

The Mayor and City Council of the City of Bayard, County Morrill, State of Nebraska, met in a regular session in the Council Chambers September 8th, 2020 at 7:00 P.M. City of Bayard 445 Main St., Bayard, Nebraska, 69334. Notice of the meeting having been published in the Bayard Transcript, a newspaper of general circulation, on September 2nd, 2020. An agenda for the meeting was made available to the Mayor and each of the Council members prior to the meeting. Present were Mayor Schmall and council members; Marty Marquez, Janice Newhoff, Nate Edmunds, Rick Valentine, Scot Ouderkirk, and Mike Harimon. Absent: None. There being a quorum of council members present, Mayor Schmall called the meeting to order and offered a prayer. The Pledge of Allegiance was recited. Mayor Schmall presided over the meeting and noted that a copy of the Open Meetings Act is located in City Council Chambers is made available to the public. City Treasurer Bowlin recorded the minutes.

APPROVAL OF AGENDA

Council member Edmunds made a motion to approve the agenda. Seconded by council member Newhoff. ROLL CALL: AYES: Marquez, Newhoff, Edmunds, Valentine, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

PUBLIC HEARING

Mayor Schmall opened the Public Hearing for 2020-2021 Budget at 7:03 pm:

Council Member Newhoff moved to approve 2020-2021 budget. Seconded by council member Harimon. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Motion declared carried by Mayor Schmall.

Council Member Ouderkirk moved to approve 1% additional allowable increase for restricted funds. Seconded by council member Newhoff. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Motion declared carried by Mayor Schmall.

Council Member Edmunds made a motion to waive the three readings for Ordinance #840. Seconded by council member Valentine. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Motion declared suspended by Mayor Schmall.

Council Member Newhoff made a motion for final passage of Ordinance #840. Seconded by council member Ouderkirk. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Mayor Schmall declared it passed, adopted, and ordered it published.

ORDINANCE #840

AN ORDINANCE APPROPRIATING FROM THE FUNDS AND REVENUES OF THE CITY OF BAYARD, NEBRASKA SUCH SUMS OF MONEY AS HAVE BEEN DEEMED NECESSARY TO DEFRAY ALL NECESSARY EXPENSES AND LIABILITIES OF THE CITY OF BAYARD, NEBRASKA, FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2020 TO SEPTEMBER 30, 2021, AND LEVYING TAXES FOR SUCH CITY AND FOR SAID FISCAL YEAR FOR CERTAIN OBJECTS AND PURPOSES FOR WHICH SUCH APPROPRIATIONS ARE MADE AND THE AMOUNT APPROPRIATE FOR EACH OBJECT AND PURPOSE AND PROVIDING FOR THE CERTIFICATION OF THIS ORDINANCE TO THE COUNTY CLERK OF MORRILL COUNTY, NEBRASKA, AND PRESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

SECTION 1. That there be and there hereby is appropriated out of the funds and revenue of the City of Bayard, Nebraska, the following sums of money deemed necessary to defray all necessary expenses and liabilities of the City of Bayard, Nebraska, for the fiscal year commencing October 1, 2020 and ending September 30, 2021; and there is hereby levied on each one dollar of actual value of the taxable property within the corporate limits of the City of Bayard, Nebraska, for said fiscal year, as shown by the assessment roll for such fiscal year, the amounts set out; the objects or purposes for which such expenditures are to be made, the amount of appropriated, including the amounts due upon legal and valid outstanding bonds against said City and all special assessments and other tax authorized by law, are as follows:

| | |
|----------------|-----------------|
| City of Bayard | \$11,720,939.76 |
|----------------|-----------------|

SECTION 2. There is hereby appropriated to the respective funds of said City such sums as shall be paid to the County Treasurer of Morrill County, Nebraska, during the ensuing year for taxes and previous fiscal years for such respective funds and there is also appropriated all occupational taxes collected for and during the fiscal year; also unexpended funds in the hands of the City Treasurer at the beginning of the present fiscal year hereby appropriated to be used to defray the expenses or obligations of the City chargeable against said City funds.

SECTION 3. That this ordinance shall be known as the Annual Appropriation Bill and shall be in full force and effect from and after the passage, approval and publication according to law.

Passed and adopted this 8th day of September 2020.

S/G Schmall
Mayor

S/S. Bowlin
Interim City Clerk/
City Treasurer

Resolution 976

Council Member Harimon made a motion to approve Resolution #976 to set property tax request for 2020-2021 fiscal year; seconded by council member Edmunds. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

RESOLUTION SETTING THE PROPERTY TAX REQUEST - RESOLUTION NO. #976

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the Governing Body of the City of Bayard passes by a majority vote a resolution or ordinance setting the tax request; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request;

NOW, THEREFORE, the Governing Body of the City of Bayard resolves that:

1. The 2020-2021 property tax request be set at \$ 177,255.00.
2. The total assessed value of property differs from last year's total assessed value by 1%.
3. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$ 0.49670 per \$100 of assessed value.
4. The City of Bayard proposes to adopt a property tax request that will cause its tax rate to be \$ 0.499875 per \$100 of assessed value.
5. Based on the proposed property tax request and changes in other revenue, the total operating budget of the City of Bayard will increase last year's by 9.68%.
6. A copy of this resolution be certified and forwarded to the County Clerk on or before October 13, 2020.

S/G Schmall
Mayor

S/S Bowlin
Interim City Clerk/
City Treasurer

Mayor Schmall closed the Public Hearing at 7:08 pm.

PUBLIC HEARING

Mayor Schmall opened the Public Hearing for the recommendation from Planning Commission for the vacation of 11th Street, Nebraska Ave, and the alley between lots 1-12 Block 11, at 7:10 pm:

Joe Romero spoke on behalf of the Planning Commission; Shirley Rodgers spoke to council about the pieces of land described above and how they are all really contained as part of the land that she owns. She is asking the city to vacate them to clear up some title issues. Without any other comments from the public Mayor Schmall closed the public hearing at 7:13 pm.

Council Member Edmunds made a motion to waive the three readings for Ordinance #842. Seconded by council member Newhoff. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Motion declared suspended by Mayor Schmall.

Council Member Newhoff made a motion for final passage of Ordinance #842. Seconded by council member Marquez. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Mayor Schmall declared it passed, adopted, and ordered it published.

ORDINANCE NO. 842

AN ORDINANCE OF THE CITY OF BAYARD, NEBRASKA VACATING A BLOCK, STREETS AND ALLEY OF THE CITY; PROVIDING FOR RESERVATION IN FAVOR OF THE CITY OF UTILITY EASEMENTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BAYARD, NEBRASKA AS FOLLOWS:

Section 1: Pursuant to Neb. Rev. St. § 17-558, the following described property within the City of Bayard is hereby vacated:

Block 11, Original Town Addition, City of Bayard, Morrill County, Nebraska;

And

The alley adjacent to Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, Block 11, Original Town Addition, City of Bayard, Morrill County, Nebraska;

And

Nebraska Avenue adjacent to Block 11, Original Town Addition, City of Bayard, Morrill County, Nebraska;

And

11th Street (Harrison Avenue) adjacent to Block 11, Original Town Addition, City of Bayard, Morrill County, Nebraska;

All per the attached Record of Survey

Section 2: The City of Bayard reserves to the City the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated; and any easement for public utilities, cable television systems, including the right to maintain, repair, renew and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed.

Section 4: This Ordinance shall be effective upon its passage, approval and publication according to law.

PASSED AND APPROVED this 8th day of September 2020.

S/G Schmall
Mayor

S/S Bowlin
Interim City Clerk/
City Treasurer

PUBLIC HEARING

Mayor Schmall opened the Public Hearing for the recommendation from Planning Commission for the addition of Lots 9-15, Block 10 of South Bayard to the Mixed Use Zone Overlay at 7:17 pm:

Joe Romero spoke on behalf of the Planning Commission and stated the Commission voted unanimously for approval. Without any other comments from the public Mayor Schmall closed the public hearing at 7:20 pm.

Council Member Harimon made a motion to waive the three readings for Ordinance #841. Seconded by council member Newhoff. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Motion declared suspended by Mayor Schmall.

Council Member Newhoff made a motion for final passage of Ordinance #841. Seconded by council member Harimon. ROLL CALL: AYES: Harimon, Marques, Newhoff, Valentine, Ouderkirk, and Edmunds. NAYS: None. Mayor Schmall declared it passed, adopted, and ordered it published.

ORDINANCE NO. 841

AN ORDINANCE OF THE CITY OF BAYARD AMENDING THE OFFICIAL ZONING MAP; APPLYING THE COMMERCIAL/RESIDENTIAL MIXED-USE OVERLAY ZONE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BAYARD, NEBRASKA, AS FOLLOWS:

Section 1: The Commercial/Residential Mixed-Use Overlay shall be applied to the following lots:

Lots 9-15, Block 10, South Bayard Addition

Section 2: The official zoning map of the City of Bayard shall be amended to correspond with the addition of the Commercial/Residential Mixed-Use Overlay Zone to these lots.

Section 3: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4: This Ordinance shall become effective after its passage, approval, and publication according to law.

PASSED AND APPROVED this 8th day of September 2020.

S/G Schmall
Mayor

S/S Bowlin
Interim City Clerk/
City Treasurer

PUBLIC BID

City Attorney Ost diek provided auctioneering services for Resolutions #975 at 7:25 pm sale of real estate Lot 1-2, Block 7, East Addition with a minimum bid of \$1,500.00. No one bid and the bidding was closed 7:26 pm.

LAGOON DISCHARGE PROJECT UPDATE

Mike Olsen with MC Schaff & Associates gave an update on the Lagoon Discharge project. Mike stated that pipe has been laid between Stations 24+00 and 83+00; lids for cleanouts are poured. The bore under the railroad, DIP under Wildhorse Drain, and final grading and gravel are all that need to be completed to finish that stretch of the project. There will be a change order for the next council meeting with a savings for dewatering.

Council member Edmunds made a motion to approve Pay App #2 in the amount of \$140,744.35. Seconded by Council member Ouderkirk. ROLL CALL: AYES: Edmunds, Newhoff, Valentine, Marquez, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

Council member Newhoff made a motion to approve MC Schaff invoice #20312 in the amount of \$31,149.75. Seconded by Council member Harimon. ROLL CALL: AYES: Edmunds, Newhoff, Valentine, Marquez, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

SDL FOR HEIRLOOM MARKET

Council Member Newhoff made a motion to approve a SDL liquor license for Tonia Verbeck and the Heirloom Market being held October 10th, 2020; seconded by council member Edmunds. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

LB840 RECOMMENDATION

Council Member Ouderkirk made a motion to approve a loan grant combination for Tonia Verbeck and the Heirloom Merchantile in the amount of \$12,325; \$6,000 grant and \$6,325 loan to be paid back in three years; seconded by council member Marquez. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

ACCEPTANCE OF USDA GRANT

Council Member Newhoff made a motion to accept USDA grant funds in the amount of \$14,200 for police vehicle and equipment; seconded by council member Ouderkirk. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

CHARTER CABLE FRANCHISE

Council Member Edmunds made a motion to renew the city cable franchise agreement with Spectrum-Mid-America; seconded by council member Harimon. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

CHIMNEY ROCK VILLA

1. It has been a busy week at the Villa! Last week CMS announced that they would be coming out with new testing guidelines. They became a rule yesterday. Depending on the positivity rate in the nursing facilities county (which CDC figures differently than our health districts because they use a different denominator), will determine the facility's testing frequency. Morrill County is at 6.2%, we now have to test weekly. (If the rate was below 5%, then we are only required to test monthly. CMS has mailed out POC test kits to every facility in the nation. As of yesterday, 48ish facilities in Nebraska had received theirs, us NOT being one of them. So we must document that we don't have our machine and kits so we can't test and then try to find an alternate way to test. We've been told by the State and PPHD not to use testNebraska yet, because it would overwhelm them. So I will be talking to MCCH to see if they can test us. We should receive our kits this week.
2. If we have one positive that is considered an outbreak, then we have to test everyone every 3-5 days until we don't have a positive for 14 days. If the county's positivity rate goes above 10%, we have to test twice a week.
3. CMS wants a 48 hour turn around period. testNebraska has a 3-5 day turnaround period, so we just need to document that. As soon as our kits get here, we'll be fine. Although there is not an indefinite supply of test kits, so we will have to purchase those. I've heard they are \$24-32/test, but I honestly have no idea. We have to test EVERYONE that enters the building?
4. The compressor on an RTU went out. We are getting a few bids. The last one was 12k.
5. The Fire Marshall was here 9/3 for the ALF. There was a closet that had items stacked too high, but in all reality, the shelf is too high anyway and shouldn't be used for storing items.
6. They are installing our new phones!!
7. Work has begun on wireless upgrade.
8. We are taking the residents to the golf course for lunch and out to Schmunk's pit to fish.
9. We received our SOD (statement of deficiencies) today. We were cited for this at our annual survey, so not really happy to have to rewrite a plan of correction. I also sent the letters we received and the 2567 for your viewing.
10. Staffing....an agency night nurse and 2 agency night aides. We did hire a PT noc RN that started this week. Still trying to replace the aides that are going to school. We also need a couple housekeepers and a dietary aide.

Council member Edmunds moved to approve the Chimney Rock Villa Bills & Claims for \$223,350.89. Seconded by council member Harimon. ROLL CALL: AYES: Marquez, Newhoff, Edmunds, Valentine, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

APPROVAL OF BILLS

Council member Ouderkirk moved to approve Fire Chief Payroll in the amount of \$300.00. Seconded by council member Valentine. ROLL CALL: AYES: Marquez, Valentine, Newhoff, Ouderkirk, and Edmunds. Abstain: Harimon. Motion declared carried by Mayor Schmall.

Council member Newhoff moved to approve all city bills and claims as presented. Seconded by council member Marquez. ROLL CALL: AYES: Marquez, Valentine, Newhoff, Harimon, Ouderkirk, and Edmunds. NAYS: None. Motion declared carried by Mayor Schmall.

A & A Porta Potties \$135.00; Action Communications \$34.70, Advancing Technology \$349.43, Aflac \$1,277.34, Airgas \$32.62; AST \$49.90, Ameritas \$131.20, Axon Enterprise \$1676.00; Bayard Automotive \$65.84, Bayard Rural Fire \$49.93, Tiger Paws \$915.01, Black Hills Energy \$341.91, BCBS \$12,074.49, Border States \$12,469.36, Centurylink-Phoenix \$122.46; Charter \$1,036.30, Child Support of WY \$298.14, CLIA Laboratory Program \$180.00; Connecting Point \$137.59, Country Magazine \$15.00; Credit Management \$63.92, Croell \$423.75; Culligan \$164.00; Dollar General \$99.00, Douglas & Kelly law Office \$1,805.25, Zak Douglass \$32.69; Dutton Lainson Co \$7,859.70, Enviro Service \$40.00, Flatwater Veterinary \$75.96; Fyr-Tek \$2,006.75; General Consolidated \$92.38; Great America Financial \$235.00, William Halligan \$132.62; Hawkins \$1531.90, Ideal \$371.20, Infinity Construction \$26,538.27; Ingram \$1,162.14, Sam Jackson \$124.03; Jirdon \$621.80; Kuskie Reifschneider \$21.57;; League of NE Municipalities \$832.00; Lincoln Nat'l Life \$194.64, Menards \$69.96, Midwest Salt \$5,339.71, Morrill Co

Attorney \$150.00, Morrill Co Sheriff \$1,000.00, MEAN \$36,927.30, Municipal Supply \$2,169.28; NE Child support \$1,650.96, NE Law Enforcement Training \$144.00; NE Public Health \$16.00; NPPD \$49.50, Northwest Pipe \$593.29, NSA POAN Conference \$120.00; One America \$1,259.15, One Call Concepts \$43.39; People Magazine \$40.00; Powerplan \$842.62; Principal Financial Group \$365.59; Reganis Auto Ctr \$2361.43; Rocky Mtn Air Solutions \$124.70, Russell Industries \$118.49; Simon Materials \$1,695.34, Simplot \$1,430.00, Star Herald \$27.99; Sterling Computers \$860.00; Stan Tavenner \$121.07; Transcript \$64.24, US Bank \$2,308.51, USA Containers \$3,174.00; Viaero \$290.44, Waste Connections \$10,376.15, Wells Fargo \$559.56, Western States Bank \$503.06, Eric Wilcox \$50.00; Wyoming First Aid \$94.25; Payroll \$49,980.20 Total =\$209,165.45.

UTILITY REPORT – Trimmed trees, swept streets, handled meter orders and line locates, mowed and weeded lots, changed out electric meters, patched street in preparation for chip seal project.

PARK AND GOLF REPORT – Mosquito spraying, still repairing sprinklers, mowed and weeded parks, sprayed parks, Jeff is out with broken foot.

POLICE REPORT – The police have been busy, and will have August and September reports for next council.

LIBRARY REPORT – There were 458 books checked out in the month of August, the computer was used 8 times, 106 books checked out through overdrive, the library has a new Website (libraries.ne.gov/bayard)

OFFICE REPORT – City clerk put in letter of resignation, new credit card processing is set up and ready to start being used, and state budget needs to be submitted by the 20th.

BAYARD FIRE DEPT REPORT – Chiefs Report: 2 Grass fires, 8 people - 24 man hours; 1 mutual aid call, 1 Other 7 people, 3 ½ man hours; Rescue Report: 4 calls 109.9 miles 3.04 man hours, 1 no transport, 1 Valley Ambulance transport, Training Report: 11 people – 33 man hours drafting & wildland fires.

CONSENT AGENDA

Council member Harimon moved to approve the consent agenda which included minutes from August 11th minutes; Treasurer's reports, and operational budget. Seconded by council member Valentine. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

LIBRARY DIRECTOR PAY

Library director Becky Henkel and Library Board member Linda Safford were present to speak on behalf of switching library director to salaried pay, neutral to current wage. Council member Harimon moved to approve moving the library director to a salaried position. Seconded by council member Ouderkirk. ROLL CALL: AYES: Marquez, Newhoff, Edmunds, Ouderkirk, and Harimon. NAYS: Valentine. Motion declared carried by Mayor Schmall.

RESOLUTION #977

Council Member Newhoff made a motion to approve Resolution #977 Municipal Annual Certification of Program Compliance; seconded by council member Edmunds. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

RESOLUTION 977

MUNICIPAL ANNUAL CERTIFICATION OF PROGRAM COMPLIANCE FORM 2020

Whereas: State of Nebraska Statutes, sections 39-2115, 39-2119, 39-2120, 39-2121, and 39-2520(2), requires an annual certification of program compliance to the Nebraska Board of Public Roads Classifications and Standards; and

Whereas: State of Nebraska Statute, section 39-2120 also requires that the annual certification of program compliance by each municipality shall be signed by the Mayor or Village Board Chairperson and shall include a copy of a resolution of the governing body of the municipality authorizing the signing of the certification form.

SG Schmall
Mayor

S.S. Bowlin
Interim City Clerk/
City Treasurer

RESIGNATION OF CITY CLERK

Council Member Harimon made a motion to approve the resignation of City Clerk Samantha Jackson, effective immediately; seconded by council member Marquez. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

Council Member Newhoff made a motion to appoint City Treasurer to Interim City Clerk effective immediately; seconded by council member Valentine. ROLL CALL: AYES: Marquez, Newhoff, Valentine, Edmunds, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

PUBLIC COMMENT

John Royle asked council where the city was with his neighboring property that needs to be cleaned up.

ADJOURNMENT

Council member Newhoff moved to adjourn at 8:12 P.M. Seconded by council member Harimon. ROLL CALL: AYES: Marquez, Newhoff, Edmunds, Valentine, Ouderkirk, and Harimon. NAYS: None. Motion declared carried by Mayor Schmall.

S\G Schmall

Mayor

S\S Bowlin

Interim City Clerk/

City Treasurer