

JAMESTOWN CITY COUNCIL  
REGULAR MEETING, AUGUST 6, 2007  
OFFICIAL MINUTES

The regular meeting of the City Council was called to order by Mayor Liechty at 5:00 P.M.

Roll Call showed the following members present: Mayor Liechty, Council Members Schulz, Heinrich, Grabinger and Parisien, City Attorney Dalsted, City Engineer Horgan, and City Administrator Fuchs.

Council Member Grabinger moved to approve the minutes of the following meetings, as printed:

- A. Minutes of the regular council meeting, July 2, 2007
- B. Minutes of the special council meeting, July 24, 2007
- C. Minutes of the committee meeting, July 24, 2007

Seconded by Council Member Parisien. Unanimous aye vote. Carried.

Mayor Liechty moved to approve the minutes of the committee meeting, July 26, 2007, with a revision of 'Deanna Weiser and Shelly Andersen' as additional citizens speaking relative to the Ranch House Motel matter. Seconded by Council Member Schulz. Unanimous aye vote. Carried.

No bids were received for the sale of impounded and abandoned vehicles.

Council Member Grabinger moved to approve the following consent items:

- A. Resolution to make application to the Jamestown/Stutsman Development Corporation for \$500,000.00 in Economic Development Funds to be used for the Railroad Parking Lots and Streets Improvement Project #07-43.
- B. Resolution to approve and authorize use of Convention Promotion Funds to cover rental of the Civic Center by the 125th Anniversary Committee for the period June 28, 2008, through July 5, 2008.
- C. Resolution to approve the License Agreement between the City of Jamestown and John & Tonya Kukowski to provide for a storm water drain across City property.
- D. Resolution to approve the following monthly rates for Blue Cross Blue Shield Employee Group Health Insurance premiums for the period beginning September 1, 2007:

	<u>CITY SHARE</u>	<u>EMPLOYEE SHARE</u>	<u>TOTAL</u>
Single	\$270.63	\$ -0-	\$270.63
Single Plus Dependent	\$304.15	\$152.98	\$457.13
Family	\$329.47	\$340.32	\$669.79
- E. Resolution to approve the request from the 125th Anniversary Committee and the Jamestown Regional Airport Authority for the City to sponsor a request to the National Museum of the USAF for a (F) (A)7, F14, as a permanent monument at the airport.
- F. Resolution to recognize the following organizations as other public spirited and to authorize the issuance of permits as follows:
  - 1. Raffle Permit to Immanuel Lutheran Church with the drawing to be held December 9, 2007
  - 2. Charity Local Permit to Muscular Dystrophy Association to conduct poker on August 18, 2007
  - 3. Raffle Permit to Frontier Village Wild West Players with the drawing to be held October 1, 2007
- G. Resolution to approve the request from Wonder Bar Sports Bar for a street dance on August 31, 2007.
- H. Resolution to establish a 72 hour parking restriction in City owned parking lots.
- I. Resolution to approve the selection of Alternate A as the site plan for the Downtown Railroad Parking Lots and Streets Improvement District #07-43.
- J. Resolution to approve the request of Jerry Purcell for driveway width and separation variances at 1202 7th Avenue SE, subject to the property owner being responsible for snow removal.
- K. Resolution to approve the request of the First United Methodist Church to close the 100 Block of 3rd Street SE on September 8, 2007.

- L. Resolution to approve the request from Montana Dakota Utilities to prepare a proposal on the feasibility of installing a generator fueled from the methane gas produced at the Wastewater Treatment Plant.
- M. Resolution to grant the request from Meidinger Square to place a 4 hour parking restriction on the west side of the 300 Block on 1st Avenue South.
- N. Resolution to accept the petition for street hard surfacing in the alley of Block 10, Solien & DeNault Hi-Acres Second Addition as part of the 2008 Paving District.
- O. Resolution to approve Change Order No. 2 (Final), to Magney Construction, Inc., for Master Lift Station Replacement, Phase II, Sewer Improvement District #03-31, for a net decrease in the contract price of \$10,921.00.
- P. Resolution to approve Estimate No. 1, to Classic Protective Coatings, Inc., for construction on the 500,000 Gallon Elevated Water Tank Coating, in the amount of \$370,197.85.
- Q. Resolution to approve Estimate No. 3, to Lindberg Brothers, Inc., for construction on 2007 Sidewalk and Curb & Gutter District #07-11, in the amount of \$1,933.12.
- R. Resolution to approve Estimate No. 3, to Border States Paving, Inc., for construction on Seal Coat, Patching, Construction and Reconstruction District #07-41, in the amount of \$622,127.66.
- S. Resolution to approve Estimate No. 4, to Swanberg Construction, Inc., for construction on Sanitary Sewer District #06-31, CWSRF No. 380808-03, CDBG No. 1698-CD-0204-PF-S, in the amount of \$136,782.05.
- T. Resolution to approve Estimate No. 6, to L.T.P. Enterprises, Inc., for construction on Phase I, Part A, Water Well Replacement, DWSRF No. 4700498-02, in the amount of \$85,677.00.
- U. Resolution to approve Estimate No. 6, to Swanberg Construction, Inc., for construction on Phase I, Part B, Raw Water Transmission Line, DWSRF No. 4700498-02, in the amount of \$35,356.88.
- V. Resolution to approve Estimate No. 12, to Advanced Engineering and Environmental Services, Inc., for services on the Wastewater Cost of Service and Rate Design Study, in the amount of \$4,844.25.
- W. Resolution to approve Estimate No. 20, to Magney Construction, Inc., for construction on Lift Station Replacement, Phase II, Master Lift Station, Sewer Improvement District #03-31, CWSRF No. 380808, in the amount of \$3,506.08.
- X. Resolution to approve Estimate No. 4, to Interstate Engineering, Inc., for engineering services on the 500,000 Gallon Elevated Water Tank Coating, in the amount of \$29,158.20.
- Y. Resolution to approve Estimate No. 6, to Interstate Engineering, Inc., for engineering services on Phase I, Part B, Water Well Replacement, Project No. 4700498-02, in the amount of \$5,243.36.
- Z. Resolution to approve Estimate No. 7 (Final), to Interstate Engineering, Inc., for engineering services on Jamestown Sanitary Landfill, Cell 3A Development and Cell 1 Closure, in the amount of \$290.00.
- A1. Resolution to approve Estimate No. 8, to Interstate Engineering, Inc., for engineering services on Phase I, Part A, Water Well Replacement, Project No. 4700498-02, in the amount of \$11,448.60.
- B1. Resolution to approve Estimate No. 9, to Interstate Engineering, Inc., for engineering services on the Southwest Sanitary Sewer Rehabilitation, Sanitary Sewer District #06-31, in the amount of \$6,793.12.
- C1. Resolution to approve Estimate No. 25, to Interstate Engineering, Inc., for engineering services on Lift Station Replacement, Phase II, Master Lift Station, Sewer Improvement District #03-31, CWSRF No. 380808, in the amount of \$863.55.
- D1. Resolution to approve Estimate No. 26, to Interstate Engineering, Inc., for engineering services on the Elevated Water Storage and Distribution System Improvements, PWS No. 4700498, in the amount of \$5,463.71.
- E1. Motion to accept the reports of the Municipal Judge, Police Department, Fire Department, Public Works Departments, Inspection

Department, Forestry Department, Promotion and Tourism Center,  
Central Valley Health Unit, Jamestown Safe Community Task Force,  
and financial status.

F1. Resolution to allow the July indebtedness in the amount of  
\$3,865,959.92 consisting of \$346,339.34 payroll and \$3,519,620.58  
general obligations.

Seconded by Council Member Heinrich. Consent Roll Call No. 1 showed: 5 ayes, 0 nays, 0  
absent. Carried.

Council Member Schulz moved a Resolution to approve the request from the Frontier Village  
Association for a street dance, August 18, 2007, to include a request from Frontier Fort  
for a permit to dispense alcoholic  
beverages. Seconded by Council Member Heinrich. Roll Call No. 2 showed: 3 ayes  
(Schulz, Heinrich and Parisien), 2 nays (Liechty and Grabinger), 0 absent. Carried.

Council Member Heinrich moved a Resolution to approve the request from the Knights of  
Columbus for a gaming site authorization to conduct gaming at the All Vets Club for the  
period ending June 30, 2008. Seconded by Council Member Grabinger. Roll Call No. 3  
showed: 5 ayes, 0 nays, 0 absent. Carried.

The following people spoke in support of granting Northern Plains Electric Cooperative a  
limited franchise to provide electricity to the new Wal-Mart Store: Bruce Gibbens  
(attorney for Northern Plains Electric Cooperative);  
David Osmond (Wal-Mart representative); Mark Watne (Farmers Union Development  
Specialist); and Harlan Fugelsted (information relative to City privilege tax).

The following people spoke in opposition of granting Northern Plains Electric Cooperative  
a limited franchise to provide electricity to the new Wal-Mart Store: Jerome Kettleson  
(Attorney for Otter Tail Power Company);  
and Bob Gravlin (Utility Shareholders of ND Association).

Council Member Grabinger moved a Resolution to grant the request for a limited franchise  
to Northern Plains Electric Cooperative to provide electricity for the new Wal-Mart  
Store. Seconded by Mayor Liechty.

Mayor Liechty moved to amend the motion to add that Northern Plains Electric Cooperative  
is already supplying service to the area in which a limited franchise is being requested.  
Seconded by Council Member Grabinger. Voice vote: 2 ayes (Liechty and Grabinger), 3  
nays (Schulz, Heinrich and Parisien), 0 absent. Not Carried.

Roll Call No. 4 on the original motion showed: 2 ayes (Liechty and Grabinger), 3 nays  
(Schulz, Heinrich and Parisien), 0 absent. Not Carried.

Council Member Heinrich moved a Resolution to deny Northern Plains Electric Cooperative's  
request for a limited franchise to serve the new Wal-Mart Store; Otter Tail Power Company  
has provided electric power to the Jamestown Wal-Mart Store since it was first  
constructed in the 1990's with no known reports of problems with their ability to provide  
such power; their investment in infrastructure within the city limits of Jamestown is a  
benefit to all residents and taxpayers in Jamestown; it was their investment in  
infrastructure which provided the power to help make the Jamestown Wal-Mart a success; it  
seems unfair for the city to now allow another electric provider to reap the benefits of  
Otter Tail Power Company's investment and performance; Otter Tail Power Company has its  
electricity rates established by the ND Public Service Commission; the  
competitor in this case has the ability to offer rates lower than what

Otter Tail Power Company as a regulated utility can offer; Otter Tail Power Company's  
rates are set by a state agency, the Northern Plains Electric Cooperative can set its own  
rates; this system makes negotiation difficult or impossible; the structure under which  
Otter Tail Power Company is taxed and that tax distributed appears to be more favorable  
to the taxpayers of the City of Jamestown than that of Northern Plains Electric  
Cooperative; and the above are examples of reasons that the City Council should, in  
respect to fairness, deny the request. Seconded by Council Member Schulz.

Jay Jacobson, Alliance Manager, stated that Northern Plains Electric Cooperative is  
regulated by an elected Board of Directors.

Council Member Schulz called for the question. Seconded by Council Member Grabinger.

Roll Call No. 5 showed: 3 ayes (Schulz, Heinrich and Parisien), 2 nays (Liechty and  
Grabinger), 0 absent. Carried.

A public hearing was held concerning the annexation of 8th Avenue SW, from the  
City Limits line southerly to 37th R. St.; 25th Street SW from the City Limits line west  
to 11th Avenue SW; 28th Street SW from the City Limits line west to 11th Avenue SW; and  
11th Avenue SW between 25th Street and 28th Street SW, all within Woodbury Township,  
Section 2-139-64, Stutsman County, North Dakota.

Steven Carlson, a resident adjacent to 8th Avenue SW, expressed concerns with the roadway  
conditions near his home, traffic speed, dust, mud, noise, trucks, etc., and was opposed  
to the annexation unless the City has plans to improve his situation.

Duane Andersen, Woodbury Township representative, stated the township has been placed in  
a difficult situation by the City Planning Commission and City of Jamestown approving  
plats outside city limits and that the township does not accept roadways in subdivisions.

The hearing was closed.

Ordinance No. 1323, introduced by Council Member Schulz, to annex 8th Avenue SW, from the City Limits line southerly to 37th R. St.; 25th Street SW from the City Limits line west to 11th Avenue SW; 28th Street SW from the City Limits line west to 11th Avenue SW; and 11th Avenue SW between 25th Street and 28th Street SW, all within Woodbury Township, Section 2-139-64, Stutsman County, North Dakota, had its second reading. Seconded by Council Member Heinrich. Roll Call No. 6 showed: 5 ayes, 0 nays, 0 absent. Carried.

Council Member Grabinger moved a Resolution to approve the request from Doug Beckman Benefit to be recognized as an other public spirited organization, and to issue a permit to conduct a raffle on September 6, 2007. Seconded by Council Member Parisien. Roll Call No. 7 showed: 5 ayes, 0 nays, 0 absent. Carried.

Mayor Liechty moved to have the City Council enter into executive session pursuant to Section 44-04-19.1(9) and Section 44-04-19.2, NDCC, for consultation with the City Attorney relative to the Charles Stankowski vs. City of Jamestown lawsuit. Seconded by Council Member Heinrich. Unanimous aye vote. Carried.

The Council entered executive session at 7:30 P.M. with the following present: Mayor Liechty, Council Members Schulz, Heinrich, Grabinger and Parisien, City Attorney Dalsted, City Engineer Horgan, City Administrator Fuchs.

Council Member Grabinger moved to return to regular session at 8:10 P.M. Seconded by Council Member Parisien. Unanimous aye vote. Carried.

Council Member Heinrich moved a Resolution to enter into a settlement agreement regarding the Charles Strankowski vs. City of Jamestown, per the release and settlement agreement subject to clarification that the transaction date (closing date) is after the cleanup of property. Seconded by Council Member Schulz. Roll Call No. 8 showed: 4 ayes (Schulz, Heinrich, Liechty and Parisien), 1 nay (Grabinger), 0 absent. Carried.

Council Member Grabinger moved to adjourn. Seconded by Council Member Schulz. Unanimous aye vote. Carried.

ATTEST:

APPROVED:

JEFF FUCHS, City Administrator

CLARICE LIECHTY, Mayor