

**CITY OF FLANDREAU  
1005 W. Elm Avenue  
Flandreau, SD 57028-1404**

**COUNCIL PROCEEDINGS  
September 8<sup>th</sup>, 2020**

The City Council of the City of Flandreau, South Dakota, met in regular session on Tuesday, September 8<sup>th</sup>, 2020 at 6:30 p.m. at the William J. Janklow Community Center.

Present: Mayor Dan Sutton. Aldermen: Brad Bjerke, Mark Ekern, Mike Fargen, and Karen Tufty. Absent: Bob Pesall and Jason Unger. Also present were City Administrator Jeff Pederson; Finance Officer Karen Gundvaldson; Corey Bruning, City Attorney; Dave Miller, SDML Code Enforcement Officer; Jeff Weigel, Rudy's Welding; and Brenda Wade Schmidt, Moody County Enterprise.

The proposed agenda was reviewed. Motion by Bjerke and seconded by Ekern to adopt the proposed agenda. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Tufty and seconded by Fargen to approve the minutes of August 3<sup>rd</sup>, 2020. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Ekern and seconded by Fargen to approve the minutes of August 31<sup>st</sup>, 2020. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Bjerke and seconded by Ekern to allow the following claims for the City and to pay them: Payroll 8/12/2020: general, 22,348.22; 3<sup>rd</sup> penny, 241.11; water, 3,923.90; electric, 5,926.18; sewer, 3,522.26; airport, 152.49; solid waste, 668.54; Payroll 8/29/2020: general, 16,457.04; 3<sup>rd</sup> penny, 241.11; water, 3,654.41; electric, 5,926.18; sewer, 3,252.77; airport, 152.49; solid waste, 363.72; (21587) Adam Anderson, refund, 56.76; Aflac, supplemental insurance, 341.38; Ahlers Automotive, repairs, 23.76; Amy Whitman, rebate check, 30.00; Austreim Landscaping, planted trees, 900.00; Banner Associates, professional fees, 1,642.50; Big Sioux Comm Water System, water purchase, 17,557.00; Booster Publishing, publishing/advertising, 250.00; Border States Electric Supply, supplies, 1,391.66; Brian Hammer, rebate check, 50.00; Bruning & Lewis Law Firm, professional fees, 2,050.00; Buffalo Ridge Concrete, supplies, 76.00; Cannon Technologies, meters, 2,499.00; Cardmember Services, supplies/dues/conference, 2,090.80; Cenex Fleetcard, gas, 1,294.61; Christiansen Complete Water, supplies, 26.05; Cintas, rentals, 298.47; City of Flandreau-Petty Cash, postage, 95.28; Cybercoach, repairs, 3,861.13; DGR Engineering, professional fees, 185.00; Diamond Vogel Paints, supplies, 220.50; Elite Business Systems, contract, 337.21; Eng Services, contract, 13,547.80; Flandreau Bakery & Coffee Bar, supplies, 19.84; Flandreau Veterinary Clinic, K-9 expenses, 192.47; FSST, taxes collected, 592.67; Graham Tire S.F. North, repairs, 246.00; Hydro Klean, repairs, 2,095.00; Justice Fire & Safety, repairs, 65.01; Karina Cordova, refund, 39.15; Krull's

Garage, repairs, 60.00; Maynards of Flandreau, supplies, 45.19; Michael Fargen, gas, 29.17; MidAmerican Energy, gas bill, 112.51; Moody County Enterprise, supplies/publishing/advertising, 413.31; Office Peeps, supplies, 11.22; Patricia Johanson, refund, 36.08; Paul Lumibao, refund, 8.41; Powers Oil, gas, 371.08; Principal Life Insurance Co., dental insurance, 1,045.42; River's Edge Cooperative, gas, 154.80; Ron Gilbert, refund, 67.41; SD Dept. of Health Public Lab Services, water samples, 45.00; SD Municipal League, professional fees, 360.10; SD Public Assurance Alliance, insurance, 157.29; SD Retirement System, retirement, 10,087.76; SD Supplemental Retirement, retirement, 784.62; Sioux Falls Area Humane Society, professional fees, 71.75; Sioux Valley Energy, electric, 149.00; Standard Insurance Co., life insurance, 273.61; Sturdevant's Auto Supply, supplies, 219.79; Tyler Lumber Co., supplies, 294.03; Vadim Municipal Software, contract, 154.96; Vast Broadband, phone/cable/internet, 893.82; Verizon Wireless, jet packs/cell phone, 340.09; Vision Service Plan, vision insurance, 242.95; Waxdahl NAPA Plus, supplies, 41.38; Wesco, supplies, 177.00; (21644) The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

There were no Visitors to be Heard.

Mayor Sutton informed Council that the Fire Hall Site Selection Task Force has completed their research and provided a report of their findings for Council to review. Mayor Sutton will be attending the virtual MRES Leadership Academy next week.

City Administrator Pederson shared that a recent inspection of the restricted use landfill required remedial action; the issue has been resolved. There was also a recent airport inspection. Crack sealing of the runway has been completed.

Motion by Fargen and seconded by Tufty to approve the Administrative Reports. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Old Business: None

New Business: First reading of Ordinance 600, 2021 Appropriation Ordinance, was held.

Motion by Fargen and seconded by Tufty to approve Resolution 2020-07, Unclaimed Property. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Bjerke and seconded by Ekern to approve Resolution 2020-08, A Resolution Regarding the Plat of Tract 1 of Ullom Addition. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Fargen and seconded by Ekern to approve Resolution 2020-09, A Resolution Regarding the Plat of Block 1; and Lots 1, 2, 3 and 4 in Block 1 of Pulscher Farms Addition. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Bjerke and seconded by Ekern to approve the request made by Valley FiberCom to allow the company to bury fiber optic cable under certain streets and alleys in Flandreau for the purpose of offering broadband services to

rural residents. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Fargen and seconded by Bjerke to resume the assessment of late charges and disconnect fees for past due utility bills beginning with those bills due September 15 as well as every month thereafter. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

SDML Code Enforcement Officer Dave Miller provided Council with a brief review of the process used regarding the approximately 12 Notice and Order letters recently mailed to those Flandreau residents that are still in noncompliance with the ordinance violations cited in approximately 74 letters mailed earlier this summer. He stated all notifications sent to residents are based on violations as listed in City Ordinances.

Jeff Weigel, representing Rudy's Welding Shop, stated he wishes to appeal the Notice and Order letters received for all properties owned by Rudy's Welding based on the assertion that the business is a salvage yard and all items, such as, but not limited to, vehicles, tractors, campers, tires, car parts, iron, and other miscellaneous junk and debris, are inventory and are necessary for the salvage business. Mr. Weigel talked about the court case dating back to 2001 in which his family's storage of items, such as those listed in the current Notice and Order letters, located on the Rudy's Welding property was at issue. He stated the property and business were "grandfathered in", that the northern portion of the land was later rezoned industrial in order to comply, and the judge did not require the fencing to meet the City's specifications due to cost. He reiterated numerous times that "nobody will remove any of the items from his property" and feels he and his family are being persecuted and disrespected. Mr. Weigel also brought up the 2013 complaint from a neighbor regarding the Rudy's Welding property on Park Avenue as well as issues regarding vehicles on his and Curtis Weigel's personal property, indicating again that he feels the Weigel family is being singled out and other business owners and residents in Flandreau are not being held accountable.

City Attorney Corey Bruning shared information as it relates to how property is classified in Flandreau and stated the Rudy's Welding property is required to be in compliance as property maintenance nuisances apply to all zoning classifications. The property was cited by Code Enforcement primarily for inoperable and/or unlicensed vehicles being stored inappropriately. Mr. Bruning stated the judge presiding in 2001 also ordered Rudy's Welding to remove all items from the public right of way. He described some of the South Dakota requirements on salvage yards, including screening from public view. The portion of the property in question is not screened on the east or south ends and over a dozen vehicles are not within the existing fenced area. Mr. Bruning also stated that grandfathered, non-conforming property uses are not allowed to expand any further than they exist as of the date it was grandfathered. In addition, Mr. Bruning shared information on file from a previous City Attorney, William Ellingson, that Jeff Weigel had stated in 2001 that items at Rudy's Welding, such as the vehicles, are items that he intends to restore and sell as part of his retirement plan, which then indicates they are not in fact salvage property.

Jeff Weigel then responded to statements made by City Attorney Bruning and to questions set forth by Council and the Mayor. He agreed that he was

ordered to remove property from the public right of way, that Rudy's does have property in the right of way, but was not intending to comply anymore as he felt the order was invalid because Right of Way violations were not separately listed in the original complaint. Mr. Weigel continued until he was ordered to be seated as his allotted time to state his appeal had long expired.

Mr. Bruning stated Council has three options: deny the appeal, approve the appeal, or table it pending more information.

Motion by Fargen and seconded by Tufty to table the appeal until the September 21st meeting pending the receipt of more information tending to answer: (1) whether or not it is a salvage yard, (2) is it actually grandfathered in, (3) review of documentation of the 2001 court case, (4) documentation regarding the order in 2001 to remove property from the public right of way, and (5) any other documentation requested by Council prior to review at the next meeting. City Attorney Corey Bruning will provide any available documentation on the City's side as to the Statutes and Court case to Council. The Weigels shall submit any documentation they would like to support their appeal. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

There were no Council Comments

Motion by Bjerke and seconded by Fargen to go into executive session regarding land acquisition and a personnel matter at 8:02 p.m. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

Motion by Ekern and seconded by Fargen to come out of executive session at 8:44 p.m. The following members voted aye: Bjerke, Ekern, Fargen, and Tufty. Nays: None. Absent: Pesall and Unger. Motion carried.

The Mayor declared the meeting adjourned at 8:45 p.m.

Daniel D. Sutton  
Mayor

ATTEST:

Jeff Pederson  
City Administrator