

July 16, 2019
Regular Meeting

The Deuel County Commissioners met in regular session on Tuesday, July 16 at 9:00 a.m. in the Commission Room of the Courthouse with Chairman Rhody presiding. Those present were Commissioners DeJong, Rhody, Homan, and Kreutner, Commissioner Jaeger arrived later in the meeting. Also present was Auditor Mary Korth and several members of the public. The meeting began with prayer and the Pledge of Allegiance.

Approval of Agenda 1) Homan moved, seconded by Kreutner to approve the agenda as presented. All voted yes and the motion carried.

APPOINTMENTS

9:00 Jamie Hintz Highway Superintendent

Hintz discussed several highway related issues with the Commissioners.

Hintz presented the State of SD DOT Funding Agreement for the 2019 Highway Infrastructure Program Funding Allocation Bridge Replacement and Rehabilitation Program. Pursuant to the Department of Transportation Appropriations Act, Deuel County's share of the program is \$186,935.55 2) DeJong moved, seconded by Kreutner to sign State DOT Funding Agreement. All voted yes and motion carried. Hintz is looking at a bridge near Tunerville that will benefit from these funds.

Hintz is recommending Thomas Crookson for the truck driver position that has been open. 3) Kreutner moved, seconded by Homan to hire Thomas Crookson as truck driver starting at \$15.50 per hour. Once he achieves his Class B CDL he will be bumped to \$16.00 per hour. All voted yes and motion carried. Hintz is wanting to keep the application process open as he will lose another employee due to retirement in December.

Gravel is at a shortage and Hintz is running out. Hintz wants to re-bid gravel and put a timeline on it. 4) DeJong moved, seconded by Kreutner to re-bid gravel or take new gravel bids for the year 2019. All voted yes and motion carried.

Discussion was held about the concern for culverts and roads in the county. In the southwest part of the county, lots of timber blocking culverts and causing problems.

Hintz is unable to secure a grade raise east of Brandt on Rd. #314 near Fox Lake. Deuel County's damage isn't as bad as other counties after damage assessment. Hintz hopes to get rip-rap on that road.

Hintz says there will likely be no seal-coating done this year. Their culvert work is keeping them busy and there is no time for seal-coating which is quite caught up. Spot sealing is all there will be time for. Hintz is looking at ditch-cleaning through FEMA.

Discussion was held about blading in townships. Jim Dailey was present to give comments about Altamont Township, the blading is good, the grass on the edge is a problem. Questions were asked where the detour will be when construction happens on Hwy 212, Hintz said he has heard there will be no detour but it is likely traffic will use alternate routes. Discussion was also held about the water levels at Lake Alice. Hintz explained he thinks the issues are in the hands of other government agencies like US Fish & Wildlife, Corps of Engineers, Game Fish & Parks (GFP) and the Department of Natural Resources (DNR). Dailey concurred and explained the road is functioning as a dam. He explained the area needs cleaning out and another culvert put in as the current culverts cannot keep up. Greg Toben was present for discussion and said as many culverts that the county roads need, the township roads also need culverts and help. There is a slough/ditch on his property that he will be working on cleaning out.

Jim Dailey wants a joint meeting to address issues at Lake Alice and at Fox Lake with the Board of Commissioners, DNR and GFP to get things done all at once.

9:30 Keith Goens Weed Supervisor

Goens met with the Commissioners to discuss several items and give updates. There are weeds everywhere and with the rains it is excessive. State and County roads have been sprayed. Humidity affects spraying so it's hard to address. Ditches have water and it makes it hard for weed control so he is getting complaints but hopes weather changes so spraying can resume. He is keeping up on his State contracts, which is all the state highways in the county plus the Interstate. Poison hemlock is a large problem. Goens releases insects to control the hemlock and he is now finding larvae which will really help with control, it is a slow process but it is beneficial. It is a moth like insect that only eats poison hemlock. The Kubota ATV needs a different trailer as it is not really compatible. He's looking at different trailers for \$2000 to \$2500. He could look into it being covered by grants. Goens will find bids and present them at the next meeting. Goens also spoke about the new County building on Hwy 22. When he looked at the building he noticed a mouse problem that should be addressed along with locks that should be changed before his Department or other County Departments are moved there. These concerns will be addressed.

10:00 Public Hearing of The Planning and Zoning Commission and Board of County Commissioners on Proposed Change of Ordinance B2004-01-23B Section 1215.03.2.

A public hearing of The Planning and Zoning Commission and the Board of County Commissioners was held. A sign in sheet was present at the Hearing and is available at the Deuel County Auditor's Office. Present for the Deuel County Planning and Zoning Commission were Dennis Kanengieter, Steve Rhody, Paul Brandt and alternates Judith Homan and Gary DeJong. Also present was board member Kevin DeBoer and State's Attorney John Knight. Board member Mike Dahl was not present. Kanengieter called the Zoning Board meeting to order. Kevin DeBoer recused himself because he was told by the courts he has a conflict of interest although he disagrees. Attorney Knight asked if he had a financial interest in the subject of this meeting and he said he did not. The Deuel County Planning and Zoning Commission submitted to the Board their recommendation to pass an amendment to a Zoning Ordinance in Section 1215.03.2.d – Wind Energy System setbacks. Distance from the Lake Park District located at Lake Cochrane 3 miles, Lake Alice 2 miles and 1 mile from the Lake Park District at Bullhead Lake. To read: Distance from the Lake Park District located at Lake Cochrane 3 miles, Lake Park District located at Lake Alice 2 miles and Lake Park District located at Bullhead Lake 1 mile. Opened to public comments.

Public comments were stated:

John Henslin: Looked at comprehensive land use and stated 2 miles is legal. Lake Alice Shores is a good example of area of development transition. It is the largest lake in Deuel County with much potential and good tax potential. His projected figures were \$50k per year for lots and \$375,000 per year after a completely developed district. He says its development is good for population growth and good for economy. He recommends the current ordinance stand. He encouraged both boards to re-evaluate before making a decision.

Barbara McCarty: She described her land at Lake Alice and she would like to develop it into lots. The wind towers coming would affect the future development of the Lake and these lots. If the setbacks would be kept at 2 miles, it would also protect the eagle that she sees every day. She wants the ordinance to stand as is.

John Homan: He wants the ordinance to be left at 2 miles. It will protect property owners and allow for future developments; he compared it to Lake Cochrane which the setback is at 3 miles. It will protect the eagle's nest that is there. At 2 miles the towers could be moved to different locations. He feels the benefits should be spread to different landowners to benefit others in the county. He spoke of conflict of interest of certain Board members. He was disappointed in the joint meeting being held because of the time of day it prevents people from attending. He said the corruption continues and the lawsuits will as well.

Discussion was held among the Zoning Board Members. Paul Brandt stated the intent of the original motion is what is being clarified in the language of the amended ordinance. Board member DeJong read April 17, 2017 meeting minutes that stated the intent was to keep the setback from the Lake Park District and not the Lake. Jill Eilers asked for a definition of what the Lake Park District is. A lake park district is 1000 feet from the high water mark as defined in ordinance.

Greg Toben: He expressed his support for the ordinance change as he feels the original intent was Lake Park District.

Dennis Evenson: Representing Deuel County Ag Development, he stated studies have been done in the past on development. He said the most major industry we have is agriculture and the ordinance should be protecting agriculture.

John Henslin: He spoke a second time stating that the minutes taken are not the judge, what takes precedence is what is voted upon and approved. He thinks the here and now is the most important. He also feels agriculture is not the only thing that affects Deuel County anymore.

John Homan: In response to Evenson's agriculture comments, he said there is nothing ag about wind turbines. And that this is also recreational, hunting/fishing area.

Paul Brandt said this ordinance is what was decided at all the previous public meetings. The ordinance needs to change to line up with the intent. This is permitted by special exception for ag land in our county. 1) Paul Brandt moved, seconded by Kanengieter to recommend the approval to amend Article XII Section 1215.03.2.d Wind Energy System of the Deuel County Zoning Ordinance. Board member DeJong spoke of concerns for Will Stone's business which Stone considers does not need to be just a structure as defined previously. DeJong wants to address that issue but it was determined that it should be addressed at a separate meeting. Discussion was held. The Planning Commission will vote to recommend approval of this ordinance to the County Commissioners. Roll call vote: Kanengieter-yes; Brandt-yes; DeJong-yes; Rhody-yes; Homan-yes; motion carried. The Planning and Zoning Commission adjourned.

The Commissioners would like to open to public comments;

Commissioner Gary Jaeger arrived to the meeting late and was briefed on the public comments.

The Commissioners then held the first reading of Ordinance B2004-01-28A. The second reading will be held at the August 6th meeting, 10 a.m.

11:00 Drainage Board/Claremont Hutterian Brethren Inc moved to 11:00 as the applicant was late

5) Jaeger moved, seconded by Homan to adjourn as County Commission and reconvene as Drainage Board. All voted yes and motion carried.

The Claremont Hutterian Brethren Inc. requested a permit to drain on the NW1/4 of 7-114-50 and NW1/4 of 6-114-50. Proposed length of the drain is 15,198 feet using 4" tile, 2,220

feet using 6" tile and 572 feet using 8" tile. Adjoining landowners had signed off Permission To Drain. 6) Jaeger moved, seconded by Homan to approve and issue Drainage Permit #D19-15 to Claremont Hutterian Brethren Inc. to drain on above described property with modifications as discussed. All voted yes and motion carried.

Drainage Officer Theisen had questions for the Board concerning possible tiling of the Gary Golf Course by Doyle Thompson, but is less than 20 acres however it is a special situation because it is a City owned golf course in the County. Thompson wants to know if he needs a permit, it is not running into a slough, but onto land owned by others. The Board thought it would be good to get permission and a drainage permit for transparency purposes.

Theisen also asked about MoDak Dairy wanting to tile onto N2NW4 31-117-50. After discussion Commissioner Jaeger thought it would be best to find more information on type of tile and to submit a plan before proceeding.

Unfinished Business: Kurtenbach Drainage Complaint

New information was presented to the Board of Commissioners in the form of a letter from Boyd Law Firm representing W Kurtenbach against Rex VanDyke concerning a drainage issue that stems back several months. The letter explained that the issue has not been resolved and Kurtenbachs are seeking an injunction and/or civil penalty regarding the "illegal drainage" and at the very least there should be a specific deadline established to stop the illegal drainage. State's Attorney John Knight has also been in contact with Alex Mastellar, attorney for Mr. VanDyke. There has been communication between the two parties with Mastellar's primary argument being all progress has been halted due to the wet spring/summer. With conditions the way they are currently, it is literally impossible to access the property to meet the conditions of the verbal agreement; and until it dries out there is nothing that can be done. The Board of Commissioners thought it best to schedule a public hearing on this matter for August 20, 2019.

7) DeJong moved, seconded by Rhody to adjourn as Drainage Board and reconvene as County Commission. All voted yes and motion carried.

11:15 Clear Lake Chamber of Commerce Ellen Schmahl

Schmahl met with the Commissioners to discuss Dog Days in Clear Lake to be held Aug. 2 through Aug 4. There will be activities on all the streets around the Courthouse and she asked for permission to use the Courthouse lawn for some activities as well. 8) DeJong moved, seconded by Homan to allow the Clear Lake Chamber of Commerce use of the Courthouse lawn and area for activities related to Clear Lake Dog Days to be held Aug. 2 through Aug 4.

11:30 Sheriff Cory Borg

Borg met with the Commissioners and discussed several items. Sheriff's Office hours will be changing temporarily from 8am to 5pm Monday through Friday due to dispatch on leave.

Discussion was held on the changes to the County's current police contracts including price. The City of Toronto's contract expired June 30th and Borg is reinstating their contract for the time being until contract changes are implemented. The rest of the towns in Deuel County expire at the end of the year. Borg is making changes to the contracts on what needs to be reported. The Deuel County Sheriff is responsible for responding to calls but not patrolling the towns unless there is a contract. Borg's feeling is that each city should pay the same for a contract. The cost to the Sheriff's office is the same and he feels it should be more even between towns. This is what is happening in other counties that there should be a flat rate equal for each town in Deuel County. Borg recommends \$35.00 per hour for contract which is similar to other nearby counties that contract their cities. 9) Jaeger moved, seconded by Kreutner to change the Police Contracts within Deuel County to \$35.00 per hour flat rate for each town in the County

along with necessary worded changes within the contracts after review between the towns and the Sheriff. The City of Toronto's current contract will be shortened to 6 months and then all the towns will be on the same calendar Jan 1st through December 31st. The new contracts will take effect January 1st, 2020. All voted yes and motion carried.

Borg also reported on the 911 repeater that is located on the tower that the County has purchased and it is working very well. Some discussion was held on the lights on the tower as well as the condition of the small building located on that property.

11:45 State's Attorney John Knight

Knight met with the Commissioners to discuss a property in Toronto owned by Loren Irvine, who lives out of state. The property is up for tax deed and he has not responded to any letters. A notice of publication will be put in the paper. A neighboring property owner called and was concerned it is in very poor repair. Knight agreed the property is in serious condition and isn't prepared for the County to take tax deed. The City of Toronto is interested in the property. Knight recommends the County takes tax deed and deeds the property to the City of Toronto simultaneously. This will be scheduled for a future meeting.

UNFINISHED BUSINESS

Safety Benefits Report on Insurance Recommendations

Auditor Korth presented the Safety Benefits Inc. property valuation survey with improvement recommendations to the Board of Commissioners. Some of the areas at the 4-H Fairgrounds have already been addressed. The south barn (women's exhibit building) has not been used in years and shingles are an issue. Custodian Ruby was present and suggests to not re-shingle but just repair what is there. The Commissioners will decide if the building should be dismantled as it is never used or if roof repair is needed. The newly purchased Extension Building on Hwy 22 also needs some repairs before Extension/Weed/4-H/ Shooting Sports can relocate into the building. An exterminator and a locksmith will be contacted as well as necessary repairs will be addressed.

NEW BUSINESS

Warrants

10) Jaeger moved, seconded Homan by to approve warrants paid early and any additional warrants presented for payment. All voted yes and motion carried. Warrants to Blue Valley Public Safety 1492.56 Siren (*City of Clear Lake was not aware of any responsibility to this bill as it has not been brought up to Council*), B-D Rural Water 82.70 Utilities, Century Link 358.79 911 Trunk Lines, City Of Clear Lake 207.08 Utilities, DCFU 1064.00 Weed Chemicals, DC Treas 21.20 Title And Transfer, First Bank & Trust 1340.44 Credit Card, H-D Electric 348.87 Utilities, ITC 160.57 Utilities, Lodge At Deadwood 372.00 Lodging, M&T Fire Safety 6976.00 EM Aeds, NW Energy 32.98 Utilities, Otter Tail 1503.65 Utilities, Tri State Water 31.00 Supplies, SD Dept Of Rev 96084.87 Motor Veh Fees Due To State, SDACO 206.00 M&P Due To State, Sanford 284.85 Flex Fees, SD Dept Of Rev 321.63 Excise And Sales Tax

Plats

11) Kreutner moved, seconded by Homan to approve the Plat of Loge First Addn in Gov't Lot 7, 4-114-47 and Resolution #19-15. All voted yes and the motion carried.

RESOLUTION BY THE BOARD OF COMMISSION DEUEL COUNTY #19-15

BE IT RESOLVED by the Board of County Commissioners of Deuel County, South Dakota, that the plat entitled: "**Loge First Addition Located in Gov't Lot 7 of Section 4, Township 114 North, Range 47 West of the 5th P.M., in the County of Deuel, South Dakota**", which has been submitted for examination pursuant to law, and it appearing that all taxes and special

assessments have been paid and that such plat and the survey thereof have been made and executed according to law, the plat is hereby approved, and the County Auditor is hereby authorized and directed to endorse on such plat a copy of this Resolution and certify the same.

Dated this 16th day of July, 2019.

Chairman, Board of County Commissioners
Deuel County, South Dakota

ATTEST:

County Auditor,
Deuel County, South Dakota

12) DeJong moved, seconded by Kreutner to approve the Plat of LJ Eining Addn in NW4 27-115-49 and Resolution #19-16. All voted yes and the motion carried.

RESOLUTION BY THE BOARD OF COMMISSION DEUEL COUNTY #19-16

BE IT RESOLVED by the Board of County Commissioners of Deuel County, South Dakota, that the plat entitled: **“LJ Eining Addition, Located in the Northeast Quarter of Section 27, Township 115 North, Range 49 West of the 5th P.M., Deuel County, South Dakota”**, which has been submitted for examination pursuant to law, and it appearing that all taxes and special assessments have been paid and that such plat and the survey thereof have been made and executed according to law, the plat is hereby approved, and the County Auditor is hereby authorized and directed to endorse on such plat a copy of this Resolution and certify the same.

Dated this 16th day of July, 2019.

Chairman, Board of County Commissioners
Deuel County, South Dakota

ATTEST:

County Auditor,
Deuel County, South Dakota

13) Homan moved, seconded by Rhody to approve the Plat of Pederson Addn in SW4 7-114-50 and Resolution #19-17. All voted yes and the motion carried.

RESOLUTION BY THE BOARD OF COMMISSION DEUEL COUNTY #19-17

BE IT RESOLVED by the Board of County Commissioners of Deuel County, South Dakota, that the plat entitled: **“Pederson Addition Located in the Southwest Quarter of Section 7, Township 114 North, Range 50 West of the 5th P.M., Deuel County, South Dakota”**, which has been submitted for examination pursuant to law, and it appearing that all taxes and special assessments have been paid and that such plat and the survey thereof have been made and executed according to law, the plat is hereby approved, and the County Auditor is hereby authorized and directed to endorse on such plat a copy of this Resolution and certify the same.

Dated this 16th day of July, 2019.

Chairman, Board of County Commissioners
Deuel County, South Dakota

ATTEST:

County Auditor,
Deuel County, South Dakota

Personnel

Upon the recommendation of Treasurer Jen Mewherter stating that Theresa Martinmaas has successfully completed the six month probationary period. 14) DeJong moved, seconded by Kreutner to approve the six month pay increase of .50 per hour for Theresa Martinmaas as of July 15. All voted yes and the motion carried.

Courthouse Plaster and Paint Quote

Auditor Korth presented the quote sent to her by J&J Painting for the repair work of plaster and paint in the Courthouse. The third floor rotunda and the grand jury room for materials and repairs to lath, plaster, and paint was quoted at \$3862.25. The Court room, stairway and Treasurer's Office material and repairs quote totaled \$3,923.48.

15) Kreutner moved, seconded by Rhody to accept the quote and hire the services of J&J Painting of Brookings, SD for the repair of lath, plaster and repainting of the affected areas within the Courthouse for a total price of \$7,785.73. All voted yes and motion carried.

Public Comments:

Jim Dailey and Greg Toben of Altamont Township were present and expressed their concerns of the flooding at Lake Alice and wanted to know what steps were being taken to alleviate the flooding by going to a third party. They asked the Board of Commissioners to approach another government entity to solve the issues. Commissioners Jaeger and DeJong discussed their findings from EDWDD. Jaeger also contacted GFP but a meeting has not transpired. A history and research has been done and now Commissioner Jaeger will contact GFP and DNR. Dailey and Toben are concerned there are too many delays. Jaeger will go to the GFP Office personally. He is hoping to have a future Special Meeting to address this issue with as many entities as necessary. Dailey made comments about other issues in the county as well – weed spraying, etc.

There being no further business 16) DeJong moved, seconded by Rhody to adjourn the meeting.

Chairman
Deuel County Commission

ATTEST:

Mary Korth, Auditor

Published one time at the approximate cost of _____.