

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
January 17th, 2012**

Mayor Gary Lipp called to order the second regular meeting of the Common Council for the month of January, 2012 at 5:30 p.m. Present at roll call were Councilpersons Hattervig, Heinrich, Kothe, Lampert, Herman, Schleining and Chris Beesley, City Attorney. The Pledge of Allegiance was stated.

AGENDA

Councilperson Schleining moved, with a second by Councilperson Herman, to approve the agenda. The motion unanimously carried.

MINUTES

Councilperson Lampert moved, with a second by Councilperson Hattervig, to approve the minutes from the January 3rd, 2012 regular meeting. The motion unanimously carried.

OATH OF OFFICE

Angela Kothe took her Oath of Office for a six-month term as Councilperson.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

DEPARTMENT HEAD DISCUSSION

Bob Morrison, Public Works Director, gave Council a brief update on a few things he is working on.

Rex Harris, Community Development Director, gave Council an update on West Dam.

Laurie Woodward, Finance Officer, gave Council a brief report on the claims in for payment and mentioned that the auditors are scheduled for March

CUSTER CRUISIN RELOCATION

Various people addressed the Council regarding the relocation of Custer Cruisin. Councilperson Lampert moved to readdress the relocation of Custer Cruisin after the Chamber of Commerce conducts a survey and the results are compiled. Seconded by Councilperson Heinrich, the motion unanimously carried.

JOHN BISSELL – SEWER BACKUP

John Bissell addressed the Council regarding his sewer backup claim. Councilperson Herman moved to deny the request for reimbursement on the sewer backup claim. Seconded by Councilperson Hattervig, the motion carried with Councilperson Hattervig, Heinrich, Kothe and Herman voting yes, while Councilperson Lampert and Schleining voted no.

SECOND READING – ORDINANCE #710 – FLOOD DAMAGE PREVENTION

Councilperson Hattervig moved to adopt Ordinance #711, Flood Damage Prevention. Seconded by Councilperson Heinrich, the motion carried with Councilperson Heinrich, Kothe, Lampert, Herman, Schleining and Hattervig voting yes.

FIRST READING – ORDINANCE #711 – SIDEWALK SNOW REMOVAL

Councilperson Schleining moved to approve the first reading of Ordinance #711, Sidewalk Snow Removal. Seconded by Councilperson Heinrich, the motion unanimously carried.

RESOLUTION #1-17-12A – FEMA ACCEPTANCE

Councilperson Herman moved to adopt Resolution #1-17-12A, FEMA Acceptance. Seconded by Councilperson Lampert, the motion unanimously carried.

RESOLUTION NO. 01-17-12A

ACCEPTING THE JANUARY 06, 2012 FEMA FLOOD STUDY DATA

WHEREAS certain areas of Custer City are subject to periodic flooding, mudslide (i.e., mudflow), or Flood related erosion causing serious damages to properties within these areas; and

WHEREAS relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS it is the intent of this City Council to require the recognition and evaluation of flood, mudslide (i.e., mudflow), or flood-related erosion hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS this body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to South Dakota Codified Law 9-36.

NOW, THEREFORE, BE IT RESOLVED THAT THIS City Council hereby:

1. Assures the Federal Emergency Management Agency that it will enact, as necessary, and maintain in force in those areas having flood, mudslide (i.e., mudflow), or flood-related erosions hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 60.3 of the Nation Flood Insurance Program Regulations; and
2. Vests Community Development Director/Planner with the responsibility, authority, and means to:

- a. Assist the FEMA Administrator, at his delineation of the limits of the area having special flood, mudslide (i.e., mudflow), or flood-related erosion areas.
 - b. Provide such information as the Administrator may request concerning present uses and occupancy of the floodplain, mudslide (i.e., mudflow), or flood-related erosion areas.
 - c. Cooperate with Federal, State, and local agencies and private firms that undertake to study, survey, map, and identify floodplain, mudslide (i.e., mudflow), or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain, mudslide (i.e., mudflow), or flood-related erosion areas in order to prevent aggravation of existing hazards.
 - d. Submit on the anniversary date of the community's initial eligibility an annual report to the FEMA Administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.
 - e. Upon occurrence, notify the FEMA Administrator in writing whenever the boundaries of the community have been modified by annexation, or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all Flood Hazard Boundary Maps and Flood Insurance Rate Maps accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.
3. Appoints Community Development Director/Planner to maintain for Public inspection and to furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map, any certificates of floodproofing and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, and if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed.
4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

Dated this 17th day of January 2012.

CITY OF CUSTER CITY

S/Mayor, Gary Lipp

RESOLUTION #01-17-12B – RATES AND FEES

Councilperson Herman moved to table Resolution #01-17-12B, Rates and Fees until the next Council meeting. Seconded by Councilperson Hattervig, the motion unanimously carried.

RESOLUTION #1-17-12C AND RESOLUTION #1-17-12D – VOIDING PRIOR VOIDED EASEMENTS

Councilperson Lampert moved to adopt Resolutions #1-17-12C and #1-17-12D, Voiding Prior Voided Easements. Seconded by Councilperson Heinrich, the motion unanimously carried.

RESOLUTION 01-17-12C

RESOLUTION NULL AND VOIDING PRIOR NULL VOIDED EASEMENT

WHEREAS, the Common Council of the City of Custer City previously adopted and filed Resolution 2-20-90B and Resolution 3-5-90D approving the easement and right-of-way, and plat of such easement and right-of-way in the following real property:

Freeland Tract and Freeland Tract No. 2, Less Lot H-1, all located in M.S. 506, Section 24, Township Three (3) South, Range Four (4) East, Black Hills Meridian, Custer County, South Dakota.

AND WHEREAS, the Common Council of the City of Custer City thereafter adopted Resolution 6-5-90G declaring the above-stated resolutions null and void; however, said resolution was never formally filed; and WHEREAS, Resolution 6-5-90G is not available at the present time at the Custer City offices in a format able to be filed at the Custer County Register of Deeds, thus requiring another resolution be adopted declaring Resolution 2-20-90B and Resolution 3-5-90D null and void, and to be recorded in the office of the Custer County Register of Deeds;

THEREFORE IT IS HEREBY RESOLVED by the Common Council of the City of Custer City, that this Resolution #01-17-12C is hereby adopted, declaring Resolution 2-20-90B and Resolution 3-5-90D null and void, thereby voiding any easement and right-of-way granted thereunder.

Dated this 17th day of January, 2012.

CITY OF CUSTER CITY

S/Gary Lipp, Mayor

RESOLUTION 01-17-12D

RESOLUTION NULL AND VOIDING PRIOR NULL VOIDED EASEMENT

WHEREAS, the Common Council of the City of Custer City previously adopted and filed Resolution 2-20-90D, and Resolution 2-5-90I approving the easement and right-of-way, and plat of such easement and right-of-way in the following real property:

Tract 2 of Spring Subdivision in M.S. No. 506, in the South Half of Section Twenty-Four (24), Township 3 South, Range 4 East of the Black Hills Meridian, Custer County, South Dakota.

AND WHEREAS, the Common Council of the City of Custer City thereafter adopted Resolution 6-5-90I declaring the above-stated resolutions null and void; however, said resolution was never formally filed; and WHEREAS, Resolution 6-5-90I is not available at the present time at the Custer City offices in a format able to be filed at the Custer County Register of Deeds, thus requiring another resolution be adopted declaring Resolution 2-20-90D and Resolution 2-5-90I null and void, and to be recorded in the office of the Custer County Register of Deeds;

THEREFORE IT IS HEREBY RESOLVED by the Common Council of the City of Custer City, that this Resolution #01-17-12D is hereby adopted, declaring Resolution 2-20-90D and Resolution 2-5-90I null and void, thereby voiding any easement and right-of-way granted thereunder.

Dated this 17th day of January, 2012.

CITY OF CUSTER CITY

S/Gary Lipp, Mayor

DOWNTOWN TIF#4 PROJECT CHANGE ORDER

Councilperson Lampert moved to approve the change order from Complete Concrete for the Downtown TIF#4 project in the amount of \$21,903.00. Seconded by Councilperson Heinrich, the motion carried with Councilperson Lampert, Herman, Schleining, Hattervig, Heinrich and Kothe voting yes.

BIG ROCK PARK LOOKOUT BIDS

Councilperson Lampert moved to accept the bid from MAC Construction, Inc for the common bid items of the Big Rock Park Lookout bid for \$47,671.70. Seconded by Councilperson Herman, the motion carried with Councilperson Herman, Schleining, Hattervig, Heinrich, Kothe and Lampert voting yes.

2011 AUDIT AGREEMENT

Councilperson Schleining moved to approve the 2011 audit agreement with Ketel Thorstenson, LLP for \$13,500. Seconded by Councilperson Herman, the motion carried with Councilperson Kothe, Lampert, Herman, Schleining, Hattervig and Heinrich voting yes.

CLAIMS

Councilperson Herman moved, with a seconded by Councilperson Heinrich, to approve the claims. The motion carried with Councilperson Schleining, Hattervig, Heinrich, Kothe, Lampert and Herman voting yes.

2011 Claims:

- Black Hills Power & Light, Utilities, \$6795.32
- Complete Concrete, TIF #4 Improvements, \$49075.29
- Fennell Design, Capital Improvements, \$7987.50
- Hawkins, Supplies, \$15.00
- Kadmas, Lee & Jackson, Professional Fees, \$56.30
- Unemployment Insurance, Insurance, \$63.68
- Total 2011 Claims: \$63,993.09

2012 Claims:

- 1881 Courthouse Museum, Subsidy, \$7500.00
- AFLAC, Insurance, \$588.57
- American Public Works Assn, Membership, \$246.00
- Black Hills Vision, Subsidy, \$10000.00
- Custer Ministerial Alliance, Subsidy, \$500.00
- Custer County, Law Enforcement, \$86676.00
- Days Inn, Travel, \$286.40
- Golden West Technologies, Professional Fees, \$270.00

Kellogg, Scott, Reimbursement, \$90.00
North Dakota Parks & Rec Assn, Safety Training, \$380.00
Pitney Bowes, Supplies, \$500.00
Quill, Supplies, \$150.41
Rapid City Telco Federal Credit Union, Utilities, \$794.45
SRF, Loan Payment, \$4639.68
Sander Sanitation, Garbage Contract, \$12032.72
Trana, Lisa, Reimbursement, \$500.00
Verizon Wireless, Utilities, \$410.29
USDA Rural Development, Loan Payment, \$8910.00
Total 2012 Claims \$134,474.52

COMMITTEE REPORTS

Various committee reports were given.

COMPREHENSIVE PLAN PUBLIC HEARING

The Council heard comments from various community members regarding the Comprehensive Plan including many comments on the lot size within the three mile limit. Councilperson Lampert moved to send the Comprehensive Plan back to the Planning Commission for them to review for changes after hearing the public input and make recommendations to the Council. Seconded by Councilperson Herman, the motion unanimously carried.

BREAK 7:55 – 8:02

EXECUTIVE SESSION

Councilperson Schleining moved to go into and out of executive session at 8:02 pm for personnel matters and potential litigation with the Attorney, Finance Officer, Public Works Director and Community Development Director present. Seconded by Councilperson Herman, the motion unanimously carried. The Public Works Supervisor joined the session at 8:16 pm. The Public Works Director, Public Works Supervisor and Community Development Director left the session at 8:30 pm. Council came out of executive session at 8:48 pm.

WAGE ADJUSTMENT

Councilperson Herman moved to adjust Kim Conwell's wage to \$13.26 per hour effective January 1, 2012 and pay her \$571.88 for difference in wage. Seconded by Councilperson Lampert, the motion unanimously carried.

ADJOURNMENT

With no further business, Councilperson Lampert moved to adjourned the meeting at 8:51 p.m. Seconded by Councilperson Schleining, the motion unanimously carried.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Gary Lipp
Mayor