

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD DECEMBER 19, 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 opened a public hearing for the purpose of equalizing special assessments in Nuisance District #11-003 at 7:01 p.m.

Mayor Schuster asked if there is anyone in the audience that wishes to speak relative to the assessments, no one appeared.

Moved by Catlin, seconded by Tiemann, to continue with other agenda items until 8:01 p.m.

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

Motion carried.

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 December 5, 2011 as on file in the City Clerk's Office.
- e. Approval of Treasurer's Report of Claims
 - (1) Approval of claim of Robert L. Tiemann Construction in the amount of \$45,000.00
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$735,800.91
- f. Approval of BASWA Report of Claims in the amount of \$45,522.07.
- g. Approval of change order #2 increase in the amount of \$21,379.00 to the contract with R.L. Tiemann Construction for the Grable Ave Reconstruction Project, as recommended by the BPW.
- h. Approval of final payment in the amount of \$45,000.00 to R. L. Tiemann Construction for the Grable Ave Reconstruction Project, as recommended by the BPW.
- i. Approval of \$250.00 payment of dividends from the Norcross/Horner CD to the Salvation Army.
- j. Approval of LB840 funds in the amount of \$1,995 for promotion of "Our Town Beatrice" on KOLN/KGIN TV
- k. Resolution Number 5359 establishing policy and procedures regarding Federal Tax Requirements and Disclosure Requirements for Tax Exempt Bonds and/or Build America Bonds.
- l. Resolution Number 5360 approving farm lease agreement with Justin Wiegand for Center Street Parcel and repealing Resolution Number 5334 which then corrects the acres of crop land.
- m. Special Designated License for James Arthur Vineyards for an event to be held at Antique's Paradise, 827 W. Court, Beatrice, NE on January 8, 2012 from 1:00 p.m. to 4:00 p.m.

Moved by Catlin, seconded by Langdale, that the items listed under the consent agenda, with the exception of items e(1), g, h, i and j, be approved, accepted and/or ratified as presented.

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

Motion carried.

g – Moved by Catlin, seconded by Langdale, that change order #2 increase in the amount of \$21,379.00 to the contract with R.L. Tiemann Construction for the Grable Ave Reconstruction Project, as recommended by the BPW, be approved.

Councilmember Schmale requested more information on the change order regarding the additional costs and whether a penalty should be imposed for not completing the project by September 30th. City Engineer, Rex Behrends reviewed the project process from the bidding, contract approval, notice to proceed given July 21 with a contract time frame of 60 days to be completed by September 30, the additional costs to repair wet intersections, some communication issues over repairing the soft sub grades on the west end of the project, and that the substantial completion date was October 28. Erich Tiemann, representing R.L. Tiemann Construction, explained the additional costs incurred due to wet and soft conditions found, that Terracon had been consulted on the repair work, a subcontractor was hired to do the work, further noted that construction did not begin until August 31st and was completed by October 28, which was within 60 days, the original change order increase submitted had been higher however negotiated back down. Discussion followed regarding the miscommunication on the additional repair work needed on the west edge, imposing late fees when contracts are not completed on time, and the negotiations on the change order that two items were reduced resulting in about \$9500 less.

Moved by Schmale, seconded by Moore to amend change order #2 with R. L. Tiemann Construction for the Grable Ave Reconstruction project by deducting \$2,800 for late fees pursuant to the contract for a total amount of \$18,579.00.

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

Motion failed.

Vote on original motion:

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

Motion carried.

e(1) and h - Moved by Catlin to approve claim of Robert L. Tiemann Construction in the amount of \$45,000.00 and to approve final payment in the amount of \$45,000.00 to R. L. Tiemann Construction for the Grable Ave Reconstruction Project, as recommended by the BPW.

Motion failed for lack of a second.

i – Moved by Catlin, seconded by Parde, to approve \$250.00 payment of dividends from the Norcross/Horner CD to the Salvation Army.

Councilmember Moore asked if this was as done in the past. City Administrator Niedfeldt explained that the fund was set up years ago with the dividends to be paid to an organization that helps the poor and indigent; past requests have come from the St. John Food Pantry and the Salvation Army and last year the payment went to the Food Pantry.

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

Motion carried.

j – Moved by Catlin, seconded by Moore, to approve the expenditure of LB840 funds in the amount of \$1,995 for promotion of “Our Town Beatrice” on KOLN/KGIN TV.

Councilmember Moore questioned whether it was necessary for the City to expend money to advertise, to let the businesses and industries in Beatrice do it. City Administrator Niedfeldt explained that the City will use these funds, along with the Chamber of Commerce \$1,000 Homestead promotion and use this as a way to promote a positive image of Beatrice through an opportunity to reach out to thousands of television viewers.

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

Motion carried.

3 - Public Hearings/Bids:

- a. **Hearing to meet as a Board of Equalization levying assessments in Nuisance District #11-003 between 7:00 p.m. and 8:00 p.m.**

Hearing held from 7:01 p.m. to 8:03 p.m., action taken later in these minutes.

4– Resolutions:

- a. **Resolution approving application for a Kiewit Grant for the Carnegie Restoration Project.**

Mayor Schuster introduced Resolution Number 5361 approving application for a Kiewit Grant for the Carnegie Restoration Project.

Moved by Catlin, seconded by Moore, that Resolution Number 5361 be passed and adopted.

Mayor Schuster explained that the application is to assist with funding of the Carnegie Restoration project, which would bring funding closer to the amount needed.

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

Motion carried.

Passed and adopted Resolution Number 5361.

- b. **Resolution executing an agreement with BNSF Railroad for a non-exclusive pipeline license to cross said railroad for the installation of a water line along Court Street between 1st and 2nd Street.**

Mayor Schuster introduced Resolution Number 5362 executing an agreement with BNSF Railroad for a non-exclusive pipeline license to cross said railroad for the installation of a water line along Court Street between 1st and 2nd Street

Moved by Catlin, seconded by Langdale, that Resolution Number 5362 be passed and adopted.

City Administrator Niedfeldt explained that the agreement is needed to cross the railroad; the cost of \$4,000 includes the protective liability insurance.

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

Motion carried.

Passed and adopted Resolution Number 5362.

- c. **Resolution entering into a lease with Beatrice Sertoma Club for the real estate upon which the cabin is located in Chautauqua Park.**

Mayor Schuster introduced Resolution Number 5339 entering into a lease with Beatrice Sertoma Club for the real estate upon which the cabin is located in Chautauqua Park.

Moved by Catlin, seconded by Schmale, that Resolution Number 5339 be passed and adopted.

City Attorney Tempelmeyer explained that it has been determined that the Sertoma Club owns the cabin and this lease is for the ground upon which the cabin is located.

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

Motion carried.

Passed and adopted Resolution Number 5339.

d. Resolution executing a Contract for Sale of Real Estate to Centenary United Methodist Church, for the east/west alley located between 6th and 7th Streets and between Elk and High Streets.

Mayor Schuster introduced Resolution Number 5363 executing a Contract for Sale of Real Estate to Centenary United Methodist Church, for the east/west alley located between 6th and 7th Streets and between Elk and High Streets.

Moved by Catlin, seconded by Langdale, that Resolution Number 5363 be passed and adopted.

Larry Chilese, architect representing the Methodist Church, appeared to present the church's plan to improve their north entrance steps, which currently sit right at the edge of the property. They request that the alley be vacated and sold to the church to allow them to enlarge the stairs with wider treads and narrow risers to assist the elderly and install a covered canopy; improvements also will be made to the adjacent parking lot for traffic control. The agreed upon purchase price is \$1,000.00.

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

Motion carried.

Passed and adopted Resolution Number 5363.

5- Ordinances:

a. Ordinance to vacate alley located between 6th and 7th Streets and between Elk and High Streets.

Mayor Schuster introduced an ordinance to vacate the alley located between 6th and 7th Streets and between Elk and High Streets.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 11-032, 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, Langdale, Moore, Parde, Schmale, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 11-032 by number only the first, second and third times.

Moved by Catlin, seconded by Schmale, that Ordinance Number 11-032 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 11-032.

b. Ordinance to convey City owned real estate, known as the east/west alley located between 6th and 7th Streets and between Elk and High Streets, adjacent to Lots 1-12, Block 22, Original Town, to the Centenary United Methodist Church.

Mayor Schuster introduced an ordinance to convey City owned real estate, known as the east/west alley located between 6th and 7th Streets and between Elk and High Streets, adjacent to Lots 1-12, Block 22, Original Town, to the Centenary United Methodist Church.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 11-033, 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, Langdale, Moore, Parde, Schmale, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 11-033 by number only the first, second and third times.

Moved by Catlin, seconded by Langdale, that Ordinance Number 11-033 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 11-033.

Returned to item 3(a) a public hearing to equalize assessments in Nuisance District #11-003.

Mayor Schuster again asked if anyone in the audience wished to speak relative to the assessments and no one appeared.

Moved by Catlin, seconded by Carey, that the public hearing be closed at 8:03 p.m.

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

Motion carried.

Moved by Catlin, seconded by Schmale, that the Affidavit of Mailing Notices on Assessments in Nuisance District #11-003 be received and placed on file.

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

Motion carried.

e. Resolution equalizing special assessments in Nuisance District Number 11-003.

Mayor Schuster introduced Resolution Number 5364 equalizing special assessments in Nuisance District Number 11-003.

Moved by Catlin, seconded by Schmale, that Resolution Number 5364 be passed and adopted.

City Attorney Tempelmeyer explained that the property owner is Pinnacle Trust services; the assessment is to collect expenses incurred when the house on this property was demolished.

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

Motion carried.

Passed and adopted Resolution Number 5364.

c. Ordinance levying special assessments in Nuisance District Number 11-003.

Mayor Schuster introduced an ordinance levying special assessments in Nuisance District Number 11-003.

Moved by Catlin, seconded by Langdale, that said ordinance be given number 11-034, 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, Langdale, Moore, Parde, Schmale, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 11-034 by number only the first, second and third times.

Moved by Catlin, seconded by Langdale, that Ordinance Number 11-034 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 11-034.

Moved by Parde, seconded by Carey, to reconsider item e(1) and item h of the consent agenda.

Discussion that in the future the City needs better communication with contractors and an understanding of how late fees will be imposed but for now we need to pay the City's bills.

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

Motion carried.

Moved by Parde, seconded by Carey, to approve claim of Robert L. Tiemann Construction in the amount of \$45,000.00.

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

Motion carried.

Moved by Parde, seconded by Carey, to approve the final payment in the amount of \$45,000.00 to R. L. Tiemann Construction for the Grable Ave Reconstruction Project, as recommended by the BPW.

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

Motion carried.

6 – Public Forum:

No one appeared

7- Discussions/Reports:

a. City Administrator's Monthly Report

Mayor Schuster referred to the City Administrator's Report as printed in the packet.

8 –Miscellaneous:

Next regular council meeting is TUESDAY, January 3, 2012 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.

Moved by Catlin, seconded by Moore, that the meeting be adjourned at 8:14 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster