

July 5, 2023

The Grant County Commission met at 8 AM with Commissioners Buttke, Mach, Stengel, Street and Tostenson present. Chairman Mach called the meeting to order. Motion by Street and seconded by Buttke to approve the June 20, 2023 minutes. Motion carried 5-0. Minutes filed. Motion by Tostenson and seconded by Buttke to approve the agenda. Motion carried 5-0.

Present from the public were Bernard Hermans, Floyd Hermans, Dennis Kohl, John Seffrood, Annelies Seffrood, and Derek Wollschlager. Staff members present were Commissioner Assistant Layher, Drainage Officer Berkner and States Attorney Schwandt.

**Public Comment:** Chairman Mach called three times for public comment. There were no comments. Chairman Mach closed the public comment.

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

States Attorney Schwandt addressed the board concerning if the board can consider multiple drainage permits that share common design elements. Schwandt stated the recently amended Drainage Ordinance allows for one motion unless the board believes a special need exists that would be best served by considering those specific drainage permits separately.

Permit DR2023-18 for Gary Harms for property owned by Sheri Tumlinson and located in the NE1/4 of 10-121-48 (Melrose Township). Tabled from June 6 meeting.

Chairman Mach asked Drainage Officer Berkner to give an update for DR2023-18 for Gary Harms. Berkner stated Harms is still waiting for a response from the NRCS office on the status of nearby wetlands and once he has that information, Harms is considering downsizing his current plan to better meet the downstream landowner's concerns. Tostenson made a motion to table DR2023-18 another 30 days. Street seconded the motion.

After a short discussion Schwandt confirmed that the board could extend the final decision on a drainage permit beyond 30 days if they thought conditions unique to that final vote warranted an extension.

Downstream landowners Floyd Hermans and Bernard Hermans stated they want to be notified of when the actual vote on the DR2023-18 was going to be. Both Floyd and Bernard stated they were open to working directly with Harms to come up with a better design than the one originally proposed. Berkner said he would pass on that information to Harms. Berkner reminded the board and Hermans' that if changes were made outside of the original footprint, the permitting process would have to start over.

Chairman Mach called for the vote to table DR2023-18 for another 30 days. Motion carried 5-0.

Permits DR2023-30 and DR2023-31 for Annelies and John Seffrood for property owned by Norswiss Dairy Inc located in the NW1/4 of 15-121-52 and Gilmar Land LLC located in the SW1/4 of 15-121-52 both located in Blooming Valley Twp.

Chairman Mach asked for a motion to approve Drainage Permits DR2023-30 and DR2023-31 for Annelies and John Seffrood. Motion was made by Tostenson with a second by Buttke.

Berkner began his report stating it was for approximately 210 acres located in the NW1/4 and SW1/4 of Section 15 in Blooming Valley Township, directly south and abutting the Blooming Valley Dairy CAFO. The proposed drainage project is located entirely within the Big Sioux River Watershed and would have one open inlet that would accept water from a vested waterway to the east, and two outlets, 1-8" and 1-18". Berkner stated the drained water will flow west and southwest into a well-established waterway. Berkner's map for the two drainage permits showed the inlets and two outlets were over a mile south of Blooming Valley Dairy's barn infrastructure and lagoons.

In total the two outlets could drain as much as 1,805 gallons of water per minute (GPM), or 4 cubic feet a second (cf/s) if the tiling was installed at a .1% grade and ran at full capacity.

Berkner stated that two downstream landowners had contacted him via phone. They are concerned about both the quantity and the quality of the water being drained due to the tiling project being directly adjacent to the newly expanded

Blooming Valley Dairy. They also questioned if the project could compromise their pastureland.

In closing, Berkner stated it was his opinion DR2023-30 and DR2023-31 are supported by questions asked in Section 101, 313 and 317 of the county's drainage ordinance.

Chairman Mach asked the Seffroods if they had anything to add to the report. John stated the inlet included in the tiling map was more aggressive than needed but the tiling engineer thought it was best to include it in case it was needed. John added that their plans were not to fill in that waterway receiving the planned inlet even if it was used.

Annelies stated the immediate land area located to the east being drained by the vested waterway was a no-till field and did not presently accept any manure. Both Seffroods agreed if those two things ever changed, they would eliminate the inlet from the design if the inlet was installed.

Chairman Mach opened the public hearing portion of the drainage permit and asked three times for comments in favor, or against, DR2023-30 and DR2023-31. No one responded.

Commissioner Tostenson admitted he had some concerns about the holding lagoon from the nearby dairy overflowing and possibly causing problems. After closer review he said the water from the largest lagoons would most likely flow north, away from the area receiving tile. Seffroods, who used to own the dairy, agreed.

Seffroods also stated that one of the lagoons, the one closest to the land they are seeking the two drainage permits for was a rainwater retention pond, and not a manure pond. It collects only rainwater from the feed bunker area which is mostly covered. Tostenson added that even if that retention pond overflowed, instead of seeping away as its designed to do, its water would be filtered through the grassy waterways.

Chairman Mach asked the Seffroods if the 210 acres included in the drainage permit applications received any manure. They answered yes.

Chairman Mach, addressing the Drainage Board, said he knows in the past they had asked other drainage permitted landowners that receive manure if they would provide the results of any outlet water sample testing, and would that be possible with this permit.

Schwandt responded that if it was collected on private property by the County that would be trespassing if the county did it on their own without permission.

Schwandt said that the County's Drainage Ordinance is not written in a way that the County does water testing. If a violation is occurring that would be a matter of State Law.

Chairman Mach said his biggest concern with any tiling project directly next door to a CAFO, especially if an inlet is used, or if drainage tile is installed very shallow on land that also accepts manure, could it contribute to polluting the downstream waterways.

Berkner said that he had at least twice reached out to the South Dakota Department of Agriculture and Natural Resources for their opinion on that same concern of any tiled land receiving manure. He has not been contacted with their response.

John Seffrood said if that was a concern, he would eliminate that inlet from their design. He also spoke briefly on water sampling that had been done in the past by a local concerned citizens group and their results did not find any dairy CAFO related bacteria.

With no more discussion Chairman Mach called for the vote which passed 5-0.

Permit DR2023-32 and DR2023-33 for Dennis Kohl for property owned by Dennis Kohl located within the NW1/4 and SW1/4 of 28-119-48 (Vernon West Township).

Chairman Mach asked for a motion to approve Drainage Permits DR2023-32 and DR2023-33 for Dennis Kohl. Motion was made by Stengel with a second by Tostenson.

Berkner began his report for the two permits saying they were for approximately 125 acres of adjoining land located in the NW1/4 and SW1/4 of Section 28 of Vernon West Township. The proposed drainage projects were located entirely within the South Fork of the Yellow Bank River Watershed. The two smaller mains will follow along either side of a 3,000' long drainage ditch that will combine into one planned 12" outlet.

Berkner justified the use of the 12" outlet by saying Kohl said that if necessary, during actual tiling, a series of smaller outlets may be used along the 3,000' waterway. Berkner said in his opinion the use of smaller outlets would not

contribute to any more water quantity, or rate of flow, being drained because there are no planned open inlets.

According to Berkner the maximum flow of the project, if the tiles were installed at a .1% grade, could drain as much as 550 gallons per minute, or 1.23 cubic feet a second (cf/s).

Berkner said he had not been contacted directly by any concerned landowner of the project but both Kohl and Drainage Board member Street had contacted him prior to the meeting. There was a potential problem with a downstream neighbor and according to Kohl's comments made prior to the start of the meeting, he was working on some small changes to his design.

Berkner stated in his opinion DR2023-32, and DR2023-33, were supported by questions asked in Section 101, 313 and 317 of the county's drainage ordinance.

Kohl was asked if he had anything to add to the report. He confirmed he was in discussion with a neighbor to work out their concerns. Kohl asked if his permit could be tabled for 30 days so he could work out those details.

Chairman Mach opened the public hearing portion of the drainage permits and asked three times for any comments in favor or against permits DR2023-32 and DR2023-33 where no one responded. Mach closed the public hearing.

Chairman Mach accepted a motion by Tostenson and seconded by Street to table the discussion on DR2023-32 and DR2023-33 for 30 days at the request of the permittee. Motion passed 5-0.

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

**Highway:** Supt Peterson discussed with the Commission the wording they want on the new weight limit stickers. Commissioner Stengel motioned to approve the new stickers to say, "TRUCKS 45 MPH, WEIGHT LIMIT 7 TON PER AXLE".

Tostenson seconded the motion. Chairman Mach called for a vote. Motion carried 5-0.

**Intersection 480<sup>th</sup> Ave and 149<sup>th</sup> St.:** Supt Peterson and the Commissioners discussed the safety concerns of this intersection. Supt Peterson stated the corners and shoulders of the road on the south side cannot be widened without replacing all

three concrete culverts in the intersection. Commissioner Tostenson suggested having an engineering study done and estimate of cost from Banner Engineering. Peterson estimated the intersection would be closed for 2-3 months to complete the suggested changes. The project would need to go on the County Highway 5 Year Plan. Discussion was held on how to fund the project by a bond or grants. Commissioner Tostenson motioned to approve up to \$30,000 be allocated for an engineering study from Banner on the intersection of 480<sup>th</sup> Avenue and 149<sup>th</sup> Street. Stengel seconded the motion. Chairman Mach called for a vote. Motion carried 5-0. Tostenson motioned to lower the speed limit on 149<sup>th</sup> Street to 30 miles per hour from Riggins Trailer Court to Paul Karels driveway. Motion was seconded by Stengel. Motion carried 5-0.

**2024 Budget:** Departments meeting with the Commission for the 2024 budget requests were as follows: Highway and 5-year Plan: Supt Peterson; Historical Society: by phone Arlo and Paulette Levisen; Soil Conservation: Amy Sis; Economic Development: Krista Atyeo-Gortmaker; Treasurer: Karla DeVaal; States Attorney: Jackson Schwandt. The budget hearings with other departments will continue Thursday, July 6, 2023.

**Travel:** None

**County Assistance:** None

**Ambulance District:** Commissioner Assistant Layher stated no one filed a petition to be on the Ambulance District Board. States Attorney Schwandt advised the County could open the petition process again if they choose. Layher asked the Commission to consider opening the petition process again. Motion by Street to open the petition process again for the Ambulance District Board, seconded by Buttke. Commissioner Assistant Layher contacted the State for an election timeline. September 12 would be the election day and August 11 the deadline for filing a petition. Chairman Mach called for a vote. Motion carried 5-0.

**Resolution to index bond rate:** Commissioner Assistant Layher was notified by Attorney Meierhenry of Sioux Falls that the Libor index bond rate for the NE SD Health Plan Bond Series 2015A and 2015B interest rate from England is expiring. The NE SD Healthcare used our bonding rate for the hospital in 2015. This is a resolution to move the bonding rate back to the U.S. It is a flexible interest rate.

This doesn't affect the County. Motion by Tostenson and seconded by Stengel to approve the resolution to the new index bond rate. Motion carried 5-0.

**Executive Session:** None

**Unfinished Business:** Commissioner Tostenson asked if the site survey has been done for the Community Transit Building. Commissioner Assistant Layher stated it was, now Banner Associates will need to prepare a plat for that parcel of land. Layher also stated wireless internet is being installed at the County Hwy Shop.

States Attorney Schwandt was asked about wetland determination and what can be cleaned out of them, what you can't, and who is responsible for maintaining and cleaning of it. Schwandt spoke with Joel Foster with FSA. The landowner has to obtain a permit through NRCS, and it has to be approved to remove foliage from the wetland. We can't force them to apply and do the clean-up.

**New Business:** Commissioner Buttke stated the racoons at the 4-H livestock building have been removed and is waiting for an estimate on the wall repair.

**Correspondence:** None

**Claims:** Motion by Street and seconded by Buttke to approve the claims. Motion carried 5-0. MNB CLEANING, prof services 700.00; AUTOVALUE, parts & supplies 1,399.36; BUTLER, repairs & maint 9,150.33; CENTER POINT, books 211.44; CHS, diesel 7,262.59; CITY OF MILBANK, water & sewer 539.08; CONSOLIDATED READY MIX, gravel 25,163.04; CORRIE QUALE, repairs & maint 395.00; DELORIS RUFER, lib rent 100.00; DUANE ATHEY, repairs & maint 239.98; FLAT RATE, gravel 4,497.29; FREMAREK, supplies 192.61; FOOD & FUEL, inmate meals 480.00; GRAJCZYK LAW OFFICE, court appt atty 3,400.00; GRANT COUNTY LIBRARY, summer reading prog 30.00; GRANT/ROBERTS AMBULANCE, allocation 2,458.33; GREEN ROBY OVIATT, court appt atty 1,444.90; ITC, contracted proj 3,645.44; INTOXIMETERS, supplies 200.00; JD POWER, reference books 252.00; LESTER HOSPITALITY, motel 450.00; MCLEOD'S, supplies 45.00; MIDCO, library internet 103.94; MILBANK AUTO PARTS, supplies 795.41; NORTHWESTERN ENERGY, natural gas 114.16; QUICK PRO LUBE, repairs & maint 151.94; R.D. OFFUTT, repairs & maint 1,916.23; RYAN MAGEDANZ,

repairs & maint 1,109.28; SAFETY-KLEEN SYSTEMS, supplies 250.71; SANDRA FONDER, prof services 100.00; SCANTRON, prof services 4,633.98; SCOTT BRATLAND, court appt atty 470.80; SD DEPT OF HEALTH, blabs 165.00; SD DEPT TRANSPORTATION, hwy projects 9,266.01; SDVSOA, registration & dues 100.00; THE SHOP, repairs & maint 2,679.12; STAN HOUSTON EQUIP, supplies 126.60; STAR LAUNDRY, rentals 160.22; STREET GRAPHEX, supplies 230.43; TRANSOURCE TRUCK & EQUIP, parts 549.94; TWIN VALLEY TIRE, repairs & maint 56.50; VALLEY RENTAL & RECYCLING allocation 650.00; iLOOKABOUT, computer software \$260.00. TOTAL: \$86,146.66.

**Consent Agenda:** Motion by Tostenson and seconded by Stengel to approve the consent agenda. Motion carried 5-0.

1. Approve step increase for Renae Buttke to 1 year effective 6-19-23 at \$18.35 per hour
2. Approve step increase for Joan Sacrison to 6-month effective 6-13-23 at \$16.50 per hour
3. Approve hiring of Jamie Highsmith as dispatcher effective 6-14-23 at \$17.85 per hour
4. Approve hiring of Deven Weinkauff as Deputy Sheriff effective 7-10-23 at \$25.65 per hour
5. Auto supplement of revenue and expense for \$4,000.00 received from a POET grant for 4-H camera system

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 July 6 and 18, and August 1 and 15, 2023 at 8 AM. Motion by Stengel and seconded by Buttke to adjourn the meeting. Motion carried 5-0. Meeting adjourned.

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Kathy Folk, Grant County Auditor

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Michael J. Mach, Chairman, Grant County Commission