

September 3, 2024

The Grant County Commission met at 8 AM with Commissioners Buttke, Mach, Stengel, Street and Tostenson present. Chairman Tostenson called the meeting to order. Motion by Buttke and seconded by Street to approve the August 20, 2024 minutes. Motion carried 5-0. Minutes filed. Motion by Mach and seconded by Stengel to approve the agenda. Motion carried 5-0.

Present from the public were John Loeschke, Tim Wollschlager, Mike Norgaard, Andrew Swenson, Mark Wollschlager, Earl Lundin, Doug Wollschlager, Ronald Meister, Traci Stein, Kent Roe, Mike McKernan and John Seffrood. Staff members present were Commissioner Assistant Layher, States Attorney Schwandt, Hwy Supt Peterson and Drainage Officer Berkner.

Public Comment: Chairman Tostenson called for public comment. Doug Wollschlager brought up his concerns that a culvert and construction flag has been put along 484th Avenue along Section 30 in Vernon East Township and Section 25 Vernon West Township. The culvert needs to be replaced but it is unclear to Wollschlager at what depth it will be installed. If the culvert depth is changed from its original height, then the township needs to get a permit from the county for any change in depth or size. The township does have authority to work within the township ROW. Communication with landowners is suggested.

Chairman Tostenson called for public comment again. John Loeschke, Chairman of the Vernon Township Supervisors, said a verbal agreement was received from both landowners involved for the culvert to be installed at the depth of 6' but the township hasn't applied for a permit yet. States Attorney Schwandt advised Loeschke to get the agreement in writing and if the culvert is being lowered to get a permit from the county.

Chairman Tostenson called for public comment a third time. There were no more comments.

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

Permit DR2024-39a and DR2024-39b for Jon Bork for properties located within the S1/2 of Section 19 in Adams East Township.

Chairman Tostenson called for a motion to take off the table drainage permits DR2024-39a and DR2024-39b for Jon Bork that was tabled during the August 6th drainage board meeting. Motion by Street and seconded by Mach to take permits DR2024-39a and DR2024-39b off the table. Motion carried 5-0.

Drainage Officer Berkner reported the original permit application is to tile 145-acres of land located within the S1/2 of Section 19 in Adams East Township within the Lac Qui Parle River Watershed. The project would also have 1-inlet near culverts that flow under 484th Avenue and one 15” outlet that would drain water north and east. The lateral tile portion of the drainage project is estimated to have a designed maximum water flow of 1.57 cubic feet per second (cfs) or 720 gallons per minute (gpm) if installed at a .1% grade.

Since the last meeting Bork has submitted an alternate design that would essentially split the land receiving the tiling and the one inlet into two separate outlets, instead of one. The water being drained on the south half of the S1/2 of Section 19 would drain straight east, parallel to SD Highway 20. The north half of the S1/2 of Section 19 would drain north as originally planned.

Berkner said Bork would be re-permitting the flow from the south half of the land in a future drainage permit application. The alternate tiling map, showing the split north and east draining designs, was shown to the drainage board. Berkner explained the current drainage permit being considered should be amended to only include the land being tiled on the north half of the two adjoining parcels.

Berkner stated it is his opinion that the project conforms to questions asked in the county’s drainage ordinance and one signature is still needed from the neighboring landowner to the north that would have the one 15” outlet.

Since the public hearing had already been held on August 6th, Tostenson invited board discussion. After a short discussion, it was motioned by Street and seconded by Mach to amend the original motion to only allow water to be drained from the north half of the S1/2 of Section 19 to drain north. Chairman Tostenson called for the vote. Motion carried 5-0.

Permit DR2024-52 for Tim Wollschlager for property located in the SW1/4 of Section 10 Adams West Township.

Chairman Tostenson called for a motion to approve permit DR2024-52 for Tim Wollschlager. Motion by Buttke and seconded by Street to approve permit DR2024-52.

Berkner said the permit is for adding 50' of tile and an inlet to connect to previously permitted DR2021-26 located within the SW1/4 of Section 10 in Adams West Township within the South Branch of the Yellow Bank River Watershed. The inlet would be located near a depression that collects water located on a shared property line adjacent to 481st Avenue. It is Berkner's opinion that the drainage project conforms to questions asked in the county's drainage ordinance.

Chairman Tostenson asked the applicant if he had anything to add. Wollschlager explained the need and the location surrounding the inlet. Tostenson opened the public hearing for DR2024-52 asking three separate times for any comments in favor or against the permit. No one responded.

After a brief drainage board discussion, Chairman Tostenson called for the vote. Motion carried 5-0.

Permit DR2024-53 for Earl Lundin for property located in the W1/2 of Section 25 Vernon West Township. Commissioner Street recused himself from discussion and vote for this permit.

Chairman Tostenson called for a motion to approve permit DR2024-53 for Earl Lundin. Motion by Stengel and seconded by Mach to approve permit DR2024-53.

Berkner said permit DR2024-53 is for tiling 4 acres of land located within the W1/2 of Section 25 in Vernon West Township within the South Branch of the Yellow Bank River Watershed. The project would connect to previously permitted DR2023-54 and have an estimated designed flow rate of .063 cfs or 28 gpm if installed at a .1% grade. Berkner said it is his opinion that the drainage project conforms to questions asked in the county's drainage ordinance, but the board should be aware the area receiving the outletting water is prone to flooding during heavy runoff events.

Chairman Tostenson asked the applicant if he had any additional comments. Lundin replied no. Tostenson opened the public hearing portion for DR2024-53 asking three separate times for comments in favor or against the permit. No one responded. Tostenson then closed the public hearing inviting drainage board discussion. Topics included past problems of slow-moving water in that area due partly from downed trees in and near the waterway even if the estimated additional quantity of water from DR2024-53 is small. Chairman Tostenson called for the vote. Motion carried 4-0.

Permits DR2024-51a, DR2024-51b, DR2024-51c, DR2024-51d, DR2024-51e, DR2024-51f, DR2024-51g and DR2024-51h for Northwest Farm Management for adjoining land located within: Sections 9, 10 and 15 of Stockholm Township.

Chairman Tostenson called for a motion to approve permits DR2024-51a, DR2024-51b, DR2024-51c, DR2024-51d, DR2024-51e, DR2024-51f, DR2024-51g and DR2024-51h for the E. Swenson Revocable Trust. Motion by Mach and seconded by Stengel to approve permits DR2024-51a, DR2024-51b, DR2024-51c, DR2024-51d, DR2024-51e, DR2024-51f, DR2024-51g and DR2024-51h.

Berkner reported the eight adjoining parcels included in the permits are located within Sections 9, 10 and 15 in Stockholm Township, all within the North Branch of the Yellow Bank River Watershed. The work has been completed without the required drainage permits being applied for or granted. The permits would tile 400 acres into 5 well established waterways. The final invoicing shared by the land management company shows the projects combined have up to 12 inlets and 30 outlets. Berkner estimated the design flow of the combined permits would be equal to 6.32 cfs or 2,828 gpm if installed at a .1% grade. Berkner commented that even though that number seems high it would be divided between five waterways which makes those quantities going into any one waterway in the same range as other permitted drainage projects granted by the drainage board.

Berkner added the cleaning of the drainage runs done in the area by the landowner was designed and approved by NRCS included improving and making restorations to 13 natural runs, or drainage ditches, located on the eight parcels that were done late last fall. That work does not require any permitting by the county if it is for restoration.

Berkner's report included aerial imaging of the eight parcels receiving non-permitted drainage work from the county's GIS site, images he took from an airplane, images of the actual work performed taken by other county employees and officials, as well as tile maps provided by the landowner. Berkner said the landowner has also provided copies of the drainage ditch restoration work designed and approved by NRCS.

Berkner also showed photos of work that was done within the county's road right-of-way adjacent to the south side of 155th Street between 469th Avenue and 470th Avenue, which he understood to be a separate issue for the County Commission and not the drainage board.

Berkner concluded his report saying it is his opinion that, along with the drainage ditch restoration work designed by NRCS, the project was well designed and conforms to questions asked in the county's drainage ordinance. Berkner added that all communications between his office and the company that manages the property for the Swenson Trust, Northwestern Farm Management Company (NFMC), has been very open, amicable and timely.

Chairman Tostenson asked for representative of the Erin D. Swenson Revocable Trust, Mike Norgaard, of NFMC, if he had anything to add. Norgaard said he apologized to Grant County, both its citizens and county officials, for not being aware of a need for county drainage permits prior to the work being performed. Norgaard added that his company manages farmland in over 40 counties in four states and they oversee 20 to 30 drainage permits a year.

Norgaard said they have been managing the Swenson Trust property for about 3 and a half years and one of their priorities was to eliminate surface erosion that has plagued the land in the past. They began working with NRCS to come up with a plan to repair the damage that had been done to the drainage ditches and make additional drainage improvements through tiling to control future erosion. Tostenson thanked Norgaard for their attention to prioritizing reducing erosion.

Chairman Tostenson opened the public hearing portion for DR2024-51a, DR2024-51b, DR2024-51c, DR2024-51d, DR2024-51e, DR2024-51f, DR2024-51g and DR2024-51h asking three separate times for comments in favor or against the permits. No one responded. Tostenson closed the public hearing portion for the eight adjoining drainage permits calling for board discussion.

Chairman Tostenson began the board discussion giving the options for the drainage board to consider for the permits of drainage work that had already been done. They could be granted as completed, conditioned for removal or modifications to work already completed, or deny any, or all, of the permits. Tostenson said although there would be a penalty phase for the drainage work being completed without proper drainage permits that is separate to considering granting the permits and would be addressed separately. Tostenson said the work done within the county's road ditch right-of-way is also a separate issue that would be dealt with by the county commission separately.

Board discussion concerning granting the permits included the need for the 12 inlets and what steps were made to reduce silt and other pollutants from entering directly into the downstream waterways. Norgaard responded the areas

immediately surrounding the inlets are all in the natural drainage ways that have been restored and re-seeded as required by NRCS.

Other topics included part of the overall work performed is whether the waterway improvements were done under a contract with NRCS. Norgaard said it was. Norgaard added that the previous landowners farmed through most of those waterways. Under new ownership and his company's management that practice was being eliminated.

States Attorney Schwandt was asked to comment if the permits should be tabled until the separate enforcement action could be determined. States Attorney Schwandt said that is a separate issue, not related to considering the permits. Once that's decided, neither approval, conditioning, or denial of the eight permits, would influence what the enforcement action is.

With no more discussion Tostenson gave the options to the drainage board to either call the vote to grant, deny the permits, included in the original motion or to table that decision for up to 30 days allowing time to gather additional information.

Before the vote both Street and Buttke said they thought the basic design of the whole project was well thought out but acknowledged the missing necessary permits and the work done in the right-of-way needed to be properly addressed in the next phase. With no amended motion to table or condition the permits Chairman Tostenson called for the vote. Motion carried 5-0.

Erin Swenson Trust Drainage Ordinance Violation: Drainage Board Chairman Tostenson led a discussion going over determining what type of penalty should be assessed for the eight parcels that received drainage work, DR2024-51a, DR2024-51b, DR2024-51c, DR2024-51d, DR2024-51e, DR2024-51f, DR2024-51g and DR2024-51h without the required permitting as required by the county's drainage ordinance. Tostenson said it is their responsibility as a drainage board to follow past drainage permit violation precedent where actions proposed and passed by the county drainage board included removing outletting tile and outlets from road right-of-ways and neighboring non-participating landowners' property, as well as financial penalties established to be up to \$1,000 a day as allowed by the county's drainage ordinance.

A lengthy discussion followed reviewing what other penalties had been assessed for past missing drainage permits. States Attorney Schwandt said they averaged around \$1,000 for the first day and \$750 a day for each day a proper drainage permit is missing as determined by the drainage board and State's Attorney.

Chairman Tostenson went over a timeline provided by Berkner that showed the time the project was completed according to the landowner, the county becoming knowledgeable the drainage work was completed without proper permitting, the amount of time it took the county to properly investigate the non-permitted drainage work performed and compile that information and report to the drainage board and the county's States Attorney's office of the findings. Instructions were given to the Drainage Officer on what actual violation days should be noted and sent by certified letter requiring a signature to the landowner of record plus the days it takes them to respond to that letter.

Chairman Tostenson said that in this case it took 36 days for that timeline to payout. He thought it would be appropriate to forgive 14 days from that timeline for inaction by the county making the total amount of days to be penalized as 22 days, which worked out to \$16,750 multiplied by eight, for each parcel, or \$134,000 total. Tostenson admitted that out of context that amount might seem harsh, but it is based on what past drainage permit violations were for completing drainage work without applying for and being granted a drainage permit where those penalties were paid in full and at the amounts determined by the board.

The board asked States Attorney Schwandt what amount his office would prosecute for if the \$134,000 suggested by Tostenson wasn't paid, or any amount decided on by the drainage board. Schwandt said in court his office would push for the maximum of \$1,000 a day, for 36 days for each of the eight parcels that received drainage work without applying for or being granted the proper permit, or a total of \$288,000. Schwandt said the \$134,000 amount, if motioned and accepted, is a settlement between the county and the landowner reached without the risk of both parties going to court.

A discussion amongst the drainage board followed about the recent drainage ordinance referendum that was overwhelmingly supported by the county's voting public that the county keeps the drainage ordinance in place as written. Tostenson said it would be hard to ignore the will of the public. As elected officials it is their responsibility to enforce the drainage ordinance. Buttke agreed.

The board also discussed the importance of the precedent set with previous drainage permit violation's penalties that were assessed and paid. It was clear that a penalty of \$1,000 a day for the first day and \$750 a day for each day had been acceptable for drainage work done without applying for or being granted a valid drainage permit. Motion by Mach and seconded by Buttke to direct the States Attorney to seek a penalty of \$1,000 for the first day, and \$750 a day for each day

after for 22 days total for each of the eight missing drainage permits, or \$134,000 total. Chairman Tostenson called for the vote. Motion carried 5-0.

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

5 Year Plan: 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. Present from the public were Mike McKernan and John Seffrood. There were no public comments. Chairman Tostenson closed the public hearing for the 5-year plan. The second reading of the plan will be on the September 24th agenda for the Commission's approval and then sent on to SD DOT by October 11th.

HWY: Motion by Stengel and seconded by Buttke to approve the 2024 11th Edition MUTCD manual. Motion carried 5-0. Motion by Street and seconded by Buttke to authorize Chairman Tostenson to sign the Preliminary Engineering BIG grant agreements and approve the 20% match for bridges 26-310-149 PCN 09Y0 and 26-277-230 PCN 09XY. Motion carried 5-0.

Kent Roe: District 4 Representative Kent Roe introduced himself to the Commission. Roe stated he is a supporter of infrastructure and education.

2024 Budget Hearing: The public hearing for the 2024 budget was held with no members of the public present. 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 budget for 2025 will be finalized and adopted on September 24, 2024.

Sheriff: Sheriff Owen stated a Homeland Security grant was received for \$60,156.10. It will be used to purchase and install four dash cameras in the deputy sheriff's vehicles. Motion by Stengel and seconded by Mach to approve the quote from West Central Communications for cloud-based data management and installation of the dash cameras in the deputy sheriff's vehicles for \$12,215.25. Chairman Tostenson called for the vote. Motion carried 5-0.

Motion by Mach and seconded by Stengel to approve a two-year contract for 2025-2026 with Watertown for E-911 services. The contract states 100% of the surcharge fees for all phone lines be paid to Watertown. Motion carried 5-0.

Jail Project: Adam Kuehl, architect with HMN Architects, via conference call with the Commission discussing the two bids received for CMAR (General Contractor). Hasslen Construction submitted a bid for \$805,427 and GA Johnson's bid is \$794,900. Kuehl recommended using GA Johnson Construction as CMAR for the county's jail project. Motion by Stengel and seconded by Buttke to approve the recommendation from HMN Architects to have GA Johnson Construction be the CMAR for the jail project with a bid of \$794,900. Chairman Tostenson called for the vote. Motion carried 5-0.

Travel: Motion by Mach and seconded by Stengel to approve Hwy Supt Peterson to attend the local road conference in Sioux Falls and EM Director Schuelke to attend the SDEM conference in Oacoma. Motion carried 5-0.

County Assistance: None

Cash Transfer: Motion by Buttke seconded by Stengel to approve the cash transfer as per the 2024 budget. Motion carried 5-0.

FROM	TO	AMOUNT
101 General Fund	207-911 Service Fund	32,100

Elevator Resolution: Motion by Stengel and seconded by Buttke to approve Resolution 2024-10 of the installation of an elevator in a historic building. Commissioner Assistant Layher read the resolution for the installation of the elevator. Chairman Tostenson called for the vote. Motion carried 5-0. Resolution adopted.

GRANT COUNTY BOARD OF COMMISSIONERS
OF THE STATE OF SOUTH DAKOTA

RESOLUTION ON THE INSTALLATION OF AN ELEVATOR
RESOLUTION 2024-10

WHEREAS Grant County, A Political Subdivision of the State of South Dakota, expressed interest in constructing and installing an elevator in the Grant County Courthouse, located in Milbank, South Dakota.

WHEREAS, the Grant County Courthouse located in Milbank, South Dakota is on the South Dakota Registry for Historical Buildings.

WHEREAS the Grant County Board of Commissioners has considered many factors when determining if an elevator is beneficial to the Grant County Courthouse even though it may change some aspects of the historical nature of the building.

WHEREAS the Grant County Board of Commissioners considered many factors including but not limited to: structural integrity of the building, changes to historical nature, accessibility to the general public and staff, benefits to the general public and staff, difficulty in general public and staff having access to the multiple floors of the courthouse, ease of access of the courthouse multiple floors for people with physical limitations, changes in the flow of the building, and cost.

NOW THEREFORE, be it resolved that upon consideration of the above-named factors, the Grant County Board of Commissioners believes it to be in the best interests of the county and general public and thus so approves the construction and installation of an elevator in the Grant County Courthouse located in Milbank, South Dakota.

It is further resolved this resolution is upon publication as authorized under SDCL 7-18A-8.

Dated this 3rd day of September, 2024.

Grant County, SOUTH DAKOTA
a political subdivision of
the State of South Dakota

William Tostenson
Chairman

ATTEST:
Kathy Folk
Auditor

Unfinished Business: None

New Business: Commissioner Assistant Layher stated Roberts County has lost their nurse and WIC employee and the SD Dept of Health would like the Grant County WIC employee to travel to Roberts County temporarily two days a week to

serve their clients. The Commission advised Layher to negotiate with Roberts County to pay our WIC employee at the same rate as Roberts County pay scale and reimburse Grant County for mileage traveled.

Correspondence: None

Claims: Motion by Stengel and seconded by Buttko to approve the claims. Motion carried 5-0. AL'S BODY SHOP, repair & maint 400.00; MNB CLEANING, prof services 700.00; AUSTIN, STRAIT, BENSON, THOLE, court appt atty 2,492.60; AUTOMATIC TRANSMISSION, repair & maint 4,667.29; BERENS MARKET, inmate groceries 532.07; BUTLER, parts 571.03; CENTER POINT, books 571.44; CITY OF MILBANK, water & sewer 1,287.36; CITY OF WATERTOWN, 911 surcharge 6,453.75; COTEAU DES PRAIRIE HOSPITAL, health services 558.00; CRAIG DEBOER, car wash card 58.50; DELORIS RUFER, lib rent 100.00; FIRST BANK & TRUST/VISA, dues, supplies, gas 3,379.51; FLAT RATE, gravel 1,764.00; GRAJCZYK LAW OFFICE, court appt atty 3,550.00; JOHN DEERE FINANCIAL, parts 444.41; VETERAN'S INFO SERVICES, ref books 65.00; MAC TOOLS, supplies 43.67; MCLEOD'S PRINTING, supplies 277.66; MIDCO, lib internet 108.92; MILBANK AREA HOSPITAL AVERA, blabs 292.00; MILBANK AUTO PARTS, parts & supplies 387.30; NORTHWESTERN ENERGY, natural gas 30.00; QUICK PRO LUBE, repair & maint 91.49; R.D. OFFUTT, repair & maint 263.00; RIVER STREET PETROLEUM, diesel & ethanol 8,087.93; ROBERTS CO SHERIFF, inmate housing 3,874.90; RYAN MAGEDANZ, repair & maint 1,040.90; SD DEPT OF PUBLIC SAFETY, teletype 4,680.00; SD DEPT TRANSPORTATION, contracted proj 23,084.23; STAR LAUNDRY, rentals 195.01; STATE OF SD, supplies 3,282.00; TWIN VALLEY TIRE, repair & maint 54.50; VALLEY RENTAL & RECYCLING, allocation 650.00; VAN DIEST SUPPLY, chemicals 16,882.50; VERIZON, hotspot 38.52; WEST CENTRAL COMMUNICATION, minor equip 1,833.36; XEROX, copier rent 131.30. TOTAL: \$92,924.15.

Payroll for the following departments and offices for the Aug. 28, 2024, payroll are as follows: COMMISSIONERS 7,861.04; AUDITOR 9,047.49; ELECTION 987.90; TREASURER 6,526.04; STATES ATTORNEY 7,731.94; CUSTODIANS 3,908.4; DIR. OF EQUALIZATION 5,145.00; REG. OF DEEDS 5,436.53; VET. SERV. OFFICER 1,483.20; SHERIFF 18,381.78; COMMUNICATION CTR 9,316.82; PUBLIC HEALTH NURSE 1,536.00; ICAP 45.75; VISITING NEIGHBOR 2,011.92; LIBRARY 10,158.03; 4-H 2,450.00; WEED CONTROL 2,736.55; P&Z 1,084.80; DRAINAGE 1,130.00; ROAD & BRIDGE 35,088.41; EMERGENCY MANAGEMENT 2,866.50. TOTAL: \$134,934.10.

Payroll Claims: FIRST BANK & TRUST, Fed WH 9,863.11; FIRST BANK & TRUST, FICA WH & Match 16,227.98; FIRST BANK & TRUST, Medicare WH & Match 3,795.30; ACCOUNTS MANAGEMENT, deduction 80.76; BREIT & BOOMSMA, deduction 27.69; AMERICAN FAMILY LIFE, AFLAC ins. 1,720.32; ARGUS DENTAL, ins. 582.87; WELLMARK-BLUE CROSS OF SD, Employee and Commission health ins. 50,416.81; COLONIAL LIFE, ins. 27.07; DEARBORN NATIONAL, life ins. 281.91; LEGAL SHIELD, deduction 38.85; OFFICE OF CHILD SUPPORT ENFORCEMENT, child support 2,460.00; OPTILEGRA, ins. 479.68; SDRS SUPPLEMENTAL, deduction 1,358.33; SDRS, retire 15,019.44. TOTAL: \$102,380.12.

Executive Session: Motion by Stengel and seconded by Mach to enter executive session at 11:40 AM for the purpose of a personnel issue(s) pursuant to SDCL 1-25-2 (1). Motion carried 5-0. Commissioner Assistant Layher, States Attorney Schwandt and Auditor Folk were present. Chairman Tostenson declared the meeting open to the public at 12:15 PM. No action was taken because of the executive session.

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

1. Declare surplus: Tuthill 1200A Pump, asset 12205; Systems furniture workstation, asset 10160; Dell Inspiron 15 7000 laptop, serial # 19628614118.
2. Approve 1-yr agreement with I am Responding (Code Red) for \$2,755.00 effective 11-1-2024 to 10-31-2025.

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 24, 2024 and October 1 and 15, 2024 at 8 AM in the basement meeting room. Motion by Stengel and seconded by Mach to adjourn the meeting. Motion carried 5-0. Meeting adjourned.

Kathy Folk, Grant County Auditor

William Tostenson, Chairman, Grant County Commissioners

