

CITY OF MILFORD
REGULAR MEETING
MARCH 3, 2009
MINUTES

A regular meeting of the Mayor and Council of the City of Milford, Nebraska was held at the Webermeier Library Building in said City on the 3rd day of March 2009 at 7:30 pm. Present were: Mayor Dean Bruha; Council members: Rick Fortune, Jeff Heckman, Dan Kral; Attorney Robert Blevens; Chief of Police Forrest Siebken; Maintenance Supt. Mark Frey, City Clerk Jeanne Hoggins. Absent: Council member Jeff Baker. Also present: Alan & Lana Carter, Tracy Gabehart, E.J. & Kathy Nowotny, Lonnie Pohlman, Stan & Rose Mary Thomas, Rod Laucomer, Julie Pew, Sandy Yocum, oward & Marvene Wurst, Gary & Darla Armstrong, Austin Heckman, Wayne & Judy Stohlman, Kurt Bonner, Logan Rainforth, Dennis Kubicek, Bruce & Cheryl Hostetler, Gerry Dunlap, Lezlie Patton, Harold & David Bacon, Nancy McGill and Nancy Swarts.

Notice of the meeting was given in advance thereof by publishing in the Milford Times; a designated method for giving notice, as shown by the Affidavit of Publication attached to these minutes. Notice of the meeting was given to the Mayor and all members of the Council and a copy of their acknowledgement of receipt of notice and the agenda is attached to these 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.

CALL TO ORDER: Mayor Bruha called the meeting to order at 7:30 p.m. Mayor Bruha publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act is available for review and is posted on the east wall of the Webermeier Community Meeting Room.

MINUTES: A motion was made by Fortune and seconded by Kral to approve the minutes of the February 3, 2009 meeting. Roll call vote: Fortune yes, Kral yes, Baker absent, Heckman yes. Motion carried.

PAYMENT OF BILLS: A motion was made by Heckman and seconded by Kral that the following bills in the amount of \$61,720.22 and payroll in the amount of \$27,204.72 totaling \$88,924.94 approved by the Auditing Committee be approved for payment. Roll call vote: Heckman yes, Kral yes, Baker absent, Fortune yes. Motion carried.

SALARIES:

47369	Mark Frey	1405.55
47370	Forrest K Siebken	1331.59

47371	Mavis Lynn Ferris	60.49
47372	Jeanne M Hoggins	1320.91
47373	Gary Lee TeSelle	967.84
47374	Scott Dean Fosler	987.51
47375	Robert L Hull	855.02
47376	Beverly J Wehrs	503.48
47377	David R Dahle	1048.73
47378	Bryce C Johnson	962.24
47379	Philip Winkelmann	922.64
47380	George A Matzen	565.21
47381	Tracy L Yeackley	666.51
47382	Julia M Wang	225.66
47383	Courtney L Bashore	72.59
47384	Anna E Tremmel	102.84
47385	Tiffany Fougeron	277.96
47386	Benjamin L Rediger	720.31
47439	Mark Frey	1439.78
47440	Forrest K Siebken	1365.82
47441	Mavis Lynn Ferris	57.47
47442	Jeanne M Hoggins	1355.14
47443	Gary Lee TeSelle	936.65
47444	Scott Dean Fosler	1026.08
47445	Robert L Hull	889.25
47446	Beverly J Wehrs	554.17
47447	David R Dahle	1129.47
47448	Bryce C Johnson	996.47
47449	Philip Winkelmann	941.68
47450	George A Matzen	584.25
47451	Tracy L Yeackley	683.63
47452	Julia M Wang	235.15
47453	Courtney L Bashore	133.08
47454	Anna E Tremmel	72.59
47455	Tiffany Fougeron	292.02
47456	Benjamin L Rediger	776.16
47458	Ricky Gene Fortune	138.52
47459	Dean Alan Bruha	184.70
47460	Jeffrey M Baker	138.52
47461	Jeff Lee Heckman	138.52
47462	Dan V Kral	138.52
GENERAL FUND:		
47362	Marian Bargsten – WA/SW Deposit Refund	74.32

47363	Randy Brown – WA/SW Deposit Refund	50.00
47364	Zack Heble – WA/SW Deposit Refund	50.50
47365	Deborah McTee – WA/SW Deposit Refund	22.00
47366	Gloria Murray – WA/SW Deposit Refund	23.90
47367	Levi Rowe – WA/SW Deposit Refund	31.80
47368	US Postmaster – Utility Billing Postage	161.89
47387	Ameritas – Pension	1646.15
47388	Ameritas Group – Dental & Vision	1193.16
47389	Alltel – Cellular phone	97.73
47390	Windstream – Long Distance for Jan	1.84
47391	Aramark – Pants & Rags	352.06
47392	Constellation New Energy – Service for January	2081.47
47393	Culligan Water – Soft Water	20.00
47394	Coventry – Health Insurance	8490.51
47395	Farmers Cooperative – Gas/Diesel for January	512.83
47396	D & D Communications – Pager	390.00
47397	Diode Communications – Service for January	54.1
47398	Deep Rock – Drinking Water	31.77
47399	Eakes Office Plus – Checks, Nameplates, Stamp	644.13
47400	Ed M Feld – Patch	56.00
47401	Mark Frey – Mileage to Wastewater Meeting	121.00
47402	Gall’s Inc. – Latex Gloves	70.95
47403	The Garbage Co – Garbage Pickup	130.24
47404	Great Plains-One Call – Locate Requests	2.85
47405	Holiday Inn – Lodging for Sewer Meetings	96.83
47406	IKON Office – Additional Images	147.23
47407	EMC – Additional Premium	182.00
47408	JWC Environmental – Repair Main Lift Station	1381.38
47409	Marvin Jewell & Co – Audit Services Year End 9/08	11300.00
47410	Kremer Electric – New lighting for pool	7106.98
47411	Menard’s – Post Anchor	56.40
47412	The Milford Times – Subscription	25.00
47413	Municipal Supply – Stem Assembly, Repair Kit	275.35
47414	Mutual of Omaha – Disability	79.33
47415	NE Dept of Revenue – Sales Tax for January	1608.32
47416	NE Motor Parts – Can, Gauge, Tire, Air Filter	329.85
47417	DHHS – ’09 Pool Permit	40.00
47418	NPPD – Service for January	4702.76
47419	NT&T – Service for January	428.55
47420	NE Supreme Court – NE Statutes ’07 & ’08	125.60
47421	Black Hills Utility Holdings – Service for January	475.48

47422	Quill Corporation – ½ Ream of Copy Paper	11.90
47423	Rediger Chevrolet – Pump, shop materials	28.62
47424	Roxanne Roth – Cleaning Services	250.00
47425	Sack Lumber – Screw, Tork Bit, Vent	136.89
47426	Seward Co Independent – Notices, Minutes, Rec Ad	201.44
47427	SPPD – Wells 1 & 2	562.66
47428	St Paul Stamp Works – Golf Cart Licenses	91.95
47429	Sports Express – Shirts for Ben Rediger	45.50
47430	SCC – EMT Class (Freeman & Pickerill)	490.00
47431	Subway Motors – Oil Change & Battery	149.52
47432	Sunrise Country Manor – January Meals	924.00
47433	Gary TeSelle – Lunch Payment for Meeting	10.20
47434	Uribe Refuse – Garbage Pickup	37.00
47435	Windstream – Local/Internet, Library Phone	164.56
47436	Jeff Baker – WA/SW Deposit Refund	50.00
47437	Shane Stutzman – WA/SW Deposit Refund	50.00
47438	Subway Motors – '97 Chrysler Sedan	3500.00
47457	Ameritas – Pension	1646.15
47463	AFLAC – Dis, Cancer, Acc, Suppl	399.96
47464	Atco – Liberator	1160.00
47465	Blevens Law Office – Legal Services for March	350.00
47466	California Contractors – Day & Night Barrier Tape	420.00
47467	City of Milford – Petty Cash (Postage, Titles)	32.69
47468	Demco – Book Covers	206.89
47469	Digitec – Memory Card, Hard Drive	158.92
47470	Don's Pioneer Uniforms – Sargent Patches	25.00
47471	Ed M Feld Equipment – Electronics Test, 9 Volt	36.00
47472	InsureNebraska – Secretary Bond – Marcy	200.00
47473	Fort Dearborn Life Insurance – Life Insurance	123.84
47474	Great American Leasing – '08 Prop Tax & Meter Rent	114.92
47475	Heartsong Presents – Books	10.99
47476	Image Trend Inc – Annual Support	250.00
47477	Lincoln Journal Star – Newspaper Subscription	122.21
47478	Kids Discover – 20 Month Magazine Subscription	33.90
47479	Ladies Home Journal – Magazine Subscription	11.98
47480	Latsch's Inc – Paper	19.96
47481	League of Municipalities – Snowball Conference (2)	130.00
47482	Legend Valley Products – Labels	24.90
47483	Memorial Health Care Systems – Flu Shots	50.00
47484	George Matzen – Paper, Labels, Cardstock, Books	140.22
47485	Marshall Cavendish Corp – State Books	146.90

47486	Milford School Dist – Parking Fines	65.00
47487	Municipal Supply – Repair Kit	187.03
47488	NMC – Axle Oil	51.41
47489	Nebraska Public Health – Coliform Tests	32.00
47490	Nebraska Equipment Inc – Hydraulic Cylinder	339.23
47491	Office Depot – Digital recorder, Toner Printer	219.97
47492	Poolmart Inc – Umbrella Brackets	197.45
47493	Roxanne Roth – Cleaning Services	250.00
47494	Meyer Ford – Oil Change	24.95
47495	SewNews – Magazine Subscription	43.98
47496	Shell Fleet Plus – Fuel for January	426.64
47497	Shell Fleet Plus – Gas	62.02
47498	Bruce Stutzman – City Volleyball Director	855.00
47499	Taste of Home – Magazine Subscription	29.98
47500	Union Bank – Gary TeSelle Account	442.20
47501	Walmart – TV Converter Box, Books & DVDs	107.74
47502	Watchguard Video – Micro-phones	77.50
47503	Windstream NE – Civil Defense Phone	90.90
47504	Thomas D Stalmaker – A/C Filter, Element	285.95
47505	NE Dept of Roads – Mesh Vests	694.20
47506	The Hearst Corp – Magazine Subscription	24.00
47507	Simple & Delicious – Magazine Subscription	19.98

REPORTS OF OFFICERS, BOARDS AND COMMITTEES: Written reports received were Housing Authority minutes for February 13, 2009; Planning & Zoning minutes for February 18, 2009; Library Board minutes for January 15, 2009 and February 26, 2009; Recreation Board minutes for March 2, 2009; Milford Aging Services minutes for February 24, 2009; Fire Department minutes for January 13, 2009; Police Dept. Activity Report for February 2009; MVFD Rescue NARSIS report for February 2009; Fire Report for February 2009. Stohlman reported on 2 storm spotting classes: March 12 at Seward Civic Center and March 29 at Saline Center.

COMMUNICATIONS: *Sales tax received for the month of December 2008 was \$16,725.76. *NPPD 4th quarter lease agreement payment received in the amount of \$33,187.51. *Galaxy Cable annual franchise fee received in the amount of \$6,771.14.

PUBLIC HEARING: Conditional Use Permit – 319 S. “E” Street: Mayor Bruha opened the Public Hearing at 7:35 pm and opened the floor for public comment. Lana Carter was representing the neighborhood. She has nothing against Hostetler’s or the elderly but there are many children in the neighborhood and not enough adequate parking or sidewalks. Lana visited the Green House in Lincoln and noted specifics about the facility: 5300 sq.

feet, 24 hour RN, 1 level, hallway for storms. Lana noted that the rest homes in Milford are not full, about 75 – 80% capacity. She commented on concerns: this is a residential area for families, congestion in the neighborhood, only 1 side available for street parking and elderly people do not want to worry about steps. This is a wonderful concept but concerned that this is not the right area of town for it. Bruha informed the public that specifications will need to be met by the State Fire Marshall. Judy Stohlman is a RN and works in an Assisted Living facility. She knows that Cheryl Hostetler's heart is in the right place when it comes to these people and the community. She will make it a positive environment. Judy noted that there are individuals that would benefit from this type of facility because they are not ready for the nursing home setting. Milford needs to offer this type of facility to our community. Tracy Gabehart questioned the kind of experience these people have. Lana Carter mentioned that there had been a feasibility study done and Milford could not support this type of facility. Bruha – it is not our place to say yes or no when someone is interested in starting a business. Kurt Bonner questioned “Isn't that what the conditional use permit is for? To see whether all the stipulations are being met for the permit”. Kurt noted that he is opposed to the idea primarily due to parking and traffic. He also mentioned that he has seen where conditional use permits were granted for one thing and failed and then allowed for another purpose. Mayor Bruha strongly noted that if the conditional use permit is granted it will only remain in affect for one purpose. If it fails or changes hands it will become void and will need to be revisited. Tracy Gabehart questioned whether the facility will be a Group Home or Assisted Living facility? Gerry Dunlap expressed the need for this type of facility in Milford. He is in favor of the concept. He was involved with the process of having the feasibility study done and noted that the proposal was for a 40 unit facility. The study showed that Milford could not support that size of facility. There is validity behind a smaller facility with less cost. Jeff Baker arrived. Gerry commented that this is a better use of the home opposed to a multi-family dwelling. Lana noted that with the current zoning only a single or duplex unit is allowed. This is correct. Tracy Gabehart – the limited parking is a concern as well as concerns with decreased property value, additional traffic while neighborhood children ride bikes in the street and also parking congestion while school events are being held. Gary Armstrong is very much in favor of this type of facility. His parents are in Seward and they would love to be back in Milford. When they visit them in Seward there are usually only 2-3 cars in the parking area. Lana Carter commented that the facility is a good idea but just someplace else in town. David Bacon noted concerns with parking. When there are school functions the streets are

full and additional parking is unavailable. Milford needs this type of facility but located somewhere else. Rod Laucomer is the architect for this project and has been an architect for HHS for 15 years. He wrote the National Standards for assisted living facilities. Care facilities are a supervised environment and usually these people don't drive. The plans distributed by Rod show the entrance into the facility from the alley and exiting onto the street. The main entrance is at garage level. If the 2nd level was to be used a chair on a rail could go along the stairway. Fire concerns were mentioned: Sprinklers will be installed in the building and kitchen updates will be made. Dan Kral had questions regarding fighting a fire and evacuating individuals. His concern was the house being 3 stories, close proximity of a home to the west, the addition of the sunroom and garage on the north and the trees along the east and south sides. How will the fire dept. get to the facility to fight a fire? Rod commented that the structure is divided into 3 compartments: The main level, second level and area north of the sunroom. A firewall will be placed between levels and there is a division of the sunroom between the main level and the north area. Fire alarms will be placed throughout the building. Someone questioned safety during a tornado. Omaha is the only place where a shelter requirement is requested. An internal bathroom is the best area for tornado safety. Each person will have their own bathroom. The State requires practice drills for fire and tornados. Milford is a candidate for a small facility. The standards that will need to be met are above & beyond a single family dwelling, apartment or duplex. All requirements will need to be met by the State and also the Fire Marshall. Julie Pew stated that staffing would be determined by the number of individuals living in the facility. With no further comments Mayor Bruha closed the Public Hearing at 8:34 pm.

UNFINISHED BUSINESS:

Introduction and Adoption of Ordinance – Ban Pit Bulls: Baker met with Chief Siebken, Dan Kral and Attorney Blevens to draft ordinances regarding dogs that they were comfortable with. It was decided to present an ordinance to ban Pit Bulls or a Pit Bull mix and increase the fines for the offense to: first offense \$250.00, second offense \$350.00; with a maximum of \$500.00. Other ordinances were presented tightening up the current dangerous dog ordinances. For example: use of a muzzle, length of leash and age appropriate individuals handling dangerous dogs. The fine schedule for animals at large and impound fees will also be presented. Baker and Heckman discussed a grandfather clause for those individuals in town that have been responsible with their pit bull. Fortune believes that if these individuals have had no report of an incident in town than they should be grandfathered. Fortune has a problem with a breed specific ordinance but

there is nothing to say that a nasty owner wouldn't move into town with a nasty dog. Most of the time it is the owner that causes the dog to be vicious. Logan Rainforth showed the Council that he had 93 signatures on a petition disagreeing with banning pit bulls from town. The wording of the grandfather clause was discussed. Howard Wurst asked who determines if the animal is a breed of a pit bull. He does not agree with the breed specific ordinance. Any dog can be made mean. Doberman's are trained to be guard dogs. A blood test is the only positive way to determine if it is a Pit Bull. Bruha stated that the intent of this decision is to protect the community from dangerous dogs. We want to be proactive and keep someone from getting hurt. Council member Baker introduced the following ordinance seconded by Heckman: (Additional language was added grandfathering dogs under 6 months.)

ORDINANCE NO. 819

AN ORDINANCE TO BAN AND PROHIBIT PIT BULL DOGS AND CROSS BREEDS WITH PIT BULL CHARACTERISTICS FROM THE MUNICIPALITY; TO PRESCRIBE THE PENALTY FOR VIOLATION HEREOF; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH AND PRESCRIBE THE TIME THIS ORDINANCE SHALL BE IN FORCE AND TAKE EFFECT. (See Ordinance Record)

Introduction and Adoption of Ordinance – Dangerous Dogs:

Council member Baker introduced the following ordinance seconded by Kral:

ORDINANCE NO. 820

AN ORDINANCE TO PRESCRIBE THE PENALTY FOR VIOLATION ORDINANCES RELATING TO DANGEROUS DOGS; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH AND PRESCRIBE THE TIME THIS ORDINANCE SHALL BE IN FORCE AND TAKE EFFECT. (See Ordinance Record)

Council member Fortune introduced the following ordinance seconded by Kral:

ORDINANCE NO. 821

AN ORDINANCE TO AMEND SECTION 6-117 OF THE MUNICIPAL CODE TO PROVIDE FOR MUZZLES AND LEASHES FOR DANGEROUS DOGS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PRESCRIBE THE TIME THIS ORDINANCE SHALL BE IN FORCE AND TAKE EFFECT. (See Ordinance Record)

NEW BUSINESS:

Conditional Use Permit – 319 S. “E” Street: Fortune still had concerns about the structure and fire conditions. Parking is also an issue that Fortune

would like to visualize prior to making a decision. Fortune – the structure is not designed for what they want to do. Bruha noted that they will have to meet all the requirements placed upon them by the State and the Fire Marshall. There will be a sizeable investment made by Hostetlers. If they can meet all the requirements we should give them a chance to go with it. The community does need this type of facility. Baker– P&Z denied the request because of parking issues, no site plan presented and the facility has not been given a title. We need to give them a chance to do these things. We shouldn't limit anyone's ambitions. Heckman – if all requirements are met, how can we not allow this endeavor? Heckman questioned what the facility would be titled; a Group Home or an Assisted Living Facility. The parking is different. If parking was the only issue couldn't the Council designate some conditions. Blevens read the Standards (Section 6.06) of the Conditional Use Permit Article noting areas to be considered in determining the issuance of a Conditional Use Permit. Lezlie Patton informed the Council that you won't find anyone more knowledgeable than Rod when it comes to "Elder Care Homes". He wrote the specifications. A site plan has been provided designating parking. She clarified the reason behind designating the facility as a "Group Care Home" or "Elder Care Home". This classification allows for a sleeping area, toilet and sink, which is what they will provide. This facility is being fashioned after the PEO in Beatrice and they have 18 women living there and only 2 cars. Individuals at this point in their life usually give up their vehicles and don't drive. Al Carter pointed out the section of the comprehensive plan that suggests consideration for substantially diminishing property values within the neighborhood and the comfort and general welfare of the community. Kral – after the comment from Mr. Carter and the fact that we do not have a report from the Fire Marshall a motion was made by Kral to disapprove the request. Blevens noted that if the Council does not have enough information to make a decision they can table the item. Motion dies due to a lack of a second. Baker stated that we need to lay out exactly what we want these people to present. The P & Z made 3 requests and they were met. What additional info does the Council want? We need to make a decision and not let this drag on. Lezlie stated that they had already met with Fire Marshall Gary Wagner and he laid out all the guidelines: completely a non-smoking facility, no candles or heating pads. Lezlie has a report from Mr. Wagner but doesn't have it with her. It was suggested by Kral to table item until the Fire Marshall report is presented. A motion was made by Fortune and seconded by Baker to table the agenda item until the State Fire Marshall report is presented and address the issue at a Special meeting. Roll call vote: Fortune yes, Baker yes, Heckman yes, Kral yes. Motion carried.

Mayor Bruha allowed a ten minute break.

Audit Report – Dennis Kubicek: Accountant Dennis Kubicek introduced himself to the new Council members and gave a brief overview of his work experience. He informed the Council of the new Professional Standards letter that is required as part of the GASB 34 report. GASB 34 changed the complexion of how audits are done. Dennis explained the difference between cash accounts and accrual accounts. He highlighted parts of the audit report for the Council. He also read the two opinions of the audit. The City of Milford's audit for Sept. 30, 2008 was given a clean opinion. A "clean" opinion is the top opinion stating true and accurate information. Dennis also highlighted some areas of concern: as of 9/30/08 the City did not have enough safe keeping receipts needed to insure the amount of cash at the Farmers & Merchants Bank; also the Economic Development file for CY Manufacturing does not have the adequate documents needed. The safe keeping receipts have already been addressed by City Clerk Hoggins and Mayor Bruha will be looking into the Economic Development documentation. A motion was made by Baker and seconded by Fortune to approve the audit report for the fiscal year 10/1/07 thru 9/30/08. Roll call vote: Baker yes, Fortune yes, Heckman yes, Kral yes. Motion carried.

Approve Firework Permit: A motion was made by Heckman and seconded by Fortune to approve the firework application from Ka-Boomer's for 410 South State Hwy 6. Roll call vote: Heckman yes, Fortune yes, Baker yes, Kral yes. Motion carried.

Discuss information on City website: Bruha informed the Council that the Economic Development Board is reviewing the Milford website and eager to make updates. Kathy Schildt has been approached to make the changes. Mayor Bruha wanted the Council's opinion on placing their personal phone numbers on the website. The consensus was not to place personal phone numbers on the website. It was suggested to add a link to access the Municipal Code Book and the Comprehensive Plan.

Fire Station Roof Repair Proposal: Dan Kral reported on the condition of the fire station roof. The roof has been leaking for some time, causing stains on the ceiling tiles in the meeting room. Dan met with John Melena and Mark Frey to inspect the roof. The report and photos are attached to these minutes. The proposal to repair the roof by Weathercraft Co. of Lincoln is \$2,882.00. A motion was made by Kral and seconded by Baker to authorize Mayor Bruha to sign the contract with Weathercraft Co. for repairs to the Fire Station Roof. Roll call vote: Kral yes, Baker yes, Fortune yes, Heckman yes. Motion carried.

ADJOURNMENT: A motion was made by Baker and seconded by Fortune to adjourn the meeting. Roll call vote: Baker yes, Fortune yes, Heckman yes, Kral yes. Motion carried and meeting adjourned at 11:15 pm.

Jeanne Hoggins, City Clerk

Dean A. Bruha, Mayor

CERTIFICATION

I, the undersigned, City Clerk of the City of Milford, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Council on March 3, 2009 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.

(SEAL)

Jeanne Hoggins, City Clerk