

City of Fort Calhoun

February 16, 2015

The regular meeting of the City Council of the City of Fort Calhoun, Nebraska, was held in open and public session at 7:00 o'clock p.m., on Monday, February 16, 2015 in the City Council Chambers/Library at the City Hall in Fort Calhoun, Nebraska.

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.

Mayor Robinson 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.

Mayor Robinson stated persons wishing to address the Governing Body on an agenda item shall wait to be identified by the Presiding Officer; then, after stating their name and address for the record, may proceed to speak. No person, other than the Council and the person having the floor will be permitted to enter into any discussion without the permission of the Presiding Officer. Remarks shall be limited to five minutes unless extended or limited and repetitive or cumulative remarks may be limited or excluded by the Presiding Officer.

On roll call, the following Council Members answered present: Randy Magill, Bob Prieksat, Dave Romans and Nick Schuler.

With a quorum present, Mayor presided and the Clerk recorded the proceedings.

Member Magill made a motion seconded by Member Romans to approve the January 19, 2015 minutes as corrected. Member Romans pointed out a correction needed on page 4. With members Prieksat, Romans, Schuler and Magill voting "Aye", motion carried.

Member Romans made a motion seconded by Member Magill to accept the Treasurer's Report as presented. With members Romans, Schuler, Magill and Prieksat voting "Aye", motion carried.

Member Romans made a motion seconded by Member Magill to approve the following bills for payment:

OPPD, 3,083.01, utl; MUD, 345.57, utl; Papio M-R NRD, 5,921.11, water; Abe's Trash, 41.12, ser; Am. Broadband, 510.77, utl; Badger Body, 371.17, rpr; Blue Cross Blue Shield, 1,917.08, hlth ins; Bomgaars, 18.56, sup; Brodkey, Peebles, Belmont, 1,470.00, ser; Chase Bank/DTCC, 1,317.50, bond int; City of Blair, 2,172.23, ser; Conoco Fleet, 357.76, fuel; Data Tech, 50.00, ser; Electric Pump, 428.54, ser/equip; Enterprise Publishing, 305.50, pub; Fastenall, 55.36, sup; Great Plains

Communications, 14.95, ser; HD Supply Water, 3,860.00 + shp/tax; JD Financial, 239.82, sup; JEO Consulting, 5,261.50, ser; JP Cooke, 42.70, sup; Jensen Lawn, 67.50, ser; LNM-Utilities, 120.00, trng; Maid/USA, 120.00, ser; Marvin Planning, 540.00, ser: NE Dept. Rev., 2,264.80, sales tax; NE Pub Health, 15.00, test; NeRWA, 150.00, fee; One Call Concepts, 9.60, ser; PCS, 116.00, ser; Postmaster, 147.56; Quality Pest, 60.00, ser; Quill, 222.34, sup; Reyzlik Ace HW, 13.95, sup; SimplexGrinnell, 144.00, ser; SolutionOne, 70.44, sup; Sprint, 48.48, ser; Talbot/Truhlsen, 1,330.00, ser; VISA (Two Rivers), 412.23, postage, trng, sup; Wash. Co. Sheriff, 5,428.86, contract; Wash. Co. Treas., 140.00, sup; G. Conradson, 180.00, ser; R. Therkildsen, 14.70, sup; January Payroll, 14,545.61. With members Schuler, Magill, Prieksat and Romans voting "Aye", motion carried.

The Washington County Sheriff's Office statistics for December 2014 and January 2015 were accepted unanimously.

Member Romans made a motion seconded by Member Magill to accept the February 2, 2015 Planning Commission minutes as presented. With members Prieksat, Romans, Schuler and Magill voting "Aye", motion carried.

Member Magill made a motion seconded by Member Romans to accept the February 2, 2015 Enhancement Committee minutes as presented. With members Romans, Schuler, Magill and Prieksat voting "Aye", motion carried.

Member Romans made a motion seconded by Member Magill to accept the February 10, 2015 Christmas in Calhoun Minutes as presented. With members Schuler, Magill, Prieksat and Romans voting "Aye", motion carried.

There was no quorum for the February 5, 2015 regularly scheduled Park Board meeting.

The maintenance report was placed on file; Member Romans mentioned a private sewer line to be noted in the Adams Street R.O.W.

The Maintenance Building Committee had no report.

At 7:12 p.m., Mayor Robinson 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 request for a Class C – Beer, Wine, Distilled Spirits, On and Off Sales (inside corporate limits) License Application for Skyz the Limit LLC, dba The Rustic, 116 South 14th Street, Fort Calhoun, Washington County, Nebraska. With no written comments received and the clerk clarifying this is a name change for the LLC, and required by NLCC Regulations, Mayor Robinson closed the public hearing at 7:13 p.m.

At 7:13 p.m., Mayor Robinson 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 adoption of the 2015 – 2020 "One and Six" Year Plan for Street Improvements in the city. With no written or public comments, Mayor Robinson closed the public hearing at 7:14 p.m.

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Mayor Robinson introduced a letter from Robert Ward, Robert Evans, Marguerite Crowe and Anthony Bonacci, asking the council consider vacating the alley in Block 56 of Calhoun Company Addition due to structures, fences, etc. built throughout the alley space. None were present and there were no public comments.

Member Romans made a motion seconded by Member Magill to approve the request from Skyz the Limit LLC, dba The Rustic, 116 South 14th Street, for a Class C Liquor License. With members Magill, Prieksat, Romans and Schuler voting "Aye", motion carried, and approval will be forwarded to the Nebraska Liquor Control Commission.

City engineer, Lucas Billesbach, PE, JEO Consulting Group, Inc. presented the Bid Tabulations and gave recommendation to award the low bidder, Cedar Construction Company, \$487,138.60 for the STR-201 – 2015 Asphalt Overlays (JEO Project No. 131216.04) - 2015 Street Improvements scheduled in July. Member Romans asked about the anticipated concrete work and Member Magill asked for verification that the storm sewers were being done along Monroe Street. The city engineer confirmed the bid included the work as presented at previous meetings, including the storm sewers on Monroe Street.

Reconsideration of the change for the employee health insurance benefit was presented with a proposal from Federated Insurance Plan 1412 QHDP-Gold, which is similar to the previous plan presented in December. The premium is comparable with the current BCBS premium and actually less than the previously proposed policy, with slight differences in the deductible and maximum out-of-pocket expenses. Member Magill made a motion seconded by Member Romans to approve the change to Federated Insurance for the employee's health insurance benefit, with HSA contributions for out of pocket expenses for qualified employees. With members Prieksat, Schuler, Magill and Romans voting "Aye", motion carried.

The Board of Adjustment and the vacant Park Board term appointments were tabled to the March meeting.

Member Romans introduced **Resolution No. 2015-2** and moved for its passage and adoption. Motion seconded by Member Magill. On roll call the following voted "Aye": Schuler, Magill, Prieksat and Romans. The passage and adoption of said Resolution having been concurred by a majority of all members of the Council, the Mayor declared the Resolution adopted and the Mayor, in the presence of the Council, signed and approved the Resolution and the Clerk attested the passage and approval of the same and affixed her signature thereto.

A true and complete copy of the said Resolution is as follows:

RESOLUTION NO. 2015 - 2

"WHEREAS, the City Street Superintendent has prepared and presented a One Year and Six Year Plan for Street Improvement Program for the City of Fort Calhoun, and

WHEREAS, a public meeting was held on the 16th day of February 2015, to present this plan and there were no objections to said plan;

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THEREFORE, BE IT RESOLVED BY THE Mayor and City Council of the City of Fort Calhoun, Nebraska, that the plans and data as furnished are hereby in all things accepted and adopted.”

BE IT FURTHER RESOLVED THAT A CERTIFIED COPY OF SAID PLAN BE FILED WITH THE BOARD OF PUBLIC ROADS CLASSIFICATIONS AND STANDARDS, STATE OF NEBRASKA.

ADOPTED THIS 16th DAY OF FEBRUARY 2015

CITY OF FORT CALHOUN, NEBRASKA

ATTEST:

Mitch Robinson, Mayor

Linda Welsher, CMC, City Clerk

Member Romans introduced **Resolution No. 2015-3** and moved for its passage and adoption. Motion seconded by Member Prieksat. On roll call the following voted “Aye”: Magill, Prieksat, Romans and Schuler. The passage and adoption of said Resolution having been concurred by a majority of all members of the Council, the Mayor declared the Resolution adopted and the Mayor, in the presence of the Council, signed and approved the Resolution and the Clerk attested the passage and approval of the same and affixed her signature thereto.

A true and complete copy of the said Resolution is as follows:

RESOLUTION NO. 2015 – 3

RESOLUTION OF THE MAYOR AND CITY COUNCIL ACCEPTING THE BID FOR THE CONSTRUCTION OF IMPROVEMENTS CONSISTING OF 2015 STREET IMPROVEMENTS (“SERIES 2015 STREET PROJECT”) IN THE CITY OF FORT CALHOUN, NEBRASKA.

BE IT RESOLVED, by the Mayor and City Council of the City of Fort Calhoun, Nebraska:

Section 1. That in accordance with plans, specifications, estimates of cost, and form of notice to contractors previously prepared by the City’s Engineers, JEO Consulting Group Inc., Wahoo, Nebraska, as filed in the office of the City Clerk, the City advertised for and received bids for the improvements to be constructed consisting of 2015 Street Improvements.

Section 2. That the Mayor and City Council further find and determine that the bid for the furnishing of labor, tools, materials and equipment required to construct improvements and such other work as may be incidental thereto for the said Series 2015 Street Project in the City of Fort Calhoun, Nebraska, as submitted by the following contractor is the lowest and best bid received as follows:

<u>Name and Address of Bidder</u>	<u>Amount of Bid</u>
Cedar Construction Co., Inc. 13901 “L” Street, Omaha, NE 68137	\$487,138.60

AND BE IT FURTHER RESOLVED, that the bid as above set forth, filed with the City Clerk in accordance with the terms of published notice calling for the proposals for furnishing of labor,

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tools, materials and equipment required to construct said improvements and such other work as may be incidental thereto in said Series 2015 Street Project in the City of Fort Calhoun, Nebraska, be and the same is hereby accepted.

Passed this 16th day of February, 2015.

CITY OF FORT CALHOUN, NEBRASKA

ATTEST:

Mitch Robinson, Mayor

Linda Welsher, CMC, City Clerk

Member Romans introduced **Resolution No. 2015-4** and moved for its passage and adoption. Motion seconded by Member Magill. Following comments by the mayor, on roll call the following voted "Aye": Romans, Schuler, Magill and Prieksat. The passage and adoption of said Resolution having been concurred by a majority of all members of the Council, the Mayor declared the Resolution adopted and the Mayor, in the presence of the Council, signed and approved the Resolution and the Clerk attested the passage and approval of the same and affixed her signature thereto.

A true and complete copy of the said Resolution is as follows:

RESOLUTION NO. 2015 - 4

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FORT CALHOUN, NEBRASKA THAT AN ENHANCEMENT COMMITTEE FOR THE CITY OF FORT CALHOUN BE CONTINUED WITH AMENDMENTS APPLICABLE TO THE CONTINUATION OF AN ENHANCEMENT COMMITTEE THAT WAS ORIGINALLY CREATED AND ORGANIZED BY RESOLUTION 2000-3 AND REVISED BY RESOLUTION 2009-16.

WHEREAS, it was found by the Mayor and City Council of the City of Fort Calhoun, Nebraska, in July 2000 the creation of a committee for the enhancement and beautification of the City of Fort Calhoun, Nebraska by voluntary participation to undertake activities designed to maintain and improve the habitability and appearance of the City and community, and

WHEREAS, it is apparent that there continues to be substantial interest among the residents of the community, to volunteer their time and efforts for work on the ad hoc committee formed for such purposes, and

WHEREAS, it is apparent the number of substantial improvements to the City of Fort Calhoun, Nebraska as well as the accomplishments of the volunteer efforts as an ad hoc committee formed for such purposes; Now Therefore:

BE IT RESOLVED AND PROCLAIMED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FORT CALHOUN, NEBRASKA, AS FOLLOWS:

SECTION ONE

CONTINUATION OF COMMITTEE

There is hereby continuation of an "Enhancement Committee" for the City of Fort Calhoun, Nebraska (hereafter, the "Committee"), which shall consist of a maximum of eight voting members, who shall be residents within the Fort Calhoun School District, or have other committed association to the community. The committee will make recommendations to the Mayor for appointees to the committee. The Mayor has the option of submitting the recommendation from the committee or submitting another name for approval from the Council. The primary purpose of the Committee shall be to maintain and improve the appearance of the City and community.

SECTION TWO

TERM

The term of each voting Committee member shall be for three (3) years. All members shall be eligible for reappointment.

SECTION THREE

ORGANIZATION

- (A) Membership. Members shall hold voting membership on the Committee during the term for which they were appointed, except that members may be removed by and at the pleasure of the authority which appointed them. Any vacancy on the Committee shall be promptly filled by the appointing authority. An appointment to fill a vacancy during an unexpired term shall be for the period of the unexpired term.
- (B) General Qualifications. Persons appointed to the Committee shall be persons who possess an understanding of territorial and state history, who have demonstrated interest in undertaking volunteer assignments on behalf of the City, and who are capable of planning, undertaking and completing specific tasks on behalf of the people of this community.
- (C) Conduct of Meetings: Chair persons. A chair and a vice-chair shall be elected annually by majority vote of the voting members of the Committee. In the event of a vacancy in office a chair or vice-chair caused by such matters as death, incapacity or unwillingness to serve, or resignation from office, a special election to replace such a chair or vice-chair shall be conducted as soon thereafter as possible. The chair, or in absence thereof, the vice-chair shall serve to chair all meetings, to pass upon all matters of parliamentary procedure, and in accordance with the Nebraska Open Meetings Act (Neb. Rev. Stat. Ch. 84, Art.14), and to serve as liaison with the City. The Chairperson shall appoint a Secretary to keep the minutes of all meetings.

- (D) Meetings, Notice and Voting. (1) Regular meetings of the Committee shall be held on the last Monday of each month at the Fort Calhoun City Hall or other designated and posted locations within the business district of the City, if needed. (2) Notice of meetings shall be posted in at city hall and at least two other locations within the city in accordance with the Nebraska Open Meetings Act (Neb. Rev. Stat. 84-1411). The agenda shall not be altered later than twenty-four hours before the scheduled meeting.
- (E) Compensation. Since the duties of the Committee partake of a high civic nature, its members shall serve without compensation, but shall be reimbursed their actual and necessary expenses as determined by the City Council.

SECTION FOUR

DUTIES AND POWERS

- (A) Except as specifically authorized by appropriate action of the Fort Calhoun City Council, neither the Committee nor any of its members shall have authority to bind the City to any contract, agreement or understanding of any kind, nor to assume any monetary obligation or indebtedness.
- (B) The members of this Committee are empowered to provide information to, and initiate formal proposals to the Committee (which, in turn, may recommend all or certain of such proposals to the Fort Calhoun Planning Commission and the Park Board), dealing with such matters as: regulating the planting and protection of shade trees and or other decorative vegetation in and upon the streets, sidewalks and parks of the City; the regulation and removal of obstructions from and upon the same; the regulation of weeds, certain grasses and other useless vegetation and litter upon and within the same; revision and upgrading of the Comprehensive Development Plan of the City, with emphasis upon the preservation, protection and enhancement of historic buildings, places, sites and districts.
- (C) It shall be the duty of each member of the Committee to participate with the other members in proposing, preparing and adopting a comprehensive plan for appropriate celebrations representative of the community's awareness of its heritage. Such plan shall include recommendations concerning facilities necessary to implement any program of celebration that is planned, and shall be submitted to the Fort Calhoun City Council.
- (D) The Committee, when directed by the City Council of this City, may coordinate and cooperate with national, regional, state and other local organizations, authorities and groups of similar purpose in the planning and promotion of commemorative events.
- (E) The Committee, when approved by the City Council of this City, if such contemplated action is lawful, generally and within the Internal Revenue Code, may engage in fundraising, including revenue-earning enterprises, activities, and solicitation of grants,

gifts and donations. All moneys or pledges of money so received shall be kept and maintained by the City in a fund and shall be invested and used solely for the purposes intended.

- (F) The Committee shall promote public education in the schools and generally to promote awareness concerning the Lewis and Clark expedition and other historic events which have occurred in this community.

DATED THIS 16th DAY OF FEBRUARY 2015

CITY OF FORT CALHOUN, NEBRASKA

Mitch Robinson, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk

Member Romans made recommendation to vacate only the east portion of Webster Street between Blocks 57 and 72 in the Calhoun City's Company Addition and introduced the following Ordinance entitled:

AN ORDINANCE TO VACATE WEBSTER STREET FROM THE 13TH STREET RIGHT-OF-WAY, THE 33' WIDTH ADJACENT TO LOTS 10, 11 AND 12 (PARCEL "A") AND THE 33' WIDTH ADJACENT TO LOTS 1 AND 2 (PARCEL "B") IN BLOCK 57 IN CALHOUN COMPANY'S ADDITION TO THE CITY OF FORT CALHOUN, WASHINGTON COUNTY, NEBRASKA, AS DEPICTED AND LEGALLY DESCRIBED UPON THE ATTACHED MAP, PLAT OR SURVEY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FORCE AND EFFECT.

The city attorney provided comments on what could be done with the west portion; Bridget Hammond, an adjacent property owner, had comments and concerns.

Council Member Romans moved that the statutory rule requiring an ordinance to be fully and distinctly read on three different days be suspended. Council Member Magill seconded the motion to suspend the rules and upon roll call vote, the following Council Members voted YEA: Schuler, Magill, Prieksat and Romans. The following voted NAY: None. Absent: none. The motion to suspend the rules was adopted by three-fourths of the members elected to the City Council and the statutory rule was declared suspended for consideration of said Ordinance.

Thereupon said **Ordinance No. 698** was then read by title and Council Member Romans moved for its final passage, which motion was seconded by Council Member Magill. The Mayor stated the question "Shall **Ordinance No. 698** be passed and adopted?" Upon roll call, the following voted YEA: Magill, Prieksat, Romans and Schuler. The following voted NAY: None. Absent: None.

The passage and adoption of said Ordinance having been concurred in by a majority of all the members of the City Council, the Mayor declared the Ordinance adopted and the Mayor, in

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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.

Council Member Magill introduced the following Ordinance entitled:

AN ORDINANCE TO VACATE THE ALLEY IN BLOCK 56 IN CALHOUN COMPANY'S ADDITON WITHIN THE CORPORATE LIMITS OF THE CITY OF FORT CALHOUN, WASHINGTON COUNTY, NEBRASKA; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FORCE AND EFFECT.

Council Member Magill moved that the statutory rule requiring an ordinance to be fully and distinctly read on three different days be suspended. Council Member Schuler seconded the motion to suspend the rules and upon roll call vote, the following Council Members voted YEA: Prieksat, Romans, Schuler and Magill. The following voted NAY: None. Absent: none. The motion to suspend the rules was adopted by three-fourths of the members elected to the City Council and the statutory rule was declared suspended for consideration of said Ordinance.

Thereupon said **Ordinance No. 699** was then read by title and Council Member Romans moved for its final passage, which motion was seconded by Council Member Schuler. The Mayor stated the question "Shall **Ordinance No. 699** be passed and adopted?" Upon roll call, the following voted YEA: Romans, Schuler, Magill and Prieksat. The following voted NAY: None. Absent: None.

The passage and adoption of said Ordinance having been concurred in by a majority of all the members of the 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.

Mayor Robinson introduced the new business item: Curt and Linda Hofer requested reconsideration of the Preliminary Plat application for the subdivision of Hidden Acres Estates Lots 1, 2, 3, 4, 5, and 6, being a platting in Section 14, T17N, R12E of the 6th P.M., Washington County, Nebraska. Mayor stated he could not make the motion for reconsideration and the asked the city attorney if he had anything to say. Mr. Talbot provided information on what general constitutes a motion to reconsider and stated only one of the opposing members could motion for the vote. The motion is generally to permit correction of a hasty, ill-advised or erroneous act, or to take into account added information or a changed situation since the vote. The city attorney also asked Mr. Hofer if all the lots over ten (10) acres at this time. Mr. Hofer stated "in the as-is situation, prior to the preliminary plat, yes."

Mayor Robinson stated out of respect for the developer he would allow potential and current property owners to address the council at this time, without a motion on the table.

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Nicole Irvine read a letter from her husband, Chance Irvine. Kristen New read a statement from the Irvine, Miller and New families; Christian New also spoke. Following additional comments from the council, city attorney, and interested parties, Member Prieksat made a motion seconded by Member Romans to reconsider the application for the Preliminary Plat of Hidden Acres Estates, Lots 1, 2, 3, 4, 5, and 6 (14-17-12) in Washington County, Nebraska, for discussion. With members Schuler, Prieksat and Romans voting "Aye"; Member Magill voting "No", motion carried.

Member Prieksat made a motion to table the consideration of a revised preliminary plat and subdivision agreement, to allow reconsideration through the subdivision procedures with public hearings on March 2, (Planning Commission) and March 16 (City Council), as outlined in the Subdivision Chapter of the Fort Calhoun Comprehensive Plan. Motion was seconded by Member Romans, following additional comments, members Magill, Prieksat, Romans and Schuler voted "Aye", motion carried.

Public Comments: The city council and office staff will be having a Workshop with the city attorney on Saturday, February 28, 2015 at 12:00 noon at city hall, to review Open Meetings Law, FOI requests, and using the City Email addresses vs Personal email addresses.

Member Schuler made a motion seconded by Member Romans to go into closed session, necessary for the protection of the public interest; to conduct a strategy session on litigation filed against the PMR-NRD. With members Schuler, Romans, Magill and Prieksat voting "Aye", motion carried.

After the vote, Mayor Robinson stated for the record, the motion was made, seconded and carried for the council to go into closed session, necessary for the protection of the public interest; to conduct a strategy session on litigation filed against the PMR-NRD and declared the meeting in closed session at 8:10 p.m.

Member Prieksat made a motion seconded by Member Romans to return to open session. With all members voting "Aye", motion carried and Mayor Robinson declared the meeting in open session at 8:34 p.m.

There was no additional action items, Member Magill made a motion seconded by Member Prieksat to adjourn. With all members voting "Aye", the meeting adjourned at 8:34 p.m.

Mitch Robinson, Mayor

ATTEST:

Linda Welsher, CMC, City Clerk