



GRANT COUNTY SOUTH DAKOTA  
PLANNING AND ZONING OFFICE  
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## Minutes from the special joint meeting of Grant County Planning Board and Grant County Commissioners

**Planning and Zoning Board members present:** Mike Mach, Mark Leddy, Richard Hansen, Tom Pillatzki, Nancy Johnson, Jim Berg and John Seffrood

**Alternate(s) present:** Don Weber

**Grant County Commissioner present:** Mike Mach, Marty Buttke, Doug Stengel, Bill Street and Bill Tostenson

**Others present:** Todd Kays and Luke Muller (both of First District via teleconference), Jay Gilbertson (EDWDD via teleconference), Casey Cameron (via teleconference), Karen Layher, Jackson Schwandt, Mark Reedstrom, Steve Berkner, Stefani Pauli, Joelee Hicks, Dave Meyer, Jerry Zubke, Bob Spartz, Daryl Liebe, Loren Tucholke, Adam Bury, Jerry Bury, Dan Loehrer, David Kruger, Clayton Tucholke, Kathy Ward, Jim Devaal

**Meeting Date:** Tuesday, April 20th, 2021

**Meeting Time: 8:00 A.M.** In-person in basement of the Courthouse and also by Teleconference

1. Commissioner Mark Leddy opens the Planning and Zoning portion of the special joint meeting in order to consider, discuss and receive public comment on proposed Ordinance #2021-01A, an ordinance amending section 1106 of Ordinance #2004-1.

(This portion of the meeting is run entirely by the Planning and Zoning Board with only those Planning and Zoning Board members in attendance able to make motions and to vote.)

2. Motion made by Planning and Zoning board member Richard Hansen and seconded by board member Mike Mach to approve the agenda and discuss Ordinance #2021-01A.

Motion carries 7-0.

3. Deputy States Attorney Mark Reedstrom went over the timeline and the thought process going into proposed Ordinance #2021-01A, an ordinance amending Section 1106 "Flood Damage Prevention" regulations of Grant County ordinance #2004-1.

Reedstrom, along with First Districts Luke Mueller who helped co-author the proposed ordinance with Reedstrom, explained the new ordinance, if adopted, concentrates on regulating all “man-made” structures or improvements, namely drainage and tiling projects, that affect the county’s floodplain as defined by FEMA.

According to the authors if adopted the new ordinance would still be in accordance with the provisions of chapters 11-2, 1967 SDCL, and would repeal all existing county resolutions and ordinances in conflict with the new proposed ordinance and simplify the process.

As presented the new ordinance’s biggest change would be in the process that is related to tiling or drainage projects that the entity, and/or owner, performing the work would solely be responsible for turning in all required county, state and federal government official documentation relating to their specific drainage project as well as the drawings and mechanical specifications associated with the proposed project.

It was noted that as written the new proposed ordinance had NO special requirement in place for there to be direct contact with any “downstream” landowners as the old process did for landowners two miles downstream of any draining or tiling project that were contacted via certified mail.

According to Mueller if the proposed ordinance is adopted the county would “get out of the decision-making process” for tiling and drainage projects where the county’s basic responsibility would be to act as a “repository” of all the information described in the above paragraphs for public view as well as post a notice in the county’s official paper of record that a specific drainage or tiling project was planned.

4. At the conclusion of the proposed ordinances presentation chairman Leddy asked for public comment where the four following citizens asked questions or made comments.

David Kruger asked about the new ordinance what would the county do if any of the information turned in by the permittee was found to be wrong or was missing.

Bob Spartz was concerned about the absence of the ordinance when it came to contacting and notifying “downstream” residences and affected township boards that may be affected by the project. Spartz was also concerned that the Grant County Planning and Zoning board was making a recommendation where none of them was subject to a county election because they were an appointed board.

Joelee Hicks was concerned if the proposed ordinance could be amended by the county commissioners before it is voted upon. Hicks was also concerned that the ordinance as proposed was authored by individuals who lived outside of the county and that without a public hearing it was now the responsibility of the public to read the paper each week to see what drainage projects were pending.

Clayton Tucholke thought the proposed ordinance was a step in the right direction but thought it should be necessary that “downstream” landowners should be contacted directly by the county and given a chance to respond without having to check to paper each week.

5. After requesting if there were any more public comments Leddy closed the public hearing and Luke Muller from First District went over some of the proposed ordinance's protocols as they related to some of the public comments and concerns.
  - a. As soon of the public notice is printed in the project work can start.
  - b. As written the ordinance does not address what happens if information in the application is wrong.
  - c. The entity doing the work has no right to do work on or do any damage to any township, county, state or federal road or right of way without getting their approval first.
  - d. No appointed county board is involved in any decision making.
  - e. The Planning and Zoning Administrator has only to determine if the correct information is filled out.
  - f. Two-miles downstream notification is NOT included in this proposed ordinance but can be added.
  
6. After requesting if there were anymore public comments Leddy closed the public hearing and invited both the attending County Commissioners and Planning and Zoning Board members to discuss the proposed ordinance with the following making the following comments.

Board member Tom Pillatzki thought it should be necessary to have the county contact the two-mile downstream landowners as well as have the start of the project delayed two weeks from the official public notice in the paper.

Commissioner Bill Street also liked the idea that keeping the process in place where the downstream landowners are contacted the same as they are now is important and that some type of public hearing should be considered.

Commissioner Bill Tostenson also concurred with the current two-mile downstream notification format and that it was important that that detail be included in the new ordinance as well as a timeline that gave everybody involved a time to react.

Commissioner and board member Mike Mach was concerned about how the county could recover at least the cost of doing its part of the proposed ordinance especially if it was going to include sending out letters and holding public hearings where at present he understood that there was going to be no charge for the county doing its part of the new proposed process.

Board member Tom Pillatzki commented that maybe it would be easier to require that all "abutting" downstream landowners within two whole sections be the ones to be

contact of a pending drainage or tilling project as it took out the guess work of the actual distances meandering creeks and rivers took.

Board member Nancy Johnson thought a two-week waiting period should be in place once public notification of the proposed drainage or tiling project is made in the local paper of record and that notification would be enough.

Board member John Seffrood thought that some of the suggested proposed changes where now making the new ordinance more complicated and putting the county back in the decision-making process. He was also concerned about a drainage project that might fall entirely outside the floodplain and now we are taking control of it. Originally this ordinance was going to put us in the information gathering role for a proposed drainage or tiling project where after accepting that information for public review and letting the public no through public notice that the project was going to happen.

Commissioner Bill Street was also concerned that if this type of ordinance, tying draining and tiling to our floodplain management ordinance, might not raise our county wide flood insurance rates. He thought it should maybe be looked into to see what affect it might have where there may be a positive outcome for lowering rates.

7. At the conclusion of the comments from both the County Commissioners and the Planning and Zoning Board Nancy Johnson made a motion for the Planning and Zoning Board to consider that along with the county running a public notice of the proposed drainage or tiling project in the county's paper of record that the county would require the entity performing the drainage or tiling work to be responsible for contacting all landowners two complete sections downstream of the project by certified mail and that that proof of delivery of those certified letters be presented to the county planning and zoning official no later than two weeks from the time where the project couldn't start without that proof.

Board member Mike Mach seconded the motion.

Motion carries 7-0.

8. After a short discussion a motion was made by board member Tom Pillatzki and a second by board member Nancy Johnson to accept the first reading as amended by the previous vote.

Motion carries 7-0

9. With no more business to consider Leddy adjourns the Grant County Planning and Zoning Board's portion of the joint meeting.

Steve Berkner  
Planning and Zoning Administrator  
Grant County