

## SEPTEMBER 19, 2023 – GENERAL MEETING

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

### APPROVAL OF AGENDA:

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

### OPPORTUNITY FOR PUBLIC COMMENT:

Jared Bossly just wanted to Thank the Commission for putting the time in and going through the pipeline ordinance because it showed how important it was since Brown County was a big factor as to what happened with the PUC. Jared stated though that this is not over with by any means but wanted to Thank the Commission and the Representatives and that maybe now is the time to think about the other things we have talked about such as another moratorium to get ahead of this issue. Dennis Feickert also wanted to echo what Jared said and Thanks to the Planning & Zoning Board for their work on this. Dennis stated we can't back off because Summit is resetting their options in North Dakota. Dennis thinks Summit may try to come up with another route and take another run-on Brown County. Craig Schaunaman also echoed the Thanks as well but wanted to share how important the Ordinance was: on Friday evening their attorney received an email from the PUC Attorney asking how many landowners would sign the 1500-foot setback but instead they did the opposite and got names of landowners that would not go along with the pipeline or the setback – they got 11 landowners along with 7 adjoining landowners that would not sign. The PUC Attorney specifically ask for Brown County and referenced that in her testimony.

Dennis Mitchell asked the Commission to consider opening the back roads into AgTegra Bath (Grebner) terminal due to the construction on Hwy. 12, not sure how they will get in unless the State could put a stop light at the Bath Corner. Dennis Jones also asked for an exit route to 8<sup>th</sup> Ave. for the empty trucks because it will be a disaster on Hwy. 12 with 350-400 trucks a day. If they can move trucks to East of Grebner and go North to 8<sup>th</sup> Ave. then go either East or West but it will create a lot of dust, so will need to address that issue. Mike Rizer, COO with AgTegra visited with the Commission in regard to the construction on Hwy. 12, also. Mike stated they are working with D.O.T on a regular basis and they have a project meeting today; they are looking at signals, display signs to alert traffic and they have reduced the speed already. AgTegra is concerned about the public, producers, members, and employees. D.O.T is looking at solutions but wondering if it's a possibility of opening that road for safety purposes. Dirk Rogers, Highway Superintendent informed everyone that he has been communicating with D.O.T but this is a State Project, and it shouldn't be costing the County money. Right now, the road is not fit for trucks and probably a couple hundred dollars to fix and before he would fix the road, he would want to receive the funding up front from the State; he will plan to attend the meeting this afternoon.

District 3 Representative Brandie Schaeffbauer addressed the Commission to reiterate the Thanks and appreciates everything the Commission has done to stand up for their constituents. Representative Schaeffbauer stated: "Local Control Won the Day" and District 3 Representatives and Senator Novstrup are here to help in any way they can to maintain that control.

District 3 Representative Carl Perry just wanted to commend the Exchange Club of Aberdeen for having the Flags up around town on September 17<sup>th</sup> for Constitution Day. Also, Northern State University, Professor Rick Dice had Constitution Day on September 18<sup>th</sup> @ NSU Campus. Carl recited a couple of quotes on the Constitution then stated we take a lot of things for granted like America and the Brown County Commission, we have some great things in America, and this is a great Commission.

### BID – BROWN COUNTY FAIR ENTERTAINMENT CONSULTANTS:

Time and place, as advertised to open, read and consider sealed bids for Entertainment Consulting and Buying Services for the Grandstand Entertainment, in years 2024, 2025, and 2026. Bids were received from Hooked Up Entertainment in the amount of \$23,500.00 for 2024; \$23,500.00 for 2025 and \$26,500.00 for 2026 for a three year total of \$73,500.00 plus 2 motel rooms each year; Pepper Entertainment in the amount of 8% of total talent fees for 2024; 9% of total talent fees for 2025 and 10% of total talent fees with each year being capped at \$30,000.00 annually; Monument Talent in the amount of \$18,000.00 for 2024, \$20,000.00 for 2025 and \$20,000.00 for 2026 for a three year total of \$58,000.00; Neste Live in the amount of \$28,000.00 for 2024;

\$29,000.00 for 2025 and \$30,000.00 for 2026 for a three-year total of \$87,000.00 plus one hotel room for a Nestle Live on-site Service Representative each year; Romeo Entertainment Option 1 in the amount of \$31,000.00 for 2024, \$33,000.00 for 2025 and \$35,000.00 for 2026: for a three-year total of \$99,000.00 plus \$500.00/day for service rep plus expenses or Option 2 in the amount of \$17,000.00 for 2024, \$19,000.00 for 2025 and \$21,000.00 for 2026 for a three-year total of \$57,000.00 plus \$1 per ticket sold plus expenses each year. Rachel Kippely, Fair Manager requested to defer awarding the bid for 1 week to review all the details and discuss it with the Fair Board. Moved by Commissioner Wiese, seconded by Dennert to defer bids for 1 week. All members present voting aye. Motion carried.

#### BID – LANDFILL SCALE:

Time and place, as advertised to open, read and consider sealed bids for Landfill Truck Scale Replacement. Bids were received from Prairie Scale in the amount of \$189,351.68 and Webster Scale in the amount of \$173,297.23. Mike Scott, Landfill Manager and Leif Redinger, Project Engineer from Helms & Associates requested to defer awarding the bid for 1 week to review all the details. Moved by Commissioner Wiese, seconded by Gage to defer bids for 1 week. All members present voting aye. Motion carried.

#### ORDINANCE #255 - SECOND READING/ADOPTION:

Moved by Commissioner Dennert, seconded by Gage to approve the Second Reading and Adopt Ordinance #255 amending portions of Title 4 Zoning, Chapter 4.14, “Highway Commercial District (HC)” and Chapter 4.15, “Light Industrial District (LI)”. Roll Call: Dennert – aye; Fjeldheim – aye; Wiese – aye; Gage – aye and Sutton – absent. Ordinance #255 Adopted. (Copies of the full Ordinance are available at the Brown County Auditor’s Office or Brown County Planning & Zoning Office during regular business hours).

#### ORDINANCE #256 – FIRST READING:

Scott Bader, Planning & Zoning Director shared that he would like to amend this ordinance regarding outdoor storage and containment. Discuss was held in regard to the setback as well, proposed ordinance says 500 feet and Ross Aldentaler, States Attorney questioned making it 1500 feet to stay consistent with other setbacks and landowners can sign a waiver if agree to something less. Moved by Commissioner Wiese, seconded by Gage to approve the First Reading of Proposed Ordinance #256 – to amend portions of Title 4 Zoning Chapter 4.01 – Definitions; Chapter 4.06 – Agriculture Preservation (AG-P); Chapter 4.07 – Mini Agriculture Preservation (M-AG); Chapter 4.08 – Residential District (R-1); Chapter 4.09 – Mobile Home District (R-2); Chapter 4.10 – Lake Front District (R-3); Chapter 4.11 – Rural Urban District (RU); and Chapter 4.16 – Heavy Industrial (HI) and An Addition to Title 4 Zoning Ordinances of Brown County with: Chapter 4.37, “Solar Energy Systems” (SES) and “Private Solar Energy System” (PSES) with the changes that Scott Bader proposed. Roll Call: Dennert – aye; Fjeldheim – aye; Wiese – aye; Gage – nay and Sutton – absent. The first reading passed with majority vote. The proposed ordinance will be made available for public inspection at the Brown County Auditor’s Office or Brown County Planning and Zoning Office during regular business hours.

#### QUOTES FOR A/C UNIT:

Judy Dosch, Building Superintendent presented 2 quotes for replacing an A/C Unit at the 1<sup>st</sup> Street Building: Woodman Refrigeration in the amount of \$13,583.00 for a Carrier 5-ton roof top A/C unit and Jakes Heating & Cooling in the amount of \$14,280.00 for a 5-ton Carrier RTU. Judy recommended going with Woodman Refrigeration. Moved by Commissioner Wiese, seconded by Dennert to accept the Quote from Woodman Refrigeration in the amount of \$13,583.00 to replace A/C unit at the 1<sup>st</sup> Street Building. All members present voting aye. Motion carried.

#### SURPLUS EQUIPMENT:

Dirk Rogers, Highway Superintendent asked to have 2010 Terex Track Skidsteer and 2012 John Deere 772G Blade declared Surplus and place on Purplewave. Moved by Commissioner Wiese, seconded by Gage to approve declaring the 2010 Terex Track Skidsteer and 2012 John Deere 772G Blade surplus and use Purplewave to sell these items. All members present voting aye. Motion carried.

#### SPEED ZONE AMENDMENT:

Commissioner Wiese brought the following Resolution:

RESOLUTION #41-23

WHEREAS, Chapter 6.03 Speed Zones of the Second Revision of Brown County Ordinances authorizes the Brown County Commission to change the speed limit or the extent of any such limited speed zones, at any time they may deem necessary, and

WHEREAS, all Speed Zones throughout the County were established by Resolution #46-05, as amended by Resolution #66-06, Resolution #39-08, Resolution #72-08, Resolution #101-08, Resolution #94-13, Resolution #69-14, Resolution #15-16, Resolution #26-17, Resolution #30-18, Resolution #51-21 and Resolution #37-23.

WHEREAS, the Brown County Commission has recommended amending the speed zone on County Road 15

NOW THEREFORE BE IT RESOLVED that Resolution #46-05, as amended by Resolution #66-06, #39-08, #72-08, #101-08, #94-13, #69-14, #15-16, #26-17, #30-18, #51-21 and #37-23 be amended as follows:

**AMEND:**

**County Road #15 (131st Street)**, beginning 1450' east and 300' south of the NW corner of 11-T123N-R64W at the intersection of US 281 and County 15, then 0.2 miles easterly at 35 mph.

Dated this 19th day of September 2023.

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

**FEMA UPDATE:**

Dirk Rogers, Highway Superintendent gave the Commissioners an update with the three sites for FEMA filings. County will be reimbursed for hauling gravel to Co. Rd. 25 & 16 by the Scandinavian Church; Hall Crossing FEMA is looking at repair or mitigation to see what we can do – but right now we can't do anything at this time because a Topeka Shiner has been found there, they are endangered and have a black out. Commissioner Fjeldheim asked about extracting the gravel that has been washed down stream, but Dirk stated we would need to get permits to do that. Fjeldheim wondered if FEMA would reimburse since it is part of their project and Dirk stated they could look into it.

**ELM LAKE BRIDGE CERTIFICATION:**

Commissioner Wiese moved to approve and authorize Vice-Chairman Fjeldheim to sign the certificates for the Elm Lake Bridge per Dirk Rogers, Highway Superintendent recommendation. Seconded by Commissioner Dennert. All members present voting aye. Motion carried.

**HIGHWAY DEPARTMENT UPDATE:**

Dirk Rogers, Highway Superintendent gave the Commission a Department Update: still milling on Co. Rd. 16 and doing 6 miles of paving to the North; Biegler Road on the East side of Richmond; Mowing; Replacing BR 93, which is south of Groton; Lien's finished Co. Rd. 5 & 6 – will be sealed and striped in the next week or so; Elm Lake is going good – hauling black dirt out and gravel in, need to move fences back and seed it; Railroad Crossing at Tacoma Park is being replaced tomorrow and they did the one by Claremont yesterday. Commissioner Wiese asked about the Bridge at Sand Lake and Dirk said he will follow-up again on that. Dirk questioned the speed zone around the Sports Complex on 15 & 19 that was discussed at Convention. Dirk will come up with a plan.

**MINUTES:**

Moved by Commissioner Wiese, seconded by Dennert to approve the General Meeting minutes of September 5, 2023. All members present voting aye. Motion carried.

**CLAIMS:**

Moved by Commissioner Dennert, seconded by Gage to approve the following claims and payroll.

Claims: Insurance: Claims Associates \$5,000.00. Professional Fees: All Nations Interpreters Inc \$2,000.00; Avera Aberdeen Family Physicians \$40.40; Avera Medical Group Behavioral Health Clinic \$2,800.00; Avera Medical Group Radiology \$944.27; Avera St. Luke's Hospital \$2,185.64; Certified Languages International LLC \$1,093.95; Christy Griffin-Serr Law Office \$7,211.64; Cogley Law Office, Prof LLC \$7,211.64; Computer Forensic Resources \$3,009.85; Dakota Group LLC \$2,100.00; Dawn Foiles \$50.00; DEVNET \$3,445.31; Dohrer

Law Office, PC \$7,211.64; Faulkton Area Medical Center \$62.22; Fox Law Firm, PLLC \$30.00; Horizon Health Care, Inc \$88.05; IMEG Corp \$16,658.19; Jerald M. McNeary \$7,211.64; Jeremy Lund-Siegel Barnett & Schutz, LLP \$7,211.64; John Noyes-Bantz, Gosch & Cremer \$7,211.64; Kristi Brandt \$132.25; Kuck Law Office \$7,211.64; Language Line Services, Inc \$466.54; LexisNexis Risk Data Mgt, LLC \$200.00; Northeastern Mental Health Center \$1,222.00; Park Dietz & Associates, Inc \$6,868.13; Sanford Aberdeen Cardiology \$8.48; Sanford Aberdeen ED \$2,817.50; Sanford Cardiovascular Institute E \$8.48; Sanford Clinic Aberdeen \$426.55; Sanford Clinic Radiology-North Center \$385.42; Sanford Health Occupational Medicine \$902.00; Satellite Tracking of People, LLC \$1,725.75; SD Dept of Revenue & Regulations \$1,954.89; SDSU Extension \$238.04; Super 8 by Wyndham Aberdeen \$10,988.00; Taliaferro Law Firm, PC \$7,211.64; Thomson Reuters-West Payment Center \$291.80; Yankton County Sheriff's Office \$50.00; Yankton County Treasurer \$415.70; Yellow Robe Consulting \$1,500.00; Zylstra Investigations \$1,216.30. Publishing: AlphaMedia Watertown \$4,200.00; Dakota Broadcasting, LLC \$4,960.00; DRG Media Group \$1,568.00; GateHouse Media South Dakota Holdings, Inc \$867.96; Groton Daily Independent \$440.93; Hub City Radio \$1,200.00; i3G Media \$3,900.00; Todd County Tribune/Mellette County News \$24.46. Rentals: Aramark \$363.25; Dakota Electronics \$2,652.75; Pantorium Cleaners Inc \$207.36; Vision Communications Co \$950.00. Repairs & Maintenance: Auto Value Aberdeen \$12.98; Century Business Products \$130.44; Custom Installation Solutions \$90.00; Dakota Fluid Power, Inc \$116.48; Diamond Mowers LLC \$12.01; Diesel Machinery, Inc \$1,911.09; EcoLab Pest Elimination Division \$125.83; Gardner Locksmithing \$100.00; Graham Tire Inc \$1,670.24; House of Glass \$583.06; Lien Transportation Company \$610,699.82; Napa Central \$129.99; NESD Specialized Washing, LLC \$1,207.50; Otis Elevator Company \$200.00; Pierson Ford Lincoln, Inc \$155.68; Pomp's Tire Service, Inc \$896.65; Precision Kiosk Technologies \$8,250.00; RDO Equipment Co \$16,695.32; Sewer Duck, Inc \$225.00; Steven Lust Automotive \$381.89; Titan Machinery \$1,744.20; Transource Truck & Equipment, Inc \$9,107.31; Woodman Refrigeration, Inc \$1,947.81. Supplies: A-1 Locksmithing \$19.75; Aberdeen Fire Rescue \$1,129.49; Agtegra Cooperative \$74,344.56; Amazon Capital Services, Inc \$1,150.28; Aramark \$123.43; Artz Equipment, Inc \$257.99; Avera LTC Pharmacy Aberdeen \$962.84; Bakken Building Maintenance \$500.00; Bimbo Foods USA, Inc \$1,271.31; Butler Machinery Company \$5,340.36; Candace Rohrbach \$57.31; Century Business Products \$1,004.01; Clint Sombke \$161.22; Cole Paper Inc \$634.18; Dakota Fluid Power, Inc \$978.17; Dakota Oil \$2,910.20; Dakota Supply Group \$20.65; Diamond Mowers LLC \$509.30; Diesel Machinery, Inc \$1,309.06; Dive Rescue International \$800.00; East Side Jersey Dairy Inc \$929.66; Eddie's Northside Sinclair \$70.00; Farm Tire Service LLC \$1,890.00; FedEx \$17.71; Full Circle Ag \$884.36; Geffdog Designs \$164.88; Gillund Enterprises \$764.40; Hall Sand & Gravel, Inc \$12,520.73; Jebro Inc \$103,833.32; Jensen Rock & Sand Inc \$166,925.70; K & S Plumbing, Inc \$4,864.94; Kessler's \$947.44; Lien Transportation Company \$65,820.05; Linde Gas & Equipment Inc \$112.55; Mac's Inc-Capital One Trade Credit \$194.88; Makendra Ochsner \$100.00; McLeod's Printing & Office Supply \$21.90; Menards \$299.19; Midstates Group \$169.00; Network Center, Inc \$5,250.00; NVC \$27.66; Performance Oil \$85.95; PharmChem, Inc \$720.90; Race West Awards & Trophies \$110.00; RDO Equipment Co \$8,187.61; Rinse & Go Car Wash \$10.00; Rixstine Recognition \$1,394.46; Runnings \$2,065.25; Safeguard \$826.58; Sherwin Williams \$159.02; Titan Machinery \$234.32; Transource Truck & Equipment, Inc \$6,752.81; Tri-State Water \$115.00; United Tactical Systems, LLC \$525.00; US Foods \$10,898.08; Vision Communications Co \$1,800.00; Volk Upholstery \$250.00; WEB Water Bottling Company \$26.25; Woodman Refrigeration, Inc \$2,455.11. Travel & Conference: Aaron Walberg \$302.08; Best Western Plus Ramkota Hotel \$404.00; Dave Lunzman \$258.00; Dawn Foiles \$96.80; Grant County Auditor \$578.88; Jesse Milbrandt \$302.08; Karly Winter \$264.18; Lynn Heupel \$235.51; Mariann Malsom \$224.00; Safe Harbor \$225.00. Utilities: AT&T Mobility \$43.23; CenturyLink \$352.69; City of Aberdeen Treasurer \$6,782.53; City of Hecla \$130.88; Dependable Sanitation, Inc \$513.00; James Valley Telecommunications \$209.10; Northern Electric \$5,622.10; Northwestern Energy \$11,476.85; NVC \$3,999.37; State of South Dakota PMB 0112 \$131.29; Town of Frederick \$78.44; Verizon Wireless \$1,332.68; WEB Water Development Association, Inc \$130.76. Others: Safe Harbor \$1,226.53; SD Assoc of County Officials \$926.00; SD Dept of Agriculture & Natural Resources \$4,546.50; SD Dept of Revenue & Regulations \$1,022,458.38. Jury: Grand Jurors \$10,975.16. Payroll: Commission \$4,615.41; Auditor \$11,144.00; Treasurer \$16,448.42; SA \$37,620.08; Maintenance \$10,077.45; Assessor \$15,058.87; Register of Deeds \$9,932.81; VSO \$4,254.09; GIS \$2,643.52; IT \$9,124.46; HR \$4,698.76; Sheriff \$46,685.43; Jail \$59,939.37; Coroner \$147.65; Court Security \$6,725.22; JDC \$27,715.42; Welfare \$2,336.49; Museum \$11,848.28; Parks/Fairgrounds \$6,487.13; Fair Board \$5,850.58; 4-H \$877.43; Weed \$5,546.83; Planning & Zoning \$7,232.60; Highway \$50,715.85; Dispatch \$36,950.02; Emergency \$4,836.31; 24/7 Sobriety \$2,927.17; Landfill \$19,320.87. FICA \$24,993.41; Medicare \$5,845.25 and Discovery\_HSA \$1,688.61. 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: hiring of Brian Wagemann as Brown County Highway Truck Driver, FT, starting wage \$20.67/hour, effective September 11, 2023; hiring of Tina Jacobs as Brown County Jail Detention Officer, FT, starting wage \$20.67/hour, effective September 18, 2023; hiring of Jerremias Vega IV as Brown County Jail Detention Officer, FT, starting wage \$20.67/hour, effective September 20, 2023. All members present voting aye. Motion carried.

#### LANDFILL TONNAGE REPORT:

Moved by Commissioner Gage, seconded by Wiese to acknowledge the Landfill Tonnage Report for August 2023. All members present voting aye. Motion carried.

#### LEASE AGREEMENT:

Moved by Commissioner Dennert, seconded by Wiese to approve and authorize the Vice-Chairman to sign the following Lease Agreement: Northern Electric for lease of Club House on September 19, 2023, for Annual Meeting. All members present voting aye. Motion carried.

#### TRAVEL REQUESTS:

Moved by Commissioner Gage, seconded by Wiese to approve the following Travel Requests: Dirk Rogers, Highway Superintendent, Mariann Malsom, ROD and Lynn Heupel, Auditor to attend SDACO Conference in Sioux Falls on September 11-13, 2023; Stephanie Morgan, DOE to attend IAAO Basic Course in Pierre, SD on October 1-6, 2023. All members present voting aye. Motion carried.

#### CLAIM ASSIGNMENTS:

Moved by Commissioner Wiese, seconded by Dennert 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.

#### AUDITOR REPORT OF ACCOUNTS FOR JULY 2023:

Moved by Commissioner Wiese, seconded by Gage to approve the Auditor's Report of Accounts of July 2023 as follows: Total Cash and Checks on Hand \$7,700.00; Total Checking Account Balances \$23,120,217.44; Total Savings Account Balances \$1,325,447.42; Total Certificates of Deposit \$5,479,550.72; Grand Total Cash & Balances \$29,932,915.58. General Fund Cash and Investment Balances by Funds: General Fund \$19,026,706.00; Road & Bridge Fund \$1,357,508.93; Road & Bridge Fund-restricted \$423,243.27; 911 Service \$868,994.52; Emergency & Disaster \$114,534.43; Domestic Abuse \$1,137.95; Teen Court \$0.00; Grant \$32.11; SA Grants \$51,004.88; Truancy Court 221.23; Richmond Youth Camp \$0.00; 24/7 Sobriety \$15,319.17; ROD M&P \$95,443.54; American Rescue Plan Federal Grant \$0.00; Rural Access Infrastructure \$442,663.63; TIF Debt Service \$25,962.07; Landfill + cash change \$4,336,874.79; Landfill – restricted \$1,400,479.44; Trust and Agency Funds \$1,772,789.62; Grand Total General Fund Cash & Investments \$29,932,915.58. 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 & Legal per SDCL 1-25-2. All members present voting aye. Motion carried. The Vice-Chairman declared the executive session closed with no action taken.

#### ADJOURNMENT:

Moved by Commissioner Dennert, seconded by Wiese to adjourn the Brown County Commission meeting at 10:51 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

Published September 27, 2023, at the total approximate cost of \$\_\_\_\_\_ and may be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).