

City Council Agenda Memo

From: Bonnie Foster, City Clerk

Council Meeting: August 8, 2023

Subject: Resolution 23-066: On-Sale Liquor Operating Agreement

Person(s) Presenting: Bonnie Foster, City Clerk

Summary:

The City of Brookings has received an application to transfer an On-Sale Liquor Operating Agreement for Ray's Corner, 401 Main Avenue, from Fergen Enterprise, Inc., Mike Fergen, owner, to Todd Voss, owner, Icon Investments. Legal description: Lot 1, Ray's Corner Addition. All required documents have been submitted for this application.

Background:

A public hearing and action by the local governing body is required. This Resolution allows the City Manager to enter into the first five years of a 10-year Alcohol Management Agreement, effective through 2028. This license would be effective upon SD State Department of Revenue approval and license issuance, and subject to annual renewal.

An existing Video Lottery authorization is associated with the On-Sale Liquor License. SDCL 42-7A-64 provides criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments. "...An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section..." No additional action on the Video Lottery License is needed.

Item Details:

This is a transfer of an existing On-Sale Liquor Operating Agreement from Fergen Enterprise, Inc., Mike Fergen, owner, to Todd Voss, owner, Icon Investments, for 401 Main Avenue. A new Alcohol Management Agreement would be entered into with the City and Icon Investments, Todd Voss, owner.

City Code Chapter 6, Article 2, Section 6-42 pertaining to Application Review Procedure. The city council shall review all applications submitted to the city for available on-sale alcoholic beverage agreements, including transfers, and for all alcoholic beverage licenses in accordance with SDCL 35-2 and in accordance with the following factors:

- 1) Type of business which applicant proposes to operate: on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where

groceries or gasoline are sold unless it can be established that minors do not regularly frequent the establishment.

- 2) The manner in which the business is operated: on-sale alcoholic beverage operating agreements and alcoholic beverage licenses may not be issued to establishments which are operated in a manner which results in minors regularly frequenting the establishment.
- 3) The extent to which minors are employed in such a place of business: on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where groceries or gasoline are sold and which regularly employ minors.
- 4) Adequacy of the police facilities to properly police the proposed location:
The city council shall inquire of the city manager whether the police department can adequately police the proposed location.
- 5) Other factors: including the hours that business is conducted shall be considered by the city council in its review of applications for on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses.

Legal Consideration:

None

Strategic Plan Consideration:

None

Financial Consideration:

License Transfer Fee: \$150

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Move to a Study Session
5. Discuss / take no action / table

Staff recommends approval.

Supporting Documentation:

Resolution

Operating Agreement

Notice of Public Hearing

City Code and SDCL References

Location Map