

**Unapproved Minutes of
REDFIELD CITY COUNCIL**

May 2, 2011
7:00 PM

The City Council met in regular session at City Hall on Monday, May 02, 2011 at 7:00 PM.

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

MEMBERS ABSENT: Norm Sihrer

STAFF PRESENT: Adam L. Hansen

VISITORS: Dan Nelson, Rob Moore, Jim Ellenson, Lori Jo Mundstock, Britt Evans @ 7:01 pm, Becky Leonard @ 7: 01 pm

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

ADOPT AGENDA: Motion by Kearney, seconded by Avery to adopt the agenda as presented. Motion carried.

MINUTES: Motion by Kearney, seconded by Schwartz to approve the April 18, 2011 minutes with the following corrections: Page 1, delete "was" from "The fire's was cause was unknown." Page 2, change to "The City of Redfield has been approved for Tree City USA certification for another year for a total of 21 years." Motion carried.

REPORTS:

FIRE REPORT: Mayor Sanger gave the Fire Report as presented to him. There was a fire on April 27, 2011 at 2:40 am at 307 7th Street West. The fire was caused by an electrical short. 30 firefighters were on duty for two hours for a total of \$600. Motion by Kearney, seconded by Eldeen to approve the report for payment and place on file. Motion carried.

HOSPITAL REPORT: Motion by Ronnfeldt, seconded by Avery to accept the Community Memorial Hospital and Clinic Board Minutes dated April 25, 2011, April 25, 2011 annual meeting, and April 27, 2011 special meeting. Motion carried.

SHERIFF'S OFFICE REPORT: The Sheriff's Office March 2011 Expense and Budget Report was read by Mayor Sanger. Motion by Schwartz, seconded by Moeller to accept and place the report on file. Motion carried.

LIBRARY REPORT: Motion by Keating, seconded by Schwartz to accept the Library Board Minutes dated April 25, 2011 that were distributed and place on file as presented. Motion carried.

PARK & RECREATION REPORT: Motion by Schwartz, seconded by Avery to approve the Park & Recreation Minutes dated April 13, 2011 that were distributed and place on file as presented. Motion carried.

FINANCE REPORT: Hansen presented the March 2011 Treasurer's and Salaries Report, and the Comparison of General Fund Revenue to 2010 and 2009. Motion by Avery, seconded by Eldeen to accept the report and place on file. Motion carried.

BUILDING PERMITS: The April 2011 Building Permits were distributed, accepted as presented, and placed on file.

OLD BUSINESS:

Follow Up on Notice of Abatements Served – Various properties were discussed.

PAY CLAIMS:

City Prepaid	\$15,384.33
City Unpaid	\$88,734.41
Hospital & Clinic Prepaid	\$154,650.47
Hospital & Clinic Unpaid	\$169,525.21
Additional Claims:	

Motion by Schwartz, seconded by Eldeen to pay the above claims with the following addition: Eldeen Printing, Depot t-shirts, \$1,380.00. Motion carried on a roll call vote with all members voting "Yes."

Mayor Sanger adjourned the meeting Sine Die at 7:35 pm

The meeting reconvened at 7:38 pm with the following Council members present: Mayor Duane Sanger, Eileen Kearney, Lue Anne Keating, Darrell Ronnfeldt, Kenneth Avery, David Moeller, Frank Schwartz, and City Attorney James Hare.

MEMBERS ABSENT: Norm Sihrer

BID OPENINGS & AWARDS:

2011-12 Tree Stump Removal Quotes – Quotes for tree stump removal were submitted by two vendors: Lee's Stump Removal @ \$30/stump and Vrooman Tree Service @ \$20/stump. Motion by Eldeen, seconded by Schwartz to accept the low quote from Vrooman Tree Service at \$20/stump for May 1, 2011 through April 30, 2012. Motion carried.

Alley Paving Project - Motion by Ronnfeldt seconded by Schwartz to bring the alley paving project off the table. Motion carried. Three bids were received from the following contractors: TNT Concrete Inc. \$88,259.10; Anderson Contractors \$97,384.75; Wright & Sudlow Inc. \$91,440.55. The engineer's estimate was \$67,245.99. Motion by Kearney, seconded by Schwartz to reject all bids and rebid the alley paving project. Motion carried.

VISITORS:

Midcontinent Communications – Dan Nelson and Rob Moore appeared before the Council to discuss the new cable TV franchise agreement.

ORDINANCES AND RESOLUTIONS:

Mayor Sanger gave the Second Reading of Ordinance No. 2nd Reading Ordinance #02-2011.

ORDINANCE NO. 02-2011

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO **MIDCONTINENT COMMUNICATIONS**, ITS SUCCESSORS AND ASSIGNS THE RIGHT TO ERECT, CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM FOR THE PURPOSE OF RECEIVING, TRANSMITTING AND DISTRIBUTING SIGNALS TO THE INHABITANTS OF THE CITY OF REDFIELD FOR A PERIOD OF TEN YEARS, TOGETHER WITH THE RIGHT TO ERECT, CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN SAID SYSTEM IN, UPON, ALONG, ACROSS, ABOVE, OVER AND UNDER THE STREETS, ALLEYS, PUBLIC WAYS AND PUBLIC PLACES AS PRESENTLY EXISTS AND ALL EXTENSIONS AND ADDITIONS THEREOF FOR ALL POLIES, WIRES, CABLES, LINES, CONDUITS, MANHOLES, TOWERS AND OTHER APPARATUS AS MAY BE NECESSARY FOR OPERATION AND MAINTENANCE OF SAID SYSTEM.

BE IT ORDAINED BY THE CITY OF REDFIELD, SOUTH DAKOTA:

I. TITLE

This Ordinance shall be known and may be cited as: **Midcontinent Communications Cable System Enabling Ordinance.**

II. DEFINITIONS

SECTION 1. "Cable Television System" shall mean all of the component physical operational and programming elements of any network of cables, optical, electrical or electronic equipment, including cable television, used for the purpose of transmission and distribution of audio, visual, electronic and electric signals and other electric impulses of television, radio, and other intelligences either analog, digital or by any other means to provide Cable Television Service.

SECTION 2. "City" is the City of Redfield, South Dakota.

SECTION 3. "Council" is the elected council of the City of Redfield.

SECTION 4. "Facilities" are, but not limited to, poles, wires, cables, modulators, towers, antennae and apparatus designed, constructed and/or wired for the purpose of receiving, transmitting and distributing television and other related signals.

SECTION 5. "Streets" mean the surface of and the space above and below, in, along and across any public street, right-of-way, road, highway, freeway, bridge, tunnel, bike-path, alley, sidewalk, communications or utility easement by whatever name called, now or hereafter existing as such with the franchise area.

SECTION 6. "FCC" shall mean the Federal Communications Commission.

SECTION 7. "Person" is any person, firm, partnership, association, corporation, cooperative, company, organization or any other legal entity.

SECTION 8. "Company hereinafter" shall mean Midcontinent Communications.

SECTION 9. "Subscribers" are those persons contracting to receive cable television services furnished under this franchise by the Company.

III. GRANT OF NON-EXCLUSIVE AUTHORITY

There is hereby granted by the City to the Company and to its successors and assigns the non-exclusive right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the Streets now existing or dedicated and all extensions and additions thereto in the City, all facilities, television, conductors and fixtures necessary for the maintenance and operation in the City a Cable Television System for the purpose of providing cable television services to the public for a period of ten (10) years.

IV. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall comply with applicable local, state and federal laws and ordinances together with reasonable police power regulation by the City of Redfield.

V. TERRITORIAL AREA INVOLVED

This Franchise is for the present territorial limits of the City of Redfield and any area subsequently added thereto during the term of this Franchise.

VI. LIABILITY AND INDEMNIFICATION

Section 1. The Company shall maintain at all times sufficient and adequate insurance coverage.

Section 2. The Company shall at all times protect and save harmless the City of Redfield from all damages and injury arising out of or by any reason of the construction, maintenance and operation of the Cable Television System.

VII. TECHNICAL STANDARDS

The Company shall meet the requirements of the technical standards established by the FCC.

VIII. CONSTRUCTION, OPERATION AND MAINTENANCE OF SYSTEM

Section 1. Construction shall comply with the National Electrical Code.

Section 2. The Company shall maintain a sufficient number of employees to provide safe, adequate and prompt service and repairs of its facilities and periodically make system evaluation tests.

Section 3. Complaints regarding quality of service, equipment malfunctions and similar matters shall be directed to the Company's business office.

IX. NEW DEVELOPMENTS

This Franchise shall allow the Company to take advantage of new developments in technology and state of the art improvements in providing the best service at a reasonable cost.

X. CONDITIONS ON STREET OCCUPANCY

Section 1. All facilities installed by the Company within the City shall be so located as to cause minimum interference with the proper use of Streets. Said fixtures shall be removed and relocated at Company's expense whenever the same would restrict or obstruct the operation or location of any future street in the City.

Section 2. All facilities shall be constructed, maintained and operated under the supervision of the Company. The Company shall at all times maintain an up-to-date record of location of all its facilities and shall provide such information as reasonably required by City personnel.

Section 3. In case of disturbance of any Street, the Company shall, at its own expense and in a manner approved by the City, replace and restore such Street in as good a condition as before such disturbance in so far as the same may be practicable.

Section 4. Any property of the Company elected to be abandoned in place shall be abandoned in such a manner as the City may prescribe.

XI. REMOVAL OF FACILITIES UPON REQUEST

The Company shall at its expense, remove, disconnect and relocate any of its facilities when required by the City by reason of traffic conditions, public safety, street vacation or construction, change or establishment of street grade, installation of sewers, drains or water pipes.

XII. RATES

The Company shall adopt and maintain on file at its office a schedule setting forth all rates and charges to be made to subscribers for each type of service available, and shall provide the same upon request of the City.

XIII. EMERGENCY USE OF FACILITIES

In case of any emergency or disaster, the Company shall upon request of the City, make available whenever possible, its facilities to the City during such emergency or disaster period.

XIV. SAFETY REQUIREMENTS

The Company shall at all times use ordinary care and shall maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

XV. TRANSFER OF FRANCHISE

The Company shall not transfer this Franchise to another person without prior approval of the Council.

XVI. DURATION OF FRANCHISE

This Franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of ten (10) years.

XVII. TAMPERING

Section 1. It shall be unlawful for any person or persons to obtain any services from the Company by installing, rearranging or tampering with any facilities or equipment of said Company for the purpose of receiving any signal, picture, sound or transmission without subscribing and paying the Company therefore.

Section 2. Any person violating this Article shall be guilty of a misdemeanor punishable by a fine of not to exceed \$100.00, imprisonment for a term of not to exceed thirty (30) days, or both.

XVIII. PAYMENT TO CITY

Section 1. During the term of the rights granted under this Ordinance, and so long as the Company operates the Cable Television System, the Company shall pay, as compensation to the City the sum equal to 3% of the annual total gross receipts of the cable system, net of bad debt. Gross receipts shall consist of those revenues derived from the monthly services charges paid by subscribers for basic cable service and premium pay services. Gross receipts shall not include revenues from installation charges, fees for reconnections, inspections, repairs or modifications or any installation, or any state or federal taxes relating thereto.

Section 2. The payments that Company makes to the City shall be in lieu of all occupational tax, license tax or similar levy by the City and shall be paid on a monthly basis based on the preceding year's gross subscriber revenues.

Section 3. The amount payable by the Company to the City shall be the sole amount payable for all of the rights granted to the Company under this Ordinance.

Section 4. Notwithstanding the annual gross receipts fee paid under this Ordinance, if the Company is legally obligated to collect or pay any sales tax or other taxes, the Company shall have the right to charge the subscribers an additional amount equal to such tax.

XIX. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions herein.

Dated this 2nd day of May 2011.

Duane Sanger, Mayor

ATTEST:

Adam Hansen, Finance Officer

Motion by Eldeen, seconded by Avery to adopt Ordinance No.02-2011. Motion carried on a roll call vote with all members voting "Yes."

Exit: Nelson & Moore @ 7:52 pm

PUBLIC HEARINGS:

Temporary Malt Beverage & Liquor Licenses - Mayor Sanger opened the public hearing on the applications for two temporary malt beverage licenses #01-2011 & #03-2011 in the City of Redfield at 7:52 pm. There being no one present to testify at the hearing and no written comments received, the hearing was declared closed at 7:53 pm. Motion by Eldeen, seconded by Schwartz to approve license #01-2011 & #03-2011. Motion carried.

Mayor Sanger opened the public hearing on the application for a temporary malt beverage license #02-2011 in the City of Redfield at 7:54 pm. There being no one present to testify at the hearing and no written comments received, the hearing was declared closed at 7:55 pm. Motion by Eldeen, seconded by Schwartz to approve license #02-2011. Motion carried.

Mayor Sanger opened the public hearing on the application for a temporary malt beverage license #04-2011 & temporary liquor license #01-2011 in the City of Redfield at 7:55 pm. There being no one present to testify at the hearing and no written comments received, the hearing was declared closed at 7:56 pm. Motion by Schwartz, seconded by Moeller to approve license #04-2011 & #01-2011. Motion carried.

Exit: Evans, Leonard, Ellenson @ 7:57 pm

Variance Application - Mayor Sanger opened the public hearing on a variance application for the property located at 807 5th Street West in the City of Redfield at 7:58 pm. There being no one present to testify at the hearing and no written comments received, the hearing was declared closed at 7:59 pm. Motion by Schwartz, seconded by Kearney to approve the variance. Motion carried.

NEW BUSINESS:

Election of Council Chairperson & Vice-Chairperson – Nomination of Darrell Ronnfeldt as City Council Chairperson by Kearney, seconded by Schwartz. Motion carried. No additional nominations were received so Mayor Sanger declared nominations closed and Ronnfeldt as Chairperson.

Nomination of Norm Sihrer as Council Vice-Chairperson by Ronnfeldt, seconded by Moeller. Motion carried. Since no additional nominations were received Mayor Sanger declared nominations closed and Sihrer as Council Vice-Chairperson.

Board Appointments – Mayor Sanger announced the following board appointments: re-appoint Kerry Dawson to the Low-Rent Housing Board for five years, re-appoint Kim Benning to the Carnegie Library Board for three years. Mary Torgerson has fulfilled her term and Mayor Sanger will have a new appointment at the next meeting. Re-appoint Jon Boer to the Parks and Recreation Board for three years, appoint Richard Gallup to the Community Memorial Hospital Board for three years, re-appoint Rolland Farnham to the Zoning Board for five years. Motion by Eldeen, seconded by Ronnfeldt to approve the appointment and re-appointments. Motion carried.

Dept. Head Appointments to Begin May 2, 2011 – Mayor Sanger presented the following appointments of department heads: Fire Chief-Rich Gruenwald; Public Works Director-James Haider; Parks and Recreation Director-Yvette Albrecht; Librarian-Betty Baloun; Senior Citizens' Director-Peggy Morris; Hospital Administrator-Terry DeJong; Public Health Officer-Dr. Matt Owens; Finance Officer-Adam Hansen; Assistant Finance Officer-Shelly Wipf. Motion by Kearney, seconded by Avery to approve as presented. Motion carried.

2011-12 City Council assignments will include: Parks, Recreation, & Swimming Pool – Norm Sihrer, Water & Sewer – Dave Moeller & Darrell Ronnfeldt, Solid Waste – Frank Schwartz, Street Department – Darrell Ronnfeldt & Dave Moeller, Airport – Darrell Ronnfeldt, City Development & Clean-Up – Lue Anne Keating, Senior Citizens – Larry Eldeen, Cemetery – Eileen Kearney, Fire Department – Rich Gruenwald, Finance & City Insurance – Ken Avery & Adam Hansen.

Approval of Bond of Finance Officer – Motion by Schwartz, seconded by Ronnfeldt to approve the Bond of the Finance Officer. Motion carried.

Appoint Official Legal Counsel – Motion by Kearney, seconded by Avery to appoint the firm of Gillette Law Office as the City's official legal counsel. Motion carried.

Appoint Official Newspaper – Motion by Schwartz, seconded by Moeller to appoint the *Redfield Press* as the City's official newspaper. Motion carried.

Notice of Abatements Served – Drainage issues were discussed.

Approve Fuel Quotes - Motion by Schwartz, seconded by Eldeen to approve the monthly fuel quote and to accept the low quote from North Central @ \$3.66/gallon for bulk diesel #2. Motion carried.

2011 Finance Officer School & Human Resource School - Motion by Ronnfeldt, seconded by Avery to approve sending the Finance Officer and Assistant Finance Officer to the SDML 2011 Finance Officer & Human Resource School on June 7-10, 2011 in Pierre, SD at a cost of \$200. Motion carried.

Surplus City Hall, Depot & Street Dept. Property: Motion by Schwartz, seconded by Avery to surplus the following items and sell at the annual consignment auction: Toro sweep mower, two air bumper jacks, pallet jack, gas Lennox furnace, 1998 CW1 Ford passenger van S/N #1FMRE1165WEB40200, garage door, Bear snow blower.

The following items are surplus at zero value: three office chairs from City Hall and a Compaq computer S/N #6X33KN8ZK2AM. Motion carried.

Pay Request No. 21 to Puetz Corporation - Motion by Ronnfeldt, seconded by Schwartz to approve Pay Request No. 21 to Puetz Corporation for \$25,000 for the CMH Building Project. Motion carried on a roll call vote with all members voting "Yes."

CMH Roofing – Motion by Ronnfeldt, seconded by Moeller to approve the estimate from Twin City Roofing for \$34,000. Motion carried on a roll call vote with all members voting "Yes."

Life Pak 15 Monitor Agreement - Motion by Ronnfeldt, seconded by Schwartz to approve a Life Pak 15 Monitor Agreement in the amount of \$25,054.25 for Community Memorial Hospital. Motion carried on a roll call vote with all members voting "Yes."

Staffing & Placing Agreement & Alliance Recruiting Resources - Motion by Ronnfeldt, seconded by Moeller to approve the agreement for a maximum of \$25,000. Motion carried on a roll call vote with all members voting "Yes."

E-Emergency Project Agreement - Motion by Ronnfeldt, seconded by Schwartz to approve an E-Emergency Project agreement in the amount of \$16,254 for Community Memorial Hospital. Motion carried.

Set a Public Hearing Date for May 16, 2011 for Variance (922 1st St. E.) Motion by Schwartz, seconded by Moeller to set a public hearing date for May 16, 2011 for a variance application for the property located at 922 1st Street East. Motion carried.

Pay Request No. 2 to Puetz Construction for \$27,102.81- Motion by Moeller, seconded by Schwartz to approve Pay Request No. 2 to Puetz Corporation for \$27,102.81 for the Pool Bathhouse Project. Motion carried on a roll call vote with all members voting "Yes."

INFORMATION AND DISCUSSION ITEMS:

Mayor Sanger informed the Council that he has handled a parking concern in the alley of the 600-block east of Main Street.

Mayor Sanger announced that the City of Redfield received a 2010 Excellent Operation and Maintenance Award for the wastewater treatment facility.

COUNCIL MEMBER REPORTS:

Moeller explained to the Council that a small water break at the City Park was fixed today, the storm drain by the Depot will be installed this week, and the water main project on 2nd Avenue will be completed shortly.

Eldeen received a concern about vehicles that are loud and traveling at high rates of speed on 7th Avenue. The Spink County Sheriff was contacted and will look into it.

There being no further business, meeting was adjourned at 8:52 PM.

Duane Sanger
Mayor

Adam L. Hansen
Finance Officer

Recorder: Adam L. Hansen