

RESOLUTION #R2021-58

A RESOLUTION SETTING A HEARING AND APPOINTING APPRAISERS FOR THE EXCHANGE OF REAL PROPERTY FOR NORTH HARMON DRIVE

WHEREAS, due to a proposed transfer of real property legally described as:

The East ½ of the Southeast ¼ of Section 32, Township 104 North, Range 60 West of the 5th P.M., except Irregular Tract 1, all in Davison County, South Dakota.

such property currently owned by P&B Casey Farms, LLC, the City became aware of a potential title error where the property borders Irregular Tract 1; and

WHEREAS, a plat was recorded with the Davison County Register of Deeds on December 29th, 1993, recorded in Book of Plats 14 on Page 118. Said plat depicts the creation of Lots 1, 2, and 3 along the former boundary between the above described real property and Irregular Tract 1. There are no records of this plat being formally approved, nor are there any records of any land transfers relative to the lots. Nevertheless, the intention appears to have been to have straightened the property line relative to the actual location of North Harmon Drive. To that end, it appears that Lot 1 and 3 would have been transferred to the City and Lot 2 would have been transferred by the City to the adjacent owner; and

WHEREAS North Harmon Drive has actually been located and in continuous use over the above described Lots 1 and 3 for more than 20 years and the adjacent landowner has used the above described Lot 2 for at least the same period; and

WHEREAS the parties acknowledge that the City has a statutory right in Lots 1 and 3 and there can be no claim of adverse possession against a municipality in regards to Lot 2. Nevertheless, the parties mutually desire to resolve this potential title issue by effectuating the transfer that was apparently intended without need for court action. To do so, the City must comply with the provisions of SDCL 9-27-34.1 by appointing appraisers, publishing notice of hearing, and acting upon such land exchange following the hearing.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that, pursuant to SDCL 9-27-34.1, the following individuals shall be appointed to the appraisal board for the purpose of appraising Lots 1, 2, and 3 described above: Kevin Genzlinger, Terry Aaker, and Kolton Jungeman.

BE IT FURTHER RESOLVED, that the City Council shall hold a hearing relative to the above described exchange on September 20th, 2021 at 6:00 PM in City Hall Council Chambers. The Finance Officer shall publish notice at least 10 days in advance of the hearing in the local newspaper. Following the hearing, the City shall take such action as it deems appropriate relative to this proposed land exchange.

Adopted by the Mitchell, South Dakota City Council in regular session this _____ day of August, 2021, with:

_____ votes cast in favor of adoption,
_____ votes cast against adoption, and
_____ votes abstaining.

Robert B. Everson, Jr. – Mayor

Attest:

(seal)

Michelle Bathke – City Finance Officer