

City Council Proceedings

The Canistota City Council met Tuesday, January 2, 2024 at 6:00 PM in the Canistota City Hall Community Room. City Council Members present: Mayor Justin Lee Engbarth, Donovan O'Donnell, Lori Forsman, Jessica Kerher, and Jamie Miller. Others present: Maintenance Supervisor, Darin Nugteren, Maintenance Assistant Brandon Dolejsi, Finance Officer Kathy J. Townsend, and Fire Chief, Adam Richarz.

Mayor Engbarth called the meeting to order at 6:00 PM and led the Pledge of Allegiance.

The agenda was approved as presented on a motion by Forsman, second by Kerher, all voted yes, the motion carried.

Miller motioned, second by O'Donnell to approve the December proceedings as presented, all voted yes, the motion carried.

The Sheriff's written report was approved as presented on a motion by Miller, second by Kerher, all voted yes, the motion carried.

Richarz presented the report for the Canistota Volunteer Fire Department. They responded to two fire calls and five rescue calls in December. Equipment is being purchased for the volunteers with the grant money received from the State of SD. Chase the Ace is an on-going fund raiser. The department would also like to purchase air packs but the cost is prohibitive at this time. The report was approved as presented on a motion by O'Donnell, second by Kerher, all voted yes, the motion carried. Richarz left the meeting at 6:10 PM.

Canistota Development Corp had no December meeting. An update was provided on the expenditure of their Travel SD grant funds. Miller motioned to approve the report, second by Forsman, all voted yes, the motion carried.

Nugteren presented the planning and zoning report: One building permit was issued in December. The bid specifications for updating the lights at the ballfield will be considered at the February regular Council meeting. The report as approved as presented on a motion by Kerher, second by O'Donnell, all voted yes, the motion carried.

Citizen Concerns:

There were no concerns from citizens.

Nugteren and Dolejsi presented the Maintenance report for December: the Mahindra tractor has been serviced for the winter. Nugteren picked up the new 2024 Chevy Silverado truck in Pierre. A new blade for the pay loader has been delivered. The city had a safety audit with Safety Benefits; various recommendations were made for the city to comply. Since the rubble site has been closed for the season, Lindbloom will be available at the ice-skating rink on Saturday afternoon's from 1 PM to 4 PM. He will be available to give out ice skates to those individuals who do not own their own pair of skates but wish to use the rink. Nugteren will be Pierre mid-January to attend the SDARW. Nugteren will look into purchasing rubber mats to be placed in the bathrooms for ice-skaters to walk on without having to remove their skates. Townsend has submitted the final reports for both the AARP Grant and the LWCF Grant the City received for the development of the Stalting Park picnic shelter/warming house. A representative from the State was in Canistota to tour the shelter/warming house. Nugteren is putting together an information package of updated rules and regulations for the rubble site; an updated cost to access the site will also be considered by the Council. Kerher motioned, second by Forsman to approve the report as presented, all voted yes, the motion carried.

The following bills were approved for payment, with Miller motioning to include paying the Xcel Energy bill, which was not received in time for approval at this meeting, second by Kerher, all voted yes, the motion carried.

Addy Disposal, Collections & Dumpster Fees, \$4,689.63; Al's Feed Service, Supplies, \$392.00; American Ink, Prof. Services, \$249.96; Aramark, Supplies, \$23.11; Badger Meters, Prof. Services, \$31.30; Biersbach Equip., \$400.00; Cadwell Attorney Group, \$434.35; Canistota Volunteer Fire Department, First Half, Annual Contribution, \$10,000.00; Code Enforcement Specialists, Prof. Services, \$785.29; Core & Main, Supplies, \$1,992.12; Golden West, Utilities, \$348.90; January 1, 2024, Payroll, Streets, \$2,162.76; Rubble Site, \$162.07; Finance Office, \$458.42; Clean Water, \$1,484.90; Drinking Water, \$1,484.90; Kage Innovation, Equipment, \$16,764.00; Larry's Service, Repairs, \$747.86; Marco, Prof. Services, \$45.11; McCook County Highway, Prof. Fee, \$69.17; McCook County Treas., Law Enforcement, \$4,712.50; McCook County Treas. License Truck, \$26.70; Menards, Supplies, \$940.18; Metering Technology, Supplies, \$877.46; New Century Press, Publication Fees, \$123.37; Northwestern Energy, Utilities, \$335.34; Schenkel, AJ, Utility Reimbursement, \$200.00; SDARWS, Dues, \$445.00; SD Dept. of Revenue, Sales & Use Tax, \$320.26; SDGFOA, Dues, \$40.00; SDML, Dues, \$1,012.01; SDML, WC Fund, \$5,572.00; SDMSMA, Dues, \$35.00; SDPAA, Insurance, \$483.57; SD Public Health Lab, Prof. Fee, \$171.00; SECOG, Dues, \$1,177.00; TM Rural Water, Water Purchased, \$4,389.40; Total Stop, Fuel & Supplies, \$594.13; Townsend, Kathy, Utility Fee, \$50.00; US Bank Card, Supplies, \$3,272.66; US Bank Trust, Debt Service, \$17,481.56; Verizon Wireless, Cell Phones, \$209.59.

The following bills were approved for payment after the meeting: AFLAC, Full time Employees, \$426.62; Council Payroll, 4th Quarter, \$1,652.30; December 15, Payroll, \$6,227.37; Pfeifer Implement, Check Lost-Reissued, approved in November, 2023, \$ 31,360.39; SDRS, Full Time Employees, \$1,415.40; Security State Bank, Payroll Taxes, \$3,607.91; Xcel Energy, Utilities, \$2,397.14

Townsend presented the Finance Officer's report: Delinquent utility accounts were reviewed. Miller motioned, second by O'Donnell to establish the second Tuesday of April as Election Day for the City of Canistota, to be combined with the school if an election is needed, all voted yes, the motion carried. The minimum wage of \$11.20/hour which became effective, January 1, 2024 was acknowledged. Townsend will visit with the city website coordinators to begin the process of facilitating the ability for residents to initiate on line-payment of fees and services with the City of Canistota. O'Donnell motioned, second by Kerher to approve the report, all voted yes, the motion carried.

Council Concerns:

Mayor Engbarth: Forsman motioned, second by Miller to adopt Planning & Zoning Ordinance 2023-12, Section 6.0209 addressing curb and gutter, all voted yes, the motion carried. The Ordinance is printed elsewhere in this issue of The Special. No action was taken on joining the SD Retailers Association. Miller motioned, second by O'Donnell to authorize Mayor Justin Lee Engbarth to act on behalf of the City of Canistota and City Council in all legal matters, all voted yes, the motion carried. The Existing Internal Controls for Compliance Requirements was adopted on a motion by Miller, second by Forsman, all voted yes, the motion carried. Resolution 2024-01, a Conflict-of-Interest Resolution for Appointed and Elected Officials for the City of Canistota was adopted on a motion by Miller, second by Kerher, all voted yes, the motion carried.

A RESOLUTION ADOPTING A CONFLICT-OF-INTEREST POLICY FOR ELECTED AND APPOINTED OFFICIALS OF THE CITY OF CANISTOTA, SD. RESOLUTION #2024-01

WHEREAS, South Dakota Codified Laws (SDCL) Section § 1-56-10 requires that all non-state agencies receiving state grants and awards from a state agency adopt and enforce a conflict-of-interest policy; and

WHEREAS, the City of Canistota receives dollars from the State of South Dakota either directly or through federal pass-through funds which will be subject to the statutory requirement that it enforce a conflict-of-interest policy; and

WHEREAS, while provisions addressing conflicts of interest for municipal officials currently exist in state law, the Common Council wishes to adopt a conflict-of-interest policy that incorporates these statutory requirements and assists its elected and appointed officials in recognizing, disclosing, and avoiding conflicts of interests; and

WHEREAS, adopting a conflict-of-interest policy will clarify expectations from the public when elected and appointed officials are conducting City business; and

WHEREAS, the City of Canistota deems it is in the best interest of the City to adopt this Conflict-of-Interest Policy for the Common Council and for all elected and appointed officials of the City.

NOW THEREFORE, BE IT RESOLVED, by the City of Canistota, that there is hereby established the following Conflict of Interest policy, which in its entirety reads as follows:

CANISTOTA CONFLICT OF INTEREST POLICY FOR ELECTED AND APPOINTED OFFICIALS

The City of Canistota seeks to prevent and avoid any conflicts of interest in the conduct of its business operations and to avoid the appearance of such conflicts to the public it serves. Each elected and appointed official has the duty to place the interests of the citizens of Canistota foremost in any dealings on behalf of the City and has a continuing responsibility to comply with this Policy. This policy applies to any elected or appointed official who serves on the Common Council, who serves on any board, committee, or commission of the City, or who is appointed to serve the City in any capacity pursuant to SDCL Chapter 9-14 (collectively referred to as "Official").

Conflicts of interest may exist when an Official, or an immediate family member of such Official, has a personal or financial interest clearly separate from that of the general public on a matter before the Official. An immediate family member for purposes of this policy is any person related to an Official within the first degree of consanguinity and includes a spouse, parent, child, grandparent, grandchild or an individual claimed by the Official or his/her spouse as a dependent for federal income tax purposes. Such conflicts of interest may be financial or personal, direct or indirect, and the existence of a conflict of interest is dependent upon the unique facts of a particular situation.

It is the policy of the City of Canistota to follow state law regarding conflicts of interest, and this policy is not intended to be stricter than the applicable requirements of state law. Generally, state law provides that an Official may not have a personal financial interest in any City transaction for the purchase of labor or services, materials or supplies, or real or personal property that belongs to the City. An exception to this general rule may apply if the transaction is reasonable and just, if the contract is made without fraud or deceit and if the Official discloses the conflict and recuses himself/herself from participation in the decision for which there is a conflict of interest. These exceptions include the following:

- (1.) A contract for \$5,000.00 or less
- (2.) A contract awarded by competitive bidding procedure if more than one competitive bid is submitted or, if only one competitive bid is submitted, the procedures in SDCL 6-1-2.1 have been followed;
- (3.) A contract for professional services
- (4.) A contract awarded off the state contract list at the established price or less;
- (5.) A contract that does not require competitive bidding when there is no other source of supply or services and when the total of any such contracts does not exceed \$100,000.00 for a public improvement or \$25,000.00 for a contract for supplies or services; or
- (6.) A contract with an entity for which competitive bidding is not required unless the majority of the governing body are members or stockholders who collectively have a controlling interest, or any governing board Official is an officer or manager of such entity.

No Council Member who is authorized in his or her official capacity to sell or lease any property or to make any contract may be personally interested, directly or indirectly, in any such sale, lease or contract.

Procedure When Conflicts of Interest Exist:

If an Official who is a member of the City Council, or a board, committee, or commission has a disqualifying interest in a matter before the body on which the Official serves, he/she shall disclose the conflict to the body prior to its consideration of the matter. Once this disclosure is made, the Official shall not formally participate in the official discussion, any executive session, or any vote on the matter. If the Official has a conflict of interest in the matter and chooses to participate in the discussion, the Official should leave the table and speak on the item from the audience as a member of the public.

If it is alleged that an Official has a disqualifying conflict of interest in a matter before the City Council or a board, committee or commission on which the Official serves, and if the Official does not voluntarily refrain from participating in the matter, then the Official may be disqualified from officially participating in consideration of the matter upon a two-thirds vote of the Council, board, committee, or commission on which the Official serves. The City Council, or board, committee or commission voting to disqualify such Official must make a specific finding of the disqualifying conflict of interest for which it has excluded the Official from participating in the official discussion, any executive session, or any vote on the matter.

If any Official desires assistance to determine if that Official or another Official has disqualifying conflict of interest, the Official may request an advisory opinion for the City Attorney's Office. Such opinion shall be made available to all members of the City Council, or the board, committee, or commission about which the opinion is provided, but shall not be available for public inspection unless a majority of the members of the City Council or the board, committee, or commission to which the opinion is proved votes to make such opinion public.

Distribution of Policy to Officials

Upon adoption of this policy, the City Attorney's Office shall distribute this Conflict-of-Interest Policy and all pertinent state law provision to all City Officials. The Policy and state law provision shall be timely provided to all newly elected or appointed Officials.

Dated this 2nd Day of January, 2024

SEAL:

Justin Lee Engbarth
Mayor, City of Canistota

ATTEST:
Kathy J. Townsend
Finance Officer, City of Canistota

Kerher motioned, second by Forsman to sign the letters of engagement for Schoenfish & Co to complete both the Annual report, not to exceed \$2,000.00 along with the biennial report, not to exceed \$14,000.00 for the City of Canistota, all voted yes, the motion carried. City utility bills will be abated in the amount of \$45,866.71 on a motion by Kerher, second by Forsman, all voted yes, the motion carried. O'Donnell motioned, second by Kerher to allow the Finance Officer to pay all invoices and billings in a timely fashion to avoid penalties and late fees, all voted yes, the motion carried. Damage to the sidewalk along 2nd Avenue resulting from the demolition of the Ortman Hotel was discussed. Since repairs can not be completed at this time of the year, Nugteren will touch base with the Doctors to see what their time line for new construction is. Sidewalks could be replaced as part of that project. A rental fee of \$50.00 along with a \$100.00 deposit for the Picnic Shelter/Warming House in Stalting Park was discussed. The city attorney will create a rental agreement to be reviewed at the February meeting. The following volunteer fighters are acknowledged and covered under workers comp provisions for the City of Canistota: Adam Richarz, Dave Miller, Matt Klinkhammer, Casey

Puetz, Wayne White, Brad Engbarth, Brad Jensen, Chad Keller, Chris Sperling, John Remacle, Nancy Korkow, Nathan Engbarth, Scott Marquardt, Tyler Nickel, Dan Mount and Brandon Jacobsen. The 2024 Contract with Sioux Falls Humane Society was approved on a motion by Miller, second by Kerher, all voted yes, the motion carried. Miller motioned, seconded by O'Donnell to enter into a contract with Cadwell, Sanford, Deibert & Garry, LLP for City Attorney Services for 2024, all voted yes, the motion carried. Land acquisition and a purchase agreement were briefly discussed.

Kerher had no concerns

O'Donnell had no concerns

Miller had no concerns

Forsman had no concerns

At 7:33 PM, Kerher motioned to enter into executive session per SDCL 1-25-2-1, Personnel, second by Miller, all voted yes, the motion carried.

Nugteren, Dolejsi and Townsend left the meeting.

Mayor Justin Lee Engbarth declared executive session over at 8:11 PM with the Council convening in open session.

On a motion by Kerher, seconded by O'Donnell, Effective January 3, 2024, Compensation is: Maintenance Supervisor, \$25.40/Hour, Maintenance Assistant, \$20.00/Hour, Finance Officer, \$23.20/Hour; The three full-time employees will also be provided paid Holiday leave for all days off granted by the Governor; Part-time Maintenance Assistant, \$17.00/ Hour, Rubble site attendant, \$14.00/Hour. Mayor and Council compensation: Mayor, \$150.00/Month plus \$150.00/meeting; Council Members, \$150.00/meeting with Council and Mayor receiving \$75.00/meeting for attending special meetings. Full-time employees will be compensated \$50.00/meeting for attending City Council meetings. A part-time maintenance assistant, lifeguard and pool manager compensation will be determined at a later date. Roll Call Vote: Kerher, Yes, O'Donnell, Yes, Miller, Yes, Forsman, Yes, the motion carried.

At 8:13 PM a motion to adjourn was made by O'Donnell, second by Miller, all voted yes, the motion carried.

The next regular Council meeting will be held Monday, February 5, 2024 at 6 PM in the Community Room of City Hall. All are welcome to attend.

SEAL

Justin Lee Engbarth,
Mayor, City of Canistota

ATTEST:

Kathy J. Townsend,
Finance Officer, City of Canistota