

## City of Fort Calhoun

September 21, 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 September 21, 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 and LeRoy Nelson. Mike Smith, absent.

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 August 17 and September 14/16, 2009 minutes as published. With members, Wilson, Nelson and Genoways voting "Aye"; Smith absent, motion carried.

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

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

OPPD, 2,954.64, ult; MUD, 116.99, ult; Papio M-R NRD, 6,382.85, water and 8,998.00, CFC; Abe's Trash, 97.77, ser; Am. Broadband, 426.97, utl; Baird Holm, 4,000.00, fee; Bi-States, 81.85, sup; Blue Cross, 1,811.60, ins; Bomgaars, 279.29, sup; Boyle Hess, 750.00, fee; Calhoun Oil, 1,213.30, fuel; City of Blair, 4,104.87, ser; Depository Trust, 748,510.00 & 3,039,750.00, bond principal and interest; D. Carlson, 750.00, fee; Egr, James, 658.75, ser; Enfield's, 760.00, ser; Enterprise, 587.76, pub; Great Plains Communications, 292.88, ser; Great Plains One-Call, 41.05, fee; Great Southern Bank, 5,856.60, equip; Loveland, 362.57, sup; Max I. Walkers, 175.00, ser; Maid/USA, 120.00, ser; McNamara, 240.00, fee; NE Dept Rev., 2,151.17, sales tax & 25.00 waste fee; NE Pub Health, 10.00, test; PC Services, 116.00, ser; Postmaster, 181.80, sup; Quill, 54.07, sup; Reliable Consulting, 376.50, ser; Schemmers, 7,126.85, fee; Solution One, 97.84, sup; Sprint/NEXTEL, 212.68, ser; Team Visa, 39.83, postage; The Sign Depot, 61.52, sup; Utility Service, 932.64, ser; Washington County Sheriff, 5,338.51, contract; August Payroll, 15,945.95. With members Genoways, Wilson and Nelson voting "Aye"; Smith absent, motion carried.

Washington County Sheriff Report – August Report provided, sheriff was out of town.

The clerk was directed to respond to correspondence received from Charles Sedlacek and to direct maintenance to look at the trees and bushes for recommendation.

## City of Fort Calhoun

Member Genoways made a motion seconded by Member Nelson to accept the September 8, 2009 Planning Commission minutes as presented. With members Wilson, Nelson and Genoways voting "Aye"; Smith absent, motion carried.

Member Wilson made a motion seconded by Member Genoways to approve Mayor Oestmann's recommendation for appointment of Sam Ruma to the remaining 2008-2010 open term on the Planning Commission. With members Nelson, Genoways and Wilson voting "Aye"; Smith absent, motion carried.

Member Nelson made a motion seconded by Member Genoways to accept the September 10, 2009 Park Board Minutes as presented. With members, Genoways, Wilson and Nelson voting "Aye"; Smith absent, motion carried.

Member Nelson made a motion seconded by Member Genoways to partially approve the Park Boards recommendation to charge all groups field use fees for the use of the city ball fields, but to continue to allow the Fort Calhoun Community School District to be exempt from the charge. FCCS Superintendent, Jerry Beach and School Board President, Mark Welsher spoke on the various activities held in the district's facilities at no charge to community organizations. Following discussion, members Smith, Genoways, Wilson and Nelson voted "Aye"; Smith absent, motion carried.

No action was taken on the Park Boards recommendation for Hard Rock Concrete to redo a portion of the View Point Park walkway – the matter was sent back to the Park Board for additional review.

The Park Boards previous direction to have the city engineer make recommendations on connection the Pioneer Park Trail and the Fort Calhoun Trail was sent back to the Park Board for additional discussion and recommendations for the engineer to look into.

The August and September Enhancement Committee minutes were not received

Member Nelson made a motion seconded by Member Genoways to approve The Fort Calhoun Community Schools request for an additional cost share of the overrun on the Community Building betterment project previously approved, due to changes needed for the project to meet fire codes, making the city's share of the project, \$6,395.57 to be paid from the city's Keno Funds. With members Genoways, Wilson and Nelson voting "Aye"; Smith absent, motion carried.

City Attorney Egr reported on the status of several pending legal matters and requested clear direction before he starts working on the city code dealing with the construction of sidewalks. Member Genoways asked the other members present their direction on the code revisions needed to update language and procedure for sidewalk construction. Members concurred and the attorney was directed to prepare a draft for consideration.

City Engineer Woracek provided a Professional Service Agreement to begin work on the Specifications for the WWTF Demolition and the Water Extension to the Wastewater Conveyance Pumping Station for Council review and action at the regular Council meeting scheduled for October 19, 2009.

Member Genoways made a motion seconded by Member Nelson to approve the Summary Change order presented by the city engineer, reducing the cost of the 15<sup>th</sup> Street Repair and Overlay Project by \$7,105.15. Following discussion, members Genoways, Wilson and Nelson voted "Aye"; Smith absent, motion carried.

## City of Fort Calhoun

Member Nelson made a motion seconded by Member Genoways to approve the First and Final Pay Application from Western Engineering, Inc, \$75,840.25 for the completed 15<sup>th</sup> Street Repair and Overlay Project. With members Wilson, Nelson and Genoways voting "Aye"; Smith absent, motion carried.

Member Genoways reported that he should have additional information in the near future concerning the application for certification with the Nebraska Department of Economic Development, as Paula Hazelwood is currently working with two local property owners and that a draft industrial park layout of the city's property is being worked on at this time.

The Mayor declared that in accordance with published notice; it was now time to conduct a hearing relative to the levy of special assessments in Street Improvement District No. 2006-2; in Sanitary Sewer Extension District No. 2006-2; and, in Water Extension District No. 2006-2. The Mayor then declared the public hearing open at 8:10 p.m. The Mayor asked the City Clerk if any written objections had been filed. The City Clerk reported that no written objections which had been filed relative to the said Districts.

The Mayor then asked if there were any persons who wished to be heard concerning the proposed assessments in the District relative to the construction of the said improvements. The following persons appeared concerning the following District:

### Street Improvement District No. 2006-2

Kristopher Covi, Attorney for the Welchert/Knight Developers presented arguments opposing any Special Assessment of Lots 1-12, Block 40; Lots 1-7 and Outlot A of the Welchert-Knight Commercial Park Development for Streets.

### Sanitary Sewer Extension District No. 2006-2

Kristopher Covi, Attorney for the Welchert/Knight Developers presented arguments opposing any Special Assessment of Lots 1-12, Block 40; Lots 1-7 and Outlot A of the Welchert-Knight Commercial Park Development for the Sanitary Sewer Extension

Jeri Sill Welchert, DMV presented arguments opposing the Special Assessment of Lot 12, Block 72 and ½ of vacated alley in Block 72 for the Sanitary Sewer Extension.

Clint Lewis presented arguments opposing the Special Assessment of Tax Lots 79 and 172 for the Sanitary Sewer Extension.

### Water Extension District No. 2006-2

## City of Fort Calhoun

Kristopher Covi, Attorney for the Welchert/Knight Developers presented arguments opposing any Special Assessment of Lots 1-12, Block 40; Lots 1-7 and Outlot A of the Welchert-Knight Commercial Park Development for the Water Extension.

Jeri Sill Welchert, DMV presented arguments opposing the Special Assessment on Lot 12, Block 72 and ½ of vacated alley in Block 72 for the Water Extension.

Clint Lewis presented arguments opposing the Special Assessment of Tax Lots 79 and 172 for the Water Extension.

Richard Larsen was present and answered questions by others relating to his property within the 2006-2 Project area.

Jolene and Mitch McGowan questioned the General Obligation portions of the 2006-2 Projects, comparing them with their Southern Heights Development.

Other public present questioned the relevance of McGowan's questions concerning their development and the 2006-2 Welchert-Knight Public Improvements.

There being no other persons wishing to be heard concerning the improvements and the proposed levy of special assessments within Street Improvement District No. 2006-2, Sanitary Sewer Extension District No. 2006-2 and Water Extension District 2006-2, the Mayor declared the hearing closed at 8:35 p.m.

After having considered the objections and the adjustment and equalizing of assessments relative to said Districts, Council member Genoways moved that the agenda item calling for consideration of passage and adoption of a resolution levying the special assessments in each of the Districts which were the subject of the forgoing hearing, be continued until the next regular meeting of the Mayor and City Council scheduled for 7:30 p.m., Monday October 19, 2009. Motion seconded by Council member Nelson. The Mayor stated the motion and after discussion, upon roll call vote, the following voted YEA: Genoways, Wilson and Nelson. The following NAY: None. Absent: Smith. The Mayor thereupon declared the motion carried and consideration of a resolution levying said special assessments be continued until the regular Council meeting scheduled for October 19, 2009.

Member Nelson made a motion to approve the third and final reading of Ordinance No. 619, as listed below.

**AN ORDINANCE TO SET CLOSING HOURS OF THE CITY PARKS OF THE CITY OF FORT CALHOUN, NEBRASKA; TO CLARIFY THAT BALL FIELDS ARE INCLUDED IN CITY PARKS;**

City of Fort Calhoun

TO STATE WHAT IS UNLAWFUL; TO DEFINE "LOITER"; TO PROVIDE FOR PENALTY; TO REPEAL ALL CONFLICTING PROVISIONS OF OTHER ORDINANCES OR PARTS THEREOF; AND TO PROVIDE WHEN THIS ORDINANCESHALL BE IN FULL FORCE AND EFFECT.

Motion failed due to the lack of a second. The Ordinance was not adopted.

Member Genoways made a motion seconded by Member Nelson to approve the second reading of Ordinance No. 626 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 TAXLOT 94 (PART OF TAXLOT 89) REDESCRIBED 1977 FROM THE NORTH ¼ CORNER OF SECTION 11, T 17 N, R 12 E, AND ASSUMING THE WEST LINE OF THE NW ¼ NE ¼ OF SECTION 11 TO BEAR DUE NORTH-SOUTH; THENCE SOUTH A DISTANCE OF 1143.48 FEET; THENCE N 89°08'23" E A DISTANCE OF 421.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 89°08'23" E A DISTANCE OF 90.00 FEET TO THE NORTHERLY PROJECTION OF THE WEST LINE OF 16<sup>TH</sup> STREET IN THE VILLAGE OF FORT CALHOUN; THENCE SOUTHERLY ALONG SAID NORTHERLY PROJECTION OF A DISTANCE OF 291.72 FEET; THENCE S 89°08'23" W A DISTANCE OF 90.00 FEET; THENCE NORTH 0°21'26" W A DISTANCE OF 291.72 FEET TO THE POINT OF BEGINNING, LYING IN THE W ½ NE ¼ OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6<sup>TH</sup> P.M., WASHINGTON COUNTY, NEBRASKA AND CONTAINING 0.60 ACRE, MORE OR LESS.

With members Nelson, Genoways and Wilson voting "Aye"; Smith absent, motion carried. Third reading of the Ordinance will be at the regular Council meeting scheduled for October 19, 2009.

Council Member Genoways offered the following resolution and moved its adoption:

RESOLUTION NO. 2009 – 13

WHEREAS, the Mayor and City Council of the City of Fort Calhoun, Nebraska have adopted Ordinances addressing sidewalk construction within the City Limits of the City of Fort Calhoun, Nebraska; and,

WHEREAS, DUANUE SPRICK, an unremarried widower, is owner of the following described real estate, to-wit:

South 100' of Lots Seven (7) and Eight (8), all in Block Twenty (20), Original City of Fort Calhoun, Washington County, Nebraska, a/k/a

208 North 14<sup>th</sup> Street, Fort Calhoun, Nebraska

## City of Fort Calhoun

which said owner is involved in new construction and which does need sidewalks placed on the same pursuant to the City's Subdivision Regulations; and

WHEREAS, the said owner has failed to construct the required sidewalks along Adams Street; and

WHEREAS, Section 5-302 of the City Ordinances provides that the City may by Resolution order the construction of a sidewalk on any lot or piece of ground within the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FORT CALHOUN, NEBRASKA:

1. DUANE SPRICK, an unremarried widower, is hereby ORDERED to construct the necessary sidewalk along Adams Street in the City of Fort Calhoun, Nebraska for the above described real estate.

2. The City Council of the City of Fort Calhoun, Nebraska intends to construct the required sidewalk and NOTICE by publication shall be given by the City Clerk one (1) time in a legal newspaper of general circulation in the City of such intent.

3. A copy of said NOTICE shall be personally served upon DUANE SPRICK, the owner and occupant in possession of the above described real estate, or when personal service is not possible, said NOTICE shall be sent by first class mail to such premises ten (10) days prior to the commencement of construction.

4. The NOTICE shall be prepared by the City Attorney and the NOTICE shall contain the following:

- (A) Notice to said owner of the passage of this Resolution ordering him to construct or cause to be constructed a sidewalk required by the City's Subdivision Code within thirty (30) days after the date of publication.
- (B) That if the owner fails to construct the sidewalk or cause the same to be done within the time allowed, the City WILL CAUSE the sidewalk to be constructed and the cost thereof be levied and assessed as a special tax against the premises.
- (C) The NOTICE shall contain the official estimate of the cost of said construction and no special assessment in excess of the estimate shall be assessed against the above described premises.
- (D) All Restitutions or parts of Resolutions in conflict herewith are hereby repealed.

PASSED AND APPROVED September 21, 2009

CITY OF FORT CALHOUN, NEBRASKA  
Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk

Council Member Nelson seconded the motion. The Mayor stated the question "Shall Resolution No. 2009-13 be passed and adopted?" Upon roll call, the following voted AYE: Genoways and Nelson. ABSENT: Smith. The following voted NO: Wilson. The passage and adoption of said Resolution having been concurred by a majority of all the members of the City Council present and not the majority of all of the members elected as required, the Resolution will be considered again at the regular Council meeting scheduled for October 19, 2009.

Member Genoways made a motion seconded by Member Wilson to approve the bid from Bob Gloden, \$3,250.00 for concrete and storm sewer drop repairs at 10<sup>th</sup> and Madison Street. With members Genoways, Wilson and Nelson voting "Aye"; Smith absent, motion carried.

Departmental Reports:

Member Wilson, as Water Commissioner reported on various aspects in the water department: he is currently reviewing the Municipal Code, fees and current forms; working with maintenance on a plan to replace registers in faulty and old meters; working with the Sensus and Data Technology CSR's to resolve problems with the interface software, all in preparation for the new handheld and the pending conversion.

Maintenance Supervisor Becker was not present. Council stressed the need for monthly reports and attendance at meetings by department heads.

Public Comments:

None

Member Nelson made a motion seconded by Member Genoways to adjourn. With all members voting "Aye", the meeting adjourned at 9:50 p.m.

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Paul L. Oestmann, Mayor

ATTEST:

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Linda Welsher, CMC, City Clerk