

City of Scottsbluff, Nebraska

Monday, October 19, 2020

Regular Meeting

Item Reports1

Council discussion and instructions to staff concerning contract negotiations with the City of Gering in creating an independent agency to oversee construction and management of a regional landfill.

Minutes: We have discussed our participation in a regional landfill specifically the various options to proceed as a partner with Gering and other interested communities. A site for the landfill has been identified and steps have been taken to further consider its purchase. With the project progressing to this point, future steps need to be discussed in greater detail and a strategy as to how we wish to proceed.

Staff Contact: Rick Kuckkahn, Interim City Manager

Chadron

INTERLOCAL AGREEMENT

CREATING THE

SOLID WASTE AGENCY

OF NORTHWEST NEBRASKA

THIS AGREEMENT is made this 14th day of September, 1992, by and among the Initial Members shown as signatories below, hereinafter collectively referred to as "Initial Members." The term "Member" or "Members" as used in this Agreement includes the Initial Members and any Additional Members approved in accordance with Article V of this Agreement. The term "solid waste jurisdictional area" shall have the meaning afforded such term by the Integrated Solid Waste Management Act.

I.

CREATION OF THE SOLID WASTE AGENCY

Pursuant to Sections 13-801 to 13-827 of R.R.S. Neb. 1943, as amended (the "Interlocal Cooperation Act"), the Initial Members hereby create a joint entity which shall be named the Solid Waste Agency of Northwest Nebraska (the "Agency") and shall constitute a separate body corporate and politic under the provisions of the Interlocal Cooperation Act. The Agency shall be subject to control by the Members in accordance with the terms of this Agreement. The governing body of each Initial Member shall have approved this Agreement by resolution. A certified

copy of each approving resolution shall be kept on file at the Agency's office. The Agency's existence shall commence upon the execution of this Agreement on behalf of each Initial Member shown as a signatory below.

II.

PURPOSES

The purposes of the Agency are as follows:

(a) To make efficient use of the powers of the Members by enabling them to cooperate with each other on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of the local communities.

(b) To enable the Members to comply with the mandates of the Integrated Solid Waste Management Act, any amendments thereto, the Resource Conservation and Recovery Act, any amendments thereto, and the rules and regulations promulgated pursuant to such Acts.

(c) To provide or contract for integrated solid waste management facilities and services as approved by the Agency Board.

III.

ORGANIZATION

(a) Agency Board. The governing body of the Agency shall be designated as the Agency Board (the "Board"), which

shall consist of one representative appointed by resolution of the governing body of each Member. Each resolution of appointment shall take effect upon filing of a certified copy of such resolution at the Agency's office.

(b) Voting. Each Member's representative to the Board shall have one vote for each 1,000 population, or fraction thereof, residing in the Member's solid waste jurisdiction area or in the designated portion of such area as provided in Article V. Such population shall be ascertained from the most recent federal Census or special federal Census, whichever is latest, for such solid waste jurisdiction area.

(c) Quorum. A quorum of the Board shall consist of majority of all Member representatives appointed to the Board which also constitute a majority of the total number of votes assigned to all Member representatives appointed to the Board.

(d) Majority Vote. Unless otherwise required by this Agreement, any Board action shall require an affirmative vote of the majority of the total votes constituting a quorum at a meeting under Article III(c) of this Agreement.

(e) Officers. The Board shall elect a Chairperson, Vice Chairperson and a Secretary-Treasurer at its initial meeting and at its January meeting in each succeeding year, or at the Board's next regular or special meeting in the event a vacancy occurs in any office. Each Officer shall serve so long as he or she remains a Member representative or until his or her successor is chosen, whichever shall first occur.

(f) Board Meetings. The Board shall meet on the third Thursday of each calendar quarter at such place as shall be determined in the Bylaws or by vote of the Board. Special meetings of the Board may be called as provided in the Bylaws.

(g) Agency Director. the Board shall select and employ an Agency Director (the "Director") who may also be a full or part-time employee of a Member. The Board shall fix the Director's compensation and benefits and shall approve and adopt personnel rules and regulations pertaining to employment of all other Agency employees. The Director shall have the authority, duties and obligations determined by the Board including, but not limited to, the employment of Agency employees and the preparation and submission of quarterly and annual financial reports to the Board.

(h) Agency Legal Counsel. The Board may employ legal counsel and may set and approve compensation for such counsel.

(i) Executive Committee. There shall be established an Executive Committee, the members of which shall be the Board Chairperson, Vice Chairperson and Secretary-Treasurer. Each member of the Executive Committee shall have one vote. The Executive Committee shall have such power, authority and duties as the Board may from time to time delegate to it, including the authority to approve the payment of claims. It shall report its acts and doings to the Board at each Board meeting. The Director shall be the Assistant Secretary to the Executive Committee, but shall not be entitled to vote. A quorum of the Executive Committee shall consist of a majority of the voting members thereof.

IV.

DURATION

The Agency shall have a life of Fifty (50) years, commencing with the date hereof, subject to extension by amendment to this Agreement.

V.

MEMBERSHIP

(a) Initial Member Eligibility. The following cities, villages and counties in Nebraska are eligible to become Initial Members: the City of Alliance; the City of Gordon; the City of Rushville; the Village of Clinton; the City of Hay Springs; the City of Chadron; the Village of Whitney; the City of Crawford; the Village of Harrison; the City of Hemingford; Box Butte County; Dawes County; Sheridan County; and Sioux County. Those counties eligible as Initial Members may join with respect to a whole or a portion of their solid waste jurisdiction area and, if joining in this Agreement as to only a portion of such solid waste jurisdiction area, shall provide the Agency with a map, legal description, and population information with respect to the portion so designated. Upon execution of this Agreement by the authorized representative of any such city, village or county, such entity shall become an Initial Member.

(b) Additional Member Eligibility. In order to qualify as an additional member, an entity must be either a county (acting with respect to either the whole or to a designated portion of its solid waste jurisdiction area or territory) located in the State of Nebraska or a county of

another state located adjacent to this State and also adjacent to the territory of an existing Member; a city or village located in the State of Nebraska or in a county adjacent to the State of Nebraska and also adjacent to the territory of an existing Member; a Nebraska natural resource district; or a tribal government located in a Member county or adjacent to the territory of an existing Member, acting with respect to either a whole or a designated portion of its territory.

(c) Approval of Additional Members. Additional Members may be added to the Agency upon a three-fourths affirmative vote of all the Member representatives to the Board. Upon approval of an Additional Member, the Board shall establish policies and procedures governing the time, manner and amount of financial contributions due from such Additional Member. The addition of a Member shall be effective upon the filing at the Agency's office of a resolution adopted by the governing body of such Additional Member approving the terms of this Agreement, any amendments thereto, and the Board's policies and procedures governing financial contribution by such Additional Member.

VI.

INITIAL MEMBER CONTRIBUTIONS

Each Initial Member shall contribute \$3.00 per capita based on the 1990 census to fund the establishment, organization and initial operating expenses of the Agency.

VII.

POWERS

The Agency shall have such powers as are allowed by the Interlocal Cooperation Act, any amendments thereto, the Integrated Solid Waste Management Act, and any amendments thereto including, but not limited to, the powers:

- (a) to sue and be sued;
- (b) to have a seal and alter the same at pleasure or to dispense with the necessity thereof;
- (c) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, including service agreements as provided by the Integrated Solid Waste Management Act and any amendments thereto;
- (d) from time to time, to make, amend, and repeal bylaws, rules, and regulations, not inconsistent with the Interlocal Cooperation Act and this Agreement, to carry out and effectuate its powers and purposes;
- (e) to make all necessary rules and regulations governing the use, operation, and control of a facility or system for integrated solid waste management;
- (f) to establish just and equitable rates or charges to be paid for the use of integrated solid waste management facilities or systems by each person whose premises are served by said facility or system, including charges for late payments; if service charges so established by the Agency are not paid when due, the Agency shall have the power to recover its service

charges in the manner provided by the Integrated Solid Waste Management Act or as otherwise provided by law;

(g) to purchase, plan, develop, construct, equip, maintain, and improve facilities and systems for use in solid waste management and may lease or acquire land in fee by gift, grant, purchase or condemnation, as necessary for the construction and operation of such a facility or system;

(h) to acquire, hold, use and dispose of the reserves derived from the operation of solid waste management facilities and systems and other moneys of the Agency;

(i) to acquire, hold, use and dispose of other personal property for the purposes of the Agency;

(j) to cause the transfer, diversion, or disposal of solid waste material originating within each Member pursuant to a contract between the Agency and the Member pertinent thereto;

(k) to make or cause to be made studies and surveys necessary or useful and convenient to carrying out the functions of the Agency;

(l) to contract with and compensate consultants for professional services including, but not limited to, architects, engineers, planners, lawyers, accountants, rate specialists, and others found necessary or useful and convenient to the stated purposes of the Agency;

(m) to provide for a system of budgeting, accounting, auditing and reporting of all Agency funds and transactions, for a depository, and for the bonding of employees;

(n) to consult with representatives of Federal, State, and local agencies, departments and their officers and employees and to contract with such agencies and departments;

(o) to exercise such other powers as are available under the then existing law of each Member;

(p) to borrow money, make and issue negotiable bonds, certificates, bond anticipation notes, refunding bonds and notes, all in accordance with Sections 13-808 through 13-824 of the Interlocal Cooperation Act, and any amendments thereto, and to secure the payment of such bonds, certificates, refunding bonds and notes or any part thereof by a pledge of any or all of the Agency's net revenues and any other funds which the Agency has a right to, or may hereafter have the right to pledge for such purposes;

(q) to provide in the proceeding authorizing such obligations for remedies upon default in the payment of principal and interest on any such obligations, including, but not limited to, the appointment of a trustee to represent the holders of such obligations in default and the appointment of a receiver of the Agency's property, such trustee and such receiver to have the powers and duties provided for in the proceeding authorizing such obligations;

(r) to receive funds from each Member as payment for providing collection, transfer, diversion and disposal of domestic solid waste from premises therein; provided, however, that in lieu of receiving such funds from Members, the Agency shall have

the power to bill each person whose premises are served as described in Article VII, Paragraph (f);

(s) to hire employees, fix their compensation, benefits, personnel rules and regulations, and terminate their employment;

(t) to borrow money and accept grants, contributions or loans from, and to enter into contract, leases, or other transactions with Municipal, County, State, or the Federal Government; and

(u) to require contributions from its Members pursuant to policies and procedures adopted by the Board pursuant to Articles V(c) and VI.

VIII.

TECHNICAL COOPERATION FROM MEMBERS

The Members agree to respond to reasonable requests to make local records available to the Agency for the purposes of this Agreement, and to assure that engineers, architects and consultants hired by the Members release to the Agency materials, data and other items pertinent to this Agreement.

IX.

BUDGETING

The Board shall prepare a budget based on a fiscal year ending May 31 for the operation of the Agency, the same to be adopted by the Board no later than May 31 of each year. A copy of the budget for the ensuing fiscal year shall be forwarded to each Member no later than the first day of July following its adoption.

X.

NOT FOR PROFIT

It is expressly understood that the Agency is a public body acting for and on behalf of the political subdivisions which constitute its Members and is to be operated not for profit. No profit or dividend from the Agency shall inure to the benefit of any individual.

XI.

WITHDRAWAL AND DISSOLUTION

(a) Withdrawal. Any Member seeking to withdraw from membership in the Agency shall file in the Agency's office a certified copy of the resolution of the Member's governing body approving withdrawal. The withdrawal shall be effective upon such filing, but the withdrawing Member shall not be entitled to any refund of any contributions previously paid to the Agency. Any Member seeking to withdraw that is a party to a service agreement with Agency shall remain bound by such service agreement in accord with its terms.

(b) Dissolution. The Agency may be dissolved only by the adoption of resolutions approving such action by the governing body of each Member, provided that the Agency may not be dissolved until all outstanding bonds, notes, service agreements or other contractual obligations and legal claims shall have been satisfied in full.

(c) Distribution of Assets. Upon dissolution of the Agency, each Member shall become the owner of a fractional undivided interest in all remaining assets of the Agency. Each

Member's undivided fractional interest in such assets shall be determined in accordance with that fraction which is produced by dividing the number of votes assigned to such Member's representative to the Board under Article III(b) of this Agreement by the total number of votes assigned to all Member representatives under said provision.

XII.

MANNER OF ACQUIRING AND HOLDING PROPERTY

The Board may lease, purchase, or acquire by any means, from Members or from any other source, such real and personal property as is required for the operation of the Agency and for carrying out of the purposes of this Agreement. The title to all such property, personal or real, shall be held in the name of the Agency.

All conveyances of real property owned or held in the name of the Agency shall be authorized by resolution of the Board and executed by the Chairperson or Vice Chairperson on behalf of the Agency.

XIII.

AMENDMENT OF AGREEMENT

This Agreement may be amended upon approving resolutions adopted by the governing body of each Member. A certified copy of each approving resolution shall be submitted to and kept on file at the Agency's office.

COUNTY/CITY/VILLAGE OF
XXXXXXXXXXXXXXXXXXXX

CITY OF CHADRON

By: Ronald L. Busch

Its: Mayor

Dated: October 21, 1992

EXCERPT FROM CHADRON CITY COUNCIL MEETING HELD SEPTEMBER 14, 1992

Councilmember Heiser introduced the following Resolution and moved for its adoption:

RESOLUTION NO. 1992-82

BE IT RESOLVED by the Mayor and City Council of the City of Chadron, Nebraska:

1. An amendment to paragraph V (b) of the INTERLOCAL AGREEMENT CREATING THE SOLID WASTE AGENCY OF NORTHWEST NEBRASKA, of which this City is an Initial Member, is hereby approved by the City, as follows:

(b) Additional Member Eligibility. In order to qualify as an additional member, an entity must be either a county (acting with respect to either the whole or to a designated portion of its solid waste jurisdiction area or territory) located in the State of Nebraska or a county of another state located adjacent to this State and also adjacent to the territory of an Initial Member; a city or village located in the State of Nebraska or in a county adjacent to the State of Nebraska and also adjacent to the territory of an Initial Member; a Nebraska natural resource district; or a tribal government located in a Member county or adjacent to the territory of an Initial Member, acting with respect to either a whole or a designated portion of its territory.

2. An amendment to paragraph VII (f) of the INTERLOCAL AGREEMENT CREATING THE SOLID WASTE AGENCY OF NORTHWEST NEBRASKA, of which this City is an Initial Member, is hereby approved by this City, as follows:

(f) to establish just and equitable rates or charges to be paid for the use of the integrated solid waste management facilities or systems by each person whose premises are served by said facility or system, including charges for late payments, provided that any rates or charges for transportation and disposal of solid waste shall be uniform as to each category or classification of waste generator located within the solid waste jurisdiction of any Initial Member, if service charges so established by the Agency are not paid when due, the Agency shall have the power to recover its service charges in the manner provided by the Integrated Solid Waste Management Act or as otherwise provided by law;

3. The City Clerk is hereby directed to certify and file a copy of this resolution with the Agency created by such Interlocal Agreement.

The foregoing resolution having been read, Councilmember Ouderkirk seconded the motion for its passage and adoption. The following Councilmembers voted Aye: Ouderkirk, Hanson, Heiser. Voting Nay: None. Absent: Busch and Gamby. A majority of all members elected to the Council having voted in favor of the passage and adoption of said resolution, the same was by the Mayor declared passed and adopted this 14th day of September, 1992.

CITY OF CHADRON


Vice Mayor

ATTEST:


City Clerk
(S E A L)

CERTIFICATE OF PASSAGE

STATE OF NEBRASKA)
County of Dawes) ss.
City of Chadron)

I, Donna J. Rust, City Clerk of Chadron, Nebraska hereby certify that Resolution No. 1992-82 was passed and approved by the City Council of the City of Chadron to take effect as provided by law.

In Witness Whereof, I have hereunto affixed my hand and seal as City Clerk of the City of Chadron, Nebraska, this 21st day of October, 1992.


City Clerk

EXCERPT FROM THE CHADRON CITY COUNCIL MEETING HELD JANUARY 4, 1993

The Council was reminded that the Solid Waste Agency of Northwest Nebraska (SWANN) recently amended its By-Laws to state that members designated by the governmental entities be either elected officials or employees of the governing body.

The City Council had previously appointed City Manager Carl Dierks as Chadron's representative and Cheryl Morgan-Spencer as the alternate. It was determined that Mrs. Spencer could no longer serve as Chadron's alternate, since she is not an employee of the City or an elected official. A new alternate representative needs to be appointed by the Council.

Councilmember Busch introduced the following Resolution and moved for its adoption:

RESOLUTION NO. 1993-01

Section 1. The City of Chadron has entered into an Interlocal Agreement creating the Solid Waste Agency of Northwest Nebraska in the form presented to the Mayor and Council and the Mayor has executed said Agreement on behalf of the City.

Section 2. Carl Dierks is hereby designated as the City's initial representative to serve on the Agency Board and John Gamby is hereby designated as the alternate representative to serve on the Agency Board pursuant to said Agreement and to serve in such capacity subject to further resolution of this Mayor and Council.

Section 3. The City Clerk is hereby directed to certify and file a copy of this resolution as a part of the permanent records created by and for such Agency.

The foregoing Resolution having been read, Councilmember Stokey seconded the motion for its passage and adoption, and after consideration, the roll was called upon the passage and adoption of said Resolution. The following Councilmembers voted Aye: Horse, Stokey, Busch, Hanson. Voting Nay: None. Abstaining: Gamby. The passage of the Resolution having been concurred in by a majority of all members elected to the Council was declared passed and adopted this 4th day of January, 1993.

CITY OF CHADRON


Mayor

ATTEST:


City Clerk
(S E A L)

