

Gregory City Council  
Regular Meeting Minutes  
Tuesday, September 6, 2016

The Gregory City Council met in regular session on Tuesday, September 6, 2016 at the Gregory City Hall. Mayor Scott Anshutz opened the meeting at 7:00 p.m. with the Pledge of Allegiance. Council Members present were: Mayor Scott Anshutz; Council Members: Jerry Kafka, Stacey Boes, Valerie Johnson and Shana Flakus. Council Members absent were Seymour Studenberg and Blane Bartling. Also present were Head Librarian Diane Althoff, News Reporter Colleen Flynn and Finance Officer Al Cerny.

#### Agenda

Motion was made by Stacey Boes to add a one-day liquor license for Mary Bobs, RD loan and to go into executive session for contract discussion, eliminate item #7, purchase agreement and to approve the remaining agenda as is, seconded by Valerie Johnson. All members voted aye.

#### Minutes

Motion was made by Valerie Johnson to approve the August 15, 2016 council minutes as written, seconded by Jerry Kafka. All members voted aye.

#### Dept. Head Reports

Diane Althoff gave the council a financial and activity report for the library. One of the state librarians visited the Gregory Library and some things got taken care of because of the visit. Diane reported that Samantha Whitney has been hired to work at the library.

Travis Debuhr gave the council an August report. The police department made 83 traffic stops with most of them for speeding. He is still waiting for a quote on body cameras. Travis also mentioned that they may need some help at the courthouse with the upcoming trial.

#### New Business

##### 2017 Budget Ordinance

The 2017 Budget Ordinance No. 2016-07 was placed on its first reading. The budget is balanced. The total dollar amount is 1.811 million dollars and 1.287 of that amount is general fund. Motion was made by Stacey Boes to approve the first reading of Budget Ordinance 2016-07, seconded by Shana Flakus. All members voted aye.

##### Public Nuisance Ordinance

Ordinance 2016-06 was placed on its first reading. The ordinance would expand and clarify what would be considered a public nuisance. Motion was made by Shana Flakus to approve the first reading of Ordinance 2016-06, seconded by Valerie Johnson. All members voted aye.

##### Building Permit

Ciro and Lori Arizmendis submitted a building permit for a new garage. The planning and zoning members had previously approved the permit and there were no variances required. Motion was made by Valerie Johnson and seconded by Stacey Boes to approve the building permit for the garage. All members voted aye.

##### Hold Harmless Agreement

The council members reviewed a hold harmless agreement between the City and Dan Fiebelkorn that the City Attorney had drafted. The hold harmless agreement was in regards to the trees that Dan Fiebelkorn had planted along the city's right of way. Motion was made by Shana Flakus to approve the signing of the hold harmless agreement, seconded by Valerie Johnson. All members voted aye.

**HOLD-HARLMESS AGREEMENT**

This "Hold- Harmless Agreement" is executed on this the 6<sup>th</sup> day of September 2016 by and between the City of Gregory and Dan Fiebelkorn.

Dan Fiebelkorn currently owns the property located at 821 Felton Street in the City of Gregory, South Dakota. This agreement is binding upon the City of Gregory and its City Council and Mr. Fiebelkorn and his agents, successors, assigns, family, relatives, personal representatives, heirs and devisees.

Dan Fiebelkorn, or someone on his behalf, has recently planted some trees on the property located at 821 Felton Street and those trees are in violation of the Gregory Municipal Code because those trees are planted too close to 8<sup>th</sup> Street within the City of Gregory.

It has been discussed by the Gregory City Council and Dan Fiebelkorn that those trees will likely create traffic and/or snow removal problems in that area of the city.

The Gregory City Council has agreed to allow Dan Fiebelkon to leave the trees where they are, for the time being, under the following conditions:

Dan Fiebelkorn agrees that if those trees result in traffic accidents and/or snow removal problems: a) Mr. Fiebelkon will have those trees promptly removed at his own costs/labor; b) Mr. Fiebelkorn will hold the City of Gregory and its City Council Members HARMLESS for any and all damages resulting from the trees in question; c) Mr. Fiebelkorn agrees to pay any and all legal costs, damages and/or attorney fees caused by or resulting from the trees in question.

Dan Fiebelkorn agrees that, if the City of Gregory's snow removal equipment damages any of the trees in question, Mr. Fiebelkorn will hold the City of Gregory and its City Council HARMLESS for those damages.

Dan Fiebelkorn agrees to promptly remove the trees in question, at his own expense and costs, if the City of Gregory or the Gregory City Council officially decides to run a curb and gutter system on Gregory's 8th Street that runs East and West just to the North of Dan Fiebelkorn's property and house.

Dan Fiebelkorn agrees that, if for any unforeseen and reasonable reason, the City of Gregory needs some or all of the trees in question removed, then Mr. Fiebelkon will have the trees in question promptly removed at his own costs/labor.

Dated this 6<sup>th</sup> day of September 2016.

(Corporate Seal)

**City of Gregory**

Attest: \_\_\_\_\_

By: \_\_\_\_\_

Al Cerny, Finance Officer

Scott Anshutz, Mayor

\_\_\_\_\_

Dan Fiebelkorn

STATE OF SOUTH DAKOTA )

COUNTY OF GREGORY )

On this the 6<sup>th</sup> day of September 2016, before me, the undersigned officer, personally appeared **Scott Anshutz and Al Cerny**, who acknowledged themselves to be respectively the **Mayor and Finance Officer of the City of Gregory, a municipal corporation**, and being authorized so to do, known to me or satisfactorily proven to be the persons whose names are subscribed herein and acknowledged that they executed the same in the capacity herein stated and for the purposes herein contained.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

STATE OF SOUTH DAKOTA )

COUNTY OF GREGORY )

On this the 6<sup>th</sup> day of September 2016, before me, the undersigned officer, personally appeared **Dan Fiebelkorn**, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

Grandview Zoning

The Grandview zoning rules were drafted from the original Ordinance No. 2015-03 and put into a form that could be filed with the County Register of Deeds. Motion was made by Valerie Johnson to approve the Grandview Zoning Regulations and to have them filed with the County Register of Deeds, seconded by Jerry Kafka. All members voted aye.

GRANDVIEW ZONING REGULATIONS

Section 153.60 Grandview Addition Zoning and Building Regulations:

- (A) Land Use and Building Type: Lots 1 thru 8 of Block 1; Lots 1 thru 9 of Block 2; Lots 1 thru 6 of Block 3; Lots 1 thru 16 of Block 4; Lots 1 thru 4 of Block 5; Lots 1 thru 5, Lots 8A of Block 6; Lot DR-1 of Grandview Addition to the City of Gregory, Gregory County, South Dakota, are residential lots. The following is a list of building types and land uses that are permitted and restrictions on building types; time requirements to build; nuisances and other restrictions and requirements.
  - 1. Dwelling Houses
  - 2. Apartment Houses

3. Churches
4. Libraries
5. Parks
6. Club, Lodge or community center buildings not used to make profits
7. Playgrounds, gardens and farms

(B) Garages, Car Ports and Pole Sheds: The primary or main structure may include an attached or unattached garage. The attached or unattached garage will be built with the same type building materials that the main or primary structure is composed of. This also includes any storage sheds or out buildings. No attached or unattached carports will be permitted or allowed.

(C) Nuisances: The following activities and structures are hereby prohibited in the Grandview Addition residential lots:

1. Modular homes or manufactured homes not meeting or exceeding requirements of Uniform Building Code, H.U.D., mobile homes, tents, shacks, barns, temporary buildings and/or structures of a temporary character.
2. No trade or activity, as prohibited by statute or ordinance as amended from time to time, shall be allowed to occur upon Grandview Addition residential lot, nor shall anything else be done which may become an annoyance or nuisance as defined by law.
3. No large semi-trucks, farm equipment, boats, trailers, commercial trucks, tractors, commercial vans, campers and/or recreational vehicles, except those brought in temporarily in connection with service work, or in case of emergencies, shall park on the streets within Grandview Addition; however, large trucks, travel trailers, farm equipment, boats, boat trailers, etc. may be parked inside the garages on said private properties OR on private property outside of the Grandview Addition's right of way roads.

(D) Lot Frontages: Residential lot frontages shall be seeded to grass, planted shrubs and/or trees.

(E) Vegetable Gardens: Vegetable gardens are not allowed in the front of the residential lots.

(F) Hedges and Fences: No fence will be allowed in any front yard of a residential lot.

(G) Doghouses and Kennels: Doghouses and/or kennels are allowed only in the rear of the residential lots.

(H) Construction Time Requirements for Residential Lots:

To promote the orderly development of the residential areas of the Grandview Addition, construction of the principal structure shall be completed and ready for occupancy within thirty-six months after the closing of the lot purchase, unless there are reasonable and legitimate reasons why the principal structure was not completed within the thirty-six month period. If there are reasonable and legitimate reasons for the delay, an "extension of time" can be requested and presented to the City of Gregory's Zoning and planning committee before the thirty-six (36) month time period expires. Based upon the totality of the circumstances, the Planning and Zoning committee will review and advise the City Council and the Council will make the final decision if the extension of time should be granted or denied. If the construction is not completed within the thirty-six (36) months after the closing of the lot purchase and no request for "extension of time" was timely

requested or if no “extension of time” was granted by the City Council, then the lot in question shall revert to the City of Gregory upon payment to the purchaser of 25% of the purchaser’s original purchase price. The tender of payment by the City of Gregory to the purchaser will be made within eighteen (18) months after the three year (3) year construction time period has expired. Purchaser, the purchaser’s assigns, the purchaser’s heirs and/or the purchaser’s owners will agree that if the principal structure has not been completed within the thirty-six (36) time period, the City of Gregory will be damaged. The damages include lost revenue from the real estate taxes, incurred legal and sales expenses from the sale and resale of the lot, and the decreased marketability of other lots that the City of Gregory intends to sell in the future. The 75% loss of purchase price is agreed a reasonable estimate of the damages the City of Gregory would incur if the principal structure has not been completed within the thirty-six (36) months after the closing of the lots closing, unless the purchaser requests and receives an extension of time from the City of Gregory as discussed above.

The three-year time period shall not be affected by any subsequent sale by the purchaser and any new purchaser must complete the principal structure within the three-year period that started with the real estate closing with the original purchaser.

All residential lots shall have principal structures completed within 36 months. If more than one lot is obtained by a purchaser, building one structure will not satisfy the building requirement to the other lot or lots; each lot must have a principal structure completed within 36 months of the lot’s closing.

- (I) Manufactured Housing: No manufactured housing or any structure of any kind of what is commonly known as “boxed” or “sheet metal” construction is allowed on any residential lots. Manufactured housing or any structure of any kind of what is commonly known as “boxed” construction will be allowed only if it has the following:
  - 1. The roof pitch shall be 4:12 or greater.
  - 2. The roof shall be shingled or standing seam steel.
  - 3. Exterior walls shall have conventional house siding, such as brick, cement, LP Smart side panel, horizontal steel or Novabrik.
  - 4. A masonry basement or foundation with a minimum four (4) foot frost footing shall be located completely under the exterior walls.
  - 5. The primary structure shall a minimum width of 24 feet.
  - 6. The long axis of the primary structure must be parallel to the street.
  - 7. The beams or towing apparatus must not be visible.
  - 8. The primary structure shall meet or exceed HUD Manufactured Home Construction and Safety Standards.
  - 9. No manufactured housing or structure more than two years old may be moved onto a lot.
  
- (J) Commercial Lots: Lots E and F of Block 8; Lots G and H of Block 4; Lot I of Block 2; Lots J and K Grandview addition to the City of Gregory, Gregory County, South Dakota, are zoned commercial. These commercial zoned lots are subject to the city ordinances and the following regulations.
  - 1. No Storage buildings may be built upon these lots.
  - 2. No mobile home parks will be allowed.

3. The setback for any of these commercial lots shall be 8 foot when adjacent to a residential lot.
4. Construction Time Requirement will the same as for the residential lots as listed in subsection (H) of these regulations.

(K) Industrial Lots: Lots L, M and N of Block 7; Lots A, B,C and D Grandview Addition to the City of Gregory, Gregory County, South Dakota, are zoned Industrial. These Industrial zoned lots are subject to the city ordinances and the following regulations.

1. Construction Time Requirement will be the same as for the residential lots as listed in subsection (H) of this ordinance.
2. Mobile Home Parks will be allowed in the industrial zoned area if they are built to the city code found in Chapter 151 of the City's ordinances.
3. No storage buildings may be built upon these lots.

Approved at the Gregory City Council meeting of September 6, 2016, upon motion by Valerie Johnson and seconded by Jerry Kafka. All members voted aye.

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Scott Anshutz, Mayor City of Gregory

STATE OF SOUTH DAKOTA) )  
 COUNTY OF GREGORY ) )

On this 6<sup>th</sup> day of September, 2016 before me, a Notary Public, within and for said County and State, personally appeared SCOTT ANSHUTZ known to me to be the Mayor for the City of Gregory, who is described in and who was authorized to execute the within and foregoing instrument and he acknowledged to me that he executed the same for the purposes therein contained.

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Al Cerny, Notary Public  
 My Commission Expires:

Seal

**Library New Hire**

Motion was made by Valerie Johnson to approve a pay rate of \$8.55 per hour for Samantha Whitney for her work at the library, seconded by Stacey Boes. All members voted aye.

**RD Loan**

The City recently received an additional \$105,832.70 in a Rural Development loan for Grandview that was not needed to finish the project. The funds could be returned and the amount would be taken off the principal amount that the City owes RD. This would reduce the number of years left to pay off the loan. Motion was made by Shana Flakus to return the \$105,832.70 to Rural Development and apply the amount to the principal balance of the city's loan, seconded by Stacey Boes. All members voted aye.

### Trailer House Sale

In the near future, the County Sheriff will be holding an auction to sell a trailer house at 8<sup>th</sup> and Logan. The council was asked if the city should buy the trailer house to get rid of it since it is a public nuisance. After some discussion, the council agreed not to take any action on buying the trailer house.

### Airport Grant 3-46-0018-013-2016

Motion was made by Stacey Boes to authorize Mayor Scott Anshutz to sign the grant agreement with the Federal Aviation Administration to expand the apron area around the fuel pumps, seconded by Jerry Kafka. All members voted aye.

### One-Day Liquor License

Motion was made by Stacey Boes to grant Mary Bob's Bar a one-day liquor license for September 10, 2016 for a benefit auction, seconded by Jerry Kafka. All members voted aye.

### Claims

Motion was made by Shana Flakus and seconded by Valerie Johnson to pay the following claims. All members voted aye.

Appera	Mats/Mop/Towels/Cleaner/Coveralls	61.75
Avenet LLC	Website Annual Service Package	450.00
B & F Variety	Binders/Folders/Scissors/Pool Supplies	47.11
Commercial Asphalt	76.31 Ton Hot Mix	5,341.70
Dakota Pump & Control	2016 Inspection Agreement for Lift Stations	760.00
Dept of Revenue	Water Testing	216.00
Golden West	Phone/Internet Service	1,023.06
Gregory Co Reg of Deeds	File Grandview Zoning Regulations	30.00
Gregory County Treasurer	Law Enforcement Contract	195.00
Gregory Public Library	Supplies/Books/Travel & Cont. Ed	850.25
Gregory School District	1/2 Cost Sand & Finish Aud. Harwood Floors	8,950.00
Gregory Times-Advocate	Council Publishing	318.37
Harrison Plumbing	Fire Dept Fittings/Park Sand Cartridge	84.40
Hawkins Inc.	Pool O-rings/Index Plate/Feed Rate Parts/Labor	132.94
Health Pool of SD	Health Insurance	4,707.15
Intoximeters Inc.	1000 Breath Analyzer Mouthpieces	160.00
Klein's True Value	Batteries/Shipping/Cleaning Supplies/Insecticide/Supplies	141.35
KWYR AM	Website Advertising	55.00
Mcleod's Printing & Office	Laser Water Bills	1,114.64
Naper Transport Inc.	294.66 Ton of AR Coat Gravel	5,451.21
Office Products Center	CD-RW Discs/Minute Book/Service Contract/USB Flash Drive	410.61
Opperman Inc.	176.88 Ton Gravel Delivered/134.61 Ton Chips Trucking	4,540.79
Petty Cash	Postage Reimbursement/Car Wash	21.31
Rosebud Auto Parts	Hydraulic Hose & Ends (Excavator)/Antifreeze/Flasher/Fittings	418.11
Rosebud Electric Coop Inc.	Electric Payment	6,195.91
Runnings	Cordless Drill/Blades/Dewalt Trimmer/Generator Cover/Sealant	475.12
Rural Tech Center	Library PC Image & Setup	319.47

Tripp County Water User	Water Service	3,000.00
USDA Rural Development	Payback Surplus RD Grandview Loan/Applied to Principal	105,832.70
Veurink Insurance Agency	Fire Dept Liability Insurance 2016-2017	5,259.00
Wm Krotter Co	Lumber	94.70
Total		\$156,657.65

8-23-2016 Payroll: Finance Officer, \$2,040.00; General Government Bldg., \$224.08; Police Dept., \$3,723.88; Street Dept., \$3,832.18; Water Dept., \$2,953.80; Sewer, \$360.20; Pool, \$1,799.33; Library, \$1,421.59; Gross Amt, \$16,355.06; Aflac, \$199.68; SDRS, \$3,428.04; Child Support, \$219.23; City of Gregory, \$75.76; EFTPS, \$3,812.61

**Executive Session**

Motion was made by Valerie Johnson to go into executive session to discuss a legal contract, seconded by Jerry Kafka. All members vote aye. Council went into executive session at 7:50 p.m. At 8:15 p.m., Mayor Anshutz took the council out of executive session.

**Action Taken**

Motion was made by Valerie Johnson to sign the purchase agreement to sell Lots 2 and 3 of Block 4 in Grandview Addition, seconded by Stacey Boes. All members voted aye.

**Adjourn**

Motion was made by Stacey Boes and seconded by Shana Flakus to adjourn. All members voted aye.

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Scott Anshutz, Mayor

ATTEST: \_\_\_\_\_  
 Al Cerny, Finance Officer