

MINUTES OF THE REGULAR MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAWNEE CITY, HELD ON MONDAY, MAY 24, 2021, AT 7:00 P.M. AT THE PAWNEE CITY PUBLIC LIBRARY MEETING ROOM, 735 8TH STREET, ALL IN PAWNEE CITY, PAWNEE COUNTY, NEBRASKA.

Notice of this meeting was given in advance thereof by advertising in the Pawnee Republican, a designated method for giving notice as shown by the Affidavit of Publishing on file in the office of the City Clerk. Notice of this meeting was given to the Mayor and City Council and a copy of their acknowledgment of receipt of the notice and the agenda are 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 Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Present: Mayor Charlie Hatfield; Council Members: Susan Eisenhauer (telephonically), Ric Helms, Bruce Haughton (telephonically) and Donnie Fisher; Tammy Curtis, City Clerk/Treasurer, Kellie Wiers, Deputy City Clerk/Treasurer and Spencer Cumley, City Foreman.
Absent: none.

Mayor Hatfield called the meeting to order at 7:00 p.m. informing all those present of the Posters stating the Open Meeting Law Changes on the West meeting room wall accessible to the public.

Review emailed Correspondence between Clerk Curtis & City Atty Sisco re: voting by members absent at Council Meetings: Clerk Curtis explained that council members that are absent from the meeting but present by telephone can participate in the meeting, but they are unable to vote according to City Attorney Emily Sisco. Since a quorum is needed for the meeting, Mayor Hatfield will be able to vote at tonight's meeting.

The Treasurer submitted the following claims for consideration: **5/25/21 Payroll:** 10,377.78; **Union Bank & Trust**, FWH 2351.56; **NE Dept. of Rev**, SWH, April sales & use tax 3726.58; **John Hancock**, retirement 1043.46; **Allstate**, cancer/accid. ins. 228.46; **Ameritas**, vision ins. 116.60; **BCBS**, health ins. 6292.66; **Madison National Life**, employee life insurance 6.39; **Amazon Capital Services**, repair supplies 130.36; **BHE**, gas service 187.76; **Bottom Line**, library magazine subscription 39.00; **Constellation NewEnergy**, gas service, shop & fire dept. 81.35; **Grainger**, plumbing valves 492.45; **H&H Auto Parts**, equipment repair supplies 165.94; **Junior Library Guild**, library materials 32.00; **LARM**, workman's comp audit 341.15; **Lola Seitz**, reimb for library materials 24.00; **NPPD**, electric service 3444.01; **Pawnee Co. Clerk**, handi-bus agreement 1436.00; **Pawnee True Value**, batteries, mulch, clamps 538.62; **Windstream**, phone & internet 274.99; **Spectrum**, internet & phone @ shop 164.97; **PCDC**, **March 2021** sales tax 6476.58; **Seneca Sanitation**, April garbage service 6035.65; **American Water Works Assoc.**, membership renewal 75.00; **Capital Bus. Systems**, Elevate Phone System 111.94; **Falls City Recreation**, 5 lifeguard cert. 1000.00; **Nebr. Public Health Env. Lab**, wtr sample test 236.00; **U.S. Cellular**, monthly tablet service 52.97; **Verizon Wireless**, emergency cell phone 98.27; **Windstream**, phone service @ swr plant 62.18. Council Member Haughton moved to approve the claims as submitted. Council Member Helms seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

Approve Paying Mayor (\$2000)/Council (\$1750) in June: Council Member Helms moved to approve paying the Mayor and Council Members in June. Council Member Fisher seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

Report from Sheriff Braden Lang: Sheriff Lang explained to the Council that the Sheriff's office knew about the RV parked downtown. It broke down and the owner was having difficulty finding parts for it and it took over a week to find a fuel pump for the RV and repair it so that it could be moved. Council Member Helms asked Sheriff Lang about writing tickets on people parking the wrong way on the City streets. Helms stated he thinks there is an ordinance on that, and he knows of someone who received a ticket for this. Sheriff Lang explained there is an ordinance covering this issue. Council Member Eisenhauer stated that she also knows someone who received a ticket for this from the former sheriff. Sheriff Lang explained that he is the only one who has written citations for this, and he had written quite a few citations for this back when they used to do it before becoming lax on this but if the Council wants the Sheriff's office to write tickets again for parking the wrong way, he can. Council Member Helms stated "Gor for it. That's money in the school budget." Ray Kappel asked Sheriff Lang if they are writing tickets for people parking downtown because there haven't been very many people parking downtown lately. Sheriff Lang explained that they have arrested one woman for not paying her parking tickets she has received from parking downtown for longer than two hours. Council Member Helms asked if grass being blown out into the street covered under an ordinance that requires a ticket? Sheriff Lang stated he is not sure if that is covered under an ordinance or under zoning, but he has talked to quite a few people about it but never cited anybody for it. Clerk Curtis explained that it would not be treated like a parking ticket or dog ticket where people can pay the ticket at the City Office so would be a citation and have to go to court. Mayor Hatfield asked who would receive the ticket? The property owner or the person mowing the lawn? If it's the person mowing the lawn, you are going to have to catch the person doing it. Sheriff Lang stated the person mowing the lawn would get the ticket and he feels you could not cite the property owner because it would have to be the person mowing.

Discuss request from a family on 3rd Street for sign to be put up in neighborhood: Sheriff Lang explained there are several signs posted in Steinauer that are similar to the requested sign (Autistic Child Area) and they have no weight at all. The City Attorney will tell you the same thing. As to the area on 3rd street, there isn't a place to post this sign to be visible to oncoming traffic due to all of the cars that are parked along the street. It would have to be hanging from a tree to be visible. Council Member Eisenhauer asked if there wasn't a problem with children playing in the street in that same area? Clerk Curtis explained that Sheriff Lang is aware of it, and he has received complaints about it. Council Member Eisenhauer asked if citations could be issued for children playing in the street? Sheriff Lang stated he didn't know what for. What law would it violate? He agreed that it is not a good idea for children to be playing in the street. Clerk Curtis explained that it wouldn't be as difficult to see kids running out into the street if there weren't vehicles parked on both sides of the street. Sheriff Lang suggested you could make it parking only on one side of the street but what about the other places in town that have children playing in the street? Council Member Helms stated it is a dangerous thing and the parents are more at blame than the children because the children don't know any better. The parents have to train their children. Council Member Eisenhauer stated she hates to deny someone's request for

something like this because she knows it is an issue but it's not going to do any good and if the parents are parenting well enough to keep their children out of the street, then why should the City spend money on a sign that is not going to work anyway? Sheriff Lang explained that in Steinauer, the lady paid to put her own signs up, but they don't mean anything. Clerk Curtis explained that she doesn't have near all of the high school traffic as we used to when her kids were home, and she would have hated to have those kids playing in the street then. Sheriff Lang explained it is mostly a visibility issue due to all of the parked vehicles but the fact that the kids are playing basketball in the street on a street like that is not wise. Mayor Hatfield stated if the parents wanted to have more input, then they need to show up at the next council meeting.

Discuss request from Graham Moore to do Community Service Work for the City: Graham Moore was present with his mother, Tina Moore. Council Member Haughton explained to the Council that he had set up a work date for Graham about six weeks ago, but he never showed up. Over the years, Council Member Haughton has worked with youth that needed to complete community service. Graham contacted Haughton again three or four days ago and wanted some hours to work and needs them by June 1st, but Haughton was going on vacation and won't be back until after that. He further explained that youth tend to procrastinate and have to learn a certain amount of responsibility. Over the years, the City has used these youngsters but got kind of tired of it because it took manpower to manage them. Graham explained that he has 16 hours to complete by June 1st and he did know about this since January. Deputy Clerk Wiers explained that she initially talked to Graham about the community service last week and gave him some leads to contact and Graham said that he had contacted them. She also texted Graham to call her last week with some possible leads and projects but never heard back from him. Tina Moore explained that the probation officer said Graham had to help nonprofit organizations, not individuals but it would be accepted to help senior citizens. Wiers explained that a few years ago she helped a young man with community service hours, and it was acceptable to help individuals with things like yardwork. Discussion followed about possible senior citizens that Graham could help before June 1st. The City is a government entity, but it would be considered a nonprofit. Clerk Curtis stated that Graham could water flowers downtown but since he isn't 18, he would not be able to mow for the City or weed eat. Council Member Eisenhauer stated she will be back tomorrow, and Graham may be able to complete work at the pool if the caulking is done.

Report and update from City Crew Member Sean McAhon: WC injury, Surgery & Progress made: Sean McAhon explained he had surgery to repair his torn labrum and capsule in his left shoulder and recovery so far is going alright. The doctor said he was right on track. He has another follow-up on June 1st and hopes that he will be able to stop using the arm sling. Sean started physical therapy a week after the surgery (at the end of April), and he is building his strength back. Council Member Eisenhauer asked McAhon if he was able to lift anything or move it. Sean replied that he can move his shoulder a little bit, but he can't pick up anything unless it is less than a pound. He is still experiencing some mobility issues because he can't reach over to his right side yet. Council Member Eisenhauer asked if Sean's doctor would be releasing him to do any type of work. Sean replied that he hopes so because he is tired of setting at home, but he didn't know if they were going to look at the lack of strength in his arm as a liability issue or possibly a handicap. Clerk Curtis stated she had the same type of surgery a number of years ago and she came back to work rather quickly but she wasn't doing manual labor and could keep her arm down and still type. If she needed to do something that required

two hands, she had Carol help her. Council Member Eisenhauer asked if mowing would take both arms and Clerk Curtis explained it would require both arms because it is a zero-turn mower. Council Member Eisenhauer expressed her gladness that McAhon is “back on track” and “it can’t be easy, that’s for sure.” Sean said that he still can’t reach above his head so that’s going to be a challenge. Unfortunately, the doctor said the success of this surgery ranges from 35% to 90% so that is a huge margin and hopefully, he will be in that 90%. Council Member Eisenhauer expressed her gratitude for the update on Sean’s condition.

Report and update from Foreman Cumley: *Discuss updates to the Water Tower*

Rehabilitation Project; Foreman Cumley informed the Council that the water tower repair is completed as far as he knows because all of the workers have packed up and left since last Saturday. Foreman Cumley was told last Friday, that the paint on the inside has to cure for ten days before the tower can be filled so the time would start from last Saturday. The next step will be to disinfect the inside. Foreman Cumley will call the project manager tomorrow to verify that Maguire Iron will complete the disinfection process and that it cannot be completed until ten days after the painting was completed. Maguire Iron painted the entire inside of the tower from the top to the ground. Council Member Eisenhauer asked how long you have to wait after disinfection until you can fill the tower. Foreman Cumley is not sure. If it is a bleach solution, then you would have to wait a couple hours but he will find out. Cumley received their permit approval in the mail today and they are finished. Maguire Iron showed Cumley that there were quite a few places inside the tank where there was pitting from the tank not being inspected while it was empty that steel plates had to be welded in to reinforce the walls so the tower should be inspected empty more often. The State of Nebraska says that the tower should be inspected every three years, but Maguire Iron will inspect it every year under the maintenance contract but not empty. Cumley recommends that the tower be inspected empty every three years. Cumley stated that he is pretty sure the water tower has never been inspected empty since it was put up. It is hard to see problems with the liner through the water. Clerk Curtis explained that the maintenance contract with Maguire Iron will ensure that the tower is in good shape and the work is guaranteed. **Review letter from Maguire Iron (re: 2% - 3% surcharge as a temporary cost recovery tool; review contract from Maguire Iron & Emily's response);** Clerk Curtis explained that Emily said that this contract is similar to the other contract the City looked at and the City wouldn’t have to comply with their request, but it is entirely up to the Council since the City is contracted with Maguire Iron for a long time. Council Member Eisenhauer stated that the City is also paying Maguire Iron quite a bit of money already on the maintenance contract and she doesn’t want to use city tax dollars for this added surcharge unless it’s absolutely required that the City pays the 2% to 3% surcharge, and the City Attorney should send a letter to the company to justify why this surcharge is necessary. The City Attorney is stating in her email that there is nothing stated in their contract that there is an allowable surcharge for Covid-19. Council Member Helms made the motion to have City Attorney Sisco write a letter to Maguire Iron stating the City will not pay the 2% - 3% surcharge as requested in their letter. Council Member Fisher seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried. Mayor Hatfield suggested to bring this issue back to the Council when the City Attorney receives an answer from Maguire Iron. **Review poster/ad for part-time City Crew temporary summer help;** Foreman Cumley explained to the Council with one crew member being on medical leave, the crew really needs help getting things done especially since the crew is in charge of watering flowers, disinfecting the playground equipment, cleaning

restrooms, checking the wells, etc. Also, the crew has to get all of the mowing done. The recent water leak took two days to repair which put the crew behind. Council Member Helms stated that after Memorial Day weekend, it will start drying up. It would be helpful to have someone to take care of the mowing, cleaning of restrooms and maybe water the flowers. That would be an easy three days per week for someone. Council Member Helms asked if the newspaper ran the ad? Yes. Clerk Curtis stated she had walked on the bike/walk trail today and there are some really low hanging branches hanging down towards the sidewalk and she also had to move a log off of the trail. Foreman Cumley explained that the crew needs to cut tree limbs everywhere because they didn't cut roadside tree limbs before snow removal last year and he can drive down the road and hit the truck with small tree limbs. Council Member Eisenhauer reminded everyone that the Jiggle Butt Run is scheduled for June 12th. Foreman Cumley stated that they plan to spray weeds and have Jr. spray some places with Round-up so that the walk/bike trail should be cleaned up in time for the run. It has been difficult to spray weeds lately with all of the rain. Ray Kappel praised the Crew on how well they patched up the street from fixing the water leak.

Review/Discuss emailed correspondence on concerns of the City's "unwritten" policy that City Employees, Council and Mayor are able to use City Equipment for personal use:

Council Member Eisenhauer explained that all of this started with an email from Ray Kappel questioning whether or not it was proper for City employees to use City equipment and he gave the City the phone number for this Frank Daley from the Nebraska Accountability & Disclosure Commission. Council Member Eisenhauer called Frank Daley and there is a potential issue here and she asked Mr. Daley to explain "financial gain" because as City Attorney Emily Sisco explained it is rather ambiguous. City Attorney Sisco is correct when she stated in her email that if a City employee would use a City mower to mow his grass, it is financial gain because the employee didn't have to buy a mower and the employee saved money because he didn't have to pay someone else to mow it. Financial gain is anytime a City employee uses the equipment outside regular business hours for their personal use that could potentially be considered a financial gain. Another example that Daley gave Council Member Eisenhauer would be if a City Council member asked a City crew member to blade his/her driveway of snow because they were driving down their street anyway. This would be considered financial gain because the Council member didn't have to pay to have their driveway to be cleared and he/she didn't have to buy equipment. It's really easy to get into trouble and if you get into trouble, it just takes a simple letter of complaint from anybody to the Commission, and they will investigate and then there are fines that are quite stiff that could be assessed as well. Daley recommends "just don't do it." Council Member Eisenhauer recommends stopping this unwritten policy and don't permit it if there is even anybody doing it. Daley did say that there is occasional incidental use which is permitted such as borrowing a pipe wrench or making a photocopy for your own personal records. Also, as Council Member Helms referred to what if that piece of equipment breaks down while the employee/council member is using it? Who is responsible for fixing it? Then it becomes tax dollars being wasted or misused, potentially and it becomes an even bigger burden for the City. Council Member Helms stated he wouldn't want to get a fine because a citizen complained that he was using the big loader and he ruined a tire, and he can't afford to replace that \$2000 tire and who is going to replace that tire now? Council Member Eisenhauer stated to avoid all of that, just answer the personal gain question. If we have questions, Mr. Daley said he would welcome any questions. Foreman Cumley asked what if other people ask the crew members to help them. There have been incidents where someone got stuck at the tree dump or

someone got stuck driving down to the tree dump and needed help getting pulled out. Is that still part of that conflict of interest? Council Member Eisenhauer stated this wouldn't be considered a conflict of interest since the person is asking them to help them as a city employee and that employee is being paid by the City. A problem would arise, if you were taking this equipment home after work and doing something there, then that would be a conflict of interest. Council Member Helms stated that the other day, the County wanted to borrow the City's loader and Helms let them borrow it on the premise that maybe sometime in the future the City may want to borrow their motor grader. Council Member Eisenhauer stated since you are not letting a general population person use it or letting a city employee use it, you are loaning it out to another government entity. Council Member Eisenhauer said it was her interpretation that would be permissible. Clerk Curtis stated that she has been in classes when they have talked about entities using other entities equipment and this was okay. Council Member Helms stated that he told Foreman Cumley to let the County borrow the equipment even though the County Commissioners refused to let the City borrow the County's equipment, previously. Council Member Eisenhauer stated that government entities should work together. Council Member Haughton stated this is all about reciprocation with the County and this is altogether different situation. Mayor Hatfield asked the Council if everyone understood that the Mayor, the City Council members and City employees do not have the ability to borrow equipment for their own use? Foreman Cumley has already talked to the City crew members. Ray Kappel stated that from him, nothing will happen except for the story in the newspaper but if the State gets ahold of it, they will start slapping fines on the City and the offender will get a misdemeanor on his record. Since this was an unwritten policy, no action was taken by the City Council. Council Member Eisenhauer said it was enough to make everybody aware of the conflict-of-interest issue. Ray Kappel stated that if someone had a grudge against you, they could file a complaint against the City. Mayor Hatfield thanked Council Member Eisenhauer for researching this issue and Council Member Eisenhauer thanked Ray Kappel for his help.

Approve Ordinance #993 amendment to 3-118 water rates (on Second Reading): Council Member Fisher made a motion to approve Ordinance #993 amendment to 3-118 water rates on second reading. Council Member Helms seconded the motion Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

Review Pawnee City Assisted Living (PCAL's) Profit & Loss, Treasurer's Report & April Meeting Minutes: Clerk Curtis attended the PCAL meeting last Thursday and met Ken and Linda from the new management company. Ken is going to email Clerk Curtis to set up a time to meet because he wants to talk about the budget and the USDA payments and the agreement PCAL has on their loan from the City. They seemed to be very nice people and are working for PCAL's best interest. Council Member Haughton informed the Council that Caralyn Friedly had been hired as the administrator to take Lori Anderson's place.

Discuss Upcoming CDBG Grant Cycle for possible grant to finish inside of Cornerstone Community Building: Clerk Curtis received an email from Crystal Dunekacke late this afternoon which stated "As far as the Cornerstone Building, I am working through the best way to move forward. DTR (Downtown Revitalization) grants requires a larger DTR plan. I will check to see if we could apply for a planning grant for a DTR plan that would allow us to apply for DTR funds in 2022 for the cornerstone building and other later projects. If you have a good

estimate of costs, it might be a better approach to wait for CCCFF construction funds or even PW funds after the fire station is completed, rather than apply for/paying for a planning project to then apply for a DTR project. I don't want to see you throw good money after bad by paying for a plan which may or may not lead to DTR funding. CCCFF also doesn't include Davis Bacon, so that would save some costs as well, though it is a 1 to 1 funding ratio, versus a 20% cost-share for CDBG." Bob Miller had suggested applying for this DTR grant to finish the inside of the Cornerstone Building but the City would have to complete the planning grant and then the City would have to apply again for the actual grant to do the work and then you are delaying this for another two years. Clerk Curtis explained that until the Fire Hall project is completed, the City wouldn't have a very good chance of receiving CDBG funds for another project while there is one yet to be completed since everything is rated on a point system. Council Member Helms stated that if you are choosing between the two projects, the Fire Hall is more important than the Cornerstone Building at this time. Bob Miller suggested applying for these funds because his constituents are asking when the inside of the Cornerstone Building will be finished and usable. If Covid-19 had not hit, the City could have applied for funding this year. Clerk Curtis had replied to Crystal's email and asked if Crystal had ever talked with Tom Stephens with DED about the City possible using more Reuse money to finish the inside and Clerk Curtis has not heard back and possibly these funds could be used as the match for the CCCFF. Clerk Curtis has informed Mr. Miller about the DTR funds.

Review Updated Refunding Summary for G.O. Water Bond Refinancing – Interest Savings now estimated at \$242,843.01: Clerk Curtis explained the money saved has increased to \$243,074.12. Austin Partridge sent the bond purchase today and Mayor Hatfield signed it tonight so Clerk Curtis will scan the signature pages and email them back to Mr. Partridge the next morning. Clerk Curtis stated that this is one of the blessings that has come out of Covid-19 because there has been so many negatives and we are not earning any money on the City's investments. A Certificate of Deposit was renewed today for twelve months but only at 0.5% and had come down from 3%.

Discuss dates that Council Members are available/not available for One-on-One Budget Workshops (June) and the Budget Retreat Workshop (July-August). Let Clerk Curtis know what will work with everyone's schedules: Clerk Curtis spoke with City Auditor Julie Bauman today with a list of dates that she is available for these workshops. The dates she has open all day are June 16, 22, 23 and 24. Council Member Fisher's days off are 16 or 22, so we need to pick one of those days. Discussion followed about individual schedules and June 22 was selected for budget workshops with each council member. Clerk Curtis will work on the individual budget worksheets and will let each council member know when they are ready and then she will share this information with Julie Bauman before she meets with each council member. The Library is supposed to give Clerk Curtis information on their wages and what they are giving for raises. The Wage Committee is also planning to meet soon and then talk about wages at the June 14th City Council meeting. Clerk Curtis will print out a transaction listing for each council member to see where expenses have been in order to plan next year's budget. The Budget Workshop Retreat will be held on August 9th from 6:00 pm. to 7:00pm. before the regular meeting. The budget will be finalized at the August 23rd meeting and approve everything going out for publication.

The City Council reviewed correspondence from March 2021 total Sales Tax of \$21,104.97 with ½% Street Repairs Sales Tax totaling \$4,317.72 and \$3,834.10 being Motor Vehicle Sales Tax. Clerk Curtis explained that there was an article in the Legislative Bulletin that there was a bill passed that states residential water customers should not have to pay sales tax. It will help with the total cost on customer bills, but it will lower our monthly sales tax that the City receives effective October 1st. This sales tax is considered income, but it also is paid out and we only get 2% back while 7% is paid to the State. The information will be included in the next meeting's agenda packet. The League of Municipalities 2021 Municipal Accounting & Finance Conference Virtual Webinar Series will be held June 15 – 17 & June 22 – 24, 2021. Clerk Curtis would like to attend this conference. The Budget Workshop is scheduled for June 22nd and Clerk Curtis will miss some of the conference that day, but Deputy Clerk Wiers could sit in on the Sales & Use Tax class. Council Member Helms made the motion to approve Clerk Curtis attending the League of Municipalities 2021 Municipal Accounting & Finance Conference Virtual Webinar Series. Council Member Haughton seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried. The State Fire Marshal Agency reported that LB 152 has passed, and Nebraska will be able to sell bigger fireworks and bottle rockets may now be sold in Nebraska. Discussion followed that this should increase the economy in Nebraska since people will not be driving out of state to purchase bigger fireworks. A Retirement Party honoring Hospital Administrator Ruth Stephens will be held Thursday, May 27th from 2:00 pm. to 4:00 p.m. at the Pawnee County Memorial Hospital.

Council Member Helms made the motion to adjourn the meeting. Council Member Fisher seconded the motion. Roll Call vote indicated all in favor of the motion and meeting adjourned at 8:16 p.m.

ATTEST: Kellie A. Wiers, Deputy City Clerk

Charlie Hatfield, Mayor