

City of Scottsbluff, Nebraska

Monday, July 21, 2014

Regular Meeting

Item Consent1

Approve the minutes of the July 7, 2014 Regular Meeting.

Staff Contact: Cindy Dickinson, City Clerk

Regular Meeting
July 7, 2014

The Scottsbluff City Council met in a regular meeting on Monday, July 7, 2014 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 3, 2014, 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 July 3, 2014. 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, Mark McCarthy, Randy Meininger, and Liz Hilyard. Absent: Scott Shaver.

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 Gonzales, seconded by Mayor Meininger, that:

1. "The minutes of the June 16, 2014 Regular Meeting be approved,"
2. "Council Member Hilyard be excused from the June 16, 2014 Regular Meeting,"
3. "Thursday, July 17, 2014, 8:00 a.m., be set as a Special Budget Workshop Meeting at the Scottsbluff Council Chambers, 2525 Circle Drive, Scottsbluff,"
4. "July 21, 2014 6:05 p.m. be set as a Public Hearing for the purpose of reviewing the Redevelopment Plan for Fairfield Inn at Winters Creek Drive,"
5. "A Community Festival Permit be approved for the Downtown Scottsbluff Association for "Sidewalk Sales" on Broadway from 15th St. to 20th St. on July 17, 18 & 19, 2014 from 7:00 a.m. to 7:00 p.m.," "YEAS", Gonzales, McCarthy, Meininger, and Hilyard, "NAYS", none. Absent: Shaver.

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 July 7, 2014, as on file with the City Clerk and submitted to the City Council," "YEAS", Gonzales, McCarthy, Hilyard and Meininger "NAYS" None. Absent: Shaver.

CLAIMS

3M CENTER-TRAFFIC CONTROL,PAVEMENT MARKING TAPE,9665.48; ACTION COMMUNICATION INC.,CONTRACTUAL SVC,241.74; AE SERVICES,LLC,EQUIP MAINT,85;

ALAMAR UNIFORMS, UNIFORMS/EQUIP MAINT, 2088.8; AMAZON.COM HEADQUARTERS, BKS/DPT SUP., 330.62; AQUA PRODUCT KC, EQUIP MAINT, 38.57; ASSURITY LIFE INSURANCE CO, LIFE INS, 34.36; AULICK'S TLC, DEPT SUP, 575.8; AUTOZONE, INC, ANTIFREEZE, 39.75; BERNHARDT, KIRK, CONTRACTUAL SVC, 144; BLUFFS SANITARY SUPPLY INC., JAN. SUP., 852.39; CAPITAL BUSINESS SYSTEMS INC., CONT. SVCS, 315.58; CARR TRUMBULL LBR INC., SUPP, 13.16; CARRELL, PEGGY, TREE REBATE, 109.98; CASH-WA DISTRIBUTING, CONCESSION SUPP, 2804.54; CEMENTER'S INC, CONCRETE, 2680.76; CENTURY MFG, OTHER FUELS, 567.69; CHAIN, JACK, TREE REBATE, 150; CHANCELLOR, ANTHONY G, CONTRACTUAL SVC, 126; COLONIAL LIFE & ACCIDENT INS CORP, I, SUPP LLIFE & DIS INS, 48.7; CONSOLIDATED MANAGEMENT, SCHOOLS & CONF, 567.5; CONTRACTORS MATERIALS INC., SUPP, 880.49; CREDIT MANAGEMENT SERVICES INC., WAGE ATTACH, 1172; CRESCENT ELECT. SUPPLY COMP INC, ELECT. SUPP, 34.44; CULLIGAN OF SCOTTSBLUFF, DEPT SUPPLIES, 99.5; DALE'S TIRE & RETREADING, INC., VEHICLE MTNC, 1531.52; DAVID M GLENN JR., CONF, 48; ENVIRO SERV INC, SAMPLES, 195; ENVIRONMENTAL ANALYSIS SOUTH, INC, CONTRACTUAL SVC, 549.9; FEDERAL EXPRESS CORP., SHIPPING FEES, 92.15; FLOYD'S TRUCK CENTER, INC, VEHICLE MTNC, 1784.57; FRANK IMPLEMENT INC., EQUIP MAINT, 22.04; FREMONT MOTOR SCOTTSBLUFF, LLC, VEH MAINT, 2739.03; FYR-TEK, FOAM, 390; GARTON, LYNN, CONF, 118; GERING VALLEY PLUMBING & HTG. INC, BLDG MAINT, 7385; GOLD WATCH LLC, DISPOSAL FEES, 2250; GOMEZ, ROBERT, CONTRCTUAL SVC, 180; HAWKINS, INC., CHLORINE, 2510.5; HAYES, KIRK, TREE REBATE, 109.98; HAYWARD, ANDREW, CONTRCTUAL SVC, 836; HEILBRUN FARM IND SUPP. INC., EQUIP MAINT, 371.29; HELENA CHEMICAL COMPANY, CONTRACTUAL SVC, 5124.48; HENWIL CORPORATION, CHEMICALS, 5198; HODGES, JOSHUA H, CONTRACTUAL SVC, 18; HOME DEPOT CREDIT SERVICES, DEPT SUPP, 203.64; HONEY WAGON EXPRESS, CONTRACTUAL SVC, 155; HULLINGER GLASS & LOCKS INC., DEPT SUPP, 18.5; HWM, INC, EQUIP. MAIN., 425; ICMA RETIREMENT TRUST-457, DEF COMP, 2650.28; IDEAL LINEN SUP INC., SUPP - PAPER TOWELS, 436.31; INDEPENDENT PLUMBING & HEATING, INC, GRNDS MAINT, 198.79; INGRAM LIBRARY SERVICES INC, BKS, 1731.89; INLAND TRUCK PARTS INC, VEH REPAIR, 398.94; INTERNAL REVENUE SERVICE, W/H TAXES, 66405.3; INTERNAL REVENUE SERVICE, 941 W/H, 63986.45; INT'L ASSOC PLBG&MEC OFF, DEPT MMBRSH, 150; INTRALINKS, INC, SERVICES, 204.67; JIRDON AGRI CHEM. INC., GRNDS MAINT, 619.26; JOHN DEERE FINANCIAL, DEPT SUPP, 73.94; JOHN DEERE FINANCIAL, GRNDS MAINT, 69.48; JOHN DEERE FINANCIAL, DEPT SUPP, 25.74; JOHN DEERE FINANCIAL, DEPT SUPP, 23.92; JOHN DEERE FINANCIAL, GRNDS MAINT, 42.44; JOHN DEERE FINANCIAL, DEPT SUPP, 13.74; JOHNSON, RICHARD, CONTRCTUAL SVC, 1600; KELLEY, GARY, TREE REBATE, 124.98; KEMBEL SAND & GRAVEL INC, GRNDS MAINT, 400.56; KIMBALL MIDWEST, SUPP, 114.07; KLM ENTERPRISES, SPEC EVENTS, 1000; KRAMES STAYWELL, LLC, DEPT SUPP, 28.55; KRIZ-DAVIS COMPANY INC., ELECTRICAL MAINT, 550; LAWSON, JAMY A, CONTRCTUAL SVC, 254; LEAGUE ASSOC OF RISK MANAGEMENT, INS PREM, 12805.59; LOGAN CONTRACTORS SUPPLY INC, PARTS, 499.5; LYNN PEAVEY CO INC, INVEST SUPPL, 193.4; M.C. SCHAFF & ASSOC, INC, AIRPORT ROAD SOUTH WATER MAIN PROJECT, 8495; MADISON NATIONAL LIFE INS CO, INC, INS, 1812.99; MAILFINANCE INC, EQUIP

LEASE,106.76; MARIE'S EMBROIDERY,UNIFORMS,33; MELISSA POHL,REIMB.,13.5; MENARDS,DEPT SUPP,1305.65; MENDOZA, PAUL,CONTRACTUAL SVC,198; MIDWEST FARM SERVICE-ALLIANCE,EQUIP MAINT,84.78; MONEY WISE OFFICE SUPPLIES,DEPT SUPP,374.12; MOWER SHOP, THE,EQUIP MAINT,75.11; NE CHILD SUPPORT PAYMENT CENTER,NE CHILD SUPPORT PYBLE,4178.12; NE DEPT OF REVENUE,SALES TAX,16536.69; NE DEPT OF ROADS,FINAL PAYMENT ON HWY. 26 CONTROLLER,13135.22; NEBR ENVIRONMENTAL PRODUCTS,PARTS,536.5; NEBRASKA MACHINERY COMPANY,PARTS,10.82; NEBRASKA STATEWIDE ARBORETUM,DEPT SUP,1088.85; NEOPOST USA INC,EQUIPMENT,7213; NORTHWEST PIPE FITTINGS, INC. OF SCB,DEPT SUP,1017.33; OCLC, INC,CONT. SVCS,176.12; OROZCO, BRET T,CONTRACTUAL SVC,18; OUTDOOR RECREATION PRODUCTS,STRUCTURES,27165; PANHANDLE CONCRETE PROD INC.,DEPT SUP,228; PANHANDLE COOP INC.,GASOLINE,5491.34; PAUL REED CONSTRUCTION & SUPPLY,INC,AIRPORT ROAD SOUTH WATER MAIN PROJECT,12465.18; PEPSI COLA OF WESTERN NE LLC,CONCESSION SUPP,1127.8; PIER GENIUS DOCK SYSTEMS,EQUIP,19998.78; PLATTE VALLEY BANK,HSA,27949.42; POSTMASTER,POSTAGE,1232.34; POWERPLAN,PARTS,6.44; PRINT BROKER,DEPT SUPP,460; PRINT EXPRESS,DEPT SUPPL,772.26; PUBLIC SAFETY CENTER,SUPL,200.81; QUILL CORP,DEPT SUPPL,439.52; RCI,MEDICAL CLAIMS,115,333.45; REAMS SPRINKLER SUPPLY CO., INC,EQUIP,1867.33; REGION I OFFICE OF HUMAN DEVEL,CONTRACTUAL SERVICES,825; REGIONAL WEST MEDICAL CENTER,CONSULTING,219.9; REGIONAL WEST PHYSICIANS CLINIC,CONSULTING,509; RIOS JR, ESQUIO,CONTRACTUAL SVC,288; RIVERSIDE DISCOVERY CENTER,CONTRACTUAL SVC,87500; RODRIGUEZ III, BENJAMIN,EQUIP,6575; ROOSEVELT P P DIST,PUMPING POWER,1959.42; S M E C,EMPLOYEE DEDUCTIONS,476; SANDBERG IMPLEMENT, INC,EQUIP MAINT,2761.08; SCB FIREFIGHTERS UNION LOCAL 1454,FIRE EE DUES,420; SCB POLICE OFFICERS ASS'N,POLICE EE DUES,756; SCHANEMAN, EMILY,PARK REFUND,25; SCOTTSBLUFF BODY & PAINT, INC,CONTRACTUAL,970; SCOTTSBLUFF SENIOR CENTER,CONTRACT,5750; SCREENVISION DIRECT,STRM WTR SRVCS,240; SIMON CONTRACTORS,CONCRETE,6867.61; SIRSIDYNIX #774271,EQUIP. MAIN.,7655.68; SLAFTER OIL CO INC.,VEHICLE MTNC,164.55; SNELL SERVICES INC.,ELEC MAINT,5918.22; SOURCE GAS,MONTHLY ENERGY FUEL,6762.78; SPECIAL INVESTIGATIONS,INVEST SUPPL-HIDTA,3000; STAPLES,DEPT SUP,899.21; STATE OF NE.,CONTRACTUAL,105; STATE OF NEBR-DEPT OF ADMIN SVC,MONTHLY LONG DISTANCE,138.6; SWANK MOTION PICTURES INC,DEPT SUPP,374; THE GALE GROUP,SBSCS,1714.7; THE SHERWIN-WILLIAMS CO,GRIND LAZER,19328.59; THOMAS P MILLER & ASSOC, LLC,CONTRACT,33266.66; TOTAL FUNDS BY HASLER,PSTG,500; TOYOTA FINANCIAL SVCS,HIDTA CAR LEASE,383.99; TYLER TECHNOLOGIES, INC,FEES,348; U S WELDING, INC,DEPT SUPPLIES,68.45; UNIQUE MANAGEMENT SERVICES, INC,CONT. SVCS.,232.7; UNITED CHAMBER OF COMMER,TRAINING,30; UPSTART ENTERPRISES, LLC,DEPT SUPPL,271.75; US BANK,LICENSES,2196.28; USA BLUEBOOK,DEPT SUP,775.88; VAN GALDER, JONATHAN P,CONTRACTUAL SVC,90; VERIZON WIRELESS,CELL PHONES,704.81; VIAERO WIRELESS,CONTRACTUAL SVC,36.21; VILLAGE OF LYMAN,REFUND,61.14; VISTABEAM,DEPT SUPP,109.9; WALMART COMMUNITY/GEMB,BLDG MAINT,777.42;

WARD LABORATORIES, INC., STRM WTR SRVCS, 38; WELLS FARGO BANK N.A., RETIREMENT, 58150.49; WESTCO, DEPT SUPPLIES, 181.95; WESTERN TRAVEL TERMINAL, VEH MAINT, 33; WINNELSON COMPANY INC., GRNDS MAINT, 14.2; YMCA OF SCOTTSBLUFF, FITNESS PROGRAM, 2014.05; YSI INC, DEPT SUP, 304.3; ZM LUMBER CO., EQUIP MAINT, 62.7; HAYLEY HOFFMAN, REFUND, 30.92; KYLIE CONE, REFUND, 110.94; COURTNEY SMITH, REFUND, 33.86; GARRETT HINRICHS, REFUND, 30.33; MARIA HALEY, REFUND, .63; JEFFREY BAKER, REFUND, 3.00; DONALD BURNS, REFUND, 39.77.

Council reviewed the May 2014 Financial Report. City Manager Kuckkahn reported that we are still watching the sales tax revenue very closely as we prepare for the budget workshop.

Mr. Kuckkahn presented the National Night Out Community Event permit and explained that this is a city sponsored event which will be covered by the city's insurance. Moved by Mayor Meininger, seconded by Council Member Hilyard, "to approve the Community Festival Permit for National Night Out on Broadway from 15th St. to 20th St. on August 5, 2014 from 4:00 p.m. to 9:00 p.m. including street closures, vendors and noise permit," "YEAS", Gonzales, McCarthy, Hilyard and Meininger "NAYS" None. Absent: Shaver.

Regarding the Liquor License Manager appointment, Catherine Reynolds approached the Council and explained the changes that she is making at the 18th Street Bar and Grille to make it a more family friendly atmosphere. Catherine and her husband, Shane, will plan to offer more meals, including lunch, so the establishment is not just a "bar". All of the staff have received the alcohol server training offered through the Nebraska State Patrol. They have a "no tolerance" policy as it pertains to employees who serve to underage customers. Minors can only be at the business until 10:00 p.m. They are working on re-branding, and hoping to attract more families with games and activities.

Ms. Reynolds said they offer rewards for employees who report any minors who are trying to order alcohol. She is in charge of the inventory and ordering all alcohol, which is kept in a locked area. Both Catherine and Shane have had extensive experience in the bar business and other occupations. Police Chief Spencer submitted a memo explaining that there were no findings or issues with background checks that would negatively impact this manager appointment. Moved by Council Member Gonzales, seconded by Council Member McCarthy, "to submit a positive recommendation to the Nebraska Liquor License Commission appointing Catherine Reynolds as the manager of the 18th Street Bar and Grille Liquor License, 1722 Broadway, Scottsbluff," "YEAS", Gonzales, McCarthy, Hilyard and Meininger "NAYS" None. Absent: Shaver.

City Manager Kuckkahn presented the following bids which were submitted for the compost facility: Paul Reed Construction, \$474,242.06; Rusch's General Contracting \$381,483.20; and Anderson-Shaw Construction \$526,229.20. The Engineer's estimate for this project was \$427,840.00. After reviewing the bids and completing a careful background check and work history report, the Engineer recommended awarding the bid to Rusch Construction. Moved by Mayor Meininger, seconded by Council Member McCarthy, "to award the bid for the compost facility to Rusch Construction in the amount of \$381,483.20, as the best and lowest bid," "YEAS", Gonzales, McCarthy, Hilyard and Meininger "NAYS" None. Absent: Shaver.

Mr. Kuckkahn explained the lease agreement with Verizon Wireless, for a small area located in the City's well field at Highway 92 and County Road 19. This agreement provides for only the lease of the land for \$9600.00 per year for an initial term of five years. Verizon will apply for the proper permits which will be reviewed by the Planning Commission prior to construction. Access to the property will not be a problem for city maintenance. Moved by Council Member Gonzales, seconded by Council Member Hilyard, "to approve the agreement with Verizon Wireless to lease city-owned property located

at Highway 92 and County Road 19,” “YEAS”, Gonzales, McCarthy, Hilyard and Meininger “NAYS” None. Absent: Shaver.

Mr. Darren Gebhart of Simon Contractors gave the Council an update on the Avenue I construction project. Simon Contractors is the general contractor for this project. He explained that work on the project has been at a standstill since the subcontractor, Perkins & Perkins, defaulted on the project two weeks ago. There is a certain protocol with a Disadvantaged Business Enterprise (DBE) that they are required to follow with the Nebraska Department of Roads (NDOR). The NDOR gave Simon’s permission to withhold liquidated damages from Perkins & Perkins, however, since they couldn’t pay the liquidated damages and continue to work, Perkins pulled their crew from the job. Simon’s has contacted other DBE’s in the area, however, neither one of those are available to work, so they are now able to solicit other subcontractors to complete the work. They have found a local concrete contractor to finish the job, and are waiting for the NDOR to approve this subcontractor. Providing the subcontractor is approved, they hope to start again on the project this Wednesday, July 9th and begin with the street the week of July 14th.

Council Member Gonzales asked Mr. Gebhart to explain the comments regarding liquidated damages in his letter to Jack Baker, Project Engineer. He explained that they are federally mandated to use DBE businesses. Perkins & Perkins were checked out with the NDOR and are an accredited contractor. They started with reasonable size crew. Simon’s mentored the subcontractor as there were workmanship and progress issues. The potential liquidated damages were more than what the subcontractor would be paid. They did receive written authority from the State to collect, however, realistically, they don’t have the funds, so it would pass on to Simon’s. Simon’s had already paid Perkins & Perkins as part of DBE mentoring to help them be successful.

Mr. Olsen, City Attorney, commented that Simon’s provided the City a bond which assures a timely completion of this work and provides for liquidated damages. He asked how can the Council justify letting them off the hook. Mr. Gebhart said that Simons did everything they could do through the mentoring process, however, it failed. Simons is on the hook, all they can do is try to progress from here, and ask for leniency. He added that they are responsible for liquidated damages, but they were following the program’s mentoring guidelines. Mr. Olsen asked if there were any subcontractors who didn’t require mentoring. Mr. Gebhart responded that there were, but they did not award the bid to them because their bid was significantly higher, they took the lowest responsive bid. They determined they were responsive because they checked references thru the NDOR Liason and noted that they had previously done acceptable concrete work in 2012 and 2013. Mr. Gebhart did not have a comment regarding their workmanship on this project.

Mr. Kuckkahn added that he had the impression they had never done this work before. Mr. Gebhart said they have done this type of work in Omaha and Lincoln. Council Member Gonzales asked the City Manager why nothing was done when we saw the red flags. Mr. Kuckkahn commented that City Staff made it very clear and direct as to what our expectations were. The City was not part of the problem; staff was at the job site constantly asking for explanations. Mr. Mark Bohl, Public Works Director, made it very clear that the work was not acceptable.

Council Member McCarthy asked Mr. Gebhart about conversations he had with Perkins & Perkins. He explained that he was not involved in day to day conversations, but since Simon’s has experience with concrete work, as a mentor, they tried to help the crew that was present. Mayor Meininger commented that Simon’s as the General Contractor should have tried to terminate the contract earlier. Mr. Gebhart said that they were trying to adhere to the intent of the DBE program.

Mr. Kuckkahn asked for authorization to send a letter to Simon Contractors. Moved by Mayor Meininger, seconded by Council Member Hilyard, “to authorize City Manager Kuckkahn to send a letter to Simon Contractors, explaining that the City intends to exercise all provisions of the contract for Project

No. URB-5703(2) including liquidated damages,” “YEAS”, Gonzales, McCarthy, Hilyard and Meininger “NAYS” None. Absent: Shaver.

Mr. Gebhart said he would return to the July 21, 2014 Council Meeting to give another update on the progress of this project.

Regarding the 2014 National Electrical Code, Mr. Kuckkahn explained that the City has one year from the time the Governor signed the law, April 2014, to get through all of the channels of implementing the code. At that point, we can only implement as much as is possible due to equipment availability. Mr. Kuckkahn’s recommendation after getting input from the state is to adopt the Ordinance. Most of the items added to the code refer to health safety items.

Council would like more clarity about the Ordinance and if there is a requirement to read it again. Moved by Mayor Meininger, seconded by Council Member Hilyard, “to table the Ordinance which would adopt the 2014 National Electrical Code, until the July 21, 2014 Council Meeting,” “YEAS”, Gonzales, McCarthy, Hilyard and Meininger “NAYS” None. Absent: Shaver.

Council introduced the Ordinance to Vacate Lots One and Two, Block 1, Idlewylde Addition of Scottsbluff, which was read by title on second reading: AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA, VACATING LOTS 1 AND 2, BLOCK 1, IDLEWYLDE ADDITION TO THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA, EXCEPT THAT PART OF LOT 1, DEEDED TO THE STATE OF NEBRASKA DEPARTMENT OF ROADS IN DEED BOOK 208, PAGE 132, ALL IN THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA.

Under Public Comments, Mr. Kyle Baucum approached the Council regarding a letter he received from the City Manager asking him to move two outbuildings on his property, which are located on the easement. These structures that were built by a previous owner were approved 8 years ago. However, since then the problem was identified by NPPD, who needed them moved to build their transformer. Since then, Mr. Baucum said that NPPD has informed him that the buildings are not a problem and can remain. Mr. Kuckkahn informed Mr. Baucum that all residents with structures in the easement were notified. He added that we would need to have a copy of the letter from NPPD for further consideration.

Moved by Council Member Hilyard, seconded by Council Member McCarthy, “to adjourn the meeting at 6:50 p.m.,” “YEAS”, Gonzales, McCarthy, Hilyard and Meininger “NAYS” None. Absent: Shaver.

Mayor

ATTEST:

City Clerk