

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD APRIL 21, 2014, 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, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
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 the following elementary students with a “Mayor for a Day” honorary certificate for participating in a litter pick-up projected sponsored by Keep Beatrice Beautiful: Ava Toth from Cedar Elementary; Jackson Black from Lincoln Elementary; Blake Harder from Paddock Lane Elementary; Kaiden Thomas from Stoddard Elementary; and Andrew Duever from St. Paul Lutheran School; absent was Kylie Lancaster from St. Joseph’s Catholic School. Linda Grell, Keep Beatrice Beautiful Director, thanked the Mayor for recognizing these winners, which were randomly drawn from students that participated in a trash trek from April 1-12; all together students picked up 100 bags of litter.

Mayor Schuster read a Proclamation proclaiming April 25, 2014 as Arbor Day.

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 7, 2014, as on file in the City Clerk’s Office.
- e. Approval of Treasurer’s Report of Claims in the amount of \$271,804.50.
- f. Approval of BASWA Report of Claims in the amount of \$9,845.81.
- g. Approval of contract with Goossen Construction in the amount of \$49,763.35 for the Carnegie Parking Lot.
- h. Approval of contract with Midland’s Contracting in the amount of \$83,425.00 for the Sanitary Sewer Lining Project #14-256, as recommended by the BPW.
- i. Resolution Number 5624 granting permission to Derek Fralin, dba Fralin Concessions, to sell goods on public parking lots at Hannibal Park and Scott Street ball fields.
- j. Approval of keno satellite ownership change for J’s Grill & Pub at 831 West Court Street to Lindy Taylor.
- k. Approval of special designated license for Main Street Beatrice for a beer garden in the parking lot at 120 N 6th Street, on June 14, 2014 from 10:00 a.m. until 12:00 a.m. for the annual Ribfest fundraiser and permission to use a portion of City right-of-way along the sidewalk of said parking lot.
- l. Refer lawsuit of Stephanie Carman who seeks to enjoin the City from euthanizing her dog, a yellow lab named Lamar, to the City Attorney and City’s Insurance carrier for review and disposition.
- m. Refer lawsuit of Ronald Hasley against the City for alleged violation of his constitutional rights, to the City Attorney and City’s Insurance carrier for review and disposition.

Moved by Catlin, seconded by Langdale, that the items listed under the consent agenda, with the exception of item h, i, and k, be approved, accepted and/or ratified as presented.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

h – Moved by Catlin, seconded by Fairbanks, that the contract with Midland’s Contracting in the amount of \$83,425.00 for the Sanitary Sewer Lining Project #14-256, as recommended by the BPW, be approved.

Councilmember Fairbanks requested more information on the product and how long it would last. City Administrator Tempelmeyer explained that it hardens to a hard plastic finish that should last 50 years plus and will not narrow the pipe so much as to restrict the flow.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

i – Moved by Catlin, seconded by Kerr, that Resolution Number 5624 granting permission to Derek Fralin, dba Fralin Concessions, to sell goods on public parking lots at Hannibal Park and Scott Street ball fields, be passed and adopted.

Councilmember Kerr questioned whether Mr. Fralin was required to carry liability insurance. City Attorney Butcher explained the agreement does not require it and that since he has permission to be on City property if something happened there would be dual responsibility anyway; Mr. Butcher will check with Mr. Fralin on what liability insurance he does have and pass that information on to the full council.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

k – Moved by Catlin, seconded by Parde, that the special designated license for Main Street Beatrice for a beer garden in the parking lot at 120 N 6th Street, on June 14, 2014 from 10:00 a.m. until 12:00 a.m. for the annual Ribfest fundraiser and permission to use a portion of City right-of-way along the sidewalk of said parking lot, be approved.

Councilmember Parde requested more information on how much of the sidewalk was being used for the beer garden and if the remaining sidewalk width was handicap accessible. Dale Simmons, Ribfest Chairperson, explained that the fencing placed around the beer garden would leave plenty of room for the public to walk down the sidewalk; they only need to use a portion of the sidewalk to go around the retaining wall to get to the bottom portion of the parking lot where the cookers are located.

Roll Call: Yea: Catlin, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None
Abstain: Clabaugh

Motion carried.

3 - Public Hearings/Bids:

a. Hearings

(1) Public hearing on the application of Los Chorritos LLC dba El Canelo, 590 Sargent Street, for a Class I liquor license.

Mayor Schuster announced that a public hearing be held on the application of Los Chorritos LLC dba El Canelo, 590 Sargent Street, for a Class I liquor license.

Police Chief, Bruce Lang, under oath, presented the Investigative and Traffic Reports; the standard background investigation uncovered nothing that would preclude the dept. from recommending approval. Chief Building Inspector, Lyle Harris, under oath, presented the Planning Report, which upon review found no concerns with the application. Fred Grosshans, 12900 SW Hunter haven Road, Roca, NE, under oath, appeared in favor and said they hope to bring a good restaurant to Beatrice. He also thanked the council for granting the use of TIF funds to turn this lot into a commercial development. No one appeared in opposition.

Moved by Catlin, seconded by Langdale, that the public hearing be closed at 7:31 p.m.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

Moved by Catlin, seconded by Kerr, that the application of Los Chorritos LLC dba El Canelo, 590 Sargent Street, for a Class I liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

(2) Public hearing on the application of BLT Investments LLC dba 4one8 Bar and Grill, 418 Court Street, for a Class C & K liquor license.

Mayor Schuster announced that a public hearing be held on the application of BLT Investments LLC dba 4one8 Bar and Grill, 418 Court Street, for a Class C & K liquor license.

Police Chief, Bruce Lang, under oath, presented the Investigative and Traffic Reports; the standard background investigation uncovered nothing that would preclude the dept. from recommending approval. Chief Building Inspector, Lyle Harris, under oath, presented the Planning Report, which upon review found no concerns with the application. No one appeared in opposition.

Moved by Catlin, seconded by Langdale, that the public hearing be closed at 7:34 p.m.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

Moved by Catlin, seconded by Clabaugh, that the application of BLT Investments LLC dba 4one8 Bar and Grill, 418 Court Street, for a Class C & K liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

(3) Public hearing on the application of J's Grill LLC dba J's Grill and Pub, 831 West Court Street, for a Class C liquor license.

Mayor Schuster announced that a public hearing be held on the application of J's Grill LLC dba J's Grill and Pub, 831 West Court Street, for a Class C liquor license.

Police Chief, Bruce Lang, under oath, presented the Investigative and Traffic Reports; the standard background investigation uncovered nothing that would preclude the dept. from recommending approval. Chief Building Inspector, Lyle Harris, under oath, presented the Planning Report, which upon review found no concerns with the application. No one appeared in opposition.

Moved by Catlin, seconded by Langdale, that the public hearing be closed at 7:37 p.m.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

Moved by Catlin, seconded by Cook, that the application of J's Grill LLC dba J's Grill and Pub, 831 West Court Street, for a Class C liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

(4) 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 hear the semi-annual report of the Citizen's Advisory Review Committee as provided by LB840.

CARC Chairperson, Grant Jones, appeared and presented the Citizen's Advisory Review Committee semi-annual report; the committee met on April 16th and reviewed two applications for CDBG Revolving Loans, which will be forwarded to the City Council for review at a future meeting.

Moved by Catlin, seconded by Cook, that the public hearing be closed at 7:40 p.m.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
 Nay: None

Motion carried.

4 – Resolutions:

- a. Resolution entering into an agreement with Denver Series of Lockton Companies, LLC to review the Employee Health Care Plan for compliance and project the impact of the ACA.**

Mayor Schuster introduced Resolution Number 5625 entering into an agreement with Denver Series of Lockton Companies, LLC to review the Employee Health Care Plan for compliance and project the impact of the ACA.

Moved by Catlin, seconded by Langdale, that Resolution Number 5625 be passed and adopted.

City Administrator Tempelmeyer explained that the City had been approached by this company to review our current employee health care plan to ensure compliance with the Affordable Care Act and to determine if the City would be subject to the luxury tax and if so, what changes could be made to the plan to avoid the tax. The total fee is \$8,000. With union negotiations coming up this year if changes are to be made now is the time.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
 Nay: None

Motion carried.

Resolution Number 5625 has been passed and adopted.

- b. Resolution entering into an agreement with the Nebr. Dept. of Roads for Project ENH-6105(6), historic preservation project on 2nd Street from Court to Ella project.**

Mayor Schuster introduced Resolution Number 5626 entering into an agreement with the Nebr. Dept. of Roads for Project ENH-6105(6), historic preservation project on 2nd Street from Court to Ella project.

Moved by Catlin, seconded by Cook, that Resolution Number 5626 be passed and adopted.

City Administrator Tempelmeyer explained that this agreement is similar to the agreement that has been in place for this project, except it makes NDOR the responsible charge. The City's estimated share of \$160,000 includes some in-kind costs; the museum will pay for the portion of project that is on their property, estimated at \$30,000.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
 Nay: None

Motion carried.

Resolution Number 5626 has been passed and adopted.

- c. Resolution entering into a lease agreement with B-7 Investments LLC for an outdoor seating area in front of 106 North 5th Street.**

Mayor Schuster introduced Resolution Number 5627 entering into a lease agreement with B-7 Investments LLC for an outdoor seating area in front of 106 North 5th Street.

Moved by Catlin, seconded by Clabaugh, that Resolution Number 5627 be passed and adopted.

City Administrator Tempelmeyer explained that this lease is similar to the previous lease for an outdoor seating area that was terminated during the 5th Street Renovation project. With the completion of that project, VIP Lounge has requested a new lease and will use fencing that does not require to be anchored to the sidewalk. The agreement gives them permission to sell and consume alcohol in the leased area, in accordance with regulations set forth by the Nebraska Control Commission. In determining the size of the leased area, consideration was given to provide enough room between the fence and parking cars for use of the sidewalk.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

Resolution Number 5627 has been passed and adopted.

d. Resolution establishing policy guidelines for funding requests from the City for items and events, to be amended to extend the area out to the 2-mile zoning jurisdiction.

Mayor Schuster introduced Resolution Number 5628 establishing policy guidelines for funding requests from the City for items and events, to be amended to extend the area out to the 2-mile zoning jurisdiction.

Moved by Catlin, seconded by Kerr, that Resolution Number 5628 be passed and adopted.

Mayor Schuster explained that the City had approved funding for the Homestead Days fireworks event however the Chamber has had to move the display to the fairgrounds, which is outside of the City limits. This resolution would amend the funding policy to extend out to the 2-mile zoning jurisdiction to cover this and similar events that may occur just outside the City limits. Lora Young, Executive Director of the Beatrice Area Chamber of Commerce, explained that since the East Beatrice Business Association has dissolved, it was the Chamber's desire to partner with the Ag Society and move the fireworks show to the fairgrounds, where there is already a racing event scheduled for that evening.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
Nay: None

Motion carried.

Resolution Number 5628 has been passed and adopted.

5 – Ordinances:

6 – Public Forum:

Steve Tart, SW 75th Road, appeared at public forum to announce that Community Possibilities is having a grand opening event for the Traubel's Popcorn Stand on 5th Street, May 1st from 6:00 p.m. to 9:00 p.m..

7 – Discussions/Reports:

a. NGage Quarterly Report.

Grant Jones, NGage Board Treasurer, presented the NGage Quarterly report; he reported on the search for a new executive director, which has been completed; Glennis McClure has been hired and will start work on Thursday. The three new board members are Darin Baehr, Karen Stohs, and Steve Robeson. Discussion followed regarding NGage activities and progress during the quarter.

b. Proposed ½ cent Sales Tax Ballot Issue

There was nothing new to report regarding the proposed ½ cent sales tax ballot issue.

c. Legislative Update

City Administrator Tempelmeyer presented the Legislative Update of final bills passed by the legislature of interest to the City.

d. Monthly City Administrator's Report

City Administrator Tempelmeyer presented the monthly report and highlighted the following projects: an ADA chair lift has been installed at the Water Park; renovations at the City Auditorium to move offices to the main floor has been completed leaving the entire basement for use by the fire department; work will begin this week at Prairie Playground to replace the crumb rubber with rubber matting thanks to an anonymous donor, with street and public properties crews providing the labor; the contractor is moving in to start the Library Renovation project; work will begin on the East Scott Drainage Ditch to be completed by June 1; LED street lights have been installed; work has begun on the water main project on South 6th Street; Capital City Concepts has been retained to re-write the City's job descriptions; storage buildings have been built at the service center to replace those at 1st and Ella which are in the floodplain and need to be removed; and the City-wide mill & overlay project is to be completed by May 1.

8 – Miscellaneous:

The next regular council meeting is May 5, 2014 at 7:00 p.m. in the BPS Admin Bldg Meeting Room and a Worksession will be held on April 28, 2014 at 7:00 p.m. in the BPS Admin Bldg Meeting Room, due to library construction.

Moved by Catlin, seconded by Langdale, that the meeting be adjourned at 8:18 p.m.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Langdale, Kerr, Parde
 Nay: None

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster