

MT. VERNON CITY COUNCIL

Council Minutes

September 13, 2021

The regular meeting of the Mt. Vernon City Council was called to order at 7:00 pm by Mayor Weston Frank, with the following council members present: D. Anderson, C. Powell, D. Renken, D. Maltsberger and K. Deinert. D. London was not present. Also present: Maint. Officer G. Deinert and Fin. Officer L. Mayclin. Present for public participation: Skylar Peterson from Petrik Sanitation.

Pledge of Allegiance was recited to begin the meeting. All motions are unanimously approved unless otherwise stated. Motion by Maltsberger, second by Powell to approve the agenda.

Council and S. Peterson had a discussion about garbage. There have been some recent days where they missed collecting garbage from some residents. Peterson returned to collect all garbage that was missed, providing the resident has contacted them to do so. There have also been some cans that were left in the road, after collection. Peterson has new employees, who are just learning exactly how to manage the route, and he will discuss problem areas with them.

Motion by Anderson, second by Renken to approve consent items for August. The following were approved: Financial Statement, Council Minutes, General Fund Balances, Credits Report/Bank Statement and Payment of Bills.

BILLS:

	<u>General</u>	<u>Water</u>	<u>City Tax</u>	<u>Sewer</u>	<u>Description</u>
Weston Frank	170.85				wages
Dan London	60.03				wages
David Anderson	60.03				wages
Dave Renken	60.03				wages
Kevin Deinert	60.03				wages
Connor Powell	60.03				wages
Darin Maltsberger	60.03				wages
Ardis Overweg	543.76				wages
Gene Deinert	3,163.34	230.87			wages
Laura Mayclin	912.03				wages
Chris Mayer	674.96				wages
Glen Wentland	127.35				wages
MV School	75.00				rent
Davison Rural Water		9,705.00			water
SD Retirement	533.30				retire
Verizon	61.47				util
Santel	231.78			45.90	util
Northwestern Energy	1,010.44	247.45	43.29	103.00	util
Davison Co Sheriff	1,800.00				fees
Petrik	3,420.49				garb
Forum Communications	101.10				publ
SD State Treasurer (DOR)	204.33				sales tax
CorTrust	1,707.07	38.26			941
Westy's	158.54				gas
Ardis Overweg	179.56				books
National Geographic Kids	25.00				Books
Scott Supply	575.90				Repairs
Runnings	44.67				Maint
J&W Marketing	160.00				mgmt
3E				410.00	Repairs
CES Code Enforcement	799.22				Code Enf

Morgan Theeler	527.18			Legal
Dustbusters	5,323.66			Streets
MVG&O	210.27			Fuel
Wheelco	6.94			Repairs
Carquest	154.34			Repairs
Cortrust Visa	100.78	84.66	84.67	Supplies
John Deere Financial	8,741.90			Lease
Menards	52.46			Maint

OLD BUSINESS

1. We have a new tenant at the Hall. Frank is currently looking into a grant that may work for The Hall. He is also working with tenants who currently owe rent for the facility.
2. The Code Enforcement officer will be here next week to look at various properties. Follow up to discussion last month, the road east of the baseball field is not vacated, and there is no plan to do so. The Fall Cleanup is scheduled for October 16, 2021.
3. Motion by Anderson, second by Maltzberger to approve the second reading of ordinance 5.8.1. **AN ORDINANCE ADDING CHAPTER 8 TO THE REVISED ORDINANCES OF THE CITY OF MOUNT VERNON CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS. BE IT ORDAINED** by the City Council of the City of Mount Vernon that Title V of the Revised Ordinances of the City of Mount Vernon is hereby amended by adding new Chapter 8 as follows: **Section 5.8.1 PURPOSE AND INTENT** The City Council of the City of Mount Vernon enacts the following licensing ordinances in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public. **Section 5.8.2 DEFINITIONS** Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1. **Cannabis (or Marijuana):** all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis. **Cannabis Cultivation Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment. **Cannabis Dispensary:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials. **Cannabis Establishment:** cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary. **Cannabis Product Manufacturing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary. **Cannabis Products:** any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures. **Cannabis Testing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis. **Department:** the South Dakota Department of Health. **Section 5.8.3 LICENSE REQUIRED** No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this article. A violation of this provision is subject to the general penalty provision in Section 5.8.16. Each day of the violation constitutes a separate offense. No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-

20G. A violation of this provision is subject to the general penalty provision in 5.8.16. Each day of the violation constitutes a separate offense. **Section 5.8.4 LICENSE APPLICATION** An application for a cannabis establishment license must be made on a form provided by the city. No other application form will be considered. The applicant must submit the following: 1. Application fee of _\$6,500. The City will reimburse \$6,000 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health. 2. An application that will include, but is not limited to, the following: i. The legal name of the prospective cannabis establishment; ii. The physical address of the prospective cannabis establishment, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder. iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment. iv. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction. v. Any additional information requested by the city. **Section 5.8.5 ISSUANCE OF LICENSE** (a) The city will issue a license unless: 1. The applicant has made a false statement on the application or submits false records or documentation; or 2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction; 4. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder; 5. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or 6. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the city or a registration certificate revoked by the state; or 7. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or 8. The applicant will not be operating the business for which the license would be issued. (b) In the case of an application for a cannabis dispensary license, the city will reject the application if the limit on the number of cannabis dispensaries has been reached. (c) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time. **Section 5.8.6 CITY NEUTRALITY AS TO APPLICANTS** (a) Upon request from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community. **Section 5.8.7 NUMBER OF CANNABIS ESTABLISHMENTS** (a) No more than _1_ cannabis dispensary per 2000 residents shall be allowed to operate in the City at any time. (b) The City of Mount Vernon will not issue nor allow licenses for cannabis product manufacturing facilities, cannabis cultivation facilities, or cannabis testing facilities. **Section 5.8.8 EXPIRATION OF LICENSE AND RENEWAL** (a) Each license is subject to expiration as defined in section 5.1.5 and may be renewed only by making application as provided in Section 5.8.4. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal. (b) The renewal fee is _\$6,500. The City will reimburse \$6,000 for applicants who fail to obtain a renewal of their registration certificate from the Department. (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment. (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed. **Section 5.8.9 SUSPENSION** (a) A license may be suspended if the license holder or an employee or agent of the license holder: 1. Violates or is otherwise not in compliance with any section of this article. 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment. 3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products. (b) A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired. (c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment. **Section 5.8.10 REVOCATION** (a) A license may be revoked if the license is suspended under Section 5.8.10 and the cause for the suspension is not remedied. (b) A license may be revoked if the license is subject to suspension under Section 5.8.10 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months. (c) A license is subject to revocation if a license holder or employee of a license holder: 1. Gave false or misleading information in the material submitted during the application process; 2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises; 3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is

required under this article while the license was suspended; 4. Repeated violations of Section 5.8.11; 5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license); 6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment; 7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or 8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired. 9. The license holder allows a public nuisance to continue after notice from the City. **Section 5.8.11 SUSPENSION AND REVOCATION PROCESS** (a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment. (b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer, and Council President. (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension. (d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation. (e) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective. **Section 5.8.12 APPEAL** An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City Hall _PO Box 52, Mount Vernon, South Dakota, 57363. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal. **Section 5.8.13 LICENSES NOT TRANSFERRABLE** No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application. **Section 5.8.14 HOURS OF OPERATION FOR DISPENSARIES** A cannabis dispensary may operate between the hours of _8 a.m._ and _10 p.m._ any day of the week. **Section 5.8.15 LIABILITY FOR VIOLATIONS** Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises. **Section 5.8.16 PENALTIES** Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation. **Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application. Motion by Anderson, second by Maltsberger to approve the 2nd reading of the amendment to Ordinance Section 5.1.6 as follows. **SECTION 5.1.6 PENALTY** Unless otherwise specified, any person, persons, firm or corporation who shall violate any of the provisions of this Title, or who shall engage in any of the callings, vocations, or kinds of business mentioned in this Title, without first having received a license therefore, as specified in this Title, shall upon conviction thereof, be fined not more than One Hundred Dollars (\$100.00) or be imprisoned in the County Jail for a period not more than thirty (30) days, or be punished by both such fine and imprisonment.

4. Motion by Renken, second by Maltsberger to have the 2nd reading and adoption of the 2022 Budget Ordinance.
5. The federal American Rescue Plan money has designated uses, which are currently being researched. Some thoughts are: lining the water tower, larger City Hall for employees/residents, essential worker pay, dredge

ditch, Railroad Street work.

6. The ordinance committee has several ordinances that will be amended – first reading at October meeting.

NEW BUSINESS

1. Maintenance Officer report: G. Deinert will be retiring at the fall of 2023. We will look for someone to start around August 2022. He is handling the situation with the dead trees at the park. According to John Ball from SDSU Extension, it appears to have been damage from some type of herbicide-related chemical. Chip seal is scheduled to the end of the month. G. Deinert will be gone part of next week for a conference.
2. Council is looking to possibly have slight wording changes to ordinance 6.8.1
3. The beginning of the purchase of the fire department building is included in the upcoming 2022 budget. It will be 4 payments at \$30,000 per year in 2022, 2023, 2024, and 2025.
4. Motion by Anderson, second by Renken to approve the salary increase of 4% to city employees, with no increase for council or mayor. Salary rates are approved as follows: Gene Deinert – Maintenance Supervisor: \$55,463 per year; Laura Mayclin – Finance Officer: \$18.21 per hour; Ardis Overweg – Librarian: \$7,706 per year; Maintenance Help: \$14.34 per hour; Mayor: \$185 per meeting; Council Members: \$65 per meeting.
5. Council discussed term lengths of members, decided 2-year terms might be better. Options for terms and possibility of at-large council members is being looked into and will be addressed at October meeting.
6. No Executive Session for personnel and legal SDCL 1-25-2.1 and 2.3 was needed.

Motion by K. Deinert, second by Renken to adjourn at 9:05 p.m.

Weston Frank
Mayor

Laura Mayclin
Finance Officer

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