

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
AUGUST 18th, 2008**

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

AGENDA

Councilperson Starr moved to approve the agenda. Seconded by Councilperson Pischke, the motion unanimously carried.

MINUTES

Councilperson Pischke moved, with a second by Councilperson Sutton, to approve the minutes from the August 4th, 2008 regular meeting. The motion carried. Councilperson Starr abstained.

CONFLICTS OF INTEREST

No conflicts were stated.

DEPARTMENT HEAD DISCUSSION

Bob Morrison, Public Works Director, discussed rescheduling the Public Works Committee, which after some discussion it will be Wednesday August 20th. The Rally went smooth, the trash was less, but all is well. Way Park is looking different after taking the tree out which is a good thing as the one tree was rotten all the way down the trunk. Hills Material will be bringing in a load of asphalt to complete the projects on Crook Street as well as some other spots; there will be patching in the one alley but the cost will be billed back to the owner of the business. Discussion was also held on the type of patching and if there was a heater to borrow to help with the patching. Discussion was held on a hole by the Middle School where the water is running under the asphalt and that Wilsie Drive has major drainage problems. Bob stated that the only way this will be fixed is installing an underground storm sewer but there is only rock underneath. Most of the drainage issue stems from DOT and their road work. The new Jetter is in and is working great; we'll be able to use it for many projects. Councilperson Starr complimented the City Crew on the work on Washington Street before the major events and the new umbrellas at pool.

Rex Harris, Community Development Director, discussed the Rally which is about even with last year and overall, the vendors are happy and most of them are returning.

DEPT. OF HEALTH – PANDEMIC FLU PLAN

Wade Huntington, SD Dept of Health discussed their Pandemic Plan with Custer being designated as one of the "PODs"; a POD is a Point Of Distribution. They have been working with Mike Carter, County EMS Director, and the Superintendent of the Schools. The High School would be the distribution point and if needed, the teachers would be available to help man the station. There would be about 7 key people but a total of 175 volunteers needed. This situation would be activated at the time the Governor declared a state of emergency. The Mayor thanked Wade for coming and updating the Council.

COMMUNICATIONS USER BOARD

Sheriff Wheeler discussed the Custer County Communication Center Management Control Agreement which the Custer County Commissioners have adopted to establish the Communications Users Board. This Board will include the Sheriff, the County Fire Coordinator, the County State's Attorney, EMS representative, and a representative from the City Council. The Board would meet three times a year and the Sheriff requested one representative and one alternate be appointed. The Mayor stated that the logical person would be Rex and he would provide continuity since the Council can change more rapidly. The Mayor appointed Rex as the Representative and himself as the Alternate. The Sheriff also mentioned using the Highway Safety Grant to assist with the Rally costs as well as setting up DUI check points.

The Sheriff also discussed the issue of people turning across the double yellow line to dive into a parking spot. He wondered about signs being posted but Bob stated that becomes a DOT issue. Attorney Beesley stated that there is the violation of crossing the double yellow which can be ticketed. The Sheriff and the Attorney will get together and discuss the issues.

The Sheriff also submitted the monthly report for July which was acknowledged by the Council.

RESOLUTION #08-18-08A – OPPOSING INITIATED MEASURE #10

The Council received the Resolution opposing Initiated Measure #10 with a passage recommendation from the General Government Committee. This Measure is overly broad and reaches out to any business or organization that would receive money from the City. This Measure does not just address clean government. Councilperson Starr moved to adopt this Resolution. Seconded by Councilperson Sutton, the motion unanimously carried.

Resolution #08-18-08A
Opposing Initiated Measure #10
City of Custer

Whereas, The Custer City Common Council believes and supports the ideal of clean government, however;

Whereas, Initiated Measure #10 would prohibit any city, school, or county from paying dues to any association that lobbies:

Whereas, it is far more effective and cost efficient to join together with our fellow cities through the SD Municipal League for coordinated communication with the Legislature than to have each city stand alone;

Whereas, the costs to the taxpayers of having each city, school, or county monitor, report, and travel to Pierre to participate in the Legislative Session would be much greater than any dues to the SD Municipal League;

Whereas, coordinated communication with Legislators leads to more efficiency in the Legislative process and has saved millions of dollars in taxpayer funds;

Whereas, restricting the ability of municipalities or counties, on behalf of their constituents, to support candidates and communicate effectively with their elected public officials is a violation of the right to freedom of speech;

Whereas, the measure will be challenged in court and will most likely be found to be unconstitutional, costing millions of dollars in taxpayer money;

Whereas, Initiated Measure #10 permits State government-paid lobbyists, out-of-state lobbyists, or corporate lobbyists, but abridges citizen's coordinated voices for local control;

Whereas, the City of Custer finds that municipal officials throughout South Dakota are dedicated, honest and ethical people with the best interests of their cities in mind and that cities take great pride in providing open, honest government to our citizens;

Whereas, the many thousands of South Dakotans who do business with the cities, counties, schools, and other governmental entities should not be penalized for providing such services;

Whereas, civic groups who work to better their community, and often require local funding to provide their services should not be prohibited from communicating their needs to local public servants;

Whereas, the forces supporting Initiated Measure #10 will not reveal the source of their funding, leading to the reasonable assumption that out of state special interests are once again attempting to subvert and abuse the South Dakota initiative and ballot process;

Therefore let it be resolved that the City of Custer strongly opposes Initiated Measure #10 and urges all citizens to vote "NO" on the measure.

Dated this 18th day of August, 2008

s/Harold D. Stickney, Mayor

RESOLUTION #08-18-08B – GOLF COURSE ANNEXATION

Rex presented the Annexation Resolution for the Golf Course Property which the Council previously requested. The Council wondered if this was only City property and if it included all our property like West Dam and Gates Park which Rex stated it does. Councilperson Pischke wondered about the 15 acre parcel west of the course and possibly surplus it. Rex stated that would be a Council decision as well as whether or not they would use the money to re-invest in the Course. Councilperson Reetz requested maps with all projects discussing land. Councilperson Pischke moved to adopt this Resolution. Seconded by Councilperson Sutton, the motion unanimously carried.

RESOLUTION NO. 08-18-08B

RESOLUTION ANNEXING REAL PROPERTY

WHEREAS, The City of Custer City having submitted a Request for Annexation to the Common Council; and WHEREAS, the Request for Annexation appearing to be in proper form and of lawful content; 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 property:

Tract Mae of Tract A, Country Club Easement, and Tract A of HES # 412, all in Section 27, T3S, R4E, B.H.M., Custer County, South Dakota

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.

Land Use Designation.

Exhibit "A" shall designate the approved land uses for the proposed development. Appropriate zoning designation shall be applied these areas to allow these land uses.

Dated at Custer City, Custer County, South Dakota, this 18th day of August, 2008.

CITY OF CUSTER CITY

s/Harold D. Stickney, Mayor

SECOND READING ORDINANCE #653 – MASTER SALARY SCHEDULE

The Council received the Master Salary Schedule based upon the previous meeting which addressed the wage changes in our employee positions. Councilperson Starr moved to adopt Ordinance #653. Seconded by Councilperson Pischke, the motion unanimously carried with Councilperson Sutton, Pischke, Starr, and Reetz voting yes.

BID AWARD – SEWER TREATMENT PLANT AUGER

Bob presented the only bid received for the Sewer Auger which is from RCS Construction, Inc. from Rapid City with the bid amount being \$104,400. Bob discussed the need to accept the bid even though it came in over the estimates and as the upgrade is needed and there are the safety concerns also. Councilperson Starr moved to approve this bid. Seconded by Councilperson Reetz, the motion unanimously carried.

BROWN BAG LICENSE

The Chamber of Commerce submitted a request for a Brown Bag License for September 18th at Harbach Park for the Mickelson Trail Trek. Councilperson Starr moved to approve this License. Seconded by Councilperson Pischke, the motion unanimously carried.

FIRST READING ORDINANCE #657 – ZONING CHANGE MEDICAL

The Council received the Resolution for the Zoning Change for the Pro Health Property owned by Rob & Rhonda Nitschelm for the property described as Lot 4 of Pro Health Subdivision, formerly a portion of Tract Flores of Homestead Subdivision, located in the NW ¼ and the SW ¼ of Section 24, T3S, R4E, BHM, Custer City, Custer county, South Dakota. Rex recommends approval as this extends the zoning one lot east. Councilperson Starr moved to approve this change. Seconded by Councilperson Pischke, the motion unanimously carried.

FRESH START – CASINO REQUEST

The General Government Committee after further review and evaluation recommends approval of a Casino at the Fresh Start property which was formerly Ranchmart. Councilperson Sutton questioned the School's Drug Free Zone and how far that reaches which, after further investigation, the Zone only doubles any fine for illegal drugs. Possible restrictions were discussed as well as evaluating other places such as Churches, allowance of alcohol in the Parks, etc. The Council decided to table this issue until September 2nd meeting.

CITY ATTORNEY CONTRACT

The Council received the proposed contract for City Attorney Beesley with no changes to the two year contract. Discussion was held on periodically doing RFP's for contracts. Councilperson Starr moved, with a second by Councilperson Pischke, to approve this contract. The motion did not carry with all voting no.

SRF LOAN PAYOFF

The General Government Committee recommends the payoff of the USDA Water Loan with the payoff amount being \$117,669. This is a savings of approximately \$35,000 in interest payments. The funding is from the Water Bond Reserves. Councilperson Reetz moved to approve the loan payoff. Seconded by Councilperson Pischke, the motion unanimously carried.

PRELIMINARY FINAL PLAT – FLYING CRANE SUBDIVISION

Rex submitted the preliminary and final plat for Herbert Raphael for the property described as Plat of Flying Crane Subdivision, Plat of Blue Sky Ponderosa Tract, and Beavers Tract, Located in the E ½, SE ¼, of Section 2, T4S, R4E, BHM, Custer County, South Dakota. This plat subdivides this property into one 15 acre lot and leaves the remaining 23 acres. Councilperson Reetz questioned the legality of the access since the Forest Service did not approve this. Rex stated that the three landowners have formed a Homeowners Association to maintain the road which was required by the Forest Service and this road has been in place for more than 20; therefore this road cannot be closed; plus this would be a "taking" of land which is illegal without compensation. Also the County is looking at a connector road from Sidney Park Road to Hwy 385 and this would be used as part of the project. The Forest Service is looking at different roads and trails since they have adopted a Program to eliminate a lot of them. Councilperson Starr stated that this is not making any sense and we need to act with common sense in place. Rex recommended approval based on being convinced that this does have access. Councilperson Reetz requested the City Attorney do research into this issue. Councilperson Reetz moved to deny this plat. The motion died for lack of a second. Councilperson Starr moved to approve this plat. The motion died for lack of a second. This will be brought back to next regular meeting.

PRELIMINARY FINAL PLAT – ROSSE SUBDIVISION

Rex submitted the preliminary and final plat for Jennial Martin for the property described as Rosse Subdivision, Plat of Tracts 1 and 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 the Section 27, T3S, R4E, BHM, Custer County, South Dakota. This is the old Pamida Subdivision which the mylar had been lost and not filed. This will also provide the City with an easement for water and sewer lines along the highway frontage. Councilperson Reetz wondered if the easements are permanent which Rex stated they are. Councilperson Pischke moved to approve this plat. Seconded by Councilperson Sutton, the motion unanimously carried.

ROW OCCUPANCY PERMIT – TRIPLE C DEVELOPMENT

Rex presented the ROW Occupancy Permit for Triple C Development, Inc., for the property described as West ½ of Lot 9, the Vacated 30 feet N/S Alley, Lots 10, 11, and 12, and the Vacated East 25 feet of Second Street, all in Block 126, Original Town, Section 26, T3S, R4E, BHM, Custer City, Custer County, South Dakota. This would be a revocable permit for encroachment of the loading dock only and it is slightly over one foot. Also, if there would have to be reconstruction of the building, this permit would go away and they would have to be in compliance. Councilperson Sutton moved to approve this permit. Seconded by Councilperson Starr, the motion unanimously carried.

EMPLOYEE CHANGES

Bob discussed the need to have additional staff to work on the list of projects which the Council received in their packets. To better suit the situation, Bob is requested two ¾ time people with ¾ time benefits. After some discussion on ¾ time pay vs. full time living wage, Councilperson Starr moved to approve two additional full time inter-departmental maintenance positions. Seconded by Councilperson Sutton, the motion unanimously carried.

DISCUSSION ITEMS – DEER MANAGEMENT PLAN

The Mayor discussed the draft Resolution presented in regards to the Deer Management Plan and that they will have this for review for the next regular meeting on September 2nd.

The Mayor mentioned he received a letter from Senator Tim Johnson regarding restoring funding to the RC&D's.

Discussion was held on West Dam looking scummy and having so many weeds which Bob stated this is due to nature. The Council discussed dredging the Dam which Bob stated would be quite the process due to the Army Corp of Engineers and DENR. The silt cannot touch the ground around the dam so it has to be hauled off. Councilperson Sutton stated you would need to be careful due to a fault line in the middle. Rex stated the RAC Committee has discussed the possibility of becoming partners with the City to improve the Dam. Councilperson Pischke wondered about contacting the School of Mines to do a project for their upper level students.

Councilperson Reetz discussed his meeting with the Forest Service in regards to a truck alternate route and the sale of the Forest Service property. The Forest Service is on hold so that does give us time to contact the business community for discussion of the project. Discussion was then held on the zoning of the property which at the present time, there is no zoning.

CLAIMS

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

A&B Welding, Supplies, \$30.83
American Linen, Repair & Maintenance, \$262.33
BH Power, Utilities, \$3943.06
Border States Electric, Cruisin, \$1738.36
Chadron Wholesale, Supplies, \$1446.11
Chris Supply, Supplies, \$22.79
CNA Surety, Insurance, \$636.50
Coca-Cola, Supplies, \$902
Culligan Water, Repair & Maint., \$17.50
Custer Chamber, Sales Tax Subsidy, \$17303
Custer Community Health System, Sales Tax Subsidy, \$44581.03
Custer County Hwy Department, Supplies, \$2623
Custer County Market, Other, \$44.90
Custer Do It Best, Supplies, \$124.49
Custer Regional Medical, Safety, \$20
Custer true Value, Supplies, \$1240.49
Diesel Machinery, Supplies, \$243.06
Eagle Sales, Supplies, \$11470.12
Energy Laboratories, Repair & Maint., Fees, \$337.50
Fastenal, Supplies, \$53.02
First Western Insurance, Premiums, \$14570
Fisher Beverage, Supplies, \$12871.10
FourFront Design, Professional Fees, \$1477.98
French Creek Supply, Supplies, Repair & Maint., \$500.55
Frontier Photo, Other, \$210
Hawkins Chemical, Supplies, \$3265.40
HD Supply, Supplies, \$5664.99
Jim Dandy Snack Food, Supplies, \$142.50
Laboratory Corp, Fees, \$92
M&B Enterprises, Supplies, \$35
Mannatec, Supplies, \$2411.35
Mayer Plumbing, Repair & Maint., \$512.89
McGas Propane, Supplies, \$599
Northwest Pipe Fittings, Supplies, \$6.40
Okoboji Wines, Supplies, \$235.36
One Call Systems, Supplies, \$29
Power House, Supplies, \$38.05
Quill Corporation, Supplies, \$68.84
Rapid Delivery, Fees, Supplies, \$63.70

S&B Motor Parts, Supplies, \$902.72
Sander Sanitation Service, Repair & Maint., \$8867.91
SD State Exec. Mgmt Finance, Utilities, \$28.72
The Ice House, Supplies, \$483.35
USDA Rural Development, Loan Payoff, \$117669
Warne Chemical, Supplies, \$256.40
Troy Burch, Deposit Refund, \$50.00
Sanitation Products, Equipment, \$65000
Custer Chamber, Sales Tax Subsidy, \$7135.07
Custer Community Health Systems, Sales Tax Subsidy, \$31645.54
McGas Propane, Supplies, \$34850
Total Claims \$396,722.91

ADJOURNMENT

With no further business, Mayor Stickney adjourned the meeting at 8:10 p.m.

ATTEST:

CITY OF CUSTER CITY

Christine Redden
Finance Officer

Harold D. Stickney
Mayor