
**AGENDA, SPECIAL CITY COUNCIL MEETING, WEDNESDAY, MAY 15, 2013, 5:30 P.M.
CITY COUNCIL CHAMBERS, MUNICIPAL BUILDING, 123 SOUTH LINCOLN STREET, 3rd FLOOR**

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. RESOLUTION NO. 13-05-03R – RESOLUTION OF NECESSITY FOR EMINENT DOMAIN OF FEDERAL COURT HOUSE BUILDING
POSSIBLE APPROVAL OF RESOLUTION NO. 13-05-03R

1. OPEN FORUM PROVIDES AN OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL WITH QUESTIONS, CONCERNS OR COMMENTS ON ITEMS, WHICH ARE NOT ON THE AGENDA. CITIZENS ARE ASKED TO SIGN UP TO SPEAK PRIOR TO THE OPEN FORUM PORTION OF THE MEETING. OPEN FORUM WILL BE LIMITED TO 10 MINUTES (IF NO ONE IS IN ATTENDANCE FOR THE OPEN FORUM, THE REGULAR MEETING MAY BEGIN) UNLESS A MAJORITY OF THE CITY COUNCIL AGREES TO EXTEND THE TIME PERIOD. THE OPEN FORUM MAY NOT BE USED TO MAKE PERSONAL ATTACKS, TO AIR PERSONALITY GRIEVANCES, TO MAKE POLITICAL ENDORSEMENTS, OR FOR POLITICAL CAMPAIGN PURPOSES. OPEN FORUM WILL NOT BE USED AS A TIME FOR PROBLEM SOLVING OR REACTING TO THE COMMENTS MADE, BUT, RATHER FOR HEARING THE CITIZEN FOR INFORMATIONAL PURPOSES. THE CITY COUNCIL MAY RESPOND WITH REQUEST FOR CITY MANAGEMENT TO FOLLOW UP AND REPORT BACK ON ANY ISSUE RAISED DURING THE PUBLIC ADDRESS TIME. A PRESENTATION MAY NOT EXCEED TWO MINUTES IN DURATION.
2. ADA COMPLIANCE: THE CITY OF ABERDEEN FULLY SUBSCRIBES TO THE PROVISIONS OF THE AMERICAN'S WITH DISABILITIES ACT. IF YOU DESIRE TO ATTEND THIS PUBLIC MEETING AND ARE IN NEED OF SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY FINANCE OFFICE AT LEAST 8 HOURS PRIOR TO THE MEETING SO APPROPRIATE AUXILIARY AIDS AND SERVICES CAN BE MADE AVAILABLE. THE CITY COUNCIL MEETS WEEKLY ON MONDAYS AT 5:30 P.M. EXCEPT WHEN A HOLIDAY FALLS ON MONDAY, IN WHICH CASE THE MEETING IS HELD AT 5:30 P.M. ON THE NEXT BUSINESS DAY.
3. A COPY OF THE SUBJECT MATTER ON THE CITY COUNCIL MEETING AGENDA IS AVAILABLE FOR PUBLIC DISTRIBUTION AT THE CITY FINANCE OFFICE AND AVAILABLE ON THE CITY'S WEBSITE www.aberdeen.sd.us.

RESOLUTION NO. 13-05-03R

RESOLUTION OF NECESSITY FOR ACQUISITION OF REAL PROPERTY

**102 FOURTH AVENUE SOUTHEAST
FEDERAL COURTHOUSE**

WHEREAS, the City Aberdeen is the past, present, and future home of the United States District Court for the Northern District of South Dakota; and

WHEREAS, United States Code Title 28 Section 122 provides that:

South Dakota constitutes one judicial district comprising four divisions.

(1) The Northern Division comprises the counties of Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Edmonds [sic], Grant, Hamlin, McPherson, Marshall, Roberts, Spink, and Walworth.

Court for the Northern Division shall be held at Aberdeen.

(2) The Southern Division comprises the counties of Aurora, Beadle, Bon Homme, Brookings, Brule, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, and Yankton.

Court for the Southern Division shall be held at Sioux Falls.

(3) The central division comprises the counties of Buffalo, Dewey, Faulk, Gregory, Haakon, Hand, Hughes, Hyde, Jerauld, Jones, Lyman, Mellette, Potter, Stanley, Sully, Todd, Tripp, and Ziebach.

Court for the Central Division shall be held at Pierre.

(4) The Western Division comprises the counties of Bennett, Butte, Custer, Fall River, Harding, Jackson, Lawrence, Meade, Pennington, Perkins, and Shannon.

Court for the Western Division shall be held at Deadwood and Rapid City;

and

WHEREAS, the current location of the United States District Court for the Northern District of South Dakota ("District Court") is 102 Fourth Avenue Southeast, Aberdeen, South Dakota, a location more particularly described as Lots 1-6, Hagerty's Subdivision of Lots 1 and 2, and Lots 7 through 12 of Hagerty's Subdivision of Lots 11-12, and Lots 3 and 10, Block 28 of First Addition, and vacated alley adjacent thereto, City of Aberdeen, Brown County, South Dakota (with improvements, collectively, the "Federal Courthouse"); and

WHEREAS, the Federal Courthouse is privately owned, with the United States General Services Agency (“GSA”) responsible for leasing space for use by the District Court as a federal court facility; and

WHEREAS, the current condition of the Federal Courthouse is such that the GSA has indicated that it is no longer willing to lease space in the Federal Courthouse for the District Court; and

WHEREAS, there is no equivalent space nor any other space that could readily be converted to meet the unique needs of the District Court anywhere within the City of Aberdeen; and

WHEREAS, the District Court provides an annual payroll in excess of One Million Dollars (\$1,000,000), with additional fees for court appointments in excess of Four Hundred Thousand Dollars (\$400,000) annually; the District Court also attracts to the City of Aberdeen federal employees from the United States Attorneys’ office, the United States Marshal’s Service, the Federal Bureau of Investigation, the United States Bankruptcy Court, the United States Tax Court, as well as untold numbers of lawyers, litigants, witnesses, media representatives, and citizens from the area and throughout the United States; and

WHEREAS, the economic impact of the District Court’s presence in Aberdeen is both significant and irreplaceable; and

WHEREAS, District Court provides critical judicial services for the entire region of North Central and Northeastern South Dakota, including fifteen (15) counties and the Standing Rock and Sisseton-Wahpeton Oyate communities; and

WHEREAS, the existence of the District Court in Aberdeen ensures convenient local access to federal civil litigation, federal criminal prosecution, bankruptcy proceedings, Tax Court proceedings, and Federal Probation and Pretrial Services; and

WHEREAS, were the District Court to discontinue providing services in Aberdeen, the citizens of North Central and Northeast South Dakota would be forced to travel to Pierre, Sioux Falls, or Rapid City, as the services provided in the Northern District would be distributed throughout the other judicial districts in South Dakota, such travel being inconvenient, expensive, and inefficient; and

WHEREAS, SDCL §9-27-1 authorizes a municipality to acquire real property for any purpose authorized by law; and

WHEREAS, SDCL §9-27-1 provides that a municipality must, prior to commencing proceedings in eminent domain, determine that such appropriation is necessary; and

WHEREAS, SDCL §9-27-1 requires that any resolution of necessity must state the purpose and intent of such appropriation.

NOW THEREFORE BE IT HEREBY RESOLVED by the City Council for the City of Aberdeen that the public good necessitates the appropriation of the following real property:

Lots 1-6, Hagerty's Subdivision of Lots 1 and 2, and Lots 7 through 12 of Hagerty's Subdivision of Lots 11-12, and Lots 3 and 10, Block 28 of First Addition, and vacated alley adjacent thereto, City of Aberdeen, Brown County, South Dakota, more commonly known as 102 Fourth Avenue Southeast, Aberdeen, South Dakota.

BE IT FURTHER RESOLVED that the purpose and intent of such appropriation is to preserve the continued viability of the United States District Court for the Northern District of South Dakota in the City of Aberdeen, due to the District Court's significant financial impact to the community and its unique ability to provide judicial services to North Central and Northeast South Dakota; and

BE IT FURTHER RESOLVED that said purpose and intent is a public use and provides a public benefit; and

BE IT FURTHER RESOLVED that the City Attorney is hereby authorized and directed to file a proceeding in eminent domain pursuant to SDCL §§9-27-1 and SDCL Ch. 21-35, to appropriate the subject property for the continued viability of the District Court and to determine the just compensation due the present owner of the Federal Courthouse; and

BE IT FURTHER RESOLVED that this Resolution shall be passed by a 2/3 majority of all the elected members of the Common Council in order to become effective.

The within and foregoing Resolution was considered at a special meeting of the Aberdeen City Council on the 15th day of May, 2013, and upon Roll Call vote the Resolution was adopted.

AYES: _____
NAYS: _____

CITY OF ABERDEEN

Mike Levsen, Mayor

ATTEST:

Karl Alberts, Finance Officer

(SEAL)