

---

**City of Broken Bow**  
**Monday, July 9, 2012**  
**City Council Regular Session**

**Approval of Minutes of June 25, 2012 Regular Council Meeting**

Staff Contact: City Clerk

June 25 2012  
Broken Bow, Nebraska

A meeting of the Mayor and Council of the City of Broken Bow, Nebraska was convened in open and public session at 12:00 Noon on Monday, June 25, 2012 in the Municipal Building at Broken Bow, Nebraska. Present were: Mayor Cecil Burt; Council President Scott Spanel; Councilmember Cody Schmick, Bill Adams and Chad Schall. Absent: None. Notice of the meeting was given in advance thereof as required by law. Advance notice of the meeting was also given to the Mayor and all members of the Council and a copy of their acknowledgment of receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and all members of the Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Cecil Burt stated that the Open Meeting Act was posted on the north wall of the Council Chambers.

Mayor Burt presented the Consent Agenda and stated that the items on the Consent Agenda were:

- Minutes – June 11, 2012 Council Meeting
- Claims – June 25, 2012 Council Meeting
- Conflict Claims – June 25, 2012 Council Meeting
- Request to close streets on north side and west side of Precious Angel Day Care Center on South 13<sup>th</sup> and South G Avenues for the annual 4<sup>th</sup> of July celebration at Precious Angel Daycare
- Approval of Pay Request No. 15 to Carrothers Construction in the amount of \$134,723 for work completed to date at the Aquatic Facility with a \$10,000 retainage
- Pay Request No. 1 to Miller and Associates in the amount of \$36,139.03 for Utility Improvements (Project No. 177-G-004) for College Estates Subdivision
- Approval of Joe Franssen as member of the Broken Bow Volunteer Fire Department and Roster for Broken Bow Volunteer Fire Department effective June 26, 2012

Councilmember Schmick stated that he has a conflict of interest with the claim made payable to Schmicks due to the fact that he is an owner of the business. It was moved by Councilmember Spanel and seconded by Councilmember Adams that Consent Agenda Item for Conflict Claims and Agenda Item for Approval of Pay Request No. 15 to Carrothers Construction in the amount of \$134,723 for work completed to date at the Aquatic Facility be removed from the Consent Agenda and be placed on the Agenda as a regular Agenda Item. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes; Spanel, Adams and Schall. Nays: None. Abstain: Schmick. Nays: None. Motion carried.

It was moved by Councilmember Adams and seconded by Councilmember Schall that the Consent Agenda be approved as amended. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes: Schmick, Adams and Spanel. Nays: None. Motion carried.

It was moved by Councilmember Spanel and seconded by Councilmember Schall that the claim made payable to Schmicks be approved. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes: Schall, Spanel and Adams. Nays: None. Abstain: Schmick. Motion carried.

Discussion was held regarding Pay Estimate No. 15 to Carrothers Construction. It was noted that the payment was for work completed through May 31, 2012 with a retainage of \$10,000 to cover the miscellaneous punch list and warranty items that may be pending in June. After discussing the items that needed completion and the retainage amount, it was moved by Councilmember Spanel and seconded by Councilmember Adams to withhold an additional retainage fee of \$75,000.00 on Pay Estimate No. 15 to Carrothers Construction and to approve payment in the amount of \$59,723 on Pay Estimate No. 15 until items on the punch list and the warranty items have been completed in full. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes: Schmick, Schall, Adams and Spanel. Nays: None. Motion carried.

City Administrator Tony Tolstedt presented a brief overview of the new agenda management layout which is being used as part of the Beehive Agenda management implementation for the organization of meeting documents and also making them available to the public.

City Administrator Tony Tolstedt presented a calendar of proposed dates for budget workshops to the Mayor and Council. After discussing conflicts of some of the meeting times, the City Administrator stated that he would work with the Council on setting dates and times and present them to the Council for their approval at the next regular council meeting.

Water/Sewer Superintendent Darren Marten informed the Council that it was the recommendation of the Board of Public Works that the Mayor and City Council consider approval of the purchase of a dump truck from the Federal Surplus in Lincoln which will be used as part of the Water Line Replacement Program. Marten also informed the Mayor and Council that the budget did include the purchase of a dump truck. After discussing the matter, it was moved by Councilmember Adams and seconded by Councilmember Schall to approve the recommendation of the Board of Public Works and to authorize Water/Sewer Superintendent Darren Marten to purchase the dump truck from the Federal Surplus in Lincoln not to exceed \$16,000.00. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes: Spanel, Schmick, Adams and Schall. Nays: None. Motion carried.

Electric Superintendent Doug Staab presented a recommendation from the Board of Public Works that the Mayor and Council authorize Electrical Superintendent Doug Staab to release the Natural Gas Firm Transportation due to change of customer type from a Type II to an industrial customer. After discussing the matter, it was moved by Councilmember Spanel and seconded by Councilmember Schmick to approve the recommendation of the Board of Public Works and to authorize Electrical Superintendent Doug Staab to release and advertise the Natural Gas Firm Transportation. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes: Adams, Spanel, Schmick and Schall. Nays: None. Motion carried.

Discussion was held regarding the six month notice to terminate the Energy Pioneer Solutions Contract. It was noted that should the Mayor and Council elect to give the six month notice to

terminate the current contract, this will give the City and Energy Pioneer Solutions time to negotiate and sign a new contract at a later date. It was moved by Councilmember Adams and seconded by Councilmember Spanel to give the six month termination notice to Energy Pioneer Solutions and to renegotiate a new contract with Energy Pioneer Solutions. The Mayor stated the motion. Upon roll call the vote was as follows: Ayes: Spanel, Schmick and Adams. Nays: Schall. Motion carried.

City Administrator Tony Tolstedt was authorized to send the six month notice of termination to Energy Pioneer Solutions.

City Administrator Tony Tolstedt informed the Council that Ordinance No. 1106 should be amended to provide for City Employees and agents of the City to operate ATV/UTV in the corporate limits during commission of their authorized duties.

Councilmember Spanel introduced Ordinance No. 2012-1117 entitled "AN ORDINANCE OF THE CITY OF BROKEN BOW, NEBRASKA, AMENDING SECTION 6 BROKEN BOW CITY ORDINANCE NO. 1106, PROVIDING FOR PUBLICATION AND EFFECTIVE DATE AND REPEALING ALL PREVIOUS ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE" and moved that the statutory rule requiring reading on three different days be suspended. Councilmember Schmick seconded the motion. The Mayor stated the motion and instructed the Clerk to call the roll. The Clerk called the roll and the following was the vote: Ayes: Schall, Adams, Schmick and Spanel. Nays: None. Motion carried. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said Ordinance. Said Ordinance was then read by title and thereafter Councilmember Spanel moved for final passage of the Ordinance, which motion was seconded by Councilmember Schmick. The Mayor stated the question, "Shall Ordinance No. 2012-1117 be passed and adopted?" Upon roll call vote, the vote was as follows: Ayes: Schmick, Spanel, Adams and Schall. Nays: None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the Ordinance adopted and the Mayor in the presence of the Council signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto.

At 12:35 P.M. it was moved by Councilmember Spanel and seconded by Councilmember Schall that the Council meeting of the City of Broken Bow be adjourned.

Ayes: Spanel, Adams, Schall and Schmick.

Nays: None.

Motion carried.

---

Mayor, Cecil Burt

ATTEST:

---

City Clerk, Elaine L. Bayer