

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD AUGUST 19, 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 Catlin, Carey, Cook, Fairbanks, Langdale, Moore, Parde, 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 August 5, 2013, 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 \$71,804.57
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$474,833.37
- f. Approval of BASWA Report of Claims in the amount of \$14,548.93
- g. Approval of change order #1 increase of \$25,593.53, for a final contract price of \$337,161.35, to Robert L. Tiemann Construction for the 5th Street Reconstruction Project.
- h. Resolution Number 5554 regulating traffic at 19th and Lincoln Streets that all traffic stopped at a red light be prohibited from making a right-hand turn between 7:30 a.m. and 4:00 p.m. every Monday through Friday.
- i. Resolution Number 5555 approving application for federal assistance from the Recreational Trails Program for the purpose of extending the trail along the abandoned UPRR ROW between South 6th Street and South 23rd Road.

Moved by Catlin, seconded by Cook, that the items listed under the consent agenda, with the exception of item e(1) and g, h and i, be approved, accepted and/or ratified as presented. Parde abstained from d.

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

Motion carried.

g – Moved by Catlin, seconded by Cook, to approve change order #1 increase of \$25,593.53, for a final contract price of \$337,161.35, to Robert L. Tiemann Construction for the 5th Street Reconstruction Project.

Councilmember Fairbanks requested further explanation of the change order items and whether this was on top of any contingency built in. City Engineer, Rex Behrends, explained that the original contract did not include a 10% contingency and reviewed the major change orders, which included unanticipated hollow spots in front of Hills, cover soil at the landfill, handicap truncated domes, colored concrete, additional sealer, collapsed walls, and steps in front of Jane's Beauty Boutique. City Administrator Tempelmeyer explained that even with the change order the contract price was under the \$350,000 grant. Councilmember Fairbanks asked that staff keep the council informed of changes during the process.

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

Motion carried.

e(1) - Moved by Catlin, seconded by Cook, to approve the claim of Robert L Tiemann Construction in the amount of \$71,804.57.

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

Motion carried.

h- Moved by Catlin, seconded by Tiemann, that Resolution Number 5554 regulating traffic at 19th and Lincoln Streets that all traffic stopped at a red light be prohibited from making a right-hand turn between 7:30 a.m. and 4:00 p.m., be passed and adopted.

Councilmember Cook questioned why make the change and felt it should be left as prohibited 24/7. City Administrator Tempelmeyer explained that it had been brought to the City's attention, so the traffic committee studied it and made the recommendation to prohibit it only during school time with the proposed dates and times for ease of enforcement. The school had been contacted and is comfortable with the change. Also, discussed if it could be a 4-way stop.

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

Motion carried.

i – Moved by Catlin, seconded by Cook, that Resolution Number 5555 approving application for federal assistance from the Recreational Trails Program for the purpose of extending the trail along the abandoned UPRR ROW between South 6th Street and South 23rd Road, be passed and adopted.

Councilmember Fairbanks had no problem with the grant application but questioned whether the portion from trailhead at 1st and Court to connect with this at 6th Street could be added to the scope of the project. Mayor Schuster explained that the trails foundation has raised money for their portion south to the state line and suggested that the City apply for this grant to finish our portion from 6th Street to South 23rd Road; the maximum grant amount is \$250,000 with the City's match of \$12,500. Once awarded if the City's wishes to expand the project, the City would need to find the funds to finish the project.

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

Motion carried.

3 - Public Hearings/Bids:

a. Hearings

(1) Public Hearing on the application of Spettro Limited Partnership to rezone Lots 7 & 8, Block 1, Country Club Estates 2nd Addition, from "R-1/FF" Single-Family Residential (large lot)/Floodway Fringe to "R-3" Urban Family Residential, located at the intersection of Beaver Ave and Country Club Lane

Mayor Schuster announced that a public hearing will now be held on the application of Spettro Limited Partnership to rezone Lots 7 & 8, Block 1, Country Club Estates 2nd Addition, from "R-1/FF" Single-Family Residential (large lot)/Floodway Fringe to "R-3" Urban Family Residential, located at the intersection of Beaver Ave and Country Club Lane.

City Attorney, Greg Butcher, presented the Planning & Zoning Commission recommendation to approve the application. Gene Caspers was available to answer any questions, there were none.

Moved by Catlin, seconded by Tiemann, that the public hearing be closed at 7:24 p.m.

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

Motion carried.

4 – Resolutions:

a. Resolution authorizing two-way traffic on 5th Street from Market to Court Streets.

Mayor Schuster introduced Resolution Number 5556 authorizing two-way traffic on 5th Street from Market to Court Streets.

Moved by Catlin, seconded by Moore, that Resolution Number 5556 be passed and adopted.

City Administrator Tempelmeyer explained that as the 5th Street Project had progressed this block was left until the Nebraska Dept. of Roads could provide their recommendation, which has been received. The Electric department has equipment on hand to install the light and the traffic committee has provided the proposed parking changes with the two-way traffic. City Engineer Behrends and Police Chief, Bruce Lang, explained the proposed changes. Nate Clabaugh, Clabaugh Pharmacy, appeared in opposition to the change to two-way traffic because he felt it will compromise access to the business's drive-through, and asked that the 30-minute stalls as proposed be allowed as such to keep them open for business to be conducted. Discussion followed that it will be difficult for long vehicles traveling north to make the turn into the drive-through and those southbound vehicles will have to cross traffic and could cause issues with vehicles backed up into the traffic lane.

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

Motion carried.

Passed and adopted Resolution Number 5556.

b. Resolution establishing parking and signage along 5th Street from Market to Court Streets.

Mayor Schuster introduced Resolution Number 5557 establishing parking and signage along 5th Street from Market to Court Streets.

Moved by Catlin, seconded by Langdale, that Resolution Number 5557 be passed and adopted.

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

Motion carried.

Passed and adopted Resolution Number 5557.

c. Resolution entering into a contract for sale of real estate to Exmark Mfg., a portion of the street right-of-way along Ashland Avenue and Shugart Street.

Mayor Schuster introduced Resolution Number 5558 entering into a contract for sale of real estate to Exmark Mfg., a portion of the street right-of-way along Ashland Avenue and Shugart Street.

Moved by Catlin, seconded by Moore, that Resolution Number 5558 be passed and adopted.

Mayor Schuster explained that the sale of the right-of-way to Exmark will allow them to meet set-back requirements to install a 10-foot fence along the perimeter of their campus.

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

Motion carried.

Passed and adopted Resolution Number 5558.

5 – Ordinances:

a. Ordinance to convey city-owned property to Exmark Mfg., a portion of the street right-of-way along Ashland Avenue and Shugart Street.

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

Motion carried.

Mayor Schuster read Ordinance Number 13-036 by number only the second, third and final time.

Moved by Catlin, seconded by Cook, that Ordinance Number 13-036 be passed and approved.

City Attorney Butcher reviewed the proposed change which deals with detached accessory buildings; clarified language in residential zones that a detached accessory building cannot be built without a primary structure and further if the primary structure is demolished then all accessory buildings will be removed, unless exigent circumstances; language was added to include the same requirements in RC, LC, GC, and CBD zones. Mayor Schuster explained that the purpose of the ordinance was to re-state what has been current policy for the past several years.

Moved by Tiemann, seconded by Carey, to amend Ordinance Number 13-036 by STRIKING the last line of Sections 5 and 10 *“approved by the City Building Inspector under exigent circumstances”* and INSERT *“the accessory building(s) meet the requirements of all applicable codes of the City of Beatrice and are verified by the City Building Inspector.”*

A lengthy discussion was held, regarding the argument that this amendment would allow for a dilapidated house to be removed without losing a good storage building and leaving small vacant lots, there are nuisance codes in place that should provide these properties will be maintained, vs. not allowing storage buildings and possible nuisances to be on a lot in residential areas without a primary residence. Larry Wolken, 1301 Elk; Daniel Meints, 911 Ella; Bill Layman, 1613 S 9th Street; Don Nelson, 1519 N 15th Street; and Keith Wolken, 1423 Washington; all appeared in support of the proposed amendment to allow for accessory buildings to be left when a primary residence is demolished and be able to continue to use them for storage.

Vote on amendment:

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

Motion carried.

City Attorney Butcher explained that if a property owner comes in to have a primary residence demolished, the accessory buildings will be identified and inspected to make sure they meet code, any deficiencies will be identified and the property owner would have to bring them up to code.

Vote on Ordinance as amended:

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

Motion carried.

Ordinance Number 13-036 has been passed and approved.

d. Ordinance Number 13-037 to amend Section 7-11 and 7-21 of the City Code concerning accessory buildings.

Mayor Schuster introduced further action on Ordinance Number 13-037 to amend Section 7-11 and 7-21 of the City Code concerning accessory buildings, has been read by title one time.

Moved by Catlin, seconded by Carey, that said ordinance be given number 13-037, the title thereof be approved, the rules be suspended and said ordinance be read by number only 2nd, 3rd and final times tonight.

Roll Call: Yea: Carey, Cook, Fairbanks, Langdale, Parde, Tiemann

Nay: Moore, Catlin

Motion carried.

Mayor Schuster read Ordinance Number 13-037 by number only the second, third and final times.

Moved by Catlin, seconded by Cook, that Ordinance Number 13-037 be passed and approved.

City Attorney Butcher explained that the proposed change will make the size requirement to obtain a permit and be subject to the zoning ordinance for accessory buildings consistent through all districts at 20 square feet. Dan Meints, 911 Ella, questioned where the City got 20 square feet and spoke about the current differences between codes.

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

Motion carried.

Ordinance Number 13-037 has been passed and approved.

6 – Public Forum:

No one appeared at public forum.

7 – Discussions/Reports:

a. Monthly City Administrator’s Report

Mayor Schuster referred to the City Administrator’s Report as printed in the packet.

b. Distribute the book for the Proposed Biennial Budget for FY2014/FY2015

The book containing the proposed Biennial Budget for FY2014/FY2015 was handed out to councilmembers to review prior to the budget worksession on August 26th.

8 – Miscellaneous:

Next regular council meeting is TUESDAY, September 3, 2013 at 7:00 p.m. in the BPS Admin Bldg Meeting Room. Budget Worksession will be August 26, 2013 at 7:00 p.m. at a location to be determined.

Moved by Catlin, seconded by Moore, that the meeting be adjourned at 8:45 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster