

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:00 p.m. on Monday, May 1, 2017 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson, Mike Bachand, Rod Bradley, Rhea Crane, Tony Dargatz, Steve Keszler, David Martinson and Ronald Waterland. Also present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: None.

Motion by Bradley, second by Martinson and carried with all members present voting yes to approve the agenda.

Motion by Crane, second by Waterland and carried with all members present voting yes to go into executive session for one legal case, one contract and one personnel at 6:03 pm.

Motion by Waterland, second by Martinson to return to regular session at 6:25 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Announcements:

- Mayor Carstensen proclaimed May 22-26, 2017 as Emergency Medical Services Week.
- Mayor Carstensen reported that FosterOne SD contacted him and asked him to announce that the State is in need of foster homes and foster parents.
- May 10th is “National Bike/Walk to School Day” for more information contact the School.
- City-wide clean up this week.
- The Green Thumb Gala is May 12th at the Library.

City Manager Ainslie reported:

- The sales tax update for General Sales Tax and Capital Improvement Tax for March collected in April was down 15% month over month and was down 7.7% year over year. The Gross Receipts Tax (triple B) was down 23% month over month and is down 5.4% year over year. When comparing 2016 sales tax receipts in the first quarter to this year 2016 was much higher than usual.
- The budget numbers for the end of the 1st quarter are as follows: General Fund is at 25%; Triple B 15.7%; Capital Improvement 5%; Equipment Replacement 52%; Water 22.7%; Wastewater 14%; Sanitation 16% .
- City Manager Ainslie presented the Council with the Policy and Procedures Manual.
- Payroll Changes – within budget:
 1. Streets/Sanitation/Wastewater Depts. – Admin Assistant – Kayla Gerbracht - \$12.94.
 2. Sanitation Dept – Sanitation Operator – Justin Bohn - \$14.42.
 3. Recreation Dept – Concessional Attendant-Adult Softball – Josie Berglund - \$9.00.

Moved by Crane to nominate Bradley for President of the Council. Second by Keszler. Moved by Bachand to nominate Martinson for President of Council. Died for lack of second. Moved by Martinson, second by Anderson to cease nominations. Rod Bradley was declared President of the Council.

Motion by Keszler to nominate Martinson for Vice President of Council. Second by Waterland. Moved by Crane, second by Anderson to cease nominations. Dave Martinson was declared Vice President of the Council.

Motion by Waterland, second by Martinson and carried with all members present voting yes to approve the following items on the consent calendar with the exception of a, h, i, j, o and p:

- ~~a. Consideration to approve the minutes from the April 17, 2017 regular council meeting.~~
- b. Authorize Bank Depositories – First Interstate Bank, Wells Fargo Bank, First National Bank, Pioneer Bank & SD Public Fund Investment Trust.
- c. Authorize Signatories on Bank Accounts – City Manager, Mayor, Council President, Finance Officer and Deputy Finance Officers.
- d. Designate Legal Newspaper as Meade County Times.
- e. Consideration to approve setting a public hearing for May 15, 2017 for Malt Beverage renewals.
- f. Consideration to approve setting a public hearing for May 15, 2017 for the Knuckle Saloon for a Special Events License at the Community Center on June 23, 2017 for Sturgis & Meade Co Historical Society Mixer.
- g. Consideration to approve setting a public hearing for May 15, 2017 for the Loud American for a special events license at the City Armory on September 9, 2017 for a wedding reception.
- ~~h. Consideration to approve Resolution 2017-24 – Storm Water Management Plan.~~
- ~~i. Consideration to approve submission of the 2016 Annual Report.~~
- ~~j. Consideration to approve Resolution 2017-21 – Vacate a Section Line Easement for Sturgis Point Realty (Dollar General).~~
- k. Consideration to approve setting a public hearing for May 15, 2017 for the Supermoto - Resolution 2017-22 – Street Closure.
- l. Consideration to approve setting a public hearing for May 15, 2017 for a street closure request for EMS Week.
- m. Consideration to approve setting a public hearing for May 15, 2017 for a variance for side & rear setback at 810 7th St for Mieke Bruch.
- n. Consideration to approve setting a public hearing for May 15, 2017 for variances for a drive-in theater at 3021 Avalanche Rd for Richard Marsh dba Key City Moonlite Drive-in.
- ~~o. Consideration to approve request from the Black Hills Council of Boy Scouts for use of City Park and Resolution 2017-23 – Authorizing Discharge of BB Guns and Use of Archery in City Park.~~
- ~~p. Consideration to approve a tax abatement for Scott Peterson Motors Structure.~~

Motion by Bradley, second by Waterland and carried with all members present voting yes to approve the minutes from the April 17, 2017 regular council meeting with the exception of removing City Manager Report. Ainslie was not present at the meeting.

Motion by Bradley, second by Martinson and carried with all members present voting yes to approve the Resolution 2017-24 – Storm Water Management Plan. This Plan should be presented to the Infrastructure Committee instead of Legal and Finance Committee.

RESOLUTION 2017-24

RESOLUTION IN SUPPORT OF AND ADOPTING THE STORM WATER MANAGEMENT PLAN

WHEREAS, the Sturgis City Council supports the contents of the Storm Water Management Plan; and

WHEREAS, the Storm Water Management Plan will be a living document allowing changes by staff as necessary to stay in compliance and utilized as a guide for planning related to SD DENR and other purposed as deemed appropriate by the City of Sturgis.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Sturgis City Council hereby adopts, supports and will facilitate the Storm Water Management Plan implementation.

Dated this 1st day of May, 2017.

Published: 05-10-2017

Effective: 05-31-2017

Motion by Waterland, second by Crane and carried with all members present voting yes to approve submission of the 2016 Annual Report.

Motion by Waterland, second by Martinson and carried with all members present voting yes to approve Resolution 2017-21 – Vacate a Section Line Easement for Sturgis Point Realty (Dollar General).

RESOLUTION 2017-21
RESOLUTION TO VACATE A SECTION LINE EASEMENT ADJACENT TO
LOTS 13-19 OF BLOCK 13/14 OF ASH'S EXTENSION TO THE CITY OF STURGIS,
MEADE COUNTY, SOUTH DAKOTA

WHEREAS, STURGIS POINT REALTY, LLC, owner of the herein referenced property has petitioned to request that the Sturgis City Council vacate the portion of the public section line easement adjacent to the herein referenced property as illustrated on Exhibit A:

NOW THEREFORE BE IT RESOLVED that we, the assembled members of the Common Council of the City of Sturgis, do hereby approve the request to vacate the right of way described herein.

Adopted this 1st day of May, 2017.

Published: 05-10-2017

Effective Date: 05-31-2017

Motion by Martinson, second by Bachand and carried with all members present voting yes to approve a request from the Black Hills Council of Boy Scouts for use of City Park and Resolution 2017-23 – Authorizing Discharge of BB Guns and Use of Archery in City Park. This includes use of the City Park.

RESOLUTION 2017-23
RESOLUTION AUTHORIZING THE DISCHARGE OF BB GUNS AND USE OF
ARCHERY IN THE CITY PARK ON JUNE 28, 2017

WHEREAS, the Common Council of the City of Sturgis endorses and supports various youth activities and encourages the expansion of youth activities throughout the community and the greater Black Hills Region; and

WHEREAS, the City has received an application and certificate of insurance from the Boy Scouts of America to use the City Park on Wednesday, June 28 for a day camp for Cub Scouts. The day camp shall include numerous activities including BB gun shooting and archery;

WHEREAS, shooting and archery sports have a legacy in the Black Hills and continues to be a significant recreational opportunity for the Community's youth; and,

WHEREAS, the Boy Scout Day Camp shooting and archery range shall be located north of the Sturgis Bike Path and set up and operated under the supervision of NRA certified shooting sports instructors in an area identified by City Staff.

NOW, THEREFORE, BE IT RESOLVED the Common Council for the City of Sturgis hereby waives the requirements of City Ordinances 13.04.01, 13.04.03, 13.04.04 and other relevant City Ordinances on June 28, 2017 to authorize the exclusive supervised use of that identified area of the City Park by the Black Hills Area Council of the Boy Scouts of America for a Cub Scout Day Camp on that date.

DATED this 1st day of May, 2017.

Published: 05-10-2017

Effective: 05-31-2017

Motion by Anderson, second by Waterland to approve a tax abatement for Scott Peterson Motors taxes. Motion by Anderson, second by Waterland and carried with all members present voting yes to amend the previous motion to approve a refund for the 1st half of the taxes and a tax abatement for the 2nd half of the taxes.

Finance Officer Bueno informed the Council that on the list of renewals for Malt Beverage Kwik Mart is adding SD Farm Wine and Charley's and Night Rider Jewelry will be pulled from the list for the public hearing set for May 15.

Motion by Martinson, second by Crane and carried with all members present voting yes to approve the following claims with the addition of a claim to Sturgis Real Estate Co, \$17,875.00, sponsorship lease:

WAGES – Ambulance \$25,368.33; Attorney \$3534.38; Auditorium \$184.73; Buildings \$1111.73; Cemetery \$2396.46; City Manager \$4274.29; Community Center \$10,605.45; Finance Office \$9209.23; Fire Department \$151.27; Human Resource \$6377.45; Library \$8683.49; Liquor \$6192.79; Mayor and Council \$3661.11; Parks \$7989.69; Planning & Permitting \$7496.84; Police \$39,291.07; Rally \$6880.21; Recreation \$3739.81; Sanitary Service \$13,440.10; Streets \$11,571.08; Wastewater \$8797.11; Water \$13,418.43; Federal Withholding \$19,425.29; FICA \$14,051.27.

GENERAL – A&B Business, \$316.71, sup; Amazon, \$194.71, sup; American Legal Services, \$36.20, prof fee; Baker & Taylor, \$243.69, sup; Greg Barnier, \$188.86, travel; Bettison Consulting, \$625.00, pub; Black Hills Energy, \$15,595.33, util; Roger Burnham, \$3,500.00, prof fee; Century Business Products, \$157.52, rep; Chain Saw Center, \$125.88, sup; City of Sturgis Water Dept, \$65.30, util; Council of State Governments, \$58.50, sup; Dakota Business Center, \$34.42, sup; Double Star Computing, \$1,684.59, sup; Frontier Precision, \$228.84, sup; Grimm's Pump & Industrial, \$677.11, rep; Ken Grosch, \$30.00, other; Gumdrop Books, \$755.74, sup; Michael Hafner, \$2,822.50, refund; Holiday Inn Express, \$1,855.97, superstore; J&L Services, \$200.00, rep; Jerry's Refrigeration, \$230.65, rep; Lawson Products, \$198.49, rep; Aaron Lukesh, \$30.00, other; Matthew Bender & Co, \$49.44, sup; Annette Moore, \$32.64, travel; Park Avenue Car Wash, \$12.80, sup; Julie Peterson, \$65.28, travel; Petty Cash, \$30.00, other; Purchase Power, \$500.00, sup; Ramkota Hotel, \$372.00, travel; Rasmussen Mechanical, \$164.61, rep; Rockingtree Floral, \$41.95, sup; S&C Cleaners, \$3,000.00, rep; Scull Construction, \$1,813.14, sup; SD National Guard, \$3,000.00, other; Sturgis ATV, \$29.88, rep; Sturgis Real Estate & Auctions, \$17,875.00, rent; Tom's T's, \$102.02, other; Twilight First Aid & Safety, \$148.40, sup; VAST, \$2,276.99, util; Verizon, \$2,404.36, util; Katie Walker, \$2,000.00, rent; Ron Waterland, \$276.97, travel; Werlinger Auto Body Repair, \$481.20, rep.

SPECAIL SALES TAX – Chamber of Commerce, \$9,166.67; Sturgis Economic Development, \$8,333.33; VAST, \$81.99.

CAPITAL IMPROVEMENT – Dakota Kustom Coating, \$267.50; Precision Concrete Cutting, \$3,994.45; Wells Fargo Bank, \$500.00.

LIQUOR – Arctic Glacier USA, \$177.65, resale; Black Hills Energy, \$1,857.47, util; Coca Cola, \$489.50, resale; Dakota's Best Distributing, \$92.80, resale; Double Star Computing, \$147.50, prof fee; Fisher Beverage, \$3,824.59, resale; Homeslice Media Group, \$4,921.60, pub; Johnson Western Wholesale, \$7,121.14, resale; LPA Retail Systems, \$1,350.00, prof fee; Pepsi Cola, \$114.80, resale; Prairie Berry, \$624.00, resale; Quality Brands of the Black Hills, \$8,809.41, resale; Republic Beverage Co, \$23,105.83, resale; Southern Glazer's of SD, \$212.82, resale; Valiant Vineyard, \$684.00, resale; VAST, \$290.60, util.

WATER – Black Hills Energy, \$8,008.30, util; Credit Collections Bureau, \$108.46, prof fee; Brad Deutsch, \$500.00, ins; Double Star Computing, \$12.50, prof fee; Hach Co, \$220.84, rep; HD Supply Waterworks, \$17,245.48, sup; Petty Cash, \$4.21, sup; VAST, \$172.18, util; Verizon, \$214.11, util.

WASTEWATER – Adams-ISC, \$46.74, rep; Advanced Engineering & Environmental, \$23,365.80, cap imp; Black Hills Energy, \$2,530.91, util; Double Star Computing, \$102.50, prof fee; Petty Cash, \$23.20, other; Quality Services, \$12,670.45, cap imp; Verizon, \$139.45, util.

SANITATION – Black Hills Energy, \$316.76, util; Century Link, \$63.02, util; Double Star Computing, \$12.50, prof fee; Stern Oil, \$813.14, sup; Verizon, \$37.77, util.

AMBULANCE – Bentco Safety Education, \$110.00, travel; Black Hills Energy, \$522.91, util; Century Business Products, \$364.68, sup; Double Star Computing, \$12.50, prof fee; Henry Schein, \$703.25, sup; Holiday Inn, \$179.67, travel; Howard Johnson, \$171.00, travel; Kreisers, \$425.30, sup; Physio-Control, \$765.00, sup; Purchase Power, \$142.25, sup; VAST, \$166.93, util; Verizon, \$818.97, util.

Motion by Waterland, second by Keszler and carried with all members present voting yes to approve second reading of Ordinance 2017-03 – Title 26 – Establishment of Business Improvement Districts.

ORDINANCE 2017-03

AN ORDINANCE AMENDING TITLE 26 – ESTABLISHMENT OF BUSINESS IMPROVEMENT DISTRICTS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 26 –Establishment of Business Improvement Districts in its entirety to be amended to read as follows:

TITLE 26 ESTABLISHMENT OF BUSINESS IMPROVEMENT DISTRICTS

CHAPTERS:

26.01 General Provisions

26.02 Downtown Improvement District

26.03 Hotel and Motel Improvement District

CHAPTER 26.01 GENERAL PROVISIONS

SECTIONS:

26.01.01 Purpose and Authority

26.01.02 Penalties

26.01.03 Severability

26.01.01 PURPOSE AND AUTHORITY:

The Sturgis City Council, as allowed by SDCL Chapter 9-55, is authorized to by resolution create one or more Business Improvement Districts within the City. The purpose of the authorizing resolution shall be to create a collective funding method to provide a portion or all of the funding needed for proposed future public events, public activities, beautification efforts, economic development efforts and activities, and all other uses for such funding as permitted by SDCL 9-55-3. Each such resolution leading to the establishment of a district shall state the purpose and funding mechanism, if any, and other required elements to fully establish the district.

26.01.02 PENALTIES:

Any person in violation of this Title shall be subject to the general penalty provision of SDCL 22-6-2, for a violation of a class two misdemeanor. In addition, the city may seek to enjoin the actions of any person or operation which violate the provisions of this Ordinance. Each day for which a person is in violation of any provision of this Ordinance may constitute a separate offense. The City may also impose and enforce any penalty for a violation of this Ordinance under the provision of Title 36, of Sturgis City Ordinances.

26.01.03 SEVERABILITY:

Should any section, clause or provision of this ordinance be declared by a court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be invalid.

**CHAPTER 26.02
DOWNTOWN IMPROVEMENT DISTRICT**

SECTIONS:

26.02.01 Establishment of the Downtown Business Improvement District

26.02.02 Downtown Business Improvement District Board

26.02.03 Duties of the Board

26.02.04 Boundaries of the Downtown Business Improvement District

26.02.05 Special Assessments

26.02.06 Exemptions

26.02.01 ESTABLISHMENT OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT:

The Downtown Business Improvement District is created for the purpose of a collective contribution funding for a portion or all of the future proposed public events, public activities, beautification efforts and promotion of the District as allowed by SDCL Ch. 9-55 which encourages economic development within the District.

All expenditures of the Downtown Business Improvement District funds shall be for events, public activities, beautification efforts and promotion of the District that occur within the Downtown Business Improvement District. The Downtown Business Improvement District funds shall be collected by the City, deposited into a separate fund and distributed to a qualified 501 (c) 3 which will complete the activities described in the annual adopted City budget to carry

out the purposes described within this Title. Funds collected from this assessment may not be used to host, promote or staff the annual Motorcycle Rally, nor may they be used for the benefit of an individual business.

26.02.02 DOWNTOWN BUSINESS IMPROVEMENT DISTRICT BOARD:

There is hereby established a Downtown Business Improvement District Board.

- A. Composition. The board shall consist of five owners of property within the Business Improvement District. All appointments shall be made by the City Manager. For purposes of this section, a property owner includes the following:
 - 1. An officer or director of a corporate property owner;
 - 2. A manager or member of a limited liability company that owns property;
 - 3. A partner of a partnership that owns property;
 - 4. A representative appointed by a property owner.
- B. Terms. Upon initial appointment, 3 of the members shall be appointed for 2-year terms, and 2 members shall be appointed for 1-year terms. Thereafter, all members of the board shall be appointed to serve a 2-year term. A member of the board may serve more than 1 term.
- C. Vacancies. The City Manager shall appoint a qualified individual to fill any vacancy for the remainder of the term vacated.
- D. Officers. The Board shall annually select from its members a chair and secretary.
- E. Compensation. All members of the board shall serve as such without compensation, except for actual expenses, which shall be subject to approval of the Common Council.

26.02.03 DUTIES OF THE BOARD:

The Downtown Business Improvement Board shall review the activities funded through the assessment and make annual recommendations to the City Council for use of the funds. The Board's recommendation shall be made no later than May 15 of each year. The Board shall meet at least twice per year after January to discuss previous years' expenditures and to recommend a budget for the following year. Should a property owner wish to call for a special meeting, the property owner must submit a written request to the City Finance Officer at least 7 days in advance of the proposed date of the special meeting. Thereafter the City Finance Officer shall give notice to other Board members of the date, time and location of the meeting.

26.02.04 BOUNDARIES OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT:

The Downtown Business Improvement District shall include all business property within the area located north of Sherman Street and south of Dudley Street to and including properties fronting Lazelle Street, all business properties located west of Middle Street and east of Fourth Street, and all business properties fronting on Middle Street or on Fourth Street..

26.02.05 SPECIAL ASSESSMENTS:

- A. The real property in the district shall be subject to an annual special assessment based upon the special benefit to the property within the district as authorized by SDCL § 9-55-2.
- B. The special assessment shall be fair and equitable as required by SDCL § 9-55-7. The rate of each special assessment shall be determined pursuant to SDCL § 9-55-13 based upon the following formula:

1. For property located within the Business Improvement District, the property shall be assessed a total of \$2 per linear foot of the property's street frontage (it shall not include frontage along alleyways).
2. The maximum assessment on each property within the Business Improvement District shall be capped at \$600.
3. The assessments shall be subject to adjustment by the City Common Council by resolution as provided in SDCL Ch. 9-55.

26.02.06 EXEMPTIONS:

The following real property is exempt from taxation or assessment under this chapter:

- A. All real property which is exempt from taxation under SDCL Ch. 10-4, except those properties identified under 26.03.02 (G).
- B. Owner occupied residential property.
- C. Property used solely for residential uses.
- D. Property used as a place of worship.
- E. Property used by a school district and Meade County
- F. Hospital property
- G. City property located within the District boundaries shall not be exempt. The City shall pay an assessment consistent with the linear calculation of each property located within the Businesses Improvement District.

CHAPTER 26.03 HOTEL AND MOTEL IMPROVEMENT DISTRICT

SECTIONS:

- 26.03.01 Establishment of the Hotel and Motel Business Improvement District
- 26.03.02 Boundaries of the Hotel and Motel Business Improvement District
- 26.03.03 Hotel and Motel Business Improvement District Board
- 26.03.04 Duties of the Board
- 26.03.05 Vote Allocation
- 26.03.06 Hotel and Motel Business Improvement District Occupancy Tax
- 26.03.07 Occupancy Tax Assessment
- 26.03.08 Licenses and Account Charge
- 26.03.09 Enforcement and Remedies
- 26.03.10 Reporting Occupancy Tax

26.03.01 ESTABLISHMENT OF THE HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT:

The Hotel and Motel Business Improvement District is established for the purpose of providing funding for a portion or all of the cost of future proposed public events, public activities, promotion of the District or other permitted uses as allowed by SDCL Chapter 9-55. Any expenditures of the Hotel and Motel Business Improvement District funds shall be for events, public activities, beautification efforts, promotion of the District, economic development and other uses approved by SDCL 9-55-3. Funds collected from this assessment may not be used to directly promote or staff the annual Motorcycle Rally, nor may they be used solely for the benefit of an individual business within the City.

26.03.02 BOUNDARIES OF THE HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT:

The Boundaries of the District shall consist of the following Zoning Districts, as shown on the official Zoning map of the City on file in the City Finance Office:

- A. GC-1, General Commercial District
- B. GC-2, Retail Commercial District
- C. GC-3, Single Family Residential / Office Commercial District
- D. HS-1, Highway Service

Any bed and breakfast or similar use as described in subsection 26.03.06 below shall be exempt from any Occupancy Tax established by this Ordinance. Included within the District at the date of enactment are:

- | | |
|------------------------|-----------------------------|
| 1) Best Western | 2431 South Junction Avenue |
| 2) Holiday Inn Express | 2721 Lazelle Street |
| 3) Days Inn | 2630 Lazelle Street |
| 4) Super 8 | 2600 Whitewood Service Road |
| 5) Junction Inn | 1802 Junction Avenue |
| 6) South Pine Motel | 1051 Park Street |

Any hotel, motel or lodging establishment which are built, constructed or established within the defined boundaries of the District after the date of passage of this Ordinance shall automatically become subject to the Occupancy tax established herein.

26.03.03 HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT BOARD:

There is hereby created a Hotel and Motel Business Improvement District Board. The Board shall consist of all qualified owners or managers of Hotel or Motel property within the boundaries of the Hotel and Motel Business Improvement District. The bylaws of the Board shall be provided by the City and maintained on file at the City Finance Office. To qualify as a Hotel or Motel property, the subject property must meet the definition of SDCL10-45D-1(1) as a lodging establishment, shall be located within the Boundaries of the District, or if outside the District a property operated in compliance with all City Ordinances as a legal non-conforming pre-existing use.

A. For the purposes of chapter 26.03, the term “qualified owner” shall be defined as the following:

- 1. An officer or director of a corporate property owner, as designated by a written corporate resolution;
- 2. A manager or member of a limited liability company that owns property, as allowed by the bylaws or management agreement of that company;
- 3. A partner of a partnership that owns property, as designated by written action of the partnership;
- 4. A representative appointed by a written grant of Agency by a qualified property owner.

B. Officers. The Board shall annually select from its members a chair and secretary.

C. Compensation. All members of the board shall serve as such without compensation, except for actual expenses. Any reimbursement may only be as allowed by Board Bylaws and requires approval of the City Council.

26.03.04 DUTIES OF THE BOARD:

The Hotel and Motel Business Improvement Board shall meet at least once per calendar quarter, and more frequently as necessary to fulfill its duties. The Board shall review any past activities, events or improvements which have received municipal funding and make an annual recommendation to the City Council for use of funds through an appropriation in the upcoming annual City budget. The Board shall meet at least twice between January 1 and May 31 of each calendar year to develop and prepare, in a format acceptable to the City Finance Office, its budget recommendation for the following year. The Board's recommendation shall be made no later than July 15 of each year. Any recommendations received after that time will be considered for the next following annual City budget.

Should a qualified Hotel or Motel property owner within the District boundaries wish to call for a special meeting of the Board, the property owner must submit a written request to the City Finance Officer at least 7 days in advance of the proposed date of the special meeting. Thereafter the City Finance Office shall give notice to other Board members of the date, time and locations of the meeting.

26.03.05 VOTE ALLOCATION:

The proportionate vote of a Board member shall be established at one vote for the first twenty-five lease rooms available to the public, and an additional vote for each portion of twenty five additional available lease rooms at the qualified property. The vote allocation of the Board members shall be as follows:

Best Western	55 (3 votes)
Days Inn	53 (3 votes)
Holiday Inn Express	84 (4 votes)
Super 8	58 (3 votes)
Starlite Motel	24 (1 vote)
<u>South Pine Motel</u>	<u>9 (1 vote)</u>
 TOTAL:	 283 (15 votes)

The proportionate vote of each Board member shall be revised as properties change the number of their rooms or new properties enter the District.

26.03.06 HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT OCCUPANCY TAX:

An occupational tax in the amount of Two Dollars (\$2.00) per night shall be imposed upon transient guests based upon rooms rented or providing any revenue or consideration to any of the above hotels, motels or lodging establishments. This occupation tax shall be fair, equitable and uniform as to class. This tax rate shall be subject to establishment and adjustment by the Sturgis City Council during its annual approval and passage of the Budget Ordinance, upon consideration of the recommendation by the Hotel and Motel Business Improvement District Board. The tax shall not apply to bed and breakfast facilities serving 9 or fewer guest, state licensed campgrounds, other legal campgrounds within the City, or private residences leased for guest sleeping accommodations for 15 or fewer days annually.

26.03.07 OCCUPANCY TAX ASSESSMENT:

The Sturgis City Finance Officer is authorized and directed to determine and compute the tax in accordance with this ordinance. The occupancy tax assessed pursuant to the terms of this ordinance shall be remitted by the 20th day of each month to the Sturgis City Finance Office for the Occupancy Tax assessed and owing from the previous calendar month. Each hotel, motel or lodging establishment subject to this Ordinance shall keep accurate records of amounts collected from transient guests for review by the City Finance Office or its designee, pursuant to this ordinance. The City Finance Office or its designee shall be authorized and entitled to audit the books, ledgers, daily sales and/or occupancy reports, or franchise reports of any hotel, motel or lodging establishment subject to the terms of this ordinance so as to ensure that the occupancy tax to be collected by said hotels, motels and lodging establishments are properly remitted to the City of Sturgis. In addition to all penalties described herein for a violation of this ordinance, the City shall be entitled to seek injunctive relief and/or any legal remedy available to it against any hotel, motel or lodging establishment which does not remit the properly remit all tax monies when due, pursuant to this ordinance and the laws of the State of South Dakota.

26.03.08 LICENSES AND ACCOUNT CHARGE:

All remittances of the occupancy tax collected pursuant to this ordinance shall be paid to the City Finance Office on or before the 20th day of the month following the month for which the occupancy tax was to be collected. All amounts that are not received on or before the 20th day of the month will be charged a late fee in the amount of one percent (1%) of the total amount due with a minimum fee of \$10.00. Failure to pay such tax shall also constitute a violation of this ordinance for each day for which it is unpaid, which may be punishable by a fine not to exceed Five Hundred Dollars (\$500.00). In the event of any civil or criminal action being filed seeking collection of any delinquent assessments, the offending hotel, motel or lodging establishment shall be responsible for and shall pay all attorney's fees and costs incurred by the City of Sturgis in seeking enforcement under the terms of this ordinance. Any unpaid balance under this ordinance shall constitute a lien upon the property upon which the hotel, motel or lodging establishment is operated, and shall become a lien against and shall run with the property and may be enforced and collected in the same manner as other unpaid real property taxes and assessments. The City of Sturgis Finance Office shall certify all unpaid amounts or balances to the county treasurer for collection in the same manner as general property taxes are collected. In addition, the City of Sturgis may deny the issuance of any permit or license applicable to that property, or any renewals thereof, to any such establishment or operator that fails to comply with the provisions of this ordinance, including but not limited to building permits, malt beverage licenses, and/or liquor licenses.

26.03.09 ENFORCEMENT AND REMEDIES:

Nothing within this chapter of this ordinance shall be construed as limiting of any other rights which the City of Sturgis has, or may pursue in seeking collection of monies received but not paid under the terms of this ordinance. All potential penalties as set forth in subsection 26.01.02 above shall be applicable to any violation of Title 26 herein. In the event that this tax becomes subject to supervision by the State of South Dakota through the State's Department of Revenue, any right of enforcement on behalf of the City shall be deemed cumulative to any powers which inure to the benefit of the State.

26.02.10 REPORTING OCCUPANCY TAX:

Any business governed by this ordinance shall include in its monthly report, in a format approved by the City Finance Office, a signed and sworn statement to verify the accuracy and truthfulness

of the calculation and remittance of all tax imposed by this ordinance on or before the 20th day of each month. Said statement shall include the following:

I declare, under penalty of perjury, that I have knowledge of the business income, revenue and accounting of this property, subject to the Sturgis Hotel Motel Occupancy Tax, that the above accounting of rooms leased or rented is accurate and complete and the tax payment made herein is accurate and complete according to the business records of the Hotel or Motel providing this Tax Report..

Signed _____
Title _____

Date _____

Dated this 1st day of May, 2017.

First reading: 04-17-2017

Second reading: 05-01-2017

Adopted: 05-01-2017

Published: 05-10-2017

Effective: 05-31-2017

Motion by Crane, second by Martinson and carried with Carstensen, Anderson, Crane, Dargatz, Keszler, Martinson and Waterland voting yes, Bachand voting no, Bradley abstaining, to approve second reading of Ordinance 2017-04 – Title 2 – Contractor Licensing & Construction Regulation.

ORDINANCE 2017-04

AN ORDINANCE AMENDING TITLE 2 – CONTRACTORS’ LICENSING AND CONSTRUCTION REGULATIONS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 2 – Chapter 2.03 – Building Inspector and Building Permits – 2.03.14 – Temporary Structure Permit Required, 2.03.15 – Requirements for Temporary Structures, 2.03.16 – Exempt Temporary Structures and 2.03.17 – Temporary Secondary Retail Structure Permit to be amended to read as follows:

CHAPTER 2.03 BUILDING INSPECTOR AND BUILDING PERMITS

SECTIONS:

- 2.03.01: Establishment of the Office of Building Inspector
- 2.03.02: Authority of Building Inspector to Enforce
- 2.03.03: Right of Entry
- 2.03.04: Stop Orders
- 2.03.05: Liability
- 2.03.06: Cooperation of Officials and Officers
- 2.03.07: Permit Required
- 2.03.08: Application for Permit
- 2.03.09: Fees
- 2.03.10: Permit Issued
- 2.03.11: Expiration of Permit
- 2.03.12: Permit Must Be Posted
- 2.03.13: Certificate of Occupancy
- 2.03.14: Temporary Structure Permit Required

- 2.03.15: Requirements for Temporary Structures
- 2.03.16: Exempt Temporary Structures
- 2.03.17: Temporary Secondary Retail Structure Permit

2.03.14: TEMPORARY STRUCTURE PERMIT REQUIRED

Temporary structures, such as vending stands, reviewing stands, canopies, tents, Trucks and Trailers with or without awnings, and miscellaneous structures may be erected in areas zoned Highway Service and General Commercial, provided that a special temporary structure permit is obtained for each temporary structure. Said permit shall be issued by the Building Inspector or his/her designee for a period not to exceed 30 days per location. This 30 day time frame shall include set up and tear down time.

For the purpose of this Section “location” shall be the site on which the temporary structure is first constructed or placed. A temporary structure may not be disassembled and reconstructed or moved to a different location on the same property or parcel of land, or an adjacent parcel of land, after an initial permit is issued for the structure.

No vendor, solicitor, temporary merchant or landowner shall begin to erect or allow the erection of a Temporary Structure, as defined in this chapter, for use during the Sturgis Motorcycle Rally more than seven (7) days prior to the beginning date of the temporary vending permit establishing the location of the temporary structure, or leave it erected more than four (4) days after the expiration of the temporary vending permit. Furthermore, the vendor, solicitor, temporary merchant or landowner shall be permitted to operate a temporary business from the temporary structure only during the specified dates of the temporary vending permit, and shall not be required to obtain a Temporary Structure permit so long as the business is in compliance with all other city ordinances, state and federal laws the vendor, solicitor, temporary merchant or landowner possesses a valid vending license issued by the City of Sturgis.

2.03.15: REQUIREMENTS FOR TEMPORARY STRUCTURES

The following requirements shall apply to all temporary structures, except those specifically exempted above.

- A. The structural frame of all temporary structures shall be made of steel, aluminum, PVC or wood. If constructed of wood, the smallest wood member shall not be less than 2” by 4” in width.
 - 1. Wood used for the interior and exterior skins of a temporary structure may be as follows: ½” plywood, ½” chipboard, or particleboard.
 - 2. Wood, as defined above, may also be used for shelving temporary structure.
 - 3. Tarps, which are utilized on temporary structures, which are occupied by temporary merchants, shall be flame retardant or flame resistant as defined in this Ordinance. All tarps not complying with this ordinance shall be removed.
- B. All temporary structures shall be removed upon expiration of the time limit stated on the Temporary Structure permit.
- C. If the structure is not removed by the expiration date stated on the permit, the City may remove the structure without further notice to the owner and shall charge the cost of the removal to the owner. At the time the permit is issued, the Building Inspector or his designee shall provide the owner with a copy of this Ordinance. The owner or occupant of the temporary structure shall sign the permit, which will constitute sufficient notice that the structure shall not be placed for more than 30 days. The City may bring action in magistrate or circuit court for the recovery of costs incurred for the removal of said structure or structures.

- D. In the event that a structure erected pursuant to this Section is not removed by the expiration date and the City is forced to make repeated contacts with the owner of the property upon which the structure is erected or the individual who applied for the permit, the Building Inspector shall not issue subsequent permits under this Section to the owner of the property for the location unless the Building Inspector has reached an agreement with the owner of the property to assure the owner's future compliance with any temporary structures erected at that location.
- E. Temporary structures or appendages thereof shall not be placed closer than 5'0" to any public alley. (Exception: When the property owner provides a permanent barrier which is a minimum height of 5'0" between the temporary structure and the public right of way, the temporary structure may be placed closer than 5'0" to the public right of way. No sales may be permitted through the permanent barrier.)
- F. The permit hereinbefore described may be suspended or revoked if at any time the structure or its occupants are in violation of the Ordinances of the City of Sturgis or the laws of the State of South Dakota.
- G. Temporary structures may not be used for housing permanent or seasonal businesses unless within the exemption of subsection 2.03.16.

2.03.16: EXEMPT TEMPORARY STRUCTURES

After a Permit application has been received, the following temporary structures shall be exempt from the requirements set forth in the preceding Section.

- A. A temporary structure being used for the purpose of a temporary office during a construction project;
- B. A temporary structure being used for the purpose of a realty office in a new development;
- C. Temporary storage buildings used in conjunction with a permanent retail or wholesale business or residence, provided that said structures meet the setback requirements for the zoning district in which they are placed; and shall not exceed 120 Sq. Feet.
- D. Temporary storage buildings owned by a business that rents or sells them at one location to the general public.
- E. In conjunction with a permanent business as defined herein, the permanent business shall be allowed one (1) Temporary Structure to be located on the property. Furthermore, the business operating in or from the Temporary Structure shall be selling or vending items of like nature to which the permanent business sells or vends.

2.03.17: TEMPORARY SECONDARY RETAIL STRUCTURE PERMIT:

For a time period longer than allowed by subsection 2.03.14 above, for an area open for retail display and/or sale of goods and products available through the primary business located on that same parcel, a Temporary Secondary Retail Structure permit may be issued as provided for in this subsection.

- A. A Permit application fee of \$50.00 shall be submitted with the application form and required documents.
- B. The area of retail sales and display described in the permit shall be located on same property parcel as the primary retail business.
- C. Any permit for use of a temporary retail structure under this subsection, to be used in conjunction with the sale of alcoholic beverages on any premises licensed under SDCL Chapter 35-4 or under City Ordinance Title 3, whether off-sale or on-sale, shall not change or abate the other applicable structure requirements contained in Title 3 of Sturgis City Ordinances.
- D. The size of a Temporary Secondary Retail Structure allowed by this permit shall be limited so that the entire temporary structure and appurtenance is placed in compliance

- with all setback requirements (front, side and rear) as would apply to a new permanent structure on that parcel.
- E. The size of a Temporary Secondary Retail Structure shall also be limited so not to exceed the “footprint” of the ground floor (1st floor) of the primary business retail area located on the parcel
 - F. A permit shall be valid only within the calendar year it is issued, for erection and use of a qualifying temporary structure between the dates of May 1 and September 30 of each year.
 - G. For an annual permit application which discloses in sufficient detail, in a separate Building Permit application for the structure, that the snow load rating of the structure is properly designed to accommodate the normal load required by Title 2 and the Building Code, a permit may be issued to allow erection and operation from April 1 through October 31 of that year.

Dated this 1st day of May, 2017.

First reading: 04-17-2017
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Motion by Crane, second by Martinson and carried with all members present voting yes to approve second reading of Ordinance 2017-05 – Title 31 – Licensing of Temporary Business.

ORDINANCE 2017-05

AN ORDINANCE AMENDING TITLE 31–LICENSING AND REGULATION OF VENDORS, PEDDLERS, SOLICITORS, TRANSIENT BUSINESSES, TRADES AND MERCHANTS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 31 – Section 31.01.02 – Definitions, Section 31.02.03 – Licensing and Regulation of Vendors, Transient Businesses, Trades and Merchants, Section 31.03 – Licensing of Peddlers and Solicitors, to be amended to read as follows:

TITLE 31 LICENSING OF TEMPORARY BUSINESSES

CHAPTERS:

- 31.01: General Provisions
- 31.02: Licensing and Regulations of Vendors, Transient Businesses, Trades and Merchants
- 31.03: Licensing of Peddlers and Solicitors

CHAPTER 31.01 GENERAL PROVISIONS

SECTIONS:

- 31.01.01: Scope and Purpose
- 31.01.02: Definitions
- 31.01.03: Penalty

31.01.02 DEFINITIONS:

- G) **PEDDLER:** as used in this Title the term “Peddler” means, consistent with the authority of SDCL Chapter 9-34, to travel from house to house (including apartment to apartment) or business to business for the purpose of selling or soliciting the sale of goods, merchandise, or services, including food and beverages. "Peddler" sales do not include sales or solicitations by a person who has been previously invited onto the premises by a resident of the house or apartment. This definition does not include a sales representative operating under a valid South Dakota Sales Tax license who calls exclusively on retail merchants, manufacturers, or public officials.

CHAPTER 31.02 LICENSING AND REGULATION OF VENDORS, TRANSIENT BUSINESSES, TRADES AND MERCHANTS

SECTIONS:

- 31.02.01: Sales and Marketing within the Right of Way
31.02.02: Peddling in Parks
31.02.03: Licensing of Vendors, Transient Businesses, Trades and Merchants

31.02.03: LICENSING OF VENDORS, TRANSIENT BUSINESSES, TRADES AND MERCHANTS

CHAPTER 31.03 LICENSING OF PEDDLERS AND SOLICITORS

SECTIONS

- 31.03.01: Peddler License Required
31.03.02: Fee
31.03.03: Application for Peddler License
31.03.04: Issuance
31.03.05: Prohibited Conduct
31.03.06: Suspension of Peddler License
31.03.07: Penalty for Violation

31.03.01 PEDDLER LICENSE REQUIRED:

It is unlawful for any person, under the authority of SDCL Chapter 9-34, to engage in Peddler (door to door) sales within the City without first obtaining a Peddler License from the Department of Planning & Permitting.

- a. The duration of a Peddler License shall be twelve (12) consecutive days, and a qualified applicant may apply for and purchase additional licenses.
- b. Each natural person engaging in Peddler sales within the City shall be required to have a separate Peddler License, whether acting for himself or herself or as an agent or representative of another.
- c. No Peddler License shall be issued to a corporation, partnership, association or other legal entity.
- d. Every person having a Peddler License issued under this chapter shall display his or her Peddler License upon the request of any person or any representative of the City.

Failure to do so upon request shall be an offense subject to the penalties of this Title as in addition to those prescribed in Title 36 of Sturgis City Ordinances.

- e. No Peddler license is required for those persons, specifically authorized by a 501(c)(3) non-profit organization in good standing, to conduct door to door sales activities on behalf of that organization, when those sales activities are done in full compliance with the requirements of subsection 31.03.05 herein.

31.03.02 FEE:

The application fee for a Peddle license shall be fifty dollars (\$50.00) and shall be submitted by applicant with the application form.

31.03.03 APPLICATION FOR PEDDLER LICENSE:

An applicant for a Peddler Licenses shall complete an application containing all required information as provided under this Chapter. Failure to provide any of the required information, or providing false or misleading material information in connection with the application for a Peddler License is a violation of this Chapter and may result in denial of the application, forfeiture of the application fee in addition to other penalties for a violation of this Title. The information to be provided shall include the following:

- a. The applicant's driver's license showing his/her name, date of birth, local and permanent address, and photo identification of the applicant;
- b. Applicant's valid South Dakota sales tax license or a legible copy, phone number and vehicle license number applicant will use during the license period.
- c. Whether the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or code other than traffic offenses; the nature of all convictions; the date of all convictions; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction;
- d. Whether the applicant intends, upon any sale or order, to demand, accept or receive any payment or deposit of money prior to delivery of the goods, or services sold;
- e. The kind of goods, wares, merchandise, or services the applicant intends to peddle within the City if licensed;
- f. The last three cities or towns wherein the applicant has worked before coming to the City;
- g. The name of the entity, permanent address, entity's telephone number, and entity's federal EIN that the applicant represents, if any;
- h. The twelve day period during which the applicant seeks to engage in business within the City
- i. Written confirmation that applicant understand the conduct prohibited under the terms of this chapter as set out in subsection 31.03.05 below.

31.03.04 ISSUANCE:

Upon receipt of a complete application, City staff shall within 2 business days confirm that it is accurate and complete in all respects, confirm that applicant has not had a license for such sales revoked in the past and confirm that the applicant is not a defendant in any pending criminal or civil claim related to any activities subject to a Peddler License. If the applicant is so qualified, the License shall be issued.

31.03.05 PROHIBITED CONDUCT:

Following the issuance of a Peddler License, any of the following behaviors, in addition to a violation of state statute or City Ordinance, shall be a valid reason to suspend a Peddler License:

- a. Peddler sales shall be permitted only between the hours of 9:00 a.m. and 8:00 p.m. Monday through Saturday and between 1:00 p.m. and 5:00 p.m. Sunday, except by specific appointment with or invitation from the resident.
- b. A Peddler shall not make false or fraudulent statements concerning the quality or nature of their goods, wares, merchandise, or services for the purpose of inducing another to purchase the goods, wares, merchandise, or services.
- c. A Peddler selling or soliciting the sale of goods, merchandise or services shall remain at any house or residence for a period longer than permitted.
- d. A Peddler who enters upon premises owned or leased by another shall leave immediately after having been notified by the owner or possessor of the premises, or his agent, to leave the premises.
- e. A Peddler shall not enter upon any private premises when the premises are posted with a sign stating "No Peddlers Allowed," "No Soliciting," or words to that effect.
- f. Sales of products which violate any provisions of the City of Sturgis Ordinances or State Law.

31.03.06 SUSPENSION OF PEDDLER LICENSE:

In addition to the penalties authorized pursuant to Title 36, any Peddler License issued under the provisions of this chapter may be suspended for any material violation of any provision of this Title, state law, or other City ordinance, by the Code Enforcement Officer or a Sturgis Police Officer after consideration of a credible report of the alleged violation. Upon suspension, the Peddler License shall be immediately surrendered, and failure to do so shall be an additional offense and subject to the penalties prescribed in subsection 31.01.03 herein and also those in Title 36, Administrative Code Enforcement. An appeal to the City Manager of a suspension may be had by licensee as provided for in Chapter 36.04 of Sturgis City Ordinances.

31.03.07 PENALTY FOR VIOLATION:

Any person, firm or corporation violating any of the provisions of this chapter shall be subject to a penalty pursuant subsection 31.01.03 herein in addition to the general penalty provisions contained in Title 36 of Sturgis City Ordinances.

Dated this 1st day of May, 2017.

First reading: 04-17-2017

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Any other business:

Dave Wilson thanked the Council and staff for their help on the Dollar General Store project.

Bonnie Alberts asked questions about the Council packet and the timing when the Council receives them; when maintenance is done on storm water and when driveways need to be paved.

Francis Severson asked questions about the Francis Case property and Planned Unit Development (PUD).

Motion by Crane, second by Keszler and carried with all members present voting yes to go into executive session for personnel and contracts at 8:00 pm.

Motion by Bachand, second by Martinson to return to regular session at 8:36 pm.

Motion by Bachand, seconded by Waterland and carried with all members present voting yes to adjourn the meeting at 8:37 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

Published once at the total approximate cost of \$