

**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF  
ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH  
DAKOTA**

The City Council convened at 5:30 p.m. on August 23<sup>rd</sup>, 2021 as the Board of Adjustment. Present were Mayor, Todd Johannsen, City Administrator/Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Rich Dufur, Dan Cimpl, Colby Kirwan, Jamie Soukup, and Taylor Mohr. Absent: Tom F. Beeson.

The Pledge of Allegiance was recited.

The conflict of interest declaration was cited. The Mayor asked if there were any conflicts of interest, none were noted.

A motion was made by Mohr, second by Dufur for the approval of the agenda. All voted aye, motion carried.

The Board of Adjustments reviewed the recommendations of the Planning and Zoning Commission for the variance application for Jeff Doom for a proposed plat located on Lot H of Meadow Book addition of Lot 4, in the NW ¼ of Section 5, Charles Mix County, South Dakota. Mr. Doom is applying for a variance of 3.48 acres on his proposed plat. The minimum acre amount in the ETJ is five acres. The proposed plat is 1.52 acres. The Planning and Zoning Commission recommended not to approve the variance based on the five-acre requirement. Discussion followed. The Mayor closed the public hearing. A motion was made by Kirwan, second by Cimpl to approve the recommendation of the Planning and Zoning Commission, not allowing the variance. All voted aye, motion carried.

The next item on the agenda was the consideration of a recommendation from the Planning and Zoning commission of a conditional use request for the City of Wagner to allow a painted buffalo statue to be placed at Wagner Lake.

Originally, the City was led to believe all artwork would be donated and become property of the City. Understanding this to be true, the City acting as an applicant began the process to place artwork on public property in accordance with the City's Zoning Ordinance. As such, the process for review was selected and a public hearing before the planning commission was scheduled. However, immediately prior to the planning commission meeting and scheduled hearing, but after the public notices were published, the City was informed the artwork (buffalo structures) would be privately owned, therefore no approval process via the zoning ordinance existed due to an inability for a private party to make application for activities upon public lands. As such, the zoning process shall be abandoned and replaced with a negotiation between the City and East River Horizons Team, Inc. Prior to any work commencing on the site or delivery of the artwork an agreement shall be executed by both parties.

Unfortunately, due to the late notification regarding ownership the zoning process to include a conditional use permit had begun and is now in process, having been heard by the planning commission. At this time the planning commission has recommended the artwork (buffalo statues) at Wagner Lake does not fall within the Zoning Ordinance's jurisdiction and should be addressed by the city council to decide the outcome and any terms necessary to protect the City's interests. Therefore, the public hearing is no longer necessary thereby removing the board of adjustment from the process and requiring the city council to decide the matter.

A motion was made by Kirwan, second by Cimpr to adjourn the Board of Adjustment at 5:39 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Todd Johannsen, Mayor

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

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