

(Published in *The Cheney Times-Sentinel* on December __, 2013)

ORDINANCE NO. 866

AN ORDINANCE OF THE CITY OF CHENEY, KANSAS, AUTHORIZING IMPROVEMENTS TO THE CITY'S SEWAGE COLLECTION AND DISPOSAL WORKS; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.

WHEREAS, K.S.A. 12-618 provides, in part, that the governing body of any city having a population of less than 80,000 shall have power to provide for one or more systems of sewerage, or drainage, or both, for such city, or for any part thereof, with one or more main sewers or drains and sewer or drains outlets, and to build, construct or purchase pumping stations, sewers, sewer service lines and drains by districts or otherwise, as the governing body may determine; and

WHEREAS, K.S.A. 12-619 provides, in part, that if the estimated cost of the main sewer or drain of said system now or hereafter constructed shall be relatively large as compared with the estimated cost of the lateral sewers or drains tributary thereto, or if the said main sewer or drain shall be so located that it will or may receive the sewage or drainage from two or more districts, the governing body shall have power to pass an ordinance providing that the cost of such main sewer or drain below a certain designated point shall be borne by the city and paid in the manner provided in K.S.A. 12-624 for the payment of the cost of main sewers and drains now or hereafter constructed beyond the corporate limits of the city; provided, that the said ordinance shall state the point in the line of the main sewer or drain below which the provisions of this section shall apply, shall describe the proposed location of the said main sewer or drain from the said point to the outlet of the same or to the city limits, and shall state the manner of payment of the cost of the said main sewer or drain; and

WHEREAS, K.S.A. 12-624 provides, in part, that all costs and expenses occasioned by the acquisition of a right-of-way and by the construction of sewers and drains and disposal works beyond the corporate limits of said city shall be borne by the city as a whole and shall be paid out of the general revenue fund or by the issuance of improvement bonds of the city as the governing body may determine, that bonds to pay said costs may be issued in addition to the \$100,000 authorized by K.S.A. 12-621 for the construction of disposal works and that such additional bonds may be issued in addition to the limit of bonded indebtedness of such cities as defined by statutes; and

WHEREAS, the City of Cheney, Kansas (the "City") has a population of approximately 2,106; and

WHEREAS, the governing body of the City has heretofore found and determined it to be necessary to construct main sewer improvements for the City (the "Sewer Main Improvement"); and

WHEREAS, K.S.A. 12-631t provides that the governing body of any city shall have the power to provide for one or more systems of disposal works for the purification of the sewage of the city or any part thereof, and to build, operate and maintain such disposal works as the governing body may designate; and that the cost and expense of building the same shall be borne by the city as a whole, and may either be paid out of the general revenue fund or by the issuance of general obligation bonds, provided that no such bonds shall be issued in a sum exceeding \$200,000 in any one year; and that sewage disposal works as used herein includes any necessary sewage disposal plant, sewers and drains from existing outlets to the plant and from the plant to a creek, ravine or river where sewage may be drained, pumping plants,

force mains, and all appurtenances necessary to construct a complete disposal works for the disposal of sewage; and

WHEREAS, K.S.A. 12-631u provides that the governing body of any such city may construct sewage disposal works within the city limits or within five miles of the city limits of such city, and such governing body shall have the power and authority to construct and maintain sewers and drains, pumps and other appurtenances thereof, from the corporate limits of said city to any creek, ravine or river within five miles thereof, and shall have the power and authority to construct and maintain sewers, drains, pumps and other appurtenances thereto from any sewage disposal plant to connect with any creek, ravine or river within five miles of such disposal plant; and

WHEREAS, K.S.A. 12-631w provides that all the costs and expenses occasioned by the construction of any such disposal works, including the purchase or condemnation of land therefor and including the purchase or condemnation of land for the construction of sewers, drains, pumps and other appurtenances within or without the city used in connection with such disposal works, shall be borne by the city as a whole and paid out of the general revenue fund or by the issuance of internal improvement bonds; such bonds shall be issued as provided by law, and shall not be issued in excess of the amount of the improvement, except that installment coupons shall include the interest on such installments to the maturity thereof; provided, that the bonds issued under this act shall not be included in fixing the limit of the bonded indebtedness of the city issuing such bonds; and

WHEREAS, the governing body of the City has heretofore found and determined it to be necessary to construct pump station sewage disposal work improvements (the "Pump Station Improvements"); and

WHEREAS, K.S.A. 12-621 authorizes the governing body of any city to operate and maintain disposal works for the purification of sewage of the city, or of any part thereof, the costs and expenses of building the same to be borne by the city as a whole and authorizes such a city to pay such costs from the proceeds of general obligation bonds issued for such purpose in any sum not exceeding three hundred thousand dollars (\$300,000); such bonds to be in addition to the statutory limit of bonded indebtedness of such city, except that no bonds may be issued under the provisions of K.S.A. 12-621 in excess of one hundred thousand dollars (\$100,000) if, within thirty (30) days of the passage of an ordinance or resolution authorizing the issuance of such bonds, a petition in opposition to such issuance, signed by not less than two percent (2%) of the qualified electors in such city, is filed with the governing body of such city; and, if such petition is filed within the prescribed time, the proposition shall be submitted to the voters at the next primary or general election and no bonds shall be issued until such proposition shall receive the approval of a majority of the votes cast thereon; and

WHEREAS, the governing body of the City has heretofore found and determined it to be necessary to construct sewer lagoon/sewer treatment improvements (the "Lagoon Improvements"); and

WHEREAS, the governing body of the City passed an Ordinance authorizing the execution of a Loan Agreement with the Kansas Department of Health and Environment ("KDHE") for KWPCRF Project No. 1462-01 to provide initial financing for the Sewer Main Improvements, Pump Station Improvements and Lagoon Improvements (jointly, the "Improvements"), in the original principal amount of \$1,148,001(the "Loan"); and

WHEREAS, said governing body hereby finds and determines that the costs of constructing the Sewer Main Improvements is relatively large as compared to the estimated cost of possible future sewer lateral lines or drains tributary thereto, and that Sewer Main Improvements may receive in the future sewage or drainage from two or more districts, and that the costs of constructing said Sewer Main

Improvements should be chargeable to the city at large and financed by the issuance of general obligation bonds of the City in the manner provided by K.S.A. 12-624 for the costs of main sewer improvements and drains now or hereafter constructed beyond the corporate limits of the City, in an amount not to exceed \$140,000; and

WHEREAS, the governing body of the City hereby finds and determines that the cost of constructing the Pump Station Improvements should be financed by the issuance of general obligation bonds of the City in the manner provided by K.S.A. 12-631t, in an amount not to exceed \$154,000; and

WHEREAS, the governing body of the City hereby finds and determines that the cost of constructing the Lagoon Improvements should be financed by the issuance of general obligation bonds of the City in the manner provided by K.S.A. 12-621, in an amount not to exceed \$288,000; and

WHEREAS, the City hereby finds and determines that the general obligation bonds issued to finance and refinance the Improvements will also be issued to provide for the retirement of the Loan.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, KANSAS:

Section 1. Authorization of Improvements. The governing body of the City hereby confirms and ratifies the construction of the Improvements.

Section 2. Designated Points. The proposed location and costs of the Sewer Main Improvements below the following designated point(s) to the outlets of the same or to the City limits, to wit:

The 12" Force mains begins at the sewer lift station located at the corner of 31st St. South and 375th St West in the City, and goes east along 31st St. South for about 400 feet, then goes south about ½ mile to the south side of the railroad tracks, then heads east ¾ mile along the railroad tracks to the sewer ponds

shall be borne by the City at large, and shall be paid in the manner provided in K.S.A. 12-624, for the costs of main sewers and drains now or hereafter constructed beyond the corporate limits of the City.

Section 3. Financing Authorization. The costs of the Sewer Main Improvements, Pump Station Improvements, and Lagoon Improvements, including construction, engineering fees, acquisition of right-of-way and easements, contingencies and administrative expenses were at least \$275,520, \$304,220 and \$568,261, respectively. The costs of the Sewer Main Improvements, Pump Station Improvements, and Lagoon Improvements, principal and interest on the Loan, and associated financing costs shall be payable from the proceeds of general obligation bonds of the City issued under authority of the K.S.A. 12-618 *et seq.*, K.S.A. 12-631t and K.S.A. 12-621, respectively, in amounts not to exceed \$140,000, \$154,000 and \$288,000, respectively (the "Bonds"), except that no Bonds may be issued for the Lagoon Improvements under K.S.A. 12-621 in excess of \$100,000 if, within thirty (30) days of the passage of this ordinance, a petition in opposition to such issuance, signed by not less than two percent (2%) of the qualified electors in the City, as filed with the governing body of the City; and, if such petition is filed within the prescribed time, the proposition shall be submitted to the voters at the next primary general election and no Bonds may be issued for the Lagoon Improvements in excess of \$100,000 until such proposition shall receive the approval of a majority of the votes cast thereon.

Section 4. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City, and publication in the official City newspaper.

PASSED by the governing body of the City of Cheney, Kansas, on December 12, 2013, and **APPROVED AND SIGNED** by the Mayor.

(Seal)



Mayor

ATTEST:



Clerk

CERTIFICATE

I, hereby certify that the above and foregoing is a true and correct copy of the Ordinance No. 866 of the City of Cheney, Kansas passed by the governing body on December 12, 2013 as the same appears of record in my office.

DATED: December 12, 2013.



Clerk

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