

City of Fort Calhoun

January 18, 2010

The regular meeting of the City Council of the City of Fort Calhoun, Nebraska, was held in open and public session at 7:30 o'clock p.m., on January 18, 2010 in the City Council Chambers/Library at the City Hall in Fort Calhoun, Nebraska. On roll call, the following Council Members answered present: David Genoways, Darin Wilson and LeRoy Nelson and Mike Smith.

Notice of the meeting was given in advance thereof by publication, said form of notice being a designated method for giving notice, an affidavit of publication being attached to these minutes.

Advance notice of this meeting was also given to the Mayor and all Council Members. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council Members. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

With a quorum present, the Mayor presided and the Clerk recorded the proceedings.

Mayor Oestmann publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy in the room where the meeting was being held.

Member Genoways made a motion seconded by Member Nelson to approve the December 21, 2009 minutes as published. With members, Wilson, Nelson, Genoways and Smith voting "Aye"; motion carried.

Member Smith made a motion seconded by Member Genoways to accept the Treasurer's Report as presented. With members Nelson, Smith, Genoways and Wilson voting "Aye"; motion carried.

Member Nelson made a motion seconded by Member Genoways to approve the following bills for payment:

OPPD, 3,272.64, ult; MUD, 541.47, ult; Papio M-R NRD, 3,655.85, water; Abe's Trash, 39.45, ser; Advance Auto, 302.59, sup; Am. Broadband, 381.00, utl; Blue Cross, 1,811.60, hlth ins; Bomgaars, 569.10, sup; Boyle Hess, 1,740.00, audits; Calhoun Oil, 3,299.92, fuel; Central Supply, 516.81, sup; City of Blair, 3,868.90, ser; Depository Trust, 8,950.00, int.; Diamond Fence, 5,118.22, sup; Downs Elec. 293.33, ser; Egr, James, 510.00, ser; Enterprise, 90.71, pub; Great Plains Communications, 14.95, ser; Great Plains One-Call, 16.63, fee; Great Southern Bank Visa, 242.59, sup & gas; Max I. Walkers, 145.98, ser; Maid/USA, 180.00, ser; NE Dept Rev., 1,983.59, sales tax & 798.79, lottery tax; NE Machine, 3,750.00, rental (est.); NE Pub Health, 224.00, test; New Frontier, 11,939.00, ins; PC Services, 116.00, ser;; Postmaster, 149.00, sup; Quill, 191.57, sup; Schemmer, 10,566.93, ser; Smithers, 300.00, ser; Solution One, 54.99, sup; Sprint/NEXTEL, 134.01, ser; Woodhouse, 141.10, rpr; Washington County Sheriff, 5,534.27, contract; Washington County Reg. Deeds, 77.50, fee; C. Wagner, 67.08, reimb; S. Brooks, ser; December Payroll, 32,526.38. With members Smith, Genoways, Wilson and Nelson voting "Aye"; motion carried.

Washington County Sheriff Report – No one from the office present.

Member Genoways made a motion seconded by Member Nelson to accept the January 4, 2010 Planning Commission minutes as presented. With members Genoways, Wilson, Nelson and Smith voted "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to accept the Enhancement Committee January 4, 2010 Minutes as published. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

At 7:33 o'clock p.m., Mayor Oestmann stated in accordance with the published notice, it was now time to conduct the public hearing relative to hearing support, opposition, criticism, suggestions or observations relating to the proposed 2010-2016 Fort Calhoun "One and Six Year Street Improvement Program" draft.

Mayor Oestmann asked the clerk if any written comments had been received: None

Mayor Oestmann then asked if there were any persons present who wished to be heard concerning the proposed program. There being none, Mayor Oestmann declared the public hearing closed.

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Following Immediately, Mayor Oestmann stated in accordance with the published notice, it was now time to conduct the public hearing relative to hearing support, opposition, criticism, suggestions or observations relating to the proposed recommendation made by the Planning Commission on the following items:

AN ORDINANCE TO ADOPT DOWNTOWN DESIGN GUIDELINE STANDARDS OF THE FORT CALHOUN, NEBRASKA ZONING REGULATIONS.

Mayor Oestmann asked the clerk if any written comments had been received. None

Mayor Oestmann then asked if there were any persons present who wished to be heard concerning the proposed ordinance regarding changes. Following Member Wilson's comments, Mayor Oestmann moved on to the next item:

AN ORDINANCE AMENDING ARTICLES 3 "USE TYPES", AND 6 "SUPPLEMENTAL USE REGULATIONS", OF THE FORT CALHOUN, NEBRASKA ZONING REGULATIONS TO MODIFY REGULATIONS RELATED TO BED AND BREAKFAST USE TYPES.

Mayor Oestmann asked the clerk if any written comments had been received. None

Mayor Oestmann then asked if there were any persons present who wished to be heard concerning the proposed ordinance regarding changes. There being no comments Mayor Oestmann moved on to the next item:

AN ORDINANCE AMENDING ARTICLES 6 "SUPPLEMENTAL USE REGULATIONS", OF THE FORT CALHOUN, NEBRASKA ZONING REGULATIONS TO MODIFY REGULATIONS RELATED TO TOWN CENTER RESIDENTIAL USES.

Mayor Oestmann asked the clerk if any written comments had been received. None

Mayor Oestmann then asked if there were any persons present who wished to be heard concerning the proposed ordinance regarding changes. Following Member Wilson's stating the Ordinance expands the regulations for the TC Residential, Mayor Oestmann declared the public hearings closed at 7:36 P.M.

Mayor Oestmann made recommendation that David Genoways be elected as Council President for 2010. Member Smith made a motion seconded by Member Nelson to approve Member Genoways as Council President. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

City Engineer Woracek reported that Cargill has continued to insist that the City pay PSC, Inc. charges for locating their private utilities around the Cargill plant to the Fort Calhoun sewer line project within the easement. Member Smith made a motion to pay the invoice. Motion failed due to the lack of a second.

City Attorney Egr reported there is a hearing scheduled on Tuesday, January 26, 2010 at 1:30 p.m. on the City's Motion to Dismiss the Complaint filed by Jeannie Knight, ETAL to appeal their Special Assessments on Street Improvement District No. 2006-2; Sanitary Sewer Extension District No. 2006-2 and Water Extension District No. 2006-2.

Economic Development: No Report

Member Smith made a motion seconded by Member Nelson to accept the high bids for excess equipment as follows:

\$155.00, Clayton Swanson for the 1996 Ford Crown Victoria
\$151.00, David Smith for the 1981 Ford F150
\$1,252.52, Keith Zessin for the 1970 John Deere Backhoe, Model JD410

With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Nelson made a motion seconded by Member Wilson to approve the final reading and passage of Ordinance No. 630 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND SECTION 5-302: NEW SIDEWALK; NOTICE OF THE CITY CODE; TO AMEND 5-503: REPAIRING SIDEWALK; NOTICE OF THE CITY CODE; TO AMEND SECTION 5-304: RECONSTRUCTNG SIDEWALKS; NOTICE OF THE CITY CODE;

TO ADD SECTION 5-304.01: MANNER OF CONSTRUCTION TO THE CITY CODE; TO ADD SECTION 5-304.02: FAILURE TO REBUILD TO THE CITY CODE; TO AMEND SECTION 5-306; CONSTRUCTION BY PETITION OF THE CITY CODE; TO ADD SECTION 5-306.01: SIDEWALK IMPROVEMENTS; PETITIONS AND PROTESTS; SUFFICIENCY; NOTICE; HOW DETERMINED; APPEAL TO THE CITY CODE; TO ADD SECTION 5-306.02: SIDEWALKS; REPAIR; COST; ASSESSMENT; NOTICE TO THE CITY CODE; TO ADD SECTION 5-306.03: SIDEWALKS, IMPROVEMENTS; ASSESSMENTS; HOW MADE; COLLECTION TO THE CITY CODE; TO REPEAL ALL CONFLICTING PROVISIONS OF OTHER ORDINANCES OR PARTS THEREOF; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

During discussion Member Wilson made a motion to amend Ordinance No. 630, SECTION 5-302 to include language: ...These sidewalks will form complete connections between existing sidewalks, streets, or park entrances. At no time will construction of a partial sidewalk be ordered where use of the sidewalk portion will be impractical due to dead end or incomplete connection, except in the case of sidewalks parallel to dead end streets. In the case of dead end streets, sidewalks may be ordered that end at the same point as the street... Motion failed due to the lack of a second.

Member Wilson then made a motion seconded by Member Nelson to amend Ordinance No. 630, SECTION 5-302 to include language: ...lots or land abutting any street or avenue or any part thereof. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Member Wilson then made a motion seconded by Member Nelson to amend Ordinance No. 630, where applicable, removing the word "front" from all sections including Municipal Code Section 5-301 (not included previously). With members Nelson, Wilson, Genoways and Smith voting "Aye", motion carried.

Mayor Oestmann asked for a roll call vote to approve the third reading of Ordinance No. 630 per original motion, with members Wilson, Nelson, Smith and Genoways voting "Aye", motion carried for the approval of the third reading.

Following further review by staff and Member Wilson after the meeting, it was determined that adding another section of the Municipal Code on Sidewalks into the Ordinance at this time with the suggested modifications; taken from Article Two, Section 209, pg 2-5 (Frontage) and Section 221, pg 2-10 (Right-of-way) of the current Fort Calhoun Zoning Regulations, changed the existing Ordinance No. 630. Revised Ordinance No. 630 will be re-introduced at the regular meeting scheduled for February 15, 2010.

Member Genoways introduced the following Ordinance No. 631 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA ADOPTING AND ADDING TO CHAPTER VIII, ARTICLE V, ZONING AND SUBDIVISION REGULATIONS OF THE FORT CALHOUN MUNICIPAL CODE, SECTION 8 – 505 PERTAINING TO DOWNTOWN DESIGN GUIDELINES FOR DEVELOPMENTS WITHIN THE FORT CALHOUN DOWNTOWN DESIGN OVERLAY DISTRICT.

and moved that the statutory rule requiring reading on three different days be suspended. Member Smith seconded the motion to suspend the rules and following discussion, upon roll call vote on the motion the following Council Members voted AYE: Nelson, Smith and Genoways. ABSENT: None. The following voted NO: Wilson. The motion to suspend the rules was adopted by three-fourths of the City Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Member Smith moved for final passage of the ordinance, which motion was seconded by Member Nelson. The Mayor then stated the question was "Shall Ordinance No. 631 be passed and adopted?" Upon roll call vote, the following Council Members voted AYE: Nelson, Smith, Genoways and Wilson. ABSENT: None. The following voted NO: None. The passage and adoption of said ordinance having been concurred in by three-fourths of all members of the Mayor and City Council, the Mayor declared the ordinance adopted and the Mayor in the presence of the City Council signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto. A true, correct and complete copy of said ordinance is on file at the city office during normal business hours.

Member Smith introduced the following Ordinance No. 632 entitled:

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and moved that the statutory rule requiring reading on three different days be suspended. Member Nelson seconded the motion to suspend the rules and upon roll call vote on the motion the following Council Members voted AYE: Genoways, Wilson, Nelson and Smith. ABSENT: None. The following voted NO: None. The motion to suspend the rules was adopted by three-fourths of the City Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Member Nelson moved for final passage of the ordinance, which motion was seconded by Member Smith. The Mayor then stated the question was "Shall Ordinance No. 632 be passed and adopted?" Upon roll call vote, the following Council Members voted AYE: Wilson, Nelson, Smith and Genoways. ABSENT: None. The following voted NO: None. The passage and adoption of said ordinance having been concurred in by three-fourths of all members of the Mayor and City Council, the Mayor declared the ordinance adopted and the Mayor in the presence of the City Council signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto. A true, correct and complete copy of said ordinance is on file at the city office during normal business hours.

Member Genoways then introduced Ordinance No. 633 entitled:

AN ORDINANCE AMENDING ARTICLE 6 "SUPPLEMENTAL USE REGULATIONS", OF THE FORT CALHOUN, NEBRASKA ZONING REGULATIONS TO MODIFY REGULATIONS RELATED TO TOWN CENTER RESIDENTIAL USES.

and moved that the statutory rule requiring reading on three different days be suspended. Member Smith seconded the motion to suspend the rules and upon roll call vote on the motion the following Council Members voted AYE: Smith, Genoways, Wilson and Nelson. ABSENT: None. The following voted NO: None. The motion to suspend the rules was adopted by three-fourths of the City Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Member Nelson moved for final passage of the ordinance, which motion was seconded by Member Smith. The Mayor then stated the question was "Shall Ordinance No. 633 be passed and adopted?" Upon roll call vote, the following Council Members voted AYE: Nelson, Smith, Genoways and Wilson. ABSENT: None. The following voted NO: None. The passage and adoption of said ordinance having been concurred in by three-fourths of all members of the Mayor and City Council, the Mayor declared the ordinance adopted and the Mayor in the presence of the City Council signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto. A true, correct and complete copy of said ordinance is on file at the city office during normal business hours.

Member Genoways introduced the following Ordinance No. 634 entitled:

AN ORDINANCE TO AMEND SECTION 6-210 OF CHAPTER VI, ARTICLE II OF THE FORT CALHOUN, NEBRASKA REVISED MUNICIPAL CODE (ORDINANCE NO. 529, PASSED AND APPROVED NOVEMBER 18, 2002), TO PROVIDE A CURRENT SCHEDULE OF CAPITAL FACILITIES CHARGES FOR CONNECTIONS TO THE CITY WATER SYSTEM, TO REPEAL ORIGINAL SECTION 6-210 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND TO PROVIDE AN EFFECTIVE DATE FOR THE OPERATION HEREOF.

and moved that the statutory rule requiring reading on three different days be suspended. Member Wilson seconded the motion to suspend the rules and upon roll call vote on the motion the following Council Members voted AYE: Wilson, Nelson, Smith and Genoways. ABSENT: None. The following voted NO: None. The motion to suspend the rules was adopted by three-fourths of the City Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Member Nelson moved for final passage of the ordinance, which motion was seconded by Member Genoways. The Mayor then stated the question was "Shall Ordinance No. 634 be passed and adopted?" Upon roll call vote, the following Council Members voted AYE: Smith, Genoways, Wilson and Nelson. ABSENT: None. The following voted NO: None. The passage and adoption of said ordinance having been concurred in by three-fourths of all members of the Mayor and City Council,

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the Mayor declared the ordinance adopted and the Mayor in the presence of the City Council signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto. A true, correct and complete copy of said ordinance is on file at the city office during normal business hours.

Member Genoways made a motion seconded by Member Nelson to approve the SDL requests from Lori Sandhoefner, representing St. John the Baptist Catholic Church, for the Annual Lenten Fish Fry's , scheduled for 2/19, 2/26, 3/5, 3/12, 3/19 and 3/26 at Schwertley Hall. With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried. Past parking issues were also discussed.

Member Wilson made a motion seconded by Member Nelson to approve the SDL request from Mike Smith, representing the Fort Calhoun Fire and Rescue, for the Annual Valentine's Day Dance, scheduled for Saturday, February 20, 2010 at the Community Building. With members Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

Dan Williams with Wild Willy's Fireworks requested the City look at amending the Fort Calhoun Municipal Code to allow other locations for Fireworks sales within the city. Member Smith made a motion seconded by Member Genoways to have the Planning Commission review to determine the feasibility of additional locations and their recommendation on procedures by March. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Nelson relayed the request from Charles Hawkins concerning the alley in CC Calhoun Co. Addition Block 73. The Clerk was directed to send a letter outlining the process of opening an alley.

Departmental Reports: Following discussion of the letter sent to the Fort Calhoun Rural Fire District, the City Attorney was directed to prepare a Memorandum of Understand concerning changes to the 1999 Merger Agreement and the 2009 Street agreement, for consideration at the February meeting.

Member Wilson addressed some issues reported in the Utility Report, a work meeting was tentatively scheduled for Thursday, January 21, 2010, which was later postponed to the following week, between Staff and the Water and Sewer Commissioners.

Public Comments: Fire Chief Smith shared a few general comments and Member Wilson mentioned additional Zoning Regulations changes in process for Accessory Buildings.

Member Nelson made a motion seconded by Member Smith to adjourn. With all members voting "Aye", the meeting adjourned at 9:35 p.m.

Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk