

# CITY OF BOX ELDER COMMON COUNCIL MEETING MINUTES

Tuesday November 7, 2017

6:00 pm Public Hearing, 7:00 pm Regular Meeting – City Council Chambers, 420 Villa Drive, Box Elder

Public comments are welcomed, but no action will be taken by the Council on comments received for items not on this agenda. Anyone wishing to have the Council vote on a new item will need to fill out an agenda request item form for the item to be considered on the next council agenda.

## 1. Call meeting to order

## 2. Moment of Silence/Pledge of Allegiance

## 3. Roll Call

Present at the meeting were Mayor Larry Larson, Council Members Jeff Hollinshead, Scott Allen, Bruce Hegel, Rick McPherson, and Tricia Weathers. Also present were Police Chief Jason Dubbs, Planning and Zoning Director Ron Koan, Public Works Director Bob Kaufman, and City Administrator Nicole Schneider.

## 4. Approve Agenda

Motion to approve agenda with an executive session by Allen, seconded by Weathers. Vote aye: unanimous.

## PUBLIC HEARING:

5. To hear comments or objections to the establishment of Business Improvement District #2 and the method of raising revenue by special assessments against hotel and motel properties included in Business Improvement District #2 of the City of Box Elder.

6. **LEGAL – Todd Meierhenry:** Discuss and decide on Ordinance 584 for the creation of BID #2.

Todd Meierhenry: "It's within the desecration of the governing body, whether or not to create this business improvement district number 2. Like any other formal part of an ordinance, we have a first "whereas" which basically says in chapter 9-55, which is the business improvement district chapter, you are creating this district and establishing the method of taxation. In this case, you are creating a special business improvement district that has special assessment and that's how it is going to fund it.

The second "whereas", after receiving from the city loaner, a petition to establish the business within the district, we've adopted resolution 1708, which provides for the intent to create the business improvement district and scheduled a hearing on September 19<sup>th</sup> thru this day.

The third, we did have a hearing this day, and you now are considering an ordinance to either motion to pass the ordinance and a second.

### Section 1: Findings

A: Received a resolution of intent, which is a necessity.

B: On November 7<sup>th</sup>, 2017 you held a hearing and gave the public an opportunity to either support or not support the creation of this business improvement district, which is a requirement.

C: The boundary of the district is an established business area in a common zoning designation that is a requirement. In the hotel district, it is the hotels specifically for common zoning designation.

D: The construction of the convention center, or event center, and other necessary public improvements within the district will promote the general economic welfare and prosperity of this city in the state of South Dakota, to the promotion and advancement of commercial activities.

E: Construction of a convention or event center and other necessary improvements will promote economic activities within the city.

F: It's in the best interest of the city to establish a business improvement district; that it is in the best interest to establish a procedure to collect the special assessments directly from the consumer so that the risk of non-payment of the special assessment from the hotels is mitigated. This finding is for two purposes; first to fight with the state of South Dakota Department of Revenue that this is a tax that is being paid by a consumer which is required by the city, so that it is not subject to sales tax. Second is the taxing of the consumer who leases the hotel property is in the city's best interest. We drafted this resolution so that we collect the special assessment on a monthly basis and it is submitted on a monthly basis and it is submitted on a monthly basis. In that way it is almost an additional security if anybody that is going to loan on a special assessment bond that they don't have to rely on the Hotel properties to put aside on an annual basis sufficient money to pay the special assessment. But, to put it aside on an ongoing basis monthly they will submit it and it will accumulate to pay principal and interest when due on a monthly basis. When you look at that as an underwriting standard that is much better because know you know immediately when you have a Hotel property that has gone into distress. It is almost an additional credit advancement for a bond.

Tricia Weathers: What was the States findings on the wording of this again?

Todd Meierhenry: The States finding almost was the opposite of how I read it; well a special assessment, when you have properties that pay triple net leases, which they pay the insurance and they pay the taxes that is placed by the property owner on the person who leases the property, then there is no sales tax on that and they agreed. They agreed originally and then they started back tracking and the exact statute that we used to support that statement, they cited it for saying that it didn't apply. When I asked and the former Attorney General of the State of South Dakota any reasoning as to why they did it, they provided no explanation as to why. So, when we were drafting this, and we send this to them, we asked do you want to fight this or not? We now have findings of a City, pass through, it's a legislative act, it's a tax and it's imposed on a consumer. So, we have all of the reasoning of why you can't charge sales tax under State law because it would be illegal under their statute. That's our little argument with them. Their marching orders are anywhere possible try to tax somebody when possible. So we sat down, because as citizen economic development activity were are going to try to generate as much economic activity as a City and private property owners. This is all being passed through to the consumer anyway, so if we want more economic activity to come town and your scheduling your facility, it wouldn't be beneficial to have an extra tax in there that they State gets and the City would get two pennies of it but the State gets the majority.

Tricia Weathers: The wording of the word "tax" and the "consumer" I am just vaguely remembering a debate over whether we could call it a tax to the consumer and that the Hotel had to call it a fee.

Todd Meierhenry: Well, it is a tax on the properties and they are then adding to the "the little agreement we always sign and never read" as part of the hotel overnight stay; it will say that you are paying a portion of a special assessment tax for your rental of this property. You are responsible and paying. Special assessments are a tax since 1913, Supreme Court stated that and again in the 1970's, so it is a tax, it is a real estate tax collected like real estate tax but it is a "special tax" that can only be assessed against properties that can receive a special benefit from a public improvement. In the Hotels, that is the only reason we are taxing only the Hotel properties because they are the only ones that are having a special benefit from this tax. So, if you only have an empty lot, they don't get taxed, unless they built a Hotel. I have been asked to never use the word Motel anymore by my wife because it embarrassed her going to a big City's and saying " hey, we're staying at a Motel, a pretty nice one".

Dick Plumier: Should the City anticipate disputes with the Department of Revenue?

Todd Meierhenry: Not the City because the City doesn't any anything. This will solely be the Hotels that will be in the dispute. The City's only concern will be that they get their special assessments.

Roger Tellinghuisen: I just want to point out, remember BID#1, where you have the \$2 occupancy tax that's assessed to people that rent rooms, there is no dispute with the DOR that sales tax is not collected on that. So, it's just this twist that we are going to have an argument with them, I think but I don't know. We have tried to be very careful of how we have worded the rest of this ordinance and that specific provision and Todd will talk about that but we think we have a good legal basis for that argument. As it turns out, if we lose the Hotels will have to make up the sales tax, it's just that simple.

Todd Meierhenry: So from the City's standing they are trying to put it in such a way so that the private parties a good argument saying they don't have to because they would until they get audited. I assume they are going to take care of it before it become a material major bill with the fine.

H: The City finds that the taxing of the consumer is in the city's best interest and I explained

I. That the collection method set forth herein will be viewed favorably by underwriters and lenders of the obligations issued to build the convention or event center and other necessary public improvements thereby reducing the overall cost of borrowing. When you collect monthly, they will view this less of a risk because they will know immediately if anyone is having financial difficulty because you may not get a payment; the concern would be like most taxes at the end of the year, here you will know immediately which should lower the risk and therefore, lower the interest rate.

Section 2: Definitions:

A District: means Business Improvement District #2

B. City Council: mean City of Box Elder City Common Council

C. Consumer: means the actual lessee of space within at Hotel

D. Hotel: means hotel, motel, lodge, resort, cabins, building, or buildings with more than ten rental units which is used to provide sleeping accommodations for a charge to the public, that comes right out of state statute.

E. Special Assessment: means the tax legally imposed directly on the Hotel and Consumer as required by the ordinance.

Section 3: Actually, creates and establishes the Business Improvement District #2, in conformance with SDCL Chapter 9-55. The boundaries of the District are set forth in Exhibit A, B, C-1 & C-2 which are attached to this ordinance and some didn't really have legal descriptions, so we have pictures including right-of-way(s) and roads.

Section 4: Formation of the Board- The district shall be governed by a board which shall consist of no less than five members to serve a three-year term. For the first board, the mayor shall appoint members with staggered terms. The mayor, with the approval of the governing body, shall fill any vacancy for the remainder of the term vacated. A member of such board may serve more than one term. The board shall select from its members a chairperson and a secretary.

Section 5: Properties within the District Subject to Assessment. All properties within the District which contain a Hotel shall be subject to Special Assessments as authorized under SDCL 9-55-2. So that's the limitation within the boundries of the district, only those who lodge more than 10 people will fall in the special assessment taxes.

Section 6: Special Assessment. Required by the statue 9-55 to set-forth the special assessment collection method. And this is different, normally you use 9-13 but the BID process says you can make your own procedures which will be collected by the City Finance office monthly versus one time per year.

- a. Finds. That the Hotel properties located in the District will receive a special benefit due to their proximity to the improvements and that the benefit will be different than that of the public at large. So that is one of the findings in the Supreme Court said that special assessment can only be against properties that specially benefit. Since the public improvements of the convention center benefit directly hotel properties in a different way than any others that is what this directs to.
- b. Special Assessment. The City will levy a Special Assessment against the Hotel real property located in a district, to the extent of the special benefit on such property, for the purpose of paying all or any part of the total costs and expenses of any project authorized by SDCL Chapter 9-55, within the District. That includes any public improvements includes road, viaducts, etc.
- c. Formula for Special Assessment. The formula for the Special Assessment is as follows: each property's current assessed value, as determined by the City for real estate tax purposes, will be multiplied by the appropriate factored amount to sustain the approved annual budget to determine the amount of the Special Assessment to be levied against each Hotel property. So when we actually do the special assessment rule, you'll take all the properties with the last Director of Equalization assessment determine a factor how much we will need to pay principal and interest and divide by the total value and then take each hotel's property's value; that will give us a number that we can calculate that factor which will be set forth at a future date once you figure out how much you need; what your project consists of, do your bonds issues, and levy your special assessments. Richard Pluimer: "Does that change from time to time?" Todd, "maybe we will reassess if a new hotel property comes in then we'll reassess the payment and re-levy a special assessment rule. Pluimer: "What if you start with infrastructure improvements, then the convention center later." Todd, "Yes, you can have multiple special assessments running over the top; we'll have immediate special assessments before you start for the preliminary studies, plans, engineers. Those will be levied to pay those portions, maybe you have projects that move forward in different years you could have special assessment for series 2018, 19, 20 and proceed forward for each. If you didn't issue bonds and held them in-house which is also a possibility.
- d. Hearing on Special Assessment. Notice of a hearing on any Special Assessments to be levied shall be given to the landowners in the district by publication of the description of the land, the amount proposed to be assessed, and the general purpose for which the assessment is to be made, once a week for two weeks in the City's newspaper published in the municipality. (That is out of statue, I don't think there is one but it would have to be published in your official designated newspaper.) The notice shall be published at least thirty days prior to the hearing and shall provide the date, time, and place of the hearing to hear any objections or protests by landowners in the district as to the amount of assessment made against their property. All Special Assessments levied constitute liens on the property and shall be certified for collection and collected by the City Finance Officer. This gives us the ability to foreclose these leins under state statue.
- e. Notice of Special Assessment. The City Finance Officer shall immediately mail to the owners of Hotel property within Business Improvement District #2, a notice specifying the amount of the assessment, the number of installments, the date of the approval of the assessments, and the interest rate at which the unpaid balance will draw. This is similar to 9-43, which is once you have had your hearing, send the notice and give them 30 days to pay in full that is set up in the actual special assessment rule. Which doesn't really matter because you can't really set up special assessment rule unless it's petitioned by the hotel property owners and they will know it's coming before it comes.
- f. Payment. All Special Assessments, including interest on delinquent installments, shall be paid to the Finance Officer of the City of Box Elder. Each Hotel subject to a Special Assessment established hereunder shall collect from each Consumer an amount sufficient to meet the Hotel's annual Special Assessment obligation based on the estimated annual occupancy levels for such Hotel. The Special Assessment to be imposed on customers or entities as provided herein shall be posted or disclosed. (Any charges hotels impose on consumers will be disclosed on their bill) The operator of the Hotel shall place a line itemization of any Special Assessment charge on the Consumer's invoice in the same manner as other charges and taxes as required by applicable laws and regulations. Each Hotel shall, as trustee, remit the amount collected for such Special Assessment to the City not less than monthly. Each monthly remittance by a Hotel subject to this ordinance shall be credited to that particular hotels annual Special Assessment obligation. The really put this as a trustee they are collecting to the City for the Special Assessment. As a lessee they own that room for that night, they will calculate what their annual occupancy rates are divided

by their annual special assessment and they will know that for every person that stays they have to pay X amount.

- g. **Payment Dates.** Special Assessments shall be due January 1 of each year. All Special Assessments collected pursuant to this Ordinance shall be remitted to the City Finance Officer by the 15th day of the month following the month of collection. (So, for October they have until Nov 15th to report October's collections.) On the 16th day of each month thereafter there shall be added as interest on the delinquent taxes at the Category G rate of interest as established in § 54-3-16. (Statutory provision for late taxes) . If the 15th day of a month falls on a Saturday, Sunday or legal holiday, the Special Assessment is due and payable on the next working day. The Special Assessment payment shall either be received in the office on or before the 15th day or next working day of the month or the Special Assessment payment shall be postmarked by the 15th day or next working day prior to the taxes becoming delinquent.
  - h. **Unpaid Special Assessments.** The Finance Officer shall deliver no later than November 1 to the county auditor of Pennington County, all Special Assessments remaining unpaid that have become delinquent on or before October 1. (So this is if, they don't pay their special assessment we will collect these as unpaid real estate taxes.) The Finance Officer shall certify to the county auditor the original amount of the assessment or installment, the amount of accrued interest of the assessment, the name of the property owner as provided by the director of equalization, the character of the improvement for which the assessment was made, and the legal description of the property. The county auditor shall include the delinquent installment and accrued interest in the following year at the time the real property tax is paid and shall certify the installment and interest, together with the general taxes, to the county treasurer for collection pursuant to the provisions of chapter 10-17. Richard Pluimer: "How will the Finance Officer know what that amount is if it is a self-reporting figure?" Todd, "We will have an amount of special assessment levied pursuant the assessment rule payable in 10-20 annual installments. She'll know that each property needs to pay for example \$10,000/12 months; so she'll know exactly what that amount its – subtracting payments she can calculate the shortfall with an excel spreadsheet that tracks it. Special Assessments are required to be paid before real-estate taxes.
2. **Special Assessment Bonds.** The City of Box Elder may issue and sell bonds payable from the Special Assessments, as provided in this section and chapter 6-8B if the owners of a majority of the space in the district petition the municipality to issue such bonds. Unless the bonds are to be general obligations which pledge the full faith and credit of the municipality, no election is required for the issuance of the bonds. The proceeds of the bonds shall be used only for the purposes stated in SDCL §§ 9-55-3(1) through (5), may be used to fund a debt service reserve for bonds which are not general obligations of the municipality, to pay the interest estimated to accrue on the bonds until the first collections of the Special Assessments, and to pay the costs of issuance of the bonds. The governing body shall, in the resolution or ordinance authorizing the issuance of the bonds, agree that it keep the business improvement district in effect, shall continue to impose and collect the Special Assessments so long as the bonds are outstanding, and shall pledge so much of the collections of the Special Assessments as may be necessary to pay the principal of, premium, if any, and interest on the bonds, and to maintain any debt service reserve established for the bonds. Todd, "That is a very nice bond provision that is created."
  3. **Annual Budget Hearing and Assessments.** Not later than the first regular meeting in September or ten (10) days thereafter, the Common Council shall consider the annual budget of Business Improvement District #2 and review the Annual Report of the Districts board. Obviously once you levy the special assessment that will be part of the budget to pay principal and interest when due so the special assessments would be out there levied. The only additional thing would be the additional cost of may at some point be a person working for it, advertising budget but that is in BID #1.
  4. **Annual Report.** The Business Improvement District #2 Board shall annually report to the Common Council of its acts and all its expenditures, showing the condition of all affairs under its control, and its records, books, papers, and accounts shall at all reasonable times be subject to inspection by the executive officer, auditor, or clerk of the municipality, or any committee appointed by the governing body for that purpose, or any citizen. That is required by statute.
  5. **Severability.** Should any article, section, subsection, or provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional. If one line is found not legal, the rest of it isn't declared void which is important for bond holders.

6. Termination of District. The Common Council may, by ordinance, abolish the District created hereunder after a hearing thereon. The Common Council shall adopt a resolution of intent to abolish the area at least thirty days prior to the hearing required by this section. The resolution shall give the time and place of the hearing. Notice of the hearing shall be given as provided in SDCL § 9-55-13. Which is right out of the statue on how to dispose of the district once it has run it's useful life.

Hegel: "With all the legal descriptions please describe where the boundary locations are at." Roger Tellinghuisen, "it goes around the hotels off Exit 61 and includes the property which was just purchased and the new hotel that will be built and then across the Interstate the Seger Drive section and C1- Railroad Tracts for Degeest and C2 the Cul-de-sac. Which is basically all the hotels that are in the district. Once the boundaries are set is there a procedure to change them which is within the discretion of the governing body. The Property owner would also need to consider the change. N. Schneider, "Can the recommendation come from the Bid Board?" Yes, they could. If someone decides to build a hotel would they be forced into the district if they were not the same owner and they could argue that they do not get a special benefit. This is more of a political issue between the hotel owners, governing body.

Motion to approve by Hollinshead, seconded by Allen to approve. Vote aye: unanimous.

Roger Tellinghuisen "Thank you for this opportunity because it has been a struggle to get here, but we are excited about the developments."

## 7. RECESS (until 7:00 p.m.)

## 8. Call meeting to order

## 9. Roll Call

Present at the meeting were Mayor Larry Larson, Council Members Jeff Hollinshead, Scott Allen, Bruce Hegel, Rick McPherson, and Tricia Weathers. Also present were Police Chief Jason Dubbs, Planning and Zoning Director Ron Koan, Public Works Director Bob Kaufman, and City Administrator Nicole Schneider.

**CONSENT AGENDA:** Agenda items 10 through 14 on the Consent Agenda are meant to be approved as a group with a single motion. Questions may be asked of any Consent Agenda items, but may not be debated. Any Consent Agenda item may be removed from the Consent Agenda for separate action at the request of any Council Member or anyone present. All questions are to be directed to the Department Head.

10. To approve the reading of the October 17, 2017 Common Council Meeting Minutes.

11. To approve Payroll 22 (October 1 to October 14) and Payroll 23 (October 15 to October 28). Total Payroll 22 \$57,133.17; General Government: \$2,435.38; Finance Office: \$8,883.69; Police Department: \$21,572.34; PW Street Maintenance: \$6,231.80; PW Parks \$4,255.06; Planning & Zoning: \$5,081.91; P & Z Board: \$750.00; PW Water Production \$2,538.50; PW Water Distribution: \$4,196.78 and PW Sewer Collection: \$1,187.71. Total Payroll 23 \$57,311.37; General Government: \$2,285.38; Finance Office: \$8,518.20; Police Department: \$23,535.13; PW Street Maintenance: \$5,855.92; PW Parks \$4,172.78; Planning & Zoning: \$5,159.69; PW Water Production \$2,541.45; PW Water Distribution: \$4,064.04 and PW Sewer Collection: \$1,178.78.

12. To approve the claims, loan payments, and hand checks.

13. To approve renewal of package off-sale liquor license for Loaf 'N Jug #449, PL-5016, at 437 N Ellsworth Rd.

14. To approve renewal of package off-sale liquor license for The Jug Liquor Store, PL-4462, at 135 S Ellsworth Rd.

To discuss and decide action on Consent Agenda Items 10-14.

Motion to approve agenda by Weathers, Seconded by Hegel. Vote aye: unanimous.

## CITY BUSINESS:

15. **POLICE DEPARTMENT:** Presentation to Lieutenant Christopher R. "Bull" Misselt for 20 years of service.

Police Chief Jason Dubbs: "In October of 1997, a young college graduate, who had lived in many communities across the globe, decided to settle in Box Elder, South Dakota and make this his home. He also decided to make the Box Elder Police Department his home. 20 years later, it is still his home and we are very grateful for that. This is an important mile marker for not just him, but for our city, he will be the first employee in the city of Box Elder to have made 20 years. In recognition for your service, we would like to present you with a token of our gratitude. Thank you for your service."

Lt. Chris Misselt: "Thank you very much. If I could say a couple words, most of you know that I am a quiet man and very few words in life. I was going to college in the early 90s, seems like a long time ago. I needed a place to do an internship and in 1994, John Santana, offered a position in August, did that and finished school, was blessed to come on in 1997 as a full timer. Back then we had just gone out and annexed to the Flying J out to the 61, there was only about 3,000 people in town at the time and department had an authorized staff of about 7 but never had much more than 4 or 5 so it was a really different place. Story of my 20 years here, is the story of my life. First I honor God in thanking him for this, I thank my family who is here tonight who endured this with me, celebrating in everything good and things not so good along the way. Over the course of 20 years, there is an awful lot there, and it's all the story of people. In that period of time, I got married, had all three of my kids, my son beat cancer, and the last five years have been the very best about my career, and all of the additional programming I have done. But one thing that is not quite so known is the people. I have worked with 26 full timers, 36 reserve officers, 6 animal control officers, about 9 finance officers, 5 police chiefs and 7 mayors. I am happy to have worked with all of them and outlive them all, either I'm doing something right or I'm missing something and need to go. But thank you, it has really been a privilege and the saddest part of all this, I am much closer to the end than then the beginning. It's really been a blessing to be here. I think right now, we have the best leadership, the best people, the best citizens, and the best city government that the city has ever had. My references go back to about 91-92 and I say that with a full heart and meaning every word of it. So thank you guys, you made everything, every success possible."

**16. CITIZEN: EMIL ARGUELLO:** Requesting Extension to Nov. 15<sup>th</sup> to Pay Outstanding Balance of Water Bill and to appeal \$100.00 Administration Fee for failure to pay water bill.  
Due to absence at council meeting and a past outstanding balance, motion by Hollinshead to deny request, seconded by Allen. Vote aye: unanimous.

**17. CITIZEN: MONTE CARLSON:** Request by Monte Carlson to adjust utility bill \$104.99; high usage due to toilet leak while he was out of state.  
Motion to break the payment into three installments over the next three months by Hollinshead, seconded by Allen. Vote aye: unanimous.

**18. CITIZEN: JOSH KELLY:** Request by Josh Kelly to connect to East Base Water Line System for City Water (Outside the City Limits Request).

Motion to deny request by Hollinshead, seconded by Allen.

Roll Call:

Allen: aye.

Cowley: N/A

Hegel: aye.

Hollinshead: aye.

McPherson: aye.

Weathers: abstain.

Motion denied.

**19. CITIZEN: HOLLY PALMER:** Discuss and decide action regarding chickens within the City limits.

Motion to revisit city animal ordinance by Weathers, seconded by Allen.

Roll Call:

Allen: aye.

Cowley: N/A

Hegel: aye.

Hollinshead: neh.

McPherson: aye.

Weathers: aye.

Defer to ordinance comity.

**20. WELLMARK – THERESA KOCER:** Presentation on "Grandfathered" Health Insurance plan, premium quote for 2018 and discussion on additional insurance options.

**21. SD HEALTH POOL– SANDI LARSON:** Presentation on SD Health Pool, Health Insurance plan, premium quote for 2018 and discussion on additional insurance options.

**22. FINANCE – Online Auction Agreement with Purple Wave:** Obtain Council approval for Mayor to sign agreement and supply list documents with Purple Wave to utilize online auction to liquidize surplus items.

Motion to approve by Weathers, seconded by Hollinshead: Vote aye: unanimous.

**23. LEGAL – Response to Citizens Glenn and Sonya Evans:** Recommendation to deny request for refund and utility bill adjustment; allow Public Works Director to send formal letter to Mr. and Mrs. Evans providing Council's decision and

establishing a deadline for connecting to the City's sewer main in Damview.

Motion by Hollinshead to deny refund and mail letter with the expectation that they will need to be hooked up to sewer by July 1, 2018, seconded by McPherson: Vote aye: unanimous.

**24. LEGAL – Response to Pennington County Emergency Management request for payment for Flood Warning**

**System:** Recommendation to approve request for Payment with the understanding that payment in 2018 will not be likely without a formal agreement in place.

Motion by Hollinshead, seconded by Hegel to approve payment plan with agreement due for 2018. Vote Aye: unanimous.

**25. PLANNING & ZONING:** Discuss and take action regarding reappointment individuals to Planning Commission each with a five (5) year term as per Ordinance 33.01.05, to expire May 1, 2022. Letters of Interest received from: Mike Hanson, Al Labine, & Michael Knight.

Motion by Weathers, Seconded by Hollinshead to approve 5-year terms to Mike Hanson, Al Labine, and appoint Michael Knight to advisory board. Vote aye: unanimous.

**26. PLANNING & ZONING:** Second reading of City Ordinance #583, adoption of Title 52 Sanitary Sewer Regulations and repealing Ordinance #550.

Motion to approve with the 400 foot re-write by Hollinshead, seconded by Weathers. Vote aye: unanimous.

**27. PLANNING & ZONING:** Obtain Council approval for Floodplain Development Permit #170174 application; by John Maki on behalf of Lisa Stemper for 404 Box Elder Road West (Lot Q of the NW¼SE¼ of Section 24, T2N, R8E, B.H.M., Box Elder, Pennington County, SD).

Motion to approve by McPherson, Seconded by Allen. Vote aye: unanimous.

**28. PLANNING & ZONING:** Obtain Council approval for Final Plat #170015 application; by Elk Vale Business Park LLC for Northern Lights Subdivision Phase 2 (Lots 1 thru 25, Block 8 and Lot 1, Block 9 of Northern Lights Subdivision and Dedicated Right-Of-Way, Formerly a Portion of the SW¼ of the SE¼ Less Northern Lights Subdivision, Northern Lights Commercial Park and Less Right-Of-Way; and a Portion of the W½ of the W½ of the SE¼ of the SE¼ Less Northern Lights Subdivision and Less Right-Of-Way; All located in Section 27, T2N, R8E, B.H.M., Box Elder, Pennington County, SD).

Motion to approve contingent on completing compliance requirements by Hegel, seconded by McPherson: Vote aye: unanimous.

**29. PLANNING & ZONING:** Discuss and decide action regarding an agreement between the City of Box Elder and Box Elder Economic Development regarding use of the old Waste Water Lagoon area.

Motion to approve by Hollinshead, seconded by Allen. Vote aye: unanimous

**30. PUBLIC WORKS:** Request to set Public Hearing date for November 21<sup>st</sup> meeting on Park's Department Master Plan for Community Park.

Motion to approve by Hollinshead, seconded by Hegel. Vote aye: unanimous

**31. DEPARTMENT HEAD REPORTS:**

Mayor: Attended Military Affairs luncheon and went to The Journey to see the Ellsworth History display. Attended fall festival at the gymnasium and had a meeting with the Base Commander as well as went to the Costello Apartment opening.

Police: Held Public Safety Committee meeting and discussed looking at McKie Ford for 2 Explorers for 2018 purchasing. Had quarterly recognition of the outstanding officers, Cargill and Swan will be attending the academy, accepting applications for certified officer as well as community service officer, briefing on trainings and up coming trainings.

Public Works: Nov 16<sup>th</sup> Bid opening for the final closeout work up at Ghere Well, Dec 14<sup>th</sup> Bid opening for the upstairs completion of City Hall. Also had a meeting with a few of the residents up in Valley Heights and feels they are headed in the right direction

Finance: Past financials, Enterprise fund high due to breaks and meter changes. Very busy with the new Interm City Attorney. All positions are still out there and working with those, meetings with the developers –Bradskey working towards the Hotels/Event Center as well as with Todd and Roger to get the ordinance completed.

Planning & Zoning: VRC Project for the school, they are still hoping to be in the building the 1<sup>st</sup> of the year. Met with Scull Construction about Skyway and their master plan so they can get moving forward with that, met with the feasibility study group for the Event Center good ideas.

City Attorney: Executive Session items

**32. COUNCIL REPORTS:**

Allen: N/A

Cowley: Not Present

Hegel: N/A

Hollinshead: Ask consent Ordinance Committee to relook at Title 152 –Noise Continuation Zone by SDEDA think area might be affected for growth

McPherson: N/A

Weathers: Recommend check out the Journey Museum Exhibit covers it important in the region

**33. OTHER REPORTS:**

Economic Development: N/A

**34. CITIZEN INPUT:** Shawn Engell with the railroad received a notice of a public hearing at 7pm today but it appears it was moved to 6pm and wanted to let us know they did try to attend. Didn't think there was anything that concerned the railroad but if there were questions they wanted to be here answer them.

**35. EXECUTIVE SESSION:** Legal Session started at 9:35 pm; Out of Session at 10:00 pm.  
Motion to approve by Hollinshead, seconded by Weathers. Vote aye: unanimous

**36. ADJOURNMENT:** 10:01 pm.  
Motion to approve by Weathers, seconded by Hegel. Vote aye: unanimous