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Legislative Oversight Leads to No Charges in City of Sturgis Annexation Investigation

Several citizens filed complaints with local law enforcement alleging that the City of Sturgis (City) violated South Dakota campaign finance laws, specifically SDCL 12-27-20 (attachment #1). Based on these complaints an investigation was completed by the Division of Criminal Investigations (DCI). The statute, paraphrased, prohibits any municipality from expending or permitting the expenditure of public funds for the purpose of influencing the outcome of an election or ballot question. Complainants allege that the City violated said statute with their actions leading up to the February 2nd, 2010, Annexation referendum ballot question vote. Specifically, complainants allege City violated 12-27-20 as follows:

1. That the City paid to place an insert, related to their position regarding the annexation ballot question, in the January, 2010, Sturgis Area Chamber of Commerce (Chamber) newsletter.
2. That the City published information, related to their position regarding the annexation ballot question, in Volume 1, Issue 12 (December, 2009) of the City's own newsletter (Sturgis Information Publication).

3. That the group Future Sturgis (a group that receives funds from the City) paid for campaign signage which supported the City's position as it pertained to the annexation ballot question.
4. That the City and/or Future Sturgis authorized the gifting of Community Center Memberships with the intent to influence the outcome of the annexation ballot question.

ALLEGATION #1

The insert (attachment #2) in question was prepared by the City Manager David Boone and sent to the Chamber for publication. The insert is in a question and answer format with six questions and corresponding answers. The investigation revealed that the Chamber had originally billed the City for placement of the aforementioned insert, however, the Chamber discarded the bill and assumed the price of placement once the contentious nature of the ballot question became apparent. The Chamber does receive a significant portion of funding from the City.

ALLEGATION #2

This allegation is almost identical to that which is contained in Allegation #1. Here, the City reprinted the question and answer piece from attachment #2 and placed it in their own newsletter, the "Sturgis Information Publication" in Volume 1, Issue 12 (attachment #2). The questions and answers, as previously indicated, were formulated by Sturgis City Manager David Boone.

ALLEGATION #3

The complainants further allege that the group Future Sturgis paid for campaign signage related to this ballot question and is a group that receives funds directly or indirectly from City. The Future Sturgis entity was created by the City and local community volunteers. Future Sturgis receives funding from the City either directly or on behalf of the Sturgis Economic Development Corporation (a group that is funded predominantly by City tax dollars). It is undisputed that the signs advocating a “Yes” position for the annexation the City contained the disclaimer that the signs were “Sponsored by Future Sturgis.” However, further investigation by DCI revealed that the signs were in fact paid for with a Future Sturgis member’s personal funds.

ALLEGATION #4

The final allegation is that the City and/or Future Sturgis authorized the gifting of Community Center Memberships with the intent to influence the outcome of the ballot question. Future Sturgis held two Town Hall meetings, one on March 26, 2009, and again on September 24, 2009. The investigation revealed that either Future Sturgis or the City authorized the gifting of free 6-month Community Center passes for attendees. During both meetings annexation was discussed. At the March 26, 2009, Future Sturgis Town Hall meeting, 171, six-month temporary memberships were given valued at \$30,376.95. At the September 24, 2009, Future Sturgis Town Hall meeting, 35, six-month temporary memberships were given valued at \$5,259.85.

DETERMINATION

After an exhaustive review of the campaign finance statutes and consultation with the Secretary of State's Office and the Attorney General's Office it is now apparent that the campaign finance reform provisions, codified by the Legislature in 2007, inadvertently omitted a criminal punishment provision as it relates to SDCL 12-27-20. Civil remedies may be available, however, a monetary sanction would only serve to penalize the taxpayers of Sturgis. Due to this oversight, it would be a moot point to render any determinations whether the City, Future Sturgis, or Mr. Boone acted unlawfully regarding the aforementioned complaints.



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12-27-20. Expenditure of public funds to influence election outcome prohibited. The state, an agency of the state, and the governing body of a county, municipality, or other political subdivision of the state may not expend or permit the expenditure of public funds for the purpose of influencing the nomination or election of any candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any ballot question. This section may not be construed to limit the freedom of speech of any officer or employee of the state or such political subdivisions in his or her personal capacity. This section does not prohibit the state, its agencies, or the governing body of any political subdivision of the state from presenting factual information solely for the purpose of educating the voters on a ballot question.

Source: SL 2007, ch 80, § 20.

[Chapter 12-27](#)

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East 34 Annexation Issue Referred to Vote by Full Throttle Saloon Owner

The East 34 Annexation Resolution that was passed on November 17th by the Sturgis City Council has been referred by petition by Full Throttle Saloon owner Mike Ballard. Mr. Ballard, through his lawyer Roger Tellinghuisen, stated his opposition to being annexed at the annexation public hearings held on November 3rd and 17th. Mr. Ballard and his staff gathered enough valid signatures to bring the East 34 Annexation resolution to a vote of the residents. The vote will take place on February 2, 2010 at the Sturgis Community Center, 1401 Lazelle.

Why does the Council want to annex the East 34 area?

The East 34 area will bring in an estimated \$250,000 in new revenues that will help pay for street and park improvements and economic development efforts to bring new businesses to town that will create jobs that benefit residents. The additional commercial revenue will help the City reduce its reliance on property taxes from residents. The Council also believes that Highway 34 and 79 will be a future growth area.

Why does the Council want to annex Rally businesses like Full Throttle Saloon, Glencoe Camp Resort and Monkey Rock/Sturgis Thunder Dome?

These Rally businesses profit greatly from the Sturgis Rally; however, these businesses do not pay any taxes or fees to benefit the residents of Sturgis. As a matter of tax fairness, the Council believes these businesses ought to pay taxes to benefit the residents of Sturgis and share in Rally costs.

Will my City taxes go up because of annexation?

No. The City is currently providing Police, Fire, Sewer, Sanitation and Back Up Water Service to the area so there is no significant increase in costs. The property and sales taxes and vendor fees collected from the annexation area will pay for any new services needed.

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What about the 79 bypass and future growth?

Meade County is engineering the highway bypass around Sturgis. If the road is built, this could divert business and sales tax from Sturgis. In order to plan for the future, the Council desires to annex along East 34 now to retain future sales tax revenue and plan for orderly growth in the area. The City is very limited on where Sturgis can grow due to the surrounding hills on the south, north and west. The flat buildable prairie land east of Sturgis is the logical location for future growth.

What are the major costs of annexation?

The primary new cost to the City is snow removal on Highway 34 estimated at \$10,320 annually. The City currently provides maintenance to Glencoe Road as that is the only access to the wastewater treatment plant.

For more information visit
www.sturgis-sd.gov.

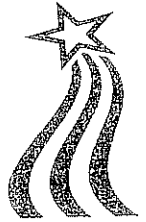
Please mark your calendar for February 2, when a vote will be taken by the residents to decide on the East 34 Annexation Resolution. Voting will take place at the Sturgis Community Center, all registered voters who live in the City or the proposed annexation area are eligible to vote. Polls will be open from 7:00 AM to 7:00 PM on Tuesday.

If you have questions or seek clarification on issues concerning this topic, please go to www.sturgis-sd.gov. In addition, there will Town Hall meetings on January 4, 18, and February 1, scheduled in conjunction with the regular City Council meetings.

For the past several months this has been a topic of much discussion. You have an opportunity express your views through an election. I encourage you to take advantage of your democratic privilege and
VOTE on February 2, 2010.

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Frequently Asked Questions About East 34 Annexation

Why does the Council want to annex the East 34 area?

The East 34 area will bring in an estimated \$250,000 in new revenues that will help pay for street and park improvements and economic development efforts to bring new businesses to town that will create jobs that benefit residents. The additional commercial revenue will help the City reduce its reliance on property taxes from residents. The Council also believes that Highway 34 and 79 will be a future growth area.

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Do Sturgis residents pay for water or sewer lines in the area?

No. The businesses in the area will be required to pay for their own water or sewer lines through user fees or special assessments if and when they want the services. These services are supported by user fees not taxpayer money.

What about the 79 bypass and future growth?

Meade County is engineering the highway bypass around Sturgis. If the road is built, this could divert business and sales tax from Sturgis. In order to plan for the future, the Council desires to annex along East 34 now to retain future sales tax revenue and plan for orderly growth in the area.

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