

# **City Council Agenda Memo**

**From:** Bonnie Foster, City Clerk

**Council Meeting:** August 25, 2020

**Subject:** Video Lottery for The Lanes, Suite B

**Person(s) Responsible:** Bonnie Foster, City Clerk

## **Summary:**

The City of Brookings has received a request for Video Lottery for MG Oil Company, dba The Lanes, Marlyn Erickson and Troy Erickson, owners. The location is the former Prairie Lanes, at 722 Western Ave., Brookings, SD. All required documents have been submitted.

## **Background:**

A public hearing and action by the local governing body is required. The Video Lottery License would be effective September 2020, and is subject to an annual renewal. If approved, the application would be forwarded to the State Lottery Office for final action and issuance of the license.

This business located at 722 Western Ave., holds a current On-Sale Liquor License, with 10 video lottery machines.

## **Item Details:**

MG Oil Company, dba The Lanes, Marlyn Erickson and Troy Erickson, owners, purchased Prairie Lanes Inc., dba Prairie Lanes, from Les Nelson, owner, as of January 1, 2020. A transfer of the Liquor License and 10 Video Lottery Machines was approved by the City Council on April 28, 2020.

A walk-through of the facility was conducted by City Attorney Steve Britzman, City Clerk Bonnie Foster, and Assistant City Manager Jake Meshke on Thursday, July 16, 2020.

The walk-through indicated that the bowling alley is undergoing a complete remodeling. As part of the applicant's plan, they are creating 2 additional spaces within the building where alcoholic beverages will be sold and consumed. In conjunction with these 2 additional spaces, they hope to place up to 10 video lottery machines in each of the additional spaces. In order to satisfy State Video Lottery Regulations, there must be separate and distinct physical facilities maintained and utilized for the sale and consumption of alcoholic beverages for each of these separately described premises.

As a result of this plan, the applicant has applied for 2 additional malt beverage licenses for sale and consumption within the same building, which if approved, would be eligible

for up to 10 additional video lottery machines each. Our walk through indicates the separate spaces have been designated, and sales and consumption of alcoholic beverages are intended to occur at these 2 additional locations within the building. This would comply with the video lottery requirements if the City Council approves the two On-Off Sale Malt Licenses and if the City Council also approves Video Lottery for these two additional locations within the building.

**SDCL [42-7A-64](#). Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments.** A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

1. The number of establishments currently licensed for video lottery;
2. The proximity of the business to other establishments licensed for video lottery;
3. The type of business and manner in which the applicant proposes to operate it;
4. The location of the business in relation to other businesses, residential areas, or activities within the same general area;
5. The extent to which minors frequent a business connected to the one proposed; and
6. The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the Department of Revenue for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Source: SL 1994, ch 329, § 1; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. [11-1](#)), § 161, eff. Apr. 12, 2011.

#### **Legal Consideration:**

This location has been approved for 10 Video Lottery machines. Action would allow up to 10 additional Video Lottery machines for each on-sale malt beverage license approved, resulting in up to 30 Video Lottery machines for this location, if approved.

#### **Financial Consideration:**

Video Lottery fees: \$50 per machine per year.

#### **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. Do nothing

Staff recommends approval.

**Supporting Documentation:**

City Attorney Memo on Video Lottery – 2018.05.02

City Attorney Opinion on AR 48:02:11:02

Video Lottery: SDCL and Administrative Rule

Legal Notice

Proposed Building Plans

Location Map

Current Video Lottery List

Current Video Lottery Map