

February 15, 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 February 15, 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 Smith made a motion seconded by Member Nelson to approve the January 18, 2010 minutes as published. With members, Wilson, Nelson, Genoways and Smith voting "Aye"; motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the October 19, 2009 Minutes as corrected, (paragraphs concerning the approval of Ordinance No. 629 were originally left out):

AN ORDINANCE TO AMEND ARTICLE VI – WEEDS, JUNK, CARS, LITTER AND DANGEROUS BUILDINGS REGULATIONS BY ADDING SECTION 2-607: REMOVAL OF GRASSES OR WEEDS WITHIN THE SAME CALENDAR YEAR; TO REPEAL ALL OTHER CONFLICTING PROVISIONS OF SAID ORDINANCE OR OTHER ORDINANCES OR PARTS THEREOF; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

Member Genoways made a motion seconded by Member Nelson 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, as amended:

OPPD, 3,224.42, ult; MUD, 624.33, ult; Papio M-R NRD, 4,525.85, water; Abe's Trash, 39.69, ser; Am. Broadband, 377.54, utl; Blue Cross, 1,811.60, hlth ins; Bi-State, 240.03, sup; Badger Body, 134.10, rpr; Bomgaars, 82.94, sup; Calhoun Oil, 1,246.73, fuel; Country Tire, 417.68, sup; City of Blair, 4,046.28, ser; Depository Trust, 4,875.00, int.; Egr, James, 1,083.75, ser; Enterprise, 312.11, pub; FCCS, 1,640.00, fees; Great Plains Communications, 22.45, ser; Great Plains One-Call, 13.72, fee; Great Southern Bank Visa, 141.20, sup; Hose & Handling, 44.32; Liberty Mutual, 1,344.00, surety bonds; Max I. Walkers, 146.64, ser; Maid/USA, 120.00, ser; NDHHS, 514.00, fee; NRWA, 150.00, fee; NE Dept Rev., 2,027.03, sales tax; NMC Exchange, 4,055.00, rental (not paid in January as est.); NE Pub Health, 426.00, tests; PC Services, 116.00, ser; Postmaster, 151.24, sup; Schemmer, 10,570.01, ser; Solution One, 54.70, sup;

Sprint/NEXTEL, 132.91, ser; Washington County Sheriff, 5,534.27, contract; Washington Roads, 280.00, sup; S. Brooks, 200.00, ser; January Payroll, 16,808.64. With members Smith, Genoways, Wilson and Nelson voting "Aye"; motion carried.

Washington County Sheriff Report – Sheriff Robinson present, no questions.

Member Smith made a motion seconded by Member Genoways to accept the February 1, 2010 Planning Commission minutes as presented. With members Genoways, Wilson, Nelson and Smith voted "Aye", motion carried.

Following comments by Paul Janecek, council members concurred to move forward with the zoning and subdivision regulation amendments concerning Accessory Structures, Site Development, Re-zoning, Replats and Fireworks Sales to the public hearings process in March.

Member Smith made a motion seconded by Member Nelson to accept the January 14 and February 11, 2010 Park Board Minutes as published. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Following discussion on the Park Boards recommendation to get estimates for costs to improve the concession stand/restroom building at the ball fields, the city engineer was directed to evaluate the building for heat and what ADA requirements would be if the building is improved; providing that information at the regular council meeting scheduled for March 15, 2010.

Following discussion on the Park Boards recommendation to get estimates for costs to remove the grass in-field of the big field, replacing the clay with black dirt and new sod, the maintenance supervisor was directed to get cost estimates for consideration at the regular council meeting scheduled for March 15, 2010.

Member Smith made a motion seconded by Member Genoways to approve the recommendation of Jeannie Jones to schedule fields during the 2010 season and to be paid \$400.00. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Smith to accept the February 1, 2010 Enhancement Committee Minutes as published. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

City Engineer Woracek presented the following for approval:

Member Genoways made a motion seconded by Member Nelson to approve the increase of the miscellaneous services multiplier from 2.75 to 2.90 for engineering services beginning March 1, 2010 (first increase since the original 1993 Service Agreement). With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Smith to approve the Engineer's recommendation to accept the low bid from Henton Trenching, Inc., 13092 HU Highway 30, Blair, NE, in the amount of \$72,600.00 for the Wastewater Treatment Plant Demolition/Public Works Facility Preliminary Site Improvement; authorizing the Mayor to sign the Notice of Award. With members Wilson, Nelson, Smith and Genoways voting "aye", motion carried.

Member Smith made a motion seconded by Member Wilson to approve the Engineer's recommendation to accept the low bid from Cedar Construction Company, 13901 "L" Street, Omaha, NE, in the amount of \$82,799.50 for the "8" Water Main Extension to the Wastewater

Pump Station Site; authorizing the Mayor to sign the Notice of Award. Following questions and discussion, members Smith, Genoways and Wilson voted "Aye", Nelson voted "No", motion carried.

City Attorney Egr reported on the pending legal matters.

The proposed Memorandum of Understanding to revise the May 1999 Merger Agreement with the Fort Calhoun Rural Fire District was discussed and additional changes were requested by Member Genoways and the District. The revised Memorandum will be considered at the regular council meeting scheduled for March 15, 2010.

Economic Development: Housing Assessment is 75% complete.

Member Smith made a motion to approve the first reading of revised Ordinance No. 630 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND SECTION 5-301: DUTY OF PROPERTY OWNERS; LIABILITY; NOTICE OF THE CITY CODE; 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 THEREORF; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

The motion failed for lack of a second.

Member Wilson introduced the following Ordinance No. 630 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND SECTION 5-301: DUTY OF PROPERTY OWNERS; LIABILITY; NOTICE OF THE CITY CODE; 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 THEREORF; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

and moved that the statutory rule requiring reading on three different days be suspended. Member Nelson seconded the motion to suspend the rules and following discussion, 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.

Member Wilson made a motion seconded by Member Nelson to amend Section 6 of Ordinance No. 630, to correct sentence structure. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion to amend carried.

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. 630 be passed and adopted?" Upon roll call vote, the following Council Members voted AYE: Genoways, Wilson, Nelson and Smith. 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 RESOLUTION NO. 2010 - 01 and moved for its passage and adoption. Motion seconded by Member Smith. On roll call, the following voted "Aye": Wilson, Nelson, Smith and Genoways. The following voted "Nay": NONE. Motion carried.

A true and complete copy of the said resolution is as follows:

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FORT CALHOUN, NEBRASKA, THAT THE 2010/2016 ONE- AND SIX-YEAR PLAN FOR THE CONSTRUCTION MAINTENANCE, AND REPAIR OF THE STREETS OF THE CITY OF FORT CALHOUN, NEBRASKA, AS PREPARED BY THE CITY STREET SUPERINTENDENT AND AS AMENDED BY THE CITY COUNCIL BE AND IS HEREBY ADOPTED.

BE IT FURTHER RESOLVED THAT A CERTIFIED COPY OF SAID PLAN BE FILED WITH THE BOARD OF PUBLIC ROADS CLASSIFICATIONS AND STANDARDS, STATE OF NEBRASKA.

ADOPTED THIS 15th DAY OF FEBRUARY 2010

Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk

Member Genoways introduced the following Ordinance No. 635 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND ARTICLE III – FIREWORKS, SECTION 7-304: SALES AND STORAGE; LOCATION; LOCATIONS PERMITTED, SAFETY, TO THE CITY CODE; TO REPEAL ALL CONFLICTING PROVISIONS OF OTHER ORDINANCES OR PARTS THEREOF; AND PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

and moved that the statutory rule requiring reading on three different days be suspended. Member Wilson seconded the motion to suspend the rules. Following questions, comments and discussion, Member Genoways withdrew his motion as did Member Wilson his second.

Member Genoways made a motion seconded by Member Smith to postpone consideration of Ordinance No. 635 to the regular council meeting scheduled for August 16, 2010. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried. The clerk was directed to relay to the Planning Commission and Administrative Assistant that work should proceed on recommendations concerning questions raised during discussion.

Member Genoways made a motion seconded by Member Nelson to approve the SDL request from Mike Smith, Chief, Fort Calhoun Fire and Rescue, for a Boxing Smoker, scheduled for Saturday, March 27, 2010 at the Community Building. With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Smith to approve the Amendment to Renewal of Fort Calhoun Lottery Operator Agreement, deleting the provision of the agreement in paragraph 13 requiring Contractor to provided an irrevocable Letter of Credit; with the understanding the Lottery Trust CD's are being held for the purpose of funding large prizes. With members Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

Departmental Reports: Direction to continue follow-up with Wilkinson Industries, Inc. concerning the November sewage blockage incident and meter reading procedure.

Public Comments: Mitch McGowan asked questions about information on the city's updated website.

Member Nelson made a motion seconded by Member Genoways to adjourn. With all members voting "Aye", the meeting adjourned at 9:25 p.m.

Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk