

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD MAY 7, 2012 AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5TH STREET.

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

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 presented certificates to the following elementary students that participated in Keep Beatrice Beautiful Great American Trash Trek for Litter and were the 2012 Mayor for a Day winners: Easton Stevens, Cedar Elementary; Allison Edeal, Lincoln Elementary; Carter Murphy, Paddock Lane Elementary; Amber Blythe, Stoddard Elementary; Preston Witulski, St. Joseph Catholic School; Max Reis, St. Paul Lutheran School.

Mayor Schuster read a Proclamation proclaiming May 6-12, 2012 as Drinking Water Week; BPW Water Supt. Steve Kelley received the proclamation and spoke that it is important every year to recognize what many take for granted, access to safe drinking water.

Mayor Schuster read a Proclamation proclaiming May, 2012 as Beatrice 2012 Chautauqua Month; Susan Cook, Laureen Riedesel, and Alex Winder, committee members, received the proclamation and thanked everyone for their support and invited them to participate in the weeklong activities and to come to the Homestead National Monument to see the Homestead Act and join in the celebration.

Mayor Schuster read a Proclamation proclaiming May, 2012 as National Preservation Month; Alexis Winder, on behalf of Main Street Beatrice and Gage County Historic Preservation, received the proclamation and thanked for helping to celebrate this observance.

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 April 16, 2012, 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 \$47,008.54
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$390,122.35
- f. Approval of BASWA Report of Claims in the amount of \$33,435.75
- g. Approval of change order increase in the amount of \$1,435 for a total contract price of \$58,775 to Horizontal Boring for the Water Line Project Court 1st to 4th, as recommended by BPW.
- h. Approval of change orders 11 & 12, a decrease of \$1,212.50, to Ayars & Ayars for the Carnegie Restoration.
- i. Resolution Number 5401 executing an agreement with Exmark Mfg. for fire service protection outside the City limits.
- j. Resolution Number 5402 declaring future installments due of paving assessments on various delinquent properties.
- k. Resolution Number 5403 executing a Contract for Administrative Services with Western Area Power Administration, BSDC and the City, as recommended by the BPW.
- l. Resolution Number 5404 executing a Contract for Reserve Firm Electric Service with Associated Energy between the City and Western Area Power Administration, as recommended by BPW.
- m. Approval of special designated liquor permit application of C & C Specialty Market for a tasting event to be held May 31, 2012 from 1:00 p.m. until 1:00 a.m. at 2312 North 6th St, Beatrice, NE.

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

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

Motion carried.

3 - Public Hearings/Bids:

a. Hearings

(1) Public Hearing to receive the semi-annual report of the Citizen's Advisory Review Committee.

Mayor Schuster announced that a public hearing be held to receive the semi-annual report of the Citizen's Advisory Review Committee as provided by the Local Option Municipal Economic Development Act.

In the absence of the committee chairperson, City Attorney, Tobias Tempelmeyer, presented the report of the committee's meeting, reviewing the financial status of both the LB840 and the CDBG Reuse funds, updated on loan progress and discussed the May ballot issue.

Moved by Fetty, seconded by Langdale, that the public hearing be closed at 7:18 p.m.

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

Motion carried.

(2) Public Hearing concerning the application of Canned Hams, Inc. for a CDBG Reuse Loan.

Mayor Schuster announced that a public hearing be held concerning the application of Canned Hams, Inc. for a CDBG Reuse Loan.

Mike Schaefer, 18147 S 12th Rd, Pickrell and owner of the Cinema Centre and Holly movie theatres, appeared to explain the purpose of the application; to convert from 35mm projection film to digital and make some lobby and sound system improvements; they will retain current employees plus add one full-time position. The conversion to digital will be required by the film studios by December of 2013. The cost of 35mm film and shipping is very expensive when compared to shipping a digital harddrive. With the conversion to digital film studios will pay back to theatres a virtual print fee, which will be deposited into a bank account with the City as part of the loan repayment. Allen Grell, 1907 Washington, appeared in support of the request, which he felt would have a significant economic impact on our community and to keep our theatre.

Moved by Fetty, seconded by Moore, that the public hearing be closed at 7:28 p.m.

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

Motion carried.

(3) Public Hearing on the acquisition of Lot 62 and the N33' of Lot 63, Millikins Addition, located on Grace Street between Helen and Millikin.

Mayor Schuster announced that a public hearing be held on the acquisition of Lot 62 and the N33' of Lot 63, Millikins Addition, located on Grace Street between Helen and Millikin.

City Attorney Tempelmeyer explained that this is another one of the homestead properties that has come back to us; William Mollring is unable to meet the terms of the agreement and so the City is to acquire the property back.

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

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

Motion carried.

4- Resolutions:

a. Resolution authorizing a CDBG Reuse loan to provide financial assistance to Canned Hams, Inc.

Mayor Schuster introduced Resolution Number 5405 authorizing a CDBG Reuse loan to provide financial assistance to Canned Hams, Inc.

Moved by Fetty, seconded by Schmale, that Resolution Number 5405 be passed and adopted.

City Attorney Tempelmeyer reviewed the terms of the agreement, the loan will be for \$299,000 at 3% interest over a 6-year term, with quarterly payments; \$2,500 will be paid to the City's general fund for CDBG administration costs. The agreement meets job creation and retention qualifications and has securities in place. Discussion followed with support for keeping the theatre open and important for the downtown revitalization process.

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

Motion carried.

Passed and adopted Resolution Number 5405.

b. Resolution terminating the CDBG Reuse Loan agreement with NEON and all securities or obligations.

Mayor Schuster introduced Resolution Number 5406 terminating the CDBG Reuse Loan agreement with NEON and all securities or obligations.

Moved by Fetty, seconded by Langdale, that Resolution Number 5406 be passed and adopted.

City Attorney Tempelmeyer explained that NEON has satisfied the terms of the agreed upon settlement so we need to close out the loan and release securities.

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

Motion carried.

Passed and adopted Resolution Number 5406.

c. Resolution amending the CDBG Reuse agreement with 5Stat and Store Kraft.

Mayor Schuster introduced Resolution Number 5407 amending the CDBG Reuse agreement with 5Stat and Store Kraft .

Moved by Fetty, seconded by Langdale, that Resolution Number 5407 be passed and adopted.

City Attorney Tempelmeyer reviewed the original loan with 5Stat that was amended in 2011 when Store Kraft took over the loan to take over some long-term debt. They are now asking that the agreement be amended to allow this bank to take first position up to \$3,000,000, with the City taking second position on real estate owned by Store Kraft, so they can secure some long-term debt. Appraisal shows enough security for both the first and second position.

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

Motion carried.

Passed and adopted Resolution Number 5407.

d. Resolution executing a contract with JEO Consulting Group to update the City's Hazard Mitigation Plan.

Mayor Schuster introduced Resolution Number 5408 executing a contract with JEO Consulting Group to update the City's Hazard Mitigation Plan.

Moved by Fetty, seconded by Moore, that Resolution Number 5408 be passed and adopted.

Mayor Schuster explained that it had been previously discussed the necessity of updating the City's Hazard Mitigation Plan in order to continue being a recipient of FEMA funds. JEO has provided a contract in the amount of \$39,750, with the stipulation that the City is successful in receiving a federal grant to pay for 75% of the cost, with the City responsible for the 25% local match.

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

Motion carried.

Passed and adopted Resolution Number 5408.

e. Resolution acquiring real estate described at Lot 62 and the N33' of Lot 63, Millikins Addition from Mollring.

Mayor Schuster introduced Resolution Number 5409 acquiring real estate described at Lot 62 and the N33' of Lot 63, Millikins Addition from William Mollring .

Moved by Fetty, seconded by Moore, that Resolution Number 5409 be passed and adopted.

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

Motion carried.

Passed and adopted Resolution Number 5409.

f. Resolution to sign the Request for Reconveyance and Deed of Reconveyance for Lot 62, and the N33' of Lot 63, Millikins Addition.

Mayor Schuster introduced Resolution Number 5410 to sign the Request for Reconveyance and Deed of Reconveyance for Lot 62, and the N33' of Lot 63, Millikins Addition.

Moved by Fetty, seconded by Tiemann, that Resolution Number 5410 be passed and adopted.

City Attorney Tempelmeyer explained that this additional step is necessary to acquire the property and the releases make the lot free and clear.

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

Motion carried.

Passed and adopted Resolution Number 5410.

g. Resolution executing the sale of city-owned real estate described as Lot 62 and the N33' of Lot 63, Millikins Addition to Joan P. Penning.

Mayor Schuster introduced Resolution Number 5411 executing the sale of city-owned real estate described as Lot 62 and the N33' of Lot 63, Millikins Addition to Joan P. Penning.

Moved by Fetty, seconded by Langdale, that Resolution Number 5411 be passed and adopted.

City Attorney Tempelmeyer explained that this will authorize a contract for sale of the property to Joan Penning who currently lives north of the property; she has made improvements to her residence and wants to acquire these lots to add to her property and have a garden. The purchase price is \$1.00 plus she will be responsible for paying the back taxes which are about \$25.00. Discussion followed regarding the cost of the original acquisition and cleanup of this property and whether the City should have tried to recoup part of that, or have auctioned the property off to see anyone else was interested in buying it.

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

Motion carried.

Passed and adopted Resolution Number 5411.

5– Ordinances:

a. Ordinance to convey city-owned real estate described as Lot 62 and the N33’ of Lot 63, Millikins Addition to Joan P. Penning.

Mayor Schuster introduced an ordinance to convey city-owned real estate described as Lot 62 and the N33’ of Lot 63, Millikins Addition to Joan P. Penning.

Moved by Fetty, seconded by Langdale, that said ordinance be given number 12-023, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 12-023 by number only the first, second and third times.

Moved by Fetty, seconded by Langdale, that Ordinance Number 12-023 be passed and approved.

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

Motion carried.

Passed and approved Ordinance Number 12-023.

b. Ordinance to amend Section 26-69 of the City Code regarding abandoned water service pipe.

Mayor Schuster introduced an ordinance to amend Section 26-69 of the City Code regarding abandoned water service pipe.

Moved by Fetty, seconded by Tiemann, that said ordinance be given number 12-024, the title thereof be approved, the rules be suspended, and said ordinance be read by number only three times tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 12-024 by number only the first, second and third times.

Moved by Fetty, seconded by Moore, that Ordinance Number 12-024 be passed and approved.

BPW Water Supt., Steve Kelley, explained the current procedures regarding abandoned water service lines that individuals will turn the water service back on for one month and then have another five years of inactive use with no income to the City but the City is still obligated for repairs. The proposed change will require that water service be used for at least four months per year, which will allow for garden use and treat everyone fairly.

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

Motion carried.

Passed and approved Ordinance Number 12-024.

6 – Public Forum:

Allen Grell, 1907 Washington, as a member of Keep Beatrice Beautiful, appeared at public form to thank the Mayor for the opportunity to do the Mayor for A Day awards and reward these kids for their efforts to clean up trash and demonstrate pride in our community.

7- Discussions/Reports:

a. Report of the Beatrice Plus committee and recommendation for approval of projects.

Jason Schmale, reported the Beatrice Plus committee's review of three applications; Carnegie Center Inc requested \$5,000 towards support of lighting at the Carnegie Building, the Southeast Nebr YMCA Foundation requested \$5,000 for Prairie Playground swings and crumb rubber mulch, and the YRI group requested \$5,000 towards outfield fencing of ball diamonds at Hannibal Park. With only \$6,000 in Beatrice Plus funds available, the committee recommended that \$2,500 be awarded to the Carnegie lighting project and \$2,500 to the Prairie Playground. Discussion followed regarding awarding Beatrice plus funds to work in progress projects that have already received city funds.

Moved by Fetty, seconded by Schmale, to award Beatrice Plus funds in the amount of \$2,500 to Carnegie Center Inc. for the lighting project, as recommended by the Beatrice Plus Committee.

Discussed the lighting, which is an enhancement of the lighting in the contract.

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

Motion carried.

Moved by Fetty, seconded by Moore, to award Beatrice Plus funds in the amount of \$2,500 to the SE Nebr YMCA Foundation for swings and rubber mulch for the Prairie Playground, as recommended by the Beatrice Plus Committee.

Discussed that the playground is a good thing for the community; concern that it is not on City property.

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

Motion carried.

8 –Miscellaneous:

Next regular council meeting is May 21, 2012 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.

Worksession on TUESDAY, May 29, 2011 at 7:00 p.m. in the Beatrice Public Library Sargent Meeting Room.

Moved by Fetty, seconded by Langdale, that the meeting be adjourned at 8:13 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster