

## MINUTES OF THE SPECIAL CITY COUNCIL MEETING

A special meeting of the City Council was held on the 29<sup>th</sup> day of August, 2016 at 7:00 P.M. in the Price Room at the Beatrice Public Library, 100 North 16<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.

### 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 15, 2016, as on file in the City Clerk's Office.
- e. Award bid from R.L. Tiemann Construction in the amount of \$106,429.30 for the Grant Street Reconstruction – 2016 project.
- f. Resolution Number 5952 approving the Preliminary Plans, Specifications, and Estimates (PS & E) package for NDOR Project Number ENH-6105(6), Control Number 13127, 2nd Street, Court to Ella Street.

Moved by Catlin, seconded by Morgan, 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

There were no Public Hearings/Bids.

### RESOLUTION

**Resolution Number 5953 executing the Demolition and Construction Agreement with R.L. Tiemann Construction, Inc., Raymond A. Arter and Mary Kathleen Ratigan, d/b/a the Black Crow, and David C. Lange regarding for demolition of 407 Court Street**

Mayor Wirth introduced Resolution Number 5953 executing the Demolition and Construction Agreement with R.L. Tiemann Construction, Inc., Raymond A. Arter and Mary Kathleen Ratigan, d/b/a the Black Crow, and David C. Lange regarding for demolition of 407 Court Street.

Moved by Catlin, seconded by Cook, that Resolution Number 5953 be passed and adopted.

Greg Butcher, City Attorney, reported to the Mayor and City Council that after significant work on behalf of all attorneys for all parties involved, an agreement for the general demolition and construction of 407 Court Street has been agreed upon. Butcher noted there was one (1) revision that will be made to the contract, moving the start date from November 1, 2016 to December 1, 2016, due to time constraints of R.L. Tiemann Construction and other contracts they have to fulfill.

Butcher noted the first step will be for Ray Arter and Kate Ratigan, owners of 407 Court Street, to contract with Lincoln Masonry to perform the necessary structural repairs that have been identified by the structural engineer, King Little. Butcher noted the City has agreed to pay for the first \$25,000.00 of those costs and Ratigan will be responsible for any costs beyond. Butcher noted once the work is completed by Lincoln Masonry, Tiemann will begin installing the braces on the adjacent buildings of 407 Court Street. Little will then reinspect and if the repairs are approved, Tiemann will begin the demolition of 407 Court Street. Tiemann has indicated the demolition will take four (4) days. Since the Black Crow is closed on Sunday and Monday, Ratigan has agreed to close two (2) additional business days during the demolition, in order for the work to be completed at one time. Councilman Kerr inquired what the demolition cost will be. Butcher noted Tiemann's bid is for \$152,480.00.

Butcher noted a contemporary agreement has been made between the City and Arter and Ratigan should the City acquire the property. Arter and Ratigan will contribute \$2,000.00 for the purchase of that property.

Councilman Kerr estimated that it will end up costing the City over \$200,000.00 to tear down the property at 407 Court Street, further noting he does not believe the City should be responsible for the recommended repairs to Ratigan's building prior to the demolition of 407 Court Street, as there has been no confirmation that 407 Court Street caused any of the damage to Ratigan's building.

Councilman Fairbanks inquired about the recommendation of repairs being done prior to October 1, 2016. Butcher noted there were some concerns with some gapping of the façade on 405 Court Street, however there is nothing in the structural engineer's report stating repairs need to be done before another freeze/thaw weather condition. Councilman Fairbanks also inquired if Tiemann can start sooner than the December 1, 2016 date. Butcher noted if Tiemann is available prior to that date, he will contact David Lange and Kate Ratigan to line up when he can begin. Councilman Fairbanks further inquired when the City could get a lien waiver on the property. Butcher noted the City can file a lien now or as soon as the demolition starts. Councilman Fairbanks noted while this is a lose-lose situation for the City Council, the City has a responsibility to the public to remove the building.

Councilman Clabaugh noted he also believes it is the City's responsibility to take care of this issue and inquired if the City would try to re-coop some of the cost from the property owner of 407 Court Street. Butcher noted the City will try to re-coop some of the costs and it will be determined at a later date how to proceed in doing so.

David Lange, owner of 409 Court Street, thanked the City Council for the time and effort spent on taking care of this issue, noting he believes the betterment of the City depends upon the completion of this project.

Ratigan hopes the use of the empty lot can be used as a positive outcome in the downtown and thanked Butcher and the City Council for their time and work on the project.

Councilman Kerr noted he is concerned with the precedence this will set.

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

Resolution Number 5953 has been passed and adopted.

**Resolution Number 5954 executing a Contract for Sale of Real Estate and any other documents necessary to transfer the West 9 inches of Lot Four (4), and the East half of Lot Five (5), Block Sixty-Four (64), Original Town, now City of Beatrice, Gage County, Nebraska, to Raymond A. Arter and Mary Kathleen Ratigan, should the City acquire said property**

Mayor Wirth introduced Resolution Number 5954 executing a Contract for Sale of Real Estate and any other documents necessary to transfer the West 9 inches of Lot Four (4), and the East half of Lot Five (5), Block Sixty-Four (64), Original Town, now City of Beatrice, Gage County, Nebraska, to Raymond A. Arter and Mary Kathleen Ratigan, should the City acquire said property.

Moved by Catlin, seconded by Billesbach, that Resolution Number 5954 be passed and adopted.

Greg Butcher, City Attorney, presented the Contract for Sale of Real Estate to transfer the vacant lot resulting from the demolition of 407 Court Street to Ray Arter and Kate Ratigan, should the City acquire said property. Butcher noted the closing date will be adjusted from April 3, 2017 to the first available work day in May 2017.

Councilman Parde inquired how the City could sell a lot it does not own. Butcher noted the Contract is contingent upon the City obtaining the property. Butcher noted should the City not acquire the property the Contract would be null and void.

Councilman Kerr inquired why the property would not be open to public bid or auction. Mayor Wirth noted the sale of this property is part of the agreement that was approved earlier in the meeting. Councilman Kerr further inquired if the owner of 407 Court Street had any right to the property. Butcher noted the owner gave up his right by not appealing the demolition of the

property within the twenty (20) days of receiving notice from the Building Inspections Department.

David Lange, owner of 409 Court Street, noted as the neighbor on the other side of the property he fully supports the sale to Arter and Ratigan.

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

Resolution Number 5954 has been passed and adopted.

## ORDINANCES

### **Ordinance to change the name of a portion of 26<sup>th</sup> Street located in Crest Addition to the City of Beatrice, Nebraska to be named Crest Drive**

Mayor Wirth introduced an ordinance to change the name of a portion of 26<sup>th</sup> Street located in Crest Addition to the City of Beatrice, Nebraska to be named Crest Drive.

Moved by Catlin, seconded by Parde, that said ordinance be given number 16-038 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 16-038 by number only the first, second, and third time.

Moved by Catlin, seconded by Billesbach, that Ordinance Number 16-038 be passed and approved.

Tobias Tempelmeyer, City Administrator, noted the portion of 26<sup>th</sup> Street to be renamed has existed for a number of years, however, if you extend this portion to the south, you would run into 25<sup>th</sup> Street. Tempelmeyer noted it is the recommendation to rename this portion Crest Drive in order to avoid possible confusion in the future when assigning addresses along this portion of the street.

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

Ordinance Number 16-038 has been passed and approved.

## PUBLIC FORUM

No one appeared at public forum.

## DISCUSSIONS/REPORTS

### **FY2016 and FY2017 Biennial Budget Review**

Tobias Tempelmeyer, City Administrator, gave the City Council an update on where the City anticipates the budget will end for FY16 and how the FY17 budget looks. Tempelmeyer noted the City's total revenues are projected to exceed the original budget by \$239,502, further noting \$148,457 of the increase comes from the reimbursement for the lightning strike at the Police Department. Tempelmeyer noted the General Fund expenses had a decrease of \$473,179, due to a large number of capital projects being carried over until FY17.

Tempelmeyer noted the City is projecting the unrestricted General Fund to be slightly over \$2 million at the end of FY16, as well as FY17. Councilman Kerr inquired how far the cash reserves would carry the City and Tempelmeyer noted it would be an estimated eighty-four (84) days, which is much better than the City has been in years past.

For the Electric Department, Tempelmeyer noted that sales were lower than budgeted, therefore the City's purchased power expense was lower. In FY16, \$560,000 was spent on the installation of the AMI system and \$232,000 went to the replacement of underground cable in the County Club area which had all gone bad. Tempelmeyer noted capital projects that have been budgeted for in FY17 are an additional \$503,000 to complete the installation of the AMI system, substation improvements in the amount of \$365,000, and \$265,000 for the 12.5Kv conversion.

The Water Department sales are anticipated to come in close to what was projected and there were no changes on the operation side. A total of \$440,000 was spent on the installation of the AMI system. Tempelmeyer noted the Department was able to complete three (3) water main projects all within the budget for two (2) projects. In FY17, \$264,000 has been budgeted to complete the installation of the AMI system, as well as \$305,000 for additional water main replacements.

The WPC Department sales are also anticipated to come in close to what was projected and there were no changes on the operation side. Tempelmeyer noted the biggest expense for the Department was the installation of new raw sewage pumps for \$269,624. In FY17, a new screen will be installed at the Plant for \$561,000 and \$175,000 has been budgeted for trenchless pipeline repair. Tempelmeyer noted the City has been working with Olsson Associates on what upgrades need to be done to the Plant for the upcoming federal mandate and it is estimated there are still approximately \$10 million worth of repairs to be made.

Tempelmeyer noted the Street Department will be carrying over \$695,827 in capital projects to be completed in FY17. The Grant Street Reconstruction – 2016 project has been awarded, however the project will not be complete until FY17 so it has also been carried forward. The most notable project for FY17 will be the two (2) 2<sup>nd</sup> Street Projects, from Court to Grant Street. Other projects are: two (2) blocks on Bell Street and Summit Street, Alley Reconstruction downtown between Court to Ella, 8<sup>th</sup> to 9<sup>th</sup> Street, mill and overlay, as well as 6<sup>th</sup> and Industrial Row.

Tempelmeyer reviewed a list of the completed projects for FY16 and noted there will be a supplemental budget hearing at the September 6, 2016 City Council meeting for the Keno, EBA, and public safety debt funds. Tempelmeyer also reviewed a number of projects that were postponed due to time.

Tempelmeyer noted the capital projects that have been budgeted for FY17 include the Trail from Trailhead Park to Dempsters, armor coating of park roads, tuck point and leak repair at the City Auditorium, and the installation of a new parking lot at Hannibal Park. Councilman Parde inquired if there has been any discussion in regards to a second entrance at Hannibal Park with the installation of two (2) more ball fields. Mark Pethoud, Director of Public Properties, noted there will be a small parking hub for approximately sixty (60) stalls where the trail will end.

Tempelmeyer noted the City is proposing a \$0.004 levy increase on property tax for FY17. Tempelmeyer noted the City had budgeted for an eight percent (8%) rate increase for the Electric Department, however, at this time NPPD is now proposing less than a one percent (1%) increase on the transmission rate, so at this time the City is proposing a rate increase of one percent (1%). Residential water customers will see an average of \$0.80 increase on their monthly bill and commercial customers will see an average of \$2.34 per month. Residential customers will see an average increase of \$2.42 on their monthly sewer bill and commercial customers will see an average of \$15.55 per month.

Councilman Fairbanks inquired why the City is not addressing more demolition of dilapidated structures with some of the extra funds and Tempelmeyer noted the City has a pending Gas Plant cleanup expense coming soon and noted there has been more funds budgeted for in FY17 for demolition.

### **City Code Section 2-67 regarding placement of items on the agenda by a City Councilmember**

Councilman Fairbanks noted he would like to see the current procedure of placing items on the agenda changed. Mayor Wirth noted currently the agenda is set by the Mayor, City Administrator, and two (2) City Councilmen who review items to be placed on the agenda. Mayor Wirth noted there has not been a time when the Mayor denied placing an item a Councilman wanted on the agenda.

Councilman Kerr noted the reason this policy was put into place was due to a prior Councilman who would request to discuss the same issue repeatedly. Councilman Kerr noted he would be in favor of having items brought to a work session in order to allow the City Council to have some input on what items should be considered further. Councilman Fairbanks noted he believes all members need to be able to have the ability to put items on an agenda and be part of the idea process.

Mayor Wirth noted the City needs to ensure the Administration staff is not becoming in-efficient due to changing this policy. Greg Butcher, City Attorney, noted in order to make changes to this policy, the current code will need to be dismissed or rewriting the ordinance. Butcher noted there would also need to be a deadline on when a request could be brought to Administration to

be placed on the agenda, noting City staff would need enough time to gather information to be placed in the packet.

Councilman Catlin noted if this policy is changed, the City will need to be careful with the sensitivity of certain items that may need to be discussed by Mayor and City Administrator prior to being made available to public due to the liability end of it.

Councilman Fairbanks noted he believes this would open up the lines of communication between City Administration, the Mayor, and City Councilmembers, noting a Councilmember would contact Tempelmeyer, who would then contact the Mayor, and at that time the Mayor could let the Councilman who requested the item to be put on the agenda if there are any reasons the issue should be held until a later time.

The removal of this city code section will be brought to the next regular City Council meeting.

#### **407 Court Street**

Discussion on 407 Court Street was not held because all agreements were signed.

### **EXECUTIVE SESSION**

The City Council did not enter into Executive Session.

### **ADJOURNMENT**

The next regular Council meeting is Tuesday, September 6, 2016 at 7:00 p.m. in the BPS Administration Building Board Room. There will be a special City Council meeting on August 29, 2016 at 7:00 p.m., followed by a Work Session at a location to be announced at a later date.

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

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

Nay: Catlin

**MOTION CARRIED.**

**Erin Saathoff, City Clerk**

**Stan Wirth, Mayor**