

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 29, 2013 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons, Jason Anderson, Branden Bestgen, Mike Bachand, David Hersrud, Marcia Johnston, Tim Potts, Kelly Vasknetz and Ronald Waterland. Also present City Manager Daniel Ainslie and City Attorney Greg Barnier.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Motion by Hersrud to approve agenda. Motion rescinded.

Motion by Potts, second by Johnston and carried with all members present voting yes to approve the agenda with the addition to reconsider the MDA raffle from the last Council meeting.

Announcements:

- The Council Received a thank you from Neighborhood Works program for the contribution from the City.
- A thank you was received from the Wild West Days event.
- Mayor Carstensen announced that on August 5th a lady will be in the area representing "Walking Across America" for serious illnesses.
- On August 15th in Rapid City, there will be a Foster Parent event.
- On Military Appreciation Day August 6th, Sturgis will honor Ernie Miller.

Informational Reports:

Brenda Vasknetz, Rally Director gave an update on her department:

- The department is in full swing for the 2013 Rally.
- They have moved their office to the back meeting room as Department of Revenue will be moving into their office on Tuesday.
- The staff is working on vendor and sponsor packets.
- Rally staff training will be done on Tuesday, July 30th.
- The Governor will be riding in the Mayor's Ride on Monday, August 5th.

Shawn Fisher, Ambulance Director gave an update on her department:

- So far this year there have been 905 ambulance calls, compared to 2012 at 804 and 2011 at 707. This is between 13% and 15% increase every year.
- There are two ambulance crews staged Monday thru Friday.
- We are doing our own billing and have finished through the May billing.
- There will be an EMT class this fall.
- The Sturgis Ambulance Department has been nominated for the National Ambulance Award through the EMS Association and should know in a few weeks if they were chosen.

City Manager Ainslie reported:

Sales tax update for the end of July 2013-General Sales Tax and Capital Improvement were down 11.2% and the Gross Receipts Tax (triple B) was down 7.7%. Year to date totals for General Sales Tax and Capital Improvement are up 5.6% with the Gross Receipts Tax (triple B) is down 3.8%.

Ainslie reported that with the upgrades to the Community Center heating and cooling equipment, there has been a 9% decrease in both the electricity and gas bills year to date, while other City

buildings have seen an increase in utility bills. The investment of upgrades to the Community Center has paid off.

The City will be making application to the National Guard, on behalf of SEDC, to do some dirt work at the Industrial Park. SEDC has contacted other contractors and they are ok with this.

City Manager Ainslie gave a brief presentation on the 2014 budget. The budget in its entirety will be posted on the City's website; first reading will be on August 19th, with second reading to be on September 3rd.

Motion by Waterland, second by Anderson and carried with all members present voting yes to approve the consent calendar.

Motion by Potts, second by Hersrud and carried with Vasknetz, Bachand, Hersrud, Waterland, Anderson, Potts and Bestgen voting yes, Carstensen and Johnston abstaining, to approve the following claims:

Wages – Ambulance \$18,561.72; Attorney \$2884.62; Auditorium \$433.28; Buildings \$800.00; Cemetery \$3208.37; City Manager \$4217.97; Community Center \$7797.08; Finance Office \$8721.45; Fire Department \$1617.63; Human Resource \$2171.81; Library \$8840.48; Liquor \$4917.70; Mayor and Council \$3333.27; Parks \$16,380.17; Planning & Permitting \$4344.72; Police \$34,328.02; Rally \$4477.26; Recreation \$3803.93; Sanitary Service \$11,174.16; Streets \$8652.41; Wastewater \$6952.82; Water \$13,763.72; Federal Withholding \$15,731.62; FICA \$12,504.86.

General – A&B Business, \$129.37, repair; ABC, \$7500.00, prof fee; Laurie Adkins, \$140.00, prof fee; Amcon, \$447.82, merch for resale; Associated Supply Co, \$152.43, supp; AT&T, \$2003.52, util; Baker & Taylor, \$547.08, supp; Elton Barden, \$580.00, prof fee; Twyla Barden, \$255.00, travel; Dusty Barker, \$30.00, other; Bryan Beaulieu, \$480.00, prof fee; Elvira Bender, \$18.79, travel; BH Chemical, \$1759.62, supp; BH Power, \$18,163.35, util; BH Rally & Gold, \$300.00, merch for resale; Buckle Tree, \$3403.60, other; Jerry Burnham, \$2490.92, prof fee; Mark Carstensen, \$435.00, other gen gov't; CBH Cooperative, \$78.48, repair; Chain Saw Center, \$96.50, repair; Commercial Door & Specialties, \$75.00, repair; Dakota Spray Equipment, \$782.75, repair; Dept of Veterans Affairs, \$336.75, supp; Fedex, \$207.39, supp; Finance-Police Bank, \$8000.00, other; First Western Insurance, \$1184.75, insur; Freeman Electric, \$3400.00, supp; G&G Enterprises, \$37.50, merch for resale; Goldmine International, \$559.25, other; Hebron Brick, \$188.50, supp; Hillyard, \$881.16, supp; Hunsley's Tint, \$160.00, repair; Intoximeters, \$280.00, repair; J&L Services, \$1650.00, repair; Jenner Equipment, \$76.07, repair; Johnston Hardware, \$9.37, supp; Lakota Foods, \$125.36, merch for resale; Legends Sales & Marketing, \$4250.00, prof fee; Lynn's Dakotamart, \$11.12, merch for resale; Meade Co Auditor, \$3214.65, util; Meade Co Times, \$539.86, publ; Modern Material Handling, \$280.06, supp; Motionsoft, \$450.00, prof fee; Newkirk's Ace Hardware, \$205.10, supp; Northwest Pipe Fittings, \$798.77, supp; Owens Interstate Sales, \$13.78, repair; P&P Enterprises, \$300.00, other; Pitney Bowes, \$120.56, rent; Postmaster, \$180.00, supp; Public Safety Equipment, \$19.98, sup; Purchase Power, \$478.87, supp; PVP Communications, \$52.80, supp; Rapid City Journal, \$49.80, publ; Richter's Tire, \$20.99, repair; Rockingtree Landscape, \$1829.80, supp; S&C Cleaning, \$3100.00, repair; Sand Creek Printing, \$325.00, supp; Jeff Schneider, \$7000.00, prof fee; Schwans, \$86.26, merch for resale; SD Public Assurance Alliance, \$66.41, insur; Street Department Petty Cash, \$16.85, prof fee; Swoop Productions, \$13,000.00, prof fee; The Real Estate Center, \$6000.00, prof fee; Tom's T's, \$392.03, supp; Town-N-Country Plumbing, \$24.60, supp; Vanway Trophy, \$257.50, supp; West Payment Center, \$507.93, supp; West River International, \$37.92, supp; Donald Whitehead, \$30.00, other; WOW! Business, \$2086.38, util.

Special Sales Tax – Chamber of Commerce, \$8573.48, chamber; SEDC, \$7750.00, ind dev.

Capital Improvement – BH Asphalt, \$7106.38, cap imp; Brosz Engineering, \$1300.00, cap imp; Rasmussen Mechanical Services, \$79,225.73, cap imp; Semmler Manufacturing, \$87,890.00, cap imp.

TIF #9 Palisades – First Interstate Bank, \$1439.84, other.

Liquor – AT&T Mobility, \$49.16, util; BH Chemical, \$79.93, repair; Cask & Cork, \$16.85, off sale liquor; DOT Tool, \$138.15, merch for resale; Harvey’s Lock Shop, \$172.78, supp; M&B Enterprises, \$140.00, snack for resale; Mobile Mini, \$1254.12, supp; Private Spring Water, \$1831.60, merch for resale; Rockingtree Floral, \$40.38, repair; Sand Creek Printing, \$450.42, supp; SD Public Assurance Alliance, \$1193.36, insur; The Homeslice Group, \$5505.06, publ; WOW! Business, \$148.84, util.

Water – AT&T Mobility, \$228.86, util; BH Power, \$17,875.42, util; WOW! Business, \$128.12, util.

Wastewater – AT&T Mobility, \$132.39, util; BH Power, \$2420.26, util; Chempace Corporation, \$487.95, repair; City of Belle Fourche, \$31.86, other; Owens Interstate Sales, \$80.77, repair; Warne Chemical, \$2002.00, repair.

Sanitary Service – AT&T Mobility, \$81.59, util; BH Power, \$280.62, util; Century Business, \$83.70, prof fee; Chain Saw Center, \$405.82, supp; City of Belle Fourche, \$18,386.22, other; Knecht Home Center-Spearfish, \$11.95, repair; Owens Interstate, \$55.26, supp; Street Dept Petty Cash, \$10.01, repair.

Ambulance – BH Power, \$729.33, util; Century Business, \$33.52, supp; Feld Fire, \$146,321.00, equip; Greens Alignment, \$135.00, repair; Physio-Control, \$61,788.06, supp; Regional Home Medical Equipment, \$352.50, supp; Richter’s Tire, \$20.00, repair; Rockingtree Landscape, \$225.00, supp; Stryker Sales Corp, \$27,936.00, supp; Summit Signs, \$795.00, equip; WOW! Business, \$86.64, util.

Motion by Bestgen, second by Vasknetz and carried with all members present voting yes to approve a variance request of lot frontage at 401 5th Street for Randy and Brenda Nohava.

Motion by Bachand, second by Johnston and carried with all members present voting yes to approve a use on review for a sleeping/office space with wheelchair accessibility for David Noonan at 1921 Sherman St.

Hersrud moved to approve the following Resolution 2013-44 – to permit open container in certain areas, the Use of City Property and Street Closure for the Sturgis Mustang Rally on August 31, 2013.

RESOLUTION 2013- 44

A RESOLUTION TO PERMIT OPEN CONTAINERS ON CERTAIN PUBLIC PROPERTY AND WITHIN CERTAIN PUBLIC RIGHTS OF WAY

WHEREAS the Sturgis Mustang Rally is an event that brings many tourists to the City of Sturgis and the surrounding area, and

WHEREAS the City of Sturgis has supported the Sturgis Mustang Rally event in past years, and

WHEREAS the Sturgis Mustang Rally organizers have requested a designation of an open container area within a portion of the public property of the City of Sturgis, and

WHEREAS the request from the Sturgis Mustang Rally is permitted under the authority of state law;

NOW THEREFORE IT IS HEREBY RESOLVED as set forth herein that the City of Sturgis shall hereby establish an open container area on August 31, 2013 from 10:00 am to 7:00 pm on that public property open to the public, within area bounded as follows:

1. On the West by the east edge of the Right of Way of 4th Street, beginning at the intersection of 4th Street and Lazelle Street and continuing south to the intersection of 4th Street and Sherman Street, and
2. bounded on the East at the western edge of the Middle Street Right of Way beginning at the intersection of Sherman Street and Middle Street and continuing North to the intersection of Middle Street and the alley located between Lazelle Street and Dudley Street, except for an extension further East across the Middle Street Right of Way and along and including the entire Main Street Right of Way to a point two hundred eighty (280) feet East of the intersection of Main Street and Middle Street and
3. bounded to the South by a imaginary line lying 7' to the South of the North edge of the Sherman Street Right of Way between 4th Street and Middle Street and
4. bounded to the North by the alley Right of Way located between Lazelle Street and Dudley Street and extending from the intersection of that alley and Middle Street across Junction Avenue and continuing to the intersection of that alley and the Right of Way for 1st Street, and further including the area within and between the Right of Way of 1st Street and 3rd Street that lies north of Lazelle Street and south of Bear Butte Creek, then continuing along the south edge of the Right of Way of Lazelle Street further west to the point of beginning.
5. Included in this Open Container area are the designated cross walks at the intersections of Main Street and Junction, Lazelle Street and Junction, 1st Street, 2nd Street and 3rd Street and Lazelle Street, and also including the Right of Way area of Third Street, Second Street, First Street, Main Street and Junction Avenue within these boundaries.

This area shall be marked by city barricades with clearly legible signs, provided by the organizers and consistent with the limitations of this Resolution, stating that the barricade marks the boundary of the open container area. The open container area does not include the City Library, nor any City Property not open to the public, and does not include any private property within the open container area.

Dated this 29th day of July, 2013.

Published: 08-14-2013
Effective: 09-04-2013

Johnston seconded the motion for the adoption of the foregoing resolution, Use of City Property and Street Closure with all members present voting yes.

Motion by Vasknetz, second by Anderson and carried with Anderson, Carstensen, Hersrud, Johnston, Potts, Vasknetz and Waterland voting yes and Bachand and Bestgen voting no to approve a Special Events License for the Oasis Bar at the Harley Davidson Store, 1040 Junction, on August 2-10, 2013 with 10% of profit (revenue after expenses) given to Sturgis Rally Charities.

Motion by Hersrud, second by Johnston and carried with all members present voting yes to approve the following payroll changes: Community Center Dept – Rally Custodian – Michael Huber, Devan Kremer, Abe Usera, Patty Usera - \$8.50 – Rally Concession – Shirley Bierle - \$8.50, Mike Abell - \$8.50. Towel Attendant – Elaina O'Brien - \$8.50. Public Works Dept – Streets Crew – Andrew Kocer - \$10.50; Eli Bueno - \$10.50. Planning & Permitting – Rally

Vendor Inspector – Replacement – Susan Overstreet - \$10.00. Rally Department – Survey Facilitator – Beckie Geffre - \$10.00, Cheryl Brewer- \$10.00. Ambulance – Medic – Chris Jolley - \$17.75., Police - Custodian – Katherine Lemmel - \$8.50 Assistant - Katlin Vandewater - \$8.00, ; Rally - Jackson Peterson moved to VIP Parking- \$8.00.

Motion by Waterland, second by Hersrud and carried with all members present voting yes to allow sales in the Park at the Sturgis Liquor Annex and allow use of the 2nd Street Plaza and Photo Towers within the Business Improvement District right of way.

Jack Hoel stated his opposition to the council supporting SMRi and the resolution. He feels no one should have the trademarks and there should not be a Sponsorship program for the City.

Councilor Bestgen stated his view on the resolution and the time he has spent inquiring into this issue. He feels the Marks are the best revenue stream for the City and that he is in full support of this resolution.

Councilor Waterland asked that there be more representation from the City on the SMRi board.

Councilor Johnston read a letter from Julie Petersen, Director of the Sturgis Library, stating that since 2001 the Library has received \$20,350 from various organizations related to the various chamber logo funds in the previous years. Johnston also stated that SMRi is working on a web site that will have information about their organization.

Councilor Bachand stated that he has been an opponent to SMRi but with a great deal of research on the organization he was unable to find anything wrong with this organization. He asked the audience to come forward to state their opinion on this subject.

Approximately 20 people stated that they would want the Council to vote in favor of the Resolution of support for SMRi. One person asked that the Council not be involved with SMRi.

Comments were taken from Councilor Potts and Hersrud explaining why the Council needs to be in favor of this resolution.

Hersrud introduced the following written resolution and moved its adoption:

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.

Published: 08-14-2013

Effective: 09-04-2013

Johnston seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

Motion by Johnston, second by Waterland and carried with all members present voting yes to approve second reading of Ordinance 2013-11 - Title 34 – Flood Damage Prevention.

ORDINANCE 2013-11

AN ORDINANCE AMENDING TITLE 34– FLOOD DAMAGE PREVENTION

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 34 -Chapter 34.01 General Provisions-Section 34.01.02 - Definitions; Chapter 34.02; 34-02-01-Desingation of Floodplain Administrator amended to read as follows:

Chapters:

34.01: General Provisions

34.02: Administration

34.03: General Standards

CHAPTER 34.01

GENERAL PROVISIONS

SECTIONS:

34.01.02: Definitions

34.01.02: DEFINITIONS

Unless specifically defined below, words or phrases used in this Title shall be interpreted to give them the meaning they have in common usage and to give this Title its most reasonable application.

APPEAL: a request for a review by the Floodplain Administrator of the application of any provision of this Title.

AREA OF SPECIAL FLOOD HAZARD: the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD: the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: any area of the building having its floor sub-grade (below ground level) on all sides.

DEVELOPMENT: any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, or the construction of streets) is completed before the effective date of this Title.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, or the construction of streets).

FLOOD OR FLOODING: a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. the overflow of inland or tidal waters; or
- B. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM): an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA: any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT: the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODWAY: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

HIGHEST ADJACENT GRADE: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

LOWEST FLOOR: the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED OR MOBILE HOME: a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

NEW CONSTRUCTION: for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after June 1, 1977.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE: a vehicle which is:

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projections;
- C. designed to be self-propelled or permanently towable by a light duty truck; and
- D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION: (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE: a grant of relief to a person from the requirement of this Title which permits construction in a manner that would otherwise be prohibited by this Title.

CHAPTER 34.02 ADMINISTRATION

SECTIONS:

34.02.01: Designation of the Floodplain Administrator

34.02.01: DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Manager or his or her designee is hereby directed to perform the duties of Floodplain Administrator to administer and implement the provisions of this Title and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Dated this 29th day of July, 2013.

First reading: 07-15-2013

Second reading: 07-29-2013

Adopted: 07-29-2013

Published: 08-14-2013

Effective: 09-04-2013

Motion by Bestgen, second by Hersrud and carried with all members present voting yes to approve second reading of Ordinance 2013-12.

ORDINANCE 2013-12 AN ORDINANCE ADDING TITLE 38 – AMBULANCE SERVICE LICENSE

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 38 –Ambulance Service License hereby reads as follows:

TITLE 38 - AMBULANCE SERVICE LICENSE

CHAPTER 38.01

38.01.01: Definitions.

38.01.02: Violation - Penalty

CHAPTER 38.02

- 38.02.01: License requirements generally-Exceptions
- 38.02.02: Ambulance service license – Application-Fee
- 38.02.03: Ambulance service license-Application – Investigation-Review of findings
- 38.02.04: Ambulance vehicle standards
- 38.02.05: Ambulance equipment standards
- 38.02.06: Ambulance service license – Issuance-Required findings-Term
- 38.02.07: Ambulance service license – No Transfer
- 38.02.08: Ambulance service license – Defacing prohibited

CHAPTER 38.03

- 38.03.01: Driver's and attendant's information record
- 38.03.02: Driver's and attendant's information record review

CHAPTER 38.04

- 38.04.01: Equipment, premises and records to be available for inspection
- 38.04.02: Obedience to traffic laws, ordinances and regulations
- 38.04.03: Transporting patients – Attendant required
- 38.04.04: Going to scene of accident without request
- 38.04.05: False statements or misrepresentations of fact in carrying on business
- 38.04.06: Refusal of Service

CHAPTER 38.05

- 38.05.01: Rate schedules
- 38.05.02: Renewal of license
- 38.05.03: Revocation of license

Statutory Authority; SDCL Chapter 34-11

CHAPTER 38.01

38.01.01: Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. **AMBULANCE.** Any privately or publicly owned motor vehicle that is specifically designed or constructed, and equipped, and is intended to be used for and is maintained or operated for the transportation of patients, except any such motor vehicle owned by, or operated under the direct control of the United States.
- B. **ATTENDANT.** A trained and/or qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.
- C. **ATTENDANT-DRIVER** means a person who is qualified as an attendant and a driver.
- D. **CITY.** City of Sturgis, South Dakota.
- E. **DRIVER.** An individual who drives an ambulance.
- H. **LICENSE OFFICER.** The City Finance Officer
- I. **PATIENT.** An individual who is sick, injured, wounded or otherwise incapacitated or helpless.

J. **PERSON.** Means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

38.01.02: Violation–Penalty.

Any person violating, or failing to comply with, the provision of any section of this chapter shall be guilty of a class two misdemeanor and as provided for by SDCL 22-22-6 upon conviction thereof shall be subject to a maximum fine in an amount not exceeding \$500.00 or imprisonment for a period not exceeding 30 days or to both such fine and imprisonment as provided therein..

CHAPTER 38.02

38.02.01: License requirements generally– Exceptions.

No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients upon the streets, alleys or any public way or place of the city, unless he or she holds a currently valid license for an ambulance service as required by Chapter 34-11 of the South Dakota Code, as well as a license issued pursuant to this chapter. No license shall be issued under this chapter to any new applicant unless the Common Council shall find that additional ambulance service is required by public convenience and necessity, as shown by reliable dispatch records or comparable documentation showing that those ambulance services licensed prior to the pending application are unable to respond within the required time limits. In the absence of such findings, any new applicant shall be denied. The city shall not be exempt from licensing requirements under this chapter for the operation of its municipal ambulance service. However, that no such licenses shall be required for an ambulance which: However, any ambulance service in operation at the time this ordinance is passed shall have 45 days after the effective date of this ordinance to submit its completed application. No such licenses shall be required for an ambulance which:

- A. Is an ambulance operated by an agency of the United States.
- B. Is an ambulance operated from a location or headquarters outside of the city in response to a request from the Meade County Dispatch to transport patients when any ambulance service licensed by the City is unable to provide the needed response, or
- C. Is an ambulance otherwise exempt under the authority of SDCL 34-11-9

38.02.02: Ambulance service license–Application–Fee.

Applications for ambulance licenses hereunder shall be made upon the forms as may be prepared or prescribed by Finance Officer and shall contain:

- A. The name and address of the applicant and of the named owner of the ambulance service;
- B. The trade or other fictitious name, if any, under which the applicant does business and proposes to do business;
- C. A complete copy of the state application and all associated certificates as described in SDCL 34-11-1 submitted by applicant to obtain the state license for the proposed ambulance service.
- D. The location and description of the place or places from which it is intended to operate to provide service to residents of the City of Sturgis;
- F. Documentation confirming that the applicant and all vehicles for which applicant seeks authority to operate within the City are currently licensed by the State of South Dakota and in compliance with all ambulance vehicle and equipment laws and requirements set

by the state, accompanied by such other information as the Finance Officer shall deem reasonably necessary to a fair determination of compliance with this chapter; and

G. An accompanying license fee of \$500.00.

H. A copy of applicant's business license application under Title 18 to conduct business in the City of Sturgis.

38.02.03: Ambulance service license–Application– Investigation–Review of findings.

The Finance Officer shall within business 10 days after receipt of an application for an ambulance license as provided for herein, review the application to determine if it is complete and if not to request the additional information from the applicant. Upon receipt of the complete application and any supplemental information requested, the Finance Officer shall report his or her findings to the City Manager and make a recommendation regarding whether the application as submitted meets all the requirements of this ordinance, for approval by the City Council.

38.02.04: Ambulance vehicle standards:

Each ambulance service shall, at all times when in use operation as such, meet the minimum standards for equipment, operation, training and professional behavior as prescribed by the State of South Dakota in Chapter 34-11 of the South Dakota Code and related Administrative Rules Article 44:05.

38.02.05: Ambulance Equipment standards:

Required equipment in each ambulance shall meet the minimum standards as established by Chapter 34-11 of the South Dakota Code and related Administrative Rules Article 44:05. Each operator of an ambulance service licensed under this Ordinance shall comply at all times with all subsequent regulations governing the operation, the vehicles, the equipment and employees as may be established by the State of South Dakota.

38.02.06:–Ambulance service license–Issuance–Required findings–Term.

Upon a finding that all state and City requirements for licensure have been met and the approval of the City Council, the Finance Officer shall issue an ambulance license to any applicant so approved. The license shall be valid for a period of 1 year unless earlier suspended, revoked or otherwise terminated at the Common Council's sole discretion. No operator may provide ambulance service unless both the driver of the ambulance and the attendant on duty in the ambulance possess certification and licensure as required by the State and City.

38.02.07: Ambulance service license–No Transfer:

Any change of ownership of a licensed ambulance shall terminate the license and shall require a new application and a new license and conformance with all the requirements of this chapter as upon original licensing.

38.02.08: Ambulance service license–Defacing prohibited.

No official entry made upon a license may be defaced, removed or obliterated.

CHAPTER 38.03

38.03.01: Driver's and attendant's information record:

For each driver's, attendant's and attendant employed by a licensed ambulance service or any applicant for a license who may be present at any time in the City as part of their employment duties hereunder, in addition to the documents required for the ambulance service license application, there shall be submitted upon such forms as may be prepared or prescribed by the City Finance Office the following information:

- A. The applicant's full name, current residence, and all places of residence for 5 years previous to submission of the information to the Finance Office.
- B. Written confirmation that the employee meets all the minimum standards as established by Chapter 34-11 of the South Dakota Code and related Administrative Rules Article 44:05, and such other information as the City Finance Officer shall deem reasonably necessary to a fair determination of compliance with this chapter.

38.03.02: Driver's and attendant's information record review:

The Finance Officer shall, within 10 business days after receipt of an application as provided for herein, review the information provided and notify the licensed ambulance service if it appears that any such driver and/or attendant fails to meet any of the minimum standards established by Chapter 34-11 of the South Dakota Code and related Administrative Rules Article 44:05.

CHAPTER 38.04

38.04.01: Equipment, premises and records to be available for inspection.

Each licensed ambulance, its equipment and the premises designated in the application and all records relating to its maintenance and operation as such, shall be open to inspection upon request by the City Manager or his or her designated representatives during business hours of operation. Any initial, semiannual or other ambulance, equipment and premise inspection reports as provided for by state law or regulations shall be filed by the operator with the City Finance Office and shall be prima facie evidence of compliance or noncompliance with, or violation of, the provisions, standards and requirements provided for by state law or regulation, for the licensing of ambulances. Upon suspension, revocation or termination of an ambulance license hereunder, the ambulance shall cease operations as such.

38.04.02: Obedience to traffic laws, ordinances and regulations.

The driver of an ambulance, when responding to an emergency call or while transporting a patient, shall comply with all the requirements for safe emergency vehicle operation as established by state law at SDCL Chapter 32-31. Those provisions shall not relieve the driver of an ambulance from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.

38.04.03: Transporting patients—Attendant required.

It is unlawful for any person to carry for hire any person in any ambulance upon the streets of the city unless there shall be an attendant in the ambulance in addition to the driver thereof.

38.04.04: Going to scene of accident without request.

It is unlawful for any person licensed under this chapter to go to the scene of any accident unless a request for ambulance service to a specific location has been communicated to the licensed ambulance service by the law enforcement dispatch service serving Meade County.

38.04.05: False statements or misrepresentations of fact in carrying on business.

It is unlawful for any licensee under this chapter to make any false statement or misrepresentation of fact in carrying on the business for which the license is issued.

38.04.06: Refusal of service.

After having received a call from the law enforcement dispatch serving Meade County, it is unlawful for any licensed ambulance service to refuse the service for any reason except where aid is declined by the patient or for other reasons beyond the control of the operator.

CHAPTER 38.05

38.05.01: Rate schedules.

The applicant and any operator of an ambulance service licensed under this ordinance shall file with the Finance Office annually and whenever changed a schedule of rates for ambulance services. The applicant and any operator of an ambulance service licensed under this ordinance shall in addition maintain within the ambulance vehicle and within each place of business a schedule of such rates. It is unlawful for any owner, driver or attendant of any ambulance to charge in excess of the rates as may be set forth in the rate schedule.

38.05.02: Renewal of license.

Renewal of any license hereunder, upon expiration for any reason or after revocation, shall require conformance with all the requirements of this chapter as upon original licensing.

38.05.03: Revocation of license.

The Common Council may and is authorized to suspend or revoke a license issued hereunder for failure of a license to comply and to maintain compliance with the requirements of South Dakota law and state regulations or for violation of any provisions, standards or requirements of this chapter. Within 30 days after a suspension, the license shall be afforded a hearing, after reasonable notice. The Common Council shall, within 30 days after conclusion of the hearing, issue a written decision (which shall include written findings) as to the suspension of the license. The written decision shall be promptly transmitted to the licensee to whom it refers.

Dated this 29th day of July, 2013.

First reading: 07/15/2013

Second reading: 07/29/2013

Adopted: 07/29/2013

Published: 08/14/2013

Effective: 09/03/2013

Potts introduced the following written resolution and moved its adoption:

RESOLUTION 2013-43
RESOLUTION APPROVING PLAT

WHEREAS, the statutes of the State of South Dakota require that plats of property within the jurisdiction of the City of Sturgis be submitted to the governing body for approval before the same are recorded in the Office of the Register of Deeds; and

WHEREAS, the City of Sturgis Planning and Zoning have presented to the Common Council of the City of Sturgis a plat of the following described real property:

A PLAT OF LOT 2 OF BLOCK 2 REVISED, LOT 1-A AND LOT 1-B OF SUNNYSLOPE SUBDIVISION Formerly Block 2 Revised and Lot 1 of Sunnyslope Subdivision AND Lot A-1 of the NW1/4SE1/4, All located in the NW1/4SE1/4 of Section 4, T.5N., R.5E., B.H.M., City of Sturgis, Meade County, South Dakota

WHEREAS, said plat meets the requirements of the statutes in all things, now therefore,

BE IT RESOLVED by the Common Council of the City of Sturgis, South Dakota, that the within and foregoing plat is hereby approved.

Dated this 29th day of July, 2013.

Published: 08-14-2013

Effective: 09-04-2013

Waterland seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

The following bids were received for the 2013 street overlay and paving project: J & J Asphalt Company - \$150,034.20; Simon Contractors - \$137,384.80; Sacrison Paving, Inc. - \$145,564.00; Hills Materials Company - \$136,321.33.

Motion by Waterland, second by Vasknetz and carried with all members present voting yes to approve the low bid for 2013 Sturgis Street Overlay & Paving Project to Hills Material Company for \$136,321.33.

Motion by Waterland, second by Potts and carried with Anderson, Bachand, Carstensen, Hersrud, Johnston, Potts, Vasknetz and Waterland voting yes and Bestgen voting no to reconsider their motion from the last Council meeting on the MDA raffle.

Motion by Potts, second by Johnston and carried with all members present voting yes to allow the MDA raffle as long as they provide the documentation before July 31, 2013 on how many residences of Meade County area has received benefit from their raffles in the past and provide documentation in 6 months of how many residences of Meade County received benefit during this raffle.

Any other business:

Councilor Hersrud asked that the raffle ordinance and application be changed for next year.

Motion by Hersrud, second by Waterland and carried with all members present voting yes to go into executive session for legal at 8:59 pm.

Motion by Waterland, second by Bestgen and carried with all members present voting yes to return to regular session at 9:36 pm.

Motion by Johnston, seconded by Bachand and carried with all members present voting yes to adjourn the meeting at 9:36 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

Published once at the total approximate cost of \$449.48.