

MINUTES FOR AVON, SOUTH DAKOTA – December 1, 2003

A regular meeting of the Avon City Council was held on the above date at the Avon City Building at 7:00 p.m. Roll Call: Mayor Bechtold, and Aldermen: Tolsma, Kuhlman, Mensch, Cameron and Finance Officer Berndt. Absent: Aldermen Reister and Tjeerdsma. Also present were Roger Frey, Orval Elliott and Jack Brodeen.

Meeting called to order by Mayor Bechtold at 7:04 p.m.

Motion by Kuhlman and seconded Cameron by to approve the agenda as printed. All voted “aye”. Motion carried.

Motion by Tolsma and seconded by Kuhlman to approve the minutes of the November 3, 2003 meeting as written. All voted “aye”. Motion carried.

The following claims were presented for payment:

<b>General Fund</b>			
A-1	Gas		\$ 10.00
Berkley Risk	Insurance		\$ 730.00
Binswanger Glass	Repair Tractor Glass		\$ 49.81
Bierschbach	Transit parts		\$ 44.49
Carol Berndt	Mileage to workshop		\$ 92.80
Cellularone	Phone		\$ 43.72
Community Bank	Withholding and social security		\$ 1,451.26
Community Bank	Loan payment		\$ 1,655.14
D & L Oil	Gas, heating fuel		\$ 653.70
Elliott Plumbing	Pool supplies		\$ 17.50
Golden West	Monthly bill		\$ 217.66
Myers Dray	Collections and dumpster		\$ 2,771.00
NWPS	Electricity		\$ 995.42
Poirier Equipment	Hose		\$ 47.36
Readers Den	Books		\$ 87.24
SBC	Pool supplies		\$ 102.50
Ron's	Cleaning Supplies		\$ 5.56
SDML	Election tape		\$ 10.00
SD Dept. of Revenue	Sales tax on garbage		\$ 133.08
SD Retirement	Payroll contribution		\$ 922.58
True Value	Misc. supplies		\$ 311.66
Stan Houston	Snow fence		\$ 215.85
WalMart	Books office supplies		\$ 83.34
Williams Septic	Potty rental		\$ 250.00
Wellmark	Insurance		\$ 1,064.30
Western Office	Library Supplies		\$ 25.30
Office- salary			\$ 968.30
Streets -salary			\$ 2,266.02
Police - salary			\$ 2,055.29
Library - salary			\$ 484.06
<b>TOTAL</b>			\$ 17,798.53
<b>WATER/SEWER</b>			
BY Water	Monthly charge		\$ 2,804.57
Golden West	phone shop		\$ 48.41
D & L Oil	Fuel for heater		\$ 317.20
Dakota Supply Group	Inventory		\$ 282.13
Avera Queen pf Peace	Drug test		\$ 63.50
Ryan Rucktaeschl	Mileage to Wagner		\$ 10.24
Allen Kocmich	Cell phone allowance		\$ 135.00

Williams Septic	Jet line	\$ 150.00
SD Dept of Health	water sample	\$ 12.00
<b>TOTAL</b>		\$ 3,823.05
<b>AMBULANCE</b>		
Golden West	phone	\$ 72.70
A-1	Gas	\$ 15.50
D & L Oil	Gas	\$ 16.50
Verizon Wireless	phone	\$ 21.92
<b>TOTAL</b>		\$ 126.62
<b>TOTAL EXPENSES</b>		\$ 26,850.75
<b>STORM DRAIN PROJECT</b>		
SPN	Services thru 11-15	\$ 3,715.05
Clayton Wittmier	Sand	\$ 1,312.50
Wipf and Cotton	Easement work	\$ 75.00
<b>TOTAL</b>		\$ 5,102.55
<b>Pool Project</b>		
Wagner Building Center	Cement	\$ 21,013.48
District III	2 <sup>nd</sup> payment	\$ 1,500.00
<b>TOTAL</b>		\$ 22,513.48

Motion by Cameron and seconded by Tolsma to pay the foregoing claims. All voted "aye".  
Motion carried.

Motion by Cameron and seconded by Tolsma to transfer \$831.00 from the sewer fund to the Storm Drain savings account. All voted "aye". Motion carried.

The following receipts were presented for approval:

#### RECEIPTS FOR NOVEMBER 2003

City of Avon—water	\$ 6,064.33
City of Avon—late fees	\$ 271.49
City of Avon—sewer	\$ 3,322.00
City of Avon—garbage	\$ 3,327.00
City of Avon—tax	\$ 133.11
Water Deposit – Frank, Myers, Ridgway	\$ 125.00
Ambulance – Medicare	\$ 648.41
Supplement	\$ 119.19
Corner Bar – Liquor Lic. Fee 2004	\$ 1,000.00
Dept. of Revenue— 1st Penney sales tax	\$ 3,646.33
2nd Penney sales tax	\$ 2,986.20
State of SD – Highway and Bridge	\$ 758.62
Fines	\$ 37.70
Bon Homme Co. Treasurer—General	\$ 42,065.74
Penalties	\$ 35.48
In Lieu	\$ 461.22
Motor Vehicle	\$ 105.36
	<u>\$ 65,107.18</u>

Motion by Kuhlman and seconded by Cameron to accept the foregoing receipts. All voted "aye". Motion carried.

Mayor Bechtold opened the floor to the public for questions or concerns. Roger Frey questioned if the city in fact had not replaced the line running through the city park. Mayor Bechtold explained that when Schultz was digging the line along the park they had come across the old line running from the park. It was in good condition and at the correct elevation, so the discussion was made to tie into the old line and not replace it. This saved the city approximately \$2,136.00.

At this time Mayor Bechtold gave an overview of the pool projects progress and possible completion timetable. Finance Officer Berndt shared that at this time there is adequate money in the savings account to pay the remainder of the bid items(SBC and MCR). Then we will have to see what the state will allow as part of our share, we are hoping to end up with money in reserve which could be used to make other improvements.

At this time the council opened discussion on the tabled cable resolution, Finance Officer Berndt shared an email received from Golden west concerning the cable and Internet service. Motion by Kuhlman and seconded by Tolsma to allow Mayor Bechtold and Finance Officer Berndt sign the resolution to transfer the franchise from Satellite Cable to Golden West. All voted "aye". Motion carried.

Alderman Tolsma introduced the following resolution for Contingency fund transfer:

RESOLUTION PROVIDING FOR TRANSFER OF FUNDS  
FROM CONTINGENCY FUND TO INSURANCE FUND

BE IT RESOLVED that the moneys in the Contingency Fund established to supplement the General Budget, be transferred to the following funds in the General Fund of the City of Avon, Bon Homme County, South Dakota, to supplement those accounts necessary to conduct the indispensable function of government of the City of Avon: General Fund: Insurance \$730.00.

Passed and approved this 1st day of November 2003.

  
Russell Bechtold - Mayor

ATTEST:




Carol Berndt - City Finance Officer

Seconded by Cameron. Roll call vote: Tolsma, Kuhlman, Cameron, and Mensch all voted "aye". Motion carried.

Finance Officer Berndt presented a list of old water bills and old ambulance bills from 1994-2000. It was recommended in the audit that we start to write off old and outstanding bills. Motion by Kuhlman and seconded by Cameron to write off 4 water accounts totaling \$987.48, and 39 outstanding ambulance bills dating back to 1994 for a total of \$6,690.65. All voted "aye". Motion carried. There was a lengthy discussion that the ambulance bills from 2001 to present should be looked at closely and go after collecting as many bills as we can.

Motion by Mensch and seconded by Kuhlman to adjourn at 8:00 p.m. All voted "aye". Motion carried.

  
Russell Bechtold - Mayor

ATTEST:



Carol Berndt  
City Finance Officer  
(SEAL)

## Ambulance Runs

Sheet2

Date	Person	Charges	Payments	Balance
	Ridgeway, Melba	\$ 867.94		\$ 867.94
10/22/94	Greggory, Ross	\$ 71.00		\$ 71.00
1/4/95	Canfield, Hermina	\$ 77.50		\$ 77.50
7/13/95	Jackson, Doug	\$ 65.00		\$ 65.00
2/12/96	Johnson, Scott	\$ 158.00		\$ 158.00
2/23/96	McDonald, Marty	\$ 118.00		\$ 118.00
6/10/96	O'Conner, Shyla	\$ 65.00		\$ 65.00
7/27/96	Heck, Audrey	\$ 74.00		\$ 74.00
1/12/98	Mace, Tom	\$ 83.00		\$ 83.00
10/25/98	Hare, Leafia	\$ 140.00		\$ 140.00
11/13/98	Busca, Florraine	\$ 142.00		\$ 142.00
11/22/98	Radack, Ivan	\$ 220.00		\$ 220.00
4/28/99	Red Buffulao, Steve	\$ 109.20		\$ 109.20
5/17/99	Archambeau, Robye	\$ 228.00		\$ 228.00
5/17/99	Olson, Lindsay	\$ 219.00		\$ 219.00
5/17/99	Sully, Desiree	\$ 228.00		\$ 228.00
6/2/99	Goulet, Carrie	\$ 139.00		\$ 139.00
6/3/99	Goulet, Carrie	\$ 139.00		\$ 139.00
6/10/99	Krepel, Esther	\$ 190.60		\$ 190.60
6/11/99	Livingston, Rose	\$ 169.00		\$ 169.00
6/22/99	Carr, Mike	\$ 260.00		\$ 260.00
6/22/99	Carr, Mike	\$ 130.00		\$ 130.00
7/7/99	Palsma, Robert	\$ 220.00		\$ 220.00
7/8/99	Davis, Tony	\$ 200.00		\$ 200.00
8/13/99	Bordeaux, Sienea	\$ 149.00		\$ 149.00
10/10/99	Hlava, Pat	\$ 230.75		\$ 230.75
10/31/99	Red Buffulao, Joy	\$ 166.00		\$ 166.00
12/3/99	Archambeau, Helen	\$ 130.00		\$ 130.00
12/5/99	Dertein, Edna	\$ 142.86		\$ 142.86
12/19/99	Olson, Velda	\$ 100.13		\$ 100.13
4/6/01	Cihak, Don	\$ 96.44		\$ 96.44
7/7/00	Hrdlika, Dillion	\$ 220.00		\$ 220.00
9/5/00	Deal, Connie	\$ 139.00		\$ 139.00
9/12/00	Roper, Christina	\$ 352.00		\$ 352.00
9/25/00	Hennies, John	\$ 156.00		\$ 156.00
9/30/00	Roth, Helen	\$ 79.28		\$ 79.28
12/12/00	Wlaston, Viola	\$ 139.00		\$ 139.00
12/14/00	Red Buffulao, Julia	\$ 183.00		\$ 183.00
12/16/00	Miner, Vern	\$ 159.00	\$ 65.05	\$ 93.95
				\$ 6,690.65

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY OF AVON  
APPROVING CHANGE OF OWNERSHIP  
AND CONTROL AND ASSIGNMENT OF LEASE**

**WHEREAS**, the City of Avon (the "Franchise Authority") originally passed and adopted City Ordinance No. 244, which became effective on April 4, 1995 (the "Franchise"), which Franchise granted unto Village Cable, Inc., its successors and assigns, the right to erect, own, operate and maintain a community antenna television system in Avon, South Dakota; and

**WHEREAS**, pursuant to the City Resolution which was passed on October 9, 2001, the Franchise was assigned to Alden Enterprises, Inc. ("Alden Enterprises"), its successors and assigns, as part of an asset purchase agreement wherein Alden Enterprises acquired substantially all of the assets of Village Cable, Inc.; and

**WHEREAS**, on September 12, 2001, Alden Enterprises legally changed its corporate name to Satellite Cable Services, Inc. (the "Franchisee"); and

**WHEREAS**, Franchise Authority is the Lessor of that certain Lease dated as of March 1, 2000, for that portion of real property legally described as: Outlots in SE quarter of NE quarter of Lot 2 in the West part of Section 33, Township 95, Range 61 (the "Lease"), and Satellite Cable Services, Inc., having been previously assigned the Lease, is the Lessee under the Lease; and

**WHEREAS**, Franchisee is the duly authorized holder of the Franchise; and

**WHEREAS**, Franchisee and Golden West Telecommunications Cooperative, Inc. ("Golden West") are parties to an Asset Purchase Agreement, pursuant to which Golden West, a South Dakota corporation, desires to assume Franchisee's rights and obligations under the Franchise and Lease (the "Assignment"); and

**WHEREAS**, the Franchise Authority has investigated the qualifications of Golden West and finds Golden West to be a suitable assignee of Franchisee's rights and obligations under the Franchise and Lease;

**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 Lease and any applicable law.

**SECTION 2.** The Franchise Authority confirms that (a) the Franchise was properly granted and 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, if 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 obligations to the Franchise Authority other

than those specifically stated in the Franchise, (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, and (f) Franchisee is the duly authorized holder or assignee of the Lease, and Franchise Authority knows of no conditions of default under the Lease which are attributable to Franchisee.

**SECTION 3.** Golden West may transfer the Franchise and Lease to any entity controlling, controlled by, or under common control with Golden West.

**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 the date of enactment.

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

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

PASSED, ADOPTED AND APPROVED this 1 day of December, 2003.

By: *Russell Beckel*

Attest:

*Carol Berndt*  
Clerk

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I, the undersigned, being the duly appointed, qualified and acting Clerk of The City of Avon, hereby certify that the foregoing Resolution No. \_\_\_\_\_ is a true, correct and accurate copy as duly and lawfully passed and adopted by the governing body of the city on the 1<sup>st</sup> day of Dec, 2003.

*Carol Berndt*  
City Clerk