

Unapproved Minutes  
City Council Regular Session  
April 19, 2010  
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on April 19, 2010 at 7:00 p.m. by Mayor Christopherson.

1. Roll Call

Present: Edelen, French (arrived at 7:12 p.m.), Hofman, Meins, Osborne, Powell, Ward, Willson, Mayor Christopherson

2. Pledge of Allegiance

3. Minutes

A. April 5, 2010 Special Session; April 5, 2010 Regular Session

113-10

Alderman Edelen moved approval of the April 5, 2010 special session minutes and the April 5, 2010 regular session minutes. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Christopherson declared the motion adopted.

4. Adoption of Agenda

114-10

Alderman Hofman moved approval of the agenda with the addition of Item No. 13 - New State Liquor Laws. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Christopherson declared the motion adopted.

5. Visitors to be Heard

A. Silver Star Banner Day proclamation

Alderman Osborne read the "Silver Star Banner Day" proclamation to express our appreciation of the Silver Star Families of America and honor their commitment to our wounded Armed Forces members and declared May 1<sup>st</sup> as "Silver Star Banner Day" in Vermillion.

Mayor Christopherson asked Alderman Hofman to explain the position on the South Dakota Retirement System (SDRS) Board that he will be stepping down from. Alderman Hofman reported that there are 17 members on the SDRS Board and he represented the municipal elected

officials. As he is not running for his municipal office, his position on the Board will be vacated. Alderman Hofman encouraged the Mayor and Council members, if interested in the position, to send in their letter of interest to fill his unexpired term.

Alderman French arrived at 7:12 p.m.

## 6. Public Hearings

A. Transfer of the retail on sale liquor and on-off sale malt beverage license from Red Shirt, Inc. to Bebee Street, LLC operating Carey's Bar at 18 & 20 West Main Street

Mike Carlson, Finance Officer, reported that an application for transfer was received from Bebee Street, LLC to transfer the retail on sale liquor license and off sale malt beverage license from Red Shirt, Inc. for Carey's Bar at 18 and 20 West Main Street. The Notice of Hearing and Police Chief's report are included in the packet. Mike stated that Matt Zeman, new owner of Carey's, is present to answer questions. Matt answered questions of the Council.

115-10

Alderman Powell moved approval of the transfer of the retail on sale liquor license and off sale malt beverage license from Red Shirt, Inc. to Bebee Street, LLC operating Carey's Bar at 18 and 20 West Main Street contingent upon receipt of a favorable national background check. Alderman Hofman seconded the motion. Discussion followed. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

## 7. Old Business

A. Second Reading of Ordinance No. 1229 amending Section 116.04 Exemptions from Chapter and adding Section 116.12 Special Event Permits (exemption for Farmers Market & Vermillion Businesses)

John Prescott, City Manager, reported that this is the second reading of the ordinance adding an exemption to the itinerant merchant license for Farmer's Markets including arts and crafts handmade by creator or creator's family, exemption for businesses based in Vermillion not going door to door and adding a special permits section. John stated that a special events application was included in the packet and the resolution to set the permit fee is under New Business.

116-10

Second reading of title to Ordinance No. 1229, entitled AN ORDINANCE AMENDING Section 116.04 Exemptions from Chapter and adding Section 116.12 Special Event Permits (exemption for Farmers Market & Vermillion Businesses) for the City of Vermillion, South Dakota.

Mayor Christopherson read the title to the above named Ordinance, and Alderman Edelen moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1229 entitled An Ordinance amending Section 116.04 Exemptions from Chapter and adding Section 116.12 Special Event Permits (exemption for Farmers Market & Vermillion Businesses) for the City of Vermillion, South Dakota was first read and the Ordinance considered substantially in its present form and content at a regularly called meeting of the Governing Body on the 5<sup>th</sup> day of April, 2010 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body, on this 19<sup>th</sup> day of April, 2010 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE NO. 1229

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE XI, CHAPTER 116, TO AMEND SECTION 116.04 TO ADD AN EXEMPTION FOR LOCAL BUSINESSES, AMEND SECTION 116.07 TO PROVIDE A FEE FOR SPECIAL PERMITS AND ADD SECTION 116.12 SPECIAL EVENT PERMITS AUTHORIZED.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota and it is hereby ordained by authority of the same that Section 116.04 be amended to add (I) and (J) as set forth below:

116.04 EXEMPTIONS FROM CHAPTER.

Businesses based in Vermillion that are not conducting door-to-door sales.

(J) Farmers' Market. An open air market which conforms to all applicable city, county, state and federal health and safety provisions, including South Dakota Department of Agriculture and Department of Revenue regulations and policies. The market is intended to provide an opportunity for individuals to sell items that are locally grown or produced by them for human consumption, garden produce, farm produce, and arts and crafts. Arts and crafts

are those items which are hand-made by the creator or creator's family.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota, and it is hereby ordained by authority of the same, that Section 116.07 be amended to add the provision for a fee for a special permit as set forth below:

116.07 FEES.

The registration permit fee for each itinerant merchant, peddler, or solicitor and the Special Event permit fee shall be as set forth in the resolution as adopted by the City Council to begin January 1 and end December 31; the annual fee shall not be pro-rated.

BE IT FURTHER ORDAINED, that Chapter 116 be amended to add 116.12 as set forth below:

116.12 SPECIAL EVENT PERMITS AUTHORIZED.

Non profit, religious, charitable or other organizations sponsoring events or promoting events within the community that are sponsored or acknowledged by the City Council, Vermillion Area Chamber of Commerce and Development Company, or that benefit and promote the community, its people or features, may apply for a Special Event Permit.

Applicants for a registration permit under this section shall present a valid driver's license or other acceptable form of identification and file, with the Finance Officer, a written sworn application signed by the applicant and showing the following:

(A) The local, and permanent, address and telephone number of the Primary Representative or coordinator for the special event.

(B) The place, or places, in the city where it is proposed to carry on the special event and the length of time which it is proposed, such event shall be conducted.

(C) List of the names, addresses, SD sales tax license numbers and telephone numbers of the individuals, partnerships, firms, or corporations who will be participating in the special event. A statement of the nature of the merchandise to be sold or offered for sale by each individual, partnership, firm or corporation shall be provided.

(D) A disclaimer of city liability relating to any action caused or charged against any participant in the special event.

(E) A statement from the primary representative certifying that all vendors listed under the Special Event Permit:

- a) Are at least 16 years of age or supervised by an adult.
- b) Have not had an Itinerant Merchant, Peddler or Solicitor permit previously revoked for one of the following:
  - i. Any fraud, misrepresentation, or false statement contained in the application for a permit.
  - ii. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.
  - iii. Any violation of this chapter and its stipulations contained within.
  - iv. Conducting the business permitted under this chapter in an unlawful manner or in such a manner as to threaten the health, safety, or general welfare of the public.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman French. Discussion followed. Thereafter, the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body, and the members voted as follows: Edelen-Y, French-Y, Hofman-Y, Meins-Y, Osborne-Y, Powell-Y, Ward-Y, Willson-Y, Mayor Christopherson-Y.

Motion carried 9 to 0. Mayor Christopherson declared that the Ordinance has been adopted and directed publication thereof as required by law.

B. Second Reading of Ordinance No. 1230 Amending Section 154.06 Design Standards (frontage road access requirements)

Jose Dominguez, City Engineer, reported that this is the second reading of an ordinance to regulate access on state and county roads by requiring frontage roads. This ordinance will require a frontage road easement for any development containing one or more lots.

117-10

Second reading of title to Ordinance No. 1230, entitled AN ORDINANCE AMENDING Section 154.06 Design Standards (frontage road access requirements) for the City of Vermillion, South Dakota.

Mayor Christopherson read the title to the above named Ordinance, and Alderman Powell moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1230 entitled An Ordinance Amending Section 154.06 Design Standards (frontage road access requirements) for the City of Vermillion, South Dakota was first read and the Ordinance considered substantially in its present form and content at a regularly called meeting of the Governing Body on the 5<sup>th</sup> day of April, 2010 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body on this 19<sup>th</sup> day of April, 2010 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE NO. 1230

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE XV, CHAPTER 154, TO AMEND SECTION 154.06 TO UPDATE DESIGN STANDARDS.

BE IT ORDAINED by the Governing Body of the City of Vermillion, South Dakota as follows:

154.06 DESIGN STANDARDS.

(B) Streets.

(7) Proper access shall be given to all lots from a dedicated street. When a subdivision containing 1 or more lots located adjacent to a state or county road, a frontage road shall be provided. Connection to the frontage road shall be at the minimum rate of 1 access point per each 2 lots and at a maximum rate of 1 access point per each 4 lots.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman French. Thereafter, the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body, and the members voted as follows: Edelen-Y, French-Y, Hofman-Y, Meins-Y, Osborne-Y, Powell-Y, Ward-Y, Willson-Y, Mayor Christopherson-Y.

Motion carried 9 to 0. Mayor Christopherson declared that the Ordinance has been adopted and directed publication thereof as required by law.

C. Second Reading of Ordinance No. 1231 amending Section 150.38 to update buildings and development in the Flood Plain

Jose Dominguez, City Engineer, reported that this is an update to our current ordinance as required by FEMA as the city has been identified as a special flood hazard area. This is a small area along the Vermillion River. The ordinance will require additional items to be submitted when any man-made change occurs within the flood plain. This change is needed to be eligible for the National Flood Insurance Program.

118-10

Second reading of title to Ordinance No. 1231, entitled An Ordinance amending Section 150.38 to update buildings and development in the Flood Plain for the City of Vermillion, South Dakota.

Mayor Christopherson read the title to the above named Ordinance, and Alderman Hofman moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1231 entitled An Ordinance amending Section 150.38 to update buildings and development in the Flood Plain for the City of Vermillion, South Dakota was first read and the Ordinance considered substantially in its present form and

content at a regularly called meeting of the Governing Body on the 5<sup>th</sup> day of April, 2010 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body on this 19<sup>th</sup> day of April, 2010 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE NO. 1231

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE XV, CHAPTER 150, TO AMEND SECTION 150.38 TO UPDATE BUILDING AND DEVELOPMENT IN FLOOD PLAIN.

BE IT ORDAINED by the Governing Body of the City of Vermillion, South Dakota as follows:

150.38 BUILDING AND DEVELOPMENT IN FLOOD PLAIN.

(A) Statement of Purpose. It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the Sound use and development of flood prone areas in such a Manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

(B) Abrogation and Greater Restriction. This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(C) Severability. If any provision, or portion of this section is adjudged unconstitutional or invalid by a court, the remainder of the section shall not be affected.

(D) Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Vermillion corporate community entity or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made there under.

(E) Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted to give them the meaning they have in common usage and to give this section its most reasonable application.

AREA OF SPECIAL FLOOD HAZARD is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM). After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

BASE FLOOD means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) means the water surface elevation that is one (1) percent of the annual flood chance. In relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual

and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which the City Manager or Designee has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY OR FLOOD ELEVATION STUDY means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD PROOFING means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY - see Regulatory Floodway.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by said Secretary to qualify as a registered historic district; or
- (c) Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, however, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of (G) below.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations.

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;

- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

SPECIAL FLOOD HAZARD AREA: see "Area of Special Flood Hazard".

SPECIAL HAZARD AREA means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance purposes, means:

- (1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) "A manufactured home" that is affixed to a permanent foundation; or
- (3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, or a gas or liquid storage tank.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a "structure" whereby the cost of restoring the "structure" to it's before damaged condition would equal or exceed 50 percent of the assessed county director of equalization value of the "structure" before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed county director of equalization value of the "structure" before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a "structure" to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by a code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the "structure's" continued designation as a "historic structure."

VIOLATION means the failure of a "structure" or other "development" to be fully compliant with the city's flood plain management regulations. A "structure" or other "development" without the elevation certificate, other certifications, or other evidence of compliance required in (G) below is presumed to be in violation until such time as that documentation is provided.

(F) Generally. The Building Inspector shall review all building permits for construction or development in the flood plain and hazard areas as denoted on the Federal Emergency Management Agency's Flood Insurance Rate Map with effective date August 5, 2010, City of Vermillion, South Dakota, according to the following criteria and requirements.

(G) Criteria and requirements.

(1) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334;

(2) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. All new construction and substantial improvements, including the placement of prefabricated buildings and manufactured homes, shall:

- (a) Be designed, or modified, and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
- (b) Be constructed with materials and utility equipment resistant to flood damage; and
- (c) Be constructed by methods and practices that minimize flood damage.

(3) Review subdivision proposals and other proposed new developments to determine whether the proposals will be reasonably safe from flooding. Proposals shall be reviewed to assure that:

- (a) All the proposals are consistent with the need to minimize flood damage within the flood-prone area;
- (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

- (c) Adequate drainage is provided to reduce exposure to flood hazards; and
  - (d) Construction has electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) Require new and replacement water supply systems to be designed to minimize or eliminate infiltration of floodwaters into the systems;
- (5) Require:
- (a) New and replacement sanitary sewer systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and
  - (b) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- (6) Require that all subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, include within the proposals base flood elevation data;
- (7) Obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, until the other data has been provided by the Building Inspector, as criteria for requiring:
- (a) All new construction and substantial improvements of residential structures have the lowest floor, including basement, elevated to or above the base flood level; and
  - (b) All new construction and substantial improvements of nonresidential structures have the lowest floor, including basement, elevated or flood-proofed to or above the base flood level.
- (8) For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FIRM:
- (a) Obtain the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new or substantially improved structures, and whether or not the structures contain a basement;

- (b) Obtain, if the structure has been flood-proofed, the elevation, in relation to mean sea level, to which the structure was flood-proofed; and
  - (c) Maintain a record of all the information with the Building Inspector.
- (9) Notify, in riverine situations, adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of the notifications to the administrator;
- (10) Assure that the floodcarrying capacity within the altered or relocated portion of any watercourse is maintained;
- (11) Require that all manufactured homes to be placed within Zone A on a community's FIRM shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
- (a) Over-the-top ties be provided at each of the 4 corners of the mobile home, with 2 additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring 1 additional tie per side;
  - (b) Frame ties be provided at each corner of the home with 5 additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring 4 additional ties per side;
  - (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (d) Any additions to the mobile home be similarly anchored.
- (12) Require that an evacuation plan indicating alternate vehicular access and escape routes be filed with the appropriate disaster preparedness authorities for mobile home parks and mobile home subdivisions located within Zone A on the community's FIRM.
- (13) When the City Manager or designee has designated areas of special flood hazards (A Zones) by the publication of a community's FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:

- (a) Require permits for all proposed construction and other developments including the placement of manufactured homes, within Zone A on the FIRM;
- (b) Require the application of standards in paragraphs (G) (1), (2), (3), (4), and (5) to development within Zone A on the FIRM;

(H) Permit Procedures.

- (1) Application for a permit shall be presented to the Building Inspector on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
  - (c) A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of Article 5, Section B(2);
  - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
  - (e) Maintain a record of all such information in accordance with Article 4, Section B(1). Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
    - (i) The danger to life and property due to flooding or erosion damage;
    - (ii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - (iii) The danger that materials may be swept onto other lands to the injury of others;
    - (iv) The compatibility of the proposed use with existing and anticipated development;
    - (v) The safety of access to the property in times of flood for ordinary and emergency vehicles;

- (vi) The cost of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (vii) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (viii) The necessity to the facility of a waterfront location, where applicable;
- (ix) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (x) The relationship of the proposed use to the comprehensive plan for that area.

(I) Variance Procedures.

(1) The Board of Appeals shall hear and render judgment on requests for variances from the requirements (G) above.

(2) The Board of Appeals shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the City Manager or Designee or Building Inspector in the enforcement or administration of (G) above.

(3) Any person or persons aggrieved by the decision of the Board of Appeals may appeal such decision in the courts of competent jurisdiction.

(4) The City Manager or Designee or Building Inspector shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.

(5) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in (H) (9) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors noted above and the

intent of this section, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this section.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic structure" and the variance is the minimum necessary to preserve the historic character and design of the structure.

(9) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon:

(i) showing a good and sufficient cause;

(ii) determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(iii) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(iv) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(10) Variances may be issued for "new construction" and "substantial improvements" and for other "development" necessary for the conduct of a functionally dependent use provided that:

a) the criteria outlined in (H) (1)-(9) above are met; and

b) the "structure" or other "development" is protected by methods that minimize flood damages during the

"base flood" and create no additional threats to public safety.

- (J) Penalty and Violation. No "structure" or land shall hereafter be constructed, developed located, extended, converted, or altered without full compliance with the terms of (G) above and other applicable regulations. Any person who violates (G) above or fails to comply with any of its requirements shall be subject to a penalty in accordance with 10.99 of the City of Vermillion Code of Ordinances.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman French. Discussion followed on flood plains. Thereafter, the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body, and the members voted as follows: Edelen-Y, French-Y, Hofman-Y, Meins-Y, Osborne-Y, Powell-Y, Ward-Y, Willson-Y, Mayor Christopherson-Y.

Motion carried 9 to 0. Mayor Christopherson declared that the Ordinance has been adopted and directed publication thereof as required by law.

D. Second Reading of Ordinance No. 1232 adding Chapter 118 to permit and establish requirements for a Furniture Use Zone and Limited Lease in the Central Business district (Downtown Furniture guidelines)

Mike Carlson, Finance Officer, reported that this is the second reading of the ordinance to create a Downtown Furniture Zone to allow the use of a portion of the sidewalk by permit or lease. This ordinance was developed with the Downtown Action Team and a draft was presented to the City Council at the March 15<sup>th</sup> noon meeting. The ordinance outlines the process to create the Furniture Zone or limited lease for alcohol sales that included the restrictions

recommended by the Council. If adopted, the fees for the permit and lease are under New Business.

119-10

Second reading of title to Ordinance No. 1232, entitled AN ORDINANCE adding Chapter 118 to permit and establish requirements for a Furniture Use Zone and Limited Lease in the Central Business District (Downtown Furniture guidelines) for the City of Vermillion, South Dakota.

Mayor Christopherson read the title to the above named Ordinance, and Alderman Edelen moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1232 entitled AN ORDINANCE adding Chapter 118 to permit and establish requirements for a Furniture Use Zone and Limited Lease in the Central Business district (Downtown Furniture guidelines) for the City of Vermillion, South Dakota was first read and the Ordinance considered substantially in its present form and content at a regularly called meeting of the Governing Body on the 5<sup>th</sup> day of April, 2010 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body, on this 19<sup>th</sup> day of April, 2010 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE NO. 1232

AN ORDINANCE ADDING TO THE CITY OF VERMILLION CODE OF ORDINANCES TITLE XI, CHAPTER 118, TO PERMIT AND ESTABLISH REQUIREMENTS FOR A FURNITURE ZONE USE AND LIMITED LEASE IN THE CENTRAL BUSINESS DISTRICT.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota and it is hereby ordained by authority of the same that Chapter 118 be added as follows:

118.01. Purpose.

The Furniture Zone, including Furniture Zone limited leases, are a permitted use of the sidewalk to encourage a pedestrian friendly environment and promote a visually attractive downtown business area. This use is a privilege, granted by the City of Vermillion, and is encouraged so long as the use is compatible

with the pedestrian use of the sidewalk, promotes business downtown, and complies with all other provisions in the Revised Code of Ordinances for Vermillion, SD.

#### 118.02. Definitions.

The following terms, for use in this section, shall have the definition listed in this section:

"Adjacent/Adjoining business" refers to the business or property immediately adjacent to a portion of the sidewalk and furniture zone. A business shall be determined to be "adjacent" to a portion of the furniture zone by extending the property lines perpendicular into the furniture zone.

"Central business district" refers specifically to an area contained within the city's Main Street Commercial Core in Section 155.035 of these ordinances.

"Furniture zone limited lease" refers to a partial-year limited lease granted by the city to a current alcoholic beverage license holder to serve alcoholic beverages, which shall convey the exclusive right to the use of a portion of the city's right-of-way to the adjoining business only for those business purposes designated in the lease, which shall include the sale and service of alcoholic beverages.

"Furniture Zone" refers to the portion of the right-of-way which is designated for the express purpose of allowing commercial uses thereon.

"Designated Pedestrian Walkway" refers to the portion of sidewalk, designated by the City, which is at least six feet in width, for use by pedestrians for travel and access. The first foot of the curb is not included in this width.

"Furniture Zone Use Permit" refers to a permit for the use of a specific portion of the City's Furniture Zone.

"Retailing" refers to the use of the furniture zone by an adjacent business for the primary purpose of operation of retail activities.

"Sidewalk" refers to that portion of the designated public right-of-way which is hard-surfaced and not used for motor vehicle travel or motor vehicle parking. Generally, it will be that portion of the right-of-way which is located between the

street curb and the parallel property line except for any area that is a furniture zone.

"Sidewalk café" refers to licensed food service establishment which is permitted to use the furniture zone adjacent to its place of business for the purpose of serving food from its menu in an outdoor setting and/or the sale of alcoholic and consumption.

118.03. Furniture Zone use Allowed

Commercial or other nonpublic use of the furniture zone shall be allowed in the central business district only upon permission or by a limited lease granted by the City of Vermillion. Retailing is an allowed use of this chapter for a furniture zone permit for adjacent/adjoining businesses unless a written assignment of this allowed use is provided to another. The allowed use under the provisions of this chapter by a limited lease are sidewalk café with or without alcohol sales and consumption.

The city shall consider the impact of each proposed use of the furniture zone upon public property, public investments, public rights of access and way, and to business owners, property owners, and residents in granting permission for allowing the requested use and reserves its right as steward of public right-of-way to limit, prohibit, or place conditions on nonpublic uses of the public right-of-way.

118.04. Furniture Zone Permit Fees and Permit Duration

The fee for a Furniture Zone Use Permit shall be set by resolution of the governing body. The permit shall be valid for up to one calendar year and shall expire on December 31 of the year of issuance. All applicants for a Furniture Zone Use Permit shall complete an application on a form provided by the City Manager's Office.

118.05. Furniture zone limited leases for alcoholic beverage sales.

Any furniture zone limited lease granted by the City Council, pursuant to this chapter, shall convey to the adjoining business the right to use a designated portion of the sidewalk or furniture zone only for those purposes set forth in the lease. The limited lease may contain such restrictions and conditions as deemed necessary by the city and may not be assigned or sublet at any time during its term. The city shall have the

right to terminate the limited lease for violation of any material term or condition thereof. Required compliance with all city ordinances and state statutes regarding the sale and service of alcoholic beverages shall be deemed to be a material condition of the limited lease. Compliance with city noise ordinances shall be deemed a material condition of the limited lease. The limited lease term shall not include those dates and times specified for special events approved by the City of Vermillion City Council which includes the area of the furniture zone limited lease at the election of the event sponsor.

118.06. Lease fees and lease duration.

The annual fee for a furniture zone limited lease shall be set by resolution of the City Council. Leases may be granted for the period between March 10 and November 1 of the year of issuance. Leases may temporarily extend beyond this period upon approval of the City Manager.

118.07. Objects allowed in the Furniture Zone by permit.

Before any items can be placed in the Furniture Zone, the property owner must have a current Furniture Zone Use Permit. Notice must be provided to the City on a form furnished by the City Manager's Office. The form must include a drawing of the Furniture Zone containing the layout of all objects to be placed in the zone. Applicant will be notified, in writing, of any objects not approved in the plan. Once the plan has been approved by the City, the applicant will be allowed to place objects in the Furniture Zone.

Objects, such as tables and chairs may be placed in the Furniture Zone so long as a valid Furniture Zone Use Permit has been obtained, the items do not encroach upon the designated pedestrian walkway or another business's Furniture Zone Use Permit, and the items are made from commercial grade material. Other items may be placed in the Furniture Zone upon approval from the City. Any objects placed in the Furniture Zone must be removed by November 1<sup>st</sup>.

118.08. Application for permit or lease.

All applicants for furniture zone use permits or furniture zone limited leases shall complete an application on a form provided by the City Manager's Office. Any such permit or limited lease shall be granted on forms prepared by the City Manager's Office.

#### 118.09. Review and evaluation criteria.

Each application for a furniture zone use permit or furniture zone limited lease shall be evaluated for the following criteria prior to issuance of a permit:

1. Provisions of this chapter are adequately followed;
2. All additional licenses or permits required by the city or state for the proposed use activity have been obtained;
3. Placement of objects upon the furniture zone are consistent with the policies and standards developed by the city;
4. Adequate clearances for pedestrian circulation exist within the site. This includes proper clearances from items such as light poles, trash cans, and whether proper pedestrian circulation occurs on the site;
5. Safety concerns related to the requested furniture zone use have been addressed.

#### 118.10. Approval conditional.

The City Manager may attach conditions to the furniture zone use permit or furniture zone limited lease to provide for the safety and welfare of the public and neighboring property interests, or may deny the requested permit if it determines, in writing, that no conditions can adequately provide safety and welfare. Conditions may be added to a permit or limited lease during its term to address bona fide concerns that may arise after the issuance of the permit.

#### 118.11. Liability and insurance.

Before any object placement, furniture zone use permit or furniture zone limited lease is granted, the applicant shall sign a statement holding harmless the city and shall indemnify the city, its officers and employees, for any claims for damages to property or injury to persons which may occur in connection with any activity carried on pursuant to the terms of the furniture zone use permit or furniture zone limited lease.

All applicants for use of the furniture zone shall furnish and maintain a policy of insurance protecting the applicant and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the furniture zone use permit or limited lease, or in connection therewith. The insurance policy shall list or endorse the City of Vermillion as additional insured and carry minimum liability

limits of at least one million dollars (\$1,000,000) per occurrence. The endorsement shall provide that the policy shall not be terminated or cancelled prior to the termination of the furniture use without 30 days' written notice to the city.

#### 118.12. Designated pedestrian walkway

The City shall, on each permit issued for a Furniture Zone Use or Furniture Zone Limited Lease, identify the Designated Pedestrian Walkway. No aspect of the Furniture Zone use and/or lease shall be allowed to be conducted upon the Designated Pedestrian Walkway and no equipment or fixtures shall intrude upon or extend into the Designated Pedestrian Walkway, except to transfer items from an interior structure. The Designated Pedestrian Walkway shall not be considered part of the Furniture Zone use.

#### 118.13. Food Preparation Prohibited

The preparation of food upon the sidewalk or in the Furniture zone is prohibited under this chapter. This section will not apply in cases where garnishments are added to food in the Furniture Zone. In large scale events, where a City street or sidewalk has been closed, food preparation upon the sidewalk may be allowed if permitted in the application process for the event.

#### 118.14. Maintenance of permitted or leased area.

Permit and lease holders shall maintain the permitted or leased area in a clean manner while in use, and shall mitigate any impact activities associated with the permitted or leased use which contribute to the uncleanness of the sidewalk and surrounding area. Permit and lease holders serving or selling food or beverage must provide a trash receptacle for patron use within the designated furniture zone while in use.

#### 118.15. Alcohol Service and Consumption in Furniture Zone.

Alcohol service and consumption in a furniture zone area is prohibited unless the adjacent business holds a valid on-sale license issued by the state of South Dakota for the sale and service of alcoholic beverages for that adjacent business. Sale and consumption of alcohol on the furniture zone is limited to the area identified in the furniture zone limited lease which shall be adjacent to the licensed premises.

118.16. Additional rules governing alcoholic beverages in Furniture zone.

Any lease or permit which includes the sale or consumption of alcohol shall adhere to these additional provisions which shall be deemed to be material conditions of any limited lease:

1. Compliance with the rules, regulations, and conditions of the alcohol license including documentation that the license holder derives more than fifty percent of its gross receipts from the sale of prepared food for consumption on the licensed premises.
2. Containers for the dispensing of alcoholic beverages must be maintained inside the licensed facility and not in the furniture zone use area. No taps, kegs, cooler, or other alcoholic beverage storage devices are allowed on the furniture zone use area.
3. All alcoholic beverages served by the permitted establishment must be consumed in the furniture zone or inside the facility and disposed of on site. Patrons and staff loitering with alcohol on the designated pedestrian pathway is a prohibited activity. Exception: The transport of alcoholic beverages by patrons or staff directly from the indoor premises to the furniture zone use area or to the licensed facility is not prohibited.
4. The limited lease holder shall have in place a security and crowd management plan for the designated use area approved by the Police Department.
5. Any time more than 10 people occupy a furniture zone leased area serving alcohol, the limited lease area shall be staffed such that the furniture zone use area is supervised.
6. The hours of operation for the sale and consumption of alcoholic beverages in the Furniture Zone lease areas shall be noon to 10:00 pm. The city has the right to limit use of the Furniture Zone Area for alcoholic beverage sales and consumption on specific days.
7. A Furniture Zone limited lease area must be separated from the pedestrian walkway with a physical divider. The divider will be selected by the applicant and approved as part of the lease.

118.17. Revocation and suspension.

The City Manager, or designee, may deny, revoke, or suspend a Furniture Zone Use Permit or limited lease upon finding that any provision herein or any condition set forth in the permit has

been violated. Notice shall be given to the holder of the permit or limited lease prior to the permit being denied, revoked, or

#### 118.18. Exemption

Property owners who wish to place flowerpots or planters upon the sidewalk may do so without obtaining a Furniture Zone Use Permit as long as the items are not placed in the pedestrian walkway.

#### 118.19. VIOLATIONS.

Any person who shall violate any of the provisions of this chapter shall be subject to 10.99. Each violation of this chapter shall constitute a separate offense.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman Willson. Thereafter, the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body, and the members voted as follows: Edelen-Y, French-Y, Hofman-Y, Meins-Y, Osborne-Y, Powell-Y, Ward-Y, Willson-Y, Mayor Christopherson-Y.

Motion carried 9 to 0. Mayor Christopherson declared that the Ordinance has been adopted and directed publication thereof as required by law.

#### 8. New Business

##### A. Annual report of the Vermillion Public Library

Jane Larson, Librarian, reviewed the 2009 Annual report for the Vermillion Public Library. Jane answered questions of the Council on the report and the library operations. Jane reported that the Library Board has selected the firm of Architects, Inc. to design the library expansion project.

120-10

Alderman Edelen moved to acknowledge receipt of the 2009 Vermillion Public Library Annual Report. Alderman Hofman seconded the motion. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

B. Resolution establishing Permit Fees for Itinerant Merchants, Peddlers, or Solicitors, and Special Events (set Special Events permit fee)

John Prescott, City Manager, reported that the City Council approved second reading of Ordinance No. 1229 creating the special events permit and the resolution to set the fee. The proposed resolution will set the special events fee at \$50.00 per day for ten or fewer vendors plus \$25.00 for each additional day and \$100.00 per day for more than ten vendors plus \$25.00 for each additional day.

121-10

After reading the same once, Alderman Powell moved adoption of the following:

RESOLUTION ESTABLISHING PERMIT FEES  
FOR ITINERANT MERCHANTS, PEDDLERS OR SOLICITORS,  
AND SPECIAL EVENTS

WHEREAS, Section 116.07, of Title XI, of the 2008 Revised Ordinances of the City of Vermillion, allows the City Council to establish permit fees for Itinerant Merchants, Peddlers or Solicitors, and Special Events.

BE IT HEREBY RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. on the 19th day of April, 2010, that the permit fee for itinerant merchants, peddlers or solicitors and special events regulated under Chapter 116.07, Title XI is established as follows:

Any Special Event permit issued under Section 116.07, shall pay a permit fee as follows:

\$50.00 per calendar day for ten or fewer vendors plus  
\$25.00 for each additional calendar day.

\$100.00 per calendar day for more than ten vendors plus  
\$25.00 for each additional calendar day.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

The motion was seconded by Alderman Edelen. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 9 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Christopherson declared that the Resolution was adopted.

C. Resolution establishing Permit Fees and Requirements for a Furniture Zone Use and Limited Lease in Central Business District (set Furniture Zone use and Limited Lease fees)

Mike Carlson, Finance Officer, reported that the City Council approved second reading of Ordinance No. 1232 creating a permit fee for a Downtown Furniture Zone and limited lease. The resolution is to set the fee at \$35.00 for Furniture Zone permit and \$35.00 for the limited lease.

122-10

After reading the same once, Alderman Willson moved adoption of the following:

RESOLUTION ESTABLISHING PERMIT FEES AND  
REQUIREMENTS FOR A FURNITURE ZONE USE AND  
LIMITED LEASE IN THE CENTRAL BUSINESS DISTRICT

WHEREAS, Section 118, of Title XI, of the Ordinances of the City of Vermillion, allows the City Council to establish permit fees and requirements for furniture zone use and limited lease in the Central Business District.

BE IT HEREBY RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. on the 19<sup>th</sup> day of April, 2010, that the permit fee and requirements for a furniture zone use and limited lease in the Central Business District regulated under Chapter 118, Title XI is established as follows:

The fee for a Furniture Zone Use Permit issued under Section 118.04, shall pay a permit fee as follows:

\$35.00 per permit per calendar year

The fee for a furniture zone limited lease issued under Section 118.06 shall be:

\$35.00 per lease per calendar year with all leases expiring on November 1 of the year issued.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D Carlson, Finance Officer

The motion was seconded by Alderman Ward. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 9 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Christopherson declared that the Resolution was adopted.

D. Amendment #1 of Bluffs Housing Development Outlot A, Block 7 Declaration of Restrictions and Covenants (allow for single-family housing development)

Mike Carlson, Finance Officer, reported that Wade Larson purchased Outlot A of the Smith-Quam Addition from the City in 2005. At that time, declarations of restrictions and covenants were developed that provided for twin homes, townhome units, apartments or condominium units which is what Mr. Larson wanted to develop. Included in the packet is a letter from Mr. Larson requesting to change the restrictions and covenants to allow for "single family homes". Also included is the amended Declaration of Restriction and Covenants signed by the property owners in what was Outlot A. Outlot A is surrounded by single family homes and adding additional single family homes would not impact the area. The original restrictions and covenants required the signature of all owners and the concurrence of the City Council before an amendment can be made. The

City has sold all of its developed lots in this area and Administration recommends the concurrence of the amendment. Discussion followed.

123-10

Alderman Edelen moved approval of the City Council concurrence with Amendment #1 to the Bluffs Housing Development Outlot A, Block 7, Declaration of Restrictions and Covenants as presented. Alderman Hofman seconded the motion. Discussion followed. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

E. Final Plat of Lots 12A and 13A of Block 1, Dakota Addition (1326 Madison Street)

Jose Dominguez, City Engineer, reported on the location of the proposed replat and that the Planning Commission has approved the plat. The plat will reduce the area of Lot 13A and increase the area of Lot 12A to comply with the R-3 Zone to have enough area to construct a 12 unit building.

124-10

After reading the same once, Alderman Powell moved approval of the following plat:

WHEREAS IT APPEARS that the owners thereof have caused a plat to be made of the following described real property: Lots 12A and 13A of Block 1, Dakota Addition (1326 Madison Street) City of Vermillion, Clay County, South Dakota for approval.

BE IT RESOLVED that the attached and foregoing plat has been submitted to and a report and recommendations thereon made by the Vermillion Planning Commission to the City Council of Vermillion which has approved the same.

BE IT RESOLVED that the Governing Body of the City of Vermillion herein approves the vacation of said Lots 12 and 13 and the South 15 feet of the 25 foot Drainage Easement of Block 1 in Dakota Addition as filed in Book: 7, on Page: 576.

BE IT FURTHER RESOLVED that the attached and foregoing plat has been submitted to the Governing Body of the City of Vermillion which has examined the same, and it appears that the systems of streets and alleys set forth therein conforms to the system of streets and alleys of the existing plat of such city, and that all taxes and special assessments, if any, upon the tract or subdivision have been fully paid and that such plat and survey thereof have been executed according to law, and the same is hereby accordingly approved.

The motion was seconded by Alderman Ward. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 9 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Christopherson declared that the Resolution was adopted.

#### F. Declaration of surplus and abandoned property for auction

Mike Carlson, Finance Officer, reported that a list of surplus and abandoned property is included in the packet. For this property to be sold, the City Council will need to declare it surplus and authorize the sale by auction. Hazen Bye is available to conduct the auction on May 14, 2010 at 5:30 p.m. at the Municipal Service Center.

125-10

Alderman Ward moved approval of declaring the following property surplus to be sold at public auction on May 14, 2010: Surplus City Vehicles: 1989 Chevrolet 1500 Suburban, 1993 Chevrolet 2500 pickup/utility body, 1993 Ford F150 pickup/lift gate, 1994 Chevrolet 2500 pickup/utility body, 1999 Ford F150 pickup 4x4; Abandon Vehicles: 1989 Hyundai Excel, 1994 Ford Crown Vic, 2005 Chrysler New Yorker, 1997 GMC Sierra, 1993 Pontiac Grand Prix, 1998 Ford Windstar, 1992 GEO Storm, 1992 GEO Prism, 1990 Chevy Lumina, 1995 Olds Cutlass, 1992 Plymouth Voyager, 1995 Plymouth Voyager, 1988 Chevy Pickup, 1992 Chevy Lumina, 1988 Buick Electra, 1999 Olds Intrigue, 1997 Pontiac Grand AM, 1981 Ford F150, 1999 Ford Taurus, 1989 Chevy Van, 1990 Dodge Van, 2000 Pontiac Grand AM, 1992 Pontiac Grand Prix, Lone \*Star 16' boat with trailer & 85hp Mercury; Approximately 25 Abandon Bicycles; Abandon Unclaimed Property from Police Department: 2 scooters, Nintendo Ds lite, mason chisel, trombone w/case, bag of watches & misc, umbrella stroller, bag of misc items, racquetball set, 6-8 mm tape trays, backpack, 1977 CB'ers directory, pickup tool box with misc items, RCA earbuds, plant grow light set, goose call CD, Fox logo cap, Hellboy II dvd; Surplus City Property: Computers, monitors, challenger book cutter, Fairbanks portable scale, desk, fork lift push off, small refrigerator, can flattener, 26 quartz lights, 2 locators, 600 amp double throw switch, tool box, gas power broom, large water tank, water tank on trailer, 6 Lang pulleys with hooks, line printer, 3 vehicle partitions, equipment lamps, office chair, Casco router, allied hub, hp printer. Alderman Hofman seconded the motion. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

9. Bid Openings - None

10. City Manager's Report

A. Mike Carlson reported that the Arbor Month activities beginning with the Arbor Day tree planting at the William J. Radigan Fire/EMS Station has been moved from Friday, April 30<sup>th</sup> to Thursday, April 29<sup>th</sup> at 1:00 pm.

B. Mike reported that the summer Parks & Recreation program guide will be in Tuesday's Equalizer. Copies are available at City Hall. Program signup is Wednesday, May 5<sup>th</sup> at the National Guard Armory.

C. Mike reported that the Landfill vouchers are available at City Hall, Library, Recycling Center and Landfill as well as printed in the local papers. The voucher allows for the disposal of up to \$15 per household at the landfill. The roll-off boxes are available at the Recycling Center for residential yard waste disposal during business hours.

D. Mike reported that a special meeting of the City Council has been set for Monday, April 26<sup>th</sup> at noon.

PAYROLL ADDITIONS AND CHANGES

Communications: Marsha McKinney \$18.54/hr; Recreation: Libby Claeys \$7.50/hr, Melissa Dittberner \$7.50/hr, Kelly Enebo \$7.50/hr, Skye Lindquist \$7.50/hr, Abby Suelflow \$7.50/hr, Amy Velthoff \$7.50/hr; Pool: Elizabeth Effling \$8.25/hr, Alyssa Mertens \$8.25/hr, Casey Stone \$8.25/hr; Parks: Tyler Klatt \$7.25/hr, Andrew Lesch \$7.25/hr, Grant Sjaarda \$7.25/hr; Library: Jane Larson \$26.53/hr; Golf Clubhouse: Anny Grady \$7.25/hr, Tia Haines \$7.25/hr; Golf Maintenance: Gavin Fawbush \$7.50/hr, Paul McDonald \$8.00/hr; Curbside Recycling: Matt Puthoff \$13.44/hr

11. Invoices Payable

126-10

Alderman Powell moved approval of the following bills:

AVERA QUEEN OF PEACE HEALTH	EMPLOYEE TESTING	68.50
BROADCASTER PRESS	ADVERTISING	2,117.25
BUREAU OF ADMINISTRATION	TELEPHONE	337.15
CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,002.68
DENNIS MARTENS	TRAVEL REIMBURSEMENT	87.62
DEPT. ENVIRONMENT NATL RES.	LANDFILL OPERATIONS FEE	2,822.95
EAST RIVER ELECTRIC POWER	WHEELING FEES	4,875.00
FIRST NATIONAL BANK	LEASE PAYMENT CITY HALL	79,003.31

FOREMAN MEDIA	COUNCIL MTG	100.00
GREGG PETERS	MGRS FEE & FIRST QTR PROFITS	23,841.71
KNOLOGY	911 CIRCUIT/DIAL UP SERVICE	1,415.45
LARRY BRADY	AMBULANCE OVERPAYMENT REFUND	1,586.55
LINWELD	CYLINDER RENTAL	120.89
LOREN FISCHER DISPOSAL	HAUL CARDBOARD	140.00
MERRITT GROH	TRAVEL REIMBURSEMENT	139.86
MIDAMERICAN	GAS USAGE	4,927.19
MIDCONTINENT COMMUNICATONS	INTERNET/CABLE SERVICE	89.65
QWEST	TELEPHONE	1,499.12
RESERVE ACCOUNT	POSTAGE FOR METER	650.00
SANFORD CLINIC VERMILLION	TESTING	105.00
SD DEPT OF LABOR	UNEMPLOYMENT REIMBRUSEMENT	4,017.00
SPRINT	CELL PHONES	961.96
UNITED PARCEL SERVICE	SHIPPING	38.60
US POSTMASTER	POSTAGE FOR UTILITY BILLS	975.00
VISA/FIRST BANK & TRUST	TRAVEL/SUPPLIES	342.84
FIRST BANK & TRUST	BRIGHT ENERGY SOLUTIONS REBATE	864.00
MARTY GILBERTSON	BRIGHT ENERGY SOLUTIONS REBATE	935.00
TORRIE RASMUSSEN	BRIGHT ENERGY SOLUTIONS REBATE	250.00
TRICIA TAGGART	BRIGHT ENERGY SOLUTIONS REBATE	21.00

Alderman Hofman seconded the motion. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

## 12. Consensus Agenda

A. Set a bid opening date of May 11, 2010 for Lime Sludge Lagoon No. 1 Rehabilitation

127-10

Alderman Osborne moved approval of the consensus agenda. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

13. Review of Changes in State statute regarding special licenses and Memorial Day sales of liquor

Mayor Christopherson said there was a memo on the changes made in the State statue that will become effective July 1<sup>st</sup> with regard to special licenses and Memorial Day sales. Discussion followed.

128-10

Alderman Powell moved to authorize administrative staff to draft a proposal for consideration at the next regular Council meeting.

Alderman Hofman seconded the motion. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

14. Adjourn

129-10

Alderman Hofman moved to adjourn the Council Meeting at 8:06 p.m. Alderman Edelen seconded the motion. Motion carried 9 to 0. Mayor Christopherson declared the motion adopted.

Dated at Vermillion, South Dakota this 19<sup>th</sup> day of April, 2010.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA  
BY \_\_\_\_\_  
Dan Christopherson, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D. Carlson, Finance Officer

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