

## CITY COUNCIL MEETING

NO. 2009-06

MARCH 2, 2009

The Mayor and City Council of the City of Chadron, Nebraska met in regular session in the City Hall Council Chambers at 234 Main Street on the 2nd day of March, 2009, at 5:00 o'clock P.M. The following individuals were present: Mayor Donny Grantham, Vice Mayor John Gamby, Councilmembers John Chizek, Rob Harvey and Steve Duncan, City Clerk Donna Rust, City Attorney Adam Edmund, Police Lieutenant Rick Hickstein, Finance Officer Melany Hughes, Public Works Director Milo Rust, and Zoning/Building Official Janet Johnson. Absent: City Manager Sandy Powell.

Notice of the meeting was given in advance thereof by publishing notice in The Chadron Record as shown by the affidavit of publication filed in the City Clerk's office. Notice of the meeting was also given in advance to the Mayor and all members of the City Council and a copy of their acknowledgment of receipt of notice and the agenda is attached to the minutes and is filed in the City Clerk's office. Availability of the agenda was communicated in the advance notice and in the notice of the Mayor and City Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Mayor Grantham called the meeting to order and declared a quorum present. The Mayor also read the following before continuing with the meeting: "As required by Section 84-1412, subsection of the Nebraska Statutes, notice is hereby given that a copy of the Open Meetings Act is posted for your examination on the wall inside the door to these City Council Chambers."

Councilmember Gamby moved to approve the agenda as written and distributed. Seconded by Councilmember Chizek. The following Councilmembers voted Aye: Gamby, Chizek, Harvey, Duncan, Grantham. The following voted Nay: None. Motion carried.

Councilmember Chizek moved to approve the Consent Agenda, which included the following items:

- 1) Minutes for City Council Meeting No. 2009-05, February 16, 2009

The Minutes were approved as written and distributed.

- 2) Correspondence

There was no correspondence to report.

- 3) Claims

NOTE:

\*Denotes Check Issued  
 O-Ordinance, C-Contract, S-Statute  
 R-Resolution, F-Federal Law, M-Motion  
 N/A-No Authority, D-Discount  
 T-Transfers/Pass Through  
 E-Electronic Checks

Arrow Building Center	Fence Materials for Shumway Field/Parts	5,309.13	
Assurant	Fire Dept. Insurance	108.10	
Bates, Rich & Linda	Refund Utility Overpayment	5.00	
Bauerkempers	Repairs for Parks Dept.	18.36	
Boyack, Cama	Applied Utility Deposit	6.00	
Brown, Rob	Refund Utility Overpayment	2.52	
Century Business Products	Library Copier Lease	59.50	
Chadron, City of	Electronic Withdrawal for Payroll	23,513.46	*C/E
Chadron, City of	FICA through 02/17/09	4,437.46	*F
Chadron, City of	Payroll through 02/17/09	36,384.45	*C
Chadron, City of	Utility Refunds	220.70	
Chadron, City of	03/09 Side Fund	19,626.86	*
Chadron Concrete	Cement/Concrete Blocks	93.50	
Chadron Plumbing	Repairs at City Hall	30.00	
Chadron Rotary	Dues/Powell	229.00	
Chadron Volunteer Fire Dept.	Firemen Conference	650.00	*
Chadron Wholesale	Supplies	32.42	
Danko Emergency Equip.	Repair Kit for Fire Dept.	128.46	
Dawes County Court	Non-Waivable Court Fees	182.00	
Diversified Metal Fabricators	Park Tables	1,672.00	
Enviro	Wastewater Testing	62.00	
Farm Plan	Parts/Supplies	609.77	
Fire Programs	Support and Upgrade Service	435.00	
First National Bank Omaha	Supplies/Travel Expense	1,686.76	
Guardian	03/09 Dental Premium	467.82	
Hansen, Maruta	02/12/09-02/25/09 Janitorial Services	200.00	
HD Waterworks	Repairs for Water Plant	1,823.36	
Henkens Equipment	Parts	3.47	
Hills Tire	Tire Repair for Water Dept.	49.00	
Ideal Linen	Janitorial Supplies	85.35	
Koza, Rick	Refund Utility Overpayment	28.38	
Library Journal	Library Materials	101.99	
Mobius	Airport Internet	18.99	

Municipal Supply	Water Dept. Repairs	100.39	
NE Dept. Of Economic Development	Your Selling Team Payment	2,976.19	
NE Dept. Of Health & Human Services	2009 Swimming Pool Permit Renewal	40.00	
NE Municipal Clerk Institute	2009 Conference Registration/Rust	225.00	
Nebraska Public Health Laboratory	Water Testing	213.00	
Nebraska Public Power District	02/09 Electric Service	269.48	
Nebraska Public Power District	02/09 Electric Service	190.48	*
Nebraska Rural Water Assn.	2009 Membership Renewal	275.00	
NMC	Air Tank/Bearing Seal	393.52	
Norms Carquest	Parts/Supplies	565.20	
Old Dominion Brush	Parts for Street Sweeper	616.91	
Outlaw Printers	Shirts/Embroidery for Parks Dept.	126.50	
Petersen Drug	Immunizations for Police Dept./Battery	89.68	
Power Plan	Parts for Street Dept.	379.24	
Quality Tire	Tires for Street Dept.	932.00	
Qwest	Phone Service	968.54	
Regional Care	03/09 Employee Health Ben/Select Flex	12,413.47	*
Respond First Aid Systems	First Aid Kit Supplies	241.33	
Scottsbluff County Housing Authority	Applied Utility Deposit	3.45	
Shell	01/12/09-02/09/09 Fuel Charges	3,007.90	
Simon, James E.	Cold Mix/Asphalt for Street Dept.	1,049.60	
Sleuth Software	Sleuth Software for Police Dept.	19,109.00	
Source Gas	Gas Service	5,217.21	*
Sturdevants	Parts	34.35	
US Postmaster	03/09 Utility Bills Postage	450.61	*
Vantage Point Trust 401 Employee	Pension to 02/17/09	2,270.43	*C
Vantage Point Trust 401 Police	Pension to 02/17/09	1,038.27	*C
W & M Holding	Refund Utility Bill Overpayment	37.89	
Waggener, Sean	Applied Utility Deposit	29.85	
Wal Mart	Supplies	543.82	
	TOTAL	152,089.12	

The foregoing schedule of claims is published in accordance with Nebraska Revised Statutes 19-1102.

#### 4) Minutes for Boards and Commissions

There were no minutes to distribute at this meeting.

Councilmember Gamby seconded the motion for approval of the Consent Agenda. The following Councilmembers voted Aye: Gamby, Chizek, Harvey, Duncan, Grantham. The following voted Nay: None. Motion carried.

Jack Baker, representative for Baker & Associates, appeared before the Council to report on the re-bid opening held February 26, 2009 for the Wastewater Treatment Facility Project. Mr. Baker reminded the Council that the two bids received at the first bid opening for this project, came in high and were rejected. The scope of the project was reduced to remove a large portion of the earthwork and sludge removal for the leveling of cells #1 and #2 and the project was re-bid. The following six bids were received at the second bid opening:

BASE BID

Myers Construction, Inc., Broken Bow, Nebraska	\$4,590,000.00
Gridor Construction, Inc., Buffalo, Minnesota	\$4,239,400.00
Paul Reed Construction & Supply, Inc., Gering, Nebraska	\$4,216,843.00
Scull Construction Service, Inc., Rapid City, South Dakota	\$4,300,000.00
Fischer Construction, Inc., Longmont, Colorado	\$4,075,525.00
Hydro Construction Company, Fort Collins, Colorado	\$7,096,167.00

The apparent low bidder was Fischer Construction with a total base bid of \$4,075,525.00. Baker & Associates received and reviewed the bid work sheets and the experience and background of the three lowest bidders. Upon review, they found the documents in order and the experience of all three companies acceptable.

Baker & Associates prepared their recommendation based on the information they were given, and recommended that the City Council award the bid for the Wastewater Treatment Facility Project to Fischer Construction, in the amount of \$4,092,313.00 contingent upon final approval from the Nebraska Department of Environmental Quality. The dollar amount is the total base bid (\$4,075,525.00) plus Alternate Item J-4 (\$16,788.00) which provides for Davis Bacon and Related Acts that are required for any federal funding including the "Stimulus Package." The bid documents provide for additional alternates depending upon site conditions during construction. It was noted that these items may be considered by the City during construction, if necessary.

Considerable discussion was held with regard to a mechanical system as opposed to a lagoon system. Discussion was also held with regard to the status of the sludge at the existing lagoons and the timeframe and requirements for removal of the same. Mr. Baker stated that if the bid is accepted, the existing ponds will be allowed to dry out naturally, making it easier and cheaper to complete the work to finish cleaning up. The State has not set any deadlines for removal of the sludge from cells 1 and 2.

Mayor Grantham asked about the status of the federal economic stimulus funding. Mr. Baker stated that the funding is looking very positive for the City of Chadron, although there has not been

any confirmation as to the details involving this funding. Mr. Baker stated that there is probably no better timing than the present, as far as receiving cheap funding for the project.

Vice Mayor Gamby stated several concerns with regard to the mechanical wastewater treatment facility project. Mr. Gamby feels the overall costs in the long run will run higher than staying with a lagoon facility, because of the costs for maintenance and upkeep. Mr. Gamby stated that he is

skeptical with regard to the figures. The first time the project was bid, the bids came in too high so the scope of the project was reduced and the bids came in lower. He expressed concern that although the bids came in lower, as the project proceeds, there could be considerable change orders increasing the cost of the project. Mr. Gamby used the recent Airport project as an example, stating that he felt with change orders and other related costs, the original cost of the project doubled in price.

Mr. Gamby was of the opinion that a lagoon project would have brought in local bids, but this being a mechanical facility, all of the bids received were from companies out of this area. He commented that a lagoon system would keep the water here locally, however, a mechanical facility will allow the water to go into South Dakota, after it is discharged into the White River drainage.

Mr. Gamby also stated that the water from the lagoons is a tremendous asset. He used the forest fire that occurred three years ago, that threatened the City of Chadron, as an example. He was of the opinion that had it been needed, the firefighters could have used the water from the lagoons to help put out the fire. He stated the water is not costing the citizens and is readily available.

Mr. Gamby also expressed concern with the federal economic stimulus package for funding. He was of the opinion that the City Council is being pushed into making a decision, before they've had a chance to fully look at the project. He said it has been two years, since the City Council made the decision to go with a mechanical plant and does not understand the urgency in having to make a decision to accept the bid right now. He added that he is not convinced this is the way to go.

Councilmember Chizek stated that what changed his mind in favor of the mechanical facility, was after asking the State of Nebraska, if the existing cells at the lagoons could be dredged. The State had said no, adding that the new cells constructed would require liners, which would be costly. Baker & Associates estimated the cost to build the lagoon system would be \$12 to \$14 million dollars, because of the stringent federal requirements and the required liners. Councilmember Chizek also stated that he attended both bid openings and that the contractors were very concerned as to the unknowns of the existing cells at the lagoons and their concerns affected their bids.

Mr. Baker informed the Council that there are some local subcontractors involved with this project. Mr. Baker also addressed the issue with regard to the water, stating that once the water is discharged, anyone can use the water. With a mechanical plant, the City will not be responsible for the water, as it will go downstream. Mr. Baker commented that the City has been very fortunate in the past with its minimal costs associated with maintaining the existing lagoons. The proposed mechanical plant is a simple system that operates on timers. It will require a person to check the plant a couple times each day. Personnel and costs for operating a mechanical plant were discussed.

Mayor Grantham stated that after visiting other mechanical plants and talking to the employees, convinced him that the mechanical plant was the way to go. Considerable discussion followed with the Councilmembers asking questions of Mr. Baker with regard to the project.

Roy Leibbrandt asked for some of the cost figures associated with the project to be repeated.

Courtney Cooksley questioned the road to the lagoons and if there would be an increase in traffic to

the facility.

Jody Applegarth stated that he is very familiar with the road to the lagoons, as he travels the road daily because of his waste hauling business. He stated that the road is in need of work and needs to be addressed. Mr. Applegarth also commented on impressive technology that he has seen on the internet with regard to wastewater treatment facilities.

Andy Curd stated that he may be the only resident in Dawes County that has read the reports and studied this project extensively. Mr. Curd was of the opinion that he understands the project better than the members of the City Council. He asked that the Council give full consideration to the costs associated with the project and suggested that the Council consider the costs for a 30 year period.

Margaret Applegarth stated that she has traveled the road to the lagoons with Jody and agrees that the condition of the road needs to be addressed.

Mr. Baker stated that the State of Nebraska is receiving a share of the federal economic stimulus money and if the money does not go to Chadron, it will be used elsewhere. Chadron is first in line for some of these funds and it is a good deal for Chadron. Councilmember Chizek also commented on the stimulus funding, stating that he did not support the bail-out, as he feels future generations will be paying for this. He added that the money is out there and is going to go somewhere, so Chadron should take advantage of the funding.

Craig Price stated that he feels there is a lot of gray area with regard to this project and gets the impression that the Council is not sure what to do. Mr. Price encouraged the Council to carefully consider their decision.

Public Works Director Milo Rust stated that he has been in communication with the Nebraska Department of Environmental Quality (DEQ) and again reminded the Council that Chadron is in line for a portion of the stimulus economic package. It is anticipated that the Governor will be making an announcement later this week. DEQ is indicating that there is a good possibility of grant money and/or low interest loans to help fund this project. This could result in substantial savings to the City of Chadron and its citizens.

Mr. Rust stated that the discussion with regard to the sewer lagoons started 10 years ago. Throughout this time, representatives from Baker and Associates have always come to Chadron and answered questions. Many public hearings have been held, the most recent in years 2006 and 2007. Considerable effort has been made through the years to assure that all questions were answered and that all concerns were addressed.

In the beginning, Baker & Associates supported a lagoon project for Chadron, but after studying the project and looking at the numbers, they later changed their mind and recommended the City consider a mechanical plant. After considerable review, the Council voted to proceed with a mechanical plant.

It was noted that DEQ has put the City on notice of being in violation of the regulations, as the City is

not discharging properly. To avoid any further problems, the City had to submit a letter to DEQ, guaranteeing that the City would have something in place and operational by the end of 2009. If the City does not have something in place by December, 2009, the City could be faced with a fine of \$10,000.00 per day from DEQ. Mr. Rust stated that this is in writing.

Mr. Rust added that Baker & Associates and the City staff have fully researched this project and went over the numbers over and over again. Tours have been offered to the City Councilmembers to allow them to become more knowledgeable on mechanical plants. By rejecting these bids and/or changing to a lagoon system, will mean starting over with the entire process, holding the same public hearings and addressing the same questions that have been raised before.

Mr. Rust stated that the water will be discharging daily and there is no reason why someone can not capture the water downstream for irrigation. The City will be discharging 400,000 to 500,000 gallons daily. With a mechanical plant, the city will not be responsible for capturing the water.

Mayor Grantham added that by starting over could increase the cost of this project from \$400,000 to \$800,000. This could result in an additional \$200,000 per year in interest. In addition, if the City passes on the stimulus economic funding and the City has to fund the project on its own, this could result in considerable rate increases for the citizens of Chadron.

It was reported that pursuant to the terms of the Notice to Bidders, a bid opening had been held at 2:00 o'clock P.M. on February 26, 2009, for the construction of the Wastewater Treatment Facility Project. The Clerk further reported that the bids had been opened and tabulated as required by law and in accordance with the advertisement for bids. The tabulation was reported as follows:

#### WASTEWATER TREATMENT FACILITY PROJECT

NAME OF BIDDER		BASE BID
Myers Construction, Inc. Broken Bow, Nebraska	Alternate Item J-4	\$4,590,000.00 \$ 25,000.00
Gridor Construction, Inc. Buffalo, Minnesota	Alternate Item J-4	\$4,239,400.00 \$ 1,000.00
Paul Reed Construction & Supply, Inc. Gering, Nebraska	Alternate Item J-4	\$4,216,843.00 \$ 0.00
Scull Construction Service, Inc. Rapid City, South Dakota	Alternate Item J-4	\$4,300,000.00 \$ 54,000.00
Fischer Construction, Inc. Longmont, Colorado	Alternate Item J-4	\$4,075,525.00 \$ 16,788.00

Hydro Construction Company		\$7,096,167.00
Fort Collins, Colorado	Alternate Item J-4	\$ 0.00

After considering the bids, Councilmember Duncan introduced the following Resolution and moved for its adoption:

RESOLUTION NO. 2009-10

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHADRON, NEBRASKA:

1. The Mayor and Council find and determine that the base bid of Fischer Construction, Inc. of Fort Collins, Colorado in the amount of \$4,075,525.00 for the construction of the Wastewater Treatment Facility Project, plus Alternate Item J-4 in the amount of \$16,788.00, as filed with the City Clerk is in accordance with the terms of the published notice calling for proposals of the above-mentioned improvements, and that the same should be and hereby is accepted, subject to approval by the Nebraska Department of Environmental Quality.

2. The Contract Documents as heretofore prepared and presented to the Council on the improvements are hereby approved, and the Mayor and Clerk are authorized and directed to execute said contract on behalf of the City. The Council waives all formalities or irregularities in opening, submitting and awarding of bids; all other bids for the improvements are hereby rejected. The Clerk is instructed to return all bid bonds or checks accompanying such bids of all other bidders except the next lowest bidder on said project which shall be held until the successful bidder has signed the contract and filed the performance bond.

The foregoing Resolution having been read, Councilmember Chizek seconded the motion for its passage and adoption, and after consideration thereof, the roll was called on the passage and adoption of said Resolution and the following Councilmembers voted Aye: Chizek, Harvey, Duncan, Grantham. The following voted Nay: Gamby. The passage of the Resolution having been consented to by more than a majority of the members elected to the Council was declared passed and adopted this 2nd day of March, 2009.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

The Council considered Ordinance No. 1326 on its third and final reading:

AN ORDINANCE to amend Chapter 2 "Building Regulations," to Enact Article 3 "Problem Resolution Team", of Ordinance No. 1000, being the Municipal Code of the City of Chadron, Nebraska; to adopt the current International Property Maintenance Code; to repeal all Ordinances and parts of Ordinances in conflict herewith; directing the publication of this Ordinance and prescribing the time when this Ordinance shall be in full force and effect.

Building/Zoning Official Janet Johnson explained the make up of the Board and indicated two to three persons had expressed interest in serving.

Councilmember Harvey moved to postpone the third and final reading on Ordinance No. 1326 and Ordinance No. 1327 until after the public meeting scheduled for March 30, 2008. Seconded by Councilmember Gamby. The following Councilmembers voted Aye: Gamby, Harvey, Duncan, Grantham. Voting Nay: Chizek. Motion carried.

Councilmember Harvey introduced the following Resolution and moved for its adoption:

RESOLUTION NO. 2009-11

WHEREAS, certain property within the City of Chadron, Nebraska, was previously occupied by persons that did not pay the total amount due the City of Chadron for City utilities; and

WHEREAS, this utility bill has been delinquent for more than three (3) months; and

WHEREAS, Section 16-682, R.R.S. 1943 provides for the collection of utility bills which are delinquent and, pursuant thereto, Section 16-113 of the Municipal Code of the City of Chadron provides that when water rent, when delinquent, shall be a lien against the premises or real estate upon, or for which the same is used or supplied and such delinquent water rental remains unpaid after three months after which it became due, may by Resolution of the City Council be assessed against said real estate after a special assessment which shall be certified by the City Clerk to the County Clerk of Dawes County to be placed on the tax rolls for collection; and

WHEREAS, notices have previously been sent to the owner of the property previously occupied by the person not paying the utility bills in accordance with State Law.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHADRON, NEBRASKA:

That the following delinquent water rental be assessed against the real estate as a special assessment which shall be certified by the City Clerk to the County Clerk of Dawes County to be placed on the



David Borell \$ 11.58

Deceased - Special Assessments

Carl Sanders Principal \$872.93  
Interest \$520.56

Bankruptcy - Utilities

Pizza Ranch \$405.53

The foregoing Resolution having been read, Councilmember Chizek seconded the motion for its passage and adoption, and after consideration thereof, the roll was called on the passage and adoption of said Resolution and the following Councilmembers voted Aye: Gamby, Chizek, Harvey, Duncan, Grantham. The following voted Nay: None. The passage of the Resolution having been consented to by more than a majority of the members elected to the Council was declared passed and adopted this 2nd day of March, 2009.

CITY OF CHADRON

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(S E A L)

Councilmember Harvey moved to appoint Fredrika Sipman to fill the vacant position on the Housing Authority, to fill an unexpired term which term will expire the first Council Meeting in January, 2013. Seconded by Councilmember Gamby. The following Councilmembers voted Aye: Gamby, Chizek, Harvey, Duncan, Grantham. Voting Nay: None. Motion carried.

Police Lieutenant Rick Hickstein updated the Council with regard to enforcing the abandoned vehicle ordinance. The City was divided into four quadrants and the officers have worked two of the quadrants, tagging vehicles. Lieutenant Hickstein reported that 41 tickets had been issued to date. Of those 41 citations, three cars had been towed. He stated that the Police Department has been working with Levi Grant, for the towing of the vehicles.

Councilmember Gamby moved to adjourn the meeting at 6:10 o'clock P.M. Seconded by Councilmember Chizek. The following Councilmembers voted Aye: Gamby, Chizek, Harvey, Duncan, Grantham. The following voted Nay: None. Motion carried.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

STATE OF NEBRASKA     )  
)  
County of Dawes         ) ss  
)  
City of Chadron         )

I, the undersigned City Clerk for the City of Chadron, Nebraska, hereby certify that all of the subjects included in the attached proceedings were contained in the agenda for the regular meeting of March 2, 2009 kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the said minutes of the City Council of the City of Chadron were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body.

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City Clerk

(SEAL)