

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:30 p.m. on Monday, July 19, 2010 at the Sturgis Community Center. Present: Mayor Maury LaRue, Alderpersons Clint Brengle, Mark Carstensen, Joe DesJarlais, David Hersrud, Jamie McVay (arrived at 6:45) Tim Potts, Bernadette Usera and Kelly Vasknetz. City Manager Dave Boone and City Attorney Greg Barnier were present. Absent: none

Mayor LaRue led everyone in the Pledge of Allegiance.

Announcements:

None

Motion by Brengle, second by Usera and carried with all members voting yes to approve the agenda as written.

Motion by DesJarlais, second by Potts and carried with all members voting yes to approve the minutes from the regular council meeting on July 6, 2010.

Motion by Brengle, second by Hersrud and carried with all members voting yes to approve the following claims with the exception of Claim 88- Hersrud Co. - \$31.72 - repairs :

Wages – Mayor and Council \$3,236.18; Attorney \$2500.00; Finance Office \$8,167.87; Human Resource \$2000.00; City Manager \$4,975.16; Buildings \$1,455.79; Community Development \$4,786.98; Rally \$4,330.58; Police \$33,571.01; Fire Department \$2,491.41; Streets \$6,625.57; Street Cleaning \$932.20; Cemetery \$2,899.01; Community Center \$18,161.80; Library \$8,596.41; Auditorium \$295.57; Parks \$15,690.72; Ambulance \$11,078.30; Liquor \$4,023.94; Water \$13,360.44; Wastewater \$8,249.31; Sanitary Service \$9,472.81; Federal Withholding \$12,494.60; FICA \$24,702.86.

General – A&B Business, \$142.95, repair; A&J Surplus, \$100.00, supp; Laurie Adkins, \$39.00, cc prog exp; Alltel, \$247.40, other-rally; Amcon Dist, \$846.06, merch for resale; Albert Beasley, \$234.00, cc prog exp; Bentz Equip, \$34.33, repair; Best Business, \$26.16, repair; BH Chemical, \$673.47, supp; BH Power, \$25,886.68, util; Campbell Supply, \$556.88, supp; CBH Coop, \$14,149.67, supp; Century Business Products, \$21.32, supp; Chain Saw Center, \$75.15, repair; City of Sturgis Water Dept, \$899.25, util; Coca Cola, \$1737.00, merch for resale; Community Center Petty Cash, \$61.25, supp; Community Dev Dept, \$78.63, supp; Curt Corey, \$234.00, cc prog exp; Dell Marketing, \$3043.00, equip; Double Star Computing, \$405.00, repair; Beth Duffield, \$652.40, cc prog exp; Ecolab Pest, \$164.00, maint; Eddies Truck Sales, \$29.38, repair; Energy Lab, \$55.65, repair; Fedex, \$61.81, supp; Finance Office Petty Cash, \$34.00, supp; First Interstate Bank-Cr Card, \$3725.31, repair; Fry Communications, \$2690.42, publ-rally; FSH Communications, \$120.00, util; Daniel Gillen, \$273.00, cc prog exp; Glover Investments, \$600.00, rental; Great Western Tire, \$431.96, supp; Hillyard, \$315.61, supp; Integrity Heating, \$2493.33, repair; Integrity Sheet Metal, \$1077.80, repair; Johnston Hardware, \$62.68, supp; Ketel Thorstenson, \$17,938.18, prof fee; Bob Keyte, \$33.33, travel; Sharon Kienzle, \$117.00, cc prog exp; Knology, \$234.26, util; Maury LaRue, \$16.03, travel; Locks by Bernie, \$46.00, supp; Lynn's Dakotamart, \$554.33, cc prog exp; David McCarthy, \$30.00, other; Meade Co Times, \$1019.84, publ; Meade Co Auditor, \$28,827.00, other; Menards, \$24.96, supp; Montana Animal Care Assoc, \$270.00, travel; MDU, \$152.22, util; Motoring USA-John Detrick, \$1546.47, travel-rally; Mr Movies, \$5.99, cc prog exp; Neve's Uniforms, \$351.45, supp; Northern Hills Vet Clinic, \$159.64, prof fee; Occupational Health Network, \$368.20, prof fee; Office Depot, \$99.99, supp; O'Reilly Auto Parts, \$129.43, repair; Owens Interstate Sales, \$297.87, repair; Pamida, \$142.81, supp; Park Ave Car Wash, \$200.00, supp; Pete Lien & Sons, \$2571.00, supp; Peterson Automotive, \$451.35, repair; Pitney Bowes, \$201.50, rental; Elvira Pittman, \$500.00, grp insur; Postmaster, \$440.00, supp; Powerplus Electric, \$117.81, repair; Print Mark-et, \$695.99, publ; Public Safety Equip \$428.13, supp; Rapid Delivery, \$26.40, repair; Robert Sharp & Assoc,

\$3009.35, publ; Rushmore Office, \$2470.45, supp; Fred Schmidt, \$30.00, other; SD Federal Property, \$35.00, supp; Servall, \$252.27, maint; Sturgis Napa, \$1012.63, repair; Sturgis Police Reserves, \$270.00, other; Theatrical Services, \$130.35, supp; Thomson West, \$176.40, supp; Town-n-Country Plumbing, \$29.95, repair; Twilight First Aid, \$118.10, supp; Ultramax, \$434.00, supp; Vanway Trophy, \$66.80, supp; Brenda Vasknetz, \$1005.09, grp ins.

Park – Bentz Equip, \$48.68, repair; BH Chemical, \$63.89, supp; BH Power, \$54.73, util; Campbell Supply, \$264.93, supp; CBH Coop, \$421.35, repair; Chain Saw Center, \$85.00, rent; City of Sturgis Water Dept, \$1104.25, util; Crescent Electric, \$230.97, supp; Finance Office Petty Cash, \$14.00, supp; First Interstate Bank-cr card, \$74.00, supp; Hills Materials, \$404.72, repair; Hillyard, \$115.06, supp; J&L Services, \$435.00, repair; J&L Services, \$195.00, repair; Jacobsen Ford, \$60.00, repair; Jerry's Refrigeration, \$400.00, repair; Johnston Hardware, \$467.43, supp; Knecht Home Center, \$39.98, supp; Knology, \$168.45, util; Lynn's Dakotamart, \$20.63, supp; Menards, \$99.70, supp; MDU, \$11.90, util; Tanya Neuschwander, \$5.08, travel; Occupational Health Network, \$559.80, prof fee; Owens Interstate Sales, \$7.98, supp; Powerplus Electric, \$207.67, repair; Print Mark-et, \$63.27, publ; Rockingtree Floral, \$259.90, supp; Rushmore Office, \$96.30, supp; Sturgis Napa, \$51.97, repair; Town-N-Country Plumbing, \$85.15, supp; Warne Chemical, \$2635.00, supp.

Brick Project – Campbell Supply, \$182.40, supp; Sam Erion Construction, \$4296.24, prof fee; Johnston Hardware, \$37.96 supp; Rockingtree Floral, \$1164.23, supp; Rushmore Office, \$139.98, supp.

Ambulance – Century Business Products, \$21.31, supp; City of Sturgis Water Dept, \$45.50, util; DB Billing, \$551.61, prof fee; First Interstate Bank-cr card, \$47.94, supp; MDU, \$22.69, util; Office Depot, \$99.99, supp; Print Mark-et, \$63.27, publ; Sturgis Napa, \$219.34, supp; Tom's T's, \$942.00, supp.

Mayor's Ride – First Interstate Bank-cr card, \$46.64, supp; Rushmore Office, \$12.76, supp.

Capital Improvement – Brosz Engineering, \$6125.46, cap imp.

Bike Path – Schreier Engineering, \$4213.00, cap imp.

Liquor – Amcon Distrib, \$2740.10, repair; BH Pioneer, \$95.00, publ; BH Power, \$1314.71, util; Chamber of Commerce, \$700.00, publ; City of Sturgis Water Dept, \$299.00, util; Coca Cola, \$622.70, pop for resale; Eagle Sales, \$29,530.62, off sale beer; Ecolab Pest, \$41.00, maint; Fisher Beverage, \$9501.61, off sale beer; Johnson Western Wholesale, \$72,793.03, off sale liquor; M&B Enterprises, \$97.20, snacks for resale; Meade Co Times, \$56.34, cap imp; MDU, \$11.90, util; One Way Service Pros, \$291.30, repair; Pepsi, \$323.36, pop for resale; Prairie Berry, \$2181.00, off sale liquor; Print Mark-et, \$63.27, publ; Republic Beverage, \$17,673.24, off sale liquor; Richters Tire, \$32.00, repair; Rushmore Office, \$247.20, supp; S. Ellwein, \$368.20, merch for resale; Sand Creek Printing, \$397.26, supp; Servall, \$64.74, supp; Sturgis Napa, \$102.35, repair; Tatianas Import Beverages, \$118.40, off sale beer.

Water – BH Power, \$430.20, util; City of Sturgis Water Dept, \$81.00, util; First Interstate Bank-cr card, \$31.48, travel; Beverly Johnson, \$500.00, grp insur; Knology, \$59.65, util; MDU, \$14.37, util; Print Mark-et, \$63.27, publ; Rushmore Office, \$502.50, supp; Xcel Demo-Murray Addn, \$39,946.45, cap imp.

Wastewater – BH Truck, \$-50.00, repair; Brosz Engineering, \$7932.50, cap imp; Campbell Supply, \$128.51, supp; City of Belle Fourche, \$19.58, other; City of Sturgis Water Dept, \$12.88, util; Environmental Products, \$83.96, repair; Finance Office Petty Cash, \$28.00, supp; G&H Distributing, \$304.43, supp; Hills Materials, \$1214.43, repair; Owens Interstate, \$63.76, supp; Print Mark-et, \$63.27, publ; Sturgis Napa, \$60.27, repair; Xcel Demo-Murray Add, \$6878.00, cap imp.

Sanitary Service – BH Truck, \$171.14, repair; Campbell Supply, \$87.95, repair; CBH Coop, \$2255.97, supp; City of Belle Fourche, \$20,283.72, other; Eddies Truck Sales, \$187.36, repair; Finance Office Petty Cash, \$14.00, supp; First Interstate Bank-cr card, \$46.02, travel; Great Western Tire, \$40.00, supp; O'Reilly Auto Parts, \$42.96, repair; Owens Interstate Sales, \$39.27, repair; Print Mark-et, \$63.27, publ; Rapid Delivery, \$8.80, repair; Stern Oil, \$440.21, supp; Sturgis Napa, \$278.33, repair.

Community Center Children's Fund – Community Center Youth, \$120.00, other.

Motion by Brengle, second by Potts and carried with Brengle, Carstensen, DesJarlais, LaRue, Potts, Usera and Vasknetz voting yes and Hersrud abstaining to approve Claim number 88 – Hersrud Co. - \$31.72-Repairs.

Committee Reports:

none

City Manager Report:

- Several citizens were present that had concerns about the rumor of an adult oriented business coming to Sturgis. City Attorney Barnier explained to the citizens that State law regulates this type of business and that this kind of business cannot be within a ¼ a mile of a park, residence or place of worship. According to State law there are only two ways of prosecuting this type of business; through the States Attorney or a private citizen. At this time the City has not issued a Certificate of Occupancy for this business and so the business would be in violation of our Codes if they open for business. The City is working with the States Attorney on this matter.

Motion by Brengle, second by Usera and carried with all members voting yes to approve the following:
Budgeted New Hire: Liquor Store-PT Stocker-summer & Rally –Jordan Littleton-\$8.00; PT Sales Clerk for Rally – Dean Lawrence-\$8.00, Stacey Ross-\$8.25, Mike Delancey-\$8.00 and Charles Colombe-\$8.00; Community Center – Rally Custodial – Michael Huber-\$8.50, Sarah Zimmerman-\$8.50.
Budgeted wage increases: Library – Linda Lensegrav-\$8.50; Community Center -existing staff- Rally wage adjustment – Josh O’Dea-\$8.50.

This was the time and date set for a public hearing for a use on review for a fence that is over the height requirement for Mike Green at 1709 W. Main.

Motion by Brengle, second by Vasknetz and carried with all members voting yes to approve the use on review for Mike Green.

Motion by Usera, second by Hersrud and carried with all members voting yes to approve second reading of Ordinance 2010-09 - Title 15-Amendment to permit Sidewalk Cafes and Sidewalk Vending.

CHAPTER 15.06 UNLAWFUL OBSTRUCTION AND USE FOR SIDEWALK CAFÉ AND VENDING

15.06.01 Unlawful obstruction

It is unlawful for any person, without legal privilege to do so, to obstruct any public street, alley, sidewalk, way, place or building, whether alone or with others and who, after warning by a code enforcement officer, persists in so obstructing the same.

OBSTRUCT: To render impassable without reasonable inconvenience or hazard. No person shall be deemed to have violated this section solely because of a gathering of persons to hear him or her speak or otherwise communicate or solely because of being a member of the gathering.

PUBLIC: A place to which the public or a substantial group has access, among such places are included public streets, alleys, places, public buildings and any places of business or amusement in which the buildings, places of business or amusement are open to the public, or publicly owned property.

A. It is unlawful for a person in a gathering to refuse to obey a reasonable request or order by a police officer to move.

B. It is unlawful for any person to loiter, stand or sit in or upon any public street, alley, sidewalk or crosswalk so as to in any manner hinder or obstruct the free passage therein or thereon of persons or vehicles passing or attempting to pass along the same. A request or order to move addressed to a person whose speech or other lawful behavior attracts an obstructing audience shall be deemed reasonable if the obstruction of the public area can be eliminated by police control of the size or location of the gathering.

C. It is unlawful for any person, except as provided herein, to place any goods, wares or merchandise for exhibition or sale upon any public street, alley, sidewalk or any public grounds in the city, or place or cause to be placed thereon any goods, wares or merchandise, or bottles, cans, cases, packages, barrels, or other containers, at any time for exhibition, sale or any other purpose, or place or cause to be placed thereon, any advertising sign, bicycle rack, popcorn stand or rack, or any other moveable property, article or material which in any manner obstructs or interferes with the free use of such public street, road, alley, sidewalk or public ground.

15.06.01. Tree Planters. For purposes of subsections A through C of this section, the placement of tree planters and attached benches upon sidewalks by the owner of the abutting property, or his or her agent, shall not be construed as an obstruction; provided that, the sidewalk is approximately 15 feet in width and that there remains a minimum of 5 feet between the tree planter, attached benches and the property line, and that there remains a minimum of 5 feet between the tree planter, attached benches and the back of the curb.

A. The placement and design of the tree planters, attached benches and the types of trees used shall be approved by the Building Inspector or his or her designee;

B. The owner of the abutting property or his or her agent, who places the planters and attached benches upon the sidewalk, shall keep the trees, the tree planters and the attached benches in a neat and satisfactory manner;

C. No advertising of any kind or nature shall be permitted to be placed upon the tree planter or attached benches.

15.06.02. Sidewalk Café: Notwithstanding any other provision of this section or of Title 15 of this code, the City Council may, by annual permit not including the period commencing on Wednesday before the official start date of the annual Sturgis Motorcycle Rally and concluding at the end of the last day of the rally, authorize businesses to operate sidewalk cafés upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth. A sidewalk café is an outdoor area located in the public right-of-way which is operated and maintained by an establishment, coffeehouse, tea shop, restaurant or bar. The sale of alcoholic beverages shall be subject to all licensing requirements, including those set forth at SDCL 53-4-77.1. Sidewalk Cafes may be permitted within the City for operation between the hours of 6:00 a.m. and 2:00 a.m., only if all design criteria can be met.

A. An application for a sidewalk café permit shall be filled by the proposed operator with the Community Development Department. The application shall include a site plan which identifies the location and number of tables, chairs, awnings, umbrellas, trash receptacles, heaters, barricades, and landscape features as applicable, a copy of any license required by SDCL 34-5-77.1 and an affidavit of compliance with that requirement, and any other documents needed to demonstrate compliance with this ordinance. The application shall include a valid copy of all necessary licenses and permits required by State law and County ordinance.

B. Design criteria.

1. Sidewalk cafés are permitted only on sidewalks with a minimum width of 5 feet from the property line to the curb face. The location of the sidewalk café must be adjacent the business operating the café, and may not extend beyond the property lines. Sidewalk cafés must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way. All applicable sight triangle requirements shall be met at all times by sidewalk cafes. No café elements may be located within 2 feet of the curb face.

2. All elements associated with sidewalk cafés, including but not limited to tables, chairs, umbrellas, temporary barricades, heaters and awnings must be of quality design, workmanship, and materials to ensure safety and convenience to patrons. All such elements will be reviewed as part of the permit process.

3. Elements of the sidewalk café may not be attached permanently to the sidewalk of public right-of-way. The property owner is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the sidewalk café. Physical barriers may not exceed 4 feet in height. Bolting a barrier to the sidewalk is not permitted.

4. Umbrellas must be designed to be secure during windy conditions. Umbrellas must be at least 7 feet above the sidewalk when open.

5. Lighting for sidewalk cafés is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Tabletop lighting may include candles and battery-operated fixtures.

6. Sidewalk cafés are prohibited from playing music or presenting other

entertainment which produces sound in excess of 85 decibels, as measured at the boundary of the permitted premises.

7. Physical barricades are required if alcoholic beverages are sold at the sidewalk café.

8. Any signs permitted hereunder shall comply with the size, dimension, orientation and placement requirements of 30.04.11 of the City Ordinance Code. Any such sign shall not contain off-premises advertising, and shall not display a logo or advertising copy other than for the sidewalk café.

C. Vending machines, carts, or other objects for sale are prohibited from inclusion in a sidewalk café. Nothing in this section shall preclude the City Council from authorizing vending carts or similar uses outside of sidewalk cafes.

D. All services provided to sidewalk café patrons as well as all patron activity must occur within the designated sidewalk café area. No alcoholic beverages may be stored or mixed in the sidewalk café.

E. The permit holder is responsible for proper supervision of the sidewalk café to ensure the requirements of the permit are met.

F. Every sidewalk café permit holder shall furnish a certificate of insurance proving commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability. The city shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.

G. Permit holders must ensure that the requirements for operation are met. These include:

1. Patrons must wear shoes and shirts at all times.

2. All sidewalk cafés must maintain at least 1 opening for ingress and egress at all times. All sidewalk cafés shall abide by all accessibility requirements of the currently adopted Building Code.

3. Sidewalk cafés must adhere to size, design, and other requirements approved by the city.

H. All areas within and surrounding a sidewalk café must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations.

I. An exception may be granted by the Community Development official to any of the provisions of the design criteria set forth in subsections B(1) through (8), and the decision of the official is appealable to the City Council.

J. Any person or party has the right to appeal the decision of the Community Development official regarding a sidewalk café permit. Appeals must be made in writing and submitted to the Community Development and Finance offices by close of business on the seventh full calendar day following action by the Community Development official. Appeals shall be reviewed and acted upon by the City Council within 30 days.

K. All permit holders shall be required to abide by all federal, state, and local laws.

L. A sidewalk café permit may be revoked for cause, including but not limited to the failure to comply with all of the standards required for the issuance of the permit. A notice of intent to revoke a sidewalk café permit shall be given in writing 10 days prior to actual revocation and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the permit, the permit may be authorized to continue in force. If a hearing has been requested following receipt of notice to revoke, the City Council shall hold a public hearing on the matter and shall make a determination whether to revoke within 30 days.

15.06.03. Sidewalk Vendors: Notwithstanding any other provision of this section or Title 15 of this code, the City Council may, by annual permit not including the period commencing on Wednesday before the official start date of the annual Sturgis Motorcycle Rally and concluding at the end of the last day of the rally, authorize a Sidewalk Vendor businesses to operate upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth. A sidewalk vendor located on the sidewalk in the public right-of-way is allowed to sell cut flowers, food and/or non-alcoholic beverages to be consumed off premises, wearing apparel or other permitted merchandise at specific locations as authorized herein. Sidewalk vending facilities and equipment shall be entirely removed from the public right-of-way when not in use. Sidewalk vendors may be permitted to operate between the hours of 6:00 a.m. and 2:00 a.m.

A. Application. Any application for a sidewalk vendor permit shall be filled with the Community Development Department. The application for a sidewalk vendor permit shall include the following items:

1. Name, address and contact information.

2. Documentation to confirm that the applicant is the owner of the property adjacent to the proposed vending site or to confirm the owner's consent to the proposed site.

3. Type of items sold.

4. A valid copy of all necessary licenses and permits required by State law and County ordinance.

5. Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.

6. A site plan indicating the location and dimensions of the proposed use and device or pushcart.

7. A detailed scale drawing, picture or diagram and material specifications of the device or pushcart to be used.

8. A sidewalk vendor is prohibited from playing music or presenting other activities that produces sound in excess of 85 decibels at the boundary of the permitted premises.

9. A valid vendor license issued by the City.

B. Permitted Vending Products and Goods. All goods being sold from sidewalk vendors shall be located within the permitted area and be attended at all times; shall not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk; shall involve a short transaction period to complete the sale or render the service; shall not cause undue noise or offensive odors; and shall be easily carried by pedestrians. The City of Sturgis permits the following types of goods for street vending in approved locations:

1. Cut flowers.

2. Food.

3. Non-alcoholic beverages.

4. Apparel and other permitted products or goods.

C. Location Requirements. Sidewalk vendors may only be permitted in locations in the City of Sturgis where all Design Criteria and other requirements can be met.

D. Design Criteria and License Requirements. Sidewalk vendors conducting business on the sidewalks of the City of Sturgis with a valid permit issued under this chapter must comply with the following conditions in addition to a valid Vendors license:

1. Any vending units must be self-contained and portable, and no longer than 4 feet wide by 6 1/2 feet high and 6 feet long;
2. A maximum of 60 square feet of space can be occupied by vending unit;
3. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The operator is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the element of the vending unit;
4. Mobile electric generators are prohibited; however, propane area heaters may be used;
5. No more than 3 ice chests, coolers or other accessory containers may be utilized. The containers must be placed on or immediately next to the vending unit, and not in the way of pedestrian or vehicular traffic. Coolers must be hard-plastic or hard metal finish, no Styrofoam, and must be located within the 60 square foot area;
6. Any unit used for cooking, heating, or warming of food must be attached to the vending unit;
7. Vendors shall provide a receptacle for all waste material generated by the said vending operations;
8. All sidewalk vendors must pick up and remove from the site all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within 30 minutes of the end of daily operations. Litter may not be placed in City trash receptacles. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval;

9. Vending unit may not be moved from assigned area;

10. Vendor cannot receive electricity or water from any adjoining buildings by means of wires, hoses, or other connections;

11. No sidewalk vendor may conduct business on a sidewalk in any of the following places:

(a) Within 2 feet of the inside corner intersection of the sidewalk with any other sidewalk; sidewalk intersections shall be kept clear for pedestrian safety;

(c) Within a 5 foot radius of a fire hydrant; and,

(d) Within 3 feet of an entrance to an adjacent building.

12. All vending units shall be removed from the public right-of-way during non-operational hours;

13. Sidewalk vendors shall display in a prominent and visible manner the license issued by the City of Sturgis.

14. The City shall inspect and approve any vending unit to assure the conformance of all cooking or heating apparatus with the provisions of the currently adopted building and fire codes;

15. Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval through the State Department of Health for food related establishments. A copy of the permit issued by the State shall be supplied to the Community Development Department in the application packet.

16. No sidewalk vendor shall shout, berate or otherwise seek to engage an pedestrian for the purpose of advertising or attracting attention to items displayed

17. Sidewalk vendors are permitted only on sidewalks which allow the vendor to maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way. All applicable sight triangle requirements shall be met at all times by sidewalk

vendors. No sidewalk vendor element may be located within 5 feet of the curb face;

18. Umbrellas and canopies must be designed to be secure during windy conditions. Umbrellas and canopies must be at least 7 feet above the sidewalk when open;

19. Lighting for sidewalk vendors is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Lighting may include battery- operated fixtures;

20. Any signs authorized hereunder shall be of a size, dimension, orientation and placement requirements of 30.04.11 of the City Ordinance Code. Any such sign shall not contain off- premises advertising and shall not display a logo or advertising copy other than for the sidewalk vendor.

E. The permit holder is responsible for proper supervision of the sidewalk vending in order to ensure the requirements of this section are met.

F. Every sidewalk vendor permit holder shall furnish a certificate of insurance proving commercial insurance coverage of at least \$2,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Sturgis shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk vendor. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.

G. All areas within and surrounding a sidewalk vending unit must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations.

H. An exception may be granted by the Community Development official to any of the provisions of the Design Criteria set forth in subsection D(1) through (20), and the decision of the Community Development official is appealable to the City Council.

I. Any person or party has the right to appeal the decision of the Community Development official regarding a sidewalk vendor permit. Appeals must be made in writing and submitted to the Community Development and Finance offices by close of business on the seventh full calendar day following action by the Community Development official. Appeals shall be reviewed and acted upon by the City Council within 30 calendar days.

J. All permit holders shall be required to abide by all federal, state, and local laws.

K. A sidewalk vendor permit may be revoked for cause, including but not limited to the failure to comply with all of the standards required for the permit. A notice of intent to revoke a sidewalk vendor permit shall be given in writing 10 days prior to actual revocation, except in the case of insurance cancellation, and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the permit, the permit may be allowed to be continued in force. If a hearing has been requested following receipt of notice to revoke, the City Council shall hold a public hearing on the matter and shall make a determination whether to revoke within 30 days.

L. The sidewalk vendor permit shall automatically become null and void if the license required by The City of Sturgis Code is suspended, revoked or expired.

Dated this 19th day of July, 2010.

First reading: July 6, 2010

Second reading: July 19, 2010

Adopted: July 19, 2010

Published: July 28, 2010

Effective: August 18, 2010

Motion by Hersrud, second by Carstensen and carried with Carstensen, DesJarlais, Hersrud, LaRue, Potts, Usera and Vasknetz voting yes and Brengle abstaining to special events license for Sturgis Wine Company for the Expo Center August 8-15.

Motion by Hersrud, second by DesJarlais and carried with all members voting yes to set a public hearing date of August 2, 2010 for a Special events license for Loud American Roadhouse.

Motion by Usera, second by Hersrud and carried with all members voting yes set a public hearing date of August 2, 2010 for a Special events license for The Knuckle Saloon.

The following bids were received for the Municipal Liquor Store Building:

GBA Inc. –Bid Base-\$577,000-Alternate-\$83,000 – Total bid \$660,000

North Star – Bid Base-\$574,000-Alternate-\$88,000-Total bid \$662,000

Heavy Constructors – Bid Base-\$621,000-Alternate-\$84,000-Total bid \$705,000

SECO Construction-Bid Base-\$611,000-Alternate-\$90,000-Total bid \$701,000

Ainsworth-Benning-Bid Base-\$589,800-Alternate-\$82,200-Total bid \$672,000

Iverson Construction-Bid Base-\$595,800-Alternate-\$93,500-\$689,300

Motion by DesJarlais, second by Usera and carried with all members voting yes to award the bid to GBA, Inc. for \$660,000.

At this time, City Manager Boone gave a power point presentation on the 2011 budget. The theme of this presentation was “Doing more with less while staying on the right track”. Some of the top priorities of a budget is to reflect Council goals and priorities, safeguard essential core services, reduce City property tax with a balanced budget, economic development, infrastructure investment and control spending.

Any other Business:

Jack Hoel stated his concerns about the lack of light on Main Street with the new light poles. His other concern was raising vendor fees for next year.

Motion by Hersrud, second by Potts and carried with all members voting yes to go into executive session at 7:32 p.m. for legal advice.

Motion by McVay, second by Usera and carried with all members voting yes to come out of executive session at 8:05 p.m.

Mayor LaRue adjourned the meeting at 8:05 p.m.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED: _____
Maury LaRue-Mayor

Please publish once at the total approximate cost

