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The Christmas City
Minden NEBRASKA

Minutes of Council Meeting
City of Minden, Nebraska
July 1, 2024

The City Council of the City of Minden, Nebraska, met on this day at 6:00 p.m. in regular session in the Council Chambers, pursuant to advance notice of said meeting simultaneously transmitted to all members of the Council and to the public as shown by the copy thereof posted in the Minden City Hall, Outside the Minden City Hall, First Bank & Trust Co., Minden Exchange Bank & Trust Co., and the Post Office. A copy of the notice is on file in the office of the City Clerk.

Mayor Evans called the meeting to order at 6:00 p.m. The following City Council members were present: Jarvis Kring, Teresa Sumstine, Jack Yant, and Alyssa Schneider. The following City Officials were present: City Attorney Andrew Olson, Mayor Larry Evans, and City Clerk Administrator Michael Krings. Absent: City Clerk Abbey Jordan.

All proceedings hereinafter were taken while the convened meeting was open to the attendance of the public.

After roll was called, Mayor Evans led those in attendance in the Pledge of Allegiance.

Then Evans made the following statement:

> "Pursuant to the Open Meetings Act and Public Records Law Requirements a current copy of the Open Meetings Act is posted for public inspection on the east wall of the Council Chambers. In addition, for public inspection, there is located on the table to the south of the chairs in the Council Chambers, a copy of the Council packet that was distributed to the members of the Council prior to this meeting.
>
> The council will take comments on an agenda item, not related to a public hearing, during the public forum only. Please state your name and address prior to commenting."

Agenda Item #3, Public Forum. Sam Hansen stated he believes there are a few gray areas on the proposed ordinance that need to be addressed.

Agenda item #4, Council Announcements. Schneider stated there is a barrier setup at the end of the sidewalk in MWE II leading to First Street. M. Krings reminded all of the Fireworks show on Tuesday, July 2nd and Pioneer Village's Independence Day celebration on the upcoming weekend.

Agenda Item #5, The following items were listed under the agenda item "**consent agenda**" for this meeting:

a. Consider Approval of Minutes of Previous City Council Meetings
b. Consider Approval of Bills & Claims for this Council Meeting excluding the Police Department
c. Consider Approval of Cafeteria Plan Reimbursements for this Council Meeting
d. Consider Acceptance of Excused Absence of Mayor or Council Member(s)
e. Consider Reports that are Enclosed in the Council Packets for This Council Meeting
f. Consider Approval of Special Designated Liquor Permits for Club 5216, LLC for August 24, 2024 from 5 pm to 11 pm at the Kearney County Fairgrounds.

7aa Investments--Supplies $123.97, A. Lux--Fees $720.00, A. Nantkes--Uniforms $49.22, B&D Diamond Pro--Supplies $5,990.00, Black Hills Gas Holdings, Llc--Utilities $43.33, Capital One--Supplies $390.43, Clia Laboratory Program--Fees $248.00, Community Action Partnership Of Mid Nebraska--Fees $5,000.00, Construction Rental, Inc.--Rental $55.00, Core & Main Lp--Supplies $378.49, Dana F Cole & Company, Llp--Fees $30.00, Dier,Osborn & Cox, P.C., L.L.O--Legal $14,723.75, Dutton Lainson Co--Supplies $2,954.49, Eakes Office Plus--Supplies $223.09, Electric Pump--Repairs $1,559.26, Grayson Tool, Inc--Supplies $170.20, Hawkins Water Treatment--Chemical $2,840.92, Hd Supply Facilities Maintenance Ltd--Repairs $7,362.80, Jims Ok Tire Minden Llc--Repairs $2,050.74, John Deere Financial--Repairs $1,846.05, Ke Co Treasurer--Fees $5,683.33, Kearney Co. Clrk Myra Johnson--Fees $100.00, Landmark Implement Carquest--Supplies $57.03, Mason's Market--Supplies $695.45, Menards Of Kearney--Supplies $219.33, Minden Exchange Bank & Trust C--Financing $6,050.40, Minden Lawn & Sprinkler--Repairs $2,000.00, Minden Utility Dept.--Utilities $4,958.91, Napa Auto Parts--Supplies $89.23, Nphe--Fees $16.00, Nppd O&M--Maintenance $2,985.13, On Tech Concepts Llc--Supplies $1,075.00, P. Jensen--Repairs $125.00, Platte Valley Communications Of Kearney, Inc.--Repairs $50.00, Presto X Co.--Maintenance $157.61, Reams Sprinkler Supply Co--Supplies $58.99, Revenue Bond Payment Account--Fees $13,850.00, S. Anderson--Incentive $228.80, Syndicate Publishing, L.L.C.--Fees $84.75, Travelers--Insurance $1,024.00, T. Lemke--Repairs $952.33, United Parcel Service--Fees $39.82, Van Diest Supply Co--Chemical $5,335.00, Verizon Wireless--Phone/Internet $791.56, Village Cleaners Inc--Uniforms $231.26, 6-28-24 Payroll $73,172.81.

Schneider motioned to approve the consent agenda and J. Kring seconded. On roll call, the following voted aye: J. Kring, Sumstine, Yant, and Schneider. Motion carried.

Agenda Item #6, Consider Approval of Police Department's Bills & Claims for this Council Meeting.

Schneider motioned to approve the Police Department's Bills & Claims for this Council Meeting and Sumstine seconded. On roll call, the following voted aye: Sumstine, Yant, and Schneider. Abstain: J. Kring. Motion carried.

Agenda Item #7, Consider Approval of Ordinance Amending Chapter 50, Article III and Sections 50-41 through 50-49; as the Same Relates to Offenses Against the Public Peace in the Minden Municipal Code, First Reading.

Sumstine motioned to discuss approving Ordinance No. 1294. Schneider seconded. Motion was not voted on.

Yant stated he believed the ordinance would be enforced after a citizen complaint. Hansen disagreed stating it's not defined in the ordinance. Sumstine conferred. Olson stated this ordinance would be enforced by the police. Hansen was concerned about freedom of speech.

J. Kring stated the proposed ordinance is the same as the City of Kearney as has been through their court system. Brad Butler, Chief of Police, stated this ordinance can be enforced before there is a victim.

Sumstine questioned the procedure of misdemeanors and jail time. Olson replied these would only be applied if convicted of the crime by a judge. State statutes outlines the procedures of a conviction. Sumstine wished to have the ordinance mirror state statute. Olson clarified that there are various portions of state statutes for this.

Sumstine asked about how the ordinance would be applied to minors. She described previous experiences she had with a minor being singled out. M. Krings stated all laws and ordinances are up to the officer's interpretation. It is nearly impossible to put together laws for very specific situations. This provides the officers the ability to step in when needed.

Sumstine questioned the unlawfully assembly clause. M. Krings clarified that people outside a business would not be obstructing the business and would not be considered unlawfully assembly.

Evans also asked about loud noise complaints. Butler stated they would reference the state statutes for disturbing the peace for loud noise complaints.

Sumstine asked about the process for warnings and violations. Butler replied there is no set process, and each situation would be different. The situation may warrant just asking people to stop or they may need to be arrested depending on the severity. Sumstine asked again about the process. J. Kring stated it is officer discretion. Butler stated they will do what is needed to remedy the problem.

Sumstine asked to make clarifications in the ordinance making it more specific. Olson recommended not making any changes to the ordinance as it's been working in Kearney. Butler stated the police department's goal is to maintain peace.

Sumstine asked if a clause can be added that this cannot be used to suppress free speech? Butler stated the right to free speech can be lost. People do not have the right to say anything at any location. Sumstine asked if the ordinance applies to the entire city? Butler clarified that it doesn't apply to inside a house, but it otherwise applies.

Schneider introduced Ordinance N. 1294 for its first reading:

ORDINANCE NO. 1294

AN ORDINANCE TO AMEND CHAPTER 50 OF THE MUNICIPAL CODE OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA, BY AMENDING ARTICLE III, SECTIONS 50-41, 50-42, 50-43, 50-44, 50-45, 50-46, 50-47, 50-48, AND 50-49; AS THE SAME RELATES TO OFFENSES AGAINST THE PUBLIC PEACE WITHIN THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA.

Section 1. That Chapter 50, Article III of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Article III. Offenses Against the Public Peace.

Section 2. That Section 50-41 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-41. Disorderly Conduct.

A. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

PUBLIC PLACE shall mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purposes, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

RIOT shall mean a public disturbance involving: an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons, which act or acts shall constitute a clear and present danger of or shall result in damage or injury to the property of any other person or to the person of any other individual; or a threat or threats of the commission of an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of or would result in damage or injury to the property of any other person or to the person of any other individual.

INCITE A RIOT shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or the expression of beliefs, not involving advocacy of any act or acts of violence or assertion of the rightness of or the right to commit any such act or acts.

B. Disorderly Conduct Prohibited. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his/her conduct is likely to cause public danger, alarm, disorder or nuisance, he/she willfully does any of the following acts in a public place:

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his/her life, limb or health;
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
4. Interferes with another's pursuit of a lawful occupation by acts of violence;
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the City Police or other lawful authority known to be such;
6. Resists or obstructs the performance of duties by Police officer(s) or any other authorized official of the City, when known to be such an official;
7. Incites, attempts to incite or is involved in attempting to incite a riot;
8. Addresses abusive language or threats to any member of the Police Department, any other authorized official of the City who is engaged in the lawful performance of his/her duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;

9. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition;
10. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed or the traveling public is annoyed;
11. Fails to obey a lawful order to disperse by a police officer, when known to be such an official, where one (1) or more persons are committing acts of disorderly conduct in the immediate vicinity and the public health and safety is imminently threatened;
12. Uses abusive or obscene language or makes an obscene gesture.
13. Urinates and/or defecates in public and/or in the view of the public.

C. Exemptions. This section shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion not in contravention of other laws.

Section 3. That Section 50-41 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-42. Disturbing Assemblies.

It shall be unlawful for any person within the City to disturb the peace and quiet of any public assembly of persons for religious worship or for any other purpose by any loud or unusual noise, boisterous laughing or talking or by any other manner whatsoever.

Section 4. That Section 50-43 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-43. Disturbing the Peace.

Any person who shall intentionally disturb the peace and quiet of any person, family or neighborhood commits the offense of disturbing the peace.
Any person, partnership, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not more than three hundred ($300.00) dollars for each offense. Each separate act of violation of the terms of this section shall constitute a separate offense.

Section 5. That Section 50-44 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-44. Loud Noise.

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system,

or similar device which reproduces or amplifies radio broadcasts, or musical recordings, in or upon any street, alley, or other public place in such a manner as to be audible to other persons in such public place or places more than fifty (50) feet from the source. Persons operating such devices while participating in licensed or permitted activities such as parades shall not be deemed to be in violation of this section.

Section 6. That Section 50-45 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-45. Unlawful Assembly.

It shall be unlawful for two (2) or more persons to assemble together within the City upon any sidewalk or street thereof, in front of or adjacent to any store, shop or other place of business so as to obstruct the public right-of-way along the street or sidewalk, or entrance of the place of business, or so as to obstruct or injure the carrying on of any lawful business in any of the places aforesaid.

Section 7. That Section 50-46 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-46. Disorderly House; Maintaining.

The term "disorderly house" as used in this section shall be deemed to be any room, house, building, structure or premises where unlawful or illegal acts are being committed. It shall be unlawful for the owner, lessee or proprietor of any room, house, building, structure or premises to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act, or to knowingly make, cause, permit or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood.

Section 8. That Section 50-47 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-47. Inmate of Disorderly House.

It shall be unlawful for any person to be an inmate of or visit or frequent any disorderly house as declared in the above section with knowledge of, and participating in the illegal activities occurring therein.

Section 9. That Section 50-48 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-48. Failure to Disperse.

A. Whenever a police officer has probable cause to believe that a person or persons are creating a disturbance of the peace and quiet of any person or neighborhood, such police officer may order said person or persons not

residing on the premises to disperse for the purpose of abating said disturbance.

B. It shall be unlawful for any person to refuse to comply with a lawful order to disperse given by a police officer in the performance of the officer's duties under this section.

Section 10. That Section 50-49 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-49. Penalty.

A. Any person, partnership, firm or corporation violating any of the provisions of section 50-41, 50-43, 50-46, 50-47 or 50-48 shall be deemed guilty of a misdemeanor.
   a. The violation shall be punished by a fine not exceeding three hundred dollars ($300.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the court; and such violator may be committed to the City or County jail until such fine and costs of prosecution are paid.
   b. Each day any such violation occurs shall constitute a separate offense.

B. Any person, partnership, firm or corporation violating any of the provisions of Sections 50-42, 50-44, or 50-45 shall be deemed guilty of an infraction, and, upon conviction, shall:
   a. For the first (1st) offense, be fined not more than one hundred dollars ($100.00);
   b. On a second (2nd) conviction for the same infraction within a two-year period, be fined not less than one hundred dollars ($100.00) and not more than three hundred dollars ($300.00);
   c. On a third (3rd) or subsequent conviction for the same infraction within a two-year period be fined not less than two hundred dollars ($200.00) and not more than five hundred dollars ($500.00). Any person charged with commission of an infraction which was committed more than two (2) years after such person's last conviction for the same infraction shall be charged as though the most recent infraction was a first offense.
   d. Each distinct act or violation of the terms of sections shall constitute a separate and distinct offense.

Section 11. This ordinance shall be known as Ordinance No. 1294 and shall be in full force and effect from and after its passage, approval and publication according to law.

Yant seconded. On roll call, the following voted aye: Yant and Schneider. Nay: Sumstine. Abstain: J. Kring. Motion carried.

Agenda Item #8, Consider Approval of Purchase and Installation of HVAC Replacement Unit for the Fire Hall Meeting Room of $16,500 from Mid Plains Heating & Air.

Yant motioned to approve the Purchase and Installation of HVAC Replacement Unit for the Fire Hall Meeting Room of $16,500 from Mid Plains Heating & Air. Schneider seconded. Yant asked if this went out for bids? M. Krings replied no. Mid-Plains currently services this unit and has been warning us that it will need replaced for the past couple of years. Evans added the local heating and air companies do not deal with rooftop units.

On roll call, the following voted aye: J. Kring, Sumstine, Yant and Schneider. Motion carried.

Agenda Item #9, Consider Approval of Claim of $2,000 to Minden Lawn and Sprinkler for Fertilizing, Aeration, and Overseeding of the Legion Ball Field.

Sumstine motioned to approve the claim of $2,000 to Minden Lawn and Sprinkler for Fertilizing, Aeration, and Overseeding of the Legion Ball Field. Schneider seconded. On roll call, the following voted aye: J. Kring, Sumstine, and Schneider. Abstain: Yant. Motion carried.

Agenda Item #10, Consider Adjournment

Schneider motioned to adjourn at 6:37 pm and Yant seconded. On roll call, the following voted aye: J. Kring, Sumstine, Yant, and Schneider. Meeting adjourned.

/s/ Larry Evans
Larry Evans, Mayor

Attest:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

(SEAL)