

REGULAR MEETING DE SMET COMMON COUNCIL
November 9, 2016

The De Smet Common Council met in regular session on November 9, 2016, at 5:00 p.m., with the following present: Alex Botkin, Lowell Hansen, Larry Jensen, George Cavanaugh, Wendy Currier, Norman Whitaker, Mayor Gary Wolkow, FO Tracey Larson. Absent: none. Also present: City Attorney Todd Wilkinson.

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

MINUTES: Motion was made by Currier, seconded by Cavanaugh, to approve the minutes of the September 28, 2016 Special meeting, and October 12, 2016 Regular Meeting, all voting aye, motion carried.

CLAIMS: Motion by Cavanaugh, seconded by Botkin, to approve payment of the claims as presented, all voting aye, motion carried. The claims are as follows: PAYROLL \$33,781.62; OASI Benefit 2,584.31; Aflac, ins. premium 278.81; Dearborn National, life insurance 123.20; Farm Bureau Bank, health savings 875.00; Delta Dental of South Dakota 353.68; VSP 156.99; Wellmark Blue Cross Blue Shield, health insurance premium 5,218.16; SDRS, retirement benefit 3,693.34; Amy Halverson, event center deposit refund, 375.00; Arlean Anderson, event center deposit refund, 10.00; Aron's Electric, clinic repair 148.19; Asphalt Paving & Materials, street repairs 26,452.15; Avid Hawk, LLC website; 35.00; Bernie Jr's event center dep refund 250.00; Caryn Hojer, event center dep refund 50.00; Center Point Large Print, library 28.46; Century Link, utilities 547.73; City of De Smet, postage 104.33; Connecting Point, repairs 267.50; Cook's Wastepaper & Recycling, contract 224.75; Cook's Wastepaper & Recycling, sanitation 1,227.99; Cowboy Country Store, supplies 480.05; De Smet Community Foundation, event center dep refund 250.00; De Smet Development corp., event center dep refund 250.00; De Smet Trustworthy Hardware, supplies 67.33; Demco, library 54.75; Dept. of Revenue, water testing 43.00; The De Smet News, publishing 606.23; The De Smet News, library 33.40; Farmer Brothers Co., event center 76.80; Harvey Dunn Society, event center dep refund 250.00; Hawkins, water chemicals 1,548.06; Janice Schardin, meter dep refund 75.00; Jim Altenburg, meter dep refund 75.00; Julie Schwader, event center dep refund 275.00; Kingsbury Electric Coop, maintenance contract 220.00; Kingsbury Electric Coop, streets repairs 59.18; Kingsbury County Auditor, law enforcement 6,283.33; Kingsbury Co Ducks Unlimited, event center dep refund 275.00; Kingsbury Electric Coop, utilities 264.61; Kiwanis Club, greenery 103.50; Kristy Hubbard, event center dep refund 30.00; Laird Back, event center dep refund 20.00; Legend Seeds, event center dep refund 80.00; Lisa Bordson, meter deposit refund 75.00; Maynards, supplies 19.16; Northwest Pipe Fittings, supplies 10.67; Northwestern, utilities 305.02; Office Peeps, Inc., supplies 197.84; Ottertail Power Co., utilities 3,875.10; Pam Fox postage reimbursement 48.00; Patterson Portable Toilet, supplies 180.00; Penny Sjolie, meter deposit refund 75.00; Penworthy, library 69.93; Rapid City

Pierre & Eastern Railroad, Inc., rental 65.56; Reader Service, library 17.22; Reed, Inc., debt service principal, 1,448.41; REED, Inc., debt service 2,357.25; REED, Inc., debt service 2,500.00; Rich's Gas & Service, fuel 1,209.28; Richard Stoddard, conference reimbursement 35.86; SD Dept. of Revenue, sales tax 170.61; SD Dept. of Revenue, sanitation sales tax 83.87; Share Corp, supplies 3,150.44; Sjolie Construction LLC, construction 12,055.12; Smith's Lumber, supplies 41.40; State of South Dakota, utilities 7.58; Swiftel, repairs 153.36; Zell Manufacturing, Inc., repairs 85.00; Bowes Construction, airport 222,114.11; Brown & Saenger, supplies 430.00; De Smet Community Foundation, equipment 18,640.67; Helms & Associates, airport 12,099.55; Media Com., event center utilities 255.63; Mediacom, utilities 57.45; O'Keefe Implement, Inc., 323.88; Visa, supplies 452.35; Micro Marketing, library 666.32

SECOND READING TO AMEND ZONING ORDINANCE: Motion was made by Cavanaugh, seconded by Currier, to approve the second reading of Ordinance No. VII-24, an Ordinance to amend Article I, Chapter 1.03 as adopted by Ordinance No. VII-8 on February 15, 2000, as the Zoning Ordinance of the City of De Smet, to change the zoning classification of S 95' of Lot 15, block 10, Brown's Addition to the City of De Smet, from Commercial Industrial (C-2) to General Residential (R-2), all voting aye, motion carried.

ORDINANCE No. VII - 24

AN ORDINANCE AMENDING ARTICLE 1, CHAPTER 2.08, ADOPTED BY ORDINANCE NO VII-8, ON FEBRUARY 15, 2000, AS THE ZONING ORDINANCE OF THE CITY OF DESMET

Notice is hereby given that Ordinance No. VII-24, An Ordinance amending Article 1, Chapter 2.08, as Adopted By Ordinance No. VII-8 on February 15, 2000, as the Zoning Ordinance of the City of De Smet, was duly adopted by the City Council on the 9th of November, 2016, and will become effective on the 6th day of December, 2016.

Ordinance No. VII-24

AN ORDINANCE ENTITLED, an ordinance to amend Article 1, Chapter 2.08, as Adopted by Ordinance No. VII-8 on February 15, 2000, as the Zoning Ordinance of the City of De Smet.

Be it ordained by the City Council of the City of De Smet, South Dakota: that Article 1, Chapter 2.08 as adopted by Ordinance No. VII-8 on February 15, 2000 as the Zoning Ordinance of the City of De Smet, be amended to classify the following property: S 95' of Lot 15, Block 10, Brown's Addition to the City of De Smet, from Commercial Industrial (C-2) to General Residential (R-2)

Passed and adopted this 9th day of November, 2016.

Gary Wolkow, Mayor

Tracey Larson, Finance Officer

This ordinance shall become effective 20 days after the last publication of this notice once a week for two successive weeks in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum is timely involved prior thereto.

Dated this 9th day of November, 2016.

Tracey Larson
Finance Officer,
De Smet, South Dakota

Passed 1st Reading: October 12, 2016
Passed & Adopted: November 9, 2016
Publication Dates: November 16th & 23rd, 2016
Effective Date: December 6, 2016

SPECIAL EXCEPTION & VARIANCE HEARINGS: Motion was made by Currier, seconded by Botkin to be convened as the Planning & Zoning Commission for the purpose of a public hearing to be held in conjunction with the application of the City of De Smet, De Smet, South Dakota, requesting the special exception of S 95' of Lot 15, Block 10, Browns Addition, to the City of De Smet, be allowed to operate a Bed & Breakfast business out of property zoned R-2. Notice of the hearing was properly given by certified mail and by publication of the Notice of Hearing in conformity with Section 3.04.05 of the City Zoning Ordinance. Nobody from the public appeared in opposition to the proposed special exception. The Planning & Zoning Commission and the City Council made the following findings:

1. That the S 95' of Lot 15, Block 10, Browns Addition to the City of 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 subject property is located in an area zoned "R-2" General Residential District.
3. That a bed and breakfast establishment is a use permitted by special exception within the General Residential District.
4. That the applicant has filed the required application for the special exception permit and the notice of hearing was properly given.
5. That none of the adjacent property owners presented any objections to the bed and breakfast.
6. That the bed and breakfast establishment is compatible with adjacent properties and other property in the district.

7. That the entrance and exit to the property will be from Third Avenue and therefore is in compliance with all issues related to automotive and pedestrian traffic flow and control.
8. That granting the special exception is in keeping with the City of De Smet's comprehensive land use plan.
- 10 That all requirements of the City of De Smet Zoning Ordinance have been met.

Based upon these findings, a motion was made by Botkin, and seconded by Cavanaugh, to recommend approval of the special exception permit to Andrew Todd, for a bed and breakfast establishment, all voting aye, motion carried.

This being the date and time public noticed for the hearing on Variance Application #55 submitted by DKG Properties, LLC, the variance application was presented to the Planning and Zoning Commission. Kent & Diane Munger were present for the hearing and asked the council to consider the Variance Application #55 to allow the new commercial structure to be constructed 15 feet to the South property line, and eight (8) feet to the North property line which is adjacent to residentially zoned property, legally described Lots 9 & 10, Block 12, Western town Lot Co Addition, De Smet, Kingsbury County, South Dakota. If approved, the applicant would be allowed to build a new commercial structure closer than the required 40 foot set-back when the permitted use is adjacent to residentially zoned property, and would allow the new structure to be built closer than the required corner frontage set-back of 25 feet. The residential property owner was present for the variance hearing and questions were asked in regard to an existing structure that has an easement granted due to the house being built prior to zoning requirements and if any options between the two property owners had been agreed upon prior to the hearing. A verbal agreement had been agreed upon that a privacy fence would be required and if the structure with the easement were to be removed, it would be removed at the expense of DKG Properties, LLC. No one was present to speak against the proposed permit. The Board entered its facts and findings as follows:

1. That property legally described as Lots 9 & 10, Block 12, Western town Lot Co 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 subject property is located in an area zoned "C-2" Commercial Industrial District on three adjacent sides of the property and one adjacent property area is zoned "R-2" General Residential District area.
3. That the lot is located at the intersection of two street right-of-ways (Joliet & Fourth Avenue) and is therefore considered to be a corner lot.
4. That the Area Regulations of the "C-2" zoning require a front yard set-back of twenty-five (25) 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 Area Regulations of the "C-2" zoning require a side yard set-back of ten (10) feet unless adjacent to residentially zoned property then requiring the minimum yard requirement to be forty (40) feet.
6. That the applicant has filed the required application for the variance application and the notice of hearing was properly given.
7. That none of the adjacent property owners presented any objections to the proposed variance with the proposed following conditions: 1.) DKG Properties, LLC would be required to construct a 6 ft. privacy fence along the North property line between the "C-2" property and the "R-2" property; 2.) if the structure with the filed easement is to be removed, it will be removed at the expense of DKG Properties, LLC; 3.) a written agreement between the two property owners will need to be presented before the variance application will be completed; and 4.) if the commercial structure is not constructed, the variance application will become null and void.
8. That the shape of the commercial lot deems it necessary to grant a variance.
9. That granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
10. That the reasons set forth in the application justify granting a variance.

Based upon these findings, a motion was made by Cavanaugh, and seconded by Jensen, to recommend approval of the variance application #55 to DKG Properties, LLC, contingent upon the requirements of the construction of a 6 ft. privacy fence to be constructed by DKG Properties, LLC, a written agreement presented between DKG Properties, LLC and Marv McCune regarding the structure owned by Marv McCune, and if the commercial structure is not built the variance application will be annulled, all voting aye, motion carried.

Motion was made by Currier, seconded by Whitaker, to adjourn as the Board of Adjustment and reconvene as the Common Council, all voting aye, motion carried. Motion was made by Botkin, seconded by Cavanaugh, to accept the recommendation of the Board of Adjustment and approve the special exception application #56 to Andrew Todd to allow the operation of a bed and breakfast establishment on the property legally described as S 95' of Lot 15, Block 10, Browns Addition, to the City of De Smet, Kingsbury County, South Dakota, all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Currier, to accept the recommendation of the Board of Adjustment and approve the variance application #55 to DKG Properties, LLC to allow the construction of a commercial structure that will not meet the required frontage set-back and side yard set-back when adjacent

to a residential property and contingent upon meeting the requirements of the construction of a 6 ft. privacy fence to be constructed by DKG Properties, LLC, a written agreement presented between DKG Properties, LLC and Marv McCune regarding the structure owned by Marv McCune, and if the commercial structure is not built the variance application will be annulled on property legally described as Lot 4, Block 9, Brown's Addition, De Smet, Kingsbury County, South Dakota all voting aye, motion carried.

BUILDING PERMITS/ZONING CLARIFICATION: Motion was made by Jensen, to approve the building permit application submitted by DKG Properties, LLC - commercial structure as submitted with the condition that an agreement is made that DKG Properties will be responsible to remove a structure owned by Marv McCune that encroaches over the property line. Motion died due to lack of second. Motion was made by Cavanaugh, seconded by Hansen to approve the building permit application submitted by DKG Properties, LLC - commercial structure upon the condition that the structure that is owned by Marv McCune and is over the property line is removed, all voting aye, motion carried. Motion was made by Botkin, seconded by Cavanaugh, to approve building permits submitted by Terry Holland - deck with roof and De Smet Development Corp. - speck building, all voting aye, motion carried.

A question concerning the clarification if a wind mill would be considered a yard ornament or structure was presented to the council at the last council meeting. Attorney Wilkinson advised that the windmill would be considered a structure that would require a building permit.

EVENT CENTER RENTAL RATE REVIEW: Sharry Knock, Event Center Advisory Board President met with the council to discuss the rental rates for the Event Center. Knock reported that the board had looked at the history of the use of the facility, ways to increase the revenues of the Event Center, and wanting to increase the usage of the building. Comparisons were also made with other similar facilities. The Event Center Advisory Board recommended a small rate increase to be effective January 1, 2017. There would be no changes made to the rates of the Wellness Center at this time. Motion was made by Currier, seconded by Whitaker, to approve the rental rate increase as presented by the Advisory Board for the Event Center, all voting aye, motion carried. The Advisory Board was thanked for all of their hard work.

FIRE DEPT: Shawn Wolkow, Fire Chief and Curt Eichacker, Secretary for the De Smet Volunteer Fire Department met with the council to discuss the need to purchase three new SCBA units. The Department need 15 SCBA units total. The last SCBA units were purchased in 2007. The estimate to purchase three SCBA units is \$19,500.00. Funding was allocated in the 2016 budget to purchase new SCBA units, however additional funds will need to be transferred. Motion was made by Cavanaugh, seconded by Whitaker, to approve the De Smet Fire Department purchasing

three SCBA units in the amount of \$19,500.00, all voting aye, motion carried.

LIQUOR & WINE LICENSE RENEWALS: Motion was made by Cavanaugh, seconded by Currier, to reissue liquor licenses to the 3rd Street Bar & Grille (on-sale & of-sale), Dugout (on-sale), Wheaties (on-sale), Kingsbury Club House (on-sale), and Oxbow Restaurant (on-sale wine) for the year 2017, all voting aye, motion carried.

WATER EASEMENT: Motion was made by Jensen, seconded by Whitaker to approve granting a utility easement by the City of De Smet to Colby 2016, LLC to allow the installation and maintenance of a water line on city property described as the South Half of the West 215' of Lot 3, Block 17, Western Town Lot Company's Plat of Block 17 & 18 and Outlots U & V, to the City of De Smet, Kingsbury County, South Dakota, all voting aye, motion carried.

AIRPORT PAY REQUESTS: Motion was made by Cavanaugh, seconded by Botkin to approve pay request #4 in the amount of \$12,099.55 submitted by Helms & Associates - engineering services, and pay request #5 in the amount of \$222,114.11 submitted by Bowes Construction - construction for the airport improvement project, all voting aye, motion carried.

BASEBALL FIELD PROJECT: Motion was made by Cavanaugh, seconded by Botkin, to contribute \$18,640.67 of the budgeted funding to the De Smet Community Foundation for baseball field construction completed to date on the baseball field, all voting aye, motion carried.

SURPLUS PROPERTY: Motion was made by Botkin, seconded by Whitaker, to approve declaring four Goodyear P275/65 R18 tires as surplus property to be disposed of at the De Smet Rubble Site, all voting aye, motion carried.

FINANCIAL REPORTS: Motion was made by Currier, seconded Hansen to approve the October 2016 Cash Balances Report as presented by the Finance Officer, all voting aye, motion carried.

OVERTIME: Motion by Cavanaugh, seconded by Currier, to approve the overtime hours for the month of October as presented, all voting aye, motion carried.

OTHER: Other non-action items of discussion were as follows: 1) October law enforcement report; 2) signage on the intersections; 3) the curb to the North of the Event Center that still needs to be corrected by the contractor; 4) a joint meeting with the De Smet Development Corporation, De Smet School Board, and City Council will be held on Tuesday, November 22, 2016 at the Event Center at 6:00 Pm to discuss the De Smet 20 year plan; 5) the lock on the vault at city hall; 6) the interview committee that will review applications and conduct interviews for the Event Center Custodian position; 7) if the snow removal route will need to be amended due to the location of the new ER entrance; 8) parking options on Third Street near the school; and 9) property maintenance.

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: Street Supt. Ryan Petersen \$19.95/hour effective October 1, 2016.

Gary Wolkow, Mayor

ATTEST:

Tracey Larson, Finance Officer

Published once at the approximate cost of \$ _____