

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
April 2, 2012

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 April 2, 2012. 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: Brett Gay, Jeff Crunk, Dean Handy, Mark Mercer and Mayor Hobbie. The following City Officials were present: City Administrator Joe Johnson, City Clerk-Treasurer Arnold M. Ehlers, City Attorney William Davis, Police Chief David Lacy, and Public Properties Director/Zoning Director Dan Giittinger.

Commissioner Mercer moved to approve the minutes of the March 19, 2012, City Council Regular Meeting, seconded by Commissioner Crunk. Upon roll call the following voted Yes: Crunk, Mercer and Mayor Hobbie. Voting NO: None. Abstain: Handy, Gay. 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 moved to appoint Dave Messing to a three year term on the Dock Board, seconded by Commissioner Handy. Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Handy and seconded by Mayor Hobbie to approve the plumbers license application of Carmody & Sons Service. Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the request by Mark Cotrupi to rezone a 15 acre tract of land south of Highway 2 from C-3 to AG. Mr. Cotrupi informed the Council that he would like to refinance the property but the bank will not loan on the property because homeowners insurance is not available for non-conforming uses. Commissioner Crunk asked if he was planning on subdividing the property. Mr. Cotrupi answered that could be a possibility in the future. No one else spoke in support or opposition to the request. Moved by Commissioner Handy and seconded by Commissioner Gay to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the grant application for CDBG Funds for a Housing Market Study with Strategies for Affordable Housing.” Joe Johnson explained that this study will continue where the last housing study stopped to determine best options to provide affordable housing for families in need. No one else spoke in support or opposition to the application. Moved by Commissioner Handy and seconded by Mayor Hobbie to close the Public Hearing. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the status of current CDBG Grants. Jen Olds of SENDD provided updates on TFHP-6033 Down Payment Assistance with minor repairs, TD-002 Tourism Development, and HO-6038 Owner Occupied Rehab. Commissioner Crunk questioned if Lied Lodge Foundation recipient of the Tourism Grant was a private entity. Ms. Olds answered yes, and that the City was the pass through since only villages, cities and counties may receive CDBG funds. No one else spoke in support or opposition to the reports. Moved by Mercer and seconded by Gay to close the Public Hearing. Upon roll call the following voted YES: Handy, Crunk, Gay, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the recommended revisions to the communications tower rules and regulations. Dan Giittinger informed the Council that the Planning Commission had spent time reviewing and revising the ordinance covering towers, and dishes and had added several pages to the original ordinance. Commissioner Crunk asked if satellite dishes were included in the ordinance. Dan answered yes they were. Crunk then asked if property owners

were required to get permission to install a dish. Dan answered no. No one else spoke in support or opposition to the ordinance. Moved by Commissioner Handy and seconded by Mercer to close the Public Hearing. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Joe Johnson provided his monthly activity report and the Legislative Update to the Council. Mayor Hobbie asked that the reports be placed on file.

Mayor Hobbie introduced Ordinance No. 2874-12 entitled AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF NEBRASKA CITY, AS REFERRED TO IN SECTION 403 OF ORDINANCE NO. 2576-03, BY CHANGING THE ZONING CLASSIFICATION OF THE PROPERTY DESCRIBED IN SECTION 1 HEREOF, FROM C-3 COMMERCIAL TO AG; TO PROVIDE INCORPORATION INTO THE OFFICIAL ZONING MAP OF THE CITY; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR 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, Gay, 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 Mercer. The Mayor then stated the question: "Shall Ordinance No. 2874-12 be passed and adopted?" Upon roll call the following voted YES: Crunk, Gay, 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. 2874-12

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF NEBRASKA CITY, AS REFERRED TO IN SECTION 403 OF ORDINANCE NO. 2576-03, BY CHANGING THE ZONING CLASSIFICATION OF THE PROPERTY DESCRIBED IN SECTION 1 HEREOF, FROM C-3 COMMERCIAL TO AG; TO PROVIDE INCORPORATION INTO THE OFFICIAL ZONING MAP OF THE CITY; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Whereas, application for a change of zoning classification has been made by Mark J. Cotrupi, and said application has been referred to the Planning Commission for a recommendation,

Whereas, the Planning Commission held a public hearing on said application and has recommended to the City Council approval of the requested change in zoning classification, and

Whereas, the City Council has held a public hearing on the matter, after giving due notice thereof as required by law,

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

SECTION 1. That the Official Zoning Map of the City of Nebraska City, Nebraska, as adopted by Ordinance No. 2576-03 of the City of Nebraska City, Nebraska, is hereby amended from C-3 Commercial to AG, insofar as the same relates to the property legally described as:

A tract of land in the South half of Section 18, Township 8, Range 14, Otoe County, Nebraska, further described as follows: Beginning 396 feet West and 750 feet South of the center of Section 18, thence continuing South 1,143.3 feet to the center of the County Road, thence following the center of the County Road North 43°49'00" East a distance of 74 feet; thence North 58°41'00" East a distance of 400 feet; thence North 38°41'00" East a distance of 1,148.1 feet; thence West 1, 140 feet to the point of beginning, less a tract conveyed to the State of Nebraska for road purposes.

SECTION 2. That the City Clerk be and is hereby authorized to amend the Official Zoning Map of the City of Nebraska City by designating the zoning classification therein as provided by this ordinance.

SECTION 3. All Ordinances or parts of Ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. That this Ordinance shall take effect and be in force from and after its passage, approval, and publication, as provided by law.

Passed and Approved this 2nd day of April, 2012.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Resolution 2561-12 authorizing the Chief Elected Official to sign all documents for the housing study grant application. Moved by Commissioner Handy and

seconded by Mercer to approve Resolution 2561-12. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted. A true and correct copy of said resolution is as follows:

**RESOLUTION 2561-12
AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN
AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

Whereas, the **City of Nebraska City, Nebraska**, is an eligible unit of a general government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant (CDBG) Program, and,

Whereas, the City of Nebraska City, Nebraska has obtained its citizens' comments on community development and housing needs; and has conducted a public hearing upon the proposed application and received favorable public comment respecting the application which is for an amount of \$16,500 in 2012 CDBG funds to develop a "Housing Market Study with Strategies for Affordable Housing" for the City; and,

NOW, THEREFORE, BE IT RESOLVED BY

the City Council of Nebraska City, Nebraska that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Nebraska City, Nebraska and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Signed: _____
Jack Hobbie, Mayor
Nebraska City, Nebraska

Date: _____

Mayor Hobbie introduced the Management Contract with SENDD to provide administrative services for CDBG Grant # 11-HO-6038. Moved by Commissioner Mercer and seconded by Commissioner Handy to approve the management contract with SENDD and authorize the Mayor to sign. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced the Lead Paint Hazard Testing Contract for CDBG Grant # 11-HO-6038. Moved by Commissioner Mercer and seconded by Commissioner Handy to approve the Lead Paint Hazard Testing Contract with SENDD and authorize the Mayor to sign. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Roger Massengale addressed the Council requesting the City to vacate a portion of 7th Terrace next to Lots 5-8; Block 59; Kearney Hill Addition. Moved by Commissioner Handy and seconded by Mayor Hobbie to approve the request by Mr. Massengale to vacate the half of 7th Terrace adjacent to Lots 5-8; Block 59; Kearney Hill Addition and sell said vacated street to Mr. Massengale for \$100.00 plus costs and direct the City Attorney to draft the proper ordinance. Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Crunk and seconded by Mercer to approve the request by the Nebraska City Jaycees to use the ball fields in Steinhart Park for their Annual Easter Egg Hunt on April 7th. Upon roll call the following voted YES: Gay, Handy, Mercer, Crunk and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Handy and seconded by Commissioner Gay to approve the request by Arbor Day Farm/Lied Lodge to allow parking on the south side of Sylvan Road on April 28th from 6 p.m. to 11:00 p.m. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Robyn Ferguson addressed the Council on the possibility of allowing fireworks on New Year's in Nebraska City. State Law permits City's to allow the sale and use of fireworks for three days at that time. Alan Viox, Fire Chief expressed concern about piles of dry leaves that time of the year and possible increased police calls due to fireworks use. Joe Johnson added that if the City were to allow the sale of fireworks for New Year's that the license fee should be higher to cover additional law enforcement. Duane Starner stated that Springfield allowed fireworks this past New Year without any problems. Ms. Ferguson will research Springfield's rules.

Alan Viox, Building Inspector addressed the Council on the recommendation that the owner of the structure located at 611 Central Avenue be notified to repair or demolish the structure due to public safety concerns. Moved by Mayor Hobbie and seconded by Commissioner Gay to repair the building at 611 Central Avenue, to have staff advertise for bids for the demolition and replacement of the back wall including footings, doors, windows making wall structurally sound and secure, also removal of the roof to the roof joists, repairing or replacing joists as necessary and replacing old roof with a new roof. Crunk stated that the City is bailing out irresponsible

property owners. Viox added that through City Code the City has a responsibility to make sure buildings are maintained for public safety. Gay said that the City has a responsibility to maintain its own structures, that Old City Hall was allowed to decay and was demolished instead of renovated. Gay asked: "Has the property owner contacted anyone at City Hall?" Viox answered that the only communication received at City Hall was from the property owner's attorney. Mercer stated that the 2009 IPMC which is later on the agenda needs to be passed before the Council acts on this item. Mayor Hobbie called the previous question. Upon roll call the following voted YES: Mercer, Handy, Gay and Mayor Hobbie. Voting NO: Crunk. Motion passed.

Mayor Hobbie then introduced Resolution 2560-12 adopting revisions to the Personnel Manual for Nebraska City Employees. Moved by Commissioner Handy and seconded by Mercer to approve Resolution 2560-12. Upon roll call the following voted YES: Gay, Mercer, Handy and Mayor Hobbie. Voting NO: Crunk. Motion passed and adopted. A true, correct copy of said resolution is as follows:

RESOLUTION NO. 2560-12

WHEREAS, on the 3rd day of April, 1989, the Mayor and Commissioners of the City of Nebraska City, Nebraska adopted a revised Personnel Manual for the employees of the City of Nebraska City, and

WHEREAS, on the 21st day of June 2010, the Mayor and Commissioners of the City of Nebraska City, passed Resolution No. 2476-10 to update the Personnel Manual, and

WHEREAS, changes in the law and changes in City policies have affected the regulations outlined in the Personnel Manual, it is determined that in order to keep up to date with such changes, the Personnel Manual is in need of revision.

NOW THEREFORE, Be It Resolved by the Mayor and Commissioners of the City of Nebraska City:

Section 1. That the Personnel Manual of the City of Nebraska City, Nebraska dated March 19, 2012 and attached as Exhibit A, setting forth in writing the provisions affecting the employment policies, benefits, disciplinary procedures, and drug policies for all full-time, part-time and temporary personnel of the City, be and the same is hereby adopted.

Section 2. That such Manual shall be published in pamphlet form with the original to be maintained in the office of the City Clerk-Treasurer, and copies to be made available to all employees of the City.

Passed and Approved this 2nd day of April 2012.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, Clerk Treasurer

Mayor Hobbie introduced Ordinance No. 2877-12 entitled AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL PROPERTY MAINTENANCE CODE*, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND DECLARING 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, Gay, 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 Mercer. The Mayor then stated the question: "Shall Ordinance No. 2877-12 be passed and adopted?" Upon roll call the following voted YES: Crunk, Gay, 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. 2877-12

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL PROPERTY MAINTENANCE CODE*, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND DECLARING AN EFFECTIVE DATE.

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

Section 1. That a certain document, a copy of which is on file in the office of the City Clerk-Treasurer of the City of Nebraska City, Nebraska, being marked and designated as the *International Property Maintenance Code*, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Nebraska City, in the State of Nebraska, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City of Nebraska City are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with additions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised or added to read as follows:

SECTION 101 - GENERAL.

101.1 Title. These regulations shall be known as the *International Property Maintenance Code* of Nebraska City, Nebraska, hereinafter referred to as "this code."

SECTION 102 - APPLICABILITY

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Residential Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, NFPA 70, NFPA 101 and Nebraska City Zoning Law.

SECTION 103 – DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 General. The Building Inspector is the executive official in charge thereof shall be known as the code official.

103.5 Fees. The fee schedule is set forth in Resolution #2452-10, of the City of Nebraska City, Nebraska.

Subsequent revisions of said resolution shall be considered as adopted by this Ordinance and shall be of full force and effect upon the approval thereof by the Mayor and City Commissioners, and the filing of one copy thereof in the Office of the City Clerk-Treasurer.

SECTION 106 – VIOLATIONS

106.4 Violation penalties. The owner(s) or agent of a building, structure or premises in or upon which a violation of any provisions of this ordinance has been committed or shall exist or lessee or tenant or an entire building or entire premises in or upon which such violation shall exist, or the agent, architect, engineer, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which a violation shall exist shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100.00) for any one offense recoverable with costs. Each and every day that such violation continues after notification of any violation shall constitute a separate offense. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the proper local authorities of the City of Nebraska City, Nebraska, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or prevent any illegal act, conduct of business or use in or about such premises.

SECTION 111 – MEANS OF APPEAL

Section 111 of the International Property Maintenance Code is hereby deleted. This section will be covered by the Code of Ordinances, City of Nebraska City, specifically, Chapter 19, Article II, Division 3. Board of Appeals.

SECTION 302 – EXTERIOR PROPERTY AREAS

Section 302.4 Weeds.

- a) Any and all lots or pieces of ground within the city of within two (2) miles of the corporate limits of the city, shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.
- b) The owner or occupant of any lot or piece of ground within the city shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of twelve (12) inches or more in height of weeds, grasses or worthless vegetation.
- c) It shall also be the duty of all owners or occupants of all lots and pieces of ground within the city to keep the branches of trees along the sidewalk in front of or along the sidewalk to their property trimmed so that said branches do not extend over said sidewalk nearer than eight (8) feet from the surface of the sidewalk.
- d) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city is prohibited.
- e) It is hereby declared to be nuisance to permit, allow, or maintain any growth of twelve (12) inches in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain on any lot or piece of ground except in proper receptacles.
- f) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this division, be guilty of a Class V misdemeanor.
- g) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five (5) days after receipt of such notice, or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied and assessed or (b) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.
- h) For purposes of this section:
 - a. Litter shall include, but not be limited to:
 - i. Trash, rubbish, refuse, garbage, paper, rags and ashes;
 - ii. Wood, plaster, concrete, brick, or stone building rubble;
 - iii. Grass, leaves, and worthless vegetation;
 - iv. Offal and dead animals; and
 - v. Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which has lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and
 - b. Weeds shall include, but not be limited to, bindweed, (*Convolvulus arvensis*) puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea Picris*), Johnson grass (*sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus*), hemp plant (*cannabis sativa*), and ragweed (*Ambrosiaceae*).
- i) It is hereby declared to be a nuisance to permit or maintain any growth of eight (8) inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground located within the corporate limits of the city during any calendar year, if, within the same calendar year, the city has, pursuant to subsection (g) of this section, acted to remove weeds, grasses, or worthless vegetation exceeding twelve (12) inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner.

Section 304.10 Outside storage. There shall be not outside storage or display of goods, material, equipment or services visible from any street or roadway in residentially-zoned districts. Storage areas shall be screened by a continuous fence or wall or by landscaping so as to provide a minimum 90% opaque screen at least 6 feet in height. The property owner shall ultimately be responsible for compliance with this Section. Failure to comply shall result in penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

- 1. No storage of any kind shall be permitted on a porch, open carport, or yard, except in an enclosed porch defined as a roofed open area which may be screened, attached to, or part of, a building with direct access to or from it. No refrigerators or similar household appliances, upholstered furniture, couches or

similar items, designed and intended for indoor use, may be stored or placed on the front porch, (as defined above) open carport, or in any yard visible from any street or roadway.

2. All firewood shall be stored in the side or rear yard of the primary structure.
3. All residential properties shall be brought into compliance with the terms of this Section within ninety (90) days of adoption of this Ordinance.

SECTION 304 – EXTERIOR STRUCTURE

Section 304.14 Insect screens. During the period from April 1 to October 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

SECTION 602 – HEATING FACILITIES

Section 602.3 Heat supply. Every owner or operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupant thereof shall supply heat during the period from September 1 to April 1 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is about 30°F (-1°C) a minimum temperature for 65°F (18°C) shall be maintained.

Section 602.4 Occupiable work space. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to April 1 to maintain a temperature of not less than 65°F (18°C) during the period the space are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

SECTION 702 – MEANS OF EGRESS

Section 702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the NFPA 101 Life Safety Code.

Section 702.2 Aisles. The required width of aisles in accordance with the NFPA 101 Life Safety Code shall be unobstructed.

Section 702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the NFPA 101 Life Safety Code.

SECTION 704 – FIRE PROTECTION SYSTEMS

Section 704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the NFPA 101 Life Safety Code.

Section 704.2 Smoke alarms. Single- or multiple-station smoke alarms shall be installed and maintained in accordance with the NFPA 101 Life Safety Code.

Section 704.3 Power source. Residential dwellings smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

Section 704.4 Interconnection. Where more than one smoke alarm is required to be installed within a structure that has residential dwelling(s), and/or commercial unit(s), the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all the alarms in all dwellings and units. The alarm shall be clearly audible in all bedrooms over background noise with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where

alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection with the removal of interior finishes.

Section 3. That Ordinance No. 2602-03 of the Code of the City of Nebraska City, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Plumbing Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights, acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk-Treasurer is hereby ordered and directed to cause this ordinance to be published in pamphlet form, as provided by law.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage, approval and publication, as provided by law.

Passed and Approved this 2nd day of April, 2012.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2875-12 entitled AN ORDINANCE TO AMEND SECTION 522, TOWERS, OF THE CODE OF THE CITY OF NEBRASKA CITY, TO PROVIDE FOR REGULATION OF THE CONSTRUCTION OF TOWERS, TELECOMMUNICATION FACILITIES AND ANTENNAS IN THE CITY TO CONFORM WITH THE TELECOMMUNICATIONS ACT OF 1996, AS AMENDED; TO PROVIDE FOR DEFINITIONS, LOCATIONS OF TOWERS, ABANDONMENT, AND REGULATION OF SATELLITE DISH ANTENNAS; TO REPEAL THE EXISTING SECTION 522 OF THE CODE OF NEBRASKA CITY, AND OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR 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, Gay, 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 Mercer. The Mayor then stated the question: "Shall Ordinance No. 2875-12 be passed and adopted?" Upon roll call the following voted YES: Gay, Mercer, Handy and Mayor Hobbie. Voting NO: Crunk. 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. 2875-12

AN ORDINANCE TO AMEND SECTION 522, TOWERS, OF THE CODE OF THE CITY OF NEBRASKA CITY, TO PROVIDE FOR REGULATION OF THE CONSTRUCTION OF TOWERS, TELECOMMUNICATION FACILITIES AND ANTENNAS IN THE CITY TO CONFORM WITH THE TELECOMMUNICATIONS ACT OF 1996, AS AMENDED; TO PROVIDE FOR DEFINITIONS, LOCATIONS OF TOWERS, ABANDONMENT, AND REGULATION OF SATELLITE DISH ANTENNAS; TO REPEAL THE EXISTING SECTION 522 OF THE CODE OF NEBRASKA CITY, AND OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, a number of Amendments have been made to the Federal Telecommunications Act of 1996, effecting cell towers in the City of Nebraska City, and

WHEREAS, in order to be in conformance with said Act, it is necessary to update the Ordinances of the City regarding such towers, and

WHEREAS, the Planning Commission of the City of Nebraska City, has held a public hearing on this proposed Ordinance and has recommended its adoption to the City Council, and

WHEREAS, the City Council held a public hearing on the matter, after giving the public due notice as required by law.

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

SECTION 1. That Section 522 of the Code of the City of Nebraska is hereby amended to read as follows:

“SECTION 522- Radio, Television, and Wireless Communication Towers.

522.01 Intent:

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) granted the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City to be in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication services.

522.02 Definitions:

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communication Act of 1934, the Telecommunication Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

- 522.02.01 ANTENNA shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite services (including direct-to-home satellite services), and/or video programming services via multi-point distribution services.
- 522.02.02 ANTENNA SUPPORT STURCTURE shall mean any building or structure other than a tower which can be used for location of telecommunication facilities.
- 522.02.03 APPLICANT shall mean any person that applies for a Conditional Use Permit.
- 522.02.04 APPLICATION shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, both formal and informal, made by an applicant to the City concerning such request.
- 522.02.05 CONFORMING COMMERCIAL EARTH STATION shall mean a satellite dish which is two (2) meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
- 522.02.06 ENGINEER shall mean any engineer qualified and licensed by any state or territory of the United States of America.
- 522.02.07 OWNER shall mean any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
- 522.02.08 PERSON shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for-profit or not-for-profit.
- 522.02.09 SATELLITE DISH ANTENNA shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

- 522.02.10 SIGNIFICANT GAP shall mean a user cannot connect with the national telephone network or cannot maintain a connection supporting reasonably uninterrupted communication
- 522.02.11 STEALTH shall mean any telecommunication facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look like something other than a tower, such as a light poles, power poles and trees.
- 522.02.12 TELECOMMUNICATIONS FACILITIES shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
- a). Any Conforming Commercial Earth Station
 - b). Any earth station antenna or satellite dish antenna three feet or less in diameter.
- 522.02.13 TOWER shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
- 522.02.14 TOWER DEVELOPMENT PERMIT shall mean a permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits' duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
- 522.02.15 TOWER OWNER shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

522.03 Location of Towers and Construction Standards:

1. Towers shall be permitted as a conditional use of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Tower Development Permit by the Planning Commission and issuance of the permit by the City. Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay the required filing fee.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this Ordinance shall conform to the Building Codes and all other construction standards set forth by City, County, federal, and state laws and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Office.

522.04 Application to develop a Tower:

Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall include the following:

1. Name, address, telephone number and FCC license number of the owner and, if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or co-locate the applicants telecommunications facilities on a tower or usable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or co-located on another tower or usable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers' literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. A performance bond in the amount of \$50,000 dollars to cover the expenses of removal and disposal of the tower.

522.05 Tower Development Permit: Procedure

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the application for a Tower Development Permit. Notice for each Public Hearing shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. The Planning Commission may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

522.06 Setbacks and Separation or Buffer Requirements

1. All towers up to 100 feet in height shall be setback on all sides a distance equal to the height of the tower from any structure. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height may not be located in any residentially-zoned district and, also, must be separated from all residentially-zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of one-quarter mile (1320 feet).
3. Towers must meet the following minimum separation requirements from other towers:

- A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 1 mile, except for those monopoles tower structures that provide coverage for significant gaps in services as determined by substantial evidence of colored coverage maps and field measurements with test antenna at different heights.
- B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1 mile, except for those monopoles tower structures that provide coverage for significant gaps in services as determined by substantial evidence of colored coverage maps and field measurements with test antenna at different heights.

522.07 Structural Standards for Towers Adopted

Towers shall be designed, constructed and maintained in accordance with the Building Codes of the City of Nebraska City, Nebraska, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

522.08 Illumination and Security Fences

- 1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a distance of 300% of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
- 2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will prevent, to the extent practical, unauthorized climbing of said structure.

522.09 Exterior Finish

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission as part of the application approval process. All towers which must be approved as a conditional use shall be stealth design unless an affidavit attesting to the fact that the stealth features are impractical or the cost of such features represents an undue burden on the applicant.

522.10 Landscaping

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

522.11 Maintenance, Repair or Modification of Existing Towers

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Non-conforming structures or uses may not be enlarged or the degree of non-conformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the Planning Commission, an exemption from compliance as a condition of the Tower Development Permit.

522.12 Inspections

The City of Nebraska City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be

made to determine compliance with any construction standards set forth by the city, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the City's Zoning Office, Zoning Administrator, or a duly-appointed independent representative of the City.

522.13 Maintenance

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to, or a danger to, the life or property of any person or the public.

522.14 Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Nebraska City codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

522.15 Satellite Dish Antennas, Regulation

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Nebraska City only upon compliance with the following criteria:

1. In residentially-zoned districts, satellite dish antennas may not exceed a diameter of two feet.
2. Single family residences may not have more than two satellite dish antennas.
3. Multiple family residences with ten or fewer dwelling units may have no more than two satellite dish antennas over three feet in diameter. Multiple family residences with more than ten dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential-zoning districts, satellite dish antennas shall not be installed in the required front yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Nebraska City, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.
6. Commercially-zoned districts, satellite dish antennas shall not be installed in the required front yard setback area. The intent of this provision is to prohibit satellite dish antennas from being visually unattractive to consumers.

SECTION 2. That the original Ordinance Section 522 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 2nd day of April, 2012.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2876-12 entitled AN ORDINANCE TO VACATE THE ALLEY IN BLOCK THIRTY-FIVE (35), GREGGSPORT ADDITION TO NEBRASKA CITY, OTOE COUNTY, NEBRASKA, WITH RESERVATIONS; 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, Gay, 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 Mercer. The Mayor then stated the question: "Shall Ordinance No. 2876-12 be passed and adopted?" Upon roll call the following voted YES: Crunk, Gay, 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. 2876-12

AN ORDINANCE TO VACATE THE ALLEY IN BLOCK THIRTY-FIVE (35), GREGGSPORT ADDITION TO NEBRASKA CITY, OTOE COUNTY, NEBRASKA, WITH RESERVATIONS; AND TO DECLARE AN EFFECTIVE DATE.

WHEREAS, the owners of the property abutting the alley in Block Thirty-five (35), Greggspport Addition to Nebraska City, Nebraska, have requested the vacation of said alley, and

WHEREAS, the Mayor and City Commissioners of the City of Nebraska City, Nebraska, find and determine that the vacation of said alley will be in the best interests of Nebraska City, and that the request should be approved.

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

SECTION 1. That subject to the reservations set forth in Section 2, the City of Nebraska City does hereby vacate the alley in Block Thirty-five (35), Greggspport Addition to the City of Nebraska City, Nebraska.

SECTION 2. That the City of Nebraska City reserves an easement to itself and to all persons hereafter granted franchises, licenses, contracts, or permits, to furnish electric energy, water, gas, sewer service, cable television service and any other public utility services to said City or its inhabitants, to enter said easement area to lay, install, erect, maintain and remove therein the lines, poles, wires, pipes, manholes, or other construction necessary and incident to said purposes.

SECTION 3. 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 2nd day of April, 2012.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Joe Johnson informed the Council of the opportunity to get two additional Emergency Warning Sirens for the same price as the last two. The new sirens are radio controlled with battery back-up and larger range. They would replace two sirens over 40 years old. Moved by Commissioner Handy and seconded by Commissioner Gay to acquire the two additional sirens for the total amount of \$8,773.00. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

ACCO	577.59	Rep	Matheson	152.30	Med
Action Tech Svc	400.00	Contr	Mead Lumber	89.74	Supp
Adkins Signs	3,176.20	Supp	Mellage Truck	49.38	Rep
Flex One	72.00	Ins	Midwest Coop	40.00	Chem
Arbor Mart, Inc	3,176.07	Fuel	Midwest Svc	2,533.70	Supp
AVAC	556.81	Contr	Midwest Turf	143.37	Rep
Bill Walters & Son	1,201.01	Rep	Miracle Mudjacking	7,950.00	Maint
Bohl's Plumbing	52.80	Rep	Mullenax Auto	340.66	Rep
Bound Tree Med	1,635.07	Med	Nationwide	9,427.87	Inv
BSN Sports	597.76	Supp	NC Clerk	55.75	Misc
Callaway Golf	2,112.89	Supp	NC Museum	2,406.25	Contr
Casey, J	51.06	Mileage	NCPS	100.00	Advert
Century Lumber	45.10	Supp	NCTC	5,416.67	Contr
Cintas Corp	60.57	Contr	NE Public Health	84.00	Supp
Citizen Printing	717.00	Supp	O'Reilly Auto Parts	27.34	Supp
Creative Product	112.05	Supp	Omaha Door	1,086.00	Rep

Crown Awards	32.05	Supp	Orscheln	172.14	Supp
Douglas Tire Co.	244.00	Rep	Otoe County Clerk	2,984.00	Contr
Eggers Brothers	584.39	Supp	Otoe County Title	11,600.00	CDBG
EMC Natl Life Co	708.35	Ins	Payroll	149,086.99	Payroll
Fire Prot Service	14.00	Supp	Pepsi-Cola	469.55	Conc
Fireguard	186.35	Rep	R & R Products Co.	42.32	Chem
Food Pride	11.89	Supp	Schmitz Surveying	843.50	ROW
Galeton Gloves	163.39	Supp	SEI	232.00	Rep
Gatehouse Media	242.75	Advert	St. Mary's Hospital	84.07	Med
W. W. Grainger	242.40	Supp	Stutheit Implement	258.00	Rep
Hopkins Auto	1.29	Rep	Thurman's Bike	12.00	Unif
Hornung's Golf	171.75	Supp	Titan Machinery	131.43	Rep
Horstmann, L	40.00	Fuel	Titleist	461.60	Supp
Jebro Inc.	1,048.60	Maint	Tree City Tees	198.50	Unif
Juilfs, K	25.00	Refund	Tri-State Office	167.21	Supp
Konica Minolta	245.00	Supp	Verizon Wireless	717.11	Tele
Landis Engine	1,115.43	Rep	Watkins	343.03	Supp
LaRue Coffee	276.45	Supp	Winn Inc.	260.17	Supp
Loveland Grass	978.80	Seed	Wurtele Distrib	124.50	Conc
Martin Marietta	1,634.43	Supp	Wurtele, G	140.85	Unif

Meeting adjourned at 7:22 p.m.

Arnold M. Ehlers, 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.

Arnold M. Ehlers, City Clerk-Treasurer