



North Sioux City, South Dakota  
**Regular Meeting of the City Council**  
May 2, 2016 – 7:00 p.m.  
City Hall

**PROPOSED AGENDA**

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of Agenda
- E. Approval of Minutes: April 18, 2016, Regular Meeting
- F. Agenda Items
  - 1. Swearing In of Council Members – Susan Kloostra
    - a) Harold Beavers (Ward 1)
    - b) Dan Parks (Ward 2)
    - c) Doug Berg (Ward 3)
    - d) Tammy Reiff (Ward 3)
    - e) Joan Christiansen (Ward 4)
  - 2. Election of Council President and Vice President
  - 3. Municipal Appointments
    - a) City Attorney
    - b) Assistant City Attorney
    - c) City Administrator
    - d) Chief of Police
    - e) Finance Officer
  - 4. Fireworks License – Susan Kloostra
    - a) Lantis Fireworks
    - b) Zorts Power Source
  - 5. Friends of Library Endowment Request – Ted Cherry
  - 6. Ordinance Readings
    - a) 2016-01 Water Billing Cycle – Second Reading – Ted Cherry
    - b) 2016-02 Sewer Billing Cycle – Second Reading – Ted Cherry
    - c) 2016-03 Garbage Collection – Second Reading – Ted Cherry
    - d) 2016-04 Fireworks – First Reading – Susan Kloostra
  - 7. Surplus Property – Susan Kloostra
- G. Community and Council Input
- H. Approval of Bills
- I. Adjournment

\*SDCL 1-25-2 (sections 1-5) allows a majority of the body present to vote to close a meeting when discussion revolves around personnel, legal matters or contract negotiations. Meetings may also be closed for certain economic development matters (SDCL 9-34-19).

**UNAPPROVED**  
**North Sioux City, South Dakota**  
**City Council Regular Meeting Minutes**  
April 18, 2016

Meeting called to order at 7:00 p.m. by Mayor Fredericksen. Beavers, Christiansen, Cropley, Parks, Slater and Verdoorn were present. Reiff was absent. Also in attendance were City Administrator Ted Cherry and Finance Officer Susan Kloostra.

Mayor Fredericksen led the Pledge of Allegiance.

Motion by Parks, second by Cropley, to approve the agenda as presented. Unanimous.

Motion by Cropley, second by Christiansen, to approve the April 4, 2016 Regular Council Meeting Minutes with removing the comment that Greg Meyer would prepare cost options for the Westshore sidewalk. Unanimous.

Kloostra presented the unofficial election returns for the municipal election held on April 12. The poll book from Ward 3 was distributed for review and the Council verified the election results. For the position of Ward 3 Council person, Jessica Headid received 40 votes (47%) and Doug Berg received 45 votes (53%). Motion by Parks, second by Slater, to approve the elections results as presented. Unanimous.

Paige Petersen, Executive Director for the North Sioux City Economic Development Corporation, introduced herself and was welcomed by the Council. Petersen started April 1 and is currently working on four projects. Cropley referenced a speaker from last October's Municipal League meetings. The speaker talked about the economic development focus of business retention. Focusing on retention of current businesses was something Petersen already had in mind, but was glad for the input and welcomes the Council's feedback.

Senior Center Director Pat Mersch introduced herself, expressing her excitement to partner with the seniors to advance the program. She gave a report-out about the March 31 Lunch & Learn event with Sioux City Journalist Tim Gallagher. The Council welcomed her, and Parks and Mayor Fredericksen acknowledged Mersch's efforts to date. Christiansen offered a suggestion of a programmable sign which could advertise events. Slater reiterated the Council's position of support and care for our senior residents.

Cherry presented new drawings for the Westshore Drive Reconstruction project. The sidewalk will be in front of each house on the west side of the telephone poles, a compromise between citizens' concerns and the original plans. The sidewalk will be 16' from any building. Cherry further reported Adams Nature Center will continue to allow parking along their fence. Motion by Christiansen, second by Cropley, to change the original plans to move the sidewalk as presented in the new drawings. Unanimous.

Friends of the Library Board members, Kristine Danner, Jerald Goehring and Janet Thayer, requested Council approval to move the remaining pledge funds into an Endowment program for future needs of the Library. South Dakota Community Foundation director, Jeff Veltkamp, gave an overview of how the fund works and grant opportunities. Council asked questions of both the Board and Veltkamp which included: overall pledges versus dollars received, minimum investment requirement, donor participation, how the Library receives payouts and the security of the investment. For the protection of the Friends of the Library board, Library Director Deb Matthys asked for City Attorney Darryl Jesse to review. Council thanked the Board and agreed to get Jesse' input.

The Mayor presented to the Council his recommendations for appointments to the Library Board. Motion by Cropley, second by Christiansen, to approve the reappointment of Bethany Strawn and Valerie Waagmeester Minor and appoint Darcie Kistner for three year terms. Unanimous.

Cherry presented Change Order Number One for the Westshore Reconstruction Project from Gill Constructions. It was determined the 36" pipe was not needed, reducing the project contract by \$22,003.54. Motion by Cropley, second by Parks, to approve the Change Order as presented. Unanimous.

Ordinance No. 2016-01, an amendment to Water Disconnection 13.04.230 section. Parks made a motion to waive the ordinance reading. Second by Cropley. Unanimous. Discussion held.

Cherry summarized the proposed changes for all three ordinances. Changes will align the three utility services, reduce the current billing cycle from 40 days to 30 days, assign a designed due date of the 15<sup>th</sup> and late date of the 26<sup>th</sup>, sync late payment fines across utility services, and redefine shut-off procedures update.

Beavers stated 30 days is enough time to pay bill and it's the same group of late payers. Parks wanted to communicate the City allows for automatic payments, as a convenience to residents. Cherry wants to clean up wording to ensure clear interpretation. Christiansen asked for commercial deposit to be specified. Motion by Cropley, second by Parks, to approve the first reading of the City's Water Ordinance Section 13.04.230 with the clarification of the commercial and residential deposit amount. Unanimous.

Ordinance No. 2016-02, an amendment to Wastewater Billing 13.12.050 section. Motion by Cropley to waive reading ordinance, second by Parks. Unanimous. Discussion was held. Motion by Cropley, second by Parks, to approve the first reading of the City's Sewer Ordinance Section 13.12.050. Unanimous.

Ordinance No. 2016-03, an amendment to Garbage Collection Containers 8.04.030 section. Motion by Cropley, second by Christiansen, to waive the ordinance reading. Unanimous. Cherry stated the proposed changes bring the ordinance into agreement with the vendor contract for waste removal. A resolution would be passed with each contract acceptance and specify container requirements and rates. Motion by Cropley, second by Christiansen, to approve the first reading of the City's Garbage Ordinance Section 8.04.030. Cropley amended motion to include correction under section B of weight limits per containers. Second by Parks. Unanimous.

Cherry presented two River Valley plats for Council's approval, both plats meet City requirements. Christiansen wanted to ensure Tim Hogan, Public Works Superintendent, knew water was not be turned on until easements are in place. Slater asked the follow up process for sidewalk installation. Cherry stated there are three options in their covenants: build while building home, within 24 months, or City installs sidewalks and levies against property. Motion by Christiansen, second by Cropley, to approve the plat as presented. Unanimous.

Plat of Lots 59 and 60 of Tract 4 of River Valley Addition, North Sioux City, Union County, South Dakota  
Motion by Christiansen, second by Cropley, to approve the plat as presented. Unanimous.

Plat of Lots 70 and 71 of Tract 4 of River Valley Addition, North Sioux City, Union County, South Dakota

#### Community/council input:

- 1) Christiansen welcomed Doug Berg to the council.
- 2) With the budget process approaching, Slater ask for a five year plan for capital improvements, to prioritize items and to help prevent impulse decisions. His reason to call public attention is so we have projects laid out which would include engineer, administration, building inspector and department heads.
- 3) Christiansen reminded the Legislative Wrap Up is Wednesday, April 20, 4 pm. at City Hall.
- 4) Cropley reported the trip to Washington to be very helpful and informative. She thanked Council for the opportunity to attend.
- 5) Cherry asked Council to submit to Kloostra or himself any items for budget consideration from themselves, or individuals in their ward, including inefficiencies they see. It will allow discussions with Department Heads to put plans in place and identify funding sources whether diverted or designated funds.
- 6) Cherry also thanked Council for the opportunity to attend the 62<sup>nd</sup> Siouxland/Washington Conference. Felt it was a beneficial week, with focus on workforce initiative, educational opportunities, flooding and waters of the United States. Cherry believes it's a useful tool going forward, but would like to change how we administer on our end, as opposed to the Siouxland Chamber.
- 7) Going back to the Library endowment discussion, Beavers agrees with Matthys' concern for pledges being re-designated. He doesn't want for there to be any issues. Parks stated his challenge with the Fund is that

there is no control of the money. Cropley was concerned there hasn't been any more fundraisers, but if no reason to expand, why would anyone give. Parks wonders if there are better options for returns on the funds.

Motion by Cropley second by Parks to enter Executive Session at 8:26 p.m. in accordance with SDCL 1-25-2 (sections 1 and 4) to discuss personnel matters. Unanimous.

Regular session resumed at 8:56 p.m.

Motion by Slater second by Parks to authorize, advertise and hire two part-time positions for mowers at an hourly wage of \$10.00, subject to the 90-day probation period. Unanimous.

Motion by Cropley second by Christiansen to hire Misty Sudtelgte as part-time assistant librarian at an hourly wage of \$10.00, subject to the 90-day probation period. Unanimous.

Slater asked regarding pump invoice. Hogan stated it was a 2015 purchase as a backup but didn't ship until this month. Motion by Christiansen second by Cropley for the approval of bills as presented. Unanimous.

DEVOS, CW	\$6.44	CUSTOMER UTILITY DEPOSIT REFUND
JASON SANDS	\$17.40	CUSTOMER UTILITY DEPOSIT REFUND
SHERMAN, MARC	\$50.00	CUSTOMER UTILITY DEPOSIT REFUND
A1 JANITORIAL SUPPLY	\$454.33	POWDERED DRAIN SEWER OPENER (40)
AARONS SIGN SHOP	\$30.00	PD FRONT DOOR LETTERING-HOURS
AMERICAN UNDERGROUND SUPPLY	\$144.36	3/4 " X 10' ALL THREAD ROD (20)
ARK UNITED METHODIST CHURCH	\$5.00	SR CTR RUMMAGE SALE REGIST.
C. W. SUTER SERVICES INC	\$1,037.81	CH-REPLACED FLOW CONTROL
CENTER POINT LGE PRINT	\$130.62	BOOKS (6)
CITY OF SIOUX CITY IOWA	\$13,744.00	2QTR2016 WOODBURY CTY COMM SVCS
CITY OF SIOUX CITY	\$28,185.78	MAR 2016 SEWER CHARGES USAGE 13,441
CITY OF SIOUX FALLS	\$159.50	1QTR2016 BACTERIA WATER TESTS
MARDELLE COLE	\$175.00	2016 ELECTION SUPERINTENDENT
ROCS-DAKOTA SENIOR MEALS	\$126.40	LUNCH & LISTEN (29 MEALS)
DAKOTA DUNES/NSC TIMES	\$731.44	MAR 2016 PUBLISHING
ELECTRIC INNOVATIONS	\$1,086.05	CHROMEBOOK, PHONE PROGRAMMING
ELECTRIC PUMP	\$26,813.81	BACKUP PUMP-SUNCOAST LIFT STATION
FARMER BROS. CO.	\$72.80	SR CENTER - COFFEE (2 CS)
GATEWAY ENGINEERING INC	\$202.00	3/8" WALL X 3" SQ TUBE X 13'
GCR TIRES & SERVICE	\$336.00	SERVICE CALL, FUEL CHARGE, SUPPLIES
GILL CONSTRUCTION	\$115,874.63	WESTSHORE RECONS PROJECT CERTONE
GILL HAULING INC	\$11,179.62	MAR 2016 - RESIDENTIAL WASTE
GR LINDBLADE & CO.	\$295.00	TRADING CARDS, BUSINESS CARDS
GROE, WAYNE	\$25.00	2016 RESOLUTION WORKER
GROVES REPAIR	\$1,780.00	PW - INSTALL EQUIP - DODGE RAM
HAWKINS, INC	\$924.00	CHLORINE (8)
HD SUPPLY WATERWORKS, LTD	\$26,305.56	HYDRANTS FOR WESTSHORE RECONST
INGRAM LIBRARY SERVICES	\$747.65	BOOKS (36), DVD (5)
JACOBS, TIM	\$150.00	1QTR2016 P&Z MTGS
JANITOR DEPOT, INC.	\$46.95	BATH TISSUE (96)
JENSEN SPRINKLER	\$137.70	START UP SPRINKLER - CH, LIBRARY
JIMS WATER TREATMENT	\$37.10	SR CENTER - WATER SOFTENER SALT
KEVIN O'DELL ELECTRIC, INC.	\$952.46	GENERATOR LIFT STATION
KISTNER, DARCI	\$150.00	2016 ELECTION WORKER
KMEG-TV	\$880.00	ADVERTISING 03/28-04/03
KNOEPFLER CHEVROLET CO	\$425.00	ARMORTHANE UNDER THE RAIL FOR RAM
KPTH	\$800.00	ADVERTISING 03/07-03-27
L.G. EVERIST, INC	\$455.52	DIKE PROJECT CONCRETE SAND - 29.87 TON
LEADER-COURIER	\$63.00	SPRING CLEANUP AD
LINDEN, BAYNE	\$150.00	1QTR2016 P&Z MTGS
TEAMSTERS LOCAL NO. 120	\$246.00	MAY 2016 (5)
LYLE SIGNS, INC	\$48.69	ADOPT A PARK SIGN
MERCY BUSINESS HEALTH SVCS	\$53.33	MAR 2016 EAP
CHARLES MEYER	\$150.00	1QTR2016 P&Z MTGS
MIDAMERICAN ENERGY	\$12,379.69	MAR 2016 UTILITY CHARGES
MITCHELL, DAVE	\$100.00	1QTR2016 P&Z MTGS
NOVELTY MACHINE & SUPPLY CO	\$2.89	2' ALUM CAMLOCK FITTING
OLSON, DAN	\$200.00	1QTR2016 P&Z MTGS
ONE OFFICE SOLUTION	\$643.49	COPY PAPER (20), PENS, FOLDERS
SYLVIA OTHOUDT	\$150.00	2016 ELECTION WORKER

Motion by Cropley second by Parks to adjourn at 8:59 p.m. Unanimous.

**Approved**

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**Randy Fredericksen, Mayor**

**Attested**

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**Susan Kloostra, Finance Officer**



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Mayor Fredericksen  
Council Members  
From: Susan Kloostra  
Date: 4/29/2016  
Re: Oath of Elected Official

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**Background:** SDCL 3-1-5. Administration of Oaths. Oath of office for civil officers--Bond. Every person elected or appointed to any civil office shall, before entering upon the duties thereof, qualify by taking an oath or affirmation to support the Constitution of the United States and of this state, and faithfully to discharge the duties of his office, naming it; and by giving a bond, when one is required, conditioned that he will faithfully and impartially discharge the duties of his office, naming it, and render a true account of all money, credits, accounts, and public personal property requiring inventory, as defined in rules issued by the commissioner of the bureau of administration, that shall come into his hands as such officer, and pay over and deliver the same according to law.

I will administer the oath to the five elected officials, individually. Upon my research, I am to have each of you say your oath individually.

**Financial Consideration:** None.

**Recommendation:** N/A.

/srk

STATE OF SOUTH DAKOTA  
County of Union  
City of North Sioux City

**OATH**

I, **Name**, having been elected to the office of **Alderman Ward Number** within and for the City of North Sioux City, in said County and State, do swear that I will support the Constitution of the United States, the Constitution of the State of South Dakota and the ordinances of the City of North Sioux City, and that I will faithfully and impartially, to the best of my knowledge and ability, perform all the duties of my said office **Alderman Ward Number**.

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Alderman Signature

Subscribed and sworn to before me this Day day of May Year.

**Susan Kloostra**  
\_\_\_\_\_  
Officer Administering Oath

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Signature

**Finance Officer**  
\_\_\_\_\_  
Title of Officer



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Mayor Fredericksen  
Council Members  
From: Susan Kloostra  
Date: 4/29/2016  
Re: Council President and Vice President Nominations

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**Background:** SDCL 9-8-7. President and vice president of council--Election and duties. At the first regular meeting after the annual election in each year, the council shall elect from among its own members a president and vice president, who shall hold their respective offices for the municipal year.

The president of the council, in the absence of the mayor, shall be the presiding officer of the council and during the absence of the mayor or temporary disability shall be acting mayor and possess all the powers of the mayor.

In the absence or disability of the mayor and president of the council, the vice president shall perform the duties of the mayor and president of the council.

**Financial Consideration:** None.

**Recommendation:** We request nominations be made for the positions of Council President and Vice President. A motion will be required for each person nominated, and each position, until a motion is made to stop nominations, and then a vote for the position.

/srk



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Council Members  
From: Randy Fredericksen  
Date: 4/29/2016  
Re: Appointments

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**Background:**

SDCL 9-14-13. Appointment of officers. Such officers as needed and provided for by ordinance shall be appointed. Each appointive officer of a municipality governed by a mayor and common council shall be appointed by the mayor with the approval of the council, {and in other municipalities, each officer shall be appointed by a majority vote of the members elected to the governing body, except as provided in the city manager law and subject to the provisions of the civil service applying to employees, police, and firefighters}. Such officers shall be appointed annually or at intervals determined by the governing body.

Employee Handbook: Section II (a) – Definitions. a) Appointed Officials – Finance Officer, City Attorney, Administrator and Chief of Police.

Employee Handbook: Section III (f) – Appointment. f) Appointed officials shall be appointed by the Mayor with the approval of the council on the first regular council meeting in May. At the time of making such appointments, the Mayor shall designate the length or term of the appointment which in no case shall exceed one year or the remaining length of the mayor’s term, whichever is shorter. The mayor may make a probationary appointment for a period not to exceed ninety (90) days with the approval of the council. Any subsequent appointment for a longer period must again be approved by the council.

Ordinance 2.08. City Administrator. The city administrator shall be appointed by the mayor with the consent of a majority vote of the governing body for an indefinite term.

**Financial Consideration:** None.

**Recommendation:** For the Council to approve my recommendations for the following appointments:

- a) City Attorney – Darrell Jessee
- b) Assistant City Attorney – Sabrina Sayler
- c) City Administrator – Ted Cherry
- d) Chief of Police – Rich Headid
- e) Finance Officer – Susan Kloostra

/srk



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Mayor Fredericksen  
Council Members  
From: Susan Kloostra  
Date: 4/29/2016  
Re: Fireworks Licenses / Ordinance Changes

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**Background:** Ordinance 5-16. License Required for Retail Sale Fireworks. Per Ordinance, applications for Fireworks Licenses must be submitted to Council.

#### Licenses

Lantis Fireworks and Zorts Power Source, Inc. have submitted applications to sell to out of state residents starting May 2016. Once approved, I will forward permits to each business for display.

#### Ordinance Changes

Several sections do not line up with the new sale date. The new SD Special Retail License allows for sales to begin as early as May 1.

Public Fireworks Displays must be first approved by the Dakota Valley Fire District before being approved by the Council. I've asked Assistant Fire Chief Jim Christensen to review for his input as well.

#### License Fees

In section 5.16.020 and 5.16.030, the last sentence listing the license fee refers to "each" license. In section 5.16.040 the first sentence states the duration is for a calendar year and one day into the next year. These appear to conflict. I would like to clarify the language so it is clear.

**Financial Consideration:** No cost to correct ordinance.

#### **Recommendation:**

#### Licenses

With two separate motions, approve each application as presented.

#### Ordinance Changes

Make the changes as recommended, and approve the first reading.

/srk



RETAIL FIREWORKS PERMIT APPLICATION
2016 CALENDAR YEAR

City of North Sioux City
504 River Drive
North Sioux City, SD 57049
Phone (605) 232-4276 Fax (605) 232-0506

Name of Applicant: LANTIS FIREWORKS INC
Business Name: SAME
Address: PO BOX 729, N. Sioux City, SD 57049
Applicant Phone Number: 605-232-6818
Business Location: EXIT 4, I-29 MCCOOK LAKE EXIT
Legal Description: SAME EXIT 4 I-29
State Permit No. (attach copy): S13-16
State Permit Time Frame: 2016 May 1-July 5
State Sales Tax No.: 42-1354815

Chapter 5.16 Fireworks Sales and Use, Codification of Ordinances of the City of North Sioux City, South Dakota, requires a retailer's permit for sales at retail of "Permissible Fireworks" within the corporate limits of said City.

Fireworks may be sold only at such times as allowed by the State of South Dakota (SDCL 34-37).

Application for retail permit must be presented to the City Finance Officer no later than at the commencement of the regular meeting of the Common Council on the first Monday of June to be considered and acted on by the Common Council. One retailer's permit shall be issued by discretion of the Common Council and that person authorized by the Common Council to receive such permit shall submit with the application form a certified check or bank draft payable to the City of North Sioux City, South Dakota in the amount of \$1,250.00 for each retail fireworks license requested. The person receiving a retailer's permit shall in all respects obey all laws of South Dakota.

The undersigned applicant certifies, that he/she has received copies of City Ordinance Chapter 5.16 Sections 5.16.010 through 5.16.170 inclusive, and that he/she will comply with these ordinances, furthermore he/she will be at all times in compliance with all other City ordinances.

April Date
Ron Lantis Signature

FOR OFFICE USE ONLY

RECEIVED BY DATE CHECK/MONEY ORDER #



# RETAIL FIREWORKS PERMIT APPLICATION 2016 CALENDAR YEAR

City of North Sioux City  
504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276 Fax (605) 232-0506

Name of Applicant: John Barber & Sally Barber  
 Business Name: Zortis Tower Source Inc.  
 Mailing Address: 576 Lake Forest, Bonner Springs, KS 66022  
 Applicant Phone Number: (913) 568-8772  
 Business Location: 201 S. Derby Lane  
 Business Phone Number: (605) 232-0771  
 Legal Description: 201 S. Derby Lane  
(see attached)

License Type:  Special Retail Fireworks (out-of-state residents only sales) Valid: May 1 – July 5  
 Retail Fireworks (general sales) Valid: June 27 – July 5  
 Optional Retail Fireworks (out-of-state residents only sales) Valid: July 6 – August 3  
 Retail Fireworks (general sales) Valid: Dec 28 – Jan 1

SD Permit No. (attach copy): 0 01-16 & 502-16  
 SD Sales Tax No. (attach copy): 1024-2468-ST

Chapter 5.16 Fireworks Sales and Use, Codification of Ordinances of the City of North Sioux City, South Dakota, requires a retailer's permit for sales at retail of "Permissible Fireworks" within the corporate limits of said City.

Fireworks may be sold only at such times as allowed by the State of South Dakota (SDCL 34-37).

\$1,250.00 for each retail fireworks license requested. The person receiving a retailer's permit shall in all respects obey all laws of South Dakota.

The undersigned applicant certifies, that he/she has received copies of City Ordinance Chapter 5.16 Sections 5.16.010 through 5.16.170 inclusive, and that he/she will comply with these ordinances, furthermore he/she will be at all times in compliance with all other City ordinances.

4/27/2016 Date  
Sally J. Barber Signature

RECEIVED BY [Signature] DATE 4/28/16 FOR OFFICE USE ONLY  
 CHECK/MONEY ORDER # 2307-25605



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City City Council  
From: Ted Cherry, City Administrator  
Date: April 18, 2016  
Re: Friends of the Library Monetary Request

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**Background:** Before the new library was built the Friend of the Library organization initiated a fund raising effort to help defray the costs of the library construction. Funds were remitted to the city which in turn paid for portions of the new facility.

The Friends organization currently has a remaining balance of \$33,590.84 in the building fund.

The Friends organization has started working with the South Dakota Community Foundation and has set up an endowment for their organization. The funds received from this investment have the potential of supporting the library in the future. The Friends organization must use their funds to directly support the library in their effort to purchase materials, books, computers, and other items to enhance the patrons experience.

The Friends organization is asking that these funds not be remitted to the City for paying back costs of the library. The organization would like to take control of these funds to make the decision on what they would like. Members of the organization have also spoke about building a marquee in the front of the library, purchasing a CD, and installing a donor plaque.

If funds are given to the South Dakota Community Foundation those fund would not be able to be withdrawn. The endowment fund is set up to be a long term solution to help fund non-profits. Each individual donor site must have set up at least \$10,000 in endowment funds to begin receiving investment funds back.

Attached is information requested from City Attorney Darrell Jesse as well as the initial contract between the City and the Friends organization.

The Friends organization gave to the city \$612,087.58 of the original promised amount of \$900,000. As Darrell stated in his communications and is the understanding of the administration the original amount was lowered at a later date.

**Financial Consideration:** \$33,590.84 in unallocated funds. These funds are currently in the possession of the Friends of the Library.

**Recommendation:** From the information received from Darrell Jesse the Administration would recommend the reimbursement of the funds completely to the City. There would be a possibility of giving a monetary amount at a later date to help establish the endowment.

## Susan Kloostra

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**From:** Darrell Jesse <Djesse@craryhuff.com>  
**Sent:** Friday, April 22, 2016 9:18 AM  
**To:** Ted Cherry  
**Cc:** Courtenay Piechota  
**Subject:** RE: Friends of the Library  
**Attachments:** 0483\_001.pdf; DH8189-New Public Library Cooperative.pdf

Ted,

It appears to me there are at least two issues:

1. Based on the language in the attached pledge the funds were to be designated and arguably pledged to the building construction. However, as the Library is a City (governmental) owned facility there was a legal requirement to use the public bidding process for the construction. Therefore, if the pledged funds were not used up front to pay for the building construction, the pledged funds could be used to reimburse the City. I'm fairly certain the Council and Mayor at that time would not agree to begin the construction process until a certain amount of private sector dollars had been raised to construct the building. The inability of the Friends to raise the required amount of private sector dollars delayed the bidding process and the recession hit in 2008. The dollar amount required by the Council should be reflected in the minutes.
2. The non-profit corporation did obtain a 501(c)(3) exemption letter from the IRS to enable the donors to make tax deductible gifts. Therefore, the balance of the funds in the corporation can only be legally transferred and used for similar exempt purposes qualifying under 501(c)(3). Reimbursing the City for the construction of the library should qualify. In addition, utilizing the remaining funds to maintain and/or improve the library building would arguably also satisfy the intent of the donation and federal IRS requirements.

In sum, the Friends of the Library agreed to pay for a certain portion of the construction of the building (\$900,000 per the attached Agreement), although I believe this may have been reduced at a later date. You may want to first determine how much of the private sector dollars were actually utilized for the building construction or reimbursed to the City. Any excess can then be spent per the pledge and IRS requirements listed above.

Please let me know if you have any other questions or would like to discuss.

Thank you.

Darrell



Darrell A. Jesse  
Crary, Huff, Ringgenberg, Hartnett & Storm, P.C.  
711 Sioux Point Road, Ste 200  
Dakota Dunes, SD 57049  
p 605-232-3340  
f 605-232-8931  
email [djesse@craryhuff.com](mailto:djesse@craryhuff.com)  
website: [www.craryhuff.com](http://www.craryhuff.com)

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**From:** Ted Cherry [mailto:[Ted.Cherry@northsiouxcity-sd.gov](mailto:Ted.Cherry@northsiouxcity-sd.gov)]  
**Sent:** Thursday, April 21, 2016 5:47 PM  
**To:** Darrell Jesse  
**Cc:** Courtenay Piechota  
**Subject:** Friends of the Library

Darrell,

On Monday the council discussed a request from the Friends of the Library. The Friends still have an outstanding balance in their building fund that was supposed to go back to the city for reimbursement on the building. They are asking for this money to be put into an endowment instead.

Anyway, it was brought up that the form that people made the pledge on states that it would go to funding the building. In your opinion would there be an issue with these funds going into an endowment, even though it was stated that the monies would go to the building.

Let me know.

Ted Cherry

North Sioux City  
City Administrator  
605-232-4276  
[ted.cherry@northsiouxcity-sd.gov](mailto:ted.cherry@northsiouxcity-sd.gov)

**NEW PUBLIC LIBRARY COOPERATIVE AGREEMENT**

This is an agreement by and between the City of North Sioux City, SD, ("City"); the North Sioux City Public Library Board of Trustees, ("Board"); and the North Sioux City Friends of the Library ("Friends").

WHEREAS, the parties hereto desire to cooperate and assist each other in the financing, design, construction, and furnishing of a new library located on property donated by Avalon Enterprises, LLC (Lot 21 of S½ NE ¼ Section 15, T89N, R48W, 5<sup>th</sup> P.M., North Sioux City, South Dakota).

WHEREAS, the parties hereto desire to document in this Agreement their rights, responsibilities, and roles in this project;

1. **AUTHORITY.** This agreement is made and executed under and pursuant to the authority of the South Dakota Codified Laws.
2. **PURPOSE.** To set forth the rights, duties, and obligations of the parties which desire to cooperate with each other in financing, designing, constructing, and furnishing a New Library in North Sioux City, S.D.
3. **ROLE OF THE CITY.**
  - a. The City has the right to approve the initial design and specifications of the New Library.
  - b. The City shall determine the projected yearly operating budget for the New Library.
  - c. The City shall facilitate the efforts of the Friends to procure additional operating funds through contracts with other government or community bodies. Any contracts for additional operating funding will be made between the City and the other governmental or community body.
  - d. The City shall let the contracts necessary for the architecture, construction, furnishing, and equipping of the New Library after the following:
    - i. The Friends have met their initial fundraising obligation of \$900,000;
    - ii. All parties have provided input on the initial design, and the City has approved the final design; and
    - iii. All projected yearly operating costs have been determined, and the necessary funds to compensate such costs have been secured.
  - e. The City will accept the agreements for financing, materials, and/or labor procured by the Friends, from businesses, foundations, and private individuals. All agreements for financing, including but not limited to donations, shall be made with the Friends and released to the City as the agreements state. Funds from businesses and private individuals may be released over a period of 5 years from the date of the agreement.
  - f. The City shall bond for the project, if necessary.
  - g. Upon final review of the design and specifications, and the approval of funds raised by the Friends, along with timelines of distribution, the City shall release the \$500,000 that has been approved by the City Council for the building of the New Library. The City shall also make available the grant funds (\$198,000) it is currently holding. City funds and grant funds will be used first to pay for the construction of the New Library. The City is under no obligation to appropriate more than the \$500,000 toward the project.
  - h. Upon completion of the construction of the New Library, the City shall assume the responsibility for operating and maintaining the structure.
4. **ROLE OF THE BOARD.**

- a. The Board shall cooperate with and assist the architect that the City has contracted with, to accomplish the ultimate design of the New Library.
- b. The Board shall have the right to have input in the final design and specifications of the New Library.

**5. ROLE OF THE FRIENDS.**

- a. The Friends agrees to use its best efforts to raise at least \$900,000 from private donations towards the total cost of the New Library. The Friends shall exclusively determine the method and persons it shall employ in its fund-raising activities. The Friends agrees that it shall certify to the City and the Board, prior to commencement of any construction, furnishing, and equipping of the New Library, that it has received at least \$900,000 in cash, materials, labor and/or reliable pledges due over a 5 year time span, from the date of the agreement with the donor.
- b. The Friends shall provide the City with Quarterly financial reports commencing September 30, 2009, detailing the funds that have been committed to the New Library.
- c. All funds collected by the Friends and designated for the New Library will be released to the City prior to the commencement of any bid letting.
- d. Friends shall certify to the City, prior to the commencement of any bid letting, that they have received cash, labor and/or material commitments, and/or pledges for at least \$900,000 in total funds that will be used to pay for the design, construction, and furnishing and equipping of the New Library.
- e. Upon determination by the City of the projected operating budget, the Friends shall facilitate initial agreements between the City and other governmental or community bodies.
- f. Upon determination by the City of the projected operating budget, the Friends will endeavor to establish an endowment to further ensure that the operating budget of the library is sufficient. After all efforts to create agreements between the City and other governmental or community bodies have been established, the City, the Board, and the Friends will determine the amount needed for an endowment, assuming a 3% interest rate. It is understood that non-resident user fees may also need to be increased to further ensure the sufficiency of the operating budget.
- g. Friends will have exclusive control of the endowment. The terms of the endowment will be established in the future by the Friends.
- h. The Friends shall have the right to have input into the final design and specifications of the New Library before payment of any funds to the City.

**6. INTENT OF PARTIES.** The New Library shall be located on property donated by Avalon Enterprises, LLC. This land agreement requires that funds be secured for a new library by December of 2010. The three parties will meet to assess the funds that have been secured by September 1, 2010, in order to determine the final size of the library. By November 15, 2010, a final design will be agreed upon. Construction of the New Library will commence as soon as conditions allow.

**7. ADMINISTRATION OF COOPERATIVE.** There is hereby created a joint committee responsible for the day-to-day administration of this cooperative undertaking. The joint committee shall consist of the City's mayor and designee; the Board's president or designee; and the Friends' president or designee. This committee shall meet with appropriate City staff, Library staff, and contractors, at such intervals as is necessary to inform their respective bodies on the status of the project, to assure no delays are encountered, and to assure cooperation of all parties. This paragraph shall not be construed to grant to the joint committee powers reserved to the parties in this Agreement.

8. **TERMINATION OF AGREEMENT.** All rights and obligations under this Agreement terminate upon occupancy of the New Library by the Board and payment of all costs of engineering, construction, and furnishing, whichever occurs last.
9. **EFFECTIVE DATE.** This agreement is effective upon execution by all three parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

CITY OF NORTH SIOUX CITY, S.D.

Don Fuxa  
Don Fuxa  
Mayor

Attest: Tonya Rubida  
Tonya Rubida  
Finance Officer

Date: 8-17-09

NORTH SIOUX CITY PUBLIC LIBRARY  
BOARD OF TRUSTEES

Helen E. Claussen  
Helen Claussen  
President

Attest: Juanita Grewing  
Juanita Grewing  
Secretary

Date: 8/19/09

FRIENDS OF THE NORTH SIOUX CITY PUBLIC LIBRARY

Jackqueline L. Lewis  
Jackqueline L. Lewis  
President

Attest: Jennifer Boyle  
Jennifer Boyle  
Secretary

Date: 8-19-2009



# SOUTH DAKOTA COMMUNITY FOUNDATION

*Success Through Community Caring*

P.O. Box 296 Pierre, SD 57501

July 21, 2015

Kristine Danner  
Friends of the North Sioux City Community Library  
601 River Drive  
North Sioux City, SD 57049

Thank you for your donation of **\$1,078.00**. Your contribution has been added to the **Friends of the North Sioux City Community Library Fund**, a permanent endowment fund within the South Dakota Community Foundation.

The South Dakota Community Foundation is a 501(c)(3) organization (TID# 46-0398115). Per IRS regulations, this letter is the receipt for your donation and confirms that you have not received, nor will receive in the future, any goods or services in direct exchange for this donation, and confirms that the South Dakota Community Foundation has exclusive legal control over the contributed assets. All gifts are subject to the South Dakota Community Foundation's governing documents and variance power.

Thank you for your commitment to the **Friends of the North Sioux City Community Library Fund** and the South Dakota Community Foundation.

Sincerely,

Stephanie Judson  
President



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City City Council  
From: Ted Cherry – City Administrator  
Date: March 2<sup>nd</sup>, 2016  
Re: Utility Billing Updates Ordinances 2016-1, 2016-2, and 2016-3 – Second Reading

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**Background:** The current billing cycle of the City is forty days. Because of this monthly billing cycles overlap which causes confusion for citizens and staff. The proposed ordinance changes would allow the City to move to a billing cycle of one month. This will allow for bills to be sent, late notices to be sent, fines to be applied, and the shut off of services all within a monthly period.

The ordinances also change the penalties applied to late payments. This would change the penalties to 10% of the overdue balance. Citizens should be given more incentive to pay their bills in a timely manner.

Listed below are highlights from each individual ordinance.

**2016-1 Water Ordinance** – The ordinance allows for shut offs during the month of billing and a 10% late charge. In the case a resident turns on their own service without informing the City they will be charged a \$100 penalty. Tampering with a water service is forbidden by ordinance. The new ordinance allows for two exceptions to residents paying their bills on time. They would still be charged the late penalty, but would not have their service shut off. Account holders would be responsible for paying the account in full the following month.

Changes were made from the first reading regarding wording on the deposit amount. It has now been referenced as section 13.04.270 of the city code which references the amounts of deposits required.

**2016-2 Sewage Ordinance** – The ordinance allows the city to charge a late charge of 10%. No changes have been made from the first reading

**2016-3 Solid Waste Ordinance** – The ordinance is designed to fall in order of the contract the City signed with Gill Hauling. There is a 10% late charge on unpaid bills. The ordinance allows for rates to be set by resolution which allows for changes to be made easier when different contracts are signed for the hauling of waste.

The correction from the first reading was made removing the wording regarding the fifty-pound limit on loaded containers.

**Financial Consideration:** The only financial change will be the penalty associated with accounts. Instead of a flat fee it will be a percentage based system. This would allow for penalties directly linked to the usage on the account. While this change will likely have a negative impact on our penalty incomes, the penalties will more directly be linked to usage.

**Recommendation:** Staff recommends approval of the second reading of Ordinances 2016-1, 2016-2, and 2016-3. For ordinance changes to take effect in August.

PROPOSED ORDINANCE 2016-01

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 13 PUBLIC SERVICES, CHAPTER 13.04 WATER SERVICES SYSTEM, TO CHANGE BILLING CYCLE AND PROVIDE AND CHANGE FEES AND FINES FOR VIOLATIONS.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 13, Chapter 13.04 be amended as set forth below.

**13.04.230 ~~Billing cycle, disconnection water fee, reconnection water fee~~ ~~Disconnection of water fee.~~**

~~A. All commercial and residential water bills are due when the invoice is issued by the City. If the bills are not paid within thirty (30) days after the invoice date the bill is delinquent. The City then reserves the right to discontinue water service to the delinquent customer by shutting off the water at the curb cock, after forwarding the customer a written notice of termination 10 days prior to shutting off the customer's water. A late payment fee of \$5.00 per month shall be assessed on any unpaid balance more than 30 days delinquent.~~

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~~A. All commercial and residential water bills are due when the invoice is issued by the City. Water meter readings will be taken on approximately the 18<sup>th</sup> (eighteenth) of each month. If the bill is not paid by the 15<sup>th</sup> of each month the bill will be considered delinquent. A late charge of 10% (ten percent) of the unpaid balance will be assessed to the user account after the 15<sup>th</sup> (fifteenth) day of the month. After the 15<sup>th</sup> (fifteenth) of each month the City reserves the right to discontinue water service to the delinquent customer by shutting the water off at the curb cock, after forwarding the customer a written notice of termination. The shut off day will be the 26<sup>th</sup> (twenty sixth) of each month. If the 26<sup>th</sup> (twenty sixth) of the month falls on a weekend or holiday the shut off date will be the next working business day of the City. A twenty-five dollar (\$25.00) disconnect fee shall be charged to the individual for each instance the City discontinues water service and shall immediately be charged to the individual.~~

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B. If a commercial or residential water service is discontinued for non-payment of the utility bill the water service will be reconnected only after the following conditions have been met:

1. The account has been paid in full and there remains no balance due.
2. ~~A One Hundred Dollar (\$100.00) water deposit has been paid the city. The deposit for the customer has been paid to the City as listed in section 13.04.270 of the City of North Sioux City code of ordinances.~~ The deposit will be waived if the city already has a deposit on file.
3. A Twenty ~~Five~~ Dollar (\$~~250~~.00) reconnect fee has been paid to the city.
4. Water service will be restored only during the normal business hours. For services to be reconnected after ~~3:30~~4:00 p.m., or not during normal business hours or days, the customer will be charged an additional fee of Seventy-five Dollars (\$75.00) for reestablishing service. This Seventy-five Dollar (\$75.00) fee will be assessed to the next month's utility bill.
5. No person shall turn on water service to any premises from which water has been turned off as provided for in this section, without written authority from the City water and sewer department. If it is necessary to dig up the curb stop or shut off water for non-payment of the water

bill, the cost of such work may be added to the water bill in addition to all other charges set forth in this ordinance.

5-i If, after shut off for non-payment, a water service has any usage (water running through meter) without the consent of the city a One Hundred Dollar (\$100.00) fine will be assessed on the next month's utility bill. Any water usage shall also be billed at the regular rate to the water service.

6. Payments made to the City can be either hand delivered to City Hall or mailed to 504 River Drive, North Sioux City, South Dakota 57049.

C. Each individual account will be given two (2) exemptions per calendar year from having their water service disconnected. Each individual account holder has the responsibility of requesting an exemption before the twenty sixth (26<sup>th</sup>) of the month. The City will internally track this information on exemption requests. If an exemption request is granted the individual account holder is still responsible for paying all late fees associated with not paying their bill by the fifteenth (15<sup>th</sup>) of the month.

Dated at North Sioux City, South Dakota this 2<sup>nd</sup> day of May, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Klootra, Finance Officer

First Reading: April 18, 2016  
Second Reading: March 2, 2016  
Publish:  
Effective Date: August 1, 2016

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PROPOSED ORDINANCE 2016-01

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 13 PUBLIC SERVICES, CHAPTER 13.04 WATER SERVICES SYSTEM, TO CHANGE BILLING CYCLE AND PROVIDE AND CHANGE FEES AND FINES FOR VIOLATIONS.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 13, Chapter 13.04 be amended as set forth below.

**13.04.230 Billing cycle, disconnection water fee, reconnection water fee**

A. All commercial and residential water bills are due when the invoice is issued by the City. Water meter readings will be taken on approximately the 18<sup>th</sup> (eighteenth) of each month. If the bill is not paid by the 15<sup>th</sup> of each month the bill will be considered delinquent. A late charge of 10% (ten percent) of the unpaid balance will be assessed to the user account after the 15<sup>th</sup> (fifteenth) day of the month. After the 15<sup>th</sup> (fifteenth) of each month the City reserves the right to discontinue water service to the delinquent customer by shutting the water off at the curb cock, after forwarding the customer a written notice of termination. The shut off day will be the 26<sup>th</sup> (twenty sixth) of each month. If the 26<sup>th</sup> (twenty sixth) of the month falls on a weekend or holiday the shut off date will be the next working business day of the City. A twenty-five dollar (\$25.00) disconnect fee shall be charged to the individual for each instance the City discontinues water service and shall immediately be charged to the individual.

B. If a commercial or residential water service is discontinued for non-payment of the utility bill the water service will be reconnected only after the following conditions have been met:

1. The account has been paid in full and there remains no balance due.

2.. The deposit for the customer has been paid to the City as listed in section 13.04.270 of the City of North Sioux City code of ordinances. The deposit will be waived if the city already has a deposit on file.

3.A Twenty Five Dollar (\$25.00) reconnect fee has been paid to the city.

4. Water service will be restored only during the normal business hours. For services to be reconnected after 4:00 p.m., or not during normal business hours or days, the customer will be charged an additional fee of Seventy-five Dollars (\$75.00) for reestablishing service. This Seventy-five Dollar (\$75.00) fee will be assessed to the next month's utility bill.

5.No person shall turn on water service to any premises from which water has been turned off as provided for in this section, without written authority from the City water and sewer department. If it is necessary to dig up the curb stop or shut off water for non-payment of the water bill, the cost of such work may be added to the water bill in addition to all other charges set forth in this ordinance.

i If, after shut off for non-payment, a water service has any usage (water running through meter) without the consent of the city a One Hundred Dollar (\$100.00) fine will be assessed on the next month's utility bill. Any water usage shall also be billed at the regular rate to the water service.

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C. Each individual account will be given two (2) exemptions per calendar year from having their water service disconnected. Each individual account holder has the responsibility of requesting an exemption before the twenty sixth (26<sup>th</sup>) of the month. The City will internally track this information on exemption requests. If an exemption request is granted the individual account holder is still responsible for paying all late fees associated with not paying their bill by the fifteenth (15<sup>th</sup>) of the month.

Dated at North Sioux City, South Dakota this 2<sup>nd</sup> day of May, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Klootra, Finance Officer

First Reading: April 18, 2016  
Second Reading: March 2, 2016  
Publish:  
Effective Date: August 1, 2016

PROPOSED ORDINANCE 2016-02

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 13 PUBLIC SERVICES, CHAPTER 13.12 WATER TREATMENT USER CHARGE, TO CHANGE BILLING CYCLE AND PROVIDE AND CHANGE FEES AND FINES FOR VIOLATIONS.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 13, Chapter 13.12 be amended as set forth below.

13.12.050 Billing Cycle and Penalties

A. ~~All users shall be billed monthly. Billings for any particular monthly period shall be made within thirty (30) days after the end of that billing period. Payments are due when the billings are made, and are due by fifteenth (15<sup>th</sup>) of each month or it shall be considered delinquent. Any payment not received within thirty (30) days after the billing is made shall be delinquent.~~

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~~B. A late payment penalty of ten (10) percent of the user charge bill will be added to each delinquent bill for each thirty (30) days of delinquency. When any bill is thirty (30) days in default, rendition of water and/or sewer service to such premises shall be discontinued until such bill is paid following due notice of an opportunity or hearing.~~

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~~B. If the bill is not paid by the 15<sup>th</sup> of each month the bill will be considered delinquent. A late charge of 10% (ten percent) of the unpaid balance will be assessed to the user account after the 15<sup>th</sup> (fifteenth) day of the month.~~

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Dated at North Sioux City, South Dakota this 2<sup>nd</sup> day of May, 2016

THE GOVERNING BODY OF THE CITY OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Kloostra, Finance Officer

First Reading: April 18, 2016  
Second Reading: March 2, 2016  
Publish:  
Effective Date: August 1, 2016

PROPOSED ORDINANCE 2016-02

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 13 PUBLIC SERVICES, CHAPTER 13.12 WATER TREATMENT USER CHARGE, TO CHANGE BILLING CYCLE AND PROVIDE AND CHANGE FEES AND FINES FOR VIOLATIONS.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 13, Chapter 13.12 be amended as set forth below.

13.12.050 Billing Cycle and Penalties

A. Users shall be billed monthly. Payments are due when the billings are made, and are due by fifteenth (15<sup>th</sup>) of each month or it shall be considered delinquent.

B.

If the bill is not paid by the 15<sup>th</sup> of each month the bill will be considered delinquent. A late charge of 10% (ten percent) of the unpaid balance will be assessed to the user account after the 15<sup>th</sup> (fifteenth) day of the month.

Dated at North Sioux City, South Dakota this 2<sup>nd</sup> day of May, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Kloostra, Finance Officer

First Reading: April 18, 2016  
Second Reading: March 2, 2016  
Publish:  
Effective Date: August 1, 2016

PROPOSED ORDINANCE 2016-03

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 8 HEALTH AND SAFETY, CHAPTER 8.04 GARBAGE COLLECTION, TO CHANGE CONTAINER REQUIREMENTS AND COST—HOW COLLECTED.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 8, Chapter 8.04 be amended as set forth below.

**8.04.030 Containers required.**

A. Every householder or occupant of a family domestic unit and every commercial establishment shall provide himself, herself, or itself, with one or more covered, fly-tight containers provided with bales or handles to receive all garbage, waste materials, rubbish, and yard waste which may accumulate between the times of collection. All garbage and wet rubbish shall be drained and wrapped before deposited into the containers.

B. All garbage, rubbish, and waste material must be containerized in garbage bags or factory garbage cans not to exceed ~~thirty five (35)~~ninety-six (96) gallons ~~and not to exceed the weight of fifty (50) pounds loaded~~, and shall be kept in a suitable ~~rack~~location, if so desired, which shall be located on the premises adjacent to an alley bordering on the premises, and so as to be accessible from the alley adjoining the premises, but if no alley borders the premises or such alley is impassable, then such containers shall be kept in a suitable rack adjacent to a street bordering on the premises, and so as to be accessible from the street adjoining the premises; garbage cans and waste material containers shall be so placed that collectors of garbage do not have to carry such cans or containers for a distance of more than twenty (20) feet. No garbage truck shall be required to use any private driveway in collection of garbage under the provisions of this chapter.

C. All commercial establishments, such as hotels, boarding houses, boarding houses, restaurants, lunchrooms, bars, drug stores, trailer courts, tourist courts, grocery stores, and all other commercial and business establishments, and educational facilities or institutions within this city having garbage, rubbish, waste material, or yard waste to dispose of, shall provide one or more fly-tight containers of the size hereinbefore provided to receive all of the refuse which may accumulate between the times of collection. These containers shall be so located at the rear of the building or property using the same as to be easily accessible to the collector and shall be constructed that they may be easily emptied completely and easily cleaned thoroughly. Dry rubbish when stored inside private business establishments, need not be deposited in a container.

~~D. All yard waste must be containerized in open garbage cans or containers not to exceed thirty five (35) gallons and not to exceed the weight of fifty (50) pounds loaded. The city shall provide for a separate yard waste pick up for all residential homes in the city not less often than once each week on a seasonal basis. No bagged yard waste will be picked up.~~

~~D. All garbage containers shall be ninety-six (96) gallons in size. Senior residents are allowed to use thirty-five (35) gallon containers.~~

**8.04.060 Cost--How collected.**

A. The cost of collection and disposal of garbage, rubbish, and waste materials from family domestic units as defined in this chapter, shall become a charge against each family domestic unit of each dwelling

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and shall be payable monthly, together with charges made by the city for water services furnished by the city to each such family domestic unit. A fair and reasonable charge for the collection of the contents from each family domestic unit shall be set by the common council.

B. In the event that the commercial and business establishment and educational facility or institution fails to provide for the collection and disposition of garbage, rubbish, waste materials, or yard waste as provided in Section 8.04.050, the mayor, with the approval of the common council shall provide for the collection and disposition thereof at a cost of the collection to be assessed against and collected from such commercial and business establishments and educational facility or institution for each time such collection and disposition is made.

~~C. A late payment penalty of five dollars (\$5.00) for each garbage collection bill for family domestic units will be added to each delinquent bill for each month of delinquency.~~

C. All residential garbage bills are due when the invoice is issued by the City. Individual account holder garbage bills will be mailed by the first (1<sup>st</sup>) of each month. If the bill is not paid by the 15<sup>th</sup> of each month the bill will be considered delinquent. A late charge of 10% (ten percent) of the unpaid balance will be assessed to the user account after the 15<sup>th</sup> (fifteenth) day of the month.

D. The cost of collection shall be set by resolution by the common council.

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Dated at North Sioux City, South Dakota this 2<sup>nd</sup> day of May, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Klootra, Finance Officer

First Reading: April 18, 2016  
Second Reading: March 2, 2016  
Publish: \_\_\_\_\_  
Effective Date: August 1, 2016

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PROPOSED ORDINANCE 2016-03

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 8 HEALTH AND SAFETY, CHAPTER 8.04 GARBAGE COLLECTION, TO CHANGE CONTAINER REQUIREMENTS AND COST—HOW COLLECTED.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 8, Chapter 8.04 be amended as set forth below.

**8.04.030 Containers required.**

A. Every householder or occupant of a family domestic unit and every commercial establishment shall provide himself, herself, or itself, with one or more covered, fly-tight containers provided with bales or handles to receive all garbage, waste materials, rubbish, and yard waste which may accumulate between the times of collection. All garbage and wet rubbish shall be drained and wrapped before deposited into the containers.

B. All garbage, rubbish, and waste material must be containerized in garbage bags or factory garbage cans not to exceed ninety-six (96) gallons, and shall be kept in a suitable location, if so desired, which shall be located on the premises adjacent to an alley bordering on the premises, and so as to be accessible from the alley adjoining the premises, but if no alley borders the premises or such alley is impassable, then such containers shall be kept in a suitable rack adjacent to a street bordering on the premises, and so as to be accessible from the street adjoining the premises; garbage cans and waste material containers shall be so placed that collectors of garbage do not have to carry such cans or containers for a distance of more than twenty (20) feet. No garbage truck shall be required to use any private driveway in collection of garbage under the provisions of this chapter.

C. All commercial establishments, such as hotels, boarding houses, boarding houses, restaurants, lunchrooms, bars, drug stores, trailer courts, tourist courts, grocery stores, and all other commercial and business establishments, and educational facilities or institutions within this city having garbage, rubbish, waste material, or yard waste to dispose of, shall provide one or more fly-tight containers of the size hereinbefore provided to receive all of the refuse which may accumulate between the times of collection. These containers shall be so located at the rear of the building or property using the same as to be easily accessible to the collector and shall be constructed that they may be easily emptied completely and easily cleaned thoroughly. Dry rubbish when stored inside private business establishments, need not be deposited in a container.

D. All garbage containers shall be ninety-six (96) gallons in size. Senior residents are allowed to use thirty-five (35) gallon containers.

**8.04.060 Cost--How collected.**

A. The cost of collection and disposal of garbage, rubbish, and waste materials from family domestic units as defined in this chapter, shall become a charge against each family domestic unit of each dwelling and shall be payable monthly, together with charges made by the city for water services furnished by the city to each such family domestic unit. A fair and reasonable charge for the collection of the contents from each family domestic unit shall be set by the common council.

B. In the event that the commercial and business establishment and educational facility or institution fails to provide for the collection and disposition of garbage, rubbish, waste materials, or yard waste as

provided in Section 8.04.050, the mayor, with the approval of the common council shall provide for the collection and disposition thereof at a cost of the collection to be assessed against and collected from such commercial and business establishments and educational facility or institution for each time such collection and disposition is made.

C. All residential garbage bills are due when the invoice is issued by the City. Individual account holder garbage bills will be mailed by the first (1<sup>st</sup>) of each month. If the bill is not paid by the 15<sup>th</sup> of each month the bill will be considered delinquent. A late charge of 10% (ten percent) of the unpaid balance will be assessed to the user account after the 15<sup>th</sup> (fifteenth) day of the month.

D. The cost of collection shall be set by resolution by the common council.

Dated at North Sioux City, South Dakota this 2<sup>nd</sup> day of May, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Kloostra, Finance Officer

First Reading: April 18, 2016  
Second Reading: March 2, 2016  
Publish:  
Effective Date: August 1, 2016



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Mayor Fredericksen  
Council Members  
From: Susan Kloostra  
Date: 4/29/2016  
Re: Fireworks Licenses / Ordinance Changes

---

**Background:** Ordinance 5-16. License Required for Retail Sale Fireworks. Per Ordinance, applications for Fireworks Licenses must be submitted to Council.

#### Licenses

Lantis Fireworks and Zorts Power Source, Inc. have submitted applications to sell to out of state residents starting May 2016. Once approved, I will forward permits to each business for display.

#### Ordinance Changes

Several sections do not line up with the new sale date. The new SD Special Retail License allows for sales to begin as early as May 1.

Public Fireworks Displays must be first approved by the Dakota Valley Fire District before being approved by the Council. I've asked Assistant Fire Chief Jim Christensen to review for his input as well.

#### License Fees

In section 5.16.020 and 5.16.030, the last sentence listing the license fee refers to "each" license. In section 5.16.040 the first sentence states the duration is for a calendar year and one day into the next year. These appear to conflict. I would like to clarify the language so it is clear.

**Financial Consideration:** No cost to correct ordinance.

#### **Recommendation:**

#### Licenses

With two separate motions, approve each application as presented.

#### Ordinance Changes

Make the changes as recommended, and approve the first reading.

/srk



"Sale" means any transfer, exchange or barter, conditional or otherwise in any manner or by any means whatsoever for a consideration.

"Wholesale" means any person engaged in the business of making sales of fireworks to retailers for resale to consumers. (Ord. 364 § 1, 2002)

#### **5.16.020 License required for retail sale fireworks.**

It is unlawful for any person to sell, hold for sale or offer for sale as a retailer within the city limits any permissible fireworks unless such person has first obtained a retail fireworks license from the city. Application forms for such license shall be obtained upon request from the city finance officer and shall be presented when completed to the city finance officer. Applications for Special Retail Fireworks sales must be received not later than the week before the commencement of the first regular meeting of the city council in May. Applications for Retail Fireworks must be received no later than the week before the first regular meeting of the city council on the first Monday of in June and/or the week before the first regular meeting of the city council in December. The application form shall be accompanied by a certified check or bank draft payable to the city, in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) for each retail fireworks license. (Ord. 364 § 2, 2002)

#### **5.16.030 License required for wholesale sale of fireworks.**

It is unlawful for any person to sell, hold for sale or offer for sale as a wholesaler within the city limits any permissible fireworks unless such person has first obtained a wholesale fireworks license from the city. Application forms for such license may be obtained upon request from the city finance officer must be received no later than the week before the first regular meeting of the city council in May and shall be presented when complete to the city finance officer not later than the commencement of the regular meeting of the city council on the first Monday of June. The application form shall be accompanied by a certified check or bank draft payable to the city, in the amount of one thousand two hundred fifty dollars (\$1,250.00) for each wholesale fireworks license. (Ord. 364 § 3, 2002)

#### **5.16.040 Duration and display of License.**

The wholesale and retail license shall be **good only for the calendar year in which issued and January first of the following year**, and shall at all times be displayed at the place of business of the holder thereof. (Ord. 364 § 4, 2002) (Amended May, 2011)

#### **5.16.050 Safety requirements.**

- A. No person shall sell or distribute fireworks of any kind within the following minimum distances:
  1. Three hundred (300) feet from any gasoline petroleum products, pump or tank or other flammable materials;
  2. Two hundred (200) feet from the lot line of any real property upon which is located any station, facility or business establishment dispensing petroleum products or other flammable materials.
- B. No licensee may have on his or her premises any device, apparatus, receptacle or burner from which an open flame is emitted.
- C. Each licensee shall keep and maintain upon his or her premises a fire extinguisher as prescribed in SDCL 34-27-10.5.
- D. No person under the age of eighteen (18) years shall be licensed under this chapter and no licensee shall employ or permit any individual under the age of eighteen (18) years to sell, dispense or offer for sale any fireworks.
- E. No licensee shall sell fireworks from any motor vehicle, or solicit sales on public streets or sidewalks.
- F. All buildings or structures wherein fireworks are sold shall have at least two separate door exits which shall be equipped with panic devices and kept unlocked at all times when fireworks are being offered for sale.
- G. Signs must be prominently displayed on all displays of fireworks offered for sale which shall read in red letter not less than three inches high "NO SMOKING WITHIN 25 FEET".

H. All buildings or structures wherein fireworks are being offered for sale must have a sign prominently posted stating that no fireworks can be ignited or discharged within three hundred (300) feet of the premises.

I. No licensee shall sell fireworks from under or within any tarpaulin, tent, or canopy.

J. All weeds and grasses growing on the licensed premises shall be cut to a height not to exceed eight inches for such lesser height as directed by the fire chief for the Dakota Valley Fire District during the period of time that fireworks are sold or distributed on the premises. A violation of this section by a retail licensee or wholesale licensee or any of its employees, agents or assigns subjects the licensee to a fine in the maximum amount of two hundred dollars (\$200.00) and an immediate loss of licensee's retail or wholesale fireworks license. (Ord. 364 § 5, 2002)

#### **5.16.060 Elimination of nonconforming structure.**

A. The use of a structure in violation of Section 5.16.050(A)(1), (2) or (I) after January 1, 2002, is expressly prohibited and is deemed a violation of this chapter pursuant to Section 5.16.170(B).

B. Whenever the use of a premises in violation of Section 5(a)(1), 5(a)(2) or 5(i) becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may not be continued.

C. If no structural alterations or additions are made, the use of a structure in violation of Section 5.16.050(A)(1), (2) or (I) may be changed to another use.

1. If the proposed use is a permitted use;

2. If the proposed use is a conditional use, and a conditional use permit has been obtained.

D. The use of a structure in violation of Section 5.16.050(A)(1), (2) or (I) shall not be enlarged, extended, converted, reconstructed or structurally altered, unless such use is changed to a use that does not violate Section 5.16.050(A)(1), (2) or (I) and the use is permitted in the district in which the premises is located.

E. When the use of a structure is in violation of Section 5.16.050(A)(1), (2) or (I) as defined by this chapter and the structure is damaged by fire, explosion, act of God, or vandalism to the extent of more than fifty (50) percent of its fair market value, it shall not be restored except in conformity with the provisions of this ordinance or sued for a purpose which does not violate Section 5.16.050(A)(1), (2) or (I).

F. In the event that the use of the structure in violation of Section 5.16.050(A)(1), (2) or (I) is discontinued for more than one year, then in that event, the structure may not thereafter be used for any purpose which would violate Section 5.16.050(A)(1), (2) or (I).

G. Nothing in this chapter shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in violation of zoning regulations in effect immediately prior to the effective date of the ordinance codified in this chapter. (Ord. 364 § 5.1, 2002)

#### **5.16.070 Time of sale.**

Retail and wholesale sales may be made by license holders only at such time as allowed by the laws of the state of South Dakota, including SDCL Chapter 34-37. (Ord. 364 § 6, 2002) (Amended May, 2011)

#### **5.16.080 License fees.**

All funds received from the license fee imposed upon wholesale or retail license holders as prescribed in this chapter shall be deposited in the general fund of the city. (Ord. 364 § 7, 2002)

#### **5.16.090 State licenses.**

All holders of retail licenses or wholesale licenses as set out above must also obtain a license as a retailer or as a wholesaler from the state of South Dakota prior to applying for a license from the City. (Ord. 364 § 8, 2002)

#### **5.16.100 Public displays.**

Nothing in this chapter shall prohibit the use or public display of fireworks of any description provided that any individual or group of individuals, associations or organization making such public display of fireworks shall first secure a written permission ~~to do so~~ from the Dakota Valley Fire District Chief of the Fire Department. Application forms for such display shall be obtained upon request from the city finance officer. Fire

District. Submit written proof and application with the city finance officer one week before the city council's regular meeting-prior to the desired display event. Fireworks-common council of the city and shall have be purchased fireworks for such display shall be from a licensed wholesaler or licensed retailer licensed under the laws of the state of South Dakota. (Ord. 364 § 9, 2002)

**5.16.110 Discharge of fireworks.**

A person may shoot, discharge or explode or cause to be shot, discharged or exploded any firecrackers, skyrocket, blank cartridges, fireworks or other explosives used for fireworks or fireworks display within the city limits, only during the period beginning June twenty-seventh and extending through the end of the first Sunday after July fourth; and during the period beginning December twenty-eighth and extending through January first of the following year. (Ord. 364 § 10, 2002) (Amended May, 2011) (Amended February, 2014)

**5.16.120 Time frame for discharge of fireworks.**

A person may shoot, discharge or explode or cause to be shot, discharged or exploded any firecrackers, skyrocket, blank cartridges, fireworks or other explosives used for fireworks or fireworks display within the city limits, only between the hours of seven a.m. and 12:01 a.m. from the period beginning June twenty-seventh and extending through the end of the first Sunday after July fourth and during the period beginning December twenty-eighth and extending through the first day of January. (Ord. 364 § 11, 2002) (Amended May, 2011) (Amended February, 2014)

**5.16.130 Reckless discharge.**

No person may discharge any fireworks within the corporate limits of the city, carelessly, recklessly and heedlessly in disregard of the rights of safety of others, or without due caution and circumspection or in a manner so as to endanger or be likely to endanger any person or property. (Ord. 364 § 12, 2002)

**5.16.140 Post or designated areas.**

No person may discharge any fireworks within any private or public area within the corporate limits of North Sioux City, South Dakota, that is posted or designated by signs prohibiting the discharge. (Ord. 364 § 13, 2002)

**5.16.150 Public areas.**

Unless authorized by the city council, no individual, firm partnership or corporation shall use, discharge or cause to be discharged on any city streets and on any city property any pyrotechnics (commonly known as fireworks), except toy pistols and toy caps. (Ord. 364 § 14, 2002)

**5.16.160 Discharge limitations.**

At every purchase point of any retail establishment covered under this chapter, signs shall be prominently displayed informing the purchaser of the discharge limitations as set forth in Sections 5.16.080-100 through 5.16.120-130 and 5.16.150 and the penalties for violation thereof. (Ord. 364 § 15, 2002)

**5.16.170 Violation--Penalty.**

A. Any person convicted in violation of this chapter shall be punished by a fine of up to Five Hundred Dollars (\$500.00).

B. A violation of Section 5.16.120 by a retail licensee or wholesale licensee or any of its employees, agents or assigns is a violation of this chapter and subjects the licensee to a fine in the maximum amount of Five Hundred Dollars (\$500.00) and an immediate loss of their retail or wholesale license. (Ord. 364 §§ 16, 17, 2002) (Amended 2007)



# Application for South Dakota Wholesale Fireworks License

- \* All information is to be typed or **printed** in ink.
- \* **Make checks payable to the Department of Public Safety**
- \* Mail **both** copies of the application to:  
 State Fire Marshal's Office  
 Fireworks Program  
 118 West Capitol Avenue  
 Pierre SD 57501-2080
- \* All applications must be received by January 1st **or** prior to any business transactions.
- \* One Form **must be** completed for each business location or no license will be issued.

**WHOLESALE LICENSE FEE: \$500.00**

<b>Name of Licensee</b> *(Responsible Party/Owner)	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
<b>Mailing Address</b> (if different than above)	<b>City</b>	<b>State</b>	<b>Zip Code</b>	
<b>SD Sales Tax Number</b>	<b>Home Phone</b>		<b>Work Phone</b>	

**Social Security Number or Federal ID Number** \_\_\_\_\_

## Business Data

**Notice:** Fireworks outlet must be located at the location described below. If within city limits, name the outlet and address; if outside the city limits, describe by road, milepost, junction, and highway or farm location.

<b>Location of Fireworks Stand</b>	<b>City (nearest)</b>	<b>County</b>
------------------------------------	-----------------------	---------------

I certify that the above information is true and correct to the best of my knowledge and that the licensee named hereon will fully comply with the laws, rules and regulations governing the sale of Fireworks. Further, I agree to remit all taxes and fees as set forth by law and rule by the South Dakota Department of Revenue & Regulation and the Department of Public Safety.

<b>Date</b>	<b>Signature of Licensee</b>
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### State of South Dakota Use Only

FW License No. \_\_\_\_\_ Date \_\_\_\_\_ Issued By \_\_\_\_\_

Sales Tax License No. \_\_\_\_\_ Checked By \_\_\_\_\_



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Mayor Fredericksen  
Council Members  
From: Susan Kloostra  
Date: 4/29/2016  
Re: Sealed Bids – Library Nooks

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**Background:** The advertisement for the sealed bid notice was published in both papers, the April 14 and April 21 editions. Two bids were received and the bids were opened on Thursday, April 28.

The bids are as follows:

	Nook 1st Generation	Nook Color	Nook Color HD
BIDDER	BID	BID	BID
Lucero Avalos	\$ -	\$ -	\$ 30.00
Susan Kloostra	\$ -	\$ 20.00	\$ -

**Financial Consideration:** \$50 increase to miscellaneous revenue.

**Recommendation:** Accept bids received.

/srk

MIKE ROUNDS  
U.S. SENATOR  
SOUTH DAKOTA

502 HART SENATE OFFICE BLDG.  
WASHINGTON, DC 20510  
(202) 224-5842

WWW.ROUNDS.SENATE.GOV

## United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
ARMED SERVICES  
BANKING, HOUSING, AND  
URBAN AFFAIRS  
ENVIRONMENT AND PUBLIC WORKS  
VETERANS AFFAIRS

April 11, 2016

Ted Cherry, City Manager  
504 River Drive  
North Sioux City, SD

Dear Ted,

Thank you very much for hosting me and the Environment and Public Works Committee at our recent flood hearing. The gracious hospitality extended to us by you and your team was greatly appreciated by all.

During the hearing, we heard from various stakeholders about the changes that could be made by the Army Corps of Engineers in managing the Missouri River.

In recent years, numerous studies have recommended changes that could be done for better flood control and better protection of people and property.

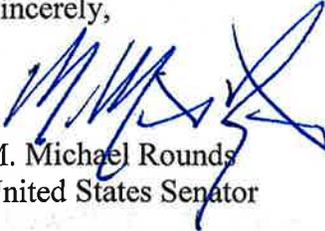
But, we also learned at the hearing that the Corps has not done enough to make positive changes or prevent potential future problems.

For example, a 2014 law directed the Corps to make improvements in its soil moisture and snowpack monitoring systems. It hasn't been done. They haven't even put together a plan on how to accomplish what they have been told to do by Congress.

I will use the results of this excellent hearing and continue monitoring Corps actions and inactions to better protect people affected by the Missouri River.

Please know that I am always eager to hear more ideas and suggestions for better management of the Missouri River. Don't hesitate to contact me or my office staff whenever you want to do so.

Sincerely,



M. Michael Rounds  
United States Senator