

2010 Legal and Public Notices

than the statutory limit.

Application No. 7769-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in Gov't Lot 2 lying NE of railroad right of way (NW 1/4) Section 3 for irrigation of 48 acres located in the Gov't Lot 2 lying NE of railroad right of way (NW 1/4) Sections 3; all in T90N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7770-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the NW 1/4 NW 1/4 Section 30 for irrigation of 70 acres located in the W 1/2 NW 1/4 Section 30; all in T90N-R48W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7771-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the center of the NW 1/4 Section 2 for irrigation of 160 acres located in the NW 1/4 Section 2; all in T90N-R49W.

Application No. 7772-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the NW 1/4 NE 1/4 Section 2 for irrigation of 120 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 2; all in T90N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7773-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the a point between the NW 1/4 SE 1/4 and the NE 1/4 SE 1/4 Section 2 for irrigation of 70 acres located in the N 1/2 SE 1/4 Section 2; all in T90N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7774-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the NE 1/4 SW 1/4 Section 20 for irrigation of 35 acres located in the NE 1/4 SW 1/4 Section 20; all in T90N-R48W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7775-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in Tract 1 N 1/2 SE 1/4 Section 3 for irrigation of 41 acres located in the Tract 1 N 1/2 SE 1/4 Section 3; T90N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7776-3 proposes to appropriate 1.78 cfs from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the center of the SW 1/4 Section 35 for irrigation of 140 acres located in the SW 1/4 Section 35; all in T91N-R49W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7768-3 through 7776-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 20, 2013.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$59.08.

2010 Legal and Public Notices

CHAMBER OF THE BOARD OF CITY COMMISSIONERS YANKTON, SOUTH DAKOTA APRIL 22, 2013

Regular meeting of the Board of City Commissioners of the City of Yankton was called to order by Mayor Wenande.

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

Action 13-92
Moved by Commissioner Gross, seconded by Commissioner Lowrie, to approve the Minutes of the regular meeting of April 8, 2013, and special meeting of April 15, 2013.

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

Motion adopted.

Mayor Wenande read proclamations declaring April 24, 2013, as *GFWC Women's Club Day*; April 26, 2013, as *Arbor Day*; May 2, 2013, as *National Day of Prayer*; and the Month of May, 2013, as *Motorcycle Safety & Awareness Month*.

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

Action 13-93
Moved by Commissioner Sommer, seconded by Commissioner Carda, that the following items on the consent agenda be approved.

1. Establish public hearing for Retail On-Off Sale Wine License - Establish May 13, 2013, as the date for the public hearing on the request for a new Retail (on-off sale) Wine License for January 1, 2013, to December 31, 2013, from TWARD, LLC d/b/a The Old Lighthouse, (Jeff Christensen, owner), 2901 Broadway, Yankton, South Dakota.

2. Establish Public hearing for Malt Beverage License
Establish May 13, 2013, as the date for the public hearing on the request for a New Retail (on-off sale) Malt Beverage License for July 1, 2013, to June 30, 2014, from TWARD, LLC d/b/a The Old Lighthouse, (Jeff Christensen, owner), 2901 Broadway, Yankton, South Dakota.

3. Establishing public hearing for sale of alcoholic beverages
Establish May 13, 2013, 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 1 day, June 1, 2013, from The Center (Christy Hauer, Executive Director), 900 Whiting Drive, Yankton, South Dakota.

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

Motion adopted.

Action 13-94
Moved by Commissioner Lowrie, seconded by Commissioner Akland, to adopt Resolution 13-08. (Memorandum 13-76)

RESOLUTION 13-08 RIGHT-OF-WAY VACATION AND UTILITY EASEMENT DEDICATION

WHEREAS, the City of Yankton has conducted the process to vacate the identified Right-of-Way known as the unimproved east - west alley Right-of-Way located between the south 3/4ths of Lot 6 and Lots 7, 8, and 9, Block 43, Noble's Addition to the City of Yankton, South Dakota. Adjacent to the addresses of 808 and 822 W. 5th Street and 504 Spruce Street. Please reference the attached "ROW Vacation Location Map", and

WHEREAS, the proposed Right-of-Way vacation has been reviewed by the City Planning Commission and a recommendation has been made thereof, and

WHEREAS, due and proper notice of hearing regarding said process has been given, and

WHEREAS, the City of Yankton, South Dakota, after due investigation and consideration with applicable utilities involved has determined that good cause exists for vacating the described Right-of-Way on the condition of creating the easement as described in the Attached Exhibits "A" and "B."

NOW THEREFORE BE IT RESOLVED, that the unimproved east - west alley Right-of-Way located between the south 3/4ths of Lot 6 and Lots 7, 8, and 9, Block 43, Noble's Addition to the City of Yankton, South Dakota. Adjacent to the addresses of 808 and 822 W. 5th Street and 504 Spruce Street as described on the attached Exhibits "A" and "B" is hereby vacated contingent upon the dedication of the utility easement as identified in the attachments being created and recorded against the referenced legally described property.

Roll Call: Members present voting "Aye;" Commissioners Akland, Carda, Hoffner, Knoff, Low-

2010 Legal and Public Notices

rie, Sommer, Woerner, and Mayor Wenande; voting "Nay;" None; Abstaining: Commissioner Gross. Motion adopted.

Action 13-95
This was the time and place for the public hearing and second reading of Ordinance No. 955, AN ORDINANCE ENACTING DIVISION 2 IN ARTICLE I. OF CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF YANKTON. No one was present to speak for or against adoption of the ordinance. Moved by Commissioner Akland, seconded by Commissioner Gross, to adopt Ordinance No. 955.

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

Motion adopted.

Action 13-96
The proposed agreement between the City of Yankton and the National Field Archery Association (NFAA) providing for property transfer and monetary support for the NFAA was considered. (Memorandum 13-79) Bruce Cull, representing the NFAA, was present to give an overview of the improvements the National Guard will be making to the NFAA property and ranges beginning in June, 2013, and to answer questions. Moved by Commissioner Knoff, seconded by Commissioner Hoffner, to authorize the Mayor to sign the Quit Claim Deed conveying City-owned property described as Lot 4, except the North 400 feet, Section 16, T93N, R55W, of 5th P.M., Yankton County, South Dakota, to the National Field Archery Association of the United States; and to authorize the Mayor to sign the associated agreement between the NFAA and the City of Yankton transferring property and providing for purchase of lawn care equipment at a cost not to exceed \$25,000.00 and for a one-time cash gift to purchase materials to construct a comfort station at a cost not to exceed \$38,000.00 with funding to be taken from the BBB Fund.

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

Motion adopted.

Action 13-97
This was the time and place to award the bid for concrete removal and replacement at miscellaneous locations in Yankton. The following bids were received and opened on April 11, 2013: Masonry Components, Yankton, South Dakota - \$139,849.00; C&C Hauling and Construction, Yankton, South Dakota - \$141,353.03; Doyle Stevens Construction, Yankton, South Dakota - \$141,911.39; Big Al's Contracting, Sioux Falls, South Dakota - \$144,703.60; Welf Construction, Yankton, South Dakota - \$189,813.00. (Memorandum 13-80) Moved by Commissioner Carda, seconded by Commissioner Sommer, to award the bid for concrete removal and replacement at miscellaneous locations to the low bidder, Masonry Components, Yankton, South Dakota, in the amount of \$139,849.00.

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

Motion adopted.

Action 13-98
Moved by Commissioner Woerner, seconded by Commissioner Sommer, to adopt Resolution 13-09. (Memorandum 13-73)

RESOLUTION 13-09 A RESOLUTION APPROVING AN AIRPORT HANGAR LEASE AGREEMENT WITH RANDY DERAAD

WHEREAS, The Board of City Commissioners of the City of Yankton has been given the authority to approve airport hangar lease agreements at Chan Gurney Airport; and,

WHEREAS, Randy DeRaad desires to lease a 32' deep by 44' wide lot at Chan Gurney Airport on which he intends to build an airplane hangar; and,

WHEREAS, it is in the best interest of the City of Yankton and Chan Gurney Airport for the Board of City Commissioners to approve the lease agreement with Randy DeRaad,

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Yankton, SD, that the airport hangar lease agreement with Randy DeRaad for building location 610 E 31st Street Number 30 is hereby approved at a rate of \$0.10 per square foot of building space.

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

Motion adopted.

Action 13-99
The request for funding from Yankton RiverWalk, Inc., to purchase the 2012-2013 *People's Choice Award* sculpture was considered. Lisa Scheve, President of RiverWalk, Inc., was present to explain the request and answer any questions. (Memorandum 13-78) Moved by Commissioner Hoffner, seconded by Commissioner Carda, to approve the re-

2010 Legal and Public Notices

quest from RiverWalk, Inc., to provide funding in the amount of \$6,600 to purchase the *People's Choice Award* sculpture.

Prior to a vote being taken, it was moved by Commissioner Hoffner, seconded by Commissioner Carda, to amend the motion to use monies from the BBB Fund for purchase of the sculpture.

Roll Call on amended motion: All members present voting "Aye;" voting "Nay;" None. Motion adopted.

Roll Call on original motion: All members present voting "Aye;" voting "Nay;" None. Motion adopted.

Action 13-100
Moved by Commissioner Gross, seconded by Commissioner Sommer, to adopt Resolution 13-10 (Memorandum 13-75)

RESOLUTION 13-10 Preliminary Plat

WHEREAS, it appears from an examination of the Preliminary Plat of the Doris Schenk Addition located in the East Half of the Southeast Quarter (E ½, SE ½), Section 8, Township 93 North, Range 55 West of the 5th P.M., Yankton County, South Dakota as prepared by Eisenbraun and Associates, Yankton, South Dakota, and

WHEREAS, such preliminary plat has been prepared according to law and is consistent with the City's overall Comprehensive Development Plan.

NOW, THEREFORE BE IT RESOLVED by the Board of City Commissioners of the City of Yankton, South Dakota, that the preliminary plat for the above described property is hereby approved.

Roll Call: Members present voting "Aye;" Commissioners Akland, Carda, Gross, Hoffner, Knoff, Lowrie, Sommer, and Mayor Wenande; voting "Nay;" None; Abstaining: Commissioner Woerner.

Motion adopted.

Action 13-101
The proposed Housing Study Agreement between the City and Yankton Area Progressive Growth (YAPG) whereby YAPG would finance and contract with a consultant to produce a housing study and the City would administer the process was considered. Mike Dellinger, President of YAPG, was present to explain the proposal and to answer questions. Steve Huff, who is a Board Member of Habitat for Humanity, was also present in support of approval of the agreement. Moved by Commissioner Knoff, seconded by Commissioner Sommer, to authorize the City Manager to execute the Housing Study Agreement between the City and YAPG. (Memorandum 13-74)

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

Motion adopted.

Action 13-102
4+25&5+2+9+16
STATE OF SOUTH DAKOTA IN CIRCUIT COURT

COUNTY OF YANKTON FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N.A., asTrustee on)
behalf of Lake Country Mortgage Loan)
Trust 2005-HE1, by Green Tree)
Servicing LLC as Servicer with)
delegated authority on behalf of the)
trustee,)

Plaintiff,)
)
vs,)
)

L. John Gurney a/k/a Lawrence John)
Gurney a/k/a Lawrence J. Gurney)
(deceased); Unknown Heirs; Devises;)
Legates; Administrators; Executors;)
Creditors of L.J. Gurney; and Other)
Unknown Persons Who Might Have a)
Right of Redemption from the)
Mortgage; Accounts Management Inc.;)
Capital One FSB; Applied Card a/k/a)
Cross Country Bank; Midland Funding)
LLC; and any person in possession,)
)
Defendants.)

To the Above-Named Defendant(s):

You are hereby summoned and required to serve upon Plaintiff's attorney, Mackoff Kellogg Law Firm, 38 Second Avenue East, Dickinson, North Dakota 58601, and answer to the complaint which is herewith served upon you within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This action involves a real property situated in the County of Yankton, State of South Dakota described as follows:

Lot four (4), Block four (4), Lower Yankton, City and County of Yankton, South Dakota as per plat recorded in Book G, Page 6. Parcel ID: 78-430-004-040.

The Plaintiff makes no personal claim against you in the action.

Dated July 20, 2012.

MACKOFF KELLOGG LAW FIRM
Attorneys for Plaintiff
38 Second Avenue East
Dickinson, ND 58601
Tel: (701) 227-1841
Fax: (701) 225-6878

By: _____
David C. Piper, Attorney
SD Bar ID #4128

Published four times at the approximate cost of \$404.60.

2010 Legal and Public Notices

Moved by Commissioner Gross, seconded by Commissioner Woerner, to adopt Resolution 13-11. (Memorandum 13-77)

RESOLUTION 13-11 AUTHORIZING STATE WATER PLAN APPLICATION

WHEREAS, the City of Yankton has identified the need to address the City's water supply and treatment needs; and

WHEREAS, the City of Yankton requests placement on the State Water Plan; and

WHEREAS, the City of Yankton is eligible for placement on the State Water Plan; and

WHEREAS, with the submission of the State Water Plan application, the City of Yankton assures and certifies that all State Water Plan program requirements will be fulfilled,

NOW THEREFORE BE IT RESOLVED, that the Yankton City Commission duly authorizes the submission of this State Water Plan application, and

BE IT FURTHER RESOLVED, that the City Manager be authorized to execute the State Water Plan application for the City of Yankton.

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

Motion adopted.

Action 13-103
Moved by Commissioner Carda, seconded by Commissioner Gross, to adjourn into Executive Session at 8:35 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, Carda, Gross, Hoffner, Knoff, Lowrie, Sommer, and Woerner. City Attorney Hosmer and City Manager Nelson were also present. Absent: None. Quorum present.

Action 13-104
Moved by Commissioner Carda, seconded by Commissioner Sommer, to adjourn at 9:17 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 \$174.44.

Marina

From Page 1

when contacted by the *Press & Dakotan* Wednesday.

The state electrical inspector and the local fire marshal will do a walk-through of the docks to make sure they are safe for the public (Thursday morning), according to Van Meeteren.

"If it proceeds like we hope it will, the public will have full access to those docks again (by Thursday afternoon)," he added.

Some of the issues found during the April inspection included electrical lines in the water because their supports had failed, and lights that had been broken and now had exposed wires.

"It's all about public safety," Van Meeteren said. "With electricity over the water, we've got to be very careful. Our responsibility is to provide a safe marina to the public, so when a professional group like JJR comes in and says you've got some problems and need to address them, we're going to listen."

The electrical inspection, as well as a structural inspection that was performed later in April, were spurred by the proposed sale earlier this year of the Lewis and Clark Marina to a new operator.

Marsh has a 10-year lease that extends through the end of next year. However, he officially notified the GF&P in February that he wanted out of the agreement.

The GF&P Commission agreed at a February meeting to proceed with a 60-day request for proposals to find a new operator for the marina and its associated restaurant. The commission and Marsh agreed to an approximately \$2.8 million asking price.

"Several weeks later, Marsh made the decision to increase the price rather significantly," said Doug Hofer, director of state parks for the GF&P.

The new sale price requested by Marsh was approximately \$4.8 million and included nearly \$2 million in blue sky valuation, or intangible assets and goodwill acquired by the business.

"Based on that change, which negated the agreement we had, we couldn't come together on the price," Hofer said. "Marsh rescinded his intent to sell at this point and told us he would operate it until his lease expired in 2014."

The electrical and structural inspection of the docks was to be done as part of the sale process, but the GF&P Commission decided to move ahead with the process despite the fact that the sale would no longer proceed.

Hofer said provisions in the concession lease rules stipulate the sale price of the marina be established through an appraisal once the agreement is within 18 months of completion.

He anticipates the appraisal will occur late this year or early next year.

In regards to the restaurant at the marina, Hofer said that Marsh has hired an individual to operate it this summer.

You can follow Nathan Johnson on Twitter at twitter.com/AnInlandVoyage

YOUR NEWS! THE PRESS & DAKOTAN

CROSSWORD By THOMAS JOSEPH

ACROSS
1 Lateral,
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5 Holiday event
11 Pining
12 Doomed flier
13 Dessert fruit
14 Acropolis setting
15 Requested
17 Words with pickle, stew or jam
18 Coarse files
22 Possessed
24 Try for a basket
25 Really enjoy
26 Ring legend
27 Practical
30 Magic Johnson, once
32 Not as green, maybe
33 Paris pal
34 Con-founded
38 Dream up
41 Like an eyesore
42 Lone Star State city
43 Trick

DOWN
4 Sense
45 Went 80
1 One of a bear trio
2 Great serves
3 Reorganizing
4 Placid
5 Singer Edith
6 Cast native makeup
7 Enthusiastic
8 Verb for you
9 Brownish gray
10 Twisty turn
16 June honoree
19 Absorbing
20 Warsaw native
21 Commotion
22 Sneaker problem
23 Hotspot offering
28 Peaceful
29 Steamy suffix
30 Fall behind
31 Affairs
35 Nice fellow
36 Different
37 Colored
38 Scoundrel
39 Wish undone
40 Superlative suffix

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5-9

A X Y D L B A A X R
is L O N G F E L L O W

One letter stands for another. In this sample, A is used for the three L's, X for the two O's, etc. Single letters, apostrophes, the length and formation of the words are all hints. Each day the code letters are different.

5-9 CRYPTOQUOTE

Y G X O U P I W J G N W

R P I P F S T E W U ; E S W C L X J C

V T X F E G L X D S W X L R W X .

— E S L Y P U O W D P I
Yesterday's Cryptquote: THE MOST INCOMPREHENSIBLE THING ABOUT THE WORLD IS THAT IT IS AT ALL COMPREHENSIBLE. — ALBERT EINSTEIN