

Sidney, Nebraska, August 25, 2015 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 August 25, 2015 in the Council Room. Present were: Mayor Nienhueser and Council Members: Gallaway, Gaston, Gay, and Arterburn. Others Present: City Manager Person, City Attorney Leef, Special Attorney Howard Olson 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 Nienhueser informed the public of the location of the posted Open Meetings Act.

Gallaway moved, Arterburn seconded "That the minutes of the August 11, 2015 meeting be approved as amended and the minutes of August 17, 2015 be approved as printed." Roll call vote: Yeas: All council members present.

City Attorney Leef stepped down at this time and Special Attorney Olson joined the Council.

City Manager Gary Person presented his resignation and following statement:

Citizens, fellow employees, Mayor and Sidney City Council:

Thank you for allowing me to make a public statement. It is with a heavy heart, I am officially offering my formal resignation tonight per terms of my employment agreement in a time frame to be determined by the Sidney City Council.

For 37 years, the Sidney community gave me incredible opportunities to grow professionally and as a person with tremendous support. I tried to reward the faith and trust people placed in me with hard work, loyalty and daily effort in helping our community grow and prosper. This is where my kids were born and raised and it became home. Every time I had professional opportunities to leave for greener pastures, I instead found more reasons to stay.

Throughout my time as City Manager, Economic Development Director, Chamber of Commerce Manager and in volunteer efforts through the Jaycees, I carried the Sidney banner like a "Badge of Honor" across the region and State of Nebraska, and on occasion even nationally.

A quarter century ago when it was announced I would be the city's Economic Development Director in this very room, I simply said, "I give you no promises, but I will give you performance" and bring my game face, every single day.

To all the wonderful and kind people who have reached out to me locally and from across Nebraska during this difficult time, it meant the world to me and my family and solidified our faith in humanity.

I must address the recent events that have occurred and the negativity that has surrounded the community. Chief Wilkinson is one of the finest law enforcement officers I've ever known.

I believe that most similar non-violent domestic incidents are handled by law enforcement in a discretionary manner to the satisfaction of those involved.

For what I believe to be motivated by self-serving interests, this overblown situation surfaced 16 months later. Now a heavy toll has been taken.

Nonetheless, my shortcoming as a manager is perhaps I focus too much on the good in people, rather than their faults as human beings, and for that I hold myself accountable. If my resignation will help this community heal, move forward and place its energy and focus into its very bright future, then please accept it.

This community has worked hard and exerted its energy collectively in creating something very special that has become the envy of rural America. When citizens in a community work together good things happen. It's time once again to please focus on the blessings we have in front of us.

We have incredibly dedicated and intelligent City Council members, who will make the right decisions in moving the community forward. We have talented, hardworking men and women as employees and department heads. I hired many of them. I'm confident they will carry on as usual. It's very challenging being a public servant in this day and age. Please give them your 100 percent support. They need it now, more than ever.

Over the past 16 years in this role, I stood in the face of fire more times than you will ever know to defend and represent this community. We won far more battles, than not.

I will greatly miss the people and the daily challenges that face a City Manager. It is a position where you truly can make a difference. For the first 40 years of Sidney's City Manager form of government, the average length of stay for people holding this position was 3 years and 3 months.

For an old country boy from the hills of Banner County that grew up milking cows- to survive 16 years in this position defies logic. I believe, however, that the stability of the position brought by the last two

Sidney city managers over the past 25 years helped our community and county to move forward in a positive way, rebuild our economy and believe in itself.

It will take that same kind of support for my successor to realize all of the successes this community has potentially in store for its future.

I will always passionately believe in Sidney. It will always be a part of me. I wantonly the best for your future. It was a privilege to have served you.

City Manager Person asked to be excused from the meeting at this time. Request was granted.

Comments by the public (Mayor announced that three minutes would be allowed to whoever wished to speak): Individuals speaking in support of not accepting the resignation of Gary Person were: Dr. C.J. Cornelius, Judy Harris, Keith Nienhueser, Rich Phillips and Rob Robinson. Speaking in opposition was Dena Johannes, 317 N. Adams, North Platte, NE. which at four minutes into her comments, the Mayor cautioned her that she was over the three minute allotment and that she should wrap up her comments. At approximately the six minute point, the Mayor asked her to stop her comments.

Mayor Nienhueser read the resignation of City Manager Gary Person. He also made the following statement: "I believe all of us on the Sidney City Council would like to thank Gary for his years of service. He has been a tireless supporter and promoter of our city. He has led our city through a period of enviable growth and has been outspoken in fighting for our community and carrying the Sidney story to the state and federal levels. Not only has Gary focused on our future – which he rightfully points out is positive beyond the norm for a rural Nebraska community, he is also steeped in Sidney's rich and colorful history.

I also agree with Gary's statement made in previous correspondence with the Council that our community needs to heal and move forward.

As he mentioned in that correspondence, recent events have brought us to where we are today. The events were unfortunate, but they remain a fact. I, and I believe the rest of the Council, was unaware of these events for nearly a year and a half and found out at essentially the same time the public. Speaking for all of us now, I can say we have not taken this matter lightly. We hired counsel to lead us through a lengthy investigation, during which we reviewed public-record documents and other information and conducted interviews.

I have had to put aside friendships, ignore rumor and gossip and look at the facts objectively. And I hope everyone has – or will do so – as well. As I mentioned, many of the documents are a matter of public record."

Council Member Gallaway spoke on the difficult task of making these types of decisions. Council Member Gaston spoke regarding second chances. Council Member Gay spoke on the wonderful job Gary has done over the years, but that the facts could not be taken lightly. Council Member Arterburn agreed with all the previous statements, adding that the city employees should know they have the full support of the Council.

Arterburn moved, Gay seconded "That the resignation of City Manager Gary Person be accepted." Roll call vote: Yeas: Gallaway, Nienhueser, Gay and Arterburn. Nays: Gaston. Motion Carried.

Gallaway moved, Arterburn seconded "That Geri Anthony be appointed as Interim City Manager. Roll call vote: Yeas: All council members present.

Arterburn moved, Gay seconded "That the effective date of the resignation acceptance of Gary Person be August 26, 2015 at 5:00 P.M." Roll call vote: Yeas: Gallaway, Nienhueser, Gay and Arterburn. Nays: Gaston. Motion Carried.

Gallaway moved, Gay seconded "That the effective date of the appointment as Interim City Manager of Geri Anthony be August 26, 2015." Roll call vote: Yeas: All council members present.

Special Attorney Olson stepped down at this time and City Attorney Leef rejoined the Council.

Whereupon Mayor Nienhueser announced that the City Council voted to hold a public hearing regarding acquiring an interest by purchase or eminent domain for utility easements of the following: Property No. 1: 18.96 Acre tract of land as recorded in Deed Book 146, Page 233, situated in the Northeast Quarter of Section 32, Township 14 North, Range 49 West of the 6<sup>th</sup> P.M., Cheyenne County, Nebraska. Tax ID No. 021-136A-3439 AND Property No. 2: All of Tract 3, Sadonna Subdivision as recorded in Deed Book 152, Page 145. Tax ID No. 052-041A-2589 and that a public hearing would now be held at 7:49 P.M. and parties in interest would be heard as advertised. The following filed written comments: None. The following appeared in person or by agent or by

attorney and were heard: Staff was available to answer questions from the Council. All persons having been heard, Mayor Nienhueser closed the public hearing at 7:52 p.m.

Gaston moved, Gallaway seconded “That RESOLUTION NO. 20150808 be approved and adopted.” Roll call vote: Yeas: All council members present.

RESOLUTION NO. 20150808

**WHEREAS**, the City of Sidney Nebraska is preparing for combined utilities in several areas that have been developed or will be developed; and

**WHEREAS**, it is necessary that the City obtain a combined utility easement across property known as follows: **Property No. 1 : All of an 18.96 Acre tract of land as recorded in Deed Book 146, Page 233, situated in the Northeast Quarter of Section 32, Township 14 North, Range 49 West of the 6<sup>th</sup> P.M., Cheyenne County, Nebraska. Tax ID No. 021-136A-3439 Property No. 2 : All of Tract 3, Sadonna Subdivision as recorded in Deed Book 152, Page 145. Tax ID No. 052-041A-2589** Each in order to complete said combined utility placement at a reasonable cost; and

**WHEREAS**, negotiations for the acquisition of said combined utility easement across the above described properties have failed;

**NOW, THEREFORE**, be it resolved by the City Council of the City of Sidney, Nebraska, that: the acquisition, by purchase or eminent domain, of combined utility easements across the above described properties, as shown on the attached survey, is hereby authorized.

Adopted this 25<sup>th</sup> day of August, 2015, at Sidney, Nebraska.

Gaston moved, Gay seconded “That RESOLUTION NO. 20150809 be approved and adopted.” Roll call vote: Yeas: All council members present.

RESOLUTION NO 20150809

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

That the Mayor and Council of the City of Sidney, Nebraska recommends approval of the Manager Application of Jeremy F. Clark for the Western Convenience Store Liquor license at 440 Illinois Street, Sidney, Cheyenne County, Nebraska, and

That the Nebraska Liquor Control Commission be notified of said recommendations.

The City Clerk read Ordinance No. 1766 by Title for the second time as follows: “AN ORDINANCE PROVIDING FOR THE REZONING OF TRACT 1 HAUGE SUBDIVISION, TO THE CITY OF SIDNEY, NEBRASKA, FROM A (AGRICULTURAL) TO AR (AGRICULTURAL RESIDENTIAL) 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”. There being no motion to suspend the rule that the ordinance be read by title on three different days, it will be read for the third time on 9/8/15.

Earl Hauge and Water Superintendent Bill Taylor presented a request from Mr. Hauge for a water service outside the City Limits. Gallaway moved, Gaston seconded “That a water service outside the City Limits be allowed at 2266 County Road 113 pursuant to an easement recorded in Book 258, Page 77 at the Cheyenne County Courthouse.” Roll call vote: Yeas: All council members present.

Mayor Nienhueser stated at this time that he would abstain from voting on the Change Orders for The Ranch.

Gay moved, Gallaway seconded “That Change Order #1 for Street Improvement District #60 (Road) in the amount of \$3,452 and Change Order #1 for Street Improvement District #60 (Storm) in the amount of \$535.50 be approved.” Roll call vote: Yeas: Gallaway, Gaston, Gay and Arterburn. Abstain: Nienhueser.

Gay moved, Arterburn seconded “That Change Order #1 for Street Improvement District #61(Storm) in the amount of \$1,380.00 be approved.” Roll call vote: Yeas: Gallaway, Gaston, Gay and Arterburn. Abstain: Nienhueser.

The City Clerk read Ordinance No. 1767 by Title for the second time as follows: “AN ORDINANCE PROVIDING FOR THE REZONING OF LOTS 1, 2, 3, BLOCK 1, SIDNEY BUSINESS PARK SUBDIVISION, TO THE CITY OF SIDNEY, NEBRASKA, FROM M-2 (HEAVY MANUFACTURING) TO C-3 (HEAVY COMMERCIAL) 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”. Comments from the public regarding this rezoning were made as follows: John Wieser in opposition to the rezoning. David Evertsen

in favor of the rezoning. Jerry Spiker, Chairman of the Planning Commission, in favor of the rezoning. There being no motion to suspend the rule that the ordinance be read by title on three different days, it will be read for the third time on 9/8/15.

The City Clerk read Ordinance No. 1768 by Title for the second time as follows: "AN ORDINANCE OF THE CITY OF SIDNEY, NEBRASKA, TO CREATE TITLE ONE-LANDSCAPING CODE CHAPTER 1410 OF PART FOURTEEN-BUILDING AND HOUSING CODE OF THE CODIFIED ORDINANCES OF THE CITY OF SIDNEY, NEBRASKA; TO ESTABLISH LANDSCAPING REQUIREMENTS FOR NEW BUILDINGS, BUILDINGS THAT HAVE NEW CONSTRUCTION AND/OR BUILDINGS THAT HAVE A CHANGED USE; TO SPECIFICALLY EXEMPT NON-SINGLE OR TWO-FAMILY DETACHED DWELLINGS ON THEIR OWN LOTS; TO ESTABLISH AREAS THAT ARE REQUIRED TO BE LANDSCAPED, TO PROVIDE LANDSCAPING DESIGN AND MAINTENANCE STANDARDS, TO PROVIDE PROCEDURES FOR COMPLIANCE, TO PROVIDE FOR THE PRESERVATION OF EXISTING TREES; TO PROVIDE FOR A PENALTY FOR VIOLATIONS; TO REPEAL ANY ORDINANCE OR PART OF ORDINANCE IN CONFLICT THEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE". There being no motion to suspend the rule that the ordinance be read by title on three different days, it will be read for the third time on 9/8/15.

City Attorney J. Leef presented a proposed professional services agreement with Leidos re: MEAN power. She reported she had requested some changes and that an amended agreement was given to her. Gaston moved, Gallaway seconded "That the amended agreement with Leidos re: MEAN power be approved." Roll call vote: Yeas: All council members present.

Gallaway moved, Gay seconded "That the Budget Reports for July for all City Departments be approved." Roll call vote: Yeas: All council members present.

The Council reviewed all the 2015-2016 budgets and no changes were made to those presented, which included all changes requested from the prior meeting.

Gaston moved, Gallaway seconded "That the 2015-2016 proposed budget statements be filed with the City Clerk for all funds including the tax levy for General Fund, Street Department and Debt Service and that public hearings be set for 7:15 p.m. on September 8, 2015 for said budgets and for setting a property tax request different from last year." Roll call vote: Yeas: All council members present.

Bill Taylor asked for guidance with what scenario to prepare for consideration regarding the Water Debt Fee. Geri and Bill will discuss this and bring back to Council.

Meeting adjourned at 8:44 p.m.

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MARK NIENHUESER, MAYOR

ATTEST:

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G.F. ANTHONY, CITY CLERK





