

**CHAMBER OF THE BOARD OF CITY COMMISSIONERS
YANKTON, SOUTH DAKOTA
JANUARY 28, 2008**

Regular meeting of the Board of City Commissioners of the City of Yankton was called to order by Mayor Gross.

Roll Call: Present: Commissioners Carda, Ellingson, Knoff, Lowrie, Murphy, Specht, VanDerhule, and Wenande. City Attorney Goetz and Acting City Manager Viereck were also present. Absent: None. Quorum present.

Action 08-15

Moved by Commissioner Wenande, seconded by Commissioner VanDerhule, to approve the Minutes of the regular meeting of January 14, 2008.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-16

Moved by Commissioner Ellingson, seconded by Commissioner Wenande, that the Schedule of Bills be approved and warrants be issued.

A-OX WELDING SUPPLY CO INC-GASES-\$92.26; ACE HARDWARE-DE-ICER-\$3.48; ACTIVE NETWORK-ACTIVE NET FEE-\$750.00; APPEARA-TOWEL SERVICE-\$40.06; ARBORISTS ASSN/SD-CONFERENCE-\$90.00; AVERA HEALTHWORKS-DOT RANDOM TESTING-\$108.00; AVERA SACRED HEART HOSPITAL-DOT RANDOM TESTING-\$140.00; BATTERY EXCHANGE-REPAIRS-\$240.00; BOBZIN/BILL-OVERSIZING CREDIT-\$30.49; BOLLER PRINTING INC-PRINTING-\$370.00; BOMGAARS INC-SMALL TOOLS-\$556.96; BONANZA SIRLOIN PIT #305-DOC WORK PROGRAM-\$62.65; BOYCE GREENFIELD PASHBY & WELK-PROFESSIONAL SERV-\$2,918.53; BUTLER MACHINERY CO-GARAGE PARTS-\$2,616.84; CARROT-TOP INDUSTRIES INC-FLAGS-\$219.62; CITY OF YANKTON-PARKS-GARBAGE-\$44.40; CONCRETE MATERIAL-CONCRETE-\$2,520.70; CONKLING DIST-MALT BEVERAGES-\$300.80; COX AUTO INC-BEARINGS-\$77.67; CREDIT COLLECTION SERVICE INC-UT COLLECTION-DEC-\$238.87; DAKOTA FLUID POWER INC-GARAGE PARTS-\$395.22; DANKO EMERGENCY EQUIPMENT-WRENCH-\$39.06; DEBRON SPORTSWEAR-SAC PROMO-\$49.00; DEPT OF CORRECTIONS-DOC WORK PROGRAM-\$507.96; ELECTION SYSTEM & SOFTWARE INC-BALLOT STOCK-\$2,718.55; FASTENAL COMPANY-GARAGE PARTS-\$102.48; FIRST DAKOTA NAT'L BANK-BANK CARD-\$159.06; GEOTEK ENG & TESTING SERV INC-TESTS/INSPECTIONS-\$947.50; GERSTNER OIL CO-FUEL-\$46,250.07; GREAT PLAINS INTERNATIONAL-GARAGE PARTS-\$801.74; HEDAHL'S PARTS PLUS-GARAGE PARTS-\$270.49; HEWLETT-PACKARD COMPANY-COMPUTERS-\$15,135.00; HOFER/KIRBY-OVERSIZING CREDIT-\$6,190.17; HORNUNG'S PRO GOLF SALE INC-MERCHANDISE-\$31.39; HYVEE-DOC WORK PROGRAM-\$21.30; IN CONTROL INC-TRANSDUCER REPAIRS-\$782.00; JACK'S UNIFORMS-UNIFORMS-\$361.62; JAMES STEEL ERECTION-REPAIRS-\$1,215.00; JODEAN'S-DOC WORK PROGRAM-\$23.37; JOHNSON ENG CO INC-GREEN ST ENG-\$6,321.00; JOHNSON ROOFING INC-ROOF REPAIR-\$112.05; KOLETZKY IMPLEMENT INC-GREASE GUN-\$249.00; LEXISNEXIS MATTHEW BENDER-LEGAL PUBLICATION-\$346.55; LONG'S PROPANE INC-PROPANE-\$410.00; MATHISON COMPANY-REPAIRS-\$546.19; MCGRATH NORTH MULLIN & KRATZ-PROFESSIONAL SERV-\$2,736.00; MEISNER MANAGEMENT SERVICE LLC-CONSULTING SERVICES-\$1,027.20; MYERS TIRE SUPPLY-GARAGE PARTS-\$114.86; NORTHERN TRUCK EQUIPMENT CORP-DUMP BOX-\$15,492.58; ONE CALL SYSTEMS INC-LOCATES-\$29.00; PENNWELL CORPORATION-DVD TRAINING-\$464.30; PRESS DAKOTA MSTAR SOLUTIONS-AD-\$610.30; QUARTERMASTER UNIFORM-MICROPHONE-\$48.98; QUILL CORPORATION-SUPPLIES-\$551.97; SANITATION PRODUCTS INC-CHASSIS SPREADER-\$39,055.82; SELECT PARTS INC-GARAGE PARTS-\$202.89; SHERWIN WILLIAMS CO-WINDOW TREATMENTS-\$1,706.77; SHUR-CO-GARAGE PARTS-\$819.88; SIOUX FALLS TWO WAY RADIO SVS-HEADSET-\$246.99; SRIXON SPORTS USA INC-GOLF BALLS-\$721.78; SYD'S EASTSIDE AUTO PARTS-VEHICLE REPAIRS-\$45.00; TMA-REPAIRS-\$87.76; TOUR EDGE-CLUBS-\$135.74; UNITED PARCEL SERVICE INC-POSTAGE-\$33.51; USA BLUE BOOK-REPAIRS-\$40.70; VOGT'S-PATCHES-\$4.00; WESTERN OFFICE PRODUCTS-TONER-\$724.36; XEROX CORPORATION-COPIER LEASE-\$489.86; YANKTON AREA ICE ASSOCIATION-DEC PAYMENT-\$4,061.88; YANKTON POLICE DEPARTMENT-PETTY CASH-\$50.09.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Mayor Gross read a *Declaration of Appreciation* extending the appreciation of the City Commission to all City Employees.

Acting City Manager Viereck submitted a written report giving an update on community projects and items of interest.

Action 08-17

Moved by Commissioner Ellingson, seconded by Commissioner Wenande, that the following items on the consent agenda be approved:

1. Permission for Alcoholic Beverages
a request from LoraLee Fink to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for family gathering on June 28, 2008
2. Permission for Alcoholic Beverages
a request from Renae Preheim to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for a wedding reception on April 25, 2008
3. Permission for Alcoholic Beverages
a request from Jane York to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for a wedding on September 19, 2009
4. Permission for Alcoholic Beverages
a request from Deb Vortherms to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for a wedding rehearsal on June 27, 2008
5. Transient Merchant License and Special Events Dance License
Memorandum 08-19 recommending approval of the applications from the Riverboat Days Committee for: A) Transient Merchant License for August 15th to 17th, 2008; B) Special Events Dance License for August 15th and 16th, 2008
6. Establishing public hearing for sale of alcoholic beverages
Establish February 11, 2008, as the date for the public hearing on the request for a Special Events Retail (on-sale) Malt Beverage and a Special Retail (on-sale) Wine Dealers License for one day, February 26, 2008, from Chamber of Commerce (Nate Franzen, President) d/b/a Chamber of Commerce, Avera Professional Office Pavilion & Education Center, 1st Floor, 501 Summit Street, Yankton, S.D.
7. Possible Quorum Event
February 6, 2008, at 5:30 p.m., at the Yankton Community Library, for library director candidate reception
8. Possible Quorum Event
February 1, 2008, from 6:00 p.m. to 7:30 p.m. at Minerva's, for economic development director candidate reception

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-18

This was the time and place for the public hearing on the application for a Special Events Retail (on-sale) Malt Beverage and a Special Retail (on-sale) Wine Dealers License for three days, August 15-17, 2008, from Yankton Area Riverboat Days Inc., (Denise Miller, treasurer) Riverside Park, Yankton, South Dakota. (Memorandum 08-13) Moved by Commissioner VanDerhule, seconded by Commissioner Specht, to approve the license application.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-19

This was the time and place for the public hearing on the application for a Special Events Retail (on-sale) Malt Beverage and a Special Retail (on-sale) Wine Dealers License for two days, August 15-16, 2008, from Yankton Area Riverboat Days Inc., (Denise Miller, treasurer) City Hall Auditorium, Yankton, South Dakota. (Memorandum 08-14) Moved by Commissioner VanDerhule, seconded by Commissioner Lowrie, to approve the license application.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-20

This was the time and place for the public hearing on the application for a Special Events Retail (on-sale) Malt Beverage and a Special Retail (on-sale) Wine Dealers License for one day, April 19, 2008,

from Yankton Catholic Community Development Office (Brian Steward, Pres.), such event to be held at Mount Marty College/Roncalli Center Dining Room. (Memorandum 08-15) Moved by Commissioner Wenande, seconded by Commissioner VanDerhule, to approve the license application.
Roll Call: Members present voting "Aye": Commissioners Carda, Ellingson, Knoff, Lowrie, Murphy, VanDerhule, Wenande, and Mayor Gross; voting "Nay": None; Abstaining: Commissioner Specht.
 Motion adopted.

Action 08-21

This was the time and place for the public hearing on the application for a New Retail (on-off sale) Malt Beverage License for New Retail (on-off sale) Malt Beverage License for July 1, 2007, to June 30, 2008, from El Tapatio Family Mexican Restaurant (Maria Guitron, Pres.), 2502 Fox Run Parkway, Yankton, South Dakota. (Memorandum 08-16) Moved by Commissioner Specht, seconded by Commissioner Knoff, to approve the license application.

Roll Call: Members present voting "Aye": Commissioners Carda, Knoff, Lowrie, Murphy, Specht, VanDerhule, Wenande, and Mayor Gross; voting "Nay": Commissioner Ellingson.
 Motion adopted.

Action 08-22

This was the time and place for the public hearing on the application for a New Retail (on-sale) Wine License for January 1, 2008, to December 31, 2008, from El Tapatio Family Mexican Restaurant (Maria Guitron, Pres.), 2502 Fox Run Parkway, Yankton, South Dakota. (Memorandum 08-17) Moved by Commissioner VanDerhule, seconded by Commissioner Carda, to approve the license application.

Roll Call: Members present voting "Aye": Commissioners Carda, Knoff, Lowrie, Murphy, Specht, VanDerhule, Wenande, and Mayor Gross; voting "Nay": Commissioner Ellingson.
 Motion adopted.

Action 08-23

Moved by Commissioner Specht, seconded by Commissioner Wenande, to adopt Resolution 08-03. (Memorandum 08-20)

**RESOLUTION 08-03
 ATTENTION TAXPAYERS: NOTICE OF
 PROPERTY TAX INCREASE
 OF \$190,232.28
 RESOLUTION FOR OPT OUT AND VOTE TO BE HELD**

THE City Commission OF the City of Yankton do state that the above said Commission is unable to operate under the tax limitation measure currently in statute. We therefore OPT OUT of such tax limitation in the amount of \$190,232.28 starting with calendar year 2008 taxes payable in the calendar year 2009. This opt out is for the annual debt service for the proposed construction of a new second Fire Station. This opt out will be for twenty (20) years, which will be through taxes payable in the calendar year 2028. This action has been taken by the Commission and approved by at least a two-thirds vote of the Commission.

Also, be it resolved that the City Commission OF THE CITY OF YANTON will conduct an election to approve or disapprove the tax levy opt out pursuant to SDCL 10-13-36. The election will be held on April 8, 2008.

Roll Call: All members present voting "Aye"; voting "Nay": None.
 Motion adopted.

Action 08-24

The recommendation to adopt Resolution 08-04 for a property tax opt out for proposed Memorial Park Pool Improvements was considered. (Memorandum 08-21) Acting City Manager Viereck informed the Commission that Banner and Associates, Inc., Brookings, South Dakota, was unable to make a planned trip to Yankton and, therefore, has been unable to submit their proposal, including schematics, timeframe for phase-in of features, and individual cost estimates for pool improvements, to the City. Moved by Commissioner Ellingson, seconded by Commissioner Specht, to adopt Resolution 08-04.

RESOLUTION 08-04
ATTENTION TAXPAYERS:
NOTICE OF PROPERTY TAX INCREASE
OF \$190,232.28
RESOLUTION FOR OPT OUT AND VOTE TO BE HELD

THE CITY COMMISSION OF THE CITY OF YANKTON do state that the above said Commission is unable to operate under the tax limitation measure currently in statute. We therefore OPT OUT of such tax limitation in the amount of \$190,232.28 starting with calendar year 2008 taxes payable in the calendar year 2009. This opt out is for the annual debt service for the proposed construction of the Memorial Park Swimming Pool improvements. This opt out will be for twenty (20) years, which will be through taxes payable in the calendar year 2028. This action has been taken by the Commission and approved by at least a two-thirds vote of the Commission.

Also, be it resolved that the CITY COMMISSION OF THE CITY OF YANTON will conduct an election to approve or disapprove the tax levy opt out pursuant to SDCL 10-13-36. The election will be held on April 8, 2008.

Roll Call: Members present voting "Aye": Commissioners Ellingson, Lowrie, Murphy, Specht, VanDerhule, and Mayor Gross; voting "Nay": Commissioners Carda, Knoff, and Wenande.
 Motion adopted.

Action 08-25

Moved by Commissioner Specht, seconded by Commissioner Murphy, to accept the proposal from Fairholm Leadership Consulting, Vermillion, South Dakota, to assist with the City Manager Search process. (Memorandum 08-23)

Roll Call: Members present voting "Aye": Commissioners Carda, Lowrie, Murphy, Specht, VanDerhule, Wenande, and Mayor Gross; voting "Nay": Commissioners Ellingson and Knoff.
 Motion adopted.

Commissioners Wenande, Murphy, Specht, and Gross volunteered to be on the City Manager Search Committee. Commissioners directed staff to proceed with publication of a request for letters of interest from community volunteers, especially requesting persons with previous executive search experience, to also serve on the search committee. Letters of interest should be sent to the City, attention Mayor Gross.

Action 08-26

Moved by Commissioner Specht, seconded by Commissioner Carda, to adopt Resolution 08-02. (Memorandum 08-18)

RESOLUTION 08-02

WHEREAS, it appears from an examination of the plat of Lots 7, 10, 38, 39, 60, 61, 62, 63, 65, and 66, Crestview Homes Subdivision in the NE ¼ of Section 21, T93N, R56W of the 5th P.M., Yankton County, South Dakota prepared by John L. Brandt, a registered land surveyor in the State of South Dakota, and

WHEREAS, such plat has been prepared according to law and is consistent with the City's overall Comprehensive Development Plan.

NOW, THEREFORE BE IT RESOLVED by the Board of City Commissioners of the City of Yankton, South Dakota, that the plat for the above described property is hereby approved.

Roll Call: All members present voting "Aye"; voting "Nay": None.
 Motion adopted.

Action 08-27

Moved by Commissioner Knoff, seconded by Commissioner Wenande, to authorize the City to enter into an agreement with HDR Engineering, Inc., Sioux Falls, South Dakota, for a not-to-exceed cost of \$112,635.00, to conduct a study on the potential use of wells on the Nebraska side of the river as a source of raw water for the City of Yankton. (Memorandum 08-24)

Roll Call: All members present voting "Aye"; voting "Nay": None.
 Motion adopted.

Action 08-28

Alex Swiatek, Director, *Keep Yankton Beautiful*, was present to request \$4,000.00 to help fund a new segment of the Auld-Brokaw Trail located at 21st and Broadway. The total project cost is estimated to be \$17,000.00, with \$13,000.00 being provided by *Keep Yankton Beautiful*. Moved by Commissioner Murphy, seconded by Commissioner VanDerhule, to approve the request from *Keep Yankton Beautiful* for \$4,000.00 to help fund a new segment of the Auld-Brokaw Trail. (Memorandum 08-22)

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-29

This was the time and place to award the bid for the Annual Supply of Water Meters. The following bids were received and opened on January 15, 2008: (Memorandum 08-11)

New Meters Outright Price:

Dakota Supply Group, Sioux Falls, South Dakota - 5/8"x5/8"x7 1/2"-\$69.07; 5/8"x3/4"x7 1/2"-\$69.07; 3/4"x3/4"x9"-\$90.83; 1"x1"x10 3/4"-\$122.55; 1 1/2"-\$286.93; 2"-\$525.18; 3"-\$601.05; 4"-\$904.53.

Northern Water Works, Blaine, Minnesota - 5/8"x5/8"x7 1/2"-\$80.59; 5/8"x3/4"x7 1/2"-\$80.59; 3/4"x3/4"x9"-\$122.36; 1"x1"x10 3/4"-\$173.58; Neptune R900 Radio Frequency Meter Interface Unit-\$90.00; 1 1/2"-\$343.13; 2"-\$437.51; 3"-\$712.50; 4"-\$1,156.25.

HD Supply Waterworks, Sioux Falls, South Dakota - 5/8"x5/8"x7 1/2"-\$85.00; 5/8"x3/4"x7 1/2"-\$85.00; 3/4"x3/4"x9"-\$110.00; 1"x1"x10 3/4"-\$140.00.

New Meters Exchange Price:

Dakota Supply Group, Sioux Falls, South Dakota - 5/8"x5/8"x7 1/2"-\$67.71; 5/8"x3/4"x7 1/2"-\$67.71; 3/4"x3/4"x9"-\$88.96; 1"x1"x10 3/4"-\$118.65; 1 1/2"-\$281.56; 2"-\$516.18; 3"-\$582.21; 4"-\$872.88.

HD Supply Waterworks, Sioux Falls, South Dakota - 5/8"x5/8"x7 1/2"-\$68.00; 5/8"x3/4"x7 1/2"-\$68.00; 3/4"x3/4"x9"-\$89.00; 1"x1"x10 3/4"-\$114.00.

Moved by Commissioner Ellingson, seconded by Commissioner Specht, to award the bids to the low bidders as follows:

New Meters Outright Price:

Dakota Supply Group, Sioux Falls, South Dakota - 5/8"x5/8"x7 1/2"-\$69.07; 5/8"x3/4"x7 1/2"-\$69.07; 3/4"x3/4"x9"-\$90.83; 1"x1"x10 3/4"-\$122.55; 1 1/2"-\$286.93; 3"-\$601.05; 4"-\$904.53.

Northern Water Works, Blaine, Minnesota - Neptune \$900 Radio Frequency Meter Interface Unit-\$90.00; 2"-\$437.51.

New Meters Exchange Price:

Dakota Supply Group, Sioux Falls, South Dakota - 5/8"x5/8"x7 1/2"-\$67.71; 5/8"x3/4"x7 1/2"-\$67.71; 3/4"x3/4"x9"-\$88.96; 1 1/2"-\$281.56; 2"-\$516.18; 3"-\$582.21; 4"-\$872.88.

HD Supply Waterworks, Sioux Falls, South Dakota - 1"x1"x10 3/4"-\$114.00.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-30

Moved by Commissioner Specht, seconded by Commissioner Carda, to approve the purchase of a 2008 Ford F150 2x4 pickup for the Parks and Recreation Department from Robinson Motors, Yankton, South Dakota, for a cost of \$14,043.00, under the state bid price. (Memorandum 08-12)

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Action 08-31

Commissioner Specht introduced and Mayor Gross read the title of Ordinance No. 909, AMENDING ORDINANCE NO. 905 APPROPRIATING MONIES FOR DEFRAYING THE NECESSARY EXPENSES AND LIABILITIES OF THE CITY OF YANKTON, SOUTH DAKOTA, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2008, AND ENDING DECEMBER 31, 2008, and set the date for the second reading and public hearing as February 11, 2008. (Memorandum 08-26)

Possible legislation that would amend state liquor laws was discussed.

Action 08-32

Moved by Commissioner Specht, seconded by Commissioner Lowrie, to adjourn into Executive Session at 8:25 p.m. to discuss attorney/client privilege matters.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

Regular meeting of the Board of City Commissioners of the City of Yankton was reconvened by Mayor Gross.

Roll Call: Present: Commissioners Carda, Ellingson, Knoff, Lowrie, Murphy, Specht, VanDerhule, and Wenande. City Attorney Goetz and Acting City Manager Viereck were also present. Absent: None.
Quorum present.

Action 08-33

Adoption of Resolution 08-05 that would annex property located on the west side of the 1100 block of West City Limits Road (Majestic Heights Addition) into the corporate limits of the City of Yankton was discussed. (Memorandum 08-25) Kent Lehr and Carol Breck, representing the property owners, were present to support adoption of this resolution. City Attorney Goetz recommended that the Resolution not be adopted because of pending litigation in the B-Y Water lawsuit. Moved by Commissioner Knoff, seconded by Commissioner Specht, to adopt Resolution 08-05.

RESOLUTION NO. 08-05

WHEREAS, Kent E. Lehr, as Trustee of Clara Billars Irrevocable Trust has petitioned the City of Yankton, pursuant to SDCL 9-4-1, to annex certain real property into the corporate limits of the City of Yankton.

NOW, THEREFORE, BE IT RESOLVED by The Board of City Commissioners of the City of Yankton, South Dakota, that:

1. The following described real property is hereby annexed into the corporate limits of the City of Yankton, South Dakota:

DESCRIPTION OF TRACT TO BE ANNEXED

The Southeast Quarter (SE1/4), of the Southeast Quarter (SE1/4) Section Eleven (11), Township Ninety-three (93), Range Fifty-Six (56), Yankton County, South Dakota.

Said annexed property containing 40 acres total, more or less.

Roll Call: Members present voting "Aye": Commissioner Murphy; voting "Nay": Commissioners Carda, Ellingson, Knoff, Lowrie, Specht, VanDerhule, Wenande, and Mayor Gross.
Motion failed.

Action 08-34

Moved by Commissioner Ellingson, seconded by Commissioner Wenande, to adjourn at 9:35 p.m.

Roll Call: All members present voting "Aye"; voting "Nay": None.
Motion adopted.

C.N. Gross
Mayor

ATTEST: _____
Ann L. Clough
Deputy Finance Officer