

November 7, 2023
Regular Meeting

The Deuel County Commissioners met in regular session on Tuesday, November 7 at 9:00 A.M. in the Commission Room of the Courthouse with Chairperson Homan presiding. Those present were Commissioners Steve Rhody, Scott Fieber, Judith Homan, Jay Grabow and Harry Mewherter. Also present was Deputy Auditor Pam Lynde. The meeting opened with prayer and the pledge of allegiance. 1) Fieber moved, seconded by Mewherter to approve the agenda with the addition of Global Dairy spill. All voted yes and the motion carried. 2) Rhody moved, seconded by Mewherter to approve the regular meeting minutes of October 3 and 17. All voted yes and the motion carried.

APPOINTMENTS

9:00 Highway Superintendent Jamie Broksieck

Broksieck met with the Commissioners and presented several items for discussion. He asked to go into Executive Session SDCL 1-25-2(3) to discuss a contractual matter. 3) Fieber moved, seconded by Rhody to move into Executive Session at 9:05 to discuss contractual matter with legal counsel. All voted yes and motion carried. Chairperson Homan declared the Commission out of Executive Session at 9:30 a.m.

Discussion was held on a letter received by Banner Associates from Duininck Contracting concerning the Deuel County Haul Road Restoration project. Those present on behalf of Duinick were Justin Zylstra and Kyle Hant of Fabyanske Law Firm. Also present was Waylon Blasius of Banner Associates, engineer for Deuel County on the project. A letter from Duininck to Banner Associates, engineering firm for the project, said that Duininck Inc. and their subcontractors faced many challenges with the existing roadway subgrade failing under construction traffic. Duininck said they had attempted multiple different means and methods to minimize these failures but were unavoidable and all of the identified failing subgrade areas were dug out and filled with base course material and separated with fabric, including areas already paved. The county doesn't feel they should have to pay for the asphalt pavement that was replaced resulting from these dig outs. In a Geotek report it stated that the subgrade conditions varied from poor to favorable. Duininck Inc. said in the letter they had no design responsibility and will not be liable for conditions outside the contract. Ultimately Duininck is looking for payment in the amount of \$378,725.90, which doesn't include payment due to DeBoer Const. for asphalt pavement removal done in preparation for the asphalt patching over failed subgrade areas. Plus, Duininck said they have more costs due to subgrade failures that they will be claiming which amounted to \$24,000. At the meeting Zylstra said they are looking to be reimbursed for losses beyond their control; sub grade started to fail under construction traffic. Zylstra felt the issues changed operations; subgrade moving because of traffic and weight on road; not result of their operation. Commissioner Grabow asked if starting construction before frost was out of ground was part of the problem and Zylstra said they didn't start construction too early. He said the dig outs didn't include removing failed asphalt so the extra amount of \$53,150 from DeBoer. Movement became necessary because of subgrade of road according to Zylstra; felt this was the best method to get it done according to contract. Kyle Hant, construction attorney for Duininck, spoke and said they are not design experts and Duininck bid project but because of

subgrade said it is not their fault as the contractor. State's attorney Evenson said Geotek is not part of the contract documents; responsibility is to build the road not design the road; everything was blamed on the subgrade and the County believes there is a fault in construction.

Waylon Blasius of Banner Associates presented a narrative and additional comments concerning Duininck Inc's claim letter for additional compensation. He recommended that the County remain focused on the Construction Documents and Construction Contract. He said Duinick is asking for an additional \$456,784.36 which includes \$24,000 for incidentals and \$53,150 to DeBoer Construction and \$378,725.90 for additional work done. The discussion ended at 9:55 with plans to discuss again at a future meeting.

The change order for Box Culvert Project 20-200-163 PCN 09 GY and final billing of Lehtola Builders was presented. 4) Rhody moved, seconded by Fieber to approve and sign change order number 1 with contractor Lehtola Builders, Inc. from original price of \$927,777.36 to \$916,196.32 and pay final payment to Lehtola Builders, Inc. in the amount of \$236,987.91 for Project 20-200-163. All voted yes and motion carried.

Global Dairy was present at the meeting to discuss a manure spill that happened last weekend; Arjan Blok of Global Dairy stated neighbors were concerned and he contacted the DNR Sat. morning concerning the spill and have taken measures so this will not happen again as they want to keep the dairy clean and well managed and be a good neighbor.

9:45 4-H Advisor Deb Lessman-4-H Year in Review; Fence at Fairgrounds

Lessman gave a report of the 4-H activities this year. She presented a snap shot of the 4-H program for the year; social skill development; life skill development, work force development and leadership development. Lessman said the fence at 4-H grounds needs to be repaired or replaced and is seeking quotes for that to be done. The 4-H recognition event went well with over 60 participants.

10:00 Sheriff Cory Borg -City Police Contracts

Borg discussed the 2024 city police contracts with towns in the county. 5) Grabow moved, seconded by Fieber to approve contracts with Gary, Toronto and Clear Lake for 2024 with contract price being \$40 an hour. All voted yes and motion carried.

10:30 Executive Session Pursuant to SDCL 1-25-2 (1) Personnel Matter

6) Grabow moved, seconded Mewherter by to move into Executive Session for a personnel matter. All voted yes and motion carried. Chairperson Homan declared the Commission out of Executive Session at 10:45. 7) Rhody moved, seconded by Fieber to give additional compensation to Pam Lynde for work in the Auditor's office. All voted yes and motion carried.

NEW BUSINESS

October Cash Balance Sheet; Mandatory Direct Deposit for Payroll Beginning Jan. 1, 24; Contingency Transfer; Health Ins. 2024

8) Grabow moved, seconded by Fieber to approve the Cash Balance Sheet for the month of October. All voted yes and motion carried.

**DEUEL COUNTY AUDITOR'S ACCOUNT
WITH TREASURER**

END OF MONTH CASH BALANCE	October-23
CASH TOTAL	\$ 2,165.11
CHECKS TOTAL	\$ 186,425.10
CASH ITEM	\$ -
CASH CHANGE SHERIFF	\$ 50.00
TOTAL CASH ASSETS ON HAND	\$ 188,640.21
CHECKING ACCOUNT BALANCE	\$ 977,417.40
MM DNB NATIONAL BANK	\$ 4,064.17
PREMIUM MM FIRST BANK & TRUST OF TORONTO	\$7,015,667.02
SD FIT	\$1,001,662.09
CREDIT CARDS	\$ 428.42
CD'S \$250,000 DNB	\$ 250,000.00
REVOLVING LOAN	\$ 37,749.30
GRAND TOTAL CASH ASSETS	\$9,475,628.61
GL CASH BALANCE BY FUNDS:	
GENERAL	\$4,953,373.27
SP REVENUE FUNDS	\$1,921,239.32
TRUST & AGENCY FUNDS	\$2,601,016.02
townships \$175,395.00 cities \$241,245.84	
schools \$1,944,321.79 rural fire \$35,996.50	
TOTAL GENERAL LEDGER CASH	\$9,475,628.61

9) Fieber moved, seconded by Grabow to approve mandatory direct deposit for all payroll checks as of January 1, 2024. All voted yes and motion carried.

10) Grabow moved, seconded by Rhody to transfer from Contingency 101-112 to Mental Illness Board 101-445-429 \$486. All voted yes and motion carried.

Discussion was held on Deuel County Employee Health Insurance for 2023. Sanford Simplicity 1500 and 1750 Gold were discussed as well as Wellmark 1500. 11) Rhody moved, seconded by Fieber to renew the Sanford Simplicity 1500 Gold plan for 2024. And to reimburse employee \$750 for deductible if used, through the Auditor's Office and pay single plus 25% of remainder for Family, EE plus child or EE plus 1. All voted yes and motion carried. All voted yes and motion carried.

WARRANTS

12) Rhody moved, seconded by Grabow to approve warrants presented and those paid early. All voted yes and the motion carried.

Warrants Paid Early: DNB National Bank 684.60 Refund of Overpaid Taxes, First Bank & Trust 17.92 Refund of Overpaid Taxes, New York Life Insurance Co 278.70 Life Ins., Sanford Health 174.00 Blood Draws, Sanford Health Plan 24688.93 October Health Ins., Watt Farms LLC 1207.33 Refund of Overpaid Taxes; Deuel County Treasurer 3618.64 Tax Account, Magedanz Holdings, LLC 1233.95 Refund Overpay Taxes, New York Life 290.75 Life Ins., Thomas Gronseth 200.00 Refund of Overpaid Taxes

Current Warrants:

A&B Business Solutions 102.35 Supplies, A-Ox Welding Supply Company 114.26 Rental & Supplies, Patricia Wolf 12.50 Supplies, Steven L. Marquardt 4348.34, Minor Equipment, Appera 377.00 Rug Rentals, AT&T Mobility 240.24 Utilities, Auto Value Parts Store 203.99 Repair & Maintenance, Banner Associates Inc 10965.80 Prof. Services, Brookings Co. Sheriff's Office 4617.99 Prisoner Care, Brookings Deuel Rural Water 168.20 Utilities, Bjerke Sanitation 280.00 Garbage, Bobcat Of Brookings 407.92 Repairs, Butler Machinery Co 13969.15 Repairs & Supplies, BZ Welding 1300.00 Minor Equip, Carmen Bremmon 50.00 Court Interpreter, Cartney Bearing & Supply 2078.14 Repairs, Credit Collections Bureau 1.70 Poor Lien, Codington Co. Sheriff's Office 3420.00 Jail Housing, Clear Lake Building Center 130.16 Repairs, City Of Clear Lake 1004.90 Utilities, Clear Lake Courier 369.83 Publications, Cole's Petroleum Products, Inc 5874.74 Supplies, Coltin Brandenburger 2909.41 Refund Overpay Taxes, Cowboy Country Stores 5.30 Supplies, Dakota Riggers & Tool Supply 1666.55 Supplies, Dakotabilities 180.00 Client Support, Deuel County Farmers Union 337.98 Repair & Supplies, Deuel County Motor Supply 520.52 Repairs & Supplies, Diamond Mowers 1023.90 Repairs, Dockendorf Equipment 762.00 Repairs, Dept. Of Animal Sciences 21.75 2023 Redbooks, Duininck, Inc 149883.52 Haul Rd Restoration, Election Systems& Software Inc 5008.50 Service Contract, FedEx 23.70 Shipping, Fisher Sand & Gravel Co 3474.90 Supplies, Fritz Chevrolet Inc 1977.52 Repair & Maintenance, Goldstar Products Inc. 1148.27 Supplies, Green Roby Oviatt LLP 756.20 CAA Fees, Gunderson & Evenson, LLP 100.00 SDVSOA Membership Fee, H-D Electric Coop, Inc 479.28 Repairs, Hillyard 410.14 Supplies, Human Service Agency 3101.00 4th Qtr. Appropriations, ICAP 1278.33 November Support Funds, ITC 2112.95 Utilities, Jennifer Goldammer 460.10 Mental Illness Board, Kibble Equipment 103.12 Repairs, Josefina Koopmans 172.44 Prof Service, Lehtola Builders, Inc 236987.91 Contract Work, Deb Lessman 45.90 Travel, Lincoln County Auditor 85.60 Prof Service & Fees, Lowe Township 26698.83 RAIF Reimbursement, Blue Tarp Financial 150.41 Repairs & Supplies, Macksteel Warehouse 2791.71 Repairs, Maynards 32.14 Supplies, Menards 44.77 Supplies, Microfilm Imaging Systems 90.00 Rental Equipment, Napa Auto Parts

572.47 Repair & Maintenance, Dennis Nosbush 786.37 Repair & Maintenance, Northwestern Energy 465.56 Utilities, Onsolve, LLC 3689.28 Code Red, Office Peeps Inc 1176.39 Supplies, Ottertail Power Co 118.19 Utilities, Portland Township 230.00 Pocket Gophers, Powerplan OIB 94.76 Supplies, Ramkota Hotel 164.00 Travel, RC First Aid 44.50 Supplies, RC Technologies 150.00 911 Utilities, Running's Supply 578.90 Supplies, So Dak Department Of Health 430.00 Blood Draws, SD DOT 2015.13 Bridge Inspection, South Dakota Dept Of Revenue 138116.78 Funds Due to State, SDACC 982.00 CLERP, SDACO 200.00 M&P Due to State, Sodak Gardens 21.00 Supplies, Stan Houston Equipment 91.00 Supplies, Sterzinger Crushing Inc 410.00 Supplies, Steven Hulscher 65.47 Refund of Overpayment Taxes, Titan Machinery 1213.15 Repairs, Transource Truck & Equip 223.74 Repairs, Tri State Water 19.20 Supplies, Truenorth Steel Inc 3313.65 Supplies, Two Way Solutions, Inc 795.00 Radio Programming, Van Diest Supply Company 6000.00 Spray, W.W. Tire Service Inc 2127.73 Repairs, Wheelco Truck & Trailer Parts 1338.39 Repairs, Kristin A Woodall 152.25 Transcripts

Public Comment

There was no other public comment.

Adjournment

There being no further business Grabow moved, seconded by Fieber to adjourn the Commission meeting.

Chairperson Judith Homan
Deuel County Commission

Attest:

Pam Lynde, Deputy Auditor

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