

December 5, 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, Gage, Sutton and Wiese. The Pledge of Allegiance was led by Commissioner Dennert.

APPROVAL OF AGENDA:

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

OPPORTUNITY FOR PUBLIC COMMENT: None

ORDINANCE #261 – SECOND READING/ADOPTION:

Moved by Commissioner Fjeldheim, seconded by Gage to adopt Ordinance #261. An Ordinance adding to the Second Revision of Title 4 Zoning, Chapter 4.2015 “Fences”. (Copies of the full Ordinance are available at the Brown County Auditor’s Office or Brown County Planning & Zoning Office during regular business hours). All members present voting aye. Motion carried.

LANDOWNERS CONCERNED WITH SUMMIT CARBON SOLUTIONS REROUTING PLANS:

Dennis Feickert met with the Commission to share that Summit is trying to figure out a new route, but speculation is they are trying to avoid McPherson County due to their 1-mile setback, where Brown County is 1500 feet. No one has been able to get a map. A resident by Elm Lake was contacted about 3 weeks ago by Summit and he asked for a description of the land, where the pipeline was going to go but they couldn’t give him a land description at that time, he hasn’t heard back from anyone since then. Dennis has been contacted by a few landowners that were contacted to see if they were interested in signing an easement and questioning the route. A meeting was held at Steve Dutenhoffer’s shop, consensus is ‘No’ we don’t want the pipeline. The group of people opposed to the pipeline has grown, and we have the Brown County Commission to thank for digging your heels in and staying on course. The group feels this is a money grab and a multitude of issues such as safety, land disturbance and insurance. Dennis informed the Commission there is a new group formed now called South Dakota Alliance, they are going to be working on legislation and other things to try to strip local government of their ability to pass setback ordinances. Summit Carbon Solutions has hired Lawrence & Schiller advertising company to promote the pipeline in order to save the ethanol industry and anything else they can think of to make this pipeline so great.

Chairman Sutton shared that he reached out to the Planning & Zoning Director to see if they had been provided a new proposed map and they had received nothing.

Jared Bossly shared that he has also had people reaching out to him wondering where things were at or if the deal was dead since it’s been such a long pause but none of us have accepted that this is going away, but every conversation he has had with people it has been ‘No’ and they don’t want this pipeline either. It is not just us a few radicals Farmers that nobody can get along with, which is what we’ve been labeled. Jared commented there are a lot of new faces here today and this is happening all over in all the counties that Summit Carbon is trying to do this and he was glad to see everybody here and also thanked the Commission for what they’ve done but we need to keep this fight up because the people do not want this project and there is a lot of issues, even investor issues. We need to keep fighting the fight.

Chairman Sutton stated that he has also heard that there is going to be an attempt during the legislative session to introduce a bill or several bills that would circumvent the County’s ability to have a final say in Planning & Zoning, setbacks, and all. He commented that we all need to be very diligent and keep an eye on this matter because the last thing we need is the State making decision for Counties on what’s going on within counties – local control is critical in having a say in what happens in the future. Chairman Sutton shared that they hear everyone’s concerns, and the Commission will stay on top of it.

Ed Fischbach shared this new Alliance group has been quoted publicly now in the media and at public meetings that they have 2 goals: First one is to take away all local authority from the Counties and place it in the hands of the State Legislature – we need to be very vigilant and fight back on this. The second goal is that if they have a private company that says they have a 2/3% of people that have signed easements whether they’ve been coerced or did it voluntarily then that company can use the eminent domain procedure on everybody. We are also opposed to this and we’re going to speak out and fight this as well. From their perspective, they have 3 bills that we have

filed with the LRC, that we believe are common sense bills: First one is No Eminent Domain procedure should be implemented on anyone until there's an actual permit granted by the PUC (not just pending it must be granted). The second one is No Surveying of any kind until there is an approved permit granted by the PUC – this is to avoid another situation like what happened at Jared Bossly's place. Third one is very specific that No Eminent Domain should be used for CO2 pipelines – last session there was some opposition to our Bill 1133 because we had other utility groups come in and didn't think it was clear enough and it might affect them so this time, we are being more specific and very clear. All these bills have been filed and sponsored by State Representative Carla Limbs. Ed stated there may be other bills that come down the line but this is what they are proposing at this time and we are going to fight their attempts on their two goals and Ed appreciates Chairman Suttons comments because nobody around here wants anything taken away from local control and Spink County Commission feels the same way and they're going to fight it with everything they have and he assumes all 66 counties in the State of SD ought to be concerned about this – we don't need the State setting a standard Ordinance for every County because each County has their own individual issues. Ed commented that they heard Summit has given Lawrence & Shiller \$1 million to launch a PR Campaign to try to drive this pipeline through and their attempts to get different groups on board with their Alliance: SD Soybean Association is trying to adopt a resolution to support the pipeline; they've approached the Aberdeen Development Corporation; the State Chamber of Commerce President has been all over the State advocating this project; SD Farm Bureau is another one they've tried to get them on board so we need to continue to vigilant and fight back.

Representative Brandie Schaeffbauer asked if we had any ideas on who might be bringing the legislation for taking the local control away from the Counties. She also shared that she has heard they want to put control at the State level for Solar and Wind, so wanted to inform the people of this.

Chairman Sutton stated he has not heard of a particular Legislator that's agreed to introduce the legislation. Ed Fischbach stated they have an idea who might, but we don't know that for sure at this time.

Commissioner Dennert asked Kylie Lange with Summit Carbon Solutions if she had anything to share with the Commission today as far as what the new route is. Kylie responded that the Commission made it clear that you didn't want to be involved in the routing and it was Summits job to find the route, so we've been making a lot of phone calls, talked to a lot of landowners. It is not finalized; they are working on it and have got a lot of options and different routes they can take; once they finalize it, she will get with Planning and Zoning and then come to Commission and talk about the final. The comments are correct that they are making a lot of phone calls and trying to find landowners and they've had a decent amount of success; doing a lot of work Redfield north; but once they have a route, they'll get it to Planning & Zoning through the Conditional Use process, looks like we've got a couple of options that comply with your ordinance.

Dennis Feickert shared that at the last McPherson County Planning & Zoning Board meeting a representative from Summit Carbon Solutions was there and a reference was made that paperwork was nearly done but quite lengthy for Brown County to request a variance. Dennis was wondering if there had been any contact with Planning and Zoning as far as permitting a variance or anything at all to move this process forward. Scott Bader, Planning & Zoning Director replied that he has had 2 meetings with Kylie Lange, but nothing has been submitted or a date for them to be at a Planning & Zoning meeting. Kylie replied that she has spent a month putting the paperwork together and it is going to be a pretty lengthy submission for the Conditional Use Permit, trying to have it close to what would be submitted at the State level, so once it's 100% complete it will be submitted. They have a list put together and know that 85% of it can be done before they have a finalized route. Scott Bader shared that he has an email from Kylie with the list of items they are putting together for future submittal of a Conditional Use Permit; that is all his office has at this time.

Commissioner Fjeldheim commented to Kyle Lange that most of the people here are totally against this project as far as signing any type of easement, there has never been anyone before the Commission in favor of this project and every time you try to go through we have these people that come and say no to it – so if you don't have the easements and you have a 1500 foot setback from the property line how are you going to get through anywhere. Kylie replied that their 1st step is working with landowners which we have been doing and have a decent amount of success; them not coming into the Commission meeting and publicly making their neighbors angry doesn't necessarily mean they are against the project; quite a few people actually ask that they don't use their name; then making sure it is a compliant route with the ordinance; it is not an easy task and it is not fast which is why it's been more than a month but they are working on it.

Ed Fischbach shared that at the Farmer's Union Convention last weekend they had a panel discussion on the pipeline and property rights and Brown County Commission was represented by Commissioner Dennert and Spink County had Commissioner Smith and wanted to let everyone know that they did an outstanding job and was well received; they received a standing ovation at the end. Ed wanted to let the rest of the Commission know how well Commissioner Dennert represented them.

Dennis Feickert wanted to share that when he was in the Legislature 15 years ago, they had an attempt back then to strip the counties of their local control of ordinances. This summer there was a summer study on the funding for Counties and how we're going to fund County government going forward. One suggestion was a consolidation of counties; a comment was made that there are 16 counties that are nearing bankruptcy or insolvency so that is something else to keep your one eye on as well because if they pull that off it's easier to bribe five counties that have one Board of County Commissioners than it is to come in front of 25 people that have local control. It has been great to see the people come together; the group has been referred to as the minority but causing all this rift but that's not true because this is going to affect the entire state of South Dakota and local government and local control if we allow this to continue. Dennis encouraged the Commission to keep this on their radar and when the bills come up to attend the Committee hearings in Pierre and speak up so we can still have control of our counties, townships, and our land. Jared Bossly reiterated what Representative Schaeffbauer said it's not just pipeline, its Solar, Wind and if they strip your property rights away Freedom is gone so we all must be watching this. Chairman Sutton shared they will continue to watch and keep track of what goes on during the Legislation in January & February and will report any new news they receive; he thanked everyone for coming in to share their concerns and they will do what they can to preserve landowner rights and make sure we have a voice.

MINUTES:

Moved by Commissioner Wiese, seconded by Sutton to approve the Revised General Meeting minutes of November 28, 2023. All members present voting aye. Motion carried.

CLAIMS:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve the following claims/payroll:

Claims: Professional Fees: Aberdeen Advanced Care Ambulance \$254.30; Aberdeen ED \$1,492.83; Aberdeen Imaging \$486.00; Aberdeen OB/GYN \$30.36; Avera Medical Group Radiology \$386.05; Avera St. Luke's Hospital \$1,994.40; CGI, LLC \$567.50; Christy Griffin-Serr Law Office \$11,796.75; Midwest Pump & Tank \$130.00; Sara J. Zahn \$164.70; Womens Health MFM PBB \$498.39; Zylstra Investigations \$4,375.00. Publishing: Groton Daily Independent \$162.53; McQuillen Creative Group, Inc \$600.00; TDS Media Direct, Inc \$630.00. Repairs & Maintenance: 5D Transport, LLC \$5,433.75; B&B Contracting, Inc \$2,078.58; Dahme Construction \$38,933.82; Dakota Electronics \$1,470.00; Dale Aman \$2,908.17; Dickinson Truck Equipment \$37.75; Interstate Powersystems \$1,750.00; Lang's Audio, TV & Appliance \$332.00; Lawson Products, Inc \$51.46; Leidholt Electric, LLC \$198.98; Nelson Sales & Service, LLC \$45.00; Newman Signs, Inc \$111.95; Pheasantland Industries, Garment Division \$16.50; Precision Kiosk Technologies \$2,700.00; RDO Equipment Co \$2,370.25; Sewer Duck, Inc \$350.00; Smalley Fencing \$17,698.32. Supplies: Aberdeen Chrysler Center \$96.72; Amazon Capital Services, Inc \$379.87; Aramark \$123.43; Bakken Building Maintenance \$500.00; Century Business Products \$181.09; Cole Paper Inc \$221.24; Dacotah Prairie Museum \$75.96; Dakota Fluid Power, Inc \$1,286.65; Dakota Supply Group \$2,773.71; Dickinson Truck Equipment \$1,668.00; Farm Power Mfg. \$25.73; Fastenal Company \$149.45; Faulkton Drug \$32.15; FedEx \$22.15; Gannett Holdings-Ohio \$353.44; Interstate Battery System of South Dakota \$439.85; Karl Emergency Vehicles \$12,870.18; Lawson Products, Inc \$609.67; Leidholdt Tool Sales, LLC \$1,220.08; M & T Fire and Safety \$1,737.85; MacQueen Emergency \$4,475.90; Matthew Bender & Co., Inc \$179.10; Menards \$125.60; Midwest Art Conservation Center \$100.00; Midwest Pump & Tank \$377.07; Napa Central \$14.98; Nelson Sales & Service, LLC \$71.59; Newman Signs, Inc \$1,980.00; Performance Oil \$430.00; Pheasantland Industries, Garment Division \$393.00; Plumbing & Heating Wholesale, Inc \$1,789.39; RDO Equipment Co \$87.28; Rinse & Go Car Wash \$12.00; Runnings \$39.98; Sander's Sew-N-Vac \$209.94; Sherwin Williams \$57.27; Towing Plus \$200.00. Travel & Conference: Best Western Plus Ramkota Hotel \$407.96; Ramkota Hotel Aberdeen \$1,276.88. Utilities: AT&T Mobility \$184.98; CenturyLink \$305.48; Midcontinent Communications \$138.23; Montana-Dakota Utilities Co \$36.94; Northwestern Energy \$1,034.18. Others: Pizza Ranch \$109.84; SD Dept of Revenue & Regulation \$450.00. Payroll: Commission \$4,615.41; Elections \$250.00; Auditor \$11,144.00; Treasurer \$16,216.86; SA \$33,119.20; Maintenance \$11,363.50; Assessor \$15,150.29; Register of Deeds \$9,932.81; VSO \$4,254.09; GIS \$2,643.52; IT \$8,974.46; HR \$4,698.75; Sheriff \$56,207.53; Jail \$76,049.38; Coroner \$621.27; Court Security \$7,607.63; JDC

\$36,784.50; Welfare \$2,336.49; Museum \$11,899.37; Parks/Fairgrounds \$4,918.00; Fair Board \$4,132.22; 4-H \$786.79; Weed \$1,058.37; Planning & Zoning \$7,263.31; Highway \$51,169.13; Dispatch \$37,203.71; Emergency \$4,933.61; 24/7 Sobriety \$2,697.64; Landfill \$17,675.95; FICA \$26,314.66; Medicare \$6,154.19; Discovery_HSA \$1,739.78; Health Insurance_Wellmark BCBS \$125,959.38; Dental Insurance_Delta \$8,441.76; Life Insurance_Dearborn \$1,057.74. All members present voting aye. Motion carried.

HR REPORT:

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

- Hiring of Erislandy Ferrer as Brown County Jail Detention Officer, FT; starting wage \$20.67/hr. – effective December 4, 2023.
- Hiring of Emily Jacob as Brown County Jail Detention Officer, PT; starting wage \$16.76/hr. – effective December 4, 2023.
- Hiring of Jillian Klein as Brown County Appraisal Technician, FT; starting wage \$17.82/hr. – effective December 18, 2023.
- Approve the Holiday's for 2024. Brown County recognizes and observes the following as paid holidays for eligible employees:
 - New Year's Day January 1, 2024
 - Martin Luther King Jr. Day Third Monday in January
 - President's Day Third Monday in February
 - Memorial Day Last Monday in May
 - Juneteenth June 19, 2024
 - Independence Day July 4, 2024
 - Labor Day First Monday in September
 - Native American's Day Second Monday in October
 - Veteran's Day November 11, 2024
 - Thanksgiving Day Fourth Thursday in November
 - Day after Thanksgiving Fourth Friday in November
 - Christmas Eve December 24, 2024
 - Christmas Day December 25, 2024

Plus, any other day that is proclaimed as a holiday by the Governor of South Dakota or the President of the United States.

- If a holiday falls on a Saturday, it is observed on the preceding Friday. If a holiday falls on a Sunday, it is observed on the following Monday. (Sheriff's Deputies, Correctional Officers: Jail, JDC/HD, 24/7, and Dispatchers, who are required to work, are paid for actual Holiday Day).

Eligibility for Holiday Pay

- Non-essential Employees
 - Full-time employees = 8 hours for full day; 4 hours for half day
 - Part-time employees = 4 hours for full day; 2 hours for half day
 - Only if it is your scheduled day to work.
- Essential Employees
 - Full-time employees = number of hours worked on holiday at 1.5 times and 8/10/12 hours holiday at regular pay. (Holiday hours depend on regularly scheduled shifts).
 - Ex: 0 hours worked on the holiday, holiday hours = regularly scheduled shift at regular pay
 - Ex: 2 hours worked on holiday at 1.5 times plus holiday hours = regularly scheduled shift at regular pay
 - Ex: 8 hours worked on holiday at 1.5 times plus holiday hours = regularly scheduled shift at regular pay
 - Ex: 10 hours worked on holiday at 1.5 times plus holiday hours = regularly scheduled shift at regular pay
 - Part-time employees = number of hours worked on holiday at 1.5 times and 4 hours holiday at regular pay.
 - Ex: 0 hours worked on the holiday, 0 hours holiday pay

- Ex: 1 hour worked on holiday at 1.5 times plus 4 hours holiday at regular pay
- Ex: 4 hours worked on holiday at 1.5 times plus 4 hours holiday at regular pay
- Ex: 6 hours worked on holiday at 1.5 times plus 4 hours holiday at regular pay

All members present voting aye. Motion carried.

CLAIM ASSIGNMENTS:

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

ABATEMENTS:

Moved by Commissioner Dennert, seconded by Wiese to approve the following abatement for Tax Deed Sales: Parcel #13884 for tax year 2022 - \$804.57; 2021 - \$1,093.22; 2020 - \$505.71; 2019 - \$499.57; 2018 - \$505.97; 2017 - \$469.14 and 2016 - \$285.25 for a total of \$4,163.43; Parcel #17164 for tax year 2022 - \$5,803.15; 2021 - \$1,870.06; 2020 - \$1,542.57; 2019 - \$689.69; 2018 - \$384.65; 2017 - \$179.90 and 2016 - \$298.60 for a total of \$10,768.55; Parcel #15155 for tax year 2019 - \$10.95; 2018 - \$11.15; 2017 - \$10.79; 2016 - \$11.29; 2015 - \$12.09 and 2014 - \$9.76 for a total of \$66.03. Abatement for Brown County for Parcel #17422 – Exempt Property for tax year 2023 - \$13,0328.68. Abatements for Better Living Homes, LLC for tax year 2023: Parcel #29518 \$493.14; for Bert Wilson for tax year 2023: Parcel #28876 \$5.13; for Shaun Moore for tax year 2023 Parcel #28563 \$4.29 and for tax year 2022 Parcel #28563 \$35.26 and for tax year 2021 Parcel #28563 \$35.60; for Jeffrey Johnson for tax year 2023 Parcel #22634 \$6.56 and for tax year 2022 Parcel #22634 \$6.56 and for tax year 2021 Parcel #22634 \$6.56 and for tax year 2020 Parcel #22634 \$6.44 and for tax year 2019 Parcel #22634 \$23.40. All members present voting aye. Motion carried.

TRAVEL REQUESTS:

Moved by Commissioner Fjeldheim, seconded by Gage to approve the following Travel Requests: Gavin Wright from Sheriff's Office to attend Advanced Sexual Assault Investigation on January 16, 2024, in Vermillion; Chris Hemen, Gerald Lehrkamp and Mike Rohrbach from Weed & Pest to attend Van Diest Supply 2023 End-User Seminars on November 29, 2023, in Sioux Falls. All members present voting aye. Motion carried.

SET HEARING DATE & AUTHORIZE ADVERTISING FOR RETAIL (ON-OFF SALE) MALT BEVERAGE & SD FARM WINE LICENSES:

Moved by Commissioner Gage, seconded by Fjeldheim to set hearing date and authorize publication for public hearing on the following applications of Retail (On-Off Sale) Malt Beverage and SD Farm Wine License on 27th day of December 2023 in the Commission Chambers of the Brown County Commissioners. Stacy Gossman, DBA: Ollie's at 2520 8th Ave. NE, Ste. B, Aberdeen, SD - Lot 1, Ronnie's Way Addition to Aberdeen in the NW ¼ of Section 17-T123-T63 of the 5th P.M., Brown County, SD; Stacy Gossman, DBA: Annie's at 2520 8th Ave. NE, Ste. C, Aberdeen, SD - Lot 1, Ronnie's Way Addition to Aberdeen in the NW ¼ of Section 17-T123-T63 of the 5th P.M., Brown County, SD; Stacy Gossman, DBA: Bergyz at 2520 8th Ave. NE, Ste. E, Aberdeen, SD - Lot 1, Ronnie's Way Addition to Aberdeen in the NW ¼ of Section 17-T123-T63 of the 5th P.M., Brown County, SD; Stacy Gossman, DBA: BigZ at 2520 8th Ave. NE, Ste. D, Aberdeen, SD - Lot 1, Ronnie's Way Addition to Aberdeen in the NW ¼ of Section 17-T123-T63 of the 5th P.M., Brown County, SD; Stacy Gossman, DBA: Caponez at 2520 8th Ave. NE, Ste. F, Aberdeen, SD - Lot 1, Ronnie's Way Addition to Aberdeen in the NW ¼ of Section 17-T123-T63 of the 5th P.M., Brown County, SD; Stacy Gossman, DBA: Tinkaz at 2520 8th Ave. NE, Ste. H, Aberdeen, SD - Lot 1, Ronnie's Way Addition to Aberdeen in the NW ¼ of Section 17-T123-T63 of the 5th P.M., Brown County, SD. 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 Contracts and 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 10:09 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

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