

**October 06, 2009
Commissioners Meeting**

The Board of County Commissioners met in regular session Tuesday October 6, 2009 at 9:00 a.m. Members present: Wilson, Kephart, Sommervold, Powell and Passick.

Sommervold moved, seconded by Jensen and carried to approve the agenda with the addition of a fireworks permit submitted by Tom Taylor.

Minutes of the September 29th meeting were amended and approved with a motion by Passick seconded by Sommervold and carried.

Brendon Richards/Resident of Garfield Twp met with the Board to discuss safety concerns with the property to the East of him. Rats have been seen, a cistern without a lid, and a shed with a roof that is not attached properly to the building were concerns listed. It was the consensus of the Board that the Zoning Administrator send out a letter to the land owners requesting these items be acted on.

The Monthly Zoning/Building Permit Report for September with \$70,500 in assessed values and the unapproved minutes of the September 15th Zoning Board Meeting were accepted and placed on file.

Layne Stewart/Emergency Management Director met with the Board to discuss safety award applications being submitted on behalf of the county during county convention. It was the consensus of the Board that Layne Stewart Safety Benefits for information on said applications.

Rod Polley/Highway Superintendent met with the Board to discuss hwy matters.

Driveway Application was submitted on behalf of Tom Austin for field entrance on University Road in Section 32 Glenwood Twp. Kephart moved, seconded by Wilson and carried to authorize the Chairman to sign said application.

Kephart moved, seconded by Wilson and carried to declare Bridge #14-093-010 (located 1-mile South of Hwy 46 and 3/4 mile West of Hwy 19) Surplus (is not listed on county fixed assets or county bridge list) and to authorize Holloway Construction to demolish the bridge for approximately \$10,000 eliminating county liability on a bridge that has been closed for many years.

Bridge #14-050-057 (located 2 miles East of Wakonda & 3/4 mile South on 457 Ave. was reviewed for replacement due to condition and has recently washed out. It was the consensus of the Board that this Bridge be Closed. It is on a Township dirt, minimum maintenance road and that the county is not going to replace this bridge. (due to lack of highway funds).

It was reported that the Hwy Staff will go to working 5-8 hour days beginning November 1st.

Will Kennedy/Extension Educator met with the Board to review travel requests.

Sommervold moved, seconded by Passick and carried to reconsider the motion from the September 29th meeting, regarding extension travel for Annual Conference in Brookings. The Board has concerns of State mandated travel without State funds.

Sommervold moved, seconded by Wilson and carried to approve travel expenses paid for Extension Educator to attend Annual Conference in Brookings October 13-16.

Andy Howe/Sheriff met with the Board. Passick moved, seconded by Wilson and carried to allow travel expenses paid for Sheriff to attend Annual Conference in Watertown October 21-22-23.

Personnel changes for September: Sheriff/Jail Department; Lee Huber from P/T Jailer to Deputy Sheriff on September 14th @ \$13.93 per hour, Prestin Dirks from P/T Jailer to F/T Jailer-starting September 14th (no pay change per hr.)

Dan Fleming, newly hired September 24th as P/T Jailer @ \$11.76 per hour.

Kephart moved, seconded by Sommervold and carried to set Nov. 10th at 10:30 A.M. for the following Malt Beverage Hearing:

NOTICE OF PUBLIC HEARING

ON APPLICATION FOR SALE OF MALT BEVERAGES

OUTSIDE MUNICIPALITIES NOTICE IS HEREBY GIVEN THAT the Board of County Commissioners in and for Clay County, South Dakota, Tuesday the 10th day of November, 2009 at 10:30 a.m., at the Clay County courthouse in the county Commissioners meeting room, will meet in regular session to consider the following application for a Malt Beverage License to operate outside of a municipality for two (2) days which has been presented to the Board of County Commissioners and filed in the County Auditor's Office.

Westlund/Peterson Post #44 - Post Home, Garfield Township, Section 29 (on-sale malt beverage November 16 & 17, 2009).

NOTICE IS FURTHER GIVEN THAT any person or their attorney may appear at said scheduled Public Hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 6th day of October, 2009.

Ruth A. Bremer
Clay County Auditor

Kephart moved, seconded by Sommervold and carried to authorize the Chairman to sign Fireworks Permit submitted by Tom Taylor for October 10th Display.

Daryl Henrikson/Riverside Twp Resident met with the Board and Weed Supervisor Dennis Ganschow to discuss the local landowner's needs of having their weeds sprayed by the County due to the lack of local businesses located in the areas that will spray small pastures and areas that are hard to get at by the large spraying companies. The Extension Office does have a list of available sprayers, but there is only one list-

ed and they come from Sioux Falls/Minnehaha County area. So there is the concern of costs when they travel that distance. It was the consensus of the Board that those who wish to have the county spray their weeds, that they present a letter from the local commercial sprayers stating they do not spray pastures etc.

The Register of Deeds Fees Collected for September 2009 for \$5385.50 and the following Auditor's account with the County Treasurer for September 2009 were accepted and placed on file.

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

To the Honorable Board of County Commissioners of Clay County I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer as of September 30, 2009

Total amount of deposits	2,156,834.45
Amount of actual cash	907.92
Total amount of checks and drafts in treasurer's possession not exceeding three days	422,630.65
Items on hand, checks, drafts and drafts which have been in the Treasurer's possession over three days	
Checks returned and not deposited	1,340.16
Cash Items	
Investments	851,000.00
Cash Variation	3,432,713.18
Total	3,432,713.18

Dated this 1st Day of October 2009.

Ruth A. Bremer, County Auditor

Wilson moved seconded by Passick and carried to set Oct 27th at 9:45 a.m. for the following Drainage Permit Hearing:

NOTICE OF DRAINAGE PERMIT HEARING

Notice is hereby given that in accordance with the Clay County Drainage Ordinance, Sections 106 and 107, the Clay County Commissioners sitting as the Clay County Board of Resolutions will conduct a hearing on drainage permit application for drainage into County ROW, in the Commissioners room at the Clay County Courthouse for the following applicant at 9:45 a.m. October 27, 2009.

09-14 Troy Sweeney-46969 299th St. Beresford, S.D. 57004 For Proposed drainage (tile) in the N 1/2 of the NE1/4 of Section 29, Township 94 North, (Garfield Twp) Range 51 West, of the 5th p.m. to drain into Baptist Creek.

All interested persons are encouraged to attend the public hearing. Those interested persons not able to attend are invited and encouraged to send written comments prior to the hearing, to:

Clay County Commissioner
211 W. Main Street, Suite 200
Vermillion, SD 57069

Wilson moved, seconded by Sommervold and carried to set October 13th at 10:45 a.m. for the following Drainage Permit Hearing:

NOTICE OF DRAINAGE PERMIT HEARING

Notice is hereby given that in accordance with the Clay County Drainage Ordinance, Sections 106 and 107, the Clay County Commissioners sitting as the Clay County Board of Resolutions will conduct a hearing on drainage permit application for drainage into County ROW, in the Commissioners room at the Clay County Courthouse for the following applicant at 10:45 a.m. October 13, 2009.

09-11 Gary Davis 45592 300th St. Wakonda, S.D. 57073 For Proposed drainage (tile) in the NW 1/2 of the NW1/4 of Section 26, Township 95 North, (Star Twp) Range 53 West, of the 5th p.m. to drain into Spring Creek.

All interested persons are encouraged to attend the public hearing. Those interested persons not able to attend are invited and encouraged to send written comments prior to the hearing, to:

Clay County Commissioner
211 W. Main Street, Suite 200
Vermillion, SD 57069

Ruth A. Bremer
Clay County Auditor

Passick moved, seconded by Kephart and carried to set October 13th at 9:30 a.m. for the following drainage permit hearing:

NOTICE OF DRAINAGE PERMIT HEARING

Notice is hereby given that in accordance with the Clay County Drainage Ordinance, Sections 106 and 107, the Clay County Commissioners sitting as the Clay County Board of Resolutions will conduct a hearing on drainage permit application for drainage into County ROW in the Commissioners room at the Clay County Courthouse for the following applicant at 9:30 a.m. October 13, 2009.

#09-13 Joyce Lundquist 46812 Komstad St. Beresford, S.D. 57004 For Proposed drainage (tile) in the SW1/4 of the SW1/4 of Section 16, Township 94 North, (Garfield Twp) Range 51 West, of the 5th p.m. to drain into Baptist Creek.

All interested persons are encouraged to attend the public hearing. Those interested persons not able to attend are invited and encouraged to send written comments prior to the hearing, to:

Clay County Commissioner
211 W. Main Street, Suite 200
Vermillion, SD 57069

Ruth A. Bremer
Clay County Auditor

Wilson moved, seconded by Sommervold and carried to pass and adopt the following resolution requesting an environmental impact statement concerning the proposed Hyperion Energy Center by the United States Environmental Protection Agency

RESOLUTION #09-24

A Resolution Requesting an Environmental Impact Statement Concerning the Proposed Hyperion Energy Center by the United States Environmental Protection Agency

Whereas, Clay County, South Dakota lies approximately three miles from the Hyperion Energy Center proposed for Union County, South Dakota, the Clay County

Commission recognizes that the proposed refinery and related activities would impact Clay County and Clay County residents in various ways, including employment opportunities, changes in quality of life, increased impacts on Clay County infrastructure and long-term impact on air, land and water quality and use;

And Whereas, the proposed Hyperion Energy Center would be the sixth largest oil refinery in the nation and the largest industrial facility ever constructed in South Dakota, would include an oil refinery that would refine approximately 400,000 barrels of crude oil from an undetermined source each day, would use at least 10 million gallons of water per day to be pumped from a shoreline aquifer along the Missouri River and much of that water released back into the Missouri River in an undetermined condition, and could release an estimated 19 million tons of carbon dioxide annually, nearly doubling the existing yearly carbon dioxide emissions for the entire state of South Dakota;

And Whereas, the Hyperion Energy Center would be built by up to 4,500 construction workers, many of whom would be housed in a temporary work camp near our county boundary and others in communities near the construction site, including Vermillion, Clay County's largest city, communities that have not received detailed information about the project, but would need to plan for and manage impacts on county roads, schools, health care facilities, power and water supplies, wastewater treatment and other infrastructure;

And Whereas, impacts on water resources and air quality have not been adequately forecast to allow Clay County officials to anticipate management and other changes necessary to protect residents in Clay County and to prepare them for the changes this large industrial facility would bring to Clay County, including a serious change in the environmental aesthetics of eastern Clay County and the likely impacts on the Missouri River National Recreational River, which forms our southern border;

And Whereas, at the contested case hearing before the South Dakota Board of Minerals and Environment, both the Executive Environmental Impact Statement of Clay County, and South Dakota citizens' groups and their attorneys alleged numerous serious errors and omissions in both the process and the product of South Dakota Department of Natural Resources' approval of Hyperion's Prevention of Significant Deterioration air permit;

Now, Therefore Be It Resolved, by the Board of County Commissioners of Clay County, South Dakota that because of the immense size of the Hyperion Energy Center, and because this project's many impacts will extend over a large area of southeastern South Dakota, including Clay County, the Commissioners of Clay County hereby request that the federal Environmental Protection Agency (EPA) mandate that a complete Environmental Impact Statement (EIS) for the Hyperion Energy Center be compiled, written and made available to the public, including Clay County residents and officials.

The public hearing on this day 6th day of October 2009.

Leo J. Powell, Chairman
Clay County Commission
ATTTEST:

Ruth A. Bremer, Auditor
Clay County, South Dakota
At 10:30 a.m. Wilson moved the meeting adjourned and to reconvene October 13th at 9:00 a.m. All voting aye, motion carried.

Leo J. Powell, Chairman
Board of County Commissioners
ATTTEST:

Ruth A. Bremer,
County Auditor

Published once at the approximate cost of \$139.72

Estimated publishing cost per circulated copy: \$.07
Publish: October 23, 2009

ADVERTISEMENT FOR BIDS

Owner: Clay Rural Water System
Owner's Address: 30376 SD Hwy 19
Wakonda, South Dakota 57073

Project: 2010 Capital Improvement Project - Phase 2 - Sealed BIDS for the construction of the Clay Rural Water System 2010 Capital Improvement Projects will be received by Clay Rural Water System, Inc. at the System Office, Wakonda, South Dakota, until 2:00 P.M. local time November 3, 2009 and then at said office publicly opened and read aloud. Bids will be acted upon by the Owner at a later time. The Bid shall consist of the following work and approximate quantities and kinds of materials:

Schedule 2 - Production Well #4:
Construction of one (1) Production Well #4 by reverse rotary method, approximately 160 ft. deep, and miscellaneous appurtenant work. The work will be completed in 3 phases. Time for substantial completion for Phases 1, 2 and 3 shall be within 60 days, 90 days and 180 days respectively of a Notice to Proceed.

Schedule 4 - Water Treatment Plant and Booster Improvements:
Construction of one (1) Pumping Station, approximately 16 ft. by 24 ft. Installation of one (1) High Service Pump and replacement of six (6) VFDs. Installation of one (1) Pressurized Ion Exchange Unit and associated equipment. Installation of one (1) Radio Telemetry Tower and appurtenant items. Upgrade SCADA system hardware and software. Time for substantial completion will be by July 1, 2010.

The CONTRACT DOCUMENTS may be examined at the following locations:

Clay Rural Water System
30376 SD Hwy 19
Wakonda, South Dakota 57073
DeWild Grant Reckert and Associates Company
1302 South Union Street
Rock Rapids, Iowa 51246
Copies of the CONTRACT DOCUMENTS may be obtained after October 2, 2009, at the office of DeWild Grant Reckert & Associates Company located at 1302 South Union Street, Rock Rapids, Iowa 51246, telephone (712)472-2531, fax (712)472-2710, e-mail dgr@dgrnet.com, or website www.dgrnet.com. Copies of the Schedule 3 Contract Documents and Staking Sheets may be obtained upon payment of forty dollars (\$40.00), none of which is refundable. Copies of the Schedule 4 Contract Documents may be obtained upon payment of fifty dollars (\$50.00), none of which is refundable.

All proposals shall be made on forms provided by the Engineer.

Each bid must be accompanied by bid security payable to the Owner for five (5%) percent of the total amount of the bid as a certified or bank check issued by a State or National bank or ten percent (10%) as a bidder's bond. As soon as the bid prices have been compared, the Owner will return the check or bond of all except the three lowest, responsive, responsible bidders for each Schedule. When the contract is awarded, the checks or bonds of the two remaining unsuccessful bidders will be returned. The check or bond of the successful bidder will be retained until the contract and surety bond have been executed and approved, after which it will be returned.

Bidders on this work will be required to comply with Title 40 CFR 33.240 and executive order 12138. The goals and other requirements for Bidders and Contractors under this regulation which concerns utilization of Minority Business Enterprises (MBE) and Women's Business Enterprises (WBE) are explained in the Specifications. The MBE goal for this project is 1% of the total dollar value of the job while the WBE goal is 3% of the total dollar value of the job.

NONDISCRIMINATION IN EMPLOYMENT

a) Bidders on this work will be required to comply with the President's executive orders Nos. 11246 as amended, 11458, 11518, and 11625. The requirements for Bidders and Contractors under these orders are explained in the Specifications.

b) The goal for female utilization which shall be included in all federal and federally assisted construction contracts and subcontracts in excess of \$10,000 shall be 6.9%. The goal for minority utilization which shall be included in all federal and federally assisted construction contracts and subcontracts in excess of \$10,000 shall be 1.2%. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a federally and federally assisted contract or subcontract.

When a Bidder submits a Bid, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the work is to be performed, and correlated his observations with the requirements of the Contract Documents.

The Owner reserves the right to reject any and all bids or to accept any bid. It is understood that the work to be done is being financed by the State of South Dakota Revolving Fund (SRF) Contractor's Proposals shall hold firm for thirty (30) days from the date of opening. Mutually agreed upon extensions of time may be made, if necessary, by written agreement. This notice was published twice at an approximate cost of \$98.91
CLAY RURAL WATER SYSTEM
By /s/ Robert Wood
Chairman
9/29/09

Estimated publishing cost per circulated copy: \$.03
Publish: October 23 & 30, 2009

**STATE OF SOUTH DAKOTA
COUNTY OF CLAY: SS
IN CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
Pro. 09-34
ESTATE OF
NORMA C. HAYS,**

Deceased.

NOTICE TO CREDITORS

Notice is given that on the 13th day of October, 2009, Mary E. Holyer Black, whose address is 454 Dallas Smith Road, Crossville, Tennessee, was appointed as personal representative of the estate of Norma C. Hays.

Creditors of decedent must file their claim within four months after the date of the first publication of this notice or their claims may be barred.

Claims may be filed with the personal representative or may be filed with the clerk, and a copy of the claim mailed to the personal representative.

Mary E. Holyer Black
454 Dallas Smith Road
Crossville, TN 38555
(931) 707-5108

Robin Iversen, Clerk of the CLERK OF COURTS
211 W. MAIN ST.
VERMILLION, SD 57069
(605) 677-6755

JOSEPH H. REED
REED LAW OFFICES
110 E. MAIN ST.
PO BOX 539
VERMILLION, SD 57069
(605) 624-7090

Publish: October 16, 23 & 30, 2009

Published three weeks at the total approximate cost of \$35.29

Estimated publishing cost per circulated copy: \$.01

**STATE OF SOUTH DAKOTA
COUNTY OF CLAY: SS
IN CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
Pro. 09-15
IN THE MATTER OF THE
ESTATE OF
WESLEY J. SUNDBLUM,**

Deceased.

NOTICE TO CREDITORS

Notice is given that on the 21st day of April, 2009, Aileen L. Sundstrom, whose address is 29857 Greenfield Road, Beresford, South Dakota, 57004, was appointed as Personal Representative of the Estate of Wesley J. Sundstrom.

Creditors of decedent must file their claim within four months after the date of the first publication of this notice or their claims may be barred.

Claims may be filed with the Personal Representative or may be filed with the Clay County Clerk and a copy of the claim mailed to the Personal Representative.

Dated this 21st day of April, 2009.

Aileen L. Sundstrom -
Personal Representative
29857 Greenfield Road
Beresford, SD 57004
Phillip O. Peterson
Peterson & Stuart, Prof. L.L.C.
103 North Third
Beresford, SD 57004
(605) 763-5024
Attorneys for the Estate
Publish: October 16, 23 & 30, 2009

Published three weeks at the total approximate cost of \$33.57

Estimated publishing cost per circulated copy: \$.01

**Deceased.
NOTICE TO CREDITORS**

Notice is given that on the 21st day of April, 2009, Aileen L. Sundstrom, whose address is 29857 Greenfield Road, Beresford, South Dakota, 57004, was appointed as Personal Representative of the Estate of Wesley J. Sundstrom.

Creditors of decedent must file their claim within four months after the date of the first publication of this notice or their claims may be barred.

Claims may be filed with the Personal Representative or may be filed with the Clay County Clerk and a copy of the claim mailed to the Personal Representative.

Dated this 21st day of April, 2009.

Aileen L. Sundstrom -
Personal Representative
29857 Greenfield Road
Beresford, SD 57004
Phillip O. Peterson
Peterson & Stuart, Prof. L.L.C.
103 North Third
Beresford, SD 57004
(605) 763-5024
Attorneys for the Estate
Publish: October 16, 23 & 30, 2009

Published three weeks at the total approximate cost of \$33.57

Estimated publishing cost per circulated copy: \$.01

NOTICE TO BIDDERS

Notice is hereby given that the Governing Body of the City of Vermillion, South Dakota will meet at the City Hall meeting room of said City on the 2nd day of November, 2009, at 10:00 a.m. at which time bids and proposals will be received, publicly opened and read at that time. The bids will be acted upon by the City Council at City Hall on the 2nd day of November, 2009 at 7:00 p.m. The equipment required is as follows:

One four door sedan and three pickup trucks.

Copies of the specifications may be obtained at the office of the Utilities Engineer, 25 Center Street, Vermillion, South Dakota, 57069.

Bid security is required according to state law and the bid specifications.

Payment for the services herein provided will be in cash.

The City of Vermillion reserves the right to reject any or all bids and to waive any irregularities therein.

Dated at Vermillion, South Dakota this 19th day of October, 2009.

CITY OF VERMILLION

by Harold Holoch,
Utilities Engineer

Published twice at the approximate cost of \$23.24

Estimated publishing cost per circulated copy: \$.01
Publish: October 23 & 30, 2009

Extract of the Minutes of Meeting of the City Council of the City of Vermillion, South Dakota

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Vermillion, South Dakota, was duly held at City Hall in Vermillion, South Dakota, on Monday, the 19th day of October, 2009 at 7:00 p.m.

The following members were present: Edelen, Hofman, Meins, Osborne, Powell, Willson, Mayor Christopherson.

And the following were absent: French, Ward

Item C. of New Business is the Resolution Amending Electric Rates.

Mike Carlson, Finance Officer, reported that the rate resolution is to pass along the Western Area Power Administration (WAPA) rate increase of 13.3% for 2010 that is due to the drought conditions and the cost of buying expensive replacement power as a result of reduced hydropower generation. Our supplemental power supplier Missouri River Energy Services has not proposed a rate increase for 2010. The other portion of the rate increase is the surcharge fee for the repayment of the transmission revenue bond. The voters approved the revenue bond resolution, and as the bids for the construction of the transmission line to be opened in the first week of December, the bonds need to be sold prior to the bid opening thus, the rate resolution needs to be adopted in October. City staff and MRES have reviewed the proposed rates that are to pass along the WAPA increase of \$186,000 and surcharge fee to meet the bond payment of \$312,000 with the coverage of 125% will require \$39,000. The average increase in electric rates is 8.2%. Included in the packet are the comparable rates with other utilities.

John Prescott, City Manager, reported that our average residential customer uses 700 kWh and the graph lists the comparable rates for other municipal utilities, investor owned utilities and cooperatives. John noted that the rates being compared for the other utilities are their 2009 rates, as we do not have their proposed 2010 rates. For the average residential customer the increase will be \$5.39 per month. He noted that each customer would need to compare their usage to the 700 kWh average to determine the amount of the increase. The rates as proposed are to pass along the increases.

Alderman Powell reported the Utility Committee reviewed the proposed rates noting that the increase is to pass along the WAPA increase and the surcharge for the revenue bonds. He reported the increase is just passing along the increased costs to the city of purchase of power and the debt service. He noted that no one wants to increase rates but to maintain the utility these costs need to be passed along.

Discussion followed on the rate resolution.

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

RESOLUTION REVISING ELECTRICAL RATES

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

WHEREAS, Western Area Power Administration (WAPA) is increasing its purchase power rate by 13.3% due to the prolonged drought conditions and the costs of buying expensive replacement power as a result of reduced hydropower generation, 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 (125) percent of the principal and interest on the bonds coming due in such fiscal year be established prior to the closing on the revenue bonds, and;

WHEREAS, the rates being proposed are projected to produce the revenue to cover the WAPA rate increase and the debt service requirement of the revenue bond, have been reviewed by Missouri River Energy Services.

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 19th day of October, 2009, that rates be changed or eliminated as follows:

Sec. 51.22 Residential service rates.

For billing made after December 1, 2009 the residential service rates will be:

Rate: All KWH per month per KWH at 8.85 cents.

The rate includes a surcharge fee per KWH at .0061 cents defined below

Customer charge: \$8.00 per month

Sec. 51.23 Small commercial power secondary service rate.

For billing made after December 1, 2009 the small commercial secondary service rates will be:

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

The rate includes a surcharge fee per KWH at .00