

MINUTES OF THE REGULAR CITY COUNCIL MEETING

A regular meeting of the City Council was held on the 5th day of November, 2018 at 7:00 P.M. in the BPS Administration Building Board 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, Fairbanks, Kerr

Absent: Morgan, Parde

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 October 15, 2018, as on file in the City Clerk's Office.
- e. Approval of minutes of work session meeting on October 22, 2018, as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims in the amount of \$328,620.12.
- g. Approval of BASWA Report of Claims in the amount of \$18,302.11.
- h. Approval of write-off of ambulance bad debts.
- i. Approval of Change Order #1 increase in the amount of \$6,103.11 and Final Pay Request #2 in the amount of \$65,145.37 to Pavers, Inc., for the Mill & Overlay – 2018 project, as recommended by the Board of Public Works.
- j. Resolution Number 6291 executing the Agreement Renewal to Maintenance Agreement No. 4 with the Nebraska Department of Transportation for the period of January 1, 2019 to December 31, 2019.
- k. Resolution Number 6292 repealing resolutions which are no long of use or contrary to current City practices.
- l. Resolution Number 6293 declaring that the City of Beatrice supports changing the name of Homestead National Monument of America to Homestead National Historical Park.
- m. Resolution Number 6294 executing an Amendment to loan an additional Twenty-One Thousand Two Hundred Dollars (\$21,200.00) to David P. Lepant and Virginia K. Lepant, for their building located at 119 North 5th Street, as part of the Downtown Façade Improvement Program from the City's CDBG Downtown Revitalization Phase II Grant 15-DTR-109.
- n. Resolution Number 6295 executing an Amendment to loan an additional Thirty-Three Thousand Dollars (\$33,000.00) to Scott A. and Denise R. McLain, for their building located at 420-422 Court Street, as part of the Downtown Façade Improvement Program from the City's CDBG Downtown Revitalization Phase II Grant 15-DTR-109.
- o. Resolution Number 6296 executing an Amendment to loan an additional Two Thousand Dollars (\$2,000.00) to Jeffrey B. and Shelli K. Hubka, for their building located at 508 Court

Street, as part of the Downtown Façade Improvement Program from the City's CDBG Downtown Revitalization Phase II Grant 15-DTR-109.

- p. Resolution Number 6297 executing an Amendment to loan an additional Seven Hundred Fifty Dollars (\$750.00) to Todd A. Hydo and Soni Hydo, for their building located at 301 Court Street, as part of the Downtown Façade Improvement Program from the City's CDBG Downtown Revitalization Phase II Grant 15-DTR-109.
- q. Resolution Number 6298 executing the Letter Agreement outlining the scope of services and project schedule for 2018-2019 with Felsburg, Holt, and Ullevig (FHU) for the MS4 Compliance Assistance Services.
- r. Resolution Number 6299 creating an east-west pedestrian crosswalk at the intersection of 19th Street and Grant Street.
- s. Resolution Number 6300 banning parking on along both sides of Graham Street, between Paddock Street and Bismark Street.
- t. Resolution Number 6301 forgiving ten percent (10%), or \$10,000.00, of the original principal amount of the LB840 Economic Development Loan to Hybrid Turkeys, LLC.
- u. Resolution Number 6302 entering into a stop loss agreement with Companion Life Insurance Company for the City's self-funded employee health plan.
- v. Resolution Number 6303 executing the Assignment of Firm Electric Service Allocation from Nebraska Public Power District (NPPD) to the City of Beatrice, as recommended by the Board of Public Works.
- w. Resolution Number 6304 executing the Assignment of Firm Electric Service Allocation from the Beatrice State Developmental Center (BSDC) to the City of Beatrice, as recommended by the Board of Public Works.

Moved by Catlin, seconded by Kerr, that the items listed under the consent agenda, with the exception of item l and t, be approved, accepted, and/or ratified as presented.

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

MOTION CARRIED.

I – Moved by Catlin, seconded by Billesbach, that Resolution Number 6293 declaring that the City of Beatrice supports changing the name of Homestead National Monument of America to Homestead National Historical Park, be approved, accepted, and/or ratified as presented.

Councilman Fairbanks noted he did not have any questions on this item and simply pulled it from the consent agenda to allow those in attendance of the meeting to speak on the topic.

Diane Vicars, Pickrell, Nebraska, President of Friends of the Homestead, reported to the Council the background on the mission to change the name of Homestead National Monument of America to Homestead National Historic Park. Vicars explained according to a survey conducted, eighty-seven percent (87%) of the general public believe they will be stopping for a short time to view a monument. It is believed that should the name be changed to Park, visitors will take longer to explore and it will in turn help boost tourism. Vicars explained there should not be much of a cost associated with the name change, noting the Homestead routinely budgets for sign changes. Vicars noted the Friends of the Homestead have agreed to donate some funds should the costs exceed what the Homestead budget allows.

Vicars ended by stating Congressman Smith and Senator Sasse have shown support on this and

she noted the Friends of the Homestead would appreciate the Beatrice City Council's support on this as well.

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

t – Moved by Catlin, seconded by Clabaugh, that Resolution Number 6301 forgiving ten percent (10%), or \$10,000.00, of the original principal amount of the LB840 Economic Development Loan to Hybrid Turkeys, LLC, be approved, accepted, and/or ratified as presented.

Councilman Fairbanks pulled this item off for more information. Tobias J. Tempelmeyer, City Administrator/General Manager explained this Loan Agreement was entered into in May 2017 and in the Agreement it stated ten percent (10%) of the loan would be forgiven.

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

PUBLIC HEARINGS/BIDS

Public Hearing on the new application of B&R Stores, Inc., dba Russ's Market #31, 1300 Court Street, Beatrice, Nebraska, for a new Class C liquor license.

Mayor Wirth announced that a public hearing will now be held on the new application of B&R Stores, Inc., dba Russ's Market #31, 1300 Court Street, Beatrice, Nebraska, for a new Class C liquor license.

Gerald Lamkin, Police Captain, under oath, noted standard background checks were performed and there was nothing uncovered that would hinder the issuance of this license. Rob Mierau, Chief Building Inspector, under oath, noted there were no issues found in the planning report and there are no foreseeable issues or concerns with this license.

Rob Stieder, Lincoln, Nebraska, Spirits Director for B&R Stores, Inc., appeared to answer any questions the Council had. Stieder is the Spirits Director for seventeen (17) stores, including the new Beatrice location, which has been open for seven (7) days now. Stieder stated they are excited to be here in the community.

Moved by Catlin, seconded by Billesbach, that the public hearing be closed at 7:22 p.m.

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

Moved by Catlin, seconded by Kerr, that the new application of B&R Stores, Inc., dba Russ's Market #31, 1300 Court Street, Beatrice, Nebraska, for a new Class C liquor license, be recommended to the Nebraska Liquor Control Commission for approval.

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

RESOLUTIONS

Resolution Number 6305 executing all necessary documents to acquire real estate, commonly referred to as 501 South 9th Street, from Gregory M. and Judith L. Eichelberger.

Mayor Wirth introduced Resolution Number 6305 executing all necessary documents to acquire real estate, commonly referred to as 501 South 9th Street, from Gregory M. and Judith L. Eichelberger.

Moved by Catlin, seconded by Cook, that Resolution Number 6305 be passed and adopted.

Tobias J. Tempelmeyer, City Administrator/General Manager, reported to the Council the property owners contacted the City inquiring if we would be interested in the property. Tempelmeyer explained the owners will be donating the property to the City, with no money exchanged. Tempelmeyer noted the plans are to demolish the house and clear the property, which will cost approximately \$7,000.00. The City will then look to resell the lot and hope to put a new house or duplex on the property. This lot, and the lot in the following agenda item, have been included as part of the Housing RFP which is currently out.

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

MOTION CARRIED.

Resolution Number 6305 has been passed and adopted.

Resolution Number 6306 executing all necessary documents to acquire real estate, commonly referred to as 411 South 10th Street, from Laverne C. Plagman.

Mayor Wirth introduced Resolution Number 6306 executing all necessary documents to acquire real estate, commonly referred to as 411 South 10th Street, from Laverne C. Plagman.

Moved by Catlin, seconded by Cook, that Resolution Number 6306 be passed and adopted.

Tobias J. Tempelmeyer, City Administrator/General Manager, reported to the Council, this home was demolished in 2017, and the property owner does not have a lot of assets. Tempelmeyer explained the City is looking to recover some of the costs. The owner has agreed to pay the City \$2,000.00 and donate the lot to the City. Tempelmeyer noted the City is looking into the possibility of combining this lot and the lot next to it and build a new home. Councilman Fairbanks inquired how many properties are listed in the Housing RFP. Tempelmeyer noted there are ten (10) buildable lots that are not in the floodplain listed in the Housing RFP.

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

MOTION CARRIED.

Resolution Number 6306 has been passed and adopted.

ORDINANCES

Ordinance amending Section 17-30 of the Beatrice City Code relating to disturbing the peace.

Mayor Wirth introduced an ordinance amending Section 17-30 of the Beatrice City Code relating to disturbing the peace.

Moved by Catlin, seconded by Cook, that said ordinance be given number 18-036 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
Nay: None

MOTION CARRIED.

Mayor Wirth read Ordinance Number 18-036 by number only the first, second, and third time. Moved by Catlin, seconded by Billesbach, that Ordinance Number 18-036 be passed and approved.

Tobias J. Tempelmeyer, City Administrator/General Manager, reported to the Council about six (6) to eight (8) weeks ago, the City of Lincoln amended their disturbing the peace ordinance to include electronic means. Chief Lang and Sergeant Henning worked with Abby Stark, City Attorney, to review and amend our ordinance as well. Tempelmeyer stated this will make it a crime to continually bother another person via electronic means such as text and email.

Abby Stark, City Attorney, reported to the Council this is something the Police Department deals with on a daily basis and prior to this amendment, nothing was able to be done. Mayor Wirth inquired how many times is considered continual. Stark explained that may vary from case to case, further explaining the time of day and content will also be considered. Mayor Wirth inquired how this is different from having a protection order against someone. Tempelmeyer explained this code would help others obtain a protection order against those continually bothering them.

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

MOTION CARRIED.

Ordinance Number 18-036 has been passed and approved.

Ordinance amending Sections 16-7 through 16-8 of the Beatrice City Code relating to street closures and Section 23-81 relating to street obstructions; repealing section 23-61 relating to encroachment permits, Section 23-81.1 relating to street obstructions, and Sections 25-1 and 25-2 relating to planting on city property.

Mayor Wirth introduced an ordinance amending Sections 16-7 through 16-8 of the Beatrice City Code relating to street closures and Section 23-81 relating to street obstructions; repealing section 23-61 relating to encroachment permits, Section 23-81.1 relating to street obstructions, and Sections 25-1 and 25-2 relating to planting on city property.

Moved by Catlin, seconded by Kerr, that said ordinance be given number 18-037 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
Nay: None

MOTION CARRIED.

Mayor Wirth read Ordinance Number 18-037 by number only the first, second, and third time.

Moved by Catlin, seconded by Billesbach, that Ordinance Number 18-037 be passed and approved.

Tobias J. Tempelmeyer, City Administrator/General Manager, reported to the Council there are currently seven (7) sections under city code dealing with street closures, obstructions, and encroachment permits. Abby Stark, City Attorney, recently revised city code to make it easier to locate these items. Section 16-7 explains how to close street as well as who has the authority to do so, which is the Chief of Police, BPW Superintendents, and the City Administrator. Section 16-8 lays out the process to close streets for block parties. For an encroachment permit on a street or sidewalk that will not impede traffic, permission from the City Engineer and Chief Building Inspector will be required. If it will impede traffic, permission will need to be obtained from the City Administrator, Fire Chief, Police Chief, and Street Superintendent. Tempelmeyer reported Stark also revised the forms, as some of them were repetitive. Tempelmeyer noted none of the rules have changed, these changes just simplified the process.

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

MOTION CARRIED.

Ordinance Number 18-037 has been passed and approved.

Ordinance amending Section 23-46 to the Beatrice City Code relating to a property owner or occupant's duty to remove snow.

Mayor Wirth introduced an ordinance amending Section 23-46 to the Beatrice City Code relating to a property owner or occupant's duty to remove snow.

Moved by Catlin, seconded by Billesbach, that said ordinance be given number 18-038 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
Nay: None

MOTION CARRIED.

Mayor Wirth read Ordinance Number 18-038 by number only the first, second, and third time.

Moved by Catlin, seconded by Cook, that Ordinance Number 18-038 be passed and approved.

Tobias J. Tempelmeyer, City Administrator/General Manager, presented the proposed amendment to the current ordinance relating to snow removal. Tempelmeyer noted the current

ordinance has been in effect since 1971 and states the snow must be cleared from sidewalks by 9:00 p.m., which has not been the City's practice. The amendments will require the sidewalks to be cleared twenty-four (24) hours after it stops snowing. If the property owner or occupant cannot remove the snow, for example if the sidewalk has become ice packed, some type of attempt needs to be made, such as placing gravel or ice melt on the sidewalk. If the property owner or occupant fails to do so, the City has a right to post the property, clear the sidewalk, bill the property owner or occupant, filing a criminal complaint with the Court, along with a fine of \$25.00.

Councilman Kerr inquired if the \$25.00 fine can be applied daily until the snow is cleared. Tempelmeyer explained every day the snow continues to remain on the sidewalk, a new criminal offense can be filed, with another fine.

Councilman Clabaugh noted the Administration has done a good job of cleaning up the ordinances.

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

MOTION CARRIED.

Ordinance Number 18-038 has been passed and approved.

PUBLIC FORUM

No one appeared at public forum.

DISCUSSIONS/REPORTS

There were no discussions/reports.

ADJOURNMENT

The next regular Council meeting is November 19, 2018 at 7:00 p.m. in the BPS Administration Building Board Room. There will be a work session on November 26, 2018 at 7:00 p.m. in the BPS Administration Building Board Room.

Moved by Catlin, seconded by Billesbach, that the meeting be adjourned at 7:39 p.m.

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

MOTION CARRIED.

Erin Saathoff, CMC, City Clerk

Stan Wirth, Mayor