

City of Fort Calhoun

July 19, 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 July 19, 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, LeRoy Nelson and Mike Smith.

Notice of the meeting was given in advance thereof by newspaper publication, the City's designated method for giving notice, on July 13, 2010, evidence of such notice being attached to these minutes.

Notice of the meeting was given to the Mayor and all members of the City Council and a copy of their acknowledgment of receipt of notice and agenda is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and City Council of this meeting. 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 Genoways to approve the June 21, 2010 minutes as published. With members Wilson, Nelson, Smith, and Genoways voting "Aye", motion carried.

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

OPPD, 3,666.97, ult; MUD, 126.59, ult; Papio M-R NRD, 5,121.35, water; Abe's Trash, 264.43, ser; Am. Broadband, 426.53, utl; Arp's, 1,490.00, concrete; Bennington Imp, 286.83, sup; Blue Cross, 1,901.94, hlth ins; Barco, 737.96, sup; Beebe's, 174.43, ser; Bi-State, 117.54, sup; Bomgaars, 482.56, sup; Calhoun Oil, 1,271.18, fuel; City of Blair, 4,523.01, ser; Carpenter Paper, 88.34, sup; Depository Trust, 38,500.00, principal & int; Egr, James, 488.75, ser; Enterprise, 696.35, pub; Ford Credit, 799.73, equip; Great Plains Communications, 14.95, ser; Great Plains One-Call, 56.57, fee; Gerhold, 2,040.26, concrete; Rock Hard, 4,260.00, ser; Hose & Hand, 156.86, sup; Holiday Inn, 145.00, trng; Lottery Tax, 704.27; Max I. Walkers, 146.64, ser; Maid/USA, 120.00, ser; J. McNamara, 440.00, ser; NE Dept Rev., 2,137.44, sales tax; NE DHHS, 416.00, tests; New Frontier, 141.00, ins; PC Services, 116.00, ser; Postmaster, 110.60, sup; Quill, 151.82, sup; R. Gloden, 10,450.00, ser; SE Smith, 70.90, sup; Schemmer, 5,793.43, ser; Solution One, 56.81, ser; Sprint/NEXTEL, 168.34, ser; TSI, 2,180.00, sup & ser; Cedar Construction, 70,406.77, contract; Woodhouse, 256.80, sup; Washington County Planning, 785.00, ser; Washington County Sheriff, 5,534.27, contract; L. Welsher, 203.00, reimb; L.

Schuler, 117.76, sup & ser; ; June Payroll, 16,793.85. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Washington County Sheriff Report – no comments.

Member Smith made a motion seconded by Member Nelson to accept the July 6, 2010 Planning Commission minutes as presented. With members Genoways, Nelson, Smith and Wilson voting "Aye", motion carried.

Member Smith made a motion to allow the extension of 7 months for the demolition of the house located at 223 South 10th Street. Motion died due to the lack of a second.

Member Wilson made a motion to serve final notice; motion seconded and following discussion, the motion and the second were withdrawn.

Member Smith made a motion seconded by Member Wilson to table to the regular August meeting scheduled for August 16, 2010. With members Wilson, Nelson, Smith and Genoways voting "Aye" the item was tabled.

Member Genoways made a motion seconded by Member Nelson to approve the recommended Land Use/Property Complaint Form for use. With Members Nelson, Smith, Genoways and Wilson voting "Aye", motion approved.

Member Smith made a motion seconded by Member Nelson to accept the July 1, 2010 Park Board meeting minutes as presented. With members Smith, Genoways, Nelson and Wilson voting "Aye", motion carried.

No action was necessary on Agenda Items No. 6.2 or No. 6.3 at this meeting.

Member Genoways made a motion seconded by Member Smith to approve the 2010/2011 Field Use Contract as it is. With members Wilson, Nelson, Smith and Genoways voting "Aye", motion carried.

The July 5, 2010 Enhancement Committee meeting was cancelled to the regular August meeting, August 2, 2010.

At 7:48 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 consideration of an Ordinance amending Article 7 "Supplemental Sit Development Regulations", "Accessory Building" "Section 706 (e) Total Lot Area.

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 request: None

There being no comments, Mayor Oestmann declared the public hearing closed at 7:50 p.m.

At 7:50 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 consideration of an Ordinance for revision of the Fort Calhoun Comprehensive Development Plan – updating the Future Land Use map.

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 amendment: None

There being no comments, Mayor Oestmann declared the public hearing closed at 7:51 p.m.

Member Smith made a motion seconded by Member Nelson to approve the request from the Fort Calhoun Schools Superintendent, Don Johnson to use Keno Funds in the amount of \$1,500.00 to help pay for new front doors on the Community Building. With members Genoways, Nelson, Smith and Wilson voting "Aye", motion carried.

There was no additional information available at meeting time for options concerning removal of two street trees adjacent to Lots 7 & 8 in Block 20; and/or construction, placement and design of a sidewalk.

City Engineer Woracek reported on the status of the water main extension and the demolition work at the Wastewater Pump Station location.

City Attorney Egr reported on the pending legal matters, requesting a closed session to discuss strategies on the RF Broadband case.

There was no report on Economic Development this month.

Member Genoways introduced the third reading of the following Ordinance No. 643 entitled:

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF FORT CALHOUN, NEBRASKA, PURSUANT TO THE PROVISIONS OF SECTIONS 17-405.01 ET. SEQ. OF THE REVISED STATUTES OF NEBRASKA, AS AMENDED, BY ANNEXATION THERETO A CERTAIN TRACT OF ADJACENT AND CONTIGUOUS LAND LYING WITHIN THE EXTRATERRITORIAL ZONING AND SUBDIVISION JURISDICTION OF THIS CITY, PRESENTLY ZONED FOR AGRICULTURAL USE AND LEGALLY DESCRIBED AS TAXLOTS 79, 154, AND 172 IN THE NORTHEAST ONE-QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID TAXLOT 154, ALSO BEING THE INTERSECTION OF THE NORTH LINE OF STEVENSON STREET RIGHT-OF-WAY AND THE EAST LINE OF 13TH STREET RIGHT-OF-WAY, THENCE NORTH 00° 00'43" EAST (ASSUMED BEARING) FOR 620.97 FEET ALONG SAID

EAST RIGHT-OF-WAY LINE; THENCE SOUTH 89°16'57" EAST FOR 208.62 FEET ALONG THE NORTH LINE OF SAID TAXLOT 172; THENCE SOUTH 04°06'48" EAST FOR 333.76 FEET ALONG THE EAST LINES OF SAID TAXLOTS 172, ALSO BEING THE CENTERLINE OF THE ABANDONED CHICAGO AND NORTHWESTERN RAILROAD; THENCE SOUTH 89°52'59" EAST FOR 172.82 FEET ALONG THE NORTH LINE OF SAID TAXLOT 154; THENCE SOUTH 00°00'43" WEST FOR 629.49 FEET ALONG THE EAST LINE OF SAID TAXLOT 154; THENCE NORTH 89°58'17" WEST FOR 40.37 FEET ALONG THE SOUTH LINE OF SAID TAXLOT 154, ALSO BEING THE EASTERLY EXTENSION OF THE NORTH LINE OF VACATED GRANT STREET RIGHT-OF-WAY; THENCE NORTH 00°00'51" WEST FOR 344.35 FEET ALONG THE NORTHERLY EXTENSION OF THE EAST LINE OF 12TH STREET RIGHT-OF-WAY; THENCE NORTH 89°59'54" WEST FOR 364.90 FEET ALONG THE SOUTH LINE OF SAID TAXLOT 154, ALSO BEING THE NORTH LINE OF STEVENSON STREET RIGHT-OF-WAY TO THE POINT OF BEGINNING. ABOVE DESCRIBED PARCEL CONTAINS 4.67 ACRES, MORE OR LESS.

and moved for the final reading to be approved. Member Nelson seconded the motion 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; motion carried.

Member Smith made a motion seconded by Member Nelson for final adoption of Ordinance No. 643 in its final form. 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 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 second reading of Ordinance No. 647 for entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND AND COMPLETELY REVISE ARTICLE III FIREWORKS; REGULATING THE POSSESSION, STORAGE, DISTRIBUTION, SALE, USE OR DISCHARGE OF ANY FIREWORKS WITHIN THE CITY OF FORT CALHOUN, NEBRASKA; ADDING PERMISSIBLE FIREWORKS DESIGNATION; ADDING FIREWORKS EXCEPTIONS; ADDING FIREWORKS RESTRICTIONS; ADDING GENERAL REQUIRMENTS FOR STANDS, BOOTHS OR OTHER PLACES OF SALE; ADDING PROVISION FOR FIRE EXTINGUISHER; COMPLIANCE WITH STATE LAW; TO REQUIRE RETAIL LICENSING OF ALL RETAIL SELLERS OF FIREWORKS; TO LIMIT ONE LOCATION PER LICENSE; TO PROVIDE AN APPLICATION FOR LICENSE; HEARING REQUIREMENT; WAIVER OF HEARING; IMPOSE AN ANNUAL LICENSE FEE; ESTABLISH A CONSENT FOR BOND; BOND FORFEITURE AND RETURN; TO REQUIRE LIABILITY INSURANCE UPON SUCH LICENSEES; DEFINE PLACE OF BUSINESS; REQUIRE INSPECTIONS; REQUIRE DISPLAY OF LICENSE; DURATION OF LICENSE; ESTABLISH AGE OF MANAGER ON PREMISES; AND TO PROVIDE PROVISIONS FOR VIOLATIONS AND PROVIDE FOR PENALTIES; TO PROVIDE FOR SEVERABILITY; TO REPEAL ALL

ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND TO ESTABLISH WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

and moved for the second reading to be approved. Member Nelson seconded the motion and following comments by Paul Janecek, Rick Nelson and Member Wilson, Member Wilson made a motion seconded by Member Smith to amend the ordinance to allow a half price cost for Non-Profits. Following comments and discussion by Rick Nelson, the city attorney and Dan Williams, the Mayor called for a vote on the amendment. Members Smith and Nelson voted "Aye", Members Wilson and Genoways voting "No", and Mayor Oestmann voting "No" to break the tie. Member Wilson then made a motion seconded by Member Smith to amend Section 7-304 (c) of the Ordinance, inserting the dates set by the State of Nebraska. Prior to a vote, both members withdrew their motion and second. The mayor called for a vote on the original motion 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; motion carried. The third reading of the Ordinance No. 647 will at the regularly scheduled meeting on August 16, 2010.

Member Genoways introduced Ordinance No. 648 entitled:

AN ORDINANCE AMENDING ARTICLE 7 "SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS", SECTIONS 706 "ACCESSORY BUILDINGS", SECTION 706 (e) " TOTAL LOT AREA", OF THE FORT CALHOUN, NEBRASKA ZONING REGULATIONS TO IMPROVE REGULATIONS RELATED TO ACCESSORY BUILDINGS.

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: 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 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. 648 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 Ordinance No. 649 entitled:

AN ORDINANCE TO ADOPT A REVISIONS TO THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF FORT CALHOUN, NEBRASKA, AS REQUIRED BY ARTICLE 9, CHAPTER 19 OF THE REVISED STATUTES OF NEBRASKA AS AMENDED; TO REPEAL ALL ORDINANCES OR PARTS OF

ORDINANCES IN CONFLICT HEREWITH; 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 Smith seconded the motion to suspend the rules and following discussion, 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. 649 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 Ordinance No. 650 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA, AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION SEWER BOND IN THE AMOUNT OF ONE HUNDRED EIGHTY-SEVEN THOUSAND DOLLARS (\$187,000) FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING TO PAY THE COST OF EXTENDING AND IMPROVING THE CITY'S EXISTING SANITARY SEWER SYSTEM; PRESCRIBING THE FORM OF SAID BOND; PROVIDING FOR THE LEVY OF TAXES TO PAY THE SAME; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE REGISTERED OWNER OF SAID BOND; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM

and moved that the statutory rule requiring reading on three different days be suspended. Member Wilson seconded the motion to suspend the rules and following discussion, 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 Smith. The Mayor then stated the question was "Shall Ordinance No. 650 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.

There was no action or discussion on Agenda Item No. 20. Kent Clausen was not present.

Kim Szlachetka – voiced her concerns with when maintenance sprays the weeds in the streets. She asked for the city to review their policy.

There was a brief review of the sidewalk condition and the storm water running under/near the area of 14th and Monroe Streets. It was noted a meeting with Great Southern Bank officials, the maintenance supervisor, city engineer and city attorney will be held on Tuesday, July 27 at 1:00 p.m. for a preliminary assessment.

The clerk was directed to send Requests for Proposals for conducting the Annual Audit, to the three accounting firms recommended by the former city auditor, as the firm is departing the Governmental Auditing area.

Public Comments:

Have discussion item concerning the kitchen at the community building on the August agenda.

Member Nelson made a motion seconded by Member Genoways to go into closed session to discuss pending litigation with RF Broadband. With members Nelson, Smith, Genoways and Wilson voting “Aye”, motion carried.

After the vote, Mayor Oestmann stated for the record, the motion was made, seconded and carried for the council to go into closed session to discuss pending litigation with RF Broadband, Mayor Oestmann declared the meeting in closed session at 8:45 p.m.

The Council returned to open session at 9:53 p.m.

Member Genoways made a motion seconded by Genoways Wilson to adjourn. With all members in attendance voting “Aye”, the meeting adjourned at 8:55 p.m.

Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk