

May 16, 2023

The Grant County Commission met at 8 AM with Commissioners Buttke, Mach, Street and Tostenson present. Commissioner Stengel was absent. Chairman Mach called the meeting to order. Motion by Buttke and seconded by Street to approve the May 2nd minutes. Motion carried 4-0. Minutes filed. Motion by Street and seconded by Buttke to approve the agenda. Motion carried 4-0.

Present from the public was Dustin Nelson. 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.

The Auditor's Account with the Treasurer for April was noted.

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

To the Honorable Board of County Commissioners,
Grant County:

I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of the County of Grant as of the last day of April, 2023.

Cash on Hand	\$4,656.37
Checks in Treasurer's possession	
less than 3 days	\$367,442.36
Cash Items	\$0.00
TOTAL CASH ASSETS ON HAND	\$372,098.73

RECONCILED CHECKING

First Bank & Trust	\$5,975.29
Interest	\$0.00
Credit Card Transactions	\$6,282.89
TIF Fees	\$0.00
First Bank & Trust (Svgs)	\$13,160,583.37

CERTIFICATES OF DEPOSIT

First Bank & Trust	\$0.00
First Bank & Trust (TIF)	\$0.00

TOTAL CASH ASSETS	\$13,544,940.28
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GENERAL LEDGER CASH BALANCES:

General	\$4,845,047.12
General restricted cash	\$2,050,000.00
Cash Accounts for Offices General Fund	\$656.00
Sp. Revenue	\$907,965.10
Sp. Revenue restricted cash	\$0.00
Henze Road District	\$4,990.57
TIF Milbank	\$2,085.93
TIF Rosewood Mil-3	\$34,428.01
TIF Water Dist.	\$0.00
Special Assessment Land Rent	\$0.00
Trust & Agency (schools 3,472,428.53, twps 254,211.64, city/towns 393,645.27)	\$5,699,767.55
ACH Correction	\$0.00

TOTAL GENERAL LEDGER CASH**\$13,544,940.28**

Dated this 10th day of May, 2023

Kathy Folk

County Auditor

The Register of Deeds fees for the month of April were \$10,742.00. The Clerk of Courts fees for the month of April were \$6,094.02. The Sheriff fees for the month of April were \$10,103.20 with \$4,103.20 received into the General Fund.

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

Permit DR2023-16 for Dustin Nelson for property owned by Dustin & Kelsey Nelson and located in the NE1/4 of 34-120-52 (Mazeppa Township).

Chairman Mach asked for a motion to approve Drainage Permit DR2023-16 for Dustin Nelson. Motion was made by Tostenson with a second by Buttke.

Drainage Officer Berkner began his report for the permit stating it was for approximately 70 acres and located entirely within the Big Sioux River watershed. The project has no open inlets and 4 outlets; 3-8" and 1-12" which would exit the 155-acre parcel in three different directions; north, west, and south before combining into one waterway approximately 3 miles southwest in Codington County.

Berkner stated in total the four outlets could drain as much as 1,105 gallons of water per minute (GPM), or 2.46 cubic feet a second (cf/s) if the tiling was installed at a .1% grade and ran at full capacity which in his opinion shouldn't happen since there are no inlets in the proposed project.

During Berkner's report he displayed the nearest downstream USGS river gauge height for the Big Sioux River which showed a recent river crest of just over 6,500 cf/s comparing that to the theoretical maximum flow of 2.46 cf/s for the tiling project being considered.

Berkner estimated that across the whole project there was as much as 15 to 20+ feet of vertical fall but because of no inlets, it should have little impact on the quantity of water flowing because all water being drained will have to seep through the ground.

Berkner stated notices for the permit ran twice in the local paper and he had sent out 9 letters notifying those landowners within two miles downstream of the drainage permit as required. In closing, Berkner believes the tiling project is supported by the County's Drainage Ordinance.

Chairman Mach asked Nelson if he had anything to add to the report. Nelson stated the tiling map he turned in was probably more aggressive than the total area he will tile but wanted some flexibility if he ran into wetter conditions while doing the installation.

Chairman Mach opened the public hearing portion of the drainage permit and asked three different times for any person in attendance to speak in favor or against DR2023-16, no one responded.

During the Drainage Board discussion Commissioner Tostenson stated he had met with Nelson at the proposed tiling site. He stated it does have some unique drainage problems, including both steep elevation differences and a significant shelterbelt that runs across the whole north end of the quarter. This area can hold a large amount of snow well into the planting season and any subsurface drainage would help speed it up. Commissioner Tostenson ended his comments saying after going over the proposed project with Nelson, he thought it was well planned. It doesn't have any inlets and doesn't rely on a large amount of pattern tiling.

Nelson was asked if he had any contact with his neighbors directly. Nelson stated he made personal contact with those directly receiving water and all gave favorable responses.

Nelson, who also runs a tiling business, was asked about the target pipe diameter when sizing mains. Nelson responded that it's best to target and not to exceed a maximum designed flow of 1/3 to 1/2 full at any time to get the best efficiency.

After the board discussion Chairman Mach called for the vote which passed 4-0.

Berkner then gave an update for DR2022-01, a drainage permit for Al Heuer as it related to his neighbor Butch Kaaz. It had come to his attention the conditions required to grant the original drainage permit had not been completed. Berkner talked to both Kaaz and Heuer and suggested an alternate simpler and shorter design might be a better solution to the current condition. The addition to the original permit was the requirement to remove the tiling and outlet from Kaaz's property and dig it through County Road 22 in Mazeppa Township.

Commissioner Tostenson said that he too had a conversation with both Kaaz and Heuer and it sounded like both agreed to remove the outlet from Kaaz's land and possibly just shorten it up to outlet directly on Heuer's land. From there it would drain under the road through the existing culvert adjacent to Kaaz's land.

States Attorney Schwandt was asked his opinion on the proposed change and answered there is no clear case law concerning "underbuilding" a permitted tile project. All that is required by the applicant is to not exceed the original design and to sign off on what was completed.

Schwandt added that if what is completed is short of the original design, like the previous permit just granted where the applicant said he overestimated the amount of tiling he would most likely be doing if conditions warranted less tiling, then it's not a violation of the original permit.

Schwandt said what the tile permit holder is bound to is to not tile more area than was indicated when the permit was granted. The second thing is each permit awarded has two years to be completed. Even if a condition was added to the permit, like Heuer was required to remove the outlet from Kaaz's land, then Heuer has two years to do that as the permit conditions read.

Schwandt concluded by saying what is important to the county is to make sure the request of Kaaz to remove the outlet from his property, which was installed prior to getting a drainage permit, has been followed and that the permit doesn't include more work than was initially permitted.

Commissioner Tostenson clarified again that in conversations with both Kaaz and Heuer it sounded like removing the outlet from the Kaaz property, without digging through the county road, was all that was required to make those two parties happy. It would also be in the county's best interest not to have to dig through the county's road which can cause future settling problems.

Berkner then reported on a complaint received on May 11th from a landowner located near the State's Highway Department shop just west of Milbank.

According to Berkner the complainant was concerned that a permitted drainage permit project from 2017 didn't install the final 400' of drainage tile that would drain directly into the creek, as was the complainant's original understanding during the permitting process.

The complainant said of drainage permit DR2017-46 that in 2017 he had given permission for the out letting tile to be trenched across 400' of his property and drain directly into the creek. The way the project was completed, it drains water across the surface of his property, which in his opinion is causing additional erosion.

Berkner said that he researched the original 2017 drainage permit, and it was for tiling approximately 8 to 10 acres. The tiling map submitted with the original permit application did not show crossing the complainant's land with an outlet tile. The outlet location on the proposed tiling map was on the permitted landowner's property. From there that water follows a 1992 vested surface drainage swale before flowing directly into the creek. Berkner added there was a signature from the complainant for the outlet to be on his land even though it wasn't installed that way.

Berkner was asked if he had a chance to look at the erosion problems firsthand. He stated he was just granted permission the day before, May 15th, to access the property to investigate. He said he would investigate it further if the drainage board wanted him to.

Commissioner Tostenson commented that based on the prior discussion with DR2022-01, in that case the Drainage Board's only concerns were that a permitted drainage project does not encompass more land area than originally indicated. Chairman Mach responded that it was always his understanding that the drainage board was not to design tiling projects only to approve or not to approve them.

Schwandt stated it was important to remember that all work approved within a drainage permit must be completed within two years of it being granted or it would need a new drainage permit, which would be the case here if the last 400' was to be done.

Schwandt continued if a neighbor doesn't like the outcome of any drainage project, regardless if it is smaller, or less, than the size as it was originally permitted, or is

just a bad design, then as always, they can take that up in the courts directly against the party who they claim is causing them harm which is always the right of a downstream landowner.

The Commission asked Berkner to investigate further and to speak to the complainant and let them know this is most likely a private matter between landowners.

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

Highway: Supt Peterson presented for approval a SDDOT agreement # Pending Concurrence of Award for Box Culvert Project 26-270-237 for \$565,760.82 BRO 8026(00)23-3, Grant County, PCN 09H0 and Box Culvert Project 26-310-177 for \$557,265.43 BRO 8026(00)23-4, Grant County, PCN 09H1. He stated it is the lowest qualifying bid for Box Culvert project 26-270-237 at \$565,760.82 and 26-310-177 at \$557,265.43 from Lehtola Builders of Lake Norden, South Dakota. The county's share will be 20% of the accepted bid. Motion by Tostenson and seconded by Street to authorize Chairman Mach to sign the bid letting agreements. Motion carried 4-0.

The Commission reviewed the letters of contract from Banner Associates for engineering services for cast-in-place box culvert project 26-270-237, BRO 8026(00)23-3, PCN 09H0 located on 476th Avenue over the South Fork Yellow Bank River and for cast-in-place culvert project 26-310-177, BRO 8026(00)23-4, PCN 09H1 located on 480th Avenue over a tributary to the South Fork Yellow Bank River. Both contract amounts are estimated at \$65,000 each. Motion by Street and seconded by Buttke to authorize Chairman Mach to sign the letters of contract with Banner as presented. Motion carried 4-0.

Supt Peterson suggested having a fee schedule for permits issued by the highway department as many other counties do. The Commission advised Peterson and Commissioner Assistant Layher to compile a highway permit fee schedule to review at the next meeting.

Peterson stated the highway employees would like to see the annual \$200 Hwy employee shoe allowance expanded to include safety clothing. The employees do not purchase shoes every year and then in the off years they could use the

allowance for safety clothing. Motion by Tostenson and seconded by Buttke to increase the \$200 annual Hwy employee shoe allowance to \$300 and to include safety clothing. Motion carried 4-0.

Supt Peterson informed the Commission the county will not be able to surplus the old motor grader until late summer as it needs to be repaired before trading it in as the part will not be here until August. Peterson also stated the striping company will be in the area in June. He hopes to have the contracted county roads striped by the middle to end of June.

Ottertail Power: Todd Langston and Chris Cook of Ottertail Power presented a report on the new Big Stone South to Alexandria (BSSA) 345-kV Transmission Line. The BSSA project will allow more energy to flow from the generation sources to customers and reduce congestion on the existing transmission system. It will also increase reliability by strengthening the regional transmission system and increase resiliency to better withstand major weather events. The line will be 95-105 miles in length, built with self-supporting steel monopoles 150' in height. The foundations will be concrete with 4-6 monopole structures per mile. Easement acquisition will begin in 2024. Route permit application submission will be in 2025 with a target service date of June 2030.

Lien Settlement: Motion by Tostenson and seconded by Street to accept the lien settlement in the amount of \$5,000.00 for account # 009090. Motion carried 4-0.

ROD Policies: ROD Wellnitz presented the updated Register of Deeds Office Policies for the review of the Commissioners. Wellnitz stated these policies have been in use but was advised by States Attorney Schwandt to also have them posted in the ROD office. Motion by Street and seconded by Buttke to approve the updated Register of Deeds Office Policies and to have them posted within that office. Motion carried 4-0.

Ambulance District: Petitions for the Ambulance District can now be obtained at the Auditor's office. There can be one person from each Commissioner District elected or appointed to serve on the five-person Ambulance District Board. A board member cannot work on a Grant County ambulance crew.

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 4-0.

Land Lease:

1. Part of the NW ¼ NW ¼ 33-120-47 (About 15 Acres) Alban Twp. to Mielitz Brothers for \$600.00.

Tax Freeze: Motion by Tostenson and seconded by Buttke to approve application AF2023-03 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 4-0.

SDPAA: Motion by Buttke and seconded by Street to approve signing the Intergovernmental Contract with South Dakota Public Assurance Alliance who is the county's insurance carrier. Motion carried 4-0.

Commissioner Spring Workshop: Commissioner Tostenson reported on the New Official Workshop he attended in April. He recommended all Commissioners should attend a future session. Topics they discussed were FEMA and transportation funding, SD Juvenile Justice, Cyber Security, electric vehicles, and Commission meetings and public hearings.

Chairlift Update: Commissioner Assistant Layher reported back on her research done on an elevator for the courthouse. Ben Gere from Hasslen Construction inspected the courthouse and advised an outside entrance elevator will cost between \$400,000-600,000 if you want it to look like part of the building. An alternative he suggested is to install the elevator in the west stairway up to the third floor. The County will need a structural engineer and architect to be involved. Commissioner Assistant Layher will get a time frame from Access Elevator of how long it would be to repair or replace the chair lift. A claim was submitted to the County insurance company for the damage to the chair lift.

Executive Session: None

Unfinished Business: EM Director Schuelke gave an update on the flood damage. Grant County is close to \$1 million in damage and Roberts is \$500,000, Codington is \$300,000 and Brown is \$600,000. The road repairs are being done now.

Townships submitting applications to FEMA for monetary assistance are Adams, Big Stone, Blooming Valley, Farmington, Grant Center, Kilborn, Lura, Melrose, Osceola, and Vernon.

4-H Director Sarah Koepke advised the Commission she is still waiting for estimates on the parking lot and acoustical panels. The refrigerator has been ordered. She also gave the Commission the 2023 Plan of Work from the 4-H Association including the tack shed, horse arena, hog panels and the main entrance fence.

New Business: Commissioner Tostenson stated he was asked to serve on the Watertown-Sisseton Community Transit Board as a representative from Grant County. They would like him to report back on the status of Community Transit's building project.

Commissioner Assistant Layher stated she has contacted the roofing company and they are preparing the roof repair booklets. The Courthouse generator had its maintenance inspection and found the batteries need to be replaced due to their age. The digital display is dim and should be replaced before it fails and there is an oil leak from the front crank seal. They are putting the estimate together for the repairs. The County received a reimbursement check of \$13,883.05 from the State Catastrophic Legal Fund for the Brent Hanson case.

Commissioner Assistant Layher sent out the proposed Planning and Zoning ordinance policy changes to the Commissioners. Chairman Mach stated some of the wording has changed. They are the current policies of the P & Z Board but will be included in the Land Use Plan.

Layher reported the County currently has seven open staff positions. This includes two motor grader drivers, a truck driver, a deputy sheriff, a dispatcher and two part-time maintenance positions. Layher is on the second round of ads with no applications coming in. The openings are listed in The Valley Shopper, Job Service and Indeed as well as the Grant County Review. The Commissioners advised Layher to post the jobs on social media and combine the two part-time maintenance positions into one full-time position.

Correspondence: None

Claims: Motion by Buttke and seconded by Street to approve the claims. Motion carried 4-0. 15 HOTEL GROUP, motel 89.00; A-OX WELDING, supplies 314.83; AVERA QUEEN OF PEACE, blabs 172.00; BANNER, hwy project, 15,843.00; BERENS MARKET, inmate groceries 246.18; BIG STONE CO SHERIFF, prof services 127.75; BORNS GROUP, mailing expense 1,221.06; BUTLER, repairs & maint 1,547.86; CENTER POINT, books 380.52; CHS, diesel & ethanol 11,868.23; CITY OF MILBANK, water & sewer 329.01; CLIMATE AIR, repairs & maint 3,112.00; CONSOLIDATED READY MIX, gravel 1,452.23; CORRIE QUALE, supplies 52.74; CRAIG DEBOER, car wash usage 420.93; CUMMINS, repairs & maint 1,116.32; DEADWOOD RESORTS, motel 80.00; ELECTION SYSTEMS & SOFTWARE, repairs & maint 6,339.38; FIRST BANK & TRUST/VISA motel, gas, supplies 3,657.82; FISHER SAND & GRAVEL, gravel 1,186.20; FLAT RATE, gravel 16,413.67; FREMAREK, supplies 107.17; GRAJCZYK LAW OFFICE, mileage 240.00; GRANT COUNTY REVIEW, publishing 3,448.71; GRANT-ROBERTS RURAL WATER, water usage 43.30; INGRAM, books 982.63; INTELLECTUAL TECHNOLOGY, supplies 132.56; INTER-LAKES COMMUNITY ACTION, service worker 2,628.00; ITC, phone & internet 2,381.93; JASON SACKREITER, garbage service 230.00; JURGENS PRINTING, supplies 25.00; KRISTIN WOODALL, prof services 127.40; LEWIS, supplies 12.53; MICROFILM IMAGING SYSTEMS, scanner rent 642.00; MILBANK AREA HOSPITAL AVERA, blabs 528.00; MILBANK AUTO PARTS, supplies & parts 2,323.54; MILBANK WINWATER WORKS, supplies 292.52; NORTHERN STATE UNIVERSITY, motel 138.60; NORTHWESTERN ENERGY, natural gas 1,486.47; OTTER TAIL POWER, electricity 3,464.29; QUICK PRO LUBE, repairs & maint 151.94; RC TECHNOLOGIES, 911 transport & tower rent 95.96; REGENCY MIDWEST VENTURES, motel 77.00; RELX, online charges 725.00; RIVER STREET PETROLEUM, diesel 3,115.92; ROBERT S. ROSS, MD, prof services 500.00; RUNNINGS, supplies 653.99; SANDRA FONDER, prof services 16.67; SANITATION PRODUCTS, supplies 197.04; SD PUB ASSURANCE ALLIANCE, insurance 119,754.66; SD SECRETARY OF STATE, insurance 30.00; SDSU EXTENSION, registration 320.00; STAR LAUNDRY, prof services 229.28; STERN OIL, supplies 1,152.76; TITAN MACHINERY, supplies 199.25; TRANSOURCE TRUCK & EQUIP, repairs & maint 146.25; VALLEY EXPRESS, publishing 195.00; VALLEY OFFICE PRODUCTS, supplies 1,381.87; VALLEY SHOPPER, supplies 23.43; VERIZON, hotspot 38.52; WEST CENTRAL COMMUNICATION, minor equipment 748.37; WHETSTONE HOME CENTER, supplies 217.49;

WHETSTONE VALLEY ELECTRIC, electricity 822.63; XEROX, copier rent 654.19. TOTAL: \$216,652.60.

Payroll for the following departments and offices for the May 12, 2023, payroll are as follows: COMMISSIONERS 7,202.10; AUDITOR 6,945.17; ELECTION 312.75; TREASURER 5,409.34; STATES ATTORNEY 7,147.40; CUSTODIANS 2,953.99; DIR. OF EQUALIZATION 4,068.00; REG. OF DEEDS 4,535.22; VET. SERV. OFFICER 1,161.00; SHERIFF 13,929.62; COMMUNICATION CTR 7,343.85; PUBLIC HEALTH NURSE 846.33; ICAP 112.00; VISITING NEIGHBOR 1,884.23; LIBRARY 7,524.65; 4-H 3,523.85; WEED CONTROL 1,923.00; P&Z 886.03; DRAINAGE 821.98; ROAD & BRIDGE 30,909.18; EMERGENCY MANAGEMENT 2,338.00. TOTAL: \$111,777.69.

Payroll Claims: FIRST BANK & TRUST, Fed WH 7,951.37; FIRST BANK & TRUST, FICA WH & Match 13,411.22; FIRST BANK & TRUST, Medicare WH & Match 3,136.48; ACCOUNTS MANAGEMENT, deduction 90.55; AMERICAN FAMILY LIFE, AFLAC ins. 1,522.94; ARGUS DENTAL, ins 554.06; WELLMARK-BLUE CROSS OF SD, Employee health ins. 1,953.95; OFFICE OF CHILD SUPPORT ENFORCEMENT, child support 210.00; SDRS SUPPLEMENTAL, deduction 1,428.83; SDRS, retire 12,196.40. TOTAL: \$42,455.80.

FEBRUARY MONTHLY FEES: SDACO, ROD modernization fee 166.00; SD DEPT OF REVENUE, monthly fees 172,632.75. TOTAL: \$172,798.75.

APRIL MONTHLY FEES: SDACO, ROD modernization fee 252.00; SD DEPT OF REVENUE, monthly fees 172,640.72; SD DEPT OF REVENUE, sales & use tax 193.36. TOTAL: \$173,086.08.

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

1. Approve election services agreement with Election Systems & Software for elections through 12-31-2026 (fee schedule on file in Auditor's office)
2. Approve Adobe subscription renewal for Highway Dept for a cost of \$225.89
3. Declare surplus to be sold and moved the horse tack storage shed

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 6, 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 4-0. Meeting adjourned.

Kathy Folk, Grant County Auditor

Michael J. Mach, Chairman, Grant County Commission