

JUNE 22, 2021 – GENERAL MEETING

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

APPROVAL OF AGENDA:

Moved by Sutton, seconded by Feickert to approve the agenda. All members present voting aye. Motion carried.

ORDINANCE 196\_SECOND READING AND ADOPTION:

Moved by Sutton, seconded by Feickert to adopt Ordinance 196: Applicant T&J Investments (Todd Muldoon) requesting to rezone the following property from Chapter 4.06 Agriculture Preservation District (AG-P) to Chapter 4.07 Mini-Ag District (M-AG) Lot 1, "T&J Investments Second Addition" in the NE ¼ of Section 30-T124N-R63W of the 5<sup>th</sup> P.M., Brown County, South Dakota (12845 389<sup>th</sup> Ave). Roll call vote: Commissioner Feickert-aye, Sutton-aye, Kippley-abstain, Fjeldheim-aye. Ordinance Adopted.

ORDINANCE 197\_SECOND READING AND ADOPTION:

Moved by Kippley, seconded by Sutton to adopt Ordinance 197: Applicant Tim Reed requesting to rezone the following property from Chapter 4.06 Agriculture Preservation District (AG-P) to Chapter 4.07 Mini-Ag District (M-AG "Reed's Outlots 1&2" in the SW ¼ of Section 30-T124N-R62W of the 5<sup>th</sup> P.M., Brown County, South Dakota (39408 129<sup>th</sup> St & 12894 394<sup>th</sup> Ave). Roll call vote: Commissioner Feickert-aye, Sutton-aye, Kippley-aye, Fjeldheim-aye. Ordinance Adopted.

ORDINANCE 198\_SECOND READING AND ADOPTION:

Moved by Feickert, seconded by Sutton to adopt Ordinance 198:

A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES

WHEREAS, a local government may enact an ordinance not in conflict with SDCL Chapter 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration.

WHEREAS, Brown County, SD ("County"), makes a preliminary finding that the County's current regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1;

WHEREAS, medical cannabis state laws under SDCL 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate rules pursuant to chapter 1-26 not later than October 29, 2021, as defined by SDCL 34-20G-72. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the local zoning and licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, the County makes a preliminary finding that the County needs further study of the relationship of medical cannabis establishments to the County Comprehensive Plan and Zoning Ordinance. The public interest requires that the County study, analyze, and evaluate the impacts of

medical cannabis establishments and to fully explore the impacts of any proposed regulations regarding medical cannabis establishments;

WHEREAS, the County makes a preliminary finding that it would be inappropriate for the County to issue a local permit or license to a medical cannabis establishment prior to the South Dakota Department of Health's promulgation of regulations governing the same;

WHEREAS, the County hereby exercises its authority under SDCL 11-2-10 and SDCL 7-18A-8, to establish a temporary ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the County;

WHEREAS, a temporary ordinance will ensure that more comprehensive zoning ordinance and building permit changes, licensing permits, and any proposed amendments to the County's Comprehensive Plan can be completely examined with adequate public input from citizens, business interests, and medical cannabis industry representatives;

WHEREAS, the County finds that a temporary ordinance is reasonable to preserve the status quo and prevent significant investment pending the outcome of the above study and any proposed regulations emanating therefrom;

WHEREAS, the County finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the county government and its existing public institutions;

NOW, THEREFORE, BE IT ORDAINED BY Brown County, SD:

*Section 1. Temporary Ordinance – Application for Local Permit/License*

A medical cannabis establishment desiring to operate in the County shall be required to apply for a permit and/or license from the County. Applications for a local permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1, shall not be accepted until the South Dakota Department of Health has promulgated regulations as required by SDCL 34-20G-72. Any application received prior to such regulations being promulgated shall be denied.

*Section 2. Immediate Effect.*

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the county government and its existing public institutions pursuant to SDCL 11-2-10 and SDCL 7-18A-8.

Roll call vote: Commissioner Feickert-aye, Sutton-aye, Kippley-aye, Fjeldheim-aye. Ordinance Adopted.

APPLICATION FOR OCCUPANCY:

Moved by Sutton, seconded by Feickert to approve the following application for occupancy submitted by Northern Valley Communications for telecommunication purposes: occupancy of Brown County Highway Number 15, 10A, Township 127, Range 65, 64, 63, 62, Brown County, South Dakota; occupancy of Brown County Highway Number 3, in Section 21, 22, 26, Township 128, Range 65, Brown County, South Dakota; occupancy of Brown County Highway Number 3, in Section 20, 21, 22, 23, 24, 25, 29, 28, Township 128, Range 64, 63, 62, Brown County, South Dakota; occupancy of Brown County Highway Number 14, Township 126, 127, 128, Range 63, Brown County, South Dakota; occupancy of Brown County Highway Number 6, Township 126, 127, Range 65, 64, Brown County, South Dakota; occupancy of Brown County Highway Number 10, 10A, Township 126, 127, Range 64, Brown County, South Dakota; occupancy of Brown County Highway Number 9, Township 126, 125, Range 64, 63, Brown County, South Dakota; occupancy of Brown County Highway Number 7, Township 126, Range 65, 64, 63, 62, Brown County, South Dakota. Section information is on file at the Highway shop. All members present voting aye. Motion carried.

DEPARTMENT UPDATES:

Dirk Rogers, Highway Superintendent, discussed with the Commission on-going road projects and department updates. No actions taken.

**JUNETEENTH HOLIDAY:**

Moved by Sutton, seconded by Kippley to add Juneteenth (June 19<sup>th</sup>) holiday hours to employees' leave balances. All members present voting aye. Motion carried.

**PUBLIC COMMENTS:**

Roberta Nichols, Register of Deeds, met with the Commission to seek advice on what to do for marriage appointments that are scheduled on days that the states closed last-minute (e.g. weather related). Commissioner Kippley advised she will communicate with the state court administrator on different options. No actions taken.

**MINUTES:**

Moved by Kippley, seconded by Sutton to approve the general meeting minutes of June 15, 2021. All members present voting aye. Motion carried.

**CLAIMS/PAYROLL:**

Moved by Feickert, seconded by Sutton to approve the following claims and payroll:

**PAYROLL:** Commission \$4,327.95; Auditor \$7,362.06; Treasurer \$13,599.18; SA \$24,352.13; SVAWA \$1,730.76; Maintenance \$8,713.87; Assessor \$14,636.39; Register of Deeds \$9,124.94; VSO \$4,528.86; GIS \$2,411.38; IT \$7,541.97; HR \$3,658.08; Sheriff \$43,271.51; Jail \$56,484.49; Court Security \$6,561.00; JDC \$23,785.22; Welfare \$2,982.62; Museum \$9,062.28; Parks/Fairgrounds \$5,931.74; Fair Board \$5,726.70; 4-H \$1,436.01; Weed \$4,085.87; Planning & Zoning \$3,864.71; Highway \$39,240.52; Dispatch \$32,582.82; Emergency \$4,160.96; Teen Court \$531.30; JDAI \$1,786.92; 24/7 Sobriety \$1,350.60; Landfill \$15,192.95; FICA \$21,505.45; Medicare \$5,029.50; HSA \$375.00; SDRS \$42,790.38. **CLAIMS:** Professional Fees: Darcy Lockwood \$15.00; Drew Becker \$200.00; Fire Safety First, LLC \$30.00; Heartland Funeral Home \$1800.00; Jodi Sudweeks \$74.80; Kristi Spitzer \$600.00; Lucy Lewno \$160.00; Mark Katterhagen \$15.00; Mitch Vilhauer \$1690.00; Pauer Sound & Music Inc \$600.00; Randy Buker \$200.00; Sanford Health Occupational Medicine Aberdeen \$79.00; SD Assoc of Assessing Officers \$1610.00; University of North Dakota \$2080; Yankton County Sheriff Office \$50.00; US Bank \$418.00. Publishing: US Bank \$273.18. Repairs & Maintenance: Crawford M S & F Inc \$1001.00; Dakota Pump Inc. \$2035.10; Fire Safety First, LLC \$102.80; Gary Mcneil \$363.07; House of Glass \$435.97; Jason's Electric Inc \$851.99; Jensen Rock & Sand Inc \$2800.00; Locators & Supplies, Inc. \$28.15; Pierson-Ford-Lincoln-Mercury \$56.45; Sanders's Sew-N-Vac, Inc \$106.99; Schwan Welding \$1416.33; Sewer Duck Inc \$190.00; Steven Lust Automotive \$54.46; Woodman Refrigeration, Inc \$984.80; US Bank \$1801.98. Supplies: Advance Auto Parts \$358.73; Agtegra Cooperative \$2340.63; Bonnie Bitz \$144.00; Carlsen Funeral Home & Crematory \$695.00; Cole Papers \$1178.15; Crawford M S & F Inc \$157.23; Kessler's \$135.36; Locators & Supplies, Inc. \$93.00; Lucy Lewno \$6.51; Marco Inc \$55.61; Menards \$323.66; Pitney Bowes Inc. \$126.00; Plumbing & Heating Wholesale, Inc. \$81.30; Runnings \$40.97; Titan Machinery \$275.63; Van Diest Supply Co \$141.75; West Publishing Corp. \$1785.86; US Bank \$14,076.62. Travel & Conference: Dale Kurth \$112.53; Darwin Bettmann \$15.24; David North \$105.48; Dennis Wiedebush \$33.84; Diane Lehr \$153.22; Duane Jark \$52.17; James Meyers \$28.50; Patrick Keatts \$34.11; SDSU Extension \$248.80; Stan Beckler \$18.33; US Bank \$2957.40. Utilities: City of Aberdeen \$1125.50; Dependable Sanitation \$348.00; James Valley Telecommunications \$220.30; Northern Valley Communication \$3337.09; Northwestern Energy & Communications \$1557.57; Qwest Corporation \$9.90; Verizon Wireless Services LLC \$3128.61; US Bank \$1992.56. Rentals: Advantage Self Storage \$3312; Brad Hart \$150.00; Eugene Mitchell \$50.00; Pantorium Cleaners Inc. \$175.56; US Bank \$61.94.

Others: SSD Assoc. of County Officials \$1346.00; Wex Health Inc. \$8000.00. Jury: Carol Aberle \$13.36; Alyssa Artz \$12.52; Christopher Ayers \$11.68; Brock Ball \$16.72; Miranda Beck \$10.84; Joyce Beckler \$21.76; Krystal Benning \$21.76; Marybeth Bird \$11.68; David Blake \$16.72; Steven Bullert \$14.2; Alan Chapman \$103.36; Jessica Colleran \$103.36; Terrence Cormier \$11.68; Jarrett Daly \$26.80; Patricia Darling \$11.68; Ryan Davis \$10.84; Natasha Dunker \$157.12; Cody Dvorak \$17.56; Amy Engelhart \$16.72; Elizabeth Fischbach \$10.84; Ryder Fuhrman \$105.04; Db Garber \$15.88; Karen Garreau \$12.52; Robert Goscicki \$105.04; Jenny Gross \$10.84; Krista Haaland \$10.84; Myron Haar \$13.36; Tammy Hagen \$39.40; Patricia Harms \$128.56; Joseph Harry \$36.04; Rhonda Haselhorst \$26.80; Alvin Haugen \$13.36; John Hepperle \$11.68; Alesa Heupel \$11.68; Randall Hjermstad \$31.00; Anthony Hoffman \$16.72; Kenneth Hollister \$22.60; Jared Jacobson \$11.68; Araceli Jimenez Magdaleno \$10.84; Glenda Johnson \$16.72; Tanner Johnson \$11.68; Connie Jung \$103.36; David Kanizar \$12.52; Emily Kanizar \$11.68; Kevin Kendall \$116.80; Paul Kleine \$10.84; Lisa Kraft \$11.68; Michelle Ludwig \$10.84; Allan Merkel \$158.80; Alice Metzger \$19.24; Debra Moser \$10.84; Deborah Nez \$10.84; George Nora \$11.68; Randy Nordstrom \$11.68; Jason Oberfoell \$111.76; Philip Obrien \$10.84; Michelle Peck \$18.40; Boyce Pond \$10.84; Lauren Pretorius \$103.36; Keith Rath \$105.04; Craig Scheuffele \$14.20; Cynthia Schick \$11.68; Kristina Schwab \$11.68; Emily Sternhagen \$133.60; Wayne Theunissen \$26.80; Ashley Thone \$25.96; Amanda Thorstenson \$12.52; Tanner Venard \$12.52; Cathy Vetch \$13.36; Dannielle Walz \$19.24; Abbie Ward \$11.68; Thomas Wensmann \$15.88; Jody Werth \$11.68; Jeffrey Williams \$11.68; Amy Woods \$10.84; Todd Yerdon \$11.68; Robert Zerr \$10.84. All members present voting aye. Motion carried.

#### HR REPORT:

Moved by Sutton seconded by Kippley to approve the HR Office Report, which includes the following:

- Approve chair to sign the Samiuela Mounga agreement with Brown County, paying a total of \$5,414.00 directly to SDRS upfront. Samiuela Mounga will pay back his half as stated in the agreement.
- Approve hiring of Leslie Schaible as full-time Brown County Highway seasonal help effective June 1, 2021 @ \$13.61/hour.
- Approve hiring of Nichole Kranz as full-time Brown County Communications Dispatcher effective June 28, 2021 @ \$20.54/hour.
- Approve hiring of Elizabeth Collins as full-time Brown County Communications Dispatcher effective July 12, 2021 @ \$20.54/hour.
- Approve reclassification of Jordon Sutton from Brown County Landfill LG 4 non-CDL to Brown County Landfill LG 4 effective June 28, 2021 @ \$19.07/hour.
- Approve hiring of Joshua Matthew as full-time Brown County Highway LG 3 effective July 6, 2021 @ \$18.94/hour.
- Approve hiring of Dwain Otte as full-time Brown County Highway LG 3 effective July 12, 2021 @ \$18.94/hour.

All members present voting aye. Motion carried.

#### LEASES:

Moved by Kippley, seconded by Feickert to approve the following lease: Taylor, Jacki & Paul Wilson for lease of the Clubhouse on October 2, 2021. All members present voting aye. Motion carried.

#### FIREWORKS PERMIT:

Moved by Sutton, seconded by Kippley to approve the following fireworks display permit: Northern Plains Baptist Church for display at Richmond Lake Youth Camp on June 25, 2021. All members present voting aye. Motion Carried.

**CLAIM ASSIGNMENT:**

Moved by Feickert, seconded by Sutton to to authorize Auditor sign documentation to assign claim against an individual to Credit Collection Bureau for the purpose of collecting liens. All members present voting aye. Motion carried.

**SET HEARING DATE & AUTHORIZE ADVERTISING\_REZONE ORDINANCES:**

Moved by Sutton, seconded by Feickert to set hearing date and authorize publishing for the following rezone ordinances:

- Application has been made by Lyndse Dellman to the Brown County Board of Commissioners for the purpose of rezoning the following property from Chapter 4.06 Agriculture Preservation District (AG-P) to Chapter 4.07 Mini-Ag District (M-AG): Lot 1, "Bagley Subdivision" in the NW ¼ of Section 2-T128N-R61W of the 5th P.M., Brown County South Dakota (10048 404<sup>th</sup> Ave).
- Application has been made by Matt Oswald to the Brown County Board of Commissioners for the purpose of rezoning the following property from Chapter 4.06 Agriculture Preservation District (AG-P) to Chapter 4.07 Mini-Ag District (M-AG): The South 707' of the West 701' of the NW ¼ of Section 7-T123N-R61W of the 5th P.M., Brown County South Dakota (13148 400th Ave).

Hearing to be held in the Commissioner's Chambers, Courthouse Annex, Brown County, South Dakota on July 13, 2021 at 8:46 A.M. The public is invited to attend the hearing and to present comments and testimony regarding the amendment to Second Revision Brown County Ordinances pertaining to rezoning the described property. At the conclusion of the hearing, the Brown County Commission may adopt first reading of Ordinance No. 199 & 200. All member present voting aye. Motion carried

**ABATEMENT:**

Moved by Kippley, seconded by Sutton to approve the following abatement: Mark Hanse (assessed excess land) @ \$341.34. All members present voting aye. Motion carried.

**PLATS:**

Commissioner Feickert offered the following Resolution:

**RESOLUTION 35-21 JC LAND COMPANY ADDITION**

"Be it resolved by the County Commission of Brown County, South Dakota, that the plat showing "JC LAND COMPANY ADDITION IN THE NE ¼ OF SECTION 30, TOWNSHIP 124 NORTH, RANGE 63W OF THE 5<sup>TH</sup> P.M., BROWN COUNTY, SOUTH DAKOTA" having been examined, is hereby approved in accordance with the provisions of SDCL of 1967, Chapter 11-6, and any amendments thereof." Seconded by Sutton. Roll call vote Commissioner Feickert-aye, Sutton-aye, Kippley-aye, Fjeldheim-aye. Resolution adopted.

**RESOLUTION 36-21 RONNIE'S WAY ADDITION**

"Be it resolved by the County Commission of Brown County, South Dakota, that the plat showing "RONNIE'S WAY ADDITION IN THE NW ¼ OF SECTION 17, TOWNSHIP 123N, RANGE 63W OF THE 5<sup>TH</sup> P.M., BROWN COUNTY, SOUTH DAKOTA" having been examined, is hereby approved in accordance with the provisions of SDCL of 1967, Chapter 11-6, and any amendments thereof." Seconded by Sutton. Roll call vote Commissioner Feickert-aye, Sutton-aye, Kippley-aye, Fjeldheim-aye. Resolution adopted.

**RESOLUTION 37-21 FULL CIRCLE AG SUBDIVISION**

"Be it resolved by the Board of County Commissioners of Brown County, South Dakota in regular meeting assembled that the plat of Full Circle Ag Subdivision in the NW ¼ and W ½ SW ¼ of Section 2,

T125N, R60W of the 5<sup>th</sup> P.M. in the town of Claremont, Brown County, SD is hereby approved in accordance with the provisions of SDCL 11-3 and all acts amendatory thereto." Seconded by Sutton. Roll call vote Commissioner Feickert-aye, Sutton-aye, Kippley-aye, Fjeldheim-aye. Resolution adopted.

RESOLUTION 38-21 VOLZKE FIRST ADDITION

"Be it resolved by the Board of County Commissioners of Brown County, South Dakota, that the plat showing VOLZKE FIRST ADDITION IN THE NW ¼ OF SECTION 11-T123N-R64W OF THE 5<sup>TH</sup> P.M., BROWN COUNTY, SOUTH DAKOTA" having been examined, is hereby approved in accordance with the provisions of SDCL 11-3, and any amendments thereof." Seconded by Sutton. Roll call vote Commissioner Feickert-aye, Sutton-aye, Kippley-aye, Fjeldheim-aye. Resolution adopted.

PUBLIC COMMENTS\_SOUTH DUMPSITE AGREEMENT:

The Board of County Commissioners discussed recent updates and changes on the purchase agreement for south dumpsite location. No actions taken.

PUBLIC COMMENTS\_LEGISLATIVE UPDATES:

Carl Perry, D-3 State Representative, met with the Commissioners to discussed updates about medical cannabis program by the state. No actions taken.

ADJOURNMENT:

Moved by Sutton, seconded by Kippley to adjourn the Brown County Commission at 9:35 a.m. All members present voting aye. Motion carried.

Jeannette McClain, Brown County Deputy Auditor

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