

**DELL RAPIDS CITY COUNCIL MINUTES**  
**Monday, November 7, 2011 at 7:30 p.m.**

Mayor Fiegen called the Dell Rapids City Council meeting to order at 7:30 p.m. at the Council Chambers in City Hall. The Pledge of Allegiance was recited and roll was taken finding the following Council Members present: Keith DeLange, Mark Downs, David Sommerfeld, Carrie Testerman, Vice-President Todd Wiebenga and Mayor Scott Fiegen. Absent: Carrie Probst, Doug Grovenburg and John Paul.  
Staff Present: City Administrator, Justin Weiland, Finance Officer, LeAnn Kerzman and City Attorney, Dean Hammer.

**Approval of Agenda:** Downs moved and Sommerfeld seconded the approval of the agenda. Motion carried unanimously.

**Minutes:** Testerman moved and Downs seconded to approve the minutes of the regular council meeting held on October 17, 2011. Motion carried unanimously.

**Claims Approved:** Downs moved and Wiebenga seconded to approve the following claims as presented. Motion carried unanimously.

A-Ox Welding, supplies 21.08; Ace Hardware, supplies 56.25; Argus Leader, publishing 329.70; Buskerud Construction, Rec Trail #9 102,880.18; City of Dell Rapids, reimburse library building fund 9,384.56; City of Sioux Falls, water testing 160.88; Claritus, seal-it solution 37.95; Concrete Materials, asphalt 794.20; Construction Signing Corp, road striping 775.20; Creative Forms & Concepts, paper supply 107.82; Dakota Pump, alternator 285.00; Dakota Supply Group, water supply 373.21; DakotaCare, insurance 5867.52; DR Fire & Rescue, travel reimbursement 1432.22; Dell Electric, wheelchair lift repair 75.94; Delta Dental, insurance 625.60; DGR, engineering 37,113.10; Don's Painting & Tree Service, tree topping 1000.00; GeoTek, testing 5363.00; Golden West, telecommunications 637.07; Gruis, Ben, clothing allowance/travel reimbursement 281.60; HD Supply Waterworks, water parts 3969.85; Hoffman Sanitation, trash hauling 60.00; Hoogendoorn Construction, fire station #11 1252.42; ICAP, July & Sept transit 6451.71; Interstate All Battery Center, 2 batteries 39.98; Kerzman, LeAnn, travel reimbursement 85.68; Lacey's, 5 restroom rentals 300.00; Maximum Promotions, 3 flags 126.92; MidAmerican Energy, natural gas 34.65; Midwest Alarm, alarm loops 105.35; Minnehaha Community Water, shop water 9278.92; Minnehaha County Sheriff, law enforcement 56,468.00; RDO Equipment, motor grader repair 4631.99; Roemen's Automotive, oil change/rotate tires 50.25; Sam's Club Discover, Property Maintenance books 66.00; Sanitation Products, sweeper parts 72.58; Schuch, David, clothing allowance 200.00; SDML, election school registration 40.00; SD Office Furnishings, lottery machine supplies 137.35; SD Public Health Lab, water testing 270.00; Sioux Falls Humane Society, Sept animal control 471.75; Steve Bunkers Construction, dig rubble site hole 11,058.18; Verizon, Oct cell bill 112.14; Weiland, Justin, ICMA travel reimbursement 121.90; SDRS, Oct retirement 4516.70; SD Unemployment Insurance, 52.32; USPS, Oct mailing 510.46; Winter Brothers Underground, 15<sup>th</sup> St #5 307,217.04; Xcel Energy, street lights 405.89.

**Added or Increased Salaries:** The following positions have been added or increased since the last council meeting: Department: Library: New hire, Glen Kruger, as full-time permanent Library Assistant at a rate of \$9 per hour. Public Works: David Schuch 2% annual wage review increase from \$15.01 per hour to \$15.31 per hour. Code Enforcement/Building Inspector: Ben Gruis 2% annual wage review from \$15.81 per hour to \$16.13 per hour.

**Public Hearing and Second Reading of Revised Zoning Ordinances - #750:** Testerman moved to approve the second reading as presented. Motion seconded by Wiebenga. Roll call vote: DeLange-Aye, Downs-Aye, Sommerfeld-Aye, Testerman-Aye and Wiebenga-Aye. Reading passed unanimously.

ORDINANCE NO. 750

AN ORDINANCE ADOPTING THE 2011 REVISED ZONING REGULATIONS FOR THE CITY OF DELL RAPIDS, SOUTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELL RAPIDS, MINNEHAHA COUNTY, SOUTH DAKOTA:

**Section 1:** That this Ordinance rescinds Ordinance No. 369 and adopts the zoning regulations, as set forth in the attached document titled 2011 Revised Zoning Ordinance of the City of Dell Rapids; provides restrictions, district boundaries and zoning map; provides for the administration, enforcement and amendment of this Ordinance; and repeals any other ordinance or parts thereof in conflict with this Ordinance.

Dated this 7<sup>th</sup> day of November, 2011.

/s/ Scott Fiegen  
Mayor

ATTEST:

/s/ LeAnn Kerzman  
Finance Officer

CERTIFICATE

The undersigned, being the duly qualified and acting Finance Officer of the City of Dell Rapids, South Dakota, hereby certifies that the above Ordinance is a true and correct copy of the Ordinance as adopted by the City Council on November 7, 2011.

WITNESS my hand officially as such Finance Officer and seal this 7<sup>th</sup> day of November, 2011.

/s/ LeAnn Kerzman  
Finance Officer

**First Reading of Ordinance #752 – Amending Additional On-Sale Beverage License Sec. 4-15:** Update to the number of on-sale liquor license that are allowed based upon the updated census information to four plus the grandfathered former class “Q” license for the Old Dutch Inn. Downs moved and Sommerfeld seconded to approve the first reading. Motion carried unanimously.

**First Reading of Ordinance #753 – Supplemental Budget Appropriation:** Kerzman stated that current budget versus expenses are supplied with the claims packet for the council to review. Weiland stated that the supplement also includes a request from the Dell Rapids Development Company for \$11,000.00 to be off-set by gross receipts sales tax revenues. Downs moved and Testerman seconded approving the first reading of the supplemental budget appropriation. Motion carried unanimously.

**First Reading of Ordinance #754 – Water Rate Increase:** Minnehaha Community Water has informed the city that there will be a rate increase for bulk water beginning with water used during January of 2012. With this increase expected and the cost of inflation an increase to the base rate from \$9.16 to \$9.88 with usage per 1000 gallons to increase from \$4.18 to \$4.26. The

average user is estimated at 5000 gallons or an increase from \$30.06 to \$31.18 per month for an increase of \$1.12. Sommerfeld moved and Wiebenga seconded to approve the first reading. Motion carried unanimously.

**First Reading of Ordinance #755 – Wastewater Rate Increase:** Rates have also been reviewed for wastewater services. Weiland stated that future projects such as the remainder of 15<sup>th</sup> Street, removing service from Garfield Ave bridge with trenching through the river, lagoon expansion and service line replacement, will all need to be funded through the water and wastewater funds and our rates need to reflect sufficient revenue to accomplish the projects. The increase to wastewater was presented as a change in the base rate from \$13.12 to \$13.78 and an increase in the amount per 1000 gallons used from \$3.73 to \$3.92. Amount of change for the average user of 5000 gallons would be from \$31.77 per month to \$33.38 or a difference of \$1.61. Wiebenga moved and DeLange seconded to approve the first reading. Motion carried unanimously.

**Resolution #2011-14 – Fund Balance as defined by GASB 54:** Governmental Accounting Standards Board has issued statement 54 with the intent of improving financial reporting by providing fund balance classifications that will be more easily understood. The new classifications reflect an approach that focuses, not on financial resources available for appropriations within a fund, but on the extent to which amounts in the fund can be spent. The changes would take effect with the 2011 annual reporting. Downs moved and Sommerfeld seconded to approve Resolution #2011-14. Motion carried unanimously.

**RESOLUTION #2011-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELL RAPIDS CLASSIFYING THE VARIOUS COMPONENTS OF FUND BALANCE AS DEFINED IN GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT (GASB) NO. 54**

**WHEREAS**, the Governmental Accounting Standards Board (GASB) has issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions* with the intent of improving financial reporting by providing fund balance classifications that will be more easily understood; and,

**WHEREAS**, the new classifications reflect an approach that focuses, not on financial resources available for appropriations within a fund, but on the extent to which amounts in the fund can be spent; and

**WHEREAS**, the classification and reporting of fund balance components as required by Governmental Accounting Standards Board Statement No. 54 will become effective starting with the 2011 fiscal year reporting.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Dell Rapids does hereby adopt the Governmental Accounting Standards Board (GASB) Statement NO. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, and direct the Finance Officer to prepare financial reports which accurately categorize fund balance and provide other disclosures as required by the Statement.

Dated at Dell Rapids, South Dakota this 7<sup>th</sup> day of November, 2011.

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

By: /s/ Scott Fiegen, Mayor

ATTEST:

By: /s/ LeAnn Kerzman, Finance Officer

**Resolution #2011-15 – Cancellation of Lease Purchase Option for Fire and Rescue Facility:**

A previous resolution was passed by the council to enter into a lease purchase agreement to fund the cost of the Fire and Rescue Facility. The facility has been constructed using cash fund

reserves. The intent is to reverse the council's previous resolution. Testerman moved and Wiebenga seconded to approve the cancelation of a fire station lease agreement. Motion carried unanimously.

**Resolution 2011-15**  
RESOLUTION CANCELLING LEASE-PURCHASE AGREEMENT FOR  
FIRE STATION FACILITY

WHEREAS, the City Council of the City of Dell Rapids, South Dakota, adopted Resolution 05-03-10-14, on the 3<sup>rd</sup> day of May, 2010, which approved financing to construct a fire station facility on real property described as: Lot 1 of the Plat of Lots 1 and 2 in Edenburn's Addition to the City of Dell Rapids, Minnehaha County, South Dakota, (located in the N½SW¼, Sec. 9, - T104N - R49W), according to the recorded plat thereof, except the West 225 Feet of Lot 1.

WHEREAS, pursuant to said Resolution, the First National Bank in Sioux Falls, Sioux Falls, South Dakota (the "Trustee") executed a Ground Lease and Easement Agreement between the City and the Trustee (the "Ground Lease") where the Trustee agreed to acquire certain interests in real property (including the Land, and the Facilities financed hereunder) from the City, and the Trustee agreed to lease its interest in the Land and agreed to lease and sell the Facilities to be acquired, constructed and equipped thereon to the City pursuant to a Lease-Purchase Agreement between the Trustee and the City (the "Lease").

WHEREAS, pursuant to said Resolution, the Trustee was directed to execute and deliver a Declaration of Trust (the "Trust Agreement"), joined in by the City, where the Trustee would (i) issue Certificates of Participation (the "Certificates") in the lease payments to be made by the City under the Lease and (ii) receive, hold and invest the proceeds of the sale of the Certificates and disburse such proceeds to pay construction costs and costs of issuance and to fund a debt service reserve account.

WHEREAS, pursuant to said Resolution, the Mayor and Finance Officer were authorized to approve the execution and delivery of the Lease and the Certificates, in a principal amount not to exceed the amount necessary to pay construction costs in an amount not exceeding \$1,715,000, fund a reserve account and pay costs of issuance (including underwriter's discount not exceeding 2.00% of par and any original issue discount (not exceeding 2.00% of par), the Certificates to bear interest at a rate or rates per annum resulting in an average yield not greater than 6.90% per annum and to mature over a period not to exceed 20 years.

WHEREAS, pursuant to said Resolution, the Mayor and Finance Officer were directed to enter into, approve and execute a Certificate Purchase Agreement with the Purchaser whereby the Purchaser would agree to purchase the Certificates and such other instruments as may be required to give effect to the transactions therein contemplated.

WHEREAS, pursuant to said Resolution, the City agreed to pledge, on an annual basis, the revenues generated by the collection of the Sales Tax to the payment of the lease payments to be made by the City under the Lease so long as the Lease was in force and any Certificates were Outstanding.

WHEREAS, pursuant to said Resolution, Dougherty & Company LLC (the "Purchaser") was retained by the City to underwrite the Certificates and the law firm of Davenport, Evans, Hurwitz & Smith, L.L.P., of Sioux Falls, South Dakota, was appointed as bond counsel and disclosure counsel for purposes of this issue of Certificates.

WHEREAS, the City has determined that it has sufficient reserves to pay for said improvements without using funds from said Lease-Purchase Agreement.

WHEREAS, the Trustee, First National Bank in Sioux Falls, Sioux Falls, South Dakota, and the Purchaser, Dougherty & Company LLC, have agreed to release the City of Dell Rapids from all obligations under said Lease-Purchase Agreement and Certificate Purchase Agreement if the City will pay \$5,950.00 to the law firm of Davenport, Evans, Hurwitz & Smith, L.L.P., of Sioux Falls, South Dakota, for legal fees incurred as bond counsel for said Trustee.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Dell Rapids, South Dakota, that the construction financing for said fire station facility through said Lease-Purchase Agreement and Certificate Purchase Agreement and all related documents, instruments and agreements, is hereby cancelled, repealed and revoked.

Adopted this 7th day of November, 2011.

/s/ Scott Fiegen  
Scott Fiegen, Mayor

ATTEST:

/s/ LeAnn Kerman  
LeAnn Kerzman, Finance Officer

**Visitors to be heard:** Gary Thompson expressed to the council that he felt the billing he received of \$175.00 for a stop sign post replacement, was more than he thought it should be. Kerzman and Weiland had both had conversations with Mr. Thompson to explain the charges and did so again for the council's information.

**Proclamation – Allen B. Brown Appreciation Day:** Mayor Scott Fiegen read the following proclamation:

**MAYOR'S PROCLAMATION  
ALLEN B. BROWN APPRECIATION DAY**

The citizens of Dell Rapids and the inhabitants of the surrounding area desire that a special day of recognition be set aside for Allen B. Brown, in appreciation of his 50 years of dedicated legal service to our community.

It is appropriate, therefore, that Sunday, November 13, 2011, be designated as Allen B. Brown Appreciation Day in the City of Dell Rapids and that a special day of celebration be set aside for the citizens of the Dell Rapids area in order that they may acknowledge appreciation of the faithful years of legal service given to the community by Allen B. Brown.

NOW, THEREFORE, I, Scott Fiegen, Mayor of the City of Dell Rapids, South Dakota, do hereby proclaim November 13, 2011, as Allen B. Brown Appreciation Day in Dell Rapids, South Dakota, and call upon all citizens of the community to join in its observance.

Dated at the City of Dell Rapids, South Dakota, this 7th day of November, 2011.

SCOTT FIEGEN  
Mayor of the City of Dell Rapids, South Dakota

**Board of Adjustment – Variance Application for Roger and Vickie Schmidt:** Mayor Fiegen declared the council to be sitting as the Board of Adjustment at 7:43 p.m. Roger and Vickie Schmidt were present to request a variance for their property located at 602 Prairie View Circle. Request was for a 17 foot 6 inch setback from rear property line in lieu of the 25 foot rear yard setback required per ordinance for a variance of 7 feet 6 inches for the purpose of enclosing and finishing a covered deck, which work had already been completed without obtaining a building permit from the City. Local contractors, Scott Crisp and Mark Crisp, urged the council to allow the variance. Administrator Weiland recommended the council deny the request because the variance is in direct violation of the city's zoning ordinances and does not meet the conditions of special circumstance or hardship for the property owners. Downs moved to approve the variance because there wasn't an alteration of the size of the original structure; it doesn't obstruct the view of other homes; no neighboring property owners objected to the setback violation and the rear yard abuts a commercial property. Wiebenga seconded the motion. Motion carried unanimously. The Board of Adjustment reconvened as the Dell Rapids City Council at 8:06 p.m.

**Final Plat – Ripple Creek Road Addition:** Weiland recommended the council approve the final plat of Ripple Creek Road contingent upon the completion of a mini Assurance Agreement

with DIG developers for the future completion of the roadway with a connection to 12<sup>th</sup> Street. Mark Crisp was present to represent DIG and affirmed their willingness to sign such an agreement as long as they were not given a specific deadline to complete Ripple Creek Road. They would like to complete the street as the lots sell and not prior. Downs moved and Testerman seconded to approve the final plat and contingent upon the agreement execution. Motion carried unanimously.

**Public Hearing – State Revolving Loan Fund for the Acquisition of Automatic Reading Water Meter System:** Janice Graving of South East Council of Governments (SECOG) was present and informed the council that an application has been submitted to request a \$300,000 Drinking Water loan at an interest rate of 2.25% for a ten (10) year term. The project will replace water meters that are old and in need of replacement with a radio read meter. This will allow a time savings of man hours from reading meters and allow leak detection to happen immediately. Trent Bruce, engineer from DeWild, Grant, Reckert and Associates was also present. No comments or questions were forthcoming.

**15<sup>th</sup> Street Reconstruction – Pay Request #6, Winter Brothers Underground:** Trent Bruce presented pay request #6 in the amount of \$307,217.04 which includes work completed through October 31, 2011. This is the final payment less the retainage of \$140,989.43. Downs moved and DeLange seconded to approve pay request #6 in the amount of \$307,217.04. Motion carried unanimously.

**Sioux River Red Rock Trail – Pay Request #9, Buskerud Construction \$102,880.18:** Trent Bruce also presented pay request #9 for Buskerud Construction for work through October 15, 2011. Retainage is held in the amount of \$49,653.29 for final completion. Downs moved and Wiebenga seconded approving payment of pay request #9 in the amount of \$102,880.18. Motion carried unanimously.

**Fire & Rescue Station – Pay Request #11, Hoogendoorn Construction \$1,252.42:** Weiland informed the council that the pay request #11 is for final quantities relating to dirt work and landscaping. Retainage is held in the amount of \$71,351.68. Downs moved and Sommerfeld seconded approving payment of pay request #11 in the amount of \$1,252.42. Motion carried unanimously.

**Council Resignation – Ward Three:** Mayor Fiegen regretfully stated that he had received a letter of resignation from President Carrie Probst for Ward Three due to her move out of town. Sommerfeld moved and Downs seconded to accept her resignation. Motion carried unanimously.

**Election of Officers:** Due to the acceptance of Probst resignation from Ward 3, Mayor Fiegen opened the floor for nominations for council President. DeLange moved to appoint Vice President Wiebenga. Downs seconded. Motion carried unanimously. Fiegen opened the floor for appointments to the now vacant position of Vice President. Wiebenga moved to appoint DeLange. Downs seconded. Motion carried unanimously.

**Appointment – Ward Three:** Mayor Fiegen recommended the appointment of Craig Lauritzen to replace the seat vacated by Probst. Wiebenga moved and Downs seconded to approve the appointment. Motion carried unanimously. Lauritzen will be required to release his seat on the Planning and Zoning Board and Mayor Fiegen will make an appointment to that board for his replacement.

**Hammerhead Intergovernmental Agreement:** City Attorney Hammer presented the draft revisions of the Hammerhead Agreement submitted by the Dell Rapids School Board. The School made slight changes to the Agreement to allow extra time for completion due to weather related delays, it added a clause regarding enforcement of no parking for school drop-offs and pick-ups, established a meeting in June, 2012, with Representatives of City and School District to evaluate the vehicle traffic use in the hammerheads, and also clarified the boulevard width on the hammerhead plats. Testerman moved and DeLange seconded to approve the Hammerhead Agreement as amended by the Dell Rapids School Board. Motion carried unanimously with Wiebenga abstaining.

**Snow Removal Services – Buskerud Construction:** Buskerud Construction has submitted their contract rates for the 2011-2012 snow removal season at the request of administration. Weiland recommended approving the contract. Sommerfeld moved and Downs seconded approving the contract as submitted. Motion carried unanimously.

**Holiday Leave Decision – Day after Thanksgiving:** Weiland requested the council's view on the day after Thanksgiving as a holiday. Ten (10) holidays are already listed in the personnel manual and the council feels that is sufficient. If the governor declares a holiday, the day can be taken.

**Library Assistance – Full-time hire:** Library Director, Deb Huska, has recommended the hiring of Glen Kruger for the full-time position at a rate of \$9.00 per hour. Testerman moved and Downs seconded to approve the recommendation. Motion carried unanimously.

**City Administrators Report:** Justin Weiland reported on the following:

- Annual performance reviews were conducted for Ben Gruis and Dave Schuch with administrator recommendation of each receiving an increase of 2%.
- Garfield Avenue Bridge Replacement meeting was held on Tuesday, October 18 at 1 p.m. with a positive response from SDDOT representative, Ron Bren. Two million replacement will be funded at the 80/20 split. The city will be responsible for lighting and decorative additions such as the valance, trail connections and anything other than taking the bridge back to grade. Approximate expense to the city of \$500,000 to \$600,000.
- A cost comparison has been conducted regarding printing and mailing our own statements compared to outsourcing. A time and cost savings can be seen by utilizing a mailing vendor's services.

**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: Argus Leader, publish job opening 29.48; Book Systems, binding supply 62.72; Cardmember Services, travel expenses 511.55; Center Point, 3 books 79.09; Denny’s Electric, 15 light bulbs 81.75; Ecowater, rent/1 bottle 16.45; Gale, books, 419.58; GeoTek, soil borings 2654.00; GoldenWest, telecommunications 170.43; Holiday Inn, Spearfish conference 163.90; Ingram, books 167.38; Kid’s Reference Company, book set 48.47; Landmark Audiobooks, semi-annual lease 636.00; Michael Frederick, books 50.00; MicroMarketing, books 126.88; MidAmerican Energy, natural gas 23.98; Sam’s Club Discover, books & DVD’s 334.18.

Downs moved and Sommerfeld seconded to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 9:32 p.m.

LeAnn Kerzman  
Finance Officer