

October 31, 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 Commissioner Fjeldheim.

APPROVAL OF AGENDA:

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

OPPORTUNITY FOR PUBLIC COMMENT:

Carl Perry, District 3 Representative wanted to visit regarding the petition process at the Courthouse; Chairman Sutton shared that was on the agenda to be discussed later. Representative Perry then shared information on the Constitutional Amendment regarding Abortion and feels it is a true extreme and great threat to life of our state.

LIQUOR LICENSE TRANSFER:

Moved by Commissioner Wiese, seconded by Gage to approve the transfer of the following license: RETAIL (ON-SALE) LIQUOR – UPDATING LOCATION: Stacy Gossman, DBA Nacho Business to update location from 578 N. Roosevelt St., Aberdeen, SD – Lot 1, Creekside Addition in the NW ¼ of Sec 17-T123N-R63W of the 5th P.M. to 2520 8th Ave. NE, Ste. G, Aberdeen, SD 57401 – Lot 1 Ronnie’s Way Addition in the NW ¼ of Sec 17-T123-R63W of the 5th P.M., Brown County, SD. All members present voting aye. Motion carried.

ORDINANCE #257 – SECOND READING/ADOPTION:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the Second Reading and Adopt Ordinance #257. Filed by Brown County Planning & Zoning Department to rezone the following described properties from Heavy Industrial District (H-I) to Highway Commercial District (HC) to bring these parcels into compliance with 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 1/4 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 – SECOND READING/ADOPTION:

Moved by Commissioner Dennert, seconded by Wiese to approve the Second Reading and Adopt Ordinance #258. Filed by Nickolas & Nicole Johnson 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 1/4 of Section 18-T124N-R63W of the 5th P.M., Brown County, South Dakota (12625 389th Avenue, Ordway Twp.). All members present voting aye. Motion carried.

ORDINANCE #259 – SECOND READING/ADOPTION:

Moved by Commissioner Gage, seconded by Fjeldheim to approve the Second Reading and Adopt Ordinance #259. Filed by Bernie & Tonya Jark to rezone from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: Proposed Lot 1A, “Bernie & Tonya Jark First Subdivision” in the SE 1/4 of Section 5-T121N-R62W of the 5th P.M., Brown County, South Dakota (14265 396th Avenue, East Rondell Twp.). All members present voting aye. Motion carried.

VETERAN’S SERVICE OFFICE – CLOTHING/LOGO POLICY:

Aaron Walberg, Veterans Service Officer presented the Commission a Clothing/Logo Apparel Policy for the Veterans Service Office. After some discussion, Commissioner Fjeldheim moved to approve the policy presented: Veteran’s Service Office (VSO) staff may be allotted logo-apparel which identifies them as employees of the Brown County VSO. 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 VSO logo apparel items outside of work hours unless for community outreach and trips to and from the office. VSO 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 VSO employment. Seconded by Commissioner Gage. All members present voting aye. Motion carried.

OPERATION GREEN LIGHT:

Chairman Sutton shared that NaCO had posted a challenge to light up the Courthouses in Green from November 6 – 12, 2023 showing support for Veterans. Sutton stated that he is proud to share that they have been working with the Maintenance and Emergency Management Departments to secure spotlights that we light the Courthouse Green next week to support Veterans. Aaron Walberg shared that there are over 2400 Veterans in Brown County, so he appreciates this.

APPLICATION FOR OCCUPANCY – WEB WATER:

Moved by Commissioner Wiese, seconded by Dennert to approve application submitted to provide potable water line service by Web Water for occupancy of Brown County Hwy #9 in Section 1-T125-R63, Brown County, SD. All members present voting aye. Motion carried.

HIGHWAY DEPARTMENT UPDATE:

Dirk Rogers, Highway Superintendent met with the Commission to give them a department update. Dirk shared they are still mowing; hauling gravel to finish up at Elm Lake – should be officially opening the road tomorrow – finishing up the fencing; cold-mix patching with a couple more days of hot mix patching; Bridge 93 south of Groton has been completed by Holloway; return to 8-hour days on Monday, November 6th; staffing – had 3 new hires recently and everything is going well. Commissioner Gage, asked about striping 12W off the bypass curve – Dirk shared he will look into it. Dirk informed the Commission that Russ Podoll, former Highway Superintendent had passed away.

LIMITED PUBLIC USE POLICY:

Chairman Sutton shared that we have had the sidewalk on the west side of the annex occupied by a couple different groups, in the 15 years that he has been a Commissioner he doesn't recall any causes setting up at the Courthouse before but as a result of this it has been decided to put together a policy and the States Attorney office has been working on this with input from two other counties: Minnehaha and Pennington, facing similar issues. Asked for public input but not to debate either side of the issue; this is strictly Brown County Policy on location – what we will allow or disallow in this policy regarding this issue. Chairman Sutton asked Ross Aldentaler, States Attorney Deputy to explain the Pennington County policy and how that would work for Brown County. Ross stated that sidewalks are considered public forums so ability to control or regulate that is limited; issue came up due to the weather changing and in absence of a policy we were looking at ways to accommodating but it lasted about 4 hours before there were some issues; inside the building is a non-public forum, we can open it up for access but we don't have to, both Minnehaha and Pennington are limiting it to outside areas; another thing we need to account for is the Community Room in the basement so would need to build in an exception for that; needs to view point neutral can't be one side of the issue or other – policy needs to apply to everyone. Chairman Sutton stated that he feels we have the right to require them to stay outside the building and not allow them inside; he feels it has been more prominent due to people coming in to pay their property taxes and since today is the last day to be on time, the traffic will probably slow down and the problem may remedy itself but given the fact the Courthouse is a public entity and open to the public and as States Attorney stated we don't have to allow people inside, they have the right to be outside in an area that our new policy will designate that area to eliminate the problem going forward. Then opened for comments on the policy only not to debate either side of the issue. Dave Green had a couple of comments: wanted to know who would be liable if someone is hurt by a petitioner because some of them are being paid; who's responsible. Brandie Schaeffbauer, District 3 Representative wanted to share a personal experience she had being on one-side of the issue; there are 3 petitions, and they are non-partisan – then both sides of the issue needs to be done – one side can not silence the other. Senator Al Novstrup shared what you can and can't do under Constitutional Law; can't be involved in the content - Freedom of Speech is not unlimited, it is limited by time and place; can't unreasonably restrict the place. Senator Novstrup believes this activity should not be inside the building and recommends having a setback from the entrance to the courthouse. After further discussion, Commissioner Dennert made a motion for a temporary verbal policy until a written policy is presented: restrict any political solicitation or signage be outside only; 10 feet from any entrance; effective immediately. Seconded by Gage. All members present voting aye. Motion carried.

NOTICE TO PROCEED FOR LANDFILL SCALE BID:

Moved by Commissioner Wiese, seconded by Fjeldheim to approve and authorize Chairman Sutton to sign the Notice to Proceed for Landfill Scale Bid. All members present voting aye. Motion carried.

MINUTES:

Moved by Commissioner Wiese, seconded by Gage to approve the General Meeting minutes of October 24, 2023. All members present voting aye. Motion carried.

CLAIMS/PAYROLL:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the following Claims: Professional Fees: Avera St. Luke's Hospital \$3,267.00; Carrels & Bain Family Dental Care, LLC \$545.07; CenturyLink-Lumen \$183.17; CGI, LLC \$602.50; Civil Solutions LLC \$1,472.35; Horizon Health Care, Inc \$2,321.33; Kristi Brandt \$57.50; Northern Plains Appraisal, LLC \$36.00; Sanford Aberdeen ED \$110.93; Sanford Aberdeen Medical Center \$2,525.03; SD Dept of Transportation \$2,688.58; State Bar of South Dakota \$500.00; Thomas L. Price M.A., PhD \$2,400.00. Publishing: GateHouse Media California Holdings, Inc \$56.76; Groton Daily Independent \$230.96; The Argus Leader \$21.93; Todd County Tribune/Mellette County News \$25.19. Repairs & Maintenance: ABC Seamless Siding & Windows \$1,505.10; Aberdeen Chrysler Center \$442.40; Dakota Concrete Inc \$1,361.00; Dakota Supply Group \$49.42; Day County Treasurer \$1,276.15; Fulcrum Biometrics \$749.00; Hase Plumbing, Heating & Air Conditioning, Inc \$1,741.39; Hollaway Bridge and Culvert, Inc \$162,436.52; House of Glass \$6,832.35; Hoven Auto Repair, Inc \$502.99; Ken's Alignment \$415.16; Leidholt Electric, LLC \$644.80; Lien Transportation \$757,763.93; Nardini Fire Equipment \$453.00; Pro Concrete Raising \$3,468.00; Rinker Materials \$50,530.60; Schwan Welding \$1,038.64. Supplies: Aberdeen Chrysler Center \$1,164.35; Amazon Capital Services, Inc \$699.99; Century Business Products \$263.44; Creative Product Sourcing, Inc \$269.90; Dakota Electronics \$1,737.85; DSS Image Apparel \$914.50; Jensen Rock & Sand Inc \$92,558.25; Karen Swank \$60.50; LabSource, Inc \$616.05; Lar-Jo's Specialties \$745.15; Leidholdt Tool Sales, LLC \$29.10; Lien Transportation \$110,380.85; Matheson Tri-Gas, Inc \$109.79; Menards \$100.64; Midwest Pump & Tank \$155.27; Runnings \$4.47; Safety Service \$4,287.70; Share Corporation \$781.80; Thomson Reuters-West Payment Center \$278.99. Travel & Conference: Kelsi Vinger \$413.66; USD Center for the Prevention of Child Maltreatment \$150.00; Wambli Ska Okolakiciye \$1,200.00. Utilities: Midcontinent Communications \$138.23; Montana-Dakota Utilities Co \$27.25; Northwestern Energy \$3,528.06. Others: WEX Health Inc \$5,000.00. All members present voting aye. Motion carried.

HR REPORT:

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

- Temporary transfer of Gerald Lehrkamp from Brown County Weed & Pest Control Technician to Brown County Highway Mechanic, effective November 6, 2023.
- Temporary transfer of Michael Rohrbach from Brown County Weed & Pest Control Technician to Brown County Highway Equipment Operator, effective November 6, 2023.
- Temporary transfer of Chris Hemen from Brown County Weed & Pest Control to Brown County States Attorney's Office, effective November 6, 2023.
- Resignation of Ashely Schnell, Brown County 911 Communications Officer, FT, effective October 23, 2023. Request to fill.
- Hiring of Jason Stichka as Brown County Jail Detention Officer, FT, starting wage \$20.67/hour; effective October 29, 2023.
- Hiring of Chase Galbraith as Brown County Jail Detention Officer, FT, starting wage \$20.67/hour; effective November 13, 2023.
- Request to fill Brown County Equalization Appraisal Technician, FT.

All members present voting aye. Motion carried.

LIQUOR LICENSE RENEWALS:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the following applications for liquor license renewals of Alcoholic Beverage Licenses to operate outside of the Municipality: PACKAGE (OFF-SALE) LIQUOR: P'ZA Inc DBA Anchors Away Lodge & Resort (Palmer's Richmond Resort SD Lt 1, SD OL 1 Richmond OL 1 & 2) AND Dustin Guthmiller DBA Bath Quick Stop LLC (Lot B Weismantels 1st SD Lot 1 Ex. N 12' Jenkins SD Inc Adjacent N 12' Lot 1 Jenkins SD E2 SE 18-123-62) AND Travis Swenson DBA Elm Lake Resort LLC (Lot 1 Elm Lake Resort SE 8-128-65) AND Roderic L Hanson DBA Ferney Farmers Bar (Lot 4-5, Block 5 Ferney SW 31-122-60) AND Jackie Chantal LLC DBA Richmond Oasis (Lot 4 Schaeffer Richmond Lake 2nd Addition NW & NE 25-124-65). RETAIL (ON-SALE) LIQUOR: P'ZA Inc DBA Anchors Away Lodge

& Resort (Palmer's Richmond Resort SD Lt 1, SD OL 1 Richmond OL 1 & 2) AND Stacy J Gossman DBA Big Fella's (Lot 1B, Gossman 1st Addition, S2 15-123-63) AND Travis Swenson DBA Elm Lake Resort LLC (Lot 1 Elm Lake Resort SE 8-128-65) AND Roderic L Hanson DBA Ferney Farmers Bar (Lots 4 & 5, Block 5, Ferney, 31-122-60) AND Stacy J Gossman DBA Flying Pig (Lot 1 Ronnie's Way Addition, NW ½ of Section 17-T123-R63W) AND Moccasin Creek Country Club Inc (Prairiewood Village OL 7, E2, 33-124-63) AND Stacy Gossman DBA Nacho Business (Lot 1 Ronnie's Way Addition, NW ¼ of Section 17-T123-R63W) AND Tyler Jones DBA: Tacoma Park Place LLC (5 acres in NE Corner of NW ¼ 23-124-62). RETAIL (ON-OFF-SALE) WINE AND CIDER: ARR LCC DBA Flatland Flyways Lodge (Russo's OL 1 NW ¼ 1-127-62) AND Moccasin Creek Country Club (Prairiewood Village OL 7, E2, 33-124-63) AND Parkview Nursery (Lot 1, Parkview Nursery Addition, NE ¼ Section 25-T123-R64). All members present voting aye. Motion carried.

CLAIM ASSIGNMENT:

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

AUDITORS REPORT OF ACCOUNTS FOR SEPTEMBER 2023:

Moved by Commissioner Gage, seconded by Wiese to approve the Auditor's Report of Accounts of September 2023 as follows: Total Cash and Checks on Hand \$7,700.00; Total Checking Account Balances \$19,640,922.40; Total Savings Account Balances \$1,425,447.42; Total Certificates of Deposit \$5,479,550.72; Grand Total Cash & Balances \$26,553,620.54. General Fund Cash and Investment Balances by Funds: General Fund \$16,954,793.77; Road & Bridge Fund (\$1,522,893.83); Road & Bridge Fund-restricted \$423,243.27; 911 Service \$715,646.79; Emergency & Disaster \$133,476.12; Domestic Abuse \$1,243.50; Teen Court \$0.00; Grant \$32.11; SA Grants \$56,978.00; Truancy Court 221.23; Richmond Youth Camp \$0.00; 24/7 Sobriety (\$2,799.56); ROD M&P \$102,168.16; American Rescue Plan Federal Grant \$0.00; Rural Access Infrastructure \$442,663.63; TIF Debt Service \$25,962.07; Landfill + cash change \$4,550,297.50; Landfill – restricted \$1,400,479.44; Trust and Agency Funds \$3,272,108.34; Grand Total General Fund Cash & Investments \$26,553,620.54. All members present voting aye. Motion carried.

NOTICE OF TAX DEED SALE:

Moved by Commissioner Fjeldheim, seconded by Dennert to authorize advertising the following described properties to be offered for sale by auction in the Community Room, Brown County Courthouse Annex on November 20, 2023 at 10:00am and further to declare property surplus for purpose of sale: Aberdeen City: Lot – 402 N. Lloyd St. (Lt 1 Brown County Commissioner's 4TH SD; LT 13-14 BK 27 Hagerty & Lloyd Addition), Aberdeen, Brown County, South Dakota; Lot – 912 S. 3rd St. (LT 1 BK 56 Thomas Addition) Aberdeen, Brown County, South Dakota; Lot – 1118 S. Aldrich St. (LT 1 Brown County Commissioner's 5TH SD; LT 928-929 Morning Heights Ext. Addition) Aberdeen, Brown County, South Dakota; Lot – 810 2nd Ave. NE (LT 6 BK 43 Hagerty & Lloyd Addition) Aberdeen, Brown County, South Dakota; Lot – 605 N. Arch St. (LT 1 Brown County Commissioner's 6TH SD; LT 10 & N 10' LT 11 BK 10 Hagerty & Lloyd Addition) Aberdeen, Brown County South Dakota; Lot – 1400 9th Ave. SW (E 2' LT 12 BK 8 Highland Park Addition) Aberdeen, Brown County, South Dakota. All members present voting aye. Motion carried.

TRAVEL REQUESTS:

Moved by Commissioner Gage, seconded by Wiese to approve the following Travel Requests: Gene Loeschke, Joe Kraft & Kathy Fischer from DOE to attend Property Rights Presentation on November 9, 2023 in Brookings; Lynn Heupel, Auditor to attend Lake Region Meeting on November 16, 2023 in Veblen. All members present voting aye. Motion carried.

ZONING ORDINANCE – SET HEARING DATE/AUTHORIZE PUBLICATION:

Moved by Commissioner Gage, seconded by Wiese to set hearing date and authorize publication for first reading of the following zoning ordinance to be held on November 21, 2023, in the Commissioner's Chambers, Courthouse Annex, Brown County, SD. Proposed Ordinance #261, applicant Brown County Planning & Zoning to consider an ordinance adding to Title 4 Zoning, Chapter 4.2015 "Fences". (The proposed ordinance is available for public inspection at the Brown County Auditor's Office or Brown County Planning & Zoning Office during regular business hours). All members present voting aye. Motion carried.

OTHER BUSINESS: None

EXECUTIVE SESSION:

Moved by Commissioner Wiese, seconded by Dennert to go into Executive Session for Personnel 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 Wiese to adjourn the Brown County Commission meeting at 9:52 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

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