

City Council Proceedings

The Canistota City Council met Tuesday, September 5, 2023 at 6:00 PM in the Canistota City Hall Community Room. City Council Members present: Mayor Justin Engbarth, Donovan O'Donnell, and Lori Forsman. Jessica Kerher joined the meeting via teleconference. Jamie Miller arrived at 6:33 PM. Others present: Maintenance Supervisor, Darin Nugteren, Maintenance Assistant Brandon Dolejsi, Finance Officer Kathy Townsend, Adam Richarz and Darin Ligtenberg.

Mayor Engbarth called the meeting to order at 6:00 PM

Mayor Engbarth led the Pledge of Allegiance.

The agenda was approved as presented on a motion by Kerher, second by Forsman, all voted yes, the motion carried.

O'Donnell motioned, second by Forsman to approve the August proceedings as presented, all voted yes, the motion carried.

O'Donnell, second by Kerher to approve the proceedings from the August special meeting as presented, all voted yes, the motion carried.

The written report received from the Sheriff's office was approved as presented on a motion by Kerher, second by O'Donnell, all voted yes, the motion carried.

Richarz gave the report for the Canistota Volunteer Fire Department, they responded to two rescue calls in August. The department has applied for grant funding through the State of SD to purchase sixteen sets of new gear and other necessary equipment. The department hopes to know around the first of the year if they were awarded the grant. The report was approved on a motion by Forsman, second by O'Donnell, all voted yes, the motion carried. Richarz left the meeting at 6:10 PM.

Nugteren presented the planning and zoning report: Eight (8) building permits were issued in August. Nugteren also answered questions from residents concerning zoning ordinances. The report was approved on a motion by O'Donnell, second by Forsman, all voted yes, the motion carried.

Kerher updated the Council on the recent Zoom meeting that was held to update the City of Canistota website. Adding email addresses for the Mayor and Council were discussed. Kerher's report was approved on a motion by Forsman, second by O'Donnell, all voted yes, the motion carried.

Ligtenberg with Snyder & Associates presented pay application Request #2 from H & W in the amount of \$773,572.38; also presented was pay application request #3 in the amount of \$593,059.70; On a motion by O'Donnell, second by Kerher, the pay applications will be submitted to the State of SD through SECOG for reimbursement. As the City receives reimbursement from the State, the pay applications will be paid to H & W, all voted yes, the motion carried. Sidewalks along the east side of 7th Avenue were discussed, driveways will be installed to accommodate the installation of sidewalks at a later date. Curb and gutter is in the final stages of completion. Work will begin on driveway approaches on 7th Ave in the next week. Ligtenberg has visited with the contractor, the project is approximately two weeks behind schedule. The next phases of the project should progress quickly.

Ligtenberg left the meeting at 6:40 PM.

No one was present for citizen concerns

Nugteren and Dolejsi present the August maintenance report: Nugteren has been in contact with the code enforcement officer with progress being made on nuisance properties. Additional chairs for the pool have been purchased. Replacing the rotary mower and the mule was discussed. Work is progressing on the round house. Sprinkler heads at the ballpark have been repaired. Nugteren is close to approving final design for various signage for the city. Mowing at City Parks and spraying weeds is an on-going project. The picnic shelter/warming house construction at Stalting Park is progressing quickly with both plumbing and electrical installed. Dolejsi is winterizing the pool and is working on breaking up the concrete around the baby pool for the installation of new return lines, pressure in the lines will also be checked. The new gate at the rubble site is close to completion. Nugteren and Dolejsi will paint cross walks and stripes on Main Street. Nugteren is gathering cost estimates to replace the liner in the water tower. Purchasing an air compressor to be used in street repairs was discussed. The maintenance report was approved on a motion by Miller, second by Kerher, all voted yes, the motion carried.

The following bills were approved for payment including reimbursement to Ann Jacobsen on a motion by Forsman, second by Kerher, all voted yes, the motion carried.

Addy Disposal, Collections & Dumpster Fees, \$4,630.54; Alphagraphics, Supplies, \$203.12; Aramark, Supplies, \$13.56; Badger Meters, Prof. Services, \$24.72; Becker, Crystal, Certification Reimbursement, \$230.00; Bierschbach Equip. Supplies, \$259.98; Bryan, Larry, Utility Reimbursement, \$43.05; Bunker Russ, Utility Reimbursement, \$156.95; Cadwell Attorney Group, \$337.50; C & R Supply, Supplies, \$87.36; Golden West, Utilities, \$339.22 Groeneweg Const. Prof. Fees, \$37,693.77; Hawkins, Supplies, \$4,229.00; Jacobsen, Ann, Reimbursement, \$52.00; Macs, Supplies, \$56.59; Marco, Prof. Services, \$39.23; McCook County Treas., Law Enforcement, \$4,225.00; Menards, Supplies, \$495.25; New Century Press, Publication Fees, \$247.38; Northwestern Energy, Utilities, \$40.00; Nugteren, Darin, Supplies, \$3.77; Roshone, Heidi, Certification Reimbursement, \$98.30; September 1, Payroll, Streets, \$1,227.85; Parks, \$849.62; Clean Water, \$211.60, Rubble Site, \$312.14; Finance Office, \$ 523.94; Drinking Water, \$1,751.78; Clean Water, \$1,751.78; SD Dept. of Revenue, Sales & Use Tax, \$355.67; SD Dept. of Health, Prof. Services, \$15.00; Snyder & Assoc. Prof. Services, \$120,411.38; Schoenwald Landscape, Repairs, \$1,008.00; TM Rural Water, Water Purchased, \$8,432.00; Total Stop, Fuel & Pool Supplies, \$577.26; Tewlat, Angela, Reimbursement, \$83.50; Townsend, Kathy, Utility Fee, Mileage, \$50.00; US Bank Card, Supplies, \$2,372.24; US Bank Trust, Debt Services, \$17,481.56; Verizon Wireless, Cell Phones, \$207.17; Xcel Energy, \$2,848.95

Bills paid since last meeting: AFLAC, Full Time Employees, \$426.62; Groeneweg Construction Picnic Shelter, \$52,118.00; August 15th, Payroll, \$4,981.07; Pool Payroll, \$3,900.57; SDRS, Full Time Employees, \$1,345.36; Security State Bank, Payroll Taxes, \$4,295.67.

Townsend presented the Finance Officer's report: Reminders to pet owners and golf cart owners to register their pets and carts per City Ordinance will be placed on the new website when it is up and running. Letters sent out notifying residents of those Ordinances were discussed.

Miller motioned, second by Forsman to accept \$823.11 as payment in full for a delinquent utility bill for small claims reimbursement on Account #03666, along with abating \$328.90. all voted yes, the motion carried.

Combining a city election with the school and county at the June primary was briefly discussed. The Council will take action in October. The September SEFP report was acknowledged. The Finance Officers report was approved on a motion by Miller, second by O'Donnell, all voted yes, the motion carried.

Kerher disconnected the teleconference call at 8:25 PM.

Council Reports:

Mayor Engbarth: A new contract was received from the Sheriff's office with an increase in cost. After Council discussion, the contract will be revisited at the regular October Council meeting. The Council requests the Sheriff to attend the meeting to address questions the Council may have.

After review and discussion, Appropriations Ordinance 2023-05 was approved and adopted as presented on a motion by Miller, second by O'Donnell, all voted yes, the motion carried. The Ordinance is printed elsewhere in this issue of The Special. Ordinance 2023-06, an Ordinance Amending Council meeting time was adopted and

approved on a motion by Forsman, second by O'Donnell, all voted yes, the motion carried. The Ordinance is printed elsewhere in this issue of The Special. Miller motioned, second by Forsman to adopt Ordinance 2023-07, an Ordinance addressing Mobile Food Vendors in Canistota, all voted yes, the motion carried. The Ordinance is printed elsewhere in this issue of The Special. Dates for the free fall dump days at the rubble site will be discussed in October. Pool funds and reimbursements were discussed.

O'Donnell had no concerns

Miller had no concerns

Forsman had no concerns

At 8:57 PM, Forsman motioned, second by O' Donnell to adjourn the meeting, all voted yes, the motion carried.

The next regular meeting of the Canistota City Council will be held **Monday, October 2, 2023 at 6 PM** in the Community Room of City Hall. All are welcome

SEAL

Justin Lee Engbarth,
Mayor, City of CanistotaCity of Canistota

ATTEST:

Kathy J. Townsend,
Finance Officer, City of Canistota

ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY OF CANISTOTA, SOUTH DAKOTA, ESTABLISHING THE PROCEDURE FOR THE ISSUANCE AND REGULATION OF ON-SALE LIQUOR LICENSES FOR FULL-SERVICE RESTAURANTS IN THE CITY CANISTOTA, SOUTH DAKOTA.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CANISTOTA, SOUTH DAKOTA:

4.0311: FULL SERVICE RESTAURANT ON-SALE LICENSE:

The City may issue additional on-sale licenses for full service restaurants pursuant to South Dakota Codified Laws 35-4-110 et seq.

- A. Definitions: The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BAR: Any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages.

FULL SERVICE RESTAURANT: Any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or foodstuffs such as sandwiches, hamburgers, or salads is not a full service restaurant.

RESTAURANT: Any area in a building maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than forty percent (40%) of the gross revenue of the restaurant is derived from the sale of alcohol or alcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking, and serving of meals.

- B. Full-Service Restaurant On-Sale Liquor License Application Requirements: An applicant for a full service restaurant on-sale license shall provide sufficient documentation to the City with an application form provided by the City to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The renewal of a full service restaurant on-sale license is conditioned upon the applicant satisfying all State requirements for renewal. The supporting documentation concerning the primary source of revenue submitted pursuant to this Section is confidential.
- C. Advertising Restriction: A restaurant that has a full service restaurant on-sale license may only be advertised or held out to the public as primarily a food eating establishment.
- D. Annual Reports: The full service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City of the annual sales of the full service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross revenues of the licensee for the following categories:
1. Food and nonalcoholic beverage sales; and
 2. Alcoholic beverages sales.
- E. Full-Service Restaurant On-Sale Liquor License Renewals: When renewing a full service restaurant on-sale license, the City shall condition the license renewal upon receiving documentation that not more

than forty percent (40%) of gross sales from the preceding twelve (12) months operation of the full service restaurant is derived from the sale of alcohol or alcoholic beverages.

- F. Only Retail, On-Sale Service Permitted: A full service restaurant on-sale licensee may only serve alcoholic beverages for on premises consumption in the bar and dining room area of the restaurant.
- G. Smoking Prohibited: No licensee that has a full service restaurant on-sale license may allow smoking on the licensed premises.
- H. Full-Service Restaurant On-Sale Liquor License Fees:
1. The license fee charged for full service restaurant on-sale licenses shall be at or above the current fair market value of the license pursuant to South Dakota Codified Laws 35-4-117. However, any fair market value so established shall be a minimum of one dollar for each person residing within the City as measured by the last preceding Federal decennial census.
 2. The license fee shall be initially established by resolution within ninety (90) days of the initial adoption of this section. Subsequent changes in the license fee shall not be made for a period of ten (10) years from the effective date of this section unless a population growth that is reported by the Federal decennial census requires an increase in the fee.
- I. Registry Of Full Service Restaurant On-Sale Licensees: The City will maintain a registry of each on-sale license that is being offered for sale. The burden of registering with the City a license being offered for sale rests on the licensee. The City will provide a copy of the registry to anyone who requests a new full service restaurant on-sale license. Prior to the issuance of a new license, the applicant shall submit an affidavit showing that there is no on-sale license on the registry or that the applicant is unable to purchase the on-sale license at fair market value and on terms satisfactory to both the potential buyer and seller.
- J. Issuance Of New Full Service Restaurant Licenses Restricted: The City may only issue a new license pursuant to this section if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in subsection H of this Section and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as for sale with the City shall be sold at the current fair market price set by the City pursuant to a resolution adopted in accordance with Section H of this Ordinance.

Adopted this 7th Day of August, 2023.

Justin Lee Engbarth,
Mayor,
City of Canistota

ATTEST:

Kathy J. Townsend
Finance Officer,
City of Canistota

Seal