

Minutes of Council Meeting
City of Minden, Nebraska
November 17, 2014
6:00 p.m.



The City Council of the City of Minden, Nebraska, met on this day at 6:00 p.m. in regular session in the Council Chambers, pursuant to advance notice of said meeting simultaneously transmitted to all members of the Council and to the public as shown by the copy thereof posted in the Minden City Hall, Outside the Minden City Hall, First Bank & Trust Co., Minden Exchange Bank & Trust Co., and the Post Office. A copy of the notice is on file in the office of the City Clerk.

Mayor Jones called the meeting to order at 6:00 p.m. The following City Council members were present: Larry Evans, Lathan Thompson and Ted Griess. The following City Council Member was absent: Teresa Sumstine. The following City Officials were present: Mayor Roger Jones, City Administrator Matthew Cederburg, City Attorney Tom Lieske and City Clerk Abbey Jordan.

All proceedings hereinafter were taken while the convened meeting was open to the attendance of the public.

After roll was called, Mayor Jones led those in attendance in the Pledge of Allegiance.

Mayor Jones next made the following statement:

“Pursuant to the Open Meetings Act and Public Records Law Requirements a current copy of the Open Meetings Act is posted for public inspection on the door located in the back of the Council Chambers. In addition, for public inspection, there is located on the table to the south of the chairs in the Council Chambers, a copy of the Council packet that was distributed to the members of the Council prior to this meeting. The City Council will take public comments on an agenda item, if it is deemed necessary.”

The following items were listed under the agenda item “consent agenda” for this meeting: a. Consider Approval of Minutes of Previous City Council Meeting (s) b. Consider Approval of Bills & Claims for this Council Meeting. c. Consider Reports that are enclosed in the Council Packets for This Council Meeting.

The following bills and claims were submitted for approval under the “consent agenda” and are on file in the office of the City Clerk.

Amazon 117.87, Baker & Taylor 190.97, Carey's Pest Control, Inc. 90.53, Cenage/Gale 93.56, Central Community College 536.00, Charter Communications 1173.32, City Of Holdrege Landfill 4728.67, Cooperative Producers, Inc. 93.00, Ems Billing 376.07, Fifth Street Printing 693.90, Hawkins Water Treatment 575.09, HD Supply Waterworks, Ltd 122.52, Husker Power Products, Inc. 31.11, Innovative Pharmacists Inc 49.96, Intellicom Computer Consulting 1010.48, Island Supply Welding Co 32.30, Joy's Floral & Gifts 60.00, K&K Auto Repair Inc 374.69, Kearney Hub Publishing Co. 143.00, Kim Olson 45.94, Midwest Tapes 755.68, Minden Hardware 212.34, Minden Office Supply, Inc 202.56, Municipal Automation & Control 653.02, Municipal Chemical Supply 250.00, N T & T 80.50, Napa Auto Parts 52.99, NCMA 520.00, Ne Environmental Products 11854.59, Nebraska Life 44.00, Nebraska Public Power District 129372.04, Olsson Associates 1003.50, Pepsi Cola Of Hastings 135.79, Police Chiefs Asso. Of Ne 30.00, Presto X Co. 44.69, Source Gas 72.74, Southern Power District 18.89, United Suppliers, Inc. 835.70, Verizon Wireless 551.85, Village Cleaners Inc 29.20, Western Pathology Consult Inc 150.00, Wex Bank 5252.54, Xerox Capital Services Inc 73.70

Council Member Evans moved to approve the consent agenda. Council Member Thompson seconded the motion. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Agenda item #4, Oct-14 Treasury Report. City Administrator Matthew Cederburg gave a brief report regarding the state of the City's treasury accounts. No action taken.

Agenda item #5, Oct-14 Budget Report. City Administrator Matthew Cederburg reported on the current state of the budget. No action was taken.

Agenda item #6, Consider Approval of Ordinance to impose an additional City sales tax and use tax of 1% for a total of 2%.

Council member Griess introduced Ordinance No. 1198 for the first reading.

ORDINANCE NO. 1198

AN ORDINANCE IMPOSING AN ADDITIONAL CITY SALES AND USE TAX AT THE RATE OF ONE PERCENT (1%), INCREASING THE TOTAL CITY SALES AND USE TAX RATE FROM ONE PERCENT (1%) TO TWO PERCENT (2%) AND APPROVING RELATED ACTIONS; AND TO PROVIDE FOR SEVERABILITY AND EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA:

Section 1. Findings. The Mayor and City Council make, adopt and approve the following findings:

1. On November 23, 1992, the governing body of the City of Minden passed Ordinance No. 956, imposing a perpetual one percent (1%) City sales and use tax on all transactions within the City of Minden on which the State of Nebraska is authorized to impose a tax, which sales and use tax took effect on April 1, 1993; and
2. The City, upon the affirmative vote of at least 70% of all of the members of the governing body of the City of Minden and within the prescribed time and manner, certified and submitted to qualified electors at the general election held within the City on November 4, 2014 a ballot question in accordance with applicable law proposing to increase the City sales and use tax by an additional one percent (1%), resulting in a rate greater than one and one-half percent (1½%), and specifically increasing the total City sales and use tax rate from one percent (1%), to two percent (2%); and
3. A majority of the qualified electors by votes cast upon such question approved and were in favor of such additional tax and increasing the City sales and use tax by an additional one percent (1%) from one percent (1%) to two percent (2%); and consequently the governing body of the City shall be empowered and desires by this Ordinance to forthwith proceed and impose the additional tax and increase the local sales and use tax rate by an additional one percent (1%) from one percent (1%) to two percent (2%) pursuant to the Nebraska Local Option Revenue Act, with at least 50% of all revenues generated by the additional one percent (1%) to be used for public infrastructure projects; and
4. The City, pursuant to Neb. Rev. Stat. Section 77-27,142(3), is a party to an interlocal agreement pursuant to the Interlocal Cooperation Act with a political subdivision within the municipality or the county in which the municipality is located creating a separate legal or administrative entity relating to a public infrastructure project specifically being the interlocal cooperation agreement among the City of Minden and

the Minden Consolidated Rural Fire District including benchmarks, for the long term development of governance of public infrastructure projects, specifically as relating to the cooperative use of public buildings and capital equipment to provide fire department and emergency medical services for the joint and mutual benefit and protection of said Cities and District. The separate legal or administrative entity was not in existence for one calendar year preceding the submission of the additional sales and use tax ballot question to voters.

Section 2. Imposition of Tax. There is hereby imposed and levied for the City of Minden an additional sales and use tax at rate of one percent (1%), thereby increasing the total City sales and use tax rate from one percent (1%) to two percent (2%), upon the same transactions that are sourced under the provisions of Neb. Rev. Stat. Sections 77-2703.01 to 77-2703.04 within the corporate limits of the City, as constituted from time to time, on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time.

Section 3. Effective Date. Said rate increase and additional one percent (1%) sales and use tax adopted, approved and imposed by this Ordinance shall be effective and apply to all taxable transactions within the City, as constituted from time to time, on and after April 1, 2015, or as otherwise required by Neb. Rev. Stat. Section 77-27,143 with one half of one percent (1/2%) of the proposed one percent (1%) increase continuing in perpetuity. The remaining one half of one percent (1/2%) will continue for a period of ten years after its effective date, unless bonds are issued at any time and some or all of the additional revenues from this one half of one percent (1/2%) are pledged for payment of said bonds, in which case the increased sales and use tax rate of an additional one half of one percent (1/2%) shall remain in effect and additional revenues collected until payment in full of said bonds and any refunding bonds, whichever is later.

Section 4. Use of Proceeds. Of the additional revenues collected from increasing the sales and use tax rate by one percent (1%) at least fifty percent (50%) will be used to fund in whole or in part and pay costs of public infrastructure projects, including, without limitation, water system improvements, as defined in Neb. Rev. Stat. Section 77-27, 142. The remaining fifty percent (50%) will be allocated to the general operating fund and/or public infrastructure projects.

Section 5. Administration. Administration of the additional sales and use tax imposed by this Ordinance shall be as provided in the Nebraska Local Option Revenue Act, Sections 77-27,142 through 77-27,148.

Section 6. Preexisting Sales and Use Taxes. The one percent (1%) sales and use taxes previously imposed and in effect pursuant to Ordinances No. 956 shall remain in effect and governed by said Ordinance, in addition to the additional one percent (1%) imposed and governed by this Ordinance.

Section 7. Further Actions. The City Clerk or other proper person shall be authorized to attest to and furnish a certified copy of this Ordinance and any other documents or instruments to the Tax Commissioner or any other party as required or appropriate. The City Administrator or City Administrator's designee shall be authorized to take any other actions as the City Administrator determines or appropriate to carry out the actions approved in this Ordinance.

Section 8. Severability Clause. If any section, subsection, sentence, clause or phase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the Ordinance. The Mayor and City Council of the City of Minden hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 9. Effective Date. This Ordinance shall take effect and be fully enacted upon passage, approval and publication as provided by law. The additional tax hereby imposed shall take effect as provided in Section 3 hereof.

PASSED AND APPROVED THIS 17th DAY OF NOVEMBER, 2014

/s/ Roger L. Jones
Roger Jones, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

The ordinance was seconded by Thompson. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Council Member Evans motioned to suspend the three readings. Council Member Griess seconded the motion. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Council Member Evans motioned to adopt Ordinance No. 1198 by title. Council Member Thompson seconded the motion. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Agenda item #7, Consider Approval of Ordinance for Municipal Code changes to Chapter 76, Article II, Section 78-26.

Council member Evans introduced the Ordinance No. 1199 for the first reading.

ORDINANCE NO. 1199

AN ORDINANCE TO AMEND CHAPTER 78 OF THE MUNICIPAL CODE OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA TO COINCIDE WITH ORDINANCE NO. 1198 AND THE ADDITIONAL CITY SALES AND USE TAX IMPOSED BY SAID ORDINANCE AT THE RATE OF ONE PERCENT (1%), INCREASING THE TOTAL CITY SALES AND USE TAX RATE FROM ONE PERCENT (1%), TO TWO PERCENT (2%); TO REPEAL SECTION 78-26 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA:

Section 1. That Section 78-26 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended by deleting and replacing it in its entirety with the following:

Section 78-26. Imposed. A local option sales and use tax is imposed and levied for the benefit of the City at a total rate of 2% upon the same transactions that are sourced under the provisions of applicable Nebraska statutes within the corporate limits of the City, as constituted from time to time, on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time, which 2% tax shall be comprised of the following components:

- (1) One percent (1%) City sales and use tax originally effective on or about April 1, 1993 and continuing in perpetuity;
- (2) Additional one half of one percent (1/2%) City sales and use tax originally effective April 1, 2015 and continuing in perpetuity;
- (3) Additional one-half of one percent (1/2%) City sales and use tax effective April 1, 2015, or as otherwise required by Neb. Rev. Stat. Section 77-27,143, and continuing for a period of 10 years after said effective date, unless bonds are issued at any time and some or all of the additional revenues from this additional tax are pledged for payment of said bonds, in which case the increased sales and use tax rate and additional tax of an additional one half of one percent (1/2%) shall remain in effect and additional revenues collected until payment in full of said bonds and any refunding bonds, whichever is later.

Additional local option sales and use taxes described in subsections (2) and (3) above each shall be subject to any extensions or other modifications from time to time adopted or approved by the City in accordance with applicable law, without regard to whether or not this Section 78-26 also is revised to incorporate or otherwise reflect said extension or other modification.

Section 2. Repeal 78-26 Previously Enacted. Section 78-26 as previously enacted is hereby repealed.

Section 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the Ordinance. The Mayor and City Council of the City of Minden hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 4. Effective Date. This Ordinance shall take effect and be fully enacted upon passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF NOVEMBER, 2014.

/s/ Roger L. Jones
Roger Jones, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

The ordinance was seconded by Griess. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Council Member Thompson motioned to suspend the three readings. Council Member Griess seconded the motion. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Council Member Thompson motioned to adopt Ordinance No. 1199 by title. Council Member Griess seconded the motion. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Agenda item #8, Consider Approval of Emergency Medical Services (EMS) Business Associate Agreement. Tabled until next meeting.

Agenda item #9, Consider approval for City to cost share 50% with Chamber for fireworks display on Independence Day, as approved in budget.

Kevin Krull explained the proposed fireworks display and cost share details. He also discussed the insurance liability for the City. After the discussion, Council member Griess motioned approval for the City to cost share 50% with the Minden Chamber for a fireworks display on Independence Day, as approved in the budget. Seconded by Evans. On roll call the following voted Aye: Evans, and Griess. The following voted Nay: Thompson. Not present and not voting: Sumstine. Motion Carried.

Agenda item #10, Consider Approval of Resolution stating amount of insurance carried with respect to City's Combined Utilities Bond is adequate. City Administrator Matthew Cederburg explained that this was included in the covenants of the recently refunded Utilities Bond.

Council Member Griess introduced Resolution No. 1633

RESOLUTION NO. 1633

WHEREAS, the City of Minden has property that is known as Combined Utilities property which is financed through Utility bonds issued by the City of Minden; and, and is required to maintain insurance on such property; and,

WHEREAS, the City of Minden is required to maintain insurance on such property in an amount that is adequate to restore or replace said property to the extent necessary to make the Combined Utilities property operable in an efficient and proper manner in order to carry out the City's obligations under the Ordinance creating the Utility bonds; and,

WHEREAS, the Mayor and the City Council of the City of Minden shall annually, after the end of each fiscal year adopted by the City of Minden for the Combined Utilities bonds, examine the amount of the insurance carried by the City of Minden with respect to the Combined Utilities property and approve the amount of said insurance as being adequate in amount to restore and replace said property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINDEN;

That the City Council of the City of Minden has examined the insurance coverage on the Combined Utilities property which is financed through Utility bonds, which insurance is in the amount of \$622, 913 per location and \$2,491,652 in the aggregate for the City's Utility/Power stations and which insurance is in the amount of \$18,063,988 in the aggregate for all other locations including the City's Water Treatment Plant and the City's Wastewater Plant, and finds that such insurance is of an adequate amount and approves the same.

Passed and approved this 17th day of November, 2014.

/s/ Roger L. Jones
Roger Jones, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

Council Member Thompson seconded the resolution. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried.

Agenda item #11, Consider approval of City sewer expansion for approximately \$45,000 for a new commercial connection.

Bob Isaacson explained the plan for a new Runza. City Administrator Matthew Cederburg explained the reasons and concerns of the new connection as well as a potential cost share. No action taken.

Agenda item #12, Adjournment

It was moved by Council Member Thompson and seconded by Council Member Griess to adjourn the meeting at 6:57 p.m. On roll call the following voted Aye: Evans, Thompson and Griess. Not present and not voting: Sumstine. Motion Carried. Meeting adjourned.

/s/ Roger L. Jones
Roger Jones, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

(SEAL)