

Minutes of the Custer County Commission Meeting Wednesday, March 22, 2023

Members present:

Commissioners Jim Lintz, Mark Hartman, Mike Linde, Craig Hindle, Michael Busckohl and Commission Legal Counsel Susan Anderson and Dawn McLaughlin, Finance Officer.

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

B. Adopting of the Agenda

1. Motion to approve Agenda made by Linde; seconded by Hindle; vote taken, all aye; motion carried.

C. Consent Agenda

Travel requests approved:

- a) Jim Lintz and Michael Busckohl to attend SDACC 2023 Spring Workshop April 18-20, 2023 in Pierre, SD at a cost of \$612.00
- b) Dawn McLaughlin to attend SDACO 2023 Workshop April 18-20, 2023 in Pierre, SD at a cost of \$306.00

Vouchers approved as follows:

PAYROLL: 3-20-23 Payroll: Commissioners \$10,650.60; Auditor \$8,105.34; Treasurer \$13,267.31; Info Systems & Technology \$3,392.88; State's Attorney \$13,838.58; Courthouse Building \$8,688.89; Dept of Equalization \$17,252.37; Register of Deeds \$5,149.01; Veterans Services \$2,711.67; Human Resources \$2,655.49; Sheriff \$44,730.39; Coroner \$803.39; Nurse \$806.35; Library \$9,854.61; Conservation \$712.91; Weed & Pest \$2,158.05; Planning \$7,344.48; County Road & Bridge \$40,817.07; Emergency Management \$2,897.23; 24/7 Sobriety \$2,442.89; Emergency Line F \$18,652.21

COMMISSIONERS: Verizon \$88.60; Fleet \$32.38; A&B Business \$152.09; Pitney Bowes \$4,040; SD Assn of County Commissioners \$220.

NON-DEPARTMENTAL: SD State Treasurer \$6.02

AUDITOR: Amazon \$38.80; A&B Business \$620.12; SDACES Dues \$15; SD Assn of County Officials \$110.

TREASURER: A&B Business \$366.36; SDACES Dues \$15.

STATE'S ATTORNEY: A&B Business \$165.12; HE Govt. \$83.00; Redwood Toxicology \$80; Jean Carlson \$192.40

COURT-APPOINTED ATTORNEY: Grey & Eisenbraun \$985.30; Southern Hills Law \$465.49; Kyle Beauchamp \$1,193.07

MAINTENANCE: Verizon \$41.83; A&B Pure Water \$75.39; Fleet \$32.38; Office Depot \$244.94; Amazon \$478.70; BH Power \$61.18; BH Truck & Trailer \$60.64; Lowes \$199; Sam's

\$58.56; National Trade Supply \$624; Menards \$11.19; BHEC \$1,031.67; Nelson's Oil & Gas \$774.08

DIRECTOR OF EQUALIZATION: A&B Business \$98.98

REGISTER OF DEEDS: A&B Business \$141.75; SDACES Dues \$15.

VETERANS SERVICES: A&B Business \$145.23; Vector Design \$34.95

HUMAN RESOURCES: Amazon \$110.33; Verizon -\$8.71 credit; Office Depot \$53.76

SHERIFF: Verizon \$647.47; A&B Business \$190.15; Western State's Sheriff Dues \$102.35; Ramkota \$368; LexisNexis \$86; Merrell \$99.47; MOCIC Dues \$150; USPS \$12.35; Custer Ace Hdwe \$108.58; A&B Pure Water \$54.98; Murray Auto Repair, LLC \$2,799.51; Battle Mt. Humane Society \$1,083.

PRISONER CARE: Pennington Co. Jail \$386.66; Correct RX \$56.29; Care Campus \$452; SD Public Health \$40

AIRPORT: QT Pod \$95.82; French Crk Supply \$47.99; Jenner Equipment \$3,524.48; Mead & Hunt, Inc. \$15,842.02

POOR: Chamberlain McColley's \$4,000.

MENTALLY ILL: Audra Hill Consulting \$54.64

MENTAL HEALTH CENTER: Audra Hill Consulting \$125.63

MUSEUM: Custer County Museum \$11,000.

CUSTER YMCA: Custer YMCA \$17,000.

LIBRARY: Amazon \$879.02; Demco \$161.04

EXTENSION: A&B Business \$144.44; Verizon \$40.01; Erin McGlumphy \$208.13; SDSU West River Ag \$2445.97

WEED & PEST: Fleet \$32.38; A&B Business \$168.75; Commercial Applicator \$20; Dept of Ag \$35.88; Southern Hills Publishing \$50

PLANNING: Fleet \$16.19; A&B Business \$167.56; Amazon \$333.26

COUNTY ROAD & BRIDGE: Fleet \$372.37; A&B Business \$177.31; Holiday \$73.08; BHEC \$1,637.94; French Crk Supply \$73.91; Interstate Batteries \$144.95; Mt. Rushmore Telephone; SD DOT \$190.87; Servall \$128.65; Town of Buffalo Gap \$73; Snap On Tools \$129.25; Custer Ace Hdwe \$90.95; Culligan Water \$19.50; CenturyLink \$41.91; Nelson's Oil & Gas \$1,969.99

EMERGENCY MANAGEMENT: Verizon \$64.28; A&B Business \$211.07; Trittech Forensics \$176.74; Custer Car Wash \$19; SDEMA Dues \$30

COUNTY BUILDINGS: Amazon \$1042.28; Menards \$39.03

EMERGENCY LINE: A&B Business \$156.16; Husky Office \$1,790.71; A&B Pure Water \$54.97

24/7 SOBRIETY: Concordance Healthcare \$21.84

Motion to approve Consent Agenda made by Linde; seconded by Hartman; vote taken, all aye; motion carried.

D. Conflict of Interest Declarations – None

E. Maintenance

1. Maintenance Supervisor, Joseph Panza, presented an update on the Library/Annex restroom renovation and stated the project should come in under budget; which was approved in June, 2022. Panza noted that Beckett Custom Finishes is expected to begin the project in May or June, 2023.

F. Planning

1. Planning Director, Terri Kester, presented Final plat of Mlinar Tract, located in the SW4 NE4 Section 4, T3S, R7E, BHM, Custer County, SD and recommended Commission approval. Kester stated this is a proposed aliquot parcel split and was presented to the Planning Commission on March 7, 2023. Kester noted a \$1K road bond has been purchased and a portion of the road has been improved. Motion to approve with stipulation that road improvement be completed made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

G. Heartland RV Parks & Cabins

1. Request for authorization to hold Bingo at Heartland RV Park & Cabins May through September 2023 as per SDCL 22-25-25 Section 6. The Commission approved the request and so acknowledged.

H. Airport

1. Airport Manager, Brenden Hendrickson appeared before the Commission and noted the 2023-2025 Custer County Airport Disadvantaged Business Enterprise is a 3-year requirement by the FAA and that ads will be posted. No signature is required.

I. 8:30 AM Public Hearing

1. Request approval for new malt beverage license—Eagle's Landing Lodge a/k/a Star Lodge LLC; Larez Subdivision Lot 4 of TR 5 of HES #138 Sec 33 T3 R4 4 acres, Custer County, South Dakota. There were no comments from the public. Motion to approve made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.

J. 8:40 AM Public Hearing

1. Request for approval for new malt beverage license—LT Campgrounds, LLC dba Custer Mt. Rushmore KOA; Nelson Tract in SW4 SW4 & Lot K of Lots G & F (Less Highway ROW) Sec 33 T3 R4 11.30 Acres, Custer County, South Dakota. There were no public comments. Motion to approve made by Hindle; seconded by Hartman; vote taken, all aye; motion carried.

K. Highway

Susan Anderson presented the following in absence of Highway Superintendent, Jesse Doyle:

1. Request for approval for ROW Occupancy by Mt. Rushmore Telephone Co for fiber optic cable/facilities on the Ghost Canyon/Playhouse Road project. Motion to approve made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

2. Amendment to Agreement #2022-21-2 between SD Game Fish & Parks and Custer County was presented and noted this merely extends the timeframe from the initial period of 2022 until spring of 2023, with no monetary changes, which remains at \$34,500 for the chip seal project. Motion to approve made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.

3. 2023 Equipment Line-Item request was presented to the Commission regarding proposed rebuild of motor grader (unit #0914). The proposed project quotes are on Sourcewell's nationwide government bid program and on February 14, 2023 a representative from Butler Machinery was on site to conduct a preliminary inspection. It was noted the grader would benefit from a rebuild and no red flags were found. The rebuild quote came in at \$237,455, which is well under the 2023 budgeted equipment purchase amount and includes a 3-year 5000-hour warranty. Commissioners Busskohl and Linde were present during the meeting with Butler Machinery. Motion to approve rebuild made by Busskohl; seconded by Hartman; vote taken, all aye; motion carried.

L. Emergency Management Resolution 2023-06-- A Resolution of the Custer County Board of Commissioners Declaring Support and Adoption of the Custer County Natural Hazard Mitigation Plan, 2023.

1. EMS Director, Steve Esser presented this Resolution and requested Chairman's signature. He noted the signature will indicate final approval of the 5-year plan. Esser stated he is working to integrate other Custer County plans into this one to keep them together and on-track to be reviewed every 5 years. He also noted that this mitigation plan must be in place in order to receive grants and FEMA funding. Motion to approve Hazard Mitigation plan made by Hartman; seconded by Linde; vote taken, all aye; motion carried.

Resolution 2023-06

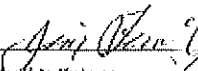
A Resolution of the Custer County Board of Commissioners Declaring Support and Adoption of the Custer County Natural Hazard Mitigation Plan, 2023

WHEREAS, the Custer County Board of Commissioners supports the contents of the Custer County Natural Hazard Mitigation Plan, 2023; and

WHEREAS, the Custer County Natural Hazard Mitigation Plan, 2023 will be utilized as a guide for planning related to FEMA Hazard Mitigation and other purposes as deemed appropriate by the Custer County Board of Commissioners.

NOW THEREFORE IT BE RESOLVED, that the Custer County Board of Commissioners hereby adopts, supports, and will facilitate the Custer County Natural Hazard Mitigation Plan, 2023 implementation.

Adopted by Custer County this 22 day of MARCH, 2023.


Jim Umz, Chairman

ATTEST:

Barbara Cox, Deputy Auditor



2. Esser also presented the invoice for the plan in the amount of \$12,000 and stated this amount is in the Hazard Mitigation budget. Once this invoice is paid and the plan is approved, Custer County will be reimbursed; noting that the \$12,000 amount is 75% of the cost with the remaining \$4,000 covered by in-kind donations.

M. Justin Gebes

1. Justin Gebes appeared before the Commission to discuss approval of proposed lot split of Gebes Tract North and Gebes Tract South and required road improvement of 139th Avenue. Mr. Gebes would like to split his current lot into two parcels, selling one and keeping the other. He noted that 139th Avenue is currently 12' wide and 320 yards in length. He noted there will not be any additional traffic as a result of the lot split and requested that the requirement to bring 139th Avenue to county specs be waived. Commissioner Busskohl stated that 139th Avenue is located on a section line and therefore, the rules must be adhered to. It was also noted that 139th would not be maintained by Custer County. Commissioner Hartman inquired if an entrance to the property could be made directly from Box Canyon as a possible option and recommended visiting with the Highway Superintendent regarding a new approach.

N. Custer County Fair Board

1. Request was made to discuss the proposed CCFA Lease, but Commissioner Hindle thought it best to table the matter until Legal Counsel Anderson could further research the lease, noting the proposed lease closely follows the current lease. Motion to table made by Hindle; seconded by Busskohl; vote taken, all aye; motion carried.

O. Old Business--none

P. Public Comment

1. Rob McWhorter, together with Tom Patterson, addressed the Commission to voice their concerns regarding the proposed F3 Gold, LLC exploratory drilling. They presented the Commission with a Resolution in Opposition to F3 Proposed Drilling Project West of Custer for their overview and consideration. He said this Resolution has an April 10, 2023 due date in which it needs to be signed and filed with the USFS. It was decided to add this to the April 5, 2023 Commission Meeting Agenda for further discussion and possible action. McWhorter stated he would like for the USFS to reach out to the entire community and listen to recommendations of residents. He is asking for support for full disclosure by USFS and F3 Gold, LLC. Patterson stated F3 Gold has thousands of acres of mining claims in the Black Hills and feels residents need to stand up to them show the need for them to relocate their mining interests. Patterson objects to exploratory gold mining in the Black Hills and stated it does not fit in this location as it will be disruptive to tourism, which is vital to the area. He noted that Resolutions are needed from nine communities in the Black Hills in order to have a moratorium, making it a statewide issue; with starting points being County Commissions and City Councils. Commissioner Busskohl stated the public could have staked their own mining claims to stop the process and noted that he is against the Resolution; that the Black Hills was founded on mining. Patterson stated we can fight the federal law and we can make a difference if we all work together.

2. Michael Baldwin addressed the Commission regarding the USFS Plan Revision and noted he is awaiting final assessments. Baldwin stated there is a meeting scheduled for today (3-22-23) in Rapid City in the Commission Chambers. He noted that SB21 was passed and signed by the Governor. Baldwin also shared that Jeff Tomac has been placed on an out-of-state project.

3. Dan Holsworth, Town of Hermosa, stated the local DOE Boards were successful in Hermosa and greatly appreciated all of the hard work by the Department of Equalization. He noted the WRT system is on track and awaiting DANR approval whereupon bids will be accepted for construction; same for the lagoon expansion project.

4. Jim Sword, Attorney at Law, was present to address concerns regarding the Custer County States Attorney. Sword stated that his daughter has been wrongly accused of being the informant of an alleged underage drinking party that took place at the States Attorney's home while she was away, and as a result, his daughter has been targeted for retaliation at school. Sword also stated that his daughter was not present at the party. Sword stated that when he spoke to local law enforcement regarding the incident at the States Attorney's home, they had no knowledge of the event until the day previous to this Commission Meeting and that no charges had been filed at this time. Sword requested the Commission to have independent counsel conduct an investigation into the matter. Sword also stated that the school is aware of the incident. Sword thanked the Commission for their time.

Q. Town of Hermosa

1. Dan Holsworth appeared before the Commission to further discuss Parcel 015656; Permit No. 2022-09 194 Fairgrounds Place, Hermosa, SD; Pamela Somervold. Holsworth stated that Somervold was in attendance at previous Hermosa meetings and that she did, in fact, inquire about tree removal on her property, as well as other concerns, which Somervold disputes. Holsworth further researched the extra-territorial agreement and feels that the Town of Hermosa was abiding by its terms in asking Somervold to relocate her home from encroaching on the existing sewer easement by 8.4". He also is still requesting Commission's support in requiring Somervold to reimburse survey costs to the town. Holsworth said he felt the Town of Hermosa was trying to work with Somervold to resolve any issues and that they are still willing to work with her to make the situation as easy and comfortable as possible.

Commissioner Hartman stated that this property is located in the extra-territorial jurisdiction and, therefore, falls under Custer County Planning & Zoning rules and not those of the Town of Hermosa. Hartman stated that Hermosa should not be issuing any building permits for the property. Chairman Lintz reiterated that the County issued building permits and stop-work orders; not the Town of Hermosa in this case. Custer County has no setback requirements for sewer easements, so in this case, no variance needs to be issued and Ms. Somervold's home does not need to be moved. Commissioner Hartman asked why any of this has been an issue as the survey shows the previous home was sitting halfway into the sewer easement for the past twenty years with no problem. Commissioner Hindle agreed that the Somervold home will not be required to move. Pamela Somervold publically thanked the Commission for their research and help in this matter. She also wanted her request for the Town of Hermosa to turn her water on to be reflected in the record.

R. Commission

1. Legal Counsel, Susan Anderson, presented draft of Request for Proposal for Commission Legal Services and noted the dates on the proposal will need editing. Anderson stated the request will be published locally, as well as in the SD Bar Association Newsletter. The sealed proposals will be received at the Auditor's office by April 24th and bid opening will take place on April 26, 2023 at the Commission Meeting. Motion to approve Request for Proposal and advertise made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

2. Mail call –

a) Certified letter from Southern Hills Law re: challenge/appeal of real estate value for J. Boyles. A certified copy of same was received in the Department of Equalization office. Duly noted by Commission.

b) Thank you card from family of Gary Woodford.

3. Meeting Schedule –

a) April 11, 2023 Board of Appeals/DOE; it was noted approximately 200 appeals have been received thus far. DOE stated City of Custer local appeals went very well.

b) Fair Board meeting to be held April 11, 2023

c) School tax funding meeting to be held March 24 at the business office at 8:00 AM.

4. Meeting Reports –

a) Commissioner Busskohl attended City Housing & Western Dakota Tech meetings. Travis Hartshorn noted that the Custer School District is looking at trades training for students as an option in the future. Chairman Lintz discussed the current student-funding formula and noted that larger counties and the Black Hills area receive little to no funding.

S. Executive Session

Legal Counsel, Susan Anderson, requested Executive Session as per SDCL 1-25-2(1) personnel at 9:50 AM. Executive Session concluded at 11:06 AM. No action was taken out of executive session.

T. Adjourn

Motion by Hartman and seconded by Linde to adjourn the meeting at 11:07 AM. The next meeting will be at 8:00 AM, April 5, 2023 in the Commissioner's Room in the Custer County Courthouse.


Jim Lintz, Chairman



Attest: Barbara Cox

Barbara Cox, Custer County Deputy Auditor

Published once at the total approximate cost of _____.