

October 17, 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. The Pledge of Allegiance was led by Auditor Heupel.

APPROVAL OF AGENDA:

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

OPPORTUNITY FOR PUBLIC COMMENT: None

APPLICATION FOR OCCUPANCY – WEB WATER:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve application submitted to provide potable water line service by Web Water for occupancy of Brown County Hwy #14 in Section 22-T124-R63, Brown County, SD. All members present voting aye. Motion carried.

HIGHWAY DEPARTMENT UPDATE:

Dirk Rogers, Highway Superintendent met with the Commissioners to give them a department update. Dirk shared they are continuing with mowing, they have 4 tractors but looking to rent a couple more; Elm Lake Road is still closed but a good portion of the fencing is completed – will put another lift of gravel then be able to open the road fully in a couple of weeks; will be putting oil on Biegler Road then pave later in this week; BR93 is being replaced by Hollaway; done paving on Co. Rd. 16 this year but will still be striping; he has gotten a few calls regarding lights at the dumpster sit on south Co. Rd 10 and then doing some patching yet as well.

SUMMIT CARBON SOLUTIONS UPDATE:

Kylie Lange with Summit Carbon Solutions met with the Commission to explain further that they are wanting to produce Sustainable Aviation Fuel (SAF), which is similar to ethanol fuel, but it is blended into jet fuel; 50% can be blended with jet fuel where only 10-15% for ethanol gasoline. Kylie compared it to the Dakota Access Pipeline which runs through South Dakota but its not an energy source because it runs through as crude oil to Illinois where it is refined, become a product at which time they have the right to sell it. Where the carbon pipeline will do is sequester the CO₂ to North Dakota where they can produce SAF, without capturing the CO₂, SAF is not an option. Blend ethanol with jet fuel, for ethanol jet fuel but it's not SAF. Airlines get to choose which product to use, majority of them are making commitments to SAF, Summit Carbon and Glacial Lakes want to produce this here in the US instead of the airlines purchasing it from foreign entities, which are already working on this, and create energy independence here in the U.S. Glacial Lakes wants to make a 750-million-dollar investment into producing SAF, but not able to do this if they are not able to lower their carbon intensity score lowered.

Commissioner Sutton asked for clarification regarding the ethanol that is being produced today can be mixed with jet fuel, Kylie said no that it would need to go through a process to be turned into SAF. Then Sutton asked if the sequestration would affect the ethanol that is bringing produced, and Kylie stated no it would only be considered low carbon. Sutton stated that it only makes it low carbon because it would be sequestered instead of being emitted into the atmosphere. Kylie answered Commissioner Sutton stating that yes it will be the same final product.

Scott Bader, Planning & Zoning Director asked if they would then have two pipelines: 1 for ethanol and 1 for jet fuel. Kylie thinks that would be the case, but she and Eric Schovanec are not familiar with how it will exactly work. Eric reiterated that Glacial Lakes wants to invest 750-million-dollars and the GEVO plant in Lake Preston is a 4-billion-dollar investment that would create thousands of jobs. The proposed plant in Lake Preston will produce roughly 50-million-gallons of SAF, with the potential to build 700 plants across the world. Question is will they be built in the U.S. using domestic corn production or in China.

Jared Bossly commented that for 2 years we have been discussing this pipeline and how you are talking about the jet fuels. He feels they need pipeline to get Carbon Dioxide (CO₂) to these plants, but there are other options such as green menthol which doesn't need a pipeline. Now you are coming to the Commission saying if they don't change their ordinance and back this, you will be pulling out of the state – Jared questioned whose backing all this and its foreign entities so not sure what to think. He personally doesn't trust what they are saying now, after how they handled things the last 2 years so will need to explain things more. Eric stated they don't need CO₂ to produce SAF, the plant needs to lower their carbon ethanol. Jared again asked why they couldn't make methanol & lower their carbon footprint and then do the jet fuel process with no pipeline. Eric replied that that is not what

GEVO is proposing to do but will not build in SD if they are not able to get low carbon ethanol. GEVO is looking at other sites, so it is just a matter of where they build.

Dennis Feickert asked if there have been any studies of how much CO2 they are emitting into the atmosphere if they are using this jet fuel. Kylie replied that airlines track their emissions, when you book a flight, you have to bypass the information stating how much CO2 will be produced on the flight you are taking, which is why they want SAF to drop their score drastically. Eric stated that the only way airlines will be able to hit their goal is through SAF, jet fuel is the largest impact on their carbon intensity.

Commissioner Wiese asked what Kylie and Eric (Summit Carbon Solutions) wants from the Brown County Commission. Kylie stated they will be permitting a Conditional Use Permit so wants to give them the information and the 'Why'. Eric shared that ultimately to discuss if there could be any revision to the ordinance setback, as of now they know they have to reroute the pipeline in order to comply with the ordinance but there is no opportunity to route the pipeline to get to the plant. They are going to try to go through the process and seek out the waivers, which is going to be difficult, but as it stands now if they can't get to the Aberdeen plant it will be dropped from the project and proceed without this plant. Want to work with Brown County for a route to get to the plant. Commissioner Wiese stated the work is going to have to be done with the landowners and Planning & Zoning (P&Z) because the Commission takes the recommendations from P&Z. Kylie stated that is what she wanted to discuss because she understands that they can't work with P&Z or even get on their agenda until Summit submits a Conditional Use Permit, she was hoping for a more collaborative process to discuss the route, where they are in the County, but that sounds like it's not an option. Commissioner Gage explained the process that you need to have everything in order, P&Z doesn't do the groundwork, but you can work with Scott Bader, P & Z Director as far as what you need for this.

Commissioner Dennert asked if they could come in and show the Plume Study. Kylie shared the Director of Engineering (Alex Lange) is presenting it to the Emergency Managers and First Responders at this time: it took 2 hours for a one-on-one explanation but don't have a presentation at this time.

Commissioner Fjeldheim stated that the Aberdeen Plant seems to be the hang-up, why can't they attach to another plant such as Watertown. Eric responded that most of the plants are surrounded by businesses, they want to explore the opportunities, seek out the waivers so they can access the Aberdeen plant. Dennis Feickert asked if Commission has had any update from Emergency Management Director and Chairman Sutton shares Scott Meints is listening in on the meetings, but he has not given Commission any updates. Kylie wanted to answer Commissioner Fjeldheim as to why the Aberdeen plant: they did a study and with having two plants within 13 miles of each other – they would piggyback off each other - ethanol from Aberdeen Plant and proposing SAF conversion at Mina plant. Commissioner Gage shared they will need to work on the Conditional Use Permit and once have everything they can present to the P&Z Board, as far as project or routing update that can be done through the Commission meetings: the P&Z Board pays attention to the Commission meetings and Scott Bader is a good resource for finding out the process. Dennis Feickert commented that it comes down to Freedom and Property Rights and feels the Grant lends towards a bribe to influence the Counties. Kylie replied they were asked for transparency, give us information and you wanted us to prove that we'd take care of the First Responders, so they provided the written letter on the grant, not a bribe, which went to the Emergency Managers to get to the right people. Eric wanted to clarify that this is not for only Brown County, they have heard that budgets are strapped, this is an opportunity to give money & the equipment, where it's needed. Dennis feels that Summit Carbon Solutions should draft a contract and sign it, that specifically states they will pay for any damages created or caused, any equipment needed or used, any loss of life would cover all these costs – if and when the pipeline goes through.

FAIR TICKETING SERVICES:

Rachel Kippely, Fair/Fairgrounds/Parks Manager met with the Commission to discuss ticketing services for the Brown County Fair. Rachel got quotes from Saffire, Etix, Midwest Tix, Virtual Tickets, AttendStar, Showpass and Tixr and presented them to the Fair Board last week. The Fair has been using Showclix for several years, but the Customer Service is not what we need for Tech Support and Troubleshooting. Etix is who they'd like to recommend. The box office fee, which the Fair absorbs would go from 25 cents to 15 cents, which we would be invoiced for; they would continue the same for credit card/online purchases the cost will go to a flat fee of \$2.50 per ticket instead of varying based on the amount of sales and the buyer will still absorb the credit card fees. Rachel shared if they would decide to go with their recommendation it would take 2-4 weeks to Onboard, which is the mapping on the website: only the yellow now will be the reserved seating in the Larry Gerlach Grandstand. Discussion was held on Event Insurance for refunds, but policy states ticket sales are final and not refundable. Rachel said that kiosks are becoming more popular and are thinking or trying 1 or 2 at the Fair this year, as well.

Etix is used by the ND and MN State Fairs. Commissioner Wiese suggested to go into Executive Session to discuss contracts. Moved by Commissioner Wiese, seconded by Gage to go into Executive Session for contracts per SDCL 1-25-2. All members present voting aye. Motion carried. The Chairman declared the executive session closed with no action taken.

Chairman Sutton shared they have a proposal from E-tix so asked for a motion to approve for Option 1. Moved by Commissioner Dennert, seconded by Wiese to accept the proposal from E-tix, option 1. All members present voting aye. Motion carried.

FAIR BOARD MEMBER RECOMMENDATIONS:

Rachel Kippely, Fair/Fairgrounds/Parks Manager presented recommendation from the Fair Board to appoint the following Fair Board Members: Dylan Frey, Lee Kock and Trevor Meints for 3-year terms; reappoint Dwight Guthmiller, Jeff Kippely, Mike Nehls and Nancy Radke for their second 3-year terms; recommend a second 1-year term appointment for Jayson Tollefson and Greg Markley. Moved by Commissioner Wiese, seconded by Fjeldheim to approve the Fair Board recommendations as listed above. All members voting aye. Motion carried.

ORDINANCE #257 – FIRST READING:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the First Reading of Proposed Ordinance #257. Applicant Brown County Planning & Zoning requesting to amended to change zoning on the described properties from Heavy Industrial District (H-I) to Highway Commercial District (HC) to bring these parcels into compliance for their current use: Lot 1 & Lot 2, “S&C Schipke Subdivision of Lot 1, D&S Business Park First Addition”, Lot 2 thru 8 “D&S Business Park First Addition” & Lot 1 thru 10 “Todd Rosebrock First Subdivision”, all in the NW ¼ of Section 9-T123N-R63W of the 5th P.M., Brown County, South Dakota (4051, 4063, 4050, 4202, 4230, 4302, 4301, 4231 & 4201 Schipke Lane; 4095, 4185, 4275, 4365, 4395, 4390, 4360, 4270, 4180 & 4090 Paper Lane; Aberdeen Twp.). All members present voting aye. Motion carried.

ORDINANCE #258 – FIRST READING:

Moved by Commissioner Gage, seconded by Wiese to approve the First Reading of Proposed Ordinance #258. Applicant Nickolas & Nicole Johnson requesting to rezone from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: The 343.5 feet next North of the South 343.5 feet of Outlot D “Engel Subdivision” in the NE ¼ of Section 18-T124N-R63W of the 5th P.M., Brown County, South Dakota (12625 389th Ave., Ordway Twp.). All members present voting aye. Motion carried.

ORDINANCE #259– FIRST READING:

Moved by Commissioner Fjeldheim, seconded by Dennert to approve the First Reading of Proposed Ordinance #259. Applicant Bernie & Tonya Jark requesting to rezone from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for their current use: Proposed Lot 1A, “Bernie & Tonya Jark First Subdivision” in the SE ¼ of Section 5-T121N-R62W of the 5th P.M., Brown County, South Dakota (14265 396th Ave., East Rondell Twp.). All members present voting aye. Motion carried.

STATE’S ATTORNEY UNIFORM POLICY:

Karly Winter, State’s Attorney presented the Commission a Clothing/Logo Apparel Policy for the State’s Attorney office. After some discussion, Commissioner Dennert moved to approve the policy presented: State Attorney Office (SAO) staff may be allotted logo-apparel which identifies them as employees of the Brown County SAO. Clothing purchased with department funds must be appropriate in both cost and function for the work performed and is subject to department-head approval. Department-head approval will be dependent on availability of funds each year. Employees should not wear SAO logo apparel items outside of work hours unless for stops incidental to trips to and from work. SAO logo apparel items should not be worn in non-professional settings, such as bars and lounges. Employees may be required to return items purchased with department funds upon termination of SAO employment. Seconded by Commissioner Wiese. All members present voting aye. Motion carried.

MINUTES:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the General Meeting minutes of October 10, 2023. All members present voting aye. Motion carried.

CLAIMS/PAYROLL:

Moved by Commissioner Dennert, seconded by Wiese to approve the following claims: Insurance: Claims Associates \$5,000.00; SD Assoc of Country Commissioners \$5,942.00. Professional Fees: Bill Schaeffer \$15.00; Certified Languages International LLC \$1,211.10; CGI, LLC \$1,386.88; Christy Griffin-Serr Law Office \$7,211.64; Cogley Law Office, Prof LLC \$7,211.64; Dakota Group LLC \$2,100.00; Dohrer Law Office, PC \$7,211.64; Fox Law Firm, PLLC \$160.00; Jerald M. McNeary \$7,211.64; Jeremy Lund - Siegel Barnett & Schutz, LLP \$7,211.64; John Noyes-Bantz, Gosch & Cremer \$7,211.64; Koletzky Law Office, Prof. LLC \$224.70; Kuck Law Office \$7,211.64; Lewis & Clark BHS \$426.00; Mark Katterhagen \$15.00; Northeastern Mental Health Center \$754.00; NSU Women's Swim Club \$7,000.00; Sanford Health Occupational Medicine \$143.00; SD Dept of Health \$1,380.00; SD Dept of Revenue & Regulations \$2,387.70; SDACC \$1,000.00; SDSU Extension \$103.40; Taliaferro Law Firm, PC \$7,211.64; Thurman Law Office \$593.85; Yankton County Sheriff's Office \$50.00. Publishing: GateHouse Media South Dakota Holdings, Inc \$669.84; Groton Daily Independent \$1,025.56; Hireclick-Keloland Employment \$1,788.00; McQuillen Creative Group, Inc \$918.00; West River Eagle \$13.65. Rentals: Aramark \$257.32; Mike Nehls \$80.62; Pantorium Cleaners Inc \$259.20. Repairs & Maintenance: Aberdeen Chrysler Center \$454.95; Artz Equipment, Inc \$207.13; Century Business Products \$163.03; Fastcase Inc \$528.00; IMEG Corp \$49,730.98; Jebro Inc \$600.00; Jensen Rock & Sand Inc \$4,403.61; JGE, Inc \$18,250.00; Lawson Products, Inc \$78.62; Pantorium Cleaners Inc \$683.77; Pheasantland Industries, Garment Division \$14.89; Sewer Duck, Inc \$377.50; Transource \$136.58; Western States Fire Protection Co \$4,693.00. Supplies: Aberdeen Chrysler Center \$1,257.91; Aberdeen Pit Stop \$4.70; Advance Auto Parts \$535.62; Agtegra Cooperative \$1,953.82; Amazon Capital Services, Inc \$563.99; Cartney Bearing \$344.03; Century Business Products \$1,322.16; Dakota Oil \$178.20; DSS Image Apparel \$514.00; Ellie Weinmeister \$97.66; Farm Tire Service LLC \$1,525.00; FedEx \$19.13; Fox Law Firm, PLLC \$2.88; GovConnection, Inc \$744.40; Jensen Rock & Sand Inc \$93,740.28; Karen Swank \$721.50; Koletzky Law Office, Prof. LLC \$6.00; Lawson Products, Inc \$898.21; Leidholdt Tool Sales, LLC \$142.39; Lien Transportation Company \$378,559.14; Linde Gas & Equipment Inc \$622.06; Mac's Inc-Capital One Trade Credit \$2,025.00; Matador Detailing \$359.00; Menards \$86.27; Midstates Group \$240.80; Midwest Pump & Tank \$239.10; Napa Central \$42.98; NVC \$26.97; Performance Oil \$325.19; PharmChem, Inc \$694.17; Pheasantland Industries, Garment Division \$226.00; Pomp's Tire Service, Inc \$66.60; Pro Ag Supply, Inc \$18.58; Quality Welding, Inc \$34.00; Runnings \$1,145.14; Sanford Health Occupational Medicine \$385.00; Thee Glass Doktor, LLC \$609.40; Thomson Reuters-West Payment Center \$1,894.62; Thurman Law Office \$6.90; Titan Machinery \$248.00; Transource \$2,869.79; WEB Water Bottling Company \$19.50. Travel & Conference: Adelaide Mouna \$617.16; Brandon Duxbury \$94.00; Karla Nelson \$589.66; Logan Flack \$182.69; Mariann Marttila-Klipfel \$94.00; Mike Nehls \$494.50; Patricia Kendall \$94.00; Stephanie Morgan \$348.18; Tucker Anderson \$196.18. Utilities: CenturyLink \$128.70; City of Aberdeen Treasurer \$893.29; City of Hecla \$142.30; James Valley Telecommunications \$209.10; Midcontinent Communications \$208.78; Midwest Alarm Fire & Security Systems \$306.73; Northwestern Electric \$86.00; Northwestern Energy \$105.35; NVC \$2,989.99; Verizon Wireless \$4,253.24. Others: Brown County Sheriff's Office \$128,416.50; F&L Investments, LLC \$1,267.69; SD Assoc of County Officials \$766.00; SD Dept of Revenue & Regulations \$916,746.22. All members present voting aye. Motion carried.

HR REPORT:

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

- Employment ending for Nancy Radke, Brown County Fair & Parks, seasonal; effective October 6, 2023; Richard Burns, Brown County Fair & Parks Maintenance, PT; effective October 27, 2023; John Weig, Brown County Fair & Parks, seasonal; effective October 19, 2023.
- Employment ending for Megan Bierman, Brown County 911 Communications Officer, FT; effective October 10, 2023. Request to fill.
- Resignation of Zachary Wicaryus, Brown County Jail Detention Officer, FT; effective October 8, 2023. Request to fill.
- Retirement of Kendall Titze, Brown County Highway Roads & Bridges Operations Supervisor, FT; effective December 23, 2023.
- Transfer of Matt Heupel from Brown County Highway Equipment Operator to Brown County Roads & Bridges Operations Supervisor, wage \$27.80/hour; effective October 16, 2023.
- Transfer of Joshua Matthews from Brown County Highway Road & Bridge Crew Leader to Brown County Highway Roads & Bridges Operations Supervisor, wage \$27.80/hour; effective October 16, 2023.
- Approve personal miles driven for July 2023 at .62 per mile as follows: Kendell Titze 90 miles at \$55.80; John Florey 114 miles at \$70.68; Mike Scott 160 miles at \$99.20.

- Approve personal miles driven for August 2023 at .62 per mile as follows: Kendell Titze 138 miles at \$85.56; John Florey 126 miles at \$78.12; Mike Scott 220 miles at \$136.40.
- Approve personal miles driven for September 2023 at .62 per mile as follows: Kendall Titze 102 miles at \$63.24; John Florey 114 miles at \$70.68; Mike Scott 150 miles at \$93.00.

All members present voting aye. Motion carried.

OPERATING TRANSFER FOR HIGHWAY DEPT.:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve and authorize the following operating transfer from the General Fund #101-5.911.191 in total amount of \$3,805,500.00 to the Road and Bridge Fund #201-4.371 @ \$3,805,500.00, as reflected in the 2023 General Fund Budget. All members present voting aye. Motion carried.

AUDITORS REPORT OF ACCOUNTS FOR AUGUST 2023:

Moved by Commissioner Dennert, seconded by Gage to approve the Auditor's Report of Accounts of August 2023 as follows: Total Cash and Checks on Hand \$7,700.00; Total Checking Account Balances \$20,792,675.31; Total Savings Account Balances \$1,325,447.42; Total Certificates of Deposit \$5,479,550.72; Grand Total Cash & Balances \$27,605,373.45. General Fund Cash and Investment Balances by Funds: General Fund \$17,538,850.77; Road & Bridge Fund (\$413,152.44); Road & Bridge Fund-restricted \$423,243.27; 911 Service \$793,275.70; Emergency & Disaster \$98,978.02; Domestic Abuse \$1,226.53; Teen Court \$0.00; Grant \$32.11; SA Grants \$51,047.03; Truancy Court 221.23; Richmond Youth Camp \$0.00; 24/7 Sobriety \$7,980.62; ROD M&P \$101,019.16; American Rescue Plan Federal Grant \$0.00; Rural Access Infrastructure \$442,663.63; TIF Debt Service \$25,962.07; Landfill + cash change \$4,512,790.94; Landfill – restricted \$1,400,479.44; Trust and Agency Funds \$2,620,755.57; Grand Total General Fund Cash & Investments \$27,605,373.45. All members present voting aye. Motion carried.

LEASE AGREEMENT:

Moved by Commissioner Wiese, seconded by Fjeldheim to approve and authorize the Chairman to sign the following lease agreement: Hannah Carlson for lease of Richmond Lake Youth Camp on November 3-4, 2023, for Birthday Party. All members present voting aye. Motion carried.

OTHER BUSINESS:

Commissioner Dennert brought the following Resolution:

Resolution #46-23

WHEREAS, our Founding Fathers created and adopted the United States Constitution in 1787, thereby setting forth the supreme law of the United States of America; and

WHEREAS, the first ten amendments to the Constitution, written by James Madison to guarantee individual freedoms, were ratified in 1791 and became known collectively as the Bill of Rights; and

WHEREAS, The First Amendment states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"; and

WHEREAS, Freedom of speech is a right guaranteed to all Americans; and

WHEREAS, Free Speech Week, a national, annual, non-partisan, commemorative event, takes place during the third full week of October to raise awareness of the importance of free speech and free press in the United States; and

WHEREAS, Free Speech Week is designed to be an inclusive celebration for all Americans, and as such, a wide variety of organizations, schools and individuals across the country will conduct activities and events devoted to free speech topics to mark the week; and

WHEREAS, Free Speech Week is also an opportunity to share information with the public and the media as a way of furthering the vision of our Founding Fathers;

NOW, THEREFORE, We the Brown County Commission do hereby proclaim October 16-22, 2023, to be Free Speech Week, and encourage all citizens to participate in the celebration of this fundamental freedom.

Dated this 17th day of October 2023.

Seconded by Commissioner Wiese. Roll call vote: Dennert – aye; Fjeldheim – aye; Wiese – aye; Gage – aye; Sutton - aye. Resolution adopted.

EXECUTIVE SESSION:

Moved by Commissioner Fjeldheim, seconded by Wiese to go into Executive Session for Personnel 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 Wiese, seconded by Dennert to adjourn the Brown County Commission meeting at 10:41 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

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