

MINUTES OF THE REGULAR CITY COUNCIL MEETING

A regular meeting of the City Council was held on the 1st day of February, 2016 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, Cook, Fairbanks, Kerr, Morgan, Parde

Absent: Clabaugh.

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.

Mayor Wirth read a proclamation proclaiming March 2016 as Problem Gambling Awareness Month.

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 January 18, 2016, as on file in the City Clerk's Office.
- e. Approval of minutes of work session meeting on January 25, 2016, as on file in the City Clerk's Office.
- f. Approval of Treasurer's Report of Claims in the amount of \$244,853.31.
- g. Approval of BASWA Report of Claims in the amount of \$3,133.38.
- h. Approval of bid from The Road Guy Construction, Inc., in the amount of \$46,505.80 for the Armor Coating Project – 2016, as recommended by the Board of Public Works.
- i. Approval of bid from Midlands Contracting, Inc., in the amount of \$256,539.10 for the Sanitary Sewer Lining & Manhole Rehabilitation – 2016, as recommended by the Board of Public Works.
- j. Resolution Number 5869 executing the Supplemental Project Program Agreement No. 1 between the City and NDOR setting out modifications and/or additional duties and/or funding responsibilities for the 2nd Street, Court to Ella, Project Number: ENH-6105(6), Control Number: 13127.

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

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

Nay: None

Abstain: Billesbach – d

MOTION CARRIED.

j – Moved by Catlin, seconded by Parde, that Resolution Number 5869 executing the Supplemental Project Program Agreement No. 1 between the City and NDOR setting out modifications and/or additional duties and/or funding responsibilities for the 2nd Street, Court to Ella, Project Number: ENH-6105(6), Control Number: 13127.

Jarrett Willet, Secretary of the Gage County Historical Society, spoke on behalf of the Historical Society Board regarding their concerns with the 2nd Street project. Willet noted the Board has concerns with the contract that was initially signed in 2009, as the Society has no record that the contract was approved by them and the copy the Society has is not signed by the Secretary. Willet also noted concern with losing their lease with Burlington Northern Santa Fe (BNSF) if any changes are made and BNSF has not signed off. Tobias Tempelmeyer, City Administrator, noted that Nebraska Department of Roads (NDOR) is currently working with BNSF. Willet also noted the Society could find no record that the parking lot was ever paved and the Society wishes to keep the property as it was originally and that there are concerns with possible damage that heavy equipment may do to the ground, as the property could have several sink holes, as well as losing parking space close to the building for visitors. Willet also expressed concern that their auditor was unable to receive a dollar amount that the Society will be responsible for. Willet urged the City Council to reconsider the current layout in order to preserve the historic nature of the property.

Councilman Kerr noted that when this project was brought forward to the City, the Society's Board talked the City into making the parking concrete instead of gravel. Mayor Wirth noted that the Society's Board went in front of State Historical Society, approved Transportation Enhancement Grant, knew exactly what the scope of the project was. Lesa Arterburn, Director of the Gage County Historical Society, 714 Ella Street, Beatrice, Nebraska, noted according to her records, the Board never voted to accept the plan. Mayor Wirth noted that when the Agreement was signed, the Society had agreed to a dollar amount, which was a requirement of the grant that was applied for.

Councilman Fairbanks posed the question if the City would have any say in the project as it has essentially been turned over to NDOR and is basically their project now. Tempelmeyer noted depending on what changes would be made, an EPA study may be required and the project would start over at the beginning. Councilman Fairbanks inquired if the concrete was still going to show the bricks in order to preserve the historic state and Tempelmeyer noted there would be a concrete base, with brick on top. Mayor Wirth inquired if the Society has the funding to match the grant. Arterburn noted the Society does not have a steady income and Willet noted the Society has been unsuccessful in getting a revised dollar amount that the Society will be responsible for. Mayor Wirth noted in the original grant the Society's portion was \$24,000.00. Arterburn noted the number one concern of the Society is keeping the building in its original state. Councilman Kerr inquired as this project is slated for Summer 2016, if changes are made how far back would that push this project back. Tempelmeyer noted it would depend upon how much of the scope was changed, further noting if a new environmental review would be required, it could be pushed back a couple of years. Mayor Wirth noted that as part of the original grant award, then City Administrator Neal Niedfeldt, City Engineer Rex Behrends, and himself, spoke in front of the State Historical Society and was one (1) of the applicants that was awarded the grant. Wirth further noted he was not sure where along the way the communication was lost.

Tempelmeyer noted that none of these issues are on the agenda tonight and recommended that Arterburn and Boardmembers meet with City Administration answer any remaining questions. Greg Butcher, City Attorney, asked for clarification that the Society's portion is a twenty percent (20%) match on work done on their property only and Tempelmeyer indicated that was correct. Mayor Wirth directed the Society to meet with City Administration at a later time to clear up any questions they may still have.

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

Nay: None

MOTION CARRIED.

PUBLIC HEARINGS/BIDS

Public Hearing on the One and Six Year Road and Street Improvement Plan

Mayor Wirth announced that a public hearing will now be held on the One and Six Year Road and Street Improvement Plan.

James Burroughs, City Engineer, and Jason Moore, Street Superintendent, presented the One and Six Year Road and Street Improvement Plan. Burroughs noted that the 2015 mill and overlay project is being run over to 2016, due to the contractor's scheduling issues and weather. Burroughs noted one (1) of the large projects scheduled for 2016 is 2nd Street, Ella to Grant, in which the City has been awarded a grant to cover a portion of the cost. Burroughs also noted that in selecting streets to be repaired, they have taken into consideration the sufficiency rating of the street, noting that a number of the streets are well below fifty percent (50%) and need to be addressed immediately. Moore also noted the ADA ramp replacements will be a large expense in years to come, noting for the 10th Street project alone, \$91,000.00 has been budgeted. Councilman Kerr inquired if there are any grants or loans to help offset the cost of the federal mandate of the ADA ramp replacement and Moore noted there was not. Councilman Kerr further inquired what percentage of the City's ADA ramps have been replaced. Burroughs indicated he was unsure of the percentage. Moore noted the Street Department has implemented an ADA ramp replacement program and try to replace five (5) to ten (10) per year.

Mayor Wirth inquired how a street's sufficiency rating gets so low. Burroughs noted that while the sufficiency rating may be low, when inspecting the roadway, some streets are still in good condition. Moore noted that Herbert Street has a sufficiency of 82, however, the roadway itself has not held up well. Councilman Billesbach inquired if Ella Street, 3rd to 4th, will hold up until it is scheduled to be repaired. Burroughs noted that repairs were done in 2010 and doing basic maintenance on the street will also make rating go down.

Councilman Parde inquired what work would be done on Scott Street, 6th to 9th. Burroughs noted the City has been trying to work with Beatrice Public School and their future plan and at this time only the roadway will be fixed.

Councilman Kerr inquired when work on West Scott Street would be done. Moore noted it is set for Year 5, and further noted that the Street Department will be doing some patch work near Cedar Street this summer.

Councilman Fairbanks left at 7:36 p.m.

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

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

MOTION CARRIED.

Moved by Catlin, seconded by Billesbach, that the One and Six Year Road and Street Improvement Plan for the City of Beatrice, be approved as presented.

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

MOTION CARRIED.

RESOLUTIONS

Resolution Number 5870 entering into Amendment No. 3 to Lottery Operator Agreement with Big Red Keno.

Mayor Wirth introduced Resolution Number 5870 entering into Amendment No. 3 to Lottery Operator Agreement with Big Red Keno.

Moved by Catlin, seconded by Kerr, that Resolution Number 5870 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted the City has an agreement with Big Red Keno which is renewed every five (5) years. The only change set forth in the agreement is to allow keno to be played until 2:00 a.m., which coincides with the bar closing time.

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

MOTION CARRIED.

Resolution Number 5870 has been passed and adopted.

Resolution Number 5871 executing the Assumption Agreement and Assumption of Promissory Note between the City of Beatrice and Birchwood Estates Retirement Village, L.L.C., a Nebraska limited liability company, for a direct loan up to the amount of \$35,000.00 under the City of Beatrice LB 840 Fund for Economic Development.

Mayor Wirth introduced Resolution Number 5871 executing the Assumption Agreement and Assumption of Promissory Note between the City of Beatrice and Birchwood Estates Retirement Village, L.L.C., a Nebraska limited liability company, for a direct loan up to the amount of \$35,000.00 under the City of Beatrice LB 840 Fund for Economic Development.

Moved by Catlin, seconded by Kerr, that Resolution Number 5871 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted this is not a new LB840 loan. The City approved an LB840 loan in June with NuNebraska and the business partners have since formed a subsidiary called Birchwood Estates Retirement Village, L.L.C. Tempelmeyer noted this resolution will transfer the loan from NuNebraska to Birchwood Estates Retirement Village,

L.L.C., due to the name change. Tempelmeyer also noted the same security and collateral would be listed in the loan.

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

MOTION CARRIED.

Resolution Number 5871 has been passed and adopted.

ORDINANCES

Ordinance amending Section 2-356 of the Beatrice City Code related to meetings of the Citizens Advisory Review Committee.

Mayor Wirth introduced an ordinance amending Section 2-356 of the Beatrice City Code related to meetings of the Citizens Advisory Review Committee.

Moved by Catlin, seconded by Parde, that said ordinance be given number 16-003, 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, Cook, Kerr, Morgan, Parde
Nay: None

MOTION CARRIED.

Mayor Wirth read Ordinance Number 16-003 by number only the first, second, and third time.

Moved by Catlin, seconded by Cook, that Ordinance Number 16-003 be passed and approved.

Tobias Tempelmeyer, City Administrator, noted the proposed revision came about when the CARC met in January and had no new projects to discuss. Tempelmeyer noted city code requires the CARC to meet four (4) times a year and state statute only requires the CARC to meet semi-annually. Tempelmeyer also noted the CARC would meet semi-annually and on an as needed basis, when possible projects come up.

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

MOTION CARRIED.

Ordinance Number 16-003 has been passed and approved.

Ordinance amending Sections 16-649 and 16-470 of the Beatrice City Code related to parade permits.

Mayor Wirth introduced an ordinance amending Sections 16-649 and 16-470 of the Beatrice City Code related to parade permits.

Moved by Catlin, seconded by Parde, that said ordinance be given number 16-004, 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, Cook, Kerr, Morgan, Parde

Nay: None

MOTION CARRIED.

Mayor Wirth read Ordinance Number 16-004 by number only the first, second, and third time.

Moved by Catlin, seconded by Billesbach, that Ordinance Number 16-004 be passed and approved.

Tobias Tempelmeyer, City Administrator, noted that upon review of city code, Administration found that it is illegal for any person to participate in a parade unless a parade permit has been issued by the Chief of Police, upon approval of the Mayor. Tempelmeyer noted the organization requesting to have a parade will fill out a form and submit to the City Clerk. Upon approval of by the Mayor and various City departments, the organization shall be presented a permit. Tempelmeyer noted this change will simply make the policy match the current practice of the City.

Councilman Fairbanks arrived at 7:48 p.m.

Councilman Parde inquired if the permit would be forwarded to the State as well. Tempelmeyer noted that the Nebraska Department of Roads (NDOR) would be notified if the parade will include the usage of the state highway.

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

Nay: None

MOTION CARRIED.

Ordinance Number 16-004 has been passed and adopted.

PUBLIC FORUM

Michael Sothan, Executive Director of Main Street Beatrice, noted the Main Street Board requested that he appear and make a statement that the Board supports the adoption of the proposed vacant building and adjoining properties ordinances.

DISCUSSIONS/REPORTS

Legislative Update

Tobias Tempelmeyer, City Administrator, presented two (2) legislative bills that the City Administration would recommend following this session. LB1052 would require the City to receive County Board approval in order to complete a TIF project, although TIF projects can only occur inside city limits. Tempelmeyer recommended the City submit a letter opposing this proposed bill.

The other proposed bill is LB958, which was submitted at the request of the Governor, would changes provisions relating to levy limitations. Linda Koch, Finance Director, noted that since this bill has been introduced many cities have shared their concern with the impact this could have on them looking forward. Koch prepared a spreadsheet looking back over the last ten (10) years and how the proposed changes would have impacted the City's ability to complete capital projects. Koch provided review of what restricted funds are and explained that what the State

wants to do is take the restricted funds and only allow an increase of three percent (3%) per year. Koch noted the only exception would be through voter approved bonds. Councilman Fairbanks inquired why the State is making this proposal. Koch noted this was something that the Governor came up with as a way to help reduce property taxes. Councilman Fairbanks noted while this could help reduce property taxes, it would likely not be a big enough impact for citizens to notice and would simply hamper the City from being able to do the things our citizens expect. Tempelmeyer noted this bill is coming up for hearing this Thursday, and asked for direction from the City Council to testify against. It was the concensus of the City Council for City Administration to go testify against LB958 and also oppose LB1052 as well.

EXECUTIVE SESSION

Moved by Catlin, that the Beatrice City Council go into closed session at 8:04 p.m., for the protection of public interest to discuss contract negotiations. Seconded by Billesbach, that the Beatrice City Council go into closed session at 8:04 p.m., for the protection of public interest to discuss contract negotiations.

Mayor Wirth announced that it has been Moved by Catlin, seconded by Billesbach, that the Beatrice City Council go into closed session at 8:04 p.m., for the protection of public interest to discuss contract negotiations.

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

MOTION CARRIED.

Reconvened at: 8:31 p.m.

ADJOURNMENT

The next regular Council meeting is February 1, 2016 at 7:00 p.m. in the BPS Admin Bldg Meeting Room. There will be a Work Session on January 25, 2016 at 7:00 p.m. in the BPS Admin Bldg Meeting Room.

Moved by Catlin, seconded by Cook, that the meeting be adjourned at 8:31 p.m.

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

MOTION CARRIED.

Erin Saathoff, City Clerk

Stan Wirth, Mayor