

Sidney, Nebraska, May 27, 2014 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 May 27, 2014 in the Council Room. Present were: Mayor Gaston and Council Members: Gallaway, Nienhueser, 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 Gaston informed the public of the location of the posted Open Meetings Act.

Gallaway moved, Gay seconded "That the minutes of the May 13, 2014 meeting be approved." Roll call vote: Yeas: Gallaway, Gaston and Gay. Abstain: Arterburn and Nienhueser.

Marc Munford of Ameritas Investment Corp. presented the paperwork and explanation of same for the issuance and sale of Bond Anticipation Notes Series 2014 for the City of Sidney to provide interim financing for the costs of constructing Street Improvement District Nos. 58 and 59 in the amount of \$4,045,000.

Council Member Nienhueser introduced an Ordinance entitled:

"AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES OF THE CITY OF SIDNEY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF FOUR MILLION FORTY-FIVE THOUSAND DOLLARS (\$4,045,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR THE COSTS OF CONSTRUCTING STREET IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 58 AND 59 OF SAID CITY PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION VARIOUS PURPOSE BONDS OF THE CITY; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE THE CITY'S GENERAL OBLIGATION VARIOUS PURPOSE BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM"

Gallaway moved that the statutory rule requiring ordinances to be fully and distinctly read on three different days be suspended and that Ordinance No. 1736 be read by number only and placed on final passage. Nienhueser seconded the motion to suspend the rules and upon roll vote on the motion the following Council Members voted "AYE": Gallaway, Nienhueser, Gaston, Gay and Arterburn. The following voted "NAY": None. The motion to suspend the statutory rules was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said Ordinance No. 1736 was then read by number and thereafter Nienhueser moved for final passage of said Ordinance. Gallaway seconded the motion. The roll was called and the following voted "AYE": Gallaway, Nienhueser, Gaston, Gay and Arterburn. The following voted "NAY": None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of all members elected to the Council, the Mayor declared the ordinance adopted. Nienhueser moved, Gallaway seconded "That Ordinance 1736 be published in pamphlet form." Roll call vote: Yeas: All council members present.

Marc Munford of Ameritas also discussed the possibility of refunding the Sidney Various Purpose 2009 Bond Issue and the projected savings of doing this refunding. Consensus of the Council was for Mr. Munford to keep the City informed and bring it forward to them when he feels it is appropriate.

Whereupon Mayor Gaston announced that the Planning Commission of the City of Sidney, NE has submitted to the City Council its final report recommending approval of the Redevelopment Area Substandard/Blight Survey for a portion of the former Sioux Army Depot. The following filed written objections: None. The following appeared in person or by agent or by attorney and were heard: Megan McGown and Gary Person representing the City of Sidney. Community Development Director Megan McGown explained for the record that with the adoption of LB66 in 2013 by the Nebraska Legislature, the Community Development Law now allows for redevelopment projects with property outside corporate limits, as long as the land was formerly used as a defense site. The Law was further amended, with LB1012 in 2014, to include clarification as to the allowable

percentage of a community that can be designated as substandard and blighted, so as not to include land involving a formerly used defense site toward the 35% allowed to First Class cities. She further explained that the Sioux Army Depot is ideally located in terms of transportation and logistics development. With both the Union Pacific and the Burlington Northern Railroads connected by a short line, as well as the proximity to Interstate 80, there is a great deal of potential for this particular area. Designating the area as substandard and blighted allows for the area to be eligible for such things as Tax Increment Financing, without which the improvements that need to be made in such an area would be cost prohibitive. She noted that the City of Sidney is already providing many services in this area, that there is already a Sanitary Improvement District in place, and that the City currently works with the County to provide economic development services county-wide, making the project a good fit for the City of Sidney. She presented slides showing the poor condition of the buildings, which are over 70 years old, debris, etc. which provide a prime habitat for rodents and other pests which can potentially spread disease. Also, because the site is a former munitions depot, much of the grounds are contaminated with such items as shrapnel munition and material dumping, including a possible cyanide pit. This type of contamination prevents this ground from being used for agricultural purposes. The U.S. Army Corps of Engineers has conducted numerous investigations since the closing of the depot, all of which recommended remediation, but it has never occurred.

Megan and Gary both noted that because City officials did a lot of work educating Senators toward passage of LB66, it would show good faith to move forward with development projects to show them what we can do with the designation. Gary Person also reviewed past history of how TIF projects have benefitted the City and the County.

After a detailed discussion, Mayor Gaston closed the public hearing. Nienhueser moved, Gay seconded "That RESOLUTION NO. 20140507 be passed and adopted. Roll call vote: Yeas: All council members present.

**RESOLUTION NO. 20140507**

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

1. The Mayor and the City Council of Sidney, Nebraska find that certain conditions exist as evidenced by the Council's finding of facts which are included in the "Former Sioux Army Depot Redevelopment Area" Substandard and Blight Survey which is attached and incorporated by reference herein as to the following described real estate located within Cheyenne County, 8 miles northwest of Sidney, NE: A TRACT OF LAND SITUATED IN Cheyenne County, Nebraska that was formerly owned by the U.S. Government as a military operation that included Sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 of Township 15N, Range 50W; South ½ Section 31, Township 15N / Range 50W; Section 6, N ½ of Section 5, N ½ of Section 4; N ½ Section 3 of Township 14N, Range 50W; Section 7 W ½ of Township 14N Range 50 West and Sec. 18 W ½ of Township 14N Range 50W to and not including the Union Pacific right of way on the south edge of the Section. The property listed as part of the Potter Annex shall not be included in this blight designation. The property boundaries of the former Sioux Army Depot is more formally described in legal meets and bounds by a survey in 1942 by the U.S. Government in Appendix B. A map of the described area also accompanies this resolution and its proximity to the City of Sidney.

2. The Mayor and the City Council of the City of Sidney, Nebraska hereby find, and do declare pursuant to Nebraska Revised Statutes 18-2109, that the aforementioned real estate is a substandard and blighted area as defined in Nebraska Revised Statutes 18-2103(10) and 18-2103(11) and in need of redevelopment and pursuant to Nebraska Revised Statutes 18-2123.01 the described land is a necessary adjunct to the general community redevelopment program of the city.

PASSED AND APPROVED this 27<sup>th</sup> day of May, 2014.

Pursuant to the order heretofore entered by the Council, the City Clerk publicized notice (Resolution No. 20140501) that the Mayor & Council would hold a public hearing at this time and place for the purpose of considering the proposal for annexation of four tracts of land to the Sidney City Limits (Owners of these four parcels are more commonly known as Love's, City of Sidney Verde Lane Dam, Weiderspon Veterinary Clinic and the Estate of Wesley & Evelyn Jensen) and granting a hearing to all persons interested in same. The Mayor then stated that the Council was in session for such purpose and all persons would be heard. The following filed written comments: John Jordan, Land Manager for Anadarko, a property owner in Sections 7, 8, 9, and 33, T13N, R49 in Cheyenne County. They submitted a letter for the record giving the City of Sidney Notice of Mineral Interests that are owned by this corporation. The following appeared in person or by agent or by attorney and were heard: City Manager Person reviewed the four annexation plans. All persons having been heard, Mayor Gaston closed the public hearing.

Gallaway moved, Arterburn seconded "That the Ordinance entitled "AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF SIDNEY, NEBRASKA, PARCEL NOS. 1-4 AS PROPOSED BY THE CITY COUNCIL MORE PARTICULARLY DESCRIBED HEREIN; TO PROVIDE FOR UTILITY AND OTHER CITY SERVICES FOR THE ANNEXED LAND BY THE CITY OF SIDNEY; TO REPEAL ANY CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE" be designated as Ordinance No. 1737." Roll call vote: Yeas: All council members present. Due to statutory requirements, annexation ordinances must be read by title three different days. Therefore Ordinance No. 1737 was read by title for the first time.

Pursuant to the order heretofore entered by the Council, the City Clerk publicized notice (Resolution No. 20140502) that the Mayor & Council would hold a public hearing at this time and place for the purpose of considering the proposal for annexation of three tracts of land to the Sidney City Limits (Owners of these four parcels are more commonly known as 21<sup>st</sup> Century Equipment, Anderson Forest Products, and the City of Sidney Landfill) and granting a hearing to all persons interested in same. The Mayor then stated that the Council was in session for such purpose and all persons would be heard. The following filed written comments: John Jordan, Land Manager for Anadarko, a property owner in Sections 7, 8, 9, and 33, T13N, R49 in Cheyenne County. They submitted a letter for the record giving the City of Sidney Notice of Mineral Interests that are owned by this corporation. The following appeared in person or by agent or by attorney and were heard: Gary Dible of 21<sup>st</sup> Century Equipment presented his company's opposition to the annexation of their property and the pertinent information to support their objection; i.e. sales tax issues, past agreements for water service, does not fall into the category of squaring up the boundaries as their neighbors to the north, east and south are not annexed, road issues, etc. City Manager reviewed the reasoning behind all three annexation proposals. Council Member Nienhueser voiced his empathy for 21<sup>st</sup> Century, but felt this proposal would be brought to the forefront eventually as Sidney grows to the east. Council Member Gallaway voiced his support of the proposed annexation of 21<sup>st</sup> Century's parcel due to being adjacent to city limits and has city utilities with the exception of electricity. City Manager Person reviewed the three annexation plans. All persons having been heard, Mayor Gaston closed the publichearing.

Nienhueser moved, Gay seconded "That the proposed annexation ordinance be amended to exclude Parcel #5 (21<sup>st</sup> Century) and to include Parcel #6 (Anderson Forest Products) and Parcel #7 (City of Sidney Landfill); and that the amended Ordinance entitled "AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF SIDNEY, NEBRASKA, PARCEL NOS. 6 and 7 AS PROPOSED BY THE CITY COUNCIL MORE PARTICULARLY DESCRIBED HEREIN; TO PROVIDE FOR UTILITY AND OTHER CITY SERVICES FOR THE ANNEXED LAND BY THE CITY OF SIDNEY; TO REPEAL ANY CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE" be designated as Ordinance No. 1738." Roll call vote: Yeas: Nienhueser, Gaston, Gay & Arterburn. Nays: Gallaway. Motion passed. Due to statutory requirements, annexation ordinances must be read by title three different days. Therefore Ordinance No. 1738 was read by title for the first time.

Sgt. Lee Jacobsen of the Nebraska State Patrol presented a request to change the street parking in front of and across from 742 Jackson to accommodate law enforcement vehicles. This is the new location for the State Patrol. Various options was discussed to provide the parking requested; i.e. use of 8<sup>th</sup> Street instead of using both sides of Jackson, use of diagonal instead of parallel on 8<sup>th</sup> Street since it was already diagonal, etc. Gallaway moved, Arterburn seconded "That RESOLUTION NO. 20140508 as amended to place signage on two existing diagonal parking for law enforcement parking on the southwest corner of 8<sup>th</sup> Avenue between Illinois & Jackson."

RESOLUTION NO. 20140508

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

That in accordance with the power vested in them by Sections 424.01, 460.01 and 460.02 of the codified Ordinances of the City of Sidney, 1977, the following traffic regulatory markings shall be placed as hereafter indicated and that all vehicles using the streets of the City comply with the regulations and prohibitions hereafter set forth:

DIAGONAL PARKING

45 degree diagonal parking spaces shall be placed on the north side of Jackson Street; beginning at a point no closer than 25 feet East of the intersection of the east curb lines at the intersection of Jackson Street and 8<sup>th</sup> Avenue and continuing east along the north curb line of Jackson Street a distance of 64 feet; excluding any access drives, alley approaches or other driveways.

**NO PARKING - LAW ENFORCEMENT ONLY**

“No Parking- Except for Law Enforcement” or similar language, shall be designated within the diagonal parking zones designated above and for the two most southerly diagonal parking spaces on the west side of 8<sup>th</sup> Avenue between Illinois and Jackson Streets.

All markings and signs shall be placed in accordance to the “Manual on Uniform Traffic Control Devices” and the regulation and prohibitions of such signs and markings shall be effective twenty-four hours each day.

Randy Miller presented a request re: property at 336 Pole Creek Crossing for an accommodation to provide sanitary sewer/septic tanks, etc. on four lots (zoned R1-a) rather than connecting to the City’s system due to elevations and the need for lift stations that the City of Sidney would have to maintain once installed. The property is within 200' of an existing City sewer main but the existing elevations cause very expensive solutions to provide connection to the City’s sanitary sewer system. City Attorney Leef informed the Council that in order to provide an accommodation to the existing City Code Chapter 1045 an ordinance would have to be passed to do so. General consensus of the Council was that the City Attorney be authorized to research all of this and come back with the needed legislation to provide a solution.

Mayor Gaston asked the City Clerk to read Ordinance No. 1734 by Title for the third time as follows: “AN ORDINANCE OF THE CITY OF SIDNEY, NEBRASKA, RENAMING A PORTION OF THE STREET AS RECORDED ON THE PLATS OF THE PARK MANOR ESTATES ADDITION, REPLAT OF LOT 12, BLOCK 2, PARK MANOR ESTATES ADDITION, AND PARKVIEW ADDITION TO THE CITY OF SIDNEY, CHEYENNE COUNTY, NEBRASKA, AS DESCRIBED; AND PROVIDING CERTIFICATION AND RECORDING OF THE ORDINANCE.” Arterburn moved, Gay seconded “That Ordinance No. 1734 be finally passed.” Roll call vote: Yeas: Gallaway, Nienhueser, Gay and Arterburn. Nays: Gaston. The passage and adoption of said ordinance having been concurred in by a majority of all members of the City Council was declared passed and adopted and the Mayor in the presence of the City Council signed and affixed his signature thereto. Gallaway moved, Arterburn seconded “That Ordinance No. 1734 be published in The Sidney Sun Telegraph.” Roll call vote: Yeas: All council members present.

Upon request by the Mayor, the City Clerk read Ordinance No. 1735 by title as follows: “AN ORDINANCE PROVIDING FOR THE REZONING OF: A PARCEL OF LAND KNOWN AS PARCEL B, CONTAINING 160 ACRES, MORE OR LESS, IN THE SECTION 3, TOWNSHIP 13 NORTH, RANGE 49 WEST, OF THE 6TH PRINCIPAL MERIDIAN, IN CHEYENNE COUNTY, NEBRASKA; FROM A (AGRICULTURAL) TO M-1 (LIGHT MANUFACTURING & INDUSTRIAL) ZONE; AMENDING THE SIDNEY ZONING CODE AND ZONING MAP OF THE CITY OF SIDNEY, NEBRASKA, ADOPTED BY ORDINANCE NO. 1049 OF THE CITY OF SIDNEY, NEBRASKA, WHICH IS NOW CODIFIED AS TITLE SIX OF PART TWELVE OF THE CODIFIED ORDINANCES OF THE CITY OF SIDNEY, NEBRASKA, TO SO PROVIDE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN DIRECT CONFLICT HEREWITH”. Gallaway moved, Gay seconded “That the Statutory requirement requiring the ordinance to be read by title three different days be suspended.” Roll call vote: Yeas: All council members present. The motion having been concurred in by three-fourths of the Council be declared passed and adopted and said statutory requirement suspended. The Clerk then read the Ordinance by number. Gallaway moved, Gay seconded “That Ordinance No. 1735 be finally passed.” Roll call vote: Yeas: All council members present. The passage and adoption of said ordinance having been concurred in by a majority of all members of the City Council was declared passed and adopted and the Mayor in the presence of the City Council signed and affixed his signature thereto. Arterburn moved, Nienhueser seconded “That Ordinance No. 1735 be published in The Sidney Sun Telegraph.” Roll call vote: Yeas: All council members present.

Nienhueser moved, Gallaway seconded "That RESOLUTION NO. 20140509 be passed and adopted." Roll call vote: Yeas: All council members present.

RESOLUTION NO. 20140509

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

That the detailed specifications including the general stipulations thereto attached for the construction of street improvements and all other necessary incidental improvements thereto, as applicable for Street Improvement District No. 53 (Silverburg Drive) and Street Improvement District No. 54 (Jennifer Lane), as prepared by Baker & Associates, engineers employed by the City to prepare same, and filed in the office of the City Clerk on May 27, 2014 be and the same are hereby accepted.

RESOLVED FURTHER, that all bids for the construction of said improvements shall be subject to said specifications and general stipulations and the instructions to bidders set forth in specifications on file.

RESOLVED FURTHER, that the City Clerk be and she is hereby authorized and empowered and directed, for and on behalf of the City of Sidney to advertise for bids for said construction on May 30, June 6, and June 13, 2014 with the bid opening being set for June 17, 2014 at 2:00 P.M. for each district.

Tony Krajewski of Baker & Associates presented information in regards to the bids advertised for SSED21, WED21 and SSED22 and that no bids had been received. Property owner for SSED21 and WED21 preferred that the City rebid for these districts to try to get the project completed as soon as possible. Gallaway moved, Arterburn seconded "That the no-bid situation for SSED21, WED21 and SSED22 be acknowledged; That the plans and specifications approved for said district in Resolution Nos. 20140403 and 20140404 be acknowledged as accepted; and That the City Clerk be authorized to advertise for re-bids for Sanitary Sewer Extension District #21, Water Extension District #21 and Sewer Extension District #22 on May 30, June 6 and June 13, 2014 with the bid opening being set for June 17, 2014 at 2:00 P.M. for each district." Roll call vote: Yeas: All council members present.

Arterburn moved, Gallaway seconded "That Dave McCarville and Robert England be re-appointed to the Sidney Planning Commission and that Casey Cortney be appointed to same for three year terms." Roll call vote: Yeas: All council members present.

Public Services Director John Hehnke presented the proposed ADA Transition Plan for the City of Sidney. Said Plan is required in order to receive all federal-aid in the future and for the current transportation program and for the City's road and trail projects. Nienhueser moved, Gallaway seconded "That the City of Sidney's Americans with Disabilities Act Transition Plan be approved on this date, May 27, 2014." Roll call vote: Yeas: All council members present.

Nienhueser moved, Arterburn seconded "That the Ordinance entitled "AN ORDINANCE OF THE CITY OF SIDNEY, NEBRASKA ADOPTING PART FOURTEEN, TITLE TWO, CHAPTER 1425 OF THE CODIFIED ORDINANCES OF THE CITY OF SIDNEY, NEBRASKA, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THE STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE, AND THE DEMOLITION OF SUCH EXISTING STRUCTURES I THE CITY OF SIDNEY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OFFERS THEREFORE; AND REPEALING ALL OTHER ORDINANCES OR PARTS OF LAWS IN CONFLICT THEREWITH" be designated as Ordinance No. 1739." Roll call vote: Yeas: All council members present. There being no motion to suspend the Statutory requirement requiring the ordinance to be read by title on three different days, Ordinance No. 1735 was read by Title for the first time.

Electric Department Superintendent Mike Palmer reviewed the bids that had been received on 5/5/14 for a Boring Master Contractor and for new horizontal directional drill machine and presented to the City Council on 5/13/14. Discussion was held on whether an investment return report could possibly be made. Mr. Palmer shared that

there are so many variables that any report made would be just from an educated guess with input from the machine vendors and other contractors. After a thorough discussion, Gallaway moved, Gay seconded “That the bids for the Horizontal Directional Drill be tabled and the Boring Master Contractor bids be rejected and rebid.” Roll call vote: Yeas: All council members present.

City Manager’s Report included recent and upcoming meetings and events; i.e., Golf Course project update (approx. 95% complete), SRMC ground breaking, Sonic Ribbon Cutting, AND Department Head meeting 4/28, Sales Tax Workshop 6/3, Cabela’s Annual Stockholders 6/4, SMAC graduation, Board of Adjustment 4/20 which presented some enforcement issues that need to be addressed, Swimming Pool opens 6/1, etc. Thanked everyone involved in Memorial Day services as well as Tri State Transmission for getting the Legion Park flag pole fixed. Congratulations to Coach Gallaway, all other coaches and all the Sidney Public School athletes that participated in the Track events this year as well as to the 2014 High School graduates.

Council Member Gallaway expressed best wishes to John Vera on his retirement this week. Council Member Nienhueser and Mayor Gaston echoed the congratulations expressed by City Manager Person as well as thank yous to Doug Steffens of Tri State and Ken Foland who oversees the Legion Park flag pole.

Council adjourned at 9:52 p.m.

/s/ WENDALL GASTON, MAYOR

ATTEST: /s/G.F. ANTHONY, CITY CLERK





