

CITY COUNCIL PROCEEDINGS  
PUBLISHED SUBJECT TO THE GOVERNING BODY'S REVIEW AND REVISION

A regular meeting of the Beach City Council was called to order by Mayor Walter Losinski at 7:00 pm on April 1, 2013. Present when the meeting was called to order was City Council Mark Benes, Tim Marman, Jeanne Larson, Paul Lautenschlager, Henry Gerving, Wade Walworth, Public Works Supt. Dell Beach, City Auditor Kimberly Nunberg, Sheriff Scot Steele, City Engineer Jon Wilczek and guest Janie Rathbun, Mike Braden, Emanuel Culman and Bernie Schillo.

Minutes of the previous month meetings were read. Benes moved to approve the minutes, second by Walworth. Motion carried unanimously. Vouchers were reviewed for payment. Benes moved to amend the Fire Department Budget from \$15,000 to \$71,800 due to additional expenses which will be reimbursed by an EIO grant, second by Walworth. Motion carried unanimously. Benes moved to approve the following vouchers, second by Larson. Motion carried unanimously.

16179 Beach Food Center 5.81  
16180 Boiler Inspection Program 90.00  
16181 BOSS 202.61  
16182 CT Electric 204.25  
16183 Dakota Dust-tex 67.80  
16184 Floyd Braden 227.40  
16185 G & G Garbage 1800.00  
16186 GV County 11596.00  
16187 GV News 207.40  
16188 Heiman Fire Equipment 56,356.95  
16189 Jack Cook Computer Repair 90.00  
16190 Jill Schatz 130.01  
16191 Lori Watembach 42.00  
16192 Michael Bingeman Electrician 253.57  
16193 Midstate Communications 231.92  
16194 Morrison-Majerle Systems 105.00  
16195 NAPA 120.19  
16196 ND Dept. of Health 64.00  
16197 ND Sewage & Pump lift station Service 395.00  
16198 NDLC 25.00  
16199 One Call Concepts 6.25  
16200 Rohan's Hardware 25.85  
16201 Rough Rider Industries 118.18  
16202 S & R Interiors 603.00  
16203 Southwest Water 10,013.15  
16204 Stockwell Cleaning 225.00  
16205 The Dickinson Press 326.31  
16206 Total Safety 314.50  
16207 Verizon Wireless 177.86  
16208 WP Capitol 88.55

16143-16149 & 16156-16173 & 16177 City Employees wages for March 19428.08  
16150 NDPERS 100.00  
16151 NDPERS 632.04  
16152 City of Beach 246.74  
16153 Blue Cross Blue Shield 4717.68  
16154 Blue Cross Blue Shield 452.40  
16155 Kim Nunberg 208.30  
16174 NDPERS 100.00  
16175 NDPERS 607.99  
16176 City of Beach 39.40  
16178 USPS 186.06  
-99998 Close Up 2591.00  
-89958 First State Bank of Golv 3918.06  
-89957 Office of State Tax Commissioner 356.06

### **Sheriff's Report**

Sheriff Steele presented the monthly report for March consisting of 14 calls, 12 citations and 1 written warning.

### **Public Works Report**

PWS Beach mentioned as long as the weather cooperates they will continue crack sealing, patching pot holes and start sweeping the streets. Advertising for summer help will be in the next two issues of the newspaper. Lautenschlager encouraged PWS Beach to contact the electrician to get electricity to the radar speed limit signs as soon as possible.

### **Auditor's Report**

The financial report for the month of March was reviewed. Gerving moved to approve the financial report, second by Walworth. Motion carried unanimously. Nunberg reviewed her written report.

### **Committee Reports:**

Walworth recommended either concreting the alley behind City Hall or use asphalt millings to provide an improved parking area. A cost estimate will be obtained. The Recycling Committee will be meeting in the near future to consider relocating the Recycling Center to the landfill. Mayor Losinski mentioned he received a telephone call from a resident about a plugged sewer line that has not been repaired yet.

### **Unfinished Business:**

John Sokoloski, General Manager of Goldenwest Electric and Board Member Ray Clouse attended the meeting to request a franchise agreement with the city for the area recently annexed North of Interstate 94. Currently, Goldenwest Electric provides services to Dakota Farm, Power Fuels and Ferrellgas. Discussion. Marman moved to approve the First Reading of ORDINANCE NO. 375, second by Walworth. Motion carried unanimously.

## **ORDINANCE NO. 375**

AN ORDINANCE GRANTING A FRANCHISE TO GOLDENWEST ELECTRIC COOPERATIVE, INC., A MONTANA ELECTRIC COOPERATIVE CORPORATION, ITS SUCCESSORS AND ASSIGNS, WITH PERMISSION TO ERECT, CONSTRUCT, INSTALL, AND MAINTAIN WITHIN THE CITY OF BEACH, AN ELECTRIC POWER DISTRIBUTION SYSTEM AND TO OPERATE THE SAME AND TO INSTALL CONDUITS, POLES, WIRES, UNDERGROUND FACILITIES, PIPES, AND OTHER FIXTURES IN, UPON, AND UNDER THE STREETS, ALLEYS, BRIDGES, AND PUBLIC GROUNDS OF THE CITY FOR THE PURPOSE OF FURNISHING ELECTRICITY TO THE CITY AND THE INHABITANTS THEREOF.

BE IT ORDAINED, by the City Council of the City of BEACH, hereinafter called City:

### **Section 1. FRANCHISE**

Subject to the limitations, conditions, and requirements hereinafter set forth, there is hereby granted a general and unlimited Franchise to GOLDENWEST Electric Cooperative, Inc., a Montana electric cooperative corporation, its successors and assigns (hereinafter, the "Grantee). Such Franchise shall be in effect until July 19, 2019 from and after the date of final passage of this Ordinance. During the time of such Franchise, the Grantee shall have permission to construct, install, and maintain an electric power distribution system and to transmit electricity to and from other points for the purpose of furnishing such electricity, and to erect, construct, install, and maintain conduits, poles, wires, underground facilities, pipes, and other necessary fixtures and attachments upon and under the streets, alleys, bridges, and public grounds of the City for the purpose of furnishing and selling electricity for all purposes; which electricity may be used by any customers desiring such service.

The rights herein granted to Grantee shall further be subject to all valid laws, rules and regulations now or hereafter adopted and promulgated by any State or Federal authority having jurisdiction over Grantee and which may expand or limit Grantee's right to serve pursuant to this Franchise.

This Franchise shall not be exclusive and shall not be construed to prevent the City from granting to any other party the right to use the streets, alleys, and public grounds of the City for like purposes.

### **Section 2. STREETS AND ALLEYS**

The Grantee shall use poles, wires, crossarms, equipment, and devices in conformance with the standards of construction adopted by the National Electrical Safety Code of the United States, Department of Commerce. Any apparatus connected therewith shall be located so as not to obstruct the avenues, streets, and alleys of the City or to endanger persons or property or to hinder or to obstruct the use of avenues, streets, and alleys or public places by the inhabitants of the City, or by the public in general, or to interfere with any street, sidewalk, curb, gutter, park improvements, or other public place of the City.

All conduits, poles, wires, and pipes installed by virtue of this Franchise shall be erected in such places and in such manner as to not unnecessarily encroach upon streets, alleys, bridges, or public grounds of the City and so as not to unnecessarily obstruct the use thereof for the ordinary purpose of travel thereon and the erection thereof shall be subject to the reasonable supervision and direction of the City. Whenever practicable, all poles shall be set in alleys.

All poles where set in alleys shall be set at or near the boundary line thereof and where set in streets shall be located at such distances as shall be directed by the City from the property line of the abutting owner, and shall be placed so as not to interfere with the construction or placing of any water pipes, sewers, or drains or the flow of water therefrom, which has been or may be placed by authority of the City. In the event that the Grantee shall make any unnecessary obstructions of the streets, alleys, public grounds, or places not designated by the City, the City may cause the removal of such obstructions and charge and collect from such Grantee the actual cost of such removals.

During the construction, maintenance, or enlargement of any part of the electric power distribution system, the Grantee shall not unnecessarily impede or block travel in the streets and highways in the City and shall leave all streets, highways, alleys, sidewalks, curbs, lanes, and public places and all grounds disturbed by the construction in good condition upon the completion of the work. All signing and traffic regulation shall conform to the Manual on Uniform Traffic Control Devices.

The City reserves all its rights, under its police power or otherwise, to control or regulate the use of streets, alleys, and public grounds by the Grantee. The City may make and adopt, and the rights and privileges hereby granted shall at all times be and remain subject to, such reasonable regulations of a police nature, as the City may deem necessary for its own best interests; but the City will not, by any such regulations or by acts of its own or agents, unreasonably prevent or interfere with the Grantee carrying on its business in accordance with the Franchise hereby granted.

### Section 3.      OPERATION AND MAINTENANCE

Whenever the Grantee, in erecting, constructing, and maintaining the lines or poles, shall take up any of the pavements, sidewalks, crossing, or curbs on any of the avenues, streets, and alleys, or public places in the City or shall make any excavations thereon, such excavations shall, at the Grantee's own cost and expense and in a manner approved by the City, be repaired and the sidewalk, crossing, or curb replaced under the direction of the City; and any excavation so made shall be properly lighted at night during the construction; and in case of the failure to so repair, replace, or light on the part of the Grantee, then the City may do the same at the expense of the Grantee and the Grantee agrees to pay the City for the reasonable cost or value of the work. Prior to the disturbance of any street, sidewalk, alley, public way or paved area, Grantee shall obtain a permit from the City at least two (2) days prior to the disturbance.

The Grantee shall be liable for all loss or damage caused by the negligence of Grantee, which may result to persons or property within the City caused by the Grantee, or its agents, servants, or employees in erecting, operating, and maintaining the electric system within the City and shall at all times save the City harmless from any and all damages to persons or property in erecting, operating, or maintaining the electric systems.

Section 4. TRIMMING TREES

There is granted to the Grantee, its successors and assigns, during the term hereof, permission and authority to trim all trees in alleys, streets, and public grounds of the City so as to remove all parts of the trees interfering with the proper erection, maintenance, and operation of poles, cables, wires, masts, or other fixtures, or appliances installed or to be installed pursuant to authority hereby granted.

Section 5. ASSIGNMENT

With prior notice to the City, the Grantee shall have full right and authority to assign to any person, persons, firm, or corporation all the rights that are given it by this Ordinance, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and conditions of this Ordinance.

Section 6. LIABILITY

The Grantee shall use due diligence and care in furnishing electric service as herein provided but shall not be liable for any loss or damage which may arise from failure of the service, either partial or total, but this shall not be construed to exempt the Grantee from liability for negligence.

Section 7. REGULATORY LAWS

This contract shall be subject to any present or future laws of a regulatory nature applicable to Grantee and enacted by the State of North Dakota, or any amendment or addition to such laws.

Section 8. APPROVAL AND ACCEPTANCE

This Ordinance shall take effect and be in full force from and after its passage and approval. The Grantee shall specify its acceptance of this Franchise in writing, to be filed with the auditor within thirty (30) days of final passage of this Ordinance, and in no event shall this Ordinance be binding on the Grantee until the filing of such acceptance.

Section 9. PROTECTION OF PUBLIC IMPROVEMENTS

Grantee, at its expense, shall protect, support, temporarily disconnect, relocate along, under, or over any street, alley, or public place, or remove from any street, alley, or public place, any equipment or facilities when required by the City by reason or traffic conditions, public safety, street

excavation, street construction, change or establishment of street grade, installations of sewers, drains, water pipes, power lines or tracks, or any other type of structures or improvements by City or other public agencies when acting in as governmental or in a proprietary capacity, or for any public improvement, not limited to the foregoing of any character whatever.

Section 10.     FRANCHISE FEE

The City reserves the right, if not prohibited by Federal law or the laws of the State of North Dakota, to charge a fee to the Grantee for this franchise, which fee or charge shall be subject to change by the Beach City Council. Prior to the imposition of any franchise charge or fee, or change to an existing franchise charge or fee, the City shall provide the Grantee thirty (30) days written notice of its intent and shall hold a public hearing thereon.

Section 11.     INDEMNITY

Grantee shall indemnify and save and hold the City harmless from any loss or damage due to the construction, installation, and maintenance of its distribution systems, and its use of the streets, alleys, and public grounds of the City.

Section 12.     REPEAL OF ORDINANCES IN CONFLICT

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 13.     SEVERABILITY

In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected,. and other sections of this Chapter shall continue in full force and effect.

Section 14.     EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after final passage.

APPROVED: CITY OF BEACH

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Mayor, City of Beach, North Dakota

ATTEST:

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Kimberly Nunberg, City Auditor

City Engineer Jon Wilczek presented information on a water circulating system for both water towers. Cost of the circulating systems is estimated at \$7,500 per tower. Wilczek is checking into another option other than the circulating system and will present it at the next meeting. Wilczek recommended the Council make improvements on the wastewater system by either re-lining the main line going to the lagoon which will reduce the amount of ground water being taken in at the lagoons or expand to a fourth cell. Discussion. Gerving moved to approve Wilczek make application for an Energy Infrastructure Impact Grant to expand the lagoon and/or relining the main line going to the lagoon, second by Walworth. Motion carried unanimously.

#### **New Business:**

Parks & Recreation Manager Janie Rathbun and Board Member Mike Braden requested \$40,000 from the Pool Sales Tax Fund. Discussion. Benes moved to approve the request, second by Walworth. Motion carried unanimously. Walworth moved to adjourn as the Beach City Council and convene as the Beach Board of Equalization, second by Larson. Motion carried unanimously. Gerving declared a conflict of interest since he is also the GV County Tax Director and will abstain from voting until the City Council meeting has re-convened. Minutes of the Board of Equalization meeting on April 2, 2012 were approved. Gerving provided information on increases and decreases in true and full valuation of property. Total True & Full Valuation for 2013 in the City of Beach is \$38,209,695, an increase of 16.3% from 2012. Emanuel Culman shared concerns on the increase of valuations for his properties. Discussion. Benes moved that a finding be made that all classifications of property have been reviewed and find them proper as assessed, second by Lautenschlager. Walworth-yes, Larson-yes, Benes-yes, Lautenschlager-yes, Marman-no. Motion carried. Exemption Applications and Homestead Credit applications were reviewed. Benes moved that a finding be made that we have reviewed all Exemption Applications and Homestead Credit Applications and find them proper as presented, second by Larson. Walworth-yes, Larson-yes, Benes-yes, Lautenschlager-yes, Marman-no. Motion carried. Benes moved that a finding be made that the overall Assessment Roll for 2013 has been reviewed and find it proper as assessed, second by Lautenschlager. Walworth-yes, Larson-yes, Benes-yes, Lautenschlager-yes, Marman-no. Motion carried. Walworth moved based on preceding findings, we declare the Assessment Roll for 2013 for the City of Beach equalized, second by Benes. Walworth-yes, Larson-yes, Benes-yes, Lautenschlager-yes, Marman-no. Motion carried. Walworth moved to adjourn as the Board of Equalization and reconvene as the Beach City Council, second by Benes. Motion carried unanimously. Walworth moved to adjourn as the Beach Board of Equalization and reconvene as the Beach City Council, second by Larson. Motion carried unanimously.

Applications for Property Tax Exemption for New Home Constructions at 980 4<sup>th</sup> Ave NW and 523 3<sup>rd</sup> St SE were reviewed. Benes moved to approve both applications, second by Lautenschlager. Gerving abstained. Motion carried. An Application for Special Events from the Backyard for the Stal's & Gal's Softball Tournament scheduled May 10<sup>th</sup> & 11<sup>th</sup> was reviewed. A decision was tabled until further information could be provided. Correspondence from Roosevelt Custer Regional Council regarding the 2013 CDBG Applications was reviewed. Bernie Schillo requested the City purchase 14.24 acres of a land that is for sale on the Beach Golf Course. The property owner is willing to sell the land for \$800 per acre. Discussion. Marman moved to approve the purchase using the City Sales Tax Fund, second by Benes.

Motion carried unanimously. Nunberg provided a request for annexation from the Beach Evangelical Church. A decision was tabled until further information is provided.

No other business was brought forward. Marman moved to adjourn, second by Larson. Meeting adjourned at 8:30 p.m.

ATTEST:

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Walter Losinski, Mayor

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Kimberly Nunberg, City Auditor