

AVON, SOUTH DAKOTA - MARCH 18, 1999

A special meeting of the Avon City Council was held on the above date at the Avon Public Library at 4:00 p.m. to discuss the law suit between the City of Avon vs Tom Oster. Roll Call: Mayor VanGerpen, Finance Officer Haenfler, and Alderman: Deurmier, VanGerpen, Einrem, and Reister. Absent Alderman Oster. Also present were City Attorney Tom Alberts, Orval Elliott, Sharon VanGerpen, Jack Brodeen, Dan Knoll, and Roland Luke.

Meeting called to order by Mayor VanGerpen.

City Attorney Tom Alberts informed the Council the steps that would need to be taken to settle this matter out of court. Alberts explained that first the Council and Mayor would have to agree on settlement, then Attorney Tim Whalen and Tom Oster, then the Attorney General Jeff Hallem. Only if all parties agreed can this case be settled out of court.

Mayor VanGerpen stated that his responsibility was to oversee the budget. His concern was two fold pertaining to the law suit - conflict of interest and over spending of money.

Alderman Deurmier presented some facts about the project. The following facts were present<sup>ed</sup> - When the project cost was projected the Council was unaware of the law stating that an engineer would have to be hired. The engineering changed the size of the pipe. The water pipe was going to be looped and instead the City ran a line past S & S to Ed Moysis corner. There was an additional eleven curb stops and sewer pipe so the City would not have to tear up the street at a later date to lay these lines. Alderman Oster offered to resign if it was a conflict of interest. Council requested the City Attorney to prepare resolution. Alderman Oster was willing to put a septic tank in. Alderman Deurmier stated he would like to see the City Council and the Mayor agree on a way to settle this matter out of court.

The Council discussed the over spending resulted from changes made by the Council not Tom Oster.

Dan Knoll shared that when he voted on items pertaining to the project, he felt the Council was making proper and correct decisions. The decision to go ahead with the project was thought about for months before acting on it.

Orval Elliott shared that Tom Oster was a good man and a very knowledgeable person. Elliott felt Oster was an asset to the City.

After the discussion the Council felt they would like to see the law suit dropped and all parties involved pay their own attorney fees.

At this time Mayor VanGerpen and City Attorney Alberts meet together to discuss the matter.

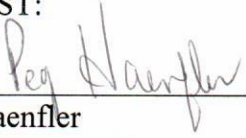
City Attorney Alberts informed the Council that the Mayor agreed to dropping the law suit against Tom Oster and all parties involved pay their own attorney fees. City Attorney Alberts will contact Tim Whalen to see if Whalen and Oster will agree with the settlement. If Whalen and Oster agree, City Attorney Alberts will contact Jeff Hallem - Attorney General to see if he agrees with the settlement.

City Attorney needed some figures on the changes that were made pertaining to the project after the original plan. The Council, Street & Water Commissioner, Roland Luke and the Finance Officer will meet at 7:30 p.m. tonight to get the figures together.

There being no further business to come before the Council at this time, a motion by Einrem and seconded by Deurmier to adjourn at 5:15 p.m. All voted "aye". Motion carried.

  
Edward VanGerpen - Mayor

ATTEST:

  
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Peg Haenfler  
City Finance Officer  
(SEAL)