

## MINUTES OF THE REGULAR CITY COUNCIL MEETING

A regular meeting of the City Council was held on the 18<sup>th</sup> day of July, 2016 at 7:00 P.M. in the BPS Administration Meeting Room, 320 North 5<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, Cook, Fairbanks, Kerr, Morgan  
Absent: Clabaugh, 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.

Mayor Wirth read a proclamation congratulating Dr. Jimmy Shelbourn on his year of faithful service to First Presbyterian Church, and also for his outstanding service and extraordinary effort on behalf of the City of Beatrice.

### 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 5, 2016, as on file in the City Clerk's Office.
- e. Approval of Treasurer's Report of Claims:
  - e(1). Approval of Main Street Beatrice claim in the amount of \$2,328.02.
  - e(2). Approval of the balance of Treasurer's Report of Claims in the amount of \$316,987.04.
- f. Approval of BASWA Report of Claims in the amount of \$47,356.09.
- g. Approval of Change Order No. 2 decrease in the amount of \$87,481.23 to R.L. Tiemann Construction, Inc., for the Flood Debris Removal – 2016.
- h. Approval of Change Order No. 1 increase in the amount of \$13,179.60 to R.L. Tiemann Construction, Inc., for the Standing Bear Trail – 2016.
- i. Resolution Number 5933 approving the Federal-Aid Urban Area Boundary Update, as recommended by the Board of Public Works.
- j. Resolution Number 5934 reappointing Lora Young to the Community Redevelopment Authority.
- k. Resolution Number 5935 reappointing Doug Kennedy to the Community Redevelopment Authority.
- l. Resolution Number 5936 reappointing John Brazell to the Community Redevelopment Authority.
- m. Approval of special designated license for Beatrice Area Chamber of Commerce, Inc., for a beer garden in the Tabernacle at Chautauqua Park at 9<sup>th</sup> Street and Grable Avenue, on October 8, 2016 from 12:00 p.m. until 11:55 p.m. for the Oktoberfest fundraiser.
- n. Refer claim of Eileen Hite regarding damages to her personal property to City Attorney and City Insurance carrier for review and disposition.

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, Cook, Fairbanks, Kerr, Morgan  
Nay: None

MOTION CARRIED.

### **PUBLIC HEARINGS/BIDS**

**Public Hearing on the rezoning of Lots Seven (7), Eight (8), Nine (9), and Ten (10), Block Seven (7), Fairview Addition to the City of Beatrice, Gage County, Nebraska, commonly referred to as 1116 North 6<sup>th</sup> Street, from “GC” General Commercial and “LC” Light Commercial to all “GC” General Commercial.**

Mayor Wirth announced that a public hearing will now be held on the rezoning of Lots Seven (7), Eight (8), Nine (9), and Ten (10), Block Seven (7), Fairview Addition to the City of Beatrice, Gage County, Nebraska, commonly referred to as 1116 North 6<sup>th</sup> Street, from “GC” General Commercial and “LC” Light Commercial to all “GC” General Commercial.

Greg Butcher, City Attorney, reported to the City Council that upon review of a building permit application filed by Casey’s to expand their building located at 1116 North 6<sup>th</sup> Street, it was found that the lots that their existing building sits are divided between LC and GC. Due to the required setbacks for the current building and their proposed expansion, the lots need to be rezoned to all GC. Butcher noted Casey’s plans to close their south exit onto 6<sup>th</sup> Street and may also be adding another pump.

Moved by Catlin, seconded by Billesbach, that the public hearing be closed at 7:09 p.m.

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

MOTION CARRIED.

### **RESOLUTION**

**Resolution Number 5937 entering into a Master Power Purchase & Sale Agreement and Confirmation Letter with the City of Lincoln, Nebraska, doing business as Lincoln Electric System (LES), as recommended by the Board of Public Works.**

Mayor Wirth introduced Resolution Number 5937 entering into a Master Power Purchase & Sale Agreement and Confirmation Letter with the City of Lincoln, Nebraska, doing business as Lincoln Electric System (LES), as recommended by the Board of Public Works.

Moved by Catlin, seconded by Morgan, that Resolution Number 5937 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted as the City continues its exit with Nebraska Public Power District (NPPD), the City has to have both energy and capacity. The City has a contract with AEP to provide its energy and since there is currently no capacity locally, the City has looked at purchasing its capacity from Lincoln Electric Service (LES). LES has excess capacity and are willing to sell to the City in 2019, 2020, and 2021. Tempelmeyer noted the City will purchase eleven (11), fourteen (14) and eighteen (18) megawatts for each respective year,

and that amount may increase, based on how quickly the City can leave NPPD. Tempelmeyer further noted that the City will still look to have Bluestem provide its capacity upon leaving NPPD, however this contract with LES will ensure the City has the necessary capacity should anything happen with the proposed natural gas plant that Bluestem is looking into building.

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

MOTION CARRIED.

Resolution Number 5937 has been passed and adopted.

**Resolution Number 5938 entering into a Memorandum of Understanding (MOU) with Bluestem Energy Solutions, LLC, as recommended by the Board of Public Works.**

Mayor Wirth introduced Resolution Number 5938 entering into a Memorandum of Understanding (MOU) with Bluestem Energy Solutions, LLC, as recommended by the Board of Public Works.

Moved by Catlin, seconded by Billesbach, that Resolution Number 5938 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted that Bluestem has asked to enter into a Memorandum of Understanding (MOU) to work with them as an exclusive partner to explore the feasibility of the proposed natural gas plant. Tempelmeyer noted the City can get out at any time by paying the developer fee and an additional twenty-five percent (25%). Mayor Wirth inquired if Bluestem would be updating the City Council with their findings. Tempelmeyer noted they will be back periodically to give the City Council updates. Councilman Kerr inquired what the estimated timeline for the natural gas plant to be up and running is. Tempelmeyer noted if all goes to plan, it would be three (3) to four (4) years.

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

MOTION CARRIED.

Resolution Number 5938 has been passed and adopted.

## ORDINANCES

**Ordinance amending the Zoning Map for the City of Beatrice, Nebraska by changing the zoning of Lots Seven (7), Eight (8), Nine (9), and Ten (10), Block Seven (7), Fairview Addition to the City of Beatrice, Gage County, Nebraska; from “GC” General Commercial and “LC” Light Commercial to “GC” General Commercial.**

Mayor Wirth introduced an ordinance amending the Zoning Map for the City of Beatrice, Nebraska by changing the zoning of Lots Seven (7), Eight (8), Nine (9), and Ten (10), Block Seven (7), Fairview Addition to the City of Beatrice, Gage County, Nebraska; from “GC” General Commercial and “LC” Light Commercial to “GC” General Commercial.

Moved by Catlin, seconded by Morgan, that said ordinance be given number 16-033 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, Fairbanks, Kerr, Morgan  
Nay: None

MOTION CARRIED.

Mayor Wirth read Ordinance Number 16-033 by number only the first, second, and third time.

Moved by Catlin, seconded by Billesbach, that Ordinance Number 16-033 be passed and approved.

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

MOTION CARRIED.

Ordinance Number 16-033 has been passed and approved.

**Ordinance to change the name of Freeman Lane located in Gage County Industrial Park Second Addition to the City of Beatrice, Gage County, Nebraska to be named Dick Tegtmeier Lane.**

Mayor Wirth introduced an ordinance to change the name of Freeman Lane located in Gage County Industrial Park Second Addition to the City of Beatrice, Gage County, Nebraska to be named Dick Tegtmeier Lane.

Moved by Catlin, seconded by Morgan, that said ordinance be given number 16-034 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  
Nay: Fairbanks

MOTION FAILED.

Moved by Fairbanks, seconded by Billesbach, to bring the proposed ordinance to the next Work Session for further review.

Councilman Fairbanks noted he received several phone calls regarding the proposed ordinance and would like to discuss concerns before voting.

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

MOTION CARRIED.

**PUBLIC FORUM**

No one appeared at public forum.

## **DISCUSSIONS/REPORTS**

### **NGage Financial Report**

Walker Zulkoski, NGage Executive Director, noted it has been an exciting time for economic development recently starting off with the Hatchery announcing they will be locating in the Industrial Park. Zulkoski noted this project opens up more shovel ready sites available for future potential businesses to come to Beatrice. Zulkoski noted he has also been working with Rare Earth Salts and TIF project. Working with World Lawn purchasing the old Husqvarna. Working with DED to help that company grow. Zulkoski further noted the sale of the Store Kraft building by an outside company willing to take a chance and explore the possibility of opening up space for potential businesses.

Zulkoski reviewed the strategic plan, noting progress within the business retention section, NGage met with twenty-three (23) companies this last quarter, and seventeen (17) last quarter, further noting the goal is to meet with a minimum of forty (40) businesses annually. Zulkoski noted another exciting new business attraction was the groundbreaking of the Scooter's location. Zulkoski reported Glennis McClure attended the Community Venture Network (CVN) meeting in St. Paul, MN in April and is continuing to work with a potential project.

Councilman Fairbanks inquired if NGage has considered being proactive and to talk with the County or City regarding creating another access point to the Industrial Park, noting it would be beneficial to be proactive and plan ahead before there is a need. Zulkoski noted he could look into that. Tobias Tempelmeyer, City Administrator, noted in the past there had been discussion regarding paving SW 32<sup>nd</sup> Road, but it has been at least four (4) to five (5) years since that discussion has taken place.

### **City Administrator's Monthly Report**

Tobias Tempelmeyer, City Administrator, noted Keep Beatrice Beautiful received \$5,000.00 from a UPS grant that will be used to replace fifty (50) trees that were damaged from the 2015 flood. Tempelmeyer noted the Hannibal Park Ballfields fence installation should begin this week and new concrete trails have been installed at the Scott Street Ballfields making them ADA accessible. The plans for the re-alignment of Grant Street, at 4<sup>th</sup> Street and 5<sup>th</sup> Street are approximately seventy-five percent (75%) complete. Tempelmeyer noted the Electric Department has made the repairs to a substation that were causing power outages about one (1) month ago and since the repairs have been made, there have been no reported issues.

### **407 Court Street**

Greg Butcher, City Attorney, gave the City Council an update on the status of the Demolition Agreement and Contract for Sale of Real Estate for 407 Court Street. Butcher noted the proposed documents have been forwarded to David Lange, owner of 409 Court Street, and Lyle Koenig, legal counsel for R.L. Tiemann Construction, as well as Bob Tiemann himself, as they all have some interest in the contract. Butcher noted the City Council needs to address the issue of back taxes and who will pay those and clarify the approval of change orders on the project. Butcher noted that currently all back taxes remain unpaid. Butcher noted that at this time, should the City acquire the property, the way the contract is written, the taxes would be the responsibility of the new owner's, Kate Ratigan and Ray Arter.

Butcher noted the City did not have a lot of issues with the proposed contracts. Butcher noted Tiemann Construction would have to approve a lot of the proposals set forth in the contracts. Butcher did note it appeared Ratigan want to see and approve all change orders and noted he is concerned with the possible delay this may cause on the project. Councilman Kerr inquired who would be responsible for paying for the change orders. Butcher noted the responsibility will be whoever orders the change order.

Tobias Tempelmeyer, City Administrator, noted according to the online website, the back taxes from 2006 to 2015 have not been paid and total approximately \$3,000.00, plus interest. Tempelmeyer also noted the valuation of the property has decreased approximately \$500.00 over the past few years.

Kate Ratigan and Ray Arter, Sterling, Nebraska, owners of 405 Court Street, appeared in front of the City Council. Ratigan clarified she does not wish to be part of the approval on the change orders, she would just like to be informed of them for her records. Butcher noted he had no opposition to providing Ratigan with the exchange of information as requested.

Butcher noted the City Council still needed to address the issue regarding the back taxes totaling an estimated \$3-4,000.00. Ratigan noted when she spoke with the County, they indicated there was a tax sale for 2013 and 2014 and inquired why someone has not foreclosed. Tempelmeyer noted if the tax sale goes past three (3) years, no one can foreclose on them, further noting some of the taxes were purchased in 2012.

Ratigan noted the total for the back taxes she received from the County was \$834.00 for 2013-2014. Ratigan noted her concern is they would like to go in right away and develop the area and should not be responsible for back taxes. Arter inquired if the City could go after the property owner of 407 Court Street to recoup some of the costs. Butcher noted the City has approximately \$10,000.00 in costs to date and noted while the City could try to recoup some of those costs, there would likely be very limited funds recouped.

Councilman Fairbanks noted he feels if the City is going to own the property and demolish the building, the City should ultimately be responsible for taking care of the back taxes. Mayor Wirth agreed. Councilman Kerr noted he feels the City should look at renegotiating a price for the lot to recoup some of the costs. Councilman Morgan also agreed that the property needs to be cleaned up and the City should take care of any back taxes.

## **ADJOURNMENT**

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

Moved by Catlin, seconded by Billesbach, that the meeting be adjourned at 7:57 p.m.

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

**MOTION CARRIED.**

**Erin Saathoff, City Clerk**

**Stan Wirth, Mayor**