

**Minutes of the Custer County Commission Meeting, Thursday, April 6, 2023.**

**Members present:**

Commissioners Jim Lintz, Mark Hartman, Mike Linde, Craig Hindle, Michael Buszkohl and Dawn McLaughlin, Finance Officer. Commission Legal Counsel, Susan Anderson, was not present.

**A. Commission Meeting was called to order at 1:00 PM followed by the Pledge of Allegiance.**

**B. Adopting of the agenda**

1. Amend Agenda as follows:

- a) Add "Propane Tanks" under Item "G" Equalization.
- b) Add "Building Permits and Storage Containers" to be inserted after Public Comment--"Planning"
- c) Add item to "Commission—Mail Call".
- d) Move "Resolution 2023-07" from "Commission" for discussion after Item "D" Conflict of Interest.

Motion to approve Agenda with above changes made by Hartman; seconded by Buszkohl; vote taken, all aye; motion carried.

**C. Consent Agenda**

Vouchers approved as follows:

**COMMISSIONERS:** Southern Hills Publishing \$580.82; Clubhouse Hotel \$444.64; Catastrophic Legal Expense \$816.00

**CONTINGENCY:** Monica McGowan \$211.25; Lea Anne McWhorter \$412.20

**COURT:** Garland Goff \$1,353.82; Angela Colbath \$1,193.07

**AUDITOR:** Southern Hills Publishing \$86.10; Elk Mountain Custom Creations \$79.42

**TREASURER:** Southern Hills Publishing \$18.20; Quill \$21.58; Elk Mountain Custom Creations \$136.90

**STATE'S ATTORNEY:** Southern Hills Publishing \$27.46; LexisNexis \$370.00

**MAINTENANCE:** Black Hills Energy \$1,763.20; Custer City \$188.96; McGas Propane \$898.57; Black Hills Chemical \$321.65; Harvey's Lock Shop \$100.40; North Central Supply \$360.00; Custer Ace Hardware \$99.94

**DIRECTOR OF EQUALIZATION:** Southern Hills Publishing \$105.68

**REGISTER OF DEEDS:** Elk Mountain Custom Creations \$41.80

**IST:** ESRI, Inc. \$6,860.00

**INFO TECHNOLOGY:** Golden West Technologies \$11,055.57

**HUMAN RESOURCES:** DIV. of Criminal Investment \$43.25

**SHERIFF:** Southern Hills Publishing \$66.40; Sherry Weber \$15.00; Steele Collision & Glass \$4,317.20; Justice Fire & Safety \$505.00

**PRISONER CARE:** Mary Seifert \$100.00

**AIRPORT:** Brenden Hendrickson \$4,110.00; Southern Hills Publishing \$11.95

**MENTAL HEALTH CENTER:** New Trails Ministry \$600.00

**LIBRARY:** Mt. Rushmore Telephone \$134.06

**EXTENSION:** Fall River County \$1,069.18

**WEED & PEST:** Southern Hills Publishing \$44.60; French Creek Supply \$38.00

**PLANNING:** Southern Hills Publishing \$27.32

**COUNTY ROAD & BRIDGE:** A&B Welding \$10.92; Black Hills Energy \$108.90; Southern Hills Publishing \$84.50; Harvey's Lock Shop \$87.67; SD Dept. of Transportation \$471.45; Snap on Tools \$42.00; Culligan Water \$19.50; Nelson's Oil & Gas \$971.85; MG Oil Company \$8,484.00

**EMERGENCY MANAGEMENT:** Rushmore Communications \$1,772.11; Midwest Card and ID Solutions \$750.00; Black Hills Council of Local Governments \$12,000.00

**SOBRIETY:** Pharmchem Inc. \$648.67

**COUNTY BUILDINGS:** Harvey's Lock Shop \$25.39; Custer Ace Hardware \$9.59; TY Construction \$1,026.94

**EMERGENCY LINE:** Southern Hills Publishing \$66.60; Innovative Office Solutions \$113.90

**NON-DEPARTMENTAL:** SD Department of Revenue \$150.00

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

**D. Conflict of Interest Declarations – None**

**E. Resolution 2023-07 RESOLUTION EXPRESSING CUSTER COUNTY'S CONCERNS REGARDING MINING EXPLORATION AND LARGE-SCALE MINING OPERATIONS IN CUSTER COUNTY**

1. Rob McWhorter appeared before the Commission and thanked them for their support and stated he is in favor of the resolution as written. He would like to see a full

environmental impact study from both F3 Gold, LLC and the USFS. Tom Patterson thanked the Commission for this proposed resolution and stated this will be a benefit to Custer County. June Johnston addressed the Commission and spoke in favor of F3 Gold's exploration. She stated the economic benefits would be favorable for Custer County. Johnston did not think mining would adversely affect tourism in the area, but did state that she did not think proposed mining would come to fruition. Dale Christensen expressed his support for the Resolution, stating concerns regarding water quality, tourism, and personal use of the National Forest being adversely affected. Mary Burns spoke in favor of the Resolution, as well. Chairman Lintz stated this Resolution will bring awareness to F3 Gold, LLC that they will need to meet environmental regulations. Lintz stated this Resolution does not favor "yes" or "no" to exploration, but holds F3 Gold, LLC accountable to the citizens of Custer County. Commissioner Hartman agrees with Johnston in that mining probably will not take place and noted he supports the Resolution. Commissioners Buszkohl, Linde and Hindle stated they are in favor of Resolution 2023-07 as written. Motion to support Resolution 2023-07 made by Hartman; seconded by Buszkohl; vote taken, all aye; motion carried.



**CUSTER COUNTY**

420 N. Riverside Rd.  
Custer, SD, 57730  
Phone: 605-673-8173

Resolution 2023-07

**RESOLUTION EXPRESSING CUSTER COUNTY'S CONCERNS  
REGARDING MINING EXPLORATION AND LARGE-SCALE MINING OPERATIONS  
IN CUSTER COUNTY**

WHEREAS, Custer County (the "County") is a legal and political subdivision of the State of South Dakota for which the Board of County Commissioners ("Board") is authorized to act; and

WHEREAS, the land in the County, approximately 994,568 total acres, is under the ownership and/or control of federal, state, local and private parties; and

WHEREAS, the United States and State of South Dakota governments own and/or manage approximately 48% of the land within the County; and

WHEREAS, because of the predominance of federal land in the County, the well-being, health, safety, welfare, economic condition, and culture of the County, its businesses, and its citizens depend on the manner in which these lands and their resources are used and access to these lands; and

WHEREAS, mining exploration activities and large-scale mining operations pose potential significant impacts to Custer County which include, but are not limited to:

- Ground water, watershed, and domestic and public water system quality and quantity;
- Increased traffic on and wear-and-tear to county roads, bridges, and highways;
- Loss of recreational use of the Black Hills National Forest (BHNF) which have significant local citizen enjoyment and tourism impacts;
- Impacts to wildlife habitat and hunting and fishing in Custer County;
- Impacts to the ranching industry by eliminating areas for continued grazing leases on the BHNF;
- Increased noise, dust, and air quality impacts;

- Potential risk of fires;
- Decreased valuations to citizens' property values near such operations; and
- Overall general health and welfare concerns for our citizens and visitors.

WHEREAS, the County is steadfast in its obligation for requiring open government and complete transparency for all governmental entities; thus, earnestly seeking the requirement of full disclosure of all studies (environmental, economic, and otherwise) and the financial viability and responsibility of parties conducting mining exploration activities and large-scale mining operations;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County, South Dakota, as follows:

BE IT RESOLVED, due to the potential risks and impacts from mining exploration activities and large-scale mining operations that may impact the land, water supply, and local economy in Custer County, Custer County insists that the USFS and BLM take the proper measures of requiring environmental baseline studies of water quality and quantity, among other environmental assessments and environmental impact studies, before allowing exploratory drilling activities to commence in Custer County.

BE IT FURTHER RESOLVED, the Board supports the continued management of the public lands and the national forests under principles of multiple use and sustained yield, recognizing the Nation's need for domestic sources of minerals, energy, timber, food, and fiber; however, such uses and management must be tempered to minimize impacts to our County's citizens, environment, and economy.

BE IT FURTHER RESOLVED, the Board urges the USFS and BLM to require the following prior to allowing any mining exploratory operations to commence: analysis and disclosure of the impacts of mining exploration and large-scale mining on the well-being, health, safety, welfare, economy, and culture of Custer County, its businesses, and its citizens, as well as including public notice and an opportunity for the public to comment.

AND, BE IT FURTHER RESOLVED, the Board shall submit a copy of this Resolution to the relevant Federal and State agencies and elected officials involved in mining exploration and large-scale mining operations regulation affecting Custer County.

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

PASSED AND APPROVED ON this 5th day of April, 2023 at Custer, South Dakota.




Page 2 of 3



Jim Lintz, Chairman  
Custer County Commission

ATTEST:

  
Barbara Cox, Deputy Auditor

First Reading: April 5, 2023  
 Adopted: April 5, 2023 (Number of Votes for: \_\_\_; Number of Votes against: \_\_\_)  
 Publication: 4-12-2023, 2023  
 Effective Date: \_\_\_\_\_, 2023

**F. Highway**

1. Highway Superintendent, Jesse Doyle presented the following ROW Occupancies requests and recommended Commission approval:
  - a) Golden West Telecommunications for telecommunications facility at W Dewey Rd/Hwy 769 Section 18 Twp 6S R1E, Custer County SD. Motion to approve made by Linde; seconded by Hindle; vote taken, all aye; motion carried.

- b) Golden West Telecommunications for telecommunications facility at Argyle Rd/Co Hwy 333 Section 19 Twp 6S R5E, Custer County SD. Motion to approve made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.
- c) Mt. Rushmore Telephone Company for fiber optic cable/facilities NW of Hermosa area project, Custer County, SD. Motion to approve made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.
- d) Mt. Rushmore Telephone Company for fiber optic cable/facilities Walter St. area project, Custer County, SD. Motion to approve made by Hindle; seconded by Hartman; vote taken, all aye; motion carried.
- e) Mt. Rushmore Telephone Company for fiber optic cable/facilities Corner Pantry area project, Custer County, SD. Motion to approve made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.
- f) Mt. Rushmore Telephone Company for fiber optic cable/facilities North Highway 79 area project, Custer County, SD. Motion to approve made by Linde; seconded by Hindle; vote taken, all aye; motion carried.
- g) Mt. Rushmore Telephone Company for fiber optic cable/facilities North of Hermosa project, Custer County, SD. Motion to approve made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.

2. Doyle requested authorization to proceed with 2023 Base Stabilization Project. He noted the project encompasses 3.7 miles of roadway in the Limestone area and utilizes the same process previously used. Doyle stated he would like to piggyback the project using Harding County's bid, totaling approximately \$105,200.00. Doyle noted the method is more cost effective than gravel and that magnesium chloride will be applied to the base stabilization, as well. The funds necessary for the project are currently in the 2023 budget. Motion to approve project made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

3. Doyle requested authorization for Chairman Lintz to sign USFS Road Project Agreement re: Cattle Guard Cleaning, Repair & Replacement. He stated this project is located near the Pleasant Valley/20-Mile Road intersection. Motion to approve Chairman's signature made by Linde; seconded by Busskohl; vote taken, all aye; motion carried.

4. Superintendent Doyle discussed the push by the government to promote the use of electric vehicles. Doyle noted this will result in a substantial loss of fuel-tax revenue and research shows that electric vehicles create more road wear than other vehicles. Doyle shared that the 4-4/4-5 snowstorm resulted in County Road and Bridge employees removing two million cubic yards of snow in just two days. Tuesday evening's decision to pull his crew was made due to increasing winds, as predicted by the National Weather Service. Doyle commended his crew on a tremendous job in clearing the Custer County road system and expressed that he is very proud of his employees. Chairman Lintz stated the Custer County Highway Department did a great job. As the snow melts, Doyle stated roads will become soft and potholes may appear. He stated there have been weight limit concerns brought up over the past couple of weeks and reminded the Commission these procedures have been in force for many years. He noted that the SD DOT will be assessing the County weight system in 2024

and any infractions pled down will not be tolerated; SD DOT will be checking each county's issued tickets for enforcement. He also noted that Haul Road Agreements have been implemented in Custer County for many years and shared an agreement from 1974 and noted that it is the County's duty to protect its roadways. Chairman Lintz inquired if there would be a Haul Road Agreement in place for the upcoming detour re: Highway 36. Doyle stated there would be one in place, as requested by SD DOT Rich Zacher; snow removal, maintenance, etc. will be provided by SD DOT. Doyle stated his department has had a job opening posted for two months and has received only one application thus far. He noted that Custer County's wage is in the top 5 for the State of SD and that the current housing situation is problematic, as is new regulations for CDL training. The question of workforce housing was brought up as a possibility. LeaAnne McWhorter shared the Custer Youth Alumni Foundation awards two scholarships each year for students entering the trades. She noted the \$1,000 amount could be used toward CDL training.

### **G. Sheriff**

1. Sheriff Marty Mechaley appeared before the Commission to request approval to purchase two 2022 Dodge Charger AWD vehicles from Billion Auto Group. The vehicles requested are at a purchase price of \$37,500.00 each and Mechaley stated there are \$150K in unallocated funds in his budget to cover the cost. He also noted that he ordered three Chevrolet Tahoes last year, but the orders have yet to be fulfilled. He was told that GM will allocate vehicles in 2024 and limit those can order from GM. Mechaley made a request to make payment for the Tahoes when they arrive. Motion to approve purchase of two 2022 Dodge Charger AWD vehicles made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

2. Mechaley requested acknowledgement of resignation of Nicole Parker, full-time civil deputy and administrative assistant, effective April 7, 2023. He also requested permission to reclassify Parker to a part-time/non-benefitted as-needed position at a rate of \$22.67/hour. Permission to advertise for full-time civil deputy/administrative position at a rate of \$21.08/hour requested, as well. The Commission acknowledged Parker's resignation. Motion to approve requests made by Busskohl; seconded by Hindle; vote taken, all aye; motion carried.

3. Sheriff Mechaley requested permission to reclassify Jessica Brown from 24/7 tech to civil deputy/administrative assistant to permanent part-time at a base rate of \$21.08/hour. Motion to approve made by Hindle; seconded by Linde; vote taken, all aye; motion carried.

4. Mechaley updated the Commission on new hire, Daniel Walton, as full-time deputy sheriff at an hourly rate of \$26.27. It was noted that Mr. Walton is certified and has previous law enforcement experience in South Dakota. Commissioner Hartman said he participated in the interview process and that Mr. Walton's interview went very well. Mechaley stated he will be advertising in the near future for a dispatch position due to an upcoming retirement. Motion to approve hire of Daniel Walton made by Hartman; seconded by Linde; vote taken, all aye; motion carried.

### **H. Equalization**

1. Director of Equalization, Leah Vissia, made a request for approval of the following abatements:

a) Carl Cundy # 14997 in the amount of \$4.60 due to a mobile home being assessed twice. Motion to approve made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

b) Echo Valley Ranch parcels #6065 in the amount of \$3,117.16; #6067 in the amount of \$3,034.05; #6068 in the amount of \$1,870.31; #6069 in the amount of \$2,850.25; #6102 in the amount of \$2,231.44; #6104 in the amount of \$2,595.94; #1659 in the amount of \$7,205.75. Vissia stated that the abatement requests are as a result of the owner of Echo Valley Ranch passing away and ag status had not been currently applied for. Vissia noted the parcels have previously held ag status for the past 40 years. Motion to approve abatement for all 7 Echo Valley parcels in the amount of \$22,904.90 made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

c) Russell and Catherine Dahl #12002 in the amount of \$720.08. Mrs. Dahl appeared before the Commission and stated the property was purchased 7 years prior and that they had built a garage, which was also their living quarters for approximately one year while the house was being built. Vissia stated that an Owner-Occupied form was completed and turned into the DOE office in 2021 and was told the garage was half garage and half living quarters, so it was accordingly assessed as a house with garage. Vissia stated her office had not been told differently. Once the Dahls had moved into the new residence, the Owner-Occupied status was applied to that structure and removed from the garage. Vissia stated that Owner-Occupied status could only be applied to the residence and not the garage. Mrs. Dahl stated the garage was listed as a 3-bedroom, 2-bath structure on the assessment; she contacted the DOE and told them the listing was incorrect; that it is a garage. The new house is a 3-bedroom, 2-bath home. Subsequently, an appraiser went to the residence to confirm and stated the assessment would be changed to reflect the correct description. DOE states that they were not informed that the garage had been changed back to a "garage only". Vissia said the building is now correctly being assessed as a garage. Mrs. Dahl stated she believes there was a clerical error and that the abatement should be granted. The abatement amount the Dahls are seeking should have been appealed in 2022 and, therefore, missed the deadline as set in place by the SD Secretary of State. Commissioner Busskohl stated this would set a precedent if the abatement were granted. Chairman Lintz inquired the number of abatements that have been approved if a taxpayer misses the deadline and the answer was "none". Motion to deny abatement made by Busskohl; seconded by Hindle; vote taken, all aye; motion carried.

2. Director Vissia addressed questions regarding assessment of propane tanks in Custer County. She stated that no homeowner or small tanks are being assessed, only those larger tanks that have commercial applications; such as large underground tanks and those that are equipped with valves that allow refilling of smaller tanks for resale. Commissioner Hindle asked about a tank that is located on the former Star Academy property that is in question and declared a conflict of interest at that point. Commissioner Hartman clarified that no residential tanks are being assessed and doesn't feel the county can legally assess such tanks; only those

commercial tanks equipped with the ability to refill additional tanks. Vissia stated she will address the issue and determine correct verbiage for clarification. It was decided that Todd Fish will draft the policy for the Commission's approval. Motion to table until the April 26, 2023 Custer County Commission meeting made by Busskohl; seconded by Linde; vote taken, Linde; Busskohl and Hartman aye; Hindle abstained due to conflict; motion carried.

### **I. Library**

1. Library Director, Jessica Phelps, presented the Commission with the Library's Annual Report. Phelps shared that a large portion of library materials are aging and in need of updating. She presented a few examples of outdated items and stated she is in the process of removing obsolete materials from inventory. She stated that in 2021 the library had 37,000 items in inventory and in 2022 it has been pared down to 28,000 items. Phelps requested the Commission keep the library in mind for funding of replacement items. She also discussed the housing issue for the Custer area and noted it has an adverse effect on potential library staff.

2. Phelps noted that Sarah Christiansen has completed her six-month probation period and asked Commission acknowledgement. She stated that Sarah is a great asset to the library staff.

### **J. Weed & Pest**

1. Michael Baldwin presented Participating Agreement Supplemental Project Agreement between Custer County and USDA, Forest Service Region 2, Black Hills National Forest, Hell Canyon Ranger District for Commission approval and authorization for Chairman Lintz' signature. Baldwin explained this agreement will enable Custer County to receive \$7K to treat noxious weeds on private properties adjoining USFS lands. Baldwin noted this is a supplement to the previously approved Master Agreement. Motion to approve Agreement and authorize Chairman's signature made by Linde; seconded by Busskohl; vote taken, all aye; motion carried. Chairman Lintz inquired about the amount the USFS spends on weed control; Baldwin stated he would research the matter.

### **K. Elk Mountain Water Users Association**

1. Request was received for release of previously approved funds in support of the Elk Mountain Water Users Association in the amount of \$250,000.00. The requested amount was assigned funding at the November 22, 2022 special Custer County Commission meeting. Motion to release funds made by Hartman; seconded by Hindle; vote taken, all aye; motion carried. A tentative drilling date of May 31, 2023 has been set.

### **L. Auditor**

1. Dawn McLaughlin presented Combined Election Agreements between the Town of Hermosa and Custer County, as well as City of Custer and Custer County for election to be held June 6, 2023 and requested approval and Chairman's signature. Motion to accept both agreements and approve Chairman's signature made by Busskohl; seconded by Hartman; vote taken, all aye; motion carried.

2. McLaughlin also request Commission approval to reschedule the June 7, 2023 Custer County Commission meeting to a later date due to the June 6, 2023 Special Election. Motion to change meeting to a later date made by Hindle; seconded by Linde; vote taken, all aye; motion carried.



### **M. Airport**

1. Commissioner Hindle presented Agreement of Intent for a Direct Sale Between US Department of Agriculture Forest Service and Custer County and requested authorization for Chairman's signature. Hindle stated this Agreement has been updated with the new acting superintendent's signature, as well. Motion to approve and authorize Chairman's signature made by Linde; seconded by Hindle; vote taken, all aye; motion carried.

### **N. Public Comment – None**

### **O. Building Permits re: Storage Containers**

1. Discussion was held regarding the requirement to obtain building permits and tax assessments for shipping/storage containers over 160 square feet in size. The question of increasing the size of unpermitted storage containers from 160 sq feet to 320 sq feet was raised and deemed reasonable. Planning Director Kester stated for clarification purposes, language should be changed from shipping or storage containers, carports, sheds, etc. to strictly the total of square footage for all outbuildings. Commissioner Hartman stated that as long as the container, or any outbuilding, shed, carport, etc. remained unimproved and remained 320 square feet or less, that no permit should be required, nor should the structure be assessed for taxation purposes. Kester stated she is in the process of drafting a questionnaire, solely for recordkeeping, for such structures. Kester noted the ordinance is being updated to reflect changes and will be brought to the Planning Commission for review. Motion to approve amending both the Ordinance and rewriting the Resolution to reflect the change from 160 square feet to 320 square feet made by Busskohl; seconded by Hartman; vote taken, all aye; motion carried. The proposed change will take effect in 2024.

### **P. Commission**

1. Dawn McLaughlin presented the following correspondence to the Commission:
  - a) Letter from Russell & Catherine Dahl re: property tax assessment.
  - b) Letter from Glen Erin Cabin North, LLC re: property tax assessment.
  - c) Letter from DANR re: Abandoned Underground Tank Removal Program.
  - d) Thank you letter from Custer YMCA.
2. Meeting schedule
  - a) DOE Appeals will be held April 11, 24, 27 and 28<sup>th</sup> (if needed) in the Custer County Commission Room beginning at 8:00 AM each day.
  - b) District meeting will be held May 12, 2023 at Fall River County.
  - c) Fair Board meeting April 11, 2023 at the Custer County Fairgrounds.
3. Meeting reports
  - a) School Tax meeting went well and was very informative.
  - b) Custer City Council and YMCA meetings upcoming.

### **Q. Executive Session**

1. Motion to enter into Executive Session as per SDCL 1-25-21(1) personnel at 2:59 PM by Hindle; seconded by Busskohl, vote taken, all aye; motion carried. Executive Session concluded at 3:36 PM with no action taken.

### **R. Adjourn**

Motion by Busskohl and seconded by Linde to adjourn the meeting at 3:37 PM. The next

meeting will be at 8:00 AM, April 26, 2023 in the Commissioner's Room in the Custer County Courthouse.

\_\_\_\_\_  
Jim Lintz, Chairman

Attest: \_\_\_\_\_

Barbara Cox, Custer County Deputy Auditor

Published once at the total approximate cost of \_\_\_\_\_.