

REGULAR MEETING DE SMET COMMON COUNCIL
June 14, 2021

The De Smet Common Council met in regular session on June 14, 2021, at 5:00 p.m., with the following present: Council members Bret Jensen, Pam Spader, Lowell Hansen, George Cavanaugh, Shon Asleson, Cole Munger, Mayor Gary Wolkow, Finance Officer Tracey Larson, and City Attorney Todd Wilkinson. Absent: none.

Mayor Wolkow called the meeting to order at 5:00 PM.

PLEDGE OF ALLEGIANCE: The meeting was started with the council and those from the public reciting the Pledge of Allegiance.

ANNOUNCEMENTS: Mayor Wolkow expressed congratulations to De Smet High School Boys Golf team for placing fourth at the State Golf Tournament. Mayor Wolkow asked anyone attending the meeting by phone or video conference to please mute their devices.

MINUTES: Motion was made by Cavanaugh, seconded by Jensen, to approve the minutes of the May 12, 2021 Regular Meeting, all voting aye, motion carried.

CLAIMS: Motion by Jensen, seconded by Spader, to approve payment of the claims as presented, all voting aye, motion carried. The claims are as follows: PAYROLL \$33,732.48; OASI Benefit 2,580.52; Aflac, ins. premium 275.00; Dearborn National, life insurance 140.80; Delta Dental of South Dakota 406.64; VSP 208.27; The Health Pool of SD, health insurance premium 8007.59; SDRS, retirement benefit 3,978.40; Postmaster, Lyle Signs variance 32.25; American Bank & Trust, event center deposit refund 50.00; Apex, street repairs & maintenance 2,634.19; Avera Occupation Medicine, supplies 142.00; Avid Hawk LLC, supplies 35.00; Bau Plumbing & Heating, pool repair & maintenance 165.58; Bowes Construction, Inc., repairs & maintenance 490.50; Brookings Engraving, supplies 55.00; Center Point Large Print, library supplies 29.21; Century Link, utilities 303.17; City of De Smet, utilities 372.44; City of De Smet, supplies 26.52; Connecting Point, repairs & maintenance 55.00; Cook's Wastepaper & Recycling, repairs & maintenance 6,464.03; Core & Main, repairs & maintenance 975.00; Dakota Portable Toilets, Inc., repairs & maintenance 225.00; De Smet Flowers & Gift, supplies 24.00; De Smet Trustworthy Hardware, supplies 193.22; Department of Health, repairs & maintenance 58.00; Donna Ogren Estate, water meter deposit refund 75.00; Ferguson, water supplies 1,800.00; Ferguson Waterworks, supplies 140.00; Great Plains Zoo, repairs & maintenance 258.60; Hawkins, Inc., water & pool chemicals 6,895.23; Horizon Health Care, Inc., supplies 132.00; Innovative Office Solutions, supplies 1,625.47; Interstate All Battery Center, supplies 406.25; Jackie Griffith, event center deposit refund 30.00; Jessica Wienk, event center deposit refund 30.00; Kingsbury Electric Cooperative, repairs & maintenance 634.20; Kingsbury Electric

Cooperative, repairs & maintenance 220.00; Kingsbury County Auditor, law enforcement contract 6,283.33; Kingsbury Conservation District, Arbor Day tree 25.00; Kingsbury Electric Cooperative utilities 161.39; Kingsbury Journal, publishing 639.74; Krier & Blain, Inc., Event Center repairs & maintenance 1,106.89; Kristie Robinson, event center deposit refund 405.00; Kristy Hubbard, supplies, marketing, travel & registration 258.93; Library Journal, supplies 157.99; Marcia Richards, repairs & maintenance 705.00; Maynard's, supplies 21.86; MC & R Pools, supplies, repairs & maintenance 746.76; Micro Marketing LLC, library supplies 267.66; Midwest Living, supplies 18.00; NAPA, repairs & maintenance 156.95; Northwestern Energy, utilities 224.53; O'Keefe Implement, Inc., supplies, repairs & maintenance 1000.36; Office Peeps, Inc., library supplies 2,759.40; Office Peeps, Inc., supplies 383.14; Ottertail, utilities 4,721.21; Palmlund Automotive, repairs & maintenance 117.00; Postmaster, supplies 180.00; Prairie Ag Partners, supplies 60.00; Prussman Contracting, Inc., repairs & maintenance 663.99; Reader Service, library supplies 18.33; Reed, Inc., debt service payment 690.58; Reed, debt service payment 2,500.00; Rich's Gas & Service, fuel, supplies, repairs & maintenance 627.28; Screendollars Cinema Advertisement, event center publishing 1,020.00; SD Dept. of Revenue, sales tax 440.72; SD Dept. of Ag, supplies 45.00; Share Corp, chemicals 2,843.73; Sheikha Ough, event center deposit refund 10.00; Southeast SD Tourism Assoc., b,b b marketing 255.00; Spencer Quarries/Commercial Asphalt, repairs & maintenance 863.80; Tammy Hanson, event center deposit refund 10.00; The Main Stop, fuel 938.12; Todd Wilkinson, event center deposit refund 275.00; Tracey Larson, travel & conference 188.16; Valley Fibercom, utilities 485.11; Wilder Pass, LLC, TIF principal & interest 35,135.78; Wilkinson & Schumacher Law, services & fees 2,759.00; Wilkinson Insurance Agency, insurance 1,083.60; Zep Sales & Service, supplies 86.16; Helms & Associates, turnaround project 30,561.27; IMEG/Clark Engineering, water loop project 9,730.06; J & J Earth Works, Inc., turnaround project 395,275.86, Winter Contracting, LLC, water looping project 141,983.10.

PUBLIC COMMENTS: Becky Geyer, De Smet School District Activities Director, met with the council to inquire about using the city baseball outfield and area beside the baseball field for junior high football practice. Geyer stated that they would rotate areas where the field was used to prevent damage to the grass and the school would replace the sod if needed where the grass was damaged. Lowell Hanson offered use of an area that he owns behind the bus shed for football practice.

ZONING: Motion was made by Asleson, seconded by Jensen, that the Council to be convened as the Board of Adjustment, all voting aye, motion carried. The Board of Adjustment was called to order by Mayor Wolkow.

This being the date and time public noticed for the hearing on Variance Application #95 submitted by Lyle Signs. Tad Flood, representative for Lyle Signs, was present for the meeting to discuss the variance application. Lyle Signs has requested a variance to allow them to construct a 25' x 125' addition to the North side of the current structure, less than 50 feet from the front (north) property line in an area zoned "I" Industrial District on the following legally described property: OL F, Eastside Subdivision, and addressed as 302 1st Industrial Ave. SE, De Smet, South Dakota.

Notice of the hearing was properly given by certified mail and by publication of the publication of the Notice of Hearing in conformity with Section 3.04.05 of the City Zoning Ordinance. Nobody from the public appeared for discussion of the variance application.

The location of the proposed construction was reviewed by Alderman Jensen. Upon conclusion of the hearing and the Board having considered the application and evidence presented, enters its findings as follows:

1. That property legally described as OL R, Eastside Subdivision, De Smet, Kingsbury County, South Dakota, is located within the city limits of the City of De Smet and the Board of Adjustment has jurisdiction over the application.
2. That the property is currently zoned "I - Industrial".
3. That adjacent properties to the North, East, and West are zoned "I - Industrial". Adjacent properties to the South are zoned "A - Agricultural District". One adjacent property to the Northwest is zoned "R-1 - Single Family Residential District".
4. That the Area Regulations of the "I" zoning require a front yard set-back of 50 feet and the "Additional Yard Requirements" in chapter 4.07 Yards, states that a corner lot must have a front yard along both streets.
5. That the applicant has filed the required application for the variance application and the notice of hearing was properly given.
6. That none of the adjacent property owners presented any objections to the proposed variance.
7. That the structure on the adjacent property is closer than 50 feet to the property line, and the proposed addition will be setback at the same distance.
8. That granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
9. That the applicant has not applied for any permanent structures or improvements on the property nor have any been authorized by the variance issued.
10. That the reasons set forth in the application justify granting a variance.

Based upon these finding, a motion was made by Jensen, seconded by Asleson, to recommend approval of the variance application #95 as submitted to Lyle Signs, for a 25' x 125' addition to the current structure, all voting aye, motion carried.

Mayor Wolkow declared the city council back in session.

VARIANCE & BUILDING PERMITS: Motion was made by Jensen, seconded by Asleson, to approve the variance application #95 submitted by Lyle Signs for a 25' x 125' addition to the current structure, all voting aye, motion carried. Motion was made by Jensen, seconded by Asleson, to approve the building permit application submitted by Lyle Signs, for a building addition, all voting aye, motion carried. Motion was made by Jensen, seconded by Cavanaugh, to approve the building permit submitted by Jennifer Grover for a fence with the condition that the fence be built a minimum of five (5) feet from the rear property line, all voting aye, motion carried. Motion was made by Jensen, seconded by Cavanaugh, to approve the building permit application submitted by Scott Wendel for a fence, all voting aye, motion carried.

SECOND READING FOR MEDICAL CANNABIS ESTABLISHMENT PERMIT ORDINANCE: The use of medical cannabis will become legal in South Dakota starting on July 1, 2021. Until the State of South Dakota finalizes the rules and regulation, it is necessary to establish a temporary ordinance regarding the issuance of local medical cannabis establishment permits and/or licenses. Motion was made by Cavanaugh, seconded by Munger, to approve the second reading to approve Ordinance No. VII-22, a temporary ordinance regarding the issuance of local medical cannabis establishment permits and/or licenses, all voting aye, motion carried.

ORNINANCE No VII-22

A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES.

WHEREAS, a local government may enact an ordinance not in conflict with SDCL Chapter 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration.

WHEREAS, the Municipality of De Smet, SD ("Municipality"), makes a preliminary finding that the Municipality's current regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1;

WHEREAS, medical cannabis state laws under SDCL 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate

rules pursuant to chapter 1-26 not later than October 29, 2021, as defined by SDCL 34-20G-75. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the local zoning and licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, the Municipality makes a preliminary finding that the Municipality needs further study of the relationship of medical cannabis establishments to the City Comprehensive Plan and Zoning Ordinance. The public interest requires that the Municipality study, analyze, and evaluate the impacts of medical cannabis establishments and to fully explore the impacts of any proposed regulations regarding medical cannabis establishments;

WHEREAS, the Municipality makes a preliminary finding that it would be inappropriate for the Municipality to issue a local permit or license to a medical cannabis establishment prior to the South Dakota Department of Health's promulgation of regulations governing the same;

WHEREAS, the Municipality hereby exercises its authority under SDCL 11-4-3.1 and/or SDCL 9-19-13, to establish a temporary ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the Municipality;

WHEREAS, a temporary ordinance will ensure that more comprehensive zoning ordinance and building permit changes, licensing permits, and any proposed amendments to the Municipality's Comprehensive Plan can be completely examined with adequate public input from citizens, business interests, and medical cannabis industry representatives;

WHEREAS, the Municipality finds that a temporary ordinance is reasonable to preserve the status quo and prevent significant investment pending the outcome of the above study and any proposed regulations emanating therefrom;

WHEREAS, the Municipality finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the municipal government and its existing public institutions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF De Smet, SD:

Section 1. Temporary Ordinance - Application for Local Permit/License

A medical cannabis establishment desiring to operate in the Municipality shall be required to apply for a permit and/or license from the Municipality. Applications for a local permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1, shall not be accepted until the South Dakota Department of Health has

promulgated regulations as required by SDCL 30-20G-72. Any application received prior to such regulations being promulgated shall be denied.

Section 2. Immediate Effect.

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the municipal government and its existing public institutions pursuant to SDCL 11-4-3.1 and SDCL 9-19-13.

Adopted this 14th day of June, 2021.

City of De Smet

Mayor: Gary Wolkow

ATTEST:

Finance Officer: Tracey Larson

First Reading: May 12, 2021
Second Reading: June 14, 2021
Published: June 30, 2021
Effective: July 20, 2021

SPECIAL LIQUOR LICENSE: The De Smet Volunteer Fire Department has requested special liquor licenses for two events to be held at the De Smet Event Center on July 17, 2021 from 1:00 PM to 7:00 PM and on July 31, 2021 from 5:00 PM to 12:00 AM. Motion was made by Asleson, seconded by Cavanaugh, to approve the two special liquor licenses for the De Smet Volunteer Fire Department, for events to be held at the De Smet Event Center on July 17, 2021 from 1:00 PM to 7:00 PM and on July 31, 2021 from 5:00 PM to 12:00 AM, all voting aye, motion carried.

WATER LOOPING PROJECT & MAIN STREET PROJECT: Shane Waterman, Engineer for IMEG met with the council to give an update on the water looping project. Waterman explained that the boring on Lyle Avenue has been completed. Additional costs due to extra boring due to wet soil conditions will be at the cost of the contractor. DENR has completed their site visit and First District has been on site to complete their labor interviews. Foerster Testing has completed two compactions test on the trench along Lyle Avenue and both of those tests have passed. Questions from the council regarding the clean-up and surface restoration were answered by Waterman. Waterman presented the council

a proposal for preliminary engineering services for the Main Street Improvement Project that would include boundary survey work; topographic survey; preliminary design; and preliminary plans for funding agencies. The council was informed that depending on the funding, some funding sources to not reimburse for preliminary engineering fees, but the fees would be applied to the local funding share. The proposal will be reviewed by the council and discussed at the July regular council meeting.

SD DOT MAINTENANCE & FINANCIAL AGREEMENT: A maintenance and financial agreement stating that street repairs completed by the State on a city street was presented to the council. The agreement states that due to damages done by heavy traffic on a city street used as a detour during a state project has been completed and it will be the City's responsibility for future maintenance and repairs on the street. Motion was made by Cavanaugh, seconded by Jensen, to approve the Mayor as the authorized official to sign the SD DOT Maintenance & Financial Agreement, and to approve signing the Maintenance and Financial Agreement, all voting aye, motion carried.

BLOCKING A PORTION OF CALUMET: American Bank & Trust has requested permission to block a portion of Calumet Ave. in front of the American Bank & Trust on July 9, 2021 for a hot dog feed. Motion was made by Cavanaugh, seconded by Asleson, to approve American Bank and Trust blocking a portion of Calumet Avenue in front of the bank on July 9, 2021 for a hot dog feed, all voted aye, motion carried.

SURPLUS PROPERTY: An appraisal in the amount of \$500.00 for a 1978 Ford Truck with a 1975 Falls #311 plow was presented to the council. Motion was made by Cavanaugh, seconded by Munger, to accept the appraisal in the amount of \$500.00 for the 1978 Ford Truck with a 1975 Falls #311 plow and to advertise the surplus item for sale with bids to be opened at the July city council meeting, all voting aye, motion carried.

STREETS/AIRPORT: Street/Airport Supt. Ryan Petersen met with the council to inform the council that crack sealing will be done at the end of July or early August; a date for chip sealing has not been determined yet; the city guys have been patching streets and will continue patching more area; they have started doing some tree trimming and will be continuing with tree trimming; a local company will be hauling fill dirt to the new duplex sites; the crusher has been out to the Restricted Use Site to remove the scrap metal; and compaction tests have been completed on the airport project and will need additional compaction and retesting.

POOL LOUNGE CHAIRS: Motion was made by Cavanaugh, seconded by Asleson, to reduce the fee to rent a pool lounge chair to no charge, all voting aye, motion carried.

PROJECT PAYMENTS: Motion was made by Cavanaugh, seconded by Jensen, to approve pay request #9 in the amount of \$30,561.27 to Helms & Associates for the turnaround's project; pay request #2 in the amount of \$395,275.86 to J & J Earth Works, Inc. for the turnaround's project; pay request #7 in the amount of \$9,730.06 to IMEG for the

water looping project; and pay request #2 in the amount of 141,983.10 to Winter Contracting, LLC for the water looping project, all voted aye, motion carried. The airport project expenses will be reimbursed by 100% from grant funding.

DE SMET DEVELOPMENT CORPORATION: Rita Anderson, De Smet Development Coordinator, reported to the council that three new businesses (Fields Bait & Ammo, Nimble Car Wash, and De Smet Mercantile and Coffee House) have opened in De Smet; the townhome project in progressing; the community meeting was very well attended and many ideas were shared; Jim & Deb Fallows will be visiting De Smet next week; and Anderson had attended a legislative session regarding funding for housing in smaller communities.

FINANCIAL REPORTS: Motion was made by Cavanaugh, seconded Spader, to approve the May 2021 Cash Balances Report as presented by the Finance Officer, all voted aye, motion carried.

OVERTIME: Motion by Spader, seconded by Cavanaugh, to approve the overtime hours for the month of May as presented, all voted aye, motion carried.

OTHER: Other non-action items of discussion were as follows: 1) the May law enforcement report; 2) a nuisance property; 3) an amended nuisance property ordinance; 4) the elected official's workshop in Pierre on July 14, 2021; and 5) adding an air compressor into the 2022 budget.

ADJOURN: There being no further business the meeting was adjourned on motion by Hansen.

To comply with SDCL 6-1-10. Publication of Payroll information, the payroll changes were effective as follows: Karen Hansen, Deputy Finance Officer \$16.73/hour effective June 1, 2021; and Evelyn Twite, Library Help \$11.00/hour effective June 1, 2021.

Gary Wolkow, Mayor

ATTEST:

Tracey Larson, Finance Officer

Published once at the approximate cost of \$ _____

