

Sidney, Nebraska, February 10, 2015 A Fair Housing City

A meeting of the Mayor and Council of the City of Sidney, Nebraska, was convened in open and public session at 7:15 P.M. on February 10, 2015 in the Council Room. Present were: Mayor Nienhueser and Council Members: Gallaway, Gaston, Gay and Arterburn. Others present: City Manager Person, City Attorney Leef and City Clerk Anthony. Notice of the meeting was given in advance thereof by publication in *The Sidney Sun Telegraph*, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the members of the City Council and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the City Council. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Mayor Nienhueser informed the public of the location of the posted Open Meetings Act.

Arterburn moved, Gallaway seconded That the minutes of the January 27, 2015 meeting be approved. Roll call vote: Yeas: All council members present.

Weldon L. Stewart presented his Special Designated Liquor License application for an event for the Sidney Fine Arts Center. Gaston moved, Gallaway seconded "RESOLUTION NO. 20150201 FOR the Special Designated Liquor License application from Weldon L. Stewart for the Sidney Fine Arts Center event on March 7, 2015 be passed and approved." Roll call vote: Yeas: All council members present.

RESOLUTION NO. 20150201

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SIDNEY, NEBRASKA: That the Special Designated License application for Weldon L. Stewart (License #C-078886) to host an event for the Sidney Fine Arts Center at 1000 11<sup>th</sup> Avenue, Sidney, Nebraska on March 7, 2015 from 6:30 p.m. to 9:00 p.m. be recommended for approval to the Nebraska Liquor Control Commission.

Sidney Public Library Director Doris Jensen presented the Library's Annual Report for 2013-2014.

Ken Fairchild and Mike Jones of Olsson & Associates presented the Electric Master Plan for the City of Sidney. The models of the 2019 loads on the Sidney distribution system identify the need for a third 115/13.2 kV source. Three options for placement of a third source were as follows: 1. A second transformer placement in the existing South Substation with the 115 kV loop routed north to the WAPA substation north of the City. 2. A possible site for another substation was located north of Old Post Road and west of Upland Parkway. 3. Another possible site was located north of Old Post Road and east of Upland Parkway. Pros and cons of each option were discussed. In order to make the proper decision, the Council wants estimated costs for all three options from the engineers with a rough order of magnitude included. Also from the staff they are requesting forecasts of future revenues, expenditures and reserves. Gallaway moved, Gay seconded "That Olsson & Associates be authorized to prepare a contract for Council consideration for the requested information." Roll call vote: Yeas: All council members present.

Lauren Benton of Diamondback Engineering updated the Council on the progress of the first project highlighted in their Water Master Plan as well as information on the State of Nebraska's Revolving Loan Fund. She reviewed the process that needs to happen in order to start the loan process as follows: 1. Engineering Report submittal to the DHHS (done 10/15/14). 2. Need a survey - (done 11/13/14). 3. Environmental consultation letters. 4. Public Hearing with a 30 day notice. 5. SRF application. 6. Submit documents of financial capacity assurance (last 3 year's audits). 7. Complete commitment process by 6/30/15. Gaston moved, Gallaway seconded "That the process for funding thru the SRF source be authorized." Roll call vote: Yeas: All council members present.

The Ordinance entitled "AN ORDINANCE OF THE CITY OF SIDNEY, NEBRASKA, TO DESIGNATE HISTORICAL LANDMARKS; TO DEFINE THE LOCATIONS OF SAID LANDMARKS; AND TO REPEAL ANY CONFLICTING ORDINANCES AND SECTIONS" was read by title for the second time. There being no motion to suspend the Statutory requirement requiring the ordinance to be read by title on three different days, Ordinance No. 1758 will be read by Title for the third time at the next Council meeting.

Arterburn moved, Gay seconded "That RESOLUTION NO. 20150203 be passed and approved." Roll call vote: Yeas: All council members present. Abstain: Nienhueser.

RESOLUTION NO.20150203

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SIDNEY, NEBRASKA:

That the Mayor and Council hereby find and determine that pursuant to a contract heretofore made, M.C. SCHAFF & ASSOCIATES, the engineer, has performed the work for engineering of the Pole Creek Crossing/Greenwood Road Phase 1 projects in Street Improvement District #58 & #59; and NIENHUESER CONSTRUCTION, the contractor for the construction of the Pole Creek Crossing/Greenwood Road Phase 1 projects of Street Improvement District #58 & #59 of this city; and the engineer has filed with the City Clerk certificates showing the performance of said contracts as follows: APPLICATION FOR PAYMENT NUMBER 10; STREET IMPROVEMENT DISTRICT #58; AMOUNT TO ENGINEER \$3,430.00 ; AMOUNT DUE CONTRACTOR \$4,588.50. Payments in the amount now due the engineer and the contractor are hereby authorized and charged to said districts. Said payments shall be paid from the 2014 Construction Fund.

Mayor Nienhueser announced that he would be abstaining on all agenda items pertaining to the improvement districts for The Ranch subdivision. Pat Maher was present to inform the Council of the bids received for the improvement districts for The Ranch subdivision along with representatives of Martin/Martin, the special engineer for these districts. The bids as received on January 20, 2015 were as follows: 1. Water Extension District No. 23 – Nienhueser Construction, Sidney--\$313,956.10 and Paul Reed Construction, Gering, NE--\$396,772.00. Engineer's estimate was \$351,910.00. Engineer's recommendation was to award to the low bidder, Nienhueser Construction. 2. Sanitary Sewer Extension District No. 24 – BSB Construction, Curtis, NE--\$544,027.16 and Paul Reed Construction, Gering, NE--\$622,733.86. Engineer's estimate was \$375,950. Since there were two bids and they were both higher than the engineer's estimate, State Statute allows for rejection of the bids and allowing for a negotiated bid. Therefore, the engineer's recommendation was to table both bids to allow time for negotiations. 3. Street Improvement District Nos. 60, 61, 62—Paul Reed Construction, Gering, NE--\$2,894,577.75. Engineer's estimate was \$866,552.00. Engineer's recommendation was to reject the one and only bid. According to the City's bonding attorney's this still leaves the three districts intact for consideration of other scenarios.

Gallaway moved, Gay seconded "That the bid from Nienhueser Construction in the amount of \$313,956.10 for Water Extension District No. 23 be awarded to same." Roll call vote: Yeas: All council members present. Abstain: Nienhueser.

The bids for Sanitary Sewer Extension District No. 24 were tabled.

For the record, City Clerk Anthony certified that no objections had been filed in writing to the creation of Street Improvement District Nos. 60, 61, and 62 within the twenty days after the first publications on December 29 & 30, 2015 of said notices.

Gaston moved, Gallaway seconded "That the bids for Street Improvement District Nos. 60, 61 and 62 be rejected." Roll call vote: Yeas: All council members present. Abstain: Nienhueser.

Parks Superintendent Tom Von Seggern presented the one bid that had been received from Renner Sports Surfaces for the tennis court resurfacing project in the amount of \$128,624.00. Gay moved, Arterburn seconded "That the bid for the tennis court resurfacing project be awarded to Renner Sports in the amount of \$128,624.00." Roll call vote: Yeas: All council members present.

Gaston moved, Gallaway seconded "That the following claims for January 2015, are hereby approved and should be paid as provided by law out of the respective funds in the city treasury." Roll call vote: Yeas: All council members present. Abstain: Nienhueser. (Abbreviation for claims: ex expenses, rt retirement, re reimbursements, sa salaries, se service, su supplies, ut utilities, tr transfers, tx tax, ct contract, ut utilities) Hillside Ventures ct 2420.00.

Galloway moved, Arterburn seconded "That the following claims for January 2015, are hereby approved and should be paid as provided by law out of the respective funds in the city treasury." Roll call vote: Yeas: All council members present. (Abbreviation for claims: ex expenses, rt retirement, re reimbursements, sa salaries, se service, su supplies, tr transfers, tx tax, aw awards, ct contract, bd bond, in insurance, ut utilities) 21st Century Equipment eq 1011.45, 38.34, 1929.16; Accelerated Receivables se 208.12; American Environmental Consult se 1163.75; American Legal Publishing se 495.00; ASCAP du 335.00; Atco Int'l eq 157.50; B&C Steel su 54.40; Baker & Asso se 6854.25; Barker Cleaners su 45.00; Bomgaars su 152.94, 150.93, 91.95, 48.36; Brestel, Gerald rt 570.28; Cardmember se 268.04, 945.05, 1877.25; 268.24; Carolina Software ct 200.00; Carte Graph se 1540.00; Caselle ct 1080.33; CenturyLink se 96.89; Charter se 7.89, 62.99; Chey Co Chamber se 1746.67, 40.00, 50.00; Cheyenne Co Clerk se 48.00, 179.14; Cheyenne Co Community Center ct 10000.00; Cheyenne Co Court se 34.00; Cheyenne Co Emergency Comm Center se 22114.66; Cheyenne Co Visitors Committee re 2750.00; Chief su 51.25; Childers, Cody re 150.00; City of Sidney se 83.53, 7.50, 20.00, 33.12, 1000.00, 557.69, 243.03, 291.28, 474.40, bd 7312.12, 19750.00, sa in 2900.18, 87853.28, 2474.58, 12456.20, 2587.07, 22346.86, 564.87, 28492.48, 11676.59, 381.55, 7779.64, 5030.65, 852.56, 863.43, 1458.46, 882.88, 669.52, 65402.88, 11353.01, 12128.28, 22577.03, 13179.70, 7850.03, 83699.77, 11910.52, 17651.96, 27473.46, 11959.33, 7294.23, ut 4177.78, 199.54, 816.99, 1529.25, 114.23, 8594.66, 11497.03; Civic Plus se 300.00;

Clothes Hamper se 60.00; Country Printer su 663.00; CPS HR Consulting se 344.30; Cranmore Pest/Fire se 317.00, 85.00; Cummins Central Power eq 1022.84; Darin's Auto se 237.42, 460.51; Department of Energy 10379.76; DHHS du 481.40; Diamondback Engineering se 19130.00; Ditch Witch se 106.68; DP Electronics se 867.96; 268.71, 32.24; DR & G Rail se 60.00; E&S Auto se 718.70, 152.32, 822.03, 418.15, 148.93, 301.26; Eakes Office su 1224.14, 8.41; Eco Resources su 150.00; Enviro se 156.00, 66.00; Finney's su 392.03, 61.51, 31.98, 227.10, 142.34, 57.80; Fisher, Richard re 56.39; Floyd's se 5812.07; Foster Lumber su 247.95, 26.41; Fremont Nat'l Bank 13014.17; Frenchman Valley su 5825.81, 2542.37, 5563.64, 1958.76, 735.44, 621.04; GCSAA du 365.00; Gemplers su 870.00; Global Utility se 5934.81; Hall's Safety su 60.70; Hamilton se 394.70, 99.90, 49.95; Hometown Leasing ct 978.32; Horizon West eq 229.75; Huber & Asso se 81.00; Ideal Linen se 242.92, 802.76, 68.05, 24.82, 93.06; Inland Truck eq 22940.96; Intellisys se 4195.00; Intermountain Sales eq 1865.10; Interstate Batteries su 96.92, 114.95, 227.90; JP Cooke se 123.63; Jirdon Chemicals su 49.76; Johnsen corrosion Engineering se 1646.00; Johnson, Matt re 12.81, 58.93; Kevin's Electric su 125.00, 72.03, 63.00; Kriz Davis eq 2322.10; Kronos se 2089.68, 696.56, 345.16, 345.16; KSID se 33.00; LL Johnson se 350.76; Lakeland Engineering su 334.71; League of NE du 75.00; Leal, Ron se 450.00; Matthes, Joan se 625.00; Matthew Bender se 31.13; McCaslin Consulting 5400.00; Merchant JT&S se 550.00; Midwest Cabling 36141.30, 8314.50, 4139.32; Midwest Connect su 20.00; Miller Office su 328.51, 30.99, 67.96, 29.99, 166.12, 110.67, 42.93; Miller Randy se 2466.60; MRL Crane & Equipment se 1700.00; Municipal Chemical su 600.00; MEAN ut 3779.67, 399533.24; Municipal Pipe eq 21180.00; Municipal Supply su 5098.44; Murphy Tractor eq 89.92, 337.36; Napa su 1.44; NDEQ se 2332.50; NE Code Official du 100.00; NE Dept of Environmental Quality du 150.00; NE Dept of Revenue tx 64421.34; NE Dept of Roads se 137756.15; NE Environmental Products eq 28999.376; NE Law Enforcement Training Center se 574.00; NE Rural Water du 105.00, 150.00; NE Secretary of State se 30.00; NT&T se 1484.92, 126.73, 194.30, 304.24, 52.11, 114.47; NE Tire se 25.11; Niemoller, Bernice re 101.93; Nike se 655.86; NE Machinery eq 287.57, 3862.18, 1197.47, 17200.00; Northwest Pipe su 20092.90, 1092.30; Olsen, Eleanor su 275.00; Olsson Asso se 8808.49; One Call se 29.20, 29.20; Palmer, Mike tt 14.00; Panhandle Public Health se 329.00; Payment Tech se 30.04, 30.03; Points West Insurance se 40.00, 3627.00, 93.00; Prairie States se 525.00, 337.07; Randy's Auto se 552.67, 749.74, 829.16; Rankin Sales se 12.53; Regional West su 5948.66; Respond First Aid su 31.27, 20.07, 48.95; Rood's Tire su 123.40, 3289.83, 39.58; Rootx su 3818.95; Sandberg Implement su 88.98, 383.47; Sapp Bros su 112.89; Sargent Drilling eq 14807.06; Sauder Auto su 1268.52; Scotties Potties su 630.00; Segelke, Carla se 1050.00; Sidney Glass su 34.46, 90.00; Sidney Rehabilitation se 610.00; Sidney Soft Water se 41.95, 29.95, 406.35; Sidney Sun Telegraph se 2651.90, 6.95, 265.00, 21.39, 20.86; Simon Contractors su 1083.87; Sirchie Finger Print su 64.78; Sonny's su 30.14, 21.93; Source Gas ut 7725.51, 3574.91, 783.47, 304.56, 850.89, 702.99, 391.75, 1438.93, 2532.50; Southwestern Equipment su 88.00; Splish Splash se 50.80, 16.40, 4.80; Stone, Eloise rt 400.00; Sukup, Todd tt 130.50; SWANA du 445.00; Team Effort su 100.85; Triple O's su 10.41, 9.98, TWCLLC re 315963.81; US Postal se 6000.00; USA Bluebook su 184.72; Utility se 30470.32; Verizon su 660.88, 503.79, 70.39, 33.20, 192.90, 66.40, 33.20; Water Environment du 70.00; Wesco eq 48695.00; Western United su 163.57; Wheatbelt ut 10061.58; Whitebluffs se 754.00; Willco su 990.30; Wolford, Marie rt 916.47; Woodis Welding se 337.00; WPCI se 230.10; XC2 Software se 700.00; Youngs Plumbing se 90.00; Zep su 270.26;

E Complete se 62.44; Bridgeport News Blade se 59.00; Advanced Workstations eq 2543.00; Baker & Taylor su 722.38; Berman eq 112.35; City of Sidney se 1919.10; Culligan se 19.95; Cheyenne County Chamber se 210.00; Demco su 451.36; DP Electronics su 534.98; Elan Visa su 416.05; Finney's su 11.97; Floyd's su 294.53; Frenchman Valley su 195.75; Guideposts su 35.48; Gale /Cengage Learning se 332.79; Ideal Linen su 58.08; Journal Office su 31.64; NE link se 36.00; OCLC se 193.76; Omnigraphics su 202.23; Quality Books su 601.99; Quill su 513.21; Sonny's su 6.99; Sidney Sun Telegraph su 5.73; Segelke Janitorial se 1050.00; Showcases su 281.56; U Store It se 60.00; Youth Sports Club se 294.45.

Arterburn moved, Gaston seconded "That the Budget Reports for January, 2015 for all City Departments be approved." Roll call vote: Yeas: All council members present.

Mayor Nienhueser stated that the next item on the agenda is a proposed closed session for a strategic session re: imminent litigation issues and that he would entertain a motion to go into closed session for the protection of the public interest to discuss imminent litigation. Gay moved, Arterburn seconded That the Council go into closed session for the protection of the public interest to discuss imminent litigation. Roll call vote: Yeas: All council member present. Mayor Nienhueser announced that the City Council will now go into closed session at 9:13 p.m. Upon the Council's return from the closed session, Arterburn moved, Gallaway seconded That the Closed session end and the Open session be reconvened. Roll call vote: Yeas: All council members present. Mayor Nienhueser announced that the Council has come out of the closed session at 9:46 p.m.

Tim Lindahl of Wheatbelt Public Power District was in attendance to discuss the service of the City of Sidney's Industrial Tract with electricity said land currently being in Wheatbelt's service area. In an effort to amicably resolve this issue between Wheatbelt and the City of Sidney, the following points were discussed between the two parties:

- Consideration of Wheatbelt approving the City's request to the Nebraska Power Review Board to serve the Industrial Tract and that Wheatbelt waive the right to serve.
- Upon approval from the Nebraska Power Review Board the service area would be transferred to the City of Sidney.
- If the transfer occurs, the City of Sidney would be willing to pay a 5% fee of gross sales generated from this land for ten years to Wheatbelt for their giving up this service area and 3% fee of gross sales for the next ten years from sales generated from this land. This agreement would be complete and terminated after the aforementioned 20 years.
- 2-3 poles owned by Wheatbelt on this land will be removed by Wheatbelt and the City would reimburse the cost for this removal not to exceed \$5,000.

Mr. Lindahl reported that Wheatbelt's accepting an agreement with all of the aforementioned points would be contingent upon approval from his Wheatbelt Board as well as Wheatbelt's wholesale provider.

City officials emphasized during the discussion, that after speaking with their legal counsel, the City believes it has every legal right to go through the disconnection and re-annexation process on the industrial park area and the compensation to Wheat Belt would likely be little or nothing. However, Wheat Belt indicated the issue was likely to be challenged when it went through the Power Review Board process and possibly in the courts and that their state and national rural power associations were concerned about the situation also. If that were to occur, the development of the parcel could be delayed indefinitely, which wouldn't benefit anyone in the community. Those potential legal issues could be avoided with all parties signing the proposed agreement that would provide compensation to Wheat Belt through the 20 year agreement.

Gaston moved, Gallaway seconded "That the City Attorney be instructed to draft an agreement between Wheatbelt Public Power District and the City of Sidney in regards to the electric service area for the City's Industrial Tract which would incorporate the above four points and said offer of an agreement would be void if not accepted and signed by Wheatbelt at the end of the business day on March 6, 2015." Roll call vote: Yeas: All council members present.

City Manager s Report consisted of reports on recent and upcoming meetings and events: i.e. Legislative update and Monday 8:00 a.m. conference call updates from League; Midwinter League Conference 2-23-24; Scott Day meeting with Historic Preservation Board and with property owners in downtown district 2/10; JESWA 2/11; Planning Commission 2/16; Civil Service testing for two sergeant positions 2/27; consideration of a franchise agreement for a grass pickup service 2/24; Pool RFQ's reviewed and next step is going out for RFP's; PRT 2/4; Chamber annual banquet 2/11; etc. School ballot issue failed.

Council Member Gallaway commented that he liked the plans for the tennis courts/sand volleyball. Mayor Nienhueser relayed that he had two complements for the Street Department for the last storm clean up. Update requested re: when the contractor will resume work on the trails. Public Service Director answered that it should be mid-March to early April with a mid-May opening. Also, he reported that the 11<sup>th</sup> Avenue trail should be open by the end of May. Some social media about the trails was encouraged.

Meeting adjourned at 10:02 p.m.

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MARK NIENHUESER, MAYOR

ATTEST:

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G.F. ANTHONY, CITY CLERK





