

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 5<sup>th</sup> day of August, 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 July 15, 2014.
2. Approval of claims.
3. Approval of the resignation of Matthew Schultz from the Museum Board.
4. Approval of the appointment of Julie Katz to the Museum Board. Term to expire July 2016.

Bailey 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.

Mayor Ward opened the Public Hearing regarding the request for a Conditional Use Permit (CU-2014-003) from Aurora Cooperative at 2222 L Street, Fairbury, Nebraska. The request is to allow for agricultural chemicals and fertilizer storage and distribution for commercial use in the I-1 – Light Industrial Zoning District as provided for in Article 5, Section 5.16 of the Zoning Ordinance of the City of Fairbury, Nebraska – 2013 Edition. The legal description of the property is described as: Lot 2, Block 1, Fairbury Industrial Park, Fairbury, Jefferson County, Nebraska. Laura Bedlan Zoning Administrator addressed the Council. Bedlan stated the recommendation from the Planning Commission, the request, the site map, and pictures (to better clarify what the tanks will look like) were included in the City Council packets. Bedlan stated Jon Stofer is present from Aurora Cooperative if anyone has questions regarding the request for the Conditional Use Permit. Council member Phil Rogge stated he had earlier visited with Stofer and they have fifty-five locations in Nebraska. Stofer stated they also have locations in Texas, Kansas, Iowa, South Dakota, Michigan, and Maryland. Rogge stated Aurora Coop will have five 30,000 gallon tanks; it is not flammable, there is not the danger of explosion, etc. Stofer stated there will be no danger of explosion – all of the tanks are enclosed and are self-contained systems. Rogge stated there will no anhydrous, although the property is zoned that way – which maybe we should look at some time; it will be in the conditional use permit that there will be no anhydrous and like

Jon said everything is contained. Rogge stated with the research that he has done regarding their request for a conditional use permit he was very impressed with Aurora Cooperative. Stofer stated the anhydrous plant will be going in north of Fairbury – two miles north of the Bower Road and ½ mile west; the anhydrous plant will not be in the city limits. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Brown moved to set a public hearing for the semi-annual review of the Local Option Sales Tax for Economic Development (LB840) Program for August 19, 2014 at 7:30 p.m. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Rogge moved to approve the recommendation from the Planning Commission regarding the Conditional Use Permit (CU-2014-003) from Aurora Cooperative at 2222 L Street, Fairbury, Nebraska to allow for agricultural chemicals and fertilizer storage and distribution for commercial use in the I-1 – Light Industrial Zoning District as per the Planning Commission’s findings of the Conditional Use Standards which is part of the application process for a conditional use permit. Motion seconded by Brown. Rogge stated Aurora Cooperative will add seven to eight jobs in the Fairbury area and the main chemical will be UAN, starter fertilizer – those types of chemicals. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Bailey moved to approve the Fairbury Airport Authority’s tax request of \$33,000.00 for Fiscal Year 2014-2015. Motion seconded by Carmichael. Bailey stated every year the Airport Authority asks for \$33,000.00 and we give them \$30,000.00; this year we’re giving the Airport Authority the \$33,000.00. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Mayor Ward read from the agenda “Consider Interlocal Agreement between the City of Fairbury and the Fairbury Community Redevelopment Authority”. City Attorney David Barga stated the interlocal agreement that is proposed is a requirement if the City wants to increase the local option sales tax. The resolution that would put the increase of the local option sales tax on the ballot was discussed at the last council meeting and postponed until such time the council could consider an interlocal agreement. The statute requires that the City, has in conjunction with this additional one-half percent sales tax that would take it from 1.5% to 2%, have an interlocal agreement between itself and some other local political subdivision that relates to public infrastructure projects. Barga stated the most obvious would be the City of Fairbury Community Redevelopment Authority (CRA) which also has some authority under its planning to oversee infrastructure projects and to help fund those projects in conjunction with Tax Increment Financing (TIF) projects. Barga stated the interlocal agreement was carefully drafted to follow both the Interlocal Cooperation Act and the Local Option Revenue Act to hit the requirements – the acts together require certain things – you have to discuss the duration of the agreement, how it will wind down if it ever does, what happens to any property if it ever does, etc. The Local Option Revenue Act requires in addition that the agreement create a separate administrative entity. The Interlocal Cooperation Act allows for either a separate administrative entity or a separate legal entity. Barga thought it best to keep

the interlocal agreement from establishing too many levels of control, so had it provide for the administrative entity which is essentially the Mayor or his or her designee and the chair of the CRA or his or her designee as a coordinating committee between the two entities with the goal in mind to share some responsibility for infrastructure projects. Bargaen stated the tie-in is the Economic Development Plan under the LB840 Program that the City oversees and the General Redevelopment Plan that the CRA oversees for purposes of TIF projects. Bargaen stated the goals in both of those plans for infrastructure are very similar if not identical – so it just made sense to tie those two plans together through this agreement and make that the agreement between the two entities which is required for the additional sales tax. Bargaen stated the interlocal agreement has to be in place before the City can have that extra one-half percent sales tax. Bargaen stated this is the chance for the Council to discuss the interlocal agreement, or to amend the interlocal agreement, or answer any questions the Council might have – the actual approval of the interlocal agreement will be done with the resolution later on the agenda. Bargaen stated he gave copies of both the Economic Development Plan and the General Redevelopment Plan to the Council this evening – the wording for the interlocal agreement was taken from both of these plans for a reason to make sure that we track the statutes and that we have tied these together. No action taken.

Carmichael moved to approve the request for payment of Southeast Nebraska Development District (SENDD) FY2015 Membership Dues in the amount of \$2,125.00. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried

Polson moved to approve the request for payment of SENDD FY2015 Housing Dues in the amount of \$1,183.00. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Polson moved to adopt Resolution No. 951 authorizing the Mayor of the City to cause the City to enter into an Interlocal Agreement between the City of Fairbury and the Community Redevelopment Authority (CRA) to implement the public infrastructure goals of the General Redevelopment Plan and the Economic Development Plan. Motion seconded by Brown. Bargaen stated the statute requires that the adoption of Resolution No. 951 has to pass by 70% of the governing body. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Bailey moved to adopt Resolution No. 950 proposing and submitting to voters at the 2014 General Election an increase of the Local Sales and Use Tax Rate of an additional One-Half of One Percent from One and One-Half Percent to Two Percent. Motion seconded by Polson. Bargaen stated we need to fill in two blanks on this resolution as we didn’t have a chance to discuss how the City wants to proceed on this. Bargaen stated the statute has some specific requirements for the ballot language. Bargaen brought to the Council’s attention on Exhibit A – this is the actual ballot language that will appear on the ballot – the statute requires: close to the bottom of the first page where it states “additional information regarding proposed local sales and use tax rate increase”; under the first subheading “list of reductions or elimination of other taxes or fees, if any” – he took a guess that this would not eliminate other taxes or fees in the City of Fairbury so he inserted language to cover this. Bargaen stated if we need to change this – we can amend

this resolution to do that. The second subheading “projects to be funded, in whole or in part, from the revenue collected, along with any savings or efficiencies resulting from the projects” – he left the language as broad as the statute provides – this can also be amended if the Council wants. The third subheading “years within which the revenue will be collected; payment of bonds” – Bergen stated we do have to add language to this subheading. Bergen stated the statute requires that it sunsets in ten years, very much like the LB840 program has to be renewed every ten years – this also sunsets in ten years; however, if bonds have been issued for which this money is paying off those bonds, then the language would say the tax will remain until the bonds are paid off. Bergen stated however, if the amount of increase – if you take 1/8% of the amount that is over the 1.5% to put that towards the interlocal agreement that we just approved, then that piece of it never expires and the rest of it will expire in ten years. Bergen stated the Council needs to decide how they want to proceed, if they actually want to designate 1/8 of a percent, then that portion will not expire; or if you don’t want to, you don’t have to – then all of it would expire in ten years. Mayor Ward stated he didn’t have a problem with all of it expiring in ten years. Rogge stated in ten years it would expire but asked if we could renew it at that time. Bergen stated there is not a provision in this statute that it has for renewal, you could redo the process; there is a process under the LB840 program that you can renew it, but this would be basically doing it over, which we could do. Rogge stated the sales tax would be at 2%, then would have to go back to the 1½% like we have currently, and then would have to do the process again to increase it again by ½%. Bergen stated that is correct. Council member Rick Carmichael asked if we would have to go through the vote again by having the increase on the ballot again. Bergen stated yes it would have to go on the ballot again. Citizen Jim Wrigley asked Bergen to explain the 1/8% again. Bergen stated the statute is a little confusing how it is worded – but if you take the .5% above the 1.5% - if 1/8 of that – 1/8 of the total, so if it is essentially ¼ of the additional – if you designate that specifically for the interlocal agreement, to help fund that; then that piece never goes away. Bergen stated if you don’t do that then the whole thing, the increase, all of the increase goes away after ten years. Bergen stated the statute says that, it is worded in the reverse, by saying that not all of the increase has to be used for the interlocal agreement, it doesn’t say that any of it has to be used for the interlocal agreement unless you designate that 1/8% will be used for the interlocal agreement. Bergen stated he thinks part of it would need to be used for the interlocal agreement even if a portion of the increase is not designated on the ballot for it. Bergen stated since they are both dealing with infrastructure projects and that is what this is for, it would be pretty easy to say it is being used for that. Bergen stated if you specify that, that 1/8% goes towards the interlocal agreement then that part never goes away. Rogge stated personally he doesn’t have a problem with it going away in ten years – that gives us an opportunity to do some things and to make sure that things are done that we say we are going to do. Rogge stated the downside of that is if you’re going to try to explain to the voters that ok – you’re going to go down ½%, but really if you vote in ½% - we’re not raising it ½%, we’re just keeping it where it is – that can get real confusing – but the other side of that is, you are only getting 1/8 of ½. Bergen stated it is actually a ¼ of ½ or a 1/8 of the entire portion. Carmichael asked if anyone has any idea how much money that is on the average. Bergen stated he did not. Citizen Julie Katz addressed the Council. Katz stated even though there is a sunset clause, I think if you’re going to put yourself in the position to collect that revenue, you would also want to protect yourself from it going away. Katz stated particularly if there are some large capital improvement

projects that would be tied to it that is going to be funded, if you're bonding something and it goes beyond that ten years – it would be her recommendation that you make sure that you allow for that provision that anything that is bonded that is tied to this, can go on. Katz stated as far as the 1/8 of 1/2 of 1/4 of whatever, - to fund the interlocal agreement – that is also a good thing, given the fact that the CRA – that the purposes of these are in alignment and they are parallel to each other – it is always good for the CRA to have some type of consistent revenue stream in order to do the work that the CRA is designed to do. Katz stated the Council put into place the CRA to take care of specific things but they can't do those things unless they have some sort of a guaranteed revenue source that comes in regardless of the amount of projects that are coming and going. Katz stated from an economic development standpoint she recommends that the Council allow for the bonding to carry over and to also allow for the 1/8%. Bargaen stated the language just needs to be in the ballot language to clarify for the voters that this sunsets in ten years or until bonds are paid off, whichever comes later. Bargaen stated the second issue is the 1/8% - that is a separate decision for the Council to make. Katz stated to clarify – even though there may be a bond tied to it, it is still going to sunset in ten years and would it still have to go back to a vote of the people to renew the 1/2% even though there is a bond tied to it for this first ten years. Bargaen stated to the extent that there is a bond outstanding – it will not sunset. Rogge asked if we had a bond for fifteen years, it will continue for another five years. Bargaen stated correct – to pay off that bond – until the bond is paid off, except for that 1/8% piece, if you approve that, that would go on indefinitely. Rogge asked if we don't do the 1/8% then it sunsets in ten years period. Bargaen stated no it sunsets in ten years unless there are bonds outstanding. Bargaen stated these are two separate issues. Bargaen stated the statutes state it will always keep going, if there are bonds out there to be paid off – until the bonds are paid off. Bargaen stated the 1/8% is a second consideration. Friesen moved to amend the motion to allow the 1/8% for the interlocal agreement and to also add language that it will sunset in ten years except for that 1/8% and unless we have bonds out, then it would continue to meet the obligation of the bonds. Motion seconded by Kuzelka. Bailey made the comment of how confusing this is. Rogge stated exactly, if we're confused it will be real confusing to the voters. Kuzelka asked if we had a bond that went past the ten years and something else would come up that you would have to do another bond, does it continue on again past that point also. Bargaen stated you would have to incur those bonds before that ten years is up, he doesn't foresee that you could keep tagging on and tagging on to keep it going. Kuzelka asked we don't lose the whole 2%, just the extra 1/2%. Bargaen stated that is right, the 1.5% is protected from going away – that is our standard sales tax. On roll call on the motion to amended, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried. On roll call of adopting Resolution No. 950 as amended, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted “yes.” Motion carried.

Within the Committee reports, Economic Development Review (LB840) Committee member Roger Bailey stated the committee met last week – a couple things they discussed, they will still be proactive as far as working on street projects as far as infrastructure plans go – looking at a couple different possibilities – maybe try to get some Community Development Block Grant funds. Hopefully get something going on north H Street where there is a lot of business activity (maybe using some LB840 funds) – this could benefit businesses – LB840 money has to be tied to business whether it is

infrastructure or creating jobs, or something like that – it still has to be tied to business (can't do residential streets with LB840 money). Also discussing traffic problems going to Walmart and in that area, trying to figure out where to put sidewalks on north H, also 24<sup>th</sup> Street by the bus barn to tie in with the new business of Aurora Coop, etc. The committee wants to be proactive using some of those funds for infrastructure projects. City Clerk Sharyl Preston reminded the Finance & Keno Committee that they have a meeting on August 6, 2014 at 6:00 p.m. with department heads regarding budgets and the Personnel Committee has a meeting on August 7, 2014 at 6:00 p.m. and info is in their Council packets regarding the Finance and Personnel meetings. Phil Rogge stated he appreciated the National Night Out celebration in the City Park this evening – it was a good time and it was very educational. Rogge thanked Kay Pavlicek for the flag – he stated that flag is so impressive, it is huge – it just makes you think of 9 1 1 all over again. Kay Pavlicek suggested for other people with memorial money it is a good idea to donate it to the City or something locally – then you know that it is always here and what it was used for instead of sending the memorial somewhere else where you don't know where it goes or what it will be used for.

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 considering recommendation from the Personnel Committee regarding the Employment Agreement/Salary between the City of Fairbury and Joseph Parker, City Administrator. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. Mayor Ward confirmed the purpose of the closed session was to protect the public interest, the subject matter of the closed session being to consider the employment agreement/salary between the City of Fairbury and Joseph Parker, City Administrator. Mayor Ward designated individuals to remain as Mayor Ward; Council Members Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Kuzelka, and Davis; City Attorney David Borgen and City Clerk Sharyl Preston; and announced the time of the start of the closed session to be 8:10 p.m.

In open session, Rogge moved to come out of closed session. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. The Council came out of closed session at 8:27 p.m. Brown moved to approve the recommendation from the Personnel Committee to terminate the Employment Agreement between the City of Fairbury and Joseph Parker. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Rogge moved to adjourn the meeting. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. Meeting adjourned at 8:28 p.m.

Homer L. Ward, Mayor

ATTEST: Sharyl Preston, City Clerk