passed and adopted.

**c. Resolution recognizing the importance of the Beatrice State Development Center and encouraging the Nebraska Legislature to continue to support them.**

Mayor Schuster introduced Resolution Number 5084 recognizing the importance of the Beatrice State Development Center (BSDC) and encouraging the Nebraska Legislature to continue to support them.

Moved by Fairbanks, seconded by Lytle, that Resolution Number 5084 be passed and adopted.

Lori Warner, Present of the Beatrice Area Chamber of Commerce, spoke to the Council regarding the importance of BSDC to our community, which provides jobs to 531 local people, and the outreach work that the clients perform for local businesses. This Resolution and several other letters will be presented to the Governor. Discussion was held in support of the employees and the clients and that those employees do care for and believe in what they do, however, recognizing that there are leadership issues at BSDC that need to be resolved.

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

Motion carried.

Resolution Number 5084 has been passed and adopted.

**5 – Ordinances:**

**a. Third reading of Ordinance 08-41 amending Section 217 and 604 of the Subdivision Ordinance regarding storm water management.**

Mayor Schuster announced that Ordinance Number 08-41 amending Section 217 and 604 of the Subdivision Ordinance regarding storm water management be considered for the third and final reading.

Moved by Fairbanks, seconded by Schmale, that Ordinance Number 08-41, the title thereof be approved and the rules be suspended and said ordinance be read by number only the third and final time tonight.

City Engineer Behrends explained the procedures for implementation of the code, for new developments, by preparing a Storm Water Notice to be filed at the County Register of Deeds, which includes legal description, address, and the building permit number, which will have the details of the storm water retention devise. Enforcement will be through the occupancy permit at the Building Inspection department.

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

Mayor Schuster read Ordinance Number 08-41 by number only the third time.

Moved by Fairbanks, seconded by Fetty, that Ordinance Number 08-41 be passed and approved.

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

Ordinance Number 08-41 has been passed and approved.

**b. Third reading of Ordinance 08-42 amending the City Code to add new Section 7-13 regarding storm water management.**

Mayor Schuster announced that Ordinance Number 08-42 amending the City Code to add new Section 7-13 regarding storm water management be considered for the third and final reading.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 08-42, the title thereof be approved and the rules be suspended and said ordinance be read by number only the third and final time tonight.

City Engineer Behrends explained that this section deals with additions to existing building, and will use the same procedure of preparing and filing a Storm Water Notice with the County Register of Deeds.

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

Mayor Schuster read Ordinance Number 08-42 by number only the third time.

Moved by Fairbanks, seconded by Carey, that Ordinance Number 08-42 be passed and approved.

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

Ordinance Number 08-42 has been passed and approved.

**6- Public Forum:**

No one appeared.

**7- Discussions/Reports:**

- a. Discussion regarding structure and use of council committees and procedures for placing

**items on the council agenda.**

Councilmember Schmale requested that this item be brought for discussion to come up with a way to improve communication and provide better information and discussion on agenda items , whether through the use of Ad-hoc committees or re-establishing the use of standing subcommittees. City Attorney Tempelmeyer explained the open meetings act. A lengthy discussion followed regarding past use of standing subcommittees, how they worked, and the importance of the element of faith and trust between the two. Discussion was also brought up regarding how items are placed on the regular meeting agenda.

Moved by Fairbanks, seconded by Moore, to instruct the City Attorney to prepare an ordinance deleting Section 2-67 of the Beatrice City Code regarding placing matters on the agenda, such ordinance to be brought for consideration at the next regular meeting on February 16, 2009.

Councilmember Fairbanks requested that Section 2-67 be deleted so that a councilmember has the right to put an item on the agenda for consideration. Concern was brought up that there should be some sort of screening process and that possibly that could be a part of the committee process.

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

Motion carried.

Moved by Fairbanks, seconded by Schmale, to instruct the City Attorney to prepare a resolution regarding the use of city council committees to be brought for consideration at the next regular meeting on February 16, 2009.

Discussion was held regarding how exactly the resolution should read, with the suggestion that a group of four councilmembers meet with the City Attorney to discuss this.

Moved by Fetty, seconded by Schmale, to amend the motion to include that the City Attorney meet with a committee appointed by the Mayor to draft the resolution creating subcommittees.

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

Motion carried.

Vote on original motion, as amended:

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

Motion carried.

**8- Miscellaneous:**

- a. Next regular council meeting is Monday, February 16<sup>th</sup>, 2009 at 7:00 p.m.**

Moved by Fairbanks, seconded by Lytle, that the meeting be adjourned at 9:25 p.m.

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

Motion carried.

**Linda S. Koch, City Clerk**

**Mayor Dennis Schuster**