

CITY COUNCIL PROCEEDINGS

February 4, 2008

The City Council of Nebraska City met in regular session on February 4, 2008 at 6:00 p.m. in the Council Chambers at City Hall. Mayor Adelung led in the Pledge of Allegiance, Mayor Adelung then called the meeting to order and on roll call the following answered present: Leon Schiermeyer, Dean Handy, Erv Friesen, Mark Mercer and Mayor Jo Dee Adelung.

Notice of this meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes. Notice of this meeting was given to the Mayor and all members of the City Council and a copy of their acknowledgement of receipt of notice and the agenda is attached to these minutes. Availability of the agenda is communicated in the advance notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Commissioner Friesen moved to approve the minutes from the January 21, 2008 meeting. Commissioner Handy seconded the motion and on roll call the following voted YEA: Mercer, Schiermeyer, Handy, Friesen and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

City Administrator Scott Bovick, reported on the status of several projects. On the 11th Street widening project, offers to property owners will begin soon, with an estimated 2009 start of construction; 10th Corso bridge property purchases are completed, waiting for owners to move out before construction; Steinhart Park trail approximately 90% complete, expect completion and dedication early 2008; will be asking Council approval to proceed with bid letting for Softball and North 10th Street overlay project; Central Avenue overlay bids will be reviewed Feb 8th; contract has been awarded on 4th Corso Viaduct project; Rowe Memorial Public Safety Complex architect contract has been awarded and later in the meeting the Council will be asked to approve interior demo of the building; and bid requests have been advertised for the exterior work at the Library; \$60,000.00 in grants and contributions have been received towards the project.

Commissioner Friesen moved to accept the Treasurer's Report; balance on hand January 31, 2008 \$21,577,449.53 and the Wyuka Cemetery month end report total revenues 4,205.50, seconded by Commissioner Schiermeyer. Upon roll call the following voted YEA: Mercer, Friesen, Schiermeyer, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Grant Boden introduced Courtney Juranek and Michael Miller who are new youth advisors to park board sub-committees. Mr. Boden also updated the Council on parks history and projects of the Park Board.

Roger Watton of BKD presented the Fiscal Year 2007 Audit. Commissioner Friesen moved to accept and place the audit on file. Seconded by Commissioner Mercer. Upon roll call the following voted YEA: Mercer, Friesen, Schiermeyer, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Leroy Frana, Nebraska City Utilities General Manager and Shelly Stromp of KPMG presented the Nebraska City Utilities Fiscal Year 2007 Audit. Commissioner Friesen moved to accept and place the audit on file, seconded by Commissioner Schiermeyer, upon roll call the following voted YEA: Mercer, Handy, Schiermeyer, Friesen and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Before voting on the final reading of Ordinance 2714-08 the Mayor asked for public input. Julie Naberhaus expressed her appreciation for the information presented by the City Administrator and wished more citizens would attend Council Meetings so that they too could be better informed.

Commissioner Mercer moved to amend the effective date and date of commencement of Ordinance 2714-08 to read May 1, 2008, seconded by Commissioner Friesen. Upon roll call the following voted YEA: Schiermeyer, Handy, Friesen, Mercer and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Mayor Adelung introduced Ordinance 2714-08 for its third and final reading. An Ordinance to amend Section 34-85 of the Code of Nebraska City, Nebraska, to levy an occupation tax of three per cent on the gross receipts of telephone and telecommunication services in the city of Nebraska City, Nebraska; to amend Section 34-36 of the Code of the City of Nebraska City to set forth when such occupation taxes shall be due and payable; to amend Section 34-38 of the Code of the City of Nebraska city to provide for payment of such occupation taxes to the City Clerk-Treasurer; to repeal the original Sections 34-85, 34-36, and 34-38 of the Code of Nebraska City and any other ordinances or parts of ordinances in conflict herewith; to provide for publication;

and to declare the effective date of this ordinance which shall be on May 1, 2008. and moved for final passage of Ordinance 2714-08, seconded by Commissioner Handy. Shall Ordinance 2714-08 be passed and adopted. Upon roll call the following voted YEA: Schiermeyer, Friesen, Mercer, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2714-08

AN ORDINANCE TO AMEND SECTION 34-85 OF THE CODE OF NEBRASKA CITY, NEBRASKA, TO LEVY AN OCCUPATION TAX OF THREE PER CENT ON THE GROSS RECEIPTS OF TELEPHONE AND TELECOMMUNICATION SERVICES IN THE CITY OF NEBRASKA CITY, NEBRASKA; TO AMEND SECTION 34-36 OF THE CODE OF THE CITY OF NEBRASKA CITY TO SET FORTH WHEN SUCH OCCUPATION TAXES SHALL BE DUE AND PAYABLE; TO AMEND SECTION 34-38 OF THE CODE OF THE CITY OF NEBRASKA CITY TO PROVIDE FOR PAYMENT OF SUCH OCCUPATION TAXES TO THE CITY CLERK-TREASURER; TO REPEAL THE ORIGINAL SECTIONS 34-85, 34-36, AND 34-38 OF THE CODE OF NEBRASKA CITY AND ANY OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR PUBLICATION; AND TO DECLARE THE EFFECTIVE DATE OF THIS ORDINANCE WHICH SHALL BE ON MAY 1, 2008.

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

SECTION 1. That Section 34-85 of the Code of the City of Nebraska City, Nebraska, is hereby amended to read as follows:

“Section 34-85. Telephone and Telecommunication Companies.

Commencing May 1, 2008, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telephone or telecommunication services to the public for hire in the City of Nebraska City, Nebraska, an occupation tax as follows:

(a) Three percent (3%) on the gross receipts resulting from any toll services and charges on basic exchange services; inter-exchange services; mobile services; and other telecommunication services as follows:

1) Basic local exchange services shall include the access and transmission of two-way switched communications within the city, including local telephone and telecommunication services;

2) Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the city or (b) terminates with an end user within the city, and is charged to a service address within the city regardless of where the charges are actually paid;

3) Mobile services shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the city regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services; and

4) Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City of Nebraska City, regardless of where the charges are actually paid.

(b) Gross receipts shall not include any toll services and charges as follows:

1) For interstate telecommunications between persons in this city and persons outside of this State;

2) For local carrier access charges, transmission facilities and switching services provided to telecommunications companies;

3) From accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions, or departments.

(c) No part or portion of the tax provided for in this chapter shall be levied upon or assessed against or taken from any such gross receipts so excepted from the provisions hereof.”

SECTION 2. That Section 34-36 of the Code of the City of Nebraska City is hereby amended to read as follows:

“Section 34-36. When Due.

Except as otherwise specifically provided, on all occupations and businesses on which a tax is levied under this article at a yearly rate, the year from such tax shall be deemed to begin with the first day of November of each year and shall end on the last day of October following; said tax for that year shall be due and payable in advance on the first day of November of every year and thereafter shall be delinquent.

On all occupations or businesses on which such tax is levied at a quarterly, monthly, daily or weekly rate, the tax shall be due and payable in advance before the business begins, for the number of quarters, months, days or weeks, as the case may be, for which the occupation or business is to be carried on within the taxing year.

Utilities companies, telephone companies, and telecommunication companies shall make their payments on a monthly basis, using each calendar month as a basis for determining and computing the amount of tax payable. Each monthly payment shall be due thirty days (30) after the last day of each month.”

SECTION 3. That Section 34-38 of the Code of the City of Nebraska City, is hereby amended to read as follows:

“Section 34-38. To Whom Paid.

The tax levied by this article shall be paid to the city clerk-treasurer, who, upon payment thereof by any person, shall issue a receipt therefore to the person paying the same, properly dated and specifying the person for whom and for what purpose the tax is paid.

All utility companies, all telephone companies and all telecommunication companies shall, at the time they make their monthly payments of the occupation tax levied pursuant to this article, file with the city clerk a full, complete and detailed statement of the gross receipts subject to such occupation tax, which statement shall be duly verified and sworn to be the manager in charge of the business of the particular company in the city or by a higher managerial employee of such company.

Each succeeding monthly payment of the occupation tax levied pursuant to this article may include any adjustment which is shown on the report provided for in this section which may be necessary for the consideration of uncollectibles or any other matters which may have resulted in either an excess or a deficiency in the amount of tax paid in any previous month.

The city shall have the right at any time to inspect, through its officers, agents or representative, the books and records of any utility company or telephone company, for the purpose of verifying any report submitted pursuant to the requirements of this section.”

SECTION 4. That the original sections 34-85, 34-36, and 34-38, of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith, be, and the same are hereby repealed.

SECTION 5. This ordinance shall be in full force and effect from and after its passage, approval, and publication, as required by law, on May 1, 2008.

PASSED and APPROVED this 4th day of February, 2008.

Jo Dee Adelung, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

City Administrator Scott Bovick and Building Inspector Alan Viox, presented information on the condition and non-compliance of city permitting for manufactured home communities. The owner of Applewood Trailer Park has not complied with the City Ordinance requiring renewal of the annual permit to operate within the boundaries of Nebraska City. Commissioner Mercer moved to issue a citation under Section 21-20 of the Code of the City of Nebraska City, seconded by Commissioner Handy. Upon roll call the following voted YEA: Schiermeyer, Friesen, Handy, Mercer and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

City Administrator Scott Bovick, requested approval by the Council of the low bid by Arbor Landscaping for the interior demolition of the Rowe Memorial Public Safety Building. Moved by Commissioner Handy and seconded by Commissioner Friesen to award the bid to Arbor landscaping in the amount of \$3,160.00. Upon roll call the following voted YEA: Schiermeyer, Mercer, Friesen, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

City Administrator Scott Bovick, presented the agreement with HGM Associates, Inc for services to be provided for the engineering, architectural, and surveying for the Rowe Memorial Public Safety Complex. Commissioner Handy moved to approve the agreement with HGM Associates, Inc, seconded by Commissioner Friesen. Upon roll call the following voted YEA: Schiermeyer, Mercer, Friesen, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Dan Giittinger Public Properties Director recommended to the Council that they approve the low bid by Stutheit Implement Company of \$5,993.00 for a new utility vehicle. Commissioner Handy moved to approve the purchase of the utility vehicle from Stutheit Implement, seconded by Commissioner Schiermeyer. Upon roll call the following voted YEA: Mercer, Friesen, Schiermeyer, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

City Administrator Scott Bovick, presented bid specifications for the North 10th Street and Softball Complex “Asphaltic Concrete Overlay” project and asked approval to advertise for bids. Commissioner Handy moved to approve the bid specifications and advertising for bids, seconded by Commissioner Schiermeyer. Upon roll call the following voted YEA: Mercer, Friesen, Schiermeyer, Handy and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Commissioner Friesen moved to approve the plumbers permit, seconded by Commissioner Handy. Upon roll call the following voted YEA: Mercer, Schiermeyer, Handy, Friesen and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Veda Bennett, Mary Kellogg and Bill Moore spoke in support of renovating the Memorial Building.

Commissioner Mercer moved to approve all claims, seconded by Commissioner Friesen. Upon roll call the following voted YEA: Schiermeyer, Handy, Friesen, Mercer and Mayor Adelung. Voting NAY: None. Mayor Adelung declared the motion carried.

Action Tech Svc	400.00	Maint		Martin Marietta Mat	646.27	Gravel
Adkins Signs	60.00	Misc		Midwest Machine	61.48	Rep
Alltel	132.58	Fuel		Murphy Tractor & Equip	354.00	Rep
Ameritas	2,247.12	Ins		NC Airport Auth	3,750.00	Contr
Anthens, G	110.00	Ref		NC News Press	111.63	Ads
Arbor Mart	1,730.07	Fuel		NC Tourism & Co	5,760.50	Tourism
Arbor Valley Ani Clin	720.00	Animal Exp		NE Community Found	2,291.67	Contr
Blue Cross Blue Shield	31,352.74	Ins		NE Dept of Revenue	7,794.97	W/H
Bob's Welding	306.75	Repairs		NE Green Expo	135.00	Train
Citizen Printing	86.00	Supp		Nebraska Salt & Grain Co	940.99	Salt
Conner, A	123.75	Ref		Omaha Standard Dist	122.50	Rep
Conseco	71.45	Ins		OMB's Exp Police Sup	304.99	Rep
Crook, L	56.50	Mileage		Otoe Cnty Clerk	421.25	Contr
DeVorss, N	123.75	Ref		Otoe Cnty Clerk Distr. Court	972.00	Garnish
Dixon, A	135.00	Ref		Palmtag, S	138.00	Ref
Douglas Tire	359.72	Rep		Pitney Bowes	328.48	Contr
Farmers Bank	16,582.56	W/H		Prof. Choice Recovery	211.09	Garnish
Farris, M	138.00	Ref		R.C.E.D.C.	4,333.33	Ind Dev
Farris, P	135.00	Ref		Schmidt Eng & Equi	61.80	Rep
Food Pride	13.30	Supp		Seade Task Force	5,653.41	Dues
Giittinger, D	292.13	Mileage		Trade Well Pallet	880.00	Wood Chips
Hart, A	400.00	Contr		Truck Equip Svc Co	458.57	Rep
Heartland Class Svc	574.74	Ads		United Way	9.00	W/H
JEO Consulting	5,000.00	Consult		Unum	1,133.86	LTD Ins
Kirkham Michael	1,698.80	Eng Trail		Viox, A	269.17	Mileage
KonicaMinolta	180.75	Copier		Vock, B	121.00	Ref
Landis Engine	25.80	Supp		Wages & Benefits	77,853.17	Payroll
Larson Motors	122.26	Rep		Wenzl Hardware	44.98	Supp
LaRue Coffee	104.94	Misc				

Commissioner Friesen moved to adjourn, seconded by Commissioner Handy..

City Clerk-Treasurer

APPROVED:

Jo Dee Adelung, Mayor

I, the undersigned Clerk hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Council; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

City Clerk-Treasurer