

AVON, SOUTH DAKOTA – OCTOBER 9, 2001

A regular meeting of the Avon City Council was held on the above date at the Avon Public Library at 7:00 p.m. Roll Call: Mayor Frey, Finance Officer Berndt, and Alderman: Tjeerdsma, Tolsma, Kuhlman, DenOuden, Cameron and Mensch. Also present Orval Elliott.

Meeting called to order by Mayor Frey at 7:00.

Motion by Tjeerdsma and seconded by Kuhlman to approve the agenda with the change of pay loader discussion at the end. All voted "aye". Motion carried.

Motion by Mensch and seconded by Kuhlman to approve the minutes of the September 4, 2001 minutes. All voted "aye". Motion carried.

Motion by Tolsma and seconded by Tjeerdsma to approve the minutes of the September 17, 2001 meeting. All voted "aye". Motion carried.

The following claims were presented for payment:

GENERAL FUND:

A-1 Gas	\$ 51.01
Avon Clarion—publication	\$ 367.20
Albert's Law	\$ 646.20
A Ox Welding Supplies	\$ 28.66
Blue Cross of SD—health insurance	\$ 1,393.30
Cahoy's Gas and Service	\$ 506.67
Coast to Coast—misc. supplies	\$ 175.84
Community Bank—ss & wh	\$ 2,223.82
Cover to Cover—library books	\$ 25.38
Farmers Coop	\$ 60.80
Ferrelgas	\$ 254.70
Golden West Co.—telephone	\$ 156.74
Leisure world – pool shock	\$ 68.85
Myers Dray—garbage collection	\$ 2,792.00
Northwestern Public Service—elec	\$ 1,211.28
Mesman's	\$ 32.92
Roland Luke -reimbursement	\$ 20.00
Schoenfish -Audit	\$ 2,941.00
Schultz Building Center—gravel	\$ 787.25
SD Retirement—retirement	\$ 642.18
State Treasurer—sales tax	\$ 101.92
Wal-Mart-supplies	\$ 56.18
Salaries—office	\$ 1,048.22
Salaries—park and pool	\$ 184.70
Salaries—police	\$ 2,417.24
Salaries—library	\$ 678.77
Salaries—streets	\$ 1,912.56

WATER AND SEWER FUND

B-Y Water—water	\$	2,861.00
Golden West Co.—telephone	\$	45.84
Payer's Hardware – UPS Shipping	\$	24.88
Revenue & Reserve-transfer	\$	374.17
Amy Beeson – meter reading	\$	162.00
Margaret Poppe – meter reading	\$	134.00
Dept. of Revenue - water samples	\$	94.00
William's Septic	\$	320.00

AMBULANCE FUND:

A-1 Gas and Go	\$	23.00
Cahoy's	\$	45.15
Golden West Co.—telephone	\$	68.24
Moore Medical – supplies	\$	149.00
Verizon Wireless	\$	47.70
Ambulance Crew	\$	340.00

Motion by Cameron and seconded by Kuhlman to accept the foregoing claims.

All voted "aye". Motion carried.

Howard Elliott and Ed VanGerpen arrived at 7:07 p.m.

The following receipts were presented for approval:

RECEIPTS FOR October 2001

City of Avon—water	\$	5,523.19
City of Avon –late fee	\$	116.30
City of Avon—sewer	\$	1,864.00
City of Avon—garbage	\$	2,548.00
City of Avon—tax	\$	101.70
Revenue & Reserve—transfer	\$	374.17
Dept. of Revenue—sales tax 1 st Penny	\$	3,414.00
2 nd Penny	\$	2,844.40
Williams Septic	\$	70.00
Korey Mensch – Ambulance	\$	250.50
John Carda – Ambulance	\$	168.50
Lorne Roshholz – Ambulance	\$	124.95
State of SD - Ambulance	\$	195.15
Unified Judicial – Fines	\$	83.85
Bon Homme County Treasurer – general	\$	2,029.49
Penalties	\$	20.16
Motor Vehicle	\$	276.19
12 %	\$	546.55

Motion by DenOuden and seconded by Tolsma to accept the foregoing receipts.

All voted "aye". Motion carried.

Mayor Frey indicated to the council that Sandy Pier resigned from the library board. She was thanked for her service and a replacement will be sought.

Motion by Kuhlman and seconded by Cameron to sign the Statement of Extension to the Joint Cooperative Agreement with District III and to appoint Korey Mensch as Avon's Representative. All voted "aye". Motion carried.

Mayor Frey presented the following resolution for the council's approval, he commented that Tom Alberts had reviewed the agreement and saw no problems.

RESOLUTION OF THE CITY OF AVON
APPROVING CHANGES OF OWNERSHIP AND CONTROL

WHEREAS, Village Cable, Inc. ("Franchisee") owns, operates and maintains a cable television system ("System") in the City of Avon ("the Franchise Authority") pursuant to City Ordinance No. 244, effective April 4, 1995 (the "Franchise") and Franchisee is the duly authorized holder of the Franchise; and

WHEREAS, the shareholders of the Franchise, and Alden Enterprises, Inc. ("Alden") are parties to an Asset Purchase Agreement, pursuant to which Alden, a South Dakota corporation desires to assume Franchisee's rights and obligations under the Franchise ("the Assignment"); and

WHEREAS, the Franchise Authority has investigated the qualifications of Alden and finds Alden to be a suitable assignee of Franchisor's rights and obligations under the Franchise;

NOW THEREFORE, BE IT RESOLVED BY THE FRANCHISE AUTHORITY AS FOLLOWS:

SECTION 1. The Franchise Authority hereby consents to the Assignment, all in accordance with the terms of the Franchise and any applicable law.

SECTION 2. The Franchise Authority confirms that (a) the Franchise was properly granted or transferred to Franchisee, (b) the Franchise is currently in full force and effect and will expire on April 4, 2010, subject to options in the Franchise, in any, to extend such term, (c) The Franchise supersedes all other agreements between the parties, (d) the Franchise represents the entire understanding of the parties and Franchisee has no obligation to the Franchise Authority other than those specifically stated in the Franchise, and (e) Franchisee is materially in compliance with the provisions of the Franchise and there exists no fact or circumstances Known to the Franchise Authority which constitutes or which, with the passage of time or the giving of notice or both, would constitute a material default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights thereunder.

SECTION 3. Alden may transfer the Franchise or control related to any entity controlling, controlled by, or under common control with Alden, or change its name to Satellite Cable Services, Inc. or any such similar name

SECTION 4. The Franchise Authority hereby consents to and approves the assignment, mortgage, pledge, or other encumbrance, if any, of the Franchise, the System, or assets relating thereto, as collateral for a loan.

SECTION 5. This Resolution shall be deemed effective upon date of enactment.

SECTION 6. The Franchise Authority hereby waives any rights of first refusal or any other purchase right it may have pursuant to the Franchise, as amended, or otherwise, with respect to the Transfer.

SECTION 7. This resolution shall have the force of a continuing agreement with the Franchisee and Alden, and the Franchise Authority shall not amend or otherwise alter this Resolution without the consent Franchisee and Alden.

PASSED, ADOPTED AND APPROVED this 9th day of October, 2001.

By: James Frey
Mayor of Avon

Attest:
Carol Berndt
Clerk

Motion by Tolsma and seconded by DenOuden to adopt the foregoing resolution.
Roll Call: Tjeerdsma, Tolsma, Kuhlman, DenOuden, Cameron and Mensch all voted "aye". Motion carried.

Dave Brandt arrived at 7:45 p.m.

Mayor Frey discussed the Audit report with the council. The auditors, Schoenfish, Inc, indicated no significant deficiencies. The council or other interested parties are free to review the audit report. A copy of the audit is available to review at the office of Carol Berndt, Finance Officer.

Finance Officer Berndt reported that the meters have been read and individuals who owe on past due accounts all received notice with the new books. A discussion was held regarding raising the Water Deposit to \$50.00, Berndt will check into the matter.

Ed VanGerpen told the council he would be attending a farm sale near Custer on the October 13, and there was a pay loader was on the sale bill. A discussion was held regarding the pay loader.

Motion by Mensch and seconded by Kuhlman to authorize Council President DenOuden to attend a sale with Ed VanGerpen and bid up to \$24,999.00 on the used pay loader, to pay DenOuden \$100.00 for his time, and to pay VanGerpen mileage. All voted "aye". Motion carried. (It was later determined that the pay loader in question was too small. In addition, the procedure for purchasing item on auction was reviewed to determine compliance. The motion was not in compliance with the procedure and was later declared invalid 10/12/01 by the mayor.)

Howard Elliot presented a list of supplies we need to return to Tyndall, which were used on Elm Street. He also once again presented the council with a bill from the Jurrens Repair sewer line, asking to be paid for the work. The minutes from that time were reviewed. It was discovered that the past council had agreed to pay a third of the estimated bill, with the stipulation that Jurrens sign an agreement of ownership of the line, since the council felt the line should have been a larger pipe. No agreement was signed so no payment was made.

Howard Elliott left at 8:30 p.m.

After further discussion a motion was made by Mensch and seconded by Tjeerdsma to pay a third of the estimate, in the amount of \$1,139.33 the payment will be approved at the November meeting. All voted "aye", DenOuden abstains. Motion carried.

Dave Brandt asked the council for permission to burn some large trees on his property. Motion by Tolsma and seconded by Kuhlman to grant permission. All voted "aye". Motion carried. Brandt left at 8:45 p.m.


Alderman Tolsma brought the concerns of the Library Board to the council a discussion was held. Tolsma indicated there would be a Library Board Meeting at 4:30 p.m. on October 29, 2001.

Alderman Kuhlman shared there are very tentative plans in the works that a school group may want to ask the council for permission to use the BJ's building as a teen center. This is in the very early stages and he didn't know any of the particulars at this time.

Motion by DenOuden and seconded by Tjeerdsma to adjourn at 9:00 p.m. All voted "aye". Motion carried.


James Frey - Mayor

ATTEST:


Carol Berndt
City Finance Officer
(SEAL)