

The Mayor and Council of the City of Fairbury met in regular session in the Council Chambers located at 612 D Street, Fairbury, Nebraska, on the 18<sup>th</sup> day of March, 2014, at 7:30 p.m. Mayor Homer L. Ward called the meeting to order.

Notice of meeting was given in advance thereof by publication in the Fairbury Journal News, Fairbury, Nebraska, the designated method of giving notice, as shown by affidavit of publication. The Open Meetings Act was posted in the meeting room and pointed out by Mayor Ward as required by law.

Roll call found the following Council Members present: Doug Brown, Roger Bailey, Tim Polson, Phil Rogge, Ed Friesen, Brad Kuzelka, and Kelly Davis. Absent: Rick Carmichael.

Mayor Ward called for the submittal of forms to request future agenda items. No forms were submitted during the meeting.

Mayor Ward read the Consent Agenda:

1. Approval of the minutes of the regular meeting of March 4, 2014.
2. Approval of claims.
3. Approval of the February 2014 Reconciliation Report.
4. Approval of the appointment of Justin Goranson to the Fairbury Housing Authority. Term to expire May 2014.

Rogge moved to approve the consent agenda. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Mayor Ward opened the hearing for the Nuisance Declaration Appeal for property owned by Chester and Margaret I. Veatch, located at 711 E Street; legally described as Lot 3 and the South 10' of Lot 4, Block 4, Original Town, City of Fairbury, Jefferson County, Nebraska. City Attorney David Barga stated this is an appeal hearing for a nuisance declaration.

Barga: Joe would you please state your name and occupation for the record

Parker: Joseph Parker, City Administrator for the City of Fairbury

Barga: Are you the Code Enforcement Official for the City of Fairbury

Parker: Yes I am

Barga: Do your duties include noticing nuisance properties when nuisance conditions are present

Parker: Yes it does

Barga: Can you describe to me how you go about inspecting or noticing properties that have nuisance conditions

Parker: Many times it is just riding around town; most of the time it is people calling in properties they want me to examine

Bargen: And when you examine properties, what process do you follow  
Parker: We go by the Property Maintenance Code – we use that as our primer and try to relate what is in the Property Maintenance Code and what is being deemed a nuisance by myself

Bargen: In that process do you compare the properties that you're looking at, to the Property Maintenance Code and/or the City Municipal Code  
Parker: Yes I do

Bargen: Do you have before you a stack of exhibits for this hearing  
Parker: Yes I do

Bargen: I believe you have Exhibits A-D. Is that correct  
Parker: Yes that is correct

Bargen: Do you recognize Exhibit A  
Parker: Yes I do

Bargen: What is Exhibit A  
Parker: It is the Nuisance Abatement Notification that I completed on February 21, 2014 citing Chester and Margaret Veatch for nuisances

Bargen: Did you complete this form after you inspected the property.  
Parker: Yes I did

Bargen: Could you tell the Council what you observed on the property that prompted this exhibit  
Parker: There was quite a scattering of what I would call junk in the back yard and in the front yard; that by itself stood out

Bargen: And when you say junk what did you notice  
Parker: There were tires, tools, trailers, just many items

Bargen: Is Exhibit A the standard form the City uses to notify property owners of nuisance conditions.  
Parker: Yes it is

Bargen: And you completed this form  
Parker: Yes I did, my signature is on the fourth page

Bargen: On page four of this form, did you indicate to the property owner these specific conditions that you considered to be a nuisance condition  
Parker: Yes I did. What I usually do with this form, I highlight in yellow a section that I feel is out of whack. I also try to look at specific things and on page four it states specifically, the City orders the following tasks to be completed: remove dilapidated garage with several broken windows, blue trailer parked near the alley, several junk trailers, contents unknown, mattress, bricks, old trash cans, pieces of wood, and pieces of lumber in the backyard

Bargen: And I take it, those are the conditions that you observed on the property  
Parker: Yes

Bargen: My copy of Exhibit A appears to be the original copy with your signature is that correct  
Parker: Yes

Bargen: I notice there are sections highlighted in yellow. Are these sections taken from the city code  
Parker: Yes

Bargen: On page four of Exhibit A, at the bottom is a return of service, was this exhibit served on the property owner

Parker: Yes it was on February 21, 2014  
Bargen: How do you know that  
Parker: The date is marked on the bottom of the page at the time of 1630 hours, 4:30 and Officer #4 served this  
Bargen: And do you know who Officer #4 is  
Parker: No, I don't off the top of my head  
Bargen: Is Officer #4 a City of Fairbury Police Officer  
Parker: Yes  
Bargen: Do you see Exhibit B  
Parker: Yes  
Bargen: What is Exhibit B  
Parker: Exhibit B is the appeal letter that Mr. Veatch delivered to the City. At the time I filed the nuisance; I had a discussion with him and told him he had a little bit of time to appeal, 5 days, if he wished to do so and Mr. Veatch did that in a timely manner  
Bargen: The date of Exhibit A is February 21, 2014, is that right  
Parker: Yes that is correct  
Bargen: And the date of the appeal is February 24, 2014  
Parker: Correct  
Bargen: Do you see Exhibit C  
Parker: Yes I do  
Bargen: What is Exhibit C  
Parker: Exhibit C is a notice of an appeal hearing  
Bargen: And the appeal hearing that we are having tonight, is what is talked about in this notice  
Parker: Yes it is  
Bargen: Was this notice of the appeal hearing served to the property owner  
Parker: Yes it was  
Bargen: How do you know that  
Parker: I have a second page attached that is stapled which shows that it was personally served on it looks like March 1 "[sic]" at 1528 by Officer #10  
Bargen: And was this served on the property owners  
Parker: Yes it was  
Bargen: Does Exhibit C accurately describe the time and place and manner of the appeal hearing  
Parker: Yes it does  
Bargen: Do you see Exhibit D  
Parker: Yes  
Bargen: What is Exhibit D  
Parker: Photos of the property as I viewed it to determine there was a nuisance there  
Bargen: Did you take these photographs  
Parker: No  
Bargen: Who took these photos  
Parker: Laura Bedlan took these photos  
Bargen: Who is Laura Bedlan  
Parker: She is a city employee  
Bargen: What is her position

Parker: She is the Assistant Street Superintendent and she also assists me with nuisances

Bargen: Do you know what time these pictures were taken or what date

Parker: January 16, 2014, but I do not have a time

Bargen: Do you have any reason to believe that these pictures were taken at a different date than that date

Parker: No

Bargen: Could you describe briefly what these photographs show

Parker: There are several trailers on the property, plastic, wood, the garage is in deteriorated condition. These photos are the basis of making this a nuisance

Bargen: Is there anything that you would want to add at this time about the nuisance condition

Parker: No, just that there was a lot of material that I would consider nuisances

Bargen: To your knowledge, do those nuisance conditions still exist on the property

Parker: Yes they do

Bargen: Nothing further at this time.

Chester Veatch addressed the Council. Veatch stated in his talks with Mr. Parker, he had told Parker that he has moved some of the trailers off of the property. Veatch stated if they're going to tear down the property, then what is the point of him trying to remedy the broken down building; that doesn't make any sense to me. Veatch stated he can't do that in five days "[sic]". Veatch stated he asked the pastor and the men in the church to help him with the front porch, which they did over the weekend; it looks a lot better than it has; although some people might not agree. Veatch stated he is basically one man with limited resources in order to clean this all up; that is why he is asking mercy from the council and time to clean up the back end of it. Veatch stated it will take him a couple months at least. Veatch stated he thought we were here to discuss the removal of the building itself. Parker stated no, the nuisance itself is the backyard and the front yard and the liter of junk on the property. Parker stated the house will come up later. Veatch stated what later are you talking about. Veatch stated he has made efforts to completely clean it up; there might be some garbage bags that I haven't hauled off, if you call that a nuisance. Veatch stated since I am only one man I work as much as I can and then I have to stop and rest. Veatch stated he has had trouble getting help to remedy the nuisance in the back; but I'm slowly moving things out, I've already moved four or five trailers from there – there are only two left. Veatch stated he is asking for time to do this. Veatch stated he has a lot of family heirlooms in the house and a lot of things that I have discussed with Mr. Schultis about possibly having a sale this fall; has a lot of things he would like to get rid of – doesn't want an episode like two years ago. Veatch stated that is all he has to say except he would like the mercy of the council to give him at least ninety days as he's had a hard time finding help; doesn't have the money to hire someone. Veatch stated to get this remedied, it will take some time.

No one else addressed the Council during the appeal hearing. Mayor Ward declared the hearing closed.

Friesen moved to approve the recommendation from the Public Safety Committee to acknowledge the Constitution and Bylaws of the Fairbury City Volunteer Fire Department. Motion seconded by Bailey. Friesen stated our attorney took a final look at the constitution and bylaws and everything is okay. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Friesen moved to approve the recommendation from the Public Safety Committee to approve the Volunteer Emergency Services Coordinator Agreement. Motion seconded by Rogge. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Rogge moved to approve the application for the Special Designated Liquor License for the Fairbury Chamber of Commerce for a "Pork N' Pints" Beer and Wine Tasting Festival to be held at the VFW located at 2337 North K Street, Fairbury, Nebraska on April 26, 2014 from 5:00 p.m. to 10:00 p.m. Motion seconded by Polson. Mayor Ward stated this will be held inside with microbreweries represented, offering samples of their selected brews and wines and selling unopened bottles of wine. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to approve the request from the Police Department to purchase a 2014 Ford Explorer at State Bid in the amount of \$26,825.00 plus \$2,475.00 for equipment for a total of \$29,300.00. Polson stated the Police Department has \$15,000.00 in their budget for a new vehicle and the Street Department will be transferring \$14,300.00 to the Police Department for purchasing the 2008 Chevrolet Silverado Pickup. Motion seconded by Friesen. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to approve transferring money from the Street Department to the Police Department for the 2008 Chevrolet pickup in the amount of \$14,300.00. Motion seconded by Kuzelka. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to approve using up to \$57,000.00 from the Keno fund to replace/repair the roof at the Community Building. Polson stated the Finance and Keno Committee "[sic]" accepted the bid from Chappell Roofing in the amount of \$56,000.00; but they also want to get a bid from Chappell of what it would cost to tear off the old roof; they put a limit of \$77,000.00 of what could be spent on the roof. Polson stated \$20,000.00 will also be used from the Community Building budget for the roof. Motion seconded by Brown. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee authorizing Mayor Ward to sign the City of Fairbury County/City Lottery License Renewal Application Form 50G for 2014-2016. Motion seconded by Davis. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee authorizing Mayor Ward to sign Zeilinger Keno's County/City Lottery Operator License Renewal Application Form 50G-I for 2014-2016. Motion seconded by Friesen. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee authorizing Mayor Ward to sign Griffey's Steak House and Lounge and Tooley's Lounge County/City Lottery Sales Outlet License Renewal Application Forms 50G-II for 2014-2016. Motion seconded by Davis. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Brown moved to adopt Resolution No. 935 ordering and directing Chester and Margaret I. Veatch to remedy said public nuisance on the property located at 711 E Street; legally described as Lot 3 and the South 10' of Lot 4, Block 4, Original Town, City of Fairbury, Jefferson County, Nebraska by April 30, 2014. Motion seconded by Kuzelka. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Friesen moved to adopt Resolution No. 936 appointing Jerry Hain as the City's Street Superintendent for the 2014 and 2015 calendar years and authorizing Mayor Ward to sign the necessary documents. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Mayor Ward read by title Ordinance No. 3036: AN ORDINANCE AMENDING THE CITY OF FAIRBURY COMPREHENSIVE PLAN-2013 EDITION, TO ADD AREAS 15 AND 16 TO THE ANNEXATION PLAN. Polson moved to give third reading to Ordinance No. 3036. Motion seconded by Friesen. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried. Bailey moved for the final passage of Ordinance No. 3036. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Mayor Ward read by title Ordinance No. 3037: AN ORDINANCE AMENDING THE CITY OF FAIRBURY SUBDIVISION REGULATIONS-2013 EDITION. Friesen moved to give third reading to Ordinance No. 3037. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried. Polson moved for the final passage of Ordinance No. 3037. Motion seconded by Kuzelka. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Mayor Ward read by title Ordinance No. 3038: AN ORDINANCE AMENDING THE CITY OF FAIRBURY ZONING REGULATIONS-2013 EDITION. Rogge moved to give third reading to Ordinance No. 3038. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried. Polson moved for the final passage of Ordinance No. 3038. Motion seconded by Rogge. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Carmichael absent. Motion carried.

Mayor Ward ready by title Ordinance No. 3039: AN ORDINANCE AMENDING THE CITY OF FAIRBURY ORDINANCE NO. 3027 AND 3035 TO ESTABLISH RATES, FEES, CHARGES AND COLLECTIONS FOR THE USE OF ELECTRICITY, PURSUANT TO CITY CODE § 53.58, AND REPEALING ORDINANCE NO. 2969; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS AND TO PROVIDE FOR THE EFFECTIVE DATE THEREOF. Bailey moved to introduce and give 1<sup>st</sup> reading to Ordinance No. 3039. Motion seconded by Davis. Rogge asked if this would be 13% this year and 13% again next year. Rogge stated he is all in favor of the 13.5 % increase for the first year, but doesn't think that it is fiscally sound for the Council to do two years. Rogge amended the motion to be for one year and looking at it again next year; although he appreciates all the work the committee has done. Motion seconded by Kuzelka. Friesen stated last time we did that we had to come back with another ordinance amendment, is there something that we could put in this ordinance to prevent having to amend the ordinance again – that it would stay at this rate until we would raise the rate again; instead of the rate rolling back to the previous rate. Bargaen stated he would have to check to make sure the language is there to do that, but if it is we could change that wording. Friesen asked if we need to do that again, is there a way we can extend this without having to go through the expense of having another rate study or would we want to have another rate study. Bailey stated if we would have to go more, we could always amend the ordinance next year. Bailey stated he thinks if we don't do two years, we will be in trouble. Superintendent of Utilities Michael Beachler addressed the Council. Beachler stated the reason they went ahead with the two year ordinance, is because by the time they implement this ordinance and we start into the next year, we will still be losing money because the way they looked at it, they were to take two 13.4 to take them up to the 26. Beachler stated if you do two years, we can always look at it next year and if we would need less or if we would need more we can always amend the ordinance. Bargaen stated in response to Friesen's question, yes they could change the language, because now it says it will roll back to the previous rate – so they could just take that language out and then it would stay at whatever this ordinance states. Beachler stated we could implement the two years, but we can always look at it again. Citizen Jim Wrigley addressed the Council. Wrigley stated he retired to Fairbury about two years ago; he was born here and spent many summers here visiting relatives. Wrigley stated when he came here he was very interested in being a positive influence and learning what has been going on in Fairbury; he has been attending the BOPW and the Council meetings. Wrigley stated he has a lot of hopes that Fairbury can take its strengths and feels Fairbury can have a very bright future because of its parks, its medical, the junior/senior high school – just a lot of good things and he's met a lot of great people. Wrigley stated he is kind of troubled on the infrastructure that's kind of in trouble – it's not that we're just buying power for more than what we are selling it; we've been doing that for a long time. We've done these studies – there was a presentation to the board last

year that was not accepted and it was altered and had to dip into our coffers close to one million dollars and that will extend even with this 13.4% for the next two years. Wrigley stated somehow we need to make sure that we take care of our skeleton, take care of our power, take care of our water – he gets fearful when there is a study that gets done – this is what it takes in two years just to get up to what we need to just break even. Wrigley stated he understands that the power poles were put in, in the 1930's and we haven't replaced a lot of them; we have substations that need a lot of work – it costs a lot of money; we're looking at the power station that might go away, we're at risk with our power lines coming into town. Wrigley stated he knows the City wants the Council to take care of the City's business and do the right thing. Wrigley stated he appreciates that the Council take time on some of this because he knows last year we made a motion and it didn't work out real well; knows we can't afford that – hopes that the Council takes care of our City power and City water. Rogge and Kuzelka withdrew their motion of one year. On roll call of introducing Ordinance No. 3039 and giving 1<sup>st</sup> reading: Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Carmichael absent. Motion carried.

Rogge moved to adjourn the meeting. Motion seconded by Davis. On roll call, Polson, Bailey, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Carmichael absent. Motion carried. Meeting adjourned at 8:20 p.m.

Homer L. Ward, Mayor  
ATTEST: Sharyl Preston, City Clerk