

**Brookings City Council**  
**February 25, 2020 (unapproved)**

The Brookings City Council held a meeting on Tuesday, February 25, 2020 at 6:00 PM, at City Hall with the following City Council members present: Council Members, Holly Tilton Byrne, Nick Wendell, Leah Brink, Dan Hansen and Ope Niemeyer. Absent: Mayor Keith Corbett and Council Member Patty Bacon. City 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 Council Member Tilton Byrne, seconded by Council Member Brink, to approve the Consent Agenda. The motion carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett and Bacon.

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

**3.B. Action to approve the February 11 and February 18, 2020 City Council Minutes.**

**3.C. Action to cancel the April 7, 2020 City Council Meeting.**

**Open Forum.** Diane Fjerstad inquired about the SDSU student planes flying pattern and why it is allowed to be over residential areas. Jackie Lanning, City Engineer, will visit with Diane at a later date.

**SDSU Student Association Report.** Hattie Seten, SDSU Students Association Government Affairs Chair, provided an update on SDSU happenings to the City Council and public.

**Award in Excellence in Concrete Paving.** The City of Brookings received an Award in Excellence in Concrete Paving from the South Dakota Chapter of the American Concrete Pavement Association for the 22<sup>nd</sup> Avenue Reconstruction Project between Minnesota Drive and Eastbrook Drive. The project included full reconstruction to widen the roadway with concrete pavement, new concrete sidewalk and concrete shared use path, replacement of underground utilities, traffic signal upgrades, and new street lighting. The project was designed by Civil Design, Inc., and was completed in early 2020.

Jason Reaves, Executive Vice President of the SD Chapter of the American Concrete Pavement Association, presented the award to the City of Brookings. The project category for the award is Municipal Streets & Intersections (under 30,000 Square Yards). Any concrete pavement project in the state of South Dakota qualifies for the award. This project will be submitted to the National American Concrete Pavement Association for judging in the national pool of projects for that category.

**4<sup>th</sup> Quarter CFO Report.** Chief Financial Officer, Erick Rangel, presented the 4th Quarter Financial Report to the City Council and members of the public.

**Department Presentation.** Chelsie Bakken, Public Information Officer, presented a Marketing Department overview to the City Council and members of the public.

**Resolution 20-006.** A motion was made by Council Member Niemeyer, seconded by Council Member Tilton Byrne, that Resolution 20-006, a Resolution awarding the bid for Landfill 3W Cell Construction to Veit & Company, Inc. of Rogers, Minnesota, be approved. The motion carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett and Bacon.

Resolution 20-006 - Resolution Awarding Bid for Landfill 3W Cell Construction Project to Veit & Company, Inc. of Rogers, Minnesota

Whereas, the City of Brookings opened bids for the Landfill 3W Cell Construction Project on Tuesday, February 4, 2020 at 1:30 pm at the Brookings City & County Government Center; and

Whereas, the City of Brookings has received the following bid for the Landfill 3W Cell Construction Project from: Veit & Company Inc., Rogers, MN in the amount of \$1,897,820.00; Rounds Construction Inc., Brookings, SD in the amount of \$1,962,684.35; Lidel Construction Inc., Sioux Falls, SD in the amount of \$3,793,607.00.

Now, Therefore, Be It Resolved that the low bid of \$1,897,820.00 from Veit & Company Inc. of Rogers, MN be accepted.

**FIRST READING – Ordinance 20-004.** Introduction and First Reading was held on Ordinance 20-004, an Ordinance Authorizing Supplemental Appropriation #3 to the 2020 Budget. Public Comment: Diane Fjerstad. Second Reading: March 10, 2020.

**Temporary Alcohol Application.** A public hearing was held on a Temporary Alcohol Application from Aramark Educational Services, LLC, to operate within the City of Brookings, South Dakota for a wedding reception to be held March 6, 2020 at the SDSU Alumni Center Woster Celebration Hall, 815 Medary Ave. A motion was made by Council Member Tilton Byrne, seconded by Council Member Brink, that the Temporary Alcohol Application be approved. The motion carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett, and Bacon.

**Resolution 20-016.** A public hearing was held on Resolution 20-016, a Resolution authorizing the City Manager to enter into an Operating Agreement for an On-Off Sale Wine License for Eponymous Brewing Company, Sean Weber, Kyle McElhany, Kyle Weber, Dan Weber, Dave Weber, and Kyle Halgerson, owners, 126 Main Ave. So., Brookings, SD, legal description: Lots 1, 2 and 3, Block 4, Folsom Addition. A motion was made by Council Member Brink, seconded by Council Member Niemeyer, that Resolution 20-016 be approved. The motion carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett and Bacon.

Resolution 20-016 - Eponymous Brewing Company  
On-Off Sale Wine Operating Agreement

Now, Therefore, Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Agreement for the Operating Management Agreement for Wine between the City of Brookings and Eponymous Brewing Company, Sean Weber, Kyle McElhany, Kyle Weber, Dan Weber, Dave Weber, and Kyle Halgerson, 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 126 Main Ave. So.: legal description: Lots 1, 2 and 3, Block 4, Folsom 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 a period of five (5) years and renewal for another five (5) years.

**Resolution 20-021.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 20-021, a Resolution Providing Financial Commitment for a Reserve from Third B Tax surplus to fund the SDSU Visitor Promotional Fund, be approved. Public comment: Hattie Seten. The motion carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett and Bacon.

Resolution 20-021 - A Resolution Establishing a Reserve Fund of the  
2019 Surplus Third B Tax Revenues for SDSU Visitor Promotional Expenditures

Whereas, the City of Brookings desires to support SDSU events and projects that positively impact the local economy; and

Whereas, the 2019 Third B Sales Tax revenues were greater than expected, likely resulting from a onetime increase, which led to surplus revenue; and

Whereas, the City of Brookings will commit an additional \$7,000 in these Third B Sales Tax revenues for the SDSU Visitor Promotion Fund for 2020; and

Whereas, the City of Brookings will commit \$30,000 in these Third B Sales Tax revenues to be placed in an SDSU Visitor Promotion Reserve Fund for 2021 expenditures.

Now Therefore, Be It Resolved that the City Council of the City of Brookings directs the Finance Department of the City to establish the SDSU Visitor Promotion Reserve Fund with the \$30,000 commitment as described herein.

**Resolution 20-020.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Brink, that Resolution 20-020, a Resolution authorizing the City Manager to sign Fire Department Mutual Aid Agreements, be approved. The motion

carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett, and Bacon.

Resolution 20-020 - Resolution for signage of the  
Fire Department Mutual Aid Agreements

Whereas, the City of Brookings recognizes that emergencies may require assistance in the form of personnel, equipment, and supplies from fire departments in Brookings County to manage fires or other disasters; and

Whereas, the City of Brookings recognizes that in emergencies other fire departments in Brookings County may also require assistance in the form of personnel, equipment, and supplies from the City of Brookings, Fire Department to manage fires or other disasters; and

Whereas, the City of Brookings recognizes the benefit of a Mutual Aid Agreement to establish procedures and administration with other fire department entities.

Now, Therefore, Be It Resolved that the City Council of the City of Brookings, South Dakota, that the City Manager be authorized to sign the Fire Department Mutual Aid Agreements.

**AGREEMENT FOR COUNTYWIDE AUTOMATIC MUTUAL AID SERVICES**

Agreement made January 1, 2020, among the below listed signatories to this agreement.

The parties to this Agreement, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

**SECTION ONE**

The purpose of this agreement is to secure to each, and one to the other of the parties, the benefits of countywide automatic mutual aid emergency response coverage for the protection of life and property from hazardous materials, natural and man-made phenomena, and fire-fighting.

**SECTION TWO**

Upon receipt of a reported fire in the dual response area of the Brookings Fire Department (the requesting organization), the other party (the responding organization) shall be automatically dispatched and shall respond with firefighting equipment and personnel to any point within the dual response area for fire protection.

**SECTION THREE**

1. Requesting Organization
  - a. Countywide automatic mutual aid shall be indicated when any fire department within Brookings County, but outside of that fire department's

municipal area, has any reported structural fire. The 911 Dispatch Center shall automatically notify and dispatch all other county fire departments.

2. Responding Organization

- a. An authorized official from each of the responding organizations shall authorize the response of one water tender and personnel to operate the equipment, provided the responding agency has adequate equipment and personnel available.
- b. The responding organizations shall report to the officer-in-charge of the requesting organization at the locations to which the equipment is dispatched and as a unit shall be subject to the orders of that official. However, the individual members of the unit of the responding organization shall at times be subject to the control and direction of the officer-in-charge of the responding organization, and in assisting the organization, shall at all times be subject to the control and direction of the officer-in-charge of the responding organization, and in assisting the requesting organization, shall at all times and for all purposes be considered as performing their duties under the control and under the direction of the responding organization.
- c. A responding organization shall be released by the requesting organization when the services of the responding organization are no longer required, or when the responding organization is needed within the area for which it normally provides fire protection.

SECTION FOUR

Each party agrees to hold each other party harmless from any and all claims for liability including attorney fees arising out of any services furnished under this agreement, and for bodily injury or property damages arising out of services furnished under this agreement.

SECTION FIVE

No party shall be reimbursed by any other party for any costs incurred pursuant to this agreement.

SECTION SIX

This agreement shall expire on January 1, 2030.

**AGREEMENT FOR MUTUAL AID SERVICES**

Agreement made January 1, 2020, among the below listed signatories to this agreement.

The parties to this Agreement, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

## SECTION ONE

The purpose of this agreement is to secure to each, and one to the other of the parties, the benefits of mutual aid emergency response coverage for the protection of life and property from hazardous materials, natural and man-made phenomena, and fire-fighting.

## SECTION TWO

Upon request by one of the parties (the requesting organization), any other party (the responding organization) shall dispatch firefighting equipment and personnel to any point within the area for which the requesting organization normally provides fire protection.

## SECTION THREE

### 1. Requesting Organization

- a. Any request for aid from an authorized official shall include a statement of the amount and type of equipment and number of personnel requested, and it shall specify the location to which the equipment and personnel are to be dispatched.

### 2. Responding Organization

- a. The amount and type of equipment and the number of personnel to be furnished shall be determined by an authorized official of the responding organization.
- b. The responding organizations shall report to the officer-in-charge of the requesting organization at the locations to which the equipment is dispatched and as a unit shall be subject to the orders of that official. However, the individual members of the unit of the responding organization shall at times be subject to the control and direction of the officer-in-charge of the responding organization, and in assisting the organization, shall at all times be subject to the control and direction of the officer-in-charge of the responding organization, and in assisting the requesting organization, shall at all times and for all purposes be considered as performing their duties under the control and under the direction of the responding organization.
- c. A responding organization shall be released by the requesting organization when the services of the responding organization are no longer required, or when the responding organization is needed within the area for which it normally provides fire protection.

## SECTION FOUR

Each party agrees to hold each other party harmless from any and all claims for liability including attorney fees arising out of any services furnished under this agreement, and for bodily injury or property damages arising out of services furnished under this agreement.

## SECTION FIVE

No party shall be reimbursed by any other party for any costs incurred pursuant to this agreement.

## SECTION SIX

This agreement shall expire on January 1, 2030.

**Resolution 20-017.** A motion was made by Council Member Niemeyer, seconded by Council Member Wendell, that Resolution 20-017, a Resolution Establishing Criteria for Building in the Public Right-of-Way in the City of Brookings, South Dakota, be approved. The motion carried by the following vote: Yes: 5 - Niemeyer, Hansen, Brink, Wendell, and Tilton Byrne; Absent: 2 - Corbett and Bacon.

Resolution 20-017 - A Resolution Establishing Certain Criteria for Building in the Public Right-of-Way in the City of Brookings, South Dakota

Whereas, the City of Brookings adopted Ordinance 24-04, amending Chapter 74 of the Code of Ordinances of the City of Brookings to permit, in certain circumstances, building in the public right-of-way; and

Whereas, the City of Brookings has determined the need for criteria if building in the public right-of-way is permitted and that these criteria should be revised as follows:

1. The applicant shall explore other alternatives that might remove the need for the use of public property.
2. Applicant is required to have the property surveyed by a licensed land surveyor to determine actual location of property lines.
3. Applicant shall apply for a permit and include an accurate site plan showing exact location of the proposed structure and the severity of the intended encroachment into the public right-of-way.
4. Applicant shall provide a proof of liability insurance policy with a hold harmless clause for the life of the structure located in the public right-of-way. This requirement shall also apply to succeeding owners, specifically indemnifying the City of Brookings from any liability resulting from the construction and location of the structure in the public right-of-way. Prior to transfer of property which includes a structure in the public right-of-way, the seller shall notify the buyer of the liability policy requirement.
5. The encroachment must not diminish sight lines at any sidewalk and street intersection.
6. An encroachment into the public right-of-way may be allowed on a case by case basis, provided the public sidewalk is otherwise maintained in compliance with the Americans with Disabilities Act.
7. Said encroachment in the public right-of-way shall be removed if the principal building is removed or destroyed.
8. Materials used to build the structure in the public right-of-way, as well as

its height, proportion, and scale, shall be architecturally compatible with the principal building and adjacent buildings. The Brookings Historic Preservation Commission shall promptly review of the architectural compatibility of the proposed structure and provide official comment to the City Council (City of Brookings Code of Ordinances Chapter 46, 10-97 (a) (b)).

9. If the structure is not designed to be permanent in nature, it should be durable enough to function properly in its intended service to the principal building.
10. The structure in the public right-of-way shall be attached to principal structure or have its own frost footing.
11. Upon removal of the structure from the public right-of-way, the applicant shall reapply for a new permit before building a new structure in the public right-of-way.

Now, Therefore, Be It Resolved that the criteria for building in the public right-of-way set forth above are hereby approved, as amended. This resolution replaces Resolution No. 68-04 dated November 23, 2004, and amends the criteria for building in the public right-of-way.

**Adjourn.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that this meeting be adjourned at 6:56 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

ATTEST:

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Keith W. Corbett, Mayor

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Bonnie Foster, City Clerk