

Wednesday June 12, 2024

The Martin City Council met in Regular Session on Wednesday, June 12, 2024 at 5:30 p.m. in the Library Community Room at 101 Main Street.

Mayor Gary Rayhill called the meeting to order with council members Gloria Claussen, Tootie Moffitt, Larry Gauer, Tyler Nollett, Randy Kocourek, present. Absent, Warren Peterson.

Others present, Mandy Scherer with the Bennett County Booster, Doug Johnson, Rachel Adair, David Livermont, Kevin Rascher, Bob Fogg, BC Sherriff Jason Erwin, Sue Lewis, Police Chief Doug Lucero, Donna Lamont, City Foreman Paul Noel, City Attorney Sara Frankenstein by Zoom, and Finance Officer Jean Kirk.

Approval of Agenda: Gauer moved to approve the agenda with flexibility. Nollett seconded the motion. All in favor, motion carried.

Minutes: Kocourek moved to approve the Mau 8th minutes. Moffitt seconded the motion, all voting aye, motion carried.

Finance Officer's Report: Gloria Claussen moved approve the Finance officer's report for May. Seconded by Gauer, all voting aye, motion carried.

Beginning Balance on Hand	\$4,137,987
May Receipts	253668
Total to be accounted for	4,391,655
Transfer In	49,943
Transfer Out	43,303
Disbursements	132,952
Outstanding Warrants	23,651
CD & Petty Cash	22,702

Claims June 2024: The claims were reviewed by the council. Moffitt moved to pay the June claims. Seconded by Kocourek, all voting aye, motion carried.

Insert June Claims Here

Moffitt moved to approve the payment of \$703 to the USDA for the lagoon payment. Nollett seconded the motion. All voting aye, motion carried.

Summer Fest: Doug Johnson updated the Council on Summer Fest. New activities have been added this year. He is planning for a bigger and better turnout. He asked the Council if it would be ok to have a junk car on Main Street. They are going to do a smash for cash and will donate the money to the Meals on Wheels. Nollett moved to allow the junk car on Main Street. Claussen seconded the motion, all voting aye, motion carried. He also asked if the Council would donate \$2500 to help out with some of the Summer Fest

expenses. Nollett move to donate \$2500 out of the BBB Fund. Gauer seconded the motion, all voting aye, motion carried

Special Event License: Gauer moved to approve the special event license for the Martin Volunteer Fire Department to have a beer garden on Main Street for Summer Fest. Nollett seconded the motion, all voting aye, motion carried.

Sidewalk Phase 2: Anthony Kathol presented to the Council the figures on how much phase two of the sidewalk improvements was going to cost. The projected cost of the project was \$1,254,303 with the City's share being \$226,401.69. Mr. Kathol said if the city wasn't ready to move forward with Phase 2, they could apply for a grant to help pay for just the planning of Phase 2, 3, and 4. Estimated cost for that is \$483,075 with the City's share being \$87,195. After some discussion Gauer moved to proceed with the planning phase. Motion died for lack of a second.

Law: There were 146 calls for service, 105 traffic tickets, and 19 arrests. Claussen moved to go into executive session concerning personnel SDCL (1-25-2.1) with mayor, council, police chief, city attorney and finance officer. Into executive session at 6:11 p.m. Out of executive session at 6:31 p.m. Nollett moved to hire John Waters at \$25.00 an hour. Kocourek seconded the motion all voting aye, motion carried. Officer Aronov started at the academy on June 3rd. The Martin City Police is sponsoring a youth lock-in on the night of June 22nd at the Martin Activity Center for youth aged 13 to 18.

Combine Law: As Sherriff Irwin was not present, Gauer moved to table this until next meeting. Nollett seconded the motion. Voting aye were Nollett, Gauer, Moffitt, Kocourek. Voting nay, Claussen. Motion carried. As Sherriff Irwin showed up later in the meeting, Gauer moved to rescind his motion to table this agenda item. Nollett seconded the motion, all voting aye motion carried. A discussion was held on combining law. Some of the Councils concerns were protecting the city's assets and having 24-hour coverage. Claussen moved to direct the city attorney to work with the Bennett County States Attorney and the law boards to draw up a contract. Gauer seconded the motion. Voting aye were Claussen, Gauer, Kocourek, Moffitt, and Nollett. Voting nay, none. Motion carried.

David Livermont Drainage: David Livermont addressed the Council concerning the drainage by his property at 608 Pugh Street. He said that in a big rain event that the culvert can't handle the water that is flowing off the school property and it back ups and floods his garage and basement. A few years-ago the city did some work on the ditch and culvert, but that was not enough to solve the problem. Mayor Rayhill told Mr. Livermont that Bennett County Hazard mitigation which is headed by Jeff Sisco is currently working on the problem. Gauer moved to table this until next month and invite Mr. Sisco to the meeting. Moffitt seconded the motion, all voting aye, motion carried.

Airport Cameras: The Council reviewed a quote from Home Computer Services for security cameras at the airport. The quote for 5 cameras is \$6308.28. Claussen moved to approve the quote for the airport cameras.

Food Vendor Ordinance 2nd reading: The second reading of the food vendor ordinance was held.

Ordinance No. 258

AN ORDINANCE TO ADOPT REGULATIONS CONCERNING MOBILE FOOD VENDORS BY

**ADOPTING PROVISIONS IN TITLE #7-1 OF THE CITY
OF MARTIN MUNICIPAL CODE**

WHEREAS, currently the State of South Dakota licenses mobile food vendors through the Department of Health but does not regulate where these vendors may operate; and

WHEREAS, currently the City of Martin Municipal Code does not include any general provisions governing mobile food vendors such as food trucks on private or public property; and

WHEREAS, the absence of City regulation for mobile food vendors creates uncertainty as to the circumstances under which food trucks and other mobile food vendors are allowed in the City; and

WHEREAS, the City wishes to adopt ordinances to address mobile food vendors and to allow for mobile food vendors as temporary uses on private property and on public property with the consent of the property owner; and

WHEREAS, the City wishes to adopt additional regulations governing the activity of mobile food vending on both private and public property to ensure vehicle and pedestrian safety, to require adequate sanitation and trash collection, and to govern signage and noise from the vending establishments, among other regulations; and

WHEREAS, the Common Council believes it to be in the best interests of the health, safety, and general welfare of its citizens to adopt regulations governing mobile food vending.

NOW THEREFORE, BE IT ORDAINED by the City of Martin that Section 7-1-8 of the Martin Municipal Code is hereby adopted to read in its entirety as follows:

7-1-8 Mobile Food Vendors.

The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Mobile Food Vendor.* A licensed and operable vehicle or concession trailer which is enclosed and self-contained, independent with respect to water, sewer, power utilities, that contains equipment for the preparation and sale or service of food or beverages with or without charge which are designed for immediate consumption.
- (2) *Food Truck Permit:* Written authorization by the city to operate a food truck in the city as provided in this section.
- (3) *Operate.* To offer for sale food and beverage items from a food truck to the general public for immediate consumption on the public right-of-way or on **private**

property; it does not mean either loading or unloading food or beverage items in bulk or other materials.

- (4) *Operator*. The registered owner of a food truck or the owner's designated agent who holds a food truck permit.
- (5) *Permittee*. The person who has been issued a food truck permit by the city.

Mobile food vendor operational requirements. Mobile food vendors conducting business within the city must comply with the following requirements:

- (1) An application for a food truck permit shall be filed with the finance officer on a form provided by the city.
- (2) The finance officer or designee may revoke a food truck permit for violation of this ordinance
- (3) Prior to any food truck permit being issued under the provisions of this ordinance, the applicant shall have all applicable state permits and licenses and shall pay the required fee.
- (4) All mobile food vendors must abide by all federal, state, and local laws, rules, and regulations. Mobile food vendors must operate in compliance with all state laws and regulations and must maintain continuous licensure with the South Dakota Department of Health.
- (5) Mobile food vendors may vend only on private or public property with the consent of the property owner and may not encroach into any right-of-way adjoining the property with the mobile food vending establishment or any accessory items such as trash cans, tables, chairs, etc. If requested by the City, a mobile food vendor shall promptly provide proof of a property owner's consent to operate on the property.
- (6) The vendor shall not conduct any vending in a way that causes congestion or blocking of vehicle or pedestrian traffic or fire lanes. Each vendor has an affirmative and independent duty to determine the safety and suitability of any particular location of operation and to operate in a manner reasonably calculated to avoid and prevent harm to people and to other vehicles.
- (7) All areas within and surrounding a mobile food service establishment must be maintained in a clean, neat, and sanitary condition. A movable food vendor shall provide one private trash bin with capacity of no less than 13 gallons. Trash bins shall be anchored or otherwise secured upright and have a cover. A mobile food vendor shall remove all litter generated by its operation at the vendor's expense. The mobile food vendor shall not place trash or litter from the mobile food vending establishment in any unauthorized private or City receptacle.
- (8) Umbrellas and canopies must be designed to be secure during windy conditions. Umbrellas and canopies must be at least seven feet above the ground when open and may not protrude into the right of way.
- (9) All mobile food vendors must ensure that individuals with disabilities have comparable access to mobile food vending establishment. If existing designs

cannot be modified to be accessible to people with disabilities, the method of providing service must be modified to become accessible.

- (10) A mobile food vending establishment cannot be permanently located on any public property and cannot function as a permanent structure.
- (11) A permit shall remain in effect until December 31 of the year of issuance.
- (12) The city may limit the number of food truck permits granted by resolution of the city.
- (13) The permittee shall not offer tobacco or alcoholic beverages for sale.
- (14) The sale, transfer, or assignment of a permit is expressly prohibited.
- (15) The permittee shall not project audible amplified music or sound or make any unreasonably loud noise for the purpose of advertising or attracting attention to the mobile food vending establishment.
- (16) Before any food truck vendor permit is granted, the applicant shall sign a statement holding harmless the city and shall indemnify the city, its officers and employees, for any claims for damages to property or injury to persons which may occur in connection with any activity carried on pursuant to any activities associated with food truck vending.
- (17) Any person who shall violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$200.00 for each offense, together with the costs of prosecution. Each day while so engaged shall be and constitute a separate offense.

CITY OF MARTIN

Mayor, Gary L Rayhill

ATTEST

Jean Kirk, Finance Officer

1st Reading May 8, 2024
2nd Reading June 12, 2024
Published June 26th 2024
Effective July 16th, 2024

RESOLUTION #2024-8

BE IT RESOLVED BY THE CITY OF MARTIN that the following **RATES** be adopted for use by the City of Martin in its operation.

Water Rates:

City residents and Commercial Users: \$16 for the first 2000 gallons: \$4.00 per 1000 gallons used in excess of 2000 gallons. (7-13-04)

Outside city limits:	Pay at a rate of 1 ½ time.
Meter Reading Fee:	\$15.00
Meter Deposit:	\$120.00
Reconnect Fee:	\$30.00

Dated this 11th day of June, 2024.

CITY OF MARTIN

ATTEST:

Gary Rayhill, Mayor

Jean Kirk, Finance Officer

Adopted: 6/11/2024
Published: 6/26/2024
Effective: 7/16/2024

Claussen seconded the motion, all voting aye, motion carried.

Nollett moved to take down the old Martin sign at the junction of Highway 44 and Hisle Road. The sign is old and in rough shape. Claussen seconded the motion, all voting aye, motion carried.

Council Pay: It was consensus of the Council to table this until they can find out what other councils get paid.

Pool: A quote was reviewed From Performance Plus to repair the outside of the pool building for \$26870. The life expectancy of the wall system is 15 to 20 years. Nollett moved to accept the quote and have the walls repaired. Moffitt seconded the motion. Voting aye were, Claussen, Gauer, Moffitt, and Nollett. Voting nay, Kocourek. Motion carried.

Claussen moved to hire the following life guards Tiernan Arnold at \$11.20 an hour. Sophia May, Megan Begeman and Thomiah Poor Bear at \$12.00 an hour. Nollett seconded the motion, all voting aye, motion carried.

Personnel: Claussen moved to go into executive session concerning personnel SDCL (1-25-2.1) with council, mayor, Foreman Noel, city attorney and finance officer. Into executive session at 8:31. Out of executive session at 8:44. Claussen moved to approve the following raises. Tom Moffitt \$21.00 an hour, Kenneth

Daugherty \$17.75 an hour and Sandra Cummings \$17.00 an hour. Nollett seconded the motion, all voting aye, motion carried.

Past due Water Bills: The past due water bills were reviewed by the council. A motion to handle as usual was entered by Claussen and seconded by Nollett. All voting aye, motion carried.

Code Enforcement: Rachel Adair addressed the council concerning the letters she received from the city's code enforcement company. The letter stated that they would start being ticketed and fined if progress was not made on cleaning up their property. Mrs. Adair asked for some extra time. Gauer moved to follow the deadline that was stated in the letter from the code enforcement official. Kocourek seconded the motion, all voting aye, motion carried.

Complaints: Several complaints were heard about dogs running at large around town. The council will look into changing the dog ordinance so it would be easier to deal with the dogs that are running loose. Attorney Frankenstein said it would help if pictures were taken to provide evidence to the court when prosecuting the tickets. A complaint was also heard about garbage not being picked up.

Adjournment: As there was no further business to come before the council at this time, motion to adjourn was entered by Moffitt.

The next city council meeting will be held July 10th at 5:30 p.m. at the library community room.

Dated this 12th day of June, 2024

Gary Rayhill, Mayor

ATTEST: _____
Jean Kirk, Finance Officer

Published once at a total estimated cost of \$