

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 7th day of April, 2015, at 7:30 p.m. Mayor 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 March 17, 2015.
2. Approval of the minutes of the special meeting of March 20, 2015.
3. Approval of claims.

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

Mayor Ward read from the agenda: "public hearing regarding request for a Conditional Use Permit (CU-2015-001) from HNM Cat Adoption Center at 415 5th Street, Fairbury, Nebraska. The request is to allow for an Animal Shelter in the C-1 – Downtown Commercial Zoning District as provided for in Article 5, Section 5.13.04, and Article 6.01 of the Zoning Ordinance of the City of Fairbury, Nebraska – 2013 Edition. The legal description of the property is described as: Lot 14, Block 18, Original Town, City of Fairbury, Jefferson County, Nebraska." Mayor Ward stated the proponents of the animal shelter have withdrawn their request. No public hearing necessary.

Mayor Ward opened the public hearing concerning obligating further funding into the "Downtown Design Challenge Grant" for Economic Development (LB840) Program. Craig Eberle with Southeast Nebraska Development District (SENDD) office in Lincoln, Program Administrator for the Fairbury LB840 Economic Development Program addressed the Council. Eberle stated the purpose of this public hearing is concerning the recommendation for increased funding into the "Downtown Design Challenge Grant" Program in the amount of \$6,000.00. Eberle stated at the last meeting of the Historic Preservation Commission, they recommended adding an additional \$6,000.00 from the LB840 funds into the Downtown Design Challenge Grant Program to facilitate two Downtown Design Challenge Grant applications. If this

allocation is approved by the City Council, the Downtown Design Challenge Grant program will have a pool of funds available to potentially fund these recently recommended applications. Eberle stated to date the Downtown Design Challenge Grant program has funded thirty-seven projects that have accumulated approximately \$91,000.00 of Downtown Design Challenge Grant funds and \$265,000.00 of private investments which is over \$350,000.00 invested into the downtown area for façade improvements. Council member Roger Bailey stated this is a very good program and has worked very well. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Mayor Ward opened the public hearing concerning the use of \$42,532.00 of LB840 Local Option Sales Tax funds to the City of Fairbury as a “Public Works Grant” for a project consisting of making vital public works street improvements on F Street between 3rd and 4th Streets. Craig Eberle, Program Administrator of the Fairbury LB840 program addressed the Council. Eberle stated this public hearing concerns the use of \$42,532.00 of LB840 Local Option Sales Tax funds for a project consisting of making vital public works street improvements on F Street between 3rd and 4th Streets in order to prevent possible loss of revenue and retain jobs not only for businesses located directly on F Street but also businesses in the downtown business district. The funds would be used to remove and replace approximately 2,125 square feet of brick road surface and concrete base along with approximately 160 linear feet of curb and gutter replacement. Eberle stated this project meets the eligible LB840 criteria according to the LB840 Economic Development Plan by providing expenditures for public works improvements that benefit qualifying businesses. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Mayor Ward opened the public hearing concerning the use of \$37,099.00 of LB840 Local Option Sales Tax funds to the City of Fairbury as a “Public Works Grant” for a project consisting of making vital public works street improvements on 6th Street between G and H Streets. Craig Eberle, Program Administrator of the Fairbury LB840 program addressed the Council. Eberle stated this public hearing concerns the use of \$37,099.00 of LB840 Local Option Sales Tax funds for a project consisting of making vital public works street improvements on 6th Street between G and H Streets in order to prevent possible loss of revenue and retain jobs for businesses in the downtown business district. Sixth Street is one of Fairbury’s main east/west streets which moves traffic from Highway 15 to the downtown commercial district. The funds would be used to remove and replace approximately 1,920 square feet of brick road surface and concrete base along with approximately 84 linear feet of curb and gutter replacement. Eberle stated this project meets the eligible LB840 criteria according to the LB840 Economic Development Plan by providing expenditures for public works improvements that benefit eligible businesses. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Mayor Ward read from the agenda: “update on health insurance – Dan Duren with Benefit Management.” Dan Duren addressed the Council. Duren updated the Council regarding changing from CoOpportunity to Blue Cross Blue Shield which was effective March 1, 2015. Duren stated with CoOpportunity the monthly premium was \$47,020.41 and with Blue Cross Blue Shield it is \$55,868.71. The City had a substantial savings with CoOpportunity but CoOpportunity went into formal liquidation as of March 1, 2015. Duren stated CoOpportunity are meeting their obligations; sounds like they are pretty well caught up with their bills – hopefully there will not be a lot of lingering expenses. Duren stated if the City would have stayed with Blue Cross Blue Shield at our renewal of August 1, 2014, the renewal rate was \$70,134.83. Duren stated the City did the cash in lieu of benefit which helped; some members got off of the City’s insurance that did not need to be on the plan as they had other sources of insurance coverage. Blue Cross Blue Shield gave a very generous offer for the March 1, 2015 effective date with a \$55,868.71 monthly premium which is a savings of \$14,266.12 from the August 1, 2014 renewal rate. Duren stated we did not anticipate CoOpportunity having any issues. Duren stated he talked to Blue Cross Blue Shield today – their expenditures alone to take care of the guarantee were \$25 million.

Polson moved to authorize Mayor Ward to sign the Memorandum of Understandings (MOU) between the City of Fairbury and each of the unions – Communications Workers of America (CWA), International Brotherhood of Electrical Workers (IBEW), and International Union of Operating Engineers (IUOE) regarding health insurance. Motion seconded by Carmichael. Dan Duren stated the City had authorized the employees to receive \$400.00 in cash in lieu of or \$400.00 as a HRA/VEBA if the employee has outside health insurance coverage that qualifies under the Healthcare Reform meaning coverage through a spouse’s employment or other employment themselves. Duren stated in addition there was made to allow any spouse that was currently insured to also receive that \$400.00 in cash in lieu of or a HRA/VEBA which was approved by the City Council. Duren stated there was some language that was in the original MOU document that needed to be removed and that was the re-opener for the unions to negotiate again in August of next year. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Kuzelka moved to approve the recommendation from the Public Works Committee to approve the request from the Hope Crisis Center to use different areas of the City Park in the morning on April 25, 2015 from 8:15 a.m. to 10:15 a.m. for the 11th Annual “Put Your Foot Down Against Sexual Assault” Run/Walk with barricades being placed at the three entrances to the City Park. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Kuzelka moved to approve the recommendation from the Public Works Committee to approve the lowest bid received from Constructors, Inc. in the amount of \$197,417.20 for the 2015 Asphalt Concrete Paving Improvements, Section A: 9th Street between H and K Streets and Section B: 11th Street between H and I Streets. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". Motion carried. Two bids were received; the other bid was from Pavers, Inc. in the amount of \$206,482.20.

Kuzelka moved to approve the recommendation from the Public Works Committee to approve the lowest estimate received from Lottman Carpenter Construction, Inc. in the amount of \$19,147.50 for the brick repair on F Street between 3rd and 4th Streets. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". Motion carried. Two estimates were received; the other estimate was from Vaughn Contracting in the amount of \$32,105.00.

Kuzelka moved to approve the recommendation from the Public Works Committee to approve the lowest estimate received from Lottman Carpenter Construction, Inc. in the amount of \$16,204.00 for the brick repair on 6th Street between G and H Streets. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". Motion carried. Two estimates were received; the other estimate was from Vaughn Contracting in the amount of \$27,460.00.

Friesen moved to approve the recommendation from the Public Safety Committee to allow the Fire Department to replace ladders in the amount of \$2,623.75 plus freight. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". 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 November 6, 2015 from 10:00 a.m. to 11:30 p.m. and on November 7, 2015 from 10:00 a.m. to 6:00 p.m. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". 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 4, 2015 from 10:00 a.m. to 11:30 p.m. and on December 5, 2015 from 10:00 a.m. to 6:00 p.m. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". Motion carried.

Friesen moved to adopt Resolution No. 973 obligating LB840 funds for a “Public Works Improvement Grant” in the amount of \$42,532.00 to the City of Fairbury for the “City of Fairbury F Street (between 3rd and 4th Streets) Project.” Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Polson moved to adopt Resolution No. 974 obligating LB840 funds for a “Public Works Improvement Grant” in the amount of \$37,099.00 to the City of Fairbury for the “City of Fairbury Sixth Street (between G and H Streets) Project.” Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Davis moved to adopt Resolution No. 975 obligating an additional \$6,000.00 into the “Downtown Design Challenge Grant Program” for the Economic Development (LB840) Program. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Friesen moved to adopt Resolution No. 976 obligating LB840 funds to the Bonham Theater Project – Bonham Theater located at 517 E Street for a “Downtown Design Challenge Grant” in the amount of \$3,000.00. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Rogge moved to adopt Resolution No. 977 obligating LB840 funds to the Bonham Theater Project – Bonham Theater located at 519 E Street for a “Downtown Design Challenge Grant” in the amount of \$3,000.00. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Polson moved to adopt Resolution No. 978 to approve the successful completion of a previously approved and obligated LB840 “Performance Based Grant” in the amount of \$60,000.00 to Siebert Communications, Inc. Motion seconded by Brown. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Polson moved to adopt Resolution No. 979 to approve the successful completion of a previously approved and obligated LB840 “Performance Based Grant” in the amount of \$252,500.00 to Pets Choice Pharmaceuticals, LLC (Project #10-04). Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Polson moved to adopt Resolution No. 980 to approve the successful completion of a previously approved and obligated LB840 “Performance Based Grant” in the amount of \$20,000.00 to Livingston Enterprises, Inc. (Project #10-09). Motion seconded by Brown. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Rogge moved to adopt Resolution No. 981 to approve the successful completion of a previously approved and obligated LB840 "Performance Based Grant" in the amount of \$20,000.00 to McBattas Paper Co. d/b/a McBattas Specialty Advertising (Project #11-01). Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted "yes". Motion carried. Polson congratulated all the businesses that successfully completed these grants. Mayor Ward stated this shows that they were properly executed and used very well and we appreciate that. Rogge stated it is nice to see a government program that actually works.

Mayor Ward read from the agenda: "Ordinance No. 3050: 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." City Attorney David Barga stated when the City Council gave the first reading to Ordinance No. 3050; the Council also adopted the Planning Commission findings regarding requirements to annex Area 2. Barga recommends that the Council should also adopt these findings again which are specifically that Area 2 is contiguous and adjacent to the City, in that the southwest side of Area 2 touches the existing city limits, there is no situation where just a small portion touches the city limits; also that Area 2 is urban or suburban in character, not rural or agricultural. Barga stated the Planning Commission made findings that the City's annexation of Area 2 is in pursue of the Comprehensive Plan for the City of Fairbury and that the City does have plans or will have plans in place within the next year to extend City services to Area 2 in the same manner that the City services are available to all other residents of the City of Fairbury. Kuzelka moved to adopt the Planning Commission findings in whole on the qualifications of annexing Area 2. Motion seconded by Polson.

Larry Winter from Countryside Veterinary Clinic addressed the Council. Winter needs to have questions answered. Winter stated they do not have a problem with being a part of the City; but they do have a problem with why the City is annexing them. Is it because the City needs more land for development – is that what the Planning Commission decided. How about the land north of Walmart or the Industrial Park – he doesn't see a lot of businesses going in there. Winter stated he has talked to Scherbarth's and Coop, and Garber doesn't want any part of this, none of them requested to be annexed so that eliminates a voluntary annexation of the property. Winter stated his main question is why the City wants them in the city limits if it's not for land does the City need it for the tax money is that what the City is after, has the City dug a hole and they actually need to get out from underneath that. Winter stated the tax from him will not be a whole lot it would not help the City; Coop figured it would

be less than \$50.00 per year for them; doesn't think that the Rural Fire would bring in a lot. Winter wants to know why the City actually wants them in the city limits. Winter stated he has been told that they could be in the city limits and they could get sewer from down by Runza, if they pay for it. Winter wonders when the City annexed the property for Walmart did Walmart pick up the total bill. Winter stated none of them requested the annexation so basically this is an involuntary annexation; he would like the attorney to answer. Borgen stated he declines to answer any questions regarding the aspects of the annexation, and would remind that the public hearing concerning the annexation was a month ago; there is no public hearing necessary at this point. Borgen stated it is at the discretion of the Council of how much discussion to have with the public as opposed to among the Council itself. Winter stated involuntary annexation is only legal in four states and Nebraska is not one of the states. Winter stated tonight the City Council will vote and the Council will annex them; he does not think it is legal. They fought it last time and they won but their lawyers at that time told them this would happen again. Winter stated if we want to annex them, they will be happy to be part of the City.

Lloyd Garber from Garber Honda addressed the Council. Garber stated he is not representing the old Massey Ferguson building – he did not like that. Garber stated he talked to the City about why we couldn't put in the paper Garber's Honda not Massey Ferguson. Garber also talked to Fred Arnold at the paper and Arnold blamed it on the City; the next paper came out and it said the old Massey building – does Arnold have something against him that he won't put in Garber's Honda or does the City have something against him. Garber stated Massey Ferguson does not pay a dime of taxes so why can't they say what it is, Garber's Honda. Garber stated his building is not a business, not open for business. Garber stated he doesn't know why the City couldn't stop the annexation by the extension out there on the road that says Fairbury Airport Road and have everything south of that be annexed. Garber stated the City won't go out there with businesses, we just want more money. Garber asked before what is the City gaining, what is this annexation for; not one answer; he also asked another guy that worked at the City – no one answers, so it is money. Garber stated the City has Industrial Park if the City wants businesses, the Industrial Park is where you would want the businesses to go and that is where they should go. Garber didn't like that he never got an answer and also that we don't put Garber Honda out there, he's the one paying the taxes, what seems to be the problem – it either had to be Fred Arnold or it had to be the City. Garber stated it is already cut and dried; but the Planning Committee slipped it by him, but he didn't read it in the paper, and it probably wouldn't have done any good but they had a meeting that he didn't know about. Garber feels that we're not gaining much except money. Garber agrees that we want to get Fairbury bigger and bigger – that's what all cities are about, but doesn't know what we will gain by going that way when we have an Industrial Park. Garber stated he had people this month alone, within the first six days of the month, that came from South Dakota and Wyoming to come just to his shop which they also probably bought fuel, food and maybe lodging while in Fairbury.

Council member Doug Brown stated he doesn't think that we answered Larry Winter's question. Planning Commission Secretary Laura Bedlan addressed the Council regarding the question of why the annexation of this area. Bedlan stated initially what

happens with the Planning Commission is they develop a Comprehensive Plan which was developed several years ago. The Comprehensive Plan lays out certain areas of the City that are potential for annexation, which the plan had about sixteen potential annexation areas. Bedlan stated to annex certain areas you have to meet four guidelines by state statute. Bedlan stated when a planner looks at annexation areas he looks at the City, he looks at potential growth and if they meet the state statute guidelines. Bedlan stated the Planning Commission is only charged with determining whether or not areas meet those guidelines for annexation. Bedlan stated the Planning Commission does not say that we want to annex this area for a reason or for any particular reason to speak of; it is just that whether those areas meet those guidelines. Bedlan stated the Planning Commission talked about different areas of annexation and those areas were written into the Comprehensive Plan. The Planning Commission will look at areas independently and determine whether or not if those areas can be annexed. Bedlan stated then there is a public hearing at the Planning Commission and they discuss specifically those four guidelines as issued by state statute as to whether the areas meet those guidelines. Bedlan stated before they did this she actually recommended that they do a study to get another planners perspective. Bedlan stated the planner is supposed to write the study according to his opinion and in reference to statute on that specific area to narrow it down further. Bedlan stated it goes to the Planning Commission for them to rule on those four guidelines and then it goes to the City Council. Bedlan stated the Planning Commission does not discuss any financial reasons, they don't discuss about why they would want to annex one area over another area; they keep it solely to those four guidelines whether or not that area meets statute. Barga stated the Comprehensive Plan is set up years prior before annexation ever occurring; to be eligible for annexation to happen, you have areas that are designated for future growth of the City which it is expected that a City will be profitable and is prospering and is going to grow. Typically what will happen is development is occurring in that particular area and a planner looks at that and sees that it is starting to meet those requirements that it is contiguous and adjacent to the City and that it is urban or suburban in character. Barga stated the outside study that was commissioned by the City, the planning consultant showed that the area that is being discussed for consideration right now, Area 2, meets that threshold of being urban or suburban in character given that the development that has occurred in that area. Barga stated Area 2 meets those requirements that it is contiguous and adjacent to the City, the entire southwest border, as the map shows, of Area 2 touches or is adjacent right next to the current city limits on the north side of town. Area 2 also meets the urban or suburban character according to the study that was performed for the City and it is not rural or agricultural – even if some of the land is being farmed that does not make it agricultural or rural in nature; it is being temporarily used for that purpose but the long term purpose is urban or suburban in character. Barga stated in that area nearby you have the airport, Walmart, have other development, have residential development nearby; this is what the Planning Commission looked at and what the study looked at to make that determination for the urban or suburban in character. Bedlan stated there were also areas that are split that are for sale for commercial use in this area. Barga stated that what the Planning Commission looked at and considered all the

factors – the purposes of annexation, the City is looking at its Comprehensive Plan essentially and looking at areas that meet those thresholds, it makes sense to include within the City after which of course the residents gain all the benefits of being in the City – the utilities and other services that the City offers to the residents. Friesen stated that also being part of the City, the businesses could now be eligible for some LB840 programs, TIF projects, etc. for being in the city limits that were not available not being in the city limits.

On roll call to adopt the Planning Commission findings regarding the annexation of Area 2, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Polson moved to give 3rd reading to Ordinance No. 3050. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried. Friesen moved for the final passage of Ordinance No. 3050. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried.

Within the Committee reports, Brad Kuzelka Fairbury Pool & Aquatic Committee Chair stated the committee met to discuss the scope of services of Olsson Associates.

Ed Friesen Community Redevelopment Authority (CRA) Chair stated they just closed on the Schramm Construction TIF project.

Kelly Davis Rental Inspector stated last month he did fifty-five rental inspections and eleven re-inspections.

Carmichael moved to adjourn the meeting. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis all voted “yes”. Motion carried. Meeting adjourned at 8:17 p.m.

Homer L. Ward, Mayor

ATTEST: Sharyl Preston, City Clerk