

Unapproved Minutes
Council Special Joint Meeting with County Commissioners
July 5, 2022
Tuesday 5:00 p.m.

The special Joint Meeting with Clay County Commissioners and the Vermillion City Council, City of Vermillion, South Dakota was held on Tuesday, July 5, 2022 at 5:00 p.m. at the City Hall Council Chambers.

1. Roll Call

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

2. Adoption of Agenda

221-22

Council Member Holland moved approval of the agenda. Council Member Ward seconded the motion. Motion carried 8 to 0. Mayor Collier-Wise declared the motion adopted.

3. Visitors to be Heard - None

4. Public Hearing

A. Second Reading of Ordinance 1465 to Rezone 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 to the LI: Light Industrial District

Jose Dominguez, City Engineer, reported on the second reading of Ordinance No. 1465. Jose noted that the County received a petition to rezone approximately 43 acres east of the Vermillion River between SD Hwy. 50 Bypass and West Cherry Street. Jose stated that this area is within the Joint Jurisdictional Zoning Area (JJZA) and as such is considered by the County and the City. Jose noted that the applicant is requesting that the area being considered tonight be moved from the A-1: Agricultural district to the LI: Light Industrial district.

Jose noted that the current rezoning request was considered by the Planning Commissions at a joint meeting on April 25th. At that meeting, the City's Planning and Zoning Commission recommended that the Council approve the request as proposed by the applicant. Jose stated that the

neighbors present at the meeting were concerned with the possible industrial uses if the area were to be rezoned, however no concerns or opposition was voiced regarding the existing use as an elevator.

Jose noted that the Council considered the first reading on May 16th. Jose stated that, after considering public comments and three motions, the Council moved that the request be amended to only rezone Lots 1, 2, 3 and 4 of Alber's Subdivision and Terminal Grain Tract 1. This motion was approved by a vote of 4-3. Jose noted that the approved motion allows for the rezoning of most of the area with buildings and infrastructure. The remaining northern portion (Terminal Grain Tract 2) could be rezoned later depending on the proposed use.

Jose noted that the Board of Clay County Commissioners considered this item at their May 31st meeting and moved that the rezoning request be considered at the second reading.

Jose noted that, since the results of the first readings differ between the City and County, there are four different paths possible:

1. If the City's ordinance is amended to agree with the County's ordinance, an additional joint meeting will need to occur. This additional meeting could happen 5-days after the meeting is posted. Depending on quorum, the meeting could happen as soon as next week.
2. If the County amends their ordinance to agree with the City's ordinance, no additional meeting is required, and the item could be approved at tonight's meeting.
3. If neither of the Governing Bodies act to amend their ordinance, the item could be tabled to a different date to allow for additional discussion.
4. If neither of the governing bodies act to amend their ordinance, the item could be denied by identical independent motions.

Dennis Johnson, 1864 Constance Drive, stated that he is at this meeting to have an expression of self-interest. Dennis noted that he read somewhere that the City Council wanted to have the elevator to be rezoned and the rest of the area to be agricultural. He noted that this would be a fine compromise. Dennis stated that he does not want to lose the Myron's money, but that money should not be made at his expense if this rezone affects the value of his property.

Terrence Brady, 1882 Constance Drive, stated that Dennis said exactly what is on his mind and everyone else on the bluff. Terrence stated that the zoning should be put back to the same footprint that it was. Terrance noted that the concern is to what potentially could be put in there if this was rezoned and the property was then sold.

Carol Person, 1330 Overdrive, stated that her concern is there are many children on the cul-de-sac and the entrance to this area is through that cul-de-sac. Carol noted that she has concerns for the children and the heavy traffic that could possibly go through that access point.

Eugene Klinger, 1721 Baylor, stated that he has no objection to the elevator, but he is against the rest of the land turning into light industry. Eugene noted that the land values will go down and extra noise will become an issue. He stated to leave it as a grain elevator and leave the rest as ag land.

Craig Myron, co-owner of the elevator, asked if they knew what the number one business in South Dakota was: agriculture. Myron stated that zoning should be put back to what it was. He stated that change is happening and he does not see that anything bad is going to go in there. Myron does not know why everyone is so worried about the future because this is a grain elevator.

Commissioner Mockler asked Myron if prior to 2012 the land was zoned General Industrial. Myron stated that they cannot find anything that says that. Myron stated it was Light Industrial.

Kevin Myron, co-owner of the elevator, stated that he wants to address a couple things: 1) the northern section was LI prior to the JJZA in 2012. He stated that the initial piece was zoned LI and in 87-89 they changed all the properties into light industrial, 2) Kevin stated that there is a lot of talk about property values going down and, when this was previously zoned light industrial, the values were not down. Myron noted that there is a lot of concern about what type of business could come into the property and in 55 years with four different owners it has stayed a grain elevator. Myron stated that the Council should change the zoning if they have problems with what might go in there. Do not penalize them for what could be put in there due to the zoning. Myron noted that their business has not been able to run the last seven months due to insurance issues. Discussion followed on railroad spurs being used in Ag land.

Mayor Collier-Wise stated that it was understood that changing the LI zoning was to help for this rezone and both Boards had many meetings to discuss this and it seemed there was a understanding that this would work between the neighbors and the Myrons and now it does not seem to be agreed upon. Collier-Wise noted that she would like the Council to rezone the entire tract and match the County.

Ward stated that the Council is not one body, the Council Members each have different opinions and have voices for their districts.

Holland asked Jose to expand on if the spurs could be used in agricultural.

Jose stated that the spurs could be used as it is right now as a nonconforming use.

Holland stated that leaving the top part Ag and changing the rest of it to LI would give enough room for them to expand and the spurs would remain the same use. Holland stated that they are trying to find a solution and Jose went through a lot of effort to change the zoning. He noted that the current proposal is a good option. The Myron's would be able to do what they want to do and expand.

Jennewein stated that the issue is not the grain business, but the entire section to be LI. She stated that it is upsetting that the spurs and insurance issues are just now being brought up.

Letellier stated that he would like the top portion zoned to Ag and the bottom to LI. He noted that there are access road issues for citizens to have industrial equipment going through their property.

Humphrey asked Kevin Myron: What you would say to the homeowners about nature sunsets etc. and what would you say to them about this rezone.

Kevin stated that they are accruing expenses due to this zoning issue and it is impacting them now. Kevin noted that, regarding homeowners, he tries to understand where they are coming from. He stated that most of the issues are concerns for the future and possibilities of what could happen. There should be a focus on what is happening now and not what could happen in the future. Kevin stated that it is not fair to them that the skyline will not change. Kevin stated that they should not be frozen in a 1980 snapshot of what they can do. Rail lines are important to them because they need to load the maximum loads of cars they can.

Hellwege stated that the zoning allows for Ag and railroad, therefore what being used there are acceptable uses. Theoretical and actual you should be able to insure and get loans on this property because they are acceptable uses according to section 4.05.02. Hellwege noted the concern is not what you are doing or have been doing, but some of the LI items that come under the LI zoning.

Jose noted that in A-1 Agricultural District in the JJZA zoning it stated that railroad right-of-way is allowed. Holland noted that if they wanted to go all the way to Highway 50 with the railroad they could. Jose stated that it could possibly go all the way if wanted.

Commissioner Mockler noted that if you have a business and they spilled over onto the Agricultural land with trailers and things, would the City make them rezone it. Jose noted that if they are building something or making a new parking lot they would have to ask for a rezone. Mockler noted that banks will not give money for non-conforming use.

Holland asked if they wanted to put railroad spur all the way to highway 50. Discussion followed that it would not be allowed.

Holland asked if we zone the lower part to LI would you be able to sell the property. Kevin stated yes they could. Discussion followed that a switch yard and terminal tract cannot be used in the ag district.

Hellwege stated that she did not know the railroad went into the next tract and that the Ag District did not allow for the railroad spur. Hellwege noted that the LI is a compromise and the boards will need to look into adjusting the LI district to make concerning zone uses in the LI district to become a conditional use to allow for more public input.

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Mayor Collier-Wise read the title of the above mentioned Ordinance and Council Member Ward moved adoption of the following Resolution with the County and City working on the Light Industrial conditional use requirements:

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 $\frac{1}{4}$ 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. , from the A-1: Agricultural District to the LI: Light Industrial District, Clay County, 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 special called meeting of the Governing Body of the City on this 5th day of July, 2022 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 and 9-19-7.1 as amended.

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

5. Adjourn

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Council Member Ward moved to adjourn the Council special session at 6:18 p.m. Council Member Price seconded the motion. Motion carried 8 to 0. Mayor Collier-Wise declared the motion adopted.

Dated at Vermillion, South Dakota this 5th day of July, 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 _____.