

**REGULAR MEETING
CITY COUNCIL, YORK, NEBRASKA
MAY 21, 2009**

A meeting of the Mayor and City Council of the City of York, Nebraska, was convened in open and public session at 7:00 o'clock p.m. in the Council Chambers.

The Mayor announced that the Open Meetings Act is posted on the east wall of the Council Chambers.

ROLL CALL

Present were: Mayor Harris; Councilmembers: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Also present were the City Clerk, City Administrator, City Attorney, and Director of Public Works.

Notice of this meeting was given in advance thereof by publication in the York News Times on May 18, 2009, the City's designated method for giving notice, a copy of the proof of publication being attached to these Minutes. Notice of this meeting was given to the Mayor and all members of the City Council and a copy of their acknowledgment and receipt of notice and the agenda is attached to these Minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and City Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

MINUTES

Councilmember Leggett moved and Councilmember Obermier seconded that the Minutes of the May 7, 2009 meeting be approved.

Roll Call Vote: Ayes; Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

REPORTS

Councilmember Mogul moved and Councilmember Brink seconded that the Departmental Activities Report, and Water and Sewer Operational Statements be approved.

Roll Call Vote: Ayes: Redfern, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

FUND BALANCES AND BUDGET COMPARISON

Councilmember Obermier moved and Councilmember Redfern seconded that the Fund Balances and Budget Comparison Reports be approved.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

CLAIM OF ELECTED OFFICIALS

Councilmember Redfern moved and Councilmember Wolfe seconded that the claim of Cy North for North Office Supply in the amount of \$54.96 and York Printing Co. in the amount of \$1,254.49 be approved and paid. .

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, Leggett, Brink, Redfern and Toms. . Nays: None. . Councilmember North declared a Conflict of Interest due to the fact that he is the owner of North Office Supplies and York Printing Co. and abstained from voting: Motion Carried.

CLAIMS

Councilmember Redfern moved and Councilmember Toms seconded that the claims for the period May 7, 2009 through May 21, 2009 be approved and paid.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. . Nays: None. Motion Carried.

CITY ADMINISTRATOR REPORT

The City Administrator reported: 1) that the County Assessor has sent a letter of her intent to place a value on the water wellfield property and tax the same. He advised that the City should protest because the property will be used for city purposes – the development of a wellfield; and 2) mentioned the fact that a certain York News Times reporter was seen in the Family Aquatic Pool.

APPROVE PRELIMINARY AND FINAL PLATS

1) The Mayor announced that this was the time and place for a public hearing on a preliminary and final plat of Irregular Tract No. 25, a part of Irregular Tract 15 in the West Half of the Northwest Quarter of Section 32, Township 11 North, Range 2 West of the 6th P.M..filed by Richard and Susan White and the City Clerk read the required legal notice. Michelle Ronne, representing the applicants, was present at the meeting and advised that the applicants are selling the building site and over four acres but retaining the farm ground The Director of Public advised that this area is zoned A-L Agricultural and meets the land subdivision requirements. He further advised that the Planning Commission had recommended approval of said plat.

Councilmember Leggett moved and Councilmember North seconded that the plat be approved.

Roll Cal Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

2) The Mayor announced that this was the time and place for a public hearing on a preliminary and final plat of Yorktowne Estates 2nd Addition to the City .filed by Yorktowne Estates LLC and the City Clerk read the required legal notice. Dan Rosenthal, representing the applicant and Excel Development, was present at the meeting and advised that the applicant is going to develop Phase II of Yorktowne Estates and will be building ten duplex units, work to commence in June and be completed in March of 2010. The Director of Public advised that this area is a replat of the original plat and meets the land subdivision requirements. He further advised that the Planning Commission had recommended approval of said plat.

Councilmember Obermier moved and Councilmember Leggett seconded that the plat be approved.

Roll Cal Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

REZONE YORKTOWNE ESTATES 2ND ADDITION

The Mayor announced that this was the time and place set for a public hearing on a request filed by Yorktowne Estates 2nd Addition to rezone said property from R Residential to C-P Community Unit Plan and the City Clerk read the required legal notice. The following Ordinance was introduced:

ORDINANCE NO. 2021

AN ORDINANCE TO AMEND A PORTION OF THE ZONING ORDINANCE OF THE CITY OF YORK, NEBRASKA, RELATING TO BOUNDARIES OF ZONED DISTRICT AS SET FORTH IN YORK DISTRICT MAP PROVIDED FOR AND MADE A PART OF SECTION 2, ARTICLE IV OF SAID ZONING ORDINANCE, REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH AND TO PROVIDE FOR THE EFFECTIVE DATE OF SAID ORDINANCE.

Councilmember Toms moved and Councilmember Brink seconded that the Statutory Rule requiring reading on three different days of Ordinance No. 2021 be suspended.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. The motion was adopted by a three-fourths vote of the Council and the Statutory Rule suspended for consideration of said Ordinance on its second and third reading.

Councilmember Toms moved and Councilmember Leggett seconded that Ordinance No. 2021 be passed and adopted.

Roll Call Vote: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Ordinance No. 2021 was declared adopted.

PUBLIC HEARING CONCERNING ENGINEERING REPORT FOR CONSTRUCTION OF WATER WELLFIELD AS REQUIRED FOR STATE REVOLVING LOAN FUNDING

The Mayor announced that this was the time and place set for a public hearing on an engineering report for construction of a water wellfield as required for State Revolving Loan funding from the Nebraska Department of Environmental Quality and other funding agencies and the City Clerk read the required legal notice. The Director of Public Works advised that Kirkham, Michael in 2003 prepared a water Master Plan which covered the quality and quantity of water. The Director of Public Works outlined the project, as follows:

1) Project description: With the city's projected increase in population to approximately 9100 by the year 2023, water demands are expected to increase to approximately 2.0 million gallons per day (MGD) for the average day and approximately 5.1 MGD for maximum day demand. The city's well supply is marginal for quantitative purposes considering several wells are now designated for emergency use only because of nitrate or organic contamination over the last several years – some of the existing wells have high concentrations of nitrates, arsenic and uranium. Previous reports have recommended the development of a future water supply using a centralized well field concept which will minimize costs and allow maximum flexibility to meet treatment requirements in the future. A map was presented showing the proposed system improvements.

2) Project components: The project components are a) six water wells; b) water transmission mains; and c) water system improvements. He further advised that a contract has been awarded for the water systems improvements which include North York, Platte Avenue, Edison Avenue and East 14th Street.

3) Purpose of project: Development of a water system to provide quality and quantity of water to meet city needs.

4) Finances: Project will cost approximately \$3,790,000 – 25% of which will be forgiven and 75% will be a low interest loan through the Nebraska Department of Environmental Quality.

5) Water rate effect. The City Administrator reported that the City has increased the water rates 8% each year for the past six years and that the net increase over debt is 1.25%. That the water fund has been built up over the past years to handle expenses during the construction period.

The Mayor opened the hearing to public comments. No one appeared to comment on the project and no written comments were received prior to the hearing. There being no further discussion, the Mayor closed the hearing.

Councilmember Leggett moved and Councilmember Brink seconded that the report be approved.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

LEASE PURCHASE AGREEMENT

The City Administrator advised that the lease purchase agreement will reimburse the City for a 2010 Sterling Truck in the amount of \$97,100. The following ordinance was introduced:

ORDINANCE NO. 2022

AN ORDINANCE OF THE CITY OF YORK, NEBRASKA, AUTHORIZING AND APPROVING A LEASE PURCHASE AGREEMENT BETWEEN THE CITY AND AMERITAS INVESTMENT CORP., LINCOLN, NEBRASKA, IN THE TOTAL PRINCIPAL AMOUNT OF \$97,100 TO FINANCE THE PURCHASE OF A NEW TANDEM TRUCK FOR THE CITY'S UTILITY DEPARTMENT; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM AND RELATED MATTERS.

Councilmember Mogul moved and Councilmember Brink seconded that the Statutory Rule requiring reading on three different days of Ordinance No. 2022 be suspended.

Roll Call Vote: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. The motion was adopted by a three-fourths vote of the Council and the Statutory Rule suspended for consideration of said Ordinance on its second and third reading.

Councilmember Mogul moved and Councilmember Brink seconded that Ordinance No. 2022 be passed and adopted.

Roll Call Vote: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried. Ordinance No. 2022 was declared adopted.

APPROVE SPECIAL DESIGNATED PERMIT APPLICATIONS:

1) Matt Leif, representing the Knights of Columbus was present seeking approval for said organization to sell alcoholic beverages on August 7 and 8, 2009 for a dance and beer garden during the York County Fair. He advised that they have never encountered any problems in the past and that there are always Sheriff's Deputies and Police Officers present at the fair. The Friday night event will be in the grandstand and Saturday night will be under the tent. Councilmember Leggett moved and Councilmember Brink seconded that an application be recommended for approval.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

2) Councilmember Brink moved and Councilmember Obermier seconded that an application filed by Hunters Lounge to sell alcoholic beverages in the Cornerstone Event Center for a wedding reception on June 13, 2009 be recommended for approval.

Roll Call Vote: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

APPROVE AGREEMENTS WITH NEBRASKA DEPARTMENT OF AERONAUTICS

The Director of Public Works advised that the agreements will grant the Department of Aeronautics to act as the City's agent to handle federal funds for airport improvements. There is no grant agreement at this time but funds may become available to the city in the future.

Councilmember Brink moved and Councilmember Leggett seconded that the following Resolution be adopted:

RESOLUTION NO. 2009-7 (L03)

A RESOLUTION ADOPTING AND APPROVING EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA, FOR PROJECT NO. L03 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT:

Be it resolved by the Mayor and members of the City Council of York, Nebraska, that:

- 1) The City of York shall enter into an Agency Agreement with the Department of Aeronautics for Project No. L03 for the purpose of obtaining Federal Assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.
- 2) The Mayor of the City of York is hereby authorized and directed to execute said Agency Agreement on behalf of the city of York and the City Clerk is hereby authorized to attest said execution.
- 3) The said agreement, referred to hereinabove, is inserted in full and attached herewith and made a part hereof as Exhibit O.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

Councilmember Brink moved and Councilmember Obermier seconded that the following Resolution be adopted:

RESOLUTION NO. 2009-8 (G01)

A RESOLUTION ADOPTING AND APPROVING EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA, FOR PROJECT NO. G01 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT:

Be it resolved by the Mayor and members of the City Council of York, Nebraska, that:

- 4) The City of York shall enter into an Agency Agreement with the Department of Aeronautics for Project No. G01 for the purpose of obtaining Federal Assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.
- 5) The Mayor of the City of York is hereby authorized and directed to execute said Agency Agreement on behalf of the city of York and the City Clerk is hereby authorized to attest said execution.
- 6) The said agreement, referred to hereinabove, is inserted in full and attached herewith and made a part hereof as Exhibit O.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried

Councilmember Brink moved and Councilmember Obermier seconded that the following Resolution be adopted:

RESOLUTION NO. 2009-9 (P01)

A RESOLUTION ADOPTING AND APPROVING EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA, FOR PROJECT NO. P01 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT:

Be it resolved by the Mayor and members of the City Council of York, Nebraska, that:

- 7) The City of York shall enter into an Agency Agreement with the Department of Aeronautics for Project No. P01 for the purpose of obtaining Federal Assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.
- 8) The Mayor of the City of York is hereby authorized and directed to execute said Agency Agreement on behalf of the city of York and the City Clerk is hereby authorized to attest said execution.
- 9) The said agreement, referred to hereinabove, is inserted in full and attached herewith and made a part hereof as Exhibit O.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

THANK YOU TO ORVILLE DAVIDSON

Councilmember Brink moved and Councilmember Toms seconded that the following Resolution be adopted:

RESOLUTION

BE IT RESOLVED BY the Mayor and City Council of the City of York, Nebraska that:

Whereas, Orville Davidson was appointed Director of Public Works on September 1, 1971; and

Whereas, Orville Davidson has served in that capacity since that time; and

Whereas, Orville Davidson has received the following awards and honors during his tenure as Director of Public Works, which include but are not limited to:

Completed training in Urban Public Works Administration given by the International City Managers Association

Has been a long-time member of the State of Nebraska Board of Examiners for County Highway and City Street Superintendents

In 1991 was selected as One of the Top Ten Public Works Leaders of the Year as presented by the American Public Works Association

Has served as President of the League of Nebraska Municipalities Utilities Section

Has been awarded by the American Water Association the George Warren Fuller Award for the Nebraska Section for distinguished service in the water supply field

Has been an active member of the York Chamber of Commerce and a member of the York Ambassadors for many years

Now, Therefore, The Mayor and City Council of the City of York, Nebraska do hereby recognize and thank Orville Davidson for his service, professionalism, loyalty and dedication to the City of York for the past 37 years and nine months and wish him the very best in his future endeavors.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

Orville thanked the present and former Council Members, Mayor and staff – that he has mixed emotions about retirement.

APPROVE MAYOR'S APPOINTMENTS

The Mayor announced his re-appointment of:

- 1) Bob Hose to the Board of Public Works for a three year term terminating June 1, 2012.

Councilmember Redfern moved and Councilmember Obermier seconded that the appointment be approved.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

- 2) Jerrine Brugh to the Library Board for five year term terminating July 1, 2014.

Councilmember Obermier moved and Councilmember Toms seconded that the appointment be approved.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

- 3) John Kohl to the Aviation Board for a three year term terminating June 1, 2012.

Councilmember Leggett moved and Councilmember Redfern seconded that the appointment be approved.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None. Motion Carried.

The Mayor announced his appointment of Gerold Leggett, for a one year term; Jane Thompson for a two year term; Matt Spanjers for a three year term and Kris Holoch for a four year term on the Personnel Board.

Councilmember Leggett moved and Councilmember Brink seconded that the appointments be approved.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None.
Motion Carried.

GRIEVANCE

The City Administrator advised that the Police Chief had received a grievance filed by the President of the FOP regarding changes to the health insurance plan. The City Attorney advised that the grievance should go to the supervisor, then the department head, then to the City Administrator and then to the Personnel Board, and finally to Court of Industrial Relations.

Councilmember Brink moved and Councilmember Toms seconded that the Council adjourn into Executive Session to discuss any possible litigation, the time being 7:43 o'clock p.m.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None.
Motion Carried.

The Mayor announced that the Council was going into Executive Session to discuss possible litigation dealing with a grievance filed by a member of the FOP # 31.

Councilmember North moved and Councilmember Leggett seconded that the Council adjourn from Executive Session, the time being 8:24 o'clock p.m.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None.
Motion Carried.

APPOINTMENT OF ATTORNEY AT LAW

Councilmember North moved and Councilmember Obermier seconded to retain the services of Jerry Pigsley to give an opinion regarding the grievance.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, and Redfern. Nays: Toms. Motion Carried.

ADJOURNMENT

Councilmember Brink moved and Councilmember Redfern seconded that the Council meeting be adjourned the time being 8:31 o'clock p.m.

Roll Call Vote: Ayes: Wolfe, Obermier, Mogul, North, Leggett, Brink, Redfern and Toms. Nays: None.
Motion Carried.

C. Jean Thiele, City Clerk

Charles Harris, Mayor