

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
July 2nd, 2018**

Mayor Corbin Herman called to order the first meeting of the Common Council for the month of July 2018 at 5:30 p.m. Present at roll call were Councilpersons Blom, Heinrich, Nielsen, Fischer, Maciejewski and Arseneault. City Attorney Chris Beesley was present. The Pledge of Allegiance was stated.

AGENDA

Councilperson Heinrich moved approve the agenda with the presentation of claims being moved to old business. Second by Councilperson Maciejewski, the motion unanimously carried.

MINUTES

Councilperson Arseneault moved, with a second by Councilperson Nielsen, to approve the minutes from the June 18th regular council meeting. The motion unanimously carried.

MOTION TO RECONSIDER THE VOTE ON SECOND READING OF ORDINANCE #805 CONDITIONAL USE PERMITS

Councilperson Nielsen made a motion to reconsider the second reading of Ordinance #805 – Conditional Use Permits, as she had received additional clarification on the ordinance from the attorney and staff. Seconded by Councilperson Fischer, the motion unanimously carried.

SECOND READING – ORDINANCE #805 CONDITIONAL USE PERMITS

Councilperson Nielsen moved to adopt Ordinance #805 - Conditional Use Permits. Seconded by Councilperson Blom, the motion carried with Councilperson Blom, Heinrich, Nielsen, Fischer, Maciejewski and Arseneault voting yes.

CLAIMS

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

Aflac, Insurance, \$542.74
AFSCME, Dues, \$86.14
Banner Associates Inc, Professional Fees, \$10,802.60
Battle Mountain Humane Society, Animal Control Contract, \$1,000.00
Beesley Law Office, Professional Fees, \$2,851.25
Black Hills Energy, Utilities, \$2,829.28
Butler Machinery, Repair and Maintenance, \$5,281.64
California State Disbursement, Deduction, \$53.19
Century Business Products, Supplies, \$240.95
Claycomb Engineering, Professional Fees, \$100.00
Code Works, Professional Fees, \$2,862.62
Custer Economic Development, Subsidy, \$5,000.00
Chronicle, Publishing, \$331.44
Custer Do It Best, Supplies, \$100.08
Dacotah Bank, TIF #2 Payment, \$23,267.64
Dacotah Bank, TIF #4 Payment, \$18,273.85
Dak Generator Services, Repairs and Maintenance, \$537.12
Dakota Greens, Supplies, \$309.50
Delta Dental, Insurance, \$148.20
Discovery Benefits, Supplies, \$806.92
Edward Enterprises, Cemetery Caretaker Contract, \$4,571.43
EFTPS, Taxes, \$12,975.46
Fastenal, Supplies, \$931.32
First Interstate Bank, TIF #1 Payment, \$14,881.63
First Interstate Bank, TIF #4 Payment, \$18,273.86
First Interstate Bank, Supplies, \$62.05
Five Points Bank, TIF #5 Payment, \$20,694.23
Freemans Electric, Repairs and Maintenance, \$2,329.68
Hawkins, Supplies, \$1,449.77
Hills Toilet Service, Supplies, \$175.00
Jenner Equipment, Equipment, \$57,489.21
Lasting Impressions Unlimited, Supplies, \$41.00

Nelson's Oil & Gas, Supplies, \$1,499.75
Nielsen Enterprises, Gravel , \$4,956.30
Northwest Pipe Fittings, Supplies, \$201.95
Pace, Supplies, \$231.90
Petty Cash, Supplies, \$354.34
Power House, Supplies, \$130.91
Pitney Bowes, Supplies, \$500.00
Rock Solid Enterprises, Repairs and Maintenance, \$306.12
Sanders Sanitation, Garbage Collection Contract, \$13,957.24
SD Department of Environment and Natural Resources, Professional Fees, \$600.00
SD Department of Transportation, Professional Fees, \$1,805.41
SD Municipal League, Conference, \$50.00
Stansbury, Lance, Reimbursement, \$39.97
SD Retirement System, \$6,033.86
Supplemental Retirement, \$550.00
Warne Chemical & Equipment, Maintenance, \$5,434.00
Wellmark BCBS, Insurance, \$11,454.61
Wright Express, Supplies, \$1,531.38
CPA Properties LLC, Utility Deposit Refund, \$1.61
Duarte, Jenny/Pedro, Utility Deposit Refund, \$13.86
Kahler, David, Utility Deposit Refund, \$299.39
Mayor & Council, \$4,400.00
Finance Department, \$4,938.68
Public Buildings, \$2,702.40
Planning Department, \$6,966.98
Public Works Department, \$3,008.40
Street Department, \$ 7,666.95
Cruisin Department, \$105.59
Parks Department, \$6,793.48
Water Department, \$11,090.74
Wastewater Department, \$10,951.44
Total Claims, \$317,877.06

OATH OF OFFICE & COUNCIL PRESIDENT & VICE PRESIDENT

Councilperson Heinrich and Maciejewski were presented with plaques for their service.

Carrie Moore, Dixie Whittaker and Kris Blom took their Oath of Office for two-year terms as Councilmembers.

Councilperson Fischer moved to nominate Councilperson Nielsen for Council President. Seconded by Councilperson Arseneault, the motion unanimously carried. Councilperson Blom moved to nominate Councilperson Fischer for Council Vice President. Seconded by Councilperson Nielsen, the motion unanimously carried.

COMMITTEE APPOINTMENTS & ATTORNEY APPOINTMENTS

Councilperson Nielsen moved to approve the Mayor's appointment of Chris Beesley as City Attorney and Garland Goff as Assistant City Attorney. Seconded by Councilperson Blom, the motion unanimously carried. Attorney Beesley took his Oath of Office.

Councilperson Nielsen moved to approve the Mayor's appointment of Rick Hudson to the Planning Commission as the three-mile representative for a one-year term. Seconded by Councilperson Arseneault, the motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

PUBLIC HEARING – OFF SALE LIQUOR, MALT BEVERAGE, & WINE LICENSE – YESWAY

The Council was presented with license transfers for the BW Gas and Convenience Retail, LLC (Yesway) previously known as Fresh Start, off-sale liquor, malt beverage and wine licenses. Councilperson Fischer moved to approve contingent upon proof of insurance being provided and background checks. Seconded by Councilperson Arseneault, the motion unanimously carried.

BLACK HILLS CRUISIN PUBLICATION – CUSTER CHRONICLE

Kate Najacht presented the Black Hills Cruisin Publication to the Council. Councilperson Fischer moved to approve the placement of a full-page ad in the 2018 Black Hills Cruisin publication for \$675. Seconded by Councilperson Moore, the motion carried with Councilperson Whittaker, Nielsen, Fischer, Moore, Arseneault and Blom voting yes.

EXCEPTION TO CUSTER MUNICIPAL CODE 15.12 (FIRE LIMITS)- 544 MOUNT RUSHMORE RD

Planning Administrator Hartmann presented a brief summary of past transient use and temporary structure on the property at 544 Mt Rushmore Road. He also explained concerns including a fire limit concern pertaining to the structure not containing two-hour fire rated walls and some concerns brought forward to him by other citizens. Mian Hayat, representative for the property owner, presented and asked that the Council consider an exception for the temporary structure from the fire limits. Councilperson Arseneault moved to approve a one-time exception to the Custer Municipal Code Chapter 15.12 for the property located at 544 Mt Rushmore Road for summer of 2018 which allows them to keep the tent up until the transient merchant permit starts on July 20th, at which time the transient merchant permit will allow the tent to remain for the length of the permit, as established in the past. Councilperson Arseneault and Fischer amended their motion and second to include contingent upon proof of insurance being provided, the motion unanimously carried.

RESOLUTION #07-02-18A – GOVERNING BOARD CODE OF CONDUCT

Councilperson Nielsen moved to adopt Resolution #07-02-18A, Governing Board Code of Conduct. Seconded by Councilperson Blom, the motion unanimously carried.

RESOLUTION #7-02-18A

CITY OF CUSTER GOVERNING BOARD CODE OF CONDUCT

WHEREAS, it is the duty of the Common Council of City of Custer to ensure the efficient, fair and professional administration of city government and services;

WHEREAS, the Mayor and City Council are responsible for making policy decisions for the community, provide vision, direction and leadership to the community and the organizations;

WHEREAS, the City Council further represents the Community with other governmental entities and officials;

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Custer City that in order to maintain and enhance public trust and confidence in our legal government, to achieve equity and social justice, to affirm human dignity, and to better the quality of life for residents of Custer, the members of the City Council dedicate themselves to the stewardship of the public trust and therefore embrace and adopt the following ideals and Code of Conduct:

Members of the governing board shall:

1. Recognize that the authority vests with the majority of the City Council when assembled in open meetings or executive meetings as authorized by law, that neither the mayor nor individual members of the City Council has legal status to bind the City of Custer, and that neither the Mayor nor an individual council member or a minority of the governing board may make decisions on behalf of the City of Custer unless expressly authorized by law and upon approval of the City Council;
2. Alderpersons serving on the Council for the first time shall attend the first (SDML) elected officials workshop held after their assumption of office, at the expense of the City;
3. Make informed decisions on matters brought before the City Council;
4. Recognize and adhere to the policy that it is the responsibility of the City Council and members of the governing board to plan, make, implement, appraise and enforce ordinances and policy and that it is not the responsibility of the members of the governing board to run the day-to-day operations of the City of Custer;
5. Observe federal laws, state laws, city ordinances and policies;
6. Respect the limited intent and scope of executive sessions as set forth in statute;
7. Shall not publicly disclose information received, discussed, or decided in executive session or in conference with legal counsel which is protected by the attorney/client privilege or has been confidentially disclosed at a meeting held subject to the provisions of SDCL 1-25-2, unless a

majority of the members of the City Council has authorized that disclosure or unless a disclosure is authorized by a court of competent jurisdiction.

8. Distinguish between personal views and those of the governing board when making public comments regarding City matters;
9. Present information to the governing board without distortion and accurately represent facts concerning City matters in direct or indirect public statements;
10. Maintain professional relationships in a manner which are free of vindictiveness, recrimination and harassment;
11. Avoid impropriety and the appearance of impropriety in his/her position as an elected official;
12. Refer all public complaints and personal criticisms to the appropriate administrative officer or appointed public official and only after inability to obtain resolution at the administrative level have the complaint or criticism discussed at a Council meeting;
13. Respect the legitimacy of the goals and interests of other members of the governing board and respect the rights of other members of the governing board to pursue goals and policies different from their own;
14. Respect, require and contribute to the maintenance of order and decorum in proceedings before the City Council;
15. Be honest, patient, dignified and courteous to those with whom he/she deals with in his/her official capacity;
16. Dispose promptly of the business of the City for which he/she is responsible and diligently discharge responsibilities;
17. To the maximum extent possible, inform the finance office by 1 p.m. on the Friday preceding a regularly scheduled Monday City Council meeting if the member of the governing board will not be in attendance at the City Council meeting;
18. Refrain from financial, personal, professional and business dealings that interfere with, are in conflict with or give the appearance of being in conflict with the proper performance of official duties;
19. Not exploit the City of Custer or use the office of Mayor or Council member for personal gain, for the gain of friends or supporters, or to promote political candidates or partisan political activities;
20. Not accept nor offer any gratuities, gifts, services or things of value that (a) impair professional judgment, (b) offer special advantage or benefit to any person or organization, or (c) provide a direct or indirect personal benefit.
21. Not commit any act of moral turpitude or gross immorality;
22. Not allow family, social or other relationships to inappropriately influence his/her decisions as a member of the governing board.
23. Regular attendance is expected; missing two consecutive meetings without appropriate reasons is not considered regular attendance;
24. Failure to comply with this Code of Conduct may result in sanctions up to and including expulsion.

This Code of Conduct behavior will govern members of the City Council. City Council members are encouraged to self-monitor their behavior and offer constructive recommendations to fellow Council members if necessary. As a member of the City Council, I accept these ideals and policies, and pledge to follow them in the interest and purposes for which our government has been established.

Dated this 2nd day of July 2018.

CITY OF CUSTER CITY

S/Corbin Herman, Mayor

ATTEST: Laurie Woodward, Finance Officer

RESOLUTION #07-02-18B – USDA RURAL DEVELOPMENT FINANCING FOR CUSTER COMMUNITY CENTER

Councilperson Nielsen moved to adopt Resolution #07-02-18B, USDA Rural Development Financing for Custer Community Center. Seconded by Councilperson Fischer, the motion unanimously carried.

RESOLUTION 7-02-18B

RESOLUTION OF GOVERNING BODY

WHEREAS, the United States Department of Agriculture Rural Development provides affordable funding to development essential community facilities in rural areas to public bodies to aid in the construction and/or improvements of such facilities;

WHEREAS, the City has considered funding opportunities for the Custer Community Center;

NOW THEREFORE BE IT RESOLVED that the Mayor is hereby authorized to sign an application on behalf of the City of Custer City with the Rural Development;

IT IS FURTHER RESOLVED the Finance Officer is hereby authorized and directed to furnish all needed information the above mentioned federal agencies may reasonably request in connection with the above authorized application, and to work with the Black Hills Council of Local Government on the submittal of such application.

Dated this 2nd day of July 2018.

CITY OF CUSTER CITY

S/Corbin Herman, Mayor

ATTEST: Laurie Woodward, Finance Officer

RESOLUTION #07-02-18C – PUBLIC COMMENT RULES

Councilperson Nielsen moved to adopt Resolution #07-02-18C, Public Comment Rules. Seconded by Councilperson Arseneault, the motion unanimously carried.

RESOLUTION 7-2-18C

PUBLIC COMMENT RULES

WHEREAS, the Custer City Council sets aside a period of time at every council meeting entitled Public Comments, at which time any citizen may address the Council; and

WHEREAS, it is appropriate for the city to have rules to govern Public Comments;

NOW THEREFORE BE IT RESOLVED, that the Custer City Council adopts the following rules for Public Comment;

1. Following the public hearings and public presentations of every meeting, fifteen minutes will be set aside to hear any citizen who wishes to address the Council.
2. No action will be taken during the meeting at which the item is presented; however, it may be placed on the agenda for a future meeting.
3. Each person must identify themselves by name and address.
4. Each person may speak about any item of concern.
5. Each person may speak for a maximum of three minutes.
6. Each person may exceed the three-minute limit only by unanimous consent of the Council after the first three minutes have expired.
7. At the end of the fifteen minutes, the public comments will be closed.
8. The Mayor may, at his or her discretion, interrupt or terminate any testimony if a citizen becomes unruly or disruptive.

Dated this 2nd day of July 2018.

CITY OF CUSTER CITY

S/Corbin Herman, Mayor

ATTEST: Laurie Woodward, Finance Officer

TEMPORARY ALLEY CLOSURE REQUEST- CUSTER VFW

Councilperson Nielsen moved to approve the Custer VFW's request to close the alley east of the VFW building at 721 Mt Rushmore Road on July 4th, 2018, for a fundraiser event. Seconded by Councilperson Blom, the motion unanimously carried.

CUSTER VOLUNTEER FIRE DEPARTMENT ANNUAL FIREFIGHTER'S DANCE REQUEST

Councilperson Blom moved to approve the request from the Custer Volunteer Fire Department for the Annual Firefighter's Dance during Gold Discovery Days to be held July 20th and 21st, 2018; which included street closure request for North Sixth Street between Crook Street and the south alley, use of the showmobile and a brown bag permit for July 21st. Seconded by Councilperson Arseneault, the motion unanimously carried.

REPLACEMENT SAND FOR VOLLEYBALL COURTS – PARK RECREATION AND FORESTRY BOARD

Steve Pischke, Park, Recreation and Forestry Board Chairman along with Jill Hohn presented information regarding the sand at the volleyball courts and a replacement option. Councilperson Fischer moved to approve the quote from Nielsen Enterprises to replace the sand at the volleyball courts for a cost

of \$8,750.00, with the project to be done by July 20th,2018. Seconded by Councilperson Blom, the motion carried with Councilperson Nielsen, Fischer, Moore, Arseneault, Blom and Whittaker voting yes.

PLANNING COMMISSION RESIGNATION

Councilperson Arseneault moved to accept Jerry Stites resignation from the Planning Commission. Seconded by Councilperson Nielsen, the motion unanimously carried.

PLANNING COMMISSION APPOINTMENTS

Councilperson Fisher moved to approve the Mayor's appointment of Joe Harbach to the Planning Commission with a term end date of November 1st, 2022 and Larry Maciejewski as a Planning Commission alternate with a five-year term. Seconded by Councilperson Moore, the motion unanimously carried.

DEPARTMENT HEADS & COMMITTEE REPORTS

Various committee reports were given in addition to updates from the department heads.

ADJOURNMENT

With no further business, Councilperson Whittaker moved to adjourn the meeting at 6:00 p.m. Seconded by Councilperson Arseneault, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Corbin Herman
Mayor