

Sidney, Nebraska, October 25, 2016, 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 7:16 P.M. on October 25, 2016 in the Council Room. Present were: Mayor Nienhueser and Council Members: Gallaway, Gaston, Gay and Arterburn. Others Present: City Manager Sadler, Deputy Clerk Heilbrun and City Attorney Leef. 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.

Gaston moved, Gallaway seconded "That the minutes of the October 11, 2016 meeting be approved as printed." Roll call vote: Yeas: Gallaway, Gaston, Nienhueser, and Gay. Abstain: Arterburn.

Discussion was held by the Council concerning the a proposed Second Modification to Redevelopment Plan for East Old Post Road Area (the "Second Modification") which modifies a redevelopment plan approved by the Mayor and Council on June 24, 2008, and modified by the Agency with a non-substantial modification on August 25, 2015 (together, the "Plan"), calling for certain improvements to an area in Sidney, Nebraska, which has previously been declared blighted and substandard, which Second Modification contains a cost-benefit analysis. The Second Modification was submitted by Raj Motel, Inc.

Pursuant to published notice, a hearing was set on the issue of whether the Second Modification should be approved. The Mayor declared the hearing open at 7:18 p.m. The following persons appeared and were heard: City Manager Ed Sadler and City Attorney J Leef outlined the Plan.

After all persons desiring to be heard had been heard, the hearing was closed at 7:19 p.m.. Council Member Arterburn then offered the following resolution and moved its adoption:

RESOLUTION NO. 20161002

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SIDNEY, NEBRASKA, APPROVING THE SECOND MODIFICATION TO REDEVELOPMENT PLAN FOR EAST OLD POST ROAD AREA

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

Section 1. The Mayor and Council of the City of Sidney, Nebraska (the "City"), hereby find and determine as follows:

(a) the Mayor and Council have by Resolution No. 980701 passed and approved on July 7, 1998, declared certain real estate within the City to be blighted and substandard after review by the City's Planning Commission and published notice of hearing and public hearing as required by law (such area, as so determined, the "Blighted Area");

(b) the Mayor and Council approved a redevelopment plan entitled "Redevelopment Plan for East Old Post Road Area" on June 24, 2008, which plan was modified by the Agency with a non-substantial modification on August 25, 2015 (together, the "Existing Plan");

(c) a second modification to the Existing Plan entitled “Second Modification to Redevelopment Plan for East Old Post Road Area” (the “Second Modification”) relating to a certain portion of the Blighted Area within the area encompassed by the Existing Plan was submitted to the Planning Commission of the City (the “Planning Commission”), for review and recommendations in accordance with Section 18-2117 R.R.S. Neb. 2012, and that the Planning Commission has approved the Second Modification in the form submitted without any recommendation for change;

(d) the City of Sidney Community Development Agency (the “Agency”) has recommended Second Modification for approval to the Mayor and Council on this 25th day of October, 2016, and in making such recommendation considered whether the proposed land uses and building requirements in the redevelopment project area (herein referred to as the “Project Area”) are designed with the general purpose of accomplishing, in conformance with the City’s general plan, a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage and other public utilities, schools, parks, recreational and community facilities and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds and the prevention of the recurrence of insanitary or unsafe dwelling accommodations, or conditions of blight.

Section 2. The Mayor and Council further find and determine that a cost-benefit analysis has been prepared pursuant to the guidelines set forth in Section 18-2113, R.R.S. Neb. 2012, as amended, and has been approved and adopted as the cost benefit analysis of the Agency with respect to the Second Modification. Such cost benefit analysis reflects positive impacts of the project as described in the Second Modification. Such cost benefit analysis is hereby determined to show positive benefits based on the Second Modification and is hereby approved and confirmed.

Section 3. The Mayor and Council further find and determine that the Agency has recommended that the Mayor and City Council approve and adopt the Second Modification. In connection with such recommendation, the Agency reported to the Mayor and City Council that the proposed method and estimated cost of the acquisition and preparation for redevelopment of the Project Area and the estimated proceeds or revenue from the Project Area’s disposal to redevelopers, if any; and a statement of the proposed method of financing the redevelopment project is set forth in the Second Modification and that further it has been stated to the Mayor and City Council that there will be no families displaced from the Project Area.

Section 4. The Mayor and Council further find and determine that a public hearing was held, after notice of such public hearing was provided as required in Section 18-2115, R.R.S. Neb. 2012, whereby all persons desiring to be heard as to whether the Second Modification should be approved have been heard.

Section 5. Based upon the recommendation of the Agency and analysis and review of the Second Modification, the Mayor and Council hereby find:

(a) that the Second Modification is feasible and in conformity with the general plan for the development of the City as a whole and the Second Modification is in conformity with the legislative declarations and determinations set forth in the Community Development Law and

(b) that (i) the redevelopment project in the Second Modification (the “Project”) would not be economically feasible without the use of tax-increment financing, (ii) the Project would not occur in the Project Area without the use of tax-increment financing, and (iii) the costs and benefits of the

Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and have been found to be in the long-term best interest of the community impacted by the Project.

Section 6. The Mayor and Council hereby approve and adopt the Second Modification.

Council Member Gallaway seconded the motion. Upon roll call vote the following Council Members voted “Aye”: Gallaway, Gaston, Nienhueser, Gay and Arterburn. The following Council Members voted “Nay”: None. The Mayor declared the resolution adopted.

Eddie Trower of Government Affairs for Charter Communications VI, LLC was present to answer questions regarding the Franchise Agreement with the City of Sidney. The main items of discussion included 1) Conversion of NBC/KUSA channels to HD which should be accomplished in the near future; 2) Quality of customer service and closure of local office; 3) Capabilities of government access channel sharing/combining with the school and other government entities. Roger Gallaway stated that he would check the City equipment to see if the schools would be compatible.

Trower explained that their customer base in most locations has decreased from 70% to 35% of the population, spurring the closure of some of the local offices. This is caused by competition with other cable providers and internet access to a wide variety of entertainment. He further noted that while customer service had been outsourced overseas in the past, the new owner has brought it back to the U.S. and it will be a priority. He provided a list of Charter’s contact information to the Council.

Councilman Gaston thanked Mr. Trower for sharing this information with the City and suggested that sending a representative of the company once a year would be a good idea to maintain the “partnership” between the City and Charter.

City Attorney Leef noted that the expiration date of the contract, listed in Effective Date, Section 14 on page 8, is stated as 2016. It should be 5 (five) years from the date of passage, which should be 2021.

Gallaway moved, Gaston seconded “That the Franchise Agreement between the City of Sidney and Charter Communications VI, LLC be approved with the modification to Page 8, Section 14 Effective Date, changing the franchise expiration year to 2021.” Roll call vote: Yeas: All council members present.

The Clerk read Ordinance No. 1780 for the second time as follows: AThat the Ordinance entitled AN ORDINANCE OF THE CITY OF SDNEY, NEBRASKA, TO CREATE CHAPTER 1284 CHRONIC NUISANCES OF PART TWELVE-PLANNING AND ZONING CODE OF THE CODIFIED ORDINANCES OF THE CITY OF SIDNEY, NEBRASKA; TO DEFINE CHRONIC NUISANCES; TO ESTABLISH AN ENFORCEMENT PROCEDURE FOR DEALING WITH PROPERTIES THAT HAVE CHRONIC NUISANCE VIOLATIONS, INCLUDING ESTABLISHING THE DURATION OF THE DESIGNATION OF CHRONIC NUISANCES PROPERTY AND ESTABLISHING THE PROCEDURE FOR APPEAL OF SUCH DESIGNATION; TO PROVIDE PROCEDURES FOR COMPLIANCE INCLUDING THE CREATION AND APPROVAL OF A MAINTENANCE AND ABATEMENT PLAN, REQUIRING FINANCIAL SECURITY, AND ESTABLISHING A DUTY TO PREVENT NEW NUISANCES; 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 was no motion to suspend the statutory requirement requiring the ordinance to be read by title three different days. Ordinance No. 1780 will be on the 11/8/16 Council Agenda for the Third Reading.

Dawn Martin, Assistant City Manager, presented Pay Estimate No. 6 for M.C. Schaff for SID#56 (Anna Drive), noting that this will be the final pay estimate for engineering on the project. Gaston moved, Gay seconded "That Resolution 20161003 be approved." Roll call vote: Yeas: All council members present.

RESOLUTION NO. 20161003

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

That the Mayor and Council hereby find and determine that pursuant to contracts heretofore made, the engineer, M.C. Schaff has filed with the City Clerk certificates showing the performance of said contracts as follows: STREET IMPROVEMENT DISTRICT #56; PAYMENT NUMBER 6 AMOUNT DUE ENGINEER \$5,144.00. A Warrant in the amount now due the contractor is hereby authorized and charged to said district. said warrant shall draw interest at a rate of 1.0% per annum and be held by the City of Sidney Investment Account.

Kevin Kubo, Chief Building Official, presented two Resolutions for Ordinance revisions regarding mobile homes and travel trailers.

Gaston moved, Gallaway seconded "That RESOLUTION NO. 20161004 be passed and approved." Roll call vote: Yeas: All council members present.

RESOLUTION NO. 20161004

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

That the Planning Commission of the City of Sidney, Nebraska, has submitted to the City Council of the City of Sidney, Nebraska, its final report regarding Revisions to Chapter 1252 "Mobile Homes" of the Codified Ordinances of the City of Sidney; and

That the City Council of the City of Sidney proposes to consider said report; that a public hearing will be held thereon in the Municipal Building of the City of Sidney, Nebraska, at 7:15 o'clock P.M. on the 8th day of November, 2016 at which time and place parties in interest and citizens shall have an opportunity to be heard; and that the City Clerk is hereby directed to give the proper notice of said hearing in compliance with the law at least ten days prior to said hearing.

Arterburn moved, Gallaway seconded "That RESOLUTION NO. 20161005 be passed and approved." Roll call vote: Yeas: All council members present.

RESOLUTION NO. 20161005

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

That the Planning Commission of the City of Sidney, Nebraska, has submitted to the City Council of the City of Sidney, Nebraska, its final report regarding Revisions to Chapter 1254 "Travel Trailers" of the Codified Ordinances of the City of Sidney; and

That the City Council of the City of Sidney proposes to consider said report; that a public hearing will be held thereon in the Municipal Building of the City of Sidney, Nebraska, at 7:15 o'clock P.M. on the 8th day of November, 2016 at which time and place parties in interest and citizens shall have an opportunity to be heard; and that the City Clerk is hereby directed to give the proper notice of said hearing in compliance with the law at least ten days prior to said hearing.

Dawn Martin, Assistant City Manager, presented a recommendation to Council to make the FINAL payment to Midlands Contracting for their work on the Water Distribution Piping Project.

Gallaway moved, Gay seconded "That the final payment due Midlands Contracting in the amount of \$129,034.57 be approved for payment." Roll call vote: Yeas: All council members present.

City Manager Sadler reviewed the process for appointments to the Civil Service Commission, noting that members to this board are appointed by the City Manager.

City Manager's Report: Ed reported that he will be gone Thursday to attend meetings in Kearney with DEQ regarding the Landfill and Friday in Lincoln to attend the League Legislative Committee meeting. He urged everyone to come out to the City's Trunk or Treat event that will be held on October 31st in Hickory Square. Work sessions regarding streets, fees and mowing will be scheduled in the near future. The targeting team will have a draft of recommendations in November and final report in December.

Council Comments: **Mayor Nienhueser** stressed that the LB840 tax renewal measure that will appear on the upcoming ballot is not a new tax. It is a renewal of the existing tax which must be voted on every 10 years and designates \$300,000 toward economic development. The LB840 funds are used as an economic development tool to recruit and assist new businesses. If the issue does not pass the funds cannot be used for economic development. **Council Member Gaston** congratulated the cross country and girls volleyball teams. He thanked the public for their input on Charter TV issues. **Councilman Arterburn** seconded the Mayor's remarks stressing the importance of the LB840 issue on the ballot. **Councilman Gay** stated that he will be out of town and not attending the next City Council meeting.

Meeting adjourned at 8:18 p.m.

/s/MARK NIENHUESER, MAYOR

ATTEST: /s/CYNTHIA HEILBURN, DEPUTY CITY CLERK

