

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD AUGUST 5, 2013, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5TH STREET.

Pledge of Allegiance

1 – Roll Call: Present: Mayor Schuster, Councilmembers Carey, Catlin, Cook, Langdale, Moore, Tiemann
Absent: Councilmembers Fairbanks, Parde

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 15, 2013, as on file in the City Clerk's Office.
- e. Approval of minutes of worksession on July 22, 2013, as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims in the amount of \$482,176.43.
- g. Approval of BASWA Report of Claims in the amount of \$456,598.34.
- h. Resolution Number 5545 entering into a License Agreement between the City and Robin Spence for use of the City Right-of-Way for ingress and egress purposes.
- i. Resolution Number 5546 approving request of Main Street Beatrice to close Highway 136, also known as Court St, from 4th to 7th Streets on October 24, 2013, from 4:00 p.m. to 7:30 p.m. for the Night of the Great Pumpkin event.
- j. Resolution Number 5547 prohibiting parking on the south side of Hoyt Street near the intersection of 6th and Hoyt.
- k. Resolution Number 5548 establishing loading and unloading zones and no parking zones along 19th Street near the intersections of Lincoln and Grant Streets.
- l. Approval of Special Designated Liquor permit application of Main Street Beatrice for a fundraiser event on September 20, 2013, from 7:00 p.m. to 11:30 p.m. at the Kensington, 105 North 6th Street, Beatrice, NE.

Moved by Catlin, seconded by Moore, that the items listed under the consent agenda, be approved, accepted and/or ratified as presented.

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

Motion carried.

3 - Public Hearings/Bids:

a. Hearings

- (1) Public Hearing on the application of Karolyn B Howard to rezone Lot 1, of the proposed Cornerstone Addition, a four-acre plat in the W1/2 of E1/2 of SW1/4 of Section 26-4-6 from "AG" Agricultural to "R-2" Single-Family Residential, located on East Hoyt Street .**

Mayor Schuster announced that a public hearing will now be held on the application of Karolyn B Howard to rezone Lot 1, of the proposed Cornerstone Addition, a four-acre plat in the W1/2 of E1/2 of SW1/4 of Section 26-4-6 from "AG" Agricultural to "R-2" Single-Family Residential, located on East Hoyt Street.

Stan Wirth, Planning & Zoning Chairperson, presented the P & Z commission recommendation that the zoning be changed from AG to R-2, which will allow for a church to be located on the property. City Administrator, Tobias Tempelmeyer, further explained that Cornerstone Church is purchasing the property from Karolyn Howard to and a church is not allowed in AG so this is one step in the process.

Moved by Catlin, seconded by Tiemann, that the public hearing be closed at 7:04 p.m.

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

Motion carried.

(2) Public Hearing on the proposed annexation of the proposed Cornerstone Addition, a four-acre plat in the W1/2 of E1/2 of SW1/4 of Section 26, T4N, R6E, of the 6th p.m., Gage County, NE, located on East Hoyt Street.

Mayor Schuster announced that a public hearing will now be held on the proposed annexation of the proposed Cornerstone Addition, a four-acre plat in the W1/2 of E1/2 of SW1/4 of Section 26, T4N, R6E, of the 6th p.m., Gage County, NE, located on East Hoyt.

Stan Wirth, Planning & Zoning Chairperson, presented the commission's recommendation that the property be annexed. Mayor Schuster further explained that statutes require a separate hearing be held in order for a new plat to be annexed at the time it is approved.

Moved by Catlin, seconded by Carey, that the public hearing be closed at 7:05 p.m.

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

Motion carried.

(3) Public Hearing to amend Section 608 of the Zoning Ordinance concerning detached accessory buildings.

Mayor Schuster announced that a public hearing will now be held to amend Section 608 of the Zoning Ordinance concerning detached accessory buildings.

Mayor Schuster explained that in summary the proposed amendment will provide that stand-alone buildings on residential properties must include a primary residence. Stan Wirth, Planning & Zoning Chairperson, presented the commission's recommendation that a building cannot be built on a bare lot without a primary residence. City Attorney, Greg Butcher, explained that the proposed amendment is a clarification of what has been enforced as policy now; to continue in residential districts and include central business, light commercial and general commercial. Also if a dwelling is removed from a lot, the accessory buildings must also be removed, but the Building Inspector has authority to allow an exception. Connie Hartig, 700 W Court, spoke that the accessory building could add valuation to the lot and to consider that before making them remove it.

Moved by Catlin, seconded by Tiemann, that the public hearing be closed at 7:17 p.m.

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

Motion carried.

4 – Resolutions:

a. Resolution approving a lease with Community Possibilities, Inc. to construct and operate outdoor popcorn stand near 5th & Court Streets.

Mayor Schuster introduced Resolution Number 5549 approving a lease with Community Possibilities, Inc. to construct and operate an outdoor popcorn stand near 5th & Court Streets.

Moved by Catlin, seconded by Langdale, that Resolution Number 5549 be passed and adopted.

City Administrator Tempelmeyer explained that the lease will allow the placement of the popcorn stand and permission to sell goods on city property located on the northwest corner of 5th and Court Streets. Steve Tart, representing Community Possibilities, Inc., reported that the fabricator has been busy but plans to begin work on the stand this week.

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

Motion carried.

Passed and adopted Resolution Number 5549.

b. Resolution approving the Airport Authority of the City of Beatrice request for a levy allocation for property taxes.

Mayor Schuster introduced Resolution Number 5550 approving the Airport Authority of the City of Beatrice request for a levy allocation for property taxes.

Moved by Catlin, seconded by Cook, that Resolution Number 5550 be passed and adopted.

Mayor Schuster explained that each year the Airport Authority must submit their request for property taxes to the City Council to then approve an allocation of property taxes for the airport; the authority is requesting \$139,465.62 for operations and \$133,898.46 for debt. Diana Smith, Airport Manager, presented the request to keep the tax support for operations at the same dollar amount as previous years and continue the same services offered. Councilmember Langdale addressed the cuts that city departments have been asked to make the past few years, while the Airport has not had to take a cut.

Moved by Langdale, seconded by Moore, to amend Resolution Number 5550 to change the General Fund allocation of \$139,465.62 contained in Section 1 of the proposed resolution to \$120,000.

Discussion followed, the amount is a 14% reduction, which is the percent the library was cut two years ago. Bill Corkle, 6501 SW 12th Street, Lincoln, Nebraska, a pilot and instructor, spoke in support of the Airport, which he felt is the finest of its size in the State of Nebraska and encouraged the council to maintain the current level of service. He also spoke about a program that he and others put together to offer Beatrice youth the opportunity to learn to fly free of charge, paying only the fuel cost. Dean Doyle, flight instructor, read a letter from a student that works at Exmark, regarding the value of the airport in providing UPS the ability to fly in parts the next day and avoid work stoppage; he also spoke in support of the budget submitted as us by the Airport. Cristi Higgins, 455 W 6th, Cortland and a part-time employee of the airport, spoke in support of keeping the airport open during evenings and weekends to keep business coming in. Mayor Schuster explained that the dollar request was the same but the levy reduced due to increased property valuation; he also addressed cuts made in the City budget in recent years during tough times.

Vote on amendment:

Roll Call: Yea: Carey, Catlin, Langdale, Moore, Tiemann
Nay: Cook

Motion carried.

Vote on Resolution:

Continued discussion held. Bill Corkle and Cristi Higgins again spoke in support of maintaining the service and hours at the Airport. Mayor Schuster explained that the council was not instructing the Airport what to do, whether to reduce hours, raise fees, or cut expenses, that is up to the Airport's elected board.

Roll Call: Yea: Catlin, Langdale, Moore, Tiemann, Mayor Schuster
Nay: Carey, Cook

Motion carried.

Passed and adopted Resolution Number 5550.

c. Resolution establishing and updating the open records operating procedures.

Mayor Schuster introduced Resolution Number 5551 establishing and updating the open records operating procedures.

Moved by Catlin, seconded by Moore, that Resolution Number 5551 be passed and adopted.

City Administrator Tempelmeyer explained that with the passage of LB363, the City needs to amend our public records policy to match state statutes. The major difference is that the City currently bills for staff time, however, LB363 provides that the City shall not bill for the first four hours of time spent.

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

Motion carried.

Passed and adopted Resolution Number 5551.

d. Resolution establishing policy guidelines for funding requests by the public.

Mayor Schuster introduced Resolution Number 5552 establishing policy guidelines for funding requests by the public.

Moved by Catlin, seconded by Langdale, that Resolution Number 5552 be passed and adopted.

Mayor Schuster explained that the proposed resolution was prepared at the request of the council to provide guidelines on how to handle funding requests from the public. He noted that the Humane Society, which provides a police function for the City, is not under this resolution. City Administrator Tempelmeyer presented the proposed policy which lays out the process for the public to request money from the city council, defines that the funds will come from keno and lodging occupation tax dollars, provides that the City will not fund more than 25% of the cost of an event or item, and funding for the same event cannot be requested more than every other year. The application will be submitted to city administration for review and then brought before the council for approval on a quarterly basis. Other requirements include that either the participant or spectator must be free, spectating must occur in the city limits, and proof of expenditure is required before reimbursement will be made. The annual dollar amount available for requests will be set each year during budget time.

Moved by Tiemann, seconded by Cook, to amend Resolution 5552 to strike the last sentence of Section 6 "The City shall not provide funding for any event more often than every other year".

Discussion followed regarding the intent was to open it up to more groups, events that are held every year could submit for a different item each year; still concern about limiting requests and would rather be given the choice. John Zarybnicky, Chairman of the Beatrice Area Chamber of Commerce Board, expressed his concern with the every other year citing that many times new events need funding in the first three years in a row, but then would not need it after that.

Vote on amendment:

Roll Call: Yea: Carey, Cook, Langdale, Moore, Tiemann
 Nay: Catlin

Motion carried.

Moved by Carey, seconded by Cook, to postpone consideration of the proposed resolution, take it back to the worksession on August 26th, and bring back to council for a vote on September 3rd.

Discussed that there were two councilmembers absent at this meeting. Mayor Schuster explained that the item had been placed on the agenda for consideration and had nothing to do with their absence.

Roll Call: Yea: Carey, Cook
Nay: Catlin, Tiemann, Moore, Langdale Motion failed.

Continued discussion on the proposed resolution; regarding in-kind services requested, the council will be provided with an estimate of those costs at the time the application is considered for approval;

John Zarybnicky, spoke again regarding some of the Chamber's concerns: to request clarification of defining an event and what sponsoring organization should make application; the difference between lodging tax and occupation tax; concern for having to budget their requests for the entire year in order to receive money from the annual budget amount allotted and what to do if an event comes along at the end of the budget year; problem with the city limit restriction due to events held, for example, at the fairgrounds; and suggested determining the funding amount by the number of people the event brings to town instead of a flat 25%. Discussion followed, if an event came along at the end of the year a request could be made for reimbursement from the next budget year amount.

Moved by Tiemann to amend Section 6 to allow funding of an event that occurs within the two-mile zoning city limits. Motion died for lack of a second.

Discussed splitting the annual amount budgeted to allocate an amount to be funded each quarter. Discussed that the emphasis on the spectator being able to attend the event free is important, due to the use of public dollars.

Moved by Cook, seconded by Carey, to amend Section 6 by striking the sentence "The City shall not fund any event in which the spectating portion of the event occurs outside the City limits."

Roll Call: Yea: Carey, Cook
Nay: Tiemann, Moore, Catlin, Langdale Motion failed.

Discussion followed about splitting the allocation into quarters, noting that the council has the ability to do that when approving the applications but to not place a limit in the resolution that could keep them from funding an event. Stan Wirth, President of Main Street, spoke regarding their appreciation for having a policy in place but was concerned whether in-kind services requested would be subtracted from the dollars requested. While not defined as such it may be taken into consideration so city administration will return the application to the applicant with the estimated in-kind dollars for review before it is submitted to council for approval.

Vote on Resolution as amended:

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Passed and adopted Resolution 5552.

Moved by Catlin, seconded by Carey, to recess for 10 minutes at 9:01 p.m.

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Reconvened at 9:11 p.m.

Mayor Schuster announced that to clarify the vote on Resolution Number 5550; the vote was 4-2 and where the Mayor's vote would be decisive, Mayor Schuster voted yes on Resolution Number 5550.

Mayor Schuster introduced an Ordinance to rezone Lot 1, Cornerstone Addition from “AG” Agricultural to “R-2” Single-Family Residential.

Moved by Catlin, seconded by Tiemann, that said ordinance be given number 13-034, 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, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Mayor Schuster read Ordinance Number 13-034 by number only the first, second and third times.

Moved by Catlin, seconded by Tiemann, that Ordinance Number 13-034 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Passed and approved Ordinance Number 13-034.

d. Ordinance to annex Lot 1, Cornerstone Addition.

Mayor Schuster introduced an Ordinance to annex Lot 1, Cornerstone Addition.

Moved by Catlin, seconded by Tiemann, that said ordinance be given number 13-035, 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, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Mayor Schuster read Ordinance Number 13-035 by number only the first, second and third times.

Moved by Catlin, seconded by Tiemann, that Ordinance Number 13-035 be passed and approved.

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Passed and approved Ordinance Number 13-035.

Consider Resolution item e:

e. Resolution entering into an Assignment, Assumption, Consent and Release Agreement for obligations in the Subdivision Improvement Agreement for the Cornerstone Addition.

Mayor Schuster introduced Resolution Number 5553 entering into an Assignment, Assumption, Consent and Release Agreement for obligations in the Subdivision Improvement Agreement for the Cornerstone Addition.

Moved by Catlin, seconded by Tiemann, that Resolution Number 5553 be passed and adopted.

City Administrator Tempelmeyer explained that this authorizes assignment of the obligations contained in the Subdivision Improvement Agreement to Cornerstone Lutheran Church, and releases Karolyn Howard from the liability.

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore, Tiemann
Nay: None Motion carried.

Passed and approved Resolution Number 5553.

Ordinances continued:

e. Ordinance to amend Section 608 of the Zoning Ordinance regarding detached accessory buildings.

Mayor Schuster introduced an Ordinance to amend Section 608 of the Zoning Ordinance regarding detached accessory buildings.

Moved by Catlin, seconded by Cook, that said ordinance be given number 13-036, 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, Cook, Langdale, Moore
 Nay: Tiemann

Motion failed.

Moved by Catlin, seconded by Cook , that said ordinance be given number 13-036, the title there of approved, and read by title one time tonight.

Councilmember Tiemann was concerned with requiring the removal of the accessory building when the primary residence structure is demolished, unless the accessory building is nuisance; discussion followed that it is public policy that residential lots should be used for residences not storage buildings and that the Building Inspector can approve it in certain circumstances.

Moved by Tiemann, to amend the proposed Ordinance in Section 608 C. Subsection 5 striking the last sentence, referencing that if the principal dwelling is removed then requires the removal of all accessory buildings, unless approved by the Building Inspector, and striking the same language in Subsection 10.

Motion died for a lack of a second.

Vote on original motion:

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore
 Nay: Tiemann

Motion carried.

Mayor Schuster read Ordinance Number 13-036 by title one time:

“An ordinance to amend Section 608 of the Zoning Ordinance of the City of Beatrice, Ordinance Number 94-13 regarding detached accessory buildings; and to provide for publication in pamphlet form and for an effective date of this ordinance.”

f. Ordinance to amend Section 7-11 and 7-21 of the City Code concerning accessory buildings.

Mayor Schuster introduced an Ordinance to amend Section 7-11 and 7-21 of the City Code concerning accessory buildings.

Moved by Catlin, seconded by Carey, that said ordinance be given number 13-037, the title thereof be approved, and said ordinance be read by title one time tonight.

Discussion again on placing restrictions on accessory buildings. City Attorney Butcher explained that the proposed ordinance is to clarify the permit process by changing the minimum square footage for all accessory buildings requiring a building permit to 20 square feet, making it uniform across the board.

Moved by Moore, seconded by Carey to call for the question.

Roll Call: Yea: Carey, Cook, Langdale, Moore
 Nay: Tiemann, Catlin

Motion failed.

Vote on original motion:

Roll Call: Yea: Carey, Catlin, Cook, Langdale, Moore
Nay: Tiemann

Motion carried.

Mayor Schuster read Ordinance Number 13-037 by title the first time:

An ordinance to amend Sections 7-11 and 7-21 to the Beatrice City Code concerning accessory buildings; to repeal all other conflicting ordinances or parts of ordinances; and to provide for publication in pamphlet form and for an effective date of this ordinance.

6 – Public Forum:

At public forum, John Zarybnicky introduced Laura Young as the new director of the Beatrice Area Chamber of Commerce.

7 – Discussions/Reports:

8 – Miscellaneous:

Next regular council meeting is August 19, 2013 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.
Worksession will be August 26, 2013 at 7:00 p.m. in the Beatrice Public Library Sargent Room.

Moved by Catlin, seconded by Langdale, that the meeting be adjourned at 9:35 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster