

REGULAR MEETING DE SMET COMMON COUNCIL  
April 8, 2020

The De Smet Common Council met in regular session on April 8, 2020, at 5:00 p.m., with the following present: Bret Jensen, Alex Botkin, Lowell Hansen, George Cavanaugh, Norman Whitaker, Jay Slater (via live streaming), Mayor Gary Wolkow, FO Tracey Larson, and City Attorney Todd Wilkinson. Absent: none.

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

**ANNOUNCEMENTS:** Mayor Wolkow thanked everyone for their cooperation and changes that are being taken to keep people healthy during the COVID-19 pandemic. Mayor Wolkow announced that the Arbor Day is on April 24, 2020 and issued the following proclamation:

ARBOR DAY PROCLAMATION 2020

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I, Gary Wolkow, Mayor of the City of De Smet, SD, do hereby proclaim April 26, 2019 as ARBOR DAY, in the City of De Smet, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this 8th day of April, 2020.

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Mayor Gary Wolkow

Motion was made by Cavanaugh, seconded by Whitaker, to approve the Arbor Day Proclamation 2020 as read by Mayor Wolkow, all voting aye motion carried.

**MINUTES:** Motion was made by Botkin, seconded by Cavanaugh, to approve the minutes of the March 11, 2020 Regular Meeting, March 17, 2020 Equalization Meeting, and March 24, 2020 Special Meeting, all voting aye, motion carried.

**CLAIMS:** Motion by Whitaker, seconded by Jensen, to approve payment of the claims as presented, all voting aye, motion carried. The claims are as follows: PAYROLL \$30,552.44; OASI Benefit 2,337.28, Aflac, ins. premium 280.95; Dearborn National, life insurance 123.20; Delta Dental of South Dakota 274.76; VSP 145.96; Health Pool of SD, health insurance premium 5,496.96; SDRS, retirement benefit 3,624.48; Mediacom, utilities 250.99; Mediacom, utilities 75.17; Visa, utilities, supplies, repairs & maintenance 261.07; De Smet Postmaster, Lane Hildebrandt variance 32.00; De Smet Postmaster, Fred Johnson variance 51.20; De Smet Postmaster, Wade Hoefert variance 32.00; Mediacom, utilities 111.49; American Trust Insurance, insurance premium 999.00; Avera Medical Group Mitchell, supplies 125.00; Avera Occupational Medicine, supplies 205.65; Avid Hawk LLC, supplies 35.00; Center Point Large Print, supplies 29.21; Century Link, utilities 499.78; City of De Smet, utilities 313.14; City of De Smet, supplies 35.44; Colonial Research, supplies 165.04; Connecting Point, off-site backup 35.00; Cook's Wastepaper & Recycling, residential garbage service 6,510.72; De Smet Trustworthy Hardware, supplies, repairs & maintenance 134.11; De Smet Welding & Machine, repairs & maintenance 187.66; Delrean Gilligan, event center deposit refund 10.00; Department of Health, repairs & maintenance 56.00; The De Smet News, publishing 1,431.81; Display Sales, repairs & maintenance 126.90; Environmental Equipment & Service, repairs & maintenance 1,211.45; Hawkins, Inc., chemicals 2,583.61; Kingsbury Electric Cooperative, repairs & maintenance 220.00; Kingsbury County Auditor, law enforcement contract 6,283.33; Kingsbury Electric Cooperative, utilities 333.79; Kristen Thompson, event center deposit refund 405.00; Kristy Hubbard, reimburse for supplies 89.85; Lonnie Penner, event center deposit refund 275.00; Lyle Signs, supplies 106.00; M & T Fire and Safety, supplies 478.00; Maynard's, supplies 122.49; McLeod's, supplies 134.07; Micro Marketing LLC, supplies 393.10; Napa, repairs & maintenance 477.35; Northwestern, utilities 919.33; O'Keefe Implement, Inc., supplies, repairs & maintenance 1,025.76; Office Peeps, Inc., supplies 80.36; Office Peeps, Inc., supplies 532.95; Ottertail Power Company, utilities 5,757.46; Palmlund Automotive, repairs & maintenance 78.00; Patti Ward, event center refund 120.00; Postmaster, supplies 175.00; Publishers Weekly, supplies

239.99; R & A Body Shop, repairs & maintenance 355.00; Reed, debt service 1,448.41; Reed, debt service 690.58; Reed, debt service 2,500.00; Rich's Gas & Service, fuel, supplies, repairs & maintenance 906.20; Scott Mausbach, event center deposit refund 30.00; SD Department of Revenue, sanitation sales tax 444.89; Share Corp, supplies & chemicals 5,428.34; Smith's Lumber, supplies, repairs & maintenance 369.57; State of South Dakota, utilities 13.38; US Bank, water debt service 32,666.22; USA Blue Book, supplies 44.02; Helms & Associates, airport turnaround project 3,717.77.

**NEWSPAPER:** The City of De Smet was notified on March 31, 2020, that the legal newspaper would be printing one more issue before closing the business. It is necessary for the City to designate another newspaper as its official paper. Motion was made by Cavanaugh, seconded by Whitaker, to approve Resolution 2020-2, designating the Arlington Sun as the official paper, all voting aye, motion carried.

Resolution No. 2020-2

WHEREAS, the De Smet News has notified the City of De Smet that it is discontinuing its business operation; and

WHEREAS, the Arlington Sun is the only newspaper being published in Kingsbury County, South Dakota and it is necessary that the City of De Smet designate a newspaper published in Kingsbury County, South Dakota as its official paper for legal notices.

NOW THEREFORE BE IT HEREBY RESOLVED that the Arlington Sun is hereby designated as the official legal newspaper for the City of De Smet, South Dakota.

All voting "aye", Resolution declared PASSED and ADOPTED on the 8<sup>th</sup> day of April, 2020.

CITY OF DE SMET

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Mayor - Gary Wolkow

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Finance Officer - Tracey Larson

**CITY ELECTION:** House Bill 1298 requires City elections to be postponed to any Tuesday in June, 2020. The Council was also informed that current council terms will continue until after the election process. Motion was made by Cavanaugh, seconded by Slater, to approve postponing the April 14, 2020 city election until June 16, 2020, all voting aye, motion carried.

**RESOLUTION 2020-1:** Motion was made by Cavanaugh, seconded by Botkin, for the continuation of Resolution 2020-1 as existing until April 21, 2020. Upon roll call vote, voting aye: Slater, Whitaker, Cavanaugh, Jensen, Botkin, and Hansen, voting nay: none, motion carried.

**ZONING:** Motion was made by Botkin, seconded by Cavanaugh, that the Council 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 #83 submitted by Lane Hildebrandt, the board discussed the variance application. Hildebrandt has requested a variance to allow the construction of a detached 28 ft. x 40 ft. garage be built less than 10 feet from the principal structure on the following legally described property: E 50' of Lot 5 & W 70' of Lot 6, Block 6, Trailview Heights Addition, De Smet, Kingsbury County, South Dakota and addressed as 615 7<sup>th</sup> Street SW, 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.

The location of the proposed construction was previously reviewed by Alderman Jensen. Lane Hildebrandt spoke to the board in support of the proposed variance request. No adjacent landowners were present in opposition.

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 E 50' of Lot 5 & W 70' of Lot 6, Block 6, Trailview Heights Addition, 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 "R-2 General Residential".
3. That the adjacent properties within the city limits are zoned "R-2 General Residential"
4. That the adjacent property out of city limits is zoned "Non-ag Commercial".

5. That Article IV Supplemental Regulations, Chapter 4.03 Accessory Building, state that no accessory building shall be built within 10 feet of a principle structure in any yard and shall be built a minimum of six feet from a side yard, and a minimum of five feet from a rear yard.
6. That the existing residential/garage structure is located 30 feet from the north property line.
7. That the proposed accessory garage would be constructed with the same side set-back from the north lot line (front yard) as the existing garage.
8. That the proposed accessory garage would be constructed six feet from the east lot line (side yard).
9. That the proposed accessory garage would be constructed six feet from the principal residential/garage structure.
10. That none of the adjoining property owners objected to the proposed variance.
11. That the Board of Adjustment take into consideration each application on its own accord.
12. That ordinances have been approved and adopted to protect the De Smet residents and properties within the city limits.
13. That the proposed structure would not be located any closer to the property to the North than the existing structure.
14. That the reasons set forth in the application justify approving a variance.

Motion was made by Cavanaugh, seconded by Slater, to approve the Variance Application #83 as submitted for the 28'x 40' accessory garage structure, all voting aye, motion carried.

This being the date and time public noticed for the hearing on Variance Application #84 submitted by Fred Johnson, the board discussed the variance application. Johnson has requested a variance to allow the construction of a house & attached garage be built less than 30 feet from the front (West) property line, and to exceed the allowed lot coverage of 30% with structures on the following legally described property: Lot 7, Block 5 Carroll's Addition, De Smet, Kingsbury County, South Dakota and addressed as 102 Harvey Dunn Street, 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.

The location of the proposed construction was previously reviewed by Alderman Slater. Fred Johnson spoke to the board in support of the proposed variance request by video conference. A letter from an adjacent landowner was submitted to the Zoning

Board of Adjustment stating they were not able to attend the public hearing due to the coronavirus pandemic and was not able to agree to the variance application without more information. The application as submitted would place the new structure closer to the front property line than other structures on the property or the block. Motion was made by Slater, seconded by Cavanaugh, to table the Variance application #84 submitted by Fred Johnson until the April 21, 2020 Special Meeting and additional measurements could be submitted, all voting aye, motion carried.

This being the date and time public noticed for the hearing on Variance Application #85 submitted by Wade Hoefert, the board discussed the variance application. Hoefert has requested a variance to allow the construction of an addition to join two existing detached garages to be built less than 5 feet from the rear (north) property line, and less than six (6) feet from the side (west) property line on the following legally described property: All of Lot 14 & W 15' of Lot 15, Block 9, Brown's Addition, De Smet, Kingsbury County, South Dakota and addressed as 206 2<sup>nd</sup> Street SW, 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.

The location of the proposed construction was previously reviewed by Alderman Slater. Wade Hoefert spoke to the board in support of the proposed variance request via video conference. No adjacent landowners were present in opposition.

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 All of Lot 14 & W 15' of Lot 15, Block 9, Brown's Addition, 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 "R-2 General Residential".
3. That all the adjacent properties are zoned "R-2 General Residential"
4. Chapter 2.06 "R-2" General Residential District Accessory Building, Section 2.06.05 Area Regulations Section 3. Minimum Yard Requirements states that a structure shall be built a minimum of 25 feet from a rear yard, and six feet from a side yard, however, Article IV Supplemental

Regulations, Chapter 4.03 Accessory Building, states that an accessory building may be built a minimum of six feet from a side yard, and a minimum of five feet from a rear yard.

5. That the existing garage structure on the west side of the lot is located closer to the rear (north) property line than the new addition will be built.
6. That the proposed garage addition would be constructed with the same rear set-back from the north lot line as another existing garage on the east side of the lot.
7. That the proposed addition would not extend closer to either side yard than the existing two garages the addition is being added to.
8. That none of the adjoining property owners objected to the proposed variance.
9. That the Board of Adjustment take into consideration each application on its own accord.
10. That ordinances have been approved and adopted to protect the De Smet residents and properties within the city limits.
11. That the reasons set forth in the application justify approving a variance.

Motion was made by Slater, seconded by Cavanaugh, to approve the Variance Application #85 as submitted for the addition to join two existing accessory garage structures, all voting aye, motion carried.

Mayor Wolkow declared the City Council back in session.

**VARIANCES & BUILDING PERMITS:** Motion was made by Botkin, seconded by Cavanaugh, to approve Variance #83, submitted by Lane Hildebrandt for an accessory garage, all voting aye, motion carried. Motion was made by Botkin, seconded by Whitaker, to approve Variance #85, submitted by Wade Hoefert, for a garage addition to join two existing garages, all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Jensen, to approve the building permit applications submitted by Lane Hildebrandt for an accessory garage, concrete driveway & sidewalk, and Wade Hoefert for an addition to join two existing garages, all voting aye, motion carried.

**AERIAL SPRAYING APPLICATION:** An aerial spraying permit application with the required documentation was submitted by Isaac Wilde dba Wilde Air Service, LLC. Wilde was present for questions by video conference. Motion was made by Slater, seconded by Cavanaugh, to approve the aerial spraying permit application submitted by Isaac Wilde dba Wilde Air Service, five voted aye, one voted nay, motion carried. Motion was made by

Slater, seconded by Cavanaugh to approve the aerial spraying permit application from Agtegra, contingent that the signed application is filed with the officer before any aerial spraying begins, all voting aye, motion carried.

**PUBLIC COMMENTS:** Wade Hoefert inquired about city phone, cable, and internet services being switched to Valley Fibercom, and a tax rebate incentive for a current apartment complex being constructed.

**LIQUOR ORDINANCE:** Motion was made by Cavanaugh, seconded by Whitaker, to approve the second reading to amend Ordinance No. V-10 Alcoholic Beverages, Sec. 5-15 - Special alcoholic beverage licenses issued in conjunction with special events to include the fee for a special liquor license, all voting aye, motion carried.

### **Ordinance No. V-10**

#### **Sec. 5-15 - Special alcoholic beverage licenses issued in conjunction with special events.**

1. The City may issue a special malt beverage retailers, license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans organization or a licensee licensed pursuant to SDCL subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;
2. A special on-sale wine retailers license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;
3. A special on-sale license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
4. A special off-sale package wine dealers license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealers licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL chapter 35-12.

5. Any license issued pursuant to this section shall not exceed a period of forty-eight (48) hours.
6. No public hearing is required for the issuance of a license pursuant to this ordinance if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility.
7. Any person or business entity obtaining a special alcoholic beverage license pursuant to this ordinance shall be restricted to no more than twelve (12) licenses per calendar year.
8. The fee for the license set forth in this ordinance shall be \$20.00 per application and shall be paid at the time the application is submitted and shall be non-refundable and shall be retained by the City.

Dated this 8<sup>th</sup> day of April, 2020

De Smet City Council

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Mayor - Gary Wolkow

ATTEST:

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Finance Officer - Tracey Larson

First Reading: March 11, 2020

Second Reading: April 8, 2020

Published: April 23, 2020

**AIRPORT TURNAROUNDS PROJECT:** Amendment #1 to the agreement for engineering services for the De Smet airport runway turnarounds improvement project was presented to the Council. The amendment #1 includes engineering services for bidding, construction administration, and on-sight and final inspection services for the turnaround project in the amount of \$99,891.05 in addition to the original agreement of \$50,000.00. Motion was made by

Cavanaugh, seconded by Hansen, to approve Amendment #1 for a total contract amount of \$149,461.35, with Helms & Associates for the Airport Turnarounds Improvement Project, all voting aye, motion carried.

**EXECUTIVE SESSION:** Motion was made by Cavanaugh, seconded by Whitaker, to enter into executive session at 6:30 pm for the purpose of discussing personnel, all voting aye, motion carried. Mayor Wolkow declared the council out of executive session at 7:14 pm.

**MUSEUM:** Due to the COVID-19 pandemic, the Museum Board has made a recommendation to the council that the Depot Museum remain closed for the 2020 season for the safety of the employees, volunteers, and visitors. Motion was made by Slater, seconded by Hansen, to approve leaving the Depot Museum closed for the 2020 season, all voting aye, motion carried.

**POOL & SUMMER RECREATION PROGRAMS:** Motion was made by Slater, seconded by Cavanaugh, to table discussion of opening the pool and the 2020 summer recreation programs until the special meeting on April 21, 2020, all voting aye, motion carried.

**FLOWER BARRELS:** One quote was received to provide and plant flowers in 25 barrels on main street and 2 containers at the library were as follows: Poinsett Gardens Inc.-\$0/barrel. Motion by Botkin, seconded by Slater, to accept the quote of Poinsett Gardens Inc. of \$0/barrel, to provide and plant the flowers, for a total cost of \$0.00, all voting aye, motion carried.

**DRAINAGE BY BASEBALL FIELD:** Two quotes to directionally bore and install approximately 160' of four-inch drain pipe under the concrete at the baseball field were presented to the council as follows:

<u>Company</u>	<u>Amount</u>
Apex Solutions, Inc.	\$2,600.00 w/out excise tax
Larson Digging, Inc.	\$4,682.67 with excise tax

Motion was made by Cavanaugh, seconded by Slater, to approve hiring Apex Solutions, Inc. in the amount \$2,600.00 & excise tax to directionally bore and install approximately 160' of four-inch drain pipe at the baseball field, all voting aye, motion carried.

**LIBRARY:** Motion was made by Cavanaugh, seconded by Slater, to approve the Library 2019 Annual Survey Report, all voting aye, motion carried.

**AIRPORT PAYMENTS:** Motion was made by Hansen, seconded by Botkin, to approve pay request #12 in the amount of \$3,717.77 to Helms & Associates for the airport turnarounds project, all voting aye,

motion carried. These airport project expenses will be reimbursed by 95% from grant funding.

**SPECIAL MEETING:** Motion was made by Botkin, seconded by Hansen, to approve holding a special meeting on April 21, 2020, at 5:00 pm at City Hall, all voting aye, motion carried.

**FINANCIAL REPORTS:** Motion was made by Botkin, seconded Whitaker, to approve the March, 2020 Cash Balances Report as presented by the Finance Officer, all voting aye, motion carried.

**OVERTIME:** Motion by Jensen, seconded by Botkin, to approve the overtime hours for the month of March as presented, all voting aye, motion carried.

**OTHER:** Other non-action items of discussion were as follows: 1) March law enforcement report; 2) utility bills; 3) a property tax incentive for new residential construction; 4) purchasing an aerator; 5) spring property reviews; and 6) repair to a street after a water leak was fixed.

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

To comply with SDCL 6-1-10. Publication of Payroll information, the payroll changes were effective March 1, 2020 as follows:  
Event Center Director, Kristy Hubbard \$3,567.20/month effective April 1, 2020  
Water/Wastewater Supt., Richard Stoddard \$19.45/hour.

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Gary Wolkow, Mayor

ATTEST:

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Tracey Larson, Finance Officer

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