

City of Fort Calhoun

November 16, 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 November 16, 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. A list of known attendees is attached to these minutes on a separate page.

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 October 19, 2009 minutes as published. With members, Wilson, Nelson, Genoways and Smith 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, Allowing for adjustment when other regular monthly bills are received:

OPPD, 2,666.93, ult & 226.45 ser; MUD, 249.32, ult; Papio M-R NRD, 4,914.35, water; Abe's Trash, 98.00, ser; Advance Auto, 119.16, sup; Am. Broadband, 427.45, utl; Bennington Implement, 1,465.00, rental; Bi-States, 301.60, sup; Blue Cross, 1,811.60, ins; Bomgaars, 715.69, sup; Boyle Hess, 170.00, audit; Calhoun Oil, 791.85, fuel; City of Blair, 3,624.07, ser; Data Tech, 49.41, sup; Egr, James, 573.75, ser; Enterprise, 265.71, pub; Gateway Development, 1,100.00, membership; Great Plains Communications, 264.95, ser; Great Plains One-Call, 38.49, fee; R. Gloden, 2,000.00, ser; Henton Trenching, 443.90, ser; HD Waterworks, 5,723.82; Home Depot, 328.00, sup; Jay's Lawns, 450.00, ser; Liberty Mutual, 200.00, Ins; Max I. Walkers, 140.00, ser; Maid/USA, 120.00, ser; NE Dept Rev., 2,005.37, sales tax; NE Pub Health, 438.00, test; PC Services, 116.00, ser;; Postmaster, 108.64, sup; Quill, 158.74, sup; Reyzlik Ace HW, 16.91, sup; Solution One, 71.15, sup; Sprint/NEXTEL, 132.39, ser; Team Visa, 39.83, postage; Tri-County Grading, 500.00, rental; J. Boyd, 21.78, sup; J. Ruma, 58.82, sup; Washington County Bank, 8,998.57, equip; Washington County Sheriff, 5,534.27, contract; Washington County Treasurer, 900.00, road mix; Washington County Reg/Deeds, 15.50, fee; Washington County Clerk/District Court, 134.90; October Payroll, 14,345.12. With members Smith, Genoways, Wilson and Nelson voting "Aye"; motion carried.

Washington County Sheriff Report – No report/No questions; Member Smith mentioned the recent County Traffic Count on US Hwy 75, going south, report pending.

Member Genoways made a motion seconded by Member Nelson to accept the November 2, 2009 Planning Commission minutes as presented. With members Genoways, Wilson, Nelson and Smith voted "Aye", motion carried.

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Member Genoways made a motion to approve the proposed Substandard Housing Inspection Form, motion failed due to the lack of a second.

Member Wilson made a motion seconded by Member Genoways to send the Substandard Housing Inspection Form back to the Planning Commission with suggested revisions to the definitions. With members, Wilson, Nelson, Smith and Genoways voting "Aye," motion carried.

At a Special Park Board Meeting at 6:45 p.m. tonight, the Park Board reviewed two bids for the proposed corrections to the View Point Park walkway. Member Smith reported the Park Board recommended the City Council decide on the proposed corrections. Member Smith made a motion seconded by Member Nelson to leave the walkway as it is, and post appropriate signage concerning the ADA compliance until future park development. Following a lengthy discussion, members Smith and Nelson voted "Aye" and members Genoways and Wilson voted "No"; Mayor Oestmann voted "No" to break the tie, motion failed.

Member Wilson made a motion to direct the city maintenance department tear out the existing walkway and seed the area and address the walkway when the park is developed in the future. Following comments by the public, motion failed due to the lack of a second.

Member Smith made a motion seconded by Member Nelson to have the city attorney check into proper signage, the legalities and liabilities of such signs referring to the non-compliance until further development of View Point Park. Following additional public comments and questions, members Genoways, Wilson, Nelson and Smith voted "Aye", motion carried.

Member Nelson made a motion seconded by Member Genoways to accept the Enhancement Committee November 2, 2009 Minutes as published. With members Smith, Genoways, Wilson and Nelson voting "Aye", motion carried.

Follow discussion with Committee Members concerning the items listed in the Enhancement Committee Minutes and suggestions from the public, members were encouraged to continue working on the various projects, keeping in mind various regulations that may apply.

Sally Harvey, CEO and Dan Schonlau, CFO of Memorial Community Hospital postponed their presentation to a future, yet undetermined date.

Senator Scott Lautenbaugh, District 18 Representative to the Nebraska Legislature introduced himself and gave a brief summary of the current 2009 Special Session called by Governor Heineman and the projected deficit in the State's Budget for 2010 – 2011. The Senator remained for public questions after the meeting.

Mayor Oestmann stated "If there is no objection, we will change the order of the agenda, to better accommodate the public in attendance." Asking if there were any objections to changing the order of business, hearing none, the order was changed as follows:

Member Smith made a motion seconded by Member Genoways to approve the SDL request from Dan Mussack representing the Blair Cosmopolitan Club, for the 11th Annual Wild Game Feed, scheduled for Friday, February 5, 2010 at Schwertley Hall. With members Genoways, Wilson, Nelson and Smith voting "Aye", motion carried.

The meeting returned to the remaining agenda.

City Attorney Egr reported on the status of pending legal matters and requested a closed session to discuss a pending Special Assessment Intent to Appeal.

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City Engineer Woracek reported plans for the demolition and extension of the water main to the waste water pumping station will be ready for bid letting soon, bids could be considered in either in December or January. Public comments and questions were heard and acknowledged.

Member Genoways reported the Housing Assessment is underway and that there was nothing new to report on the Economic Development Application for Certification at this time.

Member Genoways made a motion seconded by Member Nelson to introduce Ordinance No. 630 entitled:

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND 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.

Carrie Halford addressed the Mayor and Council concerning the proposed Ordinance and stated a petition was started to deny the City the authority to order sidewalk construction.

Following a lengthy discussion between Council Members, the public (see attached list) and City Attorney Jim Egr; Carrie Halford withdrew the petition apposing the proposed ordinance following the attorney's comments on State Law requirements for petitions; a limited review of existing city code and highlights of what the proposed Ordinance is attempting to clarify. A corrected and revised petition is expected.

Mayor Oestmann asked for a roll call vote, with members Wilson, Nelson, Smith and Genoways voting "Aye", motion carried for the introduction of Ordinance No. 630.

Member Wilson made a motion seconded by Member Smith to amend Ordinance No. 630, Section 9, adding SECTION 5-603.03 SIDEWALKS; IMPROVEMENTS; ASSESSMENTS; HOW MADE; COLLECTION, moving and making said section – SECTION 5-302, with all other section numbers to be adjusted accordingly. Following discussion, members Genoways and Nelson voting "No" and members Wilson and Smith voting "Aye", Mayor Oestmann broke the tie with a "No" vote, stating no need to amend.

Member Wilson made a motion to amend SECTION 5-302 to read: Whenever the City Council shall deem it necessary that a new sidewalk should be constructed in front of any lot or piece of ground in the City in a place where there is no sidewalk, it shall so order the same by Resolution. The City shall not require the construction of partial or dead end sidewalks. All sidewalks required by the City Council Resolution will form complete connections between existing sidewalks, streets or park entrances. The Street Commissioner or designee approved by the City Council shall thereupon notify the owner of such lot or piece of ground of his/her agent of the work or improvements to be done and such owner or person so notified shall be allowed THIRTY (30) days

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from the date of said notice in which to construct the same. (Ref. Neb. Rev. Stat. Section 17-509).”
Motion failed due to the lack of a second.

Member Wilson made a motion to amend Ordinance No. 630 to add an additional Section which would include the following: Sidewalks are to be ordered by Resolution in accordance with an approved sidewalk improvement plan. Following discussion, motion failed due to the lack of a second.

The second reading and consideration of Ordinance No. 630 will be at the regular Council meeting scheduled for December 21, 2009.

Member Wilson made a motion seconded by Member Genoways to advertise for sealed bid to sell the following excess equipment: 1996 Crown Victoria, 1981 Ford F150 pick-up and the 1970 John Deere backhoe, using the reserve scrape value as the base bid. With members Wilson, Nelson, Smith and Genoways voting “Aye”, motion carried.

Departmental Reports: Direction to city clerk to send letters to the churches concerning water meter installation and sewer use fee requirements.

Public Comments: Carrie Halford thanked the Council Members for listening and discussing the public concerns.

Member Smith made a motion seconded by Member Genoways to go into closed session to discuss pending legal matters. 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 legal matters, Mayor Oestmann declared the meeting in closed session at 9:40 p.m.

The Council returned to open session at 10:03 p.m.

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

Paul L. Oestmann, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk

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Known Attendees as noted and recorded by the Clerk, November 16, 2009:

1. Patty Appel
2. Doug Appel
3. Jolene McGowan
4. Betty Johnson
5. Dawn Bradburn
6. Timothy Oelke
7. Herschel Nelson
8. Tammy Sill
9. Jeri Sill Welchert
10. Ralph Givens
11. Rozanne Mickey
12. Carrie Halford
13. Rosemary Therkildsen
14. Deb Kruger
15. Kelly Bochnicek
16. Le Grande Miller
17. Liz Welsh
18. Stanley Gage
19. Sam Ruma
20. Joy Ruma
21. Agnes Smith
22. Mark Stephens
23. Ron Penas
24. Dan Naughton
25. Sue Newman
26. Duane Sprick
27. Stuart Sprick
28. Davey Jensen
29. Mitch Robinson
30. Sheriff Mike Robinson
31. Doris Smith
32. Stephen "Reed" Smith
33. Erwin Siegler
34. Edith Siegler
35. Rich Tegels
36. Kelly Tegels
37. Rose Silvus
38. Judy Boyd
39. D. Kruger
40. David Miller
41. Jeanne Knight
42. Curt Shull

Other Attendees:

Dan Mussack – Blair Cosmopolitan Club
Ron Woracek, Schemmer – City Engineer
Steve Becker, City – Maintenance Supervisor
Joe Burns, Enterprise Publishing – Reporter
James Egr, Egr & Birkel – City Attorney

Note: there may have been others present, either unknown and/or unseen by clerk.