

The Mayor and Council of the City of Fairbury met in the Council Chambers located at 612 D Street, Fairbury, Nebraska, on the 21st day of May 2019, at 7:30 p.m. Mayor Ward called the meeting to order.

Notice of meeting was given in advance thereof, and the Open Meetings Act was posted in the meeting room and pointed out by Mayor Ward as required by law.

Roll call found the following Council Members present: Doug Brown, Rick Carmichael, Roger Bailey, Tim Polson, Phil Rogge, Ed Friesen, Brian Schmidt, and Kelly Davis.

Mayor Ward called for the submittal of forms to request future agenda items. No forms were submitted during the meeting.

Mayor Ward read the Consent Agenda:

1. Approval of the Minutes of the Regular Meeting of May 7, 2019.

Council Member Polson moved to approve the consent agenda. Motion seconded by Rogge. On roll call vote: Brown, Carmichael, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Bailey abstaining. Motion carried.

Under Public Hearings and Presentations, Mayor Ward opened the, “Public hearing concerning the Proprietary Budget and Budget Summary for the City of Fairbury Utilities for May 1, 2019 to April 30, 2020.” Hearing was opened at 7:36 p.m. City Administrator Bielser reviewed highlights of the proposed 2020 Proprietary Budget, summarizing each utility function. Total spending authority is just under \$20 million. Council Member Bailey asked staff to ensure that any cost estimates to build a new power plant as part of the Generation/Transmission Feasibility Study include maintenance and operational costs. With no further questions, the hearing was closed at 7:47 p.m.

Mayor Ward then opened a “Public Hearing regarding a request to change the comprehensive development plan and future land use map from Low Density Residential and Highway Commercial to Light Industrial for an area including the property proposed to be legally described as: Lot 3 of Schlake Acres Subdivision, City of Fairbury, Jefferson County Nebraska. Generally located at 56895 Hwy 136 Fairbury, Ne.” The hearing was opened at 7:48 p.m. City Administrator Bielser reviewed the need to accept the change to finalize the Schalke Acres Subdivision Final Plat. It was noted that at the previous City Council meeting, the Governing Body approved the subdivision’s preliminary plat application. With no further questions, the hearing closed at 7:49 p.m.

Next, at 7:49 p.m., Mayor Ward opened a “Public Hearing regarding a request to change 2013 zoning regulations and zoning map from Low Density Residential and Highway Commercial to Light Industrial for an area including the property proposed to be legally described as: Lot 3 of Schlake Acres Subdivision, City of Fairbury, Jefferson County Nebraska. Generally located at 56895 Hwy 136 Fairbury, Ne.” Again, City Administrator Bielser explained the need to accept the zoning change in order to complete the Subdivision’s Final Plat application. With no further questions, the hearing closed at 7:50 p.m.

Next, the Governing Body held a “Public Hearing regarding an application for Schlake Acres Subdivision Final plat, a plat of a part of vacated Lots 7 and 8, Nelson’s Subdivision of the Northwest Quarter of the Southeast Quarter, and all of the Northeast Quarter of the Southeast Quarter of Section 11, and a part of the Southwest Quarter of Section 12, Township 2 North, Range 2 East of the 6th P.M., Jefferson County, NE. More fully described below.”

For the purpose of this legal description, the basis of bearings is the West line of the Northwest Quarter of the Southeast Quarter of said Section 11, having an assumed reference bearing of S 03°06'06" E.

Referring to the West Sixteenth Corner of the Southeast Quarter of said Section 11, thence easterly N 87°55'50" E, on the South line of the Northwest Quarter of the Southeast Quarter of said Section 11, 62.50 feet, to a point of intersection on the East line of the State of Nebraska Highway 15 Right of Way, said point also being the Point of Beginning; thence continuing easterly N 87°55'50" E, on the South line of the Northwest Quarter of the Southeast Quarter of said Section 11, and on the South line of Lot 8, Nelson's Subdivision, 1227.14 feet, to the Center Sixteenth Corner of the Southeast Quarter of said Section 11, said Corner also being the Southeast Corner of Lot 8, Nelson's Subdivision; thence easterly N 87°55'50" E, on the South line of the Northeast Quarter of the Southeast Quarter of said Section 11, 1288.02 feet, to the East Sixteenth Corner of the Southeast Quarter of said Section 11; thence southerly S 02°00'20" E, on the East line of the Southeast Quarter of the Southeast Quarter of said Section 11, 722.77 feet, to a point of intersection on the North line of the State of Nebraska Highway 136 Right of Way; thence northeasterly on said North Highway Right of Way line on an 1839.86 foot radius curve to the left, deflection to the initial tangent being 134°31'39" left from the last described course, a chord bearing of N 40°12'48" E, a chord distance of 208.86 feet, an arc distance of 208.97 feet, to a point of tangency; thence northeasterly N 36°57'34" E, on said North Highway Right of Way line, 327.47 feet; thence northeasterly N 36°55'14" E, on said North Highway Right of Way line, 259.22 feet; thence northwesterly N 66°04'46" W, 130.00 feet; thence northwesterly N 53°34'46" W, 140.00 feet; thence northwesterly N 37°34'46" W, 105.00 feet, to a point of curvature of a 111.32 foot radius non tangent curve to the right; thence along said curve, a chord bearing of N 42°41'16" E, a chord distance of 219.57 feet, an arc distance of 312.72 feet; thence northerly N 21°04'51" W, 469.38 feet; thence westerly S 88°03'54" W, 220.74 feet, to a point of intersection on the East line of the Northeast Quarter of the Southeast Quarter of said Section 11; thence northerly N 01°51'54" W, on the East line of the Northeast Quarter of the Southeast Quarter of said Section 11, 599.32 feet, to the East Quarter Corner of said Section 11; thence westerly S 88°06'27" W, on the North line of the Northeast Quarter of the Southeast Quarter of said Section 11, 1303.12 feet, to the North Sixteenth Corner of the Southeast Quarter of said Section 11, said Corner also being the Northeast Corner of Lot 1, Nelson's Subdivision; thence southerly S 02°31'13" E, on the West line of the Northeast Quarter of the Southeast Quarter of said Section 11, and on the East line of Nelson's Subdivision, 1034.61 feet, to the Northeast Corner of Lot 7, Nelson's Subdivision; thence westerly S 88°09'09" W, on the North line of said Lot 7, 1229.54 feet, to a point of intersection on the East line of the State of Nebraska Highway 15 Right of Way; thence southerly S 02°59'04" E, on said East Highway Right of Way line, 290.50 feet, to the True Point of Beginning.

The hearing was opened at 7:50 p.m., and Mr. Kendall Schlake approached the Council and reviewed the plans for the property. Mr. Schlake is selling a portion of his acreage to Mr. Kevin Schmidt so that Mr. Schmidt's business operations can expand. Mr. Schlake is not anticipating any further development. Bielser noted that one of the changes that had occurred from when the Preliminary Plat was approved was that an easement for future expansion of L Street had been granted by the developer. With no further questions, the public hearing closed at 7:53 p.m.

Mayor Ward then introduced the first item of Current Business, "Consider the Proprietary Budget and Budget Summary for the City of Fairbury Utilities for May 1, 2019 to April 30, 2020." Council Member Brown moved to approve the 2020 Proprietary Budget. Motion was seconded by Carmichael. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting "yes." Motion carried.

Next, the Governing Body took action to, "Consider recommendation from the Planning Commission regarding a request to change the comprehensive development plan and future land use map from Low Density Residential and Highway Commercial to Light Industrial for an area including the property proposed to be legally described as: Lot 3 of Schlake Acres Subdivision, City of Fairbury, Jefferson County Nebraska. Generally located at 56895 Hwy 136 Fairbury, Ne." Friesen moved to approve the recommendation of the Planning Commission and accept the request to change the comprehensive development plan and future land use map accordingly. Motion was seconded by Rogge. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting "yes." Motion carried.

The City Council then heard, "Consider recommendation from the Planning Commission regarding a request to change 2013 Zoning Regulations and zoning map from Low Density Residential and Highway Commercial to Light Industrial for an area including the property proposed to be legally described as: Lot 3 of Schlake Acres Subdivision, City of Fairbury, Jefferson County Nebraska. Generally located at 56895 Hwy 136 Fairbury, Ne." Friesen moved to approve the recommendation of the Planning Commission and accept the requested zoning change. Motion was seconded by Carmichael. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting "yes." Motion carried.

Mayor Ward then presented the business item to "Consider recommendation from the Planning Commission regarding an application for Schlake Acres Subdivision Final plat, a plat of a part of vacated Lots 7 and 8, Nelson's Subdivision of the Northwest Quarter of the Southeast Quarter, and all of the Northeast Quarter of the Southeast Quarter of Section 11, and a part of the Southwest Quarter of Section 12, Township 2 North, Range 2 East of the 6th P.M., Jefferson County, NE." Friesen moved to approve the Final Plat as presented. Motion was seconded by Carmichael. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting "yes." Motion carried.

Business item to “Consider Public Works Committee recommendation regarding bids received for 2019 asphalt pavement project on A Street from 11th – 14th Street and on 12th Street from E – H Street and authorizing Mayor Ward to sign any and all related documents,” was explained by Public Works Committee Chair and Council Member Rogge. Rogge moved to approve the low bid from Pavers to conduct asphalt pavement improvements on 12th Street from E – H Streets in the amount of \$137,506. Council Member Bailey inquired why the Public Works Committee selected 12th Street over improvements to A Street. Rogge explained that 12th Street is more visible and receives a greater amount of traffic due to the proximity of businesses and Grace Lutheran Church. Motion was seconded by Carmichael. On roll call vote: Brown, Carmichael, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Bailey “no.” Motion carried.

Next, the City Council entertained business item, “Consider Public Works Committee recommendation regarding bids received for 2019 Oak Street improvement project and authorizing Mayor Ward to sign any and all related documents.” Once again, Public Works Committee Chair and Council Member Rogge explained the item. Rogge moved to approve the low bid from Lottman Carpenter Construction in the amount of \$150,589.18 for concrete improvements on Oak Street from 13th to 14th Streets and for storm sewer improvements on 13th Street from Oak to Maple Streets. Motion was seconded by Carmichael. On roll call vote: Brown, Carmichael, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Bailey abstaining. Motion carried.

Mayor Ward then entertained agenda item, “Consider authorizing Mayor Ward to sign pay request No. 1 for project No. 2 of CDBG No. 16-HO-36064.” City Administrator Bielser explained the pay request and noted it was part of the City’s Owner-Occupied Rehabilitation Program that is administered by the Southeast Nebraska Development District. Friesen moved to authorize Mayor Ward to sign the pay request. Motion seconded by Davis. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Motion carried.

“Resolution No. 1084: Establishing minimum charges and additional charges to be billed, assessed, and/or collected for nuisance abatement,” was presented. City Administrator Bielser explained that this Resolution follows current billing practice for nuisance abatements; however, as the City accelerates its code violation efforts, staff is recommending the Governing Body approve a formal resolution that corresponds with existing City procedures. Brown moved to approve Resolution No. 1084. Motion seconded by Carmichael. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Motion carried.

The City Council then considered the first reading of, “Ordinance No. 3085: An Ordinance of the City of Fairbury, Nebraska, to vacate lots 7 & 8, Nelson’s Subdivision to the City of Fairbury, Jefferson County, NE; A property generally located at 1708 K Street.” City Administrator Bielser explained that Ordinance No. 3085 is necessary to finalize platting Schlake Acres Subdivision. It was explained that before the new plat can be accepted, the old plat concerning the property must be vacated by the City Council. Carmichael moved to approve the first reading of Ordinance No. 3085. Motion seconded by Rogge. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Motion carried.

Under reports, City Administrator Bielser shared that the pool is still on schedule to open May 25th, however, grand opening festivities have been moved back to 1:00 p.m. Progress on nuisance abatements was shared as were results from the solar power RFP that the City participated in with 5 other MEAN communities.

With no more reports, Mayor Ward entertained a motion to go into closed session to discuss potential litigation. Bailey moved to enter closed session. Motion was seconded by Rogge. Mayor Ward reiterated the need for closed session and invited all Council Members, City Attorney Barga, Deputy City Clerk Renn, and City Administrator Bielser to remain. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Motion carried. The Governing Body entered closed session at 8:13 p.m.

Friesen made a motion to enter open session, which was seconded by Brown. The Governing Body returned to open session at 8:43.

Lastly, Mayor Ward entertained a motion to adjourn. Friesen moved to adjourn. Motion seconded by Carmichael. On roll call vote: Brown, Carmichael, Bailey, Polson, Rogge, Friesen, Schmidt, and Davis voting “yes.” Motion carried. The meeting adjourned at 8:44 p.m.

Homer L. Ward, Mayor

Date

Carissa Lufkin, City Clerk

Date