

Unapproved Minutes
Council Special Session
May 16, 2022
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, May 16, 2022 at 12:00 noon at the John "Jack" Powell Conference Room.

1. Roll Call

Present: Hellwege, Holland, Jennewein, Letellier, Ward, Mayor Collier-Wise

Absent: Humphrey, Price

2. Adoption of Agenda

153-22

Council Member Holland moved approval of the agenda. Council Member Jennewein seconded the motion. Motion carried 6 to 0. Mayor Collier-Wise declared the motion adopted.

3. Visitors to be Heard - None

4. Educational Session - University of South Dakota Wellness Center pool project- Athletic Director David Herbster

David Herbster, USD Athletics Director, presented on phase two of a three phase plan for the Wellness Center on the USD Campus. David stated that this new facility will house eight fifty-meter lanes with two level seating, activity pool, twenty person spa, and a meeting room. David noted that construction will start in the summer of 2022 with a completion date of spring of 2024. David stated that this is an opportunity for the University to host summer league tournaments along with youth meets. David requested the Council to consider a pledge of one million dollars. Council Member Hellwege asked what the current membership price is and how will that price be affected. David noted that there are many options for memberships out there and it has changed since the Wellness Center opened. David stated that the membership fees will not double, but the Wellness Center will have a streamlined pricing system in the future. Council Member Jennewein asked, with potential for more tournaments, how will the University handle parking. David noted that there is always going to be a parking issue, but there are options at the Dome or on-street parking. Discussion followed on community access to the Wellness Center.

5. Informational Session- Prentis Plunge Schedule- Parks and Recreation Director Jim Goblirsch

Jim Goblirsch, Parks and Recreation Director, reported on the progress on hiring lifeguards for the pool. Jim stated that currently there are 18 certified hires and 6 contingent offers for individuals that are in the process of getting certified. Jim noted that they are scheduled through July 4th, but after that the pool might need to cut back its hours on Sundays. Jim noted that this is due to employees going back to school or other changes that may happen. Jim noted that so far 737 season passes have been sold and 204 kids are signed up for swim lessons.

6. Briefing on the May 16, 2022 City Council Regular Meeting

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

7. Adjourn

154-22

Council Member Ward moved to adjourn the Council special session at 1:02 p.m. Council Member Holland seconded the motion. Motion carried 6 to 0. Mayor Collier-Wise declared the motion adopted.

Dated at Vermillion, South Dakota this 16th day of May, 2022.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA
BY _____
Kelsey Collier-Wise, Mayor

ATTEST:

BY _____
Katie E Redden, Finance Officer

Unapproved Minutes
City Council Regular Session
May 16, 2022
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on May 16, 2022 at 7:00 p.m. by Mayor Collier-Wise.

1. Roll Call

Present: Hellwege, Holland, Humphrey, Jennewein, Letellier, Ward, Mayor Collier-Wise

Absent: Price

2. Pledge of Allegiance

3. Minutes

A. Minutes of May 2, 2022, Special Session and May 2, 2022, Regular Session

155-22

Council Member Holland moved approval of the May 2, 2022, Special Session and May 2, 2022 regular session minutes. Council Member Hellwege seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

4. Adoption of Agenda

156-22

Council Member Hellwege moved approval of the agenda. Council Member Humphrey seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

5. Visitors to be Heard

A. Council Member Jennewein addressed the situation regarding the removal of signs from her place of work. Jennewein noted that her workplace is on Cherry Street and stated that political signs were placed on her company's leased land. She noted that, as a representative of the company, she removed the signs. Her company did not realize that the owner of the land had given permission for the signs to be placed. After she was informed that the owner had given permission, she replaced the signs. Jennewein noted that, as a member of the City Council, this may have been looked at as a political act, but we live in a town where we all wear multiple hats and she can assure you that her City Council roll did not take any part in this case.

B. EMS Week Proclamation

Council Member Holland read the proclamation designating the week of May 15-21, 2022 as Emergency Medical Services Week in Vermillion in recognition of members of the Emergency Medical Services in the community. Mayor Collier-Wise presented the proclamation to Matt Callahan. Matt wanted to recognize the other Emergency Medical Service Members that were present, along with those who were unable to attend.

6. Public Hearings

A. Transfer of the retail on-sale liquor license at 6 E Main Street from JNJ Management to Tom French

Katie Redden, Finance Officer, reported on an application for the transfer of the on-sale liquor license from JNJ Management LLC to Tom French located at 6 E Main Street. Katie stated that the notice of hearing is included in the packet. Katie noted that the retail on-sale liquor license is for the licensing period that will expire on December 31, 2022.

Katie stated that the City Council has the ability to transfer a license on two criteria: suitable applicant and suitable location. Katie noted that, as to the suitable applicant, Tom French is a current stakeholder of Charcoal Lounge. Katie noted that the Police Chief's report states the DCI background check had no criminal history found. Katie stated that, with respect to the location criteria, an on-sale liquor license has been issued to this location in the past. Katie noted that there is currently a license at 6 E Main Street therefore this license that is transferring will be inactive. Katie stated that Tom has noted that once he finds a location for the license, it will be activated and transferred to a different location.

157-22

Council Member Holland moved approval of the Transfer of the retail on-sale liquor license at 6 E Main Street from JNJ Management to Tom French. Council Member Ward seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

B. Annual renewal of malt beverage and South Dakota farm wine licenses

Katie Redden, Finance Officer, reported that the Notice of Hearing and the Police Chief's report for the applicants are included in the packet. Katie noted that City ordinance requires a management plan upon re-application if a violation occurred since last renewal. Katie noted that management plans were not needed this renewal due to compliance being met for these license holders since December 2021. Katie recommended the renewal of all listed licenses. Discussion followed.

158-22

Council Member Ward moved approval of the renewal of the following retail on-off sale malt beverage with SD Farm Wine licenses for the licensing period of July 1, 2021 to June 30, 2022: Bunyan's LLC for Bunyan's Video Lottery at 1201 West Main Street Suite 106; BeBee Street II, Inc for Carey's Bar at 18 West Main Street; Café Brule, Inc. for Café Brule at 24 West Main Street; Casey's Retail Company, Inc. for Casey's General

Store#2806 at 615 Jefferson St; Casey's Retail Company, Inc. for Casey's General Store#3525 at 1302 Princeton St; Charcoal Lounge, Inc. for Charcoal Lounge at 6 & 8 West Main Street; Circle 13, LLC for Public Room 13 at 1313 West Cherry; City of Vermillion for The Bluff's Golf Course at 2021 East Main Street; City of Vermillion for Municipal Liquor Store 820 Cottage Avenue; Coyote Convenience, Inc. for Coyote Convenience at 116 East Cherry Street; D&D Foods, Inc for Hartford Steak Co Tavern at 7 Court Street; Dwight Iverson for Cherry Pit Stop at 23 East Cherry Street; Fireworks, Inc for Dakota Brick House at 15 West Main Street; HyVee Food Stores, Inc. for HyVee at 525 West Cherry Street; IYS Ventures, LLC for I Mart Stores USA at 830 East Cherry Street; Jon Donald Enterprises for Silk Road Café at 12 West Main Street; Mexico Viejo, Inc. for Mexico Viejo Mexican Restaurant at 432 E. Cherry Street; Old Lumber Company, Inc for Old Lumber Company Bar and Grill at 11 & 15 Court St; PR Vermillion, LLC for Vermillion Pizza Ranch at 912 North Dakota Street; Pump N Stuff of Vermillion, Inc. for Pump N Stuff VL room #1 at 203 E Main St; Pump N Stuff of Vermillion, Inc. for Pump N Stuff VL room #2 at 203 E Main St; R & D Management, LLC for El Fredo Pizza Vermillion at 831 East Cherry Street; Red Steakhouse, Inc. for Red Steakhouse at 1 East Main Street; Sunset Oil, Inc. for Lucky 7 Casino at 629 Stanford Suite A; Sunset Oil, Inc. for Sunset Casino at 629 Stanford Suite B; Valiant Vineyard, Inc for Valiant Vineyard at 1500 West Main; Varsity Pub, LLC for The Varsity at 113 East Main Street; Vermillion Downtown Cultural Assoc. Inc. for Coyote Twin Theater at 10 East Main; Wal-Mart Stores, Inc. for Wal-Mart Super Center #3734 at 1207 Princeton Street. Council Member Holland seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

C. First reading of Ordinance 1465 to amend the 2012 Joint Zoning Regulations for Clay County and the City of Vermillion by Amending Chapter 2, Section 2.03(A) Zoning Map, by Removing Lot 1 (Except Terminal Grain Tract 1 of said Lot 1), and Lots 2, 3, & 4 of Alber's Subdivision, being an official replat of Lot 2 of Lot A in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, and Lot 2 of Lot A in the NW $\frac{1}{4}$ SW $\frac{1}{4}$); and Terminal Grain Track 1 of previously platted Lot 1 of Alber's Subdivision; and Terminal Grain Track 2 of previously platted Lot A in the N $\frac{1}{2}$ NW $\frac{1}{4}$, all in 14-92-52, West of the 5th P.M., Clay County, South Dakota, from the A-1: Agricultural District and Including it in the LI: Light Industrial District.

Jose Dominguez, City Engineer, reported that the County received a petition to rezone approximately 43.1 acres east of the Vermillion River between the SD Hwy. 50 Bypass and West Cherry Street. Jose noted that the applicant is requesting that the land be rezoned from the A-1: Agricultural District to LI: Light Industrial District. Jose stated that the applicant states that the intent of the rezoning request is to continue using the property as he has with the existing grain elevator and rail spurs.

Jose noted that the applicant previously requested that the area be rezoned from A-1: Agricultural District to the HI: Heavy Industrial district. Jose stated that, after the joint Planning and Zoning Commission meeting and the first reading of the ordinance by each individual governing body, the applicant removed the request from further consideration. Jose noted that, since the applicant removed the item and no official decision was made, the applicant is allowed to reapply to rezone his property.

Jose noted that the original ordinance for the Joint Jurisdictional Zoning Area (JJZA) was adopted by the County and the City in 2012. Jose noted that the JJZA was created with the intent to allow the County and the City to have a say in existing, and proposed, land uses in an area that would directly impact the City's growth. Jose noted that the JJZA tries to maintain the rural characteristics of the surrounding area, while allowing for some light development. Jose noted that the ordinance's intent, based on the adopted comprehensive plan for the JJZA that was adopted by the County and the City, is to direct development towards areas within City limits, or areas that can be annexed by the City and serviced with municipal infrastructure.

Jose noted that, prior to the JJZA, the City exercised extraterritorial zoning outside of the City limits. Jose noted that parts of the area being considered today were zoned in the Light Industrial zoning district. Jose stated that this district allowed agricultural uses and light manufacturing uses.

Jose reported that, in 2012, when the County and the City adopted the current JJZA zoning ordinance, this area was zoned into the A-1: Agricultural district. Jose noted that the decision to locate the property within this district was made by the County and the City. Jose noted that, based on the minutes from the meetings, it does not appear that this particular property was discussed in any great detail; however, the County and the City reviewed, and adopted, a zoning map that showed the area as being in the A-1: Agricultural district. Jose noted that the JJZA's comprehensive plan, which was also adopted and reviewed by the County and the City, shows portions of this area as either residential or commercial. Jose noted that the JJZA's comprehensive plan and zoning ordinances were discussed extensively by both bodies, individually and collectively. Jose stated that there were two public meetings on the adoption of the JJZA comprehensive plan and three meetings for the adoption of the JJZA zoning ordinance.

Jose noted that, currently, this property is being used as a grain elevator and this use was allowed in the previous ordinance's L-1 Light Industrial district (from 1968 to 2012). Jose stated that the old district did not specifically call out for a "grain elevator" or for a

"grain terminal/grain processing facility" under the allowable uses. Jose noted that City Staff believes that the existing "grain elevator" use was considered a type of light manufacturing and thus the area was zoned into the L-1 Light Industrial district.

Jose stated that, as mentioned by the applicant in several meetings since the November 16, 2021 meeting, the applicant is trying to resolve three issues. First, the existing use as a "grain elevator" is not specifically listed in the current A-1: Agricultural district; second, the existing A-1: Agricultural zoning does not allow as many possible uses as the previous extraterritorial zoning of Light Industrial; and third, the applicant would like the areas zoned industrial prior to 2012 to be rezoned to an industrial district.

Jose noted that the applicant's request to rezone ALL of the property from A-1: Agricultural to LI: Light Industrial would address their three main concerns. Jose noted that, although this is an understandable request from the applicant, the uses near his property have changed, some of the surrounding property has changed ownership and uses, and not all the land being requested to be rezoned now was ever zoned industrial. Jose noted that staff has the following observations that the City Council should consider when making their decision:

1) In 1989, the owners at the time requested that Lots 1 and 2 of Alber's Subdivision and all the NW ¼ NW ¼ except the East 490.3-feet of 14-92-52 be rezoned from agriculture to industrial district. After much discussion during a joint meeting between the City and County governing bodies, both bodies agreed that the east portion of Lots 1 and 2 would remain in the agriculture district and not be rezoned industrial. The governing bodies agreed with the concerns of residential owners about the possibility of "future industrial type buildings."

2) Current access to SD Hwy. 50 for Terminal Grain Tract 2 is through an easement leading to Over Drive. This easement is between two private entities and the City has no control over the use of the easement. However, the City does have control over access to Over Drive.

3) The area east of Terminal Grain Tract 2 has changed from farm fields to residential uses.

4) The area being considered for rezoning is described in the JJZA comprehensive plan for either commercial or residential use and not for industrial use.

Jose noted that the current rezoning request was considered at a joint meeting of the City and County Planning and Zoning Commissions on April 25, 2022. Jose stated that the City's Planning and Zoning Commission

voted 5-2 in favor of rezoning the area as requested by the applicant. Jose noted that at this meeting there were members of the public that spoke. Jose stated that besides the owners discussing the history of the uses in their property and their reason for requesting the rezone there were also a few neighbors that spoke. Jose noted that the neighbors who spoke were concerned with the possible negative effects on their property if the area was rezoned to light industrial and the possible use of the easement for business related traffic associated with light industrial use. Jose stated that it should be noted that the neighbors who spoke were not opposed to the current use of the property, but rather with the unknowns associated with future possible uses if the area is zoned light industrial.

Kevin Myron, owner of Ag Opportunity, is present to represent himself and Ag Opportunities. Myron stated that there are three reasons for his zoning request: 1) get back in their minds where the property was (previous zoning), 2) all property all the same zoning so no confusion, and 3) to maximize the use of the property. Myron noted that to the west of his property there is a portion of 200 acres that is light industrial. Myron stated he does not want to chop up the property into pieces. Myron stated that there is already a natural border of trees along the entire length of the property.

Terrence Brady, 1882 Constance Drive, stated concerns he has with this rezone. Brady stated that he knew the history on the land. Brady noted that he was under the assumption that an agreement was made, but rezoning the entire area is too close to residential property. Brady noted that he enjoys the ag land that is there. Brady stated that some things that are allowed in the Light Industrial District he does not mind but having a recycling processing plant potentially going in their backyards is not okay. Brady noted that the residential area should be respected.

Kelly Person, 1330 Over Drive, noted there are kids in the area and the current easement that is there will allow for trucks to drive right up to the residential properties. Person stated that the trees are a natural barrier that can be knocked down, it is not much of a barrier. Person stated that the water system could be affected if a light industrial use is put in that area. Person noted that Myron's best interests are not for the residents living in the area.

Craig Myron, father of Kevin Myron, noted that when he bought it, it was zoned industrial and was, to him, illegally changed to Ag. Myron noted that he was never notified of the change and this needs to be straightened out so they can sell the property. Myron noted that there is nothing else they can do with this land.

Cheryl O'Connor, 1932 Oscar Howe Drive, noted that the tree lines currently there are old with most of them dead. O'Connor noted that the trees are not enough of a barrier. She stated that the imprint of the elevator should be kept as is. O'Connor noted that she owns Tract 3 and if this goes to light industrial it will reduce the value of her property.

Sam Otto, 1327 Over Drive, stated that he would like the north part to stay Ag. He noted that he is unsure on what traffic will come through there if rezoned.

Eugene Klinger, 1721 Baylor Street, stated that he is against Light Industrial because currently at night you can hear the noise of the trucks. Klinger noted that, if this is rezoned, there will be extra noise and ruin the reason why people bought their houses.

John Luczak, 1715 Baylor, noted that his family just bought the house there and they have come from places where there is a lot of industrial noise. Luczak noted that they picked this house to keep away from industrial type businesses due to dust and noise.

Mayor Collier-Wise got consensus from the Council to allow Terrance Brady to ask a question.

Terrance Brady, 1882 Constance Drive, asked if the taxes would change or decrease significantly if it was zoned from Light Industrial to Ag. Brady noted that someone would say something if their taxes increased but not so much if they went the other way.

Mayor Collier-Wise noted that the County does the taxes and the City would not know the answer to that.

Mayor Collier-Wise opened the floor for Council discussion.

Council Member Holland stated that he was reading the incorrect zoning at first. Holland noted that he would like to remove Terminal Tract 2 from the Light Industrial and keep it Ag.

Mayor Collier-Wise asked Jose to clarify a few things so the Council is all on the same page. Collier-Wise noted that the northern section was zoned industrial. Jose noted that this piece of land was zoned industrial from 1989-2012. Collier-Wise noted that since 2012 the entire land has been agricultural. Collier-Wise noted the road on the north section.

Craig Myron stated that the road has nothing to do with this rezone.

Mayor Collier-Wise noted that the Council needs a better understanding so the Council is on the same page.

Craig Myron asked why there needs to be clarification since it has nothing to do with this.

Collier-Wise noted that she is just asking the City Engineer the question for clarification and not asking anyone to make a decision for that piece. Collier-Wise noted that since it has been brought up that the Council needs to understand what it is and what it means.

Jose noted that was an easement that was granted by previous property owners. Jose stated that this easement gives access to that tract of land and it is between two private property owners. Jose noted that it is permission for someone to have a driveway from Over Drive.

Council Member Hellwege requested to give Cheryl O'Connor more time to talk. Mayor Collier-Wise received a consensus from the Council to allow O'Connor to speak again.

Cheryl O'Connor noted that, in regards to the easement, she spoke to the City Attorney and he said that they could draw up something to vacate the easement. O'Connor noted that she asked Kevin Myron if that would be okay and he first stated it would be and then said he had to speak with other individuals on it. O'Connor said that she would happily vacate the easement. Mayor Collier-Wise noted that this would be between two property owners.

Council Member Jennewein asked if there are restrictions through DANR for Industrial businesses next to water ways. Jose noted that for zoning there is not but depending on the use there may be additional steps for the developer to get permits.

Council Member Ward stated that he is in favor of keeping the tract light industrial. Ward stated that there is no evidence that this was not legally done. Ward stated that the notification process is flawed.

Craig Myron stated that in 2.07 it states in black and white that no land can be changed.

Council Member Ward noted that he understands what it says, but there cannot be a law created that does not allow for the law to be changed.

Brent Matter, City Attorney, advised the Council to move on from this topic.

Council Member Jennewein asked if this is re-zoned would the farmland that is currently there be non-conforming. Jose noted that it would be non-conforming.

Council Member Hellwege wants to maintain what the current business is. She noted that residents are worried about other possible operations that could go in there once sold. Hellwege stated that the operations are allowable in the current zone. She noted that she is not in favor of rezoning this area to Light Industrial.

Council Member Holland stated that the Myrons obviously want to sell and if rezoned there would be no control over what would go there besides the zoning regulations that go there. Holland stated that currently they cannot sell.

Council Member Hellwege stated that an agricultural business is a conditional use and the situation would be different if the Council knew the entire plan.

Mayor Collier-Wise noted that there are a few things that need to be considered when making a decision. She noted that the first thing is the recommendation from the Planning Commission and do we want to make it right back to 2012.

159-22

Council Member Holland moved for Lot 1 (Except Terminal Grain Tract 1 of said Lot 1), and Lots 2, 3, & 4 of Alber's Subdivision, being an official replat of Lot 2 of Lot A in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, and Lot 2 of Lot A in the NW $\frac{1}{4}$ SW $\frac{1}{4}$; Terminal Grain Tract 1 of previously platted Lot 1 of Alber's Subdivision; all in S14, T92N, R52W of the 5th P.M., Clay County, South Dakota from the A-1: Agricultural District and Including it in the LI: Light Industrial District. Mayor Collier-Wise declared the motion dead due to the lack of a second.

Mayor Collier-Wise got consensus from the Council for a member of the public to make comment.

Carol Person, 1330 Over Drive, stated that if this area is turned to Industrial she would like to know how they are going to access that portion of land.

Mayor Collier-Wise stated that there is no way the City could know how that would be accessed as the easement is between private parties.

160-22

Council Member Ward moved for an Area Beginning in the SW corner of Lot 2 Albers Subdivision, Clay County, SD, thence NW along the westerly lot line of Lots 1 & 2, Alber's Subdivision 1,226.2-feet to Vermillion River, thence north along the Vermillion River to the north line of said Lot 1, thence East 371-feet to the NE corner of said Lot 1, thence southeast 420-feet along easterly lot line of said Lot, thence southeast 1,390-

feet more or less to the point of beginning; and, Lots 3 & 4 of Alber's Subdivision, being an official replat of Lot 2 of Lot A in the SW ¼ of the NW ¼, and Lot 2 of Lot A in the NW ¼ SW ¼; Terminal Grain Tract 1 of previously platted Lot 1 of Alber's Subdivision; and, Terminal Grain Tract 2, ; all in S14, T92N, R52W of the 5th P.M., Clay County, South Dakota from the A-1: Agricultural District and Including it in the LI: Light Industrial District. Mayor Collier-Wise declared the motion dead due to the lack of a second.

Council Member Humphrey thanked everyone for contacting him and hearing from the community that lives in the area.

161-22

Council Member Humphrey moved to deny the request. Council Member Lettelier seconded the motion. A roll call vote of the Governing Body was as follows: Hellwege-Y, Holland-N, Humphrey-Y, Jennewein-N, Letellier-Y, Ward-N, Collier-Wise-N. Mayor Collier-Wise declared the motion failed.

Discussion followed on the permitted uses in Light Industrial Zoning and how the decision will affect residents in the area.

162-22

Council Member Holland moved adoption of the following Resolution:

BE IT RESOLVED that the minutes of this meeting shall show that the title to proposed Ordinance No. 1465 entitled Amending the 2012 Joint Zoning Regulations for Clay County and the City of Vermillion by Amending Chapter 2, Section 2.03(A) Zoning Map, by Removing Lot 1 (Except Terminal Grain Tract 1 of said Lot 1), and Lots 2, 3, & 4 of Alber's Subdivision, being an official replat of Lot 2 of Lot A in the SW ¼ of the NW ¼, and Lot 2 of Lot A in the NW ¼ SW ¼; Terminal Grain Tract 1 of previously platted Lot 1 of Alber's Subdivision; all in S14, T92N, R52W of the 5th P.M., Clay County, South Dakota of the City of Vermillion, South Dakota has been read and the Ordinance has been considered for the first time in its present form and content at this meeting being a regularly called meeting of the Governing Body of the City on this 18th day of April, 2022 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Council Member Ward. After discussion the question of adoption of the Resolution was put to a roll call vote of the Governing Body: Hellwege-N, Holland-Y, Humphrey-N, Jennewein-Y, Letellier-N, Ward-Y, Collier-Wise-Y. Mayor Collier-Wise declared the motion adopted.

7. Old Business

8. New Business

A. Mid American Energy annual report on natural gas franchise

Tim Forsch, representing MidAmerican Energy, reported on their presence in Vermillion. Tim stated that they have a two-man crew that represents Vermillion with an emergency response time of 24 minutes. Tim reported that Vermillion is growing with 15 new locations in 2021.

B. First reading of Ordinance No. 1337 to amend Title IX, General Regulations; Chapter 93, Animals and Fowl to amend sections 93.01 and 93.99 and add Sections 93.50 through 93.56 to include definitions, conditions, limitations and permit requirements for the keeping and housing of chickens with City limits.

John Prescott, City Manager, reported on the first reading of Ordinance No. 1337. John noted that over the course of several months during late 2015 and early 2016, proposed ordinance changes to allow for backyard chickens were developed and brought to the City Council for consideration. John stated that first reading of Ordinance No. 1337 was heard at the April 18, 2016 City Council meeting and was tabled indefinitely. John noted that this ordinance would have amended Chapter 93 of City Code to include definitions, conditions, limitations, and permit requirements related to backyard chickens. John noted that Ordinance No. 1338 was to have first reading at the May 2, 2016 City Council meeting where this ordinance was to address zoning regulations as it pertained to chicken coops as accessory buildings. John noted that given that Ordinance No. 1337 had been tabled indefinitely, the same action was taken with Ordinance No. 1338.

John noted that interest was expressed in bringing revised versions of the ordinances forward for consideration. John stated that the Policies and Procedures Committee discussed changes to the ordinances at a meeting in April 2022. John noted that the May 2, 2022 City Council agenda included a report from the Committee on proposed changes to Ordinance No. 1337 and No. 1338. John stated that the May 16, 2022 agenda included updated draft copies of the 2016 ordinances for discussion.

John noted that this agenda item has a number of potential motions to continue action on the item. Per the City Attorney, the steps to address this agenda item include: Motion to remove Ordinance No. 1337 from the table, bringing the 2016 ordinance forward for discussion, modification, and/or potential action; motion to accept the attached proposed changes to Ordinance No. 1337 as the updated version to be considered for discussion and possible action which would bring the most updated form of Ordinance No. 1337 (dated May 13, 2022) forward for discussion, modification, and/or action; and motion to accept, deny, or table the

first reading of Ordinance No. 1337. John noted that this would allow action on whichever version of the ordinance is under consideration

John noted that since the May 2, 2022 discussion, some changes have been made to the draft presented at that time to address City Council suggestions and to clarify language. Some of the changes to this ordinance include:

- 93.01 - Section (D)(8) was added. This language clarified that the number of chickens does not count toward the number of pets. The appropriate family/genius name was added to this section as well as in the definition of a chicken in 93.50;
- 93.01 - Section (B). Language was added to provide for an opportunity to have up to two additional chickens more than the allowable three provided for with the original permit.
- 93.53(D) - The language continues to allow an owner to slaughter their own chickens but is proposed to be amended so that the activity is not visible from the public right-of-way.
- 93.53(G)(1)(c) - Language stating that the run or exercise yard should be covered in such a manner to keep chickens in and predators out. This was part of the original 2016 ordinance proposal and staff believes it was removed in error during the recent revision discussions.
- 93.53(F)(5) - This language is part of 93.01 but is proposed to be repeated in this section where limitations for the single-family dwelling units are listed.
- 93.55 - With the May 2, 2022 draft, the breed of chicken and number of chickens to be permitted on the premises was removed. Staff felt the language about the number of chickens to be permitted was removed in error and that the permit application should state the number of chickens to be permitted.
- 93.56 - Section (A) - The language "or designee" was added after City Manager in the first sentence. It is typical in most ordinances to use the "or designee" language particularly in situation like this where knowledge of fowl or other animal situations would be helpful.
- 93.99 - Section (C) - This section was added to address violations as they relate to Section 93.50. It is similar to Section (B) which addresses 93.20 - dog requirements.

John noted that a fine for violation of the ordinance and fee for the permit costs are typically adopted on the same meeting agenda when the second reading of an ordinance is held.

John noted that Ordinance No. 1338 and steps to take to move this item forward for potential action are addressed as the next agenda item. Discussion followed on the chicken ordinance.

Merissa Schweinle, a 4-H member, stated that having backyard chickens is an incredible benefit to the community. She stated that you can receive organic eggs, you can train the chickens as pets, good pest control, and they are educational. She stated that you can work towards a more sustainable living environment by using left over food to feed the chickens due to chickens being able to eat mold.

163-22

Council Member Holland moved to remove Ordinance No. 1337 to amend Title IX, General Regulations; Chapter 93, Animals and Fowl to amend sections 93.01 and 93.99 and add Sections 93.50 through 93.56 to include definitions, conditions, limitations and permit requirements for the keeping and housing of chickens within City limits from the table. Council Member Hellwege seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

164-22

Council Member Ward moved to accept the proposed changes to Ordinance No. 1337 to amend Title IX, General Regulations; Chapter 93, Animals and Fowl to amend sections 93.01 and 93.99 and add Sections 93.50 through 93.56 to include definitions, conditions, limitations and permit requirements for the keeping and housing of chickens within City limits. Council Member Hellwege seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

165-22

Mayor Collier-Wise read the title to the above mentioned Ordinance and Council Member Holland moved adoption of the following Resolution:

BE IT RESOLVED that the minutes of this meeting shall show that the title to proposed Ordinance No. 1337 entitled An Ordinance Amending Title IX, General Regulations; Chapter 93, Animals and Fowl to amend sections 93.01 and 93.99 and add Sections 93.50 through 93.56 to include definitions, conditions, limitations and permit requirements for the keeping and housing of chickens with City limits of the City of Vermillion, South Dakota has been read and the Ordinance has been considered for the first time in its present form and content at this meeting being a specially called meeting of the Governing Body of the City on this 27th day of May, 2021 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Council Member Ward. After discussion, the question of adoption of the Resolution was put to a vote of the Governing

Body and 7 members voted in favor of and 0 members voted in opposition to the motion. Mayor Collier-Wise declared the motion adopted.

C. Remove from table and consider amendment of Ordinance No. 1338 to amend Title XV Land Usage; Chapter 155 Zoning Regulations to include Chicken Coops as an accessory structure.

John Prescott, City Manager, reported on Ordinance No. 1338 to amend Title XV Land Usage; Chapter 155 Zoning Regulations to include Chicken Coops as an accessory structure. John noted that within the last agenda item, the history of Ordinance No. 1337 and No. 1338 were presented. John stated that Ordinance No. 1338 is a zoning related ordinance to recognize chicken coops as an accessory building. John noted that, as Ordinance No. 1337 was tabled indefinitely at the April 18, 2016 meeting, the public hearing and first reading of Ordinance No. 1338 on May 2, 2016 was cancelled and the Ordinance No. 1338 was tabled indefinitely.

John stated that, as with Ordinance No. 1337, the Policies and Procedures Committee reviewed Ordinance No. 1338 in April 2022, presented a report at the May 2, 2022 City Council meeting, and an updated draft was reviewed at the May 16, 2022 meeting.

John noted that the Planning and Zoning Commission will be considering an ordinance on chicken coops as an accessory building as part of a public hearing at their May 23, 2022 meeting. John noted that, in order for the Planning and Zoning Commission to have the ability to consider the tabled ordinance, the City Attorney suggested consideration of the following motions: Motion by the City Council to remove Ordinance No. 1338 from the table, this action will allow the Planning and Zoning Commission and City Council to have an ordinance for discussion, modification, and/or potential action and Motion to accept the attached proposed changes to Ordinance No. 1338 as the updated version to be considered for discussion by the Planning and Zoning Commission. John noted that this motion would bring the most updated form of Ordinance No. 1338 (dated May 13, 2022) forward for discussion, modification, and/or for action initially by the Planning and Zoning Commission and then by the City Council.

John stated that, as noted, the Planning and Zoning Commission would consider Ordinance No. 1338 at their May 23, 2022 meeting: the Planning and Zoning Commission recommendation will be presented at the June 6, 2022 City Council meeting for possible action.

166-22

Council Member Holland moved to remove Ordinance No. 1338 to amend Title XV Land Usage; Chapter 155 Zoning Regulations to include Chicken Coops as an accessory structure from the table. Council Member Humphrey

seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

167-22

Council Member Jennewein moved to accept the proposed changes to Ordinance No. 1338 to amend Title XV Land Usage; Chapter 155 Zoning Regulations to include Chicken Coops as an accessory structure for consideration by the Planning and Zoning Commission. Council Member Holland seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

D. Consideration of the 2022-2026 Capital Improvement Plan

John Prescott, City Manager, reported that, at the April 18, 2022 noon City Council meeting, staff presented a Capital Improvement Plan (CIP) for City Council discussion and review. John reported that since then staff has reviewed the plan and corrected minor errors and typos. John reported that the Capital Improvement Plan does not allocate funding for any project. John stated that one of the goals of the Capital Improvement Plan is to present ideas to the City Council and community about projects that may be undertaken in the next five years. John reviewed some of the larger projects in the 2022-2026 CIP currently proposed for discussion during the 2023 budget session. Discussion followed with John recommending adoption of the 2022-2026 Capital Improvement Plan. Discussion followed.

168-22

Council Member Ward moved approval of the 2022-2026 Capital Improvement Plan as presented. Council Member Holland seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

9. Bid Openings

A. Solid Waste Services

Stone Conley, Assistant to the City Manager, reported that on April 27, 2022 City staff sent out five businesses solicitations of quotations to be considered at a bid opening for solid waste services for municipal buildings. Stone noted that on May 11, 2022 the City received one bid tabulation to open and consider from Vermillion Garbage Service. Stone stated that the bid was from Vermillion Garbage Service of Vermillion, SD for scheduled service in the amount of \$5.22 per cubic yard and \$5.51 per cubic yard for unscheduled service for waste collections. Stone noted that solid waste collection service would be provided to twelve municipal buildings and the bid is for three years.

169-22

Council Member Holland moved approval of Vermillion Garbage Service of Vermillion, SD for scheduled service in the amount of \$5.22 per cubic yard and \$5.51 per cubic yard for unscheduled service for waste collections. Council Member Humphrey seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

10. City Manager's Report

A. John reported that the next City Council meeting on June 6th includes the tabled rezoning request for an area below the bluff and west of Dakota Street along the railroad tracks to move from General Industrial to Light Industrial.

B. John reported that the June 6th meeting will also include the Annual Report by Midco Communications on the cable television service.

C. John noted that the City Planning and Zoning Commission next meets on Monday, May 23rd at 5:30 p.m. Items on their agenda include a zoning amendment for chicken coops to be an accessory building. The Commission will also meet with the County Planning Commission for a joint meeting on a single-family dwelling.

D. John stated that Prentis Plunge opens on Saturday, May 28th.

E. John stated that City offices will be closed on Monday, May 30th for the Memorial Day holiday.

F. John noted Upcoming meetings:

- Library Board - Friday, May 20th at noon in the Kozak room
- Historic Preservation Commission - Wednesday, June 1st at 9:00 a.m. in the John "Jack" Powell Conference room
- Human Relations Commission - Thursday, June 2nd at 5:30 p.m. in the John "Jack" Powell Conference Room

G. John reported that there is one term expiring on BID #2 Board. Expression of Interest forms for the 3-year term are due by noon on Thursday, June 2nd for appointment at the June 6th meeting.

H. John noted that ICAP recently completed their community report. The Library has a copy and a copy is available on the City's website.

I. John stated that a raffle notification was received from the Boys & Girls Club. They will be selling \$50 raffle tickets from June 13 to July 20, 2022. The prize is a handmade canoe from 4 Winds Woodcraft. The

proceeds from the raffle will be used for their unrestricted operating fund account which provides snacks, meals, programming, and related items

PAYROLL ADDITIONS AND CHANGES

Police: Nicholas Stark \$15.00, Dylan Deetz \$23.06/hr, Jacob Hoffman \$23.06; Recreation: Kensie Mulheron \$10.00/hr, Connor Roerig \$30.00/game, Holly Gerberding \$10.00/hr, Matt Nielsen \$30.0/game, Brooklyn Williams \$10.00/hr, Carter Mart \$11.25/hr, Alli Wroblewski \$10.00/hr, Madigan Wallin \$10.00/hr-\$30.00/game, Tori Farmer \$10.00/hr, Lindsey Hasvold \$10.00/hr; Pool: Ellie O'Connor \$13.00/hr, Keaira Pepper \$13.00/hr, Bridget Farmer \$11.25/hr, Mary Dahlhoff \$10.00/hr, Caden Feit \$13.00/hr, Kaitlin Tracy \$13.00/hr, Mack Sathre \$13.00/hr, Anna Armbrust \$13.00/hr, Clare Dahlhoff \$13.00/hr, Reed Lenker \$13.00/hr; Parks: Jiesinh Sayaloune \$11.00/hr; Communications: Derek Ronning \$24.92/hr; Golf Maintenance: Austin Felts \$11.25/hr, Ben Burbach \$11.00/hr; Water: Andrew Wickre \$23.07/hr; Recycling: James Zimmerman \$25.65/hr

11. Invoices Payable

170-22

Council Member Hellwege moved approval of the following invoices:

A & B BUSINESS, INC	COPIER CONTRACT/LEASE	190.95
ACCURATE BUILDERS	REPAIRS	480.00
AMAZON BUSINESS	SUPPLIES	1,021.48
AMERICINN	LODGING	611.94
APPEARA	SHOP TOWELS	45.00
ARAMARK UNIFORM SERVICES	UNIFORM CLEANING	375.60
AT&T MOBILITY	MOBILE HOT SPOTS	368.07
BANNER ASSOCIATES, INC	PROFESSIONAL SERVICES	9,829.00
BLACKSTONE PUBLISHING	BOOKS	363.71
BORDER STATES ELEC SUPPLY	SUPPLIES	1,673.94
BRIDGESTONE GOLF INC	MERCHANDISE	942.24
BRITE	WEBCAM/VEHICLE MOUNTING KIT	4,960.00
BROADCASTER PRESS	ADVERTISING	5,452.78
BRUNICKS SERVICE INC	FUEL	23,977.65
BUHLS CLEANERS	MAT/MOP SERVICE	572.94
BUREAU OF ADMINISTRATION	TELEPHONE	395.42
BUTCH'S PROPANE INC	PROPANE	2,130.23
BUTLER MACHINERY CO.	PARTS	2,589.58
C & H GOLF BALL	MERCHANDISE	2,640.00
CALLAWAY GOLF	MERCHANDISE	2,824.38
CASK & CORK	MERCHANDISE	284.50
CENGAGE LEARNING INC/GALE	BOOK	25.19

CENTER POINT LARGE PRINT	BOOKS	369.88
CENTURYLINK	TELEPHONE	1,557.65
CITY OF VERMILLION	LANDFILL VOUCHERS	491.00
CLAY COUNTY SHERIFFS OFFICE	CUSTODIAL FEE REIMBURSEMENT	2,500.00
CLAY RURAL WATER SYSTEM	WATER USAGE	61.20
CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,907.23
CMOORE PIT SERVICE	PORTA-POT RENTAL	787.50
DAKOTA BEVERAGE	MERCHANDISE	13,899.32
DAKOTA PC WAREHOUSE	WIRELESS MOUSE	47.47
DENORA WATER TECHNOLOGIES	PARTS	8,246.00
DOUGLAS WEDEL	REFUND RECREATION FEES	49.00
DUBOIS CHEMICALS	SODA ASH	8,668.00
DYNAMIC BRANDS	MERCHANDISE	181.30
EBSCO	SUBSCRIPTION	2,466.89
ECHO ELECTRIC SUPPLY	SUPPLIES	133.09
ENGRAVER'S EDGE	NAMETAG	12.60
ERICKSON SOLUTIONS GROUP	PROFESSIONAL SERVICES	3,640.00
FARNER BOCKEN COMPANY	MERCHANDISE	2,415.70
FERGUSON WATERWORKS #2516	HDPE PIPE	733.85
GOVERNMENT FINANCE OFFICER ASSOC.	2021 ANNUAL REPORT	460.00
GRAHAM TIRE CO.	TIRES	373.25
GRAINGER	ADAPTER/COUPLING/BAND CLAMPS	135.79
GRAYMONT (WI) LLC	CHEMICALS	4,821.36
GREGG PETERS	MANAGERS FEE	6,000.00
GREGOIRE EXCAVATING, LLC	CONCRETE BALLAST	1,071.43
HOUSTON ENGINEERING INC	PROFESSIONAL SERVICES	9,574.86
HY VEE FOOD STORE	GIFT CARDS/CAKE	343.10
INFO USA MARKETING INC	DIRECTORY	415.00
INGRAM	BOOKS	1,015.57
JACKS UNIFORM & EQPT	COLLAR INSIGNIAS	288.80
JIM GOBLIRSCH	START UP MONEY	400.00
JOHN A CONKLING DIST.	MERCHANDISE	6,847.17
JOHNSEN HEATING & COOLING	REPAIRS-NEW FURNACE/AC	13,570.25
JOHNSON BROTHERS OF SD	MERCHANDISE	16,056.77
JOHNSON CONTROLS	REPAIRS	2,461.25
JOHNSON FEED, INC	REPAIRS	243.20
JONES FOOD CENTER	SUPPLIES	280.21
K & M TIRE	PARTS	69.72
KIMBALL MIDWEST	SUPPLIES	101.50
KINETICO QUALITY WATER SYSTEMS	WATER SOFTENER/BRINE TANKS	14,295.00
LESSMAN ELEC. SUPPLY CO	SUPPLIES	1,769.80
LOFFLER	COPIER CONTRACT	344.97
LOREN FISCHER DISPOSAL	HAUL CARDBOARD	1,310.00

MART AUTO BODY & MARINE LLC	TOWING	825.00
MATTER LAW OFFICE, PROF LLC	PROFESSIONAL SERVICES	4,839.50
MEAD LUMBER	SUPPLIES	226.71
MEDICAL WASTE TRANSPORT, INC	HAUL MEDICAL WASTE	287.50
MIDAMERICAN	GAS USAGE	5,849.70
MIDCONTINENT COMMUNICATION	INTERNET/CABLE SERVICE	1,556.60
MIDWEST ALARM CO	ALARM MONITORING	73.50
MOTION PICTURE LICENSING CORP	LICENSE RENEWAL	225.67
NETSYS+	PROFESSIONAL SERVICES	29.75
O'REILLY AUTO PARTS	FILTERS	40.87
PAMELA CUNNINGHAM	REFUND PARKING TCKT OVERPMT	5.00
PEPSI COLA OF SIOUXLAND	MERCHANDISE	433.38
PING/KARSTEN MFG CORP	MERCHANDISE	998.38
PRAIRIE BERRY WINERY	MERCHANDISE	780.00
PRESSING MATTERS	CITY SEAL STAMPS	119.00
PRESTO-X-COMPANY	INSPECTION/TREATMENT	132.28
QUALITY MOTORS	ALIGNMENT/BALANCING	123.55
QUILL	CARBON PAPER	29.74
REDI TOWING	TOWING	1,545.00
REPUBLIC NATIONAL DISTRIBUTING	MERCHANDISE	14,951.79
ROSEWOOD GREENHOUSE	SUPPLIES	5,400.00
RUNNING SUPPLY, LLC	SUPPLIES	1,205.13
SANFORD HEALTH OCCUPATIONAL	TESTING	312.00
SCANTRON CORPORATION	PRINTER RIBBONS	72.17
SCHINDLER ELEVATOR CORP	PREVENTIVE MAINTENANCE	127.13
SD DENR	LANDFILL OPERATIONS FEE	3,441.44
SD DOT-OFFICE OF AIR, RAIL & TRANSIT	REGISTRATION	70.00
SIOUX EQUIPMENT	FUEL SYSTEM	12,883.72
SOUTHEAST BASEBALL LEAGUE	DUES	500.00
SOUTHERN GLAZER'S OF SD	MERCHANDISE	5,833.31
STAPLES BUSINESS CREDIT	SUPPLIES	344.97
STATE INDUSTRIAL PRODUCTS	CHEMICALS	384.06
STUART C. IRBY CO.	SUPPLIES	69.50
STURDEVANTS AUTO PARTS	PARTS	132.11
SUN MOUNTAIN	MERCHANDISE	625.53
SUNDOG DISTRIBUTING (USA)	MERCHANDISE	655.01
SWANK MOVIE LICENSING USA	LICENSE RENEWAL	439.00
SYNCB/AMAZON	BOOKS/DVDS	568.89
THE LIFEGUARD STORE, INC	WORK SHIRTS	175.75
THE LUMBERYARD LLC	CEILING TILE	152.00
THE UPS STORE #6751	SHIPPING	39.13
TITAN MACHINE-PRODUCTIVITY	PART	52.22

TITLEIST-ACUSHNET COMPANY	MERCHANDISE	952.53
UNITED LABORATORIES	SUPPLIES	252.00
USA BLUEBOOK	SPECTROPHOTOMER	6,310.61
USD MARKETING & U RELATION	MERCHANDISE	105.44
USPS-POC	POSTAGE FOR METER	700.00
VEOLIA ENVIRONMENTAL SERVICES	HHHW-YANKTON/VERMILLION	38,047.17
VERMILLION ACE HARDWARE	SUPPLIES	250.33
	BUSINESS IMP DISTRICT/4TH	
VERMILLION CHAMBER OF COMMERCE	SPONSOR	14,278.04
VESSCO, INC	PARTS	716.16
WASTE MANAGEMENT OF WI-MN	WASTE HAULING	1,392.00
YAMAHA MOTOR FINANCE CORP	GOLF CARS/GPS LEASE	6,622.61
ZEE MEDICAL SERVICE	SUPPLIES	164.35

Council Member Jennewein seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

12. Consensus Agenda

A. Set a public hearing date of June 6, 2022 for a Medical Cannabis Cultivation license for Aardvark Alternative Medical Solutions at 828 N Crawford Road

B. Set a public hearing date of June 6, 2022 for retail (on-off) wine and cider license for Sodexo America LLC for the Coyote Sanford Sports Center and Dakota Dome at 1101 N Dakota Street

C. Set a public hearing date of June 6, 2022 for retail (on-off) Malt Beverage with SD Farm Wine license for Sodexo America LLC for the Coyote Sanford Sports Center and Dakota Dome at 1101 N Dakota Street

D. Set a public hearing date of June 6, 2022 for renewal of a retail (on-off) Malt Beverage with SD Farm Wine license for Sodexo America LLC for the Coyote Sanford Sports Center and Dakota Dome at 1101 N Dakota Street

171-22

Council Member Ward moved approval of the consensus agenda. Council Member Holland seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

13. Adjourn

172-22

Council Member Ward moved to adjourn the Council Meeting at 8:47 p.m. Council Member Jennewein seconded the motion. Motion carried 7 to 0. Mayor Collier-Wise declared the motion adopted.

Dated at Vermillion, South Dakota this 16th day of May, 2022.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kelsey Collier-Wise, Mayor

ATTEST:

BY _____
Katie E. Redden, Finance Officer

Published once at the approximate cost of _____.