

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
SEPTEMBER 2ND, 2008**

Mayor Harold D. Stickney called to order the first regular meeting of the Common Council for the month of September, 2008 at 5:30 p.m. Present at roll call were Councilpersons Sutton, Reetz, Pischke, Starr, Schleining, Murphey, and Chris Beesley, City Attorney. The Pledge of Allegiance was stated.

AGENDA

Councilperson Murphey moved to approve the agenda with the addition of Fennel Design Contract as Item 8g and removing Item 7c Flying Crane Subdivision. Seconded by Councilperson Schleining, the motion unanimously carried.

MINUTES

Councilperson Starr moved, with a second by Councilperson Sutton, to approve the minutes from the August 18th, 2008 regular meeting and August 25th, 2008 Special Budget Hearing Meeting. The motion carried. Councilperson Schleining and Murphey abstained from the August 25th meeting.

CONFLICTS OF INTEREST

Councilperson Murphey stated that he had a conflict with Item #8d as he is the Agent for the property.

ANIMAL CONTROL

Geney Ziolkowski, Animal Control Officer, met with the Council to discuss their question as to the reason the fines are down which Geney stated the control is working; there isn't the amount of tickets due to less problems. Councilperson Murphey also asked whether or not she takes care of cat problems. Geney stated she takes care of problems around businesses and bites but she does not have the facilities to house cats. Pam DeReu stated that when she had to give kittens away, she contacted the Rapid City facility and they took them. Geney also stated that she tries to help with placement also. Mayor Stickney thanked Geney for coming in and for the update.

PETITION PRESENTATION & RESOLUTION #09-02-08A – DEER MANAGEMENT PLAN

Elaine Emery presented to the Council numerous petitions containing 120 signatures stating they want the Council to take immediate action on the Deer Management Plan there by immediately eliminating the deer. The Mayor stated that comments would be taken and Attorney Beesley read the proposed Resolution #09-02-08A Deer Management Plan. General discussion was held on how many deer were in certain areas, yard waste, the number of multiple births, the number to be eliminated, and possible disease if this continues. When asked when the count would be completed again, Rex stated that it will be held annually at the same time and using the same route. Rex also stated that the first recommended harvest by GF&P was 50; once again, the GF&P will approve how many can be eliminated; the Council has no control over the numbers. Discussion was also held on the number of deer this area can support but that if we harvest 150, that would be a start. Councilperson Sutton discussed the number of deer from 2006 forward and that it has more than doubled. Councilperson Murphey stated that he wants facts and suggested that some of the deer be collared to actually see how far they travel; we need to take time to make sure what deer we are killing; he would recommend 60-75 for a first year harvest. Rex also stated that the GF&P does not have a number of deer permitted in the City; they say it is the tolerance of the residents. Discussion was held on whether or not people are feeding deer and if people are feeding, they need to be turned into the City or the Sheriff's Office. Discussion was also held on the GF&P setting Jan and Feb as the harvest months; they do that because they do not want complaints from hunters that we took their deer. Guys with Knives discussed an earlier elimination date would work better since their plant is not winter proof.

Councilperson Sutton moved, to adopt Resolution #09-02-08A and stated he is a forester not game management, but we need to do this. Seconded by Councilperson Starr, the motion carried with Councilperson Sutton, Pischke, Schleining, Starr, and Reetz voting yes. Councilperson Murphey voted no due to lack of discussion after the motion.

**RESOLUTION NO. 09-02-08A
DEER MANAGEMENT PLAN**

WHEREAS, a number of complaints about deer numbers were made by Custer City residents to the Common Council of the City of Custer City in 2006;

WHEREAS, in response to the concerns voiced, the Custer City Council enacted Resolution No. 12-04-06B on December 4th, 2006, authorizing the development of a Deer Management Plan for the City;

WHEREAS, the Custer City Council also passed Ordinance #638 on December 18th, 2006, amending Title 6, adding thereto Chapter 6.05 regarding the prohibition of feeding deer in the City Limits;

WHEREAS, the City of Custer personnel and South Dakota Game Fish and Parks conducted a joint deer count in October 2007, which resulted in a deer count of 22 deer per mile, indicating the City of Custer has the highest population of deer per mile from any official count;

WHEREAS, a number of Public Hearings was held where interested citizens could voice their concerns;

WHEREAS, the number of deer still continues to be a concern to city residents as of August, 2008, as verified by the number of continued complaints;

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Custer City shall proceed with implementation of the Deer Management Plan in the following manner;

NOW THEREFORE BE IT FURTHER RESOLVED that the City Council in accordance with Section 4 of the Deer Management Plan take appropriate action to eliminate up to 150 deer, as authorized by South Dakota Game Fish and Parks, from December 1, 2008, through February, 2009, and up to 50% of the remaining deer each year thereafter, as authorized by the South Dakota Department of Game Fish and Parks.

NOW THEREFORE BE IT FURTHER RESOLVED the City Council shall review the activities and results of said Deer Management Plan during May through September each year, in order to modify said Plan for the following year.

Dated this 2nd day of September, 2008.

s/Mayor Harold D. Stickney

FIRST READING ORDINANCE #658 – 2009 APPROPRIATIONS

The Council received the Appropriations Ordinance for 2009 which incorporated the changes they made August 25th, 2008. Councilperson Schleining asked for an explanation of the wage section which seemed higher than it should be. Christine stated that the figures were arrived at with the one full-time position being filled, two added positions, the 4% COLA increase, and annual merit increases. Christine will double check the figures and bring back that information. Discussion was held on the taxes receivable amount which Christine stated that based on last year's receivables, a 4.6% increase due to growth, and the 2.9% CPI certified by the State. Councilperson Sutton moved to adopt Ordinance #658 for the first reading. Seconded by Councilperson Pischke, the motion unanimously carried.

SECOND READING ORDINANCE #657 – ZONING CHANGE MEDICAL

The Council received for the second reading, Ordinance #657, which Councilperson Murphey moved to adopt. Seconded by Councilperson Pischke, the motion unanimously carried with Councilperson Pischke, Murphey, Schleining, Starr, Reetz, and Sutton, voting yes.

WASHINGTON STREET PAVEMENT BID AWARD

Rex presented the bid tab for the Washington Street Pavement Project for the two bids received. Hills Material submitted \$423,904.50, Simon Contractors of SD submitted \$423,077.50 and the engineer's estimate was \$398,527.50. The Mayor stated that even though the bid is 5% higher, we are probably not going to find lower costs on a second bid or by waiting another year to do this; he recommends awarding the bid. Councilperson Murphey moved, with a second by Councilperson Sutton, to approve the low bid of Simon Contractors. Councilperson Starr wondered about the engineer's fees being in addition, which Rex stated they are and then Councilperson Starr wondered if they could save money; Bob and Rex both stated they would with just the surveying and staking alone. Rex also stated that we do monitor the materials and other aspects; we could even end up using less than estimated. The motion unanimously carried.

RESOLUTION #09-02-08B – PERPETUAL CARE FUND RESERVES & FEES

The Council received Resolution #09-02-08B for the change in Perpetual Care reserves and the fees being raised to \$200 per site. Councilperson Starr moved to approve Resolution #09-02-08B. Seconded by Councilperson Schleining, the motion unanimously carried.

RESOLUTION NO. 09-02-08B
CEMETERY PERPETUAL CARE
FUND RESERVES
AND FEES

WHEREAS, the Common Council of the City of Custer received in January 2006 the Perpetual Care Certificate of Deposit after the Custer Cemetery Board disbanded in 2005; and

WHEREAS, the City of Custer City believes that the maintenance and care of the Cemetery is very important; and

WHEREAS, the City of Custer City believes that reserving the amount of Perpetual Care fees received from the sale of cemetery lots would further insure the care and maintenance.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Custer as follows:

- (1) The amount of Perpetual Care fees received from the sale of cemetery lots will be reserved along with the Perpetual Care investment of \$50,000 (SDCL 9-32-18).
- (2) The amount of Perpetual Care fee shall be \$200 per site as amended from Resolution #01-22-08 Rate Schedule.

Dated this 2nd day of September, 2008.

s/Harold D. Stickney, Mayor

WHEEL LOADER BID AWARD

Bob presented the Wheel Loader Bids with a clarification of the total cost bid, with and without trade, a guaranteed cost of repairs for 5000 hours, and a guaranteed buy back.

	Titan 721E	Butler Machinery 938H
Price	\$142,978	\$151,342
Trade-in	\$26,000	\$30,000
Total Cost	\$65,934	\$41,355
No Trade-in -TC	\$91,934	\$71,355
Buy Back	\$63,000	\$95,000

Bob stated the low bidder is Butler Machinery and overall after five years, the City spends less. Bob also stated that we are responsible for all routine repairs such as oil changes, etc. but the major repairs would cost nothing with Butler but Titan gave a cost of \$2,000. Discussion ensued with John Weiback, Titan Dealer, and Sid Houdek, Butler Machinery Dealer, in regards to the total cost bid, length of service by a piece of equipment, the cash amount going out, resale value, and whether to purchase or lease. Councilperson Sutton moved, with a second by Councilperson Murphey, to purchase the Butler Machinery Wheel loader out right with a trade-in. Councilperson Reetz wondered which option, lease or purchase, do the cities usually opt? Sid stated there isn't just one over the other. The motion unanimously carried.

BROWN BAG LICENSE

The Chamber of Commerce submitted a request for the Chamber Mixers to be held November 13th with the Custer Area Arts Council & Custer Stampede and December 18th with Surroundings. Councilperson Murphey moved to approve this request. Seconded by Councilperson Pischke, the motion unanimously carried.

RESOLUTION #09-02-08C – ANNEXATION OF REAL PROPERTY

The Council received Resolution #09-02-08C clarifying property descriptions for the Westside Annexation. The Council requested that maps accompany these items; Christine apologize for not including one, but since this is a cleanup item, she didn't think it was necessary but will be sure to include the next time. Councilperson Pischke moved to approve Resolution #09-02-08C. Seconded by Councilperson Murphey, the motion carried with Councilperson Pischke, Murphey, Starr, and Schleining. Councilperson Reetz and Sutton voted no.

RESOLUTION NO. 09-02-08

RESOLUTION ANNEXING REAL PROPERTY

WHEREAS, the following listed properties have submitted a Petition for Annexation to the City Council pursuant to South Dakota Codified Law 9-4-1 in the form of an Annexation Agreement; and

WHEREAS, said petitioner constitute not less than three-fourths of the registered voters and by the owners of not less than three-fourths of the value of such territory sought to be annexed to the City of Custer City; and

WHEREAS, said property is contiguous to the boundary of the City of Custer City; and

WHEREAS, by virtue of said petition for annexation, said owners are agreeing to be subject to all of the rules, regulations, and ordinances of the City of Custer City; and

WHEREAS, annexation of the hereinafter described real property is in the best interest of the City of Custer, now therefore

BE IT HEREBY RESOLVED that the following described real properties:

James V. Aman & Freda M. Aman – Rita Tract of Keupp Tract of Government Lot #3 and Tract Aman of Tract Keupp of Government Lot 3, Section 26, T3S, R4E, BHM, Custer County, South Dakota;

Dawn Gibeau – Lot 2, 3, 4, and 5 of Sheehan Subdivision (less Lot H2 of Lot 2 of Sheehan Subdivision), Section 26, T3S, R4E, BHM, Custer County, South Dakota;

is contiguous to the existent municipal boundaries is hereby annexed to the City of Custer City and hereafter located within the corporate limits of the City of Custer City.

Dated at Custer City, Custer County, South Dakota, this 2nd day of September, 2008.

s/Harold D. Stickney, Mayor

CUSTER CRUISIN & OTHER ISSUES – TONYA FLORA

Tonya Flores met with the Council to request that Custer Cruisin be moved off of 6th Street since it hampers her business and that vendors shouldn't be allowed downtown. She is also concerned about the future; locals could rent out spots but not outsiders. Tonya also stated that she doesn't want the City to go bankrupt by spending money on the new Liquor Store; the new Liquor Store is awful and what is that telling our kids. She previously requested a handicap parking spot which Bob stated he would look into it; the Council supported this request. She mentioned that we do need more public restrooms which the Council stated they are addressing that issue. She mentioned having the Indian Dancers this summer and that kept people in town. She will start a new business which will be hot tub rentals and wondered if this was okay. The Council wondered how the music was and the car show. Tonya thought both of those were great ideas. Tonya mentioned that the Cruisin Vendors could go to the tennis courts which would be a better location.

FRESH START – CASINO REQUEST

Councilperson Reetz stated that this item had been sent to General Government Committee and wondered why it was back. Rex presented new information regarding the Fresh Start property which was formerly Ranchmart; they will be installing gas pumps that will only take credit cards. Councilperson Murphey wondered why we are worried about the children going in since they are not old enough. Councilperson Reetz made a motion to develop an ordinance pertaining to video and alcohol establishments near schools and daycare center.

Seconded by Councilperson Sutton, the motion did not carry. Councilperson Reetz and Sutton voted yes. Councilperson Schleining, Starr, Pischke, and Murphey voted no. Councilperson Sutton moved to approve this request. Seconded by Councilperson Murphey, the motion carried with Councilperson Schleining, Starr, Pischke, and Murphey voting yes. Councilperson Reetz and Sutton voted no.

CONTRACT – KLJ WASHINGTON STREET PAVEMENT PROJECT

Rex presented the Contract Amendment #1 to the original Contract with KLJ Engineers for the bidding and construction phase. The amendment amount is \$15,050.80 making the entire contract \$34,349.45. Councilperson Starr wondered if this would save the City money; yes it will. Councilperson Starr moved to approve this Amendment. Seconded by Councilperson Pischke, the motion unanimously carried.

PRELIMINARY FINAL PLATS

Rex submitted the preliminary and final plat for Jeff and Pauline Mortenson for the property described as A Subdivision of Block 36, Lot 4R of Lots 4 & 5, and Lot 5R of Lots 5 & 6, Block 36, Original Town, Located in the SE ¼ of Section 23, T3S, R4E, BHM, City of Custer, Custer County, South Dakota. This is the old School property up on the corner. The owners have met all the stipulations, is recommended for approval by the Planning Commission, and this plat converts three lots into two. Rex stated that if all stipulations were not met, this would not be before Council. Councilperson Sutton moved to approve this Plat. Seconded by Councilperson Pischke, the motion unanimously carried.

Rex presented the preliminary and final plat for Charles Howe for the property described as Stagecoach Crossings Estates Subdivision, Plat of Lots 35R and 37R, Containing all of Lots 35 & 37 of Stagecoach Crossings Estates Subdivision of MS 829 and MS 830 and Gov't Lot 5, all in Sections 21 and 22, T3S, R4E, BHM, Custer County, South Dakota. This Plat has met all stipulations, is recommended for approval by the Planning Commission, and this is to realign the lot lines. Councilperson Schleining moved to approve this plat. Seconded by Councilperson Murphey, the motion unanimously carried.

Rex stated the preliminary and final plat for Jennial K. Martin for the property described as Rosse Subdivision, Plat of Tracts 1 & 2 of Rosse Subdivision of Lots 1 through 3 and the remaining Unplatted Portion of Government Lot 1, (Formerly Recorded as the E ½, SE ¼, NE ¼), Located in Section 27, T3S, R4E, BHM, City of Custer City, Custer County, South Dakota needs to be tabled until the next meeting due to needing the County Treasurer's signature.

HOSPITAL BOARD MONTHLY REPORT

The Council received, reviewed, and acknowledged the August Hospital Board monthly report. Discussion was held on the executive session which Christine will be a part of and at the time there is something concrete to report, she will do so at that time.

SLASH PILE CONTRACT APPROVAL

Rex presented a new option for the Slash Pile Cleanup on Pageant Hill. Baker Timber Products submitted \$35,000 to chip and spread the mulch wherever we would like. Discussion was held that the Forest Service should be notified so this item will be on hold. The previous minutes reflect the decision to proceed with \$35,000 and accept the \$10,000 but nothing was awarded.

LIQUOR STORE DESIGN CONTRACT

Rex presented for discussion the proposal from Fennel Design for reviewing design, providing structure design, and doing the bid documents which would be billed on an hourly basis, approximately \$12,000. This item will be brought back at the next meeting.

DISCUSSION ITEMS

The Council discussed their attendance at the September 4th downtown business meeting which there will only be three in attendance so there won't be a quorum.

CLAIMS

Councilperson Schleining moved, with a seconded by Councilperson Pischke, to approve the claims. The motion unanimously carried.

Mayor & Council, Wages, \$4250
Community Development, Wages, \$3856.26
Finance Department, Wages, \$8918.70
Public Works Department, Wages, \$6494.64
Street Department, Wages, \$5711.18
Parks Department, Wages, \$9839.90
Liquor Fund, Wages, \$3679.03
Water Fund, Wages, \$5213.73
Wastewater Fund, Wages, \$3458.62
Alltel, Utilities, \$460.32
American Planning Association, Travel & Conference, \$195
Beesley Law Office, Professional Fees, \$2321.25
BH Phones, Utilities, \$50
BH Power, Utilities, \$7828.10

Century Business Products, Supplies, \$77.79
Cheryl Hadlock, Professional Fees, \$3583.33
Culligan Water, Repair & Maint., \$17.50
Custer Area Arts Council, 2008 Subsidy, \$1000
Custer Chamber of Commerce, Sales Tax Subsidy, Ads, \$24283.15
Custer Chronicle, Publishing, \$434.42
Custer Regional Medical, Safety, \$82
Enviromaster, Supplies, \$33
First Western Bank, TIF Payment, \$606.99
Golden West Companies, Utilities, \$728
Golden West Technologies, Professional Fees, \$120
International Code Council, Supplies, \$30
Mannatec, Supplies, \$661.17
McGas, Utilities, \$2067
Nelson's Oil & Gas, Utilities, \$1410.75
Petty Cash, Supplies, Travel & Conference, \$685.22
Prairie Berry, Supplies, \$534
Quill Corp, Supplies, \$310.79
Rapid City Telco, Travel & Conference, \$251.15
Rapid City YMCA, Memberships, Subsidy, \$19604
Rapid Delivery, Repair & Maint., Fees, \$55.90
Rapid Dry Carpet Cleaning, Professional Fees, \$70
Republic National Distribution, Supplies, \$17134.41
RHS Inc., Supplies, \$800
Scott Caesar, LTRC, \$500
SD Dept. Revenue, Supplies, \$26
SD Municipal League, Travel & Conference, \$275
Harold Stickney, Travel & Conference, \$42.55
Western Wholesale, Supplies, \$15187.10
Geney Ziolkowski, Animal Control, \$811
Bev & Randy Sprenkle, Deposit Refund, \$50
Karen Sheets, Deposit Refund, \$50
Jamie, Dean, Deposit Refund, \$50
Patty Koehler, Deposit Refund, \$50.
Edward & Pauline Galles, Deposit Refund, \$50
Child Support Payment Center, \$315.52
Delta Dental, Insurance, \$496
Federal Withholding, \$5041.49
FICA, \$6234.89
Medicare, \$1458.16
SD Retirement, \$5508.20
AFLAC, Insurance, \$388.08
Dakotacare, Insurance, \$5387.58
Scott Kellogg, Reimbursement, \$196
Petty Cash, Permits, Travel & Conference, Supplies, \$144.35
Pitney Bowes, Postage, \$500
Total Claims \$203,502.37

EXECUTIVE SESSION

Councilperson Reetz moved to go into and out of a personnel executive session at 7:50 p.m. without department heads in attendance. Seconded by Councilperson Pischke, the motion carried. The session adjourned at 8:25 p.m. with no action taken.

ADJOURNMENT

With no further business, Mayor Stickney adjourned the meeting at 8:25 p.m.

ATTEST:

CITY OF CUSTER CITY

Christine Redden
Finance Officer

Harold D. Stickney
Mayor