

MINUTES OF THE REGULAR CITY COUNCIL MEETING

A regular meeting of the City Council was held on the 21st day of September, 2015 at 7:00 P.M. in the BPS Administration Meeting Room, 320 North 5th Street, Beatrice, Nebraska.

Mayor Wirth led those in attendance in the Pledge of Allegiance.

ROLL CALL

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

Absent: Fairbanks

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.

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 September 8, 2015, as on file in the City Clerk's Office.
- e. Approval of Treasurer's Report of Claims:
 - e(1) Approval of Gage Area Growth-NGage claim in the amount of \$6,400.00.
 - e(2) Approval of the balance of Treasurer's Report of Claims in the amount of \$1,316,143.22.
- f. Approval of BASWA Report of Claims in the amount of \$26,830.76.
- g. Approval of Change Order #6 increase in the amount of \$1,892.09 to Elkhorn West Construction, Inc. for the Beatrice Public Library Renovation.
- h. Refer claim of Beatrice Ford to City Attorney and City Insurance carrier for review and disposition.
- i. Approval of write-off of ambulance bad debts in the amount of \$14,664.78.
- j. Resolution Number 5814 appointing Trevor Chadwick to the Citizens Advisory Review Committee (CARC).

Moved by Catlin, seconded by Morgan, that the items listed under the consent agenda, with the exception of item e(1), be approved, accepted and/or ratified as presented.

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

Nay: None

MOTION CARRIED.

Moved by Catlin, seconded by Kerr, that item e(1) approval of Gage Area Growth-NGage claim in the amount of \$6,400.00, be approved.

Councilman Kerr inquired what this claim was for. Tobias Tempelmeyer, City Administrator, noted this is for Project Rent, in which NGage is providing assistance to Rare Earth Salts.

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

MOTION CARRIED.

PUBLIC HEARINGS/BIDS

Public Hearing for the Purpose of Supplementing the Fiscal Year 2015 Budget.

Mayor Wirth announced that a public hearing will now be held on supplementing the Fiscal Year 2015 Budget.

Tobias Tempelmeyer, City Administrator, noted there are a couple of areas that the City needs to supplement the FY15 budget. The first area is the expenditures from the flood, lightning strike, and 911 merger with Crete. Each of these items also had an increase in revenue to help cover costs. The second area is from the merger of the BPW health insurance account into the City's health insurance fund to make it easier from an accounting standpoint. Overall the health insurance costs are lower than what was budgeted. The third area is due to calling the outstanding TIF bonds from the Husqvarna building. There was revenue already in the bank to cover those funds.

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

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

MOTION CARRIED.

RESOLUTIONS

Resolution Number 5815 approving a loan from the LB840 Fund to Dempsters LLC in the amount of \$225,000.00.

Mayor Wirth introduced Resolution Number 5815 approving a loan from the LB840 Fund to Dempsters LLC in the amount of \$225,000.00.

Moved by Catlin, seconded by Morgan, that Resolution Number 5815 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted that Ryan Mitchell was in attendance to answer any questions the City Council may have in regards to Dempsters LLC's request for an LB840 loan in the amount of \$225,000.00. Tempelmeyer also noted that Grant Jones, Chairman of the CARC was also present to give the recommendation from the CARC meeting that was held earlier this evening. Jones noted that the motion from the CARC was in favor of Dempsters application. Mitchell thanked the City Council for the opportunity to apply for additional funding, noting Dempsters plan is to increase the number of employees as well as retain all current employees, and build thirty (30) more spreaders. Mitchell also noted he will match the request with a personal guarantee and noted Pinnacle Bank will again be a partner. Mitchell noted Dempsters is asking for one (1) year term for this loan, as opposed to the six (6) month loan that was previously paid off.

Councilman Kerr noted there was a paragraph in the accountant's compilation report from Schulz & Associates stating "Management has elected to omit substantially all of the disclosures ordinarily included in financial statements prepared in accordance with the cash basis of

accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Company's assets, liabilities, equity, revenues, and expenses. Accordingly, the financial statements are not designed for those who are not informed about such matters.” Kerr stated that concerned him and he inquired what that statement meant. Mitchell noted that these are not audited statements and he believes it may just be a catch-all that they have there. Mayor Wirth noted that statement may just be a boiler plate on financials. Mitchell noted that these statements have been provided to the IRS also.

Councilman Kerr inquired if the agreement is the same as the previous agreement with Dempsters. Tempelmeyer noted that the only changes in the proposed agreement are the dollar amount and the term of the agreement.

Councilman Parde inquired what the positive and negative discussions, if any, were discussed at the CARC meeting, as there were no minutes for the City Council to review. Jones noted some of the positive discussions were that the loan was paid off and the sales have doubled. Jones noted the concerns were the amount of cash on hand, equity, and that the net income is in the red. Jones indicated that the CARC vote was 2-1.

Councilman Clabaugh inquired about the new technology that is being added to the spreaders and what the response has been so far. Mitchell noted so far the response has been great. Mitchell also noted the new technology that the younger farmers seem to be interested in and is an add-on option so the frame did not have to be redesigned.

Councilman Parde inquired if Mitchell foresees somewhere in the near future that Dempsters will not be coming to the City asking to borrow money. Mitchell noted their hope is to not have to. Mitchell noted that being an international investor likely makes a difference, but by placing personal guarantees, he feels they are making sure Dempsters is all in by covering as much risk as possible.

Councilman Kerr inquired if should Dempsters default if the City would be able to cross international lines in order to collect funds. Greg Butcher, City Attorney, noted he was not one hundred percent (100%) certain on that and that would have to be looked at closer if something was to happen.

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

Nay: None

MOTION CARRIED.

Resolution Number 5815 has been passed and adopted.

Resolution Number 5816 authorizing the writing off of all bad debts associated with the CDBG Loan for to BVA, Inc.

Mayor Wirth introduced Resolution Number 5816 authorizing the writing off of all bad debts associated with the CDBG Loan for to BVA, Inc.

Moved by Catlin, seconded by Billesbach, that Resolution Number 5816 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted that this loan was originally made in 2009 for \$300,000. The auditors inquired if there is anything the City can do to collect on the loan, and based upon BVA filing bankruptcy, Administration’s recommendation is to write off the bad

debts and remove this from the books. Councilman Parde noted he wish this item would have been listed first so that Dempsters could see the frustration the City has to deal with at times.

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

MOTION CARRIED.

Resolution Number 5816 has been passed and adopted.

Resolution Number 5817 authorizing the writing off of all bad debts associated with the CDBG Loan for 5Stat-Store Kraft.

Mayor Wirth introduced Resolution Number 5817 authorizing the writing off of all bad debts associated with the CDBG Loan for 5Stat-Store Kraft.

Moved by Catliln, seconded by Clabaugh, that Resolution Number 5817 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted this loan was originally made in 2010 for \$600,000.00. Part of the loan was forgiven based upon job creation, leaving a total amount of \$330,000.00 to be written off.

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

MOTION CARRIED.

Resolution Number 5817 has been passed and adopted.

Resolution Number 5818 authorizing the writing off of all bad debts associated with the CDBG Loan for Store Kraft.

Mayor Wirth introduced Resolution Number 5818 authorizing the writing off of all bad debts associated with the CDBG Loan for Store Kraft.

Moved by Catlin, seconded by Parde, that Resolution Number 5818 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted this loan was originally made in 2014 for a total of \$250,000.00. Tempelmeyer also noted that no part of this loan has been repaid.

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

MOTION CARRIED.

Resolution Number 5818 has been passed and adopted.

Resolution Number 5819 authorizing the application for grant assistance from the Royals Charities for the purchase and installation of fencing at two (2) new youth ball fields at Hannibal Park.

Mayor Wirth introduced Resolution Number 5819 authorizing the application for grant assistance from the Royals Charities for the purchase and installation of fencing at two (2) new youth ball fields at Hannibal Park.

Moved by Catlin, seconded by Clabaugh, that Resolution Number 5819 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted that when the proposed installation of two (2) new ballfields in Hannibal Park for the FY16 budget became public, a citizen contacted one (1) of the meter readers regarding grant possibilities to help fund the project. Councilman Parde noted he did not see adult size fields listed and Tempelmeyer noted the fields installed would not be for adult use. Greg Butcher, City Attorney, noted that one (1) of the requirements of the Royals Charities grant is that it be geared to helping the youth programs.

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

MOTION CARRIED.

Resolution Number 5819 has been passed and adopted.

Resolution Number 5820 entering into a Roadway Agreement with Flowing Springs Development, LLC.

Mayor Wirth introduced Resolution Number 5820 entering into a Roadway Agreement with Flowing Springs Development, LLC.

Moved by Catlin, seconded by Parde, that Resolution Number 5820 be passed and adopted.

Tobias Tempelmeyer, City Administrator, reported to the City Council that Louis Goossen presented a plat to the City to plat the ground west of the Covered Bridge on Covered Bridge Road. Tempelmeyer noted that part of the City's issues in working through this agreement was access to area. One of the main concerns is with the Covered Bridge, as it was not constructed by an engineer and another question that arose was whether or not the City's rescue personnel would be able to make it over the bridge. In the proposed agreement, the City has the ability to examine the bridge once a year and if any issue was noticed, Flowing Springs Development would have to repair it. If the repairs are not made within the timeframe, the City will be permitted to make the necessary repairs and bill Flowing Springs. Tempelmeyer noted that the City will not be taking over responsibility for the roads or bridge. Mayor Wirth inquired if the Fire Department's ladder truck has gone over the bridge and Tempelmeyer noted it has gone over the bridge without any problems.

Jerry Mall, 2101 Grant Street, appeared before the City Council inquired if the bridge was found to not be repairable and improvements would need to be made to 19th Street, who would be responsible for those improvements. Tempelmeyer noted that there are several options to explore, but noted nothing has been decided at this time.

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

MOTION CARRIED.

Resolution Number 5820 has been passed and adopted.

ORDINANCES

Ordinance supplementing the Fiscal Year 2015 Budget Statement.

Mayor Wirth introduced an ordinance supplementing the Fiscal Year 2015 Budget Statement.

Moved by Catlin, seconded by Cook, that said ordinance be given number 15-016, 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, Kerr, Morgan, Parde
Nay: None MOTION CARRIED.

Mayor Wirth read Ordinance Number 15-016 by number only the first, second, and third times.

Moved by Catlin, seconded by Parde, that Ordinance Number 15-016 be passed and approved.

Tobias Tempelmeyer, City Administrator, noted that a Public Hearing was held earlier this evening to supplement the FY15 budget and this ordinance takes care of the necessary action.

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

Ordinance Number 15-016 has been passed and approved.

PUBLIC FORUM

No one appeared at public forum.

DISCUSSIONS/REPORTS

City Administrator's Monthly Report

Tobias Tempelmeyer, City Administrator, presented the presented the monthly report to the City Council. Tempelmeyer noted that there has been a lot of activity with the Former Manufactured Gas Plant, they have met with NDEQ to determine what was tested and what needs to be tested and Tempelmeyer noted he believes it will be at least another year before that project moves forward; the Fire Department was very busy last month with a fourteen percent (14%) increase in calls and many of the calls occurred at the same time; the Electric Department has been busy installing the AMI meters and so far over five hundred (500) meters have been installed throughout the City. Councilman Kerr inquired when the installation AMI system will be complete and Tempelmeyer noted it is anticipated that the project will be completed by the end of the next calendar year.

EXECUTIVE SESSION

Moved by Catlin, that the Beatrice City Council go into closed session at 7:45 p.m., for the protection of public interest to discuss real estate. Seconded by Parde, that the Beatrice City Council go into closed session at 7:45 p.m., for the protection of public interest to discuss real estate.

Mayor Wirth announces that Moved by Catlin, seconded by Parde, that the Beatrice City Council go into closed session at 7:45 p.m., for the protection of public interest to discuss real estate.

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

MOTION CARRIED.

Reconvened at 8:10 p.m.

ADJOURNMENT

The next regular City Council meeting is October 5, 2015 at 7:00 p.m. in the Beatrice Public Schools Administration Building Meeting Room. There will be a Special Meeting on September 28, 2015 at 7:00 p.m. in the Beatrice Public Schools Administration Building Meeting Room for the approval of FY15 claims.

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

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

MOTION CARRIED.

Erin Saathoff, City Clerk

Stan Wirth, Mayor