

CITY OF NEBRASKA CITY, NEBRASKA
 MINUTES OF CITY COUNCIL REGULAR MEETING
 May 18, 2015

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the William F. Davis Room at City Hall, 1409 Central Avenue, on May 18, 2015. 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 Bequette 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 Bryan Bequette then led in the Pledge of Allegiance. Upon roll call, the following answered present: Jim Stark, Jeff Crunk, Vic Johns, and Mayor Bequette. Absent: Mindy Briley. The following City Officials were present: City Attorney David Partsch, Deputy City Clerk-Treasurer Emily Anthony, Interim City Clerk-Treasurer Jacqueline Smith, Police Chief David Lacy, Fire Chief Alan Viox, and Public Properties Director/Zoning Director Dan Giittinger.

Commissioner Stark moved to approve the minutes of the May 4, 2015, City Council Regular Meeting, seconded by Commissioner Crunk. Upon roll call, the following voted YES: Crunk, Stark, Johns, and Mayor Bequette. Voting NO: None. Motion carried.

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

ACCO	Maint	2,642.42	Landis Engine Co	Maint	101.45
Action Technology	Contr	400.00	Larson Motors	Rep	599.68
Alamar Uniforms	Unif	771.31	Lincoln Financial	Ins	2,740.60
Allied Insurance	Ins	100.00	Locked and Loaded	Sup	2,115.00
Arbor Mart, Inc	Fuel	2,869.88	Logan Contractor	Equip	61,185.00
AVAC	Contr	88.11	Loveland Grass	Sup	440.40
Atchison County	Adv	90.00	Martin Marietta	Sup	2,312.52
BC Meyer Const	Rfnd	200.00	Matt Parrott	Sup	463.53
Beelner Service	Sup	831.90	Mercer's Do-It-B	Sup	399.68
Bill Walters & Sons	Maint	687.60	Miller Monroe Farr	Ins	6,853.33
Boatright, K.	Dance	905.25	Mullenax Auto	Sup	135.48
Bohl P&H	Rep	1,350.20	Nationwide Trust	Ins	16,114.77
Bound Tree	Med	991.99	NC Public School	Contr	5,675.00
Brown's Shoe Fit	Unif	68.00	NC Utilities	Util	5,764.24
Bryant, S.	Rfnd	25.00	NE Dept of Revenue	Contr	1,519.97
Callaway	Mdse	796.89	NE Public Health	Med	105.00
Capital Business	Contr	121.17	O'Reilly	Maint	245.07
Card Services	Sup	703.40	Otoe County Clerk	Contr	4,423.46
Casey's General	Fuel	79.29	Path, G.	Rfnd	966.59
Cindy Patton	Rfnd	50.00	Payroll	Payroll	169,182.96
Danko Emergency	Unif	76.30	PGA of America	Dues	484.00
Don Johnson Homes	Rfnd	200.00	Phillips, C.	Rfnd	25.00
Double Eagle	Bev	155.40	Physio-Control	Contr	596.88
Douglas Tire Co.	Rep	426.34	Rec Supply Co	Rep	268.60
Eakes Office Sol	Sup	112.18	Shell	Fuel	1,728.96
EMS Billing Serv	Contr	3,929.55	Shelter Home	Rfnd	25.00
Ervin, B.	Rfnd	25.00	Smith, T.	Dance	290.00
Fareway Stores	Conce	49.62	St. Mary's Hospital	Med	2,382.34
Fastenal Company	Maint	75.93	Stuck, D.	Rfnd	25.00
Fire Protection	Contr	3.75	Texas Refinery	Sup	360.59
Gatehouse Media	Adv	1,896.73	Thurman's	Misc	4.00
Grimm's Gardens	Misc	154.69	Tim Engel Constr	Rep	675.00
GUARDIAN	Ins	4,003.42	Tree City Tees	Unif	68.00
Home	Rfnd	100.00	UHC	Ins	61,260.60

Transformation					
Hughes, M.	Rfnd	200.00	Unifirst	Sup	71.76
Ideal Pure Water	Contr	98.32	Verizon	Tele	14.08
Inland Truck Par	Rep	2,741.78	Vierregger Electric	Maint	481.25
Jebro Inc.	Sup	1,131.45	Westlake	Sup	67.45
Jensen, E.	Dance	352.50	WG Contracting	Rfnd	25.00
Jerry's Landscaping	Maint	150.00	Windstream,Inc.	Tele	1,563.79
KBIE FM 103.1	Adv	261.00	Winn Incorporate	Mdse	304.45
KR Creative	Contr	252.86	Zimco Supply Co.	Chem	3,637.50

Mayor Bequette brought forward the appointment of Dr. Dean Thomson to the Airport Authority Board, seconded by Stark. Dick Rhinehart has resigned from the Board after 27 years of service. Dr. Thomson will complete the term until 2016. Upon roll call, the following voted YES: Crunk, Johns, Stark, and Mayor Bequette. Voting NO: None. Motion carried. Mayor Bequette brought forward a second appointment of Neal Deremer to the Airport Authority Board, seconded by Crunk. Mr. Deremer will be replacing Bryan Bequette until 2020. Upon roll call, the following voted YES: Johns, Stark, Crunk and Mayor Bequette. Voting NO: None. Motion carried.

Treasurer's Report was given. As of April 30, 2015, Total Nebraska City funds of \$3,166,492.31, Total Cash and Reserve for Nebraska City Utilities of \$16,409,516.91, Total of City of Nebraska City Funds \$19,576,009.22. Moved by Commissioner Stark, and seconded by Johns to approve the Treasurer's Report. Upon roll call, the following voted YES: Crunk, Johns, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

City Attorney David Partsch said Commissioner Crunk requested a discussion concerning the bid process for Nebraska City projects. Crunk said several contractors do not bid because of the government regulations, and the 5% bid bond the City requires. Dan Giittinger stated the 5% bid or performance bond protects the City by providing assurance that job will be completed. Some contractors do not want to have the expense of the premium for the bid bond, however they could add that cost to their bid. Also, some projects require the contractor to comply with the Davis Bacon Act, which sets wage and labor standards, and adds more paperwork and regulations that a small contractor is obligated to do. Johns asked what the City codes say about needing an application bond. David Partsch said he would review the codes. Commissioner Johns and Commissioner Crunk with the help of Dan Giittinger and Alan Viox will review the process that may help our local contractors.

Moved by Commissioner Stark and seconded by Crunk to approve request form Derek Walters and Steve Rousch to vacate alley between Lot 2A and Lots 1-3 of Mead-White Subdivision, Block 60 of Kearney City Addition. Mr. Rousch said he and Mr. Walters would split the ground 50/50. Upon roll call, the following voted YES: Crunk, Johns, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

Mayor Bequette introduced Resolution #2664-15 Assess Demolition cost to 411 1st Corso, Nebraska City, NE in the amount of \$6,323.65. Alan Viox said the assessment is for the demolition cost, asbestos removal, certified mail and service cost. Moved by Commissioner Stark and seconded by Johns to approve Resolution #2664-15. Upon roll call, the following voted YES: Crunk, Johns, Stark, and Mayor Bequette. Voting NO: None. Motion carried. A true and correct copy of said resolution is as follows:

RESOLUTION 2664-15

BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA;

WHEREAS, Section 19-68, of the Code of Ordinances, Nebraska City, Nebraska provides that the City may have a lien upon real property for the repair, rehabilitation, or demolition and removal of a building or structure which is unsafe and a public nuisance; and,

WHEREAS, notice to abate and remove such nuisance was given to each of the owner(s) and occupant(s) of the following described property(s) at least ten (10) days prior to removal by the City of Nebraska City, Nebraska; and,

WHEREAS, after failure of the owner(s) to abate and remove the same from said real estate the City has repaired, rehabilitated, demolished or removed a building or structure from the following described real estate, to-wit:

Lot Three (3) and the East Sixteen Feet (E16') of Lot Four (4), Block Eighty-Eight (88), Nebraska City Proper, Nebraska City, Otoe County, Nebraska,

commonly referred to as its street address of 411 1st Corso; and,

WHEREAS, the City of Nebraska City, Otoe County, Nebraska has incurred costs relative to the repair, rehabilitation, demolition or removal of a building or structure on said real estate in the amount of \$6,323.65, and,

WHEREAS, the City sent the property owner(s) a bills for said costs which have not been paid, and

WHEREAS, the City may file Special Assessments for Improvements against properties for which City bills for services have not been paid, and

WHEREAS, said Special Assessments shall draw interest at the rate provided by Section 45-104.1 of the Revised Statutes of Nebraska, from the effective date hereof.

NOW THEREFORE BE IT RESOLVED, that the City Clerk-Treasurer of Nebraska City is hereby authorized to file with the Otoe County Treasurer's Office Special Assessments for Improvements in the amount(s) and against the property specified above, located within Nebraska City, Otoe County, Nebraska.

Passed and approved this 18th day of May, 2015.

Bryan W. Bequette, Mayor

Attest: _____
Jacqueline Smith, Clerk-Treasurer

Mayor Bequette introduced Resolution #2665-15 Consider City Administrator Employment Agreement. Moved by Commissioner Johns and seconded by Crunk to approve Resolution #2665-15 Employment Agreement between City of Nebraska City and Grayson Path as City Administrator. Stark asked City Attorney David Partsch to explain some of the purposes for having the agreement. David Partsch said the purpose of the employment agreement is to clarify the duties and terms of employment and how the understanding of city codes, state statutes and the personnel manual apply to these positions. Also to define the relationship with the Council and how to communicate with them from the beginning what the conditions are. Having an employment agreement puts all this information in one location. Stark asked if our current codes still say that, every even number year these positions will be up for re-appointment. Partsch said yes by State Statutes and commission form of government that still applies. Beginning salary is Step 1 and is subject to review in December of every even year. If position is not re-appointed and agreement not extended, they would continue to serve until a replacement is found. If replaced during the first 4 weeks, they are guaranteed 4 weeks' pay with benefits. Termination without cause would be a change in an ordinance and termination with cause could happen any time. The Council should be aware of any major job related expenses and time away from the office, such as extra mileage and continuing education opportunities, so any extra expense can be included in the budget. Performance evaluations for the City Administrator will be provided to the Mayor and shared with all Council members. Stark suggested the City Clerk report to the Finance Commissioner and evaluations would be reviewed all Council members. Upon roll call, the following voted YES: Stark, Crunk, Johns, and Mayor Bequette. Voting NO: None. Motion carried. A true and correct copy of said resolution is as follows:

RESOLUTION NO. 2665-15

SUBJECT: Approval of **EMPLOYMENT AGREEMENT BETWEEN CITY OF NEBRASKA CITY AND GRAYSON PATH AS CITY ADMINISTRATOR.**

WHEREAS: The City of Nebraska City, Nebraska is seeking confirmation of the hiring of Grayson Path as City Administrator, and,

WHEREAS: The City has certain terms and conditions of employment that it wishes to set forth in a written employment agreement, and,

WHEREAS: Path's approval of a written employment agreement would clearly define the terms and conditions of employment which he is accepting upon his signature,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEBRASKA CITY THAT:

The City Council herewith approves the Employment Agreement with Grayson Path for the position of City Administrator.

Passed and adopted this 18th day of May, 2015.

Bryan W. Bequette, Mayor

ATTEST: _____
Jacqueline Smith, Interim City Clerk-Treasurer

Mayor Bequette introduced Resolution #2666-15 Consider City Clerk-Treasurer Employment Agreement. Moved by Commissioner Stark and seconded by Johns to approve Resolution #2666-15. Upon roll call, the following voted YES: Crunk, Johns Stark, and Mayor Bequette. Voted NO: None. Motion carried. A true and correct copy of said resolution is as follows:

RESOLUTION NO. 2666-15

SUBJECT: Approval of **EMPLOYMENT AGREEMENT BETWEEN CITY OF NEBRASKA CITY AND MARK MARCOTTE AS CITY CLERK-TREASURER.**

WHEREAS: The City of Nebraska City, Nebraska is seeking confirmation of the hiring of Mark Marcotte as City Clerk-Treasurer, and,

WHEREAS: The City has certain terms and conditions of employment that it wishes to set forth in a written employment agreement, and,

WHEREAS: Marcotte’s approval of a written employment agreement would clearly define the terms and conditions of employment which he is accepting upon his signature,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEBRASKA CITY THAT:

The City Council herewith approves the Employment Agreement with Mark Marcotte for the position of City Clerk-Treasurer.

Passed and adopted this 18th day of May, 2015.

Bryan W. Bequette, Mayor

ATTEST: _____
Jacqueline Smith, Interim City Clerk-Treasurer

Mayor Bequette introduced, for approval, Resolution #2667-15 authorizing the Nebraska City Recreation Agency to issue its Sales Tax Revenue Bonds, Series 2015, in an aggregate principal amount not to exceed \$5,000,000 and pledging to the payment of such bonds a portion of the City’s sales and use tax. Moved by Commissioner Stark and seconded by Crunk to approve Resolution #2667-15 for passage after reading. Upon roll call, the following voted YES: Johns, Crunk, Stark, and Mayor Bequette. Voting NO: None. Motion carried. A true and correct copy of said resolution is as follows:

A RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE BY THE NEBRASKA CITY RECREATION AGENCY (THE “JOINT ENTITY”) OF ITS SALES TAX REVENUE BONDS, SERIES 2015, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 TO FINANCE THE COSTS OF CONSTRUCTING AND EQUIPPING PUBLIC PARKS AND RELATED INFRASTRUCTURE WITHIN THE CITY, INCLUDING A MODERN AQUATIC CENTER PROJECT TO REPLACE THE CITY’S EXISTING SWIMMING POOL; IMPOSING AND PLEDGING A PORTION OF THE CITY’S SALES AND USE TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SUCH BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS; AND PRESCRIBING OTHER MATTERS RELATING THERETO

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEBRASKA CITY, NEBRASKA AS FOLLOWS:

Section 1. The City Council (the “**Council**”) of the City of Nebraska City, Nebraska (the “**City**”), hereby makes the following findings and determinations:

(a) The City is a city of the first class and political subdivision duly organized and validly existing under the constitution and laws of the State of Nebraska (the “**State**”).

(b) The Nebraska Interlocal Cooperation Act, Sections 13-801 et seq., Reissue Revised Statutes of Nebraska, as amended (the “**Interlocal Act**”), permits public agencies, such as the City, to make the most efficient use of their taxing authority and other powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; the Interlocal Act further provides that any power or powers, privileges, or authority exercised or capable of exercise by a public agency of the State may be exercised and enjoyed jointly with any other public agency of this state; and the Interlocal Act further permits a joint entity established thereunder to issue such types of bonds as its governing body may determine which may be secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the joint entity from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

(c) Pursuant to the Interlocal Act, the City and Otoe County School District 0111 (Nebraska City Public Schools) in the State of Nebraska (the “**District**”, and together with the City, the “**Public Agencies**”) entered into an Interlocal Cooperation Act Agreement (the “**Interlocal Agreement**”) for the purpose of creating the Nebraska City Recreation Agency (the “**Joint Entity**”).

(a) The City and the District entered into the Interlocal Agreement and created the Joint Entity for the purpose of acquiring, financing, constructing, maintaining and operating recreational infrastructure within the City, including a modern aquatic center project to replace the City’s existing swimming pool (the “**Project**”).

(b) At an election within the City on November 4, 2014 (the “**Election**”) held in accordance with the Local Option Revenue Act, Sections 77-27,142 to and including 77-27,148, Reissue Revised Statutes of Nebraska, as amended (the “**Local Option Act**”), a majority of the electors casting votes at such Election approved (a) the imposition of a one-half percent (0.50%) sales and use tax, in addition to the one and one-half percent (1.5%) sales and use tax currently in effect, on all transactions within the City on which the State is authorized to impose a tax, for the purpose of paying the costs of the Project, (b) the issuance of bonds in an aggregate principal amount not to exceed \$5,000,000 to finance the Project costs, and (c) the pledge of the additional one-half percent (0.50%) sales and use tax to the payment of debt service on such bonds.

(c) The Local Option Act authorizes any interlocal agency, such as the Joint Entity, to issue bonds in one or more series for any municipal purpose, such as the Project, and to pay the principal of and interest on any such bonds by pledging receipts from the increase in the municipal sales and use taxes authorized by such municipality.

(d) The Joint Entity has determined to issue its Sales Tax Revenue Bonds, Series 2015 (the “**Bonds**”), in an aggregate principal amount not to exceed \$5,000,000, which Bonds are to be paid from and secured by the revenue collected from the City’s one-half percent (0.50%) sales and use tax approved by the voters at the Election.

(e) Prior to the issuance of the Bonds, the Joint Entity requires that the respective governing bodies of each of the City and the District approve the issuance of the Bonds by the Joint Entity for the benefit of the Public Agencies.

(f) All conditions, acts and things required by law to exist or to be done precedent to the issuance by the Joint Entity of sales tax revenue bonds by the Joint Entity for the benefit of the Public Agencies as authorized in the amount not to exceed \$5,000,000 do exist and have been done in due form and time as required by law.

Section 2. The Council hereby authorizes and approves the continued participation of the City in the Joint Entity pursuant to the Interlocal Act, the Local Option Act and other laws to provide financing, services and support to all members of the Joint Entity including but not limited to issuance of bonds, retention of bond paying agent, record keeping and other administrative services relating to the financing of information technology for members, and for other lawful purposes. The Council hereby further directs the Mayor or the City Clerk/Treasurer or a designee to sign, execute, and deliver such documents, to act as the City’s representative on all matters related to all of such documents, and to take or cause to be taken any and all other action and sign any other documents as may be necessary to complete the transaction.

Section 3. For the purpose of financing the Project and paying the costs of issuing the Bonds, the City, in accordance with its authority under the Local Option Act and the Interlocal Act, hereby authorizes the Joint Entity to issue its Bonds for the benefit of the City and the District in an aggregate principal amount of not to exceed Five Million Dollars (\$5,000,000) and with a maximum maturity date of December 31, 2029. The Bonds shall have such terms, conditions and limitations as set forth in that resolution adopted by the Governing Body of the Joint Entity on May 14, 2015 (the “**Joint Entity Bond Resolution**”) and in a certificate (the “**Award Certificate**”) executed at the time of sale of the Bonds by the Joint Entity to the purchaser thereof.

Section 4. The Mayor and the City Clerk Treasurer are each authorized to take all actions necessary to effect the delivery of the Bonds by the Joint Entity to D.A. Davidson & Co., as the original purchaser thereof (the “**Purchaser**”), inclusive of the power and authority to execute such orders, certificates, receipts and other documents as may be necessary or desirable to effect such delivery.

Section 5. The sale proceeds of the Bonds shall be held by the Treasurer of the Joint Entity in a separate fund and applied (a) to pay the costs of issuance of the Bonds, (b) to pay interest when due on the Bonds and (c) to pay the costs of constructing, purchasing and equipping the Project.

Section 6. For the repayment of the Bonds and all interest thereon, the City represents, warrants and covenants that it shall impose and collect a one-half percent (0.50%) sales and use tax, in addition to the one and one-half percent (1.5%) sales and use tax currently in effect, on all transactions within the City on which the State is authorized to impose a tax. Such tax and receipts are pledged to the Joint Entity for the repayment of the principal of and the interest on the Bonds. The City authorizes the Joint Entity to re-pledge the City’s pledge hereunder to the repayment of the Bonds. The Bonds shall not be general obligations of the City.

Section 7. (a) The City hereby establishes a 2015 Sales Tax Fund (the “**Sales Tax Fund**”), into which there shall be deposited as and when received all receipts from the one-half percent (0.50%) sales and use tax, in addition to the one and one-half percent (1.5%) sales and use tax currently in effect. All amounts deposited and credited to the Sales Tax Fund shall be expended and used by the City for the sole purpose of paying to the Joint Entity moneys sufficient to pay the principal of, premium, if any, and interest on the Bonds as and when the same become due and paying the usual and customary fees and expenses of the bond registrar.

(b) The City Clerk/Treasurer is authorized and directed to withdraw from the Sales Tax Fund and forward to the Joint Entity, or to the bond registrar on behalf of the Joint Entity, sums sufficient to pay both principal and premium, if any, and interest on the Bonds as and when the same become due, and also to pay the charges made by the bond registrar for acting in such capacity in the payment of the principal of and the interest on the Bonds, and the charges shall be forwarded to the bond registrar over and above the amount of the principal of and the interest on the Bonds. If, through the lapse of time, or otherwise, the Owners of Bonds shall no longer be entitled to enforce payment of the City’s obligations, it shall be the duty of the bond registrar to return the funds to the City. All moneys deposited with the bond registrar shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

(c) Any moneys or investments remaining in the Sales Tax Fund after the retirement of the Bonds shall be transferred to the general fund of the City.

Section 8. (a) The City covenants and agrees that (i) it will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended (the “**Code**”), including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds, and (ii) it will not use or permit the use of any proceeds of Bonds or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds. In addition, the City will adopt such other resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The City covenants and agrees that (i) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Bonds, (ii) it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Bonds are issued, and (iii) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City in any manner, or take or omit to take any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(c) Subject to subparagraph (e) below, the City covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the Bonds from time to time. This

covenant shall survive payment in full or defeasance of the Bonds. The City specifically covenants to pay or cause to be paid to the United States, the required amounts of rebatable arbitrage at the times and in the amounts as determined by the Arbitrage Instructions, if any. Notwithstanding anything to the contrary contained herein, the Arbitrage Instructions may be amended or replaced if, in the opinion of counsel nationally recognized on the subject of municipal bonds, such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(d) The City covenants and agrees that (to the extent within its power or direction) it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Bond to be a “private activity bond”.

(e) The City expects that more than 75% of the proceeds of the Bonds will be expended for “construction” as that term is used in Section 148(f)(C)(iv) of the Code.

(f) The City hereby designates the Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. In addition, the City hereby represents that:

- (i) the aggregate face amount of all tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) which will be issued by the City (and all subordinate entities thereof) during current calendar year is not reasonably expected to exceed \$10,000,000; and
- (ii) the City (including all subordinate entities thereof) will not issue an aggregate principal amount of tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) during current calendar year, including the Bonds, in excess of \$10,000,000, without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the designation of the Bonds as “qualified tax-exempt obligations” will not be adversely affected.

Section 9. The delivery of the Preliminary Official Statement (the “**Preliminary Official Statement**”) is hereby confirmed, ratified, authorized and approved, and the distribution of the Preliminary Official Statement by the Purchaser is hereby authorized subject to the approval of the final form of such Preliminary Official Statement by an authorized officer of the Joint Entity in the Award Certificate.

Section 10. The Council (a) authorizes and directs the Mayor or the City Clerk/Treasurer to execute and deliver, on the date of the issuance of the Bonds, a Continuing Disclosure Undertaking (the “**Undertaking**”) in such form that satisfies the requirements of Rule 15c2-12 and is acceptable to the Purchaser and bond counsel and (b) covenants that it will comply with and carry out all of the provisions of the Undertaking. Notwithstanding any other provisions of this Resolution, failure of the City to comply with the Undertaking will not be considered a default under this Resolution or the Bonds; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this subparagraph and the Undertaking. For purposes of this subparagraph, “**Beneficial Owner**” means any person who (x) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (y) is treated as the owner of any Bonds for federal income tax purposes

Section 11. Without in any way limiting the power, authority, or discretion elsewhere herein granted or delegated, the Council hereby (a) authorizes and directs all of the officers, employees, and agents of the City to carry out, or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any one of them shall consider necessary, advisable, desirable, or appropriate in connection with this Resolution, and the issuance, sale, and delivery of the Bonds, including, without limitation and whenever applicable, the execution and delivery of all other related documents, instruments, certificates, and opinions; and (2) delegates, authorizes, and directs to the Mayor and the City Clerk/Treasurer the right, power, and authority to exercise her or his own independent judgment and absolute discretion in determining and finalizing the terms, provisions, form and contents of each of the foregoing. The execution and delivery by such officer of any such documents, instruments, certifications, and opinions, or the doing by them of any act in connection with any of the matters which are the subject of this Resolution, shall constitute conclusive evidence of both the City’s and their approval of all changes, modifications, amendments, revisions, and alterations made therein, and shall conclusively establish their absolute, unconditional, and irrevocable authority with respect thereto from the City and the authorization, approval, and ratification by the City of the documents, instruments, certifications, and opinions so executed and the action so taken.

Section 12. All actions heretofore taken by the officers and officials of the City in connection with the issuance and sale of the Bonds, including, without limitation, the deeming final of the Preliminary Official Statement as of its date, within the meaning of Rule 15c2-12, and the preparation and distribution of

documents relating to such issuance and sale, together with all other actions taken in connection with any of the foregoing, be and the same are hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 13. If any one or more of the provisions of this Resolution should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed severable from the remaining provisions of this Resolution and the invalidity thereof shall in no way affect the validity of the other provisions of this Resolution or of the Bonds and the owners of the Bonds shall retain all the rights and benefits accorded to them under this Resolution and under any applicable provisions of law.

If any provisions of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstances, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 14. As required by the Interlocal Act, the Joint Entity published notice of its intention to issue the Bonds in the *Nebraska City News-Press* on May 14, 2015.

Section 15. This Resolution shall take effect and be in force from and after its passage as provided by law.

[Signature Page To Follow]

DATED: May 18, 2015.

**CITY OF NEBRASKA CITY,
NEBRASKA**

ATTEST:

By: _____
Mayor

By: _____
Clerk

Leroy Frana presented the recommendation to approve Natural Gas Work Order #280 in the amount of \$82,147.50. Mr. Frana said Work Order #280 is to replace and relocate the routing of 3.25 miles of the rural distribution gas main that was installed in the early 1930's. Moved by Commissioner Stark and seconded by Crunk to approve Work Order #280 in the amount of \$82,147.50. Upon roll call, the following voted YES: Johns, Crunk, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

Leroy Frana presented the recommendation to approve Natural Gas Work Order #282 to purchase a Natco Indirect Tank Heater for \$36,191.00 plus shipping, sales tax, labor, equipment and material for installation in the amount of \$60,153.16. The current heater was installed in 1965. Moved by Commissioner Stark and seconded by Crunk to approve Work Order #282. Upon roll call, the following voted YES: Johns, Crunk, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

Leroy Frana presented the recommendation to approve Natural Gas Work Order #284 to install a 3" Natural Gas Main Extension, to provide for future load, in an approximate length of 19,000'. The James Family, the customer will require a 2" Main to feed a grain dryer, will contribute the full cost of \$60,340.00. Moved by Commissioner Stark and seconded by Johns to approve Work Order #284 in the amount of \$90,875.60. Upon roll call, the following voted YES: Crunk, Johns, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

Leroy Frana presented the recommendation to approve Electric Work Order #162 to install a 40 primary conductor in the duct from the Central Avenue Substation to Steamwagon Road in the amount of \$71,749.69. Moved by Commissioner Stark and seconded by Crunk to approve Work Order #162 in the amount of \$71,749.69. Upon roll call, the following voted YES: Johns, Crunk, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

Leroy Frana presented the recommendation to approve the purchase of an upgrade to the existing SCADA system, for which software support is no longer available. The current system was installed in 2002, replacing the prior system that was installed in the mid 1980's. Converting the existing SCADA System to the new Web Serve Package, startup training for personnel will be \$107,300.00. Nebraska City Utilities' labor and materials cost estimated to be \$45,200.00, for a total cost of \$152,500.00. This system will not be connected to the Internet. Moved by Commissioner Stark and seconded by Crunk to approve the purchase of the upgrade to the existing SCADA system in the amount of \$152,500.00. Upon roll call, the following voted YES: Johns, Crunk, Stark, and Mayor Bequette. Voting NO: None. Motion carried.

Review of the discussion between the Board of Public Works and Invenergy, a Wind Energy Developer. Two Wind Projects have been developed in Nebraska. Prairie Breeze 1 provides energy to OPPD and Prairie Breeze 2 to provide energy to the Lincoln Electric System. Nebraska City Utilities and several other communities have interest in the next project, Prairie Breeze 3. The Board of Public Works has signed a Letter of Intent to continue negotiations on the Prairie Breeze 3 Project. City of Grand Island, City of Neligh and City of Nebraska City would be cities for output. The U.S. Production Tax Credit has been extended to 2016 and with approval by the Nebraska Power Review Board to be held May 22nd. Breeze 3 would be on-line by 2016. The Board of Public Works will keep the Council informed of the progress of this application.

Commissioner Crunk left the meeting at 7:20 P.M.

Mayor stated do to the lack of sufficient number of Commissioners, the required three readings cannot be suspended on Items 21, 22, and 23. Mayor Bequette introduced Ordinance #2959-15 entitled: AN ORDINANCE AMENDING SECTION 2-28 OF THE CODE OF THE CITY OF

NEBRASKAA CITY, NEBRASKA; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND DECLARING AN EFFECTIVE DATE. City Attorney David Partsch explained this ordinance would allow a Council Meeting with large attendance be held at the Rowe Complex. Mayor Bequette announced Ordinance #2959-15 has had one reading.

Mayor Bequette introduced Ordinance #2960-15 entitled: AN ORDINANCE AMENDING SECTION 5-6 OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA; REPLEALING ALL OTHER ORDINANCE AND PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND DECLARING AN EFFECTIVE DATE. David Partsch explained this is a clean-up ordinance and does not change hours of sale, but references the different types of liquor license. Ordinance #2960-15 has had one reading.

Mayor Bequette introduced Ordinance #2691-15 entitled: AN ORDINANCE AMENDING SECTION 34-53 OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND ELCLARING AN EFFECTIVE DATE. David Partsch said purpose of the ordinance is also a clean –up. Nebraska City did not have a complete list of class types of liquor licenses. This ordinance will bring the list of liquor licenses, by class types, in line with that of the State of Nebraska. Ordinance #2961-15 has had one reading.

Meeting Adjourned at 7:28 P.M.

Jacqueline A. Smith, Interim City Clerk-Treasurer

AFFIDAVIT

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.

Jacqueline A. Smith, Interim City Clerk-Treasurer