



## Special Meeting Agenda City Council

12:00 pm (noon) Special Meeting  
Monday May 16, 2011  
Large Conference Room  
25 Center Street  
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Education Session – 2012 Stanford Street Reconstruction Project – Jose Dominguez, City Engineer.**
3. **Education Session – Sidewalk Survey – Jordan McQuillen, Intern.**
4. **Briefing on the May 16, 2011 City Council Regular Meeting Agenda-** Briefings are intended to be informational only and no deliberation or decision will occur on this item.
5. **Adjourn**

Access the City Council Agenda on the web – [www.vermillion.us](http://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, May 16, 2011

City Council Chambers

25 Center Street

Vermillion, South Dakota 57069

### 1. Roll Call

### 2. Pledge of Allegiance

### 3. Minutes

- a. May 2, 2011 Special Session; May 2, 2011 Regular Session.

### 4. Adoption of the Agenda

### 5. Visitors To Be Heard

### 6. Public Hearings

- a. First Reading of Ordinance No. 1254 – Amending Sections 155.095, Conditional Use Permits and 155.100, Board of Adjustment of the 2008 Revised Ordinances of the City of Vermillion, South Dakota (Planning Commission approval of conditional use permits and recommendation on variances).

### 7. Old Business

- a. Second Reading of Ordinance No. 1252 – Amending Section 93.23, Dog Tag License Fee, Adjusting the Licensing Date.
- b. Second Reading of Ordinance No. 1253 – Amending Chapter 96, Streets and Sidewalks, Regulating the Temporary Placement of Dumpsters and Portable Storage Units.

### 8. New Business

- a. Request for Dakota Days Parade Route street closure.
- b. Resolution setting a fee for a permit related to the placement of dumpsters and portable storage units on public property.
- c. Joint Law Enforcement Agreement between the City of Vermillion and the University of South Dakota.
- d. Resolution of Support for Missouri National Recreational River Visitors Center.
- e. Library Board appointments.

### 9. Bid Openings

- a. Solid Waste bale bags.
- b. Vermillion Water Main Improvements.

### 10. City Manager's Report

### 11. Invoices Payable

### 12. Consensus Agenda

- a. Set a public hearing date of June 6, 2011 for malt beverage license renewals, a package SD Farm Wine for Casey's General Store and a retail on-off sale SD Farm Wine for Jonathan Robertson for Cherry Street Grill.
- b. Set a public hearing date of June 6, 2011 for special permit to exceed allowable sound levels by no more than 50% for Tour De Kota Vermillion Committee on the grass area north of Cherry Street between N. University and Plum Street located on Thursday, June 9, 2011, from 12:00 noon to 9:00 p.m. for a live radio remote and band.

### **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.

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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  
May 2, 2011  
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, May 2, 2011 at 12:00 noon in the City Hall large conference room.

1. Roll Call

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

2. Educational Session - Missouri National Recreational River Visitors Center - Steve Howe

Steve Howe, Executive Director with the Vermillion Area Chamber and Development Company, reported that they have been working with the Missouri River Institute and National Parks Service on the concept to build a visitors center at the Clay County Park for recreation, educational and scientific purposes. Steve reported that the Clay County Park Board has recommended the concept and the Clay County Commission has adopted a resolution of support without any financial commitment. Steve reviewed the proposed project noting that it is still in the development stage and stated that he wanted to inform the City Council to see if they were in support of the concept. Discussion followed with the suggestion to include a resolution of support for the concept on a future agenda noting there will be no financial support.

3. Educational Session - City Auditors - Jeff Peters of Williams & Company, PC

Mike Carlson, Finance Officer, introduced Jeff Peters with Williams & Company, PC, the firm that has done the annual audit of the City's financial statements for the last several years. The firm is currently doing the field work this week for the 2010 audit.

Jeff Peters reported that the audit is of the City's financial statements and the report given by the auditor is on the fair presentation of these statements. Jeff reviewed the standards under which the audit is conducted and how they are applied to the audit work performed by his firm on the City's financial statements. Jeff answered questions of the City Council.

4. Briefing on the May 2, 2011 City Council Regular Meeting Agenda

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

5. Adjourn

115-11

Alderman Meins moved to adjourn the Council special session at 12:54 p.m. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 2<sup>nd</sup> day of May, 2011.

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  
May 2, 2011  
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on May 2, 2011 at 7:00 p.m. by Mayor Powell.

1. Roll Call

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

2. Pledge of Allegiance

3. Minutes

A. April 18, 2011 Special Session; April 18, 2011 Regular Session

116-11

Alderman Willson moved approval of the April 18, 2011 special session minutes and the April 18, 2011 regular session minutes. Alderman Osborne seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

4. Adoption of Agenda

117-11

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

5. Visitors to be Heard - None

6. Public Hearings - None

7. Old Business - None

8. New Business

A. First Reading of Ordinance No. 1252 - Amending Section 93.23, dog tag License Fee, Adjusting the Licensing Date

Andy Colvin, Assistant to the City Manager, reported that the City ordinance requires the renewal of dog licenses on the first day of July while the practice has been to renew licenses the first day of January. The proposed ordinance is to adjust the renewal date to the first of the year. Discussion followed.

118-11

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

BE IT RESOLVED, that the minutes of this meeting shall show that the title to proposed Ordinance No. 1252 entitled An Ordinance Amending Section 93.23, Dog Tag License Fee, Adjusting the Licensing Date 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 of Vermillion, on this 2<sup>nd</sup> day of May, 2011 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Alderman Zimmerman. 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.

B. First Reading of Ordinance No. 1253 - Amending Chapter 96, Streets and Sidewalks, Regulating the Placement of Temporary Dumpsters and Portable Storage Units

Farrel Christensen, Building Official, reported that, over the last several years, complaints regarding roll off dumpsters and storage units have become more common. Temporary placement of dumpsters and portable storage units is not addressed by our ordinance. Some of the problems are visibility at night, blowing of litter, road damage and the time some of these dumpsters and storage units remain at these locations. Farrel stated that the ordinance will require a permit before placement of a dumpster or storage unit on public property or private property with the permit fee waived for placement on private property. The ordinance requires a \$1,000 bond to cover damage to the street, covering the units when they are not in use, proper reflective marking and limits on the placement duration for both private and public property. Discussion followed on the proposed ordinance.

119-11

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

BE IT RESOLVED, that the minutes of this meeting shall show that the title to proposed Ordinance No. 1253 entitled An Ordinance Amending Chapter 96, Streets and Sidewalks, Regulating the Placement of Temporary Dumpsters and Portable Storage Units 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 of Vermillion, on this 2<sup>nd</sup> day of May, 2011 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Alderman Ward. 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.

C. Resolution amending electric rates

John Prescott, City Manager, reported that the last cost of electric service rate study was done in 2004. Since that time, there have

been large increases in the cost of base power supplied from Western Area Power Administration (WAPA) that provides approximately 60% of our power needs and Missouri River Energy Services (MRES) our supplemental power supplier. For 2011, WAPA has not changed rates and MRES has implemented the first year of a three year phase-in of seasonal rates whereby the cost of power in the summer and winter months will be higher than the spring and fall. The resolution is proposing an overall 2.2% electric rate increase implemented in two phases. The first phase will be an increase in customer charges for residential of \$1 per month, a small commercial single phase increase of \$1.50 per month and a large commercial increase in customer charges of \$3.00 per month with an increase in demand charge of \$.80 per kw. The second phase will start with the bills mailed in December where the energy charge will be reduced for residential and small commercial accounts and the demand charge reduced for large commercial accounts. For billing in July, August and September, the energy charge will increase for residential and small commercial users with demand charge increasing for large commercial users. The rates will then be reduced for the rest of the year. The change to seasonal rates is to reflect the purchase of power costs from our supplemental power supplier. Discussion followed on the proposed rates noting that there is time to provide educational materials to our customers on the seasonal rates that will go into effect at the end of the year.

120-11

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

RESOLUTION  
REVISING ELECTRICAL RATES

WHEREAS, Chapter 51 of the 2008 Revised Ordinances of the City of Vermillion allows the City Council to establish and change electrical rates, and;

WHEREAS, following an Electric Rate Study prepared by Missouri River Energy Services it was determined that a rate adjustment was needed for the electric utility to remain financially strong and maintain a relatively stable cash reserve, and;

WHEREAS, our supplemental power supplier has adopted seasonal rates whereby the rates charged the City to purchase power are higher during the summer and winter months, and;

WHEREAS, to recover the increased seasonal purchase of power costs and increased operating costs, a two step rate change is provided

for with a 2.2% overall increase for billing after June 2011 and the implementation of seasonal rates with billing in December 2011, and;

WHEREAS, the seasonal rate will provide for higher energy and demand charges for billing in July, August and September and the remaining months the energy and demand charges will be lower to reflect the cost to the city of purchasing power.

NOW, THEREFORE, BE IT 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 2nd day of May, 2011, that rates be changed or established as follows:

Sec. 51.22 Residential service rates.

For billing made after June 2, 2011 the residential service rates will be:

Rate: All KWH per month per KWH at 8.85 cents

The rate includes a surcharge fee per KWH at .011 cents defined below

Customer charge: \$9.00 per month

For billing made after December 15, 2011 seasonal rates will be implemented and the residential service rates will be:

Rate: All KWH per month per KWH at 8.7 cents for October - June billing and at 9.2 cents for July - September billing

The rate includes a surcharge fee per KWH at .011 cents defined below

Customer charge: \$9.00 per month

Sec. 51.23 Small commercial power secondary service rate.

For billing made after June 2, 2011 the small commercial secondary service rates will be:

Rate: All KWH per month per KWH at 9.25 cents

The rate includes a surcharge fee per KWH at .011 cents defined below

Customer charge: \$15.00 per month for single phase services and \$25.00 per month for three phase services

For billing made after December 15, 2011 seasonal rates will be implemented and the small commercial secondary rates will be:

Rate: All KWH per month per KWH at 9.1 cents for October - June billing and at 9.6 cents for July - September billing

The rate includes a surcharge fee per KWH at .011 cents defined below

Customer charge: \$15.00 per month for single phase services and \$25.00 per month for three phase services

Sec. 51.24 Large commercial power secondary service rate.

For billing made after June 2, 2011 the large commercial secondary service rates will be:

Rate: All KWH per month per KWH at 3.70 cents  
Maximum KW demand at \$11.85 per KW

The rate includes a surcharge fee per KWH at .011 cents defined below

Customer charge: \$33.00 per month

For billing made after December 15, 2011 seasonal rates will be implemented and the large commercial secondary service rates will be:

Rate: All KWH per month per KWH at 3.70 cents  
Maximum KW demand at \$11.30 per KW for October - June billing and at \$13.30 per KW for July - September billing

The rate includes a surcharge fee per KWH at .011 cents defined below

Customer charge: \$33.00 per month.

Sec. 51.27 City Street Lighting

For billing made after June 2, 2011 city street lighting service rates will be:

Rate: All KWH per month per KWH at 12 cents

The rate includes a surcharge fee per KWH at .011 cents defined below

Surcharge Fee:

There is hereby established and imposed, pursuant to the authority of SDCL 9-40, a surcharge upon the electric service served by the City of Vermillion electric utility. The surcharge shall apply to all classes of electric customers listed above. The surcharge is a special charge for the use of the electric system improvements financed

with the proceeds of the City's 2009 Electric Revenue Bonds, and is pledged for the payment of the costs of operating and maintaining said improvements, and the debt service and other charges as may become due and owing on the 2009 Electric Revenue Bonds. The City hereby finds that the said improvements benefit all customers of its electric System and therefore imposes the surcharge fees on each customer of its System. The surcharge shall at all times be sufficient to produce net revenues for each fiscal year at least equal to one hundred twenty five (125) percent of the principal and interest on the bonds coming due in such fiscal year. 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, interest and other charges as may become due and owing on the bonds. The surcharge fee per monthly billing shall be as follows:

For billing made after January 1, 2011 the surcharge fee shall be .011 cents per KWH.

The Surcharge may be combined with the electric KWH charge on the monthly billing for ease of reporting.

Dated at Vermillion, South Dakota this 2<sup>nd</sup> day of May, 2011.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

By: John E. (Jack) Powell, Mayor

Attest:

Michael D. Carlson, Finance Officer

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

D. Declaration of Surplus Police Patrol Car

Mike Carlson, Finance Officer, reported that the new police car has been delivered and is in service. The 2008 Ford Crown Victoria will need to be declared surplus to be appraised by the Surplus Property Appraisal Committee to be sold by sealed bids. Discussion followed.

121-11

Alderman Zimmerman moved approval to declare the 2008 Ford Crown Victoria as surplus to be appraised by the Surplus Property Appraisal Committee to be sold by sealed bids. Alderman Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

## 9. Bid Openings

### A. Fuel Quotes

Mike Carlson, Finance Officer, read the monthly fuel quotes and recommended the low quote of Brunick's Service on Item 1 and Stern Oil on Items 2, 3 and 5.

Item #1 - 4,350 gal. unleaded 10% ethanol: Stern Oil \$3.7986, Brunick's Service \$3.77; Item #2 - 1,000 gal. unleaded: Stern Oil \$3.8749, Brunick's Service \$3.90; Item #3 - 3,000 gal. No. 2 diesel fuel-dyed: Stern Oil \$3.6444, Brunick's Service \$3.70; Item #5 - 1,000 gal No. 2 diesel fuel-clear: Stern Oil \$3.8809, Brunick's Service \$3.94

122-11

Alderman Willson moved approval of the low quote from Brunick's Service on Item #1 of \$3.77 and the low quotes from Stern Oil of \$3.8749 on Item #2, \$3.6444 on Item #3 and \$3.8809 on Item #5. Alderman Ward seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

## 10. City Manager's Report

A. John reported that the members of the Swimming Pool Committee are Carolyn Carr, Jenny French, Michael Moran, Kari Jensen, Ric Rasmussen and Steve Ward. The charge of the committee is to look at the balance of the useful life of the current pool, where might a new pool be constructed, what kind of facility would best serve the community and look at other concerns such as potential funding sources, type of operation, etc.

B. The terms of Library Board members Janet Hoff and Cyndy Chaney are expiring in May. They have both indicated a willingness to serve another term but if other citizens are interested please contact City Hall to complete an expression of interest form.

C. John reported that City utility customers now have the option to have their utility bill sent via email. Please contact the Finance Office to get set up with this new service.

D. John reported that this week's Equalizer will have a page of information about City items. The City will be running an ad the first Tuesday of the second month of each quarter.

E. John reported that the City was notified of rate adjustments from Midcontinent Communications. Each subscriber will be receiving a letter indicating changes to the cost for their current package.

F. John reported that the City surplus and abandoned property auction is Friday, May 13<sup>th</sup> beginning at 5:30 pm at the Municipal Service Center at 115 W. Duke Street.

G. John stated that the sign up for Summer Programs for the Parks & Recreation and Library is Wednesday, May 4<sup>th</sup> from 3:30 pm to 6:30 pm at the National Guard Armory on Princeton Street.

#### PAYROLL ADDITIONS AND CHANGES

Recreation: Jade Fostvedt \$7.50/hr, Mary Jennewein \$7.50/hr, Claire Jones \$7.50/hr, Grace Olson \$7.50/hr, Tyler Trageser \$7.25/hr, Mark Upward \$8.00/hr; Pool: Sierra Allen \$7.75/hr, Dayton Bender \$8.00/hr, Kayla Munger \$7.75/hr; Golf Maintenance: Jared Heiden \$7.50/hr, Tyler Husby \$7.50/hr, Chad Pinkelman \$7.75/hr; Light: Dan Hanson \$9.50/hr, Matt Laska \$8.50/hr

#### 11. Invoices Payable

123-11

Alderman French moved approval of the following bill:

WILLSON FLORIST	FLORAL ARRANGEMENTS	108.00
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Alderman Zimmerman seconded the motion. Alderman Willson requested to abstain. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

124-11

Alderman French moved approval of the following bills:

A-TECH SEWER	REPAIRS	1,750.00
APPEARA	SUPPLIES	55.31
ARAMARK UNIFORM SERVICES	UNIFORM CLEANING	187.92
ARCOA INDUSTRIES	PARTS	87.00

ARGUS LEADER MEDIA #1085	SUBSCRIPTION	425.59
ASPEN EQPT CO.	PARTS	119.81
ATCO INTERNATIONAL	SUPPLIES	72.00
AUDIO GO	BOOKS	179.94
BAKER & TAYLOR BOOKS	BOOKS	658.49
BANNER ASSOCIATES, INC	PROFESSIONAL SERVICES	9,566.16
BARNES DISTRIBUTION	SUPPLIES	424.65
BATTERIES PLUS	BATTERIES	53.00
BENJAMIN NELSEN	BOOT REIMBURSEMENT	59.99
BETTY MOZAK	TRAVEL REIMBURSEMENTS	202.80
BIERSCHBACH EQPT & SUPPLY	REPAIRS	291.75
BOOK WHOLESALERS, INC	BOOKS	148.04
BORDER STATES ELEC SUPPLY	PARTS	747.12
BROADCASTER PRESS	ADVERTISING	132.00
BROOK HANSEN	REIMBURSE CDL TEST FEE	84.80
BROOKINGS PUBLIC LIBRARY	TRAVEL EXPENSES	125.00
BRUNICK FURNITURE & FLOORING	BLINDS	1,375.00
BULLBERRY SYSTEMS, INC	SOFTWARE MAINTENANCE	1,950.00
CADD/ENGINEERING SUPPLY, INC	SUPPLIES	261.74
CALEA	ON-SITE FEE	1,180.30
CAM COMMERCE	RECEIPT PRINTER	554.76
CAMPBELL SUPPLY	SUPPLIES	1,606.53
CANON FINANCIAL SERVICES, INC	COPIER CONTRACT	56.16
CASK & CORK	MERCHANDISE	780.17
CENTURY BUSINESS PRODUCTS	COPIER CONTRACT	36.00
CHAD PASSICK	MEALS REIMBURSEMENT	119.00
CHEMCO, INC	SUPPLIES	57.25
CHESTERMAN CO	MERCHANDISE	440.46
CITY OF VERMILLION	POSTAGE/COPIES/REPAIRS	1,514.01
CITY OF VERMILLION	UTILITY BILLS	35,516.87
CIVIL AIR PATROL MAGAZINE	ADVERTISING	95.00
CLAY CO REGISTER OF DEED	FILING FEES	58.00
CLAY RURAL WATER SYSTEM	SODA ASH	1,531.10
CLEVELAND GOLF	MERCHANDISE	1,964.31
COBRA PUMA GOLF, INC	MERCHANDISE	124.31
COFFEE KING, INC	SUPPLIES	57.75
COLONIAL LIFE ACC INS.	INSURANCE	3,250.10
COYOTE BOOKS	BOOKS	21.96
COYOTE CONVENIENCE	FUEL	10.06
D-P TOOLS	SUPPLIES	107.72
DAKOTA BEVERAGE	MERCHANDISE	6,621.15
DAKOTA LOCK & KEY	PROFESSIONAL SERVICES	75.00
DAKOTA PC WAREHOUSE	REPAIRS/SUPPLIES	439.40

DAKOTA PUMP INCORP	PARTS	31.95
DAKOTA SUPPLY GROUP	PARTS	262.86
DANKO MES, INC.	FIREFIGHTER EQUIPMNET	2,525.00
DAVIS PHARMACY	SUPPLIES	69.90
DELTA DENTAL PLAN	INSURANCE	5,504.02
DEMCO	SUPPLIES	330.66
DENNIS MARTENS	MAINTENANCE	833.34
DEPT OF ENVIRONMENT	PERMIT FEES	500.00
DEWILD GRANT RECKERT & ASSOC	PROFESSIONAL SERVICES	2,993.00
DIVERSIFIED INSPECTIONS	ANNUAL INSPECTION	350.20
DRAINMAN	PROFESSIONAL SERVICES/REPAIRS	13,423.78
DUST TEX	SUPPLIES	57.01
EARTHGRAINS BAKING CO'S INC	SUPPLIES	61.76
ECHO ELECTRIC SUPPLY	PARTS	887.82
ELECTRONIC ENGINEERING	PROFESSIONAL SERVICES	1,392.56
EMERGENCY MEDICAL PRODUCTS	SUPPLIES	1,088.45
ENERGY LABORATORIES	TESTING	970.00
ENGRAVER'S EDGE	MEDALS/PLAQUES	50.50
ENTERSECT	ONLINE AGREEMENT	79.00
ERIN J. SEEP	MAINTENANCE	87.00
FARMER BROTHERS CO.	SUPPLIES	32.88
FAST AUTO GLASS	REPAIRS	280.00
FIREGUARD INC	REPAIRS	2,105.52
FIRST NATIONAL BANK	CITY HALL LEASE PAYMENT	75,722.99
FLAGS UNLIMITED	FLAGS	358.26
FOLD-A-GOAL	SOCCER NET	106.00
FOREMAN MEDIA	COUNCIL MTG	50.00
FREEDOM PUMP CONTROLS	PARTS	409.44
FRONTIER PRECISION, INC	GPS EQUIPMENT	10,458.75
FULLERTON LUMBER CO	SUPPLIES	161.37
GE CAPITAL	COPIER LEASE	114.48
GENERAL REPAIR SERVICE	PARTS	4,112.56
GIRTON ADAMS COMPANY	PARTS	374.56
GL SPORTS	SUPPLIES	963.28
GOLFBALLSONLY.COM	MERCHANDISE	996.00
GRAHAM TIRE CO.	TIRES	2,373.72
GRAYBAR ELECTRIC	SUPPLIES	171.86
GREGG PETERS	ADVERTISING/FREIGHT	2,554.00
GREGG PETERS	RENT	937.50
GREGGS AUTO BODY	REPAIRS	949.20
GUARANTEE OIL CO INC	SUPPLIES	43.30
HACH CO	CHEMICALS	3,742.91
HAMMOND-WETMORE DRILLING	WELL #5 INSPECTION/REPAIRS	12,893.00

HD SUPPLY WATERWORKS	SUPPLIES	2,461.84
HEIMAN, INC.	SUPPLIES	747.90
HENDERSON EXHAUST PLUS	SOCCER GOALS	980.00
HEWLETT-PACKARD COMPANY	COMPUTERS	2,095.52
HILLYARD FLOOR CARE SUPPLY	SUPPLIES	4,817.18
HOLCOMB FREIGHTLINER, INC	PARTS	56.98
HY VEE FOOD STORE	SUPPLIES	69.80
IMPERIAL HEADWEAR, INC	MERCHANDISE	836.14
INDEPENDENCE WASTE	WASTE HAULING/PORT TOILETS RENT	1,149.38
INGRAM	BOOKS	3,008.19
JACKS UNIFORM & EQPT	UNIFORMS	151.40
JANE LARSON	TRAVEL REIMBURSEMENTS	165.10
JAY'S PLUMBING	REPAIRS	57.50
JOHN A CONKLING DIST.	MERCHANDISE	5,512.10
JOHNSON BROTHERS FAMOUS BRANDS	MERCHANDISE	29,376.11
JOHNSON CONTROLS	REPAIRS	5,220.75
JOHNSON FEED, INC	REPAIRS	164.00
JONES ACE HARDWARE	SUPPLIES	1,181.06
JONES FOOD CENTER	SUPPLIES	891.19
KARSTEN MFG CORP	MERCHANDISE	644.52
LARGE PRINT OVERSTOCKS	BOOKS	47.55
LAWSON PRODUCTS INC	SUPPLIES	197.14
LEISURE LAWN CARE	TREATMENT	127.50
LESSMAN ELEC. SUPPLY CO	SUPPLIES	439.35
LINCOLN MUTUAL LIFE & CASU	INSURANCE	521.71
LIQUI-SYSTEMS INC	PARTS	343.76
LOCATORS AND SUPPLIES, INC	SUPPLIES	290.62
LONGS PROPANE INC	PROPANE	2,165.24
MALLOY ELECTRIC	SUPPLIES	1,383.74
MARKS MACHINERY	PARTS	349.79
MART AUTO BODY	TOWING	300.00
MATHESON TRI-GAS, INC	OXYGEN	37.60
MCCULLOCH LAW OFFICE	PROFESSIONAL SERVICES	2,000.00
MCLEODS PRINTING	SUPPLIES	425.95
MEDICAL WASTE TRANSPORT, INC	HAUL MEDICAL WASTE	55.00
MID-AMERICAN RESEARCH CHEM	CHEMICALS	169.61
MIDWEST ALARM CO	ALARM MONITORING	120.00
MIDWEST BUILDING MAINTENANCE	MAT SVC	331.50
MIDWEST READY MIX	CONCRETE	2,705.50
MIDWEST TAPE	MOVIES	101.93
MIDWEST TURF & IRRIGATION	PARTS	1,778.30
MINN MUNICIPAL UTILITY ASSOC	SAFETY MGMT PROGRAM	5,372.51
MOORE WELDING & MFG	SUPPLIES	1,239.82

MOTOROLA INC	RADIOS	4,307.50
MUTH ELECTRIC INC	INSTALL LOAD MGMT CONTROLLERS	5,425.00
N B GOLF LLC	GOLF CAR LEASE	3,741.60
NALCO CHEMICAL CO	CHEMICALS	72.10
NCL OF WISCONSIN, INC	PARTS	400.63
NEBR WATER ENVIR. ASSOC	REGISTRATION	250.00
NEBRASKA JOURNAL-LEADER	ADVERTISING	34.92
NETSYS+	PROFESSIONAL SERVICES	432.50
NEW YORK LIFE	INSURANCE	95.00
NIKE INC	MERCHANDISE	312.42
NORTHLAND CHEMICAL CORP	SUPPLIES	152.95
ORIENTAL TRADING CO	SUPPLIES	64.84
OVERHEAD DOOR OF YANKTON	DOOR WASTEWATER	2,700.00
PEDERSEN MACHINE INC	PARTS	62.25
PEPSI COLA	POP	90.75
PETE LIEN & SONS, INC	CHEMICALS	4,034.65
PHYSIO-CONTROL CORP	SUPPLIES	150.00
PKG CONTRACTING, INC	WWTF-PHASE II IMPROVEMENTS	101,518.08
PNC EQUIPMENT FINANCE	DEFIBRILLATOR LEASE	741.27
POMPS TIRE SERVICE, INC.	TIRES	2,101.20
POOLMART, INC	MAINTENANCE	415.40
POTOMAC AVIATION TECHNOLOG	MONITORING FEES	250.00
PRESTO-X-COMPANY	INSPECTION/TREATMENT	94.00
PRINT SOURCE	SUPPLIES	1,776.43
PUMP N PAK	FUEL	2,256.47
QUEEN CITY WHOLESALE	MERCHANDISE	401.25
QUILL	SUPPLIES	1,209.04
QWEST	TELEPHONE	735.27
R & K SPECIALTIES	REPAIRS	125.00
RACOM CORPORATION	MAINTENANCE CONTRACT	335.00
RANDOM HOUSE, INC	BOOKS	396.85
RANDY CRUM	MEALS REIMBURSEMENT	216.00
RASMUSSEN MOTORS, INC	REPAIRS	46.39
RECORDED BOOKS, INC	BOOKS	4,713.72
REGENT BOOK CO.	BOOKS	14.62
REINHART FOODSERVICE, LLC	SUPPLIES	1,062.00
REPUBLIC NATIONAL DIST.	MERCHANDISE	22,350.14
RESCO	SUPPLIES	455.80
RUSTY JENSEN	REIMBURSEMENT	34.61
SANFORD CLINIC VERMILLION	SUPPLIES	53.08
SAYRE ASSOCIATES, INC	PROFESSIONAL SERVICES	9,778.53
SD ART MUSEUM STORE	BOOKS	62.00
SD DEPT OF REVENUE	TESTING	198.00

SD FEDERAL PROPERTY AGENCY	TOOLS	12.50
SD GOVERN FINANCE OFFICERS ASSOC.	REGISTRATION	150.00
SD MAGAZINE	SUPPLIES	29.45
SD ONE CALL	LOCATES	120.20
SD RETIREMENT SYSTEM	CONTRIBUTIONS	65,540.24
SD STATE ARCHIVES	MICROFILM	28.80
SDI	MERCHANDISE	391.42
SERVALL TOWEL & LINEN	SUPPLIES	24.96
SIOUX CITY JOURNAL	ADVERTISING	337.75
SIOUX FALLS TWO WAY RADIO	REPAIRS	35.00
SIOUXLAND HUMANE SOCIETY	DROPOFF FEES	111.00
SKYHAWKE TECHNOLOGIES LLC	MERCHANDISE	184.87
SPORTCOVER INTERNATIONAL INC	MERCHANDISE	575.71
STAN HOUSTON EQPT CO	SUPPLIES	311.73
STATE STEEL	PARTS	1,507.45
STEWART OIL-TIRE CO	TIRES/REPAIRS	710.00
STUART C. IRBY CO.	SUPPLIES	6,213.17
STURDEVANTS AUTO PARTS	PARTS	1,974.94
THE EQUALIZER	ADVERTISING	584.00
THE NEW SIOUX CITY IRON CO	SUPPLIES	18.92
THE WALKING BILLBOARD	JACEKTS/SHIRTS	517.30
TIGERT ART GALLERY	FRAMING	80.00
TITLEIST DRAWER CS	MERCHANDISE	1,831.65
TOM KRUSE	SAFETY BOOT & SAFETY GLASSES	250.00
TRI STATE PUMP & CONTROL INC	PARTS	3,389.47
TRI TECH SALES	PARTS	761.74
TRUE VALUE	SUPPLIES	689.81
TURNER PLUMBING	PARTS	13.84
TYLER TECHNOLOGIES	PROFESSIONAL SERVICES/SOFTWARE	11,237.50
TYLER WILLIAMSON	TAILGATE	100.00
UNITED WAY	CONTRIBUTIONS	425.00
UPSTART	SUPPLIES	479.01
USA BLUEBOOK	SUPPLIES	203.18
VALIANT VINEYARDS	MERCHANDISE	132.00
VERMEER HIGH PLAINS	PARTS	7,708.68
VERMILLION DEVELOPMENT CO	CONTRIBUTIONS	46,350.00
VERMILLION FORD	REPAIRS/PARTS	717.75
VERMILLION NOW!	PLEDGE	30,000.00
VERMILLION ROTARY CLUB	DUES/MEALS	134.25
VISA/FIRST BANK & TRUST	TRAVEL/LODGING/SUPPLIES	8,084.22
VUVAX-METROTECH	REPAIRS	487.38
WAL-MART COMMUNITY	SUPPLIES	1,072.50
WESCO DISTRIBUTION, INC	SUPPLIES	645.28

WEST GROUP PAYMENT CENTER	SUBSCRIPTION	197.52
WIGMAN CO	SUPPLIES	22.28
YANKTON DAILY PRESS & DAKOTAN	ADVERTISING	146.80
YANKTON FIRE & SAFETY	REPAIR/RECHARGE	179.50
YANKTON JANITORIAL SUPPLY	SUPPLIES	798.40
ZEE MEDICAL SERVICE	SUPPLIES	206.50
ZEP SALES & SERVICE	SUPPLIES	179.73
ZIMCO SUPPLY CO	PARTS	3,295.62
ZOLL MEDICAL CORPORATION	SUPPLIES	204.00
BARBARA REELFS	BRIGHT ENERGY REBATE	10.00

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

## 12. Consensus Agenda

- A. Set a bid opening date of May 16, 2011 for Solid Waste Bale Bags
- B. Set a Bid opening date of June 1, 2011 for Sale of Surplus Police Patrol Car

125-11

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

## 13. Adjourn

126-11

Alderman Ward moved to adjourn the Council Meeting at 7:30 p.m. Alderman Osborne seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 2<sup>nd</sup> day of May, 2011.

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 \_\_\_\_\_.



## *Council Agenda Memo*

**From:** Andy Colvin, Assistant to the City Manager

**Meeting:** May 16, 2011

**Subject:** First Reading of Ordinance No. 1254 – Amending Section 155.095, Conditional Use Permits and Section 155.100, Board of Adjustment to designate the Planning Commission as the approving authority for Conditional Use Permits.

**Presenter:** Andy Colvin

**Background:** The City of Vermillion's current zoning ordinance was adopted in 2008. The ordinance details regulations for various uses and divides the City into residential, commercial, industrial, natural resource conservation, and planned development districts. Each district contains a series of permitted uses and conditional uses. Permitted uses are allowed as long as the project can meet ordinance requirements for setbacks, parking, etc. Conditional uses, on the other hand, are allowed only after a public hearing. South Dakota law authorizes conditional uses as follows:

11-4-4.1. Ordinance authorizing conditional use of real property--Content--Approval or disapproval of request. A municipal zoning ordinance adopted pursuant to this chapter that authorizes a conditional use of real property shall specify the approving authority, each category of conditional use requiring such approval, the zoning districts in which a conditional use is available, and the criteria for evaluating each conditional use. The approving authority shall consider the stated criteria, the objectives of the comprehensive plan, and the purpose of the zoning ordinance and its relevant zoning districts when making a decision to approve or disapprove a conditional use request.

Greater oversight and public input is required prior to granting a conditional use. Some uses may be harmful to neighborhoods or not in keeping with a community's comprehensive plan. Restrictions, limitations or prohibitions may be imposed for certain uses. For example, a bed and breakfast may be appropriate for a residential district, but may cause parking or traffic issues. For this reason the approving authority may allow the use, but will impose special parking requirements, specific hours of operation or other restrictions to lessen the impact on the neighborhood. The City of Vermillion currently designates the Board of Adjustment as the approving authority for conditional uses.

**Discussion:** On February 8, 2011, the Planning Commission and City Council held a joint meeting to discuss the proposed joint jurisdictional zoning ordinance. Staff went through the process for amending the ordinance, applying for variances, hearings, and other items. The proposed joint jurisdictional ordinance provides for the Planning Commission to be the approving authority for conditional uses. At the meeting, both bodies discussed the possibility of having the City ordinance reflect the same process for approving conditional uses in the City limits. The City Council sent the issue to the Policies and Procedures Committee, who met on March 18<sup>th</sup> to go over the different processes found in other South Dakota cities. After reviewing the information, the committee's recommendation was to draft an ordinance amending the City's zoning regulations to designate the Planning Commission as the approving authority for conditional uses. The Planning Commission's decision is final unless appealed to the City Council within five working days of the Planning Commission's decision.

The committee also expressed the desire to have the Planning Commission review and make a recommendation on variances, which has been incorporated into the ordinance. The current language provides that the authorized official may forward variances to the Planning Commission on a policy basis instead of making it mandatory. There may be instances where time is an issue or where the variance request is minor or clearly necessary that the Planning Commission wouldn't need to be involved. Any recommendation will be forwarded to the Board of Adjustment for consideration.

The Planning Commission considered the amendment at their May 9<sup>th</sup> meeting and forwarded a recommendation of approval.

**Financial Consideration:** None.

**Conclusion/Recommendations:** State law authorizes municipalities to designate an approving authority for conditional uses. The City Council is empowered to make such a designation via the zoning ordinance. Administration recommends approval of the first reading of ordinance 1254.

ORDINANCE NO. 1254

AN ORDINANCE AMENDING SECTIONS 155.095, CONDITIONAL USE PERMITS AND 155.100, BOARD OF ADJUSTMENT OF THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION, SOUTH DAKOTA.

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

*Section 1. That Section 155.095, of the Zoning Ordinance of Vermillion, SD, is hereby amended to read as follows:*

155.095 CONDITIONAL USE PERMITS.

Any conditional use approved by the ~~Board of Adjustment~~ Planning Commission shall conform to the standards set forth ~~for the uses in this section for such uses below.~~ These standards shall be construed to be the minimum requirements for any of the specified conditional uses, and the ~~Board of Adjustment~~ Planning Commission may require additional reasonable stipulations at their discretion. In all cases, the impact of the proposed use on adjacent properties shall be a major consideration.

- (A) *Procedure.* The ~~Board of Adjustment~~ Planning Commission may authorize by conditional use permit, those uses specifically designated as conditional uses in §§ 155.030 through 155.039. The ~~Board of Adjustment~~ Planning Commission shall impose ~~the such~~ conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of the conditional use permit.
- (B) *Application.* To obtain a conditional use permit, the applicant shall file an application, therefore, in writing on a form furnished by the Zoning Administrator. Every application shall contain the following information:
- (1) Legal description of the land on which the conditional use is requested, together with local street address.
  - (2) Name and address of each owner of the property.
  - (3) Name, address, phone number and signature of the applicant.
  - (4) Zoning district classification under which the property is regulated at the time of ~~the such~~ application.
  - (5) Be accompanied with a site plan, unless waived by the Zoning Administrator.
  - (6) Any other information concerning the property as may be requested by the Zoning Administrator or the ~~Board of Adjustment~~ Planning Commission.

(C) *Fees.* Upon the filing of any application for a conditional use permit with the Zoning Administrator, the applicant shall pay to the eCity the appropriate fee as designated by resolution of the Vermillion City Council.

(D) *Information on site plan.*

(1) In addition to the following information, plans shall be drawn to scale upon substantial paper or ~~cloth~~ provided electronically and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this section and all relevant laws, ordinances, rules and regulations. The Zoning Administrator may waive the submission of plans, if he or she finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this section.

(a) The address of the property and the legal description.

(b) The name of the project and/or business.

(c) The scale and north arrow.

(d) All existing and proposed buildings or additions.

(e) Dimensions of all buildings.

(f) Distance from all building lines to the property lines at the closest points.

(g) Building height and number of stories.

(h) Dimensions of all property lines.

(i) Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles.

(j) Screening; show height, location, and type of material to be used.

(k) The landscaped setback and trees; indicate species of trees and material to be used for landscaping.

(l) Name and location of all adjacent streets, alleys, waterways and other public places.

(2) Approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment Planning Commission giving final approval, and all work shall be done in accordance with the approved plans.

(E) *Review and public hearing procedure.*

- (1) Prior to the approval of a conditional use permit, the Zoning Administrator shall meet with the applicant to review the application. After review of the application, the Zoning Administrator shall make a recommendation to the ~~Board of Adjustment~~ Planning Commission to either approve or not approve the application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.
- (2) The Zoning Administrator shall set the date, time and place for a public hearing to be held by the ~~Board of Adjustment~~ Planning Commission. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at ~~the eCity office Hall~~ and on the property affected by the proposed conditional use permit no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the eCity.
- (3) The following procedure shall be followed by the ~~Board of Adjustment~~ Planning Commission in considering the recommendation of the Zoning Administrator:
  - (a) The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the ~~Board of Adjustment~~ Planning Commission.
  - (b) Before any conditional use permit shall be granted, the ~~Board of Adjustment~~ Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
    1. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
    2. Off-street parking and loading areas where required;
    3. Refuse and service areas, with particular reference to 1. and 2. above;
    4. Utilities, with reference to locations, availability, and compatibility;

5. Screening and buffering with reference to type, dimensions and character;
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district;
7. Required yards and other open space;
8. General compatibility with adjoining properties and other property in the zoning district in which such use is to be located;
9. The goals and objectives of the most recently adopted comprehensive plan.

(c) The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Section 155.095 (F).

(F) Appeal of planning commission decision. The decision rendered by the Planning Commission on a conditional use permit may be appealed to the City Council. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Zoning Administrator within five working days of the Planning Commission decision. When an appeal is filed, the Zoning Administrator shall present the Planning Commission's decision to the City Council for review. Notice of the meeting shall be given as required by Section 155.095 (E). The City Council shall vote to either uphold, overrule or amend the decision of the Planning Commission.

~~(4) A conditional use permit shall automatically expire if the primary use for which it was granted has ceased for a period of 2 years or more; or, the primary use proposed under the conditional use permit has not been undertaken and completed according to the terms and conditions of the conditional use permit within 2 years of the approval of the conditional use permit.~~

(G) Expiration. A conditional use permit shall expire one year from the date upon which it becomes effective if no work has commenced. Upon written request to the Zoning Administrator and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Zoning Administrator, subject to the following conditions:

(1) The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit;

~~(2) Due to other on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit that may impact the one-year schedule for project completion.~~

~~A conditional use permit approved in accordance with Section 155.095 shall expire one year after the use discontinues on the premises, or the use is changed to another permitted use in the underlying district.~~

~~(5) The Board of Adjustment shall make a finding that it is either empowered or not empowered by these zoning regulations to grant the requested conditional use permit, and that the conditional use permit is either consistent or inconsistent with the intent of these zoning regulations and the city's most recently adopted Comprehensive Plan.~~

Section 2. That Section 155.100, of the Zoning Ordinance of Vermillion, SD, is hereby amended to read as follows:

#### 155.100 BOARD OF ADJUSTMENT.

(A) *Establishment.* A Board of Adjustment is hereby established for the eCity of Vermillion, which shall consist of the members of the City Council, pursuant to SDCL § 11-4-24.

(B) *Powers and duties.* The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is error in any requirement or determination made by the Zoning Administrator in the enforcement of this chapter.

(2) To hear and decide upon petitions for variances to vary the strict applications of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. A variance shall not be allowed to vary the use regulations.

~~(3) To hear and decide only conditional use permits as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with conditions and safeguards as are appropriate under this chapter, or to deny conditional use permits when not in harmony with the purpose and intent of this chapter and the Comprehensive Plan.~~

(C) *Appeal procedure.*

- (1) Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Administrator, may present to that official, a notice of appeal, setting forth that ~~the-such~~ decision is illegal, in whole or in part, specifying the grounds of the illegality. The notice of appeal shall be filed with the Zoning Administrator of the City of Vermillion, who shall transmit to the Board of Adjustment all information and records concerning the appeal. ~~The-Such~~ notice of appeal shall be presented to the Zoning Administrator within thirty (30) days after the filing of the decision in the office of the Zoning Administrator.
  - (2) The Board of Adjustment shall keep a public record of all findings and decisions. All meetings shall be held at the call of the chairperson and at such other times as necessary. Each session at which an appeal is to be heard shall be a public meeting. The Zoning Administrator shall notify the appellant by mail, and shall post notices of the public hearing at ~~the-eCity office-Hall~~ and on the property affected by the proposed appeal (if applicable) no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the eCity.
  - (3) The public hearing shall be held. The appellant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any appeal or arrive at any determination.
- (D) *Variances.* The Board of Adjustment shall have the jurisdiction to hear and decide upon petitions for 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 eCity, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance. 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 subsection~~, 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 eChapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this eChapter.

- (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.
- (8) An application for a variance, available from the Zoning Administrator of the City of Vermillion, shall be completed by the landowner requesting the variance. Completed applications shall be returned to the Zoning Administrator for review. To be considered completed, the application shall contain the following information:
  - (a) Legal description of the land on which such variance is requested, together with local street address;
  - (b) Name and address of each owner of the property;
  - (c) Name, address, phone number and signature of the applicant;
  - (d) Zoning district classification under which the property is regulated at the time of such application;
  - (e) Description of the variance sought from the zoning regulations;
  - (f) Be accompanied with a site plan, unless waived by the Zoning Administrator.
- (9) The Zoning Administrator shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve the said application. The Zoning Administrator's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application. The Authorized Official or the

Board of Adjustment may refer requests for variances to the Vermillion Planning Commission for review and recommendation.

- (10) The Zoning Administrator shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Zoning Administrator shall notify the landowner by mail, and shall post notices of the public hearing at ~~the eCity office~~ Hall and on the property affected by the proposed variance no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Zoning Administrator shall publish notice of the public hearing in a legal newspaper of the eCity.
- (11) The public hearing shall be held. The applicant may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Board of Adjustment. Written findings certifying compliance with the specific rules governing the action considered at the public hearing shall be completed by the Board. The concurring vote of two-thirds (2/3) of the members of the Board of Adjustment shall be necessary to approve any variance or arrive at any determination.
- (E) *Court review.* Any person aggrieved by any decision of the Board of Adjustment may petition a court of record within thirty (30) days after the filing of the Board's decision as provided by SDCL § 11-4-25.

Adopted this 6<sup>th</sup> day of June, 2011.

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John E. (Jack) Powell, Mayor

ATTEST:

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Michael D. Carlson, Finance Officer

Seal

First Reading: May 16, 2011  
Second Reading: June 6, 2011  
Publication: June 17, 2011  
Effective Date: July 7, 2011



## *Council Agenda Memo*

**From:** Andy Colvin, Assistant to the City Manager

**Meeting:** May 16, 2011 .

**Subject:** Second Reading of Ordinance No. 1252

**Presenter:** Andy Colvin

**Background:** Currently City Code has required every owner of a dog past 6 months of age and within the corporate limits of the city to pay a fee and show proof of vaccination to obtain a dog tag license. This license helps to return lost dogs to the proper owner and hold pet owners responsible to keep their dogs' vaccinations up to date.

There has been some confusion about when this license fee shall be paid to the city Finance Office. The local veterinarians are able to sell and renew tags on behalf of the City, but have been doing so based on a calendar year basis. The City Finance Office also sells tags based on a calendar year. However, current city code requires the fee to be paid on the first day of July. The City Council approved first reading of Ordinance No. 1252 at the May 2, 2011 meeting.

**Discussion:** By having the renewal date in January instead of July, it would reduce confusion as pet owners would be reminded that with a new year, a new dog tag is required.

**Financial Consideration:** A dog tag license is currently \$10. Revenue generated from tags goes into the City's general fund.

**Conclusion/Recommendations:** Administration recommends approval of the second reading of Ordinance No. 1252. As this is the second reading a recorded vote by name is required.

ORDINANCE NO. 1252

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE IX, CHAPTER 93, TO AMEND SECTION 93.23 TO AMEND DATE FOR LICENSING.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota, and it is hereby ordained by authority of the same, that Section 93.23 be amended as set forth in below:

**§ 93.23 DOG TAG LICENSE FEE.**

(A) Every owner of a dog past 6 months and within the corporate limits of the city shall pay to the City Finance Officer an amount to be set by resolution for every dog in his or her possession or of which he or she is the owner; and upon proof of required vaccination, he or she shall receive a license for the dog. This license fee shall be paid on or before the first day of January of each year; and the City Finance Officer shall, upon the payment of the license fee, give the owner a tag marked dog tag, and the year in which the license tax is payable. The owner shall attach the tag to the collar to be placed around the neck of the dog.

(B) Licensed veterinarians practicing within the corporate limits of the city may, upon approval by the City Finance Officer, sell dog tags in accordance with the provisions of this subchapter at the regular rate established by resolution of the Council. Veterinarians must keep a record of each tag sold and remand to the City Finance Officer the sum owed to the city as established by the resolution.

Dated at Vermillion, South Dakota this 16th day of May, 2011.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
John E. (Jack) Powell, Mayor

ATTEST:

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

First Reading: May 2, 2011  
Second Reading: May 16, 2011  
Published: May 27, 2011  
Effective: June 16, 2011



## *Council Agenda Memo*

***From:*** Farrel Christensen, Building Inspector

***Meeting:*** May 16, 2011

***Subject:*** Second Reading of Ordinance 1253 - Dumpsters and portable storage units

***Presenter:*** Farrel Christensen

**Background:** Over the last several years, complaints regarding large roll off dumpsters and storage units (i.e. enclosed contractor trailers) have become more common. Currently, the City lacks a specific ordinance to regulate the placement, duration and safety of these units. A common problem is visibility at night. Large dumpsters placed in the right-of-way can be very hard for drivers to see and can cause a traffic hazard. Additionally, dumpsters that are not covered during high winds allow the contents to blow out of the container and into surrounding neighborhoods. Roads are damaged, and snow removal and street cleaning can also be impacted.

The City Council approved first reading of Ordinance No. 1253 at the May 2, 2011 meeting. Since that meeting a copy of the ordinance has been provided to the three haulers operating in Vermillion that have roll off dumpsters.

**Discussion:** Staff has proposed an ordinance to regulate the placement of dumpsters and storage units within the city. This ordinance would require permits for their placement and limit the time, location, duration and visibility of dumpsters both in the right-of-way and on private property. Bonds would be established to ensure any road damage is repaired. Covers would also be required to prevent trash from blowing into surrounding areas.

**Financial Consideration:** A resolution establishing a permit fee is on tonight's agenda.

**Conclusion/Recommendations:** Administration recommends approval of the second reading of ordinance 1253. As this is the second reading a recorded vote by name is required.

ORDINANCE NO. 1253

AN ORDINANCE, AMENDING CHAPTER 96, STREETS AND SIDEWALKS, OF THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION, SOUTH DAKOTA, REGULATING THE PLACEMENT OF TEMPORARY DUMPSTERS AND PORTABLE STORAGE UNITS WITHIN THE CITY OF VERMILLION

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA that Chapter 96 be amended to add the following:

**§ 96.18 Temporary placement of dumpsters and portable storage units within City of Vermillion**

**(A) Purpose**

It shall be illegal for any person to place one or more dumpsters or portable storage units in or upon any street or public grounds or upon private property without first having obtained a Permit. Unless specifically listed herein the provisions of Chapter 52: Garbage and Trash shall apply.

**(B) Definitions**

- (1) Dumpster- a container designed to receive, transport and dump waste.
- (2) Portable storage unit- A container designed or used for the storage of personal property which is typically rented to owners or occupants of property for their temporary use and which is delivered and/or removed by truck.

**(C) Permit.**

- (1) Every person seeking to place one or more dumpsters or portable storage units in or upon a street or public grounds or upon private property shall first apply to the Building Official or designated representative for a Permit. No Permit shall be issued for placement of one or more dumpsters or portable storage units on a street or public grounds unless placement on private property is not reasonably feasible.
- (2) The application fee for a Permit allowing the temporary placement of dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be set by resolution of the City Council. The fee for failing to obtain a permit prior to the placement of a dumpster or portable storage unit shall be set by resolution of the City Council. The application fee is waived for any Permit allowing the temporary placement of dumpsters or portable storage units upon private property.
- (3) Every provider applying for a Permit to place one or more dumpsters or portable storage units in or upon any street or public grounds or upon private property shall provide a bond in the amount of one thousand dollars (\$1,000.00) to cover the cost to repair any damage caused by the applicant's use of the street or public grounds for

such purpose. No Permit shall be issued until such bond has been provided to the city. If the cost to repair any damage caused by the applicant's use of the street or public grounds exceeds the value of such bond, such amount shall become a debt of the applicant, immediately due and owing to the city.

- (4) Application for a Permit must be submitted to the Building Official or designated representative at least three (3) working days prior to the proposed placement of one or more dumpsters or portable storage units in or upon any street or public grounds or upon private property.
- (5) Each Permit holder shall allow access to private property by the Building Official or designated representative, during reasonable hours of the day to verify compliance with the applicable provisions of this Section 96.18.
- (6) By applying for a Permit, each applicant agrees to any and all provisions of this Section 96.18.

**(D) Duration of Permits**

- (1) Permits issued for placement on streets and/or public grounds shall be limited in duration as follows:  
  
    Dumpsters – thirty (30) days,  
    Portable storage units – fourteen (14) days.
- (2) Permits issued for placement on private property shall be limited in duration to forty five (45) days.
- (3) The duration of Permits may be extended for good cause shown at the discretion of the Building Official or designated representative.

**(E) General restrictions and requirements**

- (1) No dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be filled beyond the top of such dumpster or portable storage facility.
- (2) Dumpsters or portable storage units in or upon any street or public grounds or upon private property units shall be emptied as soon as practical, or when full, and no mechanical, hydraulic or electrical loader, compactor, packer or conveyor in the residential districts may begin before 6:00 a.m. and in business districts shall not begin before 5:00 a.m. and in either district after 9:00 p.m. in conjunction therewith.
- (3) No dumpsters or portable storage units in or upon any street or public grounds or upon private property shall be filled by means of a chute, conveyor, belt, or other device, located in, above, on or across a street, or by dropping or throwing items in, above, on or across a street, unless the Permit authorizing placement of such

dumpsters or portable storage units in or upon any street or public grounds or upon private property specifically authorizes such method.

- (4) During such times that dumpsters or portable storage units in or upon any street or public grounds or upon private property are not being used for the deposit of materials, all dumpsters and portable storage units shall be covered by tarpaulin or other secured material, as approved by Building Official or designated representative, to prevent debris from blowing out of the container.

**(F) General placement; visibility**

- (1) Dumpsters or portable storage units in or upon any street or public grounds shall not be placed closer than forty (40) feet from any intersection. The Building Official or designated representative must approve the proposed location of any dumpsters or portable storage units in or upon any street or public grounds.
- (2) A placard or decal shall be affixed to each dumpsters or portable storage units in or upon any street or public grounds or upon private property until such time as the dumpster or portable storage facility is removed. Such placard or decal shall have one or more warning signs of a contrasting color to identify that the container is dangerous, that children should be kept away, that playing in, on or about the dumpster or portable storage facility is prohibited.
- (3) Dumpsters or portable storage units in or upon any street or public grounds shall be visible at night from all angles of traffic flow. Means to provide nighttime visibility include, but are not limited to, the use of reflecting tape at least two inches in width, reflectors, cones or other methods as approved by the Building Official or designated representative.
- (4) When required by the City Engineer, additional traffic control devices meeting the latest MUTCD standards shall be placed on the street to warn traffic of obstacles on the street.

All required visibility devices and/or signage shall be provided by the applicant, owner, agent, contractor, employer, or permit holder.

**(G) Emergency removal**

In the event of an emergency, any dumpsters or portable storage units in or upon any street or public grounds or upon private property may be removed by the Building Official or designated representative, and/or police, fire, or public utility personnel. The city shall not be liable for any loss or damage caused by such emergency removal.

**(H) Use restrictions**

- (1) No hazardous material or organic waste shall be placed in a dumpster or portable storage facility.

- (2) It shall be the responsibility of the permit holder to maintain the dumpster or storage unit rodent, vermin and insect free.
- (3) Any person who violates the restrictions set forth herein may be held liable for such conduct, which liability is in addition to any other penalties or sanctions that may be imposed.

**(I) Duty to Remove**

It shall be the responsibility of the applicant, owner, agent, contractor, employer, or permit holder to remove the dumpster or portable storage unit prior to the expiration of the Permit, or when ordered to by authorized city personnel. The city or a designee shall have the right to enter upon any street, public grounds or upon private property or any lot or parcel of land for the purpose of removing any dumpster or portable storage unit remaining after the Permit has expired. All costs of removal, including an administrative fee to defray costs of enforcing this section, will be assessed to the applicant, owner, agent, contractor, employer, or permit holder, except those incurred for emergency removal.

**(J) Penalty**

- (1) Any person who violates the restrictions set forth in this section 96.18 may be subject to an administrative fee established by resolution of the City Council and removal costs incurred by the city, and shall be in addition to the required permit fees. Ordinance proceedings may also be commenced with associated section 10.99 penalties, as well as other available legal or equitable remedies.

**(K) Conflicts**

Whenever there is a conflict between provisions of City of Vermillion’s Code of Ordinances and this section 96.18, the most restrictive provision shall govern.

Dated at Vermillion, South Dakota this 16<sup>th</sup> day of May, 2011

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: May 2, 2011  
Second Reading: May 16, 2011  
Published: May 27, 2011  
Effective: June 16, 2011



## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** May 16, 2011  
**Subject:** Street Closures for routing of Dakota Days Parade  
**Presenter:** Leah Miller, USD Dakota Days Committee

**Background:** Every year the University of South Dakota holds a parade on the streets of Vermillion to celebrate Dakota Days, the University's homecoming. The parade requires closing portions of several streets for most of the morning on the day of the parade.

Bar owners have taken a more active role in monitoring their patrons during the last two parades which has helped to minimize past concerns. While it is not a charge of the Dakota Days Committee, it is hoped that bar owners will again actively participate, when possible and appropriate, in controlling their patrons during the parade.

**Discussion:** This year's parade is set to take place on Saturday, October 8, 2011. The route request submitted by the Dakota Days Committee remains the same as previous years. The Dakota Days committee is requesting that the following streets be closed for the duration of the parade, scheduled to last from 8:00 am to 12:30 pm:

Main Street from Walnut to High Streets	(8:00 am – 12:30 pm)
Main Street from High to Plum Streets	(8:00 am – 12:30 pm)
Plum Street from Main to Clark Streets	(10:15 am – 12:30 pm)
Franklin Street from Main to Clark Streets	(9:30 a.m. – 12:30 pm)

The student organization Students Enhancing Resources of Vermillion Enrichment (SERVE) will assist with cleanup after the parade. Approving the request for the parade street closing is a good time to remind the Committee of the importance of cleaning up after the parade. Approval should be conditional upon providing proper clean up after the parade.

The police, fire departments, and EMS departments have been notified of the street closings.

**Financial Consideration:** In preparing the 2011 budget, Police Department overtime wages for monitoring this parade route and Street Department overtime wages for setting up and removing barricades for the street closure were included.

**Conclusion/Recommendations:** Administration recommends that the City Council approve a parade route and times which best meet the needs of the community.

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 Dakota Days Executive Board 2011

Contact Person Leah Miller Phone 605.670.0901

Contact Person Address 901 Rose St. #208B Vermillion, SD 57069

Event Dakota Days Parade Date(s) of Event Oct 8<sup>th</sup>

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

Street ① Main  
② Main  
③ Franklin  
④ Plum from Walnut  
High  
Main to High  
Plum  
Clark  
Clark

Street Closing Times ① 8:00 Am  
② 8:00 Am  
③ 9:30 Am  
④ 10:15 Am to 12:30 pm  
12:30 pm  
12:30 pm

If the street closing requested would affect other residents or businesses have they been notified of the request. Yes \_\_\_ No X They will be notified closer to event

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

Yes, street cleaners of Vermillion and SERVE  
from USD

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 5/11/11

To: Vermillion City Council  
From: 2011 Dakota Days Executive Board  
Date: May 16, 2011  
Re: Dakota Days Parade Route

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The annual Dakota Days Parade will commence on Saturday, October 8<sup>th</sup>, 2011 at 10:30 a.m. in downtown Vermillion. The 2011 Dakota Days committee requests the permission of the city council to move forward with the same parade route as has successfully been used in previous years, and as is described below.

The organization SERVE, (Students Enhancing Resources for Vermillion Enrichment), on campus has been contacted to be the cleanup committee for the 2011 Dakota Days Parade. We are also in contact with the Street Cleaners of Vermillion to ensure they will be the last float in the parade and will have the streets completely clean directly following.

The parade will begin at the corner of High Street and Main Street. It proceeds until the corner of Plum Street and Clark Street, which is marked in bold on the map. The check-in site is on West Main Street and Carr Street and the line-up will be on Main Street until High Street which is marked by the dotted line.

The streets that will be closed on the day of the parade are as follows:

Main from Walnut to High 8:00 am – 12:30 pm  
Main from High to Plum 8:00 am – 12:30 pm  
Franklin from Main to Clark 9:30 am – 12:30 pm  
Plum from Main to Clark 10:15 am – 12:30 pm

If you have any questions regarding the 2010 Dakota Days parade, feel free to contact us at [dakotadays@usd.edu](mailto:dakotadays@usd.edu) or 605.677.5334.

# Official Parade Map

The parade will begin at the corner of High St. and Main St. It proceeds until the corner of Plum St. and Clark St. which is marked in bold on the map. The check-in site is on W. Main St. and Carr St. and the line up will be on Main St. until High St. which is marked by the dotted line.

If you have any questions regarding the 2011 Dakota Days Parade, feel free to contact us at [dakotadays@usd.edu](mailto:dakotadays@usd.edu) or 677-5334.



- Streets that will be closed:**
- Main from Walnut to High (8:00am- 12:30pm)
  - Main from High to Plum (8:00am- 12:30pm)
  - Franklin from Main to Clark (9:30am- 12:30pm)
  - Plum from Main to Clark (10:15am- 12:30pm)

## Vermillion, SD



## *Council Agenda Memo*

**From:** John Prescott, City Manager

**Meeting:** May 16, 2011

**Subject** Resolution setting a fee for the placement of dumpsters and portable storage units on public property

**Presenter:** John Prescott

**Background:** If the City Council approves the second reading of Ordinance No. 1253, which establishes a permit for placement of dumpsters and portable containers on the public right of way, a permit fee will need to be established. Section 96.18 (C)(2) and 96.18 (J)(1) provide that the fees be set by resolution of the City Council.

**Discussion:** The attached resolution proposes an administrative fee of \$25 for placement of a dumpster or portable storage unit on any street or public grounds. There is no fee to place a dumpster or storage container on private property. Failure to obtain a permit results in a \$50 penalty plus the cost of the permit.

**Financial Consideration:** The purpose of the ordinance and fee schedule is not to generate a new income stream for the City. The main purposes of the ordinance are to assist in the proper placement of the containers, insure that the containers are not left for long periods of time, and to reduce litter which might blow out of the containers. The fees help recover a portion of the costs related to processing the permit application and inspection of the containers. Permit fees will be placed in the City's General Fund.

**Conclusion/Recommendations:** Administration recommends adoption of the resolution setting the administrative fee at \$25 for placement of a dumpster on the public right of way.

**RESOLUTION TO ESTABLISH FEES FOR  
THE PLACEMENT OF TEMPORARY DUMPSTERS AND PORTABLE STORAGE UNITS**

WHEREAS, Chapter 96, Section § 96.18(C)(2), of the 2008 Revised Ordinances of the City of Vermillion, allows the City Council to establish fees for the placement of temporary dumpsters and portable storage units; and

WHEREAS, Section § 96.18(J)(1), provides for violation penalties for any person who places one or more dumpsters or portable storage units in or upon any street or public grounds or upon private property without first having obtained a permit

BE IT HEREBY RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof of said City Council at 7:00 p.m. on the 16<sup>th</sup> day of May, 2011 that the fees and or penalties are established as follows:

1. Permit Fee – Section 96.18(C)(2)

The application fee for a Permit allowing the temporary placement of dumpsters or portable storage units on a street or public grounds shall be \$25.00.

The fee for failing to obtain a permit prior to the placement of a dumpster or portable storage unit shall be \$50.00, plus the cost of the permit.

2. Penalty Fee – Section 96.18 (J)(1)

The penalty for failing to comply with the restrictions, requirements and responsibilities of Section § 96.18(J)(1) of the 2008 Revised Ordinances of the City of Vermillion shall be \$100.00

The City Manager may abate all or a portion of any fee or penalty for just cause. The issuance of a fee or penalty shall not be construed to be approval of any violation of any of the provisions of the code. Other fee orders, and/or penalties issued by Federal, State or local jurisdictions may be applied in addition to the fees and penalties listed above.

This resolution shall become effective upon the adoption of Ordinance No. 1253.

Dated at Vermillion, South Dakota this 16<sup>th</sup> day of May, 2011

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:** John Prescott, City Manager  
**Meeting:** May 16, 2011  
**Subject:** Joint Law Enforcement Agreement  
**Presenter:** John Prescott and Police Captain Chad Passick

**Background:** The City has had a Joint Law Enforcement agreement with the University of South Dakota since at least 1996. The five year agreement entered into in 2004 has been extended several times while a new agreement was developed. University Police Department Police Officers need to be recognized as Deputy Vermillion Police Department Officers to have the standing of a law enforcement officer in South Dakota.

**Discussion:** The agreement is very similar to the 2004 agreement. The Vermillion Police Chief ultimately makes the determination of an individual serving as a Deputy Vermillion Police Officer. Some of the items the agreement outlines include the search process, where a Deputy Police Officer will work, the training that must be completed, equipping of a Deputy Officer and reports to be completed. The disciplinary section is better defined in the proposed agreement vs. the 2004 agreement. Insurance responsibilities are also better addressed in the proposed agreement. The proposed agreement covers the time period of July 1, 2011 to July 1, 2016. The City Attorney has reviewed the proposed agreement.

**Financial Consideration:** The agreement provides that any increased insurance cost, due to the agreement, is the responsibility of USD. There are no other costs to the City. Each employer is responsible for the costs of their employees.

**Conclusion/Recommendations:** Administration recommends that a motion be approved to allow the Mayor to sign the Joint Law Enforcement agreement.

## **Joint Law Enforcement Agreement**

WHEREAS, the City of Vermillion (hereinafter referred to as “City”) through its Police Department (hereinafter referred to as “VPD”) and Chief of Police (hereinafter referred to as “Chief”) has responsibility for law enforcement in the City of Vermillion and the University of South Dakota (hereinafter referred to as “USD”) has a responsibility to its students, faculty and the community of Vermillion to provide a safe learning environment; and

WHEREAS, the City and USD agree that it is to their mutual benefit for police department personnel at USD to have status as Vermillion Police Department police officers to provide law enforcement efficiency and consistency for the benefit for the City of Vermillion and the students, faculty, and staff of USD.

NOW, THEREFORE, the parties agree as follows:

1. USD may designate USD employees to be appointed as USD police officers. Appointments shall be made with the approval of the Chief, and after such approval, and upon swearing to the required oath, a USD police officer shall also have the status of deputy City police officer.
2. The USD Police Department will follow established USD & state procedures for recruiting, screening and hiring USD police officers. A search committee will be appointed to assist in the screening and hiring process. That committee shall consist of at least one representative of the VPD and USD representative(s), as mutually agreed between the parties. All newly hired USD Police Officers will be subject to background screening consistent with the VPD background procedures.
3. Persons appointed as USD police officers, pursuant to this agreement, shall limit their law enforcement duties to the Vermillion campus of USD and its immediate environs unless directed otherwise by the VPD. Persons appointed, pursuant to this agreement, shall perform law enforcement duties according to the standards approved by the Chief and consistent with the currently adopted policies and the procedures of the VPD. When USD police officers are performing duties on behalf of the VPD, they shall be performing their duties as commissioned police officers.
4. All persons appointed police officers, pursuant to this agreement, shall meet the minimum standards of training for a law enforcement officer, as provided by statute, and South Dakota Commission of Law Enforcement Officers Standards & Training, standards of a VPD approved Field Officer Training program, and such further standards as the City may, from time to time, reasonably request. USD shall support, as well, additional training and continuing education of its police officers subject to available resources and consistent with USD practices.
5. Persons appointed as police officers, pursuant to this agreement, will be equipped consistent with the standards and practices of the VPD.
6. Persons appointed police officers pursuant to this agreement shall prepare reports required by the City. All incidents of a criminal nature will be reported to the VPD. USD police officers will

provide a written follow-up case report on all incidents of a criminal nature that occur on campus or in residence halls.

7. Due to the sensitivity of reports, copies will only be provided to individuals on a "Need to Know" basis. There shall be an accountability of reports whereby USD shall, upon request, furnish the VPD a list of USD officials who will be receiving reports of a criminal nature. Reports provided to USD officials shall be treated as "Confidential."
8. USD shall issue all discipline and discharge actions consistent with all rules, regulations and policies of the State of South Dakota, Board of Regents, The University of South Dakota, and the USD Police Department. Pursuant to this agreement the Chief will be notified in the event of any disciplinary action involving USD Police Officers.

The City may revoke the police powers of a USD police officer for just cause based upon the City's just cause policies. In the event of such action, the City must notify the USD Director of the University Police Department of this action and the basis for this action. USD shall suspend the authority of the police officer to act in that capacity until a final resolution of appropriate discipline, discharge, or re-instatement action has been taken. A USD police officer, who has had police powers revoked, shall have the right to appeal that action and request a hearing. Such appeal and request for hearing must be initiated, in writing, to the City Police Chief (with a copy to the Director of the University Police Department) within five (5) working days of the date police powers were revoked. Failure to appeal and request a hearing within that time frame shall result in the permanent revocation of police powers.

In the case of an appeal, a review board shall be established consisting of two (2) members appointed by the City, two members appointed by USD, and one member mutually appointed by the City and the USD. The review board shall conduct a hearing within thirty (30) calendar days from the date the appeal is received. The review board will deliver a written decision to the employee within ten (10) calendar days after the hearing. Should the review board determine police powers were unjustly removed, the officer's powers shall be fully restored by the City Police Chief. Other proceedings may be made by the City, USD or the employee to the State of South Dakota Commission of Law Enforcement Officer's Standards and Training which has the ultimate authority-concerning an officer's commission.

9. USD will be responsible for all costs incurred for wages, benefits, training, equipment and uniforms for its employees.
10. Each party shall maintain adequate liability insurance. USD's coverage shall be as provided by the Public Entity Pool for Liability (PEPL). Furthermore, USD shall reimburse the City for any additional insurance expense incurred by the City as a result of the increased number of Police Officers occurring as a consequence of the City including USD Police Officers being deputized as City Police Officers. All officers in the course of their duties shall remain employees of their employing agency and, therefore, shall continue to be covered by their employing agency for the purposes of Workers Compensation.

11. The parties agree to conduct joint meetings, at least annually or as requested by either party during the term of this agreement, to discuss issues of mutual interest and concern to the performance of this agreement. It is anticipated that items brought forward during the meetings may result in amendments or addendas to this agreement.
12. The term of this agreement shall be five (5) years beginning July 1, 2011 and terminating June 30, 2016, unless extended by mutual written agreement. Either party may, by giving sixty (60) days written notice to the other, revoke or rescind this agreement for any reason.
13. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State and USD. Termination for any of these reasons is not a default by the State and USD, nor does it give rise to a claim against the State and USD.

Date this 16<sup>th</sup> day of May, 2011.

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John E. (Jack) Powell, Mayor  
City of Vermillion

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James W. Abbott, President  
University of South Dakota



## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** May 16, 2011  
**Subject:** Missouri River Visitor Center Resolution of support  
**Presenter:** John Prescott

**Background:** Steve Howe presented information on the Missouri River Visitor Center project at the May 2 Noon meeting. The idea of placing the Visitor Center at Clay County Park has been discussed for the last year. Upon hearing the information at the May 2<sup>nd</sup> meeting, the City Council asked city staff to prepare a resolution of support for the project.

**Discussion:** The attached resolution of support was drafted to demonstrate the City of Vermillion's support for the concept of a Visitors Center being located at Clay County Park. The resolution of support is very similar to the resolution adopted by the Clay County Commission.

Locating a Visitor Center at Clay County Park would have several benefits for Vermillion. It is anticipated Vermillion may see some economic spin off impacts of having a destination Visitor Center close to the community. At the same time, the Visitors Center would assist Vermillion residents in better understanding and providing additional opportunities to appreciate this unique natural resource in the area.

**Financial Consideration:** None. The resolution does not pledge any funding only support of the concept of the Visitors Center.

**Conclusion/Recommendations:** Administration recommends approval of the Resolution of Support for the Missouri River Visitors Center at Clay County Park.

**RESOLUTION OF SUPPORT  
MISSOURI RIVER VISITOR CENTER AT CLAY COUNTY PARK**

WHEREAS, the City of Vermillion, in association with the Clay County Board of Commissioners, believes that a Missouri National Recreational River Visitor Center and Missouri River Institute Research Center at Clay County Park will provide greater economic development, recreation and educational opportunities for the area; and

WHEREAS, the Clay County Park Board has already made a number of improvements to the Park and has seen substantial increases in park visitations; and

WHEREAS, the benefits of a visitor center would further enhance the use of the Missouri River, Clay County Park and the surrounding businesses; and

WHEREAS, the key elements of this center include a visitor contact station, interpretive displays, campground check-in, scientific laboratory, classroom/meeting space and associated storage; and

WHEREAS, the building will seek to incorporate green technology when feasible.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the City of Vermillion, supports the concept of the Missouri River Visitor and Research Center at Clay County Park.

Dated this 16<sup>th</sup> day of May, 2011.

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John E. (Jack) Powell, Mayor

ATTEST:

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Michael Carlson, Finance Officer



## *Council Agenda Memo*

**From:** John Prescott, City Manager

**Meeting:** May 16, 2011

**Subject** Library Board Appointments

**Presenter:** Mayor Jack Powell

**Background:** By State Statute, the City Council is charged with appointing members of the Library Board.

9-10-9. Officers and employees appointed by governing body--Others appointed by city manager. The auditor, attorney, library board of trustees, and the treasurer shall be appointed by the governing body and may be removed at any time by such governing body. The auditor and the treasurer shall each appoint all deputies and employees in his office. All other officers and employees, including all members of boards and commissions, except as otherwise provided by law, shall be appointed by the manager and may be removed by him.

The Board is comprised of five citizens appointed by the City Council and one member of the City Council. The board terms are for three years and expire in May.

**Discussion:** The current members of the Library Board and term expiration year are: Cyndy Chaney (2011), Jon Flanagin (2013), Carl Gutzman (2013), Janet Hoff (2011), and Fern Kaufman (2012). The City Council member is appointed when City Council Committee assignments are made in July of even years. The current council member serving on the board is Alderman Osborne.

Janet Hoff and Cyndy Chaney both expressed an interest in serving another term. The Library Board term opening was noted at the May 2, 2011 City Council meeting. Interested applicants were asked to complete an Expression of Interest Form. Two individuals completed an Expression of Interest form. A copy of each form is included with the packet.

**Financial Consideration:** With the exception of the City Council representative, each member of the Library Board is paid \$15 per meeting.

**Conclusion/Recommendations:** Administration recommends appointing two individuals to fill the Library Board terms.



**CITY OF VERMILLION  
CITIZEN BOARD/COMMISSION  
EXPRESSION OF INTEREST FORM**

Please indicate the Board/Commission on which you are interested in serving

Title: \_\_\_\_\_ Mr. \_\_\_\_\_ Mrs. \_\_\_\_\_ Miss. X Ms. \_\_\_\_\_ Dr. \_\_\_\_\_

Name: Cyndy Chaney

Home Address: 111 Center St #2

Email Address: dc.

Phone #: 624-6260

Number of years you have lived in/around Vermillion born here - back 11 yrs

Occupation: receptionist Employer: Vermillion Vet Clinic

Business Address: \_\_\_\_\_

Prior elected or appointed offices held (if any)  
Library Board

Present and past community volunteer activities:  
Clay County Hist Soc. Board, many church activities

Why are you interested in service on this Board Commission?  
As an educator I'm very interested in promoting reading, life-long learning & our library is a vital part of this - for all ages

Do you have any unique skills or experiences which would be beneficial to the City to know in selecting someone to serve?  
Many - 42 yrs - in public schools; previous board membership, library user

Are there any particular projects, programs or goals you would like to see achieved while serving on the Board Commission?  
the new library addition

Cyndy Chaney  
Signature

4-28-11  
Date

Please return this form to: John C. Prescott  
City Manager  
25 Center Street

*part time*



**CITY OF VERMILLION  
CITIZEN BOARD/COMMISSION  
EXPRESSION OF INTEREST FORM**

Please indicate the Board/Commission on which you are interested in serving

Title:  Mr.  Mrs.  Miss.  Ms.  Dr.

Name: Janet Hoff

Home Address: 430 Oakmont Dr Vermillion

Email Address: jkhoff9@msn.com

Phone #: 605-624-3372 (home) 605-670-2198 (cell)

Number of years you have lived in/around Vermillion 45 yrs

Occupation: Retired Employer: —

Business Address: —

Prior elected or appointed offices held (if any)

Library Board

Present and past community volunteer activities:

Make a Wish-wish granter, Meals on Wheels, Friends of the Library

Why are you interested in service on this Board Commission?

I am interested in continuing to serve on this Board to promote the library to the public. This includes programs, events, technology, and general usage.

Do you have any unique skills or experiences which would be beneficial to the City to know in selecting someone to serve?

Having experience on the Board is an advantage. I also had the opportunity to attend the Gates Library Conference to gain skills in library promotion.

Are there any particular projects, programs or goals you would like to see achieved while serving on the Board Commission?

The most important project I would hope to achieve is the library expansion project. This is a very necessary project & will be a wonderful asset to the Vermillion community. I am also interested in continuing the expansion & usage of new technologies.

Signature

Janet Hoff

Date

4-27-11

Please return this form to:

John C. Prescott  
City Manager  
25 Center Street



## *Council Agenda Memo*

**From:** Harold Holoch, Utilities Engineer

**Meeting:** May 16, 2011

**Subject:** Purchase of Solid Waste Bale Bags

**Presenter:** Harold Holoch

**Background:** The City will be opening bids on Monday, May 16<sup>th</sup> at 11:00 a.m. for a semi-load (approximately 19,000 bags) of solid waste bale bags to be used with the landfill bale bagging system. Bid tabulations will be available at the noon and evening meeting.

**Discussion:** Bid specifications were sent to two potential bidders. The landfill uses approximately 21,000 bags a year at a total cost of \$85,000. Bidding is required by State law when the annual purchase of a material will exceed \$25,000.

**Financial Consideration:** The purchase of solid waste bale bags is budgeted in the Joint Powers Landfill Fund and the current cost of the semi-load is estimated at \$78,000.

**Conclusion/Recommendations:** Administration will provide a bid tabulation sheet with a recommendation at the noon and evening meetings.



## *Council Agenda Memo*

**From:** Harold Holoch, Utilities Engineer

**Meeting:** May 16, 2011

**Subject:** Water Main Improvements

**Presenter:** Harold Holoch

**Background:** The City replaced the water main on Dakota Street from Cherry Street to SD Hwy 50 several years ago. The water main under SD Hwy 50 is still the original construction and is in need of replacement. Several years ago, the water main under the railroad tracks on 12<sup>th</sup> Street broke requiring the City to cap the water main on either side of the railroad right-of-way. Funds were budgeted in the 2011 Water Distribution Fund for replacement of both of these water mains by boring methods. Banner Associates was hired to provide engineering services for the project. The bid documents included a base bid for boring and installing 10” water main for the highway crossing and boring and installing encasement pipe and 8” water main for the railroad crossing. A bid alternate for connecting the new water main to the existing water main, in both locations, was also included in the bid documents. The City opened bids for the water main improvements on Wednesday May 11<sup>th</sup> at 2:00 p.m.

**Discussion:** A copy of the bid tabulation and consulting engineer recommendation are attached. Four bids were received for this project with Prunty Construction, Brookings, South Dakota having the low base bid of \$64,404.36 and the low combined base bid and bid alternate of \$76,130.65. Administration and Banner recommend that the bid alternate for connection of the new water main to the existing water main be included in the contract due to wet conditions combined with the depth of the pipes that would make it difficult for city personnel and equipment to perform the work.

**Financial Consideration:** The project cost will be funded from the 2011 Water Distribution Fund.

**Conclusion/Recommendations:** The recommendation of Administration and Banner is to award the low combined base bid and bid alternate to Prunty Construction in the amount of \$76,130.65.

# BANNER

Engineering | Architecture | Surveying

Banner Associates, Inc. | 14 West Main, Ste. A  
Vermillion, South Dakota 57006 | 605.624.6342  
www.bannerassociates.com

May 12, 2011

Mayor and City Council  
25 Center Street  
Vermillion, SD 57069

Re: Bid Award Recommendation - Vermillion Watermain Improvements - 2011

Dear Mayor and City Council:

The City of Vermillion received four bids for the Vermillion Watermain Improvements – 2011 project on May 11, 2011. A Bid Summary is attached for your review. The Base Bid included work for repair of two watermain crossings by boring underneath the Hwy 50 bypass/Dakota St and BNSF railroad/12<sup>th</sup> St intersections. The Bid Alternate included costs for connecting the watermains to the water distribution system. The combined low bid was \$64,404.36 for the Base Bid, and \$11,726.29 for the Bid Alternate. The combined Bid Schedules submitted by Prunty Construction, Brookings, South Dakota totaled \$76,130.65.

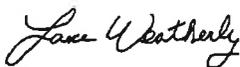
Banner provided City staff an Opinion of Probable Construction Cost of approximately \$61,000 based on discussions with boring contractors and suppliers. We are disappointed the bid results were higher than anticipated; however none of the boring contractors submitted bids as prime bidders. The higher bids are shown in mobilization and bid items related to excavation as the general contractor will be bringing additional equipment and labor forces to complete the work

The project was bid with a Bid Alternate to give the City the opportunity to perform the watermain connections depending upon the bid results. City staff and Banner determined to award the Bid Alternate based on the expected wet digging conditions, required equipment rental to facilitate the work, and reasonable markup of material cost.

Prunty Construction and their subcontractors meet the qualifications set forth in the bidding documents, therefore, Banner is of the opinion the bid submitted by Prunty Construction is responsive and recommends awarding the Base Bid and Bid Alternate to Prunty Construction in the amount of \$76,130.65.

Please contact our office if you have any questions regarding this recommendation. We plan to be present at the City Council meeting on May 16<sup>th</sup> to answer any questions.

Sincerely,



Lance Weatherly, PE, LSIT  
Enclosure: Bid Summary

## Bid Summary

**Bid Opening Time & Date:** 2:00 pm, May 11<sup>th</sup>, 2011

**Project:** Vermillion Watermain Improvements - 2011  
 Vermillion, South Dakota  
 BAI. No. 08115.00.04

**Bid Opening Location:** City of Vermillion  
 25 Center Street  
 Vermillion, South Dakota 57069

**Certified By:** Lance Weatherly  
 Lance Weatherly, PE, LSIT - SD# 9762

**Date:** 5/11/11

Bidder Number	Bidder's Name and Address	Bid Security	Acknowledge Addendum No.1	Base Bid	Bid Alternate	Base Bid & Bid Alternate
1	Prunty Construction Brookings, SD	X	X	\$64,404.36	\$11,726.29	\$76,130.65
2	First Rate Excavate Sioux Falls, SD	X	X	\$70,989.00	\$8,568.00	\$79,557.00
3	Feimer Construction Yankton, SD	X	X	\$75,300.00	\$12,390.00	\$87,690.00
4	H&W Contracting, LLC. Sioux Falls, SD	X	X	\$84,186.00	\$16,991.50	\$101,177.50

Date: May 10, 2011

To: Mayor & City Council

From: Utilities Engineer

Subject: Sale of Surplus Golf Fairway Mower

No bids were received for the sale of the surplus utility vehicle and fairway mower, appraised at \$2,700 and \$3,800, respectively, at the March 29<sup>th</sup> bid letting. The City by State law can sell the surplus equipment by private sale for not less than 90% of appraised value. The City Council gave staff the authority to sell the surplus equipment for not less than 90% of appraised value at the April 4<sup>th</sup> City Council meeting. Staff sold the 2003 Toro utility vehicle for 90% of appraised value to the Covington Golf Course, South Sioux City, Nebraska on April 19, 2011. Staff has accepted an offer for the sale of the 2003 Toro fairway mower for 90% of appraised value of \$3,420 from the Kimball Golf Course, Kimball, South Dakota on May 9, 2011.

CITY OF VERMILLION  
INVOICES PAYABLE-MAY 16, 2011

1 ALLTEL	POLICE COMMUNICATIONS	211.15
2 BROADCASTER PRESS	ADVERTISING	1,137.44
3 BUREAU OF ADMINISTRATION	TELEPHONE	397.75
4 CAREFREE SECTUITY PRODUCTS	KEYPAD FOR AIRPORT	147.00
5 CLAY UNION ELECTRIC	ELECTRICITY	1,141.18
6 DEPT OF ENVIRONMENT & NAT. RESOURCES	LOAN PAYMENTS	71,701.84
7 DEPT OF REVENUE	LICENSE RENEWAL	150.00
8 DEPT. ENVIRONMENT NATL RES	LANDFILL OPERATIONS FEE	2,878.33
9 FOLD-A-GOAL	SOCCER NETS	399.00
10 GOVERNMENT FINANCE OFFICERS ASSOC	REGISTRATION	289.00
11 GREGG PETERS	MANAGERS FEE	5,375.00
12 KNOLOGY	E911 CIRCUIT/DIALUP SERVICE	1,415.45
13 LOREN FISCHER DISPOSAL	HAUL CARDBOARD	210.00
14 MATHESON TRI-GAS, INC	MEDICAL OXYGEN/CYLINDER RENTAL	78.97
15 MIDAMERICAN	GAS USAGE	2,978.78
16 MIDCONTINENT COMMUNICATION	CABLE/INTERNET SERVICE	91.75
17 QWEST	TELEPHONE	1,548.49
18 RESERVE ACCOUNT	POSTAGE FOR METER	950.00
19 SPRINT	CELL PHONES	971.10
20 STERN OIL CO.	FUEL	16,120.25
21 THE EQUALIZER	ADVERTISING	377.10
22 UNITED PARCEL SERVICE	SHIPPING	245.31
23 US POSTMASTER	POSTAGE FOR UTILITY BILLS	1,025.00
24 VISA/FIRST BANK & TRUST	TRAVEL/SUPPLIES	159.27
25 WALKER CONSTRUCTION	CONCRETE PAD	4,579.80
26 SENIOR CITIEZEN SERVICES	BRIGHT ENERGY REBATE	100.00
	GRAND TOTAL	\$114,678.96