

RESOLUTION 2013- 42

A RESOLUTION OF THE STURGIS COMMON COUNCIL IN SUPPORT OF STURGIS MOTORCYCLE RALLY, INC. IN THEIR EFFORTS TO PROTECT AND PRESERVE THE INTELLECTUAL PROPERTY OF THE STURGIS® MOTORCYCLE RALLY™ ON BEHALF OF THE GREATER STURGIS AREA AND ITS RESIDENTS

WHEREAS, Sturgis Motorcycle Rally, Inc. is a community based, not-for-profit with no owners or shareholders and a volunteer Board, of which, the City of Sturgis is a perpetual voting member; and

WHEREAS, the Sturgis® Rally was founded by the Jackpine Gypsies in 1938, later managed by the Black Hills Motor Classic Board which became an official committee of the Sturgis Area Chamber of Commerce in 1984; and

WHEREAS, Tom Monahan created and donated the Sturgis® Composite design to the Sturgis Chamber of Commerce in 1986, which was registered at the United States Patent and Trademark Office in 1996, and which formed a basis for the development of a licensing program which is worth millions of dollars; and

WHEREAS, the Sturgis Area Chamber of Commerce has worked diligently for three decades to protect and enforce the intellectual property rights related to the Sturgis® Motorcycle Rally™, and over a ten year period between 2001 and 2010 it incurred legal fees and other expenses exceeding \$1,000,000; and

WHEREAS, the aforementioned fees were a result of federal filings, defending challenges to the Chamber's acquisition of rights before the United States Patent and Trademark Office and in enforcing its rights against others who sought to infringe upon the Sturgis® and other trademarks; and

WHEREAS, the Sturgis Area Chamber of Commerce transferred its Rally related intellectual property rights to the not-for-profit Sturgis Motorcycle Rally, Inc. in 2010; and

WHEREAS, Sturgis Motorcycle Rally, Inc. is the legal owner of a vast amount of intellectual property surrounding the Sturgis® Motorcycle Rally™, including the federally registered marks Sturgis ® and Black Hills ® trademarks, among others, when used in connection with Motorcycle Rally goods and services; and

WHEREAS, the City of Sturgis is the worldwide exclusive Licensee of this intellectual property for the purposes of Sponsorship and Promotion pertaining to the Sturgis® Motorcycle Rally™, that contributes hundreds of thousands of dollars to the City and local charities on an annual basis; and

WHEREAS, but for these rights and the subsequent Sponsorship Program revenue the City would be forced to reduce municipal services such as the Library, Police Department, Fire Department, Parks and others or increase the Mill Levy; and

WHEREAS, over the last three years alone, these trademarks and service marks have generated \$188,000 in revenue which has been reinvested into the community through donations to Sturgis Rally Charities which has in turn distributed the funds to more than seventy organizations in the Sturgis area; and

WHEREAS, the primary remaining litigants in opposition to Sturgis Motorcycle Rally, Inc. each have Federal Trademark applications of their own which seek exclusive use of various marks related to the Sturgis® Motorcycle Rally™ for their own use and control; and

WHEREAS, the Sturgis City Council believes that the value of those Rally Marks is intrinsically tied to the nature of the event which the City of Sturgis hosts and should therefore be used for the direct future economic benefit and promotion of the general welfare of the community of Sturgis; and

WHEREAS, the Sturgis City Council believes that it is both fair and just that the community should receive the economic benefit generated by those who control the use of those Rally Marks; and

WHEREAS, Sturgis Motorcycle Rally, Inc. is a community not-for-profit with a mission statement that reads, "To maximize the value of the intellectual property of the Sturgis® Motorcycle Rally™ on behalf of the greater Sturgis Area,"; and

WHEREAS, Sturgis Motorcycle Rally, Inc. has bylaws that allow for the use of proceeds generated from the intellectual property to be limited to the promotion of the Rally, investment in the economic development of the Sturgis area, and charitable giving to the Greater Sturgis Area; and

WHEREAS, the Sturgis City Council knows of no other program that has consistently provided a similar return from the Rally to the City of Sturgis and its residents; and

WHEREAS, the primary remaining litigants in opposition to Sturgis Motorcycle Rally, Inc. have never stated a desire nor have they formulated a mechanism by which royalties derived from their competing trademarks would be reinvested into the Sturgis Area community.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Sturgis City Council does support the efforts by Sturgis Motorcycle Rally, Inc. to protect and preserve the intellectual property of the Sturgis ® Motorcycle Rally™ on behalf of the greater Sturgis Area and its residents.

Dated this 29th day of July, 2013.

CITY OF STURGIS

Mayor Mark Carstensen

ATTEST:

Fay Bueno
City Finance Officer

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