

City of Scottsbluff, Nebraska
Tuesday, January 20, 2015
Regular Meeting

Item Consent1

Approve the minutes of the January 5, 2015 Regular Meeting.

Staff Contact: Cindy Dickinson, City Clerk

Regular Meeting
January 5, 2015

The Scottsbluff City Council met in a regular meeting on Monday, January 5, 2015 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 January 2, 2015, in the Star Herald, a newspaper published and of general circulation in the city. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public. That anyone with a disability desiring reasonable accommodations to attend the council meeting should contact the city clerk's office, and that an agenda of the meeting kept continuously current was available for public inspection at the office of the city clerk in City Hall; provided, the city council could modify the agenda at the meeting if it determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each council member, made available to radio stations KNEB, KMOR, KOAQ, and television stations KSTF and KDUH, and the Star Herald. The notice was also available on the City's website on January 2, 2015. 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, Jordan Colwell, Randy Meininger, Liz Hilyard 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 Gonzales, seconded by Mayor Meininger that, "The minutes of the December 15, 2014 Regular Meeting be approved," "YEAS", Gonzales, Colwell, Meininger, and Hilyard. "NAYS" Shaver. Absent: None.

Moved by Council Member Shaver, seconded by Council Member Colwell, "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 January 5, 2015, as on file with the City Clerk and submitted to the City Council," "YEAS", Gonzales, Colwell, Meininger, and Hilyard. "NAYS" Shaver. Absent: None.

CLAIMS

ACCELERATED RECEIVABLES SOLUTIONS,WAGE ATTACH,178.6; ADVANCE AUTO PARTS,VEH MTC,8.38; AE SERVICES, LLC,CONTRCL SVC,66.87; ALAMAR CORP, UNIFORMS,262.39; ALLO COMMUNICATIONS,LLC,LOCAL TELEPHONE CHARGES,4978.11; AMAZON.COM HEADQUARTERS,DVDS/BKS,861.83; AMERICAN COLLEGIATE MARKETING, SBSCRIP,115.79; ANGELA M SHAW,REIMBURSEMENT,15.73; AUTOZONE STORES, INC,VEH MAINT,26.99; BEEHIVE INDUSTRIES,LLC,GIS SUP,3000; BIRUTA D. WALTON,EQP MTC,70; BLUFFS SANITARY SUPPLY INC.,JAN SUP.,609.63; BOX ELDER VALLEY, INC,SML CPT,9472; CARLSON, DEBRA,REIMB,44.47; CARR TRUMBULL LBR INC.,DEPT SUP,11.63; CELLCO PARTNERSHIP,CELL PHONES,611.84; CEMENTER'S INC,DEPT SUP,251.46; CHRIS REYES, DEPT SUPP,431.08; CITIBANK N.A.,DEP SUP,776.59; CITIBANK, N.A.,DEPT SUP,890.16; CITY OF SCB,PETTY CASH-ADM,29.89; CLARK PRINTING LLC,DEPT.SUPPLY,490.1; COLONIAL LIFE & ACCIDENT INSURANCE COMPANY,LIFE & DIS INS,48.7; CONSOLIDATED MANAGEMENT COMPANY,SCHOOLS & CONF,115.25; CONTRACTORS MATERIALS INC.,SUPP,479.31; CRESCENT ELECT. SUPPLY COMP INC,SUPP - TRAFFIC SIGNAL

BULBS,167.74; CYNTHIA GREEN,OFFICE SUPPLIES,558.86; DALE'S TIRE & RETREADING, INC.,VEHICLE MTNC,2803.96; DANA F. COLE & CO., LLP,SERVICES,14000; DUANE E. WOHLERS,DISPOSAL FEES,1500; ENVIRONMENTAL ANALYSIS SOUTH, INC, CONTRACTUAL SVC,429; FAIRFIELD INN & SUITES,SCHOOLS & CONF,83; FASTENAL COMPANY,DEP SUP,85.98; FEDERAL EXPRESS CORPORATION,SHIPPING FEES,104.94; FRED PRYOR SEMINARS,SCHOOL & CONFERENCE,299; FUSION RANCH, INC, LB840, 329232.04; FYR-TEK INC,AIR PACK PARTS,74.91; GENERAL ELECTRIC CAPITAL CORPORATION, DEP SUP,360.68; H D SUPPLY WATERWORKS LTD,METERS,791.25; HANDLEY INDUSTRIES, INC,DEPT SUP,2919.07; HAWKINS, INC.,CHEMICALS,3125.9; HD SUPPLY FACILITIES MAINTENANCE LTD,DEPT SUP,268.52; HEILBRUN'S INC.,EQUIP REPAIRS, 330.99; ICMA RETIREMENT TRUST-457,DEF COMP,2650.28; IDEAL LAUNDRY AND CLEANERS, INC.,SUPP - MATS, TOWELS, COVERALLS,297.26; INDEPENDENT PLUMBING AND HEATING, INC,CONTRCL SVC,40; INGRAM LIBRARY SERVICES INC,AV - BKS,736.24; INLAND TRUCK PARTS & SERVICE,VEHICLE MTNC,1802.13; INTERNAL REVENUE SERVICE, W/H TAXES,127203.45; INVENTIVE WIRELESS OF NE, LLC,DEP SUP,8; JENNIFER BRIANNE URDIALES,DEPT SUPL.,110; JEROLD E. HIGEL,ELECT. MAIN,625; JOHN DEERE FINANCIAL,DEP SUP,457.88; JOHN DEERE FINANCIAL,VEH MTC,31.98; JOHNSEN CORROSION ENGINEERING, INC,CONTRACTUAL SVC,8840; JWC ENVIRONMENTAL, LLC, EQUIP MAINT,593.41; LIGHTHOUSE ELECTRICAL CONTRACTORS, LLC,ELECTRIC MAINT,173.46; M.C. SCHAFF & ASSOCIATES, INC,DEPT CNTRCL SRVCS,1040; MAILFINANCE INC,EQUIP LEASE,106.76; MAXWELL PRODUCTS, INC,1 LOAD JOINT FILLER, 24249.09; MENARDS, INC,DEPT SUPPLIES,730.16; MIDLANDS NEWSPAPERS, INC, SUB SCP,149; MIDWEST MOTOR SUPPLY CO INC,SUPP - LUBE, CUT-OFF WHEEL, SEALANT, 966.27; MUNICIPAL PIPE SERVICES, INC.,DEPT SUP,11187.66; NE CHILD SUPPORT PAYMENT CENTER,NE CHILD SUPPORT PYBLE,2218.31; NE COLORADO CELLULAR, INC,CONTRACTUAL SVC,36.2; NE DEPT OF REVENUE,SALES & USE TAX,22956.56; NE LIBRARY COMMISSION,BKS - CATALOGING,373.5; NEBRASKA RURAL WATER ASSOCIATION, TRAINING,450; NEBRASKA MACHINERY CO,CUTTING EDGES,1367.2; NEBRASKA PUBLIC POWER DISTRICT,ELECTRIC,19135.27; NEBRASKA SALT AND GRAIN CO,ICE SLICER - 1 LOAD,7894.6; NEBRASKALAND TIRE, INC,VEH MTC,1552.97; NEOPOST, POSTAGE,300; OCLC ONLINE COMPUTER LIBRARY CENTER, INC,CONT. SVCS,300.85; ONE CALL CONCEPTS, INC,CABLE LOCATES,62.4; PANHANDLE ENVIRONMENTAL SERVICES INC,SAMPLES,213; PANHANDLE HUMANE SOCIETY, CONTRACTUAL SVC,4964.31; PAUL AGUALLO,CLOTHING,100; PLATTE VALLEY BANK,HSA,14048.46; POSTMASTER, POSTAGE,1170.7; POWERPLAN,EQUIP MTNC,911.83; PRO OVERHEAD DOOR,BLD MTC, 136.25; QUILL CORP,DEPT SUPPL,517.14; RAINBOW BOOKS, INC,BKS,1478.51; REGION I OFFICE OF HUMAN DEVELOPMENT,CONTRACTUAL SERVICES,825; REGIONAL CARE INC,MEDICAL CLAIM,59275.28; REGISTER OF DEEDS,LEG FEE,30; RIVERSIDE ZOOLOGICAL FOUNDATION,CONTRACTUAL SVC,87500; RON'S TOWING,DEP SUP,130.5; ROOSEVELT PUBLIC POWER DISTRICT,ELECTRICITY,1840.12; ROSE DREW, INC,DEP SUP,4532.37; RUSCH'S GENERAL CONTRACTING, LLC,COMPOST FACILITY UPGRADE, 41442.21; S M E C,EMP DEDUCTION,226; SANDBERG IMPLEMENT, INC,EQP MTC,11.92; SCB COUNTY,DEPT CNTRCL SRVCS,58; SCB FIREFIGHTERS UNION LOCAL 1454,FIRE EE DUES,210; SCOTTSBLUFF POLICE OFFICERS ASSOCIATION,POLICE EE DUES,432; SCOTTSBLUFF SCREENPRINTING & EMBROIDERY, LLC,UNF CTH,672; SCOTTSBLUFF

SENIOR CENTER, CONTRACT, 5750; SCOTTSBLUFF/GERING CHAMBER OF COMMERCE, CONFERENCE, 45; SHERWIN WILLIAMS, GRD MTC, 40.09; SIMON CONTRACTORS, DEPT SUP, 583; SOURCE GAS, MONTHLY ENERGY FUEL, 4284.97; STATE HEALTH LAB, SAMPLES, 168; STATE OF NE., CONTRACTUAL, 735; STATE OF NEBR., MONTHLY LONG DISTANCE, 121.25; SUPERIOR SIGNALS, INC, VEH MTC, 426.35; SWANK MOTION PICTURES INC, DEP SUP, 124; TERRY D SCOTT, VEH MTC, 208.57; THE PEAVEY CORP, INVEST SUPPL, 91; TOMMY'S JOHNNYS INC, CON SRV, 1305; TOTAL FUNDS BY HASLER, PSTGE, 500; TOYOTA MOTOR CREDIT CORPORATION, HIDTA CAR LEASE, 383.99; TRANS IOWA EQUIPMENT LLC, PARTS FOR SWEEPER, 366.04; TRI-STATE CARPORTS, DEP SUP, 1174.5; TWIN CITY AUTO, INC, VEH MTC, 946.95; TYLER TECHNOLOGIES, INC, SERVICES, 348; UPSTART ENTERPRISES, LLC, DEPT SUPPL, 208.6; US BANK, SCHOOLS & CONF, 894.29; WELLS FARGO BANK, N.A., RETIREMENT, 59461.8; ZM LUMBER INC, GRD MTC, 26.95; UTILITY REFUNDS: AUDREY HARPER 39.29; ASPYN SEQUEIRA 46.24; BRITTANY SMITH 70.78; DIANA TOTH .68; OUR LADY GUADALUPE CHURCH 7.00.

Council reviewed the November 2014 Financial Report. Mr. Kuckkahn noted that the February 2015 report should reflect the Christmas shopping season.

Ms. Catherine Vinton with the Elks Lodge approached the Council regarding her appointment as Manager of the Elks Lodge. Her responsibilities will include managing the liquor license. She explained that they have a new staff including two new bar tenders who have many years of experience. This establishment has not had any issues with sales to minors, which may be attributed to the membership structure. Ms. Vinton is responsible for the inventory of all alcohol, which she does monthly. Chief Spencer commented that he was very impressed with her management style and there was nothing in her background that would prohibit her from managing a liquor license.

Moved by Council Member Shaver, seconded by Council Member Hilyard, "to forward a positive recommendation to the Nebraska Liquor Commission naming Catherine Vinton manager of the Elks BPO Lodge 1367, 1614 1st Ave., Scottsbluff, NE," "YEAS", Gonzales, Colwell, Meininger, Shaver and Hilyard. "NAYS" None. Absent: None.

Assistant City Manager Nathan Johnson presented the Requests for Qualifications and bids from Baker and Associates, \$11,000.00 and M.C. Schaff and Associates, \$20,917.00 for the Sanitary Improvement Project. Each submittal was evaluated by the selection committee and scored using the qualification based selection criteria. The scoring was based on past performance of each firm, knowledge regarding special permitting challenges and consideration of different construction methods. The proposals include the permitting fees. This project is along Highway 26 by Reganis, East of Winters Creek. Staff is recommending that the bid be awarded to M.C. Schaff and Associates as the most qualified bidder based on the scoring method. Moved by Council Member Gonzales, seconded by Council Member Colwell, "to award the engineering services for the Sanitary Sewer Main and Siphon Improvement Project to M.C. Schaff & Associates, Inc. in the amount of \$20,917.00," "YEAS", Gonzales, Colwell, Meininger, and Hilyard. "NAYS" Shaver. Absent: None.

Mr. Johnson presented the information regarding the 23 Club baseball field contract, explaining that 23 Club is in need of new scoreboards and would like to buy four new scoreboards if the City would consider excusing the rent of \$3000.00 per year on the facility for four years. The approximate cost of the scoreboards is \$12,000.00. Mayor Meininger commented that with the large number of tournaments at the 23 Club each year, this far outweighs the benefit for tourism in our area. Council Member Shaver asked about choosing the property signage. Mr. Johnson said that the 23 Club will work with the City to determine the most adequate signage. Staff is looking for direction regarding this agreement. Moved by Mayor Meininger, seconded by Council Member Gonzales, "to direct staff to bring an amendment to the 23 Club Baseball use agreement to provide for excusing the rent in exchange for four new scoreboards

back to the Council,” “YEAS”, Gonzales, Colwell, Meininger, and Hilyard. “NAYS” Shaver. Absent: None.

Mr. Darren Gebhart, Simons Contracting, approached the Council regarding their request to reduce the liquidated damages on the Avenue I project. He explained that during the bid process on this project, they chose Perkins and Perkins as the lowest and best Disadvantaged Business Enterprise (DBE) business. As a Disadvantaged Business Enterprise they allowed this project to qualify for the state regulated, federally funded portion of the project. Their company met the federal regulations and background checks with other contractors did not show any reason to not hire them. They also checked with the state agency that administers the DBE program and they did not have any negative reports on the contractor. The difference between them and the next lowest bidder was significant.

Perkins and Perkins began work in an acceptable manner, but as time went on, the quality of work and timeliness was unacceptable. Simon Contractors and Baker and Associates tried to mentor them during the project and tried everything they could without violating the protections provided by the DBE program. During an earlier meeting with the Council and Simon Contracting, the Council asked why they didn't lay them off of the job earlier when there were problems. Mr. Gebhart explained that there is a protocol and lengthy process to follow when dismissing a company. The subcontractor received numerous notices, then would show up in time to continue, which prolonged the process. Simons finally got the permission from the state to put Perkins and Perkins in default of their subcontract. They were then faced with trying to find a contractor during the busiest time of the year. This caused a substantial cost to the contractor to find someone during a busy time and have them remove the inferior work of Perkins and Perkins.

Plans issued by the state didn't show exactly what needed to be done on the job, mainly the pavement thickness was not correct on the plans. The time delay regarding the plans was covered by change orders, which requested additional time. The problems with the subcontractor caused the majority of the problems with delays of the entire project. The striping caused additional delays at the end of the project.

Mr. Gebhardt visited with the Nebraska Department of Roads (NDOR) about the letter he submitted to the City requesting a reduction of liquidated damages. The NDOR has had similar circumstances with contractors and have waived those damages with other projects.

This was the first time Simon's had hired Perkins and Perkins, they generally use Infinity for these projects. The difference in the bid between these contractors was \$113,000.00. City Manager Kuckkahn commented that he would not recommend to the Council that the penalties be reduced because Simon's made a conscious decision to save \$113,000.00 dollars and the risk was born by the City. Mr. Gebhardt explained that the lesser bid was reflected in the bid to the City.

City Attorney Howard Olsen asked Mr. Gebhardt, based on the fact that Simons gave notice to the DBE about Perkins and Perkins lack of performance, then they showed up on the job, and repeated this action, did you give them the notices with the encouragement of the DBE? He responded they did have the DBE approval to send default notices to Perkins and Perkins, and withhold damages. Perkins officially walked off the job on June 25, 2014. They could not pay damages and probably won't be able to. There is currently a Department of Labor investigation since they have not paid their employees. Mayor Meininger suggested that staff meet with Simons Contracting and get a clear summary of the project and amounts to bring back to Council.

Mr. Olsen asked Brett Meyer, Baker and Associates, if this project will jeopardize our federal participation. Mr. Meyer responded that there is a good chance that NDOR might ultimately say no, depending upon what liquidated damages are. Mr. Olsen explained that the reason he asked is the NDOR is a conduit to these projects. He wants to make sure that any action is conditional upon assurance that future projects will not be jeopardized. Mr. Kuckkahn added that we need to be careful we are not exposing the City.

Mr. Gebhardt also commented that his project has been slow paying for the work completed. They are currently waiting for three change orders. Mr. Meyer explained that the change orders have been submitted to the state and they are waiting for approval. Baker and Associates sends these requests to the State for approval.

Moved by Mayor Meininger, seconded by Council Member Shaver, "to send the request by Simons Contracting to reduce the damages on the Avenue I project back to city staff to provide a detailed summary and numbers for this project and return to Council," "YEAS", Gonzales, Colwell, Meininger, Shaver and Hilyard. "NAYS" None. Absent: None.

City Manager Kuckkahn presented the revised Lodging Tax Ordinance, which includes a 4% lodging tax. Mayor Meininger has met with hotel representatives who were interested in knowing where the funds would go. He asked the staff to look at ideas and work with Scotts Bluff County tourism to have some suggested activities during the time periods that are typically slow. These activities may help increase the tourism. They were also interested in being a part of an application process of deciding where the lodging tax dollars would go. The County tourism funds go towards the advertising of the event, not planning the event.

Council Member Shaver agreed that we should look at various activities to spend the lodging tax on for next fiscal year, however, the funds this year need to go to the general fund to offset expenses as they discussed at the budget workshop. Mayor Meininger also commented that a 4% and 6% tax were discussed at the budget workshop, however, the 4% was the preferred taxation rate, which is what the Ordinance reflects.

Council Member Colwell asked what the general funds would look like if the tax was less than 4%, which Council Member Shaver responded we would have a budget shortfall. Council Member Colwell said he was uneasy with 4% as the average across the state is 2%. He would like some validity for charging the tax; what do we need the revenue for and will the funds benefit the community. Council Member Shaver responded that currently this money is budgeted to off-set the support of the Riverside Discovery Center for this fiscal year. The other communities that have a lodging tax also have additional taxes to help support tourism.

Mayor Meininger added that as we look at the next budget year, we need to use this lodging tax to align with the Economic Development Plan, which lists tourism as one of the top three items we should be funding and there is no other avenue for this revenue source. He agrees that we need to have a plan for the revenue, not collect the funds "just because".

Council Member Shaver expressed his concern that we pass the Ordinance as soon as possible since this revenue was already added to our budget and we already have a shortfall. The longer we delay, the more funding we'll have to pull from contingency funds. For next fiscal year, we need to discuss the best use for this funding. Mayor Meininger introduced the Ordinance which was read by title on first reading: AN ORDINANCE PROVIDING FOR AN OCCUPATION TAX ON HOTEL ACCOMMODATIONS; RELEASING PRIOR SECTIONS LOCATED IN CHAPTER 6, ARTICLE 6 AND CHAPTER 11, ARTICLE 2 OF THE SCOTTSBLUFF MUNICIPAL CODE, AND PROVIDING FOR AN EFFECTIVE DATE.

Moved by Mayor Meininger, seconded by Council Member Hilyard, "to remove from the table the Ordinance adopting the 2014 National Electrical Code," "YEAS", Gonzales, Colwell, Meininger, Shaver and Hilyard. "NAYS" None. Absent: None.

City Manager Kuckkahn explained to the Council that this Ordinance needs to be adopted by the first of April, 2015 or the state will need to take over our residential inspections. Mayor Meininger introduced Ordinance No. 4143 which was read by title on first reading: AN ORDINANCE DEALING

WITH ELECTRICITY, AMENDING THE SCOTTSBLUFF MUNICIPAL CODE SECTION 4-2-33, ADOPTING THE 2014 NATIONAL ELECTRICAL CODE, SUBJECT TO CERTAIN STIPULATED MODIFICATIONS, AND REPEALING FORMER SECTIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

Moved by Mayor Meininger, seconded by Council Member Gonzales, “That the statutory rule requiring the Ordinance to be read by title on three different days be suspended.” “YEAS”, Gonzales, Colwell, Meininger, Shaver and Hilyard “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 Hilyard, “to adopt Ordinance No. 4143, the 2014 National Electrical Code,” “YEAS”, Gonzales, Colwell, Meininger, and Hilyard. “NAYS” Shaver. Absent: None.

Under public comments, Jeff Leanna, 1715 4th Ave., commented on snow removal and asked that intersections be cleared. For the long term, he suggested that the city hire additional contractors to assist with snow removal if we experience another big snowstorm. He also asked about the pylons on Broadway cautioning drivers to yield to pedestrians. These are gone with the snow removal process, and drivers are not yielding to pedestrians. Mayor Meininger explained that the City did bring in additional contractors to assist with snow removal. He also reported on the snow removal costs to date for this most recent storm, which is \$87,255.00.

Student Youth Council - Council Member Shaver reported that he visited with Linda Meininger at the Scottsbluff High School. They are currently working with the Heart Association and a fund raiser for the Humane Society. They would like some ideas from the Council about what information they would like from the students.

Mayor Meininger reported that Environmental Services is now open from 7am – 4 pm Monday – Friday to be more customer friendly

Moved by Council Member Shaver, seconded by Mayor Meininger “to adjourn the meeting at 7:00 p.m.,” “YEAS”, Gonzales, Colwell, Meininger, Shaver and Hilyard “NAYS” None. Absent: None.

Mayor

ATTEST:

City Clerk