

**COUNCIL PROCEEDINGS
REGULAR MEETING
JULY 06, 2020**

A regular meeting of the Philip City Council was held on Monday, July 06, 2020, at 7:00 p.m. in the Community Room of the Haakon Co. Courthouse. Present were Mayor Michael Vetter, Council Members Terri Pelle, Brit Miller, Marion Matt, Marty Gartner and Scott Pinney. Also present were City Administrator Brittany Smith, Finance Officer Monna Van Lint, Public Works Director Matt Reckling, Chief of Police David Butler, Jeff McCormick with SPN & Associates, Chelsea Tobin with Pioneer Review; and later, Branden West representing the Philip Match Bronc Ride.

Absent: Council Member Trisha Larson.

Motion was made by Matt, seconded by Gartner to approve the agenda as presented. Motion carried.

Motion was made by Pinney, seconded by Matt to approve the minutes of the last meeting as published in The Pioneer Review and on the City's website. Motion carried.

Motion was then made by Matt, seconded by Pinney to approve the payment of the bills from the appropriated funds as listed below. Motion carried.

Gross Salaries – June 30, 2020: Mayor & Council - \$4910.00; Admin - \$3804.79; Finance - \$3529.06; Police - \$6493.06; Swimming Pool - \$8957.04; Sewer - \$10913.04

Colonial Life	Employee Supplemental Ins 6/20	196.60
EFTPS	SS/Medicare/Withholding 6/20	8183.11
SDRS	Employee Retirement 6/20	3281.44
SDSRP	Sup Retirement 6/20	100.00

Customer Deposit Refunds Per Ord. #5-002.1:

Abrahamson, Evelyn		100.00
Crimmins, Mary		100.00
Dakota Mill & Grain		100.00
Dale, Destiny		100.00
Greenwaldt, Blake		100.00
Harry, Christy		100.00
Johnson, Rebecca		100.00
Knutson, Edna		100.00
Koester, Fred/Missy		100.00
Peterson, Dustin/Carmen		100.00
Stevens, Suzanne		100.00
Welk, Jay/Tandra		100.00

Airport Hangar / Apron Project:

KLJ Engineering LLC	Engineering thru 6/6/20	15661.94
Quinn Construction Inc	Pay Req #2 thru 6/30/20	242002.91

Bad River Shoreline Bank Project:

Pioneer Review	Bid Notice 6/20	62.85
SD DENR	SWD Permit Fee 6/20	100.00
SPN & Assoc	Design/Bidding Eng thru 6/27/20	2720.00

This Month's Bills:

Associated Supply Co, Inc	Pool Chemical/Repairs/Equip 4-6/20	6791.64
AT&T Mobility	Cell Phone 5-6/20	135.27
Brant's Electric	AIR Repairs 6/20	153.83
Buls, William	Uniform Reimb 6/20	100.00
Cenex Harvest States	Fuel/LP 6/20	2446.43
Century Business Products	Copier Maint 6/20	81.40
Clawson, Marit	Cust Dep Refund 7/20	100.00
CNH Productivity Plus Acct	Supplies/Repairs 6/20	81.01
Corporate Trust, US Bank	SRF #4 Pay #24 7/20	11326.05
	SRF #5 Pay #24 7/20	7905.24
Country Cupboard	2020 Approp	1000.00
Coyles SuperValu	Supplies/COVID 5-6/20	225.79
D&T Auto Parts	Supplies 5-6/20	38.86
Delta Dental	Dental Ins 7/20	671.80
1 st Nat'l Agency	Add'l Ins 6/20	219.00
1 st Nat'l Bank – Philip	UB Postage 6/20	132.05
Golden West Telecom	Telephone/Internet 5-6/20	663.79
Haakon Co Treasurer	Office Rent 7/20	500.00
Haakon Co Young Women	Calendar UB Adv 2020	9.60
Hanson Oil	Fuel 5-6/20	302.98
Hawkins Inc	Pool Chemical 6/20	1827.70
Health Pool of SD	Health Ins 7/20	9496.93
Ingram Pest Service Inc	RS Pest Control 6/20	60.00
Jones, Jana	Cust Dep Refund 7/20	100.00
Kieffer Sanitation	370 Residential Collections 6/20	4739.70
	RS Roll Off 6/20	550.00
Les' Body Shop	'11 Tahoe Repairs 5/20	492.48
MG Oil Co	Fuel 5/20	423.21
Morrison's Pit Stop	Tires/Repairs 5-6/20	796.13
Moses Building Center	Bldg Repairs 5-6/20	463.36
Northern Safety Co Inc	COVID 6/20	37.85
Northwest Pipe Fittings Inc	W Supplies 6/20	27.00
Office Depot	Supplies 6/20	245.46
Optilegra	Vision Ins 6/20	80.76
Petro Tech Inc	AIR Card Reader 6/20	280.34
Petty Cash	Supplies 3-7/20	20.33
Philip Baseball Assoc	2020 Approp (less ins)	1154.32
Philip Hardware	Supplies/Repairs/COVID 5/20	498.66
	Supplies/Repairs/Equip/COVID 6/20	1115.77
Philip Motor Inc	Supplies 6/20	53.55
Pioneer Review	Publishing 6/20	1405.17
Recreation Supply Co Inc	Pool Repairs/Improv/Supplies 6/20	1072.17
Sanford Laboratories	Testing 5/20	732.00
SD DENR	Drinking Water Fee FY2021	600.00
SD Dept of Revenue	Sales Tax Payable 6/20	1033.08
	Excise Tax Payable 6/20	14.14
	W/P Testing 6/20	45.00
SD Municipal League	Handbook Supp (Atty) 2020	10.00
The Lifeguard Store	Uniforms/Supplies 6/20	505.05
TranSource	Brooms/Gutters 6/20	752.64

USPS	PO Box Fees 2020	158.00
VISA – UMB Bank	Supplies/Uniforms/Equip 5-6/20	1674.97
West Central Electric	Electric 5/1-6/1/20	3370.99
WR/LJ Rural Water Systems	5,603,000 gals 6/20	7003.75
	Contract Min. 6/20	2500.00
	AIR Water 6/20	70.00
	South Shop Water 6/20	22.50
Wohlenberg Ritzman & Co LLC	2019 Annual Report Prep	3100.00
Youngberg, Karen	Cust Dep Refund 7/20	100.00
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Total Bills		341,265.45

Old Business:

Motion was then made by Matt, seconded by Gartner to approve the second reading of the following Ordinance #2020-02 as presented below. Motion carried with all members voting aye.

**ORDINANCE #2020-02
AN ORDINANCE AMENDING AND ESTABLISHING CHAPTER TWELVE (12),
COMMUNITY ANTENNA TELEVISION (“CATV”) OF THE REVISED ORDINANCES OF
THE CITY OF PHILIP, SOUTH DAKOTA**

BE IT ORDAINED by the City Council of the City of Philip, South Dakota, that Chapter 12, Community Antenna Television “CATV”), of the revised ordinances of the City of Philip, be established to read as follows.

12-100 PURPOSE – COMMUNITY ANTENNA TELEVISION (“CATV”)

The City of Philip, by authority of SDCL 9-35 *et.seq.*, shall maintain exclusive jurisdiction by this ordinance to regulate, prohibit and consent to the construction, installation, operation, and maintenance of CATV Systems within the corporate limits of Philip. City may grant to any persons offering a CATV System (“Provider”) the nonexclusive right to erect, maintain and operate in, under, over, around, across the streets, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places in the City of Philip, South Dakota, and the subsequent additions thereto, towers, poles, lines, cables, wires and other apparatus or device for the purpose of transmission and distribution, by cable or other mode, of television and non-television signals (such non-television signals to include but not limited to FM radio programming, high-speed internet and telephony) to enable sale by Provider of its CATV service to inhabitants of said City and other various purposes, for a period not to exceed twenty (20) years regulating the same and providing for compensation to the City and prescribing penalties for violation. The purpose of this ordinance is otherwise to detail the basic requirements for a franchise and the terms and conditions for any other contractual arrangement thereafter deemed appropriate and consistent with state and federal law.

12-101 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

“CATV” or “CATV System” or “System” means “Community antenna television system,” which is further defined as a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television or non-television, radio or other signals directly or indirectly off-the-air and transmit them to subscribers for a fee.

“Basic Cable Service” means the service tier which includes but is not limited to the retransmission of local broadcast, satellite or other signals.

“Cable operator” is any person who provides cable service over a cable system

“Cable service” is the transmission to subscribers of video programming or other programming service and the subscriber interaction, if any, which is required for the selection or used of such video programming or other programming, communication or internet service.

“Cable system” is a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service to multiple subscribers within a community. The term does not include a facility that serves subscribers without using the public right-of-way; a facility of a telecommunications company that provides telecommunication service as defined and regulated by SDCL chapter 49-31, except to the extent that the facility is used to transmit video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services.

“Cable Television Reception Service” means the delivery by the Franchisee to television receivers (or any other suitable type of electronic terminal or receiver of the electronic signals and other communication services carried over the Cable System.

“Cable Television System” or “Cable System” is a system utilizing certain electronic and other components or devices which deliver to subscribing members of the public various communication services including but not limited to television, internet, radio and telephone.

“City” is the City of Philip, South Dakota.

“Council” is the City Council of Philip, South Dakota.

“FCC” shall mean the Federal Communications Commission.

“Franchise” is an authorization, established by ordinance, issued by a franchising authority, which authorizes the construction and operation of a cable system.

“Franchisee” is any person granted a Franchise pursuant to the authority of this ordinance and otherwise in accordance with state and federal laws for the construction, maintenance and operation of a cable system.

“Franchising authority” is a municipality.

“Other programming service” is information that a cable operator makes available to all subscribers generally.

“Person” is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.

“Public, educational or governmental access facilities” is a channel capacity designated for public, educational and governmental use and the facilities and equipment for the use of such channel capacity.

“Subscribers” are those persons contracting to receive cable television reception services furnished under this Ordinance or under a subsequent Franchise grant.

“Video programming” is programming provided by, or generally considered comparable to programming provided by a television broadcast station.

12-102 GRANT OF NON-EXCLUSIVE AUTHORITY

1. The grant of any Franchise by the City to any Franchisee shall be for the non-exclusive right to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places in the City of Philip, South Dakota, and subsequent additions thereto, towers, poles, lines, cables, wires, manholes and all other fixtures and equipment necessary for the maintenance and operation in the City of a cable system, for the purpose of transmission and distribution of signals, including but not limited to audio, visual, electronic, electronic impulse and digital in order to furnish television and radio programs and various other communications services to the public by what is commonly called a CATV System, for a period not to exceed twenty (20) years.
2. The right to use and occupy said streets, alleys public ways and places for any purposes stated herein or which may be set forth in any contractual arrangement hereafter shall not be exclusive.
3. Franchisee also has the right and authority to lease, rent or in any other manner, obtain the use of, and use within the corporate limits of grantor, wires, lines, poles, cross-arms, cables, appurtenances, fixtures and other apparatus of any and all holders of public permits, public licenses or franchises granted by the City or other public entity. Any such use shall be subject to the terms and conditions of the franchise granted by this Ordinance and subject to all existing and future ordinances, resolutions, regulations and franchise agreement of the City.
4. The terms and conditions of the franchise shall also be applicable to any facilities installed or operated by the Franchisee before the effective date of the franchise.

12-103 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Franchisee shall, during the term hereof, except in those areas which have been preempted by the Cable Communications Policy Act of 1984, or acts amendatory thereto, or which are regulated by the FCC, be subject to all lawful exercise of the regulating and police powers of the City.

12-104 TERRITORIAL AREA INVOLVED

This Ordinance relates to the present territorial limits of the City and to any additional areas as may be specifically set forth in any contractual arrangement with Franchisee.

12-105 LIABILITY AND INDEMNIFICATION

Any Franchisee shall, at all times, keep in effect insurance coverages for Workers Compensation, Property Damage Liability, General Commercial Liability and such other insurances as are deemed by the City to be reasonable and appropriate under the specific terms of a Franchise Agreement and authorization.

Any Franchisee shall be required to indemnify, protect and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under Workers Compensation law which may arise out of the erection, maintenance, presence, use or removal of said attachments or poles within the City, or by any act of the Franchisee, its agents or employees. Franchisee shall carry insurance in amounts sufficient to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage, which amounts shall be established by the Franchise Agreement terms.

12-106 TECHNICAL STANDARDS

Franchise authorizations shall be governed by technical standards established by the FCC.

12-107 OPERATION AND MAINTENANCE OF SYSTEM

1. A Franchisee shall only deliver to any customer the signal of a television station that is permitted or authorized to be delivered by any CATV System operating in the City under the rules and regulations of the FCC or any successor thereof, as established by such commission from time to time.
2. A Franchisee shall make installations of a permanent and durable nature and installed in accordance with good engineering practices and comply with all existing and future ordinances, resolutions, regulations and orders of grantor so as not to interfere in any manner with the right of the public or individual property owners. The system shall not interfere with the travel and use of public places or facilities by the public and during the construction, repair or removal thereof, shall not obstruct or impede traffic. Any transmission facilities of CATV System or utilized in connection with a system anywhere within the corporate limits of grantor, either on public or private property, shall consist of coaxial cables of low radiation characteristics, satisfactory to and approved by Rural Utilities Service (RUS).
3. A Franchisee shall be required to operate and maintain service so that all customers receive signals of good technical quality and full range of services. Repairs shall be made promptly. Any interruption of service shall only be for good cause and for the shortest possible time. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.
4. In order to limit failure and malfunctions of CATV system to a minimum and that the same might be promptly corrected and at all times after notice of malfunction or failure, Franchisee shall consistently maintain an office, which shall be open during normal business hours of every day, Monday through Friday inclusive, which shall have a listed telephone.
5. All service requests and complaints shall be responded to within 24 hours of receipt. All failures and malfunctions of the system, shall be corrected within seventy-two (72) hours after notice of such failure or malfunction except or unless such failure or malfunction shall be over a substantial portion of grantee's system and shall have been caused by storm, fire, lightning, explosion, civil commotion or similar catastrophe.
6. Franchisee is authorized to make all necessary excavations in the streets, alleys, sidewalks and public grounds within the corporate limits of grantor, but such excavations shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the rights of the public as may be feasible. Franchisee shall restore all streets, alleys, sidewalk and public grounds to their original condition of safety and utility after excavation. In case any obstruction caused by Franchisee shall remain longer than five (5) days after notice to remove it, or in case of neglect by

Franchisee, to safeguard any dangerous places, City may remove such obstruction or safeguard such dangerous place at the expense of the grantee.

12-108 SERVICE TO SCHOOLS AND CITY

The Franchisee shall provide to the City and to all public-school buildings within the City, one connection to each City and school building, for education purposes and at no cost to the City or the public-school system, upon request. Each such connection shall be made such that all services available through Franchisee's Cable System will be delivered to all sets or receiving device connected within each building.

12-109 EMERGENCY USE OF FACILITIES

Any and all CATV System facilities shall, in areas serviced, be made available without charge as a public service for use by the City or any other public agency performing civil defense or disaster services.

12-110 SAFETY REQUIREMENTS

The Franchisee shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public.

12-111 LIMITATIONS OF RIGHTS GRANTED

Any grant of a Franchise may contain provisions limiting certain rights of Franchise under certain circumstances as may be established from time to time in more specific terms in a contractual arrangement with Franchisee.

12-112 OWNERSHIP AND REMOVAL OF FACILITIES

All cable and passive equipment for cable television reception or internet service of any other service provided under the Cable System that is installed by the Franchisee at a subscriber's location and not purchased or owned by the subscriber shall remain the property of Franchisee and Franchisee shall have the right to remove said cable and equipment. Upon termination of service to any subscriber, the Franchisee shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his or her request.

12-113 TRANSFER OF FRANCHISE

The Franchisee shall not sell, transfer, lease, assign or dispose of in whole or in part either by force or voluntary sale, merger, consolidation or otherwise any Franchise without the prior consent of the City Council of City, expressed by resolution and then only under such conditions as may therein be prescribed.

12-114 FRANCHISE FEE

Effective October 1, 1985 and hereafter, the City does hereby impose upon Franchisee a franchise fee. Said fee shall be five percent (5%) of the Franchisee's monthly gross receipts of the Cable System collected from any subscriber who receives Franchisee's services within the boundaries of the City. Excluded from the gross receipts are installation costs, disconnect or reconnect fees and penalties and repair costs.

The franchise fee shall be tendered by Franchisee to the City Finance Office on a quarterly basis.

12-115

RATES

1. Franchisee shall, at all times, maintain on file with the City Finance Office a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charges. Before making any changes in the rates and charges to subscribers for basic CATV service, Franchisee shall file in writing with the City Administrator a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change and comply with FCC rule 76.1603(b) and 76-1603(c) concerning notice to subscribers and City. Said rates shall be determined according to the FCC Rules and Regulations regarding rates.
2. This provision does not limit the right of Franchisee to pass along to the subscribers state and local sales tax, programming cost increase or any specific copyright fees.
3. This section is not applicable to rates for premium or pay service.
4. The monthly rate set forth in subsection 1 above shall be payable in advance.
5. The Franchisee shall not discriminate in rates, charges, service facilities, rules, regulations or any other respect, make or between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and FCC regulations and any acts amendatory thereto.
6. Grantee shall not, as to rates, charges, service, service facilities, rules, regulations or any other respect, make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, provided however, connection charges may be waived or modified during promotional campaigns of grantee.

12-116

MISCELLENEOUS

Franchisee’s legal, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, if any, must be approved by all appropriate governing or regulatory bodies.

12-117

MODIFICATION OF FCC RULES

Any modification or amendment of the rules of the FCC shall, to the extent applicable, be considered part of this Ordinance as of the effective date of such amendment, and shall be incorporated herein by specific amendments within one (1) year from the effective date of the amendment, or at the time of a Franchise Agreement approval, whichever occurs first.

12-118

UNAUTHORIZED CABLE USE

It shall be unlawful for any person or persons to obtain any cable television reception service, internet service or any other service from Franchisee, or any firm or private person by installing, rearranging or tampering with any facilities or equipment of Franchisee, unless the same is done with the prior written permission of the Franchisee. A violation of this section is a Class 2 misdemeanor.

12-119

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, or is superseded or preempted by FCC regulation, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Dated this 6th day of July 2020.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer

First Reading: June 1, 2020

Second Reading: July 6, 2020

Yeas: 5 Nays: 0

(Published: June 11 & July 16, 2020)

New Business:

Bad River Shoreline Project:

Jeff McCormick, Engineer with SPN & Associates, reviewed the following bids received for the Category D project that were opened at 4:00 p.m. this afternoon:

Quinn Construction, Rapid City, SD - \$99,710.00
RP&H, Reliance, SD - \$132,034.00
Mainline Contracting, Rapid City, SD - \$144,895.80
Sharpe Enterprises, Inc., Fort Pierre, SD - \$168,002.00
Morris, Inc., Pierre, SD - \$215,376.00
*Engineer's Opinion of Construction Cost - \$149,009.00

McCormick reported that Quinn Construction is the low bidder. He also noted that the main cost differences amongst the bidders were mobilization and removal of the sandbags.

Following, motion was made by Gartner, seconded by Pinney to award the construction bid for the Category D project to the low bidder, Quinn Construction, in the amount of \$99,710.00. Motion carried with all members voting aye.

Council was advised that the City has been awarded and received \$26,826.10 as reimbursement for the Category B project. This reflects \$23,670.09 (75%) in federal funds and \$3,156.01 (10%) in state funds. The total estimated project cost is \$31,560.12 with the local share being \$4,734.02 (15%).

Southwest Philip / Sunshine Drive Improvement Projects:

McCormick presented and reviewed the scheduled warranty work that was identified during the warranty walkthrough on June 16, 2020. (A copy is on file in the Finance Office.) He addressed the following items requiring Council action in detail.

- 1) Drainage issue in front of Philip Motors at approximate Station 13+90-Lt
Option #1 – Remove and replace approximately 40 linear feet of gutter.
Option #2 – Grind approximately 35 linear feet of gutter.

SPN recommends Option #1 as noted above to warrant a positive grade for the drainage. It was mentioned that this will not be per the design plans but will alleviate the need for any risk with removing the full concrete panels in the area. It was also stressed that this will not address gravel entering the street from the alley as that was not part of this project.

Motion was then made by Gartner, seconded by Miller to approve SPN's recommendation for Thorstad Companies to repair the drainage issue in front of Philip Motors as outlined in Option #1. Motion carried.

- 2) Cracks in the Curb and Gutter at approximate Station 2-55-Rt (Brad and Jackie Heltzel)
Option #1 – Route and seal cracks.
Option #2 – Remove and replace gutter with expansion joints between the back of gutter and concrete driveway.

It was noted that numerous cracks are within the gutter at this driveway location and it is holding water. The property owner had another contractor complete the replacement of their driveway following the gutter installation by Thorstad Companies. There was not an expansion joint(s) placed between the gutter and driveway in which SPN would have recommended be placed. Considering this information, SPN does not conclude that the cracks in the driveway are due to unsatisfactory work by Thorstad Companies. In addition, the driveway and gutter installed at another property in the project area by Thorstad Companies does not show any cracking.

Discussion ensued. Concern that this new improvement was assessed to the property owner and will continue to be an issue if it is not addressed was noted. More specifically, it will continue to hold water/ice into the future. Potential options such as requesting replacement quotes from Thorstad Companies and Gibson Concrete as well as reimbursing the property owner for their assessment were mentioned.

Following, by general consensus of the Council, a quote will be obtained by both Thorstad Companies and Gibson Concrete to replace the gutter.

At 7:23 p.m., as previously advertised, a public hearing was held on the request of the following alcoholic beverage license for 2020: Retail Management Systems, Inc. – The Philip Pit Stop, On/Off Sale Wine and Cider License (RW)

It was reported that property taxes are current to date and the police department personnel voiced no concerns with the above license application.

With no one appearing for or against the requested license, motion was made by Miller, seconded by Matt to approve the above On/Off Sale Wine and Cider as presented. Motion carried.

Branden West, representing the Philip Match Bronc Ride (PMBR), addressed the Council regarding their 2020 appropriation. He mentioned that they were advised that the \$1,500 appropriation was in the City's budget, so they included the City on the advertisement but were later notified that it would not be appropriated.

Discussion ensued. The City's policies for the swimming pool this year were referenced, noting that the PMBR would not support the same. It was also mentioned that the appropriation may need to be reconsidered considering the lack of timely communication between the PMBR and the City. In addition, it was stressed that the Council needs to be cognizant when reconsidering the appropriation. More specifically, the event may not have supported the pool policies but nor will Scotty Philip Days that are being planned for mid-August.

Following, motion was made by Matt, seconded by Miller to reinstate the PMBR's appropriation of \$1,500 for advertising and promoting the City in 2020. Motion carried with all members voting aye.

Airport Hangar Building / Apron Reconstruction Projects:

Council reviewed correspondence from Garlet Hocke, Engineer with KLJ, regarding a construction update on the apron project. It was noted that the project has met substantial completion. In addition, during the pavement installation on the east side of the new hangar building, six pieces of the tin were damaged and are to be replaced by Dean Kurtz Construction.

Following, motion was made by Pinney, seconded by Matt to approve substantial completion for the apron reconstruction project, effective June 30, 2020. Motion carried with all members voting aye.

Motion was then made by Miller, seconded by Gartner to approve Pay Request #2 in the amount of \$242,002.91 to Quinn Construction. Motion carried with all members voting aye.

CARES Act Local Government Relief Fund:

CA Smith presented the following resolution and agreement, advising that the City has been allocated \$172,948 in CARES Act Fund dollars. It was noted that this has been allocated from the State to assist the City in recovering unanticipated expenditures due to the COVID-19 response. Some of the reimbursable expenses range from payroll expenses for the police department, personal protective equipment, additional personnel, and cleaning supplies to name a few. Smith advised that at this time, she is unsure how much of the allocation will be utilized by the City.

Motion was then made by Pinney, seconded by Matt to approve the following Resolution #2020-06 as presented. Motion carried with all members voting aye.

City of Philip Resolution #2020-06

A RESOLUTION AUTHORIZING THE EXECUTION OF CONTRACTUAL DOCUMENTS WITH THE STATE OF SOUTH DAKOTA FOR THE RECEIPT OF CARES ACT FUNDS TO ADDRESS THE COVID-19 PUBLIC HEALTH CRISIS

WHEREAS, pursuant to section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020) (the “CARES Act”), the State of South Dakota has received federal funds that may only be used to cover costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (b) were not accounted for in the budget most recently approved as of March 27, 2020, for the State of South Dakota; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, the City of Philip acknowledges that the State of South Dakota, in its sole discretion, may retain full use of these funds for the purposes delineated in the CARES Act; and,

WHEREAS, the City of Philip acknowledges that in order to provide financial assistance to counties and municipalities in South Dakota, the State of South Dakota, in its sole discretion, may allocate CARES Act funds on a statewide basis to reimburse counties and municipalities as delineated herein; and,

WHEREAS, the City of Philip seeks funding to reimburse eligible expenditures incurred due to the public health emergency with respect to COVID-19; and,

WHEREAS, the City of Philip acknowledges that any request for reimbursement of expenditures will only be for expenditures that were not accounted for in the budget for the City of Philip most recently approved as of March 27, 2020; and,

WHEREAS, the City of Philip acknowledges that it will only seek reimbursement for costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Philip that the mayor of Philip may execute any and all documents as required by the State in order to receive CARES Act funds.

BE IT FURTHER RESOLVED that any request for reimbursement will be only for those costs authorized by the State that: (1) Are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) Were not accounted for in the City budget most recently approved as of March 27, 2020; and (3) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

IT IS FURTHER RESOLVED that the City will not request reimbursement from the State under the CARES Act for costs for which the City previously received reimbursement, or for which the City has a reimbursement request pending before another source.

Approved and adopted this 6th day of July 2020.

/s/ Michael Vetter, Mayor
City of Philip, South Dakota

ATTEST:

/s/ Monna Van Lint, Finance Officer
City of Philip, South Dakota

Motion was then made by Pelle, seconded by Gartner to approve the Local Government COVID Recovery Fund Reimbursement Agreement with the State of South Dakota, and authorize the Mayor's signature thereon. Motion carried with all members voting aye.

Building/Flood Plain Dev. Permits:

Jesse Hansen – shed & retaining wall; Brad Heltzel – pergola & landscaping; Barry & Edna Knutson – fence; Vickie Petersen – fence; and, United Church – shed replacement.

Motion was made by Pinney, seconded by Matt to approve the above permits as presented. Motion carried.

Philip Charities Housing Demolition Request:

Motion was made by Matt, seconded by Gartner to approve the demolition permit and request from Philip Charities to remove a 14' by 52' trailer house from Rod Brown's property to the rubble site. Motion carried.

Special Event Applications:

Motion was made by Matt, seconded by Pinney to formally approve the PHS Junior Mom's special event application to host an "Independent Formal," July 3, 2020. The event included a stroll down Center Ave. and dance at the tennis courts. For the record, the event received prior permission from the Health/Rec Committee. Motion carried.

Motion was made by Matt, seconded by Gartner to approve the Philip Chamber of Commerce's special event application to host their annual "Scotty Philip Days," Aug. 14-15, 2020. Considering the COVID pandemic, it was noted that the Council reserves the right to rescind said approval at their next meeting on Aug. 3, 2020. The planned events include wheel borrow races, street dances, corn hole games/tournament

and a parade. It was recognized that local law enforcement will serve as security for the weekend activities. Written permission from Brock Slovek to utilize a portion of his property during the street dance as well as a copy of the Chamber's insurance must also be provided prior to the event. Motion carried.

Motion was made by Miller, seconded by Pinney to approve the Cable Franchise Agreement with Golden West as presented, effective Aug. 1, 2020. A copy of the agreement is on file in the Finance Office. Motion carried with all members voting aye.

Motion was made by Gartner, seconded by Miller to approve the first reading of the following Ordinance #2020-04 as presented. Motion carried with all members voting aye.

**ORDINANCE #2020-04
AN ORDINANCE AMENDING AND ESTABLISHING CHAPTER 6, SECTION 200,
DISCRETIONARY TAXATION OF REAL PROPERTY
OF THE REVISED ORDINANCES OF THE CITY OF PHILIP, SOUTH DAKOTA**

BE IT ORDAINED by the City Council of the City of Philip, South Dakota, that Chapter 6, Section 200, Discretionary Taxation of Real Property of the revised ordinances of the City of Philip, be established to read as follows.

6-200 DISCRETIONARY TAXATION OF REAL PROPERTY

The purpose of this Ordinance is to provide reduced taxation of the following identified properties pursuant to SDCL 10-6-35.2.

6-200.1 INDUSTRIAL STRUCTURES

Any new industrial structure, or any addition, renovation, or reconstruction to an existing structure, including a power generation facility, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-35.2(2))*

6-200.2 COMMERCIAL STRUCTURES

Any new commercial structure, or any addition, renovation, or reconstruction to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-35.2(4))*

6-200.3 COMMERCIAL RESIDENTIAL STRUCTURES

Any new commercial residential structure, or addition to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property located within the Corporate limits of the City of Philip, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. For purposes of this section, a commercial residential structure shall contain four or more units. *((Pursuant to SDCL 10-6-35.2(5))*

6-200.4 RESIDENTIAL STRUCTURES

Any new residential structure, or any addition to or renovation of an existing structure, located within a redevelopment neighborhood, which new structure, addition, or

renovation has a true and full value of twenty thousand dollars (\$20,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. ((Pursuant to SDCL 10-6-35.2(7))

In order to improve the quality of housing, all real property located within the Corporate limits of the City of Philip, South Dakota shall qualify as property located in a redevelopment neighborhood. The redevelopment neighborhood is being established because the area includes buildings or improvements which, by reason of age, deterioration, obsolescence, and dilapidation injuriously affect the area to the detriment of public health, safety, morals or welfare; and, because the redevelopment of housing is being prevented by the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness; the deterioration of site improvements, and obsolete platting. *(Pursuant to SDCL 10-6-56)*

6-200.5 SPECIAL CLASSIFICATIONS

All commercial, industrial, and nonresidential agricultural property which increases more than twenty thousand dollars (\$20,000) in true and full value as a result of reconstruction or renovation of structure shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. All real property qualifying under this section completed on November 01, 2021 and thereafter, as determined by the Director of Equalization, is classified in the manner prescribed in this section. ((Pursuant to SDCL 10-6-35.2(8))

6-201 VALUATION

Any real property located within the Corporate limits of the City of Philip, South Dakota, classified pursuant to the following, shall, following construction, initially be valued for taxation purposed in the usual manner, and that value shall be referred to as the “Pre-Adjustment Value.” The assessed value to be used for tax purposes shall follow the discretionary formula described in section 6-202. Following the five-year period under this section, the property shall be assessed at the same percentage as is all other property for tax purposes.

Reconstruction and renovation as used in this chapter means only improvements that increase the true and full value of the structure and shall not include normal maintenance and repair.

The assessed value during any of the five years may not be less than the assessed value of the property in the year proceeding the first year of the tax years following construction.

Any structure that is partially constructed on the assessment date may be valued for tax purposes pursuant to this Ordinance and the valuation may not be less than the assessed valuation of the property in the year preceding the beginning of construction.

Property owners of any of the above described property, may request the City Council not apply the discretionary formula, in which case the full assessment shall be made without application of the formula. In waiving the formula for the structure of one owner, the City Council is not prohibited from applying the formula for subsequent new structures by that owner.

6-202 DISCRETIONARY FORMULA

Any real property improvements qualifying for the discretionary formula pursuant to this

chapter shall be assessed as follows:

First Year	20% of Pre-Adjustment Value
Second Year	40% of Pre-Adjustment Value
Third Year	60% of Pre-Adjustment Value
Fourth Year	80% of Pre-Adjustment Value
Fifth Year	100% of Pre-Adjustment Value

6-203

EFFECTIVE DATE

This Ordinance is effective with the taxing period from November 01, 2020 through October 31, 2021 and shall be reflected with the taxes payable effective January 01, 2022 and each successive taxation year thereafter unless repealed by the City Council of the City of Philip, South Dakota.

Pursuit to SDCL 10-6-35.27, any real property receiving benefit from the previously adopted Discretionary Taxation Ordinance, will continue to be assessed and taxed through the course of the said discretionary formula.

Dated this ____ day of _____ 2020.

Michael Vetter, Mayor

ATTEST:

Monna Van Lint, Finance Officer

First Reading: July 6, 2020
Second Reading:
Yeas: 5 Nays: 0
(Published: July 16, 2020)

Motion was made by Miller, seconded by Gartner to approve the 2021 Joint Cooperative Agreement with the Central SD Enhancement District (CSDED) in the amount of \$1,047.74. Motion carried.

The City has been awarded \$2,483 from the SD Dept. of Health for mosquito control. The grant agreement has been submitted.

Council reviewed the following L/P Propane bids received during June 2020.

	<u>June 1st</u>	<u>June 10th</u>	<u>June 17th</u>
Hanson Oil	\$1.09/gal.	\$1.09/gal.	\$1.09/gal.
Midwest Cooperatives	\$0.99/gal.	\$0.99/gal.	\$0.99/gal.

Departmental Reports:

Administration

The quarterly report included a review of the City's year-to-date revenues, expenditures, sales tax receivables; and, investments.

The Mayor and Council will be hosting a budget planning session on Thursday, July 23rd at 3:30 pm at the Ambulance Building.

Motion was made by Pinney, seconded by Miller to approve the first reading of the following Ordinance #2020-03. Motion carried with all members voting aye.

ORDINANCE #2020-03
2020 SUPPLEMENTAL APPROPRIATIONS ORDINANCE
PEDESTRIAN SAFETY – MAY STREET SIDEWALK

WHEREAS, the City of Philip, South Dakota, is the recipient of a pedestrian safety donation from TransCanada to install a sidewalk for safe access off Larimer Ave./SD Hwy 73 to Scottie Ave.; and,

WHEREAS, the City of Philip did not anticipate being able to complete this needed project along with the donation from TransCanada when preparing the fiscal year 2020 appropriations.

NOW, THEREFORE, BE IT ORDAINED, that the following Supplemental Appropriations Ordinance be and hereby is adopted in order to recognize the revenues and expenses that will be forthcoming for the May Street sidewalk.

	<u>GENERAL FUND</u>
43102 SIDEWALK	
42230 Contract Services	\$ 9,000.00
<u>TOTAL SIDEWALK DEPARTMENT</u>	<u>\$ 9,000.00</u>
<u>TOTAL APPROP. & ACCUM.</u>	<u>\$ 9,000.00</u>

MEANS OF FINANCE

The following designates the fund or funds that money derived from the following sources is applied to.

	<u>GENERAL FUND</u>
36700 CONTRIBUTIONS/DONATIONS	
36700 Contributions & Donations	\$ 9,000.00
<u>TOTAL CONTRIBUTIONS/DONATIONS</u>	<u>\$ 9,000.00</u>
<u>TOTAL MEANS OF FINANCE</u>	<u>\$ 9,000.00</u>

Dated this ___ day of _____ 2020.

Michael Vetter, Mayor

ATTEST:

Monna Van Lint, Finance Officer

Passed First Reading: July 6, 2020
Passed Second Reading:
Yeas: 5 Nays: 0
(Published: July 16, 2020)

Motion was made by Gartner, seconded by Pinney to approve the following Resolution #2020-05 as presented. Motion carried with all members voting aye.

**RESOLUTION #2020-05
AUTHORIZING USE OF GENERAL FUND BUILDINGS & IMPROVEMENTS
ASSIGNED CASH FOR RUBBLE SITE BUILDING**

BE IT RESOLVED by the City Council of the City of Philip, South Dakota, that the Finance Officer is hereby authorized and directed to utilize \$4955.00 in the general fund buildings and improvements assigned cash funds, which was reserved for the 2020 Annual Appropriations Budget (Ord. #2019-14) for the purpose of purchasing a new building for the rubble site.

Dated this 6th day of July 2020.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer

Airport

The quarterly report was reviewed. The airport fuel revenue collections through the month of May 2020 were reported at \$3,241.73.

Council reviewed the annual inspection report completed by the SD Dept. of Transportation (DOT) on June 10, 2020.

Motion was made by Matt, seconded by Miller to approve the Civil Air Patrol's request to host a fly in at the airport on Sept. 4-6, 2020. It was noted that they are anticipating between 40 to 50 in attendance. Motion carried.

Motion was made by Pinney, seconded by Gartner to approve the CARES Act grant with the SD DOT and authorize the Mayor's signature thereon. Motion carried with all members voting aye.

Code Enforcement

Council reviewed the current nuisance policy along with the enforcement, especially regarding tall grass and weeds. It was noted that City publishes a public reminder each spring but also requires a complaint to be filed before addressing potential violations.

Discussion ensued. It was noted that enforcing violations can be a lengthy and costly process. In addition, by the time a property owner is notified, the tall grass and/or weeds may be out of control.

By general consensus of the Council, the Finance Office is authorized to contact property owners in violation of mowing and weed control via phone for the initial courtesy notice. Property owners will be given five days to correct the violation or further action will be taken by the City.

Police Department

The monthly report was reviewed.

Street Department

The monthly report was reviewed.

The preliminary plat of Basin Street; and, Lot 13 of Outlot 1 and Outlot 1 of Patterson's Addition was reviewed. It was reported that Jankord's building encroaches 4.31' to 5.15' by 65.39' on Basin Street without any overhang.

Options to address the encroachment in the public right of way were reviewed. This included vacating a portion of Basin St. or granting Jankord's an easement. It was noted that Jankord's would prefer an easement in which a sunset clause could be included. This would cancel the easement if the building were ever removed—returning the easement area back to the public right of way.

By general consensus of the Council, Jankord's may present an easement request to the City for consideration. The easement area shall be 7' by 70' and reference the plat with a sunset clause.

Council discussed concerns with long-term parking on Bennett St. and Scottie Ave. More specifically, semi-trucks parking for extended lengths of time with some of them leaking oil on the asphalt. Some options to address the concerns were signing all of Bennett St. and the north two blocks of Scottie Ave. as "No Overnight Parking" or "No 24-Hour Parking."

Motion was made by Miller, seconded by Gartner to restrict the parking on the above-named blocks to "No 24-Hour Parking." This will be enforced, and the signage will be included in the City's sign and delineation project with the State of SD. Motion carried.

Swimming Pool

Council reviewed the pool operations, attendance, and swimming lesson registration through the month of June. It was noted that attendance and revenues are up from June of 2019.

The pool's currently scheduled last day of operation for the season is Aug. 8, 2020.

Water Department

The monthly report was reviewed which noted a 5.37% water loss for the month of June.

The City along with water system operators, Coyle and Pearson, have been presented the Secretary's Award for Drinking Water Excellence from the SD Dept. of Environment and Natural Resources.

Training/Travel:

CA Smith will be attending the SDML Work Comp Board meeting on July 16th - 17th in Deadwood.

Public Comments:

None.

In Other Business:

The next Regular Council Meeting will be held on Monday, Aug. 3rd at 7:00 p.m. in the Community Rm.

With no further business to come before the Council, Mayor Vetter declared the meeting adjourned at 8:15 p.m.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Brittany Smith, City Administrator
(Published once on July 16, 2020, at approximate cost of \$_____)