

CITY COUNCIL MEETING

NO. 2006-02

JANUARY 23, 2006

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 23<sup>rd</sup> day of January, 2006 at 5:00 o'clock P.M. The following individuals were present: Mayor John Gamby, Vice Mayor Jim Stokey, Councilmembers Donny Grantham, Morgan Muller and Mark Douglas, City Manager Al Vacanti, City Clerk Donna Rust, City Attorney Bevin Bump, Chief of Police Jerry Crews, Finance Officer Dave Noble, Public Works Director Milo Rust and Zoning and Building Official Janet Johnson. Absent: None.

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 simultaneously given 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 Gamby called the meeting to order and declared a quorum present.

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

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

- 1) Minutes for City Council Meeting No. 2006-01, January 9, 2006

The Minutes were approved as written and distributed.

- 2) Correspondence

The Council received a letter from members of Boy Scout Troop 201, thanking the members of the City Council for educating the Boy Scouts with regard to City Council Meetings.

- 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

ABC Electric	Light & Clock Reset	156.47
American Red Cross	2005 Swim Lessons Provider Fees	369.00
Analytical Technology	Plant Maintenance Supplies	62.30
Apria Healthcare	Oxygen	48.00
Arrow Building Center	Supplies	81.70

Avaya	1/2006 Merlin Maintenance	132.48	
Baker & Taylor	Library Books	346.98	
Big Bat's #2	Fuel Purchases	50.11	
Black Hills Weekly Group	1 Year Subscription	36.00	
Brennan Electric	Electrical Supplies & Service	116.42	
Carrot-Top Industries	Flags	101.77	
Century Business Products	11/2005 Mita Maint. & Supplies	47.50	
Chadron, City of	FICA to 1/12/2006	4,201.31	*F
Chadron, City of	Payroll to 1/12/2006	56,836.35	*C
Chadron, City of	Petty Cash Reimbursement	43.06	*
Chadron Community Hospital	Flu Injections - Fire Dept.	279.99	
Chadron Concrete & Block	Landscape Block & Pallet Rental	320.00	
Chadron Home Center	Supplies	80.92	
Computer Catalysts	HP LaserJet Printer & Installation	1,630.00	
Danko Emergency Equipment	Mud Flaps	78.64	
EDM Equipment	Pressure Gauge	99.82	
EMC Insurance	Worker's Compensation Deductible	540.64	
Emick, Tom	Uniform Reimbursement	100.74	
Farm Plan/The Mercantile	Parts & Supplies	399.59	
Feld Equipment, Ed M.	Fire Fighting Equipment	438.00	
Fire Programs	1 Year Support & Upgrade Service	295.00	
First National Bank-Omaha	Training & Travel Expenses	493.94	
Fresh Start Convenience Stores	12/2005 Fuel Purchases	2,939.10	
Great Plains Building Center	Supplies	33.93	
Grimms Pump & Industrial Supply	Fire Hose	144.79	
GumDrop Books	Library Books	666.45	
Hach	Calibration Kit	151.40	
Hadden, Kinley	12/2005 Janitorial Services	77.25	
Hansen, Maruta	1/5-1/18/2006 Janitorial Services	200.00	
Haynes, Terri	1/2006 AP Operations Contract	900.00	
Hencey Plumbing & Hydronics	Supplies & Service	108.25	
Henkens Equipment	Bearing Holders	36.02	
Ideal Linen Supply	Janitorial Supplies	51.07	
Ingram Library Services	Library Books	247.98	
KAR Products	Brake Cleaner	120.41	
Kinder Morgan	12/2005 Gas Service	579.59	
Kriz Davis	EConnect Site & Software Support	1,119.50	
Mellen & Associates	Pistons & Liners - Wellfield Maintenance	4,422.00	
Metal Products	Adapter/Motor/Service	120.47	
MicroMarketing	Library CD's/DVD's/Videos	695.97	
Midland Telecom	Pager Parts & Maintenance	539.00	

National Waterworks	Water Meters & Parts	329.05	
NE Dept. of Aeronautics	Quarterly NDB Maintenance	375.00	
Nebraska Aviation Council	Registration - Aviation Symposium	70.00	*
Nebraska Forest Service	Tree Care Workshop	90.00	
Nebraska Law Enforcement Center	TABE Tests	30.00	
Nebraska Public Power District	12/2005 Electric Service	1,174.54	
Norm's Carquest Auto Parts	Parts & Supplies	463.26	
Northwest Pipe Fittings	Pipe Fittings	312.58	
Northwest Rural Public Power	12/2005 Electric Services	4,959.28	
Osborne's Office Supply Account, Tom	US Flags	115.20	*
Outlaw Printers	Uniform	126.40	
Pine Ridge Area Chamber	1 Year Membership	50.00	
Quality Books	Library Books	3,287.77	
Quill	Name Badges	31.93	
Qwest	1/2006 Telephone Service	1,419.69	
Roberts Electric, Scott	Lighting Materials & Labor	101.70	
Ron's Repair Shop	Supplies	70.00	
Rushville Service & Sport Center	Valve Liners & Service	100.00	
Rust, Milo	Meal Reimbursement - Training	15.20	
Sandhills Computer Consulting	12/2005 & 1/2006 Internet Services	147.00	
Star Herald	1 Year Subscription	120.50	
Sturdevant's	Parts & Supplies	36.99	
Taste of Home Books	2006 Annual Recipes	23.98	
Trinity Steel Supply	Parts	109.00	
University of Nebraska - Lincoln	2006 Asphalt Paving Conference	160.00	*
US Postal Service/PitneyBowes	Postage-by-Phone Advance	400.00	
VantagePoint Trust 401 Employee	Pension to 1/12/2006	2,100.46	*C
VantagePoint Trust 401 Police	Pension to 1/12/2006	1,023.86	*C
Wal-Mart	Office Supplies	447.06	*
Western Communications	1/2006 Siren Maintenance	110.00	
Western Cooperative	Fuel Purchases	51.15	
Western Plains	Self-Inking Stamps	113.69	
Xerox	12/2005 #13 Copier Lease & Prints	742.14	
<b>TOTAL</b>		<b>99,247.34</b>	

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

4) Report on Collection of Special Assessments

5) Minutes for Boards and Commissions

There were no minutes to distribute at this meeting.

6) Cemetery Annual Report

The Council received a copy of the Annual Report for Greenwood Cemetery stating that there were 46 burials and 16 spaces sold in 2005. A total of 1,064 spaces are available at the Cemetery.

#### 7) Minutes for Boards and Commissions

No minutes were distributed at this meeting.

Councilmember Muller seconded the motion for approval of the Consent Agenda. The following Councilmembers voted Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

Jane Ramm was present representing the Board of Directors of the Chadron Area Chamber of Commerce. She reported that the Chamber had recently elected new officers and have hired a new Executive Director. Ms. Ramm introduced Joy Omelanuk as the new executive director for the Chamber. Ms. Omelanuk spoke to the Council, stating that she was looking forward to her new position.

Darin Garman, owner of Wrecker's Roadhouse, appeared before the Council to request that the City Code be amended to allow for the sale of liquor on Super Bowl Sunday, which is scheduled for February 5, 2006. The Super Bowl is to start at 4:00 P.M. Mountain Time. Mr. Garman stated that they would like to be able to sell alcohol one hour before the start of the game and 30 minutes past the end of the game. He also requested an extension of hours of service in the event the game goes later than 8:00 P.M. The City Code currently provides for the sale and consumption of only beer from 12:00 Noon to 8:00 P.M. on Sundays.

Councilmember Grantham moved to extend the hours for sale of alcohol on Sunday, February 5, 2006 for the Super Bowl for all liquor establishments in Chadron. Motion died for lack of a second.

Considerable discussion followed. The Council expressed concern that they had not been given very much time to consider this matter. In order for the City Code to be amended to allow for extended hours for sale of alcohol, an ordinance would need to be passed and adopted. The Council would have liked to have had an opportunity to be able to read the ordinance on three separate readings, allowing time for public input. The Council was of the consensus that the request was too close to the day of the event to allow for any Council action.

Susan Hucke, Executive Director and Linda Heikkilal, Recycling Director appeared before the Council on behalf of Keep Chadron Beautiful. The organization is requesting permission to use City owned property near the Solid Waste Agency of Northwest Nebraska, to construct a storage facility for the recycling program. Such a facility would relieve SWANN the burden and inconvenience of storing the paper and cardboard materials collected by Keep Chadron Beautiful.

It was noted in a letter addressed to the Council, the amount of paper and cardboard to be recycled has expanded beyond SWANN's capabilities. Currently KCB picks up the cardboard and paper from businesses and stores the loose materials in roll-off bins. SWANN usually bales the cardboard every ten days and the paper when the roll-off bin is full. These bins are then stored in SWANN's maintenance garage until transport can be completed. The transportation service does not always arrive on a timely schedule causing the large number of recycled bales to interfere with the operation of SWANN vehicles, not to mention creating a possible fire hazard.

Keep Chadron Beautiful is applying for a grant to fund the storage facility through the Cardboard and Office Paper Pickup Program (COPP) and the deadline is February 1, 2006. The organization needs to be able to show that it has a preliminary site for the storage facility and is looking for a consensus from the Council showing support for use of City owned property.

Councilmember Muller moved to grant Keep Chadron Beautiful space on City owned property for construction of a storage facility for the recycling program, with an agreement to be drafted upon favorable approval of the grant application submitted by KCB. Seconded by Councilmember Douglas. The following Councilmembers voting Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

George Klein submitted an audit engagement letter dated January 12, 2006 for the fiscal year ended September 30, 2005. Mr. Klein's letter outlined the audit objectives, management responsibilities, and the audit procedures. The fee for the audit services will not exceed a base fee of \$12,000.00 and the single audit fee of \$1,200.00.

Councilmember Grantham moved to accept the proposal from George Klein for audit services for the fiscal year ended September 30, 2005 as presented. Seconded by Councilmember Stokey. The following voted Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

Councilmember Muller moved to remove Resolution No. 2006-02 from the table. Seconded by Douglas. The following Councilmembers voted Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

The Council received a written legal opinion from City Attorney Bump in regard to whether or not it is necessary, when bidding on the purchase of a truck for City use, if the Council must accept the lowest bid. Attorney Bump cited Sec. 81-161 and Sec. 18-1756 R.R.S. 2003.

Mr. Bump also noted *Rath v. City of Sutton*, No. S-02-1174 (January 23, 2004), where the Supreme Court of Nebraska clarified that determination of the "lowest responsible bidder" is a two-step process. First, the public body determines which bidders are responsible. Second, the body determines which of the bids is the lowest. Public bodies have discretion in both these decisions, but discretion is limited in determining which bid is the lowest. Therefore, when the only difference in bids is price, the body has no discretion and the award must go to the lowest bid.

The Supreme Court rejected the argument that the City was entitled to ignore the "lowest responsible bidder" requirement and award to its local favorite because the invitation to bid purported to authorize the City to make any award deemed to be in its best interests in its sole discretion. "This argument is without merit. A party cannot, by contractual agreement with another party, obtain the power to do something that state law forbids".

City Attorney Bump states in his opinion, that the Supreme Court in *Rath* reaffirmed that taxpayers may rightfully stop illegal public expenditures without providing individual pecuniary loss, and that public bodies are not free to pick and choose among responsible bidders when the law requires an award to the lowest responsible bidder.

Council discussion followed. Councilmember Muller stated "we tried", referring to accepting the bid from a local car dealer versus the low bid, which was from an out of town bidder. Councilmember Muller also thanked the public for its input with regard to this issue. Mayor Gamby added that the Council has to vote what is legal and ethical.

The City Manager stated that pursuant to the Notice to Bidders, a bid opening was held at 2:00 o'clock P.M., on Thursday, December 22, 2005 for one (1) New 2006 ½ Ton, Regular Cab, 4 Wheel Drive Pickup. 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:

NEW 2006 ½ TON, REGULAR CAB, 4 WHEEL DRIVE PICKUP

<u>NAME OF BIDDER</u>	<u>EQUIPMENT</u>	<u>BID</u>
Sid Dillon Chevrolet Wahoo, NE 68066	2006 Chevrolet Silverado 1500	\$18,597.00
Wahlstrom Ford, Inc. Chadron, NE 69337	2006 F150 Ford	\$18,731.00
GMC of Chadron Chadron, NE 69337	2006 GMC Sierra 1500	\$18,800.35
John Miskimins Motor Co., Inc. Chadron, NE 69337	2006 Chevrolet Silverado 1500	\$19,218.74
Eisenbarth Motor Co., Inc. Chadron, NE 69337	2006 Dodge Ram 1500	\$20,966.00

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

RESOLUTION NO. 2006-02

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 bid of Sid Dillon Chevrolet of Wahoo, Nebraska for the purchase of one (1) New 2006 Chevrolet Silverado 1500, Regular Cab, 4 Wheel Drive Pickup in the sum of \$18,597.00 as filed with the City Clerk in accordance with the terms of the published notice calling for proposals on the above mentioned equipment should be and the same hereby is accepted.

2. The Contract Documents as heretofore prepared and presented to the Council are hereby approved and the Mayor and City Clerk are hereby authorized and directed to execute said Contract Documents on behalf of the City. The Council waives all formalities or irregularities in opening, submitting and awarding of bids.

3. The City Manager is hereby authorized to expend \$18,597.00 from line item 5910.61, Motorized Equipment, in the Street Department, for the purchase of said equipment.

The foregoing Resolution having been read, Councilmember Grantham 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, Stokey, Grantham, Muller, Douglas. 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 23<sup>rd</sup> day of January, 2006.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

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

RESOLUTION NO. 2006-03

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

The Specifications, as prepared by Jerry Crews, Chief of Police, for the purchase of one (1) 2006 police package vehicle, as filed with the City Clerk are hereby approved and the City Clerk is hereby directed to publish Request for Proposals, pursuant to law.

The foregoing Resolution having been read, Councilmember Muller 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, Stokey, Grantham, Muller, Douglas. The following Councilmembers 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 23<sup>rd</sup> day of January, 2006.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

The Council received a letter from Jamey Eisenbarth on behalf of E & L Holdings, LLC, requesting the creation of a water extension district for Lots 1 through 12, Blocks 6 & 7, Ridgeview Subdivision Third Addition.

Councilmember Muller moved to authorize the preparation of plans and specifications for a water extension district for Lots 1 through 12, Blocks 6 & 7, Ridgeview Subdivision Third Addition. Seconded by Councilmember Grantham. The following Councilmembers voted Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

The Council received a second letter from Jamey Eisenbarth on behalf of E & L Holdings, LLC,

requesting the creation of a paving district for Lots 1 through 6, Blocks 6 & 7, Ridgeview Subdivision Third Addition.

Councilmember Grantham moved to authorize the preparation of plans and specifications for a paving District for Lots 1 through 6, Blocks 6 & 7, Ridgeview Subdivision Third Addition. Seconded by Councilmember Douglas. The following Councilmembers voted Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

The Council received a letter from Cliff Hanson, resigning from the Citizen Advisory Review Committee. Mr. Hanson has moved from Chadron and has established residency in Lincoln. City Manager Vacanti reported that Twila Fickel was interested in serving on this Committee.

Councilmember Stokey moved to appoint Twila Fickel to the Citizen Advisory Review Committee to fill an unexpired term, which term will expire June 30, 3006. Seconded by Councilmember Douglas. The following Councilmembers voted Aye: Gamby, Stokey, Grantham, Muller, Douglas. The following voted Nay: None. Motion carried.

Councilmember Stokey moved to adjourn the meeting at 6:19 o'clock P.M. Seconded by Councilmember Douglas. The following Councilmembers voted Aye: Gamby, Stokey, Grantham, Muller Douglas. The following voted Nay: None. Motion carried.

CITY OF CHADRON

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
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 January 23, 2006 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

(S E A L)