

## 2010 Legal and Public Notices

ing “Aye:” Akland, Blaaid, Carda, Gross, Hoffner, Knoff, Sommer, and Mayor Wenande; voting “Nay:” None; Abstaining: Commissioner Woerner. Motion adopted.

### Action 13-193

Moved by Commissioner Blaaid, seconded by Commissioner Knoff, to authorize the City to enter into an agreement with Planning & Development District III for assistance in applying for the Certified Ready Site Program through the Governor's Office of Economic Development at a cost of \$5,750.00, for City-owned industrial property described as Block 1, except the West 360 feet of East Industrial Subdivision lying in the North one-half of the Southwest one-quarter, Section 9, T93N, R55W, of the 5th p.m., City and County of Yankton, South Dakota. (Memorandum 13-149)

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

Discussion was held regarding possible adoption of a noise regulation ordinance. (Memorandum 13-152) The consensus of the Commission was to form a committee to review problems and solutions associated with introducing and implementing any new noise ordinance and to bring forth information at a future meeting. Citizen Jay Roberts was present and encouraged rejection of the staff recommendation and asked the Commission to move forward as provided in City Attorney Hosmer's memorandum dated July 5, 2013.

### Action 13-194

This was the time and place to award the bid for the Fifth Street Reconstruction Project from Broadway Avenue to Douglas Avenue. The following bids were received and opened on July 15, 2013: Smith & Smith Construction, Tea, South Dakota-\$313,299.95; Feimer Construction, Yankton, South Dakota-\$319,463.15; Carl V. Carlson Construction, Tea, South Dakota-\$338,642.80; Masonry Components, Yankton, South Dakota-\$354,752.85; Carstenson Contracting, Pipestone, Minnesota-\$377,930.15. (Memorandum 13-153) Moved by Commissioner Gross, seconded by Commissioner Woerner, to award the bid to the low bidder, Smith & Smith Construction, Tea, South Dakota, in the amount of \$313,299.95.

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

### Action 13-195

Moved by Commissioner Knoff, seconded by Commissioner Blaaid, to adopt Resolution 13-32. (Memorandum 13-155) Property owner Mark Wenzlaff appeared to testify in favor of allowing construction of a 6 ft. by 16 ft. deck rather than the city staff recommendation of allowing building a 6 ft. by 8 ft. deck. Prior to a vote being taken, moved by Commissioner Hoffner, seconded by Commissioner Sommer, to allow building of a 6 ft. by 16 ft. deck.

### RESOLUTION 13-32

Permissive Use of Right-of-Way

WHEREAS, Mark & Cheryl Wenzlaff own property adjacent to the Levee Street Right-of-Way, (Address: 101 Douglas Avenue), and

WHEREAS, Mark & Cheryl Wenzlaff have requested permission to occupy the public ROW for the purpose of constructing and occupying a raised landing and stairway as described in the attached documents, and

WHEREAS, the applicant understands that the described landing and stairway would occupy the ROW at the applicant's risk and the City or other approved occupants of the ROW are not responsible for maintenance, adjustments or repairs to the landing and stairway resulting from use of the ROW for public purposes, and

WHEREAS, the owner, their heirs, assignees or successors shall not modify said raised landing and stairway in any manner without first having the written approval of the Yankton City Commission.

WHEREAS, the City may terminate the permissive use of Right of Way for any reason that it may deem proper and the City assumes no liability for the discontinuance of the permissive use of Right of Way.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves the permissive use of ROW at the described location in the manner shown on the attachments to this resolution.

## 2010 Legal and Public Notices

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

**Roll Call (original motion as amended):** All members present voting “Aye:” voting “Nay:” None. Motion adopted.

### Action 13-196

Moved by Commissioner Knoff, seconded by Commissioner Woerner, to adopt Resolution 13-31. (Memorandum 13-154)

### RESOLUTION 13-31

Avera Sacred Heart Health Services

Permissive Use of Right-of-Way (PERMIT TO OCUPY PUBLIC ROW)

WHEREAS, Avera Sacred Heart Health Services located at 1708 west 11th Street, Yankton, SD has requested permission to occupy public right-of-way for an irrigation system as detailed in exhibit (A) and;

WHEREAS, upon completion of the proposed improvements in public right-of-way, Avera Sacred Heart Health Services agrees to become a member and maintain a membership with “South Dakota One Call” for the purpose of protecting and locating the “irrigation pipe” described and further more Avera Sacred Heart Health Services agrees to assume all costs involved in becoming a member and remaining a member of “South Dakota One Call” and;

WHEREAS, Avera Sacred Heart Health Services agrees to remove, modify or relocate said “irrigation pipe” within sixty days of written request from the Yankton Board of Commissioners and that Avera Sacred Heart Health Services assumes all expenses in the removal, modification or relocation of said “irrigation pipe” described, now and in the future as directed by the City and;

WHEREAS, upon completion of the proposed improvements in public right-of-way, the owner, their heirs, assignees or successors shall not modify said improvements in any manner without first having the written approval of the Yankton City Commission;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves the permissive use of right-of-way for bored-in underground private 2 inch diameter SDR 21 PVC irrigation pipe at the described location shown and in a manner described on the attached “Exhibit A.”

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

Consideration of Memorandum 13-156 regarding an Airport Apron Design Grant application for the Chan Gurney Municipal Airport was pulled from the Agenda and will be added at a later date.

### Action 13-197

Moved by Commissioner Woerner, seconded by Commissioner Carda, to adjourn into Executive Session at 8:30 p.m. to discuss contractual matters under SDCL 1-25-2.

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

Regular meeting of the Board of City Commissioners of the City of Yankton was reconvened by Mayor Wenande.

**Roll Call:** Present: Commissioners Akland, Blaaid, Carda, Gross, Hoffner, Knoff, Sommer, and Woerner. City Attorney Hosmer and City Manager Nelson were also present. Absent: None. Quorum present.

### Action 13-198

Moved by Commissioner Carda, seconded by Commissioner Sommer, to adjourn at 9:28 p.m.

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

Nancy Wenande  
Mayor

ATTEST:  
  
Al Viereck  
Finance Officer  
Published once at the approximate cost of \$257.52.

# Comey

From Page 1

Chairman Patrick Leahy, D-Vt., said during Monday's brief debate.

Leahy expressed concerns about Comey's approval in 2005 of a legal memo that he said authorized the use of torture, including waterboarding, in which water is poured onto a suspect's face to make them feel like they're drowning. But Leahy cited Comey's answers at a committee hearing this month, when Comey said the FBI would not allow abusive treatment of prisoners.

Comey was praised by the Judiciary Committee's top Republican, Iowa Sen. Charles Grassley, who called him “a fine choice.”

Monday's vote led off a week in which majority Democrats were hoping to push a pa-

rade of nominations through the chamber. Among them were President Barack Obama's picks of Samantha Power as U.N. ambassador and B. Todd Jones to head the Bureau of Alcohol, Tobacco, Firearms and Explosives, for which votes on ending delaying tactics were expected Wednesday.

This is Congress' last week before its five-week summer recess.

Before rising to Justice's second-highest job, Comey was a federal prosecutor for 15 years.

Paul had threatened for weeks to block Comey's nomination until the FBI reveals more details about its use of drones in the U.S. He had written three letters to the FBI since June, seeking details on the agency's use of drones and the policies it follows in deploying them.

The agency's latest response, sent Monday, said the FBI has used drones 10 times

calls resulted in cases/citations. Of those, 29 were from residential homes and were related to things such as music or parties. Nine of them involved juveniles, including kids screaming. Another five were from juveniles being otherwise disruptive, such as for music emanating from a car. Dogs were responsible for two cases, and one case was for noise from a hotel.

The only formal disturbing-the-peace complaint related to music from a business establishment was the one for Happy Hourz. Meanwhile, noise at businesses generated eight informal complaints.

The only other formal complaint during that time period was filed in regard to ATVs driving on private property near West City Limits Road.

Paulsen said that, in most cases, the disturbances cease upon officer request.

Jay Roberts, who lives in the 400 block of Pine Street and has been disturbed by the noise from Happy Hourz, encouraged the City Commission to look at a comprehensive ordinance that includes specific decibel levels and times of day when certain

since 2006 for surveillance in kidnappings, search and rescue missions, drug and fugitive investigations. Among them was last winter's standoff between authorities and Jimmy Lee Dykes, who was shot to death after holding a 5-year-old boy hostage in an underground bunker in Alabama, the letter said.

The letter, from Stephen D. Kelly, the FBI's assistant director of congressional affairs, said the agency doesn't use drones for general surveillance unrelated to specific investigations. An earlier FBI letter said none of its drones have been armed.

Monday's letter said the FBI's use of drones must comply with constitutional privacy protections and agency guidelines and meet “the definition of a reasonable expectation of privacy provided by the Supreme Court.”

However, the letter said that while the top court has not ruled on the use of drones,

noises are allowed.

“I think it would be a disservice by this commission to continue with the same failed policy that your city attorney has indicated is vague,” he said, referring a City Attorney Dave Hosmer's description of the current ordinance. “The citizens of Yankton deserve better than a vague ordinance. It's just going to continue. There are going to be other complaints.”

Among the questions Nelson said will have to be answered are what noises should be regulated, as well as when, where and how those noises should be regulated.

Mayor Nancy Wenande commended the police department for working with Happy Hourz and another downtown business that received a couple complaints related to karaoke to resolve those issues. One-on-one communication may be a better way to deal with the current level of noise complaints than an ordinance revision, she stated.

“I think the commission is really stuck in a difficult posi-

prior rulings on aerial surveillance held that court warrants were not needed because the areas monitored were open to public view and “there was no reasonable expectation of privacy.”

The agency also wrote that a warrant would not be needed because drones don't physically trespass on private property.

“I disagree with this interpretation,” Paul said in a written statement. He said he agreed to allow the Comey vote “given the fact that they did respond to my concerns over drone use on U.S. soil.”

Democratic leaders were hoping the Senate would confirm three Democratic nominees to the five-member National Labor Relations Board on Tuesday: Mark Gaston Pearce, the board's current chairman, and Kent Hirozawa and Nancy Schiffer, who have both been long-time labor lawyers.

tion on this issue,” Wenande said during the meeting. “We have citizens who are obviously being impacted in their homes by the music they're hearing from the downtown area — and not just by one establishment, as we've heard. The police department is in a very difficult situation because of the way (the law) is written. They really don't have a strong mechanism for enforcing anything to get it to change. ... The worst thing the commission could do would be to enact an ordinance that we cannot enforce and is not well-written. That really doesn't help us get to where we would like to be.”

Ultimately, no one on the commission disagreed with the need to study the issue with a task force.

Commissioners Brooke Blaaid and Brad Woerner volunteered to be a part of it.

“I think we need to at least look into some options to maybe refine the ordinance we have a little bit,” Commissioner Craig Sommer said.

You can follow Nathan Johnson on Twitter at [twitter.com/AnInlandVoyage](https://twitter.com/AnInlandVoyage)

# Noise

From Page 1

missioners wanted to look into the issue.

“If we do move forward with an ordinance, it should be well-studied and thought through,” Nelson said. “We'd be changing the laws on the books, and we wouldn't want to do that without serious study.”

The current ordinance states: “No person shall disturb the peace through oral communications which amount to fighting words or through conduct which creates unreasonable noise. ‘Fighting words’ are oral communications which tend to incite an immediate breach of the peace. Examples of conduct creating unreasonable noise are loud stereos, cars or dogs.”

Violation of the ordinance is a misdemeanor charge.

Police records indicate there were 98 disturbing-the-peace reports between Jan. 1 and July 22. Only 49 of the

# RTEC

From Page 1

trailer and welding equipment, as well as scholarship funds to provide educational opportunities to low-to-moderate-income individuals from participating communities.

With the 2012 funding, 53 students received training through RTEC's basic and skill upgrade welding courses, with 38 of them now employed in welding-related jobs. Nearly 400 students also were exposed to welding when RTEC took its virtual welding simulator to 13 area school districts.

“The success of the training far exceeded the expectations of RTEC. The actual number of students trained was more than double their expectations,” said GOED Commissioner Pat Costello in an email to the *Press & Dakotan*. “Based on the success of the training, the GOED recommended extending the program, and Gov. Daugaard agreed.”

With local matching funds of \$25,000 from Freeman, Gregory and Yankton's Economic Development Council, RTEC is offering nearly \$90,000 in

# Fire

From Page 1

“I thought somebody had shut the lights off in the back of the store,” Hunhoff said. “It was that black that fast. We both threw pitchers of water on the fire and it wouldn't go out. I finally grabbed (the burning debris) and threw it out the back door.”

Because plastics were burning, Deputy Fire Chief Larry Nickles said the smoke was a dark black.

“There was some damage to clothing, the desk area and a computer, as well as light smoke and soot throughout the store,” he stated.

It is suspected that a fan may have blown some papers onto a burning candle and started the fire.

Nickles believes everything in the store will have to be cleaned because of the soot.

“All we did was evacuate the smoke with a fan,” Nickles said of the fire department's involvement.

Firefighters were at the scene for approximately 30 minutes.

You can follow Nathan Johnson on Twitter at [twitter.com/AnInlandVoyage](https://twitter.com/AnInlandVoyage)

scholarship funds for prospective students. The funding is earmarked for assisting those who enroll in either the Mitchell Technical Institute (MTI) Industrial Maintenance Technology program or in RTEC's basic and skill upgrade welding courses.

The MTI training program, a nine-month diploma program, is taught exclusively at RTEC in Yankton. The qualifying welding courses will be offered in Yankton, Freeman and Gregory.

“Last year's project was a combination of scholarship money and equipment,”

Svatos said. “This year, we have the equipment, and we're focused on scholarships and getting people through the doors, whether that's training for new skills or skill upgrades.”


He added that none of these efforts would be possible without the continued cooperation among the state, local partners and surrounding communities. The success of the combined effort of all involved proves there is “strength in numbers,” he said.

“We're coming together and wrapping our arms around a problem, which is

workforce development,” Svatos said. “We all face it. We all face workforce shortages. We have to work together, and that's the answer to solving the problem.”

For more information on enrolling in the MTI Industrial Maintenance Technology program, registering for RTEC's welding courses or for scholarship information, contact RTEC at (605) 668-5700.

You can follow Derek Bartos on Twitter at [twitter.com/d\\_bartos](https://twitter.com/d_bartos)



## Introducing Yankton's Newest Ear, Nose and Throat Doctor

Micah M. Likness, M.D.  
Otolaryngologist

*Dr. Likness completed his bachelors degree at University of South Dakota and his medical degree from the Sanford School of Medicine of the University of South Dakota. He completed his residency with State University of New York.*

*Please help us welcome Dr. Likness, his wife Tabitha and their son Grady to the Yankton community.*



*We're H“ear” For You!*

## EAR, NOSE & THROAT ASSOCIATES, P.C.

2525 Fox Run Parkway, Suite 101, Yankton  
605-665-0062 • 1-866-665-0062

[www.entyankton.com](http://www.entyankton.com)



David J. Abbott, M.D.  
Board Certified  
Otolaryngologist



Catherine A. Wright, M.D.  
Board Certified  
Otolaryngologist



Beth J. Beeman  
Au.D, CCC-A



Todd A. Farnham  
Au.D, CCC-A