

**RUGBY CITY COUNCIL MEETING MINUTES
TUESDAY, JANUARY 2, 2023– 7:00 PM
COUNCIL CHAMBERS AND MICROSOFT TEAMS**

Mayor LaRocque called the meeting to order at 7:09 pm.

Council members recited the Pledge of Allegiance.

Roll call was taken by Mayor LaRocque.

Council Members present: Schneibel, Kraft, Larson, Zachmeier, and Gannarelli. Council Members present by TEAMS: Nelson, Brossart and Lotvedt. Also present were Mayor LaRocque, Auditor Stewart, and Attorney Murray.

Lotvedt added Public Works education and training water seminars. Nelson added Armory key issue. There was a motion by Schneibel to approve the agenda as amended. Second by Larson, all voting yes, motion carried.

The council considered the December 5, 2022, meeting minutes. There was a motion by Nelson to approve the December 5, 2022, meeting minutes. Second by Kraft, all voting yes, motion carried.

Bills Paid Since Last Meeting of 12/5/2022:	\$1,772,350.66
22828 Suez WTS Services USA, Inc	\$515,200.00
22832 Aqua Pure Inc	\$450.00
22833 B & J Excavating	\$1,570.00
22834 B & M Laundry	\$188.95
22835 Black Mountain Software	\$15,204.00
22836 Butler Machinery Company	\$869.41
22837 Community Service Program	\$6,000.00
22838 Computer Express	\$479.98
22839 CVB	\$4,088.27
22840 CVB	\$6,085.58
22841 David Bednarz	\$84.38
22842 Drive Chevrolet Buick Rugby	\$78.64
22843 Ecolab	\$173.80
22844 Envision	\$869.90
22845 Graymont Western Canada	\$5,040.94
22846 Hawkins, Inc	\$833.88
22847 Home of Economy	\$389.30
22848 Heart of America Library	\$3,523.26
22849 I Design	\$225.00
22850 John Deere Financial	\$104.35
22851 Johnson's Plumbing	\$938.94
E-CK JP Morgan	\$674.86
22852 Leevers	\$43.08
22853 Locators & Supplies Inc	\$27.70
22854 MEDICO	\$258.50

22855	Napa Auto Parts	\$48.49
22856	ND Department of Health	\$18.54
22857	ND One Call Concepts	\$10.40
22858	ND Telephone Company	\$705.89
22859	Northern Plains Electric	\$3,241.03
22860	Otter Tail Power Company	\$13,792.46
22861	Rugby Farmers Un. Elevator	\$55.50
22862	Rugby Fire Dept	\$2,854.35
22863	Rugby Job Authority	\$28,793.15
22864	Rugby Park District	\$1,888.49
22865	Sunny 101.9/KBTO FM	\$340.00
22866	Troy Munyer	\$100.00
22867	Valli Information Systems	\$733.42
22868	Wagner Construction	\$1,063,713.76
E-ck	Wex Bank	\$978.36
ACH	Payroll Checks	\$53,210.79
ACH	Social Security	\$7,980.76
ACH	Medicare Taxes	\$1,866.48
ACH	Payroll Taxes	\$3,898.48
22869	AFLAC	\$992.45
ACH	NDPERS	\$825.00
ACH	NDPERS	\$6,898.98
ACH	NDPERS	\$14,330.20
22870	State Tax Commissioner	\$1,670.96

Bills To Be Approved and Paid 1/3/2023: \$74,843.07

22871	Advanced Engineering	\$23,594.31
22872	Circle Sanitation Inc	\$20,047.00
22873	Coffee Cottage Café	\$72.09
22874	Column Software PBC	\$825.83
22875	Computer Express	\$7,663.00
22876	Core & Main LP	\$4,215.43
22877	David Jaeger	\$950.00
22878	Glenko Enterprises LTD	\$2,439.47
22879	GovOffice LLC	\$780.00
22880	Harper Oil Co	\$2,766.70
22881	MARC	\$941.55
22882	Miller Drywall	\$500.00
22883	ND League of Cities	\$2,098.00
22884	Pierce County Auditor	\$3,412.50
22885	Pierce County Treasurer	\$1,360.42
22886	Rebecca Jordan	\$170.00
22887	Rugby Hardware Hank	\$165.30
22888	Rugby Lumber Inc	\$1,032.15
22889	Rugby Service Center	\$871.61
22890	USA Blue Book	\$218.60

22891 Verizon Wireless

\$719.11

The bills were individually reviewed by Larson and Gannarelli. There was a motion by Larson to approve the bills as presented. Second by Gannarelli, roll call vote, all voting yes, motion carried.

The council considered the monthly financial reports. Stewart reviewed the financial reports with the council. There was a motion by Kraft to approve the financial reports as presented. Second by Zachmeier, roll call vote, all voting yes, motion carried.

Stewart explained the budget and cash transfer from 5060 Infrastructure Fund to 3570 2 ½ Ave Fund in the amount of \$34,275 to offset the city expense for the project. There was a motion by Schneibel to approve the budget and cash transfer from 5060 Infrastructure Fund to 3570 2 ½ Ave Fund in the amount of \$34,275 to offset the city expense for the project. Second by Brossart, roll call vote, all voting yes, motion carried.

The city considered Rugby Area Banks for designation as depositories for public funds. There was a motion by Larson to approve Bremer Bank, Cornerstone Bank, First International Bank, First United Bank, Merchants Bank and North Star Credit Union as depositories for the City of Rugby. Second by Zachmeier, all voting yes, motion carried.

The council considered the December 2022 Municipal Court Report. There was a motion by Kraft to approve the December 2022 Municipal Court Report. Second by Gannarelli, all voting yes, motion carried.

Wade Senger, Interstate Engineering, addressed the council regarding Phase 3 Water Treatment Plant Improvements. Senger explained that when the project is being completed, there will be a temporary wall installed between Train A and Train B to ensure the water quality of the Train that is being utilized as the other is replaced. Senger explained that in the winter months the city only runs one Train of the treatment plant. Winter construction should not have any affect on the cities ability to meet water demand.

Senger recommended that the council allow a longer completion date to generate more contractors being interested in the project. May 2024 was Senger's recommendation. Lotvedt agreed that a 2024 completion date would be best. Senger explained that our current water treatment plant equipment is operational, and it is not emergent to get the new parts installed.

Senger explained that the project is \$1,400,000 and with current construction costs, it could end up being higher. Senger does believe that it should stay within the \$1,400,000. Gannarelli questioned what type of welding would be utilized. Senger explained that stainless steel welding would be utilized. Gannarelli asked if the stainless would be back purged with a shielding gas. Senger will find out and get back to the council on that question.

Senger explained that he would like to have the council put the project out for bids. Bid opening could be as early as February 6, and then considered at the council meeting that evening. There was a motion by Lotvedt to put the Phase 3 Water Treatment Plant Improvement project out for

bids with a completion date of Spring 2024. Second by Larson, roll call vote, all voting yes, motion carried.

Convention and Visitors Bureau: Schneibel explained that they have not met since the last meeting.

JDA: Karl Frigaard, Job Development Executive Director, addressed the council regarding the student loan program. The JDA approved 11 applicants for the program. He reported that he straightened up the Survey Monkey subscription. The JDA Board approved two new members at their December meeting. Mathias Follman, First International Bank and Trust, and Leah Harper, Harper Oil, Rugby Service and La Bella Vita Salon. There was a motion by Lotvedt to approve the appointment of Mathias Follman and Leah Harper to the JDA Board. There was a motion by Schneibel to approve the JDA minutes and financials. Second by Kraft, all voting yes, motion carried. Lotvedt repeated his motion. Kraft second, all voting yes, motion carried.

Committee Reports

Recreation: Chairman Lotvedt explained that the Recreation Director position is open and will be advertised.

Finance: Kraft explained that they had met with Computer Express, for police and city IT services, and discussed the 2 ½ Ave Change Order 4 and Pay Application 9.

Ordinance: Chairman Schneibel explained that Ordinance 442 – Water Service, which will have its first reading this evening was discussed.

Public Works: Chairman Kraft explained that they discussed Backflow Preventers and the Water Treatment Plant Phase III project. Lotvedt explained that 15th St SE, north of the new hospital site, the city will be extending the waterline. He explained that the state requires an engineer's design plan, which needs to be completed. He is looking for a motion to hire Interstate Engineering to complete this, not to exceed \$10,000. There was a motion by Kraft to hire Interstate Engineering, up to \$10,000, to design the waterline for 15th St SE. Second by Larson, roll call vote, all voting yes, motion carried.

Lotvedt explained that there is a Water Expo in Bismarck in January 2023. Lotvedt explained that Larson would like to attend. There was a motion by Lotvedt to send Council Member Larson to the Water Expo. Second by Brossart. LaRocque asked Larson if this helps him with his state water certifications. Larson explained that it does help with his license. Schneibel questioned if any employees would attend. LaRocque explained that it is up to the Department Head to send employees to training, as long as it is within the budget. The council discussed the amounts budgeted for 2023 for the Mayor and Governing Board to travel and attend conferences. The council discussed the importance of training for employees and council. LaRocque called for a roll call vote, all voting yes, motion carried.

Public Safety: Chairman Larson explained that the Police Department is still looking to fill two full-time positions.

Personnel: Chairman Gannarelli explained that they had looked at employee handbook policy 705 Grievance Procedures and are looking at 703 Discipline.

Nelson explained the Computer Express contract for the Police Department and City Hall for information technology services in the amount of \$350 per month. Jamie Nelson from Computer Express had told the Finance Committee that he would complete a free cyber security evaluation at the water treatment plant as well. Nelson explained that Pierce County is also contracted with Computer Express for services. There was a motion by Schneibel to approve the Computer Express contract in the amount of \$350 per month for the Police Department, City Hall and a free cyber security evaluation at the water plant. Second by Larson, roll call vote, all voting yes, motion carried.

The council discussed the contract with Johnson's Plumbing to install the backflow preventers. The council previously approved a completion date of January 6, 2023. Johnson's Plumbing has asked for a completion date in the spring. Schneibel motioned to extend the completion date to June 1, 2023, for Johnson's Plumbing to install the backflow preventers. Second by Kraft, roll call vote, all voting yes, motion carried.

Jim Olson, AE2S, addressed the council regarding Change Order #4 for Wagner Construction. Olson explained that it is a balancing change order to address the increased materials and decrease in materials from what was originally bid. Richard McGovern, Wagner Construction, also explained Change Order #4 to the council. Lotvedt explained that at the December 5, 2022, council meeting they had reviewed the differences listed in the change order. There was a motion by Nelson to approve Change Order #4 for Wagner Construction in the amount of \$216,559.15. Second by Lotvedt.

Kraft questioned how the 15-inch sanitary sewer was off by 15 feet. Olson explained that it was from the main to the lagoons and that engineering had missed it on their documents. Olson explained that Wagner did not add anything, it was left off the design. Nelson questioned the 4-inch insulation, linear feet that were utilized. Olson explained that most of the additional insulation was for the shallow water services into residential property. Olson explained the waterlines were further into the yards to put in new curb stops, than on the original plan. Gannarelli explained to Nelson that a couple of water lines had to be added on his property, and he had to grant an easement, that were not part of the original plan. Lotvedt questioned if there was a 15% engineering fee on Change Order #4. It was clarified that was not a 15% engineering fee on Change Order #4. LaRocque called for a roll call vote, all voting yes, motion carried.

Olson explained Pay Application #9. Lotvedt explained that Wagner Construction has asked for a fuel charge increase without exercising the ND DOT Fuel Cost Adjustment Clause. Lotvedt explained that Rugby cannot approve Wagner's request and set a precedence. Richard McGovern, Wagner Construction, explained that they experienced a massive increase in diesel fuel costs. Wagner incurred \$26,000 increase in diesel fuel costs, from what they bid the project at. McGovern explained that Wagner had entered into a contract with Marion Trucking for \$117 per hour. McGovern explained that the Ukrainian War caused an increase in costs. He explained that trucking costs across the country increased to \$135-\$140 per hour. McGovern explained that Marion Trucking did not charge Wagner more than the bid of \$117 per hour, but

Wagner would like to pay Marion for the difference in increased trucking cost average. Nelson explained that when a contractor enters into the ND DOT Fuel Cost Adjustment Clause, they take on some risk. When fuel costs are lower than estimated, the contractor would pay the city an adjustment in price and when fuel costs are higher than estimated, the city would pay the contractor an adjustment in price. Wagner Construction did not enter this clause. Nelson explained that the city wants to see what the balance of the USDA Grant funds could be utilized for before they grant any request for additional fuel or trucking costs.

Attorney Murray explained that the restoration, landscaping, etc. will be finished in the spring. Additional costs could be incurred at that time. McGovern explained that the items Wagner has left are non-contract items. He explained that the land utilized for staging is an agreement between Wagner and the landowner. The sprinkler system that needs repair will be taken care of in the spring at no charge to the city. He also indicated a sign was not put up, but the post has been installed. The sign will be installed in the spring. McGovern guaranteed that these items will be completed at no charge to the city in the spring. Olson verified that the item discussed by McGovern are beyond the contract; they are non-contract items.

Gannarelli asked if Munyer sees other infrastructure projects like the 2 ½ Ave Project in the future. Munyer agreed that there will be future projects. Gannarelli explained how well Wagner Construction did on the project and that in the future he would like to see Wagner bid city projects. He believes in good faith that the city should approve Pay Application #9. Gannarelli motioned to approve Pay Application #9 for Wagner Construction as presented in the amount of \$60,859.20. LaRocque called for a second. Motion failed due to lack of a second. Lotvedt agrees that Wagner Construction did a great job on the 2 ½ Ave Project. He cited concerns that if the city approves Pay Application #9, the fuel and trucking escalation costs, that a precedence is being set and other contractors will come back to the city for additional money for inflation of costs. There was a motion by Lotvedt to not accept Wagner Construction's Change Order 5 and 6 in the amount of \$60,859.20. Kraft questioned if the city is obligated to act on Pay Application #9. He questioned why the city would pay for additional fuel costs, beyond what was bid. He questioned if the council could address this at their January 17 meeting and possibly come up with an offer to Wagner Construction beyond the Pay Application. McGovern explained that Wagner would be open to an offer. He explained that Marion Trucking would receive the \$26,256.20 for the Trucking Escalation Costs. He explained that Marion worked for far less than they could have. Murray explained that the council could meet in executive session, with the city attorney, to discuss the liability concerns that the council has regarding the escalation costs. LaRocque questioned if Bechtold Paving was at the higher or lower trucking rate. McGovern could not answer that question; however, he will email it to Stewart tomorrow. Lotvedt asked McGovern if Wagner has had other fuel or trucking escalation change orders granted by other communities. McGovern acknowledged that they have not had any others agree to pay them yet. LaRocque suggested that the council hold an executive session to discuss this further. Nelson explained that the Finance Committee was not comfortable with the change order. Nelson agreed that the idea of an executive session is the direction the city should take. He also cited reasons why the city should not accept the full amount of the fuel costs, if any. There was a motion by Kraft to table Pay Application #9 and discuss it in executive session. Second by Gannarelli, majority voting yes, motion carried.

Olson inquired to the council why the council had held back payment at their December 5, 2022 council meeting to AE2S. Lotvedt questioned the billing because additional services were listed on the billing. Lotvedt believes that the services should have been billed to other categories of the 2 ½ Ave Project. Olson cited reasons to the council for the billing and that it is a paperwork tracking issue for AE2S. Olson explained that the billing for additional services is anything above and beyond that was handled by AE2S management. Kraft questioned why it is the cities problem when AE2S is a man down on the project and Additional Services are billed. Kraft questioned where the charges would have been billed, if it wasn't under additional services. Olson explained it would have been billed under, 061 Construction Services. He clarified that there is \$16,593.78 that has not been billed under, 061 Construction Services, since \$16,149 was billed under Additional Services. Lotvedt went through the explanation of the additional services on page 3 of the December 13, 2022, AE2S bill. Olson explained that they are currently \$260,000 under budget for the 2 ½ Ave Project. There was a motion by Gannarelli to pay the AE2S bill in the amount of \$23,594.31. Second by Schneibel, roll call vote, Schneibel-yes, Kraft-yes, Zachmeier-yes, Larson-yes, Gannarelli-yes, Nelson-no, Lotvedt-no and Brossart-no, motion carried.

The council considered the Findings of Facts from Planning and Zoning for Outlots 515 and 589 of the NW1/4 SW1/4 Section 12-156-73 owned by Nickolas Brossart. LaRocque explained that this is outside of the city limits within the first half-mile. There was a motion by Kraft to approve Outlots 515 and 589 of NW1/4 SW1/4 Section 12-156-73. Second by Larson, all voting yes, motion carried.

Debbie Hoffart, Country Road resident, addressed the council regarding snow removal concerns with her neighbor to the south. Hoffart explained that the neighbor is piling snow on the property line between them. This causes issues for Hoffart when backing out as she claims her view, when backing out, is obstructed. Which she cited as a violation of city ordinance, as well as her neighbor pushing snow across the street. Zachmeier questioned Hoffart as to her reporting this same issue to the city last year. Hoffart indicated that she had filed a written complaint in January 2022. Stewart had forwarded the complaint to Chief Rose on January 28, 2022. Bommersbach is unaware if there was a police report done last year, he will have to check.

Bommersbach explained that there is a current police report since Mrs. Hoffart reported the issue to the city in December 2022. Officer Hurly had contacted the neighbor regarding the snow piling. The neighbor then removed some snow, near the boulevard to allow Mrs. Hoffart a better view when pulling onto the street. Hoffart again cited the neighbor pushing snow across the street, which violates city ordinance. Bommersbach was unaware if the neighbor has been warned about pushing snow across the street. Hoffart explained that she does have a lot of snow on her side, and intends to have her snow removal contractor take care of her side. Kraft believes it is an ordinance issue and should try to enforce the ordinance. Hoffart does not believe she should have to pay to have someone remove the snow, from her side of the property that the neighbor has pushed up.

Murray recommended that Chief Bommersbach and Officer Hurly meet with Mrs. Hoffart, with her photos, and interview her. Then Bommersbach can forward the reports to Murray for review. Lotvedt explained that prior to him leaving town the end of December, he spoke to Hoffart's

neighbor and explained to him that he cannot pile snow on the boulevard. Murray recommended that Lotvedt also be interviewed by Bommersbach as part of the consideration of the issue. Murray explained that in January 2022, Bommersbach was not the Chief of Police and Murray was not the City Attorney.

The council conducted the first reading of Ordinance 442, Rugby Municipal Code Chapter 14.8 Water Service. There was a motion by Lotvedt to approve the first reading of Ordinance 442. Second by Kraft, all voting yes, motion carried.

The council considered employee handbook policy 705 Grievance Procedures revision. There was a motion by Gannarelli to approve the employee handbook policy revision for 705 Grievance Procedures. Second by Zachmeier, all voting yes, motion carried.

The council considered the 2023 Portfolio and Committee Appointments. There was a motion by Schneibel to approve the 2023 Portfolio and Committee Appointments. Second by Larson, all voting yes, motion carried.

The council considered accepting 50% payment for the 2009 Street Specials, prior to being levied on the 2023 Property Tax bill, by October 31, 2023. Stewart explained that the city pays 50% of the 2009 Street Specials each year. However, if property owners have paid off the special assessments in full, they have not been granted the benefit of 50% being paid by the city. Currently to pay off assessments in full, the property owner must pay 100% of the special assessments. Stewart had a citizen request to allow property owner to pay their specials in full, at 50% of the balance, since there is only one year left on the payment schedule. Murray explained that the council could consider this with a roll call vote. Murray explained it is a reasonable request. There was a motion by Lotvedt to accept 50% payment for 2009 Street Special by October 31, 2023. Second by Kraft, roll call vote, all voting yes, motion carried.

The council considered a Gaming Site Authorization for Rugby Amateur Hockey Association for Dakota Farms Restaurant and Lounge, to add Twenty-One to their current gaming authorization. There was a motion by Gannarelli to approve the Gaming Site Authorization for Rugby Amateur Hockey Association for Dakota Farms Restaurant and Lounge. Second by Larson, all voting yes, motion carried.

Nelson explained that Vonnie Degenstein, Pierce County Food Pantry, has requested a key for the Armory. There was a motion by Nelson to allow Degenstein a key to the Armory. Second by Lotvedt, majority voting yes, motion carried.

The next meeting is scheduled for January 17, 2023, at 7:00p.m.

There being no further business to transact or come before the council at this time, there was a motion by Larson to adjourn the council meeting. Second by Kraft, all voting yes, motion carried. Meeting adjourned at 9:35p.m.

Frank LaRocque, Mayor

Attest: _____
Jennifer Stewart, City Auditor

Approved