

MINUTES OF THE CITY COUNCIL REGULAR MEETING HELD AUGUST 4, 2014, AT 7:00 P.M. IN THE BPS ADMINISTRATION MEETING ROOM, 320 NORTH 5TH STREET, BEATRICE, NEBRASKA.

Pledge of Allegiance

1 – Roll Call: Present: Mayor Schuster, Councilmembers Catlin, Clabaugh, Cook, Fairbanks, Kerr, Langdale, Morgan, Parde
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 July 21, 2014, as on file in the City Clerk's Office.
- e. Approval of minutes of worksession on July 28, 2014, as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims
 - (1) Approval of claim of Beatrice Humane Society in the amount of \$5,000.00
 - (2) Approval of balance of Treasurer's Report of Claims in the amount of \$127,405.07
- g. Approval of BASWA Report of Claims in the amount of \$32,069.54
- h. Approval of special designated license of D&J Enterprises LLC dba Kabo for a beer garden at 115 S 5th Street on August 24, 2014 from 2:00 p.m. until 12:00 a.m. and permission to use City property for said beer garden.

Moved by Catlin, seconded by Kerr, that the items listed under the consent agenda, with the exception of items f(1) and h, be approved, accepted and/or ratified as presented; Langdale abstained from items d & e and Morgan abstained from item d.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Kerr, Langdale, Morgan, Parde
Nay: None Motion carried.

f(1) - Moved by Catlin, seconded by Kerr, to approve the claim of Beatrice Humane Society in the amount of \$5,000.00.

Councilmember Kerr requested more information on the item; City Administrator Tempelmeyer reported that this is the quarterly payment per their annual agreement.

Roll Call: Yea: Catlin, Clabaugh, Fairbanks, Kerr, Langdale, Morgan, Parde
Nay: None
Abstain: Cook Motion carried.

h - Moved by Catlin, seconded by Parde, to approve the special designated license of D&J Enterprises LLC dba Kabo for a beer garden at 115 S 5th Street on August 24, 2014 from 2:00 p.m. until 12:00 a.m. and permission to use City property for said beer garden.

Councilmember Parde expressed his concerns about safety and liability with the event being held on City property. Discussed that they have held prior events and have had no reported problems.

Roll Call: Yea: Catlin, Clabaugh, Cook, Fairbanks, Kerr, Langdale, Morgan
Nay: Parde Motion carried.

3 - Public Hearings/Bids:

a. Hearings

(1) Public Hearing on the proposed annexation of property owned by the State of Nebraska, located in the NE1/4 Section 35-4-6 and the NW1/4 of Section 36-4-6 to the north and east of Lincoln Street and 33rd Street.

Mayor Schuster announced that a public hearing be held on the proposed annexation of property owned by the State of Nebraska, located in the NE1/4 Section 35-4-6 and the NW1/4 of Section 36-4-6 to the north and east of Lincoln Street and 33rd Street.

Mayor Schuster explained the series of steps and action required to annex property. Discussion was held that the State of Nebraska and the Beatrice State Developmental Center have been contacted and have no problems or concerns regarding the annexation. The Planning & Zoning Commission is scheduled to hold their hearings on August 5th and will forward their recommendation to the next regular council meeting.

Moved by Catlin, seconded by Clabaugh, that the public hearing be closed at 7:12 p.m.

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

Motion carried.

(2) Public Hearing on the proposed annexation of properties owned by Jeffrey D. & Sherry Cullison, Michael C. & Sandra L. Havekost, LaVerne E. & Shirley M. Wolken, located in Wyant's Subdivision, a part of Section 36-4-6 to the east of 33rd Street, and property owned by Max L. & Michelle R. Manes, located in Section 9-3-6 to the south of W Belvedere Street.

Mayor Schuster announced that a public hearing be held on the proposed annexation of properties owned by Jeffrey D. & Sherry Cullison, Michael C. & Sandra L. Havekost, LaVerne E. & Shirley M. Wolken, located in Wyant's Subdivision, a part of Section 36-4-6 to the east of 33rd Street, and property owned by Max L. & Michelle R. Manes, located in Section 9-3-6 to the south of W Belvedere Street.

Mayor Schuster explained that three of the residential properties are located between the Beatrice State Developmental Center and Evergreen Cemetery, the remaining property is a cleanup from a previous annexation to correct the legal descriptions. Jeffrey Cullison, 526 N 33rd Street, appeared and asked the council to consider postponing annexation of his property until the area across the street has been developed. Shirley Wolken, 420 N 33rd Street, also appeared in opposition to annexation of her property until there are plans to develop the property across the street.

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

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

Motion carried.

(3) Public Hearing on the proposed annexation of property owned by the Beatrice Cemetery Association, located in the SW1/4 of Section 36-4-6 and Haner Subdivision to the east of 33rd Street and north of Scott Street.

Mayor Schuster announced that a public hearing be held on the proposed annexation of property owned by the Beatrice Cemetery Association, located in the SW1/4 of Section 36-4-6 and Haner Subdivision to the east of 33rd Street and north of Scott Street.

Mayor Schuster explained that this annexation had been discussed at the previous meeting and legal counsel for the cemetery association appeared and stated reasons for their opposition to annexation. James Nelson, 108 S 6th Street, representing the Beatrice Cemetery Association, appeared to explain the association's opposition to the annexation and questioned the purpose of annexing the property. Discussion was held that the only tax revenue would be the city sales

tax on vaults; concern about the future of military funerals for which currently the use of blanks is allowed and this has not been an issue with other cemeteries in the City limits; the cemetery's current practice of obtaining a burn permit from the Rural Fire Chief to dispose of brush rather than having the expense to haul it to the landfill for which the City Fire Chief could also issue; and the cost of future improvements to 33rd Street for which it was explained that past policy for upgrades to a hard-surfaced road are generally taken care of by the City but if anything was to be assessed it would require approval of more than 50% the abutting property owners. Regarding the burn permits, Fire Chief Daake, reported that he did not recall a request for a burn permit in recent years from other cemeteries in the City limits, but periodically a few others have been issued. Dave Vrtiska and Judy Vrtiska, of the Beatrice Cemetery, spoke that they have never burned brush on the cemetery property at Scott Street and that it is hauled to Evergreen Cemetery's pile.

Moved by Catlin, seconded by Cook, that the public hearing be closed at 7:36 p.m.

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

Motion carried.

4 – Resolutions:

- a. Resolution appointing James Burroughs, Rex Behrends and Michael Fakler as Interim City Building Inspectors and entering into agreements with Rex Behrends and Michael Fakler to perform said services.**

Mayor Schuster introduced Resolution Number 5666 appointing James Burroughs, Rex Behrends and Michael Fakler as Interim City Building Inspectors and entering into agreements with Rex Behrends and Michael Fakler to perform said services.

Moved by Catlin, seconded by Langdale, that Resolution Number 5666 be passed and adopted.

Mayor Schuster announced that with the resignation of Lyle Harris effective August 1st, the City Engineer will assist with duties in the building inspection office, however, is proposing to contract with Rex Behrends, the former City Engineer, and Michael Fakler, a local architect, to provide additional services when needed. City Administrator Tempelmeyer explained that the process to search for a new building inspector has been started.

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

Motion carried.

Resolution Number 5666 has been passed and adopted.

- b. Resolution establishing the final allocation for levy authority for property taxes for the Airport Authority for the fiscal year ending September 30, 2015.**

Mayor Schuster introduced Resolution Number 5667 establishing the final allocation for levy authority for property taxes for the Airport Authority for the fiscal year ending September 30, 2015.

Moved by Catlin, seconded by Parde, that Resolution Number 5667 be passed and adopted.

Diana Smith, Airport Manager, appeared to present the Airport Authority's request for property taxes to assist with the operating budget and debt service needs for the coming fiscal year and updated the council on progress this past year. The Airport has seen an increase in traffic and fuel sales, an increase in the number of aircraft based at airport, increased business at the airport in flight instruction and a gentleman renting the executive hangar that buys and sells aircraft, and an increase in work at the aircraft repair shop. The FAA has awarded a grant for the runway reconstruction project and has approved a contractor; the contract will also include a separate project to complete a new runway extension. The project is to begin in the spring of 2015 and bonds will be issued shortly to pay for the Airport's share of the Federal project; no additional funds are needed for the runway extension as that is to be entirely funded with private money. The average cash balance of \$200,000 is adequate for cash flow and the levy request for operations is sufficient.

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

Motion carried.

Resolution Number 5667 has been passed and adopted.

c. Resolution adopting the City of Beatrice/Beatrice Board of Public Works Handbook for Non-Union Employees.

Mayor Schuster introduced Resolution Number 5668 adopting the City of Beatrice/Beatrice Board of Public Works Handbook for Non-Union Employees.

Moved by Catlin, seconded by Kerr, that Resolution Number 5668 be passed and adopted.

City Administrator Tempelmeyer explained that this handbook is for non-union employees and comes from policies in place and benefits per the IBEW contract and puts it all together in one resource to cover everyone in the same manner. Discussion followed and questions explained. A similar handbook will be drafted for union employees to include policies with reference to appropriate union contracts and brought for consideration at a future meeting.

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

Motion carried.

Resolution Number 5668 had been passed and adopted.

5 – Ordinances:

a. Ordinance on the proposed annexation of property owned by the State of Nebraska, located in the NE1/4 Section 35-4-6 and the NW1/4 of Section 36-4-6 to the north and east of Lincoln Street and 33rd Street.

Mayor Schuster introduced an ordinance annexing property owned by the State of Nebraska, located in the NE1/4 Section 35-4-6 and the NW1/4 of Section 36-4-6 to the north and east of Lincoln Street and 33rd Street.

Moved by Catlin, seconded by Kerr, that said ordinance be given number 14-018, the title thereof be approved, and said ordinance be read by title only one time tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 14-018 by title:

“An ordinance to extend the boundaries and include within the corporate limits of, and to annex to, the City of Beatrice, Nebraska parcels of land owned by the State of Nebraska and commonly referred to as the “Beatrice State Developmental Center”, which are adjacent, contiguous, and located in or near the City of Beatrice, Gage County, Nebraska; to provide service benefits thereto; to repeal conflicting ordinances; and to provide for publication in pamphlet form and effective date of this ordinance.”

Ordinance Number 14-018 will be brought back for additional consideration at the next regular council meeting.

b. Ordinance on the proposed annexation of properties owned by Jeffrey D. & Sherry Cullison, Michael C. & Sandra L. Havekost, LaVerne E. & Shirley M. Wolken, located in Wyant’s Subdivision, a part of Section 36-4-6 to the east of 33rd Street, and property owned by Max L. & Michelle R. Manes, located in Section 9-3-6 to the south of W Belvedere Street.

Mayor Schuster introduced an ordinance annexing properties owned by Jeffrey D. & Sherry Cullison, Michael C. & Sandra L. Havekost, LaVerne E. & Shirley M. Wolken, located in Wyant's Subdivision, a part of Section 36-4-6 to the east of 33rd Street, and property owned by Max L. & Michelle R. Manes, located in Section 9-3-6 to the south of W Belvedere Street.

Moved by Catlin, seconded by Kerr, that said ordinance be given number 14-019, the title thereof be approved, and said ordinance be read by title only one time tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 14-019 by title:

"An ordinance to extend the boundaries and include within the corporate limits of, and to annex to, the City of Beatrice, Nebraska parcels of land owned by Jeffrey D. & Sherry Cullison, Michael C. & Sandra L. Havekost, Max L. & Michelle R. Manes, LaVerne E. & Shirley M. Wolken, which are adjacent, contiguous, and located in or near the City of Beatrice, Gage County, Nebraska; to provide service benefits thereto; to repeal conflicting ordinances; and to provide for publication in pamphlet form and effective date of this ordinance."

Ordinance Number 14-019 will be brought back for additional consideration at the next regular council meeting.

c. Ordinance on the proposed annexation of property owned by the Beatrice Cemetery Association, located in the SW1/4 of Section 36-4-6 and Haner Subdivision to the east of 33rd Street and north of Scott Street.

Mayor Schuster introduced an ordinance annexing property owned by the Beatrice Cemetery Association, located in the SW1/4 of Section 36-4-6 and Haner Subdivision to the east of 33rd Street and north of Scott Street.

Moved by Catlin, seconded by Clabaugh, that said ordinance be given number 14-020, the title thereof be approved, and said ordinance be read by title only one time tonight.

Short discussion held; James Nelson spoke again and stated that the Beatrice Cemetery Association objected to the annexation.

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

Motion failed.

d. Ordinance Number 14-017 amending City Code Section 16-54 and adding Section 16-316 regarding School Zone Loading, read by title one time on 7/21/2014.

Mayor Schuster introduced further action on Ordinance Number 14-017 amending City Code Section 16-54 and adding Section 16-316 regarding School Zone Loading, which was read by title one time on July 21st, 2014.

Moved by Catlin, seconded by Langdale, that said Ordinance Number 14-017, the title thereof be approved, the rules be suspended and said ordinance be read by number only the 2nd and 3rd and final time tonight.

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

Motion carried.

Mayor Schuster read Ordinance Number 14-017 by number only the second and third times.

Moved by Catlin, seconded by Langdale, that Ordinance Number 14-017 be passed and approved.

City Attorney, Greg Butcher, explained the purpose of the ordinance, which was brought about due to a judge's determination that in the current city code that the normal flow of traffic was subjective, proposes to change city code to clearly state that in designated school zones loading and unloading of any kind is to be done outside of the lane traffic. The ordinance sets a penalty and administrative fee for violation and the school has plans to inform parents, especially at the middle school, of the enforcement. As presented the ordinance provided for a \$50.00 penalty, City Attorney Butcher suggested that the ordinance be amended to provide for a \$45.00 penalty, plus \$5.00 administrative fee.

Moved by Langdale, seconded by Catlin to amend Ordinance Number 14-017 to change the language regarding the penalty to forty-five dollars (\$45.00), plus a five dollar (\$5.00) administrative fee.

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

Motion carried.

Vote on passage of Ordinance Number 14-017 as amended:

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

Motion carried.

Ordinance Number 14-017 has been passed and approved.

6 – Public Forum:

No one appeared at public forum.

7 – Discussions/Reports:

a. NGage Quarterly Report.

NGage Executive Director, Glennis McClure, presented the NGage Quarterly report for April -June 2014. Ms. McClure has been on the job since April and thanked the Council for their support. She reviewed objectives and progress: she has made contact with the Lincoln Area Development Partnership with which NGage is a member and utilizes their resources; recognized the importance of working together with the Beatrice Area Chamber of Commerce and Main Street Beatrice; is working to re-certify Beatrice as a Certified Economic Development Community; has been meeting with area businesses to determine what their needs are and inform small businesses and entrepreneurs of the resources and assistance NGage has to offer them; has made contact with schools and Southeast Community College to make sure that we have a prepared skilled workforce; and commented on future plans in marketing and updating the website.

8 – Miscellaneous:

Next regular council meeting is August 18, 2014 at 7:00 p.m. in the BPS Admin Bldg Meeting Room. There will be a Worksession on August 25, 2014 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.

Moved by Catlin, seconded by Clabaugh, that the meeting be adjourned at 8:32 p.m.

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

Motion carried.

Linda S. Koch, City Clerk

Mayor Dennis Schuster