

**MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD JUNE 6, 2011 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, 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 May 16, 2011 as on file in the City Clerk's Office.
- e. Approval of minutes of worksession on May 23, 2011 as on file in the City Clerk's office.
- f. Approval of Treasurer's Report of Claims
  - (1) Approval of claim of Jason Schmale in the amount of \$6,848.61
  - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$981,876.67
- g. Approval of BASWA Report of Claims in the amount of \$79,726.42.
- h. Refer lawsuit of Daniel Meints vs. the City of Beatrice regarding the abatement of property located at 718-720 S 9<sup>th</sup> and 911 Ella Street to the City Attorney and City's Insurance carrier for review and disposition.
- i. Approval of change order #1 increase of \$6,000.00 for the Hospital Sanitary Sewer Project #11-254 contract with Goossen Construction for a total current price of \$155,658.66.
- j. Approval of payment #1 in the amount of \$100,000 to Goossen Construction for the Hospital Sanitary Sewer Project #11-254.
- k. Approval of payment #1 in the amount of \$139,650.11 for Mill & Overlay Project #11-491.
- l. Approval of plans, specifications, and advertisement for bids for Grable Avenue Reconstruction #11-493.

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

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

Nay: None

Motion carried.

Moved by Fetty, seconded by Schmale, to refer the lawsuit of Daniel Meints vs. the City of Beatrice regarding the abatement of property located at 718-720 S 9<sup>th</sup> and 911 Ella Street to the City Attorney and City's Insurance carrier for review and disposition.

Councilmember Carey requested more information regarding this lawsuit and the previous lawsuit as to when this will stop. City Attorney, Tobias Tempelmeyer, reported that this lawsuit stems from the cleanup approved by the City Council in April and is the same as the previous lawsuit for the cleanup last year.

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

Nay: None

Motion carried.

Moved by Fetty, seconded by Langdale, to approve change order #1 increase of \$6,000.00 for the Hospital Sanitary Sewer Project #11-254 contract with Goossen Construction for a total current price of \$155,658.66.

Councilmember Carey requested an update on the project and why the increase. City Engineer, Rex Behrends, reported that the increase is to install a new water tap to the old water main that feeds the north booster station. The location of

the old water main, which was put in by the booster station, was not documented and when boring began they hit the old main and therefore needed to move a section in order to continue with the sanitary sewer project.

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

Motion carried.

### **3 - Public Hearings/Bids:**

#### **a. Hearing**

#### **(1) Public Hearing on the application of ASA Holdings LLC dba Godfather's Pizza, 556 Sargent Street, for a Class A liquor license.**

Mayor Schuster announced that a public hearing be held on the application of ASA Holdings LLC dba Godfather's Pizza, 556 Sargent Street, for a Class A liquor license.

Police Chief, Bruce Lang, under oath presented the Traffic Engineer report and the Police Investigative report, which uncovered nothing that would preclude issuance of the license, and recommended approval. Chief Building Inspector Dennis Mitchell, under oath presented the Planning report on the property finding no significant effect that would preclude issuance of the license, and recommended moving forward. Duaine Arena, 14625 East State Hwy 4, ASA Holdings owner and Terry Stake, 1419 Crestview Ave, Manager, under oath appeared to answer any questions of the business which they plan to open in early July. Mr. Arena also currently holds a liquor license at another location and has had no issues there.

Moved by Fetty, seconded by Schmale, that the public hearing be closed at 7:12 p.m.

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

Motion carried.

Moved by Fetty, seconded by Langdale, that the application of ASA Holdings LLC dba Godfather's Pizza, 556 Sargent Street, for a Class A liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

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

Motion carried.

#### **(2) Public Hearing on the application of Rogelio & Maria Coronado dba Country Cooking Café, 512 S 5<sup>th</sup> Street, for a Class I liquor license.**

Mayor Schuster announced that a public hearing be held on the application of Rogelio & Maria Coronado dba Country Cooking Café, 512 S 5<sup>th</sup> Street, for a Class I liquor license.

Police Chief, Bruce Lang, under oath presented the Traffic Engineer and Police Investigative report, which uncovered a liquor license violation in 2005 for Acquiring Liquor from Other than a Licensed Dealer, which the applicant did not include on his application. The department did follow-up by interviewing Mr. Coronado and was not recommending denial but reporting on the facts. Chief Building Inspector, Dennis Mitchell, under oath presented the Planning Report on the property finding no issues that would preclude issuance of the license. Rogelio and Maria Coronado, 1718 N 11<sup>th</sup>, owners, and their attorney, Andy Carothers, 2205 North 6<sup>th</sup> Street, under oath appeared to answer questions. Mr. Carothers further explained the liquor violation, that in 2005 the Coronado's had brought liquor stock from Chicago across state lines to their new business in Tecumseh, unaware that they could not do so, an honest misunderstanding, action was taken on the license, and for the next 2 years they had no issues.

Moved by Fetty, seconded by Schmale, that the public hearing be closed at 7:20 p.m.

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

Nay: None

Motion carried.

Moved by Fetty, seconded by Moore, that the application of Rogelio & Maria Coronado dba Country Cooking Café, 512 S 5<sup>th</sup> Street, for a Class I liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

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

Motion carried.

**(3) Public Hearing on the application of Delmar Schoneweis to rezone property described as W1/2 of Lots 5 & 6, Block 7, Highland Park Addition (900 Oak Street) from “R-2” Single-Family Residential to “GC” General Commercial.**

Mayor Schuster announced that a public hearing be held on the application of Delmar Schoneweis to rezone property described as W1/2 of Lots 5 & 6, Block 7, Highland Park Addition (900 Oak Street) from “R-2” Single-Family Residential to “GC” General Commercial.

Chief Building Inspector, Dennis Mitchell, presented a drawing of the area proposed to be rezoned and felt that if the two lots are rezoned then the entire block should be rezoned, which would put GC right up to residential yards; also the property is not located close enough to the highway to warrant being rezoned GC, and therefore he recommended denial. Discussion followed regarding the owner’s planned use for the property, to remove a dilapidated house and put up a storage building and any affect on the area. However, if rezoned then consideration must be given whether all permitted uses in GC are appropriate for this location. Mr. Mitchell reported for the Planning & Zoning Commission that the request had been tabled once and then brought back and there were no opinions expressed either way.

Moved by Fetty, seconded by Schmale, that the public hearing be closed at 7:40 p.m.

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

Motion carried.

**(4) Public Hearing on the application of First National Bank & Trust to rezone property described as Lots 1-6, Block 12, Lamb’s Sub (1300 E Court) from “RC” Residential-Commercial to “LC” Limited Commercial.**

Mayor Schuster announced that a public hearing be held on the application of First National Bank & Trust to rezone property described as Lots 1-6, Block 12, Lamb’s Sub (1300 E Court) from “RC” Residential-Commercial to “LC” Limited Commercial.

Mayor Schuster explained that the property in question is Beatrice IGA property and a slight error was made when the zoning map was drawn leaving the north half of the property zoned RC, while the south half is LC. The proposed rezoning change to LC will make the zoning of the entire property consistent.

Moved by Fetty, seconded by Schmale, that the public hearing be closed at 7:42p.m.

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

Motion carried.

**4– Resolutions:**

- a. **Resolution authorizing the erection of a yield signs for traffic traveling east and west on Bell Street at the intersection of 3<sup>rd</sup> and Bell Streets.**

Mayor Schuster introduced Resolution Number 5295 authorizing the erection of a yield signs for traffic traveling east and west on Bell Street at the intersection of 3<sup>rd</sup> and Bell Streets.



Moved by Fetty, seconded by Moore, that said ordinance be given number 11-011, the title thereof be approved, the rules be suspended, and said ordinance be read by number only 3 times tonight.

Roll Call: Yea: Carey, Langdale, Parde, Schmale, Tiemann (requires 6 votes)  
Nay: Catlin, Fetty, Moore

Motion failed.

**b. Ordinance to amend the Zoning Map for the City by rezoning property described as Lots 1-6, Block 12, Lamb's Sub (1300 E Court) from "RC" Residential-Commercial to "LC" Limited Commercial.**

Mayor Schuster introduced an ordinance to amend the Zoning Map for the City of Beatrice by rezoning property described as Lots 1-6, Block 12, Lamb's Sub (1300 E Court) from "RC" Residential-Commercial to "LC" Limited Commercial.

Moved by Fetty, seconded by Langdale, that said ordinance be given number 11-012, the title thereof approved, the rules be suspended, and said ordinance be read by number only 3 times tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 11-012 by number only the first, second and third times.

Moved by Fetty, seconded by Moore, that Ordinance Number 11-012 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 11-012.

**c. Ordinance to amend Section 5-7 of the City Code regarding the keeping of unusual animals.**

Mayor Schuster introduced an ordinance to amend Section 5-7 of the City Code regarding the keeping of unusual animals.

Moved by Fetty, seconded by Tiemann, that said ordinance be given number 11-013, the title thereof be approved, the rules be suspended, and said ordinance be read by number only 3 times tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 11-013 by number only the first, second and third times.

Moved by Fetty, seconded by Moore, that Ordinance Number 11-013 be passed and approved.

City Attorney Tempelmeyer explained that this would add (g) to Section 5-7 of the City Code to allow a permitting process for unusual animals. Prior to issuance the City Council would hold a public hearing, provide 7 day notice to neighbors, and approval of a permit requires a  $\frac{3}{4}$  majority vote of the City Council. The section also sets out certain criteria that shall be considered when issuing such permit. The permit fee is \$25.00, valid for a period of one year and can be revoked for noncompliance. Discussion followed regarding different types of animals and what falls into the definition of unusual animals, of which some could already be forbidden by state law. Concern was expressed about the permitting process requiring council approval, but the permit process would allow the City to identify these pets and consider each situation differently, not just blanket.

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

Motion carried.

Passed and approved Ordinance Number 11-013.

**6 – Public Forum:**

No one appeared at public forum.

**7- Discussions/Reports:**

**8 –Miscellaneous:**

Next regular council meeting is June 20, 2011 at 7:00 p.m. in the BPS Admin Bldg Meeting Room at which RDG will present the Downtown Revitalization Plan with a public hearing prior to the meeting at 5:00 p.m. Worksession on June 27, 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 8:33 p.m.

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

Motion carried.

**Linda S. Koch, City Clerk**

**Mayor Dennis Schuster**