

**Brookings City Council**  
**November 9, 2021** (unapproved)

The Brookings City Council held a meeting on Tuesday, November 9, 2021 at 6:00 PM, at the Brookings City & County Government Center, Chambers, with the following City Council members present: Mayor Oepke Niemeyer, Council Members Leah Brink, Holly Tilton Byrne, Nick Wendell, Patty Bacon, Joey Collins, and Wayne Avery. Attorney Steve Britzman, City Manager Paul Briseno, and City Clerk Bonnie Foster were also present.

**6:00 PM REGULAR MEETING**

**Consent Agenda.** A motion was made by Mayor Niemeyer, seconded by Council Member Bacon, to amend the agenda to add “action to cancel the November 16<sup>th</sup> Study Session.” The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery. A motion was made by Council Member Tilton Byrne, seconded by Council Member Bacon, to approve the agenda as amended. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

**3.A. Action to approve the agenda.**

**3.B. Action to approve the October 26, 2021 City Council Minutes.**

**3.C. Action on Resolution 21-088, a Resolution authorizing the City Manager to sign a Wine Operating Agreement renewal for Schoon’s Pump N’ Pak South, Jon Schoon, owner, 1205 Main Ave. So. Legal description: Outlot 8, NE 1/4, .66 acres, Section 35-T110N-R50W.**

Resolution 21-088 - Wine Operating Agreement - renewal  
Schoon’s Pump N’ Pak South

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Renewal for the Wine Operating Management Agreement between the City of Brookings and Schoon’s Pump N’ Pak South, Jon Schoon, owner, for the purpose of a manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 1203 Main Avenue South. Legal Description: Outlot 8, NE ¼, .66 acres, Section 35-T110N-R50W.

Now, Therefore, Be It Further Resolved that the City Manager be authorized to execute the Agreement on behalf of the City, which shall be for a period of ten (10) years, with a renewal in five (5) years.

**3.D. Action on Resolution 21-089, a Resolution authorizing the City Manager to sign a Wine Operating Agreement 5-year mid-term renewal for Wooden Legs Brewing Co., 309 5th Street, Suite 100, Seth Koch, Brent Mathiason, and Steven Krueger, owners. Legal description: Lots 15-16, Block 14, Second Addition.**

Resolution 21-089 - Wine Operating Agreement - renewal  
Wooden Legs Brewing Co.

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Renewal Agreement for the On-Sale Wine Alcoholic Beverage

Management Agreement between the City of Brookings and Wooden Legs Brewing Co., Seth Koch, Brent Mathiason, and Steven Krueger, owners, for the purpose of a manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 309 5<sup>th</sup> Street, Suite 100. Legal description: Lots 15-16, Block 14, Second Addition.

Now, Therefore, Be It Further Resolved that the City Manager be authorized to execute the Agreement on behalf of the City, which shall be for the remaining five (5) years of the ten (10) year agreement.

**3.E. Action on Resolution 21-090, a Resolution authorizing the City Manager to sign a Wine Operating Agreement renewal for McCrory Gardens Educational Visitors Center, Aramark Educational Services, LLC, manager, 6<sup>th</sup> Street / 22<sup>nd</sup> Avenue. Legal description: a portion of the SE ¼ of Section 24-T110N-R50W (located on northwest corner of 6<sup>th</sup> Street and 22<sup>nd</sup> Avenue).**

Resolution 21-090 - Wine Operating Agreement - renewal  
McCrory Gardens Educational Visitors Center  
Aramark Educational Services, LLC, Manager

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Renewal for the Wine Operating Management Agreement between the City of Brookings and McCrory Gardens Educational Visitors Center, Aramark Educational Services, LLC, Manager, for the purpose of a manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 6<sup>th</sup> Street / 22<sup>nd</sup> Avenue. Legal description: a portion of the SE ¼ of Section 24-T110N-R50W (located on northwest corner of 6<sup>th</sup> Street and 22<sup>nd</sup> Avenue).

Now, Therefore, Be It Further Resolved that the City Manager be authorized to execute the Agreement on behalf of the City, which shall be for a period of ten (10) years, with a renewal in five (5) years.

**3.F. Action on Resolution 21-092, a Resolution declaring surplus property for the City of Brookings.**

Resolution 21-092 - Declaring Surplus Property

Whereas, the City of Brookings is the owner of the following described equipment formerly used at the City of Brookings:

Administration

- Antique wood brochure rack

Police Dept.

- Glock 17 9mm Pistol – SN WSS504

Whereas, in the best financial interest, it is the desire of the City of Brookings to dispose of as surplus property; and

Whereas, the City Manager is hereby authorized to sell or dispose of said surplus property.

Now, Therefore, Be It Resolved by the governing body of the City of Brookings, SD, that this property be declared surplus property according to SDCL Chapter 6-13.

**3.G. Action on Resolution 21-093, a Resolution of Appreciation at the Conclusion of the Work of Various Committees and Task Forces of the City of Brookings, South Dakota.**

Resolution 21-093 - A Resolution of Appreciation at the Conclusion of the Work of Various Committees and Task Forces of the City of Brookings, South Dakota

Whereas, from time to time, the City Council has appointed Committees and Task Forces to address specific community issues, including planning for Sixth Street improvements, addressing affordable housing, public art, transportation, mental health and city planning, among others; and

Whereas, because the work of certain Committees and Task Forces have now concluded, it is appropriate to recognize their efforts and bring these Committees and Task Forces to conclusion; and

Whereas, the following Committees and Task Forces have successfully completed their work, and their Members deserve the thanks and appreciation of the City Council and the Brookings Community.

Now, Therefore, Be It Resolved by the City Council of the City of Brookings that the following Committees and Task Forces have completed their work and are hereby dissolved, and their Members are discharged from their duties:

1. Sixth Street Main to Medary Design Ad Hoc Committee;
2. Affordable Housing Task Force;
3. Brookings Arts Task Force;
4. Brookings Transportation Committee;
5. Comprehensive Master Plan Advisory Committee;
6. Mental Health Task Force; and
7. Indoor Rec Center Committee.

**3.H. Action on Resolution 21-095, a Resolution Removing Uncollectible, Delinquent Accounts from the Records.**

Resolution 21-095 - A Resolution Removing Uncollectible, Delinquent Accounts from the Records

Whereas, the City has attempted by reasonable means to collect the outstanding accounts receivable on the below-listed accounts; and

Whereas, the City considers the accounts outstanding for more than one year to be "uncollectible" for purposes of disclosing the financial statements of the City; and

Whereas, the City may continue efforts to collect such "uncollectible" debt.

Now, Therefore, Be It Resolved, that the City of Brookings hereby authorizes the removal of the following accounts as uncollectible pursuant to SDCL 9-22-4 and authorizes the disclosure of the same on the annual financial reports:

Customer Name	Department/Fund	Reason	Amount
Dave's Mobile Home	Solid Waste Disposal	Out of Business	\$388.24
Alex Kahler	Research & Technology Center	Out of Business	\$69,678.25

**3.I. Action on Relocation, Displacement, and Acquisition Plan for the Community Development Block Grant Project.**

**Proclamation.** Mayor Niemeyer presented a Proclamation to Kaitlyn Luebbert from the Brookings Area Chamber of Commerce in recognition of Small Business Saturday, November 27, 2021.

Mayoral Proclamation

Whereas, Brookings celebrates our local small businesses and the contributions they make to our local economy and community; and

Whereas, 88% of U.S. consumers feel a personal commitment to support small businesses in the wake of the pandemic, and 92% of small business owners have pivoted the way they do business to stay open during the pandemic; and

Whereas, Brookings supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

Whereas, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, Be It Resolved, that I, Oepke G. Niemeyer, Mayor of the City of Brookings, do hereby proclaim Saturday, November 27, 2021 as "Small Business Saturday" and urge residents to support small businesses and merchants on Small Business Saturday and throughout the year.

**Proclamation.** Mayor Niemeyer presented a Proclamation to Stephanie Ballard in recognition of her being selected as the 2022 South Dakota Teacher of the Year.

Mayoral Proclamation

Whereas, Mrs. Stephanie Ballard was recognized as the 2022 South Dakota Teacher of the Year at the state award ceremony on October 12, 2021; and

Whereas, Stephanie has taught for the Brookings School District since 2014, first at Camelot Intermediate School and currently at George S. Mickelson Middle School; and

Whereas, Stephanie serves students in special education, builds rapport and relationships with those students and their families, and is a passionate advocate for inclusion and disability awareness; and

Whereas, Stephanie serves on and is a valued member of a variety of school and district committees, is a member of the Brookings Education Association, serves as a mentor for her peers, and provides support and mentorship for new special education teachers in the district; and

Whereas, Stephanie has demonstrated incredible strength, courage, leadership and professionalism in both her personal and professional life, setting an example to many; and

Whereas, Stephanie will serve as a role model and advocate for other educational professionals throughout South Dakota for 2022.

Now, Therefore, Be It Resolved, that I, Oepke G. Niemeyer, Mayor of the City of Brookings, do hereby proclaim Monday, November 15, 2021 as “Stephanie Ballard Day.”

**SDSU Student Association Report.** Michael, on behalf of Anna Shane, the Government Affairs Chair for the SDSU Students Association, provided an update on SDSU happenings to the City Council and public.

**Open Forum.** Trifon Theodosopoulos addressed the council on why the council chose to not limit the number of licenses to be issued. Council Member Brink responded saying she chose to not enact a limit on an industry we don't understand or recognize to date. Council Member Wendell responded saying he was not comfortable limiting an industry which has not been tested in the City. Wendell was comfortable allowing zoning regulations to limit the quantity. There have been no medical cannabis licenses received to date.

**3<sup>rd</sup> Quarter 2021 CFO Report.** Chief Financial Officer, Erick Rangel, presented the 3<sup>rd</sup> Quarter Financial Report to the City Council and members of the public.

**Resolution 21-094.** A motion was made by Council Member Wendell, seconded by Council Member Tilton Byrne, that Resolution 21-094, a Resolution Approving a Professional Services Agreement Between the City of Brookings, SD, and RESPEC Company, LLC for the Six-Mile Creek Feasibility Project, be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

Resolution 21-094 - A Resolution Approving a  
Professional Services Agreement Between the City of Brookings, SD, and  
RESPEC Company, LLC for the Six-Mile Creek Feasibility Project

Whereas, the City of Brookings has received a Federal Emergency Management Agreement (FEMA) Grant to conduct a Flood Mitigation Study of a part of Six-Mile Creek; and

Whereas, RESPEC Company, LLC has submitted a proposal to the City of Brookings to provide the professional services required for the Six-Mile Creek Feasibility Project to be funded by the FEMA Grant; and

Whereas, RESPEC Company, LLC is engaged, among other things, in the business of providing professional engineering services for water and environmental projects, including FEMA modeling and flood mitigation consulting; and

Whereas, RESPEC Company, LLC has substantial knowledge of the Big Sioux River Watershed, which includes Six-Mile Creek, and this knowledge base is invaluable with respect to this Project; and

Whereas, the City of Brookings has adopted Resolution No. 182-12, which provides for the use of Requests for Proposals (RFP) for professional services contracts with estimated costs in excess of \$75,000.00, however because of the substantial knowledge of the Big Sioux River Watershed that RESPEC Company, LLC already has, it is in the best interests of the City of Brookings that the City forgo the use of an RFP and utilize the services of RESPEC Company, LLC for this Project; and

Whereas, the City desires to engage RESPEC Company, LLC and RESPEC Company, LLC desires to accept the above-described professional services engagement for the Project, pursuant to the terms and conditions set forth in a Professional Services Agreement.

Now, Therefore, It Is Hereby Resolved by the City Council of the City of Brookings, South Dakota:

- a. That a Professional Services Agreement between the City of Brookings, South Dakota and RESPEC Company, LLC is hereby approved; and
- b. The City Manager is authorized to sign the Professional Services Agreement with RESPEC Company, LLC for the Six-Mile Creek Feasibility Project.

**FIRST READING – Ordinance 21-036.** Introduction and First Reading was held on Ordinance 21-036, an Ordinance repealing Sections 2-261 through 2-272 of the Code of Ordinances of the City of Brookings, SD, and pertaining to the University Community Coalition. Second Reading: November 23, 2021.

**Ordinance 21-037.** A motion was made by Council Member Wendell, seconded by Council Member Brink, that Ordinance 21-037, an Ordinance for the 2022 Budget Appropriation, be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

**Ordinance 21-039.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Bacon, that Ordinance 21-039, an Ordinance Authorizing Supplemental Appropriation No. 5 to the 2021 Budget, be approved. The motion

carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

**Ordinance 21-038.** A public hearing was held on Ordinance 21-038, an Ordinance to Rezone Lots 2 - 5 of Block 5 in Pheasant Nest Addition from Business B-2 District to Residence R-3 Apartment District. A motion was made by Council Member Tilton Byrne, seconded by Council Member Bacon, that Ordinance 21-038 be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

**Ordinance 21-032.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that tabled item "Public Hearing and Action on Ordinance 21-032, an Ordinance to Change the Zoning within the City of Brookings, rezoning a portion of Arbor Hill Addition from Residence R-3 Apartment District to Business B-2 District." be removed from the table. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

A public hearing was held on Ordinance 21-032, an Ordinance to Change the Zoning within the City of Brookings, rezoning a portion of Arbor Hill Addition from Residence R-3 Apartment District to Business B-2 District. A motion was made by Council Member Tilton Byrne, seconded by Council Member Brink, that Ordinance 21-032 be approved. Public Comment: Jay Goldhorn and Bradley Walker. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

**Resolution 21-091.** A motion was made by Council Member Brink, seconded by Council Member Tilton Byrne, that Resolution 21-091, a Resolution Adopting the Consolidated Fee Schedule, be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

#### Resolution 21-091 - Resolution Adopting the Consolidated Fee Schedule

Whereas, the adopted Municipal Code and City Policies make references to fees charged; and

Whereas, it is prudent that the fees be reviewed for cost effectiveness.

Now, Therefore, Be It Resolved, that the City of Brookings hereby adopts the following Consolidated Fee Schedule as defined in the attached schedule.

<b><u>Fee Description</u></b>	<b><u>Current Fee</u></b>	<b><u>Fee as of January 1, 2022</u></b>
<b><u>Residential Building Permit Fees</u></b>		
Finished habitable space per square foot	\$85.00	\$90.00
Finished basements per square foot	\$40.00	\$45.00
<b><u>Landfill – 240 Pound Material Minimum (plus Sales Tax and \$1 per Ton State Fee)</u></b>		

Commercial	\$43.00	\$44.00
Compost / Leaves / Grass	\$43.00	\$44.00
Demolition	\$43.00	\$44.00
Domestic	\$43.00	\$44.00
Industrial	\$43.00	\$44.00
Metal	\$43.00	\$44.00
Asbestos	\$43.00	\$44.00

Removals: Half-day Picnic Shelter Rental Option at Pioneer Park and Hillcrest Park – Full Day Only; and Commercial Solid Waste Collection and Dumpster Charges – the City is no longer providing these services.

Clarifications: Sales Tax will be charged on refrigerators/air conditioners, mobile homes, and tires brought to Landfill; and Non-Commercial clean wood/lumber, trees/branches, compost, and recycled compost generated within the service area – fees will be waived.

**10-Year Capital Improvement Plan.** A motion was made by Council Member Avery, seconded by Council Member Brink, that the 10-Year Capital Improvement Plan (CIP) be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery.

**Adjourn.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Collins, that the meeting be adjourned at 6:50 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

ATTEST:

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Oepke G. Niemeyer, Mayor

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Bonnie Foster, City Clerk