

A regular meeting of the Mayor and City Council of the City of Columbus, Nebraska was convened in open and public session on October 3, 2011 at 7 p.m. in the Council Chambers, 1369 25th Avenue, Columbus, Nebraska.

Notice of this meeting was given in advance thereof by publication in the Columbus Telegram on September 28, 2011, with a copy of the proof of publication being on file in the office of the City Clerk. Notice of this meeting was given simultaneously to the Mayor and members of the City Council, with a copy of the acknowledgement of receipt of notice being on file in the office of the City Clerk. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and City Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

STATEMENT OF COMPLIANCE WITH OPEN MEETINGS ACT: Mayor Moser read the following statement: "In compliance with the Open Meetings Act, Legislative Bill 898, Second Session Ninety-Ninth Legislature of Nebraska, a current copy of the Act is posted in this meeting room".

ROLL CALL: Present were Mayor Michael Moser and Council Members Beth Augustine, Charlie Bahr, Ron Bogus, Jim Bulkley, Ron Schilling, Rich Jablonski, John Lohr and Terry Reardon.

City staff members present included City Administrator Joseph Mangiamelli, Assistant City Clerk Janelle Kline, City Attorney Stephen Hansen, Police Chief William Gumm and City Engineer David Goedeken.

PRAYER: Mayor Moser asked all to rise and Council Member Bogus led in prayer.

NATIONAL ANTHEM AND PLEDGE OF ALLEGIANCE: Mayor Moser asked all to remain standing and join him in the National Anthem and Pledge of Allegiance.

CONSENT AGENDA: City Administrator Mangiamelli stated that the following items are considered routine by the City Council and will be enacted by one motion. He pointed out that there will be no separate discussion of these items unless a City Council Member or a citizen so requests, in which event the item will be removed from consent status and considered in its normal sequence on the agenda.

- A. Approval of minutes of the September 19, 2011, City Council meeting.
- B. Approval of reappointments of Neil Jensen, Kevin Johnson, Cory Reeder and Robert Stachura to the Business Improvement Board for three-year terms.
- C. Approval of reappointments of Martha Davidson, Alice Deden and Chris Dixon to the Columbus Senior Center Advisory Board for three-year terms.
- D. Approval of payroll and bills on file. 10/14/11 Payroll 453,039.67. TOTAL \$453,039.67.

Moved by Bogus, seconded by Schilling, the items on the consent agenda, being routine in nature, be approved as presented. Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

COMMENTS FROM MAYOR AND CITY COUNCIL MEMBERS: Mayor Moser referred to garage sale signs and reminded the public that they must be posted on private property or they will be removed.

Council Member Lohr invited the public to the Taste of Columbus Event on October 9th at the Platte County Agricultural Society and said this year's beneficiaries are the Columbus Area Chamber of Commerce and the Columbus Area Recreational Trails Organization.

Council Member Augustine encouraged the public to vote on the school bond issue on Tuesday, October 11th.

Mayor Moser welcomed Boy Scout Troop 212 to the meeting.

ORDINANCE NO. 11-34 WAS INTRODUCED BY COUNCIL MEMBER LOHR.

ORDINANCE NO. 11-34
ADOPTED: OCTOBER 3, 2011

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, AMENDING THE CITY PERSONNEL POLICY MANUAL ADOPTED BY ORDINANCE NO. 10-29, PASSED ON SEPTEMBER 7, 2010, BY PROVIDING FOR AN AMENDMENT TO SECTION 5.20, SICK LEAVE, BY INCLUDING A REGULAR EMPLOYEE'S SPOUSE AND RESIDENT MINOR CHILDREN DIAGNOSED WITH A SEVERE ILLNESS AS ELIGIBLE FAMILY MEMBERS FOR WHICH THE EMPLOYEE MAY SEEK APPROVAL FOR A SICK LEAVE BANK; TO PROVIDE THAT FUTURE AMENDMENTS TO THE PERSONNEL POLICY MANUAL MAY BE APPROVED BY A RESOLUTION ADOPTED BY THE CITY COUNCIL; TO REPEAL ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT HERewith AND TO PROVIDE FOR AN EFFECTIVE DATE.

Moved by Lohr, seconded by Bahr, the rules be suspended and Ordinance No. 11-34 be read by number only at this meeting. Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried and Ordinance No. 11-34 was read by number only at this meeting.

Moved by Lohr, seconded by Bahr, Ordinance No. 11-34 be passed and adopted. In response to Council Member Bulkley, City Attorney Hansen stated that this ordinance is administrative in nature as well as of an emergency nature and will be effective immediately.

Mayor Moser put the question, "Shall Ordinance No. 11-34 be passed and adopted?" Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

Mayor Moser declared, "By your action, you have passed Ordinance No. 11-34," and it was duly signed.

ORDINANCE NO. 11-30

THIRD READING

ADOPTED: OCTOBER 3, 2011

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA TO AMEND CHAPTER 70 OF TITLE VII OF ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) BY ADDING A DEFINITION FOR UTILITY TYPE VEHICLES TO SECTION 70.001; BY AMENDING THE DEFINITION OF MOTOR VEHICLE IN SECTION 70.001; AND BY AMENDING SECTION 70.015 BY PERMITTING THE OPERATION OF UTILITY TYPE VEHICLES WITHIN THE CITY; AND BY FURTHER AMENDING SECTION 70.015 BY ADDING SUBSECTIONS (C) THROUGH (J) TO DESCRIBE REGULATIONS RESTRICTING THE USE OF UTILITY TYPE VEHICLES ON CITY STREETS; BY AMENDING SECTION 71.014(A) BY DEFINING THE DEFINITION OF "ALL-TERRAIN AND UTILITY TYPE VEHICLES;" TO REPEAL ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH AND TO PROVIDE FOR AN EFFECTIVE DATE.

On its third reading, Ordinance No. 11-30 was read by title only at this meeting. City Administrator Mangiamelli referred to the September 19th City Council meeting regarding a minor housekeeping amendment to remove the words "motor vehicle or" from the ordinance and pointed out that the change has been made. Moved by Bulkley, seconded by Bahr, Ordinance No. 11-30 be passed and adopted.

Mayor Moser put the question, "Shall Ordinance No. 11-30 be passed and adopted?" Council Member Schilling stated that he feels there are a few amendments that should be made to this ordinance and City Attorney Hansen suggested that each amendment be voted on separately. Moved by Schilling, seconded by Lohr, to change the age to 21 to operate a UTV. Mangiamelli said this amendment would change Section 3 of the ordinance – 70.015 (A) (1) from 16 years of age to 21 years of age. In response to Council Member Bogus, Council Member Schilling reported that he has witnessed youth driving these types of vehicles inappropriately on city streets. Roll call and Council Members Augustine, Bahr, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and Bogus voted "Nay." Motion carried. Moved by Schilling, seconded by Lohr, that every Utility Type Vehicle (UTV) should be equipped with turn signals. Council Member Bogus stated that he does not feel turn signals on UTV's are necessary. Mangiamelli said this amendment would change Section 3 of the ordinance – 70.015 (E) to add "and be equipped with turn signals." Roll call and Council Members Augustine, Schilling, Jablonski, Lohr and Reardon voted "Aye" and Bahr, Bulkley and Bogus voted "Nay." Motion carried. Council Member Schilling referred to open vehicles such as motorcycles and motor scooters where helmets are required and said he feels helmets

should be required for UTV's as well. Moved by Schilling, seconded by Reardon, that helmets be required. Council Member Bulkley compared UTV's to open air jeeps or convertibles and said he does not feel helmets should be required. Mangiamelli said this amendment could be incorporated into 70.015 (B) under Section 3 of the ordinance. John Schoepf, 104 Lakeshore Drive, stated that the ordinance is modeled after State Statute and State Statute does not require helmets to be worn while driving a jeep or convertible. In response to Council Member Augustine, City Attorney Hansen said city legislation can be modified from State Statute if it is more restrictive. Council Member Lohr referred to documentation from Polaris, Kawasaki and John Deere that was included in the packets and said all companies had disclaimers that their UTV's are not safe on hard surfaces. Roll call and Council Members Augustine, Schilling, Jablonski, Lohr and Reardon voted "Aye" and Bahr, Bulkley and Bogus voted "Nay." Motion carried. Moved by Schilling, seconded by Reardon, that all UTV's driven on city streets have street type tires. Council Member Bahr questioned whether owners of new pickups should be required to switch to street type tires as new pickups come from the factory with all terrain tires. Council Member Schilling stated that State Statute regarding UTV's was written for the agricultural market and his intent is to modify the ordinance for safer driving on city streets. Council Member Lohr questioned whether street tires are safe for off-road driving. Tom Miller, 3 Driftwood Drive, asked for reconsideration to allow off road tires during the winter and Council Member Schilling said he agreed with seasonal use. Rick Hurner, 1 Sandy Point Drive, said he has visited a number of states that allow UTV use and the UTV's he witnessed in operation in these states had factory tires. Hurner also said he feels any tire issues are caused by the operator. Council Member Schilling, with consent of his second, withdrew his motion. Council Member Schilling referred to the registration of UTV's and said he feels there is no way to identify the owner should there be negligence while operating on city streets. City Attorney Hansen pointed out that Subsection C of the proposed ordinance requires a UTV to be registered with the Columbus Police Department and an identification tag issued by the Police Department would be required to be displayed. Hansen explained that the Police Department can administratively determine the type of tag to be issued. Police Chief Gumm displayed the type of tag currently used for registering ATV's and said it would be cost prohibitive to stamp plates. Discussion followed with regard to various identification systems that could be used. Miller suggested the tag be placed on the back of the vehicle for easier viewing. Joe Bordy, 107 Cottonwood Drive, pointed out that small plates with lights are available for purchase at a low cost. Gumm referred to the current tags being issued for ATV's, said these tags are purchased each year and requested they be placed on the rear center back bumper of UTV's in the interim in order to allow time to research vendors and costs for metal tags and Schilling concurred. Council Member Schilling referred to the area west of 33rd Avenue and south of 23rd Street and said the ordinance does not provide access for UTV's in this area. City Attorney Hansen said State Statute dictates that divided highways and controlled access highways cannot be crossed with UTV's. Moved by Bogus, seconded by Bulkley, to include 39th Avenue. Hansen pointed out that crossing Highway 81 at 39th Avenue is not prohibited by State Statute; however, the ordinance was drafted to allow crossing highways where there are traffic control devices. Mayor Moser suggested proceeding with this ordinance as amended and give city staff time to work with the State Legislature to correct inconsistencies. Council Member Reardon referred to "want" versus "need" and expressed opposition to this

ordinance. Mangiamelli reiterated the following amendments to this ordinance that were approved: 1) the age be changed from 16 to 21; 2) UTV's be equipped with turn signals; and 3) operators be required to wear helmets. Council Member Bogus said he prefers a UTV be allowed on city streets as opposed to a bicycle or moped and Council Member Augustine questioned whether one more hazard would be added to city streets by adopting this ordinance. Larry Bosak, 6 White Surf Drive, pointed out that the State initiated this legislation. Council Member Lohr suggested including a sunset clause in the ordinance. Council Member Augustine said the Council has a responsibility to the community for safety. In response to Gumm, Council Member Schilling clarified the third amendment should be for everyone in the vehicle to wear helmets.

The Mayor and City Council took a six minute recess at 8: 00 p.m.

Roll call on the motion to adopt Ordinance No. 11-30 and Council Members Bahr, Bogus, Bulkley and Schilling voted "Aye" and Augustine, Jablonski, Lohr and Reardon voted "Nay." There being a tie vote, Mayor Moser voted "Aye" and motion carried.

Mayor Moser declared, "By your action, you have passed Ordinance No. 11-30," and it was duly signed.

ORDINANCE NO. 11-31

THIRD READING

ADOPTED: OCTOBER 3, 2011

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA TO AMEND SECTION 91.20 OF CHAPTER 91 OF TITLE IX OF ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) TO PROVIDE REGULATIONS FOR OUTSIDE FIRES; TO PROVIDE FOR USE OF OUTDOOR FIREPLACES; TO PROVIDE A PENALTY FOR VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR AN EFFECTIVE DATE HEREWITH; AND TO REPEAL ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

On its third reading, Ordinance No. 11-31 was read by title only at this meeting. Moved by Jablonski, seconded by Augustine, Ordinance No. 11-31 be passed and adopted.

Mayor Moser put the question, "Shall Ordinance No. 11-31 be passed and adopted?" Michael Jones, 2172 18th Avenue, stated that he supports the use of fire pits in the city; however, is not satisfied with the way the ordinance is drafted. Jones referred to the restriction of homemade fire pits and said he feels it is a citizen's responsibility to accept consequences for any carelessness. Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

Mayor Moser declared, "By your action, you have passed Ordinance No. 11-31," and it was duly signed.

DISCUSSION ON PENDING LITIGATION: Moved by Bogus, seconded by Augustine, that the City Council go into closed session with the City Attorney at 8:16 p.m. The subject matter to be discussed in the closed session shall be pending litigation; specifically discussion on strategy with respect to pending litigation; the reason for going into closed session is for the protection of the public interests. The following individuals will be included in the closed session: City Administrator Joseph Mangiamelli, City Attorney Stephen Hansen and Police Chief William Gumm. Mayor Moser stated that Council President Bogus has made a motion to go into closed session with the City Attorney at this time. The subject matter to be discussed in the closed session shall be pending litigation; specifically to discuss strategy with respect to pending litigation; the reason for going into closed session is for the protection of the public interests. The following individuals will be included in the closed session: City Administrator Joseph Mangiamelli, City Attorney Stephen Hansen and Police Chief William Gumm. Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried. Mayor Moser stated that the City Council has voted to go into closed session with the City Attorney at this time. The subject matter to be discussed in the closed session shall be pending litigation; specifically discussion on strategy with respect to pending litigation; the reason for going into closed session is for the protection of the public interests. The following individuals will be included in the closed session: City Administrator Joseph Mangiamelli, City Attorney Stephen Hansen and Police Chief William Gumm.

Moved by Bogus, seconded by Bulkley, to exit closed session at 8:44 p.m. Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski and Reardon voted "Aye" and none voted "Nay." Council Member Lohr did not return to the Council Chambers. Motion carried.

Moved by Bogus, seconded by Bulkley, the meeting be adjourned. Roll call and Council Members Augustine, Bahr, Bogus, Bulkley, Schilling, Jablonski and Reardon voted "Aye" and none voted "Nay." Council Member Lohr did not return to the Council Chambers. Motion carried and the meeting was adjourned at 8:44 p.m.

Presented and approved this 17th day of October, 2011.

MAYOR

ATTEST:

CITY CLERK