



Special Meeting Agenda

City Council

12:00 p.m. (noon) Special Meeting
Monday, November 5, 2012
Large Conference Room
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Informational Session – Landfill Baler Building Fire report – Bob Iverson.**
3. **Briefing on the November 5, 2012 City Council Regular Meeting Agenda-** Briefings are intended to be informational only and no deliberation or decision will occur on this item.
4. **Adjourn**

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

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

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

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

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

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



Council Memo

From: Mike Carlson
Meeting: November 5, 2012 noon meeting
Subject: Insurance Coverage Landfill Fire
Presenter: Mike Carlson

Background: The city has its property, vehicle, liability, boiler, public officials, police liability insurances through the South Dakota Public Assurance Alliance (SDPAA), a local government risk pool. The city has been a member and purchased coverage through the pool since 1987. The SDPAA pool provides coverage for claims up to \$250,000 and purchases reinsurance for claims in excess of this amount. With a claim that may exceed \$2 million, the SDPAA sent an inspector and the reinsurance company also sent inspectors to see if they could determine the cause of the fire. They have been unable to determine the cause of the fire so the insurance company will be paying the claim. If the cause could have been attributed to a specific piece of equipment the insurance company may have had a claim against the manufacturer. Our policy has a \$1,000 deductible. The policy lists the individual real property and their contents but the policy coverage is combined for an aggregate total, thus the building coverage replacement cost aggregate limit is \$34.5 million and personal property coverage replacement cost aggregate limit is \$5.1 million.

Discussion: The coverage for the landfill building (this includes the baler) and contents is at replacement cost. In talking to the insurance adjuster, the reinsurance company is currently determining a value for the building including baler and will make these estimates available to the city. He said the insurance company will make partial payment to the city based upon these estimates and when the building and contents are replaced the amount will be adjusted to actual replacement costs.

The real property insurance has the following additional coverage:

- Extra expenses up to \$100,000. This is for other costs such as the cost to get the electric and water service established to the office building or if additional labor is needed.

- Debris Removal up to \$250,000. This will cover the cost of removing the old building.
- Loss of Earnings coverage of up to \$100,000. As the landfill was not closed there may not be any exposure. However, as we will be compacting instead of baling, more landfill space may be used, which may cause some loss in landfill life that could be claimed.
- Building materials and supplies of up to \$10,000. This will be for miscellaneous small items as the contents of the building are covered at replacement cost.
- Temporary storage location coverage up to \$250,000. There may be a need for storage of tools, equipment maintenance supplies such as oil, filters, wear parts, etc and this would cover the rental of storage facilities.

The adjuster stated that the claim will remain open until the building and contents are replaced which most likely will go well into next year.

There were three loaders and a truck in the building that are covered on the vehicles and equipment coverage portion of the SDPAA policy. The insurance provides for payment of the actual cash market value for this equipment. The covered equipment was the following:

- 2009 Caterpillar wheel loader 904
- 2011 Caterpillar wheel loader 938H
- 2012 Caterpillar wheel loader 914
- 2001 International truck chassis with roll off hook purchased in 2009

This portion of the policy provides coverage for the cost of renting equipment up to \$500 per day with a maximum of \$25,000.

The reinsurance company is processing a partial payment of \$500,000 to the city for the purchase of equipment such as the loader under consideration on Monday night and replacing the contents. We will be documenting the costs as this project progresses for the insurance company.



City of Vermillion Council Agenda

7:00 p.m. Regular Meeting
Monday, November 5, 2012
City Council Chambers
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Minutes**
 - a. October 15, 2012 Special Session; October 15, 2012 Regular Session.
4. **Adoption of the Agenda**
5. **Visitors To Be Heard**
6. **Public Hearings**
 - a. Request from Todd & Michele Mechling for a variance from the zoning ordinance to have a concrete slab in the front yard at 1020 W. Main Street.
 - b. Lease for approximately 232 acres of farmland east of Vermillion.
7. **Old Business**
8. **New Business**
 - a. Resolution to purchase a 938 Wheel Loader for the Solid Waste Department from the State of South Dakota contract.
 - b. Developer's Agreement with Troy Gregoire for Lot 6, Block 1 Cottage Place Addition.
 - c. Resolution to adjust the Storm Drainage fee.
 - d. Brooks Industrial Park Property Lease Agreement with the South Dakota National Guard.
9. **Bid Openings**
 - a. Fuel quotes.
10. **City Manager's Report**
11. **Invoices Payable**
12. **Consensus Agenda**
 - a. Set a bid opening date of December 10, 2012 for a Fire Department pumper truck.
13. **Adjourn**

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

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

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

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

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Vermillion City Council's Values and Vision

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



Unapproved Minutes
Council Special Session
October 15, 2012
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, October 15, 2012 at 12:00 noon in the City Hall large conference room.

1. Roll Call

Present: Collier-Wise, Davies, Grayson, Meins, Ward (arrived at 12:04 p.m.), Zimmerman, Mayor Powell

Absent: Osborne, Willson

2. Educational Session - housing Study Presentation - Steve Howe

Steve Howe, Executive Director of the VCDC, stated as background that a group of community leaders got together in June for some strategic planning. The top item from the meeting was the need for housing in Vermillion for employees currently commuting and for new employees. Steve stated that he had approached the City Council about funding a housing study which was expanding into a Talent Attraction Strategy and Workforce Housing Solutions report. Steve stated that Mark Lautman and Richard Bessan of Community Housing Laboratory, LLC prepared the report that was distributed and Mark is present to review the report and answer questions.

Alderman Ward arrived at 12:04 p.m.

Mark Lautman of Community Housing Laboratory, LLC, provided an overview of the Talent Attraction Strategy and Workforce Housing Solutions report along with the summary of findings. Mark answered questions of the City Council on the report.

3. Briefing on the October 15, 2012 City Council Regular Meeting Agenda

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

4. Adjourn

372-12

Alderman Zimmerman moved to adjourn the Council special session at 1:02 p.m. Alderman Meins seconded the motion. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 15th day of October, 2012.

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

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

Unapproved Minutes
City Council Regular Session
October 15, 2012
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on October 15, 2012 at 7:00 p.m. by Mayor Powell.

1. Roll Call

Present: Collier-Wise, Davies, Grayson, Meins, Osborne, Ward, Willson, Zimmerman, Mayor Powell

2. Pledge of Allegiance

3. Minutes

A. October 1, 2012 Special Session; October 1, 2012 Regular Session

373-12

Alderman Zimmerman moved approval of the October 1, 2012 special session minutes and the October 1, 2012 regular session minutes. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

4. Adoption of Agenda

374-12

Alderman Ward moved approval of the agenda with the addition of Item 5B - Proclamation of Congratulations to the Vermillion High School Boys Soccer Team. Alderman Zimmerman seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

5. Visitors to be Heard

A. United Way Week Proclamation

Alderman Meins read the proclamation recognizing October 22-28 as United Way of Vermillion Week. Mayor Powell presented the proclamation to Kelsey Collier-Wise on behalf of the Vermillion United Way.

B. Proclamation of Congratulations to the 2012 Vermillion High School Boys Soccer Team

Alderman Ward read the proclamation congratulating the Vermillion High School Boys Soccer Team and coaches who won the Class A State Championship this past weekend. Mayor Powell presented the proclamation to team members and coaches.

6. Public Hearings

A. Transfer of Retail on-off Sale Malt Beverage license from Sammelson Brothers, Inc. to Varsity Pub, LLC for the Varsity Pub at 113 E. Main Street.

Mike Carlson, Finance Officer, reported that an application was received for the transfer of the retail on-off sale malt beverage license from Sammelson Brothers, Inc. to Varsity Pub, LLC for the Varsity Pub at 113 E. Main Street. The notice of hearing and Police Chief's report are included in the Council packet. Discussion followed.

375-12

Alderman Zimmerman moved approval of the transfer of on-off sale malt beverage license from Sammelson Brothers, Inc. to Varsity Pub, LLC for the Varsity Pub at 113 E. Main Street. Alderman Collier-Wise seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

7. Old Business - None

8. New Business

A. USD hangar Lease Agreement

Jose Dominguez, City Engineer, reported that since the hangar lease expired in October 2009 a new lease agreement with USD was drafted. Jose noted that the City leases hangar spaces within the airport property and the lessee is responsible to place their hangar and maintain the property. The proposed lease is for 20 years with an option for another 20 years. The rate is \$.05 per square foot for the building size and \$.10 per square foot for unused land being leased for a total cost of \$180 per year. Discussion followed.

376-12

Alderman Willson moved approval of the airport hangar land lease agreement with the University of South Dakota as presented for 20 years with the renewal option of another 20 years. Alderman Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

B. Grant Fluent Hangar Lease Agreement

Jose Dominquez, City Engineer, reported that the original 10 year hangar lease with Mr. Fluent expired in April 2011 but included an option for a 10 year renewal. Although the City did not receive a written request for the extension, the annual payments have been received. The lease will expire April 15, 2021 and provides for the annual lease of \$10 per year.

377-12

Alderman Davies moved approval of the renewal option with Grant Fluent for airport hangar land lease as presented until April 15, 2021. Alderman Zimmerman seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

C. Developer's Agreement for Lots 9-13, Block 2, French Addition

Jose Dominquez, City Engineer, reported that Mrs. Frances Rasmussen recently purchased Lots 9 through 13, Block 2, French Addition and is planning on constructing five townhouses facing Norbeck Street. As Lot 13, the corner lot, abuts French Drive, the agreement allows the construction with the stipulation that the owner agrees not to remonstrate against assessments for the future construction of French Drive. The agreement also clarifies the owner's responsibility with respect to sanitary sewer laterals that are shared between two lots. Discussion followed.

378-12

Alderman Zimmerman moved approval of the Developer's Agreement with Mrs. Frances Rasmussen for Lots 9 through 13, Block 2, French

Addition as presented. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Powell Declared the motion adopted.

D. AFSCME Collective Bargaining Agreement

John Prescott, City Manager, reported that the current contract with AFSCME Local 1052 expires at the end of this year and over the last few months the City and Union have been negotiating a new contract. John noted that the majority of the contract is unchanged from the current agreement. The proposed agreement includes a 2% cost of living raise for 2013, 2.25% for 2014, and 2.5% for 2015. John noted the 2% has been included in the 2013 adopted budget. John stated that the Labor and Finance Committee has reviewed the agreement and recommend acceptance.

379-12

Alderman Grayson moved approval of the agreement between AFSCME Local 1052 and the City for 2013, 2014 and 2015. Alderman Ward seconded the motion, Motion carried 9 to 0. Mayor Powell declared the motion adopted.

E. Teamsters Collective Bargaining Agreement

John Prescott, City Manager, reported that the current contract with Teamster's Union Local 120 expires at the end of this year and over the last few months the City and Union have been negotiating a new contract. John noted that the majority of the contract is unchanged from the current contract. Two of the changes to the agreement are changing the wording .40 caliber weapon to duty weapon and increasing the maximum on the 50% gym membership reimbursement from \$125 to \$175. The proposed agreement includes a 2% cost of living raise for 2013, 2.25% for 2014 and 2.5% for 2015. John noted the 2% has been included in the 2013 adopted budget. John stated that the Labor and Finance Committee has reviewed the agreement and recommend acceptance. Discussion followed.

380-12

Alderman Davies moved approval of the agreement between Teamster's Union Local 120 and the City for 2013, 2014 and 2015. Alderman Grayson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

9. Bid Openings

A. Light and Power Digger Derrick truck

Jason Anderson, Assistant City Engineer, reported that the 1998 digger derrick truck is scheduled for replacement in 2013. He noted that the replacement truck bid has a high lifting capacity based upon the consensus of the City Council following the June 4th noon presentation. Jason read the bids received and recommended the low bid of Dueco, Inc. He reviewed the two add alternates and the deduct alternate for trade-in of old truck. Jason recommended accepting add alternate No. 1 for extended cab of \$5,440 and not to accept Alternate No. 2 or the deduct alternate for trade-in as the old unit can be advertised for sale following delivery of the new unit. Jason recommended the low bid of Dueco, Inc. plus add Alternate No. 1 for a total purchase price of \$240,685. The purchase will be funded from the equipment replacement fund, noting that the 2013 equipment replacement fund included a \$100,000 transfer from the electric fund due to the increased cost of this piece of equipment which can be adjusted based on this favorable bid.

Altec Industries: Base Bid \$249,772.00, Alternate No. 1 \$4,884.00, Alternate No. 2 \$1,455.00, Alternate No. 3 -\$14,000.00
Dueco, Inc: Base Bid \$235,241.00, Alternate No. 1 \$5,444.00, Alternate No. 2 \$3,509.00, Alternate No. 3 -\$10,000.00

381-12

Alderman Davies moved approval of the low bid of Dueco, Inc. for the digger derrick truck with add Alternate No. 1 for a total purchase price of \$240,685. Alderman Willson seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

10. City Manager's Report

A. John reported that the Police Department and Emergency Communications Department Halloween Open House is Saturday, October 27th from 10:00 a.m. to 1:00 p.m.

B. John reported that the Water Department will be flushing hydrants through Friday, October 19th and reminded citizens that if they see them flushing in the area there may be some discoloration of the water.

C. John reported that the combination skate park and ice rink is nearly complete as the equipment was delivered and installed last week and signage was installed just today.

D. John stated that a Joint City/County meeting on a rezoning request in the Joint Jurisdictional area is needed with the date of November 20th proposed for an evening meeting. Please let City Hall know of your availability.

E. John reminded citizens that political signs are not allowed in the right of way which is between the sidewalk and curb and asked citizens to keep the signs behind the sidewalk.

11. Invoices Payable

382-12

Alderman Grayson moved approval of the following bills:

ADAM'S CONSTRUCTION LLC	CLUBHOUSE ROOF	19,174.00
ARCHITECTURE INC.	PROFESSIONAL SERVICES	2,715.00
ASPHALT SURFACING CO	HYDRANT DEPOSIT LESS USAGE	154.53
BROADCASTER PRESS	ADVERTISING	1,713.23
BUREAU OF ADMINISTRATION	LONG DISTANCE	262.61
CENTURYLINK	TELEPHONE	1,474.39
CITY OF VERMILLION	LANDFILL VOUCHERS	252.47
CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,179.91
CONCRETE MATERIALS	CHIPS/ASPHALT	6,051.20
DAKOTA ROCK FARMS	HAUL SLUDGE	12,687.17
DEPT. ENVIRONMENT NATL RESOURCES	LANDFILL OPERATIONS FEE	2,520.67
GEOTEK ENGINEERING	PROFESSIONAL SERVICES	347.00
GREGG PETERS	MANAGERS FEES/PROFIT	24,118.16
KNOLOGY	DIAL UP SERVICE	49.95
LOREN FISCHER DISPOSAL	HAUL CARDBOARD	140.00
MATHESON TRI-GAS, INC	SUPPLIES	215.45
MIDAMERICAN	GAS USAGE	430.24
MIDCONTINENT COMMUNICATIONS	CABLE/INTERNET SERVICE	105.95
POMPS TIRE SERVICE, INC.	TIRES	666.00
RESERVE ACCOUNT	POSTAGE FOR METER	950.00
SD DEPT OF ENVIR & NATL RESOURCES	PERMIT MODIFICATION	500.00
SD PUBLIC ASSURANCE ALLIANCE	INSURANCE COVERAGE	117,371.16
SPRINT	CELL PHONES	1,184.98
STERN OIL CO.	FUEL	18,946.47
THE EQUALIZER	ADVERTISING	64.00
TODD HALVERSON	REIMBURSE TESTING FEES	180.00
TRUE VALUE	SUPPLIES	12.99
UNITED PARCEL SERVICE	SHIPPING	61.50
US POSTMASTER	POSTAGE FOR UTILITY BILLS	975.00
VERMILLION AREA COMMUNITY	3RD QUARTER ROUNDUP	126.96
VERMILLION DEVELOPMENT CO	CONTRIBUTION	46,350.00
VISA/FIRST BANK & TRUST	FUEL/SUPPLIES	98.97
CAROL BOCK	BRIGHT ENERGY REBATE	275.00

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

12. Consensus Agenda

A. Set a public hearing date of November 5, 2012 for the lease for approximately 232 acres of farmland east of Vermillion

383-12

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

13. Adjourn

384-12

Alderman Osborne moved to adjourn the Council Meeting at 7:29 p.m. Alderman Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 15th day of October, 2012.

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

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

Published once at the approximate cost of _____.



Council Agenda Memo

From: Farrel Christensen, Building Official

Meeting: November 5, 2012

Subject: Request from Todd & Michele Mechling for a variance from the zoning ordinance to have a concrete slab in the front yard at 1020 W. Main Street.

Presenter: Farrel Christensen

Background: On September 25, 2012 Todd & Michele Mechling applied for a building permit to construct two additions on their existing home located at 1020 W. Main. In order to better understand the project, staff contacted the contractor listed on the permit application, Nick Koster of Greenfield Builders. Staff had a long discussion about the project and what would be done to the house. At no time during the discussion was there mention of the construction of a 42 x 20 concrete pad in the required front yard. Several days after the discussion staff received a complaint about a parking pad in the front yard of 1020 W Main. Staff inspected the property and found a new concrete pad with a pickup parked on it.

On October 3, 2012 a letter was sent to the owners advising them that the new parking pad was not allowed and must be removed. Several days later, the owner contacted code enforcement staff in regard to the letter. The Owner stated that the new pad was for a basketball court not parking. Because the pad was being used as a parking area the letter was sent for parking. However, even if the pad was used as a basketball court it was still in violation of the landscaping requirements in the City's zoning ordinance, which promote development that is environmentally sensitive and aesthetically pleasing. The landscaping section requires at least 90% of the required front yard setback be landscaped and maintained with living ground cover. The remaining 10% is set aside for necessary stoops, steps and sidewalks connecting the front door to the driveway. Because of this ordinance the pad would still need to be removed.

On October 11, 2012 the City Engineer and I meet with Todd & Michele to explain the ordinance and why the City could not issue a building permit until the issue was resolved and the pad removed. On October 12th a variance petition was filed,

including a request for an agreement between the City and the Owners that would allow the city to issue a building permit pending the outcome of the variance petition. Staff developed an agreement and on October 15th the agreement was signed and the building permit was issued for the home additions.

Discussion: City Ordinance identifies the City Council as the Board of Adjustment and gives them 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 city, not just neighboring property owners. At all times, the burden shall be on the applicant to prove the need for a variance.

An unnecessary hardship must be established by the applicant who applies for the variance. 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.

In staff's opinion, it does not appear that the applicant has demonstrated a hardship. The owner has other locations for the basketball court that are not prohibited. Only the first 25 feet of the yard is required to be maintained with living ground cover which is environmentally sensitive and aesthetically pleasing. In this case several locations are available for a basketball court. The first is the existing driveway; almost all residential basketball courts are located in this area. Additional space is also available to the west of the home behind the required front yard. Either place would allow the owner a reasonable use of the property without the need for a variance. Furthermore, the request to screen the violation is not an acceptable way to address an ordinance violation.

Attached to this memo you will find the ordinance sections dealing with Off-Street Parking, Landscaping Standards and variances.

Financial Consideration: None that are not covered by the variance fee.

Conclusion/Recommendations: Staff believes that issuance of a variance is not needed and that if granted would set a bad precedent and be harmful to the public by reducing landscaped areas and promoting the expansion of concrete pads in front yards throughout the City. Administration recommends denial of the variance request.

CITY OF VERMILLION
PETITION FOR ZONING VARIANCE

OWNER INFORMATION (Please attach additional sheets if necessary)

NAME: Todd Mechling
ADDRESS: 1020 W Main Vermillion
PHONE: 605 670-1845 mec.ake.coolhand@gmail.com

PROPERTY INFORMATION (Please attach additional sheets if necessary)

Parcel Identification Number (PIN): 15810-02400-140-00
Current Zoning Designation: R-2
Proposed Zoning Designation: R-2
Location: 1020 W Main St.
Legal Description: Lot 13 & 14 Block 24 Van Meters Addition to E 1/2 of vacated West Street
Existing Land Use: Residential Proposed Land Use: Residential
Adjacent Zoning:
North: R-2 South: GI East: R2 West: R-2

Description of variance sought from the zoning regulations:
please see attached

Site information should be included on a separate sheet.

Todd Mechling
Signature of Owner Date 10/12/12

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

FOR OFFICE USE ONLY	DATE: <u>10/12/12</u>
FEE RECEIVED: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	PLANNING COMMISSION RECOMMENDATION
BUILDING OFFICIAL: <u>Andy C.</u>	<u>YES</u> <input type="checkbox"/> <u>NO</u> <input checked="" type="checkbox"/> - <u>10/12</u>
HEARING SCHEDULE: <u>11/5/12</u>	

Description of variance sought from the zoning regulations:

I poured a concrete basketball court in my front yard for my sons to give them a healthy alternative to their Xbox and computer games. My contractor and I were unaware of any restrictions or need for a permit. The building inspector sent me a letter requesting the removal of the basketball court because it was in violation of an off-street parking ordinance. I offered to remove a section of it and erect an ornamental fence that would make it impossible to use it as a parking space. The building inspector then told me that the basketball court would be in violation of a landscaping ordinance.

I am requesting a variance that will allow me to keep a portion of the basketball court. I am seeking a compromise that would allow me to remove roughly ½ of the basketball court, erect the ornamental fencing and put grass and/or gardens back in where the concrete is removed. My front yard was nothing more than weeds and dirt this summer and was almost completely hidden from Main Street by large, old-growth lilac bushes. I trimmed back the lilacs to encourage new growth. As soon as the lilacs shoot back up, the remaining basketball court will once again not be visible from the street and the remaining portion of my front yard will be more aesthetically pleasing than it ever has been.

Allowance of this variance will be a solution to the off-street parking violation, will be a compromise on the landscaping violation, will result in an aesthetic improvement to my property, and will allow my boys to shoot hoops with friends in my yard where I can monitor them.

8' UTILITY. ESMNT.
MISC. 29, PAGE 273(1972)

144'

1020

14

13

VAN

Existing Driveway

42

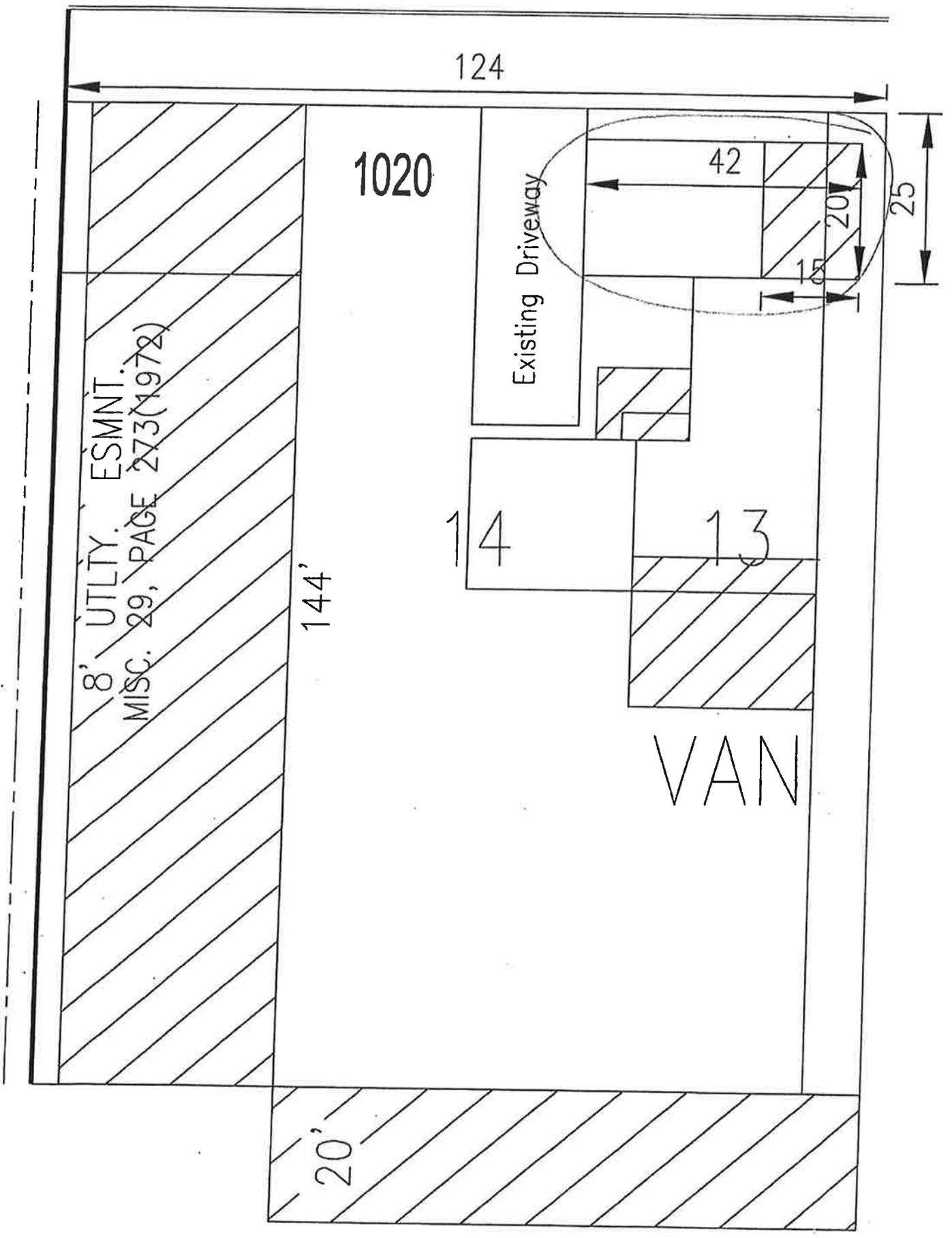
20

15

25

124

20'



ORDINANCE NO. 1276

AN ORDINANCE OF THE CITY OF VERMILLION, SD, AMENDING CHAPTER 155, ZONING ORDINANCE, SECTION 155.072, OFF-STREET PARKING, OF THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION.

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

That Section 155.072 of the Zoning Ordinance is hereby amended as follow:

§ 155.072 OFF-STREET PARKING.

(A) General conditions.

- (1) No parking spaces are permitted in the required front or side yard in any residential district except for multiple-family dwellings and portions of the front yard necessary for hard surfaced driveways or as otherwise provided in this chapter.
- (2)
- (3) (2) Parking spaces may be permitted in any required rear yard.
- (4) (3) All parking spaces shall be connected to a public street or alley.
- (5) (4) Except in conjunction with a legal nonconforming business, it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle with a gross vehicle weight rating (GVWR) of over 13,000 pounds in a NRC, R-1, R-2, R-3 or R-4 Zoning District, unless the vehicle is parked in connection with the performance of a service. The transferring of refuse from a smaller satellite vehicle to a large packer garbage truck is prohibited.
- (6) (5) All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with asphalt, concrete or other acceptable paving systems (as determined by City Engineer).
- (7) (6) The parking requirements in this section shall not be applicable to property in the CB Central Business District.

(B) Required parking spaces.

- (1) In computing the number of required off-street parking spaces, the floor area shall mean the gross floor area of the specific use, excluding any floor or portion used for parking. Where fractional spaces result, the parking spaces required shall be the nearest whole number. For the number of off-street parking and loading spaces required in all other districts, see Table 1 below:

Table 1: Minimum Off-Street Parking and Loading Requirements

Uses and Structures	Minimum Parking Requirements
Rooming and boarding houses, sororities and fraternities	1 parking space for each 200 square feet of floor area
Bowling alleys	4 spaces per lane
Church or temple	1 space for each 4 seats in main seating area
Private club or lodge	1 parking space for each 300 square feet of floor area
High school	4 spaces for each classroom or office room, plus 1 for each 150 square feet of seating area in any

	auditorium or gymnasium or cafeteria intended to be used as an auditorium
Elementary school	2 spaces for each classroom or office room, plus 1 for each 150 square feet of seating area in any auditorium or gymnasium or cafeteria intended to be used as an auditorium
Eating and drinking places	1 space for each 300 square feet of gross floor area
Hospitals	1 space for each bed
Nursing, convalescent and rest homes	1 space for each 3 beds
Auditoriums, theaters and places of public assembly	1 space for each 4 seats of design capacity
Hotels and motels	1 space for each 2 rental rooms
Funeral homes	1 space for each 4 seats in the chapel
Retail sales establishments	1 space for each 300 square feet of floor area
Medical and dental clinics	1 space for each 2 staff members and full-time employees, plus 1 space for each 600 square feet of gross floor area
Manufactured home parks	2 spaces for each
Industrial uses	1 space for each 2 employees on the maximum working shift
Service establishments	1 space for each 300 square feet of floor area
Wholesale and distribution establishments	1 space for each 2 employees on the maximum working shift

- (2) For parking requirements for residential uses (excluding manufactured homes) see Table 2 below:
- (a) In order for the Alternate Parking Requirements to be used the following criteria must be met:
- (i) Each unit must have access to their garage through a walk-thru door leading to the garage without going through the outside.
 - (ii) Each garage stall shall be a minimum of 10-feet wide by 20-feet long.
 - (iii) The property owner will ensure that the garage space is open for tenant parking as a condition of their rental registry. The garage space cannot be used for any other purpose.

Table 2: Minimum Off-Street Parking and Loading Requirements for Residential Uses

Uses and Structures	Minimum Parking Requirements	Alternate Parking Requirements**
Single-family detached	2 spaces for each dwelling unit	2 spaces for each dwelling unit
Single-family attached (townhouses)	2 parking spaces per each dwelling unit or 1 per bedroom, whichever is greater	2 parking spaces per each dwelling unit or 1 per bedroom whichever is greater
Two-family attached (duplex)	2 parking spaces per each dwelling unit or 1 per bedroom, whichever is greater	2 parking spaces per each dwelling unit or 1 per bedroom whichever is greater
Multiple-family	2 parking spaces per	Use either 2 parking

(apartments and condominiums)	each dwelling unit or 1 per bedroom, whichever is greater	spaces per each dwelling unit or 1 per bedroom, whichever is greater. This value shall be multiplied by the following factors. The number of garage stalls shall be subtracted from the product. If garage is 1 stall then the factor will be 1.2 If garage is 2 stalls, or larger, then factor will be 1.4
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** The parking stall (10-feet wide by 20-feet long) within the garage and the area directly in front of the garage (9-feet wide by 18-feet long) will count towards the off-street parking requirements.

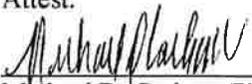
(3) All other uses not specified in the above tables shall have minimum off-street parking and off-street loading spaces as determined by the City Council.

Dated at Vermillion, South Dakota this 21st day of May, 2012.

THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA



 John E. (Jack) Powell, Mayor

Attest:


 Michael D. Carlson, Finance Officer
 First Reading: May 7, 2012
 Second Reading: May 21, 2012
 Publication: June 1, 2012
 Effective: June 21, 2012



§ 155.077 LANDSCAPING STANDARDS.

It is the desire of the city to encourage development, which is environmentally sensitive and aesthetically pleasing. To assist in these objectives, a minimum standard for landscaping is prescribed.

(A) Within any zoning district, at least 90% of the required front yard setback shall be landscaped and maintained with living ground cover except for the portion of the front yard necessary for hard surfaced driveways and parking (§ 155.072).

(B) Within GB, CB, NC, GI, and HI districts, 1 tree per 50 feet of lot width is required. No more than 50% of the trees may be planted in the street right-of-way. No more than 25% of the required trees may be deciduous ornamental, evergreen, or coniferous trees.

(C) Each existing tree of at least 1 3/4-inch caliper in size shall count toward the tree requirement.

(D) Only, permitted, deciduous shade trees may be planted in the street right-of-way.

(E) Where feasible, landscape areas must be capable of providing a substantially full expanse of foliage within 3 years after planting. All deciduous trees shall be 1 3/4 inch caliper and all deciduous ornamental shall be 1 1/4-inch caliper. Berms or other landscaping techniques may be used for all or part of the 6-foot screening if they have a maximum grade of 3 feet horizontal to 1-foot vertical and sodded or planted with other acceptable living ground cover.

(F) A fence, wall, or shrubbery 6 feet in height and of a character necessary for adequate screening shall be installed or planted when a commercial use is located adjacent to residentially used property or across the right-of-way from residentially used property (unless the right-of-way is an arterial street). Berms or other landscaping techniques may be used for all or part of the 6-foot screening if they have a maximum grade of 3 feet horizontal to 1-foot vertical and sodded or planted with other acceptable living ground cover.

(G) A setback of at least 5 feet shall be provided between a parking lot and residentially zoned property. If proper screening is provided, the setback may be 2 feet.

(H) When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:

(1) The maximum light level shall be no greater than 3 foot candles field measured at the property line (ground level).

(2) The maximum height of light luminaries shall be 25 feet above the ground.

(3) Canopy luminaries and other on-site lighting with luminaries greater than 2000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.

(4) The maximum number of canopy luminaries shall be determined by the following industry standard:

Canopy length (in feet) x canopy width (in feet) x 3 = Maximum No. of

Luminaries lamp wattage

Vermillion, SD Code of Ordinances

(5) All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

(6) The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, illuminated flags or statues, airport runways, telecommunication towers, broadcast towers, and historic period lighting.
(Ord. 1189, passed 7-7-2008)



Council Agenda Memo

From: Mike Carlson, Finance Officer
Meeting: November 5, 2012
Subject: Public Hearing Farmland lease for approximately 232 acres east of Vermillion
Presenter: Mike Carlson

Background: In 1994, Kenneth Mockler left the City approximately 232 acres of farmland east of Vermillion. The Will provided that the “City lease this property on a cash basis, with the rent to be paid in advance, for the best price and upon the best terms that the City is able to negotiate”. To the greatest extent permitted by law, the City is to hold this property as its asset, and utilize the proceeds thereof for the benefit of the new Vermillion golf course.”

For the City to enter into a lease for a term exceeding one hundred twenty (120) days and for an annual value exceeding five hundred dollars (\$500), a public hearing is required as follows:

9-12-5.2. Lease to private person--Resolution of Intent--Notice and hearing--Authorization. If the governing body decides to lease any municipally owned property to any private person for a term exceeding one hundred twenty (120) days, and for an amount exceeding five hundred dollars (\$500) annual value, it shall adopt a Resolution of Intent to enter into such lease and fix a time and place for public hearing on the adoption of the resolution. Notice of the hearing shall be published in the official newspaper once, at least ten days prior to the hearing. Following the hearing, the governing body may proceed to authorize the lease upon the terms and conditions it determines.

The statute doesn't require bidding, just a public hearing, to allow public input before property is leased. A public hearing was advertised for the Mockler farmland.

Discussion: Since the receipt of the property, the City has leased the farmland by using the bid process to determine the best price. We have done three (3) year leases and one five (5) year lease. Staff felt that the five (5) year lease was too long due to the changes in price, thus the lease being proposed is for three (3) years. Advertisements for bids were placed in the Plain Talk, Broadcaster, Equalizer,

posted on the city web site and bidding information was sent to six bidders that had bid in previous years. The bids were opened on Thursday, November 1, 2012 at 10:00 a.m. with the bid tab attached.

Financial Consideration: The lease proceeds will be deposited into the golf course fund annually.

Conclusion/Recommendations: Following the input from the public hearing, the City Council will need to approve the lease of City property. Unless additional information is received during the public hearing, Administration recommends that the City Council authorize the farmland lease as presented with Jeff Solomon. The annual lease payments due in April of the respective years are \$70,000 - 2013, \$71,000 - 2014 and \$72,000 – 2015.

NOTICE TO BIDDERS
AND PUBLIC HEARING

Notice is hereby given that the City of Vermillion, South Dakota requests bids for the cash lease of approximately 232 acres of Clay County farmland.

Sealed bids shall be received at the Finance Office, City Hall, 25 Center Street, Vermillion, SD 57069 no later than 10:00 a.m. on the 1st day of November, 2012. At such time bids will be publicly opened and read.

A public hearing will be held to consider the bids by the City Council at City Hall Council Chambers on the 5th day of November, 2012, at 7:00 p.m.

Copies of the bid documents and leases may be obtained at the office of the City Finance Officer, 25 Center Street, Vermillion, South Dakota, 57069 or at www.vermillion.us/bids.

The City of Vermillion reserves the right to reject any or all bids, waive technicalities, and make award as deemed to be in the best interest of the City of Vermillion, SD.

Dated at Vermillion, South Dakota this 12th day of October, 2012.

CITY OF VERMILLION

by _____
Michael D. Carlson, Finance Officer

Publish October 19 & 26, 2012

City of Vermillion
 Bid Tabulation
 Farmland Lease
 November 1, 2012 - 10:00 am

<u>Bidder</u>	<u>April 2013</u>	<u>April 2014</u>	<u>April 2015</u>	<u>Total Bid</u>
Jeff Solomon 31705 468th Ave Burbank, SD	<u>70,000</u>	<u>71,000</u>	<u>72,000</u>	<u>213,000</u>
John S. Donnelly Sr. 616 S. Crawford Rd Vermillion, SD	<u>70,100</u>	<u>70,300</u>	<u>70,500</u>	<u>210,900</u>
Wade Larson 501 Oakmont Drive Vermillion, SD 57069	<u>54,636.50</u>	<u>50,100.25</u>	<u>55,506.25</u>	<u>160,243.00</u>
Reid Bird 31605 473rd Ave Elk Point, SD 57025	<u>58,500</u>	<u>58,500</u>	<u>58,500</u>	<u>175,500</u>

It is recommended to lease the approximately 232 acres of farmland to Jeff Solomon as he had the high bid on the lease total \$213,000.



Council Agenda Memo

From: Jason Anderson, Asst. City Engineer

Meeting: November 5, 2012

Subject: Purchase of Landfill Wheel Loader

Presenter: Jason Anderson

Background: In August 2011, a 2011 CAT 938G wheel loader was purchased for \$161,187 to replace a 2005 wheel loader at the landfill. The fire at the landfill on October 22, 2012 destroyed this loader, as well as numerous other pieces of equipment.

Discussion: To replace the loader in a timely fashion, as well as capitalize on an advantageous price, the City may purchase a 2012 CAT 938K wheel loader at the State of South Dakota contract price of \$186,063. The purchase would include warranty coverage for 60 months or 5,000 hours, whichever comes first.

The state contract wheel loader includes a Ryland coupler that is used to connect attachments to the loader. This coupler is not compatible with the current City attachments which require a Fusion quick coupler. After presenting this concern, Butler Machinery has agreed to allow the City to trade-in the Ryland coupler for a Fusion quick coupler to match current City attachments (buckets, etc.). This trade-in will result in a deduction of \$15,391, bringing the total expenditure to \$170,672.

Financial Consideration: The insurance proceeds will be based upon the market value of the 2011 loader. The insurance company has not provided an estimate of the value of the 2011 loader at this time. In looking online the prices for a 2011 Cat 938G range from \$158,000 to \$185,000. The insurance proceeds should cover the majority of the purchase and the balance will come from Joint Powers reserves.

Conclusion/Recommendations: Administration recommends authorizing the purchase of a new 2012 CAT 938K wheel loader from Butler Machinery at the State of South Dakota contract price of \$186,063, with a deduction for trading in the Ryland coupler for a Fusion quick coupler that results in net purchase price of \$170,672.



Council Agenda Memo

From: Jose Dominguez, P.E.
Meeting: November 5, 2012
Subject: Developers Agreement with Mr. Troy Gregoire
Presenter: Jose Dominguez

Background: Mr. Gregoire will be constructing a storage building in Lot 6, Block 1, Cottage Place Addition. The area was rezoned last year under the Cottage Place Planned Development District and it allows for storage buildings to be constructed within the lot. Additionally, the Planning Commission approved the final development plan for the storage building at their October 9th meeting.

Discussion: City ordinance requires that the property owner construct sidewalks, grading, curb and gutter, street surfacing, street lights, water and sewer improvements on all streets abutting the property to be developed. This particular lot will be fronting Cottage Place, which is a gravel alley/street. The surfacing material is acceptable for the amount of traffic that will be generated after the construction of the storage unit. Construction of a concrete alley/street will be reviewed once other development occurs along Cottage Place.

The agreement will require that Mr. Gregoire construct a drainage system to alleviate any drainage issues caused by the construction of the storage unit. The proposed drainage system will connect to the system already in place at Cottage Avenue and drain the area between lot 6 and lot 5. The agreement also stipulates that the City will pay two-thirds of the cost, up to a maximum of \$15,000. The remainder will be paid by Mr. Gregoire. In addition, the proposed drainage system will have to be in place and functional by June 1, 2013.

Financial Consideration: The City will incur the filing fee.

Conclusion/Recommendations: Administration recommends the City Council authorize the Mayor to sign the Developers Agreement with Mr. Troy Gregoire.

Prepared by: The City of Vermillion
25 Center Street
Vermillion, SD 57069
605-677-7050

AGREEMENT

The City of Vermillion, South Dakota, and Troy Gregoire, owner, witnesseth:

In consideration of the mutual covenants herein contained and the benefits to be derived therefrom, the parties agree as follows:

The property owners, their successors or assigns, intend to develop one lot presently described as:

Lot 6, Block 1, Cottage Place Addition, City of Vermillion, Clay County, South Dakota.

GENERAL:

1. City Ordinance requires the property owners to construct sidewalks, grading, curb and gutter, street surfacing, streetlights, water and sewer improvements, in accordance with City of Vermillion standard specifications along all streets or alleys abutting the property to be developed. All plans and specifications shall be approved by the City prior to construction.
2. The property owners, their successors or assigns, desire to begin construction before all the improvements listed above, are in place.
3. The property owners, their successors or assigns, shall provide to the City of Vermillion a **PERFORMANCE BOND** for the improvements described in this agreement.
4. This **AGREEMENT** and **PERFORMANCE BOND** shall be binding on the parties, their successors and assigns and will be recorded in the office of the Register of Deeds of Clay County, South Dakota.

STORM SEWER AND GRADING:

1. The storm sewer consisting of 57-feet of RCP, 68-feet of perforated HDPE drain tile and 293-feet of non-perforated HDPE drain tile will be constructed and operational by June 1st, 2013. The City will pay up to 2/3 of the cost, not to exceed \$15,000. The remaining cost will be paid by the owner of Lot 6, Block 1, Cottage Place Addition.
2. Lot 6, Block 1, Cottage Place Addition will be graded so that the drainage is directed towards Cottage Place. Lot 2, Block 1, Cottage Place Addition will be graded towards the north with no storm drainage flowing south towards Lot 6, Block 1, Cottage Place Addition.
3. If the City Council requires that the construction of these improvements take place prior to the owners schedule a Resolution of Necessity will be required before these improvements can be made. The costs will be assessed to the property owners after improvements are installed. **The property owner of Lot 6, Block 1, Cottage Place Addition, City of Vermillion, Clay County, South Dakota, acknowledge that this agreement will run with the land as a restrictive covenant thereon and is binding on the current and future owners, their successors and assigns that they will not remonstrate against the proposed improvements fronting Lot 6, Block 1, Cottage Place Addition, City of Vermillion, Clay County, South Dakota**

Dated this 29 day of October 2012.

OWNER

FOR THE CITY OF VERMILLION

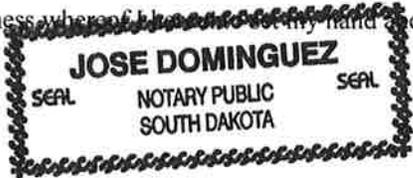
By: Troy Gregoire
Troy Gregoire

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

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF Clay)

On this 29 day of October 2012 before the undersigned officer, personally appeared Troy Gregoire known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Jose Dominguez
Notary Public

My Commission Expires: 9-9-2015

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

On the _____ day of _____, before me, the undersigned Officer, personally appeared John E. (Jack) Powell, who acknowledged himself as Mayor of the City of Vermillion, and that he as Mayor being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Mayor.

In witness whereof I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

**BOND
TO ASSUME PERFORMANCE
BY
OWNERS**

KNOW ALL MEN BY THESE PRESENTS, that I, Troy Gregoire, of Vermillion, South Dakota, am held and firmly bound unto the City of Vermillion, a municipal corporation of Clay County, South Dakota (the "City") in a sum or sums which are equal to the total share of the costs of the improvements hereinafter described in the agreement, which are required and may or may not be assessed pursuant to South Dakota law against the following described real property of the owners, viz.:

Lots 6, Block 1, Cottage Place Addition, City of Vermillion, Clay County, South Dakota.

The improvements contemplated by this agreement are those storm sewer improvements, which the City requires to be constructed in accordance with plans and specifications approved by the City.

The condition of this obligation is that if the owners, or their successors in interest, shall promptly install said improvements, or any of them from time to time when required by the City or promptly pay the assessments for the cost or any constructed or installed by the City, then this obligation is to be void; otherwise, to remain in effect.

This bond is given pursuant to Appendix C, the subdivision ordinance of the City of Vermillion and in consideration of the City's consent that the owners may proceed with the development of the property without first having installed all of said improvements and shall constitute and be a lien upon the property.

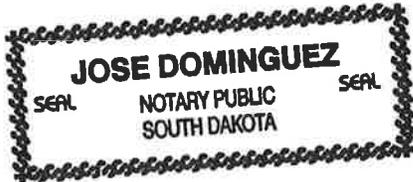
Dated this 29 day of October, 2012.

By: Troy Gregoire
Troy Gregoire

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF Clay)

On this 29 day of October 2012 before the undersigned officer, personally appeared Troy Gregoire known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Jose Dominguez
Notary Public

My Commission Expires: 9-9-2015



Council Agenda Memo

From: Mike Carlson, Finance Officer
Meeting: November 5, 2012
Subject: Resolution to Change Storm Drainage Fee
Presenter: Mike Carlson

Background: The storm drainage fund was created in 1992 whereby all real property within the city is charged an annual fee for the operation, maintenance, and capital improvements of the storm sewer and drainage system. The fee is based on the lot area, a runoff-weighting factor, and the unit financial charge. The fee is collected as part of the property tax collection process.

Discussion: In 2012, the City is projected to receive approximately \$175,500 from this fee. With the proposed increase, the City would collect \$180,900 in 2013. Due to the cost of the projects, and the rate of collection, the City has historically collected storm drainage fees for a couple of years before funding a project. In 2012, the City budgeted for \$25,000 for storm sewer repairs and \$80,000 for the drainage study. For 2013, the projects budgeted are \$15,000 for a drainage study and \$25,000 for storm sewer repairs. A grant was approved from the Vermillion Basin Water Development District of \$10,000 a year for three years.

During the budget review, an increase in the fee was discussed and was included in the recently adopted 2013 budget. Increasing the fee will help generate revenue to pay the increasing costs of projects related to storm drainage.

Financial Consideration: The proposed increase in the fee is less than 4%. Increasing the fee this amount will generate just over \$5,400 in additional revenue for 2013. A single-family home, on a lot of 10,000 square feet, would see their annual fee change from \$24.00 to \$24.75 with this proposal.

Conclusion/Recommendations: Administration recommends adoption of the resolution to increase the storm drainage fee.

RESOLUTION TO CHANGE STORMDRAINAGE FEE

WHEREAS, Section 53-135 of the 2008 Revised Ordinances of the City of Vermillion allows the City Council to change the city wide property drainage fee.

AND WHEREAS, during the annual budget it was determined there were not sufficient revenues in the stormdrainage fee fund.

BE IT HEREBY RESOLVED by the Governing body of the City of Vermillion, South Dakota, at a regular meeting thereof of said City at 7:00 p.m. on the 5th day of November, 2012 that the fee be changed as follows:

The unit financial charge shall be ~~\$0.00032~~ \$0.00033.

Dated at Vermillion, South Dakota this 5th day of November, 2012.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
John E. (Jack) Powell, Mayor

ATTEST:

BY

Michael D Carlson, Finance Officer

Approved: November 5, 2012
Published: November 16, 2012
Effective: December 5, 2012



Council Agenda Memo

From: Andy Colvin, Assistant City Manager
Meeting: November 5, 2012
Subject: Brooks Industrial Park Property Lease Agreement
Presenter: Andy Colvin

Background: The City entered into a lease agreement with the SD National Guard for use of City-owned property in the Brooks Industrial Park, west of the Recycling Center and east of North Norbeck Street. The National Guard uses the property for storage of equipment and vehicles and is responsible for all upkeep, maintenance, improvements and liability. The previous lease agreement was entered into in 1995 and expired in 2010. Staff was contacted by the National Guard to enter into a new agreement earlier this summer. The terms of the former agreement are being followed until a new agreement is adopted.

Discussion: The Attorney General's office prepared a revised agreement and sent it to the City for review. A few corrections were made to bring the agreement up to current state standards. Provisions have been made for the City to take the property back should it be needed for economic development. The term of the new lease agreement is 15 years and may be renewed with notice to the City. The City attorney has reviewed the agreement.

Financial Consideration: There are no financial obligations for either party in the lease agreement.

Conclusion/Recommendations: Administration recommends signing the Lease Agreement with the National Guard.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this _____ day of _____, 2012, by and between City of Vermillion, a municipal corporation, located at 25 Center Street, Vermillion, South Dakota 57069, acting by and through its City Council (hereinafter referred to as the "City"), and the State of South Dakota, Department of the Military, located at 2823 West Main Street, Rapid City, South Dakota 57702-8186, acting by and through its Secretary and Adjutant General (hereinafter referred to as the "State").

WHEREAS, the parties entered into a Lease Agreement dated the 18th day of July, 1995 regarding the below described property in Vermillion, South Dakota for use by the National Guard and for other military purposes;

WHEREAS, the City has agreed to continue to lease the property to the State for the stated purposes;

WHEREAS, it is the intent of the parties that this Lease Agreement will supersede the July 18, 1995 Lease Agreement; and

WHEREAS, this Lease Agreement is entered into between the State and the City pursuant to the provisions of SDCL Chapter 33-11,

IT IS, THEREFORE, AGREED by and between the City and the State as follows:

1. The City hereby leases to the State in consideration of the State's compliance with the terms and conditions stated herein and no additional rental cost to the State the following described tract of land in the City of Vermillion, Clay County, South Dakota, (hereinafter referred to as the "Leased Premises"), to wit:

The East 175 Feet of Lot 8 and the East 175 feet of the West 442 feet of
Lot 7, Block 1, Brooks Industrial Park Subdivision in the City of
Vermillion, Clay County, South Dakota,

as further set forth in Exhibit A attached hereto.

This Lease Agreement shall be effective upon execution by the parties. The term of the lease is for a period of 15 years from the effective date of the Lease Agreement and may be renewed by the State for successive terms as provided in Section 9 below.

2. Upon execution of this Lease Agreement, the July 18, 1995, Lease Agreement is terminated and is superseded by this Lease Agreement.

3. The City agrees that the State may use the Leased Premises for all military purposes authorized under state law and that the State may continue the use of the Leased Premises as a Motor Vehicle Storage Area with the fencing and lighting previously installed by the State. The Motor Vehicle Storage Area shall remain totally fenced with normal gated access.

4. The State agrees to be responsible for the maintenance of the Leased Premises and payment of all utilities. The State will obtain approval of the City Engineer before installation of any additional utilities. The City agrees that the State shall have the right to make repairs to the existing improvements without prior approval of the City. The State will notify the City Engineer of such repairs as soon thereafter as practicable. The State will not make any additional improvements to the Leased Premises without the City's prior approval. All authorized improvements will be at the sole cost of the State.

5. The State will continue to utilize existing approaches and, should new approaches or modifications to existing approaches be required, the State shall obtain all appropriate permits and the City shall not be responsible for any costs associated with construction of said approaches or modifications.

6. In the event that this Lease Agreement is cancelled or terminated, unless otherwise agreed to between the parties, the State agrees to restore the Leased Premises to the condition that it was prior to being leased by the State under any and all prior Lease Agreements.

7. The State agrees to observe and obey all applicable rules and regulations promulgated from time to time by the City together with any rules and regulations, laws or ordinances promulgated by Federal or State governments or any of the agencies thereof.

8. State shall during the term of this Lease Agreement and any renewals thereto be solely responsible for upkeep and maintenance for the Leased Premises.

9. The State shall give the City notice of its intent to renew this Lease Agreement for a successive 10-year term at least 60 days prior to the expiration of the initial or subsequent renewal term of this Lease Agreement.

10. Notwithstanding any other provision of this Lease Agreement, in the event the City shall find it necessary to use the premises for a municipal purpose, it may terminate this Lease Agreement on 180 days written notice to the State and on the further condition the City will cooperate with the State but not guarantee State's success in locating and securing a substitute location. At the end of the 180- day period, the State will vacate the premises and return possession to the City.

11. This Lease 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 funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Lease Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State, except for Section 6 restoration provisions above.

12. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. In the case of conflict, the provisions of SDCL Chapter 33-11, applicable Department of Defense directives, subsequent amendments,

new enactments or directives in regard thereto, and other applicable State and Federal statutes and regulations shall be controlling over the provisions of this Lease Agreement.

13. Any notice or other communication required under this Lease Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the South Dakota Army National Guard Facilities Officer on behalf of the State, and by and to the City Manager on behalf of the City, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class U.S. mail, provided that notice of default or termination shall be sent by registered or certified U.S. mail, or, if personally delivered, when received by such party.

14. In the event that any provision of this Lease Agreement is determined to be unenforceable or invalid, such determination shall not invalidate or render unenforceable any other provision hereof.

15. This Lease Agreement is intended to only govern the rights and interests of the parties named herein, and their respective successors and assigns. It is not intended, does not and may not be relied upon to create any right, interest or priority enforceable at law by any third party.

16. All other prior discussions, communications and representations concerning the subject matter of this Lease Agreement are superseded by the terms of this Lease Agreement, and except as specifically provided herein, this Lease Agreement constitutes the entire agreement with respect to the subject matter hereof.

17. This Lease Agreement shall be binding upon the legal representatives and successors in interest of the parties hereto, and shall not be assignable by the State without the consent of the City.

Dated this _____ day of _____, 2012.

ATTEST:

CITY OF VERMILLION, SOUTH DAKOTA

Michael D. Carlson, Finance Officer

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

Dated this _____ day of _____, 2012.

STATE OF SOUTH DAKOTA
DEPARTMENT OF THE MILITARY

BY: _____
Timothy A. Reisch
Maj Gen, SDNG
The Adjutant General

CITY OF VERMILLION
 INVOICES PAYABLE-NOVEMBER 5, 2012

1 UNIVERSITY CLEANERS	ATTACH PATCHES	7.00
2 4IMPRINT	OPEN HOUSE MATERIALS	749.46
3 A-OX WELDING SUPPLY CO	BULK CO2	742.00
4 AARON BAEDKE	SAFETY BOOTS REIMBURSEMENT	100.00
5 AGLAB EXPRESS	TESTING	74.00
6 ALERT-ALL CORPORATION	OPEN HOUSE MATERIALS	207.00
7 ALLIED INSURANCE	NOTARY BOND	100.00
8 AMERICAN PUBLIC WORK ASSOC	MEMBERSHIP	552.00
9 AMERICAN RAMP COMPANY	INSTALLATION	1,060.00
10 ANNE KRAMER	BOOKS	20.00
11 APCO INTERNATIONAL	MEMBERSHIP DUES	506.00
12 APPEARA	SUPPLIES	140.27
13 AQUA-PURE INC	CHEMICALS	6,220.00
14 ARAMARK UNIFORM SERVICES	UNIFORM CLEANING	253.85
15 ARGUS LEADER MEDIA #1085	SUBSCRIPTION	48.00
16 AUDIO GO	BOOKS	155.91
17 AVERA QUEEN OF PEACE HEALTH	TESTING	354.60
18 BAKER & TAYLOR BOOKS	BOOKS	904.46
19 BANNER ASSOCIATES, INC	PROFESSIONAL SERVICES	2,000.35
20 BARKLEY ASPHALT	ASPHALT	2,287.35
21 BARNES DISTRIBUTION	SUPPLIES	78.36
22 BATTERIES PLUS	BATTERIES	119.00
23 BELAIR EXCAVATING	REPAIRS	15,035.00
24 BIERSCHBACH EQPT & SUPPLY	SUPPLIES	578.00
25 BOOK WHOLESALERS, INC	BOOKS	2,569.40
26 BORDER STATES ELEC SUPPLY	SUPPLIES	227.43
27 BOUND TREE MEDICAL, LLC	SUPPLIES	1,710.77
28 BROADCASTER PRESS	ADVERTISING	42.00
29 BRYAN BERINGER	UNIFORM REIMBURSEMENT	52.99
30 BUTLER MACHINERY CO.	PARTS	685.09
31 CALLAWAY GOLF	MERCHANDISE	95.90
32 CAMPBELL SUPPLY	SUPPLIES	1,001.83
33 CANON FINANCIAL SERVICES, INC	COPIER LEASE	196.27
34 CASK & CORK	MERCHANDISE	1,757.51
35 CENTER FOR WESTERN STUDIES	BOOKS	21.21
36 CENTURY BUSINESS LEASING, INC	COPIER CONTRACT	138.25
37 CENTURY BUSINESS PRODUCTS	COPIER MAINTENANCE	118.46
38 CENTURLINK	TELEPHONE	738.03
39 CHARLES ROGERS	BOOKS	17.00
40 CHEMCO, INC	SUPPLIES	468.87
41 CHESTERMAN CO	SUPPLIES	425.98
42 CHRISTENSEN RADIATOR & REPAIRS	SNOW PLOW ASSY	4,986.00

43 CITY OF VERMILLION	COPIES/POSTAGE	1,640.63
44 CITY OF VERMILLION	UTILITY BILLS	36,707.59
45 CLAY CO REGISTER OF DEED	FILING FEES	60.00
46 CLAY COUNTY HIGHWAY DEPT	LIQUID ASPHALT	303.00
47 CLAY RURAL WATER SYSTEM	WATER USAGE	32.00
48 COBRA GOLF INC	REPAIRS	45.37
49 COFFEE KING, INC	SUPPLIES	57.75
50 COLONIAL LIFE ACC INS.	INSURANCE	2,953.17
51 CONCRETE MATERIALS	GOLF SAND	838.35
52 CUMMINS CENTRAL POWER, LLC	REPAIRS	16,332.97
53 DAKOTA BEVERAGE	MERCHANDISE	12,543.05
54 DAKOTA PC WAREHOUSE	SUPPLIES	209.51
55 DAKOTA RIGGERS & TOOL SUPPLY	SUPPLIES	515.96
56 DANKO EMERGENCY EQUIPMENT	SUPPLIES	725.00
57 DAVIS PHARMACY	SUPPLIES	59.90
58 DELTA DENTAL PLAN	INSURANCE	5,864.60
59 DEMCO	SUPPLIES	181.88
60 DENNIS MARTENS	MAINTENANCE	833.34
61 DEPT OF REVENUE	TESTING	410.00
62 DEREK RONNING	MILEAGE REIMBURSEMENT	107.60
63 DETCO	SUPPLIES	439.05
64 DEWILD GRANT RECKERT & ASSOC	PROFESSIONAL SERVICES	873.50
65 DIAMOND VOGEL PAINTS	SUPPLIES	1,810.00
66 DUST TEX	SUPPLIES	69.90
67 E.A SWEEN COMPANY	SUPPLIES	217.55
68 EARTHGRAINS BAKING CO'S INC	SUPPLIES	31.86
69 ECHO ELECTRIC SUPPLY	SUPPLIES	6,663.46
70 ELECTRONIC ENGINEERING	BATTERIES	644.95
71 ENERGY LABORATORIES	TESTING	810.00
72 FARMER BROTHERS CO.	MERCHANDISE	130.31
73 FEDEX.	SHIPPING	22.94
74 FIRST NATIONAL BANK	CITY HALL DEBT SERVICE	258,551.68
75 FOREMAN MEDIA	COUNCIL MTG	200.00
76 GALE	BOOKS	71.17
77 GENERAL TRAFFIC CONTROLS	SUPPLIES	136.00
78 GRAHAM TIRE CO.	TIRES	1,574.48
79 GRAINGER	PARTS	321.95
80 GRAYBAR ELECTRIC	SUPPLIES	4,884.00
81 GREGG PETERS	ADVERTISING	500.00
82 GREGG PETERS	RENT	937.50
83 GUARANTEE OIL CO INC	SUPPLIES	129.84
84 HACH CO	SUPPLIES	1,435.64
85 HANSEN LOCKSMITHING	PARTS	40.00
86 HAUGER YARD/SNOW SERVICE	PROFESSIONAL SERVICES	75.00
87 HD SUPPLY WATERWORKS	SUPPLIES	15,539.82
88 HEIMAN, INC.	REPAIRS	1,431.51
89 HERC-U-LIFT	REPAIRS	121.35

90 HERREN-SCHEMPP BUILDING	SUPPLIES	1,593.59
91 HY VEE FOOD STORE	SUPPLIES	148.18
92 INDEPENDENCE WASTE	PORTABLE TOILET/WASTE HAULING	1,922.15
93 INGRAM	BOOKS	239.09
94 JACKS UNIFORM & EQPT	UNIFORMS	440.25
95 JASON ANDERSON	MEALS REIMBURSEMENT	33.00
96 JOHN A CONKLING DIST.	MERCHANDISE	8,672.69
97 JOHN C. PRESCOTT	MEALS REIMBURSEMENT	134.00
98 JOHN WALKER	REPLACE ELEC SERVICE	581.91
99 JOHNSON BROTHERS FAMOUS BRANDS	MERCHANDISE	22,933.57
100 JOHNSON FEED, INC	REPAIRS	556.92
101 JOHNSTONE SUPPLY	PARTS	113.07
102 JONES ACE HARDWARE	SUPPLIES	533.00
103 JONES FOOD CENTER	SUPPLIES/CATERING	1,517.06
104 JOSE DOMINGUEZ	MEALS REIMBURSEMENT	33.00
105 KARSTEN MFG CORP	MERCHANDISE	88.97
106 KEY CONTRACTING, INC	MANHOLE REPAIRS	33,805.00
107 KNOLOGY	911 CIRCUIT	1,365.50
108 LAKESHORE LEARNING MATERIALS	SUPPLIES	132.28
109 LAYNES WORLD	AWARD PLAQUE	67.53
110 LEAGUE OF MINNESOTA CITIES	ADVERTISING	42.84
111 LEAGUE OF NEBRASKA MUNICIPALITIES	ADVERTISING	63.25
112 LEGGETTE, BRASHEARS & GRAHAM	PROFESSIONAL SERVICES	747.82
113 LEISURE LAWN CARE	TREATMENT	50.00
114 LESSMAN ELEC. SUPPLY CO	SUPPLIES	1,089.60
115 LINCOLN MUTUAL LIFE	INSURANCE	514.30
116 LOCATORS AND SUPPLIES, INC	SUPPLIES	5,325.93
117 LONGS PROPANE INC	PROPANE	1,410.75
118 LP GILL, INC	TIRE DISPOSAL	471.00
119 LUDEY'S READY MIX	PATCHING MIX	306.00
120 LYLE SIGNS	SUPPLIES	139.40
121 MALLOY ELECTRIC	PARTS	111.09
122 MART AUTO BODY	REPAIRS/TOWING	2,741.00
123 MATHESON TRI-GAS, INC	CARBON DIOXIDE	182.49
124 MATT PARROTT & SONS CO.	UTILITY BILLS	3,663.76
125 MATT PUTHOFF	SAFETY BOOTS REIMBURSEMENT	100.00
126 MATTHEW BENDER & CO, INC	MANUAL	110.48
127 MCCULLOCH LAW OFFICE	PROFESSIONAL SERVICES	1,200.00
128 MEAD LUMBER	SUPPLIES	158.31
129 MEDICAL WASTE TRANSPORT, INC	HAUL MEDICAL WASTE	85.53
130 MENARDS	REPAIRS	225.97
131 MICHAEL TODD	PARTS	148.55
132 MICWEBS	WEBSITE HOSTING	130.00
133 MIDWEST ALARM CO	ALARM MONITORING	120.00
134 MIDWEST BUILDING MAINTENANCE	MAT SVC	365.70
135 MIDWEST READY MIX & EQUIPMENT	LANDSCAPING ROCK	200.00
136 MIDWEST TURF & IRRIGATION	PARTS	2,001.66

137 MIKE ENTERMAN	REPAIRS	250.00
138 MINITEX LIBRARY	SUPPLIES	378.00
139 MINN MUNICIPAL UTILITY ASSOC	4TH QTR SAFETY MGMT PROGRAM	5,539.14
140 MISSOURI RIVER ENERGY SERVICE	TESTING	823.30
141 MISSOURI VALLEY MAINTENANCE	REPAIRS	1,267.50
142 MOORE WELDING & MFG	SUPPLIES	10.80
143 McLAURY ENGINEERING	PROFESSIONAL SERVICES	119.50
144 NALCO CHEMICAL CO	SUPPLIES	228.10
145 NCL OF WISCONSIN, INC	SUPPLIES	330.93
146 NETSYS+	PROFESSIONAL SERVICES	230.00
147 NEW YORK LIFE	INSURANCE	94.02
148 NORTHERN SAFETY CO. INC	SUPPLIES	143.45
149 NORTHERN TRUCK EQPT CORP	PARTS	98.00
150 OLSON SOD FARMS	SOD	180.00
151 OVERHEAD DOOR OF SIOUX CITY	REPAIRS	179.00
152 PAULS PLUMBING	REPAIRS	1,226.96
153 PCC, INC	AMBULANCE BILLING	1,407.94
154 PETE LIEN & SONS, INC	CHEMICALS	8,766.80
155 PITNEY BOWES, INC	SUPPLIES	88.48
156 PNC EQUIPMENT FINANCE	DEFIBRILLATOR LEASE	741.27
157 POMPS TIRE SERVICE, INC.	TIRES	233.54
158 PRAIRIE BERRY WINERY	MERCHANDISE	1,002.00
159 PRESSING MATTERS	SUPPLIES	247.00
160 PRINT SOURCE	SUPPLIES	93.00
161 PUMP N PAK	FUEL	2,716.31
162 QUEEN CITY WHOLESAL	SUPPLIES	87.07
163 QUILL	SUPPLIES	1,979.54
164 RACOM CORPORATION	MAINTENANCE CONTRACT	368.50
165 RANDOM HOUSE, INC	BOOKS	262.71
166 RASMUSSEN MOTORS, INC	PARTS	111.95
167 RECORDED BOOKS, INC	BOOKS	435.55
168 REPUBLIC NATIONAL DIST	MERCHANDISE	26,167.71
169 RESCO	SUPPLIES	1,614.75
170 ROBIN HOWER	MEALS/REG REIMBURSEMENT	118.00
171 RUGGEDCOM INC	SUPPLIES	1,299.00
172 SAFETY BENEFITS INC	REGISTRATION	195.00
173 SANITATION PRODUCTS	SUPPLIES	407.73
174 SCHAEFFER MFG. CO	SUPPLIES	793.60
175 SCHOLASTIC LIBRARY PUBLISHING	SUPPLIES	9.40
176 SD ELECTRICAL COUNCIL	MEMBERSHIP DUES	40.00
177 SD MUNICIPAL LEAGUE	REGISTRATION	20.00
178 SD ONE CALL	LOCATES	381.05
179 SD PUBLIC ASSURANCE ALLIANCE	PROPERTY COVERAGE	1,112.00
180 SD RETIREMENT SYSTEM	CONTRIBUTIONS	46,811.75
181 SDPRA	MEMBERSHIP	20.00
182 SECURITY SHREDDING SERVICE	PROFESSIONAL SERVICES	35.00
183 SERVALL TOWEL & LINEN	SUPPLIES	29.40

184 SIOUX FALLS TWO WAY RADIO	REPAIRS	565.64
185 SPECIAL T'S AND MORE	PROFESSIONAL SERVICES	35.00
186 SPECTER INSTRUMENTS	ANNUAL SUPPORT	395.00
187 STANLEY SECURITY SOLUTIONS	LOCK CORES/KEYS	1,155.07
188 STATE TREASURER	UNCLAIMED PROPERTY	578.50
189 STERN OIL CO.	FUEL	2,123.47
190 STUART C. IRBY CO.	SUPPLIES	5,567.28
191 STURDEVANTS AUTO PARTS	PARTS	833.77
192 TEAM GOLF	MERCHANDISE	497.40
193 THATCHER COMPANY	SODA ASH	28,494.40
194 THE EQUALIZER	ADVERTISING	162.80
195 THE NEW SIOUX CITY IRON CO	SUPPLIES	406.30
196 TITAN ACCESS ACCOUNT	PARTS	403.38
197 TODAYS DISTRIBUTOR	SUPPLIES	1,020.00
198 TRUE VALUE	SUPPLIES	598.47
199 UNITED WAY	CONTRIBUTIONS	330.80
200 VAN DIEST SUPPLY CO	SUPPLIES	593.00
201 VERIZON WIRELESS	POLICE COMMUNICATIONS	212.07
202 VCDD	VERMILLION BUCKS	40.00
203 VERMILLION COMMUNITY CPR	CPR CARDS	4.00
204 VERMILLION CONCRETE	SIDEWALK REPAIRS	7,188.85
205 VERMILLION CONSTRUCTION CO	BARSTOW SKATE PARK	12,422.00
206 VERMILLION FORD	PARTS	177.26
207 VERMILLION NOW!	COMMUNITY HOUSING STUDY	23,100.50
208 VERMILLION ROTARY CLUB	DUES/MEALS	134.25
209 VISA/FIRST BANK & TRUST	FUEL/LODGING/SUPPLIES	4,777.31
210 VISUAL COMPUTER SOLUTIONS	ANNUAL SUPPORT	515.00
211 WAL-MART COMMUNITY	SUPPLIES	1,060.01
212 WALKER CONSTRUCTION	CONCRETE WORK	9,015.16
213 WALT'S HOMESTYLE FOODS, INC	SUPPLIES	93.10
214 WELFL CONSTRUCTION CO	LIBRARY EXP/REMODEL	238,214.00
215 WESCO DISTRIBUTION, INC	SUPPLIES	1,456.26
216 WILLSON FLORIST	GREEN PLANT	38.00
217 WINKLER ROOFING, INC	REPAIRS	1,254.00
218 YANKTON FIRE & SAFETY	ANNUAL INSPECTION	1,388.00
219 YANKTON JANITORIAL SUPPLY	SUPPLIES	1,271.07
220 ZEE MEDICAL SERVICE	SUPPLIES	43.10
221 ZIMCO SUPPLY CO	SUPPLIES	8,100.54
222 WENDY HARKNESS	BRIGHT ENERGY REBATE	50.00
223 PAT WINGEN	BRIGHT ENERGY REBATE	550.00
224 MICHAEL GILLISPIE	BRIGHT ENERGY REBATE	50.00
225 GAIL PAULSON	BRIGHT ENERGY REBATE	550.00
	GRAND TOTAL	986,406.43