

City of Gary, South Dakota
Regular Council Meeting –
Monday, August 3, 2020 at 7:30 p.m. at Gary City Hall

The Gary City Council met in a regular session on Monday, August 3, 2020, at 7:30 p.m. in the City Hall. Aldermen Albert Bekaert, Clark Dessler, John Jenson, Joni Kjelden, and Darwyn Engesser were present. David Peterson was absent. Mayor Jeff Engesser presided. Present also were Angel Oeltjenbruns, Mary Nosbush, Sara Guest, Del Hutchins, Marilyn Koeppen, Bob Kloos, Melinda Jensen, Tanner Troska, David Vogt, Claudette Bagan, Jay Gislason, Joey Gislason, Carol Stebor, Carol Barger, Cory Borg, Jennifer Pederson, Jay Grabow, Jason Anderson, Mike Nosbush and Shirley Pederson.

The pledge of allegiance was said.

There was one change to the agenda. #19. Special Temporary Malt Beverage License for the Alibi, LLC for August 14 & 15, 2020. This was approved at the July meeting so was deleted. Motion by Darwyn Engesser, second by Dessler to approve the amended agenda. All members voted aye, motion carried.

Motion by Bekaert, second by Jenson to approve the minutes of the July 6, 2020 regular meeting. All members voted aye, motion carried.

GENERAL-JULY 2020 BILLS

Finance Office-1,805.61;Librarian-580.00;Streets/Parks-5,485.36;Water-1,068.48;Sewer-1.068.48;Rubble-Site-74.88;Cemetery-272.00;AFLAC-Premium-324.08;Auto Repairs West-used tire-55.00;Bjerke Sanitation-garbage collection-1,635.85;Brookings-Deuel Rural Water-890,000 gallons-2,143.00;City of Gary-water/fire hall-23.62;Clear Lake Courier-city notices/proceedings-120.08;Deuel Co. Auditor-Law enforcement-499.80;DCFU-monthly fuel charges-445.38;EFTPS/FWT 941 Tax-FWT Bar-441.23,City-1,088.07=1,529.30;EFTPS/OASI/SS/MT-OASI-Bar-1,111.84,City-1,666.70=2,778.54;Gary Post Office-stamps-90.00,annual box rent-120.00=210.00;Gate City General-supplies-46.95;HD Electric-Cemetery electricity-36.50;ITC-phone, internet,fax,alarm loop-85.53,Library-DSL,Static IP-46.45;Humana-health insurance-106.00;McGuire Iron-clean water tower-1,950.00;Mike Nosbush-cell phone reimbursement-25.00;Office of Child Support-garnishment-200.00;Ottertail Power Co.-Electricity-932.81;Secretary of State-cemetery annual report-10.00;SD Dept of Health-coliform test-15.00;SD One Call-April-June message fee-13.65;SD Retirement-Bar-917.90,City-1,282.18=2,200.08;Star Laundry-Uniforms-76.20;Sturdevants-tail light-5.91;Thomson West-SD Codified Laws update-38.92;Wellmark BCBS-Insurance-7,864.56.

LIQUOR-JULY 2020 BILLS

Municipal Liquor-9,577.80;AFLAC-Premium-403.95;Chesterman-Pop-1,000.93;City of Gary-water,sewer,garbage-167.29;Culligan-monthly service-26.25;Dan's Refrigeration-pre-payment on walk-in cooler-14,000.00;Ellwein Bros.-Beer-8,010.40;Gary Post Office-stamps-55.00;Gate City General-supplies/food-223.34;Harry's Frozen Foods-pizza-284.00;Henry's Foods-Cigarettes, food, supplies-2,602.58;ITC-Phone,DSL,TV-250.58;Johnson Bros.-Liquor,wine,wine coolers-1,986.25;Menards-supplies-54.96;Nosbush Plbg & Htg-install A/D at bar-7,142.87;Office Peeps-supplies-142.52;Old Dutch Foods-Chips-46.48;Ottertail-Electricity-702.79;Pizza & Burger Shack-pizza-306.00;Porter Dist. Co.-Beer, wine coolers-1,269.40;RNDC-Liquor, wine/wine coolers-853.35;SD Dept of Revenue-liquor tax-3,117.03;South Dakota Lottery-2021 license renewal-100.00;Southern Glaziers of SD-liquor-859.00;Star Laundry-towels, rugs-59.79;Technicolor Screen Printing-shirts-8,034.08.

Motion by Kjelden, second by Jenson to approve the verified claims and issue warrants in payment thereof. All members voted aye, motion carried.

There was no public voice at this time.

Employee, committee, and ward reports were heard.

A public hearing was held for Jay Gislason requesting a conditional use permit to have a private shooting range on his property, Lot 2 of Lewis Addition. Several guests voiced their concerns about the noise. Jay spoke to the room and assured them he would do his best to muffle any noise. He also stated he would only use it to test firearms he repairs or builds, he would only test them during daylight hours Monday through Friday (no evenings or weekends),

and it would only be done on Lot 2 in Lewis Addition. He also stated if it became a problem for anybody, they should come and talk to him. With these conditions, motion was made by Bekaert, second by Dessler to approve the conditional use permit. All members voted aye, motion carried.

Motion by Darwyn Engesser, second by Dessler to approve a special temporary liquor license for August 22 & 23(until 1 a.m.), 2020, September 12 & 13(until 1:00 a.m.), 2020, September 19 & 20(until 1 a.m.), 2020, October 24 & 25(until 1 a.m.), 2020, and November 21 & 22(until 1:00 a.m.), 2020 for the American Legion Ballroom (Matt Spilde) at E 23' of Lot 11 and all of Lots 12, 13, 14 in Block 1 of Original Plat, Gary, SD. On-sale only. All members voted aye, motion carried.

Second reading of Ordinance 368 was held. Motion by Bekaert, second by Jenson to adopt the following Ordinance 368:

ORDINANCE NO. 368

AN ORDINANCE FOR THE ADOPTION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE BOOK

An Ordinance of the City of Gary adopting the 2018 edition of the International Property Maintenance Code, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the demolition of such existing structures in the City of Gary; providing for the issuance of permits and collection of fees therefore; repealing any other public nuisance ordinance and parts of any other ordinance in conflict therewith.

The City Council of the City of Gary does ordain as follows:

Section 1. That a certain document, one of which is on file in the City Finance Office at the City of Gary, being marked and designated as the *International Property Maintenance Code*, 2018 edition, as published by the International Code council, be and is hereby adopted as the Property Maintenance Code of the City of Gary, in the State of South Dakota for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the City Finance Office are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

Section 101.1 Insert: City of Gary

Section 103.5 Revised: The fees for building permits, activities and services performed by the department in carrying out its responsibilities under this code shall be as established by ordinance of the City Council.

In addition, an administrative fee of \$250 may be assessed for the preparation of bids and contracts to correct or abate a violation.

Section 111.2 Revised: The board of appeals shall consist of not less than three members of the Gary City Council.

Section 302.4 Insert: six (6) inches

Section 304.14 Remove

Section 602.3 Revised: change specific dates to "when necessary"

Section 602.4 Revised: change specific dates to "when necessary"

Section 3. This ordinance will be in addition to any ordinances currently on file in the City Finance Office at the City of Gary.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Gary City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy or any character be lost, impaired or affected by this ordinance.

Section 6. That the Gary City Finance Officer is hereby ordered and directed to cause this ordinance to be published.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect twenty (20) days from and after the date of its publication.

Alderman Bekaert
Alderman Dessler
Alderman Peterson
Alderman Jenson
Alderwoman Kjelden
Alderman Darwyn Engesser

First Reading: July 6, 2020
Second Reading: August 3, 2020
Adopted: August 3, 2020
Published: August 12, 2020
Effective: September 1, 2020

All members voted aye, motion carried.

Jennifer Pederson, representing the Gary Community Club, was present to request funding for next year firework's display. Motion by Dessler, second by Jenson to approve. All members voted aye, motion carried.

David Vogt was present to give an update on re-classifying his property at 17805 488th Ave. His concern is his property is in the city limits, but he is getting no city services and yet he is paying city taxes and is having to abide by city ordinances. Since his property has a structure on it he is not able to re-classify to a rural service district. His only option is to have the property de-annexed from the city. There will be a public hearing held at the September 7th council meeting regarding the de-annexation of this property.

Melinda Jenson was present to talk about the Tour De Kids Marathon being held on Friday, August 14th. The race will start at St. Peter's Catholic Church, registration from 6-6:30 p.m. Race will begin at 6:30. Watch for flyers!

Sealed bids were opened for the asphalt overlay on certain streets in town. Bids were received from Fuller Paving in the amount of \$128/ton, Duininck in the amount of \$139/ton, and Bituminous Paving in the amount of \$136/ton. Motion by Darwyn Engesser, second by Dessler to go with the bid of Fuller Paving and to change the amount of 1200 tons to around 800 tons. All members voted aye, motion carried.

In order to apply for any COVID related reimbursements the City has to adopt a resolution, have the Mayor sign a COVID Recovery Fund Reimbursement Agreement, and complete a Risk Assessment Questionnaire. Motion by Bekaert, second by Kjelden to adopt the following Resolution 2020-06 and have the Mayor sign the agreement and fill out the risk assessment form.

**City of Gary, South Dakota Resolution Number 2020-06
A RESOLUTION AUTHORIZING THE EXECUTION OF
CONTRACTUAL DOCUMENTS WITH THE STATE OF
SOUTH DAKOTA FOR THE RECIEPT 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 Gary 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 Gary 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 Gary seeks funding to reimburse eligible expenditures incurred due to the public health emergency with respect to COVID-19; and

WHEREAS, the City of Gary 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 Gary most recently approved as of March 27, 2020; and

WHEREAS, the City of Gary 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 Gary that the Mayor of Gary may execute any and all documents as required by the State in order to receive CARES Act funds.

It is 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.

It is 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 3rd day of August, 2020.

Mayor
City of Gary, South Dakota

ATTEST:

Finance Officer
City of Gary, South Dakota

All members voted aye, motion carried.

The current firearms discharge ordinance was discussed. Motion was made by Dessler, second by Jenson to add verbage to the ordinance reflecting that the ordinance does not apply to approved gun ranges. All members voted aye, motion carried.

Tanner Troska, representing the Gary Fire Department, was present to request permission to use City property at the baseball field to hold a tractor pull on August 22nd. Motion by Bekaert, second by Jenson to approve. All members voted aye, motion carried.

The Fire Department also requested a special temporary malt beverage license for the event. Motion by Jenson, second by Bekaert to approve. All members voted aye, motion carried. This event has since been canceled, so all motions and seconds are null and void.

First reading of the 2021 Appropriation Ordinance #369 was held.

A letter was received from the South Dakota State Library stating that in order for the Gary Library to be recognized by the state it should be open at least 15 hours per week and it should include some evening hours. After discussion, motion was made by Dessler, second by Darwyn Engesser to draft a letter to the State Library requesting that our library be dropped from having an official public library status and just calling it a City Library. All members voted aye, motion carried.

Motion by Darwyn Engesser second by Dessler to renew the video lottery license for 2021 in the amount of \$100. All members voted aye, motion carried.

Motion by Bekaert, second by Jenson to order a summer fill from DCFU @ .99/gallon and to roll over the city's remaining contract dollars towards the propane contract for 2021 @ 1.17/gallon. All members voted aye, motion carried.

The annual 5K run this year will go to the family of Cheree Tongen and will be held on August 29, 2020. Registration will start at 8:30 a.m. with the run beginning at 10:00 a.m. Motion by Dessler, second by Jenson for the city to furnish a light lunch following the 5K. Motion by Dessler, second by Jenson was also made to hire a part time cleaning person for the liquor to clean once a week @ 12.07/hour. All members voted aye, motion carried.

Several weeks ago Joel Johnson, code enforcement specialist, was hired by the City to tour the town and check for violations of the International Property Maintenance Code. Joel has completed his inspection and presented a file of violations for the council to review. Motion by Darwyn Engesser, second by Bekaert to have Joel send letters to all violators. All members voted aye, motion carried.

In other discussion, Joni Kjelden will be attending the Elected Officials Workshop in Pierre, SD on September 22, 2020. Also during other discussion Mayor Engesser turned in a letter of resignation effective immediately. We would like to thank Mayor Engesser for his years of service. He will be greatly missed. An interim Mayor (until the next election) will be appointed from the council members at the next meeting. After that, new signature cards will need to be signed at DNB.

The next regular council meeting will be Monday, September 7, 2020, at 7:30 p.m. at the Gary City Hall.

Motion by Darwyn Engesser, second by Dessler to adjourn. All members voted aye, motion carried.

City Council, City of Gary

Shirley Pederson, Finance Officer

Published August 12, 2020

Published once at the total approximate cost of \$