

December 5, 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 Tostenson and seconded by Stengel to approve the November 21, 2023 minutes. Motion carried 5-0. Minutes filed. Motion by Buttke and seconded by Stengel to approve the agenda with the change of removing Item 4 and adding d. Sign Joint Power Agreement under Highway. Motion carried 5-0.

Present from the public were: Raymond Beutler, Jerome Schuelke, Les Peters, Kevin Schuelke, Tim Meyer, and Coltin Brandenburger. Staff members present were Commissioner Assistant Layher, Drainage Officer Berkner and States Attorney Schwandt.

Public Comment: Chairman Mach called for public comment three times. There were no comments.

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

Chairman Mach asked Drainage Officer Berkner to give an update on a drainage complaint made earlier in the year in Section 1 of Kilborn Township. Berkner reported an upstream landowner was concerned with recent land improvements by an abutting downstream landowner where surface water was being trapped on his upstream property and not draining away as it had in the past.

The complainant's concern is that there is a possible drainage permit violation by the downstream landowner for not seeking a drainage permit when a ridge of soil has been formed on the fence line between the two adjoining parcels. This ridge slowed down the flow of surface water that normally would flow southeast across both upstream and downstream properties being aided by a railway ditch belonging to the railroad line that runs between the cities of Milbank and Sisseton.

Berkner presented aerial drone pictometry along with photos showing the ridge that had been formed starting near the railroad's roadbed and then following the east/west property line between the two parcels of land. Berkner also presented graphics with elevations of the area along with existing culvert sizes and the

direction they flowed. It was pointed out the railroad's ditch that is in contact with the two parcels of land needs cleaning. Debris and sediment have filled in large parts of the ditch restricting flow to the nearest downstream culvert draining east under the railroad tracks approximately a quarter mile away.

State's Attorney Schwandt was asked to comment on whether a drainage permit was needed to regulate a small ridge of soil that has formed and redirects surface water flow as the complainant claims. Schwandt stated by looking at the pictures it was hard to determine exactly how or why the ridge of soil was created. It is subtle enough that it could have been caused by accepted modern farming practices which would normally not require a drainage permit.

Schwandt said the county's drainage ordinance is not entirely clear on how much of a ridge of soil would be necessary to require a drainage permit. The ordinance does state tiling, digging drainage ditches, and filling in established ditch waterways is clearly identified as needing a drainage permit.

Schwandt added it is clear in South Dakota Codified Law that the aggrieved upstream landowners absolutely have the right to seek relief directly from the downstream landowners causing water to back up on their property causing harm.

The Drainage Board agreed with Schwandt's comments that a drainage permit was not needed, and the aggrieved party could seek legal advice on seeking damages directly from the downstream landowner through the court system if they choose to do so.

The Drainage Board highly recommended that a better remedy for both parties would be to contact the railroad requesting they clean their ditch and/or add an additional east flowing culvert where the water is not flowing properly. Or the affected landowners could ask permission from the railroad to properly clean the railroad's ditch themselves.

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

HWY: Gravel Bids: Motion by Stengel and seconded by Tostenson to call for 2024 crushed gravel bids with the bid opening on January 2, 2024 at 8:15 AM. Motion carried 5-0.

Approve BIG Application: Motion by Street and seconded by Buttke to approve the BIG application, Resolution, ROW application ROW 2023-06 and Utility Certificate for bridge 26-320-101 as presented. Motion carried 5-0.

Joint Power Agreements: Supt Peterson presented SDDOT Joint Powers and Funding Agreement for bridge replacement project 26-293-210, BRO-B 8026 (37), PCN 09MR with 100% funding from the state. The project cost is \$1,276,000. Motion by Street and seconded by Buttke to approve Chairman Mach to sign the agreement for bridge 26-293-210. Motion carried 5-0. Supt Peterson presented SDDOT Joint Powers and Funding Agreements for two Bridge Improvement Grants (BIG) preliminary engineering 1) Bridge 26-296-020, BRO 8026(00)24-2, PCN 09NA with a cost share of 80% (\$53,400) through federal funds and 20% (\$13,350) local funding. The total project cost is \$66,750. Motion by Tostenson and seconded by Stengel to approve Chairman Mach to sign the agreement for bridge 26-296-020. 2) Bridge 26-380-083, BRO 8026(00)24-1, PCN 09N8 with a cost share of 80% (\$53,400) through federal funds and 20% (\$13,350) local funding. The total project cost is \$66,750. Motion by Street and seconded by Buttke to approve Chairman Mach to sign the agreement for bridge 26-380-083.

Kaufman Slough: Drainage Officer Berkner gave his report on the history of the Kaufman Slough water issues and presented photos. A lengthy discussion was held with the Commission, Hwy Supt Peterson, and the concerned residents in the area. In summary, it is the county's job to protect the roadway. If the residents and landowners are concerned with all the water, they should combine to propose a drainage solution and contact Games, Fish & Parks to see if they can receive approval with the proposed project. Supt Peterson stated the highway department will mow the ditch and install rip rap and reflectors along the road.

Revilla Fire Dept: A request from the Revillo Fire Dept for a donation to their new brush/rescue truck was presented by Tim Meyer. Discussion was held. Chairman Mach thanked Tim for the presentation. The Commission will consider a donation at their final meeting of 2023 on December 29.

VSO: Veteran Service Officer Scott Malimanek gave his department report. He stated he has started a weekly coffee day at the Millstone for veterans from 1-3 PM on Thursdays. Big Stone County will not accept veterans from other counties anymore. Gift cards from the DAV have been received for veterans in need.

Zoning Ordinance: The second reading of Ordinance 2023-02 was held. Chairman Mach asked if there was any more discussion, and none was offered.

Chairman Mach called the vote. A roll call vote was held with all members voting aye. Ordinance 2023-02 adopted.

ORDINANCE NO. 2023-02

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND ARTICLE II “DEFINITIONS”; AND ARTICLE XI “COMMERCIAL/INDUSTRIAL DISTRICT”, ADOPTED BY ORDINANCE 2004-01, AS AMENDED, OF THE ZONING ORDINANCE OF GRANT COUNTY.

BE IT ORDAINED by the Board of County Commissioners of Grant County, South Dakota: that ARTICLE II “Definitions” adopted by Ordinance 2004-01, as amended, of the Zoning Ordinance of the Grant County be amended by amended and adding language in bold and underline:

Section 246b. Light Manufacturing: Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Grant County, South Dakota: that ARTICLE XI “Zoning Districts” Section 1102.03 “Commercial/Industrial District – Conditional Uses” adopted by Ordinance 2004-01, as amended, of the Zoning Ordinance of the Grant County be amended by amended and adding language in bold and underline:

20. Light Manufacturing

BE IT FURTHER ORDAINED by the Board of County Commissioners of Grant County, South Dakota: that ARTICLE XI “Zoning Districts” Section 1102.04 “Commercial/Industrial District – Area Regulations” adopted by Ordinance 2004-01, as amended, of the Zoning Ordinance of the Grant County be amended by amended and adding language in bold and underline:

1. Lot Area. Lot area shall be determined by need, setback, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion; however, in no case shall a lot have less than two (2) acres. An applicant for a conditional use shall provide a proposed site plan which can be reviewed by the Board of Adjustment. For commercial and industrial uses, buildings shall occupy no more than twenty-five (25) percent of the lot. **All**

conditional uses shall have a minimum area and setback regulations as determined by the Board of Adjustment.

2. Front Yard. **For permitted uses** there shall be a front yard on each street which a lot abuts, and which yard shall be not less than one hundred (100) feet in depth.
3. Side Yards. On lots adjacent to a residential area, all buildings and incidental areas shall be located so as to provide a minimum side yard of one hundred (100) feet, which shall be landscaped on the side adjacent to the residential area. **For permitted uses**, all other side yards shall be a minimum of fifty (50) feet.
4. Rear Yards. **For permitted uses**, no building shall be constructed within fifty (50) feet of the rear lot line. The rear yard shall be one hundred (100) feet if the lot abuts an interstate or major highway. [Ord. 2004-1]

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the county government and its existing public institutions pursuant to SDCL 11-2-10 and SDCL 7-18A-8.

Vote of the Commission: Buttke Aye; Street Aye; Stengel Aye; Tostenson Aye; Mach Aye. Carried 5-0.

Dated this 5th day of December, 2023.

Michael J. Mach
County Commissioner Chair

ATTEST:
Kathy Folk
County Auditor

1st Reading: 11-21-2023
Public Hearing: 11-21-2023
2nd Reading: 12-05-2023
Date Adopted: 12-05-2023
Date Published: 12-20-2023
Effective Date: 01-09-2024

The second reading of Ordinance 2023-03 was held. Chairman Mach asked if there was any more discussion, and none was offered. Chairman Mach called the vote. A roll call vote was held with all members voting aye. Ordinance 2023-03 adopted.

ORDINANCE NO. 2023-03

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND ARTICLE III “ESTABLISHMENT OF DISTRICTS”, ADOPTED BY ORDINANCE 2004-01, AS AMENDED, OF THE ZONING ORDINANCE OF GRANT COUNTY.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, SOUTH DAKOTA: that Article III “Establishment of Districts” adopted by Ordinance 2004-01, as amended, of the Zoning Ordinance of Grant County be amended to classify the following property: LOT 5 OF RIGGIN AIRPORT ADDN & LOT 4 RIGGIN AIRPORT ADDN IN GOVT LOTS 1 & 2 in Section 7, Township 119, Range 48 West of the 5th Principal Meridian, Grant County, South Dakota. (Vernon East Township) to Commercial/Industrial from Agriculture.

Vote of the Commission: Buttke Aye; Street Aye; Stengel Aye; Tostenson Aye; Mach Aye. Carried 5-0.

Dated this 5th day of December, 2023.

Michael J. Mach
County Commissioner Chair

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Travel: None

County Assistance: None

4-H Snow Removal: Commissioner Assistant Layher stated Cody Kelly can remove the sidewalk snow, but we still need someone to do the driveway. The Commission decided to have the highway department plow it when they are in the area plowing the L road.

Holidays: The Commission discussed the holiday closing schedule received from the Governor's Office. After much discussion, it was motioned by Mach and seconded by Tostenson to be closed on December 26th for Christmas. Motion carried 5-0.

Unfinished Business: Commissioner Assistant Layher stated the next jail meeting will be held on Thursday, December 7 at 10:00 AM in the courthouse basement meeting room.

New Business: Commissioner Stengel gave an update from the Big Stone City Council meeting.

Correspondence: None

Claims: Motion by Tostenson and seconded by Buttke to approve the claims with the addition of Georgia Township, bridge repairs \$8,875.28. Motion carried 5-0. ANN TUCHSCHERER, prof services 600.00; AUTOVALUE, repairs & maint 697.24; BITUMINOUS PAVING, asphalt 5,743.50; BLACKSTRAP, supplies 4,228.13; BRENT PETERSON, prof services 885.45; BUTLER, supplies 3,968.01; CENTER POINT, books 509.94; CHARLES STEPHENS, reimburse 130.00; CITY OF MILBANK, water & sewer 618.41; CITY OF WATERTOWN, 911 surcharge 6,399.91; COLLEEN NATALIE, prof services 600.00; DELORIS RUFER, lib rent 100.00; FEDERAL LICENSING, ref books 119.00; FIRST BANK & TRUST, supplies 125.00; FIRST BANK & TRUST/VISA, minor equip, gas, supplies 3,466.87; FIRST DISTRICT, prof services 7,000.00; FOX & YOUNGBERG, prof services 162.88; FREMAREK, supplies 270.12; GEORGIA TOWNSHIP, RAIF reimbursement 8,875.28; GRAJCZYK LAW OFFICE, court appt atty 3,400.00; GRANT-ROBERTS RURAL WATER, water usage 35.30; GRANT/ROBERTS AMBULANCE, allocation 2,458.37; INSIGHT, supplies 350.00; LARRY'S REFRIGERATION, repairs & maint 949.56; LEWIS FAMILY DRUG, supplies 282.42; MARK KATTERHAGEN, prof services 15.00; MIDCO, lib internet 103.92; MILBANK AREA HOSPITAL AVERA, blabs 2,085.00; MILBANK AUTO PARTS, supplies 688.00; MUNDWILER FUNERAL HOME, prof services 3,830.00; NEWMAN SIGNS, supplies 9,726.40; NORTHWESTERN ENERGY, natural gas 865.62; RELX, online charges 725.00; RIVER STREET PETROLEUM, ethanol & diesel 6,090.90; ROGER REINERS, repairs & maint 734.69; SANDRA FONDER, prof services 50.00; SD ATTORNEY GENERAL, SCRAM & PBT fees 3,458.00; SD DEPT OF HEALTH, blabs 1,420.00; SD DEPT TRANSPORTATION, hwy project 778.83; SD SHERIFF'S ASSN,

registration 250.00; STAR LAUNDRY, prof services 82.64; TRAPP PLUMBING, repairs & maint 356.24; TROY HOYLES, prof services 300.00; TWIN VALLEY TIRE, supplies 75.00; VALERIE LARSON, prof services 15.00; VALLEY RENTAL & RECYCLING, allocation 650.00; WEST CENTRAL COMMUNICATION, repairs & maint 234.50. TOTAL: \$84,510.13.

Payroll for the following departments and offices for the November 28, 2023, payroll are as follows: COMMISSIONERS 7,215.10; AUDITOR 9,264.19; ELECTION 104.25; TREASURER 5,774.14; STATES ATTORNEY 7,298.20; CUSTODIANS 3,374.80; DIR. OF EQUALIZATION 4,526.97; REG. OF DEEDS 4,853.98; VET. SERV. OFFICER 1,277.10; SHERIFF 17,096.87; COMMUNICATION CTR 8,044.62; PUBLIC HEALTH NURSE 1,278.83; ICAP 126.00; VISITING NEIGHBOR 1,815.05; LIBRARY 7,750.83; 4-H 3,910.40; WEED CONTROL 2,111.40; P&Z 1,216.95; DRAINAGE 704.55; ROAD & BRIDGE 32,957.79; EMERGENCY MANAGEMENT 2,464.00. TOTAL: \$123,166.02.

Payroll Claims: FIRST BANK & TRUST, Fed WH 8,780.45; FIRST BANK & TRUST, FICA WH & Match 14,769.22; FIRST BANK & TRUST, Medicare WH & Match 3,454.14; ACCOUNTS MANAGEMENT, deduction 84.04; AMERICAN FAMILY LIFE, AFLAC ins. 1,570.25; ARGUS DENTAL, ins 605.89; WELLMARK-BLUE CROSS OF SD, Employee and Commission health ins. 56,335.29; COLONIAL LIFE, ins 37.98; DEARBORN NATIONAL, life ins. 312.51; LEGAL SHIELD, deduction 38.85; OFFICE OF CHILD SUPPORT ENFORCEMENT, child support 210.00; OPTILEGRA, ins 411.97; SDRS SUPPLEMENTAL, deduction 1,428.83; SDRS, retire 14,150.87. TOTAL: \$102,190.29.

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

1. Declare surplus from the Library a Dell Inspiron 24, fixed asset 10604 (non-working) and a Dell Touchscreen Inspiron, fixed asset 10115 (non-working)
2. Auto supplement of \$30,000 to the EM Fund from the 2021 HLS grant for the purchase of the hovercraft effective 11-30-2023

Executive Session: Motion by Stengel and seconded by Buttke to enter executive session at 10:37 AM for the purpose of a personnel issue(s) pursuant to SDCL 1-25-2 (1) and litigation issues per SDCL 1-25-2 (3). Motion carried 5-0.

Commissioner Assistant Layher and Auditor Folk were present. Chairman Mach

declared the meeting open to the public at 10:56 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 December 7, 19 and 29, 2023 and January 2 and 16, 2024 at 8 AM in the basement meeting room. Motion by Stengel and seconded by Buttke to adjourn the meeting. Motion carried 5-0. Meeting adjourned.

Kathy Folk, Grant County Auditor

Michael J. Mach, Chairman, Grant County Commissioners