

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

The city council reconvened at 7:00 pm to hold the regular July meeting on Monday, July 5<sup>th</sup>, 2017 at City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, and Ron Fredrich. Absent: Roger Schroeder and Dale Petrik.

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 July agenda. A motion was made by Beeson, second by Fredrich to approve the July agenda. All voted aye, motion carried.

A motion was made by Cuka, second by Honomichl to approve the regular meeting minutes from June 5<sup>th</sup>, 2017, and the board of adjustment minutes from June 5<sup>th</sup>, 2017. All voted aye, motion carried.

A motion was made by Fredrich second by Beeson to approve the financial statements for June 2017 and the claims for July 2017. All voted aye, motion carried.

**July 2017**

June Salaries: Administration--\$6,253.45; Buildings--\$1,797.69 Buildings-Armory--\$1,356.15; Police--\$18,759.66; Streets--\$4,713.76; Swimming Pool--\$6,113.89; Recreation--\$3,181.82; Parks--\$1,606.82; Library--\$4,662.52; HRC—Urban Redevelopment--\$245.00; Water--\$4,873.72; Sewer--\$3,090.40; Withholding/Social Security--\$13,870.60.

**GENERAL**

Airside Solutions	supplies	137.75
Avenet, LLC	prof fees	500.00
Bryan Rock Products	supplies	512.03
Card Services	supplies	484.81
Century Link	phone	74.72
Charles Mix Electric	electricity	495.58
Chips Construction	repair	2,474.49
City of Wagner	water	802.94
Country Pride	propane	316.68
Current Solutions	repairs	650.51
Dakota Auto Body	repairs	1,897.71
Ecolab	prof fees	130.98
Hawkins Water	supplies	2,638.70

Helms & Associates	prof fees	14,879.94
Ingram	supplies	323.66
John Otte	prof fees	825.00
King Koin Laundry	prof fees	226.50
Light & Siren	supplies	87.50
Mike Frei	deposit refund	50.00
One Office Solution	prof fees	88.15
Petrik Sanitation	clean up	2,695.50
QT Petroleum	prof fees	995.00
Randy Beeson	prof fees	450.00
Recreation Supply	supplies	66.37
SD Dept of Transportation	supplies	372.00
Safe-N-Secure	repair	207.37
Sanitation Products	repairs	547.60
Schuurmans Farm Supply	repairs	1,335.92
SD Dept of Rev-sales tax	sales tax	232.07
SD Municipal League	registration	25.00
Spencer Quarries	supplies	700.64
Steven Fousek Trucking	supplies	959.00
Summit Supply	supplies	746.70
Time	subscription	39.75
Tom Week, L.S.	prof fees	1,200.00
Van Diest Supply	supplies	1,139.10
VanderPol Dragline Inc	improvements	112,120.56
Von Eschen Lawn	pro fees	375.00
Wagner Area Growth	pass thru	22,919.48
Wagner Beatification Comm	supplies	102.24
Wipf & Cotton	prof fees	1,000.00
Yankton Janitorial	supplies	538.25
Yankton Sioux Tribe	rent refund	300.00

#### **WATER & SEWER**

Best Propane	repair	202.74
Dakota Supply Group	supplies	278.81
DENR	fees	600.00
Howard & Lottie Kelly Trust	deposit refund	25.00
Miranda Sanchez	deposit refund	86.63
Randall Community Water	water	22,517.70
US Bank Trust	loan pymts	10,066.63
Valley Pump & Casino	supplies	42.94
USDA Rural Development	loan pymt	1,969.00
USDA Rural Development	loan pymt	5,561.00

#### **VARIED**

AFLAC	insurance	760.16
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AT&T	phone	241.90
Best Western Ramkota	travel	1,067.91
Bomgaars	supplies	1,672.12
First Dakota Bank	petty cash	543.47
Fort Randall Telephone	phone	801.21
Leaf	prof fees	114.25
Midtowne Oil & Co	fuel	848.99
Northwestern Energy	electricity	10,602.10
Pechous Publications	legals	287.01
Quill	supplies	100.95
SD Dept of Revenue	prof fees	442.00
Transamerica	insurance	137.20
Voyager	fuel	2,026.12
Wagner Building & Supply	supplies	2,770.89

### **INCIDENTIAL VOUCHERS**

Buches	supplies	158.13
Myers Sanitation	prof fees	1,650.00
Wipf & Cotton	prof fees	1,250.00
Yankton Title Co	land purchase	62,248.70
Dakotacare	insurance	6,745.91
Northwestern Energy	electricity	32.94
SD Retirement	retirement	6,083.30
Supplemental Retirement	retirement	150.00
Unum Life Insurance	insurance	261.26
Charles Mix Law Enforcement	prof fees	30.00
MC&R Pools	supplies	72.07
Galls	supplies	46.99
CME	electricity	348.80
RDO Equipment	pay loader	153,474.00

### **OLD BUSINESS**

Alfred Bartunek was present to discuss condemned houses in Wagner.

This being the time and place for a public hearing for a special event alcoholic beverage license for the Wagner Fire Department at the Wagner Speedway for September 3<sup>rd</sup>, 2017. No one was present to object to the license. A motion was made by Cuka, second by Honomichl to approve the license. All voted aye, motion carried.

The Main Avenue Curb and Gutter Improvement Project will be moved to the August agenda.

A motion was made by Beeson, second by Fredrich to approve a bid from Dave Hewitt for the 1990 Chevy pickup that was surplus in the amount of \$600.00. All voted aye, motion carried.

There were no bids received for the 1974 IHC dump truck. The vehicle was appraised at \$500.00. At any time an individual may come in and make an offer on the dump truck. The offer will be considered by the city council to be approved or rejected.

Kelsey Doom was present to update the council on a future Frisbee golf course and a dog park. The council asked Ms. Doom to put together some estimates and bring them to the August council meeting.

There was discussion of Railroad Street. The council consensus was to have DGR Engineer look at the project.

### **NEW BUSINESS**

There was discussion of excess grain being stored on the ground within the city limits.

The city received \$5,641.00 in grant funds for mosquito control from the SD Department of Health. The grant funds will help for the purchase of a side by side to assist in better concentration of areas for mosquito spraying. A motion was made by Cuka, second by Beeson to approve the purchase of a 2013 Kubota in the amount of \$10,900.00. All voted aye, motion carried.

A motion was made by Fredrich, second by Honomichl to surplus 21 bales of grass hay and advertise for bids. All voted aye, motion carried.

A motion was made by Cuka, second by Honomichl to approve the pay request for VanderPol Dragline, Inc for the cross-wind runway reconstruction project in the amount of \$112,120.56. All voted aye, motion carried.

A motion was made by Beeson, second by Cuka to approve a change order for the cross-wind runway project for a decrease in the contract of \$10,761.96. All voted aye, motion carried.

A request of Francis Doom to fill in a portion of a ditch on 394<sup>th</sup> Avenue was discussed. No action was taken.

A motion was made by Beeson, second by Fredrich for a \$1,500.00 donation to the Rural Office of Community Services, inc for the meals on wheels. Three voted aye, Honomichl voted nay, motion carried.

A motion was made by Fredrich, second by Honomichl to approve to block off Main Avenue on August 3<sup>rd</sup> from 8:30 am to 1:00 pm for Crazy Days and the Customer Appreciation Lunch from 2<sup>nd</sup> Street to 3<sup>rd</sup> Street. All voted aye, motion carried.

Ordinance 2016-06 will be placed on its first reading at the August 2017 regular council meeting.

Reconstruction of 7<sup>th</sup> Street was discussed. This will be further discussed at the August 2017 regular council meeting.

A motion was made by Cuka, second by Honomichl to set the date for public hearing on a special event alcoholic beverage license for the VFW for September 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup>, 2017 and set the date for public hearing for August 7<sup>th</sup>, 2017 at 7:00 pm. All voted aye, motion carried.

A motion was made by Cuka, second by Beeson to approve to advertise for bids for a port-a-pot service for Labor Day 2017. All voted aye, motion carried.

There was discussion on the proposed Wagner Swimming Pool Handbook. This will again be discussed at the August regular council meeting.

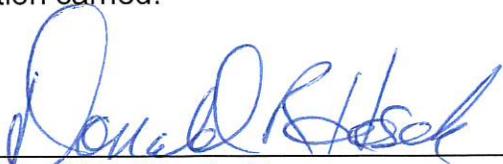
### **EXECUTIVE SESSION**

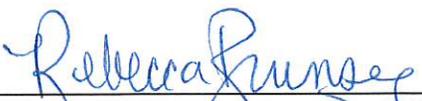
A motion was made by Cuka, second by Honomichl to enter into executive session at 8:12 pm for proprietary business SDCL 1-25-2 (5), litigation SDCL 1-25-2 (3) and personnel pursuant to SDCL 1-25-2 (1). All voted aye, motion carried.

The Mayor declared the council out of executive session at 8:35 pm.

There was a short update of property maintenance issues. No action was taken.

A motion was made Beeson; second by Honomichl adjourn the meeting at 8:38 pm. All voted aye, motion carried.

APPROVED   
Donald R. Hosek, Mayor

Attest:   
Rebecca Brunsing, Finance Officer

"This institution is an equal opportunity provider."

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 5:30 pm for a special July meeting held on Wednesday, July 12<sup>th</sup>, 2017 at the Wagner City Hall. Present were: Mayor Donald R. Hosek, City Attorney Ken Cotton, Finance Officer, Rebecca Brunsing, and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, and Roger Schroeder. Absent: Dale Petrik.

The conflict of interest declaration statement was recited. Ron Cuka stated he would have a conflict with a personnel issue to be discussed in executive session.

A motion was made by Schroeder, second by Beeson to approve the agenda. All voted aye, motion carried.

A motion was made by Fredrich, second by Schroeder to approve the rest of June 2017 claims. All voted aye, motion carried.

**JUNE VOUCHERS**

Broadway Chrysler Dodge	repair	103.45
Charles Mix Law Enforcement	prof fees	150.00
Clarke Mosquito Control	supplies	232.50
Dash Medical	supplies	136.80
DENR	registration	20.00
Friberg, Nelson & Ask	prof fees	39.00
Honomichl Design	supplies	3.47
Judy Naatz	meter refund	71.70
Karissa Martin Eggers	meter refund	32.65
Mark's Machinery	equipment	10,900.00
Rog's Auto	repair	45.56
Rural Office of Comm Services	prof fees	1,500.00
SD Municipal League	registration	100.00
Shopko	supplies	17.90
Spencer Quarries	supplies	1,405.34
Wagner Super Foods	supplies	42.41

**NEW BUSINESS**

A motion was made by Schroeder, second by Honomichl to accept Dale Petrik's resignation from the Wagner City Council. All voted aye, motion carried.

A motion was made by Beeson, second by Schroeder to appoint Brenda Jatton to the vacancy in Ward III until the next municipal election. All voted aye, motion carried. Jatton recited the oath of office.

**EXECUTIVE SESSION**

Ron Cuka left the executive session due to a conflict of interest.

A motion was made by Fredrich, second by Honomichl to enter into executive session for personnel pursuant to SDCL 1-25-2 (1) at 5:33 pm. All voted aye, motion carried.

The Mayor declared the Council out of executive session at 5:42 pm.

Ron Cuka joined open session of the council meeting.

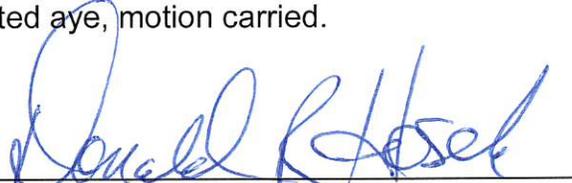
A motion was made by Cuka, second by Honomichl to accept Jerry Renken's resignation as police officer. All voted aye, motion carried.

A motion was made by Schroeder, second by Beeson to hire Dale Petrik as Maintenance Superintendent at \$20.00 per hour. All voted aye, motion carried.

A motion was made by Beeson, second by Honomichl to increase Joe Cuka to \$12.00 per hour. Five voted aye, Cuka abstained, motion carried.

A motion was made by Fredrich, second by Cuka to adjourn the council meeting at 7:00 pm. All voted aye, motion carried.

Approved



Donald R. Hosek, Mayor

Attest



Rebecca Brunsing, Finance Officer

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

The city council reconvened at 7:00 pm to hold the regular August meeting on Monday, August 7<sup>th</sup>, 2017 at City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Roger Schroeder and Ron Fredrich. Absent: None.

The meeting was opened with the Pledge of Allegiance.

The meeting was called to order and the Mayor called for the approval of the August agenda. A motion was made by Beeson, second by Schroeder to approve the August agenda. All voted aye, motion carried.

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

A motion was made by Schroeder, second by Honomichl to appoint John Tyler to the Ward III vacancy until the next municipal election. All voted aye, motion carried.

A motion was made by Cuka, second by Fredrich to approve the regular meeting minutes from July 5<sup>th</sup>, 2017, and the special council meeting on July 12<sup>th</sup>, 2017. All voted aye, motion carried.

A motion was made by Beeson second by Schroeder to approve the financial statements for July 2017 and the claims for August 2017. All voted aye, motion carried.

**August 2017**

July Salaries: Administration--\$9,719.30; Buildings--\$1,583.74 Buildings-Armory--\$1,194.74; Police--\$19,016.68; Streets--\$4,336.90; Swimming Pool--\$10,378.14; Recreation--\$2,405.12 Parks--\$1,469.33; Library--\$4,226.46; HRC—Urban Redevelopment--\$862.50; Water--\$4,506.27; Sewer--\$2,788.88; Withholding/Social Security--\$14,903.39; SD Unemployment--\$554.10.

**GENERAL**

Bierschback Equipment	supplies	96.52
Card Services	supplies	634.10
Century Link	phone	71.29
Charles Mix Electric	electricity	474.94
City of Wagner	water	1,708.88
DGR Engineering	prof fees	1,927.55
FedEx	prof fees	17.10
Galls	supplies	89.14
Country Pride	propane	316.68
Current Solutions	repairs	650.51

Dakota Auto Body	repairs	1,897.71
Ecolab	prof fees	130.98
Hawkins Water	supplies	4,637.15
Helms & Associates	prof fees	7,238.06
Ingram	supplies	219.80
Iverson Chrysler	repair	10,113.02
Jacks Uniforms	supplies	1,999.61
John Otte	prof fees	825.00
King Koin Laundry	prof fees	226.50
Marks Machinery	supplies	89.06
Northwest Vet	prof fees	270.00
One Office Solution	prof fees	74.24
Pechous Publications	prof fees	309.58
People	subscription	118.26
Pheasantland Industries	supplies	256.93
Schuman Electric	repair	428.40
Shopko	supplies	203.42
Spencer Quarries	supplies	803.88
TCS Lawn Care	prof fees	95.00
The Road Guy Construction	chip seal	23,034.24
Thomason West	supplies	200.00
Ultramax	supplies	51.44
US Postmaster	prof fees	92.00
VanderPol Dragline Inc	improvements	21,559.05
Wipf & Cotton	prof fees	980.00

#### **WATER & SEWER**

Brandon Parker	deposit refund	13.90
Dakota Pump Inc	repair	760.00
Gage Garnas	deposit refund	86.60
HD Waterworks	supplies	444.46
Randall Community Water	water	22,706.30
Riteway Business Forms	supplies	297.05
S & K Truck Wash	supplies	100.00
Sherri Jensen	deposit refund	28.04
SD One Call	prof fees	43.05
Tim & Linda Foos	deposit refund	68.80
USDA Rural Development	loan pymt	1,969.00
USDA Rural Development	loan pymt	5,561.00

#### **VARIED**

AFLAC	insurance	760.16
AT&T	phone	241.98
Bomgaars	supplies	444.34
Dakota Supply Group	supplies	1,139.61

First Dakota Bank	petty cash	759.69
Fort Randall Telephone	phone	750.10
Honomichl Design	supplies	23.96
Leaf	prof fees	114.25
Midtowne Oil & Co	fuel	626.31
Northwestern Energy	electricity	12,213.42
Quill	supplies	271.65
Schoenfish & Co	prof fees	10,000.00
Transamerica	insurance	137.20
Voyager	fuel	1,569.99
Wagner Building & Supply	supplies	3,717.03

### **INCIDENTIAL VOUCHERS**

Avera Occupational	prof fees	158.00
Dakotacare	insurance	6,745.91
Northwestern Energy	electricity	440.62
SD Retirement	retirement	5,863.80
SD Dept of Revenue	prof fees	338.00
Supplemental Retirement	retirement	150.00
Unum Life Insurance	insurance	182.08

### **PUBLIC PRESENT FOR AGENDA ITEMS**

Lynn Soukup was present to thank the city for their support in the youth baseball program. They had approximately 100 youth participate ranging in ages from 8 to 20 years old.

Evan Papousek representing the Wagner Saddle Club and John Havranek representing Fischer Farms were present requesting an approval from the council for Fischer Farms to have a horse sale at the Wagner Rodeo grounds on September 9<sup>th</sup>, 2017. Discussion followed. A motion was made by Schroeder, second by Honomichl to approve the sublease. All voted aye, motion carried.

A motion was made by Fredrich, second by Beeson to approve the renewal of the Saddle Club lease for another five years, effective December 31<sup>st</sup>, 2017. All voted aye, motion carried.

A motion was made by Cuka, second by Honomichl to approve the fireworks at Wagner Lake for the Annual Cancer Walk on August 19<sup>th</sup>, 2017. All voted aye, motion carried.

Jamie Tjeersdma and Melonie Juffer were present to address the council regarding the swimming pool, mainly in two areas: extending the pool season hours for another month and community support/fundraising for a future new swimming pool. Discussion

followed. Consensus was it was too late in the season to extend the operating days of the pool, but the extension of hours will be considered for the next swim season.

The subject of a future new swimming pool was discussed.

## **OLD BUSINESS**

The public hearing for a special event alcoholic beverage license for the VFW for September 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup>, 2017 was cancelled.

A motion was made by Cuka, second by Tyler to approve of an offer of \$700.00 from Curt Fuchs for the 1974 IHC Fleet Star 1910 dump truck. All voted aye, motion carried.

A motion was made by Fredrich, second by Honomichl to approve a bid from Jim Bouza for surplused hay bales in the amount of \$65.00 per ton. All voted aye, motion carried.

A motion was made by Beeson, second by Cuka to approve the bid for port a pots and service from Powers Port A Pot Rental and Service for the Labor Day celebration in the amount of \$4,500.00 for the Labor Day and \$500.00 for the rodeo grounds. All voted aye, motion carried.

Kelsey Doom gave an update on to the council for a proposed Frisbee park on property that the city owns on NE Front Avenue. Randy and Lori Beeson were present concerning their property adjoining the city's property. They requested that a fence be put up. The council will take under advisement.

There was additional discussion on the Main Avenue Curb and Gutter Improvement Project. A motion was made by Roger, second by Honomichl to replace the entire curb and gutter on Main Avenue with the city paying for 50% and the property owners paying for 50% through the special assessment process over a five year period. All voted aye, motion carried.

The Railroad Street update was tabled until the September meeting.

A motion was made by Schroeder, second by Cuka to approve an estimate from Wagner Building & Supply for the 7<sup>th</sup> Street regarding of gravel in the amount of \$8,960.00. All voted aye, motion carried.

## **NEW BUSINESS**

A motion was made by Honomichl, second by Beeson to approve the Wagner Swimming Pool Handbook. All voted aye, motion carried.

A motion was made by Fredrich, second by Cuka to approve pay request #4 for Vanderpol Dragline, INC for the cross-wind runway reconstruction at the airport in the amount of \$21,559.05. All voted aye, motion carried.

A motion was made by Schroeder, second by Honomichl to approve the change order for the armory parking lot improvement project for an increase in the contract for \$12,720.66. All voted aye, motion carried.

There was discussion about combining phase two and phase three for the armory parking lot improvement project for 2018 budget year. The SD National Guard prefers to complete both phases. There will be a cost savings of combining the two phases into one year. A motion was made by Fredrich, second by Schroeder to approve phases two and three for the 2018 budget.

Ordinance No. 2016-06, AN ORDINANCE GRANTING A FRANCHISE TO FORT RANDALL CABLE SYSTEMS, INC., A SOUTH DAKOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO ERECT, OWN, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF WAGNER, SOUTH DAKOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF A FRANCHISE

#### **ORDINANCE NO. 2016-06**

AN ORDINANCE GRANTING A FRANCHISE TO FORT RANDALL CABLE SYSTEMS, INC., A SOUTH DAKOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO ERECT, OWN, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF WAGNER, SOUTH DAKOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF A FRANCHISE.

BE IT ORDAINED BY THE CITY OF WAGNER, SOUTH DAKOTA:

WHEREAS, Fort Randall Cable Systems, Inc., a South Dakota corporation, has petitioned for the nonexclusive right to construct, own and operate a Cable System in the City of Wagner, South Dakota.

NOW, THEREFORE, the City of Wagner, South Dakota hereby grants to Fort Randall Cable Systems, Inc., the rights under this Cable Franchise Ordinance.

#### **A. SHORT TITLE**

This Franchise shall be known and may be cited as the “Fort Randall Cable System Franchise Ordinance.”

#### **B. DEFINITIONS**

For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Basic Service" means any service tier which includes the lawful retransmission of local television broadcast signals.
2. "Cable Service" means:
  - a. The one-way transmission to Subscribers of (i) video programming, or (ii) other programming service, or (iii) any other lawful communication service, and
  - b. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
3. "Cable System" or "System" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community.
4. "City" shall mean the City of Wagner, South Dakota.
5. "City Council" shall mean the City Council of Wagner, South Dakota.
6. "FCC" is the Federal Communications Commission of the United States.
7. "Franchise" means this cable franchise ordinance including a renewal of this ordinance, which authorizes the ownership, construction and operation and maintenance of a Cable System.
8. "Franchisee" is Fort Randall Cable Systems, Inc., its affiliates or successor in accordance with the provisions of this Franchise.
9. "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted subject to the line extension specifications in Section N(4) herein.
10. "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio or video signals to Subscribers for a fee or charge, in addition to the charge for Basic Service or Cable Service.
11. "Person" shall mean any person, firm, partnership, association, corporation, limited liability entity or organization of any kind and any other legally recognized entity.

12. "Street" means the space above and below each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within City limits: street, road, highway, freeway, waterway, lane, alley, path, court, sidewalk, parkway or drive or any easement, right-of-way or similar public property.
13. "Subscribers" are those Persons lawfully contracting to receive Cable Services furnished under this Franchise by Franchisee.

### **C. COMPLIANCE WITH STATE AND FEDERAL LAWS**

The Franchisee and the City shall conform to all state laws and rules regarding cable communications not later than one (1) year after they become effective unless otherwise stated and to all federal laws and regulations regarding cable communications, as they become effective.

The Franchisee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable Franchisee to exercise its rights and perform its obligations under this Franchise and ensure uninterrupted Cable Service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereto, the rules of the FCC, federal, state or local law or any other body having lawful jurisdiction thereof.

### **D. FRANCHISE TERM**

This Franchise shall extend for a term of five (5) years from the effective date of this ordinance. Franchisee or City shall provide written notice no earlier than six (6) months prior to franchise expiration of their intent to enter into renewal proceedings in accordance with 47 U.S.C. Section 546 or other applicable state and federal law.

### **E. FRANCHISE EXCLUSIVITY**

This Franchise is non-exclusive.

### **F. SALE OR TRANSFER**

The Franchisee shall not sell or otherwise transfer its rights so as to allow a new controlling interest under this Franchise without the prior written consent of the City which consent shall not be unreasonably withheld, delayed or conditioned. Any such sale, transfer or assignment shall be subject to, and completed pursuant to South Dakota Codified Law § 49-31-20. The City

hereby consents to the assignment by the Franchisee of its rights under this Franchise to any Person controlling, controlled by or under common control with Franchisee.

#### **G. RATES AND INSTALLATION CHARGES**

A copy of the current rates and charges assessed by Franchisee shall be provided to the City upon request.

The Franchisee may, in its sole discretion, establish a modified billing rate for seasonal Subscribers in accordance with applicable state and federal laws.

All Subscribers, as a condition of receiving Cable Service, shall agree to the terms and conditions imposed upon the Franchisee by Franchisee's Cable Service suppliers.

Nothing herein shall limit the right of Franchisee to impose upon its Subscribers state or local sales taxes, franchise fees, other legally permissible fees, or specific copyright fees for special programming events.

#### **H. RATE CHANGE PROCEDURE**

The Franchisee shall notify its Subscribers and/or publish any proposed changes in rates or charges at least thirty (30) days in advance of the effective date for such changes.

The City may regulate the rates for the provision of Basic Service provided over the Cable System to the extent permitted by federal law. In exercising its jurisdiction to regulate any such rates, the City will adhere to the regulations adopted by the FCC at 47 C.F.R. § 76.900 et seq. as they may be amended from time to time.

The terms of any Subscriber contracts utilized by Franchisee shall be made available to City upon request.

#### **I. LIABILITY INSURANCE**

The Franchisee shall indemnify and hold harmless the City at times during the term of the Franchise for Franchisee's negligent acts and shall maintain throughout the term of the Franchise liability insurance in the amount of not less than \$1,000,000.00 combined limits insuring both the City and the Franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the Franchise.

## **J. LIABILITY FOR INJURY TO FRANCHISEE**

Nothing in this Franchise shall relieve any Person from liability arising out of injury to the Franchisee or the Franchisee's property, including without limitation injury occurring as a result of performing any work connected with grading, regarding or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system.

## **K. FRANCHISEE'S CREDENTIALS**

The Franchisee's technical ability, financial condition, and legal qualifications were considered and approved by the City in a full public hearing proceeding affording reasonable notice and a reasonable opportunity to be heard.

## **L. CHANNEL CAPACITY**

The Franchisee shall construct and/or maintain a Cable System capable of transmitting from its head end in the frequency band of 54 to 300 MHz, which will allow for a minimum of forty (40) channels. The Cable System will also be designed to allow reception at its head end in the frequency band of 5 to 30 MHz, which will allow for up to four (4) channels. Nothing in this section shall prevent the Franchisee from upgrading the Cable System when the need arises, taking into consideration the costs associated with any such upgrade. The Franchisee may provide any lawful services over the Cable System without additional approval from the City, unless specifically required by state or federal law.

## **M. CONSTRUCTION SCHEDULE**

If the System, or subsequent rebuilds or extensions, proposed for the Franchise Area consist of fewer than one hundred (100) plant miles of cable:

1. Within ninety (90) days of a proposed upgrade, Franchisee shall apply for all necessary governmental permits, licenses, certificates, and authorizations;
2. The energized trunk cable must be extended substantially throughout the Franchise Area within one (1) year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and the persons along the route of the energized cable shall have individual drops as desired during the same period of time; and
3. The above stated requirements may be waived by City only upon occurrence of acts beyond the reasonable control of Franchisee or acts of God. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Franchise and to make such tests at its own expense as it shall find necessary to

ensure compliance with the terms of this Franchise and the applicable provisions of local, state and federal law.

4. This Franchise is granted for the Franchise Area. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered; provided, however, that Franchisee shall not be required to extend service beyond its present Cable System boundaries. Franchisee shall use commercially reasonable efforts to extend the Cable System and provide Cable Service to all households within the Franchise Area when practical and financially feasible. Franchisee shall, upon request, provide the City with a written explanation regarding the feasibility of extending the Cable System within the Franchise Area to areas which are not served by Franchisee. Nothing in this Franchise shall prevent Franchisee from extending the Cable System or from entering into mutually acceptable agreements with other parties regarding the extension of the System to unserved households. Access to Cable Service shall not be denied any group of potential cable Subscribers because of the income of the residents.

#### **N. EASEMENTS AND CONSTRUCTION AUTHORIZATIONS**

The City hereby grants unto the Franchisee an easement under, over and across its municipal properties, including, but not limited to roads, Streets, sidewalks, and driveways and all public places for the purpose of constructing and operating and maintaining a Cable System. Franchisee's duty to provide Cable Service to any Subscriber or Subscribers is conditioned upon the receipt of Franchisee of necessary easements from private parties without unreasonable cost or effort to Franchisee. Franchisee shall have the right, but not the obligation, to utilize its Cable System to provide any other communications services as may be permitted in accordance with applicable laws. This Franchise shall govern only the provision of Cable Services over the Cable System.

The Franchisee shall obtain a permit from the proper municipal authority before commencing construction of any Cable System, including the opening or disturbance of any road, Street, sidewalk, driveway, or public place. If the Franchisee fails to meet the conditions of the permit, the City shall have the right to correct or cause to be corrected, at the sole expense of the Franchisee, any violations of the conditions of the permit such as the return of land to its previous grading and the cleanup of construction debris.

#### **O. COMPLIANCE WITH APPLICABLE CODES**

All wires, conduits, cable and other property and facilities of the Franchisee shall be located, constructed, installed, and maintained in compliance with applicable codes. The Franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the Streets and public places of the Franchise Area or endanger the lives or property of any Person.

## **P. RELOCATION OF PLANT**

The following procedure shall be used by the Franchisee and City for the relocation or removal of the Franchisee's wires, conduits, cables and other property located in a Street, right-of-way, or public place whenever the City undertakes public improvements which affect the Franchisee's property.

The City shall give ninety (90) days written notice to the Franchisee of the actions it wishes the Franchisee to take with respect to the relocation or removal of the Franchisee's equipment and shall allow a reasonable period of time thereafter to complete such request. The Franchisee shall, at its expense, protect, support, temporarily disconnect, relocate, or remove its property when required by the City for the purpose of undertaking any public improvements.

Any other Person requesting relocation removal of the Franchisee's property shall, as a condition of such request, be required to pay to the Franchisee in advance an amount of money sufficient for reimbursement of all costs of such relocation or removal. Any Person which damages Franchisee's property shall reimburse the Franchisee for the cost of all necessary repairs and testing and for the loss of revenues, if any, to the Franchisee caused by an interruption of Cable Service due to the damaging of Franchisee's property.

## **Q. TECHNICAL STANDARDS**

The rules and regulations contained in subpart K of part 76 of the FCC's rules and regulations relating to Cable Systems are required to be adhered to by Franchisee unless or until, superseded by any future federal or state standards during the term of this Franchise. The Franchisee shall, upon request, meet with City to discuss the availability of technological innovations and attempt to establish priorities for making such innovations available.

## **R. SPECIAL TESTING**

In the event that special testing is required to determine the source of technical difficulties, the Franchisee shall be responsible for the costs of special testing to the extent such testing reveals that Franchisee has not complied with FCC technical standards.

## **S. NONVOICE RETURN CAPABILITY**

The Franchisee shall provide a Cable System having the technical capability for nonvoice return communications. Nothing herein shall be construed to required the Franchisee to supply or otherwise provide to the Subscribers any terminal equipment or device necessary to utilize the nonvoice return capability of the Cable System. The Franchisee shall provide such a capability upon request by a Subscriber with respect to the energized cable, cable "drops" and connections.

Upon such request, Franchisee shall propose rates and charges to apply to installation and use of such capability by Subscribers.

## **T. SUBSCRIBER PRIVACY**

No signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the Subscriber. No penalty shall be invoked for Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel cable communications activity planned for the purpose of monitoring individual viewing patterns or practices.

No information or data obtained by monitoring the transmission of a signal from a Subscriber terminal, including but not limited to lists of the names and addresses of such Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Franchisee and its employees for internal business use, and to the Subscriber who is the subject of that information, unless Franchisee has received specific written authorization from the Subscriber to make such data available.

Written permission from the Subscriber shall not be required for the Cable Systems conducting system wide or individually addresses electronic sweeps for the purpose of verifying Cable System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth.

## **U. SUBSCRIBER COMPLAINTS**

All reasonable complaints by the City, Subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the Cable System shall be promptly investigated by the Franchisee.

Complaints regarding the quality of service, equipment malfunctions, and similar matters shall first be directed to Franchisee's office. Should Franchisee fail to satisfy a reasonable complaint, it may then be directed to the City for investigation. In response to a complaint, Franchisee shall be afforded a reasonable opportunity to present written and oral statements of its position. Appeal from the action of the City may be made to the appropriate judicial or administrative forum.

## **V. REPAIRS AND COMPLAINTS**

To the extent required by federal law and requested by the City, Franchisee will print the name, address and telephone number of the City and the FCC's telephone number or address, on all monthly Subscriber bills who reside in the Franchise Area. The Franchisee shall provide a toll-free or collect telephone number for the reception of Subscriber complaints from the Franchise Area and shall maintain a repair service capable of responding to Subscriber requests for repair within twenty four (24) hours after receipt of the request. The Franchisee shall bear the costs of servicing and repairing the Cable System caused by defects in the System or other factors not caused by the Subscriber, its agents, guests or family members. The Subscriber shall pay the costs incurred by Franchisee in servicing and repairing the Cable System caused by the Subscriber, his/her agents, guests or family members.

## **W. TERMINATION**

The City reserves the right to terminate and cancel any Franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

1. the Franchisee substantially violates any material provision of this Franchise or is found by a court of law to have practiced any fraud or deceit upon the City;
2. the Franchisee is adjudicated insolvent, enters into receivership or liquidation, files an application for bankruptcy or for composition of creditors, is unable to pay its debts as they mature or is in financial difficulty or sufficient consequence so as to jeopardize the continued operation of the Cable System;
3. the Franchisee commits any material violation of any FCC or applicable state order or ruling or the order or ruling of any other governmental body having jurisdiction over the Franchisee, unless the Franchisee is lawfully contesting the legality or applicability of such rule or order; or
4. the Franchisee knowingly fails to provide Cable Service to a substantial portion of lawful Subscribers in the Franchise Area for a period of thirty (30) or more days. Franchisee shall not be responsible for failure to provide Cable Service to the extent such failure results from events not within Franchisee's control, including, but not limited to, acts of God, strikes, inability to obtain materials or contract labor, sabotage, riots or civil disturbances, loss of utilities and natural disasters.

Upon the occurrence of any of the above-listed events, the City shall provide the Franchisee with written notice citing the reasons alleged to constitute cause for termination of the Franchise. The City shall allow the Franchisee a reasonable time, but in any event no less than sixty (60) days subsequent to receipt of the notice, in which to remedy the cause. If, during such period, the cause is remedied to the satisfaction of the City, the City shall declare the notice to be null and void. If the cause is not remedied to the satisfaction of the City during such period, the City shall

provide the Franchisee with an opportunity to be heard at a public hearing before the City prior to adoption of any action for the termination of the Franchise.

In the event that the City takes any action to terminate the Franchise, the Franchisee shall have a period of sixty (60) days, beginning the day next following the date at which action to terminate the Franchise is ordered, within which to file an appeal with a court of competent jurisdiction.

During such sixty (60) day period and until the final determination of the appeal, if an appeal is taken, the Franchise shall remain in full force and effect, unless the term thereof sooner expires. If the action of the City is upheld, the Franchise shall terminate as provided by law; if the action of the City is reversed, the Franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law.

#### **X. ABANDONMENT**

The Franchisee may not abandon any portion of the Cable Service provided hereunder without having given three (3) months prior written notice to the City. No cable communications company may abandon any Cable Service or any portion thereof without compensating the City for damages resulting to it from such abandonment.

#### **Y. REMOVAL OF CABLE EQUIPMENT UPON TERMINATING OR FORFEITURE**

Upon termination or forfeiture of a Franchise, the Franchisee shall remove its cable, wires, and appliances from the Streets, alleys and other public places within the Franchise Area if the City so requests in writing. The City hereby consents to the abandonment of any buried property in place, the Franchisee shall submit to the City an instrument to be approved by the City transferring ownership of such property to the City.

In the event the Franchisee fails to remove its equipment within a reasonable time after the written request of the City, the City may accept bids for a contract to remove the equipment. The Franchisee shall have the right to bid on such a contract. The City may award the contract to the appropriate bidder and charge the costs of such contract to the Franchisee. The provisions of this section shall not apply to equipment of the Franchisee which is buried; provided, however, that Franchisee shall transfer ownership of any buried equipment not so removed to the City.

#### **Z. CITY'S RIGHT TO PURCHASE SYSTEM**

In the event that Franchisee decides to sell or otherwise transfer the Franchise and/or Cable System, the City shall have a first right of refusal to purchase the Franchise and/or Cable System on terms substantially identical to those of any prospective purchaser's bona fide offer. The Franchisee shall give written notice of the terms and conditions of a prospective sale to the City

at least thirty (30) days prior to the proposed closing date of such sale. In the event the City does not, within twenty (20) days from the receipt of such notice, give written notice to Franchisee of its intent to exercise the option to purchase on identical terms and conditions, the Franchisee may sell or otherwise transfer the Franchise and/or Cable System on those terms and conditions. In the event the City exercises its option to purchase, the closing date for such a sale shall occur within a reasonable time after such exercise.

#### **AA. ACCESS CHANNELS**

The Franchisee shall provide to each of its Subscribers who receive all, or any part of, the Cable Services offered on the System, reception on at least one (1) specially designated access channel, if requested by the City. The specially designated access channel may be used by local educational authorities and local government on a first come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the Franchisee shall lease time to commercial or noncommercial users on a first come, first-served, nondiscriminatory basis if the demand for such time arises. The Franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time on the specially designated access channel. To the extent required by law, the VHF spectrum shall be used for the specially designated access channel required in this paragraph.

The City shall establish rules pertaining to the administration of the specially designated access channel. The City shall be solely responsible for the content on the specially designated access channel and Franchisee's indemnification obligations set forth in section J of this Franchise shall not apply to any claims or actions related to the content on the specially designated access channel.

#### **BB. UNAUTHORIZED CABLE TAPPING**

It shall be unlawful for any Person to obtain any Cable Services by installing, rearranging, or tampering with any facilities or equipment of any cable communications company, or any Person unless the same is done with the knowledge of and with the permission of such cable communications company, firm, or private person. Any Person found guilty of a violation of any of the provisions of this section shall be deemed guilty of a misdemeanor for which a sentence of not more than ninety (90) days or a fine of not more than Five Hundred and No/100 Dollars (\$500.00), or both, may be imposed.

#### **CC. AMENDMENTS**

Nothing in this Franchise shall prevent the City and Franchisee from amending this Franchise so long as such amendment has been mutually agreed upon in writing by both the City and Franchisee.

**DD. SEPARABILITY**

1. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is for any reason held invalid or unconstitutional by any court of competence jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.
2. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the FCC or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected hereby.

**EE. ORDINANCES REPEALED**

All ordinances or parts of ordinances in conflict herewith are hereby repealed. Passed by the City of \_\_\_\_\_, \_\_\_\_\_ this \_\_\_ day of \_\_\_\_\_, 2017.

ATTEST: \_\_\_\_\_ CITY OF \_\_\_\_\_, \_\_\_\_\_  
 BY: Rebecca Gumsing BY: \_\_\_\_\_  
 ITS: Finance Officer ITS: \_\_\_\_\_

**ACCEPTANCE**

The terms and conditions of the above Ordinance No. \_\_\_\_\_ are hereby accepted by Fort Randall Cable Systems, Inc., a South Dakota corporation, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

FORT RANDALL CABLE SYSTEMS, INC.

BY: \_\_\_\_\_

ITS: Bruce Hanson, Treasurer

The motion for the adoption of the foregoing ordinance was made by Fredrich seconded by Beeson. Upon roll call vote being taken, those voting AYE: Cuka, Honomichl, Beeson, Fredrich, Schroeder and Tyler. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

First Reading: August 7<sup>th</sup>, 2017  
 Second Reading and Adoption:  
 Effective Date:  
 Published:



Donald R. Hosek, Mayor

ATTEST:



Rebecca A. Brunsing, Finance Officer

(SEAL)

A motion was made by Cuka, second by Honomichl to approve to have Mitchell Area Security provide security and policing services for Labor Day 2017. All voted aye, motion carried.

A motion was made by Cuka, second by Schroeder to approve an estimate for new carpet and tile at city hall and police department in the amount of \$14,157.42 from Wagner Building and Supply and an estimate for removal and installation from DK Flooring in the amount of \$5,210.60. All voted aye, motion carried.

A motion was made by Fredrich, second by Beeson to accept a quote from Country Pride for propane for the winter season 2017-2018 in the amount of \$1.03 per gallon. All voted aye, motion carried.

A motion was made by Beeson, second by Honomichl to burn the house located at 300 NE Front Avenue that the city owns. All voted aye, motion carried.

A motion was made by Fredrich, second by Schroeder to approval plats of Lots 1 through 12 of Lot F, except the East 66' thereof, located in a portion of the Northwest Quarter of Section 3, Township 95 North, Range 63 West, of the 5<sup>th</sup> P.M., Charles Mix County, South Dakota. All voted aye, motion carried.

**ORDINANCE NO. 2017-03**  
**2017 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

**GENERAL FUND**

Airport	\$100,000.00
Economic Development	\$ 62,500.00

Funds to meet the obligations for these appropriations will be \$100,000.00 from Federal Aviation Administration Entitlements and Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 7th day of August 2017.

The motion for the adoption of the foregoing ordinance was made by Fredrich seconded by Beeson. Upon roll call vote being taken, those voting AYE: Cuka, Honomichl, Beeson, Fredrich, Tyler and Schroeder. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

First Reading: August 7<sup>th</sup>, 2017  
Second Reading and Adoption:  
Published:  
Effective Date:

A motion was made by Schroeder, second by Honomichl to approve the 2015 and 2016 audit report as presented by the auditors. All voted aye, motion carried.

### **EXECUTIVE SESSION**

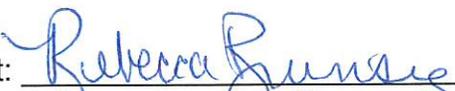
A motion was made by Cuka, second by Fredrich to enter into executive session at 8:13 pm for proprietary business SDCL 1-25-2 (5), litigation SDCL 1-25-2 (3) and personnel pursuant to SDCL 1-25-2 (1). All voted aye, motion carried.

The Mayor declared the council out of executive session at 8:35 pm.

A motion was made by Honomichl, second by Cuka to move Eli Kuhlman to \$14.50 per hour for successful completion of probationary period. All voted aye, motion carried.

A motion was made Beeson; second by Fredrich adjourn the meeting at 8:37 pm. All voted aye, motion carried.

APPROVED   
Donald R. Hosek, Mayor

Attest:   
Rebecca Brunasing, Finance Officer

"This institution is an equal opportunity provider."

Published once at the approximate cost of \_\_\_\_\_.

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 5:30 pm for a special August meeting held on Monday, August 28<sup>th</sup>, 2017 at the Wagner City Hall. Present were: Mayor Donald R. Hosek, City Attorney Ken Cotton, Finance Officer, Rebecca Brunsing, and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and John Tyler. Absent: None.

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

A motion was made by Cuka, second by Beeson to approve the agenda. All voted aye, motion carried.

A motion was made by Schroeder, second by Honomichl to approve the rest of August 2017 claims. All voted aye, motion carried.

**AUGUST VOUCHERS**

Northwestern Energy	electricity	10,658.98
SD Retirement	retirement	6,415.87

**INCIDENTIAL VOUCHERS**

Alexa Cimpl	deposit refund	150.00
Chas. Mix Law	prof fees	50.00
Chips Construcion	repair	485.50
Christina Atuobi Ampadu	armory deposit	600.00
Crossroads Hotel	travel	179.98
Dakotacare	insurance	5,854.41
Dave's Service	repairs	121.00
Michael Terhune	deposit refund	150.00
Northwestern Energy	electricity	574.69
Supplemental Retirement	retirement	150.00
Unum Life Insurance	insurance	169.33
Wagner Super Foods	supplies	18.20
Yankton Sioux Tribe	refund	480.00

**NEW BUSINESS**

A motion was made by Beeson, second by Fredrich to authorize the execution of the State Financial Assistance Agreement for airport pavement maintenance by the Mayor as the authorized representative for the sponsor. All voted aye, motion carried.

**RESOLUTION NO. 2017-03**

WHEREAS, the City of Wagner is a member of the South Dakota Public Assurance Alliance, which is a risk-sharing pool comprised primarily of South Dakota cities and counties; and

WHEREAS, the SDPAA nominating committee has nominated Rebecca Brunsing to a position on the SDPAA Board of Directors.

WHEREAS, the SDPAA board member eligibility rules require the candidacy of an employee to be supported by a resolution of the governing board.

THEREFORE, be it resolved by the City Council of Wagner, South Dakota that the City of Wagner hereby nominates Rebecca Brunsing, its Finance Officer to serve on the South Dakota Public Assurance Alliance Board on behalf of the City of Wagner.

The undersigned, Finance Officer of the City of Wagner, South Dakota, does hereby certify that the foregoing resolution was passed by the City of Wagner, South Dakota, at a meeting held on the 28th day of August, 2017.

Dated 28<sup>th</sup> day of August, 2017.

CITY OF WAGNER, SD

By: \_\_\_\_\_

Donald R. Hosek, Mayor

ATTEST:

Rebecca A. Brunsing  
Rebecca A. Brunsing, Finance Officer

SEAL

The motion for the adoption of the foregoing resolution was made by Schroeder seconded by Tyler. Upon roll call vote being taken, those voting AYE: Cuka, Honomichl, Beeson, Fredrich, Schroeder and Tyler. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried. Thereupon the Council President declared Resolution No. 2017-03 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

There was an at length discussion for the 2018 budget.

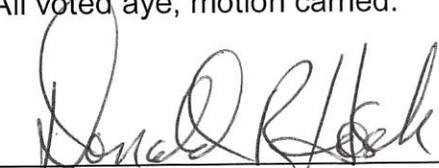
**EXECUTIVE SESSION**

A motion was made by Fredrich, second by Beeson to enter into executive session for proprietary business pursuant to SDCL 1-25-2 (5), personnel SDCL 1-25-2 (1), and litigation SDCL 1-25-2 (3) at 6:43 pm. All voted aye, motion carried.

The Mayor declared the Council out of executive session at 7:09 pm.

A motion was made by Beeson, second by Fredrich to adjourn the council meeting at 7:09 pm. All voted aye, motion carried.

Approved



Donald R. Hosek, Mayor

Attest



Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the regular September meeting was held on Wednesday, September 6<sup>th</sup>, 2017 at 7:00 pm at Wagner City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and John Tyler. Absent: None.

The meeting was opened with the Pledge of Allegiance.

The meeting was called to order and the Mayor called for the approval of the September agenda. A motion was made by Beeson, second by Honomichl to approve the September agenda. All voted aye, motion carried.

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

A motion was made by Fredrich, second by Cuka to approve the regular meeting minutes from August 7<sup>th</sup>, 2017, and the special council meeting on August 28<sup>th</sup>, 2017. All voted aye, motion carried.

A motion was made by Beeson second by Schroeder to approve the financial statements for August 2017 and the claims for September 2017. All voted aye, motion carried.

**September 2017**

August Salaries: Administration--\$5,358.24; Buildings--\$1,660.49 Buildings-Armory--\$1,252.63; Police--\$19,680.67; Streets--\$8,081.27; Swimming Pool--\$6,753.26; Recreation--\$2,174.37 Parks--\$1,221.89; Library--\$4,427.73; HRC—Urban Redevelopment--\$507.50; Water--\$4,549.84; Sewer--\$2,979.41; Withholding/Social Security--\$14,481.90.

**GENERAL**

Apparel WorX	supplies	64.88
Avenet, LLC	prof fees	135.00
Card Services	supplies	50.88
Century Link	phone	69.38
Charles Mix Historical	prof fees	500.00
Chips Construction	repair	115.00
City of Wagner	water	1,273.74
Country Pride	fuel	282.00
Custom Touch	prof fees	50.00
Dave's Service	repairs	892.50
DGR Engineering	prof fees	5,751.71
Friberg, Nelson & Ask	prof fees	1,073.99

Hawkins Water	supplies	72.00
Ingram	supplies	212.41
Intoximeters	supplies	750.00
John Otte	prof fees	825.00
King Koin Laundry	prof fees	339.75
Marks Machinery	supplies	116.94
McLeods	supplies	227.06
Mitchell Area Security	prof fees	6,050.00
Northwestern Energy	electricity	56.73
One Office Solution	prof fees	86.26
Play & Park Structures	improvement	3,968.00
QT Petroleum	supplies	52.07
Riteway Business Forms	supplies	158.59
Rog's Auto	repair	26.99
S Dept of Transportation	prof fees	16.00
Tom's TV	repair	18.00
Van Diest Supply	supplies	513.75
Von Eschen Lawn	prof fees	325.00
Wagner Auto & Supply	supplies	12.29
Wipf & Cotton	prof fees	3,053.52
Yankton Fire & Safety	prof fees	32.00
Yankton Janitorial	supplies	584.70

#### **WATER & SEWER**

Bender Sewer & Drain	repair	458.00
C & B Operations	repair	98.34
Dakota Pump Inc	repair	1,285.72
HD Waterworks	supplies	1,953.24
Hepi Flute Player	deposit refund	150.00
Honomichl Design	supplies	15.15
Jayden Reidel	deposit refund	96.98
Randall Community Water	water	17,812.80
Reserve Account	supplies	1,000.00
SD Dept of Revenue	prof fees	317.00
Tanner Kotab	deposit refund	43.84
Travis or Nicole Giedd	deposit refund	66.64
Woods Properties, LLC	deposit refund	100.00
USDA Rural Development	loan pymt	1,969.00
USDA Rural Development	loan pymt	5,561.00

#### **VARIED**

AFLAC	insurance	760.16
AT&T	phone	240.73
Bomgaars	supplies	365.70
First Dakota Bank	petty cash	392.54
Fort Randall Telephone	phone	709.58

Leaf	prof fees	114.25
Midtowne Oil & Co	fuel	147.86
Quill	supplies	1,025.04
SD Public Assurance Alliance	insurance	34,861.30
Transamerica	insurance	137.20
Voyager	fuel	2,044.85
Wagner Building & Supply	supplies	4,265.15

The Mayor and Police Chief Simonsen presented Wayne Joseph with a Meritorious Service Award for his assistance for helping Wagner Police Department Officer James Flynn while attempting to arrest an individual with outstanding felony arrest warrants.

## **OLD BUSINESS**

Ordinance No. 2016-06, AN ORDINANCE GRANTING A FRANCHISE TO FORT RANDALL CABLE SYSTEMS, INC., A SOUTH DAKOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO ERECT, OWN, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF WAGNER, SOUTH DAKOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF A FRANCHISE

### **ORDINANCE NO. 2016-06**

AN ORDINANCE GRANTING A FRANCHISE TO FORT RANDALL CABLE SYSTEMS, INC., A SOUTH DAKOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO ERECT, OWN, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF WAGNER, SOUTH DAKOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF A FRANCHISE.

BE IT ORDAINED BY THE CITY OF WAGNER, SOUTH DAKOTA:

WHEREAS, Fort Randall Cable Systems, Inc., a South Dakota corporation, has petitioned for the nonexclusive right to construct, own and operate a Cable System in the City of Wagner, South Dakota.

NOW, THEREFORE, the City of Wagner, South Dakota hereby grants to Fort Randall Cable Systems, Inc., the rights under this Cable Franchise Ordinance.

#### **A. SHORT TITLE**

This Franchise shall be known and may be cited as the “Fort Randall Cable System Franchise Ordinance.”

#### **B. DEFINITIONS**

For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and

words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

1. “Basic Service” means any service tier which includes the lawful retransmission of local television broadcast signals.
2. “Cable Service” means:
  - a. The one-way transmission to Subscribers of (i) video programming, or (ii) other programming service, or (iii) any other lawful communication service, and
  - b. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
3. “Cable System” or “System” means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community.
4. “City” shall mean the City of Wagner, South Dakota.
5. “City Council” shall mean the City Council of Wagner, South Dakota.
6. “FCC” is the Federal Communications Commission of the United States.
7. “Franchise” means this cable franchise ordinance including a renewal of this ordinance, which authorizes the ownership, construction and operation and maintenance of a Cable System.
8. “Franchisee” is Fort Randall Cable Systems, Inc., its affiliates or successor in accordance with the provisions of this Franchise.
9. “Franchise Area” means the entire geographic area within the City as it is now constituted or may in the future be constituted subject to the line extension specifications in Section N(4) herein.
10. “Pay Television” means the delivery over the System of pay-per-channel or pay-per-program audio or video signals to Subscribers for a fee or charge, in addition to the charge for Basic Service or Cable Service.
11. “Person” shall mean any person, firm, partnership, association, corporation, limited liability entity or organization of any kind and any other legally recognized entity.
12. “Street” means the space above and below each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within City limits: street, road, highway,

freeway, waterway, lane, alley, path, court, sidewalk, parkway or drive or any easement, right-of-way or similar public property.

13. "Subscribers" are those Persons lawfully contracting to receive Cable Services furnished under this Franchise by Franchisee.

### **C. COMPLIANCE WITH STATE AND FEDERAL LAWS**

The Franchisee and the City shall conform to all state laws and rules regarding cable communications not later than one (1) year after they become effective unless otherwise stated and to all federal laws and regulations regarding cable communications, as they become effective.

The Franchisee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable Franchisee to exercise its rights and perform its obligations under this Franchise and ensure uninterrupted Cable Service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereto, the rules of the FCC, federal, state or local law or any other body having lawful jurisdiction thereof.

### **D. FRANCHISE TERM**

This Franchise shall extend for a term of five (5) years from the effective date of this ordinance. Franchisee or City shall provide written notice no earlier than six (6) months prior to franchise expiration of their intent to enter into renewal proceedings in accordance with 47 U.S.C. Section 546 or other applicable state and federal law.

### **E. FRANCHISE EXCLUSIVITY**

This Franchise is non-exclusive.

### **F. SALE OR TRANSFER**

The Franchisee shall not sell or otherwise transfer its rights so as to allow a new controlling interest under this Franchise without the prior written consent of the City which consent shall not be unreasonably withheld, delayed or conditioned. Any such sale, transfer or assignment shall be subject to, and completed pursuant to South Dakota Codified Law § 49-31-20. The City hereby consents to the assignment by the Franchisee of its rights under this Franchise to any Person controlling, controlled by or under common control with Franchisee.

### **G. RATES AND INSTALLATION CHARGES**

A copy of the current rates and charges assessed by Franchisee shall be provided to the City upon request.

The Franchisee may, in its sole discretion, establish a modified billing rate for seasonal Subscribers in accordance with applicable state and federal laws.

All Subscribers, as a condition of receiving Cable Service, shall agree to the terms and conditions imposed upon the Franchisee by Franchisee's Cable Service suppliers.

Nothing herein shall limit the right of Franchisee to impose upon its Subscribers state or local sales taxes, franchise fees, other legally permissible fees, or specific copyright fees for special programming events.

#### **H. RATE CHANGE PROCEDURE**

The Franchisee shall notify its Subscribers and/or publish any proposed changes in rates or charges at least thirty (30) days in advance of the effective date for such changes.

The City may regulate the rates for the provision of Basic Service provided over the Cable System to the extent permitted by federal law. In exercising its jurisdiction to regulate any such rates, the City will adhere to the regulations adopted by the FCC at 47 C.F.R. § 76.900 et seq. as they may be amended from time to time.

The terms of any Subscriber contracts utilized by Franchisee shall be made available to City upon request.

#### **I. LIABILITY INSURANCE**

The Franchisee shall indemnify and hold harmless the City at times during the term of the Franchise for Franchisee's negligent acts and shall maintain throughout the term of the Franchise liability insurance in the amount of not less than \$1,000,000.00 combined limits insuring both the City and the Franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the Franchise.

#### **J. LIABILITY FOR INJURY TO FRANCHISEE**

Nothing in this Franchise shall relieve any Person from liability arising out of injury to the Franchisee or the Franchisee's property, including without limitation injury occurring as a result of performing any work connected with grading, regarding or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system.

#### **K. FRANCHISEE'S CREDENTIALS**

The Franchisee's technical ability, financial condition, and legal qualifications were considered and approved by the City in a full public hearing proceeding affording reasonable notice and a reasonable opportunity to be heard.

## **L. CHANNEL CAPACITY**

The Franchisee shall construct and/or maintain a Cable System capable of transmitting from its head end in the frequency band of 54 to 300 MHz, which will allow for a minimum of forty (40) channels. The Cable System will also be designed to allow reception at its head end in the frequency band of 5 to 30 MHz, which will allow for up to four (4) channels. Nothing in this section shall prevent the Franchisee from upgrading the Cable System when the need arises, taking into consideration the costs associated with any such upgrade. The Franchisee may provide any lawful services over the Cable System without additional approval from the City, unless specifically required by state or federal law.

## **M. CONSTRUCTION SCHEDULE**

If the System, or subsequent rebuilds or extensions, proposed for the Franchise Area consist of fewer than one hundred (100) plant miles of cable:

1. Within ninety (90) days of a proposed upgrade, Franchisee shall apply for all necessary governmental permits, licenses, certificates, and authorizations;
2. The energized trunk cable must be extended substantially throughout the Franchise Area within one (1) year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and the persons along the route of the energized cable shall have individual drops as desired during the same period of time; and
3. The above stated requirements may be waived by City only upon occurrence of acts beyond the reasonable control of Franchisee or acts of God. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of this Franchise and the applicable provisions of local, state and federal law.
4. This Franchise is granted for the Franchise Area. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered; provided, however, that Franchisee shall not be required to extend service beyond its present Cable System boundaries. Franchisee shall use commercially reasonable efforts to extend the Cable System and provide Cable Service to all households within the Franchise Area when practical and financially feasible. Franchisee shall, upon request, provide the City with a written explanation regarding the feasibility of extending the Cable System within the Franchise Area to areas which are not served by Franchisee. Nothing in this Franchise shall prevent Franchisee from extending the Cable System or from entering into mutually acceptable agreements with other parties regarding the extension of the System to unserved households. Access to Cable Service shall not be denied any group of potential cable Subscribers because of the income of the residents.

## **N. EASEMENTS AND CONSTRUCTION AUTHORIZATIONS**

The City hereby grants unto the Franchisee an easement under, over and across its municipal properties, including, but not limited to roads, Streets, sidewalks, and driveways and all public places for the purpose of constructing and operating and maintaining a Cable System. Franchisee's duty to provide Cable Service to any Subscriber or Subscribers is conditioned upon the receipt of Franchisee of necessary easements from private parties without unreasonable cost or effort to Franchisee. Franchisee shall have the right, but not the obligation, to utilize its Cable System to provide any other communications services as may be permitted in accordance with applicable laws. This Franchise shall govern only the provision of Cable Services over the Cable System.

The Franchisee shall obtain a permit from the proper municipal authority before commencing construction of any Cable System, including the opening or disturbance of any road, Street, sidewalk, driveway, or public place. If the Franchisee fails to meet the conditions of the permit, the City shall have the right to correct or cause to be corrected, at the sole expense of the Franchisee, any violations of the conditions of the permit such as the return of land to its previous grading and the cleanup of construction debris.

## **O. COMPLIANCE WITH APPLICABLE CODES**

All wires, conduits, cable and other property and facilities of the Franchisee shall be located, constructed, installed, and maintained in compliance with applicable codes. The Franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the Streets and public places of the Franchise Area or endanger the lives or property of any Person.

## **P. RELOCATION OF PLANT**

The following procedure shall be used by the Franchisee and City for the relocation or removal of the Franchisee's wires, conduits, cables and other property located in a Street, right-of-way, or public place whenever the City undertakes public improvements which affect the Franchisee's property.

The City shall give ninety (90) days written notice to the Franchisee of the actions it wishes the Franchisee to take with respect to the relocation or removal of the Franchisee's equipment and shall allow a reasonable period of time thereafter to complete such request. The Franchisee shall, at its expense, protect, support, temporarily disconnect, relocate, or remove its property when required by the City for the purpose of undertaking any public improvements.

Any other Person requesting relocation removal of the Franchisee's property shall, as a condition of such request, be required to pay to the Franchisee in advance an amount of money sufficient for reimbursement of all costs of such relocation or removal. Any Person which damages Franchisee's property shall reimburse the Franchisee for the cost of all necessary repairs and testing and for the loss of revenues, if any, to the Franchisee caused by an interruption of Cable Service due to the damaging of Franchisee's property.

## **Q. TECHNICAL STANDARDS**

The rules and regulations contained in subpart K of part 76 of the FCC's rules and regulations relating to Cable Systems are required to be adhered to by Franchisee unless or until, superseded by any future federal or state standards during the term of this Franchise. The Franchisee shall, upon request, meet with City to discuss the availability of technological innovations and attempt to establish priorities for making such innovations available.

## **R. SPECIAL TESTING**

In the event that special testing is required to determine the source of technical difficulties, the Franchisee shall be responsible for the costs of special testing to the extent such testing reveals that Franchisee has not complied with FCC technical standards.

## **S. NONVOICE RETURN CAPABILITY**

The Franchisee shall provide a Cable System having the technical capability for nonvoice return communications. Nothing herein shall be construed to required the Franchisee to supply or otherwise provide to the Subscribers any terminal equipment or device necessary to utilize the nonvoice return capability of the Cable System. The Franchisee shall provide such a capability upon request by a Subscriber with respect to the energized cable, cable "drops" and connections. Upon such request, Franchisee shall propose rates and charges to apply to installation and use of such capability by Subscribers.

## **T. SUBSCRIBER PRIVACY**

No signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the Subscriber. No penalty shall be invoked for Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel cable communications activity planned for the purpose of monitoring individual viewing patterns or practices.

No information or data obtained by monitoring the transmission of a signal from a Subscriber terminal, including but not limited to lists of the names and addresses of such Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Franchisee and its employees for internal business use, and to the Subscriber who is the subject of that information, unless Franchisee has received specific written authorization from the Subscriber to make such data available.

Written permission from the Subscriber shall not be required for the Cable Systems conducting system wide or individually addresses electronic sweeps for the purpose of verifying Cable System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth.

## **U. SUBSCRIBER COMPLAINTS**

All reasonable complaints by the City, Subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the Cable System shall be promptly investigated by the Franchisee.

Complaints regarding the quality of service, equipment malfunctions, and similar matters shall first be directed to Franchisee's office. Should Franchisee fail to satisfy a reasonable complaint, it may then be directed to the City for investigation. In response to a complaint, Franchisee shall be afforded a reasonable opportunity to present written and oral statements of its position. Appeal from the action of the City may be made to the appropriate judicial or administrative forum.

## **V. REPAIRS AND COMPLAINTS**

To the extent required by federal law and requested by the City, Franchisee will print the name, address and telephone number of the City and the FCC's telephone number or address, on all monthly Subscriber bills who reside in the Franchise Area. The Franchisee shall provide a toll-free or collect telephone number for the reception of Subscriber complaints from the Franchise Area and shall maintain a repair service capable of responding to Subscriber requests for repair within twenty four (24) hours after receipt of the request. The Franchisee shall bear the costs of servicing and repairing the Cable System caused by defects in the System or other factors not caused by the Subscriber, its agents, guests or family members. The Subscriber shall pay the costs incurred by Franchisee in servicing and repairing the Cable System caused by the Subscriber, his/her agents, guests or family members.

## **W. TERMINATION**

The City reserves the right to terminate and cancel any Franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

1. the Franchisee substantially violates any material provision of this Franchise or is found by a court of law to have practiced any fraud or deceit upon the City;
2. the Franchisee is adjudicated insolvent, enters into receivership or liquidation, files an application for bankruptcy or for composition of creditors, is unable to pay its debts as they mature or is in financial difficulty or sufficient consequence so as to jeopardize the continued operation of the Cable System;
3. the Franchisee commits any material violation of any FCC or applicable state order or ruling or the order or ruling of any other governmental body having jurisdiction over the Franchisee, unless the Franchisee is lawfully contesting the legality or applicability of such rule or order; or
4. the Franchisee knowingly fails to provide Cable Service to a substantial portion of lawful Subscribers in the Franchise Area for a period of thirty (30) or more days. Franchisee shall not be responsible for failure to provide Cable Service to the extent such failure results from events not within Franchisee's control, including, but not limited to, acts of

God, strikes, inability to obtain materials or contract labor, sabotage, riots or civil disturbances, loss of utilities and natural disasters.

Upon the occurrence of any of the above-listed events, the City shall provide the Franchisee with written notice citing the reasons alleged to constitute cause for termination of the Franchise. The City shall allow the Franchisee a reasonable time, but in any event no less than sixty (60) days subsequent to receipt of the notice, in which to remedy the cause. If, during such period, the cause is remedied to the satisfaction of the City, the City shall declare the notice to be null and void. If the cause is not remedied to the satisfaction of the City during such period, the City shall provide the Franchisee with an opportunity to be heard at a public hearing before the City prior to adoption of any action for the termination of the Franchise.

In the event that the City takes any action to terminate the Franchise, the Franchisee shall have a period of sixty (60) days, beginning the day next following the date at which action to terminate the Franchise is ordered, within which to file an appeal with a court of competent jurisdiction.

During such sixty (60) day period and until the final determination of the appeal, if an appeal is taken, the Franchise shall remain in full force and effect, unless the term thereof sooner expires. If the action of the City is upheld, the Franchise shall terminate as provided by law; if the action of the City is reversed, the Franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law.

#### **X. ABANDONMENT**

The Franchisee may not abandon any portion of the Cable Service provided hereunder without having given three (3) months prior written notice to the City. No cable communications company may abandon any Cable Service or any portion thereof without compensating the City for damages resulting to it from such abandonment.

#### **Y. REMOVAL OF CABLE EQUIPMENT UPON TERMINATING OR FORFEITURE**

Upon termination or forfeiture of a Franchise, the Franchisee shall remove its cable, wires, and appliances from the Streets, alleys and other public places within the Franchise Area if the City so requests in writing. The City hereby consents to the abandonment of any buried property in place, the Franchisee shall submit to the City an instrument to be approved by the City transferring ownership of such property to the City.

In the event the Franchisee fails to remove its equipment within a reasonable time after the written request of the City, the City may accept bids for a contract to remove the equipment. The Franchisee shall have the right to bid on such a contract. The City may award the contract to the appropriate bidder and charge the costs of such contract to the Franchisee. The provisions of this section shall not apply to equipment of the Franchisee which is buried; provided, however, that Franchisee shall transfer ownership of any buried equipment not so removed to the City.

## **Z. CITY'S RIGHT TO PURCHASE SYSTEM**

In the event that Franchisee decides to sell or otherwise transfer the Franchise and/or Cable System, the City shall have a first right of refusal to purchase the Franchise and/or Cable System on terms substantially identical to those of any prospective purchaser's bona fide offer. The Franchisee shall give written notice of the terms and conditions of a prospective sale to the City at least thirty (30) days prior to the proposed closing date of such sale. In the event the City does not, within twenty (20) days from the receipt of such notice, give written notice to Franchisee of its intent to exercise the option to purchase on identical terms and conditions, the Franchisee may sell or otherwise transfer the Franchise and/or Cable System on those terms and conditions. In the event the City exercises its option to purchase, the closing date for such a sale shall occur within a reasonable time after such exercise.

## **AA. ACCESS CHANNELS**

The Franchisee shall provide to each of its Subscribers who receive all, or any part of, the Cable Services offered on the System, reception on at least one (1) specially designated access channel, if requested by the City. The specially designated access channel may be used by local educational authorities and local government on a first come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the Franchisee shall lease time to commercial or noncommercial users on a first come, first-served, nondiscriminatory basis if the demand for such time arises. The Franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time on the specially designated access channel. To the extent required by law, the VHF spectrum shall be used for the specially designated access channel required in this paragraph.

The City shall establish rules pertaining to the administration of the specially designated access channel. The City shall be solely responsible for the content on the specially designated access channel and Franchisee's indemnification obligations set forth in section J of this Franchise shall not apply to any claims or actions related to the content on the specially designated access channel.

## **BB. UNAUTHORIZED CABLE TAPPING**

It shall be unlawful for any Person to obtain any Cable Services by installing, rearranging, or tampering with any facilities or equipment of any cable communications company, or any Person unless the same is done with the knowledge of and with the permission of such cable communications company, firm, or private person. Any Person found guilty of a violation of any of the provisions of this section shall be deemed guilty of a misdemeanor for which a sentence of not more than ninety (90) days or a fine of not more than Five Hundred and No/100 Dollars (\$500.00), or both, may be imposed.

## **CC. AMENDMENTS**

Nothing in this Franchise shall prevent the City and Franchisee from amending this Franchise so long as such amendment has been mutually agreed upon in writing by both the City and Franchisee.

**DD. SEPARABILITY**

1. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is for any reason held invalid or unconstitutional by any court of competence jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.
2. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the FCC or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected hereby.

**EE. ORDINANCES REPEALED**

All ordinances or parts of ordinances in conflict herewith are hereby repealed. Passed by the City of Wagner, this 6th day of September 2017.

ATTEST:

BY: Rebecca Funsing  
ITS: Finance Officer

CITY OF WAGNER, SD

BY: Donald B. Hesch

ITS: Mayor

**ACCEPTANCE**

The terms and conditions of the above Ordinance No. 2016-06 are hereby accepted by Fort Randall Cable Systems, Inc., a South Dakota corporation, this \_\_\_ day of \_\_\_\_\_, 2017.

FORT RANDALL CABLE SYSTEMS, INC.

BY: \_\_\_\_\_

ITS: Bruce Hanson, Treasurer

The above ordinance was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Schroeder seconded by Fredrich. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried. Thereupon the Council President declared Ordinance No. 2016-06 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: August 7<sup>th</sup>, 2017  
Second Reading and Adoption: September 6<sup>th</sup>, 2017  
Published: September 13<sup>th</sup>, 2017  
Effective Date: October 3<sup>rd</sup>, 2017

**ORDINANCE NO. 2017-03**  
**2017 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

**GENERAL FUND**

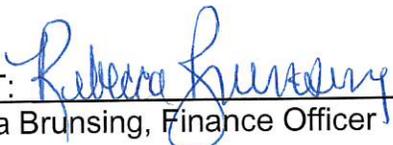
Airport	\$100,000.00
Economic Development	\$ 62,500.00

Funds to meet the obligations for these appropriations will be \$100,000.00 from Federal Aviation Administration Entitlements and Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 7th day of September 2017.

  
\_\_\_\_\_  
Donald R. Hosek, Mayor

ATTEST:   
\_\_\_\_\_  
Rebecca Brunsing, Finance Officer

(Seal)

The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Beeson seconded by Schroeder. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried. Thereupon the Mayor declared Ordinance No. 2017-03 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: August 7<sup>th</sup>, 2017  
Second Reading and Adoption: September 6<sup>th</sup>, 2017  
Published: September 13<sup>th</sup>, 2017  
Effective Date: October 3<sup>rd</sup>, 2017

**NEW BUSINESS**

A motion was made by Honomichl, second by Cuka to approve the updated Wagner Police Department Policy and Procedures Handbook. All voted aye, motion carried.

A motion was made by Schroeder, second by Honomichl to approve change order #2 for the armory parking lot improvement project for an increase in the contract for \$1,916.34. All voted aye, motion carried.

A motion as made by Fredrich, second by Honomichl to approve the pay request for Wagner Building & Supply for the armory parking lot improvements in the amount of \$172,477.71. Discussion followed. Fredrich amended his original motion to approve the pay request for Wagner Building & Supply for the armory parking lot improvements in the amount of \$172,477.71, contingent upon the punch list being completed and a \$1,000.00 deduct to the contract. Five voted aye, Schroeder voted nay, motion passed as amended.

There was general discussion on the final 2018 budget figures.

**ORDINANCE NO. 2017-04  
2018 APPROPRIATION ORDINANCE**

**Section I**                      **Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums are appropriated to meet the obligations of the municipality.**

	<b>General Fund</b>
<b>GENERAL GOVERNMENT</b>	
41150 Contingency	15,000.00
41210 Mayor & Council	41,000.00
41300 Elections	850.00
41410 Attorney	15,000.00
41420 Finance Office	87,000.00
41920 Government Buildings	107,550.00
<b>TOTAL GENERAL GOVERNMENT</b>	<b>266,400.00</b>

**PUBLIC SAFETY**

42100	Police	429,165.00
42101	Police - PBT-24/7 Program	12,000.00
42126	Prisoner Housing	800.00
42900	Civil Defense	2,000.00
	<b>TOTAL PUBLIC SAFETY</b>	<b>443,965.00</b>
<b>SANITATION</b>		
43240	Solid Waste Disposal	14,600.00
	<b>TOTAL SANITATION</b>	<b>14,600.00</b>
<b>STREETS, LIGHTING &amp; ELECTRIC UTILITY</b>		
43120	Street & Roadway Dept.	384,845.00
43160	Street Lights	50,000.00
	<b>TOTAL STREETS,LIGHTING &amp; ELECTRIC UTILITY</b>	<b>434,845.00</b>
<b>CULTURE, RECREATION, AIRPORT, &amp; ARMORY</b>		
43500	Airport	74,550.00
44100	Health Regulation & Inspection	2,500.00
44130	Mosquito Control	6,200.00
45124	Swimming Pool	282,675.00
45127	General Recreation	58,025.00
45200	Parks	37,825.00
45500	Library	81,175.00
45660	Armory	480,856.00
45800	Museum	500.00
	<b>TOTAL CULTURE, RECREATION,AIRPORT, &amp; ARMORY</b>	<b>1,024,306.00</b>
<b>ECONOMIC DEVELOPMENT</b>		
46300	Urban Housing & Redevelopment	28,350.00
46500	Economic Development	82,000.00
46520	Planning & Zoning	3,150.00
	<b>TOTAL ECONOMIC DEVELOPMENT</b>	<b>113,500.00</b>
	<b>TOTAL GENERAL FUND</b>	<b>2,297,616.00</b>
	<b>TOTAL 2017 APPROPRIATION</b>	<b>2,297,616.00</b>

**Section II.**                      **The following designated the fund that money derived from the following sources**

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<b>TAX-SUPPORTED FUNDS</b>	<b>GENERAL FUND</b>
Appropriations	2,297,616.00
<b>MEANS OF FINANCE</b>	

<b>Unobligated Cash Balance</b>	553,601.00
<b>Fund Operations</b>	
Taxes	1,165,938.00
Licenses and Permits	17,200.00
Intergovernmental Revenue	106,810.00
Charges for Goods & Services	291,450.00
Fines and Forfeits	13,000.00
Miscellaneous Revenue	119,000.00
Airport Revenue	30,617.00
Other Sources	0.00
<b>TOTAL MEANS OF FINANCE</b>	<b><u>2,297,616.00</u></b>

<b>Section III.</b>	<b>Water Fund</b>	<b>Sewer Fund</b>
Proprietary and Fiduciary Funds		
Estimated Beginning Unrestricted Cash	279,489.00	453,242.00
Estimated Revenue	424,300.00	336,000.00
TOTAL AVAILABLE	703,789.00	789,242.00
Less Expenses	417,891.00	342,056.00
ESTIMATED SURPLUS	285,898.00	447,186.00
ESTIMATED SURPLUS TO BE TRANSFERRED TO GOVERNMENTAL FUNDS	0.00	0.00

**Section IV.**                      **The Finance Officer is directed to certify the dollar amount of tax levies made in this ordinance to the County Auditor.**

APPROVED 

Attest 

First Reading: September 6th, 2017  
 Second Reading and Approval:  
 Published:  
 Effective Date:

The above motion was placed on its first reading. The motion for the adoption of the foregoing ordinance was made by Beeson seconded by Schroeder. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and

Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

A motion was made by Cuka, second by Tyler to approve a special event alcoholic beverage license for Dogger's Inc. for a Chamber of Commerce fundraiser at the Wagner National Guard Armory on October 14<sup>th</sup>, 2017. All voted aye, motion carried.

**EXECUTIVE SESSION**

A motion was made by Schroeder, second by Fredrich to enter into executive session at 7:30 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 7:37 pm.

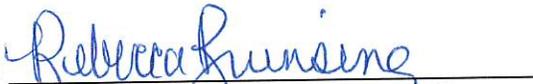
A motion was made by Honomichl, second by Cuka to hire Alex Tilberg for the police officer position at \$14.00 per hour. All voted aye, motion carried.

A motion was made Schroeder; second by Cuka adjourn the meeting at 7:37 pm. All voted aye, motion carried.

APPROVED

  
Donald R. Hosek, Mayor

Attest:

  
Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 5:30 pm for a special September meeting held on Monday, September 18<sup>th</sup>, 2017 at the Wagner City Hall. Present were: City Attorney Ken Cotton, Finance Officer, Rebecca Brunsing, and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, and John Tyler. Absent: Mayor Don Hosek and Roger Schroeder.

The conflict of interest declaration statement was recited. There were no conflicts stated.

In the absence of the Mayor and Roger Schroeder, the Council Vice President, Tom Beeson ran the meeting.

A motion was made by Fredrich, second by Honomichl to approve the agenda. All voted aye, motion carried.

A motion was made by Cuka, second by Honomichl to approve the rest of September 2017 claims. All voted aye, motion carried.

**SEPTEMBER VOUCHERS**

Charles Mix Sheriffs Office	prof fees	82.00
Charles Mix Law Enforcement	prof fees	80.00
Dakotacare	insurance	7,960.56
Kim & Mark Soukup	deposit refund	300.00
Myers Sanitation	prof fees	1,650.00
Northwestern Energy	electricity	28.92
Pechous Publications	prof fees	692.68
Powers Port A Pot	prof fees	5,000.00
SD Dept of Revenue	prof fees	197.33
Sioux Equipment	repair	846.43
Wagner Super Foods	supplies	56.94

**OLD BUSINESS**

**ORDINANCE NO. 2017-04  
2018 APPROPRIATION ORDINANCE**

**Section I**

**Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums are appropriated to meet the obligations of the municipality.**

**General Fund**

**GENERAL GOVERNMENT**

41150	Contingency	15,000.00
41210	Mayor & Council	41,000.00
41300	Elections	850.00
41410	Attorney	15,000.00
41420	Finance Office	87,000.00
41920	Government Buildings	107,550.00
	<b>TOTAL GENERAL GOVERNMENT</b>	<b>266,400.00</b>
<b>PUBLIC SAFETY</b>		
42100	Police	429,165.00
42101	Police - PBT-24/7 Program	12,000.00
42126	Prisoner Housing	800.00
42900	Civil Defense	2,000.00
	<b>TOTAL PUBLIC SAFETY</b>	<b>443,965.00</b>
<b>SANITATION</b>		
43240	Solid Waste Disposal	14,600.00
	<b>TOTAL SANITATION</b>	<b>14,600.00</b>
<b>STREETS, LIGHTING &amp; ELECTRIC UTILITY</b>		
43120	Street & Roadway Dept.	384,845.00
43160	Street Lights	50,000.00
	<b>TOTAL STREETS,LIGHTING &amp; ELECTRIC UTILITY</b>	<b>434,845.00</b>
<b>CULTURE, RECREATION, AIRPORT, &amp; ARMORY</b>		
43500	Airport	74,550.00
44100	Health Regulation & Inspection	2,500.00
44130	Mosquito Control	6,200.00
45124	Swimming Pool	282,675.00
45127	General Recreation	58,025.00
45200	Parks	37,825.00
45500	Library	81,175.00
45660	Armory	480,856.00
45800	Museum	500.00
	<b>TOTAL CULTURE, RECREATION,AIRPORT, &amp; ARMORY</b>	<b>1,024,306.00</b>
<b>ECONOMIC DEVELOPMENT</b>		
46300	Urban Housing & Redevelopment	28,350.00
46500	Economic Development	82,000.00
46520	Planning & Zoning	3,150.00
	<b>TOTAL ECONOMIC DEVELOPMENT</b>	<b>113,500.00</b>
	<b>TOTAL GENERAL FUND</b>	<b>2,297,616.00</b>
	<b>TOTAL 2017 APPROPRIATION</b>	<b>2,297,616.00</b>

**Section II.**

**The following designated the fund that money derived from the following sources**

**TAX-SUPPORTED FUNDS**

**GENERAL FUND**

Appropriations

2,297,616.00

**MEANS OF FINANCE**

**Unobligated Cash Balance**

553,601.00

**Fund Operations**

Taxes

1,165,938.00

Licenses and Permits

17,200.00

Intergovernmental Revenue

106,810.00

Charges for Goods & Services

291,450.00

Fines and Forfeits

13,000.00

Miscellaneous Revenue

119,000.00

Airport Revenue

30,617.00

Other Sources

0.00

**TOTAL MEANS OF FINANCE**

2,297,616.00

**Section III.**

**Water  
Fund**

**Sewer  
Fund**

Proprietary and Fiduciary Funds

Estimated Beginning Unrestricted Cash

279,489.00

453,242.00

Estimated Revenue

424,300.00

336,000.00

**TOTAL AVAILABLE**

703,789.00

789,242.00

Less Expenses

417,891.00

342,056.00

**ESTIMATED SURPLUS**

285,898.00

447,186.00

**ESTIMATED SURPLUS TO BE TRANSFERRED  
TO GOVERNMENTAL FUNDS**

0.00

0.00

**Section IV.**

**The Finance Officer is directed to certify the dollar amount of tax levies made in this ordinance to the County Auditor.**

APPROVED



Attest



The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Fredrich, second by Honomichl. Upon roll call vote

being taken, those voting AYE: Tyler, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Schroeder. Those abstaining: None. Motion carried. Thereupon the Council Vice President declared Ordinance No. 2017-04 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: September 6<sup>th</sup>, 2017  
Second Reading and Adoption: September 18<sup>th</sup>, 2017  
Published: September 27<sup>th</sup>, 2017  
Effective Date: October 17<sup>th</sup>, 2017

A motion was made by Cuka, second by Honomichl to approve the agreement for professional services for DGR Engineering for the 2<sup>nd</sup> phase of the armory parking lot improvements. All voted aye, motion carried.

A motion was made by Fredrich, second by Cuka to adjourn the council meeting at 5:51 pm. All voted aye, motion carried.

Approved Tom Beeson  
Tom Beeson, Council Vice President

Attest Rebecca Brunsing  
Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 7:00 pm for a special September meeting held on Thursday, September 28<sup>th</sup>, 2017 at the Wagner City Hall. Present were: Mayor Donald R. Hosek, City Attorney Ken Cotton, Finance Officer, Rebecca Brunsing, and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, and Ron Fredrich. Absent: John Tyler and Roger Schroeder.

The Pledge of Allegiance was recited.

The conflict of interest declaration statement was recited. There were no conflicts stated.

A motion was made by Beeson, second by Fredrich to approve the agenda. All voted aye, motion carried.

A motion was made by Cuka, second by Honomichl to approve the rest of September 2017 claims. All voted aye, motion carried.

**SEPTEMBER VOUCHERS**

SD Retirement	retirement	6,260.36
Supplemental Retirement	retirement	150.00
Unum Life Insurance	insurance	183.33

There was discussion of the Main Avenue Curb and Gutter Improvement Project with property owners.

Approximately 30% of the total property owners that would be affected were present. Some expressed concern on whether their curb and gutter would need to be done.

Terry Aaker, the engineer for the city explained that the curb and gutter that was installed approximately 18 years ago, did not have expansion joints placed behind the curb and the curb and gutter has completely fallen off in front of some properties and some is in bad shape. The city would get a better overall quantity price verses if each property owner had to do their own curb and gutter. The city council decided to replace the entire curb and gutter on Main Avenue from Hwy 46 to 3<sup>rd</sup> Street also paying for 50% of the project. The majority of the owners present were not in favor of replacing all the curb and gutter only replacing the bad curb and gutter. No action was taken.

Terry Aaker updated the council on the SE 2<sup>nd</sup> Street Platting.

A motion was made by Beeson, second by Cuka to adjourn the council meeting at 8:26 pm. All voted aye, motion carried.

Approved Donald R. Hosek  
Donald R. Hosek Mayor

Attest Rebecca Brunsing  
Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the regular October meeting was held on Monday, October 2<sup>nd</sup>, 2017 at 7:00 pm at Wagner City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and John Tyler. Absent: None.

The meeting was opened with the Pledge of Allegiance.

The meeting was called to order and the Mayor called for the approval of the October agenda. A motion was made by Cuka, second by Beeson to approve the October agenda. All voted aye, motion carried.

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

A motion was made by Beeson, second by Honomichl to approve the regular meeting minutes from September 6<sup>th</sup>, 2017, and the special council meeting on September 18<sup>th</sup>, 2017. All voted aye, motion carried.

A motion was made by Fredrich second by Schroeder to approve the financial statements for September 2017 and the claims for October 2017. All voted aye, motion carried.

**October 2017**

August Salaries: Administration--\$5,854.25; Buildings--\$1,903.50 Buildings-Armory--\$1,435.98; Police--\$19,039.36; Streets--\$8,190.33; Library--\$4,654.85; HRC—Urban Redevelopment--\$393.75; Water--\$4,615.39; Sewer--\$3,107.14; Withholding/Social Security--\$12,606.45.

**GENERAL**

Apparel WorX	supplies	122.94
Card Services	supplies	398.91
Century Link	phone	68.80
City of Wagner	water	457.21
DGR Engineering	improvements	3,241.13
DK Flooring	prof fees	5,210.60
G&H Services	prof fees	500.00
Helms & Associates	prof fees	644.09
Ingram	supplies	202.77
Inside The Tape LLC	registration	295.00
Insurance Benefits, INC	insurance	1,678.00
John Otte	prof fees	825.00
King Koin Laundry	prof fees	130.75

Michael Todd & Company	repair	744.13
Midtowne Oil and Wash	repair	46.00
One Office Solution	prof fees	84.93
Potomac Aviation Technology	repair	2,922.10
Quill	supplies	45.95
Rebecca Brunsing	supplies	273.56
Safety Benefits	registration	65.00
VanderPol Dragline Inc	improvements	22,132.80
Wipf & Cotton	prof fees	2,870.31
Yankton Sioux Tribe	deposit refund	300.00

### **WATER & SEWER**

Bender Sewer & Drain	repair	815.50
C & B Operations	repair	94.56
Core & Main	supplies	2,056.58
Fred & Anita Zephier	deposit refund	111.01
Jesse Mclaughlin	deposit refund	126.04
Larry Soulek	deposit refund	32.18
Pitney Bowes Global Financial	prof fees	263.22
Randall Community Water	water	16,186.90
Reserve Account	supplies	1,200.00
SD Dept of Revenue	prof fees	473.00
Tanner Kotab	deposit refund	43.84
US Bank Trust	loan payments	10,066.63
USDA	loan payment	1,969.00
USDA	loan payment	5,661.00

### **VARIED**

AT&T	phone	240.73
Bomgaars	supplies	577.68
First Dakota Bank	petty cash	509.00
Fort Randall Telephone	phone	712.58
Leaf	prof fees	114.25
Northwestern Energy	electricity	10,476.26
Transamerica	insurance	137.20
Voyager	fuel	2,306.07

The Mayor presented Larry Blaha with a Meritorious Service Award for his outstanding years of service from 2004 to 2017 for the City of Wagner as Street Superintendent. The Council thanked Mr. Blaha and wished him well in his retirement.

Geraldine Crisman was present to ask permission to do a rosary rally in the center of the four way stop on Main Street at noon on October 14<sup>th</sup>. Discussion followed. A motion was made by Beeson, second by Tyler to allow the rosary rally at the four way

stop on October 14<sup>th</sup>, 2017. All voted aye, motion carried. The maintenance department will block off a section of the street before the event.

Craig Krsnak was present to review the city employees health insurance renewal. He will work on some other quotes and bring back to the council meeting at the November meeting.

### **OLD BUSINESS**

There was continued discussion on the Main Avenue Curb and Gutter Improvement Project. The consensus was to have Terry Aaker identify which curb and gutters is bad and only replace that. This would be completed through the special assessment process for the property owners. The city would pay for 50% of the project.

There was discussion on the Second Street Platting.

### **NEW BUSINESS**

A motion was made by Cuka, second by Schroeder to approve pay request #5 to VanderPol Dragline Inc. for \$22,132.80 for the cross-wind runway & hangar taxi lane rehab project. All voted aye, motion carried.

A motion was made by Schroeder, second by Beeson to approve a new Watersalesman coin machine for the bulk water tank from Core & Main in the amount of \$5,025.00. All voted aye, motion carried.

A motion was made by Fredrich, second by Tyler for security equipment for two locations in the amount of \$2,475.88 and \$1,168.89. All voted aye, motion carried.

Tyler Oliver from Colby Capital was present for the discussion of a loading area on Main Street for the proposed Dollar General. There was also discussion of possibly having the electric transformers buried and then loading and unloading access could be used in the alley. Ron Fredrich will contact Northwestern Energy and pass on the information so this may be looked at. The council would prefer the loading area be in the alley. A motion was made by Beeson, second by Schroeder to allow the loading area on Main Street only if the loading area could not be accommodated in the alley area. All voted aye, motion carried.

There was discussion of Wagner Municipal Code 4-2-17 trimming trees. 4-2-17 currently allows branches to be no lower than ten feet hanging over the surface of the street, alley or sidewalk. There was discussion of changing this to 15 feet. There was also discussion of adding 4-2-18, to not allow the planting of shrubs or trees in the boulevard between the curb and sidewalk. The consensus was to proceed with changing the ordinance.

There was discussion of investing the funds received from the State of South Dakota from the SD Hwy 50 road sway. The finance officer will collect more information for the November meeting.

A motion was made by Honomichl, second by Beeson to approve Kelsey Doom as a city representative to the ROCS Board of Directors. All voted aye, motion carried.

**EXECUTIVE SESSION**

A motion was made by Cuka, second by Schroeder to enter into executive session at 8:40 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 8:56 pm.

A motion was made by Honomichl, second by Fredrich to hire Nathan Eisenmenger for the part-time police officer position at \$16.00 per hour. All voted aye, motion carried.

A motion was made Beeson; second by Cuka adjourn the meeting at 8:58 pm. All voted aye, motion carried.

APPROVED



Donald R. Hosek, Mayor

Attest:

  
Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 5:30 pm for a special October meeting held on Monday, October 16<sup>th</sup>, 2017 at the Wagner City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, and John Tyler. Absent: Roger Schroeder and Ken Cotton.

The conflict of interest declaration statement was recited.

A motion was made by Fredrich, second by Tyler to approve the agenda. All voted aye, motion carried.

A motion was made by Beeson, second by Cuka to approve the rest of October 2017 claims. All voted aye, motion carried.

**OCTOBER VOUCHERS**

AFLAC	insurance	760.16
Avera Occupational Medicine	prof fees	158.00
Charles Mix Electric	electricity	310.20
Charles Mix Law Enforcement	prof fees	80.00
Core & Main	supplies	837.30
Dave's Service	repairs	1,289.50
DENR	registration	10.00
Ecolab	prof fees	300.00
Francis Doom	meter refund	25.00
Friberg, Nelson & Ask	prof fees	2,092.68
Galls	supplies	258.83
Gerstner Oil	fuel	4,912.54
Louis Gangone	meter refund	60.35
MC&R Pools	maintenance	1,730.40
Northwestern Energy	electricity	28.14
Pechous Publications	legals	664.31
Quill	supplies	757.90
Rog's Auto	repair	209.86
S & K Truck Repairs	supplies	278.78
Safe-N-Secure	supplies	3,644.77
Shopko	supplies	118.81
Von Eschen Lawn	prof fees	450.00
Wagner Auto Supply	supplies	172.53
Wagner Building & Supply	supplies	16,692.47
Wagner Super Foods	supplies	117.26

**NEW BUSINESS**

A motion was made by Fredrich, second by Cuka to accept an estimate from Wagner Building and Supply for front counter doors in the finance office for \$879.25. Discussion followed. All voted aye, motion carried.

A motion was made by Beeson, second by Tyler to approve an estimate of a 4' X 4' instructional sign at the location of the new outdoor exercise equipment at Wagner Lake in the amount of \$495.00. Discussion followed. All voted aye, motion carried.

A motion was made by Cuka, second by Fredrich to approve an estimate to remove concrete foundation, backfill, and some tree removal on property the city owns from R & R Excavation, LLC in the amount of \$3,473.10. Discussion followed. All voted aye, motion carried.

There was discussion of a change order for the runway rehab project. This change order would remove a section of the existing culvert under runway 9/27 and reset the existing flared ends. The existing culvert sections are above ground and present a potential safety issue if aircraft were to hit them and also a maintenance issue for mowing. Discussion followed. A motion was made by Cuka, second by Honomichl to approve the change order for VanderPol Dragline in the amount of \$5,817.50. All work would be completed by November 1<sup>st</sup>, 2017. All voted aye, motion carried.

A motion was made by Beeson, second by Tyler to adjourn the council meeting at 6:07 pm. All voted aye, motion carried.

Approved   
Donald R. Hosek, Mayor

Attest   
Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 5:30 pm for a special October meeting held on Monday, October 30<sup>th</sup>, 2017 at the Wagner City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and John Tyler. Absent: None.

The conflict of interest declaration statement was recited.

A motion was made by Fredrich, second by Honomichl to approve the special meeting agenda. All voted aye, motion carried.

A motion was made by Cuka, second by Beeson to approve the rest of October 2017 claims. All voted aye, motion carried.

**OCTOBER VOUCHERS**

Dakotacare	insurance	7,614.83
Northwestern Energy	electricity	574.19
SD Retirement	retirement	6,181.80
Supplemental Retirement	retirement	150.00
Unum Life Insurance	insurance	161.02

**OLD BUSINESS**

An update was given on the loading/deliver area for the proposed Dollar General. Northwestern will be able to go from double poles to one pole in the alley. This will allow Dollar General trucks to go through the alley entrance off of 1<sup>st</sup> Street with an 18' easements, by eliminating one parking space. Discussion followed. A motion was made by Schroeder, second by Tyler to approve the widening of the alley access on SE 1<sup>st</sup> Street and move forward for an easement so delivery trucks can unload in the alley. All voted aye, motion carried.

**EXECUTIVE SESSION**

A motion was made by Beeson, second by Honomichl to enter into executive session at 5:37 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 7:07 pm.

A motion was made by Fredrich, second by Cuka to adjourn the council meeting at 7:07 pm. All voted aye, motion carried.

Approved Donald R. Hosek  
Donald R. Hosek, Mayor

Attest Rebecca Brunsing  
Rebecca Brunsing, Finance Officer

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the regular November meeting was held on Monday, November 6<sup>th</sup>, 2017 at 7:00 pm at Wagner City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and John Tyler. Absent: None.

The meeting was opened with the Pledge of Allegiance.

The meeting was called to order and the Mayor called for the approval of the November agenda. A motion was made by Cuka, second by Honomichl to approve the November agenda. All voted aye, motion carried.

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

A motion was made by Beeson, second by Tyler to approve the special meeting minutes from September 28<sup>th</sup>, 2017, the regular meeting minutes from October 2<sup>nd</sup>, 2017, the board of adjustment minutes from October 12<sup>th</sup>, 2017, special meeting minutes from October 16<sup>th</sup>, 2017, and the special council meeting minutes from October 30<sup>th</sup>, 2017. All voted aye, motion carried.

A motion was made by Honomichl second by Fredrich to approve the financial statements for October 2017 and the claims for November 2017. All voted aye, motion carried.

**November 2017**

October Salaries: Administration--\$5,073.99; Buildings--\$1,502.33 Buildings-Armory--\$1,133.35; Police--\$19,721.27; Streets--\$8,456.57; Library--\$4,038.14; HRC—Urban Redevelopment--\$507.50; Water--\$4,437.85; Sewer--\$2,680.00; Withholding/Social Security--\$12,781.28; Unemployment Insurance--\$257.32.

**GENERAL**

Apparel WorX	supplies	52.38
Best Western Ramkota	travel	644.96
Blue 360 Media	supplies	74.25
Broadway Chrysler Dodge	repair	235.93
Card Services	supplies	205.89
Century Link	phone	70.29
CME	electricity	345.72
City of Wagner	water	405.90
CNA Surety	bond insurance	560.00
Country Pride	propane	178.00
Custom Touch & Limo	sign	495.00

Dakota Traffic Services	supplies	642.65
Demco	supplies	62.44
DGR Engineering	improvements	1,126.00
Galls	supplies	140.98
Helms & Associates	prof fees	2,389.27
Ingram	supplies	162.39
John Otte	prof fees	825.00
Kay Park Recreation	supplies	1,894.00
King Koin Laundry	prof fees	246.00
Kotab Kleaning	prof fees	250.00
Lawns Unlimited	prof fees	150.00
Michael Todd & Company	repair	1,626.27
Midtowne Oil and Wash	repair	67.83
One Office Solution	prof fees	87.45
Pechous Publications	legals	288.88
R & R Excavation LLC	prof fees	3,473.10
School Specialty	supplies	5,824.18
SD Federal Surplus	supplies	95.50
TCS Lawn Care	prof fees	430.00
The Lodge at Deadwood	travel	237.00
VanderPol Dragline Inc	improvements	43,792.50
Wagner Auto	supplies	229.22
Wagner Chamber of Commerce	deposit refund	300.00
Wagner Speedway	beer tax refund	21.48
Wells Fargo	loan pymt	17,278.28
Wipf & Cotton	prof fees	1,250.00
Yankton Janitorial	supplies	260.60

## WATER & SEWER

Core & Main	equipment	5,247.93
Dakota Pump	equipment	14,795.95
Donna Greger	deposit refund	60.78
H & H Electric	repair	158.69
Jim or Florene Ehrisman	deposit refund	56.45
Jim's Electric	repair	192.78
Kenny & Alta St. Pierre	deposit refund	84.16
Marks Machinery	supplies	24.00
Philomena Cournoyer	deposit refund	56.12
Randall Community Water	water	13,576.30
SD Dept of Revenue	prof fees	146.00
SD One Call	prof fees	84.00
VFW Club	deposit refund	10.00

## VARIED

AFLAC	insurance	760.16
-------	-----------	--------

AT&T	phone	243.10
Banyon Data Systems	prof fees	2,680.00
Bomgaars	supplies	822.30
Donlin Marine	supplies	169.99
First Dakota Bank	petty cash	554.99
Fort Randall Telephone	phone	711.83
Leaf	prof fees	114.25
Northwestern Energy	electricity	9,876.02
Quill	supplies	232.01
Transamerica	insurance	137.20
Voyager	fuel	1,703.15
Wagner Building & Supply	improvements	10,060.20

The Mayor presented Vern Twitero with a Meritorious Service Award for his 11 years of service on the Wagner Planning and Zoning Commission. The Council thanked Mr. Twitero and wished him well.

### **OLD BUSINESS**

Craig Krsnak was present to review choices for the renewal of the employee health insurance plan. Discussion followed. A motion was made to renew the same insurance plan for the employees. All voted aye, motion carried.

Arlis Kafka was present to report on the cancer rummage event that was held at the armory. Discussion followed.

Dick Kafka was present concerning a drainage issue on the west edge of his property. Discussion followed.

There was continued discussion on the Main Avenue Curb and Gutter Improvement Project. SPN revised the plan so it would identify only which curb and gutter was bad that needed to be replaced and also would not include property north of Main Avenue and Hwy 46. Discussion followed. The consensus was to proceed forward with the public hearing notice and the proposed resolution of necessity.

### **NEW BUSINESS**

A motion was made by Beeson, second by Schroeder to approve the Mayor appointment of Don Hubbard to the Wagner Planning and Zoning Commission. All voted aye, motion carried.

A motion was made by Cuka, second by Fredrich to approve pay request #6 to VanderPol Dragline Inc. for \$46,792.50 for the cross-wind runway & hangar taxi lane rehab project. All voted aye, motion carried.

This being the time and place for a public hearing for a special event alcoholic beverage license for the Pink Ladies for the first annual dart tournament at the American Legion Hall on March 17<sup>th</sup>, 2018. No one was present to object to the license. A motion was made by Cuka, second by Honomichl to approve the license. All voted aye, motion carried.

A motion was made by Schroeder, second by Tyler to approve the following 2018 operating agreements: Two Spurs, Dogger's Dive, Buches/Bob's Liquor and Wagner Super Foods Liquor. All voted aye, motion carried.

A proposed easement for widening alley access on city property on SE 1<sup>st</sup> Street for the purposes of deliveries for the proposed Dollar General was reviewed. Discussion followed. A motion was made by Beeson, second by Honomichl to approve the easement for Dollar General. All voted aye, motion carried.

A motion was made by Fredrich, second by Beeson to approve the estimate of \$5,908.00 from Sanders Refrigeration for a new heating system for the police department. Five voted aye, Schroeder voted nay, motion carried.

#### **RESOLUTION NO. 2017-04**

WHEREAS, the City of Wagner, SD operates a water distribution system which is governed by City of Wagner Water Ordinance 2010-04, which is codified in Wagner Municipal Code section 7-1-20; and

WHEREAS, said Wagner Water Ordinance 2010-04 provides that the Wagner City Council can adjust and establish municipal water rates by resolution from time to time as circumstances may dictate; and

WHEREAS, the City of Wagner purchases all of the water with which to stock its water distribution system pursuant to a contract that it maintains with Randall Community Water District, including what water rates the City of Wagner will pay to said Water District for water; and

WHEREAS, Randall Community Water District has advised the City of Wagner that it will be raising its price per thousand gallons of water to the City of Wagner by \$.30/1,000 gallons, effective January 1<sup>st</sup>, 2018;

WHEREAS, it is necessary for the City of Wagner to pass this increase on to its residential and commercial water users, therefore, be it

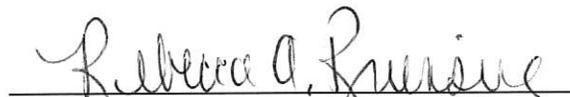
RESOLVED, that the City of Wagner hereby raises all water rates within the City of Wagner by the sum of \$.30/1,000 gallons, effective January 1<sup>st</sup>, 2018.

Dated this 6<sup>th</sup> day of November 2017.

By:

  
Donald R. Hosek, Mayor

ATTEST:

  
Rebecca A. Brunsing, Finance Officer

SEAL

The motion for the adoption of the foregoing resolution was made by Schroeder seconded by Honomichl. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried. Thereupon the Mayor declared Resolution No. 2017-04 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

Resolution Adopted: November 6<sup>th</sup>, 2017

Publication Date: November 15<sup>th</sup>, 2017

Effective Date: December 5<sup>th</sup>, 2017

## RESOLUTION 2017-05

**WHEREAS**, the City Council of the City of Wagner, South Dakota, under authority of SDCL 9-21-14.1, authorizing the accumulation of funds for capital outlay purposes for the year 2018, and

**WHEREAS**, as required by SDCL 9-21-14.2, the purpose and maximum amount of this accumulation must be clearly stated, and

**WHEREAS**, the City Council of the City of Wagner acknowledges that, according to SDCL 9-21-14.2, these accumulated amounts must be expended within 60 months from the date of resolution establishing said accumulation and any accumulated funds deemed no longer necessary shall revert to the general fund, and

**WHEREAS**, according to standard accounting principles as established by the SD Department of Legislative Audit by direction of SDCL, these amounts should instead be a part of the general fund as a restricted cash account.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Wagner, South Dakota that a Capital Outlay account be established and the Finance Officer is hereby authorized and directed to budget and accumulate \$200,000.00 per annum beginning with the 2018 appropriations from the general fund for the purpose of constructing a swimming pool, with a maximum amount of \$1,000,000.00 to be accumulated.

Dated this 6<sup>th</sup> day of November 2017.



Donald R. Hosek  
Mayor, City of Wagner

ATTEST:



Rebecca A. Brunsing, Finance Officer

SEAL

The motion for the adoption of the foregoing resolution was made by Beeson seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried. Thereupon the Mayor declared Resolution No. 2017-05 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

Resolution Adopted: November 6<sup>th</sup>, 2017  
Publication Date: November 15<sup>th</sup>, 2017  
Effective Date: December 5<sup>th</sup>, 2017

**ORDINANCE NO. 2017-07**

**AN ORDINANCE AMENDING WAGNER MUNICIPAL CODE §4-2-17.**

BE IT ORDAINED BY THE CITY OF WAGNER, CHARLES MIX COUNTY, SOUTH DAKOTA:

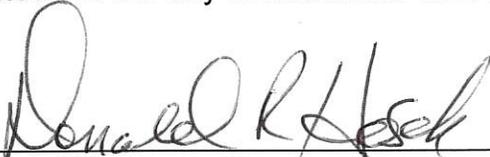
Section 1. PURPOSE. The purpose of this ordinance is to amend Wagner Municipal Code §4-2-17 Trimming Trees.

Section 2. WAGNER MUNICIPAL CODE §4-2-17 Trimming Trees is hereby replaced with the following language:

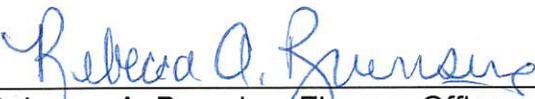
The occupant of any lot or parcel of land in this city, adjacent to any street or alley, or the owner, of said lot or land be unoccupied, shall keep all trees standing on such premises or between the same and the center of the street, adjoining the same, so trimmed that no bough or branch thereof shall hang lower than 14 (fourteen) feet above the surface of the street or alley or any sidewalk therein.

Section 3. That this ordinance is necessary for the preservation and support of the municipal government and its existing public institutions and shall take effect immediately upon the passage and publication hereof.

Dated this 6th day of November 2017.

  
\_\_\_\_\_  
Donald R. Hosek, Mayor

ATTEST:

  
\_\_\_\_\_  
Rebecca A. Brunsing, Finance Officer

(SEAL)

The above motion was placed on its first reading. The motion for the adoption of the foregoing ordinance was made by Fredrich seconded by Cuka. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

First Reading: November 6<sup>th</sup>, 2017

Second Reading and Adoption:

Published:

Effective Date:

#### **ORDINANCE NO. 2017-08**

**AN ORDINANCE PROHIBITING THE PLANTING OF TREES, SHURBS OR ANY  
PLANT OF ANY KIND OR TYPE THAT WOULD GROW IN EXCESS OF 24  
(TWENTY-FOUR) INCHES FROM THE HEIGHT OF THE CURB IN THE CITY OF  
WAGNER RIGHTS-OF-WAY LOCATED WITHIN THE CITY OF WAGNER, CHARLES  
MIX COUNTY, SOUTH DAKOTA**

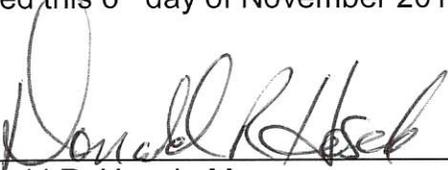
BE IT ORDAINED BY THE CITY OF WAGNER, CHARLES MIX COUNTY, SOUTH DAKOTA:

Section 1. Purpose. The purpose of this ordinance is to prohibit any person or entity from the planting of trees, shrubs or any plant of any kind or type that would grow in excess of 24 (twenty-four) inches from the height of the curb in the city of Wagner rights-of-way located within the City of Wagner, Charles Mix County, South Dakota.

Section 2. It shall be unlawful for any person or entity to plant trees, shrubs, or any plant of any kind or type that would grow in excess of 24 (twenty-four) inches from the height of the curb in the city of Wagner rights-of-way lying within the corporate limits of the City of Wagner, Charles Mix County, South Dakota.

Section 3. Penalty. Any person or entity that shall be found to have violated the terms of this ordinance by planting a tree, shrub, or any plant of any kind or type that would grow in excess of 24 (twenty-four) inches from the height of the curb in the city of Wagner rights-of-way within the city limits of Wagner, Charles Mix County, South Dakota shall be guilty of an offense as provided by the Wagner Municipal Code and may be subject to a fine of up to \$200.00 and the prompt removal of thereof as directed by the City of Wagner.

Dated this 6<sup>th</sup> day of November 2017



Donald R. Hosek, Mayor

ATTEST:



Rebecca A. Brunsing, Finance Officer

(SEAL)

The above motion was placed on its first reading. The motion for the adoption of the foregoing ordinance was made by Beeson seconded by Honomichl. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

First Reading: November 6<sup>th</sup>, 2017

Second Reading and Adoption:

Effective Date:

Published:

**EXECUTIVE SESSION**

A motion was made by Schroeder, second by Fredrich to enter into executive session at 8:28 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 8:51 pm.

A motion was made by Fredrich, second by Honomichl to accept the resignation of James Flynn as full time police officer. All voted aye, motion carried.

A motion was made by Honomichl, second by Beeson to hire Dylan Hillestad as a part-time police officer at \$16.00 per hour. All voted aye, motion carried.

**ORDINANCE NO. 2017-05  
2017 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

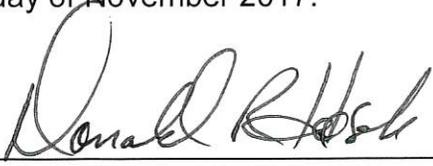
**GENERAL FUND**

Urban Housing & Redevelopment	\$20,000.00
Buildings	\$15,000.00
Street Lighting	\$ 5,000.00

Funds to meet the obligations for these appropriations will be \$40,000.00 from Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 6th day of November 2017.

  
\_\_\_\_\_  
Donald R. Hosek, Mayor

ATTEST:   
Rebecca Brunsing, Finance Officer

City Seal

The above motion was placed on its first reading. The motion for the adoption of the foregoing ordinance was made by Schroeder seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

First Reading: November 6<sup>th</sup>, 2017  
Second Reading and Adoption:  
Published:  
Effective Date:

**ORDINANCE NO. 2017-06**  
**2018 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

**GENERAL FUND**

Urban Housing & Redevelopment                      \$15,000.00

Funds to meet the obligations for these appropriations will be \$15,000.00 from Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 6th day of November 2017.

  
\_\_\_\_\_  
Donald R. Hosek, Mayor

ATTEST:   
\_\_\_\_\_  
Rebecca Brunsing, Finance Officer

City Seal

The above motion was placed on its first reading. The motion for the adoption of the foregoing ordinance was made by Fredrich seconded by Cuka. Upon roll call vote

being taken, those voting AYE: Tyler, Schroeder, Fredrich, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: None. Those abstaining: None. Motion carried.

First Reading: November 6<sup>th</sup>, 2017

Second Reading and Adoption:

Published:

Effective Date:

A motion was made Schroeder; second by Honomichl to adjourn the meeting at 9:00 pm. All voted aye, motion carried.

APPROVED



Donald R. Hosek, Mayor

Attest:



Rebecca Brunsing, Finance Officer

"This institution is an equal opportunity provider."

Published once at the approximate cost of \_\_\_\_\_.

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the City Council convened at 5:40 pm for a special November meeting held on Tuesday, November 14<sup>th</sup>, 2017 at the Wagner City Hall. Present were: Council President Roger Schroeder, Finance Officer, Rebecca Brunsing, and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, and John Tyler. Absent: Don Hosek, Ron Fredrich and Ken Cotton.

The conflict of interest declaration statement was recited.

A motion was made by Cuka, second by Beeson to approve the agenda. All voted aye, motion carried.

A motion was made by Honomichl, second by Beeson to approve the rest of November 2017 claims. All voted aye, motion carried.

**NOVEMBER VOUCHERS**

Avera Occupational Medicine	prof fees	36.50
Axon Enterprise, Inc	supplies	138.76
C & B Operations	deposit refund	50.00
Charles Mix Law Enforcement	prof fees	40.00
Comfort Inn & Suites	travel	92.50
Current Solutions	repair	543.37
Fred or Ellen Greger	meter refund	12.86
Joe's Motor Clinic	meter refund	25.00
John or Amy Tyler	meter refund	100.00
Northwestern Energy	electricity	25.68
Shopko	supplies	26.45
Unum Life Insurance	insurance	178.18
Wagner Super Foods	supplies	67.76
Warren Flood	meter refund	77.15

**OLD BUSINESS**

**ORDINANCE NO. 2017-05  
2017 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

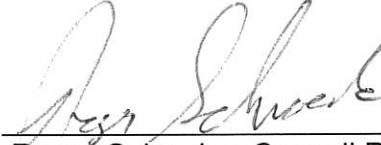
**GENERAL FUND**

Urban Housing & Redevelopment	\$20,000.00
Buildings	\$15,000.00
Street Lighting	\$ 5,000.00

Funds to meet the obligations for these appropriations will be \$40,000.00 from Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 14th day of November 2017.

  
\_\_\_\_\_  
Roger Schroder, Council President

ATTEST:   
Rebecca Brunsing, Finance Officer

City Seal

The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Cuka seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried. Thereupon the Council President declared Ordinance No. 2017-05 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: November 6<sup>th</sup>, 2017  
Second Reading and Adoption: November 14<sup>th</sup>, 2017  
Published: November 22<sup>nd</sup>, 2017  
Effective Date: December 13<sup>th</sup>, 2017

**ORDINANCE NO. 2017-06**  
**2018 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

**GENERAL FUND**

Urban Housing & Redevelopment                      \$15,000.00

Funds to meet the obligations for these appropriations will be \$15,000.00 from Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 14th day of November 2017.

  
Roger Schroder, Council President

ATTEST:   
Rebecca Brunsing, Finance Officer

City Seal

The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Beeson seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried. Thereupon the Council President declared Ordinance No. 2017-06 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: November 6<sup>th</sup>, 2017  
Second Reading and Adoption: November 14<sup>th</sup>, 2017  
Published: November 22<sup>nd</sup>, 2017  
Effective Date: December 13<sup>th</sup>, 2017

### **ORDINANCE NO. 2017-07**

#### **AN ORDINANCE AMENDING WAGNER MUNICIPAL CODE §4-2-17.**

BE IT ORDAINED BY THE CITY OF WAGNER, CHARLES MIX COUNTY, SOUTH DAKOTA:

Section 1. PURPOSE. The purpose of this ordinance is to amend Wagner Municipal Code §4-2-17 Trimming Trees.

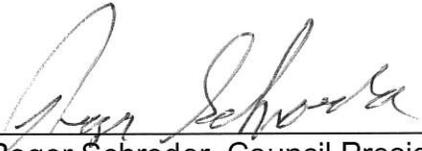
Section 2. WAGNER MUNICIPAL CODE §4-2-17 Trimming Trees is hereby replaced with the following language:

The occupant of any lot or parcel of land in this city, adjacent to any street or alley, or the owner, of said lot or land be unoccupied, shall keep all trees standing on such premises or between the same and the center of the street, adjoining the same, so

trimmed that no bough or branch thereof shall hang lower than 14 (fourteen) feet above the surface of the street or alley or any sidewalk therein.

Section 3. That this ordinance is necessary for the preservation and support of the municipal government and its existing public institutions and shall take effect immediately upon the passage and publication hereof.

Dated at Wagner, South Dakota this 14<sup>th</sup> day of November 2017.

  
\_\_\_\_\_  
Roger Schroder, Council President

ATTEST:   
Rebecca Brunsing, Finance Officer

City Seal

The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Tyler seconded by Honomichl. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried. Thereupon the Council President declared Ordinance No. 2017-07 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: November 6<sup>th</sup>, 2017  
Second Reading and Adoption: November 14<sup>th</sup>, 2017  
Published: November 22<sup>nd</sup>, 2017  
Effective Date: December 13<sup>th</sup>, 2017

#### **ORDINANCE NO. 2017-08**

**AN ORDINANCE PROHIBITING THE PLANTING OF TREES, SHURBS OR ANY PLANT OF ANY KIND OR TYPE THAT WOULD GROW IN EXCESS OF 24 (TWENTY-FOUR) INCHES FROM THE HEIGHT OF THE CURB IN THE CITY OF WAGNER RIGHTS-OF-WAY LOCATED WITHIN THE CITY OF WAGNER, CHARLES MIX COUNTY, SOUTH DAKOTA**

BE IT ORDAINED BY THE CITY OF WAGNER, CHARLES MIX COUNTY, SOUTH DAKOTA:

Section 1. Purpose. The purpose of this ordinance is to prohibit any person or entity from the planting of trees, shrubs or any plant of any kind or type that would grow

in excess of 24 (twenty-four) inches from the height of the curb in the city of Wagner rights-of-way located within the City of Wagner, Charles Mix County, South Dakota.

Section 2. It shall be unlawful for any person or entity to plant trees, shrubs, or any plant of any kind or type that would grow in excess of 24 (twenty-four) inches from the height of the curb in the city of Wagner rights-of-way lying within the corporate limits of the City of Wagner, Charles Mix County, South Dakota.

Section 3. Penalty. Any person or entity that shall be found to have violated the terms of this ordinance by planting a tree, shrub, or any plant of any kind or type that would grow in excess of 24 (twenty-four) inches from the height of the curb in the city of Wagner rights-of-way within the city limits of Wagner, Charles Mix County, South Dakota shall be guilty of an offense as provided by the Wagner Municipal Code and may be subject to a fine of up to \$200.00 and the prompt removal of thereof as directed by the City of Wagner.

Dated at Wagner, South Dakota this 14<sup>th</sup> day of November 2017

  
\_\_\_\_\_  
Roger Schroder, Council President

ATTEST:   
Rebecca Brunnsing, Finance Officer

City Seal

The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Cuka seconded by Honomichl. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried. Thereupon the Council President declared Ordinance No. 2017-08 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: November 6<sup>th</sup>, 2017  
Second Reading and Adoption: November 14<sup>th</sup>, 2017  
Published: November 22<sup>nd</sup>, 2017  
Effective Date: December 13<sup>th</sup>, 2017

The Finance Officer gave a brief update on the Main Street curb and gutter project. The proposed resolution of necessity will be read at the regular December 4<sup>th</sup> council meeting. The public hearing will be held at the regular January 3<sup>rd</sup> council meeting.

The Finance Officer reported that the new street light poles won't be delivered until mid December.

**NEW BUSINESS**

**ORDINANCE NO. 2017-09  
2017 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

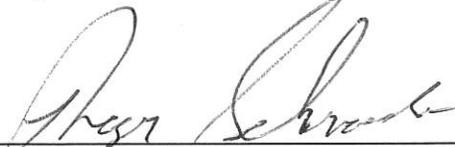
**GENERAL FUND**

Airport \$47,000.00

Funds to meet the obligations for these appropriations will be \$40,000.00 from Federal Aviation Administration Entitlements and \$7,000.00 from Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 14th day of November 2017.

  
\_\_\_\_\_  
Roger Schroeder, Council President

ATTEST:   
Rebecca Brunsing, Finance Officer

City Seal

The above motion was placed on its first reading. The motion for the adoption of the foregoing ordinance was made by Beeson seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried.

First Reading: November 14<sup>th</sup>, 2017

Second Reading and Adoption:

Published:

Effective Date:

**EXECUTIVE SESSION**

A motion was made by Honomichl, second by Cuka to enter into executive session at 5:58 pm for litigation purposes pursuant to SDCL 1-25-2 (3). All voted aye, motion carried.

The Council President declared the council out of executive session at 6:10 pm.

A motion was made by Beeson, second by Cuka to adjourn the council meeting at 6:10 pm. All voted aye, motion carried.

Approved   
Roger Schroder, Council President

Attest   
Rebecca Brunsing, Finance Officer

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Published once at the approximate cost of \$ \_\_\_\_\_.

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

**PURSUANT TO DUE CALL AND NOTICE THEREOF**, the regular December meeting was held on Monday, December 4<sup>th</sup>, 2017 at 7:00 pm at Wagner City Hall. Present were: Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Scott Honomichl, Tom Beeson, Roger Schroeder and John Tyler. Absent: Ron Fredrich.

The meeting was opened with the Pledge of Allegiance.

The meeting was called to order and the Mayor called for the approval of the December agenda. A motion was made by Beeson, second by Tyler to approve the December agenda. All voted aye, motion carried.

The conflict of interest declaration statement was recited. Scott Honomichl stated that he had a conflict with the discussion of the VFW placing a conex on city property.

A motion was made by Cuka, second by Honomichl to approve the regular meeting minutes from November 6<sup>th</sup>, 2017, and the special council meeting minutes from November 14<sup>th</sup>, 2017. All voted aye, motion carried.

A motion was made by Schroeder second by Beeson to approve the financial statements for November 2017 and the claims for December 2017. All voted aye, motion carried.

**December 2017**

November Salaries: Administration--\$5,998.68; Buildings--\$1,741.87 Buildings-Armory--\$1,314.05; Police--\$19,574.85; Streets--\$4,275.00; Library--\$4,654.85; HRC—Urban Redevelopment--\$560.00; Water--\$4,743.08; Sewer--\$3,073.63; Withholding/Social Security--\$11,561.03.

**GENERAL**

B & L Communication	repair	310.00
Card Services	supplies	408.88
Century Link	phone	70.09
Chips Construction	supplies	1,470.82
City of Wagner	water	574.38
Country Pride	propane	1,541.76
Dave's Service	repair	30.00
DGR Engineering	prof fees	1,687.77
Galls	supplies	267.01
Helms & Associates	prof fees	595.66
Honomichl Design	repairs	589.82
Ingram	supplies	502.19
Jack's Uniforms	supplies	208.80

John Otte	prof fees	825.00
King Koin Laundry	prof fees	369.00
MacDoctors	computer	1,079.00
Michael Todd & Company	repair	171.70
Midtowne Oil and Wash	repair	176.80
O'Neil Pest Control	prof fees	60.00
One Office Solution	prof fees	66.23
Pechous Publications	legals	449.06
S & K Truck Repair	supplies	38.00
Safe-N-Secure	prof fees	379.40
Sanders Refrigeration, Inc	furnace	6,026.16
SD Library Association	prof fees	50.00
Valley Pump	fuel	418.27
Wipf & Cotton	prof fees	1,150.00

### WATER & SEWER

Alberta Arpan	deposit refund	75.83
Core & Main	equipment	4,942.14
Industrial Chem Labs	supplies	151.21
Marks Machinery	supplies	47.70
Quill	supplies	247.63
Randall Community Water	water	13,114.60
Reserve Account	supplies	1,200.00
Riteway Business Forms	supplies	149.00
Rog's Auto	repair	441.86
SD Dept of Revenue	prof fees	438.00
USDA	loan pymts	7,530.00

### VARIED

AFLAC	insurance	573.31
AT&T	phone	242.48
Bomgaars	supplies	1,152.18
First Dakota Bank	petty cash	600.09
Fort Randall Telephone	phone	724.33
Leaf	prof fees	114.25
Northwestern Energy	electricity	8,322.50
Transamerica	insurance	137.20
True North Steel	supplies	6,828.80
Voyager	fuel	2,033.68
Wagner Building & Supply	improvements	7,682.51

### INCIDENTIAL VOUCHERS

Dakotacare	insurance	7,614.83
Northwestern Energy	electricity	500.42

SD Retirement	retirement	5,820.90
Supplemental Retirement	retirement	50.00

**OLD BUSINESS**

**ORDINANCE NO. 2017-09  
2017 SUPPLEMENTAL APPROPRIATION ORDINANCE**

Section 1. Be it ordained by the City of Wagner, Charles Mix County, South Dakota that the following sums be appropriated to meet the obligations of the municipality.

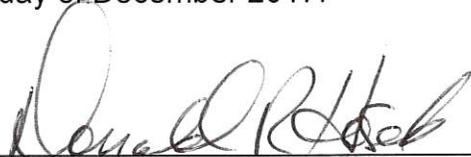
***GENERAL FUND***

Airport \$47,000.00

Funds to meet the obligations for these appropriations will be \$40,000.00 from Federal Aviation Administration Entitlements and \$7,000.00 from Cash on Hand.

Section 2. The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Dated at Wagner, South Dakota, this 4th day of December 2017.

  
\_\_\_\_\_  
Donald R. Hosek, Mayor

ATTEST:   
Rebecca Brunson, Finance Officer

City Seal

The above motion was placed on its second reading. The motion for the adoption of the foregoing ordinance was made by Cuka, seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried. Thereupon the Mayor declared Ordinance No. 2017-09 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

First Reading: November 14<sup>th</sup>, 2017  
Second Reading and Adoption: December 4<sup>th</sup>, 2017  
Published: December 13<sup>th</sup>, 2017  
Effective Date: January 2<sup>nd</sup>, 2018

This being the time and place for a public hearing for a special event alcoholic beverage license for the 155<sup>th</sup> Engineering Company for the National Guard Gala on January 6<sup>th</sup>, 2018 at the Wagner National Guard Armory. No one was present to object to the license. A motion was made by Beeson, second by Honomichl to approve the license. All voted aye, motion carried.

### **NEW BUSINESS**

There was discussion of the VFW placing a conex on city property. Since their building was sold, they still have items to be stored. Discussion followed. Current commercial zoning regulations don't allow for a convex to be placed on city property. The council respectfully declined the request.

### **Resolution of Approval**

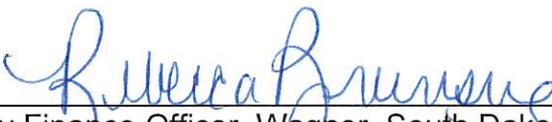
Whereas it appears the owners thereof have caused a plat to be made of the now known Kocer Tract 1 in the North ½ of the SE ¼ of Section 33, Township 96 North, Range 63 West of the 5<sup>th</sup> P.M., City of Wagner, Charles Mix County, South Dakota, and have submitted said plat to City Commission of Wagner, South Dakota for approval, now therefore

BE IT RESOLVED that this plat ahs been executed according to the law and that same is hereby approved and the City Finance Officer is hereby authorized to endorse on this plat a copy of this Resolution and certify the same.

  
\_\_\_\_\_  
Mayor, City of Wagner, South Dakota

Resolution passed by the City Commission of Wagner, South Dakota.

Dated this 4<sup>th</sup> day of December 2017.

  
\_\_\_\_\_  
City Finance Officer, Wagner, South Dakota

A motion was made by Schroeder, second by Tyler to approve the above plat. All voted aye, motion carried.

A motion was made by Cuka, second by Beeson to renew the Wagner Saddle Club lease for another five years. All voted aye, motion carried.

**CITY OF WAGNER  
PROPOSED RESOLUTION OF NECESSITY  
NO. 2017-06**

**BE IT RESOLVED**, by the Common Council of the City of Wagner, South Dakota, at a regular meeting thereof, held at City Hall in the City of Wagner at 7:00 p.m. on the 4<sup>th</sup> day of December, 2017, that the convenience and necessity has arisen to repair portions of the curb and gutter and adjacent sidewalk where needed along Main Avenue. Such properties affected being hereinafter named on the attached list marked "Exhibit A" with the projected location being as follows:

City of Wagner encompassing Main Avenue from SD Highway 46 and proceeding south to 3rd Street.

**BE IT FURTHER RESOLVED**, that the materials to be used in the project shall be according to the plans and specifications as prepared by the City's engineering firm, Schmucker, Paul, Nohr and Associates, in and for the City of Wagner, South Dakota, and are on file in the office of the City Finance Officer and open for the public's inspection and incorporated hereby.

**BE IT FURTHER RESOLVED**, that the cost of the curb and gutter and sidewalk improvements shall be assessed against all assessable lots and tracts of land fronting or abutting thereon, according to the provisions of SDCL 9-43-76 as to each of such lots and tracts above stated. The total cost of the improvements shall include the total contract price and shall be assessed according to SDCL 9-43-78. This includes, on a lineal foot basis, **Curb and Gutter** removal including saw cutting, base course, installation, traffic control, mobilization and engineering at an *ESTIMATED* cost of \$40.00 per lineal foot; on a lineal foot basis, **Sidewalk** removal including saw cutting where required, base course, installation and engineering at an *ESTIMATED* cost of \$9.50 per lineal foot where saw cutting is required and \$16.50 where sidewalk is not required, both on a lineal foot basis; and **Approach Pavement** removal, base course, installation and engineering an *ESTIMATED* cost of \$13.00 per lineal foot.

**BE IT FURTHER RESOLVED**, that the City of Wagner has agreed to cover 50% of the eligible assessment costs.

**BE IT FURTHER RESOLVED**, that the assessments less the established 50% discount, will be divided into five (5) equal annual installments, which shall be payable under Plan One, collection by the County Treasurer, as set forth in SDCL 9-43-102, and that all deferred installments shall bear an interest rate of 6.25%.

**BE IT FURTHER RESOLVED**, that a proposed Public Hearing on the Proposed Resolution of Necessity will be held on the 3<sup>rd</sup> day of January 2018 at 7:00 PM. At that hearing the City Council will consider any objection to the Proposed Resolution by the owners of the property liable to be assessed.

**BE IT FURTHER RESOLVED**, that the Resolution of Necessity shall become effective 20 days after publication of the adopted resolution of Necessity, unless the referendum is involved or unless a written protest is filed with the Finance Officer signed by the owners of more than fifty-five percent (55%) of the frontage of the property to be assessed as provided in Section 9-43-86 of the South Dakota Codified Law.

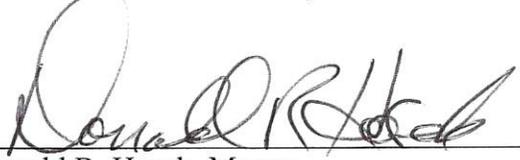
**BE IT FURTHER RESOLVED**, that the City of Wagner shall cause personal notice to be sent by first-class, certified mail to each person owning property liable to be assessed for the improvement; said notice to include all information required of the published notice. If the property is occupied that has a street address, the written notice shall be sent to the owner in care of such address and, if not, to the last known address of the owner. Notice shall not be required to be sent to any person who shall have petitioned in writing or consented in writing to such improvement.

**BE IT FURTHER RESOLVED**, that the Finance Officer is directed to take such action as is necessary to carry out the intent of the resolution.

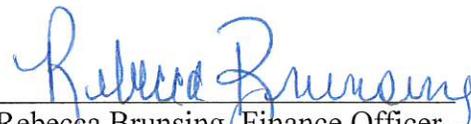
**WHEREUPON**, it was moved by Beeson, seconded by Schroeder that this proposed resolution of necessity as read, be and the same hereby passed, approved and adopted. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried.

Dated this 4th day of December, 2017.

THE CITY COUNCIL OF  
THE CITY OF WAGNER, SOUTH DAKOTA

  
\_\_\_\_\_  
Donald R. Hosek, Mayor

ATTEST:

  
\_\_\_\_\_  
Rebecca Brunsing, Finance Officer

**“Exhibit A”**

Name	Legal Description	100% TOTAL ESTIMATED ASSESSED COST	50% TOTAL ESTIMATED ASSESSED COST
City of Wagner PO Box 40 Wagner, SD 57380	Lots 5-6 Block 16 Original Town	\$5,357.00	\$2,678.50
Fechner Motors, Inc. Dennis Fechner PO Box 173 Wagner, SD 57380-0173	Lots 7-12 Block 16 Original Town	\$2,345.22	\$1,172.61
Aaron Cohn PO Box 600630 San Diego, CA 92160-0630	Lots 1-8 Block 17 Original Town	\$19,639.78	\$9,819.89
Wood Properties, LLC 29751 393rd Avenue Wagner, SD 57380	Lots 9-10 Block 1 Original Town	\$2,182.48	\$1,091.24
Francis Doom 39377 SD HWY 50# Wagner, SD 57380	Lot 11 Block 1 Original Town	\$992.04	\$496.02
James M. Dresden PO Box 722 Wagner, SD 57380	Lot 8 Block 2 Original Town	\$595.22	\$297.61
Larry & Ruth Hento JT PO Box 217 Avon, SD 57315	Lot 9 Block 2 Original Town	\$793.63	\$396.81
Rotary Club of Wagner PO Box 220 Wagner, SD 57380	Lots 12 Block 2 Original Town	\$496.02	\$248.01
James Pharmacy Inc. 604 Main Street Gregory, SD 57533	Lots 1-2 Block 3 Original Town	\$4,960.19	\$2,480.09
James Pharmacy Inc. 604 Main Street Gregory, SD 57533	Lot 3 Block 3 Original Town	\$2,480.09	\$1,240.05
Terry & Vicki Koupal 40211 293rd Street Wagner, SD 57380	North 22' of Lot 4 Block 3 Original Town	\$2,182.48	\$1,091.24
Pechous Holding LLC PO Box 187 Wagner, SD 57380	South 3' of Lot 4, Lot 5 & North 6.33' of Lot 6, Block 3 Original Town	\$3,405.66	\$1,702.83
Ruth Leines PO Box 762 Wagner, SD 57380	Lot 6 Less North 6.33', Lot 7 Less South 6", Block 3 Original Town	\$4,285.77	\$2,142.89
Tracy Leines 105 NW High Avenue Wagner, SD 57380			

Name	Legal Description	100% TOTAL ESTIMATED ASSESSED COST	50% TOTAL ESTIMATED ASSESSED COST
Thomas & Vicki L Thaler JT 135 NE North Street Wagner, SD 57380	South 6" Lot 7, All of Lot 8, Block 3 Original Town	\$2,526.48	\$1,263.24
KPJ Management LLC Johnathan Foster PO Box 776 Wagner, SD 57380	Lot 9 Block 3 Original Town	\$2,480.09	\$1,240.05
Stacey L. & Bradley J Irwin JT 29717 388th Avenue Lake Andes, SD 57356	Lot 10 Block 3 Original Town	\$2,480.09	\$1,240.05
Mike & Leah Insko 604 Poplar Wagner, SD 57380	Lot 11 Block 3 Original Town	\$4,960.19	\$2,480.09
Andersh Family LLC 40128 294th Street Wagner, SD 57380	Lots 7-10 Block 4 Original Town	\$9,126.74	\$4,563.37
Commercial State Bank PO Box 220 Wagner, SD 57380	Lots 14-18 Block 4 Original Town	\$992.04	\$496.02

**Total**

**\$72,281.22**

**\$36,140.61**

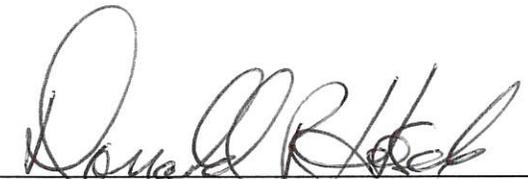
**Resolution No. 2017-07  
RESOLUTION OF GOVERNING BODY**

**WHEREAS**, the United States of America and the State of South Dakota have authorized the making of grants from the Land and Water Conservation Fund (LWCF) to public bodies to aid in financing the acquisition and/or construction of specific public outdoor recreation projects;

1. That Donald R. Hosek is hereby authorized to execute and file an application on behalf of the City of Wagner with the National Park Service, U.S. Department of the Interior, through the State of South Dakota, Department of Game, Fish, and Parks, Division of Parks and Recreation, for an LWCF grant to aid in financing the Wagner Frisbee Park Project for the City of Wagner, South Dakota and its Environs.
2. That Rebecca Brunsing, Finance Officer of the City of Wagner is hereby authorized and directed to furnish such information as the above mentioned federal and/or state agencies may reasonably request in connection with the application which is hereby authorized to be filed.

3. That the City of Wagner shall provide a minimum of 50% of the total cost of the project; and will assume all responsibility in the operation and maintenance of the project upon completion of construction, for the reasonable life expectancy of the facility.
4. That the City of Wagner shall dedicate for park and recreation purposes in perpetuity, the real property identified in the authorized application.

Dated 4<sup>th</sup> day of December, 2017.

By:   
Donald R. Hosek, Mayor

ATTEST:

  
Rebecca A. Brunsing, Finance Officer

SEAL

The motion for the adoption of the foregoing resolution was made by Honomichl seconded by Tyler. Upon roll call vote being taken, those voting AYE: Tyler, Schroeder, Beeson, Honomichl and Cuka. Those voting NAY: None. Absent: Fredrich. Those abstaining: None. Motion carried. Thereupon the Mayor declared Resolution No. 2017-07 duly passed and adopted, affixed his signature thereto in approval thereof and directed the same to be published in the official newspaper.

Resolution Adopted: December 4<sup>th</sup>, 2017  
Publication Date: December 13<sup>th</sup>, 2017  
Effective Date: January 2<sup>nd</sup>, 2018

A motion was made by Cuka, second by Honomichl to approve to advertise for garbage service for 2018. All voted aye, motion carried.

The year end meeting was set for Wednesday, December 27<sup>th</sup> at 5:30 pm.

### **EXECUTIVE SESSION**

A motion was made by Schroeder, second by Beeson to enter into executive session at 7:52 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 8:38 pm.

A motion was made by Beeson, second by Schroeder to make a change to the sick leave policy for city employees. All voted aye, motion carried.

A motion was made by Honomichl, second by Tyler to hire Damon Griffin as a full-time police officer at \$16.75 per hour. All voted aye, motion carried.

A motion was made Honomichl; second by Cuka to adjourn the meeting at 8:40 pm. All voted aye, motion carried.

APPROVED

  
Donald R. Hosek, Mayor

Attest:

  
Rebecca Brunsing, Finance Officer

"This institution is an equal opportunity provider."

Published once at the approximate cost of \_\_\_\_\_.

**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 December meeting was held on Wednesday, December 27<sup>th</sup>, 2017 at the Wagner City Hall at 5:30 pm. Present were: Council President , Roger Schroeder, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton and the following councilpersons: Ron Cuka, Tom Beeson, Ron Fredrich, and John Tyler. Absent: Scott Honomichl and Mayor Hosek.

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 Council President called for the approval of the special meeting agenda. Two supplemental ordinances were removed from the agenda. A motion was made by Beeson, second by Fredrich to approve the agenda. All voted aye, motion carried.

A motion was made by Cuka, second by Tyler to approve the following claims for the rest of December to be paid in December. All voted aye, motion carried.

**DECEMBER 2017**

**GENERAL**

Axon Enterprises	supplies	810.96
Bubak Clinic	prof fees	42.00
Century Link	phone	71.03
Ecolab Pest Control	prof fees	130.98
Econo Signs	supplies	19,159.92
Galls	supplies	162.55
John Otte	prof fees	825.00
King Koin Laundry	prof fees	246.00
L & M Small Engine	repair	839.61
Lewis & Clark Behavioral	prof fees	373.32
Mark's Machinery	supplies	165.70
Myers Sanitation	prof fees	1,650.00
One Office Solution	prof fees	61.01
Pechous Publications	legals	240.00
Quill	supplies	457.18
S & K Truck Wash	repair	152.17
Sanitation Products	supplies	309.60
Schmucker, Paul & Assoc	prof fees	4,875.00
Supplemental Retirement	retirement	25.00
Thomason Reuters	supplies	64.58
Tom's TV	repair	48.00
Uline	supplies	82.40
VanderPol Dragline Inc	improvements	13,275.04
Wagner HRC	prof fees	20,000.00
Wagner Super Foods	supplies	77.67

**WATER & SEWER**

Core & Main	travel	195.98
Dakota Supply Group	supplies	273.32
H & H Electric	repair	186.38
Leaf	prof fees	114.25
Midtowne Oil	fuel	76.17
Pitney Bowes	prof fees	263.22
SD Dept of Revenue	prof fees	648.00
USA Blue Book	supplies	936.59
USDA Rural Development	loan pymt	1,969.00
USDA Rural Development	loan pymt	5,561.00

**VARIED**

Bomgaars	supplies	964.61
Dakotacare	insurance	7,852.18
Northwestern Energy	electricity	10,400.83
SD Retirement	retirement	5,506.42
TransAmerica	insurance	137.20
UNUM Life Insurance	insurance	135.76
Wagner Building & Supply	supplies	756.48

**INCIDENTAL VOUCHERS**

Charles Mix Electric	electricity	451.71
Wagner Chamber of Commerce	prof fees	1,400.00

**OLD BUSINESS**

A bid was opened for the city's garbage service for 2018. A motion was made by Beeson, second by Fredrich to award the bid to Myers Sanitation for \$550.00 per month.

**NEW BUSINESS**

A motion was made by Fredrich, second by Tyler to designate Commercial State Bank as the official depository for the city. Discussion followed. Four voted aye, Beeson voted nay, motion carried.

A motion was made by Tyler second by Beeson to designate First Dakota National Bank and Commercial State Bank for the official depository for Certificate of Deposits. All voted aye, motion carried.

A motion was made by Fredrich, second by Cuka to designate the Wagner Post as the official newspaper for the City of Wagner. All voted aye, motion carried.

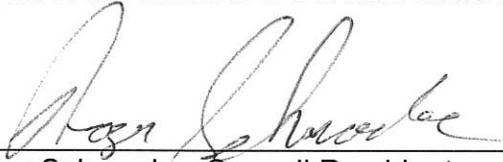
**RESOLUTION NO. 2017-08****2017 CONTINGENCY RESOLUTION**

BE IT RESOLVED, that the \$15,000 contingency fund be distributed to the following appropriated funds in the noted accounts for the fiscal year 2017:

Legal	\$ 1,000.00
Buildings	\$ 1,500.00
Prisoner Housing	\$ 100.00
Street Lighting	\$ 3,000.00
Solid Waste Disposal	\$ 2,000.00
Airport	\$ 6,400.00
Parks	\$ 1,000.00

Dated at Wagner, South Dakota, this 27<sup>th</sup> day of December 2017.

The motion for the adoption of the foregoing resolution was made by Fredrich seconded by Beeson, and upon roll call vote being taken thereon the following voted AYE: Cuka, Beeson, Fredrich, Schroeder and Tyler. The following voted NAY: None. Absent: Honomichl. The following abstained: None. Whereupon said resolution was declared duly passed and adopted and the Council President being present affixed his signature thereto in approval thereof and directed the Finance Officer to cause said resolution to be published as part of the minutes in the next issue of the official newspaper.

APPROVED   
Roger Schroeder, Council President

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

A motion was made by Tyler, second by Cuka to adjourn the meeting at 6:02 pm. All voted aye, motion carried.

Approved   
Roger Schroeder, Council President

Attest   
Rebecca Brunsing, Finance Officer

Published once at the approximate cost of \$ \_\_\_\_\_.