

June 6, 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 May 16th 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 Ben Wollschlager, Bernard Hermans, Floyd Hermans, Chris Zubke, Paul Karels, Christian Karels, Dick Skoog, Gary Harms, Les Bloem and David Schneck. Staff members present were Commissioner Assistant Layher, Drainage Officer Berkner and States Attorney Schwandt.

Public Comment: Chairman Mach called for public comment. Christian Karels asked the Commission to review the intersection of 480th Avenue and 149th Street. It is a blind intersection where the hill blocks the view from the east for oncoming traffic and the southeast corner is very steep with not much of a shoulder. When using their farm equipment, they must use both lanes to turn onto 149th Street. Karels would like to see the culvert extended and have the corner filled in more to accommodate larger vehicles turning. Hwy Supt Peterson stated three corners of the intersection would have to be modified if the culverts there are extended. The Commission took it under advisement and will put it on the agenda for the next meeting.

Chairman Mach asked for any other public comment. With no one responding, Chairman Mach closed the public comment.

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

Permit DR2023-18 for Gary Harms for property owned by Sheri Tumlinson and located in the NE1/4 of 10-121-48 (Melrose Twp).

Chairman Mach asked for a motion to consider Drainage Permit DR2023-18 for Gary Harms. Motion was made by Tostenson and seconded by Stengel.

Drainage Officer Berkner began his report for the permit stating it was for approximately 8 acres located in the NE1/4 of Section 10 in Melrose Township and

would feature a 24" 1,700' long pipe, 24" outlet tile, with one inlet, and some pattern tiling. Berkner stated the proposed drainage project was located entirely within the North Fork of the Whetstone River Watershed and the inlet would also surface drain over 200 acres into a ravine 1/4-mile upstream of its normal path into the river.

In total, the 24" outlet could drain as much as 3,485 gallons of water per minute (gpm), or 7.8 cubic feet a second (cf/s) if the tiling was installed at a .1% grade and ran at full capacity. According to Berkner a recent downstream modern record crest of the Whetstone River had recently peaked at 20,000 cf/s.

Berkner identified at least 5 vested drainage rights in Melrose Township Sections 9, 10, and 11, all flowing directly into the river in section 11. Harms, the permittee seeking the drainage permit in the NE1/4 of Section 10, had recorded one of the vested drainage rights in 1992 identifying two drainage ditches that passed under 477th Ave. within a 1/4 mile of one another before entering natural waterways in the NW1/4 of Section 11.

Notifications for the permit ran twice in the local paper and three letters were sent out notifying those landowners within two miles downstream as required. Berkner stated two of those downstream landowners had contacted his office about their concern that the proposed drainage project would cause additional downstream flooding, just as had happened when a record snowmelt occurred over 3 days and had caused flooding earlier this spring.

Berkner provided recent photographs taken by the Grant County Highway Department in April showing some of the extensive flood and erosion damage that occurred between Section 10 and 11 in Melrose Township at County Road 2, and the intersection of 477th Ave., where the proposed outlet would drain through.

Chairman Mach asked Harms if he had anything to add to the report. Harms said he was open to modifying his drainage tile design if needed. In reviewing his project with Drainage Board member Tostenson, he was OK if the decision on the permit had to be postponed to a later date.

Chairman Mach opened the public hearing for DR2023-18 and asked 3 different times for comments in favor or against the proposed project. Bernard Hermans and Floyd Hermans, who both own land adjacent to the river downstream of the planned outlet, stated they thought that recent flooding issues showed that any increased water flow would most likely cause greater flood damage during extreme drainage events. Chairman Mach closed the public hearing and opened board discussion.

Board discussion was about the possible negative effects of additional flooding from granting DR2023-18 as presented, Harms was asked if he would consider making modifications to his drainage permit application. Harms said he would look into making those types of changes addressed by the Drainage Board.

Chairman Tostenson motioned to table the Drainage Boards decision on DR2023-18 until Wednesday, July 5th, to see if Harms could work out a design that would better serve all concerned parties. Stengel seconded the motion. Motion carried 5-0.

Permit DR2023-19 for David Schneck for property owned by David L. Schneck Real Estate LTD Partnership and located in the NW1/4 of 3-119-48 (Vernon West Twp)

Drainage Board Chairman Mach asked for a motion to consider Drainage Permit DR2023-19 for David Schneck. Motion was made by Stengel with a second by Tostenson.

Drainage Officer Berkner began his report for the permit saying it was for approximately 150 acres of land located in the NW1/4 of Section 3 in Vernon West Township.

Berkner stated the proposed drainage project was located entirely within the North Fork Yellow Bank Watershed and would have 4-outlets; 2-8", 1-10" and 1-12", with no inlets. In total, the four outlets could drain as much as 1,260 GPM, or 2.81 cf/s, into a natural vested waterway if the tiles were installed at a .1% grade.

Berkner stated the 12" outlet line would cross under 154th Street, between Vernon and Alban townships, and would connect to an outlet recently permitted with DR2023-12. Berkner added the other three outlets would enter the same waterway upstream of the 12" outlet where all four outlets would be spaced over roughly two miles. In closing Berkner stated he believed the tiling project was supported by the County's Drainage Ordinance, drawing attention to no inlets and the four separate outlets, one tying into an already permitted outlet.

Chairman Mach asked Schneck if he had anything to add to the report. Schneck stated the actual amount of tile installed would most likely be much less if conditions allow. His tiling contractor thought it would be best to over design to meet the worse possible conditions they could encounter while tiling.

Chairman Mach opened the public hearing portion for DR2023-19 and asked 3 times for any comments for or against, with no one responding. Chairman Mach closed the public hearing and opened the board's discussion.

During their discussion Schneck's design was praised for not having any inlets as well as multiple outlets spread over a distance. With no more discussion Mach called for the vote which passed 5-0.

Permits DR2023-20, DR2023-21, and DR2023-22 for Chris Zubke for adjacent properties owned by Kelvin Korth and located in the S1/2 of 17-120-51 (Lura Township) and in 28-120-52 (Mazeppa Twp).

Chairman Mach asked for a motion to consider Drainage Permits DR2023-20, DR2023-21, and DR2023-22 for Chris Zubke. The motion was made by Street and seconded by Buttke.

Berkner began his report for the three permits saying they were for tiling approximately 70 acres out of 170 acres of adjoining land located in the S1/2 Section 17 in Lura Township and Section 28 of Mazeppa Township.

Berkner stated the proposed drainage projects were located entirely within the Big Sioux River Watershed and would have one inlet and two outlets, 1-6" flowing north, and 1-8" flowing south. According to Berkner the combined two outlets could drain as much as 275 GPM, or .61 cf/s, if the tiles were installed at a .1% grade. As a comparison Berkner stated that a USGS downstream river gauge had an average flow rate of 100 cf/s to 200 cf/s with a recent peak flow of over 6,000 cf/s.

Berkner added the legal notice was published and he had sent out notices to ten downstream landowners. One landowner had contacted him multiple times to ask additional questions but didn't have any concerns about the drainage project affecting him negatively.

Chairman Mach asked Zubke if he had anything to add to the report. Zubke stated he would be available to answer questions if they came up.

Chairman Mach opened the public hearing portion for DR2023-20, DR2023-21, and DR2023-22 and asked three times for comments in favor or against, with no one responding. Chairman Mach closed the public hearing and called for Board discussion.

During Board discussion for the three adjoining permits Zubke was asked to give details of the need for the one inlet. He stated it was to capture water from a culvert that slowly drained snowmelt from a substantial shelterbelt located directly east across 457th Ave. causing extended wet field conditions often into June. Additional discussion from the board highlighted that the permit was only seeking

to tile much less than half of the land being farmed, and the water was being drained in two directions.

With no more discussion Chairman Mach called for the vote to approve DR2023-20, DR2023-21, and DR2023-22 which passed 5-0.

Berkner gave an update of reported erosion and flooding damage located on the South Fork of the Whetstone River in the SE1/4 of Section 3 of Grant Center Township, just north of the SD Highway department garage. He was able to inspect it firsthand after getting permission to access the land.

The original report was during the rapid snowmelt in April. Extensive erosion had occurred from a nearby drainage tile outlet and debris had formed in front of the box culverts flowing under County Road 23. Berkner presented photos showing erosion damage that was consistent to high river levels, possibly caused by debris blocking the flow of water. Little erosion was visible from the drainage outlet that flowed overland into the waterway.

Berkner stated at the time of his inspection he could find no debris blocking the county road's box culverts, but debris could have been removed by the State of South Dakota as it would have occurred on their land. Berkner added that ice jams in front of the box culverts more than likely caused the water to back up.

Berkner stated upon reviewing the original Drainage Permit, DR2017-46, the outlet that was suggested may have caused erosion. It was approximately 8 acres of land. It showed the outlet to drain directly into the South Fork of the Whetstone River, approximately 400 feet south of the permittee's land. Berkner stated the outlet was installed on the permittee's land and flowed over the neighbor's land as most of the area being tiled naturally would have. Berkner added the original permit application had the signature of the landowner to the south which would have been required by county ordinance if the outlet was installed at the waterway on the adjacent parcel.

Commissioner Street thought it was important that the outlets of any drainage permit be installed according to the approved tiling map. States Attorney Schwandt responded that permittees are only required by the county not to do more than indicated on the approved permit. Schwandt stressed if harm was done to the neighboring land by the water flowing over it instead of under it, that dispute was between the neighbors and not the county.

Berkner also reported on a concern of what was permitted last year in DR2022-45, located in Section 10 of Adams East Township. The complaint was about the

terrace that was built to catch water which passed through the northern 487th Ave. culvert and directed it into a permitted inlet that was higher than the outlet of the culvert. This could back up water on the NE1/4 of Section 9 if the inlet could not drain water away fast enough.

Berkner presented photos he took of the terrace and inlet at the time of the complaint showing the height of the terrace was higher than the flowline of the culvert outlet. Berkner stated he had instructed the original permittee of DR2022-45 to lower that terrace height and an amendment would have to be made to their original permit as it appeared the work completed was different than what was permitted.

Berkner advised that the permittee made alterations lowering the height of the terrace the same day after being notified to do so and they had sent pictures showing that. Berkner stated he had not re-visited the site of the complaint since receiving the photos of the requested modification but the person making the complaint thought the height of the terrace, at its lowest point, was adequate if it wasn't made any taller.

Berkner was instructed to send a letter to the permittee of DR2022-45 indicating that a new Drainage Permit would have to be applied for, and that all changes to the original permit should be contained in that application for review and consideration of the Drainage Board.

At the conclusion of the Drainage Board meeting Berkner gave a Planning and Zoning report on a complaint concerning a possible violation of Victory II CAFO's Conditional Use permit (CUP) requirement that a continuous shelterbelt be maintained on the CAFO's western boarder where during recent construction of a biogas digester a portion of the southern shelterbelt was removed.

Berkner provided copies of the original Victory II CUP conditions, issued in 2015, that called for the "west shelterbelt." Berkner also referred to a 2018 complaint against the dairy where they replanted part of the shelterbelt that was missing at that time to bring it into compliance and that work was completed within a year.

Berkner stated during the review process of the digester building permit he communicated with the contractor building the digester that it appeared they would be removing part of the southwest corner of the shelterbelt. That it would put the Victory II Dairy in "non-compliance" with their CUP if it wasn't replaced. The digester is not owned by the dairy, but a third-party owner not directly related to the dairy. Berkner presented a copy of an email with the digester contractor going over that concern.

After a brief discussion, Berkner was asked to send a letter to the dairy and digester contractor that the missing portion of the shelterbelt would have to be replaced in a timely manner so as not to jeopardize the CAFO's CUP.

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

Highway: Commissioner Assistant Layher compiled a list of permit fees that Supt Peterson had given her from other similar counties with proposed permit fees for Grant County. Currently Grant County is not charging a fee for overweight or over-width permits. Chairman Mach asked Supt Peterson to assign permit fees for the different categories and the Commission will review at the next meeting.

Supt Peterson advised the Commission that 11 culverts on 472nd Avenue from Hwy 20 south to the Deuel County line need to be replaced before the asphalt lift is applied. The cost for the culverts alone is \$100,122. It doesn't include bands, ends or labor cost. He stated the County should postpone the asphalt lift they planned on laying and the culverts that were scheduled to be replaced this year. The County has already done \$239,500 worth of asphalt patching this year and there is still more to do. He is already over budget on patching.

ROW Application: Supt Peterson presented one right-of-way application from Sioux Valley Coop to bore under County Road 35 to install lines for a propane dryer installation by the Revillo Elevator in Adams Township. Motion by Street and seconded by Buttke to approve right-of-way application ROW2023-02 as presented. Motion carried 5-0.

Spillway: Dick Skoog was present to discuss the spillway on his land that is leaving stagnant water on his property. Skoog stated the county put in culverts the wrong way years ago. One of them has since been fixed. The north side of the dam is lower than the south side of the dam. He has cleaned out the creek twice in the last five years. Skoog would like to see the spillway raised so the water flows through the channel behind his residence. Commissioner Tostenson advised him that due to all the flooding repairs the County cannot commit to repairing it this year. Commissioner Assistant Layher suggested we have EM Director Kevin Schuelke get drone aerial pictures of the creek and spillway, so the Commission has a better understanding of the issue. It will be put on the next meetings agenda.

Omitted Property Hearing: The hearing to add omitted property to the 2023 assessment year was held. The appellants were not present. The assessor had

discovered the ag building value was accidentally deleted from parcel 05.52.33.2200 when the mobile home value was added to the parcel. Motion by Tostenson and seconded by Stengel to amend the 2023 tax roll for parcel 05.52.33.2200 to add an assessed value of 53,683 that was omitted in error. Motion carried 5-0.

Travel: None

County Assistance: None

Land Lease: Motion by Buttke and seconded by Street to accept and authorize Chairman Mach to sign the land lease for 2023. Motion carried 5-0.

Land Lease:

1. S½ NE ¼ of 8-120-51 (40 Acres) Mazeppa Twp to John Moes for \$1,600.

Elderly Tax Freeze: Motion by Buttke and seconded by Stengel to approve application AF2023-04 for the 2023 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 Mach called for a vote. Motion carried 5-0.

Chairlift Update: Commissioner Assistant Layher reported an insurance claim was filed for damage to the chairlift. She is optimistic it will be covered. Layher advised the Commission to accept the quote to repair the chairlift as it is needed in the courthouse and the process of installing an elevator will take time. Layher spoke with Ben at Hasslen Construction, and he advised it will cost \$6,000-8,000 for a structural engineer and architect to prepare preliminary drawings to add an elevator to the courthouse. Motion by Tostenson and seconded by Stengel to move forward with the chairlift repair and to have Hasslen Construction draw up a contract for an elevator design estimate for the courthouse. Chairman Mach called for a vote. Motion carried 5-0.

Smoke Alarm Systems: Commissioner Assistant Layher reported the estimate from Whetstone Valley Electric for the 4-H Complex smoke alarm system and installation is \$26,406.56. The estimate for the Courthouse smoke alarm system and installation is \$40,827. The County has set aside donated money for the 4-H Complex that will cover their smoke alarm system. Motion by Tostenson and seconded by Stengel to approve purchasing the 4-H Complex smoke alarm system and to hold off on the Courthouse system for further cost evaluation. Motion carried 5-0.

Chairman Tostenson asked to remove item #1 from the consent agenda for discussion in executive session.

Executive Session: Motion by Stengel and seconded by Buttke to enter executive session at 11:00 AM for the purpose of a personnel issue pursuant to SDCL 1-25-2(1). Motion carried 5-0. Sheriff Kevin Owen, Auditor Folk, and Commissioner Assistant Layher were present. Chairman Mach declared the meeting open to the public at 11:40 AM. No action was taken because of the executive session.

Unfinished Business: None

New Business: Chairman Tostenson recommended Commissioner Assistant Layher to continue reviewing the full-time custodial position.

Commissioner Assistant Layher stated the county received a \$30.00 NSF check from a Visiting Neighbor client. By law the County Treasurer must collect a \$40 fee for an NSF check. The County treats the VN client payment for services as a donation. Motion by Stengel and seconded by Tostenson to have the client pay the Treasurer the \$40 NSF fee in cash and advise the client they cannot write a check to the County in the future. Chairman Mach called for a vote. Motion carried 5-0.

Chairman Mach advised the Commission there will be no P & Z meeting in June.

Correspondence: None

Claims: Motion by Buttke and seconded by Street to approve the claims. Motion carried 5-0. 15 HOTEL GROUP, motel 267.00; ACCESS ELEVATOR, repairs & maint 31,450.40; AMBER'S WINDOW WORLD, shades 1,860.19; AUTOVALUE, parts 452.00; BITUMINOUS PAVING, patching & overlay 239,561.10; BOYER FORD TRUCKS, repairs & maint 235.64; BUTLER, repairs & maint, 2,505.93 CENTER POINT, books 116.23; CENTRAL PROGRAMS, books 448.31; CHS, diesel 2,418.60; CITY OF MILBANK, water & sewer 386.25; CITY OF WATERTOWN, 911 surcharge 6,393.53; CLIMATE AIR, computer repair & maint 2,424.68; CODY KELLY, prof services 350.00; COLE PAPERS, supplies 912.54; DANIEL COOK, contracted projects 3,000.00; DELORIS RUFER, lib rent 100.00; DUANE ATHEY, supplies 67.50; DUANE TILLMAN,

workshop exp 583.92; EAST RIVER ELECTRIC, tower rent 576.00; FLAT RATE, gravel 4,230.66; G & R CONTROLS, repairs & maint 35.31; GALLS, supplies 144.79; GRAJCZYK LAW OFFICE, court appt atty 3,400.00; GRANT CO SOIL CONSERVATION, allocation 13,000.00; GRANT CO LIBRARY, meals 129.44; GRANT/ROBERTS AMBULANCE, allocation 2,458.33; HEARST BUSINESS MEDIA, ref books 235.00; LARRY'S REFRIGERATION, repairs & maint 1,607.37; LEWIS FAMILY DRUG, supplies 723.07; LINCOLN COUNTY AUDITOR, prof services 53.50; MAS MODERN MARKETING, supplies 257.45; MICROMARKETING, audio/visuals 39.99; MIDCO, lib internet 103.94; NARTEC, supplies 194.05; NORTHWESTERN ENERGY, natural gas 894.04; PHOENIX SUPPLY, supplies 456.35; QUICK PRO LUBE, repairs & maint 17.99; REGENCY MIDWEST VENTURES, motel 696.00; RYAN MAGEDANZ, repairs & maint 272.15; SANDRA FONDER, prof services 50.00; SCANTRON, prof services & minor equip 13,806.63; SCOTT BRATLAND, prof services 587.30; SD DEPT OF HEALTH, health nurse & blabs 4,380.89; STAR LAUNDRY, prof services 160.22; THE WINDOW PLACE, repairs & maint 65.00; TRAPP PLUMBING, repairs & maint 1,519.09; TRUENORTH STEEL, culverts 2,652.00; TWIN VALLEY TIRE, repair & tires 252.00; VALLEY RENTAL, allocation 650.00; WEST CENTRAL COMMUNICATION, minor equip 1,765.00; WILDUNG IMPLEMENT, supplies 65.85; XEROX, copier rent 113.84. TOTAL: \$349,127.07.

Payroll for the following departments and offices for the May 26, 2023, payroll are as follows: COMMISSIONERS 7,202.10; AUDITOR 6,988.59; ELECTION 161.59; TREASURER 5,248.94; STATES ATTORNEY 7,147.40; CUSTODIANS 2,909.54; DIR. OF EQUALIZATION 4,018.00; REG. OF DEEDS 4,670.75; VET. SERV. OFFICER 1,161.00; SHERIFF 14,237.42; COMMUNICATION CTR 7,298.70; PUBLIC HEALTH NURSE 1,116.80; ICAP 91.00; VISITING NEIGHBOR 1,967.55; LIBRARY 7,456.31; 4-H 3,495.78; WEED CONTROL 2,054.55; P&Z 1,003.45; DRAINAGE 704.55; ROAD & BRIDGE 30,492.84; EMERGENCY MANAGEMENT 2,324.00. TOTAL: \$111,750.86.

Payroll Claims: FIRST BANK & TRUST, Fed WH 7,908.87; FIRST BANK & TRUST, FICA WH & Match 13,366.02; FIRST BANK & TRUST, Medicare WH & Match 3,125.84; ACCOUNTS MANAGEMENT, deduction 90.55; AMERICAN FAMILY LIFE, AFLAC ins. 1,522.94; ARGUS DENTAL, ins 554.06; WELLMARK-BLUE CROSS OF SD, Employee and Commission health ins. 53,424.66; COLONIAL LIFE, ins 37.98; DEARBORN NATIONAL, life ins. 287.34; LEGAL SHIELD, deduction 38.85; OFFICE OF CHILD SUPPORT

ENFORCEMENT, child support 210.00; OPTILEGRA, ins 338.38; SDRS SUPPLEMENTAL, deduction 1,428.83; SDRS, retire 12,288.71. TOTAL: \$94,623.03.

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

1. Approve agreement with ITC for NVR/R Cameras and a wireless bridge for 4-H complex at a cost of \$3,885.44
2. Approve Karen Halvorson as a library volunteer at the Big Stone Library and Angela Kennedy as a volunteer at the Grant County Library effective 6-1-23 and Erin Julius as summer intern at \$16.25 effective 5-31-23
3. Approve agreement to upgrade the HVAC maintenance computer for \$4,849.36
4. Approve step increase to 6-month for Caden Bjordahl at \$25.90 effective 6-12-23
5. Approve agreement with Roberts County for prisoner housing of adults at \$115 per day/juveniles at \$215 per day
6. Approve Weed Supervisor Mueller to apply for a SD Dept of Health grant for West Nile Prevention for an estimated amount of \$4,500
7. Declare surplus Daktech scan station tower (10247), (4) Daktech Gemini Q170 Desktops with office 2016 (10171 & 10172, 10173, 10174), HP Prodesk 400 (10176), (3) HP Elite Laptops & office 2016 software (10309, 10310, 10311)
8. Approve the Township Clerk and Treasurer bonds for 2023

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 June 20, and July 5, 6 (Budget Hearings) and 18, 2023 at 8 AM. Motion by Buttke and seconded by Street to adjourn the meeting. Motion carried 5-0. Meeting adjourned.

Kathy Folk, Grant County Auditor

Michael J. Mach, Chairman, Grant County Commission