

JULY 30, 2024 – GENERAL MEETING

Meeting called to order by Chairman Sutton at 8:45 A.M. in the Commission Chambers, Courthouse Annex, Brown County, SD. Present were Commissioners Dennert, Gage, Sutton, and Wiese. Commissioner Fjeldheim was absent. Commissioner Wiese led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Moved by Commissioner Wiese to approve the agenda, seconded by Gage. All members present voting aye. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT:

Jordan McQuillen, Aberdeen City Finance Officer informed the Commission that they passed Resolution 24-07R to dissolve TIF #14. This included 56 residential lots; was to have a life of 17 ½ years but done in 13 years.

WARNER TOWNSHIP DISCUSS CULVERT ON COUNTY ROAD 148:

Chairman Sutton shared that Commissioner Gage and himself went down to the site and met with the Landowner and visited with Dirk Rogers, Highway Superintendent. Dirk informed them that they can put in another 18” culvert like what is there now or possibly put in a 24” culvert or maybe pull the 18” and put in two 24” culverts. They are going to be milling up that road so can take care of it at that time. Mark Bossly asked about a 36” culvert to relieve the pressure on the other approach. Chairman Sutton shared they will be meeting today at 1pm to discuss this further and look at all the options.

ORDINANCE #273 - SECOND READING/ADOPTION:

Moved by Commissioner Dennert, seconded by Wiese to adopt Ordinance #273. Applicant Arlene Webb to rezone from Agriculture Preservation District (AG) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: Proposed Lot 1, “Beving-Webb Addition” in the SE1/4 of Section 13-T123N-R65W of the 5th P.M., Brown County, South Dakota (13291 382nd Avenue; Mercier Twp.). All members present voting aye. Motion carried.

ORDINANCE #274 – SECOND READING/ADOPTION:

Moved by Commissioner Gage, seconded by Wiese to adopt Ordinance #274. Applicants TC Wright Trust/Dennis Jones/Chad & Jean Ferguson to rezone 3 parcels from Agriculture Preservation District (AG) to Mini-Agriculture District (M-AG) and 1 parcel from Mini-Agriculture District (M-AG) to Agriculture Preservation District (AG-P) to bring these parcels into compliance for their current use: Lot 1 & 2, “Wright Third Subdivision” in the NE1/4 of Section 7-T123N-R62W and Lot 1 & 2, “Jones-Wright Addition” in the E1/2 of Section-T123N-R62W, all of the 5th P.M., Brown County, South Dakota (13121, 13145, 13149, 13153 395th Avenue, Bath Twp.). All members present voting aye. Motion carried.

PROPOSAL FOR INDIGENT COUNSEL:

Moved by Commissioner Wiese, seconded by Gage to reject the Proposal for Indigent Defense Services due to the County looking at setting up a Public Defenders Office at this time. All members present voting aye. Motion carried.

RESOLUTION TO ESTABLISH APPLICATION & ADMINISTRATIVE FEES FOR FUTURE TAX INCREMENT FINANCING DISTRICTS IN BROWN COUNTY:

Commissioner Wiese offered the following Resolution:

RESOLUTION 39-24

A RESOLUTION TO ESTABLISH APPLICATION AND ADMINISTRATIVE FEES FOR FUTURE TAX INCREMENT FINANCING DISTRICTS IN BROWN COUNTY

WHEREAS, the Brown County Commission wishes to promote economic development and growth within the County; and

WHEREAS, South Dakota Codified Law Chapter 11-9 permits Brown County, as political subdivision, to achieve the above objective through the creation, approval, and administration of Tax Increment Financing (“TIF”) Districts;

WHEREAS, Brown County incurs costs and expenses in the consideration of applications for TIF, as well as the administration of the Districts created; and

WHEREAS, SDCL 11-9-15(5) permits administrative costs to be included in project costs.

NOW, THEREFORE, BE IT RESOLVED, applications to Brown County for TIF shall henceforth be subject to a one-time application fee of one thousand dollars (\$1,000) then an additional fifteen hundred dollars upon approval (\$1,500) for a grand total of two thousand five-hundred dollars (\$2,500).

BE IT FURTHER RESOLVED, any developer seeking TIF from Brown County shall henceforth include in its project plan an administrative fee of one-half percent (0.5%) of the project costs, less financing costs identified therein, except that such amount shall not be less than (\$5,000) nor more than (\$20,000) to be paid to County. Such amount may be deducted by County from the initial remittance of tax increment revenues.

BE IT FURTHER RESOLVED, upon request of the developer, all or a portion of the fees herein may be waived by the Brown County Commission.

Dated at Aberdeen, South Dakota, this 30th day of July, 2024

Seconded by Commissioner Gage.

Roll call vote: Dennert-aye; Fjeldheim-absent; Gage-aye; Sutton-aye; Wiese-aye. Resolution adopted.

RESOLUTION IN SUPPORT OF LOCAL CONTROL:

Commissioner Dennert offered the following Resolution:

RESOLUTION #40-24

RESOLUTION IN SUPPORT OF LOCAL CONTROL

WHEREAS, county government is best served by the governing and management of local resources by local elected officials.

WHEREAS, local control is much more responsive to the needs of local citizens

WHEREAS, local elected officials have an obligation to protect the safety, health, and welfare of the entire community.

WHEREAS, local leaders and local governing bodies reduce bureaucracy, reduce taxpayer expenses, and improve the efficiency of government operations.

WHEREAS, elected officials in the counties are closest to its citizens, are more invested in the success of the community, and are best suited to make important decisions about its operation, and governance.

NOW, THEREFORE, BE IT RESOLVED, that Brown County urges the State Legislature and Governor to enact and provide support for laws that encourage local control.

Dated at Aberdeen, South Dakota, this 30th day of July, 2024

Seconded by Commissioner Wiese.

Roll call vote: Dennert-aye; Fjeldheim-absent; Gage-aye; Sutton-aye; Wiese-aye. Resolution adopted.

RESOLUTION REQUESTING AN AMENDMENT TO SDCL 10-25 (TAX DEED PROCEEDS):

Commissioner Wiese offered the following Resolution:

RESOLUTION 41-24

A RESOLUTION REQUESTING AN AMENDMENT TO SOUTH DAKOTA CODIFIED LAW 10-25 TO INCLUDE A PROCESS FOR APPLYING EXCESS TAX DEED PROCEEDS TO THE SATISFACTION OF OTHER CLAIMS HELD BY COUNTY.

WHEREAS, The 99th Legislature of the State of South Dakota amended Chapter 10-25 of South Dakota Statute to comply with the United States Supreme Court's ruling in Tyler v. Hennepin Cnty., Minnesota, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564 (2023).

WHEREAS, Chapter 10-25-39 was amended to require "Any surplus proceeds of the tax deed sale that remain after payment of the taxes, penalty, interest, and other costs, must be returned to the prior owner of record."

WHEREAS, the failed to address other debts claimed by Counties in various statutory lien forms including but not limited to care of poor and indigent defense liens.

WHEREAS, the Brown County desires a statutory process to make a claim on excess tax deed sale proceeds before their to remittal to the prior owner of record where there exists claim for other debt obligations owed to County.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Brown County Commissioners urges the 100th Legislature and Governor of the great State of South Dakota to revise South Dakota Codified Law 10-25 to permit Counties to hold funds from tax deed sales above and beyond the tax debt and costs owed in trust and to provide a scheme by which claims held by Counties may be resolved prior to distribution.

Dated at Aberdeen, South Dakota, this 30th day of July, 2024.

Seconded by Commissioner Gage.

Roll call vote: Dennert-aye; Fjeldheim-absent; Gage-aye; Sutton-aye; Wiese-aye. Resolution adopted.

RESOLUTION ESTABLISHING PUBLIC USE POLICY FOR COUNTY OFFICES:

Commissioner Wiese offered the following Resolution:

RESOLUTION 42-24

A RESOLUTION ESTABLISHING PUBLIC USE POLICY FOR COUNTY OFFICES

WHEREAS, the First Amendment to the United States Constitution protects freedom of speech, the press, the right to peaceably assemble, and the right to petition. *U.S. Const. Amend. I. (emphasis added).*

WHEREAS, the South Dakota State Constitution protects the right of petition and peaceable assembly. *SD CONST Art. 6 §4 (emphasis added).*

WHEREAS, the Brown County appreciates citizens who wish to take an active role in federal, state, and local government decisions.

WHEREAS, Brown County buildings exist to accommodate the business of county government, the courts, and citizens of Brown County.

WHEREAS, in an effort to balance the aforementioned rights with the need to preserve public safety and provide citizens the opportunity to conduct their county business without unnecessary disruption, the Board of County Commissioners has considered reasonable accommodations for citizens or groups to circulate petitions, distribute information, and engage in other First Amendment activities.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Brown County Commissioners adopts the attached Brown County Office Public Use Policy.

Dated at Aberdeen, South Dakota, this 30th day of July, 2024

Seconded by Commissioner Dennert.

Roll call vote: Dennert-aye; Fjeldheim-absent; Gage-aye; Sutton-aye; Wiese-aye. Resolution adopted.

LIMITED PUBLIC USE POLICY:

Moved by Commissioner Wiese, seconded by Dennert to adopt the following Limited Public Use Policy.

BROWN COUNTY LIMITED PUBLIC USE POLICY

Brown County buildings exist to accommodate the business of county government, the courts, and the citizens of Brown County. As such all buildings, adjacent grounds, sidewalks and parking facilities are nonpublic forums. While Brown County appreciates those citizens who wish to take an active role in federal, state and local government decisions, county buildings must accommodate many people every day without any unnecessary delay or inconvenience.

In an effort to preserve public safety and provide citizens the opportunity to conduct their county business without unnecessary disruption or inconvenience while at the same time provide for locations from which individuals or groups (“Utilizers”) may circulate petitions, distribute information, and engage in other first amendment activities (“Political Activity”), the Brown County Commission has approved the following “Limited Public Use Policy” by **Resolution #42-24** dated **July 30, 2024**.

Utilizers may conduct Political Activity, in accordance with this Limited Public Use Policy, outside of the Brown County Administration Buildings (“Administration Buildings”) except in the Zone of Non-Interference described below.

AREA WHERE POLITICAL ACTIVITY IS PROHIBITED

Brown County Administration Buildings include:

1. The West Annex housing the Brown County Auditor, Treasurer, Register of Deeds, Assessor.
2. The Brown County Courthouse housing 5th Circuit Courts and support staff, Court Services offices, and Brown County Veterans Affairs offices.
3. The East Annex housing the Brown County States Attorney’s Office, Sheriff’s Office, and the Brown County Jail.

In order to preserve general accessibility to the Administration Buildings including, without limitation, Utilizers may not stand, sit, or lie in or otherwise position themselves upon or otherwise occupy **any area within Administration Buildings, or any area within ten (10) feet of any Administration Building entrance, or any other area that would interfere with handicapped accessibility to Administration Buildings.**

These areas are hereinafter referred to as the “Zone of Non-Interference.”

CONDUCT DURING POLITICAL ACTIVITY

1. Utilizers must remain outside of county buildings when conducting any Political Activity;

2. Utilizers may approach individuals for the purpose of asking them to sign a petition provided the Utilizers remain outside of the Zone of Non-Interference and follow all other provisions of this Policy;
3. Utilizers shall not, at any time, prevent access to county buildings or obstruct vehicular or pedestrian traffic within the parking area or as individuals enter or leave county buildings;
4. Utilizers must conduct themselves in a polite, courteous and professional manner including, but not limited to, respecting an individuals' right to decline to sign a petition and respecting an individuals' right to sign a petition;
5. Utilizers must respect the rights of others including, but not limited to, petition circulators and other individuals engaged in Political Activity;
6. Utilizers shall not follow any individual into any building, the Zone of Non-Interference or other area of the county campus where Political Activity is prohibited;
7. Utilizers shall not place any material in the Zone of Non-Interference, including, without limitation: petitions, signs, banners, pamphlets, tables, and chairs;
8. Utilizers shall not leave any material unattended, including, without limitation: petitions, signs, banners, pamphlets, tables, and chairs – any unattended material may be disposed of in the appropriate garbage or recycling receptacles;
9. Utilizers may seek refuge inside of the Administration Building in the event of severe weather provided that all Political Activity cease inside the Administration Building and such individuals do not impede those entering and leaving the building; and
10. The Administration Building may be designated as a polling place and as such, the provisions of SDCL 12-18-3 would apply during all periods of absentee voting and on the day of any election.

Note: Any questions regarding this policy should be directed to the Commission Office
All members present voting aye. Motion carried.

RENEWAL CONTRACT WITH CREDIT COLLECTIONS BUREAU (CCB):

Moved by Commissioner Wiese, seconded by Dennert to approve and authorize Chairman Sutton to sign the renewal contract with Credit Collections Bureau (CCB). All members present voting aye. Motion carried.

MINUTES:

Moved by Commissioner Wiese seconded by Gage to approve the General Meeting Minutes of July 23, 2024. All members present voting aye. Motion carried.

CLAIMS/PAYROLL:

Moved by Commissioner Gage, seconded by Dennert to approve the following claims/payroll:

Claims: Insurance: SD Public Assurance Alliance \$358.61. Professional Fees: Aberdeen Advanced Care Ambulance \$943.65; Brown County Treasurer \$26.70; Carrels & Bain Family Dental Care, LLC \$301.43; CenturyLink-Lumen \$229.96; CGI, LLC \$75.63; Faulkton Area Medical Center \$189.16; IMEG Corp \$1,570.00; Liberty Tire Recycling, LLC \$3,126.12; Network Center, Inc \$2,687.57; Paetznick-Garnett Funeral Chapel \$1,284.41; Sara Zahn \$21.25; US Bank Visa \$1,391.02; Yankton County Treasurer \$400.50. Publishing: Midstates Group \$139.00; US Bank Visa \$300.00. Rentals: Advantage Self Storage \$276.00. Repairs & Maintenance: Crawford M S & F Inc \$3,937.00; Crawford Trucks & Equipment \$5,409.62; HF Jacobs & Son Const. Inc \$190.00; Premier Auto \$123.36; Quality Welding, Inc \$293.66; Russell Beadle Landscaping \$5,000.00; US Bank Visa \$2,362.90. Supplies: A-1 Locksmithing \$32.00; AASLH-American Assoc for State & Local History \$176.00; Aberdeen Fire Rescue \$1,155.00; Advance Auto Parts \$13.99; Amazon Capital Services, Inc \$57.97; Avera LTC Pharmacy Aberdeen \$3,243.64; Cole Paper Inc \$680.88; Crawford M S & F Inc \$236.22; Crawford Trucks & Equipment \$955.64; Dakota Oil \$1,404.70; Faulkton Drug \$19.80; Gary's Engine and Repair \$46.52; Great Western Tire \$4,326.83; Menards \$468.10; Midstates Group \$810.00; Pomp's Tire Service, Inc \$46.00; Runnings \$26.80; Sherwin Williams \$48.99; Shop 4-H/National 4-H Council \$37.85; St. Mark's Episcopal Church \$750.00; Stan Houston Equipment Company, Inc \$63.45; Stun-Cuff \$175.00; US Bank Visa \$8,947.93. Travel & Conference: US Bank Visa \$558.00. Utilities: Montana-Dakota Utilities Co \$39.65; Northwestern Energy \$5,681.41; US Bank Visa \$3,631.78. Machinery & Equipment: RDO Equipment Co \$348,491.45. Others: Grand Jury participants \$18,529.80.

Payroll: Commission \$4,753.89; Elections \$1,834.40; Auditor \$9,850.83; Treasurer \$16,907.97; SA \$34,031.20; Maintenance \$11,815.07; Assessor \$15,370.29; Register of Deeds \$10,406.83; VSO \$4,491.56; GIS \$2,790.90;

IT \$9,172.67; HR \$4,960.64; Sheriff \$52,161.26; Jail \$65,004.25; Coroner \$899.37; Court Security \$9,011.67; JDC \$35,045.31; Welfare \$2,466.75; Museum \$12,312.82; Parks/Fairgrounds \$7,777.20; Fair Board \$5,213.85; 4-H \$1,376.80; Weed \$5,793.47; Planning & Zoning \$7,684.49; Highway \$61,027.42; Dispatch \$34,974.60; Emergency \$5,054.59; 24/7 Sobriety \$3,362.97; Landfill \$17,831.76; SDRS Pay-out \$1,495.49; FICA \$26,874.13; Medicare \$6,285.13; Discovery-HSA \$2,233.77; Health Insurance-Wellmark BCBS \$132,233.05; Dental Insurance-Delta \$9,019.50; Life Insurance-Dearborn \$1,065.90; Retirement-SDRS \$59,361.44. All members present voting aye. Motion carried.

HR REPORT:

Moved by Commissioner Dennert, seconded by Wiese to approve the following Human Resource Report submitted by Human Resources Director, Allison Tunheim:

- Hiring of Jaycob Aldea De Jesus as Brown County Jail Detention Officer, FT; starting wage \$21.29/hr. – effective July 24, 2024.
- Hiring of Audra Bland as Brown County Museum Fall Intern, FT; starting wage \$13.50/hr. – effective September 3, 2024.

All members present voting aye. Motion carried.

TRAVEL REQUEST:

Moved by Commissioner Gage, seconded by Wiese to approve the following Travel Requests: Brandon Mills, from Sheriff's Office to attend Geospatial Cell Site Information Training on August 27-28, 2024 in Fredericksburg, VA; Dirk Rogers & John Florey from Highway Dept. to go to Onida on July 24, 2024 to pick-up the new Pick-up; Austin Ball from Sheriff's Office to attend Criminal Interdiction Course on September 16-18, 2024 in Pierre, SD. All members present voting aye. Motion carried.

AUDITORS REPORT OF ACCOUNTS FOR JUNE 2024:

Moved by Commissioner Wiese, seconded by Gage to approve the Auditor's Report of Accounts for June 2024 as follows: Total Cash and Checks on Hand \$7,700.00; Total Checking Account Balances \$27,784,243.95; Total Savings Account Balances \$1,025,447.42; Total Certificates of Deposit \$6,330,110.40; Grand Total Cash & Balances \$35,147,501.77. General Fund Cash and Investment Balances by Funds: General Fund \$19,285,515.63; Road & Bridge Fund \$5,712,239.52; Road & Bridge Fund – restricted \$231,883.27; 911 Service \$405,909.54; Emergency & Disaster \$114,558.07; Domestic Abuse \$1,491.50; Grant \$32.11; SA Grants \$45,679.14; Truancy Court \$135.68; 24/7 Sobriety \$66,012.60; ROD M & P \$93,130.02 Rural Access Infrastructure \$383,322.39; TIF Debt Service \$30,747.57; Landfill + cash change \$6,534,970.66; Landfill – restricted \$1,766,062.21; Trust and Agency Funds \$2,473,757.34; Grand Total General Fund Cash & Investments \$35,147,501.77. All members present voting aye. Motion carried.

LEASE AGREEMENT:

Moved by Commissioner Wiese, seconded by Dennert to approve and authorize Chairman Sutton to sign following Lease Agreements: Elation Properties/Forte Living Building for lease of portable stage on July 26, 2024. All members present voting aye. Motion carried.

TEMPORARY SPECIAL EVENT ALCOHOL LICENSE PERMIT HEARING:

Moved by Commissioner Gage, seconded by Wiese to authorize advertising public hearing for the following Special Alcohol License Permit: Aberdeen Area Chamber of Commerce, Aberdeen, SD for Field to Fork: A Farm to Table Connection held at Centennial Village, Brown County Fairgrounds – SW ¼, Sec 1-T123N-R64W (400 NW 24th Ave., Aberdeen) Brown County, SD on August 20, 2024. (Special License effective September 6, 2024). All members present voting aye. Motion carried.

CLAIM ASSIGNMENTS:

Moved by Commissioner Dennert, seconded by Wiese to authorize and approve the Auditor sign the Claim Assignments against individuals to Credit Collections Bureau for the purpose of collecting liens. All members present voting aye. Motion carried.

OTHER BUSINESS: None

EXECUTIVE SESSION:

Moved by Commissioner Wiese, seconded by Gage to go into Executive Session for Personnel, Contracts and Legal per SDCL 1-25-2. All members present voting aye. Motion carried. The chair declared the executive session closed with no action taken.

RELEASE LIEN:

Moved by Commissioner Wiese, seconded by Dennert to release the lien on Parcel #22593 in the amount of \$597.75. All members present voting aye. Motion carried.

ADJOURNMENT:

Moved by Commissioner Dennert, seconded by Wiese to adjourn the Brown County Commission at 10:46 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

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