

City of Scottsbluff, Nebraska

Monday, May 16, 2016

Regular Meeting

Item Consent1

Approve the minutes of the May 2, 2016 Regular Meeting.

Staff Contact: Cindy Dickinson, City Clerk

The Scottsbluff City Council met in a regular meeting on Monday, May 2, 2016 at 6:00 p.m. in the Council Chambers of City Hall, 2525 Circle Drive, Scottsbluff. A notice of the meeting had been published on April 29, 2016, in the Star Herald, a newspaper published and of general circulation in the City. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodations to attend the Council meeting should contact the City Clerk's Office, and that an agenda of the meeting kept continuously current was available for public inspection at the office of the City Clerk in city hall; provided, the City Council could modify the agenda at the meeting if it determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each council member, made available to radio stations KNEB, KMOR, KOAQ, and television stations KSTF and KDUH, and the Star Herald. The notice was also available on the city's website on April 29, 2016. An agenda kept continuously current was available for public inspection at the office of the City Clerk at all times from publication of the notice to the time of the meeting.

Mayor Randy Meininger presided and City Clerk Dickinson recorded the proceedings. The Pledge of Allegiance was recited. Mayor Meininger welcomed everyone in attendance and encouraged all citizens to participate in the council meeting asking those wishing to speak to come to the microphone and state their name and address for the record. Mayor Meininger informed those in attendance that a copy of the Nebraska open meetings act is posted in the back of the room on the west wall for the public's review. The following Council Members were present: Randy Meininger, Raymond Gonzales, Jordan Colwell, Scott Shaver and Mark McCarthy. Absent: None. Mayor Meininger asked if there were any changes to the agenda. City Clerk Dickinson informed the Council that items 12g, 12h and 12i need to be removed from the agenda. Moved by Mayor Meininger, seconded by Council Member Gonzales, "to remove items 12g, 12h and 12i, dealing with the purchase of land from NPPD including the MOU and Lease Agreement, from the agenda," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mayor Meininger asked if any citizens with business not scheduled on the agenda wished to include an item providing the City Council determines the item requires emergency action. There were none. Moved by Council Gonzales, seconded by Council Member Colwell that,

1. "The minutes of the April 18, 2016 Regular Meeting be approved,"
2. "A goal setting meeting be set for Tuesday, May 31, 2016 at 6:00 p.m., Scottsbluff City Hall,"
3. "The Request For Proposals for the CAD and Records Management system be approved," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Moved by Council Member McCarthy, seconded by Council Member Gonzales, "that the following claims be and hereby are approved and should be paid as provided by law out of the respective funds designated in the list of claims dated May 2, 2016, as on file with the City Clerk and submitted to the City Council," "YEAS", Gonzales, Meininger, McCarthy, Shaver and Colwell "NAYS", None. Absent: None.

CLAIMS

ACTION COMMUNICATIONS INC.,EQUIP MAINT, 243.2; ADVERTISING SPECIALTIES LLC,UNIFORMS,65; AIR CLEANING TECHNOLOGIES INC,SUPPLIES FOR PLYOVENT EXHAUST SYSTEM, 1039.39; AIRGAS USA, LLC,DEPT SUPPLIES,85; AMAZON.COM HEADQUARTERS,MISC.,467.41; ASSOCIATION OF ST FLOODPLAIN MNGRS INC,DEPT MMBRSH,140; AULICK LEASING CORP,GROUND MAINT,455.16; B & H INVESTMENTS, INC,DEPT SUPP,78; BLUFFS SANITARY SUPPLY INC., DEPT SUPPLIES,212.88; CAPITAL

BUSINESS SYSTEMS INC.,CONTRACTUAL,86.64; CARR- TRUMBULL LUMBER CO, INC.,DEPT SUP,117.96; CELLCO PARTNERSHIP,CELL PHONES,506.98; CITIBANK N.A.,DEPT SUPPL,356.99; CITIBANK, N.A.,DEPT SUPP,209.66; CLARK PRINTING LLC,DEPT SUPP,434.45; COLONIAL LIFE & ACCIDENT INSURANCE COMPANY,LIFE/DISABILITY INS,48.7; CONSOLIDATED MANAGEMENT COMPANY,SCHOOLS & CONF,213.5; CONTINUUM EAP,TRAINING,550; CONTRACTORS MATERIALS INC.,VEH MAINT,2810.02; COREY FULLER,GASOLINE,10; COZY, INC,LETTERING AND DECALS ON NEW KME ENGINE,850; CYNTHIA GREEN, DEPT SUPPL,282.99; D & H ELECTRONICS INC.,EQUIP MAINT,17.41; DALE'S TIRE & RETREADING, INC.,EQUIP MAINT,77.42; DANKO EMERGENCY EQUIPMENT COMPANY,EQUIPMENT TOOLS FOR NEW KME ENGINE,1360.45; DUANE E. WOHLERS,DISPOSAL FEES,450; ELKS CLUB,RECOGNITION DINNER,1872.8; ENERGY LABORATORIES, INC,SAMPLES,108; FASTENAL COMPANY,DEPT SUPPLIES,8.22; FEDERAL EXPRESS CORPORATION,POSTAGE,70.44; FLOYD'S TRUCK CENTER, INC,VEHICLE MTNC,2301.82; FRED PRYOR SEMINARS,TRAINING,268; FREMONT MOTOR SCOTTSBLUFF, LLC,ONE, NEW 3/4 T. PICKUP,27951.25; GARTON, LYNN,SCHOOL & CONF,13.88; GENERAL ELECTRIC CAPITAL CORPORATION,DEPARTMENT SUPPLIES,142.05; HAWKINS, INC.,CHEMICALS,2027.6; HEILBRUN'S INC.,EQUIP MAINT,2373.38; HOLIDAY INN - KEARNEY, TWO ROOMS FOR STAFF SNOW STORM LAY OVER,274.9; HOLIDAY INN EXPRESS LINCOLN AIRPORT,SCHOOLS & CONF,267; ICMA RETIREMENT TRUST-457,DEF COMP,1305.14; ICMA ROTH IRA,IRA,530; IDEAL LAUNDRY AND CLEANERS, INC.,JANIT SUPP,734.63; INDEPENDENT PLUMBING AND HEATING, INC,GROUND MAINT,102.67; INGRAM LIBRARY SERVICES INC,BKS,420.16; INTERNAL REVENUE SERVICE, WITHHOLDINGS, 61048.67; INTERNATIONAL ASSOCIATION OF ELECTRICAL INSPECTORS,DEPT MMBRSHP,1 20; INVENTIVE WIRELESS OF NE, LLC, CONTRACTUAL, 54.95; JEFFREY F MARTISCHEWSKY, BUILDING MAINTENANCE, 872; JOHN DEERE FINANCIAL,DEPT SUPP,60.94; JOHN DEERE FINANCIAL,DEPT SUPP,58.46; JOHN DEERE FINANCIAL,LAWN MOWERS,74130.7; JOHN Q HAMMONS RVOC TR 12281989,SCHOOL & CONF,406.35; KEEP SCOTTSBLUFF-GERING BEAUTIFUL,FY15-16 FUNDING,5000; KOIS BROTHERS EQUIPMENT CO INC,DEPT SUPPLIES,536.39; KRIZ-DAVIS COMPANY,EQUIP MAINT,617.23; LEAGUE ASSOCIATION OF RISK MANAGEMENT,VEHICLE INSURANCE,466.86; MAILFINANCE INC,LEASE,148.76; MARKETING CONSULTANTS, UNIFORMS & DEPT SUPPLIES,520.8; MENARDS, INC,DEPT SUP,151.24; MID-IOWA SOLID WASTE EQUIPMENT CO, INC,EQUIP MAINT,1767.6; MIDWEST CONNECT, LLC,ANNUAL SERVICE AGREEMENT,1440; MIDWEST MOTOR SUPPLY CO INC,SUPP - GREASE, CITRIS SOLVENT FOR TRANS,1586.84; MUNICIPAL PIPE TOOL CO, LLC,EQUIP MAINT,946.33; NE CHILD SUPPORT PAYMENT CENTER,NE CHILD SUPPORT PYBLE,1399.68; NE DEPT OF REVENUE,MARCH 2016 TAX,19439.96; NE LAW ENFORCEMENT TRAINING CENTER,SCHOOLS & CONF,10; NEBRASKA RURAL WATER ASSOCIATION,SCHOOLS & CONF,375; NEBRASKA CHAMBER OF COMMERCE, TUITION - LEADERSHIP NEBRASKA,2500; NEBRASKA MACHINERY CO,EQUIP MTNC,836.24; NEBRASKA PUBLIC POWER DISTRICT,ELECTRIC,21951.93; NEBRASKALAND TIRE, INC,VEH MAINT,14.5; NELSON ELECTRIC MOTOR SERVICE, INC,WATER PUMP AND MOTOR REPAIRS FOR PSB, 231.26; NEMNICH AUTOMOTIVE,VEH MAINT,78.75; NEOPOST,POSTAGE,300; PANHANDLE CONCRETE PRODUCTS, INC,DEPT SUP,775; PANHANDLE ENVIRONMENTAL SERVICES INC SAMPLES, 234; PANHANDLE HUMANE SOCIETY,CONTRACTUAL,5023.88; PLATTE VALLEY

BANK,HSA,13615.21; POSTMASTER,POSTAGE,405.44; POWERPLAN,EQUIP MTNC,7406.92; QUILL CORPORATION, DEPT SUPPL,212.32; REAMS SPRINKLER SUPPLY CO.,GROUNDS MAINT, 412.9; REGION I OFFICE OF HUMAN DEVELOPMENT,CONTRACTUAL SERVICES,825; REGIONAL CARE INC, HEALTH INSURANCE PREMIUM,56136.88; RICHARD JOHNSON, CONTRACTUAL, 1000; ROHRER, JOSEPH,SCHOOLS & CONF,475; ROOSEVELT PUBLIC POWER DISTRICT, ELECTRIC POWER,1847.56; S M E C,DEDUCTIONS,195.5; SAFETYLINE CONSULTANTS, INC, DEPARTMENT SUPPLIES,259.25; SANDBERG IMPLEMENT, INC,DEPT SUPP,92; SCB CO WEED CONTROL, SPRAY DESIGNATED WEED AREAS,2160; SCB FIREFIGHTERS UNION LOCAL 1454,FIRE EE DUES,195; SCOTTSBLUFF POLICE OFFICERS ASSOCIATION,POLICE EE DUES, 528; SCOTTSBLUFF SENIOR CENTER,CONTRACT,5750; SIMON CONTRACTORS,CONCRETE FOR STR. REPAIR,15127.43; SNELL SERVICES INC.,GROUNDS MAINT,75; SOURCE GAS, MONTHLY ENERGY FUEL,2925.03; STATE HEALTH LAB,SAMPLES,19; STATE OF NE.,CONTRACTUAL,525; STATE OF NEBR, MONTHLY LONG DISTANCE,174.57; SUPERIOR SIGNALS, INC,EQUIP MAINT,430.35; TOMMY'S JOHNNYS INC,CONTRACTUAL,1305; TOYOTA MOTOR CREDIT CORPORATION,HIDTA CAR LEASE,365.69; TSCHACHER CARA,REFUND PK SHELTER,25; TWIN CITIES DEVELOPMENT ASSOC, INC, CONTRACT, 9686; TYLER TECHNOLOGIES, INC,TRAINING - ACCOUNTS RECEIVABLES,785.5; UNITED STATES WELDING, INC,WELD. SUPP - OXYGEN FOR CENTRAL GARAGE,98.3; UPSTART ENTERPRISES, LLC,DEPT SUPPL,31; US BANK,INTEREST - 2015 GEN.HWY ALLOC FUND PLEDGE BONDS,14406.25; US BANK,SCHOOLS & CONF,932.77; USGS NATIONAL CENTER MS 270,CONTRACTUAL SVC,12625; VOGEL WEST, INC,TIP FOR PAINT GUN,25.95; WELLS FARGO BANK, N.A.,RETIREMENT,30593; WESTERN COOPERATIVE COMPANY,GROUND MAINT,230.53; WESTERN COOPRTATIVE COMPANY,GROUNDS MAINT,15.86; WESTERN NE COMM COLLEGE,SCHOOLS & CONF,488.2; WINTER CREEK CANAL COMPANY,WATER RIGHTS -- FARMLAND & TREE DUMP,4020.75; WYOMING FIRST AID & SAFETY SUPPLY, LLC,FIRST AID KIT SUPPLIES,158.17; XEROX BUSINESS SERVICES LLC,ANNUAL FIREHOUSE SOFTWARE SUPPORT,1395; REFUNDS: SHAINAH AM HENNI 1.76; AMBER STUART 8.09; RACHEL GRINER 6.29; AUSTIN SCHAUB 1.5; MATTHEW PLASENCIO 52.28; ROXANNE JACKSON 3.64; THOMAS HERNANDEZ 3.64; AMANDA ALLISON 119.96; VICKI BEGLEY 1.68; IRV RUSHALL 516.62.

Regarding the Police Tow Service bids, Mr. Johnson explained that there was only one bid received for police tow service, from Scottsbluff Towing. The bid price has increased from \$10 to \$20 for passenger cars and oversized vehicles are double from the previous 2013 contract. Staff is recommending approval. Moved by Mayor Meininger, seconded by Council Member Shaver, "to approve the Police Tow Service bid from Scottsbluff Towing and Service," "YEAS", Gonzales, Meininger, McCarthy, Shaver and Colwell "NAYS", None. Absent: None.

Mayor Meininger opened the public hearing at 6:05 p.m. to consider a rezone request for the property located at 1401 19th Avenue. City Manager Johnson explained that this property was a previous trailer park, zoned R-4, multi-family, and is surrounded by C-3, heavy commercial zoning. The buyers are asking that the zoning be changed to C-3, which it has been in the past. The Planning Commission recommended approval of this zone change at their April 1, 2016 meeting. Kathy Birch, Real Estate Agent representing the buyers, spoke in favor of the zone change. There were no other comments from the public. Mayor Meininger closed the public hearing at 6:07 p.m.

Mayor Meininger introduced Ordinance No. 4186 which was read by title on first reading: **AN ORDINANCE DEALING WITH ZONING, AMENDING SECTION 25-1-4 BY UPDATING THE**

OFFICIAL ZONING DISTRICT MAP TO SHOW THAT TRACTS 12 & 13, WILDY & LANA COMMERCIAL TRACTS, SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA, WHICH IS CURRENTLY ZONED AS R-4 MULTIFAMILY, WILL NOW BE INCLUDED IN C-3 HEAVY COMMERCIAL, AND REPEALING PRIOR SECTION 25-1-4.

Moved by Mayor Meininger, seconded by Council Member Gonzales, “that the statutory rule requiring the Ordinance to be read by title on three different days be suspended,” “YEAS”, Colwell, Meininger, McCarthy, Shaver and Gonzales, “NAYS” None. Absent: None.

The motion carried having been approved by three-fourths of the Council Members. Moved by Mayor Meininger, seconded by Council Member McCarthy, “that Ordinance No. 4186 be adopted,” “YEAS”, Colwell, Meininger, McCarthy, Shaver and Gonzales, “NAYS” None. Absent: None.

Mayor Meininger opened the public hearing advertised for this date at 6:10 p.m. to consider the Redevelopment Plan for Owen Development LLC. Dr. Owen introduced himself to the Council. John L. Selzer, attorney representing Dr. Owen, explained that Dr. Owen is the only oral surgeon in our area and is building his office between Avenue I and Avenue G on 42nd Street. This is next to the current Elite Health Care development. This project would not be economically feasible without the assistance of Tax Increment Financing. The infrastructure improvements will include the water and sewer connections and the completion of Avenue G. He explained that there was a blight study completed on this property a few years ago. The Tax Increment Financing will enable the construction of these utilities and street. This development conforms with the Comprehensive Development Plan. This development will encourage low intensity commercial development next to the residential neighborhood. The design is a soft look and will provide a buffer from the residential use to the office facilities. This business is low traffic with limited patients per day. The estimated tax increment financing available will be \$255,000.00, which will be used for acquisition, site preparation, utilities, a portion of Avenue G, public sidewalk, landscaping, site design and plan preparation. Mr. Selzer explained that an estimated \$17,000.00 per year will be collected for 15 years which will support the bond for development, then it will go back to taxes.

The Cost Benefit Analysis supports this project, as there will be no additional costs to the City, it will serve public infrastructure, it will support five to six employees but have no negative impact on other employers in the area. It will also bring a regional service to our community which will bring people from out of town, leading to further development in this area.

Dave Chalupa, citizen, commented on the development, asking if residents of Scottsbluff would receive a discount for his services since taxes are paying for the infrastructure. Council Member Shaver explained that it’s actually the incremental taxes that the owner would be paying on the improvements that will be paying for the development. There were no other comments from the public. Mayor Meininger closed the public hearing at 6:20 p.m. Moved by Mayor Meininger, seconded by Council Member Shaver, “to approve Resolution No. 16-05-01 and the Redevelopment Plan for Owen Oral Surgery, Lot 1, Blk 10, Five Oaks Subdivision,” “YEAS”, Colwell, Meininger, McCarthy, Shaver and Gonzales, “NAYS” None. Absent: None.

RESOLUTION NO. 16-05-01

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Recitals:

a. Pursuant to the Community Development Law, NEB. REV. STAT. § 18-2101 *et seq.* (the “Act”) a redevelopment plan titled *Owen Oral Surgery Center Redevelopment Plan*, prepared by Owen Development, L.L.C. (the “Redevelopment Plan”) has been submitted to the Scottsbluff Community Redevelopment Authority (“CRA”). The Redevelopment Plan proposes to redevelop an area of the City which the City Council has declared to be blighted and substandard and in need of redevelopment. The Redevelopment Plan includes the use of tax increment financing.

b. The Redevelopment Plan has been reviewed by the Planning Commission, which found that the Redevelopment Plan conforms to the 2016 Scottsbluff Comprehensive Plan (the “Comprehensive Plan”). The Planning Commission recommended approval of the Redevelopment Plan to the CRA and City Council.

c. The Redevelopment Plan has been reviewed by the CRA, which found that the Redevelopment Plan conforms to the Comprehensive Plan, that the project as proposed in the Redevelopment Plan would not be economically feasible or occur in the project area without tax increment financing, and that the costs and benefits of the project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services, having been analyzed by the CRA, are in the long term best interests of the community.

d. The CRA recommended approval of the Redevelopment Plan to the City Council.

e. On May 2, 2016, the City Council held a public hearing on the proposal to approve the Redevelopment Plan.

f. The City Council has reviewed and conducted a cost-benefit analysis of the Redevelopment Plan and makes the findings and recommendations as set forth in this Resolution.

Resolved:

1. The Redevelopment Plan is determined to be feasible and in conformity Comprehensive Plan and with the legislative declarations and determinations set forth in the Act.

2. The project as proposed in the Redevelopment Plan would not be economically feasible or occur in the project area without tax increment financing and the costs and benefits of the project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services, having been analyzed by the City Council, are in the long term best interests of the community.

3. The City Council approves the Redevelopment Plan.

4. In accordance with NEB. REV. STAT. § 18-2147, and as proposed in the Redevelopment Plan, the City Council provides that any ad valorem tax on Lot 1, Block 10, Five Oaks Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska, for the benefit of any public body be divided for a period of 15 years after the effective date as provided in § 18-2147, which effective date shall be determined in a Redevelopment Contract entered into between the Redeveloper and the CRA. Said tax shall be divided as follows:

(a) That proportion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as all other taxes collected by or for the bodies; and

(b) That proportion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the CRA to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, the CRA for financing or refinancing, in whole or in part, the project set forth in the Redevelopment Plan. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premium due have been paid, the CRA shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in the redevelopment project shall be paid into the funds of the respective public bodies.

5. The Mayor and Clerk are authorized and directed to execute such documents and take such further actions as are necessary to carry out the purposes and intent of this Resolution and the Redevelopment Plan.

6. This Resolution shall become effective immediately upon its adoption.

PASSED and APPROVED on May 2, 2016

Mayor

ATTEST:

City Clerk (Seal)

Mayor Meininger opened the public hearing scheduled for this date at 6:20 to consider a Class C Liquor License application for 16th Empire LLC, 1605 Ave. A, Scottsbluff, NE. Jessie and Leticia Martinez and Vincent and Lucy Martinez, owners, Police Chief Kevin Spencer, David Marez, citizen and Floyd Smith, citizen, were sworn in to testify on the liquor license. Moved by Mayor Meininger, seconded by Council Member McCarthy, "that the following exhibits, presented on behalf of the City Council, be entered into the record: 1) 16th Empire Liquor License application; 2) City Council check list for section 53-132 Reissue 2010; 3) written statement of Police Chief Kevin Spencer dated April 29, 2016; 4) written statement of City Clerk dated May 2, 2016; 5) written statement of Planning Administrator Urdiales dated April 7, 2016; "YEAS", Meininger, Gonzales, Shaver, Colwell and McCarthy, "NAYS" None. Absent: None.

Jessie Martinez explained that they have owned the building for three years and have been busy renovating the location into a nice nightclub where they will serve food, have a dance floor and provide a nice addition to entertainment for downtown Scottsbluff. They have invested a substantial amount of money renovating the location, including a \$30,000 sprinkler system which was required. All of their employees and owners have taken the alcohol server training through the Nebraska State Patrol. The four owners are the only ones responsible for inventory and ordering the alcohol.

Mayor Meininger asked about the extensive list of violations for the applicants, including sale of tobacco and alcohol to minors. Jessie Martinez explained that when he ordered the list of violations from the County, they included everything, including violations that had been dismissed. The sale of alcohol to a minor was one of the violations that was dismissed. Lucy Martinez explained that she was found guilty of selling tobacco to a minor, which has served as a lesson to the owners and staff of how important it is to check all ID's. Jessie Martinez added that they will have a scanner and will check everyone's identification. They have a "no tolerance" policy for all employees.

Chief Spencer explained that he has taken a very close, serious look at this application and discussed the application with Nebraska State Patrol officers Otto and Jackson. He also explained that a lot of the material included in the application looks like convictions, however, many of the charges had been dismissed. He concluded that nothing in the application would disqualify the applicants from holding a liquor license. He inspected the building and commented that the owners are very determined to provide a very nice business.

Chief Spencer added that Vincent Martinez has had a liquor license for 6 years with no compliance issues. However, some of the violations included in the application may cause issues with a State desk review, which may result in a "show of cause" hearing. The Liquor License Investigatory Board met on April 28, 2016 and made a "neutral" recommendation regarding this application. Council Member Shaver asked if the DUI and Open Container charges were valid violations. Chief Spencer confirmed that they were valid.

Floyd Smith, citizen and founder of the West Nebraska Family and Research Center at 1602 Avenue A testified. He explained that he has had a number of altercations with the owners of 16th Empire during the

construction period. There has been a conflict when he has tried to park on the street by the business. He claimed that he and some of his staff had been threatened by the people working on the renovation of the bar.

Mr. David Marez also addressed the Council and commented that the Martinez family have dedicated a lot of time and money in this project. He feels that they are working to improve their record and provide a quality business for Scottsbluff.

There were no further comments from the public. Mayor Meininger closed the public hearing at 6:40 p.m. He asked Vincent Martinez why he thinks the City Council should give them a positive recommendation for this liquor license. Mr. Martinez explained that they are trying to bring something new and different to downtown Scottsbluff to add to the other improvements. Mayor Meininger noted that he has never seen an application with this many violations and disregard to law enforcement. He asked what makes them a community leader and example to children from this point forward. Mr. Martinez explained that these were issues in his past, and his father's past. They are working to move forward and do the right thing now. His dad's business of six years has never had a failed compliance check. Council Member Shaver agrees that everyone deserves a second chance, but these records don't show a change in the history.

Moved by Council Member Colwell, seconded by Council Member Shaver, "to forward a negative recommendation to the Nebraska Liquor Control Commission regarding the Class C Liquor License application submitted by 16th Empire LLC, dba 16th Empire based on lack of fitness regarding (2)(b) Applicant can conform to all laws, of the Neb. Rev. Statute §53-132 (Reissue 2010)," "YEAS", Colwell, Meininger, McCarthy, and Shaver, "NAYS" None. Absent: None. Abstain: Gonzales.

Regarding the Manager License for 16th Empire, it was moved by Mayor Meininger, seconded by Council Member McCarthy, "to approve the recommendation of Jessie Martinez as manager of the Class C Liquor License for 16th Empire, pending approval of the liquor license by the Nebraska Liquor Control Commission," "YEAS", Colwell, Meininger, McCarthy, and Gonzales, "NAYS" Shaver. Absent: None.

RESOLUTION 16-05-02

BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF SCOTTSBUFF, NEBRASKA:

1. On May 2, 2016, the matter of the Application of 16th Empire LLC dba 16th Empire, applying for a Class C Liquor License at 1605 Ave. A, Scottsbluff, Nebraska, came on for consideration by the Council. The following exhibits were offered:

Exhibit 1.	Copy of the 16 th Empire Liquor License Application and attachments.
Exhibit 2.	Checklist of §53-132 R.R.S. Neb. 2010.
Exhibit 3.	Memorandum from Police Chief dated 4/29/16
Exhibit 4.	Memorandum from City Clerk dated 5/2/16
Exhibit 5.	Memorandum from Development Services Director dated 4/7/16.
2. Witnesses were sworn and testimony was received from the applicant. Testimony was taken from Police Chief Spencer on behalf of the City of Scottsbluff. Kent Hadenfeldt, Deputy City Attorney offered legal counsel.
3. Upon consideration of the evidence and the criteria to be considered by the City Council pursuant to law, the Mayor asked for a motion. Council voted to recommend denial of the application, with one abstention.
4. By reason of the above, the Applicant has not met the burden of proof and persuasion in producing evidence pertaining to the criteria described in the Nebraska Statutes.

5. Based on the above findings, the City Council offered a recommendation for denial of the application of 16th Empire LLC dba 16th Empire, 1605 Ave. A, Scottsbluff, Nebraska.
6. The City Clerk will transmit a copy of this Resolution to the Nebraska Liquor Control Commission.
7. This Resolution shall become effective upon its passage and approval.
8. Cost of publication: \$14.89.

PASSED AND APPROVED on May 2, 2016.

Mayor

ATTEST:

City Clerk

Mayor Meininger opened the public hearing scheduled for this date at 6:50 p.m. to consider an Ordinance Text Amendment of definitions for tattoo, body piercing, permanent color & branding and zoning district provisions and jurisdictions. City Manager Johnson explained that body art facilities are currently only allowed in C3 zoning with a special use permit. A number of body art facility owners feel our zoning is too limited. An Ordinance was drafted to allow these facilities in all commercial and manufacturing districts, and removed the regulatory requirements as staff is not qualified to determine if health requirements are being met. These inspections are regulated by the Nebraska Department of Health and Human Services. The Ordinance also adds some changes which reflect the Nebraska State Statute. Planning Commission approved the Ordinance at their meeting on April 11, 2016 with a recommendation to City Council for approval. Since that meeting, staff was directed to review the regulatory requirements and make some amendments in a draft Ordinance. Therefore, Council has two Ordinances for review, the one approved by Planning Commission and the draft Ordinance. Staff is recommending approval of the Ordinance approved by the Planning Commission, adding all commercial and manufacturing districts as allowed zones for body art facilities.

Mayor Meininger opened discussion to the public. The following citizens expressed their opinions regarding the Ordinance:

Dave Chalupa – commented that the State doesn't inspect in a timely manner and feels we need to have local enforcement.

Matthew Drake, business owner – stated that the Health Department conducts inspections of all business dealing with body art, cosmetics, health, etc. He asked about the regulation requiring walls, which was clarified as partitions for privacy.

Council Member Shaver expressed his concern about having partitions which are washable and able to be disinfected in case of body fluid contamination.

David Marez, business owner – commented that competition should not be a reason to create more regulations. He feels only the zoning should be changed to allow body art facilities in all commercial and manufacturing districts.

Chris Seaton, business owner – commented that there are many regulations and requirements from the State of Nebraska that owners need to comply with. Most of this compliance work and self-evaluation is done through email and fax.

Council Member Shaver added that with the information about the inspector from Sidney, who is the

only person qualified in our area to inspect facilities, only spends 100 hours per year completing these inspections through-out the entire Panhandle , which is insufficient.

Deputy City Attorney Hadenfeldt stated that staff works in conjunction with the State of Nebraska Health and Human Services for all businesses that require licenses. To date, they have only received one complaint about a business and their legal staff has followed up on that complaint. The inspector still needs to follow up with the inspection which needs to be done within 90 days.

Sam Landers, citizen – stated that if he would rather go out of town and get a tattoo rather than go to a sketchy part of town to get one. He was supportive of changing zoning to allow facilities downtown.

Donovan Valentine, WNCC student – speaking for the students at WNCC, he is supportive of allowing body art facilities to locate in nice, downtown businesses.

Tyrel Manley, non-tattoo business owner, stated that he's supportive of allowing these businesses in commercial and manufacturing zones, and feels the Council should be supportive.

Deputy City Attorney Hadenfeldt commented that the proposed Ordinance recommended by Planning Commission will open zoning to all commercial and manufacturing zones and eliminate the regulations that the business owners have suggested. This is basically what the body art facility owners have requested.

Mayor Meininger closed the public hearing at 7:15 p.m. Council Member Colwell commented that he appreciated the feedback from the State on these regulations. This is a very touchy situation as the additional regulations and inspections are more than the city should take on, since the state is already responsible. Council Member Shaver feels that the Ordinance should include the term "body art" which is what the state says. In addition, he feels the regulations should be a separate Ordinance, not included in the zoning.

Regarding definitions, Deputy City Attorney Hadenfeldt explained that the State combines permanent cosmetics, tattooing and body piercing as one definition as body art. Under body art facility, pc – permanent cosmetic is only cosmetic – tattoo is decorative. The definition encompasses all of them. The planning commission decided to not combine them all in case someone wanted them treated differently. The Ordinance which the Planning Commission passed and recommended to the City Council, has kept the flexibility to keep the definitions separately.

Council Member Gonzales introduced Ordinance NO. 4187 which was read by title on first reading: **AN ORDINANCE FOR THE CITY OF SCOTTSBLUFF, NEBRASKA, AMENDING CHAPTER 25, ARTICLE 2, INCLUDING DEFINITIONS RELATING TO TATTOO PARLORS AND BODY PIERCING, ALSO AMENDING CHAPTER 25, ARTICLE 3, AMENDING VARIOUS ZONING JURISDICTIONS IN WHICH A TATTOO/BODY PIERCING ESTABLISHMENT WILL BE ALLOWED AS A PERMITTED USE, REPEALING ALL PRIOR ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.**

Moved by Council Member Colwell, seconded by Council Member Gonzales, "that the statutory rule requiring the Ordinance to be read by title on three different days be suspended," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

The motion carried having been approved by three-fourths of the Council Members. Moved by Council Member Colwell, seconded by Council Member Gonzales, "that Ordinance No. 4187 be adopted," "YEAS", Colwell, Meininger, McCarthy, and Gonzales, "NAYS" Shaver. Absent: None.

City Manager Johnson presented the claim from American Family Insurance on behalf of Randall Baum for property damage, due to a sewer back-up at his property, located at 3612 Maple Drive, Scottsbluff. West Nebraska Claims Services inspected the property and reported that there was no negligence found on the part of the City. Mr. Baum approached the Council, showing pictures of the sewer back up and damage to his property. He explained that the City Waste Water Department cleared the sewer line and ran the camera, and could not determine the origin of the blockage. Public Works Director Bohl commented that he is not aware of a sewer problem area in this part of town.

Deputy City Attorney Hadenfeldt advised Council that they can either grant or deny the claim. Staff and the adjustor are recommending denying the claim. It appears that the investigation doesn't find where the City was negligent in the incident. He informed the Council of a Nebraska Supreme Court ruling in 2013 which determined that you can't do inverse condemnation in a situation like this if the

governing authority hasn't taken action to take the property. So it goes back to negligence, if you can show the city had a duty and breached it, we are liable. This event doesn't show negligence on the part of the City. There was impeding flow and when the city staff ran the camera, there was resistance then it began flowing. The following week they checked it again and could not find any impeding flow. Mayor Meininger agreed that it doesn't appear there was any negligence.

Mr. Jim Trumbull, 3615 Maple Drive, who lives in the same area, informed Council that Mr. Baum contacted him when the sewer back-up occurred. He said it appears that the problem is somewhere between Perkins and Avenue C. He also had talked with city staff who said they could not find the cause of the blockage. Council Member Shaver commented that there appears to be an issue in this area.

Moved by Council Member Shaver, seconded by Council Member Colwell, "to approve the claim from American Family Insurance on behalf of Randall Baum for personal property damage caused by a sewer back-up in the amount of \$12,446.11, which is the actual cash value loss," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mr. Johnson explained the Ordinance correcting the fees for Riverside Campground. The previously approved Ordinance did not reflect the updated fees. Mayor Meininger introduced Ordinance No. 4188 which was read by title on first reading: **AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA AMENDING THE MUNICIPAL CODE TO REVISE §6-6-13 DEALING WITH USERS OF THE RIVERSIDE PARK CAMP GROUND FEES, TO INCREASE FEES FOR CAMPING WHICH WILL BEGIN AS OF MAY 1, 2016, AND PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.**

Moved by Mayor Meininger, seconded by Council Member Shaver, "that the statutory rule requiring the Ordinance to be read by title on three different days be suspended," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

The motion carried having been approved by three-fourths of the Council Members. Moved by Mayor Meininger, seconded by Council Member Shaver, "that Ordinance No. 4188 be adopted," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mayor Meininger read and signed the Proclamation for Police Week and expressed the Council's appreciation to Chief Kevin Spencer and the entire Police Department for the dedication and service to our community. Chief Spencer gave the Council information about their special event on May 19, 2016, inviting them to join the activities.

Mr. Johnson gave the Council an update on the LB357 informational meetings. There is one more meeting scheduled for May 5th at the Library. The brochures have gone out in the utility billings. Staff is working on getting information to the public prior to the primary election.

Mr. Johnson informed the Council that Mr. James Becker has offered to purchase six acres of city owned property located at Immigrant Trail Subdivision for \$8000.00 per acre to be used as a commercial shop space. An appraisal was just completed reflecting a value of \$8500.00 per acre. This proposed use ties in as an acceptable use based on the recently completed comprehensive plan. Mayor Meininger asked about estimated jobs for his business. Mr. Becker currently has five trucks, but with the expansion he could run more and provide more job opportunities. Moved by Council Member Gonzales, seconded by Council Member Shaver, "to agree to sell approximately six acres of city owned property located at the end of Immigrant Trail Subdivision for \$8500.00 per acre to James Becker," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mr. Becker agreed to purchase the property for \$8500.00 per acre. Moved by Mayor Meininger, seconded by Council Member McCarthy, "to direct city staff to begin the process of selling the property, including preparation of a contract, Ordinance, notices and remonstrance requirements," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mr. Johnson presented the contract for concession services at Lacy Park with Teresa Gonzales. Ms. Gonzales will pay the City \$100.00 per month during the summer to run the concession stand. Moved by Mayor Meininger, seconded by Council Member McCarthy, "to approve the agreement with Teresa Gonzales for concession services at Lacy Park," "YEAS", Colwell, Meininger, McCarthy, and Gonzales, "NAYS" Shaver. Absent: None.

City Manager Johnson presented the estimate to repair the Westmoor pool heaters and pumps in the amount of \$19,995.00. These items were an issue last year, so staff solicited bids, only receiving one from Oregon Trail Plumbing and Heating. This will come from the Parks Department building maintenance budget. Staff recommended waiting until this spring to have the heaters installed so we don't have the equipment idle during part of the warranty period. Moved by Mayor Meininger, seconded by Council Member Gonzales, "to approve the expenditure of \$19,995.00 to Oregon Trail Plumbing and Heating for repairs to the Westmoor Pool heaters and pumps," "YEAS", Colwell, Meininger, McCarthy, and Gonzales, "NAYS" Shaver. Absent: None.

Triniti Burgner, Event Coordinator, gave the Council an update on the many events planned for the summer and fall months. Some of the events include extended pool events, a street dance, disc golf challenge, movies in the park, Art in the Park and Harvest Night. This information is shared on the City's website, social media and news media.

Mr. Johnson asked Council to endorse the FEMA grant submitted by the Fire Department for rescue equipment. The process usually includes approval of submitting the grant along with a CIP request for matching funds. This process was not followed with this grant application, however, from now on, all grant applications will be presented to Council prior to submission. FEMA has sent information back to the Fire Department informing them that the grant application is favorable, so we wanted to make sure the proper procedure was followed. Mr. Johnson explained that the expenditure for matching funds will actually come from the 2016/2017 budget.

Fire Chief Dana Miller explained that the grant funds will help replace two old rescue trucks with one, new, dependable truck. This is a \$300,000.00 grant with \$15,000.00 of matching funds required. Moved by Council Member Gonzales, seconded by Council Member Colwell, "to approve ratifying the FEMA grant application for rescue equipment and authorize the Mayor to sign all necessary documents," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mr. Johnson discussed available dates for the 16/17 budget workshop meeting. Council will send available dates to Mr. Johnson to get a date that works for the majority.

Council reviewed the contract with Nathan Johnson. Council Member Shaver asked if the six months of severance was normal for a one year contract. The average severance period is actually twelve months, however, Mr. Johnson's contract reflects the same provisions as previous City Manager Kuckkahn's contract provided. Moved by Council Member Shaver, seconded by Council Member Gonzales, "to approve the contract with Nathan Johnson as City Manager and authorize the Mayor to execute the contract," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mr. Johnson commented that he inherited the City of Scottsbluff in great shape. He plans to do a few things differently, including involving department heads in the budget process, develop long term CIP projects, working on the contingency policy and changing the format of Senior Staff meetings.

He plans to engage all employees, sharing information about the entire city. He is also working on a social media presence and working on customer service. Mr. Johnson provided the Council with a list of City Manager goals, which he anticipates completing in the near future.

Under Council Reports, Mayor Meininger reported that the 911 task force will meet on May 17th; Council Member Gonzales reported that the PADD retreat will be held next week; and Council Member Shaver reported that he attended the LB357 informational meeting at Runza.

Moved by Council Member Shaver, seconded by Council Member Colwell, "to adjourn the meeting at 8:45 p.m.," "YEAS", Colwell, Meininger, McCarthy, Shaver and Gonzales, "NAYS" None. Absent: None.

Mayor

Attest:

City Clerk
"SEAL"