

**Unapproved Minutes of
REDFIELD CITY COUNCIL**

August 5, 2013

6:15 p.m.

The City Council met in regular session at City Hall on Monday, August 5, 2013 at 6:15 p.m.

MEMBERS PRESENT: Mayor Jayme Akin, Mike Siebrecht, Eileen Kearney, Lue Anne Keating, Darrell Ronnfeldt, Joe Morrissette, Larry Eldeen, David Moeller, and Frank Schwartz

STAFF PRESENT: Adam L. Hansen and City Attorney Paul Gillette

VISITORS: Mike Schaffer, Larry Tebben @ 7:11 p.m., Jason Knigge @ 7:11 p.m., Lou & Kathy Ludwig @ 7:11 p.m.

CALL TO ORDER: Mayor Akin called the meeting to order at 6:15 p.m.

ADOPT AGENDA: Motion by Schwartz, seconded by Morrissette to adopt the agenda as presented. Motion carried.

Motion by Siebrecht, seconded by Ronnfeldt to enter executive session at 6:15 p.m. for litigation matters per SDCL 1-25-2 (3). Motion carried.

Mayor Akin declared executive session over at 7:03 p.m.

Shar Winn - Motion by Schwartz, seconded by Eldeen to reject the settlement offer from Quam Construction. Motion carried.

Shar Winn Resolution:

Resolution No. 2013-06 (Resolution of the City Council for the City of Redfield) was read by Mayor Akin.

RESOLUTION 2013-06
RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF REDFIELD

WHEREAS, the City of Redfield entered into a Contract with Quam Construction Co., Inc. (Quam) for the construction of the Shar-Winn Estates Storm and Sanitary Sewer Improvements on September 4, 2012;

WHEREAS, the agreement provided that Quam was to complete the work by July 1, 2013, for the sum of \$757,541.80;

WHEREAS, the City received notification from the engineer, Clark Engineering (Clark) on January 14, 2013, indicating that Quam had abandoned its work under the Contract, that performance of the project had been unnecessarily delayed by Quam and that Quam had violated several conditions of the Contract specifications;

WHEREAS, Quam had demanded a mediation under the Contract and the parties entered into mediation on two separate occasions resulting in a Preliminary Agreement Following Mediation on April 22, 2013, which extended the date for completion of the project to September 1, 2013;

WHEREAS, the Preliminary Agreement Following Mediation contemplated that following dewatering, by General Irrigation, the engineer would make a determination as to whether dewatering allowed construction to continue;

WHEREAS, Quam refused to comply with the requests of the engineer to make a good faith effort to have equipment and material there to install sanitary sewer pipe and foundation material, but instead, at the direction of its attorney, Quam chose simply to show up to dig a test hole;

WHEREAS, following that, the engineer issued a determination that following the dewatering construction could continue and directed Quam to come back on the project to continue the project;

WHEREAS, the attorney for Quam disputed the engineer's determination and indicated that Quam was removing its equipment from the project, and made a demand for arbitration;

WHEREAS, the City has not agreed to, and does not agree to arbitration;

WHEREAS, the engineer subsequently issued a report on August 5, 2013, concluding that Quam had unnecessarily delayed the performance of the project, that the contractor had abandoned the project, that Quam had violated several conditions of the specifications, and also concluding that Quam's conduct was in bad faith under Section 30 of the General Conditions of the Contract;

NOW MAY IT HEREBY BE RESOLVED that the City of Redfield declares that Quam is in material breach of the Contract with the city, that Quam has abandoned the project, that Quam has willfully violated the conditions and covenants of the Contract and has executed the same in bad faith;

FURTHER, THE CITY DECLARES that Quam is in default under the Contract, counsel for the City is directed to issue notification to Quam and Liberty Mutual, the insurer on the Performance Bond that if Quam fails to resume work under the Contract or correct and remedy its deficiencies and violations of the Contract, the City intends to terminate Quam's rights under the Contract and demand that Liberty Mutual faithfully perform and complete the work under the Contract, under the Performance Bond and terms of the Contract which were incorporated into the Performance bond by reference.

THE CITY FURTHER RESOLVED that counsel for the City is directed to take all steps necessary under this Resolution to protect the interests of the City of Redfield and to enforce the rights of the City of Redfield under the Contract and Performance Bond.

Dated this 5th Day of August, 2013.

CITY OF REDFIELD

BY _____

Jayme Akin
Mayor

ATTEST _____
Adam L. Hansen
Finance Officer

Motion by Siebrecht, seconded by Moeller to approve Resolution No. 2013-06. Motion carried on a roll call vote with all members voting "Yes."

De-Watering - Motion by Kearney, seconded by Siebrecht to enter into an agreement with General Irrigation for up to six weeks of dewatering at Shar Winn. Motion carried.

Exit: Schaffer and Gillette @ 7:10 p.m.

MINUTES: Motion by Siebrecht, seconded by Schwartz to approve the July 15, 2013 minutes and the July 16 and 23, 2013 special meeting minutes. Motion carried.

Consent Calendar:

Motion by Siebrecht, seconded by Kearney to approve the following items on the consent calendar:
Departments' Reports:

- A. Hospital Report – minutes dated July 29, 2013
- B. Sheriff's Report – report dated June 30, 2013
- C. Library Report – minutes dated July 27, 2013
- D. Finance Report - June report & June salaries
- E. Building Permits - July report
- F. Monthly Fuel Quote
- G. Set a Public Hearing for August 19, 2013 for a Variance Application @ 1024 W. 3rd St.
(Regg Jenson)

Receive and place on file. Motion carried.

VISITORS:

Larry Tebben – Spink County Emergency Manager – Tebben updated the Council on activities at his office. A discussion ensued about the frequency of testing the sirens in town. Mitigation money for the armory was discussed.

Exit: Tebben @ 7:27 p.m.

Jason Knigge – Redfield Food Center –Knigge informed the Council about the upcoming grand opening. The Redfield Food Center would like to close a portion of 6th Ave off from 1 p.m. to 6 p.m. on Wednesday the 7th of August. Knigge read a list of all the events that were planned for the week.

Enter: Gillette @ 7:30 p.m.

Exit: Knigge @ 7:35 p.m.

Kathy Ludwig – Ludwig's updated the council on a building they are refurbishing and that they would like to run a business out of this building. The City Attorney will research the matter.

Exit: Lou & Kathy Ludwig @ 7:38 p.m.

OLD BUSINESS:

Follow Up on Code Enforcement Issues – Various properties were discussed.

NEW BUSINESS:

Redfield Food Center Grand Opening using Market Square & Sixth Avenue – Motion by Siebrecht, seconded by Eldeen to allow Redfield Food Center to use Market Square and close off Sixth Avenue for the Grand Opening activities to be held on August 7th, 2013. Motion carried.

Reappointment of Planning & Zoning Committee Member – Motion by Ronnfeldt, seconded by Eldeen to accept Mayor Akin's reappointment of committee member, Kurt Permann, to the Planning & Zoning Board for the 2012 thru 2015 term. Motion carried.

Hire Recreation Department Help – Motion by Siebrecht, seconded by Eldeen to hire Dick Benning as temporary help at an hourly rate of \$8.00. Motion carried.

Physician Assistant Employment Agreement – CMH – Motion by Ronnfeldt seconded by Morrisette to approve the Physician Assistant Employment Agreement with Heidi Gehrke. Motion carried.

INFORMATION AND DISCUSSION ITEMS:

Mosquito Spraying - A discussion ensued about the spraying of mosquitoes in the City of Redfield.

Budget Meeting - The work session for the budget will be August 12th, 2013 at 7:00 p.m.

COUNCIL MEMBER REPORTS:

Eldeen discussed a concern about drainage behind Meadow Park.

Keating informed the Council about the possibility of expanding story hour at the library.

Ronnfeldt received some concerns about different types of foundations for homes. A discussion ensued about zoning ordinances in Redfield.

Siebrecht asked about the fence around the motor pool by the Armory. Siren testing was discussed. The Council decided to test the sirens once a month.

Kearney has received some complaints about train whistles going off in town.

Moeller explained that a block of sanitary sewer main was fixed by the main lift station; with a project cost of around \$15,000.00. A new storm sewer was installed on South Main Street at a cost of about \$20,000.00. The need for black topping some alleys that have washouts was discussed.

Schwartz informed the Council about painting the lines on the tennis courts. Schwartz will look into the matter. The cable and posts in the park were discussed.

Mayor Akin read a letter from Ted Williams, SDDC Director, thanking the City of Redfield for supporting the job stipend and new billboard.

Akin informed the Council that the Redfield Soccer Association's new president is Scott Domke.

PAY CLAIMS:

City Prepaid	\$33,768.70
City Unpaid	\$172,829.59
Hospital & Clinic Prepaid	\$225,834.35
Hospital & Clinic Unpaid	\$144,578.50
Hospital & Clinic Refunds	\$2,317.19
Additional Claims:	

Motion by Siebrecht, seconded by Morrissette to pay the above claims with the Addition of \$225.00 to Eager Beaver for the removal of nine tree stumps and the corrected amount to Redfield Ace Hardware of \$470.85. Motion carried on a roll call vote with all members voting "Yes."

There being no further business, meeting was adjourned at 8:47 p.m.

Jayne Akin
Mayor

Adam L. Hansen
Finance Officer

Recorder: Adam L. Hansen