

June 1, 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 Street to approve the minutes of the May 18, 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 Street 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.

Member of the public present was Bob Tuttle. Todd Kays with First District joined by teleconference. Staff member present was States Attorney Schwandt.

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, Don Weber, and James Berg. The purpose of the joint hearing was to hear public testimony on proposed Ordinance 2021-02, a temporary ordinance regarding the issuance of local medical cannabis, establishment of permits and/or licenses.

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 2021-02. Motion by Street and seconded by Buttke to approve Ordinance 2021-02, a temporary ordinance regarding the issuance of local medical cannabis, the establishment of permits and/or licenses.

Planning Commission Chairman Mark Leddy asked States Attorney Schwandt and Todd Kays, Executive Director of First District to provide an overview of the ordinance.

Kays explained that he has been working with the South Dakota Public Assurance Alliance and attorneys to draft a temporary ordinance for local governments to adopt while the South Dakota Department of Health defines the rules, regulations, and guidelines for medical marijuana production, dispensing and use in the State. The deadline to have these rules and regulations in place, according to Kays, is October 29, 2021.

Kays then gave a brief history on the passage of “Initiated Measure 26” (IM 26) which legalizes medical marijuana in the state. Kays said that technically all the county needed to do, according to IM 26, was to allow for at least one dispensary within the county. However, in his opinion, the county should wait and see what the State regulations are before considering licensing for the growing, manufacturing and testing of medical marijuana.

Kays finished by saying that the biggest problem is the failure to act, to place a temporary moratorium, on issuing permits for medical marijuana before regulations can be defined by the State. This could create “vested” permits by the county that could not be able to be overturned once the state official rules, regulations and guidelines are decided upon.

County States Attorney Jackson Schwandt concurred with Kays’ thoughts saying that local governments just need a little more time to see what the state has to say about the four steps that would be involved in the medical marijuana industry in the State which are growing, testing, manufacturing, and dispensing.

Schwandt also stressed that this temporary ordinance is solely tied to the use of medical marijuana within the state and has nothing to do with “Amendment A” that also passed in the 2020 General Election that calls for the legalization of recreational marijuana use within the state. According to Schwandt, that amendment was found to be unconstitutional by a lower State court and is now being considered by the South Dakota Supreme Court which could take months to render a ruling.

The public hearing was opened by Planning Commission Chairman Mark Leddy. Bob Tuttle commented that apparently there are not any regulations or applications prepared yet.

Todd Kays provided information on other items that needed to be considered in the eventual ordinance pertaining to medical marijuana in Grant County including what zones within the county would be allowed to grow medical marijuana and what zone, or zones, would be allowed to manufacture, test, and dispense the prescription use of marijuana. Again, Kays emphasized that all of this becomes less complicated once the state has prepared guidelines and regulations.

Even though public comments for the proposed ordinance to be considered had passed with no one asking to speak, Bob Tuttle, who was the only person in attendance, was allowed to ask a couple of questions that primarily had to do with

the timing of the temporary moratorium ordinance and when that deadline would pass to finally allow that activity.

Tuttle was also concerned with the possible overhead costs of growing and producing medical marijuana within the county and the time needed to accomplish that business model and that once that investment in time and money was made would there be a permit available in the county.

Kays responded to Tuttle's questions by again saying until the State of South Dakota gives some definite guidelines and rules for local governments to follow, there could be a local permit granted, but a state license could not be granted, therefore it would be better to wait until the State adopts the rules and regulations. The county could have someone apply for a permit now and under the present county zoning regulations a permit could be issued for growing fruits or vegetables, but on July 1, without the temporary ordinance, a permit to grow marijuana in an AG zone could be issued, but again not knowing what the State is implementing, a person could have a county vested permit, without the ability to obtain a State license.

The temporary ordinance being considered puts a moratorium on any medical marijuana activity in the county and will eventually have to be repealed and replaced with an ordinance that defines exactly what the rules and regulations will be.

With no further discussion, Leddy closed the public portion of the joint hearing. Chairman Tostenson closed the public portion of the joint hearing for the County Commissioners.

Planning Commission Chairman Leddy stated now is the time for the two boards to begin their discussion.

Chairman Tostenson asked Bob Tuttle if he understood the process being implemented for waiting until the State finalizes the rules. He responded that he will just listen to the discussion for further clarification.

Chairman Tostenson asked if there would be any different rules or regulations whether a permit would be issued for an individual to grow their own medical marijuana for personal use versus what would be required if growing marijuana for commercial medical use.

States Attorney Schwandt explained an individual would need an order from the doctor stating the person needs to grow their own medical marijuana versus purchasing from a dispensary and explained the State will decide on the rules for commercial use on labeling, tracking, destroying, and other rules needed on the commercial side. These are the type of questions the state will answer by October 29th. He again stressed that the recreational use of marijuana in the state has not become law yet as the lower court ruling is being reviewed by the State Supreme Court.

Planning Commission member Nancy Johnson asked if this temporary ordinance would need to be repealed or amended. States Attorney Schwandt replied that action will need to be taken to repeal the temporary ordinance once the State rules are implemented.

The Planning Commission approved a motion to send Ordinance 2021-02 with a scripter correction from “he” to “the” in the sixth paragraph of the ordinance.

Chairman Tostenson stated the Board of County Commissioners will now have the first reading by title of Ordinance 2021-02 by title only with the Auditor reading the title. Ordinance 2021-02, a temporary ordinance regarding the issuance of local medical cannabis, establishment of permits and/or licenses.

Motion by Stengel and seconded by Buttke to acknowledge the first reading of Ordinance 2021-02 by title only and to set June 15 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 ordinance will be available at the Auditor’s office and the County’s website.

Chairman Tostenson called for public comment for any items not listed on the agenda. There was none.

Highway: Supt Schultz reviewed with the Commission the 2020 bridge inspection report Banner Engineering had prepared. The report listed load posting changes, missing or obstructed weight limit signs, the engineer’s opinion on county road bridge replacement, upgrade for bridge railing and repair list for specified bridges.

Treasurer: Karla DeVaal requested to advertise for a fulltime position instead of a parttime position as she would like this position to be scheduled for a 6-hour day. The Motor Vehicle Division is launching a new program later this year and all staff

members will need to learn this new system. Currently, the Commission has approved a parttime staff member at 19 hours per week. Chairman Tostenson stated the Commission will take the request under advisement. She also talked about what is required to be brought in for licensing a vehicle. The Commission suggested some PSA be done to inform the public.

Reports: VSO Scott Malimanek reported on the list of presumptive disabilities for herbicide exposure for veterans and the procedures and submission forms used by the Vietnam Veterans Chapter 1054 for the issuance of gift cards. He provided copies of “What Every Veteran Should Know” publication for May and June.

Librarian Jody Carlson was pleased to report the number of children (125) signing up for the summer reading program is back to the pre-covid numbers. She is hopeful to add back in adult programming at the library later this year.

WIC: Motion by Mach and seconded by Buttke to approve the WIC contract with the SD Dept of Health in the amount of \$9,127.00 for June 1, 2021 through May 31, 2022. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0.

Parking Lot: There were two quotes presented for the additional parking spaces on the west side of the library. The quotes were from Pillatzki-Montag Construction for \$15,000.00 and Wollschlager Concrete for \$13,847.79. Motion by Stengel and seconded by Buttke to accept the bid of Wollschlager Concrete. 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: None

New Business: Chairman Tostenson stated he had been contacted by Krecia Leddy who has been accepted into the Billie Sutton Leadership Project and she wants to work on a Community Project for the Food Pantry. Krecia will be invited to a future meeting to present her idea. Chairman Tostenson reported on the role of the County Commission representative who serves on the Economic Development Board.

Correspondence: None

Claims: Motion by Mach and seconded by Stengel to approve the claims with the addition of a voucher to Motorola for \$6,705.57 for the purchase of radios for POD. Chairman Tostenson called for a roll call vote. Buttke aye, Street aye, Stengel aye, Mach aye and Tostenson aye. Motion carried 5-0. ADVANCED TECHNOLOGIES, minor equip 739.99; BITUMINOUS PAVING, asphalt 116,912.50; CENTER POINT, books 113.22; CENTRAL PROGRAMS, books 276.42; CENTURION HOLDINGS, computer maint 120.00; CITY OF MILBANK, water & sewer 564.76; CODINGTON CO SHERIFF, prof services 378.02; COLEPAPERS, supplies 663.73; CUMMINS, maint 1,058.16; D-WARE, registration 150.00; DELORIS RUFER, lib rent 100.00; DUANE ATHEY, repair & maint 190.93; DUANE TILLMAN, prof services 865.00; EAST RIVER ELECTRIC, tower rent 576.00; EMERY PRATT, books 95.80; FARM & HOME PUBLISHERS, ref books 220.00; G A JOHNSON CONSTRUCTION, prof services 8,000.00; FOOD-N-FUEL, prisoner meals 425.25; GRAJCZYK LAW OFFICE, prof services 213.00; GRANT CO SOIL CONSERVATION, allocation 12,000.00; GRANT COUNTY REVIEW, publishing 950.02; GRANT/ROBERTS AMBULANCE, allocation 2,458.33; HARTMAN'S, prisoner meals 518.64; HMN ARCHITECTS, prof services 8,000.00; ISTATE TRUCK CENTER, repairs 85.18; MICROMARKETING, audio/visuals 49.98; MIDCONTINENT, lib internet 85.00; MILBANK AREA HOSPITAL AVERA, blabs 238.00; MOTOROLA SOLUTIONS, minor equip 6,705.57; NACVSO, dues 60.00; NORTHERN TRUCK EQUIPMENT, supplies 111.44; NORTHWESTERN ENERGY, natural gas 776.27; OVERHEAD DOOR, repair & maint 8,725.00; PETERS DISTRIBUTING, repair & maint 603.51; PETTY CASH, postage 4.00; QUICK PRO LUBE, oil chg 219.69; QUILL, supplies 66.98; RC TECHNOLOGIES, 911 transport & tower rent 95.96; RIVER STREET PETROLEUM, diesel fuel 4,240.72; SANDRA FONDER, court interpreter 25.00; SCOTT BRATLAND, court appt atty 4,088.98; SD ASSN CO COMMISSIONERS, allocation 1,230.00; SD DEPT OF HEALTH, blabs 80.00; SDVSOA, registration & dues 100.00; ST WILLIAMS, inmate laundry 192.60; STATE OF SD, supplies 41.00; ARTCRAFT GROUP, supplies 474.49; TWO WAY SOLUTIONS, minor equip 605.97; VALLEY RENTAL & RECYCLING, allocation 650.00; WASTE MANAGEMENT, garbage service 106.50; XEROX, copier rent 60.53. TOTAL: \$185,312.14.

Payroll for the following departments and offices for the May 28, 2021 payroll are as follows: COMMISSIONERS 3,223.90; AUDITOR 8,032.34; ELECTION 161.55; TREASURER 4,031.51; STATES ATTORNEY 6,051.42; CUSTODIANS 3,013.78; DIR. OF EQUALIZATION 3,974.57; REG. OF DEEDS 4,152.91; VET. SERV. OFFICER 1,171.50; SHERIFF 12,867.77; COMMUNICATION CTR

6,595.75; PUBLIC HEALTH NURSE 924.00; ICAP 120.18; VISITING NEIGHBOR 1,614.10; LIBRARY 7,511.73; 4-H 3,628.20; WEED CONTROL 1,783.00; P & Z 1,529.50; Drainage 104.50; ROAD & BRIDGE 29,262.44; EMERGENCY MANAGEMENT 2,457.00. TOTAL: \$102,211.65.

Payroll Claims: FIRST BANK & TRUST, Fed WH 7,808.51; FIRST BANK & TRUST, FICA WH & Match 12,365.22; FIRST BANK & TRUST, Medicare WH & Match 2,891.84; AAA COLLECTIONS, deduction 33.42; ACCOUNTS MANAGEMENT, deduction 96.43; AMERICAN FAMILY LIFE, AFLAC ins. 1,527.88; 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 440.36; SDRS SUPPLEMENTAL, deduction 1,195.83; SDRS, retire 11,619.60. TOTAL: \$87,728.48.

Executive Session: Motion by Stengel and seconded by Mach to enter executive session at 9:48 AM 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 and States Attorney Schwandt were present. Chairman Tostenson declared the meeting open to the public at 10:23 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 June 15 and July 6 and 16 (Friday), 2021, at 8 AM. The July 7 and 8 budget meetings will be held with various departments. Motion by Stengel and seconded by Mach 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