

Unapproved Minutes
Council Special Session
March 19, 2012
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, March 19, 2012 at 12:00 noon in the City Hall large conference room.

1. Roll Call

Present: Davies, Grayson, Meins, Osborne, Ward, Zimmerman, Mayor Powell

Absent: French, Willson

2. Educational Session - Draft of the Five Year Capital Improvement Plan - John Prescott

John Prescott, City Manager, stated that the goal of the Capital Improvement Plan is to obtain City Council input on upcoming projects well in advance of the budget preparation. He reviewed the process used to develop the Capital Improvement Plan for 2013-2016. John noted that the plan did not include funding sources and the amounts for future years may need adjustment as the project advances and costs are refined. He stated that the department heads assisted with the preparation of their respective capital plans and were present to answer questions. John reviewed the draft Capital Improvement Plan, department by department, with the City Council and answered questions on the draft plan.

Alderman Davies was excused from the meeting at 12:39 p.m.

3. Briefing on the March 19, 2012 City Council Regular Meeting Agenda

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

4. Adjourn

089-12

Alderman Zimmerman moved to adjourn the Council special session at 12:50 p.m. Alderman Meins seconded the motion. Motion carried 6 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 19th day of March, 2012.

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
March 19, 2012
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on March 19, 2012 at 7:00 p.m. by President Osborne.

1. Roll Call

Present: Davies, French, Meins, Osborne, Ward, Willson, Zimmerman

Absent: Grayson, Mayor Powell

2. Pledge of Allegiance

3. Minutes

A. March 5, 2012 Special Session; March 5, 2012 Regular Session

090-12

Alderman Ward moved approval of the March 5, 2012 special session minutes and the March 5, 2012 regular session minutes. Alderman French seconded the motion. Motion carried 7 to 0. President Osborne declared the motion adopted.

4. Adoption of Agenda

091-12

Alderman Davies moved approval of the agenda with the change of the bid opening date on Item 12B from April 4th to April 11th. Alderman Zimmerman seconded the motion. Motion carried 7 to 0. President Osborne declared the motion adopted.

5. Visitors to be Heard

A. Proclamation of Appreciation for Duane Schilling

Alderman Meins read the Proclamation of Appreciation for Duane Schilling recognizing his retirement on March 23, 2012 after 40 years of employment with the City. President Osborne presented Duane with the proclamation. Duane thanked the City Council for the proclamation.

6. Public Hearings

A. First Reading of Ordinance No. 1274 - Amendment to the Cottage Place Planned Development District

Jose Dominguez, City Engineer, reported on the location of the Cottage Place Planned Development District noting that the amendment is to increase the size to include a lot adjoining Cottage Avenue and adjusting the district areas. The proposed change will increase the area for residential while diminishing the space for commercial development. Jose stated that the Planning Commission recommended approval of the amendment to the Cottage Place Planned Development District.

Jose reported that a resident, who lives north of Tract 3 along Cottage Avenue, was concerned that his residence could be surrounded by commercial and was also concerned that an access off of Cottage Avenue would increase traffic.

Discussion followed questioning the commercial uses allowed in Tract 2 & 3, noting that extended hour commercial uses would require approval as a conditional use.

Lance Wheatherly, with Banner & Associates, reported that the intended use of Tract 3 would be multi-family. Lance answered questions of the City Council on the proposed development.

092-12

President Osborne read the title to the above mentioned Ordinance and Alderman Zimmerman moved adoption of the following Resolution:

BE IT RESOLVED, that the minutes of this meeting shall show that the title to proposed Ordinance No. 1274 - Amendment to the Cottage Place Planned Development District 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 19th day of March, 2012 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Alderman Willson. After discussion, the question of adoption of the Resolution was put to a roll call vote of the Governing Body was as follows: Davies-N, French-Y, Meins-Y, Osborne-Y, Ward-N, Willson-Y, Zimmerman-Y. Motion carried 5 to 2. President Osborne declared the motion adopted.

7. Old Business - None

8. New Business

A. Resolution to allow for the reselling of water and sanitary sewer service at the Plum Vista Mobile Home Park and agreement

Jason Anderson, Assistant City Engineer, reported that the owner of Plum Vista Mobile Home Park, at 447 N. Plum Street, has requested to resell water/sewer services to their mobile home tenants. The City Ordinance requires City Council approval for the resale of utility service. Jason stated that, if approved, City staff would meet with Mrs. Waddell to review the rates to determine that they are not higher than the City rate. Discussion followed.

093-12

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

RESOLUTION AUTHORIZING THE RESALE OF UTILITY SERVICES

WHEREAS, City ordinance provides that utility customers shall not resell or share with others any utility services furnished by the City unless authorized by the City Council, and;

WHEREAS, Connie Waddell, owner of Plum Vista Mobile Home Park at 447 N. Plum Street, in an attempt to fairly distribute the utility costs from the City to the Mobile Village, has requested the ability to resell water and wastewater services to the individual tenants, and;

WHEREAS, Plum Vista Mobile Home Park requests the ability to bill the individual tenants for water and wastewater service, and;

WHEREAS, Plum Vista Mobile Home Park understands that, as owner, they are responsible for furnishing and maintaining meters, along with the resale utility billing.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, that Connie Waddell, owner of Plum Vista Mobile Home Park is authorized to resell water and wastewater services to individual tenants at 447 N. Plum Street at a rate that is not in excess of the City utility fees.

Dated at Vermillion, South Dakota this 19th day of March, 2012.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kent Osborne, President

ATTEST:

BY _____
Michael D Carlson, Finance Officer

The motion was seconded by Alderman French. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. President Osborne declared that the Resolution was adopted.

B. Resolution to enter into a lease-purchase agreement for a plotter/scanner/copier

Jose Dominguez, City Engineer, reported that the City currently owns a plotter and a large scale copier. The existing plotter that was purchased in 2009 will accept a copier/scanner attachment. The 1991 copier is at the end of its life and the cost of the copier/scanner attachment for the current plotter is \$8,000. A new plotter/copier/scanner is \$9,001, which can be lease purchased at 0% interest for three years and, after the trade in of the 2009 plotter, will have a net cost of \$7,066. Jose recommended approval of the zero interest lease purchase resolution with Canon for the plotter/copier/scanner with the trade in of the existing plotter. Discussion followed with Jose answering questions on the equipment.

094-12

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

RESOLUTION TO ENTER INTO LEASE-PURCHASE AGREEMENT

WHEREAS, The City of Vermillion, South Dakota (the "City"), existing as a municipal corporation of the State of South Dakota (the "State"), is authorized by the laws of the State to purchase, acquire and lease personal property for the benefit of the City and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, in order to acquire such equipment, the City proposes to enter into a lease-purchase transaction pursuant to certain

documents from Canon Financial Services, Inc., the form of which has been reviewed by the City Attorney and presented to the governing body of the Cit at this meeting;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, that the form, terms and provisions of the Agreement, and all other schedules and exhibits attached thereto, are hereby approved in substantially the form presented at this meeting, with such insertions, omissions and changes as shall be approved by counsel of the City or other members of the governing body of the City executing the same, the execution of such documents being conclusive evidence of such approval; and the Mayor, or any other officer of the City, who shall have the power to execute contracts on its behalf are hereby authorized and directed to execute, acknowledge, countersign and deliver the Agreement and all exhibits attached thereto, and the Finance Officer of the City is hereby authorized to attest to the foregoing and affix the seal of the City to such documents; and

NOW, THEREFORE, BE IT RESOLVED, that the officers and employees of the City shall take all actions necessary, or reasonably required by the parties to the Agreement, to carry out, give effect to and consummate the transactions contemplated thereby and to take all actions necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that nothing contained in this Resolution, the Agreement, or any other instrument shall be construed with respect to the City as incurring a pecuniary liability or charge upon the general credit of the City or against its taxing power, nor shall the breach of any agreement contained in the Resolution, the Agreement, or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City or any charge upon its general credit or against its taxing power, except to the extent the payments payable under the Agreement are special limited obligations of the City as provided in the Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that City Manager, John Prescott, is authorized to execute the Agreement on behalf of the City.

Dated at Vermillion, South Dakota this 19th day of March, 2012.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kent Osborne, President

ATTEST:

BY _____
Michael D Carlson, Finance Officer

The motion was seconded by Alderman French. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. President Osborne declared that the Resolution was adopted.

C. Resolution amending water rates and authorizing the prepayment of the 1999 SRF loan for water tower construction

Mike Carlson, Finance Officer, reported that for the water tower project a State Revolving Loan was applied for and received in the amount of \$1,532,000 with 10% principal forgiveness. A condition of the loan is that the City has rates in place to meet the debt service requirements when the project is completed. At the February 6, 2012 noon session, the City Council reviewed the options with the consensus to repay the 1999 SRF loan that is at 5% interest with water fund reserves to reduce the amount that water rates would need to be adjusted to meet the debt service requirements. The resolution will increase water rates 2% in 2013, 2.25% in 2014 and 2.5% in 2015 to provide the funding to service the new loan and authorizes the prepayment of the 1999 SRF loan. Discussion followed on the proposed rate adjustments.

095-12

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

RESOLUTION ADJUSTING WATER RATES FOR
2013, 2014 AND 2015 AND AUTHORIZING THE PREPAYMENT
OF THE 1999 STATE REVOLVING FUND LOAN FOR THE
WATER TOWER REPLACEMENT PROJECT

WHEREAS, the Vermillion City Council has determined the need to replace the Market Street water tower as the cost of needed repairs is estimated at over \$300,000 and the tower is almost 100 years old; and

WHEREAS, the City of Vermillion has made application for grant and loan funding for the water tower replacement project; and

WHEREAS, the South Dakota Conservancy District (District) has approved a \$1,532,000 State Revolving Fund loan with 10% principal forgiveness for funding the new water tower; and

WHEREAS, the Community Development Block Grant funding request for the project has been denied; and

WHEREAS, to reduce the impact on future rate increases, the City Council authorizes the prepayment the 1999 State Revolving Loan with a current principal balance of \$435,033.67 from existing water reserve funds; and

WHEREAS, a requirement for the loan by the District is that the City Council have establish rates projected to meet the debt service of the new loan; and

WHEREAS, to meet the annual debt service requirements for the new loan, current water rates will need to be increased by 2% in 2013, 2.25% in 2014 and 2.5% in 2015; and

WHEREAS, Section 53.075 of Title V, Public Works, of the 2008 Revised Ordinances of the City of Vermillion allows the City Council to adjust water rates.

BE IT HEREBY RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. on the 19th day of March, 2012, that water rates be established or changed as follows:

a) Meter Service Charge per billing:

(1) Residential

Meter Size (inches)	Current Service Charge	2013 Service Charge	2014 Service Charge	2015 Service Charge
$\frac{3}{4}$	\$ 13.41	\$13.68	\$13.99	\$14.34
1	24.72	25.21	25.79	26.44
1 $\frac{1}{2}$	46.06	46.98	48.05	49.27
2	70.96	72.37	74.02	75.91
3	139.23	142.00	145.24	148.93
4	216.52	220.83	225.87	231.61
6	427.30	435.81	445.75	457.08

Effective for billing after 12-15-2012, 12-15-2013,
 12-15-2014
 The above rates include a surcharge fee defined below.

(2) Apartment house and trailer courts per billing:

Meter size (inches)	Current Service Charge	2013 Service Charge	2014 Service Charge	2015 Service Charge
1	24.72	25.21	25.79	26.44
1 ½	46.06	46.98	48.05	49.27
2	70.96	72.37	74.02	75.91
3	139.23	142.00	145.24	148.93
4	216.52	220.83	225.87	231.61
6	427.30	435.81	445.75	457.08

Effective for billing after 12-15-2012, 12-15-2013,
 12-15-2014

The above rates include a surcharge fee defined below.

In addition, an apartment or trailer charge as follows shall be assessed for each apartment or trailer unit over 1 connected to a master meter. The listed rate includes a surcharge fee defined below.

	<u>Current</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Additional units	\$3.68	\$3.75	\$3.84	\$3.94

Effective for billing after 12-15-2012, 12-15-2013,
 12-15-2014

The above rates include a surcharge fee defined below.

(3) Commercial and industrial per billing:

Meter Size (inches)	Current Service Charge	2013 Service Charge	2014 Service Charge	2015 Service Charge
¾	\$ 13.41	\$13.68	\$13.99	\$14.34
1	24.72	25.21	25.79	26.44
1 ½	46.06	46.98	48.05	49.27
2	70.96	72.37	74.02	75.91
3	139.23	142.00	145.24	148.93
4	216.52	220.83	225.87	231.61
6	427.30	435.81	445.75	457.08

Effective for billing after 12-15-2012, 12-15-2013,
 12-15-2014

The above rates include a surcharge fee defined below.

In addition, an apartment or trailer charge as follows shall be assessed for each apartment or trailer unit over 1 connected to a master meter. The listed rate includes a surcharge fee defined below.

	<u>Current</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Additional units	\$3.68	\$3.75	\$3.84	\$3.94

Effective for billing after 12-15-2012, 12-15-2013,
12-15-2014

The above rates include a surcharge fee defined below.

b) Water Charge: In addition to the meter charges mentioned in subsection (a) above there shall be the charge as follows per 100 cubic feet of all water used:

c)

	<u>Current</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Water Charge	\$ 2.03	\$2.07	\$2.12	\$2.17

Effective for billing after 12-15-2012, 12-15-2013,
12-15-2014

Outside City Limits: All customers residing outside the city limits of the City of Vermillion, South Dakota shall pay 1.5 times the aforesaid rates.

d) Bulk Water Rate: Bulk water rates shall be the per gallon charge as follows:

	<u>Current</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Bulk Water	\$0.00537	\$0.005451	\$0.005587	\$0.005741

Effective for billing after 12-15-2012, 12-15-2013,
12-15-2014

e) Debt Service Surcharge Fees: There is hereby established and imposed, pursuant to the authority of SDCL Ch. 9-40, a surcharge upon the water service in the City of Vermillion. The surcharge shall apply to all classes of customers listed in a) above. The debt service surcharge is a special charge for the use of the water plant improvements and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the 2005 Drinking Water State Revolving Fund Loan. The City does hereby establish the debt service surcharge fees for each customer of its System who receives or

benefits from the Project or services of the Project. Such allocation shall be set at a level which, assuming a ten percent (10%) delinquency rate, will produce income at the times and in amounts sufficient to pay when due, the principal of and interest on the borrower 2005 bonds and the administrative expense surcharges and all other payments as may be required under the loan agreement. The charges shall be reviewed annually by city personnel and administratively adjusted, upwards or downwards, pursuant to SDCL 9-40-15.1 and 9-40-15 to such amounts as may be necessary to pay principal, administrative surcharge and other charges as may become due and owing under the loan agreements. The monthly surcharge fee included in a above is as follows:

Meter Size (inches)	Current Service Charge	2013 Service Charge	2014 Service Charge	2015 Service Charge
$\frac{3}{4}$	\$ 5.14	5.08	\$5.08	\$5.08
1	9.53	9.41	9.41	9.41
1 $\frac{1}{2}$	17.76	17.54	17.54	17.54
2	27.36	27.02	27.02	27.02
3	53.69	53.02	53.02	53.02
4	83.50	82.46	82.46	82.46
6	164.79	162.74	162.74	162.74

Effective for billing after 12-15-2012, 12-15-2013,
12-15-2014

In addition, an apartment or trailer charge, as follows, shall be assessed for each apartment or trailer and/or each commercial or industrial unit over 1 connected to a master meter. The monthly surcharge fee included in (a) above is as follows:

	Current	2013	2014	2015
Additional units	\$1.42	\$1.40	\$1.40	\$1.40

Effective for billing after 12-15-2012, 12-15-2013,
12-15-2014

The Debt Service Surcharge may be combined with the Meter Service Charge on the monthly billing for ease of reporting.

e) Effective Date of Rate.

The effective dates of the rates listed in this resolution are for bills with billing date after the dates stated above.

BE IT FURTHER RESOLVED, that any surcharge funds in excess of the debt service requirements be annually transferred to the water fund.

Dated at Vermillion, South Dakota this 19th day of March, 2012.

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

By: _____
Kent Osborne, President

ATTEST:

Michael D. Carlson, Finance Officer

The motion was seconded by Alderman Meins. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. President Osborne declared that the Resolution was adopted.

D. Resolution approving certain drinking water facility improvements, giving approval to the issuance and sale of a revenue bond for water tower construction

Mike Carlson, Finance Officer, reported that the previous resolution adjusted the water rates and prepaid the 1999 SRF loan so that the funding will be in place for the water tower State Revolving Fund (SRF) loan. This resolution is to approve the water tower improvement and the issuance of the SRF revenue bond in the amount of \$1,532,000 with 10% principal forgiveness to be repaid over 20 years at 2.25% interest. This resolution was prepared by bond counsel and has been reviewed by the City Attorney. Discussion followed.

096-12

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

RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING CERTAIN REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the "Act"), as found and determined by the Legislature, is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes; or any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and

WHEREAS, a municipality is authorized to issue revenue bonds to fund improvements, extensions and additions to its drinking water system by SDCL 9-40-6 and is authorized to pledge the net income or revenues from the system to secure such bonds; and

WHEREAS, the City of Vermillion, South Dakota (the "City") currently operates a water distribution system to supply municipal, industrial and domestic water to its inhabitants and has determined that improvements to the drinking water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its drinking water system; and

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes (the "System") and has applied to the South Dakota Conservancy District (the "District") for a State Revolving Fund Loan to finance the improvements (the "Loan");

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

1. Declaration of Necessity and Determination of Facilities Financed. The City desires, and hereby determines, it is necessary to construct improvements to its drinking water facilities within its System, as described in Exhibit A hereto (the "Project"). Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby determines that the Project will substantially benefit the entire System and all of its users within the

meaning of SDCL 9-40-15 and SDCL 9-40-17. Therefore, the City hereby determines that for the purposes of the Act, including, in particular, SDCL 9-40-17, the net income or revenues of the entire System, as extended, added to, or improved by the Project shall be deemed to be the net income or revenues available to be pledged to the payment of the bonds issued hereunder.

2. Approval of Loan. The City hereby determines to finance up to \$1,532,000 of the costs of the Project through the issuance of utility revenue bonds (the "Revenue Bond"), and other funds secured by the City.
3. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which has been submitted to this Council, between the City as Borrower and the District, is hereby, in all respects, authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to, and made a part of this Resolution, is on file in the office of the Finance Officer and is available for inspection by any interested party.
4. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$1,532,000, as determined, according to the Loan Agreement in the form and content set forth in Exhibit B attached to the form of Loan Agreement (the "Revenue Bond") shall be, and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the

authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in SDCL 9-40-19.

5. Paying Agent/Registrar. The Revenue Bond shall be payable at the office of The First National Bank of Sioux Falls, Sioux Falls, South Dakota, hereby designated as paying agent and registrar.
6. Bond Counsel. Dorsey & Whitney, LLP, are hereby retained as Bond Counsel with respect to the Revenue Bond.
7. System Fund Accounts. For the purpose of application and proper allocation of the income of the System and to secure the payment of principal of and interest on the Revenue Bond, the following funds shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:
 - (a) System Revenue Account. There shall be deposited in the System Revenue Account, as received, the entire gross revenues derived from the operation of the System collected pursuant to the Ordinances of the City (the "Rate Ordinance") including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys from the System Revenue Account shall be transferred periodically into separate funds and accounts as provided below.
 - (b) Operation and Maintenance Account. There shall be established a General Operation and Maintenance Account. Out of the remaining revenues of the System Revenue Account, after application described in (c) and (d) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the remainder of the System and such current expenses for the maintenance thereof as may be necessary to preserve the remainder of such System in good repair and working order. The term "current expenses" shall be construed to include all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, including, without limitation salaries, supplies and rent, but shall exclude the General Depreciation Account and 2012 System Debt Service Account.

- (c) System Debt Service Account. Out of the revenues in the System Revenue Account, there shall be set aside no later than the last day of each month into the fund designated 2012 System Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal and interest on the Revenue Bond and any reserve determined by the City's governing body to be necessary. The amount set aside monthly shall be not less than one-third (1/3) of the total principal, interest, and other amounts payable on the following January 1, April 1, July 1, or October 1 and, if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.
- (d) Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month, into the General Depreciation Account, an amount determined by the City Commission to be a proper and adequate amount for repair and depreciation of the System.
- (e) Surplus Account. There shall be established the General Surplus Account. Revenues remaining in the System Revenue Account, at the end of any fiscal year, after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be credited to the General Surplus Account. If, at any time, there shall exist any default in making any periodic transfer to the 2012 System Debt Service Account, the City Commission shall authorize the Finance Officer to rectify such default, so far as possible, by the transfer of money from the General Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above. Monies in the General Surplus Account, from time to time, may be transferred into one or more of the foregoing funds.

No disbursements shall be made from the System Revenue Account except to the special funds and accounts as above provided.

8. Pledge of Revenues. The Revenue Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a

limited obligation of the City payable solely out of the 2012 System Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine, on a periodic basis, the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 8 or any other covenant or agreement in the Loan Agreement.

9. Additional Bonds. As permitted by SDCL 9-40-9, Additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the first lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

10. General Covenants.

(a) The City hereby covenants and agrees, with the District and other owners of the Revenue Bond, that it will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

- (b) The City agrees and covenants that it will promptly construct the improvements included in the Project.
- (c) The City covenants and agrees that pursuant to SDCL 9-40-28 and SDCL 9-40-29, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the System and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest, and Administrative Surcharge on the Revenue Bond, and the City agrees not sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.
- (d) The City covenants and agrees with the District, and other owners of the Revenue Bond, that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act shall state that it is subject to all provisions and limitations thereof pursuant to SDCL 9-40-19.
- (e) The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in

this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

(f) In the event of mismanagement of the System, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the System are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to SDCL 9-40-33, and agrees that the receiver will have the powers set forth therein, and in SDCL 9-40-34 and SDCL 9-40-35 to operate and administer the System, and charge and collect rates as described therein.

11. No Election Required. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to SDCL 9-40-15 no election is required to issue the Revenue Bond.

12. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

13. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

14. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Dated at Vermillion, South Dakota this 19th day of March, 2012.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA
BY _____
Kent Osborne, President

ATTEST:

BY _____
Michael D Carlson, Finance Officer

EXHIBIT A

Description of the Project

The Project will consist of the construction of a water tower to replace the existing Market Street tower as outlined in the City's Facilities Plan, dated September 2010 as amended March 2012.

The motion was seconded by Alderman Ward. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. President Osborne declared that the Resolution was adopted.

E. Engineering agreement for water tower

Jason Anderson, Assistant City Engineer, reported that the City will need to enter into an engineer's agreement for the construction of the water tower including construction inspection. City staff negotiated the attached engineering services agreement with Banner and Associates for the design and construction administration of a 500,000 gallon water tower at an amount not to exceed \$73,200 for design and \$88,000 for construction administration. The agreement has been reviewed by the City Attorney. Discussion followed on the project and agreement.

096-12

Alderman Zimmerman moved approval of the engineering services agreement with Banner and Associates for the water tower in an amount not to exceed \$161,300. Alderman Meins seconded the motion. Discussion followed. Motion carried 7 to 0. President Osborne declared the motion adopted.

F. Change Order No. 5 - Wastewater Treatment Facility Phase II Improvements

Jason Anderson, Assistant City Engineer, reported that Change Order No. 5 with PKG Contracting, Inc for the Wastewater Phase II improvements is included in the packet along with the consulting engineer's explanation. This is the final change order as the project is now complete and final payment will be made. Discussion followed on the items included in the change order.

097-12

Alderman Willson moved approval of Change Order No. 5 with PKG Contracting, Inc for the Wastewater Treatment Facility Phase II Improvements in the amount of \$38,779.71. Alderman French seconded the motion. Motion carried 7 to 0. President Osborne declared the motion adopted.

G. Consolidated Board of Equalization appointments

Mike Carlson, Finance Officer, reported that, as part of the Consolidated Board of Equalization agreement with the County, City and School, the City needs to appoint three members to serve on the Consolidated Board of Equalization that will meet April 10th and, if needed, another day later in April or early May. The appointment should include that the remaining Council members will serve as alternates if one of the members is unable to serve. Discussion followed.

098-12

Alderman French moved approval of the appointment of Alderman Osborne and Zimmerman to serve as the City representatives on the Consolidated Board of Equalization and authorize the Finance Officer to contact Alderman Grayson and Mayor Powell to serve as the third City representative on the consolidated board with the remaining members to serve as alternates. Alderman Zimmerman seconded the motion. Motion carried 7 to 0. Council President Osborne declared the motion adopted.

H. Resolution Correcting the Resolution Establishing Tapping Fees in Lieu of Assessment for Construction of Sanitary Sewer Lift Station at 1314 Princeton

John Prescott, City Manager, reported that the City Council, on March 5, 2012, adopted the resolution establishing tapping fees in lieu of assessment for the sanitary sewer lift station at 1314 Princeton Street. Since adoption, it was noted that Lot 1, block 5, Partridge Subdivision was listed twice, thus the reason for the correcting resolution. The correcting resolution will removed the duplicate entry.

099-12

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

RESOLUTION CORRECTING RESOLUTION ESTABLISHING TAPPING FEE
IN LIEU OF ASSESSMENT FOR CONSTRUCTION OF SANITARY
SEWER LIFT STATION AT 1314 PRINCETON STREET

WHEREAS, the City Council, of the City of Vermillion, adopted a Resolution Establishing Tapping Fees in Lieu of Assessment for the Construction of a Sanitary Sewer Lift Station at 1314 Princeton Street on March 5, 2012; and

WHEREAS, it has been determined that one lot has been listed twice in the resolution, thus, including the tapping fee in lieu of assessment for construction of sanitary sewer lift station twice for this lot; and

WHEREAS, Lot 1, Block 5, Partridge Subdivision was listed as a lot that has benefited by the construction of the sanitary sewer lift station in the amount of \$1,750.08; and the owner of such lot has been allowed to connect and use the sanitary sewer lift station prior to the calculation of the tapping fee in lieu of assessment that is due by December 31, 2012 or a date mutually agreed upon by the City and property owner via a written agreement dated prior to April 30, 2012; and

WHEREAS, Lot 1, Block 5, Partridge Subdivision was again listed in the resolution, in error, as a lot benefited by the construction of the sanitary sewer lift station in the amount of \$1,750.08 and the owner of such lot shall pay said amount to the City before the property is served by the sanitary sewer facility; and

WHEREAS, the business located on this lot has been allowed to connect and use the sanitary sewer lift station prior to the calculation of the tapping fee in lieu of assessment, thus, said fee is due by December 31, 2012 or a date mutually agreed upon by the City and property owner via a written agreement dated prior to

April 30, 2012 as outlined in a developers agreement between the owner and the City.

NOW, THEREFORE, BE IT RESOLVED, that the Resolution Establishing Tapping Fees in Lieu of Assessment for Construction of Sanitary Sewer Lift Station at 1314 Princeton Street, adopted March 5, 2012, be corrected to remove the second listing of the tapping fee in lieu of assessment that is to be paid before said property is served for Lot 1, Block 5, Partridge Subdivision, as this lot is currently served by the sanitary sewer and is being assessed a tapping fee for the sanitary sewer lift station.

Dated at Vermillion, South Dakota, this 19th day of March, 2012.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

By:

Kent Osborne, Council President

ATTEST:

By: _____
Michael D. Carlson, Finance Officer

The motion was seconded by Alderman Willson. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Powell declared that the Resolution was adopted.

I. Tapping fee agreement with Blue Square Partners for Lot 1, Block 6, Partridge Subdivision (11 Shriner Street)

John Prescott, City Manager, reported that the lift station and sewer main tapping fee resolutions adopted March 5th provided payment due dates for the three properties already being served and provide the option to extend the date upon written agreement by April 30, 2012. Blue Square Partners for their property at 11 Shriner have requested the lift station fee to be extended from December 31, 2012 to June 30, 2013 and the sanitary sewer fee to be extended from March 31, 2013 to December 15, 2013. This information has been included in an agreement that, after adoption, can be filed at the Resister of Deeds. John recommended adoption of the agreement. Discussion followed.

100-12

Alderman Davies moved approval of the agreement as presented with Blue Square Partners for Lot 1, Block 6, Partridge Subdivision to extend the due dates for the lift station and sewer main tapping fees. Alderman Willson seconded the motion. Motion carried 7 to 0. President Osborne declared the motion adopted.

9. Bid Openings - None

10. City Manager's Report

A. John reported that information is available at City Hall for the Paint South Dakota Program. Applications are due by April 9, 2012 for a volunteer group to paint a single-family, owner occupied residence where the owner is physically or financially unable to paint the residence.

B. John reported the receipt of a raffle notification for the Special Olympics Polar Plunge with the drawing on Sunday, March 25, 2012 at the high school.

C. John reported that the Vermillion Police Department has mailed a community survey to a random sample of residents. He encouraged recipients to complete and return the survey.

D. John reported that the Arbor Day Foundation sent a notice that, for the 27th year, the City of Vermillion was named a Tree City USA for our commitment to urban forestry and meeting the standards set by the Foundation.

PAYROLL ADDITIONS AND CHANGES

Recreation: Claire Jones \$7.75/hr; Pool: Dawn Bergeson \$11.25/hr, Josh Callahan \$8.25/hr, Kevin Callahan \$8.25/hr, Alexa Mockler \$8.25/hr, Josephine Nordberg \$8.50/hr; Parks: Tyler Klatt \$7.50/hr

11. Invoices Payable

101-12

Alderman Davies moved approval of the following bills:

BROADCASTER PRESS	ADVERTISING	793.80
BRUNICKS SERVICE INC	FUEL	6,271.20
BUREAU OF ADMINISTRATION	TELEPHONE	326.02
CENTURYLINK	TELEPHONE	1,460.99
CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,495.37
DEPT. ENVIRONMENT NATL RES	LANDFILL OPERATIONS FEE	2,311.00

DIVISION OF MOTOR VEHICLE	DECALS	4.00
GREGG PETERS	MANAGERS FEE	5,375.00
INSITE INSTRUMENT GROUP	PARTS	3,170.18
JIM ZIMMERMAN	SAFETY BOOT REIMBURSE	49.79
KNOLOGY	DIALUP/911 CIRCUIT	1,415.45
LOREN FISCHER DISPOSAL	HAUL CARDBOARD	70.00
MATHESON TRI-GAS, INC	MEDICAL OXYG/CYL RENTAL	176.06
MIDAMERICAN	GAS USAGE	7,094.79
MIDCONTINENT COMMUNICATION	CABLE/INTERNET SERVICE	105.95
NORIDIAN ADMIN SERVICES	REFUND AMBULANCE PYMT	667.05
PKG CONTRACTING, INC	WWTF PHASE II IMPROVE	45,029.71
RESERVE ACCOUNT	POSTAGE FOR METER	858.00
ROTONICS MANUFACTURING INC	RECYCLING CONTAINERS	3,615.00
SD ASPHALT CONFERENCE	REGISTRATION	200.00
SD MUNICIPAL LEAGUE	REGISTRATION	60.00
SDN TECHNOLOGIES	MAINTENANCE/SUPPORT	6,462.00
SPRINT	CELL PHONES	1,124.21
STERN OIL CO.	FUEL	6,076.37
THE EQUALIZER	ADVERTISING	721.00
TITAN ACCESS ACCOUNT	PARTS	2,567.00
UNITED PARCEL SERVICE	SHIPPING	15.29
US POSTMASTER	POSTAGE FOR UTIL BILLS	975.00
VISA/FIRST BANK & TRUST	FUEL/MOTEL/SUPPLIES	553.73
JASON HUSKA	BRIGHT ENERGY REBATE	175.00
MAURICES INC STORE #1659	BRIGHT ENERGY REBATE	675.00
RICK ERICKSON	BRIGHT ENERGY REBATE	25.00

Alderman French seconded the motion. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

A. Set a public hearing date of April 2, 2012 for a special permit to exceed allowable sound levels by no more than 50% for Pi Kappa Alpha Fraternity on April 12th from 4:30 to 9:00 p.m. by the north picnic shelter in Prentis Park

B. Set a bid opening date of Wednesday, April 11, 2012 for the purchase of a new close door baler and conveyor for the City of Vermillion Recycling Center

C. Set a public hearing date of April 2, 2012 for transfer of retail on-sale liquor license to Old Lumber Company, Inc for the Old Lumber Company Bar and Grill at 15 Court Street transfer from John Grundewaldt formerly The Pressbox

D. Set a public hearing date of April 2, 2012 for a retail on-off sale malt beverage license for Old Lumber Company, Inc for the Old Lumber Company Bar and Grill at 15 Court Street.

102-12

Alderman French moved approval of the consensus agenda. Alderman Meins seconded the motion. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

13. Adjourn

103-12

Alderman Ward moved to adjourn the Council Meeting at 8:04 p.m. Alderman French seconded the motion. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 19th day of March, 2012.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kent Osborne, President

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

Published once at the approximate cost of _____.