

## JUNE 27, 2023 – 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, Fjeldheim, Wiese, Gage, and Sutton. Commissioner Gage led the Pledge of Allegiance.

### APPROVAL OF AGENDA:

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

### OPPORTUNITY FOR PUBLIC COMMENT:

Jared Bossly met with the Commissioners to discuss what happened at his farm last Tuesday. Summit Carbon Solutions showed up to survey with drill rigs and they drilled 90 feet down. Then they took the slurry and dumped it into the ditch. Jared asked why nothing happens when Summit Carbon Solutions break the law, such as trespassing, break and entering, false affidavits and now littering. Wants to know why there are no repercussions to this company. They did go after them to clean up the slurry in the ditch, which they did. If anyone else would do these things, they would be fined so why doesn't Summit Carbon Solutions have to go by the basic rules. He feels the State's Attorney needs to put more pressure on everything. Jared encouraged the Commission to keep the Moratorium on because all Summit wants to do is sue people instead of working with them.

Dennis Feickert stated he didn't read the Judge's orders in full as far as surveying, but he feels that the surveying that Summit Carbon Solutions are doing is very invasive, so he feels that the Sheriff office or State's Attorney office had an opportunity to get a court order to put a stop to it, but that didn't happen. Unless the court order allowed invasion of equipment and driving through Jared's crops. Hoping we can get a stop to some of this stuff. Dennis attended a meeting Thursday, June 22<sup>nd</sup> in Hand County and they are still moving forward with the Coalition to work with Legislatures on Eminent Domain, get some separation between utilities and public use versus private gain and Trespassing Laws. Dennis also stated that they need to pressure the PUC in Pierre in September, they did request a special session but doubts that would happen. Dennis commented that Summit Carbon Solutions attorney requested the Sheriff's office to be at Jared's farm, in essence played into the hands of Summit Carbon Solutions by protecting them and allow them to go invade and drill holes on Jared's land.

Ed Fischbach also commented regarding the Summit Carbon Solutions surveying on Jared Bossly's land. He stated as he approached Jared's farm it looked like he was under siege with all the pickups that surrounded him from within a half a mile. When Ed talked to the Deputy, he mentioned that Summit Carbon Solutions said they wouldn't be in any of his crop land and wouldn't be there very long. Well, they lied because they were in his soybean field, tearing it all up and drilling, and they were there until late afternoon, so Ed asked the deputy what they could do about it. Deputy stated he could file a report. Ed believes that charges need to be filed against Summit Carbon Solutions for falsifying affidavit because that is perjury and Jared has video showing that they did enter his house and shop. The law needs to be enforced equally – legal action needs to be taken.

Craig Schaunaman shared he feels that Summit Carbon Solutions overstepped their bounds while surveying on Jared's property. The asked if they could dump the slurry on the ground, Craig checked with Jared, and he said no. They noticed the barrel used to haul it out, was empty going into the next field so Craig figured they dumped it in the Township ditch somewhere and him and Commissioner Dennert found it. Summit Carbon Solutions did eventually clean it up after some pressure. Craig looked up their documents submitted to the PUC including the Environmental Plan - subsection Sec. 9.4 states that mud drillings will be dumped into an approved SCS site and or approval of the landowner – that is not a Township Road ditch. He is asking the Commission to address this with the State's Attorney office because it is only going to get worse not better.

Mike Klipfel stated that it appeared that Jared was under house arrest because of the restraining order, and they were drilling 300 feet from Jared's house. They were drilling 90 feet holes and taking core samples, but don't know what for but making a mess of his crop field. Mike also feels that charges should be filed against Summit Carbon Solutions.

Ross Aldentaler, State's Attorney Deputy did inform Jared Bossly that Interim State's Attorney Anderson would be willing to visit with him regarding some of the allegations and reports.

#### ORDINANCE #245 - SECOND READING/ADOPTION:

Moved by Commissioner Wiese seconded by Gage to adopt Ordinance #245. Applicant Steven Rossow to rezone from Chapter 4.06 Agriculture Preservation District (AG-P) to Chapter 4.07 Mini-Agriculture District (M-AG) to bring this parcel into compliance for its future use: Proposed Lot 1, "Steven Rossow Subdivision" in the NW 1/4 of Section 6-T121N-R61W of the 5<sup>th</sup> P.M., Brown County, South Dakota (40025 142<sup>nd</sup> Street, Garden Prairie Twp.). All members present voting aye. Motion carried.

#### ORDINANCE #246 - SECOND READING/ADOPTION:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the Second Reading and Adopt Ordinance #246 amending portions of Title 4 Zoning – Temporary Fireworks Ordinance: Chapter 4.06, "Agriculture Preservation District (AG-P)"; Chapter 4.14 "Highway Commercial District (HC)" and Chapter 4.15, "Light Industrial District (L-I)". Roll Call: Dennert – aye; Fjeldheim – aye; Wiese – aye; Gage – aye and Sutton – aye. Ordinance #246 adopted. (Copies of the full Ordinance are available at the Brown County Auditor's Office or Brown County Planning and Zoning Office during regular business hours).

#### MEMORANDUM OF GOVERNMENT LIABILITY COVERAGE WITH SDPAA:

Moved by Commissioner Dennert, seconded by Gage to approve and authorize Chairman Sutton to sign the Memorandum of Government Liability Coverage with SDPAA. All member present voting aye. Motion carried.

#### RECENT DEMOLITONS – COUNTY/CITY PARTNERSHIP:

Paula Nelson, City of Aberdeen Code Enforcement Officer and Mike Scott, Landfill Manager met with Brown County Commission per a request from Commissioner Wiese. Paula informed the Commission that they have demolished three houses plus a garage, and they did it within 2 days. Paula stated the Sheriff's office went through the properties to verify that no one was inside prior to starting the demolition. Mike shared that everything went well, it was roughly 5 – 6 thousand dollars in tipping fees but the city paid for the demolition and taking care of replating the properties if needed at their cost, also. The property on South 3<sup>rd</sup> Street still needs to have the water disconnect taken care of and the city will be doing that soon. These properties become property of Brown County due to taxes not being paid but the city has the jurisdiction to condemn them. Paula shared there will be three more properties that they will put out for bid around August 1<sup>st</sup> for demolition once they are pass the redemption period. Commissioner Wiese commented that this has been a good partnership between the City and the County because the City takes the financial responsibility to have them demolished and the County takes financial responsibility to handle the rubble.

#### BID FOR SURPLUS PROPERTY – 2914 INDUSTRIAL AVE.

Chairman Sutton shared that we received one legitimate bid and suggested that we postpone one more week before making a decision because still looking at options. James Meyers visited with the Commissioners about splitting the property into 2 parcels because the property is a bit more than Mr. Harris needs and he would be interested in the East building. Chairman Sutton thanked Mr. Meyers and said that gives them another option. Commissioner Wiese commented that it is still a buyable option and cost \$20 million to build it out but we need to stay focused on the problem of our jail being over capacity. Dennis Feickert suggested that they get an unbiased company and take quotes and get solid numbers for a new facility but designed so you can be added on to, if needed. Moved by Commissioner Wiese, seconded by Fjeldheim to postpone the decision until July 6<sup>th</sup> Commission meeting. All members present voting aye. Motion carried.

#### TITLES OF DAKOTA AGREEMENT:

Moved by Commissioner Wiese, seconded by Dennert to approve and authorize Chairman Sutton to sign the Remote Access Agreement with Titles of Dakota. All members present voting aye. Motion carried.

#### MINUTES:

Moved by Commissioner Wiese, seconded by Fjeldheim to approve the General Meeting minutes of June 20, 2023. All members present voting aye. Motion carried.

#### CLAIMS:

Moved by Commissioner Wiese, seconded by Gage to approve the following claims: Professional Fees: Adamsoft LLC \$3,000.00; Audrey Rider \$141.49; Becky Erickson \$40.00; Civil Solutions LLC \$2,849.10; Dixon Oil Recycling Inc \$225.00; Faulkton Area Medical Center \$59.26; Foerster Testing Limited \$6,960.00; Gellhaus

& Gellhaus, P.C. \$80.00; Healthstream, Inc \$1,928.50; IMEG Corp \$26,027.83; Kristen Gonsoir \$300.00; Lewis & Clark BHS \$368.00; Rhodes Anderson Insurance \$50.00; Schroeder Construction Inc \$536,224.40; SD Secretary of State \$30.00; SDNAVSA \$200.00; SDSU Extension \$228.80; Tyler Technologies, Inc \$390.00. Publishing: Groton Daily Independent \$235.10. Rentals: Advantage Self Storage \$4,748.00. Repairs & Maintenance: Aberdeen Clean-All, LLC \$483.75; Asphalt Zipper \$253.91; Consolidated Electrical Distributors Inc \$390.00; Dakota Fluid Power, Inc \$590.52; Grote Body Shop \$625.63; HF Jacobs & Son Const. Inc \$9,884.10; House of Glass \$823.62; Jensen Rock & Sand Inc \$15,310.00; K & S Plumbing, Inc \$741.84; Laursen Asphalt Repair Equipment, LLC \$16.47; Nelson Sales & Service, LLC \$26.50; Premier Auto \$184.61; Sander's Sew-N-Vac \$214.46; Transource Truck & Equipment, Inc \$2,319.90; TripleC Pros LLC \$1,700.00; Woodman Refrigeration, Inc \$251.02. Supplies: Active Data Systems \$346.69; Advance Auto Parts \$1,319.69; American Stamp & Marking Products, Inc \$49.09; Asphalt Zipper \$2,226.10; Avera LTC Pharmacy Aberdeen \$3,016.24; Cole Paper Inc \$2,901.17; Dakota Fluid Power, Inc \$6,485.15; GovConnection, Inc \$56.26; Integrated Weed Control Inc \$2,000.00; Jensen Rock & Sand Inc \$169,099.11; Karen Swank \$54.00; Laursen Asphalt Repair Equipment, LLC \$60.46; Leidholdt Tool Sales, LLC \$78.24; Lien Transportation Company \$152,754.61; Lynn Zacher \$41.91; Marco Technologies, LLC \$19.57; Menards \$314.49; Midstates Group \$2,989.00; Midwest Pump & Tank \$272.77; Nelson Sales & Service, LLC \$951.06; PastPerfect Software, Inc \$540.00; Pierson Ford Lincoln, Inc \$18.92; Pomp's Tire Service, Inc \$233.42; Share Corporation \$808.20; Sioux Falls Crane & Hoist, Inc \$2,866.49; Thee Glass Doktor, LLC \$590.50; Transource Truck & Equipment, Inc \$6,813.31. Travel & Conference: Gene Loeschke \$120.00; Kathy Fischer \$328.08; Polly Rush \$328.08; Sarah Swenson \$342.36. Utilities: City of Aberdeen Treasurer \$299.49; City of Hecla \$139.68; Dependable Sanitation, Inc \$165.00; Midcontinent Communications \$138.23; Montana-Dakota Utilities Co \$25.24; Northwestern Energy \$2,926.10; NVC \$262.28. Buildings: Grassland Hutterian Brethren Inc \$7,142.87. Others: Safe Harbor \$1,271.50; Northern Truck Equipment Corporation \$191,360.00; SD Dept of Agriculture & Natural Resources \$327.00. All members present voting aye. Motion carried.

#### HR REPORT:

Moved by Commissioner Fjeldheim, seconded by Dennert to approve the following Human Resource Report submitted by Human Resources Director, Allison Tunheim: approve payment of retirement award for Cynthia Meyers in the amount of \$150 before taxes, requirement was met. All members present voting aye. Motion carried.

#### ZONING ORDINANCES - SET HEARING DATE/AUTHORIZE ADVERTISING:

Moved by Commissioner Gage, seconded by Wiese to set hearing date and authorize advertising for first reading of the following zoning ordinance to be held July 18, 2023, in the Commissioner's Chambers, Courthouse Annex, Brown County, SD. Proposed Ordinance 247, applicant Toby Doeden requesting to move from Agriculture Preservation District (AG-P), to Mini-Ag District (M-AG) to bring this parcel into compliance for its current use: The North 333' of Outlot 3, "Levey's Outlots" and the East ½ of the South ½ of Outlot 2, "Levey's Outlots" in the SE ¼ of Section 24 -T123N-R65W of the 5<sup>th</sup> P.M., Brown County, South Dakota (13371 382nd Avenue, Mercier Twp.); Proposed Ordinance 248, applicant Joel & Kimberly Carda requesting to move from Agriculture Preservation District (AG-P), to Mini-Ag District (M-AG) to bring this parcel into compliance for its current use: Lot 2, Block 2, "Moulton's First Subdivision" in the SE ¼ of Section 2-T122N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota (13671 387th Avenue, Warner Twp.); Proposed Ordinance 249, applicant Erik Nolte requesting to move from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: Lot 1, "North Ten" in the SW1/4 of Section 13 & the SE1/4 of Section 14-T124N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota (12676 387<sup>th</sup> Avenue, Lincoln Twp.); Proposed Ordinance 250, applicant Barry Winkler requesting to move from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: Outlot C, "Engel Subdivision" in the NE1/4 of Section 18 -T124N-R63W, except Sulzle Outlots A & B, of the 5<sup>th</sup> P.M., Brown County, South Dakota (12643 389<sup>th</sup> Avenue, Ordway Twp.). All members present voting aye. Motion carried.

#### TOWNSHIP BOND:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the Bond for Columbia Township. All members present voting aye. Motion carried.

#### TRAVEL REQUEST:

Moved by Commissioner Dennert, seconded by Wiese to approve the following Travel Request: Dirk Rogers, Highway Superintendent to attend Hall of Honor Selection Committee meeting in Pierre on June 22, 2023. All members present voting aye. Motion carried.

#### CLAIM ASSIGNMENTS:

Moved by Commissioner Wiese, seconded by Gage 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.

#### LEASE AGREEMENTS:

Moved by Commissioner Wiese, seconded by Dennert to approve and authorize the Chairman to sign the following lease agreement: Great Plains CEF Church for lease of Richmond Youth Camp on June 26 – July 1, 2023; Watertown Human Service Agency for lease of Richmond Youth Camp on August 8-10, 2023; South Dakota Snow Queen Festival for lease of the Club House for Bands, Brews & BBQ Event on July 29, 2023. All members present voting aye. Motion carried.

#### SPECIAL EVENT LIQUOR LICENSE PERMIT HEARING:

Moved by Commission Wiese, seconded by Fjeldheim to authorize advertising public hearing for the following Special Liquor License Permit: SD Snow Queen Festival for Bands, Brews and BBQ event to be held at the Club House, Sec 30-T123N, Brown County, SD on July 18, 2023 (Special License effective July 29, 2023). 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 Chairman declared the executive session closed with no action taken.

#### ADJOURNMENT:

Moved by Commissioner Fjeldheim, seconded by Gage to adjourn the Brown County Commission meeting at 10:29 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

Published July 5, 2023, at the total approximate cost of \$\_\_\_\_\_and may be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).