

September 15, 2014

1. **CALL TO ORDER:** The regular meeting of the Sidney City Council was called to order by Mayor Rick Norby at 6:30 pm.
2. **PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was stated by all.
3. **ALDERMEN PRESENT:** Sergeant, Gilbert, Koffler, Gartner, Smith, Christensen
4. **CORRECTION OR APPROVAL OF MINUTES:**
 - a. **September 2, 2014:** Motion to approve the September 2, 2014 minutes was made by Alderman Smith, and seconded by Alderwoman Sergeant. All council present voted aye.
5. **VISITORS:**

- a. **American Land Development: Abigail St. Lawrence, Tom Flatley and Tom Flatley Jr.**
- b. **Terry Klein, Frank Hoffman, Craig Wahl (Wahl Law Firm PLLC); Hoffman/Klein Impact Fee Appeal**
- c. **Adam Smith: Interstate Engineering**

d. **Nortana Grain Co: Mike Arneson and Shane Keller**

e. **Nicole Dietrich**

f. **Block of 4th Ave NE:**

- i. **Twyla Gustafson**
- ii. **Gary Bahr**
- iii. **Dawn Rehbein**
- iv. **Ed Volkman**
- v. **Victor Gustafson**
- vi. **Nikki Bahr (415 3rd St NE)**
- vii. **Kiley Brewster (406 3rd St NE)**

The citizens residing on or near the block of 4th Ave NE came to the regular city council meeting to discuss the issues on their block including dangerous dogs running at large, people living in garages, and urinating in public. Several above stated citizens told the council that they have called the police on the issues with the dogs and the police have not helped. Chief DiFonzo and Compliance Officer Mead took the names and specific information of the citizens so that a follow up could be accomplished. Chief DiFonzo stated that the City of Sidney does not have a leash law. It was also brought to the Council's attention that there is a need for a no kill shelter for stray animals, due to the increase in abandoned animals in this area. It was decided to take these issues, after Chief DiFonzo has the opportunity to follow up on them to the Police and Fire Committee by the Council.

g. **Lowell Cutshaw: Interstate Engineering**

h. **Brett Norby**

6. PUBLIC HEARING:

7. MAYOR NORBY:

- a. **Appointment of City Treasurer Kelly Dey and Oath of office:** Motion was made to appoint Kelly Dey as the City of Sidney Treasurer by Alderman Smith, and seconded by Alderwoman Christensen. All council present voted aye. Mayor Norby issued the oath of office to Treasurer Dey.

8. COMMITTEE WORK:

- a. **Water and Sewer: DRWA:** Alderman Smith stated that the water and sewer committee met to discuss the terms for repayment on the Dry-Redwater Associations impact fees, but since the meeting the fees have been paid in full, so all terms are null.

9. ALDERMEN REQUESTS AND COMMITTEE REPORTS: Nothing

10. UNFINISHED BUSINESS: Nothing

11. NEW BUSINESS: Nothing

12. CITY PLANNER HOW:

- a. **Amended Plat-Petersons 2nd Addition Lots 2, 3, & 4:** City Planner how stated that this amended plat is to combine Lots 2, 3, and 4 into one lot to allow them to build a garage. Subdivision review was not applicable in this circumstance, and the only issues would be if the easements are public or private and Planner How needs an updated title report showing the title owner. Motion to approve the Amended Plat for Peterson's 2nd Addition with conditions was made by Alderwoman Sergeant, and seconded by Alderman Koffler. All council present voted aye.
- b. **Preliminary Plat-Sunset Village Minor Subdivision:** City Planner how stated that this for the Richland County Housing Authority. The only issues currently with the preliminary plat is the sewer mains, which PWD Hintz stated are privately owned. The RCHA would like to move the mains to streets, and then have the City of Sidney take ownership of them, which is in the best interests of both parties. City Planner How stated that one of the conditions in his staff report would need to be changed to the City of Sidney taking ownership of the two sewer mains, if relocated properly. Motion to approve with the conditions outlined in City Planner How's staff report, amending the condition on the sewer main issue as previously stated was made by Alderman Smith, and seconded by Alderman Koffler. All council present voted aye.
- c. **Sunrise Village Final Plat Phase 1-Discuss Plat Suspension:** City Planner How stated that Mrs. St. Lawrence, Legal Counsel for American Land Development, had responded to his request pertaining to the 60 day extension, but he and City Attorney Navratil needed longer to examine the information provided, so it is his recommendation to not act on this until the first meeting in October, to allow them proper time to review all information and give a recommendation to the council. Mrs. St. Lawrence stated that in the response ALD agreed to all stipulations in extending the SIA for 1 year. She stated that getting financial guarantee is difficult without building permits being issued. City Planner How stated that he would like to set a meeting with himself, City Attorney Navratil, PWD Hintz, and ALD to discuss all the information provided. Mr. Flatley stated that with MDT approving the crash gates, and ALD willing to put forward the money to have them installed, they need the City of Sidney to write a letter requesting them with the MDT. Motion was made to approve the City of Sidney writing a letter to the MDT requesting the crash gates be installed at Sunrise Subdivision at the cost of ALD was made by Alderwoman Christensen, and seconded by Alderwoman Sergeant. City Planner How asked Mrs. St. Lawrence if they could go into the time frame for the MDT v ALD lawsuit without breaking Attorney/Client confidentiality. Mrs. St. Lawrence stated that they are meeting with the MDT on Thursday, but she cannot comment any further. City Planner How stated that the time frame will play a factor in further decisions. All council present voted aye.

13. CITY ATTORNEY NAVRATIL:

- a. **Klein/Hoffman Impact Fee Appeal Hearing:** Mr. Wahl on behalf of Mr. Hoffman and Mr. Klein stated that they are seeking full refund of all impact fees incurred by Mr. Hoffman in the process of placing a trailer in Mr. Klein's trailer park. He also stated that they are seeking the repeal of City of Sidney Resolution 3595 which sets the statute of any lot sitting vacant for more than 24 months will be required to pay impact fees. Mr. Wahl stated Montana Code on impact fees does not allow for a time frame, rather only for increase in usage, which the City of Sidney Measures in Equivalent Dwelling Units, or EDUs. Mr. Wahl stated that the proper Montana Code is cited in City of Sidney Resolution 3594, but Resolution 3595 goes against it. Mayor Norby asked Mr. Wahl questions in which it was established that Mr. Hoffman did receive the building permit, he did pay all applicable fees at that time, that the lot in question sat vacant, being used as a yard for approximately 20 years, and that water and sewer services are available on said lot. Mr. Wahl stated that even though the fees were paid and services used, the City of Sidney does not have the authority to assess the fees, as there was no increase in use or demand. It was also established via questions from the Alderman Smith that all lots are metered separately and if any lots do not have meters currently they would be required to install one. Mayor Norby then stated that in the Montana Code it states that an appeal may be made if one feels there is an error in the procedures and provide proof of such errors. Mr. Wahl stated that this was the 24 month statute that he had previously discussed. PWD Hintz stated that there are several lots that were left vacant after the previous oil boom, and that this allows for the City of Sidney to assess fees for the impacts of them using the system. Mr. Wahl retorted that Montana Code and City of Sidney Resolution 3694 does not allow these fees to be assessed on reconstruction. City Attorney Navratil stated that Resolution 3694 does provide for exemptions to be made via application before fees paid, or the appeal process. Mr. Klein stated that the application for exemption could