

## CITY COUNCIL PROCEEDINGS

City Council Chambers, Municipal Building, 123 South Lincoln Street, Aberdeen, South Dakota, May 13, 2013, 5:30 p.m., regular meeting of the Board of City Council Members, Mayor Mike Levsen presiding. Present at roll call were City Council Members Tom Agnitsch, David Bunsness, Todd Campbell, Jeff Mitchell, Mark Remily, and Laure Swanson. Council Members Clint Rux and Jennifer Slight-Hansen were absent. City staff present were Lynn Lander, Adam Altman, Robin Bobzien, Brett Bill, Jerry Kost, Don Lanpher, and Mike Wilson.

Mayor Levsen led the Pledge of Allegiance.

## MINUTES

Mitchell moved, Remily seconded to approve the minutes of May 6, 2013, as circulated. All present voting aye, motion carried.

OPEN FORUM – No one was present.

## PROCLAMATIONS

Mayor Levsen read and proclaimed “Historic Preservation Week” on May 12, 2013 through May 18, 2013 and “National Kids to Parks Day” on May 18, 2013.

CONSENT CALENDAR

Campbell moved, Agnitsch seconded to approve the following items on the consent calendar:

SET HEARING DATE – of May 28, 2013 at 2:00 p.m. for the advertisement for bids for Mill and Overlay Improvements Project 2013-1.

LICENSES – Sidewalk Contractor – Premiere Concrete, Inc. and Advanced Concrete LLC; Taxi Cab Driver – Dennis Pesicka.

PERMISSION TO SERVE AND PERMIT CONSUMPTION – of alcoholic beverages at the Wylie Park Pavilion for Investment Centers of America Client Appreciation Picnic on June 11, 2013.

REQUEST FOR STREET USE – by Jim and Dawn Prater at the corner of South First Street and 15<sup>th</sup> Avenue, SW for an annual Grill Out/BBQ on June 29, 2013.

LOTTERY NOTICES – Aberdeen Abate, Inc., American Cancer Society Relay For Life, and Aberdeen Community Tennis Association – receive and place on file.

All present voting aye, motion carried.

NEW BUSINESS

## PRESENTATION

Presentation by Honorable Charles Kornmann, Judge, District Court, Northern Division regarding the federal courthouse building was withdrawn.

## CHANGES TO CONTRACT FOR RENOVATIONS

Campbell moved, Bunsness seconded to approve to modify the contract with JDH Construction, Inc. for Renovations at the Aberdeen Recreation and Cultural Center as recommended. All present voting aye, motion carried.

## ABERDEEN REGIONAL AIRPORT

Mitchell moved, Bunsness seconded to approve and authorize the City Manager to sign Change Order #3 increasing the contract amount by \$7,453.00 and changing completion date to June 15, 2013 for JDH Construction, Inc. doing work on the Terminal Renovations at the Airport. All present voting aye, motion carried.

Bunsness moved, Swanson seconded to approve and authorize the City Manager to sign the following payment requests: Pay Estimate #5 for AIP #3-46-0001-33-2013 Wetland Removal and Storm Water Improvements – Helms & Associates in the amount of \$48,511.50 and Pay Estimate #8 for AIP #3-46-0001-32-2012 Airport Terminal Renovations – JDH Construction, Inc. in the amount of \$13,847.40. Upon roll call, all

present voting aye, motion carried.

## BILLS

Swanson moved, Bunsness seconded to approve the following audited bills for services, supplies, repairs and maintenance: Northwestern Energy 58,614.17; United Parcel Service 60.48; US Bank 30,491.23; Dependable Sanitation, Inc. 14,952.00; SD Dept of Revenue 13,355.50; Dakotacare 56,357.49; Northern Truck Equipment 36,044.00; Jefferson Partners LP 1,610.03; CenturyLink 3,902.32; Northern Valley Communications 531.63; Farnams Genuine Parts 1.07; Safety-Kleen 682.11; American News 2,992.14; Mettler Sichmeller Engineering 150.00; Aberdeen Chamber of Commerce 194.00; Aberdeen Development Corp 39,166.67; MARCO Inc. 919.03; Bonnie Bitz 3,290.00; RDO Equipment Co 580.02; A M Leonard Inc. 221.51; Larsen Design 3,750.00; Northern Plains Animal Health 77.81; Molly Taylor 210.00; City Treasurer 135.00; Interior Design Concepts Inc 52.99; Dakota Electronics 594.50; The Penworthy Company 272.17; Don's Builders Hardware 551.90; Dennis Gavin 2,500.00; Engel Music Store 85.00; Evergreen Supply 21.80; Cole Papers Inc 258.13; Farm Power Mfg Inc 87.51; GCR Tire Centers 453.88; Officemax Inc. 184.90; Qdoba Mexican Grill 335.00; Carquest Auto 629.75; Graham Tire Co 1,195.83; TDS Media Direct Inc 470.00; Hedahls Inc 588.11; House of Glass 92.14; Nelson Sales & Service LLC 787.41; Keeleys Inc 405.49; Kesslers Inc 194.52; Kleins 67.27; MAC's Inc 274.11; VanMeter Facility Maintenance LLC 455.00; Gerald Robert Bourelle 220.00; Kaitlyn Sturlaugson 187.00; Craig Underwood 220.00; Alexandria Webster 99.00; NSU Workstudy 593.28; A & B Business Solutions 367.25; Wageworks 348.00; Pantorium 411.70; Liewer Enterprises Inc 71.77; Gopher Stage Lighting 1,457.19; Kromer Co 158.10; Dakota Supply Group 1,543.35; Lorie Johnson 260.00; Amanda Truebenbach 121.00; Scott R McIntire 66.00; Midstates Printing 11,031.58; Safety Service Inc 98.00; Schwan Electric Inc 248.84; Crawford Trucks & Equipment 32.29; Cretex Concrete Products West Inc 31,694.34; SD Dept Revenue & Regulation 44.00; SD Federal Property Agency 11,600.00; Stan Houston Equipment 9.95; Hefty Seed Co 357.00; Academy Trophy Co 1,140.00; Pro-Build 2,527.54; Weismantel Rent All 415.00; Western Printing 676.80; Positive Promotions 117.95; Hannah Lagerquist 34.41; Gayle Neuhardt 650.00; Baker & Taylor Inc 2,456.26; Fastenal Co 201.90; Quality Books Inc 36.84; Aberdeen Awards 87.00; ADAPCO Inc 16,194.00; Chris Heier 709.50; Michael Bunke 73.00; NRTBHA 600.00; Upstart 127.69; GOSCOMA 100.00; Charlene Blondo 213.75; Dependable Sanitation 570.25; Center Point Large Print 62.91; Taylor Laundry 142.50; Fordham Signs 2,384.00; First National Bank 43,868.75; DEX Media East 168.70; Sleuth Systems 1,350.00; Theatre House Inc 93.45; Cartney Bearing Co 43.54; Aberdeen Family YMCA 396.00; Curtain Call Costumes 114.91; Titan Access Acct 160.11; Hub City Radio 140.00; Executive Management 28.29; US Postal Service 400.00; Postmaster 400.00; Aerosock Inc 229.16; Pierson Ford-Lincoln-Mercury 144.68; Toysmith 4,554.00; West Payment Center 396.32; North Central Farmers Elevator 6,371.86; Dakota Broadcasting LLC 708.00; Northwestern Energy 10,910.07; Vermont Systems Inc 20,548.93; MTI Distributing 6,071.32; CNA Surety 50.00; Northwestern Energy 2,109.85; Bismarck Tribune 295.00; Westland Giftware 638.89; Barb Reifenrath 163.00; Michelle Bacon 135.00; Towing Plus 90.00; Ruth Wegehaupt 67.50; Quill Corp 57.02; Jerome Wild 144.00; Travis Lemer 26.00; Hub Area Technical School 2,100.00; Century Business Products 55.43; Aberdeen Housing Authority 12,606.48; Fairway Manufacturing Co 455.20; Sanford Health 520.00; Michael A Wilson 35.00; Menards Aberdeen 2,084.07; Eagle One 1,333.46; Shannon Broderson 56.00; Bound Tree Medical LLC 724.80; Daryl VanDover 33.57; SD Pilots Association 20.00; Sayre Associates Inc 5,490.00; Ray Studnicka 100.00; Dakota Fluid Power Inc 553.95; McQuillen Creative Group Inc 1,479.69; Redlinger Bros Plb & Htg 1,539.70; Francotyp-Postalia Inc 101.85; OCLC, Inc

700.22; The Carpet Cleaners 2,080.25; Britlyn Sturlaugson 108.00; Dr Thomas Flamboe 650.00; NSU Finance & Admin 79.52; Verne Simmonds Co 53.85; Gene's Oil Co 5,241.15; Reed-Joseph International Co 238.00; Ken Sanz & Assoc 2,800.00; Carol J Larson 62.50; Nebraska Golf & Turf 8,435.00; TUTU.com 70.70; Easy Picker Golf Production Inc 529.49; Co-Op Architecture 890.00; Jett Enterprises 286.38; Mark Bartusis 49.37; Van Diest Supply Co 20,830.90; Bob Pagel 35.00; Ice Builders Inc 685.10; Dakota Oil 257.69; DSS Image Apparel 2,148.80; Gene Morshing 277.60; Groton Dakota Press 35.00; Learning Opportunities 52.89; Tom Tarnowski 163.00; Plunkett's Pest Control 167.00; Aberdeen Plumbing & Heating Inc 1,767.79; Patricia Brosz 540.00; Cunningham Electric 50,790.91; Cryotech Deicing Technology 21,962.50; Kipp Brothers 1,053.74; Baum's Dancewear Inc 470.20; Best Carpet Cleaning 75.00; Randy Murphy 680.00; Brick's TV & Appliance 130.00; Dave McNeil 163.00; Keith Theroux 72.00; Butler Machinery Co 806.57; Ennis Paint Inc 2,150.72; Geffdog Designs 449.85; Ameripride Services Inc 2,385.99; Crescent Electric Supply 380.96; Lois Beckner 66.93; Midwest Pump & Tank 164.82; Weissmans Designs for Dance 420.20; Kelly Knispel 105.00; G & R Controls Inc 113.78; Domino's Pizza 128.09; Swanson Electric 696.94; Costume Gallery 102.00; SD Emergency Mgmt Assn 30.00; Aberdeen Senior Center 1,236.00; Haar Plumbing & Heating 952.85; Specialty Mfg Co 122.77; Runnings Supply Inc 2,312.40; Eide Bailly LLP 7,000.00; Brenda Kohlman 40.50; Donna Gustafson 16.20; Brenda Lanphere 69.75; Tom Schinderling 45.00. Upon roll call, all present voting aye, motion carried.

#### OTHER

Brett Bill, Planning and Zoning Director, announced Mike Olson was named South Dakota's Code Enforcement Office of the Year.

#### CITY MANAGER'S REPORT

City Manager Lynn Lander spoke about the possibility of a second school resource officer depending upon the school board meeting outcome and the possibility of a grant for it. It is only in the preliminary stage at this point.

#### EXECUTIVE SESSION

Mitchell moved, Bunsness seconded to move into executive session to discuss a contract. All present voting aye, motion carried. City Council Member Jennifer Slight-Hansen arrived at 5:56 p.m. Mitchell moved, Jennifer Slight-Hansen seconded to move out of executive session. All present voting aye, motion carried.

There being no further business, Slight-Hansen moved, Mitchell seconded that the meeting be adjourned. All present voting aye, motion carried.

Mayor Levsen called for a Special City Council Meeting for Wednesday, May 15, 2013 at 5:30 p.m.

Prepared by Mary Campton for the Finance Office. /s/ Jerry L. Kost, Deputy Finance Officer.

#### CITY COUNCIL PROCEEDINGS

City Council Chambers, Municipal Building, 123 South Lincoln Street, Aberdeen, South Dakota, May 15, 2013, 5:30 p.m., special meeting of the Board of City Council Members, Mayor Mike Levsen presiding. Present at roll call were City Council Members Tom Agnitsch, David Bunsness, Todd Campbell, Jeff Mitchell, Mark Remily, Clint Rux by telecommunication, Jennifer Slight-Hansen, and Laure Swanson. City staff present were Lynn Lander, Adam Altman, Robin Bobzien, Brett Bill, and Karl Alberts.

Mayor Levsen led the Pledge of Allegiance.

RESOLUTION NO. 13-05-03R

A Resolution of necessity for eminent domain of the federal courthouse building was presented. Federal Judge Charles B. Kornmann spoke in favor of the resolution. Jim Cremer of Bantz, Gosch, & Cremer LLC also spoke in favor of the resolution. Mitchell moved, Agnitsch seconded to approve the following Resolution No. 13-05-03R:

**RESOLUTION OF NECESSITY FOR ACQUISITION OF REAL PROPERTY  
102 FOURTH AVENUE SOUTHEAST, FEDERAL COURTHOUSE**

**WHEREAS**, the City Aberdeen is the past, present, and future home of the United States District Court for the Northern District of South Dakota; and

**WHEREAS**, United States Code Title 28 Section 122 provides that:

South Dakota constitutes one judicial district comprising four divisions.

(1) The Northern Division comprises the counties of Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Edmonds [sic], Grant, Hamlin, McPherson, Marshall, Roberts, Spink, and Walworth.

Court for the Northern Division shall be held at Aberdeen.

(2) The Southern Division comprises the counties of Aurora, Beadle, Bon Homme, Brookings, Brule, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, and Yankton.

Court for the Southern Division shall be held at Sioux Falls.

(3) The central division comprises the counties of Buffalo, Dewey, Faulk, Gregory, Haakon, Hand, Hughes, Hyde, Jerauld, Jones, Lyman, Mellette, Potter, Stanley, Sully, Todd, Tripp, and Ziebach.

Court for the Central Division shall be held at Pierre.

(4) The Western Division comprises the counties of Bennett, Butte, Custer, Fall River, Harding, Jackson, Lawrence, Meade, Pennington, Perkins, and Shannon.

Court for the Western Division shall be held at Deadwood and Rapid City; and

**WHEREAS**, the current location of the United States District Court for the Northern District of South Dakota (“District Court”) is 102 Fourth Avenue Southeast, Aberdeen, South Dakota, a location more particularly described as Lots 1-6, Hagerty’s Subdivision of Lots 1 and 2, and Lots 7 through 12 of Hagerty’s Subdivision of Lots 11-12, and Lots 3 and 10, Block 28 of First Addition, and vacated alley adjacent thereto, City of Aberdeen, Brown County, South Dakota (with improvements, collectively, the “Federal Courthouse”); and

**WHEREAS**, the Federal Courthouse is privately owned, with the United States General Services Agency (“GSA”) responsible for leasing space for use by the District Court as a federal court facility; and

**WHEREAS**, the current condition of the Federal Courthouse is such that the GSA has indicated that it is no longer willing to lease space in the Federal Courthouse for the District Court; and

**WHEREAS**, there is no equivalent space nor any other space that could readily be converted to meet the unique needs of the District Court anywhere within the City of Aberdeen; and

**WHEREAS**, the District Court provides an annual payroll in excess of One Million Dollars (\$1,000,000), with additional fees for court appointments in excess of Four Hundred Thousand Dollars (\$400,000) annually; the District Court also attracts to the City of Aberdeen federal employees from the United States Attorneys’ office, the United States Marshal’s Service, the Federal Bureau of Investigation, the United States Bankruptcy Court, the United States Tax Court, as well as untold numbers of lawyers, litigants, witnesses, media representatives, and citizens from the area and throughout the United States; and **WHEREAS**, the economic impact of the District Court’s presence in Aberdeen

is both significant and irreplaceable; and

**WHEREAS**, District Court provides critical judicial services for the entire region of North Central and Northeastern South Dakota, including fifteen (15) counties and the Standing Rock and Sisseton-Wahpeton Oyate communities; and

**WHEREAS**, the existence of the District Court in Aberdeen ensures convenient local access to federal civil litigation, federal criminal prosecution, bankruptcy proceedings, Tax Court proceedings, and Federal Probation and Pretrial Services; and

**WHEREAS**, were the District Court to discontinue providing services in Aberdeen, the citizens of North Central and Northeast South Dakota would be forced to travel to Pierre, Sioux Falls, or Rapid City, as the services provided in the Northern District would be distributed throughout the other judicial districts in South Dakota, such travel being inconvenient, expensive, and inefficient; and

**WHEREAS**, SDCL §9-27-1 authorizes a municipality to acquire real property for any purpose authorized by law; and

**WHEREAS**, SDCL §9-27-1 provides that a municipality must, prior to commencing proceedings in eminent domain, determine that such appropriation is necessary; and

**WHEREAS**, SDCL §9-27-1 requires that any resolution of necessity must state the purpose and intent of such appropriation.

**NOW THEREFORE BE IT HEREBY RESOLVED** by the City Council for the City of Aberdeen that the public good necessitates the appropriation of the following real property:

Lots 1-6, Hagerty's Subdivision of Lots 1 and 2, and Lots 7 through 12 of Hagerty's Subdivision of Lots 11-12, and Lots 3 and 10, Block 28 of First Addition, and vacated alley adjacent thereto, City of Aberdeen, Brown County, South Dakota, more commonly known as 102 Fourth Avenue Southeast, Aberdeen, South Dakota.

**BE IT FURTHER RESOLVED** that the purpose and intent of such appropriation is to preserve the continued viability of the United States District Court for the Northern District of South Dakota in the City of Aberdeen, due to the District Court's significant financial impact to the community and its unique ability to provide judicial services to North Central and Northeast South Dakota; and

**BE IT FURTHER RESOLVED** that said purpose and intent is a public use and provides a public benefit; and

**BE IT FURTHER RESOLVED** that the City Attorney is hereby authorized and directed to file a proceeding in eminent domain pursuant to SDCL §9-27-1 and SDCL Ch. 21-35, to appropriate the subject property for the continued viability of the District Court and to determine the just compensation due the present owner of the Federal Courthouse; and

**BE IT FURTHER RESOLVED** that this Resolution shall be passed by a 2/3 majority of all the elected members of the Common Council in order to become effective.

The within and foregoing Resolution was considered at a special meeting of the Aberdeen City Council on the 15<sup>th</sup> day of May, 2013, and upon Roll Call vote the Resolution was adopted. Upon roll call, all voting aye, motion carried.

There being no further business, Mitchell moved, Swanson seconded that the meeting be adjourned. All voting aye, motion carried.

Prepared by Mary Campton for the Finance Office. /s/ Karl Alberts, Finance Officer.