

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD JULY 18, 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, Fetty, Langdale, Moore, Parde, Schmale, Tiemann
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 July 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 \$18,647.81.
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$641,894.42.
- f. Approval of BASWA Report of Claims in the amount of \$51,817.35.
- g. Approval of manager application of Michael Folbrecht in connection with the Holiday Inn Express Liquor License, 4005 North 6th Street.
- h. Approval of change order #1 increase of \$83,108.23 for the Grable Ave Reconstruction Project #11-493.

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

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

Motion carried.

Moved by Fetty, seconded by Schmale, to approve change order #1 increase of \$83,108.23 for the Grable Ave Reconstruction Project #11-493.

City Engineer, Rex Behrends, explained his recommendation to extend the quantities on the bid in order to finish the project through 9th Street at a total cost of \$165,000 to be funded with available cash on hand in the Street fund. He also wanted the council to be aware that there could be an issue with the soils, so there may be a 2nd change order to follow estimated between \$3,000 to \$5,000.

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

Motion carried.

3 - Public Hearings/Bids:

- a. Hearings
 - (1) Alexis Winder's applications for keeping of unusual animals at 508 Bellwood Drive, described as three pot belly pigs.

Mayor Schuster announced that a public hearing will now be held regarding Alexis Winder's applications for keeping of unusual animals at 508 Bellwood Drive, described as three pot belly pigs

City Attorney, Tobias Tempelmeyer, reviewed the permit process recently passed, that the owner had made application and provided certificates from a licensed veterinarian, and the proper notice of hearing has been given in the newspaper and by posting the property. Animal Control Officer, Steve Bragg, presented his inspection report, showing that the

home was in sanitary condition and the back yard showed no decay and had a fence sufficient to keep the animals detained on the owner's property. He found three pigs, of which one appeared to be a domesticated farm animal. Alexis Winder, 508 Bellwood Drive, applicant, appeared and pointed out that the veterinarian's certificates show all three pigs to be pot bellied pigs. She stated that when she moved into the City limits she requested permission from the City to move two pigs into her home and presented a copy of the letter received in February 2010, stating that at the time there was not an ordinance banning them. She also handed out facts about pot bellied pigs and a petition she had from some neighbors on the block in support of keeping the animals. Dale Simmons, 1710 S 13th, spoke in favor of granting the permit, as a friend has been her home and it is neat, clean and no odor. Doug and Lisa Pieper, 510 Bellwood Drive, appeared against granting the permits and presented a petition signed by neighbors that do not support the pigs as pets. They expressed concern that it would decrease their property value, make resale difficult, and affect the quality of life, by infringing on their rights to enjoy spending time in their own outdoor living space with squealing pigs next door and an odor issue at times. Mark and Chris Bathel, 518 Bellwood Drive, appeared against and felt that pigs are not appropriate for residential pets, and asked that the City uphold the ordinance on the books with no exceptions to protect the neighborhood and ensure that the protective covenants of Bellwood Addition were upheld. Joyce Bell, 500 Bellwood Drive, appeared in support of her neighbors, but sympathized with Alexis in the matter and felt that the ordinance was not in effect when they moved in and that it was best to permit them to keep their pets and moving forward anyone else would have to follow the rules as set now. Lawrence and Mildred Meints, 519 Bellwood Drive, appeared against as it is just not right to have pigs in town. Police Chief, Bruce Lang, expressed concern that this first hearing is setting precedence and encouraged the council to uphold the animal ordinance and not grant an exception of this kind. Susan Cook, 1604 S 3rd, appeared as a friend whose children have been around the pigs and has had no problems and that pot bellied pigs are not the same as hogs. Lisa Pieper, 510 Bellwood Drive, said she realized the difference but the manure is the same.

Moved by Fetty, seconded by Moore, that the public hearing be closed at 7:30 p.m.

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

Motion carried.

4- Resolutions:

a. Resolution approving three (3) applications filed by Alexis Winder for keeping of unusual animals at 508 Bellwood Drive.

Mayor Schuster introduced Resolution Number 5307 approving three (3) applications filed by Alexis Winder for keeping of unusual animals at 508 Bellwood Drive.

Moved by Fetty, seconded by Tiemann, that Resolution Number 5307 be passed and adopted.

Councilmembers discussed the application and that the permit process was set up to consider each case on an individual basis. In this case councilmembers reported that they had received contacts from the neighborhood and more comments had been made directly opposing the permit to allow for keeping the pigs than supporting it. If denied, written notice would be given and the owner would have 10 days to come into compliance.

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

Motion failed.

b. Resolution to develop and implement a Stormwater Management Program.

Mayor Schuster introduced Resolution Number 5308 to develop and implement a Stormwater Management Program.

Moved by Fetty, seconded by Schmale, that Resolution Number 5308 be passed and adopted.

City Engineer, Rex Behrends, updated the Council on the history of the storm water program, the first permit started in 2006 through 2010. This second permit will run from January 2012 through 2016. He reviewed the proposed Storm water Management Plan which outlines the minimum control issues involving public education and outreach, public involvement, illicit discharge detection and elimination, storm water runoff control, post construction management and pollution prevention practices at municipal facilities. The City receives \$27,000 annually from DEQ, which we match with \$5,000 to help fund the program. Chief Building Inspector, Dennis Mitchell, explained that the water testing is voluntary but will provide a baseline for moving forward. They may look at utilizing students to help with this as an educational tool. Discussion followed.

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

Motion carried.

Passed and adopted Resolution Number 5308.

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. Second 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 one time.

Moved by Fetty, seconded by Langdale, that Ordinance Number 11-016, the title thereof be approved and said ordinance be read by title the second time tonight.

Roll Call: Yea: Carey, Catlin, Fetty, 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.”

6 – Public Forum:

No one appeared at public forum.

7- Discussions/Reports:

- a. Monthly City Administrator’s Report**

Mayor Schuster referred to the report as printed in the packet. City Administrator, Neal Niedfeldt, reported that the budget is looking better and that sales tax revenue is 3-4% higher than last year. Police Chief Lang reported that dog bite cases are being handled, in some cases the dogs have been put down, of the three potentially dangerous dog applications, two were held and one turned down. Have been pretty aggressive with this and the process adopted so attention is being brought forward now.

8 – Executive Session:

Moved by Fetty, seconded by Schmale, that the Beatrice City Council go into closed session at 8:13 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, Fetty, Langdale, Moore, Parde, Schmale, Tiemann
Nay: None

Motion carried.

Reconvened at 9:07 p.m.

9 –Miscellaneous:

The next regular council meeting is Monday, August 1, 2011 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.
Worksession on July 25, 2011 at 7:00 p.m. in the Beatrice Public Library Sargent Meeting Room.

Moved by Fetty, seconded by Schmale, that the meeting be adjourned at 9:08 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster