

City of Scottsbluff, Nebraska
Monday, October 21, 2013
Regular Meeting

Item Consent1

Approve the minutes of the October 7, 2013 Regular Meeting.

Staff Contact: Cindy Dickinson

The Scottsbluff City Council met in a regular meeting on Monday, October 7, 2013 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 October 4, 2013, 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 accommodation to attend the council meeting should contact the city clerk's office, and that an agenda of the meeting kept continuously current was available for public inspection at the office of the city clerk in City Hall; provided, the city council could modify the agenda at the meeting if it determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each council member, made available to radio stations KNEB, KMOR, KOAQ, and television stations KSTF and KDUH, and the Star Herald. The notice was also available on the City's website on October 4, 2013. An agenda kept continuously current was available for public inspection at the office of the city clerk at all times from publication of the notice to the time of the meeting.

Mayor Randy Meininger presided and City Clerk Dickinson recorded the proceedings. The Pledge of Allegiance was recited. Mayor Meininger welcomed everyone in attendance and encouraged all citizens to participate in the council meeting asking those wishing to speak to come to the microphone and state their name and address for the record. Mayor Meininger informed those in attendance that a copy of the Nebraska Open Meetings Act is posted in the back of the room on the west wall for the public's review. The following Council Members were present: Raymond Gonzales, Randy Meininger, Mike Deibert, and Scott Shaver. Absent: None.

Mayor Meininger asked if there were any changes to the agenda. There were none. Mayor Meininger asked if any citizens with business not scheduled on the agenda wished to include an item providing the City Council determines the item requires emergency action. There were none.

Moved by Council Member Deibert, seconded by Council Member Gonzales, that:

1. "The minutes of the September 16, 2013 Regular Meeting be approved,"
2. "The minutes of the September 30, 2013 Regular Meeting be approved,"
3. "The City Manager's appointment of Marla Marx to the Fair Housing Commission be approved,"
4. "A Public Hearing be set for October 21, 2013, 6:05 p.m., for a Class C liquor license application for Valley Bowl LLC dba Valley Bowl Fun Center,"
5. "A Request for Statements of Qualifications and Bid Proposals be approved for a Landscape Master Plan for the Downtown Business District and authorize the City Clerk to advertise for bids to be received by 2:00 p.m. November 4, 2013,"
6. "Specifications for the purchase of one, new, six-wheel sweeper be approved and authorize the City Clerk to advertise for bids to be received by 11:00 a.m. October 28, 2013,"
7. "Bid specifications be approved for the purchase of a Shredder for use in composting the City's biosolids, grass clippings and yard waste, and authorize the City Clerk to advertise for bids to be received on Tuesday, October 29, 2013 at 11:00 a.m.,"
8. "Bid specifications be approved for the purchase of a Compost Windrow Turner for use in

composting the City's biosolids, grass clippings and yard waste, and authorize the City Clerk to advertise for bids to be received on Tuesday, October 29, 2013 at 11:00 a.m.,”

9. “Bid specifications be approved for the purchase of a Mobile Star Screen for use in composting the City's biosolids, grass clippings and yard waste, and authorize the City Clerk to advertise for bids to be received on Tuesday, October 29, 2013 at 11:00 a.m.” “YEAS” “Gonzales, Deibert, Shaver and Meininger, “NAYS” None. Absent: None.”

Moved by Mayor Meininger, seconded by Council Member Gonzales, “that the following claims be and hereby are approved and should be paid as provided by law out of the respective funds designated in the list of claims dated October 7, 2013, as on file with the City Clerk and submitted to the City Council,” “YEAS”, Gonzales, Deibert, Shaver and Meininger, “NAYS” None. Absent: None.

CLAIMS

PAYROLL \$56,522.50 W/H; REGIONAL CARE \$51,900.49 INS CLAIMS; WELLS FARGO \$26,478.97 RETIREMENT; PVNB-HEALTH SAVINGS \$11,975.96 EMP DED; STATE OF NE \$30,600.91 PAYROLL TAX; NEBRASKA CHILD SUPPORT PAYMENT CENTER \$2,217.16; KRISTINE ACKER \$102.03 REFUND; ACTION COMM \$5,069.00 REPEATERS RWMC; ADVANCED AUTO PARTS \$19.98 PARTS; ADVERTISING SPECIALTIES INK. \$6.00 UNIFORM; AHLERS BAKING \$43.96 TRNG; AIRGAS USA, LLC \$190.75 SUPP; ALAMAR UNIFORMS \$3,141.21 UNIFORMS; ALLO COMMUNICATIONS \$4,673.57 PHONE; AMAZON.COM HDQRTRS \$3,369.77 BOOKS; ANDERSON CONSULT ENG \$2,029.00 CONTRACTUAL; AULICK IND TRUCK & TRAILER \$2,664.57 PARTS; BAKER & ASSOC \$2,187.50 CONTRACTUAL; BAKER & TAYLOR \$92.42 BOOKS; BEEHIVE INDUSTRIES,LLC \$25,300.00 TECH ASST MAINT; BENZEL PEST CONTROL \$145.00 PEST CONT; BLUFFS SAN SUPPLY \$1,031.92 SUPP; FARM PLAN \$41.98 UNIFORMS; BROWN SHOE FIT CO \$143.99 UNIFORMS; WILMA BUCHHAMMER \$92.96 REFUND; BUD'S RADIATOR SHOP \$138.10 REPAIR; C & C VENTURES LLC \$18.49 REFUND; CHRIS CALVERT \$1,380.00 TRNG; APRIL M CAMARILLO \$12.18 REFUND; CAPITAL BUSINESS SYST \$136.40 MAINT; CENTURY LUMBER CENTER \$12.58 SUPP; CITY OF GERING \$12.00 CONTRACTUAL; COLONIAL LIFE \$48.70 INS; CONTRACTORS MAT \$141.46 SUPP; CREATIVE SIGNS BY COZAD \$3,158.00 GRANT; CREDIT MANAGEMENT SERVICES INC \$203.42 WAGE ATTACH; MARGO CRESS \$66.08 REFUND; CULLIGAN \$16.20 MAINT; DALES TIRE & RETREAD \$141.23 TIRE DISP; DANKO EMERGENCY EQUIP CO \$1,528.00 PARTS; ANA DOMINGUEZ \$31.27 REFUND; ED ROEHR SAFETY PRODUCTS \$1,719.23 SUPP; EMERGENCY APPARATUS MAINT INC \$2,407.29 TESTING; JERRY FERTIG \$9.39 REFUND; FIRST STATE BANK \$5,902.25 INTEREST; FIRST WIRELESS, INC \$6,186.83 MAINT; FLOYDS SALES & SERV \$189,999.00 REFUSE TRUCK; FRANK IMP \$500.24 PARTS; RYAN FRIES \$31.27 RFUND; COREY FULLER \$1,380.00 TRNG; THE GALLERY COLLECTION \$244.87 SUPP; GOLD WATCH LLC \$1,500.00 CONTRACTUAL; THE GREENKEEPER \$4,186.82 SUPP; HEILBRUN FARM IND SUPP \$90.50 SUPP; HEWLETT PACKARD ED \$2,859.50 SUPPORT; HI TECH AUTO \$362.16 REPAIRS; HOME DEPOT CREDIT SERVICES \$41.47 SUPP; EVERGREEN PROPERTIES \$390.00 MAINT; HENRY HUBER \$7.57 REFUND; HULLINGER GLASS & LOCKS \$185.00 MAINT; HWM \$425.00 MAINT; ICMA RETIREMENT TRUST \$1,106.94 RETIRE; IDEAL LINEN \$237.16 SUPP; IND PLMBG & HTG \$139.37 SUPP; INFINITE GRAPHICS \$238.90 SUPP; INTRALINKS \$6,272.96 EQUIP; ISG INFRASYS \$45.00 PARTS; J & A TRAFFIC PRODUCTS \$1,094.40 SUPP; JACK'S UNIFORM & EQUIPMENT \$46.26 SUPP; JIRDON AGRI CHEM \$20.68 PARTS; KIMBALL MIDWEST \$474.44 SUPP; SAM KLASSERT \$390.25 INSPECTIONS; KRIZ DAVIS \$39.80 SUPP; DON KRUG \$6.97 REFUND; SARAH KRUMENACKER \$62.54 REFUND; LEAGUE OF NE MUNICIPALIT \$345.00 CONF FEE; MIRANDA LENHARDT \$31.27 REFUND; KEVIN LINN \$102.03 REFUND; MARIES EMBROIDERY \$6.00 UNIFORMS; BRYAN MARTINEZ \$1,380.00

TRNG; MATHESON TRI-GAS INC \$54.85 SUPP; STEVE & SHERYL MCLEAN \$6.97 REFUND; MENARDS \$583.93 SUPP; MES - MIDAM \$3,319.41 SUPP; MIKES STORE \$100.00 AWARDS; MIRACLE REC EQUIP \$945.93 PARTS; MONEY WISE OFFICE SUPPLIES \$929.88 SUPP; THE MOWER SHOP \$60.00 MAINT; MURDOCHS RANCH & HOME SUPPLY \$414.53 PARTS; NAT'L FIRE PROTECTION \$165.00 MBERSHP; NATL LEAGUE OF CITIES \$1,489.00 MBERSHP; THOMAS NATION \$26.02 REFUND; NE DEPT OF REV \$345.40 TAX; NE DEPT OF ROADS \$100,499.88 RD CONSTRUCTION; STATE OF NE \$315.00 TESTING; NE LAW ENF TRAINING CNTR \$150.00 CERT FEE; NEBR MACHINERY \$2,472.46 PARTS; NEBRASKA ONLINE \$6.00 DRIVERS LIC; NE SAFETY & FIRE EQUIP \$275.00 MAINT INSP; NEBR ENVIRONMENTAL PRODUCTS \$163.78 PARTS; NW PIPE FITTINGS \$709.92 SUPP; NPPD \$76,086.57 ELECT; OCLC \$291.82 SUPP; UPSTART ENTERPRISES, LLC \$681.38 SUPP; ONE CALL CONCEPTS \$127.55 LOCATES; OREGON TRAIL PLBG & HTG \$105.00 REPAIRS; PAGE MY CELL \$725.00 PAGING SERV; PANHANDLE LIBRARY SYSTEM \$15.50 MAINT; PEACEFUL PRAIRIE NURSERY, INC \$120.00 SUPP; PERMA-BOUND \$22.20 BOOKS; LEE PINET \$196.00 BUS TRVL; PIONEER TINT & CLEAR BRA \$35.70 REFUND; PLATTE VALLEY NATL BANK \$43,639.50 LOAN PMT; MARTIN POLA \$26.98 REFUND; POSTMASTER \$609.78 POSTAGE; PRINT BROKER \$178.51 SUPP; PRINT EXPRESS \$618.50 SUPP; PRO DOOR SERVICE \$1,141.50 REPAIRS; PRO TIRE \$62.65 REPAIRS; PROJECT HARMONY \$75.00 TRNG; INDEPENDENCE MOTEL PROP \$77.00 TRNG; RCI \$38,699.12 HEALTH INS; JILL REAM \$85.59 REFUND; KEVEN RECTOR \$31.27 REFUND; JIM REEVES \$3.06 REFUND; REGISTER OF DEEDS \$70.00 RECORDING; WY FIRST AID/SAFETY \$70.51 SUPP; RIVERSIDE DISCOVERY CENTER \$87,500.00 QRT PMT; JOSEPH ROHRER \$294.00 BUS TRVL; ROOSEVELT PP DIST \$1,909.61 UTILITY; SMEC \$261.50 UNITED WAY; SANDBERG IMPLEMENT \$1,977.51 RPAIRS; SCOTTSBLUFF BODY & PAINT \$52.00 MAINT; SCB FIREFIGHTERS UNION LOCAL 1 \$195.00 DUES; SCB POLICE OFFICERS ASS'N \$396.00 DUES; SCB SCREENPRINTING \$576.00 SUPP; MC SCHAFF \$10,862.50 CONTRACTUAL; ERIC SCHULZ \$27.67 REFUND; JAYCEES SENIOR CENTER \$5,750.00 QRT PMT; SHERIFFS OFFICE \$424.74 PAPERS SERVED; SIMON CONTRACTORS \$4,935.00 MAINT; SKILES INDUSTRIES, INC \$60,000.00 GRANT; SLAFTER OIL \$183.60 MAINT; SNELL SERVICES \$155.00 MAINT; KN ENERGY \$626.62 FUEL; SOUTHERN LAMP SUPPLY \$234.00 SUPP; STAPLES \$423.03 SUPP; STAR HERALD \$27.10 PUB NOTICE; STATE OF NE.DEPT.OF LABOR \$36.00 INSPECT; STATE OF NE \$115.26 PHONE; TETRA TECH, INC \$4,883.43 CONTRACTUAL; THOMPSON GLASS \$97.18 REPAIRS; TM BOOKS \$1,025.80 BOOKS; TOTAL FUNDS BY HASLER \$1,000.00 POSTAGE; TOYOTA FINANCIAL SVCS \$383.99 LEASE; TRIM LINE MFG INC. \$67.50 MAINT; TWIN CITY DEV ASSN \$6,085.00 GRANT; TYLER TECHNOLOGIES, INC \$9,207.88 IT SUPPORT; UNITED CHAMBER OF COMMERCE \$100.00 MEALS; US BANK-CPS \$1,257.01 BUS TRVL; DIANE VANDENBERGE \$11.91 REFUND; VERIZON WIRELESS \$822.45 PHONE; VIAERO WIRELESS \$36.21 LOCATES; SKYBEAM \$16.00 INTERNET; VOGEL PAINT \$311.19 SUPP; WALMART \$2,722.60 SUPP; WATCHGUARD VIDEO \$12,060.00 UPGRADE; MARY ANN ZEILER \$16.49 REFUND.

Council reviewed the August 2013 Financial Report, there were no comments from Council.

City Manager Kuckkahn informed the Council that residents of the Sheldon Heights neighborhood had some concerns regarding the recent designation of their neighborhood as a Blight and Substandard area. Mr. Larry McCaslin, 2501 Addison Ave. addressed the Council as a representative of the Sheldon Heights neighborhood. He noted that when the Blight and Substandard area was voted on by the Council, the vote was not unanimous, but rather a 3 yes; 1 no and 1 abstention vote. He handed out a letter with a number of questions regarding the Blight and Substandard designation. He said many people in the neighborhood are concerned about the impact of this designation and what the benefits or detriments are with regards to this designation. He added that during this process he has heard that it is a

privilege to have this designation placed on their neighborhood, but he wondered what improvements would be available to the residents. He cited a number of grant and development options, none of which would be available for their neighborhood to pave their street without a significant contribution from the property owners. He added that the reason the developer needed this neighborhood added in, was for the commercial development to qualify for the Tax Increment Financing (TIF). However, Sheldon Heights is close to the maximum of their tax value, leaving very little incremental value for improvements.

Mr. Kuckkahn explained that this blight and substandard study was viewed as an opportunity to help the neighborhood and surrounding area. Mr. McCaslin added that they would like to share in the benefit of the TIF funding with the developer. The estimate for paving their neighborhood street is \$680,000 which is \$17,000 - \$51,000 per resident.

Mr. John Schafer, a resident of Sheldon Heights for 28 years, also addressed the Council. He understood that the proposed Commercial Development would not qualify for TIF without adding in their residential area. He feels that the neighborhood and real estate market of their area has been negatively impacted by this designation.

Mr. Kuckkahn stated that he would research this project to see if the residential was indeed required for the commercial development to qualify for the TIF funding.

Mr. Schafer also commented that he was unaware of this process of blighting his neighborhood and questioned the integrity of the city and developer. He expressed his disappointment in the way the study was handled. Mr. Kuckkahn explained that notifications are handled the same for all developments, using the process that is legally required. Any additional notifications are done by the private developer. He apologized for not having additional notifications, but that is not a requirement listed in the State Statute.

Mayor Meininger referred this issue back to staff to answer the questions presented by the residents of Sheldon Heights.

Regarding the Liquor License Manager License for Applebees, Margaret Stine, Manager for Applebees, was unable to attend the meeting as she lives in eastern Nebraska and manages a number of stores throughout Nebraska. Captain Brian Wasson spoke for Chief Spencer who had interviewed Ms. Stine by phone. There are no issues regarding her ability to manage the Applebees liquor license. The company procedures regarding alcohol server training are exceptional including policies for non-compliance. If there is an incident, the employee is terminated and the entire staff is retrained. Mayor Meininger explained that Council has requested that applicants appear in person before being recommended as a liquor license manager. Moved by Mayor Meininger, seconded by Council Member Deibert, "to table the new manager application for Margaret Stine for the Applebee's liquor license located at 2621 5th Ave., Scottsbluff, until the Manager can appear before the Council," "YEAS", Gonzales, Deibert, Shaver and Meininger, "NAYS" None. Absent: None.

Council introduced Ordinance No. 4114 which was read by title on second reading: **AN ORDINANCE DEALING WITH ZONING, AMENDING SECTION 25-1-4 BY UPDATING THE OFFICIAL ZONING DISTRICT MAP TO SHOW THAT PROPOSED LOT 1, BLOCK 2, WINDBREAK SUBDIVISION SITUATED IN THE SE¼ OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6TH P.M., CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, WHICH IS CURRENTLY ZONED AS A-AGRICULTURAL, WILL NOW BE INCLUDED IN THE R-1 SINGLE FAMILY RESIDENTIAL ZONE, AND REPEALING PRIOR SECTION 25-1-4.**

Moved by Mayor Meininger, seconded by Council Member Deibert, "That the statutory rule requiring the Ordinance to be read by title on three different days be suspended," "YEAS", Deibert, Gonzales, Shaver, and Meininger "NAYS": none. Absent: None. The motion carried having been approved by three-fourths of the Council Members.

Moved by Council Member Deibert, seconded by Mayor Meininger, "That Ordinance No. 4114 be adopted," "YEAS", Boeckner, Deibert, Gonzales, and Shaver. "NAYS" None. Absent: None.

Moved by Mayor Meininger, seconded by Council Member Shaver, "to remove from the table, the final plat of Lot 1, Block 2, Windbreak Subdivision and Resolution," "YEAS", Deibert, Gonzales, Shaver, and Meininger "NAYS": none. Absent: None. The motion carried having been approved by three-fourths of the Council Members.

Moved by Mayor Meininger, seconded by Council Member Deibert, to approve the final plat of Lot 1, Block 2, Windbreak Subdivision and approve Resolution No. 13-10-1, "YEAS", Deibert, Gonzales, Shaver, and Meininger "NAYS": none. Absent: None.

RESOLUTION 13-10-1

WHEREAS, a request has been submitted by Anderson-Shaw Investments, LLC as the Owner for the inclusion of Lot 1, Block 2, Windbreak Subdivision, within the corporate limits and boundaries of the City of Scottsbluff, Nebraska, and said real estate being described as a tract of land being Lot 1, Block 2, Windbreak Subdivision all located in Section 13, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:

A tract of land situated in the Southeast Quarter of the Northeast Quarter of Section 13, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:

Beginning at the southwest corner of the Southeast Quarter of the Northeast Quarter of Section 13, thence bearing N02°07'53"E, on the west line of the Southeast Quarter of the Northeast Quarter of Section 13, a distance of 297.73 feet, thence bearing S81°46'22"E, a distance of 84.86 feet, to the point of curvature of a curve to the right, said curve having a central angle of 42°36'08", a radius of 114.04 feet, a chord bearing of S60°28'18"E, and a chord length of 82.86 feet, thence southeasterly on the arc of said curve, a distance of 84.80 feet, to the point of tangency, thence bearing S39°10'14"E, a distance of 238.34 feet, thence bearing S01°32'58"W, a distance of 68.34 feet, to the point of intersection with the south line of the Northeast Quarter of Section 13, thence bearing N88°27'02"W, on the south line of the Northeast Quarter of Section 13, a distance of 315.97 feet, to the Point of Beginning, containing an area of 1.60 acres, more or less.
; and

WHEREAS, the Scottsbluff City Planning Commission has received a request and held a public hearing on September 9, 2013 on the approval of a plat and inclusion of Lot 1, Block 2, Windbreak Subdivision within the corporate limits and recommend the Scottsbluff City Council approve the plat and request to include within corporate limits; and

WHEREAS, said request to include the land within the corporate limits was duly signed by the owner of the real estate affected with the express intent of platting the real estate as a lot 1, Block 2, Windbreak Subdivision an addition to the City of Scottsbluff, Scotts Bluff County, Nebraska; and

WHEREAS, a public hearing was held by the Scottsbluff City Council relating to the requests on September 16, 2013, to approve the plat and deem the addition to be included within the corporate limits and it was advantageous to and in the best interests of the City of Scottsbluff.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Scottsbluff, Nebraska that the Plat of Lot 1, Block 2, Windbreak Subdivision an addition to the City of Scottsbluff, Scotts Bluff County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved and that the Mayor of the City of Scottsbluff, Nebraska shall be and is hereby authorized and directed to execute the final plat on behalf of the City of Scottsbluff, Nebraska.

PASSED and APPROVED this 7th day of October, 2013.

Mayor

ATTEST:

City Clerk (Seal)

Moved by Mayor Meininger, seconded by Council Member Gonzales, “to remove from the table, the annexation request for proposed Lot 1, Block 2, Windbreak subdivision, and consider the Resolution,” “YEAS”, Deibert, Gonzales, Shaver, and Meininger “NAYS”: none. Absent: None.

Moved by Mayor Meininger, seconded by Council Member Deibert, “to approve an annexation request for proposed Lot 1, Block 2, Windbreak Subdivision, City of Scottsbluff, Scotts Bluff, County and approve Resolution No. 13-10-2,” “YEAS”, Deibert, Gonzales, Shaver, and Meininger “NAYS”: none. Absent: None.

Resolution No. 13-10-2

WHEREAS, a request has been submitted by Anderson-Shaw Investments, LLC as the Owner for the inclusion of Lot 1, Block 2, Windbreak Subdivision, within the corporate limits and boundaries of the City of Scottsbluff, Nebraska, and said real estate being described as a tract of land being Lot 1, Block 2, Windbreak Subdivision all located in Section 13, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:

A tract of land situated in the Southeast Quarter of the Northeast Quarter of Section 13, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:

Beginning at the southwest corner of the Southeast Quarter of the Northeast Quarter of Section 13, thence bearing N02°07'53"E, on the west line of the Southeast Quarter of the Northeast Quarter of Section 13, a distance of 297.73 feet, thence bearing S81°46'22"E, a distance of 84.86 feet, to the point of curvature of a curve to the right, said curve having a central angle of 42°36'08", a radius of 114.04 feet, a chord bearing of S60°28'18"E, and a chord length of 82.86 feet, thence southeasterly on the arc of said curve, a distance of 84.80 feet, to the point of tangency, thence bearing S39°10'14"E, a distance of 238.34 feet, thence bearing S01°32'58"W, a distance of 68.34 feet, to the point of intersection with the south line of the Northeast Quarter of Section 13, thence bearing N88°27'02"W, on the south line of the Northeast Quarter of Section 13, a distance of 315.97 feet, to the Point of Beginning, containing an area of 1.60 acres, more or less.
; and

WHEREAS, the Scottsbluff City Planning Commission has received a request and held a public hearing on September 9, 2013 on the approval of a plat and inclusion of Lot 1, Block 2, Windbreak Subdivision within the corporate limits and recommend the Scottsbluff City Council approve said request; and

WHEREAS, said request to include the land within the corporate limits was duly signed by the owner of the real estate affected with the express intent of platting the real estate as a Lot 1, Block 2, Windbreak Subdivision an addition to the City of Scottsbluff, Scotts Bluff County, Nebraska; and

WHEREAS, a public hearing was held by the Scottsbluff City Council relating to the request on September 16, 2013, who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City of Scottsbluff.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Scottsbluff, Nebraska, that the real estate which is platted as Lot 1, Block 2, Windbreak Subdivision pursuant to Section 19-916 of the Nebraska Revised Statutes and Section 21-1-61 of the Scottsbluff Municipal Code shall be included within the corporate limits of the City of Scottsbluff, Scotts Bluff County, Nebraska, and shall be and become a part of said City for all purposes whatsoever, that the inhabitants of said addition shall be entitled to all the rights and privileges, and shall be subject to all of the laws, ordinances, rules and regulations of the City of Scottsbluff, Nebraska.

BE IT FURTHER RESOLVED that the inclusion of Lot 1, Block 2, Windbreak Subdivision within the corporate limits of the City of Scottsbluff, Nebraska is subject to the final plat being filed with the Scotts Bluff County Register of Deeds.

PASSED and APPROVED this 7th day of October, 2013.

Mayor

ATTEST:

City Clerk (Seal)

City Manager Kuckkahn discussed the option of purchasing a 20 foot easement from the land owned by Floyd's Trucking to be used as part of the pathway system next to the river. This would help complete the pathway master plan. Council Member Shaver said he is not interested in purchasing the property, but would like to know if the owners would want to donate the land. Staff will talk with the owners regarding this property.

Mr. Kuckkahn presented a Memorandum of Understanding with the Nebraska State Patrol for Council approval. Moved by Council Member Gonzales, seconded by Council Member Deibert, "to approve the Memorandum of Understanding with the Nebraska Hazardous Devices Technicians Governing Group and ratify the Mayor's signature," "YEAS", Deibert, Gonzales, Shaver, and Meininger "NAYS": none. Absent: None.

Regarding the election of a new Council Member to fill a vacant position, Mayor Meininger made a motion to adjourn to executive session to protect the reputation of the candidates to include the City Council and City Attorney. Maunette Loeks, Star Herald, approached the Council and cited the section of the Open Meetings Act that says "nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body." She added, that her research showed that Council could go into executive session if an issue does arise, not if it might arise. The motion made by Mayor Meininger to adjourn to executive session at 7:10 p.m. to protect the reputation of the candidates, to include City Council and the City Attorney was seconded by Council Member Gonzales, "YEAS", Deibert, Gonzales, and Meininger "NAYS": Shaver. Absent: None.

After adjourning to Executive Session, City Attorney Olsen consulted with Ms. Loeks and reviewed the State Statute dealing with the Open Meetings Act and advised Council to return to Open Session. During their discussion, they may need to adjourn to executive session, if a situation arises that

they need to protect the candidate's reputation. Moved by Mayor Meininger, seconded by Council Member Deibert, "to reconvene in Open Session to discuss and vote on the candidates who have applied to fill the unexpired term of Dave Boeckner," "YEAS", Deibert, Gonzales, Shaver, and Meininger "NAYS": none. Absent: None.

Mayor Meininger expressed his appreciation of the four qualified candidates who have submitted their letters of interests to fill this vacancy. All four are passionate about our community and are interested in making a difference. The Council then discussed the strengths of the candidates. Moved by Mayor Meininger, seconded by Council Member Gonzales, "to elect Mark McCarthy to fill the vacant City Council seat," "YEAS", Gonzales, and Meininger "NAYS": Shaver, Deibert. Absent: None. Motion did not pass.

Council then addressed the need to discuss weaknesses of some of the candidates, however, didn't feel they could do that without going into executive session. Pete Marez, candidate, approached the Council and explained that he was fine with him if the Council needed to discuss anything as it may relate to him and his reputation, in Open Session.

Moved by Council Member Shaver, "to elect Pete Marez to fill the vacant City Council seat," the motion died due to no second.

Moved by Council Member Deibert, "to elect Mark McCarthy to fill the vacant City Council seat," "YEAS", Deibert, Gonzales, and Meininger "NAYS": Shaver. Absent: None.

Mr. McCarthy will be sworn in at the October 21, 2013 Council Meeting.

Under the Public Comment section, Mr. Dennis Dinnel approached the Council regarding the continual lack of maintenance of alleys in his neighborhood. Staff will investigate this situation.

Captain Brian Wasson introduced Captain Tony Straub who has recently been appointed to his new position. He has been with the Police Department for 16 years. Council welcomed Captain Straub to his new appointment.

Mayor Meininger reminded everyone to sign up for the Fall Frolic at WNCC. Council Member Gonzales visited with Linda Meininger about the Youth Council. She will try to get the Student Council involved to discuss youth issues with the City Council.

Moved by Council Member Deibert, seconded by Council Member Gonzales, "to adjourn the meeting at 7:30 p.m.," "YEAS", Deibert, Gonzales, Shaver and Meininger "NAYS": None. Absent: None.

Mayor

ATTEST:

City Clerk

"SEAL"