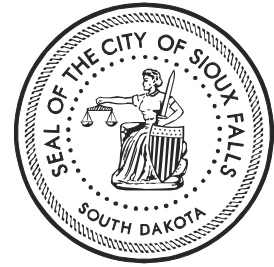


Minutes

Monday, December 14, 2009



Public Service Committee

4:47 p.m.
Carnegie Town Hall
235 West Tenth Street

Members Present: Vernon Brown, Kenny Anderson Jr., De Knudson and Kermit Staggers.

Members Absent: None

Staff Present: Debra Owen and Tamara Jorgensen

Guests: Judy Buseman, LuAnn Ford, Jill Franken, Dave McElroy, Aimee Ladonski, Mike Cooper, Pat Costello, Gail Eiesland, Drew Price, Sue Aguilar, Rob Horrocks, Gerald and Jeanne Gerkin, Todd Signdman, Dan Neuwith, Greg Dix, Tom Wilford, Perry Schempp, Clara Hart, Jake Anderson, Daniel Statema and Jayson Weihs.

1. Call To Order

Committee Chair Brown called the meeting to order at 4:47 p.m.

2. Review and approval of Minutes dated October 13, 2009

A motion was made by Knudson and seconded by Staggers to approve said minutes. A voice vote was taken and all members present voted yes. **Motion Passed.**

3. Vehicles for Hire

Owen provided an update on the Vehicle for Hire ordinance stating the Committee has been reviewing this topic from May to September of this year. A copy of the draft ordinance has been submitted to the Health Department and to the City Attorney's office for their review. A copy of the final ordinance is before the committee for their review. There were a few housekeeping changes on the ordinance as well. One of the proposed changes was to raise the rate on the ten year cap and add a fuel surcharge; the other proposed change was to remove the cap on the rates. This item will go before the City Council for their review.

Item 7 was heard at this time. See item for discussion held.

4. Garbage and Recycling Ordinance

A. Dave McElroy, Sanitary Landfill Superintendent and Aimee Ladonski, Sustainability Coordinator

McElroy stated that the Solid Waste Planning Board has met several times to discuss the proposed changes to the ordinance. Clarification was sent on November 16, 2009, to the City Council (a copy is attached at the end of these minutes) explaining the administrative rules is a policy (ordinances) and the procedures are set by the administrative rules.

McElroy gave a breakdown of the steps for adoption of administrative rules: Must seek the Public Works Directors authority, filing rules with the City Clerk's Office for Council input; 30 days required for public notification and the appeal process. The information is also accessible on the city's website.

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Anderson Jr. asked about the appeals process. McElroy read the administrative rules (as listed on the memo attached to the end of these minutes).

Staggers requested that the City Council be more involved in this process as the City Council sets policy. Discussion was held regarding the Solid Waste Planning Committee meetings being open to the public and the minutes being posted on the website. Owen asked if there were any sub-committees in the Solid Waste Planning Board and Ladonski answered 'yes'. These sub-committees were formed to review the rules and they are open to the public as well. Minutes are not yet available for these meetings.

Owen gave an update on the legislative branch having oversight on administrative rules. Discussion was held regarding enforcement of the rules and regulations when enforcing recycling ordinances.

Anderson Jr. stated he has a concern about the adoption of the rules and regulations regarding administrative rules. He would like to see Council involvement in the appeals process. Discussion was held regarding the interpretation of the enforcement of the ordinance and the appeal process.

Input from the audience:

Perry Schempp, Marv's Sanitary Service of Sioux Falls discussed the following points: the rebate process and the rebates being the 'customer's choice'; and the attainability for some haulers to meet the goals. Discussion was held regarding the goals being measurable and changing requirements to include residential, commercial and yard waste recycling.

Jake Anderson, Millennium Recycling, Inc. discussed the following points: the support (and non-support) of the rules by members of the hauling community and studies that were conducted showing that the majority of the public supports recycling.

Tom Wilford, Marv's Sanitary Service of Brandon, discussed the following points: the number of haulers in 2008 that were under the goal and how some haulers are not affected by incentive plans. Discussion followed.

Anderson Jr. made a motion, and Staggers seconded, to move forward with the following amendment to Section 18-7 of the ordinance:

Proposed change to Section 18-7 – to include final review by city council.

Section 18-7. Violation of rules, regulations.

It is unlawful to violate any promulgated rule or regulation or the Sioux Falls Regional Sanitary Landfill established by the city. The Director is authorized to propose revisions or regulations to city ordinance and make recommendations to the solid waste planning board. The solid waste planning board shall deliver a copy of the proposed revision or regulation to the city clerk and provide the public notice of date, time, and place of the solid waste planning board's consideration of the matter. The clerk shall publish the notice of public hearing for a proposed rules or regulation in a newspaper of general circulation within the city's jurisdiction. The proposed rules or regulation shall be posted on the city's website. The public notice for the hearing shall occur 30 days before the solid waste planning board considers the proposed revisions or regulation. All proposed revisions or regulations shall be presented to the city council for final approval.

A voice vote was taken with the results as follows: Yeses, Anderson Jr. and Staggers. Nos, Knudson and Brown. The ordinance will move forward to the City Council with the understanding that the amendment can be made again at the City Council Meeting - the 2nd Reading should occur at the second meeting in January.

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Anderson Jr. asked McElroy to continue ongoing discussions with the haulers regarding any new or updated information.

Brown reminded the audience to sign in at the back table so their names can be recorded properly for the minutes.

Item 6 was heard at this time see item for discussion held.

Council Member Staggers left at 6:00 p.m.

City Clerk Owen left at 6:15 p.m.

5. Code Enforcement

A. Timeline for Goals by Mike Cooper, Director of Planning and Building Services

The information shown below was distributed to the group and the underlined items were discussed with the committee. In addition, an update was received on the violations for 2009, the citation amounts recovered and the timeline for the citations and non-compliant cases. A year-end report is being processed to include more details.

City of Sioux Falls Code Enforcement Performance Goals

1. Simplify Complaint Process

One call Helpline number and interdepartmental referrals

Website access for filing complaints – Comtrac/Citilink

Public information through brochures, website, Channel 16, and phone directory – (Resident Handbook: Neighborhood Nuisances)

2. Timely Enforcement and Compliance

Naviline software program to track violations and monitor enforcement

Funding compliance of violations with property assessments

Uniform procedures and coordination among departments

Use rental registration ordinance and vacant building registration as enforcement tools – (More notification of registration requirement based on County database, Ensure all departments are using contact person for notifications, Multi-Housing Association legislation for criminal background checks)

Amend timeframe for building demolitions from 24 to 18 months – (2009 International Existing Building Code amendments)

Adopt penalties for multiple violations and habitual offenders – (Review 2009 performance statistics w/Attorney's)

Streamline compliance timeline for notices and citations – (Review 2009 performance statistics w/Attorney's)

Use property maintenance code authority to correct violations by contractor – (Currently allowed by code, budget and liability issues to be reviewed)

Acquire vacant properties and condemned structures for redevelopment – (Community Development legislation)

3. Increase Voluntary Compliance

Proactive neighborhood organization and outreach programs – (Cathedral Historic District meetings)

Industry support through South Dakota Multi-Housing Association

Website posting of violations for 12 month period

Regular reports of inspections and enforcement action by type and location – (Year-end report for 2009)

6. Noise Ordinance

A. Judy Buseman, Director of Public Health and Jill Franken, Assistant Public Health Director

Buseman distributed the following handout and the details were discussed. Buseman stated that the Health Department was working with the City Attorney's Office to draft an ordinance which is near completion. Downtown Sioux Falls has been reviewed for decibel levels, permit changes and the application/approving process. The Health Department has held meetings and demonstrations for downtown groups to become aware of the changes and to give an opportunity for input and discussion. There may be a change in the permit process to change from 1 permit to 3: 1 is a standard, single event; 2 for monthly permits on a regular basis; and 3 for a special event (such as Jazz Fest). The levels are dependent upon the size of the project and the amount of time/effort needed to support the permit.

Note the major changes are

- 1. To change ordinance language to strengthen the PD enforcement process**
- 2. Create a section in ordinance with enforcement language in its own section**
- 3. Simplify and streamline the permit process**
- 4. Create a method to obtain noise permits for a month at a time.**

Draft Noise Ordinance regarding permits and enforcement:

- Permits may be issued in the Main Street Sioux Falls Business Improvement District for the purpose of music and entertainment between the hours of 6AM and 10:30PM except Friday and Saturday nights when the permits may be granted from 6AM until 11:30PM. These permits shall allow sound pressure level of no more than an L90 of 70 dbA or allow more than 5 peaks of 77 dbA or higher in any 3 minute period for the entire duration of the permit. Permit shall be posted at the activity.
- City wide permits may be issued for any activity between 6AM and 10:30PM, and allow no more than an L90 of 70 dbA or allow no more than 5 peaks of 77 dbA or higher in any 3 minute period. After 8PM permit shall allow L90 of 65 dbA or more than 5 peaks of 72 dbA or higher in any 3 minute period. Permits shall expire at 10:30PM unless otherwise stated.
- A special sound permit for a location may be granted allowing extended time and/or decibel levels on a case by case basis. Any violation of the parameters set forth for the permit shall be deemed a violation of the permit and shall subject the permit to revocation or review.
- The permit may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the city or the surrounding neighborhood. In the case that a permit holder or an activity is found to be in violation of this chapter a notice of violation or a citation may be written. If two or more notices of violation and/or citations are written, the permit holder will be subject to a compliance review. Failure to remedy the noise violation (noise disturbance) or comply with the orders of the compliance review may result in revocation or denial of future permits.

Under Consideration: If residents affected by a sound activity wish to protest a sound permit; they may sign a petition and present it to the Health Director. When the Health Director receives such a petition, a compliance review of the sound permit will occur.

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Franken discussed the enforcement portion of the process. She indicated that changes may be made to include verbiage regarding "having two violations" and the review process to determine if a vendor can have future permits based on past performance.

Anderson, Jr. stated he would like to see consideration given to areas outside of the downtown area as well.

Buseman stated that they would like to send a working draft of the ordinance to the committee and then present the proposed ordinance to a future Informational Meeting. Brown agreed that this would work and asked that Buseman email a copy of the ordinance to the committee and the City Council would be briefed on the information at the last Informational Meeting in January (January 25). After that timeline, the ordinance would be presented as a first reading at the Council Meeting on Monday, February 1, 2010.

7. Dance Hall Ordinance *(time permitting)*

A. Doug Barthel, Chief of Police and Gail Eiesland, Chief Assistant City Attorney

Barthel stated that the existing Dance Hall ordinance has been in place since 1957 and is sporadically used. Existing ordinances within the liquor laws and the zoning laws are more than adequate to be used should the dance hall ordinances be repealed. Barthel recommended that the Dance Hall ordinances be repealed.

A motion was made by Knudson and seconded by Staggers to bring the recommendation that this ordinance be repealed to the full Council. All members present voted yes.

Motion Passed.

8. Open Discussion

There was none.

9. Adjournment

A motion was made by Knudson and seconded by Anderson, Jr. to adjourn the meeting at 6:35 p.m. A voice vote was taken and all members present voted yes. **Motion Passed.**

Pending Items:

The subjects listed below are pending and can be moved up on this Agenda when necessary.

1. Affordable Housing



Date: November 16, 2009
To: Mayor Dave Munson
City Council
From: Mark Cotter, Director of Public Works
Subject: Chapter 18 Solid Waste Ordinance Changes and Clarification

Public Works has prepared this memo to address items related to proposed changes to Chapter 18 of Sioux Falls Ordinance, Garbage & Recycling.

Administrative Rules

Administrative Rules do not allow for regulations beyond those established in City Ordinances. Administrative Rules have the same binding effect as Ordinances but they also act as a means of disseminating information to the public on how we will implement and enforce Ordinance requirements. I have attached a copy of the Standard Operating Procedure for the Adoption and Modification of Administrative Rules which will be followed by the Landfill division. Below are examples of potential Administrative Rules that we may be discussing at future meetings of the Solid Waste Planning Board to give you an idea of what our Administrative Rules might look like:

Reporting Forms. Reporting forms used for monthly reporting requirements must be issued by the City and only City forms can be used for reporting. Haulers must report all MSW waste, C&D waste and recyclable materials it handles in the five-county region and be able to account for the proper reuse, recycling or disposal of such items. Haulers must track all outside region MSW waste, C&D waste and recyclable materials separately and be able to account for the proper reuse, recycling and disposal of such items.

Audit. Licensees shall allow the City or its representatives access to inspect, audit, and/or reproduce any books, documents, papers and records (in whatever form they may be kept, whether written, electronic or other) or interview any of its employees, all subcontractors, vendors and suppliers, and their respective employees involving issues related to Chapter 18 for up to five years after license expiration.

Calculation of Hauler's Recycling Goal. The City shall calculate the haulers recycling goal for the following year using the following formula:

$$\frac{(\text{ALL RECYCLABLE MATERIALS HAULED BY LICENSED HAULERS})}{(\text{ALL MSW HAULED BY LICENSED HAULERS} + \text{ALL RECYCLABLE MATERIALS HAULED BY LICENSED HAULERS})}$$

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Waste Diversion Impact on Landfill Life

To demonstrate the impact of increased diversion on extending the life of the landfill we have prepared estimates in the table below. The first three columns assume we maintain the shown increased recycling percent in 2010 and maintain that rate throughout the life of the landfill with no additional increases. The fourth column assumes we increase 10% next year, 10% more in 2015, 10% more in 2020 years and 10% more in 2025. The current life expectancy of the landfill is 2064.

| Diversion Increase | 10% Flat (24%) | 20% Flat (34%) | 30% Flat (44%) | 10% increase every 5 years for 20 years (54% eventually) |
|---------------------------------|-------------------|-------------------|-------------------|--|
| Landfill Life Increase in Years | 3 years | 7 years | 12 years | 13 years |

Alleged Manipulation & Falsification of Reporting by Garbage Haulers

With our changed reporting form and new calculation formula, we feel we have addressed the haulers concerns on possible manipulation. Also, any hauler that is found to have submitted false or fraudulent data may have their license revoked or denied. We have thoroughly double checked and researched for possible manipulation opportunities and created these proposed changes to account for this.

Recycling Facility Reject

With new reporting requirements on recycling facilities, we are now requiring this material to be reported. This data will be evaluated and any resulting outcomes will be debated before the Solid Waste Planning Board. The research we have done indicates that the reject from recycling facilities is minor and should not have a significant impact on the calculation of the Hauler's Recycling Goal.

Increased Recycling Collection

We have had many calls and requests from citizens and organizations to formally increase the required collection of recyclables to at least twice a month and in many cases to weekly. We felt at this time twice a month made the most sense and this topic will continue to be debated at future Solid Waste Planning Board meetings.

We have had at least 2 hauler meetings and 5 Solid Waste Planning Board & Subcommittee meetings where we have discussed these issues. The public, haulers and recyclers have been invited and allowed to participate in all of these meetings. In the end, we have come up with these proposed changes to continue to enhance recycling, environmental and sustainable efforts. We appreciate the City Council and Mayor's interest and involvement in these issues and look forward to working with you to continue to provide a better quality of life for Sioux Falls and the five-county region.

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**CITY OF SIOUX FALLS
OFFICE OF PUBLIC WORKS
LANDFILL DIVISION
STANDARD OPERATING PROCEDURE**

SUBJECT: ADOPTION AND MODIFICATION OF ADMINISTRATIVE RULES

The following procedures are followed when adopting and modifying administrative rules to more clearly define the implementation of city ordinances.

Administrative Rules Process:

1. Rules are recommended for implementation by the Solid Waste Planning Board or Landfill Division of the Office of Public Works;
2. Rules are drafted by the Landfill Division of the Office of Public Works;
3. Draft rules are reviewed by Public Works (PW) and City Attorney Office (CAO) management staff;
4. Draft rules are reviewed by the Solid Waste Planning Board and voted on whether to recommend adoption of rules;
5. Proposed draft rules are Public Noticed in the Argus Leader;
6. Formal public comment must be returned to the Director of Public Works (DPW);
7. Administrative Rules are adopted at the end of the public comment period if no appeal is formally received by the DPW;
8. Any public comment received during 30 day Public Notice period is evaluated by the Landfill Division;
9. Recommended rule revision or response to comment is generated by Landfill Division and submitted to and reviewed by the DPW;
10. The DPW acts as an arbitrator between Landfill Division and the aggrieved Public Commenter;
11. If a public comment cannot be resolved by a revision to the rule or response to the comment within 30 days of appeal, only the specific section addressed by comment is stayed. Other portions of the Administrative Rules not contested are adopted and implemented;
12. The DPW shall request participation and assistance of the CAO for any un-resolved conflicts with rule;
13. CAO will have final review and decision to resolve appeal of rule;
14. Aggrieved party may pursue judicial review on any properly appealed rule;
15. Copy of final rule is maintained and administered by the Landfill Division and the CAO;
16. Copy of Administrative Rule is distributed to regulated community. (i.e. Rule is submitted to Garbage Haulers and Recycling Facilities at next scheduled training session or at time when license or permit is issued or reissued);
17. Final rule shall be implemented with the same general provisions and administration as a standard City ordinance.

Dave McElroy
Landfill Superintendent

XX/XX/XXXX
Adopted

XX/XX/XXXX
Revised