

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD AUGUST 1, 2011 AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5TH STREET.

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

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.

Mayor Schuster read Proclamation proclaiming August 1 – 7, 2011 as Robert Taylor Week. Lauren Riedesel received the proclamation and explained several of the activities that will be held throughout the week honoring Robert Taylor.

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 July 18, 2011 as on file in the City Clerk's Office.
- e. Approval of minutes of work session on July 25, 2011 as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims in the amount of \$398,255.59.
- g. Approval of BASWA Report of Claims in the amount of \$416,327.41.
- h. Approval of payment #4 in the amount of \$368,979.74 to J.J. Westhoff Construction for the Landfill Phase 4 Liner Construction.
- i. Resolution Number 5309 approving a revision to the One-Year Street and Road Plan to include the extension of Grable Avenue.
- j. Approval of change order decrease of \$16,609.88 and final contract price of \$149,250.12 to Pavers Inc. for the Mill & Overlay Project #11-491.
- k. Approval of change order #1 increase of \$1,468.40 and change order #2 decrease of \$400.00 and final contract price of \$23,065.19 to Goossen Construction for the Riverside Park Campground Sewer #11-255.
- l. Approval of change order #2 increase of \$6,003.00 and final contract price of \$161,661.66 to Goossen Construction for the Hospital Sanitary Sewer Project #11-254.
- m. Approval of plans, specifications, and advertisement for bids for the Auditorium Lighting Project, a part of the Energy Grant.

Moved by Catlin, seconded by Schmale, that the items listed under the consent agenda, with the exception of items h, k and l, be approved, accepted and/or ratified as presented.

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

Motion carried.

2 (h) – Moved by Catlin, seconded by Schmale, that payment #4 in the amount of \$368,979.74 to J.J. Westhoff Construction for the Landfill Phase 4 Liner Construction, be approved.

Councilmember Carey requested an update on the project. City Administrator Niedfeldt explained that a majority of the work was done and that the consulting engineering firm had approved this certificate for payment. There may be a change order submitted for un-suitable soils found before the contract is finalized.

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

Motion carried.

2 (k) – Moved by Catlin, seconded by Schmale, that change order #1 increase of \$1,468.40 and change order #2 decrease of \$400.00 and final contract price of \$23,065.19 to Goossen Construction for the Riverside Park Campground Sewer #11-255, be approved.

Councilmember Carey requested explanation of the change orders. City Engineer, Rex Behrends, reported on the changes in pad sizes, extension of services, and removal of the old pool concrete.

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

Motion carried.

2 (l) – Moved by Catlin, seconded by Langdale, that change order #2 increase of \$6,003.00 and final contract price of \$161,661.66 to Goossen Construction for the Hospital Sanitary Sewer Project #11-254, be approved.

Councilmember Carey requested explanation of the change order. City Engineer Behrends reported additional costs were incurred to more under John Deere's driveway due to access concerns by them.

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

Motion carried.

3 - Public Hearings/Bids:

4– Resolutions:

a. Resolution approving an agreement with NDOR to enter into the Federal Funds Purchase Program Agreement.

Mayor Schuster introduced Resolution Number 5310 approving an agreement with Nebraska Department of Roads to enter into the Federal Funds Purchase Program Agreement.

Moved by Catlin, seconded by Schmale, that Resolution Number 5310 be passed and adopted.

City Engineer Behrends explained that this agreement changes the way federal aid projects have been handled the past three years; that now the state will send the funds to the City to use on any project the City wants to do, starting in March of 2016. In order to participate in federal aid projects the City needs to sign this agreement.

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

Motion carried.

Passed and adopted Resolution Number 5310.

b. Resolution requesting NDOR to conduct a study regarding the possible re-alignment of Highway 136 from Court Street to Market Street.

Mayor Schuster introduced Resolution Number 5311 requesting Nebraska Department of Roads to conduct a study regarding the possible re-alignment of Highway 136 from Court Street to Market Street.

Moved by Catlin, seconded by Moore, that Resolution Number 5311 be passed and adopted.

Mayor Schuster explained that this is as a result of the recent downtown redevelopment study that suggested moving Highway 136 traffic south one block to encourage the development of downtown. In order for the Department of Roads to conduct a study, a resolution is needed asking them to do so. If there are costs involved NDOR will come back with an agreement.

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

Motion carried.

Passed and adopted Resolution Number 5311.

c. Resolution authorizing the Mayor to sign the Supplemental Project Program Agreement with NDOR for the Homestead Trail-Cortland to Pickrell project.

Mayor Schuster introduced Resolution Number 5312 authorizing the Mayor to sign the Supplemental Project Program Agreement with Nebraska Department of Roads for the Homestead Trail-Cortland to Pickrell project.

Moved by Catlin, seconded by Schmale, that Resolution Number 5312 be passed and adopted.

City Engineer Behrends explained that the supplement sets out additional duties and responsibilities as a federal-aid project and confirms our commitment of local funds. It is an 80/20 split, with an estimated cost of \$500,000 and the City's match being the land cost. The state will take bids in January or February and the City will still have the opportunity to opt out after the bids are taken.

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

Motion carried.

Passed and adopted Resolution Number 5312.

d. Resolution to apply for assistance from the Transportation Enhancement Program for the purpose of extending the City's Hike/Bike Trail from the Water Park to the High School to Hannibal Park.

Mayor Schuster introduced Resolution Number 5313 to apply for assistance from the Transportation Enhancement Program for the purpose of extending the City's Hike/Bike Trail from the Water Park to the High School to Hannibal Park.

Moved by Catlin, seconded by Schmale, that Resolution Number 5313 be passed and adopted.

City Engineer Behrends explained the project and the proposed route. The request is a federal aid project and the state has suggested that cities submit higher dollar projects that are shovel ready, actual completion would not take place until 2016 so if successful the City would have 4 years to budget our share of the \$1.25 mil project estimated at \$260,000.

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

Motion carried.

Passed and adopted Resolution Number 5313.

e. Resolution to pledge our support to the welfare of the livestock and agriculture industry and opposes any actions of the Humane Society of the U.S. that would harm or diminish this industry.

Mayor Schuster introduced Resolution Number 5314 to pledge our support to the welfare of the livestock and agriculture industry and opposes any actions of the Humane Society of the U.S. that would harm or diminish this industry.

Moved by Catlin, seconded by Carey, that Resolution Number 5314 be passed and adopted.

Councilmember Carey proposed the resolution to the council and explained the intentions of the resolution, which has also been passed by the Chamber and County. Discussion was held regarding specifically naming the Humane Society of the U.S. in the resolution and whether that language should be eliminated; whether it was the City's place to get involved with the group's campaign. Dr. Bruce Brodersen, past president of the Nebr. Veterinary Medical Association, spoke and suggested that if the Council needed to change the language then to re-phrase as "any animal rights

organization". Discussion continued that HSUS has been pivotable in issuing ballot initiatives and that if it comes to that could come back and reconsider, but for now it is speculation.

Moved by Langdale, seconded by Parde, to amend Resolution Number 5314 by deleting any reference to the Humane Society of U.S. and instead inserting "various animal rights organizations", and in Section 1 opposes any current and future actions adding "by any and all animal rights organizations".

Vote on amendment:

Roll Call: Yea: Langdale, Parde, Tiemann, Schmale, Mayor Schuster
Nay: Carey, Moore, Catlin Motion carried.

Vote to pass and adopt Resolution 5314 as amended:

Roll Call: Yea: Langdale, Parde, Tiemann, Moore
Nay: Carey, Catlin Motion carried.

Passed and adopted Resolution Number 5314.

5– Ordinances:

- a. Ordinance Number 11-016 to annex a tract of land located in the E1/2 of the NW1/4 of Section 16-4-6, known as Lot 1, Beatrice Air Park Third Addition. Third and final reading.**

Mayor Schuster introduced further consideration of Ordinance Number 11-016 to annex a tract of land located in the E1/2 of the NW1/4 of Section 16-4-6, known as Lot 1, Beatrice Air Park Third Addition, which has been read by title two times.

Moved by Catlin, seconded by Moore, that Ordinance Number 11-016, the title thereof be approved and said ordinance be read by title the third and final time tonight.

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

Mayor Schuster read Ordinance Number 11-016 by title:

"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 located in the East half (E ½) of the Northwest Quarter (NW ¼), Section 16, Township 4 North, Range 6 East of the 6th P.M., Gage County, Nebraska, known as Lot One (1), Beatrice Air Park Third Addition, 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."

Moved by Catlin, seconded by Schmale, that Ordinance Number 11-016 be passed and approved.

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

Passed and approved Ordinance Number 11-016.

6 – Public Forum:

No one appeared at public forum.

7- Discussions/Reports:

8 – Executive Session:

Moved by Catlin, seconded by Tiemann, that the Beatrice City Council go into closed session at 7:53 p.m. for the protection of the public interest, to discuss strategy with respect to litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body, and to discuss strategy regarding possible real estate acquisition.

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

Motion carried.

Reconvened at 8:25 p.m.

9 –Miscellaneous:

Next regular council meeting is Monday, August 15, 2011 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.
Worksession on August 22, 2011 at 7:00 p.m. in the Beatrice Public Library Sargent Meeting Room.

Moved by Catlin, seconded by Langdale, that the meeting be adjourned at 8:26 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster