

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD AUGUST 6, 2012 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 16, 2012 as on file in the City Clerk's Office.
- e. Approval of minutes of worksession on July 23, 2012 as on file in the City Clerk's Office.
- f. Approval of minutes of special meeting on July 30, 2012 as on file in the City Clerk's Office.
- g. Approval of Treasurer's Report of Claims
 - (1) Approval of claim of Robert L. Tiemann Construction in the amount of \$78,862.90.
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$467,518.36
- h. Approval of BASWA Report of Claims in the amount of \$69,406.74.
- i. Approval of change order increase of \$3,638.25 for the Alley Reconstruction Project between Court & Market, 3rd to 4th Streets for a final contract price of \$37,393.25 to R. L. Tiemann Construction.
- j. Approval of change order increase of \$1,285.71 for the Alley Reconstruction Project between Court & Market, 4th to 5th Streets for a final contract price of \$41,469.65 to R. L. Tiemann Construction.
- k. Approval of change order decrease of \$8,575.00 for Paving District #12-494 (South 19th Street) for a final contract price of \$178,178.07 to Walton Construction.
- l. Approval of change orders #15, #17, #18, and revised change order #13, totaling an increase of \$1,235.00 to Ayars & Ayars for the Carnegie Restoration project.
- m. Refer claim of Beverly Eby, 905 Prairie Lane, for damages to her car tire while traveling on the street at 10th & Washington on July 23, 2012, to the City Attorney and City's Insurance Carrier for review and disposition.
- n. Approval of keno satellite ownership change for B21 LLC dba Biggs at 1101 South 6th Street.

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

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

Motion carried.

Moved by Fetty, seconded by Carey, that the claim of Robert L. Tiemann Construction in the amount of \$78,862.90, be approved.

Councilmember Moore asked about the original bids received for both projects and whether with the change order increases, if this payment is still lower than the second place bid received. City Engineer, Rex Behrends, reported that R.L. Tiemann Construction was the low bidder out of three bids received and that the next bid was \$41,624 for 3rd to 4th Streets and \$47,470 for 4th to 5th Streets for a total of \$89,094; with the change order increases the cost of the two projects was still less than the next bid received. He also reported that the majority of the change order increase was for soft sub-grade, which is an unknown and would have happened which every company had received the bid.

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

Motion carried.

Moved by Fetty, seconded by Langdale, that the change order increase of \$3,638.25 for the Alley Reconstruction Project between Court & Market, 3rd to 4th Streets for a final contract price of \$37,393.25 to R. L. Tiemann Construction, be approved.

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

Motion carried.

Moved by Fetty, seconded by Langdale, that the change order increase of \$1,285.71 for the Alley Reconstruction Project between Court & Market, 4th to 5th Streets for a final contract price of \$41,469.65 to R. L. Tiemann Construction, be approved.

Erich Tiemann, R.L Tiemann Construction, questioned why Councilmember Moore was voting Nay. Councilmember Moore explained that he doesn't believe that councilmembers should be a part of this.

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

Motion carried.

3 - Public Hearings/Bids:

a. Hearings:

- (1) Public Hearing on the application of Larry Wolken to rezone Lots 1-6, Block 41, Wittenberg's Addition of the 1st Sub of Block 41, located at 205 S 25th, from RC Residential-Commercial to GC General Commercial.**

Mayor Schuster announced that a public hearing be held on the application of Larry Wolken to rezone Lots 1-6, Block 41, Wittenberg's Addition of the 1st Sub of Block 41, located at 205 S 25th, from RC Residential-Commercial to GC General Commercial.

Larry Wolken, 1301 Elk, appeared to request the change in zoning to allow him to put up a storage building; adjacent properties are also GC and he has had no one express opposition to the change. City Administrator, Tobias Tempelmeyer, reported that the Planning and Zoning Commission had voted unanimously to recommend approval.

Moved by Fetty, seconded by Langdale, that the public hearing be closed at 7:13 p.m.

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

Motion carried.

4- Resolutions:

- a. Resolution entering into an agreement for professional services with Felsburg, Holt, and Ullevig to provide an assessment of compliance with the City's MS4 Permit.**

Mayor Schuster introduced Resolution Number 5436 entering into an agreement for professional services with Felsburg, Holt, and Ullevig to provide an assessment of compliance with the City's MS4 Permit.

Moved by Fetty, seconded by Moore, that Resolution Number 5436 be passed and adopted.

City Engineer Behrends reviewed the contract, for an estimated cost of \$17,495 the City will receive assistance regarding storm water issues, preparing the annual report and making application to the State for another grant. Storm Water grant funds will pay for \$15,000 of the cost.

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

Nay: None

Motion carried.

Passed and adopted Resolution Number 5436.

b. Resolution amending the CDBG Loan Agreement of June, 18, 2003, with Store Kraft.

Mayor Schuster introduced Resolution Number 5437 amending the CDBG Loan Agreement of June, 18, 2003, with Store Kraft.

Moved by Fetty, seconded by Langdale, that Resolution Number 5437 be passed and adopted.

Mayor Schuster explained that several months ago the City agreed to take a subordinate position on Store Kraft's 2009 CDBG Reuse Loan, then during negotiations with the bank Store Kraft found that the City also needed to also take a subordinate position on a 2003 CDBG Loan made by the State, which the City administers.

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

Motion carried.

Passed and adopted Resolution Number 5437.

c. Resolution entering into an Interlocal Agreement with Gage County for the City to continue to operate a County-wide Enhanced 911 System.

Mayor Schuster introduced Resolution Number 5438 entering into an Interlocal Agreement with Gage County for the City to continue to operate a County-wide Enhanced 911 System.

Moved by Fetty, seconded by Carey, that Resolution Number 5438 be passed and adopted.

Mayor Schuster explained this will extend the current agreement for one-year with a 3% increase however it is the desire of the County to review all agreements of mutual interest with the City over the next year. Police Chief, Bruce Lang, explained that this contract is somewhat complicated and time is needed to discuss some possible changes.

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

Motion carried.

Passed and adopted Resolution Number 5438.

5 – Ordinances:

a. Ordinance to change the zoning of Lots 1-6, Block 41, Wittenberg's Addition of the 1st Sub of Block 41, located at 205 S 25th, from RC Residential-Commercial to GC General Commercial.

Mayor Schuster introduced an Ordinance to change the zoning of Lots 1-6, Block 41, Wittenberg's Addition of the 1st Sub of Block 41, located at 205 S 25th, from RC Residential-Commercial to GC General Commercial.

Moved by Fetty, seconded by Schmale, that said ordinance be given number 12-030, 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, Fetty, Langdale, Moore, Parde, Schmale, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 12-030 by number only the first, second and third times.

Moved by Fetty, seconded by Schmale, that Ordinance Number 12-030 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 12-030.

b. Ordinance to amend Section 4-2 of the City Code regarding hours of sale of alcoholic liquor.

Mayor Schuster introduced an Ordinance to amend Section 4-2 of the City Code regarding hours of sale of alcoholic liquor.

Moved by Fetty, seconded by Catlin, that said ordinance be given number 12-031, 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, Fetty, Langdale, Moore, Parde, Schmale, Tiemann
Nay: None

Motion carried.

Mayor Schuster read Ordinance Number 12-031 by number only the first, second and third times.

Moved by Fetty, seconded by Catlin, that Ordinance Number 12-031 be passed and approved.

Mayor Schuster explained that a change was made to the state statutes at the last legislative session, to allow for the sale of hard liquor from 6:00 a.m. to noon on Sundays. Local approval to amend the City Code is needed to put into place what the legislature has provided. A couple of local establishments have requested this be considered.

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

Motion carried.

Passed and approved Ordinance Number 12-031.

6 – Public Forum:

No one appeared at public forum.

7 – Discussions/Reports:

8 – Miscellaneous:

The next regular council meeting is August 20, 2012 at 7:00 p.m. in the BPS Admin Bldg Meeting Room and a worksession will be held on August 27, 2012 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 7:25 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster