

**Unapproved Minutes of
REDFIELD CITY COUNCIL**

May 3, 2021

7:00 p.m.

The City Council met in regular session via teleconference and at the Fire Dept. on Monday, May 3, 2021 at 7:00 p.m.

MEMBERS PRESENT: City Council President Randy Maddox, Mike Siebrecht, Eileen Kearney, Todd Schwartz, Joe Morrissette, Jessi Lewis, David Moeller, and Frank Schwartz

STAFF PRESENT: Adam L. Hansen and City Attorney Kristen Kochekian

VISITORS: None

CALL TO ORDER: City Council President Maddox called the meeting to order at 7:00 p.m.

ADOPT AGENDA: Motion by Lewis, seconded by Siebrecht to adopt the agenda as presented. Motion carried.

MINUTES: Motion by Siebrecht, seconded by Lewis to approve the April 19, 2021 minutes. Motion carried.

CONSENT CALENDAR:

Motion by Morrissette, seconded by F. Schwartz to approve the following items on the consent calendar:

Departments' Reports:

- A. Sheriff Report – Report dated March 3, 2021
- B. Library Report – Minutes dated April 26, 2021
- C. Revenue and Expense Report – March Report and March Salaries
- D. Building Permits – Report dated April, 2021

Receive and place on file. Motion carried.

REPORTS:

Hospital Report – Motion by Lewis, seconded by F. Schwartz to approve the CMH Hospital minutes dated April 26, 2021. Motion carried.

OLD BUSINESS:

Notice of Code Enforcement Activities – Yost's report was presented to the Council for their review. Various properties were discussed. April Fine Report was presented.

2021-2022 Stump Removal Bids – City Attorney updated the Council on the random drawing that will occur as a consequence of the same bids.

PAY CLAIMS:

City Prepaid	\$3,933.82
City Unpaid	\$330,630.32
Hospital & Clinic Prepaid	\$323,233.20
Hospital & Clinic Unpaid	\$54,552.27
Hospital & Clinic Refunds	\$1,591.32
Additional Claims:	

Motion by F. Schwartz, seconded by Siebrecht to pay the above claims in addition to Am Family Life Assurance \$1,055.04 for insurance premiums, Heiman Fire Equipment \$2,051.05 for gloves, David Moeller \$148.31 for lawn care, NorthWestern Energy \$200.11 for gas & electricity, Redfield Ace Hardware \$546.15 for supplies, Connecting Point \$120.00 for support work on server, Clausen Sanitation Inc. \$11,606.00 for monthly garbage collection, J & J Earthworks, Inc. \$65,882.50 for pay request #7 Water & Wastewater System Improvements Project, Phase I, and Dahme Construction, Inc. \$336,569.43 for pay request #2 Water & Wastewater System Improvements Project, Phase I. Motion carried on a roll call vote with all members voting "Yes."

City Council President Maddox adjourned the meeting Sine Die @ 7:15 p.m.

Meeting reconvened at 7:17 p.m. with the following Council members present: Mayor Randy Maddox, Mike Siebrecht, Eileen Kearney, Joe Morrissette, David Moeller, Frank Schwartz, Jessi Lewis and Todd Schwartz. Staff present: Adam L. Hansen and City Attorney Kristen Kochejian.

Oath of office was given to the elected Mayor.

VISITORS/PUBLIC TIME:

None

NEW BUSINESS:

Elect Council Chairperson & Vice-Chairperson – Nomination of Eileen Kearney as City Council Chairperson by Lewis, seconded by Moeller. Motion carried. No additional nominations were received Mayor Maddox declared nominations closed and Eileen Kearney as Chairperson. Nomination of Mike Siebrecht as Council Vice-Chairperson by Kearney, seconded by T. Schwartz. Motion carried. Since no additional nominations were received Mayor Maddox declared nominations closed and Mike Siebrecht as Council Vice-Chairperson.

2021-2022 City Council Assignments will include - Parks, Recreation, & Swimming Pool – Mike Siebrecht, Water & Sewer – Dave Moeller, Solid Waste – Jessi Lewis, Street Department – Dave Moeller, Airport – Jessi Lewis and Todd Schwartz, Senior Citizens – Joe Morrissette, Cemetery – Kelly Hyke, Eileen Kearney, and Frank Schwartz, Library – Frank Schwartz, Chamber – Todd Schwartz. Motion by F. Schwartz, seconded by Morrissette to approve the assignments. Motion carried.

Board Appointments – Mayor Maddox announced the following board appointments: **Zoning and Planning** Re-Appoint Ethan Jessen, Stephen Schroeder, and Tom Carr. Motion by Lewis, seconded by Kearney to approve Mayor Maddox’s appointments. Motion carried.

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Dept. Head Appointments to Begin May 3, 2021 – Mayor Maddox presented the following appointments of department heads: Fire Chief – Rich Gruenwald; Public Works Director-James Haider; Parks and Recreation Director-Heidi Appel; Librarian-Sarah Jones; Assistant Librarian – Linda Keller; Senior Citizens Director-Lisa Manning; Hospital Administrator-Karen Sjurseth; Public Health Officer-Dr. Matt Owens; Finance Officer-Adam Hansen. Motion by F. Schwartz, seconded by Morrissette to approve Council Chairperson’s appointments. Motion carried.

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

Appoint Official Legal Counsel – Motion by Lewis, seconded by Kearney to approve the Official Legal Counsel of Gillette Law Office. Motion carried.

Appoint Official Newspaper – Motion by Kearney, seconded by F. Schwartz to appoint *The Redfield Press* as the City of Redfield’s official newspaper. Motion carried.

Change Order #2 – J&J Earth Works, Inc.- Water & Wastewater System Improvements Project, Phase I – Motion by T. Schwartz, seconded by Morrissette to approve change order #2 in the amount of \$6,752.38 to J&J Earthworks, Inc. Motion carried on a roll call vote with all members voting "Yes."

Pay Request #7 – J&J Earth Works, Inc. – Water & Wastewater System Improvements Project, Phase I – Motion by Morrissette, seconded by Siebrecht to approve Pay Request #7 Water & Wastewater Improvements Project Phase 1 in the amount of \$65,882.50 to J&J Earthworks, Inc. Motion carried on a roll call vote with all members voting "Yes."

Change Order #1 – Dahme Construction, Inc. – Water & Wastewater System Improvements Project, Phase I – Motion by Lewis, seconded by T. Schwartz approve change order #1 in the amount of \$25,933.43 to Dahme Construction, Inc. Motion carried on a roll call vote with all members voting "Yes."

Pay Request #2 – Dahme Construction, Inc. – Water & Wastewater System Improvements Project, Phase I – Motion by Morrissette, seconded by F. Schwartz to approve Pay Request #2 Water & Wastewater Improvements Project Phase 1 in the amount of \$336,569.43 to Dahme Construction, Inc. Motion carried on a roll call vote with all members voting "Yes."

Purchase Wheel Loader – Motion by Moeller, seconded by T. Schwartz to purchase a 2021 John Deere 624P from the Minnesota State Bid. Motion carried.

ORDINANCES AND RESOLUTIONS:

City Council President Maddox gave the Second Reading of Ordinance No. 01-2021 (Midcontinent Communications Cable TV Franchise Agreement)

ORDINANCE NO. 01-2021

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO **MIDCONTINENT COMMUNICATIONS**, ITS SUCCESSORS AND ASSIGNS THE RIGHT TO ERECT, CONSTRUCT,
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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 19th day of April, 2021.

Randy Maddox, Mayor

ATTEST:

Adam Hansen, Finance Officer

1st Reading: April 19, 2021

2nd Reading May 3, 2021

Adoption: May 3, 2021

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Publication: May 12, 2021

Motion by Lewis, seconded by F. Schwartz to adopt Ordinance No. 01-2021. Motion carried on a roll call vote with all members voting "Yes."

INFORMATION AND DISCUSSION ITEMS:

EMS Center discussion

COUNCIL MEMBER REPORTS:

Morrisette inquired about construction and the need to fix potholes in the parking lot on the north side of CMH.

T. Schwartz gave an update on Chamber happenings.

Moeller updated the Council on street, water, and sewer departments.

Lewis commented on the need to fix the doors on the SRE Building at the Airport.

There being no further business, meeting was adjourned at 8:21 p.m.

Randy Maddox
Mayor

Adam L. Hansen
Finance Officer

Recorder: Adam L. Hansen