

**CHAMBER OF THE BOARD OF CITY COMMISSIONERS  
YANKTON, SOUTH DAKOTA  
March 25<sup>th</sup>, 2019**

Board of City Commissioners of the City of Yankton was called to order by Mayor Johnson.

**Roll Call:** Present: Commissioners Benson, Carda, Ferdig, Gross, Hoffner, Maibaum and Moser. City Attorney Den Herder and City Manager Leon were also present. Absent: Commissioner Miner.

Quorum present

Action 19-73

Moved by Commissioner Gross, seconded by Commissioner Hoffner, to approve the Minutes of the regular meeting of March 11<sup>th</sup>, 2019.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.

Motion adopted.

City Manager Leon submitted a written report giving an update on community projects and items of interest.

Lauren Hanson, Executive Director of the United Way, presented the United Way Collaboration and information about 2018’s funding and the 2019’s proposal.

Action 19-74

Moved by Commissioner Carda, seconded by Commissioner Maibaum, that the following items on the Consent Agenda be approved.

**1. Special Events Dance License**

Consideration of Memorandum 19-24 recommending approval of the application from Yankton County 4H for a Special Events Dance License for August 2, 2019

**2. Transient Merchant License and Special Events Dance License**

Consideration of Memorandum 19-57 recommending approval of the applications from the Rock’n Rumble Committee for a Transient Merchant License for July 26-27, 2019 and a Special Events Dance License for July 26-27, 2019

**3. Establishing public hearing for sale of alcoholic beverages**

Establish April 8, 2019, as the date for the public hearing on the request for a Special Events Malt Beverage (on-sale) Retailers License and a Special (on-sale) Wine Retailers License for one day, July 12, 2019, from the Center (Christy Hauer, Executive Director), 900 Whiting Drive, Yankton, South Dakota.

**4. Mayor’s Appointments to Consolidated Board of Equalization**

Consideration of Memorandum 19-58 recommending approval of the Mayor’s Appointments to the Consolidated Board of Equalization. Mayor Johnson appointed Commissioners Benson, Carda and Mayor Johnson as the members of the Consolidated Board of Equalization. Commissioner Maibaum will serve as an alternate member.

5. **Transient Merchant License**

Consideration of Memorandum 19-67 recommending approval of the application from Martha's Crafts a Transient Merchant License from May 10, 2019 – June 10, 2019

6. **Transient Merchant License**

Consideration of Memorandum 19-68 recommending approval of the application from Martha's Crafts a Transient Merchant License from August 1, 2019 – August 31, 2019

7. **Possible Quorum Event**

April 1, 2019, for Westside Park Master Planning Meeting, no official commission action

**Roll Call:** All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 19-75

This was the time and place for the public hearing for the application for a Special Events Malt Beverage (on-sale) Retailers License and a Special RETAIL (on-sale) Wine dealers License for 1 day, April 13, 2019, from Ag-Farmers, 4-H Fair Grounds, 901 Whiting Drive, Yankton, SD. (Memorandum 19-54) No one was present to speak for or against the application. Moved by Commissioner Ferdig, seconded by Commissioner Maibaum, to approve the license.

**Roll Call:** All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 19-76

This was the time and place for the public hearing of the application for a Special Events (on-sale) Liquor License for July 26-27, 2019 from ROCK 'N' RUMBLE, INC. (Michael Carda, President), The block of 3<sup>rd</sup> Street between Douglas & Capital Street and ½ Block of Capital Between 3<sup>rd</sup> Street & 2<sup>nd</sup> Street, Yankton, S.D. (Memorandum 19-55) No one was present to speak for or against the application. Moved by Commissioner Moser, seconded by Commissioner Gross, to approve the application.

**Roll Call:** All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 19-77

This was the time and place for the public hearing of the application for a transfer of location and ownership of a Retail (on-sale) Liquor License for January 1, 2019, to December 31, 2019, from Drotzmann & Portillo, LLC (Steve Drotzmann, President), dba Rounding 3<sup>rd</sup> Bar & Casino to P & P Lottery Enterprises. LLC (James L. Palmer, Member), 3010 Broadway Avenue, Yankton, S.D. (Memorandum 19-56) No one was present to speak for or against the application. Moved by Commissioner Ferdig, seconded by Commissioner Maibaum, to approve the license.

**Roll Call:** All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 19-78

This was the time and place for the public hearing to consider adoption of Ordinance No. 1020, AN ORDINANCE ADOPTING PROVISIONS FOR SMALL CELL WIRELESS COMMUNICATION FACILITIES; PROVIDING FOR PERMITS; AND ADDING A NEW CHAPTER TWENTY-NINE TO THE MUNICIPAL CODE OF THE CITY OF YANKTON. (Memorandum 19-59) Jeffrey Armour

and Sarah Meuli, representatives of Verizon, and Brad Wenande, representative of North Western Public Services, were present to express concerns on the ordinance. Moved by Commissioner Gross, seconded by Commissioner Maibaum, to approve the ordinance.

**Roll Call:** Commissioners voting “Aye” were Carda, Ferdig, Gross, Hoffner, Maibaum, Moser and Mayor Johnson; voting “Nay:” None. Abstain: Commissioner Benson.

Motion adopted.

Action 19-79

Moved by Commissioner Gross, seconded by Commissioner Carda, to adopt Resolution 19-14. (Memorandum 19-60)

**RESOLUTION 19-14**

A RESOLUTION ESTABLISHING A SMALL CELL FACILITY APPLICATION FEES AND RATES AS PROVIDED BY ORDINANCE 1020

WHEREAS, City Ordinance 1020, provides that fees related to the initial application for, and annual operation of Small Cell Facilities are established from time to time by resolution of the City Commission, and

WHEREAS, Ordinance 1020 is a new ordinance and thus, this Resolution establishes the first fee and rate structure for Small Cell Facilities in the City of Yankton.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the City of Yankton that the following fees and rate structure is hereby adopted:

- The initial application fee for Small Cell Facilities shall be \$200.00 per Small Cell Facility site with a total application fee being a maximum of \$500.00 for multiple site applications. Per Ordinance 1020, Section 29-10-A.
- The annual fee per Small Cell Facility site in Public Right of Way is \$100. Per Ordinance 1020 Section 29-10-A.

AND, BE IT FURTHER RESOLVED by the Board of City Commissioners of the City of Yankton, South Dakota, that the fees and rates be effective immediately upon adoption of Ordinance 1020.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.

Motion adopted.

Action 19-80

This was the time and place to award the bid for Annual Supply of Liquid Asphalt for the Department of Public Works, Street Division. Only one bid was submitted and opened at 3:00 p.m. on March 14<sup>th</sup>, 2019. (Memorandum 19-62) Moved by Commissioner Carda, seconded by Commissioner Moser, to award the bid to Jebro, Inc. of Sioux City, Iowa, for the AC Grade Asphalt at \$545.42 per ton, MC 70 Grade Asphalt at \$3.03 per gallon and RC800 Grade Asphalt at \$3.21 per gallon.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.

Motion adopted.

Action 19-81

This was the time and place to award the bid for Annual Supply of Bituminous Mix for the Department of Public Works, Street Division. Only one bid was submitted and opened at 3:00 p.m. on March 14<sup>th</sup>, 2019. (Memorandum 19-61) Moved by Commissioner Ferdig, seconded by Commissioner Benson, to award the bid to Concrete Materials of Sioux Falls, South Dakota, Yankton, South Dakota Plant at the price of \$68.00 per ton for the Annual Supply of Bituminous Mix.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.

Motion adopted.

Action 19-82

Moved by Commissioner Carda, seconded by Commissioner Ferdig, to approve Resolution 19-13. (Memorandum 19-70) Todd Meierhenry, Bond Counsel for Mount Marty College; Tabatha Likness, Vice President of Finance at Mount Marty College; and Chris Kassin, Athletic Director at Mount Marty College, were present to urge support for the approval of the resolution.

**RESOLUTION 19-13**

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF YANKTON ECONOMIC DEVELOPMENT REVENUE BONDS (MOUNT MARTY COLLEGE), SERIES 2019 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000), AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO.

WHEREAS, City of Yankton, a body politic and corporate duly organized and validly existing under the laws of the State of South Dakota (the “City”), pursuant to South Dakota Codified Laws Chapter 9-54, as supplemented and amended (collectively, the “Act”), is authorized and empowered to issue and sell its revenue bonds to finance the costs of primary, secondary and post-secondary education facilities to stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of primary, secondary and post-secondary education; and

WHEREAS, as a result of negotiations between the City and Mount Marty College (the “Borrower”), contracts will be entered into by the Borrower for the purpose to (i) finance the construction and furnishing and equipping of a fieldhouse located at 1105 W. 8th Street, Yankton, South Dakota (the “Project”), and (ii) pay certain fees and costs associated with the issuance of the Bonds (the “Project”); and

WHEREAS, the Project will be owned by Mount Marty College; and

WHEREAS, the City proposes to issue its Economic Development Revenue Bonds (Mount Marty College), Series 2019 (the “Bonds”), in an aggregate principal amount not to exceed Fifteen Million Dollars (\$15,000,000), to provide funds for financing all or portion of the Project, by lending the proceeds of the Bonds to the Borrower pursuant to a loan agreement (the “loan agreement”) between the City and the Borrower, which prescribes the terms and conditions under which the Borrower shall repay the loan; and

WHEREAS, it is estimated that the costs of the Project, including costs relating to the preparation and issuance of the revenue bonds will not exceed \$15,000,000, the excess paid for from non-bond proceeds; and

WHEREAS, pursuant to the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), a public hearing on the proposed plan of financing of the Project was held on March 25, 2019, prior to the adoption of this Resolution, pursuant to notice caused to be published March 9, 2019, more than 14 days from the date of the hearing, in the Yankton Daily Press & Dakotan, being a newspaper of general circulation published in the City; and

WHEREAS, the City desires to authorize its Mayor and Finance Officer to take certain action in preparation for issuing and selling the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the City of Yankton as follows:

Section 1. Definitions. In addition to the words and terms defined in this Resolution, the words and terms used in this Resolution shall have the meanings as set forth in the loan agreement, unless the context or use indicates another or different meaning of intent.

"Act" means South Dakota Codified Laws Chapter 9-54, as amended.

"Authorized Officer of the City" means the Mayor and the Finance Officer, or, in the case of any act to be performed or duty to be discharged, any other member, officer, or employee of the City then authorized to perform such act or discharge such duty.

"Bond Counsel" means Meierhenry Sargent LLP, a firm of attorneys recognized as having experience in matters relating to the issuance of state or local governmental obligations.

"Bonds" means not to exceed \$15,000,000 City of Yankton Economic Development Revenue Bonds (Mount Marty College), Series 2019.

"City" means the City of Yankton a commission form of municipality organized under the State of South Dakota.

"City Commission" means the commissioners of the City elected pursuant to the provisions of the SDCL Title 9.

"City Finance Officer" "Finance Officer" means the Chief Finance Officer or chief financial officer of the City appointed pursuant to the provisions of South Dakota Codified Laws Title 9 or, in the absence of such appointment or in the event the person so appointed is unable or incapable of acting in such capacity, the person appointed by the City Council to perform the duties otherwise performed by the City Finance Officer, or his/her designee.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Department of Treasury promulgated thereunder as in effect on the date of issuance of the Bonds.

"Costs of Issuance" means all costs, fees, charges and expenses incurred in connection with the issuance of the Bonds, including costs for bond insurance and rating agency fees.

"Mayor" means the Mayor elected pursuant to the provisions of SDCL Chapter 9 or his or her designee acting on his or her behalf.

"Paying Agent and Registrar" means the Finance Officer of the City of Yankton, its successor or successors hereafter appointed in the manner provided herein.

"Person" means an individual, partnership, corporation, trust, or unincorporated organization, or a governmental entity or agency or political subdivision thereof.

"Project" means the construction and furnishing and equipping of a fieldhouse located at 1105 W. 8th Street, Yankton, South Dakota.

Section 2. Determination of the City. The City Commission determines that notice of said public hearing was published as required by Section 147(f) of the Code, that a hearing was held and that all persons appearing were given a reasonable opportunity to express their views, both orally and in writing.

Section 3. Authorization of Bonds. There are hereby authorized to be issued, sold and delivered the Bonds, designated as "Economic Development Revenue Bonds (Mount Marty College), Series 2019," in an aggregate principal amount not to exceed Fifteen Million Dollars (\$15,000,000) for the purpose of paying a portion of the costs of the acquisition, construction, installation and equipping the Project, including costs of issuance which will not exceed 2%.

Section 4. Designation of Bond Counsel and Bond Registrar. Meierhenry Sargent LLP is retained as Bond Counsel. The City Finance Officer is hereby designated as Bond Registrar.

Section 5. Terms and Execution of the Bonds. The Bonds shall be issued as fully registered Bonds, without coupons, in the form and denomination set forth in the loan agreement; shall bear such date as provided in the loan agreement; shall mature no later than thirty (30) years from the date of issue; shall bear interest at a rate or rates set forth in the loan agreement, shall be payable at such place or places and in such medium as provided in the loan agreement; shall be subject to the terms of redemption as are set forth in the loan agreement; and shall contain such other terms and provisions as are set forth in the loan agreement.

The Bonds shall be executed by the manual or facsimile signatures of Authorized Officer of the City and attested by the manual or facsimile signature of any other Authorized Officer of the City.

The Bonds are special limited obligations of the City payable solely from revenues and receipts derived from the loan agreement except to the extent that the principal of, premium, if any, and interest on the Bonds maybe paid out of money attributable to Bond proceeds or from temporary investments or from other moneys, if any.

The City will assign to the purchaser of the Bonds the City's rights under the loan agreement (except for certain unassigned City rights) as security for the repayment of the Bonds. As a result of the City's assignment as provided herein, the City will have no ownership interest in the Project.

The Bonds and obligation to pay interest thereon do not now and shall never constitute a debt, a liability, a general, moral or other obligation or a pledge of the full faith and credit of the City, the state of South Dakota or any political subdivision thereof, or a charge against the general faith and credit or taxing powers, if any, of any of them, within the meaning of any constitutional or statutory provision, but shall be secured as aforesaid, and are payable solely from the revenue and receipts derived from the loan agreement. No holder of any of the Bonds shall have the right to compel the taxing powers, if any, of the City, the state of South Dakota or political subdivision thereof to pay any principal of or premium, if any, or interest on the Bonds. Neither the commissioners, officers, employees or agents of the City nor any person executing the Bonds shall be subject to personal liability or accountability by reason of the issuance of the Bonds or failure to issue or sell such Bonds.

Section 6.     General. The Authorized Officers of the City, or any of them, are hereby authorized and directed, in the name of and on behalf of the City, to execute any and all instruments, documents and certificates, perform any and all acts, approve any and all matters, and do any and all things deemed by them to be necessary or desirable in order to carry out the purposes of this Resolution (including the preambles hereto), the acquisition, construction equipping and financing of the Project by the Borrower, the issuance and sale of the Bonds and the securing thereof pursuant to the loan agreement.

Section 7.     Invalidity. If any section, paragraph, clause or provision of this Resolution shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions.

Section 8.     Conflicts. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed.

Section 9.     Effective Date. This Resolution shall be in full force and effect immediately upon its passage.

**Roll Call:** Commissioners voting “Aye” were Benson, Carda, Ferdig, Hoffner, Maibaum and Mayor Johnson; voting “Nay:” None. Abstain: Commissioners Gross and Moser.  
Motion adopted.

Action 19-83

Moved by Commissioner Gross, seconded by Commissioner Moser, to adopt Resolution 19-16.  
(Memorandum 19-64)

**RESOLUTION 19-16**

WHEREAS, the City of Yankton, South Dakota has received historic above normal precipitation in March, 2019, resulting in accelerated snow melt and flooding causing severe damage to property and risk to City of Yankton residents’ lives; and

WHEREAS, the City of Yankton has evaluated all available resources needed to mitigate potential damage to critical infrastructure and ensure life safety for the residents for the City of Yankton and has found that additional resources are necessary as early as March 15, 2019; and

WHEREAS, the total costs for repair and improvements are not yet fully known but estimated to be in excess to what local resources are able to provide; and

WHEREAS, the State of South Dakota declared a statewide emergency on March 15, 2019; and

WHEREAS, Yankton County declared an emergency due to flooding on March 19, 2019; and

WHEREAS, the resulting damage and destruction will endanger and threaten the health, safety, and welfare of the public and the financial stability of the local governing units and the utility companies and power cooperative generally, now, therefore

BE IT RESOLVED that the City Commissioners for the City of Yankton, South Dakota, do hereby declare an emergency due to the flooding in the City of Yankton, South Dakota.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.  
Motion adopted.

City Manager Nelson gave a short explanation of the preliminary damage reports from the recent Marne Creek flooding and some initial plans to invest in professional services assessments by Stockwell Engineering and HDR Engineering.

Action 19-84

Moved by Commissioner Gross, seconded by Commissioner Carda, to adopt Resolution 19-15.  
(Memorandum 19-66)

**RESOLUTION 19-15**

Special Events Parking Request

WHEREAS, the City Commission adopted an Ordinance allowing for no parking designation for special events within the City of Yankton; and

WHEREAS, this Resolution would authorize the City of Yankton to tow vehicles that are parked in the defined area or areas and times specified for Special Events; and

WHEREAS, the Rock’n Ribfest Committee has made a request to enact this no parking zone for their event on July 26-27, 2019.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves the Special Event Parking Request on 3<sup>rd</sup> Street from Douglas to Capitol and also a portion of Capitol Street, shown on the attached map, to be in effect from 8:00 AM on July 26, 2019 until 10:00 AM on July 28, 2019 to allow for cleanup and tear down of the event.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.  
Motion adopted.



Action 19-85

Moved by Commissioner Maibaum, seconded by Commissioner Carda, to approve the \$2,500 request for the 2019 South Dakota State USBC Youth Tournament from the Bed, Board and Booze Fund. (Memorandum 19-69) Jan Putnam, Associate Manager of the Yankton USBC Association, was present to answer any questions.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.  
Motion adopted.

Action 19-86

Moved by Commissioner Carda, seconded by Commissioner Moser, to adjourn at 8:58 p.m.

**Roll Call:** All members present voting “Aye;” voting “Nay:” None.  
Motion adopted.

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Nathan V Johnson  
Mayor

ATTEST:

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Al Viereck  
Finance Officer

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