

MINUTES OF THE REGULAR MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAWNEE CITY, HELD ON MONDAY, FEBRUARY 14, 2011 AT 7:30 P.M. AT CITY HALL, 445 6TH STREET, ALL IN PAWNEE CITY, PAWNEE COUNTY, NEBRASKA.

Notice of this meeting was given in advance thereof by advertising in the Pawnee Republican, a designated method for giving notice as shown by the Affidavit of Publishing on file in the office of the City Clerk. Notice of this meeting was given to the Mayor and City Council and a copy of their acknowledgment of receipt of the notice and the Agenda are on file in the office of the City Clerk. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Present: Mayor Duane Westing; Council Members: Roxann Buman, Deborah Klein, Charlie Hatfield and John DeFreece; Don Inglis/Shop Foreman; Tamela Stephens/City Clerk; Sheriff Jayme Reed; Betsy Ferebee/City Attorney.

Absent: None.

Visitors: Jeff McClintock.

Mayor Duane Westing called the meeting to order at 7:30 p.m. informing all those present of the Posters stating the Open Meeting Law Changes on the East and North meeting room walls accessible to the public. Council Member Klein made a motion to accept the January 24, 2011 regular meeting minutes. Council Member Hatfield seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

The Treasurer submitted the following claims for consideration: **February 15, 2011 Payroll** 6655.14; **NW Mutual**, retirement 1147.50 **Union Bank & Trust**, FWH 3769.56 **Allstate**, Cancer Ins. 109.85; **American Fidelity Assurance**, Accident Ins. 154.20; **BCBS**, Health Ins 5553.57; **NE Dept of Rev**, SWH 466.30/Jan Sales Tax 2070.37; **NE Child Support** 51.70; **Wayne Mfg Co**, Christmas Lights 507.00; **Black Hills Energy**, gas service 119.77; **Constellation New Energy Gas**, gas costs 455.49; **NPPD**, elec 5365.13; **Time Warner Cable**, office/libr internet 154.90; **Verizon Wireless**, emerg cell phone 47.41; **Stitching Farms**, embroidery work shirts 210.00; **JEO Consulting Group**, sewer proj-final design phase 11984.80/rmb fire marshall fees 140.71; **US Post Office**, mail Jan Utility Bills 103.95; **AHRS Construction**, Library Project DD #13, 42107.40; **SEND**, Library Project DD #14, 752.28/Blight/Housing Study, DD #3, 467.51; **Hanna:Keelan**, Blight/Housing Study DD #3, 8000.00; **Pawnee Co. Rural Water**, pond water hydrants 28.62; **Axtell Lumber**, machine shed repairs 386.26; **Binder Bros**, shed repairs/mini park bench repairs 82.29; **Casey's General Store**, anti-freeze/equip fuel 851.83; **Cemetery Assoc.** approp. 750.00; **First Concord Benefits Group**, deductible plan fee 21.00/City 2nd half deductibles 326.35; **Five Rivers RC&D**, NCIP Leadership Edge Program training 9842.52; **Great Plains One-Call Service**, diggers hotline locates 5.88; **H&H Auto Parts**, shop sup/oil filters/solvent 63.22; **Julie D. Bauman**, 09-10 Audit-City 12,225.00/PCDC Audit 800.00/Airport Audit 350.00/Cemetery Assoc. Audit 350.00; **Kerl's Service-Tank Wagon**, equip fuel/diesel 213.10; **Kerl's Service**, trailer tire rep 12.00; **Maureen Friedly**, mileage/cont. ed 75.48; **MidWest Labs**, sewer samples 75.08; **Nider's Thriftway**, office sup 10.57; **PC Fire Dept**, approp 70.00; **Pawnee Co. Register of Deeds**, Util lien 7.50; **Pawnee True Value**, office sup/shop sup/small tools 199.69; **Penkava Sales & Service**, Chain Saw Repairs 55.90; **Quill Corp**, office sup/calculator/office desk/filing cabinets 1287.68; **Smith Auto**, Chevy dumptruck repairs 315.57; **Stallbaumer Lumber**, supply room add. 110.76; **SEND**, Housing Rehab DD #12, 1943.36; **NorthStar Construction**, Housing Rehab DD #12, proj #14, \$562.00; **Sunrise Pub**, publications 618.09; **Stehlik Law**, City atty fees 1483.00. Council Member DeFreece made a motion to accept the claims as submitted. Council Member Hatfield seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

Sheriff Jayme Reed: Review/Approve Interlocal Agreement for kenneling of animals with Pawnee County: Sheriff Jayme Reed met with Council to present the Interlocal Agreement with Pawnee County for kenneling animals, which Pawnee County had signed said agreement. City Attorney Betsy Ferebee had recommended adding “per animal” on page 2, #5 and on page 3, #2 to read as follows ...at the current rate of \$5.00 per diem, per animal. Council Member Klein also stated that in this agreement the City Crew would take care of the animals during the week and the County Crew would take care of the animals during the weekends. Council Member Buman made a motion to approve the Interlocal Agreement for Kenneling of Animals with Pawnee County with the change of adding “per animal” as stated. Council Member Klein seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried. Sheriff Reed stated she would take this change to the next Commissioners meeting to get their approval and bring the City back a clean, signed copy of the Interlocal Agreement.

Jeff McClintock, Snow Removal: Jeff McClintock stated that he had already visited with Council Members DeFreece and Buman about the situation. Council asked Mr. McClintock to explain his concerns. Jeff McClintock stated his disapproval of how the snow had not been removed from around his vehicles he parks in the street along the East side of his residence after he had moved most of the vehicles. Mr. McClintock also stated he thought that if the City Crew did not have time to remove his snow, they should not be removing snow windrows from his neighbor’s driveway. Mr. McClintock was also not happy with how he was treated when he contacted the City Office. Council Member Klein inquired why he had not yet removed all of his vehicles off of the street if he wanted the snow cleared off his street? Mr. McClintock stated he would not be removing the white car, as they are not driving it at this time, but had removed all of the other vehicles. Council Member Klein stated she felt it should be moved, as there is a 72 hour parking limit ordinance in effect. Mr. McClintock stated the vehicle was licensed and insured, so he did not see why he should have to move it. Foreman Inglis stated he wanted to explain why the snow windrow had been removed from the neighbor’s driveway, stating that there were a couple elderly women that lived there and could not get their car over the snow windrow, so when Inglis received the call to check it out, he went by and removed the windrow on his way to check out the hospital’s parking lot area. Council Member DeFreece stated they would be discussing changes that may need to be made to the City’s Snow Removal policy. Mayor Westing stated that they all stand behind their City Employees and how they handle these kinds of situations. Council thanked Mr. McClintock for coming in to voice his concerns.

A Report and update from Council Member DeFreece: Items for discussion are: *Discuss Snow Removal Policy: Council Member DeFreece handed out some suggestions he had for Council to consider on changes to our current Ordinance – Parking; Snow Removal and Maintenance, including charging a \$50.00 fee instead of a \$5.00 fee; no parking on one side of street (Auburn has no parking anytime) - discuss which side going North, South, East & West; help from Sheriff’s Department; Discuss contractors pushing snow out into streets; Discuss Cleaning out Driveways after City cleaned streets; Discuss cleaning downtown area; Discuss when to push snow and how many inches on weekends and weekdays. Council discussed these suggestions at length. Council Member DeFreece stated he would like to see this item stay on the agenda and other Council Members come back with more and/or different suggestions on changing the snow removal policy. Clerk Stephens will put this item back on the next couple agendas for further discussion.

Tree Board make recommendation to Council on Award of Tree Trimming Bid – Council to accept/deny bid award: Council Member DeFreece stated he had visited with the two Contractors who had the low combined bids and the Contractors were both in agreement that they

would do the project as a whole or agree to split the project. Council Member DeFreece stated the Tree Board's recommendation would be to split the award of the bid as follows: Graham Quality Contracting: Section A-\$3,500 and Section B-\$2,200 and Moser Tree Service: Section C-\$1,141.70 and Section D-\$1,236.40 for a total project cost to the City of \$8,078.10. Council Member Klein made a motion to accept the Tree Board's recommendation to split the award of the tree trimming bid to Graham Quality Contracting: Section A-\$3,500 and Section B-\$2,200 and Moser Tree Service: Section C-\$1,141.70 and Section D-\$1,236.40 for a total project cost to the City of \$8,078.10. Council Member DeFreece seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried. Clerk Stephens to contact all three contractors on the City Council's decision regarding the Tree Trimming Project.

1&6 Year Street Plan: Public Hearing: Council Member DeFreece made a motion to Open 1&6 Year Street Plan Public Hearing at 8:00 p.m. Council Member Klein seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried. **Hear public input, discuss changes, etc:** Council Member DeFreece stated he had visited with John Trecek from Ameritas about setting up paving districts and a bond issue for the Concrete street project. DeFreece also stated that the bond payments would be made mostly from the Highway Allocation money the City receives, which is what that money is to be used for – keeping the City Streets in good condition. Clerk Stephens stated that Kevin Burnison, SENDD had e-mailed the City that there was also CDBG money the City could apply for, if we get some of these other CDBG projects finished up. Council Member DeFreece stated the concrete street project was on the Six Year plan, so we are just at the beginning stages to getting everything lined up.

Resolution #5 adopting the 1&6 Year Street Plan: Council Member Klein made a motion to pass Resolution #5, adopting the 1&6 Year Street Plan. Council Member Buman seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Close Public Hearing: Council Member Buman made a motion to close the 1&6 Year Street Plan Public Hearing at 8:04 p.m. Council Member Hatfield seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Executive Session, Calvin Flanagin Sewer Easement, discuss possible litigation: City Attorney Betsy Ferebee was present to discuss this matter with Council. Mayor Westing stated that if anyone would like to discuss this issue we could go into executive session, otherwise, he would entertain a motion to not accept the offer from the Calvin Flanagin family that they would give us the signed sewer easement if the City would forego any further action on any of the buildings located on the Flanagin property. Council Member DeFreece made a motion to Not accept the offer from the Calvin Flanagin family that they would give us the signed sewer easement if the city would forego any further action on any of the buildings located on the Flanagin property. Council Member Buman seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried. Council Member Klein inquired if they needed to make a motion to move forward with the condemnation process if the Flanagin's still refused to give the City the signed Sewer Easement? City Attorney Ferebee stated that there had been a motion already made at a previous meeting directing the City Attorney's office to proceed with negotiating or possibly the condemnation process, so there was no need to make another motion. The City Attorney's office had wanted to make sure the City had used up all of their other avenues to try and get the Flanagin's to sign and turn over the Sewer Easement before proceeding with the condemnation process. City Attorney Ferebee will make contact with Mr. Mercure with the Council's decision and proceed as needed.

Approve Ordinances (886-890) on Second Reading: Council Member Buman made a motion to pass Ordinance #886 Dog License, adds additional \$1 fee required under State Statute; Ordinance #887 Alcoholic Liquors; Definitions; Ordinance #888 Alcoholic Liquor; Licensee

Requirements; Ordinance #889 Alcoholic Liquor; Municipal Powers and Duties and Ordinance #890 Alcoholic Liquor; Catering License on Second Reading. Council Member Hatfield seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Review/take action on Lease of Pasture & CRP Ground with Gary Kuhl & Robert Niedermeyer for 2011 year: Council reviewed the 2010 lease was \$41.78/pasture acre at 83.1 acres pasture ground for a total of \$3,471.92 plus \$2000 for 26.3 acres ground in CRP. Council Member DeFreece made a motion to approve the Lease of Pasture & CRP Ground with Gary Kuhl & Robert Niedermeyer for 2011 year at \$41.78/pasture acre at 83.1 acres pasture ground for a total of \$3,471.92 plus \$2000 for 26.3 acres ground in CRP. Council Member Klein seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Housing Study Planning Grant DrawDown #3: Council Member Klein made a motion to approve Housing Study Planning Grant DrawDowns #3 for \$6000 along with \$2000.00 paid by PCDC for a total check to Hanna:Keelan for \$8000.00 and \$350.63 along with \$116.88 paid by PCDC for a total check to SENDD for \$467.51. Council Member DeFreece seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Library Project DrawDown #13 & #14: Council Member Hatfield made a motion to approve DrawDown #13 for \$20,030.49 along with \$22,076.91 paid by the Library Foundation for a total check to AHRS Construction for \$42,107.40 and Library Project DrawDown #14 for \$752.28 to SENDD for General Administration. Council Member Klein seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Housing Rehab Project DrawDown #12 & #13: Council Member Klein made a motion to approve DrawDown #12 for \$1943.36 to SENDD for Housing Management and Lead Testing; \$562.00 to NorthStar Construction, Project #14, Final #2 and Housing Rehab Project DrawDown #13 for \$10,000 to NorthStar Construction, Project #15, partial. Council Member DeFreece seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

A Report and update from Shop Foreman Inglis: *Updates on Well #3:* Foreman Inglis stated Layne Western had reported that the propeller and pump on Well #3 had pieces broke off and had caused the pump to freeze up. The price to replace the pump is \$18,959. Council Member Klein made a motion to purchase the new pump from Layne Western for \$18,595 for Well #3. Council Member DeFreece seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried. ***Discuss updates on requests from School on assistance with student's accessibility to the school's facilities:*** Foreman Inglis stated he had visited with Supt. Stephen Grizzle and he had wanted another handicapped parking stall placed at the North end of the new elementary addition. Council discussed this at length, directing Clerk Stephens to invite Mr. Grizzle to attend the next City Council meeting so they can get some of their questions answered. Clerk Stephens will take pictures of the area in which he is requesting the handicapped parking located, so everyone is on the same page when Mr. Grizzle comes to the next meeting.

A Report and update from Council Member Buman: *Discuss Random Drug Testing:* Council reviewed HireRite Random Notification the City had received this past month and the write up from Clerk Stephens on the costs to the City through the HireRite agency, the Pawnee Memorial Hospital for drug testing and Husker Health in Beatrice for DOT drug/alcohol testing. Council Member Buman stated she had a problem with our employees being called in to do the random

drug testing so often. Buman stated it is costing the City a lot of time and money to have so many of our employees pulled in each month. This month we had five (5) out of a total nine (9) employees who were called in to do a drug and/or alcohol random testing. Council did not feel this was very random, since we are suppose to be in a pool with 1000's of other DOT and Non-DOT employees. Council Member Klein asked if she could come down and call the HireRight agency and get some answers to their questions to report back at next meeting. Council was in agreement with this option.

A Report and update from Council Member Klein: *Well Head Protection Program:* Council Member Klein stated the City does not have a Wellhead Protection Program in place at this time. Klein stated that Clint Johnson has been working on gathering up all of the information needed to get this program in place. The last couple steps we need is to set up a public information meeting and to have the City Attorney's office write up an Interlocal Agreement with the County, because if there was ever any problems and was needed to go to court, it would go through County Zoning. Council Member Klein made a motion to visit with City Attorney's office to draw up an Interlocal Agreement with the County to form and provide enforcement of the Wellhead Protection Program through the County Zoning. Council Member DeFreece seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Updates on grant money left from USDA Water Project: *review e-mails from Janice Stopak, USDA-RD & Evan Wickersham, JEO Consulting re: approval to replace all fire hydrants & valves that are not working properly.* Council Member Klein stated that according to Janice Stopak, USDA-RD & Evan Wickersham, JEO Consulting the City has received approval to replace all fire hydrants & valves that are not working properly. Foreman Inglis stated he thought this would include around 15 fire hydrants around town.

Review from Nebraska Rural Water Association (NeRWA) on services they provide, letter of support, etc: Council reviewed the request from NeRWA asking for a letter from Mayor/Council to our Senators and Congressman for their past support & committing to supporting NeRWA's future efforts to help our community. Council Member DeFreece made a motion to have Mayor Westing send a letter in support of all that Nebraska Rural Water Association does for our City. Council Member Hatfield seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried.

Review Correspondence from: Council reviewed the letter from Jen Olds, SENDD on updates on the Siren Projects with the project planned to be put out for bids in April/May; Council reviewed the e-mail from League of Municipalities on LB 383, which would totally eliminate state aid to municipalities, counties & NRDs. Clerk Stephens stated that the League is urging communities to write letters to their Senators asking them to support any amendments that would at least preserve the statutory authority for state aid so that the aid can be restored when the economic situation improves. Council Member DeFreece made a motion to have Mayor Westing send a letter to our State Senator in regards to LB383 state aid. Council Member Klein seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried. Council reviewed the e-mail from Mike Schilling & Pastor Alan Gager re: SchillingBridge Winery & United Methodist Church providing meals for Tour de Nebraska Bicycle Tour in June; reviewed the letter from Adrian Smith, Member of Congress on updates on developments in Congress. Council Member Klein made a motion to adjourn the meeting. Council Member DeFreece seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried and meeting adjourned at 8:46 p.m.

Duane Westing, Mayor

ATTEST: Tamela S. Stephens, City Clerk