

**Unapproved Minutes of
REDFIELD CITY COUNCIL**

September 4, 2007

7:00 PM

The City Council met in regular session at City Hall on Tuesday, September 4, 2007 at 7:00 PM.

MEMBERS PRESENT: Mayor Duane Sanger, Norm Sihrer, Eileen Kearney, Lue Anne Keating, Darrell Ronnfeldt, Kenneth Avery, Larry Eldeen, Richard Gallup, Frank Schwartz, and City Attorney James Hare

STAFF PRESENT: Adam L. Hansen

VISITORS: Larry & Brenda Ernster, Paul Shantz, Shirley Guenthner, Bill Jockheck, Chad Morgan, Herb Jockheck, Joseph Noyes, Robin Flint

CALL TO ORDER: Mayor Sanger called the meeting to order at 7:00 PM.

ADOPT AGENDA: Motion by Sihrer, seconded by Avery to amend the agenda to add Pay Request #2 to Gray Construction and a bill for reimbursement to Ed Sooter for supplies. Motion carried.

MINUTES: Motion by Schwartz, seconded by Keating to approve the August 20, 2007 minutes. Motion carried.

REPORTS:

HOSPITAL REPORT: Motion by Ronnfeldt, seconded by Avery to accept the Community Memorial Hospital and Clinic Board Minutes dated August 27, 2007, and place on file. Motion carried. Fixing the basement floor was discussed by Ronnfeldt.

LIBRARY REPORT: Motion by Sihrer, seconded by Avery to accept the Library Board Minutes dated August 27, 2007, that were distributed and place on file as presented. Motion carried.

BID OPENINGS AND AWARDS:

Mayor Sanger informed the Council that the City had not received any bids on the surplussed Fire Engine.

VISITORS:

Chad Morgan – Titan Machinery: Morgan appeared before the Council representing Titan Machinery to address a new front end loader for the Street Dept. He explained that the City of Redfield could use an existing bid from the City of Aberdeen from January 2007 of \$125,859 for a 721 E loader, and Titan Machinery can sell from that bid for one year. The City's loader is five years old and has 2600 hours. The City currently has a 621D model and would like to go up one size to a 721E model with a 3.5 yard bucket. The bid is set up with a quick coupler for quick attachment that will handle a large snow blower, and the bid has a five-year full machine warranty. The Council will consider this option.

Exit: Morgan @ 7:27 pm

Paul Shantz - F & L Development: Shantz appeared before the Council to request permission to install one six inch sewer line and not use the existing two four inch sewer lines. The existing lines are under the driveway right now at the four-plex. Gallup explained why the sewer line was placed where it is, and also explained that the Street Dept. hauled 80 loads of gravel on that road. The curb and gutter is now installed, and everything is starting to look nice out there. The State plumbing code was discussed. Schantz stated that the excavator will pay all the costs and repair the street to the City's specifications. Motion by Schwartz, seconded by Ronnfeldt to approve a six inch line contingent upon the excavator replacing the street back to pre-construction shape with no cost to the City. Motion carried.

Exit: Shantz @ 7:42 pm

Herb Jockheck & Joseph Noyes – RHS Student Council: Herb Jockheck and Joseph Noyes appeared before the Council to ask permission to hold the Homecoming dance in the City Park. They would like to have it outside because the armory gets so hot. The dance will be held at one of the picnic shelters. RHS staff will be in charge of the dance and will supervise. Motion by Eldeen, seconded by Keating to allow the student council to hold the dance in the park. Motion carried.

Exit: H. Jockheck, Noyes, and Flint @ 7:48 pm

PUBLIC HEARINGS:

Variance 1102 Main Street - Mayor Sanger opened the public hearing on the variance application for the property located at 1102 Main Street in the City of Redfield at 7:51 pm. Larry Ernster and Bill Jockheck testified about the alley, rear setbacks, and where the structure would be built. The hearing was declared closed at 8:00 pm. Motion by Gallup, seconded by Schwartz to approve the variance with an 8 foot setback from the alley. Motion carried.

Exit: B. Jockheck, Guenthner, L. Ernster and B. Ernster @ 8:02 pm

Variance 1026 3rd Street West - Mayor Sanger opened the public hearing on the variance application for the property located at 1026 3rd Street West in the City of Redfield at 8:02 pm. Mayor Sanger read a letter of support from a neighbor. The hearing was declared closed at 8:07 pm. Motion by Schwartz, seconded by Eldeen to approve the variance with an 8 foot setback from the alley. Motion carried.

2007-08 On-Off Sale Malt Beverage License - Mayor Sanger opened the public hearing on the application for the 2007-2008 on/off sale malt beverage license in the City of Redfield at 8:08 pm. There being no one present to testify at the hearing and no written comments received, the hearing was declared closed at 8:09 pm. Motion by Schwartz, seconded by Gallup to approve the license. Motion carried.

OLD BUSINESS:

Notice of Abatements Served – City Attorney Hare thanked the City Street Dept. for filling in the basement at 210 5th Street West. The property at 411 3rd Street East. was discussed.

NEW BUSINESS:

2008 SD Parks & Recreation Association Membership – Motion by Eldeen, seconded by Sihrer to approve membership in the SD Park & Recreation Association at an annual cost of \$20 and send

Parks Director Albrecht to the SDPRA/NDPRA Joint Conference September 18-20 in Aberdeen. Motion carried.

Legal Services Agreement - Mayor Sanger read the loan agreement between the City of Redfield and Todd Meierhenry of Danforth & Meierhenry. The agreement is for the Main Street/6th Avenue Project. The City of Redfield will pay the attorney one percent of the loan amount. Motion by Schwartz, seconded by Sihrer to approve the agreement. Motion carried.

Payment – State Dental Program – Motion by Schwartz, seconded by Eldeen to approve a \$17,701 payment to the State Dental Program. This payment is the third and final payment. Motion carried.

Change Order – Olson Construction – Motion by Gallup, seconded by Schwartz to approve Change Order No. 2 to Olson Construction in the amount of (-\$2500). Motion carried. A trash basket will be eliminated from the wet well.

Pay Request No. 1 for Johnson Construction – Motion by Gallup, seconded by Eldeen to approve Pay Request No. 1 to Johnson Construction in the amount of \$11,123.10. Motion carried. Gallup explained that landowners will reimburse the City for their portion of curb and gutter.

Pay Request No. 2 Gray Construction – Mayor Sanger received a letter from HKG regarding Pay Request No. 2 from Gray Construction. The pay request is for \$18,250.20 for work at the library and materials. Gallup mentioned that pay requests should be submitted to the Finance Office by Friday at noon preceding a council meeting. Motion by Schwartz, seconded by Eldeen to approve pay request No. 2 for \$18,250.20 to Gray Construction. Motion carried on a roll call vote with all members voting “Yes.”

Reimbursement to Ed Sooter – Sooter purchased 18 bags of rock at a total cost of \$71.10 to be used at the Abby Gardner monument. Motion by Schwartz, seconded by Kearney to reimburse Sooter for the materials purchased. Motion carried on a roll call vote with all members voting “Yes.”

ORDINANCES AND RESOLUTIONS:

Ordinance No 09-2007 - Hansen gave the First Reading of **Ordinance No. 09-2007** (2008 Appropriations). A discussion was held on various topics. Motion by Gallup, seconded by Schwartz to pass the First Reading of Ordinance No. 09-2007. Motion carried on a roll call vote with all members voting "Yes."

Resolution No. 2007-09 (Bonding Resolution) was read by Hare. The resolution pertains to the Main Street/6th Avenue Project.

RESOLUTION No. 2007-09

RESOLUTION, GIVING APPROVAL TO THE ISSUANCE OF SALES TAX REVENUE BONDS TO FINANCE A PORTION OF THE COSTS OF THE STREET IMPROVEMENT PROJECT AND AUTHORIZING THE SALE OF SAID SALES TAX REVENUE BONDS

NOW, THEREFORE, BE IT RESOLVED by the City Common Council of the City of Redfield as follows:

1. Recitals. The City of Redfield (the "City") desires to make a capital improvement to and finance its Street Project (the "Project") which it has previously approved. The City has requested the United States through Rural Development to guarantee a portion of the bonds. The City desires to privately place the bonds.
2. Authority. The City is authorized to issue its Sales Tax Revenue Bonds, Series 2007, to finance the capital improvements pursuant to Section 10-52-2.10 of the South Dakota Codified Laws. Pursuant to Chapter 10-52 of the South Dakota Codified Laws (the "Act") the City proposes to issue municipal non ad valorem revenue bonds (as herein authorized, the Sales Tax Revenue Bonds, Series 2007, or the "Bonds") to finance the Project. The City is authorized by the Sales Tax Act to levy a "non ad valorem tax" (as defined by the Act) on the sale, use, storage, and consumption of items taxed under Chapters 10-45 and 10-46 of the South Dakota Laws, subject to certain, as amended, exceptions.
3. Sales Tax Ordinance. The City Common Council has adopted Ordinance No. 8-80 which constitutes the City's effective Sales Tax Ordinance (the "Sales Tax Ordinance"). The Sales Tax Ordinance has been duly adopted pursuant to the Act and effectively and validly imposes the sales and use tax authorized by the Act within the City, such tax being hereinafter referred to as the "Sales Tax".
4. Cost of the Project. The cost of the Project is approximately \$1,224,090. The City proposes to finance approximately \$545,000 of the Project through the issuance of Sales Tax Revenue Bonds, Series 2007 (the "Bonds"). The Bonds shall be payable out of certain available sales tax receipts.
5. Findings. The City Common Council hereby finds and determines as follows:
 - 5.1. The Project constitutes improvements which qualify for the financing under and pursuant to SDCL Chapter 10-52, and the Sales Tax Ordinance; and
 - 5.2. The Sales Tax Revenue Bonds Authorized hereby are being issued to pay costs of the Project which have not been incurred or paid as of the date hereof and/or which the City has heretofore declared its intention to finance with bond proceeds and for which the City has no other available means or source of financing.
 - 5.3. It is in the best interests of the City to authorize the borrowing of funds to pay a portion of the costs of the Project by authorizing and issuing its Sales Tax Revenue Bonds, Series 2007.
6. Sale of Bonds. It is hereby determined to be necessary and in the best interests of the City and its inhabitants that this City Common Council authorize, issue and sell the Bonds (the "Bonds") in order to finance a portion of the cost of the Project. The Mayor and Finance Officer are authorized to negotiate the sale of the Bonds.
7. No Election Required. The Bonds may be issued by the City without an election pursuant to SDCL §10-52-2.10.
8. Form of Bonds. The Bonds shall be prepared in substantially the form on file with the Finance Officer and open to public inspection.

9. Terms of Bonds.

9.1. Date, Amount, Maturities and Interest Rates. The City Common Council hereby authorizes the issuance of the Bonds. The Bonds shall be dated in 2007. The principal amount of the Bonds shall not exceed any statutory or constitutional debt limitation. The Bonds shall have maturities and interest rates as negotiated by the Mayor and Finance Officer. The Bonds shall be callable prior to maturity at the option of the City.

9.2. Preparation and Delivery. The Bonds shall be prepared under the direction of the Finance Officer and shall be executed on behalf of the City by the facsimile or manual signatures of the Mayor and the Finance Officer and countersigned by the facsimile or manual signature of an attorney actually residing in the State of South Dakota and duly licensed to practice therein.

9.3. Security Provisions; Funds and Accounts and Other Covenants and Determinations.

9.3.1. Sales Tax Revenue Bond Fund. The Finance Officer is hereby authorized and directed to establish and shall maintain the Sales Tax Revenue Bond Fund as a separate and special fund in the financial records of the City until all Bonds issued and made payable therefrom, and interest due thereon, have been duly paid or discharged. All collections of the Pledged Revenues, as hereinafter defined, shall be credited, as received, to the Sales Tax Revenue Bond Fund. Within the Sales Tax Revenue Bond Fund are various separate accounts to be maintained by the City. The following accounts may be established as sub accounts under an existing sub account of the Sales Tax Revenue Fund.

9.3.2. Pledged Revenues. Pursuant to the Act and the Sales Tax Ordinance, the City has levied the Sales Tax on the sale, use, storage and consumption of items taxes under Section 10-45 and 10-46 of South Dakota Codified Laws, subject to certain exception. The proceeds of the Sales Tax are irrevocably pledged and appropriated to, and shall be deposited to the Sales Tax Revenue Bond Fund. The total amount of Sales Taxes collected is referred to herein as the "Pledged Revenues". For purposes of this Resolution, "Outstanding Bonds" shall mean these Bonds and any parity lien bonds hereafter issued pursuant to this Resolution. The Pledged Revenues and the Sales Tax Revenue Bond Fund shall be used and applied only in the manner and order hereinafter set forth.

9.3.3. Construction Account. There is hereby created and established as an account of the Sales Tax Revenue Bond Fund, a "Construction Account". There shall be credited to the Construction Account the proceeds from the sale of the Bonds remaining after payment of the expenses of issuing the Bonds. All moneys credited to the Construction Account shall be applied solely to the payment of the costs of the Project. For the purposes of this Resolution, "costs of the Project" shall include costs of acquiring, construction, and installing the Project including cost of labor, services, materials and supplies, financial, architectural, engineering, legal, accounting and other professional expenses relating to the Project, the costs of acquisition or properties, rights, easements, or other interest in properties, insurance premiums, and the costs of publishing, posting or mailing notices in connection with the Project and Bond issuance costs. All sums

derived from the investment of moneys in the Construction Account shall remain in and become part of such account. Upon completion of the Project and when all costs of the Project have been paid, any balance remaining in the Construction Account shall be credited to the Principal and Interest Account hereinafter established.

- 9.4. Principal and interest Account. There is hereby created and established as an account of the Sales Tax Revenue Bond Fund, a "Principal and Interest Account or Revenue Account". Immediately upon delivery of the Bonds, there shall be credited to the Principal and Interest Account the amount of any accrued interest received from the Purchaser. Commencing on the first day of the month following the month in which the Bonds are delivered to the Purchaser, there shall be withdrawn from the Sales Tax Revenue Bond Fund, at least monthly and credited to the Principal and Interest Account an amount which will equal at least (one over the number of months between interest payments) of the interest becoming due on the next succeeding interest payment date with respect to the Outstanding Bonds issued. Commencing on the first day of the month following the month in which the Bonds are delivered to the Purchaser, there shall be withdrawn from the Sales Tax Revenue Bond Fund at least monthly and credited to the Principal and Interest Account, an amount which will equal at least (one over the number of months between principal payments) of the principal becoming due on the next succeeding principal payment date with respect to the Outstanding Bonds. In all events there shall be credited to the Principal and Interest Account amounts sufficient to pay the principal of and interest on the Outstanding Bonds as the same become due.
- 9.5. Reserve Account. On a monthly basis, the City shall pay into the Reserve Account an amount equal to 10% of the maximum debt service due in any future calendar year on, the Bonds. Said balance shall be maintained by such additional credits to the Reserve Account as may be necessary. Moneys on hand in the Reserve Account shall be used only to pay maturing principal and interest when other moneys in the Revenue Bond Account are insufficient therefor.
- 9.6. Subordinate Lien Bonds. After making the above required payments, any remaining Pledged Revenues shall be used for the payment of the principal of and interest on any additional sales tax revenue bonds having a lien which is subordinate to the lien of the Outstanding Bonds, and for a reserve fund as additional security for the payment of such subordinate lien bonds.
- 9.7. Inter-fund Transfer. So long as the revenues from the Sales Tax are sufficient to make all required deposits to the Principal and Interest Account, the City may deposit the excess revenues from the Sales Tax to the general fund or any other City fund as determined by the City and as permitted by law or by other resolutions of the City
- 9.8. Covenants of the City. The City hereby irrevocably covenants and agrees with each and every holder of the Bonds that so long as any of the Bonds remain outstanding:
 - 9.8.1. It will not amend or repeal the Sales Tax Ordinance relating to the Sales Tax by decreasing the Sales Tax rate or the allocation of revenues thereof to the Sales Tax Revenue Bond Fund, or in any way that would adversely affect the amount of Sales Tax revenues which would otherwise be collected and deposited to the

Sales Tax Revenue Bond Fund. However, nothing shall prevent the City from amending the Sales Tax Ordinance in order to make certain changes in the administration, collection or enforcement of the Sales Tax, provided that such changes would not materially adversely affect the owners of the Bonds.

9.8.2. It will administer, enforce, and collect, or cause to be administered, enforced or collected, the Sales Tax authorized by the Sales Tax Ordinance and shall take such necessary action to collect delinquent payments in accordance with law.

9.8.3. It will keep or cause to be kept such books and records showing the proceeds of the Sales Tax, in which complete entries shall be made in accordance with standard principles of accounting, and any owner of any Bond shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipts of such Sales Tax.

9.8.4. In the event the Sales Tax of the City is replaced and superseded by the state collected-locally shared sales tax or taxes, or is replaced and superseded in some other manner from other source or sources, the revenues derived by the City from the replacement source or sources, as received by the City shall be appropriated in the same manner as if the City had levied and imposed a sales tax. From and after the date of a replacement, the Outstanding Bonds shall have a first and prior lien, but not necessarily an exclusive lien, upon such replacement revenues to the extent therein specified.

9.9. Certification of Proceedings. The officers of the City are authorized and directed to prepare and furnish to the purchasers of the Bonds certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bonds as such facts appear from the officer's books and records or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

9.10. Resolution Becomes Effective Upon Passage. This Resolution shall become effective upon passage.

ATTEST:

Duane Sanger
Mayor

Adam L. Hansen
Finance Officer

Adopted: 9-4-07
Approved: 9-4-07
Published: 9-12-07

The motion for adoption of the foregoing resolution was duly seconded by Alderman Schwartz, and upon vote being taken thereof, the following voted YEA: Gallup, Keating, Kearney, Ronnfeldt, Sihrer, Eldeen, Avery.

and the following voted NAY: none.

Whereupon said resolution was declared duly passed and adopted.

ATTEST: Duane Sanger
Mayor

Adam L. Hansen
Finance Officer

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF SPINK)

I, the undersigned, being the duly qualified and acting Finance Officer of the City of Redfield, South Dakota, do hereby certify that the attached and foregoing is a full, true and complete transcript of the Minutes of a meeting of the City Common Council held on the 4th day of September 2007, insofar as the original meeting relates to proceedings for the Resolution Authorizing the Sale of Said Sales Tax Bonds.

WITNESS my hand and official seal of this said City this 4th day of September 2007.
Finance Officer
City of Redfield, South Dakota

Motion by Eldeen, seconded by Schwartz to approve Resolution No. 2007-09. Motion carried on a roll call vote with all members voting "Yes."

Enter: Flint @ 9:45 pm

INFORMATION AND DISCUSSION ITEMS:

DENR Loan - Hansen explained that the SRF Drinking Water loan for the Main Street/6th Avenue Project will be closing next week.

Mayor Sanger reported he had received an inquiry about a pre-built home being allowed at 916 & 916 ½ 5th Street East. No action was taken.

Swanson Electric reported to Mayor Sanger that the new circuit breaker on an electrical pole at the municipal parking lot is installed. They plan to work on the credit card system at airport as soon as they can.

COUNCIL MEMBER REPORTS:

Schwartz asked if the soil testing can be done at the landfill. He also commented on overhanging tree limbs causing blinds spots on 7th Avenue that need to be addressed.

Discussion was held on painting the water tower this fall. Motion by Gallup, seconded by Schwartz to advertise for bids to paint the City water tower with an opening date of Oct 1st. Motion carried.

Gallup informed the Council that the Beautification Committee will be donating a bench to the Senior Center. He also had a concern on the curve on north Main Street.

Kearney commented on work to be done by RHS students on Pride Day in the City. She received some concerns on the lakeside flooding. An engineer will look into the drainage issues.

Ronnfeldt informed the Council that the City does not own a machine to seal street cracks. The lease at the airport for hay rent was also discussed.

Avery received concerns from citizens at Lakeside Addition about the drainage problem. He also received concerns of fast-moving traffic on 7th Street West.

Exit Ronnfeldt @ 9:52 pm

PAY CLAIMS:

City Prepaid	\$1679.25
City Unpaid	\$86,826.77
Hospital & Clinic Prepaid	\$105,786.84
Hospital & Clinic Unpaid	\$67,727.03
Additional Claims:	

Motion by Schwartz, seconded by Eldeen to pay the above claims. Motion carried on a roll call vote with all members voting "Yes."

There being no further business, meeting was adjourned at 9:55 PM.

Duane Sanger
Mayor

Adam L. Hansen
Finance Officer

Recorder: Adam L. Hansen