

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
May 6, 2013

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 May 6, 2013. 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: Jim Stark, Jeff Crunk, Dean Handy, and Mayor Hobbie. Absent: Mark Mercer. 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 Handy moved to approve the minutes of the April 15, 2013, City Council Regular Meeting, seconded by Commissioner Stark. Upon roll call the following voted YES: Crunk, Stark, Handy, and Mayor Hobbie. Voting NO: None. Motion adopted.

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

Mayor Hobbie proclaimed the week of May 5 – 11, 2013 as “Drinking Water Week.”

Mayor Hobbie proclaimed May 29, 2013 as “National Senior Health and Fitness Day.”

Mayor Hobbie opened the Public Hearing on the revised Radio, Television and Wireless Communications Towers rules and regulations. Joe Johnson explained the need for updating the language in the City Code. No one else spoke in support or opposition to the revisions. Moved by Commissioner Handy and seconded by Commissioner Stark to close the Public Hearing. Upon roll call the following voted YES: Crunk, Stark, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the Class ‘ID’ liquor license application by Nicholas Ganow. Nicholas Ganow was present and answered questions from the City Attorney and Council. No one else spoke in support or opposition to the application. Moved by Commissioner Handy and seconded by Commissioner Stark to close the Public Hearing. Upon roll call the following voted YES: Crunk, Stark, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced Ordinance No. 2906-13 entitled AN ORDINANCE TO AMEND SECTION 522, TOWERS, OF THE CODE OF THE CITY OF NEBRASKA CITY, TO DELETE PROVISIONS OF A TOWER DEVELOPMENT PERMIT AND REPLACE WITH PROVISIONS OF A CONDITIONAL USE PERMIT; 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 Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Stark, Crunk, Handy and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: “Shall Ordinance No. 2906-13 be passed and adopted?” Upon roll call the following voted YES: Stark, Crunk, 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. 2906-13

AN ORDINANCE TO AMEND SECTION 522, TOWERS, OF THE CODE OF THE CITY OF NEBRASKA CITY, TO DELETE PROVISIONS OF A TOWER DEVELOPMENT PERMIT AND REPLACE WITH PROVISIONS OF A CONDITIONAL USE PERMIT; 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, 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 COMMUNICATIONS 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 STRUCTURE 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 CONDITIONAL USE PERMIT shall mean provisions of Article 7 of this ordinance.

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 Conditional Use 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 Conditional Use Permit by the Planning Commission and issuance of the permit by the City. Applicants shall submit their application for a Conditional Use 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 Conditional Use 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 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.

522.06 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.

522.07 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.

522.08 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.

522.09 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.

522.10 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 Conditional Use 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 Conditional Use 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 Conditional Use Permit.

522.11 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.

522.12 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.

522.13 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.

522.14 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 6th day of May, 2013.

Jack Hobbie, Mayor

Moved by Commissioner Handy and seconded by Commissioner Stark to approve the Class 'ID' Liquor License application from Nicholas Ganow for Pioneer's Bar & Grill located in the Old Depot. Upon roll call the following voted YES: Crunk, Stark, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Dedric Gill presented a request from NCTC and Second Nature Public Recycling to place 15 trash/recycling bins in the downtown business district and allow advertising to be placed on the receptacles. Moved by Commissioner Stark and seconded by Commissioner Handy to allow placement of 15 recycling/trash receptacles in the downtown business district and also allow advertising on the receptacles after Council approval of all advertising. Upon roll call the following voted YES: Crunk, Handy, Stark and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Crunk and seconded by Commissioner Stark to approve the request by Nebraska City Jaycees to hold their annual fireworks display in Steinhart Park on June 29, 2013 with a rain date of June 30, 2013. Upon roll call the following voted YES: Handy, Stark, Crunk and mayor Hobbie. Voting NO: None. Motion passed.

Moved by Crunk and seconded by Commissioner Stark to approve the request by Nebraska City Jaycees to hold their annual Road Block at 10th & Central fundraising on June 8, 2013 with a rain date of June 15, 2013. Upon roll call the following voted YES: Handy, Stark, Crunk and Mayor Hobbie. Voting NO: None. Motion passed.

Council received a written request from Tammy Bando to keep fees for non-season pass holders of Steinhart Pool the same as last year. Moved by Crunk and seconded by Commissioner Stark to allow Nebraska City Swim Team members not holding a season pass to pay \$15.00 for use of the pool for swim team practice. Upon roll call the following voted YES: Handy, Stark, Crunk and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Stark and seconded by Crunk to approve the Special Designated Liquor License request by the Fraternal Order of Eagles for an UFC Event at Larson Motors on June 1,

2013 and use City bleachers with approval of Recreation Director. Upon roll call the following voted YES: Handy, Crunk, Stark and Mayor Hobbie. Voting NO: None. Motion passed.

A recommendation from the Dock Board was read. The Dock Board recommended that the City deed three feet (3') of Lots 5 & 6; Block 1; Nebraska City Proper to A. B. Larson due to a former party wall used when an individual erected a building adjacent to a building that the City eventually ended up owning. The City's building became dilapidated and was demolished. An agreement with Larson at that time stipulated that the City would demolish the City owned portion and weatherize the exposed wall and the wall would become part of the Larson property. This action will correct the legal so that the north wall of Larson's building will no longer be on City property. Moved by Mayor Hobbie and seconded by Crunk to deed three feet (3') of Lots 5 & 6; Block 1; Nebraska City Proper to A. B. Larson upon written confirmation that he will accept the property. Upon roll call the following voted YES: Handy, Stark, Crunk, and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Stark and seconded by Commissioner Handy to approve the request by Windstream Nebraska, Inc to place buried facilities on City Right-of-Way as described on Windstream Work Order #715032048. Upon roll call the following voted YES: Crunk, Handy, Stark and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced Ordinance No. 2909-13 entitled AN ORDINANCE TO AMEND CHAPTER 15, ARTICLE I, FIRE PREVENTION AND PROTECTION OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, BY ADDING SECTIONS 15-6 THROUGH 15-12; REPEAL OF ANY 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 Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Stark, Crunk, Handy and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2909-13 be passed and adopted?" Upon roll call the following voted YES: Stark, Crunk, 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. 2909-13

AN ORDINANCE TO AMEND CHAPTER 15, ARTICLE I, FIRE PREVENTION AND PROTECTION OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, BY ADDING SECTIONS 15-6 THROUGH 15-12; REPEAL OF ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Section 1. That Chapter 15 Fire Prevention and Protection, Article I, be amended by adding Sections 15-6 through 15-12, which shall read as follows:

"Chapter 15, Fire Prevention and Protection.

Section 15-6 Fire Pits

15-6.1 Definitions:

FIRE PIT shall mean open burning for recreational or cooking purposes if performed in an approved container constructed of steel, brick, or masonry.

WOODBURNING FIRE PIT includes belowground pits, freestanding fireplaces, and portable devices intended to contain and control outdoor fires.

BELOWGROUND FIRE PITS shall be at least four inches (4") in depth and surrounded on the outside, aboveground, by a non-combustible material such as steel, brick, or masonry.

Section 15-7 Prohibited Burning

Only natural firewood/commercial logs may be burned. Burning that is offensive or objectionable because of smoke or odor emissions, or when atmospheric conditions or local circumstances make such fires hazardous, shall be prohibited.

Section 15-8 Hours of Operation

A person shall not maintain any outdoor burning from 2 AM to 7 AM, unless permitted and approved by the fire code official.

Section 15-9 Location

All fire pits must be located twenty feet (20') away from combustible materials such as a house, deck, accessory building or neighbor's house.

Section 15-10 Size

The maximum size of the fire pit shall be three feet (3') in diameter and two feet (2') high.

Section 15-11 Tended

The fire must be constantly attended and supervised until the fire has been completely extinguished. (A spark screen, while not required, is recommended)

Section 15-12 Extinguishment Authority

The fire code official is authorized to order the extinguishment by the responsible person or the fire department, of any burning that creates or adds to a hazardous or objectionable situation."

Section 2. That all Ordinances, or parts of Ordinances in conflict with this Ordinance are here repealed.

Section 3. That this Ordinance shall be effective from and after the adoption, approval and publication, as required by law.

PASSED and APPROVED this 6th day of May, 2013.

Council reviewed the low bid for the Street Department Storage Building. Moved by Commissioner Handy and seconded by Commissioner Stark to award a contract for the construction of a storage building at the street department property to Amerine Builders, Inc in the amount of \$47,875.00 for a 36 X 60 X 14 building with concrete floor and 3 – 12 X 12 overhead doors. Upon roll call the following voted YES: Crunk, Stark, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced Resolution 2599-13 approving Supplement No. 1 to the Federal Aid Transportation Fund Purchase-Sale Agreement. Moved by Commissioner Handy and seconded by Commissioner Stark to approve Supplement No. 1 to the Federal Aid Transportation Fund Purchase-Sale Agreement. Upon roll call the following voted YES: Crunk, Stark, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted. A true, correct and complete copy of said resolution is as follows:

RESOLUTION 2599-13
SIGNING OF THE FEDERAL FUNDS PURCHASE PROGRAM
SUPPLEMENTAL AGREEMENT NO. 1
City of Nebraska City

WHEREAS, in 2011, LPA and State entered into a Federal-Aid Transportation Fund Purchase-Sale Agreement (hereinafter referred to as "the Original Agreement") that provided for the State to purchase at a discount LPA's share of certain Surface Transportation Program Funding (hereinafter referred to as "STP") and the Highway Bridge Program (hereinafter referred to as "HBP") federal-aid funds that had been available to Nebraska LPA's; and

WHEREAS, later in 2012, the federal government passed interim transportation funding legislation which eliminated the HBP category of funds and did not provide a replacement category of funds related solely to bridge replacement, rehabilitation and maintenance, and,

WHEREAS, the parties to this Supplemental Agreement intend to replace HBP funds, which will no longer be available, with other federal-aid funds in a substantially similar proportional amount to provide LPA's with funds for bridge replacement, rehabilitation and maintenance, and,

WHEREAS, it has also become necessary for the parties to further address certain National Bridge Inspection Standards compliance issues, and,

WHEREAS, the City of Nebraska City and the Nebraska Department of Roads (NDOR) wish to enter into Supplemental Agreement No. 1 setting out the necessary modifications to the Original Agreement.

Be it resolved: by the governing body of the City of Nebraska City that:

Jack Hobbie is hereby authorized to sign the attached Federal Funds Purchase Program Supplemental Agreement No. 1 between the City of Nebraska City and the NDOR.

Adopted this sixth day of May, 2013 at Nebraska City, Nebraska.

The governing body of the City of Nebraska City.

Jim Stark	Jeff Crunk
Dean Handy	Mark Mercer
Mayor Jack Hobbie	

Mayor Hobbie introduced Ordinance No. 2908-13 entitled AN ORDINANCE TO AMEND SECTION 33-130, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO SPECIFY SUPERINTENDENT AS THE OPERATIONS SUPERINTENDENT; TO REPEAL THE ORIGINAL SECTION 33-130 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ; AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Stark, Crunk, Handy and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2908-13 be passed and adopted?" Upon roll call the following voted YES: Stark, Crunk, 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. 2908-13

AN ORDINANCE TO AMEND SECTION 33-130, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO SPECIFY SUPERINTENDENT AS THE OPERATIONS SUPERINTENDENT; TO REPEAL THE ORIGINAL SECTION 33-130 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ; AND TO DECLARE AN EFFECTIVE DATE.

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

Section 1. That Section 33-130 of the Code of Nebraska City, Nebraska, be amended to read as follows:

"Sec. 33-130. Permit required.

Poles, wires, gas lines, pipe lines and other appurtenances may be erected or located within this city only after written application has been made to the operations superintendent and permission in writing has been given by the city clerk upon direction of the operations superintendent to do so."

Section 2. That the original section 33-130 of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 3. That this Ordinance shall be effective from and after its adoption, approval, and publication, as provided by law.

PASSED and APPROVED, this 6th day of May, 2013.

Commissioner Handy left the meeting at 7:12 p.m.

Arnold Ehlers explained the renewal of the Employee Assistance Plan to the Council Moved by Commissioner Stark and seconded by Crunk to approve the three agreement with Continuum to provide EAP for City employees for three years beginning April 1, 2013. Upon roll call the following voted YES: Crunk, Stark and Mayor Hobbie. Voting NO: None. Motion passed.

Council discussed dates to interview finalists for the City Attorney's position. Joe Johnson will contact the finalists to arrange interviews for 1:00 p.m. Thursday May 16, 2013.

Joe Johnson asked for guidance on preparing the budget for the new fiscal year. He explained that his view is that the budget is the City Council's budget and wants them to be more involved from the beginning. It was decided that each Commissioner will be present during the preliminary planning session for those departments under his or her responsibility. Mr. Johnson will set up the process in that format.

A&M	Rep	627.27	Mead Lbr	Supp	181.82
ACCO	Chem	4773.39	Merrill, B	Rfnd	150.00
Action Tech	Contr	400.00	Microfilm Imaging	Contr	80.00
Adkins Signs	Sup	250.00	Midwest Machine	Supp	21.00
Alamar	Unif	416.78	Midwest Service	Supp	886.00
Allied Recycling	Contr	359.24	Mullenax	Supp	393.62
Arbor Mart	Fuel	4178.47	Nationwide	Inv	28927.65
AVAC	Contr	720.84	Petty Cash	Misc	67.37
Beelner Serv	Rep	967.10	NC Museum Assoc	Contr	2406.25
Bell's Studio	Misc	73.00	NC Rotary Club	Dues	375.00
Bennett, R	Contr	4706.94	NCTC	Contr	5416.67
Best Western	Tng	76.45	NE Expressways	Dues	1137.09
BK Restoration	Rfnd	100.00	NE State Historical	Dues	50.00
Bob's Welding	Rep	735.00	O'Reilly	Supp	179.62
Bohl Plumbing	Rep	861.22	Omaha Tractor	Supp	333.25
Bound Tree	Sup	3058.96	Orscheln	Supp	266.01
Bradbury, M	Rfnd	150.00	Otoe County Clerk	Contr	682.50

Bridgestone Golf	Supp	311.24	Parts People	Sftwre	179.95
Callaway	Msde	535.98	Payroll	Payroll	247891.29
Casey's	Fuel	86.71	Pepsi-Cola	Conc	234.10
Cintas	Supp	124.84	Physio-Control	Supp	284.10
Citizen Printing	Supp	451.00	Pitney Bowes	Postage	189.00
Consolidated Mgmt	Tng	55.00	Presto-X	Pst Cnt	75.81
Crocs	Mdse	438.23	R & R Products	Supp	88.27
Double Eagle	Conc	36.10	Ray, M	Rfnd	25.00
Douglas Tire	Rep	708.00	Reige, M	Misc	250.00
Duffy, T	Rfnd	25.00	St. Elizabeth RMC	Dues	250.00
Dutch Oven Cookin	Rfnd	60.00	Schneider Elec	Rep	111.29
Edmisten, G	Mileage	121.02	Scroggins, R	Rfnd	25.00
Eggers Brothers	Supp	335.27	Shell	Fuel	2671.24
EMS Billing Serv	Contr	3124.73	Snodgrass, A	Mileage	344.13
Fareway Stores	Conc	137.31	Stutheit	Rep	457.24
Fastenal	Supp	459.99	Sunset Law Enforce	Supp	1113.03
Fire Protection	Rep	20.00	Targets Online	Supp	55.00
First Class Flowers	Supp	40.00	Thurman's	Supp	8.00
Food Pride	Supp	38.87	Tielke's Sandwiches	Conc	78.33
Gatehouse Media	Adv	39.56	Tree City Tees	Unif	408.85
Giittinger, D	Mileage	196.06	Tri-State Office	Supp	596.18
Inland Truck	Supp	495.78	Turf Supply Co	Chem	16412.00
Jensen, N	Misc	300.00	Two Sisters	Contr	125.00
JEO	Contr	9747.50	Van Wall Turf	Rep	566.15
Konica Minolta	Contr	160.16	Verizon	Tele	471.55
Konica Minolta Pr	Contr	245.00	Voice News	Adv	527.50
Kreikemier, A	Mileage	204.28	Wage Works	Contr	72.00
Landis	Supp	62.66	Watkins	Supp	327.84
Larson Motors	Equip	22220.59	Winn Inc	Supp	159.80
LaRue Coffee	Supp	436.02	Witmer Public Safe	Supp	162.96
Loveland Grass Pad	Supp	164.45	Yamaha Golf	Equip	4950.00
Matheson Tri-Gas	Supp	260.92	Zimco	Chem	2254.50
Mcintire Brass	Supp	222.00			

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