

**PROCEEDINGS OF THE CITY COUNCIL
CITY OF PHILIP, SOUTH DAKOTA
BOARD OF EQUALIZATION
MARCH 18, 2019**

The Philip City Council met in special session on Monday, March 18, 2019, at 4:00 p.m. in the Commissioner's Room of the Haakon Co. Courthouse for the purpose of meeting as a Board of Equalization. Present were Mayor Michael Vetter, Council Members Marty Gartner, Trisha Larson, Brit Miller, Scott Pinney, Terri Pelle and Marion Matt. Also present were City Administrator Brittany Smith, Finance Officer Monna Van Lint, Public Works Director Matt Reckling, Chief of Police David Butler, Haakon Co. Director of Equalization Rose Bennett; and later, City Attorney Stephanie Trask.

Absent: None.

Mayor Vetter called the meeting to order.

Motion was made by Matt, seconded by Miller to convene as a Board of Equalization. Motion carried.

Mayor Vetter introduced Director of Equalization, Ms. Rose Bennett.

Bennett presented and reviewed the City's 2019 growth for new construction. The total growth was reported at \$2,442,029 with the majority reflecting one-fifth or 20% of the assessed valuations in accordance with the City's adopted discretionary taxation ordinance. More specifically, there were only two reported new growths for the city—remainder was past discretionary amounts. The property growth numbers are for the 2019 taxes payable in 2020.

It was also noted that the Director of Equalization's Office has not received any property assessment objections within the City this year.

Bennett went on to discuss the status of her office as well as the current reassessment plan for the County. The properties in the City will be reassessed first which she anticipates will take between 17 and 20 weeks. She will start on the west side of Philip and move east. Once the City is completed, she will work in other parts of the County with hopes of having everything reassessed by 2022.

Bennett then presented and reviewed Stipulations for properties in the City.

Motion was made by Gartner, seconded by Matt to approve a Stipulation for Scotchman Industries on property legally described as Lot 1 and 2, Block 17, Original Town, City of Philip, Haakon Co., SD. The structure on this property was removed in May 2018; and, the stipulation will remove said structure's value from this year's assessment. Motion carried with all members voting aye.

Motion was then made by Miller, seconded by Pinney to approve a Stipulation for RL Publications Inc. (The Cattle Business Weekly building) on property legally described as Lot 9, Block 7, Original Town, City of Philip, Haakon Co., SD. The property's recent improvements qualify under the adopted discretionary taxation ordinance. The stipulation will adjust the discretionary and growth for this property (For the record, this is reflected in the growth reported above). Motion carried with all members voting aye.

Bennett reiterated her reassessment plan and asked for the Council's support which includes sharing this information amongst the community.

Discussion ensued. Positive comments for completing a thorough reassessment for all properties were made. It was also mentioned that this should equalize the property values and level the taxes out amongst all taxpayers.

By general consensus of the Council, the reassessment plan will be posted on the City's website. It was also mentioned that a news article may be helpful.

With nothing further, it was noted that the Haakon Co. Commissioners will meet as Board of Equalization on April 9, 2019.

With no further business to come before the Board of Equalization, motion was made by Pinney, seconded by Gartner to adjourn the meeting at 4:20 p.m. Motion carried.

Mayor Vetter then reconvened the meeting as the City Council.

Old Business:

Motion was made by Matt, seconded by Pinney to approve the second reading of the following Ordinance #2019-04. Motion carried with all members voting aye.

**ORDINANCE #2019-04
AN ORDINANCE AMENDING AND ESTABLISHING SECTIONS IN CHAPTER THREE (3),
PUBLIC PLACES, 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 section 303 of Chapter 3 of the revised ordinances of the City of Philip, be amended and established to read as follows.

3-303 MUNICIPAL TREES

The City Council shall have the authority and jurisdiction to regulate the planting, maintenance and removal of trees along public streets and other publicly owned property such as parks and boulevards to insure the public safety and preserve the aesthetics of such public sites. The City Council shall have the authority to determine the type and kind of trees to be planted upon municipal streets, public rights of ways or in parks.

3-303.1 PERMISSION TO PLANT AND MAINTAIN

No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipally owned property without first receiving permission from the City Council or Public Works Director.

- a) Certain species of trees shall not be planted in the street and alley public right of way for any of the following reasons: high susceptibility to disease, production of large or messy fruit, and growth habit.
- b) Recommended municipal trees are as follows: Redmond Linden; Discovery Elm; Hackberry; Northern Acclaim Honeylocust; Stately Manor Coffeetree (pod-less only); Bur Oak; Heritage Oak; and, Prairie Stature Oak.
- c) Trees planted in the public right of ways shall comply with the following distance requirements.
 - 1. Distance for planting trees in a relation to a street or alley are as follows:
 - a. No tree shall be planted where the distance between any two man-made improvements, such as curb and sidewalk, is less than nine feet (9'); and, trees shall be planted five feet (5') from the back of curb when two man-made improvements exist.
 - b. Trees shall be planted a minimum of ten feet (10') from the back of curb when no other improvements exist.

- c. Trees shall be planted twelve feet (12') from the outer edge of a street or alley when a curb does not exist.
- d) No tree shall be planted or permitted to grow so close to any curb, sidewalk or public structure or improvement, such that it interferes with vehicular traffic or parking, pedestrian movement along the walkway or such that it touches or crowds the public structure or improvement.
- e) No tree shall be planted within fifty feet (50') of the center of any intersection.
- f) No tree shall be planted within ten feet (10') of any fireplug or water hydrant.
- g) No tree shall be planted so that its natural growth will eventually interfere with any above ground utility wire.
- h) No tree shall be planted within five feet (5') of any underground water, sewer or other utility line.

3-303.2 RESPONSIBILITIES

- a) The care, maintenance, pruning and removal of municipal trees, after the planting thereof has been planted according to the guidelines set herein, shall continue to be the responsibility of the private property owner or his/her successor who planted the tree. While the city has jurisdiction over municipal trees, the cost of planting, care, pruning, removal and the like is the responsibility of the private property owner.
- b) Every private owner of every tree adjacent to or in close proximity with a street light, electrical line, sewer or water pipe or other utility line or pipe, shall keep said tree in proper shape and condition, and shall when necessary, prune or remove the same, at his/her expense, in proper manner, so that tree does not interfere with or hinder normal usage of said street, sidewalk, area, utility, etc., or block any light from any such street light. The minimum clearance of any overhanging portion thereof shall be eight feet (8') above any sidewalk; and, sixteen feet (16') above any street or alley.
- c) The City shall also maintain the right to prune, trim, or remove trees, plants and shrubs within the public right of ways of all streets, alleys, boulevards and land as may be necessary to eliminate traffic hazards, insure public safety, and to prevent any injury to sewer and water infrastructure or other public improvements.

3-303.3 ABUSE OF TREES

Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, put, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them; or set fire or permit to set fire to burn when such fire or the heat thereof will injure any portion of any tree on any publicly owned property.

3-303.4 PERMISSION TO EXCAVATE

All trees on any street or other publicly owned property near any excavation or construction of any building or structure, or street work, shall be guarded with a good substantial fence, frame or box, and all building material, dirt or other debris shall be kept outside such barrier. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining permission from the City Council.

Dated this 18th day of March 2019.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer

First Reading: Mar. 4, 2019
Second Reading: Mar. 18, 2019
Yeas: 6 Nays: 0
(Published: Mar. 14 & 28, 2019)

Motion was then made by Gartner, seconded by Pinney to approve the second reading of the following Ordinance #2019-05. Motion carried with all members voting aye.

ORDINANCE #2019-05
AN ORDINANCE AMENDING SECTIONS IN CHAPTER SEVEN (7), STREETS AND SIDEWALKS, 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 section 101, 106 and 107 of Chapter 7 of the revised ordinances of the City of Philip, be amended and established to read as follows.

7-101 DEFINITIONS

- a) Public Property or Area – All lands and real property owned by the City of Philip, South Dakota, including areas dedicated to the City for public use such as parks, streets, alleys, boulevards, etc.
- b) Boulevard – That area of public or publicly dedicated property included within the definition of “Public Property or Area” commonly found between the street and platted public right-of-way which in some instances is the inner edge of the sidewalk. In areas where there are curbs, it is defined as the platted public right-of-way from the back of the curb to the property line or the inner edge of the sidewalk. In areas without curbs, it is defined as the platted public right-of-way from the street to the property line or the inner edge of the sidewalk. (Refer to Ord. #7-101(d) for definition of edge.) When used herein, the term shall include all such property whether a sidewalk exists or not.
- c) Private Property – All property not constituting public property.
- d) Edge – The term “outer edge” shall be construed to be the edge nearest to the center of the street or alley, and the term “inner edge” shall be the edge furthest from the center of the street or alley.

7-105.1.1 CLEARANCE OF OVERHANGING PROJECTIONS OVER STREETS AND SIDEWALKS

Minimum clearance of overhanging projections over streets and sidewalks within the city shall be maintained. Sidewalk awnings and canopies shall have a minimum clearance of eight (08) feet. All signs shall have a clearance of ten (10) feet above the sidewalk and shall not extend beyond the outer edge of the sidewalk. For overhanging trees refer to Ordinance #3-303.2 (b). All other overhanging projections shall have a minimum clearance of ten (10) feet above the sidewalk and sixteen (16) feet above the streets.

7-106 PLANTING AND MAINTENANCE OF TREES, SHRUBS AND BUSHES

The planting and maintenance of trees, shrubs and/or bushes on any private property within the boundaries of the City of Philip, South Dakota shall meet the following requirements:

7-106.1 PLANTING

- a) Trees, shrubs and/or bushes must be planted at least three (03) feet from the property line on the side and rear yards when there is no street or alley abutting

said property line. Refer to Ordinance #3-303 for planting regulations abutting public rights of way (streets, alleys, boulevards, etc.).

- b) All trees, shrubs and/or bushes must be planted at least ten feet (10') from any fireplug or water hydrant.
- c) No trees, shrubs and/or bushes shall be planted so that its natural growth will eventually interfere with any above ground utility wire.
- d) No trees, shrubs and/or bushes shall be planted within five feet (5') of any underground water, sewer or other utility line.

7-106.2 MAINTENANCE

- a) All trees, shrubs and/or bushes that have been identified as dead, diseased, broken, decaying or otherwise containing dangerous limbs and branches which pose a potential health hazard of danger to the public must be removed.
- b) All trees, shrubs and/or bushes within the City limits of the City of Philip, South Dakota must be maintained at a height and in an area where such plant will not obstruct a clear vision of intersecting roadways or otherwise constitute a traffic hazard. (Cross reference 3-303.2)

7-106.3.1 PROPERTY OWNER AND/OR OCCUPANTS RESPONSIBILITIES

- a) Every owner and/or occupant of property within the City of Philip, South Dakota, shall be responsible for the proper maintenance, care and pruning of all trees as defined in Ordinance #7-107.2 on their respective properties and when necessary, the removal of dead, diseased or otherwise dangerous trees or parts thereof.
- b) The City and its representatives shall have the jurisdiction and authority to identify any trees, shrubs and/or bushes in violation of any of the provisions of Ordinance #7-107.2 and notify the property owner in writing of said violation of ordinance. The property owner will be given a minimum of thirty (30) days to correct the violation by pruning, trimming or removing the tree, shrub and/or bush. If the problem is not corrected within the thirty (30) day time frame, the City will have the violation corrected at the property owner's expense. (Cross reference Ordinance 3-303.2)

7-107 RESERVED

Dated this 18th day of March 2019.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer

First Reading: Mar. 4, 2019

Second Reading: Mar. 18, 2019

Yeas: 6 Nays: 0

(Published: Mar. 14 & 28, 2019)

New Business:

Motion was made by Matt, seconded by Miller to hire Marty Gartner as temporary emergency employment at \$16.00 per hour. It was noted that Gartner assisted with snow removal/hauling following last week's blizzard. Motion carried with Gartner abstaining from the vote.

Council reviewed correspondence from Dean VanDeWiele, SD Dept. of Transportation (DOT) Pierre Area Engineer, regarding a response to the safety concerns posed by the City and County for SD Hwy 73 and US Hwy 14. The SD DOT has advised that some improvements will be made while others are not

warranted. They will also perform a speed study in the area by the spring of 2019. In addition, solar power LED stop signs are permitted, but at the expense and maintenance of the local entities.

No action was taken.

Public Comments:

None

Other Business:

The next regular Council meeting will be held on Monday, April 1, 2019, at 7:00 p.m. in the Community Room.

With no further business to come before the Council, the Mayor declared the meeting adjourned at 4:30 p.m.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Brittany Smith, City Administrator

(Published once on March 28, 2019 at approximate cost of \$_____)