REGULAR MEETING OF THE CITY COUNCIL

**TUESDAY FEBRUARY 11, 2020**

A meeting of the Mayor and Council of the City of Plainview, Nebraska, was held at the Council Chambers in said City on the 11th day of February at 6:30 o’clock P.M.

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Roll call was held and present were: Mayor Schlote; Council Members: Smith, Brookhouser, Yosten and Sanne. Absent: None

The Pledge of Allegiance was then recited.

Mayor Schlote opened the meeting and announced to individuals in attendance that a full copy of the new Nebraska Open Meetings Act was posted on the east wall of the Council Chambers.

Notice of the meeting was given in advance thereof by Publication, a designated method for giving notice, as shown by the Affidavit of Publication attached to these minutes. Notice of this meeting was given to the Mayor and all Members of the Council and a copy of their acknowledgment of receipt of notice and the agenda is attached to the minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Michael Holton was present as City Administrator.

Courtney Retzlaff was present as City Clerk.

Bruce Curtiss was present as City Attorney.

Brookhouser moved to approve the January 14th regular meeting and January 21st special meeting minutes. Smith seconded the motion. Motion carried 4-0.

Brookhouser moved to approve claims and payroll. Sanne seconded the motion. Motion carried 4-0.

Kyle Overturf of AMGL presented the fiscal year 2019 Audit for the City of Plainview. Overturf stated that the overall net position of the City has improved with unassigned funds decreasing from $600,000 to $128,000 over the last 3 years. Some significant findings were the decrease in the water fund which is a result of lower water sales, segregation of duties due to limited staffing and valuation for the city is low compared to other communities of similar population. Overturf pointed out that although the City receives higher Municipal Equalization funds, these are not meant to replace valuation income. It was noted that the Library Foundation could be considered a component unit of the City based on the amount of funds they are holding and that money should be used to lower the budget to support the facility. Overturf also stated that the bond for the pool will soon be paid in full, which would allow for the possible reallocation of sales tax money.

Gary Steele of Miller & Associates presented contracts for engineering of 2 proposed paving projects: M493(46) Lincoln Ave between Main and Pine Street and M493(35) Euclid Ave between Second and Third Streets. Steele explained the process involved when a paving project is started and the steps the City would need to take to move forward. The information that Steele presented were estimates for the paving of each road with concrete or asphalt. Steele stated that overall the costs of concrete and asphalt are comparable over a 35 year life span when maintenance associated with asphalt is factored in. Estimates for the projects listed were as follows: M493(46) concrete $272,025 and asphalt $203,366; M493(35) concrete $105,930 and asphalt $82,203. Brookhouser moved to approve the engineering contract with Miller & Associates. Smith seconded the motion. Motion carried 4-0.

No Manor report was given.

Chief Yosten presented the monthly report for the department. Questions on thefts that occurred last month were answered.

Economic Development director Susan Norris gave updates on the housing grant, IRP Loan funds and asked about the status of LB256 which was passed by the City of Plainview through Ordinance No. 949 in May of 2019. Council would like to move forward with implementing a listing of vacant properties in town and recommendations on the administration of the Ordinance, which will be brought back to future council meetings.

City Superintendent Curt Hart updated on vehicle maintenance, NCPPD tree trimming, locates for preliminary testing by TC Energy and the replacement of water meter ERTs.

Roger Protzman of JEO Consulting Group gave an update on the NDEE Source Water Protection Grant program that the City had discussed last year. Protzman stated that the first part of the project will be to locate the source of the nitrates and where potential new wells could be drilled. Protzman hoped to start the first phase in March and the agreement should be signed contingent to receiving the grant money from the State. Brookhouser moved to approve the agreement as stated by Protzman. Yosten seconded the motion. Motion carried 4-0.

A recommendation by the Mayor for Megan Bowman to be added to the pool board, replacing Cassy Wright was given. Brookhouser moved to approve the recommendation. Yosten seconded the motion. Motion carried 4-0.

Discussion on appointing the City Engineer and Street Superintendent for 2020 was held with Miller & Associates and Reed Miller, Lic S-514 Class A recommended respectively. Brookhouser moved to approve the recommendations. Smith seconded the motion. Motion carried 4-0.

Susan Norris reported on the CDA Board recommendation of Confluence from Omaha, NE to complete the DTR planning. The board had 4 firms respond back and through scoring system, rated Confluence as their top choice. The top 2 firms were interviewed by the CDA board via phone conference. Confluence’s overall vision for downtown Plainview as well as their knowledge of what Plainview offers were the key factors in rating them as the top choice. Smith moved to approve Confluence as the DTR planning firm. Sanne seconded the motion. Motion carried 4-0.

Approval was given to sign the DTR Plan 19-99-011 Contract with Confluence contingent on the grant money being received from the DED. Brookhouser moved to sign the contract. Yosten seconded the motion. Motion carried 4-0.

Discussion on leasing of the farm land north of the transfer station and rental of land around the lagoon for haying was held. Council agreed to advertise for sealed bids to be opened at the March council meeting. Brookhouser moved to publish advertisements. Yosten seconded the motion. Motion carried 4-0.

Motion was made by Brookhouser and seconded by Smith to approve Ordinance No. 954 on its first reading. Upon roll call vote, the following members voted AYE: Smith, Brookhouser, Yosten and Sanne. The following voted NAY: none. Motion carried 4-0. Whereupon the Mayor declared said Ordinance No. 954 approved on its first reading.

It was moved by Brookhouser, and seconded by Smith to waive the second and third readings and approve Ordinance No. 954. Upon roll call vote, the following members voted AYE: Smith, Brookhouser, Yosten and Sanne. The following voted NAY: none. Motion carried, 4-0. Whereupon the Mayor declared Ordinance No. 954 approved on its second and third readings.

**ORDINANCE #954**

AN ORDINANCE ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF PLAINVIEW, NEBRASKA ADOPTING THE STATE LAW CHANGES MADE BY THE LEGISLATURE WHICH ARE SPECIFIC AND MANDATORY AND NECESSARY TO BRING THE CITY ORDINANCES AND CODE SECTIONS INTO CONFORMITY WITH STATE LAW AND AMENDING RESTATING, REVISING, UPDATING, CODIFYING AND COMPILING CERTAIN ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS EMBRACED IN THE CODE OF ORDINANCES, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE CODE OF ORDINANCES.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PLAINVIEW, NEBRASKA:

Section 1. That the Code of Ordinances of the City of Plainview shall continue in full force and effect and shall hereby adopt and incorporate by reference certain State law changes made by the Legislature which are specific and mandatory and necessary to bring the City Ordinances and Code sections into conformity with State law.

Section 2. The State law changes identified above affect the following chapters of the City Code of Ordinances:

1. To amend §1-710 Elections; Petition, Write-In, And Other Candidates for General Election Ballot; Procedure.
2. To amend §1-716 Elections; Recall Procedure.
3. To amend §1-818 Fiscal Management; Sinking Funds; Gifts of Money or Property
4. To amend §11-824 Fiscal Management; Property Tax Request; Procedure for Setting.
5. To amend §6-206 Definitions.
6. To create §6-206.1 Domestic or Hybrid Animal or Livestock; Post-exposure Management.
7. To create §6-206.2 Post-Incident Management.
8. To create §6-347 Public Indecency.
9. To amend §10-123 Alcoholic Beverages; Removal of Intoxicated Persons from Public or Quasi-Public Property.
10. To repeal §10-701 Tobacco and Cigarettes; License to Sell; Issuance; Vapor Products; and create §10-701.1 Tobacco and Cigarettes; License to Sell; Issuance.
11. To create §10-701.2 Tobacco and Cigarettes; License Term; Fees.
12. To create §10-701.3 Tobacco and Cigarettes; Rights of Licensee.
13. To create §10-701.3 Tobacco and Cigarettes; Disposition of fees; Transfer of license; Reissuance of revoked and forfeited license.
14. To repeal §10-702 Tobacco; Use of Tobacco by Minors and create §10-702.1 Tobacco; Use by Minors.
15. To create §10-702.2 Tobacco; Sale of Tobacco to Minors.
16. To create §10-702.3 Tobacco; Misrepresentation by Person Under the Age of 19 to Obtain Tobacco.

Section 3. All other portions of the code book not identified in Section 2. herein remain unaffected and shall continue in full force and effect as currently written.

Section 4. All prior ordinances, pertaining to the subjects treated in this supplement to the Code of Ordinances, shall be deemed repealed from and after the effective date of this ordinance except as they are included and re-ordained in whole or in part in this supplement to the Code of Ordinances; provided, this repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by this supplement to the Code of Ordinances.

Section 5. This ordinance adopting the supplement to the Code of Ordinances shall be a sufficient publication of any ordinance included in it and not previously published according to law. At least one copy of this supplement to the Code of Ordinances shall be on file in the office of the City Clerk and available for inspection by members of the public during the hours the office is open for the ordinary transaction of business. The Clerk shall file a copy of this supplement to the Code of Ordinances with the County Court.

Section 6. This ordinance adopting this supplement to the Code of Ordinances shall take effect from and after its passage, approval, and publication or posting as required by law

Council member Sanne introduced the following resolution and moved for its adoption:

**RESOLUTION #597**

**WHEREAS,** the current City Administrator of the City of Plainview, Nebraska has resigned, and

**WHEREAS,** said Administrator has offered to remain in service up to and including the end of February, 2020, and will organize and cooperate in transition of duties;

**WHEREAS,** the City Code provides that in such a case the Mayor and Council should arrange for the delegation and assignment of the duties of a City Administrator during any period when the position is open;

**NOW THEREFORE BE IT RESOLVED**, BY THE MAYOR AND COUNCIL OF THE CITY OF PLAINVIEW, NEBRASKA, THAT:

1. The duties otherwise assigned to a City Administrator shall be assigned (or shared) and performed by the City officials and employees set forth on the following chart:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| SECTION | TOPIC | CITYCLERK | CITYSUPERINTENDENT | OTHER |
| §1-208 1. | Inventory | √ |  |  |
| §1-208 2. | Purchasing Agent | √ | √ |  |
| §1-208 3. | Financing | √ |  |  |
| §1-208 4. | Public Relations | √ |  |  |
| §1-208 5. | Meetings | √ | √ |  |
| §1-208 6. | Analyze the functions, duties and activities of the various departments | √ | √ |  |
| §1-208 7. | Carry out recommendations & operations of various dept. | √ | √ |  |
| §1-208 8. | Procure facts and submit long range improvements | √ | √ |  |
| §1-208 9. | Recommend appointment and dismissal of all dept. heads | √ | √ |  |
| §1-208 10. | Recommendations regarding employees of the Municipality | √ | √ |  |
| §1-208 11. | Responsible for all departments and divisions of the Municipal government | √ | √ |  |
| §1-208 12. | Recommend for adoption measures and ordinances | √ | √ |  |
| §1-208 13. | Prepare and recommend classification and compensation plan | √ | √ |  |
| §1-208 14. | Make investigations into the affairs of the Municipality and any department or division thereof | √ | √ |  |
| §1-208 15. | Supervise all public buildings, streets and other public property |  | √ |  |
| §1-208 16. | Prepare and submit a complete report on the finances and administrative activities | √ |  |  |
| §1-208 17. | Keep insurable property appropriately insured | √ |  |  |
| §1-208 18. | Service as head of other departments |  |  | council |
| §1-208 19. | Keep Administrator office open for public affairs  |  |  | N/A |
| §1-208 20. | Perform such other duties and exercises such other powers as may be delegated to him from time to time |  |  | N/A |
| Chapter 2 | Duties Commissions & Boards | √ |  |  |
| Chapter 3 | Duties Water & Sewer | Performed by City Superintendent on recommendation of Clerk |
| Chapter 5 | Duties Traffic & Snow Removal |  | √ |  |
| Chapter 8 | Duties Street |  | √ |  |
| Chapter 9 | Building and Zoning Inspector | √ | √ |  |
| Chapter 10 -4 | Building Moving and Permits |  | √ |  |

1. The above duties and authority shall commence immediately upon the passage of this Resolution. To the extent that the former City Administrator remains available, the delegated officers and employees may consult with the former Administrator, but they shall have full and sole power and authority to perform their assigned duties;
2. Immediately upon commencing, and for the duration of their newly assigned duties, the assigned officers and employees shall receive additional compensation (in addition to their regular salary and/or hourly and overtime pay) as follows: City Clerk, $250.00 per pay period; City Superintendent, $100.00 per pay period. Additional compensation shall be recognized and added to regular compensation for all purposes, including withholding tax, pension, and etc.

Council member Sanne seconded the foregoing motion and on roll call on the passage and adoption of said resolution, the following voted Aye; Brookhouser, Smith, Yosten and Sanne Nay: NAY. Motion carried 4-0. Whereupon the Mayor declared said motion carried and Resolution #597 is passed and adopted.

Council members discussed the need to advertise for both a city worker and city administrator. Brookhouser moved to advertise for both positions. Smith seconded the motion. Motion carried 4-0.

A lengthy discussion on sex offender law and regulations within the City of Plainview was held with several community members present to express their concerns over incidents that have occurred recently. City Attorney Curtiss stated that the current city Ordinance is the sex offender registry that is adopted by the State of Nebraska. City code also contains other laws pertaining to disturbing the peace, disorderly conduct and harassment. Curtiss cautioned that city laws cannot impose restrictions that are stricter than State laws. Dawn Williams read a statement from Zion Lutheran Schools in regards to an incident that occurred on school grounds recently. Williams would like to see the City take further action to make sure the children in the community are protected. Other members of the community expressed concern over a sex offender who drives by the pool and Chilver’s Park, follows children home from school and spends time at a residence across from the high school during school hours. While the state restrictions are vague, council agreed to form a committee to explore options for the City to increase the safety of the children in the community. Committee members will include members of council, Plainview Police personnel and representatives of both schools in town.

City Attorney Curtiss briefly spoke of potential revisions to the current dangerous dog ordinance as there are several conditions that are currently listed that make classification of any dog as a dangerous dog difficult. The council will discuss again further at the March council meeting.

A request was received by Jason Ashburn for permission to light fireworks in City limits on February 22nd to celebrate a possible State wrestling championship by the Plainview High School wrestling team. Ashburn would utilize the area north of the elementary school between the hours of 10:00 to 11:30 PM. Brookhouser moved to approve the fireworks. Smith seconded the motion. Motion carried 4-0.

City Clerk Retzlaff asked for the council to approve the opening of a bank account for the IRP Loan Reserve Loss funds, which would be used for all money received from businesses that apply for an IRP loan. The funds received by the USDA would remain in a separate account. Brookhouser moved to approve opening the bank account. Smith seconded the motion. Motion carried 4-0.

City Attorney Curtiss reported on the workers compensation litigation involving EMC Insurance and Chief of Police Bruce Yosten. A deposition of Yosten will be held on March 10th at the Plainview Library with trial set for April 15th in Pierce. Curtiss spoke to the possibility of an executive session to speak of advice given by the workers compensation lawyers. The structure of the police force was discussed based on budgetary issues, possible reduction of force, county law enforcement coverage or possible disciplinary action against the Chief of Police. Curtiss also stated that there was letter for discipline available for council to review and present to Chief Yosten if they desire. Any action on the letter would need to be taken in open session.

City Administrator Holton gave his final report and listed several suggestions for the council going forward.

A question was raised by a member of the audience as to why sex offenders are attracted to Plainview. The high number of rental properties, along with no background checks by landlords were cited as some of the main reasons Plainview has a higher average than other surrounding towns.

At 8:45 PM Brookhouser made a motion to go into executive session to discuss the workers compensation litigation and advice from the workers compensation lawyers. Smith seconded the motion. Motion carried 4-0.

At 9:28 PM Brookhouser moved to come out of executive session. Smith seconded the motion. Motion carried 4-0.

Brookhouser moved to have the disciplinary letter delivered to Chief Yosten. Sanne seconded the motion. Motion carried 3-0 with Yosten abstaining. Mayor Schlote along with Smith will deliver the letter to Chief Yosten after the conclusion of the meeting.

Pursuant to Code 3-403, a hearing will need to be set for Chief Yosten to speak to the council. A tentative date of February 27th, 2020 at 6:30 PM was set, unless Yosten requests an alternative date or chooses not to proceed with the hearing.

It was moved by Brookhouser, seconded by Yosten to adjourn the meeting. Motion carried 4-0.

TIME: 9:42 P.M.

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Brian Schlote, Mayor

(SEAL)

ATTEST:

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Courtney Retzlaff, City Clerk/Treasurer

I, the undersigned, City Clerk for the City of Plainview, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Council on 2/11/2020; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Courtney Retzlaff, City Clerk/Treasurer (SEAL)

|  |  |  |  |
| --- | --- | --- | --- |
| 14375 | Midwest Bank | Emp HSA Jan-June | 12,000.00 |
| 14376 | Verizon Wireless | Cellphones | 532.36 |
| 14377 | Hometown Leasing | Copier Lease | 91.31 |
| 14378 | Carlson Home & Auto Inc | Svc | 75.00 |
| 14379 | Ingram Library Services | Books/Audiobooks | 498.36 |
| 14380 | GreatAmerica Financial Svcs | Copier Lease | 286.73 |
| 14381 | NDEE- Waste Management Division  | C&D Permit Renewal | 250.00 |
| 14382 | City of Plv Plv/Osm Housing | Pmt | 42.00 |
| 14383 | Plainview News | Ads/Su | 637.28 |
| 14384 | City of Plainview | Pool Sales Tax | 4,743.90 |
| 14385 | City of Plainview | Library Sales Tax | 3,067.48 |
| 14386 | City of Plainview | Manor Sales Tax | 3,067.48 |
| 14387 | City of Plainview | Eco Dev Sales Tax | 3,067.48 |
| 14388 | New York Life | Emp Ins | 92.20 |
| 14389 | Midwest Bank | Emp HSA  | 400.00 |
| 14390 | Postmaster | Postage | 161.78 |
| 21734 |  |  |  |
| 21739 | City Employees | Payroll 1-15-2020 | 16,360.63 |
| 21740 |  |  |  |
| 21746 | City Employees | Payroll 1-30-2020 | 14,779.80 |
| 21747 | Aflac | Emp Ins | 475.41 |
| 21748 | Agland Electric Motor Service | Svc | 1,450.31 |
| 21749 | Blue360 Media | Su | 300.56 |
| 21750 | Bud's Sanitary Service LLC | Svc | 1,165.21 |
| 21751 | Bud's Sanitary Service LLC | Svc | 4,752.00 |
| 21752 | City of Norfolk | Svc | 126.75 |
| 21753 | City of Plainview | LB840 Loan Pmt | 80.00 |
| 21754 | City of Plainview C&D Sinking Fund | Pmt | 2,000.00 |
| 21755 | City of Plv CDBG Housing | Pmt | 100.00 |
| 21756 | City of Plv Housing Auth | Pmt | 100.00 |
| 21757 | City of Plv Plv/Osm Housing | Pmt | 51.51 |
| 21758 | Classic Rentals | Su | 187.71 |
| 21759 | Complete Pest Elimination Inc | Mosquito Svc 2020 | 5,605.00 |
| 21760 | Curtiss Law Office PC LLO | Legal Svc | 1,250.00 |
| 21761 | Electrical Engineering & Equip | Su | 319.44 |
| 21762 | Electrical System Sinking Fund | Pmt | 2,000.00 |
| 21763 | Floor Maintenance | Su | 77.32 |
| 21764 | Francotyp- Postalia Inc | Postage Machine | 181.92 |
| 21765 | Great Plains Communications | Svc | 46.85 |
| 21766 | GreatAmerica Financial Svcs | Copier Lease | 4.62 |
| 21767 | Green Line Equipment | Su | 101.16 |
| 21768 | Hoffart Repair | Su | 118.60 |
| 21769 | Hometown Leasing | Copier Lease | 247.19 |
| 21770 | Johnson Repair | Svc | 96.85 |
| 21771 | Mahaska | Su | 139.20 |
| 21772 | Matheson Tri-Gas Inc | Svc | 35.78 |
| 21773 | Metering & Technology Solutions | Su- ERTs | 6,470.08 |
| 21774 | Mitch's Food Center | Su | 29.49 |
| 21775 | Municipal Supply Inc of Omaha | Su | 560.79 |
| 21776 | NE Public Health Env Lab | Svc | 289.00 |
| 21777 | Norfolk Daily News | Subscription | 163.00 |
| 21778 | NCPPD | Svc | 14,463.40 |
| 21779 | VOID |  |  |
| 21780 | Northeast NE Clerks Assoc | Dues | 20.00 |
| 21781 | Pierce County Court | Court Costs | 128.92 |
| 21782 | Plainview Chamber of Commerce | Membership Dues | 135.00 |
| 21783 | Plainview Telephone Co Inc | Svc | 1,197.01 |
| 21784 | Schaefer Grain Co | Svc | 387.00 |
| 21785 | Schoenauer Truck Repair | Svc | 790.00 |
| 21786 | Steinkraus Service | Fuel/Tire Repair | 2,791.30 |
| 21787 | ULine | Su | 77.23 |
| 21788 | Water Tower Bond Acct | Pmt | 2,800.83 |
| 21789 | Waterlink, Inc | Svc | 539.20 |
| 21790 | Western Oil, Inc | Fuel | 179.88 |
| 21791 | Willow Creek Vet Service | Svc | 5.00 |
| ACH | Allied Benefit Services | Emp Ins | 9,194.18 |
| ACH | Black Hills Energy | Gas | 1,298.37 |
| ACH | Casey's Business Mastercard | Fuel | 421.50 |
| ACH | Comm Bankers Merch Svc | Credit Card Fees | 635.15 |
| ACH | CrashPlan Pro | Svc | 9.99 |
| ACH | Deluxe Business Checks | Su- Checks | 1,066.07 |
| ACH | EFTPS | Fed W/H Tax | 5,031.69 |
| ACH | EFTPS | Fed W/H Tax | 4,459.64 |
| ACH | Dearborn Life Ins Co | Emp Ins | 60.00 |
| ACH | Healthplan Services Inc | Emp Ins | 111.60 |
| ACH | Mass Mutual | Pension | 2,378.82 |
| ACH | Mass Mutual | Pension | 2,298.70 |
| ACH | Midwest Bank | Stop Pmt Fee | 31.00 |
| ACH | Midwest Bank | NSF Check | 154.00 |
| ACH | Midwest Bank | Svc | 50.00 |
| ACH | NE Dept of Rev | State W/H Tax | 1,574.03 |
| ACH | NE Dept of Rev | Sales & Use Tax | 1,956.73 |
| ACH | NE U.C. Fund | Unemp Tax | 14.74 |
| ACH | Office Max | Su  | 89.99 |