



Regular Meeting of the City Council

August 17, 2020 – 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: August 3, 2020 Regular Meeting
- F. Community and Council Input – Limit 3 Minutes
- G. Department head and Community board reports if necessary – Limit 3 Minutes
- H. Agenda Items
 - 1. Discuss request for COVID-19 protective measures
 - 2. Mayor's Report
 - 3. JEO Project Status Report
 - 4. Approve opening up NSC Northport Donation Account at Liberty Bank
 - 5. Amy Lilly as an Authorize Signer – Liberty National & First Financial Bank
 - 6. Streeter Drive overlay final payment and change order
 - 7. Approve Agreement with Dean & Lesa Cropley for septic system damages
 - 8. Approve First Reading of Ordinance 2020-07
 - 9. Approve Quit Claim Deed
 - 10. Approve Donation to Dakota Valley for book vending machine
- I. Executive Session – Legal, Contractual, Personnel if necessary
- J. Approval of Bills
- K. 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
August 3, 2020

Meeting called to order at 7:00 p.m. by Mayor Slater. Benson, Berg, Carpenter, Green, Norby, and Parks were present. Christiansen and Cropley were absent. Also, in attendance was City Interim Finance Officer Lucero Avalos, City Administrator Eric Christensen, and City Attorney Darrell Jesse.

Mayor Slater led the Pledge of Allegiance.

Motion by Parks, second by Berg, to approve the amended Agenda adding item 1 and 2. All members present voted aye. Motion carried.

Motion by Berg, second by Benson, to make a correction to the July 20, 2020 Meeting Minutes that Slater was absent. All members present voted aye. Motion carried.

Motion by Norby, second by Berg, to approve the amended Regular Council Meeting Minutes from the July 20, 2020 meeting. All members present voted aye. Motion carried.

Community/Council Input:

1. Richard Peterson was present to talk about a warning he received from the NSC Police department for having a bicycle, two basketball hoops, and a trailer with no plate in his yard. He was just wondering why we are using the law enforcement to be inspecting people's yards. Mayor Slater told him we would like to do some research and get back to him.
2. David Johnson was present to discuss the 15 mph speed limit on Lakeshore Drive. He said he was concerned because cars are driving 30-40 mph and with the little kids in the neighborhood, he doesn't want someone to get hurt.
3. Jake Stevenson said that one of the things he loved about North Sioux City is the small town feel and he doesn't want to lose that.
4. Randy Smith was present to express his concern with the Northshore master plan drawing concept once the land is removed from the floodway. He said Penrose is not a wide enough street for one car, so having steady traffic thru would be insane. He likes the small town community and doesn't want it to change.
5. Mayor Slater said that several months ago we entered into a contract for an engineer to design the work so that we had a plan in case it would become developed. The next step was a presentation from the engineer which was the design work so we know what it would look like should we do it. Before this would happen there would be several steps and the community would be involved and the Council board would make the final decision. The purpose of this was to have something in place should things get developed in the future.
6. Parks said that this is a 30,000 level foot view of what it could look like. But a concept has to be in placed before you can have public input to ask questions and that we are along ways away from development.
7. Rosa Morales was present to express her concern about the Northshore master plan drawing concept. She is concerned about safety issues. She likes the cul-de-sac street because it's calm, quiet and not a lot of traffic.

8. Berg thinks we should require face masks in all city buildings and we should check temperatures before entering council meetings as we have to protect our community. Eric Christensen City Administrator will do some research.

Agenda items:

1. Patrick with Secog was present to discuss the 2020 Draft Revised Zoning Regulations that they have been working on for the past few months. The council is encouraged to review this and provide any input.
2. Eric Christensen, City Administrator asked the council if the American Legion could use the Senior Center again for their monthly meeting. Council said yes, as long as they are following CDC guidelines.
3. Motion by Berg, second by Benson, to approve Midland's Contracting Final Pay Application for \$35,196.57. All members present voted aye. Motion carried.
4. Motion by Parks, second by Norby, to deny Insurance Reimbursement Request to Brad Green for \$148.63. Benson, Berg, Carpenter, Norby, Parks, voted aye. Green voted nay. Motion carried.
5. Jon Brown with Stockwell Engineers LLC was present to discuss an Engineer's Report which provides an update on the following projects: the Northshore Master Plan, the Lift Station Generator project, the Streeter Drive Reconstruction (S-curve) project, the Streeter Drive Mill & Overlay project, and the Water Study/New Water Tower projects.
6. The Federal Government passed the CARES Act to assist with the costs incurred in dealing with the COVID-19 pandemic. The State of South Dakota has established the COVID Relief Fund to distribute these funds to county and city governments. A resolution needs to be in place to begin the process of getting reimbursed. Motion by Berg, second by Green, to approve Resolution 2020-06. All members present voted aye. Motion carried.

RESOLUTION 2020-06

A RESOLUTION AUTHORIZING THE EXECUTION OF CONTRACTUAL DOCUMENTS WITH THE STATE OF SOUTH DAKOTA FOR THE RECEIPT OF CARES ACT FUNDS TO ADDRESS THE COVID-19 PUBLIC HEALTH CRISIS

WHEREAS, pursuant to section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020) (the "CARES Act"), the State of South Dakota has received federal funds that may only be used to cover costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (b) were not accounted for in the budget most recently approved as of March 27, 2020, for the State of South Dakota; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

WHEREAS, the City of North Sioux City acknowledges that the State of South Dakota, in its sole discretion, may retain full use of these funds for the purposes delineated in the CARES Act; and

WHEREAS, the City of North Sioux City acknowledges that in order to provide financial assistance to counties and municipalities in South Dakota, the State of South Dakota, in its sole discretion, may allocate CARES Act funds Act on a statewide basis to reimburse counties and municipalities as delineated herein; and

WHEREAS, the City of North Sioux City seeks funding to reimburse eligible expenditures incurred due to the public health emergency with respect to COVID-19; and

WHEREAS, the City of North Sioux City acknowledges that any request for reimbursement of expenditures will only be for expenditures that were not accounted for in the budget for the City of North Sioux City most recently approved as of March 27, 2020; and

WHEREAS, the City of North Sioux City acknowledges that it will only seek reimbursement for costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of North Sioux City that the Mayor of North Sioux City may execute any and all documents as required by the State in order to receive CARES Act funds.

BE IT FURTHER RESOLVED that any request for reimbursement will be only for those costs authorized by the State that: (1) Are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) Were not accounted for in the City budget most recently approved as of March 27, 2020; and (3) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020, and

BE IT FURTHER RESOLVED that the City will not request reimbursement from the State under the CARES Act for costs for which the City previously received reimbursement, or for which the City has a reimbursement request pending before another source.

Approved and adopted this 20th day of July, 2020.

ATTEST:

Rodd Slater, Mayor
City of North Sioux City, South Dakota

Lucero Avalos, Interim Finance Officer City
of North Sioux City, South Dakota

7. In 2019, the City was awarded up to \$2.7 million in funding from the State of South Dakota for the construction of a new water tower. A resolution needs to be in place before they can contemplate any financing of the water tower. Motion by Benson, second by Carpenter, to approve Resolution 2020-07. All members present voted aye. Motion carried.

RESOLUTION NO. 2020 -07

RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the “Act”) as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of system of waterworks for the purpose of providing water and water supply for municipal, industrial, and domestic purposes; and,

WHEREAS, a municipality is authorized to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned and is authorized to pledge the net income or revenues from the system in accordance with Section 15 of the Act; and,

WHEREAS, the City of North Sioux City (the “City”) currently operates a system of waterworks for the purpose of providing water and water supply for municipal, industrial, and domestic purposes and has determined that improvements to the waterworks are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its waterworks system; and,

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its waterworks system (the “System”) and has applied to the South Dakota Conservancy District (the “District”) for a Drinking Water State Revolving Fund Loan to finance the improvements;

WHEREAS, the City shall adopt rates and charges to be pledged, segregated and used for the payment of the Revenue Bond.

NOW THEREFORE BE IT RESOLVED by the City as follows:

SECTION 1. Definitions. The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

“**Act**” means South Dakota Codified Laws Chapter 9-40.

“**Loan**” means the Loan made by the South Dakota Conservancy District to the City pursuant to the terms of the Loan Agreement and as evidenced by the Revenue Bond.

“**Project**” means City of North Sioux City Water Tower Project.

“**Revenue Bond**” means the revenue bond or bonds issued the date of the Loan Agreement by the City to the South Dakota Conservancy District to evidence the City’s obligation to repay the principal of and pay interest and Administrative Expense Surcharge on the Loan.

“System” means the City’s system of waterworks used for the purpose of providing water and water supply for domestic, municipal, and industrial purposes.

SECTION 2. Declaration of Necessity and Findings.

21. Declaration of Necessity. The City hereby determines and declares it is necessary to construct and finance improvements to its System described as the Project.

22. Findings. The City does hereby find as follows:

2.2.1. The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants, and will make the City unable to comply with state and federal law.

2.2.2. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

2.2.3. The City hereby determines and finds that for the purposes of the Act, including, in particular, Sections 15 and 17 of the Act, that only the net income from the system as improved, financed by the Revenue Bond, be pledged for its payment.

SECTION 3. Authorization of Loan, Pledge of Revenue and Security.

31. Authorization of Loan. The City hereby determines and declares it necessary to finance up to \$2,700,000 of the costs of the Project through the issuance of bonds payable from net revenues of the System and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

32. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the “Loan Agreement”), the form of which is on file with the City Finance Officer (the “Finance Officer”) and open to public inspection, between the City as Borrower and the District, are hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to

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execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

33. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$2,700,000 as determined according to the Loan Agreement in the

form and content set forth in Appendix B attached to the form of Loan Agreement (the “Revenue Bond”) shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

34. Pledge of Revenues. The Revenue Bond together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City hereby irrevocably pledges to the South Dakota Conservancy District all income and revenues of the System, including, without limitation, fees, charges to users of the System, penalties and hook-up fees, sign-up fees, proceeds of business interruption insurance, proceeds from the sale of property constituting part of the System and investment income on all such revenues, but only to the extent that the revenues exceed the amounts necessary to operate and maintain the System, provided there shall be excluded from this pledge the proceeds of any federal or state grant or loan, and the investment income therefrom, to the extent such exclusion is a condition of such grant or loan. The City covenants and agrees to charge rates for all services from the System or establish charges or rates which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the

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facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

SECTION 4. Rates, Certification, Segregation and Review.

4.1. Rates and collection There shall be charged rates for each fiscal year which shall ensure that its Net Revenues Available for Debt Service will equal at least 110% of its System Debt Service for such fiscal year.

4.2. Certification. In each fiscal year, or as soon as practicable, and in any event by the date of the delivery of the unaudited financial statements required in the Loan Agreement, the City shall (a) calculate its Net Revenues Available for Debt Service and

System Debt Service for the fiscal year, and (b) certify such figures to the South Dakota Conservancy District. The certification described in clause (b) of the preceding sentence shall be substantially in the form of the certificate attached as Appendix E to the Loan Agreement. If the City fails to meet the Rate Covenant set forth in Section 6.4 of the Loan Agreement, the City shall supply the District with quarterly reports on the actions it is taking to correct its coverage deficiency until it delivers an annual coverage certificate showing compliance with the first sentence of this Section.

4.3. Segregation. The Finance Officer shall set up bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue.

4.4. Periodic review. The water rates shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement's rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. The rates may be set by ordinance or resolution in accordance with this Section. The rate ordinance or resolution shall be necessary for the support of government and shall be effective upon passage.

SECTION 5. Additional Bonds. As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

SECTION 6. Project Fund Accounts. For the purpose of application and proper allocation of net income of the System and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the

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water system account of the City and shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

61. Project Revenue Account. There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the ordinances and resolutions of the City of North Sioux City, South Dakota (collectively the "Rate Ordinance"). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

62. Project Debt Service Account. Out of the revenues in the Project Revenue Account, there shall be set aside no later than the 25th day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal of, interest and Administrative Surcharge on the Revenue Bonds and any reserve determined by the City's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and Administrative Surcharge payable on the following February 15, May 15, August 15 and November 15 and if there shall be any deficiency in the amount

previously set aside, then the amount of such deficiency shall be added to the current requirement.

63. Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the Project Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the Common Council to be a proper and adequate amount for repair and depreciation of the Project.

64. Project Surplus Account. There shall be established the Project Surplus Account. Revenues remaining in the Project Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Common Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the Project Debt Service Account, moneys in the Project Surplus Account from time to time may be used for any of the following purposes and not otherwise:

- (a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;
- (b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account

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and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then;

- (c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or
- (d) To be used for any other authorized municipal purpose designated by the Common Council;
- (e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

SECTION 7. Approval of Paying Agent/Registrar. The Revenue Bond shall be payable at the office of U.S. Bank National Association, St. Paul, Minnesota, hereby designated as paying agent and registrar.

SECTION 8. Approval of Bond Counsel. Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

SECTION 9. Tax Matters. The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (“the Code”) and applicable Treasury Regulations (the “Regulations”).

SECTION 10. Covenants. The City hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

10.1. The City will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

10.2. The City agrees and covenants that it will promptly construct the improvements included in the Project.

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10.3. The City covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest and Administrative Surcharge on the Revenue Bond, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

10.4. The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

SECTION 11. Depositories. The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City’s governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account

from whose moneys the deposit was made or the investment was purchased and handled and accounted for in the same manner as other moneys therein.

SECTION 12. Consent to Appointment. In the event of mismanagement of the Project, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the Project are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to Section 33 of the Act, and agrees that the receiver will have the powers set forth therein, and in Section 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

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SECTION 13. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

SECTION 14. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

SECTION 15. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Adopted at North Sioux City, South Dakota, this day of 2020.

APPROVED:

CITY OF NORTH SIOUX CITY, SOUTH DAKOTA

Mayor

(Seal)

ATTEST:

City Finance Officer

8. Motion by Benson, second by Berg, to approve River Valley Lots 36-40 Vacating 23-24-25 plat. All members present voted aye. Motion carried.
9. Motion by Parks, second by Green, to approve Lakeshore Estates – Streeter Lot E1 of Lot 8 of Lot D Plat as recommended by the Planning & Zoning Board. All members present voted aye. Motion carried.
10. Motion by Parks, second by Berg, to approve Streeter Lot E2 of Lot E Plat as recommended by the Planning & Zoning Board. All members present voted aye. Motion carried.

11. The City of Sioux City is pursuing direct air service to Denver from Sky West Airways which operates as United Express. The Siouxland Chamber of Commerce is seeking \$240,000 in commitments from neighboring cities for air service marketing of which \$10,000 would come from North Sioux City. Motion by Parks, second by Benson, to approve Resolution 2020-08 Sioux City Air Service Funding Resolution. All members present voted aye. Motion carried.

RESOLUTION 2020-08

RESOLUTION APPROVING AN APPROPRIATION TO SUPPORT AIR SERVICE MARKETING EFFORTS FOR NONSTOP JET SERVICE BETWEEN SIOUX CITY, IOWA AND DENVER, COLORADO.

WHEREAS, SkyWest Airlines, Inc. desires to provide nonstop jet service between Sioux City, Iowa and Denver, Colorado; and

WHEREAS, SkyWest Airlines, Inc. has agreed to provide such service commencing October 1, 2020 and ending February 28, 2022; and

WHEREAS, the Siouxland Chamber of Commerce is requesting that area communities participate in funding air service marketing for this new route; and

WHEREAS, the Siouxland Chamber of Commerce is requesting the City of North Sioux City participate in bringing this service to the area by appropriating \$10,000 over a period of 18 months to help fund air service marketing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH SIOUX CITY, that the City of North Sioux City agrees to appropriate \$10,000 over a period of 18 months to help fund air service marketing for air service to Denver.

BE IT FURTHER RESOLVED that this appropriation is contingent upon air service to Denver being secured.

Approved and adopted this 3rd day of August, 2020.

Rodd Slater, Mayor
City of North Sioux City, South Dakota

ATTEST:

Lucero Avalos, Interim Finance Officer City of North Sioux City, South Dakota

12. The City of Sioux City implemented a 10% rate increase, or \$.24 per 1,000 gallons, on waste water effective July 1, 2020. At the July 20, 2020 meeting the correct rate increase was approved but the wrong proposed rate chart was attached. The correct chart was present for informational purposes only.

Motion by Benson, second by Green, to enter Executive Session for Legal, Contractual, and Personnel at 8:47 pm. All members present voted aye. Motion carried.

A two minute break was taken.

Regular session resumed at 9:14 pm

Motion by Parks, second by Green, to correct Stephanie Ryan's rate of pay to \$22.39 in compliance with the Union Contract. All members present voted aye. Motion carried.

Motion by Green, second by Benson, to approve the bills as presented. All members present voted aye. Motion carried.

CLOSING SXLND	185,954.68	S CURVE PROP ACQUISTN
AMRCN UNDRGRND SUPP	53.75	POLY TUBING
BOMGAARS	236.13	CLTHNG ALLWNC
COLNAL LIFE	29.28	JUL2020 PREM
CRARY, HUFF, INKSTER, SHEEHAN	5676.50	JUL2020 LEGAL FEES
CUSTOM SPORTSWEAR	635.92	SUMMER REC T-SHIRTS (103)
THMPNS INNVTN	1630.00	TECH SUPP
ELCTRNC ENGINEERING CO.	31.25	SR CNTR-SUPP-FOB SYSTEM
FIVE STAR ENTRPRS	20.00	NAME PLATES (2)
HAUSER, DENISE	108.95	EXP REIMB-PARK TREES (2)
INGRM LIB SVCS	341.89	BOOKS (30)
JACK'S UNFRMS & EQUIP	115.98	CLTHNG ALLWNC
EAKES OFFICE SLTNS	62.20	TRASH BAGS (2)
JEO CNSLTNG GROUP	1507.50	CIPP SWR IMPRVMNTS
KEVIN ODELL ELECTRIC, INC.	127.55	STREET LIGHTS-EXIT 4
PATRICIA MERSCH	130.89	EXP REIMB-MOUTH COVERS (125)
MIDAMERICAN ENERGY	10.62	602 N DERBY LN-UTLTY CHGS
MIDLANDS CNTRCTNG, INC	35196.57	2019 CIPP SWR IMPRVMNTS-FINAL
MJ MINOR UTLTY CNTRCTR	892.50	VAC OUT-LLOYD
LOFFLER CO	467.50	LIB-COPY & LEASE EXP
PRMR INDSTRS INC	9550.93	SEWABLOC
PRESTO-X CO	313.00	JUL2020 PEST CNTRL
GARY ROAN	800.00	INSPCTNS (9), P&Z MTG (3)
SD DEPT OF HEALTH	557.00	NITRATE, BOD, COLI, SOLIDS
SPRKL & SHINE CLNG SVCS	1493.79	JUL2020 CLNING
STATE CHMCL SLTNS	1780.63	LAGOON TRTMNT
STEPHANIE LEVY LICSW LLC	160.00	SVC
STEVE'S ROOFING CO	1832.00	LAGOON BLDG BLWR HOUSE
UNION CNTY WEED BOARD	364.40	SPRAY DIKE
USABUEBOOK	789.60	PUMP
VERIZON WIRELESS	708.76	JUL2020 CELL CHGS
VERMILLION PLAIN TALK	42.00	LIB SBSCRPTN RNWL

Motion to adjourn by Benson, second by Green, at 9:14 pm. All members present voted aye. Motion carried.

Approved

Rodd Slater, Mayor

Attested

Lucero Avalos, Interim Finance Officer



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: Administration
Date: 08/17/2020
Re: COVID-19 precautions

Background: A request was made at the last council meeting to require masks and temperature taking in City buildings/on City property.

Financial Consideration: none

Recommendation: Administration recommends approval of the following:

- 1) That masks be worn by employees when meeting with the public indoors only when/if social distancing cannot be maintained. This would not apply to employees when in office or shop areas where there is no public contact or access.
- 2) That the public be encouraged to wear masks and social distance when in public buildings.
- 3) That the taking of temperatures not be required due to a lack of scientific evidence that it is an effective means of detecting COVID-19. Only 20% of infected individuals that are infected are symptomatic.



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: Administration
Date: 08/17/20
Re: JEO Project update

Background: Ethan with JEO will be present to give an update on the following projects: Military Road Bridge Reconstruction, Wastewater Study Addendum and Rate Study, and Northshore Sewer CIPP

Financial Consideration: None

Recommendation: None

JEO Project Status Report

08-17-2020

To: City of North Sioux City

Date: July 29, 2020

Report Prepared By: Ethan E. Joy, PE



JEO #	Project	Funding Source #	Current Status	JEO Action	City Action	Schedule
R160368	Military Road Bridge Reconstruction	Sioux City Project	Project work is substantially complete, all concrete is poured, and the roadway is fully open.		None at this time	Expect final punchlist items to be done over the next month.
R190926	Wastewater Study Addendum and Rate Study	Local Funds	Draft rate study submitted to Council for review.		Review and direction on any alternate rate schedules desired.	TBD
R190597	Northshore Sewer CIPP	Local Funds	Project complete. Final pay application to be considered on the next Council agenda.		None at this time	

Items in red are new from the previous report

Thank you.

Ethan E. Joy, PE
Branch Manager

Your Goals, Our Team, One Vision





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: Administration
Date: 08/17/2020
Re: Liberty National Bank Account

Background: The City has opened a custodial bank account for donations for the victims of the Northport Apartment fire. Liberty National Bank will handle the collection and record keeping for the account.

Financial Consideration: none

Recommendation: Administration recommends approving the opening of the new account.



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: Administration
Date: 08/17/2020
Re: Amy Lilly Authorized Signer

Background: The Finance Officer has traditionally been a signing agent on the City's financial accounts.

Financial Consideration: none

Recommendation: Administration recommends that the Council approve authorizing the new Finance Officer to be an authorized signer on the City's financial accounts.



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: Administration
Date: 08/17/2020
Re: Streeter Drive overlay project-Final payment

Background: A final inspection was completed on July 8th, 2020. The work has been completed and is acceptable with no punch list items to be completed prior to final completion and acceptance.

Financial Consideration: \$217,509.24

Recommendation: Administration recommends approving the final payment to Barkley Asphalt.

Contractor's Application for Payment

Owner: <u>City of North Sioux City</u>	Owner's Project No.: _____
Engineer: <u>Stockwell Engineers, Inc.</u>	Engineer's Project No.: <u>19025</u>
Contractor: <u>Barkley Asphalt, Inc.</u>	Contractor's Project No.: _____
Project: <u>Streeter Drive - Cold Mill & Asphalt Overlay</u>	
Contract: <u>Prime</u>	
Application No.: <u>Two & Final</u>	Application Date: <u>8/4/2020</u>
Application Period: From <u>6/27/2020</u> to <u>7/29/2020</u>	

1. Original Contract Price	\$	362,924.00
2. Net change by Change Orders	\$	(26,928.72)
3. Current Contract Price (Line 1 + Line 2)	\$	335,995.28
4. Total Work completed and materials stored to date	\$	335,995.28
5. Retainage		
a. <u>0%</u> X \$ <u>335,995.28</u> Work Completed	\$	-
6. Amount eligible to date (Line 4 - Line 5.a)	\$	335,995.28
7. Less previous payments	\$	118,486.04
8. Amount due this application	\$	217,509.24

Liquidated Damages Charged (Days)				
a. _____	X	\$ <u>325.00</u> Substantial Completion	\$	-
b. _____	X	\$ <u>165.00</u> Final Completion	\$	-

PAYMENT THIS APPLICATION	\$	217,509.24
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Contractor's Certification

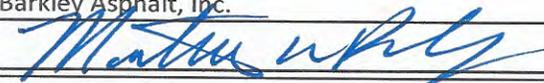
The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

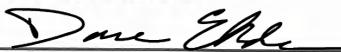
(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: Barkley Asphalt, Inc.

Signature:  **Date:** 8-10-2020

Recommended by Engineer

By: 

Title: Project Engineer

Date: 8/13/2020

Approved by Owner

By: _____ **By:** _____

Title: _____ **Title:** _____

Date: _____ **Date:** _____

Progress Estimate - Unit Price Work

Contractor's Application for Payment

Owner: City of North Sioux City	Owner's Project No.:
Engineer: Stockwell Engineers, Inc.	Engineer's Project No.: 19025
Contractor: Barkley Asphalt, Inc.	Contractor's Project No.:
Project: Streeter Drive - Cold Mill & Asphalt Overlay	
Contract: Prime	

Item No.	Description	Units	Plan Quantity	Application Period:		Total to Date Earned	Past Application		This Application		Remarks		
				From	To		Quantity	Price	Quantity	Price		Quantity	Price
1	Mobilization	LS	1		\$25,600.00	1	\$25,600.00	0.7	\$17,920.00	0.3	\$7,680.00		
2	Traffic Control	SqFt	352		\$5.00	\$1,760.00	352	\$1,115.00	223	\$1,115.00	129	\$645.00	
3	Traffic Control Miscellaneous	LS	1		\$12,000.00	\$12,000.00	1	\$7,200.00	0.6	\$7,200.00	0.4	\$4,800.00	
4	Type 3 Barricade, 8' Double Sided	Each	24		\$35.00	\$840.00	24	\$665.00	19	\$665.00	5	\$175.00	
5	Saw Existing Asphalt	Ft	49		\$6.00	\$294.00	49	\$0.00		\$0.00	49	\$294.00	CCO#1
6	Remove Asphalt Concrete	SqYd	16		\$7.00	\$112.00	16	\$0.00		\$0.00	16	\$112.00	CCO#1
7	Unclassified Excavation	CuYd	0		\$22.00	\$0.00		\$0.00		\$0.00	0	\$0.00	CCO#1
8	Aggregate Base Course	Ton	0		\$24.00	\$0.00		\$0.00		\$0.00	0	\$0.00	CCO#1
9	Cold Milling Asphalt Concrete	SqYd	21405		\$2.40	\$51,372.00	21405	\$15,480.00	6450	\$15,480.00	14955	\$35,892.00	CCO#1
10	Asphalt Concrete Composite	Ton	2436.42		\$84.00	\$204,659.28	2436.42	\$55,573.56	661.59	\$55,573.56	1774.83	\$149,085.72	CCO#1
11	Valve Box Adjustment	Each	0		\$200.00	\$0.00		\$0.00		\$0.00	0	\$0.00	CCO#1
12	Manhole Adjustment	Each	0		\$1,100.00	\$0.00		\$0.00		\$0.00	0	\$0.00	CCO#1
13	Pavement Marking Paint, 4" White	Ft	20700		\$0.20	\$4,140.00	20700	\$750.00	3750	\$750.00	16950	\$3,390.00	
14	Pavement Marking Paint, 4" Yellow	Ft	2590		\$0.20	\$518.00	2590	\$187.60	938	\$187.60	1652	\$330.40	
15	Pavement Marking Paint, 24" White	Ft	14		\$10.00	\$140.00	14	\$0.00		\$0.00	14	\$140.00	CCO#1
16	Cold Milling Asphalt Concrete	SqYd	2800		\$2.40	\$6,720.00	2800	\$6,720.00	2800	\$6,720.00	0	\$0.00	
17	Asphalt Concrete Composite	Ton	310		\$84.00	\$26,040.00	310	\$26,040.00	310	\$26,040.00	0	\$0.00	
18	Blading	Hour	12		\$150.00	\$1,800.00	12	\$0.00		\$0.00	12	\$1,800.00	CCO#1
Contract Totals							\$335,995.28	\$131,651.16	\$204,344.12				

City of North Sioux City Construction Change Order No. 1

Original Contract Amount:	\$ 362,924.00	Project Name:	Streeter Drive Cold Mill & Asphalt Overlay			
Net Change by Previous CCOs:	\$ -	Contractor Name:	Barkley Asphalt, Inc.			
Increase/Decrease this CCO:	\$ (26,928.72)	SEI No.:	19025			
Current Contract Amount:	\$ 335,995.28					

All CCO's must comply with South Dakota Codified Law 5-18B-19. To view the law in its entirety: <http://legis.state.sd.us/statutes/index.aspx>.
The following change in plans and/or specifications for the subject project is hereby made. Attach supporting documents as required.

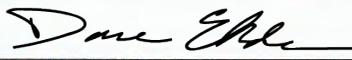
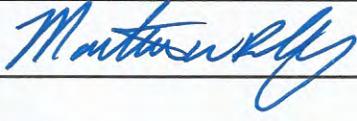
Line Item(s) or RFP #	Description of Proposed Work	Justification	Cost
1	18(new) Blading 12 Hours @ \$150.00/Hour	Contractor provided a blade and operator to spread millings at one of the haul sites. Quantity modifications reflect as-built conditions.	\$ 1,800.00
2	5 Saw Existing Asphalt -35 Ft @ \$6.00/Ft		\$ (210.00)
3	6 Remove Asphalt Concrete -964 SY @ \$7.00/SY		\$ (6,748.00)
4	7 Unclassified Excavation -475 CY @ \$22.00/CY		\$ (10,450.00)
5	8 Aggregate Base Course -700 Ton @ \$24.00/Ton		\$ (16,800.00)
6	10 Asphalt Concrete Composite +81.42 Ton @ \$84.00/Ton		\$ 6,839.28
7	11 Valve Box Adjustment -1 Each @ \$200.00/Each		\$ (200.00)
8	12 Manhole Adjustment -1 Each @ \$1,100.00/Each		\$ (1,100.00)
9	15 Pavement Marking Paint, 24" White -6 Ft @ \$10.00/Ft		\$ (60.00)
10			
11			
12			
13			
14			
15			
16			
17			
18			

See Attachment for Quantities and/or Justifications: Yes No

Net Increase/Decrease this Change Order: \$ (26,928.72)

Original Completion Date:	Substantial: 35 calendar days Final: 14 calendar days	Net Time Change of Previous CCO's:	None	Time Change Due On This Change Order:	None	Revised Contract Completion Date:	Substantial: 35 calendar days Final: 14 calendar days
Time Extension Justification:	N/A						

The changes contained in this Construction Change Order are made in accordance with the provisions of the contract for subject project, and when accepted by the Contractor and upon approval by the City of North Sioux City, shall become part of said contract.

	Date	Signature
Architect/Engineer Recommendation	8/13/2020	
Contractor Acceptance	8-10-2020	
Mayor Approval		



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: Administration
Date: 08/17/2020
Re: Cropley agreement

Background: During the construction in the new Lakeshore Subdivision, the contractor damaged part of Lesa and Dean Cropley's septic system. In the negotiations for a purchase agreement, which was later ratified at the July 6, 2020 meeting, the City agreed to pay to cap the laterals on the septic system if it was damaged during construction. The City also agreed to allow the Cropleys to continue to use their septic system through its useful life.

With this agreement, the City is agreeing to compensate Dean & Lesa Cropley \$1,800.00 for the damage to the septic system with the understanding that they will hook up to the new sanitary sewer line. This is being done to limit the City's exposure to any additional damage claims that may arise from further construction and bring the property into accordance with city ordinance. The City has also negotiated to compensate the Cropleys \$4,800.00 for the estimated useful life of their septic system (\$40 per month for 10 years).

Financial Consideration: \$6,600.00

Recommendation: Administration recommends that the Council approve the agreement.

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement "**Agreement**" is entered into effective this ^{31st} day of July, 2020 (the "**Effective Date**") by and between *Lesa A. Cropley* and *Dean W. Cropley* (hereinafter referred to as "**Cropleys**") and the **CITY OF NORTH SIOUX CITY**, a South Dakota municipal corporation (hereinafter referred to as "**City**") on the terms set forth below:

WHEREAS, Cropleys own real property located at 721 Lakeshore Drive, McCook Lake, South Dakota (the "**Property**");

WHEREAS, construction occurring near the Property damaged components of Cropleys' existing septic system;

WHEREAS, Cropleys and the City desire to enter into this Agreement to resolve all claims, demands, or causes of action which may exist between them, including but not limited to all claims, demands, of causes of action pertaining to the septic system, the City sanitary sewer system, and all related issues.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. The above recitals to this Agreement are fully incorporated herein by this reference as though recited herein.
2. Any and all prior agreements pertaining to the Cropleys' use of their existing septic system are hereby terminated, cancelled, and void, and this Agreement is the sole agreement pertaining to the Cropleys' existing septic tank and City sanitary sewer system.
3. When the City sanitary sewer main adjacent to the Property becomes operational, a contractor shall install a standard sanitary sewer service line from outside the house on the Property to the new stub provided at the sewer main, and City shall be responsible to pay the contractor completing the work ONE THOUSAND EIGHT HUNDRED AND 00/100 DOLLARS (\$1,800.00) plus any additional or related costs.
4. Following installation of the sanitary sewer service line on the Property, Cropleys shall be solely responsible for the care, maintenance, repair, and replacement of the sanitary sewer service line on the Property, consistent with City Ordinance and the laws of the State of South Dakota.
5. Other than those granted by the contract, the City makes no warranties or guarantees related to the installation of the sanitary sewer service line. Further, the Cropleys understand that any warranty or guarantee, and any claim, damage, or cause of action arising from the installation or operation of the service line is the sole responsibility of the contractor completing the work.

6. Following installation of the sanitary sewer service line on the Property, and upon the City's sanitary sewer main becoming operational, Cropleys shall be required to utilize the City's sanitary sewer system, to make all applicable utility payments, and to follow all applicable City, state, and federal codes and regulations related to sanitary sewer system use.

7. In addition to the payment made in paragraph 3, above, City shall pay Cropleys a one-time payment of FOUR THOUSAND EIGHT HUNDRED AND 00/100 DOLLARS (\$4,800).

8. Following installation of the sanitary sewer service line on the Property, and upon its operation, Cropleys shall in the future, and at their sole expense, remove or abandon the existing septic tank on the Property in accordance with City, state, and federal laws and regulations.

9. Cropleys, on behalf of themselves and any other party, person, or entity claiming under or through them, hereby fully release, acquit and forever discharges the City and its Mayor, Council, employees, agents, and contractors, from all claims, demands, charges, obligations, damages and liabilities of every kind and nature whatsoever and from all actions and causes of action which Cropleys may have or ever claim to have against the City, whether known or unknown, arising out of or relating in any manner to the existing septic tank, its removal or abandonment, and the sanitary sewer service line, together with any and all claims, demands and causes of action which have been made, or could have arisen therefrom.

10. This Agreement covers all injuries and damage which Cropleys may have, or claim to have, including damages which may hereafter appear or develop, arising from the existing septic tank and sanitary sewer service line.

11. It is expressly understood by the parties that this Agreement is a compromise and settlement of disputed claims. Nothing contained herein, and no actions taken by any party with respect to the settlement of claims herein, shall be construed as an admission by any party, person, or entity of any act of wrongdoing or any liability of any kind, all such liability being expressly denied.

12. Subsequent to installation, Cropleys shall indemnify and hold City harmless from all injuries, costs, expenses, or damages, including but not limited to attorney fees, costs, or expenses incurred as a result of any claim or action by any person or entity arising out of or relating in any manner to the existing septic tank or sanitary sewer service line which they are responsible to maintain.

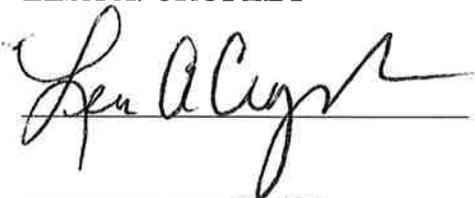
13. The parties acknowledge that they have fully discussed or had the opportunity to discuss the terms of this Agreement with their legal counsel and have fully reviewed with such counsel the claims which are being released herein. Based upon that review and their discussion with counsel, the parties acknowledge that they fully and completely understand and accept the terms of this settlement and enter into it freely, voluntarily and of their own accord.

14. This Agreement shall be deemed to have been drafted by all parties hereto.

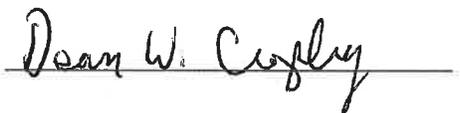
This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns. This Agreement contains the entire agreement and understanding of the parties and there are no promises or terms of settlement other than those contained herein. This Agreement shall be construed in accordance with the laws of the State of South Dakota, and if any provision of this Agreement is determined to be illegal, unenforceable, or void, then such provision shall be severed and the remaining provisions shall stay in full force in effect to the extent permitted by law.

Dated as of the Effective Date, above.

LESA A. CROPLEY



DEAN W. CROPLEY



CITY OF NORTH SIOUX CITY

By: Rodd Slater, Mayor

WITNESS:



By: Lucero Avalos, Finance Officer



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: Administration
Date: 08/17/2020
Re: Discretionary Formula Ordinance 2020-07

Background: According to the SD GOED the City adopted a discretionary formula ordinance in 1996. Due to a reorganization of state statutes during the last legislative session, the statutes referenced in our original ordinance no longer exist. This ordinance allowed for a gradual increase in property taxes for new construction in the city. Taxes are assessed on 20% of the valuation in year 1, 40% in year 2, 60% in year 3, 80% in year 4, and finally on the full valuation in year 5. Without a new ordinance, the City cannot continue to offer this tax incentive.

Financial Consideration: none

Recommendation: Administration recommends that the Council adopt the ordinance.

HB 1259 amended and reorganized the multitude of statutes regarding the discretionary formula. Now, all formula types can be found under subsections of a single statute, SDCL 10-6-35.2. **It is important to note that the types of formula, the valuation thresholds, and the overall functionality of the discretionary formula is not changing.** The bill has simply created a one-stop shop for finding the property types eligible to receive the discretionary formula

To create a singular statute, the bill had to repeal many existing statutes to avoid conflict. This means that all current active discretionary formula resolutions that refer to these soon-to-be repealed statutes will no longer be valid after July 1, 2020. **Any county/city that currently has a discretionary formula resolution will need to pass a new resolution referencing the new statute and appropriate subsection(s).** The governing body can pick any combination of the subsections in the drafting of their new resolution; they are not required to accept all of them. No new properties will begin a discretionary formula for the 2021 assessment year, unless the county/city has updated their resolutions.

There was a new statute written to “grandfather” in any properties that are currently receiving a discretionary break. (SDCL 10-6-35.27) **Therefore, if a property is currently in the middle of receiving a formula (whether that’s year 1 or year 4) they will continue with the formula they started in until it has run its course.**

The bill also added a statement to SDCL 10-6-35.2 that now clearly states that new improvements within a tax increment financing (TIF) district can and should receive the discretionary formula. Many counties and cities attempt to prohibit properties within a TIF district from receiving benefits of a discretionary formula in their resolutions. The Department has consistently advised that this action was contrary to state law. Now there is specific language confirming that directive. County Commissions or City Councils cannot refuse anyone the discretionary formula; only the property owners themselves are able to waive the right to the formula.

ORDINANCE NO. 319

AN ORDINANCE AMENDING ORDINANCE NO. 194 PROVIDING FOR
REDUCED TAXATION OF NEW STRUCTURES AND ADDITIONS
WITHIN THE CITY LIMITS OF NORTH SIOUX CITY, SOUTH DAKOTA.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NORTH SIOUX CITY, SOUTH DAKOTA AS FOLLOWS:

THAT ORDINANCE NO. 194 BE AMENDED TO READ AS FOLLOWS:

WHEREAS, SDCL 10-6-35.1 through SDCL 10-6-35.4 allows the governing board of a municipality to provide for reduced taxation of new structures and additions, which new structures or additions have a true and full value of \$30,000.00 or more, and

WHEREAS, the Board of County Commissioners of Union County, South Dakota have not adopted a formula pursuant to SDCL 10-6-35.2, and

WHEREAS, the Common Council of the City of North Sioux city, South Dakota believes that it is advantageous to the growth and development of North Sioux City, South Dakota to adopt such a reduced tax formula, now therefore

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NORTH SIOUX CITY, SOUTH DAKOTA;

THAT, all new industrial, commercial and non-residential agricultural structures or additions to existing structures, which new structures or additions have a true and full value of \$30,000.00 or more and which are located within the corporate limits of the City of North Sioux City, South Dakota shall be taxed as follows:

1. In the first tax year following commencement of construction not more than 20% of the assessed value shall be used for tax purposes on such property.
2. For the second year following commencement of construction not more than 40% of the usual assessed value shall be used for tax purposes on such property.
3. For the third year following commencement of construction not more than 60% of the usual assessed value shall be used for tax purposes on such property.
4. For the fourth year following commencement of construction not more than 80% of the usual assessed value shall be used for tax purposes on such property.
5. Thereafter such property shall be assessed at the same percentage as is all other property for tax purposes.

The tax relief provided above shall apply to the real estate and not the owner thereof and any unused portion of said tax relief shall accrue to the benefit of any subsequent purchaser of a structure which qualifies for favorable tax treatment under SDCL 10-6-35.1 through SDCL 10-6-35.4 inclusive.

This ordinance shall, after its passage and publication as provided by law, be in full force and effect.

Dated this 9th day of September, 1996 at North Sioux City, South Dakota.

ATTEST:

Albert A. Parvu, Mayor

Liesel Hallwas, Finance Officer

First reading: September 9th, 1996

Second reading and passage: September 16th, 1996

Published: September 19th, 1996

ORDINANCE 2020-07

AN ORDINANCE PROVIDING FOR REDUCED TAXATION OF NEW STRUCTURES AND ADDITIONS WITHIN THE CITY LIMITS OF NORTH SIOUX CITY, SOUTH DAKOTA

WHEREAS, the City of North Sioux City, State of South Dakota has deemed it in the best interest of the City to adopt a Resolution implementing a Discretionary Formula for the reduced taxation of new structures and additions and partially constructed structures pursuant to SDCL 10-6-35.2.

NOW, THEREFORE, BE IT RESOLVED, that the following properties shall be, and hereby are, specifically classified for the purpose of taxation pursuant to SDCL § 10-6-35.2:

Any new industrial or commercial structure, or any addition, renovation, or reconstruction to an existing structure, located within a designated urban renewal area as defined in SDCL § 11-8-4, if the new structure, addition, renovation, or reconstruction has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(1));

Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(2));

Any new nonresidential agricultural structure, or any addition to an existing structure, if the new structure or addition has a full and true value of ten thousand dollars or more (SDCL § 10-6-35.2(3));

Any new commercial structure, or any addition to an existing structure, except a commercial residential structure as described in SDCL § 10-6-35.2(5), if the new structure or addition has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(4));

Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(5));

Any new affordable housing structure containing four or more units with a monthly rental rate of the units at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority, for a minimum of ten years following the date of first occupancy, if the structure has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(6));

Any new residential structure, or addition to or renovation of an existing structure, located within a redevelopment neighborhood established pursuant to SDCL § 10-6-56 if the new structure, addition, or renovation has a full and true value of five thousand dollars or more. The structure shall be located in an area defined and designated as a redevelopment neighborhood based on conditions provided in SDCL § 11-7-2 or 11-7-3 (SDCL § 10-6-35.2(7)); or

Any commercial, industrial, or nonresidential agricultural property which increases more than ten thousand dollars in full and true value as a result of reconstruction or renovation of the structure (SDCL § 10-6-35.2(8)); and be it

FURTHER RESOLVED, that any structure classified pursuant to this Resolution shall, following construction, initially be valued for taxation purposes in the usual manner, and that value shall be referred to in this Resolution as the “Pre-Adjustment Value”; and

BE IT FURTHER RESOLVED, that the assessed value to be used for tax purposes of any structure classified pursuant to this Resolution shall, following construction, be calculated as follows:

- a. For the first tax year following construction, 20% of the Pre-Adjustment Value;
- b. For the second tax year the following construction, 40% of the Pre-Adjustment Value;
- c. For the third tax year following construction, 60% of the Pre-Adjustment Value;
- d. For the fourth tax year following construction, 80% of the Pre-Adjustment Value;
- e. For the fifth tax year following construction, 100% of the Pre-Adjustment Value;

BE IT FURTHER RESOLVED, that the City Council may, if requested by the owner of any of the above described property, not apply the above formula, in which case the full assessment shall be made without application of the formula. In waiving this formula for the structure of one owner, the City Council is not prohibited from applying the formula for subsequent new structures by that owner; and

BE IT FURTHER RESOLVED, that for purpose of this Resolution, the assessed valuation during any of the five years may not be less than the assessed valuation of the property year preceding the first year of the tax years following construction; and

BE IT FURTHER RESOLVED, that any structure that is partially constructed on the assessment date may be valued for tax purposes pursuant to this Resolution and the valuation may not be less than the assessed valuation of the property in the year preceding the beginning of construction; and

BE IT FUTHER RESOLVED, that following the five-year period under this section, the property shall be assessed at the same percentage as is all other property for tax purposes; and

BE IT FURTHER RESOLVED, that this Ordinance replaces Ordinance No. 319 adopted September 9, 1996.

Approved this _____ day of _____, 2020

City of North Sioux City

By: _____
Rodd Slater, Mayor

Attest:

Amy Lilly, Finance Officer

(Seal)



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: Administration
Date: 08/17/2020
Re: Quit Claim deed

Background: Brent & Courtney Koch have acquired the south 50' of the north 58' of Lot 21 of the replat of the Bruneau Plat and are asking that the City consent to their acquisition of the accretion ground adjacent to their property by Quit Claim Deed. The City's owns the north 8' of Lot 21 adjacent to their property. The City Attorney has reviewed this request and has confirmed that approving the Quit Claim Deed will not impact city property or any easements that may exist.

Financial Consideration: none

Recommendation: Administration recommends approving the quit claim deed.

Prepared by:

Ryan C. Ross
613 Pierce Street
P.O. Box 1557
Sioux City, IA 51102-1557
712 252-3226

QUIT CLAIM DEED

CITY OF NORTH SIOUX CITY, a South Dakota municipal corporation, GRANTOR of 504 River Drive, North Sioux City, South Dakota, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, CONVEYS and QUIT CLAIMS to, Brent G. Koch and Courtney A. Koch, husband and wife, as joint tenants with full rights of survivorship and not as tenants in common, GRANTEES, of 601 Lakeshore Drive, North Sioux City, South Dakota, the real estate in the County of Union and State of South Dakota legally described as:

Accretion to the South 50 feet of the North 58 feet of Lot 21 of the Replat of Bruneau Plat of the Southwest Quarter (SW ¼), Section 10, Township 89 North, Range 48, West of the 5th P.M., now North Sioux City, Union County, South Dakota, according to the recorded plat thereof.

Subject to easements and restrictions of record, if any.

Dated this ____ day of _____, 2020.

Transfer tax Exempt per SDCL 43-4-22 (18)

--GRANTOR

CITY OF NORTH SIOUX CITY

BY: _____

Rodd Slater

Its: Mayor

BY: _____

Amy Lilly

Its: Finance Officer

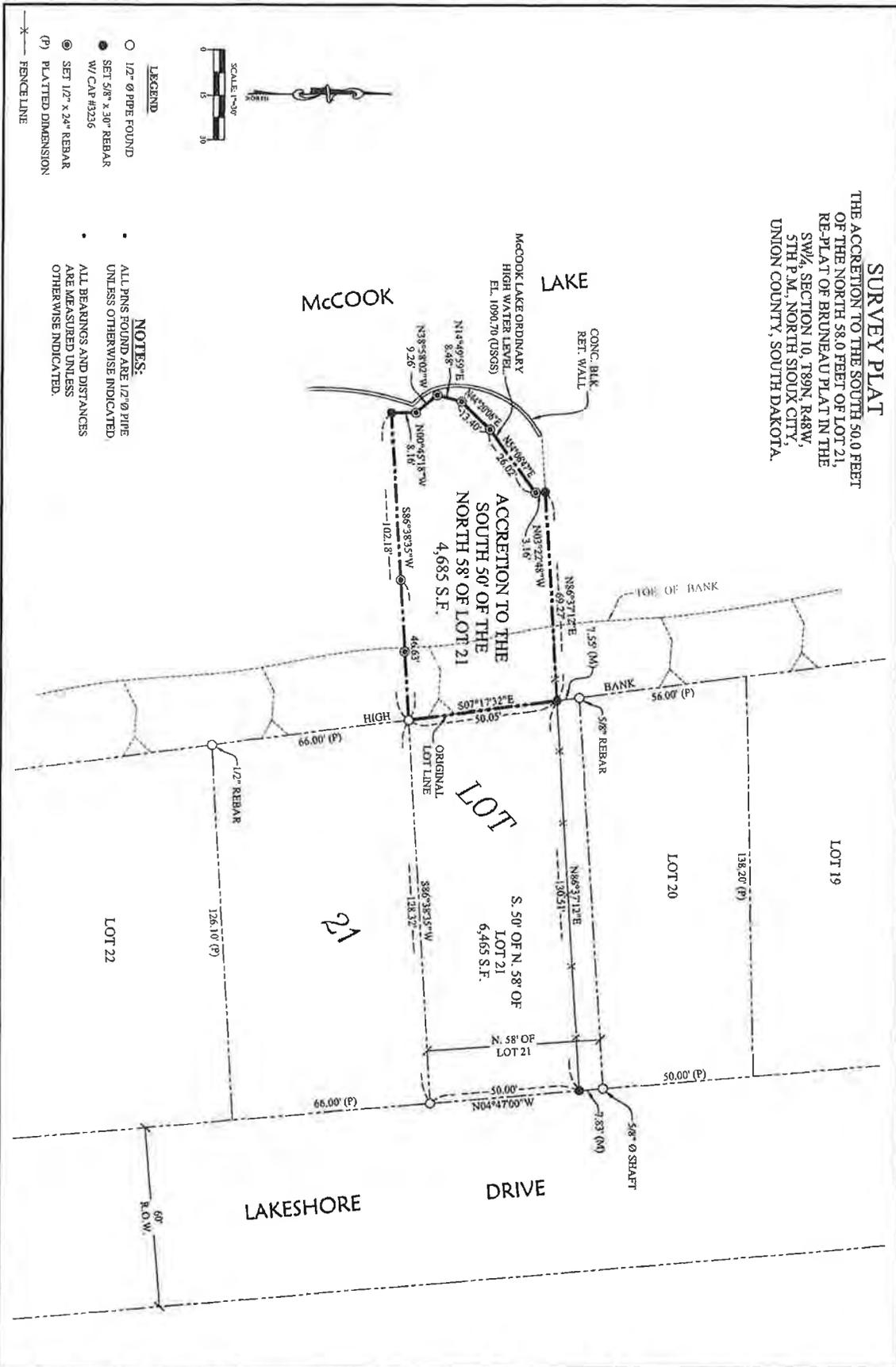
STATE OF SOUTH DAKOTA, COUNTY OF UNION, ss,

On this, the ____ day of August, 2020, before me, the undersigned officer, personally appeared Rodd Slater and Amy Lilly, who acknowledged themselves to be the Mayor and Finance Officer of the City of North Sioux City, a municipal corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My Commission Expires: _____

SURVEY PLAT
 THE ACCRETION TO THE SOUTH 50.0 FEET
 OF THE NORTH 58.0 FEET OF LOT 21,
 RE-PLAT OF BRUNEAU PLAT IN THE
 SW¼ SECTION 10, T89N, R48W,
 5TH P.M., NORTH SIOUX CITY,
 UNION COUNTY, SOUTH DAKOTA.



- LEGEND**
- 1/2" Ø PIPE FOUND
 - SET 3/8" x 30" REBAR W/ CAP #3236
 - ⊙ SET 1/2" x 24" REBAR PLATTED DIMENSION
 - *— FENCE LINE

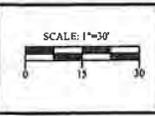


NOTES:

- ALL PINS FOUND ARE 1/2" Ø PIPE UNLESS OTHERWISE INDICATED.
- ALL BEARINGS AND DISTANCES ARE MEASURED UNLESS OTHERWISE INDICATED.

FRONTIER CONSULTANTS, INC.
 410 E. Jefferson St.
 Elk Point, SD 57025-0822
 PH: 877-356-3077 (WATS) PH: 712-259-0483

DATE	01-23-13
DWG	03-160 Lee
PROJECT	#03-160
CLIENT	Meureen Lee
CONTACT	
By	Gregg A. Stroschein, PLS
REVISED	01-24-13



SURVEY PLAT
 THE ACCRETION TO THE SOUTH 50.0 FEET
 OF THE NORTH 58.0 FEET OF LOT 21,
 RE-PLAT OF BRUNEAU PLAT IN THE
 SW¼ SECTION 10, T89N, R48W,
 5TH P.M., NORTH SIOUX CITY,
 UNION COUNTY, SOUTH DAKOTA.

SHEET 1 OF 2 #61246

SURVEY PLAT

THE ACCRETION TO THE SOUTH 50.0 FEET OF THE NORTH 58.0 FEET OF LOT 21, RE-PLAT OF BRUNEAU PLAT IN THE SW¼, SECTION 10, T89N, R48W, 5TH P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA.

SURVEYOR'S CERTIFICATE

I, Gregg A. Stroschein, a Licensed Land Surveyor of the State of South Dakota, do hereby certify that at the direction of the land owner, I have surveyed and platted the Accretion to the South 50.0 feet of the North 58.0 feet of Lot 21, Re-Plat of Bruneau Plat in the SW¼, Section 10, T89N, R48W, 5th P.M., North Sioux City, Union County, South Dakota, and that all dimensions as shown are true and correct.



Gregg A. Stroschein, No. 3236

CITY PLANNING COMMISSION CERTIFICATE

Be it resolved by the Planning Commission of the City of North Sioux City, Union County, South Dakota, that the attached and foregoing plat of the Accretion to the South 50.0 feet of the North 58.0 feet of Lot 21, Re-Plat of Bruneau Plat in the SW¼, Section 10, T89N, R48W, 5th P.M., North Sioux City, Union County, South Dakota, be and the same is hereby approved.

Chairman, Planning Commission Rick Wilson 2-13-13
Date

RESOLUTION OF CITY COUNCIL

Be it resolved by the City Council of North Sioux City, Union County, South Dakota, that the above plat of the Accretion to the South 50.0 feet of the North 58.0 feet of Lot 21, Re-Plat of Bruneau Plat in the SW¼, Section 10, T89N, R48W, 5th P.M., North Sioux City, Union County, South Dakota, be and the same is hereby approved.

I, Susan Kloostra, Finance Assistant of North Sioux City, Union County, South Dakota, do hereby certify that the above is a true and correct copy of the resolution passed by the City Council of North Sioux City, South Dakota, at their regular meeting on 18 day of February, 2013.

Mayor, City of North Sioux City Dan

City Finance Assistant SKloostra



OWNER'S CERTIFICATE

I, Maureen Lee, do hereby certify that I am the Owner of the Accretion to the South 50.0 feet of the North 58.0 feet of Lot 21, Re-Plat of Bruneau Plat in the SW¼, Section 10, T89N, R48W, 5th P.M., North Sioux City, Union County, South Dakota, and that the survey and plat were made at my request and under my direction for the purposes of locating, marking and platting the same, and that said property is free of all encumbrances.

Owner Maureen Lee 1-25-13
Maureen Lee Date

DIRECTOR OF EQUALIZATION

I, Dawn Steckelberg, Director of Equalization of Union County, South Dakota, do hereby certify that a copy of the above plat has been filed at my office.

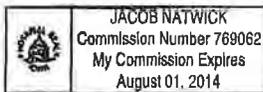
Dawn Steckelberg
Dawn Steckelberg, Director of Equalization

ACKNOWLEDGMENT OF OWNER

State of Iowa County of Woodbury

Be it remembered that on this 25 day of January, 2013, before me, the undersigned, a Notary Public, personally appeared, Maureen Lee, known to me to be the person described in and who executed the foregoing certificate.

My Commission expires 8-1-14 Notary Public GC NT



COUNTY TREASURER'S CERTIFICATE

I, Myron Hertel, Treasurer of Union County, South Dakota, do hereby certify that all taxes which are liens upon any land included in the above (and the foregoing) plats, as shown by the records of my office, have been fully paid

Dated this 20th day of February, 2013

Myron Hertel
Myron Hertel, Treasurer of Union County



REGISTER OF DEEDS

Filed for record this 20th day of Feb, 2013, at 3:05 o'clock P.m., and recorded in Book 30 of Plats on Page 5 therein.

Jana Foltz
Jana Foltz, Register of Deeds
Union County, South Dakota



DATE 01-23-13
DWG 03-160 Lee
PROJECT #03-160
CLIENT Maureen Lee
CONTACT
By Gregg A. Stroschein, PLS
REVISED 01-24-13



SURVEY PLAT
THE ACCRETION TO THE SOUTH 50.0 FEET OF THE NORTH 58.0 FEET OF LOT 21, RE-PLAT OF BRUNEAU PLAT IN THE SW¼, SECTION 10, T89N, R48W, 5TH P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA. #03-160



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: Administration
Date: 08/17/2020
Re: Donation to Dakota Valley for book vending machine

Background: In recent meetings, there has been Council interest in supporting Brad Green's efforts to purchase a book vending machine for Dakota Valley Schools. Mr. Green is a private citizen and we are not aware of a dedicated non-profit fund established to receive any contributions from the City.

Therefore, we contacted the school on where to make a specific donation. They advised sending a letter, along with any contribution, specifying where the money is intended. They will then designate the money for a future purchase.

Financial Consideration: To be determined by council

Recommendation: Administration recommends any donation be made directly to the school with specific instructions for its purpose. As well as, notifying Mr. Green of the action.

UNAPPROVED MINUTES
North Sioux City Planning Commission
August 12, 2020

The regular meeting of the North Sioux City Planning Commission was called to order by Streeter at 4:00 p.m.

Commission members present were: Carpenter, Holbrook, Mitchell, Olson and Streeter. Also, in attendance were Building Inspector Gary Roan and finance assistant Jennifer Roupe.

Motion by Olson second by Mitchell to approve the agenda as presented. All members present voted aye.

Motion by Mitchell, second by Holbrook to approve the July 22, 2020 minutes as presented. All members present voted aye.

Conditional Use Hearing – Albrecht - Request for a RV Travel Trailer to be placed and occupied during the demo and new construction of a home.

Streeter opened the hearing at 4:01 p.m.

Discussion: Mitchell stated that he feels this should have been a Variance request instead of a Conditional Use. Does not want this to set a precedent. Carpenter wants to see a letter from adjacent property owners stating no objections. A notice was sent to all property owners informing them of the hearing. No correspondence was received at City Hall in regards to said hearing. Michael Albrecht stated he was informed that neighbors received the notice. Albrecht explained that he was told a Variance would be a permanent request and a CU would be a temporary use. Carpenter would also like to see that a time limit should be noted. Roan stated all requests are looked at individually and decided upon. Albrecht stated he talked to a chairperson at Izaak's Walton and they did not have an objection to the request.

Motion by Holbrook, second by Carpenter to close the hearing at 4:12 p.m.

Motion by Mitchell, second by Holbrook to approve the Conditional Use request with the stipulations that the Conditional Use would be valid for 1 year from today and that the RV Travel Trailer would be hooked up to City sewer and water (metered) and returned back to as it was within the time frame.

Variance Hearing – Johns Stevens - Living quarters on 1st floor in Light Industrial Zoning

Streeter opened the hearing at 4:17 p.m.

Discussion: Olson inquired if there is going to be a business located on the 1st floor of the building. Roan stated he was not aware of a business. Streeter asked if we have allowed anything like this in the past. Roan stated not that he was aware of.

Motion by Olson, second by Carpenter to close the hearing at 4:27 p.m.

Motion by Mitchell, second by Olson to deny the Variance requested.

Building permit – FIMCO -

Discussion: Roan explained that the expansion would comply with all setbacks and the retention pond is able to accommodate the exposition.

Motion by Carpenter second by Holbrook to approve the building permit as presented. All member voted aye.

Purposed Zoning Draft – Patrick with SECOG informed the members that the memorandum was drafted to show the larger scale changes that were made to the zoning ordinance. Home occupation was brought up at the City Council meeting and it was the consensus that if it was enclosed in a building it was favored rather than having items out in the open on the property. Roan asked that Highway Commercial properties have fence front year set back identified in the regulations.

Roan would like to see stated in the ordinance and building permit that anyone that starts a building project without an approved North Sioux City Building permit be assessed a fine.

Other Business: Discussion Held: Mitchell asked about the purposed new annexing and zoning of the North section of City limits. Eric Christensen informed the members that there is a concept plan for future land north of town and is an ongoing City project with Stockwell Engineering. Once the land is removed from the FEMA Floodway it will be developed. Two different developers are interested in purposing different ideas. Carpenter referenced that this was directed with the State DOT traffic study that had been done.

Carpenter inquired about the time frame for the Conditional use permit for Sioux City Fence. A Hearing has been set for August 26, 2020.

Mitchell asked if the Mobile Home Conditional Use Permits have been issued. Answer is yes. Mitchell asked about the requirement of having a lot map posted with numbers.

Carpenter inquired about the RV Park located on HWY 105. Permit has been issued. The City has 2 RV Parks within City limits. Mitchell and Olson inquired about a mobile home trailer being placed in the Lakeshore trailer court. No record of an approved mobile home trailer permit. Roan will investigate.

Update of building permits –

3 fence permits – 9 Alcoma, 607 Lakeshore Dr, 1325 S Sodrac Dr

2 retaining walls – 369 Lakeshore Dr, 607 Lakeshore Dr

1 New Homes – 5 Bancroft Ct

Motion by Mitchell, second by Olson to adjourn at 5:43 p.m. All members present voted aye.

Dated this August 12, 2020

Jennifer Roupe

Finance Assistant