

**CHAMBER OF THE BOARD OF CITY COMMISSIONERS
YANKTON, SOUTH DAKOTA
May 26, 2009**

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

Roll Call: Present: Commissioners Akland, Carda, Gross, Knoff, Lowrie, VanDerhule, and Wenande. City Attorney Hosmer and City Manager Russell were also present. Absent: Commissioner Ellingson. Quorum present.

Action 09-139

Moved by Commissioner Gross, seconded by Commissioner Wenande, to approve the Minutes of the regular meeting of May 11, 2009.

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

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

Action 09-140

Moved by Commissioner Gross, seconded by Commissioner Carda, to suspend rules and add New Business Item Number 9 to the agenda.

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

Action 09-141

Moved by Commissioner Gross, seconded by Commissioner Knoff, that the following items on the consent agenda be approved.

1. Establish public hearing for renewal of Malt Beverage Licenses
Establish June 8, 2009, as the date for the public hearing on the applications for renewal of Malt Beverage Licenses for the 2009-10 licensing period.
2. Establish Public hearing for Malt Beverage License
Establish June 8, 2009, as the date for the public hearing on the application for a New Retail (on-off sale) Malt Beverage License for July 1, 2009, to June 30, 2010, from Jin Hui Huang d/b/a King Buffet, 3013 N. Broadway, Suite 5, Yankton, South Dakota.
3. Establishing public hearing for sale of alcoholic beverages
Establish June 8, 2009, 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, October 23, 2009, from Benedictine Health Foundation (Kelly Kathol, Director), such event to be held at Pavilion Surgery Center, Floors 1st & 2nd on ASHH Campus, Yankton, South Dakota.
4. Establishing public hearing for sale of alcoholic beverages
Establish June 8, 2009, 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 1 day, June 9th, 2009, from Chamber of Commerce (Lynn Peterson, President) d/b/a Chamber of Commerce, Chan Gurney Airport, 700 E. 31st Street, Yankton, South Dakota.

Roll Call: Members present voting “Aye:” Commissioners Akland, Carda, Gross, Knoff, Lowrie, VanDerhule, and Mayor Specht; voting “Nay:” None; Abstaining: Commissioner Wenande.
Motion adopted.

The process for considering outside agency funding requests was discussed. Commissioners Wenande, Gross, and Lowrie explained their sub-groupings of outside agencies. It was the consensus to have the whole Commission decide actual funding, not just the committee.

Action 09-142

Moved by Commissioner Gross, seconded by Commissioner Knoff, to approve the Mayor’s Appointments of citizens to serve on various City Advisory Boards and Commissions as outlined in Memorandum 09-86.

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

Action 09-143

Moved by Commissioner Knoff, seconded by Commissioner Carda, to authorize the Finance Officer to issue a manual check in the amount of \$11,761.66 to Miller Painting, Hartington, Nebraska, as final payment for painting, crack repair, and caulking of the Memorial Pool. (Memorandum 09-82)

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

Action 09-144

Commissioner Gross introduced and Mayor Specht read the title of Ordinance No. 922, AMENDING THE 2003 UNIFORM PLUMBING CODE, and set the date for the second reading and public hearing as June 8, 2009. (Memorandum 09-84)

Action 09-145

Moved by Commissioner Knoff, seconded by Commissioner Gross, adopt Resolution 09-24. (Memorandum 09-89)

RESOLUTION 09-24

Dedication of 25 foot Utility Easement

THIS EASEMENT made this 26th day of May, 2009, by and between the City of Yankton, South Dakota, a Municipal Corporation, hereinafter called the "City," and the Yankton School District 63-3 their heirs, executors, administrators, successors and assigns, hereinafter called the "Owner,"

WHEREAS the City in its municipal capacity is desirous of acquiring a permanent utility easement and access upon land belonging to the Owner, and the Owner is desirous of cooperating with the City in the dedication of said easement.

NOW THEREFORE, the Owner hereby grants to the City a permanent utility easement. The easement is over and through the following legally described real estate:

The West 25 feet of Lot 2 except Lots A through F in the W2, SW4, Fox Run Industrial Park (See Exhibit –A-)

THE OWNER, its heirs, successors, or assigns shall not interfere with or disturb the improvements within the easement area without prior written approval of the City of Yankton. Additionally, the owner shall not plant any vegetation other than grass in the easement area without prior written approval of the City of Yankton.

THE OWNER agrees that the construction or placement of any structure, trailer, building, fence or other above or below ground stationary object within the easement area is strictly prohibited without the prior written approval of the City. Additionally, the City shall have the right at its discretion to remove from the easement area, at its own cost any trees, plants or undergrowth that may interfere with the function of the easement with no obligation to replace.

THE OWNER grants permission to the City to enter upon the above described property to commence construction and inspection together with all rights of ingress and egress necessary for the full and complete use and occupation of the permanent easement hereby granted.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves the dedication of the utility easement as described in the manner shown on the attached "Exhibit A."

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

Action 09-146

This was the time and place to award the bid for the Maple Street Water Main Replacement and Street Reconstruction project from 8th Street to 10th Street. The following bids were received and opened on May 14, 2009: Feimer Construction, Yankton, South Dakota-\$131,230.00; First Rate Excavate, Sioux Falls, South Dakota-\$143,306.29; LRC, Inc., Spicer, Minnesota-\$143,456.15; Smith & Smith Construction, Tea, South Dakota-\$153,581.25; Carstensen Contracting, Pipestone, Minnesota-\$187,613.10; Oliver Excavating, Tea, South Dakota-\$262,083.22. (Memorandum 09-83) Moved by Commissioner Carda, seconded by Commissioner Wenande, to award the bid to the low bidder, Feimer Construction, in the amount of \$131,230.00 contingent upon approval of the South Dakota Department of Environmental and Natural Resources.

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

Action 09-147

Moved by Commissioner Carda, seconded by Commissioner Gross, to authorize the City Manager to enter into a grant agreement and engineering contract amendment with Kadrmas, Lee & Jackson, Bismarck, North Dakota, in the amount of \$151,319.48 for the Chan Gurney Airport FAA Project AIP 3-46-0062-021-2009 for reconstruction of portions of Taxiway A, A3, and A4. (Memorandum 09-88)

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

Action 09-148

Moved by Commissioner Wenande, seconded by Commissioner Knoff, to adopt Resolution 09-23. (Memorandum 09-87)

RESOLUTION 09-23

WHEREAS, SDCL 6-13-1 requires a municipality owning personal property which is no longer necessary, useful or suitable for municipal purposes shall, by resolution, declare it surplus and may, by resolution, order the sale, destruction or other disposal of said personal property.

NOW, THEREFORE, BE IT RESOLVED that the following personal property be declared no longer necessary, useful or suitable for municipal purposes and said property shall be disposed of in accordance with SDCL 6-13-1, et sequential:

SURPLUS PROPERTY TO BE SOLD

2007 Ford Crown Victoria, 4-door sedan - VIN# 2FAHP71W47X109475 Police

2007 Ford Crown Victoria, 4-door sedan - VIN# 2FAHP71W67X109476 Police

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

Discussion regarding Yankton’s Sunday Liquor Sales Law was held. Kim Braunesreither, Boomer’s Lounge, and Ben Hanten, Ben’s Brewing Company, were present and spoke in favor of changing local ordinance to match state law. It was the consensus of the Commission to direct staff to draft an amendment to the City’s local ordinance to mirror South Dakota State Codified Law pertaining to Sunday Liquor Sales.

Several area residents and property owners were present to discuss their concerns and express opposition to location of the “Stephen’s House” at 415 Linn. Among those speaking against this location were Terry and Cheryl Winter, Charles and Tari Tielke, Angie Luken, Cheryl Slowey, Chris Velk, Dallas Jorgensen, Tess Welter, Mary Kay Healy, Gary Welter, Keryl Brady, Jane Wuestewald, Jennifer Paule, John Day, and Janis Revell. Commissioners directed City Staff to verify whether a building permit had been secured for this location, to ask City Attorney Hosmer to research any licensing or location issues as they pertain to state laws, and to invite the neighbors and Pastor Jeff Mantz from the First Assembly of God Church (owners of the proposed Stephen’s House) to appear at the June 8 City Commission meeting for further discussion of this issue.

Action 09-149

Moved by Commissioner Gross, seconded by Commissioner Wenande, to adjourn at 9:10 p.m.

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

Dan Specht
Mayor

ATTEST: _____
Al Viereck
Finance Officer

Published June 5, 2009