

**MINUTES FOR THE REGULAR MEETING OF THE DELL RAPIDS CITY COUNCIL  
ON Monday, April 19, 2010 AT 7:30 p.m.**

The meeting was called to order by Mayor Fiegen at 7:45 p.m. at the Dell Rapids City Council Chambers. The Pledge of Allegiance was recited and roll was taken finding the following Council Members present including: Mayor Scott Fiegen, Vice-President Carrie Probst, Mark Downs, Richard Woolf, Todd Wiebenga and John Paul. Absent: Doug Grovenburg, Carrie Testerman and President David Sommerfeld  
Staff Present: Administrator S.L. Martin, Finance Officer LeAnn Kerzman, Attorney Dean Hammer and Public Works Director Larry Schildhauer.

**Minutes** - Motion by Woolf to approve the minutes of the regular council meeting held on April 5, 2010. Second made by Wiebenga. Motion carried 5-0.

**Claims Approved:** Motion by Paul to approve the following claims as presented. Second by Wiebenga. Motion carried 5-0.

A-Tech Sewer Cleaning, vacuum lift station 1730.00; Archeology Lab, bike trail survey 1,094.64; Argus Leader, publishing/Career Bldr ad \$427.46; Avera, drug testing 101.00; Bierschbach Equip, gloves 12.00; Bryan Rock, ball diamond agg 794.64; Bunkers Oil, diesel 1700.30; Creative Forms, office supply 984.26; Dauby's Sports Center, 2 sets of bases 288.00; DR Community Ambulance, annual support \$40000.00; DR True Value, supplies \$306.25; Dells Electric, repair \$9483.00; Homestead Escrow, closing cost 548.00; Justice Fire & Safety, 27 extinguisher service 104.50; Lacey's Portables, 2 restrooms 140.00; LG Everist, gravel/quartzite 1995.78; Midwest Alarm, alarm loops 105.35; Midwest Asphalt, trucking 1650.00; One Call Systems, locates 18.08; PC Whizardz, backup restart 75.00; Schuneman Equip, belt/blade/plug/filter 325.97; SD Municipal League, District 3 meeting 90.00; Second Chance, animal control 205.84; Verizon Wireless, April telecommunications 190.95; Vogt, Brown, Merry & Hammer, April retainer 2000.00; Xcel Energy, street lights/electricity \$7046.19.

**Added or Increased Salaries:** The following positions have been added since the last council meeting: Department: Swimming Pool. Pool Manager – Andrea Petrik \$11.00/hour, Assistant Pool Manager – Lee Palmer \$10.00/hour.

**Resolutions and Ordinances: Second Reading of Ordinance #739** – An Ordinance regulating the operation of off-road vehicles. Hammer provided information regarding House Bill 1103 which allows cities to impose regulations regarding the use of golf carts on city streets. State Senator Dan Ahlers was also present to offer a recap to the council of the history behind the passage of House Bill 1103. Motion by Woolf to approve. Second by Probst. Roll call vote. Motion defeated 4-1 with Downs dissenting. Additional discussion ensued to clarify the exclusion of golf carts from the intent of the ordinance. Downs asked to change his vote upon the clarification. Motion carried 5-0.

**ORDINANCE NO. 739  
AN ORDINANCE OF THE CITY OF DELL RAPIDS, SOUTH DAKOTA, REGULATING  
THE OPERATION OF OFF-ROAD VEHICLES**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DELL RAPIDS, SOUTH DAKOTA PURSUANT TO ITS AUTHORITY UNDER SDCL § 32-20-12.1, THAT THE OPERATION OF OFF-ROAD VEHICLES IN THE CITY LIMITS SHALL BE REGULATED AS FOLLOWS:

**Section 1.** That Chapter 20 of the Revised Ordinances of the City of Dell Rapids, South Dakota, be amended by adding Article XVIII, to read as follows:

“ARTICLE XVIII. OFF ROAD VEHICLES

**Sec. 20-400. Definitions.**

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein:

**OFF-ROAD VEHICLES:** means any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all-terrain vehicles, dirt bikes, dune buggies, and any vehicle whose Manufacturer’s Statement of Origin (MSO) or Manufacturer’s Certificate of Origin (MCO) states that the vehicle is not for highway use. Off-road vehicle does not include a farm vehicle as defined in SDCL § 32-3-2.4. (Definition provided by SDCL § 32-20-1(4)).

**UTILITY:** means any provider of electric, gas, water, sewer, pipeline, or telecommunications service.

**NORMAL AGRICULTURAL OPERATION:** means operation of an off-road vehicle by a person engaged in a reasonably necessary agricultural related activity.

**Sec. 20-401. Regulations.**

**A. PROHIBITION**

Off-road vehicles shall not be operated in the City limits of the City of Dell Rapids unless licensed as a motorcycle to be used on a public highway pursuant to SDCL § 32-20-13 and provided that such vehicle is only operated on the paved portion of streets or highways within the City limits of Dell Rapids.

**B. EXCEPTIONS:**

This Ordinance does not prohibit off-road vehicles from being operated off the paved portion of streets or highways within the City limits of Dell Rapids:

1. While on private property with the owner’s permission;
2. While engaged in normal agricultural operations; or
3. While engaged in official maintenance activities for the City of Dell Rapids or any utility company.

**C. SIGNAGE**

The Public Works Director or his designee is responsible for posting and maintaining regulatory signs giving notice to the public or any restriction authorized by this Ordinance. Each regulatory sign shall be constructed according to the Manual on Uniform Traffic Control Devices and be posted in such a manner as to indicate to the public the nature and location of the restriction.

**Sec. 20-402. Violations**

In addition to any other penalty authorized by State law or City ordinance, each violation of this Ordinance subjects the individual to a fine of two hundred (\$200.00) dollars and/or imprisonment for a period not to exceed thirty (30) days.”

Dated at Dell Rapids, South Dakota this 19th day of April, 2010.

FOR THE GOVERNING BODY OF THE  
CITY OF DELL RAPIDS, SOUTH DAKOTA

By \_\_\_\_\_  
Scott Fiegen, Mayor

ATTEST:

By \_\_\_\_\_  
LeAnn Kerzman, Finance Officer

**Outdoor Event Permit** - Charlie Pleskac reported on his planned event of DQ Days for July 23-25, 2010. The event includes a planned performance by Kory and the Fireflies with a beer garden (malt license application to be heard separately on May 3, 2010) and outdoor movie night. Detail was provided about the activities, feedback from abutting property owners, letters of approval, cleanup and security. Additional request made to waive the \$100 application fee and allow an extension to the time limit from 11 p.m. to not exceed 2 a.m. Motion by Wiebenga to allow the permit without waiving the fee and to allow a time extension of one-half hour. Motion seconded by Paul. Motion defeated 4-1 by lack of a quorum with Wolf dissenting.

**Norby's Municipal Liquor Store** – Request from Manager Deb Brobjorg for the addition of a deck on the rear of the property. Discussion ensued regarding the concern of alcohol leaving the deck area. Brobjorg has been working with Building Inspector Angerhofer to insure the compliance with code. Motion by Downs to approve the design of the deck with a higher, tighter fencing option and a cost estimate given for the council's consideration. (Example used: 4 feet of railing with 2 feet on top of lattice on all sides of the area) Seconded by Probst. Motion carried 5-0.

**Silver Star Banner Day Proclamation-** Mayor Fiegen recognized the following Proclamation.

**City of Dell Rapids  
Proclamation  
Silver Star Banner Day**

**WHEREAS**, the City of Dell Rapids has always honored the sacrifice of the men and women in the Armed Forces; and

**WHEREAS**, The Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded and ill by designing and manufacturing a Silver Star Banner and Flag; and

**WHEREAS**, to date The Silver Star Families of America has freely given thousands of Silver Star Banners to the wounded and their families; and

**WHEREAS**, the members of The Silver Star Families of America have worked tirelessly to provide the wounded of this City and Country with Silver Star Banners, Flags and care packages; and

**WHEREAS**, The Silver Star Families of America's sole mission is that every time someone sees a Silver Star Banner in a window or a Silver Star Flag flying, that people remember the sacrifices for this City, State and Nation; and

**WHEREAS**, the people and Mayor of Dell Rapids wish that the sacrifice of so many in our Armed Forces never be forgotten;

**NOW THEREFORE**, I, Scott Fiegen, Mayor of the City of Dell Rapids, do hereby proclaim my appreciation of The Silver Star Families of America and honor their commitment to our wounded Armed Forces members. I hereby declare May 1<sup>st</sup> as "**SILVER STAR BANNER DAY**" the permanent and official day to honor the wounded and ill Soldiers of the City of Dell Rapids, the State of South Dakota, and the United States of America.

Dated at Dell Rapids, South Dakota this 19<sup>th</sup> day of April, 2010.

FOR THE GOVERNING BODY OF THE  
CITY OF DELL RAPIDS, SOUTH DAKOTA

By \_\_\_\_\_  
Scott Fiegen, Mayor

ATTEST:

By \_\_\_\_\_  
LeAnn Kerzman, Finance Officer

**Arbor Day Proclamation** – Motion by Probst to approve the Arbor Day Proclamation.

Seconded by Downs. Motion carried 5-0.

**City of Dell Rapids  
PROCLAMATION  
ARBOR DAY**

**WHEREAS**, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

**WHEREAS**, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

**WHEREAS**, Arbor Day is now observed throughout the nation and the world; and

**WHEREAS**, trees reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

**WHEREAS**, trees are a renewable resources giving us paper, wood for homes, fuel for our fires and countless other wood products; and

**WHEREAS**, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS**, trees, wherever they are planted, are a source of joy and spiritual renewal; and

**WHEREAS**, Dell Rapids has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree-planting practices.

**NOW, THEREFORE**, I, Scott Fiegen, Mayor of the City of Dell Rapids, do hereby proclaim Friday, April 30, 2010, as: **Arbor Day**

Dated at Dell Rapids, South Dakota this 19th day of April, 2010.

FOR THE GOVERNING BODY OF THE  
CITY OF DELL RAPIDS, SOUTH DAKOTA

By \_\_\_\_\_  
Scott Fiegen, Mayor

ATTEST:

By \_\_\_\_\_  
LeAnn Kerzman, Finance Officer

**Resolution 04-19-10-13, SD Recreational Trails Program Grant** – Motion by Probst to approve the Resolution. Second by Downs. Motion carried 5-0.

**CITY OF DELL RAPIDS  
RESOLUTION #04-19-10-13**

**Support of South Dakota Recreational Trails Program Grant Application**

**WHEREAS**, the City of Dell Rapids supports the development and expansion of outdoor recreational opportunities within the community;

**WHEREAS**, the Dell Rapids Trailway Committee and the City have developed a plan for a bicycle and pedestrian trail as desired by our residents; and

**WHEREAS**, the community is proud of our park facilities and will provide for the future maintenance, upkeep, and expansion of our facilities and trails; and

**WHEREAS**, the City Council desires funding assistance from the Recreational Trails Grant Program of the South Dakota Division of Parks and Recreation.

**NOW, THEREFORE, BE IT RESOLVED** that the Dell Rapids City Council hereby supports and authorizes the filing of an application, including all understandings and assurances contained therein, for the Recreational Trails Grant Program, and directs the City Administrator to provide such additional information as may be required by the State of South Dakota.

Dated at Dell Rapids, South Dakota this 19th day of April, 2010.

FOR THE GOVERNING BODY OF THE  
CITY OF DELL RAPIDS, SOUTH DAKOTA

By \_\_\_\_\_  
Scott Fiegen, Mayor

ATTEST:

By \_\_\_\_\_  
LeAnn Kerzman, Finance Officer

**Building Inspector/Code Enforcement Officer job position** – Discussion was held regarding the job duties and time requirements for the job position. Martin reported that an advertisement has been placed for the position on a part-time basis.

**Public Input** – Gene Baumberger was present to inform the council of his drainage problems in the 100 block of E 8<sup>th</sup> Street. He reported that after completion of the new medical clinic and parking lot he noticed an increase in rainwater runoff which has caused significant erosion of dirt around his evergreen trees on the west side of his property. Mr. Baumberger had plans from a landscaper to install approximately 400 feet of underground 15 inch PVC pipe from the north

end of his property and then under 8<sup>th</sup> Street through Travis Merry and Wayne Mitchell properties and then emptying into the culvert on 7<sup>th</sup> Street for an estimated cost of \$16,000. Another option was to replace the dirt under Mr. Baumberger's trees, cover it with fabric and add a rock overlay to prevent further erosion. The council discussed both proposals and agreed the second option appears to be the most cost effective solution and suggested he proceed with the involved parties and continue to monitor the storm water drainage.

**City Administrators Report** – Martin reported on the following:

- A sales tax revenue report was given to the council to review.
- Joint meeting with the Minnehaha County Commissioners on April 27 at 9 a.m. for the review of the Joint Zoning Ordinance.
- 2008 Audit has been approved by Department of Legislative Audit.
- Request for mud volleyball has been again received. The council gave direction regarding possible location.
- Street budget dollars for capital expenses has been appropriated to the 15<sup>th</sup> street engineering costs. Direction was given for Schildhauer to pursue his planned street repair project as well.
- Lift station punch list items are being completed such as seeding and control.
- Land exchange has been completed. The city owns the expanded rubble site location and the peninsula park properties.

**Treasurers Report** – A recap of all income and expenses since the last meeting were presented to the council for their review.

**Claims Approved for Payment by Other Municipal Boards** – Library Board Claims: Gale Group, books 384.64; Ingram Library Svcs, books 24.24; Landmark Audio Books, books 636.00; Learning Opportunities, books 1934.41; MicroMarketing, DVD's 104.45; Popular Subscription Service, magazine subscriptions 1483.44.

Motion by Wiebenga to adjourn the meeting at 9:32 p.m. Second by Woolf. Motion carried 5-0. Meeting adjourned.

Scott Fiegen, Mayor

LeAnn Kerzman, Finance Officer