

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 20th day of January, 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, Ed Friesen, Brad Kuzelka, and Kelly Davis. Absent: Phil Rogge.

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 6, 2015.
2. Approval of claims.
3. Approval of the December 2014 Reconciliation Report.

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

Mayor Ward opened the public hearing concerning revocation of Conditional Use Permits (SUA-1999-005) for L. Pautz, (SUA-2004-002) for Wiedergreen, (SUA-2007-002) for Moellenberndt, (SU-2010-01) for Wiegert, and (SU-2010-04) for Stelling as provided for under Article 6, Section 6.06 of the City of Fairbury Zoning Regulations – 2013 Edition. Laura Bedlan Zoning Administrator addressed the Council. Bedlan stated the Planning Commission reviews the Conditional Use Permits yearly. Bedlan stated either the businesses are no longer in practice or amendments have been made to the zoning regulations that actually now allows what the Conditional Use Permits were issued for. Bedlan stated she contacted the owners and notified them of what is going on with their Conditional Use Permits; they had no objections. No one else addressed the Council during the public hearing. Mayor Ward declared the hearing closed.

Brown moved to set the Public Hearing concerning the City of Fairbury, Nebraska 1 & 6 Year Street Improvement Plan for 2015-2020 for February 3, 2015 at 7:30 p.m. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted "yes." Rogge absent. Motion carried.

Friesen moved to set the Public Hearing for the semi-annual review of the Local Option Sales Tax for Economic Development (LB840) Program for February 3, 2015 at 7:30 p.m. Motion seconded by Davis. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Mayor Ward read from the agenda: “consider recommendation from the Finance and Keno Committee regarding health plan benefits”. Dan Duren from Benefit Management addressed the Council. Duren stated we have issues with our health insurance carrier, CoOpportunity, which is insuring the City employees. Duren stated on December 23, 2014 the Iowa Department of Insurance placed CoOpportunity Health in rehabilitation. Duren stated as of right now CoOpportunity is still in a rehabilitative state. Duren stated it is their understanding if there is a liquidation that would occur, it will be at the end of a month – it could be the month of January, it could be the month of February, they don’t know. Duren stated their position is that the City needs to take some action to get Plan B in place whether that is trying to get something in place by February 1, or March 1, or whenever we need to as soon as possible. Duren stated once liquidation does occur, there will be a forty-five day window that an employer must get other group insurance in place. Duren stated at the Finance Committee meeting they are proposing that the City add an additional level of options for the City employees. Duren stated one option is to get a cash in lieu of benefit for the employee and/or their spouse if the spouse is currently insured on the City’s health insurance. Duren stated the other option is if that spouse is also insured under the health insurance, they could get the dollars to go into an HRA/VEBA. Duren stated we would be adding the cash in lieu of for the employee, would also be adding the cash in lieu of and the HRA/VEBA benefit for the spouse if that spouse is currently insured on the plan. Duren stated they would like to get this cleaned up with the health of the plan; ultimately taking it out to various carriers to get quotes. Duren stated if liquidation does occur the State Guaranty takes over, but it will be interesting to see how that all works; it would be ideal to get a different health insurance carrier before that happens. Duren stated they did not see this coming; his firm also went with CoOpportunity December 1. Duren stated if the Council approves the \$400.00 cash in lieu of, the \$400.00 for spouse in lieu of, and the \$400.00 for spouse HRA/VEBA in lieu of, he will come down Monday to present these options to the employees. Duren stated hopefully before the end of the month we will know which direction we will want to go with different carriers and then present the quotes back to the Council. Duren stated we could actually go into the first part of February and still get a February 1 effective date if need be. City Attorney David Barga stated he spoke to Mark Fahleson; these options will need to go before the unions to negotiate. Barga stated what the Council approves tonight is a starting point. Bailey moved to approve the \$400.00 cash in lieu of benefit for the employee, the \$400.00 cash in lieu of benefit for their spouse if the spouse is currently insured on the City’s health insurance, and the \$400.00 HRA/VEBA in lieu of benefit for their spouse if that spouse is currently insured on the City’s health insurance. Motion seconded by Carmichael. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Mayor Ward read from the agenda: “consider recommendation from the Finance and Keno Committee regarding update and consideration of any health insurance recommendations. No action taken as this was discussed with the previous agenda item regarding health plan benefits.

Friesen moved to approve the recommendation from the Planning Commission to declare Conditional Use Permit (SUA-1999-005) for L. Pautz located at 1227 A Street null and void as provided under Article 6, Section 6.06 of the City of Fairbury Zoning Regulations – 2013 Edition. 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 Planning Commission to declare Conditional Use Permit (SUA-2004-002) for Wiedergreen located at 3rd & McDowell Street null and void as provided under Article 6, Section 6.06 of the City of Fairbury Zoning Regulations – 2013 Edition. Motion seconded by Bailey. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Carmichael moved to approve the recommendation from the Planning Commission to declare Conditional Use Permit (SUA-2007-002) for Moellenberndt located at 56905 Hwy 136 null and void as provided under Article 6, Section 6.06 of the City of Fairbury Zoning Regulations – 2013 Edition. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Friesen moved to approve the recommendation from the Planning Commission to declare Conditional Use Permit (SU-2010-01) for Wiegert located at 56935 Brawner Avenue null and void as provided under Article 6, Section 6.06 of the City of Fairbury Zoning Regulations – 2013 Edition. Motion seconded by Polson. 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 Planning Commission to declare Conditional Use Permit (SU-2010-04) for Stelling located at 1507 G Street null and void as provided under Article 6, Section 6.06 of the City of Fairbury Zoning Regulations – 2013 Edition. Motion seconded by Carmichael. 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 February 14, 2015 from 3:00 p.m. to 10:00 p.m.

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

Mayor Ward read by title Ordinance No. 3048: AN ORDINANCE AMENDING THE CITY OF FAIRBURY ZONING REGULATIONS – 2013 EDITION. Friesen moved to give 3rd reading to Ordinance No. 3048. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried. Bailey moved for the final passage of Ordinance No. 3048. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried.

Within the Committee reports, Kelly Davis stated it has been quite a process, but we’re ready to start the rental inspection program; it has been six months since his agreement with the City and so far hasn’t done any inspections. Davis stated he has had a lot of phone calls and visits to his house after everyone received their letters. Stan Smith from the radio station asked what happens to the renters if a property does not pass inspection. Bargaen stated the City will not be involved in relocating people or forcing people out of the home, etc. Bargaen stated the ordinance states the property must have a certificate of occupancy for the property to be rentable. Bargaen stated if the property does not pass inspection and the property is currently being rented, then that would subject the landlord to potential enforcement action. Bargaen stated the intent is that it will prompt that landlord to bring that property into compliance. Bargaen stated that will not impact the tenants, it will impact the landlord. Bargaen stated any landlord that does not follow the ordinance, would be subject primarily to civil action which would involve enforcement action by the city attorney’s office to either comply or there will be a lawsuit filed if necessary to enjoin that person to comply; if that person still doesn’t comply then the district court can deal with that person either through fines or contempt of court citation or whatever it would take to get that person to comply. Smith asked what happens if the landlord makes the renter get out and the renter has nowhere to go. Bargaen stated there is a provision in the ordinance that talks about retaliatory eviction that is primarily geared toward preventing landlords from retaliating against tenants who themselves might contact the City for an inspection of the property. Bargaen stated it is a fine line that people might tend to get confused what the City’s role is in the process; the City’s role is not intended to be a referee between the landlord and the tenant – it is intended to make sure that properties that are being offered for lease are in a state that are leasable, they are livable. Bargaen stated to the extent that the landlord can’t afford to bring the property into compliance and he won’t offer the property for rent any longer, that becomes a situation between that landlord and that tenant; that is not necessarily a City issue. Bargaen stated it becomes a business decision on the part of the landlord whether to comply and keep that business going of leasing that property or not.

Carmichael moved to adjourn the meeting. Motion seconded by Polson. On roll call, Polson, Bailey, Carmichael, Brown, Friesen, Kuzelka, and Davis voted “yes.” Rogge absent. Motion carried. Meeting adjourned at 7:54 p.m.

Homer L. Ward, Mayor

ATTEST: Sharyl Preston, City Clerk