

CITY COUNCIL PROCEEDINGS

City Council Chambers, Municipal Building, 123 South Lincoln Street, Aberdeen, South Dakota, March 21, 2011, 5:30 p.m., regular meeting of the Board of Council Members, Mayor Levsen presiding. Present at roll call were Council Members Tom Agnitsch, David Bunsness, Todd Campbell, Jim Kraft, Jeff Mitchell, Clint Rux, and Laure Swanson. Council Member Jennifer Slaughter-Hansen was absent. City staff present were Lynn Lander, Adam Altman, Robin Bobzien, Brett Bill, Karl Alberts, Chief Don Lanpher, Capt. Neil Bittner, Capt. Dave McNeil, and Karly Winter.

Mayor Levsen led the Pledge of Allegiance.

MINUTES

Kraft moved, Swanson seconded to approve the minutes of March 14, 2011, as circulated. All present voting aye, motion carried.

OPEN FORUM

Council Member Jennifer Slaughter-Hansen arrived at 5:31 p.m.

Stacy Sexton spoke about the proposed ban on animals.

Todd Saylor spoke against a breed ban.

Melissa Stein spoke about the exotic animals ordinance.

Katie Kaiser spoke about the tether section of the ordinance.

Gary Nielson spoke about the timing of license issuance/renewal.

Sharon Hanson spoke about clarification on retractable leashes.

Melanie Malsom spoke about reptiles and the ordinance.

Cindy Pharris spoke about a dog bite incident in her family.

Dick Lobey spoke about over-regulation.

Sean and Brooke Meyers spoke about the pit bull attack on their son.

Ian Johnson spoke about the animal ordinance covering too many topics.

OLD BUSINESSORDINANCE NO. 11-03-01

Mitchell moved, Slaughter-Hansen seconded to approve second reading and final adoption of Ordinance No. 11-03-01.

Rux moved, Campbell seconded to approve an amendment to add language to Section 6-1. The owner of any animal kept or owned in violation of this Chapter, where such animal bites or otherwise inflicts harm on a person, shall be guilty of a class 2 misdemeanor. All voting aye, motion carried.

Rux moved, Campbell seconded to approve an amendment to add language to Section 6-38 (15) to include legitimate service animals. All voting aye, motion carried.

Bunsness moved to approve an amendment to add language as new Section 6-47 Pit Bulls. (a) No person may own, possess, keep, exercise control over, maintain, harbor, transport, or sell any pit bull within the city limits. (b) A pit bull is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, American Bulldog, or any dog displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. (c) Owners of pit bulls that are licensed with the City on March 21, 2011 shall be allowed to keep such animal, provided the following conditions are met: a. The animal continues to be properly licensed. b. The owner or handler is at least twenty one (21) years of age. c. The animal is spayed or neutered. d. The owner of the animal maintains homeowner's or other liability insurance which covered damages caused by the pit bull, in an amount not less than \$100,000. e. The owner does not

sell or transfer the pit bull to anyone outside of the owner's immediate family. f. The owner immediately notifies the City if the pit bull is at large, stolen, loose, unconfined, has mauled, bitten, attacked, or threatened another animal or a human. g. The owner must abide by all state and local animal control laws, as to the subject pit bull. (d) Any owner aggrieved by a decision of the Animal Control Officer, not amounting to a criminal violation, may appeal the decision of the Animal Control officer to the Animal Review Board, as created within this Division. Amendment dies for lack of second.

Campbell moved, Slaight-Hansen seconded to approve an amendment to change Section 6-32 (a) to require a fixed leash of no more than 6' or a 16' retractable leash which must be retracted to no more than 6' upon proximity of 32' of another dog or a person. Amendment passes by voice vote.

Bunsness moved, Slaight-Hansen seconded to approve an amendment to Section 6-36 to add pit bulls as a dangerous animal and must follow the requirements of Section 6-38.

Swanson moved, Slaight-Hansen seconded to approve an amendment to change the amendment by not including pit bulls as a dangerous animal in Section 6-36, but requiring compliance with Section 6-38. Swanson amendment fails by voice vote.

Swanson moved, Slaight-Hansen seconded to approve an amendment to Section 6-32 (a) to include the use of electronic collars for unleashed animals. Upon roll call, Campbell, Slaight-Hansen, Agnitsch, Bunsness, Swanson, Levsen voting aye, Kraft, Mitchell, and Rux voting nay, amendment passes by roll call.

Upon roll call on original motion as amended, Rux, Slaight-Hansen, Campbell, Mitchell, and Kraft voting aye, Swanson, Bunsness, Agnitsch, and Levsen voting nay, motion carried.

CONSENT CALENDAR

Rux moved, Agnitsch seconded to approve the following items on the consent calendar:

LICENSES – Taxi Cab Driver – Greg Ketterling; Residential Building Contractor – Ron Fischer dba Fischer Construction; Master Plumber – Louis Campbell; Sewer Builder – Daniel Brenner.

PLATS – 1) Rolling Hills Village Fifteenth Addition to the City of Aberdeen in the NW ¼, Section 14, T123N, R64W of the 5th P.M., Brown County, South Dakota; 2) Wood's First Addition to the City of Aberdeen in the NE ¼ of Section 23, T123N, R64W of the 5th P.M., Aberdeen, Brown County, South Dakota; 3) Lot 1, S & E Heintzman Subdivision in the NE ¼ of Section 27, T123N, R64W of the 5th P.M., Brown County, South Dakota.

TAX ABATEMENTS in the amount of \$3,862.05 for Mary Schriver

ORDINANCE CHANGE REQUEST concerning the sale of fireworks from Mark Musel for the City Council to consider on March 28, 2011.

LOTTERY NOTICE – Aberdeen Family Camp Dreammakers – receive and place on file.

All voting aye, motion carried.

NEW BUSINESS

ORDINANCE NO. 11-02-01

Ordinance amending Ordinance No. 1164 to rezone certain described property from Section 706 (C-1)/Section 711 (R-4) to Section 705 (R-3)/Section 711 (R-4) Derian Outlot 1, Block 35, Thomas Addition in the NW ¼ of Section 24, T123N, R64W of the 5th P.M., Aberdeen, Brown County, South Dakota was presented. Bunsness moved, Mitchell seconded to approve first reading of Ordinance No. 11-02-01. Upon roll call, all voting aye, motion carried.

ORDINANCE NO. 11-03-02

Ordinance amending Section 22-107 concerning use of public sidewalks as outdoor

dining areas was presented. Swanson moved, Rux seconded to approve first reading of Ordinance No. 11-03-02. Bunsness moved, Kraft seconded the motion to amend to delete Section 22-107 (2) No signs or menu-boards are permitted in or around the outdoor dining area, whether permanent or temporary. All voting aye, motion carried. Upon roll call on first reading as amended, all voting aye, motion carried.

HEARING – ALCOHOLIC BEVERAGES

This being the time and place set for a hearing on applications for transfers of alcoholic beverage licenses, no one was present to testify, recommendations for approval were received, Rux moved, Swanson seconded to approve the following: Transfer of Retail On-Off Sale Malt Beverage License w/Video Lottery from Jason J. Miller dba Jake's Pub, 105 N. Lincoln Street to Emerald Pub LLC dba Emerald Pub, 121 N. Roosevelt Street (Inactive); Transfer of Retail On-Sale Liquor License from RDA LLC dba RDA-Rhine Lounge, 210 N. Roosevelt Street (Inactive) to Larry and Sheryl Franklin dba The Pub, 105 N. Lincoln Street (Active). All voting aye, motion carried.

REQUEST TO PURCHASE

Mitchell moved, Slaughter-Hansen seconded to approve the request to purchase 60 Microsoft Office Professional Plus 2010 Licenses and 1 DVD Media by Computer Services for citywide departments from SHI at a total cost of \$20,217.20. All voting aye, motion carried.

RECOMMENDATION ON BIDS

Bids were opened and publicly read for Eighth Avenue NE Street Improvements Project ST-2011-1. A detailed list is on file in the Finance Office. Campbell moved, Bunsness seconded to award the bid to Dahme Construction Company in the amount of \$634,849.00 and authorize the City Manager and Finance Officer to sign all necessary documents after approval by the City Attorney. All voting aye, motion carried.

Bids were opened and publicly read for 2011 Road Oil, 2011 Asphaltic Repair Mix, and 2011 Seal Coat Aggregates. Detailed lists are on file in the Finance Office. Campbell moved, Mitchell seconded to award the bid for Road Oil to Flint Hills Resources, LP in the amount of \$335, 637.50; to award the bid for Asphaltic Repair Mix for Items #1 and #2 to Aberdeen Asphalt in the amount of \$17,100.00, to award the bid for Asphaltic Repair Mix for Items #3 and #4 to Lien Transportation in the amount of \$472,000.00, to award the bid for Seal Coat Aggregates for Item #1 to LG Everist, Inc in the amount of \$44,100.00 and to award the bid for Seal Coat Aggregated for Item #2 to HF Jacobs & Sons Construction in the amount of \$85,320.00, all being lowest responsible bidders, and authorize the City Manager and Finance Officer to sign the necessary documents after approval by the City Attorney. All voting aye, motion carried.

BILLS

Bunsness moved, Kraft seconded to approve the following audited claims for service, supplies, repairs and maintenance: Northwestern Energy 30,197.65; Sanford Health 225.00; Guardian 108.55; Wagner Holdings, LLC 25.40; Jim Roberts 38.53; Brent Jark 39.35; Jerry Hunstad 51.77; Keith Trinko 33.76; Continental Equity LLC 38.91; Michelle Gramling 38.45; Nancy Scoular 43.11; Dave Manning 25.47; Nathan West 25.07; Fairway Homes 53.07; Bruce Frink 39.17; Mike Salo 37.64; RGR Dev LLC 24.07; Mark Vanzee 8.40; American News 892.95; Professional Mailing 2,630.72; Robert L Jacobs 30,746.85; AE2S 1,359.00; Tom Larson 175.00; United Parcel Service 28.34; Keller Peterson of Aberdeen, LLC 3,000.00; Loren and Gayle Steele 2,500.00; Rodney and Cynthia Eikamp 1,500.00; Aberdeen Development Corp 1,500.00; Aberdeen Engineering Group LLP 1,500.00; PMM Buildings LLC 1,500.00; Roland and Norma Moerke 2,500.00; Banner Engineering 1,500.00; Justin and Carla Schopp 1,500.00; Cynthia Walsh 1,500.00; 3M Company

3,528.76. Upon roll call, all voting aye with Campbell abstaining, motion carried.

There being no further business, Bunsness moved, Rux seconded that the meeting be adjourned. All voting aye, motion carried.

Prepared by Mary Campton for the Finance Office. /s/ Karl Alberts, Finance Officer.