

December 6, 2022

The Grant County Commission met at 8:00 AM with Commissioners Mach, Stengel, Street and Tostenson who joined by teleconference. Commissioner Buttke was absent. Chairman Stengel called the meeting to order with a quorum present. Motion by Mach and seconded by Street to approve the minutes of the November 10 and 15, 2022 meetings as presented. Motion carried 4-0. Minutes filed. Motion by Street and seconded by Mach to approve the agenda with the addition of Wellmark as the 2023 Health Insurance provider. Motion carried 4-0.

Members of the public present were Kevin Kouba, Craig Arthur and Chris Arthur. Staff members present were States Attorney Schwandt and Deputy Auditor Folk.

Public Comment: Chairman Stengel called for public comment. There were no comments. Chairman Stengel closed the public comment.

Drainage: Chairman Stengel adjourned the Board of Commissioners and convened the Commission acting as the Drainage Board.

Permit DR2022-65 for Craig Arthur for properties located in the SE1/4 & SE1/4SW1/4 in 31-120-49 (Grant Center Township) and located in GOVT LOTS 1 & 2 & S1/2NE1/4 in 6-119-49 (Madison Township). Motion by Mach and seconded by Street to approve DR2022-65. Chairman Stengel asked Drainage Officer Berkner to present his report.

Drainage Officer Berkner reported the project area is 80 acres out of 360 acres in part of Section 31 of Grant Center Township and Section 8 of Madison Township. The tile map indicated that four separate 8" tile mains would drain into an established treelined waterway that is officially known as the North Fork Yellow Bank River.

Berkner said the permit application indicates one inlet that will catch surface water that flows through a grass waterway from neighboring properties located to the west. From the point of the inlet there is nearly 25' of elevation drop before the surface water will enter a treelined waterway. Berkner added in total the elevation drops across all the Arthur property being drained was approximately 30 feet over a half-mile.

Berkner said that he had been contacted separately by three downstream landowners who had questions about the permit. None of the individuals who

called were opposed to the project once it was explained to them that the vast majority of land area being drained of surface water would have to filter through a minimum of 24" of topsoil before it is drained away.

Berkner closed his report saying the six questions under section 101 were answered in the affirmative and the other list of questions in Section 313 and 317 support the affirmative response.

Chairman Stengel asked the applicant if he had any additional information to present. Craig Arthur explained he may install a 4-inch inlet to help the area where the water collects, and all the main lines will follow natural waterways.

Chairman Stengel opened the public hearing asking three times for any comments in support of or against permit DR2022-65 with no one responding. Chairman Stengel then closed the public hearing and asked the Board to begin discussion.

Commissioner Street reported he had inspected the project with Arthur and said he felt it was a good project where the tiling was being limited to just troubled areas. Commissioner Tostenson stated he also liked the simplicity of the project where not a lot of additional pattern tiling was being used.

With no more comments from the Board Stengel called for the vote. Motion carried 4-0. Commissioner Street reminded the applicant to file a completed tile drawing with the Drainage Officer when the project is complete.

The next item was a report on a drainage permit violation in Section 9 of Adams East Township where Drainage Officer Berkner was asked via a complaint to look into a "dam-like structure that was recently built". The report indicated the dam was blocking a vested drainage ditch that would back water up on two "upstream" landowners.

Berkner informed the Board a violation letter had been sent to the landowner that the work had taken place without a drainage permit and was in violation of the County Drainage Ordinance subject to possible penalties. A timely response was received from the landowner and the land renter who performed the work without a drainage permit, that the "dam-like" structure was removed.

Berkner added he has had numerous conversations with the land renter who said that in his opinion a similar violation had occurred in the same section last year. The complainant noted that even if the work was permitted, that it was either a

design that was not in the original permit, or possibly an inlet or structure that was not being maintained properly or plugged. According to the complainant, starting this year, water was backing up causing a crop loss for him, the “upstream” neighbor.

Chairman Stengel said he was concerned that if there is indeed water backing up due to poor maintenance or performance of a permitted drainage design that it wasn’t the county’s responsibility to be the “policeman” where it should be up to the neighbors to work it out between themselves.

Commissioner Tostenson said that for any drainage complaint that it should be up to the drainage officer to act as they deem necessary, in a timely manner, without going to the drainage board and then report any findings that can’t be resolved or may need to be considered later by the Drainage Board. Commissioner Street stressed it would be important that the county drainage officer report their findings to the landowner being inspected so they are aware that there is a possible drainage problem that may require their action. Commissioner Mach commented that he thought the actual inspection should be impartial, without input from either party unless they are asked, and then the Board be notified of its outcome.

Berkner said that last year a drainage permit was granted for the work that was done, but that his office had not received notice that the work had been completed, as required in the County’s Drainage Ordinance.

County Attorney Schwandt was asked to comment where he said that the County’s Drainage Ordinance is to either “permit, or not permit,” drainage, and if there is a maintenance issue, or a design issue, that is causing problems with a neighbor, that would be between neighbors to work out even if it goes to court in an action between them.

Berkner said he would contact the landowner of the complaint and explain to them the possible problem and ask for permission to investigate and report his findings to the board.

This concluded the business for the Drainage Board. Chairman Stengel adjourned the Drainage Board and reconvened as the Board of Commissioners.

Drainage Ordinance: The 8:15 AM public hearing was held for the second reading of Ordinance 1997-1E. States Attorney Schwandt provided a review of the proposed change to the drainage ordinance. The proposed change is that each parcel of land identified by the County Parcel Identification Number must have its own separate drainage permit. Revised the section to state all permits will have a hearing as is the Board's customary action. The other change is the Board may hear several permits at the same time if those permits are part of the same drainage project with one Board action for all the permits in the project.

Chairman Stengel opened the meeting to public comment on Ordinance 1997-1E. No members of the public were present to offer comment. Chairman Stengel closed the public portion of the meeting.

Chairman Stengel called for the second reading of Ordinance 1997-1E, an ordinance amending the drainage ordinance. Motion by Street and seconded by Tostenson to hold the second reading of Ordinance 1997-1E and to dispense with the reading of the ordinance. Motion carried 4-0.

Chairman Stengel opened the Commission discussion. Commissioner Mach asked if four landowners go together on a project and each owns a quarter of land, the cost for the permit would be \$400.00. States Attorney Schwandt answered that is correct. Mach also asked if the cost per parcel of land would discourage neighbors from working together on projects. Commissioners Stengel and Street commented that the cost of a permit is minimal compared to the cost of tiling. Chairman Stengel asked if there were any additional comments. Hearing none, he called for a motion. Motion by Mach and seconded by Street to adopt Ordinance 1997-1E. Voting aye: Mach, Stengel, Street and Tostenson. Voting Nay: None. Motion carried 4-0. The publication of the ordinance will be 12-14-22 and the ordinance is on file in the auditor's office.

Public Defender: Motion by Tostenson and seconded by Mach to call for bids for the 2023 Public Defender contract with the bids due at 5 pm on December 19, 2022. Motion carried 4-0. The bids will be opened at the December 20th commission meeting.

Highway: Supt Peterson reported the materials for the heavy crack sealing had been delivered, but with the change in weather the work will be done in the spring. He presented nine easements for approval for future bridge work. The easements are for 330-107 by Buntings, 310-056 by Log House, 310-177 by Victory II, 270-237 south of LaBolt. Motion by Mach and seconded by Street to authorize

Chairman Stengel to sign the easements. Motion carried 4-0. CDL: Supt Peterson discussed the requirements for all CDL applicants which takes effect in February. The new Federal Entry Level Driver Training (FELDT) will require all new commercial motor vehicle drivers to receive a six-week training prior to being issued a CDL. The items discussed were covering the cost of certifying an employee hired who does not have a CDL, a contract for employment commitment who has been certified at the county's expense and training the trainer program. States Attorney Schwandt will review a sample employment contract for the Commission to review at a future meeting. Small Structure Inventory: SDLTAP has offered to assist the township personnel with filling out the required forms for applying for the small structure grant monies. Supt Peterson will contact SDLTAP to set the date. Road Stripes: Commissioner Mach asked Supt Peterson to check on the cost of painting the white stripes on the county's asphalt roads and report at a future meeting.

Health Insurance: Motion by Mach and seconded by Street to approve Wellmark as the health insurance provider for 2023 selecting the Modified PPO Plan with a \$6,000 deductible with the County to pay the single premium rate of \$970.21 for the employee plan, for the employee/spouse plan and for the employee/children plan with the County covering 66% of the premium (\$1,965.20) for family coverage. For the employee only, the county will reimburse up to a maximum of \$5,000 of the deductible. Motion carried 4-0.

Travel: Motion by Mach and seconded by Street to approve expenses for Commissioners, officials or staff who will need to attend the 2023 legislative session. Motion carried 4-0.

County Assistance: Motion by Street and seconded by Mach to deny case PR2022-06. Motion carried 4-0.

Liquor License for 2023: Motion by Street and seconded by Mach to approve the renewal of the liquor license for 2023 for Bittersweet Lodge in Lura Township with a legal description of South 200' of the West 300' of Gov't Lot 4 in the SW1/4 in 7-120-51, Grant County for Retail (on-sale) Liquor. Motion carried 4-0.

4-H /Extension: Motion by Tostenson and seconded by Street to approve the Memorandum of Understanding for 2023 with SDSU Extension and Grant County for the 4-H Program. Motion carried 4-0.

Scantron: Motion by Street and seconded by Mach to approve Chairman Stengel to sign the agreement with Scantron for the purchase of 8 desktop office computers and 3 laptops scheduled for replacement as per the 2023 budget at a cost of \$16,644.74. Motion carried 4-0.

Consent: Motion by Street and seconded by Tostenson to approve the consent agenda. Motion carried 4-0.

1. Declare surplus ESI phones and approve transfer to Milbank School District
2. Approve D-Ware contract for Hwy project accounting software for \$4,600
3. Approve hiring of Michelle Van Hoorn as CHN clerical assistant effective 12-1-22 at \$16.45 per hour

Zoning Ordinance: Chairman Stengel asked Todd Kays of First District who joined by phone to provide an update on Proposed Ordinance 2022-01B. He reported today's public hearing is on the proposed amendments the Commission had made after receiving the proposed changes on a data processing center from the Planning Commission. The public hearing is only on the amendments of:

1. Under Section 1220.03, letter h: remove letter h completely.
2. Under Section 1220.03, letter i: change to letter h to read as: **The maximum sound level allowed from the physical structure of any occupied residence, church, or government building is fifty-five (55) dBA after any applicable adjustments provided for herein are applied.**
3. Under Section 1220.03 letter i, to read as: **Between the hours of 10:00 p.m. and 7:00 a.m. the maximum sound level allowed from the physical structure of any occupied residence, church, or government building is forty-five (45) dBA after any applicable adjustments provided for herein are applied.**
i. the noise limitations above shall be reduced by 10 dBA for receiving property

Chairman Stengel opened the public hearing and called three times for proponent testimony and for opponent testimony on Ordinance 2022-01B. No one was present to offer any public comment. Chairman Stengel closed the public hearing. Motion by Street and seconded by Mach to dispense with the reading of Ordinance 2022-01B as amended. Motion carried 4-0.

Chairman Stengel called for discussion amongst the Commission. Commissioner Street discussed adding a bond requirement for decommissioning the structure if the building is abandoned like the ordinance has in place for wind towers. Commissioner Tostenson expressed his opinion that this structure for the processing center would be like any commercial building that would be abandoned. Todd Kays explained the building may have some large cooling systems and fans for this type of structure, but otherwise it is a commercial

building. Auditor Layher explained the tax deed process under State law the County would use to sell property obtained by delinquent taxes.

With no further discussion, it was moved by Mach and seconded by Street to adopt Ordinance 2022-01B as amended. Voting aye: Mach, Stengel, Street and Tostenson. Voting nay: None. Motion carried 4-0. The publication of the ordinance will be 12-14-22 and the ordinance is on file in the auditor's office.

Sheriff: Kevin Owen and Deputy Steffensen were present. Sheriff Owen presented the October statistics. Average Daily inmate population 2.58; Number of bookings 15; Work release money collected \$854.00; 24/7 Preliminary Breath Test (PBT) fees collected \$307.00; SCRAM (alcohol detecting bracelet) fees collected \$0.00; 24/7 PBT participants 3; SCRAM (Sobriety Program) participants 0; Calls for Service (does not include walk-in traffic) 347; Accidents investigated 4; Civil papers served 61; Cumulative miles traveled 12,612; 911 calls responded to 109. **New Deputy:** Sheriff Owen reported he had completed the interview process for the addition of a deputy as per the approved 2023 budget. The candidate selected is Caden Bjordahl who completed the certified officer academy at Pierre while under employment of Marshall County. Motion by Tostenson and seconded by Mach to approving hiring Caden Bjordahl at \$24.65 per hour, to reimburse Marshall County the personnel costs incurred during training and to have a contract signed by the new hire to work for Grant County for a certain amount of time. Tostenson amended his motion to strike the contract from his motion. Mach seconded the amended motion. The amended motion carried 4-0.

P&Z: Administrator Steve Berkner informed the Commission that the Planning Commission would like to review zoning issues on CAFO regulations, building requirements in the flood plain and aviation zone regulations. Motion by Mach and seconded by Tostenson to give the Planning Commission permission to review these three items at future meetings and make any recommendations the Planning Commission deems appropriate to the Commission for consideration. Motion carried 4-0.

P&Z: Chairman Stengel asked Todd Kays with First District of Local Government to provide an overview of the P&Z hearing and recommendation on ordinance 2022-01C. Todd explained this is a proposal to amend the County's official zoning map. The ordinance would amend to classify the property known as Lot 1 of BIT INTELLIGENCE, LLC ADDN in the S1/2SW14 in 13-121-47, Big Stone Township to Commercial/Industrial from Agriculture.

Chairman Stengel opened the public hearing and called three times for proponent testimony and for opponent testimony on Ordinance 2022-01C. No one was present to offer any public comment. Chairman Stengel closed the public hearing. Chairman Stengel called for a motion to hold the first reading by title only. Motion by Mach and seconded by Street to have the first reading of Ordinance 2022-01C by title only. Motion carried 4-0. Auditor Layher read the titled ordinance.

ORDINANCE NO. 2022-01C
AN ORDINANCE TO AMEND ARTICLE III “ESTABLISHMENT OF
DISTRICTS”, ADOPTED BY ORDINANCE 2004-01, AS AMENDED,
OF THE ZONING ORDINANCE OF GRANT COUNTY

Chairman Stengel called for a motion to set the second reading of Ordinance 2022-01C. Motion by Street and seconded by Mach to set December 20th at 9 AM for the second reading of Ordinance 2022-01C. Motion carried 4-0.

Unfinished Business: The Commission asked to have a report from the Drainage Officer on the Heuer/Kaaz drainage issue at the next meeting.

New Business: None

Correspondence: None

Claims: Motion by Street and seconded by Mach to approve the claims. Motion carried 4-0. ACCESS ELEVATOR, repair & maint 614.00; AUTOVALUE, supplies 395.69; AVERA QUEEN OF PEACE, blabs 86.00; BIG STONE CITY, election rental 25.00; BRENT PETERSON, prof services 850.78; BUTLER, repair & maint 29,388.54; CENTER POINT, books 380.52; CHS, diesel 7,202.77; CITY OF MILBANK, water & sewer 513.36; COLEPAPERS, supplies 860.85; CORRIE QUALE, contracted proj 253.53; DELORIS RUFER, lib & election rent 125.00; DS SOLUTIONS, prof services 315.00; FARM & HOME PUBLISHERS, reference books 375.00; FISHER SAND & GRAVEL, rip rap 788.21; FOOD-N-FUEL, inmate meals 450.00; GRANT COUNTY REVIEW, publishing 1,569.40; GRANT/ROBERTS AMBULANCE, allocation 2,458.37; GUARDIAN FLEET SAFETY, auto equip 16,135.19; INSIGHT, supplies 580.00; INTOXIMETERS, supplies 560.00; JACK'S BODY SHOP, repairs & maint 966.20; JILL KOLB, contracted proj 6,786.00; JOAN SACRISON, prof services 883.00; KERI SCHLIESMAN, prof services 1,498.00; KIBBLE EQUIPMENT, repair & maint 2,219.38; MARKVE INSURANCE SOLUTIONS, notary bond 50.00; MARVIN,

election rental 25.00; MICROMARKETING, audio/visual 34.79; MIDCO, library internet 103.94; MILBANK AUTO PARTS, supplies 2,832.13; NEW TOWNSHIP HALL, election rental 25.00; NORTHWESTERN ENERGY, natural gas 299.31; QUICK PRO LUBE, repair & maint 359.99; QUILL, supplies 477.39; RADAR SHOP, repair & maint 320.00; RELX, online charges 725.00; RIVER STREET PETROLEUM, diesel & ethanol 7,846.24; ROBERTS CO SHERIFF, inmate housing 1,000.00; SAFETY-KLEEN SYSTEMS, supplies 256.00; SCANTRON, prof services 199.37; SCOTT BRATLAND, court appt atty 4,211.65; SCOTT, MATT, repair & maint 130.00; SD DEPT OF HEALTH, blabs 785.00; SD SECRETARY OF STATE, notary fee 30.00; STAR LAUNDRY, rentals 191.09; STATE BAR OF SD, dues 1,100.00; STOCKHOLM COMMUNITY CTR, election rental 25.00; THOMSON REUTERS, ref books 398.70; TRAPP PLUMBING, repair & maint 268.26; TWIN BROOKS, election rental 25.00; TWIN VALLEY TIRE, repair & tires 5,205.70; VALLEY RENTAL, allocation 650.00; VERIZON, hotspot 38.52; XEROX, copier rent 856.96. TOTAL: \$104,749.83.

Payroll for the following departments and offices for the November 28, 2022, payroll are as follows: COMMISSIONERS 3,335.90; AUDITOR 9,268.55; ELECTION 1,660.03; TREASURER 5,441.25; STATES ATTORNEY 7,116.60; CUSTODIANS 2,841.90; DIR. OF EQUALIZATION 4,219.20; REG. OF DEEDS 4,267.47; VET. SERV. OFFICER 1,211.10; SHERIFF 14,261.55; COMMUNICATION CTR 7,260.08; PUBLIC HEALTH NURSE 823.21; ICAP 58.50; VISITING NEIGHBOR 1,940.18; LIBRARY 7,011.09; 4-H 3,820.90; WEED CONTROL 1,955.75; P&Z 1,444.85; DRAINAGE 345.95; ROAD & BRIDGE 32,327.66; EMERGENCY MANAGEMENT 2,079.00. TOTAL: \$112,690.72.

Payroll Claims: FIRST BANK & TRUST, Fed WH 8,572.04; FIRST BANK & TRUST, FICA WH & Match 13,685.66; FIRST BANK & TRUST, Medicare WH & Match 3,200.70; ACCOUNTS MANAGEMENT, deduction 115.76; AMERICAN FAMILY LIFE, AFLAC ins. 1,463.82; WELLMARK-BLUE CROSS OF SD, Employee and Commission health ins. 48,443.06; COLONIAL LIFE, ins 37.98; DEARBORN NATIONAL, life ins. 287.34; LEGAL SHIELD, deduction 51.80; OFFICE OF CHILD SUPPORT ENFORCEMENT, child support 210.00; OPTILEGRA, ins 401.04; SDRS SUPPLEMENTAL, deduction 1,380.83; SDRS, retire 12,557.49. TOTAL: \$90,407.52.

General Election payroll \$10,983.33.

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 December 20 and 29, 2022 at 8 AM.
Motion by Street and seconded by Mach to adjourn the meeting. Motion carried 4-0. Meeting adjourned.

Karen M. Layher, Grant County Auditor

Doug Stengel, Chairman, Grant County Commission