

**REGULAR WHITEWOOD COUNCIL MEETING**

**April 5, 2021**

The Whitewood City Council met in regular session on Monday the 5<sup>th</sup> of April 2021 at City Hall. Mayor Mitch Harmon called the meeting to order at 5:30 pm, with Council members Roxie Cooper, Randy Wiege, Bruce White, Jerry Davidson and Brenda Werlinger present. Councilmen Monica Burke was absent. Police Chief Witcraft, City Attorney Frankenstein, and Finance Officer Heckenlaible were also present.

Action 2021-046

Motion by Wiege, second by White, to approve the minutes from the Regular Council Meeting on March 15, 2021. All members present voting yes, motion carried.

Action 2021-047

Motion by Davidson, second by Cooper, to approve the minutes from the Special Council Meeting on March 25, 2021. All members present voting yes, motion carried.

Action 2021-048

Motion by White, second by Wiege, to approve the claims as presented. Roll call, all members present voting yes, motion carried.

**CLAIMS- April 05, 2021**

ESTIMATED WAGES – April 2021

MAYOR	400.00
COUNCIL	1800.00
CITY ATTORNEY	550.00
BUILDING INSPECTORS	600.00
CHIEF OF POLICE- Paul Witcraft	3224.00
POLICE OFFICER- Josh Bach	2881.60
POLICE OFFICER- Patrick Kaiser	2553.60
POLICE OFFICER- Michael DeWeese	2553.60
POLICE ASSISTANT- Jim Smit	927.00
WASTE/WATER OPERATOR- DJ Werlinger	2928.00
WASTE/WATER OPERATOR- Derek Daniels	2988.80
SEASONAL PARKS- Jeff Rathbun	1668.00
LIBRARIAN – Reata Weyrich	1585.92
ASST LIBRARIAN- Lois Williamson	401.94
LIBRARY HELPER – Dale O’Dea	196.20
FINANCE OFFICER – Cory Heckenlaible	3388.80
PART-TIME FINANCE OFFICE- Jessica Bestgen	396.00
<b>TOTAL</b>	<b>\$29,043.46</b>

**GENERAL LEDGER**

SD DEPT OF REVENUE- Garbage Sales Tax	282.56
SD RETIREMENT- Employee Retirement March 2021	4056.32
<b>TOTAL</b>	<b>\$4,338.88</b>

GENERAL FUND

KIEFFER SANITATION- Garbage Collection	4502.35
A&B BUSINESS SOLUTIONS- Police 134.96, City Hall 766.00	900.96
ALL NET CONNECTIONS- Server 134.75, Police 77.00	509.51
ALSCO	90.33
BH PIONEER- Subscription	206.34
DANA SAFETY SUPPLY- Police	40.82
GUNDERSON, PALMER, NELSON & ASHMORE- Legal Services	4502.17
MONTANA DAKOTA- City Hall 175.34, Hale Hall 125.31, Shop 203.75, Police 279.02	783.42
REPUBLIC NATIONAL- March Liquor	3274.74
RUSHMORE OFFICE SUPPLY- City Hall	263.53
SD DEPT OF TRANSPORTATION- Bridge Inspection	17.67
SOUTHERN GLAZERS- March Liquor	1647.55
VERIZON WIRELESS	197.54
AT&T MOBILITY- Police Phone Cards	127.60
EXXON MOBIL- Police Fuel	293.11
SPEARFISH ELECTRIC- Hale Hall Repairs	488.86
WELLS FARGO VISA- License 55.10, Vision 78.72, Hale Hall 74.51, Police 212.67	421.00
LIGHTING MAINTENANCE- Exit Lights	58.52
JOHNSON SOUTH DAKOTA- March Liquor	6451.50
A&J SUPPLY- Streets 810.02, Parks 11.03, Shop 134.88	955.93
AMBER BODELL- Website Development	442.00
SONSET STATION- Police Fuel 636.12, PW Fuel 206.30	842.42
VAST BROADBAND- Shop	44.36
SPEARFISH AUTO- Streets	87.94
<b>TOTAL</b>	<b>\$27,146.77</b>

**LIBRARY**

MONTANA DAKOTA	83.60
WELLS FARGO VISA- Supplies	381.44
<b>TOTAL</b>	<b>\$465.04</b>

**WATER/SEWER FUNDS**

HAWKINS CHEMICAL	1197.29
POSTMASTER	180.00
MONTANA DAKOTA	51.27

CENTURY LINK	75.63
SD DEPT OF TRANSPORTATION- SRTS Project	237,058.05
WELLS FARGO VISA	76.90
SONSET STATION- PW Fuel	206.30
RAPID DELIVERY	13.23
<b>TOTAL</b>	<b>\$238,858.67</b>

**AUTOMATIC PAYMENTS**

USDA RURAL DEVELOPMENT- Water Project Loan	4028.00
USDA RURAL DEVELOPMENT- Trunk Sewer Project	1057.00
EFTPS- Payroll Taxes 03/26/2021	3755.54
<b>TOTAL</b>	<b>\$8,840.54</b>

Action 2021-049

Motion by White, second by Davidson, to adopt the following resolution 2021-04. All members present voting yes, motion carried.

**RESOLUTION 2021-04**

**RESOLUTION APPROVING LEGAL SERVICES AGREEMENT**

BE IT RESOLVED by the City of Whitewood that Meierhenry Sargent LLP be retained as bond counsel for the proposed Sales Tax Revenue Bond and that the Mayor and Finance Officer are authorized to negotiate and execute the form of the Legal Services Agreement on file with the City Finance Officer.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Finance Officer

(SEAL)

Action 2021-050

Motion by Wiege by Davidson, to adopt the following resolution 2021-05. All members present voting yes. Motion carried.

**RESOLUTION NO. 2021-05**

**RESOLUTION, GIVING APPROVAL TO THE ISSUANCE OF A SALES TAX REVENUE BOND TO FINANCE STREET IMPROVEMENTS AND AUTHORIZING THE SALE OF SAID SALES TAX REVENUE BOND**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitewood as follows:

1. Declaration of Necessity. The City of Whitewood (the "City") desires and deems it necessary to make capital improvements and to issue a Bond, the proceeds of which will be used for the City of Whitewood Laurel Street Improvement Project (the "Project"). The City has requested a loan from the United States through the Rural Housing Service (the "Government").
2. Authority. The City is authorized to issue its Sales Tax Revenue Bond, Series 20\_\_\_, to finance the capital improvements pursuant to Section 10-52-2.10 of the South Dakota Codified Laws. Pursuant to Chapter 10-52 of the South Dakota Codified Laws (the "Act") the City proposes to issue municipal non-ad valorem revenue Bond (as herein authorized, the Sales Tax Revenue Bond, Series 20\_\_\_, or the "Bond") to finance the Project. The City is authorized by the Sales Tax Act to levy a "non-ad valorem tax" (as defined by the Act) on the sale, use, storage, and consumption of items taxed under Chapters 10-45 and 10-46 of the South Dakota Laws, subject to certain, as amended, exceptions.
3. Term of Bond. The City shall issue the Bond in the principal amount of \$628,000. The Bond shall be signed by the Mayor, attested by the Finance Officer, countersigned by a resident attorney, and shall bear interest from its date, which shall be the date of delivery at a rate not to exceed 2.25% percent per annum; the principal and interest shall be paid over a period of twenty (20) years in accordance with the terms of the Government.
4. Sales Tax Ordinance. The City Council has adopted Chapter 35.15 of the Whitewood Code of Ordinances which constitutes the City's effective Sales Tax Ordinance (the "Sales Tax Ordinance"). The Sales Tax Ordinance has been duly adopted pursuant to the Act and effectively and validly imposes the sales and use tax authorized by the Act within the City, such tax being hereinafter referred to as the "Sales Tax".
5. Findings. The City Council hereby finds and determines as follows:

- 5.1. The Project constitutes improvements which qualify for the financing under and pursuant to SDCL Chapter 10-52, and the Sales Tax Ordinance; and
- 5.2. The sales tax revenue bond authorized hereby is being issued to pay costs of the Project which have not been incurred or paid as of the date hereof and/or which the City has heretofore declared its intention to finance with bond proceeds and for which the City has no other available means or source of financing.
- 5.3. It is in the best interests of the City to authorize the borrowing of funds to pay a portion of the costs of the Project by authorizing and issuing its Sales Tax Revenue Bond, Series 20\_\_\_\_.
6. No Election Required. The Bond may be issued by the City without an election pursuant to SDCL §10-52-2.10.
7. Form of Bond. The Bond shall be prepared in substantially the form on file with the Finance Officer and open to public inspection, in final form as approved by the Government.
8. Security Provisions; Funds and Accounts and Other Covenants and Determinations.
  - 8.1. Assignment and Pledge of Revenue. The Bond is hereby authorized to be incurred, together with the interest thereon, shall be payable solely from the collections of Sales Tax, a sufficient portion of which will be sufficient to pay the principal and interest as and when the same shall become due, is hereby assigned, and pledged and shall be set aside for that purpose.
  - 8.2. Protection and Disposition of Funds. The City shall be the custodian of all funds of the City. Funds may be deposited in institutions insured by the State or the Government or invested in readily marketable securities backed by the full faith and credit of the United States. The Finance Officer is hereby directed to establish the following accounts into which the current funds of the City, Bond proceeds, the revenues from the Sales Tax, and any other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the indebtedness hereby authorized remains unpaid:
    - 8.2.1. Construction Account. The proceeds of the Bond hereby authorized not disbursed contemporaneously with loan closing for incurred costs, and amounts contributed by the city for the Project, shall be deposited in the Construction Account which shall be

established as required by the Government. Withdrawals from the Construction Account shall be made by the City as authorized by the governing body from time to time, and with prior concurrence of the Government. The City's share of any insurance or liquidated damages and other monies paid by defaulting contractors or their sureties will be deposited in the Construction Account to assure completion of the Project. When all construction costs have been paid in full, any balance remaining in the Construction Account may be applied on to the Bond or used for other authorized purposes that have been approved by the Government and the Construction Account shall be closed.

- 8.2.2. Sales Tax Fund. All Sales Tax receipts received shall be set aside in the fund required by South Dakota Legislative Audit (the "General Account"), and disbursements and transfers from this account shall be in the following priority: Debt Service, Operations and Maintenance, transfers to Reserve Account. Any income from these accounts will be considered as revenues of the Debt Service Account.

Monies deposited in the General Account shall be used only in the manner and order as follows:

(a) The City making monthly Debt Service Payments shall use the General Account for making such payments plus operating and maintenance expenses. Also, funds will be transferred from this account to the Reserve Account in accordance with (d) below.

(b) The City making other than monthly Debt Service Payments shall use the General Account to pay operating and maintenance expenses. Other transfers from this account will be made in the following order:

(1) Transfers to the Debt Service Account will be made in accordance with (c) below,

(2) Transfers to the Reserve Account will be made in accordance with (d) below.

(c) Debt Service Account. For the City's Debt Service Payments, transfers shall be made from the General Account and set aside in the account designated as the Debt Service Account, in amounts

sufficient to pay principal and interest of the next installment on the Bond.

(d) Reserve Account From the remaining funds in the General Account, after transfers and payments required in (b)(1) or (b)(2) and (c), there shall be set aside into an account designated as the Reserve Account the sum of \$149 each month until the sum of \$17,856 is reached. With the prior written approval of the Government, funds may be withdrawn and used for such things as bond principal and/or interest payments, emergency maintenance, extensions to facilities and replacement of short-lived assets, subject to conditions established by the Government. The Reserve Account shall be a subaccount within the Debt Service Account.

(e) Whenever there shall accumulate in the General Account amounts in excess of those required in subsections (b)(1) and (2), (c), and (d), such excess will be used by the organization to make prepayments on the loan or retained in the General Account.

(f) The accounts required in subsections (b)(1) and (2), (c), and (d) may be established and maintained as bookkeeping accounts or as separate bank accounts at the election of the City, unless otherwise directed by the Government.



8.2.3. Other Covenants and Agreements of the City. The City covenants and agrees that so long as the indebtedness hereby authorized remains unpaid;

(a) It will indemnify the Government for any payments made or losses suffered by the Government.

(b) It will comply with applicable State laws and regulations and continually operate and maintain the Project in good condition.

(c) It will establish and maintain such books and records relating to its financial affairs, and will provide for the annual audit thereof, in such manner as may be required by the Government; will provide the Government without its request a copy of each such audit; and will make and forward to the Government such additional information and reports as it may from time to time require.

(d) It will provide the Government, at all reasonable times, access to all books and records relating to the Project and access to the property of the Project so that the Government may ascertain that the City is complying with the provisions hereof and with the provisions of other instruments incident to the making or insuring of the loan.

(e) It will maintain at least such insurance and fidelity bond coverage as may be required by the Government.

9. Electronic Preauthorized Debit System. All payments of principal of and interest on the Bond shall be made through the electronic preauthorized debit system which will allow payments to be electronically debited from the City's account on the day the payment is due.

10. Refinancing. If at any time it shall appear to the Government that the City is able to refinance the amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time, the City will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take such actions as may be required in connection with such loan.

11. Prepayments. Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the principal. Partial prepayment shall not affect the obligation of the borrower to pay the remaining installments as scheduled.
12. Additional Bond. No additional Bond may be issued on a parity or subordinate basis to the Bond without written approval of the Government.
13. Certification of Proceedings. The officers of the City are authorized and directed to prepare and furnish to the purchasers of the Bond certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bond and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bond as such facts appear from the officer's books and records or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.
14. Bond Anticipation Note. The City Council does hereby authorize the issuance and sale of a bond anticipation note in the manner and subject to the limitations set forth in SDCL §§ 6-8B-26 to 6-8B-29, inclusive. The Mayor and Finance Officer are authorized to take such action as is necessary to issue the bond anticipation note.
15. Resolution Becomes Effective Upon Passage. This Resolution shall become effective upon passage.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Finance Officer

Adopted: 04/05/2021

Approved: 04/05/2021

Published: 04/10/2021

Action 2021-051

Motion by Davidson, second by White, to approve a \$1000 donation to the Northern Hills Area CASA Program. All members present voting yes, motion carried.

Action 2021-052

Motion by White, second by Werlinger, to approve a \$500 donation to the Good Shepherd Clinic. All members present voting yes. Motion carried.

Action 2021-053

Motion by Davidson, second by Cooper, to approve the abatement of taxes for years 2019 and 2020 for Mark Larimore at Lot 3, Block 5, Twin Parks Subdivision. All members present voting yes, motion carried.

There being no further business, meeting adjourned at 5:46 PM.

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MITCHELL U. HARMON  
Mayor

Attest:

\_\_\_\_\_  
CORY HECKENLAIBLE  
Finance Officer