



**Special Meeting Agenda  
City Council**

12:00 p.m. (noon) Special Meeting  
Monday, June 17, 2019  
Large Conference Room – City Hall  
25 Center Street  
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Visitors to Be Heard**
3. **Educational Session – Supreme Court ruling impacting City sign ordinance – Jolly Omar.**
4. **Educational Session – Potential Fire Department ordinance and policy changes (Knox Box, multiple false alarm fee, and business registry) – Fire/EMS Chief Matt Callahan.**
5. **Briefing on the June 17, 2019 City Council Regular Meeting** – Briefings are intended to be informational only and no deliberation or decision will occur on this item.
6. **Adjourn.**

Access the City Council Agenda on the web – [www.vermillion.us](http://www.vermillion.us)

**Addressing the Council:** Persons addressing the Council shall be recognized. 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, June 17, 2019  
City Council Chambers  
25 Center Street  
Vermillion, South Dakota 57069

### 1. Roll Call

### 2. Pledge of Allegiance

### 3. Minutes

- a. June 3, 2019 Special Meeting; June 3, 2019 Regular Meeting.

### 4. Adoption of the Agenda

### 5. Visitors to be Heard

- a. LGBTQ Pride Week Proclamation.

### 6. Public Hearings

- a. Special daily malt beverage and wine license for the Vermillion Area Chamber of Commerce and Development Company on or about July 11, July 18, July 25, August 1, August 8, August 15, and August 29, 2019 for Thursdays on the Platz events on Ratingen Platz and adjoining portions of Main and Market Streets.
- b. Special daily malt beverage and wine license for the Clay County Agricultural Fair Association on or about August 8-10, 2019 on the fairgrounds and a portion of High Street.

### 7. Old Business

### 8. New Business

- a. First reading of Ordinance 1402 amending Title XV Land Usage to add Chapter 157 Small Cell Facility Regulations providing provisions for small cell wireless communication facilities.
- b. Request to close Market Street from W. Main Street to the south end of Ratingen Platz, as well as W. Main Street from the west line of the W. Main and Prospect Streets intersection west through the west side of Ratingen Platz from 4:00pm-8:00pm on the dates of July 11<sup>th</sup>, July 18<sup>th</sup>, July 25<sup>th</sup>, August 1<sup>st</sup>, August 8<sup>th</sup>, August 15<sup>th</sup>, August 22<sup>nd</sup>, and August 29<sup>th</sup>, 2019 for Thursdays on the Platz hosted by the Vermillion Area Chamber and Development Company.
- c. Request to close High Street from the Bike Path to Vermillion Public Transit (Approximately 600 block of High Street) from Thursday August 8<sup>th</sup>, 2019 at 7am to Sunday August 11<sup>th</sup>, 2019 at 10am for the Clay County Fair.
- d. Request from Fiegen Construction on Behalf of the South Dakota Sigma Chapter to Occupy the Right-of-Way along portions of Adams Street and Madison Street for Construction Purposes.
- e. Agreement with the University of South Dakota to provide law enforcement powers to the University Police Department through the Vermillion Police Department.

### 9. Bid Openings

### 10. City Manager's Report

### 11. Invoices Payable

## **12. Consensus Agenda**

- a. Set a public hearing date of July 1, 2019 for a special daily malt beverage and wine license for Ribs, Rods & Rock'n Roll on or about September 6 & 7, 2019 on Main Street between Washington and Court Street, Ratingen Platz, Market Street from Main to Bloomingdale Street, Austin Street from Main to Kidder, Kidder Street from Austin Court Street, Court Street from Main to half block south, public parking lot at Market and Kidder, private parking lot at Market and Kidder and Prospect from Main Street to National Street and to include any other streets closed for the events.
- b. Set a public hearing date of July 1, 2019 for a special permit to exceed permissible sound levels by no more than 50% for Ribs Rods & Rock'n Roll, Inc on or about September 6 & 7, 2019 from 5:00 p.m. to midnight on Main Street between High and Prospect Streets.

## **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.

**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. The City Council typically has a Special Meeting on the first and third Monday of each month at Noon.

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

### ***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  
June 3, 2019  
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, June 3, 2019 at 12:00 noon at the City Hall large conference room.

1. Roll Call

Present: Collier-Wise, Hellwege, Holland, Price, Sorensen, Willson, Mayor Powell

Absent: Humphrey, Ward

2. Visitors to be Heard - None

3. Educational Session - Home rule - James Purdy

James Purdy, Assistant City Manager, made a presentation on municipal home rule in South Dakota. James reviewed the advantages and disadvantages of home rule along with the steps required to implement home rule that will require a vote within one year of the proposed action. James noted that the Human Relations Commission has reported that a home rule charter will allow for enhanced anti-discrimination ordinances in the city as the state does not recognize certain groups as protected. James reported that the City Council in the past has looked at home rule as it applied to cable TV, smoking bans, and texting while driving but did not get to the point of bringing a charter to the City Council. Discussion followed on home rule charters, the need to review other cities' charters and the process of establishing a committee. The consensus of the City Council was to move forward with a study committee to review and report to the City Council on the options of a home rule charter.

John Prescott, City Manager, introduced Jolly Omar as the summer intern in the City Manager's office.

4. Informational Session - Electric Vehicle charging station - James Purdy

James Purdy, Assistant City Manager, reviewed information on the number of electric vehicles in the area as well as projections on new electric vehicles that will be entering the market. James noted that the city has taken steps to be a greener community and installing an electric vehicle charging station would be another step to attract electric vehicles

owners to the community. James reviewed his research on electric charging stations with his recommendation of a Level 2 charging station. James reported that he has been in contact with a company by the name of ChargePoint who has one of the largest networks of electric charging stations in the United States. James reported that ChargePoint has a purchase option and a lease option. James stated that when this information was presented to the Utility Committee the Committee felt the lease would be the best option due to the changing technology. James noted that the charging station is not projected to make money for the electric utility but would bring recognition to the electric utility and the city. James noted that a good location might be in the City Hall parking lot as it is close to downtown and also could be used for future city electric vehicles. James noted that he has researched grant options without much positive feedback being received. James noted that MRES, our supplemental power supplier, at the last meeting was encouraging electric utilities to promote electric vehicles as a way to increase electric sales. Discussion followed on the electric charging station with James noting that there will be a report from the Utility Committee on this topic at the meeting tonight.

5. Briefing on the June 3, 2019 City Council Regular Meeting

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

6. Adjourn

156-19

Alderman Sorensen moved to adjourn the Council special session at 1:01 p.m. Alderman Price seconded the motion. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 3rd day of June, 2019.

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  
June 3, 2019

Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on Monday, June 3, 2019 at 7:00 p.m. by Mayor Powell.

1. Roll Call

Present: Collier-Wise, Hellwege, Holland, Humphrey, Price, Sorensen, Ward, Willson, Mayor Powell

2. Pledge of Allegiance

3. Minutes

A. Minutes of May 20, 2019 Special Meeting; May 20, 2019 Regular Meeting

157-19

Alderman Collier-Wise moved approval of the May 20, 2019 Special Meeting and May 20, 2019 Regular session minutes. Alderman Humphrey seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

4. Adoption of Agenda

158-19

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

5. Visitors to be Heard - None

6. Public Hearings

A. Public hearing for transfer of retail on-sale liquor license from Brian Engleman to BACT Group, LLC for 914 North Dakota Street

Mike Carlson, Finance Officer, reported that an application was received for the transfer of the on-sale liquor license from Brian Engleman to BACT Group, LLC for a business located at 914 North Dakota Street. Mike stated that the City Council has the ability to transfer a license on two criteria: suitable applicant and suitable location. Mike reported that, as to the suitable applicant, the corporate officers of BACT Group, LLC, are Aric Van Voorst and Brian Tooker who have submitted the information for the DCI and FBI background check. Mike noted that the DCI background check was received by the Police Chief for Aric Van Voorst and the FBI background check has been received from Brian Tooker. His memo states that there is no information to preclude the transfer of the license. Mike noted that, with respect to the location criteria, an on-sale liquor license has been issued to this location in the past. Mike

noted that the notice of hearing and Police Chief's report were included in the packet. Mike recommended approval of the license transfer, unless information is presented at the public hearing.

159-19

Alderman Willson moved approval of the transfer of retail on-sale liquor license from Brian Engleman to BACT Group, LLC for 914 North Dakota Street. Alderman Collier-Wise seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

B. Public hearing for vacation of 4.3-feet of Roosevelt Street right-of-way lying directly north of the west 90-feet of Lot 2, Block 1, Madison Park Addition, City of Vermillion, Clay County, South Dakota (undeveloped portion of Roosevelt Street east of N. Norbeck Street)

Shane Griese, Utility Manager, reported that a petition signed by all of the abutting property owners to vacate unused street right-of-way adjacent to and north of Lot 2, Block 1, Madison Park Addition has been submitted by G.A. Haan Development, LLC. Shane noted that the landowner owns all of the land directly adjacent to the proposed vacation. Shane reported that the portion of right-of-way to be vacated would not hinder the use of Roosevelt Street and would allow the landowner to develop the land. Shane reported that this portion of Roosevelt Street was dedicated to the public by the landowner through a plat in 2013. Shane noted that the street has never been opened as a street, or maintained by the City for the public use. Shane stated that the vacated right-of-way would be included in the already dedicated 8-foot utility easement that lies in the perimeter of Lot 2, Block 1. Shane reported that during the process to complete the plat for Lot 2, Block 1 the surveyor missed the previously approved right-of-way dedication that dedicated the south 66-feet of the Roosevelt Street right-of-way east of Norbeck Street. Shane stated that not taking this document into account during the platting process does not negate the fact that the City still has the right-of-way, rather it makes that portion of the plat inaccurate. Shane noted that this inaccuracy makes Lot 2 slightly smaller and not large enough for the type of construction desired. Shane stated that the landowner requested that the City vacate the south 4.3-feet of the west 90-feet of the Roosevelt Street right-of-way and this area to be vacated would then be incorporated into Lot 2 as part of the 8-foot utility easement. Shane stated that, although the vacated area cannot be constructed on, the owner sees the benefit of including this area as part of their setback. Shane stated that utilities will not be affected due to this vacation. Shane recommended the adoption of the resolution vacating a portion of the Roosevelt Street right-of-way.

160-19

After reading the same once, Alderman Collier-Wise moved adoption of the following:

RESOLUTION VACATING A PORTION OF THE RIGHT-OF-WAY LYING NORTH OF LOT 2, BLOCK 1, MADISON PARK ADDITION, CITY OF VERMILLION, CLAY COUNTY, SOUTH DAKOTA

WHEREAS, the City of Vermillion has received a petition for the vacation of a portion of Roosevelt Street lying north of Lot 2, Block 1, Madison Park Addition, City of Vermillion, Clay County, South Dakota; and,

WHEREAS, notice has been published for two successive weeks in the Plain Talk; and,

WHEREAS, utilities will not be affected by the proposed vacation; and,

WHEREAS, the area to be vacated is also included in the 8-foot utility easement dedicated with the plat of Lot 2, Block 1, Madison Park Addition approved by the City Council on July 16, 2018; and,

WHEREAS, State Statute 9-45-10 authorizes the City Council to vacate streets, alleys or public grounds.

NOW, THEREFORE BE IT RESOLVED, by the Governing Body of the City of Vermillion that the south 4.3-feet of the west 90-feet of the Roosevelt Street right-of-way located between Lot 2, Block 1, Washington Square Addition and the East 16-rods of the NW ¼ of the SE ¼ and the west 58-rods of the NW ¼ of the SE 1/4, except the north 219-feet thereof, except Washington Square Addition and except Lot 13, Block 1, Meisenholder East Addition, and except Madison Park Addition, Section 18, T92N, R51W of the 5th P.M., in the City of Vermillion, Clay County, South Dakota as shown on the attached exhibit is hereby vacated.

Dated at Vermillion, South Dakota this 3rd day of June 2019.

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 Hellwege. 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.

7. Old Business - None

8. New Business

A. Resolution supporting additional City funding for downtown infrastructure project.

John Prescott, City Manager, reported that in 2016 the City hired Confluence to prepare a conceptual plan for a downtown infrastructure project or streetscape project. John noted that some of the features of the plan include bumpouts at pedestrian intersections, new sidewalks, trees, landscaping, seat walls, new street lighting and other improvements to create an updated sense of place that better meets the needs of what the public expects in downtown areas. John noted that a couple of public meetings were held in 2016 but the plan did not gather much support largely due to a lack of funding for what at that time was an estimated \$2.7 million project.

John noted there was a renewed interest in bringing the project forward was expressed in the latter half of 2017. John stated the City Council allocated \$1 million of 2nd Penny funding for the project as part of the 2018 budget and as the funds were not expended in 2018, the City Council carried the \$1 million allocation forward to the 2019 budget. John stated the boundaries of Business Improvement District #2 were formed in 2018 to study ways to fund a potential project and to develop an updated proposal for the City Council and community to consider. John noted the BID#2 Board refined the project by reducing the amount of work on Elm, Center, Prospect, the west end of Main Street, Court, and Church Streets. John noted that the BID #2 Board also worked to develop a proposal whereby property owner share of the cost of the project was approximately 20% of the project cost via a special assessment paid over a ten-year period. John stated that the presentation at the May 20th noon meeting was to update to the City Council and to gather City Council feedback on providing more than \$1,330,000 in City funding for an estimated \$2.4 million project. John stated that it was suggested that a Resolution expressing the City Council's intent to contribute additional funding above the \$1,330,000 be presented for consideration at this meeting. John noted that it was suggested that an expression of the City Council's intent to be the major funding partner in the project would be beneficial for upcoming public meetings currently scheduled for June 20th in the council chambers. John stated that the attached resolution should help the City Council publicly state the intent to contribute additional funds and once project costs are more defined it will be easier for the City Council to provide a defined dollar amount. John noted that the BID #2 Board will need to report to the City Council on the total project and the City Council will need to consider a resolution of intent to create the BID#2 and then adopt the ordinance establishing the BID#2.

161-19

Alderman Willson moved approval of the resolution pledging support for the downtown streetscape project. Alderman Collier-Wise seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

B. Report from the Utilities Committee on establishing an electrical vehicle charging station

James Purdy, Assistant City Manager, reported that City staff has been researching ways for the city to move towards more sustainable and environmentally conscious practices. James stated that one project staff has been exploring is a public electrical vehicle charging station. James reported that City staff has been in contact with several vendors of electric vehicle infrastructure, and has been exploring pricing options and grant opportunities. James reported on attendance at the Missouri River Energy Services annual meeting, where the benefits of electrification for communities with public power were discussed. James reported that the City of Vermillion Utilities Committee met on May 21, 2019, for a presentation on electric vehicle charging stations. James reported that City Staff presented its research and findings with the Utilities Committee elected to bring that research and a proposal forward to the City Council for consideration. James reported that the presentation made to the Utility Committee was made at the noon meeting today. James reported that the recommendation of City staff is to enter into a three-year lease agreement for a dual charging station with ChargePoint at a cost of \$2,750 per year. James recommended that the annual lease be funded out of the Electric Utility Fund. Discussion followed

162-19

Alderman Sorensen moved approval of the recommendation to enter into a three year lease agreement with ChargePoint for a dual electric vehicle charging station. Alderman Humphrey seconded the motion. Motion carried 9 to 0.

9. Bid Openings

A. Fuel quotes

Mike Carlson, Finance Officer, read the monthly fuel quotes and recommended the low quote of Stern Oil on Items 1, 2 & 3 and Brunick's Service on Item 4.

Item 1 - 4,350 gal unleaded 10% ethanol: Stern Oil \$2.2631, Brunick's Service \$2.28; Item 2 - 1,000 gal unleaded: Stern Oil \$2.1999, Brunick's

Service \$2.53; Item 3 - 3,000 gal No. 2 Diesel fuel dyed: Stern Oil \$2.0798, Brunick's Service \$2.08; Item 4 - 1,000 gal No. 2 diesel fuel-clear: Stern Oil \$2.3763, Brunick's Service \$2.30.

163-19

Alderman Collier-Wise moved approval of the low quote of Stern Oil on Items 1, 2 & 3 and Brunick's Service on Item 4. Alderman Humphrey seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

#### 10. City Manager's Report

A. John reported that the Historic Preservation Commission meets on Wednesday, June 5th at 9:00 a.m. in Large Conference room.

B. John reported that the Human Relations Commission meets on Thursday, June 6th at 7:00 p.m. in the Large Conference room for an orientation session for the new members.

C. John reported that Main Street will be closed from Plum Street to Walker Street on Thursday - Saturday, June 6-8 from 6:55 p.m. to 9:45 p.m. and Sunday, June 9, 2019 from 3:55 p.m. to 6:45 p.m. for Shakespeare Festival performances at the Prentis Park band shell.

D. John reported that the City Council and Clay County Commission will meet at 6:30 p.m. on Monday, June 17th in the City Council chambers to consider the second reading of Ordinance No. 1401 which is rezoning three areas east of the city in the joint jurisdictional area from A-1 Agricultural zoning to RR Rural residential zoning.

E. John reported that the small cell ordinance should be ready by next City Council meeting for first reading.

#### PAYROLL ADDITIONS AND CHANGES

General: Jalatama Omar \$9.25/hr; Administration: James Purdy \$22.69/hr; Street: Samuel Gerst \$9.25/hr; Recreation: Tamara Baisden \$30.00/game, Maxwell Morris \$30.00/game, Joel Van Peursem \$30.00/game, Lauren Wobken \$30.00/game, Peyton Larson \$9.50/hr; Pool: Lauren Wobken \$9.25/hr, Sadie Pederson \$10.00/hr, Caelynn Ihnen \$9.25/hr, Elizabeth Sykes \$10.25/hr, Kyle Tresch \$11.00/hr, Morgan Kerkman \$10.25/hr, Shannon Sokolowski \$10.00/hr, Samuel Schwebach \$9.25/hr; Water: Eric McPherson \$23.85/hr; Landfill: Jake Richardson \$10.00/hr; Police: Matthew Davis \$23.75/hr; Parks: Jonathan Wieger \$9.25/hr; Communications: Jenna Jones \$16.58/hr

#### 11. Invoices Payable

164-19

Alderman Collier-Wise moved approval of the following invoices:

A-1 Portable Toilets	portable toilet rental	810.00
Adidas America, Inc	merchandise	117.50
Amanda Arndt	meals reimbursement	30.00
Appeara	shop towels	45.00
Aramark Uniform Services	uniform cleaning	450.46
Argus Leader Media #1085	subscription	28.00
Atco International	chemicals	355.00
Austin Anderson	meals reimbursement	35.00
Avera Occupational Medicine	testing	62.55
Banner Associates, Inc	professional services	2,435.10
Batteries Plus	batteries	14.40
Belson Outdoors	picnic tables library	4,665.01
Ben's Handyman Services	repairs	52.48
Bierschbach Eqpt & Supply	supplies	556.32
Big State Industrial Supply	supplies	857.56
Blackstone Publishing	books	150.00
Bluetarp Financial, Inc	parts	526.47
Border States Elec Supply	supplies	358.20
Bound Tree Medical, LLC	supplies	1,370.17
Brandon Steeneck	meals reimbursement	35.00
Brunick's Service Inc	propane	36.00
BSN Sports Inc	supplies	49.99
Burns & McDonnell	professional services	5,287.23
Butler Machinery Co.	wheel loader/repairs	133,501.72
Callaway Golf	merchandise	50.16
Campbell Supply	supplies	2,075.40
Cask & Cork	merchandise	435.00
Center Point Large Print	books	302.87
Century Business Products	copier contract/copies	179.63
Centurylink	telephone	707.50
Chesterman Co	merchandise	1,013.51
City Of Vermillion	utility bills	34,871.15
Coffee King, Inc	supplies	62.75
Colonial Life Acc Ins.	insurance	2,820.05
Compliancesigns	FDC signs	240.50
Continental Research Corp	supplies	247.08
Convergint Technologies LLC	repairs	747.26
Core & Main LP	storm drainage frames/parts	6,160.34
CorTrust Bank	TIF #6 payments	14,744.51
Coyote Chemical Company	supplies	335.30
Crouch Recreation	bench-fishing pier	545.00

D-P Tools	supplies	109.53
Dakota Beverage	merchandise	6,531.89
Dakota Fluid Power Inc	supplies	809.94
Dakota Hospital Foundation	TIF #6 payment	14,744.51
Dakota Pc Warehouse	supplies	95.96
Dakota Supply Group	parts	799.61
Danko Emergency Equipment	parts	1,310.02
Delta Dental Plan	insurance	6,160.38
Demco	supplies	205.67
Dennis Martens	maintenance	833.34
DGR Engineering	professional services	1,131.00
Diamond Vogel Paints	traffic paint	1,469.50
Earthgrains Baking Co's Inc	supplies	226.20
Ebsco	subscriptions	2,650.72
Echo Electric Supply	supplies	1,769.21
Embroidery & Screen Works	uniform	4,642.75
Emergency Services Marketing	subscription	735.00
Energy Laboratories	chemicals	1,406.50
Envisionware, Inc	maintenance	671.90
Farmer Brothers Co.	supplies	74.44
Farner Bocken Company	supplies	4,563.84
Fastenal Company	supplies	74.26
First Bank & Trust	TIF #6 payment	14,744.51
First Dakota National Bank	TIF #6 payment	14,744.51
Fischer Disposal	waste hauling	703.00
Foreman Media	council mtg	150.00
Fred Balleweg	meals reimbursement	49.00
Fred Haar Co, Inc	parts	95.10
Gary's Tree Service, Inc	stump grinding	3,388.00
Global Dist.	merchandise	227.00
Graham Tire Co.	tires	837.54
Grainger	parts	150.55
Graymont Capital Inc	chemicals	4,054.93
Gregg Peters	freight	804.00
Gregg Peters	rent	937.50
Greggs Auto Body	repairs	376.00
Grey House Publishing	books	338.50
Hach Co	part	257.89
Hartington Tree LLC	trees	1,701.00
Hauff Mid-America Sports	supplies	797.40
Hauger Lawn Service	mowing	66.00
Hawkins Inc	chemicals	4,329.55
Heiman Fire Equipment	firefighter equipment	62,483.75

Helms & Associates	professional services	5,137.43
Herren-Schempp Building	supplies	30.32
High Point Networks	support renewal	240.00
Hy-Vee Food Store	supplies	218.52
IMS Alliance	name tags	117.50
Info USA Marketing Inc	publication	415.00
Ingram	books	3,318.51
Inland Truck Parts Co.	parts	1,886.25
Integrated Technology & Sec	support/repairs	1,416.30
International Public Mgmt	testing materials	284.50
Jacks Uniform & Eqpt	uniform shirts	192.75
Jamie Hall	meals reimbursement	30.00
Jaymar	printer paper	943.50
Jessica Newman	boots reimbursement	104.49
Jim Balleweg	meals reimbursement	64.00
Jim Goblirsch	reimbursement	17.09
John A Conkling Dist.	merchandise	4,148.60
Johnson Brothers Of SD	merchandise	29,983.57
Johnson Controls	service agreement	1,707.74
Johnson Feed, Inc	agri-lime	1,995.72
Jon Cole	fuel reimbursement	25.00
Jones Food Center	supplies	450.53
Julie Stewart	refund swim lessons fees	17.00
JWP Construction & Design	fishing pier repairs	749.56
JWR, Inc	repairs baler	5,614.57
Karsten Mfg Corp	merchandise	1,537.61
Knife River Midwest, LLC	asphalt	2,932.80
Kyle Hoisington	meals reimbursement	49.00
Lawson Products Inc	supplies	176.83
Leisure Lawn Care	fertilizer/weed control	218.15
Lessman Elec. Supply Co	supplies	1,760.00
Locators And Supplies, Inc	supplies	1,255.43
Lyle Signs	supplies	426.92
M & M Construction LLC	Prentis park sidewalk	13,167.00
Mart Auto Body	towing	1,050.00
Matheson Tri-Gas, Inc	medical oxygen/rental	687.50
Matthew Betzen	meals reimbursement	79.00
Maximum Promotions	city flags	720.00
McCulloch Law Office	professional services	2,002.20
McLeod's Printing	minutes book/traffic tickets	2,304.45
MD Enterprises LLC	work shirts	907.50
Mead Lumber	supplies	143.72
Medical Waste Transport, Inc	haul medical waste	217.51

Menards	supplies	1,158.53
Micro Marketing LLC	books	8.02
Midwest Ready Mix & Equipment	rental/rebar/red rock	1,588.00
Midwest Turf & Irrigation	mower/workman/parts	75,379.26
Miracle Recreation Eqpt Co	parts	206.11
Missouri River Energy Service	registration	450.00
Missouri Valley Maintenance	repairs	1,756.50
Mobotrex Mobility & Traffic	supplies	177.00
Moore Welding & Mfg	repairs	596.75
Motion Picture Licensing Co	licensing fee	185.10
MSC Industrial Supply Co	supplies	125.06
NCL Of Wisconsin, Inc	supplies	202.26
Nebraska Journal-Leader	advertising	137.40
Netsys+	professional ser/domain	3,026.50
Nursery Wholesalers Inc	trees	2,976.53
O'Reilly Auto Parts	parts	116.11
Office Systems Co	copier contract/copies	925.65
Paul's Plumbing	parts	24.30
PCC, Inc	commission	3,490.74
Pedersen Machine Inc	repairs	279.12
Penworthy Company	books	100.62
Pepsi Cola Of Siouxland	merchandise	1,838.20
Physio-Control Corp	repairs	642.28
PKG Contracting, Inc	wwtf digester improvements	118,361.81
Potomac Aviation Technology	parts	51.51
Presto-X-Company	inspection/treatment	112.00
Print Source	advertising/printing	1,657.10
Prochem Dynamics	supplies	503.47
Proefrock Electric Inc	install controller	50.00
Property Maintenance Service	mowing	253.75
Quill	supplies	1,412.20
Racom Corporation	maintenance	465.96
Reams Sprinkler Supply	parts	1,323.56
Recorded Books, Inc	books	676.20
Recreonics	supplies	39.07
Reflective Apparel Factory	work shirts	213.72
Republic National Distributing	merchandise	18,566.79
Resco	street light poles	8,420.00
Rob Pickens	safety boots reimbursement	100.00
Rockmount Research & Alloy	supplies	503.07
Sanford Clinic Vermillion	supplies	284.44
Sanford Health Plan	participation fee	60.00
Sanitation Products Inc	supplies	624.35

Schaeffer Mfg. Co	supplies	672.00
Schumacher Oil	supplies	482.40
Scott Iverson	safety boots reimbursement	100.00
SD Dept Of Health	testing	140.00
SD Electrical Commission	wiring permit	50.00
SD Retirement System	contributions	84,873.69
Security Shredding Service	shredding	35.00
Service Master Of Se SD	custodial	3,299.69
Sioux Falls Crane & Hoist	inspection	734.00
South Dakota Open	bronze sponsorship	500.00
Southern Glazer's Of SD	merchandise	1,380.15
Stan Houston Eqpt Co	parts	102.50
Steve's Heating & A/C Inc	furnace/air conditioner	6,202.59
Stuart C. Irby Co.	supplies	1,475.00
Sturdevants Auto Parts	parts	858.96
Sun Mountain	merchandise	107.79
Swank Movie Licensing USA	license renewal	418.00
Syncb/Amazon	books/dvds/supplies	1,019.13
Team Golf	merchandise	826.00
The Equalizer	advertising	3,126.50
The Graphic Edge	work t-shirts	2,185.63
The Ups Store #6751	shipping	12.62
Titleist-Acushnet Company	merchandise	1,935.34
Tractor Supply Credit Plan	supplies	667.28
Triview Communications	repairs	399.00
Turner Plumbing	repairs	379.25
Two Way Solutions	battery	79.98
Tyler Technologies	maintenance	1,250.00
United Way	contributions	1,032.00
Unum Life Insurance Company	insurance	1,437.46
USA Bluebook	supplies	803.63
USD Foundation Office	TIF #6 payment	14,744.51
USD Speech & Hearing Clinic	testing	150.00
Utility Equipment Co.	parts	504.88
Van Diest Supply Co	supplies	650.00
Vast Broadband	911 circuit/dialup services	1,415.45
Verizon Wireless	cell phones/ipad access	2,160.27
Vermillion Ace Hardware	supplies/parts	4,493.77
Vermillion Chamber Of Comm	TIF #5 collections	36,444.79
Visa/First Bank & Trust	fuel/lodging/supplies	9,010.13
Wal-Mart Community	supplies	1,413.87
Walker Construction	cotton park bathrooms	13,856.71
Walt's Homestyle Foods, Inc	supplies	187.40

Williams & Co.	2018 audit	23,000.00
WSP US	professional services	9,934.82
Yankton Fire & Safety	extinguisher service	80.00
Yankton Medical Clinic	testing	24.00
Zee Medical Service	supplies	127.30
Zerofriction Llc	merchandise	582.66
Ziegler Inc	repairs	1,246.91
Zimco Supply Co	chemicals	29,063.20
Jason Reisdorfer	bright energy rebate	150.00

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

12. Consensus Agenda

A. Set a public hearing date of June 17, 2019 for special daily malt beverage and wine license for the Vermillion Area Chamber of Commerce and Development Company on or about July 11, July 18, July 25, August 1, August 8, August 15, August 22 and August 29, 2019 for Thursdays on the Platz events on Ratingen Platz and adjoining portions of Main and Market Streets

B. Set a public hearing date of June 17, 2019 for a special daily malt beverage and wine license for the Clay County Agricultural Fair Association on or about August 8-10, 2019 on the fairgrounds and a portion of High Street

165-19

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

13. Adjourn

166-19

Alderman Ward moved to adjourn the Council Meeting at 7:18 p.m. Alderman Collier-Wise seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 3rd day of June, 2019.

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  
DECLARING JUNE 17-23, 2019  
AS LGBTQ WEEK IN VERMILLION**

**WHEREAS**, the month of June is designated as LGBTQ Pride Month nationwide and is celebrated by cities around the globe; and

**WHEREAS**, Vermillion has a diverse LGBTQ community that includes people of all ethnicities, religions and professions; and

**WHEREAS**, everyone should be able to live without fear of prejudice, discrimination, violence or hatred based on gender identity or sexual orientation; and

**WHEREAS**, the city of Vermillion will celebrate its first Annual Pride Week June 17-23, 2019 with numerous activities for the whole community to participate in and enjoy.

**NOW, THEREFORE**, we, the governing body of the City of Vermillion, South Dakota, do hereby proclaim June 17 - 23, 2019, as

**“LGBTQ PRIDE WEEK”**

in the City of Vermillion, and we encourage the citizens of our community to recognize the accomplishments and contributions of all citizens and visitors.

Dated at Vermillion, South Dakota this 17<sup>th</sup> day of June, 2019.

FOR 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:** June 17, 2019

**Subject:** Special Daily Malt Beverage and Wine License for Vermillion Chamber of Commerce and Development Company on or about July 11, July 18, July 25, August 1, August 8, August 15, August 22 & August 29, 2019 at Ratingen Platz, half block of Market Street south of Main Street and Main Street as it abuts the Platz for Thursdays on the Platz events

**Presenter:** Mike Carlson

**Background:** The Vermillion Chamber of Commerce and Development Company has submitted an application for a special daily malt beverage and wine license for the Thursdays on the Platz events on or about Thursday, July 11, July 18, July 25, August 1, August 8, August 15, August 22 & August 29, 2019. The event will be held at Ratingen Platz on the corner of Market Street and Main Street, half block of Market Street south of Main Street and Main Street as it abuts the Platz.

City ordinance on special daily licenses reads as follows:

112.18 SPECIAL ALCOHOLIC BEVERAGE LICENSES ISSUED IN CONJUNCTION WITH SPECIAL EVENTS.

- (A) The City Council may grant, after public hearing, a special on-sale malt beverage and/or a special on-sale wine license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event.
- (B) The City Council may grant, after public hearing, a special off-sale package wine dealers license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL Ch. 35-12.
- (C) Any license issued pursuant to this section shall be issued to the person and the location specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the municipality. However, no period of time may exceed 15 consecutive days. The granting of the special license shall be subject to such conditions and restrictions as the City Council may deem appropriate and consistent with state law.
- (D) The fee for such special licenses shall be set by resolution of the City Council.

State Statute for the special daily licenses is as follows:

35-4-124. Special alcoholic beverage licenses issued in conjunction with special events. Any municipality or county may issue:

- (1) A special malt beverage retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;

- (2) A special on-sale wine retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;
- (3) A special on-sale license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
- (4) A special off-sale package wine dealers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

Any license issued pursuant to this section may be issued for a period of time established by the municipality or county. However, no period of time may exceed fifteen consecutive days. No public hearing is required for the issuance of a license pursuant to this section if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or county or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year.

**Discussion:** The Police Chief's report and notice of public hearing are attached. The Police Chief reported there were no incidents with the event held in past years. As the event will be held on a City street and City property, ordinance allows the City to include "*such conditions and restrictions, as the governing body may deem appropriate and consistent with state law*". The VCDC is requesting the permit to sell beer and wine on City property. The individuals selling the beer and wine may or may not be VCDC staff or Board members. The VCDC has provided a Release and Indemnification releasing the City from liability for the event. The certificate of insurance naming the city as additional insured has not been received as of the time of preparing this memo.

Below are some special conditions required by the City Council in the past for other entities that have used city property to sell alcoholic beverages. Adjustments may be appropriate for the last three conditions, but Staff recommends the City Council consider and attach most of the following conditions:

- Require the applicant identify and utilize a fenced area where alcoholic beverages may be sold and consumed, as well as a plan to monitor the entrances and exits from this area.
- Require a plan for the cleanup and disposal of the cups and other materials after the event.
- Restroom facilities. Some groups have used port-a-potties for a similar event. The duration of the event may minimize the need for specific restroom facilities.
- Hours of sale may be limited. The application indicated the hours are from 4:00 pm to 8:00 pm.

**Financial Consideration:** The City has received the \$20 per day fee and \$15 advertising fee.

**Conclusion/Recommendations:** Administration recommends approval of the special daily malt beverage and wine license for the Vermillion Chamber of Commerce and

Development Company on or about July 11, July 18, July 25, August 1, August 8, August 15, August 22 & August 29, 2019 at Ratingen Platz, half block of Market Street south of Main Street and Main Street as it abuts the Platz for Thursdays on the Platz events from 4:00 p.m. to 8:00 p.m. contingent upon the receipt of a certificate of insurance naming the city as an additional insured for the event. Approval recommended only if the City Council is comfortable that the applicant holding the license can properly distribute malt beverages and regulate the event and the applicant is in complete understanding and agreement with regard to any conditions and restrictions the City Council may require after further information is provided at the public hearing. The motion should also address the request to use the Ratingen Platz.

City of Vermillion  
Police Department  
15 Washington Street  
Vermillion, SD 57069  
Phone: (605)677-7070  
FAX: (605)677-7166  
[www.vermillionpd.org](http://www.vermillionpd.org)



May 28, 2019

To: Vermillion City Council

From: Matthew Betzen   
Chief of Police

Subject: Special Daily License (On-Sale) Malt Beverage and Wine License-Thursday on the Platz

The Vermillion Area Chamber and Development Company, Inc is making this application for their annual "Thursday on the Platz" events. These events are scheduled for July 11, July 18, July 25, August 1, August 8, August 15, and August 22. The events involve alcohol sale on the Ratingen Platz and the ½ block of Market St from Main south.

The applicants are clear of any criminal history that would be cause for concern. This event has historically been well managed and I believe this license should be granted.

NOTICE OF PUBLIC HEARING OF APPLICATIONS  
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 17<sup>th</sup> day of June, 2019 at the hour of 7:00 P.M. in the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following applications for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Special Daily License (On-Sale) Malt Beverage and Wine License:

Vermillion Area Chamber and Development Company on or about July 11, July 18, July 25, August 1, August 8, August 15, August 22 & August 29, 2019 on Ratingen Platz, half block of Market Street south of Main Street and Main Street as it abuts the Platz for Thursdays on the Platz events.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 30<sup>th</sup> day of May, 2019.

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

Publish: June 7, 2019

Published once at the approximate cost of \_\_\_\_\_.

## *Council Agenda Memo*

**From:** Mike Carlson, Finance Officer

**Meeting:** June 17, 2019

**Subject:** Special Daily malt beverage and wine license for the Clay County Agricultural Fair Association on August 8, 9 & 10, 2019 at the Clay County Fairgrounds

**Presenter:** Mike Carlson

**Background:** The Clay County Agricultural Fair Association has submitted an application for a special daily malt beverage and wine license on August 8, 9 & 10, 2019 for a beer garden area, in the west arena for the Thursday, Friday and Saturday night events and also on Saturday night for a fenced portion of High Street with a band and dance. A diagram is included with the areas where alcoholic beverages will be allowed.

City Statute for the special daily licenses is as follows:

§112.18 Special Alcoholic Beverage Licenses Issued In Conjunction with Special Events.

- (A) The City Council may grant, after public hearing, a special on-sale malt beverage and/or a special on-sale wine license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event.
- (B) The City Council may grant, after public hearing, a special off-sale package wine dealers license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL Ch. 35-12.
- (C) Any license issued pursuant to this section shall be issued to the person and the location specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the municipality. However, no period of time may exceed 15 consecutive days. The granting of the special license shall be subject to such conditions and restrictions as the City Council may deem appropriate and consistent with state law.
- (D) The fee for such special licenses shall be set by resolution of the City Council.

State Statute for the special daily licenses is as follows:

35-4-124. Special alcoholic beverage licenses issued in conjunction with special events. Any municipality or county may issue:

- (1) A special malt beverage retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or

any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;

- (2) A special on-sale wine retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;
- (3) A special on-sale license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
- (4) A special off-sale package wine dealers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

Any license issued pursuant to this section may be issued for a period of time established by the municipality or county. However, no period of time may exceed fifteen consecutive days. No public hearing is required for the issuance of a license pursuant to this section if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or county or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year.

**Discussion:** The notice of public hearing is attached. As the event this year will include a band and dance on a City street, ordinance allows the City to include “*such conditions and restrictions, as the governing body may deem appropriate and consistent with state law*”. The street closure request for High Street is under new business later on the agenda.

A Release and Indemnification releasing the City from liability for the event is included as part of the street closing request and the Certificate of Insurance that names the City of Vermillion as an additional insured, including liquor liability, have been received.

The Police Chief's memo along with the notice of hearing are attached. The routine Police Department records check of the parties involved with the special daily license revealed no alcohol related violations or felony convictions in reference to this application. City staff is not aware of any problems with previous special daily licenses granted to the Clay County Agricultural Fair Association. The Police Chief recommends the following parameters be established for this event. Staff recommends the City Council consider attaching the following conditions:

- 4-6 adult volunteers will supervise the event's distribution and consumption of alcohol. The number will be determined by the amount of turnout for the Dance.

- Signage will be posted at the entry gate to the controlled area and the alcohol dispensing point stating:
  - a. Alcohol Consumption is only allowed inside the fenced area of the street.
  - b. No one under 21 will be served or allowed to consume alcohol.
  - c. No intoxicated person(s) will be served.
  - d. No alcohol can leave the fenced area.
  - e. No outside alcohol is allowed into the fenced spectator area.
- Staff will check all persons wishing to purchase and provide a wrist band once their age has been verified.
- Persons who do not have a wrist band or who appear to be under 21 will not be allowed to purchase or consume alcohol.

**Financial Consideration:** The City has received the \$20 per day licensing fee and the \$15 advertising fee from the applicant for a total of \$75.

**Conclusion/Recommendations:** Administration recommends approval of the special daily malt beverage and wine license contingent upon complying with the Chief of Police recommendations and with the understanding that the City Council is comfortable that the applicant holding the license can properly distribute malt beverages and regulate the events, and there is complete understanding and agreement by the applicant with regard to any conditions and restrictions the City Council may require after further information is provided at the public hearing.

City of Vermillion  
Police Department  
15 Washington Street  
Vermillion, SD 57069  
Phone: (605)677-7070  
FAX: (605)677-7166  
[www.vermillionpd.org](http://www.vermillionpd.org)



May 28, 2019

To: Vermillion City Council

From: Matthew Betzen  
Chief of Police

Subject: Clay County Agricultural Fair Assoc., Clay County Fair Alcohol License

I have reviewed the application for the "Special Daily License (On-Sale) Malt Beverage and Wine License" submitted by the Clay County Agricultural Fair Association, Inc. for service at the Clay County Fair on August 8-10 of this year.

I have spoke to Missy O'Conner with the Fair Board regarding the steps that will be taken during the Fair to control the distribution and consumption of alcohol.

We agreed to these efforts:

1. 4-6 adult volunteers will supervisor the event's distribution and consumption of alcohol. The number will be determined by the amount of turn on for the Dance.
2. Signage will be posted at the entry gate to the controlled area and the alcohol dispensing point stating:
  - a. Alcohol Consumption is only allowed inside the fenced area of the street.
  - b. No one under 21 will be served or allowed to consume alcohol.
  - c. No intoxicated person(s) will be served.
  - d. No alcohol can leave the fenced area.
  - e. No outside alcohol is allowed into the fenced spectator area.
3. Staff will check all persons wishing to purchase and provide a wrist band once their age has been verified.
4. Person who are not band or who appear to be under 21 will not be allowed to purchase or consume alcohol.

The Clay County Fair is an annual event and has had Special Licenses issued in the past. There are no records regarding behavior in the past that would cause me hesitation in supporting this application.

SW

SW ... 145'



500'  
600'

Google Earth

feet  
meters



100

600



@ 2017 Google

Google Earth

Cottage Pl

High St

NOTICE OF PUBLIC HEARING OF APPLICATIONS  
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 17<sup>th</sup> day of June, 2019 at the hour of 7:00 P.M. in the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following application for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Special Daily License (On-Sale) Malt Beverage and Wine License:

Clay County Agricultural Fair Association on or about August 8, 9 & 10, 2019 on the fairgrounds and on a portion of High Street.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 30<sup>th</sup> day of May, 2019.

Michael D. Carlson, Finance Officer

Publish: June 7, 2019

Published once at the approximate cost of \_\_\_\_\_.

## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** June 17, 2019  
**Subject:** Ordinance 1402 establishing small cell regulations  
**Presenter:** John Prescott

**Background:** During 2018, the South Dakota Municipal League worked with the telecommunications industry to develop a model ordinance for communities to consider with the deployment of small cell technology. The ability of local governments to regulate small cells has been impacted by FCC actions over the last year. This made the development of the model ordinance a lengthy process. Over the last 18 months, the City Council has had four noon sessions where this item was discussed. At the May 6, 2019 evening meeting, the Utilities Committee presented a draft of the ordinance and recommended approval as they had completed their review of the document.

**Discussion:** The proposed ordinance provides a framework for the provision of small cell technology services in the community. Per FCC direction, small cell equipment would be allowed anywhere in the community if the guidelines are followed. The General Standards section of the proposed ordinance is lengthy and covers small cell applications on utility poles, buildings, marquee type signs and parking lot lights. Extensive siting criteria involving the review of several items are included in the proposed ordinance. A permit will be needed to locate small cell equipment in the community. Permits would be reviewed and issued administratively. There is also an appeal process for a permit to be reviewed and issued by the Planning Commission or City Council. The City will develop an extensive application to address the criteria in the proposed ordinance. Per the proposed ordinance, the application is to include photo simulations, radio frequency emissions compliance, demonstration that the pole or support structure can handle the equipment, site plan, aesthetic compliance summary, and statement of purpose. Other items such as a noise study can be required in certain situations. A lease agreement will be needed with any providers locating small cell equipment on public right-of-way.

**Financial Consideration:** The City would have the ability to establish an application fee and annual fee for use of the public right-of-way. The language in the ordinance notes that fees will be set by resolution, which is the common practice. A resolution establishing fees is generally presented with the second reading of an ordinance.

8. New Business; item a

**Conclusion/Recommendations:** Administration recommends approval of the first reading of Ordinance 1402 to establish regulations for the deployment of small cell technology.

**PROPOSED ORDINANCE NO. 1402**

**AN ORDINANCE AMENDING TITLE XV LAND USAGE TO ADD CHAPTER 157 SECTIONS 157.01 – 157.13 TO THE CITY OF VERMILLION CODE OF ORDINANCES ENTITLED PROVISIONS FOR SMALL CELL WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FOR THE PURPOSE, DEFINITIONS, PERMITTING AND RELATED ITEMS.**

**BE IT ORDAINED**, by the Governing Body of the City of Vermillion, South Dakota that the Code of Ordinances Title XV be amended to add Chapter 157, Sections 157.01-157.13 as follows:

**§ 157.01 PURPOSE.**

The provisions of this Chapter shall be known as the Small Cell Facilities Regulations. It is the purpose of these provisions to develop standards and siting criteria, and to establish removal procedures. It is further the purpose of these provisions:

(A) To establish regulations and siting standards for small cell wireless communication facilities (SCFs), whether in the public right-of-way or on other public or private property, in a manner that will protect the public's health, safety, and welfare and maintain the aesthetic integrity of the community. Collocation, modification or replacement of a wireless facility shall be approved by the City Manager or designee if it does not substantially change the physical dimensions of the tower or base station within the meaning of 47 U.S.C. § 1455(a) and 47 C.F.R. § 1.6100.;

(B) To facilitate the provision of wireless communication services;

(C) To provide regulations which are specifically not intended to, and shall not be interpreted or applied to: (1) prohibit or effectively prohibit the provision of wireless services; (2) unreasonably discriminate among functionally equivalent service providers; or (3) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

**§ 157.02 DEFINITIONS.**

As used in this Chapter, the following terms shall have the meanings set forth below:

**ANTENNA.** Any communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not include broadcast radio or television antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

**APPLICANT.** Any person who submits an application as or on behalf of a Wireless Provider.

**CITY.** The City of Vermillion, South Dakota.

**COLLOCATION.** The mounting or installation of an antenna or a small cell facility on a pre-existing Utility Pole or SCF Support Structure and/or modifying a Utility Pole or SCF Support Structure for the purpose of mounting or installing an antenna or SCF on that Utility Pole or SCF Support Structure in order to transmit and/or receive radio frequency signals for communications purposes.

**DEPARTMENT.** The Engineering Department of the City.

**DIRECTOR.** The City Engineer of the Department.

**FCC.** The Federal Communications Commission.

**HEIGHT.** The vertical distance measured from the base of the structure at grade to the highest point of the structure, including the antenna.

**NETWORK INTERFACE DEVICE.** The telecommunications demarcation and test point separating the wireless facility and the wireline backhaul facility.

**PERSON.** An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

**PUBLIC RIGHT-OF-WAY OR RIGHT-OF-WAY OR ROW.** The surface and space above and below any street, sidewalk, avenue, boulevard, alley, lane, easement, right-of-way, highway or thoroughfare open for public use in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public.

**SMALL CELL FACILITY OR SCF.** A Wireless Facility that either meets both of the following qualifications or is within a Stealth Design that is consistent with the design guidelines:

(1) Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three cubic feet; and

(2) Each provider's equipment enclosures shall be no larger than 28 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meters, concealment measures, Network Interface Device, underground enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switches, cable, conduit, and vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

(3) The facility is mounted (i) on a Utility Pole or SCF Support Structure 50 feet or less in height including antennas; (ii) on a Utility Pole or SCF Support Structure no more than 10 percent taller than other adjacent structures; or (iii) on an existing Utility Pole or SCF Support Structure where the facility does not extend the height of the Utility Pole or SCF Support Structure

on which it is to be located to a height of more than the greater of either 50 feet or the height of such Utility Pole or SCF Support Structure plus 10 percent.

***SMALL CELL FACILITY PERMIT.*** A permit authorizing the installation, construction, and maintenance of a Small Cell Facility.

***SMALL CELL FACILITY SUPPORT STRUCTURE OR SCF SUPPORT STRUCTURE.*** A structure, such as a monopole; tower, either guyed or self-supporting; billboard; building; or other existing or proposed structure designed to support or capable of supporting SCFs. Such term does not include a Utility Pole.

***STEALTH DESIGN.*** Any SCF that is integrated as an architectural feature of a Utility Pole or changes a support structure design so that the purpose of the Utility Pole or SCF Support Structure for providing wireless services is not as readily apparent. This includes the ability of SCFs to blend into the neighborhood environment at a given location and camouflage or conceal the SCF subject to applicable law.

***UTILITY POLE.*** A pole or similar structure that is or may be used in whole or in part to facilitate telecommunications, electric distribution, lighting, traffic control, signage, or to carry lines, cables, or other similar function, or for location or collocation of Small Cell Facilities. Such term does not include a SCF Support Structure.

***WIRELESS FACILITY.*** Equipment at a fixed location that enables Wireless Services between user equipment and a communications network, including (i) equipment associated with wireless communications; (ii) radio transceivers; (iii) antennas; (iv) coaxial or fiber optic cable located on a Utility Pole or SCF Support Structure or immediately adjacent to the Utility Pole or SCF Support Structure or directly associated with equipment located on the Utility Pole or SCF Support Structure; (v) regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. The term includes SCFs but does not include (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities.

***WIRELINE BACKHAUL FACILITY.*** An above-ground or underground wireline facility used to transport communications data from a wireless facility network interface device to a network.

***WIRELESS INFRASTRUCTURE PROVIDER.*** A person that builds or install wireless facilities or Utility Poles or SCF Support Structures, but not a Wireless Provider.

***WIRELESS PROVIDER.*** A Wireless Infrastructure Provider or a Wireless Services Provider.

***WIRELESS SERVICES.*** Any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile, provided to the public.

***WIRELESS SERVICES PROVIDER.*** A person who provides wireless services.

### **§ 157.03 APPLICABILITY.**

(A) Permit Processing: For all SCF installation types, including new and replacement Utility Poles and SCF Collocations to existing SCF Support Structures or existing Utility Poles, the Department shall issue permits in accordance with the terms and procedures set forth in this Chapter.

(B) Zoning Exemption: All SCF installations shall be exempt from general zoning restrictions unless a provision of such zoning code is explicitly cited by a section of this Chapter.

(C) Exempt Activities: This Chapter shall not apply to: (i) routine maintenance; or (ii) the replacement of an SCF, Utility Pole, or SCF Support Structure which was previously approved pursuant to this Chapter or prior to enactment of this Chapter with another SCF, Utility Pole, or SCF Support Structure that is the same or substantially similar.

### **§ 157.04 SITING AND COLLOCATION CRITERIA.**

(A) SCFs shall:

- (1) be located on existing structures, such as Utility Poles or SCF Support Structures; or
- (2) be located on public property and structures if the controlling public entity agrees to the placement.

(B) Application to collocate SCFs at locations other than those listed in §157.04(A) may not be approved administratively. However, if an Applicant certifies that it is not technically feasible, economically feasible, or unduly burdensome to collocate an SCF at a location designated in §157.04(A), the Applicant may request a Special Review of the application as provided in §157.05(C)(2). Such Certification shall include a written statement indicating the reasons why said location is not feasible.

### **§ 157.05 SMALL CELL FACILITY PERMITS.**

(A) Permit Required. An SCF Permit shall be required to install any SCF, Utility Pole, or SCF Support Structure. Applications for an SCF Permit shall be considered and approved pursuant to the provisions of this Chapter. An SCF Permit shall be deemed to include all other municipal permits which may be necessary to place and construct an SCF, Utility Pole, or SCF Support Structure as represented in an approved application. The granting of an SCF Permit pursuant to this Chapter is not a grant of any franchise. All applications shall first be reviewed administratively and then, if not eligible for administrative approval, may be considered via the Special Review processes provided in §157.05(C)(2).

(B) General Review Provisions

(1) Review Period: The Department must approve or deny all SCF Permit applications pursuant to this Chapter (i) within ninety (90) days after the date an application is filed for an SCF Permit Application to place a new Utility Pole or SCF Support Structure, or (ii) within sixty (60) days after the date an application is filed for collocation of an SCF. If approved, the permit shall be issued on or before day ninety (90) or sixty (60).

(2) Tolling of Review Period: An Applicant and the Department can mutually agree in writing to toll the applicable review period at any time.

(3) Final Decision: By the end of the applicable review period, the Department must advise an Applicant in writing of its final decision. If the final decision is to deny the application, the final decision shall state the basis for denial, including specific code provisions on which the denial is based.

(4) Nondiscrimination: The Department shall process all applications under this Chapter in a nondiscriminatory manner. Aesthetic requirements shall be (i) reasonable, (ii) no more burdensome than for other types of infrastructure deployments, and (iii) objective and published in advance.

#### (C) Small Cell Facility Permit Process

(1) Administrative Review Process: An application submitted pursuant to this subsection shall be reviewed as follows:

a. Submission of Application: Applicant shall submit a complete SCF Application accompanied by any corresponding application fee to the Department.

b. Review for Completeness: The Department shall review the application for completeness following submittal. The Department must provide a written notice of incompleteness to the Applicant within ten (10) days of receipt of the SCF Permit Application, clearly and specifically delineating all missing information. Information specified in a notice of incompleteness shall be limited to that which is relevant to the approval or denial of an Application under this Chapter. Applicant shall then submit all information specified in the notice of incompleteness. The applicable review period shall restart at zero on the date the Applicant provides the missing information to complete the application. For subsequent determinations of incompleteness, the applicable review period shall be tolled if the Department provides written notice within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The applicable review period will continue, and shall not restart at zero, on the date the Applicant provides the missing information identified in a subsequent incompleteness review.

c. An application may not be approved via the Administrative Review Process unless the proposed SCF, Utility Pole, or SCF Support Structure meets all applicable location and design requirements of this Chapter. An application shall be approved via the Administrative Review Process if the proposed SCF, Utility Pole, or SCF Support Structure meets all applicable location and design requirements of this Chapter.

#### (2) Special Review Process:

a. An Applicant may request a Special Review of an application which is not eligible for administrative approval due to not meeting the applicable location or design

requirements of this Chapter and where compliance with said requirements is not technically feasible, economically feasible, or unduly burdensome.

b. Special Reviews shall be conducted by the Planning and Zoning Commission in a public meeting. Notice of such meeting shall comply with SDCL 1-25-1.1. The review hearing and final decision shall take place within the applicable sixty (60) or (90) day review period which shall begin on the date a complete application is submitted to the Department.

c. The Planning and Zoning Commission must approve, by majority vote of all members, an SCF application upon finding that the proposed installation has no reasonable alternative which better fits the location and design requirements of this Chapter. The Commission shall deny an application which does have a reasonable alternative which better fits the location and design requirements of this Chapter. For an alternative to be reasonable, the alternative must be technically feasible, economically feasible, and not unduly burdensome.

d. After the Planning and Zoning Commission has made a determination on an SCF application, the Department shall issue an SCF permit if the application was approved. If denied, the Department shall provide a notice of final decision including the grounds upon which the Planning and Zoning Commission denied the application.

#### (D) Small Cell Facility Permit Applications

(1) Application Form: The Director shall designate or develop an Application Form for an SCF Permit. An Applicant may include requests for new or replacement Utility Poles or SCF Support Structures. The Director shall allow for Applications to be consolidated pursuant to this Section. Each Applicant must submit a complete Application for each permit desired.

(2) Consolidated Applications: Each SCF Permit request in a Consolidated Application shall be considered individually.

(3) All Applications for the placement of an SCF, including modification or construction of a Utility Pole or SCF Support Structure, submitted under this Chapter shall include the following:

a. Photo Simulations. A photo simulation of a reasonably representative installation type that includes to-scale visual simulations that show unobstructed before-and-after construction daytime views from at least two angles, together with a map that shows the location of the proposed installation, including all equipment. A separate set of such materials shall be required for any design which is materially different.

b. Noise Study. A noise study for the SCF if (i) requested by the Department, (ii) the proposed site is within twenty (20) feet of a residential structure, or (iii) the application proposes to utilize equipment which may produce a persistent or chronic audible tone at such distance.

c. Radio Frequency (RF) Emissions Compliance. Whereas the FCC has exclusive jurisdiction to establish radio frequency emission safety standards, the Department may

only require a written report or statement, signed and sealed by a South Dakota licensed engineer or signed by a competent employee of the Applicant satisfactory to the City, which explains compliance with the RF emissions limits established by the FCC.

d. Utility Pole or SCF Support Structure Inspection: For collocations or modifications to existing Utility Pole or SCF Support Structure, Applicant shall inspect the structure to which a proposed SCF would be attached and determine, based on a structural engineering analysis by a South Dakota registered professional engineer, the suitability of the pole or structure for Applicant's purposes. The structural engineering analysis shall be submitted to the Department and shall certify that the Utility Pole or SCF Support Structure can reasonably support the proposed SCF.

e. New and Replacement Utility Poles and SCF Support Structures. For new and replacement Utility Poles and SCF Support Structures, Applicant shall submit foundation drawings demonstrating the foundation and new or replacement Utility Pole or SCF Support Structure can reasonably support the SCF.

f. Design Justification. A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this Chapter unless photo simulation and design documents are satisfactory to the City rendering additional compliance with this subsection. A complete design justification must identify all applicable design standards under this Chapter and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.

g. Site Plan. A site plan clearly indicating the location, type, height and width of the proposed pole, on-site land uses and zoning, adjacent land uses and zoning, distances to nearby objects, structures, and property lines, adjacent roadways, proposed means of access, utility runs, and other information which may uniquely impact the SCF's fitness for a particular site.

h. Aesthetic Compliance Summary. An explanatory statement of aesthetic considerations and requirements factored into Applicant's design such as stealthing, finishing, fencing, landscaping, or other elements which may impact the visual appeal of the SCF unless photo simulation and design documents are satisfactory to the City rendering additional compliance with this subsection.

i. A clear and complete written statement of purpose which shall minimally include: (i) a description of the technical objective to be achieved; (ii) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (iii) full-color signal propagation maps.

#### (E) General Standards

(1) Utility Pole Design: An existing Utility Pole may be replaced or extended to accommodate Small Cell Facilities subject to the following requirements:

a. Replacement and New Utility Poles: Replacement Utility Poles shall be substantially similar to the width, color, and material of the original or adjacent Utility Poles. The Department may approve minor deviations up to the minimum additional height needed to allow for the required clearance from electrical wires to accommodate an antenna or antennas and may also approve minor deviations up to fifty percent (50%) of the pole width at its base, not to exceed thirty inches (30”), when housing equipment is placed within the pole base. Replacement Utility Poles shall be located as close as possible to the existing Utility Pole, and the replaced Utility Pole shall be removed. Replacement street lights and poles shall conform to the adopted streetscape design standard for the zoning district. New Utility Poles shall mimic the design of a Replacement Utility Pole that is most suitable for the proposed location.

b. Replacement and Existing Utility Pole Height: The height of any antennas at the top of a replacement or existing Utility Pole or any pole extender, shall be no higher than the greater of either 50 feet or the height of such Utility Pole or SCF Support Structure plus 10 percent.

c. Equipment Concealed: Whenever technically feasible, antennas, cabling, and equipment shall be fully concealed within a pole, or otherwise camouflaged to appear to be an integrated part of a pole.

d. Flush-Mounting and Pole-top Antennas: When technically feasible, antennas will be flush-mounted on a pole, which means either: (i) mounted directly to the pole with no gap other than that which may be required for screws, bolts, or similar hardware; (ii) located at the top of the pole; or (iii) side-mounted by mounted arm as needed for required clearance. Canisters attached to the top of a pole shall not exceed the diameter of the pole, unless technically required, and then shall not be more than fifty percent (50%) greater than the diameter of the pole at the point of attachment or up to 16” in diameter, whichever is greater. Exceptions may be permitted whenever the City and applicant mutually agree on acceptable alternative designs.

e. Antenna Design: Each antenna shall be located in an enclosure of no more than three (3) cubic feet in volume, or in case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three (3) cubic feet.

f. No Illumination: Small Cell Facilities shall not be illuminated except for small status LEDs installed by the manufacturer. Such LEDs may not be of a nature which is likely to distract a vehicle or pedestrian due to brightness, size, blinking, other similar condition, or any combination thereof.

g. Generators and Battery Backup: Generators are not permitted for Small Cell Facilities. A battery backup may be permitted if it is concealed consistent with the provisions of this Chapter.

h. Cabinet Location and Dimensions: Any equipment cabinet for a Small Cell Facility shall utilize the smallest cabinet enclosure that is technically feasible to enclose the equipment. Disconnect switches may be located outside of the primary equipment cabinet.

i. **Painting, Coating, or Finish Material:** The exterior of an SCF shall be painted, coated, or be of a material which draws minimal attention from an observer. For example, an SCF painted in blaze orange or safety green is highly likely to draw attention and be distracting. An SCF finished with polished aluminum is more likely to be distracting than an SCF finished with matte grey paint.

(2) **Ground-Mounted Equipment:** To allow full use of the Public Right-of-Ways by pedestrians, bicyclists, and other users, all ground-mounted equipment, excluding antennas, shall to the extent feasible be either (i) undergrounded, (ii) incorporated into street furniture, or (iii) concealed in the base of a pole, and in all cases shall comply with the Americans with Disabilities Act (ADA), City construction standards, and any applicable state or federal regulations in order to provide clear and safe passage within the Public Right-of-Ways. The location of any ground-mounted equipment shall also comply with the Americans with Disabilities Act (ADA), City construction standards, and any applicable state or federal regulations in order to provide clear and safe passage within the Public Right-of-Ways.

(3) **Building-Mounted Small Cell Facilities:** Antennas may be mounted to a building if the antennas do not interrupt the building's architectural theme.

a. **Balanced Design:** Small Cell Facilities attached to the side or roof of buildings shall employ a symmetrical, balanced design for all façade-mounted antennas. Subsequent deployments on a structure's exterior will be required to ensure consistent design, architectural treatment and symmetry with any existing Small Cell Facilities on the same side of the structure.

b. **Architectural Preservation:** The interruption of architectural lines or horizontal or vertical reveals is prohibited unless demonstrated to be unavoidable.

c. **Complementary Architecture:** New architectural features, such as columns, pilasters, corbels, or other ornamentation that conceal an antenna or antennas, may be used only if the new feature complements the architecture of the existing building.

d. **Mounting Brackets:** Small Cell Facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.

e. **Concealment:** Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed conduit, cabling and wiring is prohibited.

f. **Matching Paint:** Small cell facilities, and all visible mounting hardware, shall be painted and textured to match adjacent building surfaces.

g. **Permission:** All installations of a Small Cell Facility shall have permission from the Utility Pole or SCF Support Structure owner to install the Small Cell Facility on such Utility Pole or SCF Support Structure. Nothing in this Section affects the need for an Applicant seeking to place a Small Cell Facility on a Utility Pole or SCF Support Structure that is not owned

by the City to obtain from the owner of the Utility Pole or SCF Support Structure any necessary authority to place the Small Cell Facility, nor shall any provision of this Section be deemed to affect the rates, terms, and conditions for access to or placement of a Small Cell Facility on a Utility Pole or SCF Support Structure not owned by the City. This Section does not affect any existing agreement between the Department and an entity concerning the placement of Small Cell Facilities on any City-owned Utility Pole or SCF Support Structure.

(4) Preferred Projecting or Marquee Sign: Small Cell Facilities replicating a projecting or marquee sign must comply with the City's sign regulations. All antennas shall be completely screened by the façade of the sign. All cables and conduit to and from the sign shall be routed from within a building wall. Cable coverings may be allowed on the exterior of the building wall in limited circumstances and in situations where the coverings are minimally visible and concealed to match the adjacent building surfaces.

(5) Parking Lot Lighting: Small Cell Facilities are permitted as attachments to or replacements of existing parking lot light fixtures. The design of the parking lot light fixture shall be in accordance with applicable City construction standards, except that a pole extender up to five (5) feet in height may be utilized.

(6) Purely Aesthetic Standards: To the extent that a requirement is purely aesthetic, an SCF applicant shall not be required to meet a more burdensome standard than other users of the right-of-way. Other users of the right-of-way shall meet the purely aesthetic standards of this Chapter for new or replacement deployments to the extent which is technically and economically feasible.

#### **§ 157.06 PERMIT CONDITIONS.**

(A) A permittee shall comply with all applicable law, including, but not limited to, applicable historic preservation ordinances of the City and utility undergrounding requirements.

(B) Issuance of any permit pursuant to this Chapter shall not confer any ownership rights in the Public Right-of-Way.

(C) No permittee may construct, operate, place, locate, or maintain any Small Cell Facility so as to interfere with the use of the Public Right-of-Way by the City, the general public, or any other persons authorized to use or be present in or upon the Public Right-of-Way.

(D) No permittee or affiliate thereof shall take any action or cause any action to be done which may impair or damage any ROW, or other property located in, on or adjacent thereto. Any and all Public Right-of-Way, public property, or private property that is disturbed or damaged by the permittee or affiliate thereof during the construction, operation, maintenance, or repair of a Small Cell Facility shall be promptly repaired by permittee. In the event permittee fails to make such repairs within a reasonable time period, the City may complete or cause to be completed the repair work and bill the actual and reasonable costs to the permittee. Public property, private property, and Public Right-of-Way must be restored to as good a condition as before the disturbance or damage occurred to the reasonable satisfaction of the City.

(E) In the event of an unexpected repair or emergency, the owner of a Small Cell Facility may commence such repair and emergency response work as required under the circumstances, provided it shall notify the Department promptly before such repair or emergency work, or the next day thereafter if advance notice is not practicable.

(F) Each permittee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state, and local requirements. Permittee shall be responsible for all electrical or other utility costs associated with operating each installed SCF.

(G) Every Small Cell Facility shall be subject to the right of periodic inspection by the Department, after notification to the Small Cell Facility owner. Each operator must respond to requests for information regarding its system and plans for the system as the Department may from time to time issue, including requests for information regarding its plans for construction, operation and repair of the Public Right-of-Way.

(H) The City retains the right and privilege, after notifying the Small Cell Facility owner, to move any Small Cell Facility located within the Public Right-of-Way as the City may determine to be necessary. In response to any public health or safety emergency, the City shall work in good faith with the Small Cell Facility Owner to locate a technically and economically feasible alternate location.

(I) To the extent permitted by South Dakota law, the City shall not be liable for any damage to any Small Cell Facility within the Public Right-of-Way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the Public Right-of-Way by or on behalf of the City, except to the extent such damage is due to or caused by the City's sole negligence or willful misconduct.

(J) Restoration shall comply with the following:

a. When a permittee, or any person acting on its behalf, does any work in or affecting any Public Right-of-Way, it shall, at its own expense, promptly remove any obstructions therefrom and restore such Public Right-of-Way or property to the same, or better than the, condition which existed before the work was undertaken. As used in this section, "promptly" shall mean as soon as required by the Department in the reasonable exercise of the Department's discretion.

b. If weather or other conditions do not permit the complete restoration required hereunder, the permittee shall temporarily restore the affected right-of-way or property. Such temporary restoration shall be at the permittee's sole expense, and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

c. Right-of-Way or property. Such temporary restoration shall be at the permittee's sole expense, and the permittee shall promptly undertake and complete the required

permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

d. A permittee or other person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the Right-of-Way.

e. Restoration and repair work shall be the responsibility of the permittee for two (2) years after completion thereof. Such work shall be limited to further restoration or repairs arising out of deficient completion of the initial work but shall not include further restoration or repairs arising out of events not related to the initial completion of the work.

(K) The site and Small Cell Facilities and SCF Support Structures, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans. This includes, but is not limited to, mowing, weeding and trimming.

(L) All graffiti on Small Cell Facilities must be removed at the sole expense of the permittee after notification by the Department to the owner or operator of the Small Cell Facilities.

(M) Certificate of Completion

(1) A certificate of completion will only be granted upon satisfactory evidence that the SCF was installed in substantial compliance with the approved plans and photo simulations.

(2) If it is found that the SCF installation does not substantially comply with the approved plans and photo simulations, Applicant shall make any and all such changes required to bring the SCF installation into compliance within the timeframe established by the City. Failing to obtain a Certificate of Completion within the applicable timeframe shall cause a permit to be revoked.

(N) Compliance: All Small Cell Facilities must comply with all standards and regulations of the FCC and any state or other federal government agency with the authority to regulate small cell facilities.

(O) Applicant Insurance

Each Applicant shall secure and maintain liability insurance policies, as accepted by the City, insuring the Applicant and including the City, and its elected and appointed officers, officials, boards, commissions, agents, representatives, and employees as additional insureds, as their interest may appear under this section except workers compensation and employer's liability, which insurance shall be maintained during and for one (1) years after termination of the permit. Expected coverage shall be the same or substantially similar to the following:

(1) General liability insurance with minimum limits of:

- a. \$5,000,000 per occurrence for bodily injury (including death); and
- b. \$2,000,000 for property damage resulting from any one accident; and
- c. \$5,000,000 general aggregate including premise-operations, products/completed operations, and explosion, collapse and underground hazards.

(2) Automobile liability for owned, non-owned and hired vehicles in the amount of \$2,000,000 combined single limit for each accident for bodily injury and property damage

(3) Worker's compensation within state statutory limits and employer's liability insurance with \$1,000,000 each accident/disease minimum policy limit.

Upon receipt of notice from its insurer(s), Applicant shall provide City with thirty (30) days prior written notice of cancellation of any required coverage.

Applicant shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.

(P) Financial Assurance

Upon the approval of an SCF application, the permittee shall post a bond, letter of credit, or other form of surety acceptable to the City.

(1) The purpose of such financial assurance shall be to:

- a. Provide for the removal of abandoned or improperly maintained SCFs, including those that the City determines need to be removed to protect public health, safety, or welfare;

- b. Restoration of the ROW in connection with removals as provided for in this Chapter; or

- c. Recoup rates or fees that have not been paid by the permittee in excess of 12 months, so long as the permittee has received reasonable notice from the City of any of the non-compliance listed above and an opportunity to cure.

(2) The amount of the financial assurance shall be \$200 per approved SCF permit. For permittees with multiple SCFs within the City, the total amount of financial assurance across all facilities may not exceed \$10,000, which amount may be combined into one surety instrument.

**§ 157.07 RELOCATION.**

All Small Cell Facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel on or safety of the Public Right-of-Way or obstruct any legal use of the City's Right-of-Way or uses of the Right-of-Way by utilities or other providers. If, in the reasonable determination of the City, a Small Cell Facility needs to be relocated for reasons of public health, safety or welfare, or ROW maintenance or construction projects, then the Small Cell Facility shall be relocated at the permittee's expense. If the permittee of the Small Cell Facility fails to complete any relocation as required by the City within ninety (90) days of mailing of written notice, the City

may commence and complete the relocation and charge the permittee of the Small Cell Facility for the actual and reasonable costs of the relocation, including reasonable any attorneys' fees and expenses.

**§ 157.08 REMOVAL OF ABANDONED SMALL CELL FACILITIES, UTILITY POLES, AND OTHER SCF SUPPORT STRUCTURES.**

Any SCF, Utility Pole or other SCF Support Structure that is not operated for a continuous period of twelve (12) months or is no longer authorized by a Small Cell Facility Permit or other permit shall be considered abandoned, and the permittee of such SCF, Utility Pole or other SCF Support Structure shall so notify the City in writing and remove the same within ninety (90) days of giving notice to the City of such abandonment. Failure to remove an SCF, Utility Pole, or other SCF Support Structure within said ninety (90) days shall be grounds for the City to remove the SCF, Utility Pole, or SCF Support Structure, at the permittee's expense, including all costs and reasonable attorneys' fees.

If there are two (2) or more users of a single Utility Pole or SCF Support Structure, then these provisions shall not become effective until all users cease using the Utility Pole or SCF Support Structure.

**§ 157.09 GENERAL INDEMNIFICATION.**

In addition to and distinct from the insurance requirements of this Chapter, each Applicant hereby agrees to defend, indemnify and hold harmless the City and its officers, officials, boards, commissions, employees, agents and representatives from and against any and all damages, losses, claims and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the acts, omissions, failure to act or misconduct of Applicant or its affiliates in the construction, installation, operation, maintenance, repair, removal or replacement of the SCF. This Chapter shall not require the Applicant to indemnify or hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence or willful misconduct of the City.

**§ 157.10 APPEAL PROCESS.**

If a permit is denied in the administrative review process, then Applicant may appeal that decision to the Planning and Zoning Commission for further consideration. If that same permit or a request for a permit is denied by the Planning and Zoning Commission, then Applicant may appeal that decision to the City Council for further consideration. Such reviews must be completed within the review period set forth in §157.05 (B). Nothing in this Section is intended to require exhaustion of administrative remedies or otherwise prevent an applicant from proceeding directly to court or to the Federal Communications Commission.

**§ 157.11 APPLICATION FEES, RATES AND LICENSE.**

(A) Application Fees. The fee for a permit for each SCF or SCF Support Structure shall be established by resolution approved by the City Council.

(B) Recurring Fees. A Wireless Provider authorized under this Chapter to place SCFs and any related Utility Pole or SCF Support Structure in the ROW shall pay to the City a ROW access fee established by resolution adopted by the City Council in an amount not to exceed the maximum fee permitted by applicable Federal law. Recurring fees shall be paid annually in accordance with the City's standard billing or invoicing procedures.

(C) The application fee and the recurring fees under this Section shall be the sole compensation that the Wireless Provider shall be required to pay the City. However, the rates of either the application fee or the recurring fees may be increased due to extreme circumstances but in no case may such fees exceed a reasonable approximation of the City's actual and reasonable costs. In addition, such fees must be objectively reasonable, and no higher than charged to similarly-situated competitors in similar situations.

(D) Each applicant shall enter into a lease / license agreement with the City. The lease / license agreement defines term, license, termination, and SCF removal provisions as well as any other terms and conditions that City and SCF may mutually agree upon.

**§ 157.12 SEVERABILITY.**

The various parts, sentences, paragraphs, sections and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

**§ 157.13 CONFLICT.**

Subject to the limitation set forth in §157.03(B), these Small Cell Facilities Regulations are in addition to other regulations in the City's Code of Ordinances. In case of a conflict between regulations, and provided the regulation is consistent with federal law, the more restrictive provisions shall apply.

Dated at Vermillion, South Dakota this 1<sup>st</sup> day of July, 2019.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

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

ATTEST:

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

First Reading: June 17, 2019  
Second Reading: July 1, 2019  
Published: July 12, 2019  
Effective: August 1, 2019

## *Council Agenda Memo*

**From:** Jalatama Omar, Intern

**Meeting:** June 17, 2019

**Subject:** Request to close Market Street from W. Main Street to the south end of Ratingen Platz, as well as W. Main Street from the west line of the W. Main and Prospect Streets intersection west through the west side of Ratingen Platz for Thursdays on the Platz

**Presenter:** Jolly Omar

**Background:** The Vermillion Area Chamber and Development Company has requested the closure of Market Street from W. Main Street to the south end of Ratingen Platz, as well as W. Main Street from the west line of the W. Main and Prospect Streets intersection west through the west side of Ratingen Platz on July 11, July 18, July 25, August 1, August 8, August 15, August 22, and August 29, 2019 from 4:00pm-8:00 on these dates.

**Discussion:** The completed street closure request application and diagram are attached. The Street, Police, Fire, and EMS departments have been notified of the street closure request. They did not have any concerns. Cleanup will be handled by VCDC Staff and Thursdays on the Platz Committee Members.

According to the application, the VCDC will meet with businesses individually to let them know of the events requiring street closure. There are a limited number of businesses abutting the area to be closed.

**Financial Consideration:** None.

**Conclusion/Recommendations:** Administration recommends that the City Council approve the temporary closing of Market Street from W. Main Street to the south end of Ratingen Platz, as well as W. Main Street from the west line of the W. Main and Prospect Streets intersection west through the west side of Ratingen Platz for Thursdays on the Platz on July 11, July 18, July 25, August 1, August 8, August 15, August 22, and August 29, 2019.

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com)  
**To:** [Marty Washington](#); [John Prescott](#); [James Purdy](#)  
**Subject:** Online Form Submittal: Street Closure Request Form  
**Date:** Sunday, June 02, 2019 3:12:09 PM

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## Street Closure Request Form

### INSTRUCTIONS

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1. All Street Closure Applications must be received 7 days before the next City Council meeting.

*Every street closure request is considered by the City Council. Complete Street Closure Applications must be received by Staff 7 days prior to City Council meetings to ensure the Application is placed on to the agenda. City Council meetings occur on the first and third Monday of each month, unless the meeting day is a holiday, in which case the Council meeting occurs the following day.*

---
2. If your event will generate excessive noise or will be serving alcohol additional permits are required.

*This application only covers Street Closures. A Permit to Exceed Allowable Noise Levels and/or a Special Daily Malt Beverage and/or Wine License are required separately. These permits are required 30 days before an event so please plan accordingly.*

---
3. If your event occurs after business hours or over the weekend, you may be required to set up and take down barricades.

*In order to reduce overtime costs, we may ask that you meet with City Staff during work hours where you will receive the traffic barricades and instructions on how to set them up properly. After your event you will be asked to place the barricades in an agreed upon location where City Staff will pick them up at a later time.*

---
4. Please request the minimum street closure needed for your event.

*Street closures can make for fun events for those involved but can be an inconvenience for others. Please be considerate and request the smallest closure needed to hold your event.*

---
5. You are required to notify all properties that your closure will affect.

*In order to help those affected by your Street Closure Request plan ahead, you must notify all properties affected by your closure either in writing or verbally 24 hours in advance of the City Council meeting when your request will be considered.*

---
6. Communicating with City Staff before you submit an application is encouraged.

*If you have any questions about the Street Closure Request process or need help filling out the Application, please call us at (605) 677-7050. Additionally, a phone number must be provided that can be accessible 24 hours prior to and for the duration of the event.*

---
7. You are responsible for cleaning up after your event and any damage that may be caused.

*On the Application we will ask for your plans to clean up after the event.*

---

8. The City Council reserves the right to accept, modify, or deny all Street Closure Requests.

*The City reserves the right to modify the street closing after City Council approval if needed due to unforeseen circumstances.*

9. The Applicant is required to sign a "Release, Hold Harmless and Indemnification Agreement."

10. Failure to abide by these instructions or requirements may affect your future closure requests.

11. A deposit may be required for future street closure requests if you fail to return traffic barricades in the condition they were issued to you or if public property is damaged due to your event.

I have read and understand these instructions

I agree.

Electronic Signature

Michael F Bartos

(Section Break)

## APPLICATION

Organization Requesting

Vermillion Area Chamber and Development Company

Name of Event & Brief Description of Event

Thursdays on the Platz

Expected Participants

250-300

Name of Primary Contact Person

Nate Welch

Primary Contact Phone Number + 24 Hour Access Phone Number

[REDACTED]

Name of Secondary Contact Person

Mike Bartos

Secondary Contact Phone Number + 24 Hour Access Phone Number

[REDACTED]

Date(s) of Closure Requested

7/11, 7/18, 7/25, 8/1, 8/8, 8/15, 8/22, and 8/29

Street Closures Times	4:00pm-8:00pm
Street(s) Requested to be Closed	the corner intersection of Main and Market Street
Optional File Upload	<a href="#">2019 TOTP Street Closure.jpg</a>
Please detail how you have notified or plan to notify those affected by your Street Closure Request:	Will visit businesses individually to let them know about the event.
Please detail your plans for cleaning up after your event:	All clean up will be done by VCDC Staff and Thursdays on the Platz Committee Members.
(Section Break)	
Release, Hold Harmless and Indemnification Agreement	
City of Vermillion, South Dakota I,	
Name of Event Organizer	Vermillion Area Chamber and Development Company
Dated This	6/2/2019 3:15 PM
First Name	Michael
Last Name	Bartos
Electronic Signature Agreement	I agree.
Electronic Signature	Michael F Bartos
(Section Break)	
<p>If turned in less than 7 days before the next Council meeting it will be placed on the following Council meeting agenda. Once submitted, Staff will verify that everything has been filled out correctly. Afterwards, you will be contacted to inform you of when your Street Closure Request will come before the City Council. It is highly recommended that you attend this meeting.</p>	
Please enter your email	<a href="mailto:Mike@VermillionChamber.com">Mike@VermillionChamber.com</a>

Email not displaying correctly? [View it in your browser.](#)

## *Council Agenda Memo*

**From:** Jalatama Omar, Intern

**Meeting:** May 28, 2019

**Subject:** Request to close Court Street from High Street starting on the Bike path to Vermillion Public Transit driveway

**Presenter:** Jolly Omar

**Background:** The Clay County Fair Board has requested the closure of High Street from the bike path to the Vermillion Public Transit driveway. The closure would begin on Thursday, August 8, 2019 at 7am and last until Sunday, August 11, 2019 at 10am.

**Discussion:** The completed street closure request application and diagram are attached. The Street, Police, Fire, and EMS departments have been notified of the street closure request. They did not have any concerns. Event coordinators will make trash cans available and have arranged for volunteers to clean-up the area starting Sunday morning following the fair, and High Street will open as soon as it is cleaned up and safe to open for use.

According to the application, the Public Transit driveway will remain open for use and no other individuals should be affected by the street closure. The length of the closure and the time requested are similar to previous years.

**Financial Consideration:** None.

**Conclusion/Recommendations:** Administration recommends that the City Council approve the temporary closing of High Street from the Bike Path to Vermillion Public Transit driveway from August 8, 2019 at 7:00 am and last until Sunday August 11, 2019 at 10:00 am for the Clay County Fair.

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com)  
**To:** [Marty Washington](#); [John Prescott](#); [James Purdy](#)  
**Subject:** Online Form Submittal: Street Closure Request Form  
**Date:** Tuesday, May 28, 2019 2:28:59 PM

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## Street Closure Request Form

### INSTRUCTIONS

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1. All Street Closure Applications must be received 7 days before the next City Council meeting.

*Every street closure request is considered by the City Council. Complete Street Closure Applications must be received by Staff 7 days prior to City Council meetings to ensure the Application is placed on to the agenda. City Council meetings occur on the first and third Monday of each month, unless the meeting day is a holiday, in which case the Council meeting occurs the following day.*

---
2. If your event will generate excessive noise or will be serving alcohol additional permits are required.

*This application only covers Street Closures. A Permit to Exceed Allowable Noise Levels and/or a Special Daily Malt Beverage and/or Wine License are required separately. These permits are required 30 days before an event so please plan accordingly.*

---
3. If your event occurs after business hours or over the weekend, you may be required to set up and take down barricades.

*In order to reduce overtime costs, we may ask that you meet with City Staff during work hours where you will receive the traffic barricades and instructions on how to set them up properly. After your event you will be asked to place the barricades in an agreed upon location where City Staff will pick them up at a later time.*

---
4. Please request the minimum street closure needed for your event.

*Street closures can make for fun events for those involved but can be an inconvenience for others. Please be considerate and request the smallest closure needed to hold your event.*

---
5. You are required to notify all properties that your closure will affect.

*In order to help those affected by your Street Closure Request plan ahead, you must notify all properties affected by your closure either in writing or verbally 24 hours in advance of the City Council meeting when your request will be considered.*

---
6. Communicating with City Staff before you submit an application is encouraged.

*If you have any questions about the Street Closure Request process or need help filling out the Application, please call us at (605) 677-7050. Additionally, a phone number must be provided that can be accessible 24 hours prior to and for the duration of the event.*

---
7. You are responsible for cleaning up after your event and any damage that may be caused.

*On the Application we will ask for your plans to clean up after the event.*

---

8. The City Council reserves the right to accept, modify, or deny all Street Closure Requests.

*The City reserves the right to modify the street closing after City Council approval if needed due to unforeseen circumstances.*

9. The Applicant is required to sign a "Release, Hold Harmless and Indemnification Agreement."

10. Failure to abide by these instructions or requirements may affect your future closure requests.

11. A deposit may be required for future street closure requests if you fail to return traffic barricades in the condition they were issued to you or if public property is damaged due to your event.

I have read and understand these instructions

I agree.

Electronic Signature      Melissa R O'Connor

(Section Break)

#### APPLICATION

Organization Requesting      Clay County Fair Board

Name of Event & Brief Description of Event      Clay County Fair

Expected Participants      4000

Name of Primary Contact Person      Me

Primary Contact Phone Number + 24 Hour Access Phone Number

Name of Secondary Contact Person      Colleen Fickbohm

Secondary Contact Phone Number + 24 Hour Access Phone Number

Date(s) of Closure Requested      August 8-11

Street Closures Times	Thursday 7 am to Sunday 10 am
Street(s) Requested to be Closed	High Street from Bike path to Vermillion Public Transit driveway
Optional File Upload	<i>Field not completed.</i>
Please detail how you have notified or plan to notify those affected by your Street Closure Request:	We will leave the drive way open for Public Transit and no other individuals should be affected.
Please detail your plans for cleaning up after your event:	We have clean up day on Sunday morning following the fair and will open up High St as soon as it is cleaned up and safe to open.

(Section Break)

#### Release, Hold Harmless and Indemnification Agreement

City of Vermillion, South Dakota  
I,

Name of Event Organizer  
Melissa O'Connor

Dated This  
5/28/2019 2:30 PM

First Name  
Melissa

Last Name  
O'Connor

Electronic Signature Agreement  
I agree.

Electronic Signature  
Melissa R O'Connor

(Section Break)

If turned in less than 7 days before the next Council meeting it will be placed on the following Council meeting agenda. Once submitted, Staff will verify that everything has been filled out correctly. Afterwards, you will be contacted to inform you of when your Street Closure Request will come before the City Council. It is highly recommended that you attend this meeting.

Please enter your email  
[sdclaycountyfair@gmail.com](mailto:sdclaycountyfair@gmail.com)

Email not displaying correctly? [View it in your browser.](#)

## *Council Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** June 17, 2019

**Subject:** Request from Fiegen Construction on behalf of the South Dakota Sigma Alpha Epsilon Chapter to Occupy the Right-of-Way along portions of Adams Street and Madison Street for Construction Purposes

**Presenter:** Jose Dominguez

**Background:** Fiegen Construction of Sioux Falls, SD, on behalf of the South Dakota Sigma Alpha Epsilon Chapter (SAE), is requesting that parking be temporarily removed on portions of Adams and Madison Street. The removal will allow the contractor constructing the new SAE house to safely maneuver large trucks around the corners in the residential district.

**Discussion:** Section 70.073 of the Code of Ordinances allows the City Manager to designate no parking areas for temporary purposes. The City Manager could address Fiegen's request. However, due to the length of the request (remainder of June 2019 and all of July 2019), and the possible impacts on the neighbor's ability to park on the street, it was decided to have this request be acted on by the City Council. Additionally, taking this to the City Council would also allow the public an opportunity to voice any possible concerns.

Fiegen is requesting that the parking be removed for 75-feet on the east side of Adams Street north of Madison Street, and for 75-feet on the north side of Madison Street east of Adams Street. Parking would be removed to allow for the construction trucks to safely maneuver the tight turns.

**Financial Consideration:** None

**Conclusion/Recommendations:** Administration recommends removing portions of the street parking on Madison and Adams Street (as shown on the exhibit) from now until July 31, 2019.



Terry Gavette

Superintendent  
Fiegen Construction  
3712 S. Western Ave. Ste. 200  
Sioux Falls, SD 57105  
605-335-6000  
terryg@fiegenconstruction.com

June 13, 2019

José Dominguez, P.E.  
City Engineer  
City Hall, 25 Center Street  
Vermillion, SD 57069

José

Fiegen construction requests that parking be temporarily restricted on the North East corner of Madison and Adams streets. (See attached Map) This would only be for the rest of the month of June and for the month of July. This will help with the tight turning of large trucks being used for the excavation portion of the project, and will help ensure the safety of the public and property.

Please get back to me at your earliest convenience, and feel free to contact me at any time if you have any other questions or concerns.

Thank you,

A handwritten signature in black ink, appearing to be 'TG', with a long, sweeping horizontal line extending to the right.

Terry Gavette

Superintendent



Prentiss Ave

Adams St

Sigma Alpha Epsilon Fraternity



Madison St



75'±

PROPOSED PARKING RESTRICTION

75'±

Madison St

N Plum St



Trinity Lutheran Church

E Clark St

E Clark St

N Plum St



GO

## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** June 17, 2019  
**Subject:** Agreement with USD to provide police powers  
**Presenter:** John Prescott

**Background:** A university police department in South Dakota needs to obtain their law enforcement authority from an agency that has jurisdiction where the university is located. Since the early 1990's, the University Police Department at the University of South Dakota has received their law enforcement authority through the Vermillion Police Department. The last agreement for the Vermillion Police Department law enforcement authority to be extended to the University Police Department was set to expire on December 31, 2018 but a six-month extension was agreed upon by both parties to allow discussions to continue forward in reaching a new agreement.

**Discussion:** A lot of discussion in developing this agreement had to do with obtaining an understanding of which agency was providing training, the cost for the training, and which trainings need to be completed. The proposed agreement better identifies the minimum training that UPD officers will receive and that UPD will have some of their staff trained as trainers to provide training for UPD officers. During the previous agreement, the training for a bike officer and the responsible agency for having an officer who is a trainer was an oral understanding. The language is now part of the written agreement. In addition, USD will provide space on campus for law enforcement meetings or training to take place. This is helpful as the training space in the basement of the public safety center is lacking and not always in useable condition.

Joint training exercises such as the Active Shooter training completed at the start of June are very valuable to all agencies involved. In recognition of providing this type of larger scale and other training, USD will provide funding to the City each year based on the size of the UPD staff.

The proposed agreement would be for three years from July 1, 2019 through June 30, 2022. This agreement also includes an annual review of the training and how the agreement is working to keep both parties updated and prepared for future agreements. The City Attorney and USD Attorney have both reviewed the agreement.

**Financial Consideration:** The City would annually receive \$500 for training costs per UPD employee. There are currently 13 sworn UPD employees. The City would also receive funding for equipment such as targets, ammunition, or other items that are expended by UPD employees during training that can't be reused.

**Conclusion/Recommendations:** Administration recommends approval of the three-year agreement with USD that would provide police powers to law enforcement officers with the University Police Department.

## **JOINT LAW ENFORCEMENT AGREEMENT**

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

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

NOW, THEREFORE, the parties agree as follows:

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

7. Reports provided to USD officials shall be treated as “Confidential,” meaning that no USD official has the authority to reproduce, disseminate, or provide for review said report to any other individual without a need to know (including but not limited to: students, faculty, or other USD officials) without prior express written authorization by the head of the originating agency or the Clay County State’s Attorney. Requests for reports by another entity or individual to a USD official, who has previously been provided reports, should be directed to the VPD or Clay County State’s Attorney Office. “Need to Know” shall be determined by the head of the providing agency and/or in an emergency situation by the Director of the University Police Department or a designee on a case-by-case basis. When making the determination of whether reports should be disseminated, the Director of UPD or said designee shall consider: public safety, the safety of USD students, the implications of impeding an ongoing investigation, constitutional and statutory rights of victims and accused, and any other statutory or constitutional provisions that he/she believes may be implicated by sharing of said information. Reports initiated or created by UPD may be shared with appropriate officials within USD as required by UPD’s responsibilities under SD Board of Regents policy and federal law. USD is solely responsible for ensuring that any information shared between USD employees is not publicly disclosed in violation of Article VI, Section 29 (Marsy’s Law), of the South Dakota Constitution. USD officials shall avoid interference with ongoing police investigations and shall communicate with VPD and/or Clay County State’s Attorney Office to coordinate actions and timing where possible to minimize such interference.

8. USD shall issue all discipline and discharge actions consistent with all rules, regulations and policies of the State of South Dakota, Board of Regents, USD, and the USD Police Department. Pursuant to this agreement the Chief will be notified in the event of any disciplinary action involving USD Police Officers.

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

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

9. USD will be responsible for all costs incurred for wages, benefits, training, equipment and uniforms for its employees. In addition, USD agrees to provide additional support to VPD as follows:

A. USD agrees to provide training space as available and requested for up to 8 days per year at no cost to VPD for the purpose of holding joint or regional law enforcement training events. Such spaces may include classrooms, meeting rooms, or conference room space.

B. In exchange for significant training opportunities provided by VPD to University Police Department, in addition to the costs of any supplies or food provided to University Police Department for such training, USD will pay VPD \$500 per year per full time officer employed by USD. It is agreed that for this payment, VPD will provide at least one significant training opportunity per year to USD police officers.

C. University Police Department will maintain officers trained as trainers, and invite VPD to participate in all training sessions in the following areas:

1. Firearms
2. Active Shooter
3. PPCT/Use of Force
4. Taser
5. Radar
6. AliCE
7. Oleoresum Capsicum (OC Spray)
8. DUI

D. University Police Department will share equally in training costs for IPIMBA Bike Officer Instructor training for a University Police Department or VPD officer, up to once annually, in order to have at least one instructor in either the VPD or University Police Department at all times.

E. USD will provide, as available, facilities for active shooter training to be held jointly by University Police Department and VPD.

F. University Police Department will provide assistance in responding to requests directed to VPD for officers to speak to University-related student groups, organizations, or classes.

10. Each party shall maintain adequate liability insurance. The USD does not insure with commercial liability insurance providers, but as an entity of the State of South Dakota, participates in the Public Entity Pool for Liability, a self-insured liability program established by law. This is a tort liability coverage program for employees of the State and provides for payment of valid tort claims against employees. The coverage amount is \$1,000,000 per accident, act, error, omission or event, which results in damages and arises within the scope of the employees' duties, and for which the employee is legally obligated to pay. Certificate of coverage is available upon request.

All officers in the course of their duties shall remain employees of their employing agency and, therefore, shall continue to be covered by their employing agency for the purposes of Workers Compensation.

11. The parties agree to conduct joint meetings at least annually or as requested by either party during the term of this agreement to discuss issues of mutual interest and concern to the performance of this agreement. It is anticipated that items brought forward during the meetings may result in amendments or addenda to

this agreement. University Police Department and VPD agree to report annually, in June or at another time mutually agreeable to the parties, to the Vermillion City Manager on support provided pursuant to Section 9 of this agreement, the number of calls for assistance in which University Police Department provided assistance as authorized by Section 3 of this agreement, and the number of calls responded to on campus by VPD.

12. The term of this agreement shall be three (3) years beginning July 1, 2019 and terminating June 30, 2022 unless extended by mutual written agreement. Either party may, by giving sixty (60) days written notice to the other, revoke or rescind this agreement for any reason.

13. This agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate or grant expenditure authority or funds become unavailable by operation of law or federal funds reductions, this agreement will be terminated by the State and USD. Termination for any of these reasons is not a default by the State and USD nor does it give rise to a claim against the State and USD.

Date this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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John E. (Jack) Powell, Mayor  
CITY OF VERMILLION, SD

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Sheila K. Gestring, President  
UNIVERSITY OF SOUTH DAKOTA

CITY OF VERMILLION  
 INVOICES PAYABLE-JUNE 17, 2019

1 AT&T MOBILITY	MOBILE HOT SPOTS	426.71
2 BROADCASTER PRESS	ADVERTISING	1,501.69
3 BUHL'S CLEANERS	MOP/MAT SVC	615.64
4 BUREAU OF ADMINISTRATION	TELEPHONE	189.74
5 CAMPBELL SUPPLY	SUPPLIES	26.80
6 CASK & CORK	MERCHANDISE	710.50
7 CENTURYLINK	TELEPHONE	1,583.97
8 CITY OF VERMILLION	COPIES/POSTAGE/LANDFILL VOUCHERS	2,376.04
9 CLAY RURAL WATER SYSTEM	WATER USAGE	64.80
10 CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,786.25
11 DAKOTA BEVERAGE	MERCHANDISE	6,497.65
12 DIVISION OF MOTOR VEHICLE	TITLE/PLATES	21.20
13 DUBOIS CHEMICALS	SODA ASH	6,620.00
14 FARMERS MARKET	ONLINE REGISTRATION	34.16
15 GLOBAL DIST.	MERCHANDISE	148.34
16 GOVERNMENT FINANCE OFFICER ASSOC	2018 ANNUAL REPORT	460.00
17 GREGG PETERS	MANAGERS FEE/ADVERTISING	6,500.00
18 HEARTLAND HUMANE SOCIETY	PROFESSIONAL SERVICES	140.00
19 JOHN A CONKLING DIST.	MERCHANDISE	3,762.80
20 JOHNSON BROTHERS OF SD	MERCHANDISE	9,409.52
21 JONES FOOD CENTER	SUPPLIES	127.88
22 LOREN FISCHER DISPOSAL	HAUL CARDBOARD	1,150.00
23 MIDAMERICAN	GAS USAGE	3,428.28
24 MIDCONTINENT COMMUNICATION	CABLE/INTERNET SERVICE	746.57
25 MIDWEST ALARM CO	ALARM MONITORING	84.75
26 MUNICIPAL ELEC. ASSOC.	MEMBERSHIP DUES	4,105.00
27 REPUBLIC NATIONAL DISTRIBUTING	MERCHANDISE	8,916.66
28 RESERVE ACCOUNT	POSTAGE FOR METER	900.00
29 SANFORD VERMILLION SPORTS MEDICINE	ONLINE REGISTRATION	3,365.20
30 SD DENR	LANDFILL OPERATIONS FEE	4,557.81
31 SD GOVERNMENTAL FINANCE OFFICERS	REGISTRATION	150.00
32 SD PUBLIC ASSURANCE ALLIANCE	INSURANCE-PROPERTY COVERAGE	68,120.95
33 SOUTHERN GLAZER'S OF SD	MERCHANDISE	3,427.35
34 STAPLES BUSINESS CREDIT	SUPPLIES	1,214.17
35 STERN OIL CO.	FUEL	18,309.83
36 STURDEVANTS AUTO PARTS	PARTS	277.23
37 TRACTOR SUPPLY CREDIT PLAN	SUPPLIES	99.99
38 US POSTMASTER	POSTAGE FOR UTILITY BILLS	1,000.00
39 VERMILLION ACE HARDWARE	SUPPLIES	152.88
40 VERMILLION BASEBALL ASSOCIATION	ONLINE REGISTRATION	438.24
41 VERMILLION COMMUNITY THEATRE	ONLINE REGISTRATION	731.45
42 VERMILLION YOUTH FOOTBALL	ONLINE REGISTRATION	510.04
43 JACOB AUST	BRIGHT ENERGY REBATE	400.00
44 TAD CRAWFORD	BRIGHT ENERGY REBATE	500.00
45 VALIANT VINEYARDS	BRIGHT ENERGY REBATE	707.13
46 KAREN MUENSTER	BRIGHT ENERGY REBATE	500.00
47 ROB PICKENS	BRIGHT ENERGY REBATE	400.00
	GRAND TOTAL	\$167,197.22