

AGENDA FOR COUNCIL MEETING OCTOBER 21, 2003

1. Approve Minutes
2. Citizen Communication
3. Department Reports/CA Report
4. Shotkoski Trailer Court Water and Sewer Installation
5. Authorize Mayor to Sign AT&T Lease Agreement
6. Approve AT&T Conditional Use Permit (public hearing)
7. Ord. 628 Fences (public hearing)
8. Discussion of Sale of City Property at 2nd and Cedar
9. Resolution 2003-20 – Set Agenda Deadline
10. Merit Limit Freeze
11. Jon Wiese Merit Increase
12. Executive Session – Personnel
13. Executive Session Action

A regular meeting of the Mayor and Council of the City of Springfield, Nebraska was held at City Hall at 7:30 o'clock PM on October 21, 2003. Present were Mayor Larry Goldman; Council Members: Dennis Gosch, Eric Hayes, Greg Latham. Absent: Bruce Thayer. Notice of this meeting was given in advance by posting notice in three public places, one of the designated methods of giving notice. Notice of this meeting was given in advance to the Mayor and all Council Members and a copy of their receipt of notice is attached to these minutes. All proceedings hereafter shown were taken while the convened meeting was open to the public.

Agenda Item 1. Motion by Gosch, seconded by Latham, the minutes of the October 7 regular Council Meeting be approved as presented. AYES: Latham, Hayes, Gosch. NAYS: None.

Agenda Item 2. Russ Zeeb, Sarpy County Sheriff's Department, informed Council that a dog citation was issued the previous week for a running at large and vicious dog. Whereas it is the law enforcement officer's call to have the dog destroyed, he met with Sandra Powell, City Administrator, to discuss the issue and concurred that there was not enough evidence to have the dog destroyed as per the ordinance. He offered that a plea bargain between the dog's owner, law enforcement and the neighbors be worked out. He also informed Council that the dog did not bite the victim, but knocked her over. The mother of the victim agreed to this fact. Joe Haggerty, 1100 N. 4th Street distributed pictures of a 2001 incident which involved his child and one of the dogs in question. Connie Haggerty, 1100 N. 4th Street, asked would could be done about the 2001 incident. Zeeb stated that two years had lapsed. William E. Seidler, Jr., City Attorney, stated that a civil suit could have been brought against the owners of the dog for medical damages. J. Haggerty said that their attorney had recommended against this since the Aschtgens did not own the home. C. Haggerty asked if a sign could be posted on the property. Jodi Aschtgen, 750 N. 3rd Street and owner of the dogs, stated that she had posted signs,

but they get stolen. She added that they have found children on their property teasing the dogs. People also open yard gate, when Aschtgens are gone. Bob Lawson, 1000 N. 4th Street, stated that his child had been chased by the Aschtgen dogs. Tim Gibbs, 525 Valley Drive, reported that his child had been bitten previously and required 10 stitches. A discussion of code definitions was had. Seidler asked if any civil suits had been filed in the previous incidences. None had. Zeeb informed the audience that this issue is not a staff or Council issue, but must be decided by a judge in a court of law. The dogs will remain in custody until the 10-day rabies waiting period is over. The owner can then retrieve her dog. Aschtgen reported that the dogs are licensed through the Nebraska Humane Society and are current with their vaccinations. Zeeb requested that Council consider changing their animal control to the Nebraska Humane Society for consistency. Arraignment is scheduled for November 19. No action was taken.

Agenda Item 3. Powell reported the following:

The new SID 211 Board will meet October 30.

Powell is working with John Rice, Sarpy County Attorney's Office, on a community outreach program in which town hall meetings will be held to discuss various legal issues which concern the citizens.

Powell led a tour of the city for the Sarpy County Chamber of Commerce Leadership Sarpy class. She emphasized the growth and economic development issues. The tour ended at Springfield Drug.

The Geographic Information System bids for phase 2 came in under budget. An amendment to the original interlocal agreement to encompass phase 2 will be on the November 18 agenda.

Lead Hazard Control Program information is available at City Hall.

Agenda Item 4. Seidler stated that the city ordinances are written on the stand point of one house making a direct connection to the water main and a direct connection to the sewer main. The Council did not have the power to adopt the October 7 motion relative to the water and sewer installation at the Donahoe trailer court. Should the Council continue with the adopted motion, they run the risk of not following the law. This could have later ramifications. Future Councils could decide the laws need to be followed, and order subsequent shut-offs. Powell suggested that Council remain sensitive to the fact that if the court remains inoperable for 12 months, the court loses its grandfather rights, and will then have to comply with hard road surfacing and other land use requirements. She stated that while the Zoning Commission is working on land use issues relative to mobile home courts, the city could write regulatory codes in conjunction with the other updates. Sandi Shotkoski, mobile home court owner, stated that she was not told until now that she could not build the project as she proposed. Chuck Johnson, City water and sewer operator, felt that the 4" line which is proposed is pushing the unit factor limit. Seidler stated that a discussion of size is not relevant since §3-206 limits the city from even connecting the service. Goldman offered that Shotkoski could build a main on her property than dedicate it and an easement to the City. A discussion of main size was had. Hayes reminded Shotkoski that she new of the problems with the property prior to buying, and that Council had mentioned tying to each building. Shotkoski did not recall this information. She also asked that the Council not discriminate against her and her mobile home court. Motion by Gosch, seconded by Latham, to rescind the October 7 motion relevant to the Donahoe mobile home court. AYES: Latham, Hayes, Gosch. NAYS: None. Motion by Gosch, seconded by Latham, to direct Powell to draft a regulatory ordinance relating to mobile home courts. AYES: Latham, Hayes, Gosch. NAYS: None. Shotkoski stated that she did not have time to wait for a law change, and would hook each mobile home up separately. Chuck Johnson will work with Powell on the new ordinance.

Agenda Item 5. Motion by Gosch, seconded by Latham, to authorize the Mayor to enter into the AT&T Option and Lease Agreement dated October 22, 2003, on behalf of the City. AYES: Latham, Hayes, Gosch. NAYS: None.

Agenda Item 6. No one was present to speak for or against the Conditional Use application. Motion by Latham, seconded by Gosch, to approve a Conditional Use Permit for AT&T Wireless for a communication tower to be placed at 13002 Platteview Road. AYES: Latham, Hayes, Gosch. NAYS: None.

Agenda Item 7. Bob Lawson, 1000 N. 4th Street, and Joe Haggerty, 1100 N. 4th Street, were present to ask for clarification on Ordinance 628. No one was present to speak for or against the ordinance. Councilman Latham introduced Ordinance No. 628.

Latham moved that the statutory rule requiring reading on three different days be suspended. Councilman Gosch seconded the motion to suspend the rules and upon roll call vote on the motion the following Council Members voted YEA: Gosch, Latham, Hayes. The following voted NAY: None. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilman Latham moved for final passage of the ordinance, which motion was seconded by Councilman Hayes. The Mayor then stated the question "Shall Ordinance No. 628 be passed and adopted?" Upon roll call vote, the following Council Members voted YEA: Gosch, Latham, Hayes. The following voted NAY: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor in the presence of the Council signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto and ordered the Ordinance be published as provided therein. A true, correct and complete copy of said ordinances is as follows:

ORDINANCE NO. 628

AN ORDINANCE AMENDING ARTICLE 7 "SUPPLEMENTARY REGULATIONS", AMENDING SECTION 7.11 "FENCES, WALL AND SIMILAR STRUCTURES" OF THE SPRINGFIELD, NEBRASKA ZONING REGULATIONS; REPEALING ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SPRINGFIELD, NEBRASKA

Section 1. Article 7 "Supplementary Regulations," Section 7.11 "Fences, Wall and Similar Structures" of the Springfield, Nebraska Zoning Regulations is amended and shall read as follows:

Section 7.11 Fences, Wall, and Similar Structures

A. **General Provisions – Residential.** In Residential Districts, it shall be unlawful for fences, walls, or similar structures to be constructed or maintained, except as provided in this Section, and after a permit is issued by the city.

1. **Front Yard** No fence, wall, or similar structure may be built in a front yard except on or within the front setback line. The structure shall not exceed three and one-half (3 ½) feet in height.

2. **Side Yard** A fence, wall, or similar structure may be erected to a maximum height of six (6) feet.
3. **Rear Yard** A fence, wall, or similar structure may be erected to a maximum height of six (6) feet. (See also Street Side Requirements)
4. **Street Side Requirements** A fence, wall, or similar structure may be built along a street side provided that the structure shall be constructed on or within a five (5) foot setback from the property line.
5. **Street Corner Visual Triangle** No fence shall be built within the triangle of land formed by lines beginning at the point of intersection of the two (2) street-side lot lines of the corner lot, then proceeding along such lines for a distance of twenty (20) feet, the third side of which triangle of land is formed by drawing a line between the two (2) points which are on the front lot lines, and are 20 feet distant from the point of intersection of the two (2) front lot lines, trees shall be trimmed up eight (8) feet above the ground; but in no case shall such foliage or shrubbery be planted or maintained in such triangular area which will materially obstruct the view of drivers of vehicles approaching the intersection.
6. **Property Lines** Fences may be constructed at the property line unless otherwise stated.
7. **Support Structures** The support structure (e.g., posts) for any fence face the interior of the lot upon which the fence is constructed.
8. **Prohibited Fences** Electric fences and barbed wire fences are prohibited in all residential zoned districts except Agriculture Residential (AR) District.

B. **General Provisions - Non-residential** In the non-residential zoning districts, it shall be unlawful for fences, walls, or similar structures to be constructed or maintained, except as provided in this Section, and after a permit is issued by the city.

1. **Front Yard** No fence, wall, or similar structure shall be built in a front yard.
2. **Side Yard and Rear Yard** The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight (8) feet. (See also Street Side Requirements)
3. **Street Side Requirements** A fence, wall, or similar structure may be built along a street side provided that the structure shall be constructed on or within a five (5) foot setback from the property line. Should the zoning district require a zero (0) foot building setback, the fence may be built on or within the property line. The maximum height of a structure shall be eight (8) feet.
4. **Civic Uses in Residential Districts** The maximum height of fences installed as part of Primary and Secondary Educational Facilities or Park and Recreation Use Types within Residential Zoning District shall be eight (8) feet. (See also Street Side Requirements)
5. **Waiving of Height Requirement** The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Springfield.
6. **Street Corner Visual Triangle** No fence shall be built within the triangle of land formed by lines beginning at the point of intersection of the two (2) street-side lot lines of the corner lot, then proceeding

along such lines for a distance of twenty (20) feet, the third side of which triangle of land is formed by drawing a line between the two (2) points which are on the front lot lines, and are 20 feet distant from the point of intersection of the two (2) front lot lines, trees shall be trimmed up eight (8) feet above the ground; but in no case shall such foliage or shrubbery be planted or maintained in such triangular area which will materially obstruct the view of drivers of vehicles approaching the intersection.

7. **Property Lines** Fences may be constructed at the property line unless otherwise stated.

8. **Support Structures** The support structure (e.g., posts) for any fence shall face the interior of the lot upon which the fence is constructed.

9. **Barbed Fencing** Barbed wire fences may be used in the construction of perimeter security fencing in an industrial district or for municipal facilities provided that the bottom strand of the wire shall be at least six (6) feet above ground level.

10. **Prohibited Fences** Electric fences are prohibited in non-residential districts.

C. **Existing Fences** Any existing fence lawfully built before the effective date of this Ordinance may remain in place without change. Any replacement or change of such fence shall meet the requirements of this section.

D. **Violations; Penalty.** Any person, or any person's agent or servant, who violates any of the provisions of this section, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00). A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this section.

Section 2. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

Section 3. Any other ordinance or section passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions is hereby repealed.

Passed and Approved this 21st day of October, 2003.

Mayor

(SEAL)

Attest:

City Administrator/Clerk

Agenda Item 8. Gosch recommended the City sell the city property at 2nd and Cedar with a covenant which states that it will be built upon in the next 18 months. Hayes stated that an economic downturn could make this difficult for the buyer. Latham stated that the covenant could be rescinded if necessary. Seidler stated that the covenant would be part of the deed and would travel with the property. It was Council consensus that the property be sold by public auction at a date to be determined by the City Administrator and Randy Fleming, Auctioneer. The minimum required bid would be \$16,500 plus publication fees, plus selling costs. The building covenant shall be set at 3 years of close with conveyance by special warranty deed. Council suggested 10% down the day of the sale with the balance due 30 days from the sale. Powell will prepare the resolution of sale.

Agenda Item 9. Gosch offered Resolution 2003-20.

RESOLUTION 2003-20

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SPRINGFIELD, NEBRASKA, as follows:

WHEREAS, the City of Springfield City Clerk is required to keep the City Council agenda current and available for public viewing; and

WHEREAS, City Council agenda items require City staff research time and report development time; and

WHEREAS, the City of Springfield City Council must have sufficient time to review said City Council agenda items prior to the meeting; and

NOW, THEREFORE BE IT RESOLVED the Governing Body of the City of Springfield, Nebraska, by a majority vote resolved that:

1. All non-emergency agenda items to come before the City Council shall be delivered to the Springfield City Clerk by the close of the business day, the Wednesday prior to the Council Meeting.
2. Emergency City Council agenda items may be added twenty-four (24) hours prior to the City Council meeting. The City Administrator, in consultation with the Mayor, shall determine an emergency.
3. this authority shall take effect upon passage and adoption of said resolution.

Introduced and Passed October 21, 2003.

Ayes 3

Nays 0

Abstain 0

Approved:

Absent 0

Mayor

SEAL

Attest:

City Clerk

Latham seconded the forgoing motion. The following Council Members voted AYES: Gosch, Latham, Hayes. NAYS: None. Whereupon the Mayor declared said motion carried and said resolution passed and adopted.

Agenda Item 10. Motion by Gosch, seconded by Latham, to impose a 1% employee merit increase freeze for the 2003-04 budget year. AYES: Latham, Hayes, Gosch. NAYS: None.

Agenda Item 11. Motion by Gosch, seconded by Latham, to allow Jon Wiese a maximum merit increase. AYES: Latham, Hayes, Gosch. NAYS: None.

Agenda Item 12. Motion by Gosch, seconded by Latham, to enter Executive Session for the purpose of personnel. AYES: Latham, Hayes, Gosch. NAYS: None. Council entered at 9:32 PM. Executive Session ended at 10:21 PM.

Agenda Item 13. There was no executive session action.

Motion by Gosch, seconded by Latham, to adjourn. AYES: Latham, Gosch, Hayes. NAYS: None. Meeting was adjourned at 10:21.

ACKNOWLEDGMENT OF NOTICE OF MEETING

The undersigned members of the governing body of the City of Springfield, Nebraska hereby acknowledges receipt of advance notice of meeting and the agenda for such meeting held at 7:30 o'clock P.M. on October 21, 2003.

Mayor

Councilman

_____ Councilman _____ Councilman

_____ Councilman