



## Special Meeting Agenda City Council

12:00 pm (noon) Special Meeting  
Monday, November 7, 2011  
Large Conference Room  
25 Center Street  
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Informational Session – Library Addition / Renovation Project update.**
3. **Informational Session – Proposed changes to the House Moving section of the City Code – Farrel Christensen.**
4. **Briefing on the November 7, 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, November 7, 2011  
City Council Chambers  
25 Center Street  
Vermillion, South Dakota 57069

### 1. Roll Call

### 2. Pledge of Allegiance

### 3. Minutes

- a. October 17, 2011 Special Session; October 17, 2011 Regular Session; October 20, 2011 Special Session.

### 4. Adoption of the Agenda

### 5. Visitors To Be Heard

- a. Hunger Awareness Week proclamation.

### 6. Public Hearings

### 7. Old Business

- a. Memorandum of Understanding with Clay County on the purchase of Pictometry software.

### 8. New Business

- a. First Reading of Ordinance 1264 - Wards and Boundaries, of the 2008 Revised Ordinances for the City of Vermillion, amending the ward boundaries.
- b. Street closing for Parade of Lights.
- c. Resolution establishing fees in lieu of assessment for 317<sup>th</sup> Street from Norbeck St. to a point 800' west.
- d. Resolution establishing fees in lieu of assessment for West Main Street from Stanford St. to 1700' west.
- e. Parking Space Easement to J.P. Investments, LLC.

### 9. Bid Openings

- a. Fuel quotes

### 10. City Manager's Report

### 11. Invoices Payable

### 12. Consensus Agenda

- a. Set a bid opening date of November 30, 2011 for electric wire and transformers.

### 13. 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 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.

**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.

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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 17, 2011  
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, October 17, 2011 at 12:00 noon in the City Hall large conference room.

1. Roll Call

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

Absent: French, Ward

2. Informational Session - Fall 2011 Coyoteopoly Project

Maggie Hofer, Vice President of Education for Coyoteopoly, reported that Coyoteopoly started in 2004 and, each year, has done a spring and a fall project. The fall project for 2011 will be bringing attention to Hunger Awareness Week of November 7-12. Maggie invited the City Council members to a Hunger Forum on November 9<sup>th</sup> at 5:30 p.m. in the Munster Center. Coyoteopoly is also planning a city wide food drive for the food pantry. She requested City Council support of this project.

Mayor Powell stated that the City Council could adopt a proclamation at the November 7<sup>th</sup> Council meeting for the project.

Maggie answered questions of the City Council on the events planned.

3. Informational Session - Sidewalk Survey update - John Prescott

John Prescott, City Manager, stated that this was a follow up to the sidewalk survey that was presented earlier by intern Jordan McQuillen. At that time, a request was made to have photos of each location. Jordan was unable to attend the meeting but provided a presentation for each location. John reviewed the criteria used to determine the locations proposed and reviewed the photos of each location. Discussion followed on the need to be consistent and if these sidewalks could be included with the annual sidewalk survey for that section of town. Discussion followed on the need to develop a policy that would include a timeline for vacant lots. The consensus was to have a policy developed for Council review

4. Briefing on the October 17, 2011 City Council Regular Meeting Agenda

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

5. Adjourn

313-11

Alderman Meins moved to adjourn the Council special session at 1:07 p.m. Alderman Osborne seconded the motion. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 17<sup>th</sup> day of October, 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  
October 17, 2011  
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on October 17, 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. October 3, 2011 Special Session; October 3, 2011 Regular Session

314-11

Alderman Willson moved approval of the October 3, 2011 special session minutes and the October 3, 2011 regular session minutes. Alderman Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

#### 4. Adoption of Agenda

315-11

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

#### 5. Visitors to be Heard

##### A. Domestic Violence Awareness Month proclamation

Alderman Meins read the Domestic Violence Awareness Month Proclamation that encouraged citizens to participate in the scheduled events and programs.

B. Nick Willan, 235 Lewis, stated that he has been an avid recycler for over ten years and was glad to see the curbside program started. He stated that when he took a pickup with branches to the Recycling Center he was asked to take the load to the Landfill and wanted to know what the policy was for depositing this material at the Recycling Center. Nick also requested expanded hours at the Recycling Center as he works eight to five and can only make it on Saturday morning. John Prescott, City Manager, stated that the roll-offs at the Recycling Center are for small loads as a convenience to the residents. The Recycling Center is requesting that larger quantities and commercial businesses haul directly to the Landfill.

#### 6. Public Hearings

A. First Reading of Ordinance No. 1262 - Amending Title 15 Chapter 155 Section 155.039 (A), HI Heavy Industrial District, to allow light manufacturing as a permitted use.

B. First Reading of Ordinance No. 1263 - Amending Title 15 Chapter 155 Section 155.101, Amendments and Change of Zone, to require property owner consent

Andy Colvin, Assistant to the City Manager, reported that Public Hearings Items A and B are proposed zoning ordinances and, as such, City ordinance and State statute require a report of the Planning Commission before action. As the Planning Commission did not have a

quorum for their October 11<sup>th</sup> public hearing on these items, they do not have a report for the City Council public hearing advertized for tonight. A public hearing will be advertized in the future for the Planning Commission and City Council.

316-11

Alderman French moved to cancel the public hearings for Items A and B scheduled for tonight and authorize the scheduling of public hearings for a report from the Planning Commission on the zoning items. Alderman Zimmerman seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

#### 7. Old Business

A. Transfer of retail on-off sale wine and retail on-off sale malt beverage licenses to Prairie River, Inc. for R-Pizza at 2 W. Main from LaMarco, Inc.

Mike Carlson, Finance Officer, reported that applications were received for the transfer of the retail on-off wine and retail on-off malt beverage licenses from LaMarco, Inc. to Prairie River, Inc. for R-Pizza at 2 W. Main. The hearing was continued from the last meeting for the report of the background check which is included in the packet. The owners are present to answer questions of the Council. Brandon King, Owner, addressed the City Council to answer questions.

317-11

Alderman Zimmerman moved approval of the transfer of retail on-off sale wine and retail on-off sale malt beverage licenses to Prairie River, Inc. for R-Pizza at 2 W. Main from LaMarco, Inc. Alderman Ward seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

#### 8. New Business

A. Memorandum of Understanding with Clay County on the purchase of Pictometry software

John Prescott, City Manager, reported that the Clay County Director of Equalization approached the City Council about participating in the purchase of Pictometry Software. The Pictometry Software uses aerial photos that allow for different views which will be used by the County and City Departments. In visiting with Gene Lunn, Director of Equalization, the County is waiting for a final proposal and other details relating to future years and requested that this item be continued to next meeting.

318-11

Alderman Grayson moved to continue the MOU with the County on Pictometry Software to the next regular City Council meeting. Alderman French seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

B. Memorandum of Understanding with the Vermillion Chamber of Commerce and Development Company to transfer ownership of the Erickson Addition property and market the property for sale

John Prescott, City Manager, reported on the location of the property being considered. John noted that the Vermillion Chamber of Commerce and Development Company (VCDC), through Vermillion Now!, funded an appraisal of the Erickson Addition property as concerns had been expressed about the prices established by the City Council in 2008. The appraisal determined that the prices were indeed higher than comparable sales. The VCDC Executive Director met with the Surplus Property Appraisal Committee on September 26, 2011 to discuss the appraisal results. During this discussion, a request was made to transfer the property to the VCDC to facilitate marketing the property. The Surplus Property Appraisal Committee requested staff prepare, for City Council consideration, a Memorandum of Understanding (MOU) to transfer the Erickson Addition property to the VCDC. Some of the items included in the MOU are to market the property to obtain the appraised value, the City is to receive the net proceeds, require the VCDC to vacate an easement and dedicate the street right-of-way, the ability of the City to acquire the property back, the transfer of the farm lease and the City has adopted deed covenants on some of the lots that will need to be adopted for the balance of the lots.

Discussion followed with Steve Howe, Executive Director of the VCDC, answering questions of the City Council on marketing planned for the property.

319-11

Alderman Grayson moved approval of the Memorandum of Understanding with the Vermillion Chamber of Commerce and Development Company to transfer ownership of the Erickson Addition Property with the change of Item 6 last sentence from "can" to "shall". Alderman Ward seconded the motion. Discussion followed. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

C. Stanford Street Easements

Jose Dominguez, City Engineer, reported that the plan is to reconstruct Stanford Street in 2012 along with the associated utility improvements. For the construction, the City will need to acquire nine construction easements from eight property owners. These easements are temporary and will expire one year after the project is completed. Jose stated that he has obtained six of the easements and is working on the final three. The fee paid to the property owner, as required by the State, is at least \$1 so these amounts are included in the list of bills. Administration recommends approval of the six easements.

320-11

Alderman Zimmerman moved approval of the six temporary construction easements as presented and authorized the execution of each. Alderman Grayson seconded the motion. Discussion followed on the project and easements. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

#### D. Developers Agreement with Hansen Funeral Home

Jose Dominguez, City Engineer, reported that Mr. Hansen informed him that he is in the process of planning a 40 foot addition to his building. Jose noted that the proposed building would encroach into the 25 foot rear yard setback. The property owner requested a Developer's Agreement to allow them to start construction this fall with the re-platting to be completed no later than April 2012. Administration recommends approval of the Developer's Agreement.

321-11

Alderman Ward moved approval of the Developer's Agreement with Hansen Funeral Home, Inc. for Lots 1 and 2, Block 1, Potters Addition as presented. Alderman French seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

#### E. Airport Hangar Lease

Jose Dominguez, City Engineer, reported that Vermillion Flying Services, LLC requested to exercise the lease extension option for the hangar lease. The original lease fee is \$10.00 per year. Administration recommended approval of the lease extension option. Discussion followed on the lease noting that the lease does not provide for any price adjustment during the term.

322-11

Alderman Grayson moved approval of the fixed base Operator's Hangar Lease with Vermillion Flying Service, LLC for the 15 year extension of their hangar lease. Alderman Zimmerman seconded the motion.

Discussion followed. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

F. Designate Disabled Parking Space along Church Street (First Baptist Church)

Jose Dominguez, City Engineer, reported that First Baptist Church approached the City about a disabled parking space along Church Street. Jose stated that the Church will need to install the handicapped ramp between the sidewalk and the curb. The City would have the cost to install the signs. The handicapped parking space will be available for use by all in this area. Administration recommends approval of the resolution.

323-11

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

RESOLUTION TO DESIGNATE DISABLED PARKING SPACE ALONG CHURCH STREET (BY THE FIRST BAPTIST CHURCH)

WHEREAS, pursuant to City of Vermillion Code of Ordinances, Section 70.071, the City Council may establish, and cause to be designated and marked, streets, and parts thereof, where vehicles may be parked for limited periods of time only or similarly may establish no-parking areas; and

WHEREAS, the City is responsible for the safety, security, and general welfare of drivers along city streets; and

WHEREAS, there is a need for some of the parking along Church Street to be designated to serve persons with disabilities.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Vermillion, South Dakota that one (1) parking spot be designated as Disabled Parking Space along the east side of Church Street fronting the First Baptist Church.

Dated at Vermillion, South Dakota this 17<sup>th</sup> day of October, 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.

9. Bid Openings - None

10. City Manager's Report

A. John reported that there will be a joint meeting of the Clay County Commission and City Council on Thursday, October 20<sup>th</sup> at 6:30 p.m. at City Hall. The purpose of the meeting would be to consider the adoption of the City's Comprehensive Plan for the joint jurisdictional area.

B. John reported that the Household Hazardous Waste collection will be at the Recycling Center on Friday, October 21<sup>st</sup> from 2:00 p.m. to 6:00 p.m. The cost is \$10 per vehicle. The collection will be in Yankton on Oct 22<sup>nd</sup>.

C. John reported that he has approved the following raffle notifications:

1. Vermillion Lions Club selling \$1 ticket at their meetings - members and guests splitting the proceeds between the Lions Club and the winning ticket.
2. USD Law School Class of 2014 & Eagles selling tickets for \$25 with proceeds split between Eagle's charities and the Law School class.
3. Coyoteopoly will be conducting a 50/50 drawing at the October 22<sup>nd</sup> and November 12<sup>th</sup> USD football games. Tickets are selling for \$1 with a drawing each day with the proceeds split between the winner and the Vermillion Food Pantry.

#### PAYROLL ADDITIONS AND CHANGES

Ambulance: Kevin Oliver \$7.00/hr FTO, Tyler Schimmel \$6.00-\$30.00/1<sup>st</sup> - \$6.00-\$17.00/2<sup>nd</sup>; Recreation: Gretchen Nowatzki \$7.50/hr; Water: Shane Griese \$14.76/hr

11. Invoices Payable

324-11

Alderman Davies moved approval of the following bills:

ARCHITECTURE INCORPORATED	PROFESSIONAL SERVICES	19,255.50
AVERA QUEEN OF PEACE HEALTH	TESTING	529.30
BROADCASTER PRESS	ADVERTISING	1,238.76
BUREAU OF ADMINISTRATION	TELEPHONE-LONG DISTANCE	306.91
CENTURYLINK	TELEPHONE-LINE FEE (2 MOS)	5,012.38
CITY OF VERMILLION	LANDFILL VOUCHERS	600.00
CLAUDE & M. JEAN GARELIK	EASEMENT-STANFORD	1.00
CLAY CO REGISTER OF DEED	FILING FEE-EASEMENTS	194.00
CLAY-UNION ELECTRIC CORP	ELECTRICITY	896.39
DAN GOEDEN	SAFETY BOOT REIMBURSEMENT	100.00
DEPT. ENVIRONMENT NATL RES	LANDFILL OPERATIONS FEE	3,265.79
DERRY D/AUDREY A HOCHHALTER	EASEMENT-STANFORD	1.00
EAST RIVER PROPERTIES	EASEMENT-STANFORDS	2.00
FIRST NATIONAL BANK	CITY HALL DEBT SERVICE	260,724.26
FOREMAN MEDIA	COUNCIL MTG	50.00
GRAHAM TIRE CO.	TIRES	473.38
GREGG PETERS	MANAGERS FEE/PROFITS	23,691.68
INTELLI TRACK	SOFTWARE MAINTENANCE	1,640.00
KNOLOGY	DIAL-UP SERVICE	49.95
LOREN FISCHER DISPOSAL	HAUL CARDBOARD	140.00
MATHESON TRI-GAS, INC	CYLINDER RENTAL	150.09
MIDAMERICAN	GAS USAGE	469.63
MIDCONTINENT COMMUNICATION	CABLE/INTERNET SERVICE	95.95
MIDWAY SERVICE, INC	FUEL	2,292.18
MIDWEST RENTALS, LLC	EASEMENT-STANFORD	1.00
PFEIFER IMPLEMENT CO.	PARTS	61.42
RESERVE ACCOUNT	POSTAGE FOR METER	950.00
SD DEPT OF LABOR	UNEMPLOYMENT REIMBURSEMENT	1,119.78
SD PUB ASSURANCE ALLIANCE	LIABILITY/VEHICLE INSURANCE	113,195.45
SPRINT	CELL PHONES	987.96
STERN OIL CO.	FUEL	17,226.25
THE EQUALIZER	ADVERTISING	241.00
US POSTMASTER	POSTAGE FOR UTILITY BILLS	975.00
VERMEER HIGH PLAINS	PARTS	157.71
VISA/FIRST BANK & TRUST	FUEL/SUPPLIES	194.71
WOODY & MINDY HOUSER	EASEMENT-STANFORD	1.00

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

12. Consensus Agenda - None

13. Adjourn

325-11

Alderman Zimmerman moved to adjourn the Council Meeting at 7:56 p.m. Alderman French seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 17<sup>th</sup> day of October, 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 \_\_\_\_\_.

Unapproved Minutes  
Council Special Session  
October 20, 2011  
Thursday 6:30 p.m.

The special session of the City Council, City of Vermillion, South Dakota was called to order on Thursday, October 20, 2011 at 6:30 p.m. by Mayor Powell. The special meeting was a Joint Meeting with the Clay County Commission for public hearing to consider the Joint Comprehensive Plan.

1. Roll Call

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

2. Pledge of Allegiance

3. Adoption of Agenda

326-11

Alderman French moved approval of the agenda. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

4. Public Hearings

A. Adoption of the Vermillion 2000-2020 Comprehensive Plan for the Joint City of Vermillion and Clay County planning area.

Toby Brown, SECOG, noted that this was the time advertized for the joint public hearing for adoption of the comprehensive plan for the joint jurisdictional area for the City and County. The City had previously amended the Comprehensive Plan adopting a future land use map. Toby stated that the joint County and City Planning Commissions held a public hearing on this item and recommended adoption to the County and City. Toby stated the next step will be the adoption of the joint jurisdictional ordinance that will require a public hearing of the joint Planning Commissions before coming to the individual bodies for first reading and then a joint meeting for adoption at second reading of the ordinance.

Hearing no public comment, the Mayor wanted to thank the County Commission and the joint committee for bringing both entities to this point in the project and we look forward to the adoption of the final ordinance.

327-11

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

A RESOLUTION ADOPTING THE CITY OF VERMILLION/CLAY COUNTY  
JOINT COMPREHENSIVE PLAN

WHEREAS, the City of Vermillion and Clay County Planning Commissions have jointly proposed a plan for the physical development of the joint jurisdictional area; and

WHEREAS, the City of Vermillion and Clay County Planning Commissions jointly held a public hearing on September 12, 2011 to receive public input regarding such plan; and

WHEREAS, the Vermillion City Council and the Clay County Board of Commissioners has received the recommendation of the Planning Commissions and has held the required public hearing; and

WHEREAS, such comprehensive plan accurately reflects the City of Vermillion and Clay County Planning Commissions' joint recommendations for guiding and achieving the coordinated, harmonious development of the joint jurisdictional area, which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development.

NOW, THEREFORE, BE IT RESOLVED BY THE JOINT CLAY COUNTY AND CITY OF VERMILLION GOVERNING BODIES:

That the Vermillion 2000 - 2020 Comprehensive Plan is hereby adopted along with the accompanying maps and descriptive matter, for the City of Vermillion and Clay County joint planning area. Said plan shall be on file in the office of the Vermillion Finance Officer and is available for public inspection during regular business hours.

Adopted this 20th day of October, 2011.

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

ATTEST:

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

The motion was seconded by Alderman French. Discussion followed with John Prescott, City Manager, noting the changes and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 8 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Powell declared that the Resolution was adopted.

5. Adjourn

328-11

Alderman Meins moved to adjourn the Council Meeting at 6:38 p.m. Alderman Willson seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 20th day of October, 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 \_\_\_\_\_.

# PROCLAMATION

## Hunger Awareness Day

**WHEREAS**, hunger impacts the lives of millions of Americans and countless others around the world every day; and

**WHEREAS**, reaching out to those who are less fortunate is of utmost importance; and

**WHEREAS**, Coyoteopoly is a nonprofit student-led organization within the University of South Dakota Beacom School of Business that is dedicated to serving the community; and

**WHEREAS**, Coyoteopoly is organizing a food drive and hunger awareness week to benefit the Vermillion and Clay County Food Pantry; and

**WHEREAS**, this endeavor is worthy of support and cooperation for the benefit of the citizens of Vermillion, South Dakota and Clay County helping those in need.

**NOW, THEREFORE**, in special recognition of the importance of charitable giving within the community, we, the Governing Body of the City of Vermillion, South Dakota, do hereby proclaim November 10, 2011 as

### Hunger Awareness Day

and encourage all Vermillion, South Dakota and Clay County citizens to support Hunger Awareness Day by wearing orange or fasting for two meals, then donating the cost of those meals to the Vermillion Food Pantry.

Dated at Vermillion, South Dakota this 7<sup>th</sup> day of November, 2011.

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

By \_\_\_\_\_  
John Powell, Mayor

ATTEST:

By \_\_\_\_\_  
Michael D. Carlson, Finance Officer



## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** November 7, 2011  
**Subject:** Memorandum of Understanding with Clay County on the purchase and use of Pictometry software  
**Presenter:** John Prescott

**Background:** In August, as the City Council was beginning the 2012 budget process, the Clay County Director of Equalization submitted a request to have the City assist in the purchase of Pictometry software. Information was presented to the City Council on August 17 and to City staff on September 7. The City Council approved a motion at the September 19 meeting directing staff to prepare a Memorandum of Understanding (MOU) to assist in the purchase of the software. As the County had not received an agreement from Pictometry International prior to the October 17 City Council meeting, this agenda item was continued from the last meeting.

**Discussion:** The attached MOU has been presented to Clay County Director of Equalization, Gene Lunn, and has been approved by the City Attorney. The MOU details many items such as the amount to be paid, when payments would take place, the length of the City's obligation to make a payment and the ability to utilize the software. While it appears the County will be entering into a six year agreement with the software vendor, the City's funding obligation to the County would be approximately \$4,161.22 a year for only three years. The City would have unlimited use of the software for the first year. During the second and third year of the agreement, the City would limit users with full access as the County will be charged for full access users after the first year. The charge would be for users who access the Pictometry International data in New York vs. the information loaded onto the City's server. It is possible to manipulate the data on the company's server in New York in more advance ways than the data loaded onto the City's server.

The MOU has been amended since the October 17 version. Clay County will reduce the financial obligation of the City in proportion to the subscriptions sold to

real estate agencies, title companies, etc. A section has also been added stating the City will follow the terms of the General License Agreement provided by Pictometry International. A final change is that the County will designate the City as an authorized subdivision per the Pictometry agreement. This secures the City's position to have the software loaded onto city equipment and utilize the technical support provided by Pictometry International.

**Financial Consideration:** The City will fund the annual payment out of different City funds as multiple City Departments will utilize the software.

**Conclusion/Recommendations:** Administration recommends approval of the MOU to assist Clay County with the purchase of the Pictometry software.

## PICTOMETRY

### MEMORANDUM OF UNDERSTANDING

WHEREAS, the Clay County Director of Equalization presented a request to the City Council to purchase Pictometry software; and

WHEREAS, the Pictometry software will provide a higher level of digital imagery than has been previously available; and

WHEREAS, the Pictometry software has a number of features that will enhance Clay County and City of Vermillion operations; and

WHEREAS, in order to facilitate the cooperative efforts of the City of Vermillion (City) and Clay County (County) to purchase and jointly utilize the Pictometry software and in order to reduce to writing the contractual obligation established by County and the City,

NOW, THEREFORE, this Memorandum of Understanding and legally binding contract is entered into by and between the County and the City to set forth, in writing, general terms of the right of access to facilitate the Pictometry software and to define the nature of the cooperative arrangements which will be utilized in the use of the Pictometry software to maximize the benefit, not only to the County, but also to the City.

1. All parties to this agreement recognize that this is a legally binding contract granting an opportunity for the County and the City to jointly use the Pictometry software.
2. The City will make three equal annual installments beginning with the City's 2012 budget year based on the following criteria:
  - a. The County will enter into a six-year agreement with Pictometry International prior to December 31, 2011. The City understands that the contract amount will be \$74,902.00, or greater, for the Pictometry software. The contract amount does not include the ChangeFindr software. If the contract amount is less than \$74,902.00, the City's share will be reduced proportionally. The City's payment remains the same if the total project cost exceeds \$74,902.00.
  - b. The City will make three annual payments of \$4,161.22 to the County during the City's budget years of 2012, 2013 and 2014. The 2012 payment will not be made to County until the Pictometry images have been delivered to the County and loaded onto the City's servers. Once the County has received the images, the Director of Equalization will prepare an invoice for the City to make the 2012 payment. The 2013 and 2014 payments will be due one and two years, respectively, from the date of the 2012 invoice.
  - c. The City's annual payment will be proportionally reduced as fees from subscriptions are sold by the County to non-governmental entities. The County will notify the City 30 days before the annual payment date of subscription services sold.

3. All parties to this agreement recognize and acknowledge that the City will have full and complete use of the Pictometry software during the first year of installation, as well as all features of the software that do not result in fees for the County, after the first year, during the entire time in which the County utilizes the images. The County will designate the City as an Authorized Subdivision as defined in the Pictometry International agreement signed by the County.
4. The City is responsible to identify and designate any individuals that need "user" access available through a seat agreement after the first year of installation. The City will be responsible to reimburse the County for the proportional cost of a City user.
5. The City is not responsible to make any payments to the County during the fourth, fifth or six year of the agreement between the County and Pictometry International or for a second air photography flight to provide updated images in 2015, 2016 or 2017. The City will consider and review its experience under this agreement, staff utilization of the Pictometry images and software, and future needs of the imagery prior to September 1, 2014. The City may, with the approval of the County, extend the agreement for the second air photography flight to provide updates for 2015, 2016 and 2017, with the same terms and conditions as contained herein. The City may or may not make additional payment to the County for the second air photography flight or to continue in the agreement in the City's sole discretion.
6. The City will be provided equal and full access to all free training and customer service connections, including software installation, that are provided to the County for a three-year period, beginning with the Pictometry Software installation on the City's Server, approximately July, 2012. Said equal and full access shall continue for a three-year period, ending approximately July, 2015. The City will be responsible for any costs related to having a City employee travel to a training opportunity.
7. The City agrees to follow the terms of the General License Agreement which is part of the agreement between the County and Pictometry International.

Dated this 7<sup>th</sup> day of November, 2011.

CITY OF VERMILLION, a municipal  
Corporation of the State of South Dakota

CLAY COUNTY

By \_\_\_\_\_

By \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



## *Council Agenda Memo*

**From:** Mike Carlson, Finance Officer

**Meeting:** November 7, 2011

**Subject:** First Reading of Ordinance No. 1264 amending Ward Boundaries

**Presenter:** Mike Carlson

**Background:** The City Council reviewed the proposed boundary change during the July 5<sup>th</sup> Noon session. The ward map was prepared into an ordinance that had a first reading on August 15<sup>th</sup> and a second reading on September 6<sup>th</sup>, 2011. The only change to the ward map was to move the Central and Southeast boundary from Yale Street to University Street from Cedar Street south. The map used for City Council review was prepared by SECOG and the proposed changes were made, by hand, to the ward boundaries. The map used for the ordinance change was prepared by the City.

When the ordinance became effective, after the 20 day referral period, a larger map was prepared to assist the County Auditor in notifying the individuals of the boundary change. In reviewing the larger map, it was noticed that the Central Ward boundaries north of Cherry Street were not correct as well as the Central Ward and Northwest Ward boundary north of Main Street. When the map was prepared, the focus was checking the ward boundary that changed between Central Ward and Southeast Ward. The errors within the Central and Northwest wards were not noticed during the review.

**Discussion:** As Ordinance No. 1257, adopted September 6<sup>th</sup>, 2011, has the incorrect boundaries, an amending ordinance is needed to correct the ward boundaries. Attached is the ordinance and map of the correct ward boundaries as reviewed by the City Council during the July 5<sup>th</sup> noon session.

Following the adoption of the ordinance changing the ward boundaries, the County Auditor will send notice to the registered voters of their ward change. As all wards vote at the same location, there is less inconvenience at the polls if the voter goes to vote at the wrong ward.

**Financial Consideration:** The cost would be the publication of the ordinance.

**Conclusion/Recommendations:** Administration would recommend first reading of Ordinance No. 1264 amending the ward boundaries.

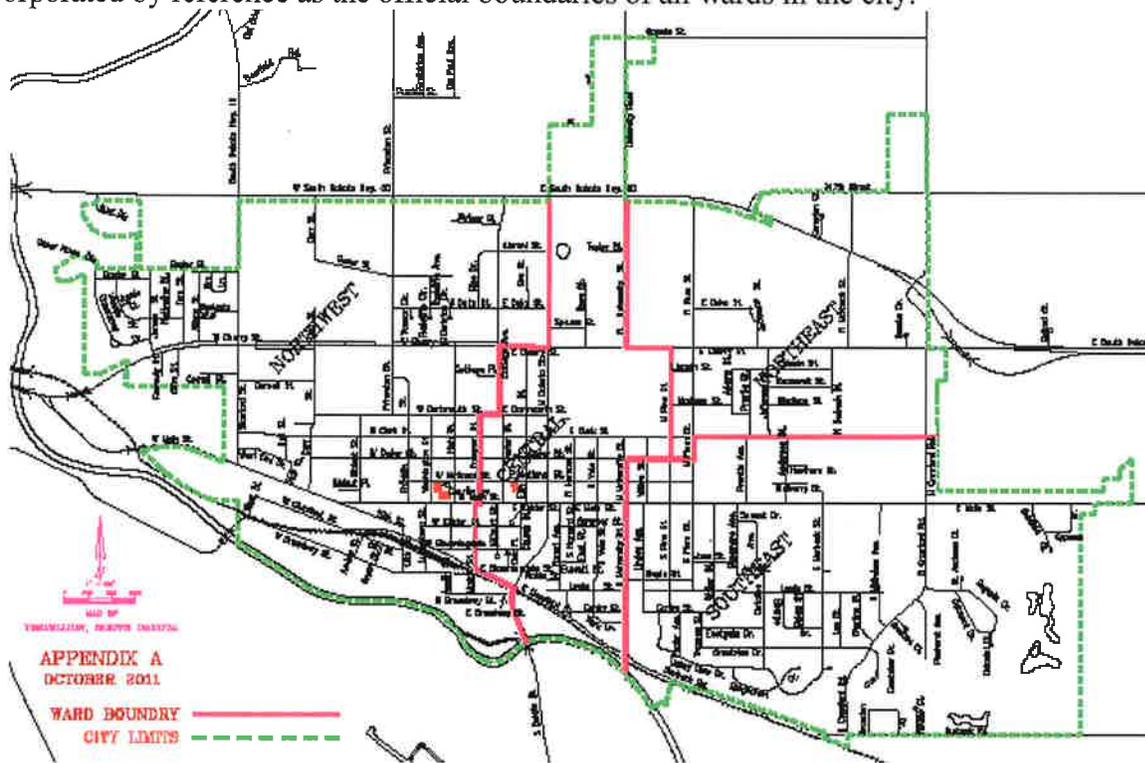
PROPOSED ORDINANCE NO. 1264

AN ORDINANCE AMENDING TITLE I SECTION 11.02 WARDS AND BOUNDARIES, OF THE 2008 REVISED ORDINANCES FOR THE CITY OF VERMILLION, AMENDING THE WARD BOUNDARIES.

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA that Section 11.02 be amended to read as follows:

§ 11.02 BOUNDARIES.

The boundaries of wards, as shown on the Ward Map in Appendix A of this chapter, are hereby incorporated by reference as the official boundaries of all wards in the city.



Dated at Vermillion, South Dakota this 21<sup>st</sup> day of November, 2011.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

John E. (Jack) Powell, Mayor

ATTEST:

Michael D. Carlson, Finance Officer

First Reading: November 7, 2011  
Second Reading: November 21, 2011  
Publication: December 2, 2011  
Effective Date: December 22, 2011



## *Council Agenda Memo*

**From:** Jordan McQuillen, City Manager Intern

**Meeting:** November 7, 2011

**Subject:** Request to close Main Street from Harvard Street to High Street on December 2, 2011 for the Vermillion Chamber and Development Company Parade of Lights

**Presenter:** John Prescott, City Manager

**Background:** The Vermillion Chamber and Development Company (VCDC) is preparing for their “Home for the Holidays” event, which includes the “Parade of Lights”. The Parade of Lights event is to take place Friday, December 2, 2011 starting at Harvard Street and E. Main Street and head west to a conclusion at Market Street and W. Main Street for the tree lighting at Ratingen Platz. The Parade of Lights will begin at 6:30 pm and end around 6:45 pm. The time set for the street closure is from 6:15 pm to 6:45 pm.

**Discussion:** The VCDC plans to contact downtown businesses to make them aware of the closing. The VCDC staff will walk the parade route after the event to ensure that the street is clean and free from any debris. The request has been reviewed by the Fire, EMS, and Police Departments and they have found no problems with the request. Attached is the application and a map of the closure. Due to the short duration of this particular parade, staff has found it more effective to use a rolling closure with Police and Street Department staff vs. complete closure of the entire length of the parade route for the time parameters requested. There were no problems reported with the 2010 event.

**Financial Consideration:** None.

**Conclusion/Recommendations:** Administration recommends approval of the Main Street closing from Harvard Street to High Street on December 2, 2011 from 6:15 pm to 6:45 pm.

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 VCDC

Contact Person Ann Breitag Phone 624-5571

Contact Person Address 116 Market St., Ste. 103

Event Parade of Lights Date(s) of Event 12-2-11

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

Street Main from Harvard St to High St

Street Closing Times 6:15 to 6:45

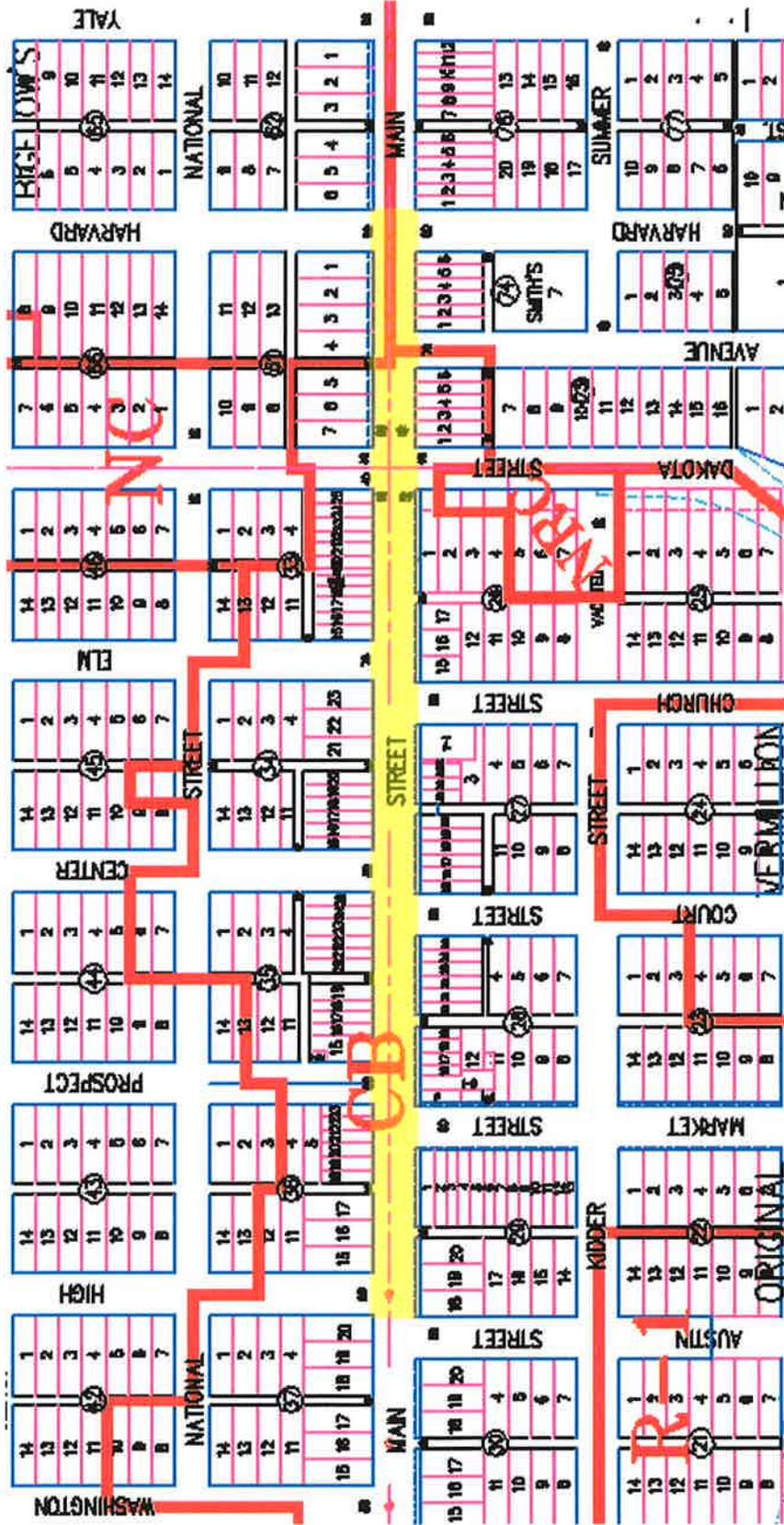
If the street closing requested would affect other residents or businesses have they been notified of the request. Yes  No

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

The VCDC Special Events Committee will walk the  
parade route after the event to ensure that the street is  
clean and free of any debris.

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 10-28-11





## *Council Agenda Memo*

**From:** Jason Anderson, Asst. City Engineer

**Meeting:** November 7, 2011

**Subject:** Resolution Establishing Fees in Lieu of Assessment for 317<sup>th</sup> Street from Norbeck Street to a point 800 Feet West

**Presenter:** Jason Anderson

**Background:** The bid for water main improvements on 317<sup>th</sup> Street from Norbeck Street to a point 800 feet west was awarded on September 7, 2010, and the work has since been completed and final payments have been made to the contractor. Typically, the City uses a special assessment, or fee in lieu of assessment procedure, to recover the cost of construction. The City cannot use the special assessment procedures to recover water and sewer costs from property that is not within the City limits, such as the property along the north side of 317<sup>th</sup> Street. The City also has elected not to use the special assessment procedures to recover water and sewer costs from property within the City limits where the owner is not ready to develop the property and has not platted it into individual lots.

**Discussion:** SDCL 9-48-15 and 9-47-16 govern water supply and sanitary sewer improvements to properties that do not meet special assessment requirements. The water and sewer costs are apportioned against the benefited properties in the same method as special assessment improvements are apportioned, but the cost is collected as a connection fee without interest before the property may be served by the facility. This particular project only involves a water line extension.

**Financial Consideration:** The amount apportioned to the individual properties is the bid amount plus an 8% fiscal fee to recover some of the costs for surveying, design, bidding, staking, testing, project management, inspection, publication, and postage, etc. The City only recovers what has been expended for the construction, less any City share.

**Conclusion/Recommendations:** Administration recommends approving the Resolution establishing fees in lieu of assessment for 317<sup>th</sup> Street from Norbeck Street to a point 800 feet west.

**RESOLUTION ESTABLISHING FEES IN LIEU OF ASSESSMENT FOR 317<sup>TH</sup> STREET  
FROM NORBECK TO A POINT 800 FEET WEST**

WHEREAS, the City of Vermillion has constructed an eight inch and ten inch water main on parts of the following streets and lots:

317<sup>th</sup> Street from Norbeck Street to a point 800 feet West

at a cost of \$37,885.68, which the City has paid, and which has not been apportioned against the property which may be benefited thereby as provided by SDCL 9-48-15 and 9-47-16 as amended, and will require such property owner to pay its proportionate share of the cost of such construction, without interest, according to the benefits which the Governing Body has determined to accrue to such property before such property may be served by the facility.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that each of the lots hereinafter described in Column 2 has been benefited by the construction of the facility in the amount set forth in Column 3 opposite such description; and the owner of such lot shall pay said amount to the City before said property may be served by the water facility of the City of Vermillion, viz:

<u>PROPERTY OWNER</u>	<u>DESCRIPTION OF PROPERTY</u>	<u>AMOUNT OF BENEFIT</u>
MDMT Inc.	Lot 2A Block 3 Brooks Industrial Park	\$7,933.36
MDMT Inc.	Lot 2B Block 3 Brooks Industrial Park	\$7,933.36
Russell Samuel Heikes	Tract 3 Heikes Addition	\$4,876.67
Russell Samuel Heikes	Tract 4 Heikes Addition	\$15,388.48

Dated at Vermillion, South Dakota this 7<sup>th</sup> day of November, 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:** Jason Anderson, Asst. City Engineer

**Meeting:** November 7, 2011

**Subject:** Resolution Establishing Fees in Lieu of Assessment for West Main Street from Stanford Street to 1700 Feet West

**Presenter:** Jason Anderson

**Background:** With assistance from the City Engineer in developing the project, Eldon Nygaard opened bids on February 16, 2000 and subsequently awarded a bid for sanitary sewer and water main improvements on West Main Street from Stanford Street to a point 1700' west. The project was initiated and managed by Eldon Nygaard, owner of Valiant Vineyard, for the purpose of providing these utility services to his business. The project has since been completed and, as far as the City is aware, final payments have been made to the contractor. Eldon Nygaard paid for the entire project, while the lots in Bliss Second Addition were not required to contribute to the project until platted and service provided.

Bliss Second Addition has recently been platted; therefore, the City will collect the water and sewer main fees, in lieu of assessment, prior to allowing the individual water and sewer taps to be made and pay the collected fees to Eldon Nygaard to reimburse him for his contributions. Typically, the City uses a special assessment, or fee in lieu of assessment procedure, to recover the cost of construction. The City cannot use the special assessment procedures to recover water and sewer costs from property that is not within the City limits, such as the property along West Main Street from Stanford Street to 1700 feet west. The City also has not elected to use the special assessment procedures to recover water and sewer costs from property within the City limits where the owner is not ready to develop the property and has not platted it into individual lots.

**Discussion:** SDCL 9-48-15 and 9-47-16 govern water supply and sanitary sewer improvements to properties that do not meet special assessment requirements. The water and sewer costs are apportioned against the benefited properties in the same method as special assessment improvements are apportioned, but the cost is collected as a connection fee without interest before the property may be served by the facility.

**Financial Consideration:** There is no monetary gain to the City from the assessments. In this instance, we only recover what Eldon Nygaard has expended for the construction.

**Conclusion/Recommendations:** Administration recommends approving the Resolution establishing fees in lieu of assessment for West Main Street from Stanford Street to 1700' west.

**RESOLUTION ESTABLISHING FEES IN LIEU OF ASSESSMENT FOR WEST  
MAIN STREET FROM STANFORD STREET TO 1700' WEST**

WHEREAS, Eldon Nygaard, owner of Valiant Vineyard, has constructed an eight inch sewer main and a six inch water main on parts of the following street:

West Main Street from Stanford to a point 1700 feet west

at a cost of \$18,508.91, which Eldon Nygaard has paid, and which has not been apportioned against the property which may be benefited thereby as provided by SDCL 9-48-15 and 9-47-16 as amended, and will require such property owner to pay its proportionate share of the cost of such construction without interest, according to the benefits which the Governing Body has determined to accrue to such property before such property may be served by the facility.

WHEREAS the governing body has agreed to collect such fee and remit same to Eldon Nygaard, owner of Valiant Vineyard, as collected, for all property fronting and abutting said water and sewer.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that each of the lots hereinafter described in Column 2 has been benefited by the construction of the facility in the amount set forth in Column 3 opposite such description; and the owner of such lot shall pay said amount to the City before said property may be served by the sewer facility of the City of Vermillion, viz:

<u>PROPERTY OWNER</u>	<u>DESCRIPTION OF PROPERTY</u>	<u>AMOUNT OF BENEFIT</u>
Paul Bliss	Lot 2 Bliss Second Addition	\$1,127.90
Paul Bliss	Lot 3 Bliss Second Addition	\$2,079.62
Paul Bliss	Lot 4 Bliss Second Addition	\$2,079.62

NOW, THEREFORE, BE IT HEREBY RESOLVED, that each of the lots hereinafter described in Column 2 has been benefited by the construction of the facility in the amount set forth in Column 3 opposite such description; and the owner of such lot shall pay said amount to the City before said property may be served by the water facility of the City of Vermillion, viz:

<u>PROPERTY OWNER</u>	<u>DESCRIPTION OF PROPERTY</u>	<u>AMOUNT OF BENEFIT</u>
Paul Bliss	Lot 2 Bliss Second Addition	\$1,302.84
Paul Bliss	Lot 3 Bliss Second Addition	\$2,468.59
Paul Bliss	Lot 4 Bliss Second Addition	\$2,468.59
Paul Bliss	W 393' of E 628' of Auditor's Tract #4 North of W Main St Except Block 1, Bliss Addition	\$5,706.80

<u>PROPERTY OWNER</u>	<u>DESCRIPTION OF PROPERTY</u>	<u>AMOUNT OF BENEFIT</u>
Bunyan's LLC	Lot 2 Block 1 Bliss Addition	\$1,274.95

Dated at Vermillion, South Dakota this 7th day of November, 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:** Mike Carlson, Finance Officer

**Meeting:** November 7, 2011

**Subject:** Parking Space Easement

**Presenter:** Mike Carlson

**Background:** The City purchased property owned by Lee McCahren, which was used as a parking lot in August 2000. The property was located south of the old police department building on Center Street and north of the alley between Main Street and National Street. The parking lot purchased from Mr. McCahren and the former Police Department building site were combined to create the current parking lot. The August 2000 minutes provided that Mr. McCahren would retain the use of two parking spots in the lot with any successor owner of his building having the right to the spots if the option is exercised. The City Council minutes from August 7, 2000 are as follows:

### Old Police Department Parking Lot – Approval of Purchase Agreement

Jeff Pederson, City Manager, stated that negotiations are complete with Lee McCahren for the purchase of the parking lot for \$10,000 with \$5,000 at the time of the agreement and the balance January 2, 2001. Lee would retain the right to use two parking spots in the lot with any successor owner of his building having the right to the spots if the option is exercised but if the city was leasing the spots they would need to pay the lease amount. Jeff stated the purchase would allow the council to consider the paving of the lot. Jeff stated he would recommend the purchase to be taken from the second penny sales tax.

231-00

Alderman Kozak moved approval of the purchase agreement with Lee McCahren for the parking lot property next to the old police department for \$10,000 and the rights to two parking spots as contained in the agreement with the funds to be from the second penny sales tax. Alderman Wright seconded the motion. Motion carried 9 to 0. Mayor Radigan declared the motion adopted.

A restrictive parking sign was placed at the east end of the lot that is still in place. Mr. McCahren sold his building to a new owner. In 2010, the new owner later sold the building to JP Investments, LLC. In researching the dedicated parking issue, there was never anything filed with the Register of Deeds on the property for the parking restriction but the previous owner provided the minutes from 2000 to the

new owner, JP Investments, as part of the property documents. An inquiry was made of Mr. McCahren, who had a copy of a contract for sale dated October 10, 2000, that outlined the terms for two parking spaces but this contract was not signed by the city and not filed in the courthouse.

Jared Higman and Dave Chickering, representing JP Investments, LLC, inquired about exercising the option for the parking spaces as was included in the minutes as the renovation of the rental unit in the building is being completed.

**Discussion:** It is evident from the 2000 City Council minutes that in the purchase agreement by the City from Mr. McCahren that the two parking spaces were to be provided to him and his successor owners and that if the City were to lease parking spaces in this lot that the lease amount would apply to these spaces. There was no documentation as to how a successor was to exercise the option. In talking to Jim McCulloch, he suggested that a parking easement be prepared that outlines the responsibility of both parties that can be filed in the Register of Deeds office to provide documentation for the City and future owners.

The attached parking easement was prepared outlining the use of the two parking spaces for tenants of the former Lee McCahren property. The owner shall include, in the tenants lease the need to move vehicles if the City posts the lot for snow removal, that the parking easements are not permanent to allow the City the option to sell the property or develop the property for some other use, the parking easement will terminate if the rental property is no longer registered with the City, the owner is responsible for maintenance of the signs, and, if the City shall start leasing the parking lot spaces, the property owner is responsible for paying the lease fee or the parking easement ceases.

Jim McCulloch, City Attorney, has reviewed the parking easement and Jared Higman of JP Investments has reviewed and is in agreement with the parking easement.

**Financial Consideration:** The City will have the cost of filing the parking easement with the Register of Deeds.

**Conclusion/Recommendations:** Administration recommends the approval of the parking space easement that documents what was anticipated as the City Council's intention in 2000 into an easement that can be filed with the Register of Deeds to continue with the property.

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

### PARKING EASEMENT

The City of Vermillion, South Dakota, a municipal corporation, Grantor, 25 Center Street, Vermillion, South Dakota 57069, for and in consideration of the terms, restrictions and conditions contained herein, hereby grants to JP Investments, LLC, a South Dakota limited liability company, Grantee, P.O. Box 345, Vermillion, South Dakota 57069, a parking easement as follows:

1. Grantor is the owner of property legally described as the North 28 feet of Lot 4, Block 35, Snyder's Addition to the City of Vermillion, Clay County, South Dakota, which property is currently used as a parking lot.
2. Grantee is the owner of property legally described as the South 60.5 feet of Lot 25, Block 35, Snyder's Addition to the City of Vermillion, Clay County, South Dakota, which property contains a residential rental unit.
3. Grantor grants and conveys to Grantee the exclusive use of two designated parking spaces on the Grantor's property described in section 1 above with the following restrictions and limitations:
  - a. The mentioned two designated parking spaces are to be used by Grantee's tenants of the rental unit described in section 2 above.
  - b. Grantee will include in a written lease with its tenants a requirement that said tenants will remove their vehicles from the parking lot area described in section 1 above when posted by Grantor for snow removal, repair or maintenance, and, if said vehicles are not removed, the vehicles will be towed at the tenants' sole expense.
  - c. In the event the use of property described in section 2 above ceases to include a residential rental unit or is not registered as residential rental unit with Grantor for a period of 360 consecutive days, the parking easement contained herein is terminated and extinguished in all respects.
  - d. It is expressly understood and intended by Grantor and Grantee that the parking easement contained herein is not permanent, and that if Grantor in its sole discretion (1) transfers the property described in section 1 above to a subsequent owner, or, (2) converts the property described in section 1 above to a use other than parking lot in whole or in part,

the easement contained herein is terminated and extinguished upon 30 days' written notice of such transfer or change in use.

- e. Grantee is solely responsible to protect and enforce the rights granted to it in this parking easement against third-party occupants and to erect signage designating the two parking spaces, said signage to be approved by Grantor in advance of placement.
  - f. If Grantor should in its sole discretion ever charge a parking fee for use of the property described in section 1 above, Grantee agrees it will timely pay Grantor the parking fees attributable to the two parking spaces upon demand. The fee charged the Grantee shall be the same as may be imposed by Grantor against other users of the lot. In the event of Grantee's failure to pay said parking fees within 90 days of such demand, the parking easement contained herein is terminated and extinguished.
  - g. Any event causing termination or extinguishment of the parking easement contained herein shall result in immediate removal by Grantor of signage mentioned in subsection 3e above and recordation in the office of the Clay County Register of Deeds of appropriate parking easement termination and extinguishment documentation.
4. Grantee agrees that it will indemnify Grantor against all liability, claims and causes of action that may arise from Grantee's tenants' use and occupancy of the property described in section 1 above.

Dated this 7<sup>th</sup> day of November, 2011.

GRANTOR

GRANTEE

By: \_\_\_\_\_  
Its: John E. (Jack) Powell, Mayor

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF SOUTH DAKOTA     )  
  :SS  
COUNTY OF CLAY             )

On this 7<sup>th</sup> day of November, 2011, before me, personally appeared John E. (Jack) Powell, who acknowledged himself to be the Mayor of the City of Vermillion, South Dakota, a South Dakota municipal corporation, and that he, as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes herein contained by signing the name of the municipal corporation by himself as said Mayor.

SEAL

\_\_\_\_\_  
Notary Public, State of South Dakota  
My Commission Expires: \_\_\_\_\_



CITY OF VERMILLION  
 INVOICES PAYABLE-NOVEMBER 7, 2011

1 WILLSON FLORIST	PLANTS	70.00
2 ADAPCO	MOSQUITO FOGGER	7,400.00
3 AIR LIQUIDE INDUSTRIAL U.S	CHEMICALS	987.88
4 AMERICAN PUBLIC WORK ASSOC	MEMBERSHIP DUES	476.00
5 AMERICAN TEST CENTER	ANNUAL INSPECTION - FIRE TRUCK	475.00
6 ANNE KRAMER	BOOKS	40.00
7 APCO INTERNATIONAL	MEMBERSHIP DUES	575.00
8 APEX EQUIPMENT, LLC	REPAIRS	7,030.64
9 APPEARA	SUPPLIES	121.75
10 ARAMARK UNIFORM SERVICES	UNIFORM CLEANING	235.24
11 ARGUS LEADER MEDIA #1085	SUBSCRIPTION	112.55
12 AT&T	POLICE COMMUNICATIONS	224.85
13 AUDIO GO	BOOKS	191.91
14 BAKER & TAYLOR BOOKS	BOOKS	800.03
15 BANNER ASSOCIATES, INC	PROFESSIONAL SERVICES	3,783.00
16 BARNES DISTRIBUTION	SUPPLIES	389.54
17 BATTERIES PLUS	BATTERIES	96.88
18 BELAIR BUILDERS, INC	LEACHATE SYSTEM REPAIRS	22,585.00
19 BEST WESTERN RAMKOTA	LODGING	479.94
20 BIERSCHBACH EQPT & SUPPLY	SUPPLIES	334.21
21 BOB IVERSON	MEALS REIMBURSEMENT	31.00
22 BOOK WHOLESALERS, INC	BOOKS	339.06
23 BORDER STATES ELEC SUPPLY	PARTS	3,347.79
24 BROADCASTER PRESS	ADVERTISING	36.00
25 BROCK WHITE CO	SUPPLIES	1,447.95
26 BRODART INC.	SUPPLIES	19.19
27 BROWN TRAFFIC PRODUCTS	SUPPLIES	208.50
28 BRUNICKS SERVICE INC	PROPANE	95.00
29 BUTCH'S PROPANE INC	PROPANE	4,197.50
30 BUTLER MACHINERY CO.	WHEEL LOADER/PARTS	168,990.64
31 CAMPBELL SUPPLY	SUPPLIES	5,327.41
32 CANNON TECHNOLOGIES, INC	LOAD MANAGEMENT EQUIPMENT	1,893.12
33 CANON FINANCIAL SERVICES	COPIER CONTRACT	56.16
34 CARLSON'S BODY SHOP, LLC	TOWING	190.00
35 CASK & CORK	MERCHANDISE	1,662.20
36 CENTRAL STATES WIRE PRODUCTS	WIRE	6,646.66
37 CENTURY BUSINESS PRODUCTS	COPIER CONTRACT	40.00
38 CENTURYLINK	TELEPHONE	733.78
39 CHEMSEARCH	SUPPLIES	403.00
40 CHERRY STREET GRILLE	MERCHANDISE	105.00
41 CHESTERMAN CO	SUPPLIES	1,138.08
42 CITY OF VERMILLION	POSTAGE/COPIES/REPAIRS	1,321.53
43 CITY OF VERMILLION	UTILITY BILLS	35,714.20
44 CLARK'S RENTALS INC	EQUIPMENT	163.76
45 CLASSIC INDUSTRIAL SUPPLIES	UNIFORM SWEATSHIRTS	1,138.00
46 CLAY RURAL WATER SYSTEM	PART/WATER USAGE	50.73
47 COBRA PUMA GOLF, INC	MERCHANDISE	48.77
48 COFFEE KING, INC	SUPPLIES	57.75

49 COLLINS BROTHERS, INC	MERCHANDISE	360.50
50 COLONIAL LIFE ACC INS.	INSURANCE	3,298.55
51 CRYSTAL BRADY	REIMBURSE REGISTRATION FEE	15.00
52 D & D PEST CONTROL	INSPECTION/TREATMENT	17.50
53 DAKOTA BEVERAGE	MERCHANDISE	10,142.60
54 DAKOTA LOCK & KEY	KEY	10.00
55 DAKOTA PC WAREHOUSE	COMPUTER/REPAIRS	1,784.85
56 DAKOTA ROCK FARMS	SLUDGE HAULING	13,780.48
57 DAKOTA SUPPLY GROUP	PARTS	97.30
58 DANKO MES, INC.	REPAIRS	2,170.93
59 DAVIS PHARMACY	SUPPLIES	39.78
60 DELTA DENTAL PLAN	INSURANCE	5,580.86
61 DEMCO	SUPPLIES	381.25
62 DENNIS MARTENS	MAINTENANCE	833.34
63 DEPT OF ENVIRON. & NATURAL RES.	LOAN PAYMENTS	66,031.51
64 DEPT OF REVENUE	TESTING	250.00
65 DEWILD GRANT RECKERT & ASSOC	PROFESSIONAL SERVICES	2,679.50
66 DICK BROWN	SAFETY BOOTS REIMBURSEMENT	100.00
67 DUST TEX	SUPPLIES	46.60
68 E.A SWEEN COMPANY	SUPPLIES	246.72
69 EARTHGRAINS BAKING CO'S IN	SUPPLIES	215.61
70 ECHO ELECTRIC SUPPLY	PARTS	653.57
71 ELECTRONIC ENGINEERING	RADIO	737.50
72 EMERGENCY MEDICAL PRODUCTS	SUPPLIES	157.20
73 ENTERSECT	POLICE ONLINE AGREEMENT	36.82
74 ERIN J. SEEP	MAINTENANCE	72.50
75 EZ-LINER INDUSTRIES	PARTS	451.97
76 FARMER BROTHERS CO.	SUPPLIES	75.76
77 FAST AUTO GLASS	CHIP REPAIR	50.00
78 FASTENAL COMPANY	SUPPLIES	54.80
79 FILTERTEC	SUPPLIES	72.53
80 FIRST NATIONAL BANK	BOND TRUSTEE FEE	2,000.00
81 FOOT-JOY	MERCHANDISE	166.31
82 FOREMAN MEDIA	COUNCIL MTG	100.00
83 FULLERTON LUMBER CO	SUPPLIES	228.47
84 GALE	BOOKS	652.79
85 GRAHAM TIRE CO.	TIRES	2,213.76
86 GRAINGER	PARTS	582.96
87 GRAYBAR ELECTRIC	SUPPLIES	302.63
88 GREGG PETERS	FREIGHT/ADVERTISING	3,837.75
89 GREGG PETERS	RENT	937.50
90 HACH CO	SUPPLIES	1,608.26
91 HAUGER YARD/SNOW SERVICE	MOWING	84.00
92 HD SUPPLY WATERWORKS	SUPPLIES	5,738.65
93 HELGET SAFETY SUPPLY, INC	GLOVES	193.76
94 HERC-U-LIFT	PARTS	212.80
95 HERCULES HARDWARE	SUPPLIES	222.50
96 HERREN-SCHEMPP BUILDING	SUPPLIES	100.93
97 HILLYARD FLOOR CARE SUPPLY	SUPPLIES	102.93
98 HOA SOLUTIONS, INC	REPAIRS	865.00
99 HY VEE FOOD STORE	SUPPLIES	486.94
100 IN CONTROL, INC	PROFESSIONAL SERVICES	13,068.80

101 INDEPENDENCE WASTE	WASTE HAULING/PORTABLE TOILET RENTAL	1,374.89
102 INGRAM	BOOKS	2,077.89
103 INTERSTATE POWER SYSTEMS	REPAIRS	280.00
104 J & L HARLEY-DAVIDSON	REPAIRS	562.85
105 JACKS UNIFORM & EQPT	UNIFORMS	933.65
106 JANE LARSON	MEALS REIMBURSEMENT	59.00
107 JASON ANDERSON	MEALS REIMBURSEMENT	40.00
108 JOHN A CONKLING DIST.	MERCHANDISE	10,215.55
109 JOHNSON BROTHERS FAMOUS BRANDS	MERCHANDISE	50,840.56
110 JOHNSON CONTROLS	REPAIRS	365.67
111 JOHNSON FEED, INC	REPAIRS	132.50
112 JONES ACE HARDWARE	SUPPLIES	2,737.68
113 JONES FOOD CENTER	SUPPLIES	1,738.18
114 JONES LITERATURE	BOOK	15.00
115 JOYCE MOORE	MEALS REIMBURSEMENT	33.00
116 KALINS INDOOR COMFORT	REPAIRS	382.44
117 KARSTEN MFG CORP	MERCHANDISE	788.57
118 KNIFE RIVER MIDWEST, LLC	ASPHALT	1,287.65
119 KNOLOGY	911 CIRCUIT	1,365.50
120 LARGE PRINT OVERSTOCKS	BOOKS	66.72
121 LARRYS HOME REPAIR	REPAIRS	123.67
122 LAYNES WORLD	PLAQUE PLATES	18.00
123 LFS	NETS FOR GOLF COURSE	2,490.30
124 LEARNING OPPORTUNITIES, INC	BOOKS	37.50
125 LEISURE LAWN CARE	TREATMENT	576.91
126 LESSMAN ELEC. SUPPLY CO	SUPPLIES	461.60
127 LINCOLN MUTUAL LIFE & CASU	INSURANCE	485.68
128 LOCATORS AND SUPPLIES, INC	SUPPLIES	2,983.58
129 LONGS PROPANE INC	PROPANE	25.00
130 LUDEY'S READY MIX	GRAVEL	133.04
131 MARKS LAWN CARE	JUNK/DEBRIS REMOVAL	82.00
132 MART AUTO BODY	TOWING	1,325.00
133 MATHESON TRI-GAS, INC	SUPPLIES	9.70
134 MATTHEW BENDER & CO, INC	BOOKS	62.91
135 MCCULLOCH LAW OFFICE	PROFESSIONAL SERVICES	864.00
136 MICHAEL FREDERICK	BOOKS	50.00
137 MICHAELS FENCE	PARTS	67.25
138 MICWEBS	WEBSITE HOSTING REGISTRATON	130.00
139 MIDWEST ALARM CO	ALARM MONITORING	120.00
140 MIDWEST BUILDING MAINTENANCE	MAT SVC	597.45
141 MIDWEST READY MIX	FLOWABLE FILL	352.00
142 MIDWEST TURF & IRRIGATION	PARTS	3,195.39
143 MIKE'S AUTO GLASS	REPAIRS	140.00
144 MILLS DISTRIBUTING	DEICING SALT	1,380.65
145 MINN MUNICIPAL UTILITY ASSOC.	4TH QTR SAFETY MGMT PROGRAM	5,405.86
146 MISSOURI RIVER ENERGY SERVICE	PROFESSIONAL SERVICES	5,627.79
147 MISSOURI VALLEY MAINTENANCE	REPAIRS	282.40
148 MOORE MEDICAL CORP	SUPPLIES	197.05
149 MUHLBAUER ENTERPRISES	SUPPLIES	394.74
150 NALCO CHEMICAL CO	SUPPLIES	159.00
151 NCL OF WISCONSIN, INC	SUPPLIES	458.32
152 NEOPOXY INTERNATIONAL	SUPPLIES	368.00

153 NETSYS+	PROFESSIONAL SERVICES/SYMANTEC PROTECTION	3,161.31
154 NEW YORK LIFE	INSURANCE	95.00
155 OWENS INSPECTION SERVICES	WATER TOWER INSPECTION	1,800.00
156 PAULS PLUMBING	PARTS	7.75
157 PETE LIEN & SONS, INC	CHEMICALS	7,471.42
158 PFEIFER IMPLEMENT CO.	PARTS	151.48
159 PNC EQUIPMENT FINANCE	DEFIBRILLATOR LEASE	741.27
160 POLLMAN EXCAVATION	CRUSHED ROCK	4,638.00
161 PR DIAMOND PRODUCTS	SUPPLIES	381.00
162 PRAIRIE BERRY WINERY	MERCHANDISE	882.00
163 PRESSING MATTERS	SUPPLIES	227.00
164 PRESTO-X-COMPANY	INSPECTION/TREATMENT	47.00
165 PRINT SOURCE	SUPPLIES	185.00
166 PRUNTY CONSTRUCTION CO. INC	WATER MAIN IMPROVEMENTS	72,234.38
167 PUMP N PAK	FUEL	2,300.96
168 QUEEN CITY WHOLESALE	MERCHANDISE	690.50
169 QUILL	SUPPLIES	1,446.64
170 RACOM CORPORATION	MAINTENANCE CONTRACT	335.00
171 RANDOM HOUSE, INC	BOOKS	409.50
172 RANDY ISAACSON	MEALS REIMBURSEMENT	40.00
173 RECORDED BOOKS, INC	BOOKS	526.80
174 REGENT BOOK CO.	BOOKS	13.67
175 REINHART FOODSERVICE, LLC	SUPPLIES	384.73
176 REPUBLIC NATIONAL DIST.	MERCHANDISE	34,305.82
177 RIVERSIDE HYDRAULICS & LAB	REPAIRS	25.00
178 ROY JOHNSON ROOFING, INC	REPAIRS	242.52
179 RSG SOUTHWEST, L.P	SUPPLIES	1,245.00
180 SAMMELSON BROTHERS INC.	REPAIRS	102.04
181 SANFORD CLINIC VERMILLION	SUPPLIES	96.68
182 SCHAEFFER MFG. CO	SUPPLIES	793.60
183 SD GOLF ASSOCIATION	HANDICAP	18.00
184 SD MUNICIPAL LEAGUE	REGISTRATION	40.00
185 SD ONE CALL	LOCATES	391.65
186 SD PUBLIC ASSURANCE ALLIANCE	PROPERTY COVERAGE	40.00
187 SD READY MIXED CONCRETE ASSOC	REGISTRATION	70.00
188 SD RETIREMENT SYSTEM	CONTRIBUTIONS	45,027.61
189 SIOUX CITY WINTRONIC	SUPPLIES	261.42
190 SIOUX FALLS TWO WAY RADIO	RADIOS/REPAIRS	5,418.99
191 SIOUXLAND HUMANE SOCIETY	DROP OFF FEES	74.00
192 SLATTERY CONSTRUCTION INC	PARKING LOTS/E. CLARK EXP/SIDEWALK REPAIRS	63,129.52
193 SPECIAL T'S AND MORE	UNIFORM T-SHIRTS	979.45
194 STEWART OIL-TIRE CO	REPAIRS	50.00
195 STUART C. IRBY CO.	SUPPLIES	2,139.74
196 STURDEVANTS AUTO PARTS	PARTS	1,127.93
197 THATCHER COMPANY	SODA ASH	20,658.00
198 THE EQUALIZER	ADVERTISING	605.80
199 THE NEW SIOUX CITY IRON CO	SUPPLIES	256.00
200 THE WALKING BILLBOARD	SHIRTS/JACKETS	1,502.85
201 TITLEIST DRAWER CS	MERCHANDISE	1,920.90
202 TOM McCORMACK	BOOKS	18.00
203 TRI TECH SALES	PARTS	439.79
204 TRUE VALUE	SUPPLIES	473.41

205 ULTRAMAX	SUPPLIES	704.00
206 UNITED PARCEL SERVICE	SHIPPING	14.62
207 UNITED WAY	CONTRIBUTIONS	264.00
208 USA BLUEBOOK	SUPPLIES	574.80
209 VALIANT VINEYARDS	MERCHANDISE	228.00
210 VAN DIEST SUPPLY CO	CHEMICALS	487.70
211 VERIFICATIONS INC	PROFESSIONAL SERVICES	64.95
212 VERMILLION DEVELOPMENT CO	BBB FUND CONTRIBUTION	46,350.00
213 VERMILLION FORD	PARTS	85.18
214 VERMILLION HIGH SCHOOL	YEARBOOK	68.90
215 VESCO, INC	PARTS	1,286.26
216 VISA/FIRST BANK & TRUST	LODGING/FUEL/SUPPLIES	4,773.17
217 WADE MOUNT	MEALS REIMBURSEMENT	23.00
218 WAL-MART COMMUNITY	SUPPLIES	627.68
219 WENDY NILSON	MEALS REIMBURSEMENT	59.00
220 WESCO DISTRIBUTION, INC	SUPPLIES	2,376.14
221 YANKTON FIRE & SAFETY	FIRE EXT. INSPECTIONS	1,589.00
222 YANKTON JANITORIAL SUPPLY	SUPPLIES	1,125.58
223 YANKTON WINNELSON CO	PARTS	94.12
224 ZEE MEDICAL SERVICE	SUPPLIES	104.20
225 ZIMCO SUPPLY CO	SUPPLIES	1,198.00
226 ZOLL MEDICAL CORPORATION G	SUPPLIES	76.80
	GRAND TOTAL	\$871,595.79