



**Special Meeting Agenda
City Council**

12:00 p.m. (noon) Special Meeting
Monday, April 20, 2015
Large Conference Room-City Hall
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Educational Session – Discuss progressive fee system for sidewalk snow and junk and debris code violations – Farrel Christensen.**
3. **Educational Session – Review of Council policies and procedures – Mayor Jack Powell.**
4. **Educational Session – Community Welcome sign proposal – Rich Holland.**
5. **Briefing on the April 20, 2015 City Council Regular Meeting Agenda** - Briefings are intended to be informational only and no deliberation or decision will occur on this item.
6. **Adjourn**

Access the City Council Agenda on the web – www.vermillion.us

Addressing the Council: Persons addressing the Council shall use the microphone at the podium. Please state your name and address. Presentations are limited to 5 minutes. For those who do not appear on the agenda, no decision is to be expected at this time.

Meeting Assistance: If you require assistance, alternative formats and/or accessible locations consistent with the Americans with Disabilities Act, please contact the City Manager’s Office at 677-7050 at least 3 working days prior to the meeting.

Council Meetings: City Council regular meetings are held the first and third Monday of each month at 7:00 p.m. If a meeting falls on a City holiday, the meeting will be scheduled for the following Tuesday.

Live Broadcasts of Council Meetings on Cable Channel: Regular City Council meetings are broadcast live on Cable Channel 3.

As a courtesy to others, we ask that cellular phones and pagers be turned off during the meeting.



City of Vermillion Council Agenda

7:00 p.m. Regular Meeting
Monday, April 20, 2015
City Council Chambers
25 Center Street
Vermillion, South Dakota 57069

1. Roll Call

2. Pledge of Allegiance

3. Minutes

- a. April 6, 2015 Special Session; April 6, 2015 Regular Session.

4. Adoption of the Agenda

5. Visitors To Be Heard

- a. Earth Day proclamation.

6. Public Hearings

- a. Special permit to exceed permissible sound levels by no more than 50% for Coyoteopoly and South Dakota Shakespeare Festival in the band shell area of Prentis Park from June 8 through June 14, 2015 from 6:00 p.m. to 10:00 p.m. for Shakespeare festival performances.
- b. Special daily malt beverage and wine license for the Clay County Agricultural Fair Association, Inc on or about May 1, 2015 at the Clay County Fairgrounds west arena.
- c. Special permit to exceed permissible sound levels by no more than 50% for Vermillion Area Chamber of Commerce and Development Company on Ratingen Platz and half block of Market Street south of Main Street on July 9, July 23, August 6, August 20, September 3, September 10 and September 17 from 5:30 p.m. to 8:00 p.m. for Thursdays on the Platz and on April 23 from 4:00 p.m. to 7:00 p.m. for Earth Day Activities.
- d. Special daily malt beverage and wine license for the Vermillion Area Chamber of Commerce and Development Company on Ratingen Platz and half block of Market Street south of Main Street on July 9, July 23, August 6, August 20, September 3, September 10 and September 17 from 5:30 p.m. to 8:00 p.m. for Thursdays on the Platz and on April 23 from 4:00 p.m. to 7:00 p.m. for Earth Day Activities.
- e. Retail on-off sale malt beverage license with video lottery for Bunyan's LLC for Bunyan's at 1201 West Main Suite 106 for July 1, 2015 to June 30, 2016.
- f. First Reading of Ordinance 1328 amending Section 155.059 Community Oriented Healthcare Planned Development District, subsection (D) Lot and Yard regulations, adding a section for hospitals/clinics.
- g. Request from Hillside Community Church for a 3- foot side yard variance from the zoning ordinance to construct a building addition at 1800 Constance Drive.

7. Old Business

- a. Second Reading of Ordinance 1327 amending Chapter 118.16 (F) to expand hours of operation for the sale and consumption of alcoholic beverages in the furniture zone.

8. New Business

- a. Request to close Market Street for ½ block from W. Main Street south to the alley from 5:30 pm to 8:00 pm on July 9, July 23, August 6, August 20, September 3, September 10 and September 17 from 5:30 p.m. to 8:00 p.m. for Thursdays on the Platz and on April 23 from 4:00 p.m. to 7:00 p.m. for Earth Day Activities.
- b. Request to close High Street as it abuts the Fairgrounds immediately south of W. Cherry Street on May 1, 2015 from 5:00 pm to 10:30 pm for the Spring Fling Demolition Derby.
- c. USD Development Reinvestment Payment Program agreement.
- d. Declaration of surplus items for City auction.

9. Bid Openings

- a. Cottage Avenue water reconstruction project.

10. City Manager's Report

11. Invoices Payable

12. Consensus Agenda

13. Adjourn

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Addressing the Council: Persons addressing the Council shall use the microphone at the podium. Please raise your hand to be recognized, go to the podium and state your name and address.

a. Items Not on the Agenda Members of the public may speak under Visitors to Be Heard on any topic NOT on the agenda. Remarks are limited to 5 minutes and no decision will be made at this time.

b. Agenda Items: Public testimony will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes may speak one time for 5 minutes on each agenda item. Public testimony will then be closed and the topic will be given to the governing body for possible action. At this point, only City Council members and staff may discuss the current agenda item unless a Council member moves to allow another person to speak and there is unanimous consent from the Council. Questions from Council members, however, may be directed to staff or a member of the public through the presiding officer at any time.

Meeting Assistance: The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

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Vermillion City Council's Values and Vision

This community values its people, its services, its vitality and growth, and its quality of life and sees itself reinforcing and promoting these ideals to a consistently increasing populace.



Unapproved Minutes
Council Special Session
April 6, 2015
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, April 6, 2015 at 12:00 noon at the City Hall large conference room.

1. Roll Call

Present: Collier-Wise, Erickson, Holland, Holly Meins, Price, Ward, Willson, Mayor Powell

Absent: Clarene Meins

2. Informational Session - DENR Secretary's Award for Drinking Water Excellence

Mayor Powell reported that the South Dakota Department of Environment and Natural Resources has recognized the City of Vermillion Public Water System and each of the operators with the Secretary's Award for Drinking Water Excellence.

John Prescott, City Manager, presented the awards to Randy Isaacson, Water Superintendent.

3. Informational Session - Overview of Storm Drainage criteria - Jose Dominguez

Jose Dominguez, City Engineer, reported on the history of the storm drainage regulations that has brought the city to consider the present drainage criteria. Jose reviewed the city watershed basins as they apply to the criteria and the differences between the current storm drainage requirements and the new criteria. Jose reviewed the benefits of the new criteria as well as the costs to developers to implement the criteria. Jose reviewed projects completed to date that have used the new criteria. Jose answered questions on the criteria noting that it will be considered for adoption tonight.

4. Informational Session - Prentis Park pool plan design - Jim Goblirsch

Jim Goblirsch, Director of Parks and Recreation, reported that City staff has been removing vegetation in the park as part of implementing the master plan. Jim stated that Dave Burbach with

Burbach Aquatics, Inc, who met with City staff this morning, will provide this update to the City Council and will meet with the pool committee at 4:00 p.m. today. Dave Burbach provided plans and a timeline for the pool project. Dave reviewed the timeline for the project including bidding and warranty work. Dave noted that any changes from today's meetings will be incorporated into the development of the final plans and specifications. Dave reviewed the project plans that were handed out. Jim Goblirsch and Dave Burbach answered questions of the City Council on the project.

5. Briefing on the April 6, 2015 City Council Regular Meeting

Council reviewed items on the agenda with City staff. No action was taken.

6. Adjourn

97-15

Alderman Ward moved to adjourn the Council special session at 12:53 p.m. Alderman Price seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 6th day of April, 2015.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA
BY _____
John E. (Jack) Powell, Mayor

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

Unapproved Minutes
City Council Regular Session
April 6, 2015
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on April 6, 2015 at 7:00 p.m. by Mayor Powell.

1. Roll Call

Present: Collier-Wise, Erickson, Holland, Clarene Meins, Holly Meins, Price, Ward, Willson, Mayor Powell, Student Representative Catie Dougherty

2. Pledge of Allegiance

3. Minutes

A. Minutes of March 16, 2015 Special Session; March 16, 2015 Regular Session

98-15

Alderman Collier-Wise moved approval of the March 16, 2015 Special Session and March 16, 2015 Regular Session minutes. Alderman Price seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

4. Adoption of Agenda

99-15

Alderman Willson moved approval of the agenda. Alderman Collier-Wise seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

5. Visitors to be Heard

A. Ratingen Week in Vermillion

Alderman Clarene Meins read the proclamation declaring the week of April 6 through April 13, 2015 as Ratingen Week in the City of Vermillion. Mayor Powell welcomed the students and teachers from Ratingen to Vermillion and presented them with the proclamation. Kami Dibley, Vermillion High School German Teacher, expressed her thanks for the support of the City Council on the exchange program. A representative of the German Students presented the Mayor with a gift.

B. National Poetry Month Proclamation

Alderman Collier-Wise read the proclamation recognizing April as National Poetry Month in Vermillion. Mayor Powell presented the proclamation to Susan Haggstad. Susan thanked the City Council for recognizing National Poetry Month and noted the activities planned at the public library for the month.

C. CASA program in Clay County

Sherri Rodgers-Conti, Program Director Southeast CASA, reported that they are expanding their services to include Clay County. Sherri explained the Court Appointed Special Advocates Program along with the services they provide to the children. Sherri provided handouts on the program noting that when they have volunteers trained the program will be expanding into Clay County. Sherri stated that she just wanted to inform the City Council that this program would be expanding into Clay County and was willing to answer any questions about the program.

6. Public Hearings - None

7. Old Business

A. Second Reading of Ordinance 1326 creating a requirement for daycare businesses to register, adding certain health and safety requirements, and adding Title XI Business Regulations, Chapter 121

John Prescott, City Manager, reported that, during the 2015 budget review sessions, the City Council posed a question about the location of daycare facilities in the community. John noted that at this time the City did not have regulations pertaining to daycare facilities. John stated that the City Council requested City staff to look into the matter and report back to the City Council. John stated that at the November 3, 2014 noon meeting City staff presented a list of what other SD communities have in their daycare regulations and a draft ordinance. John stated that the City Council reviewed the information and directed staff to contact some daycare providers to gather feedback. John stated that a list of providers was developed and the information previously provided to the Council was sent to the daycare providers requesting comments to be returned in December. John stated that the daycare providers were invited to a meeting on January 27, 2015 where staff explained the proposal and received additional feedback. John stated that the same presentation was made at the noon Council meeting on February 2, 2015. John noted that the City Council requested to have a special meeting with the daycare providers before placing the ordinance on a future agenda for consideration. John noted that a special City Council meeting was held on February 23, 2015 to review the proposed ordinance with the daycare providers. John stated that the City Council approved first reading of Ordinance 1326, requiring daycare provides to register, on March 16, 2015. The proposed ordinance has not changed much since the February 23rd meeting. John noted that some minor language clarifications were made. John noted that all of the providers that the City was aware of were mailed a copy of the attached ordinance prior to first reading on March 16th.

John noted that to register, a daycare provider will need to demonstrate safety items such as having a fire extinguisher, smoke detector, two ways out of basement space used for a daycare, safe electrical wiring, closets that prevent a child from being locked inside, and other basic safety requirements.

John noted that in the development of the proposal there was a lot of discussion on the requirement to have a fence. John stated that while the fence requirement is still part of the ordinance, an exception to having a fence can be obtained if the parents sign a consent form noting that there is not an enclosed playground at the registered location. John stated that the ordinance provides that a daycare can register prior to July 1, 2015 without completing an inspection. He noted that in this case the first inspection would not be until 2016. John noted that registrations are for a two year period and expire on the June 30th of even numbered years. John stated that, if the ordinance is adopted, a handout will be developed similar to the power point presentations used at the meetings to assist in explaining the details of the ordinance.

Carlotta Kruse, Lisa Sorensen, Lisa Johnson, Amy Askew, Rita Humphrey, Brandon Wiemers, Chris Lynch, Molly Molencamp, Teramie Hill, Alan Johnson, Lori Kruse and Amanda Lynch addressed the City Council with their concerns, anticipated impact if implemented on the daycare providers and the parents, asked questions on the proposed ordinance and inspection procedures. All were opposed to the City adopting the ordinance. They noted that providers have operated for many years without any issues stating that if it isn't broke why fix it.

Discussion followed among the City Council on the proposed ordinance and the Fire Chief was asked to explain the inspection process and how the registration information would be used including response.

99-15

Second reading of title to Ordinance No. 1326 entitled An Ordinance Amending Title XI, Adding Chapter 121, DayCare, to the 2008 Revised Ordinances of the City Of Vermillion, South Dakota, Creating a Requirement for Daycare Businesses to Register with the City Of Vermillion and Providing for Certain Health And Safety Requirements of the City of Vermillion, South Dakota

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

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1326 entitled An Ordinance

Amending Title XI, Adding Chapter 121, Day Care, to the 2008 Revised Ordinances of the City Of Vermillion, South Dakota, Creating a Requirement for Daycare Businesses to Register with the City Of Vermillion and Providing for Certain Health And Safety Requirements of 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 16th day of March, 2015 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body on this 6th day of April, 2015 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 NUMBER 1326

AN ORDINANCE AMENDING TITLE XI, ADDING CHAPTER 121, DAY CARE, TO THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION, SOUTH DAKOTA, CREATING A REQUIREMENT FOR DAYCARE BUSINESSES TO REGISTER WITH THE CITY OF VERMILLION AND PROVIDING FOR CERTAIN HEALTH AND SAFETY REQUIREMENTS.

WHEREAS, the governing body of the City of Vermillion has deemed these regulations and controls to be reasonable and related to the purpose of promoting the health, safety, and general welfare of the City of Vermillion.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the City of Vermillion, South Dakota, that there be enacted a requirement for all day care businesses within the corporate limits of Vermillion to be registered with the City of Vermillion and Chapter 121 shall be added to Title XI as follows:

121.01 Definitions. The following words, terms and phrases, when used in this article, shall have the meanings provided in this section, except where the context clearly indicates a different meaning:

"Home day care" means the providing of group care and supervision of five or more children on a regular basis for part of a day, with or without compensation, as a supplement to regular parental care, including children under the age of six living in the home and children from more than one unrelated family receiving day care. (This definition may encompass Day Care, Family and Day Care, Group activities defined in the Vermillion Zoning Regulations, Chapter 155.)

"Home day care home" means the private residence wherein day care is provided.

"Provider" means the principal caretaker of children in a family day care home.

121.02 Required. Every person engaged in the business of operating a home day care shall, before engaging in such business, register with the City of Vermillion as provided in this article. The fee for such registration shall be set by resolution.

121.03 Application. Any person desiring to register as provided in this article shall file with the City Finance Officer a written application on a form provided by the City. The application shall be signed by each adult at least 18 years of age operating the day care. The application shall contain, at a minimum, the following information:

1. A floor plan of the proposed location;
2. The expected number and age range of the children being cared for.

Registration to engage in the business of home day care operation shall be valid until the next June 30 in an even numbered year. Applications for renewal shall be submitted within 45 days of the expiration of the current registration.

121.04 Central registry for child abuse and neglect/sex offender registry. No person whose name is currently, or at any time in the past has been on the state central registry for abuse and neglect, the state sex offender registry, or any similar registry or list maintained by any other state, shall reside in the premises in which the home day care business is being conducted, nor shall such person be employed in any capacity by the home day care. Applicant shall provide an affidavit to this extent.

121.05 Age requirements. No person under 18 years of age may be registered under this article. No person between 14 years of age and 17 years of age may provide child care services in a home day care unless a registered home day care provider is actually present in the home day care facility.

121.06 CPR required. All home day care operators registered under this article must maintain a current cardiopulmonary resuscitation (CPR) certification from the American Red Cross or American Heart Association. Employees of a home day care are recommended to have such certification.

121.07 Inspections. Any day care licensed under this article shall be inspected by the Fire Chief, or designee, prior to registration

approval. All home daycares shall be open to announced or unannounced inspection by city officials at any time during normal business hours. The Fire Chief or designee shall re-inspect each premise prior to recommending the renewal of registration.

Exceptions: All home day cares registered with the City of Vermillion by July 1, 2015 will not be required to complete an inspection for the initial registration, and those registered as a family day care pursuant to SDCL ch.26-6 and ARSD 67:42:03 will not be subject to any inspections by the City of Vermillion.

121.08 Fencing or other barrier. Playground areas shall be enclosed by a fence, hedge, trellis, or other barrier not less than 42 inches high to protect the area from traffic, animals, or other hazards. Openings in a fence, trellis, or other manmade barrier shall not allow passage of a four-inch diameter sphere. Playground areas shall be in rear yard whenever possible. Day care center fence requirements contained in Vermillion Zoning Regulations, Chapter 155, will prevail to the extent they apply and conflict with this provision.

Exception: A registered daycare provider may be exempt from the fencing or other barrier requirement of this section if a written consent form signed by a parent or guardian of each child being cared for stating they understand that there is not an enclosed playground area at the registered location.

121.09 Building code requirements applicable. Nothing in this article shall be construed to exempt any structure from any otherwise applicable portion of the relevant building code or fire code. In any case where the building code requirements are in conflict with the requirements of this article, the more stringent requirement shall apply.

121.11 State registered home day cares. Any home day care which falls within the scope of this article but which is registered as a family day care pursuant to SDCL ch. 26-6 and ARSD ch. 67:42:03 shall be required to register pursuant to this article.

121.12 All home day care facilities shall comply with the most recent version of the International Fire Code and International Building Code as modified and adopted by the City.

Dated at Vermillion, South Dakota this 6th day of April, 2015.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA
BY _____
John E. (Jack) Powell, Mayor

ATTEST:

BY

Michael D. Carlson, Finance Officer

Adoption of the Ordinance was seconded by Alderman Ward. 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: Collier-Wise- Y, Erickson-N, Holland-Y, Clarene Meins-Y, Holly Meins-N, Price-Y, Ward-Y, Willson-Y, Mayor Powell-Y

Motion carried 7 to 2. Mayor Powell declared that the Ordinance has been adopted and directed publication thereof as required by law.

8. New Business

A. Referendum petition received for Ordinance 1325 - Malt Beverage markup

Mike Carlson, Finance Officer, reported that the City Council approved second reading of the malt beverage markup ordinance on February 17, 2015 that was published on February 27, 2015. Mike stated that a referendum petition is required to be filed within twenty days of the publication of the ordinance, which would be March 19, 2015 at 5:00 p.m. Mike noted that on Wednesday afternoon, March 18th, Blaine Schoellerman presented him with 26 pages of referendum petition listing "ORDINANCE NUMBER 1325 Adopted: 17 February 2015". Mike stated that copy was taken to Jim McCulloch, City Attorney, for his review as to the petition content. Mike stated that the petitions were reviewed to determine if the 5% of voter registration requirement was met and that Ann Schoellerman called on Thursday morning to see if more signatures were needed. Mike reported that he contacted Ann about needing one more signature just after noon on Thursday and that Ann provided two more pages of the petition. Mike stated that at 2:40 p.m. Jim called to say that he had been in contact with the Secretary of State's office and in his opinion the petition did not include the title of the ordinance and he recommended that the petition be rejected. Mike stated that he called Ann Schoellerman to relay that in Jim's opinion the petition did not include the title to the ordinance as required by the State statute. Mike recommended that the City Council acknowledge that a petition was received but that it did not meet the requirements of SDCL 9-20-7 as the title to the ordinance being referred to was not contained in the petition and as such the petition is not being accepted. Discussion followed with Jim McCulloch, City Attorney, explaining that State statute states that the title shall be included in the petition and the definition of shall is "manifests a mandatory directive and does not confer any

discretion". Jim recommended that the City Council, if they agreed with his recommendation, acknowledge receipt of the petition noting the reason why it was not accepted. Discussion followed.

100-15

Alderman Willson moved to acknowledge receipt of the referendum petition titled "ORDINANCE NUMBER 1325 Adopted: 17 February 2015" but that the petition did not meet the requirements of SDCL 9-20-7 as the title of the ordinance being referred to was not contained in the petition and that the petition should not be accepted. Alderman Ward seconded the motion. Discussion followed. Motion carried 8 to 1. Mayor Powell declared the motion adopted.

B. Request to extend platting time requirement for Outlot A, Smith-Quam Addition

Jose Dominguez, City Engineer, reported that the City at one point owned Outlot A in Smith-Quam Addition on E. Main Street. Jose noted that this outlot was bordered by E. Main Street on the north and by Cypress Drive on the east. Jose stated that in 2005 Mr. Wade Larson purchased Outlot A with the intent to develop it. Jose stated that the original agreement required Mr. Larson to develop the lot within a certain time, if not, the City would repurchase the outlot for 70% of the original purchase price. Jose noted that the City approached Mr. Larson regarding repurchasing the outlot in 2014. Jose noted that on October 20, 2014 the City Council allowed Mr. Larson to sell the outlot to a third party, Three Sisters LLC. Jose noted that the City Council allowed the transfer of the property on October 20, 2014, however, the City required that the original stipulations with respect to platting and the construction start be included with the agreement. Jose stated that platting was required within three months (February 12, 2015) and construction would begin within twelve months (November 14, 2015). Jose noted that the stipulations were intended to ensure that the land was developed in a timely manner according to the covenants. Jose stated that on March 19, 2015 the City received a request from Three Sisters, LLC asking that the platting deadline be extended until August 31, 2015. Jose stated that the request was included in the packet. Jose recommended that the deadline be extended until June 30, 2015 which he felt would allow the owner ample time to develop a plan and plat the land accordingly. Jose noted that the extension does not modify the deadline for construction to begin that is November 14, 2015.

Chris O'Connor, representing Three Sisters, LLC, stated that the developer is currently busy with another development within the city and requested the extension until August 31, 2015 noting that they would meet the construction state deadline of November 14, 2015. She

stated that plans need to be developed then priced to determine if it would cash flow before platting, thus the extra time is requested. Discussion followed on the request.

101-15

Alderman Willson moved approval of extending the platting deadline for Three Sisters, LLC for Outlot A Smith-Quam Addition until August 31, 2015. Alderman Holland seconded the motion. Discussion followed noting the start of construction deadline shall remain at November 14, 2015. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

C. Resolution of sponsorship for Coyoteopoly - South Dakota Shakespeare Festival

John reported that Coyoteopoly and the USD College of Fine Arts in planning for the previous Shakespeare Festival they requested the City Council adopt a resolution of co-sponsorship. The City Council adopted a resolution of co-sponsorship for the previous events.

John noted that tonight's street closing along with other items will be included on the next couple agendas related to the third Shakespeare Festival planned for June 2015. John stated that the proposed resolution of co-sponsorship is very similar to what was adopted in previous years. He stated that the main purpose of the resolution is to designate the City as a civic co-sponsor of the Shakespeare Festival. John stated that the resolution does not obligate the City to complete any specific tasks and no direct financial support is tied to serving as a civic co-sponsor.

John stated that City staff has met with the leadership group planning the event. John stated that the proposed event is very similar to the prior year's Shakespeare Festival.

Tyler Reddington and Aaron Peterson representing Coyoteopoly were present to answer questions.

102-15

Alderman Holland moved approval of the Resolution for Co-Sponsorship of Coyoteopoly South Dakota Shakespeare Festival as presented and authorized the Mayor to sign. Alderman Erickson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

D. Request from Coyoteopoly - Shakespeare Festival to close E. Main Street from Plum Street through the Walker Street intersection during the performances on June 11-14 and limit E. Main Street parking

John Prescott, City Manager, reported that Coyoteopoly has submitted a request to close E. Main Street from Plum Street to Walker Street from 6:00 p.m. to 10:00 p.m. on June 11, 12, 13, and 14 2015 for the performance. John noted that they are also requesting to remove the on-street parking on E. Main Street along Prentis Park on June 8 - 14, 2015 to prohibit vehicles from parking next to the production area. John noted that the organization will man the street closing barricades to allow emergency vehicles access. Tyler Reddington and Aaron Peterson representing Coyoteopoly were present to answer questions.

103-15

Alderman Collier-Wise moved approval of the request of Coyoteopoly/South Dakota Shakespeare Festival to close E. Main Street from Plum Street to Walker Street on June 11, 12, 13, and 14 2015 from 6:00 p.m. to 10:00 p.m. and to remove parking on E. Main Street along Prentis Park on June 8 - 14, 2015. Alderman Price seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

E. Permit for consumption of alcohol in the Café Brule Furniture Zone Use permit area (Market Street sidewalk as it abuts the building at 24 W. Main)

John Prescott, City Manager, reported that Monica Iverson, on behalf of Café Brule, Inc., has applied for a sidewalk furniture zone use permit for Café Brule for six two person tables on the Market Street side of the restaurant. John stated that administration has approved the use of the sidewalk furniture zone use permit for food consumption, but the request was to also include alcohol. John stated that City ordinance provides that the City Council may permit the consumption of alcoholic beverages within the furniture use zone. John stated that the ordinance provides additional rules to governing alcoholic beverages in the furniture zone, one of which is that the hours of operation for the sale and consumption shall be noon to 10:00 p.m. The Police Chief has reported that there were no incidents during last year in this area. John reported that the application for furniture zone use permit, alcohol sales plan, certificate of insurance and the diagram of the area are included in the packet. Discussion followed noting the need to restrict sales on Dakota Days.

104-15

Alderman Erickson moved approval of the sale and consumption of alcoholic beverages in the Café Brule Furniture Zone Use permit area during the hours outlined in the ordinance being noon to 10:00 p.m.

but the sale and consumption will be restricted on Dakota Days. Alderman Holland seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

F. First Reading of Ordinance 1327 amending Chapter 118.16 (F) to expand hours of operation for the sale and consumption of alcoholic beverages in the furniture zone

John Prescott, City Manager, reported that Café Brule has submitted a request to begin alcohol sale and consumption hours at 7 a.m. vs. the current code start time of Noon. John noted that the request is included in the packet that stated they are interested in the ability to serve a mimosa to breakfast customer. John noted that the change would also be beneficial for early lunch customers. John reported that a change in City code would apply to all current and future furniture zones and not just the Cafe Brule furniture zone. John stated that Cafe Brule was issued the only furniture zone permit in 2014. John noted that the City Council still maintains the authority to approve or disapprove the sale and consumption of alcohol in a furniture zone. John stated that the Police Chief has reported no incidents with alcohol sales in the furniture zone area at Cafe Brule. John stated that the ordinance will amend section 118.16(F) to change the daily start time from noon to 7:00 a.m.

105-15

Mayor Powell read the title to the above mentioned Ordinance and Alderman Erickson moved adoption of the following Resolution:

BE IT RESOLVED that the minutes of this meeting shall show that the title to proposed Ordinance No. 1327 entitled An Ordinance Amending Title XI, Chapter 118, Section 1018.16(F) to expand hours of operation from the sale and consumption of alcoholic beverages in the furniture zone of the City of Vermillion, South Dakota has been read and the Ordinance has been considered for the first time in its present form and content at this meeting being a regularly called meeting of the Governing Body of the City on this 6th day of April, 2015 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Alderman Collier-Wise. After discussion, the question of adoption of the Resolution was put to a vote of the Governing Body and 9 members voted in favor of and 0 members voted in opposition to the motion. Mayor Powell declared the motion adopted.

G. Engineering agreement with Banner Associates for Prentis Avenue lift station assessment

Jason Anderson, Assistant City Engineer, reported that with the recent addition of North Norbeck Street between Roosevelt Street and E. Clark Street has provided access to a lot of development-ready ground east of Norbeck Street. Jason stated that, by the end of 2015, City staff is anticipating the addition of over 150 bedrooms of apartments east of North Norbeck Street.

Jason stated that the sanitary sewer collection system in this area is serviced by the Prentis Avenue lift station and due to the current growth in the area, City staff would like to assess the useful life of this lift station.

Jason stated that contact was made with Banner Associates expressing our concerns for this lift station. Jason reported that Banner has offered to provide an assessment of this lift station for a cost not to exceed \$14,000. Jason stated that the report will provide City staff with an analysis of the lift station's current condition, current capacity, and expected useful life. He stated that the report will also recommend options for future improvement and cost.

106-15

Alderman Collier-Wise moved approval of the professional services agreement with Banner Associates for the Prentis Avenue lift station assessment in an amount not to exceed \$14,000. Alderman Price seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

H. Grant funding agreement with Vermillion Basin Water Development District

Jason Anderson, Assistant City Engineer, reported that a grant request was made to the Vermillion Basin Waster Development District (VBWDD) for \$14,000 of aid in financing a water system leak detection survey and a wastewater lift station evaluation. The VBWDD at their March 18, 2015 meeting awarded the City \$7,000 to assist with the project of the City's choice. Jason stated that City staff felt the immediate necessity would be the Prentis Street lift station assessment. Jason stated that the VBWDD will reimburse the City up to \$7,000 for the cost of the project after expended by the City. Jason recommended approval of the grant agreement with VBWDD to perform the assessment for the Prentis Street lift station.

107-15

Alderman Collier-Wise moved approval of the grant funding agreement with the Vermillion Basin Water Development District for up to \$7,000 for the assessment for the Prentis Street lift station.

Alderman Holland seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

I. Declare Zoll E-Series Cardiac monitors and battery charger surplus property to be sold by sealed bids

Matt Callahan, EMS Division Chief, reported that with the purchase of new cardiac monitors for the ambulances last year we now have two Zoll E-Series cardiac monitors and one 4-bank battery charger that are no longer being used. Matt requested that the cardiac monitors and battery charger be declared surplus and appraised by the Surplus Property Appraisal Committee to be sold by sealed bids. Matt stated that they would advertise the surplus equipment with regional fire and EMS departments.

108-15

Alderman Willson moved approval of declaring the two Zoll E-Series cardiac monitors and one 4-bank battery charger as surplus and to authorize the appraisal by the Surplus Property Appraisal Committee to be sold by sealed bids. Alderman Erickson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

J. Tractor lease for Street and Solid Waste Departments with Fred Haar Company

Jason Anderson, Assistant City Engineer, reported that the City was approached by Fred Haar Company about leasing two tractors for eight months. Jason noted that the lease rate is zero for the first 250 hours and then \$95 per hour thereafter. Jason noted that we did not exceed the 250 hours on the leased equipment in prior years. Jason stated that the City is responsible for insurance and normal maintenance and repair during this lease. Jason stated that the lease is the same as last year and is included in the packet. Jason noted that the insurance cost is estimated at \$200 per tractor and maintenance would be required on City vehicles if used. Jason stated that the use of the leased equipment reduces the hours placed on the other vehicles in the City fleet. Discussion followed.

109-15

Alderman Willson moved approval of the lease agreement with Fred Haar Company for two tractors for up to eight months. Alderman Price seconded the motion. Discussion followed. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

K. Resolution adopting the City of Vermillion's Storm Drainage Design Criteria

Jose Dominguez, City Engineer, reported that in 2012 the City adopted a Subdivision Ordinance that required developers to provide storm water mitigation. Jose noted that at the time the ordinance was adopted the City did not have any form of storm drainage design criteria. Jose reported that the City completed a City wide drainage study in 2013 that recommended drainage design standards to be adopted by the City. Jose noted that the standards proposed were modified and have been followed by Staff as policy since 2014. Jose reported that these standards were presented to the Council at a noon meeting today. Jose stated that the proposed criteria will require all new multifamily, commercial, industrial and large scale single family developments to mitigate storm water generated by the development. Jose stated that the type of mitigation will vary depending on the existing lot conditions, size of development and on the amount of imperviousness.

110-15

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

RESOLUTION ADOPTING THE STORM DRAINAGE DESIGN CRITERIA

WHEREAS, on March 16, 2015 the City adopted the City of Vermillion's Storm Water Management Program, dated March 2015, as required by the Clean Water Act; and,

WHEREAS, this program required that the City adopt requirements in order to address storm water runoff and pollution created by developments; and,

WHEREAS, the City of Vermillion over the years has experienced localized flooding due to development not being required to mitigate any storm water generated on the site; and,

WHEREAS, the Storm Drainage Design Criteria will reduce localized flooding and minimize the amount of pollutants reaching the Vermillion River by requiring that some developers to construct facilities designed to mitigate storm water.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Vermillion, South Dakota that the City adopts as policy the City of Vermillion's Storm Drainage Design Criteria, dated April 2015.

Dated at Vermillion, South Dakota this 6th day of April, 2015.

THE GOVERNING BODY OF THE
CITY OF VERMILLION, SOUTH DAKOTA

By _____
John E. (Jack) Powell, Mayor

ATTEST:

By _____
Michael D. Carlson, Finance Officer

The motion was seconded by Alderman Price. 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 Powell declared that the Resolution was adopted.

L. 2015 - 2019 Capital Improvement Plan

John Prescott, City Manager, reported that in March the Capital Improvement Plan was updated for 2015 to 2019 and was presented to the City Council. John noted that funding may not be defined for each item at present but will be developed as the timeline moves closer. John stated that the Capital Improvement Plan has been developed for the last several years as a planning document to be used in developing the future budgets. John reviewed the projects being considered for 2016 that will be included in the 2016 budget later this summer.

111-14

Alderman Holland moved approval of the Capital Improvement Plan for 2015-2019 as presented. Alderman Willson seconded the motion. Discussion followed. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

9. Bid Openings

A. Market Street water tower demolition

Jason Anderson, Assistant City Engineer, reported that the new water tower was placed in service in August 2014. Jason noted that at the January 19, 2015 noon meeting information was presented to the City Council on options for the Market Street water tower demolition with the consensus to seek quotes and present them to the City Council. Jason stated that specifications were put together and sent to three potential contractors. Jason stated that two quotes were received on March 31st with the low quote from Iseler Demolition for \$18,848.

Sharon Gray, 32 Bloomingdale, stated that she is a representative of the Save the Water Tower Group and requested that the light fixture

on top of the water tower be saved for a future historic display about water towers in Vermillion. The Council requested that Jason contact the low bidder to determine the cost of salvaging the light fixture and the amount of additional cost if any of this request.

Bids: Iseler Demolition \$18,848.00, All Industrial Services \$41,307.00

112-15

Alderman Erickson moved approval of the low quote of Iseler Demolition of \$18,848.00 for demolition of the Market Street water tower with the condition that Jason make contact to determine the cost, if any, of the contractor salvaging the light fixture for the Save the Water Tower Group. Alderman Holland seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

B. Sale of a surplus golf course utility vehicle

Jason Anderson, Assistant City Engineer, reported that the 2005 Toro Workman 3200 utility vehicle was declared surplus on March 16, 2015 and appraised by the Surplus Property Committee at \$5,400. The bid opening was advertised regionally with a number of inquiries. No bids were received at the April 1, 2015 bid opening. Jason noted that contacts were made with those that had requested information about why they did not bid. Jason noted that a representative from the Bakker Crossing golf course with their partners GreatLIFE Malaska Golf & Fitness Club agreed to purchase the golf utility vehicle for \$5,400 but noted that they missed the deadline for bidding. Jason recommended that the City Council acknowledge that no bids were received but since the bid opening an offer was received and authorize the sale of the utility vehicle to GreatLIFE Malaska Golf & Fitness Club for \$5,400.

113-15

Alderman Erickson moved to acknowledge that no bids were received at the bid opening for the sale of the surplus 2005 Toro Workman 3200 utility vehicle but that an offer was received from GreatLIFE Malaska Golf & Fitness Club for \$5,400 since the bid opening that is being accepted for the sale. Alderman Price seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

C. Three phase electric transformers

Jason Anderson, Assistant City Engineer, reported that bids were opened for the annual supply of padmount transformers for the electric department. Jason reported that six bids were received from four bidders that were evaluated for operating losses over the

transformer life cycle to determine the low bidder. Jason recommended the low bid of RESCO bid one base of \$58,848, total evaluated price \$124,954.40.

Bidder: Border States Electric - Base Bid \$60,000, total evaluated price \$125,540.40; Wesco - Base Bid \$60,740, total evaluated price \$125,246.80; RESCO bid one - Base Bid \$58,848, total evaluated price \$124,954.40; RESCO bid two - Base Bid \$63,575, total evaluated price \$129,967.40; Stuart Irby bid one - Base Bid \$61,257, total evaluated price \$127,661.40; Stuart Irby bid two - Base Bid \$61,170, total evaluated price \$127,574.40

114-15

Alderman Erickson moved approval of the low total evaluated bid from RESCO bid one of \$124,954.40 with an initials purchase price of \$58,848 for padmount transformers. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

D. Fuel Quotes

Mike Carlson, Finance Officer, read the monthly fuel quotes and recommended the low quote of Stern Oil on all items.

Item 1 - 4,350 gal unleaded 10% ethanol: Stern Oil \$2.0743, Brunick's Service \$2.10; Item 2 - 1,000 gal unleaded: Stern Oil \$2.22, Brunick's Service \$2.28; Item 3 - 3,000 gal No. 2 Diesel fuel dyed: Stern Oil \$1.88095, Brunick's Service \$1.98; Item 4 - 1,000 gal No. 2 diesel fuel-clear: Stern Oil \$2.1774, Brunick's Service \$2.20

115-15

Alderman Price moved approval of the low quote of Stern Oil on all four items. Alderman Ward seconded the motion. Discussion followed. Motion carried 9 to 0. President Willson declared the motion adopted.

10. City Manager's Report

A. John reported on the following raffle notifications received:

Delta Sigma Phi will be selling \$2 raffle tickets during their banquet on April 11, 2015. There will be a series of donated raffle prizes available. Top prize is estimated to be worth \$400. Proceeds from the raffle go to the Backpack program of Vermillion.

Coyoteopoly will be selling \$1 tickets during the productions on June 11, 12, 13 and 14. It is a 50/50 drawing where the winner each night gets half and the balance goes to support the Festival

B. John reported that fire hydrant flushing will take place the week of April 13th.

C. John reminded the City Council members that the Consolidated Board of Equalization meets on April 14th at 1:00 p.m.

D. John reported that included with the packet was information on the sanitary sewer rate. John noted that, if there is an adjustment needed to meet the budget requirements, this meeting is when Council typically takes action. John stated that a change in the percentage is not needed with the Sanitary Sewer rate remaining at 126% of the average water billing for January, February and March.

PAYROLL ADDITIONS AND CHANGES

Finance: Danell Kindt \$20.78/hr; Police Admin: Megan Anthony \$11.77/hr; Recreation: Matt Ouellette \$8.50/hr; Golf Clubhouse: Paul Bernard \$8.50/hr, Josh Gaikowski \$8.50/hr, Kyleigh Moran \$8.50/hr, Jake Schneider \$8.50/hr, Kayla Stammer \$8.50/hr; Golf Maintenance: Michael Butler \$8.75/hr, Madilyn Myers \$8.50/hr, Kyle Ringhofer \$8.50/hr, Hunter Serfoss \$8.50/hr, Kole Vogt \$8.50/hr; Wastewater: Ryan Hage \$9.00/hr; Landfill: Barry Braatan \$17.53/hr, Tim Taggart \$20.51/hr

11. Invoices Payable

116-15

Alderman Ward moved approval of the following invoices:

Americinn	lodging	85.00
Andy Colvin	meals reimbursement	26.00
Animal Care Equipment & Svc	supplies	149.46
Antigua Group, Inc	merchandise	1,450.70
Apex Equipment, Llc	repairs	2,305.20
Applied Concepts, Inc	repairs	108.10
Aramark Uniform Services	uniform cleaning	134.64
Argus Leader Media #1085	subscription	52.00
Arizona Mfg & Embroidery	merchandise	287.91
Arrow International, Inc	supplies	1,248.06
Ashley Brunick	test reimbursement	100.00
Automated Drive Systems	maintenance	3,250.00
Automatic Building Control	inspection	2,109.00

AWWA	membership	356.00
Baker & Taylor Books	books	587.17
Banner Associates, Inc	professional services	1,800.84
Benjamin Nelsen	meals reimbursement	130.00
Bierschbach Eqpt & Supply	supplies	537.42
Bomgaars	supplies	14.95
Border States Elec Supply	supplies	501.98
Bound Tree Medical, LLC	supplies	603.66
Bow Creek Metal Inc	supplies	118.00
Boyer Ford Trucks	repairs	312.57
Brightway Electric, LLC	install load mgmt	25.00
Broadcaster Press	advertising	98.00
Brown Traffic Products	supplies	3,385.00
Burns & Mcdonnell	professional services	1,223.89
Butler Machinery Co.	parts	389.21
Callaway Golf	merchandise	2,097.24
Campbell Supply	supplies	1,221.11
Cask & Cork	merchandise	1,548.65
Center Point Large Print	books	53.14
Central States Wire Products	supplies	1,771.50
Century Business Leasing	copier contract	138.25
Century Business Products	copies	180.22
Centurylink	telephone	743.16
Certified Laboratories	supplies	465.55
Chemco, Inc	supplies	415.86
Chesterman Co	merchandise	506.31
City Of Sioux Falls	testing	30.00
City Of Vermillion	copies/postage	1,205.53
City Of Vermillion	utility bills	37,251.48
Civil Air Patrol Magazine	subscription	145.00
Class C Solutions Group	supplies	1,129.77
Clay Co Director Of Equalization	Pictometry	4,821.22
Clay County EMS Association	CPR cards	112.00
Clay-Union Electric Corp	One Call breakfast	106.64
Climate Systems, Inc	parts	61.63
Coffee King, Inc	supplies	62.75
Colonial Life Acc Ins.	insurance	3,215.16
Coyote Rentals	water heater/wiring rebate	340.00
Coyote Sports Properties	advertising	1,500.00
D-P Tools	supplies	32.95
Dakota Beverage	merchandise	15,255.98
Dakota PC Warehouse	supplies	705.93
Dan Goeden	safety glasses reimbursement	150.00

Danko Emergency Equipment	supplies	949.63
Dave Roetman	water heater/wiring rebate	200.00
Debra Gapp	rec fee refund	25.00
Delta Dental Plan	insurance	6,413.46
Dennis Martens	maintenance	833.34
Dept Of Revenue	testing	202.00
Dept Of Veterans Affairs	refund ambulance overpayment	1,301.60
DGR Engineering	professional services	1,053.00
Duane Fulk	safety boots reimbursement	100.00
Dust Tex	mats	120.00
Earthgrains Baking Co's Inc	supplies	31.68
Echo Electric Supply	supplies	4,048.42
Electric Pump, Inc	repairs	26,382.00
Electronic Engineering	parts	977.00
Elliott Equipment Co	supplies	335.00
Energy Laboratories	professional services	1,220.00
Eric Birkeland	travel/books reimbursement	388.99
Farmer Brothers Co.	supplies	179.49
Fastenal Company	supplies	18.94
Fireguard Inc	supplies	440.33
Flags Unlimited	flags	458.88
Foreman Media	council mtg	100.00
Frontier Precision, Inc	maintenance	325.00
Gale	books	23.99
Gemplers Inc	supplies	615.45
Graham Tire Co.	tires	702.30
Graybar Electric	supplies	83.86
Gregg Peters	freight	1,989.60
Gregg Peters	rent	937.50
Hach Co	supplies	75.89
Hansen Locksmithing	repairs	72.50
Harland Technology Service	maintenance	1,738.00
Hartington Tree LLC	tree trimming/removal	2,150.00
HD Supply Waterworks	supplies	1,743.94
Helms & Associates	professional services	10,446.93
Herren-Schempp Building	supplies	168.96
Hillyard Floor Care Supply	supplies	315.96
Hook-Fast Specialties, Inc	badges/award pins	2,657.36
Hornungs Pro Golf	merchandise	202.89
Hy Vee Food Store	supplies	72.13
Independence Waste	waste hauling	924.75
Ingram	books	1,841.09
International Code Council	dues	125.00

Interstate All Battery Center	batteries	2,499.00
Intl Assoc. Of Chiefs Of Police	registration	2,715.15
Isaac Voss	gym membership reimbursement	175.00
Istate Truck Center	parts	586.61
Jacks Uniform & Eqpt	uniforms	451.70
Jacy Nelsen	meals reimbursement	130.00
Jerry's Chevrolet Buick GM	parts	23.50
John A Conkling Dist.	merchandise	11,978.56
John Prescott	meals reimbursement	22.00
Johnson Brothers Famous Brands	merchandise	34,046.38
Johnstone Supply	supplies	659.98
Jones Food Center	supplies	1,706.24
Jose Dominguez	meals reimbursement	33.00
Karsten Mfg Corp	merchandise	1,501.35
Komline-Sanderson	supplies	49.00
Lake Region Contracting, Inc	haul snow	339.20
Lawson Products Inc	supplies	261.61
Laynes World	supplies	106.17
Leisure Lawn Care	treatments	607.26
Lessman Elec. Supply Co	supplies	2,015.00
Lincoln Republic Insurance	insurance	489.78
Locators And Supplies, Inc	supplies	202.55
Logo Golf Chips, Inc	merchandise	194.00
LP Gill, Inc	tire disposal	862.00
Ludens Inc	repairs	360.00
Malloy Electric	parts	1,773.24
Mark Koller	meals reimbursement	26.00
Mart Auto Body	towing	575.00
Marty Gilbertson	boiler system	3,145.00
Matheson Tri-Gas, Inc	oxygen	202.88
McCulloch Law Office	professional services	1,575.00
Mead Lumber	supplies	68.34
Medical Waste Transport, Inc	disposal of medical waste	221.92
Micro Marketing LLC	books	75.00
Midwest Alarm Co	alarm monitoring/CCTV system	12,517.49
Midwest Building Maintenance	mat svc	641.40
Midwest Turf & Irrigation	parts	1,936.67
Mizuno USA, Inc	merchandise	519.28
Monty Munkvold	meals reimbursement	26.00
Moore Welding & Mfg	supplies	140.00
Natl Golf Foundation	membership	225.00
Natl Pen Corporation	supplies	220.46
Ncl Of Wisconsin, Inc	supplies	398.17

Netsys+	professional serv/processor	3,285.50
New York Life	insurance	84.02
Newman Traffic Signs	supplies	317.11
Nike Inc	merchandise	2,863.05
Noridian	refund ambulance overpayment	316.14
Northern Truck Eqpt Corp	parts	118.08
Office Systems Co	maintenance	434.86
Otis Elevator Company	repairs	1,386.65
Paul Carnes	professional services	450.00
Pauls Plumbing	supplies	66.36
PCC, Inc	commission	5,070.27
Penguin Random House LLC	books	75.00
Penworthy Company	books	1,367.86
Pete Lien & Sons, Inc	chemicals	4,205.35
Pitney Bowes	postage meter lease	289.71
Pomps Tire Service, Inc.	tires	580.00
Potomac Aviation Technology	repairs	818.83
Prairie Berry Winery	merchandise	840.00
Pressing Matters	supplies	107.00
Presto-X-Company	inspection/treatment	49.86
Print Source	supplies	330.00
Pump N Pak	fuel	36.74
Quality Books Inc.	books	14.07
Queen City Wholesale	merchandise	519.02
Quill	supplies	2,002.49
Racom Corporation	maintenance	637.85
Rasmussen Mechanical Service	repairs	8,000.00
Recorded Books, Inc	books	181.20
Reinhart Foodservice, LLC	supplies	1,011.31
Reliable Towing & Roadside	towing	95.00
Republic National Dist.	merchandise	22,442.05
RESCO	parts	1,070.00
Richard Draper	business cards	28.97
Road King, Inc	supplies	270.18
Ron Maher	safety boots reimbursement	100.00
Sanford Health Plan	participation fees	57.00
Sanford Patient Financial	testing	35.00
Sanitation Products	parts	408.36
SD Assoc. Of Code Enforcement	registration	50.00
SD Building Officials Assoc	registration	150.00
SD City Mgmt Association	registration	70.00
SD Fire Chiefs Association	registration	650.00
SD Retirement System	contributions	51,372.94

SDWWA	registration	140.00
Servall Towel & Linen	shop towels	29.40
Sherwin-Williams	paint	52.45
Sioux City Foundry Co	supplies	551.25
Siouxland Humane Society	fees	37.00
Sooland Bobcat	parts	44.20
State Hygienic Laboratory	testing	186.00
Stern Oil Co.	supplies	399.28
Stewart Oil-Tire Co	tires	153.95
Strawbale Winery	merchandise	552.00
Stuart C. Irby Co.	supplies	2,766.17
Sturdevants Auto Parts	parts	2,064.47
Susan Davis	books	15.00
Tapco	maintenance	2,286.60
Taylor Made	merchandise	3,876.17
Thatcher Company	soda ash	6,787.44
The Equalizer	advertising	150.75
The Walking Billboard	uniform shirts	229.90
Tigert Art Gallery	framing	180.00
Titleist Drawer Cs	merchandise	13,529.35
Tom Kruse	reimbursement	7.90
Total Flooring	repairs	377.54
Tri County Propane Inc	propane	2,224.67
Tri Tech Sales	parts	505.88
True Fabrications	merchandise	327.17
True Value	supplies	503.07
Turner Conservation Dist.	supplies	445.40
Twin City Hardware	repairs	1,879.00
Tyler Williamson	safety boots reimbursement	100.00
Ultramax	supplies	2,214.49
United Laboratories	supplies	665.46
United Parcel Service	shipping	45.20
United Way	contributions	549.50
USA Bluebook	supplies	152.91
Valarie Hower	test reimbursement	70.00
Verizon Wireless	wireless communication	2,252.48
Vermillion Ace Hardware	supplies	958.08
Vermillion Area Arts Council	grant funding	345.58
Vermillion Area Dance Org	registration fees	8.93
Vermillion Chamber Of Commerce	ticket/contribution	50,040.00
Vermillion Fastpitch Softball	registration fees	3,273.83
Vermillion Youth Baseball	registration fees	2,436.89
VGSA	online registration	4,422.06

VGSA	silver sponsorship	250.00
Visa/First Bank & Trust	fuel/lodging/supplies	8,613.48
Wal-Mart Community	supplies	445.46
Walt's Homestyle Foods, Inc	supplies	137.40
Water Rights Program, DENR	future use water permit	215.00
Wellmark BCBS	refund ambulance overpayment	541.44
Wesco Distribution, Inc	supplies	8,873.63
Wigman Co	parts	258.51
Willson Florist	arrangements	88.11
Wow! Business	911 circuit	1,365.50
Yankton Janitorial Supply	supplies	167.95
Zee Medical Service	supplies	404.65
Zep Sales & Service	supplies	499.00
Dennis Acrea	Bright Energy rebate	25.00
Jones Food Center	Bright Energy rebate	100.00
Vermillion Ace Hardware	Bright Energy rebate	2,520.00
William D Richardson	Bright Energy rebate	500.00

Alderman Erickson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

12. Consensus Agenda

A. Set a bid opening date of April 15, 2015 for the 2015 Cottage Avenue water reconstruction project.

B. Set a public hearing date of April 20, 2015 for a special permit to exceed permissible sound levels by no more than 50% for Coyoteopoly and South Dakota Shakespeare Festival in the band shell area of Prentis Park from June 8 through June 14, 2015 from 6:00 p.m. to 10:00 p.m. for Shakespeare festival performances.

C. Set of public hearing date of April 20, 2015 for a special daily malt beverage and wine license for the Clay County Agricultural Fair Association, Inc on or about May 1, 2015 at the Clay County Fairgrounds west arena.

D. Set a bid opening date of 2:00 p.m. April 30, 2015 for sale of surplus cardiac monitors and battery charger.

E. Set a public hearing date of April 20, 2015 for a special permit to exceed permissible sound levels by no more than 50% for Vermillion Area Chamber of Commerce and Development Company on Ratingen Platz and half block of Market Street south of Main Street on April 23, July 9, July 23, August 6, August 20, September 3, September 10 and

September 17 from 5:30 p.m. to 8:00 p.m. for Earth Day Activities and Thursdays on the Platz.

F. Set of public hearing date of April 20, 2015 for a special daily malt beverage and wine license for the Vermillion Area Chamber of Commerce and Development Company on Ratingen Platz and half block of Market Street south of Main Street on April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17 from 5:30 p.m. to 8:00 p.m. for Thursdays on the Platz.

G. Set a public hearing date of April 20, 2015 for a retail on-off sale malt beverage license with video lottery for Bunyan's LLC for Bunyan's at 1201 West Main Suite 106 for July 1, 2015 to June 30, 2016.

117-15

Alderman Collier-Wise moved approval of the consensus agenda. Alderman Ward seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

13. Adjourn

118-15

Alderman Ward moved to adjourn the Council Meeting at 9:32 p.m. Alderman Price seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 6th day of April, 2015.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
John E. (Jack) Powell,

Mayor

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

Published once at the approximate cost of _____.

PROCLAMATION
Recognizing Earth Day 2015

WHEREAS, the global community now faces challenges, such as global health issues, food and water shortages, and economic struggles; and

WHEREAS, all people, regardless of race, gender, income, or geography, want a healthy, sustainable environment with economic growth; and

WHEREAS, it is understood that the citizens of the global community must take action to create a green economy to combat the aforementioned global challenges; and

WHEREAS, Citizens throughout the United States and around the world will observe the 45th Anniversary of Earth Day on April 22nd, 2015; and

WHEREAS, Earth Day is an International event observed by more than 1 billion people in more than 190 countries spanning every continent that promotes environmental awareness and emphasizes the limitless possibilities for all people to care for our land, air, and rivers; and

NOW THEREFORE, we, the Governing Body of the City of Vermillion, call upon the citizens of Vermillion to celebrate Earth Day and share in the natural beauty of our region and protect it for the health and prosperity of today and the future.

Dated at Vermillion, South Dakota this 20th day of April, 2015.

FOR THE GOVERNING BODY OF THE
CITY OF VERMILLION, SOUTH DAKOTA

By _____
John E. (Jack) Powell, Mayor

ATTEST:

By _____
Michael D. Carlson, Finance Officer

Council Agenda Memo

From: Mike Carlson, Finance Officer

Meeting: April 20, 2015

Subject: Special Permit to Exceed Permissible Sound Levels by No More than 50% for Coyoteopoly and the South Dakota Shakespeare Festival in the Band Shell Area of Prentis Park on June 8-14, 2015 from 6:00 p.m. to 10:00 p.m. for the Shakespeare Festival

Presenter: Mike Carlson

Background: Scott Mollman, on behalf of Coyoteopoly and the South Dakota Shakespeare Festival, has applied for a special permit to exceed allowable noise levels for the Shakespeare Festival on June 8-14, 2015 from 6:00 p.m. until 10:00 p.m. in the band shell area of Prentis Park. Included is a copy of the application and published notice of the hearing.

The city noise ordinance is as follows:

Sec. 90.01. Noises prohibited.

- (a) General prohibitions: In addition to the specific prohibitions outlined below, it shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unusual noise so as to disturb the peace of the public, any neighborhood, any business operation, family, lawful assembly of persons, or any person by committing any act or acts of disturbance within the limits of the City of Vermillion.
- (b) The following acts are declared to be in violation of this chapter.
 - 1) Sound equipment prohibited: Except for emergency vehicles, it shall be unlawful for any person to operate or cause to be operated upon the streets or public places in the city a sound truck or car with sound amplification equipment in operation. "Sound truck" as used herein means any vehicle having thereon or attached thereto any sound amplification equipment. "Sound amplification equipment" as used herein means any machine or device for the amplification of the human voice, music or other sound, but shall not include radio or warning devices on vehicles used for traffic warning or control purposes.
 - 2) Stereos, radios, television sets, musical instruments and similar devices:
 - a. Using, operating or permitting the use or operation of any stereo, radio, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except as provided for in paragraph (1) above, in such a manner as to violate this section or cause a noise disturbance.
 - b. The operating of any such device between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle parked on a public right-of-way or when operated from within a private residence.

6. Public Hearing; item a

- 3) Maximum permissible sound levels: It shall be unlawful for any person to operate or permit the operation of any stationary source of sound in such a manner as to create a sound pressure level during any ten-minute measurement period which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise. Sound level measurements shall be made at a distance of fifty (50) feet from source with a sound level meter of type 2 or better, using the "A" weighting scale, in accordance with standards promulgated by the American National Standards Institute.

Use District	11:00 p.m.-6:00 a.m.	6:00 a.m.-11:00 p.m.
Residential	50 dB(A)	55dB(A)
Commercial	55 dB(A)	60dB(A)
Industrial & Agricultural	75 dB(A)	80dB(A)

- (c) It shall be a violation of this section if the sound which is measured creates a sound pressure level greater than the levels set forth for the receiving land use district for ninety (90) per cent of the time in any measurement period, such as the level exceeded for nine (9) minutes of a ten-minute period.
- (d) Special Permit The City Council may, following a Public Hearing, issue a Special Permit to exceed allowable sound levels by not more than 50% of the allowable limit within the Use District, in a suitable location with appropriate facilities, during the allowable time. It shall be required of any applicant for a Special Permit to demonstrate that the event for which the permit is requested be of public benefit. An applicant shall submit a diagram clearly showing the sound level projections beginning at a point fifty (50) feet from the source, and continuing out through a radius of two hundred (200) feet from the source. Application for a Special Permit shall be made with the City Finance Officer, and shall be accompanied with an application fee of \$25.00. Application for a Special Permit shall be completed no later than 30 days prior to the proposed event, and it shall contain all applicable information relative to the nature and purpose of the event. (Ord. No. 1100, 10-1-01)
- (e) Semi-tractors; prohibited noises: It shall be unlawful for any person within the city limits of Vermillion, to make, or cause to be made, loud or disturbing or offensive noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor, except for the aversion of imminent danger. (Ord. No. 1102, 10-15-01)

Violation: Any person violating any provision of this section may be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Discussion: As the diagram indicates, the band shell will serve as the stage with the speakers facing out from the band shell. The sound level projections are indicated on the attached map noting that the sound levels will not be above the 150% in the audience area and drop off outside this area. It should be noted the request is from June 8 – 14 while the actual event is June 11 – 14. The performers will be rehearsing on June 8 - 10 and there will be some testing of the sound equipment during the rehearsal days.

Staff is not aware of any problems related to the issuance of the noise permit in previous years.

The City Council will need to determine, at the public hearing, if the event is in a suitable location with appropriate facilities during the allowable time, and if the applicant can demonstrate the public benefit of the event. Relevant questions for a public gathering

when a noise permit is sought are the availability of restroom facilities, clean-up of the area, parking and disposal of waste.

Representatives from Coyoteopoly will be present to answer questions on the event.

Financial Consideration: The \$25 fee for the special permit has been paid.

Conclusion/Recommendations: Administration recommends issuance of the special permit unless information is presented at the public hearing that indicates that there will be problems related to the noise.

NOTICE OF PUBLIC HEARING FOR SPECIAL PERMIT
TO EXCEED ALLOWABLE SOUND LEVELS

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 20th day of April, 2015 at the hour of 7:00 P.M. at the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following application for a special permit to exceed allowable sound levels between Monday, June 8th through Sunday, June 14, 2015 between the hours of 6:00 p.m. and 10:00 p.m. which has been filed in the Finance Officer's Office:

Coyoteopoly and South Dakota Shakespeare Festival request for a special permit to exceed allowable sound levels in the band shell area of Prentis Park between Monday, June 8, through Sunday, June 14, 2015, from 6:00 p.m. to 10:00 p.m. for Shakespeare festival performances.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application for special permit.

Dated at Vermillion, South Dakota this 3rd day of April, 2015.

Michael D. Carlson, Finance Officer

Publish: April 10, 2015

Published once at the approximate cost of _____.

**REQUEST FOR SPECIAL PERMIT
TO EXCEED PERMISSIBLE SOUND LEVELS
BY NO MORE THAN 50%
OF CITY NOISE ORDINANCE**

This application shall be completed no later than thirty (30) days prior to the proposed event and shall contain all applicable information relative to the nature and purpose of the event.

Organization Requesting Coyoteopoly and South Dakota Shakespeare Festival

Contact Person Scott Mollman Phone 605-677-5738

Contact Person Address Scott Mollman

Location of Event Prentis Park Date of Event June 8th-^{14th}~~15th~~ 2015

Duration of event from time 6:00 PM to Time 10:00 PM

The ordinance asks if this is a suitable location with appropriate facilities:

Yes

The ordinance asks the applicant to demonstrate that the event for which the permit is requested be of public benefit. Describe the public benefit:

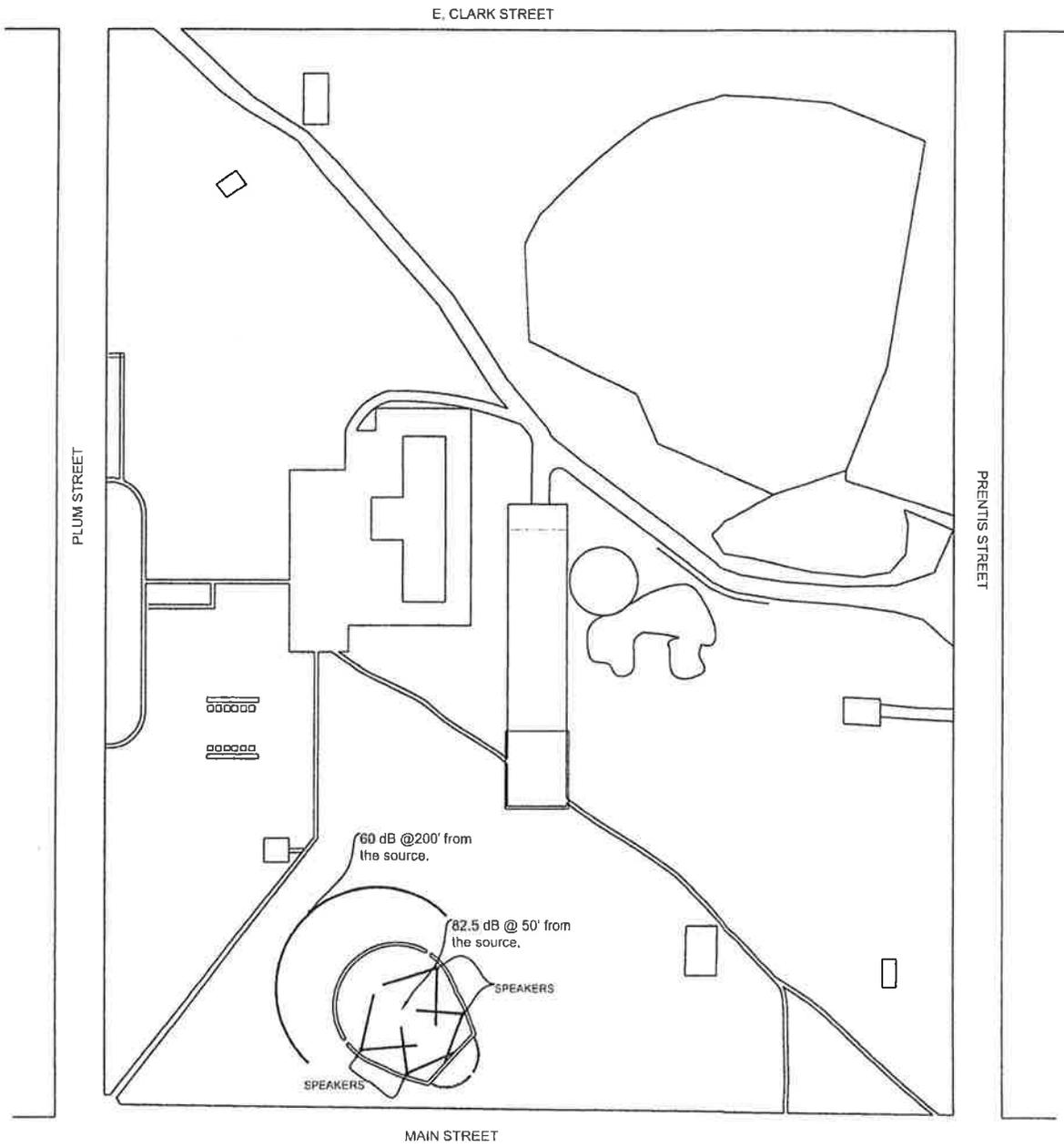
The Shakespeare Festival will mount a production free for the public the evenings of June 11-14th in Prentis Park.
This is an opportunity for the community to learn about the Fine Arts and to be exposed to the arts in this cultural community uniting event.
Load-in and nightly rehearsals will begin in the park June 8th with performances June 11-14th 2015.

Please attach a diagram clearly showing the sound level projections beginning at a point fifty (50) feet from the source, and continuing out through a radius of two hundred (200) feet from the source.

File this application along with the diagram with the finance officer accompanied with an application fee of \$25.00.

Signature of applicant *Aaron Peterson* date 3-20-15
Aaron Peterson

PRENTIS PARK
SOUTH DAKOTA SHAKESPEARE FESTIVAL & COYOTEOPOLY



-INSIDE THE AUDIENCE AREA WE WILL NOT HAVE
dB LEVELS ABOVE 82.5 DECIBELS OUTSIDE THE
GROVE AREA LEVELS WILL DROP OFF.

Council Agenda Memo

From: Mike Carlson, Finance Officer

Meeting: April 20, 2015

Subject: Special Daily Malt Beverage and Wine License for the Clay County Agricultural Fair Association, Inc. on or about May 1, 2015 at the Clay County Fair Grounds

Presenter: Mike Carlson

Background: The Clay County Agricultural Fair Association, Inc. has submitted an application for a special daily malt beverage and wine license for a spring Demo Derby on May 1, 2015. There will be a beer garden in the arena for the Demolition Derby on Friday, May 1. City Code for special licenses is as follows:

§112.18 Special Alcoholic Beverage Licenses Issued In Conjunction With Special Events.

- (A) The City Council may grant, after public hearing, a special on-sale malt beverage and/or a special on-sale wine license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event.
- (B) The City Council may grant, after public hearing, a special off-sale package wine dealers license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL Ch. 35-12.
- (C) Any license issued pursuant to this section shall be issued to the person and the location specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the municipality. However, no period of time may exceed 15 consecutive days. The granting of the special license shall be subject to such conditions and restrictions as the City Council may deem appropriate and consistent with state law.
- (D) The fee for such special licenses shall be set by resolution of the City Council.

State Statute for the special daily licenses is as follows:

35-4-124. Special alcoholic beverage licenses issued in conjunction with special events. Any municipality or county may issue:

- (1) A special malt beverage retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;
- (2) A special on-sale wine retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or

any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;

- (3) A special on-sale license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
- (4) A special off-sale package wine dealers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

Any license issued pursuant to this section may be issued for a period of time established by the municipality or county. However, no period of time may exceed fifteen consecutive days. No public hearing is required for the issuance of a license pursuant to this section if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or county or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year.

Jessica Kennedy representing the Fair Board will be present to answer any questions.

Discussion: The notice of public hearing and the report from the Police Chief are attached.

Financial Consideration: The City has received the \$15 per day licensing fee and the \$15 advertising fee from the applicant for a sum total of \$30.

Conclusion/Recommendations: Administration recommends approving the issuance of the special daily malt beverage and wine license for May 1, 2015 unless additional information is provided at the public hearing.

City of Vermillion
Police Department
15 Washington Street
Vermillion, SD 57069
Phone: (605)677-7070
FAX: (605)677-7166
www.vermillionpd.org



To: Vermillion City Council

Date: 04/03/2015

From: Matthew Betzen
Chief of Police

Subject: Clay County Agricultural Fair Assoc., Clay County Fair Alcohol License for May 1.

I have reviewed the application for the "Special Daily License (On-Sale) Malt Beverage and Wine License" submitted by the Clay County Agricultural Fair Association, Inc. for service at the Clay County Fairgrounds, west arena, on May 1, 2015.

A check of department records does not reveal any felonies for the applicants. Additionally, this is an annual event and there are no records regarding behavior in the past that would cause me hesitation in supporting this application.

NOTICE OF PUBLIC HEARING OF APPLICATIONS
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 20th day of April, 2015 at the hour of 7:00 P.M. in the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following application for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Special Daily License (On-Sale) Malt Beverage and Wine License:

Vermillion Area Chamber & Development Company, Inc on or about April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17 on Ratingen Platz and half block of Market Street south of Main Street for Thursdays on the Platz.

Clay County Agricultural Fair Association, Inc on or about May 1, 2015 at the Clay County Fair Grounds west arena.

Retail On-Off Sale Malt Beverage with Video Lottery for July 1, 2015 to June 30, 2016:

Bunyan's LLC for Bunyan's at 1201 W. Main Street Suite 106.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 3rd day of April, 2015.

Michael D. Carlson, Finance Officer

Publish: April 10, 2015

Published once at the approximate cost of _____.

Council Agenda Memo

From: Mike Carlson, Finance Officer

Meeting: April 20, 2015

Subject: Special permit to exceed permissible sound levels by no more than 50% for Vermillion Area Chamber of Commerce and Development Company on Ratingen Platz and half block of Market Street south of Main Street on July 9, July 23, August 6, August 20, September 3, September 10 and September 17 from 5:30 p.m. to 8:00 p.m. for Thursdays on the Platz and on April 23 from 4:00 p.m. to 7:00 p.m. for Earth Day Activities.

Presenter: Mike Carlson

Background: The VCDC has applied for a special permit to exceed allowable noise levels for a concert and public gathering on April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17, 2015, held at Ratingen Platz (corner of W. Main Street and Market Street) for Earth Day Activities and Thursdays on the Platz. A copy of the application and a map of the area are attached. September 10 and 17 are proposed as rain dates if an earlier event is postponed.

The special daily malt beverage and wine license for the event was applied for by the Vermillion Area Chamber of Commerce & Development Company and there is a request to close a portion of Market Street later on the agenda. The events are free and open to the public.

The city noise ordinance is as follows:

Sec. 90.01. Noises prohibited.

(A)General prohibitions: In addition to the specific prohibitions outlined below, it shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unusual noise so as to disturb the peace of the public, any neighborhood, any business operation, family, lawful assembly of persons, or any person by committing any act or acts of disturbance within the limits of the City of Vermillion.

(B)The following acts are declared to be in violation of this chapter.

- 1) Sound equipment prohibited: Except for emergency vehicles, it shall be unlawful for any person to operate or cause to be operated upon the streets or public places in the city a sound truck or car with sound amplification equipment in operation. "Sound truck" as used herein means any vehicle having thereon or attached thereto any sound amplification equipment. "Sound amplification equipment" as used herein means any machine or device for the

amplification of the human voice, music or other sound, but shall not include radio or warning devices on vehicles used for traffic warning or control purposes.

- 2) Stereos, radios, television sets, musical instruments and similar devices:
 - a. Using, operating or permitting the use or operation of any stereo, radio, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except as provided for in paragraph (1) above, in such a manner as to violate this section or cause a noise disturbance.
 - b. The operating of any such device between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle parked on a public right-of-way or when operated from within a private residence.

- 3) Maximum permissible sound levels: It shall be unlawful for any person to operate or permit the operation of any stationary source of sound in such a manner as to create a sound pressure level during any ten-minute measurement period which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise. Sound level measurements shall be made at a distance of fifty (50) feet from source with a sound level meter of type 2 or better, using the "A" weighting scale, in accordance with standards promulgated by the American National Standards Institute.

Use District	11:00 p.m.-6-00 a.m.	6-00 a.m.-11:00 p.m.
Residential	50 dB(A)	55dB(A)
Commercial	55 dB(A)	60dB(A)
Industrial & Agricultural	75 dB(A)	80dB(A)

- (C) It shall be a violation of this section if the sound which is measured creates a sound pressure level greater than the levels set forth for the receiving land use district for ninety (90) per cent of the time in any measurement period, such as the level exceeded for nine (9) minutes of a ten-minute period.
- (D) Special Permit - The City Council may, following a Public Hearing, issue a Special Permit to exceed allowable sound levels by not more than 50% of the allowable limit within the Use District, in a suitable location with appropriate facilities, during the allowable time. It shall be required of any applicant for a Special Permit to demonstrate that the event for which the permit is requested be of public benefit. An applicant shall submit a diagram clearly showing the sound level projections beginning at a point fifty (50) feet from the source, and continuing out through a radius of two hundred (200) feet from the source. Application for a Special Permit shall be made with the City Finance Officer, and shall be accompanied with an application fee of \$25.00. Application for a Special Permit shall be completed no later than 30 days prior to the proposed event, and it shall contain all applicable information relative to the nature and purpose of the event. (Ord. No. 1100, 10-1-01)
- (E) Semi-tractors; prohibited noises: It shall be unlawful for any person within the city limits of Vermillion, to make, or cause to be made, loud or disturbing or offensive noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor, except for the aversion of imminent danger. (Ord. No. 1102, 10-15-01)

Discussion: The events are being sponsored by Thursdays on the Platz and the VCDC to encourage the community to gather downtown on Thursday nights and will showcase Ratingen Platz. This year Thursdays on the Platz will again include the Earth Day event on April 23.

The City Council will need to determine, at the public hearing, if it is in a suitable location with appropriate facilities, during the allowable time and if the applicant can demonstrate the public benefit of the event. Relevant questions for a public gathering, when a noise permit is sought, include the availability of restroom facilities; clean up of the area, and disposal of waste. City staff is not aware of any noise related problems with Thursdays on the Platz events of the last couple of years.

Financial Consideration: The VCDC has paid the \$25 fee for the special noise permit.

Conclusion/Recommendations: Administration recommends issuance of the special permit, unless information is presented at the public hearing that indicates that there are problems related to the noise.

**REQUEST FOR SPECIAL PERMIT
TO EXCEED PERMISSIBLE SOUND LEVELS
BY NO MORE THAN 50%
OF CITY NOISE ORDINANCE**

This application shall be completed no later than thirty (30) days prior to the proposed event and shall contain all applicable information relative to the nature and purpose of the event.

Organization Requesting Vermillion Area Chamber and Development Company

Contact Person James Caraway Phone (605)624-5571

Contact Person Address 116 Market Street, Vermillion SD

Location of Event Ratingen Platz Date of Event 4/23, 7/9, 7/23, 8/6, 8/20, 9/3,

Duration of event from time 5:30 PM to Time 8:00 PM

9/10, 9/17*

The ordinance asks if this is a suitable location with appropriate facilities:

Yes

The ordinance asks the applicant to demonstrate that the event for which the permit is requested be of public benefit. Describe the public benefit:

This is a family-friendly event featuring live music and food. The event seeks to provide entertainment and activities for all ages during the summer months.

Please attach a diagram clearly showing the sound level projections beginning at a point fifty (50) feet from the source, and continuing out through a radius of two hundred (200) feet from the source.

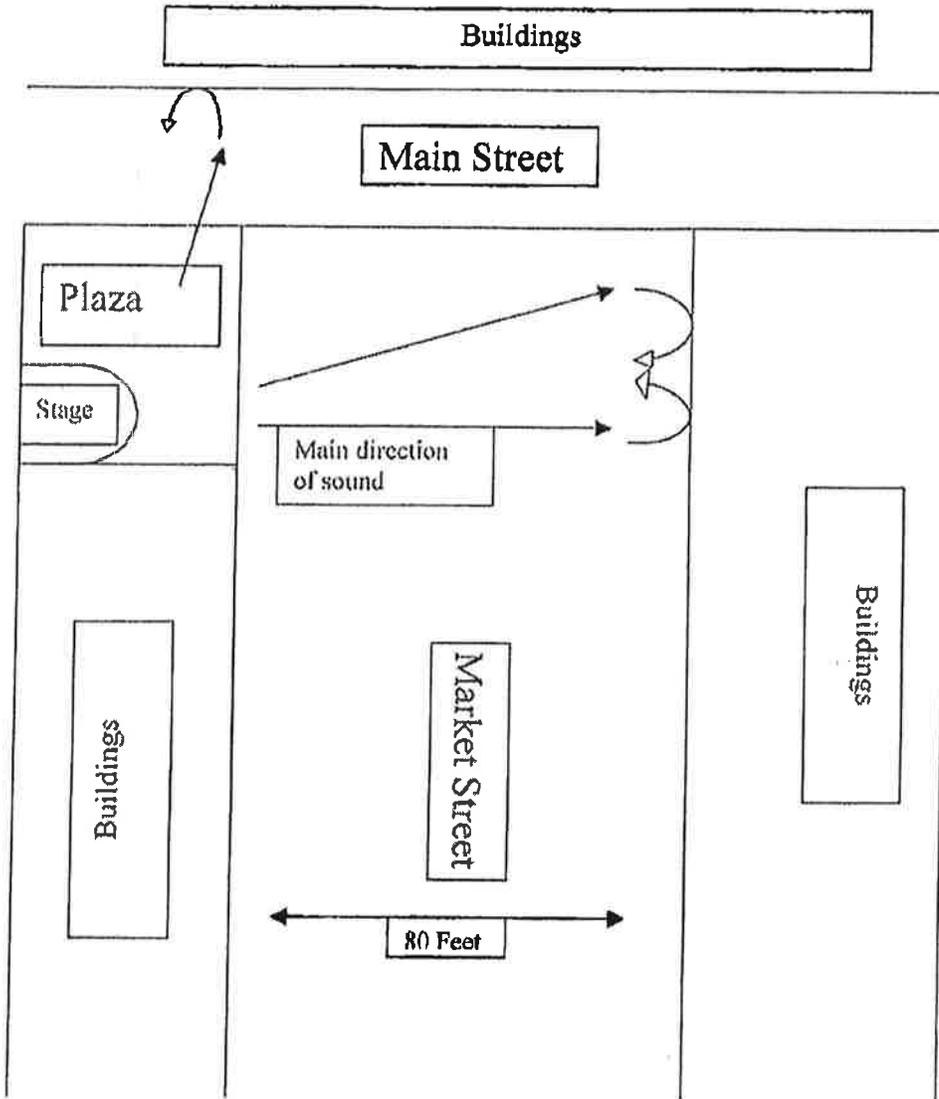
File this application along with the diagram with the finance officer accompanied with an application fee of \$25.00.

Signature of applicant



date

3/3/15



Note: Buildings in each direction will prevent sound from extending past 200 feet. Area is also not located near a residential district.

Council Agenda Memo

From: Mike Carlson, Finance Officer

Meeting: April 20, 2015

Subject: Special Daily Malt Beverage and Wine License for Vermillion Chamber of Commerce and Development Company on or about April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17, 2015 at Ratingen Platz and the portion of Market Street abutting Ratingen Platz

Presenter: Mike Carlson

Background: The Vermillion Chamber of Commerce and Development Company has submitted an application for a special daily malt beverage and wine license for the Earth Day event on Thursday, April 23 and the Thursdays On the Platz events on July 9, July 23, August 6, August 20, September 3, September 10 and September 17, 2015, to be held at Ratingen Platz on the corner of Market St. and W. Main Streets and the portion of Market Street abutting the Platz. The September 10 and September 17 dates are optional dates for if an earlier date is cancelled due to weather.

City ordinance on special daily licenses reads as follows:

112.18 SPECIAL ALCOHOLIC BEVERAGE LICENSES ISSUED IN CONJUNCTION WITH SPECIAL EVENTS.

- (A) The City Council may grant, after public hearing, a special on-sale malt beverage and/or a special on-sale wine license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event.
- (B) The City Council may grant, after public hearing, a special off-sale package wine dealers license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL Ch. 35-12.
- (C) Any license issued pursuant to this section shall be issued to the person and the location specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the municipality. However, no period of time may exceed 15 consecutive days. The granting of the special license shall be subject to such conditions and restrictions as the City Council may deem appropriate and consistent with state law.
- (D) The fee for such special licenses shall be set by resolution of the City Council.

State Statute for the special daily licenses is as follows:

35-4-124. Special alcoholic beverage licenses issued in conjunction with special events. Any municipality or county may issue:

- (1) A special malt beverage retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;

6. Public Hearings; item d

- (2) A special on-sale wine retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;
- (3) A special on-sale license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
- (4) A special off-sale package wine dealers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

Any license issued pursuant to this section may be issued for a period of time established by the municipality or county. However, no period of time may exceed fifteen consecutive days. No public hearing is required for the issuance of a license pursuant to this section if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or county or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year.

Discussion: The notice of public hearing is attached. The Police Chief reported there were no incidents with the events held last year. As the event will be held on a City street and City property, ordinance allows the City to include “*such conditions and restrictions, as the governing body may deem appropriate and consistent with state law.*” The request to exceed allowable noise levels and a street closure request are also on this agenda. The VCDC is requesting the permit to sell beer and wine on the City property. The individuals selling the beer and wine may or may not be VCDC staff or Board members. The VCDC has provided a certificate of Insurance naming the City of Vermillion as an additional insured and provided a Release and Indemnification releasing the City from liability for the event.

Below are some special conditions required by the City Council in the past for other entities that have used city property to sell alcoholic beverages. Adjustments may be appropriate for the last three conditions, but Staff recommends the City Council consider and attach most of the following conditions:

- Require the applicant identify and utilize a fenced area where alcoholic beverages may be sold and consumed, as well as a plan to monitor the entrances and exits from this area.
- Require a plan for the cleanup and disposal of the cups and other materials after the event each day.
- Restroom facilities. Some groups have used port-a-potties for a similar event. The duration of the event may minimize the need for specific restroom facilities.
- Require a list of those individuals selling alcohol and checking IDs be provided to the City Manager 24 hours before the event. All individuals on the list were required to be at least 21 years of age.

- Hours of sale may be limited. The noise permit states the hours will be from 5:30 pm to 8:00 pm and on April 23 from 4:00 p.m. to 7:00 p.m. and as such the hours could be restricted to that time period.

Financial Consideration: The City has received the \$15 per day for the six days and \$15 advertising fee from the applicant for a total of \$105.

Conclusion/Recommendations: Administration recommends approval of the April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17, 2015 special daily malt beverage and wine license (noting that September 10 & 17 are weather related make up dates), contingent upon the establishment of the hours that sales will be allowed for each day, the City Council is comfortable that the applicant holding the license can properly distribute malt beverages and regulate the events, and there is complete understanding and agreement by the applicant with regard to any conditions and restrictions the City Council may require after further information is provided at the public hearing. The motion should also address the request to use the Ratingen Platz.

NOTICE OF PUBLIC HEARING OF APPLICATIONS
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 20th day of April, 2015 at the hour of 7:00 P.M. in the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following application for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Special Daily License (On-Sale) Malt Beverage and Wine License:

Vermillion Area Chamber & Development Company, Inc on or about April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17 on Ratingen Platz and half block of Market Street south of Main Street for Thursdays on the Platz.

Clay County Agricultural Fair Association, Inc on or about May 1, 2015 at the Clay County Fair Grounds west arena.

Retail On-Off Sale Malt Beverage with Video Lottery for July 1, 2015 to June 30, 2016:

Bunyan's LLC for Bunyan's at 1201 W. Main Street Suite 106.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 3rd day of April, 2015.

Michael D. Carlson, Finance Officer

Publish: April 10, 2015

Published once at the approximate cost of _____.

City of Vermillion
Police Department
15 Washington Street
Vermillion, SD 57069
Phone: (605)677-7070
FAX: (605)677-7166
www.vermillionpd.org



To: Vermillion City Council

Date: 04/03/2015

From: Matthew Betzen
Chief of Police

Subject: Special Daily License (On-Sale) Malt Beverage and Wine License-Thursday on the Platz

The Vermillion Area Chamber and Development Company, Inc is making this application for the annual summer events scheduled for April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17. The event involves alcohol sale on the Ratingen Platz and the ½ block of Market St from Main south.

The applicants are clear of any criminal history that would be cause for concern. This event has historically been well managed and I believe this license should be granted.

Council Agenda Memo

From: Mike Carlson, Finance Officer

Meeting: April 20, 2015

Subject: Retail on-off sale malt beverage license with video lottery for Bunyan's LLC for Bunyan's at 1201 West Main Suite 106 for July 1, 2015 to June 30, 2016

Presenter: Mike Carlson

Background: An application was received for a retail on-off sale malt beverage license with video lottery for Bunyan's at 1201 West Main Street Suite 106. The notice of hearing and the Police Chief's report on the applicants are included in the packet. The request is for a license for the period starting July 1, 2015 through June 30, 2016 to allow time to get approved for video lottery.

Discussion: The City Council has the ability to issue a license on basically two criteria: suitable person and suitable location. As to the suitable person, Bunyan's LLC currently has on-off sale malt beverage license and a retail on sale liquor license for this location, as such they are not a new applicant and a background check was not requested. With respect to the location criteria, the above listed licenses have been previously approved for the location. A recent western South Dakota legal ruling defined that other items can impact the location criteria. The character of neighborhoods and businesses tend to change over time and a local governing body has a legitimate interest in managing the alcoholic beverage licensing in its jurisdiction to assess whether an alcohol sales location continues to be suitable. The following are the city ordinances on suitable person and suitable location.

112.20 SUITABLE PERSON.

- (A) South Dakota Codified Law § 35-2-1.2 requires the City Council to determine whether retail alcohol beverage license applicants or their principals are suitable persons before issuing or renewing said licenses. This determination is required annually for each license the applicant seeks. In order to effectuate a thorough determination of suitable person eligibility for license issuance, new applicants must submit to a criminal background check to determine suitability. Each new applicant shall make arrangements with a law enforcement agency and submit to the fingerprinting process. The applicant must also provide to law enforcement payment to the South Dakota Division of Criminal Investigation in an amount necessary to cover the costs of the criminal record check. These actions must be taken by an applicant prior to publication of hearing notice required by South Dakota law. The applicant's completed application will be attached to the certification of the law enforcement agency when received.

- (B) A DISQUALIFYING CRIMINAL RECORD for alcoholic beverage license purposes means any conviction for any felony, a crime of violence as defined in SDCL § 22-1-2(9), a sex offense as defined in SDCL § 22-24B-1, or trafficking in controlled drugs or substances which when and where committed would constitute such in the state of South Dakota. Unpardoned convictions of any crime of moral turpitude as defined by SDCL § 22-1-2(25) which when and where committed would constitute such in the state of South Dakota may constitute a disqualifying record as determined by the City Council on a case-by-case basis. Any criminal conviction not disclosed by an applicant on his application form may be treated as a disqualifying record. Any criminal conviction may be considered in making license issuance decision. Suspended imposition of sentence will not be considered a conviction.
- (C) An applicant subject to this policy shall provide to the law enforcement agency performing the fingerprinting process cash, check, or money order in an amount necessary to cover the costs of fingerprints for the criminal record check.
- (D) An applicant or principal in any business entity that is an applicant having any indebtedness to the city must satisfy said indebtedness before the City Council will consider any application for alcoholic beverage license issuance or renewal, except for plan one or two special assessment obligations that are not in arrears.

112.21 SUITABLE LOCATION.

- (A) South Dakota Codified Laws § 35-2-1.2 requires the City Council to determine whether retail alcohol beverage license applications propose suitable locations before issuing or renewing said licenses. This determination is required annually for each license the applicant seeks. The following are nonexclusive criteria established to assist in determining suitable location status:
 - (1) Identification of a garbage hauler to be utilized by the business and the frequency of the garbage pickup;
 - (2) Zoning restrictions, and
 - (3) Neighborhood characteristics.
- (B) In determining suitable location, the City Council will also utilize factors developed through South Dakota case law. This includes the manner in which the business is operated; the extent to which minors frequent or are employed in such place of business; the adequacy of police facilities to properly police the proposed location, and other factors associated with the sale of alcoholic beverages, such as noise and litter.

112.22 SUITABLE PERSON AND SUITABLE LOCATION CONSIDERATION.

- (A) South Dakota codified laws and case law support the premise that the decision to issue an alcoholic beverage license is discretionary. Therefore, the city hereby establishes a two-tiered process to evaluate on-sale liquor applications. The first tier will assess the character of the applicant or principals and whether the location is suitable according to §§ 112.20 and 112.21 of this chapter.
- (B) Upon finding evidence that the character of the applicant is acceptable and the location suitable, the City Council will consider second tier criteria. This process can include examining the best location for economic and tourism development, the best ancillary uses (restaurant, etc.) developed with the sale of liquor, the best location in accordance with the city long-range plan, the size of the facility, parking facilities, closeness to existing supplementing businesses, residences, and activities deemed important by the City Council.

As is noted in the Police Chief's report Bunyan's failed compliance checks on October 23, 2014 and on November 19, 2015. The management plan for the failed compliance

checks is attached. The following is the listing of the results of compliance checks at Bunyan's:

March 5, 2009 passed
April 17, 2009 passed
February 5, 2010 passed
September 24, 2010 passed
September 20, 2012 passed
December 12, 2013 passed
October 23, 2014 failed
November 12, 2014 failed
February 14, 2015 passed

City ordinance requires a written management plan upon reapplication for a licensee convicted of a violation of any law, rule, regulation, or ordinance relevant to alcoholic beverage control. That ordinance is as follows:

112.04 UNLAWFUL TO VIOLATE LIQUOR LAWS; REAPPLICATION UPON CONVICTION.

- (A) Violation of liquor laws unlawful. It is unlawful for any licensee under the provisions of the SDCL Title 35, and this chapter, or other person to violate any of the provisions of such laws or of this chapter or to fail to comply therewith within the city limits.
- (B) Reapplication after conviction. Any licensee under this chapter, its agents or employees or the manager or contractual operators, or their agents or employees, of retail establishments licensed under this chapter who in the course of the operation of the license, are convicted of a violation of any law, rule, regulation, or ordinance relevant to alcoholic beverage control, or upon the request of the City Council, shall upon reapplication for a license submit with the reapplication a written management plan which sets forth the licensee's policy for correcting any and all defects in its operation that contributed to a violation or issue related to license renewal. The governing body will review the adequacy of the plan as part of the renewal process. Failure to submit a plan or submission of an inadequate plan shall be considered by the governing body in exercising its discretion to approve or disapprove the application pursuant to SDCL 35-2-1.1.

The retail on-off sale malt beverage license will allow for the sale of malt beverage and the license will allow for up to an additional 10 video lottery machines.

Financial Consideration: The license fee is \$300 for the license which half is retained by the city and the other half is for the state. The video lottery machine fee is \$50 per machine.

Conclusion/Recommendations: Following the input from the public hearing, the City Council is asked to make a decision on the approval or denial of the retail on-off sale malt beverage license with video lottery for Bunyan's LLC at 1201 West Main Street suite 106. If a motion is made to deny the license, the reason needs to be included in the motion.



**Management
Plan Form**
25 Center Street
Vermillion SD 57069

City ordinance section 112.04 requires a written management plan with reapplication if convicted of a violation of any law, rule, regulation, or ordinance relevant to alcoholic beverage control. That ordinance is as follows:

- A) Violation of liquor laws unlawful. It is unlawful for any licensee under the provisions of the SDCL Title 35, and this chapter, or other person to violate any of the provisions of such laws or of this chapter or to fail to comply therewith within the city limits.
- (B) Reapplication after conviction. Any licensee under this chapter, its agents or employees or the manager or contractual operators, or their agents or employees, of retail establishments licensed under this chapter who in the course of the operation of the license, are convicted of a violation of any law, rule, regulation, or ordinance relevant to alcoholic beverage control, or upon the request of the City Council, shall upon reapplication for a license submit with the reapplication a written management plan which sets forth the licensee's policy for correcting any and all defects in its operation that contributed to a violation or issue related to license renewal. The governing body will review the adequacy of the plan as part of the renewal process. Failure to submit a plan or submission of an inadequate plan shall be considered by the governing body in exercising its discretion to approve or disapprove the application pursuant to SDCL 35-2-1.1.

To assist in the preparation of the management plan please provide answers to each of the following questions. The City Council will take into consideration the management plan during the license renewal public hearing. If more space is needed please attached extra sheets. You can also provide any extra material that is needed to explain your management plan. Please type or print legibly. (Businesses are encouraged to attend the public hearing to answer questions on the violations and/or management plan.)

License Holder Name: BLAINE SCHELLERMAN
Local Business Name: Bunyaw
Local Business Address: 1201 West MAIN
Contact Name: Blaine Phone: 605 670-2415
Title: OWNER

Please describe the violation(s) since the last renewal and why management believes the compliance check was failed:

I had a girl that didn't think she should card

What changes to management plan policies have been *implemented* since the violation(s) listed above?

She was let go.

Have any changes in management plan policies been *discontinued* from current use? (Please include a copy of changes to policies)

No

How have the changes addressed the defect(s) that resulted in the violation?

PASSED other checks

Please list what the management plan policy has for consequences for an employee making illegal alcohol sales?

Fired

How are management plan policies communicated to employees to allow them to understand the policies and procedures for selling alcohol?

I talked to everyone. I told them everyone must have an ID checked.

If the employee(s) who committed the violation(s) are still with the license holder, please provide information on the specific training provided to the individual(s) after the violation occurred to ensure they are familiar with proper alcohol sale techniques.

If the employee(s) who committed the violation(s) are no longer employed with the license holder, please provide the date of termination, and if the termination was voluntary or involuntary.

November 19th Voluntary
I told her and All Employees ~~to~~ If they
fail to check ID they will be fired.

List failed alcohol compliance checks, with dates, for license holder for the past five years.

Oct 23 rd
November 19th

Attach a copy of your written employee management plan regarding selling alcohol to minors and checking IDs.

Other Comments:

Submitted by Signature: [Signature] Phone: 605670 2415
Print name: Blaine Schoellerman Date: 4-02-15

When all information has been prepared, please submit the information with your license renewal to:

Finance Office
City of Vermillion
25 Center Street
Vermillion, SD 57069

NOTICE OF PUBLIC HEARING OF APPLICATIONS
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 20th day of April, 2015 at the hour of 7:00 P.M. in the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following application for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Special Daily License (On-Sale) Malt Beverage and Wine License:

Vermillion Area Chamber & Development Company, Inc on or about April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17 on Ratingen Platz and half block of Market Street south of Main Street for Thursdays on the Platz.

Clay County Agricultural Fair Association, Inc on or about May 1, 2015 at the Clay County Fair Grounds west arena.

Retail On-Off Sale Malt Beverage with Video Lottery for July 1, 2015 to June 30, 2016:

Bunyan's LLC for Bunyan's at 1201 W. Main Street Suite 106.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 3rd day of April, 2015.

Michael D. Carlson, Finance Officer

Publish: April 10, 2015

Published once at the approximate cost of _____.

City of Vermillion
Police Department
15 Washington Street
Vermillion, SD 57069
Phone: (605)677-7070
FAX: (605)677-7166
www.vermillionpd.org



04/03/2015

To: Mike Carlson, Finance Director

From: Matt Betzen, Chief of Police

Reference: Retail on-off Sale Malt Beverage with Video Lottery for July 1, 2015 to June 30, 2016

This application is for an expansion of an existing Malt Beverage license, Bunyan's, to include a Video Lottery Room addition.

On 10-23-14 and 11-19-14, Bunyan's failed compliance checks. On 2-17-15, Bunyan's passed a compliance check. They have submitted a management plan and have terminated the employee responsible for service in the two failures. A check of the applicant does not show any felony convictions.

This expansion should not cause an additional law enforcement concerns.

Council Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: April 20, 2015

Subject: First Reading of Ordinance 1328– Amending Section 155.059 Community Oriented Healthcare Planned Development District, subsection (D) Lot and yard Regulations, adding a section for hospitals/clinics.

Presenter: Jose Dominguez

Background: Several weeks ago the City received a request from Banner Associates, on behalf of one of the property owners, to amend the recently adopted Community Oriented Healthcare PDD. This PDD is bordered on the north by E. Main Street, on the east by Walker Street and Plum Street (south of Jane Street), on the south by Maple and Jane Sts, and on the west by the alley that runs between E. Main Street and Maple Street. This PDD was adopted by the City Council on September 15, 2014. The request is due to the fact that the current PDD has a maximum height requirement of 35-feet, and one of the owners would like to build a structure close to 58-feet tall.

Discussion: As mentioned above, the current PDD ordinance has a section that specifies the maximum height for any structure within the PDD area. This section dictates that the height on any structure may not surpass 35-feet. Typically, height restrictions are included in the zoning ordinance for a couple of reasons: safety and neighborhood characteristics. For example, the Fire Department might not want a building to exceed a certain height due to difficulties they may encounter while responding to an incident. Similarly, having a significantly tall structure within a neighborhood composed of one-story structures might look out of place. Hospital and clinics, as a general rule, tend to grow vertically and thus might require that the height maximum be more than the typical structure. An example of this would be the existing Dakota Hospital building; this structure is roughly 55-feet tall within a neighborhood made up of single story buildings.

For reference, below is a list of notable buildings in Vermillion with the heights (the heights are based off Pictometry, which could be about 5-feet off the actual height):

- Dakota Dome = 120-feet from the parking lot
- Old Main = 102-feet
- United Church of Church = 76-feet

- Coyote Village = 60-feet
- Dakota Hospital = 55-feet
- Prentis Park Water Tower = 135-feet
- McDonald's sign = 65-feet

The Planning Commission considered the amendment on April 13th and forwarded a recommendation to approve the amendment.

Financial Consideration: The costs would be the publication of the notice of hearing and ordinance.

Conclusion/Recommendations: Since the proposed amendment does have the potential to negatively impact some single family neighborhoods, staff have a few concerns with the proposed amendment. However, there are a number of structures within the community that already have heights similar, or larger than the proposed. Staff would recommend concurrence with the Planning Commission and approval of first reading of Ordinance 1328 to increase the building height from 35 feet to 60 feet.

ORDINANCE NO. 1328

AN ORDINANCE AMENDING SECTION § 155.059, COMMUNITY ORIENTED HEALTHCARE PLANNED DEVELOPMENT DISTRICT, SUBSECTION (D) LOT AND YARD REGULATIONS, OF THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION, SOUTH DAKOTA, ADDING A SECTION REGARDING THE ALLOWABLE HEIGHT FOR HOSPITALS/CLINICS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA:

That section § 155.059 Community Oriented Healthcare Planned Development District, subsection (D) Lot and Yard Regulations be amended to read as follows:

(D) *Lot and yard regulations.* All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Frontage	Building Line	Front Yard	Side Yard	Rear Yard	Maximum Height
<u>Hospital/clinic</u>	<u>6000 square feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>25 feet</u>	<u>8 feet</u>	<u>25 feet</u>	<u>60feet</u>
All <u>other</u> uses	6000 square feet	50 feet	50 feet	25 feet	8 feet	25 feet	35 feet
Off-premise parking lots	§ 155.072	NA	NA	10 feet	2 feet	10 feet	NA
Exceptions:							
#1 Where a side yard or rear yard is required half of the required yard must be maintained as a landscaped area.							
#2 There shall be a required front yard on each street side of a double frontage lot. There shall be a required front yard on each street side of lots.							
#3 Parking lot setbacks will only be required when abutting or across from a residential zone.							
#4 See adjustments to yard regulations (§ 155.082) for other specific exceptions.							

Dated at Vermillion, South Dakota this 4th day of May, 2015

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

John E. (Jack) Powell, Mayor

ATTEST:

Michael D. Carlson, Finance Officer

First Reading: April 20, 2015
Second Reading: May 4, 2015
Publication: May 15, 2015
Effective Date: June 6, 2015

Council Agenda Memo

From: Andy Colvin, Assistant City Manager

Meeting: April 20, 2015

Subject: 3-foot side yard variance request for Hillside Community Church, 1800 Constance Drive

Presenter: Andy Colvin

Background: Stephen Walters, Pastor at Hillside Community Church, approached staff about the possibility of constructing an addition to the south side of the church. During the conversation, it became apparent that the existing side yard would not be adequate to allow for the construction of the proposed addition.

Discussion: Section 155.100 gives the City Council, acting as the Board of Adjustment, the power to hear and decide variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. For purposes of these regulations, public interest shall include the interests of the public-at-large within the city, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance.

Per City ordinance, the following issues are to be considered, each and all of them, as determining factors in whether or not the issuance of a variance is justified:

- (1) An unnecessary hardship must be established by the applicant who applies for the variance. For purposes of this subchapter, an unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.
- (2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
- (3) The variance requested is the minimum variance that will alleviate the hardship.
- (4) Granting of the variance will comply with the general purpose and intent of this chapter, and will not be offensive to adjacent areas or to the public welfare.
- (5) No nonconforming use or structure in the same district, and no permitted or nonconforming use or structure in other districts shall be considered grounds for the issuance of a variance.
- (6) Exceptional and extraordinary circumstances apply to the property that do not apply to other properties in the same zone or vicinity and that result from lot size or shape, topography or other circumstances which are not of the applicant's making.
- (7) In order to preserve the intent of these zoning regulations and to protect the public interest, the Board of Adjustment may attach conditions to a variance. A variance shall remain valid only as

long as the property owner complies with any terms and conditions of the variance, as attached by the Board of Adjustment.

The zoning ordinance requires a minimum setback of 25 feet from the property line. The variance, if approved, would allow the church to build over the setback line by approximately 3 feet.

In looking at the variance request, staff feels that the applicant meets the requirements set forth in ordinance. When the existing building was originally built, it is possible that the intent was to complete the octagonal shape of the building should future growth of the congregation take place. However, possibly due to the construction of the building, the structure was angled such that an addition would surpass the setback line. The reason for the addition is to accommodate a growing congregation; therefore, loss of profit and self-imposed hardships do not apply in this case. In addition, staff does not feel that the variance would adversely affect the neighborhood or adjacent property owners since the building is a considerable distance from neighboring structures, and the direction of the addition is towards a sizable public right-of-way and not a neighboring property owner.

The Planning Commission studied this request on April 13th and recommended approval of the variance.

Financial Consideration: The costs would be the publication of the notice of hearing.

Conclusion/Recommendations: Staff believes that variances should only be granted when the applicant can show good cause and meet the considerations provided in said ordinance. Administration recommends approval of the variance request.

**CITY OF VERMILLION
PETITION FOR ZONING VARIANCE**

OWNER INFORMATION (Please attach additional sheets if necessary)

NAME: Hillside Community Church
ADDRESS: 1800 Constance Drive
PHONE: 624-4862 (402) 320-0347 cell

PROPERTY INFORMATION (Please attach additional sheets if necessary)

Parcel Identification Number (PIN): 15840-00500-020-00
Current Zoning Designation: R1
Proposed Zoning Designation: _____
Location: _____
Legal Description: Lots 2, 3, 4, 5 + SA, Blk 5 Westgate
Existing Land Use: _____ Proposed Land Use: _____
Adjacent Zoning:
North: R1 South: R1 East: R1 West: R1

Description of variance sought from the zoning regulations: Proposed addition will be approximately ~~3~~ 3' (feet) over setback

Site information should be included on a separate sheet.

Stephen S Walters 3/18/15
Signature of Owner Date

FAILURE OF THE APPLICANT OR AGENT TO APPEAR AT THE HEARING WILL CAUSE THE COMMITTEE TO DENY THIS APPLICATION.

FOR OFFICE USE ONLY	DATE: ____ / ____ / ____
FEE RECEIVED: YES NO	PLANNING COMMISSION RECOMMENDATION ____ YES ____ NO
BUILDING OFFICIAL: _____	
HEARING SCHEDULE: ____ / ____ / ____	

Council Agenda Memo

From: John Prescott, City Manager

Meeting: April 20, 2015

Subject: Second Reading Ordinance 1327 – Amending hours of operation for the sale and consumption of alcoholic beverages in the furniture use zone

Presenter: John Prescott

Background: Café Brule has submitted a request to begin alcohol sale and consumption hours at 7am vs the current code start time of Noon. Specifically, they are interested in the ability to serve a mimosa to breakfast customers. In 2014 when Monica Iverson and Jim Waters were seeking approval from the City Council to sell and provide for the consumption of alcohol in the Furniture Zone for Café Brule, they expressed the desire to expand the allowable hours. As 2014 was going to be the first full season of having alcohol in a furniture zone permit, the City Council did not advance the matter for action. City Code Section 118(F) which sets alcohol sale hours in the furniture zone currently reads as follows:

(F) The hours of operation for the sale and consumption of alcoholic beverages in the furniture zone lease areas shall be noon to 10:00 p.m. The city has the right to limit use of the furniture zone area for alcoholic beverage sales and consumption on specific days.

Discussion: In their request, Café Brule has referenced the ability to serve a mimosa to breakfast customers. The change would also be beneficial for early lunch customers. A change in city code would apply to all current and future furniture zones and not just the Cafe Brule furniture zone. Cafe Brule was issued the only furniture zone permit in 2014. Limited sidewalk space in the downtown area and the location of current restaurants does not provide many opportunities for a furniture zone to exist. The City Council still maintains the authority to approve or disapprove the sale and consumption of alcohol in a furniture zone. The Police Chief has reported no incidents with alcohol sales in the furniture zone area at Cafe Brule. The City Council approved first reading of Ordinance 1327 on April 6, 2015.

Financial Consideration: None, other than publication of an ordinance change.

Conclusion/Recommendations: Administration recommends approval of the second reading of Ordinance 1327 expanding the hours for sale and consumption of alcoholic

7. Old Business; item a

beverages in a furniture zone. As this is second reading of the Ordinance, a roll call vote is required.

ORDINANCE NUMBER 1327

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE XI, CHAPTER 118, TO AMEND SECTION 118.16 (F) TO EXPAND HOURS OF OPERATION FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE FURNITURE ZONE.

BE IT ORDAINED BY THE GOVERNING BODY OF VERMILLION, SOUTH DAKOTA that Title XI, Chapter 118, Section 118.16 (F) be amended as follows:

SECTION 1. That section 118.16, Additional Rules Governing Alcoholic Beverage in Furniture Zone, is hereby amended as follows:

(F) THE HOURS OF OPERATION FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE FURNITURE ZONE LEASE AREAS SHALL BE 7:00 A.M. TO 10:00 P.M. THE CITY HAS THE RIGHT TO LIMIT USE OF THE FURNITURE ZONE AREA FOR ALCOHOLIC BEVERAGE SALES AND CONSUMPTION ON SPECIFIC DAYS.

Dated at Vermillion, South Dakota this 20th day of April 2015.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY: _____
John E. (Jack) Powell, Mayor

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

First Reading: April 6, 2015
Second Reading: April 20, 2015
Published: May 1, 2015
Effective: May 22, 2015



24 W. Main St. Vermillion, SD 57069 / 605-624-2945

March 4, 2015

Re: Outdoor Seating Zone Alcohol Hours

Dear Mr. Prescott,

We are interested in providing our customers at Café Brulé the opportunity to have a mimosa with their breakfast in our outdoor seating zone. We are currently permitted to begin serving at noon, but our breakfast menu begins at 7am. We do not seem to attract rowdy customers, so we do not feel that this will negatively impact the community. Please feel free to contact us with any questions and concerns regarding our next step. Thank you for your consideration.

Jim Waters

Monica Iverson

Council Agenda Memo

From: John Prescott, City Manager

Meeting: April 20, 2015

Subject: Street Closure Request – Market Street on April 23, July 9, July 23, August 6, August 20, September 3, September 10, and September 17, 2015 for “Thursdays on the Platz”

Presenter: John Prescott

Background: As indicated with earlier items on the agenda, “Thursday’s on the Platz” is again planning to hold several events in downtown Vermillion. This summer’s events are scheduled for April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17, 2015. The September 10 and 17 events are rain dates that will only host an event if an earlier date is cancelled. The events would host local and regional musical entertainment. The group will utilize Ratingen Platz at the corner of W. Main and Market Streets for the events. Due to the number of anticipated attendees, a street closure request has again been submitted for Market Street from W. Main Street to the East/West alley between W. Main Street and Kidder Street. The street closure request is the same as past years.

This event is being sponsored by Thursdays on the Platz and the Vermillion Chamber of Commerce and Development Company to encourage the community to gather downtown on Thursday nights and will showcase Ratingen Platz.

Discussion: The group requests to have Market Street from W. Main Street to the East/West alley between W. Main Street and Kidder Street closed from 5:30 p.m. to 8:00 p.m. on each of the six utilized dates with the exception of April 23rd. On April 23 the Earth Day event will be from 4:00 p.m. to 7:00 p.m. The street closure request application indicates that neighboring businesses and residents have been notified. Volunteers for the Thursdays on the Platz Committee will clean up the area after the events.

Financial Consideration: None.

Conclusion/Recommendations: Administration recommends the City Council approve the closure of Market Street from W. Main Street to the East/West alley between W. Main Street and Kidder Street on April 23, July 9, July 23, August 6, August 20, September 3, September 10 and September 17, 2015, for Earth Day and the “Thursdays on the Platz” events.

Request to Close Public Street

Requests to close a public street for an event or activity are taken to the City Council for approval. The following application is requested to be submitted to the City Managers office for a street closing one week prior to the Council Meeting.

**REQUEST TO CLOSE CITY STREET
CITY OF VERMILLION**

This application shall be completed in time to be submitted to the City Council for consideration. City Council meetings are the first and third Mondays of each month. Requests are to be submitted to the City Managers office one week prior to the meeting to be included on the meeting agenda. The proposal shall contain all applicable information relative to the nature and purpose of the event the street closing is requested for, if additional space is needed please attach additional sheets or application letter with the required information.

Organization Requesting Vermillion Area Chamber and Development Company

Contact Person James Caraway Phone (605)624-5571

Contact Person Address 116 Market Street, Vermillion, SD

Event Thursdays on the Platz Date(s) of Event 4/23, 7/9, 7/23, 8/6, 8/20, 9/3, 9/10, 9/17

Street(s) Requesting to be closed (Include a map if needed.)

Street Marken from Main to just south of Platz

Street Closing Times 5:30 pm to 8:00 pm

If the street closing requested would affect other residents or businesses have they been notified of the request. Yes No

Have arrangements been made for clean up after the event and other facilities? Please describe:

We have a committee tasked with helping with set-up and tear down.

If approved the contact person will need to make arrangements with the Street Department for barricades to properly denote the street closing.

Signature of applicant  date 3/20/15

Council Agenda Memo

From: Mike Carlson, Finance Officer
Meeting: April 20, 2015
Subject: High Street Closing – May 1, 2015
Presenter: Mike Carlson

Background: The Clay County Agricultural Fair Association is hosting a spring Demo Derby on Friday, May 1. The group is requesting the temporary closure of a portion of High Street. The group also requests permission to removal of a section of fence between Lions Park and the Open Arena.

Discussion: The Clay County Agricultural Fair Association is requesting that High Street be closed, along the fairgrounds, from 5:00 p.m. until 10:30 p.m. on Friday, May 1, 2015 to provide a safe entrance and exit from the event.

The Police, Fire, and EMS Departments have been notified of the closure request and have found no safety concerns.

Financial Consideration: None

Conclusion/Recommendations: Administration recommends authorizing the closure of High Street from 5:00 p.m. until 10:30 p.m. on Friday, May 1, 2015 and also recommends the granting of permission to removal of a section of fence in Lions Park.

Clay County Agricultural Fair Association

515 High Street ▪ Vermillion, SD 57069
(605) 677-7111 ▪ www.claycountyfair.net

March 25th, 2015

City of Vermillion
Honorable Mayor Powell
& City Council Members
25 Center Street
Vermillion, SD 57069

Dear Mayor Powell,

The Clay County Fair Board will be hosting the Spring Fling Demolition Derby on Friday, May 1st, 2015. We are requesting that High Street (fairgrounds) be blocked to through-traffic from 5:00 PM-10:30 PM on Friday, May 1st, 2015. If a rain date is needed, we would like to receive permission to block the through-traffic on the rain date of June 12th, 2015.

We would also appreciate if the roped off section of the fence between Lions Park and the Open Arena grass could be removed for through traffic of trucks and trailers.

Thank you for your continued support of the Clay County Fair Association. Should you have any questions, regarding this letter please do not hesitate to call our office at (605) 677-7111.

Respectfully,



Jessica Kennedy
Clay County Agricultural Fair Manager
Clay County Fair Board

Council Agenda Memo

From: John Prescott, City Manager

Meeting: April 20, 2015

Subject: University of South Dakota Development Program Reinvestment agreement

Presenter: John Prescott

Background: In January 2015, USD representatives presented information on the arena, science, health and research lab, and track and soccer complex. USD will be investing over \$66 million plus \$18.5 million of financing costs to construct these capital improvements over the next couple of years. Additional funding that was needed to move the project along was also part of the presentation. Staff was asked to review options on possible ways to contribute to the development.

Last year, the City of Vermillion and GOED partnered to provide approximately \$340,000 of assistance to Polaris with their new \$10.4 million conveyor system project. The State provided \$14,000 in worker training funds. The balance of the funding came from the payment of South Dakota sales and use tax paid. The City of Vermillion participation was capped at \$208,000. All of the sales and use tax to be rebated was verified as having been collected by the Department of Revenue and paid to Vermillion.

Discussion: Over the last couple of months, city staff and USD officials have discussed how the City might assist with the project. One idea that arose was the rebate of local sales and use tax paid on eligible construction costs.

The proposed local agreement is very similar to the previous local agreement with Polaris and how the Governor's Office of Economic Development operates sales and use tax rebate awards on the state level. Copies of the invoices on eligible items would be submitted to the VCDC. The VCDC with support from the City would verify that the local sales and use tax has been paid by the vendor credited to the City of Vermillion. The City would refund the payment of the local sales and use tax paid on the eligible items to the VCDC who would distribute the funds to USD. The agreement provides that the City will have 45 days from the end of each quarter to complete reimbursement. All eligible purchases must be completed between January 1, 2015 and September 30, 2017 for reimbursement to be provided. The City's participation with the reinvestment program is based on the local sales and use tax paid to Vermillion on qualifying construction costs and is capped at \$1,000,000. USD is in the process of collecting solid

estimates of the amount of local sales tax that would be paid over the nearly three years of eligibility. The rebate of local sales and use tax is one way the City could assist with the development of a large project which will have a lasting impact on the community. The facilities will allow the University to bring events to the community and enhance the state and regional profile of the community and University.

Financial Consideration: Administration did not budget for a large sales tax increase related to this project as it can be difficult when a large, multi-year project being built by a tax exempt entity will impact sales tax receipts. Like the City, the University is exempt from paying sales tax on some items such as architectural services which otherwise would be taxed. The budget will need to be adjusted to reflect the distribution to the VCDC for repayment to USD.

Conclusion/Recommendations: Administration recommends adoption of the Development Reinvestment Program agreement with the University of South Dakota.

REINVESTMENT PAYMENT PROGRAM AGREEMENT

THIS REINVESTMENT PAYMENT PROGRAM AGREEMENT made and entered into as of the 20th day of April 2015, by and between The University of South Dakota (USD), the Vermillion Area Chamber of Commerce and Development Company, Inc (VCDC), and the City of Vermillion, South Dakota (City).

WITNESSETH

WHEREAS, USD has issued bonds and let contracts to construct a new arena, science, health and research lab, and track and soccer complex and related equipment (Project) at the USD campus at an estimated Project cost of \$66,222,465, plus financing costs of \$18,534,361, for a total project cost of \$84,756,826; and

WHEREAS, the Board of Regents (BoR), the University of South Dakota Foundation (USDF), corporate sponsors and local partners, and the students, alumni and friends of USD have recognized this investment to be beneficial to the continued economic development of the state and are providing funds directly; and

WHEREAS, the VCDC and City recognize the economic development benefits from the Project; and

WHEREAS, the City and USD desire to enter into this Agreement, and as set forth herein, in furtherance of USD's construction of the Project and the City will agree to reimburse USD for local sales/use tax paid on materials and equipment purchased, in installments, based upon the actual cost of the materials and equipment, and terms and conditions as set forth herein; and

WHEREAS, reimbursement to USD of local sales/use tax serves the public purpose of enabling USD to advance the state and regional profile of Vermillion and increase the athletic events hosted in Vermillion, thereby increasing employment and economic development in the City; and

WHEREAS, the City is authorized to enter into this Agreement with VCDC and USD pursuant to the provision of SDCL Chapter 9-54 and 9-12-11.

NOW, THEREFORE, in consideration for the forgoing and the mutual agreements hereinafter set forth, the City, VCDC, and USD do hereby covenant and agree upon the following terms and conditions:

1. USD has contracted for the construction of a new arena, science, health and research lab, and track and soccer complex. Such construction materials and equipment will be subject to South Dakota State and Vermillion local sales/use tax.
2. The City agrees to quarterly reimburse to VCDC for payment to USD 100% of the local sales/use tax paid on qualifying construction purchases. The reimbursement applies to qualifying purchases made from January 1, 2015 through the earlier of Project completion or September 30, 2017. In no case shall the total local sales/use tax reimbursement exceed \$1,000,000. Such reimbursement by the City to VCDC for payment to USD will be made within forty five (45) days after receipt of the complete documentation as further defined in Section 6 (a)-(f) below, following the end of each quarter.

3. Qualifying materials and equipment purchases means the costs actually paid by USD contractor or subcontractors to construct a new arena, science, health and research lab, and track and soccer complex on the USD campus. Copies of the qualifying materials and equipment purchase contracts along with sales tax reports of the contractor or subcontractors are to be provided to the VCDC with the quarterly request. The information provided by USD to the VCDC is private, proprietary and confidential, and in no manner shall it become a public record of the City.
4. City sales tax means the two (2) percent local sales/use taxes imposed by the City on the effective date of this Agreement and paid by USD contractors or subcontractors on the contracts for qualifying materials and equipment purchases. It should be noted that the State of South Dakota also imposes sales/use tax on qualifying sales or uses within the state as well as contractors excise tax that is outside of this agreement.
5. Quarters shall end on March 31, June 30, September 30 and December 31. The final quarter for eligible expenses to be incurred and submitted ends September 30, 2017.
6. The reimbursement process shall be as follows, and all parties shall use their best efforts to see that the reimbursement payments are made to USD in accordance with the time frames set forth herein:
 - a) USD shall use its best efforts to cause the VCDC to be provided qualifying material and equipment purchase invoices and sales/use tax reports along with proof of payment that show the applicable state and local sales/use tax was paid. The USD contractor or subcontractors sales tax reports are private, proprietary and confidential information, and in no manner shall these documents become a public record of the City.
 - b) VCDC upon verification that the applicable local sales/use tax was paid on such invoices then will request payment of the sales/use tax reimbursement from the City on behalf of USD.
 - c) Should it be found that the local sales/use tax was not paid to the SD Department of Revenue by a USD contractor or subcontractor on qualifying material and equipment purchases the local sales/use tax will not be reimbursed until documented that such local sales/use tax was collected by the SD Department of Revenue.
 - d) Should it be found that local sales/use tax was refunded or credited by the SD Department of Revenue to a USD contractor or subcontractors, such credit or refund should be reimbursed by USD or credited against future payments to VCDC.
 - e) The City will provide for said payment to VCDC to be used solely to reimburse USD.
 - f) VCDC agrees to distribute the amounts it receives from the City as provided in this agreement to USD.
7. It shall be a mutual obligation of the City, USD, and VCDC to identify, track and document that State and Local sales/use taxes are paid on the qualifying material and equipment purchases.
8. The City will make the payments set forth in this Agreement and such payment will be budgeted and appropriated for the purposes set forth herein during the City's then current fiscal year. The City's obligations hereunder shall not in any way be construed to be a debt of the City in

contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or monies of the City.

9. Any legal actions related to or arising out of this Agreement must be instituted in the Circuit Court of Clay County, South Dakota.
10. The laws of the State of South Dakota shall govern the interpretation and enforcement of this agreement, without giving effect to the choice of law rules thereof.
11. Force Majeure. In the event that either party hereto shall be delayed or hindered in or prevented from the performance required hereunder by reason of strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God, abnormal weather conditions, the inaction of any state or federal governmental agency in approving any state or federal mandated plans or requests for approval submitted by the parties hereto, shortage of materials necessary to completion of the project, utility service or other reason of like nature not the fault of the party delayed in performing work or doing acts (hereinafter referred to as "Force Majeure"), such party shall be excused for the period of time equivalent to the delays caused by such event of Force Majeure. Notwithstanding the foregoing any extension of time for an event of Force Majeure shall be conditioned upon the party seeking an extension of time delivered written notice of such an event of Force Majeure to the other parties within ten (10) days of the event of Force Majeure.
12. Financial Solvency. USD represents and warrants that it is financially solvent and knows of no facts which would materially and adversely affect its financial condition such that it will be unable to carry out the terms and conditions of this agreement or the completion of the project.
13. Notices. Notices and demands required, or permitted, to be sent to those listed hereunder shall be sent by certified mail, return receipt requested, postage prepaid, or personal delivery and shall be deemed to have been given upon the date the same is delivered or three (3) days following deposit in the United States Mail if sent by certified mail to the address shown below, and addressed to:

USD:
University of South Dakota
Office of the Vice President of Finance
414 E Clark
Vermillion, SD 57069

City:
City Manager
City of Vermillion
25 Center Street
Vermillion, SD 57069

VCDC:
Vermillion Chamber and Development Company
116 Market Street
Vermillion, SD 57069

14. Amendments and Waiver. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the parties hereto.

15. Successors and Assigns. All covenants, promises, conditions, representations and agreements herein contained shall be binding upon, apply and inure to the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first written above.

University of South Dakota

By: _____ Its: _____

Print Name: _____ Date: _____

THE CITY OF VERMILLION, SOUTH DAKOTA

By: _____ Its: _____

Print Name: _____ Date: _____

Attest:

By: _____ Its: _____

Vermillion Chamber and Development Company

By: _____ Its: _____

Print Name: _____ Date: _____

Council Agenda Memo

From: Mike Carlson, Finance Officer
Meeting April 20, 2015
Subject: Declaration of Surplus and Abandoned Property for Auction
Presenter: Mike Carlson

Background: When a vehicle is placed in the impound lot, a notice is sent to the registered owner that the vehicle can be claimed by paying the fine, towing fee and impound fee. If the property is not claimed within 60 days, ownership of the vehicle reverts to the City.

The bicycles that have been abandoned in different public places around the city are kept in the Police Department basement for the owners to claim. The abandoned property from the Police Department is typically lost-and-found property, or evidence that was not claimed. If the owner is known, attempts are made to notify the individual that they can pick up their property. The items on the list either have unknown owners or the known owner has been notified and failed to respond to claim the property. The other surplus properties are made up of items that are no longer needed by a City department.

The state statutes that apply to surplus property are as follows:

6-13-1. Determination of surplus property. The governing board of a political subdivision may sell, trade, destroy, or otherwise dispose of any land, structures, equipment, or other property which the governing board has, by appropriate motion, determined is no longer necessary, useful, or suitable for the purpose for which it was acquired. No motion is required to sell, trade, destroy, or otherwise dispose of consumable supplies, printed text, or subscriptions.

6-13-6. Sale by auction--Notice by publication. In lieu of sealed bids, the governing board of a political subdivision may sell surplus property at auction. Such governing board shall advertise such auction by publication pursuant to §6-13-4. Surplus property may be sold to the highest bidder at such auction.

Discussion: The City normally has an auction in the spring to empty the impound lot of abandoned vehicles accumulated since the previous fall auction, sell the bicycles accumulated by the Police Department that are stored in the basement of the Public Safety Center, and to sell any surplus property of the different City departments. Each

department has listed surplus property for which a City use no longer exists. Hazen Bye has agreed to conduct the auction on May 8, 2015.

Financial Consideration: The proceeds from the auction are not a significant source of revenue, but a legal way to dispose of abandoned and surplus property. The proceeds will pay the tow fees on the impounded cars, advertising fees and the auctioneer fees. The balance of proceeds go into either the general fund or the other funds for the surplus City vehicles sold.

Conclusion/Recommendations: Administration recommends the City Council declare the attached property list surplus for disposal at public auction.

Date: April 15, 2015

To: Mayor and City Council

From: Mike Carlson, Finance Officer

Subject: Surplus and Abandoned Property to be sold at Auction

The following list of surplus and abandoned property will need to be declared surplus and authorize the sale thereof at public auction on May 8, 2015:

Abandon Vehicles:

<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>Plate</u>	<u>Vin #</u>
1983	Buick	Regal	19PX65	1G4AJ69A8DR400319
Unk	Peace Sports	Power 50	None	LHJLC13J89B003275
2003	Chevrolet	Venture	19PE97	1GNDX03EX3D144440
1990	Ford	F-150	CLA111	1FTDF15Y0LLA86014
1995	Oldsmobile	CRL	19EU67	1G3AJ55M1S6371579
2001	Chevrolet	SLV	62JY90	2GCEK19T411105892
1995	Buick	Park Avenue	19EM13	1G4CW52K6SH605860
1997	Pontiac	Grand Prix	1ALE21	1G2WP1216VF345317
1986	Chrysler	Fifth Avenue	38K587	1C3BF66PXGX542825

Approximately 40 Abandon Bicycles

Abandon Unclaimed Property from Police Department:

red pocket knife, child's plastic guitar, small hammer, black USB cable cord, leather wallet with brown bulls, bike combination lock, child's red scooter, TomTom, purple Barbie scooter, skateboard, black Nike backpack with contents, calculator, music case, ice scraper, Samsung S5 cell phone, Garmin GPS

Surplus City Property:

Police Department: 11- short side rails for carbine forearm M16/AR15, 5 – barrel rails for carbine forearm M16/AR15, 4 – 12/20 gauge shotgun stock & forearm upgrade kits, 3 – plastic glock holsters, 3 – leather glock holsters, ammo pouch, 2 – leather pistol holsters, 3x3 – 3 drawer filing cabinet, rain jacket, 4 – rain bibs, wood stock & forearm w/nylon sling shotgun, nylon shotgun sling,

Electric Department: 14” chain saw

Engineering: Xerox 2510 copier

Library: Delivery cart, paper cutter, 2 wall clocks, letter-size filing cabinet, 2 media bins, 5 wooden signs, 3 sets of wooden blinds, TV, 2 small bulletin boards, boom box, HP 855 printer, 3

computers, monitor stand, monitor, 48" paperback rack, miscellaneous computer parts/cords, miscellaneous Items

Water Department: Snapper snow blower #8241, 15 - 55 gallon plastic barrels

Parks & Recreation: basketball hoops, speakers, weight scale, pool table, bike, bumper pool table, foosball table, TV, ping pong table, push mower, homemade trailer 12' no title, homemade concession trailer 12' no title, push fertilizer spreader

Golf: credit card machine, credit card pad and printer, 2 – Gateway computers, monitor, mini refrigerator, freezer, assorted printer paper & ribbons

Liquor Store: 2- Royal 480 nt cash registers, shelving

Fire/EMS: 7 - metal shelving units, Asus G25 Laptop w/o hard drive, Gateway M675 Laptop w/o hard drive, Gateway SX2841 computer w/o hard drive, HP Pavilion computer w/o hard drive, HP 1200 Printer, misc computer parts and cables, wooden book case, plastic cabinet, plastic tackle box

Council Agenda Memo

From: Jason Anderson, Asst. City Engineer
Meeting: April 20, 2015
Subject: 2015 Cottage Avenue Water Main Reconstruction Project
Presenter: Jason Anderson

Background: On April 15, 2015 bids were opened for the 2015 Cottage Avenue Water Reconstruction project. The purpose of the project is to replace a deteriorating segment of ductile iron pipe along Cottage Avenue between the intersections of West Duke Street & West Cherry Street. The 16" ductile iron water main pipe is located in the street near the western curb and will be replaced with PVC water pipe approximately 5 feet east of the existing pipe location.

The project will require the closure of Cottage Avenue, and for a brief period, the closure of the intersection of W. Duke and Cottage. The road closure is necessary to provide the contractor with a safe working environment and space to store equipment and materials. To maintain access to the Ace Hardware store, Chlotique and the Municipal Liquor Store, the project will be completed in two phases. In the first phase, Cottage will be closed from W. Duke Street south to the third Ace Hardware driveway access. In the second phase, Cottage will be closed from W. Cherry Street north to the third driveway access. Access to Cottage Avenue from the W. Cherry Street service road will be closed during the second phase as well.

Discussion: Bid documents were sent to nine potential bidders, and five construction plan rooms (locations for contractors to locate construction projects). Three bids were received, ranging from \$129,964.51 to \$151,380.93. The low bid of \$129,964.51 was provided by Turner Plumbing from Vermillion. Turner Plumbing was awarded the contract in 2014 for the Cottage Avenue Water Main Replacement project between W. Duke and Alumni/Rice Street intersection.

In addition to the base bid, City staff considered Bid Alternates for the use of flowable fill (Item 44) and sand (Item 45) as trench backfill material, in lieu of backfilling with the removed soils. The purpose of backfilling with these alternate materials is to better guarantee a roadway surface that does not experience settling over time. After reviewing the submitted proposals, staff has determined that awarding a Bid Alternate item may not

be the best use of Water Department funds. Engineering staff believes that we can test the level of compaction achieved with the removed and replaced trench soils for approximately \$3,000 and achieve a similar finished result.

Financial Consideration: At the 2015 budget sessions, City staff was not planning to include this project in the 2015 construction season. Shortly after budget sessions the Water Department experienced another break on this pipe segment. Soon thereafter, City staff decided to prioritize this project. City staff presented this information to the Council at the August 18, 2014 noon session. The Water Department included a figure of \$175,000 in the Capital Improvement Plan for this project.

Conclusion/Recommendations: Administration recommends awarding the Cottage Avenue Water Main Replacement project to Turner Plumbing of Vermillion for the bid amount of \$129,964.51.



25 Center St. Vermillion, SD 57609

BID SUMMARY
2015 Cottage Avenue Water Reconstruction Project

April 15, 2015 -- 2:00 P.M.

<u>COMPANY</u>	<u>BID SECURITY</u>	<u>ACKNOWLEDGED ADDENDUM</u>	<u>SIGNED PROPOSAL</u>	<u>TOTAL</u>	<u>BID ALTERNATES</u>	
					<u>ITEM 44</u>	<u>ITEM 45</u>
D.A. Davis Co. Inc.						
First Rate Excavate	10% Bid Bond	YES	YES	\$151,380.93	\$29,824.96	\$5,684.40
Haarsma Construction						
Knife River						
Prunty Construction						
Runge Enterprises, Inc.						
Slowey Construction	10% Bid Bond	YES	YES	\$136,663.25	\$33,892.00	\$9,284.52
Turner Plumbing	10% Bid Bond	YES	YES	\$129,964.51	\$27,113.60	\$9,852.96

CITY OF VERMILLION
 ACCOUNTS PAYABLE-APRIL 20, 2015

1 BROADCASTER PRESS	ADVERTISING	1,606.13
2 BUREAU OF ADMINISTRATION	TELEPHONE	288.05
3 CANON FINANCIAL SERVICES	COPIER LEASE	196.27
4 CENTURYLINK	TELEPHONE	1,494.51
5 CLAY CO REGISTER OF DEED	FILING FEE-EASEMENT	30.00
6 CLAY COUNTY EMS ASSOCIATION	CPR & AED CLASS	144.00
7 CLAY RURAL WATER SYSTEM	WATER USAGE	38.10
8 CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,878.94
9 DEPT. ENVIRONMENT NATL RES	LANDFILL OPERATIONS FEE	2,740.29
10 FIRST NATIONAL BANK	CITY HALL BOND INTEREST	68,520.63
11 GREGG PETERS	MANAGER FEE/PROFITS	17,902.24
12 LOREN FISCHER DISPOSAL	HAUL CARDBOARD	210.00
13 MIDAMERICAN	GAS USAGE	3,587.06
14 MIDCONTINENT COMMUNICATION	INTERNET/CABLE SERVICE	118.68
15 QUILL	SUPPLIES	1,238.63
16 REPUBLIC NATIONAL DIST.	MERCHANDISE	8,730.48
17 SD ELECTRICAL COMMISSION	CONTRACTORS LICENSE	150.00
18 STERN OIL CO.	FUEL	13,465.30
19 THE EQUALIZER	ADVERTISING	151.00
20 UNITED PARCEL SERVICE	SHIPPING	118.45
21 US POSTMASTER	POSTAGE FOR UTILITY BILLS	1,050.00
22 WELLMARK BCBS	REFUND AMBULANCE PAYMENT	80.65
23 WOW! BUSINESS	DIAL UP SERVICE	49.95
	GRAND TOTAL	\$123,789.36