

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 July, 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, Roger Bailey, Ed Friesen, Brad Kuzelka, and Kelly Davis. Absent: Rick Carmichael, Tim Polson, and 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 June 16, 2015.
2. Approval of claims.
3. Approval of the re-appointment of Larry Beerbohm to the Fairbury Housing Authority. Term to expire May 2020.
4. Approval of the re-appointment of Ben McBride to the Museum Board. Term to expire July 2020.
5. Approval of the resignation of Kim Thomas from the Museum Board.
6. Approval of the appointment of Steve Deger to the Museum Board. Term to expire July 2018.

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

Library Director Karen Fox introduced Deborah Aden to the Mayor and City Council. Aden will start full-time as the new Library Director on July 27, 2015. Aden and her family will be moving to Fairbury. Fox will be retiring the end of July 2015.

Brown moved to approve the recommendation from the Personnel Committee to approve the request to make the Children's Librarian a full-time position (40 hour week) with the approximate annual increase in cost of \$10,000.00 with hopes of having expanded hours and more children's programs at the Library. Motion seconded by Friesen. Council member Roger Bailey asked if the Library budget has an extra \$10,000.00 to cover the increase. Library Director Karen Fox stated the Library will have to increase their budget; can probably find some savings of approximately \$2,000.00-\$4,000.00. Personnel Committee Chair Doug Brown stated

he understood that the Library has money in their budget to cover the added expense. Fox stated the Library has enough money in their current budget; but the next fiscal year budget will need to be increased to cover the added expense as well as for other expenditures for the next budget year. Brown asked if they could find the \$10,000.00 somewhere else in their budget. Fox stated they could find part of the \$10,000.00; but didn't think they could find the entire \$10,000.00 in their budget. Fox stated the increase is figured in their budget for the next fiscal year; but doesn't think that the Library would be able to absorb the entire \$10,000.00 with no increase to their budget. Fox stated the Library normally comes in under budget every year; but you usually don't allow for retirements, etc. which they have had three retire the last couple years. Bailey stated he knows we're providing a service to the public, but he's thinking since we're bringing in a new city administrator that he would like the city administrator to have the opportunity to take a long hard look at the budget to see where we are at before we start increasing hours and to see where we would be able to come up with the money if we want to make the children's librarian a full-time position. Bailey stated we're already trying to hire people for the light and water department, have other departments that are in desperate need, have many streets that need to be repaired, and then to start increasing hours for pay is something that he has a hard time justifying to his constituents. Fox stated that is entirely up to the Council. Brown stated the City Administrator and the Finance Committee will still have the opportunity to either approve or disapprove the budget. Brown stated as part of the budget process the committee has had departments try to figure out how to cut their budgets to try to make things work. Brown stated that the City Administrator may want a flat budget or a decreased budget for next year. Fox stated there are some places where the Library could cut their budget; it will be really tight, but they will try. Fox stated when their budget is submitted, the Council has the option to say yea or nay. On roll call, Brown, Friesen, Kuzelka, and Davis all voted "yes". Carmichael, Polson, and Rogge absent. Bailey voted "no". Motion carried.

Brown moved to approve the recommendation from the Personnel Committee to allow Fairbury Light & Water to extend the job offer of the Power Plant Operator Maintenance position to Adam Fielder. Motion seconded by Friesen. Bailey asked if they were filling an open position. Friesen stated yes they are filling an open position. On roll call, Bailey, Brown, Friesen, Kuzelka, and Davis all voted "yes". Carmichael, Polson, and Rogge absent. Motion carried.

Brown moved to approve the recommendation from the Personnel Committee to allow Fairbury Light & Water to extend the Lineman positions to Justin Comer and Derrick Dusin. Motion seconded by Friesen. On roll call, Bailey, Brown, Friesen, Kuzelka, and Davis all voted "yes". Carmichael, Polson, and Rogge absent. Motion carried.

Mayor Ward opened the hearing for the Nuisance Declaration Appeal for property owned by Kathleen Thaemert, located at 613 3rd Street; legally described as Lot 10, Block 30, Original Town, City of Fairbury, Jefferson County, Nebraska.

City Attorney David Barga: I provided documents to Chad Sprunk, Chief of Police, is that correct

Sprunk: Yes sir

Barga: Those are marked as exhibits, is that right

Sprunk: Yes sir

Barga: Do you generally recognize what those documents are

Sprunk: Yes sir

Barga: I want to go through each one with you and talk about your knowledge of these documents. Are you aware of what the purpose of this hearing is this evening

Sprunk: Yes sir

Barga: And what is that

Sprunk: It is an appeal from Kathleen Thaemert on an nuisance property that we declared as a Health Board

Barga: Are you a member of the Board of Health for the City of Fairbury

Sprunk: Yes sir

Barga: What is your position on that Board

Sprunk: Secretary

Barga: As the secretary of the Board of Health what are some of your duties

Sprunk: Once the complaints come in, I go around to the properties to photograph them and bring them back to the Health Board; they then go through them as a committee to determine if they are a nuisance or not

Barga: How do you determine if properties are a nuisance or not

Sprunk: It is laid out in ordinance

Barga: So you compare the properties that you looked at to the ordinances that the the City of Fairbury has in place for nuisance properties

Sprunk: Correct

Barga: I'm looking at Exhibit 1 do you see that in the documents that I gave you

Sprunk: Yes sir

Barga: What is Exhibit 1

Sprunk: Exhibit 1 is the notice of nuisance and requirement for action

Barga: What property is this affecting

Sprunk: 613 3rd Street

Barga: Do you know who the owner is of that property

Sprunk: Yes, Kathleen Thaemert

Barga: How do you know that

Sprunk: That information was provided by the City Clerk from the Register of Deeds

Barga: What is the purpose of Exhibit 1

Sprunk: Exhibit 1 is what we use to determine the notice of nuisance or unsafe structures

Barga: What was the nature of the nuisance conditions that the Board of Health found on this particular property

Sprunk: Tall grass, weeds

Barga: Can you point out on Exhibit 1 where that was indicated to the recipient of this form

Sprunk: On page 5 it was check marked and highlighted

Bargen: What was check marked

Sprunk: Weeds, grass, and/or worthless vegetation 12 inches or more in height, or 8 inches or more in height if the City has previously acted to remove such vegetation exceeding 12 inches in height on the same Property and had to seek recovery for such costs within the same calendar year

Bargen: Does Exhibit 1 instruct the recipient what to do after getting this notice

Sprunk: Yes

Bargen: Did Exhibit 1 also tell the recipient that there was an opportunity for an appeal of this decision

Sprunk: Yes sir

Bargen: Is this particular form signed

Sprunk: Yes sir

Bargen: Who was it signed by

Sprunk: Mayor Homer Ward

Bargen: And who is Mayor Homer Ward

Sprunk: President of the Board of Health

Bargen: Does Mr. Ward sign all of these forms for nuisance violations

Sprunk: Yes sir

Bargen: Do you recognize Exhibit 2

Sprunk: Yes sir

Bargen: What is Exhibit 2

Sprunk: A photocopy of the envelope that the notice was in and the return of service

Bargen: How do you know what Exhibit 2 is

Sprunk: I personally dealt with these and delivered them and they go through my office

Bargen: Can you tell from Exhibit 2, I believe you testified earlier that Exhibit 1 which was the notice of nuisance violations, was given to the owner of the property, is that right.

Sprunk: Correct

Bargen: Who is that person

Sprunk: Kathleen Thaemert

Bargen: Does Exhibit 2 show that this notice was delivered to Ms. Thaemert

Sprunk: Yes

Bargen: How do you know that

Sprunk: On the top of the envelope the officer that gave it to her filled it out and it says how it was served, personal

Bargen: Is it signed by the serving officer

Sprunk: Yes

Bargen: On page 2 of Exhibit 2 looks like another certificate of service is that right

Sprunk: Yes

Bargen: Who is this particular person served with the certificate

Sprunk: They attempted to serve the occupant of the residence, but it was unoccupied

Bargen: What is Exhibit 3

Sprunk: Exhibit 3 is a photograph that was taken on May 27, 2015 at 10:15 a.m. showing how tall the grass was

Bargen: Exhibit 3 is a photograph are you familiar with what is depicted in the photograph
Sprunk: Yes
Bargen: What is that
Sprunk: A residence in the background and the grass and vegetation
Bargen: What residence is this
Sprunk: 613 3rd Street belonging to Kathleen Thaemert
Bargen: This is the residence that is subject to this notice
Sprunk: Yes sir
Bargen: How do you know that
Sprunk: I personally took the photo
Bargen: You took this photograph on this particular date
Sprunk: Yes
Bargen: How did you know that the grass in question was tall enough to constitute a nuisance
Sprunk: When I walked up there the grass was above my knee; doesn't have an exact height of my knee, but know it is over 12 inches
Bargen: Do you recognize Exhibit 4
Sprunk: Yes
Bargen: What is Exhibit 4
Sprunk: Exhibit 4 is the appeal notice that Ms. Thaemert turned into the City for a hearing
Bargen: So Ms. Thaemert exercised her right under the notice of nuisance to appeal the decision of the Board of Health, is that right
Sprunk: Yes
Bargen: Have you seen Exhibit 4 before
Sprunk: Yes
Bargen: Do you recognize Exhibit 5
Sprunk: Yes
Bargen: What is Exhibit 5
Sprunk: Exhibit 5 is photographs that were taken this morning at 11:31 a.m. at 613 3rd Street
Bargen: Exhibit 5 is a series of photographs that depicts the same property as Exhibit 3 depicts, is that right
Sprunk: Yes
Bargen: Did you take these photographs
Sprunk: Yes
Bargen: Exhibit 5 has a series of seven photographs, is that right
Sprunk: Correct
Bargen: These photographs are all of the same property
Sprunk: Yes
Bargen: On page 1 of Exhibit 5 it looks like a ruler near some grass, was this you measuring the grass
Sprunk: Yes

Bargen: And what does that indicate
Sprunk: It indicates that parts of the grass was over 12 inches and part of it was under

Bargen: What does page 2 of Exhibit 5 show
Sprunk: Page 2 is a photograph from the south side of the house facing north along the west side

Bargen: Why did you take this photograph
Sprunk: Showing how tall the weeds were along the house and straight along the property line

Bargen: Did you determine how tall those weeds were
Sprunk: I didn't have a meter stick with me; but I do know that they exceeded 18 inches which is the size of the ruler

Bargen: And when you say 18 inches, do you mean they exceeded 8 inches
Sprunk: No, 18 inches; further on you will see the photograph of the ruler and the weeds exceeding that

Bargen: What does page 3 of Exhibit 5 depict
Sprunk: You can see the ruler in the photograph showing the weeds exceeding the size of the ruler which is 18 inches

Bargen: What does page 4 of Exhibit 5 show
Sprunk: It shows a closer photograph of the ruler and the weeds

Bargen: What does the next page of Exhibit 5 show
Sprunk: It shows grass that has been blown over by the wind and showing how high the grass was even though the wind has blown it over

Bargen: How high is it shown on the ruler
Sprunk: At least 11 inches

Bargen: On the next two photographs of Exhibit 5, could you explain what those show
Sprunk: Those are just additional photos of the property as I went around the back side of the house

Bargen: What was the reason you took those photos
Sprunk: Just to show more of the tall vegetation

Bargen: Do you recognize Exhibit 6
Sprunk: Yes I do

Bargen: What is Exhibit 6
Sprunk: Exhibit 6 is the notice of appeal hearing that was served to Ms. Thaemert

Bargen: When was it served
Sprunk: It was served on July 2, 2015 at 8:59 a.m. at her residence

Bargen: How do you know that
Sprunk: I personally served it

Bargen: On the back page of Exhibit 6 is an envelope, do you see that
Sprunk: Yes sir

Bargen: What does that envelope indicate
Sprunk: The envelope indicates that it was personally served on Ms. Thaemert at her residence and it shows the date and time by the officer which is myself

Bargen: So it was the Board of Health's decision that the nuisance exists on this particular property; is that right
Sprunk: Yes sir

Bargen: Do you have anything else to add from the Board of Health's position as to the terms of this property

Sprunk: Just that she has had ample time to take care of the nuisance and she obviously has neglected it

Bargen: When was the first time that this particular individual was notified that there was a nuisance condition on the property; was it the first time the notice was given to her

Sprunk: June 8

Bargen stated he didn't have anything further at this time. Mayor Ward asked for further discussion or comments. Bargen stated if Ms. Thaemert is here, she has the opportunity to present any evidence that she would like to at this point. Ms. Thaemert was not present. Mayor Ward declared this hearing closed.

Mayor Ward read from the agenda "consider recommendation from the Finance and Keno Committee regarding the request from Blue Rivers Area Agency on Aging for local match of \$1,900.00 for public transportation service for July 2015-June 2016. Brown stated the Finance and Keno Committee recommends postponing the consideration of the request from Blue Rivers Area Agency on Aging until they get further information.

Mayor Ward read from the agenda "consider renewal of Services Agreement between the City of Fairbury and Davis Home Inspections." Mayor Ward stated we need to do something before the contract runs out July 21 so Davis can maintain his liability insurance. Mayor Ward stated that the office has had no complaints of anything that Davis has done concerning the rental inspections. Mayor Ward stated that we will have an open forum later for the public to attend to discuss the program but this can be done after we have accepted another term on the contract. Kelly Davis of Davis Home Inspections addressed the Council. Davis stated he was hoping to get a renewal on the contract before he has to renew his insurance to make sure he had a contract. Davis stated that won't be able to happen tonight since we have three council members absent and he will have to abstain from the vote. Davis stated the rental inspection process has been going fairly well. Davis stated we didn't get started like we hoped we would and we wanted to have the inspections done by April, but with all the paperwork, etc. we had a slow start. Davis stated the first inspection was done February 4, 2015; has done 178 initial inspections and 53 re-inspections. Davis stated 107 Certificates of Occupancy have been issued. Davis stated he has sent letters to owners of 160 units that have paid their fees and he is waiting for them to call him to set up appointments; he will be sending some a reminder letter. Davis stated at this time, owners have paid the fees for another 26 units and he needs to send them the initial letter. Davis stated there are 52 units that he has failed and is waiting for the owners to make the corrections so they can be re-inspected. Davis stated there are 608 units listed on the spread sheet – 178 initial inspections have been done, 160 units have received the initial letter and there are 26 units to send letters to, so this leaves 244 that have not made contact with the city and paid their fees; we will need to start the process to try to get the remaining landlords to comply. Davis stated he just received another Certificate of Excellence from the Building

Performance Institute which he worked real hard to get – several weeks in Omaha and a couple weeks in Santa Fe for meetings and tests. The Certificate is for successfully completing a comprehensive evaluation and is certified as a Quality Control Inspector. The certificate expires June 18, 2018. Bailey asked Bargaen how the 244 will be handled that have not contacted the City. Bargaen asked of the 244 units, how many unique landlords that would represent. Davis stated he wasn't for sure maybe 75-80. Bargaen stated the next step would be to start the process of notification from their office saying that they are under obligation to follow this ordinance and if they don't they will start action in a reasonable time. Bargaen stated once they would get approval from the Council to do that, they would start filing suit and try to get some compliance. Bargaen stated hopefully with a letter coming from both the City and from his office – two more reminders, that they will respond and get that taken care of – it's a fairly simple process to follow, it's not expensive, it's very easy to follow and to comply. Bargaen stated they will have to take some action to back it up. Bargaen stated this is an ordinance that is enforceable by law. Davis stated he has had several landlords that at first were a little upset about it, but are now glad that we are doing the inspections. Bargaen stated the whole premise of the ordinance is the public's health, safety and welfare which is policed by the State; the cities have the authority to do that and to enforce that – we will be taking action on those that are not complying to enforce that. Bargaen stated if it would help with Davis's insurance issue, the Council could vote this evening on the contract; there is not a quorum to do that but a Council can always take actions in lieu of a quorum and later ratify when a quorum is present. Bargaen stated if that would help to show the sense of the Council, they can vote but it would be non-binding at this point and the Council can then ratify that at the next Council meeting. Friesen moved to approve the renewal of the Services Agreement between the City of Fairbury and Davis Home Inspections. Motion seconded by Kuzelka. On roll call, Bailey, Brown, Friesen, and Kuzelka all voted "yes". Carmichael, Polson, and Rogge absent. Davis abstained. Motion carried.

Friesen moved to adopt Resolution No. 986 ordering and directing Kathleen Thaemert to remedy said public nuisance on the property located at 613 3rd Street; legally described as Lot 10, Block 30, Original Town, City of Fairbury, Jefferson County, Nebraska. Motion seconded by Brown. On roll call, Bailey, Brown, Friesen, Kuzelka, and Davis all voted "yes". Carmichael, Polson, and Rogge absent. Motion carried.

Within the Mayor's report, Mayor Ward stated the new City Administrator plans to start on July 27, 2015. Mayor Ward stated he will probably be in Fairbury on the weekends looking for housing and visiting with business people.

Bailey moved to adjourn the meeting. Motion seconded by Brown. On roll call, Bailey, Brown, Friesen, Kuzelka, and Davis all voted "yes". Carmichael, Polson, and Rogge absent. Motion carried. Meeting adjourned at 8:13 p.m.

Homer L. Ward, Mayor

ATTN: Sharyl Preston, City Clerk