

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 6<sup>th</sup> day of May, 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, Rick Carmichael, Roger Bailey, Tim Polson, Phil Rogge, Ed Friesen, Brad Kuzelka, and Kelly Davis.

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 April 15, 2014.
2. Approval of claims.
3. Approval of the re-appointment of Jim Boyer to the Board of Adjustment. Term to expire May 2017.

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

Kuzelka moved to set the Public Hearing concerning the Proprietary Budget and Budget Summary for the City of Fairbury Utilities for May 1, 2014 to April 30, 2015 for May 20, 2014 at 7:30 p.m. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Mayor Ward read from the agenda: "consider request from Deborah Ebke Treasurer of the Bonham Theatre Project (BTP), to allow BTP to work with SENDD to assist with the grant; with the City acting as the applicant for a CDBG grant". Deborah Ebke addressed the City Council. Ebke stated the BTP is in the preliminary stage – but because it is a CDBG grant they need to have the City be aware of the potential grant process. Ebke stated she has talked to Steve Charleston with Nebraska Department of Economic Development (NDED) and he referred her to Southeast Nebraska Development District (SENDDD) because he knew that Fairbury is a participant with SENDDD. Ebke stated Dave Taladay with SENDDD asked her to come before the Council more for informational acknowledgement to allow BTP to have conversation with SENDDD about the potential of BTP applying for a grant. Ebke stated BTP has not decided yet if they will apply for a grant, but this will allow Taladay to come down and look at the theatre project. Ebke stated the City would have to be the applicant for the CDBG grant and BTP would be termed the sponsor. Ebke stated the Bonham Theatre would still own the building. Ebke stated Taladay said there would be no cost to the City or to BTP to go through the grant

process; if they would be awarded the grant, SENDD would be the administrator of the grant – the cost of administration would be included in the grant itself. Ebke stated this is very preliminary; doesn't know if this needs any action from the Council – they would like the Council to work with them and allow BTP to talk to SENDD regarding the grant. Council member Phil Rogge stated this is a no lose situation for the City, we're out nothing and the worst case scenario would be BTP couldn't get a grant and the best case scenario BTP would be able to get a grant and the City is out nothing. Ebke stated it is federal grant money so if BTP would actually be awarded the grant it would benefit the City tremendously – it is public money coming back to us. Ebke stated she learned about this grant from other theatres she has gone to, McCook, Scottsbluff, Kearney, and Grand Island which were all successful in getting this grant through NDED in the tourism area. City Attorney David Barga stated he used to clerk for the City of Kearney – Kearney used CDBG grants a lot and partnered with non-profits or private organizations. Barga stated it is important to remember the City is the applicant for the grant – it would be the City's name on the grant, the funds would come through the City; it would be administered essentially by the City – but the funds are usually included in the grant to administer the program. Barga stated he would suggest the City would after BTP has talked to SENDD about the grant possibilities; that BTP would come back to the City Council before applying for the grant. Ebke stated there is still a possibility that BTP could decide this isn't for them – you have federal guidelines that you have to go through, wage guidelines, and have to have an environmental review. Ebke stated Taladay felt it was important for the Council to be aware that he would be in conversation with BTP. Rogge moved to allow BTP to work with SENDD to assist with potential grants. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Brown moved to approve transferring \$57,000.00 from the Keno Fund to the General Fund as well as transferring the same \$57,000.00 from the General Fund to the Community Building Fund for the roof. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to use \$22,804.00 from the Keno Fund and \$14,024.00 from the Museum Fund for the Museum roof. Motion seconded by Kuzelka. The proposal for the Museum roof was previously approved from Scarborough Construction in the amount of \$36,828.00. The Keno funding for the Museum roof was previously approved at the April 15, 2014 meeting in the amount of \$25,637.00. (This amount needed to be changed as sales tax needed to be paid out of the Keno Fund and also need to leave a \$1,000.00 balance in the Keno Fund.) On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Polson moved to approve transferring \$22,804.00 from the Keno Fund to the General Fund as well as transferring the same \$22,804.00 from the General Fund to the Museum Fund for the roof. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Bailey moved to approve the recommendation from the Economic Development Review Committee concerning the amendment to the City of Fairbury Third Street (between F Street and H Street) Public Works Improvement Project #13-03. Motion seconded by Rogge. Assistant Street Superintendent Laura Bedlan addressed the Council. Bedlan stated the amendment to the project is removing and replacing 120 square feet of existing brick which will allow the installation of a header on the concrete work as well as level out the road at the concrete approach. Bedlan stated the city street employees will be able to do this work cheaper than the contractor (about \$500.00-\$700.00); so the amendment is to reimburse the City for the road work on this project. Bailey stated this amendment will not increase the total cost of the project which was previously obligated at \$121,480.00 as a "Public Works LB840 Grant". On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Carmichael moved to approve the increase of City Prosecutor services with Linda Bauer to a rate of \$150.00 from \$125.00 per hour. Motion seconded by Brown. The rate increase will be effective June 1, 2014. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Mayor Ward read from the agenda: "consider recommendation from the Public Safety Committee regarding the (Cornerstone Energy) Constellation New Energy Acceptance Agreement". Mayor Ward stated the (Cornerstone Energy) Constellation New Energy Acceptance Agreement will be recommitted to the Finance and Keno Committee.

Friesen moved to approve the recommendation from the Public Safety Committee to allow five Volunteer Firemen to attend a Crude Oil Safety Response Training through the Union Pacific Railroad in Pueblo, Colorado. Motion seconded by Carmichael. Friesen stated the Union Pacific Railroad is paying the cost of the training, transportation, and for most of the meals. Friesen stated the training is in the amount of \$1,800.00. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Friesen moved to approve the recommendation from the Public Safety Committee regarding reimbursing Volunteer Firemen to attend training in Colorado – to allow \$16.00 for the one meal that is not covered per day for each member, which they will bring justification for, and also pay at the volunteer firemen rate of \$8.00 per hour for actual class time which amounts to a total of \$960.00. Motion seconded by Rogge. Friesen stated the Fire Department does have this in their budget. Carmichael stated they would also have meals going out and coming back, at least one or two meals. Friesen stated the meals would be part of the travel cost. Chris Goeking stated the UP will be flying the firefighters to the training. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Carmichael moved to adopt Resolution No. 940 to authorize establishing a Temporary Line of Credit with First National Bank of Fairbury for purposes of facilitating the City-Wide Housing Rehabilitation Program. Motion seconded by Polson. City Administrator Joseph Parker stated the City could get a few extra points for having a Line of Credit established when applying for the Citywide Housing Rehabilitation grant showing the City

wants to participate with this program. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Mayor Ward read by title Ordinance No. 3040: AN ORDINANCE AMENDING FAIRBURY MUNICIPAL CODE CHAPTER 91 BY ADDING SECTION 91.80 ET AL. REGARDING PROVISIONS FOR BURNING IN RESIDENTIAL FIRE PITS. Friesen moved to introduce and give 1<sup>st</sup> reading to Ordinance No. 3040. Motion seconded by Rogge. Friesen stated the Public Safety Committee is lending its endorsement to the passing of Ordinance No. 3040 which gives some regulations and enforcement guidelines for those building a fire of any kind, anywhere, any time – puts an ordinance in place that could carry some penalty. Volunteer Emergency Services Coordinator Chris Goeking asked the Council if all three readings could be done this evening. Friesen moved to suspend the statutory three readings requirement for Ordinance No. 3040. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried. Friesen moved for the final passage of Ordinance No. 3040. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Within the City Administrator’s report Joseph Parker stated the City took down a garage and cleaned up the property on E Street today. Parker stated the City has taken down seven to eight structures since January 1, 2014. Council member Roger Bailey asked where the process is with rental inspections – are we going to pursue this and have an ordinance drawn up or are we just going to let it go. Bailey stated he has been getting a lot of complaints, a lot of phone calls. Council member Doug Brown stated we had talked about contracting for rental inspections. Council member Kelly Davis stated we did; but Blue Valley Community Action (BVCA) had to let a lot of their employees go because of budget cuts; so BVCA can’t offer the rental inspection service any longer. Council member Rick Carmichael stated the City doesn’t have a certified person to do the rental inspections. Council member Brad Kuzelka stated they do not have to be certified to do the rental inspections. City Attorney David Barga stated he had a conference call approximately a month ago with Parker, CRA members, Bedlan, etc. on how to proceed with the rental inspections. Barga stated he understood that the City was going to take some time to think about how to proceed and maybe rethink what the plans are to put the rental inspections into effect. Parker stated it seemed like there were a couple items that were stumping us at the time. Bailey stated he knows it will be a daunting task to get the information, to get a base of names and addresses and to get the information organized. Bailey stated a lot of the rental properties are not fit to live in. Barga stated the ordinances are in place; we just need to start the process of the rental inspections. Barga stated it depends on the approach the City wants to take with the rental inspections; that it was indicated to him the City may propose a different approach of what is in place now. Bedlan stated she was part of the telephone conference along with Police Chief Chad Sprunk, and a couple of BOPW members. Bedlan stated there was discussion about how to procedurally go through the process; the ordinance is in place. Bedlan stated there was discussion about changing what was actually going to be checked during the inspection. Bedlan stated as far as establishing a list of landlords – it is a process, but between her and the Utility Department, they will be able to compile a list – which will take a few weeks to collect the data for the list. Bedlan stated once the procedure is put into place, which Parker is working on; then Parker will direct Bedlan to

generate a list of landlords. Carmichael asked if we know who will do the inspections. Parker stated probably himself. Council member Tim Polson asked if we have any idea of how many rental houses we have in Fairbury. Bedlan stated she could search through her records to get a close idea of how many rental properties we have. Bargaen stated last year the Nebraska Supreme Court upheld an ordinance in LaVista, very much like this – the challenge was made saying that the City was somehow infringing on private property rights but the courts said that given the findings that the Council had made that there were some substandard rental housing issues in the City that was endangering the health, safety, and welfare of the public – the court upheld the ordinance. Bailey stated he is not against having someone help Parker with the rental inspections or hiring someone to do the rental inspections – he just wants the City to move forward with the rental inspections. Bailey stated there is no reason to pass ordinances if we are not going to follow through. Bargaen stated on the topic of who should do the inspections – there is no requirement that there be an official contractor, inspector, or someone trained in rental inspections because the things that are being looked for are very basic. Bargaen stated what his advice was to the group when they had the telephone conference was to keep it very simple; a ten point list or something like that so that you wouldn't get bogged down and try to basically inspect a house like a professional contractor might. Bargaen stated he thinks a city official of many types could do the rental inspections. Bailey asked if we're going to go forward with the rental inspections or what are we going to do. Parker stated we will move forward. Bailey stated he'll keep asking – he's very adamant – if we want to clean up the community – we will have to do some other things besides the nuisances – there are a lot of nuisances; but we could be doing different things at once to alleviate some of the problems that we have.

Within the Mayor's report, Mayor Ward stated that he and Street Superintendent Mick Hynek met with the Union Pacific about ten days ago. The UP is in the process of going through and working the tracks again – will be working on the 3<sup>rd</sup> Street crossing as well as the 5<sup>th</sup> Street crossing. Ward stated the UP also said we should be considering a viaduct.

In open session, Carmichael moved to enter into closed session for the purpose of protecting the public interest, the subject matter of the closed session being discussing update on pending litigation. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Carmichael, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. Mayor Ward confirmed the purpose of the closed session was to protect the public interest, and the subject matter for the closed session is to discuss update on pending litigation – designating individuals to remain as Mayor Ward; Council Members Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Kuzelka, and Davis; City Attorney David Bargaen; City Administrator Joseph Parker, and City Clerk Sharyl Preston; and announced the time of the start of the closed session to be 8:08 p.m.

In open session, Rogge moved to come out of closed session. Motion seconded by Polson. On roll call, Polson, Bailey, Brown, Carmichael, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. The Council came out of closed session at 8:23 p.m.

Rogge moved to adjourn the meeting. Motion seconded by Brown. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. Meeting adjourned at 8:24 p.m.

Homer L. Ward, Mayor

ATTEST: Sharyl Preston, City Clerk