

**Brookings City Council**  
**May 9, 2023**

The Brookings City Council held a meeting on Tuesday, May 9, 2023 at 5:30 PM, at the Brookings City & County Government Center, Chambers, with the following City Council members present: Mayor Oepke Niemeyer, Deputy Mayor Nick Wendell, Council Members Holly Tilton Byrne, Bonny Specker, Wayne Avery, Brianna Doran, Andrew Rasmussen. City Manager Paul Briseno, City Attorney Steve Britzman, and Deputy City Clerk DeShawn Scott were also present.

**Oath of Office and Certificates of Election.** Newly Elected City Council Members took their Oath of Office and Mayor Niemeyer presented them with their Certificates of Election. New City Council Members are: Brianna Doran (3-year City Council Term - term expires 5/1/2025), Andrew Rasmussen (3-year City Council Term - term expires 5/1/2025).

**Agenda.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that the agenda be approved. The motion carried by the following vote: **Yes:** 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Open Forum.** Jeanette Gibbons shared information regarding an interview with Ryan Montgomery on a YouTube podcast called "The Shawn Ryan Show" where he caught a child predator live during the podcast. Ryan Montgomery helps companies find vulnerabilities by hacking into their systems. She also shared a website titled "wondersdiary.com" which shares how we are in control of our own lives.

**Consent Agenda.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, to approve the Consent Agenda. Public Comment: Emily Braun. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**A. Action to approve the April 25, 2023 City Council Minutes.**

**B. Action on annual Malt Beverage Alcohol License Renewals.** The following On-Off Sale Malt (retail) licenses were approved: Boss's Pizza / Den Wil Hospitality Group, Inc., 2515 6<sup>th</sup> Street; BP of Brookings, 2420 6<sup>th</sup> Street, Suite A and B; Brookings Softball Assoc. (Southbrook Softball Diamonds), 2800 22<sup>nd</sup> Avenue South; BYG Backyard Grill, 1805 6<sup>th</sup> Street; Carpy's Pub, 714 22<sup>nd</sup> Avenue South; Casey's General Store #1694, 620 8<sup>th</sup> Street South; Casey's General Store #2198, 122 6<sup>th</sup> Street West; Casey's General Store #2419, 534 22<sup>nd</sup> Avenue South; Casino 2000, 622 25<sup>th</sup> Avenue, Suite A and B; CHS, Inc., dba Cenex Zip Trip #63, 1005 6<sup>th</sup> Street; CHS, Inc., dba Cenex Zip Trip #64, 3045 LeFevre Dr.; The Children's Museum of South Dakota, 521 4<sup>th</sup> Street; The Clothes Line Lounge, 727 Wilson Avenue (inactive); Corner Pantry #24 / MG Oil, Co., 600 6<sup>th</sup> Street; Corner Pantry #24 / MG Oil, Co., 600 6<sup>th</sup> Street, Suite B; Cottonwood Coffee, Inc., 1710 6<sup>th</sup> Street; Cubby's Sports Bar & Grill, 307 Main Avenue; Danny's, 703 Main Avenue South; The Depot Casino / MG Oil, Co., 921 20<sup>th</sup> Street South; Deuces Casino / Common Wealth Gaming & Holding, Co., 223 6<sup>th</sup> Street, Suite 105A; Deuces Casino, Common Wealth Gaming & Holding, Co., 223 6<sup>th</sup> Street, Suite 105B; Deuces Casino, Common Wealth Gaming & Holding, Co., 223 6<sup>th</sup> Street, Suite 105C; Deuces Casino, Common Wealth Gaming & Holding, Co., 223 6<sup>th</sup> Street, Suite 105 D; EdgeBrook Golf

Course, 1415 22<sup>nd</sup> Avenue South; El Tapatio, Inc., 1717 6<sup>th</sup> Street, Suite F; Eponymous Brewing Co., 126 Main Avenue South; 4 Aces Casino / SVK Properties, Inc., 141 Main Avenue South, Suite A; 4 Aces Casino / SVK Properties, Inc., 141 Main Avenue South, Suite B; 4 Aces Casino / SVK Properties, Inc., 141 Main Avenue South, Suite C; George's Pizza, Inc., 311 Main Avenue; Guadalajara Mexican Restaurant, 1715 6<sup>th</sup> Street, Suite F; Hy-Vee Fast & Fresh, 716 22<sup>nd</sup> Avenue South; Hy-Vee Food Store, 790 22<sup>nd</sup> Avenue South; Jim's Tap, 309 Main Avenue; The Lanes / MG Oil, Co., 722 Western Avenue, Suite B; The Lanes / MG Oil, Co., 722 Western Avenue, Suite C; Main Street Pub, 408 Main Avenue; McCrory Gardens Visitors Center/Sodexo, 6<sup>th</sup> Street & 22<sup>nd</sup> Avenue; Mosaic Wine Bar, 225 Main Avenue; New Sake, Inc., 724 22<sup>nd</sup> Avenue South; Old Sanctuary, 928 4<sup>th</sup> Street; PNP Pub / Schoon's Pub, Inc., 318 2<sup>nd</sup> Street South; Ray's Corner / Fergen Enterprises, Inc., 401 Main Avenue; Ray's Corner / Fergen Enterprises, Inc., 401 Main Ave, Suite B; Schoon's Pump N Pak / Schoon's Properties, Inc., 202 South Main Avenue; Schoon's PNP Pub South / Schoon's Properties, Inc., 1203 Main Avenue South; Skinner's Pub, 300 Main Avenue; South Main Casino & Pub / SVK Properties, LLC, 615 Main Avenue South; Sully's Irish Pub / 3 Guys LLC, 421 Main Avenue; Swiftel Center, 824 32<sup>nd</sup> Avenue; Tee'd Off Golf, 2508 Wilbert Court, Suite B; Wal-Mart Supercenter #1538, 2233 6<sup>th</sup> Street; Wilbert's / Den Wil Hospitality Group, Inc., 931 25<sup>th</sup> Avenue; The Wild Hare, 303 3<sup>rd</sup> Street; Wooden Legs Brewing Co., 309 5<sup>th</sup> Street, Suite 100; and Yessica's Restaurant, 1300 Main Avenue South.

**C. Action on Resolution 23-040, a Resolution authorizing the City Manager to sign an On-Sale Wine Operating Agreement renewal for Common Wealth Gaming & Holdings, Co., dba Deuces Casino, Suite 105A, Bryant Soberg and Kirby Muilenburg, owners. Location: 223 6th Street, Suite 105A.**

Resolution 23-040 - On-Sale Wine Operating Agreement – 5-year mid-term renewal  
Common Wealth Gaming & Holdings, Co., dba Deuces Casino, Suite 105A

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Agreement renewal for the On-Sale Operating Alcohol Management Agreement for Wine between the City of Brookings and Common Wealth Gaming & Holdings, Co., dba Deuces Casino, Bryant Soberg and Kirby Muilenburg, owners, for the purpose of an alcohol manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 223 6th Street, Suite 105A. Legal description: South 114' of West 69.3' of Lot 20, and South 114' of Lot 21, Block 3, Henry Addition, Suite 105A.

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

**D. Action on Resolution 23-042, a Resolution authorizing the City Manager to sign an On-Sale Wine Operating Agreement renewal for Common Wealth Gaming & Holdings, Co., dba Deuces Casino, Suite 105B, Bryant Soberg and Kirby Muilenburg, owners. Location: 223 6th Street, Suite 105B.**

Resolution 23-042 - On-Sale Wine Operating Agreement – 5-year mid-term renewal  
Common Wealth Gaming & Holdings, Co., dba Deuces Casino, Suite 105B

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Agreement renewal for the On-Sale Operating Alcohol Management Agreement for Wine between the City of Brookings and Common Wealth Gaming &

Holdings, Co., dba Deuces Casino, Bryant Soberg and Kirby Muilenburg, owners, for the purpose of an alcohol manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 223 6th Street, Suite 105B. Legal description: South 114' of West 69.3' of Lot 20, and South 114' of Lot 21, Block 3, Henry Addition, Suite 105B.

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

**E. Action to abate property taxes in the amount of \$2,323.07 for Parcel #40621-00500-004-00. Legal description: Lot 4, Block 3, Timberline Addition, City of Brookings.**

**F. Action to abate property taxes in the amount of \$1,282.79 for Jones Optometric Clinic LLC, owner, located at 1208 22nd Avenue South, Brookings.**

**G. Action on Resolution 23-044, a Resolution awarding a bid on Landfill Leachate Hauling.**

Resolution 23-044 - Resolution Awarding Bid for Landfill Leachate Hauling

Whereas, the City of Brookings opened bids for the Landfill Leachate Hauling on Tuesday, April 25, 2023 at 1:30 pm at the Brookings City & County Government Center; and

Whereas, the City of Brookings received the following low bid for the Landfill Leachate Hauling: Liberty Septic, Inc., in the amount of \$0.065/gallon; and

Whereas, the Brookings Regional Landfill has appropriations of \$56,500 in the 2023 adopted budget for the hauling of Landfill Leachate.

Now, Therefore, Be It Resolved that the low bid of \$0.065/gallon from Liberty Septic, Inc. be accepted.

**Proclamation.** Mayor Niemeyer presented a proclamation to Laura Schoen Carboneau, Visit Brookings, recognizing May 7-13, 2023 as National Travel and Tourism Week in the City of Brookings.

#### MAYORAL PROCLAMATION

Whereas, tourism fosters vibrant communities, drives innovation, and powers the economy as one of South Dakota's top industries; and

Whereas, during 2022, 14.4 million visitors came to South Dakota spending \$4.7 billion in our state, which generated \$361 million in taxes to help pay for things like parks, streets, police and fire protection; and

Whereas, thanks to the tourism industry, each household in South Dakota saves \$1,015 per year in taxes; and

Whereas, visitors to Brookings County spent \$115 million on lodging, food and beverage, recreation, retail, and transportation in 2022 and generated \$8.6 million in state and local taxes for our community; and

Whereas, the tourism industry supports 1,897 jobs in Brookings with an annual payroll of \$32.7 million for residents in our community; and

Whereas, Visit Brookings is the official destination marketing and promotion organization for tourism in Brookings with staff working diligently to promote our community to travelers coming to try our restaurants, see our attractions, and participate in tournaments, meetings, and events.

Now, Therefore, Be It Resolved, that I, Oepke G. Niemeyer, Mayor of the City of Brookings, do hereby proclaim May 7-13, 2023 as National travel and Tourism Week.

**Report: 1<sup>st</sup> Quarter 2023 Financial Report.** Ashley Rentsch, Senior Finance Manager, presented the 2023 1st Quarter Financial Report to the City Council and members of the public.

**Report: City Council Ex-Officio Reports.** Ex-Officio Reports were presented for the following: Brookings Municipal Utility Board report by Council Members Avery and Specker. Brookings Health Systems Board of Trustees report by Council Member Doran.

**Resolution 23-046.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Specker, that Resolution 23-046, a Resolution Approving the Installation of a New Roofing System for the Swiftel Center Arena Roof, be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

Resolution 23-046 - A Resolution Approving the Purchase and Installation of a Flute Fill Overlay Re-Roofing Project for the Swiftel Center Arena Roof.

Whereas, the Swiftel Center Arena roof was damaged in the 2022 derecho; and

Whereas, a new roofing system was recommended by the City's insurance provider; and

Whereas, City staff reviewed alternative roofing systems and are recommending approval of a flute fill overlay of the existing steel roof; and

Whereas, the proposed contract falls within the replacement cost value determined by the City's insurance provider; and

Whereas, Duro-Last, Inc., is a member of The Interlocal Purchasing System (TIPS)

which is cooperative purchasing agency, and can provide the roofing material pursuant to a cooperative purchasing contract; and

Whereas, Woodall Companies, the roofing company performing the project, has elite contractor status with Duro-Last, Inc.;

Now, Therefore, Be It Resolved that a contract with Duro-Last, Inc. through The Interlocal Purchasing System (TIPS) Contract #210205 in the amount of \$1,298,782.34 is hereby approved for the re-roofing of the Swiftel Center Arena, and the City Manager and City Clerk are authorized to sign the documents required to complete this project.

**Resolution 23-045.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 23-045, a Resolution Authorizing Change Order No. 1 for the Swiftel Center HVAC System Upgrade from Johnson Controls, Inc. be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

Resolution 23-045 - Resolution Authorizing Change Order No. 1, for the Swiftel Center HVAC System Upgrade from Johnson Controls Inc.

Be It Resolved by the City Council that the following change order be approved for the HVAC System Upgrade for the Swiftel Center: Change Order Number 1: Adjust the total cost to \$1,451,086, an increase of \$25,920 from the original amount of \$1,425,166. The additional cost accounts for the addition of two tankless instant hot water heaters on the northeast and northwest sides of the arena.

**FIRST READING – Ordinance 23-018.** Introduction and First Reading was held on Ordinance 23-018, an Ordinance Amending Article III of Chapter 42 of the Code of Ordinances of the City of Brookings, South Dakota. Second Reading and Action: May 23, 2023.

**Ordinance 23-017.** A motion was made by Council Member Doran, seconded by Council Member Specker, that Ordinance 23-017, an Ordinance Authorizing Budget Amendment No. 4 to the 2023 Budget, be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Ordinance 23-012.** A public hearing was held on Ordinance 23-012, an Ordinance to Change the Zoning within the City of Brookings (20.28 acres along 20th Street South). A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Ordinance 23-012 be approved. Public Comment: Angela Boersma, Justin Bucher, Boyd Eisenbraun, Jeannie Rossow, David Van Sambeek, and Rick Cameron. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Ordinance 23-013.** A public hearing was held on Ordinance 23-013, an Ordinance to change the Zoning within the City of Brookings (2.85 acres located along 20th Street South). A motion was made by Council Member Wendell, seconded by Council Member Tilton Byrne, that Ordinance 23-013 be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Ordinance 23-014.** A public hearing was held on Ordinance 23-014, an Ordinance to Change the Zoning Within the City of Brookings (Cree Village Indian Hills Addition). A motion was made by Council Member Specker, seconded by Council Member Wendell, that Ordinance 23-014 be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Ordinance 23-015.** A public hearing was held on Ordinance 23-015, an Ordinance to Change the Zoning Within the City of Brookings (Prairie Hills Addition). A motion was made by Council Member Avery, seconded by Council Member Doran, that Ordinance 23-015 be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Ordinance 23-016.** A public hearing was held on Ordinance 23-016, an Ordinance to Change the Zoning within the City of Brookings (Prairie Hills Addition). A motion was made by Council Member Wendell, seconded by Council Member Rasmussen, that Ordinance 23-016 be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**House Moving Request.** A public hearing was held on a housemoving request to move a single-story residential home from 1218 6th Street to the property described as Lot 4, Block 9, Moriarty-Edgebrook Addition. A motion was made by Council Member Tilton Byrne, seconded by Council Member Specker, that the housemoving request be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Temporary Alcohol Application.** A public hearing was held on a Temporary Alcohol Application from the Brookings Cubs Baseball Group for a temporary alcohol license to operate within the City of Brookings, South Dakota for the 2023 Brookings Cubs Baseball Game Season to be held on at Bob Shelden Field, 530A Elm Avenue. A motion was made by Council Member Tilton Byrne, seconded by Council Member Doran, that the Temporary Alcohol Application be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Temporary Alcohol Application.** A public hearing was held on a Temporary Alcohol Application from the Brookings Area Chamber, to host a series of events for Downtown at Sundown on the 300 Block of 5th Street and the 400 Block of Main Avenue on July 27, and August 3, 10, 17, and 24, 2023. A motion was made by Council Member Tilton

Byrne, seconded by Council Member Wendell, that the Temporary Alcohol Application be approved. Public Comment: Kelsey Doom. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Preliminary Plat.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that a Preliminary Plat for Blocks 1 and 2 in Trails Head Addition, be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Initial Development Plan.** A motion was made by Council Member Wendell, seconded by Council Member Doran, that an Initial Development Plan for the Planned Development District of Blocks 1 and 2 of Trails Head Addition, be approved. Public Comment: Angela McKillip. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen.

**Adjourn.** A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that this meeting be adjourned at 7:26 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS, SD

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Oepke G. Niemeyer, Mayor

ATTEST:

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Bonnie Foster, City Clerk