

The Mayor and Council of the City of Fairbury met in special session in the Council Chambers located at 612 D Street, Fairbury, Nebraska, on the 9<sup>th</sup> day of October, 2014, at 7:00 p.m. Mayor Homer L. Ward called the meeting to order.

(The October 7, 2014 regular City Council meeting was postponed to a special meeting on October 9, 2014 at 7:00 p.m. due to quorum lack of quorum for the regular meeting.)

Notice of meeting was given in advance thereof by posting in three public places; the city office, the courthouse, and the library, 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, and Kelly Davis. Absent: Brad Kuzelka.

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 September 16, 2014.
2. Approval of claims.
3. Approval of the appointment of Jim Wrigley to the Board of Public Works. Term expires January 2018.
4. Approval of the re-appointment of Mary Mach to the Planning Commission. Term to expire September 2017.
5. Approval of the re-appointment of Georgia Acker to the Museum Board. Term to expire July 2019.
6. Board of Public Works appointment of Glen Tedrow to the Personnel Committee.

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

Mayor Ward opened the Public Hearing regarding the proposed purchase by the City of Fairbury of real property located at 319 A Street, Fairbury, Nebraska; legally described as: Lot 2, of the resurvey of Lots 13, 14, and 15, of Nutting's Subdivision to the City of Fairbury, Jefferson County, Nebraska. Superintendent of Utilities Michael Beachler addressed the Council. Beachler stated the Board of Public Works (BOPW) would like to purchase the property located at 319 A Street. Beachler stated they've had an engineer look at the nitrate problems and to look at locations where it would be feasible to put a nitrate plant to treat the water – this lot happens to part of that puzzle. Beachler stated this is the #1 prime location site to put a nitrate plant which would also be in close proximity to the power plant. Beachler stated 319 A Street will be sold on a sheriff's sale on Tuesday, October 14, 2014 which may be a way for the BOPW to acquire at a minimal cost to the City. Council member Phil Rogge stated the City does have a \$5,000.00 lien

on the property for nuisance abatement. Rogge stated if someone, other than the City would buy the property, the City would be paid the lien in the amount of \$5,000.00. City Attorney David Barga stated the property would have to sell for that much money. Barga stated with a Sheriff's sale, the property comes up for public bid, the property would be sold to the highest bidder – the first thing paid would be any back property taxes, then if anything is left over, the City would get that amount towards the City's lien. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Rogge moved to approve the proposed purchase by the City of Fairbury of real property located at 319 A Street. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried.

Davis moved to approve the Special Designated Liquor License application 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 K Street, Fairbury, Nebraska on April 11, 2015 from 5:00 p.m. to 10:00 p.m. Motion seconded by Carmichael. This will be held inside with Microbreweries and distributors represented, offering samples of their selected brews and wines and selling unopened bottles of wine. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried.

Polson moved to authorize Mayor Ward to sign the Citywide Housing Rehabilitation Program (CDBG-12-HO-6039) Award of Rehabilitation Contract for additional electrical repairs for applicant #011, 915 A Street. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried.

Friesen moved to authorize Mayor Ward to sign the Professional Services Contract with Southeast Nebraska Development District (SEND) in the amount of \$16,000.00 for CDBG Grant Administration for the CDBG #14-HO-3S061 Housing Rehabilitation Program. Motion seconded by Brown. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried.

Rogge moved to transfer the additional funds allocated of LB840 Local Option Sales Tax funds as a "Public Works Grant" to complete the City of Fairbury "E" Street (between 11<sup>th</sup> to 13<sup>th</sup> Street) Public Works Improvement Project #13-01 in the amount of \$23,922.26 from the LB840 Fund to the Street and Alley Fund. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried.

Brown moved to approve the recommendation from the Personnel Committee to authorize Mayor Ward to sign the Collective Bargaining Agreement between the City of Fairbury and the International Brotherhood of Electrical Workers, Local Union No. 1536 (IBEW) for the term of October 1, 2013 to September 30, 2016 and the attached Memorandum of Understanding. Motion seconded by Carmichael. Brown stated we've been negotiating the IBEW agreement for over one year. On roll call, Polson, Bailey,

Carmichael, Brown, Rogge, Friesen, and Davis voted “yes.” Kuzelka absent. Motion carried.

Bailey moved to adopt Resolution No. 960 amending Resolution 804, as amended by Resolution 937, levying and assessing various fees, bonds or deposits, by removing reference to the Community Antenna Television System Franchise Fee as redundant. Motion seconded by Carmichael. Bargaen stated this resolution is in regards to the question of Time Warner Cable suddenly charging both a franchise fee and an occupation tax. Bargaen stated maybe what caused the confusion was that the resolution that lays out city’s fees, lists the franchise fee that Time Warner Cable pays under the occupation tax resolution, so it may look like they should charge both fees; but as was discussed earlier, that is not the intent of the Council to have both fees charged. This resolution should clear up the confusion and clarify that only the franchise fee is to be charged. Bargaen stated he sent a letter explaining and asking Time Warner Cable to stop collecting the occupation tax so there is not a double charge on the statements. Bargaen stated that Time Warner Cable has sent the city three checks, starting in May, that they had not sent previously; he has asked them to clarify what those checks are for and we will then decide how to precede with the checks the city received. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted “yes.” Kuzelka absent. Motion carried.

Rogge moved to adopt Resolution No. 961 to levy and assess costs of nuisance abatement against certain properties. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted “yes.” Kuzelka absent. Motion carried.

Mayor Ward read by title Ordinance No. 3042: AN ORDINANCE SETTING SALARIES FOR CITY POLICE DEPARTMENT EMPLOYEES COVERED BY CWA AGREEMENT; PROVIDING FOR THE EFFECTIVE DATE THEREOF; AND REPEALING CONFLICTING ORDINANCES. Polson moved to give 3<sup>rd</sup> reading of Ordinance No. 3042. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted “yes.” Kuzelka absent. Motion carried. Carmichael moved for the final passage of Ordinance No. 3042. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted “yes.” Kuzelka absent. Motion carried.

Mayor Ward read by title Ordinance No. 3043: AN ORDINANCE REPEALING MUNICIPAL CODE SECTIONS 150.10 TO 150.25 AS CURRENTLY CODIFIED, AND REAPPROVING THE ESTABLISHMENT OF A CERTIFICATE OF OCCUPANCY REQUIREMENT AND INSPECTION PROGRAM FOR RENTAL PROPERTIES WITHIN THE CITY OF FAIRBURY, WITH AMENDMENTS. Bailey moved to give 2<sup>nd</sup> reading to Ordinance No. 3043. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, and Friesen voted “yes.” Davis abstained. Kuzelka absent. Motion carried.

Mayor Ward read by title Ordinance No. 3044: AN ORDINANCE SETTING SALARIES FOR CITY EMPLOYEES COVERED BY IBEW AGREEMENT; PROVIDING FOR THE EFFECTIVE DATE THEREOF; AND REPEALING CONFLICTING ORDINANCES. Barga stated Deputy City Attorney Mark Fahleson said it was his recommendation, in conjunction with the signing of the IBEW agreement, that the Council waive the three readings for this ordinance, and then all three union agreements would be completed. Friesen moved to suspend the statutory three readings requirement for Ordinance No. 3044. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried. Rogge moved for the final passage of Ordinance No. 3044. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried.

Within the Mayor's report, Mayor Ward stated a hearing will be held October 23, 2014 at Union Bank around noon and another hearing in the evening regarding the one-half cent sales tax. Mayor Ward stated someone will be at Union Bank all day to discuss if anyone wants to stop in.

Within the Committee reports, Phil Rogge stated the electric costs the city will be charged from MEAN will be going up 6½ % November 1. Rogge stated two weeks ago the BOPW had to cash in a cd in the amount of \$240,000.00 and had to take a penalty of approximately \$840.00. Rogge stated sometimes we give the light and water a hard time about not cutting corners, he would like to congratulate them when they had to buy an air compressor; the cost came in at \$53,000.00, but they got the cost down to \$19,655.00 – they will have to go pick up the air compressor and install it, but this is a substantial savings. Rogge feels they should be commended for getting the cost of the air compressor lowered.

Ed Friesen stated he has a comment on the sending of anonymous letters to councilpersons – if you're not confident enough in what you are trying to say, to sign your name to it, don't send it. Friesen stated there is no point – how would I ever want to own something that you don't want to put your name on. If you're thinking about writing a letter, please sign your name – if you want anyone to take it seriously.

Rogge moved to adjourn the meeting. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, and Davis voted "yes." Kuzelka absent. Motion carried. Meeting adjourned at 7:23 p.m.

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