

UNAPPROVED MINUTES OF THE REGULAR MEETING OF THE ELK POINT CITY COUNCIL

The Elk Point City Council met in regular session on Monday, December 5, 2022, at 7:00pm in the council chambers of City Hall located at 106 W. Pleasant Street with Mayor McCreary presiding and these members present: Penfield, Hurlbert, Irlbeck, Abraham and VonHaden. Verros was absent. Also present were City Attorney Thompson, City Administrator Tuttle, Public Works Director Job, and Finance Officer Hammitt. Police Chief Limoges was absent.

Motion made by VonHaden, seconded by Penfield to approve the agenda. All in favor.

Irlbeck moved and Abraham seconded a motion to approve the minutes from the November 7 and November 14, 2022, council meetings. Unanimous.

Motion and second, Hurlbert/Irlbeck to approve the following salaries and bills and to instruct the Finance Officer for payment of the same. All in favor. Salaries: General Fund: \$89,380.25; Enterprise Fund: \$31,019.73; Fringe Benefits: General Fund: \$23,034.45; Enterprise Fund: \$9,204.07; Bills: American Recognition-uniforms: \$247.30; Beelner Service, Inc.-maintenance: \$400.00; Bomgaars-uniforms: \$106.97; Brian's Repair, Inc.-repairs: \$25.38; Cardmember Services-supplies: \$3,699.84; City of Vermillion-tipping fees: \$5,328.03; Clark Equipment, Co.-machinery & equipment: \$15,376.76; Conley, Neilson-cell phone reimbursement: \$120.00; DGR Consulting Engineers-professional services: \$1,309.00; Douglas, William & Mylee-tax abatement: \$2,047.40; East River Electric-power: \$86,174.01; Elk Point Ace Hardware-supplies: \$996.85; ELO Professional, LLC-professional services: \$23,000.00; Fennel, Chad-repairs: \$2,174.13; Fenske, Nick-cell phone reimbursement: \$120.00; Geary, Andrea-cell phone reimbursement: \$120.00; Graham Tire-repairs: \$302.38; Hammitt, Erika-travel: \$184.50; Hanson, Mark-cell phone reimbursement: \$120.00; Humanear, Inc.-professional services: \$2,450.00; Hurlbert, Kristopher-tax abatement: \$3,065.40; Hutcheson, Kim-cell phone reimbursement: \$120.00; Ingram Library Services-library books: \$528.00; Jeff's Lawn Care-repairs: \$80.00; Jim Hawk Trailers-supplies: \$151.53; Job, Trevor-travel & cell phone reimbursement: \$402.00; Jones' Food Center-supplies: \$79.54; Keegan, Justin-cell phone reimbursement: \$120.00; Kevin O'Dell Electric, Inc.-repairs: \$201.02; Leader-Courier-publishing: \$610.25; LG Everist, Inc.-supplies: \$1,654.23; Limoges, Jacob-cell phone reimbursement: \$300.00; Magstadt, Damon-tax abatement: \$2,289.95; Menards-supplies: \$568.65; Mid States Audio, Inc.-supplies: \$5,680.03; Midcontinent Communications-utilities: \$786.43; Mockler, Todd-cell phone reimbursement: \$178.83; MSC-supplies: \$1,245.74; MSC Industrial Supply Co.-supplies: \$326.99; Northern Truck Equipment Corp.-equipment: \$16,810.00; Per Mar Security Systems-monitoring services: \$503.40; Public Health Laboratory-professional services: \$14.00; Pyle, Kirk-cell phone reimbursement: \$120.00; Roan, Gary-professional service: \$520.00; Runnings Supply-supplies: \$700.69; Siouxland Humane Society-animals: \$55.00; South Dakota One Call-locate tickets: \$29.40; Southeast Farmers Coop.-fuel: \$3,619.86; Stan Houston-rentals: \$2,350.00; Staples Credit Plan-office expense: \$143.60; State Industrial Products-professional services: \$2,002.98; Strawn, Willis-cell phone reimbursement: \$120.00; Teamsters Local 120-dues: \$237.00; Transource-supplies: \$241.29; Trudeau, Corey-cell phone reimbursement: \$120.00; Tudogs Computing, LTD-professional services: \$730.51; Tuttle, Derek-cell phone reimbursement: \$300.00; Union County Electric, Coop.-utilities:

\$10,040.00; US Bank-bonds payable: \$179,050.63; VanRoekel, Troy-cell phone reimbursement: \$120.00; Verizon Wireless-utilities: \$205.63; Wesco Distribution-supplies: \$9,839.50

Cristy Harkness and Doug Briese spoke during public forum.

Second Reading was given to Ordinance No. 420, an Ordinance to Amend Title 3 of the Elk Point Municipal Code, Defining Nuisances, and Setting Forth Conditions for Violation, Acts, and Omissions, and Administrative Proceedings for Enforcement.

Ordinance No. 420

AN ORDINANCE TO AMEND TITLE 3 OF THE ELK POINT MUNICIPAL CODE, DEFINING NUISANCES, AND SETTING FORTH CONDITIONS FOR VIOLATION, ACTS, AND OMISSIONS, AND ADMINISTRATIVE PROCEEDINGS FOR ENFORCEMENT.

- 3.0102 Acts, Omissions and Conditions Prohibited. No person, whether an owner, occupant, tenant or other person in charge of any real property within the corporate limits of the City shall create, commit, maintain, or permit to be created, committed, or maintained, any public nuisance, to include, without limitation, the following specific acts, conditions and things, each and all of which are hereby declared to constitute a nuisance: (SDCL 9-32-1)
- A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or putrescible and nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)
 - B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
 - C. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
 - D. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)
 - E. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
 - F. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the City Council. (SDCL 9-29-13)

- G. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the Elk Point Fire District.
 2. Fires purposely set by the city maintenance personnel for the purposes as authorized by the Fire Chief of the Elk Point Fire District.
 3. Fires purposely set by the Elk Point Fire District personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with live fire-training standards.
 4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, and for outdoor preparation of foods provided the following requirements are met:
 - a. The fire is contained within a structure, fire pit, or other apparatus designed to contain the fire to such area using only Acceptable Burning Materials, i.e., clean, dry, seasoned firewood, commercially-available firewood substitutes, or other commercially-available fuels, e.g., charcoal, coke, natural gas, propane, and butane, designed to be used for a recreation outdoor fire;
 - b. Such fire must be a minimum of fifteen feet from the property lot line; and
 - c. Such fire is not created or maintained during periods of dry conditions when the chance of accidental fire to the surrounding area is increased, as reflected by a "burn ban," i.e., when the National Weather Service issues a fire watch for the county; or the city, by resolution, issues a temporary ban on any or all types of outdoor fires.

Fires which do not adhere to this ordinance may be created and maintained only with prior approval from the city in advance.

- H. Maintaining, or causing or permitting the same, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure, or endanger the comfort, repose, health, or safety of others or, if such conditions or defects exist to the extent that the life, property, value of property or safety of the public or its occupants are jeopardized.
1. Whenever any building or structure is (i) vacant and unoccupied for the purpose for which it was erected and; (ii) the building is unfit for occupancy as it fails to meet minimum housing standards and; (iii) the building has remained substantially in such condition for a period in excess of six months.

2. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties.
- I. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place any of such vehicles or vehicle parts:
1. Upon public streets or property except on an emergency basis.
 2. Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise, for longer than 14 days unless it is within a fully enclosed building or structure. A carport, tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.

- J. The requirements of paragraph I shall not apply to the following:
1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than 14 days.
 2. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
 3. Junkyards operated and maintained in compliance with applicable City ordinances.
 4. One vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.
 5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

K. Violation of this ordinance shall result in a fine, not to exceed the fine established by SDCL § 22-6-2(2), by imprisonment not exceeding thirty days, or by both fine and imprisonment, as specified by Section 3.0115.

Passed and adopted this 5th day of December 2022.

CITY OF ELK POINT, SOUTH DAKOTA

By: Deb McCreary
Mayor

ATTEST:

Erika Hammitt
Finance Officer

First Reading: November 7, 2022
Second Reading: December 5, 2022
Passes and Approved: December 5, 2022
Published: December 15, 2022

Motion made by VonHaden, seconded by Penfield to approve Ordinance No. 420. All in favor.

Second Reading was given to Ordinance No. 421, an Ordinance to Amend Title 3 of the Elk Point Municipal Code, Defining Abatement, and Setting Forth Conditions for Abatement Costs be Assessed to the Real Property.

Ordinance No. 421

AN ORDINANCE TO AMEND TITLE 3 OF THE ELK POINT MUNICIPAL CODE,
DEFINING ABATEMENT, AND SETTING FORTH CONDITIONS FOR
ABATEMENT COSTS BE ASSESSED TO THE REAL PROPERTY

3.0113 Abatement. A public nuisance may be abated without civil action by a public body, including City Council or by any officer as authorized thereto by law Pursuant to SDCL 21-10-6. Any private person may likewise abate a public nuisance which is especially injurious to him or her, or any private nuisance injurious to him or her in a manner by removing, or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him before entering to abate it. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment.

Passed and adopted this 5th day of December 2022.

CITY OF ELK POINT, SOUTH DAKOTA

By: Deb McCreary
Mayor

ATTEST:

Erika Hammitt
Finance Officer

First Reading: November 7, 2022
Second Reading: December 5, 2022
Passes and Approved: December 5, 2022
Published: December 15, 2022

VonHaden moved and Penfield seconded a motion to approve Ordinance No. 421. Unanimous.

Motion and second, Hurlbert/Penfield to approve Resolution No. 2022-9. All in favor.

RESOLUTION #2022-9

A RESOLUTION ADOPTING A COMPREHENSIVE PLAN FOR THE CITY OF ELK POINT AS PROVIDED FOR IN SDCL CHAPTER 11-6

WHEREAS, Chapter 11-6 of South Dakota Codified Law has empowered the Planning Commission and City Council of Elk Point to prepare a Comprehensive Plan for the development of the City and the surrounding area; and

WHEREAS, the Elk Point Planning Commission has developed a Comprehensive Plan for the years 2022 through 2042, has held the required Public Hearing, and has made a recommendation for adoption of the Plan to the City Council; and

WHEREAS, the Elk Point City Council has received the recommendation of the Planning Commission and has held the required Public Hearing; and

WHEREAS, the adoption of the Comprehensive Plan would enhance the responsible development of Elk Point and the surrounding area.

NOW THEREFORE, BE IT RESOLVED by the City of Elk Point, South Dakota that the Comprehensive Plan for the City of Elk Point for the years 2022 through 2042 be hereby adopted and effective upon twenty days after publication of the notice of adoption.

Dated this 5th day of December, 2022.

Deb McCreary
Mayor

ATTEST:

Erika Hammitt
Finance Officer

Publication Date: December 15, 2022
Effective Date: January 4, 2023

First Reading was given to Ordinance No. 422, an Ordinance Providing for the Supplemental Appropriations for the City of Elk Point, South Dakota during the Fiscal Year 2022.

Motion and second, VonHaden/Irlbeck to approve the 2023 Trailer Court License for LMAC, VMAC and MAC Courts for Midwest Investment Management. Unanimous.

Discussion was held on Union County Electric & City of Elk Point Electric Jurisdictions. Motion made by Penfield, seconded by Abraham to direct City Administrator Tuttle to discuss options with Matt Klein, Union County Electric General Manager. All in favor.

Discussion was held on a secure entrance to the Elk Point-Jefferson High School/Library. A monetary request from the school was reviewed by the council. No action was taken.

A special meeting was scheduled for Monday, December 12, 2022, at 7:00am.

The regular meeting for January was rescheduled for Monday, January 9, 2023, at 7:00pm.

Penfield moved and Abraham seconded a motion to approve the 2023 animal holding contract with the Siouxland Humane Society. Unanimous.

The 2021 Audit Report was distributed to the Council.

Motion to adjourn, Penfield/Abraham. All in favor.

Attest: Erika Hammitt
Finance Officer

Deb McCreary
Mayor

Publish: December 15, 2022

