

Unapproved Minutes  
 Gettysburg, South Dakota  
 March 7, 2011

Pursuant to the due call and notice thereof, the City Council met in regular session on March 7, 2011 at 7:00 PM at the City Finance Office. Those present Mayor Gerald Knox, Council members Bill Wuttke, Pat Everson, Josh Bausch, Fran VanBockel Peggy Lehman, and Dawn Nagel. Also present was ,Russell Anderson, Maintenance Supervisor, Sharleen Eliason, Finance Officer, Gayle Kludt, Police Chief, Bryan Hause, Molly McRoberts, gDon & Kay Archer, Bobby Jenner, Doris Knox, Judy Nagel, Jessica Johnson, Shannon Johnson, Florian Drexler, Bob Willey , John Zuber, Bill Eliason, Peggy Williams, Nathanel Williams, Julie Williams, Brian Haberer, Brian Knox, Jennifer Zoellner, Erika Jenner, Ronald Larson, Angela Freidel Sheron Archer, Jeaninee Woodford and Rob Carl by speakerphone.

After the pledge of allegiance was recited, motioned by Wuttke seconded by Lehman, motion carried to approve the minutes from February 7<sup>th</sup>, 2011.

Motioned by Everson seconded by VanBockel motion carried to approve the vouchers payable with the following bills to be paid later in March. Custom Micro, Police—180.00 Michael Nehls-Police coverage---236.60, Vilas—ambulance supplies—633.79, Avera Queen of Peace-employee testing—179.80, Watchguard—mobile video system-Police (other CDW was cancelled)—4,825.00, Praxair-ambulance supplies—70.18, Cam Wall Welcome sign—10.25 for a total...\$6135.62

VOUCHERS PAYABLE

Payroll Expense by Department:

Total Payroll Expense by Department		
Mayor & Council	February Payroll	00.00
Finance Office	February Payroll	3,586.30
Police	February Payroll	5,712.00
Streets	February Payroll	4,087.26
Snow Removal	February Payroll	3,296.42
Garbage	February Payroll	66.40
Airport	February Payroll	00.00
Swimming Pool	February Payroll	00.00
Parks	February Payroll	00.00
Water	February Payroll	2,167.04
Sewer	February Payroll	1,421.71
Ambulance	February Payroll	104.30
West Nile	February Payroll	00.00
Total Payroll Expense by Department		20,441.43
NET PAYROLL		15,498.88
BANK OF THE WEST	WITHHOLDING TAXES	2,351.28
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AFLAC	EMPLOYEE INS	103.25
AFLAC	MARCH	103.25
ANDERSON, RUSSELL	SUPPLIES	31.00
B & L COMPUTER	COMPUTER REPAIR	50.00
BEST BUSINESS	COPIER MAINT	28.78
BLIESE MACHINE SHOP	SUPPLIES	90.49
BUTLER MACHINERY	SUPPLIES	133.52
CAM WALL ELECTRIC	WELCOME	10.25
CENEX FLEET	FUEL-AMBULANCE	12.03
COLONIAL RESEARCH	SUPPLIES	418.56
DAKOTA BACKUP	BACKUPS	80.39
DAKOTA FARM & RANCH	SUPPLIES	719.71
DAKOTACARE	INSURANCE	5,150.65
DAVID TONSTAD	MEALS	237.20
ECONOMIC DEVELOPMENT	TRIPLE B	2,219.84
ELIASON, SHARLEEN	SUPPLIES	40.00
FARM PLAN	REPAIR & SUPPLIES	34.00
FIRST NATIONAL BANK	SEWER LOAN	9,714.87
GAS N GOODIES	CAR WASHES	18.00
GETTYSBURG COLLISION CENTER	SUPPLIES-POLICE	275.00
GETTYSBURG DEVELOPMENT	TRIPLE B TAXES	1,707.04
GETTYSBURG INN & SUITES	POLICE	186.00
GOVERNMENT DATE PUBLICATIONS	DIRECTORY	107.95
HANSEN VET CLINIC	VET SERVICE	42.50
HEARTLAND WASTE	GARBAGE	3,881.54
HOLZWARTH SALES	SUPPLIES	1,615.91
HOLZWARTH SALES	SUPPLIES	610.14
IN STITCHES	SUPPLIES	72.00
JUSTIN JUNGWIRTH	POLICE PROFF	237.20
KOHLMAN, BIERSBACH	PROFF FEES	950.00
MICHAEL NEHLS	POLICE	237.20
MID DAKOTA WATER	WATER	12,737.25
MIDWAY PARTS	PARTS	200.26
MN WIRELESS	WIRELESS	69.00
MONTANA DAKOTA UTILITIES	ELECTRICITY	765.40
MONTANA DAKOTA UTILITIES	VARIOUS DEPTS	3,524.58
NEW CREATIONS-L SCHNEIDER	SUPPLIES	320.49
NORTH CENTRAL LEASING	CAT LEASE	34,920.00
NORTHERN PLAINS COOP	FUEL	2,715.98
NORTHERN PLAINS COOP	FUEL	18.87
POTTER CO NEWS	PUBLICATIONS	520.62
POTTER CO NEWS	PUBLICATIONS	38.00
PRAXAIR	SUPPLIES	167.84
SCHLACHTER LUMBER	SUPPLIES	348.99
SCHATZ ELECTRIC	PARK SUPPLIES	526.08
SD DEP OF TRANSPORTATION	AIRPORT CONF	55.00

SD DEPT OF REVENUE	SALES TAX	314.60
SD PUBLIC ASSURANCE ALLIANCE	INS FOR LOADER	277.00
SD RETIREMENT	RETIREMENT	2,530.48
SECRETARY OF STATE	FORMS	25.00
SERVALL	FO RUGS	43.02
THE RADAR SHOP	CERTIFICATION	78.00
TONY LARSON	POLICE COVERAGE	237.20
TRUE VALUE	SUPPLIES	136.71
USDA RURAL DEVELOPMENT	PAYMENT	567.00
US POSTMASTER	WATER BILLS	167.72
VENTURE COMMUNICATIONS	PHONES	549.34
VERIZON WIRELESS	CELL PHONES	196.33
VILAS PHARMACY	SUPPLIES	12.52
TOTAL CHECKS		111,389.49

Oath of Office was given to Dawn Nagel new Councilmember for Ward 2 by Finance Officer Eliason. Motioned by Wuttke, seconded by VanBockel, motion carried to place Dawn on the following appointments: rubble site, water and wastewater and streets.

Don and Kay Archer appeared before the Council regarding discussion to take the off-sale liquor license from the Firehouse Liquors and make it available to another business. They did have an interested individual in purchasing their business. But that person decided it would cost too much to remodel the existing building so they are no longer interested. They do have another interested party that lives out of state and with the weather situation they have not been able to get together to discuss business. They would like more time before the council requests their off sale liquor license be cancelled. Kay Archer did comment that 70% of liquor is usually sold after 6:00 pm. Motioned by Everson, seconded by Wuttke, motion carried (Bausch-nay) to allow them an extra 90 days extension.

Motioned by Wuttke, seconded by VanBockel, motion carried to table the request from Vilas for the off sale liquor license at this time.

Gayle Kludt, Chief of Police, asked the council's permission to have Nicholas attend project 8 training for certification on child seats. There is a joint chief's meeting that Gayle would like to attend. Council stated that she can schedule these workshops for her department.

Russell Anderson stated that Leon Beitelspacher resigned. The City will have to find a replacement worker and this will be advertised next month as this was not on the agenda for tonight's meeting. The culvert by Marsha Osier at 713 East Custer Ave needs to be evaluated when enough snow melts so they can determine if it is draining properly. There was a problem with the lift station on the east side of town. The emergency red light was not on but a homeowner started having sewer in their basement. When maintenance

pulled the pump they found a bra had been flushed down in the sewer and it was caught in the pump and the light was also hung up. The City purchased an air compressor 2 years ago and Russell would like it declared surplus. Motioned by VanBockel, seconded by Wuttke, motion carried to declare this as surplus. A-Tech has equipment that Russell needs for the manhole project that they would like to trade for the air compressor. Finance Officer Eliason was instructed to call Legislative audit to confirm that we could do this. The air compressor was purchased for \$5,000.00 and the equipment that A-tech has was valued about the same so it is a good trade. Motioned by VanBockel, seconded by Wuttke, motion carried to approve this. Russell Anderson stated that the City will save about \$104,000 by doing this project ourselves rather than hiring it done.

At this time at 7:15PM a conference call from Rob Carl attorney from Sioux Falls was put on speakerphone Rob Carl stated that he read an article in the Sioux Falls Argus Leader regarding the Mayor and stated that he offered his services to Mayor Knox. The 9 page article was passed out to those in attendance by Doris Knox. Due to the length of the article it was not printed and anyone wanting a copy of it can come to the Finance Office for a copy or they can view it on line at pottercountynews.com. Rob Carl read the information over the telephone regarding his interpretation of legal issues and suggestions regarding operation of the City and later the floor was opened for questions. One of the questions raised if Mayor Knox contacted this attorney and it was stated again that Rob Carl contacted Mayor Knox .Someone also asked questions regarding a lawsuit against the City of Gettysburg by Mayor Knox. Rob Carl's response was "not to my knowledge "and at that time Doris Knox stated that "Jerry Knox has never sued anyone." Mayor Knox also stated"that he is paying Rob Carl out of his own pocket" .Rob Carl stated" that he offered his experience to Mayor Knox in hopes that he could provide your city with an avenue of peace and reconciliation which is what he offered the city of Canton before he was forced to file a lawsuit against them on behalf of his client."

The council returned to the agenda at 7:39 PM. which referred to the Mayor's published intent of resignation at the March meeting. Council member Everson asked," I guess everyone wants to ask you, are you going to resign or what are we doing here?" Mayor Knox responded, "What I would suggest you do is you talk to my attorney on that." Mayor also stated" that two months ago I stated that I would resign if I did not receive the powers that I felt were stripped from this office before I ran for Mayor and the ordinance # 2009- 10-10 was changed.", Mayor Knox stated that Rob Carl felt this ordinance is null and void because he feels it does not follow state statues. Michael Larson, City Attorney, was contacted by Rob Carl and they did have discussions last week. Michael Larson stated that the statues does support the ordinance # 2009-101-10 as written and therefore is in effect. Michael Larson was out of town and unable to be here at tonight's meeting. There were questions from the audience regarding a statement in Rob Carl's discussion on the phone regarding the Mayor having the power to fire an appointed individual and then that individual having to wait until the next scheduled meeting to be reinstated by the council. The individual stated that he felt no one person

should have that power for the City of Gettysburg. The ordinance was changed in 2009 to help protect the Mayor, council members and employees so it is a collective decision. The new ordinance that was passed in November 2009 states that the previous appointed positions of Police Chief and Finance Officer are no longer appointed positions but they are now employees of the City and the Council has the power to hire and fire these individuals. The airport Manager, City Attorney and Health Officer are now the only appointed positions. Another question from the audience regarded the point of the phone call made by Rob Carl to the Council. It was asked if another lawyer might interpret the ordinances and statues differently. It was suggested that the mayor was trying to use intimidation to make his point. The mayor said, "It's called law." The mayor again reference the ordinance passed in 2009 that Rob Carl said is "null and void because it does not follow state law and that some people in here don't think we have to follow state law." At this time Council member Lehman stated, "Tell me who is not willing to follow state law? I want to know who?" Knox responded "talk to my attorney".

Getting back to the agenda on hand the following building permit was presented to the Council for their review:

Stuart & Tammy Simon –Lot 10 and N ½ Lot 9 R& D Addition to the City  
driveway, front steps, back deck, fence

Motioned by Wuttke, seconded by Everson, motion carried to approve this permit.

NECOG sent closeout papers for the sewer relining project that was completed in 2010. Mayor Knox signed all the necessary paperwork and a copy is on file at the Finance Office. This CDBG project number 0809-109 is complete.

An agreement with American Red Cross 1024 S Lawson St Aberdeen was presented to the council for their review. This agreement is for the swimming pool lessons that our staff gives and that the American Red Cross will maintain all course records and they support the instructors and verify all instructor certifications. Motioned by Everson, seconded by VanBockel, motion carried to authorize the agreement for 2011.

Oahe Youth Center sent the Year end Financials that are needed for the City's files. A worker for the Oahe Youth Center was taking out garbage and was injured. The City received notification from our insurance that it will not cover this incident because it was workmen's comp related and we have a contract with the Oahe Youth Center

Curb stop ordinance # 2011-3-3 was presented to the council for the first reading. This ordinance changes the ownership of the curb stops from the homeowner responsibility to the City's effective May 1<sup>st</sup> 2011 with the exception of those curb stops that we have notified the owners to fix previously. Motioned by Bausch, seconded by Wuttke motion carried to approve this first reading.

Fuel bids were presented to the Council for the month of March:

Northern Plains: super unleaded—3.39, no lead-- 3.49, FM#2-- 3.42 and # 1-- 3.55

NC Farmers Elevator Ethanol-----3.426 no lead --3.475 Ruby—3.53 and # 1—3.72

Motioned by Lehman, seconded by Bausch, motion carried to accept Northern Plains bid as it is the lowest bid.

Ambulance write offs were presented to the council for their review. The write off amount is \$309.17. This person is no longer in the United States so it will not be going to United Collections it will just be a bad debt write off. Motioned by VanBockel, seconded by Nagel, motion carried to approve this write off.

Emt wages was discussed. Finance Officer Eliason did a comparison of the towns that do have City owned ambulance services. Motioned by VanBockel, seconded by Wuttke motion carried to table this for now.

RPM building was discussed. It was discussed that this will be sold and the new owner will be demolishing it. The time frame was stated that it will be demolished by June.

2011-1-1 airport supplement ordinance for the rest of the airport improvements was presented to the council for their review. Motioned by VanBockel, seconded by Bausch, motion by roll call vote taken for this second reading: Everson-yea, Bausch-yea, Nagel-yea, Lehman-yea, VanBockel-yea and Wuttke yea. motion carried.

Bids for hayland for the airport was discussed. It was suggested to add to the bid specs that the person that receives the bid should be responsible for the control of noxious weeds on the rented land for duration of the lease agreement. This lease will be published in the Potter County News with a closing date of March 30,2011. Motioned by Lehman seconded by VanBockel, motion carried to advertise for bids for the hayland at airport.

Vendor fees was discussed before to change to zero fees but to still have each vendor fill out the paperwork. Motioned by VanBockel, seconded by Bausch, with roll call vote taken since this is the 2<sup>nd</sup> reading: VanBockel-aye, Bausch-aye, Everson-nay, Lehman-yea, Wuttke-yea and Nagel –yea, Motion carried.

The census for Gettysburg was given to the Council. The official count of Gettysburg is at 1162 which is down from 1352 in 2000 so it is 14% less or 190 people.

Annual report and Depository Disclosure were given to the Council for year ending 2010. This will be published within 30 days in the Potter County News.

Discussion regarding PCI annexation into the City Limits. Matt Cronin will be invited to the next City Council meeting to discuss this. Some comments were that it leads to unfair advantage when they don't have to collect sales tax. Other comments were that they originally built out of town for this very reason.

Rob Carl stated in his letter that the City should have legal counsel at every meeting. Mayor Knox wanted to ask the Council if they wanted to have the city attorney here

at every meeting. Council member Lehman stated that we didn't have legal issues until now. It was tabled.

Correspondence included District 7 meeting in Akaska on April 6, 2010 please let the Finance office know if you are attending. A thank you was read from Butler Machinery . There was nothing for round table.

Motioned to adjourn at 8:59PM by Wuttke, seconded by VanBockel , motion carried.

ATTEST:

WITNESS:

\_\_\_\_\_  
Sharleen Eliason, Finance Officer

\_\_\_\_\_  
Gerald Knox, Mayor

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