

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
October 5, 2009

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the Council Chambers of City Hall, 1409 Central Avenue, on October 5, 2009. Notice of the meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes.

Mayor Hobbie called the meeting to order at 6:00 p.m. The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Mayor Jack Hobbie led in the Pledge of Allegiance. Upon roll call the following answered present: Jeff Crunk, Dean Handy, Brett Gay, and Mark Mercer. The following City Officials were present: City Administrator Pat Haverty, City Clerk Arnold M. Ehlers, City Attorney William Davis, Police Captain Lonnie Neeman and Public Properties Director/Zoning Director Dan Giittinger.

Commissioner Mercer moved to approve the minutes of the September 21, 2009, City Council Regular Meeting, seconded by Commissioner Handy. Upon roll call the following voted Yes: Crunk, Handy, Gay, Mercer and Mayor Hobbie. Voting NO: None. Motion adopted.

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

Mayor Hobbie proclaimed October 4 – 10, 2009 as Public Power Week and Public Natural Gas Week.

Mayor Hobbie proclaimed October as Physical Therapy Month.

City Administrator, Pat Haverty informed the Council of the Memorial Building Telephone Survey starting Oct 15th. Also, a “No Outlet” sign was placed at the intersection of 14th Corso and Morgan Drive to let drivers know that it was a dead end. The “Livingston” Property Committee met with Schemmer Associates to go over design ideas for the area. The City received two proposals for design and environmental services for Phase II of the Steinhart Park Trails Project and is awaiting confirmation from Nebraska Department of Roads that both firms are eligible to perform the work under federal guidelines.

Wilhelm Witte requested that the City vacate the alley in Block 25; Belmont Addition. Tim Stewart a property owner in that Block asked about the timeline for the vacation. Commissioner Handy moved to approve the request to vacate the alley in Block 25; Belmont Addition and direct the City Attorney to draft an ordinance. Upon roll call the following voted YES: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Tim Engle appearing on behalf of the Nebraska City Community Gardens requested a 5 year extension on the agreement with the City using City owned property for a community garden so that they could do improvements to the property. Commissioner Gay moved to extend the agreement with Nebraska City Community Gardens until March 2016 and waive any building permit fees. Upon roll call the following voted YES: Mercer, Handy, Crunk, Gay and Mayor Hobbie. Voting NO: None. Motion carried.

Dave Henke presented the results of the study done by JEO Consulting and provided options for either the renovation of the current pool or the construction of a new pool facility. Commissioner Mercer moved to direct staff to investigate options of constructing a new pool in Steinhart Pool on Central Avenue side. Bill Moore expressed concern that this project will kill the Memorial Building Project. Upon roll call the following voted YES: Handy, Crunk, Gay, Mercer and Mayor Hobbie. Voting NO: None. Motion carried.

Henry Hughson III appeared before the Council requesting a sign “Children Playing” on block 4; Anderson’s Addition. Dan Giittinger stated that since it was a warning sign no Council Action would be necessary. Also, the illegal salvage business on that street will be moved thereby eliminating the need for the sign which would be used elsewhere at that time.

Henry Hughson III offered to purchase Lots 1 & 2, Block 4; Anderson’s Addition for \$700.00 plus costs with payments of \$50,00 per week. Commissioner Mercer moved to sell Mr. Hughson the City’s lots with the condition that the deed would not transfer until the final payment is made. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion carried.

Leroy Frana on behalf of the Board of Public Works provided information for the work needed on the South Parking Lot Retaining Wall and that FEMA and NEMA would be participating in the

costs of the project. Commissioner Gay moved to approve the recommendation by the Board of Public Works to award the contract to McC, LLC the low bidder in the amount of \$164,758.25. Upon roll call the following voted YES: Crunk, Handy, Mercer, Gay and Mayor Hobbie. Voting NO: None. Motion carried.

Leroy Frana provided the history of the service ramp at the Utilities Office and work necessary. Commissioner Gay moved to approve the recommendation by the Board of Public Works to award the contract to the low bidder, Silver Ridge Const. in the amount of \$19,239.00. Upon roll call the following voted YES: Crunk, Mercer, Handy, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Leroy Frana provided information on a new underground service for a house and bin site North of Talmage. Commissioner Gay moved to approve the recommendation by the Board of Public Works to approve Work Order 184 in the amount of \$18,255.94. Upon roll call the following voted YES: Crunk, Mercer, Handy, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Leroy Frana provided information on a new underground line extension to a new commercial building in Brock. Commissioner Gay moved to approve the recommendation by the Board of Public Works to approve Work Order 186 in the amount of \$15,956.86. Upon roll call the following voted YES: Mercer, Handy, Crunk, Gay and Mayor Hobbie. Voting NO: None. Motion carried.

Leroy Frana provided information on a new underground line extension West of Nebraska City. Commissioner Gay moved to approve the recommendation by the Board of Public Works to approve Work Order 188 in the amount of \$8,249.54. Upon roll call the following voted YES: Crunk, Mercer, handy, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie introduced Ordinance 2783-09 entitled AN ORDINANCE TO AMEND SECTION 18-58, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO CONFORM WITH SECTION 16-230 OF THE REVISED STATUTES OF NEBRASKA, TO PROVIDE FOR DRAINAGE, NUISANCE, WEEDS, LITTER, REMOVAL, NOTICE, ACTION BY CITY COUNCIL, VIOLATION, PENALTY AND CIVIL ACTION; TO REPEAL THE ORIGINAL SECTION 18-58 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Mercer, Crunk, Handy and Mayor Hobbie. Voting NO: None. Absent: Gay. 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. 2783-09 be passed and adopted?" Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2783-09

AN ORDINANCE TO AMEND SECTION 18-58, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO CONFORM WITH SECTION 16-230 OF THE REVISED STATUTES OF NEBRASKA, TO PROVIDE FOR DRAINAGE, NUISANCE, WEEDS, LITTER, REMOVAL, NOTICE, ACTION BY CITY COUNCIL, VIOLATION, PENALTY AND CIVIL ACTION; TO REPEAL THE ORIGINAL SECTION 18-58 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; 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 18-58 of the Code of Nebraska City, Nebraska, be amended to read as follows:

"Sec. 18-58. Drainage; nuisance; weeds; litter; removal; notice; action by city council; violation; penalty; civil action.

- (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.
- (a) 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.

(a) 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.

(a) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city is prohibited.

(a) 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.

(a) 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.

(a) 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.

(a) For purposes of this section:

(1) Litter shall include, but not be limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags and ashes;
- (b) Wood, plaster, concrete, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation;
- (d) Offal and dead animals; and
- (e) 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

(2) 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 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 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 2. That the original section 18-58 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 ___ day of October, 2009.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Wyatt Deweese of the Nebraska Arborist Association requested permission to hold Tree Trimming and Pruning Training in City parks. Dan Giittinger provided details of the request. Grant Boden asked the Council to remember Riverview Nature Park when opportunities like this come available. Bill Moore stated that a Mountain Ash tree in Nuckolls Park needs attention. Upon roll call the following voted YES: Mercer, Handy, Crunk, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Pat Haverty explained the details of the Application for Solid Waste Transfer Station Permit on the City owned Transfer Station leased by Waste Connections of Nebraska, Inc. Commissioner Mercer moved to approve the Transfer Station Operating Permit application 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.

A&M Green Power	25.71	Rep	LaRue Coffee	394.33	Supp
A-1 Locksmith	478.40	Rep	Laughlin, Kathleen	518.00	Payroll
ABL Rentals	7,075.00	ROW	League of NE Muni	420.00	Dues
Action Tech Ser	400.00	Contr	Lentsch, Shari	150.00	EMT
Adkins Signs	140.80	Supp	Linweld, Inc	54.20	Supp
Alamar Uniforms	512.95	Unif	Loveland Lawns	55.80	Supp
Alltel	300.53	Tele	Marion, James	500.00	EMT
Ameritas	3,189.32	Benefits	Michael Todd & Co	246.83	Supp
Arbor Mart, Inc	2,199.12	Fuel	Midlands Fin Benefit	875.00	Contr
Atchison Co Mail	60.00	Advert	Midwest Serv	4,670.96	Equip
Auburn Newspapers	75.00	Advert	Moore Medical	1,733.45	Supp
AV Animal Clinic	541.50	Animal	Morrow, Sharon	100.00	EMT
Bergfeld Recreation	4,188.35	Supp	Municipal Emer Serv	229.34	Uniforms
Bernhardson, Noah	336.00	EMT	Nationwide	8,745.43	Benefits
BKD	2,200.00	Misc	NC News Press	135.00	Adv
Blue Cross Blue Shield	39,129.02	Benefits	NC Rotary Club	375.00	Dues
Bob's Welding	155.00	Equip	NCTC	5,312.50	Misc
Bound Tree Medical	460.82	Supp	NE Comm Found	2,291.67	Misc
Bray, Cindi	336.00	EMT	NE Dept of Labor	36.00	Maint
Brown Glass Co	321.93	Supp	NE Dept of Revenue	6,061.09	Payroll
City of Nebraska City	69,455.93	Payroll	NE Environ Products	309.46	Supp
Commercial Turf	925.00	Contr	Nichols, Jim	301.50	Rec
Conseco	71.45	Benefits	Nichols, Jimmy	42.75	Rec
Conz, Gregory	100.00	EMT	Nichols, Linda	221.25	Rec
D & R Electronics	175.26	Equip	Omaha Tractor	2,743.05	Equip
Data Technologies	4,993.02	Sftwre	Orscheln	87.79	Supp
DeVorss, Taylor	44.00	Rec	Otoe Cnty Clrk Dist Crt	741.00	Payroll
Diamond Vogel	1,063.10	Rep	Otoe Co Reg of Dee	27.00	Misc
Dick's Body & Paint	805.20	Equip	Otoe County Clerk	2,844.53	Misc
Dirksen, Susan	36.00	EMT	Parks, Ryan	400.00	EMT
Douglas Tire Co.	74.95	Equip	Pepsi-Cola of Lincoln	76.40	Conc
ESRI, Inc	400.00	Sftwre	Physician Network	107.00	WC
Farmers Bank	20,392.60	Payroll	Pine Acres Nursery	150.00	ROW
Fastenal Company	30.78	Supp	Powerplan	52.32	Equip
Food Pride	293.79	Conc	Provident	181.36	Benefits
Fouraker, Helen	250.00	EMT	Rakes, Audrey	44.00	Rec
GALLS	129.96	Sftwre	Schendel Pest Cont	37.00	Pest C
GE Capital	8.20	Tele	SE NE Dev Dist	6,668.00	Dues
Goebel, Gregory	36.00	EMT	SE NE Dev Dist	20,377.86	Dues
Grainger	226.33	Supp	Snodgrass, Andrew	256.00	EMT
Hart, Anna	1,613.11	Misc	St. Mary's Comm	22.99	Supp
Heartland Classified	118.66	Advert	State Chemical Mfg	262.98	Supp
Hemmer Garage	526.36	Equip	Stryker Sales Corp	157.50	Rep
Hogan Jr., William	250.00	EMT	Thurman Bike	3,500.00	Equip
HWS Consulting	6,606.18	ROW	Tree City Tees	236.24	Unif
Infinity Aviation	3,616.66	Contr	Tree Worx	675.00	Supp
Intoximeters	189.00	Supp	United Way	40.00	Payroll
JD Landscapes	2,964.50	Supp	Unum	1,294.50	Benefits
JEO Consulting Grp	106.00	ROW	USPS	84.00	Stamps
Jerry's Landscaping	140.00	Maint	Vanderveen & Gorac	935.00	Misc
Jones, Nathan	1,500.00	EMT	Viox, Alan	708.95	Mileage
KNCY AM-FM	187.50	Advert	Voelker Title	11,800.00	Loan
Konica Minolta	116.00	Contr	Weible, Burton	216.00	EMT
Krog, Andrew	250.00	EMT	Wenzl Hardware	0.45	Rep
Landis Engine	87.40	Equip	Yahoo Custodian	52.38	Misc
Larson Motors	1,452.43	Equip			

Meeting adjourned at 7:23 p.m.

Arnold M. Ehlers, Clerk - Treasurer