

September 7, 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 Buttke to approve the minutes of the August 17, 23, 26 and 31 meetings. Motion carried 5-0. Minutes filed. Motion by Street and seconded by Stengel to approve the agenda. Motion carried 5-0.

Members of the public present were Jerry Bury, Joe Kanthak, Joseph Kanthak, Dennis Kohl, Derek Wollschlager, Dakota Wollschlager, Phyllis Roggenbuck, Bert Loehrer, Dan Scoblic and Jay Gilbertson.

Public Comment: The Chairman called for public comment. No member of the public present offered any comment.

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

Chairman Tostenson addressed the members present stating that the Commission is not against drainage, and they want the landowner to be able to manage their property; the intent of the proposed change to the drainage ordinance was to make the process easier for the applicant. The results of the referendum vote were to keep the present ordinance. The Commission through the Drainage Board needs to follow the ordinance as it is written and there will be new processes and questions the Board must consider when a drainage permit is presented.

Chairman Tostenson called for a vote to approve Permit DR2021-21 for Gerald Bury, and Bert Loehrer, owned by; GERALD AND NICOLE BURY REV LIVING TRUST, located in the NW1/4 EX LOT 1 SHIVES SUBDIV, IN 22-120-48 (Alban West Township) and BERT LOEHRER REV LIVING TRUST located in the NE1/4 EX S 30 RODS OF E 40 RODS OF SE1/4NE1/4 & 10 RODS ON N BOUNDARY OF, IN 21-120-48, (Alban West Township). Motion by Mach and seconded by Buttke to approve DR2021-21. Drainage Officer Steve Berkner reported the applicants are waiting for the crop to be harvested for the tiler (Eric Peterson) to shoot the elevation and draw the tile diagram. The flow goes north and connects to a 12-inch pipe on a previously approved permit for Alan Schneck. All four certified letter receipts of delivery have been returned. Steve has had a phone conversation with the adjacent landowner, a Mr. Storsteen, who indicated the blue

line runs along his property line and indicated he does not have any concerns with the permit. The application is filled out, the water flows across Cal Moser's land and he has signed the application giving consent. Also, a letter from Alan Schneck granting permission to tie into the 12-inch pipe on his approved drainage permit has been included with the application.

Applicant Jerry Bury spoke next. He indicated he had signed a ROW occupancy application and had spoken with Hwy Supt Schultz on cutting through County Road 12 (AKA 151<sup>st</sup> St) to install a pipe. Jerry stated he would like to install the pipe through the road before harvest begins. The tile pipe is a 12-inch pipe connecting to the tile pipe on the Moser land.

Chairman Tostenson opened the public hearing and called for pro or con comments from the public on DR2021-21. There were not any comments offered. The public hearing was closed. The Drainage Board discussed and asked questions of the applicants. Jerry clarified the tile going through the road would be a 12-inch tile to connect to the tile on the Moser land and the Schneck permit. Chairman Tostenson asked for a preliminary drawing of the tile pattern with an estimate of the amount of acres to be tiled, size of laterals and total feet of tile. The laterals will not be larger than a 12-inch. The elevations need to be done before the tile pattern can be drawn. Applicant Bert Loehrer clarified the project location for his tile project. Commissioner Stengel stated the amount of tiling in this project does not create a significant amount of change to the watershed. Commissioner Buttke asked if the project flows into a blue line. Jerry answered the tile goes under ground for almost a mile before reaching the blue line. A wetland is not being drained. Question addressed to applicants on the flow rate and volume of water being drained. This information can be obtained from the tiler and the applicant was asked to provide this information with the tile map. Another question asked was if there is any bottle neck that would back up any flow downstream that may affect a landowner. The answer is no as this is a pipe that flows into another pipe and outlets into a run.

Jay Gilbertson Manager of East Dakota Water District spoke on the issue of water leaving a field through tiling is adding to the watershed, but it is not a significant amount. Jay suggested the Board ask the applicants how many acres are being drained and the size of the watershed as part of the permit process. The Board needs to consider the impact of the water volume.

Commissioner Mach asked about tile size, outlet pipe size and if there are any wetlands being drained.

Bert Loehrer echoed comments made earlier that the existing runs are quite substantial throughout this watershed and have been more than adequate to handle the watershed water flow.

Commissioner Tostenson asked about quality of water. Applicant Loehrer stated there are not any livestock operations that will encompass this area. Field nitrates are a part of all drainage. Commissioner Mach asked Jay about testing sites of water done by East Dakota Water. Jay stated field nitrates are elevated, but as the water goes to the outlets into the mainstream, the nitrate level does not show any significant increase. It remains in the 1-2 parts per million with a 10 being safe for drinking water.

Motion by Mach with Buttke agreeing to amend the original motion to approve with the following conditions. 1) The applicants provide a tile map as drawn by the tiler. 2) The flow rates are indicated by the tiler. 3) Approval is given to install the pipe through the county road at the applicant's convenience. 4) After the tile project is completed, a final map drawing by the tiler is filed with the drainage officer. Roll call vote called. Stengel aye; Street aye; Buttke aye; Mach aye; Tostenson aye. Motion carried 5-0.

Permit DR2021-22 for Joseph Kanthak, for property owned by Myrtle Hay, located in the SE1/4 EX THE N 69.95A & EX THE E 900' OF THE S 535', Section 4, Township 118, Range 47 (Adams East Township) Chairman Tostenson called for a motion to approve. Motion by Street and seconded by Stengel to approve DR2021-22. Drainage Officer Berkner reported he has spoken with the Corps of Engineers in Pierre who had provided information on waterway definitions; these were provided to the Board. A basic level of a blue line is one that flows for most or all the year and is marked on topographic maps with a solid blue line.

The applicant has about a 785-foot run that does meander south and back up north to where the run straightens out again. The applicant is proposing just straightening the run for ease of farming. The project is about 35 acres. The run only flows when there is a rain or heavy snowfall. It is not a blue line stream, a perennial or intermittent stream according to the definitions.

Chairman Tostenson asked about changing the dynamics of a water source through drainage and how does the Board address this issue. Drainage Officer Berkner replied that question is probably a hind site question in his opinion. The question is how does the Board deal with unanticipated flows, such as a flowing well.

Jay Gilbertson spoke on blue lines indicate that the run has running water and depending on the weather pattern, the water may be high or low volume. The request before the Board does alter drainage, but not a significant amount.

The applicant was asked to comment. Joe Kanthak stated the intention is just to straighten the run to remove farming obstacles, for ease of farming.

Board member Street spoke that this project is not adding any additional water, just changing the run by straightening.

There were not any comments offered by the public present. The hearing was closed. The Board discussion commenced. Commissioner Mach reported on a similar situation within the City of Milbank where the water was rerouted or straightened to keep the water from damaging property but remained in the same stream.

Joe Kanthak informed the Board the run on the east side of the road going into Minnesota has already been straightened. States Attorney Schwandt advised the Board this is not an interstate issue as the inlet and the outlet are both located within the State. Chairman Tostenson asked if there were any other questions. Hearing none, he asked for a roll call vote on the motion to approve DR2021-22 as presented. Stengel aye; Street aye; Buttke aye; Mach aye; Tostenson aye. Motion carried 5-0.

Permit DR2021-23 for Bert Loehrer, for property owned by BERT J. LOEHRER REV LIVING TRUST, located in the SE1/4 EX 10 A & EX LOT 1 SHIVES SECOND ADDITION, Section 21, Township 120, Range 48 (Alban West Township). Chairman Tostenson called for a motion to approve. Motion by Mach and seconded by Stengel to approve DR2021-23. Drainage Officer Berkner stated the water flows in a south easterly direction. This application is north of permit DR2021-21. The applicant is adding laterals to an existing tile line with the outlet on his own land.

Bert Loehrer explained the quarter has a giant L-shaped drainage ditch that is 8 to 10 feet deep and 70 feet across. He ran the tile from the north quarter around the ditch into an opening of a culvert on the east line and is ready to finish the tiling of the ground. The outlet is into an existing ditch. Chairman Tostenson asked if any easements were required with an answer of no. Loehrer remarked the wetland determination has already been approved.

Chairman Tostenson opened the public hearing. He called for proponent testimony three times. There were not any comments. He called for opponent testimony three times. There were not any comments. The public hearing was closed.

Board discussion was called by the Chairman who remarked the application included a preliminary map of the project, tile size has been indicated, rate of flow has not been provided yet, and the culverts are sized to handle the flow to the blue line. He asked if there is any hindrance to the Hilbrand's property. The applicant stated no. The Board indicated they would not require an inspection by the Drainage Officer before covering the tile.

Mach requested to amend his original motion with Stengel in agreement to include these conditions: 1) A tile diagram map is given to the Drainage Officer before the project is started; 2) The tile size is supplied; 3) The amount of tile feet; 4) Supply the flow rate of the tile; 5) No post inspection is required. Chairman Tostenson asked if there were any other questions. Hearing none, he asked for a roll call vote on the motion as amended to approve DR2021-23 as presented. Stengel aye; Street aye; Buttke aye; Mach aye; Tostenson aye. Motion carried 5-0.

Permit DR2021-24 for Ron Anderson, for property owned by Ronald & Linda Anderson Living Trust located in the E1/4 of Section 29, Township 119, Range 48 (Vernon West Township). Motion by Street and seconded by Buttke to table the permit hearing as requested by the applicant Ron Anderson until the October 5, 2021, meeting. Motion carried 5-0.

Dennis Kohl and Derek Wollschlager requested the Board to review a rock berm in section 27 of West Vernon that they believe is restricting the flow of water. The Commission requested this item be put on the agenda for Sept. 21 to allow time to research the issue.

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

Public Comment: The Chairman opened the public comment again. Big Stone Township supervisor Dan Scoblic asked the Commission to consider some type of crossing on 482<sup>nd</sup> Ave. This section of road has been closed to through traffic due to the low tonnage rating of the 98' bridge (Pony Truss bridge). The Commission agreed to add the request to the September 21<sup>st</sup> agenda.

**Highway:** The public hearing for the County’s Five-Year Highway and Bridge Plan was held. Chairman Tostenson opened the meeting for public comment during the review of the 5-year project list which includes replacing bridge structures by the county crew, striping, asphalt, gravel, equipment and bridge replacement. There was not any member of the public present to comment. The public hearing for the Five-Year plan closed. The plan will be on the September 21<sup>st</sup> agenda for the Commission’s approval and then sent on to SD DOT by October 15th. **Surplus:** Motion by Mach and seconded by Buttke to declare surplus a sander, fixed asset #2599; a truck box cylinder; a scraper tire; to be sold at auction. Motion carried 5-0. **ROW:** Commissioner Street asked if the fee of \$200.00 for mowing crops that are in the county road right-of-way could be changed to the shop hour rate of \$162.00 per hour. States Attorney Schwandt explained under state statute the maximum fine is \$200 per charge for a class two misdemeanor.

BIDS FOR FUEL

DATE	BIDDER	ETHANOL	DIESEL #1	DIESEL #2
8/03	UPI	2.65		2.45
	Cenex	2.749		2.519
UPI was the low bidder for ethanol at 2.65 and the low bidder for Diesel 2 at 2.45.				
08/12	UPI			2.44
	Cenex			2.49
UPI was the low bidder of Diesel 2 at 2.44.				
08/19	UPI	2.71		2.40
	Cenex	2.69		2.43
Cenex was the low bidder for Ethanol at 2.69 and UPI was the low bidder for Diesel 2 at 2.40.				

**2022 Budget Hearing:** The published hearing for the 2022 budget was held with no member of the public offering any comments. The Commission reviewed revenue and expense changes to the provisional budget. The Centrally Assessed valuations have been received from the Dept of Revenue. The final growth factor and the county tax call may now be finalized for final budget approval at the next meeting. The CPI factor is 1.2% and the growth factor is .842% for 2022. The budget for 2022 will be finalized and adopted on September 21, 2021.

Chairman Tostenson excused himself from the meeting at 9:45 AM and Vice-Chairman Doug Stengel was seated as Chairman.

**Cannabis Ordinances:** Vice-Chairman Stengel asked to have the second reading of Ordinances 2021-03 and 2021-04. Motion by Buttke and seconded by Street to dispense with reading of the ordinances and to adopt the ordinances as presented. Vice-Chairman Stengel asked if there were any other comments from the Commission and hearing none, called for a roll call vote on the adoption of Ordinances 2021-03 and 2021-04. Street aye, Buttke aye, Mach aye and Stengel aye. Motion carried 4-0. Ordinances 2021-03 and 2021-04 adopted. These ordinances on cannabis are on file in the Auditor's Office and will be published on September 15, 2021, with an effective date of October 5, 2021, unless referred.

**Garbage:** Jason Sackreiter with Whetstone Sanitation presented a quote of \$230.00 per month for garbage pickup compared to \$258.10 per month from Waste Management. Motion by Street and seconded by Buttke to change to Whetstone Sanitation for garbage pickup after providing notice to terminate services with Waste Management. Motion carried 4-0.

**Travel:** Motion by Buttke and seconded by Street to approve travel for EM Director Kevin Schuelke to attend the annual conference in Watertown. Motion carried 4-0.

**Cash Transfers:** Motion by Street and seconded by Buttke to approve the cash transfer as per the 2021 budget. Motion carried 4-0.

FROM	TO	AMOUNT
101 General	201 Highway Fund	750,000

**Budget Supplement:** Motion by Street and seconded by Buttke to set September 21 at 9:30 am for a budget supplement hearing to adopt budget authority in the amount of \$1,100,000 for building the 4-H building and to adopt budget authority in the amount of \$764,000 for the box culvert project budget 26-320-053 (by DeVaal's). Motion carried 4-0.

**Unfinished Business:** none

**New Business:** none

**Correspondence:** none

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

1. Approve an amendment to the WIC clerical contract to correct the Federal Award ID number
2. Approve POD agreement for 2022 funding with Dept of Health
3. Approve auto supplement of revenue and expense for EM for Code Red Grant for the donation from Milbank Fire Dept of \$4,969.03 for commercial washer and dryer
4. Approve step increase for Samuel Athey to 6-month rate of \$19.20 per month effective 9-1-21

**Claims:** Motion by Mach and seconded by Buttke to approve the claims as presented. Motion carried 4-0. AUTOVALUE, repairs & supplies 569.95; AVERA MCKENNAN, prisoner care 283.26; AVERA QUEEN OF PEACE, DOT testing 73.00; BANNER, hwy proj 2,666.50; BITUMINOUS PAVING, asphalt 224,839.55; BORNS GROUP, mailing expense 1,488.79; BOYER, repairs 233.15; CHS, gas 1,492.95; CITY OF MILBANK, water & sewer 342.64; CONSOLIDATED READY MIX, gravel 16,981.95; CRAIG DEBOER, car wash usage 200.00; DAKOTA POWER EQUIPMENT, supplies 149.09; DELORIS RUFER, lib rent 100.00; DEMCO, supplies 220.75; EQUIPMENT BLADES, supplies 7,104.00; FISHER SAND & GRAVEL, rip rap, gravel 14,673.85; FLAT RATE, hwy proj 654.50; G & R CONTROLS, repairs 33.45; FOOD-N-FUEL, prisoner meals 299.25; GRANT CO REVIEW, publishing & supplies 2,563.82; GRANT-ROBERTS RURAL WATER, water usage 36.40; GRANT/ROBERTS AMBULANCE, allocation 2,458.33; HARTMAN'S, prisoner meals 204.50; HOLLOWAY BRIDGE, hwy proj 146,158.42; INTER-LAKES COMM ACT, service worker 2,565.92; ITC, phone & internet 1,394.26; JEREMY WIESE, supplies 22.95; KAYLA RAUSCHER, prof services 475.10; LARRY HOLTON, prof services 6,500.00; LEWIS, supplies & RX 34.43; MARSHALL & SWIFT, ref materials 3,638.05; MIDCO, lib internet 85.00; MILBANK AREA HOSPITAL AVERA, BLABS 119.00; MILBANK AUTO PARTS, supplies 1,831.69; NORTHWESTERN ENERGY, natural gas 52.78; NOVAK SANITARY, shredding service 55.89; PETTY CASH, postage 8.00; PROLINE MARKETING, repairs 53.06; QUICK PRO LUBE, oil chg 163.93; QUILL, supplies 70.68; REGENCY MIDWEST VENTURES, motel 154.00; RELX, online charges 725.00; RICHARD EMMONS, ref materials 797.23; RIVER STREET PETROLEUM, diesel fuel 9,405.08; ROBERTS CO TREASURER, hwy proj 557.67; RYAN MAGEDANZ, prof services 61.76; SAFETY-KLEEN SYSTEMS, supplies 234.26; SCANTRON, prof services 6,322.67; SCOTT BRATLAND, court appt atty 4,088.98; SD DEPT OF HEALTH, BLABS 245.00; SD DEPT OF REVENUE – MV, licensing 21.20; SDSU, registration 90.00; ST WILLIAMS, inmate laundry 67.50; TRACY GRANT, prof services 240.00; TRUENORTH STEEL, hwy proj 17,862.18; VALLEY RENTAL & RECYCLING, allocation 650.00; VALLEY SHOPPER, publishing 26.58; VAN DIEST SUPPLY, weed control 1,584.00; WEST CENTRAL COMM, minor equip & repairs 10,612.78;



WHETSTONE HOME CENTER, supplies 11.99; WILBUR-ELLIS HOLDINGS, weed control 3,553.65; WILDUNG IMPLEMENT, repairs & maint 428.63; XEROX, copier rent 113.50. TOTAL: \$498,752.50.

Payroll for the following departments and offices for the August 27, 2021, payroll are as follows: COMMISSIONERS 3,223.90; AUDITOR 7,493.79; ELECTION 408.36; TREASURER 3,817.57; STATES ATTORNEY 6,051.42; CUSTODIANS 2,596.60; DIR. OF EQUALIZATION 3,974.57; REG. OF DEEDS 4,395.24; VET. SERV. OFFICER 1,278.00; SHERIFF 12,547.21; COMMUNICATION CTR 7,038.60; PUBLIC HEALTH NURSE 808.50; ICAP 126.50; VISITING NEIGHBOR 1,614.90; LIBRARY 7,794.23; 4-H 3,201.20; WEED CONTROL 2,227.10; P & Z 1,149.50; Drainage 532.00; ROAD & BRIDGE 28,436.58; EMERGENCY MANAGEMENT 2,288.00. TOTAL: \$101,003.77.

Payroll Claims: FIRST BANK & TRUST, Fed WH 7,601.29; FIRST BANK & TRUST, FICA WH & Match 12,224.96; FIRST BANK & TRUST, Medicare WH & Match 2,859.04; AAA COLLECTIONS, deduction 33.42; ACCOUNTS MANAGEMENT, deduction 98.05; 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. 272.04; 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 11,395.02. TOTAL: \$87,046.58.

**Executive Session:** Motion by Mach and seconded by Buttko to enter executive session at 10:37 AM for the purpose of a personnel issue pursuant to SDCL 1-25-2 (1). Motion carried 4-0. Auditor Layher was present. Vice-Chairman Stengel declared the meeting open to the public at 11 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 September 21 and October 5 and 19, 2021, at 8 AM. Motion by Mach and seconded by Street to adjourn the meeting. Motion carried 4-0. Meeting adjourned.

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Karen M. Layher, Grant County Auditor

Douglas Stengel, Vice-Chairman, Grant County Commission