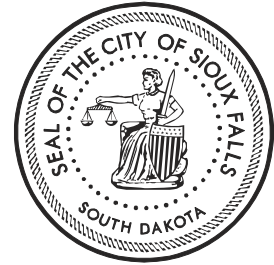


Minutes

Monday, November 5, 2007



Land Use Committee

5:33 p.m.
Carnegie Town Hall
235 W. 10th Street

Members Present: Bob Jamison, Bob Litz and Kermit Staggers

Staff Present: Debra A. Owen, City Clerk; Denise D. Tucker, Assistant City Clerk

Guests: Council Members: Gerald Beninga, De Knudson, Vernon Brown, and J. Pat Costello; Gary Colwill, City Attorney; Mike Cooper, Director of Planning and Building Services; Shawna Goldammer, with City Planning

1. Call to Order

A. Committee Chair Bob Jamison called the meeting to order.

2. Approval of Minutes

A. A motion was made by Committee member Bob Litz and seconded by Committee member Kermit Staggers to approve the September 4, 2007 minutes. A voice vote was taken and all members said yes.

3. Discussion

A. Video Lottery Ordinance



1197_001.pdf



1198_001.pdf



1199_001.pdf



1200_001.pdf

PDF 1 – Ordinances

PDF 2 – 2001 draft ordinance

PDF 3 – Referenced State law

PDF 4 - Statistics

- Council Chair De Knudson began the discussion on video lottery. She mentioned that she and Council Member Kevin Kavanaugh have had informal conversations about video lottery. She said the City receives about \$60,000 a year from fees for video lottery machines. Knudson presented a history of video lottery and a recap of how the citizens of Sioux Falls voted on the issue in past elections. She said discussing growth is about all that can be done on the city level. Knudson said the South Dakota Legislature doesn't have the courage to allow cities to decide if they
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AGENDA - Land Use Committee

November 5, 2007 at 5:33 p.m.

Page 2

want video lottery in their communities. She said Sioux Falls has about one video lottery machine for every 1,000 people. (Aberdeen's video lottery ordinance was provided, which limits the number of video lottery terminal placement based on population.)

- Council Member J. Pat Costello inquired about the previous election percentages. Knudson said in 1994, the vote to repeal the machines was 26,596 yes votes to 31,870 no votes (in Minnehaha County). It passed, statewide by a vote of 53% yes votes to 47% no votes. In 2000, the results in Minnehaha County were 32,636 yes votes to 28,588 no votes (on Constitutional Amendment D). It passed, statewide by a vote of 54 % yes to 46% no. Costello also asked about the number of new video lottery licenses issued in the past three years. Knudson said in February 2003, there were more than 1,000 terminals and now there are more than 1,202 terminals. Costello said it would be relevant to know the number of licenses added year-to-year. He questioned what they were trying to accomplish. Knudson said she was interested in slowing down the growth. Shawna Goldammer, with City Planning, said there has been a big decrease in new (video lottery) establishments since 2001, when the City Council brought new legislation enacting a 2,000 foot rule (between establishments).
- Council member Kevin Kavanaugh said it was his perspective that they (the City Council) had gotten things under control but now there seems to be a new wave. He said people will pay \$250,000 to get a liquor license to have a video lottery establishment. He said that's his concern and he believes it's time to come up with something new to keep a lid on it. Kavanaugh said he is looking for five City Council members, who are comfortable with and want to see video lottery machines kept at a certain level.
- City Attorney Gary Colwill stated that State law allows municipalities to limit video lottery machines tied to malt beverage licenses. He then read the State law to the group (See pdf 3). Colwill said he is prepared to fight the Home Rule issue (to make limits to video lottery applicable to both liquor and malt beverage licenses). He said he thinks the State would challenge it.
- Committee member Bob Litz made a motion to defer a decision for one week to allow him to talk to other councilors about the new information he had received on video lottery. The motion died for lack of a second.
- Committee Chair Bob Jamison said they will defer discussion for one week to Tuesday, November 13, 2007. He added that a number (limit) is needed for draft legislation.

4. Open Discussion

A. There was none.

5. Adjournment at 6:15 p.m.

A. A motion was made by Committee member Litz and seconded by Committee member Staggers to adjourn. Jamison called for a voice vote. All committee members voted yes.

Denise D. Tucker
Assistant City Clerk

1st Reading: _____
2nd Reading: _____
Date Adopted: _____
Date Published: _____
Effective Date: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING SECTION 5-19 AND ADDING A SECTION WHICH LIMITS VIDEO LOTTERY BASED ON POPULATION

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

Section 1. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by revising Section 5-19 to read as follows:

Sec. 5-19. LocationNumber of video lottery machine placements authorized.

No authorization for a video lottery machine placement will be granted within 2,000 feet of any city park, other video lottery machine placement, or any elementary or secondary school within the city as measured from the closest point of the outside wall of either of such buildings or tenant space or the boundary of any park. The provisions of this section shall not apply to any video lottery machine placement authorized prior to June 1, 2003.

Section 2. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 5-20 to read:

Sec. 5-20. Number of video lottery machine placements authorized.

Not more than one authorization for a video lottery machine placement as provided in SDCL §42-7A-64 will be granted for each _____ people counted as population of the city as determined each January 1 by the city planning department or based upon the federal census statistics. No establishment authorized for a video lottery machine placement may be denied authorization in subsequent years solely by reason of any limitations of the number of authorizations under the provisions of this section. The quotas established in this section do not apply to other licenses issued pursuant to SDCL §35-4-2.

Date adopted: _____

Mayor

ATTEST:

City Clerk

ARTICLE IX. VIDEO LOTTERY MACHINES

Sec. 9-401. Licenses.

There is hereby imposed on any person who is licensed pursuant to SDCL § 35-4-2(4), (11), (13) or (16) and who is issued a video establishment license pursuant to SDCL § 42-7A-41 an annual license fee for the privilege of locating video lottery machines on the licenses premises. The fee for each video lottery machine shall be as provided by resolution of the city commission per year. Once paid, such fees are nonrefundable, except if such license or renewal applied for is not granted. Any increase in the number of video lottery machines, during the license period, shall cause the fee to be paid to the city finance office within ten days of the activation of the video lottery machine.

(Ord. No. 01-05-09, § 4-30, 5-14-2001)

Sec. 9-402. Denial of application.

No applicant may request authorization for a video lottery machine placement whose application includes the same or substantially the same premises as that which has been denied by the city council until after the expiration of six months from the date of the refused application.

(Ord. No. 01-05-09, § 4-31, 5-14-2001)

Sec. 9-403. Number of video lottery machine placements authorized.

Aberdeen

Not more than one authorization for a video lottery machine placement as provided in SDCL § 42-7A-64 will be granted for each 424 people counted as population of the city as determined each January 1 by the city planning department or based upon the federal census statistics. No establishment authorized for a video lottery machine placement may be denied authorization in subsequent years solely by reason of any limitations of the number of authorizations under the provisions of this section. The quotas established in this section do not apply to other licenses issued pursuant to SDCL § 35-4-2.

(Ord. No. 01-05-09, § 4-32, 5-14-2001)

limit based on population

1st Reading _____
2nd Reading _____
Date Adopted _____
Date Published _____
Effective Date _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING VIDEO LOTTERY PLACEMENT REGULATIONS.

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

Section 1. That Section 5-19 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Section 5-19. Number of video lottery machine placements authorized. ~~Not more than one~~ No authorization for a video lottery machine placement will be granted within 2,000 feet of any city park, other video lottery machine placement, or any elementary or secondary school within the city as measured from the closest point of the outside wall of either of such buildings or tenant space or the boundary of any park. The provisions of this section shall not apply to any video lottery machine placement authorized prior to ~~December 31, 2001~~ June 1, 2003.

Date adopted: _____

Mayor

ATTEST:

Dianne Metli
City Clerk

DRAFT:

Video Lottery Ordinance

An Ordinance to govern the creation, existence, and operations of establishments and licensees within the municipal city limits.

(NOTE: Either create a unique section of the City Code for the purpose of dealing with video lottery, or amend the existing code sections.)

- a) **Fees.** Annually the City Planning Office shall determine actual costs incurred on account of video lottery machines (e.g. law enforcement costs, victim rehabilitation, administrative oversight, etc.) and shall recover that cost by pro-rata assessment against each licensed premise within the City limits. This assessment shall be in addition to the licensing fee set forth in Section 5-17.
- b) **Number Authorized.** Section 5-19 should be amended such that not more than one authorization for a video lottery machine shall be granted for each 5,000 of population of the city, as determined each January 1 by the City Planning Department. Those already in existence shall be grandfathered so long as actively operated by the current license holder. Additional licenses shall not be granted, nor shall existing licenses be transferred, so long as the number of outstanding licenses exceeds the limit set forth in sentence one above.
- c) **Video Lottery Policy Board.** The City shall create a Video Lottery Policy Board for the purpose of:
 - 1) Reviewing applicants;
 - 2) Regulating existing establishments; and
 - 3) Receiving citizen complaints.
- d) **Player Registration.** The Video Lottery Policy Board may establish provisions by which to register qualified players on a "debit card" system so that gamblers can only gamble with cash or credit on a limited daily basis.
- e) **Location.** No video lottery establishment shall hereafter be authorized within or within 1000 feet of any premise zoned "residential" for the city.
- f) **Impact Statement.** At least 30 days prior to consideration of any application for video lottery establishment, the applicant shall prepare and file as directed by the City a Video Lottery Impact Statement setting forth a complete description of the establishment proposed and the justification for its

(Social costs)

(limit by population)

authorization. Any property owner within 1000 feet of the proposed location may file a supplemental Video Lottery Impact Statement giving additional information relevant to the authorization decision. After due consideration of such statements, the authorization of any video lottery establishment shall be at the discretion of the city, taking into account:

- 1) economic costs and benefits;
- 2) community and social impact;
- 3) the number of existing video lottery establishments in near proximity; and
- 4) the consumer's demand and need for the establishment.

g) **Limits.** Video Lottery establishments shall not be open to anyone under the age 21, nor beyond the hours of 12:00 noon to 8:00 p.m. Monday through Saturday.

h) **Cash Advance Machines.** No Video Lottery establishment shall permit a cash advance machine (by credit card, debit card, or otherwise) within five hundred feet of the establishment.

(Planning)
 *i) **Training.** All video lottery establishments shall, upon request of the city, provide proof of annual training demonstrating that each employee is knowledgeable in handling underage gamblers, enforcing curfew, monitoring and recognizing symptoms of pathological gambling, etc.

j) **Signs.** Each video lottery establishment shall post signs at each entrance and at ten-foot intervals on each lateral wall within the establishment. Each sign shall advise patrons in lettering not less than two inches high; the wording shall contain at least the following:

- 1) The actual odds of winning on machines located therein;
- 2) Warnings setting forth the risks of gambling and a list of symptoms in the development of pathological gambling; and
- 3) An effective hotline number for counseling and treatment of any victim(s) created by said machines.

Video Lottery establishments shall carry exterior signs and advertising, only as authorized by the Video Lottery Policy Board.

k) **Insurance.** Each Video Lottery establishment shall carry and maintain coverage for pathological gambling victims, said limit to be not less than \$1 million dollars per claim.

- 1) **Tax.** The city shall impose a 2% gambling privilege tax on all authorized gambling operations to provide for research, prevention, education, and treatment of problem and pathological gamblers.

(Note: This could be alternate to Item "A" above.)

(SIN
X-7)

A-64. Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments.

A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

- (1) The number of establishments currently licensed for video lottery;
- (2) The proximity of the business to other establishments licensed for video lottery;
- (3) The type of business and manner in which the applicant proposes to operate it;
- (4) The location of the business in relation to other businesses, residential areas, or activities within the same general area;
- (5) The extent to which minors frequent a business connected to the one proposed; and
- (6) The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the department of revenue for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Source:(1)

Cases:(2)

De Knudson

From: "Bossman, Lorie" <lbossman@SIOUXFALLS.org>
To: "De Knudson" <knudson1@sio.midco.net>
Cc: "Munro, Rita" <rmunro@SIOUXFALLS.org>; "Rowenhorst, Eugene" <ERowenhorst@siouxfalls.org>; "Huber, Tom" <thuber@SIOUXFALLS.org>; "Colwill, Gary" <GColwill@siouxfalls.org>
Sent: Monday, June 04, 2007 8:20 AM
Subject: RE: trend of video lottery machines in SF

Hi De -- This is a bit easier to put together. I actually have numbers back to 1993. It appears the numbers have increased a bit. LB

Video Lottery Terminal Placements

1993 1060 terminals
 1994 1145 terminals
 1995 1165 terminals
 1996 1165 terminals
 1997 1099 terminals
 1998 1165 terminals
 1999 1169 terminals
 2000 1138 terminals
 2001 1169 terminals
 2002 1169 terminals
 2003 1173 terminals
 2004 1202 terminals
 2005 1217 terminals
 2006 1202 terminals

 Lorie Bossman, City Finance Office
 City of Sioux Falls
 224 West Ninth Street (9th & Dakota)
 Sioux Falls SD 57104-6407
lbossman@siouxfalls.org
 Website: www.siouxfalls.org
 Phone: (605) 367-8082
 Fax: (605) 367-7700

-----Original Message-----

From: De Knudson [mailto:knudson1@sio.midco.net]
Sent: Thursday, May 31, 2007 10:51 PM
To: Bossman, Lorie
Subject: trend of video lottery machines in SF

Lorie,

One of the other City Councilors asked me what the trend was in SF re: VL machines. Please give me some trend numbers for the last ten years if possible. Is the actual number of machines in SF growing, staying

static, or decreasing??

DE

Numbers as of 12-31-06 (these are updated yearly)

**VIDEO LOTTERY
NUMBER OF LICENSEES WITH VIDEO LOTTERY MACHINES**

| | |
|---------------------------------------------------------|-----------------------------------------------|
| RETAIL LIQUOR: | 60 out of a total of 85 (25 do not) – 71% |
| RETAIL MALT BEVERAGE: | 86 out of a total of 172 (86 do not) – 50% |
| VIDEO LOTTERY REVENUE FOR 2006: | \$60,100 |
| NUMBER OF VIDEO LOTTERY MACHINES @ \$50 per machine: | 1,202 |

Video Lottery Establishments, Terminals, Net Machine Income & Revenue Distribution

| Fiscal Year | Establishments (average) | Terminals (average) | Net Machine Income (NMI) | State NMI Revenue Distributed* | Private NMI Share |
|-------------|-----------------------------|------------------------|-----------------------------|--------------------------------------|----------------------|
| 1990 | na | 2,439 | \$48,869,360 | \$10,995,606 | \$37,873,754 |
| 1991 | na | 4,881 | \$107,075,332 | \$25,517,271 | \$81,558,061 |
| 1992 | na | 6,243 | \$127,171,059 | \$37,689,529 | \$88,838,503 |
| 1993 | 1,378 | 6,696 | \$142,231,503 | \$49,069,869 | \$92,450,477 |
| 1994 | 1,386 | 7,447 | \$165,500,572 | \$58,752,704 | \$105,920,366 |
| 1995 | 1,457 | 7,912 | \$126,017,176 | \$45,996,718 | \$79,390,821 |
| 1996 | 1,444 | 8,003 | \$176,144,722 | \$87,191,638 | \$88,072,361 |
| 1997 | 1,439 | 8,036 | \$178,625,950 | \$88,419,846 | \$89,312,975 |
| 1998 | 1,427 | 8,045 | \$185,274,026 | \$91,708,679 | \$92,637,013 |
| 1999 | 1,415 | 8,028 | \$185,222,546 | \$91,687,124 | \$92,611,273 |
| 2000 | 1,393 | 7,965 | \$193,829,338 | \$95,943,126 | \$96,914,669 |
| 2001 | 1,386 | 7,898 | \$194,883,028 | \$96,469,495 | \$97,441,514 |
| 2002 | 1,401 | 8,108 | \$207,730,886 | \$102,826,789 | \$103,865,443 |
| 2003 | 1,415 | 8,247 | \$212,254,662 | \$105,066,058 | \$106,127,331 |
| 2004 | 1,419 | 8,325 | \$216,756,456 | \$107,294,446 | \$108,378,228 |
| 2005 | 1,433 | 8,564 | \$220,474,424 | \$109,134,840 | \$110,237,212 |
| 2006** | 1,463 | 8,745 | \$221,535,652 | \$109,660,148 | \$110,767,826 |
| Total | | | \$2,688,061,040 | \$1,203,763,738 | \$1,471,630,000 |

* Does not include lottery operating fund

** Unaudited

YES

Constitutional Amendment D
2000 (prohibit video lottery)

54-46%

\$ 904,383

\$ 232,012 us ←

5,044 Focus on family

9 139 Hunter ad

Yes! Stop Video Lotteries

NO

53-47%

1994

Constitutional Amendment E

(Constitutional authorization for video lottery)

\$ 796,438

\$ 88,246

De's group

we - Don't gamble w/ SD.

SDFPC

~~\$ 6,000~~

\$ 5,862

Joleen's

\$ 35,395

www.state.sd.us/sos/sos.htm
SD Secretary of State

for campaign records