

## MINUTES OF THE REGULAR CITY COUNCIL MEETING

A regular meeting of the City Council was held on the 17<sup>th</sup> day of October, 2016 at 7:00 P.M. in the BPS Administration Building Board 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, 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 October 3, 2016, 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 \$37,500.00.
  - e(3). Approval of balance of Treasurer's Report of Claims in the amount of \$648,542.04
- f. Approval of BASWA Report of Claims:
  - f(1). Approval of Clabaugh Pharmacy claim in the amount of \$200.00.
  - f(2). Approval of balance of BASWA Report of Claims in the amount of \$60,351.37.
- g. Approval of Change Order #1 increase in the amount of \$11,978.49 to Pavers, Inc. and final pay request in the amount of \$15,124.71 for the Curb & Gutter Replacement Project – 2016, as recommended by the Board of Public Works.
- h. Approval of Beatrice Plus funding request from Beatrice Civic Garden Club in the amount of \$400.00 for the installation of a drip irrigation system in the flowerbed surrounding the bandstand on West Court Street, as recommended by the Beatrice Plus Committee.
- i. Approval of Beatrice Plus funding request from Beatrice Nighthawks in the amount of \$9,500.00 for the installation of two (2) soccer fields at Riverside Park, as recommended by the Beatrice Plus Committee.

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

Abstain: Clabaugh - f(1); Morgan - e(1)

MOTION CARRIED.

## **PUBLIC HEARINGS/BIDS**

### **Public Hearing to receive the semi-annual report of the Citizen's Advisory Review Committee as provided by the Local Option Municipal Economic Development Act R.R.S., 1943.**

Mayor Wirth announced that a public hearing will now be held to receive the semi-annual report of the Citizen's Advisory Review Committee as provided by the Local Option Municipal Economic Development Act R.R.S., 1943.

Grant Jones, CARC president, noted the Committee has not had much activity since the last quarterly report. Jones reviewed the CDBG and LB840 fund balance. Jones noted there have been no applications submitted since the last semi-annual report.

Moved by Catlin, seconded by Billesbach, that the public hearing be closed at 7:04 p.m.

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

### **Public Hearing to consider amendment to Table 4-2 of the Zoning Ordinance Number 94-13, as such ordinance relates to parks and recreation use.**

Mayor Wirth announced that a public hearing will now be held to consider amendment to Table 4-2 of the Zoning Ordinance Number 94-13, as such ordinance relates to parks and recreation use.

Greg Butcher, City Attorney, noted the Nebraska Trails Foundation is looking to install a trailhead north of Dempsters. The Foundation is anticipating building a shelter with a kiosk, parking, and possibly art work. Butcher noted this area is zoned General Industrial "GI" and upon review, it was found that parks and recreation use is allowed in every other zoning district. Butcher noted it is City Administration's recommendation to allow parks and recreation use in all zoning districts. Butcher further noted this was also the recommendation of the Planning and Zoning Commission.

Moved by Catlin, seconded by Parde, that the public hearing be closed at 7:06 p.m.

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

### **Public Hearing on the acquisition of real property from Karolyn B. Howard.**

Mayor Wirth announced that a public hearing will now be held on the acquisition of real property from Karolyn B. Howard.

Tobias Tempelmeyer, City Administrator, noted the property located around 19<sup>th</sup> and Hoyt Street and 19<sup>th</sup> and Dorsey Street, on the east side of 19<sup>th</sup> Street, which is owned by Karolyn B. Howard, has an electric line that was installed on Howard's property by approximately three feet (3'). Tempelmeyer noted it would be much more cost effective to purchase the property and he has talked to Howard and agreed upon a purchase price for the ten feet (10') strip where the

utility line runs. Mayor Wirth inquired if the price to purchase this strip of property is less than the cost to move the electric line and Tempelmeyer noted it would be cheaper to purchase the property.

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

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

## RESOLUTIONS

### **Resolution Number 5970 executing all necessary documents to acquire real estate from Karolyn B. Howard, as recommended by the Board of Public Works.**

Mayor Wirth introduced Resolution Number 5970 executing all necessary documents to acquire real estate from Karolyn B. Howard, as recommended by the Board of Public Works.

Moved by Catlin, seconded by Parde, that Resolution Number 5970 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted this resolution authorizes the purchase of the property as discussed during the public hearing.

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

Resolution Number 5970 has been passed and adopted.

### **Resolution Number 5971 to enter into Addendum Agreement with the Beatrice Humane Society for utility payments associated with new shelter facility**

Mayor Wirth introduced Resolution Number 5971 to enter into Addendum Agreement with the Beatrice Humane Society for utility payments associated with new shelter facility.

Moved by Catlin, seconded by Morgan, that Resolution Number 5971 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted the Beatrice Humane Society is in the process of building a new facility. Tempelmeyer noted the Society is currently in a City building and do not pay utilities. Tempelmeyer noted the Society is asking for additional funding for utility payments. Tempelmeyer noted the Addendum would reimburse the Society up to \$1,000.00/month. John Rypma, President of Beatrice Humane Society, noted if the Addendum is approved, the City would be paying less, as the average utility bill is \$1,200.00/month.

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

Resolution Number 5971 has been passed and adopted.

**Resolution Number 5972 executing a Joint Defense and Common Interest Agreement on behalf of the City with Bluestem, as recommended by the Board of Public Works.**

Mayor Wirth introduced Resolution Number 5972 executing a Joint Defense and Common Interest Agreement on behalf of the City with Bluestem, as recommended by the Board of Public Works.

Moved by Catlin, seconded by Parde, that Resolution Number 5972 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted the Joint Defense and Common Interest Agreement between the City and Bluestem is in regards to Bluestem's application for their proposed natural gas generation facility. Tempelmeyer noted since Baird Holm, LLP represents both the City and Bluestem, this agreement will allow Bluestem and the City to work together. Tempelmeyer noted Baird Holm, LLP would represent Bluestem should anything result from their application to the Power Review Board.

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

Resolution Number 5972 has been passed and approved.

**Resolution Number 5973 executing the Agreement Amendment with the Firefighters Union, Local No. 1098, for a term beginning on January 7, 2017 and ending on December 31, 2017 to adjust scheduled work hours to implement "Kelly Days".**

Mayor Wirth introduced Resolution Number 5973 executing the Agreement Amendment with the Firefighters Union, Local No. 1098, for a term beginning on January 7, 2017 and ending on December 31, 2017 to adjust scheduled work hours to implement "Kelly Days".

Moved by Catlin, seconded by Clabaugh, that Resolution Number 5973 be passed and adopted.

Tobias Tempelmeyer, City Administrator, noted the proposed Amendment was initiated by the Fire Department staff. Currently, the Firefighters' schedule is to work twenty-four (24) hours on, and then have forty-eight (48) hours off. Tempelmeyer noted the Firefighters are proposing a schedule known as "Kelly Days", in which they work twenty-four (24) hours on, twenty-four (24) hours off for a series of ten (10) days, and then have the next six (6) days off. Tempelmeyer noted in order to make this proposal happen pursuant to union contract is to enter into the proposed Agreement Amendment. Tempelmeyer noted the Agreement would be good for one (1) year and at that time Administration and the Fire Department would review to determine if this schedule works.

Nick Koch, Firefighters Union, Local No. 1098 representative, noted they have done a lot of research on possible schedule changes and found that the departments that use "Kelly Days" like it. Koch noted it is designed to give employees a break and help to alleviate stress issues. Koch noted the Department will look at the change in August or September to see if it is something they would like to continue to use.

Councilman Parde inquired if all of the employees were on board. Koch noted in the initial poll of all employees, thirteen (13) were in favor and nine (9) were against. Jeff VanWinkle, Vice

President of Firefighters Union, Local No. 1098, noted when the Union voted on this addendum, the vote was ten (10) in favor and two (2) against.

Councilman Kerr inquired if this would change will create any staffing issues. Brian Daake, Fire Chief, noted he does not anticipate any issues, as they will have the same number of staff available. Koch noted if this new schedule appears to not be working, they would be willing to look at prior to August or September.

Councilman Fairbanks inquired if the Department looked at any other schedules. Daake noted the Department did look into other ideas and all seemed to like this schedule. Koch noted the Union has been looking at implementing a different work schedule over the last two (2) years.

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

Resolution Number 5973 has been passed and adopted.

### ORDINANCES

#### **Ordinance to amend Table 4-2 of the Zoning Ordinance Number 94-13, as such ordinance relates to parks and recreation use.**

Mayor Wirth introduced an ordinance to amend Table 4-2 of the Zoning Ordinance Number 94-13, as such ordinance relates to parks and recreation use.

Moved by Catlin, seconded by Parde, that said ordinance be given number 16-054 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 16-054 by number only the first, second, and third time.

Moved by Catlin, seconded by Billesbach, that Ordinance Number 16-054 be passed and approved.

There was no discussion by the City Council or public.

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

Ordinance Number 16-054 has been passed and approved.

#### **Ordinance to amend Section 302(A) of the Subdivision Ordinance of the City of Beatrice, Ordinance Number 98-6 relating to administrative subdivisions.**

Mayor Wirth introduced an ordinance to amend Section 302(A) of the Subdivision Ordinance of the City of Beatrice, Ordinance Number 98-6 relating to administrative subdivisions.

Moved by Catlin, seconded by Parde, that said ordinance be given number 16-055 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 16-055 by number only the first, second, and third time.

Moved by Catlin, seconded by Billesbach, that Ordinance Number 16-055 be passed and approved.

Greg Butcher, City Attorney, noted at this time administrative subdivisions are only allowed for property located in R-2, R-3, and R-4. Current Administration is uncertain why property located in R-1 is not included, however believes it may have something to do with fifty feet (50') corner lots. Butcher noted by allowing administrative subdivisions of previously platted property would potentially save property owners a significant amount of money. Butcher further noted the proposed change would still require approval from the City Engineer, City Administrator, Planning and Zoning Commission Chairperson, and the Mayor. Butcher noted Hendrix Addition is an example of property that could have been administratively subdivided, rather than having to resubmit a plat.

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

Ordinance Number 16-055 has been passed and approved.

**Ordinance to repeal Sections 9-66, 9-69, 9-70, and 9-94 of the Beatrice City Code regarding the bureau of fire prevention and fees for fire review.**

Mayor Wirth introduced an ordinance to repeal Sections 9-66, 9-69, 9-70, and 9-94 of the Beatrice City Code regarding the bureau of fire prevention and fees for fire review.

Moved by Catlin, seconded by Parde, that said ordinance be given number 16-056 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 16-056 by number only the first, second, and third time.

Moved by Catlin, seconded by Morgan, that Ordinance Number 16-056 be passed and approved.

Tobias Tempelmeyer, City Administrator, noted as part of the ongoing review of city code, these codes have to do with a bureau of fire prevention in the Fire Department. Tempelmeyer noted the City no longer has a Fire Inspector position and recommends repealing these codes. Councilman Billesbach inquired why the City does not do fire inspections. Tempelmeyer noted

all inspections are performed by the State Fire Marshall. Tempelmeyer noted it is his recommendation to repeal these city codes.

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

Ordinance Number 16-056 has been passed and approved.

**Ordinance to repeal Sections 10-1, 10-2, and 10-3 of the Beatrice City Code regarding communicable diseases and the food service code.**

Mayor Wirth introduced an ordinance to repeal Sections 10-1, 10-2, and 10-3 of the Beatrice City Code regarding communicable diseases and the food service code.

Moved by Catlin, seconded by Billesbach, that said ordinance be given number 16-057 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 16-057 by number only the first, second, and third time.

Moved by Catlin, seconded by Morgan, that Ordinance Number 16-057 be passed and approved.

Tobias Tempelmeyer, City Administrator, noted city code section 10-1 requires a copy of the 1933 edition of the Rules and Regulations of the Department of Health of the State of Nebraska, relating to communicable diseases, be on file in the City Clerk's Office. Tempelmeyer noted upon review no one was able to find a copy of said regulations, nor can anyone remember having one on file. Tempelmeyer noted section 10-2 adopted the 1976 Food Service Code. The State performs these inspections and have adopted the 2013 edition, leaving no reason for the City to have the 1976 version on file. Tempelmeyer further noted section 10-3 established the penalty for violating section 10-2, and therefore would be unnecessary. Tempelmeyer noted it is his recommendation to repeal these city codes.

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

Ordinance Number 16-057 has been passed and approved.

**PUBLIC FORUM**

No one appeared at public forum.

## **DISCUSSIONS/REPORTS**

### **Beatrice Public Schools – School Bond Presentation**

Lisa Pieper, BPS School Board President and Janet Byars appeared before the City Council in order to provide information and answer questions about the upcoming Elementary School Bond. Byars noted the question that often comes up is how was the land purchased without a vote of the people. Byars noted school districts are able to purchase property through the use of building funds and public vote is not required. Byars noted as part of the strategic plan, the land was purchased based on the location, accessibility of the property, lay of the land, as well as the availability of utility services and streets. Byars also noted the Board made the decision to purchase the entire ninety-three (93) acres, allowing for future development.

Councilman Kerr noted the question he is asked most frequently is why is the bond issue being brought back so quickly. Pieper noted the Board decided to bring it back again due there being a general election this year and not having to pay for a special election. Byars also noted the needs for improvements to the existing buildings have increase, further noting it is estimated \$8.6 million dollars will be spent in the next ten (10) years to maintain the buildings.

Councilman Kerr noted another concern citizens have is losing the neighborhood schools. Pieper noted it is not cost effective to remodel all four (4) of the existing buildings, further noting the goal is to have equal opportunity made available to all students.

Councilman Kerr also inquired if parents would be responsible for bussing costs or if the School would pay to bus. Pieper noted it is the intent to bus students at no charge.

Pieper also touched on the Board's thought process behind the preschool expansion, noting the Board hopes to keep the students in the district, which would help with the amount of state aid the district receives. Pieper noted the preschool program has been very successful.

### **NGage Quarterly Report**

Walker Zulkoski, NGage Executive Director, noted NGage continued to make progress within the business retention section of their strategic goals, by meeting with nineteen (19) businesses this quarter, reaching the annual goal. Zulkoski noted he met with Toro's corporate headquarters in Minneapolis to make sure they know how much their business is appreciated here in Beatrice. Zulkoski plans to visit World Lawn's corporate office located in China soon.

Zulkoski noted NGage has been working with Beatrice Public Schools and the Department of Labor to provide information to high school students in regards to job opportunities throughout the year.

Zulkoski noted in regards to the Housing Study, they are currently working with Excel on marketing and have had interest on elderly housing, as well as housing in the downtown area. Zulkoski further noted they are trying to work on providing affordable housing as well.

Zulkoski noted the group that purchased the Store Kraft building has been looking at the possibility of breaking the building up for restaurants, breweries, warehouse, and many more options. Zulkoski hopes to have more news to report in the fourth quarter.

NGage continues to work to get more members. This quarter, NGage gained three (3) new members and had fourteen (14) members renew their membership. Zulkoski noted NGage is working on the upcoming Governor's Pheasant Hunt. Zulkoski also noted several local businesses received awards, including Exmark, which received the Nebraska Business of the Year award from the Nebraska Diplomats.

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

Tobias Tempelmeyer, City Administrator, noted Chief Standing Bear Trail is close to being finished. Tempelmeyer noted the City received approval from NDOR that they will be going out for bids on the 2<sup>nd</sup> Street, Court to Ella project, in November. James Burroughs, City Engineer, is working on the City's project, so both projects go out for bid during the same time. Grant Street Reconstruction is underway. The south lane has been paved, however, there are a couple utilities that will need to be moved before pouring the north side. The irrigation and seeding work at the two (2) new fields at Hannibal Park is complete. The Police Department received the 2017 Victim Assistant Grant, allowing the Department to hire one (1) additional full-time Victim Advocate, at no additional cost to the City.

### **EXECUTIVE SESSION**

Moved by Catlin, that the Beatrice City Council go into closed session at 7:59 p.m., for the protection of public interest to discuss real estate. Seconded by Billesbach, that the Beatrice City Council go into closed session at 7:59 p.m., for the protection of public interest to discuss real estate.

Mayor Wirth announced that it has been Moved by Catlin, seconded by Billesbach that the Beatrice City Council go into closed session at 7:59 p.m., for the protection of public interest to discuss real estate.

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

Reconvened at 8:10 p.m.

### **ADJOURNMENT**

The next regular Council meeting is November 7, 2016 at 7:00 p.m. in the BPS Administration Building Board Room. There will be a Work Session on October 24, 2016 at 7:00 p.m. in the BPS Administration Building Board Room.

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

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

**Erin Saathoff, City Clerk**

**Stan Wirth, Mayor**