

July 6, 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 Mach and seconded by Stengel to approve the minutes of the June 15, 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 Stengel and seconded by Buttke to approve the agenda as presented. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Motion by Stengel and seconded by Mach to amend item F under Highway to list County Road 18 and 27 not 37 as listed. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

No members of the public were present. Staff member present was States Attorney Schwandt.

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

Permit DR2021-14 for Mark Loeschke in the NE ¼ of Section 31, Township 120, Range 47. (Alban East Township) and in the E1/2NW1/4 & N1/2N1/2SE1/4 of Section 31, Township 120, Range 47 (Alban East Township). The request, if granted, would improve drainage and stop erosion. Drainage Office Steve Berkner reported the permit is in order with the certified notices acknowledged, signatures and the NRCS wetland determination is on file. This permit is a fix from the first permit that was approved. This permit is for the addition of laterals that were missed in a couple of low areas. Motion by Stengel and seconded by Street to approve Permit DR2021-14. Chairman Tostenson called for discussion. Commissioner Stengel reported he had been onsite to review the project, and this is a fix or correction to a prior permit to add additional laterals in a couple of low areas. The Board continued to discuss the benefits of tiling farmland to reduce alkali, increasing crop production as well as improving the ground. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye who stated as this was a correction to a prior permit, he would vote in the affirmative. Motion carried 5-0.

Permit DR2021-15 for Mark Loeschke in the NW1/4, Section 8, Township 119, Range 47 (Vernon East Township). The request if granted, would improve the farm ground and control erosion. Drainage Office Steve Berkner reported the permit is in order with the certified notices acknowledged and the NRCS wetland determination is on file. The outlet is on the adjoining landowner's land and his signature has been obtained. Motion by Street and seconded by Stengel to approve permit DR2021-15. Chairman Tostenson called for discussion. Commissioner Mach asked if this project had an open inlet to speed the water to the outlet and he questioned if an open inlet should be approved. He was of the understanding all tiling projects have only laterals going to the tile outlet. Commissioner Street stated this project does not have any open inlet. Discussion continued to review overland flooding, open inlets, and wetlands. Chairman Tostenson asked to review the criteria of granting a permit in regard to the permit being considered. He referred to Section 101 of Ordinance 1997-1C. Section 101 lists:

1. The land receiving the drainage remains rural in character;
2. The land being drained is used in a reasonable manner;
3. The drainage creates no unreasonable hardship or injury to the owner of the land receiving the drainage;
4. The drainage is natural and occurs by means of a natural water course or established water course;
5. The owner of the land being drained does not substantially alter on a permanent basis the course of flow, the amount of flow, or the time of flow from that which would occur; and
6. No other feasible alternative drainage system is available that will produce less harm without substantially greater cost to the owner of the land being drained.

Next reviewed was Section 313.

1. Whether the flow or quantity of water to be drained will overburden the watercourse into which the water will be drained.
2. Whether the drainage will flood or adversely affect the lands of lower proprietors.
3. Whether easements are required.
4. Whether consideration was given to sound water resource management policy, including the following:
  - a. Whether it is shown that there will be a significant decrease in water quality resulting from the proposed drainage project.
  - b. Whether, in evaluation the entire watershed, the resultant drainage will significantly increase flooding problems in the watershed.
  - c. Whether the permanent storage of water on parcels in the application area is beneficial.
  - d. Whether the area's erosion potential will be increased significantly due to the drainage of the water and the subsequent lack of wetlands to retard erosion.
  - e. Whether the agricultural productivity was considered.
  - f. Whether the drainage project will decrease local flooding problems.
  - g. Whether fish and wildlife values were considered.
5. Whether the land receiving the drainage is to remain rural in character.

6. Any other factors deemed important.

Commissioner Street questioned the meaning of item number 5. States Attorney Schwandt responded, the Board needs to determine if the land remains rural or through the course of change does it become lakefront property or a housing development? Chairman Tostenson asked how does the Drainage Board predict the future when granting a permit? The discussion continued with considering having a check list for the drainage officer to provide to the applicant asking him to answer the criteria as listed within the ordinance. States Attorney Schwandt reviewed questions that could be asked at a hearing and how the courts would review if the correct process was followed for issuing a permit. Commissioner Stengel addressed the issue that a qualified hydrologist would not sign off on the permit stating that the drainage project would not impact a downstream landowner. Chairman Tostenson read the questions to be asked as part of the review process for issuing a permit from Section 317.

The Board or its designated official shall be guided by the following criteria:

1. Uncontrolled drainage into receiving watercourses which do not have sufficient capacity to handle the additional flow and quantity of water shall be considered to have an adverse effect.
2. Whether drainage is accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or in the absence of a practical natural drain, a reasonable artificial drain system is adopted.
3. That amount of water proposed to be drained.
4. The design and other physical aspects of the drain.
5. The impact of sustained flows.

Chairman Tostenson said his concern is following the ordinance as it is written and not look at how permits were issued in the past. The vote was called. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson nay for the same reason for voting nay in prior permits. Motion carried 4-1.

**Highway:** Supt Schultz presented a right-of-way occupancy application for the Mielitz Brothers for crossing the county road on 153<sup>rd</sup> St in 28-120N-47W in east Alban for a two-inch water line for watering cattle. The line would be trenched through the road. Motion by Street and seconded by Stengel to approve ROW 2021-51 for Mielitz Brothers as presented. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. **Culverts:** A letter was received from True North Steel informing the Commission that they would no longer be able to honor the pricing that was previously supplied for culverts through the bid process for 2021 due to the fluctuating increases in raw materials. Auditor Layher explained under the bid laws the cap for purchasing like materials is \$25,000 before the bid process is implemented. The County exceeds this amount yearly and would need to call for

bids again for culverts. Motion by Stengel and seconded by Buttke to call for bids for steel culverts on July 16<sup>th</sup> at 8:15 AM. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Asphalt Roads: Banner submitted a letter of contract for engineering services for year two of the asphalt pavement inventory project. The information collected through core samples of the asphalt road would assist with decision making of repair and maintenance of the roads. The contract would be for 35 miles of core samples for a cost of \$27,600. Motion by Street and seconded by Buttke to approve signing the contract with Banner for year two of core samples of the asphalt roads. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Bridge: A letter of contract with Banner Engineering for structure 26-030-067 (located on 452<sup>nd</sup> Ave in Blooming Valley Twp) for bid ready plans and bid letting was reviewed. The estimated cost of service is \$63,000. If selected, this bridge would be replaced in 2023 or 2024. Motion by Street and seconded by Buttke to approve signing the contract with Banner Engineering as presented. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Intersection: Following further discussion, the mayor for the Town of LaBolt will be advised to talk to the landowner for the intersection of County Road 18 and 27 on the removal of the trees blocking the view for a left-hand turn.

**2022 Budget:** Departments meeting with the Commission for the 2022 budget requests were as follows: Highway and 5-year Plan: Supt Schultz; Weed: Nathan Mueller; Library: Jody Carlson; Historical Society: Arlo and Paulette Levisen; Economic Development: Krista Atyeo-Gortmaker; Soil Conservation: Amy Sis; Treasurer: Karla DeVaal. The budget hearings with other departments will continue Wednesday, July 7, 2021.

**Travel:** Motion by Buttke and seconded by Stengel to approve travel expense for EM Kevin Schuelke to attend EM102 training in Pierre and for DOE Kathy Steinlicht and Deputy DOE Casey Cameron to attend annual school in Pierre. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

**SB152:** No action was taken on the resolution. This item will be placed on a future agenda.

**RPP:** The Governor's Office of Economic Development has a program called Reinvestment Payment Program (RPP) which is a state sales tax program that will

reinvest sales tax paid by a construction project back to the County. The Blooming Valley Dairy expansion project applied and was approved for the reinvestment payment program. The dairy expansion project was approved for a reinvestment amount of up to \$700,000. Motion by Stengel and seconded by Buttke to authorize Chairman Tostenson to sign the Assignment of Payment document and to approve the following resolution. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Resolution adopted.

**RESOLUTION #2021-15**

**WHEREAS**, Blooming Valley Dairy, the applicant has been approved for a South Dakota Reinvestment Payment Program Grant pursuant to SDCL § 1-16G-48(5), et. seq. and ARSD Chapter 68:02:10 for construction of a Concentrated Animal Feeding Operation on May 27, 2021; and

**WHEREAS**, the Grant County Planning & Zoning Commission recommended approval of a Conditional Use Permit to operate a 8,866-animal unit Concentrated Animal Feeding Operation in the Agriculture District on May 11, 2020. The property is legally described as the S 1/2 of Section 10, Township 121N, Range 52W (legal); and

**WHEREAS**, the Grant County Board of Adjustment approved the Conditional Use Permit for the Concentrated Animal Feeding Operation on May 11, 2020; and

**WHEREAS**, assignment of payment is required to be signed by Grant County, South Dakota.

**Now, Therefore, be it resolved**, that the Grant County Commission authorizes the Chairman, William J. Tostenson to sign assignment of payment for South Dakota Reinvestment Payment Program Grant Agreement No: RPP:21-02.

Dated this 6<sup>th</sup> day of July, 2021 at Milbank, SD.

William J. Tostenson, Chairman

ATTEST:  
Karen M. Layher  
Grant County Auditor

**Holiday:** Motion by Stengel and seconded by Street to approve holiday pay for eligible employees to be paid on the next pay period for Juneteenth Day, the holiday declared by the President. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

**Cannabis:** Chairman Tostenson requested approval to appoint Sheriff Owen, States Attorney Schwandt, Commissioners Stengel and Tostenson, P & Z Officer

Berkner and Auditor Layher to serve on a committee for developing the county cannabis ordinance. Motion by Street and seconded by Buttke to approve the appointment of the cannabis committee as requested by the Chairman. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. Todd Kays, Executive Director for First District, is working with other planning districts to develop working guidelines for the counties.

**Parking Spaces:** Two half lots, east of the Courthouse, were offered for consideration for parking spaces. No action was taken by the Commission.

**Recovery Act:** The rules have not been finalized as to allowable expenditures for the allocation the County received under the American Recovery Act. Questions on allowable expenditures need to be directed to the US Treasury.

**Unfinished Business:** Toby Morris with Colliers Securities will have a presentation on county funding at the July 16 meeting. The Commission discussed and advised Auditor Layher and 4-H Advisor Sara Kopeke to revise a fundraising letter to be sent out to 4-H alumni and area businesses.

**New Business:** None

**Correspondence:** The next Lake Region District meeting will be held on July 22 in Day County. County Officials and Commissioners will be in attendance. Congratulations is extended to Noah Steinlicht, son of William and Kathy, who was awarded a \$2,000 scholarship by the SD Hwy Supt Association.

**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 the grant received by the Library from the American Recovery Plan Grant for website and digitalization in the amount of \$30,000.

**Claims:** Motion by Stengel and seconded by Buttke to approve the claims as presented. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. AL'S BODY SHOP, repair & maint 420.00; AUTOVALUE, supplies & repairs 339.13; BANNER ASSOCIATES, hwy proj 1,455.50; BOYER FORD TRUCKS, repairs & maint 357.11; BUTLER MACHINERY, repairs & maint 3,389.86; CENTER POINT, books 446.80; CHS, diesel fuel & gas 13,492.02; CITY OF MILBANK,

water & sewer 568.51; COLEPAPERS, supplies 657.46; COLONIAL RESEARCH CHEMICAL, supplies 117.81; CONSOLIDATED READY MIX, gravel 22,090.38; DALE'S ALIGNMENT SERVICE, repairs and maint 463.50; DELORIS RUFER, lib rent 100.00; DEMCO, supplies 508.24; DIAMOND MOWERS, supplies 593.84; DYLAN HOWEN, reimbursement 10.00; FISHER SAND & GRAVEL, gravel & rip-rap 1,769.82; FOOD-N-FUEL, prisoner meals 152.25; GRANT CO EC & DEV BOARD, allocation 8,750.00; GRANT-ROBERTS RURAL WATER, water usage 36.40; GRANT/ROBERTS AMBULANCE, allocation 2,458.33; HARTMAN'S, prisoner meals 184.17; HEIMAN, minor equip 2,546.25; HMN ARCHITECTS, prof services 3,200.00; INSIGHT, supplies 108.50; iLOOKABOUT, computer software 235.00; ISTATE TRUCK CENTER, repairs & maint 152.49; JASON DOUCETTE, reimbursement 31.00; LARRY'S REFRIGERATION, repair & maint 1,413.14; LEWIS FAMILY DRUG, supplies 74.21; LINCOLN COUNTY AUDITOR, prof services 94.05; LONNIE MIELITZ, reimbursement 17.00; MCLEOD'S, supplies 458.16; MIDCONTINENT, lib internet 85.00; MILBANK AREA HOSPITAL AVERA, blabs 238.00; MILBANK AUTO PARTS, supplies 900.86; MN DEPT OF TRANSPORTATION, tower rent 300.00; MT LIBRARY SERVICES, books 50.00; NORTHWESTERN ENERGY, natural gas 259.15; PHOENIX SUPPLY, supplies 76.72; R.D. OFFUTT, automotive equip & repairs 232,752.07; RADAR SHOP, repairs & maint 175.00; REDWOOD TOXICOLOGY LAB, supplies 217.91; RIVER STREET PETROLEUM, diesel fuel 3,979.64; RYAN MAGEDANZ, repair & maint 89.37; SCOTT BRATLAND, court appt atty 4,088.98; SD DEPT OF HEALTH, blabs 245.00; SD DEPT TRANS, hwy proj 1,094.47; SDAAO, registration 760.00; SDSU EXTENSION, parking & admission 55.00; ST WILLIAMS, inmate laundry 59.40; STURDEVANTS, repairs & maint 29.96; TEAM LABORATORY CHEMICAL, asphalt 779.50; TRAPP PLUMBING, repairs & maint 210.63; TWIN VALLEY TIRE, repairs & supplies 2,506.50; VALLEY RENTAL & RECYCLING, allocation 650.00; WATCHGUARD VIDEO, repair & maint 750.00; XEROX, copier rent 319.39. TOTAL: \$317,363.48.

Payroll for the following departments and offices for the June 28, 2021, payroll are as follows: COMMISSIONERS 3,223.90; AUDITOR 7,368.48; ELECTION 462.21; TREASURER 3,817.58; STATES ATTORNEY 6,051.42; CUSTODIANS 3,047.28; DIR. OF EQUALIZATION 3,974.57; REG. OF DEEDS 4,390.75; VET. SERV. OFFICER 1,171.50; SHERIFF 12,867.77; COMMUNICATION CTR 6,610.15; PUBLIC HEALTH NURSE 792.00; ICAP 88.55; VISITING NEIGHBOR 1,992.53; LIBRARY 8,081.53; 4-H 3,566.55; WEED CONTROL

3,112.31; P & Z 7,483.50; Drainage 313.50; ROAD & BRIDGE 31,637.96; EMERGENCY MANAGEMENT 2,288.00. TOTAL: \$112,342.04.

Payroll Claims: FIRST BANK & TRUST, Fed WH 8,347.70; FIRST BANK & TRUST, FICA WH & Match 13,631.28; FIRST BANK & TRUST, Medicare WH & Match 3,187.94; AAA COLLECTIONS, deduction 33.42; ACCOUNTS MANAGEMENT, deduction 96.43; AMERICAN FAMILY LIFE, AFLAC ins. 1,468.71; WELLMARK-BLUE CROSS OF SD, Employee and Commission health ins. 49,150.44; COLONIAL LIFE, ins 37.98; DEARBORN NATIONAL, life ins. 274.27; LEGAL SHIELD, deduction 76.70; OFFICE OF CHILD SUPPORT ENFORCEMENT, child support 210.00; OPTILEGRA, ins 423.10; SDRS SUPPLEMENTAL, deduction 1,195.83; SDRS, retire 11,958.87. TOTAL: \$90,092.67.

**Executive Session:** Motion by Buttke and seconded by Street to enter executive session at 2:20 PM for the purpose of a personnel(s) issue pursuant to SDCL 1-25-2 (1). 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 3:05 PM. 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 July 7 and 16 (Friday) and August 3 and 17, 2021, at 8 AM. Motion by Stengel and seconded by Buttke 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.

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Karen M. Layher, Grant County Auditor

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William J. Tostenson, Chairman, Grant County Commission



July 7, 2021

The Grant County Commission met at 8 AM with Commissioners Mach, Street and Tostenson present. Chairman Tostenson called the meeting to order with a quorum present. Commissioners Buttke and Stengel were absent. Motion by Mach and seconded by Street to approve the agenda with the addition of an executive session for personnel issues as per SDCL1-25-2 (1). Chairman Tostenson called for a vote. Motion carried 3-0.

The Chairman called for public comment. No one was present to speak.

Commissioner Stengel joined the meeting at 9:15 AM and Commissioner Buttke joined the meeting at 10:10 AM.

The Commission heard the 2022 budget requests from the following: Visiting Neighbor: Auditor Layher; 4-H: Sara Koepke; P & Z and Drainage: Steve Berkner; Director of Equalization: Kathy Steinlicht; VSO: Scott Malimanek; EM: Kevin Schuelke; Sheriff-Jail-Juvenile-911-24/7: Sheriff Kevin Owen; Register of Deeds: Becky Wellnitz; Auditor, Data Processing and Elections: Karen Layher. All remaining budgets were reviewed by the Commission. The Commission will continue to review requests, revenue, expense and cash projections for preparing the 2022 Provisional Budget.

**Executive Session:** Motion by Mach and seconded by Stengel to enter executive session at 12:10 PM for the purpose of a personnel(s) issue pursuant to SDCL 1-25-2 (1). Chairman Tostenson called the motion. Motion carried 5-0. Auditor Layher was present. Chairman Tostenson declared the meeting open to the public at 12:26 PM. 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 Friday, July 16 and August 3 and 17, 2021 at 8 AM. Motion by Stengel and seconded by Buttke to adjourn the meeting. Chairman Tostenson called for the vote. Motion carried 5-0. Meeting adjourned.

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Karen M. Layher, Grant County Auditor

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William J. Tostenson, Chairman, Grant County Comm.