

City of Fort Calhoun

October 19, 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 October 19, 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 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 September 21, 2009 minutes as published. With members, Wilson, Nelson, Genoways and Smith 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 Smith made a motion seconded by Member Genoways to approve the following bills for payment:

OPPD, 2,894.80, ult; MUD, 128.20, ult; Papio M-R NRD, 5,005.85, water; USDA-Rural Development, 7,914.38, int; Abe's Trash, 97.60, ser; Am. Broadband, 426.81, utl; Baird Holm, 1,250.00, fee; Bi-States, 175.20, sup; Blue Cross, 1,811.60, ins; Bomgaars, 457.34, sup; Calhoun Oil, 1,077.27, fuel; City of Blair, 3,624.07, ser; Country Tire, 637.53, sup; Data Tech, 3,331.09, Lic & support; Lottery Tax, 846.55; Egr, James, 2,677.50, ser; Enterprise, 579.71, pub; G. Maine, 70.00; Great Plains One-Call, 63.09, fee; R. Gloden, 3,250.00, ser; HD Waterworks, 4,401.46; Max I. Walkers, 140.00, ser; Maid/USA, 120.00, ser; NMCA, 25.00 dues; NE Dept Rev., 2,426.48, sales tax; NE Pub Health, 800.00, test; PC Services, 116.00, ser; Pruitt, Inc, 63.06, sup; Postmaster, 177.92, sup; Quill, 136.62, sup; Reliable Consulting, 1,376.58, trees; Schemmers, 3,421.00, fee; Smithers, 1,215.00, sup & ser; Solution One, 57.92, sup; Sprint/NEXTEL, 132.97, ser; TSI Mechanical, 1,375.00, ser; P. Welchert, 2,100.00, ser; L. Welsher, 53.57, sup & mileage; Washington County Sheriff, 5,534.27, contract; September Payroll, 14,798.06. With members Smith, Genoways, Wilson and Nelson voting "Aye"; motion carried.

Washington County Sheriff Report – September Report provided.

Member Nelson made a motion seconded by Member Genoways to accept the October 5, 2009 Planning Commission minutes as presented. With Member Wilson commenting on information concerning residential use in Town Center, on page 6-4, (e) of the Zoning Chapter, then members Genoways, Wilson, Nelson and Smith voted "Aye", motion carried.

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There was no action on Item 5.1, Comprehensive Plan Maps. Maps were sent back to staff and the Planning Commission for additional corrections.

Member Genoways made a motion seconded by Member Smith to accept the October 8, 2009 Park Board Minutes as presented. With members Nelson, Smith, Genoways and Wilson voting "Aye", 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 as per the previous bid– the matter was sent back to the Park Board and Mr. Therkildsen for additional review and recommendations.

The Park Boards two recommendations for connecting the Pioneer Park Trail and the Fort Calhoun Trail were discussed. Member Smith made a motion seconded by Member Genoways to forward recommendations to the city engineer, then; Member Smith amended the motion to include looking into connecting the upper and lower loops of the Pioneer Park Trail with the connection as well. Member Wilson made a second amending motion to drop option one, motion failed due to the lack of a second. Following further discussion, members Smith, Genoways, Wilson and Nelson voting "Aye", motion approved the connection amendment and the concepts will be forwarded to the engineer for recommendations.

A thank you note from the Fort Calhoun Community Schools was acknowledged for use and the excellent maintenance of the softball field.

Sally Harvey, CEO and Dan Schonlau, CFO of Memorial Community Hospital postponed there presentation until the regular Council meeting scheduled for November 16, 2009.

City Attorney Egr reported on the status of pending legal matters. The draft of the Ordinance to revise Sections 5-302 through 5-306 of the Municipal Code on sidewalks was then reviewed and discussed. By consensus the city attorney was directed to include suggested modifications discussed and the Ordinance will be considered at the regular Council meeting scheduled for November 16, 2009.

City Engineer Woracek provided As-Built drawings of the Waste Water Conveyance Project and reported the drawings for the Welchert/Knight Public Improvements should be delivered soon.

Member Nelson made a motion seconded by Member Genoways to approve the Professional Service Agreement with Schemmer to begin work on the specifications for the WWTF Demolition and the Water Extension to the Wastewater Conveyance Pumping Station. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the proposal from Chris Solberg, AICP, Planner with Schemmer to prepare a Community Housing Assessment, required for the application for certification with the Nebraska Department of Economic Development, for \$8,400.00, and the use of Keno funds for the fee. Following discussion, statements from the city attorney and questions from Jeanne Knight and Jeri Welchert, members Smith, Genoways, Wilson and Nelson voted "Aye", motion carried.

Member Genoways made a motion seconded by Member Smith to approve the concept of an Industrial Site Plan for city owned property to be included in the application for certification with the Nebraska Department of Economic Development. Following questions by the public, members Genoways, Wilson, Nelson and Smith voted "Aye", motion carried.

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Member Genoways stated that Paula Hazelwood, Executive Director of Gateway Development Corporation is continuing to work with local property owners to possibly be included in the application, as well.

The Mayor stated that the next agenda item was the consideration of adjustments, if any, to the proposed 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, and consideration of a resolution levying special assessments against benefited properties in the said Districts. The Mayor further declared that at the meeting of the Mayor and City Council held commencing at 7:30 p.m., Monday, September 21, 2009, at such meeting in accordance with published notice calling out a time and date of 8:00 p.m., September 21, 2009, for such hearing, after the hour of 8:00 p.m. at said meeting, the Mayor and City Council conducted a hearing relative to the levy of proposed 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 further declared that in accordance with the finding in the minutes of the September 21, 2009 meeting, no written objections had been filed, but that certain persons representing themselves or representing persons affected by the proposed levy of special assessments appeared and made objections or comments, all as found in the minutes of the September 21, 2009 meeting and hearing, and that after all persons wishing to be heard had been heard, the Mayor had declared the hearing closed. The consideration of a resolution levying 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 had by action of the Mayor and City Council on September 21, 2009, been continued until this meeting.

After having fully considered the objections and the adjustment and equalizing of assessments relative to said Districts, Council member Wilson moved that the proposed special assessments as prepared by Schemmer, the City's Engineers, be adjusted as follows:

In Lot 4, Block 57, the special assessment for sanitary sewer be adjusted from \$1,073.95 to \$00.00 and the special assessment for water be adjusted from \$1,142.10 to \$00.00;

In Lot 5, Block 57, the special assessment for sanitary sewer be adjusted from \$1,073.95 to \$00.00 and the special assessment for water be adjusted from \$1,142.10 to \$00.00;

In Lot 6, Block 57, the special assessment for sanitary sewer be adjusted from \$1,315.68 to \$00.00 and the special assessment for water be adjusted from \$1,399.18 to \$00.00;

In Lot 12, Block 72, the special assessment for sanitary sewer be adjusted from \$3,210.18 to \$00.00 and the special assessment for water be adjusted from \$3,413.89 to \$00.00;

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In Block 72, ½ of the vacated alley, the special assessment for sanitary sewer be adjusted from \$170.25 to \$00.00 and the special assessment for water be adjusted from \$181.04 to \$00.00;

Motion seconded by Council member Smith.

The Mayor stated the motion and after limited discussion, upon roll call vote, the following voted "Aye": Wilson, Nelson and Smith. The following "Nay": Genoways. Absent: none. The Mayor thereupon declared the motion carried.

Council member Genoways moved that the special assessments in each of the Districts which were the subject of the forgoing hearing, be payable in 10 installments and that the interest rate for the improvements in be set at a rate of 6.00% which rate is approximately 2% over the City's estimated borrowing cost of 4.00% for the issuance of its bonds, which were issued and dated September 15, 2009, such differential providing for the City's administration and processing of collection of said special assessments. Motion seconded by Council member Nelson. The Mayor stated the motion and after discussion, upon roll call vote, the following voted "Aye": Wilson, Nelson, Smith and Genoways. The following "Nay": None. Absent: None. The Mayor thereupon declared the motion carried.

Council member Genoways then moved the passage and adoption of the following resolution, which was presented by the City Clerk. Motion seconded by Council member Nelson. Upon roll call vote, the following voted "Aye": Nelson, Smith, Genoways and Wilson. The following voted "Nay": None. Absent: None. The Mayor thereupon declared the motion carried.

RESOLUTION NO. 2009 -12

RESOLUTION MAKING ASSESSMENTS IN STREET IMPROVEMENT DISTRICT NO. 2006-2; IN SANITARY SEWER EXTENSION DISTRICT NO. 2006-2; AND, IN WATER EXTENSION DISTRICT NO. 2006-2. IN THE CITY OF FORT CALHOUN, NEBRASKA.

WHEREAS, Notice has been published as provided by law concerning 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, in the Enterprise Newspaper on August 28, 2009, September 4, 2009, September 11, 2009 and September 18, 2009, and a copy of said Notice has been mailed to all resident and non-resident owners of property in said Districts as provided by law, and

WHEREAS, a hearing has been conducted on the 21st day of September, 2009, as provided by law relative to the levy of special assessments in said Districts proposed to be levied

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against said lots and parcels of ground on account of the construction of the improvements hereinbefore described; and all persons appearing at said hearing wishing to heard were heard;

NOW THEREFORE BE IT RESOLVED, that the special assessments are adjusted as follows:

In Lot 4, Block 57, the special assessment for sanitary sewer be adjusted from \$1,073.95 to \$00.00 and the special assessment for water be adjusted from \$1,142.10 to \$00.00;

In Lot 5, Block 57, the special assessment for sanitary sewer be adjusted from \$1,073.95 to \$00.00 and the special assessment for water be adjusted from \$1,142.10 to \$00.00;

In Lot 6, Block 57, the special assessment for sanitary sewer be adjusted from \$1,315.68 to \$00.00 and the special assessment for water be adjusted from \$1,399.18 to \$00.00;

In Lot 12, Block 72, the special assessment for sanitary sewer be adjusted from \$3,210.18 to \$00.00 and the special assessment for water be adjusted from \$3,413.89 to \$00.00;

In Block 72, ½ of the vacated alley, the special assessment for sanitary sewer be adjusted from \$170.25 to \$00.00 and the special assessment for water be adjusted from \$181.04 to \$00.00;

BE IT FURTHER RESOLVED, that the said assessments against said lots, parts of lots and parcels of land are hereby declared to be in proportion to the special benefits conferred upon said property by said improvements and not in excess of such benefits or of the cost of the improvements;

BE IT FURTHER RESOLVED, that all special assessments above provided for shall become due in fifty (50) days after the date of the passage of this resolution and may be paid within that time without interest, but if not so paid, 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 shall bear interest thereafter at the rate of Six per centum (6.00%) per annum from the date of this resolution until delinquent. Such assessments shall become delinquent as follows:

One tenth of the total amount shall become delinquent fifty days after such levy; one tenth in one year; one tenth in two years; one tenth in three years; one tenth in four years; one tenth in five years; one tenth in six years; one tenth in seven years; one tenth in eight years and one tenth in nine years.

Delinquent installments shall bear interest at the rate provided by law until paid and shall be collected in the usual manner for the collection of taxes. Installments may be prepaid at anytime at the option of the property owner as provided by law.

AND BE IT FURTHER RESOLVED, that a certified copy of said assessment schedules, be filed by the City Clerk/Treasurer and with the County Treasurer and the County Clerk of Washington County, Nebraska as provided by law for entry on the proper tax rolls.

PASSED this 19th day of October 2009.

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Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk

Member Genoways made a motion seconded by Member Smith to approve the third and final reading and passage 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 16TH 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 6TH P.M., WASHINGTON COUNTY, NEBRASKA AND CONTAINING 0.60 ACRE, MORE OR LESS.

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

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, DUANE 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 14th Street, Fort Calhoun, Nebraska

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

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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 October 19, 2009

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

ATTEST:

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Linda Welsher, CMC, City Clerk

Council Member Nelson seconded the motion. Following comments by Member Wilson, the Mayor stated the question "Shall Resolution No. 2009-13 be passed and adopted?" Upon roll call, the following voted "Aye": Smith, Genoways and Nelson; Nay": Wilson. Absent: None. The Mayor thereupon declared the motion carried.

Member Smith made a motion seconded by Member Genoways to approve the proposed 100' x 400' fence on the north side of the Wastewater Pumping Station property for tree branch and brush disposal, stating Keno Funds be used for the cost of \$8,695.80. Following comments by Maintenance Supervisor Becker and City Engineer, Ron Woracek concerning drainage of the area, members Wilson, Nelson, Smith and Genoways voted "Aye", motion carried.

Member Genoways made a motion seconded by Member Nelson to approve the bid from TSI Mechanical, \$3,320.00 to install water meters in City Hall, the City Shop, the West Market Square restroom building and at the Pioneer Park restroom building. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

Member Genoways made a motion seconded by Member Smith to approve the bid from Bob Gloden, to remove and repair concrete at the headwall over the Urban Drainageway on Monroe Street, both amending the motion for the cost amount not to exceed \$2,000.00 and to not exceed 30 days from start for the completion. With members Smith, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Nelson made a motion seconded by Member Smith to approve the renewal of the Annual Service Agreement for the Water Tower with Corrpro for \$835.00. With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Mayor Oestmann acknowledged Rural Fire District Board Members, Monte Tjelmeland, Larry Kusek and Mitch Robinson, recommending a work meeting be arranged with two city council members and two rural board members to review and discuss possible amendment to the May 1999 Merger Agreement. Mr. Tjelmeland will forward possible dates for the work meeting to the clerk.

Departmental Reports: No Comments other than Sensus/HD Waterworks representatives were working with staff today on the upgrade to the new water meter read hand held and software.

Reminders were announced for the Green Gable Contracting Open House, 10/20/09 at 10:00 a.m., the Martin Marietta Materials – Fort Calhoun Quarry Open House, 10/20/09, 1:00 p.m. to 6:00 p.m. and the Three Rivers Clerks Mayor and Council Forum on November 5 in Fremont.

Public Comments:

Sam Ruma asked questions concerning View Point Park and purchased but un-built lots in the city; Jolene McGowan also offered comments during the discussion. City Attorney Egr brought attention back to the proposed ordinance currently being developed, that will be considered at the regular Council meeting scheduled for November 16, 2009.

Member Genoways made a motion seconded by Member Wilson to go into closed session to discuss annual employee evaluations, pay reviews and pending legal matters. With members Nelson, Smith, Genoways and Wilson voting "Aye", motion carried.

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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 annual employee evaluations, pay reviews and pending legal matters, Mayor Oestmann declared the meeting in closed session at 9:50 p.m.

The Council returned to open session at 10:30 p.m.

Member Smith made a motion seconded by Member Genoways to approve pay raises of 2% to 3 % for staff based on annual performance review ratings. With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

Member Nelson made a motion seconded by Member Genoways to adjourn. With all members voting "Aye", the meeting adjourned at 10:35 p.m.

Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk