

**THE MEETING OF THE COMMON COUNCIL OF THE CITY OF WAGNER,
CHARLES MIX COUNTY, SOUTH DAKOTA**

PURSUANT TO DUE CALL AND NOTICE THEREOF, the special April meeting was held on Monday, April 27th, 2020 at the Wagner City Hall at 5:30 pm. Present were: Mayor Donald R Hosek, City Administrator/Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom F Beeson, Colby Kirwan, Roger Schroeder and John Tyler. Absent: None.

Due to COVID-19 and the social distancing guidelines, the city had made available a conference call line for citizens to participate. The meeting was open to the public as well as long as the group did not exceed 10 people.

The meeting was opened with the Pledge of Allegiance.

The conflict of interest declaration statement was recited. No conflicts were cited.

The meeting was called to order and the Mayor called for the approval of the special meeting agenda. A motion was made by Tyler, second by Schroeder to approve the special meeting agenda. Upon roll call vote being taken, the following voted aye: Cuka, Honomichl, Kirwan, Beeson, Schroeder and Tyler. The following voted nay: None. The following abstained: None. The following were absent: None. Motion carried.

A motion was made by Kirwan, second by Tyler to approve additional April claims. Upon roll call vote being taken, the following voted aye: Cuka, Honomichl, Beeson, Kirwan, Schroeder and Tyler. The following voted nay: None. The following abstained: None. The following were absent: None. All voted aye, motion carried.

April Claims

SDRS	retirement	7,173.44
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OLD BUSINESS

The council presented the following ordinance:

ORDINANCE NO. 2020-02

AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH EMERGENCY BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS 2019 (COVID-19).

WHEREAS, the City of Wagner has the authority pursuant to SDCL 9-29-1 to pass ordinances for the purpose of promoting the health, safety, morals, and general welfare, of the community; and

WHEREAS, the City has the power pursuant to SDCL 9-32-1 to do what is necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been confirmed in more than 100 countries, including the United States; and

WHEREAS, COVID-19 is a severe respiratory disease transmitted by person-to-person contact, or by contact with surfaces contaminated by the virus. In some cases, especially among older adults and persons with serious underlying health conditions, COVID-19 can result in serious illness requiring hospitalization, admission to an intensive care unit, and death; and

WHEREAS, the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the Secretary of the U.S. Department of Health and Human Services have declared the outbreak of COVID-19 as a public health emergency; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the global pandemic of COVID-19; and

WHEREAS, on the same day, Governor Kristi Noem, issued Executive Order 2020-04 which declared a state of emergency to exist in the State of South Dakota in response to the spread of COVID-19; and

WHEREAS, cases of COVID-19 have been confirmed in most counties in South Dakota; and

WHEREAS, the CDC and health experts have recommended social distancing to slow the spread of COVID-19, which is a method of slowing down or stopping the spread of a contagious disease by reducing the probability of contact between infected persons and those not infected in order to minimize disease transmission; and

WHEREAS, in response to the need to implement social distancing, all schools in the state of South Dakota have been closed for the remainder of the school year; and

WHEREAS, on March 16, 2020, the White House issued guidance recommending that social gatherings of more than ten people be avoided, and that people avoid eating or drinking at bars, restaurants, and food courts; and

WHEREAS, the guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

WHEREAS, many states and communities across the country have already implemented the White House recommendations by ordering all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate be closed until the public health emergency is over; and

WHEREAS, the failure to successfully implement social distancing will likely result in higher numbers of infected individuals and has the potential to overwhelm the capacity of the City's health care providers; and

WHEREAS, it is important that control measures be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of the City's residents, especially for seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19; and

WHEREAS, on April 6, 2020, Governor Kristi Noem issued Executive Order 2020-12 ordering enclosed retail businesses that promote public gathering such as bars and restaurants to suspend or modify business practices that involve ten or more people in an enclosed space where physical separation of at least six feet is not possible; and

WHEREAS, on April 8, 2020, the City of Wagner adopted Ordinance No. 2020-01 ordering the closure or alteration in businesses practices of certain businesses; and

WHEREAS, Executive Order 2020-12 also ordered local governments to restrict public gatherings of ten people or more unless the gathering is necessary; and

WHEREAS, public health officials in the state of South Dakota have projected the peak infection rate for COVID-19 will not occur until approximately June 2020; and

WHEREAS, the federal government issued guidelines for local communities to follow when considering reopening; and

WHEREAS, the number of confirmed positive cases in Charles Mix County has not increased since reaching 4 cases on April 11, 2020; and

WHEREAS, Ordinance 2020-02 is due to expire on _____, 2020; and

NOW THEREFORE, BE IT ORDAINED, by the Common Council of the City of Wagner that:

1. All restaurants, food courts, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes, hookah lounges, cigar bars, vaping lounges, and other similar places of public accommodation offering food, beverages, or other products for on-site consumption, including any alcohol licensees with on-sale privileges, must comply with Executive Order 2020-12 along with any amendments thereto and any subsequent executive order that explicitly supersedes Executive Order 2020-12. To operate in compliance with Executive Order 2020-12 and this ordinance, tables, booths, or other areas intended to accommodate on-site consumption must be a minimum of 6 feet apart and the business must not allow 10 or more patrons at any table, booth, or other area intended to accommodate on-site consumption. Such businesses may not allow patrons to congregate within 6 feet in groups of 10 or more. To ensure compliance with the distancing requirements, each business must establish the maximum allowed occupancy based on a formula of 1 person (inclusive of employees and patrons) per _____ square feet of public area where customers frequent excluding restrooms. The maximum allowed occupancy must be posted at all entrances to the business in a manner that is visible;
2. All recreational facilities, public pools, health clubs, athletic facilities, gyms, fitness centers, theaters, including movie theaters and music or entertainment venues, arcades, bingo halls, bowling alleys, casinos, and other similar recreational or entertainment facilities must comply with Executive Order 2020-12 along with any amendments thereto and any subsequent executive order that explicitly supersedes Executive Order 2020-12. To operate in compliance with Executive Order 2020-12 and this ordinance, businesses must ensure there are fewer than 10 patrons in the business unless the size of the business site is large enough to allow 6 feet of distance between patrons and the business enforces distancing requirements. To ensure compliance with the distancing requirements, each business must establish the maximum allowed occupancy based on a formula of 1 person (inclusive of employees and patrons) per _____ square feet of public area where customers frequent excluding restrooms. The maximum allowed occupancy must be posted at all entrances to the business in a manner that is visible;
3. If Executive Order 2020-12 expires without readoption or is rescinded without a superseding order, this ordinance shall be automatically repealed unless specifically readopted for an additional period by the City Council.
4. Unless earlier repealed by operation of paragraph 3 or action by the City Council, this ordinance shall remain in effect until _____, 2020, at which time it shall be automatically repealed unless specifically readopted for an

additional period of time by the City Council.

5. Any violation of this ordinance is subject to the general penalty provision in Section 11-1-1 of the Wagner City Municipal Code at the amount of \$200 per day any violation continues or at the rate as Section 11-1-1- may be set after the passage of this Ordinance by the Wagner City Council from time to time.. Each day a violation of this ordinance is allowed to occur is considered a separate offense and subject to a separate fine as described above.

BE IT FURTHER ORDAINED, that, pursuant to SDCL 9-19-13, this ordinance is necessary to suppress disease and for the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective immediately upon passage and publication.

Dated this 27th day of April, 2020.

CITY OF WAGNER

By: _____
Donald R. Hosek, Its Mayor

(Seal)

Attest:

Rebecca Brunsing, Finance Officer

First Reading: April ____, 2020

Second Reading: _____, 2020

Published: May 6, 2020

Effective: May ____, 2020

Discussion followed between the council and callers on the conference line; RF Buche, Rod Pattison, Kyle Moos, Whitey Tolliver, Tami Hanson and John Tuttle.

No action taken.

NEW BUSINESS

A motion was made by Tyler, second by Cuka to approve the interim loan interest rate of 2.85% for construction on the amount of \$1,726,000 for the upcoming water and wastewater project from Commercial State Bank. Upon roll call vote being taken, the following voted aye: Cuka, Honomichl, Beeson, Kirwan, Schroeder and Tyler. The following voted nay: None. The following abstained: None. The following were absent: None. All voted aye, motion carried.

The conference call was disconnected to enter executive session.

EXECUTIVE SESSION

A motion was made by Schroeder, second by Beeson to enter executive session at 6:21 pm for proprietary business SDCL 1-25-2 (5), litigation SDCL 1-25-2 (3) and personnel pursuant to SDCL 1-25-2 (1); all voted aye, motion carried.

The Mayor declared the council out of executive session at 6:50 pm.

No action was taken on the above ordinance. The city council will meet tomorrow at 7:00 pm for another special meeting.

A motion was made Schroeder, second by Beeson to adjourn the meeting at 6:55 pm. All voted aye, motion carried.

APPROVED _____
Donald R Hosek, Mayor

Attest _____
Rebecca Brunsing, Finance Officer

Published once at the approximate cost of \$ _____.

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