

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 18th day of November, 2014, at 7:30 p.m. Council President/Acting Mayor Friesen 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 Council President/Acting Mayor Friesen as required by law.

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

Council President/Acting Mayor Friesen called for the submittal of forms to request future agenda items. No forms were submitted during the meeting.

Council President/Acting Mayor Friesen read the Consent Agenda:

1. Approval of the minutes of the regular meeting of November 4, 2014.
2. Approval of claims.
3. Approval of the October 2014 Reconciliation Report.
4. Approval of the Reconciliation Report for Fiscal Year Ending September 30, 2014.
5. Approval of the appointment of Chris Johnson to the Museum Board. Term to expire July 2019.

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

Council President/Acting Mayor Friesen opened the public hearing regarding an application for Schramm's First Addition Final Plat, a plat of all of Tax Lot 5 and all of Tax Lot 4, a fraction of Tax Lot 3 and the South 498' of Tax Lot 2, excluding part of 17th Street, in the NW¹/₄ of the SW¹/₄ of Section 11-2-2, Jefferson County Nebraska. Paul Schramm addressed the Council. Schramm stated he is asking the City Council to approve Schramm's First Addition Final Plat application contingent upon getting a surety bond. City Attorney David Barga stated he has been in discussion with Starr Buckow Insurance concerning surety bonds required in particular for the street that the developer is putting in; we want to make sure that the City has assurances that the street is built to specifications. Barga stated this is a three-party operation, the contractor, the developer, and the City; in which case the City will be the eventual owner of the street because the developer will, after it is built, dedicate that street to the City. Barga stated he is working with Starr Buckow Insurance and the underwriter so the proper surety bond is written. Barga stated he recommends if the Council approves the final plat, to approve pending final approval of the proper surety bond.

Bailey moved to authorize Mayor Ward to sign the revised Memorandum of Understanding (MOU) between the City of Fairbury, Nebraska and the Bonham Theatre Project to reflect the budget from CDBG Award. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Carmichael moved to authorize Mayor Ward to sign the Sub-Recipient Agreement between the City of Fairbury, Nebraska and the Bonham Theatre Project. Motion seconded by Kuzelka. City Attorney David Barga stated going through these documents he only has one comment; in the unlikely event of a conflict between parties it is noted that mediation would occur first in Walthill, Nebraska at the Nebraska Justice Center; after that litigation could take place in Jefferson County. Barga stated this is the only difference that he noticed about this sub-recipient agreement. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Brown moved to approve the recommendation from the Planning Commission to approve the application for Schramm's First Addition Final Plat located north and west of 17th and F Streets in Fairbury, Nebraska pending approval of securing the surety bond. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to approve the estimate from Chappell Roofing in the amount of \$24,000.00 for the roof at the Fire Hall. Motion seconded by Davis. Polson stated Chappell's will completely tear off and replace the roof, which will have a twenty-five year warranty. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to approve the estimate from Goeking Plumbing in the amount of \$5,814.00 for two heat pumps at the Museum. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Friesen, Kuzelka, and Davis voted "yes." Brown abstained. Rogge absent. Motion carried.

Polson moved to approve the recommendation from the Finance and Keno Committee to allow the Police Department to get fuel cards for their patrol vehicles. Motion seconded by Carmichael. Police Chief Chad Sprunk addressed the Council. Sprunk stated there will be one card per vehicle and each officer will be issued a pin number. Sprunk stated the cards will be a fleet card that can be used at any gas station and can only be used for fuel and maintenance; food purchases are automatically rejected. Sprunk stated at the time of purchase, the full price of gas is charged; but when they get the statement it will show the amount owed with the tax taken off. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Council President/Acting Mayor Friesen read from the agenda “consider ordinance regarding animals and fowls.” Friesen stated the Public Safety Committee had met earlier this month and they do not have a recommendation for the Council regarding chickens in the city limits; so it is up to the City Council to make a decision. Council member Brad Kuzelka stated at the Public Safety Committee meeting he had made a motion to have the City Attorney write an ordinance for the Public Safety Committee to look over, make changes, etc. and then make a recommendation to Council. Kuzelka stated it was a two to two vote so they did not have a recommendation for Council. Kuzelka stated he thinks it would be a good thing if people could have an open-mind about this; kids could do 4-H projects, etc. Kuzelka stated he gets criticized a lot that the City Council just makes more laws and try to hold people down. Kuzelka stated he thinks this is one place that the Council could give people a little leash and they could do something; it’s not that big of deal; if they had an ordinance to look at and to discuss. Kuzelka moved to have the City Attorney write an ordinance for the City Council to look at and to discuss regarding allowing chickens in the city limits. Motion dies for lack of second. No action taken.

Council President/Acting Mayor Friesen read from the agenda “consider recommendation from the Personnel Committee regarding Todd Lytle starting part-time with police department and training at the academy”. Sprunk stated Todd Lytle grew up in Fairbury. Lytle spent twenty years in the Air Force and is now retired and working at the post office. Sprunk stated since Lytle has been out of the Air Force he has wanted to get into the academy and become a law enforcement officer in Fairbury, Jefferson County. Sprunk stated unfortunately in order to go through the academy, you can either go through non-law or you have to be associated with an agency. Sprunk stated the Nebraska Law Enforcement Training Center is not accepting any non-law students which means they have to be employed by an agency before they can attend. Sprunk stated he is asking the City Council to approve Lytle as a part-time officer for the police department and to allow Lytle to go through the academy as a member of the police department. Sprunk stated the City would have to pay Lytle’s wage to go through the academy which is one of the requirements. Sprunk stated the academy will be 634 hours not 640 hours. Sprunk stated he has visited with Lytle in great depth. At this time Lytle is only interested in part-time; if full-time would become available, he would be interested in full-time. Sprunk told Lytle if this is approved, he will have to sign a contract. Sprunk suggested a three year contract at \$3,500.00 per year, which would total \$10,500.00; and if the contract would get broken, Lytle would have to repay the remainder to the City. Sprunk stated Lytle would like to have a minimum of three shifts per month. Sprunk stated being part-time this would strictly be his only part-time job. Lytle is already getting benefits from the Air Force so he is not interested in City benefits unless he would come on full-time then he would. Sprunk stated they have so much overtime with sick, etc. that with Lytle working they would be able to cut the over-time in half. Brown moved to approve the recommendation from the Personnel Committee to allow Todd Lytle to work part-time for the police department and to go through the academy at the Nebraska Law Enforcement Training Center. Motion seconded by Carmichael. Sprunk stated he will have Mr. Barga write the contract to take to the Personnel Committee for approval. Sprunk stated June 8, 2015 will be the first that Lytle will be able to attend the academy unless they have a cancellation. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Council President/Acting Mayor Friesen read from the agenda “consider recommendation from the Personnel Committee regarding advertising for a City Administrator”. Brown stated the qualification list for the position of city administrator was in the council packets. Brown asked if anyone had any changes or comments. Bargaen stated the Mayor had asked him if they had any connections that they could talk to as well for input. Bargaen stated he contacted Chris Anderson, the City Administrator in Central City and he forwarded sample job descriptions from Dakota City, Broken Bow, and Wisner – some other templates to look at, if they would like to. Bargaen stated the qualification list is comprehensive. Brown stated they addressed some areas in the qualifications that they hadn’t previously. Brown moved to approve the recommendation from the Personnel Committee to advertise for a City Administrator. Motion seconded by Carmichael. Kuzelka asked for clarification of what a related degree would be. Carmichael said probably business administration; Brown said yes or possibly an associate degree. Kuzelka read from the qualifications list “business or public administration, or a related degree.” Kuzelka stated he has an associate degree; so is that all you would need. Brown stated that is under the preferred qualifications. Kuzelka just wants to know what a related degree is. Friesen stated it could be a degree in accounting, a degree in math, etc. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Council President/Acting Mayor Friesen read from the agenda “consider recommendation from the Public Works Department concerning the Annual Comprehensive Municipal Tree Plan for the City of Fairbury”. Assistant Street Superintendent Laura Bedlan addressed the Council. Bedlan stated they have replaced and added thirteen trees this year throughout the City Park with the help of a couple grants they received this year, and they proceed forward to maintain the trees in the manner that they have been recommended by the State Arboretum. Bedlan stated they had diseases they needed to deal with this year which they are still working with; and will also do some work with next year in McNish Park. Bedlan stated the Dana Deger Memorial has given money to the City to be used to replace trees in McNish Park. Kuzelka asked what we’re doing with the diseased trees. Bedlan stated they remove the diseased trees, take them down and burn them. Bedlan stated most of the recommendations for the type of trees to replace other trees with come from the Nebraska State Arboretum. Bailey moved to approve the recommendation from the Public Works Department to approve the Annual Comprehensive Municipal Tree Plan for the City of Fairbury. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Polson moved to authorize Mayor Ward to sign the 2014 Tree City USA application. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Davis moved to authorize Mayor Ward to sign the renewal of the Maintenance Agreement No. 9 between the City of Fairbury and the Nebraska Department of Roads (NDOR) for the period of January 1, 2015 to December 31, 2015. Motion seconded by Brown. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Davis moved to approve the Special Designated Liquor License application for Michael Murman, Glacial Till Vineyard & Winery, LLC for a Wine Sampling/Tasting, on/off sale event to be held at Stagecoach Mall Antiques and Tasting Room located at 508 E Street, Fairbury, Nebraska on December 5, 2014 from 5:00 p.m. to 10:00 p.m. Motion seconded by Kuzelka. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Brown moved to adopt Resolution No. 964 authorizing Mayor to release liens levied by the City on property located at 319 A Street, Fairbury, Nebraska. Motion seconded by Carmichael. City Attorney David Barga stated Fairbury Light and Water purchased the 319 A Street property through a sheriff's sale; so the City is releasing the liens for nuisance abatement. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Council President/Acting Mayor Friesen read by title Ordinance No. 3045: AN ORDINANCE OF THE CITY OF FAIRBURY, NEBRASKA TO EXTEND THE BOUNDARIES OF THE CITY AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX INTO THE CITY OF FAIRBURY, NEBRASKA A TRACT OF LAND THAT IS CONTIGUOUS AND ADJACENT TO THE CURRENT MUNICIPAL LIMITS AS MORE FULLY DESCRIBED HEREIN; DIRECTING THE SAME TO BE RECORDED BY THE JEFFERSON COUNTY REGISTER OF DEEDS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; TO PROVIDE FOR THE EFFECTIVE DATE THEREOF; AND ORDER THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM. Polson moved to give 3rd reading to Ordinance No. 3045. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried. Kuzelka moved for final passage of Ordinance No. 3045. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Council President/Acting Mayor Friesen read by title Ordinance No. 3046. AN ORDINANCE, PURSUANT TO THE NEBRASKA LOCAL OPTION REVENUE ACT, TO IMPOSE AN INCREASE OF THE LOCAL SALES AND USE TAX RATE BY AN ADDITIONAL ONE-HALF OF ONE PERCENT FROM ONE AND ONE-HALF PERCENT (1 ½%) TO TWO PERCENT (2%), EFFECTIVE AS PROVIDED BY LAW, UPON THE SAME TRANSACTIONS THAT ARE SOURCED UNDER THE PROVISIONS OF NEB. REV. STAT. § 77-2703.01 TO 77-2703.04 WITHIN THE CORPORATE LIMITS OF THE CITY OF FAIRBURY, JEFFERSON COUNTY, NEBRASKA, ON WHICH THE STATE OF NEBRASKA IS AUTHORIZED TO IMPOSE A TAX PURSUANT TO THE NEBRASKA REVENUE ACT OF 1967, AS AMENDED; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF. Carmichael moved to suspend the statutory three readings requirement for Ordinance No. 3046. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried. Carmichael moved to give all three readings to Ordinance No. 3046. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried. Polson moved for final passage of Ordinance No. 3046. Motion

seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Council President/Acting Mayor Friesen read by title Ordinance No. 3047. AN ORDINANCE AMENDING CITY OF FAIRBURY ORDINANCES NO. 3027 and 3035 TO ESTABLISH AN AVOIDED COST BUY-BACK RATE FOR CUSTOMER-OWNED GENERATION (NET METERING RATE), TO REPEAL CONFLICTING ORDINANCES OR SECTIONS OF ORDINANCES, AND TO PROVIDE FOR THE EFFECTIVE DATE THEREOF. Assistant Superintendent of Utilities Larry Naiman addressed the Council. Naiman stated the Nebraska Legislature passed LB436 to establish rules for net generation compensation in all of Nebraska. Naiman stated there are a lot of criteria for qualifications for net generation; but there are only two right now in consideration tonight with this ordinance. Naiman stated the two qualifications are to qualify for compensation for customer-owned generation, the load must not exceed 25 KW; and that the utility would pay the customer back for any excess above what they use at the utilities avoided cost. Naiman stated the way this works is a customer can install emergency generation, they can install generation and isolate it from the utility’s flow just for their own purpose, their own use; or they can opt to install customer-owned generation with the intent to sell back to the utility. Naiman stated LB436 is what we are doing – we are addressing that last option for the customer to inter-connect to the grid and sell back to the utility. Naiman stated the process is that the customer and the utility have a one and one exchange for the kilowatt hours used, up until a point when the customer’s generation exceeds their use, and then the utility pays the customer back at the utility’s avoided cost. Naiman stated that is not always a cash transaction which means the credits for any excess generation carries on to the next month; but at the end of the year, if there is a balance owed to the customer, then the utility pays back in cash the balance at the avoided cost buy-back rate and you then proceed for the next year. Naiman stated they have had requests for the previous years for net generation; it does involve a considerable amount of contribution by the customer to qualify to get everything done, in the last several months and it is maybe quite probable in the next period of three to four months we may see requests from the customer for consideration of net metering. Naiman stated they have asked their rate consultant to establish a fair avoided cost buy-back rate to pay back to their customer according to the rates that they’re now paying for their power. The consultant drafted the ordinance which Borgen has reviewed. Carmichael moved to introduce and give 1st reading to Ordinance No. 3047. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Carmichael moved to adjourn the meeting. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried. Meeting adjourned at 8:05 p.m.

Homer L. Ward, Mayor

ATTEST: Sharyl Preston, City Clerk