

REGULAR MEETING DE SMET COMMON COUNCIL
NOVEMBER 8, 2017

The De Smet Common Council met in regular session on November 8, 2017, at 5:00 p.m., with the following present: Don Bohn, Lowell Hansen, Larry Jensen, George Cavanaugh, Norm Whitaker, Jay Slater, 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 Dave VanderWal and the De Smet shop class for the dedicated work and job well done on the baseball field dugouts.

MINUTES: Motion was made by Jensen, seconded by Slater, to approve the minutes of the October 11, 2017 Regular Meeting, all voting aye, motion carried.

CLAIMS: Motion by Whitaker, seconded by Cavanaugh, to approve payment of the claims as presented, all voting aye, motion carried. The claims are as follows: PAYROLL \$35,746.53; OASI Benefit 2,734.61; Aflac, ins. premium 371.76; Dearborn National, life insurance 140.80; Farm Bureau Bank, health savings 1,000.00; Delta Dental of South Dakota 451.92; VSP 200.81; Wellmark Blue Cross Blue Shield, health insurance premium 6,009.12; SDRS, retirement benefit 3,926.62; Postmaster variance postage, 79.30; 3D Specialties, Inc., supplies 126.79; American Bank & Trust Event Center, loan payment 24,619.84; Avid Hawk, LLC, monthly web site fee 35.00; Butler Machinery Co., repairs 307.21; Center Point Large Print, books 29.21; Century Link, utilities 504.17; City of De Smet, supplies 50.20; Connecting Point, off site backup & repair 60.00; Consumer Reports, supplies 49.00; Cook's Wastepaper & Recycling, city garbage collection 224.75; Cook's Wastepaper & Recycling, residential garbage collection 3,095.24; Cowboy County Store, supplies 489.21; De Smet Community Foundation, dep. refund 250.00; De Smet Trustworthy Hardware, supplies 134.76; Dept. of Revenue, water labs 198.00; Dept. of Transportation, supplies 61.88; The De Smet News, publishing 363.89; ED M Feld Equipment Company, SCBA units 20,559.00; Gary Wolkow, dep. refund 50.00; Harvey Dunn Society, dep. refund 575.00; Hawkins, chemicals 20.00; Heartland Paper Company, supplies 122.56; JE Behm Construction, hospital concrete repairs 3,220.14; Kingsbury Electric Cooperative, maintenance contract 220.00; Kingsbury County Auditor, law enforcement contract 6,283.33; Kingsbury Co. Ducks Unlimited, dep. refund 275.00; Kingsbury Electric Cooperative, utilities 264.33; Kiwanis Club, supplies 96.75; Lisa Slater, dep. refund 30.00; Maynard's De Smet, supplies 54.62; Michael Todd & Company, Inc., supplies 68.43; Micro marketing, LLC, books 505.55; Nancy Montross, dep. refund 50.00; Northwestern, utilities 221.42; O'Keefe Implement, Inc., 293.71; Office Peeps, Inc., supplies 163.78; Ottertail Power Company, utilities 3,911.15; Postmaster, library postage 49.00; Postmaster, postage 449.00; Reed,

Inc., debt service 1,448.41; Reed, Inc., debt service 690.58; Reed, Inc., debt service 2,500.00; Rich's Gas & Service, fuel & tire repair 602.51; Richard Stoddard, reimburse for mileage 15.45; Rob Kittay - Board of Operator, test fee 10.00; Ronald L. Schur, CPA, 2014 audit 14,400.00; Schubloom Construction, Inc., repair & maint. 1,509.71; SD Dept. of Revenue, sales tax 177.11; SD Dept. of Revenue, garbage sales tax 211.55; SD One Call, locates 48.16; Share Corp, chemicals 2,207.95; State of South Dakota, long distance 7.86; Susanne Albrecht, dep. refund 50.00; Topkote, Inc., street crack sealing 25,400.00; Tracey Larson, reimburse for mileage 75.97; Welton Repair, repair & maint. 1,031.50; De Smet Community Foundation, baseball field project contribution 2,098.03; Mediacom, utilities 259.48; Mediacom, office internet 64.54.

MAYNARD'S 2018 ON/OFF SALE WINE LICENSE & OPERATING AGREEMENT: This being the time and date public noticed for the application of a new on/off sale wine license submitted by Maynard's, Eric Olsem met with the council to discuss the new application and answer any question. Motion was made by Cavanaugh, seconded by Jensen, to approve the on/off sale wine license application and operating agreement between the City of De Smet and Maynard's, all voting aye, motion carried.

SPECIAL LIQUOR LICENSES: The Dugout requested a special liquor license for an event to be held at the De Smet Event on December 2, 2017 from 5 PM to 12 AM. Motion was made by Cavanaugh, seconded by Jensen, to approve a special liquor license for the Dugout, for an event to be held at the De Smet Event Center on December 2, 2017 from 5 PM to 12 AM, all voting aye, motion carried.

ALBRECHT & COLLIER VARIANCE HEARING: This being the date and time public noticed for the hearing on Variance Application #59 submitted by Susanne Albrecht dba The Get Fit and Variance Application #60 submitted by Preston Collier, motion was made by Slater, seconded by Cavanaugh 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.

Preston Collier has requested that he be allowed to construct a 24 x 30 foot garage addition to an existing garage 25 feet from the west property line on the following legally described property: Lots 5 & 6, Block 11, Brown's Addition, and addressed as 211 3rd Street SW, De Smet, South Dakota.

The location of the proposed construction was reviewed by Alderman Slater. Preston Collier appeared before the board in support of the proposed variance request. No one appeared to comment in opposition to the variance.

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 Lots 5 & 6, Block 11, 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 adjacent properties are zoned "R-2 General Residential".
4. That the lot is located at the intersection of two street right-of-ways (Third Street and Loftus Avenue) and is therefore considered to be a corner lot.
5. That the Area Regulations of the "R-2" zoning require a front yard set-back of thirty (30) feet and the "Additional Yard Requirements" in Chapter 4.07 Yards, states that a corner lot must have a front yard along both streets.
6. That the "Minimum Yard Requirements" of the R-2 Zoning state that a residential structure shall have a minimum front yard of thirty feet, provided that a greater or lesser setback distance has been established in any block, then no building shall approach nearer any street lot line than a general average of this setback distance.
7. That the existing garage is located 25 feet from the west property line.
8. That the proposed garage addition would be constructed the same set-back from the street lot line as the existing garage.
9. That none of the adjoining property owners filed any objection to the proposed variance.
10. That granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
11. That the reasons set forth in the application justify granting a variance.

Motion was made by Bohn, seconded by Slater, to recommend granting the variance as requested, all voting aye, motion carried.

Susanne Albrecht dba The Get Fit has requested that she be allowed to construct a 80 foot x 130 foot commercial structure ten (10) feet from the rear property line, operate a business on a lot zoned as R-2 General Residential, and exceed the maximum lot coverage of thirty percent with buildings on a lot zoned as legally described property: Lot 4A, Block 7, Barnes First Addition, and addressed as 309 Prairie Ave. SW, De Smet, South Dakota.

The location of the proposed construction was reviewed by Alderman Slater. Susanne Albrecht appeared before the board in support of the proposed variance request. No one appeared to comment in opposition to the variance.

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 Lot 4A, Block 7, Barnes First 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 use adjacent to the property to the South of the subject property is a commercial medical clinic.
That the use adjacent to the property to the East of the subject property is the Avera De Smet Memorial Hospital.
That the use adjacent to the property to the North of the subject property is a single family residence.
That the use of the property to the West of the subject property is zoned agricultural.
4. That the permitted uses allowed in the "R-2" zoning do not include a fitness center business.
5. That the Area Regulations of the "R-2" zoning require a rear yard set-back of twenty-five (25) feet.
6. That the Area Regulations of the "R-2" zoning require a maximum lot coverage for all building and structures not to exceed thirty percent (30%) of the total lot area.
7. That the proposed use of the structure would be compatible with other allowable health care facilities located to the South and East.
8. That the proposed commercial structure would be constructed ten (10) feet from the rear property line.
9. That none of the adjoining property owners filed any objection to the proposed variance.
10. That granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
11. That the reasons set forth in the application justify granting a variance.

Motion was made by Slater, seconded by Jensen, to recommend granting the variance as requested, upon roll call vote voting aye: Slater, Whitaker, Cavanaugh, Jensen, and Hansen, voting nay: Bohn, motion carried.

Mayor Wolkow declared the council back in session. Motion was made by Slater, seconded by Cavanaugh, to approve the variance application of Preston Collier as presented, all voting aye, motion carried. Motion was made by Slater, seconded by Jensen, to approve the variance application of Susanne Albrecht dba The Get Fit as presented, upon roll call vote voting aye: Slater, Whitaker, Cavanaugh, Jensen, and Hansen, voting nay: Bohn, motion carried.

BUILDING & MOVING PERMITS: Building permits submitted were Preston Collier - garage; Susanne Albrecht dba The Get Fit - commercial structure; and Jason Gruenhagen - carport. Moving permit submitted was from Susanne Albrecht. Permit applications were reviewed by the council. Motion by Slater, seconded by Cavanaugh, to approve the building permit for a garage addition submitted by Preston Collier, all voting aye, motion carried. Motion was made by Slater, seconded

by Cavanaugh, to approve the building permit for a commercial structure and moving permit for a house on the lot submitted by Susanne Albrecht, five voted aye, Bohn voted nay, motion carried. The building permit submitted by Gruenhagen needs more information before the application can be considered.

SECOND READING FOR ORDINANCE LIMITING WOOD PILES: LeRoy Roth met with the council to discuss his questions and concerns with setting limits on how much wood could be stored on a property. Motion was made by Slater, seconded by Bohn, to table the second reading limiting the number of cords of wood stored on a property until the December 13, 2017 Regular Meeting, five voted aye, Jensen voted nay, motion carried.

SECOND READING TO AMEND ORDINANCE NO. VIII-I ANIMALS: Motion was made by Hansen, seconded by Slater, to approve the second reading to amend Ordinance No. VIII-I ANIMALS, adding Section VIII-1-11, Pet Waste, to prohibit the accumulation of pet feces and require pet owners to remove their pet's waste on public or private property, all voting aye, motion carried.

ORDINANCE NO. VIII-I
ANIMALS

Section VIII-1-11. Pet Waste.

- (a) No person shall allow any mammal, reptile, insect, bird or amphibian to defecate or urinate on any property in the city other than his own. If such creature does defecate upon public or private property, the person owning or having possession, charge, custody or control of such creature shall immediately and thoroughly clean the fecal matter from such property.
- (b) Any person accompanied by any creature in public or private property other than his or her own must carry with him or her visible means of cleaning up any fecal matter left by the animal. Service animals, animals used by law enforcement and animals used in parades are exempt from the provisions of this section.
- (c) No person will allow creature fecal matter to accumulate on his property. Any amount of fecal matter that is in excess of ten separate bowel movements will be considered a violation of this section. In addition any fecal matter, no matter the amount, that is producing a foul odor or attracting insects will be a violation of this section.
- (d) Any person violating this ordinance shall be subject to a fine of not less than \$75.00, nor more than \$200.00 per incident.

All other sections of said ordinance remain in full force and effect.

Dated this 8th day of November, 2017.

Gary Wolkow, Mayor

Tracey Larson, Finance Officer

Fire Reading: October 11, 2017

Second Reading: November 8, 2017

Published: November 22, 2017

EXECUTIVE SESSION: At 6:20 PM, motion was made by Hansen, seconded by Jensen, to go into executive session for litigation, all voted aye, motion carried. The council was declared out of executive session by Mayor Wolkow at 6:48 PM.

EVENT CENTER DIRECTOR: Event Center Director, Kristy Hubbard met with the council to present the Advisory Board recommendation to increase the party rental rate when adding the exhibit hall or theater to the rental of another room from \$10.00 to \$25.00. The council inquired as to what the other rental rates were. Motion was made by Cavanaugh, to approve increasing the party rental rate for the exhibit hall or theater with another room rental from \$10.00 to \$25.00. Motion died due to lack of second. The council asked that the Advisory Board look at all the fees for the Event Center and present their recommendation for the next meeting. Hubbard asked for council recommendation when a request has been made for Event Center rentals on holidays. The council discussed the option of charging a holiday rental rate and how to staff the additional days. No action was taken at this time.

SRF LOAN: FO Larson presented financial information and a letter of request written to the SD DENR requesting approval for the city to make an additional principal payment on the water loan in the amount of \$30,000.00. If approved the additional principal payment would be made in January, 2018. Motion was made by Hansen, seconded by Cavanaugh, to approve sending a letter of request to SD DENR to make an additional principal payment of \$30,000.00, all voted aye, motion carried.

CONTINGENCY TRANSFER: Motion was made by Slater, seconded by Cavanaugh, to approve transferring \$7,100.00 from Contingency to the Fire Department to cover to the expense over the budgeted amount for the three SCBA units, all voted aye, motion carried.

FY 2014 AUDIT: FO Larson reported that the 2014 Audit has been completed and that it has been reviewed and approved by SD Dept. of Legislative audit and has also been submitted to the Federal Audit

Clearinghouse. Motion was made by Cavanaugh, seconded by Whitaker, to accept the 2014 Audit, all voting aye, motion carried.

LIBRARY CARPET: A letter from Library Director, Mary Purintun, was presented to the council. In the letter, Purintun informed the council that during the remodeling project recently completed, it was noted that after cleaning the 28 year old carpet, there is much wear and staining. The library received memorial money for the remodeling project and have approximately \$10,000.00 remaining. The Library Board has received an estimate in the amount of 11,952.26 from Barrett's Flooring to replace the existing carpet and would like to use the remaining memorial money toward the new carpet and inquired if the City would be able to cover the difference from the 2017 budget. Motion was made by Whitaker, seconded by Bohn, to approve the purchase of new carpet for the library with funding of \$10,000.00 from the memorial donation and using contingency funding for the remaining balance, all voting aye, motion carried.

SURPLUS PROPERTY: Motion was made by Cavanaugh, seconded by Whitaker, to declare the hospital L.E.S. Inc. Boilers, Model HW-1150 as surplus property to be disposed of at the De Smet Restricted Use Site and sold for scrap metal; a Dell Model DCSLA computer with monitor and mouse to be disposed of when the city has the electronic recycling; and four Goodyear P255/70R16 tires to be disposed of at the Restricted Use Site, all voted aye, motion carried.

BASEBALL FIELD PROJECT UPDATE: Council members Jensen and Cavanaugh updated the council on the new baseball field project with the following information: Jensen has compared several companies to price the guard material for the top of the chain link fence to be purchase with grant money; grant money will also be used to purchase a youth pitcher's mound and scoreboard; the baseball coaches have funding for a 70' x 16' batting cage that will need to be placed on the west side of the field due to irrigation lines; the agri-lime was hauled to the field last week; and the completed dugouts look very nice. Motion was made by Cavanaugh, seconded by Whitaker, to approve contributing \$2,098.03 to the De Smet Community Foundation for the baseball field project, five voted aye, Slater voted nay, motion carried.

DEVELOPMENT COORDINATOR REPORT: Development Coordinator Rita Anderson reported on the following: De Smet received the South Dakota Philanthropic Community of the Year Award. The award will be on display at different locations for the public to see; the annual community meeting held by the De Smet Development Corp. will be held on December 12, 2017 at the Oxbow at 7:00 AM; Lyle Signs and Castlerock Construction will be installing a sign above the current sign to provide better signage to direct visitors to the Event Center, Athletic Complexes, and Hospital; and the Harvey Dunn Society sponsored Art Show & Veterans Presentation held was a tremendous success. The art show and panel discussion was well attended.

FINANCIAL REPORTS: Motion was made by Whitaker, seconded Cavanaugh, to approve the October 2017 Cash Balances Report as presented by the

Finance Officer, all voting aye, motion carried. It was also reported to the council that the Event Center principal loan balance after the November payment is applied is \$235,277.93.

OVERTIME: Motion by Cavanaugh, seconded by Hansen, 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) the October law enforcement report; 2) installing a fence guard around the top of baby pool chain link fence; and 3) additional dirt work to be cleaned out of the retention pond by the baseball field.

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

Gary Wolkow, Mayor

ATTEST:

Tracey Larson, Finance Officer

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