

Brookings City Council
May 12, 2015

The Brookings City Council held a meeting on Tuesday, May 12, 2015 at 6:00 p.m., at City Hall with the following members present: Mayor Tim Reed, Council Members Keith Corbett, Dan Hansen, Ope Niemeyer, Patty Bacon, Scott Meyer, and Jael Thorpe. City Attorney Steve Britzman, City Manager Jeffrey Weldon, and Communications Specialist Laurie Carruthers were also present.

Consent Agenda. Mayor Reed added item 5A, Action on Ex-Officio Appointments, to the agenda. A motion was made by Council Member Hansen, seconded by Council Member Corbett, to approve the consent agenda as amended. The motion carried by the following vote:

4.A. Action to approve the agenda as amended.

4.B. Action to approve the April 21 and April 28 City Council Minutes.

4.C. Action to cancel the May 19 City Council Study Session.

4.D. Action to schedule a July 7 Special City Council Meeting.

4.E. Action on appointments to Brookings Historic Preservation Commission: appoint Jessica Garcia Fritz (term 5/12/2015-1/1/2019).

4.F. Action on Resolution 15-056, a Resolution declaring items as surplus property.

Resolution No. 15-056 - Appraising and Authorizing Sale of Surplus Property

Whereas, the City of Brookings has surplus items as listed in a Notice of Sale that are no longer necessary or useful for City purposes, and it is the desire of the City to dispose of same as surplus property;

Now, Therefore Be It Resolved, that all the attached listed property be declared surplus by the City Council.

Further Be It Resolved by the City Council that the property be offered for sale.

2015 CITY GENERAL & ENTERPRISE FUND DEPARTMENTS

Street Dept.: Large Grinder, Tire Changer, Tire Balancer, 1999 Whirlpool Window Air Conditioner (Serial #QJ2209640), 2012 GE Window Air Conditioner (Serial #DZ410480), 2010 Whirlpool 38 Gallon Electric Water Heater (Serial #1038T412163), 2011 Coleman Natural Gas Furnace with Central Air Conditioner, 2010 Lanthem 1500E Time Clock & Time Cards (Serial #1E5075228), 2008 Wayne Fuel Pump-Diesel (Serial #42681B), 2008 Wayne Fuel Pump-Gas (Serial #42680B), 2012 OPW 1500TLM Fuel Tank Monitoring System, Chemical Gloves & Liners, Overhead Heat Panels, 2006 Gasboy Key Encoder & Fuel Keys, Leer Pickup Topper for 2006 Ford, 1987 Sierra Classic 1500 GMC Pickup (Serial #1GTDR14K8HJ500471), Assorted Blower Motors for Overhead Radiant Heat, Assorted Heaters for Overhead Radiant Heat. Information Technology: 2 - HP DX2200MP Computers, 3 - Compaq DX2200 Computers, 3 - HP DC 5100 MT Computers, 2 - HP DC5100mc Computer, HP D330 Workstation, Compaq EVO D310M Computer, HP Compaq DL5000MT Computer, Compaq D5D Computer,

Compaq Armada E700 Computer, Compaq DeskproEN Computer, HP 9100 Laptop w/ accessories, Compaq NX9010 Computer, HP Pavilion ZV600 Computer, HP DC100mc Computer, HP Touchsmart 9300 Elite, Compaq NC6120 Computer, Whitebox Workstation, Lenovo AG79702 Computer, Lenovo A7U 9851 Computer, 14 - Lathem Time Clocks, HP Laserjet 2600 N Printer, HP Laserjet 1000 Series Printer, HP Scanjet N6310 Printer, HP Laserjet 2200D Printer, 3M Visual System 900AJB Overhead Scanner, Token Ring UTP MAU oC-3626, IBM 8228 TR Switch, Compaq iPAQ H3630 32MB, 3 – Nortel NT4X42AA Phones, 1 Meridian NT 4X35 Phone, 1 Panasonic KX-T3170 Phone, 3 – Sony CD/DVD Players, 4 Transact Receipt Printers, 3 Cash Drawers Model EP-127. Police Dept.: copy machine

4.G. Action on Abatement of Property Taxes, Interest, Drainage Fees and Street Special Assessment for Parcel 40090-01300-019-00, Lot 19, Block 13, Camelot Square Addition in the City of Brookings: 2010 Abatement Amount:\$302.08 for Tax, Interest and Drainage Fees and \$14,361.63 for Street Special Assessment; 2011 Abatement Amount:\$541.40 for Tax, Interest and Drainage Fees and \$12,722.60 for Street Special Assessment; 2012 Abatement Amount:\$736.85 for Tax, Interest and Drainage Fees and \$12,722.60 for Street Special Assessment; 2013 Abatement Amount:\$1009.12 for Tax, Interest and Drainage Fees; and, 2014 Abatement Amount: \$1201.96 for Tax, Interest and Drainage Fees.

Ex-Officio Appointments. A motion was made by Council Member Corbett, seconded by Council Member Niemeyer, that the following Ex-Officio Appointments be approved: Brookings Health System Board of Trustees - Council Member Dan Hansen; Brookings Municipal Utilities - Council Member Scott Meyer; Joint Powers Board – Council Members Patty Bacon and Keith Corbett. The motion carried by the following vote: Yes: 7 - Reed, Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon.

Allyn Frerichs Trail Sign Program. A motion was made by Council Member Corbett, seconded by Council Member Hansen, that the Leadership Brookings Class Historical Sign Program for Allyn Frerichs Trail System be approved. The motion carried by the following vote: Yes: 7 - Reed, Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon.

Resolution 15-053. A motion was made by Council Member Niemeyer, seconded by Council Member Meyer, that Resolution No. 15-053, a Resolution awarding the contract for 2015-2016 City Hay Land Lease (approximately 60 acres), be approved. The motion carried by the following vote: Yes: 7 - Reed, Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon.

Resolution No. 15-053 - Resolution Awarding Bids on City Hay Lease

Whereas, the City of Brookings opened bids for approximately 60 acres of City Hay Land for the City-owned parcel located in Section 21-T110-R50W on Tuesday, May 5, 2015 at 1:30 PM at the Brookings City & County Government Center; and

Whereas, the City of Brookings has received the following bids for City Hay Lease: Scott Werre, Brookings, SD - \$132.00 per acre, Jason Voss, Bruce, SD - \$125.00 per

acre, David Rochel, Aurora, SD - \$108.55 per acre, Lyle Johnson, Brookings, SD - \$85.00 per acre, Joe Mendel, Brookings, SD - \$70.00 per acre and Brian Fett, Dell Rapids, SD - \$52.75 per acre.

Now Therefore, Be It Resolved that the high bid of \$132.00 per acre from Scott Werre, Brookings, SD be accepted.

Resolution 15-054. A motion was made by Council Member Hansen, seconded by Council Member Niemeyer, that Resolution No. 15-054, a Resolution awarding the contract for 2015-2016 Airport Hay Land Lease (approximately 236 acres), be approved. The motion carried by the following vote: Yes: 7 - Reed, Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon.

Resolution No. 15-054 - Resolution Awarding Bids on Airport Hay Lease

Whereas, the City of Brookings opened bids for approximately 236 acres of Airport Hay Land at the Brookings Regional Airport located in Sections 26, 27 and 28, T110, R50W, on Tuesday, May 5, 2015 at 1:30 PM at the Brookings City & County Government Center; and

Whereas, the City of Brookings has received the following bids for Airport Hay Lease: Jason Voss, Bruce, SD - \$75.00 per acre and Brian Fett, Dell Rapids, SD - \$56.80 per acre.

Now Therefore, Be It Resolved that the high bid of Jason Voss, Bruce, SD for \$75.00 per acre be accepted.

Ordinance 15-003. A public hearing was held on Ordinance 15-003, an Ordinance rezoning for an Animal Research Facility as a Permitted Special Use in the I-1 and I-1R Industrial Districts, be approved. No public comment. A was motion was made by Council Member Niemeyer, seconded by Council Member Meyer, that Ordinance 15-003 be approved. The motion carried by the following vote: Yes: 7 - Reed, Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon.

Ordinance 15-006. A public hearing was held on Ordinance 15-006, an Ordinance to change the zoning on Lots 1, 2, and 3, Block 4, Folsom Addition from a Business B-3 District to a PDD Planned Development District. A motion was made by Council Member Hansen, seconded by Council Member Thorpe, that Ordinance 15-006 be approved. No public comment. The motion carried by the following vote: Yes: 6 - Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon; Absent: 1 – Reed.

Ordinance 15-007. A public hearing was held on Ordinance 15-007, an Ordinance Revising Section 46-22 of Article II and pertaining to the Appointment of Members to the Brookings Historic Preservation Commission in the City of Brookings, SD. A motion was made by Council Member Hansen, seconded by Council Member Niemeyer, that Ordinance 15-007 be approved. No public comment. The motion carried by the

following vote: Yes: 6 - Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon; Absent: 1 – Reed.

Resolution 15-052. A motion was made by Council Member Niemeyer, seconded by Council Member Hansen, that Resolution 15-052, a Resolution authorizing the Construction and Equipping of Certain Improvements to the Brookings Health System pursuant to a Lease Agreement; Approving the Execution of an Irrevocable Declaration of Trust by Trustee; Providing for the Execution, Sale and Delivery of not to exceed \$35,000,000 Aggregate original amount of Certificates of Participation in the Lease Agreement pursuant to a Certificate Purchase Agreement and the Application of the proceeds thereof to Construct and Equip Improvements to the Brookings Health System and approving and authorizing a Ground Lease of the Brookings Health System to the Trustee; and authorizing and approving other Actions and Agreements necessary to consummate the contemplated improvement and financing, be approved. The motion carried by the following vote: Yes: 6 - Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon; Absent: 1 – Reed.

Resolution 15-052 - Authorizing the Construction and Equipping of Certain Improvements to the Brookings Health System Pursuant to a Lease Agreement; Approving the execution of an Irrevocable Declaration of Trust by Trustee; Providing for the execution, sale and delivery of not to exceed \$35,000,000 Aggregate original amount of Certificates of Participation in the Lease Agreement pursuant to a Certificate Purchase Agreement and the Application of the proceeds thereof to construct and equip improvements to the Brookings Health System and approving and authorizing a Ground Lease of the Brookings Health System to the Trustee; and authorizing and approving other actions and Agreements necessary to consummate the Contemplated Improvement and Financing.

Whereas, the City of Brookings (the “City”) is a duly organized South Dakota municipality with the power to establish, construct, purchase, and maintain hospitals, medical clinics, nursing facilities and homes for the aged (collectively the “Brookings Health System”); and

Whereas, the City has the power pursuant to SDCL Chapters 34-9 and 9-12 to lease and lease-purchase real and personal property; and

Whereas, it is the opinion of the City Council that the City would be best served by entering into a Ground Lease and Lease Agreement; and

Whereas, it is declared necessary that a Declaration of Trust (the “Declaration of Trust”) be executed by a Trustee (the “Trustee”) for the purpose of financing the expansion and renovation of the hospital and related facilities of the Brookings Health System and equipping the same.

Whereas, the City desires to improve the Brookings Health System and for such purpose intends to enter into a Ground Lease with the City as lessor and the Trustee as

lessee (the "Ground Lease"), Lease Agreement with the Trustee as lessor and the City as lessee ("the Lease Agreement") and Certificates of Participation, Series 2015 (the "Certificates") payable as to principal in the aggregate original amount not to exceed \$35,000,000 evidencing proportionate interests of the owners in the Lease Agreement;

Whereas, the proceeds of the Certificates will be used to (i) construct and equip improvements to the Brookings Health System, including approximately 86,500 square feet of new construction and approximately 17,550 square feet of renovation within the existing Brookings Health System, (ii) fund necessary reserve accounts, and (iii) pay costs of issuance, including Bond Insurer premiums, if any.

Now, Therefore, Be It Resolved by the City Council of the City of Brookings as follows:

Section 1. Definitions. In addition to the words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings, unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" means collectively SDCL Title 34-9 and 9-12, as amended.

"Authorized Officer" means the Mayor, City Clerk, Finance Manager, or, in the case of any act to be performed or duty to be discharged, any other member, officer, or employee of the City then authorized to perform such act or discharge such duty.

"Bond Counsel/Certificate Counsel" means Meierhenry Sargent LLP, a firm of attorneys recognized as having experience in matters relating to the issuance of state or local governmental obligations.

"Bond Insurer" means one of the following bond insurers, Build America Mutual Assurance Company, Municipal Assurance Corp and Assured Guaranty Corp.

"Certificate Purchase Agreement" means the Certificate Purchase Agreement authorized pursuant to and described in Section 12 hereof by and between the City and the Underwriter.

"Certificates" means the Certificates of Participation in the Lease Agreement.

"City" means the City of Brookings, South Dakota.

"Declaration of Trust" means the trust agreement entered into by the Trustee and the City.

"Ground Lease" means the ground lease agreement between the City, as lessor, and the Trustee, as lessee, and any amendment thereof or supplement thereto.

“Improvements” mean the construction of approximately 86,500 square feet of new construction and approximately 17,550 square feet of renovation within the existing Brookings Health System and the equipping of the same.

“Lease Agreement” means the lease purchase agreement between the Trustee, as lessor, and the City, as lessee, and any amendment thereof or supplement thereto

“Property” means the real property upon which the Improvements will be made.

“Rating Agency” means one or more of the following rating agencies: Standard & Poor's Credit Rating Services, Moody's Investors Service Inc. and Fitch IBCA, Inc.

“Underwriter” means Dougherty & Company, Inc., Pierre, South Dakota acting for and on behalf of itself and such securities dealers as it may designate.

Section 2. Declaration of Necessity and Approval of Improvements. The governing body of the City in accordance with the Act does hereby declare a necessity to enter into the Ground Lease, Lease Agreement and Trust Indenture; and approves the construction of the Improvements.

Section 3. Authorization and Approval of Transactions. Subject to the terms and conditions set forth herein, the City hereby (i) authorizes the lease of the Property to the Trustee for a period not to exceed 40 years pursuant to the Ground Lease, (ii) authorizes the lease of the Property from the Trustee pursuant to the Lease Agreement on an annual appropriation basis for an initial lease term and renewal terms not to exceed in the aggregate 30 years, (iii) approves the Trustee's execution of the Declaration of Trust, (iv) approves the Trustee's execution and delivery of the Certificates, payable as to principal in an aggregate original amount not exceeding \$35,000,000 pursuant to the Declaration of Trust and a Certificate Purchase Agreement between the City and the Underwriter (the “Certificate Purchase Agreement”) and the use of the proceeds thereof to finance the construction and equipping of the Improvements, and to pay the expenses incurred in connection with the execution and delivery of the Certificates.

Section 4. Approval of Documents and Legal Description. The Authorized Officers of the City are hereby authorized and empowered for and on behalf of the City to approve and execute (i) the Declaration of Trust, (ii) the Ground Lease, (iii) the Lease Agreement, (iv) the Certificate Purchase Agreement, and (v) a Continuing Disclosure Certificate in substantially the respective forms to be filed with the City Clerk and open to public inspection during regular business hours. The Authorized Officers are authorized and directed to approve the entire legal description or a partial legal description of the Property to be included in the Ground Lease and Lease Agreement.

Section 5. Certificates of Participation. The Certificates shall be executed and delivered in fully-registered form, shall be dated and numbered, shall be payable as to principal in the denominations of \$5,000 and integral multiples thereof and in such amounts (not exceeding in the aggregate \$35,000,000) and on such dates (not later than thirty (30) years), shall be payable as to interest at such rate or rates to be negotiated by the Authorized Officer and shall be subject to prepayment upon such terms and conditions, in such amounts and on such dates as may be specified in the Declaration of Trust and in the executed Certificate Purchase Agreement. The Authorized Officers are hereby authorized and empowered for and on behalf of the City to approve the Certificate Purchase Agreement, his or her execution and delivery thereof to evidence conclusively the City's approval thereof.

Section 6. Annual Appropriation and Opt Out. The Lease Agreement is an annual appropriation lease subject to an annual appropriation by the City for each fiscal year. The City has passed an opt out resolution which authorizes the City to spread, in any fiscal year, for 30 years a \$2,500,000 tax levy if the governing body of the City deems it necessary to be used to pay the annual lease payment.

Section 7. Bond Counsel. The Authorized Officers are authorized to retain the Bond Counsel upon such terms as they approve.

Section 8. Bond Insurer. The Authorized Officers are authorized to retain the Bond Insurer upon such terms as they approve.

Section 9. Rating Agency. The Authorized Officers are authorized to retain the Rating Agency upon such terms as they approve.

Section 10. Trustee. The Authorized Officers are authorized to retain the Trustee upon such terms as they approve.

Section 11. Underwriter. The Authorized Officers are authorized to retain the Underwriter upon such terms as they approve.

Section 12. Certificate Purchase Agreement. The Certificates shall be sold to the Underwriter at a price to be set forth in the Certificate Purchase Agreement. The Authorized Officers in consultation with the Underwriter, are authorized to make such changes in the structuring of the terms and sale of the Certificates as they shall deem necessary. In this regard, they, or either of them, in consultation with the Underwriter, are authorized to cause to be sold an aggregate principal amount of the Certificates less than that authorized herein, to sell any or all of the Certificates as term Certificates with annual mandatory redemption requirements which will produce substantially the same annual principal reductions as authorized herein, to change the dated date of the, and to adjust principal and interest payment dates and redemption dates of the Certificates. The form of the Certificate shall be conformed to reflect any changes, if any, as hereinbefore mentioned. The Mayor is hereby authorized to execute and the City Clerk is authorized to attest the Certificate Purchase Agreement with the Underwriter

providing for the purchase and sale of the Certificates. The Certificate Purchase Agreement shall be in form and content acceptable to the Mayor and City Clerk, the execution thereof by either of them to constitute conclusive evidence thereof, and approved as to form and legality by the District's attorney; provided the Certificate Purchase Agreement effects the sale of the Certificates in accordance with the provisions of this Resolution, and is not inconsistent with the terms hereof. The Mayor and City Clerk are authorized to cause the Certificates to be authenticated and delivered by the Trustee to the Underwriter and to execute, publish, and deliver all certificates and documents, including the Official Statement, and closing certificates and documents, as they shall deem necessary in connection with the sale and delivery of the Certificates.

Section 13. Official Statement. The Authorized Officers and the Underwriter are hereby authorized and directed to provide for the preparation and distribution of a Preliminary Official Statement describing the Certificates (the "Preliminary Official Statement"). After the Certificates have been sold, the Authorized Officers shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement for purposes of Rule 15c2-12(e)(3) of the Securities and Exchange Commission.

To comply with paragraph (b) (3) of Rule 15c2 12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule") and with Rule G 32 and all other applicable rules of the Municipal Securities Rulemaking Board, the City agrees to deliver to the Underwriter, the Official Statement (which shall be a final official statement, as such term is defined in the Rule, as of its date) in an electronic format as prescribed by the MSRB.

Section 14. Tax Matters. The City covenants and agrees with the registered owners from time to time of the Certificates that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest component or interest on the Lease Agreement and Certificates to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the basic interest on the Certificates will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

The Authorized Officers charged with the responsibility for issuing the Certificates pursuant to this Resolution are hereby authorized and directed to execute and deliver to the Underwriter thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Certificates, it is reasonably expected that the proceeds of the Certificates will be used in a manner that would not cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

Section 15. Miscellaneous. Each Authorized Officer and any other agent or employee of the City is hereby authorized and empowered to take such other actions and execute and deliver such other instruments and agreements, including appropriate tax certifications and other closing certificates, as may be necessary or appropriate for the purposes of consummating the transactions contemplated herein, the necessity therefor and the appropriateness thereof to be evidenced conclusively by any such Authorized Officer's taking any such action or executing and delivering any such instrument, agreement or certificate and all actions taken heretofore and hereafter pursuant to the authority hereof are hereby authorized, ratified and approved for and as the actions of the City.

Section 16. Invalidity. If any one or more of the provisions of this Resolution, or of any exhibit or attachment thereto, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution, and the exhibits and attachments thereto, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Section 17. Continuing Disclosure. The City hereby covenants and agrees that it will provide financial information and material event notices as required by Rule 15c2-12 of the Securities Exchange Commission for the Certificates. The Mayor is authorized to execute at the Closing of the sale of the Certificates, an agreement for the benefit of and enforceable by the owners of the Certificates specifying the details of the financial information and material event notices to be provided and its obligations relating thereto. Failure of the City to comply with the undertaking herein described and to be detailed in said closing agreement, shall not be a default hereunder, but any such failure shall entitle the owner or owners of any of the Certificates to take such actions and to initiate such proceedings as shall be necessary and appropriate to cause the City to comply with its undertaking as set forth herein and in said agreement, including the remedies of mandamus and specific performance.

Section 18. Post Issuance Compliance. The City does hereby adopt Meierhenry Sargent Post-Issuance Compliance Policy and Tax-Advantaged Obligations and Continuing Disclosure with regard to the Certificates attached hereto. The City appoints the Finance Manager as the chief compliance officer.

Section 19. Conflicting Resolutions Repealed. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Topics for future discussion.

A motion was made by Council Member Thorpe, seconded by Council Member Bacon, to have a discussion on Residency Requirements for the Various Boards, Committees and Commissions at a future meeting. The motion carried by the following vote: Yes: 6 - Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon; Absent: 1 – Reed.

A motion was made by Council Member Thorpe, seconded by Council Member Meyer, to have a discussion regarding parking requirements for residential development in core business districts at a June City Council Meeting Agenda. The motion carried by the following vote: Yes: 6 - Corbett, Hansen, Niemeyer, Thorpe, Meyer, and Bacon; Absent: 1 – Reed.

Executive Session. A motion was made by Council Member Hansen, seconded by Council Member Niemeyer, to enter into Executive Session at 7:12 p.m. for purposes of consulting with legal counsel regarding proposed or pending contractual matters with the City Manager, City Attorney, and Communications Specialist also present. The motion carried by a unanimous vote.

A motion was made by Council Member Niemeyer, seconded by Council Member Hansen, to exit Executive Session at 8:17 p.m. The motion carried by a unanimous vote.

Adjourn. A motion was made by Council Member Hansen, seconded by Council Member Niemeyer, to adjourn the meeting at 8:18 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

Tim Reed, Mayor

ATTEST:

Shari Thornes, City Clerk