Leola City Council Meeting

December 2, 2019

The Leola City Council Meeting was called to order at 7:34 pm by Mayor Thomas Theisen. Present were council members Michael Yost, Gayle Seibel, Tim Collins and Jackie Rau. Also present were city maintenance Dan Yost and Jeff Tschappat and finance officer Sondra Waltman.

Council member Rich Reis joined the meeting at 7:38 pm.

After reviewing the November’s minutes, there was a typo pointed out and Seibel was misspelled. With that correction, Seibel moved to approve the minutes and Collins seconded. The council reviewed the treasurer’s report and Rau moved to approve, seconded by Reis. Reis mentioned to D. Yost and Tschappat to check the camping deposit box at the dam. The bills were then presented to the council. After review, Rau moved to temporarily table the longevity pay and approve the remaining bills. M. Yost seconded.

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| **Bills to be Considered** |
| 4DK Electric | New Lights |  $ 2,289.98  |
| Agtegra | Maint. |  $ 75.15  |
| AmeriPride | Office Services |  $ 95.44  |
| ArtC | Donation |  $ 500.00  |
| Candice Kappes | Monthly Consult Fee - December |  $ 1,000.00  |
| CorInsurance | Renewal |  $ 23,968.00  |
| CorTrust Bank/Visa | Office Supplies |  $ 446.68  |
| Curt's Repair | Repairs |  $ 103.90  |
| Dakota Supply Group | Supplies |  $ 166.32  |
| Dependable Sanitaion | Utilities |  $ 1,182.40  |
| DMI | Repairs |  $ 93.36  |
| Finance Officer Salaried Position | FO Fund - November |  $ 2,916.66  |
| Gene's Oil | Gas/Fuel |  $ 85.16  |
| Government Building Payroll | Custodian - November |  $ 897.00  |
| Ipswich Lumber | Repairs |  $ 26.99  |
| Kessler's | Flowers - Funeral |  $ 50.00  |
| Leola Library | Books/Supplies |  $ 128.48  |
| Library Payroll | Librarian - November |  $ 1,003.95  |
| Library Payroll | Librarian - November |  $ 45.50  |
| Locates & Supplies, Inc | Supplies |  $ 186.16  |
| Maintenance Payroll: S&P | Longevity Pay  |  $ 500.00  |
| Maintenance Payroll: W&S | Longevity Pay  |  $ 1,300.00  |
| Maintenance Salaried Position | Streets/Park Funds - December |  $ 2,118.99  |
| Maintenance Salaried Position | Water/Sewer Funds - December |  $ 2,252.69  |
| McPherson Co Herald | Publishing |  $ 413.54  |
| MDU | Utilities |  $ 2,395.61  |
| Office Department | Deb Weiszhaar/November |  $ 864.80  |
| Pam Walz | Books/Supplies |  $ 468.84  |
| Pam Walz | Food boxes |  $ 18.20  |
| Pam Walz | Food boxes - mileage |  $ 33.60  |
| Public Health | Water Samples |  $ 25.00  |
| Rod Hoffman Const. | Repairs |  $ 350.00  |
| SDML | 2020 Dues |  $ 550.31  |
| USPS | Postage |  $ 9.55  |
| Valley | Utilities |  $ 454.58  |
| Web Water | November Use |  $ 6,014.65 |
| Zoning Payroll | Rich Reis - November |  $ 40.00  |
| Zoning Board | Quarterly Payroll |  $ 525.00  |
| City of Leola's Match | SS, Med, WH, SDRS |  $ 2,105.18  |
| SDML | Affiliate Organizations - 2020 Dues |  $ 185.00  |
|   | **TOTAL:** |  $ 55,886.67  |

The current water project was discussed. There were no current funding draws pending at this time. Collins has been in contact with Dahme’s and reported they will be working as long as they can until the ground freezes up, despite the snow. A few curb stops around town have been noted as nonfunctioning. If there is additional project funding, the city wishes to utilize that to aid in the replacement of these. Tschappat and D. Yost are compiling a nonfunctioning list and locations for the council as they proceed with water meter installs. With the arrival of snow, water meter installation will be put on hold until the snow gets plowed/hauled away. Once that’s completed, the meter installations will resume. There have been a few installs that need a licensed plumber’s attention. A list is being compiled and these will be addressed when the regular meter installation is coming to an end.

A public hearing was held at 8:00 pm regarding Ordinance 19-03, the Cable TV Franchise with Valley Telecommunications. After a second reading and no objections from the public or the council, Seibel moved and M. Yost seconded the adoption.

**Ordinance No. 2019-03 – Cable TV Franchise**

AN ORDINANCE GRANTING A FRANCHISE TO VALLEY TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, INC., TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, RECONSTRUCT AND REMOVE A BROADBAND COMMUNICATIONS SYSTEM FOR THE PURPOSE OF RECEIVING, TRANSMITTING AND DISTRIBUTING THE VARIOUS SIGNALS TO THE INHABITANTS OF THE TOWN OF LEOLA FOR A PERIOD OF TWENTY (20) YEARS, TOGETHER WITH THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, RECONSTRUCT AND REMOVE SAID SYSTEM IN, UPON, ALONG, ACROSS, ABOVE, OVER AND UNDER THE STREETS, ALLEYS, PUBLIC WAYS AND PUBLIC PLACES AS PRESENTLY EXIST, AND ALL EXTENSIONS AND ADDITIONS THEREOF FOR ALL CABLES, LINES, CONDUITS, MANHOLES AND OTHER APPARATUS AS MAY BE NECESSARY FOR THE OPERATION AND MAINTENANCE OF SAID SYSTEM.

BE IT ORDAINED BY THE TOWN OF LEOLA, SOUTH DAKOTA:

I. TITLE

This franchise ordinance shall be known and may be cited as the Leola Broadband Communications System Franchise Ordinance.

II. DEFINITIONS

 SECTION 1. “Broadband Communications System” shall mean all of the component physical, operation, and programming elements of any network of cables, optical, electrical or electronic equipment, including cable television, used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog, digital or by any other means to provide various Broadband Communications Service.

 SECTION 2. “Broadband Communications Service” shall include all of the wideband and narrow-band services now available or that may be available during the term of this franchise.

 SECTION 3. “Town” is the Town of Leola, South Dakota.

 SECTION 4. “Company” hereinafter shall mean Valley Telecommunications Cooperative Association, Inc. of Leola, South Dakota.

 SECTION 5. “Council” is the elected Town Council of the Town of Leola, South Dakota.

 SECTION 6. “Facilities” include, but are not limited to, cables, modulators, towers, antennae and apparatus designed, constructed and/or wired for the purpose of receiving, transmitting and distributing television and other various signals.

 SECTION 7. “FCC” means the Federal Communications Commission.

 SECTION 8. “Person” means any corporation, partnership, proprietorship, individual, organization, governmental entity or any natural person.

 SECTION 9. “RUS” means USDA’s Rural Utilities Service.

 SECTION 10. “Streets” means the surface of, and the space above and below, in, along and across any public street, road, highway, bridge, tunnel, lane, path, bike path, alley, court, sidewalk, park-way, drive, utility easement or right-of-way by whatever name called, now or hereafter existing as such within the franchise area.

 SECTION 11. “Subscribers” means any Person that lawfully elects to subscribe to broadband communications services furnished under this franchise by the Company.

III. GRANT OF NON-EXCLUSIVE AUTHORITY

 The Town of Leola hereby grants to Valley Telecommunications Cooperative Association, Inc. a Broadband Communications System Franchise, subject to the terms and conditions of this Franchise Agreement. This Franchise Agreement provides the rights and privilege to construct, reconstruct, operate, maintain, repair, replace and remove in, upon, along, across, above, over and under the streets, alleys, public ways and public places now existing or dedicated and all extensions of and additions thereto in the Town, all facilities, television conductors and fixtures necessary for the maintenance and operation in the Town of a broadband communications system for the purpose of providing all broadband services of the present and future to the public for a period of twenty (20) years.

IV. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

 The Company shall, during the term hereof, except in those areas that have been pre-empted by the Cable Communications Policy Act of 1984 as amended, or that are regulated by the FCC, be subject to all lawful exercise of the regulating and police powers of the Town.

V. TERRITORIAL AREA INVOLVED

 SECTION 1. This Ordinance relates to the present territorial limits of the Town and to any area annexed thereto during the term of the Ordinance. Company shall not be required to furnish service to any customer farther than 200 feet from a customer then wired and receiving Company’s service, except in cases where not less than six (6) subscribers are within 900 feet of a wired customer receiving Company’s service and request service.

 SECTION 2. In the event the requirement of SECTION V, SECTION 1, is not met, extensions of service shall be required only on a basis that is reasonable and compensatory.

 SECTION 3. Company may, but shall not be required to, serve areas or individual homes adjoining, but outside the Town limits, that may be served from its existing facilities. Company may negotiate directory with such customers the amount to be charged for the bringing of the service to the customer.

VI. LIABILITY AND INDEMNIFICATION

 SECTION 1. The Company shall maintain at all times sufficient and adequate insurance coverage as required by law and in accordance with the requirements of RUS.

 SECTION 2. The Company shall at all times protect and save harmless the Town from all damages and injury arising out of or by any reason of the construction, maintenance and operation of said broadband communications system.

VII. TECHNICAL STANDARDS

 The Company shall meet the requirements of the technical standards established by RUS and the FCC, which said standards are acceptable to the Town.

VIII. CONSTRUCTION, OPERATION AND MAINTENANCE OF SYSTEM

 SECTION 1. Whenever new construction is necessary, the Company may commence construction upon receiving all necessary and proper FCC and RUS permits, waivers, certifications, and approvals.

 SECTION 2. Construction shall comply with the National Electrical Code and RUS Specifications.

 SECTION 3. The Company shall maintain a sufficient number of employees to provide safe, adequate, and prompt service and repairs of its facilities, and periodically make system evaluation tests.

IX. NEW DEVELOPMENTS

 This Franchise shall allow the Company to take advantage of new developments in technology and state-of-the art improvements in providing the best service at a reasonable cost.

X. CONDITIONS ON STREET OCCUPANCY

 SECTION 1. All facilities installed by the Company within the Town shall be located so as to cause minimum interference with the proper use of streets, alleys or other public ways and places. Said fixtures shall be removed and relocated at Company’s expense whenever the same would restrict or obstruct the operation or location of any future street in the Town.

 SECTION 2. All of said facilities shall be constructed, maintained and operated under the supervision of the Company. Plans for all facilities to be constructed will be coordinated with the proper Town officials. The Company shall at all times maintain an up-to-date record of location of all its facilities, and shall provide any related information required by Town personnel.

 SECTION 3. In the event of disturbance of any street, the Company shall, at its own expense and in a manner approved by the street department, replace and restore such street in as good condition as before such disturbance, insofar as the same may be practicable.

 SECTION 4. The Company shall, at the request of any contractor hired by the Town, or any person, located free of charge, any of its facilities. The Company shall be given not less than 24 hours advance notice of such locations, except for qualified emergencies, such as broken water mains, etc. Damage to any facilities located will be billed to the contractor.

 SECTION 5. Any property of the Company that Company elects to abandon in place shall be abandoned in such a manner as the Town may prescribe.

XI. REMOVAL OF FACILITIES UPON REQUEST

 The Company shall, at its own expense, remove, disconnect and relocated any of its facilities when required by the Town by reason of traffic conditions, public safety, street vacation or construction, change or establishment of street grade, installation of sewers, drains, water pipes and/or power lines.

XII. RATES

 SECTION 1. The Company shall adopt and maintain on file at its office a schedule setting forth all rates and charges to be made to subscribers for each type of service available.

 SECTION 2. The Company may adopt and regulate fair and reasonable rates in accordance with Section 623 of the Cable Communications Policy Act of 1984.

XIII. EMERGENCY USE OF FACILITIES

 In the event of any emergency or disaster, the Company shall, upon request of the Town Council, make available whenever possible its facilities to the Town during such emergency or disaster period.

XIV. SAFETY REQUIREMENTS

 The Company shall at all times use ordinary care, and shall maintain commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury or nuisance to the public.

XV. TRANSFER OF FRANCHISE

 The Company shall not transfer this Franchise to another person without prior approval of the Town Council.

XVI. DURATION OF FRANCHISE

 This Franchise and the rights, privileges and authority hereby granted herein shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of twenty (20) years.

XVII. TAMPERING

 SECTION 1. It shall be unlawful for any person or persons to obtain any communications service from the Company by installing, rearranging or tampering with any facilities or equipment of said Company for the purpose of receiving any signal, picture, sound or transmission, without subscribing and paying the Company therefore.

 SECTION 2. Any person violating this Article shall be guilty of a misdemeanor punishable by a fine of not to exceed $100.00, imprisonment for a term not to exceed thirty (30) days, or both.

XVIII. SEVERABILITY

 If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions herein. The Town hereby agrees not to amend, alter or change this Franchise Ordinance without the prior express written consent of the Company.

XIX. PUBLICATION

 The Company shall assume the cost of publication of the Franchise and file its acceptance thereof.

APPROVED: ATTEST: (SEAL)

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Mayor Finance Officer

First Reading: 11/4/2019

Second Reading: 12/2/2019

Adopted: 12/2/2019

Published: 12/12/2019

There was another public hearing at 8:10 pm regarding Resolution 19-03, Resolution to Lease City Owned Property. With no objections from the public or council, Reis moved and Seibel seconded to approve the resolution, which is as follows:

SDCL 9-12-5.2 mandates any municipality that owns rental property and decides to lease the property for longer than 120 days and fees for such lease will exceed $500 per year, said municipality shall be resolution of intent and the City of Leola owns such property (Medical Building) and the City of Leola wants to lease such property and such leases will exceed the 120 days/$500 per year limit set by SDCL 9-12-5.2 now, therefor a public hearing was held on Monday, December 2nd, 2019 at 8:10 pm in the council room of the Municipal Building. Anyone and/or their attorney was welcome to come before the council to show just cause.

McPherson County Deputy Sheriff Allie Hilgemann joined the meeting at 8:15 pm. She presented the council with the monthly county law report and expressed the importance of identification badges for city employees, council members, and the mayor. She left the meeting at 8:22 pm.

Committee reports were reviewed, beginning with Streets, Alley, and Restricted Use Site. There are a few street lights that are out in town. Waltman will call MDU to report them. Tschappat informed the council that the streetlights are supposed to be converted to LED lights this winter sometime. Snow moving issues were also addressed, and the council wanted to remind citizens not to pile snow in alley ways or on someone else’s property. Be sure to keep fire hydrants clear so they can be accessed should an emergency arise. If you have a vehicle parked in the street and it snows, be sure to move it ASAP to aid in the most timely and efficient snow removal for the street.

Council member Lindsey Bollinger joined the meeting at 8:30 pm.

The council went over the Parks, Recreation and Pool committee. It was suggested to update the camping map including which spots included water hook ups. Mayor Theisen met with our project engineer regarding the pool liner grant and asked about structural and liner concerns. They recommended a line test, and a follow up is anticipated prior to our next meeting. The trail grant is in the process of an environmental review which should be completed by Christmas. Once completed, we should have a more conclusive update and timeline, but work is anticipated to begin in the spring.

Reviewing the Building and Equipment committees, concerns with ice around city buildings was addressed. Tschappat mentioned the telehandler’s alternator went out, but a replacement had been ordered to repair. The Code Enforcement, Law Enforcement and Library committees were discussed. Donna Schaible submitted her resignation from the library board effective November 14, 2019 due to moving out of down. The library board wished to appoint Zach Walz as her replacement. Bollinger moved and Seibel seconded to approve. Mayor Theisen had contacted both of our code enforcers, Mike Olson and Joel Johnson to check on status updates. They submitted a progress report and will be up this week to follow up on properties. Due to the recent lack of communication, the council would like to explore who other towns use for code enforcement when our contract is up. The Zoning committee was advised to keep an eye on building permits since fees were changed with Ordinance 19-02.

Economic Development Direct Jacki Hoffman couldn’t attend the meeting but submitted a status report for the council. The pool and trail grants were previously discussed and mentioned in her report. Hoffman found a matching grant through SD Glacial Lakes for $2,500 for billboard signs to be placed around intersection of Highways 10 and 281 along with the intersection of Highways 12 and 45. The city must be a member of the Glacial Lakes Association and the council didn’t make a decision regarding joining the association. Council member Seibel expressed concern with a personal conflict of interest between the EDD and being seated on the council and handed in her resignation from the council effective January 1, 2020.

Council member Seibel left the meeting at 10:00 pm.

Bollinger moved to accept Seibel’s resignation, seconded by Collins.

City employees Tschappat and Yost left the meeting at 10:10 pm.

Old business was discussed. FEMA Mitigation Plan update was discussed and is as follows: NECOG staff attended the G318 Local Mitigation Planning Workshop in Pierre on Nov 12-13. The training was conducted by FEMA and provides guidance and updates on new requirements for mitigation plans. Work continues on revisions to the 2014 mitigation plan, including the sections on the risk assessment and mitigation strategy. Information is being collected from the plan participants and stakeholders.  NECOG is also working on revising the plan format to include the new requirements  presented at the training.

Office updates were discussed. An additional outlet would be beneficial in the finance office. Reis moved and Collins seconded to have the work done. Our annual insurance renewal was discussed, and no changes were made. The Quasquicentennial sales have been a success and items are still available for purchase at the city office for $1. There will be a shot clinic for residents on December 5 from 4 pm – 7 pm done by the Wetonka Vet Clinic. This allows pets to get up to date on their shots and then can be registered with the city. The FBLA Angel tree is up in the Municipal Building. As of January 1st, minimum wage is increasing to $9.30/hour. Mayor Theisen also discussed his contacts with NSU regarding the city website and internships.

No residents were present for public comments.

New business was covered. Web security was the first topic regarding a Wi-Fi password and utilizing our network to view security cameras from office computers. Health insurance premiums are increasing as of January 1st. For individual employees, the monthly rates are increasing from $677.75 to $714.35; for an employee plus one the increase will be from $1,260.48 to $1,328.55. Meter billing was discussed regarding the partial readings between new and old meters. Bollinger moved and Reis seconded that for the resident’s transition month (the month in which the meter was changed out) the resident will only be responsible for the minimum charges for that month. There is an upcoming Annual Report Workshop in Aberdeen on January 22, 2020 that the finance officer and assistant finance officer will attend.

A Contingency Resolution 19-03 was presented to transfer $15,000 out of the contingency fund into the Finance Officer fund and to transfer $2,000 out of the contingency fund into the Code Enforcement fund. Rau moved and Collins seconded the resolution. The city office will be closed December 23-25 for the Christmas holiday. Concerns arose about AmeriPride service charges and the council agreed to explore options.

The next council meeting will be held on Monday December 30, 2019 at 7:30 pm.

Reis moved to adjourn the meeting and Collins seconded at 11:30 pm.

ATTEST:

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Thomas W. Theisen, Mayor of Leola Sondra Waltman, Finance Officer

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