

PUBLIC NOTICES

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fee by \$50. Aaron explained the services included for each fee. He also recommended that the stand-by fee be increased from \$36 to \$50 per hour. Aaron answered questions of the Council on the proposed rates.

401-09 Alderman Edelen moved approval of amending the ambulance rates as follows: Mileage per loaded mile: \$11.00 BLS Non-Emergency: \$425.00 BLS Emergency: \$450.00 ALS1 Non-Emergency: \$500.00 ALS1 Emergency: \$550.00 ALS2 Emergency: \$650.00 Standby per hour: \$50.00

Alderman French seconded the motion. Motion carried 7 to 0. Mayor Christopherson declared the motion adopted.

D. Resolution amending water rates

Mike Carlson, Finance Officer, reported during the 2010 budget process that a 3% water rate increase was needed due to increased operating costs. Our rates include a debt service surcharge that requires an annual review. Due to the increase in number of customers, the surcharge will see a small decrease in its monthly rate with the increase going to the water operating fund. The 3% increase will generate \$44,000 to \$48,000 annually depending upon water sales. The average customer uses 690 cubic feet of water per month and the monthly bill will increase from \$26.09 to \$26.83 or .79 per month. As sewer bills are based upon water charges, we will be monitoring this for any needed adjustment in the wastewater charges.

402-09 After reading the same once, Alderman Powell moved adoption of the following:

RESOLUTION AMENDING WATER RATES

WHEREAS Section 53.075 of Title V Public Works of the 2008 Revised Ordinances of the City of Vermillion allows the City Council to establish water rates.

BE IT HEREBY RESOLVED by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. on the 7th day of December, 2009, that water rates be established or changed as follows:

a) Meter Service Charge per billing:

Table with 2 columns: Meter Size (inches) and Service Charge. Rows include 3/4, 1, 1 1/2, 2, 3, 4, 6.

The above rates include a surcharge fee defined below.

(2) Apartment house and trailer courts per billing:

Table with 2 columns: Meter Size (inches) and Service Charge. Rows include 1, 2, 3, 4, 6.

The above rates include a surcharge fee defined below.

In addition an apartment or trailer charge as follows shall be assessed for each apartment or trailer unit over 1 connected to a master meter. The listed rate includes a surcharge fee defined below.

Additional units, \$3.61

(3) Commercial and industrial per billing:

Table with 2 columns: Meter Size (inches) and Service Charge. Rows include 3/4, 1, 1 1/2, 2, 3, 4, 6.

The above rates include a surcharge fee defined below. In addition a charge as follows shall be assessed for each commercial or industrial unit over 1 connected to a master meter. The listed rate includes a surcharge fee defined below.

Additional units, \$3.61

b) Water Charge: In addition to the meter charges mentioned in subsection (a) above there shall be the charge as follows per 100 cubic feet of water used: Water Charge, \$1.99

Outside City Limits: All customers residing outside the city limits of the City of Vermillion, South Dakota shall pay 1.5 times the above rates.

c) Bulk Water Rate: Bulk water rates shall be the per gallon charge as follows: Bulk Water, \$0.00527

d) Debt Service Surcharge Fees: There is hereby established and imposed, pursuant to the authority of SDCL ch. 9-40, a surcharge upon the water service in the City of Vermillion. The surcharge shall apply to all classes of customers listed in a) above. The debt service surcharge is a special charge for the use of the water plant improvements and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the 2005 Drinking Water State Revolving Fund Loan. The City does hereby establish the debt service surcharge fees for each customer of its System who received or benefits from the Project or services of the Project. Such allocation shall be set at a level which, assuming a ten percent (10%) delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal and interest on the borrower 2005 bonds and the administrative expense surcharges and all other payments as may be required under the loan agreement. The charges shall be reviewed annually by City personnel and administratively adjusted, upwards or downwards, pursuant to SDCL 9-40-15.1 and 9-40-15 to such amounts as may be necessary to pay principal, administrative surcharge and other charges as may become due and owing under the loan agreements. The monthly surcharge fee included in a) above is as follows:

Table with 2 columns: Meter Size (inches), Service Charge. Rows include 3/4, 1, 1 1/2, 2, 3, 4, 6.

For billing made after January 1, 2010 the residential service rates will be:

Rate: All KWH per month per KWH at 8.55 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

Customer charge: \$8.00 per month.

Rate: All KWH per month per KWH at 9.25 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

Customer charge: \$30.00 per month.

Rate: All KWH per month per KWH at 11.90 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

Customer charge: \$30.00 per month.

Rate: All KWH per month per KWH at 11.90 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

In addition, an apartment or trailer charge as follows shall be assessed for each apartment or trailer and or each commercial or industrial unit over 1 connected to a master meter. The monthly surcharge fee included in a) above is as follows:

Additional units, \$1.47

The Debt Service Surcharge may be combined with the Meter Service Charge on the monthly billing for ease of reporting.

e) Effective Date of Rate. The effective date of the rates listed in Vermillion City Ordinance 53.073 is for bills effective with a billing date after January 1, 2010. Dated at Vermillion, South Dakota this 7th day of December, 2009.

FOR THE GOVERNING BODY OF THE CITY OF VERMILLION, SOUTH DAKOTA

By: Dan Christopherson, Mayor ATTEST:

Michael D. Carlson, Finance Officer

The motion was seconded by Alderman Hoffman. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Christopherson declared that the Resolution was adopted.

E. Resolution amending electric rate surcharge

Mike Carlson, Finance Officer, reported that in October 2009 the City Council adjusted electric rates to cover the increased cost of purchasing power from WAPA and to meet the debt service requirements for the Transmission Line Bond Issue. The rate resolution created a surcharge fee that would generate 1.25% of the estimated 2010 debt service requirements to show the ability to service the debt was in place before the council proceed with the bond sale. Since that time, the bond issue received an "A" rating from Standards & Poor's and the resolution was amended to allow the use of the Build America Bond Program under the American Recovery and Reinvestment Act of 2009. This program has the bonds issued as taxable bonds, thus, a higher interest rate but reimburses the City 35% of the interest resulting in a net savings to the city, after the refund, in annual debt service. As the 35% refund is not included in the computation of 1.25% debt service coverage, the surcharge portion of the electric rates will need to be increased to attain the coverage requirements. The proposed rate resolution does not change the electric rate to the customer, but increases the surcharge portion and reduces the amount to the electric utility. The 35% interest refund will be transferred to the electric utility to offset the reduction in electric sales revenue. In conclusion, the net effect to the customer is no change. Discussion followed.

RESOLUTION AMENDING ELECTRIC SURCHARGE RATES

WHEREAS, Chapter 51 of the 2008 Revised Ordinances of the City of Vermillion allows the City Council to establish and change electric rates, and

WHEREAS, the voters approved the revenue bond resolution to finance the transmission line and related system improvements, and

WHEREAS, the revenue bond requires the creation of a surcharge fee sufficient to produce net revenues for each fiscal year at least equal to one hundred twenty-five percent (125%) of the principal and interest on the bonds coming due in such fiscal year be established, and;

WHEREAS, the City Council approved the resolution designating the electric revenue bond as Build America Bonds to allow the bonds to be issued as taxable bonds with a corresponding increased interest rate that is offset by the thirty-five percent (35%) direct federal subsidy for a reduced net cost to the City, and

WHEREAS, the thirty-five percent (35%) direct federal subsidy payment is not considered net revenue for the one hundred twenty-five percent (125%) coverage the surcharge fee will need to be increased while the total electric rate will remain unchanged.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. on the 7th day of December, 2009, that the surcharge fee be changed as follows:

Rate: All KWH per month per KWH at 8.55 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

Customer charge: \$8.00 per month.

Rate: All KWH per month per KWH at 9.25 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

Customer charge: \$30.00 per month.

Rate: All KWH per month per KWH at 11.90 cents.

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Rate: All KWH per month per KWH at 11.90 cents.

The rate includes a surcharge fee per KWH at .0079 cents defined below

Customer charge: \$30.00 per month.

Surcharge Fee:

There is hereby established and imposed, pursuant to the authority of SDCL 9-40, a surcharge upon the electric service served by the City of Vermillion electric utility. The surcharge shall apply to all classes of electric customers listed above. The surcharge is a special charge for the use of the water plant improvements financed with the proceeds of the City's 2009 Electric Revenue Bonds, and is pledged for the payment of the costs of operating and maintaining said improvements and the debt service and other charges as may become due and owing on the 2009 Electric Revenue Bonds. The City hereby finds that the said improvements benefit all customers of its electric System, and, therefore, imposes the surcharge fees on each customer of its System. The surcharge shall, at all times, be sufficient to produce net revenues for each fiscal year at least equal to one hundred twenty-five (125%) percent of the principal and interest on the bonds coming due in such fiscal year. The charges shall be reviewed annually by City personnel and administratively adjusted, upwards or downwards, pursuant to SDCL 9-40-15.1 and 9-40-15 to such amounts as may be necessary to pay principal, interest and other charges as may become due and owing under the loan agreements. The monthly surcharge fee included in a) above is as follows:

For billing made after January 1, 2010 the surcharge fee shall be .0079 cents per KWH.

The rate includes a surcharge fee per KWH at 8.55 cents.

The rate includes a surcharge fee per KWH at 9.25 cents.

The rate includes a surcharge fee per KWH at 11.90 cents.

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Determination of Facilities Financed.

The City desires and hereby determines it is necessary to improve its solid waste facilities within its System, as described in Exhibit A hereto (the "Project"). The City hereby expressly finds that if the Project is not undertaken, the solid waste will pose a health hazard to the City and its inhabitants served by the System. The City hereby determines that the Project will substantially benefit the entire System and all of its inhabitants within the meaning of SDCL 9-40-15 and SDCL 9-40-17. Therefore the City hereby determines that for the purposes of the Act, including, in particular, SDCL 9-40-17, the net income or revenues of the entire System, as extended, added to or implied by the Project shall be deemed to be the net income or revenues available to be pledged to the payment of the bonds issued hereunder.

2. Approval of Loan. The City hereby determines to borrow up to \$260,000 of the costs of the Project through the issuance of utility revenue bonds (the "Revenue Bond"), and other funds secured by the City.

3. Approval of Loan Agreement. The execution and delivery of the Solid Waste Management Program Loan Agreement (the "Loan Agreement"), the form of which is attached hereto as Exhibit B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approved on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or attached to the Loan Agreement.

4. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$260,000 as determined according to the Loan Agreement in the form attached hereto as Exhibit B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Revenue Bond to the District, for and on behalf of the City, to pay the principal of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the terms and conditions of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B and the provisions of the Act are hereby expressly incorporated herein as provided in SDCL 9-40-19.

5. Paying Agent/Registrar. The Revenue Bond shall be payable at the office of the Finance Officer, City of Vermillion, Vermillion, South Dakota, hereby designated as paying agent and registrar.

6. System Fund Accounts. For the purpose of application and proper operation and maintenance of the System and to secure the payment of principal of and interest on the Revenue Bond, the following funds shall be used solely for the following respective purposes until the amount previously set aside, and interest on the Revenue Bond:

(a) System Revenue Account. There shall be deposited in the System Revenue Account as received the entire gross revenues of the System collected pursuant to the ordinances or regulations of the City Council of the City of Vermillion, South Dakota (the "Gross Revenues") including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys from the System Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

(b) Operation and Maintenance Account. There shall be established the General Operation and Maintenance Account. Out of the remaining revenues of the System Revenue Account after application described in (c) and (d) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the remainder of the System and such current expenses for the maintenance thereof as may be necessary to preserve the remainder of such System in good repair and working order. The term current expenses shall be construed to include all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, including without limitation salaries, supplies and rent, but shall exclude General Depreciation Account and System Debt Service Account.

(c) System Debt Service Account. Out of the revenues in the System Revenue Account, there shall be set aside no later than the 25th day of each month into the fund designated System Debt Service Account a sum sufficient to provide for the payment of the same become due of the next maturing principal and interest on the Revenue Bond and any reserve determined by the City Council to be necessary. The amount to be set aside monthly shall be not less than one-sixth of the total principal, interest, and other amounts payable on the following June 1 or December 1 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

(d) Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the City Council to be a proper and adequate amount for repair and depreciation of the

System.

(e) Surplus Account. There shall be established the General Surplus Account. Revenues remaining in the System Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be credited to the General Surplus Account. If at any time there shall exist any default in making any periodic transfer to the System Debt Service Account, the City Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the General Surplus Account. If any such default shall exist as to more than one account at any time then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the System Debt Service Account, moneys in the General Surplus Account from time to time may be used for any of the following purposes and not otherwise:

i. To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;

ii. To pay for repairs of or for the construction and installation of interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the System Debt Service Account, which payments, from certificates, receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued and sold by the City in accordance with the provisions thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the operation and maintenance of the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and the office of the Finance Officer, City of Vermillion, Vermillion, South Dakota, hereby designated as paying agent and registrar.

7. Pledge of Revenues. The Revenue Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the System Debt Service Account, which payments, from certificates, receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued and sold by the City in accordance with the provisions thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the operation and maintenance of the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and the office of the Finance Officer, City of Vermillion, Vermillion, South Dakota, hereby designated as paying agent and registrar.

8. Additional Bonds. As permitted by SDCL 9-40-8 and SDCL 9-40-9, additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

9. General Covenants. (a) The City hereby covenants and agrees with the District and other owners of the Revenue Bond that it will punctually perform all duties with reference to the Project, the System, and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

(b) The City agrees and covenants that it will promptly construct the improvements included in the Project.

(c) The City covenants and agrees that pursuant to SDCL 9-40-28 and SDCL 9-40-29, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the System and the extensions, additions and improvements thereto acquired pursuant to the Act, and the payment in full of the principal, interest, and Administrative Surcharge on the Revenue Bond, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the landfill disposal of solid waste within the City.

(d) The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and

accounts as provided for in this Resolution and the Loan Agreement.

The Revenue Bond shall refer expressly to this Resolution and the Act shall state that it is subject to all provisions and limitations thereof pursuant to SDCL 9-40-19.

(e) The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a depository account or accounts which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys at any time then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the System Debt Service Account, moneys in the General Surplus Account from time to time may be used for any of the following purposes and not otherwise:

i. To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;

ii. To pay for repairs of or for the construction and installation of interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the System Debt Service Account, which payments, from certificates, receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued and sold by the City in accordance with the provisions thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the operation and maintenance of the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and the office of the Finance Officer, City of Vermillion, Vermillion, South Dakota, hereby designated as paying agent and registrar.

10. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

11. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

12. Definitions. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

13. Effectiveness. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Adopted at City of Vermillion, South Dakota, this 7th day of December, 2009.

APPROVED:

Dan Christopherson, Mayor City of Vermillion Attest:

Michael D. Carlson, City Finance Officer

The motion was seconded by Alderman French. Discussion followed and the question of the adoption of the Resolution was presented for a vote of the Governing Body. 7 members voted in favor of and 0 members voted in opposition to the Resolution. Mayor Christopherson declared that the Resolution was adopted.

G. Joint Powers Board Appointment

John Prescott, City Manager, reported that the City is a member of the Joint Powers Agreement made up of the City of Yankton, City of Vermillion, Clay County and Union County. The Advisory Board consists of one member from each board, City Manager of each city, and a citizen appointed by each entity. The City advertised the opening and two statements of interest were received today. As the Council Members have not had time to review the applicants, it was recommended to table action until the next meeting.

405-09 Alderman Powell moved to table the citizen appointment to the Joint Powers Board until the next meeting. Alderman Edelen seconded the motion. Motion carried 7 to 0. Mayor Christopherson declared the