

2010 Legal and Public Notices

ele Mechling for a variance from the zoning ordinance to have a concrete slab in the front yard at 1020 W. Main Street

Farrel Christensen, Building Official, stated that at the November 5, 2012 Council Meeting, the City Council, acting as the Board of Adjustment, heard a variance request from Todd & Michele Mechling. A 5-3 vote to approve the variance failed to meet the required 2/3 votes needed to pass, resulting in denial of the variance. At the November 19, 2012 Council meeting, a motion to reconsider was made and approved.

Farrel reported that a new public hearing has been advertised and posted to consider a variance to allow a 20' x 25.5' concrete pad in the required front yard set aside for landscaping and living ground cover.

Farrel noted that since the variance application was presented, a number of questions have been raised about front yard parking allowed in multi-family developments. The applicant has presented several pictures demonstrating front yard parking. While none of the pictures have demonstrated the same circumstances as the variance request, the applicant's point appears to have been about the amount of concrete at these properties in comparison to what he proposes. If the Council desires, staff can explain the particulars of each property and how it represents a different situation than the one at hand. While the initial notice was sent to the applicant when a vehicle was observed parked on the newly poured concrete, the proposal has been modified to eliminate parking.

Farrel stated that it is important to remember the City's landscaping ordinance promotes development, which is environmentally sensitive and aesthetically pleasing and requires at least 90% of the required front yard setback be landscaped and maintained with living ground cover. The remaining 10% is set aside for necessary stoops, steps and sidewalks connecting the front doors to the driveways and the like.

Farrel noted that the City Ordinance identifies the City Council as the Board of Adjustment and gives them the jurisdiction to hear and decide upon petitions for variances to vary the strict application of the height, area, setback, yard, parking or density requirements as will not be contrary to the public interest. For purposes of these regulations, public interest shall include the interests of the public at large within the city, not just neighboring property owners. This is a particularly important point with this variance request as every property has a front yard. Farrel stated that a list of variances granted since 2006 demonstrating circumstances unique to a property and the permissible uses was included in the packet.

Farrel stated that the ordinance states that the burden shall be on the applicant to prove the need for a variance. An unnecessary hardship must be established by the applicant who applies for the variance. An unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible or reasonable use of the property. Convenience, loss of profit, financial limitations, or self-imposed hardship shall not be considered as grounds for approving a variance by the Board of Adjustment.

Farrel stated that in this case a hardship does not exist. The owner has other locations for the basketball court that are not prohibited. Only the first 25 feet of the yard is required to have and be maintained with living ground cover which is environmentally sensitive and aesthetically pleasing. In this case, several locations are available for a basketball court. The first is the existing driveway; almost all residential basketball courts are located in this area. Additional space is also available to the west of the home behind the required front yard. Either place would allow the owner a reasonable use of the property without the need for a variance. Farrel noted that the main concern of City staff is not the aggrieved person for this particular situation as the current owner has a track record of taking care of things. The main concern is the impact on the integrity of the ordinances of the City.

Farrel noted that the burden to prove the need for a variance is with the applicant and in this case not one of the regulations or hardships has been established. Farrel stated that City staff believes that issuance of a variance is not needed and that if granted would set a bad precedence and be harmful to the public by reducing landscaped areas and promoting the expansion of concrete pads in front yards throughout the City.

Todd Mechling, 1020 W. Main Street, stated that all he ever wanted was a basketball court noting that the front yard was the only level place on the lot that is screened by the house and hedges. Todd stated that the driveway slopes and the side yard will require considerable fill and both would require fencing to keep the ball from rolling away. He stated

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that the plan, as shown, is to promote development that is aesthetically pleasing to improve the property and the neighborhood. He stated that his neighbors are all in support of the variance. As to the landscape ordinance, he stated that no one knows such an ordinance existed. The basketball court was built for his sons and their friends to play in a safe environment. He requested approval of the variance as the improvements are aesthetically pleasing and promote development.

Austin Reno, resident of 1029 W Main, stated that he lives across the street from the property and sees the basketball court as a place where neighborhood children can safely play. He stated that Todd and Michelle have complete support of the neighborhood for the variance.

Liam Mechling, son of Todd and Michelle at 1020 W. Main, stated that he has practiced basketball on the court and that this will allow his friends to come and play basketball.

Thor Gesteland, resident of 1009 W. Main, stated that he saw children playing basketball there yesterday. The court promotes healthy activities and requested approval of the variance.

Kay Miller, resident of 1001 W Main, stated that to have her children at home with friends they are playing video games. The basketball court would provide a safe healthy alternative and requested approval of the variance.

Mark Daniels, resident of 401 S Pine, but friend of the family, asked the City Council to work together with the citizens to resolve the issue without following hard and fast rules.

Nick Koster, 46718 315th Street, stated that the variance is within the spirit of the law noting that we all want a nice town that is aesthetically pleasing.

Discussion followed by the City Council on the variance request, the precedence this variance may establish, including how the ordinance was developed through the Planning Commission, including the need to maybe review the ordinance and the review previous variances approved by the City Council.

423-12

Alderman Osborne moved approval of the variance from the zoning ordinance to have a 20' X 25.5' concrete slab in the front yard at 1020 W. Main Street. Alderman Collier-Wise seconded the motion. Discussion followed. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Davies-N, Grayson-N, Meins-Y, Osborne-Y, Ward-N, Willson-N, Zimmerman-N, Mayor Powell-N. Motion failed 3 to 6. Mayor Powell declared the motion failed.

8. New Business

A. 2013 Bluffs Golf Course fees

Kirk Hogen, Golf Pro, reviewed the proposed rates noting that during the August budget sessions the rates were presented and included in the adopted budget. Kirk noted that the rates proposed are a 3% increase on membership, green fees and all other charges. Kirk stated that the memberships have not been increased the past few years but these rates are in line with other comparable golf courses in the area. Kirk stated the food and beverage prices will be adjusted to reflect the increased cost of the merchandise. Kirk noted that they will continue to work on promotions to increase usage of the course and have ideas to promote usage in off peak times. Kirk and John Prescott answered questions of the City Council on the proposed rates and golf course operations.

424-12

Alderman Grayson moved approval of the following rates for Bluffs golf course for 2013:

**The Bluffs Golf Course Fees 2013
Season Fees do not include tax**

SEASON GOLF PASSES, SEASON RANGE PASSES

2 Person Family, \$679 Family, \$269
(+ one child \$709 +2 or more, \$739
Adult, \$199
Adult, \$519
Junior, \$92
College(full time) or under 25, \$259
Junior, \$129

PRIVATE CARTS, SEASON CART PASSES

Cart Storage, \$339
2 Person Family, \$659
Trail Fee (homeowners), \$169
Adult, \$479

*****ALL DAILY RATES INCLUDE TAXES*****

GREEN FEES

9-hole Monday-Friday, \$17.00
18-hole Monday-Friday, \$23.00
9-hole Saturday-Sunday & Holi-

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days, \$20.00
18-hole Saturday -Sunday & Holidays, \$31.00

9-hole punch card (10 rounds), \$153.00, Mon-Fri
9-hole punch card (10 rounds), \$166.50 Any day
9-hole punch card (15 rounds), \$221.00 Mon-Fri
9-hole punch card (15 rounds), \$240.50 Any day

CART RENTAL

9-hole car rental, \$11.00
9-hole car rental punch card (10 rounds), \$198.00
18-hole car rental (per person), \$16.00

DRIVING RANGE

Bag of balls, \$4.00
Punch cards (10 bags), \$36.00

**Corporate Punch Card (18 holes & 1/2 cart) 30 rounds \$999.00
HANDICAP \$26.00 plus tax**

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

B. Resolution Amending Ambulance Rates

Lee Huber, EMS Director, reported that the current rate schedule has been in effect since the beginning of 2010. He stated that, as the department's billing process has been reviewed, areas of financial loss were identified. Lee stated the proposed changes are to cover these areas as well as to position the City to be able to recover the costs of disposable supplies. Lee reviewed the changes proposed and answered questions of the City Council.

425-12

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

RESOLUTION AMENDING AMBULANCE RATES

WHEREAS, the City of Vermillion operates the ambulance service that serves the local area; and

WHEREAS, the City Council has established rates to recover the costs of providing the ambulance service; and

WHEREAS, due to increased operating costs of providing the ambulance service the City Council finds it necessary to adjust the rates in an effort to recover the costs of providing the ambulance service.

BE IT HEREBY RESOLVED by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. on the 3rd day of December, 2012, that effective January 1, 2013 the following EMS Rates be established or changed as follows:

Vermillion/Clay County EMS Rates

On Scene Care BLS, \$400.00
Combi-Tube, \$75.00
Treat, No Transport BLS, \$75.00
Blood Glucose Check, \$10.00
ECG 3-Lead, \$35.00
ASL-BLS Mileage, \$12.00
ECG 12-Lead, \$45.00
Oral/Nasal Airway, \$7.50
Treat, No Transport ALS, \$125.00
ALS Non Emergency, \$500.00
Defibrillation BLS, \$45.00
Pulse Oximeter, \$10.00
Defibrillation ALS, \$45.00
ALS Emergency, \$660.00
Cardiac Monitoring, \$75.00
SAM Splint, \$20.00
IV Fluids/Supplies, \$50.00
BLS Non Emergency, \$425.00
Bag-Valve Mask, \$20.00
Disposable Splints, \$10.00
Esophageal Intubation, \$75.00
BLS Emergency, \$560.00
C-Collar, \$20.00
Spinal Immobilization, \$20.00
Oxygen Supplies, \$35.00
ALS2, \$800.00
Endotracheal Intubation, \$75.00
Suction Supplies, \$25.00
Extra Attendant ALS/BLS, \$35.00
On Scene Care-ALS, \$500.00

Dated at vermillion, South Dakota this 3rd day of December, 2012.

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 Willson. 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.

C. Declaration of an Emergency

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for the removal of the landfill baler building

Mike Carlson, Finance Officer, reported that the landfill building and contents were destroyed by a fire on October 22, 2012. The insurance company adjustor obtained quotes for the damaged equipment and arranged to have it removed. The insurance company adjuster contacted an engineering firm about a proposal to have the building demolition specifications developed but, in a conference call on November 26th, the insurance company said that it was up to the City to contract for the demolition of the building. As the cost of demolition will be reimbursed by the insurance company, the adjustor requested to have a review of the specifications and review of the proposals before the City issues any contract. During the conference call, Bob Iverson, Solid Waste Director, stated his concern about the structural ability of the building to withstand snow and ice load as it is adjacent to the office building. Gary Hawkes, building inspector for the insurance company, agreed with Bob and suggested that the building be removed as soon as possible. To reduce the time required with the bidding process, it was suggested that the City Council declare an emergency to avoid the delays with advertising and obtaining quotes for the building removal. Mike recommended that the City Council recognize the need to remove the damaged building and declare that an emergency exists for safety at the landfill site. To accomplish this building removal, administrative staff needs to be authorized to obtain quotes and, subject to the approval of the insurance company, award a contract for the removal of the damaged landfill building with all such documentation included in the contract file.

Discussion followed with Bob Iverson, Solid Waste Director, noting that the specifications will include the salvaging of the metal and other materials to reduce the cost and that the concrete will not be removed at this time.

426-12

Alderman Grayson moved to declare that an emergency exists for safety at the landfill site to remove the damaged building and declare an emergency whereby administrative staff is authorized to obtain quotes without advertising for bids and award a contract for the building removal subject to the approval of the insurance company. Alderman Davies seconded the motion. Discussion followed. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

D. First Reading of Ordinance 1291 - 2012 Budget Supplemental Appropriations Ordinance

Mike Carlson, Finance Officer, reported that the supplemental appropriations ordinance is needed to adjust the budget for items that have changed since the budget was adopted in September 2012. Mike reviewed the amounts of the changes proposed in the General Fund, Second Penny Sales Tax Fund, E911 Fund, Library Fine and Gift Fund, Library Capital Projects Fund, Electric, Water, Wastewater and Landfill Utility Funds. Discussion followed.

427-12

Mayor Powell read the title to the above mentioned Ordinance and Alderman Willson moved adoption of the following Resolution:

BE IT RESOLVED, that the minutes of this meeting shall show that the title to proposed Ordinance No. 1291 entitled 2012 Budget Supplemental Appropriations Ordinance 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 3rd day of December, 2012 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

The motion was seconded by Alderman Meins. After discussion, the question of adoption of the Resolution was put to a vote of the Governing Body and 9 members voted in favor of and 0 members voted in opposition to the motion. Mayor Powell declared the motion adopted.

E. Parking removal along N. Dakota Street in front of First United Methodist Church

Jose Dominguez, City Engineer, reported on the receipt of a letter from First United Methodist Church to restrict parking along Dakota Street for access to the handicapped ramp. Jose stated to sign this area would require the removal of three parking stalls leaving four parking stalls. Jose noted that he has talked to the adjoining property owners about removing the parking. Jose recommended approval of the resolution to remove parking along N. Dakota Street in front of First United Methodist Church handicapped ramp. Jose answered questions of the City Council.

428-12

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

RESOLUTION TO REMOVE PARKING ALONG A PORTION OF NORTH DAKOTA STREET BETWEEN EAST MAIN AND EAST NATIONAL STREETS

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

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

WHEREAS, there is a need for some of the parking along North Dakota Street to be removed for the safe use of an existing handicap ramp.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Vermillion, South Dakota that three (3) parking stalls be removed along the west side of North Dakota Street between East Main and East National Streets fronting the First United Methodist Church.

Dated at Vermillion, South Dakota this 3rd day of December, 2012.

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 Ward. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 9 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Powell declared that the Resolution was adopted.

F. Declaration of Surplus Police Patrol car

Jason Anderson, Assistant City Engineer, reported that at the August 6, 2012 meeting the City Council declared a 2009 Ford Crown Vitoria as surplus, had it appraised at \$5,000 and bids were opened on August 28th. Only one insufficient bid of \$2,907 was received. Pursuant to SDCL 5-18A-5(9), the City negotiated a contract with Bismarck-Mandan Auto for the appraised value of \$5,000. Bismarck-Mandan Auto has since requested reprieve from their award and forfeited their \$500 bid security. It is recommended that the City Council authorize the Surplus Property Appraisal Committee to reappraise the vehicle and authorize it for sale by sealed bids. Discussion followed.

429-12

Alderman Willson moved approval to authorize the reappraisal of the 2009 Ford Crown Vitoria police car by the Surplus Property Appraisal Committee to be sold by sealed bids. Alderman Ward seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

9. Bid Openings

A. Fuel Quotes

Mike Carlson read the monthly fuel quotes and recommended the low quote of Stern Oil on all three items.

4,350 gal. unleaded 10% ethanol: Stern oil \$3.01, Brunick's Service \$3.09; 1,500 gal average cost of No. 1 and No. 2 diesel fuel-dyed: Stern Oil \$3.44, Brunick's Service \$3.48; 500 gal average cost of No. 1 and No. 2 diesel fuel-clear: Stern Oil \$3.67, Brunick's Service \$3.74

430-12

Alderman Grayson moved approval of the low quote of Stern Oil on all three items. Alderman Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

10. City Manager's Report

A. John reported that City offices will be closed on Tuesday, December 25th and Tuesday, January 1st in observance of the Christmas and the New Year's holidays. John reminded citizens that curbside recycling that is normally collected on those Tuesdays will be collected on the Monday following the holiday.

B. John reported on the receipt of a raffle request from the Fraternal Order of Eagles selling tickets for \$20 each from November 28 through March 23, 2013. The prizes will be 50 different guns. Proceeds from the raffle benefit the many different causes supported by the Eagles.

C. John reported that the City

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Council and County Commission will be having a joint meeting on Tuesday, December 11th at 5:15 p.m. in the City Council Chambers for two rezoning requests in the Joint Jurisdictional Area.

PAYROLL ADDITIONS AND CHANGES

Police: Jacy Nelsen \$21.81/hr;
Ambulance: Matt Sutura \$35.00/1st-\$22.00/2nd;
Water: Shane Griese \$16.16/hr; Landfill: Dan Goeden \$17.52/hr

11. Invoices Payable

431-12
Alderman Ward moved approval of the following bills:

A & B BUSINESS, INC
MAINTENANCE CONTRACT
439.67

AMERICAN ENGINEERING
TESTING AIRPORT TAXIWAY
TESTING 2,110.00

AQUA-PURE INC CHEMICALS
8,995.60

ARAMARK UNIFORM SERVICES UNIFORM CLEANING
251.38

A R A M A R K - W E A R G U A R D
UNIFORMS 141.48

ARGUS LEADER MEDIA #1085
SUBSCRIPTION 50.87

AUDIO GO BOOKS 183.91

AUTOMATIC BUILDING CONTROLS BATTERIES 154.91

AVERA QUEEN OF PEACE
HEALTH TESTING 69.90

BAKER & TAYLOR BOOKS
BOOKS370.79

BANNER ASSOCIATES, INC
PROFESSIONAL SERVICES
3,258.40

BARNES DISTRIBUTION
SUPPLIES 389.26

BEST WESTERN RAMKOTA
INN LODGING 275.97

BIERSCHBACH EQPT & SUPPLY PARTS 1,018.04

BILL SAUNDERS WATER
HEATER/WIRING REBATE
200.00

BOOK WHOLESALEERS, INC
BOOKS 99.38

BOUND TREE MEDICAL, LLC
SUPPLIES 274.10

BROADCASTER PRESS
ADVERTISING 126.00

BROWN TRAFFIC PRODUCTS
REPAIRS 195.20

BSN SPORTS INC SOCCER
NET 85.00

BURKE ENGINEERING SALES
CO REPAIRS 60.00

BUTLER MACHINERY CO.
PARTS/WHEEL LOADER
172,755.36

CALLAWAY GOLF MER-
CHANDISE 107.46

CAMPBELL SUPPLY
SUPPLIES 5,039.16

CASK & CORK MERCHAN-
DISE 2,014.97

CDW GOVERNMENT, INC
COMPUTER 495.00

CENTER POINT LARGE PRINT
BOOKS 127.22

CENTURY BUSINESS LEAS-
ING COPIER LEASE
138.25

CENTURYLINK TELEPHONE
738.03

CHEMCO, INC SUPPLIES
116.00

CHESTNUT CO MER-
CHANDISE 263.57

CHRISTENSEN RADIATOR &
REPAIR PARTS 155.56

CITY OF VERMILLION
POSTAGE/COPIES 1,109.97

CITY OF VERMILLION
UTILITY BILLS 35,734.26

CLAY RURAL WATER SYSTEM REPAIRS/WATER USAGE 712.84

CLIMATE SYSTEMS, INC
MAINTENANCE AGREEMENT
1,450.00

CMOORE PIT SERVICE
PROF SERVICES - LANDFILL
4,000.00

COLONIAL LIFE ACC INS.
INSURANCE 2,953.17

CRYSTAL & BRYAN DET-
TREY WATER HEATER/WIR-
ING REBATE 200.00

D & D PEST CONTROL
I N S P E C T I O N / T R E A T M E N T
35.00

DAKOTA BEVERAGE
MERCHANDISE 7,950.65

DAKOTA LOCK & KEY
PROFESSIONAL SERVICES
35.00

DAKOTA PC WAREHOUSE
COMPUTER/PARTS 1,706.86

DAKOTA RIGGERS & TOOL
SUPPLY SUPPLIES 54.00

DANKO EMERGENCY EQUIP-
MENT PARTS 3,142.91

DELTA DENTAL PLAN
INSURANCE 5,900.44

DELUXE ADVERTISING
CALENDARS 366.97

DENNIS MARTENS MAINTENANCE 833.34

DEPT OF REVENUE
TESTING 1,832.00

DEWILD GRANT RECKERT &
ASSOC PROFESSIONAL
SERVICES 6,843.48

DISPLAY SALES COMPANY
SUPPLIES 79.00

DUECO, INC REPAIRS
3,463.64

DUST TEX SUPPLIES
34.95