

# Spearfish City Council

## Regular Session Minutes



**Date:**  
December 21, 2009

The Spearfish City Council met in Regular Session in the Council Chambers of the Municipal Services Centre at 7:00 PM on Monday December 21, 2009 with the following members present: Baker, Davis, Morgan, Schmit, Quinn and Young. Also present: City Administrator Sund, Public Works Administrator Johnson, Police Chief Rotert, City Planner Watson, Assistant Finance Officer Dutton, Human Resource Director Friedel and City Attorney Pluimer. Mayor Krambeck presided and called the meeting to order. All stood and recited the Pledge of Allegiance.

**Motion:** Morgan    **Second:** Young  
**To approve the Order of Business.**

**Disposition:** Motion passed on voice vote.

**Public Hearing - Liquor License Transfer** - Mayor Krambeck opened the public hearing at 7:03 PM for the request to transfer a liquor license from Nick's Clubhouse/Nick Caton to Spearfish Canyon Country Club. There were no oral or written comments and public hearing was closed at 7:03 PM.

**Motion:** Quinn    **Second:** Morgan  
**To approve the transfer of a liquor license from Nick's Clubhouse/Nick Caton to Spearfish Canyon Country Club.**

**Disposition:** Motion passed on voice vote.

**Public Hearing - Package (Off Sale) Malt Beverage** - Mayor Krambeck opened the public hearing at 7:04PM for the request of a Package (off sale) Malt Beverage for Walgreen Co. There were no oral or written comments and public hearing was closed at 7:04 PM.

**Motion:** Young    **Second:** Quinn  
**To approve Package (off sale) malt beverage license for Walgreen Co.**

**Disposition:** Motion passed on voice vote. Schmit abstained from voting due to conflict of interest.

**Public Hearing - Retail (On/Off Sale) Wine** – Mayor Krambeck opened the public hearing at 7:05 PM for the request of a Retail (on/off sale) Wine license for Walgreen Co. There were no oral or written comments and public hearing was closed at 7:05PM.

**Motion:** Morgan   **Second:** Young  
**To approve Retail (On/Off Sale) Wine license for Walgreen Co.**

**Disposition:** Motion passed on voice vote. Schmit abstained from voting due to conflict of interest.

**Public Hearing - Special Malt Beverage License** – Mayor Krambeck opened the public hearing at 7:05 PM for the request of a Special Malt Beverage License. The applicant is Lizabeth Manning for the Spearfish Foundation for Public Education for their Evening of Celebration/Gala on Saturday, January 28, 2010 at the Matthews Opera House. There were no oral or written comments and the public hearing was closed at 7:05 PM.

**Motion:** Young   **Second:** Davis  
**To approve a Special Malt Beverage License for Lizabeth Manning for the Spearfish Foundation for Public Education for their event at the Matthews Opera House on January 28, 2009.**

**Disposition:** Motion passed on voice vote.

**Motion:** Davis   **Second:** Schmit  
**To approve removing Yesterday's Inn – Use Permit Amendment from the Consent Agenda to be discussed separately.**

**Disposition:** Motion passed on voice vote.

**Consent Agenda**

- A. Approve upgrade of Reference Librarian Position from ¾ Time to Full Time.
- B. Approve the creation of Two BHSU Work Study Positions for the library and authorization to sign work study contracts.
- C. Approve creating a part-time Parking Attendant Position
- D. Approve having SD Special Olympics - Polar Plunge Event at Rec Center in March 2010
- E. Approve Planning Commission Appointments of Bob Meyer and Toby Bordewyk

F. Approve the Transfer of Lot 2, Block 2, Tract M-1, McGuigan Ranch Addition, City of Spearfish to Prairie Hills Transit

G. Set Bid Opening for 10:00 AM January 25, 2010 for purchase of SUV and three ¾ ton pickups.

H. Approve Municipal Water Well – Change Order #1- Contract time extension of 30 days from December 20, 2009 to January 19, 2010.

I. Approve 2009 Street Improvements Project – Change Order #3 – Final Over/Under Change Order – Increase \$9,536.37

J. Approve Certificate of Final Completion and Acceptance of Heritage Park Sprayground and Sidewalk Improvements Project and commencement of warranty period on December 7, 2009.

K. Approve Certificate of Final Completion and Acceptance of 2009 Street Improvement Project and commencement of warranty period of December 14, 2009.

L. Approve creation of Assistant City Engineer Position.

M. Approve Brown Bag Permits:

Facility Date	Applicant	Event	
Pavilion	Becka Wattier	Wedding Reception	01/02/2010
Pavilion	Fire Department	Firemen's Banquet	01/16/2010
Snappers Club	Dept of Labor	Holiday Party	01/23/2010
Pavilion	Pro Build	Holiday Party	01/15/2010
Snappers Club	DC Booth Hatchery	Annual Meeting	01/26/2010
Hudson Hall	Stacy Russell	Family Get-Together	12/26/2009

N. Approve Minutes of Regular Session December 7, 2009.

**Motion:** Schmit   **Second:** Baker  
**To approve the Amended Consent Agenda.**

**Disposition:** Motion passed on voice vote.

**Yesterday's Inn- Use Permit Amendment** – City Planner Watson stated this use permit has been effective since 1993. This is the bed and breakfast located on the southwest corner of Jackson Blvd and 8<sup>th</sup> Street. The change in the use permit on this property was approved by the Planning Commission. They propose to construct two more off-street parking places on the 8<sup>th</sup> Street Boulevard along with other changes in order to meet the City required parking standards. They

also agreed to notify people attending events to park on Jackson Boulevard rather than on 8<sup>th</sup> Street. Parking has created neighborhood issues, especially during special events which occur most often in the summer with Rally being a big one. The goal is to get the owner and neighbors to work together prior to events or issues. Jennifer Roberts stated she lives across the street and parking issues and noise from the events do impact her neighborhood home. She stated she would rather not see additional parking on the boulevard and would prefer if it could be in the back. Ms. Watson replied that due to changes in the rear yard, it cannot accommodate parking there. Quinn stated he would like some additional time to review the physical location and the neighborhood complaints and issues.

**Motion:** Quinn    **Second:** Baker  
**To table this issue until the January 4, 2010 regular session.**

**Disposition:** Motion passed on voice vote.

**Ordinance 1114 – Election Ward Assignments** – This ordinance sets voting ward assignments for all recent annexes since 2007. Once the 2010 Census results are known, there may be a need to reassign voting wards.

**Motion:** Young                      **Second:** Morgan  
**Approve second reading of Ordinance 1114 – Election Ward Assignments.**

**Disposition:** Motion passed on voice vote.

**Ordinance 1115 - Consolidated Elections** – This ordinance will consolidate City elections with those of Lawrence County in June instead of April.

**Motion:** Schmit                      **Second:** Quinn  
**Approve first reading of Ordinance 1115 – Consolidated Elections.**

**Disposition:** Motion passed on voice vote.

**Resolution No. 2009-29** – This is a resolution to clarify criteria, standards and policies of Spearfish Economic Revolving Fund. The SERF Board is recommending an amendment to their rules in order to better meet the needs of the applications they receive and the loans the City manages based on experience of operating the program. This amendment is aimed primarily at the Downtown Façade Improvement Loan Program. When this program was started, it was described as part of the SERF Program rather than being listed separately. For this reason, an amendment to the rules requires an amendment to the SERF program. This program was started several years ago and has seen limited use, but needs to be amended in order to better manage the program and address situations presented in the applications received.

**RESOLUTION 2009-29**

A RESOLUTION AMENDING RESOLUTION NO. 2001-22 TO CHANGE SOME OF THE LANGUAGE REGARDING THE CRITERIA, STANDARDS AND POLICIES OF THE SPEARFISH ECONOMIC REVOLVING FUND. (SERF).

WHEREAS, the criteria, standards and policies of the Spearfish Economic Revolving Fund were adopted by the Spearfish City Council by resolution on March 2, 1992, and amended by resolution on February 16, 1993, June 2, 1997, and June 1, 1998, and \_\_, 2001 and;

WHEREAS, it is deemed to be in the best interest of the City of Spearfish that the foregoing resolutions be further amended to change some of the wording regarding the S.E.R.F. Business Facade Rehabilitation Loan Program which was created to stimulate private investment in downtown Spearfish properties and improve the economic vibrancy of the downtown Spearfish area through fostering an attractive environment and preserving the architectural heritage of the downtown properties, and;

Whereas, it is appropriate to re-publish the entire statement of criteria, standards and policies as amended to the date hereof;

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Spearfish that Resolution 2001-22 be amended to read as follows:

RESOLUTION ESTABLISHING THE CRITERIA, STANDARDS AND POLICIES OF THE SPEARFISH ECONOMIC REVOLVING FUND (S.E.R.F.) TO BE USED FOR THE EXPENDITURE OF FUNDS FROM THE SPEARFISH ECONOMIC REVOLVING FUND, AS FOLLOWS:

1. STATEMENT OF PURPOSE

The purpose of this resolution is to set forth the criteria, standards and policies to be addressed and followed prior to commitment of city sales tax revenue for purposes of promotion of the City of Spearfish. The purpose of the establishment of these criteria, standards and policies is to assist in insuring that public sales tax monies are committed to eligible projects through the Spearfish Economic Revolving Fund.

2. GOAL OF S.E.R.F.

The goal of the Spearfish Economic Revolving Fund is to provide a municipal financial resource that will compliment sources of financial assistance in the private and public arena which will result in an enhanced and more fully developed economy in the City. S.E.R.F. is intended to participate in conjunction with commercial and public lenders, in projects that present expanded employment opportunities within the City of Spearfish or improves the economic vibrancy of ~~downtown~~ the core commercial business district of Spearfish, ~~and~~ which meet the criteria, standards and policies set forth in this resolution.

### 3. ELIGIBILITY REQUIREMENTS

Any for profit and non-profit business that is a commercial or industrial business creating new and additional primary jobs, which will result in more employment opportunities inside Spearfish (or in the Spearfish area if the project is deemed site specific requiring a location outside of the Spearfish city limits which is based upon natural resources or other unique circumstances), or ~~that~~ is located in the City's ~~core commercial business district as defined hereto in section 6 downtown central commercial core ("CC") zoning district~~ and improves the exterior facade of its building, will be eligible to apply for a loan from the Spearfish Economic Revolving Fund. The term "primary jobs" is defined as "jobs which provide goods and services that shall be primarily exported from the area, gain market share from imports to the area, or meet an unmet need in the area resulting in the businesses which bring new income into the area, stimulate other businesses, or assist the Spearfish community in the diversification and stabilization of its own economy. ~~The boundaries of the CC zoning district shall be determined under the City's Zoning Ordinance.~~

### 4. USE OF LOAN FUNDS

Proceeds from a Spearfish Economic Revolving Fund loan may be used for any of the following purpose:

- (a) Land acquisition and related development.
- (b) Building construction, acquisition or related remodeling ~~project which are determined to enhance economic growth or improve the economic vibrancy of the downtown Spearfish CC zoning district through fostering an attractive environment and preserving the architectural heritage of the downtown properties.~~
- (c) Acquisition of equipment (excluding rolling stock) for use in the commercial or light industrial business of the applicant (with the exception of S.E.R.F. BFR Loans).
- (d) Promotion and enhancement of the Spearfish Industrial Park.

Requests for operating capital or the refinancing of existing debt will not be considered and are ineligible purposes for a S.E.R.F. loan.

### 5. TARGETING CRITERIA.

The Common Council of the City of Spearfish will review, evaluate, and make decisions on each S.E.R.F. application. The Council shall consider the following targeting criteria along with other factors deemed by the Council appropriate with each S.E.R.F. application:

- (a) First priority shall be given to eligible applicants who are existing commercial or light industrial businesses located in the City of Spearfish, which propose to either expand or relocate to a more appropriate location in the City of Spearfish.
- (b) Second priority shall be given to eligible applicants that propose to relocate an existing commercial or light industrial business to the City of Spearfish, from an area outside the northern Black Hills of South Dakota.
- (c) Third priority shall be given to: (i) eligible applicants who propose a start up commercial or light industrial business in the City of Spearfish, and (ii) to eligible S.E.R.F. BFR Loan applicants. The initial allocation of funds to the S.E.R.F. BFR Loan Program shall be \$50,000.00, which allocation may be reviewed, renewed, increased or decreased by the Common Council from time to time as determined by the Common Council.
- (4) Added priority shall be given to a business located in, or in the process of relocation to, the Spearfish Industrial Park, it being the policy of the Common Council of the City of Spearfish to give the highest possible priority, in addition to the above criteria, to business development in the Spearfish Industrial Park.

6. THE S.E.R.F. BUSINESS FACADE REHABILITATION LOAN PROGRAM (the “S.E.R.F. BFR Loan”).

The goal of the S.E.R.F. BFR Loan Program is to stimulate private investment ~~into projects which enhance or preserve the exterior appearance of building facades located within the within the core commercial district of Spearfish. in downtown properties and improve the economic vibrancy of the area through fostering an attractive environment and preserving the architectural heritage of the downtown properties.~~ To accomplish program goals, low-interest S.E.R.F. BFR Loans will be made available to eligible property owners and/or tenants. ~~of commercial buildings located within the downtown Spearfish CC zoning district for the purpose of upgrading the exterior appearance of their business(es).~~ Joint financing (the “Joint Loan”) with commercial banks (the “Primary Lender”) is encouraged under the S.E.R.F. BFR Loan Program.

- (a) ELIGIBILITY REQUIREMENTS: Owners and tenants of existing commercial property ~~located within the downtown Spearfish CC zoning~~ (excluding rental property used primarily for dwelling units {i.e. apartments}) ~~located within the Core Commercial Zoning District (North/South Jackson Grant; East/West 7<sup>th</sup> Canyon St.)~~ located within the boundaries of the core commercial district are eligible to apply for S.E.R.F. BFR Loans. The core commercial district boundaries are defined as properties located along Jackson Blvd. (east/west) from Exit 12 to St.

Joe and on Main St. (north/south) from Nevada St. to Hwy 14 (Spearfish Canyon entrance) and to also include properties located within downtown central commercial core zoning district. Tenants of commercial property must provide documentation of the real property owner's consent to the improvements at the time of written application. Written consent may either be in the form of a valid written lease indicating the lessee's responsibility for property renovations and repair or documentation of the real property owner's agreement to the proposed rehabilitation. If the security for the S.E.R.F. BFR Loan will be real property, the property owner must sign a mortgage or other necessary documents. Applicants must have a Primary Lender in place prior to application (if a Joint Loan) and/or must demonstrate adequate borrower's matching funds.

(b) USE OF LOAN FUNDS: Proceeds from the S.E.R.F. BFR Loan may be expended for any of the following purposes:

1. Facade Painting;
2. Exterior Wall Cleaning and Restoration;
3. Repair, Add or Replace Awnings;
4. Repair, Add or Replace Windows and/or Window Treatments;
5. Repair, Add or Replace Doors;
6. Repair, Add or Replace Signage (must not be the exclusive reason for the loan);
7. Facade and Display Window Lighting;
8. Architectural and Engineering Design Services;
9. Removal of old signs, awnings, and other exterior clutter;
10. Installation of permanent Landscaping;
11. Handicapped Accessibility;
12. Public Access Improvements; and,
13. Building permits and Fees.

(c) FINANCING POLICIES: The following financing policies shall apply to S.E.R.F. BFR Loans:

1. The maximum S.E.R.F. BFR Loan for a single store front rehabilitation project is \$10,000 or 50% of the project cost, whichever is less, per

tenant or property owner per year. There is no maximum project cost, and the loan by the Primary Lender may exceed \$10,000. The Primary Lender and/or borrower (or a combination of each) may not fund less than 50% of total project cost.

2. The minimum S.E.R.F. BFR Loan is \$1,000.
3. The Primary Lender will determine the equity injection requirement by the borrower in a Joint Loan.
4. S.E.R.F. BFR Loan interest rates will be a maximum of 3% per annum.
5. The term of the S.E.R.F. BFR Loan will not exceed five years.
6. The S.E.R.F. BFR Loan will be secured by a ~~perfected first or second priority security interest in the business assets and/or a real estate mortgage. Subordination of the S.E.R.F. BFR Loan security interest or mortgage will be to the Primary Lender involved in a Joint Loan only.~~
7. All borrowers will be required to maintain adequate fire, liability and hazard insurance, naming the Primary Lender (if any) and the City as creditor loss payees.
8. S.E.R.F. BFR Loans will be offered on a first come, first served basis.

(d) APPLICATION AND REVIEW PROCESS: Application forms for a S.E.R.F. BFR Loan can be obtained from Spearfish area commercial banks or from the City of Spearfish.

1. Applicants will submit a completed S.E.R.F. BFR Loan application and all supporting documents to the Primary Lender (for a Joint Loan), or directly to the S.E.R.F. Committee (non- Joint Loan).
2. Preliminary plans, color samples, awning, sign designs, preliminary contractor bids and budget ~~must~~ **should** be submitted with completed application.
3. The Primary Lender (Joint Loan) and S.E.R.F. Committee shall review the application for completeness and shall notify the applicant what further or additional information is required from the applicant, if any, before the Primary Lender and S.E.R.F. Committee will declare the application complete.
4. In a Joint Loan, the Primary Lender will complete the financial analysis of the applicant, and the S.E.R.F. Committee and City Council may: (i) rely upon the Primary Lender's financial records and documentation; (ii) adopt the Primary Lender's loan approval requirements, in whole or in part, and add further loan approval conditions; and (iii) declare the

S.E.R.F. BFR Loan application complete upon the basis of reference to the financial or other analysis contained in the Primary Lender's documentation without inclusion of financial or other information.

5. Upon the Primary Lender (Joint Loan) and S.E.R.F. Committee declaring the application complete, the S.E.R.F. Committee ~~and BFR Loan Design Review Committee~~ shall ~~jointly~~ review the application and ~~shall, within 10 business days thereafter,~~ make a ~~joint~~ recommendation to the City Council for approval or denial **within 30 days**. The City Council shall, within 30 days of the date of the ~~joint~~ Committee recommendation, either approve or deny the application.

(e) CREDIT CRITERIA: The S.E.R.F. Committee ~~and BFR Loan Design Review Committee~~ will base its ~~joint~~ recommendation to the City Council on the following criteria:

1. The applicant must meet the eligibility and design requirements of the S.E.R.F. BFR Loan program.
2. The applicant must show the ability to service the debt.
3. The applicant must have the ability to manage and show commitment to the S.E.R.F. BFR Loan project.
4. The payment history of the applicant with other lenders and creditors must be satisfactory.
5. The review of the proposed collateral must be satisfactory.
6. The credit history of the borrowers and any guarantors of the loan must be satisfactory.
7. The applicant and the S.E.R.F. BFR Loan application must meet such other S.E.R.F. loan criteria as the S.E.R.F. Committee may from time to time deem applicable on a case by case basis.

(f) APPROVAL OF THE BFR LOAN APPLICATION:

If a S.E.R.F. BFR Loan application is approved by the City Council the usual S.E.R.F. post-approval procedures stated in Paragraph 9, APPROVAL OF APPLICATIONS, below will apply, except as follows: (i) the S.E.R.F. BFR Loan project must be started within 60 days after loan approval, unless a special schedule is approved; and (ii) if the loan is a Joint Loan, a joint loan agreement between the primary lender, the City of Spearfish, and the borrower must be executed as part of the loan documents.

(g) PROGRAM CONDITIONS:

1. Loan proceeds will be disbursed after all improvements are complete. Applicant must present proof showing that all project costs have been paid in full and that all contractors have executed waivers of mechanic's liens.
2. Qualified and insured contractors with appropriate contractor's license and certification must perform all structural work.
3. All improvements must conform with the City Building Codes, and the proposed project ~~will~~ **may** be subject to design review by the City. ~~and the BFR Loan Design Review Committee.~~
4. Participants will be asked to display a sign provided by the City. The sign shall be placed on the premise and be viewable by the general public. The sign shall be posted from the date of the Loan Agreement until the final disbursement of loan funds or until 30 days after the completion of the project. The sign shall read: "A Successful Participant Of The City of Spearfish Business Facade Rehabilitation Loan Program."

~~(h) BFR LOAN DESIGN REVIEW COMMITTEE:~~

~~A BFR Loan Design Review Committee made up of no less than five (5) appointees will review all S.E.R.F. BFR Loan project building designs, landscaping, and site plans to ensure that the design elements of the project aesthetically compliment the area with which the project is located and meet City codes. The members of the committee shall be appointed by the Mayor and confirmed by the City Council. At least two members of this committee shall be architects, city planners, engineers or have a related profession, or shall be City planning commission members. In addition, one appointee shall be a representative of the Spearfish Area Chamber of Commerce. The BFR Loan Design Review Committee shall meet on an as needed basis, and will make joint recommendations on S.E.R.F. BFR Loan applications with the S.E.R.F. Committee to the City Council.~~

7. FINANCING POLICIES FOR NON-BFR S.E.R.F. LOANS.

The following financing policies shall direct the City Council in its review, evaluation, and decision making process on S.E.R.F. applications other than S.E.R.F. BFR Loans:

- (a) To the extent practical, loan amounts will be based upon the formula of \$5,000 per new, full-time equivalent job created or existing job retained. This standard may be waived by the City Council at the time of application approval, if the project presents an unusual opportunity or set of unique circumstances for promotion of the City of Spearfish.

- (b) Applicants shall demonstrate through appropriate documentation that a S.E.R.F. loan is justified on the basis of either a financing gap that precludes the project from moving forward to completion without such a loan, or that there exists an unacceptable rate of return on investment based upon market investment interest rates.
- (c) The maximum amount of S.E.R.F. funds loaned to a single applicant shall be the minimum amount needed to move the project forward to completion in light of other public and private financing sources available as determined by the City Council.
- (d) Terms for repayment of S.E.R.F. loans will be based on the minimum needs of the applicant, the recapitalization needs of the Spearfish Economic Revolving Fund, and the collateral requirements of the loan. Loan terms shall not exceed the depreciable life of the asset(s) pledged as collateral, but in no event shall a loan term exceed twenty (20) years.
- (e) The interest rate of a S.E.R.F. loan shall be structured on a case by case basis and will be determined by the City Council based upon the minimum needs of the applicant and the recapitalization needs of the Spearfish Economic Revolving Fund. The factors for consideration, among others, are set forth in the S.E.R.F. Interest Rate Matrix attached hereto and made part hereof.
- (f) Applicant equity shall be based upon a combination of the total financial position of the applicant and the equity in the funded project.
- (g) S.E.R.F. loans shall be collateralized by fixed assets of the applicant as determined by City Council based upon the value of such assets as determined by a qualified appraiser. The minimum security position for a S.E.R.F. loan shall be a second mortgage or security interest, as the case may be, upon the loan collateral.
- (h) A S.E.R.F. loan origination fee may be levied in an amount equal to one percent of the loan amount plus the actual cost of any and all settlement costs and fees incurred by the Spearfish Economic Revolving Fund for the processing, approval, and closing of the loan. The City Council may waive, in whole or in part, the loan origination fee or costs in its discretion.
- (i) Restructuring or modification of the terms of a S.E.R.F. loan shall be considered on a case by case basis by the City Council as needed.
- (j) The interest rate of S.E.R.F. loans may be adjustable after the first two years of the loan upon the basis of such factors as the borrowers performance in accordance with the business plan which is a part of

application upon which the loan was originally approved, the creation or non-creation of jobs, and the financial position and progress of the borrower. If the interest rate is adjustable, the specific basis for interest rate adjustment shall be set forth in the loan documents and agreements between the City and the borrower.

#### 8. APPLICATION AND REVIEW PROCESS FOR NON-BFR S.E.R.F. LOANS.

Application for a S.E.R.F. loan other than a S.E.R.F. BFR Loan shall be made on forms available from the Spearfish Economic Revolving Fund Committee. Applicants will submit a completed application and all supporting financial documentation to the S.E.R.F. committee, who shall review the application for completeness and shall notify the applicant what further or additional information is required from the applicant, if any, before the committee will declare the application complete. Upon the committee declaring the application complete, the committee shall review the application and shall, within 45 days thereafter, make a recommendation to the City Council for approval or denial of the application. The City Council shall, within 15 days of the date of the committee recommendation to the City Council, either approve or deny the application. No application shall be declared complete unless it includes the following information:

- (a) Applicant's name and address;
- (b) Names addresses, resumes, and references of owners, investors, and management of the business;
- (c) Articles of incorporation and bylaws or other agreements that describe the legal operation or structure of the business;
- (d) Name and address of the owner or operator of the business during the term of the loan;
- (e) A business plan which contains information regarding the products or services to be offered by the applicant; job descriptions with attendant salary or wage information by job category; educational requirements by job category; methods of accounting, financing, marketing, sales merchandising and other disciplines proposed to be used for business growth and expansion;
- (f) Letters of commitment from all participating commercial and/or public funding sources;
- (g) Up to three years of historical balance sheets, cash flow statements, income statements, and federal income tax returns as are applicable to the individual loan application;

- (h) Pro forma balance sheets, cash flow statements, and income statements for the term of the loan, or for a period of three years, whichever is less;
- (i) A statement of licensing requirements;
- (j) Assurance of compliance with local zoning laws and building codes, and that the necessary public utilities are available or will be available when needed by the project;
- (k) Approximate date construction will commence, construction completion date, and the date by which the project will be fully operational;
- (l) Documentation that the preliminary design stage has been completed; and,
- (m) Any other information as required by the City Council or S.E.R.F. committee in order to make a sound loan decision.
- (n) If the S.E.R.F. loan application is part of a finance proposal involving simultaneous or consolidated funding with the R.E.D.I. loan fund of the State of South Dakota and the R.E.D.I. loan fund undertakes the primary role of financial analysis of the applicant, then the S.E.R.F. loan committee and City Council may: (i) rely upon the R.E.D.I. loan financial records (historical and future) or other S.E.R.F. application requirements set forth above if they are covered by the R.E.D.I. loan above if they are covered by the R.E.D.I. loan application; and, (ii) adopt the R.E.D.I. loan approval requirements, in whole or in part, and add further loan approval condition; and (iii) declare the S.E.R.F. application complete upon the basis of reference to the financial or other analysis contained in the R.E.D.I. loan application without inclusion of financial or other information set forth above.

9. APPROVAL OF APPLICATIONS FOR ALL S.E.R.F. LOANS (INCLUDING S.E.R.F.

In the event an application is approved by the City Council, the City and the applicant shall execute such agreements and documents as necessary which shall provide the rights and responsibilities of all parties and the terms and conditions of the loan. The agreements and documents shall be prepared by the City Attorney, and the cost of preparation and the review of further documents necessary to the closing of the loan shall be paid by the applicant as part of the costs of the loan. There shall be no commitment of a S.E.R.F. loan without the specific resolution of the City Council, notwithstanding any assurance, guarantee, communication or representation to the contrary.

10. CONFIDENTIALITY

The application and supporting documents submitted to the S.E.R.F. committee and the City Council shall be the property of the City. To the extent permitted by law, said documents shall be handled by the committee and the City in a confidential manner.

11. RECAPITALIZATION OF S.E.R.F.

The Spearfish Economic Revolving Fund shall initially be capitalized with sales tax revenues appropriated by the City of Spearfish. Recapitalization of the fund may be realized by the following:

- (a) Additional appropriations by the City.
- (b) Foundation grants, bequests or private contributions.
- (c) Loan origination fees.
- (d) Loan repayment proceeds of principal and interest.

Public grants which generate program income as defined by the grantor (e.g. CDBG), to which federal or state requirements are attached which restrict their expenditure and/or cause burdensome reporting requirements shall not be commingled with S.E.R.F. funds. Instead, such funds shall be deposited and administered under a separate account by the City of Spearfish.

12. SERVICING FOR ALL S.E.R.F. LOANS (INCLUDING S.E.R.F. BFR LOANS)

S.E.R.F. loans shall be repaid in accordance with an escrow agreement, or in the case of S.E.R.F. BFR Joint Loan, a Joint Loan agreement, prepared as part of the loan documents by the City Attorney naming an independent escrow agent which shall be chosen by the borrower and approved by the City. The escrow agent shall, in accordance with the escrow agreement, receive loan payments and account for all proceeds, interest and principal, to the City and the borrower. The escrow agent shall remit all proceeds received to the City. The Primary Lender may act as escrow agent for S.E.R.F. BFR Joint Loan, and loan payments may be submitted directly to the City by the Primary Lender as designated in the Joint Loan agreement.

In the event that the borrower requests any modification or change of any loan term or condition, including without limitation variations in security position, insurance requirements, payment dates or amounts, or the like, or if there arises a need for management of insurance proceeds in the event of damage or loss or such other insurable event, the borrower shall notify the then acting chairman of the S.E.R.F. committee and the loan servicing request shall be handled on an as-needed, case by case basis by the committee. Any and all changes in loan terms or conditions of any kind whatsoever, and any disbursement of insurance proceeds requiring City approval by the terms of the loan or the insurance policy, shall be considered by the committee and submitted to the City Council for action upon committee recommendation. Under a S.E.R.F. BFR Joint Loan, the consent of the Primary Lender may also be required.

Dated this 21st day of December, 2009.

CITY OF SPEARFISH

BY: \_\_\_\_\_  
Jerry A. Krambeck, Mayor

ATTEST:

BY: \_\_\_\_\_  
Greg Sund, City Administrator

Adopted: December 21, 2009  
Published: December 24, 2009  
Effective: January 13, 2010

**Motion:** Schmit            **Second:** Morgan  
**To approve Resolution #2009-29 – A resolution to clarify criteria, standards and policies of the Spearfish Economic Revolving Fund.**

**Disposition:** Motion passed on voice vote.

**Resolution 2009-30** – This resolution would involve performance contracting under a federal block grant program. No action was taken by Council at this time.

**Resolution 2009-31** – This resolution will restore a 2009 Dodge Charger Police Cruiser to active fleet rather than surplus.

### **RESOLUTION 2009-31**

#### **A RESOLUTION REMOVING THE FOLLOWING ITEMS FROM SURPLUS**

**WHEREAS**, the City of Spearfish is the owner of the following personal property:

**One (1) 2009 Dodge Charger Police Cruiser    Vin # 2B3KA43T59H590273**

**WHEREAS**, the City of Spearfish deems it desirable to remove this item from previously declared surplus;

**NOW, THEREFORE BE IT RESOLVED** by the Common Council of the City of Spearfish that said property be removed from surplus declaration and retained as an active asset.

Dated this 21st day of December 2009.

CITY OF SPEARFISH

By: \_\_\_\_\_  
Jerry A. Krambeck, Mayor

ATTEST:

\_\_\_\_\_  
Greg Sund, City Administrator

Adopted: 12-21-2009  
Published: 12-24-2009  
Effective: 1-13-2010

**Motion:** Quinn            **Second:** Morgan

**To approve Resolution #2009-31 – A resolution to restore 2009 Dodge Charger Police Cruiser to active fleet.**

**Disposition:** Motion passed on voice vote.

**Resolution 2009-32** – This resolution sets the front foot assessments with no changes from last year.

**RESOLUTION 2009-32**

**A RESOLUTION LEVYING A FRONT FOOT ASSESSMENT FOR ANNUAL MAINTENANCE OF STREET SURFACES AND SETTING MAXIMUM ANNUAL ASSESSMENTS.**

**WHEREAS**, SDCL 9-45-38 grants authority to the City of Spearfish to assess special front foot assessment for the purpose of maintaining or repairing street surfacing or pavement, and

**WHEREAS**, the assessment may not exceed forty cents per front foot upon the lots fronting and abutting the street, and

**WHEREAS**, property on a corner lot may be assessed more due to the additional front footage associated with its location.

**NOW THEREFORE, BE IT RESOLVED** by the Common Council of the City of Spearfish, Lawrence County, South Dakota, that all taxable real property parcels fronting and abutting a city street shall be assessed a special front foot assessment of forty cents per front foot; and

**BE IT FURTHER RESOLVED** that no taxable real property parcel fronting and abutting a city street shall be assessed more than forty dollars, annually; and

**BE IT FURTHER RESOLVED** that the City Administrator of the City of Spearfish, Lawrence County, South Dakota, be and the same is hereby instructed to direct the Director of Equalization to add the assessment to the general assessment against all taxable real property parcels; and

**BE IT FURTHER RESOLVED** that the City Administrator of the City of Spearfish, certify the assessment together with the regular assessment to the County Auditor to be collected as municipal taxes for general purposes.

Dated this 21st day of December, 2009.

**CITY OF SPEARFISH**

By: \_\_\_\_\_  
Jerry A. Krambeck, Mayor

**ATTEST:**

\_\_\_\_\_  
Greg Sund, City Administrator

(SEAL)

Adopted: December 21, 2009  
Published: December 24, 2009  
Effective: January 13, 2010

**Motion:** Quinn            **Second:** Young  
**To approve Resolution #2009-32 – Front Foot Assessments.**

**Disposition:** Motion passed on voice vote.

**SDDOT Land Purchase & Construction Easement** – City Administrator Sund stated that we were recently approached by SDDOT regarding their desire regarding two parcels of property. They want to acquire 0.03 acres at the outfall of a proposed storm water drain for access and cleaning purposes. They also want to obtain a construction easement. Public Works Administrator Johnson stated that following the construction, the City will be taking on the maintenance duties including plowing, mowing and storm drain maintenance. This can be accomplished in one of two ways: local governments can either be paid for the parcels or the

City can grant them to the State at no cost. Schmit stated he would prefer granting the land and easement at no cost.

**Motion:** Quinn                   **Second:** Morgan  
**To approve the offer from SDDOT of \$3760 for .03 acres and Temporary Construction Easement.**

**Disposition:** Motion passed on voice vote with Schmit voting no.

**2010 Wages and Stipends** – Mayor and Council reviewed all wages and stipends for 2010. The complete listing will be published in the minutes of the first meeting following the beginning of the fiscal year - January 4, 2010 City Council regular session, as required per statute.

**Motion:** Schmit                   **Second:** Morgan  
**To approve the 2010 Wages and Stipends.**

**Disposition:** Motion passed on voice vote.

**Monthly Financial Report –**

**Motion:** Davis                   **Second:** Schmit  
**To accept the Monthly Financial Report.**

**Disposition:** Motion passed on voice vote.

**Welcome Planning Commission Board Member** – City Planner Watson welcomed Toby Bordewyk to the Planning Commission. He will be on board on January 5, 2010.

**Bill List of December 21, 2009.**

<b>VENDOR</b>	<b>DESCRIPTION</b>	<b>AMOUNT</b>
A & J SUPPLY	IRON/MITTENS	\$135.79
ABC BUSINESS SUPPLY	MOBILE FILE CABINET/PAPER	\$291.78
AINSWORTH-BENNING CONSTRUCTION	PR#8 FINAL 2009 ST IMP PROJECT	\$163,118.24
ALLART, KATIE	2009 BENEFIT REIMBURSEMENT	\$350.00
ALLTEL	DEC 2009 DISPATCH MDTs	\$239.04
ALMETEK INDUSTRIES, INC	STORM DRAIN MARKERS	\$782.67
ALPINE IMPRESSIONS	LOGO WEAR-R HESER	\$7.00
AMCON DISTRIBUTING CO	REC CENTER CONCESSIONS	\$100.51
AMERICAN LEGAL PUBLISHING	2010 CITY ORD INTERNET SUBSCRPTN	\$262.50
APPLE SCIENTIFIC, INC	PH BUFFER	\$72.44
ARLETH & ASSOCIATES, INC	TOPIGRAPH MAPPING BY CITY SHOP	\$625.00
BELLE FOURCHE LANDFILL BH VISITOR INFORMATION CENTER	LANDFILL FEES	\$18,369.13
BLACK HILLS AUTO PARTS INC	2010 NO. HILLS BROCHURE SLOT	\$175.00
BLACK HILLS PIONEER	FILTERS/WIPER BLADES/BOOSTR CBL	\$862.87
BLACK HILLS POWER & LIGHT	PRINTING/LEGAL PUBLISH/SUBSCIPTN	\$1,096.67
	ELECTRICITY	\$6,904.90

BLACK HILLS PURE, INC	COOLER RENTALS/WATER	\$46.50
BOARD OF OPERATOR		
CERTIFICATION	2010 CERTIFICATION RENEWALS	\$204.00
CARGILL, INC	BULK DEICER	\$11,511.88
CENTER POINT LARGE PRINT	BOOKS	\$1,892.00
CENTURY BUSINESS PRODUCTS	REC CENTER COPIER LEASE	\$241.88
CHAIN SAW CENTER	SNOBLOWER FOR MAURICE/SNO BLD	\$2,239.85
COMBINED BUILDING SPECIALTY	PARK PARTITIONS	\$5,478.00
DAKOTA BUS SERVICE, CORP	BID BOARD NEW YEARS MARKETING	\$3,400.00
DELL MARKETING L.P.	COMPUTERS FOR LIBRARY	\$2,249.30
DIVERSE MEDIA, INC	DVDs	\$102.66
EDDIE'S TRUCK SALES, INC	TURN SIGNAL	\$28.16
ENERGY LABORATORIES	LAB TESTS	\$439.00
FASTENAL CO	HARDWARE	\$54.07
FEDEX	FORENSICS LAB SHIPPING	\$11.39
WELCH, WILLIAM J	GREEN HEDGE LINK SLATS	\$583.86
FSH COMMUNICATIONS, LLC	DEC 2009 PAYPHONES	\$180.00
GENE'S LOCK SHOP	KEY/LOCK REPAIR	\$78.00
GLOBAL GOV'T/ED	COMPUTERS & MONITORS	\$3,329.90
GREAT WESTERN TIRE, INC	TIRE/TIRE REPAIRS	\$156.90
GRIMM'S PUMP SERVICE	FUEL FILTERS/GASKETS/FILTER CAP	\$102.92
HACH COMPANY	SOLUTION/ALKALINE/FLOURIDE	\$237.09
HD SUPPLY WATERWORKS	HYDRANT/WATER & SEWER REPAIRS	\$2,661.44
HDR ENGINEERING, INC	VARIOUS PROJECT ENGINEERING	\$55,500.80
HEISLER HARDWARE	TOOLS/GLOVES/REPAIRS/HARDWARE	\$638.20
HIGHSMITH CO	DVD CASES	\$58.52
HOLIDAY INN-SPEARFISH	BID BOARD-BURN THE MORTGAGE	\$5,000.00
JUNEK'S SERVICE CORP	BATTERY & BATTERY REPAIR PD8	\$208.10
KAZCO, INC	PRINTER/SUPPLIES/REPAIRS/MISC	\$686.29
KMART	SYL 19 COMBO BG	\$227.99
KNECHT HOME CENTER, INC	GLOVES/TOOLS/HARDWARE/DEHUMID	\$591.34
KONE, INC	ANNUAL HYDRAULIC SAFETY TEST	\$250.00
KT CONNECTIONS	KILLSPAM SERVICE/NETWORK ADMIN	\$397.24
LANCE ENGINEERING, LLC	POLE BARN ENGINEERING	\$800.00
LAWRENCE COUNTY		
EQUALIZATION	GIS SERVICES-CEMETERY MAP	\$540.00
LAZY B ENTERPRISES	CITY HALL RECYCLING SERVICES	\$38.00
LIBRARIANS' BOOK EXPRESS	BOOKS	\$772.25
MEDNANSKY, DOUGLAS	2006 FORD F350 HYD BOOM TRUCK	\$23,000.00
MG OIL CO	MOBIL OIL	\$60.44
MICROMARKETING, LLC	CDs	\$184.90
MONTANA-DAKOTA UTILITIES	NATURAL GAS	\$8,098.04
MOYLE PETROLEUM BULK INC	NOV 09 BULK FUEL CONTRACT	\$18,745.48
N-CON SYSTEMS CO	REPAIR MOTOR PITTMAN/PULLEY	\$229.00
NORTH CENTRAL LABORATORIES	SELF STIRRING PROBE	\$652.43
NEVE'S UNIFORMS, INC	PEERLESS CUFFS/BAR & OAK LEAF	\$65.35

ONE CALL SYSTEMS, INC	LOCATE REQUEST TICKETS	\$81.40
ONE TIME VENDOR	TAYLOR, M: REFUND PAVILION-SHELT	\$100.00
3BG LLC	CHAIN GUARD	\$8.99
PITNEY BOWES, INC	4TH QTR 2009 POSTAGE METER RENT	\$456.00
QWEST	DECEMBER 2009 PHONES	\$1,219.52
RANDOM HOUSE, INC	CDs	\$93.70
RAPID CITY JOURNAL	ANNUAL SUBSCRIPTION-P&Z	\$192.00
RECORDED BOOKS, LLC	RECORDED BOOKS	\$1,020.15
REGAN SERVICES	HYDRO 120VDC SYSTEM UPDATE	\$6,633.89
RESERVE ACCOUNT	POSTAGE ACCOUNT #11448404	\$10,000.00
RUSHMORE COMMUNICATIONS, INC	RADIO REPAIR	\$310.50
SCHAEFFER MFG. CO	SYNTHETIC OIL	\$864.05
SD DEPT OF REVENUE	2010 FOOD SERVICE RENEWAL	\$230.00
THE SOUTHWELL CO	HISTORIC PRESERVATION MARKERS	\$1,760.00
SPEARFISH AUTO SUPPLY	REPAIRS/TOOLS/GLOVES/BATTERIES	\$1,504.38
SPEARFISH BUILDING & SUPPLY	LUMBER/TAPE/DECKING	\$227.98
SPEARFISH ELECTRIC & HEATING	ELECTRICAL SERVICE & REPAIRS	\$2,077.77
SPEARFISH EXCAVATING, INC	PR#15 TIF#1 & PR#8 TIF#2	\$50,744.59
SPEARFISH VOLUNTEER FIRE DEPT	2009 DEFERRED COMPENSATION	\$18,900.00
STADEL, BRENDA	CITY WEBSITE ADMINISTRATION	\$270.00
SYSCO FOOD SERVICES OF MT	REC CENTER CONCESSIONS	\$54.23
TASC	1ST QTR 2010 FLEX & COBRA ADMIN	\$1,083.60
THE MERCANTILE	GAUGE/GLOVES	\$25.98
THE UPS STORE #5137	LETC SHIPPING	\$28.09
VAN NESS FELDMAN, PC	HYDRO FERC LICENSE LEGAL FEES	\$477.50
VERIZON WIRELESS	DEC 2009 CELL PHONES	\$2,046.25
VISIT SPEARFISH INC	DEC 09 BID BOARD SUPPORT	\$7,500.00
WALMART COMMUNITY BRC	OFFICE/PROGRAM/JANITOR SUPPLIES	\$1,510.52
WELLS FARGO BUSINESS CARD	TRAVEL/REPAIRS/TRAINING/SCANNER	\$3,718.57
WELLS PLUMBING CORP	SALT	\$19.95
WESTERN STAR, INC	REPAIR DOOR REMOTE	\$191.29
WESTON ENGINEERING INC	PR#2 TIF#2 MADISON WELL	\$52,054.24
WHITE'S QUEEN CITY MOTORS	SERVICE PD7/SPEAKER/HOSE	\$118.80
** TOTALS **		\$510,890.65

**Motion:** Quinn                      **Second:** Morgan  
**To approve the bill list dated December 21, 2009.**

**Disposition:** Motion passed on voice vote.

<b>APPROVAL</b>	<b>INITIALS</b>
Mayor Krambeck	
David Baker	
Eric Davis	
Mary Morgan	

Tom Quinn  
Doug Schmit  
Paul Young

**Executive Session**

**Motion:** Morgan           **Second:** Young  
**To go into Executive Session at 7:35 PM.**

**Disposition:** Motion passed on voice vote.

Council returned to Regular Session at 7:55 PM.

**Motion:** Quinn           **Second:** Davis  
**To accept resignation from Greg Sund effective December 31, 2009.**

**Disposition:** Motion passed on voice vote.

**Motion:** Davis           **Second:** Morgan  
**To accept the proposed severance agreement with Greg Sund.**

**Disposition:** Motion passed on voice vote.

There being no further business before the Council, Young moved, Morgan seconded and all voted to adjourn at 8:01PM.

Dated this 21st day of December 2009.

**CITY OF SPEARFISH**

BY: \_\_\_\_\_  
Jerry A. Krambeck, Mayor

**ATTEST:**

\_\_\_\_\_  
Greg Sund, City Administrator

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