

## MINUTES OF THE REGULAR CITY COUNCIL MEETING

A meeting of the City Council was held on the 20<sup>th</sup> day of April, 2015 at 7:00 P.M. in the BPS Administration Meeting Room, 320 North 5<sup>th</sup> Street, Beatrice, Nebraska.

Mayor Wirth led those in attendance in the Pledge of Allegiance

### ROLL CALL

Attending: Mayor Wirth, Councilmembers: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde

Absent: None

Mayor Wirth announced that a copy of the Open Meetings Act is posted in the meeting room and is accessible to members of the public.

Mayor Wirth read a proclamation proclaiming April 24, 2015 as Arbor Day.

### 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 6, 2015, as on file in the City Clerk's Office.
- e. Approval of Treasurer's Report of Claims:
  - e(1) Approval of claims to Gage Area Growth-NGage in the amount of \$6,400.00.
  - e(2) Approval of the balance of Treasurer's Report of Claims in the amount of \$281,321.21.
- f. Approval of BASWA Report of Claims in the amount of \$8,213.16.
- g. Approval of write-off of ambulance bad debts.
- h. Resolution Number 5765 appointing Bev Mayfield to the Beatrice Housing Authority.
- i. Resolution Number 5766 appointing Dr. Lee Zlomke to the Beatrice Housing Authority.
- j. Approval of contract with Pavers, Inc, in the amount of \$358,296.00 for the Mill & Overlay Project #15-002, as recommended by the BPW.
- k. Approval of Change Order #1 decrease in the amount of (\$33,722.64) for the Mill & Overlay Project #15-002.
- l. Approval of contract with Tiemann Construction in the amount of \$47,567.13 for the Miscellaneous Concrete Street Repairs Project #15-005, as recommended by the BPW.
- m. Approval of Application to receive private funding from Nebraska Health and Human Services for the purchase of LUCAS Device (CPR machine) for the Beatrice Fire and Rescue Department.

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

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

## **PUBLIC HEARINGS/BIDS**

**Public Hearing on the acquisition of real property described as follows: Lots 2, 3, and 4, except the E10' off of Lots 3 and 4 and N ½ of Lot 2, Block 43, Original Town now City of Beatrice, Nebraska, platted on part of the SE1/4 of Section 33, T4N, R6, East of the 6th P.M, Beatrice, Gage County, Nebraska, and commonly known as 102 West Court Street.**

Mayor Wirth announces that a public hearing will now be held on the acquisition of real property described as follows: Lots 2, 3, and 4, except the E10' off of Lots 3 and 4 and N ½ of Lot 2, Block 43, Original Town now City of Beatrice, Nebraska, platted on part of the SE1/4 of Section 33, T4N, R6, East of the 6th P.M, Beatrice, Gage County, Nebraska, and commonly known as 102 West Court Street.

Tobias Tempelmeyer, City Administrator, reported to the Council that the City has been working to acquire this property for a number of years. The City will purchase the property for \$40,000, based off of an appraisal done in 2009. The City received a grant from Federal Emergency Management Agency (FEMA) to help with the acquisition, demolition, and cleanup of the property. The City's share of the costs will be twenty-five percent (25%) or \$12,875.00. The acquisition of the property will be on or before December 1, 2015 according to the terms in the Contract for Sale of Real Estate between the City and John and Brenda Garcia. Tempelmeyer noted that there have been Phase I and Phase II studies done on properties in the area and there have been no contamination issues. Councilman Parde inquired if the City was working on purchasing the property prior to December 1, 2015. Tempelmeyer noted that the closing may be prior to December 1, 2015 and noted that the City has until March 2016 to have the property demolished and cleaned up according to the FEMA grant.

Moved by Catlin, seconded by Cook, that the public hearing be closed at 7:08 p.m.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

**Public Hearing to amend Section 804 of the Zoning Ordinance of the City of Beatrice, Ordinance Number 94-13, regarding buffer yards.**

Mayor Wirth announces that a public hearing will now be held on amending Section 804 of the Zoning Ordinance of the City of Beatrice, Ordinance Number 94-13, regarding buffer yards.

Gregory Butcher, City Attorney, gave the City Council an overview of the proposed amendment of the Zoning Ordinance regarding buffer yards. Butcher noted buffer yards apply when a low intensive district is next to a heavy industrial district. The Light Industrial does not require the buffer yard setbacks, which help to mute the sound. Butcher noted that the table was updated to include "O" Office and "LC" Light Commercial to match the other districts. There are a number of residential homes found in "O" districts. The proposed amendment will add "O" and "LC" to match the other districts.

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

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

**Public Hearing to adopt the Energy Element Appendix to the Beatrice Comprehensive Plan.**

Mayor Wirth announces that a public hearing will now be held to adopt the Energy Element Appendix to the Beatrice Comprehensive Plan.

Tobias Tempelmeyer, City Administrator, reported to the City Council that Olsson Associates recently reviewed the City's comprehensive plan and found that it needed to be updated by adding Energy Element Appendix. Tempelmeyer noted there were no changes made from the report that Olsson Associates presented to the Council a few weeks ago.

Moved by Catlin, seconded by Kerr, that the public hearing be closed at 7:14 p.m.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

**Public Hearing on the new application of SJM LLC dba Sam & Louie's New York Pizzeria, 2205 North 6th Street, Suite 18, Beatrice, Nebraska, for a Class I liquor license.**

Mayor Wirth announces that a public hearing will now be held on the new application of SJM LLC dba Sam & Louie's New York Pizzeria, 2205 North 6th Street, Suite 18, Beatrice, Nebraska, for a Class I liquor license.

Bruce Lang, Chief of Police, under oath, reported to the Council that there was nothing out of the ordinary found regarding the request from Sam & Louie's for a Class I liquor license. Rob Mierau, Code Enforcement Officer, under oath, reported to the Council that he did not foresee any negative effects and noted that Sam & Louie's has been operating for number of years with no issues.

Moved by Catlin, seconded by Morgan, that the public hearing be closed at 7:15 p.m.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

Moved by Catlin, seconded by Parde, that the application of SJM LLC dba Sam & Louie's New York Pizzeria, 2205 North 6th Street, Suite 18, Beatrice, Nebraska, for a Class I liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

## RESOLUTIONS

### **Resolution entering into a Grant Agreement with Nebraska Emergency Management Agency (“NEMA”) for the acquisition of real property located in the City’s floodway, specifically, 102 West Court Street.**

Mayor Wirth introduced Resolution Number 5767 entering into a Grant Agreement with Nebraska Emergency Management Agency (“NEMA”) for the acquisition of real property located in the City’s floodway, specifically, 102 West Court Street.

Moved by Catlin, seconded by Cook, that Resolution Number 5767 be passed and adopted.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

Resolution Number 5767 has been passed and adopted.

### **Resolution authorizing the purchase of real estate located in the 100 Block of West Court Street from John and Brenda Garcia.**

Mayor Wirth introduced Resolution Number 5768 authorizing the purchase of real estate located in the 100 Block of West Court Street from John and Brenda Garcia.

Moved by Catlin, seconded by Parde, that Resolution Number 5768 be passed and adopted.

Councilman Kerr inquired if the City would perform the demolition and cleanup work ourselves or if we would have to hire someone. Tobias Tempelmeyer, City Administrator, noted that the demolition work would likely be contracted out; however, some of the cleanup work would be done in-house.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

Resolution Number 5768 has been passed and adopted.

### **Resolution adopting an energy element to the Beatrice Comprehensive Plan.**

Mayor Wirth introduced Resolution Number 5769 adopting an energy element to the Beatrice Comprehensive Plan.

Moved by Catlin, seconded by Kerr, that Resolution Number 5769 be passed and adopted.

Gregory Butcher, City Attorney, noted that the Planning and Zoning Commission unanimously recommended adopting the energy element to the Beatrice Comprehensive Plan.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

Resolution Number 5769 has been passed and adopted.

## **ORDINANCES**

### **Ordinance amending Section 804, Table 8-2 of the Zoning Ordinance of the City of Beatrice, Ordinance Number 94-13, regarding buffer yards.**

Mayor Wirth introduced an Ordinance amending Section 804, Table 8-2 of the Zoning Ordinance of the City of Beatrice, Ordinance Number 94-13, regarding buffer yards.

Moved by Catlin, seconded by Billesbach, that said ordinance be given number 15-009, the title thereof be approved, the rules be suspended and said ordinance be read by number only three (3) times tonight.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

Mayor Wirth read Ordinance Number 15-009 by number only the first, second and third times.

Moved by Catlin, seconded by Parde, that Ordinance Number 15-009 be passed and approved.

Councilman Fairbanks noted that there are a large number of high school students in attendance as a requirement for their government class and he felt it would be good to explain to them this process of approving an ordinance. Greg Butcher, City Attorney, explained that under state statute some ordinances require a public hearing which gives the public an opportunity to appear and speak about the topic. In order for the approval, it is required to hear the ordinance three (3) times and if the Council does not wish to debate the issue they may suspend the rules. Butcher noted that the Planning and Zoning Commission also reviewed this item and they approved it unanimously.

Councilman Fairbanks noted that you can either hear the ordinance at three (3) separate meetings or to speed the process up, suspend the rules and read it three (3) separate times at one (1) meeting.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None MOTION CARRIED.

Ordinance Number 15-009 has been passed and approved.

## **PUBLIC FORUM**

No one appeared at public forum.

## **DISCUSSIONS/REPORTS**

### **NPPD Contract Update**

Tobias Tempelmeyer, City Administrator, gave the City Council an update on the contract negotiations with Nebraska Public Power District (NPPD). The current contract expires in 2021 and if either party wishes to not renew the current contract, they must give five (5) years notice. NPPD has already announced that they plan to give notice by December 2016 that they will not be renewing any of their current contracts. Tempelmeyer noted that NPPD is proposing three (3) contracts to their customers. The first option is a twenty-five (25) year term and would set out performance standards that NPPD must meet. As long as NPPD meets the standards customers cannot get out of the contract; however, should NPPD not meet those standards, customers would be eligible to leave at no cost. The second option is a twenty (20) year term and would allow the customer to purchase up to fifty percent (50%) of their energy from another provider. If the customer purchases less than fifty percent (50%) of their energy from NPPD, they would have to pay an exit fee. Customers who choose this option would have energy cost equal to the base fee plus four percent (4%). The third option, referred to as the Southern option, would extend the current contract fifteen (15) years. . Customers who choose this option would have energy cost equal to the base rate plus ten percent (10%).

Tempelmeyer noted NPPD is not proposing a rate change this year; however, moving forward in order to meet their revenue requirements to fund post-employment pensions, future capital projects, and costs associated with the decommission of the generation facilities such as, Cooper Nuclear Station, NPPD has proposed an eight percent (8%) increase. Earlier this year when NPPD issued bonds, they projected their post-employment pensions would be fully funded by 2023 and the decommission project was anticipated to be fully funded by 2034.

Mayor Wirth noted Tempelmeyer attended two (2) meetings with NPPD last week and is looking out for the best interest of the City throughout these negotiations. Councilman Kerr inquired if the proposed eight percent (8%) increase would be a one (1) time increase or if it would be year after year. Tempelmeyer noted NPPD has not said how frequent the increase would be. Councilman Morgan inquired what options the City has to protect us. Tempelmeyer noted that only the customers on the old rate would receive the rate increase, if a new contract was signed, the rates would be pursuant to those terms. Councilman Fairbanks noted he has reservations on entering into a contract with a company that would not fund employee's pensions. Tempelmeyer noted NPPD has been unwilling to offer a contract for less than 20 years. Tempelmeyer asked the Council to let him know if there was anything they would like to see in the contract. Councilman Fairbanks inquired if there were other wholesale customers looking at other energy sources. Tempelmeyer noted that there are others looking. Councilman Clabaugh inquired when the City would hear from the energy consultant hired by the City to do a comparison study. Tempelmeyer noted it would likely be near the end of the summer before the other options are brought back to the City.

### **Community Wide Branding**

Mayor Wirth reported that the community wide branding was unveiled last week and it is a start in the right direction. Councilman Kerr noted everyone he has talked to seems to like it. Tobias Tempelmeyer, City Administrator, noted he emailed the other options to the Council as

requested. Mayor Wirth noted the committee is trying to get everyone to embrace it and said he feels the lettering or something should be changed. Lora Young, Executive Director of the Beatrice Area Chamber, noted the Chamber Board has mixed feelings on it, they like the concept, however are not sold on the look. Michael Sothan, Main Street Executive Director, noted the Main Street Board feels the same. Councilman Kerr inquired when this is to be utilized. Tempelmeyer noted they were hopeful to bring something forward at the next meeting. Councilman Fairbanks noted he would have changed the saying to “Come Stake Your Claim” and possibly do something different with the color. Councilman Parde noted the most important thing is to get people to work together and use it.

### **Beatrice Plus Report and Approval of Beatrice Plus Funding Requests**

#### **Keep Beatrice Beautiful in the amount of \$6,371.00.**

Moved by Catlin, seconded by Kerr, that the application for Beatrice Plus Funds from Keep Beatrice Beautiful for the purchase of window drapes in the City Auditorium in the amount of \$6,371.00, as recommended by the Beatrice Plus Committee, be approved.

Councilman Fairbanks noted this project seems like a maintenance issue and should be paid for out of the General Fund. Councilman Fairbanks noted he understands the need for replacement, he just wished the money would be used for putting up statues or something. Councilman Cook noted that the Beatrice Plus Advisory Board did pose the same question as to whether the project was a maintenance project or a beautification project and the Advisory Board voted to recommend the project since the funds are available. Councilman Kerr inquired if the drapes would be lighter than the current velvet lined drapes. Tobias Tempelmeyer, City Administrator, noted he was unsure what the material of the new drapes would be. Councilman Parde noted it may be a good idea to budget for the replacement of these drapes every twenty (20) to twenty-five (25) years.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan

Nay: None

Abstain: Parde

MOTION CARRIED.

#### **Main Street Beatrice in the amount of \$1,300.00.**

Moved by Catlin, seconded by Billesbach, that the application for Beatrice Plus Funds from Main Street Beatrice for the purchase of new plants for planters and bump-outs along downtown streets, primarily Court Street in the amount of \$1,300.00, as recommended by the Beatrice Plus Committee, be approved.

Michael Sothan, Main Street Executive Director, reported that this project is one that Main Street has been trying to keep up with for a number of years and would be similar to what has been done in the past. Sothan noted that the planters and bump-outs soften the highway and have been well received. Councilman Parde noted he felt this may not be the best use for the money as the flowers may only last six (6) months and felt the money should be used on longer lasting projects. Sothan noted that Main Street did try to use some perennials; however there was a large number of plants lost to winter kill. Councilman Clabaugh noted he feels the planters and

bump-outs add a lot to the downtown area and receives numerous comments on how nice it looks.

Roll Call: Yea: Billesbach, Catlin, Cook, Fairbanks, Kerr, Morgan  
Nay: Parde  
Abstain: Clabaugh

MOTION CARRIED.

### **Beatrice Area Chamber of Commerce in the amount of \$4,500.00.**

Moved by Catlin, seconded by Morgan, that the application for Beatrice Plus Funds from Beatrice Area Chamber of Commerce to purchase weed killer to spray weeds on Highways 136 and 77 in the amount of \$2,500.00 and to purchase (20) planters that will be planted and placed at businesses on Highway 77 from the Indian Creek Mall to the fast food areas in the amount of \$2,000.00 for a total amount requested \$4,500.00, as recommended by the Beatrice Plus Committee, be approved.

Lora Young, Executive Director of the Beatrice Area Chamber, reported to the Council that one (1) of the reasons this project was brought forward was to help beautify the community, which was noted in the ECAP report. The spraying of weeds has not been kept up for the past few years and the Chamber is hoping that after this project is completed this year, the City will pick it up and continue it down the years. Young noted that the businesses will be responsible for maintaining the planters. Councilman Kerr inquired why the highway is not the State's responsibility. Tobias Tempelmeyer, City Administrator, noted that according to the Maintenance Agreement with NDOR it is the City's responsibility and the City has not had the time or money to keep up with the maintenance along the highways. Councilman Morgan inquired if the Chamber has had success finding twenty (20) businesses to participate. Young noted that they have not asked the businesses, but they are hopeful they will find more than twenty (20) to participate. Councilman Kerr inquired the amount of funds in Beatrice Plus. Tempelmeyer noted that upon approval of the projects tonight, there will be a couple hundred dollars left and anticipated that the funds would be around \$8,000.00 to \$9,000.00 by the end of the next quarter.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan  
Nay: Parde

MOTION CARRIED.

### **Legislative Update**

Tobias Tempelmeyer, City Administrator, reported to the City Council that LB610 was passed for final reading. If this bill passes it would provide city's additional funding for street projects to cities. Councilman Fairbanks inquired if there was enough support for this bill. Tempelmeyer noted he was unsure if there was enough support.

### **Monthly City Administrator's Report**

Tobias Tempelmeyer, City Administrator, presented the Monthly City Administrator's Report and highlighted the following: the painting of the City Auditorium is complete; the Water Department will be working on the water main replacement projects including the boring project under the Big Blue River; and the installation of the communication equipment for the AMI

system will be done over next couple weeks and it is anticipated that the Electric Department will have 3,500 meters installed by the end of 2015.

Mayor Wirth inquired on the City Wide Cleanup. Jason Moore, Street Superintendent, reported to the Council that the Department picked up roughly 124 tons of material and there was a substantial increase of registered locations. Councilman Kerr inquired what the costs incurred were. Moore noted he did not have that information but hoped to have it to the Council at the next meeting. Moore also noted that there may be a need to look at the guidelines of this project as this year they saw more small items and garbage instead of the large items that it is intended for. Councilman Parde inquired what the next steps are for items that were set out and not picked up because the items did not qualify for the program. Tempelmeyer noted that the Code Enforcement Office would be contacting those individuals to clean up the items and if it is not cleaned up within the timeframe, the City will clean it up and the property owner will be billed.

### **ADJOURNMENT**

The next regular City Council meeting is May 4, 2015 at 7:00 p.m. in the Beatrice Public Schools Administration Building Meeting Room; there will be a Council Work Session on April 27, 2015 at 7:00 p.m. in the Beatrice Public Schools Administration Building Meeting Room.

Moved by Catlin, seconded by Clabaugh, that the meeting be adjourned at 8:10 p.m.

Roll Call: Yea: Billesbach, Catlin, Clabaugh, Cook, Fairbanks, Kerr, Morgan, Parde  
Nay: None **MOTION CARRIED.**

**Erin Saathoff, City Clerk**

**Stan Wirth, Mayor**