

AVON, SOUTH DAKOTA - February 3, 1997

The regular meeting of the Avon City Council was held on the above date at the Avon Public Library at 7:30 P.M. Roll Call: Mayor Frey, Finance Officer Haenfler, and Alderman: Einrem, Knoll, VanGerpen, Reister, and Deurmier. Absent Alderman: Oster. Street and Water Commissioner Kocmich was present.

Meeting called to order by Mayor Frey.

Motion by Reister and seconded by Deurmier to approve the agenda with the following changes, add Lenny Gramkow and to go in to executive session immediately following Lenny Gramkow. All voted "aye". Motion carried.

Lenny Gramkow asked the Council if they would prorate amount of dollars to be paid back to the city if he would leave before the end of his three year contract according to time of service given to the city. The Council made no decision at this time.

Motion by Einrem and seconded by Deurmeir to go into executive session at 7:36 P.M. to discuss a City Personnel Manual. All voted "aye". Motion carried.

Motion by Einrem and seconded by Knoll to come out of executive session at 8:50 P.M. All voted "aye". Motion carried. No action was taken at this time.

Motion by Einrem and seconded by Knoll to approve the minutes of the January 6 & 22, 1997 meetings. All voted "aye". Motion carried.

The following claims were presented for payment:

CLAIMS FOR FEBRUARY

GENERAL FUND:

Avon Clarion--publication	\$	355.97
Berkley Administrator--workmens comp insurance		170.00
Blue Cross of SD--health insurance		893.83
Cargill--salt		61.20
coast to Coast--ext. cord, antifreeze, bolts, bulbs		133.37
Cover to Cover--books		85.46
Community Bank--ss & wh		925.00
D & L Oil--gasohol, oil, diesel		1,118.80
Drake Equipment--2" packing		25.85
Elliott Plumbing--work on furnace & old pump house		32.49
Farmer Coop Elevator--salt		55.10
Golden West Communications--telephone		423.60
Peg Haenfler--mileage		74.40
Jurren's Electronic--CB radio, radio repair		55.45
Jurren's Repair--parts, labor		1,250.20
Myers Dray--garbage collection		1,248.50
Myers Dray--dumpster		40.00
Northwestern Public Service--electricity		1,373.57
Postmaster--stamps		32.00
S & S Maching--repairs		125.35
Scoblic Stationers--correction tape		11.14
SD Retirement--retirement		716.16
St Paul Stamp Work--dog tags		48.88
Salaries--library		339.38
Salaries--office		529.95
Salaries--streets		94.55
Salaries--police		2,240.61
	\$	<u>12,439.86</u>

WATER AND SEWER FUND:

B-Y Water--water	2,420.00
Blue Cross of SD--health insurance	371.95
Community Bank--ss & wh	327.94
Dept of rEvenue--water sample	10.00
Golden West Communications--telephone	68.03
Revenue & Reserve--transfer	374.17
SD Retirement--retirement	146.26
Allen Kocmich--mileage, meals	63.26
Salaries--w/s	1,055.24
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	\$ 4,836.85

AMBULANCE FUND:

Commnet Cellular--telephone	20.95
D & L Oil--gasohol	30.19
Golden West Communications--telephone	91.15
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	142.29

Motion by Brodeen and seconded by Deurmier to pay the foregoing claims. All voted "aye". Motion carried.

The following receipts were presented for approval:

## RECEIPTS FOR JANUARY 1997

City of Avon--water	6,529.51
City of Avon--sewer	1,988.00
City of Avon--garbage	1,710.29
City of Avon--tax	70.67
Revenue & Reserve--transfer	374.17
Clerk of Court--fines	22.75
Dept of Revenue--hwy & Bridge	708.81
Dept of Revenue--sales tax	7,127.41
Dept of Revenue--alcoholic beverage fund	812.83
Bon Homme County Treasurer--general	936.77
25% HBR	37.04
12% Municipal	169.10
20% Credit	1,558.51
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	22,045.86

Motion by Knoll and seconded by Einrem to accept the receipts as presented. All voted "aye". Motion carried.

Motion by Reister and seconded by Knoll to advertise for pasture rent bids to be opened at next months meeting. All voted "aye". Motion carried.

Motion by Einrem and seconded by Reister to advertise for rental of the concession stands at the parks and pool, and advertise for the summer recreation program. Bids to be opened at the March meeting and summer recreation program recommendations from the park board will be presented to council at the April meeting. All voted "aye". Motion carried.

Motion by Reister and seconded by Einrem to set April 8, 1997 as election day for the municipal election and to hold the election in conjunction with the Avon School District election. All voted "aye". Motion carried.

Street and Water Commissioner Kocmich informed the Council the cost to sandblast and paint legs and top of water tower would be about \$15,000.00. There are also some items that need addressing regarding OSHA upgrades. That cost would be approximately \$12,000.00. The Council asked Kocmich to get another estimate.



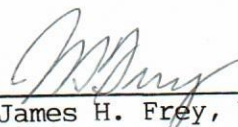
Kocmich informed the Council that the 4020 tractor hydraulics are acting up. Kocmich is to look into cost to replace the tractor.

The City of Avon has been recertified as a 1997 SOUTH DAKOTA GOLD COMMUNITY. This award is presented to the community of Avon for ongoing leadership, vision and participation in the South Dakota Guide to Opportunities for Local Development Program.

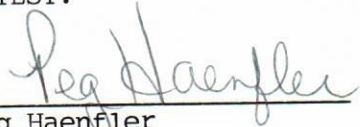
Alderman Einrem introduced the following resolution and moved it's adoption: (see attached)

Motion to adopt the foregoing resolution was seconded by Deurmier. Roll call: Reister, VanGerpen, Einrem, Knoll and Deurmier all voted "aye". None voted "naye". Absent Alderman Oster. Motion carried.

There being no further business to come before the Council at this time, a motion was made by Einrem and seconded by VanGerpen to adjourn at 9:35 P.M. All voted "aye". Motion carried.

  
James H. Frey, Mayor

ATTEST:

  
Peg Haenfler  
City Finance Officer  
(SEAL)

## RESOLUTION

WHEREAS the City of Avon, located in Bon Homme County, South Dakota, is a member of Southern Missouri Recycling & Waste Management District, a South Dakota Political Subdivision, hereinafter referred to as "District;" and,

WHEREAS the District has nearly completed the construction of a Subtitle D Landfill near Lake Andes, Charles Mix County, SD, which will provide municipal solid waste disposal services to all members in accordance with applicable federal law and regulations; and,

WHEREAS the Federal District Court for the District of South Dakota and the Eighth Circuit Court of Appeals have held that the land upon which the said landfill is sited is within the boundaries of the Yankton Sioux Indian Reservation; and,

WHEREAS the State of South Dakota is filing a Petition for Writ of Certiorari with the United States Supreme Court asking the Supreme Court to reverse the ruling of the said District Court and Eighth Circuit Court; and,

WHEREAS the District feels it necessary to file an amicus brief in support of the State of South Dakota's position concerning jurisdiction and regulatory control over said landfill and the District's request that all member communities and counties join in said amicus brief; therefore, be it

RESOLVED that the City of Avon hereby joins with the District in the filing of an amicus brief in support of the State of South Dakota's position concerning the jurisdiction and regulatory control over the said District's Subtitle D landfill; and that the Mayor and Finance Officer shall be authorized and directed to sign on said amicus brief on behalf of said City.

This resolution moved for adoption by Einrem, and seconded by Deurmier, and upon roll call vote, did pass 5 FOR and 0 AGAINST. Absent Alderman Oster

Councilpersons for: Reister, VanGerpen, Einrem, Knoll and Deurmier

Councilpersons against: None

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ASSOCIATE:  
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January 30, 1997

TO: Members of Southern Missouri Recycling & Waste Management District:

I am writing to you in regards to the State of South Dakota's Petition for Writ of Certiorari to the United States Supreme Court appealing Judge Piersol's June 1995 decision that the original boundary lines of the 1858 Yankton Sioux Indian Reservation are still intact.

The Eighth Circuit Court of Appeals recently affirmed Judge Piersol's decision and the State of South Dakota still feels very strongly that the 1892 agreement with the Yankton Sioux disestablished the original reservation. That is why the State is appealing to the Supreme Court.

In discussing this matter with the SD Attorney General's office it was suggested that the Southern Missouri District, the owner of the Subtitle D landfill near Lake Andes, file an amicus brief supporting South Dakota's position on the jurisdiction and regulation over the landfill and the lands in southern Charles Mix County. I have spoken with Jack Soulek and Glennis Stern of the Executive Committee and they feel it is a very good idea to file the amicus brief showing this support. I believe that it is important for the Supreme Court to know that the jurisdiction and regulatory issues caused by the current confusion generated by Judge Piersol's decision is important to more than just the people that live within the old Yankton Reservation boundaries. I think that by the District and all its members signing on an amicus brief that the message will be conveyed.

An amicus brief is a "friend of the Court" brief that advises the Court why the amicus party supports the side of one of the litigants. The litigants in the appeal to the Supreme Court action are the Yankton Sioux Tribe and the State of South Dakota.

I ask each member municipality and county of the District to adopt the enclosed resolution at your February meeting and return a copy to me. There will be no cost to your city or county as the brief will be drafted on behalf of the District.

Should you have any questions please do not hesitate to contact me. I am sorry for the short notice but it was just within the last couple of days that this matter came up and there are only a few weeks left to prepare the amicus brief. That is why time is critical on this matter.

Sincerely Yours,

  
Kenneth W. Cotton