

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
MAY 21, 2007**

Mayor Harold D. Stickney called to order the second regular meeting of the Common Council for the month of May, 2007 at 5:30 p.m. Present at roll call were Councilpersons Schleining, Culbertson, Boyer, Starr, Murphey, and Chris Beesley, City Attorney. The Pledge of Allegiance was stated.

AGENDA

Councilperson Murphey moved to approve the agenda. Seconded by Councilperson Culbertson, the motion unanimously carried.

MINUTES

Councilperson Starr moved, with a second by Councilperson Schleining, to approve the minutes from the May 7th, 2007 Regular meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts were stated.

DEPARTMENT HEAD DISCUSSION

Bob Morrison, Public Works Director, discussed CDL Testing which is now only available in Rapid City. The problem is that we don't have someone to drive the equipment and personnel. Councilperson Culbertson volunteered one of his County guys to assist with this problem.

The Cemetery is shaping up very nicely; probably one more mowing and weed eating so it will be ready for Memorial Day. We may look at doing a contract next year due to the labor force and time involved.

Bob has had complaints on the Skate Board Park with trash and vandalism. The Mayor requested the "Ad" be placed in the Chronicle reminding the kids that the Park will be locked up if the problems don't stop; they need to police themselves and keep the area clean and friendly.

Rex Harris, Community Development Director, stated that the Corridor Committee is coming back to life and working to develop standards for downtown and along the major highways. The Committee wants to keep everything very reasonable and they welcome any input from the Council, citizens, and businesses.

Sidney Park Road will be closed for a few days while the sewer is going in and dirt is being moved.

Rex discussed an Elementary School tour Friday with several people from the County, City, School, and Chamber. There is the possibility of having a joint government building which could work really well. We will continue to explore possibilities. Also another possible joint venture could be the Airport. There are improvements needed to comply with the FAA but it could give the area a big boost.

Rex met with DOT regarding the 5th Street project being moved up on the Work Plan but it isn't looking favorable. They may look at doing a mill and overlay in 2008 which is when we could incorporate our storm sewer project. If they do the mill and overlay, we won't see any other construction for another 15 to 20 years.

SOUTHWEST CITY ROAD CONCERNS

Bob presented an estimate of \$43,617 which is the amount it would take to rebuild, from 4th Street on Gordon to the end of the present pavement, over and above the water project portion. Discussion was held on the money available, the extra needed to rebuild, and the amount that was dedicated to the pavement plan. The Public Works Committee met and discussed several options but the best plan is very good patching and then do a chip seal. Rex stated there is a very good base with some of the areas being 9" thick. They didn't think graveling and waiting to pave would be fair to the Shady Rest Motel and this plan is doing the most with dollars available. Rex also stated that this plan would actually make the road better than it was before the Water Project. Jim Hattervig questioned the rest of the roads in that area which Bob stated those will be completed with the Pavement Project. Rex discussed the area of road next to Bridge on 4th Street which would not be addressed at this time; we will see what funding is available in the future. Rex discussed the corner that will have to have trees taken out due to safety. Bob and Rex both stated that an alternate access is not forgotten and will continue to be looked at. The Mayor thanked everyone for coming and stated the City wants to do the best they can within their budget.

DOE – EQUALIZATION PROCESS

Les Struble, Director of Equalization, met with the Council to discuss the city-wide equalization review which will start after June 1st starting on the Westside; they will try to keep out of the downtown area during the busiest times of the summer. They will be looking at every taxable piece of property with the same procedures and standards; this adds up to equalization. They are implementing new digital software and testing it during this process; if there are problems, they are close to Office to get it fixed. The landowners will be receiving a postcard advising them when DOE will be in that area and when an appointment time can be set. The appointment could take 15 minutes for small residential units and up to 1 ½ hrs for the large structures.

RESOLUTION #05-21-07A – UTILITY WRITE-OFFS

Councilperson Starr moved to adopt Resolution #05-21-07A Utility Account Write-offs. Seconded by Councilperson Culberson, the motion unanimously carried.

RESOLUTION NO. 05-21-07A

WHEREAS, Book 3, Supplemental, Chapter 9-22-4 of the South Dakota Codified Law states “every municipality may assign for collection any or all delinquent accounts receivable. After reasonable collection efforts, the governing body may determine that an account is non-collectible, and by formal action direct that the non-collectible amount be removed from the records and disclosed on that year’s financial report. Evidence of the debt removed from the records by the formal action of the governing body shall be retained by the municipality to support possible subsequent collection of that debt.”

WHEREAS, efforts have been made to collect these past due accounts receivable, and

WHEREAS, adequate time has elapsed to consider these accounts receivable delinquent and past due,

NOW THEREFORE BE IT RESOLVED that the following accounts be deemed non-collectible and removed from the records and disclosed on the 2007 Financial Report.

ACCOUNT #:	AMOUNT:	
201010-02	\$ 154.15	
402000-07	\$ 171.81	
402100-15	\$ 29.42	
501470-00	\$ 142.01	TOTAL \$ 497.39

Signed this 21st day of May, 2007.

City Of Custer

s/Harold D. Stickney, Mayor

RESOLUTION #05-21-07B – WASHINGTON STREET

Rex discussed this Resolution which would take Washington Street back from the GF&P who believed to have received it from Burlington Northern. The City will give a 30’ location area for the Mickelson Trail. Councilperson Murphey moved to adopt Resolution #05-21-07B Washington Street. Seconded by Councilperson Culberson, the motion unanimously carried.

RESOLUTION NO. 05-21-07B

WHEREAS, the 1885 Plat of the original Town of the City of Custer City, South Dakota established in detail certain streets and alleys including Washington Street from Park Avenue on the East to Mountain Avenue on the West, establishing a right-of-way therein of 120 foot in width;

WHEREAS, an Ordinance of the City of Custer City dated October 3rd, 1891, utilized the following language in the purported vacation of certain portions of Washington Street, to-wit: “that all that portion of Washington Street in the Town of Custer City, in said Custer County, State of South Dakota, lying and being between Mountain Avenue and Eleventh Street, and all that portion of Fourth, Fifth, and Eight Streets, where said Streets intersect and cross said Washington Street, and also the alleys running North and South, through the North half of Block One Hundred Fourteen, and the alleys North and South through the South half of Block One Hundred Six, One Hundred Fifteen, One Hundred Sixteen and One Hundred Twenty Five of said Custer City, be and the same hereby are vacated and the said portions of said Avenue and said alleys so vacated be and they are hereby set apart for, and dedicated and granted to the Grand Island & Wyoming Railroad Company, it’s Successors and assigns to be used by said Railroad Company, it’s Successors and assigns, in the construction, maintenance, and operation of a Railroad into and through the said Town of Custer City;

WHEREAS, Burlington Northern Railroad Company, Grand Island & Wyoming Company’s Successor in interest, on December 29, 1989, executed a Quit Claim Deed to the State of South Dakota, Department of Game Fish and Parks for the following property: All of said Railroad Company’s interest in that portion of vacated Washington Street and the streets and alleys abutting thereto in Custer City lying between the Easterly margin of Mountain Avenue and the Easterly line of Lot 3, Block 105 in said Custer City extended Southeasterly, said extended line being designated M.P.44.61 and being the end point of this description.

WHEREAS, said Quit Claim Deed was subject, however, to all existing interests, including all reservations, rights-of-way, and easements of record or otherwise;

WHEREAS, it is the City of Custer City’s position that, upon the Grand Island & Wyoming Railroad Company or it’s Successors in interest abandonment of the operation of such Railroad, and the maintenance and operation thereof, throughout the vacated portions of such streets and alleys and Washington Street throughout the City of Custer City, that such abandonment prompted a reversion to the City of Custer City, the original Grantor of such interest, as a public road utilized immediately as such upon the abandonment by the Railroad;

WHEREAS, this position is in accordance with Barney vs. BNRR, Inc. 490 Northwest 2d 726 (1992), at 730-731;

NOW THEREFORE BE IT RESOLVED, the City of Custer shall continue to utilize and claim as such, the previously vacated Washington Street and the alleys as noted herein above, as public rights-of-way, and further, that there has been no taking, as such roads and alleys have continuously been operated and utilized as public rights-of-way.

Dated this 21st day of May, 2007.

s/Mayor Harold D. Stickney

LIABILITY INSURANCE QUOTE – 1ST WESTERN AGENCY

Paul DeHaan, First Western Agency, submitted a quote for the City's Liability Insurance from Continental Western Group (A rated Best). After summarizing the coverage, he stated the quote but the Company has reduced that amount by \$1439. Paul discussed the difference between the Insurance Company and the Pool which is not an insurance company. Continental is occurrence based which means the occurrence is coverage any time even after the policy period; claims made is that the claim needs to happen and be filed during the policy period. Paul also stressed that this quote includes tail coverage for all aspects. The General Government Committee decided to notify SDPAA about taking quotes since the last year's premium was \$23,203.15; SDPAA will be at the next meeting.

MALT BEVERAGE LICENSE HEARING

The Council received the list of Malt Beverage License Applications for the year 2007-2008 with no problems reported from the Sheriff's Office. All establishments have been reminded to turn in their proof of insurance and TAM training certificates for all employees. Councilperson Schleining moved to approve the following list of Malt Beverage License Applications with proper applications submitted. Seconded by Councilperson Boyer, the motion unanimously carried.

- *City of Custer - Dakotamart, Inc., d/b/a Lynn's Dakotamart - Package (Off Sale) Malt Beverage
- *City of Custer - Fresh Start Convenience Stores Inc. – 1 Package (Off Sale) Malt Beverage & 1 Retail (On-Off Sale) Malt Beverage
- *City of Custer City - Elk Canyon Steakhouse & Buglin' Bull Sports Bar - Retail (On Off Sale) Malt Beverage
- *City of Custer City - Gold Pan Saloon - Package (Off Sale) Malt Beverage
- *City of Custer - Moyle Petroleum Company, d/b/a Common Cents Food Store - Package (Off Sale) Malt Beverage
- *City of Custer City - Sage Creek Grille - Light Wine/Retail (On Off Sale) Malt Beverage
- *City of Custer City - Pizza Works - Retail (On Off Sale) Malt Beverage
- *City Of Custer - Dakota Cowboy, Inc., d/b/a Dakota Cowboy Restaurant - Retail (On Off Sale) Malt Beverage
- *City Of Custer - Anthony J Jenniges, d/b/a AJ's Ore Car Saloon - Retail (On Off Sale) Malt Beverage
- *City of Custer City - Chief Restaurant - Retail (On Off Sale) Malt Beverage
- *City of Custer City – Dark Horse Steak & Brew - Retail (On Off Sale) Malt Beverage
- *City Of Custer - Bank Coffee House, Inc. d/b/a Bank Coffee House - Retail (On Off Sale) Malt Beverage
- *City Of Custer - Susan Morrissey, d/b/a Our Place - Retail (On Off Sale) Malt Beverage
- *City Of Custer - MG Oil Company, d/b/a Amoco Food Shop #12 - Retail (On Off Sale) Malt Beverage
- *City Of Custer - The Hideaway Inc, d/b/a The Wrangler – Retail (On Off Sale) Malt Beverage
- *City Of Custer - Songbird Productions, LLC, d/b/a Songbird Café & Gallery - Retail (On Off Sale) Malt Beverage/Light Wine
- *City Of Custer – QC International, Inc. d/b/a Custer Crazy Horse Kampground - Retail (Off Sale) Malt Beverage
- *City of Custer – Bret or Mary Shanklin, d/b/a Shanklin's - Retail (On Off Sale) Malt Beverage
- *City of Custer – C&C Market Inc., d/b/a Custer Country Market – Retail (Off-Sale) Malt Beverage
- *City Of Custer - Herb J. Stender, d/b/a Moonshine Pub and Casino – Retail (On Off Sale) Malt Beverage
- *City Of Custer – Jill T. Hatch, d/b/a Pork-N-Fork - Retail (On Off Sale) Malt Beverage

PAVEMENT PLAN ENGINEERING

Bob and Rex discussed the Pavement Plan with adjustments to the drainage requirements. They received an Opinion of Cost which is \$1,300,000 but we will have a better idea after the project is bid. Councilperson Culberson moved to approve going to bid with a second by Councilperson Starr. Councilperson Culberson discussed the possibility of the Council having more input on the cut back list if it comes to that. The motion unanimously carried. The Mayor discussed the review that Bob and Rex did by cutting back on the curb and gutter and addressing the drainage in other ways; this saved some money so we can accomplish more.

ANNUAL GOLF COURSE BOARD PROJECT

Jason Petik, Board President, discussed and reviewed the 2006 Golf Course Annual Report. They will be having a new budget coming up and when their major loan is paid off, they will be look at upgrading their irrigation equipment. They have hired a new manager, Jerod Nelson, who is working out very well. This course has the lowest green fees due to its size but single memberships are up by 30 and couples are up by 20. The Mayor thanked Jason for coming and updating the Council.

HUSKY HEAVEN KENNEL REQUEST

Councilperson Schleining mentioned that the General Government Committee requested additional information from Clay Pratt's neighbors which needs to have proof that they have been notified. Clay stated that he does have a sales tax number so he does qualify as a business and he has filed the USDA application which he wasn't aware of before. He also stated that any waste is disposed of through garbage pick up. Clay also stated he does not want a puppy farm; he just wants to keep his dogs (pets) and his sled team. Councilperson Murphey discussed defining "kennel" more specifically in our Ordinances. No action until all information is submitted.

SHOWMOBILE USE REQUEST

Christine discussed a request for the use of the Showmobile at Stockade Lake June 2nd for the Custer State Park Spur Ribbon Cutting; this is what was called the Mickelson Trail Extension Bike Path. Bob stated that at the present time, we do not have the equipment to pull the Showmobile that far so the GF&P will have to provide for that. Christine will contact the Chamber to relay that message. Councilperson Boyer moved to approve this request with the stipulation that the Park picks the Showmobile up. Seconded by Councilperson Culberson, the motion unanimously carried.

PRELIMINARY & FINAL PLAT

Rex submitted the preliminary and final plat from JaPaNa, Pamela Pettit, for the property described as Club Calf Subdivision – Plat of Tract Club Calf of Lot 3 of Tract C, of MS#2063 located in the SE ¼, NE ¼, the NE ¼, SE ¼, of Section 16 and the SW ¼, NW ¼, and the NW ¼, SW ¼, Section 15, T3S, R4E, BHM, Custer County, South Dakota. This is keeping the home, barn, and out buildings with the main property and separating out 22 acres into another plot. Councilperson Starr moved to approve this plat with the stipulation that requirements be met. Seconded by Councilperson Boyer, the motion unanimously carried.

CASTLE CLEANING CONTRACT

Christine presented the Janitorial Services Contract with Castle Cleaning in the amount of \$9,000. Councilperson Schleining moved to approve this contract. Seconded by Councilperson Boyer, the motion unanimously carried.

NEW HIRE

Bob requested the temporary seasonal hire of Colby Stalder at Step 1 \$9 per hour effective May 29, 2007. Councilperson Murphey moved to approve this new hire. Seconded by Councilperson Boyer, the motion unanimously carried.

COUNCIL OFFICERS

Councilperson Boyer moved to have Councilperson Schleining remain as President and Councilperson Culberson as Vice President. Seconded by Councilperson Murphey, the motion unanimously carried.

YMCA POOL CONTRACT

Bob presented the YMCA Pool Management Contract for \$10,000 with virtually no changes from last year. Discussion was held on the problems of hiring lifeguards but Corbin seems to be doing well with recruitment. Councilperson Murphey moved to approve this contract. Seconded by Councilperson Pischke, the motion unanimously carried.

REPORTS

The Council received, reviewed, and acknowledged the Sheriff's Written Report, the BH RC&D Report, and the Hospital Board Monthly Report. Discussion was held on the Cost of Community Services Project by RC&D which the County Commissioners are supporting.

DISCUSSION ITEMS

Councilperson Schleining wondered about the soccer fields which Bob stated they have been started with Corbin volunteering the grading.

Rex discussed the Mickelson Trail and having the Contractor back to do some repairs from the winter.

Bob mentioned the sink hole which took 22 dump truck loads to fill it up; seems that it was an old abandoned well.

Discussion was held on who to contact about the gas tanks on 4th Street so that they can be moved and have that area cleaned up.

CLAIMS

Councilperson Schleining moved, with a seconded by Councilperson Murphey, to approve the claims.
The motion unanimously carried.
AFLAC, Insurance Premiums, \$360.38
BH Power, Utilities, \$8950.60
Chamber of Commerce, Travel & Conferences, \$200
Custer Co. Treasurer, In Lieu of Taxes, \$5080.24
Custer School District, In Lieu of Taxes, \$16695.51
Dakota Backup, Professional Services, \$44.16
Eagles Sales of BH, Supplies, \$3278.81
Enviromaster, Supplies, \$22
Jim Dandy Snack, Supplies, \$79.20
Okoboji Wines, Supplies, \$433.40
Quill Corporation, Supplies, \$63.04
Rapid City Telco, Supplies, \$102.98
Rapid City YMCA, Pool Contract, \$10000
Christine Redden, Reimbursement, \$198
Republic National Distributing, Supplies, \$4707.12
Sander Sanitation Service, Repair & Maintenance, Utilities, \$7500.99
SD Dept. of Revenue, Licenses, \$2100
SD Secretary State, Annual Report, \$30
SD State Executive Finance, Utilities, \$38.35
Wellmark, Health Insurance, \$5799
Western Wholesaler, Supplies, \$6353.17
Zimco Supply Co., Long Term Recreation, \$6569
A&B Electric, Repair & Maintenance, \$155.04
BH Truck & Trailer, Repair & Maintenance, \$154.96
Border States Electric, Supplies, \$288.59
Century Business Products, Supplies, \$60.70
Chamber of Commerce, Sales Tax Subsidy, \$4991.65
Custer Community Health, Sales Tax Subsidy, \$25718.91
Custer Do It Best, Supplies, \$296.63
Custer True Value, Supplies, \$160.60
Dave Bland Auto Repair, Repair & Maintenance, \$94.62
Fastenal, Supplies, \$15.24
First Western Bank, TIF District, \$9200.43
Gen Pro Power Systems, Repair & Maintenance, \$746.52
Hawkins Chemical, Supplies, \$5
HD Supply Waterworks, Computer Upgrades, \$7706.89
Honeywell, Repair & Maintenance, \$4965.50
Lynn's Dakotamart, Supplies, \$41.40
Mayer Plumbing, Repair & Maintenance, \$75
S&B Motor Parts, Supplies, \$293.82
Superior Lamp, Supplies, \$261.29
Total Claims \$133,838.74

ADJOURNMENT

With no further business, Mayor Stickney adjourned the meeting at 7:50 p.m.

ATTEST:

CITY OF CUSTER CITY

Christine Redden
Finance Officer

Harold D. Stickney
Mayor