

Spearfish City Council

Regular Session Minutes



Date:
February 2, 2009

The Spearfish City Council met in Regular Session in the Council Chambers of the Municipal Services Centre at 7:00 p.m. on Tuesday, February 2, 2009 with the following members present: Dardis, Davis, Morgan, Quinn, Schmit and Young. Also present: City Administrator Sund, Police Chief Rotert, Public Works Administrator Johnson, City Planner Watson, Fire Chief Kellogg, Assistant Finance Officer Dutton and City Attorney Pluimer. Mayor Krambeck presided and called the meeting to order. All stood and recited the Pledge of Allegiance.

TIMETABLE

Dave Peters - East Elementary - Mr. Peters spoke on behalf of the Spearfish School Board requesting consideration of the City Council writing a letter in support of the school board decision to build a new elementary school rather than repair the existing East Elementary. He stated that the building is 85 years old and has some definite problems. The project is at least two years out. Council Member Davis asked for a site tour of East before making a decision.

MOTION: Morgan

SECOND: Dardis

To table this item for two weeks and place on the February 17, 2009 agenda consideration of draft letter by City Administrator Sund.

DISPOSITION: Motion passed on voice vote.

Public Hearing - Full Service Restaurant On-Sale Alcoholic Beverage License. - Notice was published that a Public Hearing would be held at this time to consider Full Service Restaurant On-Sale Alcoholic Beverage License. Public Hearing was opened at 7:15 PM by Mayor Krambeck. City Administrator Sund began by stating that City was looking at this license as it was authorized by the legislature in 2008. There are some concerns with how the law is written and that there are bills in the 2009 Legislative Session to amend the existing law already.

Written comments were received from John Lasser of Shoot the Bull Steakhouse who listed several concerns with the law as it stands with the State of South Dakota. He urges the City to carefully consider the repercussions to existing businesses.

Nick Caton stated that the new license could have merit, but as currently written has a lot of holes and he would like to see corrections before it is considered by the Spearfish City Council. He stated that the current ordinance language should be rewritten or reexamined after the impact on other Municipalities is known.

John Grant urged the City to first look at the existing licenses. He has concerns with how this new license may affect the value of the existing licenses which are not tied to a specific dollar amount.

John Hick voiced opinion for the Council to please table this item until information is clearer as there is no urgent need to establish this license category.

Clair Donovan asked for details concerning the language that would possibly be changing in this Legislative Session. He also asked that the Council table this item for another year until the fine tuning of the law is completed and impact can be predicted.

Council member Dardis strongly encouraged considering a second reading of ordinance on February 17, 2009 to kill it rather than letting it languish on first reading.

There being no further comments, the Public Hearing was closed at 7:28PM.

Second Reading of Ordinance 1090 will be on the Order of Business February 17, 2009.

CONSENT AGENDA

MOTION: Dardis

SECOND: Quinn

To approve the consent agenda which included:

- Approve minutes of Regular Session January 20, 2009.
- Authorize hiring Brandon Wahlfeldt as a non-certified Police Officer Grade 15, Step 1, \$15.75/hour effective February 3, 2009.
- Authorize to advertise for hire 55 seasonal positions.
- Approve Bid Opening schedule
 - 2009 Street Improvements Project - March 2, 2009 1:30PM - Council Chambers
 - Industrial Park Detention Pond Project - March 23, 2009 1:30PM - Council Chambers
 - Industrial Park Expansion Project - March 23, 2009 1:30 PM - Council Chambers
- Set Public Hearing for Jewett-Bridgers Variance Request for February 17, 2009 at 7:15 PM.
- Approve Volunteer list for 2009.

DISPOSTION: Motion passed on voice vote.

REGULAR AGENDA

Ordinance 1091 - First Reading

Sund explained the purpose of Ordinance 1091 which would amend the 2009 Budget, Fund 201 (2nd Penny Sales Tax), Parks Department in amount of \$16,000. Very late in 2008, the City agreed to purchase a small spray park setup from the City of Keystone with payment to have been completed under the 2008 budget. We were not able to take possession and receive invoice until early 2009 - the 2009 Budget however, does not currently reflect this purchase.

MOTION TO APPROVE FIRST READING OF ORDINANCE #1091: Dardis

SECOND: Morgan

DISPOSTION: Motion passed on voice vote. Second reading will be February 17, 2009.

Resolution 2009-08

Sund explained that this TIF #2 Bond Issue - Debt Reimbursement Resolution is a standard resolution per bond indebtedness, has a \$3.5 Million dollar cap and is a proactive step to managing TIF #2.

RESOLUTION # 2009-08

RESOLUTION DECLARING INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF DEBT ISSUE

WHEREAS, the City of Spearfish (the "Issuer"), by virtue of the laws of the State of South Dakota, particularly SDCL [9-26=General obligation Bonds, 10-52=Sales Tax Revenue Bonds](the "Act"), and the authorities therein mentioned, wishes to take the necessary actions for the issuance of DEBT in order to assist in the financing of a new fire station and the equipping of the same located in City of Spearfish (the "Project"); and

WHEREAS, United States Treasury Regulations §1.150-2 (the "Reimbursement Regulations") prescribe conditions under which proceeds of bonds, notes or other obligations ("Bonds") used to reimburse advances made for capital and certain other expenditures ("Original Expenditures") paid before the issuance of such DEBT will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), upon such reimbursement so that the proceeds so used will no longer be subject to requirements or restrictions under those sections of the Code; and

WHEREAS, certain provisions of the Reimbursement Regulations require that there be a Declaration of Official Intent not later than 60 days following payment of the Original Expenditures expected to be reimbursed from proceeds of DEBT, and that the reimbursement occur within certain prescribed time periods after an Original Expenditure is paid or after the property resulting from that Original Expenditure is placed in service; and

WHEREAS, this City Council wishes to take steps to comply with the Reimbursement Regulations;

NOW, THEREFORE, IT IS HEREBY RESOLVED:

- 1) This City Council hereby declares that the Issuer reasonably expects that the capital and other expenditures described in the first recital of this resolution as the Project, to the extent such expenditures are made prior to the issuance of the DEBT, will be reimbursed with the proceeds of the DEBT (as that term is defined in Section 150 of the Code). The maximum principal amount of DEBT expected to be issued for the Project is \$3,500,000.00.
- 2) This declaration of intent shall be available for public inspection. A reimbursement allocation of the expenditures for the Project with the proceeds of the borrowing described here will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the Issuer's use of the proceeds of the DEBT to be issued for the Project to reimburse the Issuer for a capital expenditure made pursuant to this Resolution.
- 3) This City Council finds and determines that all formal actions of this City Council concerning and relating to the adoption of this resolution were taken in an open meeting of this City Council and that all deliberations of this City Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.
- 4) This resolution shall take effect and be in force immediately upon its adoption.

Mayor Jerry A. Krambeck

ATTEST:

City Administrator Greg Sund

Adopted: February 2, 2009
Published: February 20, 2009
Effective: February 2, 2009

MOTION TO APPROVE RESOLUTION 2009-08: Young **SECOND:** Morgan

DISPOSTION: Motion passed on voice vote.

Resolution 2009-09

To approve Resolution 2009-09- TIF #2 Bond Issue - Authorizing Resolution. Sund explained that this is the first step necessary in the process of selling the TIF #2 Bond Issue. City is planning to do private placement bonds.

RESOLUTION NO. 2009-09

RESOLUTION GIVING APPROVAL TO THE ISSUANCE OF TAX INCREMENTAL REVENUE BONDS TO FINANCE THE PROJECT AND AUTHORIZING THE SALE OF SAID TAX INCREMENTAL REVENUE BONDS AND THE TERMS THEREOF.

NOW, THEREFORE, BE IT RESOLVED AND RESOLVED by the City of Spearfish as follows:

SECTION 1. AUTHORITY, FINDINGS, AUTHORIZATION.

1.01 Authority. The City is authorized to issue its Tax Incremental Revenue Bonds, Series 2009 to finance project costs pursuant to Section 11-9-33 of the South Dakota Codified Laws. Pursuant to Chapter 11-9 of the South Dakota Codified Laws (the "Act"), the City proposes to issue tax incremental revenue bonds (as herein authorized, the "Tax Incremental Revenue Bonds" or the "Bonds") to finance a portion of the Project costs as set forth in Tax Increment District Number Two project plan. The City is authorized by the Tax Incremental Act to pledge a special fund into which the City will deposit the tax increment (as defined by the Act).

1.02 Findings. The City Council hereby finds and determines as follows:

- (a) It is necessary to construct public works within the District;
- (b) The City intends to provide financing of public works and improvements located in the City of Spearfish in connection with Tax Increment District Number Two the plan on file with the City Administrator and open to public inspection (the "Project");
- (c) The Tax Incremental Revenue Bonds authorized hereby are being issued to pay costs of Project, which have not been incurred or paid as of the date hereof and/or which the City has heretofore declared its intention to finance with bond proceeds and for which the City has no other available means or source of financing. The cost of the Project will not exceed \$3,500,000, including capitalized interest;
- (d) It is in the best interests of the City to authorize the borrowing of funds to pay a portion of the costs of the Project by authorizing and issuing the Bonds, consistent with the terms approved hereby for an aggregate sum not in excess of the amount of \$3,500,000; and
- (e) That the Tax Incremental Revenue Bonds are payable only solely out of the special fund created herein and that it does not constitute a general indebtedness of the City or a charge against its general taxing power.

1.03 Authorization to issue the Bonds. It is hereby determined to be necessary and in the best interests of the City and its inhabitants that this City Council authorize, issue and sell the Bonds (the "Bonds") in order to finance a

portion of the cost of the Project. The Mayor and City Administrator are authorized to negotiate the sale and terms of the Bonds subject to the limitations of the law and this Resolution. The Bonds may be issued by the City without an election pursuant to SDCL §11-9-34.

SECTION 2. SALE, BOND PURCHASE AGREEMENT AND OFFICIAL STATEMENT.

2.01 Sale. The Bonds authorized by this Resolution shall be issued in an aggregate principal amount not exceeding \$3,500,000 and shall be privately placed due to the unique nature of the Bonds. The Bonds will bear interest at a rate or rates per annum and will mature over a period set forth in the bond purchase agreement or similar document. The City intends to sell the Bonds to Pioneer Bank and Trust, Spearfish, South Dakota or such other local or regional financial institution, underwriter or private individual or individuals (the "Purchaser").

2.02 Bond Purchase Agreement. The execution of a bond purchase agreement or similar document setting forth the final terms of the Bonds is hereby approved and authorized. The execution of said document by the Mayor and City Administrator shall be conclusive evidence of such agreement and shall be binding upon the City.

SECTION 3. TERMS OF BONDS.

3.01 Date, Amount, Maturities and Interest Rates. The Bonds shall be dated in calendar year 2009. The principal amount of the Bonds shall not exceed the lesser of \$3,500,000 or any statutory or constitutional debt limitation. The term of the Bonds shall not exceed 17 years from the date the District was created. The weighted average interest rate on the Bonds shall not exceed 8.00%.

3.02 Form of Bonds. The Bonds shall be prepared in substantially the form on file with the City Administrator and open to public inspection.

3.03 Execution. The Bonds shall be signed by the manual or facsimile signatures of the Mayor and City Administrator of the City and countersigned by the manual or facsimile signature of an attorney resident in the State of South Dakota and in case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery

3.04 Redemption. Terms of optional or mandatory redemption shall be set by negotiation with the purchaser of the Bonds.

(i) Appointment of Initial Registrar. The City hereby appoints the City Administrator, as Bond registrar, transfer agent and paying agent (the "Registrar") for the Bonds.

3.05 Authentication and Delivery. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the Registrar by the manual signature of its authorized representative. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been so prepared, executed and authenticated, the City Administrator shall deliver the same to the Purchaser thereof upon payment of the purchase price in accordance with the provisions of the Bond Purchase Agreement and the Purchaser shall not be obligated to see to the application of the purchase price. Upon delivery of the Bonds to the Purchaser, the City Administrator shall file with the Secretary of State, on the form provided by the Secretary of State, the information required by SDCL, Section 6-8B-19.

SECTION 4. SECURITY PROVISIONS; FUNDS AND ACCOUNTS AND OTHER COVENANTS AND DETERMINATIONS.

4.01 Pledge Tax Increments. Pursuant to the Act, the City shall receive Tax Increments. All Tax Increments shall be placed in the Tax Incremental Revenue Bond Fund. The Tax Increment is irrevocably pledged and appropriated to the payment of the Bonds. For purposes of this Resolution, "Outstanding Bonds" shall mean these Bonds and any parity lien bonds herebefore or hereafter issued pursuant to this Resolution. The Tax Incremental Revenue Bond Fund shall be used and applied only in the manner and order hereinafter set forth. The holders of the Outstanding Bonds shall have a lien against the Tax Incremental Revenue Bond Fund for payment of the principal and interest and may either at law or in equity protect and enforce the lien.

4.02 Tax Incremental Revenue Bond Fund. The City Administrator is hereby authorized and directed to establish and shall maintain a special fund, the Tax Incremental Revenue Bond Fund, as a separate and special fund

in the financial records of the City until all Bonds issued and made payable therefrom, and interest due thereon, have been duly paid or discharged. All collections of the Tax Increments shall be credited, as received, to the Tax Incremental Revenue Bond Fund. Within the Tax Incremental Revenue Bond Fund are various separate accounts to be maintained by the City.

- (a) Construction Account. There is hereby created and established as an account of the Tax Incremental Revenue Bond Fund, a "Construction Account". There shall be credited to the Construction Account the proceeds from the sale of the Bonds remaining after payment of the expenses of issuing the Bonds. All moneys credited to the Construction Account shall be applied solely to the payment of the costs of the Project or reimbursement therefore. For the purposes of this Resolution, "costs of the Project" shall include costs of acquiring, construction, and installing the Project including cost of capitalized interest, labor, services, materials and supplies, financial, architectural, engineering, legal, accounting and other professional expenses relating to the Project, the costs of acquisition or properties, rights, easements, or other interest in properties, insurance premiums, and the costs of publishing, posting or mailing notices in connection with the Project. All sums derived from the investment of moneys in the Construction Account shall remain in and become part of such account. Upon completion of the Project and when all costs of the Project have been paid, any balance remaining in the Construction Account shall be credited to the Principal and Interest Account hereinafter established. All public project costs shall be bid in accordance with South Dakota law.
- (b) Principal and interest Account. There is hereby created and established as an account of the Tax Incremental Revenue Bond Fund, a "Principal and Interest Account." Immediately upon delivery of the Bonds, there shall be credited to the Principal and Interest Account the amount of any accrued interest received from the Purchaser. Periodically, as needed there shall be withdrawn from the Tax Incremental Revenue Bond Fund and credited to the Principal and Interest Account an amount which will equal at least the next principal and interest payment. In all events there shall be credited to the Principal and Interest Account amounts sufficient to pay the principal of and interest on the Outstanding Bonds as the same become due.
- (c) Subordinate Lien Bonds. After making the above required payments, any remaining Tax Increment shall be used for the payment of the principal of and interest on any additional Tax Incremental Revenue Bonds having a lien which is subordinate to the lien of the Outstanding Bonds, and for a reserve fund as additional security for the payment of such subordinate lien bonds.

4.03 Additional Debt.

- (a) No additional Bonds shall be issued, be made payable from the Tax Incremental Revenue Fund or Tax Increments which is prior to or superior to the lien of the Bonds authorized herein.
- (b) Nothing in this Resolution shall be construed in such manner as to prevent the issuance by the City of additional bonds payable from the Tax Increment and constituting a lien upon the Tax Increment and the Tax Incremental Revenue Fund equal to or on a parity with the lien of the Bonds authorized herein (such additional bonds being referred to herein as "Additional Bonds"), provided that it is feasible and the Bond Holder agrees in writing.
- (c) Nothing herein shall prevent the City from issuing Bonds payable from the Tax Increment or Tax Incremental Revenue Bond fund or having a lien thereon which is junior and subordinate to the lien of the Bonds authorized herein. The City may incur expenses in connection with the Tax Incremental District Number Two which shall be reimbursed through the tax increment. Said obligations shall be junior and subordinate to the Bonds whether evidenced by an accounting notation or instrument of indebtedness.

4.04 Pledge of State of South Dakota. Pursuant to SDCL 11-9-39.1, the State of South Dakota does pledge to and agree with the holders of any issued under 11-9 that the state will not alter the rights vested in the bond holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

4.05 Covenants of the City. The City hereby irrevocably covenants and agrees with each and every holder of the Bonds that so long as any of the Bonds remain outstanding:

- (a) It will not amend or repeal the Tax Increment or the allocation of revenues thereof to the Tax Incremental Revenue Bond Fund, or in any way that would adversely affect the amount of Tax Incremental Revenues which would otherwise be collected and deposited to the Tax Incremental Revenue Bond Fund.
- (b) It will administer, enforce, and collect, or cause to be administered, enforced or collected, the real property taxes and shall take such necessary action to collect delinquent payments in accordance with law.
- (c) It will keep or cause to be kept such books and records showing the proceeds of the Tax Incremental, in which complete entries shall be made in accordance with standard principles of accounting, and any owner of any Bond shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipts of such Tax Incremental.
- (d) In the event the real property taxes of the City is replaced and superseded by the state collected-locally shared tax or taxes, or is replaced and superseded in some other manner from other source or sources, the revenues derived by the City from the replacement source or sources, as received by the City shall be appropriated in the same manner as if the City had levied and imposed a real property tax. From and after the date of a replacement, the Outstanding Bonds shall have a first and prior lien, but not necessarily an exclusive lien, upon such replacement revenues to the extent therein specified.

4.06 Defeasance. When all the Bonds issued have been discharged as provided in this section, all pledges, covenants, and other rights granted by this Resolution to the registered owners of the Bonds shall cease. The City may discharge its obligations with respect to any Bonds which are due on any date by providing to the Paying Agent on or before that date a sum sufficient for the payment thereof in full; or, if any Bond should not be paid when due, it may nevertheless be discharged by providing to the Paying Agent a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also discharge its liability with reference to all Bonds which are called for redemption on any date in accordance with their terms by depositing funds with the Paying Agent on or before that date in accordance with their terms by depositing funds with the Paying Agent on or before that date, in an amount equal to the principal, interest, and premium, if any, which are then due thereon, provided that notice of such redemption has been duly given. The City may also at any time discharge this issue of Bonds in its entirety, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or United States government obligations which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required to provide funds (without an reinvestment) sufficient to pay all principal, interest and premiums, if any, to become due on all Bonds on and before maturity, or, if a Bond has been duly called for redemption, on or before the designated redemption date.

4.07 Certification of Proceedings. The officers of the City are authorized and directed to prepare and furnish to the purchasers of the Bonds certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bonds as such facts appear from the officer's books and records or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

SECTION 5. TAX MATTERS; CERTIFICATION OF PROCEEDINGS AND MISCELLANEOUS.

5.01 Tax Matters. The City covenants and agrees with the registered owners from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Bonds will not become subject to taxation under the Code and the Regulations. The City will cause to be filed with the Secretary of Treasury an information reporting statement in the form and at the time prescribed by the Code.

5.02 The Mayor and City Administrator, being the officers of the City charged with the responsibility for issuing the Bonds pursuant to this resolution, are authorized and directed to execute and deliver to the purchaser thereof a certificate in accordance with the provisions of Code and Regulations, stating the facts estimates and circumstances in existence on the date of issue and delivery of the Bonds which make it reasonable to expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of the Code and Regulations.

5.03 The City recognizes its obligation to comply with the provisions of Section 148(f) of the Code relating to the rebate of certain amounts to the United States, and covenants that it will take or refrain from any actions, the result of which would be to cause the interest on the Bonds to become subject to federal income taxation as a result of the failure to comply with Section 148(f) of the Code and applicable Treasury Regulations. The City will take all actions necessary to comply with the rebate requirement, including making or causing to be made the computations of rebate or penalty amounts. The City will make any payments of rebate or penalty amounts, and will pay the costs of computing any such rebate or penalty amounts.

5.04 It is hereby determined that the Bonds are not and will not be "private activity bonds" as defined in Section 141(a) of the Code, and in support of such conclusion the City Common Council covenants, represents, and certifies as follows:

- (i) none of the proceeds of the Bonds will be used, directly or indirectly, or will be used to replace funds which were used, in any trade or business carried on by any person other than a state or local governmental unit;
- (ii) no direct or indirect payments of the principal of or interest on the Bonds will be derived from payments (whether or not to the City), in respect of property, or borrowed money, used or to be used for a private business use by any person other than a state or local governmental unit;
- (iii) none of the proceeds of the Bonds are to be used, directly or indirectly, to make or finance loans to persons other than a state or local governmental unit; and
- (iv) no user of any facilities or Improvements financed with the proceeds of the Bonds will use the same on any basis other than the same basis as the general public; and no person other than the City will be a user of said, facilities as a result of (i) ownership; (ii) actual or beneficial use pursuant to a lease or a management or incentive payment contract; or (iii) any other arrangement.

5.05 The City reasonably anticipates that the amount of tax exempt obligations which will be issued by the City and all entities subordinate to, or treated as one issuer with, the City during calendar year 2009 will not exceed \$10,000,000. The Bonds are hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. The City will not designate, or cause any subordinate entity or request any other governmental entity to designate on its behalf more than \$10,000,000 of its obligations as "qualified tax-exempt obligations" in calendar year 2009. The City does not reasonably expect that it or any subordinate entity will issue, and will not request any other governmental entity to issue on its behalf, in calendar year 2009, more than \$10,000,000 of obligations which it or any such entity could designate as "qualified tax-exempt obligations".

5.06 If the City agrees to comply with all provisions of the Code, which if not complied with by the City, would cause the interest on the Bonds not to be tax-exempt in the hands of a holder who is a natural person, including, if determined to be necessary upon advice of bond counsel, the payment of any rebate amount necessary to preserve such tax exemption pursuant to Section 148 of the Code. The City further agrees: (1) through its officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (2) to consult with bond counsel and to comply with such advice as may be given; (3) to file such forms, statements, and supporting documents as may be required and to do so in a timely manner; and (4) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the City in such compliance.

5.07 Post Issuance Compliance. The City does hereby authorize and adopt written post issuance compliance policies with regard to the Bonds. A copy of the written compliance shall be on file with the finance office.

SECTION 6. INTERPRETATION, AUTHORIZATION OF OFFICERS AND RESOLUTION CONSTITUTES CONTRACT.

6.01 Interpretation. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

6.02 Authorization of Officers. The Mayor, officers of the City and the City Administrator of Spearfish are authorized and directed to prepare and furnish to the purchasers of said Bonds, and to the attorneys passing on the

legality of said Bond issue, copies of all proceedings relating to Bonds and other certificates and affidavits showing the facts affecting the legality thereof as shown by the books and records of the City under their custody and control or as otherwise known to them and such copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the facts therein recited.

6.03 The officers of the City are hereby authorized and directed to take all other action necessary or appropriate to effectuate the provisions of this Resolution , including without limiting the generality of the foregoing, the printing of the Bonds, and the execution of such certificates as may reasonably be required by the Purchaser, including, without limitation, certification relating to the signing of the Bonds, the tenure and identity of the City's officials, the exemption of interest on the Bonds from federal income taxation, the receipt of the Bond purchase price and, if in accordance with the facts, the absence of litigation affecting the validity thereof.

6.04 Resolution Constitutes Contract. After the Bonds have been issued, this Resolution shall constitute a contract between the City and the holder or holders of the Bonds, and shall be and remain irrevocable and unalterable until the Bonds and the interest accruing thereon shall have been duly paid, satisfied and discharged.

6.05 Rules of Construction. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution. The title or caption of each paragraph are for convenience purposes only and do not define scope or intent of paragraph.

ATTEST:

Mayor

City Administrator

Adopted: February 2, 2009
Published: February 20, 2009
Effective: February 2, 2009

The motion for adoption of the foregoing Resolution was duly seconded by Council Member _____ and upon vote being taken thereof, the following voted YEA:

And the following voted NAY:

Whereupon said Resolution was declared duly passed and adopted.

ATTEST:

Mayor

City Administrator

STATE OF SOUTH DAKOTA)
SS)
COUNTY OF LAWRENCE)

I, the undersigned, being the duly qualified and acting City Administrator of the City of Spearfish, South Dakota, do hereby certify that the attached and foregoing is a full, true and complete transcript of the Minutes of a

DISPOSTION: Motion passed on voice vote.

REPORTS

Public Works Administrator - Johnson reported that bids have been opened and tabulated for the Side Load solid Waste Collection truck and will present the recommendation during 2-17-09 City Council meeting.

Fire Chief - Kellogg stated that there will be new volunteers approved in late February.

City Administrator - Sund stated that a letter was received requesting the City Council to release the City's reservation of TIF #1 spending authority for the purpose of constructing a water well, under road crossings and recreational paths. By releasing these dedications, TIF funding would be available for use by the developer for unrealized projects in the TIF #1 plan. The last opportunity to spend the funding available to this district is May 2010. As there has not been housing or commercial development at Elkhorn Ridge at this point, constructing new water well and related infrastructure to service the development makes no sense at this time. Sund also reported that he had met with representatives from YBA. They want to approach council to ask assistance in upgrading the middle field at Pope and Talbot Fields with a new scoreboard, fence, covered dugouts and crowns nest. They would ask \$22,000 in City financial support for 2009 improvements. Sund noted this was not budgeted in 2009. He said he planned to visit with Keith Hepper, Parks, Recreation and Forestry Supervisor regarding this request.

Bill List

MOTION TO APPROVE BILL LIST OF 2-2-09: Dardis

SECOND: Morgan

02/02/09 COUNCIL BILL LIST		
ABC BUSINESS SUPPLY	INK CARTRIDGES/STAMP/OFFICE SUPPLIES	\$ 222.08
ACE STEEL & RECYCLING	FLAT ALUMINUM/STEEL	\$ 751.85
AINSWORTH-BENNING CONSTRUCTION	PR #15 REC/AQUATIC CENTER	\$ 27,502.00
ALLTEL	JAN 2009 PD CELL PHONES	\$ 238.92
AMCON DISTRIBUTING CO	REC CENTER CONCESSIONS	\$ 482.99
BH COUNCIL OF LOCAL GOVERNMENTS	2009 ASSESSMENT	\$ 4,126.50
BH SOCIETY HUMAN RESOURCE MGT	ANNUAL DUES-FRIEDEL	\$ 40.00
BLACK HILLS CHEMICAL CORP	TRIGGER SPRAYERS/ICE MELT	\$ 245.18
BLACK HILLS POWER & LIGHT	ELECTRICITY	\$ 11,949.69
BLACK HILLS STATE UNIVERSITY	PRINT NEWSLETTERS/INSERT BILLS	\$ 518.37
BLACK HILLS TIMBER EQUIPMENT	SNOW REMOVAL SERVICES	\$ 1,265.00
BLACK HILLS TRUCK & TRAILER	PUMP/CHECK VALVE/SEAL KIT	\$ 701.70
BRADY PLUIMER, P.C.	LEGAL RETAINER/LEGAL FEES	\$ 5,810.00
CALLAWAY, TOM	2009 BENEFITS REIMBURSEMENT/TRAVEL	\$ 392.00
CARGILL, INC	BULK DEICER	\$ 8,108.33
CENGAGE LEARNING	CHILTON MANUALS	\$ 334.93
CHAMPLAIN PLANNING PRESS	2009 JOURNAL SUBSCRIPTION	\$ 139.00
CHEMSEARCH	CLEANERS/CHEMICALS	\$ 476.20
CHRIS SUPPLY COMPANY, INC	CELL AMP/IMPACT TOOL	\$ 426.00
CIT TECHNOLOGY FIN SERVICES	3X COPIER LEASE	\$ 691.40
DAKOTA SUPPLY GROUP	LAMPS	\$ 523.52
DALCAM OIL COMPANY, INC	MOBIL SHC 630	\$ 133.65

DALE'S TIRE & RETREADING	TIRES	\$ 954.00
DANNY O'NEILLS INC	WOOD CLEANER/SCRATCH REMOVER	\$ 28.94
DEVINE, TARBELL & ASSOCIATES	FERC LICENSING FEES	\$ 3,220.84
DIAS, GREGORY K	LIBRARY NETWORK ADMINISTRATION	\$ 275.48
CVD CONSTRUCTION, INC	BLEACHER CANOPY-SPORTS COMPLEX	\$ 10,000.00
EDDIE'S TRUCK SALES, INC	FAN HUB ASSY	\$ 429.57
ENERGY LABORATORIES	WWTP LAB TESTS	\$ 84.24
FASTENAL COMPANY	LAMPS/HARDWARE/TOOLS/GLOVES	\$ 429.86
FEDEX	FORENSICS SHIPPING CHARGES	\$ 9.85
FIRST NATIONAL BANK	WWTP SRF LOAN PAYMENT	\$ 14,468.29
FIRST WESTERN INS SPEARFISH	2009 FINANCE OFFICER BOND/NOTARY BOND	\$ 1,068.75
FITNESS FINDERS	MEGA MILEAGE KIT	\$ 42.95
GALLS INC - ARAMARK	NAMEPLATES	\$ 97.96
GALLS INCORPORATED	REPLACEMENT BATTERIES	\$ 121.23
GO TO CONSTRUCTION	DEMO/INSTALLATION MANHOLES	\$ 3,375.00
GREAT WESTERN TIRE, INC	TIRE REPAIR	\$ 110.45
HANSEN, JERROLD A	2008 TAX REFUND	\$ 308.56
HD SUPPLY WATERWORKS	WATER METERS/MXUS	\$ 10,677.07
HDR ENGINEERING, INC	VARIOUS ENGINEERING PROJECTS	\$ 73,500.39
HEALTH COMMUNICATIONS, INC	CAST MANUAL REFILLS	\$ 192.38
HEARTLAND PAPER CO	JANITORIAL SUPPLIES	\$ 1,452.84
HEAVY CONSTRUCTORS, INC	PR #8 2007 REC PATH FINAL	\$ 44,323.98
HEISLER HARDWARE	HARDWARE/TOOLS/PAINT/CLEANERS	\$ 883.24
HILLYARD / SIOUX FALLS	TRASH LINERS/SQUEEGEE/BATH TISSUE	\$ 1,100.92
HOLIDAY INN EXPRESS & SUITES	TRAVEL-CALLAWAY & KLAPPERICH-PIERRE	\$ 519.80
INTERSTATE BATTERIES	LITHIUM BATTERIES	\$ 40.30
JENNER EQUIPMENT CO	WINDOW/METAL CAP	\$ 465.98
JOHNSON CONTROLS, INC	REPLACE DEFECTIVE HEATER	\$ 1,940.00
KENNEDY ENTERPRISES	WIDE TRACK/BELT	\$ 259.00
KLAPPERICH, WILLIAM	TRAVEL-PIERRE-STORMWATER	\$ 60.50
KNOLOGY INC	JAN 2009 TELEPHONE SERVICE	\$ 2,145.10
KONE, INC	ANNUAL HYDRAULIC SAFETY TEST	\$ 250.00
KRAMBECK, JERRY	EMPLOYEE EVENT REIMBURSEMENT	\$ 110.85
LAB SAFETY SUPPLY, INC	SAFETY EQUIPMENT	\$ 330.72
LAWSON PRODUCTS, INC	HARDWARE	\$ 368.74
LIGHTING MAINTENANCE, CONT	LIGHTING MAINTENANCE SERVICE	\$ 126.00
HUYCK, PHILIP	LIGHTED INSPECT MIRROR	\$ 59.97
METZGER-HOLCOMB ANIMAL CLINIC	MONTHLY EUTHANASIA CONTRACT	\$ 100.00
MICHAEL TODD & CO	ANGLE BOLTS	\$ 96.06
MONTANA-DAKOTA UTILITIES	NATURAL GAS	\$ 15,784.92
MUNICIPAL EMERGENCY SERVICES	HOODS/SUSPENDERS/GAUNTLETS/SHIELDS	\$ 837.26
NEVE'S UNIFORMS, INC	GLOCK HOLSTER	\$ 139.95
OFFICE TECHNOLOGY & SUPPLY	PROJECTOR LAMP	\$ 36.68
ONE TIME VENDORS	ROSELAND-HDSN HAL/THOMAS RECCTR REF	\$ 187.15
OUTDOOR MOTOR SPORTS	2009 YAMAHA RHINO	\$ 8,000.00

PKG CONTRACTING, INC	PR#8 WWTP EXPANSION PROJECT	\$ 332,807.13
POWERPLAN	BATTERY	\$ 282.85
QUALIFICATION TARGETS INC	QUALIFICATION TARGETS	\$ 272.52
REGAN SERVICES	INTERACTIVE UPS SERVICE	\$ 214.56
RESERVE ACCOUNT	REFILL POSTAGE RESERVE ACCOUNT	\$ 3,000.00
SAFEWAY STORES, INC	S. HANSON FAREWELL EVENT/GASOLINE	\$ 60.73
SAND CREEK PRINTING CORP	EVIDENCE RECEIPTS/STATEMENTS	\$ 239.00
SD DEPT OF HEALTH	FORENSICS LAB TEST	\$ 35.00
SPEARFISH ALTERNATOR & STARTER	STARTER/ALTERNATOR	\$ 230.00
SPEARFISH AUTO SUPPLY	REPAIRS/TOOLS/GLOVES/CHEMICALS	\$ 2,841.75
SPEARFISH EXTINGUISHER	ANNUAL INSPECTION-SUBSTATION	\$ 44.00
SPEARFISH REC CENTER	FERC MEETING REFRESHMENTS	\$ 66.00
SPEARFISH SENIOR SERVICE CENTER	MONTHLY ALLOTMENT	\$ 850.00
SUPERIOR SANITATION	PORTABLE RESTROOM RENTAL	\$ 390.00
SYSCO FOOD SERVICES OF MT	REC CENTER CONCESSIONS	\$ 426.01
THE TEACHING COMPANY, LLC	DVDs	\$ 199.95
TOWN OF KEYSTONE	WATER SPRAY PARK	\$ 16,000.00
VAN NESS FELDMAN	HYDRO FERC PROJECT	\$ 429.42
WALMART COMMUNITY BRC	OFFICE SUPPLIES/HEATER/JANITORIAL SUPPLY	\$ 957.74
WATER ENVIRONMENT FEDERATION	2009 DUES-C JOHNSON	\$ 95.00
WATSON, JAYNA L	TRAVEL-RAPID CITY-MILEAGE	\$ 25.00
WELLS FARGO BUSINESS CARD	CONFERENCE/TRAVEL/HOTBLANKET	\$ 415.40
WELLS PLUMBING CORP	SALT/STEEL PIPE	\$ 417.81
WESTERN COMMUNICATIONS	PAGERS	\$ 2,352.25
WESTERN HILLS HUMANE SOCIETY	MONTHLY DETENTION/SPAY/NEUTER	\$ 1,250.00
WILLIAMS STANDARD SERVICE	TEST & INSTALL BATTERY	\$ 15.00
** TOTALS **		\$ 628,012.20

APPROVAL	INITIALS
Mayor Krambeck	
Shawn Dardis	
Eric Davis	
Mary Morgan	
Tom Quinn	
Doug Schmit	
Paul Young	

DISPOSTION: Motion passed on voice vote.

Proclamation - Mayor Krambeck read a Proclamation that proclaimed Friday, February 6, 2009 to be National Wear Red Day in recognition of the importance of the ongoing fight against heart disease and stroke.

There being no further business before the Council, Dardis moved, Davis seconded and all voted to adjourn at 8:37 p.m.

Dated this 2nd day of February 2009.

CITY OF SPEARFISH

BY: _____
Jerry A. Krambeck, Mayor

ATTEST:

Greg Sund, City Administrator