

**MINUTES OF THE REGULAR MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAWNEE CITY, HELD ON MONDAY, NOVEMBER 22, 2021, AT 7:00 P.M. AT CITY LIBRARY MEETING ROOM, 735 8TH STREET, ALL IN PAWNEE CITY, PAWNEE COUNTY, NEBRASKA.**

Notice of this meeting was given in advance thereof by posting in four prominent places, a designated method for giving notice as shown by the Affidavit of Posting 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: Donnie Fisher, Bruce Haughton, Ric Helms and Susan Eisenhauer; Tamela S. Curtis, City Clerk/Treasurer and Foreman Spencer Cumley. **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. At this time all those present stood to recite the Pledge of Allegiance.

Council Member Eisenhauer moved to approve the November 8<sup>th</sup>, 2021, regular meeting minutes. Council Member Fisher seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

The Treasurer submitted the following claims for consideration: **11/22/2021 Payroll:** 10,598.56 **Union Bank & Trust**, FWH 2946.20; **NE Dept. of Rev**, SWH 442.06; **John Hancock**, retirement 1300.77; **Madison Nat'l**, life ins 61.48; **Allstate**, cancer/accid ins. 267.74; **Ameritas**, vision ins. 127.80; United HealthCare, health ins. 7103.33; **SEND**, 2019-2021 Admin Costs 4109.90; **Black Hills Energy**, gas services 177.72; **Dollar General**, bleach 26.88; **Friedly Oil**, equip fuel 692.31; **H&H Auto**, sup/rep parts 345.17; **H.G. Klug Sons, Inc.**, swr plnt blower maint sup 1062.25; **MidWest Labs**, Swr Sample-s/h 368.00; **NPPD**, elec 3046.75; **PC Thriftway**, bleach 4.09; **Pawnee Co. Medical Foundation**, house demo rmb 4000.00; **Pawnee True Value**, rep parts/sup 424.25; **American Legal Publishing**, Model Ord/Code Subscription 650.00; **Binder Bros**, rep parts-repl lead wtr lines 372.93; **Martin Marietta**, hauling chrgs-stock/trail 577.08; **MidWest Alarm Service**, Libr monitoring serv 389.28; **Travelers**, City's ½ Firemen's WC Ins 694.50; **PCDC**, Sept. sales tax 6545.09; **Seneca SA**, Oct. Garbage Service 6136.75; **Spectrum**, Internet/Phone-Shop 164.97. Council Member Helms moved to approve the claims as submitted. Council Member Haughton 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 December:** Council Member Eisenhauer moved to approve paying the Mayor and Council Members in December. Council Member Haughton seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

**Mike & Sharon Schilling, SchillingBridge Winery - Application for Propane Gas Tank Placement @ SchillingBridge Winery, 62193 710<sup>th</sup> Road:** Council reviewed the detailed map and application for propane gas tank placement at SchillingBridge Winery, 62193 710<sup>th</sup> Road. Mike Schilling was present to answer any questions the Council may

have. Council Member Eisenhower inquired if this was to keep the campers from freezing up or what this would be used for? Mike Schilling stated that originally they had wanted to add a heater to their shed, but are having a hard time finding one, so yes it will be used for a dual purpose. Council Member Eisenhower moved to approve the application for Propane Gas Tank Placement at SchillingBridge Winery, 62193 710<sup>th</sup> Road. Council Member Haughton seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

**City Attorney Emily Sisco: *Review/Discuss Jerald Graham's Demo Application/Permit for Donnie Graham residence; Affidavit & Assignment of Funds (AFF) and Letter from Jerald L. Graham re: AFF, demo permit, etc.***: Council reviewed the Graham Demolition Application and Permit, Affidavit & Assignment of Funds (AFF) that City Attorney Emily Sisco had prepared and the letter from Mr. Graham in response to the AFF, demolition permit, etc. City Attorney Emily Sisco and Jerry Graham were both present at the meeting. Mayor Hatfield asked if any of the Council members had any questions for City Attorney Sisco or Mr. Graham concerning the items on the agenda tonight? City Attorney Sisco stated she was here to answer questions or to join in the conversation, if needed as she wasn't sure how up to date everyone was on all of this. Clerk Curtis stated that everything is in the agenda packet including the application and demo permit, affidavit and assignment of funds document that Ms. Sisco made and the response letter from Jerry Graham. City Atty Sisco stated that she had received a copy of the letter from Mr. Graham and her initial issues with Mr. Graham's request in his letter was that she cannot authorize the City to pay more than the \$4000 and nobody can authorize that for PCDC either, so she can't do anything about that request. Sisco stated that it's just an affidavit that she made up, signed by the proposed owner so she can't add anything where he is releasing himself from liability about the demolition and removal so she can't really add anything of that nature. Sisco stated that when this all started she felt it was necessary after talking with some of the City Council members about this, that according to the title on the property, it is still in Donald Graham's name and she understands that he is deceased but it is technically still in his name. Sisco could not find any record of any kind of a transfer or probate after he passed away so as a way to sort of protect the City, in not just tearing the house down with no authorization to give Gyhra's the go ahead to tear down the house, she wrote up the affidavit for Jerry to sign, as the proposed owner, so we would have something to fall back on, that Jerry was taking the responsibility to authorize the tear down of the property. Council Member Helms inquired if the demolition permit application were even legal if Jerry was not the legal owner of that property? City Attorney Sisco stated that she had reviewed, from Jerry, the Will of Donald Graham that states that Jerry is the executor, but until some sort of probate is filed or something happens, the will doesn't really mean anything. Council Member Helms stated that basically the demolition permit application is not legal. City Attorney Sisco stated it is hard to rely on it, especially after looking at the title of the real estate records still being in Donnie's name, making Donnie still the legal owner of the real estate property. Council Member Eisenhower inquired to Ms. Sisco, that as far as the will is concerned, since it has not been reviewed or anything by a judge or the court that it could be questionable whether or not that it is in full force or in effect. City Attorney Sisco, stated that generally a person needs to file a Will at the court and then the judge signs the order stating that the Will is valid and enforceable. The reason why City Attorney Sisco stated that you can't really rely on the Will is that could it be a fake Will, is it a signed Will, is there another Will so that is why she doesn't feel the City can really rely on it yet. Council Member Helms inquired where we are at with all of this then? Council Member Eisenhower inquired if Jerry Graham signed the

Affidavit and Assignment of Funds that City Atty Sisco prepared, does that alleviate the City in any shape or form if somebody would come forward later on stating that Jerry wasn't the legal representative to sign off on the real estate? City Attorney Sisco I think it will protect the City because in the wording of the affidavit. Mayor Hatfield asked if anybody had anything else to ask City Attorney Sisco or Jerry Graham. There were no other comments so Mayor Hatfield moved on to Jerry Graham's letter he gave to the City regarding the AFF, demo permit, etc. Council Member Eisenhauer stated that the City didn't give anybody else any credit for anything over and above the maximum \$8000 on the demolition process, so if it is more than \$8000, she, for one was not in agreement for the City assuming any extra costs over that amount as the City has spent enough by granting the funds up to \$4000 on all of these demolition projects. Council Member Helms inquired how many of these demolitions the City has done now, seven or eight? Clerk Curtis stated that there had been a lot more than that these past couple of years the demolition resolution has been in effect. Council Member Haughton stated that he thought there were only a couple of the demolition project costs that ran over the \$8000. Council Members Helms and Eisenhauer both stated there were a lot more than a couple of those projects that were more than \$8000, more like just a few that the costs were under the \$8000 cost. Council Member Haughton stated that the reason that John Wissler's demolition costs at 1149 D Street went over the \$8000 mark was because he left a lot of junk in the garage that had to be hauled to the Landfill and that costs a lot more than just regular building materials. Council Member Eisenhauer inquired to Jerry Graham how much extra stuff was left yet in Donnie's house? Jerry Graham stated that he has been working on getting it cleaned out. All of the mattress' are gone, all of the steel, the beds and bedframes are gone, but he still has the upstairs to do yet, so he's still working on it. Clerk Curtis stated that the City's demolition resolution does not have a deadline hooked to it, but the Pawnee City Development Corporation (PCDC) does, with all bills having to be turned into the City Offices by November 30<sup>th</sup> to qualify for any demo cost reimbursement from PCDC. Council Member Haughton inquired if Jerry thought that he could get everything out of the house and Gyhra's doing the demo work in time to turn all of the billings into the City Office by the 30<sup>th</sup> of November? Mr. Graham stated that somebody from Gyhra's came by, possibly Derek, and said to not worry about the furniture because it was going to be crunched anyhow. Graham stated that he has hauled out a number of loads of stuff from that house, but he had no idea how much junk Donnie had in that house but considering he lived there for over 30 years, he guessed it was no doubt that Donnie did. Mr. Graham went on to state that one of the last things that his brother Donnie had told him was to not let them take my house and he told him he would try. Graham continued that if he leveled the house he had talked about donating the property in his brother's name to the Church across the street for a playground, but they stated they would have to take it to their Church board. Graham stated he had also thought that the Veteran's are always looking for a home, so since he has a house that needs renovated that could work. The worst part of Donnie's house is that the roof leaks right over the kitchen but his thought was with some money that he has coming by the end of the year, that he could renovate Donnie's house, putting on a new roof, siding, windows and redo the inside, then donate it to the Vets. Graham stated he knows the City could like to see that house gone but if the City wants it gone, then they can pay for it. Council Member Eisenhauer stated that Jerry was the one that submitted the application for a demo permit, that he wanted to have it torn down. Mr. Graham stated that he had not submitted anything. Clerk Curtis stated that the application he had submitted to the City was in the agenda packet, and it had his signature on it. Mr. Graham stated that was way back when there was a deadline to submit it because Bruce (Haughton) told him that he didn't have to take it down to the City, but that there

was a deadline to get it in to be able to get any reimbursement from PCDC, so he did. Council Member Haughton stated that realistically he could not see Jerry salvaging the house as he would have so much money in that property, but he wasn't even sure it was salvageable. Haughton stated that the other thing that he needed to keep in mind was that you have a Church right across the street, there are other houses in the neighborhood, a grocery store to the North and right on the corner to the square. Simply that house needs to come down. Haughton continued that the City and PCDC started these housing demolition reimbursement projects to clean these properties up and to make the City look better and we have all worked very hard at it, but we need your cooperation. Jerry Graham stated that he has had some issues with the City Council and the Economic Development group, as they have said one thing and done another, so he does not trust them. Mr. Graham stated that he would want everything in writing as after dealing with them all on the laundromat and the commercial buildings and he didn't trust any of them. Graham continued that if the City is so interested in seeing that house taken down, then let them pay for it. Council Member Eisenhower stated that was what the \$4000 from the City was for, reimbursement towards the costs of the property demolition as that is what the City has done for every other house that has been torn down, anything over that can be presented to PCDC for another \$4000 to be reimbursed, but by the deadline. Graham stated that PCDC was someone that he does not trust after the laundromat. Council Member Eisenhower stated that she did not know what happened before, but they have been very good about paying and honoring their commitment on this demolition reimbursement program. Graham stated ok, maybe on this they are doing ok, but in the past they did not follow through with what they said. Council Member Haughton stated that these past situations that Jerry is mentioning doesn't have anything to do with the current City Council, as three of them weren't even on the Council at that time and don't know about any of it. Council Member Haughton inquired to Jerry Graham if he wanted the house torn down? Mr. Graham stated that he had mixed emotions as his brother was an awesome guy, even though there were a lot of people in this town that didn't like him and they wanted to bury him, but he understood that was just smalltown America. Jerry stated, to answer the question that if he could walk away from this whole thing without any expense, then yes he wants the house torn down. Council Member Haughton stated that Jerry could actually do that. Jerry stated that he had talked to that gentleman from Gyhra's and he had told him that he didn't think it would run over that \$8000, so that's when he asked them what happens if the costs do run over it. Gyhra's told him that he would have to pay for it. Clerk Curtis stated that would be just like everyone else who went over the total costs of \$8000. Jerry stated that he just didn't have the money as he had a lot of other things going on. Council Member Haughton stated that he had the suggestion that PCDC would assume all of the costs of the demolition and any overage and just assume it all if you would just transfer the property over to them. Council Member Eisenhower stated that if Jerry transferred the property over to PCDC, he could just walk away and owe nothing. Council Member Haughton stated that what that would also do would be to save Jerry at least a hundred dollars a year in taxes for number one and number two, there is going to be ongoing maintenance there as it's going to have to be mowed and where Jerry is thinking about getting back to his wife in Hawaii, then he would have to hire someone to do the mowing, so that it is a savings also. Haughton continued that he totally understood what Jerry was saying, but sometimes we need to take a step back and see what our next door neighbors think. Jerry stated that the next door neighbor is interested in the property once everything is leveled off as he wants to put up a garage. Jerry had asked the neighbor what he was willing to pay him for it, as he thought that could possibly offset some of the extra demolition costs, but he wouldn't commit. Council Member Eisenhower stated that if the property was right beside the

Church she could understand them being interested but she could not see the church agreeing to take that property as a donation because it would be a huge liability for them, to have children crossing the street. Mr. Graham stated that he could run that idea past his wife again and see what she thought but his biggest thing is that now that Donnie is gone, his commitment to Nebraska, other than the Huskers, is very slim. Council Member Eisenhauer stated then maybe what Bruce said about signing the property over to PCDC is something that you should look into. Mr. Graham inquired if they were going to give him a tax credit, like they said they would last time and didn't? Eisenhauer continued that is between Jerry and his tax preparer. Mayor Hatfield stated that if he was Jerry, he would look at it this way, I would get with PCDC, especially since they have a cutoff of turning in the billing on any demo project of November 30<sup>th</sup> and if he could sign it all over to them, then he would not have to worry about paying for any of it. Eisenhauer stated that Jerry could talk with PCDC and see if he could get an extension on that, transfer the property over or what they would cover over the \$8000 of the demolition costs. Clerk Curtis stated that PCDC has already emailed the City stating that they would not cover any additional costs over that \$8000. Eisenhauer stated that if Mr. Graham would sign the property over to PCDC, then they would cover whatever the costs were to have the property demolished. Council Member Helms stated that if PCDC owned the property it would be up to them to pay for whatever the costs were of the demolition. Mayor Hatfield stated that he would strongly recommend going with that suggestion of signing the property over to PCDC and just being done with it completely. Mayor Hatfield inquired to City Attorney Sisco what Mr. Graham needed to do in order to get the property into his name, so he would even have the option of signing it over to PCDC. City Attorney Sisco stated not to give anyone legal advice, but something would need to be filed against the real estate record, stating who the new owner is. One way that people do that is to go through the Probate process where you get the Will to the court and there are more documents, but that takes quite a while. Nebraska Law allows for another options where an Affidavit of Transfer of Real Estate, if it is valued at under \$50,000 you can go that route, but with either route they are not documents that you can prepare yourself, so she would suggest Mr. Graham talking to his attorney about it. Mr. Graham inquired if he was to talk with Bob Miller with PCDC to sign the property over to them? Council Member Helms stated that first of all Jerry needed to get the property over into his name by either going through Probate or filing that Affidavit that City Attorney Sisco just spoke about, before he could sign that property over to anyone.

**Review/Act on Marjory Cleary's Demolition Reimbursement Request at 511 7<sup>th</sup>**

**Street:** Council Member Helms moved to approve Marjory Cleary's demolition reimbursement request on 511 7<sup>th</sup> street for \$4000.00. Council Member Eisenhauer seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried. Clerk Curtis will submit Cleary's demo information to PCDC for her additional request for expense reimbursement.

**Review/Act on John Wissler's Demolition Reimbursement Request at 1125 D Street:**

Council Member Eisenhauer moved to approve John Wissler's demolition reimbursement request on 1125 D street for \$4000.00. Council Member Haughton seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried. Clerk Curtis will submit Wissler's demo information to PCDC for his additional request for expense reimbursement.

**Review/Act on Mike & Mary Moser’s Demolition Reimbursement Request at 1043 H Street:** Clerk Curtis stated the Moser’s Demolition paperwork had been handed out before tonight’s meeting for their review. Council Member Eisenhauer moved to approve Mike & Mary Moser’s demolition reimbursement request on 1043 H Street for \$4000.00. Council Member Fisher seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried. Clerk Curtis will submit Moser’s demo information to PCDC for their additional request for expense reimbursement.

**Review IT Contract (Managed Network Services) Proposal from Access Systems to replace Capital Business Systems to completely take over the City’s IT Services:** Clerk Curtis stated she had handed out a copy of the power point presentation and full-detailed report on the Network Assessment along with a password report that she and Council Member Eisenhauer had went over this morning with Access Systems during their zoom presentation. Council Member Eisenhauer stated she felt the gentlemen that did the presentation this morning did a really good job and they are eager to assist the City in getting back on track with everything. Clerk Curtis stated that the tabs on the handouts are the pages marked with the costs to move from Capital Business Systems IT Services to the IT Services with Access Systems, including the costs for updating outdated equipment, putting a true firewall in place and adding in extra cyber security for a total cost of \$1053.48/month. The cost for the “onboarding project” to update outdated or missing equipment is \$209.98/mo of that total cost for 48 months. The IT Contract with Access Systems is for a period of 12 months. Council Member Eisenhauer stated that the overall costs of the contract may cost a little more, but with the amount of time and money Clerk Curtis, Deputy Clerk Wiers and Utility Billing Clerk Kuhlmann have spent trying to get Capital Business Systems to follow through and do their job far out-weighs what we may spend on a company that is willing to go the extra mile to make sure they handle all of the IT issues without bothering the Clerks all of the time. Council were all completely in agreement. Council Member Eisenhauer moved to approve the IT Contract for Managed Network Services proposal with Access Systems for a total cost of \$1053.48/month. Council Member Haughton seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

**Review/Approve: CDBG Fire Hall Project 19-PW-014 Expenses: Drawdown #9 for a total of \$82,162.00 with \$1,045.00 to JEO Consulting for Construction Admin with \$912.28 from CDBG Public Works Grant and \$132.72 from City Match; Pay App #4 to AHRS Construction for \$81,117.00 with \$70,815.15 from CDBG Public Works Grant and \$10,301.85 from City Match:** Council Member Haughton moved to approve CDBG Fire Hall Project 19-PW-014 Expenses for Drawdown #9 for a total of \$82,162.00 with \$1,045.00 to JEO Consulting for Construction Admin with \$912.28 from CDBG Public Works Grant and \$132.72 from City Match; Pay App #4 to AHRS Construction for \$81,117.00 with \$70,815.15 from CDBG Public Works Grant and \$10,301.85 from City Match. Council Member Helms seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried. Clerk Curtis stated that the ReUse money had not been spent down yet, as DED had changed their minds and decided that the CDBG Grant Money on the Fire Station should be spent first. Mayor Hatfield stated that is the problem with DED, is that they tell you one thing today and by the next day they have changed directions and want you to do it differently. Clerk Curtis stated that it is definitely difficult to keep up with all of the changes but as soon as she gets the final word, she will be writing checks to AHRS and JEO Consulting for the past few invoices that have been approve by the City Council.

**Review/Approve Mayor to sign Contract Extension Request Letter to NDeD on CDBG Fire Hall Project 19-PW-014:** Clerk Curtis stated the Contract Extension Request Letter to NDeD on the CDBG Fire Hall Project 19-PW-014 had been handed out to the Mayor and Council Members tonight for their review. Clerk Curtis continued that this extension is necessary due to there being outstanding drawdowns on the project that have not been paid. Council Member Eisenhower inquired why the extension was for a year instead of just six months. Clerk Curtis stated that this is just the standard extension time frame that NDeD recommends so that a community would not have to come back and ask for another extension on the chance that they didn't have their project finished up in that six-month timeframe. Council Member Eisenhower moved to approve the Mayor to sign the Contract Extension Request Letter to NDeD on CDBG Fire Hall Project 19-PW-014. Council Member Haughton seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

**Review PCAL Minutes & Treasurer's Report:** Council reviewed the October 21, 2021 Pawnee City Assisted Living Board meeting minutes and the Treasurer's Report. Council Member Haughton reported that PCAL currently has 19 residents with one double and one studio apartment available to rent; a rate increase went into effect in November and they are currently transitioning over to Quick Books online version.

**Review Notice that Nebraska Clerks Institute & Academy 2022 early registration is open now to Register Clerk Curtis to attend March 13-18, 2022:** Clerk Curtis stated the Early Registration Cost is Institute \$393 and Academy \$223. Clerk Curtis stated that this is planned to be an "in-person" Clerk's School session to be held in Grand Island. These hours will go towards her Treasurer's Continuing Education Requirements. Council Member Eisenhower moved to approve Clerk Curtis registering to attend the 2022 Nebraska Clerks Institute & Academy in Grand Island March 13-18, 2022. Council Member Fisher seconded the motion. Roll Call vote indicated all present voting in favor of the motion, whereupon motion carried.

**Correspondence:** Council reviewed the Spreadsheet on the September, 2021 Total Sales tax of \$18,803.05 with ½% Street Repairs Sales Tax totaling \$4,363.39 and \$1,349.48 being Motor Vehicle Sales Tax. Mayor Hatfield stated that the City's income from sales tax may go down as the State of Kansas is looking at dropping the sales tax on food, so we may not be getting as many grocery shoppers to come to Pawnee City if that law passes. Council Member Eisenhower moved to adjourn the meeting. Council Member Haughton seconded the motion. Roll call vote indicated all present voting in favor of the motion, whereupon motion carried, and meeting adjourned at 7:59 p.m.

ATTEST: Tamela S. Curtis, City Clerk

Charlie E. Hatfield, Mayor