

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, March 5, 2012 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons, Clint Brengle, Joe DesJarlais, David Hersrud, Marcia Johnston, Jamie McVay and Tim Potts. Also present City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Dane Sundstrom and Kelly Vasknetz.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Announcements:

Mayor Carstensen received a letter from the National Fallen Fighters thanking the City for their support.

Informational Reports:

Community Development Director Rick Bush updated the Council on his Department:

- Moose Drive reconstruction project is underway, made possible by a State program.
- Lazelle Street reconstruction which includes new water lines.
- Working with Game, Fish and Parks on the Marcotte Tract.
- Continue working on Exit 32/Vanocker Drive corridor.
- The County and City will have a new GIS system.

City Manager Daniel Ainslie updated the Council on his Department:

- The Community Survey was completed.
- The 2012 budget was reduced by almost a quarter million dollars.
- The City is negotiating with the Unions for the upcoming years.
- The SMRi contract should be done in April or May.
- The City is working with the School on several projects.

City Manager Ainslie reported:

- General Fund and Capital Improvement Fund sales tax for February was up 27% and the Triple B sales tax was up 33%. These numbers could be down next month.

Motion by Brengle, second by Hersrud and carried with all members voting yes to remove 6A from the consent calendar.

Motion by Brengle, second by Potts and carried with all members voting yes to add 9K – Request to sell raffle tickets-Sturgis Motorcycle Museum.

Motion by McVay, second by Brengle and carried with all members voting yes to approve the consent agenda.

Motion by Brengle, second by Johnston and carried with all members voting yes to approve the following claims:

Wages – Ambulance \$12,205.59; Attorney \$2,884.62; Auditorium \$289.36; Buildings \$2,115.54; Cemetery \$1,036.31; City Manager \$4,717.04; Community Center \$13,599.40; Community Development \$5,143.88; Finance Office \$8,741.01; Fire Department \$2,671.06; Human Resource \$2,121.81; Library \$8,723.14; Liquor \$4,255.41; Mayor and Council \$3,333.27; Parks

\$10,564.79; Police \$34,991.47; Rally \$3,255.75; Sanitary Service \$10,569.23; Streets \$8,391.88; Wastewater \$9,240.78; Water \$11,501.33; Federal Withholding \$16,031.98; FICA \$12,315.93.

General – A&B Welding, \$74.52, supp; ACS Firehouse Software, \$735.00, other; Amazon, \$46.01, supp; Amcon, \$242.09, merch for resale; Associated Supply, \$2863.22, supp; Avaya, \$36.39, util; Baker & Taylor, \$756.95, supp; Barrows Electric Service, \$111.75, repair; BH Power, \$1130.80, util; Buckle Tree, \$1004.91, supp; Jerry Burnham, \$2490.92, prof fee; Butte Electric, \$627.92, util; Campbell Supply, \$29.47, supp; CBH Coop, \$119.38, supp; Century Business, \$170.47, supp; City of Sturgis Water Dept, \$952.02, util; Community Center Petty Cash, \$10.50, cc prog exp; Corbon Law Enforcement, \$137.95, supp; Dakota Mill & Grain, \$683.55, supp; Dakota Pine Thinning, \$6918.00, prof fee; Dakota Supply Group, \$984.88, supp; Dish Network, \$79.95, util; EB Communications, \$528.00, repair; Fedex, \$100.32, supp; Fireguard, \$922.50, supp; Freeman Electric, \$1553.06, repair; Gale Group, \$71.24, supp; Hersrud, \$22,989.00, equip; Ikon Office, \$193.00, prof fee; IMLA, \$400.00, travel; Inland Truck Parts, \$368.76, repair; Knology, \$2144.94, util; Lawrence Co Invasive Species Mgt, \$1500.00, prof fee; Learning Opportunities, \$451.31, supp; Kristen Legner, \$150.00, cc prog exp; Alexis Lemmel, \$40.00, cc prog exp; Light & Siren, \$488.45, equip; Derrick Linn, \$233.20, cc member refund; Matthew Bender, \$34.69, supp; Candy Morrell, \$3311.09, maint; Motoring USA, \$6300.00, prof fee; Newkirk's Ace Hardware, \$55.37, supp; Pamida, \$45.98, supp; Park Avenue Car Wash, \$57.40, supp; Polar Engraving, \$1921.50, merch for resale; Potomac Aviation Technology, \$250.00, repair; Purchase Power, \$1604.83, supp; RDO Equip, \$1424.72, repair; Rockingtree Floral, \$31.90, other; Rushmore Office, \$237.44, supp; SD Building Officials Assn, \$75.00, prof fee; SD Planners Assoc, \$55.00, prof fee; SD Sec of State, \$30.00, supp; SD State Historical Society, \$35.00, supp; Sturgis Veterinary Hospital, \$61.49, prof fee; TASC – Client Invoices, \$936.50, other; Robert Telkamp, \$29.99, repair; Time Equip Rental, \$31.66, repair; Two Wheeler Dealer, \$34.18, supp; Tanner Urbaniak, \$40.00, cc prog exp; Vanway Trophy, \$15.00, repair; Verizon, \$2116.96, util; Wellmark Blue Cross, \$250.00, other; West River Electric, \$696.07, util; Weston Woods Studios, \$20.09, supp; Whisler Bearing, \$133.73, repair; Donald Whitehead, \$30.00, other; Ziegler Building Center, \$131.16, supp.

Special Sales Tax – Chamber of Commerce, \$10,666.67, chamber; SEDC, \$8333.33, ind dev.

Library – Waterworks Plumbing, \$9693.90, repair.

Liquor – Century Business, \$1.33, supp; City of Sturgis Water Dept, \$47.14, util; Tom Ferguson, \$25.00, other; Knology, \$164.42, util; Sturgis Cigar & Knife Co, \$505.98, tobacco for resale; TASC-Client Invoices, \$44.60, other; Verizon, \$56.81, util.

Water – Buckle Tree, \$256.66, supp; Butte Electric, \$183.60, util; Century Business, \$2.52, supp; City of Sturgis Water Dept, \$75.00, util; Knology, \$120.18, util; Candy Morrell, \$362.55, maint; TASC-Client Invoices, \$89.19, other; Verizon, \$360.14, util.

Wastewater – AT&T Mobility, \$141.76, util; BH Power, \$2217.11, util; Buckle Tree, \$151.86, supp; City of Sturgis Water Dept, \$12.32, util; Great Western Tire, \$232.95, supp; Hersrud, \$26,936.00, equip; Jenner Equip, \$210.54, repair; Candy Morrell, \$238.18, maint; Stan Houston Equip, \$3014.50, repair; TASC-Client Invoices, \$59.46, other; Robert Telkamp, \$30.00, repair; Verizon, \$105.74, util.

Sanitary Service – A&B Welding, \$202.52, repair; Buckle Tree, \$162.40, supp; Century Link, \$53.99, util; Freeman Electric, \$650.00, equip; Candy Morrell, \$238.18, maint; Rotonics Manufacturing, \$36.75, supp; Sanitation Products, \$543.10, repair; TASC-Client Invoices, \$104.06, other; Verizon, \$37.56, util.

Ambulance – Charlotte Bierle, \$115.06, ambul; Century Business, \$59.04, supp; City of Sturgis Water Dept, \$40.50, util; Dakota Care, \$803.59, ambul; DB Billing, \$551.96, prof fee; Knology, \$105.19, util; Purchase Power, \$42.51, supp; Regional Health, \$692.34, supp; Regional Home Medical Equip, \$231.00, supp; TASC-Client Invoices, \$89.19, other; Verizon, \$54.24, util.

Motion by Potts, second by DesJarlais and carried with Carstensen, DesJarlais, Hersrud, Johnston, McVay and Potts voting yes and Brengle abstaining to approve a Special Events liquor license for Loud American for the Lincoln Day Dinner on March 17, 2012.

Motion by Brengle, second by DesJarlais and carried with all members voting yes to open the public hearing for a zoning amendment for Blue Devil Auto Sales – Rick Hamling at 912 Main Street for car or motorcycle sales.

Community Development Director Rick Bush gave a presentation to the Council explaining the variance request for zoning that Rick Hamling has applied for which is for a car and motorcycle sales.

- Rick Hamling, owner of Blue Devil Auto Sales, expressed to the Council that he had no issue in coming into compliance with the items that the City had listed. Hamling stated that he is looking at having only 5 or 6 cars on the lot at the beginning. He stated that he wants do this right and have a nice business.
- Dave Wilson, owner of the lot, said that they are trying to create business in the 900 block. He asked that the Council approve this variance.
- Councilor Johnston asked that if passing this variance would open this up to more of these businesses and would it be better to change the zoning.
- Council Brengle asked about changing the zoning and what would happen if the variance was passed now, would it go away. The variance would go away if the zoning was changed.
- Councilor Hersrud asked the Council if he felt that he had a conflict of interest on this variance issue. No one on the Council commented. Hersrud interjected that he felt there should be more car dealerships in town. It would be good for the Community. As a Council person he has the responsibility to back Planning and Zoning, as they did not pass this variance.
- Councilor Potts asked about the landowners and if they objected to the plan. No one did object. Potts questioned the junk cars that are sitting around the lot. These junk cars do not belong to Hamling, but will be cleaned up.
- Ken Meirose, Black Hills Power, said they had no objection to this variance.
- Mark Norstegaard, owner of property in the area, does not have a problem with this variance or business. With the reviews in place, the Council could cancel this variance if Hamling is not complying.

Motion by Brengle, second by Johnston and failed with Brengle, Carstensen, Johnston, McVay and Potts voting yes and DesJarlais and Hersrud voting nay to approve the variance zoning amendment with the nine recommendations by staff (not the applicant's responses) for Blue Devil Auto Sales – Rick Hamling at 912 Main Street for car or motorcycle sales.

Motion by Brengle, second by McVay and carried with all members voting yes to approve the following payroll changes: Ambulance – EMT-B – Robert Eisenbraun - \$10.00

Motion by Brengle, second by Johnston and carried with all members voting yes to approve second reading of Ordinance 2012-01 amending Title 20-Municipal Sales Service tax and Use Tax – 20.02.03; Capital Improvement Fund.

ORDINANCE 2012-01
AN ORDINANCE AMENDING TITLE 20 - Municipal Sales Service Tax and Use Tax –
20.02.03- Capital Improvement Fund

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 20 –Municipal Sales Service Tax and Use Tax –20.02.03 – Capital Improvement Fund is hereby amended to read as follows:

Chapter 20.02
MUNICIPAL SALES AND SERVICE TAX AND USE TAX

20.02.03: CAPITAL IMPROVEMENT FUND

At least forty percent (40%) of the tax levied under this Title pursuant to Section 20.02.01 and 20.02.02, shall be used only for capital improvements, land acquisition, debt reduction, increase committed Fund Balance (reserve accumulation) and/or the purchase of machinery and equipment.

Dated this 5th day of March, 2012.

First reading: February 21, 2012
Second reading: March 5, 2012
Adopted: March 5, 2012
Published: March 14, 2012
Effective: April 4, 2012

Motion by Potts, second by Johnston and carried with all members voting yes to approve second reading of Ordinance 2012-02 amending Title 7-City Government-7.03.03- Special Meetings.

ORDINANCE 2012-02
AN ORDINANCE AMENDING TITLE 7 - CITY GOVERNMENT-
SECTION 7.03.03 – SPECIAL MEETINGS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 7 –City Government – 7.03.03 – Special Meetings – is hereby amended to read as follows:

7.03.03: SPECIAL MEETINGS

Special meetings of the Council may be called at any time, subject to the requirements of state law by the Mayor, the President of the Council and any three aldermen, or by any four aldermen, to consider those matters stated to be the purpose in the notice for such meeting. The written notice stating the time, place and the matters to be considered at such meeting shall be issued by the Finance Officer or designated Deputy Finance Officer. A copy of the notice shall be delivered with a copy of the agenda for the special meeting to all Council members in the manner designated in writing by the Council member in the record maintained for such purpose by the Finance Office. In the alternative, notice can be given by hand delivery to the council member. Hand delivery to a council member means delivery in person to a council member of the Notice of Meeting at the City Finance Office during business hours, or such delivery at the Council member's place of employment, place of business, or place of residence, by a city employee having authorization to do so from the City Manager, at least twenty-four (24) hours before the time specified in the Notice for such meeting.

Dated this 5th day of March, 2012.

First reading: February 21, 2012

Second reading: March 5, 2012

Adopted: March 5, 2012

Published: March 14, 2012

Effective: April 4, 2012

Motion by Brengle, second by Johnston and carried with Brengle, Carstensen, DesJarlais, Johnston and Hersrud and Potts voting yes and McVay abstained to approve second reading of Ordinance 2012-03 amending Title 18 – Zoning – 18.05.13 – GI-1 General Industrial. (Al Bruch asked about the existing homes. Bush explained that this ordinance did not affect the existing homes. Mark Norstegaard was in favor of this ordinance)

ORDINANCE 2012-03
AN ORDINANCE AMENDING TITLE 18 - ZONING-
SECTION 18.05.13 – GI-1 GENERAL INDUSTRIAL

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 18 –Zoning – 18.05.13 – GI-1 General Industrial – is hereby amended to read as follows:

TITLE 18.05.13
GI-1 GENERAL INDUSTRIAL

(A) DEFINITION:

This industrial district is established to provide areas which the principal use of land is for manufacturing and assembly plants, processing, storage, large warehousing, wholesaling and distribution in which operations are conducted so that noise, odor, dust and glare area controlled.

No temporary structures may be permitted without approval of the governing body.

Utility Lot: Any platted lot used exclusively for the placement of utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council. Such lots are only intended to be improved with the utility and any structures needed in conjunction with the utility.

(B) PERMITTED USES:

1. Large scale contractor's equipment storage yards.
2. Building material wholesale, storage and distribution centers.
3. Public utility service yards of electrical receiving or transforming stations.
4. Freightling or trucking yards or terminals.
5. Large/small manufacturing facilities.
6. Building material display & sales.
7. New and used car sales.
8. Truck, trailer, u-haul type rental and sales.
9. Farm implement and machinery sales.
10. Motorcycle sales and repair shops.
11. Animal hospitals, pet shops, kennels, etc.
12. Service and repair garages.
13. Manufactured home sales.
14. Wholesale warehouses for the distribution and sale of goods.

15. Large retail outlets or mercantile businesses which require large parking areas in conjunction with larger storage buildings.

(C) CONDITIONAL USE ON REVIEW:

The planning commission may authorize special uses and a conditional use permit for the location and operation thereof.

Utility Lots subjected to the following requirements:

- A. Platted access not less than sixteen (16) feet in width which may be either dedicated public right of way or utility access easement.
- B. Each lot shall have a width abutting the street of not less than fifty (50) feet.
- C. There shall be a lot area of not less than five thousand (5,000) square feet.
- D. Any buildings shall not cover more than seventy five percent (75%) of the total lot area.

Utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council.

Residential use when the secondary in nature to a conforming permitted use in the General Industrial District.

Such secondary use shall not exceed 1000 square feet in size including any designated entry or exit areas. The any area permitted for residential use shall be contained within an existing building or provided for in the plans submitted for new construction in the General Industrial Zone.

(D) AREA REGULATIONS:

The following requirements shall apply to all uses permitted in this district except as provided in Article V, Section 4.

1. FRONT YARD: A minimum setback of 25 feet (25') from property lines shall be required.
2. SIDE YARD: A minimum setback of ten feet (10') from property lines shall be required except in the event the building being placed on the property and/or the occupying use qualifies as a High Hazard (Group H) as that term is defined and recognized by the 2006 International Building Code, or subsequent code adopted by the City. In the event the building and/or occupying use qualifies as High Hazard (Group H), a minimum setback of twenty five feet (25') from the property lines shall be required. **WHERE AN INDUSTRIAL BUILDING IS TO BE SERVICED FROM THE SIDE YARD OR REAR YARD AND WHEN NO REAR ALLEY IS PROVIDED, AT LEAST ONE OF THE SIDE YARD SETBACKS SHALL BE A MINIMUM OF THIRTY (30) FEET FOR SIDE SERVICE AND TWENTY FIVE (25) FEET FOR REAR SERVICE.**
3. REAR YARD: Where **an industrial** building is to be serviced from the rear, **and an alley way is** provided, **the** service court, rear yard setback or combination thereof shall not be less than thirty feet (30') in depth exclusive of any public right of way. The depth of a rear yard which abuts a residential district or where the building is not serviced from the rear shall be not less than fifteen feet (15') exclusive of the public right of way.
4. LOT WIDTH: Each lot shall have a width abutting the street of not less than one hundred feet (100').
5. LOT AREA: There shall be a lot area of not less than ten thousand (10,000) square feet.
6. MAXIMUM LOT COVERAGE: Permanent main and accessory buildings shall cover not more than seventy five percent (75%) of the total lot area.

(E) HEIGHT REGULATIONS:

No building shall be constructed more than four & one-half (4 1/2) stories or 60 feet in height.

(F) OFF STREET PARKING:

As regulated in Article V.

All areas utilized for vehicle travel or parking shall be of hard surface material.

(G) FLOOD PLAIN REQUIREMENTS:

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's flood plain ordinance included in Article VII.

(H) CONDITIONAL USE PERMIT:

Conditional Use Defined

A "conditional use," as defined by Chapter 18.05.13, means a temporary residential use that is secondary in nature to a primary permitted use of the structure in the General Industrial District. To be permitted, the applicant must show such mix use, that because of its characteristics and location with reference to surroundings, street or highway width, traffic generation or other demands on public services, requires special consideration relative to placement at specific locations in the zone to insure proper integration with other existing or permitted uses in the same zone or zones can be integrated safely. Such use, depending on the characteristics of the individual site and location within the zone where proposed, may be approved, and if approved, shall be approved with conditions to insure proper integration with other existing or permitted uses in the same zone or zones, and that the proposed use is a significant and integral part of the proposed use of the property for the following 12 months, or such use may be denied.

1) Application - - Filing.

Any person desiring a conditional use permit provided for in this chapter may file an application with the Community Development Director, except that no application shall be filed or accepted if final action has been taken within one year prior thereto on an application requesting the same, or substantially the same permit.

2) Application - - Information required.

An application for a conditional use permit shall contain the following information:

- a) Name and address of the applicant and of all persons owning any or all of the property proposed to be used;
- b) Clear evidence that the applicant is the owner of the premises involved, or has written permission from the owner or owners that they consent to the applicant making such application;
- c) Location of subject property (address or vicinity);
- d) Legal description of the property involved;
- e) The nature of the proposed use, indicating the primary permitted business use, and purpose for which such building, structure or improvement is to be erected, constructed, or as proposed to be altered, enlarged, moved, occupied or used;

- f) Indicate the nature, condition and development of the property for which the conditional use permit is being applied for and the nature, condition and development of the adjacent uses, buildings and structures;
- g) Provide a site plan drawn to a scale satisfactory to and provide at least 5 copies indicating the area and dimensions of the site or location of the proposed use.
- h) The location and dimensions of all structures, yards, walls, fences, parking and loading facilities, landscaping, and other development features:
- i) Indicate the dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use;
- j) Indicate all other permits and approvals applied for and/or secured in compliance with the provisions of other applicable ordinances;
- k) A list certified to be correct by affidavit or by a statement under penalty of perjury of the names and addresses of all persons who are shown on the latest available assessment roll of Meade County as owners of the subject parcel of land and as owning property within a distance of 200 feet from the exterior boundaries of the parcel of land to be occupied by the use. One copy of said map shall indicate where such ownerships are located,
- l) Proof satisfactory to the Community Development Director that water will be available in quantities and pressures required by the Water Ordinance, or the director may accept as such proof a certificate from the person who is to supply water that he can supply water as required MUB Regulations.
- m) Such other information as the director may require.

The accuracy of all information, maps and lists submitted shall be the responsibility of the applicant.

3) Application--Burden of proof.

In addition to the information required in the application by Section 22.56.030 the applicant shall substantiate the following facts:

- a) That the requested use at the location and in the proposed structure will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
- b) Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
- c) Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- d) That the proposed site and structure is adequate in size and shape to accommodate the yards, fences, parking and loading facilities, landscaping and other development features required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
- f) That the proposed site is adequately served by other public or private service facilities as are required.
- g) That at no time may any area authorize for a conditional use permit for a secondary residential use exceed 1000 square feet.
- h) The area to be used as a residential area shall meet all applicable City Ordinances, International Building Codes and State Regulations that apply.

4) Application--Fee and deposit.

When an application is filed, it shall be accompanied by the filing fee and deposit as required.

5) Application--Denial for lack of information.

An application for a conditional use permit may be denied without hearing if such application does not contain the information required this chapter or the applicant may request to file an amended application.

6) Application--Public hearing required--Exception.

In all cases where an application for a conditional use permit is filed in proper form, the public hearing shall be held pursuant to the procedure herein unless the application is withdrawn.

7) Application--Grant or denial--Findings and decision at public hearing.

An application for a conditional use permit may be approved where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

- 1) That the proposed use will be consistent with the adopted general plan for the area.
- 2) That the requested use at the location proposed will not:
 - a) Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; or
 - b) Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; or
 - c) Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; or
 - d) That the proposed use is significant and integral part of the planned primary use of the structure for the next twelve months.
- 3) That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- 4) That the proposed site is adequately served:
 - a) By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and
 - b) By other public or private service facilities as are required.

The application shall be denied where the information submitted by the applicant and/or presented at public hearing fails to substantiate all such findings that are required by this chapter.

8) Permit--Additional conditions imposed when.

- 1) In approving an application for a conditional use permit, the decision shall state the conditions as necessary to insure that such use will be in accord with the findings.

Conditions may involve any pertinent-factors affecting the establishment, operation and maintenance of the requested use, including, but not limited to:

- a) Special yards, open spaces and buffer areas;
- b) Fences and walls;
- c) Parking facilities, including vehicular ingress and egress and the surfacing or parking areas and driveways to specified standards;
- d) Street and highway dedications and improvements, including sidewalks, curbs and gutters;

- e) Water supply and fire protection in accordance with the provisions of this ordinance;
- f) Landscaping and maintenance of grounds;
- g) Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation;
- h) Regulation of operating hours for activities affecting normal neighborhood schedules and functions;
- i) Regulation of signs, including outdoor advertising;
- j) A specified validation period limiting the time in which development may begin;
- k) Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date;
- l) A site plan indicating all details and data as prescribed in Title 18.
- m) Such other conditions as will make possible the development of the proposed conditional use in an orderly and efficient manner and in general accord with all elements of the general plan and the intent and purpose of this Title 18.

9) All zone regulations apply unless permit is granted.

Unless specifically modified by a conditional use permit, all regulations prescribed in the zone in which such conditional use permit is granted shall apply.

10) Expiration date of unused permits.

- 1) A permit which is not used within the time specified in such permit, or, if no time is specified, within two years after the granting of the permit, becomes null, void and of no effect at all:
 - a) The permit issued may be extended for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. In the case of a nonprofit corporation organized to provide low-income housing for the poor or elderly, there may be an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension;
 - b) That, in the case of a conditional use permit filed and heard concurrently with a land division, the limits and extensions allowed shall be concurrent and consistent with those of the land division.
 - c) A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted.

11) Expiration following cessation of use.

A conditional use permit granted by the Council shall automatically cease to be of any force and effect if the use for which such conditional use permit was granted has ceased or has been suspended for a continuous period of 12 months.

Dated this 5th day of March, 2012.

First reading: February 21, 2012

Second reading: March 5, 2012

Adopted: March 5, 2012

Published: March 14, 2012

Effective: April 4, 2012

Motion by Johnston, second by Brengle and carried with all members voting yes to approve first reading of Ordinance 2012-5 – Title 11 – Health and Sanitation – Section: 11.04.21 and 11.04.23- Appeal Process. (Jack Hoel was not in favor of raising the special sanitation fee).

Motion by DesJarlais, second by McVay and carried with Carstensen, DesJarlais, Johnston, Hersrud, McVay and Potts voting yes and Brengle abstaining to approve the request for street closure by the Knuckle Saloon on April 28, 2012 from 8:00 am to 5:00 pm for the Sturgis Dragway Car Show.

Brengle introduced the following written resolution and moved its adoption:

RESOLUTION 2012-06
RESOLUTION ON ANNEXATION OF HEIBULT PROPERTY

WHEREAS Robert A. and Susan K. Heibult have filed a written Petition for Annexation with the City of Sturgis; and

WHEREAS said Petition has been executed by more $\frac{3}{4}$ of the registered voters residing in the territory sought to be annexed, and

WHEREAS said Petition has been executed by persons that hold ownership of more than $\frac{3}{4}$ of the value property in the territory sought to be annexed to the City of Sturgis; and

WHEREAS said real property set forth in the Petition is contiguous to the City of Sturgis; and

NOW, THEREFORE, IT IS HEREBY RESOLVED that the following described real property shall be annexed to the City of Sturgis:

A 20' Strip of land located in the SE1/4SW1/4, Section 10, T5N, R5E, B.H.M., Meade County, South Dakota;

-AND-

As shown by the plat recorded in Plat Book 23 Page 190, Meade County Register of Deeds office;

Lot C Revised of Heibult-Lindsey Addition. Formerly Lot C of Heibult-Lindsey Addition, Located in the SE1/4SW1/4, Section 10, T.5N., R5E., B.H.M, City of Sturgis, Meade County, South Dakota.

As more fully set forth in Exhibit A attached to said Petition.

Dated this 5th day of March, 2012.

Published: March 14, 2012

Effective: April 4, 2012

Potts seconded the motion for the adoption of the foregoing resolution with all members voting yes and the resolution as declared passed and adopted.

The following Raffles were presented to the Council

- Tops Trotters Relay for Life Team – American Cancer Society.
- Black Hills Shootists.
- National Wild Turkey Federation.
- Sturgis Motorcycle Museum.

No action was taken, so the raffles were approved.

Any other business:

Jack Hoel asked about sales tax for the 2011 Rally and also the revenue from the Liquor Store during the Rally. He also talked with the Council about his correspondence that he received from the hearing examiner in Pierre that deals with open records and the vendor list.

Roger Schieman asked City Manager Ainslie where the City is at in creating a code of conduct for the Council. Ainslie stated that Legal and Finance Committee asked that staff create a job description for Council.

Mayor Carstensen said that staff is working on providing accurate numbers for the Rally.

Motion by DesJarlais, second by Hersrud and carried with all members present voting yes to go into executive session for personnel, legal and contracts at 8:10 pm.

Motion by Brengle, second by Potts and carried with all members present voting yes to return to regular session at 9:58 pm.

Mayor Carstensen adjourned the meeting at 9:58 p.m.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

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