

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
May 3, 2010

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 of City Hall, 1409 Central Avenue, on May 3, 2010. 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.

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 led in the Pledge of Allegiance. Upon roll call the following answered present: Brett Gay, Jeff Crunk, Dean Handy, Mark Mercer and Mayor Hobbie. The following City Officials were present: City Administrator Pat Haverty, City Clerk Arnold M. Ehlers, City Attorney William Davis, Police Chief David Lacy and Public Properties Director/Zoning Director Dan Giittinger.

Commissioner Handy moved to approve the minutes of the April 19, 2010, City Council Regular Meeting, seconded by Commissioner Crunk. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion adopted.

Commissioner Handy moved to approve the minutes of the April 23, 2010, City Council Special Meeting, seconded by Commissioner Gay. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion adopted.

Commissioner Mercer moved to pay all claims as presented, seconded by Commissioner Handy. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie proclaimed May 2 – 8, 2010 as “Drinking Water Week.” Mayor Hobbie proclaimed May 9 – 15, 2010 as “Nursing Home Week.” Mayor Hobbie proclaimed May 26, 2010 as “Senior Health and Fitness Day.” Mayor Hobbie proclaimed May 6 – 12, 201 as “Nurses Week.”

Mayor Hobbie opened the Public Hearing on Tamela Osborn’s request to change the zoning on Lot 1; O’Flaherty Subd.; from I-2 to R-2. Tamela Osborn informed the Council of the reasons for the request and explained that the I-2 designation was creating a hardship. Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Mayor Hobbie opened the Public Hearing on the request by Leo and Kelly O’Flaherty for a \$20,000 loan from Downtown Revitalization Program Funds. Stephanie Shrader informed the Council of the property improvements intended and requirements of the loan. No one else spoke in support or opposition to the request. Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Mayor Hobbie opened the Public Hearing on the request by Deane and Rhonda Nielsen for a \$20,000 loan from Downtown Revitalization Program Funds. Stephanie Shrader informed the Council specifics for this loan request. No one else spoke in support or opposition to the request. Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Pat Haverty informed the Council that there will be an open house on Thursday May 6 from 6:30 to 8:00 p.m. for property owners to ask questions concerning the 11th Street-11th Corso Projects.

Mayor Hobbie made the motion to add a closed session at the end of new business to discuss an emergency employee issue. Upon roll call the following voted YES: Mercer, Handy and Mayor Hobbie. Voting NO: Crunk. Motion passed.

Commissioner Mercer moved to direct the City Attorney to draft and ordinance changing the Zoning on Lot 1; O’Flaherty Subd. from I-2 to R-2. Upon roll call the following voted YES: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced Resolution 2468-10 approving the loan request by Leo and Kelly O’Flaherty. Commissioner Handy moved to approve Resolution 2468-10. Upon roll call the

following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion adopted. A true, correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2468-10

**TO USE PROGRAM INCOME FROM A
COMMUNITY DEVELOPMENT BLOCK GRANT**

WHEREAS, the **Nebraska City Downtown Revitalization Loan Fund** has received Community Development Block Grants for Economic Development and,

WHEREAS, Program funds for Economic Development are to be used for making loans to private businesses in accordance with the **Nebraska City Downtown Revitalization Loan Fund Plan** program and governing regulations, and,

WHEREAS, a Reuse Plan has previously been adopted, and,

WHEREAS, the Application Review Board has recommended a project presented through application by an eligible business for a loan up to \$20,000 under specified conditions specifically for use in the refurbishing and upgrading of the building frontage, façade and repairs to bring the second level to comply with existing codes and,

WHEREAS, the City Council of Nebraska City has conducted a public hearing upon the proposed use of Program Income funds,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Nebraska City, that the obligation of funds is approved according to the recommendations of the Application Review Board and the Mayor is hereby authorized to execute all necessary and appropriate documents on behalf of the City and the **Nebraska City Downtown Revitalization Loan Fund** to complete the loan project for **Leo J. and Kelly O’Flaherty** owners of the building, contingent upon approval of the City Attorney as to form.

Passed and adopted on the 3rd Day of May 2010, by the City Council of Nebraska City, Nebraska.

Jack Hobbie, Mayor
ATTEST:

Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Resolution 2468-10 approving the loan request by Deane and Rhonda Nielsen. Commissioner Gay moved to approve Resolution 2469-10. Upon roll call the following voted YES: Mercer, Crunk, Handy, Gay and Mayor Hobbie. Voting NO: None. Motion adopted. A true, correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2469-10

**TO USE PROGRAM INCOME FROM A
COMMUNITY DEVELOPMENT BLOCK GRANT**

WHEREAS, the **Nebraska City Downtown Revitalization Loan Fund** has received Community Development Block Grants for Economic Development and,

WHEREAS, Program funds for Economic Development are to be used for making loans to private businesses in accordance with the **Nebraska City Downtown Revitalization Loan Fund Plan** program and governing regulations, and,

WHEREAS, a Reuse Plan has previously been adopted, and,

WHEREAS, the Application Review Board has recommended a project presented through application by an eligible business for a loan up to \$20,000 under specified conditions specifically for use in the refurbishing and upgrading of the building frontage, façade and repairs to bring the second level to comply with existing codes and,

WHEREAS, the City Council of Nebraska City has conducted a public hearing upon the proposed use of Program Income funds,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Nebraska City, that the obligation of funds is approved according to the recommendations of the Application Review Board and the Mayor is hereby authorized to execute all necessary and appropriate documents on behalf of the City and the **Nebraska City Downtown Revitalization Loan Fund** to complete the loan project for **Deane & Rhonda Nielson** owners of the building, contingent upon approval of the City Attorney as to form.

Passed and adopted on the 3rd Day of May 2010, by the City Council of Nebraska City, Nebraska.

Jack Hobbie, Mayor
ATTEST:

Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Resolution 2470-10 keeping the ability to reimburse N.C. Utilities for funds expended for a capital improvements project with bond proceeds. Commissioner Gay moved to approve Resolution 2470-10. Upon roll call the following voted YES: Crunk, Mercer, Handy, Gay and Mayor Hobbie. Voting NO: None. Motion passed. A true, correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2470-10

BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA, as follows:

Section 1. That the Mayor and Board of Commissioners of the City of Nebraska City, Nebraska, do hereby declare this resolution to be the City’s official declaration of intent under Internal Revenue Code Regulation Section 1.150-2 to provide for the incurring of indebtedness which may include reimbursements of expenditures made by the City in connection with costs incurred in connection with the replacement of

Water Well #4 with Water Well #10 and the addition of Water Well #11, including extension of water transmission mains to serve both wells, installation of natural gas distribution mains to serve backup power generators at both wells, extension of electric power distribution lines to both wells, and installation of communication equipment to both wells for control, and engineering, for which the preliminary estimate of debt contemplated for such project exceeds \$800,000

Section 2. That up to the expenditure of the full amounts of such projects described within this resolution, the City may advance funds as may be necessary for meeting the immediate costs of such project. It is the intent of the Mayor and Board and the City's reasonable expectation that the City shall reimburse such expenditures as may be made from general funds on hand from the proceeds of the issuance of its debt obligations.

Section 3. That the City Clerk shall make a copy of this resolution available for public inspection at the main office of the City at all times during normal business hours within ten days after the adoption hereof. Such copies shall remain available for public inspection at all such times until the bonds or such other tax-exempt obligations contemplated herein are issued.

DATED this 3rd day of May, 2010

By _____
Jack Hobbie, Mayor
ATTEST:

(S E A L)

Arnold M. Ehlers, City Clerk

Leroy Frana, General Manager of Nebraska City Utilities provided a recommendation from the Board of Public Works to approve the selection of Midwest Underground, Inc., the low bidder for the Sanitary Sewer Line Project from 15th Street and 8th Corso to 13th Street and 6th Corso in the amount of \$136,870.50. Commissioner Gay moved to approve awarding the contract for the Sanitary Sewer Line Project to Midwest Underground, Inc. in the amount of \$136,870.50. Upon roll call the following voted YES: Crunk, Mercer, Handy, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Pat Haverty explained the request by William Blake, Esq. representing Paul Smalley to have the City Quit Claim a portion of South 2nd Street between Central Avenue and 2nd Corso to Mr. Smalley. Commissioner Mercer moved to direct the City Attorney to draft an ordinance to Quit Claim Deed a portion of South 2nd Street between Central Avenue and 2nd Corso. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion carried.

Commissioner Gay moved to waive the \$25.00 shelter rent fee from Lourdes/St. Benedict's Pre School on May 19th 2010. Upon roll call the following voted YES: Gay, Mercer, Handy, Crunk and Mayor Hobbie. Voting NO: None. Motion passed.

Abby Reese appeared before the Council requesting part of the alley behind the First Presbyterian Church be closed from 4 to 9 p.m. on June 26th for a "Backyard Gathering." Mayor Hobbie moved to approve the request by the First Presbyterian Church to close part of the alley in Block 94 of N.C. Proper. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Pat Haverty explained the request by SENDD to amend the contract for the Citywide Housing Rehab Project (08-HO-6069) which would move \$2,000 from City administration to SENDD Administration. Commissioner Handy moved to approve the request by SENDD to reallocate \$2,000 from the City to SENDD. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Pat Haverty updated the Council on the progress on the Livingston Property and asked that the Council approve the final design and authorize staff to advertise for bids. Commissioner Handy moved to approve the final design with the committee making the final decisions on the color of gravel and tree variety. Upon roll call the following voted YES: Mercer, Gay, Handy and Mayor Hobbie. Voting NO: None. Abstain: Crunk. Motion passed.

Pat Haverty reviewed previous suggested changes to Ordinance 2800-10 and asked for additional Council input as well as citizen ideas. Rick Shallenberger suggested that new construction as well as remodeling and additions to houses be brought up to current off street parking codes. Dan Giittinger informed the Council that the City does not enforce new rules on existing structures. Rick Brehmer asked who will be cited in the event of illegal parking – property owner or tenant? Mr. Brehmer suggested that the City address problem properties only and impose stricter rules on all citizens. Bill Moore asked the Council to get an agreement amongst themselves and implement the ordinance. Mayor Hobbie and Commissioner Gay both acknowledged the need for some basis to allow enforcement for the rules. Denise Brehmer stated that it is unfair to limit the number of vehicles and that the City needs to be flexible. Linda Willson submitted a written statement that limiting the number of vehicles will create a hardship for her family as well as

others who take care of their respective properties. Mayor Hobbie closed discussion on the subject.

Mayor Hobbie opened discussion on Ordinance 2801-10 rules, regulations and penalties for unregistered, wrecked or junked vehicles. Pat Haverty outlined reasons for the need for the ordinance. Rick Brehmer had issue with limiting the amount of time a property owner can work on a “collector” car. Possibly making Hobbyist Permits renewable. No one else spoke in support or opposition to the ordinance.

Mayor Hobbie introduced Ordinance 2802-10 entitled AN ORDINANCE TO AMEND SECTION 33-45, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, RELATING TO FEES CHARGED FOR PERMITS TO CUT INTO ANY PAVING, CURB OR SIDEWALK; DISPOSITION OF FUNDS; TO REPEAL THE ORIGINAL SECTION 33-45 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; 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: Gay, 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 Crunk. The Mayor then stated the question: “Shall Ordinance No. 2802-10 be passed and adopted?” Upon roll call the following voted YES: Gay, 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, correct and complete copy of said ordinance is as follows:

ORDINANCE NO. 2802-10
AN ORDINANCE TO AMEND SECTION 33-45, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, RELATING TO FEES CHARGED FOR PERMITS TO CUT INTO ANY PAVING, CURB OR SIDEWALK; DISPOSITION OF FUNDS; TO REPEAL THE ORIGINAL SECTION 33-45 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO DECLARE AN EFFECTIVE DATE.

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

Section 1. That Section 33-45 of the Code of Nebraska City, Nebraska, be amended to read as follows:

“Sec. 33-45. Same-Fee; disposition of funds.

(a) The city clerk-treasurer shall at the time each person makes application to cut into any paving, curb or sidewalk for any purpose whatsoever, and applying for inspection, charge and collect in advance of issuance of said permit, a fee as follows:

Pavement Cut	\$15.00
Curb Cut	15.00

(b) All fees collected under the provisions of this division are hereby declared to be occupation tax money levied for revenue purposes; shall be credited to the general fund of the city and shall be used to defray the cost of expenses of administering this article and thereafter for general purposes.”

Section 2. That the original section 33-45 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 3. That this Ordinance shall be effective from and after its adoption, approval, and publication, as provided by law.

PASSED and APPROVED, this 19th day of April, 2010.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Pat Haverty provided the final design for the “Paap” Project on south 11th Street. Commissioner Handy moved to approve the final design for the “Paap” project and authorize staff to advertise for bids. Upon roll call the following voted YES: Mercer, gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion adopted.

Mayor Hobbie moved to go into Executive Session at 7:55 p.m. and that the City Attorney Bill Davis, City Clerk Arnold Ehlers and Public Properties Director Dan Giittinger be invited into the

Executive Session. Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie moved to come out of Executive Session at 8:15 p.m.

Mayor Hobbie asked for roll call. Upon roll call the following answered present: gay, Crunk, Handy, Mercer and mayor Hobbie.

Commissioner Mercer moved to approve the separation agreement with the employee. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Acco	2,706.70	Chem	Midwest Co-op	128.95	Rep
Action Tech	400.00	Contr	Midwest Turf	40.50	Rep
Afternooners	109.29	Misc	Moore Medical	629.59	Med
Alamar Unif	27.99	Unif	Mullenax Auto	262.28	Rep
Alco	47.86	Supp	NCAEDC	6,250.00	Contr
Ambassador Group	45.00	Advert	NCTC	5,312.50	Contr
Arbor Mart	2,033.68	Fuel	NE Comm Found	2,291.67	Contr
AVAC	349.00	Contr	NE HHS	100.00	Misc
Bill Walters & Son	1,285.23	Rep	Nebraska Golf	107.90	Rep
Bob's Welding	105.00	Rep	Nebraska Turf	552.00	Chem
BSN Sports	194.98	Equip	Odeys	190.13	Supp
Callaway	364.60	Msde	Omaha Tractor	852.97	Rep
Cintas	55.00	Contr	O'Reilly Auto	3.99	Equip
Concrete Ind	36.90	Maint	Orscheln	189.96	Rep
Creighton Medical	397.50	Med	Otoe Co Clerk	984.25	Contr
Food Pride	107.29	Conc	Payroll	149,541.09	
Galeton Gloves	35.35	Supp	Pepsi	294.50	Conc
Heartland Class	96.55	Advert	Petty Cash	39.14	Conc
Hopkins Auto	91.58	Rep	Physio-Control	695.00	Med
Jebro	1,956.50	Maint	Pine Acres Nursery	156.00	Misc
JEO	27,912.50	ROW	Quality Remodel	37,600.00	CDBG
Konica Premier	230.00	Contr	River City Transp	225.00	Mileage
Landis Engine	385.40	Rep	Schendel Pest	150.00	Pest Con
Lant, Jeffrey	173.83	Mileage	SEADE Task Force	5,653.41	Contr
Larson Motors	188.96	Equip	Thurman's	54.39	Rep
LaRue Coffee	152.88	Supp	Tielke's Sandwich	26.88	Conc
Lesco	315.95	Chem	Titan Mach	206.77	Rep
Linweld	104.20	Med	Tree Worx	1,800.00	Maint
Loveland Lawns	153.45	Seed	Tri-State Office	426.90	Supp
Lumberjack Co	3,600.00	Maint	Tri-State Pumping	570.00	Rep
Martin Marietta	656.00	Maint	Two Sisters Cleang	100.00	Contr
Mead Lumber	81.10	Supp	Verizon Wireless	438.40	Tele
MES	161.39	Med	Watkins	680.19	Rep
Michael Todd & Co	82.18	Maint	Wenzl Hardware	1.50	Rep
Mid-Con Systems	240.72	Supp	Wood Family Fuel	507.37	Fuel
			Wurtele Dist	69.84	Conc

Meeting adjourned at 8:19 p.m.

Arnold M. Ehlers, City Clerk