

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
March 21, 2011

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the Council Chambers at City Hall, 1409 Central Avenue, on the 21st day of March, 2011. Notice of the 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. Availability of the agenda was communicated in advance to the media, Mayor and Commissioners of this proceeding and said meeting was open to the public.

Mayor Hobbie called the meeting to order at 6:00 p.m. The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Mayor Jack Hobbie then led in the Pledge of Allegiance. Upon roll call the following answered present: Jeff Crunk, Dean Handy, Mark Mercer and Mayor Hobbie. Absent: Brett Gay. The following City Officials were present: City Administrator Pat Haverty, City Clerk-Treasurer Arnold M. Ehlers, City Attorney William Davis, and Public Properties Director/Zoning Director Dan Giittinger. Media in attendance: Nebraska City News-Press and KNCY Radio.

Commissioner Handy moved to approve the minutes of the March 7, 2011, City Council Regular Meeting, seconded by Commissioner Crunk. Upon roll call the following voted AYE: Mercer, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Commissioner Mercer moved to pay all claims except Claim # 7250C, seconded by Commissioner Crunk. Upon roll call the following voted YES: Handy, Crunk, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Commissioner Handy moved to pay Claim #7250C, seconded by Commissioner Crunk. Upon roll call the following voted YES: Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Mayor Hobbie opened the Public Hearing to amend the regulation applying to fences around pools. Dan Giittinger informed the Council that the International Building Code adopted by Nebraska City earlier this year requires a 48" fence with automatic locking gates around any pool that is capable of water depth greater than 24". No one else spoke in support or opposition to the amendment. Moved by Commissioner Handy and seconded by Commissioner Mercer to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Mayor Hobbie opened the Public Hearing to amend the intersection obstruction ordinance. Dan Giittinger stated that this change in the zoning does not affect current fences, shrubs or other plantings, but that from the effective date of this ordinance there can be nothing placed or planted that would obstruct the view of vehicles entering intersections. No one else spoke in support or opposition to the amendment. Moved by Commissioner Handy and seconded by Commissioner Mercer to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Mayor Hobbie opened the Public Hearing to amend the ordinance relating to obsolete signs. Dan Giittinger explained that this amendment was necessary to conform to State Statutes regarding pole signs among others located at businesses closed for 12 months. No one else spoke in support or opposition to the amendment. Moved by Commissioner Handy and seconded by Commissioner Mercer to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Pat Haverty reported that there will be a Public Meeting for citizens to learn about the 4th Corso Mill and Overlay Project on Tuesday March 22nd at the Rowe Memorial Public Safety Complex. Also, there will be a Spring Clean-up April 16th to 23rd to allow residents to deliver yard waste and tree limbs to the dump for free. He added that the 4th Corso Viaduct Replacement Project has been given the green light by the Nebraska Department of Roads and that preliminary design and environmental studies should begin soon. This will be a three to four year project, expected to cost 5.3 million dollars. The Treasurer reported a beginning balance on February 1, 2011 of \$2,100,244.75; revenues of \$253,209.90 and expenditures of \$302,727.61 leaving a balance on hand February 28, 2011 of \$2,050,727.04. Mayor Hobbie accepted the reports and asked that the written reports be placed on file.

Mayor Hobbie introduced Ordinance No. 2842-11 entitled: AN ORDINANCE TO AMEND SECTION 513.04 OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO PROVIDE FOR FENCING SWIMMING OR WADING POOLS GREATER THAN 24 INCHES IN DEPTH; TO REPEAL THE ORIGINAL SECTION 513.04 AND ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2842-11 be passed and adopted?" Upon roll call the following voted YES: Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2842 -11

AN ORDINANCE TO AMEND SECTION 513.04 OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO PROVIDE FOR FENCING SWIMMING OR WADING POOLS GREATER THAN 24 INCHES IN DEPTH; TO REPEAL THE ORIGINAL SECTION 513.04 AND ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

WHEREAS, the Planning Commission of the City of Nebraska City, Nebraska, held a public hearing on the subject of amending Section 513.04 of the Official Zoning Ordinance of Nebraska City, after giving public notice of such hearing, as provided by law, and has recommended that the Mayor and City Commissioners approve the Amendment of said Section 513.04.

NOW THEREFORE, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 513.04 of the Official Zoning Ordinance of the City of Nebraska City, Nebraska, be amended to read as follows:

"SECTION. 513.04.

Accessory uses for residential uses and commercial uses shall include swimming pools, provided such swimming pools require a building permit and shall comply with the following requirements:

- A. Swimming pools associated with residential uses shall be located in the side and/or rear yard. Swimming pools associated with commercial uses may be located in any yard.
- B. Swimming pools and related decks and landings shall comply with the minimum setback requirements in all yards for accessory building and structures.
- C. Swimming pools shall be considered part of any required open space and shall not be considered lot coverage.
- D. No swimming pool shall be constructed until adequate provisions for drainage of the pool, which will avoid drainage onto neighboring properties, have been made and adequate distance from overhead electrical wires and electrical appurtenances is provided.
- E. Swimming or wading pool structures greater than twenty-four (24) inches in depth shall be enclosed by a substantial fence, wall or other barrier which shall be adequate to prevent unauthorized entrance to the pool and pool area by persons or animals. Such fenced or walled area shall be a minimum of forty-eight (48) inches in height and shall be equipped with a self-closing, self-latching gate, which is lockable."

Section 2. That the original section 513.04 of the Zoning Ordinance of the City of Nebraska City, and all Ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 3. That this Ordinance shall take effect and be in full force from and after its passage, approval, and publication, as provided by law.

PASSED and APPROVED, this 21st day of March, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2843-11 entitled: AN ORDINANCE TO AMEND SECTION 510 OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO MORE PRECISELY DEFINE THE AREA WHERE NO BUILDING, FENCE, WALL, STRUCTURE OR OTHER OBSTRUCTION SHALL BE PLACED OR

MAINTAINED; TO REPEAL THE ORIGINAL SECTION 510 AND ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES WHICH ARE IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Mercer seconded the motion to suspend the rules and upon roll call the following voted YES: Crunk, Handy, Mercer, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2843-11 be passed and adopted?" Upon roll call the following voted YES: Crunk, Handy, Mercer, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2843 -11

AN ORDINANCE TO AMEND SECTION 510 OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO MORE PRECISELY DEFINE THE AREA WHERE NO BUILDING, FENCE, WALL, STRUCTURE OR OTHER OBSTRUCTION SHALL BE PLACED OR MAINTAINED; TO REPEAL THE ORIGINAL SECTION 510 AND ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES WHICH ARE IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

WHEREAS, the Planning Commission of the City of Nebraska City, Nebraska, held a public hearing on the subject of amending Section 510 of the Official Zoning Ordinance of Nebraska City, after giving public notice of such hearing, as provided by law, and has recommended that the Mayor and City Commissioners approve the Amendment of said Section 510,

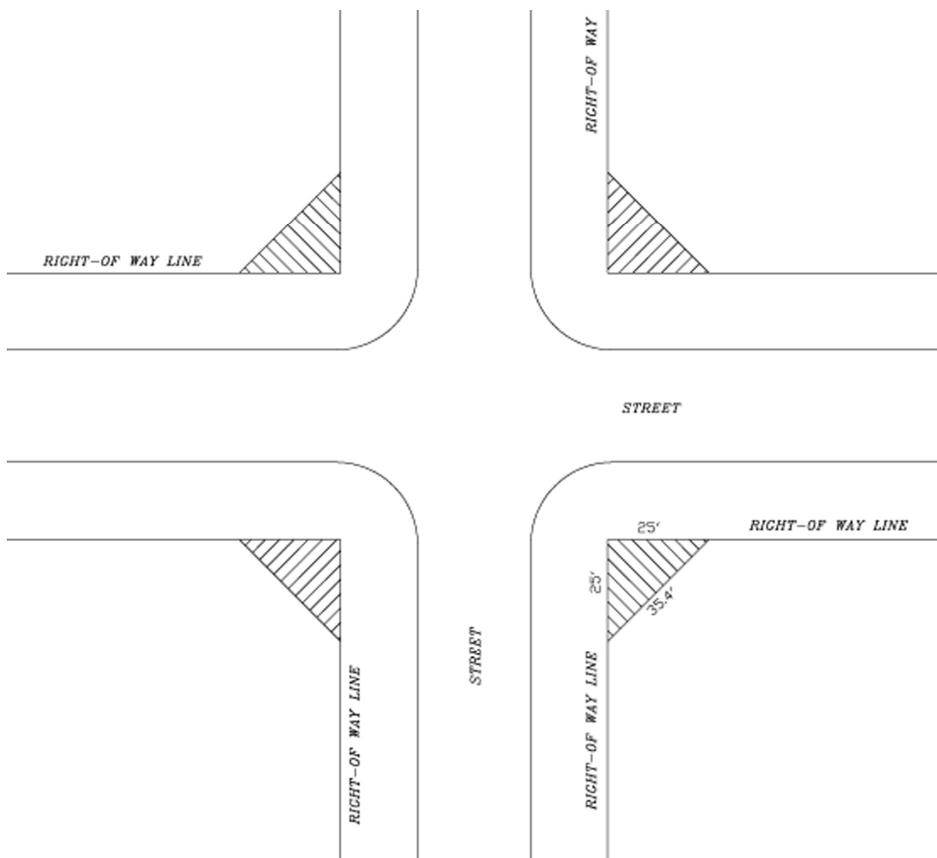
NOW THEREFORE, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 510 of the Official Zoning Ordinance of the City of Nebraska City, Nebraska, be amended to read as follows:

"SECTION. 510. STREET INTERSECTION VISIBILITY.

On any corner lot in any zoning district, except the C-2, Central Business District, no building, fence, wall, structure or other obstruction, except an open fence (having an unobstructed opening of 50% or greater) and meeting the Section 504.03 requirement for a fence, shall be placed or maintained within the triangular area formed by the intersection street right-of-way lines and a line connecting points on said right-of-way lines which are twenty five (25) feet from the intersection of said right-of-way."

The following drawing depicts the triangular area within which no building, fence, wall, structure, or other obstruction may be placed or maintained except an open fence having an unobstructed opening of 50% or greater.



Section 2. That the original section 510 and all other Ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 3. That this Ordinance shall take effect and be in full force from and after its passage, approval, and publication, as provided by law.

PASSED and APPROVED, this 21st day of March, 2011.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2844-11 entitled: AN ORDINANCE TO AMEND SECTION 521.03 DEFINITIONS OF SECTION 521, SIGNS, OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO REPEAL THE ORIGINAL SUBSECTION 521.03 OF SECTION 521, AND ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES WHICH ARE IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2844-11 be passed and adopted?" Upon roll call the following voted YES: Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2844-11

AN ORDINANCE TO AMEND SECTION 521.03 DEFINITIONS OF SECTION 521, SIGNS OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO REPEAL THE ORIGINAL SUBSECTION 521.03 OF SECTION 521, AND ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES WHICH ARE IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

WHEREAS, the Planning Commission of the City of Nebraska City, Nebraska, has held a public hearing on the subject of amending Section 521 of the Official Zoning Ordinance of Nebraska City, after giving public notice of such hearing as provided by law, and has recommended that the Mayor and City Commissioners approve the amendment to subsection 521.03 Definitions, as follows:

NOW THEREFORE, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska, as follows:

Section 1. That subsection 521.03 Definitions, of Section 521 of the Official Zoning Ordinance of the City of Nebraska City, Nebraska, be amended to read as follows:

"Section 521.03 Definitions:

1. **BILLBOARD:** An off-site free-standing sign, unattached to any other structure, which directs attention to an object, product, place, activity, business, person or persons, service or interest not situated on the same premises as such billboard.
2. **BUSINESS SIGN:** An on-site sign which identifies or directs attention to an object, product, place, activity, business, person or persons, service or interest situated on the same premises as such sign.
3. **SIGN:** Any outdoor visual identification, description, display, or illustration which is affixed to, painted on, or attached to a building, post, pole or other structure and which directs attention to an object, product, place, activity, business, person or persons, service or interest, provides direction or otherwise provides a means of visually communicating with the general public.
4. **SIGN, ANIMATED:** Any sign that uses movement or change of lighting to depict action or create a special effect or scene, appearance or optical illusion of movement, or appears to flash, undulate, pulse, blink, move closer to or further from the viewer, expand or contract, bounce, rotate, twist or otherwise portray movement.
5. **SIGN, DIGITAL BILLBOARD:** An off-site sign capable of displaying multiple static images controlled by electronic communications.
6. **SIGN, ELECTRONIC INFORMATION:** On-site signs capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. Signs whose information is limited to time and temperature are not considered electronic information signs. Area shall not exceed 50% of maximum permitted sign area.

7. SIGN FACE: The surface of the sign upon, against, or through which the message of the sign is exhibited.
8. SIGN, FLASHING: A sign that utilizes a pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and full non-illuminated for the purpose of drawing attention to the sign.
9. SIGN, FRAME EFFECT: A visual effect on an electronic information sign applied to a single frame to transition from one message to the next.
10. SIGN, FREE STANDING: A sign attached to a self-supporting structure, which is unattached to any building or other structure.
11. SIGN, INCIDENTAL: A nameplate, temporary sign, or on-site sign providing direction for entrances, exits, parking areas and similar uses, including real estate "for sale" and "for rent or lease" signs and elected office or public issue campaign signs.
12. SIGN, MONUMENT: A free-standing sign in which the sign face is immediately attached to the foundation of the sign without poles or posts (a ground mounted sign).
13. SIGN, MOVING: A sign that changes its message through rotating or changing elements.
14. SIGN, OBSOLETE: Any sign which advertises an activity, business, product or service no longer conducted on the premises on which the sign is located for a period of one (1) year after the termination of such business or product availability.
15. SIGN, POLITICAL CAMPAIGN: An outdoor sign of temporary nature, erected for the purpose of soliciting votes or support for or in opposition to any candidate or any political party under whose designation any candidate is seeking nomination or election, or for the purpose of endorsing or in opposition to a proposition or public question being placed on a ballot at an election held under the laws of the state.
16. SIGN, PROJECTING: A sign suspended from or supported by a building and extending outward therefrom more than fifteen (15) inches.
17. SIGN, SAIL. A wind device that contains a harpoon style pole or staff driven into the ground for support or mounted on a weighted portable base. Sail signs are generally used in connection with a commercial promotion or to advertise a commercial product, service, business, activity or person. All sail signs shall be considered temporary signs.
18. SIGN STRUCTURE: The support or supports, uprights, bracing and framework, which supports the sign surface. In the case of a sign structure consisting of two (2) or more sign faces, where the angle formed between any of the faces, or projections thereof, exceeds fifteen (15) degrees, each side shall be considered a separate sign structure.
19. SIGN SURFACE: The entire area within a single continuous perimeter enclosing all elements of a sign which are intended to be part of the visual image of the sign.
20. SIGN, TEMPORARY: Any sign used to display information relating to a land use or event of limited duration which is not rigidly and permanently installed in the ground, attached to a building, or identified in this section. The use of said sign shall be limited to thirty (30) total days per calendar year, subject to the regulations provided in Subsection 521.05. A business shall be limited to one temporary sign on-site per event.
21. SPECIAL EVENT: A one-time of infrequently occurring event outside of normal programs or activities of the sponsoring or organizing body or business. For the purpose of this section, a special event shall be a business grand opening, business anniversary celebration, local community celebration or a specific organizational event."

Section 2. That the original subsection 521.03 of Section 521 of the Zoning Ordinances of the City of Nebraska City, and all other Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 3. That this Ordinance shall take effect and be in full force from and after its passage, approval, and publication, as provided by law.

PASSED and APPROVED, this 21st day of March, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie opened the discussion on the Cemetery Ag Ground Lease bidding. Pat Haverty informed the Council that the Cemetery Advisory Board recommends awarding the lease to John Golden who had the high bid of \$1851.00 per year for three years plus paying the real estate taxes. Moved by Commissioner Mercer and seconded by Commissioner Handy to award the lease to John Golden for the bid price of \$1,851.00 per year plus real estate taxes. Upon roll call the following voted YES: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Mayor Hobbie introduced the amended fee schedule recommended buy the Cemetery Board. Pat Haverty explained the Jim Teten the Cemetery Foremen had surveyed several communities cemetery fees and that we were low in comparison to them. Moved by Commissioner Handy and seconded by Commissioner Mercer to approve the recommended fee schedule for cemetery fees. Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Pat Haverty explained the necessity of requesting an extension to CDBG 08-DTR-108 contract, originally scheduled to end March 30, 2011. Due to weather issues, one project in the downtown revitalization project was unable to be completed by March 30. The windows and door at 609 Warehouse Antiques are ordered and the weather has moderated. Moved by Commissioner Mercer and seconded by Commissioner Handy to approve the request for the extension and authorize the Mayor to sign all documents. Upon roll call the following voted YES: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Adkins Signs	63.00	Supp		NC Utilities	9,142.58	Util
Aflac	343.46	FSA		NE Dept Rev	643.27	Sales Tax
Alamar	204.52	Unif		Omaha Tractor	10,950.00	Equip
Arbor Mart	2,946.82	Fuel		O'Reilly Auto	29.99	Rep
Bob's Welding	42.50	Equip		Orscheln	804.86	Rep
Bound Tree	105.11	Med		Otoe Co Clerk	5,142.24	Contr
Brown Glass	41.62	Rep		Paragon Sports	691.29	Msde
Callaway	274.61	Msde		Partners Otoe Co	100.00	Training
Cintas	57.70	Contr		Payroll	83,560.18	Payroll
Diamond Vogel	1,453.75	Supp		Pepsi-Cola	294.75	Conc
Douglas Tire	204.95	Equip		Physio-Control	2,259.88	Contr
Eggers Bros.	175.57	Equip		Purchase Power	400.00	Postage
Ehlers, A	79.99	Tele		RC Booth Ent	29.00	Supp
Gatehouse Media	133.67	Advert		Schendel Pest	61.00	Pest Cont
Giittinger, D	54.06	Mileage		Scheps, R	300.00	Misc
Green Provence	868.01	Chem		Shell	2,845.33	Fuel
Hopkins Auto	332.92	Rep		Tielke's Sndwch	53.82	Conc
Landis Engine	10.95	Rep		Tri-State Office	113.88	Supp
Larson Motors	373.80	Equip		Turpel, R	20.14	Med
LaRue Coffee	31.97	Supp		Ultramax	255.00	Ammo
Linweld	199.65	Med		Vander Haags	4,931.04	Equip
Martin Marietta	1,143.45	Maint		Watkins	145.38	Rep
Mead Lumber	42.58	Rep		Wenzl Hardware	11.00	Rep
Mercers	199.26	Supp		Windstream	2,357.00	Tele
Mullenax Auto	644.63	Rep		Wood Family Fuel	104.31	Fuel
Nationwide	10,544.35	Inv		Wurtele Dist	211.24	Conc

Meeting adjourned at 6:22 p.m.

Arnold M. Ehlers, Clerk – Treasurer

I, the undersigned City Clerk for the City of Nebraska City, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Board of Commissioners, 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 City 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 from which the foregoing proceedings have been extracted 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.

Arnold M. Ehlers, City Clerk-Treasurer