

**COUNCIL PROCEEDINGS**  
**REGULAR MEETING**  
**April 4, 2022**

A regular meeting of the Philip City Council was held on Monday, April 4, 2022, at 7:00 p.m. in the Community Room of the Haakon Co. Courthouse. Present were Mayor Michael Vetter, Council Members Trisha Larson, Brit Miller, Marion Matt, Marty Gartner, Scott Pinney, and Terri Pelle. Also present were City Administrator Brittany Smith, Finance Officer Monna Van Lint, Public Works Director Matt Reckling, Public Works Maintenance/Utility Billing Brian Pearson, Chief of Police Ben Buls, Greg Arthur, Jerry and Karen Kroetch; and later, City Attorney Stephanie Trask.

Absent: None.

The meeting was opened with the Pledge of Allegiance.

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

Motion was made by Miller, seconded by Pinney to approve the minutes of the March 7<sup>th</sup> meeting as published in The Pioneer Review and on the City's website. Motion carried.

Motion was made by Pinney, seconded by Gartner to approve the minutes of the March 21<sup>st</sup> meeting as published in The Pioneer Review and on the City's website. Motion carried.

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

**Gross Salaries – March 31, 2022:** Mayor/Council - \$4780.00, Admin - \$4376.27; Finance - \$3813.33; Police - \$6586.65; Water - \$11041.31

Colonial Life	Employee Supplemental Ins 3/22	129.13
Credit Collections Bureau	Garnishment 3/22	200.86
EFTPS	SS/Medicare/Withholding 3/22	6472.06
NE Child Support	Garnishment 3/22	659.18
SDRS	Employee Retirement 3/22	3418.78
SDSRP	Sup Retirement 3/22	100.00

**Water Meter Project:**

Brant's Electric	South Shop AMR Satellite 3/22	693.54
Core & Main LP	Meter Gaskets 3/22	192.50

**This Month's Bills:**

Associated Supply Co Inc	Pool Chemical 3/22	7527.96
AT&T Mobility	Cell Phone 3/22	222.55
Bad River Law Prof LLC	Legal/Atty 2-3/22	590.00
Bartlett, Andrew	Gas Reimb 3/22	40.21
Century Business Products	Copier Maint 2-3/22	49.27
Certified Pool Trainers of IA & MN	Pearson CPO Reg 4/22	400.00
CNH Productivity Plus	Loader Repairs 3/22	350.00
Coast to Coast Solutions	Supplies 3/22	217.50
Corporate Trust – US Bank	SRF #4 Pay #31 4/22	11326.05
	SRF #5 Pay #31 4/22	7905.24

D&T Auto Parts	PD Repairs 3/22	161.55
Delta Dental	Dental Ins 4/22	695.50
1 <sup>st</sup> Nat'l Bank – Philip	UB Postage 3/22	141.20
Golden West Telecom	Telephone/Internet 2-3/22	595.57
Grossenburg Implement	St Repairs 3/22	77.66
Haakon Co Treasurer	Office Rent 4/22	500.00
Hanson Oil	Fuel/LP 2-3/22	2962.45
Health Pool of SD	Health Ins 4/22	10455.29
Kieffer Sanitation	373 Residential Collections 3/22	5016.85
Moses Building Center	Supplies 3/22	11.99
Nixon, Alex	Cust Dep Refund 4/22	100.00
Optilegra	Vision Ins 4/22	101.51
Philip Hardware	Supplies 3/22	265.03
Philip Motor Inc	Supplies 3/22	53.74
Philip Standard	Fuel 3/22	1150.80
Pioneer Review	Publishing 3/22	304.10
Recreation Supply Co Inc	Pool Vacuum 3/22	5020.26
SD Dept of Revenue	Sales Tax Payable 3/22	467.04
	W Testing 3/22	15.00
SD Federal Property Agency	Amb Supplies 3/22	32.00
SD Police Chiefs Assoc	Buls Conf Reg 4/22	85.00
The Philip Pit Stop	Fuel 2-3/22	387.97
Verizon Wireless	W AMR Internet 3-4/22	80.04
VISA – UMB Bank	Supplies/Repairs/Travel 2-3/22	1588.03
WR/LJ Rural Water Systems	2,017,000 gals 3/22	2521.25
	Contract Min. 3/22	2500.00
	AIR Water 3/22	42.50
	South Shop Water 3/22	20.00
Wohlenberg, Ritzman & Co LLC	FY2020 Audit 3/22	13573.54
Total Expenditures – 4/4/22		\$78,440.69

**Old Business:**

None.

**New Business:**

**Vivian Hansen Subdivision Property Update:**

Jerry and Karen Kroetch addressed the Council. They advised that the property has been appraised and they are ready to proceed with deeding the property to the city on the condition that is used exclusively for residential housing.

Attorney Trask reviewed a preliminary deed for the property. She inquired if Kroetch's would prefer the deed include a covenant regarding the exclusive use as it would bind to future deeds of said property. In addition, if the certificate of real estate shall state "gift" as the value.

Kroetch's confirmed that they would prefer the covenant be added. In addition, they advised that the certificate of real estate can include a value of gift. They also mentioned that Wall Drug has a contract for one side of the billboard sign on the property. The annual contract amount is \$200 and expires May 31, 2023. The other side of the billboard includes an advertisement for Hansen Court which they have offered to the Hansen family.

Discussion ensued on the house located on said property. It was mentioned that the current tenant is charged \$500 per month for rent and are responsible for all utilities along with any needed improvements or repairs. It was questioned if the city plans to continue renting the house until they are ready to proceed with the development of the land. If so, a public hearing and resolution of intent is required per SDCL 9-12-5.2.

By general consensus, a public hearing on the intent to lease the house per SDCL 9-12-5.2 will be held during the May 2<sup>nd</sup> meeting.

Following, motion was made by Miller, seconded by Matt to authorize Attorney Trask to prepare the property deed to the city, with a covenant noting exclusive use for residential housing. Motion carried with all members voting aye.

Motion was then made by Pinney, seconded by Matt to approve Haakon Co. Abstract as the closing agent for the land transfer to the city, and appoint Council Member Miller to oversee and sign on behalf of the city. Motion carried with all members voting aye.

The Kroetch's were thanked for their generosity to the city and its future.

Council went on to discuss Airbnb and Vrbo properties within the city. There is currently one listed online with the potential for more. It was questioned if these should be regulated as they are nightly rental properties—do not support the community's need for long-term housing.

Following a lengthy discussion, CA Smith was directed to reach out to the owners of the Airbnb and Vrbo's properties in the city. In addition, a draft ordinance regulating them shall be presented for consideration at the May 2<sup>nd</sup> meeting.

CA Smith advised that per Ty Kennedy, the Philip Match Bronc Ride will be held on Saturday, June 11, 2022. The plans include the SD National Guard providing security for the event. They will also have games set up for the youth on the football field and in the tennis court area. Additionally, First National Bank is hosting free swimming at the pool.

Motion was made by Miller, seconded by Matt to authorize Lake Waggoner Golf Course to utilize the city's website for their online campground reservation link. Motion carried.

#### Infrastructure Projects:

Council was advised that the SD Board of Water and Natural Resources will be reviewing and acting upon the City's Northeast Sewer Project funding application on April 12-13, 2022. It was noted that with the passage of Senate Bill 62, grant funding is anticipated. CA Smith will be representing the city during the meeting via Microsoft Teams.

#### Artesian Well Project

PWD Reckling reported that the contractor, Jerry Hunt with Weston Engineering, has plugged the well. Hunt also confirmed today that they are planning to have the liner in and cemented by this Friday.

#### Water Meter Project:

PWM/UB Pearson reported that one-third of the meters (158) are on the AMR system. The ¾" meters that need to be replaced are on hand, and he will be scheduling their replacement with property owners in the near future. The larger meters have also been ordered.

Utility Rates:

Motion was made by Larson, seconded by Miller to approve the first reading of the following Ord. #2022-01. Motion carried with all members voting aye.

**ORDINANCE #2022-01**  
**AMENDING SECTIONS IN CHAPTER FIVE (05), PUBLIC OWNED UTILITIES**  
**OF THE REVISED ORDINANCES OF THE CITY OF PHILIP, SD**

**BE IT ORDAINED** by the City Council of the City of Philip, South Dakota, that the following Sections in Chapter 05, Public Owned Utilities, of the Revised Ordinances of the City of Philip is hereby amended—with ~~strike through~~ indicating text to be deleted, underline indicating text to be added, and the remainder of the Article left unaffected—as follows.

**BE IT FURTHER ORDAINED** that section 5-207.2 and 5-207.3 are repealed as previously established.

**5-000            DEFINITIONS**

TOURIST PAY CAMP. Any land used to provide temporary accommodation for the public, or members of an organization, in tents, cabins, camper trailers or other recreational vehicles. Also known as a campground or camper court.

UNIT. An independent, self-contained dwelling in a building, or a separate dwelling located on the same property.

USER. A user is any location supplied with utility service from the city which falls into one of the following classifications:

COMMERCIAL / INDUSTRIAL USER. ~~A property solely used for a business. Any person, family, association of persons, partnership, limited liability company, corporation, office, or entity that occupies or uses seventy-five (75) percent or more of a structure (s) for any business purpose. Tourist Pay Camps shall also be included in the definition of a commercial / industrial user and sewer rates shall apply when occupied.~~

RESIDENTIAL USER. ~~Single family homes, duplexes, townhouses, apartments, and mobile home parks without a master meter. Any person, family, or association of persons who occupy a structure for use as a dwelling, house, apartments, or residence including mobile home parks, and the use of that structure is not included within the definition of a commercial / industrial user. The main place of worship for an organized and recognized religion shall also be included in the definition of a residential user.~~

WATER ONLY USER. A water only user is any user, regardless of classification, located outside of the city limits of the City of Philip that are connected to the municipal water system, but not the municipal sewer system.

**5-002            CUSTOMER DEPOSITS**

Any applicant for city utility service shall make a deposit and shall not be entitled to the use of such utility service until such deposit is made. ~~All new utility account applicants are required to pay a one-hundred dollar (\$100.00) customer deposit. The amount of the deposit is contained within the Rates and Fee Schedule, which is set and amended by resolution. The deposit is also an indemnity against, theft, misplacement, or injury to city property.~~ The city does not accept letters of credit from previous utilities.

Existing utility customers with a history of timely payments within the last twelve (12) months are not required to pay a deposit when adding or changing service locations. ~~If a current utility customer moves~~

~~to a new location supplied with city utilities, a new deposit will not be charged if the customer has maintained at least one year of credit history with the city.~~

~~All utility customers that do not currently hold a customer deposit, upon the effective date of this ordinance, shall continue to receive city utility services, but in all other respects will comply fully with the requirements of this ordinance. A customer deposit will be charged to the customer's account if the customer receives a minimum of three (3) delinquency notices within one (1) year.~~

~~The City Council of the City of Philip reserves the right and authority to review and adjust the customer deposit amount through resolution of said City Council.~~

#### **5-002.1 CUSTOMER DEPOSIT REFUNDS**

A customer deposit is held by the City of Philip until at least one of the following is met by the utility account holder.

- a) ~~The utility service is disconnected per Ordinance 5-004 and the customer's utility account is paid in full. Deposit shall be applied to final bill, and any remaining deposit balance will be refunded to customer.~~
- b) ~~Customers who have an has established timely payment history with the City of Philip for by paying twelve (12) consecutive months by utility payments without any late fees. Deposit shall be credited to customer account in July of each year. will be refunded in July of each year. The city reserves the right to charge a new customer deposit as established by resolution to a property owner's customer account in the event that a minimum of three (3) delinquency notices within one (1) year have been issued following the refund of a previous deposit.~~

#### **5-003.2 SLEEP/VACATION UTILITY RATE**

- b) ~~Payment for this service will be required in advance and will consist of a monthly minimum water and sewer charge. The monthly minimum charges are contained within the Rates and Fee Schedule, which is set and amended by resolution, established in Ordinance 5-109 5-113 and 5-207 5-216 and may be adjusted through resolution of said City Council.~~

#### **5-005 DELINQUENT ACCOUNTS**

- a) ~~Any utility payment received after the payment deadline as established in Ordinance 5-003 5-114, is considered delinquent and will be assessed a late fee of ten dollars (\$10). Late fees are contained within the Rates and Fee Schedule, which is set and amended by resolution. The city office will send a delinquency notice stating the total amount due and the date by which to pay the utility bill or the utility service will be disconnected. The consumer may contact the city office and appeal the bill. If the city office staff deems appropriate, agreements can be made to schedule payments for the delinquent and current billings. If a customer is not satisfied with the decision, said customer may appeal to the water committee and/or full City Council.~~
- e) ~~The City Council of the City of Philip reserves the right and authority to review and adjust the late fee through resolution of said City Council.~~

#### **5-109 WATER RATES**

Rates and charges for all users of the water system are contained within the Rates and Fee Schedule, which is set and amended by resolution.

Out of city users shall be charged at two times the minimum rate of in city users.

Rates shall be applied to tourist pay camps monthly unless notified by owner that said camp is unoccupied.

- a) ~~For the purposes of this section, “users of water” shall mean the owner or occupant of each individual residential or commercial premise, including, but not limited to, the owner or occupant of each apartment in a multiple family dwelling, each mobile home in a mobile home park and hotel and motel facilities.~~
- b) ~~All users of water within the corporate limits of the City of Philip shall pay to the City of Philip for water used by them as follows:~~
  - ~~1. A minimum of \$20.00 per month which shall entitle the user to 2,000 gallons of water per month.~~
  - ~~2. All water used over 2,000 gallons per month shall be paid for at a rate of \$.005 cents per one (01) gallon of water or fraction thereof.~~
- e) ~~All users of water outside of the corporate limits of the City of Philip shall pay to the City of Philip for water used by them as follows:~~
  - ~~1. A minimum of \$40.00 per month which shall entitle the user to 2,000 gallons of water per month.~~
  - ~~2. All water used over 2,000 gallons per month shall be paid for at a rate of \$.005 cents per one (01) gallon of water or fraction thereof.~~

~~The increase in water usage rates will be implemented and reflected on the February 2011 utility billing. The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned water service charges established by this ordinance through resolution of said City Council.~~

## **5-207      SANITARY SEWER SEWAGE RATES**

Rates and charges for all users of the sanitary sewer system are contained within the Rates and Fee Schedule, which is set and amended by resolution.

Out of city users shall be charged at two times the minimum rate of in city users.

Rates shall be applied to tourist pay camps monthly unless notified by owner that said camp is unoccupied.

~~Sewer service charges shall be based on water consumption per month. For purposes of this section “users of the sanitary sewers” shall mean the owner or occupant of each individual residential or commercial/ industrial premise, including but not limited to, the owner or occupant of each apartment in a multiple family dwelling and each mobile home in a mobile home park, but exclusive of hotel and motel facilities. All users of the sanitary sewers within the corporate limits of the City of Philip as defined above shall pay a minimum monthly fee of \$21.00 for the first 2,000 gallons of water consumed per month.~~

~~In addition to the monthly minimum fee, each user shall pay \$.003 cents per one (01) gallon of water consumed between 2,001 and 10,000 gallons per month; and, \$.0015 cents per one (01) gallon of water consumed in excess of 10,000 gallons per month. This additional fee shall be based on the average gallons of water consumed by the user during the months of January, February and March of each calendar year.~~

~~All users of the sanitary sewers residing outside the corporate limits of the City of Philip as defined above shall pay a minimum monthly fee of \$42.00 for the first 2,000 gallons of water consumed per month. In addition to the monthly minimum fee, each user shall pay \$.003 cents per one (01) gallon of water consumed between 2,001 and 10,000 gallons per month; and, \$.0015 cents per one (01) gallon of water consumed in excess of 10,000 gallons per month. This additional fee shall be based on the average gallons of water consumed by the user during the months of January, February and March of each calendar year.~~

~~Each user will be billed at the average monthly rate established each calendar year beginning with the May utility billing.~~

~~The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned sewer service charges established by this ordinance through resolution of said City Council.~~

#### **5-207.1 WASTEWATER SURCHARGE**

- b) Loan #C461205-07: The City of Philip designates \$5.80 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$605,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of two and one-half percent (2.5%), in accordance with the loan agreement to be entered into by the City of Philip and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Southwest Philip Wastewater Improvements project. Such surcharge shall be segregated from all other funds of the City of Philip, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge of \$5.80 was implemented and reflected with the May 01, 2012, utility billing; and, amended to \$4.70 to be implemented and reflected with the June 01, 2022, utility billing.

#### **~~5.207.2 SEWAGE USAGE AND RATES: HOTELS MOTELS ROOMING HOUSES~~**

~~All hotel, motel and rooming house sewer service charges shall be based on water consumption charges. The sewer charges will be assessed per month.~~

~~For purposes of this section "hotel/motel/rooming house" shall mean every building or other structure kept, used or maintained as a place where food and/or sleeping accommodations are offered for pay to public guests, including such guests as transients and/or tourists and in which the accommodation of such person or persons is solicited or where such accommodations are advertised and/or held out to the public for such use.~~

~~All hotel, motel and rooming house sewer users within, and out of, the corporate limits of the City of Philip that utilize the city's sanitary sewer system shall be assessed for sewer services based on a rate of 2/3 of the total dollar amount assessed per month of water utility charges assessed to each individual hotel/motel/rooming house's utility account. The wastewater surcharge established in Ord. 5-207.1 shall be designated and accounted for when collecting said sewer charges.~~

~~The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned sewer service charges established by this ordinance through resolution of said City Council.~~

#### **~~5-207.3.1 TOURIST PAY CAMPS~~**

~~For the purposes of this section a Tourist Pay Camp is defined as every building or group or other structure or group of structures kept, used, maintained or advertised, or held out to the public to be a place where sleeping accommodations are offered for pay to transient guests, not otherwise classified as a hotel, motel or rooming house, and offering more than one cabin for accommodation of such guests, shall for the purposes of this ordinance be deemed a tourist pay camp. For the purpose of this ordinance the words "tourist pay camp" shall be construed to include the words, "motor court", "cabin camp", "motor lodge", "tourist camp", "motor hotel", "camper court", and "tourist park".~~

~~Sewer rates established in Ord. #507 and 507.1 shall apply when tourist pay camps are occupied.~~

~~It is further stated that it is the responsibility of each tourist pay camp owner and/or landlord to report to the City Finance Office on or about the 15<sup>th</sup> of every month if the tourist pay camp has been occupied during the previous month.~~

~~The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned sewer charge established by this ordinance through resolution of said City Council.~~

**Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Michael Vetter, Mayor

ATTEST:

\_\_\_\_\_  
Monna Van Lint, Finance Officer

Passed First Reading: April 4, 2022

Passed Second Reading:

Yeas: 6 Nays: 0

(Published: April 14, 2022)

The proposed amendment to the city's adopted Resolution of Rates and Fee Schedule was reviewed. This outlines the new sewer rates recommended during the March 7<sup>th</sup> meeting along with an increase to the customer deposit fee. Council will act on said amendment during their May 2<sup>nd</sup> meeting.

Building/Flood Plain Dev. Permits: Christy Harry – concrete pad; and Philip Hardware – renew greenhouse permit issued on March 3, 2017.

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

The L/P Propane bids received during the last month are as follows.

	<u>March 10, 2022</u>
Hansen Oil Company	\$2.15/gal.
CHS River Plains	\$2.43/gal.

Departmental Reports:

Administration

Motion was made by Miller, seconded by Larson to authorize FO Van Lint to stop payment on check #33940 issued on September 9, 2021, in the amount of \$16.49 per SDCL 9-23-21. Motion carried.

Police Department

The monthly report was reviewed with Chief Buls. It was mentioned that the new police pickup is now scheduled for delivery in May.

Rubble Site (Quarterly)

The report included a reminder that the summer month's schedule will start on May 1<sup>st</sup> with spring clean-up days being May 6<sup>th</sup> and 7<sup>th</sup>, 2022.

Street Dept.

The monthly report was reviewed.



Swimming Pool

The Health/Rec. Committee will meet on Monday, April 25<sup>th</sup> at 4:00 p.m. to review pool applicants and policies for 2022.

Water Dept.

The quarterly report was reviewed which noted the water loss of 9.38% for the month of March.

Training/Travel:

PMW/UB Pearson will be attending CPO school on April 20<sup>th</sup> – 21<sup>st</sup> in Rapid City.

PWD Reckling will tentatively be attending the 2022 Mosquito Workshop on April 28<sup>th</sup> in Rapid City.

**Public Comments:**

CA Smith advised that her office recently received a complaint about a flag with profanity language in the city. She has contacted the property owner and they will be removing the flag. It was noted that the concern only related to the profanity—not freedom of speech. It was also mentioned that the city does not have any ordinances regulating profanity or obscenity, but these could be addressed if needed in the future.

**In Other Business:**

The next regular meeting will be held on Monday, May 2<sup>nd</sup> at 7:00 p.m. in the Community Room of the Haakon Co. Courthouse.

With no further business to come before the Council, Mayor Vetter declared the meeting adjourned at 7:55 p.m.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Brittany Smith, City Administrator

(Published once on April 14, 2022, at approximate cost of \$\_\_\_\_\_)