

April 20, 2021

The Grant County Commission met at 8 AM with Commissioners Buttke, Mach, Stengel, Street and Tostenson present. Chairman Tostenson called the meeting to order with a quorum present and asked for a motion to approve the minutes. Motion by Buttke and seconded by Stengel to approve the minutes of the April 6, 2021 meeting. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Minutes filed. Motion by Mach and seconded by Stengel to approve the agenda as presented with moving the public comment portion to after the joint public hearing. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

Members of the public present were Jim DeVaal, Joeline Hicks, Dave Meyer, Jerry Zubke, Bob Spartz, Daryl Liebe, Loren Tucholke, Adam Bury, Jerry Bury, Dan Loehrer, David Kruger, Clayton Tucholke and Kathy Ward. Joining through Zoom were Jay Gilbertson, Todd Kays, Luke Muller and Casey Cameron.

Joint Hearing: A joint public hearing was held at 8 AM with the Planning Commission. Those members present from the Planning Commission were Mark Leddy, Mike Mach, John Seffrood, Nancy Johnson, Richard Hansen, Tom Pillatzki, and James Berg. The purpose of the joint hearing was to hear public testimony on proposed Ordinance 2021-01A, an ordinance amending Section 1106 of Ordinance 2004-1.

Chairman Tostenson opened the joint public hearing on behalf of the Board of County Commissioners and asked for a motion and a second to approve Ordinance #2021-01A. Motion by Mach and seconded by Stengel to approve Ordinance #2021-01A, An ordinance amending Section 1106 “Flood Damage Prevention” regulations of Grant County Ordinance #2004-1, An Ordinance establishing zoning regulations for Grant County, South Dakota, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of chapters 11-2, 1967 SDCL, and amendments thereof, and for the repeal of all resolutions and ordinances in conflict therewith.

Deputy States Attorney Reedstrom was asked to present an overview of the proposed ordinance being considered. He explained today’s hearing is on the flood prevention ordinance change and not on the drainage ordinance. He referred to a committee appointed by the Commission to study and come up with a proposal on

how the drainage concerns could be addressed. As a result of a public hearing on the repeal of the drainage ordinance, two issues emerged of how to keep the public informed on where tiling was occurring and a repository of the plans for the public to review. As a result of the committee's work, a proposed change to the flood plain ordinance was drafted to include a Hydrological Alteration Plan (HAP). The HAP plan would be filed in the P & Z office for public review, a notice to drain would be published, but a permit would not be issued by the Drainage Board.

Luke Muller, Planner at First District added that he had been in contact with the Denver FEMA Office and the discussion with FEMA was that drainage should be part of the Flood Plain Ordinance. The reason for this is that FEMA expects a permit for areas in Zone A, the area where flooding occurs. If working within Zone A, a Flood Plain Development permit is required. The proposed ordinance is a tracking mechanism.

Chairman Tostenson asked Luke to review the process the producer goes through to file their plan. Luke explained it is like the present drainage permit. The tiling project would be filed with the P&Z Officer, a notice of the project would be published, and the final drawing of the completed project would need to be filed. A time frame of approximately two to three weeks is needed for the notices to be published before the applicant can begin the project. Luke stated if the proposed ordinance is adopted, the county would get out of the decision-making process for tiling and drainage projects and become a repository of the information outlined in the revised ordinance.

Luke Muller responded. The administrative form has not been drafted yet, but it would be very similar to how the process is currently done. The process is outlined in the ordinance under Section G, items 1 and 2. The difference is there is not a public hearing or the issuance of a permit.

Planning Commission Chairman Leddy opened the hearing to public comment.

Todd Kays, as parliamentarian, recommended proponents go first, followed by opponents and with an opportunity for other testimony to follow.

David Kruger questioned where in the proposed ordinance does it list the 14 day wait period and asked what happens if the County sees something wrong with the plan being filed; when the new ordinance states it is for informational purposes only.

Robert Spartz was concerned there was not any reference to notify the downstream landowner or to request permission from the Township Board of Supervisors to install a pipe under the township road. He would like to see approval be given from an elected board and not an appointed board.

Joelie Hicks questioned if the Boards are voting to approve something that has not yet been written. Keep the process as it is currently done. The local boards are needed to check that all the boxes are being checked. Currently the neighbors talk to each other on projects; they may not look in the newspaper each week to see if a drainage project affects their land. Do not reinvent the wheel.

Clayton Tucholke stated he likes what he has read in the proposed ordinance but would like to have it stated in the ordinance that the applicant must notify the downstream landowners.

PC Chairman Leddy asked if there were any additional comments from the public. David Kruger commented he read the two-week time period referenced in the ordinance refers to when the notice is published but asked how quickly a project could be started from when the paperwork is given to the P & Z Officer.

Parliamentarian Todd Kays stated Luke Muller had captured the questions and could review these issues with the Boards. PC Chairman Leddy closed the public hearing for the Planning Commission.

Chairman Tostenson closed the public portion of the joint hearing for the County Commissioners.

Luke Muller clarified the issue of when the project could begin. The two-week period is for publishing the notice and is not connected to starting a project. When all the information is received in the P&Z Office and the Zoning Officer confirms all information has been received, the applicant could begin the project.

The next issue is what happens when there is a problem? This ordinance for the HAP is the same as other ordinances, there is no inspection.

If the applicant would need to cross a township road, as per state law, permission is needed from the state, county or township to work within the ROW. There would not be any board involved in the decision-making process. It is just a filing of the documentation, just like filing a building permit.

The P & Z Officer determines if the information required is complete.

The ordinance does not reference notifying downstream landowners. Luke Muller concluded his comments.

PC Chairman Leddy stated now is the time for the two boards to begin their discussion. Parliamentarian Todd Kays stated this would be an interactive conversation between the Boards. Any amendments need to come from the Planning Commission to be incorporated in the second reading of the Ordinance by the County Commission.

PC member Tom Pillatzki expressed that it would be good to notify the landowners downstream. How far, maybe 2 miles. Reading the notice in the paper does not give the neighbors enough time to react and talk the issues through.

Commissioner Mach asked how long of a time before the digging starts. Pillatzki recommends a 2-week period from the time of publication.

Commissioner Tostenson expressed that he believes the applicant will talk to their neighbors before starting a project or that your neighbors know what is happening. If the PC is going to propose any amendments, he would like to have a defined time to give direction to the producer to begin their project.

Commissioner Mach asked if the fees for this HAP is covered in the ordinance. Todd Kays provided clarification that all fees are approved at the first Commission meeting in January and there are not any fees in an ordinance. Commissioner Mach also asked who would send out notices to the downstream landowners. PC member Pillatzki would like to define notification going to landowners two sections downstream from the project.

Luke Muller offered the proposed language of: Proof of notification by means of certified mail to property owners two sections downstream from the outlet. Measurement to follow the water course.

The Board continued to discuss when construction could be started. The P&Z Officer has two weeks to collect the required information and publish a notice. The discussion was that after the notice is published, the project could begin. Commissioner Street asked if there could be a section stating the water from the outlet must reach a blue line stream unless the outlet is on their own property. Cooperation and communication have been part of the process in the County.

Todd Kays spoke that this may be considered a drainage function under the drainage laws and the County is considering just being a repository for the information.

PC member Seffrood expressed that by trying to determine when to start or not to start a project; isn't that doing what the Commission does not want to do of giving permission. He asked who issues a Flood Prevention Damage Permit, which is the zoning officer. It is like issuing a building permit in a Zone A.

Discussed having the applicant notify the downstream landowners by certified mail. There is a 14-day window for certified mail to be received or returned to sender.

Also discussed were FEMA insurance rates, tracking of tiling would help FEMA in updating the maps of water flow.

The Planning Commission approved a motion to send Ordinance 2021-01A with an amendment on notifying downstream landowners by certified mail to the Commission for their consideration.

Chairman Tostenson stated the Board of County Commissioners will now have the first reading by title of Ordinance #2021-01A, as amended by title only with the Auditor reading the title.

Ordinance #2021-01A as amended, an ordinance amending Section 1106 "Flood Damage Prevention" regulations of Grant County ordinance #2004-1, An ordinance establishing zoning regulations for Grant County, South Dakota, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of chapters 11-2, 1967 SDCL, and amendments thereof, and for the repeal of all resolutions and ordinances in conflict therewith.

Motion by Stengel and seconded by Buttke to acknowledge the first reading of Ordinance 2021-01A with amendments by title only and to set May 4 at 9 AM for the second reading. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. The revised Ordinance will be available at the Auditor's office and the County's website.

Highway: The 2021 pavement striping agreement with DOT for the striping of the center line of asphalt roads was reviewed. The agreement is for approximately

41.75 miles of striping. The county's 40% share is \$1,113.45. The county's amount over the allocated limit is \$7,646.80 for a total cost to the county of \$8,760.25. Motion by Street and seconded by Stengel to authorize Chairman Tostenson to sign agreement number 2021-10 for pavement marking. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

Hwy Supt Schultz opened a discussion on County Road 18, the two miles from Highway 15 into LaBolt. He asked the Commission to review the information from Banner on the cost of an asphalt overlay or a complete rebuild of the road. This item will be placed on the next agenda.

Auditor Layher reported the County received \$31,490 for the Cat Loader sold at Farrell's Auction.

Reports: Register of Deeds Becky Wellnitz reported for the first quarter of 2020 the office collected \$19,850 in fees and for the first quarter of 2021 the office has collected \$40,870 in fees. The office continues to receive documents to record for the Highway 15 Project. The document recording software has been updated. Becky met with Houston Engineering regarding document recording fees and plat sizes for a project they are working on.

EM Director Kevin Schuelke provided an update on COVID, a possible change in vendors for Motorola equipment, and a change in service provider for texting to first responders, store and forward. He reported the County has been awarded a Homeland Security Grant for funding a hover craft for rescue on water or ice and for a security system for a building in Big Stone City. He also reported on a safety meeting the first responders had with Mortenson personnel on protocols in the event of an emergency. A weather spotter training class will be held on April 29 at the fire hall. A CPR training class for County personnel to be held in May. Also, he talked about the text 911 feature and the district fire training class held in Aberdeen.

Travel: Motion by Mach and seconded by Buttke to approve travel expenses for Sheriff secretary Brittany Folk to attend 24/7 training in Oacoma and for EM Director Kevin Schuelke to attend IMAT training in Oacoma. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

Land Lease Sale: Motion by Stengel and seconded by Buttke to authorize Chairman Tostenson to sign the land lease for 2021 with John Moes for \$1,600 for the S ½ NE ¼ of 8-120-51 (40 acres) Mazeppa Twp. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

Tax Freeze: Motion by Mach and seconded by Stengel to approve application AF2021-01 for the 2020 tax year Assessment Freeze for the Elderly as the applicant missed the deadline and qualified for the Assessment Freeze as per SDCL 10-6A-4. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

Unfinished Business: It was noted the Lake Region District meeting for April 22nd will be held through Zoom and hosted by Grant County.

New Business: None

Correspondence: None

Consent: Motion by Stengel and seconded by Buttke to approve the consent agenda. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

1. Approve cash transfers for Domestic Abuse Fund for \$660 and Law Library for \$4,100
2. Approve hiring of Wesley Bowsher for Deputy Sheriff at \$23.45 per hr effective 04-19-21

Claims: Motion by Street and seconded by Buttke to approve the claims. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. 15 HOTEL GROUP, motel 267.00; A-OX WELDING, supplies 15.47; ADVANCED TECHNOLOGIES, supplies 338.07; AVERA QUEEN OF PEACE, health services 122.00; BANNER ASSOC, hwy proj 3,616.50; BEACON CENTER, 1st qtr allocation 216.00; BERENS, supplies 99.79; BOYER, repairs 32.92; BUTLER, repairs & maint 2,430.58; CENGAGE LEARNING, book 20.15; CENTER POINT, books 361.32; CENTURYLINK, phone 151.26; CHS, propane 468.67; CORRIE QUALE, repair & maint 1,643.16; CRAIG DEBOER, car wash 304.54; CREATIVE EDUCATION, books 181.38; DEAN SCHAEFER COURT REPORT, prof services 30.00; DEMCO, supplies 285.97; DENISON'S PUBLISHING, publishing 100.00; FIRST DISTRICT, prof services 2,134.92; FOOD-N-FUEL, prisoner meals 682.50; GRAJCZYK LAW OFFICE, prof services 213.00; GRANT CO EC & DEV BOARD, allocation 8,750.00; GRANT CO REVIEW, publishing 278.07;

GUARDIAN FLEET SAFETY, auto equip 8,890.72; HARTMAN'S, prisoner meals, supplies 746.30; HEARST BUSINESS MEDIA, reference book 180.00; HUMAN SERVICE AGENCY, appropriations 7,797.44; INGRAM, books 578.48; INTER-LAKES COMM ACT, service worker 2,565.92; ITC, phone & internet 1,487.35; ISTATE TRUCK, repair & maint 584.60; KJ & K FLOWERS, supplies 50.00; LEWIS, health services & supplies 438.32; MICROFILM IMAGING, scanner rent 642.00; MIKE SMITH, prof services 140.00; MILBANK AREA HOSPITAL AVERA, blabs 357.00; MINNEHAHA CO AUDITOR, prof services 254.50; MT LIBRARY, books 48.00; NOVAK SANITARY, shredding service 57.00; OTTER TAIL POWER, electricity 2,965.77; QUICK PRO LUBE, prof services 53.48; QUILL, supplies 51.71; RC TECHNOLOGIES, 911 transport & tower rent 95.96; RELX, online charges 725.00; RIVER STREET PETROLEUM, ethanol & diesel 8,190.24; RUNNINGS, supplies 416.06; RYAN MAGEDANZ, repair & maint 74.62; SCANTRON, prof services 6,149.05; SD ASSN COUNTY OFFICIALS, registration 555.00; SD DEPT OF HEALTH, blabs 365.00; SDAE4-HP, registration 60.00; ST WILLIAMS CARE CENTER, prisoner laundry 222.30; STAR LAUNDRY, prof services 92.69; STEVEN RHODY, prof services 240.00; TWIN VALLEY TIRE, tires 1,220.50; TWO WAY SOLUTIONS, maint 1,320.00; U.S. POSTAL SERVICE, mailing expense 66.00; VALLEY OFFICE, supplies 931.67; VALLEY SHOPPER, publishing 255.12; VERIZON WIRELESS, hotspot 38.52; VISA, gas, books, supplies, motel 2,996.50; WASTE MANAGEMENT, garbage services 157.50; WEST CENTRAL COMM, repair & maint 6,041.50; WHETSTONE HOME CENTER, supplies 37.88; WHETSTONE VALLEY ELECTRIC, electricity 836.31; XEROX, copier rent 757.29. TOTAL: \$82,476.57.

MONTHLY FEES: SDACO, ROD modernization fee 352.00; SD DEPT OF REVENUE, monthly fees 211,587.39. TOTAL: \$211,939.39.

Payroll for the following departments and offices for the April 14, 2021 payroll are as follows: COMMISSIONERS 3,223.90; AUDITOR 7,465.42; ELECTION 179.50; TREASURER 3,983.41; STATES ATTORNEY 6,051.42; CUSTODIANS 3,116.38; DIR. OF EQUALIZATION 3,974.56; REG. OF DEEDS 4,624.10; VET. SERV. OFFICER 1,171.50; SHERIFF 11,268.46; COMMUNICATION CTR 7,772.86; PUBLIC HEALTH NURSE 804.38; ICAP 113.85; VISITING NEIGHBOR 1,927.45; LIBRARY 7,158.66; 4-H 3,467.20; WEED CONTROL 2,001.00; P&Z 332.50; DRAINAGE 152.00; ROAD & BRIDGE 32,147.19; EMERGENCY MANAGEMENT 2,392.00. TOTAL: \$103,327.74.

Payroll Claims: FIRST BANK & TRUST, Fed WH 7,876.78; FIRST BANK & TRUST, FICA WH & Match 12,566.50; FIRST BANK & TRUST, Medicare WH

& Match 2,938.94; AAA COLLECTIONS, deduction 33.42; ACCOUNTS MANAGEMENT, deduction 96.43; AMERICAN FAMILY LIFE, AFLAC ins. 1,444.67; WELLMARK-BLUE CROSS OF SD, Employee health ins. 985.12; OFFICE OF CHILD SUPPORT ENFORCEMENT, child support 210.00; SDRS SUPPLEMENTAL, deduction 1,195.83; SDRS, retire 11,606.29. TOTAL: \$38,953.98.

Executive Session: Motion by Mach and seconded by Stengel to enter executive session at 11:29 AM for the purpose of a personnel(s) issue pursuant to SDCL 1-25-2 (1) and potential litigation pursuant to SDCL 1-25-2(3). Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Auditor Layher was present. Chairman Tostenson declared the meeting open to the public at 11:46 AM. No action was taken because of the executive session.

It is the policy of Grant County, South Dakota, not to discriminate against the handicapped in employment or the provision of service.

The next scheduled meeting dates will be May 4 and 18 and June 1 and 15, 2021, at 8 AM. Motion by Mach and seconded by Street to adjourn the meeting. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Meeting adjourned.

Karen M. Layher, Grant County Auditor

William J. Tostenson, Chairman, Grant County Commission