

# **Cavalier City Council**

**November 7, 2022**

**7:00 PM**

**Roll Call:** Mayor Hinkle, council members Cluchie, Beard, Vaughn, Berry, Carpenter

**Absent:** Carter

**Guests:** Casey Krieg, OM Walton, COP Osvold, Attorney Fleming, Robin Hartz, David Hartz, Jarda Solc, Dan Aubol, John Hillis, Christopher Thompson

## **Amendments to the Agenda**

Dan with Colonial Life, Task Order for GSR and Pump Station

## **Approve Minutes**

Motion made to approve the regular meeting minutes from special meeting September 8, 2022, regular meeting from October 3, 2022, special meetings October 10, 2022, October 20, 2022, October 24, 2022, October 26, 2022, M/S/P- Cluchie; Vaughn 5:0 mc.

## **Approve Bills & Financials**

Motion made to approve the payment of all city and CMU bills and financials as submitted for October 2022. M/S/P- Cluchie, Carpenter; 5:0 mc.

## **Gaming/Raffle/Special Event Permits**

Motion made to approve gaming permit for Sportsman Club. M/S/P- Berry, Carpenter; 5:0 mc.

## **Ground Storage Reservoir**

Jarda updated council that only 1 item left on the punch list. Walton and city crew will complete that last task so project will be finished.

Motion made to approve AE2S invoice 83302 in the amount of \$2300 with funds coming from special projects. Roll Call M/S/P – Beard, Cluchie; 5:0, mc.

Motion to approve task order as presented. Roll Call M/S/P-Vaughn, Beard; 5:0 mc.

Motion to approve resolution adding Casey Krieg as City Auditor for SRF paperwork. Roll Call M/S/P- Berry, Vaughn; 5:0 mc.

**RESOLUTION OF GOVERNING BODY OF APPLICANT**  
(Suggested Format)

**RESOLUTION NO. 1**

Resolution authorizing filing of application with the North Dakota Department of Environmental Quality for a loan under the Clean Water Act and/or the Safe Drinking Water Act.

WHEREAS, under the terms of the Clean Water Act and/or the Safe Drinking Water Act, the United States of America has authorized the making of loans to authorized applicants to aid in the construction of specific public projects: Now, Therefore, BE IT RESOLVED City of Cavalier

*(Governing Body of Applicant)*

1. That Casey Krieg be and is hereby authorized to execute and file an application  
*(Designated Official)*  
on behalf of City of Cavalier with the North Dakota Department of Environmental  
*(Legal Name of Applicant)*

Quality for a loan to aid in the construction of:

**Extension of 2nd Ave S sanitation and sewer.**

*(Brief Project Description)*

2. That Casey Krieg, City Auditor  
*(Name of Authorized Representative)* *(Title)*

be and is hereby authorized and directed to furnish such information as the North Dakota Department of Environmental Quality may reasonably request in connection with the application which is herein authorized to be filed, to sign all necessary documents, and, on behalf of loan recipient, to accept loan offer and receive payment of loan funds.

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting Auditor of the  
*(Title of Officer)*

City of Cavalier does hereby certify that the attached resolution is a true  
*(Legal Name of Applicant)*

and correct copy of the resolution, authorizing the filing of application with the North Dakota Department of Environmental Quality, as regularly adopted at a legally convened meeting of the

Cavalier City Council duly held on the 7 day of November, 2022;  
*(Name of Governing Body of Applicant)*

and further that such resolution has been fully recorded in the journal of proceedings and records in my office.

In WITNESS WHEREOF, I have hereunto set my hand this 7 day of November, 2022.

Signature of Recording Officer\*

Title of Recording Officer

**City Auditor**

\*The signature needs to match the signature used for the FIND pre-application

## **2<sup>nd</sup> Ave Sewer Extension**

Jarda gave update on project. Krieg gave update that special assessment committee had been released. Krieg will call those on the committee to see if they would still be willing. Krieg will update at meeting in December.

City participation of \$1850 per lot be paid for out of special projects. Motion to approve \$1850 per lot be paid out of special projects. Roll Call M/S/P- Berry, Beard; 5:0 mc.

## **Colonial Life**

Dan with colonial life presented health benefits that would save employees. Motion made to allow Colonial life to offer benefits to city employees. M/S/P- Beard, Cluchie; 5:0 mc

## **Development**

Auditor Krieg presented business development grants. Loan has completed their project that was approved. Motion made to pay the storefront improvement grant for LOAN in the amount of \$3,000 with funds coming from the growth fund. M/S/P- Berry, Cluchie; 5:0 mc.

## **MRES Resolution**

Auditor Krieg presented resolution for MRES. Motion made to adopt resolution appointing Casey Krieg as representative and Barry Walton as alternative with MRES. Roll Call M/S/P- Vaughn, Cluchie; 5:0 mc.

The City desires to appoint a new person to represent the City in matters relating to its membership in Missouri River Energy Services (MRES), and the business with MRES. Council Member Vaughn introduced the following resolution, and moved it adoption, and Council Member Cluchie seconded the motion to adopt:

Resolution to Designate Authorized Representative for the City of Cavalier as a Member of Missouri Basin Municipal Power Agency d/b/a Missouri River Energy Services

WHEREAS, the City of Cavalier, North Dakota, has entered into the Agreement Establishing the Missouri Basin Municipal Power Agency, d/b/a Missouri River Energy Services (MRES), and as a member thereof is entitled to representative who shall represent the Municipal Utility in the business of MRES.

NOW, THEREFORE, IT BE RESOLVED that Casey Krieg be and she is hereby designated and appointed as representative of the City of Cavalier and is authorized to represent Cavalier's Municipal Utility in the business of MRES, with the powers, duties and responsibilities as provided in said agreement. The alternative representative, Barry Walton, is hereby designated and appointed, and authorized to represent the City with equal powers.

Upon calling of the roll, the votes were as follows:

Voting for adoption of the resolution: Vaughn, Cluchie, Beard, Berry, Carpenter

Voting against adoption of the resolution: none

Whereupon the Mayor Lacey Hinkle declared the Resolution duly appointed on the 7<sup>th</sup> day of November, 2022

## **Rec Report**

Rec Director Krieg informed the council that Aimee Homstad will start as the Recreation Director on November 10<sup>th</sup>. Tumbling will finish on the 29<sup>th</sup> of November. Cost for the auditorium water fountain will be donated by Jennifer Worley at the cost of \$3200. Trunk of Treat had 300+ kids. Upcoming events: November 26<sup>th</sup> Breakfast with Santa, Vendor show in the Auditorium, Santa parade Craig will drive Zamboni. December 10<sup>th</sup> skating night in auditorium. January 6<sup>th</sup> father daughter dance. January 7<sup>th</sup> Mother son dance.

## **Library Report**

Auditor Krieg updated the council. Library Board requesting Kevin Berg be appointed to Library Board for a 3 year term. Motion made appoint Kevin Berg to the Library Board for a term of 3 years. Roll Call M/S/P Carpenter, Vaughn; 5:0 mc.

## **PD Report**

COP Osvold updated the council on status of car radios.

## **Attorney Report**

Fleming presented Scrivener's error on sales tax ordinance. Motion to adopt corrected sales tax ordinance. M/S/P- Vaughn, Carpenter; 5:0 mc.

### 19.0103     Use Tax Imposed

Except as otherwise provided in this chapter, a use tax of 1% and a supplemental use tax of .5% plus an additional .5% use tax is imposed on the storage, use or consumption in the City of Cavalier on:

1. The purchase price of tangible personal property purchased at retail for storage, use or consumption within the city.
2. The fair market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
3. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in North Dakota Century Code 40-05.1-06
4. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as set forth in North Dakota Century Code 57-40.2-03.3. This tax applies only to bids awarded on or after October 1, 1994.

Fleming presented second reading of shade tree ordinance to be added back into tree ordinance. Motion to approve 2nd reading of the shade tree ordinance. M/S/P-Vaughn, Beard: roll call vote 5:0 mc.

### ARTICLE 5 – Trees – Shade Tree Committee

#### 3.0501     Definitions – Street Trees and Park Trees

**STREET.** The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular or pedestrian uses.

**BOULEVARD.** That portion of the public right-of-way located between the curb or curb line and the sidewalk, or the normal location of the sidewalk.

**STREET TREES** are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

**PARK TREES.** are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

**PRIVATE TREES.** Includes all trees, shrubs, bushes and other woody vegetation growing on privately owned property.

**SHRUB or BUSH.** Includes any low, several-stemmed woody plant.

**SMALL TREES.** Designated as those able of attaining a height of 20 feet to 30 feet.

**MEDIUM TREES.** Designated as those able of attaining a height of 30 feet to 40 feet.

**LARGE TREES.** Designated as those able of attaining a height of over 45 feet.

### 3.0502 Establishment of a Shade Tree Committee – Terms - Compensation

There is hereby established a Shade Tree Committee for the City which consists of five (5) members, residents of this City, who shall be appointed by the mayor with the approval of the City governing body. The terms of committee members shall be three years, except that the term of two (2) of the members appointed to the first committee shall be for only one (1) year and the term of two (2) members of the first committee shall be for two (2) years. In the event that a vacancy occurs during the term of any committee member, a successor shall be appointed for the unexpired portion of the term. Members of the committee shall serve without compensation.

### 3.0503 Operation and Duties of the Shade Tree Committee

The Shade Tree Committee shall choose its own officers and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. It shall be the responsibility of the committee to study, develop, update, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the City governing body and upon their acceptance and approval shall constitute the comprehensive tree plan for the City.

### 3.0504 Tree Species to be planted

The following trees may be used for planting in public streets, boulevards, and berms: American Elm, Green Ash, American Linden, Bur Oak, Hackberry, Ohio Buckeye, and Silver Maple. No tree species not mentioned herein shall be planted without permission from the Shade Tree Committee. In order to achieve certain landscape effects, the city may at times use trees not generally recommended. Tree size and spacing shall be in accordance with the regulations hereinafter stated.

### 3.0505 Street Trees Spacing

No street tree shall be planted closer together than the

- following: Small trees.....20 feet
- Medium trees.....30 feet
- Large trees.....40 feet

Street trees shall be located and placed in the middle of the boulevard. No medium or large trees shall be planted on any boulevard which is less than four feet in width.

Medium or large trees must be planted at least six feet from the curb or curb line.

3.0506 Distance from Street Corners, Fire Hydrants, and Utilities

- (A) No street trees shall be planted closer than 20 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines.
- (B) No street tree shall be planted closer than ten feet from a fire hydrant.
- (C) No street tree, other than those qualifying as small trees, shall be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

3.0507 Care of Street Trees

(A) After being planted on a boulevard, street trees shall be and remain the property of the City of Cavalier, and subject to the provisions of this chapter. However, the owner or occupant of the property abutting said boulevard shall be responsible for the routine care of the trees and boulevard property, including watering, raking and disposing of leaves, twigs and other debris, and the trimming of said trees.

(B) Upon identification by a member of the Shade Tree Committee of a dead or dying tree on any city berm, city property or alley right-of-way, the Shade Tree Committee will arrange for removal of said tree at city expense as soon as funds are available. At the earliest opportunity the Shade Tree Committee will provide and plant a new tree to replace the removed tree.

3.0508 Tree Care – Tree Topping

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Shade Tree Committee may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. It shall be unlawful as a normal practice to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Shade Tree Committee.

3.0509 Trimming and Removal of Private Trees

(A) It shall be the duty of the owner of private trees to maintain said trees so that no tree:

- (1) Obstructs or shades any street light;
- (2) Obstructs the passage of pedestrians on sidewalks;
- (3) Obstructs the vision of traffic signs;
- (4) Obstructs the view of any street or alley intersection;
- (5) Interferes with city snow removal or street sweeping operations;
- (6) Constitutes a hazard to life or property;
- (7) Constitutes a threat to other trees within the City of Cavalier by harboring insects or disease.

(B) The minimum clearance of any overhanging portion of a private tree shall be eight feet over sidewalks and 13.5 feet over streets.

#### 3.0510 Harming Public Trees Forbidden

It shall be a violation of the provisions of this chapter for any person to abuse, destroy or mutilate any tree, plant or shrub in any public parking strip, public planting box or container, or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill or other thing to, or on, any tree growing in a public place. Upon conviction of said charges, costs for berm tree replacement shall be levied against the party involved.

#### 3.0511 Public Nuisance Declared

(A) Should any owner of private trees, or owner of the property abutting a boulevard on which street trees are located, fail to trim or remove said trees which are causing obstruction, interference, hazards or threats, said trees shall be declared a public nuisance.

(B) Should any owner of private trees, or owner or occupant of the property abutting a boulevard, plant any tree in conflict with the provisions of this chapter, said trees shall be declared a public nuisance.

(C) The City of Cavalier shall notify in writing the owners of said trees or property. Trimming or removal shall be done by said owners at their own expense within 30 days after service of notice. In the event of failure of owners to comply with such provisions, the City of Cavalier shall have the authorization to trim or remove such trees and levee the cost thereof as a portion of the property taxes on the property involved.

#### 3.0512 Dead or Diseased Tree Removal on Private Property

(A) The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor disease or insects

which constitute a potential threat to other trees within the city. The Shade Tree Committee will notify in writing the owners of such trees. Removal shall be done by said owners, at their own expense, within 30 days of the date of service of notice. In the event of the failure of owners to comply with such provisions, the city shall have the authority to remove such trees and levee the cost of removal as a part of the owner's property tax.

(B) The Shade Tree Committee, acting as such, is hereby authorized to enter onto any and all private property for the purposes of inspecting the trees and shrubs, located thereon, for compliance with this chapter.

3.0513 Interference with the Shade Tree Committee

It shall be unlawful for any person to prevent, delay, or interfere, with the Shade Tree Committee, or any of its agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, inspecting or removing of any street trees, or trees on private grounds as authorized in this chapter.

3.0514 Review by City Governing Body

The city governing body shall have the right to review the conduct, acts and decisions of the Shade Tree Committee. Any person may appeal from any ruling or order of the Shade Tree Committee to the city governing body, which may hear the matter and make a final decision.

3.0515 Jurisdiction and Authority of Shade Tree Committee

(A) All provisions of this chapter with the exception of §3.0516 Penalty, shall be under the authority and jurisdiction of the Shade Tree Committee created hereunder.

(B) Violations of any sections of this chapter will be reported in writing by the Shade Tree Committee to the Cavalier City Council for appropriate action.

3.0516 Penalty

Any person violation any of the provisions of this chapter shall, upon conviction, be subject to a fine of not more than \$500.00 for each offense.

Fleming presented Cavalier 5 & Dime email from attorney Tom Breanick. Discussion was held. Fleming to send letter that receipts for the store front supplies be provided immediately showing that \$6000 was spent on the project. If not presented, then Fleming will file in smalls claim court.

Fleming presented letter from Quam attorney. Requesting mediation. Fleming will schedule mediation.

**Administrative Reports**

Auditor Krieg informed council of employee appreciation of a turkey or ham and Cavalier bucks. These items have been budgeted for, making sure council was aware. Krieg informed council



that city would be closed on day after Thanksgiving. Employees who would like to take the day off would need to use a vacation day as they have done in years past.

Auditor Krieg presented two applications for Pembina County Self Help Grants. Application one is for \$1500 to replace the folding tables at the auditorium with replacement cost being a total of \$3500. Application number 2 is for \$1500 for the replacement of baseball and softball gear, replacement cost being a total of \$3000. Motion to authorize Auditor Krieg to apply for said grants and use grant funds if awarded for replacement of folding tables and baseball/softball equipment. M/S/P- Vaughn, Cluchie; 5:0 mc.

Auditor Krieg presented letter from Pembina County Equalization on Vanguard Appraisals. Discussion was had on citizens do not have to let appraiser into their homes if they do not want. Operations Manager Walton presented request to purchase snow pusher. Motion to purchase snow pusher from Bobcat in the amount of \$9,449 coming from street reserves. Roll Call M/S/P- Cluchie, Carpenter; 5:0 mc.

Auditor Krieg and Operation Manager Walton gave council update on FEMA application progress. Damage to Riverbank cost were presented and are being applied for under FEMA disaster relief. Motion to approve fixing riverbank with estimate being \$31,500. Roll Call M/S/P Berry, Beard; 5:0 mc.

#### **Mayor and Council Comments**

Mayor Hinkle reported siren is now off and recommended to not have it start up in the spring. Councilman Cluchie asked about trees. Beard asked if delinquent list could be sent. Krieg apologized that it was not in packet and will email in morning.

#### **Adjournment**

Motion to adjourn 8:36 Berry, Beard

**Approved By:**

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**Lacey Hinkle, Mayor**

**Attested To:**

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**Casey Krieg, City Auditor**