

Unapproved Minutes
Council Special Session
June 11, 2012
Monday 5:15 p.m.

The special session of the City Council, City of Vermillion, South Dakota was called to order on Monday, June 11, 2012 at 5:15 p.m. by Mayor Powell.

1. Roll Call

Present: Davies, Grayson, French, Meins, Osborne, Willson, Zimmerman, Mayor Powell

Absent: Ward

2. Pledge of Allegiance

3. Adoption of Agenda

204-12

Alderman Grayson moved approval of the agenda with the adjustment to move Item 5 New Business - Canvass of June 5, 2012 municipal election results to before Old Business. Alderman French seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

5. New Business

A. Canvass of June 5, 2012 municipal election results.

Mayor Powell stated that the City Council will need to canvass the June 5th municipal election results. The unofficial election results from the tabulation from election night are included in the packet. The tabulation reported 177 ballots were counted and the poll book for the Central Ward was opened that listed the total voters at 177. The City Council members reviewed the poll book total with the abstract of the results prepared.

Mike Carlson, Finance Officer, stated that the duties of the Canvassing Board are to open the returns from each precinct, which are found in the poll book, determine that the returns are genuine and not forged, tabulate the returns from the precincts, declare the results and make an abstract of the results that is to be signed. Mike reported that the County Commission has canvassed the results for the primary election so the poll book envelopes have been opened but were again sealed. The tabulation board results for each precinct were handed out to compare

with the totals from the poll book. Mike noted that there were no provisional ballots for the Central Ward. Discussion followed.

205-12

Alderman Osborne moved approval of the official election results from the June 5th election as follows:

CITY OF VERMILLION
MUNICIPAL ELECTION
June 5, 2012

STATE OF SOUTH DAKOTA)
COUNTY OF CLAY)

<u>Ward</u>	<u>CENTRAL</u>
<u>Alderman Central Ward</u>	
Kelsey Collier-Wise	90
Jenny French	79
Total Registered in each ward	1153
Total voted in each ward	177
% in each ward voted	15%

We, the undersigned, appointed as the Board of Canvassers because of our position on the governing body in the jurisdiction of the City of Vermillion for the municipal election held on the 5th day of June, 2012, hereby certify that the foregoing is a true abstract of the votes cast in the City of Vermillion at the election as shown by the returns certified to the person in charge of the election.

The Council members signed the election results and Alderman Zimmerman seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

4. Old Business

A. Continuation of Public Hearing on Appeal to Demolition order for a dangerous building at 23 N. Harvard.

Farrel Christensen, Building Official, reported that the City Attorney has been in contact with the attorney for the contract holder and the attorney for the Church noting that an addendum to the contract for deed has been worked out. Farrel stated that if the City Council would want to authorize any agreement, he requested that it be in the form proposed by the City. As to the bond, Farrel noted that the \$10,000 is the estimate of the cost to remove the structure not the amount needed

to complete the work. Farrel noted that the absolute solution would be to uphold the demolition order.

Greg Robinson, representing the Apostolic Church, handed out information to the City Council members reporting that the outstanding bill with the City has been paid, a cashers check has been purchased to pay the taxes, a license permit bond from DNC Movers, LLC in the amount of \$10,000 stating that they would be the general contractor working with Adams Construction to oversee the project and the amended contract for deed agreement providing for two more years. Greg noted that Mr. Klein has not signed the agreement but his attorney will be getting the signed copy back to the Church.

Jim McCulloch, City Attorney, reported that the attorney for the Church has completed the agreement and that the attorney for Mr. Klein has stated that he was agreeable to the amendment.

Dave and Joyce Zimmer, residents of 102 N. Harvard, stated that they have watched this project for over two years with very little progress noting that there has been no activity since last fall. They noted that the area has been a hazard to the neighborhood and an eyesore. If the contract is to extend this for another two years, the City should proceed with the demolition. If the City is going to let the project be completed, there needs to be strict deadlines and they should be able to show that they have the financing.

Dena Edwards, 107 S University, Church member, stated they have been working on this project during the time period. The old house was torn down, the other house was moved in, foundation constructed and house placed on the foundation. Other Church members apologized to the Zimmers for the delay in completing the project and thanked the City Council for continuing the hearing. The members stated that the Church has paid the amounts due the City, the back taxes and are committed to completing the exterior of the home in the 60 days.

Greg Robinson requested that the City Council suspend the demolition order and allow the Church 60 days and the exterior will be completed. Greg stated that they have the financing for the exterior and pledges for the interior. The members are ready to volunteer to complete the project which was evident from all that attended the last meeting. Greg stated that he would provide the weekly reports to Farrel noting that if they don't meet the timeline the property can be torn down.

Dave Zimmer questioned how the project could be completed in 60 days when they have already had over two years. He noted that it is a very small lot with an oversized house that needs a lot of work.

Alderman Davies questioned the surety bond presented noting that it was a license and permit bond for house moving. Jim McCulloch, City Attorney, stated that the surety bond is a license bond dealing with a house moving that will need to be a performance payment bond that the Church will need to get corrected.

Discussion followed noting that the City agreement was to complete the exterior and interior in a year. The Church is proposing to complete the exterior in 60 days. What about the interior?

Alderman Grayson questioned the plan noting that it does not address who is going to do the work and if there is financing for the proposed work.

206-12

Alderman Grayson moved to uphold the order to demolish the dangerous structure at 23 N. Harvard and deny the appeal of the Apostolic Faith Church. Alderman Zimmerman seconded the motion. Discussion followed on the ability to finance the project and complete the whole project. Alderman Osborne asked Mr. Robinson if the exterior can be completed in the 60 days and the balance of the project within a year. Mr. Robinson stated that they have committed to complete the exterior and landscaping in 60 days and will agree to complete the interior within a year.

207-12

Alderman Osborne moved a substitute motion to continue the public hearing on the appeal of the demolition order for 23 N Harvard until the June 18th meeting to allow City staff and the Church staff time to work out an agreement to combine the construction schedule as presented by the Church, to complete the exterior and landscaping in 60 days, with the City proposed agreement to have the whole project completed in one year, have the addendum to the contract for deed signed by both parties and convert the license and permit bond to a performance bond. Alderman Meins seconded the motion. Discussion followed with John Prescott, City Manager, stating that the schedule as proposed by the Church can be worked into the agreement. John noted that at last meeting the statement was made by Mr. Robinson that churches cannot be issued performance bonds and that since that meeting he has checked with an insurance agent who stated that churches can be issued a performance bond. Mr. Robinson stated that he had contacted the insurance company for the Church who stated that they could not be issued a bond as they did not have the deed to the property. Discussion followed on the need to define inactivity so that both parties understand going into the agreement what would void the agreement causing the building to be removed at the Church's expense. It was also noted that the project completion would be based upon the ability of

the Building Official to issue an occupancy permit for the residence and it was noted there would be no further appeals to the demolition order if the agreement was not followed.

Mayor Powell stated that the motion to be considered is the substitute motion 207-12 to replace the original motion 206-12. The motion to substitute passed 6 to 2. Mayor Powell declared the original motion substituted. Mayor Powell called for a vote on the substituted motion 207-12. Motion carried 6 to 2. Mayor Powell declared the motion adopted to continue the appeal hearing until the June 18th meeting.

6. Executive Session

208-12

Alderman Meins moved to go into executive session at 6:30 p.m. for personnel matters SDCL 1-25-2(1) and to relocate the meeting to the large conference room on the second floor. Alderman Willson seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

Mayor Powell declared the Council out of executive session at 7:40 p.m.

7. Adjourn

209-12

Alderman Osborne moved to adjourn the Council Meeting at 7:41 p.m. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 11th day of June, 2012.

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 _____.