

8B Vermillion Plain Talk**2010 Legal and Public Notices**

Unapproved Minutes
Council Special Session
October 20, 2014
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, October 20, 2014 at 12:00 noon at the City Hall large conference room.

1. Roll Call

Present: Collier-Wise, Holland, Clarene Meins, Holly Meins, Price, Ward, Willson, Mayor Powell

Absent: Erickson

2. Center/Court/Main Street Traffic Signal Proposals - Jose Dominguez

Jose Dominguez, City Engineer, reported that the City hired Banner Associates to review and recommend options on the traffic signals at the Center/Court/Main Street intersection. Jose noted that this was warranted by the public input received regarding delays and that this intersection was in the top 5 for accidents. Jose stated that meetings will be held at City Hall on October 29th at 3:00 p.m. for downtown businesses and at 7:00 p.m. for the general public to review the options and accept comments. Rich Uckert, of Banner Associates, reported that in working on the intersection their firm contracted with HDR for assistance with Lance McQueen, representing HDR, present for questions. Rich reviewed the current intersection lay out and then three alternatives for the intersection. Rich reviewed the advantages and disadvantages of each alternative. Rich, Lance and Jose answered questions of the City Council on the alternatives. Jose stated that he would be reporting back to the City Council following the public meetings.

3. Food Pantry Funding Request - John Prescott

John Prescott, City Manager, reported that the funding request was received from the Food Pantry on the day the City Council was considering adoption of the budget and at that time it was suggested to review the request in the future. John handed out the funding request letter that requested \$5,000 of funding from the City. Discussion followed with the consensus to include consideration of funding for the Food Pantry at \$2,500 for 2015 on a future agenda.

4. Report on the South Dakota Municipal League Annual Conference - Rich Holland
Alderman Holland reported on information received while attending the South Dakota Municipal League Annual conference in Spearfish.

5. Briefing on the October 20, 2014 City Council Regular Meeting

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

6. Adjourn

352-14

Alderman Willson moved to adjourn the Council special session at 12:45 p.m. Alderman Clarene Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 20th day of October, 2014.

THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA

BY _____
John E. (Jack) Powell, Mayor
ATTEST:
BY _____
Michael D. Carlson, Finance Officer

Unapproved Minutes
City Council Regular Session
October 20, 2014
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on Monday, October 20, 2014 at 7:00 p.m. by Mayor Powell.

1. Roll Call

Present: Collier-Wise, Erickson (arrived at 7:02 p.m.), Holland, Clarene Meins, Holly Meins, Price, Ward, Willson, Mayor Powell, Student Representative Norberg

2. Pledge of Allegiance

3. Minutes

A. Minutes of October 6, 2014 Special Session; October 6, 2014 Regular Session

2010 Legal and Public Notices

353-14
Alderman Willson moved approval of the October 6, 2014 Special Session and October 6, 2014 Regular Session minutes. Alderman Holland seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

4. Adoption of Agenda

354-14

Alderman Willson moved approval of the agenda with the addition to 4. Visitors to be Heard B. Coyoteopoly Proclamation Hunger Awareness Day and add an executive session before adjourn for Economic Development Matters under SDCL 1-25-2 (5). Alderman Clarene Meins seconded the motion. Motion carried 8 to 0. Mayor Powell declared the motion adopted.

5. Visitors to be Heard

Alderman Erickson arrived at 7:02 p.m.

A. Extra Mile Day Proclamation

Alderman Clarene Meins read the proclamation designating November 1, 2014 as "Extra Mile Day" in Vermillion to recognize the individuals and organizations within the community who go the extra mile in order to make a difference in the community.

B. Coyoteopoly "Hunger Awareness Day" Proclamation

Alderman Collier-Wise read the Proclamation for Hunger Awareness Day that proclaims October 25, 2014 as "Hunger Awareness Day" in Vermillion and encourages all citizens to participate in the Coyoteopoly hunger awareness programs including the collection of food items for the Food Pantry on October 31st.

6. Public Hearings

A. First Reading of Ordinance 1321 - Amending Chapter 155, Zoning Regulations, of the 2008 Revised Ordinances of the City of Vermillion, South Dakota, Section 155.026, entitled Adoption of Official Zoning Map, rezoning Lots 1 and 2 Blk 7 (addressed as 12 Shriner Street and 30 Shriner Street, respectively), and Lot 3 Blk 5 (addressed as 1129 Cottage), Partridge Addition to the City of Vermillion, Clay County, South Dakota from the GB General Business District to the R-2 Residential District.

Farrel Christensen, Building Official, reported that Kevin and Cindy Brown own several lots along Shriner Street and the north end of Cottage Avenue. Farrel stated that Hazen Bye, representing the owners, contacted City Staff with the idea of changing the zoning for three of the lots from the General Business to R-2 Residential zoning district. Farrel stated that the three lots proposed for the zone change currently abut the existing R-2 zoning district. Farrel reported that there was a map in the packet showing the area proposed for the zone change. Farrel stated that a petition was received with the required number of signatures to allow the Planning Commission and City Council to consider the zone change. Farrel stated that the notice was published and that signs for the public hearing were placed on the property. Farrel reported that the Planning Commission considered the zone change request on October 14th and recommended approval of the zone change. Farrel reviewed the allowable uses in the R-2 Residential Zone. Discussion followed.

355-14

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

BE IT RESOLVED that the minutes of this meeting shall show that the title to proposed Ordinance No. 1321 entitled An Ordinance Amending Chapter 155, Zoning Regulations, of the revised ordinances of the City of Vermillion, South Dakota, Section 155.026 entitled Adoption of Official Zoning Map, amending chapter 155, Zoning Regulations, of the 2008 Revised Ordinances of the City of Vermillion, South Dakota, Rezoning Lots 1 and 2 Blk 7 (addressed as 12 Shriner Street and 30 Shriner Street, respectively), and Lot 3 Blk 5 (addressed as 1129 Cottage), Partridge Addition to the City of Vermillion, Clay County, South Dakota from the GB General Business District to the R-2 Residential District 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 20th day of October, 2014 at the Council Chambers in City Hall in the manner prescribed by SDCL 9-19-7 as amended.

2010 Legal and Public Notices

The motion was seconded by Alderman Willson. 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.

7. Old Business - None

8. New Business

A. Agreement to manage the Vermillion Liquor Store

John Prescott, City Manager, reported that Gregg and Nikki Peters began managing the Vermillion Liquor Store on November 1, 2005. John noted that the current management agreement expires on December 31, 2014. John reported that the City requested proposals from individuals or businesses interested in managing the liquor store and two written proposals were received. John noted that the City Council heard from both applicants at the September 2 and September 16, 2014 noon meetings. John noted that the City Council requested that staff negotiate a management agreement with Gregg and Nikki Peters. John stated that the proposed Liquor Store Management agreement is very similar to the current agreement. John reviewed the agreement changes noting the of term for the management agreement is five years with the option to renew for a second five year period and either party can end the arrangement for cause by providing 90 days notice. John stated that the store space lease renewal coincides with the management agreement. John reviewed the items that changed from the current management agreement which provides for a new location to the west at 820 Cottage and a video lottery room. John noted that the City cost of the improvements to the new location would be \$9,722. He stated that this cost will be reimbursed from the first \$9,722 of video lottery profits before being split with the liquor store manager. Discussion followed. Upon request, John stated that the plan is to close the current location on January 4, 2015 and open in the new location to the west on January 6, 2015.

356-14

Alderman Willson moved approval of the Liquor Store Agreement as presented with Gregg and Nikki Peters and authorized John Prescott, City Manager, to sign on behalf of the City. Alderman Collier-Wise seconded the motion. Motion carried 9 to 0.

B. Lease agreement for Vermillion Liquor Store

John Prescott, City Manager, reported that the current lease for the liquor store at 826 Cottage expires on February 28, 2015. John noted that one of the discussion points related to the acceptance of a management agreement for the liquor store has been the location. He stated that, in reviewing the management agreement proposal, different locations were discussed. John noted that Gregg and Nikki Peters presented two options, the first being the current location with 2,700 square feet at \$937.50 with new flooring and other improvements. The second option is to move to the east half of the former Ace Hardware space for the same lease rate of \$937.50 for 3,450 square feet. The City Council reviewed the proposals at the October 6th noon meeting and directed staff to develop a lease for the second option. John noted that the lease is for five years with a renewal for another five years at the same rent. This location will have new shelving, counter, two coolers, video lottery room and new flooring with the City's share of these improvements being \$9,722 with the landlord paying the difference. John noted that the City costs would be reimbursed from video lottery profits before being split with the manager. John noted that this lease replaces the old lease with the move to the new location planned for January 4th and 5th to open on January 6th. Discussion followed.

357-14

Alderman Collier-Wise moved approval of the liquor store lease agreement with Gregg and Nikki Peters as presented for the new location at 820 Cottage Avenue and authorized the John Prescott, City Manager, to sign on behalf of the City. Alderman Holland seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

C. Owner's Request for Reconsideration of October 6, 2014 Resolution to Exercise City Repurchase Option of Outlot A

John Prescott, City Manager, reported that the City Council adopted a Resolution of Intent to Exercise the repurchase option for Outlot A, Block 7, Smith-Quam Addition at the last meeting. John noted that since that action the property owner and real estate agent have contacted the City

2010 Legal and Public Notices

about the ability to sell the property to another owner vs. returning the property to the City for 70% of the purchase price. John reported that the City Attorney has indicated a transfer between private parties could be possible if the City Council reconsidered the October 6th action and approved a new resolution that includes the purchase agreement addendum with restrictive covenant terms and conditions and a warranty deed escrow provision. Jim McCulloch, City Attorney, reported on the purchase agreement addendum with restrictive covenants noting that in talking with the title company there may be some liens against the property. Jim also reviewed the provision for escrowing of the warranty deed with the City. Discussion followed.

358-14

Alderman Collier-Wise moved to reconsider the October 6th action on the Resolution of Intent to Exercise the repurchase of Outlot A, Block 7, Smith-Quam Addition. Alderman Clarene Meins seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion reconsidered.

Discussion followed on the purchase agreements options with Mayor Powell requesting action on the Resolution of Intent to Exercise the repurchase option of Outlot A. Discussion followed on the option.

359-14

Alderman Collier-Wise moved approval of the Resolution of Intent to Exercise the repurchase option of Outlot A, Block 7, Smith-Quam Addition. Alderman Willson seconded the motion. Motion failed 0 to 9. Mayor Powell declared the motion failed.

Discussion followed on the purchase agreement addendum with restrictive covenant terms and conditions and warranty deed escrow provisions.

360-14

After reading the same once, Alderman Collier-Wise moved adoption of the following:

Resolution Approving Outlot A Purchase Agreement and Purchase Agreement Addendum with Restrictive Covenant Terms and Conditions and Warranty Deed Escrow Provisions

WHEREAS, Wade Larson has purchased from the City the following described real property, viz:

Outlot A, Block 7, Smith-Quam Addition to the City of Vermillion, Clay County, South Dakota.

WHEREAS, Mr. Larson has failed to plat all of Outlot A or construct residential structures on the entire lot within the time prescribed in the Covenants adopted by the City Council on September 19, 2005 and filed with Register of Deeds on October 4, 2005, and;

WHEREAS, on October 6, 2014 the Vermillion City Council adopted a Resolution of Intent to Exercise the option to repurchase the undeveloped lot, as provided in the Covenants, for 70% of the price which it was sold to the purchaser minus any and all costs incurred in this transaction, and;

WHEREAS, Mr. Larson has approached the City with a Purchase Agreement and Purchase Agreement Addendum with Restrictive Covenant Terms and Conditions and a Warranty Deed Escrow Provisions for a sale of Outlot A to Three Sisters. LLC, and;

WHEREAS, the City Council has adopted a motion to reconsider the October 6, 2014 Resolution of Intent to Exercise the Option on Outlot A, and;

WHEREAS, the City Council has determined the terms of the Outlot A Purchase Agreement and Purchase Agreement Addendum with Restrictive Covenant Terms and Conditions and a Warranty Deed Escrow Provisions are acceptable and in the best interest of the city to plat and develop the Outlot.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the City of Vermillion, South Dakota, approves this Resolution Approving Outlot A Purchase Agreement and Purchase Agreement Addendum with Restrictive Covenant Terms and Conditions and a Warranty Deed Escrow Provisions between Mr. Wade Larson and Three Sisters LLC.

Dated at Vermillion, South Dakota this 20th day of October, 2014.

FOR THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH

2010 Legal and Public Notices

DAKOTA

By _____
John E. (Jack) Powell, Mayor

ATTEST:

By _____
Michael D. Carlson, Finance Officer

The motion was seconded by Alderman Erickson. Discussion followed with questions on what happens if the purchase is not completed on November 14, 2014 with Jim McCulloch, City Attorney, reviewing the options. 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.

D. Resolution to rename a portion of Cornell Street to Slate Road

John Prescott, City Manager, noted that Cornell Street is an existing paved street between Carr Street and Stanford Street. John stated that an unpaved portion of Cornell Street exists from Stanford Street west approximately 700 feet. John reported that Bliss Pointe will have a street which intersects Stanford Street directly west of the paved portion of Cornell Street. John noted that for the traveling public it would appear to make more sense to continue Cornell Street through the intersection with Stanford Street vs. maintaining the jog in Cornell Street that currently exists. John stated that it would be helpful to have the matter resolved before the street in Bliss Pointe is platted or developed. The preliminary plat for Bliss Pointe indicates that Cornell Street would continue west from the intersection. John noted that property owners and tenants along the unpaved portion of Cornell Street were sent a letter on August 22, 2014 advising them of the need for the street name change, possible timeframe and providing them an opportunity to submit a name for consideration with no response received. John reported that, with no suggestions from the property owners, staff is suggesting Slate Road for the unpaved portion of Cornell Street west of Stanford Street. John explained the reasoning behind selecting the name. John stated that a letter was sent to the property owners and tenants on October 9, 2014 advising them of the name that would be proposed to City Council at the October 20th meeting with a January 1, 2015 implementation date. John reported on October 16, 2014 USGS submitted the attached letter proposing the name of Rothrock Street to recognize a longtime South Dakota geologist. John stated that a copy of the letter was included in the packet. Discussion followed on the name change.

361-14

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

RESOLUTION TO CHANGE OF A PORTION OF CORNELL STREET

WHEREAS, the 1200, 1300 and 1400 block of Cornell Street currently exists west of Stanford Street; and

WHEREAS, a street is planned and preliminary platted to be constructed in Bliss Pointe Addition directly west of where Cornell Street intersects Stanford Street from the east; and

WHEREAS, whereas it makes sense for the traveling public and addressing to have Cornell Street continue through the intersection of Stanford Street vs. having an offset in the layout of Cornell Street; and

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the City of Vermillion does hereby change the name of 1200, 1300 and 1400 block of Cornell Street to Slate Road in Oden Addition from the intersection of Stanford Street west to the termination of the existing street.

BE IT FURTHER RESOLVED, that the street name change of Cornell Street in Oden Addition in this Resolution are effective January 1, 2015.

Dated at Vermillion, South Dakota this 20th day of October, 2014.

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

By _____

2010 Legal and Public Notices

John E. (Jack) Powell, Mayor
ATTEST:

By _____
Michael D. Carlson, Finance Officer

The motion was seconded by Alderman Holland. 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.

E. Planning Commission member appointment

Mayor Powell reported that, due to the resignation of Val Hower, there is a vacancy on the Planning Commission for a term that will expire in June 2017. Mayor Powell stated that his recommendation to fill the vacancy, from the input from the Council members, would be Robert Oehler. Mayor Powell wanted to thank those that had expressed interest in serving the City for this vacancy.

362-14

Alderman Price moved approval of the appointment of Robert Oehler to the Planning Commission to fill the remainder of Val Hower's term that expires in June 2017. Alderman Holland seconded the motion. Motion carried 9 to 0. Mayor Powell declared the motion adopted.

F. 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 \$7,500 of additional revenue for the storm water fund. For a residential lot of 10,000 square feet, the fee would go from \$25.87 to \$27.00 per year. Discussion followed.

363-14

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

RESOLUTION TO CHANGE STORM DRAINAGE 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 20th day of October, 2014 that the fee be changed as follows:

The unit financial charge shall be \$0.00036.

Dated at Vermillion, South Dakota this 20th day of October, 2014.

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.

G. Developer's Agreement with Nebraska Storage, LLC owner of Lots 6 & 7, Block 7, Erickson Addition

Jose Dominguez, City Engineer, reported that Nebraska Storage, LLC will be constructing several storage units on Lots 6 & 7, Block 7, Erickson Addition. Jose stated that the lots are located on the southeast corner of the intersection between Carr and Bower Streets. Jose noted that the area is zoned GI (General Industrial) and it allows for the construction of storage units as a conditional use. Jose reported that a conditional use permit to have the storage units at this location was approved by the Planning Commission. Jose stated that City ordinance requires that the property owner construct sidewalks, grading, curb and gutter, street surfacing, street lights, water and sewer improvements on all streets abutting a property to