REGULAR MEETING OF THE CITY COUNCIL

**TUESDAY MARCH 12, 2019**

A meeting of the Mayor and Council of the City of Plainview, Nebraska, was held at the Council Chambers in said City on the 12th day of March at 6:30 o’clock P.M.

Roll call was held and present were: Mayor Seip; Council Members: Smith, Cornett, Schlote and Yosten.

The Pledge of Allegiance was then recited.

Mayor Seip 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.

Schlote moved to approve the February 12th regular meeting minutes. Smith seconded the motion. Motion carried 4-0.

Cornett moved to approve council claims and payroll. Schlote seconded the motion. Motion carried 3-0 with Yosten abstaining.

No Manor report was given.

Police report was given by Chief Yosten. A test of the tornado sirens will be completed tonight and Schmader Electric will meet with the City later this week to discuss necessary repairs. Questions on the report given each month for unlicensed vehicles were raised. Council would like further detail to include the name and address of the owner, along with the make and model of the vehicle.

Susan Norris gave an update on Economic Development including additional ideas for use of the current Community Building and submission of the pre-application to NENEDD for the Nebraska Housing Trust Fund. A public hearing will need to be held at the April council meeting before final submission. Members will be officially appointed to the CDA board in April.

City Superintendent Hart stated that the guys had worked on snow removal and the asbestos removal on Steve Classen’s property was completed.

Roger Protzman of JEO Consulting Group outlined the steps involved for the source water protection project. Total completion of the project would be by 2021 with a cost of $70,000. The grant would cover 90% with the City cost at 10%. Additional funding could be available through the NRD to cover half of the City costs.

Cornett moved to approve JEO Consulting Group as the consultant for the City’s source water protection project. Schlote seconded the motion. Motion carried 4-0.

Schlote moved to approve a payment for 10% of the project cost from the City and request 5% match from NRD. Cornett seconded the motion. Motion carried 4-0.

Dennis Johnson of Bush & Roe gave an overview of the City’s current insurance policy package and the available coverage.

City Administrator Holton had received 3 RFP’s for Housing Grant Administrator. The lowest bid was sent by CDS Inspections and Beyond who currently is serving as the City’s Housing Grant Administrator. Schlote moved to appoint CDS Inspections and Beyond. Smith seconded the motion. Motion carried 4-0.

Bids were also received for a lead based administrator with CDS again having the lowest bid. Schlote moved to approve CDS as the lead based administrator. Cornett seconded the motion. Motion carried 4-0.

Mayor Seip recommended to appoint Jessica Fernau as a member of the library board to replace Kelly Lingenfelter. Schlote moved to accept the appointment of Fernau. Cornett seconded the motion. Motion carried 4-0.

Motion was made by Schlote and seconded by Cornett to approve Ordinance No. 948 on its first reading. Upon roll call vote, the following members voted AYE: Smith, Cornett, Schlote and Yosten. The following voted NAY: none. Motion carried 4-0. Whereupon the Mayor declared said Ordinance No. 948 approved on its first reading.

It was moved by Schlote, and seconded by Cornett to waive the second and third readings and approve Ordinance No. 948 . Upon roll call vote, the following members voted AYE: Smith, Cornett, Schlote and Yosten. The following voted NAY: None. Motion carried, 4-0. Whereupon the Mayor declared Ordinance No. 948 approved on its second and third readings.

**ORDINANCE NO. 948**

AN ORDINANCE RELATING TO abandoned vehicles; adding new provisions related to removing abandoned vehicles from private property; revising provisions relating to removing abandoned vehicles from public property; to harmonize with state law; to repeal conflicting ordinances and sections; and to provide an effective date.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PLAINVIEW, NEBRASKA:

Section 1. The Plainview’s Code of Ordinance is revised to read as follows regarding abandoned vehicles:

§ 6-340 MISDEMEANORS; ABANDONED AUTOMOBILES.

1. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE.

1. A motor vehicle is an ABANDONED VEHICLE:
	* 1. If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
		2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
		3. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
		4. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
		5. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or
		6. If removed from private property by the city pursuant to a city ordinance or this code.
2. An all-terrain vehicle or minibike is an ABANDONED VEHICLE:
	* 1. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
		2. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted
		3. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
		4. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or
		5. If removed from private property by the city pursuant to a city ordinance or this code.
3. A MOBILE HOME is an abandoned vehicle if left in place on private property for more than 30 days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last – registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. RS 60-1903.
4. No Motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an ABANDONED VEHICLE under this division (A).

MOBILE HOME. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in Neb. RS 71-4603. MOBILE HOME does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. RS 60-169.

PRIVATE PROPERTY. Any privately-owned property which is not included within the definition of public property.

PUBLIC PROPERTY. Any public right-of-way, street, highway, alley, or park or other state, county, or city-owned property. (Neb. RS 60-1901)

1. If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of $250 or less, title shall immediately vest in the city. Any certificate of title issued under this division to the city shall be issued at no cost to the city. (Neb. RS 60-1902)
2. (1) Except for vehicles governed by division (b) of this section, the city shall make an inquiry concerning the last-registered owner of such vehicle as follows:
	* + - 1. Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or
				2. Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.
			1. The city shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:
				1. It will be sold or will be offered at public auction after five days from the date such notice was mailed; or
				2. Title will vest in the city 30 days after the date such notice was mailed.
			2. If the agency described in division (C)(1)(a) or (b) of this section also notifies the city that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.
			3. Title to an abandoned vehicle, if unclaimed, shall vest in the city:
				1. Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;
				2. Thirty days after the date the notice is mailed if the city will retain the vehicle; or
				3. If the last-registered owner cannot be ascertained, when notice of such fact is received.
			4. After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the city may retain for use, sell, or auction the abandoned vehicle. If the city has determined that the vehicle should be retained for use, the city shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the city intends to retain the abandoned vehicle for its use and that title will vest in the city 30 days after the publication. (Neb. RS 60-1903)
3. (1) If a city law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.
	* + 1. This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.
			2. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Neb. RS 60-1903.01)
4. (1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in Neb. RS 60-1902 and 60-1903.
	* + 1. A law enforcement agency is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service which towed the vehicle.
			2. A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within 24 hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service that towed the vehicle.
			3. For purposes of this section, a trespassing vehicle is a vehicle that is parked without permission on private property that is not typically made available for public parking. (Neb. RS 1903.02)
5. If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this city, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section to be removed from public property in this city, the state agency shall deliver the vehicle to the city which shall have custody. (Neb RS 60-1904)
6. Any proceeds from the sale of an abandoned vehicle in the city’s custody less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. IF not claimed within such two-year period, the proceeds shall be paid into the general fund of the city. (Neb RS 60-1905)
7. Neither the owner, owner’s agent, owner’s employee, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the city, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the city or its contractual agent, while in the possession of a private towing service, or as a result of any subsequent disposition. (Neb. RS 60-1906)
8. No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section.
9. No person other than one authorized by the city or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without licenses plates affixed or which is abandoned. Anyone violating this division shall be guilty of an offense. (Neb. RS 60-1908)
10. The last-registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle. (Neb. RS 60-1909)
11. Any person violating the provisions of this section shall be guilty of an offense.

Section 2. Any other ordinance or code section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provision is repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

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

**RESOLUTION #581**

**WHEREAS,** there are federal funds available under Section 5311 of the Federal Transit Act and for the Nebraska Public Transportation Assistance Program, and

**WHEREAS,** the City of Plainview Handivan desires to apply for said funds to provide public transportation in the city of Plainview area.

**NOW THEREFORE, BE IT RESOLVED;** the Plainview City Council hereby instructs the Plainview Handivan and the City of Plainview to apply for said funds. Said funds are to be used for the Plainview Handivan’s transportation operations in the FY 2019-2021 Application for Public Transportation Assistance.

Council member Smith seconded the foregoing motion and on roll call on the passage and adoption of said resolution, the following voted Aye; Smith, Cornett, Schlote and Yosten Nay: None. Whereupon the Mayor declared said motion carried and Resolution #581 is passed and adopted.

A discussion was held on Nebraska law LB256 which deals with vacant properties in municipalities. Council agreed that they would like for City Attorney Curtiss to bring an Ordinance to the next council meeting for council approval.

The council agreed to meet at the library conference room for all council meetings effective with the May 2019 regular meeting.

The City will once again over free cleanup days for Plainview residents April 27th and 28th. Schlote moved to allow cleanup days the end of April. Cornett seconded the motion. Motion carried 4-0.

Sealed bids were received for the City owned land by the old and new lagoons for rent. The first bid was received by Lyle Lingenfelter for $700 for rent of the farm ground by the old lagoon. The second bid was from Trent Tarr for haying around the current lagoon for $50 per acre. Schlote moved to accept both bids as received. Cornett seconded the motion. Motion carried 4-0.

City Superintendent Hart and City Clerk Retzlaff discussed the need for updated water meters for all customers in town. The current software will be obsolete in 2021 and the current water meters are no longer reading correctly due to their age. The administrative staff will continue to move forward with options for new water meter system.

Hart also informed the council that there are several fire hydrants that need to be replaced and he will work with the Fire Department to identify any issues going forward.

City Attorney Curtiss is working on paperwork for the property on South King that the City is purchasing.

Council members would like to remind that sidewalks need to be cleared after snowfall has stopped.

City Administrator Holton gave his report.

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

TIME: 8:09 P.M.

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Daren Seip, 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 03/12/19; 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)

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| --- | --- | --- | --- |
| 14108 | Postmaster | Postage | 25.85 |
| 14109 | City of Plainview | LB840 Loan Pmts | 223.21 |
| 14110 | Ron Keller | Pmt- King St Property | 200.00 |
| 14112 | Hansen Repair, Inc | Repairs | 46.08 |
| 14113 | Schaefer Grain Co  | Su | 132.35 |
| 14114 | Western Oil, Inc | Fuel  | 83.68 |
| 14115 | Chamber of Commerce | Dues 2019 | 135.00 |
| 14116 | Nebraska Harvestore Systems Inc | Su | 61.89 |
| 14117 | Waterlink, Inc | Qtrly Svc | 539.24 |
| 14118 | Verizon Wireless | Cellphones | 516.07 |
| 14119 | Devin Johnson | Meter Refund | 200.00 |
| 14120 | City of Plv/Osm Housing | Housing Grant Pmt | 42.00 |
| 14121 | CDS Inspections & Beyond | Asbestos Inspection | 335.00 |
| 14122 | Curtiss Law Office  | Legal Fees | 2,298.50 |
| 14123 | Postmaster | Postage | 25.60 |
| 14124 | City of Plainview | Pool Sales Tax | 6,117.43 |
| 14125 | City of Plainview | Library Sales Tax | 3,627.25 |
| 14126 | City of Plainview | Manor Sales Tax | 3,627.25 |
| 14127 | City of Plainview | Eco Dev Sales Tax | 3,627.25 |
| 14128 | Midwest Bank | Emp HSA | 300.00 |
| 14129 | Murphy Tractor & Equip | Su | 880.00 |
| 14130 | Postmaster | Postage | 180.95 |
| 14131 | New York Life | Emp Ins | 77.70 |
| 20811 |  |  |  |
| 20820 | Thru | Payroll 2-15-2019 | 16,742.71 |
| 20821 |  |  |  |
| 20830 | Thru | Payroll 2-28-2019 | 16,553.11 |
| 20831 | Aflac | Emp Ins | 475.41 |
| 20832 | Alvin Jensen | Mailbox Replacement | 36.55 |
| 20833 | Bazile Aggregate Co LLC | Su | 994.00 |
| 20834 | Eileen Bramer | Reim | 43.80 |
| 20835 | Bud's Sanitary Service, LLC | Svc | 4,752.00 |
| 20836 | Bud's Sanitary Service, LLC | Svc | 1,165.21 |
| 20837 | Chris Sellers | Meter Refund | 309.65 |
| 20838 | City of Norfolk | Svc | 224.65 |
| 20839 | City of Plainview | LB840 Loan Pmts | 143.21 |
| 20840 | City of Plainview | LB840 Loan Pmts | 80.00 |
| 20841 | City of Plainview C&D Sinking | Pmt  | 2,000.00 |
| 20842 | City of Plv/Osm Housing | Housing Grant Pmt | 103.02 |
| 20843 | Classic Rentals | Su | 214.29 |
| 20844 | Curtiss Law Office  | Legal Fees | 1,250.00 |
| 20845 | Delores Christiansen | Svc | 250.00 |
| 20846 | Electrical System Sinking Fund | Pmt | 2,000.00 |
| 20847 | Great Plains Communications | Svc | 43.59 |
| 20848 | GreatAmerica Financial Services | Copier Lease | 143.37 |
| 20849 | Hometown Leasing | Copier Lease | 241.88 |
| 20850 | Ingram Library Services | Books/Audiobooks | 392.70 |
| 20851 | Kumm Construction LLC | Svc | 3,441.08 |
| 20852 | L.P. Gill  | Svc | 10,183.22 |
| 20853 | Lavern Petersen | Snow Removal | 176.25 |
| 20854 | Lois Moser | Mailbox Replacement | 33.96 |
| 20855 | Mahaska | Su | 110.40 |
| 20856 | Matheson Tri-Gas Inc | Svc | 28.96 |
| 20857 | Mitch's Food Center | Su | 3.50 |
| 20858 | NE. Public Health Env Lab | Svc | 187.00 |
| 20859 | NCPPD | Svc | 10,224.89 |
| 20860 | Void |  |  |
| 20861 | Overhead Door Co of Norfolk | Svc | 724.20 |
| 20862 | Pam Yosten | Reim | 250.45 |
| 20863 | Pierce Co. Co | Su | 1,986.60 |
| 20864 | Plainview Auto Supply | Su | 349.72 |
| 20865 | Plainview Farm & Home Supply | Elec. Incentive | 554.41 |
| 20866 | Plainview News | Su | 568.02 |
| 20867 | Plainview Telephone | Phone Svc | 1,281.07 |
| 20868 | Postmaster | Postage Fee | 235.00 |
| 20869 | Ron Halvorsen | Mailbox Replacement | 24.60 |
| 20870 | RR Donnelley | Su | 64.15 |
| 20871 | Rueter's | Su | 36.36 |
| 20872 | Schaefer Grain Co  | Su | 309.00 |
| 20873 | Shannon Tilley | Meter Refund | 239.48 |
| 20874 | Sirchie Finger Print Labs | Su | 77.72 |
| 20875 | Steinkraus Service | Fuel/Tires | 2,783.75 |
| 20876 | Water Tower Bond Acct | Pmt | 2,800.83 |
| 20877 | Western Oil, Inc | Fuel | 73.48 |
| 20878 | Zee Medical Service | Su | 30.10 |
| ACH | Allied Benefit Services | Emp Ins | 11,774.96 |
| ACH | Black Hills Energy | Gas | 1,735.79 |
| ACH | Comm Bankers Merch Svc | Credit Card Fees | 649.65 |
| ACH | Crashplan Pro | Backup Server | 9.99 |
| ACH | EFTPS | Fed W/H Tax | 4,749.62 |
| ACH | EFTPS | Fed W/H Tax | 4,680.91 |
| ACH | Dearborn National Life Ins | Emp Ins | 60.00 |
| ACH | Graduate Lincoln | Hotel Rooms | 438.00 |
| ACH | Healthplan Services | Emp Ins | 129.00 |
| ACH | Mass Mutual | Pension | 2,425.49 |
| ACH | Mass Mutual | Pension | 2,425.49 |
| ACH | Microsoft Office | Su | 74.89 |
| ACH | Midwest Bank | Svc | 50.00 |
| ACH | NE Dept of Rev | Sales & Use Tax | 1,653.15 |
| ACH | NE Dept of Rev | State W/H Tax | 1,366.98 |
| ACH | USPS | Postage | 95.23 |