

Rejects the County's Proposed Expansion

Resolution 19-053

[This proposed Resolution may be adopted in its present form or modified by the City Council following public hearing and action.]

**A Resolution Adopting Written Findings by the Brookings City Council
Disapproving a Proposal of the Brookings County Commission to Expand its
Current Detention Center.**

WHEREAS, a meeting was held to consider the proposal of the Brookings County Commission to expand its current detention center before the City Council at its normal meeting time on July 9, 2019; and

WHEREAS, the City conducted a public meeting, gave notice as required by law, and gave consideration to all relevant factors; and

WHEREAS, the Brookings City Manager authorized the Brookings City Attorney's Office to prepare proposed written findings consistent with the decision of the Brookings Historic Preservation Commission in preparation for the public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL:

That the recitals above are adopted as findings, and in addition, the following findings are adopted:

FINDINGS:

1. The proposal of the Brookings County Commission to expand the current detention center shall hereinafter be referred to as the "Proposal."
2. The Proposal impacts the Brookings County Courthouse which is listed on the National Register of Historic Places.
3. The Proposal was reviewed by the Brookings Historic Preservation Commission ("BHPC") on February 8, 2018, and again on June 14, 2018, when the Commission determined that the proposal, if approved, would have an adverse effect on the Brookings County Courthouse. Under SDCL § 1-19A-11.1, the BHPC sent official comments dated July 31, 2018, to the State Historic Preservation Office (SHPO).
4. On August 29, 2018, SHPO sent a letter to Shari Thornes, Brookings City Clerk, that contained a determination that the Proposal to expand the Brookings County Detention Center upon the grounds of the Brookings County Courthouse would encroach upon, damage, or destroy historic property that is listed in the National or State Register of Historic Places;

and that alternatives to the project had not been adequately considered and should be further explored.

5. The Brookings County Commission adopted its own written determination under SDCL § 1-19A-11.1 on November 6, 2018.
6. The City Council set this meeting to make a final determination on the Proposal under SDCL § 1-19A-11.1.
7. Brookings County had the burden to show the absence of feasible and prudent alternatives.
8. The City Council heard testimony and presentations from City staff, Brookings County, and proponents and opponents of the Proposal.
9. The City Council's review and consideration included, but was not limited to, the above-referenced testimony and presentation; South Dakota Codified Law 1-19A-11.1; Summary of SDCL 1-19A-11.1 Review Process and the following:
 - a. Application from BKV Group, November 13, 2017
 - b. City's Notification to SHPO of proposed project, November 14, 2017
 - c. State Historic Preservation Office response requesting case report, November 16, 2017
 - d. Case Report Submittal, dated January 19, 2018, received by the City on January 22, 2018
 - e. BHPC Minutes/public comments (approved) February 8, 2018
 - f. Case Report Addendum, no date, received May 26, 2018
 - g. BHPC Minutes/public comments (unapproved) June 14, 2018
 - h. Office of the Attorney General Memorandum Opinion on SDCL 11.1 Reviews, dated 12/17/2013
 - i. National Register of Historic Places Inventory Nomination Form for the Brookings County Courthouse, 1976
 - j. Official comment of the Brookings Historic Preservation Commission pursuant to SDCL 1-19A-11.1 dated July 31, 2018
 - k. Letter of South Dakota Historical Society (SHPO) dated August 29, 2018
 - l. Resolution No. 18-44, Brookings County Commission's Written Determination Concerning the Current Detention Center Expansion Project Pursuant to SDCL 1-19A-11.1(1)
10. Upon review of the information provided, the Brookings City Council determines that the proposal does not meet the Secretary of the Interior's Treatment of Historic Properties, specifically the Standards for Rehabilitation, as required by ARSD 24:52:07:02 and ARDS 24:52:07:04.

Specifically, the proposal does not meet the following Standards for Rehabilitation:

- Standard #1: “A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.” [Emphasis added]
 - Standard #9: “New additions, exterior alternations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment.” [Emphasis added]
11. The overall design of the proposed addition is compatible with the design and materials of the existing courthouse, however the size of the proposed addition is incompatible with the existing courthouse. The footprint of the proposed expansion is substantially larger than the footprint of the original courthouse, rendering the addition incompatible in size and scale with the existing courthouse, as per Standard #9.
 12. The west wall of the proposed expansion will essentially be flush with the front (west) wall of the courthouse, making it highly visible rather than subordinate to the existing courthouse. As a result, the size and placement of the proposed addition on the courthouse square will negatively impact the courthouse’s symmetrical design and its site and environment.
 13. In addition, the Proposal does not satisfy subdivision 1 of ARSD 24:52:07:04, regarding compatibility of design, because the massing, size, and scale of the new construction are not compatible with the historic courthouse. The overall visual appearance of the new construction would dominate the surrounding historic landscape and would infill a significant portion of the historically important civic green space surrounding the courthouse.
 14. The Proposal does not satisfy subdivision 10 of ARDS 24:52:07:04, regarding the setting, because the relationship of the new construction to the existing courthouse would not maintain the traditional placement of the historic courthouse in the block and would disrupt the symmetry and balance of the site.
 15. Brookings County has identified feasible and prudent alternatives to the proposal, such as constructing a new Detention Center in a different location. While the County concludes that an alternative site would be more expensive and would require the transportation of prisoners to the

courthouse, those considerations do not mean that the alternatives are not feasible and prudent.

16. The Brookings City Council is persuaded by the BHPC's official comment dated July 31, 2018, and adopts its findings and conclusions.
17. The Proposal, if approved, would have an adverse effect on the Brookings County Courthouse.
18. Based upon consideration of all relevant factors, there are feasible and prudent alternatives to the Proposal, and the Proposal has not included all possible planning to minimize harm to the historic property resulting from such use.
19. The recorded minutes, video, supporting materials, and testimony on this matter are incorporated herein in support of any and all findings made herein.

Passed and approved this ____ day of July, 2019.

CITY OF BROOKINGS

Keith Corbett, Mayor

ATTEST:

Bonnie Foster, Acting City Clerk