

**REGULAR MEETING  
CITY COUNCIL, YORK, NEBRASKA  
JUNE 4, 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.

Present were: Mayor Harris; Councilmembers: Obermier, Mogul, North, Leggett, Brink, Redfern, Toms and Wolfe. . Also present were the City Clerk, City Administrator and Staff Engineer. .

Notice of this meeting was given in advance thereof by publication in the York News Times on June 1, 2009. 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 21, 2009 meeting be approved.

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

**CLAIMS**

Councilmember Redfern moved and Councilmember Toms seconded that the claims for the period of May 7, 2009 through June 4, 2009 be approved and paid.

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

**APPROVE ELECTED OFFICIALS CLAIMS**

Councilmember Redfern moved and Councilmember Mogul seconded that the claim of Cy North for North Office Supply in the amount of \$377.64 and York Printing Co. in the amount of \$59.78 be approved and paid.

Roll Call Vote: Ayes: Obermier, Mogul, Leggett, Brink, Redfern, Toms and Wolfe. Councilmember North declared a conflict of interest inasmuch as he is the owner of North Office Supply and York Printing Co. and abstained from voting. Nays: None. Motion Carried.

Councilmember Redfern moved and Councilmember Brink seconded that the claim of Mogul Real Estate LLC in the amount of \$20,000.00 and Mogul's Transmission in the amount of \$1,052.35 be approved and paid.

Roll Call Vote: Ayes: Obermier, North, Leggett, Brink, Redfern, Toms and Wolfe. Councilmember Mogul declared a conflict of interest inasmuch as he is the owner of Mogul Real Estate, LLC and Mogul's Transmission, and abstained from voting. Nays: None. Motion Carried

**APPROVE AMENDMENTS**

The City Administrator reported that Amendment # 2 with Kirkham, Michael deals with Nebraska Avenue; the Department of Transportation did not like the way the Nebraska Department of Roads handled the obtaining of easements on the Nebraska Avenue project and so contact must be made with the owners who had previously signed easements.

Councilmember Leggett moved and Councilmember Redfern seconded that the Mayor be authorized to execute Amendment # 2 with Kirkham, Michael for Professional Right of Way Services, Storm Sewer and Pavement Project – Nebraska Avenue 14<sup>th</sup> Street to Beaver Creek.

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

Councilmember Mogul moved and Councilmember Obermier seconded that the Mayor be authorized to execute Amendment # 1 with Kirkham, Michael for Professional Engineering Construction Phase Services – Water Distribution Mains, Master Plan, Alternate B.

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

#### AWARD CONTRACT

Upon the recommendation of Kirkham, Michael, Councilmember Redfern moved and Councilmember Leggett seconded that a contract be awarded to the low base bidder, Oakview Construction, in the amount of \$587,300.00 for the wastewater treatment plant gas holder replacement and headworks improvements.

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

#### APPROVE LEASE PURCHASE AGREEMENT

The City Administrator reported that the equipment needed for the police department was budgeted in the 911 funds of the 2009-10 budget – the total amount of equipment will be approximately \$128,000 with \$60,000 being paid by cash.

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

#### RESOLUTION NO. 2009-10

**A RESOLUTION DECLARING THE INTENT OF THE CITY OF YORK, NEBRASKA, TO ISSUE ITS LEASE-PURCHASE AGREEMENT TO PAY OR REIMBURSE THE CITY FOR PAYMENT OF EXPENDITURES FOR MUNICIPAL IMPROVEMENTS AND ACQUISITIONS**

BE IT RESOLVED by the Mayor and City Council of the city of York, State of Nebraska, as follows:

The City intends to contract for, or has contracted for a console and related equipment for the York Police Department.

The City intends to incur expenditures related to the improvements and acquisitions in an aggregate amount of approximately \$128,000.00.

The City intends to issue its Lease-Purchase Agreement in the maximum amount of \$70,000.00 to finance the console and related equipment, including reimbursement of expenditures incurred for such purposes prior to the issuance of the Lease-Purchase Agreement, including Motorola Invoice # 137267 in the amount of \$9,263.90.

As of the date of this Resolution, the City reasonably expects to issue a Lease-Purchase Agreement for the purposes expressed in this Resolution.

This Resolution is effective this 4<sup>th</sup> day of June, 2009.

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

## DISCUSS GRIEVANCE

The City Attorney advised that a grievance had been filed by by the Fraternal Order of Police # 31 and outlined the process as follows: the grievance is first filed with the supervisor, and if the result is not satisfactory, the grievance is then filed with the department head (in this case, the supervisor and department head is one and the same, and if the result is not satisfactory, the grievance is filed by the City Administrator, and if the result is not satisfactory, the grievance is the filed with the Personnel Board. The grievance was filed with the Department Head and an answer was filed. The grievance was filed by the City Administrator and an answer was filed. The City Attorney advised that the City Council can take no action on this matter and normally would not even hear the matter. Mr. Jerry Pigsley of Harding & Schulz, 121 South 13, Suite 800, Lincoln, was introduced to the Council. He was retained to give a legal opinion to the Council. He advised that there is no decision in Nebraska that has dealt with this issue. He advised that arbitrators have ruled that benefits are defined as services that are provided and that coverage is a different issue and does not include “costs”. He advised that the language in the current contract does not define benefits. He also advised that the grievance was filed too late – that it must be filed within seven days and that the FOP know about the changes prior to May 1, 2009. He also advised that he believes there is “no remedy” under the contract.

## ADJOURNMENT

There being no further business to come before the Council, the Mayor adjourned the meeting, the time being 7:24 o’clock p.m.

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C. Jean Thiele, City Clerk

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Charles W. Harris, Mayor