

SPECIAL MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS, CITY HALL  
MITCHELL, SOUTH DAKOTA

August 30, 2021

6:00 P.M.

**PRESENT:** Dan Allen, Marty Barington, John Doescher, Kevin McCardle, Steve Rice,  
Dan Sabers, Jeffrey Smith, Susan Tjarks

**ABSENT:**

**PRESIDING:** Mayor Bob Everson

**RESOLUTION:**

Moved by Allen, seconded by Tjarks, to approve Resolution #R2021-58, Setting Hearing Date and Appraisal Board for Exchange of North Harmon Drive Lots, as follows:

**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 5<sup>th</sup> 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 29<sup>th</sup>, 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 20<sup>th</sup>, 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.

Motion carried and resolution declared duly adopted.

**CONSIDER APPROVAL:**

Moved by Rice, seconded by McCardle, to approve Agreement #A2021-50, Indemnification Agreement with Corn Palace Stampede, Inc. Motion carried.

**RESOLUTION:**

Moved by Tjarks, seconded by McCardle, to approve Resolution #R2021-57, Resolution of Intent for Lease of a Portion of the 5971 Airport Road Property. as follows:

**RESOLUTION R2021-57**

A RESOLUTION OF INTENT TO ADOPT THE PROPOSED LEASE AGREEMENT REGARDING A PORTION OF THE 5971 AIRPORT ROAD PROPERTY.

WHEREAS the City of Mitchell is the owner of certain real property located at 5971 Airport Road, Mitchell, SD, legally described as:

**Lot 1 in the South 1/2 of the Northwest 1/4, Section 33, Township 104 North, Range 60 West of the 5<sup>th</sup> P.M, City of Mitchell, Davison County, South Dakota;**

WHEREAS the City of Mitchell is considering leasing the West 900' of the above described property to Corn Palace Stampede, Inc.; and


WHEREAS South Dakota State law, under SDCL 9-12-5.2, requires that, for a lease of more than 120 days and a value of more than \$500 per year, the City Council first adopt a Resolution of Intent and hold a hearing on the matter, after providing proper notice of such hearing;

THEREFORE, be it resolved by the Mitchell City Council that such hearing shall be held on the Proposed Lease Agreement at the regular City Council Meeting on Monday, September 20, 2021 at 6:00 P.M. in the City Council Chambers at 612 N Main, at which time interested parties may appear and be heard as provided by law. The City shall cause notice of hearing to be published once not less than ten (10) days prior to the hearing. Following the hearing, the City Council may take whatever action it deems appropriate regarding the Proposed Lease Agreement.

Motion carried and resolution declared duly adopted.

**ADJOURN:**

There being no further business to come before the meeting, Mayor Everson adjourned the meeting.

  
Michelle Bathke  
Finance Officer

Published once at the approximate cost of \_\_\_\_\_.