

The Deuel County Commissioners met in regular session on Tuesday, October 20<sup>th</sup> at 9:00 a.m. in the Commission Room of the Courthouse with Chairman Jaeger presiding. Those present were Commissioners Jaeger, Kreutner, Homan and Rhody. Commissioner DeJong was present by Zoom platform and by phone. Auditor Korth was present by Zoom. Because of the Zoom platform, Chairman Jaeger requested all motions be made on roll call vote. Also present was State's Attorney John Knight, Zoning Officer Jodi Theisen and several members of the public. The meeting began with prayer and the Pledge of Allegiance.

### **Approval of Agenda**

1) Rhody moved, seconded by DeJong to approve the agenda as presented with the following amendment: Add an executive session pursuant to SDCL 1-25-2(1) for the purpose of a personnel matter to State's Attorney John Knight's appointment requested by Chairman Jaeger. Roll call vote, all yes and the motion carried.

### **APPOINTMENTS**

#### **9:00 Jamie Hintz Highway Superintendent**

Hintz along with Foreman Jamie Broksieck met with the Commissioners to discuss several items. Engineer Banner Associates and Contractor Lehtola Builders need an adjustment for the Box Culvert projects in the Hidewood. There would be a decrease in the contract price of \$542.40. 2) Rhody moved, seconded by Homan to approve and sign the Change Order #1 Final on original agreement from September 23, 2019 with Banner Associates, Inc. and Lehtola Builders Inc. for a contract price decrease of \$542.20. Roll call vote, all yes and the motion carried.

Hintz said the Crowned Ridge Project is ready for the final inspection of roads and was scheduled for this week. Due to weather conditions, it may not happen, though Hintz is pleased with the final condition. He has other concerns with roads with Deuel Harvest and hopes they can improve the conditions. Hintz discussed the current weather conditions and that snow plows were out this morning.

Discussion was held on hiring Hintz as part time outside maintenance person. Hintz has been filling that capacity Since August 2019. 3) DeJong moved, seconded by Homan to hire Jamie Hintz as Part-time Outside Maintenance/Custodian at 19 hours per week at \$17.80 per hour to start November 2, 2020. Roll call vote, all yes and the motion carried.

This marked Hintz's final meeting as Highway Superintendent with the Commissioners. Chairman Jaeger spoke on the Board's behalf thanking Hintz for his dedication and service to the County for 30 years. Hintz thanked the Board and said the future of Deuel County roads are in good hands. The Board thanked him congratulated new Highway Superintendent Jamie Broksieck.

#### **9:30 Emergency Manager Sheila Monnier**

Monnier met with the Commissioners and reported on her meeting with State Emergency Manager Randy Maddox, Auditor Korth and Commissioner Homan. There is a grant available at 50% match for Deuel County for special EM projects. Maddox highly recommends Deuel County has an available EOC (Emergency Operations Center) set up as they are one of the few counties that has an EOC in case of a disaster. With the funds available through the State, Maddox suggested setting up an EOC in half of the western most room in the Courthouse basement (blue room). He said it could easily be used as an EOC with 6 to 8 stations set up that could have multiple functions. Monnier produced quotes to the Board for renovating the blue room to an EOC. She stressed she needs to put in an application by the end of October. Total bid was \$23,774.43 which includes 6 office chairs, dry erase boards, epoxy flooring (for most of the basement including steps and new railings), walls and technology (five computer systems set up). The county would be responsible for 50% match which would not be due until the work is done. She would schedule the work for 2021. The grant is due end of month. The work would be completed in 2021 and this would affect next year's budget. There is 2021 EM budget available for special projects. Custodian Ruby was available for discussion on radon testing and

stated that the radon levels were of acceptable levels for our area after testing in our area. Radon equipment would not be needed for the basement to be included in this request. 4) Rhody moved, seconded by Homan to approve Monnier to apply for the State Emergency Management grant 50% match and to accept the quote of \$23,774.43 for remodel of the blue room for an EOC including flooring for the courthouse basement. Roll call vote, all yes and motion carried.

Sheriff Borg was available for discussion and said the 911 repeaters in Toronto and Gary need to be tested to see if they are functioning properly as they need coverage improvements. They may need replacing. Borg would like to apply for a grant available for this purpose. 5) Rhody moved, seconded by Homan to apply for a grant to update the repeaters in Gary and Toronto for better coverage. Cost would include \$3500 per repeater plus coax cable, new antennas and labor. Total would be approximately \$10,000 for two repeaters. Roll call vote, all yes and motion carried.

(The remainder of Monnier's appointment was postponed to the end of the meeting.) Monnier suggested County owned Surface Pro tablets for the Commissioners through Connecting Point if it can be covered by the CARES Act. She presented a quote for 5 tablets and recommended the purchase and asking First District if this would qualify for CRF (Coronavirus Relief Funds) 6) Rhody moved, seconded by DeJong to approve the purchase of County owned Surface Pro Tablets for the Commissioners in the total amount of \$7,659.95 for 5 tablets to be reimbursed 100% by the CARES Act. Roll call vote, all yes and motion carried.

#### **9:45 FEMA Agent Marc Macy**

A phone conference with the Commissioners and FEMA agent Macy was requested. FEMA Flood maps were previously sent to Deuel County for review. Discussion was held on Flood insurance and the maps and funding. Macy explained the grant funding program if Deuel County were to adopt the Flood Damage Prevention Ordinance and the Flood maps. Benefits would be FEMA funding should a disaster occur. Proposed flood hazard areas were discussed. Clear Lake and Gary would be most affected. He spoke of other counties that have adopted the ordinance. Chairman Jaeger was concerned if we did not adopt the ordinance what would be the danger if a disaster occurred. Macy suggests that Deuel should join up because of that possibility of a disaster and being denied FEMA funding. Flood insurance would only be available through a secondary market at a much higher rate if you are deemed to be not in the flood plain and would want or need insurance. Macy said there is still time for the County to decide if they want to adopt the Ordinance. Chairman Rhody asked if there was any cost involved and Macy said the only cost would be labor on the part of Deuel County Flood Manager Jodi Theisen. The Board thanked Macy for his time and they will have further discussion with Theisen before the decision is made on adopting an ordinance.

#### **10:00 Dana Morris**

Morris met with the Commissioners to introduce a new business he is starting in Goodwin. Morris gave a background of his history with Deuel County. The Goodwin Lodge and Music Hall is a new entertainment business that is located next to Kliegel's Garage on the main street in Goodwin. He presented pictures with his plans for the buildings. It will accommodate hunters, weddings, craft fairs and dances featuring concerts of big names. He also expects to open a dinner theatre and feature shows. He expects to open soon. Morris is a former Deuel County resident but has lived in California for several years and is now back and looking forward to expanding business in Deuel County.

#### **10:15 Community Health Nurse Tammy Baer Quarterly Report**

Baer met with the Commissioners and gave them a quarterly update of the Community Health Nurse Office activities. She had limited time for her report. She gave the commissioners updates on the fall flu shots. She gave the Board the dates flu shot clinics have been held throughout the County and said over 700 shots have been given to date. The walk in clinic is available. Commissioner DeJong asked about a vaccine for Covid-19. She has no new information. Immunity after having Covid looks like 90 days but that is still uncertain. Permanent immunity is also uncertain as with many aspects about Covid-19.

**10:30 Second Reading – Ordinance #20-33 Deuel County Board of County Commissioners on Proposed Repeal of Ordinance Number 89-2, The Ordinance Regulating the Drainage of Ponds, Sloughs and Lakes or Any Series Thereof in Deuel County, South Dakota**

The second reading of Ordinance #20-33 Deuel County Board of County Commissioners on Proposed Repeal of Ordinance Number 89-2, The Ordinance Regulating the Drainage of Ponds, Sloughs and Lakes or Any Series Thereof in Deuel County, South Dakota was held. Further testimony was heard.

**Public Comments:**

Lyndon Limberg sent in a comment October 16, 2020 at 10 a.m. to Auditor Korth stating “I encourage the Board to leave the Ordinance as is. It encourages a good neighbor policy as most people are good about talking to each other before going and dumping water. If the Ordinance is repealed, it sends the wrong message”

Present were Gary Leistico, Attorney for the Hanten family, Jerry Zubke, and Kent DeJong.

Present through Zoom platform was Jayne Esch, co-attorney for the Hanten family, Ginger and Todd Hanten, Ross Vanderbusch, and Jay Gilbertson of East Dakota Water District Development.

Attorney Leistico commented on behalf of the Hantens. Leistico has a background of drainage as he grew up on the farm and worked previously for USDA. Mostly what he deals with is ag related. He spoke of SDCL 46A-10A dealing with landowners. Excess surface water allows for drainage under certain conditions. SDCL 46A-10A-20 specifies that if you are going to drain in South Dakota it would have to be through natural waterways. He continued with 6 different factors. Reasonable effect on downstream landowners was one of the factors. Courts would look at these factors and what the burden would be to the downstream landowner and if there would be a more beneficial way. This protects the downstream landowners. The county cannot have a permitting system that goes against these factors whether denying or allowing a drainage system. The state law protects landowners and counties cannot add anything or take away anything from that. Disputes will happen that would involve the county and the county is in danger of a liability. Downstream landowners signing a permitting system is simply not allowed under state law. Originally counties had good intentions of this system but many counties are dissolving their drainage ordinances because litigation is imminent. Deuel County’s ordinance is not beneficial; he feels the ordinance is being misused and causes more arguments than the benefits.

Commissioner Kreutner asked about easements or amendments to the Ordinance. Leistico stated you cannot get away from State Law.

Commissioner Rhody stated that some of Leistico’s comments are just opinion.

State’s Attorney John Knight was also present for discussion and stated that there will be a lot more time involved in the permitting process because there must be more research, time and resources involved to avoid litigation and make sure state law is being followed.

Jay Gilbertson of East Dakota Water Development District was present for the meeting through Zoom platform and had submitted a letter to the Board previously. He cited South Dakota statute SDCL 46A-10A-20 as well as Section 101 of Deuel County’s Ordinance 89-02. The Ordinance simply does not comply with State law. Litigation would be expected in the future for Deuel County if the Drainage Ordinance isn’t repealed completely. He feels the county has good intentions but the ordinance doesn’t follow law.

Jerry Zubke commented downstream landowners are being held hostage.

Kent DeJong does not feel that the criteria of this decision is clear. He feels that the ordinance can be amended. He feels the ordinance still protects downstream landowners by going to the Board. He said disputes would be resolved before it would go to court anyway and that the ordinance still gives protection to landowners. Repealing would be such a drastic step. Commissioner Rhody agreed with Mr. DeJong that the ordinance helps before it would go to court.

Knight said the court will follow state law no matter what decision the Drainage Board would make on these situations.

After much deliberation, 7) DeJong moved, seconded by Homan to approve, adopt and publish Ordinance #20-33 An Ordinance Repealing Ordinance #89-02 and All Amendments Made Thereto, Repealing the Deuel County Drainage Plan, and Dissolving the Deuel County Drainage Board. A roll call vote was held. Kreutner no, Homan yes, DeJong yes, Rhody no, Jaeger yes. Majority vote, motion carried. This is effective 20 days after publication. No further drainage applications will be accepted by Drainage Officer Jodi Theisen. The Drainage Board is dissolved as well as the Drainage Department (Officer Jodi Theisen) and her drainage salary.

**ORDINANCE #20-33**

**AN ORDINANCE REPEALING ORDINANCE #89-02 AND ALL AMENDMENTS MADE THERETO, REPEALING THE DEUEL COUNTY DRAINAGE PLAN, AND DISSOLVING THE DEUEL COUNTY DRAINAGE BOARD**

WHEREAS, Deuel County, South Dakota, previously adopted a Drainage Plan and Drainage Ordinance on September 5, 1989; and

WHEREAS, SDCL 46A-10A-1 allows, but does not require, counties to have a drainage board; and

WHEREAS, SDCL 46A-10A-20 allows, but does not require, counties to have legal controls for drainage management, such as an ordinance; and

WHEREAS, SDCL 46A-10A-30 allows, but does not require, counties to have a permit system for drainage; and

WHEREAS, SDCL 46A-10A-16 allows, but does not require, counties to have a drainage plan; and

WHEREAS, Deuel County finds it is in the best interest of the County to repeal its Drainage Ordinance and all amendments thereto, repeal its Drainage Plan, and dissolve its Drainage Board, and now desires to act consistent with this finding.

NOW, THEREFORE, BE IT ORDAINED that the Board of County Commissioners hereby repeals in its entirety Ordinance #89-02 and all amendments made thereto; and

BE IT RESOLVED that the Deuel County Drainage Plan is hereby repealed; and

BE IT RESOLVED that the Deuel County Drainage Board is hereby dissolved.

Voting aye: DeJong, Homan, Jaeger

Voting nay: Kreutner, Rhody

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Gary Jaeger, Chairman  
Deuel County Commissioners

ATTEST

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Mary Korth  
Deuel County Auditor

**11:00 Director of Equalization Donna Rhody**

Director Rhody met with the commissioners to discuss the GIS System. The property cards need to be updated and she requested that customers receive emails for updates. She thought a layer for wind towers would be beneficial and asked if they felt it was necessary. She feels it would be a public service for utility companies. Discussion was held on benefits and different aspects of a layer for wind towers.

**11:15 City Attorney Todd Boyd**

Boyd met with the Commissioners to discuss a city ordinance (Ordinance #587 An Ordinance Regarding the Creation of a Rural Service District) that recently passed on October 12, 2020. This affects landowners in Deuel County and the levies applied to their taxes. The specific land descriptions affected are for record #4401 E1/2W1/2 Less N200' & Less S200' & E1/2 W1/2 W1/2 Less N200' & Less 2.13 AC in Blk 1 Estebo Addn in 11-115-49, Clear Lake Ag Land or Unplatted. And record #4403 W400' SW1/4 Less Lot H-2 in 14-115-49 Clear Lake Ag Land or Unplatted.

Boyd is asking for an abatement of the difference in taxes from the calculated city levy for 2019 taxes payable 2020 opposed to the Clear Lake Township levy for record #4401 as now the Rural Service District is in place as indicated on an original agreement. 8) Rhody moved, seconded by Kreutner to abate the tax difference for property located at the description above, record #4401 and apply the Township levy as it is now considered a Rural Service District. Tax total difference is \$1634.07. Roll call vote, all yes and the motion carried. The second property (record #4403) will be addressed at a future meeting as Attorney Boyd is waiting on communication from the property owner.

**11:30 State's Attorney John Knight**

Knight met with the Commissioners with a revised Covid-19 (Revision of Resolution #20-22) Resolution and Policy for the County and its employees. Some departments are now considered critical infrastructure.

9) Kreutner moved, seconded by Homan to approve and sign Resolution #20-34 A Resolution Amending Deuel County Policy Regarding the Covid-19 Pandemic as follows. Roll call vote, all yes and the motion carried.

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**RESOLUTION #20-34**

**RESOLUTION AMENDING DEUEL COUNTY POLICY  
REGARDING THE COVID-19 PANDEMIC**

WHEREAS, the Deuel County Board of County Commissioners have determined that it is appropriate to amend Resolution #20-22 as it pertains to the quarantine policy for Deuel County employees.

WHEREAS Deuel County has adopted the recommendations of the South Dakota Department of Health and the United States Center for Disease Control for employees regarding precautions that should be taken to avoid exposure to the Covid-19 virus; steps that employees must take if they have been potentially exposed to someone who tested positive for the Covid-19 virus; steps that an employee should take if they have been exposed to someone who has been in close contact with a person who was tested positive for the Covid-19 virus; steps that must be taken if an employee has been in close contact with someone who was tested positive for the Covid-19 virus, and steps that must be taken if an employee has tested positive for the Covid-19 virus.

WHEREAS Deuel County has further determined that the current increase of Covid-19 positive cases in Deuel County presents an emergency that could require county offices and critical infrastructure to close if essential workers are required to strictly comply with the current South Dakota Department of Health and United States Center for Disease Control guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Deuel County Board of County Commissioners that Deuel County amends Resolution #20-22 as follows:

Those workers defined as essential workers who have been in close contact with a person who has tested positive for Covid-19 may continue to report to work so long as the employee does not have any symptoms of Covid-19. Any essential employee reporting for work who has been in close contact with someone who has tested positive for Covid-19 must monitor symptoms, wear a mask at all times, and maintain at least 6 feet of social distance from other employees and members of the public for a period of 14 days from the date of exposure or close contact. If any employee develops symptoms during the 14 day period the employee must report the symptoms to the department head, if a department head to the auditor, and if the auditor, to the Chairman of the County Commission.

Employees who have been in close contact with someone who has tested positive for Covid-19 and have developed symptoms after being in close contact should immediately isolate until such time as the employee has been tested and determined if they are positive for Covid-19.

Dated this \_\_\_\_\_ day of October, 2020.

DEUEL COUNTY BOARD OF COMMISSIONERS

ATTEST:

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Mary Korth, County Auditor

By: \_\_\_\_\_  
Gary Jaeger, Chairman

**11:50 a.m. Executive Session Pursuant to SDCL 1-25-2(1) Personnel Matter**

10) Rhody moved, seconded by DeJong to move into Executive Session pursuant to SDCL 1-25-2(1) for the purpose of a personnel matter. Roll call vote, all yes and the motion carried. Chairman Jaeger declared the Commissioners out of Executive Session at 12:35 p.m.

11) DeJong moved, seconded by Rhody to grant Director of Equalization's Department employee Deb Meguire a .50/hr. raise backdated to July 6<sup>th</sup>, 2020. This will be accounted for on November 2020 payroll. Roll call vote, all voted yes and motion carried

**OLD BUSINESS**

Discussion was held on the Deuel County Facility and Even Space Rental Agreement with Deuel County Shooting Sports. The Board thought a token amount would be acceptable because of upkeep and utility costs of the building. Chairman Jaeger will speak with Will Stone about what is agreeable.

**NEW BUSINESS**

**Plats**

12) Homan moved, seconded by Rhody to approve the Plat of Global Dairy Addition located in SW1/4SE1/4 21-113-50 and Resolution #20-35. Roll call vote, all yes and the motion carried.

**RESOLUTION**

**#20-35**

BE IT RESOLVED by the Board of County Commissioners of Deuel County, South Dakota, that the plat entitled: **“Global Dairy Addition Located in the Southwest Quarter and the Southeast Quarter of Section 21, Township 113 North, Range 50 West of the 5<sup>th</sup> 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 20<sup>th</sup> day of October, 2020

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Chairman, Board of County Commissioners  
Deuel County, South Dakota

ATTEST:

\_\_\_\_\_  
County Auditor,  
Deuel County, South Dakota

13) Kreutner moved, seconded by DeJong to approve the Plat of Block 1 Stuerman Addition in the SW1/4 of 4-115-47 and Resolution 20-36. Roll call vote, all yes and the motion carried.

**RESOLUTION**

**#20-36**

BE IT RESOLVED by the Board of County Commissioners of Deuel County, South Dakota, that the plat of **“Block 1, Stuerman Addition, in the SW1/4 of Section 4, T115N, R47W of the 5<sup>th</sup> P.M., Deuel County, South Dakota”** prepared by Brian D. Ernst, Registered Land Surveyor of the State of South Dakota be and the same is hereby approved.

I, Mary Korth, County Auditor for Deuel County, South Dakota, do certify that the foregoing resolution was passed by the Board of County Commissioners, Deuel County, South Dakota, at the regular meeting on the 20<sup>th</sup> day of October, 2020.

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Chairman, Board of County Commissioners  
Deuel County, South Dakota

ATTEST:

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County Auditor, Mary Korth  
Deuel County, South Dakota

14) Homan moved, seconded by Rhody to approve the Plat of Tumbledown Acres Addition in the SE1/4SE1/4 of 15-116-49 and Resolution 20-37. Roll call vote, all yes and the motion carried.

**RESOLUTION**

**#20-37**

BE IT RESOLVED by the Board of County Commissioners of Deuel County, South Dakota, that the plat entitled: **“Tumbledown Acres Addition Located in the Southeast Quarter of the Southeast Quarter of Section 15, Township 116 North, Range 49 West of the 5<sup>th</sup> 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 20<sup>th</sup> day of October, 2020

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Chairman, Board of County Commissioners  
Deuel County, South Dakota

ATTEST:

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County Auditor,  
Deuel County, South Dakota

**Auto Supplement/Courthouse Basement Radon Test (Discussed during EM Appointment)/Holiday Leave and Meeting Changes**

15) Rhody moved, seconded by Jaeger to auto supplement back into the Highway budget \$132,766.26 which was a State SDDOT Grant for BIG Funds for Bridge Projects in the Hidewood. Roll call vote, all yes and the motion carried.

16) Homan moved, seconded by Kreutner to auto supplement back into the Election budget a total of \$3319.94 due to HAVA Grant and HAVA CRF Grant. And \$5000.00 which is a National Grant from Civic Life Center specifically for poll workers. Roll call vote, all yes and the motion carried. Auditor Korth asked for an extra \$100.00 for each poll worker as they have stepped up in the times needed during the pandemic. 17) Rhody moved, seconded by DeJong to approve an additional \$100 per poll worker for the November 3, 2020 General Election. Roll call vote Rhody yes, DeJong yes, Homan yes, Jaeger yes. Kreutner abstained from vote. Majority vote, motion carried.

Governor Kristi Noem has granted administrative leave for State employees to enjoy time with their families on Friday November 27<sup>th</sup> for the Thanksgiving Holiday and Thursday December 24<sup>th</sup> for the Christmas holiday in addition to the legal holidays given. 18) DeJong moved, seconded by Rhody to grant leave to County employees all day Friday November 27<sup>th</sup> and all day Thursday, December 24<sup>th</sup> in addition to the legal holidays Thanksgiving and Christmas Day. Roll call vote, all yes and the motion carried.

Discussion was held on the pending general election and the increasing number of absentee votes taken by the Auditor’s Office. Also, in case of a possible recount, 19) Rhody moved, seconded by Homan to



move the first meeting in November, previously rescheduled to November 5<sup>th</sup> to Friday, November 6<sup>th</sup>, 2020 at 9:00 a.m. Roll call vote, all yes and the motion carried.

State's Attorney John Knight drafted an easement between Deuel County and DeBoer Construction Inc. to share the approach and entrance to the County West Building. This will be examined and decided at the next meeting.

**Warrants**

20) Rhody moved, seconded by Kreutner to approve warrants paid early and approval of regular warrants to be paid. Roll call vote, all yes and the motion carried. *Warrants to* B-D Rural Water 62.80 Utilities, Century Link 358.79 Utilities, Dawn Fritz 84.84 Travel, H-D Electric 239.02 Utilities, Otter Tail 1385.21 Utilities, Quadient 746.51 Rental and Supplies, Runnings 141.96 Supplies, Sanford 304.39 Flex Fees, USPS 2000.00 Postage, SD DOR 595.97 Excise Tax, SDACO 212.00 M&P, SD DOR 194,708.44 Fees Due to State. Taxes: Schools 185,873.48, Towns 49696.64, Townships 102890.73, EDWDD 565.43, Rural Fire 2467.71.

**Adjournment**

There being no further business 21) Homan moved, seconded by Kreutner to adjourn the meeting. Roll call vote, all yes and the motion carried.

Gary Jaeger, Chairman  
Deuel County Commission

ATTEST:

Mary Korth, Auditor

Published one time at the approximate cost of \_\_\_\_\_.