

**CITY OF SCOTTSSLUFF**  
**Scottsbluff City Hall Council Chambers**  
**2525 Circle Drive, Scottsbluff, NE 69361**  
**CITY COUNCIL AGENDA**

**Regular Meeting**  
**July 29, 2019**  
**6:00 PM**

1. Roll Call
2. Pledge of Allegiance.
3. **For public information, a copy of the Nebraska Open Meetings Act is available for review.**
4. Notice of changes in the agenda by the city clerk (Additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless added under Item 5 of this agenda.)
5. Citizens with business not scheduled on the agenda (As required by state law, no matter may be considered under this item unless council determines that the matter requires emergency action.)
6. Closed Session
  - a) Council reserves the right to enter into closed session if deemed necessary if the item is on the agenda as per Section 84-1410 of the Nebraska Revised Statutes.
7. Consent Calendar: (Items in the consent calendar are proposed for adoption by one action for all items unless any member of the council requests that an item be considered separately.)
  - a) Approve the minutes of the July 15, 2019 Regular Meeting.
  - b) Approve the minutes of the July 17, 2019 Special Meeting.
  - c) Approve the absence of Mayor Gonzales from the July 1 and July 15, 2019 Regular Meetings.
  - d) Council to acknowledge receipt of and take no action on a liability claim from Don Detweiler. The claim will be withdrawn and forwarded to the City's insurance carrier.
8. Scottsbluff Youth Council
  - a) (informational only):
9. Petitions, Communications, Public Input:
  - a) Council to discuss and consider action on using CDBG lead testing dollars in the Owner Occupied Rehabilitation Grant as a match for a county-wide lead abatement grant through Panhandle Area Development District & Panhandle Public Health District.
10. Reports from Staff, Boards & Commissions:

- a) Council to discuss and consider action on all outstanding projects considered by the City, including the 23 Club project.
  - b) Council to discuss and consider action on a fireworks and fireworks related occupation tax.
  - c) Council to discuss and consider action on the hotel occupation tax.
  - d) Council to discuss and consider action on amending permit application procedures for Community Festival/Business Promotional Permits with street closures.
  - e) Council to consider approving an agreement with Kirk Bernhardt as the Flag Football Coordinator and authorize the Mayor to execute the agreement.
11. Public Comments: The purpose of this agenda item is to allow for public comment of items for potential discussion at a future Council Meeting. Comments brought to the Council are for information only. The Council will not take any action on the item except for referring it to staff to address or placement on a future Council Agenda. This comment period will be limited to three (3) minutes per person
12. Council reports (informational only): This item is intended for Council Members to update and inform other Council Members of meetings attended since the last City Council meeting.
13. Adjournment.

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

**Item Closed1**

**Council reserves the right to enter into closed session if deemed necessary if the item is on the agenda as per Section 84-1410 of the Nebraska Revised Statutes.**

**Staff Contact:**

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Consent1**

**Approve the minutes of the July 15, 2019 Regular Meeting.**

**Staff Contact: City Council**

Regular Meeting  
July 15, 2019

The Scottsbluff City Council met in a regular meeting on July 15, 2019 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 July 12, 2019, 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 emailed to each council member, made available to radio stations KNEB, KMOR, KOAQ, and television stations KSTF and NBC Nebraska, and the Star Herald. The notice was also available on the city's website on July 12, 2019. Vice Mayor McKerrigan presided and City Clerk Wright recorded the proceedings. The meeting was called to order and the Pledge of Allegiance was recited. Vice Mayor McKerrigan 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 who they are representing for the record. Vice Mayor McKerrigan 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: Jeanne McKerrigan, Scott Shaver, Nathan Green and Terry Schaub. Also present were City Manager Johnson and City Attorney Kent Hadenfeldt. Absent: Raymond Gonzales.

Vice Mayor McKerrigan asked if there were any changes to the agenda. City Manager Johnson stated there is one agenda item he would like to classify as an emergency action item, stating after testimony from various parties, the City reached out to the State regarding what their options would be concerning the Monument Valley Pathway. The State's response was an email received today (July 15, 2019) at 10:29 a.m. stating we could eliminate the north phase, but would be fined anywhere from \$50,000.00 to \$100,000.00. Mr. Johnson asked Council whether they would support the project in its entirety, explaining with time constraints we are jeopardizing Federal and State funding. Council Member Shaver stated he asked for this item to be put on the agenda at 8:00 p.m. on July 1, 2019. Because of this, he does not feel this item is an emergency, but lack of getting it done in time. Mr. Johnson repeated we did not have the numbers from the state until this morning. Council Member Shaver stated that if it was on the agenda there would not be a problem. Council Member Green added that he looked at his League of Municipalities handbook for clarification and a special meeting should be called, rather than emergency action. Legal Counsel Hadenfeldt stated the definition of an emergency item is one that needs immediate action or remedy because of sudden communication; the email is asking for an answer today. Council Member Shaver stated floods, fire, tornados, etc. would be constituted as an emergency, not failure to file the paperwork in time. Mr. Johnson explained this is not a failure to file the paperwork on time, since we had no information to share because we just got the email from the State this morning. Council Member Schaub made the motion, seconded by Vice Mayor McKerrigan, "to put the options regarding the Monument Valley Pathway on the agenda as an emergency item for the meeting," "YEAS," McKerrigan and Schaub. "NAYS," Shaver and Green. Absent: Gonzales. Motion failed. Mr. Johnson told Council they could reconsider it, but where we are at today the project moves forward as planned with tonight being the only night to act on it, hence the emergency action item. He added this was done based on Council's direction and what the public told the City to do, so it was brought forward once we had an answer from the State, which came today. Council Member Shaver again brought up that he asked on July 1<sup>st</sup> to have the Monument Valley Pathway options to be on the agenda, stating if it was, we could have discussed it. Mr. Johnson disagreed stating they were two different items. Legal Counsel Hadenfeldt agreed with Mr. Johnson stating the email could not be discussed even if it was on the agenda for the meeting, since the email was just received today. Mr. Johnson explained the motion has died and

no action was taken so, the project goes on as planned as it was originally presented.

**From:** Borer, Judy [mailto:Judy.Borer@nebraska.gov]  
**Sent:** Monday, July 15, 2019 10:29 AM  
**To:** Nathan Johnson  
**Cc:** Jaber-Taylor, Nicole; Gibson, Jodi; Mark Bohl  
**Subject:** CN 51512 Scottsbluff Valley Pathway North Redesign  
**Importance:** High

Nathan,

After further discussion here at NDOT, we have a very rough estimate of the amount of federal funds the City could be required to pay back to FHWA. Between the Preliminary Engineering and the Right-of-Way Funds, that amount could be \$50,000 to \$100,000. With this in mind, please advise if you still want to change the design to eliminate the northern portion of the trail.

We need to have your answer today, since we have told the consultant to begin work on the Consultant Work Order for the additional hours that will be needed due to this revision.

Please call me if you have any questions.

Thank you.

Judy Borer  
Project Coordinator  
Local Assistance Division | NDOT  
1400 Highway 2 | PO Box 94759  
Lincoln NE 68509-4759  
Email: [judy.borer@nebraska.gov](mailto:judy.borer@nebraska.gov)  
Phone: 402-479-4435

Vice Mayor McKerrigan 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. Council Member Shaver made a motion, seconded by Council Member Green, "to remove all items on the consent calendar, items 7a thru 7f, so they can be considered separately." "YEAS," Green and Shaver. "NAYS," Schaub and McKerrigan. Absent: Gonzales. Motion failed. The consent calendar will stay as presented.

Moved by Council Member Schaub, seconded by Vice Mayor McKerrigan that,

- a) "The minutes of the July 1, 2019 Regular Meeting be approved,"
- b) "Consider a Community Festival Permit for the Downtown Scottsbluff Association for "Sidewalk Sales" on Broadway from 14<sup>th</sup> St. to 20<sup>th</sup> St. on July 18, 19, & 20, 2019 from 7:00 a.m. to 7:00 p.m."
- c) "Consider a Community Festival Permit for the Scottsbluff Police Department for National Night Out on the 1400 to 1900 Blocks of Broadway, August 6, 2019 from 4:00 p.m. to 9:00 p.m. including street closures, vendors and noise permit."
- d) "Approve the Request for Qualifications for Professional Engineering Services for the Scottsbluff School Safety Zone Assessment and authorize the City Clerk to advertise for proposals to be received until 2:00 p.m., August 6, 2019."
- e) "Approve the absence of Mayor Gonzales from the July 1, 2019 Regular Meeting."
- f) "Cancel the July 29, 2019 Regular Council meeting as two regular meetings will have already been held in the month of July." "YEAS," Schaub and McKerrigan. "NAYS," Shaver and Green. Absent: Gonzales. Motion failed.

Moved by Council Member Shaver, seconded by Council Member Schaub, "that the following claims be approved and paid as provided by law out of the respective funds designated in the list of claims dated July 15, 2019, as on file with the City Clerk and submitted to the City Council," "YEAS", Schaub, McKerrigan, Green, and Shaver. "NAYS," None. Absent: Gonzales.

#### CLAIMS

1822008 ONTARIO INC,EQUIP.MAINT.,110; ACTION COMMUNICATIONS INC.,EQUIP MAINT-PD,1117.24; ADVANCE AUTO PARTS,PARKS #301- OIL AND AIR FILTER,36.55; ALLO COMMUNICATIONS,LLC,LOCAL TELEPHONE CHARGES,3988.44;AL'S TOWING,TOW SERVICEPD,180;ALVAROSILVA,CONTRACTUAL,585;AMAZON.COMHEADQUARTERS,MISC., 786.58; AMERI-CO CARRIERS,INC,EAST OVERLAND GRANT FUNDS,3098.5; ASSURITY LIFE INSURANCE CO,LIFE INSURANCE,32.95; B & H INVESTMENTS, INC,DEP. SUP.,282; BLUFFS SANITARY SUPPLY INC.,DEPT SUPP REC,996.53; CAPITAL BUSINESS SYSTEMS INC.,CONT. SRVCS.,402.7; CARR- TRUMBULL LUMBER CO, INC.,SUPP - SCREWS,10.58; CASH WA DISTRIBUTING,CONCESSIONS,1406.22; CELLCO PARTNERSHIP,CELL PHONES,262.99; CITIBANK, N.A.,FIREARMS RANGE SUPPL-PD,103.58; CITY OF GERING,TRASH/RECYCLING DISPOSAL FEES JUNE 2019,41953.38; CLARKE MOSQUITO CONTROL PRODUCTS INC,TRANS #493- SOLENOID & EPD MODULE,599.7; COLORADO ASPHALT SERVICES, INC,24 TONS COLD ASPHALT,4205.58; COMPUTER CONNECTION INC,CONTRACTUAL-PD,44; CONTRACTORS MATERIALS INC.,SUPP - JOINT SEALANT, LOTION,144.05; CREDIT BUREAU OF COUNCIL BLUFFS,FEES - JUNE 2019,50; CRESCENT ELECT. SUPPLY COMP INC,SUPP - FORK TERMINALS,55.91; CYNTHIA GREEN,DEP. SUP.,84.17; D & H ELECTRONICS INC.,SUPP - BARRIER STRIP,37.63; DALE'S TIRE & RETREADING, INC.,UNIT #820- NEW TIRES,601.32; DXP ENTERPRISES INC,SENSORS AND BATTERIES FOR TANGO MONITORS,226.52; ELLIOTT EQUIPMENT COMPANY INC.,NEW LIDS FOR REAR LOADER CANS,1000; ENERGY LABORATORIES, INC DEPT 6250,SAMPLES,135; ESQUIO RIOS JR,CONTRACTUAL,54; FASTENAL COMPANY,DEPT SUPP PARK,28.94; FAT BOYS TIRE AND AUTO,PARKS STOCK-TIRE,141; FEDERAL EXPRESS CORPORATION,POSTAGE,215.88; FLOYD'S TRUCK CENTER

SCOTTSBLUFF,REPAIRSTO UNIT #818,4051.07; FRANCHETTI MATTHEW,CONTRACTUAL,162; GAYLORD BROS INC,DEP. SUP.,66.59; GENERAL TRAFFIC CONTROLS, INC,TRAFFIC SIGNAL MONITOR,1218.5; GFOA, MEMBERSHIP - HILYARD (9/1/19 - 8/31/20),190; GRAY TELEVISION GROUP INC,CONTRACTUAL SVC,1390; HAWKINS, INC.,CHEMICALS,1186.46; HONEY WAGON EXPRESS,CONTRACTUAL,180; HULLINGER GLASS & LOCKS INC.,DEPT SUPP PARK,8.25; HYDROTEX PARTNERS, LTD,CENTRAL GARAGE- OIL,1334.71; IDEAL LAUNDRY AND CLEANERS, INC.,JANITORIAL SUPP PK,1377.16; INDEPENDENT PLUMBING AND HEATING, INC,BLDG MAINT PARK,1848.73; INGRAM LIBRARY SERVICES INC,BKS. & AV,1363.68; INTERNAL REVENUE SERVICE,WITHHOLDINGS,60553.39; INTRALINKS, INC,CONTRACT SERVICES - JUNE 2019,3744.75; INVENTIVE WIRELESS OF NE, LLC,CONTRACTUAL,57.95; KEMBELJARED,CONTRACTUAL,72; KIRKBERNHARDT,CONTRACTUAL,72; KNOW HOW LLC,BEARINGS AND RING PLIERS COMPOST FACILITY,134.91; LARAMIE COUNTY FIRE DISTRICT #2,ROPE RESCUE COURSE- FELTES AND GILL,300; LEAGUE ASSOCIATION OF RISK MANAGEMENT,DEDUCTIBLE REIMBURSEMENT,2736.59; LEXISNEXIS RISK DATA MANAGEMENT,CONSULTING-PD,100; M.C.SCHAFF & ASSOCIATES, INC,DEPT CNTRCL SRVCS,1725; MADISON NATIONAL LIFE,INSURANCE,1749.21; MARKETING CONSULTANTS,STICKER DECALS FOR DUMPSTERS,450; MATHESON TRI-GAS INC,RENT MACHINES,59.2; MATTHEW M. HUTT,PROF. SERVICES - TYLER WEBER,450; MENARDS, INC,MULTI POSITION LADDER- UNIT 10,474.47; METECH RECYCLING, INC,RECYCLING E-WASTE FEES,12914.2; MIDLANDS NEWSPAPERS, INC,LEGAL PUBLISHING,2455.18; MUNIMETRIX SYSTEMS CORP,IMAGESILO - JUNE 2019,39.99; NE CHILD SUPPORT PAYMENT CENTER,NE CHILD SUPPORT PYBLE,1163.1; NE DEPT OF REVENUE,WITHHOLDING,18595.93; NEBRASKA SAFETY & FIRE EQUIPEMENT INC.,HYDRO TEST - FIRE EXTINGUISHER,45; NEBRASKA MACHINERY CO,REPAIRS TO HVAC ON UNIT #831,1878.47; NEBRASKA MUNICIPAL POWER POOL,2019-2020 MEMBERSHIP,4941.31; NEBRASKA PUBLIC POWER DISTRICT,ELECTRIC,44323.81; NEBRASKALAND TIRE, INC,POLICE #6- NEW TIRES,524; NEOPOST,POSTAGE,1000; NETWORKFLEET, INC,GPS SERVICE,368.36; NORTHWEST PIPE FITTINGS, INC. OF SCOTTSBLUFF,GROUND MAINT PARK,83.7; OCLC ONLINE COMPUTER LIBRARY CENTER, INC,CONT. SRVCS.,364.49; ONE CALL CONCEPTS, INC,CONTRACTUAL,144.33; OREGON TRAIL PLUMBING, HEATING & COOLING INC, EQUIPMAINT, 4585; PANHANDLE COLLECTIONS INC, WAGE ATTACHMENT,194.92; PANHANDLE COOPERATIVE ASSOCIATION,FLEET GASOLINE/DIESEL, 24358.28; PANHANDLE ENVIRONMENTAL SERVICES INC,SAMPLES,140; PAUL MENDOZA,CONTRACTUAL,180; PAUL REED CONSTRUCTION & SUPPLY, INC,GROUND MAINT PARK,480.64; PEPSI COLA OF WESTERN NEBRASKA, LLC,CONCESSIONS,628.9; PLATTE VALLEY BANK,HEALTHSAVINGS ACCOUNT,9774.26; POSTMASTER,POSTAGE,818.86; QUILL CORPORATION,DEPT SUPPLIES,1270.1; RABAGO CAROL ANN,PARK RESERVATION,25; REAMS SPRINKLER SUPPLY CO.,GROUND MAINT PARK,560.51; REGANIS AUTO CENTER, INC,POLICE #6- LUBRICANT,48.92; REGIONAL CARE INC,CLAIMS,50250.45; RICHARD P CASTILLO,CONTRACTUAL,162; RON'S TOWING,TOW SERVICE-PD,675; S M E C,EMPLOYEE DEDUCTION,156.5; SANDBERG IMPLEMENT, INC,TRANS #4150- SKIDS,170.31; SCB COUNTY,DEPT CNTRCL SRVCS,136.25; SCB FIREFIGHTERS UNION LOCAL 1454,FIRE EE DUES,225; SCOTT AARON,CONTRACTUAL,108; SCOTTSBLUFF POLICE OFFICERS ASSOCIATION,POLICE EE DUES,576; SCOTTSBLUFF

SENIORCENTER,JULY1,2019QTRLYINSTALLMENT,5750; SIMON CONTRACTORS,CONCRETE FOR STREET REPAIR,5968.84; STATE OF NE.DEPT.OF LABOR,LICENSE/PERMIT,150; STERLING WEST LLC,KENO,3034.2; STRICKER MARTIN,CONTRACTUAL,36; SWANK MOTION PICTURES INC,SPECIAL EVENT,463; TOYOTA MOTOR CREDIT CORPORATION,HIDTA CAR LEASE-PD,343.53; TRAFFIC PARTS, INC,LEDs FOR TRAFFIC SIGNALS,1055; TRANS IOWA EQUIPMENT LLC,TRANS STOCK- ELEVATOR CHAIN, WIPER, PARTS,1972.67; TYLER TECHNOLOGIES, INC,TRANSACTION FEES - UB,2821.75; UNION BANK & TRUST,RETIREMENT,37256.55; UNIQUE MANAGEMENT SERVICES, INC,CONT. SRVCS.,89.5; US BANK,ADMIN FEES - 2015 LEASING CORP BONDS,2300; US BANK,AICPA MEMBERSHIP - ELIZABETH HILYARD,285; VAN DIEST SUPPLY COMPANY,MOSQUITO SPRAY,3632.4; W & R INC,BLDG MAINT REC,161.06; WESTERN COOPERATIVE COMPANY,WEED KILLER FOR COMPOST FACILITY,397.94; WESTERN TRAVEL TERMINAL, LLC,VEH MAINT-PD,484; WILSON ZACHARIAH,CONTRACTUAL,126; WOODS & AITKEN LLP,PROF. SERVICES,562.6; WYOMING CHILD SUPPORT ENFORCEMENT,CHILD SUPPORT,738.08;YOUNG MEN'S CHRISTIAN ASSOCIATION OF SCOTTSBLUFF, NE,YMCA,753;

Regarding the June 2019 Financial Report, City Manager Johnson explained there is nothing additional to report, we are working on budgets to bring to the Council in the upcoming months. There are no sales tax numbers to report.

Council introduced the Ordinance No. 4244 updating disposal at the compost facility to include all commercial and residential tree and yard waste, which was read by title on third reading: **AN ORDINANCE OF THE CITY OF SCOTTSBLUFF DEALING WITH DISPOSAL OF TREES, BRUSH AND YARD WASTE AT CITY DISPOSAL SITES, AMENDING THE SCOTTSBLUFF MUNICIPAL CODE SECTION 6-6-26, SETTING FORTH RATES AND CHARGES FOR ACCEPTING ALL COMMERCIAL AND RESIDENTIAL YARD WASTE AND TREE DISPOSAL, REPEALING THE FORMER SECTION, PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND PROVIDING FOR AN EFFECTIVE DATE.** There were no additional comments from the public regarding this Ordinance. Moved by Council Member Schaub, seconded by Vice Mayor McKerrigan, “to adopt Ordinance No. 4244 updating disposal at the compost facility to include all commercial and residential tree and yard waste,” “YEAS,” Green, McKerrigan, Shaver, and Schaub. “NAYS,” None. Absent: Gonzales.

Ms. Starr Lehl, Economic Development Director, was in attendance to give Council an update on interest regarding the Owner Occupied Rehabilitation Grants. Ms. Lehl explained she has received 19 phone calls from people in the community who are very interested in the grant. Because of this she recommends asking for a higher amount, stating we need at least 10 people to qualify to justify doing the grant. Council Member Green was concerned about median household income and improvements implemented that could raise applicants property taxes. Ms. Lehl stated the majority of people interested are elderly and fall under the Homestead Exemption tax. Council Member Shaver was concerned how many people will qualify for the grant and if we would be assessed a penalty if we didn’t use all the funds. Mr. Jeff Kelley with Panhandle Area Development District stated there would be no penalty. A report is filed with the State after two years showing what was actually awarded, spent and left over. Council Member Schaub made the motion, seconded by Council Member Shaver, “to approve completing the pre-application for the Owner Occupied Rehabilitation Grant and request maximum funding of \$750,000.00,” “YEAS,” McKerrigan, Shaver, Green, and Schaub. “NAYS,” None. Absent: Gonzales.

Mr. Johnson explained the 23 Club operating agreement. The proposed agreement will be for 10 years with the 23 Club paying the City \$3,000.00 annually for providing operating services to the facility. Mr. Johnson added, for the record, the club has questions regarding the \$3,000.00 per year and the reason this is brought forward is to see if Council will support the agreement. Staff feels the 23 Club should pay, as others who use the Landers Soccer Complex, for example, have to pay to use that facility as well. Council Member Shaver asked how much upkeep it is to have the facility and with the improvements planned, if expenses will go up or down. Mr. Johnson answered more than the agreement amount of \$3,000.00 and as far as improvements, there will be more green space, which will lead to more expense. Council Member Shaver commented he does not want to get into a ten year agreement due to the facility changing, citing every agreement we get into should cover the cost of maintaining. Vice Mayor McKerrigan asked if the 23 Club is open to a shorter period. Mr. Johnson stated the reason for the 10 year agreement is for grant purposes. Vice Mayor McKerrigan asked Mr. Johnson if there was a way to track how much we pay to maintain the facility each year. Mr. Johnson stated he could get the numbers and bring them back at a future meeting. Council Member Green made the motion, seconded by Council Member Shaver, "to table the 23 club operating agreement until we have financials showing how much we pay to maintain the facility each year," "YEAS," Green, Schaub, Shaver, and McKerrigan. "NAYS," None. Absent: Gonzales.

Regarding the lease extension offer from American Tower Corporation to put a cell phone tower near the 23 Club, Mr. Johnson explained this would be a 20 year lease extension amendment to the year 2054 in exchange to a one-time payment for \$40,000.00 and 3 percent rent escalation that would continue throughout the duration of the contract. After discussion about the length of the contract, Council Member Shaver, seconded by Council Member Green made the motion, "to deny the lease extension offer from American Tower Corporation to put a cell phone tower near the 23 Club," "YEAS," Shaver, Schaub, McKerrigan, and Green. "NAYS," None. Absent: Gonzales.

Mr. Johnson went over the Water Tower Lease Agreement with Action Communications, Inc. to put wireless internet equipment on the Cemetery water tower. Mr. Johnson explained it is a five year term at \$150.00 per month with staff recommending approval. Mr. Ben Backus with Action Communications, Inc. came forward and stated the antennae will serve a large business as a back up to their fiber network. Council Member Schaub made the motion, seconded by Vice Mayor McKerrigan, "to approve the Water Tower Lease Agreement with Action Communications, Inc. to put wireless internet equipment on the Cemetery water tower and authorize the Mayor to execute the agreement," "YEAS," Schaub, McKerrigan, and Green. "NAYS," Shaver. Absent: Gonzales.

Under public comments, Kevin and Angela Figg approached Council to discuss the Monument Valley Pathway North Project. Mr. Figg stated he was not notified of the location of the Monument Valley Pathway North. He also commented that Mayor Gonzales called him and said that the Pathway North Project had ceased; they are no longer going to acquire any of your land and you are no longer affected by the Pathway North. He would like to formally request a special council meeting to address the issue, stating there was not enough time from when the email arrived to make a decision. Mrs. Figg added they are not against the Pathway project, there are just a million different areas they can put it other than through people's yards. The original plan was to go up 5<sup>th</sup> Avenue and they do not understand why the plans were changed and no one was notified. The meetings were held in 2013 before the City approved their housing addition. She knows what the City pathway looks like at the Zoo at night, she can't imagine what the dark pathway will bring through her yard for people to get to the hospital. They would like it opened up to the entire community to give their thoughts and ideas.

Mr. Mark Westphal asked Legal Counsel Hadenfeldt and City Manager Johnson if a special council meeting could be called. Mr. Hadenfeldt stated it would have to be called by the Mayor or two council members.

Ms. Katie Bradshaw expressed her gratitude to the leadership in the front of the room and everyone who voiced an opinion. She went on to communicate her support for the Pathway and the way it was

originally proposed; explaining we are building cities for cars instead of cities for people. The expense of the pathway is an investment in our community offering benefits for the health of our citizens, for the freedom and independence of people who can't drive, including children, older adults, and those with disabilities. She would also encourage the free exchange of information regarding the Pathway and maintaining lines of communication.

Ms. Kristin Wiebe added the Pathway is an attraction in our area for surrounding communities. It draws people to our area and adds value. Progress means change and would like the City to own the best they can do on this project. If not, they should not have put together the plan to proceed. She has trust in City Officials that this plan means progress and supports the continuation as planned without delay and additional expense and amendments.

Mr. Bill Loring asked why we don't have a pathway connecting the Panhandle of Nebraska, the State and the entire United States. Communication is the key.

Mr. Larry Russell asked if a special meeting could be called and if there was any intention to do so, stating the City Council should be listening to all the population.

Mr. Mark Sitzman asked people be notified if there is a special meeting. He is not against the Pathway Bridge, just does not understand why the plan changed from 5<sup>th</sup> Avenue and is going up private property.

Mr. Kevin Courtier asked how people would feel if it was their property being affected and he hopes to have a special meeting.

Mr. Jeff Bradshaw asked what the change was and why it is not going up 5<sup>th</sup> Avenue. Mr. Mark Bohl, Public Works director explained in all the plans he has seen it was never scheduled to go up 5<sup>th</sup> Avenue. 5th Avenue was to be used to access the soccer complex and Avenue B to access the hospital as those walks have always been in place. The schedule was to use the pedestrian overpass at Grace Chapel, then east along Winter Creek up to the College. He went on to explain if the North leg is terminated it eliminates a connection to the hospital, leading to 42<sup>nd</sup> Street with accessibility to 5<sup>th</sup> Avenue forming a loop.

Council Member Green asked about having a special meeting. Council Member Shaver stated he would be one of the two council members to ask for the meeting. Mr. Johnson stated he would respond to the State asking if the City could have a time allowance for a special meeting, due to no action taken at the meeting tonight.

Under Council Reports, Council Member Green stated PAWS is waiting for the water studies to be complete. They are in a holding pattern until they get the results of the study. Council Member Shaver stated 911 should meet tomorrow on July 16<sup>th</sup>. Vice Mayor McKerrigan stated the Senior Center met and was excited to have 80 people stop in during the Tour De Nebraska. Tri City Active Living Advisory Committee met today with many good things going on.

Council Member Schaub made the motion, seconded by Council Member Shaver, "to adjourn the meeting at 7:11 p.m.," "YEAS," Green, McKerrigan, Schaub, and Shaver. "NAYS, " None. Absent: Gonzales.

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Vice Mayor

Attest:

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City Clerk      "SEAL"

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Consent2**

**Approve the minutes of the July 17, 2019 Special Meeting.**

**Staff Contact: City Council**

Special Meeting  
July 17, 2019

The Scottsbluff City Council met in a special meeting on July 17, 2019 at 6:00 p.m. in the Council Chambers of City Hall, 2525 Circle Drive, Scottsbluff. A notice of the meeting had been read four times, with the last reading completed at least six hours prior to the meeting on KNEB AM 960, KNEB FM 94.1 & The TRAIL 101.7. 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 emailed to each council member, made available to radio stations KMOR, KOAQ, and television stations KSTF and NBC Nebraska. The notice was also available on the city's website July 16, 2019 and posted at City Hall, The Lied Scottsbluff Public Library and Public Safety Building. Notice of the meeting also appeared in a story on the front page of the Scottsbluff Star Herald for July 17, 2019. Vice Mayor McKerrigan presided and City Clerk Wright recorded the proceedings. The meeting was called to order and the Pledge of Allegiance was recited. Vice Mayor McKerrigan 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 who they are representing for the record. Vice Mayor McKerrigan 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: Jeanne McKerrigan, Nathan Green and Scott Shaver. Also present were City Manager Johnson and City Attorney Kent Hadenfeldt. Absent: Raymond Gonzales and Terry Schaub.

Vice Mayor McKerrigan asked if there were any changes to the agenda. There were none. Vice Mayor McKerrigan 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.

City Manager Johnson addressed Council, summarizing on Monday, July 15<sup>th</sup>, at the regular City Council Meeting an emergency agenda item was brought forward to add to the regular meeting agenda. The emergency agenda item would discuss options regarding the north section of the Monument Valley Pathway after the pedestrian bridge and an email was placed in the minutes showing the State required immediate action; however that failed to make the agenda. Mr. Johnson reported the State agreed to give the City until today (July 17) to respond whether or not the City Council would like to pursue the north section to the pathway. He explained there is a penalty, however, of an added payment of approximately \$50,000.00 to \$100,000.00, in addition to what the City already owes if the north section is eliminated. Mr. Johnson gave three options for the City Council to decide on. 1) Continue the project moving forward as it is currently presented; 2) Eliminate the north section of the pathway, but pay a fine between \$50,000.00 and \$100,000.00; 3) Eliminate the entire pathway project, but pay approximately one million dollars and get a set of blueprints.

Mr. Johnson explained the total project cost will be 5.3 million dollars, with 1.4 million being the City's share. He added the State and Federal government will pay the biggest portion of the project. He also reminded Council the City had budgeted over 2 million dollars for the pathway, which has been put in a savings account over several years. After receiving the final numbers and going into the budget workshop, the additional \$600,000.00 was allocated for 23 Club. If Council decides on option 2, the City will have to make a decision if they want to lower the amount allocated to 23 Club.

Council Member Green started discussion by stating he did not know the three proposals were the options. He was under the impression it was acceptable to eliminate the north leg from the project, stating as far as where the money needs to come from is new information to him. He feels we need to move forward in the direction of eliminating the north leg and look for a funding source.

Council Member Shaver commented he wants to discuss the whole thing because he is in

agreement that the north section is part of it, but he also doesn't feel like taking a person's land is appropriate for a project like this. If it was an emergency project, like a highway, and there was one tiny section, that is what eminent domain is used for; not a pathway. He is for the pathway if there is no private property taken; if there is private property taken, he is not for it. As far as he knows, the north leg is taking all people's property and he is absolutely fine with eliminating it.

Vice Mayor McKerrigan added even though we eliminate the north leg, we are not satisfying everyone in the room because, for example, the individuals who live in the Stoney Creek addition will still be impacted. The section that is being examined tonight is after the pedestrian bridge over Highway 26. In reality, there are only two people's properties in the north section that it affects. She is very much for the pathway project and does not know if it is fair to stop it in a section where it is already going, to be fair to the rest of the residents who are along the pathway.

Council Member Shaver asked Mr. Johnson what the time frame is to look at other options. Mr. Johnson answered the options are eliminating the north section or the entire project. Mr. Johnson also explained the right of way negotiations are ongoing with 23 of 48 tracts being signed, which is almost 50%. This includes the needed tracts to do the first season's construction work. If the whole project was eliminated, the City owns the tracts of land.

Council Member Green commented we want to minimize the impact on our citizens. If our only option right now is the north leg and giving direction to halt it, even if it has the caveat of the penalty, then that is what we are stuck with. Council Member Shaver expressed he is fine with halting the north section, but that is not the problem. He does not want to take anyone's land; forcing people to sell their land is ridiculous to put something on it. Mr. Johnson answered Council Member Shaver, stating the State is the responsible charge on this project; they are administering the right of way acquisitions and the engineering. We are not supposed to know who they acquired, what is ongoing; they want a central point of contact, which is why everything is being funneled through them.

Mr. Perry Mader, former Scottsbluff Parks and Recreation Director, approached Council to explain he was the person who helped write the grant and make the route for the pathway project. He stated around 2013 Carroll Mohrbutter approached him regarding a problem he was having, citing he could not get from Westmoor to Walmart in his wheelchair and asked about a pathway. Mr. Mader stated, at the time, they looked at a section from Riverside Park to Northwood Park and the grant was approved right away. Within a few weeks the State called, knowing the City had another section in mind, asking them to submit another grant because they may not receive the funding if they wait. Within a week the City received the grant with a match of approximately \$600,000.00. Mr. Mader explained the type of grant received was an alternative transportation grant, meaning the people who go to work or school have the means to get there by bike, running, or walking, without using a vehicle; the north section was earmarked to get people to and from the hospital. Mr. Mader also commented that writing grants from here on out will be an uphill battle for the City if they choose to eliminate part or the entire pathway because it will show they are not committed fully to completing the project.

Mr. Jerry Smith, owner of Torrington Townhomes, LLC, approached Council and explained he owns the property from the highway to Hilcrest Drive. He is disappointed with the City of Scottsbluff because there has been no communication regarding this subject. The first notification he received is when Gary Brandt called him to appraise his property. The property proposed is partially developed and the land will be very difficult to sell and will be devalued. He has no problem with the overpass due to nothing being developed on that section of land. He requests Council eliminate the north section of the pathway.

Mr. Mark Sitzman asked why the plat dated February of 2014 was approved if the City knew about the pathway project in 2013. Mr. Sitzman showed Council a copy of the plat and questioned why M.C. Schaff designed the lots in 2014. He does not have a problem with the overpass, but thinks there are better routes after it crosses the highway.

Ms. Brenda Anderson approached Council and explained she is the realtor that sold Kevin and Angie Figg their house on Hilcrest Drive. She showed the real estate transfer statement, which included the title insurance policy showing no public use of property or easements being noted on the paperwork.

Had she or the Figgs known about the easements, the house would not have been purchased by the Figgs.

Ms. Kristin Weibe asked that the area by Stoney Creek be addressed and more information be given regarding that section. She wonders about the space and what the issue is. Mr. Johnson stated M.C. Schaff has staked out the area with pink stakes representing the middle of the pathway. The width of the pathway is 10 feet, with the right of way being 14 feet.

Mr. Larry Russell commented the communication is not what it should be for a 5.2 million dollar project.

Mr. Ethan Sheers, owner of United Storage, stated his concern is with safety on Avenue I regarding the heavy commercial, agriculture, and recreation vehicles that turn onto it. Avenue I is a heavy traffic area and he would not feel comfortable walking on the sidewalk.

Mr. Kevin Stocker gave his comments, stating the constitution addresses property rights in the Fifth Amendment; going down a pathway of eminent domain is a dangerous and costly error. There were errors made when the property was platted. The grant was written after the fact; then the new plat was laid over it and wasn't addressed. He does not want his tax dollars entering in what could be a prolonged and expensive eminent domain lawsuit, stating this is a public want and not a public need. He asks to reconsider and negotiate with the State.

Ms. Katie Bradshaw understands people are speaking from a very heartfelt place because they are speaking of their homes. She asks, are we designing a community that is only built for people who can drive. Is this the type of community we want for our future?

Council Member Shaver commented again that he does not feel it is right to take people's property, but since he does not know who on the south side has signed over their property, does not want to kill the whole project. He does want to eliminate the north end because of taking people's property, but would like to have other options by working with the State to use City property only.

Ms. Megan Hayward argued the pathway is a need for our community, stating these types of amenities add great things for people who come to our community and if you lose the amenities you will not retain people. She stated there is no redoing the pathway alignment and the land was not platted because the project was not finalized. There were two years of environmental studies done and the State will not allow the alignment to be changed. She also added, the pathway was public knowledge as the Council before this one agreed to proceed with the project and commit Scottsbluff to the funding.

Mr. Jeff Bradshaw voiced his support for the pathway and stated there is no reason for division in the community. He is curious to know when the deadline was for the grant funds, stating we have a responsibility to the larger public that is providing funds through the grant.

Ms. Allison Furby stated they moved here from out of state and a pathway is something that they look for a community to have.

Vice Mayor McKerrigan explained she can see both sides, but she is not for giving up the whole pathway and feels it is a great idea. She stated accessibility is key and feels we should go forward with the whole project.

Council Member Green stated he does not think the north section of the pathway goes all the way to the hospital; there are sidewalks that give access as well. He is looking for a way to come together as a community and at least keep as much intact as possible with the least amount of impact. He feels the pathway is not set in stone and Mr. Johnson should negotiate. He is okay with sacrificing a small portion in order to maintain the benefits without penalizing, because if we lose it we are worried about \$50,000.00 to \$100,000.00 compared to one million and we can throw out any involvement with a zoo or pool. He asked Vice Mayor McKerrigan to reconsider to have a majority.

Ms. Joanne Phillips stated in 2014 there was a lot of talk about pathways. She feels then would have been the time to express concern about the pathway. She does not think it was a surprise or hidden from the public.

Ms. Angie Figg added the north side is easy to discontinue because it is a road from Grace Chapel to nowhere and would have to be maintained by the City. She stated there have been a lot of mistakes, feeling the pathway should have been addressed with the community at every change. She feels there is a better way to go with our tax dollars. She does not feel the need to pay for the mistakes of the lack of

communication made by the City.

Vice Mayor McKerrigan asked if we stopped at the bridge, if we had the opportunity to re-engineer and go a different route. Mr. Johnson stated the options ended at that portion and we would need a revenue source if we chose to change it. Vice Mayor McKerrigan also stated if we stop it, she does not feel taking money from the 23 Club is the right thing to do. Council Member Shaver commented that we can find another source for the money, that was an option, but we can find another source. Council Member Shaver made a motion, seconded by Council Member Green, "to eliminate the very north section of the Monument Valley Pathway," "YEAS," McKerrigan, Green, and Shaver. "NAYS," None. Absent: Gonzales and Schaub.

Council Member Shaver made the motion, seconded by Council Member Green, "to approve the minutes of the July 1, 2019 Regular Meeting," "YEAS," Green, Shaver, and McKerrigan. "NAYS," None. Absent: Gonzales and Schaub.

Regarding the Community Festival Permit for Sidewalk Sales, Council Member Shaver asked that in the future we have more advance notice, at least two weeks, for anyone applying for a Community Festival Permit in case there are items to be addressed. Council Member Shaver made the motion, seconded by Council Member Green, "to approve the Community Festival Permit for the Downtown Scottsbluff Association for "Sidewalk Sales" on Broadway from 14<sup>th</sup> St. to 20<sup>th</sup> St. on July 18, 19, & 20, 2019 from 7:00 a.m. to 7:00 p.m.," "YEAS," McKerrigan, Green, and Shaver. "NAYS," None. Absent: Gonzales and Schaub.

Council Member Shaver asked, regarding the Community Festival Permit for National Night Out, if everyone on Broadway had been notified due to the street closure, since that is what had been recommended in the past, making sure everyone was held to the same level. City Manager Johnson answered the City does not have an Ordinance addressing that and we could change it if Council directed. Mr. Johnson also stated that a good majority of the downtown businesses participate in National Night Out and added for the Bands on Broadway event signatures were obtained from the downtown merchants and it took approximately three days to do so.

Police Chief Spencer came forward and added this is the 26<sup>th</sup> or 27<sup>th</sup> event and he has never had a complaint. He stated anyone can get a permit without contacting the business owners because that is how the policy is now. Council Member Shaver commented the reason this was brought up is because a business owner downtown complained about the street and sidewalk closures. He asked that this item be put on a future agenda.

Ms. Katie Bradshaw commented the business owner that complained was representing multiple businesses and not just himself. She stated the business owners were not informed the streets and sidewalks would be closed for events. Council Member Shaver, seconded by Council Member Green made the motion, "to approve a Community Festival Permit for the Scottsbluff Police Department for National Night out on the 1400 to 1900 Blocks of Broadway, August 6, 2019 from 4:00 p.m. to 9:00 p.m. including street closures, vendors and noise permit," "YEAS," Green, McKerrigan, and Shaver. "NAYS," None. Absent: Gonzales and Schaub.

Regarding the Request for Qualifications for Professional Engineering Services for the Scottsbluff School Zone Safety Assessment, Mr. Johnson explained this would encompass all schools as we try to get an overall grasp of every school zone in the City. Because of an unfortunate accident of a pedestrian being hit, the City will administer the requests of the study. He added the school district agreed to pay half of the cost and the City will try to get someone on board before the beginning of the school year to do the implementations. Council Member Green made the motion, seconded by Council Member Shaver, "to approve the Request for Qualifications for Professional Engineering Services for the Scottsbluff School Zone Safety Assessment and authorize the City Clerk to advertise for proposals to be received until 2:00 p.m., August 6, 2019," "YEAS," Green, Shaver, and McKerrigan. "NAYS," None. Absent:

Gonzales and Schaub.

Ms. Katie Bradshaw approached Council and wholly applauds the City doing this study. She is a member of the Tri City Active Living Advisory Committee that is a group of people who are very committed and interested in this issue who have the ability to volunteer and provide grant resources to supplement what the schools and City can provide.

Under Council Reports Council Member Shaver stated at the 911 Committee meeting the tower was pushed back due to zoning issues. They will go to the City Council on Monday, July 22<sup>nd</sup>.

Council Member Shaver made the motion, seconded by Vice Mayor McKerrigan, “to adjourn the meeting at 7:38 p.m.,” “YEAS,” Shaver, McKerrigan, and Green. “NAYS,” None. Absent: Gonzales and Schaub.

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Vice Mayor

Attest:

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City Clerk      “SEAL”

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Consent3**

**Approve the absence of Mayor Gonzales from the July 1 and July 15, 2019 Regular Meetings.**

**Staff Contact: City Council**

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Consent4**

**Council to acknowledge receipt of and take no action on a liability claim from Don Detweiler. The claim will be withdrawn and forwarded to the City's insurance carrier.**

**Staff Contact: City Council**

**City of Scottsbluff**  
**CITIZEN INCIDENT REPORT**

All tort claims under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be filed with the clerk, secretary, or other official whose duty it is to maintain the official records of the political subdivision, or the governing body of a political subdivision may provide that such claims may be filed with the duly constituted law department of such subdivision. It shall be the duty of the official with whom the claim is filed to present the claim to the governing body. All such claims shall be in writing and shall set forth the time and place of the occurrence giving rise to the claim and such other facts pertinent to the claim as are known to the claimant.

Date: July 23, 2019

Date and location of Incident: July 15, 2019 Exit from Post Office

Claimant Name: Don Netweiler Phone: 635-8185

Address: 2509 Avenue D City: Scottsbluff State and Zip: Nebraska 69361

City Department Contact: Kim Wright

Narrative of what happened: Came out of Scottsbluff Post Office - hit pothole on east side causing damage to car.

Estimated amount of damages \$ 175<sup>00</sup> (attach estimates)

Attachments: Photos: \_\_\_\_\_ Estimates: ✓ Medical Bills: \_\_\_\_\_

Witnesses: \_\_\_\_\_ Contact Information: \_\_\_\_\_

Citizen insurance information: \_\_\_\_\_

Reported by (city staff): \_\_\_\_\_

Received Date: 7-23-19

Signature of Claimant(s): Don Netweiler

SUBMIT TO: KIM WRIGHT, CITY CLERK, CITY OF SCOTTSBLUFF  
2525 CIRCLE DRIVE, SCOTTSBLUFF, NE 69361

RUSSEL'S AUTOMOTIVE  
112 W 27TH ST  
SCOTTSBLUFF NE 69361  
308-635-4065

7/23/2019 10:54 AM

page 1

Repair Order #159863

DETWEILER, DON  
2509 AVE D  
SCOTTSBLUFF NE 69361

Day Phone : -635-8185  
Eve Phone : -

Vehicle : 2001 Buick Lesabre 3.8 L 231 CID V6  
VIN : 1G4HR54K61U217964  
Created : 7/23/2019 10:45:16 AM  
Srv Writer : TI

Tag/State : 21-D775 / NE  
Last Mileage : 222335  
Odometer In : 0  
Odometer Out : 0

| Qty | Code/Tech* | Reference    | Description   | Condition | Unit Price | Price    |
|-----|------------|--------------|---|-----------|------------|----------|
| 1   | CT*        | CK FRONT END | SAFETY INSPECTION   |           | \$35.00    | \$35.00  |
|     |            |              | CK FRONT END FOR LOOSE OR DAMAGED PARTS AFTER CUSTOMER HIT MAJOR POTHOLE COMING OUT OF SCB POST OFFICE. |           |            |          |
|     |            |              | ****FOUND SWAYBAR LINK IS BROKEN****  |           |            |          |
| 1   | NCP        | 2651295      | Sway Bar Link Repair Kit - Front Suspension   |           | \$25.06    | \$25.06  |
| 1   | CT*        | ProDemand    | STABILIZER BAR END LINK Remove & Replace  | M         | \$104.49   | \$104.49 |

Note: M - Labor Database. Copyright, Mitchell International, All Rights Reserved

|                     |                                |
|---------------------|--------------------------------|
| Labor               | \$139.49                       |
| Parts               | \$25.06                        |
| Sublet/Misc.        | \$0.00                         |
| SHOP SUPPLIES       | \$8.23                         |
| Charges             | \$0.00                         |
| Sales Tax           | Tax @ \$33.29 * 7.0000% \$2.33 |
| <b>Repair Total</b> | <b>\$175.11</b>                |

Tech  
CT

Certification #

I hereby authorize the repair work herein set forth to be done along with the necessary material and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft or any other cause beyond your control. I hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express garagekeeper's lien is hereby acknowledged on above vehicle to secure the amount or repairs thereto. All Vehicles left over 48 hrs. after repairs are completed MAY INCUR A \$5.00 PER DAY STORAGE FEE. 24 Month or 24,000 Mile Warranty On Repairs. Please ask your associate for warranty details.

Customer Signature \_\_\_\_\_





# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

**Item SBYC1**

**(informational only):**

**Staff Contact:**

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Public Inp1**

**Council to discuss and consider action on using CDBG lead testing dollars in the Owner Occupied Rehabilitation Grant as a match for a county-wide lead abatement grant through Panhandle Area Development District & Panhandle Public Health District.**

**Staff Contact: Panhandle Area Development District**

Discussion and action of approval on using CDBG lead testing dollars in the OOR grant as match for a county-wide Lead abatement grant through PADD and PPHD.

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Dear members of the Scottsbluff City Council,

Panhandle Area Development District and Panhandle Public Health District are partnering to apply for the Lead Hazard Reduction Grant Program (FR-6300-N-13) offered through the office of lead hazard control and healthy homes. The grant would provide 1,000,000 in funds to abate lead in the homes of families with children under the age of six. This grant would be submitted to be available to homes in Scottsbluff County.

The grant requires a 10% match and in order to meet that we have proposed matching the lead grant with the lead testing dollars available in the owner Occupied Rehab grant that the city is applying for. This would not change the purpose of the OOR grant it would simply be used to show community commitment to abating lead. Morrill will be using their OOR grant as match and PADD will be using our available housing funds as match.

With all of this match we are still 40,000 away from our required match amount but it does provide a lot of support. If the city would be interested in committing any further monetary match dollars to leverage more lead abatement we would be grateful for that partnership as well. We are hoping with the match we get from Morrill, Scottsbluff, and PADD we can follow up with other communities to secure the additional match required.

Thank you for your consideration,

Megan Koppenhafer  
Panhandle Area Development District, Community and Regional Planner

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Reports1**

**Council to discuss and consider action on all outstanding projects considered by the City, including the 23 Club project.**

**Staff Contact: Scott Shaver**

**From:** Scott Shaver <[sshaver@scottsbluff.org](mailto:sshaver@scottsbluff.org)>  
**Date:** July 24, 2019 at 1:12:22 PM MDT  
**To:** Kimberley Wright <[kwright@scottsbluff.org](mailto:kwright@scottsbluff.org)>  
**Cc:** "Kent Hadenfeldt ([KHadenfeldt@simmonsolsen.com](mailto:KHadenfeldt@simmonsolsen.com))"  
<[KHadenfeldt@simmonsolsen.com](mailto:KHadenfeldt@simmonsolsen.com)>, Nathan Johnson <[njohnson@scottsbluff.org](mailto:njohnson@scottsbluff.org)>  
**Subject:** Next Agenda

Based on the OBVIOUS lack of information shared with the Council on projects. I would like to get an update on ALL OUTSTANDING (uncompleted) projects on the next meeting. I don't care if they were started back in the '80s or just last week. As I have stated many times in the past, if necessary put "possibly take action". I feel that all items should have the ability to be acted on or we are just wasting our time. As is evident from the pathway project, things change and we need to be able to modify or cancel projects that don't fit with the direction we want to go.

An example: I was told a few weeks ago about a possible delay in the 23 Club project that might push it off until next year but we, as a Council, have been told NOTHING about it. Based on Nathan's statements at the special meeting, the project must be on schedule. I know we were told their donations were conditional on it being completed this calendar year. That was why we agreed to do funding on this project w/o taking the time to budget for it in advance. If something has changed, the Council should be the first to know but since it's been several weeks, I'm sure there must be a misunderstanding.

### OUTSTANDING PROJECT LIST

- 1) Update on the progress of the Regional Landfill to date
- 2) Update on the 42<sup>nd</sup> street project
- 3) Update on the 23 club to date
- 4) Update on the solar project
- 5) Update on the pathway
- 6) Update on RFQ for school safety zones
- 7) Update on 18<sup>th</sup> Street Plaza
- 8) Update on Western States Bank
- 9) Update on Scooters
- 10) Update on Aulick Truck Shop
- 11) Update on Reichert Truck Stop
- 12) Update on Hilltop Estates

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Reports2**

**Council to discuss and consider action on a fireworks and fireworks related occupation tax.**

**Staff Contact: Nathan Johnson, City Manager**

## ORDINANCE NO. 2342

**AN ORDINANCE OF THE CITY OF LEXINGTON, NEBRASKA, AMENDING SECTION 18-45 OF THE LEXINGTON CITY CODE RELATED TO OCCUPATION TAXES; TO REPEAL ORIGINAL SECTION 18-45 AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA AS FOLLOWS:

**Section 1.** That Section 18-45 of the Lexington City Code is hereby amended to read as follows:

Sec. 18-45. - Schedule.

There is hereby levied an occupation tax upon each and every occupation and business within the city, upon the several respective occupations, professions and lines of business, and in the several different amounts, as follows:

- (1) *Fireworks.* Owners or operators of a stand or booth for sale of fireworks as follows:
  - a. By a resident of the city, including the owner or operator of an existing business establishment within the city, per season: \$75.00.
  - b. By a nonresident of the city, per season: \$300.00.
  - c. Certificate. Each person or business paying an occupation tax as aforesaid shall display for public inspection a certificate or receipt from the city clerk, showing payment of such occupation tax.
- (2) *Telephone companies, telecommunications companies, and mobile telecommunications services.* For engaging in the business of providing local exchange telephone service, intrastate message toll telephone service and mobile telecommunications services for revenue in the city.
  - a. *Mobile telecommunications services, defined.* As used in this section, the term "mobile telecommunications services" means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:
    1. Both one-way and two-way wireless communications services;
    2. A mobile service which provides a regularly interacting group of base, mobile, portable and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and
    3. Any personal communications service.
  - b. *Amount of tax.* The occupation tax shall be five percent of the gross income received from furnishing local exchange telephone service and intrastate message toll telephone

service, other than mobile telecommunications services as defined in this section, from subscribers within the corporate limits of the city. If the telecommunications services provided are mobile telecommunications services as defined in this section, the tax shall be five percent of the gross income received from furnishing mobile telecommunications service that originates and terminates in the same state to a customer with a place of primary use within the corporate limits of the city. The term "gross income" does not mean:

1. The gross income, including division of revenue, settlements or carrier access charges received on or after January 1, 1984, from the sale of a telephone communication service to a communication service provider for purposes of furnishing telephone communication service; or
  2. The gross income attributable to services rendered using a prepaid telephone calling arrangement.
- c. *Quarterly payment due dates.* The payment of any occupation tax levied and imposed by the provisions of this article shall be made in quarterly payments using the calendar quarter year as a basis for determining the due date. Each quarterly payment shall be due 15 days immediately following the termination of each calendar quarter year. Telecommunications providers whose annual receipts are less than \$100 should make annual payments following the end of the calendar year. The provider must coordinate with the city treasurer to arrange this modification.
- d. *Statement to be filed.* Every person coming within the provisions of this article shall, on or before the 15th day of the month immediately following the termination of each calendar year, file with the city treasurer, in the case of those persons taxed by this section, a full, complete and detailed statement of the income and gross receipts of said person for the preceding three calendar months, omitting therefrom the appropriate exceptions and exemptions, if any. All statements shall be duly verified as true and correct and sworn to by the manager or managing officer of such person.
- e. *City's right to inspect.* The city shall have the right at any and all times during business hours to inspect, through the comptroller or some other officer appointed by the city council, the books and records of any person coming under the provisions of this article for the purpose of ascertaining the correctness of the required statement.
- f. *Failure to file statement; interest and penalty.* In the event any person coming under the provisions of this article shall refuse, fail or neglect to furnish or file the required statement at the time or times specified, the occupation tax for the preceding three calendar months shall draw interest at the rate of one percent per month after due and payable, and in addition thereto, a penalty of five percent for the failure to file.
- g. *Interest and penalty on delinquent payments.* All delinquent payments shall draw interest at the rate of one percent per month; and, if delinquent for six months or more, a penalty of five percent shall be added thereto in addition to the interest charge.
- h. *Collection of tax by civil action.* In case any person shall fail to make payment of the occupation tax as required by this article, the city shall have the right and may sue any such person or persons in any court of competent jurisdiction for the amount of the

occupation tax due and payable and may recover judgment against such person for the amount so due, together with interest and penalties, and may have execution thereon.

- i. *Certificate.* The receipt issued after the payment of an occupation tax as aforesaid, shall be the occupation tax certificate. This certificate shall specify the amount of the tax and the name of the person and business that paid the tax.

(3) *Telecommunications, cable television.* For engaging in the business of providing a television signal for revenue in the city.

- a. *Cable television services, defined.* As used in this section, the term "cable television services" means the furnishing of a television signal, whether through cable or satellite dish, whether by subscription or pay-per-view, provided, any cable television provider having a franchise agreement with the city and paying a franchise fee, shall be excluded from this definition.

- b. *Amount of tax.* The occupation tax shall be five percent of the gross income received from furnishing cable television services as defined in this section, from subscribers within the corporate limits of the city.

- c. *Gross income.*

1. The term "gross income" means any and all revenue billed (whether or not received) or derived directly or indirectly by a provider, its affiliates, subsidiaries, parent or any entity in which the provider has a financial interest from the operation of its cable system within the city including, but not limited to:

- (i) All cable service fees;
- (ii) Franchise fees;
- (iii) Late fees, returned check charges, collection agency charges;
- (iv) Installation and reconnection fees;
- (v) Fee payments or other consideration earned (whether or not received) by the provider from programmers for carriage of cable services or marketing support in connection with the cable services on the cable system;
- (vi) Upgrade and downgrade fees;
- (vii) Advertising revenue with no deduction or offset for internal commissions earned by employees of the grantee or its affiliates, subsidiaries, parent or any entity in which the grantee has a financial interest, and external commissions earned by advertising agencies/representation firms/brokers/etc., regardless of whether or not such commissions are withheld from remittances to the grantee;
- (viii) Home shopping commissions;

- (ix) Converter and remote control rental fees;
  - (x) Lockout device fees;
  - (xi) Guides; and
  - (xii) Production charges.
2. The term "gross income" does not include bad debts or any taxes on services furnished by the grantee imposed upon subscribers by any municipality, state or other governmental unit and collected by the provider for such governmental unit. The provider will maintain its books and records in accordance with generally accepted accounting principles (GAAP).
- d. *Quarterly payment due dates.* The payment of any occupation tax levied and imposed by the provisions of this article shall be made in quarterly payments using the calendar quarter year as a basis for determining the due date. Each quarterly payment shall be due 15 days immediately following the termination of each calendar quarter year.
  - e. *Statement to be filed.* Every person coming within the provisions of this article shall, on or before the 15th day of the month immediately following the termination of each calendar year, file with the city clerk, in the case of those persons taxed by this section, a full, complete and detailed statement of the income and gross receipts of said person for the preceding three calendar months, omitting therefrom the appropriate exceptions and exemptions, if any. All statements shall be duly verified as true and correct and sworn to by the manager or managing officer of such person.
  - f. *City's right to inspect.* The city shall have the right at any and all times during business hours to inspect, through the comptroller or some other officer appointed by the city council, the books and records of any person coming under the provisions of this article for the purpose of ascertaining the correctness of the required statement.
  - g. *Failure to file statement; interest and penalty.* In the event any person coming under the provisions of this article shall refuse, fail or neglect to furnish or file the required statement at the time or times specified, the occupation tax for the preceding three calendar months shall draw interest at the rate of one percent per month after due and payable, and in addition thereto, a penalty of five percent for the failure to file.
  - h. *Interest and penalty on delinquent payments.* All delinquent payments shall draw interest at the rate of one percent per month; and, if delinquent for six months or more, a penalty of five percent shall be added thereto in addition to the interest charge.
  - i. *Collection of tax by civil action.* In case any person shall fail to make payment of the occupation tax as required by this article, the city shall

have the right and may sue any such person or persons in any court of competent jurisdiction for the amount of the occupation tax due and payable and may recover judgment against such person for the amount so due, together with interest and penalties, and may have execution thereon.

- j. *Certificate.* The receipt issued after the payment of an occupation tax as aforesaid shall be the occupation tax certificate. This certificate shall specify the amount of the tax and the name of the person and business that paid the tax.

**Section 2.** That original Section 18-45 together with all ordinances or sections of ordinances in conflict herewith are hereby repealed.

**Section 3.** That this Ordinance shall be published in pamphlet form and take effect provided by law.

PASSED AND APPROVED this 11th day of March, 2014.

THE CITY OF LEXINGTON, NEBRASKA



By: \_\_\_\_\_

*Ken H. Fyke*

Mayor

ATTEST:

*Camela Baruth*

City Clerk

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Reports3**

**Council to discuss and consider action on the hotel occupation tax.**

**Staff Contact: Nathan Johnson, City Manager**

# ORDINANCE RECORD

ORDINANCE NO. 4210

AN ORDINANCE PROVIDING FOR A NEW OCCUPATION TAX ON HOTEL ACCOMMODATIONS; REPEALING PRIOR SECTIONS LOCATED IN CHAPTER 6, ARTICLE 6 AND CHAPTER 11, ARTICLE 2 OF THE SCOTTSBLUFF MUNICIPAL CODE, AND PROVIDING PUBLICATION IN PAMPHLET FORM AND FOR AN EFFECTIVE DATE.

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

Section 1. Chapter 6, Article 6 of the Scottsbluff Municipal Code is amended by repealing the existing language and substituting the following language:

**"6-6-18. Occupation Taxes.**

The occupation tax referred to elsewhere in the municipal code shall be upon each of the following occupations and businesses (except as provided in such section) in amounts, respectively, as follows:

- A -

Alcohol, alcoholic liquors. Per year-

|  |               |
|--|---------------|
| Manufacture of alcohol and spirits .....   | \$1,000.00    |
| Catering Licensee .....  | 200.00        |
| Manufacture of beer .....  | 500.00        |
| Manufacture of wine .....  | 500.00        |
| Alcoholic liquor (except beer) wholesaler .....  | 1,000.00      |
| Beer wholesaler .....  | 250.00        |
| A - retailer of beer only, for<br>consumption on premises .....  | 200.00        |
| B - retailer of beer only, for consumption<br>off premises (sale in original packages only) .....  | 200.00        |
| C - retailer of alcoholic liquors for<br>consumption on premises and off premises<br>(sale in original packages only),<br>except nonprofit corporation which is a club ..... | 600.00        |
| C - retailer of alcoholic liquors, including beer<br>for consumption on the premises only,<br>nonprofit corporation which is a club .....                                    | 150.00        |
| D - retailer of alcoholic liquors,<br>including beer, for consumption off premises<br>(sale in original packages only) .....   | 400.00        |
| I - retailer of alcoholic liquors, for<br>consumption on premises only .....   | 500.00        |
| Special Designated License, except for special designated<br>license issued to a holder of a catering license ..   | 50.00 per day |

Non-beverage User

|               |        |
|---------------|--------|
| Class 1 ..... | 5.00   |
| Class 2 ..... | 25.00  |
| Class 3 ..... | 50.00  |
| Class 4 ..... | 100.00 |
| Class 5 ..... | 250.00 |

- B -

Billboard advertising, bill posting, thrust upon public view or attention from billboards located upon private property, or elsewhere, for pay or hire, by persons, firms or corporations -

|                |          |
|----------------|----------|
| Per Year ..... | \$ 25.00 |
|----------------|----------|

- D -

Dog kennels

Kennel authorized to keep  
less than five (5) dogs

# ORDINANCE RECORD

Per Year ..... 25.00

Kennel authorized to keep five (5)  
dogs or more

Per Year ..... 50.00

- F -

Fire insurance company or association

Per Year ..... 5.00

- H -

Hawkers and peddlers

Per Week ..... 5.00

Per Year ..... 25.00

Hotel Accommodations ..... 4% of gross receipts as defined in Section 11-2-6

- P -

Pawnbrokers

Per Year ..... 100.00

Petroleum products, refineries of

Per Year ..... 250.00

Pet shop

Per Year ..... 50.00

- R -

Retail Business Occupation Tax. . . One half percent (0.50%) of all General Retail Business Transactions which the State of Nebraska is authorized to impose a tax as allowed by the Nebraska Local Option Revenue act and which are subject to sales and use Tax within an agreed Enhanced Employment Area, except any transaction which action is subject to tax under sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4009 of the Nebraska Revised Statutes or which is exempt from tax under 77-2704.24 of the Nebraska Revised Statutes."

Section 2. Chapter 11, Article 2 of the Scottsbluff Municipal Code is amended by amending Sections 11-2-4 and adding new Sections 11-2-6 through 11-2-11 and repealing the existing language in Sections 11-2-6 through 11-2-10 to provide as follows:

## **"11-2-4. Tax; term; when due; generally.**

Except as provided in the provisions of this Article pertaining to Class C liquor licenses, General Retail Business Transactions within an agreed Enhanced Employment Area and hotel accommodations, on all occupations and businesses upon which such tax is levied at a yearly rate the year for such tax shall be deemed to begin with the first day of May of each year and shall end on the last day of April following; and such tax for each year shall be due and payable, in advance, on the first day of May of every year, and thereafter such tax shall be delinquent. The whole amount of every occupation tax levied at a daily or yearly rate must be paid in one (1) payment before the occupation or business is commenced, whether payment is made at the beginning of the day or year, or at any time thereafter; and no payment made at the beginning of the day or year shall be for any certain time less than such day or year. The whole amount of the tax on the manufacture, distribution or sale of alcoholic liquor shall be paid immediately after the final issuance of a license to the applicant under the Nebraska Liquor Control Act; provided, however, when there is a purchase of an existing licensed business and a new license of the same class is issued, or upon the issuance of a new license for a location which has not been previously licensed, the license fee and occupation taxes shall be prorated on a quarterly basis as of the date of issuance. The tax on hotel accommodations shall be paid according to the Section of this Article concerning such tax."

## **"11-2-6. Same; hotel accommodations.**

(A) Commencing on July 1, 2017, every person, entity, or association engaged in the business of offering or providing hotel accommodations to the public within the City, shall pay to the City an occupation tax equal to a percentage set out in Chapter 6, Article 6 on the gross receipts

## ORDINANCE RECORD

of the basic rental rates charged per occupied room per night for hotel accommodations. For purposes of this section, the following definitions shall apply:

- (1) Hotel shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term shall include hotels, motels, tourist homes, campgrounds, courts, lodging houses, inns, a bed and breakfast and nonprofit hotels but hotel shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, or dormitories or facilities operated by an educational institution and regularly used to house students.
- (2) Occupied room shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed thirty (30) continuous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception room, or meeting room, provided it is not used as temporary sleeping accommodations.
- (3) Basic rental rate shall mean the monetary charge for the use of an occupied room in a hotel.
- (4) Hotel operator shall mean any person, entity, association, partnership or corporation engaged in the business of offering or providing hotel accommodations, and may be referred to as taxpayer herein.
- (5) The term occupied room shall not mean, and no tax imposed by this Article shall be measured by or collected for:
  - a. Complimentary or other sleeping accommodations for which no consideration is charged;
  - b. Sleeping accommodations for which the consideration is paid by a person not subject to sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or
  - c. Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than thirty (30) consecutive days, and consideration is actually paid for use during at least thirty (30) consecutive days.

(B) The Tax imposed by this Article shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The hotel operator shall remain responsible for payment of all taxes imposed whether or not the taxes are actually collected from the guests.

(C) The tax imposed by this Article is purely for revenue purposes to support the programs of the government of the City of Scottsbluff. The levy of the tax under this Article is in addition to all other fees, taxes, excises and licenses levied and imposed under any contract or any other provision of the Municipal Code or Ordinances of the City of Scottsbluff, in addition to any fee, tax, excise or license imposed by the State. Payment of the tax imposed by this Article shall not relieve the person paying the same from payment of any other tax now or hereinafter imposed by contract or ordinance or by this Code, including those imposed for any business or occupation he or she may carry on, unless so provided therein. It is the intent of the Scottsbluff City Council that the occupation taxes imposed by this Article shall be accumulative except where otherwise specifically provided.

(D) It shall be unlawful for any hotel operator subject to this Article to fail to maintain or fail to make available to the City, upon seventy-two (72) hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the amount of occupation tax due or paid under this Article, and such other information as is required by the Finance Director of the City. Such records shall be maintained for a period of three (3) years after the occupation tax is due.

(E) Notwithstanding any contrary provision of this Chapter, or Code, the tax imposed by this Article shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the twenty-fifth (25<sup>th</sup>) day of the month in which they are due and payable shall be deemed to be delinquent. The hotel operator shall be assessed a penalty of ten percent (10%) on all delinquent amounts as well as interest of one percent

## ORDINANCE RECORD

(1%) per month or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

(F) Each and every hotel operator within the City for the calendar month beginning July, 2017, and for each and every calendar month thereafter, shall prepare and file, on or before the 25<sup>th</sup> day of the month or the next business day should the 25<sup>th</sup> fall on a Federal holiday or weekend, following on a form prescribed by the Finance Director, a return for the taxable calendar month, and pay to the Finance Director the tax imposed by the first of day of the month as set forth in paragraph (E) above. Any return that is remitted via the United States Postal Service shall be postmarked by the 25<sup>th</sup> day of the month to be considered an on-time filing. A hotel operator may make reports and remittances quarterly in lieu of monthly if their monthly remittance would be \$100 or less.

(G) If any hotel operator neglects or refuses to make a return or payment of the taxes as required by this Article, the Finance Director shall make an estimate, based upon such information as may be reasonably available, of the amount of taxes due for the period or periods for which the taxpayer is delinquent, and upon the basis of such estimated amount, compute and assess in addition thereto a penalty equal to ten percent (10%) thereof, together with interest of such delinquent tax, at a rate of one percent (1%) per month, or fraction thereof from the date when due. The Finance Director shall give the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice must be served personally or by certified mail. Such estimate shall thereupon become an assessment and such assessment shall be final and due and payable from the taxpayer to the Finance Director ten (10) days from the date of service of the notice of the date of mailing by certified mail; however, within such ten (10) day period, the delinquent taxpayer may petition the Finance Director for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Finance Director the facts and correct figures showing the correct amount of taxes. Any petition by the taxpayer shall be in writing, and the facts and figures submitted shall be submitted in writing and shall be given under oath of the taxpayer. Thereupon, the Finance Director shall modify such assessment in accordance with the facts he or she deems correct. Such adjusted assessment shall be made in writing and notice thereof shall be mailed to the taxpayer within ten (10) days; and all such decisions shall become final upon expiration of thirty (30) days from the date of service, unless proceedings are commenced within that time for an appeal in the District Court of Scotts Bluff County, Nebraska by the filing of a petition with the clerk of the court. This appeal shall be conducted in conformance with the Nebraska Rules of Civil Procedure and rules of the court as may be adopted by the court or enacted by the Legislature.

(H) It shall be the duty of every taxpayer to keep and reserve suitable records and other books or accounts as may be necessary to determine the amount of tax for which he or she is liable hereunder. The records of gross revenue by which the tax is measured shall be kept separate and apart from the records of other sales or receipts in order to facilitate the examination of books and records as necessary for the collection of this tax. It shall be the duty of every taxpayer to keep and preserve for the period of four (4) years all such books, invoices and other records, which shall be open for examination at any time by the finance director or his or her duly designated persons. Such person keeps or maintains their books, invoices, accounts or other records or any thereof, outside of the State, upon demand of the Finance Director, they shall make the same available at a suitable place within the City, to be designated by the Finance Director, for examination, inspection and audit by the Finance Director or his or her duly authorized persons. The duties of the Finance Director herein provided may be performed by any qualified person designated by the Finance Director.

(I) The administration of the provisions of this section are vested in the Finance Director who shall prescribe forms in conformity with this section for the making of returns, for the ascertainment, assessment and collection of the tax imposed and for proper administration and enforcement. The Finance Director may adopt such rules and regulations as may be necessary or desirable for the administration and enforcement of this Article. This section shall be enforced according to this Article for the occupation taxes payable within the City."

### **"11-2-7. Payment; procedure; receipt.**

The occupation tax levied pursuant to this Article shall be paid to the City Finance Director and the City Finance Director shall keep a proper account of such taxes."

## ORDINANCE RECORD

### **"11-2-8. Tax moneys; fund.**

All amounts realized from the collection of the occupation tax levied pursuant to this Article shall be placed to the credit of the General Fund to be used for projects or such other fund or funds as designated by the City Council."

### **"11-2-9. Refund; prohibited.**

Except as otherwise provided for in this Article, no person, persons, partnership, association, firm or corporation paying such occupation tax shall be entitled to a refund of any part of the tax so paid."

### **"11-2-10. Nonpayment; distress proceedings.**

Upon the failure of any person, persons, partnership, association, firm or corporation to pay such tax when demand is made by the City, the City Finance Director is authorized to issue a distress warrant over the corporate seal, directed to the Police Chief and commanding the Police Chief to collect, by distress and sale of goods and chattels for the person, persons, partnership, association, firm or corporation in such warrant named, the occupation tax due and unpaid. The Police Chief for their services shall be entitled to such fees out of the property distrained and sold as sheriffs receive for making levy and sale under execution. The costs created by reason of the distress sale shall be paid out of the property levied upon, in addition to the amount due on the occupation tax."

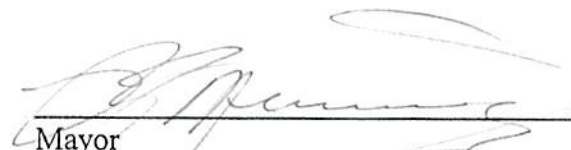
### **"11-2-11. Enforcement.**

Should any person, persons, partnership, association, firm or corporation fail to pay such tax when demand is made by the City, the City may recover the same, together with any applicable interest and penalties, in a civil action brought against such person, persons, partnership, association, firm or corporation. This remedy shall not be exclusive of any other type of proceeding available to the City, but shall merely be cumulative."

Section 3. Previously existing Sections 6-6-18 and 11-2-6 through 11-2-11, and all other Ordinances and parts of Ordinances in conflict herewith are repealed; provided, however, this Ordinance shall not be construed to affect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

Section 4. This Ordinance shall become effective upon its passage, approval and publication shall be in pamphlet form.

PASSED AND APPROVED on May 15, 2017

  
Mayor

ATTEST:

  
City Clerk



Approved:

\_\_\_\_\_  
City Attorney

## CERTIFICATE OF PASSAGE

I, Cynthia A. Dickinson, City Clerk of the City of Scottsbluff, Scotts Bluff County, Nebraska, hereby certify that the annexed Ordinance purporting to be Ordinance No. 4210 of said City was passed as such by the Mayor and City Council of the City of Scottsbluff, Scotts Bluff County, Nebraska, pursuant to the rules and regulations prescribed by general law and by said City for the passage of Ordinances, and was duly approved by the Mayor of said City, passage and approval having been made on the 15<sup>TH</sup> day of May, 2017 with respect to said Ordinance aforesaid which said Ordinance No. 4210 has been published in pamphlet form by authority of the Mayor and Council of said City under direction of its duly constituted authorities pursuant to resolution of the Mayor and Council thereof with copies made available to the public on such date at the office of the City Clerk.

Cynthia A. Dukens  
City Clerk

 GENERAL NOTARY - State of Nebraska  
CHRISTINE BURBACH  
My Comm. Exp. February 1, 2020

Christine Burbach  
Notary Public

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Reports4**

**Council to discuss and consider action on amending permit application procedures for Community Festival/Business Promotional Permits with street closures.**

**Staff Contact: Scott Shaver**

# **City of Scottsbluff, Nebraska**

**Monday, July 29, 2019**

**Regular Meeting**

## **Item Reports5**

**Council to consider approving an agreement with Kirk Bernhardt as the Flag Football Coordinator and authorize the Mayor to execute the agreement.**

**Staff Contact: Rick Deeds, Park Superintendent**

## **AGREEMENT**

This Agreement ("AGREEMENT") entered into on \_\_\_\_\_, 2019, by and between KIRK BERNHARDT, hereinafter referred to as "BERNHARDT" and the CITY OF SCOTTSBLUFF, NEBRASKA, hereinafter referred to as "CITY."

1. BERNHARDT agrees to furnish and provide the CITY the following:
  - a. All referees for the CITY's 5 on 5 flag football league ("league") for the 2019 flag football season;
  - b. To act as the league coordinator for the CITY's flag football league for the period September 1, 2019 through November 30, 2019, which will include two (2) divisions of teams with approximately 9 games and a single elimination playoff.
  - c. Plaques for the first and second place team in each division.
2. The City agrees to provide fields for the CITY's league ("fields").
3. BERNHARDT'S responsibility for furnishing referees are as follows:
  - a. To furnish a minimum of two (2) referees per field, per game for each division. All referees shall be 18 years of age or older.
  - b. To insure that the referee assignments are covered.
  - c. If the need arises, to insure replacement referees are assigned.
  - d. To insure that all referees assigned are versed on the CITY's league rules and regulations as well as football rules and regulations.
  - e. To insure assigned referees arrive at their assigned games at least 15 minutes prior to the scheduled time of the game to insure the continuity of staying as close as possible to game schedules.
  - f. To submit to the CITY a hard copy of the referee Schedule for both divisions of league play prior to the league games being played.
  - g. Allow the CITY the right to air concerns to BERNHARDT regarding referee quality, attendance, behavior and establish remedies, acceptable to both parties regarding these concerns.
  - h. Pay, by use of voucher, appropriate referee fees. Each referee will be paid \$15.00 per game. Advise all referees to turn in all vouchers to City Hall for payment.

4. BERNHARDT'S responsibilities to the CITY as coordinator for the CITY's league are as follows:
- a. Coordinate with the CITY's Park Supervisor in the advertising and promotion of the CITY's league;
  - b. Prepare, disseminate and enforce league rules and regulations;
  - c. Assist with league meetings, league registration and league rosters, which rosters are limited to 15 players per team; advise of the \$300 cost per team and where to make payment, all player must be at least 18 years of age by September 1, 2019;
  - d. Develop a league schedule with approximately 9 games for each team in a division and a single elimination playoff at the end of the season;
  - e. Notify teams of changes in the schedule due to weather and other schedule changes so as to maintain continuity and harmony within the league schedules and to enable each team to have the same number of games;
  - f. Maintain and provide the CITY with league records, league standings and league expenditures, including but not limited to equipment needs and league expenses;
  - g. Communicate with the CITY's Park Supervisor, or their designee, regarding past, current or future recommended league changes;
  - h. To prepare the fields and place stripping and markings on the fields and be at the fields or have a designee at the fields to address league issues and concerns, schedule changes, prepare and post playoff information, interpret league rules and regulations, resolve disputes and protests, enforce CITY rules and regulations, and insure participants are aware of CITY ordinances and statutory laws;
  - i. Establish, develop and maintain uniformity and parity in the level of play, regarding the two divisions of play;
  - j. Insure all equipment is properly secured and all electrical equipment turned off after the conclusion of the final game;
  - k. Notify the CITY's Park Supervisor of any league or equipment needs;
  - l. Address other league needs or issues that the CITY may deem necessary,

including maintenance and upkeep.

5. All fees collected by BERNHARDT on behalf of the CITY which are payable to the CITY for the league will be collected at Scottsbluff City Hall, 2525 Circle Drive, between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. BERNHARDT will not accept any payments unless specifically directed to do so by the City's Park Supervisor.

6. The CITY is responsible for providing all the paint for BERNHARDT to strip and mark the fields and for setting up cones on the fields. The CITY will notify BERNHARDT of any fields that may not be playable.

7. BERNHARDT will act as an independent contractor and not as an employee of the CITY. BERNHARDT'S compensation will be as set forth in this AGREEMENT and will not include any benefits of any type which are payable to CITY employees. The CITY shall have no right to control the manner in which BERNHARDT accomplishes his responsibilities. BERNHARDT may employ assistants to assist in carrying out his responsibilities. Other than the playing fields themselves, all equipment, tools and other things reasonably necessary for BERNHARDT to carry out his responsibilities under this AGREEMENT will be provided by BERNHARDT.

8. During the term of this AGREEMENT, BERNHARDT will maintain public liability insurance in an amount of not less than \$1,000,000.00. Such insurance policy will show the CITY as an additional insured. A certificate in a form acceptable to the CITY will be furnished to the CITY before BERNHARDT begins the performance of any of his responsibilities.

9. The CITY agrees and is responsible under this AGREEMENT as follows:

- a. The CITY reserves the right to access financial and schedule records to insure refereed games match actual games and payment information.
- b. For BERNHARDT'S services, the CITY agrees to pay the sum of \$1,000.00 in two (2) equal installments. Such payments will be made after the following dates:

\$500.00 - September 1, 2019

\$500.00 after the last playoff game.

10. This AGREEMENT may only be amended by a signed document from both parties.

11. This AGREEMENT will be interpreted according to the laws of the state of Nebraska.

12. This AGREEMENT may be terminated by the CITY in the event BERNHARDT fails to cure any default of this AGREEMENT within five (5) days after written notice by the City has been sent to BERNHARDT at the following address: 200123 Ridge Drive, Gering, NE 69341.

CITY OF SCOTTSBLUFF, NEBRASKA,

\_\_\_\_\_  
Kirk Bernhardt

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk