

	City of Sioux Falls Council Meeting Minutes	
	Carnegie Town Hall, 235 West Tenth Street	
	REGULAR MEETING OF Monday, November 16, 2009 at 7:00 p.m.	

ROLL CALL #4

MEMBERS PRESENT/ABSENT OFFICIAL AGENDA

Members Present:	Members Absent:
Council Member Costello	None.
Council Member Jamison	
Council Member Knudson	
Council Member Litz	
Council Member Staggers	
Council Member Anderson Jr.	
Council Member Beninga	
Council Member Brown	
Mayor Dave Munson	

INVOCATION

A. REVEREND RANDY RASMUSSEN, EMMANUEL BAPTIST CHURCH

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

A. HUNGER AND HOMELESSNESS AWARENESS WEEK - NOVEMBER 16-21, 2009

CONSENT AGENDA

APPROVAL OF CONSENT AGENDA

A motion was made by Council Member Litz and seconded by Council Member Jamison to approve the Consent Agenda.

Vote to approve: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.

Motion Passed

MINUTES

A. INFORMATIONAL MEETING OF MONDAY, NOVEMBER 9, 2009, AT 4:00 P.M.

B. CITY COUNCIL MEETING OF MONDAY, NOVEMBER 9, 2009, AT 4:00 P.M.

APPLICATIONS

The following abatements were recommended for approval by the Director of Equalization and the State's Attorney's Office for Minnehaha County; and the City Attorney for Sioux Falls:

1. JOANN HURNEY, 4037 S. DREXEL DR., FOR 2008 PROPERTY TAXES IN THE AMOUNT OF \$160.91. MONIES REQUESTED ARE THE DIFFERENCE BETWEEN THE ELDERLY FREEZE AND NON ELDERLY FREEZE.
2. EVELYN WITKOP, 6608 W. 54TH ST., FOR 2008 PROPERTY TAXES IN THE AMOUNT OF \$455.32. MONIES REQUESTED ARE THE DIFFERENCE BETWEEN THE ELDERLY FREEZE AND NON ELDERLY FREEZE.
3. CLARENCE ZOMER, 232 N. TRAPP AVE., FOR 2008 PROPERTY TAXES IN THE AMOUNT OF \$44.18. MONIES REQUESTED ARE THE DIFFERENCE BETWEEN THE ELDERLY FREEZE AND NON ELDERLY FREEZE.
4. DOROTHY SHEETZ, 2212 S. WILLOW AVE., FOR 2008 PROPERTY TAXES IN THE AMOUNT OF \$1,429.83. MONIES REQUESTED ARE THE DIFFERENCE BETWEEN THE ELDERLY FREEZE AND NON ELDERLY FREEZE.

NOTICE OF HEARINGS

DOC: DOCUMENT: ALCOHOL MEMO

Set a hearing date for Monday, December 7, 2009, at 7:00 p.m. on Items 5 through 9:

5. NEW 2009-10 RETAIL MALT BEVERAGE LICENSE FOR TED HAMZE, UNOZONI, TO BE OPERATED AT 196 EAST SIXTH STREET #101, WITH THE SPECIAL USE PERMIT (2009-08-16) BEING APPROVED ON 10-07-09.
6. NEW 2009-10 RETAIL MALT BEVERAGE LICENSE FOR KDN CORPORATION, LOS TOROS, TO BE OPERATED AT 1010 NORTH MINNESOTA AVENUE, WITH THE MAJOR AMENDMENT (2005-03-06) BEING APPROVED ON 04-18-05.
7. TRANSFER OF A 2009 RETAIL LIQUOR LICENSE FROM GAME DAY INC., ROOKIE'S BAR & GRILL, 2616 SOUTH LOUISE AVENUE, TO SPORTS ZONE INC., ROOKIE'S BAR & GRILL, TO BE OPERATED AT 2616 SOUTH LOUISE AVENUE, INCLUDING SUNDAY SALES AND VIDEO LOTTERY TERMINALS, WITH THE CONDITIONAL USE PERMIT (2001-02-20) BEING APPROVED ON 03-19-01.
8. SPECIAL ONE-DAY MALT BEVERAGE AND SPECIAL ONE-DAY WINE LICENSES FOR THE RONALD MCDONALD HOUSE CHARITIES OF SOUTH DAKOTA TO BE OPERATED AT 825 SOUTH LAKE AVENUE ON DECEMBER 10, 2009, FOR THE GIRLS' NIGHT OUT FUNDRAISER.

9. VARIOUS RETAIL LIQUOR, PACKAGE LIQUOR, AND RETAIL WINE LICENSE RENEWALS FOR 2010 TO BE OPERATED AT VARIOUS LOCATIONS IN THE CITY OF SIOUX FALLS, IDENTIFIED AS EXHIBIT B.

Document: Exhibit B

REGULAR AGENDA

APPROVAL OF REGULAR AGENDA

A motion was made by Council Member Knudson and seconded by Council Member Litz to approve the Regular Agenda.

A motion was made by Council Member Costello and seconded by Council Member Litz to amend the Regular Agenda by moving Item 27 after Item 18; and by moving Item 26 before Item 10.

Vote to approve the Regular Agenda, as amended. Roll Call: Yeses, Costello, Jamison, Knudson, Litz, Staggers, Anderson Jr., Beninga, Brown, 8. Noes, 0. Motion Passed.

Item 26 was heard at this time. See item for action taken.

PUBLIC INPUT

Citizen Dan Lee spoke regarding the proposed Events Center facilities.

Citizen Tim Stanga spoke regarding the proposed Events Center and raising taxes.

UNFINISHED BUSINESS

DOC: DOCUMENT: ALCOHOL MEMO

10. TRANSFER OF A 2009-10 RETAIL MALT BEVERAGE LICENSE FROM LARRY LANG, MICHAEL'S STEAKHOUSE, 2501 WEST RUSSELL STREET, TO EPIPHANY DESSERTS LLC, MICHAEL'S, TO BE OPERATED AT 2501 WEST RUSSELL STREET, WITH THE CONDITIONAL USE PERMIT (94-12-02) BEING APPROVED IN 1994.
11. TRANSFER OF A 2009 RETAIL WINE LICENSE FROM LARRY LANG, MICHAEL'S STEAKHOUSE, 2501 WEST RUSSELL STREET, TO EPIPHANY DESSERTS LLC, MICHAEL'S, TO BE OPERATED AT 2501 WEST RUSSELL STREET, WITH THE CONDITIONAL USE PERMIT (94-12-02) BEING APPROVED IN 1994.
12. SPECIAL ONE-DAY LIQUOR LICENSE FOR CATERING AMERICA, CHEF DOMINIQUE'S CATERING, TO BE OPERATED AT THE DELBRIDGE MUSEUM OF NATURAL HISTORY, 805

SOUTH KIWANIS AVENUE, ON DECEMBER 12, 2009, FOR A HOLIDAY PARTY.

13. SPECIAL ONE-DAY LIQUOR LICENSE FOR WASHINGTON PAVILION MANAGEMENT INC., WASHINGTON PAVILION OF ARTS & SCIENCE, 301 SOUTH MAIN AVENUE, TO BE HELD ON DECEMBER 18, 2009, FOR A RECEPTION.
14. SPECIAL ONE-DAY WINE LICENSE FOR GREATER SIOUX FALLS COALITION ON AGING, TO BE OPERATED AT THE TRAIL RIDGE RETIREMENT COMMUNITY, 3408 WEST RALPH ROGERS ROAD, ON DECEMBER 5, 2009, FOR A HABITAT FUNDRAISER "NO ROOM AT THE INN."
15. VARIOUS RETAIL LIQUOR, PACKAGE LIQUOR, AND RETAIL WINE LICENSE RENEWALS FOR 2010 TO BE OPERATED AT VARIOUS LOCATIONS IN THE CITY OF SIOUX FALLS, IDENTIFIED AS EXHIBIT A.

Document: Exhibit A

A motion was made by Council Member Beninga and seconded by Council Member Brown to approve Items 10 through 15 with one vote.

Vote to approve: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

INTRODUCTION AND ADOPTION OF ORDINANCES

16. 2ND READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING APPENDIX B, REGARDING CAMPGROUNDS

Document: Ord. 1126

A motion was made by Council Member Litz and seconded by Council Member Jamison to adopt said Ordinance 103-09 .

A motion, to amend the main motion, was made by Council Member Staggers to delete subsection (i) under 15.59.154 - Campground which reads "All campground operators shall keep accurate records as to the length of time a person stays in the campground, and shall make said records available to any city official upon request". Since there is no second, the motion is not before this meeting.

Vote to adopt: Roll Call: Yeses, Costello, Jamison, Knudson, Litz, Staggers, Anderson Jr., Beninga, Brown, 8. Noes, 0. Motion Passed.

17. 2ND READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF SIOUX FALLS, SD, BY ADDING A CHAPTER 44 TO BE ENTITLED "CABLE SERVICE REGULATORY ORDINANCE."

Document: Ord. 0017

Document: Proposed Amendment A (from Council Member Litz)

Document: Proposed Amendment B (from Council Member Staggers)

A motion was made by Council Member Costello and seconded by Council Member Beninga to adopt said Ordinance 104-09.

A motion was made by Council Member Litz and seconded by Council Member Anderson Jr. to amend by making changes to Sections 44-31 and 44-43 to provide clarification to build-out provisions of the cable franchise ordinance as follows: In Sec. 44-31 would be the Build-out - new subdivisions. The amendment would be as follows: To strike the entire first paragraph and replace with the following: "A grantee shall extend Cable Service to all areas of the city with a density of 30 homes per mile at no cost for cable system extension other than the Standard Installation fees charged to all Subscribers, and in accordance with its Franchise and consistent with the rules and guidelines of the FCC (except the Main Street Business Improvement District as defined in Chapter 39). Also, to amend the second paragraph by striking the word written before the word notice; to add the words to Grantees after notice and to strike the last paragraph and replace with the following: "Should the Grantee determine that line extension is economically unfeasible, the Grantee and the developer agree to negotiate in good faith toward an equitable agreement. If the Grantee and the developer arrive at impasse, disputes over the extension shall be decided by the City Council thirty (30) days after receipt of written request by either party". In Sec. 44-43. Area served and build-out: Strike the first sentence in the paragraph and begin with "Within one (1) year", and strike the entire second paragraph.

Vote to approve: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Knudson, Staggers, Beninga, Costello, 7. Noes, 0.
Motion Passed

A motion, to amend the main motion, was made by Council Member Staggers and seconded by Council Member Anderson Jr. to delete subsection (b) and replace it with this provision, 'The Franchise fee shall be deposited into the city treasury , and delete the phrase, "and Community Grant," in subsection (d).

Vote to amend: Roll Call: Yeses, Staggers, 1. Noes, Costello, Jamison, Knudson, Litz, Anderson Jr., Beninga, 6. Council Member Brown was excused from the meeting and the vote on this item. Motion Failed.

Vote to adopt, as amended. Roll Call: Yeses, Costello, Jamison, Knudson, Litz, Anderson Jr., Beninga, 6. Noes, Staggers, 1. Council Member Brown was excused from the meeting and the vote on this item. Motion Passed.

18. 2ND READING: AN ORDINANCE APPROVING THE CABLE SYSTEM FRANCHISE RENEWAL AGREEMENT BETWEEN MIDCONTINENT COMMUNICATIONS AND THE CITY OF SIOUX FALLS, SOUTH DAKOTA, ALONG WITH AUTHORIZING THE MAYOR TO SIGN THE SAME.

Document: Ord. 1122 and Agreement

A motion was made by Council Member Knudson and seconded by Council Member Litz to adopt said Ordinance 102-09.

Vote to adopt: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Knudson, Beninga, Costello, 6. Noes Staggers, 1.
Motion Passed

Item 27 was heard at this time. See Item for action taken.

Council Member Brown returned to the meeting at this time.

19. 2ND READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING CHAPTER 18 GARBAGE AND RECYCLING.

Document: Ord. 1123

Document: Ord. 1123a - Proposed Amendment (in red print)

Document: Powerpoint Presentation

Document: Memo recd 11/16/09 at 5:00 pm

A motion was made by Council Member Anderson Jr. and seconded by Council Member Staggers to refer said Ordinance to the Public Services Committee Meeting on Monday, December 14, 2009 .

Vote to refer said Ordinance to the Public Services Committee Meeting on Monday, December 14, 2009: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

Set the hearing date and 2nd Reading for Monday, December 7, 2009, at 7:00 p.m. for Items 20 through 25:

20. 1ST READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY AMENDING SECTION 35-113 OF DIVISION I, ARTICLE III OF CHAPTER 35 PERTAINING TO INVESTMENT OF ASSETS OF THE FIREFIGHTERS' PENSION FUND.

Document: Ord. 1112

21. 1ST READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE

REVISED ORDINANCES OF THE CITY BY AMENDING SECTION 35-50 OF DIVISION I,
ARTICLE II OF CHAPTER 35 PERTAINING TO INVESTMENT OF ASSETS OF THE
EMPLOYEE'S RETIREMENT SYSTEM.

Document: Ord. 1111

22. 1ST READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, REZONING
PROPERTY AT BRENNAN DR. AND SYCAMORE AVE. FROM THE C-4, PLANNED COMMERCIAL
DISTRICT TO THE RA-1, RESIDENTIAL DISTRICT, PETITION NO. 2009-10-07 AND
AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SIOUX FALLS. THE PLANNING
COMMISSION RECOMMENDS APPROVAL.

Document: Ord. 1101

PC Staff Report

PC Exhibits

PC Minutes - Item 4

23. 1ST READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, REZONING
PROPERTY AT S. KLEIN AVE. AND WEST 56TH ST. FROM THE RA-1, RESIDENTIAL
DISTRICT TO THE RD, RESIDENTIAL DISTRICT, PETITION NO. 2009-10-01 AND
AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SIOUX FALLS. THE PLANNING
COMMISSION RECOMMENDS APPROVAL.

Document: Ord. 1102

PC Staff Report

PC Exhibits

PC Minutes - Item 3

24. 1ST READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING CHAPTER
15 OF APPENDIX B OF THE REVISED ORDINANCES OF SIOUX FALLS, SD, BY REVISING
FINAL DEVELOPMENT PLAN EXCEPTIONS. THE PLANNING COMMISSION RECOMMENDS
APPROVAL.

Document: Ord. 1100

PC Staff Report

PC Minutes - Item 15

25. 1ST READING: AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, PROVIDING SUPPLEMENTAL APPROPRIATIONS (HEALTH - \$372,483).

Document: Ord. 1128

Document: Memo

A motion was made by Council Member Jamison and seconded by Council Member Beninga to set a hearing date and 2nd Reading for Monday, December 7, 2009, at 7:00 p.m. for Items 20 through 25.

Vote to set a hearing date: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

HEARINGS AND RESOLUTIONS

26. DEFERRED ACTION (FROM MEETING OF NOVEMBER 9, 2009): A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF SIOUX FALLS AND THE CITY OF HARRISBURG FOR UTILIZATION OF THE WASTEWATER COLLECTION AND TREATMENT FACILITY OF SIOUX FALLS.

Document: Res. 1676 and Agreement

A motion was made by Council Member Knudson and seconded by Council Member Costello to defer said Resolution to a City Council Meeting to occur no later than Monday, December 7, 2009.

Vote to defer: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

27. A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, SETTING THE FRANCHISE FEE AND COMMUNITY GRANT COLLECTED FROM MIDCONTINENT COMMUNICATIONS, THE CABLE OPERATOR.

Document: Res. 1682

Document: Res. 1682a - Proposed Amendment (added 11/16/09)

A motion was made by Council Member Knudson and seconded by Council Member Costello to adopt said Resolution 112-09.

Vote to adopt: Roll Call: Yeses, Jamison, Litz, Knudson, Beninga, Costello, 5. Noes Anderson Jr., Staggers, 2.

Motion Passed

RESOLUTION NO. 112-09

A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, SETTING THE FRANCHISE FEE AND COMMUNITY GRANT COLLECTED FROM

MIDCONTINENT COMMUNICATIONS, THE CABLE OPERATOR.

If there aren't any "WHEREAS" phrases, skip "NOW, THEREFORE" and begin with just "BE IT RESOLVED..."

BE IT RESOLVED BY THE CITY OF SIOUX FALLS, SD:

That Midcontinent Communications, the cable operator, shall pay to the City annually the sum of 2.5 percent of

the annual gross revenue of the cable system as compensation for the Franchise (the Franchise Fee).

One-half percent of the Franchise Fee set above shall be separately designated as a Community Grant to finance

capital requirements for PEG Access Channel needs, and for interconnection of Institutional Network needs, to

be shared equally (50/50) with the City and the Sioux Falls School District.

A brief report shall accompany the payment showing the basis for the computation of the amount paid for both

the Franchise Fee and Community Grant.

The rates authorized by this resolution shall be effective commencing January 1, 2010.

Date adopted: 11/16/09 .

Dave

Munson

Mayor

ATTEST:

Debra A. Owen

City Clerk

28. A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, APPROVING THE PLACEMENT OF A SCULPTURE LOCATED ON CITY PROPERTY ("I'VE BEEN KISSED" AT SERTOMA PARK OUTDOOR CAMPUS BUTTERFLY GARDEN).

Document: 1677

Location Exhibit

Sculpture

VAC Minutes

A motion was made by Council Member Knudson and seconded by Council Member Litz to adopt said Resolution 110-09.

Vote to adopt: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

RESOLUTION NO. 110-09

A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, APPROVING THE PLACEMENT OF A SCULPTURE LOCATED ON CITY PROPERTY.

WHEREAS, the SculptureWalk Program encourages and recommends the outdoor display of public art in Sioux Falls;

and

WHEREAS, a bronze sculpture known as I ve Been Kissed by Artist Pokey Park of Arizona, was selected and

purchased by the South Dakota Parks and Wildlife Foundation; and

WHEREAS, the sculpture is to be placed at Sertoma Park Outdoor Campus near the existing butterfly garden, on

property owned by the City of Sioux Falls and leased to the State; and

WHEREAS, the sculpture measures 30" in height, 24" in width, 24" in length, and is to be mounted on a

quartzite pedestal, and depicts a frog with human hand characteristics; and

WHEREAS, the Sioux Falls Visual Arts Commission and Sioux Falls Parks and Recreation Board reviewed and

recommended approval of the sculpture placement on August 18, 2009, and September 15, 2009, respectively; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SIOUX FALLS, SD:

That it approves the placement of the I ve Been Kissed, as described by the following:

I ve Been Kissed sculpture to be located at Sertoma Park Outdoor Campus near the existing butterfly garden.

Date adopted: 11/16/09 .

Dave

Munson

Mayor

ATTEST:

Debra A. Owen

City Clerk

29. A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, APPROVING THE PLACEMENT OF A SCULPTURE LOCATED ON CITY PROPERTY ("CIRCLE OF FRIENDS" ON PHILLIPS AVE. NEAR ORPHEUM THEATRE).

Document: Res. 1672

Presentation

VAC Minutes

A motion was made by Council Member Beninga and seconded by Council Member Litz to adopt said Resolution 111-09.

Vote to adopt: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson, Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

RESOLUTION NO. 111-09

A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, APPROVING THE PLACEMENT OF A SCULPTURE LOCATED ON CITY PROPERTY.

WHEREAS, the SculptureWalk Program encourages and recommends the outdoor display of public art in Sioux Falls;

and

WHEREAS, a bronze sculpture known as Circle of Friends by Artist Karen Crain of Colorado was chosen as the

2008 SculptureWalk s People s Choice Award; and

WHEREAS, the sculpture measures 42" in height, 32" in width, 28" in length, and is mounted on a quartzite

pedestal, and depicts a young girl lying inside a circular ring reading; and

WHEREAS, the City has purchased the Circle of Friends sculpture; and

WHEREAS, the sculpture will be placed along Phillips Ave. at the east main entrance of the Orpheum Theatre;

WHEREAS, the Sioux Falls Visual Arts Commission reviewed and recommended approval of the sculpture placement

on August 18, 2009; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SIOUX FALLS, SD:

That it approves the placement of the Circle of Friends sculpture as described by the following:

Circle of Friends sculpture to be located along Phillips Ave. at the east main entrance of the Orpheum

Theatre.

Date adopted: 11/16/09 .

Dave

Munson

Mayor

ATTEST:

Debra A. Owen

City Clerk

ADJOURNMENT

A motion was made by Council Member Litz and seconded by Council Member Brown to adjourn the meeting at 8:33 p.m.

Vote to adjourn: Roll Call: Yeses, Jamison, Litz, Anderson Jr., Brown, Knudson,

Staggers, Beninga, Costello, 8. Noes, 0.
Motion Passed

Tamara Jorgensen, CMC
Assistant City Clerk