Legal and Public 2010 2010 **Notices**

NOTICE OF PUBLIC HEARING

Pursuant to SDCL 11-4-12, notice is hereby given that the Vermillion Planning Commission will hold a public hearing on April 28, 2014, regarding amendment of the Vermillion Zoning Regulations. The Planning Commission will be considering a recommendation of adoption to the City Council for amendments to Section 155.036, GB General Business District and Section 155.008, Definitions. Specifically, the amendments would add a conditional use and definition for limited production and processing.

A copy of the proposed amendments to the Vermillion Zoning Regulations is available for public review at the Vermillion City Hall in the office of the Finance Officer during regular business hours.

The Planning Commission public hearing will be held at the following time, date, and location:

> 5:30 p.m. April 28, 2014 Vermillion City Hall (25 Center Street)

The purpose of this hearing is to explain the proposed amendments to interested persons, to answer questions regarding this item and to hear public comment on this item. The Planning Commission invites all interested persons to attend and offer their comments. Those interested persons not able to attend are invited and encouraged to send written comments, prior to the hearing, to the Assistant City Manager, 25 Center Street, Vermillion, SD

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 48 hours prior to the meeting so appropriate auxiliary aids and services can be made available.

Andrew Colvin Assistant City Manager

Published once at approximate cost of \$23.83. Publish: April 18, 2014.

STATE OF SOUTH DAKOTA COUNTY OF CLAY

IN CIRCUIT COURT FIRST JUDICIAL CIRCUIT

SOUTH DAKOTA HOUSING

DEVELOPMENT AUTHORITY,

Plaintiff,

KIMBERLEE BEA BROWNE, LANCE MCKEOWN, BRETT DANIEL BROWNE, CITY OF VERMILLION, AND CLAY COUNTY, SOUTH DAKOTA,

Defendants.

CIV. NO. 13-156

NOTICE OF MORTGAGE FORECLOSURE SALE

NOTICE IS HEREBY GIVEN in accordance with South Dakota Codified Laws 21-49-25, and pursuant to a Judgment dated the 19th day of March, 2014, that a sale of certain mortgaged premises described as follows:

Commencing at a Point 80 Feet East of the NW Corner of Lot 1, Block 13, Original Townsite of Vermillion, Thence Running South to a Point on the South Line of Lot 3 of Said Block 13, 80 Feet East of the SW Corner of Said Lot 3, Thence East on the South Line of Said Lot 3, 44 Feet; Thence North to a Point on the North Line of Said Lot 1, 44 Feet East of the Point of Beginning, Thence West on the North Line of Said Lot 1 to Point of Beginning, in the City of Vermillion, Clay County, South Dakota,

shall be made by public sale to the highest bidder on the 23rd day of April, 2014, at 10:00 a.m., at the front door of the Clay County Courthouse, Vermillion, South Dakota.

The names of the mortgagors are Kimberlee Hoffman aka Kimberlee Bea Browne and Lance McKeown and the mortgage was given to First Dakota National Bank and assigned to the South Dakota Housing Development Authority of Pierre, South Dakota. The amount due, pursuant to the Judgment, is \$63,351.46. The date of the mortgage is 30th day of August, 2002, and the mortgage was recorded in the Office of the Clay County Register of Deeds on the 4th day of September, 2002, at 9:30 a.m., in Book 117 of Mortgages, page

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187. The sale is subject to the 2013 real property taxes due and payable in 2014, and any special assessments due and

Dated at Vermillion, South Dakota, this 27th day of March,

ANDREW HOWE SHERIFF OF CLAY COUNTY

Robert E. Hayes, Attorney for

Plaintiff Davenport, Evans, Hurwitz &

Smith, L.L.P. c/o South Dakota Housing Development Authority 3060 E. Elizabeth Street, P.O.

Pierre, South Dakota 57501 -Phone: (605)773-5149

Published twice at the total approximate cost of \$68.53. Published: April 11 & 18, 2014.

Unapproved Minutes Council Special Session April 7, 2014 Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, April 7, 2014 at 12:00 noon at the City Hall large conference room.

1. Roll Call

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

Absent: Osborne

2. Educational Session - Continued discussion on updates to 90.70 - 90.99 (Tree Ordinance) -Jim Goblirsch

Jim Goblirsch, Director of Park and Recreation, handed out the updated tree ordinance and explained the changes proposed. Jim stated that the tree guide was not changed. Jim answered questions of the City Council on the proposed tree ordinance. Discussion followed on the proposed ordinance with Jim stating that the proposed ordinance will be considered for first reading on the April 21st

3. Educational Session - Distributed Generation Policy - Jason Anderson

Jason Anderson, Assistant City Engineer, reported that a resident has requested to connect solar energy source to the City electric system. As such, the City will need to adopt policies to address the interconnections on this distributed generation. Jason stated that we are federally ed to purchase the excess power from a distributed generation customer. Jason stated KIMBERLEE HOFFMAN AKA that Missouri River Energy Services (MRES), our supplemental power supplier, has developed a Distributed Generation Policy workbook that addresses the issues with distributed generation interconnections. Jason stated that MRES has adopted a nondiscriminatory rate on behalf of its members and the process would be that the City would provide the customer with a credit for power put back onto the City electric system that MRES would purchase and reimburse the City. Discussion followed with Jason answering questions on the Distributed Generation Policy. Jason stated that the next step would be to adopt the Distributed Generation Policy Workbook and to adopt a resolution establishing the connection fee that staff proposed to have for the April meeting. Discussion 21st

> 4. Briefing on the April 7, 2014 City Council Regular Meeting Council reviewed items on the agenda with City staff. No action

5. Adjourn

followed

100-14

Alderman Ward moved to adjourn the Council special session at 12:39 p.m. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

at Vermillion, South Dakota this 7th day of April,

THE GOVERNING BODY OF THE CITY OF VERMILLION. SOUTH DAKOTA

John E. (Jack) Powell, Mayor

ATTEST:

Michael D. Carlson, Finance Officer

Unapproved Minutes City Council Regular Session April 7, 2014 Monday 7:00 p.m

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The regular session of the City Council. City of Vermillion. South Dakota was called to order on Monday, April 7, 2014 at 7:00 p.m. by Mayor Powell.

1. Roll Call

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

2. Pledge of Allegiance

3. Minutes

A. Minutes of March 17, 2014 Special Session; March 17, 2014

101-14

Alderman Zimmerman moved approval of the March 17, 2014 Special Session and March 17. 2014 Regular Session minutes. Alderman Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

4. Adoption of Agenda

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

5. Visitors to be Heard

A. Elijah Wergin Eagle Scout presentation

Jim Goblirsch, Director of Parks and Recreation, introduced Elijah Wergin to explain his Eagle Scout project. Jim stated that he has been working with Elijah on the project that will have an impact on the park.

Elijah Wergin, of Boy Scout

Troop 66, provided a handout of his Eagle Scout Project which was to replace the flag pole in the Prentis Park baseball field. Elijah stated that the current flag pole behind the center field fence is in a state of disrepair and there is no light for the flag. Elijah stated that this project proposes to replace the existing pole with a 40 foot aluminum pole with a lighting system. Elijah stated that with the assistance of Jim it has been arranged that Pete Jahn of the Street Department will install the pole and Mark Koller of the Light Department will install the lighting. Elijah stated that the budget for the project is \$5,000 with \$4,000 for the pole and \$1,000 for supplies and contingency. Elijah requested a \$100 donation from the City Council for the project. Elijah answered questions of the City Council on the project. Discussion followed with the consensus of the City Council to support the project with a contribution of \$500 to be included in a future

Mayor Powell introduced Lyndsay Claussen as the Student Representative.

listing of invoices for approval.

6. Public Hearings

A. Special permit to exceed permissible sound levels for Coyoteopoly and South Dakota Shakespeare Festival in the band shell area of Prentis Park from Wednesday, June 11 through June 15, 2014 from 6:00 p.m. to 10:00 p.m. for Shakespeare festival performances.

Mike Carlson, Finance Officer, reported that a special permit to exceed permissible sound levels was received form Coyoteopoly and South Dakota Shakespeare Festival for the Prentis Park band shell area from Wednesday, June 11 through Sunday, June 15, 2014 from 6:00 p.m. to 10:00 p.m. the Shakespeare festival performances. Mike stated that the notice of hearing along with the application and the diagram showing the sound levels not exceeding the ordinance are included in the packet. Mike noted that there were no problems related to the issuance of the noise permit in 2012 and recommended approval unless the public hearing indicates that there will be problems related to the noise.

Morgan Boettcher, CEO of Coyoteopoly, explained the annual Shakespeare Festival planned for Prentis Park on June 13. 14 & 15. Morgan noted that there are a number of items on the agenda related to the event and wanted to thank the City Council and City staff for their support. Chaya Gordan-Bland, founding artistic director of the Shakespeare Festival, reviewed the benefits to the community and region from the summer festival. Chava reviewed the other activities planned during each day of the event noting that all events are all free and open to the public. Discussion followed with Morgan and Chaya answering questions on the events planned.

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103-14 Alderman Grayson approval of the special permit to exceed permissible sound levels for Coyoteopoly and South Dakota Shakespeare Festival in the band shell area of Prentis Park from Wednesday, June 11 through Sunday, June 15, 2014 from 6:00 p.m. to 10:00 p.m. for Shakespeare festival performances Alderman Collier-Wise seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

B. Second Reading of Ordinance 1312 creating a Business Improvement District, assessing a General Occupation Tax on Hotel. Motel and Lodging establishments let for overnight occupancy, and adding Title XI Business Regulations, Chapter 120 John Prescott, City Manager,

reported that the process for the Business Improvement District was started last fall following a the Vermillion request by Chamber of Commerce and Development Company Tourism Committee recommending it as a possible revenue source to promote the community. John reviewed the steps provided by the City Council in creating the Business Improvement District to date and the plan recommended by the Board of Directors. John reported that the BID Board invited the lodging owners to a meeting on February 20th where the draft ordinance was reviewed along with discussion on how the lodging fee would work and the uses of the funds. John stated that the recommendation of the BID Board was for a start date of June 1, 2014. John noted that the BID Board recommended a \$1.00 per night lodging fee. There was discussion about the amount of the fee among the BID Board when the Plan was presented as well as at the City Council meeting when the Resolution of Intent was adopted. John stated that the maximum fee of \$2.00 per night per occupied room was in the Ordinance that was proposed at the March 17, 2014 meeting and sought clarification from the City Council as to the desired fee. The first reading of the Ordinance that was approved on March 17th included the \$2.00 per night, per occupied room fee.

John stated that thirteen cities in South Dakota were identified to have at least one BID with the proceeds used to primarily market their respective communities. John stated that two cities had two BIDs all of which are at \$2.00 per night except the second BID in Mitchell that is \$1.00 per night.

John stated that no comments have been received since first reading of the ordinance. Discussion followed.

Second reading of title to Ordinance No 1312, entitled AN ORDINANCE creating a Business Improvement District, Assessing a General Occupation Tax on Hotel, Motel and Lodging establishments let for overnight occupancy, and adding Title XI Business Regulations, Chapter 120 for the City of Vermillion, South Dakota

Mayor Powell read the title to the above named Ordinance, and Alderman Zimmerman moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1312 entitled an ordinance creating a Business Improvement District, Assessing a General Occupation Tax on Hotel, Motel and Lodging establishments let for overnight occupancy, and adding Title XI Business Regulations, Chapter 120 for the City of Vermillion, South Dakota was first read and the Ordinance considered substantially in its present form and content at a regularly called meeting of the Governing Body on the 17th day of March. 2014 and that the title was again read at this meeting, being a regularly called meeting of the Governing Body on this 7th day of April, 2014 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

ORDINANCE 1312

AN ORDINANCE OF THE CITY OF VERMILLION, SD CREATING A BUSINESS IMPROVEMENT DISTRICT WITHIN THE MUNICIPAL LIMITS OF THE CITY OF VERMILLION; ASSESSING A GENERAL OCCUPATION TAX ON ALL HOTEL, MOTEL AND LODGING ESTABLISHMENT ROOMS LET FOR OVERNIGHT OCCUPANCY LOCATED HEREIN; AND ADDING TO TITLE XI BUSINESS REGULATIONS, CHAPTER 120 TO THE ORDINANCES OF THE CITY OF VERMILLION.

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BE IT ORDAINED, by the Governing Body of the City of Vermillion that there be enacted a general occupation tax on all hotel, motel and lodging establishment rooms situated within Business Improvement District No. 1 with the addition of Chapter 120 as follows:

120.01 Establishment of the district. Pursuant to the provisions of SDCL Ch. 9-55, Business Improvement District No. 1 (BID #1) of the City of Vermillion, S.D. was created. A resolution of intent to create this district was approved by the City Council on February 3, 2014. The public hearing on creation of the District was held in the City Council Chambers, located at 25 Center Street, Vermillion, South Dakota at 7:00 p.m. on March 17, 2014.

120.02 Boundaries of the district. resolution establishing the boundaries of BID #1 was approved on September 16, 2013. It shall be a noncontiguous district zoned with a commercial or business designation lying within the municipal limits of the City of Vermillion, specifically encompassing the following properties:

Best Western 701 W. Cherry Street Vermillion, SD 57069

Super 8 Motel 1208 E. Cherry Street Vermillion, SD 57069

Holiday Inn Express 1200 N. Dakota Street Vermillion, SD 57069

Westside Inn 1313 W. Cherry Street Vermillion, SD 57069

916 N. Dakota Street Vermillion, SD 57069

The following property is within the BID #1 boundaries but is not zoned as commercial or business and at such time as the zoning is changed will be included in the BID #1 boundaries unless the owner elects voluntary participation as provided in this section.

Valiant Vineyards Inc. 1500 W. Main Street Vermillion, SD 57069

All hotels, motels or lodging establishments which at any time not meet the criteria enumerated herein, but voluntarily petition to be a part of the BID #1 are permanently in the BID #1 and cannot voluntarily remove themselves from the BID #1, just as any lodging establishments which are automatically in the BID #1 cannot remove themselves voluntarily.

If a property no longer meets the criteria for inclusion in the BID #1, the owner or proprietor of the hotel, motel or lodging establishments shall provide the Finance Officer with a sworn, written statement setting forth the relevant change in property or operation that disqualifies the hotel, motel or lodging establishment. The Finance Officer shall remove the hotel, motel, or lodging establishment if the statement shows the property no longer qualifies for inclusion in BID #1.

120.03 New properties within the district. Pursuant to the provisions of SDCL 9-55-4, BID #1 shall include all hotel, motel or lodging establishment facilities constructed in the future or annexed into the municipal limits.

120.04 Purpose of the district. BID #1 is created for the purpose of funding the enhancement, expansion, marketing and promotion of visitor facilities, events, attractions and activities benefiting the City and its hotels and motels located within the

120.05 Occupational tax imposed. Commencing June 1, 2014, an occupational tax in the amount of \$2.00 per night shall be imposed upon the above hotel, motel, or lodging establishments based upon rooms rented to transient guests. This occupational tax shall be fair, equitable and uniform as to class. Organizations exempt from sales tax shall not be exempt from the occupational tax. No occupational tax may be imposed on any transient guest who has been offered a room by a lodging establishment on a complimentary basis whereby no fee or rent is charged for such room. Additionally, no occupational tax may be imposed on any room utilized by transient guest who stays twenty-nine (29) or more consecutive nights. This tax rate may be adjusted by the City Council in accordance with SDCL § 9-55-16.

120.06 Effective date. From and after the 1st day of June, 2014, there is hereby imposed an

Legal and Public

Notices occupational tax on all rented hotel, motel or lodging establishment rooms offered and let for overnight occupancies of less than twenty-nine (29) consecutive days within BID #1 defined in Resolution adopted by the City Council on September 13, 2013 which is all commercial property located within the municipal limits of the City of Vermillion or that have voluntarily petitioned to be part of the BID #1.

120.07 Duty to account for complimentary and lease rooms. Each hotel, motel or lodging establishment shall account for complimentary or leased rooms which are also subject to audit by the City Finance Officer with such records to show the basis for offering such room on a complimentary or lease basis.

120.08 Computation and collection of occupational tax. The City Finance Officer is authorized and directed to determine and compute the tax in accordance with this article. The occupation tax assessed pursuant to the terms of this article shall be remitted to the City Finance Officer by the 20th day of each month for the previous calendar month's tax collections. Should the 20th day of the month fall on a Saturday, Sunday or a holiday observed by the City, the occupancy tax remittance shall be due on the first business day immediately following the 20th. Each hotel, motel or lodging establishment subject to this article shall keep accurate records of amounts collected from transient guests for review by the City Finance Officer or his/her designee, upon request by the City Finance Officer.

120.09 Statement required along with occupational tax payment. A person authorized by a business governed by this article shall sign a sworn statement to be submitted along with the remittance of any tax imposed by this article on or before the 20th day of each month stating as follows:

declare, under penalty of perjury, that the above accounting of rooms rented is accurate and the tax payment made herein is accurate to the best of my knowledge according to my business records." Such statement shall include the signature of a person authorized to make such statement on behalf of the business, that person's printed name and title, and the date such signature is made.

120.10 Penalties for failure to pay

occupational tax. All remittances of occupancy tax collected pursuant to this article shall be due and received in the office of the City Finance Officer each month no later than the 20th day following the month for which the occupancy tax remittances are due. All amounts that are not as set forth above will be charged a late fee in the amount of ten percent of the total amount due. Failure to remit such tax shall constitute a violation of this chapter which may be punishable by a fine of up to \$500.00 and/or imprisonment for up to 30 days pursuant to Section 10.99 of the Municipal Code. Any unpaid balance under this article shall constitute a lien upon the property owned by the business or user of space being taxed and shall become a lien against and shall run with the property taxes and assessments. The City Finance Officer shall certify all unpaid months or balances to the county treasurer for collection in the same manner as general property taxes are collected. Further, the City shall have the ability to deny the issuance of permits or licenses or any renewals thereof to any business or premises that fails to conform to the provisions of this article, including, but not limited to, building permits, malt beverage licenses, wine licenses and liquor licenses. Nothing within this provision shall be construed as limiting any other rights which the city has or may pursue in seeking collection of monies not paid under the terms of this chapter. In the event that this tax becomes subject to supervision by the State through the State's Department of Revenue, any rights which the City has herein shall be deemed cumulative to any powers which inure to the benefit of the State. In the event of any legal proceeding being initiated to seek collection of any delinquent assessments, the offending hotel, motel, or lodging establishment shall be responsible for and pay all attorney's fees and costs incurred by the City seeking payment under the terms of this chapter.

120.11 Appropriation. Once the occupational tax is collected, the City Finance Officer shall be entitled to recover its administrative costs in the amount of two (2%) percent and deposit the remaining balance into a separate fund established for BID #1. The Board of Directors shall make annual recommendations for the use of the tax funds that are consistent with the City's "Plan,"