

Custer County Commission Meeting (Wednesday, June 23, 2021)

Members present:

Commissioners Jim Lintz, Mark Hartman, Mike Linde, Craig Hindle, Travis Bies and Commission Legal Counsel Susan Anderson.

A. Commission Meeting was called to order at 8:00 AM followed by the Pledge of Allegiance.

B. Adopting of the agenda

1. Motion by Linde and seconded by Bies to add presentation from Brosz Engineering under Item E. Highway, acknowledgement of updated Buffalo Gap Volunteer Fire Department Roster under Item L. Volunteer Fire Departments, and Real Property Charitable Donation Agreement under Item O. Commission and approve agenda as amended; vote taken, all aye; motion carried.

C. Consent Agenda

1. Motion by Hindle and seconded by Linde to approve the following travel request and vouchers; vote taken, all aye; motion carried.

Travel requests approved: Equalization Office to SDAAO School in Pierre, SD, at a cost of \$6,280 and use of a county vehicle.

Vouchers approved as follows:

NON-DEPARTMENTAL: Kevin & Glenda Jenniges \$294.23

COMMISSIONERS: Pitney Bowes \$237.98; CAN Surety \$525

AUDITOR: SD Department of Labor & Regulation \$951.67

TREASURER: Quill \$106.31

STATE'S ATTORNEY: Quill \$182.72; Culligan Water \$37

COURT APPOINTED ATTORNEY: Beesley Law Office \$891.15; Garland Goff \$421.50

COURTHOUSE BUILDING: Custer Ace Hardware \$55.42; Culligan Water \$61.40

DIRECTOR OF EQUALIZATION: McLeod's Printing & Office Supply \$96.90; Quill \$1,717.92; SDAO Treasurer \$2,230

REGISTER OF DEEDS: BHE Custom Apparel \$75

HUMAN RESOURCES: SD Division of Criminal Investigation \$43.25; Evergreen Office Products \$46.59

SHERIFF: Pennington County Sheriff \$484.10; Custer Ace Hardware \$31.98; Innovative Office Solutions \$91.88; Culligan Water \$40; Battle Mtn Humane Society \$1,000

PRISONER CARE: Kevin Kirschenmann MLS \$75; City of Rapid City \$160; Pennington County Jail \$5,765.36; Mary Seifert \$75; Ann Allen \$75; South Dakota Public Health Laboratory \$205; Satellite Tracking of People \$211.25; Redwood Toxicology Lab \$60; Linda Nohr \$150

SEARCH & RESCUE: Black Hills Energy \$297.81; Custer Do It Best \$34.42; Sander Sanitation \$14.76; Big D Oil \$20

AIRPORT: Westmor Fluid Solutions \$62.61; MG Oil Company \$6,193.50

MENTALLY ILL: Yankton County Sheriff \$50

LIBRARY: Black Hills Library Consortium \$1,470.70; Vector Design & Printing \$160; Century Link \$16.46

WEED & PEST: French Creek Supply \$5.58; Warne Chemical & Equipment \$18

COUNTY ROAD & BRIDGE: A & B Welding \$491.47; Custer Do It Best \$16.77; Floyd's Truck Center \$117.62; French Creek Supply \$1,027.38; Grimms Pump Service \$13.78; Inland Truck Parts \$42.35; Lynn's Dakota Mart \$12.47; S & B Motor Parts \$594.60; SD Federal Property \$418; Kieffer Sanitation \$188.33; Servall Towel & Linen \$124.32; Rosane Construction \$6,194.23; Stern \$539.60; SD Department of Labor & Regulation \$951.67; Equipment Blades Inc. \$805.50; Titan Machinery \$200; Culligan Water \$39; Century Link \$16.46; Matco Tools \$237.95; Nelson's Oil & Gas \$4,444.60; MG Oil Company \$27,808.31; Great Western Tire \$222.95; Powerplan \$32.11

FIRE PROTECTION: Argyle Volunteer Fire Department \$1,392

EMERGENCY MANAGEMENT: Rushmore Communications \$275

24/7 SOBRIETY: Pharmchem Inc. \$57.10

BUILDING: Cody Hadlock \$3,805.36; Black Hills Electric \$8,178.96; Custer Ace Hardware \$459.90; Home Masters \$17,386.31

EMERGENCY LINE: Culligan Water \$33.50

D. Conflict of Interest Declarations – There were no conflicts of interest declared by the commissioners.

E. Highway

1. Motion by Hindle and seconded by Hartman to approve the closure of Main Street in Buffalo Gap on July 10, 2021 for the Buffalo Gap Blow Out; vote taken, all aye; motion carried.
2. Motion by Linde and seconded by Bies to approve the Application For Occupancy of the Right of Way of County Roads from Golden West Telecommunications for a telecommunications facility

on Little Italy Road in Section 27, T3S, R4E, Custer County, South Dakota; vote taken, all aye; motion carried.

3. Motion by Hindle and seconded by Bies to approve the Application For Occupancy of the Right of Way of County Roads from Golden West Telecommunications for a telecommunications facility on West Argyle Road in Sections 6 & 7, T6S, R4E, Custer County, South Dakota; vote taken, all aye; motion carried.
4. Motion by Hartman and seconded by Linde to approve the purchase of a new Belly Dump trailer from the Sourcewell Bid in the amount of \$53,237.18 to be paid out of the Highway budget; vote taken, all aye; motion carried.
5. Bruce Wilsey from Brosz Engineering gave a presentation on the 2021 Bridge Inspection. There were six structures inspected and all are in very good condition with only two of the structures having minor problems that will be fixed by the Highway Department.

F. Planning

1. Motion by Hindle and seconded by Linde to approve the Application for a Cell Tower Modification from Crown Castle to modify an existing communication tower located on Herman Rausch Subdivision Lot 1N (formerly Lot 1 Revised) in Section 2, T3S, R7E, B.H.M., Custer County, South Dakota; vote taken, all aye; motion carried.
2. Motion by Hartman and seconded by Bies to approve the Final Plat of Lots 1 through 35 of Desperado Ranch Subdivision, Located in Section 9, T6S, R4E, B.H.M., Custer County, South Dakota; vote taken, all aye; motion carried.
3. Motion by Linde and seconded by Hindle to approve the Final Plat of McCarthy Tract West and McCarthy Tract East and Private Access Easement of Swedlund Subdivision of HES 49, Located in the NE4 of Section 17, T4S, R4E, B.H.M., Custer County, South Dakota; vote taken, aye – Bies, Linde and Hindle; Commissioner Hartman abstained; motion carried.
4. Motion by Bies and seconded by Hartman to approve the Final Plat of Sadowsky Tract 1 of Box Canyon Subdivision, Located in the SE4NW4 and SE4NE4 of Section 33, T2S, R7E, B.H.M., Custer County, South Dakota; vote taken, all aye; motion carried.

G. Weed & Pest

1. Motion by Bies and seconded by Linde to approve and authorize the chairman to sign the Participating Agreement between Custer County and the USDA Forest Service Nebraska National Forest and Grasslands, Fall River Ranger District for weed spraying on National Forest System lands adjacent to privately owned lands, on areas of Forest contiguous to County Right of Ways and other agreed upon areas; vote taken, all aye; motion carried.

H. Maintenance

1. Motion by Hindle and seconded by Linde to approve the purchase of a 2021 Dodge Ram 1500 Crew Cab pickup in the amount of \$29,323 off the state bid and be paid out of the Building Maintenance budget; vote taken, all aye; motion carried.

I. Custer Tech Office

1. Motion by Hartman and seconded by Hindle to approve the surplus of the following items to be recycled; vote taken, all aye; motion carried.

- Datto SP3000 Serial #OCC58252883E
- Dell Vostro Serial #J3CCDF1
- Dell OptiPlex 3010 Serial #3SJHBY1
- Dell OptiPlex 390 Serial #9RRMWV1
- Dell OptiPlex 3010 Serial #HX8Q9R1
- Dell Latitude 5400 Serial #5VS6JN1
- Dell Latitude 5400 Serial #6VS6JN1
- APC ES7251 Serial #QB0322330396
- Dell XFRD630 Serial #HDGSDH1
- HP AP530 Serial #CN849VV02T
- HP AP530 Serial #CN835VV0GV
- HP AP530 Serial #CN843VV1HR
- HP AP530 Serial #CN836VV0ZD
- HP AP530 Serial #CN843VV1JT
- HP AP530 Serial #CN849VV07V
- HP AP530 Serial #CN849VV05L
- HP AP530 Serial #CN843VV1MH
- HP AP530 Serial #CN836VV157
- Dell Latitude 5400 Serial #1TQSTL1
- Asus Aspire 3004LCI Serial #LXA5505A696060419B
- Asus Aspire 3004LCI Serial #LXA5505A69606045A0
- Panasonic CF-8 Serial #5lkya56666
- Dell XFRD630 Serial #7KP2DH1
- Dell Vostro 1720 Serial #GYBH2L1
- Fujitsu Eternus DX80 Serial #4311044587
- Dell Vostro 1720 Serial #5WG73L1
- Dell Latitude E6400 Serial #H6ZTTL1
- Gigabyte GA-970A-UD3 Serial #CG739300409
- Dymo Label Writer 310 Serial #90794-0024847
- Dell OptiPlex 380 Serial #8JCG8P1
- Dell OptiPlex 3010 Serial #3SLHBY1
- HP Elitebook 2730P Serial #2CE92498ZM
- HP AP530 Serial #CN843VV1FR
- HP AP530 Serial #CN849VV080
- HP AP530 Serial #CN835VV0MF
- Dell Latitude E5400 Serial #C3VMCL1
- Dell Latitude E5400 Serial #4TQSTL1
- Sonicwall NSA 2400 Serial #0017c5e1db98
- HP ProDesk 600 G2 Serial #2UA61028VL
- HP ProDesk 600 G2 Serial #2UA6101VT5
- HP ProDesk 600 G1 Serial #MXL4340P26
- HP ProDesk 600 G1 Serial #2UA50817NZ
- HP ProDesk 600 G2 Serial #2UA61028VH
- HP ProDesk 600 G1 Serial #2UA50817MW
- HP ProDesk 600 G1 Serial #MXL4340p29

- HP ProDesk 600 G1 Serial #2UA5231878
- HP ProDesk 600 G2 Serial #2UA6101VTD
- HP ProDesk 600 G2 Serial #2UA61028VM
- HP ProDesk 600 G1 Serial #MXL4340P21
- HP ProDesk 600 G1 Serial #MXL4340P23
- HP ProDesk 600 G1 Serial #MXL4340P1Y
- HP ProDesk 600 G1 Serial #MXL4340P20
- HP ProDesk 600 G1 Serial #MXL4340P1Z
- HP ProDesk 600 G1 Serial #MXL4340P27
- HP ProDesk 600 G2 Serial 2UA6101VTJ
- HP ProDesk 600 G1 Serial #2UA50817MY
- HP ProDesk 600 G1 Serial #2UA50817MV
- HP ProDesk 600 G1 Serial #2UA50817MX
- Dell OptiPlex 3010 Serial #3N9KBY1
- Dell OptiPlex 3010 Serial #3RKJBY1
- Dell OptiPlex 3010 Serial #3NYHBY1
- Dell OptiPlex 390 Serial #9Q3RWV1
- HP Compaq nx9600 Serial #CNF5440SZH
- Panasonic CF-29 Serial #29E3KGZKM
- Gateway 200ARC Serial #32014437
- HP HSTNN-C12C Serial #CND5420CBT
- HP ProDesk 400 G2 Serial #MXL7071LXK
- HP ProDesk 400 G1 Serial #2UA5372S83
- Custom ASUS Motherboard
- Netgear FS105 Serial #1D5516B3H04553
- Linksys SD205 Serial #REF10F4015585
- Netgear FS105 Serial #1D516B3A04603
- Linksys SD205 Serial #REF10F3019623
- Linksys NH1005,V2 Serial #R87205A008692
- Linksys SD205 Serial #REF10G803048

J. Search & Rescue

1. Motion by Hartman and seconded by Hindle to approve and authorize the Director of Search & Rescue to sign the State of South Dakota Services Contract/Agreement Department of Game, Fish & Parks General Service Contract in the amount of \$7,868.47 for services performed by Custer Search and Rescue for the period of July 1, 2021 through June 30, 2022; vote taken, all aye; motion carried.

K. Equalization

1. Motion by Linde and seconded by Hindle to correct the wage of Jenna England to \$14.17 per hour effective June 2, 2021 as the original motion to approve her new hire at the May 12, 2021 Commission Meeting of \$13.89 per hour was based on the 2020 Custer County Employee Pay Scale; vote taken, all aye; motion carried.

2. The commission acknowledged the completion of a six-month employment probation by Angela Withrow, Appraiser and the position to be classified as full-time permanent with employee eligible for all full-time county benefits.
3. Motion by Hartman and seconded by Linde to approve the promotion of Angela Withrow to Certified Appraiser effective June 9, 2021 with a wage of \$14.88 per hour; vote taken, all aye; motion carried.
4. Motion by Linde and seconded by Hindle to go into Executive Session pursuant to SDCL 1-25-2(1). Executive Session started at 8:25 to discuss personnel and concluded at 8:30 a.m. with no action taken.

L. Volunteer Fire Departments

1. The commission acknowledged the updated volunteer fire department rosters from Custer Highlands Volunteer Fire Department and Buffalo Gap Volunteer Fire Department.

M. Fire Advisory Board

1. Motion by Hindle and seconded by Bies to approve the recommendation from the Fire Advisory Board to allocate the remaining \$200,000 from funds that were assigned at the October 23, 2019 Commission Meeting in the following manner:
 - \$28,570 to Custer Highlands Fire Department to help purchase a new to them T6 engine
 - \$28,570 to Argyle Fire Department to pay off tender loan
 - \$28,570 to Pringle Fire Department to help purchase a new to them tender
 - \$28,570 to Custer Fire Department to help purchase a new(er) type 6 engine or SCBA
 - \$28,570 to Fairburn Fire Department to purchase equipment for structure engine
 - \$28,570 to Folsom Fire Department to help purchase a new to them type 6 engine
 - \$28,570 to Battle Creek Fire Department to help purchase extrication (jaws of life) stationed in Hermosa

Vote taken, all aye; motion carried.

- N. Public Comment** – Custer County resident Ron Remley spoke to the commission regarding parking issues in the east parking lot of the Custer County Courthouse from the ATV rental business located adjacent to the parking lot.

O. Commission

1. Mail call – A letter from the SD Department of Revenue was received regarding the factor for all agricultural property in Custer County for the 2021 taxes payable in 2022; A Declaration from Governor Noem regarding the observance of “Juneteenth Day” to be observed on June 19th.
2. Meeting Schedule – The commission will meet with all Custer County Department Heads at their June 14, 2021 Commission Meeting to discuss the 2022 employee wages.
3. Meeting Reports – There were no meeting reports from the commission.
4. The commission discussed the issues with the east parking lot at the Custer County Courthouse due to the Adventure Rental business located adjacent to the parking lot occupying parking spots during the business hours of the courthouse. The commission decided to try placing more signage in the parking lot and designating some parking spots for employees only.
5. Motion by Hindle and seconded by Hartman to approve the travel expenses for Commissioner Bies to attend the NACO Annual Conference in Prince George’s County, MD July 9 – 12, 2021; vote taken, all aye; motion carried.

6. Motion by Bies and seconded by Hindle to approve and authorize the chairman to sign the Real Property Charitable Donation Agreement between Gold Rush Ranch and Custer County, South Dakota for the donation of Lot 35 of the Desperado Ranch Subdivision, Located in Section 9, T6S, R4E, B.H.M., Custer County, South Dakota, consisting of a parcel of land of approximately 9.09 acres +/- and a building and improvements situated thereon, subject to the terms and conditions of the Agreement; vote taken, all aye; motion carried.

P. Old Business

1. The commission acknowledged the second reading of Custer County Ordinance No. 21.

CUSTER COUNTY ORDINANCE NO. 21

A TEMPORARY ORDINANCE REGULATING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES

WHEREAS, a local government may enact an ordinance not in conflict with SDCL Chapter 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration.

WHEREAS, Custer County, South Dakota, (the “County”) makes a preliminary finding that the County’s current ordinances, regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1.

WHEREAS, medical cannabis state laws under SDCL 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate rules pursuant to SDCL Chapter 1-26 no later than October 29, 2021, as defined by SDCL 34-20G-72. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the local licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, the County makes a preliminary finding that the public interest requires that the County study, analyze, and evaluate the impacts of medical cannabis establishments and to fully explore the impacts of any proposed ordinance and/or regulations regarding medical cannabis establishments.

WHEREAS, the Commissioners of Custer County (the “Commission”) are charged with protecting the health, safety and general welfare of the citizens of Custer County, including all property situated therein.

WHEREAS, a temporary ordinance will ensure that any building permit changes and licensing permits can be completely examined with adequate public input and research by the County.

WHEREAS, the County finds that a temporary ordinance is reasonable to preserve the status quo and prevent significant investment pending the outcome of the County knowing the medical cannabis rules and standards promulgated by the South Dakota Department of Health.

WHEREAS, the County finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the county government and its citizens and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CUSTER COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

A medical cannabis establishment desiring to operate in Custer County shall be required to apply for a permit and/or license from the County. Applications for a County permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1, shall not be accepted until the South Dakota Department of Health has promulgated regulations as required by SDCL 34-20G-72. Any application received prior to such regulations being promulgated shall be denied.

Adopted this 9th day of June, 2021 by the Custer County Commission. This Ordinance No. 21 shall become effective on the twentieth (20th) day after publication.

2. Motion by Hartman to use items #1 & #2 from Pennington County to establish predominate use of agriculture. The motion died for a lack of a second. Motion by Linde and seconded by Hindle to follow all three requirements from Pennington County to establish predominate use of agriculture and establish principle use at 51% of the land as per Resolution 2021-11; vote taken, aye – Linde, Hindle and Bies; Nay – Hartman; motion carried.

Resolution 2021 – 11

RESOLUTION DEFINING PRIMARY AND PREDOMINANT USE OF LAND TO QUALIFY FOR AGRICULTURAL CLASSIFICATION IN CUSTER COUNTY

WHEREAS, the 2021 South Dakota Legislature passed and the Governor signed HB 1085 which revised SDCL 10-6-31.3 for the purposes of redefining the criteria for classifying land as agricultural for tax purposes; and

WHEREAS, SDCL 10-6-31.3 will be reorganized as SDCL 10-6-112; and

WHEREAS, these legislative changes become effective July 1, 2021; and

WHEREAS, HB 1085 revised the criteria for qualifying for the agricultural classification of the land's principal use as meaning the primary and predominant use of the land as opposed to a mere secondary and incidental use.

WHEREAS, it is necessary for the Director of Equalization for Custer County to establish the criteria or meaning to "primary and predominant use of the land" to carry out the intent of the revisions to SDCL 10-6-31.3 (SDCL 10-6-112 as of July 1, 2021);

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County that, in order to establish if land qualifies as agricultural pursuant to SDCL 10-6-31.3 (SDCL 10-6-112 as of July 1, 2021), the following definition shall be used by the Director of Equalization:

Principle use shall mean that at least fifty-one percent (51%) of the parcel is devoted to one or more of the agricultural production enterprises (uses) listed in SDCL 10-6-31.3 (SDCL 10-6-112 as of July 1, 2021).

BE IT FURTHER RESOLVED by the Board of County Commissioners of Custer County that the following predominant use guidelines shall be used by the Director of Equalization to establish if land qualifies as agricultural pursuant to SDCL 10-6-31.3 (SDCL 10-6-112 as of July 1, 2021):

Predominant Use: The primary use to which the parcel is devoted and the main purpose for which the parcel exists. This is intended to reference the primary and predominant use of the parcel as opposed to a mere secondary and incidental use.

Indicators of Predominant Use:

- The primary activity taking place on the parcel is one or more of the agricultural production enterprises (uses) listed in SDCL 10-6-31.3 (SDCL 10-6-112 as of July 1, 2021);
- The property is actively managed such that a reasonable expectation of a profit from the agricultural use(s) can be expected; and
- The property owner is able to identify reasonable estimates of current inventories of agricultural products on the property, the expected sale price of those products, expenses that are required in the production of those products, and the expected sale date of the products.

This Resolution shall become effective on the twentieth day after its completed publication.

Dated this 23rd day of June, 2021 at Custer, South Dakota.

Q. Adjourn

Motion by Hindle and seconded by Bies to adjourn the meeting at 9:54 a.m. The next meeting will be at 8 a.m. June 14, 2021 in the Commissioner's Room in the Custer County Courthouse.

Jim Lintz, Chairman

Attest:
Terri Cornelison, Custer County Auditor

Published once at the total approximate cost of _____.