

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
December 6, 2010

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 December 6, 2010. 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.

Council Vice-president Mark Mercer called the meeting to order at 6:00 p.m. The Vice-president 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. Vice-president Mercer led in the Pledge of Allegiance. Upon roll call the following answered present: Brett Gay, Jeff Crunk, and Mark Mercer. Absent: Dean Handy and Mayor Jack Hobbie. The following City Officials were present: City Administrator Pat Haverty, City Clerk Arnold M. Ehlers, City Attorney William Davis, Police Chief David Lacy and Public Properties Director/Zoning Director Dan Giittinger.

Approval of the minutes from the previous two council meetings was postponed until the next regularly scheduled City Council meeting due to absences.

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

Vice-president Mercer opened the Public Hearing on the grant request by Mayhew Cabin for \$8,300.00. Stephanie Shrader Executive Director of Nebraska City Area Economic Development explained to the Council where the funds came from and the basis for granting the request. Bill Hayes, Executive Director of Mayhew Cabin & Village described how the funds would be used as well as future plans. He also noted that attendance was up considerably this past year. No one else spoke in support or opposition to the request. Commissioner Mercer moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. Motion adopted.

Vice-president Mercer opened the Public Hearing to consider the zoning change request by David Maybee to change 2003 Industrial Rd from C-1 to R-2. Pat Haverty stated that this action was necessary due to an inaccurate legal description used on the previously approved zoning change. No one else spoke in support or opposition to the request. Commissioner Gay moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. Motion carried.

Vice-president Mercer opened the Public Hearing on the request by Curt Wurtele DBA C & M Farms to approve the Preliminary Plat of the C & M Farms 2nd Subdivision. Curt Wurtele reviewed a plat map showing the new subdivision. Dan Giittinger added that the scale was 1" = 200' rather than the normal 1"=100' but that the planning commission did not feel that the difference in scale adversely affected the request. No one else spoke in support or opposition to the request. Commissioner Mercer moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. Motion adopted.

Pat Haverty updated the Council on the potential 4th Corso Mill & Overlay Project. It is expected that the project will begin in July 2011. Also the Park Advisory Committee toured the proposed Steinhart Park Trail Phase II and approved the location of the pedestrian bridge and the route of the trail. Construction might possibly begin in fall of 2011 but more likely spring of 2012. Pat also announced that South 11th Street should be open by Friday December 10th with final construction to be completed in the spring. Vice-president Mercer accepted the report and asked that it be placed on file.

Vice-president Mercer introduced Ordinance 2817-10 annexing .72 acres into Nebraska City now comes up for second reading. Ordinance 2817-10 was read by title only and thereafter Commissioner Crunk moved to approve Ordinance 2817-10 on its second reading. Upon roll call the following voted YES: Gay, Crunk, and Mercer. Voting NO: None. Motion adopted.

Vice-president Mercer introduced Ordinance 2821-10 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-1 NEIGHBORHOOD COMMERCIAL TO R-2 RESIDENTIAL; 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 Gay seconded the motion to suspend the rules and upon roll call the following voted YES: Crunk, Gay, and Mercer. 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 Vice-president Mercer moved for final passage of the ordinance, which motion was seconded by Commissioner Gay. The Vice-president then stated the question: "Shall Ordinance No. 2821-10 be passed and adopted?" Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Vice-president declared the ordinance adopted and the Vice-president, 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. 2821-10

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-1 NEIGHBORHOOD COMMERCIAL TO R-2 RESIDENTIAL; 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 David Maybee, 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-1 Neighborhood Commercial to R-2 Residential, insofar as the same relates to the property legally described as: A tract of land located in the Northeast Quarter of Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 17; Township 8 North; Range 14 East of the 6th P.M., Otoe County, Nebraska described as follows: Beginning 457.0 feet West and 33.0 feet South of the Northeast Corner of the NW $\frac{1}{4}$ of said Section 17; thence South approximately 222.0 feet to the North Right-of-Way line of the Chicago, Burlington and Quincy Railroad, now owned by Omaha Public Power District, thence Northeast along said Right-of-Way approximately 127.0 feet; thence North approximately 116.0 feet; thence Northwest approximately 68.0 feet; thence West approximately 73.0 feet to the point of beginning; all of said real estate being located within Tract One(1) of Stockville, as shown and described by the Plat of said property filed August 1, 1951 in Book 97 Deeds, Page 450; and also located within Tract Two(2) of the Stockville Annexation Plat filed November 6, 1991 in Book 4 Plats, Page 55; except that portion conveyed to The County of Otoe by the Deed filed October 20, 1986 in Book 162 Deeds, Page 130.

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 1st day of November, 2010.

Mark Mercer, Council Vice-president
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Vice-president Mercer introduced Resolution 2498-10 approving the grant request for \$8,300.00 by Mayhew Cabin. Commissioner Gay moved to approve Resolution 2498-10. Upon roll call the following voted YES: Crunk, Gay, and Mercer. Voting NO: None. Motion carried. A true correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2498-10

TO USE PROGRAM FUNDS FROM THE CITY OF NEBRASKA CITY ECONOMIC DEVELOPMENT PROGRAM (LB840)

WHEREAS, the **City of Nebraska City** has received Program Funds through the City of Nebraska City Economic Development Plan and,

WHEREAS, Program funds for Economic Development are allowed to be used for making grants for spurring downtown revitalization, the attraction of new capital investment through business development and to promote tourism in accordance with the City of Nebraska City Economic Development Plan, program and governing regulations, and,

WHEREAS, the City of Nebraska City Economic Development Plan has previously been adopted, and,

WHEREAS, the Citizens Advisory Review Committee has recommended a project presented through application by an eligible entity for a grant of \$8,300 under specified conditions, and,

WHEREAS, the City Council of Nebraska City conducted a public hearing upon the proposed use of Economic Development Program funds,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Nebraska City, that the obligation of funds is approved according to the recommendations of the Citizens Advisory Review Committee and the Mayor is hereby authorized to execute all necessary and appropriate documents on behalf of the City and the City of Nebraska City Economic Development Program to complete the grant project for **“Mayhew Cabin and Historical Village Foundation ”**, contingent upon approval of the City Attorney as to form.

Passed and adopted on the 6th day of December, 2010 by the Mayor and Council of the City of Nebraska City, Nebraska.

Mark Mercer, Council Vice-President

ATTEST: _____
Arnold M. Ehlers, City Clerk

Commissioner Gay moved to approve the Preliminary Plat of C & M Farms 2nd Subdivision. Upon roll call the following voted YES: Crunk, Gay, and Mercer. Voting NO: None. Motion carried.

Leroy Frana presented the Council with photos and a plat map of the property the Board of Public Works is recommending that the City purchase for use by Nebraska City Utilities. The property known as Nebraska City Coca Cola Warehouse and Distribution Facility will be used for additional indoor storage to extend the useful life of equipment and supplies for the utilities department. The purchase price is \$170,000.00. Commissioner Crunk questioned the costs of renovating the buildings to fit the anticipated use and also was concerned about removing a property from the tax rolls. Leroy explained that along with increasing the useful life of equipment and inventory the utilities department will save \$3,600.00 per year in rent. Commissioner Gay moved to purchase the property formally known as Nebraska City Coca Cola and authorize the Vice-president to sign all documents. Upon roll call the following voted YES: Gay and Mercer. Voting NO: Crunk. Motion passed.

Pat Haverty presented photos of damage to a 2000 Dodge owned by Lisa Kreifels of Nebraska City. The bumper of Ms. Kreifels vehicle got caught on a rebar protruding from the ground. The bare rebar uncovered due to a person or persons removing the concrete curb stop. The City’s insurer denied the claim stating that “the City did not know of the problem therefore there was no negligence therefore no liability on the City.” Lisa Kreifels was present but did not address the Council. Commissioner Mercer was uncomfortable with only one estimate of damage. Commissioner Gay stated that he felt that the taxpayers should not be required to pay if the insurer says there is no liability on the City. Commissioner Gay moved to deny the claim. Upon roll call the following voted YES: Crunk and Gay. Voting NO: Mercer. Motion carried.

Pat Haverty reviewed the contract, for the Council, with the Department of Economic Development for CDBG Grant 10-TFHP-6033 that Nebraska City was awarded for down payment assistance with minor repairs for individuals qualifying under program guidelines. Commissioner Gay moved to approve the contract with the State of Nebraska Department of Economic Development for down payment assistance. Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. Motion passed.

Pat Haverty then outlined an agreement with SENDD for administrative assistance to manage the 10-TFHP-6033 CDBG Grant. Commissioner Gay moved to approve the agreement with SENDD to provide administrative assistance for 10-TFHP-6033. Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. Motion carried.

Pat Haverty then outlined the agreement with SENDD for partial administrative assistance for the 10-TD-002 CDBG Tourism Grant to Arbor Day Farm. Pat explained that in both the previous agreement and this agreement no City funds will be used. Commissioner Gay moved to approve the agreement with SENDD to provide assistance with 10-TD-002. Upon roll call the following voted YES: Crunk, Gay and Mercer. Voting NO: None. Motion adopted.

Pat Haverty presented Estimate #5 for the Memorial Way Project (formally known as the Livingston Project). Pat stated that \$500.00 was being withheld for some final work delayed due to weather. Commissioner Gay moved to approve paying Estimate #5 in the amount of \$69,125.00 to F & B Constructors. Upon roll call the following voted YES: Gay and Mercer. Voting NO: None. Abstain: Crunk. Motion carried.

Jon Casey presented the proposed fees for Wildwood Golf Course for the 2011 season. Jon stated that the proposed fee structure while having a modest increase still made golfing affordable for all ages. Commissioner Crunk moved to approve the fees for the 2011 season. Upon roll call the following voted YES: Gay, Crunk and Mercer. Voting NO: None. Motion passed.

Meeting adjourned at 6:59 p.m.

Arnold M. Ehlers, Clerk - Treasurer