

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 3rd day of February, 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 January 20, 2015.
2. Approval of claims.

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

Mayor Ward opened the public hearing concerning the City of Fairbury, Nebraska One & Six Year Street Improvement Plan for 2015-2020. Laura Bedlan Assistant Street Superintendent addressed the Council. Bedlan stated this is the standard one and six year street improvement plan for the State. Bedlan stated the Planning Commission approved and is recommending to the City Council to approve the One & Six Year Street Improvement Plan for 2015-2020 as amended which a copy of the Planning Commission's letter to the Mayor and Council was in the council packets. Bedlan stated the Planning Commission discussed the increase in city sales tax from 1½% to 2% that was passed in the last election, which can be used for infrastructure projects such as streets. Bedlan stated the Planning Commission discussed different projects that the new sales tax could be applied to. Bedlan stated some projects were also mentioned to her prior to the timeframe for her to get them on the One & Six Year Plan; but that does not mean that they will not be doing those projects. Bedlan stated this plan can be amended to add those projects as soon as they finalize the scope of the projects. Council member Phil Rogge stated he thinks it is great that we have a one & six year plan and we basically have what the budget is for it and with the increase of the (½ cent) sales tax now, maybe we can even actually fund and have some projects done off of the wish list. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Mayor Ward opened the Public Hearing for the semi-annual review of the Local Option Sales Tax for Economic Development (LB840) Program. Darcy Brown member of the Citizens Advisory Review Committee addressed the Council. Darcy stated this report serves to document the review of the functioning and progress of the City of Fairbury Economic Development Program for the six month period from July 1, 2014 to December 31, 2014. Darcy stated the committee had received for the Performance Based Grant: one application was received, one application was processed, zero applications were denied by the committee, one application was approved, zero applications are pending, one application was approved and funded by the City, and zero applications were denied by the City. Darcy stated during this time period the committee had received for the Downtown Design Challenge Grant/Historic Preservation Commission: three applications were received; three applications were processed; zero applications were denied by the committee; one application was approved; zero applications are pending; one application was approved and funded by the City; and zero applications were denied by the City. Darcy stated no discrepancies were noted in the program review. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Mayor Ward read from the agenda: “consider request from Abelson’s to release the lien on the property located at 1326 Maple Street”. Bob Abelson addressed the Council. Abelson stated they are considering buying the lot next to them to clean up the property but found out there is a lien on the property. Abelson stated if he purchases the property and cleans up the lot, he would like to get the lien released; the lien is from the City of Fairbury for nuisance abatement. Council member Tim Polson asked if Abelson is purchasing the property from the person that has the lien against them. Abelson stated yes, Scott Fentress owns the property. Abelson stated he has not purchased the property yet; if he has to pay the lien off, he feels the lien is more than what the property is worth. Polson asked how much the property is worth. Abelson stated the property is appraised at \$2,400.00 and the lien is approximately \$1,500.00 and then you figure the cost of cleaning up the property – it would be a loss from him to buy the property and clean it up; but he would be doing the City a favor because the City then would not have to come back again later to clean up the property. Council member Doug Brown asked Abelson if he was going to tear the house down. Abelson stated not completely, mainly the additions and clean everything up; he’ll have to see how the structure is he hasn’t been in to see, but thinks the main house itself he would leave up – he would clean up the outside right away and then work on the inside and maybe have his daughter live there; depends on how much work it needs, it would be a time consuming project. Council member Rick Carmichael asked if this property is directly north of Abelson’s property. Abelson stated yes it is. Carmichael stated Abelson has been dealing with that property for years. Abelson stated it has been twenty-seven years. Abelson stated he doesn’t want to have to spend a lot of money to purchase the property. Brown asked how collectible is the City’s lien. Abelson stated that Fentress had told him if Abelson didn’t purchase the property he would probably just let the City have the land; Fentress is the one that had the house that burned on 3rd Street and the City had to

go clean up that property. Polson asked if there is anyway if Abelson purchases the land, whatever he pays for the land could that amount go to the City for the lien. City Attorney David Barga stated there is a process in State Statute where the City can foreclose its liens itself if the City wants to. Barga stated the issue with doing that is the county taxes have precedence, so if any county taxes are owed on that property, if the City would foreclose for our lien, the county would get paid first. Abelson stated the taxes are owed for two years. Barga stated the property taxes would come out of the sale price first. Barga stated typically the county will take the first step to foreclose for taxes and the City would then get paid after the property taxes are paid if any funds remain. Barga stated in the past since he has been City Attorney, the only time something like this has happened is when the City has had an agreement with the party that the City gets something in return as well for releasing the lien, and that was with Blue Valley Community Action which was a three-way arrangement to have a property purchased, the City released its lien and the City also got in return a lease for a parking lot. Barga stated in any generic situation if the City were to start doing something like this, one issue is the City would need to be assured that the party will follow through to purchase a property and clean it up and make it a valuable interest for the City; at what point does the City release the lien, does the City have a contract – not sure what the City wants to do. It is a policy decision for the City. Carmichael asked if once Abelson purchases the property and the property is in his name, could the City then release the lien. Barga stated it is a policy decision for the City to make; it is the City's lien so the City can make the decision to release the lien if they want to, it just becomes a question of what kind of policy does the City want to put into place for these kinds of situations. Barga stated you could do a contractual arrangement each time if the incentive is to get a property cleaned up; maybe there is some contractual arrangement for that purpose. Barga stated it will take some discussion on the City's part as to how the City wants to proceed in the future with those types of cases. Barga stated the process is in State Statute to have a lien on a property so that either the person that owns the property will give the property to the City, then the City has something of value to do something with or the City can foreclose that lien itself and try to collect. Council member Ed Friesen stated he doesn't want to set precedence because the City has a lot of properties that the City has liens against and some of them we have a chance of getting our funds back if they do give the property to the City; the City could then finish cleaning up the property and then at some point in time and especially with this property where it is located there may be someone that would want to do something with this property – it would really set a precedent and the City may regret at some point in time because the City has some liens that are substantially greater than these. Brown asked if the City could look at these case by case, it wouldn't mean that if you did something for one that you would have to do for the next. Barga stated he would think that the City would want to be careful about the policy that the City would set and if someone would come and request this in one situation then it tends to set up a situation where there would be an expectation that you would do for others as well in similar settings. Barga stated he thinks the City could pursue a program that intentionally looks at trying to clean up properties and this would be an incentive to do that; this could be something that the City could do as a policy matter – but it would be prudent to

approach that from a perspective that the City should get a policy in place first and then the City could apply the policy to different situations. Carmichael asked if the City would decide to foreclose on the lien, what would guarantee that the City would even be able to collect on the lien. Bargaen stated that is typically why that process is not followed by cities because the county taxes always take precedence, and usually taxes are owed as well. Bargaen stated to collect on liens there is usually a waiting period to get the collection and the City might end up with the property. Bargaen stated it is something that the City can do, but it depends what the City decides on the policy matter, to what approach the City would take. Brown stated Abelson is offering to clean this property up; Brown would like to be able to somehow help Abelson. Council member Kelly Davis asked Abelson if he knows what the back taxes are on this property. Abelson stated approximately \$60.00; about \$30.00 per year, he wouldn't be opposed to paying the back taxes. Bargaen stated if the City would want to create an incentive to do something like this to help a party to clean up a property, the City can certainly release liens. Council member Phil Rogge asked why the City could not foreclose on this property; he would also like to see the property get cleaned up; but if the City would foreclose, could the City then sell the property to Abelson because the City could then get back the \$1,300.00 lien that is owed to the City plus the taxes would be paid and it would be a win-win situation because in this situation we're just letting the property owner off of the hook. Bargaen stated in this case where the taxes are that low, the back taxes are not paid; this might be a situation where the City would want to foreclose on this particular lien. Brown asked what it would cost to foreclose. Bargaen stated the filing fee; it would not be a complicated process to do. Friesen stated before the City would foreclose, we should give the property owner the opportunity to sign the property over to the City. Abelson stated he has a telephone number for the individual that is taking care of things for the owner of the property. Bargaen stated if the City is interested in doing a program that way it would seem to make sense. Assistance Street Superintendent Laura Bedlan asked Bargaen to explain how the foreclosure process works and if the City could do more properties at one time. Bargaen stated yes, the question would be what the back taxes might be that are owed on the properties. Friesen stated the deal would be to catch up the taxes and give the property to the City. Friesen stated some of the liens are way bigger than this lien. Friesen stated he would always prefer that the property be in the City's name if there is money that the City put into the property that is owed against it, then it would give the City a little bit of room if we would have things that are torn down where someone would want to build then we could then capture our funds back through a TIF program if the property is in a blight and substandard area and they generally are so we would be able to capture back some of those funds if someone does something with that property. Bargaen stated the thing to remember when foreclosing on those liens, the City will probably not get their money back, but the City could get the property, and then sell it. Rogge stated in a situation like this, the City could get the property but would also get our money back when we sell the property. Bargaen stated provided the property is worth what the lien is on the property – that is the issue with most of these lots and in some cases we have had \$5,000.00 - \$7,000.00 liens for demolitions, etc. and some of those lots are not worth that much; that is a situation where the City would get the property and probably could not sell it

to get that money back, but the City could at least get whatever value the property has and maybe if the City has some other use or other purpose to use the property for some future development or rehabilitation or something like that. Abelson stated that is something that he is looking at, if the City would get this property and goes in and tears down the house, the City would have more money in the property than he would be willing to pay for the property. Abelson stated he is willing to go in and do the work and the City wouldn't have to put out more money concerning this property. Rogge asked if that could be put into the purchase agreement that Abelson would clean up the property not the City. Barga stated the City could come up with a contractual arrangement like that but in the past the City got something in return like a parking lot lease, etc. Friesen stated we need to think about this more and have some committees investigate the possibilities. Friesen asked Abelson if he is on a deadline. Abelson stated if he buys the property, he would like to utilize the week of citywide clean-up in April. No action taken.

Bailey moved to approve the 2015 Certification Package for historical property "aircraft" on loan from the National Museum of the United States Air Force located at the Fairbury Airport and also authorizing Mayor Ward to sign the necessary documents. Motion seconded by Carmichael. City Administrator Joseph Parker stated the Department of the Air Force is still actively trying to find a new site for the T-33 aircraft. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Kuzelka moved to approve the recommendation from the Public Works Committee to approve the request from the Fairbury Chamber of Commerce to block off 4th Street from E Street to F Street for the Shamrock Shuffle 5K Run/Walk from 9:30 a.m.–2:30 p.m. on March 14, 2015. Motion seconded by Rogge. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Mayor Ward read from the agenda: "consider designation of excess LB840 city sales tax". Mayor Ward stated this will be handled through the budget process. Barga stated he looked into how this process would take place; essentially what is happening is there are some years that we are having a few more funds over and above the \$185,000.00 estimated to be collected per year. Barga stated the plan, as approved by the voters, said it was an estimate that it would bring in \$185,000.00 per year in sales tax and that those dollars would be used for economic development. Barga stated the statutes provide that if you get beyond about 4 different analysis of collection, which the City has not hit yet, then you have to invest those extra dollars pursuant to state statutes in certain cd's or money markets or consider different vehicles that are required to put those funds into investment, we haven't hit that trigger yet; state statute says that if there are dollars left over you have to have it appropriated to your plan then at budget time, you can appropriate those dollars for purposes in the plan but maybe haven't been used yet. Barga stated at budget time if we have extra dollars left over then we could put it in the budget to spend those dollars. Barga stated one possibility was demolition of old houses, etc. of possible uses of those dollars; what the statute provides what you can use those funds for he

thinks it fits that because it talks in terms of could include grants or loans for the construction of or rehabilitation for low and moderate income housing but also relocation incentives for residents. Bargaen stated if you think in terms of improved properties by making the lots available for new residents and that in turn helps economic development in the City, demolitions would potentially fit that category. The statute also states it "shall include but not be limited to" ... as long as it is improving economic development. Bargaen stated at budget time we can earmark those dollars for use such as demolitions or other purposes. No action taken.

Friesen moved to adopt Resolution No. 968 approving the 2015-2020 One & Six Year Street Improvement Plan as presented. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Mayor Ward read by title Ordinance No. 3049: AN ORDINANCE AMENDING CITY OF FAIRBURY CODE SECTION 30.15 TO PROVIDE FOR CHANGES TO DUTIES OF CITY ADMINISTRATOR. Brown moved to suspend the statutory three readings requirement for Ordinance No. 3049. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried. Brown moved for the final passage of Ordinance No. 3049. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Rogge, Friesen, Kuzelka, and Davis voted "yes." Motion carried.

Within the Mayor's report, Mayor Ward stated he has some concerns regarding problems with the City's health insurance program. Bargaen stated he visited with Deputy City Attorney Mark Fahleson about where we are with the health insurance. Fahleson had stated he gave proposed dates to each of the unions to discuss and the unions rejected all of the proposed dates so he is still working with the unions to get that set up and to get the discussions so they can get the new plan in place. Bargaen stated Fahleson and Dan Duren have been exchanging emails trying to get everything sorted out; right now the ball is essentially in the unions courts to get meeting times set up with them to get that discussed. Mayor Ward stated we are pressed with the timeframe of February 17. City Clerk Sharyl Preston stated Dan Duren is hoping to get the remainder of the quotes from the different insurance companies by this Friday; if he gets everything finished we may have a special meeting next week.

Within the Committee reports, Brad Kuzelka Public Works chair stated Parks Director Mick Hynek told the committee that the park is being invaded by moles and that he is looking into some extermination options.

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 7:58 p.m.

Homer L. Ward, Mayor

ATTEST: Sharyl Preston, City Clerk