

A regular meeting of the Mayor and City Council of the City of Columbus, Nebraska was convened in open and public session on April 2, 2012 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 March 28, 2012, 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-Schulte, Charlie Bahr, Ron Bogus, Jim Bulkley, Ron Schilling, Rich Jablonski, John Lohr and Terry Reardon.

City staff members present included City Administrator Joseph Mangiamelli, City Clerk Linda Walters, City Engineer David Goedeken, Finance Director Anne Kinnison, Police Chief William Gumm, City Attorney Steve Hansen and Fire Chief Dean Hefti.

INVOCATION: Mayor Moser asked all to rise and Council President Bogus led the invocation.

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 March 19, 2012, City Council meeting.
- B. Approval of reappointment of Mary Novotne to Civil Service Commission for five-year term.
- C. Approval of award of sole source quote to Wise Safety & Environmental in the amount of \$15,160 for PlumeRAE Weatherpak for HazMat team of Fire Department. (100% of the funds were awarded by Nebraska Emergency Management Agency for the 2009 grant year.)

- D. Approval of award of sole source quote to Wise Safety & Environmental in the amount of \$7,170 for two MultiRAE Multi Gas Detectors for HazMat team of Fire Department. (100% of the funds were awarded by Nebraska Emergency Management Agency for the 2010 grant year.)
- E. Approval of award of sole source quote to Wise Safety & Environmental in the amount of \$18,895 for ChemPro 100i US CBRN Kit for HazMat team of Fire Department. (100% of the funds were awarded by Nebraska Emergency Management Agency for the 2010 grant year.)
- F. Approval of payroll and bills on file. 4/13/12 Payroll 466,533.43. TOTAL \$466,533.43.

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

COMMITTEE OF THE WHOLE REPORT – PROPOSED SPECIAL ASSESSMENTS FOR SIDEWALK IMPROVEMENT DISTRICT NO. 13 AND WATER EXTENSION DISTRICT NO. 59:

An oral report of the Committee of the Whole was presented with the recommendation to accept the Certificate of Costs, Apportionment of Costs and Assessment Schedules for Sidewalk Improvement District No. 13 (853 21st Avenue; 1972 24th Avenue; and 3180 33rd Avenue) and Water Extension District No. 59 (33rd Avenue and 66th Street-Central Community College-Columbus) and set the date of a Board of Equalization meeting for Monday, May 21, 2012 from 6:00 to 6:45 p.m. Moved by Bogus, seconded by Augustine-Schulte, this report be adopted. Roll call and Council Members Augustine-Schulte, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

DISCUSSION REGARDING FRANCHISE CONTRACT FOR CABLE SERVICES: An oral report of the Committee of the Whole was presented with the recommendation that Council Members Bahr, Bulkley and Schilling be appointed to assist staff in developing a recommendation to be presented to the City Council in June regarding the cable television franchise agreement. Moved by Bogus, seconded by Augustine-Schulte, this report be adopted. Roll call and Council Members Augustine-Schulte, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

APPROVAL OF APPOINTMENT OF JORGE MAGDALENO AS POLICE OFFICER: A memorandum was presented from Mayor Moser submitting the name of Jorge Magdaleno for appointment as a Police Officer with the Columbus Police Department. Council President Bogus read a brief resume and it was moved by Bulkley, seconded by Lohr, to ratify the Mayor's appointment. Roll call and Council Members Augustine-Schulte, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and

none voted "Nay." Motion carried. Magdaleno and his wife were in attendance and Magdaleno expressed appreciation to the Mayor and City Council for the opportunity to serve in this capacity.

DISCUSSION AND POSSIBLE ACTION ON DRAINAGE ISSUES AT 1860 E. CALLE COLOMBO (MATT SPAWN):

A memorandum was presented from City Administrator Mangiamelli stating that Matt Spawn, property owner at 1860 E. Calle Colombo, has appeared before the Public Property, Safety and Works Committee regarding the fact that the owner of the property prior to Spawn requested a modification to the storm drain pipe in the rear of the property to provide for an expanded beach. It was noted in the memorandum that the prior owner presented a plan to then City Engineer Lindahl who reviewed the same, determined that the functionality of the drain pipe would not be adversely affected by the proposed change and allowed the owner to make the change at his expense. The pipe, which drains storm water from E. Calle Colombo to the lake, was cut and replaced with a concrete spillway. It was further noted that after acquiring the property, Spawn approached Mr. Lindahl about his assessment that the spillway was not something he wished to keep and asked that the spillway be removed and pipe restored. Mr. Lindahl advised that the city had no objection to the restoration of the pipe; however, the expense of the restoration, like the earlier modification, would be at the owners expense. That opinion was based on the fact that the cost of the storm pipe was paid for by the taxpayers once when originally installed and the taxpayer should not bear the additional expense or responsibility to restore the pipe which would amount to a betterment of private property. It was pointed out that Spawn received a letter from City Attorney Hansen reiterating the city's position in 2008. It was further pointed out that the two city engineers prior to City Engineer Goedecken have provided Spawn with the same response since the facts remained the same. It was noted in the memorandum that upon a thorough review of all of Spawn's assertions, the Christopher's Cove covenants and additional city interests, including discussion with City Attorney Hansen regarding "maintenance" issues for the pipe, the City Engineer developed several alternatives to the pipe replacement proposal. City Engineer Goedecken provided cost estimates for the various alternatives and Spawn indicated a preference for the alternative that would construct a drop structure at the outlet end of the pipe to the beach level and install new pipe from the bottom of the drop structure to the lake in an approximate amount of \$7,500, of which the city would pay one-half of the cost. It was noted that an agreement would be prepared in the form of an easement that would address the new piping installation and address the existing storm drain pipe across the remainder of Spawn's property as well as provide for cost sharing for the preferred alternative design, with the easement to be recorded in the Platte County Register of Deeds office. Spawn distributed a handout as well as several drawings of his property and said he is requesting the city contribute \$5,000 toward work to upgrade this storm sewer pipe and in return he will be responsible for any costs above the \$5,000 as well as provide the city with an easement. Spawn said that for years water from the pipe has washed away sand from the beach which is creating a large trench and undercutting his neighbor's retaining wall. Spawn said his intent is for the city to address this safety issue. Mayor Moser explained the events that have transpired to date resulting in this request being presented to the City Council. City Administrator

Mangiamelli clarified that the ownership of the pipe has never been in dispute and it is the city's responsibility to maintain the pipe but not to construct a new one. Mangiamelli pointed out that the drain functions by getting runoff from the street to the lake and any sand erosion should be expected maintenance for property owners with a private beach. City Attorney Hansen noted that the pipe on Spawn's property was installed over 10 years ago and has been maintained so the city clearly has a prescriptive easement on the property. Hansen said the city is responsible for maintaining the drain, cautioned the City Council to consider what proper maintenance is in this case and said if they choose to alter the pipe, the city should choose the least expensive option available to avoid any potential legal challenges. Hansen clarified that any participation on the city's part needs to be based on maintenance. Discussion followed regarding the possibility of creating an improvement district and assessing the affected property owners. Goedecken also explained the four alternatives developed by city staff in detail. Bob Brichacek, 1782 E. Calle Colombo, said the city drain line runs close to his property and he spent over \$1,100 last summer making repairs to the beach. Brichacek said the concrete spillway does not have the capacity to hold the amount of water coming from the storm pipe. Following discussion, it was moved by Bogus, seconded by Reardon, to concur with the staff recommendation to prepare a draft easement that addresses the existing 18 inch storm drain pipe that crosses the property at 1860 E. Calle Colombo that provides for the installation of an 18 inch pipe from the current outlet to the lake, as prepared by City Engineer Goedecken, and that the work be undertaken contingent upon Spawn paying one half share of the cost of the pipe extension installation, to be competitively bid, with the city paying the remaining one half share of the contracted amount. Mayor Moser said he would support this motion if the city attorney concurs and Hansen said the recommendation addresses maintenance as well as the added value of an easement being recorded in the Register of Deeds Office. Roll call and Council Members Augustine-Schulte, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

RESOLUTION NO. R12-36 WAS INTRODUCED BY COUNCIL MEMBER BULKLEY.

RESOLUTION NO. R12-36
ADOPTED: APRIL 2, 2012

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, SETTING THE DAY AND TIME WHEN THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, SHALL SIT AS A BOARD OF EQUALIZATION TO EQUALIZE AND LEVY SPECIAL ASSESSMENTS.

City Administrator Mangiamelli pointed out that the proposed special assessments include the following: a) Sidewalk Improvement District No. 13 (853 21st Avenue; 1972 24th Avenue and 3180 33rd Avenue) and Water Extension District No. 59 (33rd Avenue and 66th Street-Central Community College-Columbus). Moved by Bulkley, seconded by Schilling, Resolution No. R12-36 be passed and adopted. Roll call and Council Members Augustine-Schulte, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried.

ORDINANCE NO. 12-03 WAS INTRODUCED BY COUNCIL MEMBER SCHILLING.**ORDINANCE NO. 12-03**
SECOND READING

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA TO AMEND SECTION 97.01(P) OF CHAPTER 97 OF TITLE IX OF ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) SO AS TO PROVIDE AUTHORITY FOR THE CITY COUNCIL TO ADOPT A RESOLUTION TO PERMIT PERSONS TO BE IN A CITY PARK BETWEEN THE HOURS OF 12:00 MIDNIGHT AND 5:00 A.M.; TO REPEAL ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH AND TO PROVIDE FOR AN OPERATIVE DATE AS PROVIDED BY LAW.

On its second reading, Ordinance No. 12-03 was read by title only at this meeting. No comments were received from the public. It was noted that this ordinance will be advanced to the April 16, 2012 City Council meeting for final reading.

Moved by Bulkley, seconded by Schilling, the meeting be adjourned. Roll call and Council Members Augustine-Schulte, Bahr, Bogus, Bulkley, Schilling, Jablonski, Lohr and Reardon voted "Aye" and none voted "Nay." Motion carried and the meeting was adjourned at 8:25 p.m.

Presented and approved this 16th day of April, 2012.

MAYOR

ATTEST:

CITY CLERK