

All City Council Meetings are recorded.

**CITY OF CUSTER CITY  
COUNCIL AGENDA  
November 6<sup>th</sup>, 2017 – City Hall Council Chambers  
5:30 P.M.**

1. Call to Order - Roll Call - Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes – October 16<sup>th</sup>, 2017 Regular Meeting Minutes
4. Declaration of Conflict of Interest
5. Public Presentations - Public Hearings
  - a. Public Hearing – Malt Beverage & Wine License – Dollar General
  - b. Public Hearing – Liquor & Wine License Renewals
  - c. Drainage Issues – Southern Hills Bible Church
  - d. First Reading – Ordinance #796 – Water Rates
  - e. First Reading – Ordinance #797 – Wastewater Rates
  - f. First Reading – Ordinance #798 – Water Off Rates
  - g. Resolution #11-06-17A – Public Park, Public Pool & Public Playground Locations
  - h.
6. Old Business
  - a.
  - b.
  - c.
7. New Business
  - a. Bark Beetle Event Request – Hank Fridell
  - b. Fire Suppression System Covenant and Agreement - Sparling
  - c.
  - d.
  - e.
8. Presentation of Claims –
9. Department Head Discussion & Committee Reports –
10. Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2)
11. Adjournment

**REMINDERS**

- General Government Committee Meeting – November 13<sup>th</sup>, 2017 4:30 P.M.  
Planning Commission Meeting – November 14<sup>th</sup>, 2017 5:00 P.M.  
Regular City Council Meeting – November 20<sup>th</sup>, 2017 5:30 P.M.  
Park & Recreation Committee Meeting – November 21<sup>st</sup>, 2017 5:30 P.M.  
Public Works Committee Meeting – December 4<sup>th</sup>, 2017 4:00 P.M.  
Regular City Council Meeting – December 4<sup>th</sup>, 2017 5:30 P.M.**

ADA Compliance: The City of Custer City fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Finance Office 24 hours prior to the meeting so that appropriate services are available.

**CITY OF CUSTER CITY  
COUNCIL PROCEEDINGS- REGULAR SESSION  
October 16<sup>th</sup>, 2017**

Mayor Corbin Herman called to order the second meeting of the Common Council for the month of October 2017 at 5:30 p.m. Present at roll call were Councilpersons Heinrich, Nielsen, Fischer, Blom and Arseneault. City Attorney Chris Beesley was also present. The Pledge of Allegiance was stated.

**AGENDA**

Councilperson Heinrich moved to approve the agenda. Second by Councilperson Fischer, the motion unanimously carried.

**MINUTES**

Councilperson Nielsen moved, with a second by Councilperson Blom, to approve the minutes from the October 2<sup>nd</sup> regular council meeting. The motion unanimously carried.

**CONFLICTS OF INTEREST**

No conflicts of interest were stated.

**SECOND READING – ORDINANCE #795 – REZONING BLOCK 96 – LYNN'S DAKOTAMART**

Councilperson Fischer moved to adopt Ordinance #795, Rezoning Block 96 – Lynn's Dakotamart. Seconded by Councilperson Blom, the motion carried with Councilperson Heinrich, Nielsen, Fischer, Blom and Arseneault voting yes.

**HARBACH PARK MASTER PLAN CONTRACT**

Councilperson Heinrich moved to approve the Harbach Park Master Plan Contract with Kadrmas, Lee & Jackson, Inc with the project budget (\$19,021.30) being attached as page 2 of Exhibit C. Seconded by Councilperson Nielsen, the motion carried with Councilperson Nielsen, Fischer, Blom, Arseneault and Heinrich voting yes.

**WASTEWATER TREATMENT PLANT IMPROVEMENTS REQUEST FOR PROPOSALS**

Councilperson Fischer moved to authorize the Public Works Director to proceed with the request for proposals for the Wastewater Treatment Plant Improvements. Seconded by Councilperson Heinrich, the motion unanimously carried.

**PRELIMINARY PLAT – KEUPP SUBDIVISION**

Councilperson Fischer moved to approve the preliminary plat for Keupp Subdivision. Seconded by Councilperson Blom, the motion unanimously carried.

**AWARD PRESENTATION**

Mike Bender with Kadrmas, Lee & Jackson, Inc presented Mayor Herman with a Merit Award from the American Society of Landscape Architects for the Custer City Park Master Plan.

**FINAL PLAT – BLOCK 132**

Councilperson Nielsen moved to approve the final plat of Block 132 Subdivision contingent upon all signatures needed on the plat being acquired. Seconded by Councilperson Blom, the motion unanimously carried.

**PLANNING COMMISSION APPOINTMENT**

Councilperson Heinrich moved to approve the appointment of Rick Hudson to the Planning Commission as the 3-mile representative for a 1-year term to expire October 1<sup>st</sup>, 2018. Seconded by Councilperson Nielsen, the motion unanimously carried.

Councilperson Heinrich moved to approve the appointment of Tim Behlings to the Planning Commission as an alternate for a five-year term to expire October 1<sup>st</sup>, 2022. Seconded by Councilperson Blom, the motion unanimously carried.

**CUSTER CRUISIN APPOINTMENTS**

Councilperson Arseneault moved to approve the appointment of Matt Furse and Dave Ressler to the Custer Cruisin Committee. Seconded by Councilperson Blom, the motion unanimously carried.

**ALCOHOLIC BEVERAGE LICENSE OPERATING AGREEMENT**

Councilperson Fischer moved to approve the alcoholic beverage license operating agreement with the change to item #6 as proposed by the City Attorney. Seconded by Councilperson Blom, the motion unanimously carried.

**CLAIMS**

Councilperson Nielsen moved, with a second by Councilperson Arseneault, to approve the following claims. The motion carried unanimously.

A & B Electric, Repairs & Maintenance, \$521.75

BIT Finance Office, Utilities, \$27.61

Black Hills Energy, Utilities, \$12,649.83

Code Works, Professional Fees, \$265.12  
Culligan, Repair & Maintenance, \$54.50  
Chamber Of Commerce, Sales Tax Subsidy, \$29,021.13  
Chronicle, Publishing, \$450.80  
Custer Industrial, Repairs & Maintenance, \$24.57  
Custer True Value, Supplies, Repairs & Maintenance, \$800.18  
Freeman's Electric, Repairs & Maintenance, \$3404.65  
French Creek Supply, Supplies, Repairs & Maintenance, \$325.75  
Green Owl Media, Professional Fees, Advertising, \$135.00  
Gunderson, Palmer, Nelson & Ashmore, Professional Fees, \$1,400.00  
Golden West Telecommunications, Utilities, \$608.84  
Golden West Technologies, Professional Fees, Supplies, \$648.50  
Hawkins, Supplies, \$5,482.18  
Hillyard, Supplies, \$347.71  
Itron, Supplies, \$265.92  
First Interstate Bank, Supplies, \$552.97  
Hartmann, Tim, Travel Reimbursement, \$323.40  
Kimball Midwest, Supplies, \$613.36  
Lynn's Dakotamart, Supplies, \$123.98  
MainLine, Improvements, \$96,906.41  
Midcontinent Testing Labs, Professional Fees, \$420.40  
O'Connor Company, Repairs & Maintenance, \$419.00  
Petty Cash, Supplies, Travel, \$87.08  
Pitney Bowes, Supplies, \$48.69  
Quill, Supplies, \$124.68  
Rapid Delivery, Professional Fees, \$50.60  
Sander Sanitation, Garbage Collection Contract, \$13422.54  
Servall, Repairs & Maintenance, \$158.64  
SRF Loan Payments, \$15,477.11  
S & B Motors, Repairs & Maintenance, \$22.24  
SD DCI, Supplies, \$86.50  
The Harford, Insurance, \$64.12  
Traffic Control Corporation, Repairs & Maintenance, \$867.00  
Unemployment Insurance Division of SD, \$100.90  
USDA Loan Payments, \$8,910.00  
USA Bluebook, Supplies, \$134.90  
Verizon Wireless, Utilities, \$463.93  
Wright Express, Supplies, \$999.16  
Don & Cindy Bostel, Utility Refund, \$60.28  
Total Claims, \$196,871.93

**DEPARTMENT HEADS & COMMITTEE REPORTS**

Various committee reports were given in addition to department heads giving an update.

**ADJOURNMENT**

With no further business, Councilperson Arseneault moved to adjourn the meeting at 6:17 p.m.  
Seconded by Councilperson Heinrich, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward  
Finance Officer

Corbin Herman  
Mayor

ESTABLISHMENT	LICENSE	TAXES PAID	AGREEMENT	INSURANCE
DOLLAR GENERAL #18364	NEW MB	N/A		
DOLLAR GENERAL #18364	NEW WINE	N/A		

**NOTICE OF  
PUBLIC  
HEARING**

**UPON APPLICATION FOR  
THE SALE OF ALCOHOLIC  
BEVERAGES**

Notice is hereby given that the City Council of the City of Custer City, Custer County, South Dakota will hear and consider the following for the sale of malt beverage and wine at a meeting of the City Council to be held on the 6th day of November 2017, in the Council Chambers of City Hall in said City at 5:30 p.m. of said day. Application to be considered for renewal pursuant to SDCL 35-4 is as follows:

Dollar General Store #18364 -  
Package (Off Sale) Malt Beverage  
Dollar General Store #18364 -  
Retail (On-Off Sale) Wine

Any person or persons interested either for or against the granting of any such application may appear at the time and place above stated. Individuals needing assistance, pursuant to the Americans with Disabilities Act should contact the City Finance Officer no less than 24 hours prior to this meeting to make necessary arrangements.

Dated this 20th day of October 2017.

/s/Lisa Trana

Published once at an approximate cost of \$12.55. Represents 1/000002nd of the total budget.

ESTABLISHMENT	LICENSE	TAXES PAID	AGREEMENT	INSURANCE
AJ'S	RW-19875	YES	10/2018	03/2018
BEGGING BURRO	RR-24019	YES	10/2018	06/2018
BEGGING BURRO	RW-21629	YES	10/2018	06/2018
BH BURGER AND BUN	RW-20218	YES	10/2018	10/2018
BUGLIN BULL	RR-24019	YES	10/2018	06/2018
BUGLIN BULL	RW-19355	YES	10/2018	06/2018
CALAMITY JANE WINERY	RW-23640	YES	07/2018	03/2018
CAPTAINS TABLE	RL-5525	YES	10/2018	04/2017
CUSTER CORRAL/MT RUSHMORE BRE	RL-5523	YES	04/2019	06/2018
CUSTER CORRAL/MT RUSHMORE BRE	RW-23051	YES		
CUSTER HOSPITALITY	CL-22694	YES	12/2017	05/2018
CUSTERWOLF, LLC	RW-23492	YES	10/2018	11/2017
DAKOTA COWBOY	RW-24189	YES	04/2019	11/2017
DENIAL SD	RW-24101	YES	04/2019	04/2018
DOLLAR GENERAL #18364	NEW			
FRESH START	RW-19299	YES	11/2018	11/2018
FRESH START - CASINO	RW-19300	YES	11/2018	11/2018
FRESH START	PL-21056	YES	11/2018	11/2018
FRONTIER BAR	RL-5528	YES	10/2018	05/2018
GOLD PAN SALOON	RL-5524	YES	10/2019	05/2018
LYNN'S DAKOTAMART	PL-4487	YES	10/2018	03/2018
ROCKY KNOLLS GOLF COURSE	RL-5996	NA	10/2018	01/2018
SAGE CREEK GRILLE	RW-6426	YES	10/2018	04/2018
SHOPKO	RW-20961	YES	10/2018	11/2017
SKOGEN KITCHEN	RW-23799	YES	02/2019	03/2018
VFW	RL-6292	YES	11/2018	01/2018

CUSTER CITY COUNCIL MEETING

RECEIVED

OCT 23 2017

CITY NAME: Southern Hills Bible Church PHONE #: 605-673-4074

ADDRESS: 144 N. 6th St. Custer

MEETING DATE: Nov. 6, 2017

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

**ACTION REQUESTED** (Give a brief summary of the action you would like the Council to take):

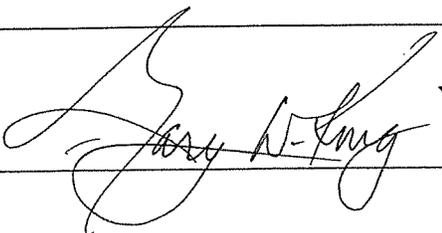
Discuss mitigation options for storm water  
run off at intersection of Harney & 6th st.  
Present conditions result in storm water  
regularly eroding parking area and rendering  
unusable for parking due to deep ruts and  
requiring importing of gravel.

**REASONS FOR ACTION** (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

Situation / condition result of city work  
to divert water upstream (North on  
6th st.). Need for civil engineering to  
provide options for mitigation.

Have you visited with any staff or committees regarding your request, please state who ( General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

Tim Hartmann

SIGNATURE  DATE 10/23/2017

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.

ORDINANCE NO. 796

An Ordinance entitled An Ordinance Amending Title 13 Public Services, Chapter 13.08. Section 13.08.010 A & B of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

13.08.010 Rates and charges.

There shall be charged by the city, effective for the January 2018 billing upon passage and publication of the ordinance codified in this chapter as provided by law, a charge for water services (operation and maintenance) to persons, associations of individuals, partnerships, corporations or firms based upon the usage of water. The rates shall be as follows:

A. 1. Operation and Maintenance—Residential (Single Family).

Gallons Used	Water Charge
2,000 (minimum)	\$10.69

On amounts of water used over two thousand (2,000) gallons, add seven dollars and fifty-three cents (\$7.53) per thousand gallons used to the water charge.

B. 1. Operation and Maintenance—Commercial and Multi Family.

Gallons Used	Water Charge
2,000 (minimum)	\$23.02

On amounts of water used over two thousand (2,000) gallons, add eight dollars and eighty-six cents (\$8.86) per thousand gallons used to the water charge.

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 20th day of November, 2017.

City of Custer City

Attest \_\_\_\_\_  
Laurie Woodward, Finance Officer

\_\_\_\_\_  
Corbin Herman, Mayor

(SEAL)

First Reading: November 6<sup>th</sup>, 2017  
Seconding Reading: November 20<sup>th</sup>, 2017  
Publication: November 29<sup>th</sup>, 2017

Vote:	Fischer:
Arseneault:	Blom:
Heinrich:	Maciejewski:
Nielsen:	

ORDINANCE NO. 797

An Ordinance entitled An Ordinance Amending Title 13 Public Services, Chapter 13.20. Section 13.20.130 of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

BE IT ORDAINED by the Common Council of the City of Custer City that section 13.20.130 be amended as follows:

13.20.130 Rates and charges.

There shall be charged by the city, effective for the January 2018 billing upon passage and publication of the ordinance codified in this chapter as provided by law, a charge for wastewater services (operation and maintenance) to persons, associations of individuals, partnerships, corporations or firms based upon the usage of water. The rates shall be as follows:

A. 1. Operation and Maintenance—Residential (Single Family).

Gallons Used	Wastewater Charge
2,000 (minimum)	\$21.17

On amounts of water used over two thousand (2,000) gallons, add two dollar and thirty-three cents (\$2.33) per thousand gallons used to the wastewater charge.

B. 1. Operation and Maintenance—Commercial and Multi Family.

Gallons Used	Wastewater Charge
2,000 (minimum)	\$24.85

On amounts of water used over two thousand (2,000) gallons, add six dollars and seventy-two cents (\$6.72) per thousand gallons used to the wastewater charge.

C. In addition to the charge for wastewater services (operation and maintenance) to persons, associations of individuals, partnerships, corporations or firms, there shall be a surcharge for the services of the facilities financed.

1. Bond Redemption – 2012 SRF. The following surcharge is imposed pursuant to SDCL 9-40-15 to pay, redeem and discharge the 2012 SRF Loan in the amount of nine hundred twenty-five thousand nine hundred and nineteen dollars (\$925,919.00) until such loan is paid full. This charge shall be charged by the city, commencing with the June 2016 billing upon passage and publication of the ordinance codified in this chapter as provided by law.

	Monthly Fee Charged
Residential (Single-family), Commercial, and Multifamily	\$5.50

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 20th day of November, 2017.

City of Custer City

Attest \_\_\_\_\_  
Laurie Woodward, Finance Officer

\_\_\_\_\_  
Corbin Herman, Mayor

(SEAL)

First Reading: November 6<sup>th</sup>, 2017  
Seconding Reading: November 20<sup>th</sup>, 2017  
Publication: November 29<sup>th</sup>, 2017

Vote:	Fischer:
Arseneault:	Blom:
Heinrich:	Maciejewski:
Nielsen:	

ORDINANCE NO. 798

AN ORDINANCE ENTITLED AN ORDINANCE AMENDING TITLE 13 PUBLIC SERVICES CHAPTER 13.24 WATER AND SEWER RATE CLASSIFICATIONS SECTION 13.24.060 SERVICE REDUCTION OF THE CITY OF CUSTER CITY MUNICIPAL CODE AND AMENDING, REPLACING, AND SUPERSEDING ALL PRIOR ORDINANCES OR AMENDMENTS, BY WHICH AMENDING AND SUPERSEDING SAID ORDINANCE AS FOLLOWS, TO WIT:

13.24.60 Service Reduction

All residential and commercial customers whose home is not occupied for a period of thirty (30) consecutive days or more shall present a written request for water shut-off in order to have their water and wastewater bill reduced during said period. In order to reinstate water and wastewater service, the customer shall present a written request therefore, at which time the rate reduction will terminate. The following reduced rates will apply for residential customers: water charge – six dollars and fifty-two cents (\$6.52); bond charge – two dollars and sixty cents (\$2.60); wastewater charge - seven dollars and eleven cents (\$7.11). The following reduced rates will apply for commercial customers: water charge – seven dollars and eighty-three cents (\$7.83); bond charge – two dollars and sixty cents (\$2.60); wastewater charge - nine dollars and forty-nine cents (\$9.49).

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 20<sup>th</sup> day of November, 2017.

City of Custer City

\_\_\_\_\_  
Corbin Herman, Mayor

Attest \_\_\_\_\_

Laurie Woodward, Finance Officer

(SEAL)

First Reading: November 6<sup>th</sup>, 2017

Seconding Reading: November 20<sup>th</sup>, 2017

Publication: November 29<sup>th</sup>, 2017

Vote:

Arseneault:

Heinrich:

Nielsen:

Fischer:

Blom:

Maciejewski:

# 2018 UTILITY RATES - 2000 GALLON BASE

<u>Single Family</u>	1000 Gallons	2000 Gallons	3000 Gallons	4000 Gallons	5000 Gallons	6000 Gallons	7000 Gallons	8000 Gallons	9000 Gallons	10000 Gallons
Water	10.69	10.69	18.22	25.75	33.28	40.81	48.34	55.87	63.40	70.93
Water Bond	3.40	3.40	4.99	6.58	8.17	9.76	11.35	12.94	14.53	16.12
Wastewater	21.17	21.17	23.50	25.83	28.16	30.49	32.82	35.15	37.48	39.81
Sewer Bond	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50
Garbage	19.20	19.20	19.20	19.20	19.20	19.20	19.20	19.20	19.20	19.20
Garbage Tax	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
<b>Total Residential Rate</b>	<b>61.21</b>	<b>61.21</b>	<b>72.66</b>	<b>84.11</b>	<b>95.56</b>	<b>107.01</b>	<b>118.46</b>	<b>129.91</b>	<b>141.36</b>	<b>152.81</b>

7.53  
1.59  
2.33

<u>Commercial &amp; Multi Family</u>	1000 Gallons	2000 Gallons	3000 Gallons	4000 Gallons	5000 Gallons	6000 Gallons	7000 Gallons	8000 Gallons	9000 Gallons	10000 Gallons	20000 Gallons
Water	23.02	23.02	31.88	40.74	49.60	58.46	67.32	76.18	85.04	93.90	182.50
Water Bond	3.40	3.40	4.99	6.58	8.17	9.76	11.35	12.94	14.53	16.12	32.02
Wastewater	24.85	24.85	31.57	38.29	45.01	51.73	58.45	65.17	71.89	78.61	145.81
Sewer Bond	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50
<b>Total Commercial Rate</b>	<b>56.77</b>	<b>56.77</b>	<b>73.94</b>	<b>91.11</b>	<b>108.28</b>	<b>125.45</b>	<b>142.62</b>	<b>159.79</b>	<b>176.96</b>	<b>194.13</b>	<b>365.83</b>

8.86  
1.59  
6.72

100000 Gallons	200000 Gallons
891.30	1777.30
159.22	318.22
683.41	1355.41
5.50	5.50
1739.43	3456.43

# 2018 UTILITY RATES INCREASE

Single Family	1000	2000	3000	4000	5000	6000	7000	8000	9000	10000	
	Gallons										
Water	0.31	0.31	0.53	0.75	0.97	1.19	1.41	1.63	1.85	2.07	0.22
Water Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Wastewater	0.62	0.62	0.69	0.76	0.83	0.90	0.97	1.04	1.11	1.18	0.07
Sewer Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Garbage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Garbage Tax	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Residential Rate</b>	0.93	0.93	1.22	1.51	1.80	2.09	2.38	2.67	2.96	3.25	
	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%

Commercial & Multi Family	1000	2000	3000	4000	5000	6000	7000	8000	9000	10000	20000
	Gallons										
Water	0.67	0.67	0.93	1.19	1.45	1.71	1.97	2.23	2.49	2.75	5.35
Water Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Wastewater	0.72	0.72	0.92	1.12	1.32	1.52	1.72	1.92	2.12	2.32	4.32
Sewer Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Commercial Rate</b>	1.39	1.39	1.85	2.31	2.77	3.23	3.69	4.15	4.61	5.07	9.67
	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%

100000	200000
Gallons	Gallons
26.15	52.15
0.00	0.00
20.33	40.34
0.00	0.00
46.48	92.49
3%	3%

**RESOLUTION NO. 11-06-17A  
PUBLIC PARK, PUBLIC POOL & PUBLIC PLAYGROUND LOCATIONS**

WHEREAS, the City of Custer City has certain property which is used for public use;  
and

WHEREAS, the City of Custer City feels that public parks, public pools and/or public playgrounds are an important part of our community.

NOW THEREFORE BE IT RESOLVED by the common council of the City of Custer City, that it is advisable and in the best interest of the public that the following property be declared Public Parks, Public Pool and/or Public Playgrounds;

Custer Swimming Pool	Lots 4-5-6 Block 35
Harbach Park	Lots 7-8-9-10-11-12 Block 107
French Creek Park	Lots 1-2-3-4-5-6 Block 124 Lot B of Lot 12 Block 124
Volleyball Court	Lots 5 & 6 Block 106
Tennis Courts, Horseshoe Pits & Skateboard Park	North 125' of Lots 1-2-3 Block 105 South 25' of Lots 1-2-3 Block 105 Lots 4-5-6 Block 105 plus Vacated North/South Alley
Custer Community Center Fenced Playground Areas	All of Block 32 plus 25' of Vacated Third Street plus 25' of Vacated Harney Street plus 25' of Vacated Crook Street & West 50' of Vacated Fourth Street Lots 1-2-3 Block 15 plus East 50' of Fourth Street & North 25' of Crook Street & West 15' of North/South Alley

NOW THEREFORE BE IT FURTHER RESOLVED that the above listed properties be designated Public Parks, Public Pools and/or Public Playgrounds.

Dated this 6<sup>th</sup> day of November, 2017.

CITY OF CUSTER CITY

ATTEST:

\_\_\_\_\_  
Corbin Herman, Mayor

\_\_\_\_\_  
Laurie Woodward  
Finance Officer  
(SEAL)

REQUEST TO BE ON AGENDA  
CUSTER CITY COUNCIL MEETING

NAME: ARON FRODEN

PHONE #: 273 2991 / 426-1405

ADDRESS: 25045 TANGWOOD DRIVE

RECEIVED

OCT 31 2017

MEETING DATE: NOV 6

CITY OF CUSTER

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

ACTION REQUESTED (Give a brief summary of the action you would like the Council to take):

APPROVE BORROWING BATTLE EVENT FOR  
JAN 20, 2018

REASONS FOR ACTION (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

TOWN MARCH TO PAYSON HILL  
BURN THE BEETH ON PAYSON HILL.  
FIREWORKS ON PAYSON HILL.

Have you visited with any staff or committees regarding your request, please state who (General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

THIS IS THE 5<sup>TH</sup> YEAR WE HAVE HELD THIS EVENT.  
WE ARE WORKING WITH THE CUSTER FIRE DEPARTMENT.

SIGNATURE [Signature]

DATE 10/31/17

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.

PREPARED BY:  
BEESLEY LAW OFFICE  
Custer City Attorney's Office  
428 Mt. Rushmore Rd  
Custer, SD 57730  
(605) 673-4181  
(605) 673-2624 - Fax

**FIRE SUPPRESSION SYSTEM COVENANT AND AGREEMENT**

This Fire Suppression System Covenant and Agreement (hereinafter "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between Jason and Alana Sparling and Spink County Land, LLC., a South Dakota Corporation (hereinafter "Owners"), of PO Box 548, 215 Crook St., Custer, South Dakota 57730, and the CITY OF CUSTER CITY, a South Dakota Municipal Corporation (hereinafter "City"), of 622 Crook Street, Custer City, South Dakota 57730.

Owner hereby acknowledges that it owns the property legally described as:

Legal as: South 100 Feet of Lot 1 in Block 8, original Town, now City of Custer City, Custer County, South Dakota.

(DOE#008022)

Property Address: 503 Mt. Rushmore Rd., Custer, SD 57730

WHEREAS, The South 100 feet of Lot 1, as hereinabove - described, is located within a Fire Limit District as defined in Chapter 15.12 of the Custer City Municipal Code; and

WHEREAS, it is agreed by both parties that the 1997 Universal Fire Code, Article 10, as adopted, amended and codified by § 15.04.010 of the Custer City Municipal Code, requires the building on the property to have an automatic sprinkler system and a fire alarm system in place;

WHEREAS, the Fire Official would not support approval of tenant's Certificate of Occupancy unless Owners enter into an agreement with the City that ensures that the property will have a fire suppression system and a fire alarm system installed; and

WHEREAS, Owners and the City wish to enter into this Agreement whereby Owners, or their successor in interest, agree to have a fire suppression system and a fire alarm system installed by a qualified fire suppression contractor by May 28<sup>th</sup>, 2018, in exchange for receiving support of the Fire Official for the approval of the Certificate of Occupancy.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, it is agreed by the parties as follows:

1. Installation of Systems. Owners hereby covenant and agree that they will have a fire suppression system and a fire alarm system installed by a qualified fire suppression contractor, and such systems shall be operational no later than May 28<sup>th</sup>, 2018.

2. Maintenance. Owners covenant and agree to maintain in good repair the fire suppression system, fire alarm system and related improvements on the property.

3. Inspection. Owners covenant and agree to arrange for the above-described property to be inspected each year following the installation of the fire suppression system and fire alarm system by a qualified fire suppression system inspector. Owners further covenant and agree that they shall make the property available upon request to the Custer City Fire Official or his designee for inspection according to the

requirements of the Universal Fire Code of 1997 as adopted by the City.

4. Sale or Transfer. Owners covenant and agree that should the above-described property be sold, transferred, conveyed or subdivided prior to installation of a fire suppression system and fire alarm system, that installation thereof shall be a condition of such sale, transfer, conveyance, or subdivision.

5. Default. If Owners fail to abide by the terms of this Agreement, the City shall have the right, in addition to any other legal or equitable rights it may possess, to enjoin the use of the above-described property until such time as Owners cure the default.

6. Covenants Run with the Land. All of the terms and conditions herein set forth are covenants made for the direct benefit of the property that shall run with the land and as such shall extend to, and be binding upon, the heirs, personal representatives, assigns, or successors in interest of Owners. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this Agreement.

7. Notices. All notices given hereunder shall be made by hand delivery or certified mail, return receipt requested, to the parties at the following addresses:

Jason and Alana Sparling  
528 Kansas City ST  
Rapid City, SD 57701

City of Custer City  
622 Crook Street  
Custer, SD 57730

Spink County Land LLC  
a South Dakota Corporation  
528 Kansas City ST  
Rapid City, SD 57701

8. Time of the Essence. Time is of the essence of this Agreement.

9. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

10. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

11. Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

12. Counterparts. This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

13. Severability. If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

14. Headings. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

15. Construction and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation under this Agreement shall be resolved in the Circuit Court of Custer County, State of South Dakota.

*[SIGNATURE PAGES FOLLOW]*





