

**CITY OF CUSTER CITY  
COUNCIL PROCEEDINGS- REGULAR SESSION  
SEPTEMBER 21<sup>st</sup>, 2009**

Mayor Harold D. Stickney called to order the second regular meeting of the Common Council for the month of September, 2009 at 5:30 p.m. Present at roll call were Councilpersons Murphey, Schleining, Pischke, Ressler, Reetz, Starr (by telephone), Chris Beesley, City Attorney, Bob Morrison, Public Works Director, Rex Harris, Community Development Director, and Christine Redden, Finance Officer. The Pledge of Allegiance was stated.

**AGENDA**

Councilperson Murphey moved, with a second by Councilperson Ressler, to approve the agenda with items 6d and 6g moved to 6a and 6b of public presentations as requested by Councilperson Starr. The motion unanimously carried.

**MINUTES**

Councilperson Murphey moved, with a second by Councilperson Pischke, to approve the minutes from the September 8<sup>th</sup> and September 14<sup>th</sup>, 2009 budget meetings. The motion unanimously carried.

**CONFLICTS OF INTEREST**

No conflicts were stated.

**DEPARTMENT HEAD MEETING**

Bob discussed continuing on the list of projects along with writing a set of general bid specs to make the process less time consuming in the future. The crew has been working on streets like Young Drive with grading and millings, rebuilt the alley behind True Value, asphalt patching, and doing drainage work on Mountain Ave. They are also in the process of the water main abandonment which should be completed shortly after October 1<sup>st</sup>. Water sales are up 3.1%, water pumping is down 15.4%, so we have a gain of 18.5%. Bob also discussed SDWARN which is SD Water and Wastewater Agency Response Network. This is SD's mutual aid program which can be accessed on the internet. Listed there the participating cities, 85 of them, and what resources they would have to offer in an emergency. This has been a nationwide effort with even two territories in Canada. There are other larger states that don't have the participation that we do. Bob also mentioned that he is the Municipal Representative for the State.

Rex updated the Council on the Gordon Street Extension Project which is in the design mode with the topographical information received. The Way Park Project has Phase 1 completed and the grass is growing. Councilperson Reetz wondered if the neighbors have been notified for the Gordon Street Project which Rex stated he has been in discussions with each of them and has already talked to David Green at the County and DOT.

**SECOND READING ORDINANCE #667 – 2010 APPROPRIATIONS**

Councilperson Reetz blustered about his concerns for approval of the Ordinance and believes that we should not have a liquor fund; he would like consideration and has questions about Christine's wages being only in the fund. Along with his arbitrary wage figure, he also mentioned several other amounts such as design cost, which would actually be capitalized with the new building costs. Christine handed out a profit and loss statement showing the end of the year adjustments; the error being that a final profit and loss had not been completed after the books were closed in March. He also stated that amounts had been dropped from the books and thinks the problem is in the books; he wants to wait on adopting the Ordinance until an audit can be completed. Christine stated the Ordinance needs to be adopted by the end of September with a budget for liquor fund due to receiving revenues in that fund; if we don't pass the Ordinance, the property tax request could not be submitted to the County. Councilperson Murphey stated that the books are audited every year. Councilperson Reetz moved to wait to pass the budget until we get an audit. The motion died for lack of a second. Councilperson Murphey discussed and moved to amend the Ordinance to include a transfer of \$18,000 from the liquor fund to the general fund so the Mayor & Council contingency would be set at \$30,000. Seconded by Councilperson Pischke, the motion unanimously carried. Then Councilperson Murphey moved, with a seconded by Councilperson Ressler, to adopt Ordinance #667 for the 2010 Appropriations as amended. Councilperson Starr wanted clarification that there was no line item in the liquor fund for a new building. The motion carried with Councilperson Schleining, Murphey, Ressler, Starr, and Pischke voting yes. Councilperson Reetz voted no.

**TIF #4 – PROJECT APPROVAL**

Councilperson Murphey stated the Planning Commission has reviewed all three options along with Councilperson Reetz suggestion and gave a recommendation to adopt Plan "A". The Commission really liked the mixed of the downtown and further out with the sidewalks and lighting improvements. Rex stated the previous cost estimates are still good but hopefully the bids come in under. Councilperson Starr wondered about deleting the engineering and the nodes first since these probably wouldn't be completed; so he believes in adopting "A" without the nodes. Rex stated that there wouldn't be much savings for the engineering, maybe \$1000. Councilperson Reetz wondered about the sidewalk widening? Rex stated that we've look at that and it's in the Plan along with the Mickelson Trail extension east to the intersection and then we can see about the money. Councilperson Murphey discussed the possible cost share with DOT for the lighting project. Councilperson Reetz wondered about wires being buried which Rex stated that is included. Bob Paceley supports Plan "A" but in order to meet the numbers, the nodes could be left out. Rex commented that the engineering should be left in just in case. Councilperson Reetz wondered about the engineering for the lighting; we could save on those costs by having the lighting company do that. Matt Fridell, Wyss & Associates, stated that the lighting companies provide limited

engineering especially with Custer having special issues like speaker wires, other lighting, the lodes working more than normal, stubbing out lines, awnings, changing lighting placement due to the awnings; companies usually don't do entire projects. The Custer Improvement Committee had Halophane come out and discussed minimums and maximum standards from DOT but when you start moving lights around, it's a lot of extra but the cost share with DOT could double our capacity. Rex stated that if everything would come together properly, the lights could be from one city limit to the other. Councilperson Ressler discussed cutting out the nodes which would save enough to get down to \$1 million; they are \$36,000 a piece. Councilperson Murphey also stated that we could look for other grants for the trail extension. Councilperson Reetz once again discussed widening sidewalks which Rex stated it would be cost prohibitive on the north side due to the significant grade and having to address retaining walls; there are already two sidewalks on the north side which equals eight feet. Councilperson Reetz stated that we are having the landowners responsible for the cost so who cares; it's not the City's money. Rex stated that we can't ask the landowner for that much. Councilperson Murphey moved, with a second by Councilperson Ressler, to select Plan "A" as the Project Plan. The motion unanimously carried.

#### **PARADE PERMIT**

Dale Schaffer, Custer High School, submitted a request for the Homecoming Parade to be held September 24<sup>th</sup> at 1:45 p.m. Bob stated that this is their standard route and there haven't been any problems. Councilperson Reetz moved to approve this request. Seconded by Councilperson Pischke, the motion carried unanimously.

#### **BROWN BAG LICENSES & RAFFLE PERMIT**

The Custer Chamber of Commerce requested a Raffle Permit and Brown Bag Licenses for their 2010 mixers as follows: January Premier Family Eyecare, February Dacotah Bank, March Vineyard Black Hills, April Wayback Inn, May BH Community Foundation, September Holiday Inn Express, October Golden Circle Tours & Sliver Creek Foods, November Compassionate Care, and December Fennel Design. Councilperson Murphey moved to approve these requests. Seconded by Councilperson Schleining, the motion unanimously carried.

#### **LIQUOR LICENSE TRANSFER HEARING**

The Council received the liquor and malt beverage license transfer application for the Elk Canyon Steakhouse & Buglin Bull Sports Bar to Brian & Janet Boyer d/b/a Elk Canyon Downtown Pub & Grill for the property described as Lot 2 Block 8, Original Town, Custer City, Custer County, SD. They are requesting the transfer be contingent upon the completed sale. Councilperson Reetz moved to approve the transfer contingent upon the closing. Seconded by Councilperson Schleining, the motion unanimously carried.

#### **RECYCLING PROPOSAL – KEEP HOT SPRINGS BEAUTIFUL**

The Council received a request from Keep Hot Springs Beautiful Association requesting support from the outlying communities to join in the recycling effort. Custer/Pringle's share of the proposed amount would be \$2164 which is less than \$5 per person annually. This item was tabled until the next meeting for further information.

#### **VARIANCE HEARING – HOME BASED BUSINESS**

Rex presented the variance request from Vickie Thompson at 1065 Summit Street to have a home based massage business in the residential area which the Municipal Code allows for permitted conditional use; Vicki is aware of all requirements and the Planning Commission has recommended approval. Councilperson Murphey moved to approve this request. Seconded by Councilperson Pischke, the motion unanimously carried.

#### **LIQUOR STORE – SURVEY QUESTIONS**

Councilperson Murphey stated we should move forward with the survey. Councilperson Reetz wondered where the questions are. Christine stated that the Council had put this on hold so if we move forward, the questions, the costs involved, and time line would be brought forward; she just needs a direction. Councilperson Schleining stated that if this is going to an election, why would we spend the money on the survey? Councilperson Starr stated that we, as a Council, need to have further discussion on the numbers; it's too early and he doesn't know yet. Councilperson Murphey questioned who wanted to go with setting an election. No decisions were made.

#### **Councilperson Starr exited the meeting at 6:22 p.m.**

#### **GEOTECHNICAL EXPLORATION PROPOSAL – GORDON STREET EXTENSION**

Rex discussed and recommended approval for the engineering so we can proceed with the project; the landowner agreements will take about two weeks. Attorney Beesley stated there needs to be an appraisal committee or hire one licensed appraiser for the properties involved. Councilperson Murphey stated there is a need to have this agreement approved for project costs also; the appraisal is separate but we do need both in place. Rex stated that he does have verbal approval from the landowners to proceed. Councilperson Reetz stated we are moving too fast and need wait. Councilperson Murphey questioned why Councilperson Reetz voted at the Public Works Committee to move ahead and yet now we're going backwards. Councilperson Ressler stated that we tabled this last week until we have signed agreements, even if they are in an email. When questioned by Councilperson Reetz, Rex stated again that the adjacent landowners are aware of the project and the other two are aware for the right-of-way. Councilperson Murphey stated that the tests could determine that we might have to move the road, we don't know until we move forward. Councilperson Schleining stated there have been many people contact her and are very pleased that we are finally making a second access. Rex stated that GF&P have approved this except for the elevation. Rex stated that we have to acquire the agreements and then a trespass permit. Councilperson Schleining moved to approve this agreement contingent upon receiving written approval. Seconded by Councilperson Murphey, the motion unanimously carried.

## **MOLD INSPECTION**

Councilperson Murphey discussed the complaints and concerns from Frontier Photo about the odors coming from the building next door and there is another building in town with problems also. So he contacted Liz Rundquist, a mold specialist, to come down and they discussed mold which is everywhere and there is a lot of different kinds. He also mentioned the EPA does not have any set standards and no action level; however, realtors do have to disclose mold in their sale documents. Another factor is the moisture content; mold thrives in moist conditions but can be in remission when it's dry; determining if buildings have mold and what kind could run as high as \$50,000. Liz did say that she would come down and do some preliminary checking for free if we set it up on her schedule; otherwise there would be charge. Depending on the moisture levels, it might require larger sections of walls be taken out for testing, then roof inspections could be involved also which run about \$300. The moisture testing could be \$2000 to \$3000 per building. We would have to have an agreement with the landowner for the inspection. Deb Waite, Frontier Photo, discussed the ceilings, the dark water spots in the ceiling tile, the odor coming from those areas, supports being moved which could be a hazard for customers, and if the smell would stay on their side, she wouldn't have a problem. Councilperson Murphey recommended Rex coordinate a time for Liz, Deb, and Mike to meet plus he would like to have a committee established to set City standards for health issues; health issues, the City should be involved, smells are nuisances which would probably be private. The Public Works Committee was volunteered.

## **BOOT HILL PROPERTY PURCHASE**

Rex informed everyone that a meeting has been scheduled for Wednesday so he will update the Council at the next meeting. Councilperson Schleining wondered about access to the Treatment Plant during bridge construction. Rex stated that could be handled with a temporary easement and a temporary culvert. Councilperson Reetz said there would be less spending on a square culvert and what about relocating the sewer. Bob stated that the sewer would not be relocated as it is a gravity flow which takes a different pump and the last one East Custer Sewer District paid for was about \$100,000. Bob also stated that he has been looking at the box culverts and stacking them; there is one other option but the District would not be able to afford the high maintenance. Councilperson Reetz wondered about the use of the bridge and DOT's time line? Bob stated that would be coordinated with DOT. Bob also stated that the last time there was a flood, he was stuck at the Treatment Plant for eight hours with the wave of high water coming later after the rain storm. There is a high influx of water from the manholes and other collection spots; the manhole covers pop off which then allows large rocks to get in the system which have to be picked out at the Plant before they cause problems; we even used the Fire Dept pump while we were waiting for a third pump to arrive. Councilperson Reetz just wanted the option quick but wondered if all options had been checked. Bob stated again that we need to set up and have legal emergency access. Susan Culberson wondered about waiting on the Committee and delaying the purchase. Rex stated we are waiting on the meeting to work out an agreement; if for some reason there isn't an agreement, then we could have a special council meeting prior to the 1<sup>st</sup>. When questioned about notification, Attorney Beesley stated that anyone could leave their name and number and/or email so they could be notified about a special meeting if that happens. Larry Van Zetten stated he would be getting a meeting memo out to everyone after the Wednesday meeting.

## **CITY HALL DRAINAGE REPAIR PROPOSAL**

The Council received a proposal from Hartman Construction for the budgeted \$2300 drainage repair at the back of City Hall. Councilperson Ressler moved to approve this proposal. Seconded by Councilperson Murphey, the motion unanimously carried.

## **YMCA LOG REPAIR/REPLACEMENT PROPOSAL**

The Council received a proposal from Hartman Construction for the budgeted \$6400 repair and replacement of the support logs at the YMCA Building. Councilperson Schleining moved to approve this proposal. Seconded by Councilperson Pischke, the motion unanimously carried.

## **CITY HALL**

The Mayor discussed the first design from Fennel Design which was rather extensive but Rex changed it to the present view and it will save on costs also. The General Government Committee recommended approval of this project for next year where this project is budgeted. The Council decided to study the design for now.

## **CUSTER CRUISIN COMMITTEE APPOINTMENTS**

The Mayor, with concurrence of the Council, appointed Mark Hartman, Mary Shanklin, Jim Understock, and Bob Miller as alternate, to the Custer Cruisin Committee. The alternate position would not have a vote unless another member was absent.

## **RESIDENTIAL PARKING PROBLEM**

Councilperson Murphey discussed the problem with the alleyway between 7<sup>th</sup> and 8<sup>th</sup> and Crook and Harney; there are way too many vehicles and other items blocking access; it's time to address commercial vehicles, the number of private vehicles parked, and the amount of junk stored. Rex stated that commercial vehicles parked in the alleys are one thing, personal vehicles not so much. Councilperson Reetz stated the Public Works Committee should take this on for an Ordinance change. The Mayor also requested Attorney Beesley attend that meeting to deal with legalities.

## **DISCUSSION ITEMS**

The Mayor discussed the School of Mines having a Metals Program and recognition of outstanding scientists and professors to aid the School in being recognized across the country. They are requesting attendance with the tickets being \$75 per person or buying a table for \$1000. It would appear that they will be honoring outstanding students as well.

BH Vision voted to buy two tables for attendees and students. Councilperson Schleining stated that since the City contributed to BH Vision, there isn't a need for the City to contribute again. The Mayor asked everyone to review the information and we would address it at the next meeting.

The Mayor also discussed BH Vision having Town Hall Meetings at the various cities which contribute to Organization. Custer's will be held October 27<sup>th</sup> at noon with the place to be determined. The Mayor would like to see a good turnout for the meeting to learn more about the re-visioning.

Discussion was held on the designation of Crazy Horse Memorial Highway and the fact that there is another one in Nebraska and now there seems to be another road from Pine Ridge through Buffalo Gap with the same name.

Councilperson Schleining mentioned the General Government Committee addressing the penalty for not having a Transient Merchant Permit prior to opening; it would be a Class 2 misdemeanor with a fine up to \$200. She also mentioned that the Committee is to have six goals for the next meeting and to start on a mission statement for the City.

### **CLAIMS**

Councilperson Murphey moved, with a second by Councilperson Ressler, to approve the claims. The motion unanimously carried.

A&B Welding, Repair & Maint., \$367.20  
Al Cornella Refrigeration, Repair & Maint., \$402.89  
Black Hills Landscapes, Way Park Project, \$755.80  
Black Hills Phones, Utilities, \$50  
BH Power, Utilities, \$7681.57  
Chadron Wholesale, Supplies, \$1655.78  
Chris Supply, Supplies, \$46.76  
Custer Area Arts Council, 2009 Subsidy, \$1000  
Custer Chamber of Commerce, Sales Tax Subsidy, \$27704.21  
Custer Co. Weed/Pest, Weed Spraying, \$3123.50  
Custer Community Health, Sales Tax Subsidy, \$66222.61  
Custer Do It Best, Supplies, Repair & Maint., \$127.37  
Dakota Greens, Supplies, \$270  
Dakota Supply Group, Supplies, Repair & Maint., \$461.37  
Dakotacare, Health Insurance, \$6807.61  
Eagle Sales of the BH, Supplies, \$9860.80  
First Western Bank, TIF Payment, \$1464.21  
Fisher Beverage, Supplies, \$6246.47  
FourFront Design, Professional Fees, \$3431.20  
French Creek Supply, Supplies, Repair & Maint., \$102.27  
Gen Pro Power, Repair & Maint., \$255  
Rex Harris, Reimbursement, \$1068  
Hawkins Chemical, Supplies, \$526  
Hills Material, Supplies, \$2842.34  
Itron, Repair & Maint., \$596.72  
Jim Dandy Snack Food, Supplies, \$57  
Jolly Lane Greenhouse, Way Park Project, \$62.97  
Knight Security, Repair & Maint., \$250  
KNKL Radio, Professional Fees, \$750  
Mobridge Candy, Supplies, \$34  
Moran USA, Supplies, \$65.37  
Moss Rock Landscaping, Way Park Project, \$20430  
Nelson's Oil & Gas, Supplies, \$1134  
Newman Traffic Signs, Supplies, \$229.01  
Okoboji Wines, Supplies, \$66.50  
One Call Systems, Supplies, \$27.30  
Personal Touch Painting, YMCA Bldg Repair & Maint., \$2201.52  
Petty Cash, Supplies, Travel & Conference, Fees, \$366.48  
Plantsmyth, Way Park Project, \$1207.40  
Prairie Berry, Supplies, \$1143  
Quill Corporation, Supplies, \$26.98  
Rapid City Telco, Travel & Conference, \$104.15  
Rapid City YMCA, Management Contract, \$14000  
Republic National Distributing, Supplies, \$9867.12  
Sander Sanitation Service, Utilities, \$11292.61  
Sanitation Products, Repair & Maint., \$851.79  
SD Municipal League, TRAVEL & CONFERENCE, \$15

SD State Executive Mgmt, Utilities, \$24.03  
SEMS Technologies, Supplies, \$49.95  
Harold Stickney, Travel & Conference, \$133.30  
Tatiana's Import Beverages, Supplies, \$135.30  
The Ice House, Supplies, \$340.80  
Valiant Vineyards, Supplies, \$540  
Western Wholesale, Supplies, \$13065.41  
Laurie Woodward, Reimbursement Supplies, \$82.03  
David Carmen, Deposit Refund, \$77.02  
Andy Bissell, Deposit Refund, \$48.99  
Harlan Norton, Deposit Refund, \$23.77  
Element, Credit Card Fees, \$965.54  
First Western Bank, Auto Draft Fees, \$56.26  
State of SD, Sales Tax, \$6898.37  
SRF, Water Loan Payment, \$4639.68  
USDA, Water Loan Payment, \$8910  
Total Claims \$243,242.33

**ADJOURNMENT**

With no further business, Mayor Stickney adjourned the meeting at 7:40 p.m.

ATTEST:

CITY OF CUSTER CITY

Christine Redden  
Finance Officer

Harold D. Stickney  
Mayor