

Brookings City Council
August 8, 2017 (unapproved)

The Brookings City Council held a meeting on Tuesday, August 8, 2017 at 6:00 p.m., at City Hall with the following City Council members present: Mayor Keith Corbett, Council Members Mary Kidwiler, Dan Hansen, Ope Niemeyer, Holly Tilton Byrne, Patty Bacon, and Nick Wendell. City Manager Jeff Weldon, City Attorney Steve Britzman, and City Clerk Shari Thornes were also present.

Consent Agenda. A motion was made by Council Member Hansen, seconded by Council Member Kidwiler, to approve the Consent Agenda. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Hansen, Kidwiler, Bacon, Wendell, and Tilton Byrne.

A. Action to approve the agenda.

B. Action to approve the July 18, 2017 and July 25, 2017 City Council Minutes.

C. Action to cancel the September 19, 2017 and October 17, 2017 City Council Study Sessions, and the November 14, 2017 City Council Meeting.

D. Action on an appointment to the Sustainability Council: appoint Shelly Brandenburger (term expires 1/1/2020).

Open Forum. Ben Stout, SD Dept. of Ag., shared with the City Council facts about agriculture in Brookings County, and information on some of the projects he is currently working on in the area.

Brady Janssen, with Riverview Development, Morris, MN, invited the City Council to attend a Bus Tour on August 21st to view an existing dairy facility near Willmar, MN. Riverview is proposing building a new dairy facility in Brookings County, Trenton Township. Riverview is an ag business which operates dairies and beef feedlots.

Mayor's State of the City Address. Mayor Corbett presented his annual State of the City Message on August 8, 2017.

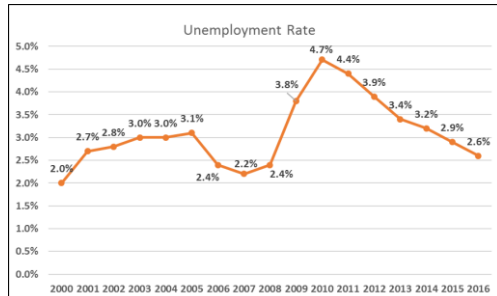
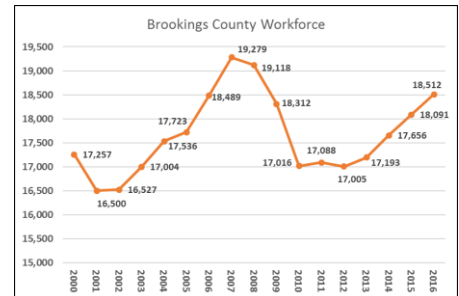
"One thing people comment on when they come into Brookings, is the beautiful Gateway Projects. Every entrance you are welcomed into the city. When entering the city from the west, the Veteran's Memorial is also a prominent welcome. Being a Veteran, the Memorial means a lot to me. This also speaks to Brookings' past, people who have given a lot, sometimes everything.

Brookings Health System's expansion of 62,400 square feet, with an additional 30,000 square foot medical office building is an investment in our community and will serve our future. This expansion will improve our quality of life and increase our economic development. It is important for current and future businesses to see and understand our commitment to health care.



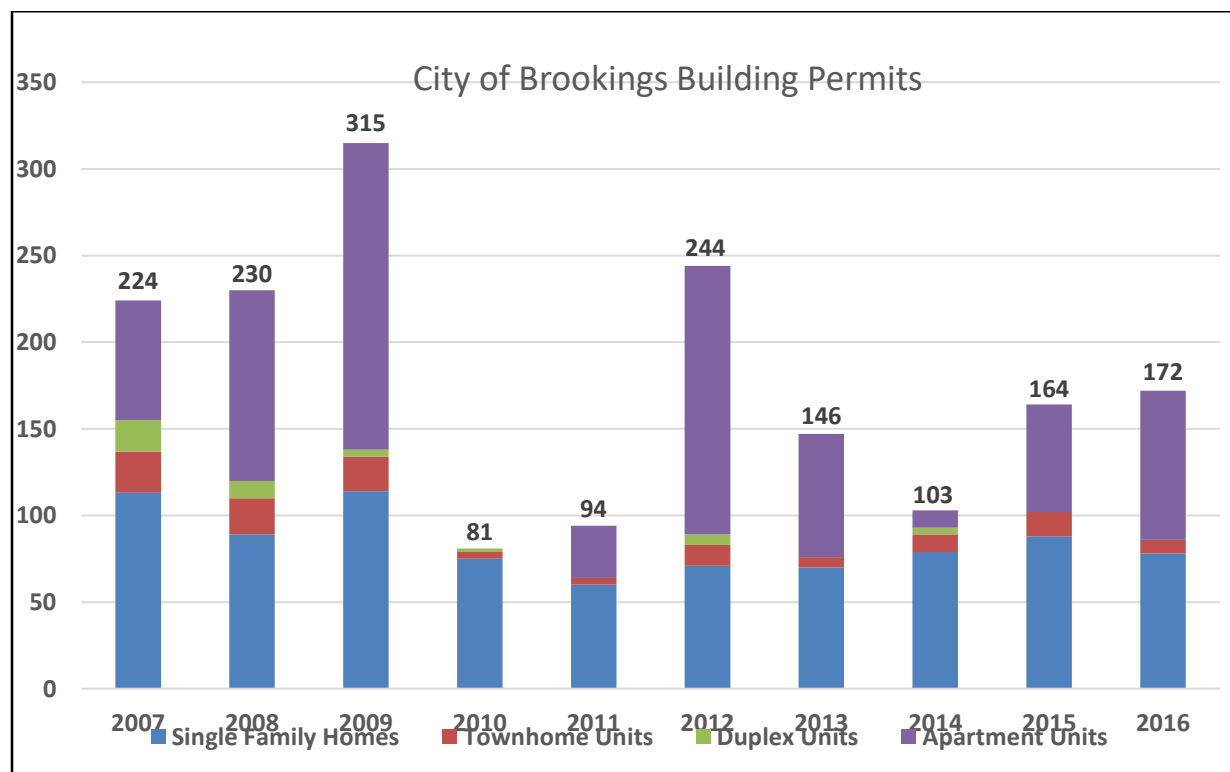
Brookings County Workforce. Brookings County impacts everything we do and we impact everything that the county does. The workforce dip back in 2010 reflects the recession, from which we are still recovering. We also continue to struggle with finding people to work as there are currently over 600 open jobs in Brookings. Brookings Economic Development Corporation advises there will be an additional 300 jobs opening in the near future due to business

expansions. Another concern is the estimate of 3,000 people reaching retirement age in the next 10 years.

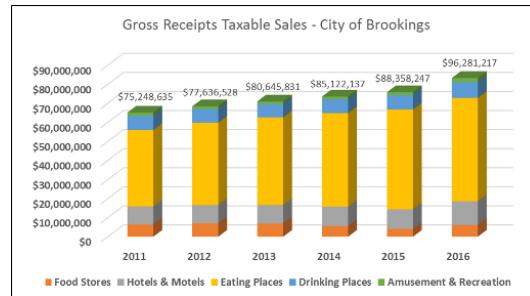


Unemployment Rate. Brookings continues to do well with a 2.8% unemployment rate.

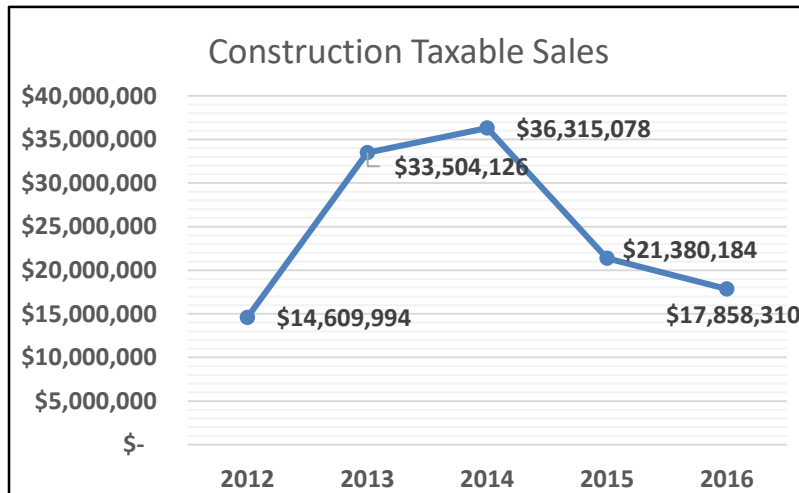
Building Permits. Brookings has seen a dramatic increase in apartment units. Surprisingly, they are being occupied almost as fast as they are built.



Gross Taxable Sales. Our sales tax comes from food stores, hotels/motels, eating establishments, drinking places, amusement and recreation. Brookings experienced \$96 million in taxable sales for 2016. Total taxable sales was \$658 million in 2016.



Construction taxable sales shows a decrease. Currently, there is no answer for this decrease, but we are researching the why's and/or the how's.



Retail taxable sales continue to grow, thanks to everyone shopping locally. The value of shopping local is seen with the wonderful niche market, and the ease of solving problems with purchases. Shopping local helps our sales tax, which is important and provides numerous accomplishments the City of Brookings has enjoyed over the years.

First Penny Sales & Use Tax 2017 numbers are currently up 4.9% over 2016. Third Penny Sales & Use Tax is currently at 8.7%. I am frequently asked how much of the 3rd penny sales come from SDSU Students, or how much is from eating out, etc. Unfortunately, we really cannot define those dollars. We only know the amount we receive from the state.

When we go places, we are ambassadors for Brookings and show how proud we are of our city, and of serving on the City Council. Here are a few things special about Brookings: 1) Population – our current population is 23,657, a 7% increase from the last census, with an estimate 4-5% growth each year. 2) Our bond rating continues to be excellent at an “Aa3.” Thanks to city staff for that as they make this a high priority. 3) Our reserves are healthy, but not excessive. 4) Our enterprise funds and businesses continue to run well. 5) The Brookings Health System expansion and new Medical Office Building is a huge draw to the City of Brookings.



Some additional notoriety Brookings has received are: #1 Best Place to Live in South Dakota (Niche 2016); #1 Safest College Town in America (Safewise 2016); #5 Safest City in America (ADT Security 2016); #1 Best and Safest Place to Live in South Dakota

(Movoto 2015); #5 Top 10 Best Small Towns in America (Livability 2013); #25 Best Cities for Entrepreneurs in America (Livability 2017). We continue to benefit from a knowledgeable and dedicated staff, department heads, and employees with their commitment to Strategic Planning (CIP and CRP), a commitment to a balanced budget and the Brookings Makers Space. These are just a few things that make Brookings special.

What else is special about Brookings? The people make Brookings what it is, which is represented by the large number of qualified applicants for open positions on the various boards, committees and commissions. People want to be a part of the solution and be the problem solvers.

Jennifer Johnson with the Convention Visitors Bureau (CVB) shared with me that CVB recruitment was up 33% in 2016. For every dollar invested by the CVB, eighty-one cents was returned to Brookings. The economic impact alone is over \$11 million. Johnson describes Brookings as a 'melting pot.' Earlier this year, the City Council passed a Resolution on how we want Brookings to be a diverse and inclusive community. We are continuing to work and move forward in all these areas.

With all the great things going on in Brookings, there are still opportunities to continue to grow, while staying true to our Mission Statement: "The City of Brookings is committed to providing a high quality of life for its citizens and fostering a diverse economic base through innovative thinking, strategic planning, and proactive, fiscally responsible municipal management."

Brookings has many opportunities which include: affordable housing; child care; workforce development / training; retail growth; entrepreneurial growth; master planning; commitment to mental health; campus and community relationship; Brookings Market Place; evolving economic growth and community improvement strategy; and strategic coordination between Brookings County, Brookings School District, BEDC, City of Brookings and SDSU. I can also see a possible welcome center or kiosk located at the Brookings Market Place location, and a possible improved and enlarged RV Park.

I started this presentation mentioning the Veterans Memorial. There are many people who have given their time, their talent, and their treasures to make Brookings what it is today. Maybe we will go out to Swiftel Center to celebrate and have a party, or set a Mayoral Proclamation. Both would be one-time events to celebrate the people of Brookings. Let us declare a Celebration of Gratitude, so as we leave here and we see these people, we stop and say thank you. These people are the business people on Main Street, the people in the malls, the people who have established businesses in Brookings to make Brookings what it is. Sometimes we forget to do that often enough. I would like everybody, not just the City Council, to continue to think of a Celebration of Gratitude that we thank people who have given their time, their talent and their treasures.

I would like to express a special thanks to City Manager Jeff Weldon, his staff and city departments, the City Clerk and staff, Volunteer Board Members, citizens of Brookings, BEDC, CVB, the Chamber, and fellow City Council Members.”

Curbside Composting Report. Bob McGrath, Sustainability Council Vice-Chair, and Todd Langland, Solid Waste/Landfill Director, presented the Curbside Composting Report to the City Council. The Sustainability Council submitted the following recommendations for City Council consideration. No action was taken. Those include the following: 1) It is recommended the City of Brookings work in concert with the South Dakota Department of Environment and Natural Resources to develop regulations that will apply to composting food scraps. Since the landfill is a permitted solid waste facility, any regulations developed would apply to the City’s operation as well as any privately owned facility. If possible, it would be advantageous to encourage the regulations be administered by the state as permit conditions versus administrative rules. Permit conditions allow the state to handle each solid waste facility on a case-by-case basis versus one-rule fits all. The state does have primacy for the administration of the Resource Conservation and Recovery Act (RCRA), but must stay within the confines of the definitions of solid waste, which includes food waste as Municipal Solid Waste (MSW). Therefore, helping the state with examples of how to reword certain definitions to allow less restrictive composting regulations from Region 5, which includes Minnesota or Region 7, which includes Iowa, would be a good strategy. 2) Once regulations are created, the City of Brookings should encourage private development of a *Source Separated Organic Material Site* and collection service. The City could also consider developing its own local regulations and providing the service itself. At that point, the key factors cited above would require in-depth analysis. 3) Most cities initiate composting programs with a pilot program. Since large businesses and institutions generate the highest volume of waste, the Committee recommends, after regulations are in place, the City seek funding for a pilot program for the large consumer composting. 4) Since Brookings has a high awareness of environmental protection, Brookings should develop a public education program to promote residential backyard composting and its benefits.

Resolution 17-074. A motion was made by Council Member, seconded by Council Member that Resolution 17-074, a Resolution authorizing Real estate Exchange Agreement between the City of Brookings and Brookings County be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Hansen, Kidwiler, Bacon, Wendell, and Tilton Byrne.

Resolution 17-074 - Resolution Authorizing the Exchange of Real Estate

Be It Resolved by the City Council of the City of Brookings, South Dakota as follows:

Whereas, in accordance with SDCL 6-5-1, and for the purpose of acquisition of real property to expand its Swiftel Center facilities, the City desires to acquire from the County of Brookings ("County"), the following described property:

Parcel "A"

A portion of the northwest corner of Lot Five (5) in Wiese Addition to the City of Brookings, County of Brookings, State of South Dakota, located at 826- 32nd Avenue, Brookings, South Dakota, and referred to as the County Resource Building, and

Whereas, the City of Brookings no longer requires the following described property referred to as Parcel "B" because Parcel "B" will no longer be subject to a long-term lease to the Brookings Outdoor Adventure Center. Accordingly, the City proposes to convey the following described property and pay additional monetary compensation of \$500,000.00 to the County of Brookings in exchange for the above-described property. Parcel "B" is described as follows:

Parcel "B"

Tract 2, Nature Park Addition in the Southeast Quarter (SEV4) of Section One (1), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., to the City of Brookings, County of Brookings, State of South Dakota, and

Whereas, the City of Brookings has determined the exchange of the above described properties and payment of additional monetary compensation over a five (5) year period in equal installments for the purposes set forth above is in the best interests of the City of Brookings.

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

- A. That the City of Brookings acquire title to Parcel A from the County for the purpose of expansion of the City's Swiftel Center facilities; and
- B. That the City of Brookings convey title to Parcel B to the County in exchange for Parcel A; and
- C. That as additional consideration for the above-described exchange, the City of Brookings shall pay to the County of Brookings the additional sum of Five Hundred Thousand and no/100 (\$500,000.00) Dollars, payable in five (5) equal payments over a five (5) year period interest free, with the first payment due on January 2, 2018, and the remaining four (4) payments due by January 2nd each year for the next four (4) subsequent years.
- D. That the Mayor, City Manager, City Clerk and City Attorney are authorized to execute a Real Estate Exchange Agreement and other required documents in accordance with this Resolution.

REAL ESTATE EXCHANGE AGREEMENT

THIS REAL ESTATE EXCHANGE AGREEMENT is made and executed by and between the City of Brookings, South Dakota, a South Dakota Municipal Corporation,

(hereinafter referred to as "City"), and the County of Brookings, South Dakota, a governmental subdivision of the State of South Dakota (hereinafter referred to as "County");

WITNESSETH:

WHEREAS, each of the parties desires to acquire certain real property from the other party, pursuant to the terms of this Real Estate Exchange Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS CONTAINED HEREIN, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. Exchange of Real Property. County hereby agrees to convey to City and City hereby agrees to acquire from County, the following described real property:

Parcel "A"

A portion of the northwest corner of Lot Five (5) in Wiese Addition to the City of Brookings, County of Brookings, State of South Dakota, located at 826 – 32nd Avenue, Brookings, South Dakota, as indicated on Exhibit "A" incorporated herein by this reference.

In exchange for the above-described property, the City hereby agrees to convey to County and County hereby agrees to acquire from City the following described real property, together with the payment of additional monetary compensation:

Parcel "B"

Tract 2, Nature Park Addition, in the Southeast Quarter (SE $\frac{1}{4}$) of Section One (1), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., to the City of Brookings, County of Brookings, State of South Dakota.

2. Additional Monetary Consideration. As additional consideration for the above-described exchange, the City of Brookings shall pay in addition to the conveyance of above-described real property (Ex. "B") to the County of Brookings the additional sum of Five Hundred Thousand and no/100 (\$500,000.00) Dollars, payable in five (5) equal payments over a five (5) year period interest free. The first payment is due on or before the date of possession. The remaining four payments are due by November 1st each year for the next four subsequent years: 2018-2021.
3. Retention by the City of Easement for Water Well. The City has a well and pump located near the Northeast corner of the Outdoor Adventure Center building. The parties agree that the City will retain ownership of the well and pump and an Easement for the use and access to and from the well and pump, as well as the water line, will be retained by the City at or prior to closing.

4. Real Estate Closing Documents and Miscellaneous. City shall provide a Warranty Deed to the County at closing to include the property described as Parcel "B" above. City shall convey said property free of liens and mortgages, but said property may be subject to easements, rights of way and restrictions of record. County shall, in turn, provide a Warranty Deed or Quit Claim Deed (whichever document the City Attorney deems appropriate) to City at closing to include the property described as Parcel "A" above. County shall convey said property free of liens and mortgages, but said property may be subject to easements, rights of way and restrictions of record. In addition, County and City, as the case may be, shall also perform the following:

A. Title Insurance Policy. Title Insurance or a Title Memorandum, as mutually agreed by the City Attorney and States Attorney, will be acquired for each parcel with the costs divided equally between the parties, with each party paying one-half (½) of the costs.

B. Deed Preparation. The City Attorney and States Attorney will prepare the respective Warranty Deeds and Certificates of Real Estate Value.

C. Transfer Fee and Real Estate Taxes.

(a) Transfer Fee. This transaction is exempt from transfer fees.

(b) Real Estate Taxes. The property which is the subject of this Agreement is exempt from Real Estate Taxes.

D. Closing Date. The closing date shall occur on or before September 15, 2017 or such earlier date as shall be mutually agreed upon.

E. Possession. The County will acquire possession of the property, described as Parcel "B" immediately following closing, and the County shall be given sixty (60) days from the date of closing to vacate the premises of Parcel "A", at which time the City shall assume possession of Parcel "A".

F. Legal Descriptions of Parcels A and B. Each parcel shall be described in a manner, which is acceptable to the parties and in order for the Deeds to be recordable.

G. Survey and Platting Costs. Each of the parties agrees to pay one-half (½) of the survey and platting costs. Parcel "A" will require platting and Parcels "A" and "B" will each require a survey to create appropriate legal descriptions.

H. Zoning. The parties agree to cooperate with respect to any zoning changes, which may be necessary, based on the change of use resulting from the exchange of the above-described properties. The parties do not anticipate the necessity of any zoning changes with respect to Parcels "A" and "B". Parcel "B" is located in an Agricultural District. A recreation facility, such as the Brookings Outdoor Recreation Center, is a permitted special use in the Agricultural District. The recreation facility use in the Agricultural District allows

for animals on the property and the indoor shooting ranges. The property is therefore in conformity with current zoning regulations, in accordance with Brookings City Zoning Ordinance Sec. 94-122 – Agricultural A district (Ord. No. 21-03, 8-26-2003; Ord. No. 35-06, § I, 9-27-2006; Ord. No. 11-12, § 2, 5-8-2012).

Furthermore, there are zoning setbacks of 100 feet in the front yard along 22nd Avenue South and 25 feet in the side yards to the north and south, and 25 feet in the rear yard to the west. Parcel “B” was recently platted. This recent platting identified the east setback as nonconforming because additional city right-of-way was platted for 22nd Avenue South as evidenced in Exhibit “A”, however the east (front yard) setback is an acceptable nonconforming setback under the zoning ordinance.

The parties recognize that future expansion of the Brookings Outdoor Adventure Center building located upon Parcel “B” is possible, particularly, for example, if additional 4-H activities relocate from the Swiftel Center to Parcel “B”. While the parties recognize that the property setbacks in existence today could be changed as a result of future zoning changes, with respect to this particular property, the County desires to document that the current setback distances will likely be necessary for future expansion of its building, and conversely, increase of the setback distances on the north, south and west sides of Parcel “B” will likely impede expansion of the building and would be undesirable. Moreover, the fact that Parcel “B” is located adjacent to the former Landfill prohibits further expansion to the west and a hardship would exist if increases of the setbacks occurred. The City understands and agrees with these assertions and agrees that this provision can be submitted in any future variance proceedings as proof of the parties’ recognition of the setback issue and preference that current setbacks as existing at the time of execution of this Agreement are desirable and will best accommodate a future reasonable expansion of the building.

I. Swiftel Center 4-H Program Scheduling/ and Agreement. The City and County recognize the importance of the use of Swiftel Center facilities by the Brookings County 4-H Program. The City and County agree to continue to provide Brookings County 4-H with access to the Swiftel Center facilities for the Brookings County 4-H Achievement Days programs, Winter Calf Show and the Horse Show in the same manner as is currently being provided. The parties agree to execute an acceptable Agreement concerning Brookings County 4-H access to the Swiftel Center facilities prior to closing.

J. Joint Use Parking Lot Easement and Agreement. The parking lot currently serving Parcel “B” (adjacent to and north of the Outdoor Adventure Center) is owned by the City and will continue to be owned by the City, however, the parties agree to execute by the date of closing a Joint Use Parking Easement and Agreement so that each of the parties may continue to use the parking lot to serve their respective needs. It is currently a gravel surface which is maintained by the City. The maintenance of the gravel parking lot will be set forth in the Joint Use

Parking Easement and Agreement. In the event the City desires to improve the parking lot with a hard service, or improve the drainage of the parking lot, the County will not be obligated to contribute to the cost for such improvements. However, neither party will be prohibited from working jointly with the other party should both parties desire to improve the surface and/or drainage concerning the parking lot. Neither party, however, shall be obligated to improve the parking lot or the drainage of the parking lot. Should the City propose to sell the parking lot in the future, the County shall have the Right of First Refusal, the terms of which are set forth on Exhibit "B", attached and made a part hereof, and that the document will be filed with the Brookings County Register of Deeds.

5. Contingencies. The obligations of the City and County to complete this Exchange Agreement is contingent upon the following contingencies:

(a) The parties acknowledge the following contingency is a condition precedent to the performance of this Agreement by the City and County. Briefly stated, the contingency concerns the right of the public to petition for referendum concerning this transaction.

(i) Referendum/Election. The City and County's obligation to complete this Exchange Agreement with respect to the property described herein will be terminated if the County Commission or the City Council's decision to complete this Exchange Agreement with respect to the above-described property is referred by the voters and the voters do not approve this transaction. "Referred" means a Petition to Refer, signed by the requisite residents is filed and the voters of the City or the County, or both, as the case may be, at an election, vote to nullify the decision of the City and County to complete this Exchange Agreement. In the event of a successful referral, this Agreement will be null and void. This contingency will be waived at the later of the expiration date of any referendum period if there is no referendum, or the date following the election canvassing if there is a referendum election, and this Exchange Agreement is approved at a referendum election. However, a referendum decision by voters of the City or County or both which does not approve this Exchange Agreement will permit the City or County to terminate this Agreement at no cost or liability to the City or County. The City and County will waive this contingency 20 days after publication of the Resolution approving this Agreement if referendum petitions are not filed with either the City or County.

(b) Clear and Marketable Title.

- (i) The City and County agree that at, or prior to closing, the City will terminate its Lease Agreement with the First Bank & Trust, having a interest in the property known as the Outdoor Adventure Center, as well as any other agreements with respect to Parcel B which would preclude the City from conveying to the County clear and marketable title to Parcel B.
- (ii) The City and County shall each provide the other party with clear and marketable title to the above-described real properties by Warranty or Quit Claim Deeds, which contain only easements, covenants and restrictions of record.

If there are any title restrictions, defects or burdens to which either party objects, and which constitute bona fide title defects, other than easements, rights of way and restrictions of record, such objection shall be stated in writing to the City and County, as the case may be, and the City or County, as the case may be, will be allowed a reasonable time of not less than sixty (60) days in which to correct the same.

(iii) The County enters into an acceptable purchase agreement and acquires the building situated on Parcel "B" known as the Outdoor Adventure Center, from First Bank & Trust.

If any of the foregoing contingencies are not satisfied or resolved or waived by the City and County, then this Agreement may be terminated at the option of the City or County and this Agreement shall be null and void.

6. Good Faith/Mutual Cooperation.

- (a) The City and County will in good faith seek to satisfy all contingencies to this Real Estate Exchange Agreement and will act in a timely manner to permit its prompt closing. At any time and from time to time before and after the closing, the City will, at the request of the County, and without further consideration, promptly execute, acknowledge and deliver such further instruments and take such further action as County may reasonably request in order to consummate and confirm the transaction contemplated by this Agreement and to accomplish the purposes of this Agreement; however, no such instruments or actions will impose upon the City any burden or obligation which is in excess of any burden or obligation specifically imposed upon the City pursuant to the terms of this Agreement.
- (b) At any time and from time to time before and after the closing, the County will, at the request of the City, and without further consideration, promptly execute, acknowledge and deliver such further instruments and take such

further action as the City may reasonably request in order to consummate and confirm the transaction contemplated by this Agreement and to accomplish the purposes of this Agreement; however, no such instruments or actions will impose upon the County any burden or obligation which is in excess of any burden or obligation specifically imposed upon the County pursuant to the terms of this Agreement.

7. Personal Property and Fixtures. It is the intention of the County that all personal property currently located in the property known as Parcel "A" shall be taken from Parcel "A" for use at Parcel "B".

8. Notice. This Real Estate Exchange Agreement was jointly prepared by Steven J. Britzman, City Attorney for the City of Brookings, 521 Sixth Street, Suite 104, Brookings, South Dakota 57006, and Teree Nesvold, Chief Deputy States Attorney for the County of Brookings, 520 3rd Street, Suite 330, Brookings, South Dakota 57006.

9. Entire Agreement. This written Agreement constitutes the complete Agreement between the parties and supersedes any prior oral or written Agreement between the parties regarding the subject matter of this Agreement. There are no verbal agreements that change this Agreement and no waiver of its terms will be effective unless such are made and executed in writing and duly acknowledged as received by the parties.

10. Binding Effect. This Agreement binds the parties hereto.

Joint Use Parking Easement and Agreement. A motion was made by Council Member, seconded by Council Member, that a Joint Use Parking Easement and Agreement be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Hansen, Kidwiler, Bacon, Wendell, and Tilton Byrne.

JOINT USE PARKING EASEMENT AND AGREEMENT

This Joint Use Parking Easement and Agreement (the "Easement and Agreement") is entered into by and between the City of Brookings, South Dakota, a South Dakota Municipal Corporation, (hereinafter referred to as "City"), and the County of Brookings, South Dakota, a governmental subdivision, (hereinafter referred to as "County"). The City and County are also referred to as "the Parties" in this Agreement. This document shall be recorded at the Brookings County Register of Deeds.

RECITALS

A. This Joint Use Parking Easement and Agreement is the Agreement of the City of Brookings and County of Brookings, which was authorized by the Parties in that certain Real Estate Exchange Agreement dated August 8, 2017.

The City of Brookings and County of Brookings have prepared this Agreement because the County of Brookings does not own sufficient parking facilities on the north side of its

building, and will require a long-term parking agreement to properly serve the Brookings County Outdoor Adventure Center described below (Tract 2). As part of the consideration in the Real Estate Agreement, the City of Brookings, as the owner of the adjacent softball complex and its parking lot, has agreed to permit the County of Brookings to also use this parking lot to serve the Brookings County Outdoor Adventure Center, which is located adjacent to and South of the parking lot. The County and the City recognize that this Agreement will benefit the County and community of Brookings, and particularly will enhance the use of the Brookings County Outdoor Adventure Center. The parking lot, shown on the attached Exhibit "A" and referred to herein, is conveniently located between the City's softball complex and the Brookings County Outdoor Adventure Center, and is large enough to accommodate parking by users of both facilities. The parking lot is a gravel surface and there are no plans to improve the parking surface, so for purposes of this agreement, the parking lot will remain in its present condition.

This Agreement provides long-term joint parking use for both the County of Brookings and City of Brookings for their adjacent facilities.

B. The City's property is described as follows: Tract 1, Nature Park Addition, in the Southeast Quarter (SE 1/4) of Section One (1), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., to the City of Brookings, County of Brookings, State of South Dakota.

C. The County's property is described as follows: Tract 2, Nature Park Addition, in the Southeast Quarter (SE 1/4) of Section One (1), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., to the City of Brookings, County of Brookings, State of South Dakota.

D. The County's property is adjacent to and south of a portion of the City's property and the County and City have agreed to permit County's users, including the County's patrons, officials, employees, customers and invitees to park upon the City's property, pursuant to the terms of this Easement and Agreement.

E. The parties to this Agreement understand that coordination during certain times when multiple events are occurring will be required.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, and other good and valuable consideration, City and County agree to the foregoing Recitals and as follows:

TERM OF THIS AGREEMENT

This Agreement shall commence as of the date it is executed by the Parties and shall continue for as long as the County of Brookings owns and operates the building currently known as Brookings County Outdoor Adventure Center located upon the County's property as described above. In no event shall this Agreement extend beyond

ninety-nine (99) years. This Agreement may be amended or terminated only by the mutual agreement of both Parties in writing. Vehicle parking as set forth herein shall terminate upon the termination of this Agreement.

PARKING EASEMENT AND AGREEMENT

1. The City hereby grants the County an easement according to the terms of this Agreement to allow the County's patrons, officials, employees, customers, invitees and all members of the general public using the Brookings County Outdoor Adventure Center to park in the parking lot described herein, and to allow such persons reasonable ingress and egress from 22nd Avenue to and from the parking lot.
2. This Agreement shall not impose upon County any obligation to provide lighting or improvements to the parking lot and the County will provide general maintenance duties for the portion of the parking lot, which is located South of the light pole shown on the attached map of parking area, including grading, graveling and minor drainage repairs. In the event the City desires to improve the parking lot with a hard surface, or improve the drainage of the parking lot, the County will not be obligated to contribute to the cost for such improvements. However, neither party will be prohibited from working jointly with the other party should both parties desire to improve the surface and/or drainage concerning the parking lot. Neither party, however, shall be obligated to improve the parking lot or the drainage of the parking lot. Snow removal of the area of the parking lot south of the light pole will also be the responsibility of the County. Snow removal, landscaping, mowing and general outside maintenance on the Brookings County Outdoor Adventure Center grounds, including sidewalks and entrances, will also be the responsibility of the County. The City will not be conducting activities during the winter and will not be performing snow removal of any part of the parking lot. Snow removal shall be at the sole discretion of the County.
3. The County and City will cooperate so that only patrons of the City, County, and their employees, officials, customers, invitees and members of the general public may use the parking lot. The City may remove unlawfully parked vehicles. The City and County shall designate staff members to coordinate any parking issues, including times when there are multiple events occurring. Schedule "B" sets forth a Softball Complex and Brookings County Outdoor Adventure Center Parking Lot Usage Schedule.
4. The City and County will insure the use of the parking lot described herein is covered under its general liability insurance policy with the same liability coverage as other County and City property. Should the City sell the parking lot in the future, the County would have the Right of First Refusal, the terms of which are as set forth on Exhibit "C", attached and made a part hereof.
5. The parking lot will not be made subject to any other covenant or contract for use, which unreasonably interferes with the parking use granted to County hereunder, without prior written consent of County.

IN WITNESS WHEREOF, this Agreement has been entered into by the parties hereto.

Exhibit "A"

Permitted Parking Area

A sketch showing the location of the permitted parking follows this page.

Exhibit "B"

Softball Complex and Brookings County Outdoor Adventure - Center Parking Lot Usage Schedule

Activity: Softball, April through October, parking use, particularly regular season league play Sunday through Thursday evenings and weekend tournaments will utilize much of the entire parking lot.

Activity: Flag Football, September through October, parking use, particularly Saturday mornings will utilize much of the entire parking lot.

Exhibit "C"

The terms of the County's Right of First Refusal referred to in Section 4 above are as follows:

In the event the City offers for sale the parking lot which is the subject of this Joint Use Parking Easement and Agreement, and should the City receive a bona fide offer to purchase and be willing to accept such offer, the City shall provide County with a copy of the offer and any proposed contract covering the sale of the Real Property. For a period of sixty (60) days following receipt of the copy of said offer, County shall have the right and option to notify the City of its intent to purchase the Real Property described above under the terms of the proposed Contract (the bona fide offer). Upon receipt of the County's election to purchase the parking lot, the City shall proceed to complete the sale to the County. In the event County shall not so elect to purchase the parking lot within the sixty (60) day period, the City may then proceed to sell the Real Property to the potential Buyer provided the sale is completed for the same purchase price set forth in the bona fide offer delivered to County, and this Right of First Refusal shall thereafter be null and void.

Ordinance 17-016. A public hearing was held on Ordinance 17-016, an Ordinance pertaining to a Conditional Use Permit to establish a storage yard on the South 50' of Lot 1, Block 2, Sheldens Subdivision of Outlot 'P,' and North 40' vacated street (703 Main Avenue South), and Lot 2, Block 1, Sheldens Subdivision of Outlot 'P,' (709 Main Avenue South). Ordinance 17-016 failed for lack of a motion.

City Council Member Introduction of topics for future discussion. A motion was made by Council Member Wendell, seconded by Council Member Corbett, to ask staff to put together some potential changes to Code Section 94-398, pertaining to fences, walls, and hedges, in particular the height of these in front and side yards, to have on

the September 5th Planning Commission agenda. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Hansen, Kidwiler, Bacon, Wendell, and Tilton Byrne.

Adjourn. A motion was made by Council Member Hansen, seconded by Council Member Wendell, to adjourn the meeting at 7:09 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

Keith W. Corbett, Mayor

ATTEST:

Shari Thornes, City Clerk