

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
August 20, 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 August 20, 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 Güttinger.

Commissioner Handy moved to approve the minutes of the August 6, 2012, City Council Regular Meeting, seconded by Mercer. Upon roll call the following voted AYE: Crunk, Gay, Mercer, Handy, and Mayor Hobbie. Voting NO: None. Motion adopted.

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

Moved by Commissioner Handy and seconded by Commissioner Gay to pay Claim No. 7250T. Upon roll call the following voted YES: Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Abstain: Mercer. Motion passed.

Joe Johnson provided the monthly activity reports from City department. The Treasurer showed a beginning balance on July 1, 2012 of \$1,326,354.66 with revenues of \$711,761.37; expenditures of \$748,791.17; leaving a balance on hand as of July 31, 2012 of \$1,289,324.86. Mayor Hobbie asked that the reports be placed on file.

Commissioner Mercer brought up the idea of Commissioners having input on the evaluations of City 'Executive' staff. He stated that all Commissioners had equal power to the Mayor and thought that they should have part in the evaluation process. City Attorney Bill Davis showed Mercer in the Code of the City of Nebraska City that the Mayor did in fact have veto power over the Council. After several more comments the issue will be placed on the September 17th agenda with exhibits.

Mayor Hobbie entertained a motion to authorize the Mayor to sign a request for a six-month extension to use all the funds from the Affordable Housing Grant. Moved by Mercer and seconded by Commissioner Handy to authorize the Mayor to sign a letter requesting a six-month extension to use the remaining funds to fund applications already in the approval process. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Handy and seconded by Commissioner Gay to approve the request by Beta Sigma Phi to hold their Annual Applejack Fun Run on September 15, 2012. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Handy and seconded by Mercer to approve the request by the Shriner's to use the 100 block of south 7th for staging and parking for the Applejack Parade. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Leroy Frana, General Manager of Nebraska City Utilities presented the recommendation from the Board of Public Works to purchase equipment that would allow fueling two vehicles at one time with natural gas. This equipment would be for use by City vehicles only not retail. Moved by Commissioner Gay and seconded by Commissioner Handy to approve the purchase of equipment for natural gas fueling station in the amount of \$28,936.50. Upon roll call the following voted YES: Mercer, Handy, Gay and Mayor Hobbie. Voting NO: Crunk. Motion passed.

Mayor Hobbie introduced Ordinance No. 2888-12 entitled AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN INTERLOCAL COOPERATION ACT AGREEMENT CREATING THE NEBRASKA CITY FIBER OPTIC AGENCY WITH OTOE COUNTY SCHOOL DISTRICT 0111; APPROVING THE FORM OF INTERLOCAL COOPERATION ACT AGREEMENT; APPROVING EXECUTION OF DOCUMENTS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM; 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: Mercer, Gay, 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. 2888-12 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, 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. 2888-12

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN INTERLOCAL COOPERATION ACT AGREEMENT CREATING THE NEBRASKA CITY FIBER OPTIC AGENCY WITH OTOE COUNTY SCHOOL DISTRICT 0111; APPROVING THE FORM OF INTERLOCAL COOPERATION ACT AGREEMENT; APPROVING EXECUTION OF DOCUMENTS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM

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

Section 1. The Mayor and Board of Commissioners hereby determine that it is advisable and necessary for the City to cooperate with Otoe County School District No. 0111, in the State of Nebraska, (the "School District") by entering into an Interlocal Cooperation Act Agreement relating to the formation of a joint entity under the Nebraska Interlocal Cooperation Act to be named the Nebraska City Fiber Optic Agency; that the purposes of such Agency shall be (a) to provide to make efficient use of the powers of the City and School District by enabling them to cooperate with each other on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to form of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of the local community, and (b) to provide input, advice and support to the City for a City-wide fiber optic infrastructure for use in connection with provision of municipal services by and for the City (including the facilitation of water and electric usage meter reporting) and, incidental thereto, establishment of a public infrastructure network of dark fiber to be sold or leased pursuant to the provisions of Sections 86-574 to 86-575, R.R.S. Neb. 2008, in order to enhance the ability within the City to move information quickly and accurately through electronic means to support the success of education and efficiency of local government, and to enhance business, health care, libraries and various other community members; that an Interlocal Cooperation Act Agreement for such purpose has been prepared and submitted for approval by the Mayor and Board of Commissioners of the City; and that it is advisable and necessary that said Agreement be approved and its execution be authorized.

Section 2. The City shall enter into an Interlocal Cooperation Act Agreement creating the Nebraska City Fiber Optic Agency with the City, and the Mayor and City Clerk of the City be and they are hereby authorized to execute on behalf of the City said Interlocal Cooperation Act Agreement in substantially the form presented but with any changes as such officers shall deem appropriate for and on behalf of the City.

Section 3. This ordinance shall be published in pamphlet form and take effect as provided by law. PASSED AND APPROVED this 20th day of August, 2012.

Jack Hobbie, Mayor

(S E A L)

ATTEST:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduce Resolution 2576-12 increasing the existing sales tax from 1.5% to 2.0% using the increased funds for infrastructure improvements including a new pool, neighborhood water parks and city-wide fiber optics to be used in connection with municipal services and leasing out the unused portion to private business. Moved by Mercer and seconded by Commissioner Handy to approve Resolution 2576-12. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and mayor Hobbie. Voting NO: None. Motion passed and adopted. The following is a true, correct and complete copy of said resolution:

RESOLUTION NO. 2576-12

A RESOLUTION TO SUBMIT THE ISSUE OF INCREASING THE EXISTING SALES AND USE TAX OF ONE AND ONE-HALF (1 ½) PERCENT BY ONE HALF PERCENT (½) UPON TRANSACTIONS WITHIN THE CORPORATE LIMITS OF NEBRASKA CITY, NEBRASKA, TO THE REGISTERED VOTERS OF NEBRASKA CITY AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2012.

WHEREAS, the Mayor and City Commissioners of the City of Nebraska City, Nebraska, (the “City”) have the authority to place the question before the registered voters of Nebraska City at the general election to be held on November 6, 2012, of whether the City shall increase the existing sales and use tax of one and one-half (1 ½%) upon transactions within the corporate limits of Nebraska City by an additional one-half of one percent (½%) pursuant to Section 77-27,142, R.R.S. Neb. 2009, as amended;

WHEREAS, the City is a party to an Interlocal Cooperation Act Agreement, dated as of August 1, 2012, with Otoe County School District 0111 (Nebraska City Public Schools) creating the Nebraska City Fiber Optic Agency, which is a separate entity, pursuant to the Interlocal Cooperation Act (Sections 13-801 to 13-827, R.R.S. Neb. 2007, as amended) relating to a City-wide fiber optic infrastructure (the “Fiber Optic Infrastructure”) for use in connection with provision of municipal services by and for the City (including the facilitation of water and electric usage meter reporting) and, incidental thereto, establishment of a public infrastructure network of dark fiber to be sold or leased pursuant to the provisions of Sections 86-574 to 86-575, R.R.S. Neb. 2008, in order to enhance the ability within the City to move information quickly and accurately through electronic means to support the success of education and efficiency of local government, and to enhance business, health care, libraries and various other community members;

WHEREAS, the Mayor and City Commissioners of the City hereby determine that it is advisable to increase the existing sales and use tax of one and one-half percent (1 ½%) percent upon transactions within the corporate limits of the City by an additional one-half of one percent (½%) pursuant to Section 77-27,142, R.R.S. Neb. 2009, as amended, with the proceeds from such rate in excess of one and one-half percent (1 ½%) percent to be used for public infrastructure projects in and for the City, including the City’s Fiber Optic Infrastructure and the construction, equipping and maintaining of a modern aquatic center and other neighborhood aquatic facilities to replace the City’s existing swimming pool, which buildings and capital equipment are used in the operation of municipal government and constitute tourism facilities in and for the City; and

WHEREAS, the Mayor and City Commissioners of the City intend to issue bonds with a term of not to exceed sixteen (16) years to finance the acquisition and installation of the Fiber Optic Infrastructure and the construction and equipping of a modern aquatic center to replace the City’s existing swimming pool and pledge such additional sales tax for repayment of such bonds.

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

1. The Mayor and City Commissioners of the City determine that at the general election on November 6, 2012, there shall be submitted to the qualified electors of the City the following proposition:

PROPOSITION

“Shall the City of Nebraska City, Nebraska, impose a sales and use tax in the amount of one-half of one percent (½%) in addition to the one and one-half percent (1 ½%) currently in effect, upon the same transactions within the City of Nebraska City on which the State of Nebraska is authorized to impose a tax, subject to the following terms and conditions:

- 1) Use of Additional Tax. The proceeds from the additional City sales and use tax referred to in this Proposition shall be used for public infrastructure projects in and for the City, including the following:
 - (a) the construction, equipping and maintaining of a modern aquatic center and other neighborhood aquatic facilities to replace the City’s existing swimming pool, which buildings and capital equipment are used in the operation of municipal government and constitute tourism facilities in and for the City; and
 - (b) a City-wide fiber optic infrastructure for use in connection with provision of municipal services by and for the City (including the facilitation of water and electric usage meter reporting) and, incidental thereto, establishment of a public infrastructure network of dark fiber to be sold or leased pursuant to the provisions of Sections 86-574 to 86-575, R.R.S. Neb. 2008, in order to enhance the ability within the City to move information quickly and accurately through electronic means to support the success of education and efficiency of local government, and to enhance business, health care, libraries and various other community members.
- 2) Pledge of Tax to Pay Bonds. The Mayor and Board of Commissioners of the City may issue bonds (in an aggregate amount of not to exceed \$6,100,000 for all such purposes), and refunding bonds to refund those authorized by this proposition, with a final term of not later than sixteen (16) years after the effective date of the additional sales and use tax referred to in this Proposition and pledge the proceeds from the additional City sales and use tax referred to in this Proposition to pay the principal of and interest on such bonds and any refunding bonds and may dedicate a portion of the City’s property tax levy

authority as provided in Section 77-3442, R.R.S. Neb 2009, as amended, to meet debt service obligations under any such bonds.

3) Termination of Tax. The additional City sales and use tax referred to in this Proposition shall terminate upon the later of (a) repayment of bonds and any refunding bonds of the City for which such additional sales and use tax is pledged, or (b) ten years after the effective date of such additional sales and use tax.

Yes (for such bonds and sales and use tax)

No (against such bonds and sales and use tax)

If a majority of the votes cast upon such question shall be in favor of such tax, then the governing body of the City of Nebraska City shall be empowered as provided by Section 77-27,142, R.R.S. Neb. 2009, as amended, and shall forthwith proceed to impose such additional sales and use tax. If a majority of those voting on the question shall be opposed to such tax, then the governing body of the incorporated municipality shall not impose such a tax.”

2. Notice of the election pursuant to subsection 1 of this Resolution shall state the date on which the election is to be held and the hours the polls will be open. The notice shall be published in a newspaper that is published in or of general circulation in the City of Nebraska City, Nebraska, not more than thirty nor less than ten days before the election.
3. The City Clerk-Treasurer is hereby directed to certify this resolution to the Otoe County Clerk on or before September 1, 2012 for the general election to be held on November 6, 2012, and to prepare and cause to be published all notices that are required by law and as may be deemed appropriate regarding such election.

PASSED and APPROVED this 20th day of August, 2012.

Jack Hobbie, Mayor
ATTEST:

Arnold M. Ehlers, City Clerk-Treasurer

Randall Simon appeared before the council requesting the City donate the use of a motor grader and operator to clear ground cover off an area 200' x 20' for a garden tractor pull at 2214 South 11th Street. Huff & Puff Tractor Pullers will host a tractor pull using garden tractors on September 16, 2012 in conjunction with Applejack Festivities. Moved by Mercer and seconded by Commissioner Handy to approve the request to use City Motor grader and operator to create a tractor pull track and waive the fee. Upon roll call the following voted YES: Gay, Crunk Handy, Mercer, and Mayor Hobbie. Voting NO: None. Motion passed.

A discussion was held on the pros and cons of having a City-wide clean-up. The Plattsmouth Community Clean-up was used as an example. Joe Johnson, Chief Dave Lacy and Arnold Ehlers will put together a proposal for a future meeting that the Council can consider.

Mayor Hobbie informed the Council that an anonymous donor would like to donate funds for the repair of the east roof of the Memorial Building to slow down deterioration due to water leakage. Mercer expressed concern that money would be spent and in five years the City may still have to demolish the structure. Commissioner Gay stated that it is the City's responsibility to maintain its buildings and welcomed the contribution. Mayor Hobbie added that the building was in this condition due to the City not maintaining it properly over the years. Moved by Mayor Hobbie and seconded by Commissioner Handy to authorize staff to advertise for bids to repair the east roof of the Memorial Building. Upon roll call the following voted YES: Mercer, Gay, Handy and Mayor Hobbie. Voting NO: Crunk. Motion passed.

Moved by Commissioner Mercer and seconded by mayor Hobbie to go into Executive Session at 7:14 p.m. to discuss pending litigation settlement offers. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Moved by Commissioner Handy and seconded by Commissioner gay to come out of Executive Session at 7:26 p.m.. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None.

Adkins Signs	275	Supp	Matheson Tri-Gas, Inc.	148.3	Supp
Alamar Uniforms	149.97	Unif	Maxx Sunglasses	181.6	Msde
Anderson Ford	1,019.29	Rep	MD Aquatics, LLP	1,178.00	Chem
Arbor Mart, Inc	2,426.17	Fuel	Mead Lumber	482.68	Supp
Arrow Manufacturing	1,575.00	Rep	Menards - Lincoln So	174.6	Supp
Battery Zone	170.46	Supp	Mercer's Do-It-Best	603.03	Supp
Benefiel Truck Repair	90	Rep	Mid-Con Systems, Inc.	150.89	Supp

BK Restoration	200	Rfnd	Midwest Machine, Inc.	45	Rep
Bohl Plumbing	375.29	Rep	Mullenax Auto Supply	60.28	Supp
Bound Tree Medical	849.2	Supp	Nationwide Trust	13,690.77	Inv
Brad Yost Const	632.3	Rep	Neb City Museum	455	Contr
Brown Glass Company	189	Rep	Nebraska City Utilities	16,064.67	Util
Callaway Golf Sales	61.27	Supp	NE Dept of Agriculture	150	Dues
Card Services	1,545.30	Supp	NE Dept of Revenue	1,657.19	Sls Tax
Jonathan Casey	100	Rfnd	NE Environmental Pr	890.95	Chem
Cintas	68.3	Unif	NSVFA	820	Dues
City of NC WW	784.67	Contr	O'Reilly Auto Parts	20.13	Supp
Concrete Industries	510.19	Supp	Orscheln	30.15	Supp
Crook, Laura	100	Rfnd	Otoe County Clerk	5,752.59	Contr
Dietze Music	18.95	Supp	Otoe County Title Co	7,452.50	ROW
Don's Johns	150	Supp	Payroll	96,934.38	Payroll
Douglas Tire Co.	615.95	Rep	Pepsi-Cola of Lincoln	454.9	Conc
Fareway Stores, Inc.	222.76	Conc	Pine Valley Eco	1,491.00	Chem
Fireguard	5,912.82	Unif	Purchase Power	400	Postage
Food Pride	36.81	Conc	Randy Kummer	25	Rfnd
Gatehouse Media	510.43	Advert	Angela Rovetto	200	Rfnd
Dan Giittinger	170.94	Mileage	SENND	14,012.27	Contr
Hemmer Garage	88.7	Rep	Shell	3,060.99	Fuel
HireRight Solutions	50	Med	Shelter Home Service	2,441.00	Rep
Hopkins Automotive	56.08	Supp	St. Mary's Comm Hosp	62	Med
Ideal Pure Water	174.41	Contr	Tielke's Sandwiches	27	Conc
Inland Truck Parts	810.44	Rep	Tom's Radio	900	Contr
Iowa State University	20,000.00	ROW	Tree City Tees	222.86	Unif
Jebro Inc.	67.38	Supp	Tri-State	31.49	Supp
Jerry's Landscaping	130	Maint	Turf Supply Company	1,850.00	Chem
Joe Johnson	415.42	Mileage	Verizon	16.68	Tele
Kreifels Electric, Inc.	307.68	Rep	Diamond Vogel Paint	753.3	Supp
Landis Engine	218.16	Equip	Watkins True Value	55.15	Supp
Larson Motors	61.37	Rep	Whispering Pines	874.19	Misc
LaRue Coffee	81.65	Supp	Windstream, Inc.	2,408.93	Tele
Laser Link Golf	860.4	Supp			

Meeting adjourned at 7:27pm.

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