

**MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD SEPTEMBER 7, 2010, 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 regular meeting on August 16, 2010 as on file in the City Clerk's Office.
- e. Approval of minutes of the work session on August 23, 2010 as on file in the City Clerk's Office.
- f. Approval of minutes of the work session on August 30, 2010 as on file in the City Clerk's Office.
- g. Approval of Treasurer's Report of Claims in the amount of \$600,489.12.
- h. Approval of BASWA Report of Claims:
  - (1) Approval of BASWA claim to Jason Schmale in the amount of \$1,500.00
  - (2) Approval of balance of BASWA Report of Claims in the amount of \$17,702.39.
- i. Resolution Number 5224 designating Rex Behrends as the Project Supervisor for the Riverside campground project.
- j. Approval of special designated permit of Main Street Beatrice for a fundraiser event to be held at the Kensington, 105 N 6<sup>th</sup> St, on October 9, 2010, from 6:30 p.m. to 9:30 p.m.
- k. Approval of change order decrease of \$206.61 and final payment of \$31,803.39 to Sta-Bilt Construction for Armor Coat Project 10-489, as recommended by BPW.
- l. Approval of change order decrease of \$10,620.05 and final payment of \$67,849.95 to Horizontal Boring & Tunneling for Waterline Projects on 10<sup>th</sup> Street and Grant Street, as recommended by BPW.
- m. Refer claim of Ron Maschmeier for water damage to the Professional Building at 8<sup>th</sup> & Court Streets on October 31, 2009, to the City Attorney and the City's Insurance Carrier for review and disposition.

Moved by Catlin, seconded by Fetty, that the items listed under the consent agenda be approved, accepted and/or ratified as presented. Councilmember Schmale abstained from item h (1).

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

Motion carried.

**3 – Public Hearings/Bids:**

- a. **Hearings**
  - (1) **Public Hearing for the Fiscal Year 2011 Budget.**

A public hearing was held on the proposed Fiscal Year 2011 Budget. Since previous discussion at two worksessions, the proposed budget includes eliminating the storm water coordinator position and putting \$56,316 back into the general fund contingency line. Further discussion was held regarding the proposed electric, water and WPC rate increases. Board of Public Works Chairman, Don Vetrovsky, appeared to request support for the proposed increases, which are not more than needed to keep moving forward to provide services and replace aging infrastructure.

Moved by Catlin, seconded by Lytle, that the public hearing be closed at 7:33 p.m.

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

Motion carried.

Moved by Fetty, seconded by Lytle, to move the funding of the Capital budget for Computer Replacements and Library Dynix Project from use of Keno funds to the General Fund in the amount of \$36,500 and to move the funding of the Capital budget for the Riverside Park Campground Project match in the amount of \$22,500 from Lodging Occupation Tax to the Keno fund.

Discussion held that keno funds were geared for this type of project rather than towards computers.

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

Motion carried.

Moved by Schmale, seconded by Catlin, to decrease the Library budget by \$8500 and increase the Public Properties budget \$8,500.

Discussion followed regarding the need for an increase in the public properties department budget to take care of the increased property that has been given to this department and maintenance items within the buildings that are not happening, while the Library may have extra funding available to meet their needs. Director of Public Properties, Mark Pethoud, spoke that with the addition of three parks and the trails, the department has tried to cut back but they need more maintenance. Library Director, Laureen Riedesel, explained that increases in the Library budget were offset by funding from the Library Commission, but that the Library Foundation materials budget actually decreased over a two year period to use those funds to pay for the Dynix project.

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

Motion failed.

Moved by Moore, seconded by Fairbanks, to remove the waste water 5% rate increase.

Discussion followed regarding the economy and whether this was the right time for an increase vs. the need for cash flow and to cover the expense of providing this necessary public service.

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

Motion failed.

Moved by Catlin, seconded by Lytle, to exceed the budget limit for the fiscal year beginning on October 1, 2010, and ending on September 30, 2011, by an additional 1% as authorized in Section 13-579 of the Nebraska Revised Statutes.

City Clerk, Linda Koch, explained what restricted funds are and that this only increases the authority to use those funds, if not this year will be reserved for future years.

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

Motion carried.

## **(2) Public Hearing setting the final property tax request at an amount different than the prior year.**

Announced that a public hearing be held to consider setting the property tax request at an amount different than the prior year.

Mayor Schuster explained that in keeping the city's levy the same as the prior year, the property tax dollar amount requested was actually less than the prior year due to a decrease in the city's valuation.

Moved by Catlin, seconded by Lytle, that the public hearing be closed at 8:18 p.m.

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

Nay: None

Motion carried.

**4 – Resolutions:**

**a. Resolution setting the property tax request for the City of Beatrice.**

Mayor Schuster introduced Resolution Number 5225 setting the property tax request for the City of Beatrice.

Moved by Catlin, seconded by Lytle, that Resolution Number 5225 be passed and adopted.

City Administrator, Neal Niedfeldt, explained that the total property tax request for fiscal year 2011 is \$1,778,949.36, resulting in a final levy of .325840.

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

Motion carried.

Passed and adopted Resolution Number 5225.

**b. Resolution calculating the amount of unused restricted funds authority.**

Mayor Schuster introduced Resolution Number 5226 calculating the amount of unused restricted funds authority.

Moved by Catlin, seconded by Lytle, that Resolution Number 5226 be passed and adopted.

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

Motion carried.

Passed and adopted Resolution Number 5226.

**c. Resolution authorizing foreclosure proceedings against various properties due to delinquent special assessments.**

Mayor Schuster introduced Resolution Number 5227 authorizing foreclosure proceedings against various properties due to delinquent special assessments.

Moved by Catlin, seconded by Fairbanks, that Resolution Number 5227 be passed and adopted.

City Attorney, Tobias Tempelmeyer, explained that this process started several months ago to take action against property owners with delinquent special assessments, the payments have been accelerated and the next step is to prepare tax sale certificates to the County for collection.

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

Motion carried.

Passed and adopted Resolution Number 5227.

**5 – Ordinances:**

**a. Ordinance to adopt the annual budget statement for the City of Beatrice Fiscal Year 2011.**

Mayor Schuster introduced an ordinance to adopt the annual budget statement for the City of Beatrice Fiscal Year 2011.

Moved by Catlin, seconded by Fetty, that said ordinance be given number 10-018, the title thereof approved, the rules be suspended, and said ordinance be read by number only 3 times tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 10-018 by number only the first, second and third times.

Moved by Catlin, seconded by Lytle, that Ordinance Number 10-018 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 10-018.

**b. Ordinance to vacate the plat of Northgate Hospital First Addition.**

Mayor Schuster introduced an ordinance to vacate the plat of Northgate Hospital First Addition.

Moved by Catlin, seconded by Fairbanks, that said ordinance be given number 10-019, 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 10-019 by number only the first, second and third times.

Moved by Catlin, seconded by Schmale, that Ordinance Number 10-019 be passed and approved.

Mayor Schuster explained that this vacates the previous plat in order to consider a new plat.

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

Motion carried.

Passed and approved Ordinance Number 10-019.

**c. Ordinance approving the plat of Northgate Crossing Addition**

Mayor Schuster introduced an ordinance approving the plat of Northgate Crossing Addition.

Moved by Catlin, seconded by Fairbanks, that said ordinance be given number 10-020, 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 10-020 by number only the first, second and third times.

Moved by Catlin, seconded by Fairbanks, that Ordinance Number 10-020 be passed and approved.

City Engineer, Rex Behrends, reported he had approved of the plat, which includes a large lot for construction of the Beatrice Community Hospital, and that Planning and Zoning met on August 31, 2010, and voted unanimously to recommend approval of the plat. This recommendation was received and placed on file.

Jim Nelson, Attorney representing the Beatrice Community Hospital, reported that signatures from all parties involved have been obtained and that the hospital is ready to proceed with construction.

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

Motion carried.

Passed and approved Ordinance Number 10-020.

**d. Ordinance approving the Subdivision Improvement Agreement of Northgate Crossing Addition.**

Mayor Schuster introduced an ordinance approving the Subdivision Improvement Agreement of Northgate Crossing Addition.

Moved by Catlin, seconded by Fairbanks, that said ordinance be given number 10-021, 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 10-021 by number only the first, second and third times.

Moved by Catlin, seconded by Fairbanks, that Ordinance Number 10-021 be passed and approved.

City Attorney Tempelmeyer reviewed the language in the agreement and the addendum dealing with infrastructure improvements and the lay-out of the streets. Jim Nelson, Attorney, explained that security to assure funds are available to pay for these public improvements will be handled through the bond trustee, Wells Fargo. City Administrator Niedfeldt explained that while the Water Loop is not a requirement, parties agreed it is a good idea as a secondary water source and the hospital is willing to 50% of that cost. Jim Nelson further explained that the hospital has an agreement to place improvements across the pipeline and indemnifies the City on any costs associated with future expense as a result of upgrades to the pipeline.

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

Motion carried.

Passed and approved Ordinance Number 10-021.

**6- Public Forum:**

No one appeared at public forum.

**7- Discussions/Reports:**

**a. Discussion regarding claim of State Bank of Odell for a guarantee on the indebtedness of BVA, Inc.**

Mayor Schuster reported that a claim had been received from the State Bank of Odell regarding an alleged loan guarantee on the indebtedness of BVA, Inc. City Attorney Tempelmeyer explained that in 2005 BVA had a loan with the bank and asked the City to guarantee that loan, over time extensions of the guarantee had been approved, and the last one in the amount of \$200,000 was through August 1, 2008. It is his recommendation to deny the claim.

Moved by Catlin, seconded by Carey, to deny claim of State Bank of Odell for a guarantee on the indebtedness of BVA, Inc.

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

Motion carried.

**8- Miscellaneous:**

- a. Next regular council meeting is September 20, 2010 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.
- b. Worksession on September 27, 2010 at 7:00 p.m. in the Beatrice Public Library Sargent Meeting Room.
- c. Special meeting for approval of final claims at noon on September 30, 2010 in the City/BPW Conference Room.

Moved by Catlin, seconded by Lytle, that the meeting be adjourned at 8:44 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**