

**REGULAR MEETING
CITY COUNCIL, YORK, NEBRASKA
AUGUST 19, 2010**

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: Toms, Wolfe, Obermier, Mogul, North, Leggett, Brink and Redfern. . Also present were the City Clerk, City Administrator, and Director of Public Works.

Notice of this meeting was given in advance thereof by publication in the York News Times on August 16, 2010, 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 August 5, 2010 meeting be approved.

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

REPORTS

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

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

FUND BALANCES AND BUDGET COMPARISON

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

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

CLAIMS OF ELECTED OFFICIAL

Councilmember Redfern moved and Councilmember Mogul seconded that the claim of Cy North for North Office Supply in the amount of \$67.14 and York Printing Co. in the amount of \$2,471.28 be approved and paid. .

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

CLAIMS

Councilmember Redfern moved and Councilmember Wolfe seconded that the claims for the period August 6, 2010 through August 19, 2010 be approved and paid.

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

REGISTERED WARRANT

Councilmember Redfern moved and Councilmember Leggett seconded that the City Clerk/Treasurer be directed to register warrant payable to Kirkham, Michael in the amount of \$1,013.14 for the Nebraska Avenue Project.

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

PUBLIC HEARINGS

1) The Mayor announced that this was the time and place set for a public hearing on a preliminary and final plat of Bartek Subdivision and the City Clerk read the required legal notice. Todd Bartek was present and advised he will be building a home on Lot 1 and advised the location of the utilities – the project will be done in three stages. The Director of Public Works advised that the plat meets the land subdivision regulations and that the Planning Commission had recommended approval of the plat.

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

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

2) The Mayor announced that this was the time and place set for a public hearing on an application for a special use permit filed by the Aurora Farmers Coop for the storage of bulk fuel and anhydrous ammonia on Irregular Tract 19 locate din a part of the W/2 of the NW/4 of Section 36, Township 11 North, Range 3 West of the 6th P.M., York County, Nebraska and the City Clerk read the required legal notice. Don Engle representing Aurora Farmers Coop was present in support of the application. The Director of Public Works advised that this use is allowable by special use permit in the I-Industrial zone and that the Planning Commission had recommended approval of said permit.

Councilmember Mogul moved and Councilmember Brink seconded that the special use permit be approved.

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

3) The Mayor announced that this was the time and place set for a public hearing to consider the adoption of a Redevelopment Plan for Redevelopment Area No. 5 and the City Clerk read the required legal notice.

Councilmember Toms moved and Councilmember Leggett seconded that the Council adjourn as a Council and reconvene as a Community Redevelopment Authority.

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

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

CITY OF YORK COMMUNITY REDEVELOPMENT AUTHORITY

RESOLUTION NO. 2010-23

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF YORK, NEBRASKA, MAKING RECOMMENDATIONS WITH RESPECT TO A REDEVELOPMENT PLAN FOR A REDEVELOPMENT AREA IN THE CITY PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT

ACT

WHEREAS, the Mayor and City Council of the City of York, Nebraska (the "City") by its ordinance passed and approved March 11, 1993, created the Community Redevelopment Authority of the city of York, Nebraska (the "Authority") pursuant to Sections 18-2101 through 18-2153, Reissue Revised Statutes of Nebraska, as amended (the "Act"); and

WHEREAS, on July 26, 2010, the City adopted a resolution declaring an area in the northwest portion of the City of York as blighted and substandard in accordance with Section 18-2103 of the Act; and

WHEREAS, the Authority has prepared a proposed Redevelopment Plan for consideration by the City pursuant to Section 18-2111 of the Act, and has submitted the proposed Redevelopment Plan to the Planning Commission of the City of York for recommendations with respect to the proposed Redevelopment Plan.

NOW, THEREFORE, BE IT RESOLVED by the members of the Authority, as follows:

1) The Authority has considered the factors specified in Section 18-2113 of the Act in connection with the Plan, including proposed land uses and building requirements in the Redevelopment Project area, development of the City in accordance with its present and future needs and promotion of health, safety and morals, order, convenience, property and the general welfare, as well as efficiency and economy in the process of development, including traffic, parking, safety from fire, panic and other dangers, adequate provisions for light and air, the promotion of healthful and convenient distribution of population, adequate transportation, water, sewerage and other public utilities, school, parks, recreation and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds and prevention of recurrence of unsanitary and unsafe accommodations or conditions of blight.

2) In accordance with Section 18-2114, recommendations of the Planning Commission, if any, are attached to this Resolution, the Authority does not currently propose acquisition or preparation for redevelopment of a project or disposal of a property, the Authority contemplates issuance of Bonds secured by incremental tax revenue to assist in the financing of the Redevelopment Project area and the Authority does not intend to displace families from a redevelopment area.

3) The Authority recommends to the Mayor and City Council of the City of York, Nebraska, approval of the Redevelopment Plan in the form submitted.

RESOLVED FURTHER, that any Resolution passed and approved prior to the passage, approval and publication of this Resolution which is in conflict with the terms and provisions of this Resolution is hereby repealed. This Resolution shall take effect and be in full force and effect from and after its passage, approval and publication as required by law. The provisions of the Resolution are separable, and invalidity of any phrase, clause or part of this Resolution shall not effect the validity or effectiveness of the remainder of this Resolution.

PASSED AND APPROVED by the Authority this 19th day of August, 2010.

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

Councilmember Toms moved and Councilmember Brink seconded that the Council adjourn as a Community Redevelopment Authority and reconvene as a City Council.

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

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

CITY OF YORK
MAYOR AND CITY COUNCIL

RESOLUTION 2010-24

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF YORK, NEBRASKA, MAKING RECOMMENDATIONS WITH RESPECT TO A REDEVELOPMENT PLAN FOR A REDEVELOPMENT AREA IN THE CITY PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT ACT

WHEREAS, the Mayor and City Council of the City of York, Nebraska (the "City") by its ordinance passed and approved March 11, 1993, created the Community Redevelopment Authority of the city of York, Nebraska (the "Authority") pursuant to Sections 18-2101 through 18-2153, Reissue Revised Statutes of Nebraska, as amended (the "Act"); and

WHEREAS, on July 26, 2010, the City adopted a resolution declaring an area in the northwest portion of the City of York as blighted and substandard in accordance with Section 18-2103 of the Act; and

WHEREAS, the City has adopted and has in place a Comprehensive Plan, which includes a general plan for the development of the City, within the meaning of section 18-2110 of the Act; and

WHEREAS, the Authority has prepared a proposed Redevelopment Plan for consideration by the city pursuant to Section 18-2111 of the Act; and

WHEREAS, the Authority submitted the proposed Redevelopment Plan to this Planning Commission on July 6, 2010 and the Planning Commission reviewed the Plan together with the Blight and Substandard Study; and

WHEREAS, the Authority has submitted the proposed Redevelopment Plan to the Mayor and City Council of the City, for its consideration, the proposed Redevelopment Plan prepared by the Authority. A copy of the Redevelopment Plan, as recommended to the City, is attached to this Resolution as Exhibit A (the "Redevelopment Plan")

WHEREAS, the City has published notice of a public hearing on the proposed Redevelopment Plan, and held a public hearing this 19th day of August, 2010, pursuant to and in accordance with Section 18-2115 of the Act.

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

RESOLVED That the Mayor and City Council hereby make the following findings with respect to the Redevelopment Plan.

1) The Redevelopment Plan is feasible as a Plan for Redevelopment of the Redevelopment Area in accordance with and as contemplated by Section 18-2216 of the Act; and

2) The Redevelopment Plan is in conformity with the Comprehensive Plan of the City of York, Nebraska, which such Comprehensive Plan includes a general plan for the development of the City as a whole; and

3) The Redevelopment Plan is in conformity with the legislative declarations and determinations set forth in Section 18-2101 through 18-2144 of the Act, which such declarations and determinations are incorporated in this Resolution by this reference.

RESOLVED FURTHER that the Redevelopment Plan, in the form attached as Exhibit A to this Resolution is hereby approved pursuant to and in accordance with Section 18-2116 of the Act.

RESOLVED FURTHER, that any Resolution passed and approved prior to the passage, approval and publication of this Resolution which is in conflict with the terms and provisions of this Resolution is hereby repealed. This Resolution shall take effect and be in full force and effect from and after its passage, approval and publication as required by law. The provisions of the Resolution are separable, and invalidity of any phrase, clause or part of this Resolution shall not effect the validity or effectiveness of the remainder of this Resolution.

PASSED AND APPROVED this 16th day of August, 2010.

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

APPROVE TAX INCREMENT FINANCING APPLICATION

Mike & Susie Sullivan were present at the meeting seeking TIF funding in the amount of \$2,000.00 for a new door and front façade at their property at 410 Lincoln Avenue.

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

BEFORE THE CITY COUNCIL OF THE CITY OF YORK, NEBRASKA

RESOLUTION NO. 2010-25

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF YORK, NEBRASKA, as follows:

The York, Nebraska City Council, acting as the Community Development Agency, has approved a redevelopment plan, pursuant to the Nebraska Community Development Law, Section 18-2103 and Section 18-2111 reissue of 1991 items (1) through (6) and Section 18-2113 for exterior renovation work at 410 N Lincoln, filed by Mike & Susie Sullivan, d/b/a Service Master of York, in the amount of \$2,000.00 in TIF funds and the eventual consideration of entering into an agreement with the subject property owner for tax increment financing for said improvements contingent on the following conditions:

- a. Delivery of the following to the York City Administration for their review.
 1. Development proforma including the sources and uses of funds proposed for the subject property; and
 2. Income and expense proforma for the time period proposed for all funding sources.
- b. Proof of securement of all other financial sources proposed for the development subject project including, but not limited to:
 1. Letter of credit for both construction and permanent financing.
 2. Legal proof of securement of any and all, both public and private funding sources identified in item "a".

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

APPROVE ASSIGNMENT AND ASSUMPTION

Councilmember Leggett moved and Councilmember Redfern moved that the Council approve the following:

CONSENT TO ASSIGNMENT AND ASSUMPTION

WHEREAS, Galaxy Cable, Inc. d/b/a Galaxy Cablevision, a Delaware corporation (“Assignor”) and the City of York, Nebraska are parties to Ordinance 1774 Right of Way effective April 16, 1998 as may have been amended, assigned or extended (the “Agreement”); and

WHEREAS, Assignor desires to sell and transfer its assets, including its rights under the Agreement to Zito Midwest LLC, a Delaware limited liability company (“Assignee”) or its affiliated designee; and

WHEREAS, Assignor has requested the consent of the City to transfer of the Agreement from Assignor to Assignee;

NOW, THEREFORE, the undersigned hereby consent to the assignment to Assignee of all rights and privileges, together with all duties and obligations of Assignor under the Agreement, and upon the transfer herein, hereby releases Assignor from any and all duties and obligations under the Agreement which arise from and after the effective date of the closing of such transfer; and

FURTHER, the undersigned hereby consents (i) to the collateral assignment of, or grant of a security interest in, the Agreement to Assignee’s lenders to secure indebtedness or other obligations which may be incurred by Assignee in connection with Assignee’s purchase of Assignor’s assets; and (ii) to the exercise by such lenders of their rights as secured parties in or to the Agreement in the event of a default by Assignee in the payments of its

indebtedness or the performance of its obligation secured by such security interest; provide, however, that nothing contained herein shall constitute a waiver of any rights of the undersigned set forth in said Agreement, including but not limited to the right to approve any subsequent transfer or assignment of the Agreement; and

FURTHER, the undersigned confirms that (i) the Agreement is validly existing and remains in full force and effect; and (ii) there are no defaults under the Agreement; and

FURTHER, the undersigned understands the Assignee will promptly notify the undersigned of the consummation of the sale and assignment reference above.

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

APPROVE REFUNDING BONDS

1) Solid Waste Agency Bonds – Series 2002 and 2006:

Scott Keene of Ameritus was present and outlined the savings that will be realized by refunding the above issues into one issue. The 2002 bonds mature October 15, 2010 and the 2006 bonds mature in August 2011. He advised that the bonds will be issued by the York Area Solid Waste Agency and that said Agency had met and approved the refunding of said bonds. He advised that that York County and the City of York has Service Agreements with the York Area Solid Waste Agency and that the Service Agreements will have to be amended to allow the refunding of said bonds. The following ordinance was introduced:

ORDINANCE NO. 2035

AN ORDINANCE APPROVING AN AMENDMENT TO SERVICE AGREEMENT BETWEEN THE CITY OF YORK, NEBRASKA, AND THE YORK AREA SOLID WASTE AGENCY RELATING TO DISPOSAL OF SOLID WASTE AND ADDITIONAL BONDS TO BE ISSUED BY SAID AGENCY; AGREEMENT TO PROVIDE FOR A SPECIAL TAS IN THE EVENT OF A DEFICIENCY OF REVENUES; AUTHORIZING THE EXECUTION OF SUCH AMENDMENT TO SERVICE AGREEMENT BY OFFICERS OF THE CITY; AND AUTHORIZING THE MAYOR TO MAKE CERTAIN ALLOCATIONS AND CERTIFICATIONS RELATING THERETO

Councilmember Leggett moved and Councilmember Mogul seconded that the Statutory Rule requiring reading on three different days of Ordinance No. 2035 be suspended.

Roll Call Vote: Ayes: Toms, Wolfe, Obermier, Mogul, North, Leggett, Brink and Redfern. 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 Redfern moved and Councilmember Toms seconded that Ordinance No .2035 be passed and adopted.

Roll Call Vote: Ayes: Toms, Wolfe, Obermier, Mogul, North, Leggett, Brink and Redfern. Ordinance No. 2035 was declared adopted.

2) General Obligation Bonds – Series 1999, 2003 and 2005:

Scott Keene of Ameritus was present and outlined the savings that will be realized by refunding the above issues into one issue.

The following Ordinance was introduced:

ORDINANCE NO. 2036

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE CITY OF YORK, NEBRASKA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED FOUR MILLION FOUR HUNDRED THOUSAND DOLLARS (\$4,400,00) FOR THE PURPOSE OF PROVIDING FUNDS WHICH, ALONG WITH CITY FUNDS ON HAND, WILL PAY AND REDEEM CERTAIN OUTSTANDING GENERAL

OBLIGATION INDEBTEDNESS OF THE CITY; AUTHORIZING OFFICERS OF THE CITY TO DESIGNATE THE FINAL TERMS OF SUCH BONDS WITHIN CERTAIN PARAMETERS; AUTHORIZING THE OFFICERS OF THE CITY TO CALL OUTSTANDING BONDS; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM

Councilmember Toms moved and Councilmember Obermier seconded that the Statutory Rule requiring reading on three different days of Ordinance No. 2036 be suspended.

Roll Call Vote: Ayes: Toms, Wolfe, Obermier, Mogul, North, Leggett, Brink and Redfern. 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 Brink moved and Councilmember Leggett seconded that Ordinance No. 2036 be passed and adopted.

Roll Call Vote: Ayes: Toms, Wolfe, Obermier, Mogul, North, Leggett, Brink and Redfern. Nays: None. Ordinance No. 2036 was declared adopted.

APPROVE SPECIAL DESIGNATED PERMIT APPLICATION

Councilmember Leggett moved and Councilmember Redfern seconded to recommend approval of said an application filed by White Eagle, Inc. (Osceola) to sell alcoholic beverages in the Cornerstone Event Center on September 18, 2010 for a wedding reception.

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

APPROVE MAYOR'S APPOINTMENTS

1) The Mayor presented the name of Jack Garner as his re-appointment to the Board of Adjustment for a three year term terminating September 1, 2013.

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

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

2) The Mayor presented the name of Jim Peterson as his re-appointment as Alternate to the Board of Adjustment for a three year term terminating September 1, 2013.

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

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

3) The Mayor presented the name of Randy Sheldon as his re-appointment as Board of Public Works for a three year term terminating September 1, 2013.

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

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

4) The Mayor presented the name of Gary McDaniel as his re-appointment to the Planning Commission for a three year term terminating January 1, 2013.

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

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

ADJOURNMENT

There being no further business to come before the meeting, The Mayor adjourned the meeting, the time being 7:50 o'clock p.m.

C. Jean Thiele, City Clerk

Charles Harris, Mayor