

City of Fort Calhoun

June 15, 2009

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 June 15, 2009 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, 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 May 18, 2009 minutes as published. With members, Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Smith to approve 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, 3,121.80, ult; MUD, 101.34, ult; Papio M-R NRD, 6,559.85, water; Abe's Trash, 704.73, ser; Am. Broadband, 459.07, utl; Arps Ready Mix, 403.25, concrete; Bennington Imp., 347.05, rpr; Blue Cross, 1,811.60, ins; Bomgaars, 842.28, sup; BHE, 170.00, audit; Calhoun Oil, 903.04, fuel; Carpenter Paper, 37.10, sup; Display Sales, 1,150.00, sup; DPC, 42.00, test; Egr, James, 743.75, ser; Enfield's Tree, 760.00, ser; Enterprise, 343.48, pub; Gerhold, 1,975.57, concrete; Gloden, R., 5,200.00, ser; Great Plains, 34.16, fee; HD Waterworks, 133.47, sup; Jays Lawns, 252.00, ser; Loveland, 318.00, sup; Max I. Walkers, 170.00, ser; Maid/USA, 120.00, ser; McNamara, J., 250.00, ser; Meyer Lab, 462.78, sup; Crouch Recreation, 1,798.25, sup; NE Dept Rev., 1,588.81, sales tax; NE Pub Health, 202.00, test; New Frontier, 11,786.00, Ins; PC Services, 116.00, ser; Postmaster, 183.20, sup; Reyzlik HW, 12.70, sup; Schemmers, 16,159.87, fee; Solution One, 58.79, sup; Sprint/NEXTEL, 133.20, ser; Team Visa, 890.67, sup; Boyd, J., 173.07, sup; Newman, S., 19.85, sup; Washington County Sheriff, 5,338.51, contract; May Payroll, 15,435.34. With members, Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Washington County Sheriff Report – problems with juveniles have increased hours in the community – requested all damages are promptly reported.

Member Smith made a motion seconded by Member Genoways to accept the June 1, 2009 Planning Commission minutes as presented. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

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The mayor stated that each property in the Unkempt Property Status Report (Item 5.1) will be considered and acted upon separately as follows:

Member Genoways made a motion seconded by Member Nelson to approve the Planning Commissions recommendation to allow one year for clean-up for the property located at 223 South 10th Street, sending a letter of agreement stipulating the June 1, 2010 deadline. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the Planning Commissions recommendation to allow the demo and erection of a new garage, adhering to the setback required off an alley, requiring property lines be identified prior to construction at 1302 Monroe Street, sending a letter of agreement to the requirements. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Smith made a motion seconded by Member Genoways to approve the Planning Commissions recommendation to allow for clean-up and possible demo by August 31, 2009 of the structure located on the property described as Lots 1 – 8, Block 2, sending a letter of agreement to the deadline. With members, Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the Planning Commissions recommendation and placing a 30 day limit on the clean-up for the property located at 1113 Monroe Street, sending a letter of agreement to that deadline and requiring an application for a fence permit and waiver to enclose the storage area. With members, Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the Planning Commissions recommendation and to begin Un-Kempt process with the new owner, requesting verification of ownership of the trailer on Lot 5 in the McGowan Mobile Home Park, sending a letter of notification requesting plans, with response required in 30 days. With members, Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the Planning Commissions recommendation to allow a deadline of September 5, 2009 for clean-up of the properties located at 309 South 14th Street and Lots in Blocks 107, 108, 121 and 122 along the Fort Calhoun Trail, sending a letter of agreement to the deadline and detailing what is expected on both properties, including removal and proper storage of all equipment, and including notification that the 309 South 14th property will be inspected after that date, to insure it is secured and structurally sound. With members, Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to acknowledge the Planning Commissions comments concerning the unfenced outside storage at the 1405 Lincoln Street property, forwarding the notice of violation to the city attorney to begin official action. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Smith made a motion seconded by Member Genoways to acknowledge the Planning Commissions comments concerning the trailer on Lot 15 of the McGowan Mobile Park, forwarding the matter to the city attorney to begin official action concerning the condition and appearance of the trailer. With members, Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

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Member Nelson made a motion seconded by Member Genoways to acknowledge the Planning Commissions acknowledgement of no response from the property owner concerning the demo and clean-up of the structure located at 124 North 9th Street, forwarding the matter to the city attorney to begin official action. With members, Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Wilson made a motion seconded by Member Genoways to acknowledge the Planning Commissions acknowledgement of proposed plans for the structure, by a pending owner, for the property located at 311 East Calhoun Drive, and noting no plans have been received to date for improvements to the vacant structure; forwarding the violation matter to the city attorney to begin official action. With members, Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to acknowledge the Planning Commissions absence of comment concerning the condition of the trailers located on Lots 7 & 8 in Block 51, forwarding the matter to the city attorney to begin official action. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

It was noted that the vehicle parking issue in the front yard of 605 Pioneer Drive has been resolved and that there is no second notification to be sent at this time for the property located at 301 South 10th Street.

Member Genoways made a motion to require enforcement of Municipal Code, Section 6-223: Mandatory Hook-up of all persons whose property abuts a water main and the same for Section 6-309 Public Sewers Required; Mandatory Hook-up, for the commercial building erected on Lots 7 & 8 in Block 20 (208 North 14th Street). Following discussion, Member Genoways amended his motion to a blanket requirement for all new construction. Motion failed due to the lack of a second.

Member Genoways shared his disappointment and stated for the record that the council needs to remember this failed motion when complaints come in about the new required sewer rates to be considered later in the meeting and their not taking advantage of the potential additional users that currently exist to share in the burden.

Member Smith made a motion seconded by Member Nelson to accept the May 29 and June 11, 2009 Park Board Minutes as presented. With members, Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Per the Park Boards recommendation, the mayor and council directed the city attorney to draft an Ordinance to set closing hours for all of the City Parks, to be considered at the regular July meeting.

Member Nelson made a motion seconded by Member Smith to add the new message phone line for the \$1.95 per month cost, adding it to the Concession Stand phone account, as the FCYSO cancelled their rain-out number in May. With members, Wilson, Nelson, Smith and Genoways voting "Aye", motion carried. Mayor Oestmann reminded that limited circulation of the number is recommended, possibly just to the coaches as it was in the past.

Member Smith made a motion seconded by Member Nelson to approve the Park Boards recommendation to accept the bid from Diamond Fence of \$2,391.00 up to \$3,283.00 to add additional fencing to the play area at the Ball Fields, increasing the height to 12', with a sports net top. With members, Nelson, Smith, Genoways and Nelson voting "Aye", motion carried.

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Member Genoways made a motion seconded by Member Nelson to approve the Park Boards recommendation to accept the bid from Diamond Fence of \$1,303.00 for a chain link fence with hand rail to be installed on the curve at the northwest corner of the Pioneer Park Trail. With members, Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Member Smith made a motion seconded by Member Genoways to approve the Park Boards recommendation to accept the bid from Paul Welchert to re-roof the shelter in West Market Square Park, in the amount of \$2,100.00, stipulating the project be completed 30 days from the start date. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

There were no presentations, guests or public hearings.

City Attorney Jim Egr gave an overview of pending legal matters: There is a July 2, 2009, 1:00 p.m. date and time for arguments before the Court of Appeals in Lincoln on the first Welchert/Knight Suit. The second suit is still pending, probably waiting on a decision on the appeal.

City Engineer Ron Woracek, TSA, gave a status report on the Wastewater Conveyance Project – the project is substantially complete and close-out and final pay application is pending, waiting for the contractor's resolution with a property owner and the fence sub-contractor. A special meeting will be scheduled as soon as the close-out documents and final numbers for the pay application are compiled.

A Roadway Repair Guarantee draft was reviewed and approved by the city attorney, for the repairs to the county road by Rutjens sub-contractor, Western Engineering.

The Final Pay Application from Carley Constructions for the Pioneer Park Walking Trail was not available – the close-out is expected soon and the application will be considered at the special meeting to be scheduled as well.

The Notice to Proceed was sent to Western Engineering for the 15th Street Repair and Overlay Project. A pre-construction meeting will be scheduled by the end of June, and the project should be underway after the July holiday.

The discussion of the curb and gutter cost proposals for Madison Street, 8th to 9th and 7th to 8th Streets was tabled for a later date.

Member Genoways made a motion seconded by Member Smith to proceed to get bids from different contractors for the removal and replacement of a portion of the View Point Park sidewalk access off of 16th Street, including a curb, in order to correct the slope to closer meet the ADA requirements. With members, Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

Maintenance Supervisor Steve Becker reported the timely completion and satisfaction with the work, by the new contractor, on Clay Street repairs, 10th to 12th Street.

Mayor Oestmann introduced the following Ordinance entitled:

AN ORDINANCE TO AMEND ARTICLE III – SEWER DEPARTMENT, SECTION 6-301: TERMS DEFINED, AND TO AMEND SECTION 6-304: SEWER USE RATES; COLLECTION, AND TO AMEND ORDINANCE NO. 610 OF THE REVISED AND COMPILED ORDINANCES OF THE CITY OF FORT CALHOUN, NEBRASKA BY REVISION OF THE SEWER USE FEE OR RENTAL CHARGE APPLICABLE TO ALL USERS OF THE CITY SEWER SYSTEM; TO REPEAL ALL OTHER

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CONFLICTING PROVISIONS OF SAID ORDINANCE OR OTHER ORDINANCES OR PARTS THEREOF; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

Said Ordinance was designated as ORDINANCE NO. 618 and the title thereof was approved.

Member Genoways moved that the statutory rule requiring an ordinance to be fully and distinctly read 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": Nelson, Smith, Genoways and Wilson. The following voted "Nay": NONE. The motion to suspend the rules was adopted by the required three-fourths of the members elected to the Council and the statutory rule was declared suspended for consideration of said Ordinance.

Thereupon said ORDINANCE NO. 618 was then read by title and thereafter Member Nelson moved for final passage of the ordinance, which motion was seconded by Member Smith. On roll call, the following voted "Aye": Smith, Genoways, Wilson and Nelson. The following voted "Nay": NONE. The motion having been adopted by the required three-fourths of the members elected to the Council as provided by law was by Mayor Oestmann declared passed and adopted, and in the presence of the Council signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

A true and complete copy of ORDINANCE NO. 618 is on file at city hall and can be reviewed during normal business hours.

Member Genoways made a motion seconded by Member Smith to refer the Sprick, Lots 7 & 8 in Block 20 (208 North 14th Street) and Lammers, Lots 1, 2 and E 11' of Lot 3 in Block 40 (120 North 14th Street), Adams Street sidewalk requirements to the city attorney to begin official action. With members, Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Smith made a motion seconded by Member Genoways to approve maintenance recommendation to accept the \$7,900 bid fro Bob Gloden to saw-cut and repair 13th Street, Clay to Clark Streets stipulating the project be completed 30 days from the start date. With members, Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

Member Smith made a motion to have the city pay for the removal of the tree stump at the corner of 7th and Monroe Streets. Motion failed due to the lack of a second.

Member Smith made a motion seconded by Member Nelson to accept the May 4 and June 1, 2009 Enhancement Committee minutes as presented. With members, Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Departmental Reports: General - no discussion; Planning & Zoning – no discussion; Streets - status of ditch cleaning and sidewalk report; Water – Darin Wilson is working with Steve on Water meter replacement options; Sewer – NDEQ will be here soon to close-out the WWTF and Steve will request they visit with Wilkinson Industries, Inc. concerning the Stormwater run-off non compliance; Parks – no discussion.

Member Smith made a motion seconded by Member Nelson to adjourn. With all members voting "Aye", the meeting adjourned at 10:04 p.m.

Attest _____

Paul L. Oestmann, Mayor

Linda Welsher, CMC, City Clerk