2010 Legal and Public **Notices**

tor of Clay County, South Dakota do hereby certify that the within and foregoing is a true copy of the Resolution passed on October 30,

County Auditor, Clay County, SD

Mike Hauck/Rolling Hills Development met with the Board to discuss 316th St. A petition was presented for the county to take over a portion of this road. The development will rebuilt and finish the road, meeting the county specifications and the development's plans but didn't want to start their process if the consensus of the Board would be not accept their request for county takeover. The Board accepted the petition and placed it on file. It was the consensus of the Board being that when that area of 316th Street is finished and everything is done to meet county specification, their intentions will be to maintain it from then on. The States Attorney reminded everyone that at any time the Commissioners are unable to care for said road, it may be given back to the Township. The Vermillion Township Board is required to file a formal petition with the county commissioners stating exactly what portion of 316th they are requesting the county to take over. Mike Hauck presented the Hwy Supt. with GEOTEC information on the condition of their road.

At 11:30 a.m. Passick moved, seconded by Packard and carried to adjourn and convene as Ditch Board. Those attending: Frank Martz and Frank Orr.

Wilson moved seconded by Packard and carried to pay the Clay County Hwy Department-\$2,132.24 for labor & equip. on Lateral 50 in Meckling Twp & \$3791.70 for culverts on Prairie Center Ditch, Pollman Excavating- \$8781.89 for work on Lat.1, \$940.66 for work on Lat 2, \$6079.20 for work on Lat50 and \$16,750.08 for work on Yankton Clay Ditch.

The Board discussed the tree removal on Lateral 3a and the quote specs to be opened on November 8th. All the trees will be removed & piled on landowner's property and the spoils leveled from the previous cleaning with grass planted to prevent erosion.

Information needed by Engineers for the survey and documentation requested for specs needed to continue the maintenance of the Clay Creek Ditch were discussed. They will be notified of the November 8th meeting requesting them to attend.

Kephart excused himself at 11:55 a.m.

At 12:15 a.m. Passick moved, seconded by Wilson and carried to come out of Ditch Board and reconvene as Board of County Commissioners.

Motion by Packard, seconded by Kephart and carried to approve the following claims for payment: October Commissioners- \$4,699.10, Auditor's Office- \$10,478.40, Treasurer's Office- \$10,824.39, States \$12,122.25, Attorney's Office-Courthouse-\$2,210.00, DOE's Office- \$7,798.25, ROD's Office-\$6,518.25, Veteran's Office-\$1,488.58, Sheriff's Office-\$27,725.21, County Jail-\$14,613.99, 24/7 Sobriety Project-\$897.44, Coroner-\$116.00, LEPC- \$265.33, Emerg. Mgmt. Office- \$2,420.67, Highway Department- \$36,314.48, CHN Office- \$972.04, WIC Office-\$1,583.04, Extension Office-\$2,657.58. Weed Department-\$1,094.31, and Zoning Office-\$1,897.39; (Payroll Withholding) AFLAC- \$592.66, Clay County Treasurer-\$31,458.75, Colonial Life- \$807.10, Conseco/Washington National Ins.- \$465.50, Montana CSED- \$458.00, Nationwide Retirement Solutions-\$58.82, New York Life Ins.- \$306.96, SD Retirement System-\$17,124.92, SD Supplement Retirement-\$1,100.00, TASC (Flex)-\$2,342.30, United Way Of Vermillion- \$69.00, Vermillion Federal Credit Union- \$2,071.00, Wellmark Blue Cross/Blue \$32,343.23; October Shield-Bills: (Prof. Serv./Fees) Norma Andersen- \$45.00, David Bergendahl- \$653.40, Brevik Law Office- \$180.85, City of Vermillion-\$60,405.34, Denise Cody- \$30.00, David Kaufmann/Dakota Psychological- \$2,815.00, Marv Ekeren-\$3.00, Hosmer Law Office-\$313.94, Joan Kittelson-\$15.00, Koletzky Law Office- \$194.60, Lewis & Clark Behavioral Health Service- \$447.00, Lucy Lewno-\$769.00, Gary Mikelson- \$244.95, Netsys Plus- \$76.99, Peterson, Stuart, Rumpca & Rasmussen-\$3,942.88, Pharmchem-Pollard & Larson- \$340.00, Redwood Toxicology Lab- \$30.00, Rehfuss- \$3.00, Sanford Cathy Health- \$1,793.34, Shepherd Re-\$110.00, Karen Swandaporting-\$30.00. Vermillion/Clay EMS-\$299.94, Michael Ward/Micwebs-Yankton Co. Sheriff-\$420.00, \$125.00: (Repairs/Maint.) Service-\$80.00, Butler Brunick Machinery- \$498.20, Iowa Office Supply- \$126.44, John Deere Financial- \$28.05, Johnson Controls- \$268.75, Kaiser Refrigera-\$32.50, Louie's Carpet tion-

Cleaning- \$357.90, Pedersen Ma-

chine- \$400.00, Presto-X- \$64.07,

Sioux Falls Two-Way Radio-

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\$40.80, \$487.50, Tom Taggart-Vermillion Ford- \$9.00; (Historic Preservation) Jim Stone- \$211.06; (Data Processing) Bureau of Administration- \$20.00, Bruce Mastel/MacMan Designs-\$27.50; (Materials/Supplies) American Institutional Supply- \$108.13, Boyer chinery- \$399.43, Campbell Supply- \$196.41, Chemco- \$116.66, Concrete Materials- \$348.14, Da-PC Warehouse-\$97.99, Pharmacy- \$420.25, Fast Auto Glass- \$180.00, First Bank \$202.97, Trust Visa-Herren-Schempp-\$10.00, \$709.87, I-State Truck Hy-Vee-\$236.06, JCL Solutions-\$304.50, John Deere Financial-\$88.42, K&P Services- \$109.45, \$18.97, Kaiser Refrigeration-Products- \$215.32, Mid-\$1,000.00, Ready Mix-Uniforms- \$42.95, North Central-\$19.44, Pedersen Ma-Quill Corp.chine-\$112.50, \$209.77, Sign-Up-\$22.02, Sioux Falls Two-Way Radio- \$413.76, Sturdevant's Auto Parts-Daniel Swensen-\$1,055.52, \$85.96, Titan Rentals-\$172.50. Wireless-\$8.77, Vermil-Verizon Wal-Mart \$32.74, lion Ford-Community- \$35.37, Western Office- \$10.08, Zee Medical Service- \$111.05; (Copier Supplies) Products-Century Business \$66.83; (Travel/Conference) Deadwood Mountain Grand-\$292.00, Robert Hansen- \$390.00, Rod Polley- \$62.00, Safety Bene-\$130.00, Laura Sundetfits-\$62.00; (Inmate Transport) Jerami West- \$22.00; (Utilities) Centurylink- \$494.44, City of Vermillion-\$2,217.01. Clay Rural Water System- \$42.20, Clay Union Elec-\$434.98. triciSecuretrac-\$742.50. Midcontinent Communi-\$260.00 Verizon Wirecationsless- \$359.23, Vermillion Garbage Service- \$156.00: (Juvenile Detention Contract) Minnehaha Co. Treasurer-\$4,840.34; (Juvenile Detention) Minnehaha Co. JDC-\$290.00: (Jail Meals) Cherry Street Grille- \$3,139.50; (Machinery/Auto) Brunick Service-\$245.00, Quality Motors-\$80.86. Stewart Oil & Tire-\$28.00: (Jury/Witness) Albert Aguirre-\$20.00, Lynn Anderson-\$50.00. Roberta Carlson- \$50.00, Joseph Dwver-\$50.00. Brianna Erzar-\$20.00. Kie-Lyn Haar-\$65.14. Tracey Halverson- \$50.00, Stacy Huber-\$50.00, Hy-Vee-\$5.28. Ricky Johns- \$50.00, Jean Kochodonski- \$20.00, Richard McQuis-\$20.00, Amy Norling-Rernleitner-\$64.80, Megan Sipes-\$67.76, \$20.00, Suzanne Wilken-\$20.00, Tianna

\$1.519.61: (POD Grant) Brule- \$80.00, Jones Food Center-(Building Improvements) Furniture-\$1,680.00; Brunick (Furniture/Minor Equip.) Office-\$1,835.50; (Modernization

Pollman

SDACO-\$436.00;

\$20.00;

\$198.00;

County

Sanford

(Books) West

Library)

(Weed

Weed

(Coroner/Post

Group-

Grant)

Board-

Western

Excavation-

Zimiga-

Mortem)

\$1,960.00;

\$596.00;

Group-

Union

Ditch)

\$6,079.20.

\$8,781.89; (Lateral 2A/B Ditch) Pollman Excavation-\$940.66; (Prairie Center Ditch) Clay Co. \$3,791.70; Highway Dept.-(Yankton/Clay Ditch) Roger Hol-Payroll: mes- \$78.00, Pollman Excavation-\$16,750.08; (Lateral 50A/B Ditch) Clay Co. Highway Dept.-\$2,132.24, Pollman Excavation-

> At 12:20 p.m. Passick moved. BY seconded by Wilson and carried to Michael D. Carlson, Finance Offiadjourn and reconvene Thursday, November 8, 2012 at 9:00 a.m.

Leo F. Powell, Chairman **Board of County Commissioners** ATTEST:

Ruth A. Bremer, County Auditor Published once at the total approximate cost of \$276.86 Estimated publishing cost per published copy

Published: November 16, 2012

Unapproved Minutes Council Special Session November 5, 2012 Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, November 5, 2012 at 12:00 noon in the City Hall large confer-

1. Roll Call

Davies, Grayson, Meins, Osborne, Ward (arrived at 12:07 p.m.), Zimmerman, Mayor Powell

Absent: Collier-Wise, Willson

2. Informational Session - Landfill Baler Building Fire report -

John Prescott, City Manager, re- 4. Adoption of Agenda ported that on October 22nd there was a fire at the landfill building that housed the baler as well as several large pieces of equipment. He stated that Bob Iverson, Solid Waste Director, has some pictures and will report on the operations along with an update on the insur-

Alderman Ward arrived at 12:07

Bob Iverson, Solid Waste Director, reviewed pictures of the 6. Public Hearings building noting the extent of the

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damage along with the damage to equipment and supplies in the building. He stated that the State Fire Marshall's Office and insurance company representatives inspected the property and could not determine the cause of the fire. Bob stated that without the baler Trucks SF- \$169.63, Butler Ma- the landfill will be burying solid waste in the trench. He reported that elevations were taken and will be monitored to determine the amount of landfill space being used to compare to baling. Bob wanted to thank the City Fire Department along with the other fire departments that assisted by hauling water to save the office building. Bob also thanked the other City departments that helped establish electrical service to the office building and hauled fuel and other supplies so they could continue to operate. Bob stated that the insurance company is working on determining the value of property that was destroyed and also making plans to remove the damaged property. Bob answered questions of the City Council on the landfill fire and operations.

> Mike Carlson, Finance Officer, reviewed the insurance coverage of the property noting that the building and contents would be at replacement cost but the loaders and truck would be at current market value. Mike noted that the building also has coverage for extra expenses up to \$100,000, debris removal of up to \$250,000, lost earnings \$100,000, building materials and supplies of \$10,000 and temporary storage location coverage of up to \$250,000. The equipment coverage is at current market value but also has coverage for rental equipment of up to \$25.000. The insurance company will be processing a progress payment of \$500,000 to the City to assist with some of the current expenses and we will be working with the insurance company by listing the costs incurred. Discussion followed.

> John Prescott, City Manager, presented some pictures of the library addition taken this morning. He stated the moving of library materials from the existing space to the new library addition started today. John reported that the new space will be tight until the existing library space is renovated and the materials are moved back.

3. Briefing on the November 5, 2012 City Council Regular Meeting Agenda

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

4. Adjourn

385-12

BY

Alderman Meins moved to adjourn the Council special session at 12:42 p.m. Alderman Osborne seconded the motion. Motion car-Preservation) ried 7 to 0. Mayor Powell de-(Lateral 1A/B clared the motion adopted.

> Dated at Vermillion, South Dakota this 5th day of November, 2012.

> THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA

John E (Jack) Powell, Mayor ATTEST:

Unapproved Minutes City Council Regular Session November 5, 2012 Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on November 5, 2012 at 7:00 p.m. by Mayor Powell.

1. Roll Call

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

Absent: Willson

2. Pledge of Allegiance

3. Minutes

A. October 15, 2012 Special Session; October 15, 2012 Regular Session

386-12

Alderman Davies moved approval of the October 15, 2012 special session minutes and the October 15, 2012 regular session minutes. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

387-12

Alderman Zimmerman moved approval of the agenda with the addition of an Executive Session for legal matters pursuant to SDCL 1-25-2(3).Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

5. Visitors to be Heard - None

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A. Request from Todd & Michele Mechling for a variance from the zoning ordinance to have a concrete slab in the front yard at 1020 W. Main Street

Farrell Christensen, Building Official, stated on September 25, Todd & Michele Mechling applied for a building permit to construct two additions on their existing home located at 1020 W. Main. Farrel stated in order to better understand the project, he contacted the contractor listed on the permit application, Nick Koster of Greenfield Builders. We had long discussion about the project what would be done to the house. At no time during the discussion was there mention of the construction of a 42 foot by 20 foot concrete pad in the required front yard. Several days after the discussion, staff received a complaint about a parking pad in the front yard of 1020 W Main. Staff inspected the property and found a new concrete pad with a pickup

On October 3, 2012 a letter was

sent to the owners advising them that the new parking pad was not allowed and must be removed. Several days later, the owner contacted code enforcement staff in regard to the letter. The Owner stated that the new pad was for a basketball court not parking. Because the pad was being used as a parking area, the letter was sent for parking. However, even if the pad was used as a basketball court it was still in violation of the landscaping requirements in the City's zoning ordinance, which promote development that is environmentally sensitive and aesthetically pleasing. The landscaping section requires at least 90% of the required front vard setback be landscaped and maintained with living ground cover. The remaining 10% is set aside for necessary stoops, steps and sidewalks connecting the front door to the driveway. Because of this ordinance, the pad would still need to be removed. Farrel stated that on October 12th a variance petition was filed, including a request for an agreement between the City and the Owners that would allow the City to issue a building permit pending the outcome of the variance petition. Staff developed an agreement and on October 15th the agreement was signed and the building permit was issued for the home addi-

Farrel stated that 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. At all times, the burden shall be on the applicant to prove the need for a variance. The ordinance requires applicant to demonstrate an unnecessary hardship 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 staff's opinion, it does not appear that the applicant has demonstrated a hardship. The owner has other locations for the basketball court that are not prohibited. Only the first 25 feet of the yard is required to 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. Furthermore, the request to screen the violation is not an acceptable way to address an ordinance violation.

Todd Mechling, property owner at 1020 W. Main, stated that if he would have known about the ordinance he would not have poured the concrete pad before asking for the variance. He stated that as Main Street is a snow route and even though he has a large lot to the west it is a ravine, to the south is over the bluff and the driveway slopes to the garage thus the only place for a basketball court is the front yard. He stated that the lilac bushes in the front yard were cut back and will grow to screen the court. As to the building permit, flat concrete work does not require a permit and his contractor has done considerable work around town. Todd stated that he filed the variance to save the basketball court. Todd provided handouts to the City Council that included signatures from neighbors stating that they had no obthe current location, a copy of the of the basketball court, a drawing of the proposed screening of the front yard, a proposal to remove

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tures of other properties that have a large amount of concrete in their front yards. Todd stated that he never meant to bypass the building code and wants to save enough of the basketball court to have a place for his children to play in the front yard.

John Prescott, City Manager, stated that the definition of front yard is in front of the structure and the pictures show concrete in what would be considered the side yard. John also noted that there is currently no sidewalk on this property and if the City Council wanted to require a sidewalk it might require the removal of the lilac bushes.

Discussion followed with Todd answering questions.

Alderman Osborne moved to approve the variance to the zoning ordinance to allow a 23 foot by 20 foot concrete slab in the northeast portion of the front yard. Alderman Gravson seconded the motion. Discussion followed noting the need to show a hardship by the applicant with the City Attorney reviewing the ordinance requirements. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Davies-N, Grayson-Y, Meins-Y, Osborne-Y, Ward-Y, Zimmerman-N, Mayor Powell-N. Mayor Powell asked the City Attorney about the requirements for a variance with Jim McCulloch reporting a two thirds vote of the members of the Board of Adjustment shall be necessary to approve any variance which would require six yes votes. Mayor Powell stated that the motion failed 5 to 3 as the required two thirds vote was not received.

B. Lease for approximately 232 acres of farmland east of Vermil-

Mike Carlson, Finance Officer, reported that State statute requires a public hearing before leasing municipally owned property for more than 120 days and an amount in excess of \$500. The City received approximately 232 acres of farmland from Kenneth Mockler in 1994. The statute does not require bidding but, to determine the most advantage price, the City advertised for bids which were opened November 1st. Four bids were received for the three year lease with the highest bid received from Jeff Solomon for \$70,000 in 2013, \$\$71,000 2014 and \$72,000 in 2015. Following the public hearing, the City council can authorize the farmland lease.

389-12

Alderman Zimmerman moved approval of the 3 year farmland lease with Jeff Solomon for approximately 232 acres of farmland east of Vermillion at \$70,000 for 2013, \$71,000 for 2014 and \$72,000 for 2015. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell

7. Old Business - None

8. New Business

A. Resolution to purchase a 938 Wheel Loader for the Solid Waste Department from the State of South Dakota contract

Jason Anderson, Assistant City Engineer, reported that the existing 938 wheel loader was destroyed in the Oct 22nd fire at the landfill. To timely replace the equipment at the landfill, it is recommended to purchase one from the National Joint Powers Alliance bid for a Caterpillar 938K wheel loader. Jason noted that the State of South Dakota has also purchased from this contract. The price is \$186,063 and includes 60 months or 5,000 hours warranty. Jason stated that the price includes a Ryland coupler which is not compatible with the existing City attachments. Butler Machinery has agreed to allow the trade-in of the Ryland coupler for a Fusion quick coupler for a deduct of \$15,391 bringing the total to \$170,672. Discussion followed.

Alderman Davies moved approval of the purchase of a 2012 Caterpillar 938K wheel loader from the National Joint Powers Alliance bid of \$186,063 and trade in the Ryland coupler for a Fusion quick coupler for a deduct of \$15,391 bringing the total to \$170,672 from Butler Machinery Company. Alderman Collier-Wise seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

B. Developer's Agreement with Troy Gregoire for Lot 6, Block 1,

Cottage Place Addition Jose Dominguez, City Engineer, reported that Troy Gregoire is planning on constructing a storage building on Lot 6, Block 1 Cottage Place and City ordinance requires that the property owner construct sidewalks, grading, curb and gutter, street surfacing, street jections to the basketball court in lights, water and sewer improvements on all streets abutting the invoice noting the financial cost property to be developed. This particular lot will be fronting Cottage Place, which is a gravel alley/street. The surfacing matepart of the concrete to bring the rial is acceptable for the amount front yard coverage to 17%, pic- of traffic that will be generated aftures of the property and also pic- ter the construction of the storage **Legal and Public Notices**

unit. Jose noted that construction of a concrete alley/street will be reviewed once other development occurs along Cottage Place.

Jose stated that the agreement will require that Mr. Gregoire construct a drainage system to alleviate any drainage issues caused by the construction of the storage unit. The proposed drainage system will connect to the system already in place at Cottage Avenue and drain the area between lot 6 and lot 5. The agreement also stipulates that the City will pay two-thirds of the cost, up to a maximum of \$15,000 with the remainder to be paid by Mr. Gregoire. In addition, the proposed drainage system will have to be in place and functional by June 1, 2013. Jose stated that the City Attorney has reviewed the agreement and recommended the adop-

391-12

Alderman Ward moved approval of the Developer's Agreement with Troy Gregore for Lot 6, Block 1, Cottage Place Addition as presented outlining the city share of the storm drainage costs. Alderman Zimmerman seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

C. Resolution to adjust the Storm Drainage fee

Mike Carlson, Finance Officer, reported that during the budget process it was proposed to raise the storm drainage fee to provide additional revenues for storm drainage projects. The fee is charged to all properties in the city and is included on the property tax statements. The proposed increase will generate \$5,400 of additional revenue for the storm water fund. For a residential lot of 10,000 square feet, the fee would go from \$24.00 to \$24.75 per year. Discussion followed.

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

RESOLUTION TO CHANGE STORMDRAINAGE FEE

WHEREAS, Section 53-135 of the 2008 Revised Ordinances of the City of Vermillion allows the City Council to change the city wide property drainage fee.

AND WHEREAS, during the annual budget it was determined there were not sufficient revenues in the stormdrainage fee fund.

BE IT HEREBY RESOLVED by the Governing body of the City of Vermillion, South Dakota, at a regular meeting thereof of said City at 7:00 p.m. on the 19th day of September, 2011 that the fee be changed as follows:

The unit financial charge shall be \$0,00033

Dated at Vermillion, South Dakota this 5th day of November,

THE GOVERNING BODY OF THE CITY OF VERMILLION. SOUTH DAKOTA BY__

John E. (Jack) Powell, Mayor ATTEST:

BY

Michael D Carlson, Finance Offi-

The motion was seconded by Alderman Collier-Wise. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 8 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Powell declared that the Resolution was adopted.

D. Brooks Industrial Park Property Lease Agreement with the South Dakota National Guard

Andy Colvin, Assistant to the City Manager, reported that the City entered into a lease agreement with the SD National Guard for land in the Brooks Industrial Park in 1995. The proposed lease is for 15 years and provides for an option for renewal. Andy noted that there is no change on this lease but it is cancellable by the City if the property should be needed for economic development. He stated that the City Attorney has reviewed the lease and recommends striking the last line on Page 1 as there is no Exhibit A.

393-12

Alderman Zimmerman moved approval of the lease agreement with the South Dakota Department of the Military for the Brooks Industrial Park property as presented with the removal of the last line on page 1 as recommended by the city attorney. Alderman Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion

9. Bid Openings

A. Fuel Quotes

Mike Carlson, Finance Officer, read the monthly fuel quotes and recommended the low quote of Stern Oil on all three proposals.