

Brookings City Council
March 23, 2021

The Brookings City Council held a meeting on Tuesday, March 23, 2021 at 6:00 PM, at the City & County Government Building Chambers with the following City Council members present: Mayor Keith Corbett, Council Members Patty Bacon, Leah Brink, Joey Collins, Oepke Niemeyer, Holly Tilton Byrne, and Nick Wendell. 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 Wendell, seconded by Council Member Niemeyer, to approve the Consent Agenda. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

3.A. Action to approve the agenda.

3.B. Action to approve the March 9 and March 16, 2021 City Council Minutes.

3.C. Action on Resolution 21-023, a Resolution declaring surplus property for the City of Brookings.

Resolution 21-023 - Declaring Surplus Property

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

Police Dept.: Firearms: .22CAL Browning Pistol Serial #655NM02422; .38 Special Smith & Wesson Serial #178017; .GMBH .22 CAL Rohm Revolver Serial #1B350151; 9MM Browning Pistol Serial #76C33115; .22 CAL Western Field Rifle; Model 60 .22CAL Glenfield Rifle Serial #25342751; Model 60 .22CAL Marlin Rifle Serial #189096; Model 60 .22CAL Glenfield Rifle Serial #21505013; Golden 39-A .22 CAL Marlin Rifle Serial #T1841; Model 03-A3 US Smith-Corona Rifle Serial #4748040; Model 2218 Smith & Wesson Pistol Serial #UAB2285; .32CAL Colt Pistol Serial #92617; Model 290 .22CAL Winchester Rifle Serial #106105; Model 60 .22CAL Marlin Rifle Serial #17342896; 870 Express 12G Remington Shotgun Serial #B254034M; Model 1100 12G Remington Shotgun Serial #364582M; 12G Browning Shotgun Serial #A36950; 12G Mastermag Shotgun Serial #329213; Express 30 Springfield Rifle Serial #11151; 870 Express 12G Remington Shotgun Serial #ABG303294M; 870 Express 12G Remington Shotgun Serial #C399284M; 870 Express 12G Remington Shotgun Serial #AB303242M; 870 Express 12G Remington Shotgun Serial #X301761M; 870 Express 12G Remington Shotgun Serial #AB303260M; 870 Express 12G Remington Shotgun Serial #AB303252M; 870 Express 12G Remington Shotgun Serial #B626526M; 870 Express 12G Remington Shotgun Serial #AB303292M; 870 Express 12G Remington Shotgun Serial #AB303250M; 92 Beretta 9MM Serial #1700552; 12G Browning Shotgun Serial #1801617; 12g Stevens Shotgun Serial #24940; .22 Speedmaster Remington Rifle Serial #A1732560; .22LR Ruger Rifle Serial #11214872; .22 LR Marlin Rifle Serial #18446578; Forehand H&A Shotgun Serial #132464; Springfield Shotgun Serial

#78803; 12g Remington Shotgun Serial #W38347M; 12g Remington Shotgun Serial #19306; .32al Lorcin Handgun Serial #2893; .38 Special Smith and Wesson Handgun Serial #576897; Excel Shotgun Serial #32287XG; .25cal Colt Handgun Serial #320419; .38 Special Taurus Handgun Serial #764012; .32cal Smith and Wesson Handgun Serial #203427; .410g Snakecharger Shotgun Serial #H316172; .45cal Hi Point Handgun Serial #325964; .410 cal Coast to Coast Shotgun Serial #H316172; 12g Browning Shotgun Serial #A12263; 12g Beretta Shotgun Serial #T38766E; Model 325A 30-30 Stevens Rifle; Mossberg Barrel; Shotgun Barrel; Double Action No 6 H&A Handgun Serial #7754; 9mm Smith and Wesson Handgun Serial #TDD7399; 9mm Hi point Handgun Serial #19806; .32cal C>m. Marlin Handgun Serial #278; .22cal Iver Johnson Handgun Serial AE74524; .45cal Cattleman Handgun Serial #K3126; .22 semi auto Jennings Handgun Serial #579963; .40 cal Smith and Wesson Handgun Serial #TFH4648; .38 cal Revolver Serial #V006572; .32cal H&A Handgun Serial #31449; .25cal Raven Handgun Serial #1441830; and Model 583.18 JC Higgins Shotgun. Miscellaneous items: 7 – wheeled duffle bags. The following items are to be destroyed: 7 – Protech Tactical Body Armor Vests, 2 – Point Blank Body Armor Vests, 2 – Safariland Body Armor Vests, 1 – Guardian Technology Body Armor Vest.

Fire Dept.: Engine #1, 2001 Freightliner FL80 VIN# 1FV6JLCB71HG67132

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.

Whereas, SDCL 23A-37-10(2) moves the Court to order the sale of firearms seized by the City of Brookings, Brookings Police Dept., because no person can be determined as the rightful owner or claimed the property since 2006.

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.D. Action on appointment to the Sustainability Council: appoint Emily Abele (term expires 1/1/2023).

3.E. Action on Resolution 21-026, a Bridge Reinspection Program Resolution for use with South Dakota Department of Transportation (SDDOT) Retainer Contracts.

Resolution 21-026 - Bridge Reinspection Program Resolution for use with South Dakota Department of Transportation (SDDOT) Retainer Contracts

Whereas, 23 CFR 650, Subpart C, requires initial inspection of all bridges and reinspection at intervals, not to exceed two years, with the exception of reinforced concrete box culverts that meet specific criteria. These culverts are reinspected at intervals not to exceed four years.

Therefore, the City of Brookings is desirous of participating in the Bridge Inspection Program using Bridge Replacement Funds.

The City of Brookings requests SDDOT to hire Civil Design Inc. for the inspection work. SDDOT will secure Federal approvals, make payments to the Consulting Engineer for inspection services rendered, and bill the City for 20% of the cost. The City of Brookings will be responsible for the required 20% matching funds.

3.F. Action on Resolution 21-027, a Resolution in Support of Recreational Trails Fund Grant Application.

Resolution 21-027 - Resolution in Support of
Recreational Trails Fund Grant Application

Whereas, the United States of America and the State of South Dakota have authorized the making of grants from the Recreational Trails Fund (LWCF) to public bodies to aid in financing the acquisition and/or construction of specific public trail projects; and

Whereas, the Parks, Recreation and Forestry Director, is hereby authorized and directed to furnish such information as the above mentioned federal and/or state agencies may reasonably request in connection with the application which is hereby authorized to be filed; and

Whereas, the City of Brookings shall provide a minimum of 20% of the total cost of the project; and will assume all responsibility in the operation and maintenance of the project upon completion of construction, for the reasonable life expectancy of the trail.

Now, Therefore, Be It Resolved that the Parks, Recreation and Forestry Director is hereby authorized to execute and file an application on behalf of the City of Brookings with the National Park Service, U.S. Department of the Interior, through the State of South Dakota Department of Game, Fish and Parks, Division of Parks and Recreation, for an RTF grant to aid in financing and establishment of a trail connection to the Allen Frerichs Trail, west of Medary Ave and along the south side of the Prairie Hills development for the City of Brookings, South Dakota and its Environs.

3.G. Action to abate property taxes in the amount of \$1,398.91 for Parcel #40991-40005-000-20, Madison Air Craft, LLC, Chris Funk, owner. Legal description: Airport Hangar on Leased Site Lot U-1 at the Brookings Regional Airport.

Retirement Recognition. Todd Langland was recognized for 35 years of service to the City of Brookings. Todd was hired February 1986 as an Accounting Assistant in the Finance Department, and moved to the Landfill in September 1993. In May 2012, Todd was appointed as Director of Solid Waste Management.

Proclamation. Mayor Corbett Presented a Proclamation recognizing the month of May as Child Abuse Prevention Month. Christine Krogman, Carleen Holm, Deb Riley accepted the Proclamation on behalf of the Brookings County Child Protection Officers.

Mayoral Proclamation
City of Brookings, South Dakota

Whereas, children are vital to our state's future success, prosperity, and quality of life as well as being our most vulnerable assets; and

Whereas, all children deserve to have the safe, stable, nurturing homes and communities they need to foster their healthy growth and development; and

Whereas, one in four women and one in six men were sexually abused before the age of 18; and

Whereas, child abuse and neglect is a community responsibility affecting both the current and future quality of life of a community; and

Whereas, communities that provide parents with support, knowledge, and concrete resources they need to cope with stress and nurture their children ensure all children grow to their full potential; and

Whereas, child abuse prevention strategies succeed because of partnerships created among citizens, organizations, schools, faith communities, health care providers, law enforcement, and the business community.

Now, Therefore, I, Keith W. Corbett, Mayor of the City of Brookings, South Dakota, do hereby proclaim April as: Child Abuse Prevention Month, and call upon all of Brookings to increase our efforts to support families, thereby preventing the serious issue of child abuse and strengthening our community.

Proclamation. Mayor Corbett presented a proclamation recognizing March as Developmental Disabilities Awareness Month. Brianna Doran, Matt Weiss, and Mark Sternhagen accepted the Proclamation on behalf of the Brookings Disabilities Awareness Committee.

Mayoral Proclamation
City of Brookings, South Dakota

Whereas, individuals whose disabilities occur during their developmental years frequently have severe disabilities that are likely to continue indefinitely; and

Whereas, disability is a natural part of the human experience that does not diminish the right of individuals to enjoy self-determination and experience full inclusion in the economic, political, social, cultural, and educational mainstream; and

Whereas, family, friends, and the community can play an important role in enhancing the lives of individuals with disabilities, especially when provided with necessary services and supports; and

Whereas, the goals of the nation, state and community properly include providing individuals with disabilities the opportunities and support to achieve full integration in society, in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual; and

Whereas, through increased awareness of programs and activities, the public will better understand the potential and needs of individuals with disabilities.

Now, Therefore, I, Keith W. Corbett, Mayor of the City of Brookings, South Dakota, do hereby proclaim March 2021 as Developmental Disabilities Awareness Month, and call upon the people of Brookings to join their fellow citizens and community organizations in recognizing this special observance.

SDSU Report. Emily Tomms, Senator At-Large for the SDSU Students Association, provided an update on SDSU happenings to the City Council and public.

TID #8 Developer's Agreement Amendment. A motion was made by Council Member Brink, seconded by Council Member Collins, that an Amendment to the Developer's Agreement associated with Tax Increment District #8, be approved. Public Comment: Dr. Rick Hieb. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

AMENDMENT TO DEVELOPER'S AGREEMENT

The City of Brookings and PEM Affordable Housing LLC entered into a Developer's Agreement on August 28, 2018 as part of Tax Increment District Number Eight. The Developer's Agreement contained certain terms on the development in exchange for tax increment funds used for infrastructure abutting and serving affordable housing lots.

The parties now desire to modify Sections 3 and 4 of said Developer's Agreement as follows:

Section 3. Maximum Price of Developed Parcels. The Developer agrees to sell forty-two (42) development ready residential lots, of which thirty-two (32) of the residential lots will be sold to Inter-Lakes Community Action Partnership (ICAP) at a per lot cost not to exceed twenty-nine thousand dollars (\$29,000). The remaining ten (10) buildable residential lots shall be made available to ICAP or Habitat for Humanity at a per lot cost not exceeding twenty-nine thousand dollars (\$29,000). Should ICAP and/or Habitat for Humanity be unable to acquire such residential lot(s), the Developer may make the remaining unimproved residential lots available on the private market for residential development provided the Developer limits the selling price of a complete home and lot in an amount not to exceed \$200,160 through December 31, 2018. The selling price after December 31, 2018 shall not exceed eighty percent (80%) of the South Dakota Housing Development Authority First-Time Homebuyer Purchase Limits. There shall be

no special assessments levied against any parcel within TIF District #8 for the provision of infrastructure with the initial sale.

Section 4. Covenants to run with the land. As a condition of providing the tax increment fund proceeds, the Developer covenants and agrees to provide affordable housing consisting of not less than forty-two (42) single-family residential lots, of which thirty-two (32) single-family residential lots with a maximum lots sales price of \$29,000 per lot shall be available to Inter-Lakes Community Action Partnership (ICAP) for the Mutual Self-Help Program for construction in the subdivision of affordable housing units. The remaining 10 single-family residential lots will be available to ICAP, Habitat for Humanity, or a private contractor or contractors with a combined maximum sales price of each residential lot and residence not to exceed \$200,160, which is eight percent (80%) of the South Dakota Housing Development Authority First-Time Homebuyer Program purchase limits for Brookings County as of the date of this agreement. The selling price after December 31, 2018 shall not exceed eighty percent (80%) of the South Dakota Housing Development Authority First-Time Homebuyer Purchase Limits. This agreement shall be recorded in the office of the Brookings County Register of Deeds as evidence of the Developer's Covenants under this Section.

FIRST READING – Ordinance 21-008. An introduction and first reading was held on Ordinance 21-008, an Ordinance Authorizing Supplemental Appropriation #3 to the 2021 Budget - Parts 1,2 & 3. Second Reading: April 27, 2021.

FIRST READING – Ordinance 21-009. An introduction and first reading was held on Ordinance 21-009, an Ordinance Amending Article II of Chapter 22 of the Code of Ordinances of the City of Brookings and pertaining to the Adoption of the 2018 International Building Code, the 2018 International Residential Code, the 2018 International Mechanical Code, the 2018 International Fire Code, and the 2018 International Existing Building Code with certain Amendments thereto. Public Hearing: April 27, 2021.

Resolution 21-024. A motion was made by Council Member Wendell, seconded by Council Member Niemeyer, to remove Resolution 21-024 from the Table. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

A motion was made by Council Member Collins, seconded by Council Member Brink, to approve Resolution 21-024, a Resolution Replacing the Mandatory Provisions set forth in Emergency Ordinance 21-001 with Recommendations to Address a Public Health Crisis and Slow the Spread of Coronavirus (COVID-19) in the City of Brookings. Public Comment: Jeanette Gibbons, Bradley Walker, Cole Sartell, Dr. Rick Hieb, and Patty Dexter.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Niemeyer, that Resolution 21-024 be tabled to the April 27, 2021 City Council

Meeting. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Brink, Bacon, Wendell, and Tilton Byrne; No: 1 – Collins.

Ordinance 21-012. A second reading was held on Ordinance 21-012, an Emergency Ordinance Amending Emergency Ordinance 21-001 to Extend and to Comprehensively Adopt Provisions to Address a Public Health Crisis and to Revise Certain Measures which are Necessary for the Immediate Preservation of the Public Health, Safety and Welfare of the City and are Necessary to Slow the Community Spread of Coronavirus (COVID-19) in the City of Brookings, South Dakota. Ordinance 21-012 died for a lack of motion.

Ordinance 21-013. A motion was made by Council Member Niemeyer, seconded by Council Member Wendell, that Ordinance 21-013, an Emergency Ordinance Amending Emergency Ordinance 21-001 to Extend and to Comprehensively Adopt Provisions to Address a Public Health Crisis and to Revise Certain Measures which are Necessary for the Immediate Preservation of the Public Health, Safety and Welfare of the City and are Necessary to Slow the Community Spread of Coronavirus (COVID-19) in the City of Brookings, South Dakota, be approved. Public Comment: Josephine Waldner, Dianne Nagy, Mary Schwader, Barbara Nelson, and Katie Miller. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

(Council Member Brink left the meeting at 7:24 p.m.)

Ordinance 21-004. A public hearing was held on the reconsideration of Ordinance 21-004, an Ordinance revising Division 3 of Chapter 82 of the Code of Ordinances of the City of Brookings and Pertaining to Speed Zones in the City of Brookings, South Dakota. A motion was made by Council Member Collins, seconded by Council Member Niemeyer, that Ordinance 21-004 be approved. Public Comment: Paul Olson. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Bacon, Wendell, Tilton Byrne, and Collins; Absent: 1 – Brink.

Ordinance 21-006. A public Hearing was held on Ordinance 21-006, an Ordinance to Rezone Aldrichs Addition, legal description: West 60-feet of the East 120-feet, also known as 1402 6th Street, and Aldrichs Addition, legal description: East 60-feet, also known as 1404 6th Street, from Business B-2A Office District to Business B-2 District. A motion was made by Council Member Collins, seconded by Council Member Niemeyer, that Ordinance 21-006 be approved. Public Comment: Jay Larsen. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Bacon, Wendell, Tilton Byrne, and Collins; Absent: 1 – Brink.

Ordinance 21-007. A public hearing was held on Ordinance 21-007, an Ordinance to Rezone Lot 1 and 2, Block 2, Telkamp Industrial Addition from I-1R to I-1. A motion was made by Council Member Niemeyer, seconded by Council Member Wendell, that Ordinance 21-007 be approved. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Bacon, Wendell, Tilton Byrne, and Collins; Absent: 1 – Brink.

On-Off Malt License, with Video Lottery. A public hearing was held on a request for an On-Off Sale Malt License for MG Oil Company, dba Corner Pantry #24, Marlyn Erickson and Troy Erickson, owners, 600 6th Street., Suite B, legal description: Lots 5-7, Block 11, Second Addition, Suite B. A motion was made by Council Member Wendell, seconded by Council Member Collins, that the On-Off Malt License be approved. The motion failed by the following vote: Yes: 2 - Wendell, and Tilton Byrne; No: 4 - Corbett, Niemeyer, Bacon, and Collins; Absent: 1 – Brink.

Resolution 21-025. A motion was made by Council Member Niemeyer, seconded by Council Member Wendell, that Resolution 21-025, a Resolution Vacating Lot H-1 in SE ¼ of Section 36, Township 110 North, Range 50 West, be approved. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Bacon, Wendell, Tilton Byrne, and Collins; Absent: 1 - Brink.

Resolution 21-025 - A Resolution to Vacate Lot H-1 in SE1/4 of S36-T110N-R50W

Whereas, a Petition for Vacation of Lot H-1 in the Southeast Quarter (SE¼) of Section Thirty-six (36), Township One Hundred Ten (110) North, Range Fifty (50) West of the 5th P.M., City of Brookings, County of Brookings, State of South Dakota has been filed, the purpose of which is to request that Lot H-1 be vacated because the Lot which is the subject of the Petition has never been used for street or highway purposes, and is not required for public transportation, street or highway purposes. The area of Lot H-1 is approximately .25 acres in size, and was originally conveyed to the City for highway purposes. The area is more suitable for residential and utility easement purposes. The real property proposed to be vacated is described as follows: Lot H-1 in the Southeast Quarter (SE¼) of Section Thirty-six (36), Township One Hundred Ten (110) North, Range Fifty (50) West of the 5th P.M., City of Brookings, County of Brookings, State of South Dakota; and

Whereas, the Deed currently held by the City, considered as a whole, contains a reversionary clause which indicates that the City only possesses an easement for highway purposes which is subject to reversion if the property is not used for highway purposes. The Deed was obtained nearly 40 years ago, and no use as a highway has been necessary or is now required. Therefore, this parcel is suitable for reversion to the owner of the underlying property, which is Denholm Addition, LLC; and

Whereas, Notice of Public Hearing of the aforesaid Petition for Vacation was given and the Petition was heard and considered by the City Council on Tuesday, March 23, 2021 at 6:00 o'clock P.M., at the Chambers of the City of Brookings, and the City Council having considered the public comment and weighed any objections to the Petition.

Now Therefore, Be It Resolved by the City Council of the City of Brookings, South Dakota that the above-described Lot H-1 is not required for highway purposes and is therefore hereby vacated, and the Mayor, City Manager and City Clerk are authorized to convey Lot H-1 to Denholm Addition LLC, the adjoining and underlying owner, subject

to the reservation of a utility easement in the North Ten Feet (N 10') of the above-described property.

City of Brookings 2021-2026 Strategic Plan. A motion was made by Council Member Collins, seconded by Council Member Niemeyer, that the City of Brookings 2021-2026 City Council Strategic Plan be approved. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Bacon, Wendell, Tilton Byrne, and Collins; Absent: 1 – Brink.

Progress Report. Jacob Meshke, Assistant City Manager, provided a progress report highlighting the City's activities and projects to the City Council and public.

Executive Session. A motion was made by Council Member Wendell, seconded by Council Member Bacon, to enter into Executive Session at 7:59 p.m. for consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters and for discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business, with the City Council, City Attorney, City Manager, Assistant City Manager, City Clerk, Jackie Lanning, City Engineer, Mike Struck, Community Development Director, and DJ Buthe, Public Works Director, present. The motion carried by a unanimous vote. A motion was made by Council Member Niemeyer, seconded by Council Member Bacon, to exit Executive Session at 8:39 p.m. The motion carried by a unanimous vote.

Adjourn. A motion was made by Council Member Niemeyer, seconded by Council Member Bacon, that the meeting be adjourned at 8:40 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

ATTEST:

Keith W. Corbett, Mayor

Bonnie Foster, City Clerk