

Minutes of the Custer County Commission Meeting, Wednesday, June 21, 2023.

Members present:

Commissioners Jim Lintz, Mark Hartman, Mike Linde, Craig Hindle, Michael Buskohl and Commission Legal Counsel Aaron Davis and Dawn McLaughlin, Finance Officer.

A. LEPC Meeting was called to order at 7:45 AM and concluded at 7:55 AM.

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

C. Adopting of the agenda

1. Amend under item "D"—travel requests to add Ron Remley/Equalization; amend item "I" to read "Custer County Housing" rather than "Veteran's Service"; amend to add "Executive Session" before "H" Old Business. Motion to approve Agenda as amended made by Linde; seconded by Hartman; vote taken, all aye; motion carried.

D. Consent Agenda

1. Request approval for the following travel expenses:
 - a. Equalization- Tara Haswell, Leah Vissia, Lindsey Luckett, Lily Puente and Scott Storms to attend a Forestry Workshop in Rapid City on June 23, 2023. The only cost will be for gasoline.
 - b. Equalization- Leah Vissia, Ron Remley, and Lily Puente to attend Vanguard User Meeting in Chamberlain August 2-3, 2023 at a cost of \$1,182.54 plus gasoline
 - c. Equalization- Tara Haswell, Leah Vissia, Linsey Luckett, Ron Remley and Lily Puente to attend School in Rapid City September 18-22, 2023 in the amount of \$6,200 plus gasoline
 - d. Equalization- Scott Storms to attend School in Pierre October 2-6, 2023 in the amount of \$1,000 plus gasoline
 - e. Equalization- Scott Storms to attend CAA Test in Rapid City June 21, 2023 at no cost to the County
 - f. Weed & Pest- Mike Baldwin to attend SDACDE Leadership Training Conference in Oacoma June 27-29, 2023 in the amount of \$398 plus gasoline.

Vouchers approved as follows:

PAYROLL: 6-10-2023 Payroll: Commissioners \$5,239.56; Election \$108.78; Auditor \$10,909.04; Treasurer \$12,282.38; Info Systems & Technology \$3,159.03; State's Attorney \$13,838.61; Courthouse Building \$7,669.38; Director of Equalization \$17,881.64; Register of Deeds \$5,149; Veteran's Service \$1,597.58; Human Resources

\$3,006.39; Sheriff \$47,395.17; Coroner \$803.40; Nurse \$907.74; Library \$9,901.11; Conservation \$712.91; Weed & Pest \$3,708.22; Planning \$6,977.03; County Road & Bridge \$42,608.49; Emergency Management \$2,893.37; 24/7 Sobriety \$1,937.03; Emergency Line F \$17,768.21. **6-25-2023 Payroll:** Commissioners \$6,838.90; Election \$123.28; Auditor \$11,207.15; Treasurer \$12,269.69; Info Systems & Technology \$3,159.03; State's Attorney \$13,962.07; Courthouse Building \$7,644.53; Director of Equalization \$17,349.48; Register of Deeds \$5,149.02; Veteran's Service \$1,597.60; Human Resources \$3,015.14; Sheriff \$46,889.08; Coroner \$803.39; Nurse \$1,125.13; Library \$10,256.53; Conservation \$712.90; Weed & Pest \$3,708.21; Planning \$7,285.13; County Road & Bridge \$42,094.20; Emergency Management \$2,611.55; 24/7 Sobriety \$2,614.61; Emergency Line F \$16,036.39.

COMMISSIONERS: Tribute \$95.93; Lynns \$29.00; Loves \$27.56; CoffeCup \$26.56; Verizon \$88.60; Verizon Fleet \$32.38; Pitney Bowes \$2015.00; Catastrophic Legal Expense \$816.00; CAN Surety \$525.00; ASBSD \$775.00

ELECTION: Southern Hills Publishing \$26.17; Election Workers \$7,315.90; Quill \$39.48

COURT: Justin L. O'Neill \$1,216.98; Angela M Colbath \$1,826.57; Southern Hills Law \$343.90

AUDITOR: Lynns \$14.50; Loves \$13.78; CoffeCup \$13.28; Amazon \$392.36; A&B Business \$610.79; Adobe \$255.47

TREASURER: Amazon \$134.86; A&B Business \$367.32

STATE'S ATTORNEY: A&B Business \$175.65; Family Dollar \$10.65

MAINTENANCE: Verizon \$41.80; A&B Pure Water \$75.39; Verizon Fleet \$32.38; Amazon \$608.04; Sam's Club \$661.41; Menards Credit \$65.44; 1000 Bulbs \$166.90; Lowes \$331.98; Black Hills Electric \$476.56; Black Hills Chemical \$512.94; Sander Sanitation \$20.72; Custer Ace \$15.58; A-Z Shredding Inc. \$37.90

DIRECTOR OF EQUALIZATION: A&B Business \$207.42; Pizza Hut \$149.29; IAAO \$125.00; Vanguard Appraisals \$625.00

REGISTER OF DEEDS: A&B Business \$250.19; US Imaging Inc. \$12,779.10

VETERANS SERVICES: A&B Business \$144.82

HUMAN RESOURCES: Personal Concepts \$76.55; A&B Business \$155.08

INFO TECHNOLOGY: Golden West Technologies \$5,213.40

SHERIFF: Verizon \$741.38; RC Journal \$385.00; A&B Business \$215.52; LexisNexis \$86.50; Full Circle Training \$429.00; Travelodge \$640.00; SD Narcotics \$50.00; FedEx \$38.91; Trittech Software System \$32.13; Custer Ace \$74.95; A&B Pure Water \$54.98; L & A Welding \$1,390.50; Battle Mt Humane Society \$1,083.00

PRISONER CARE: City of Rapid City Finance Office \$240.00; Pennington County Jail \$17,365.00; PharmChem Inc. \$81.90; Care Campus \$452.00; South Dakota Public Heath \$355.00; Jacquelyn Nelson \$150.00

AIRPORT: Genesis Lamp Corporation \$499.43; Custer Ace \$41.99; Brenden Hendrickson \$4,516.31; Justice Fire & Safety \$736.00; Mead & Hunt Inc. \$6,336.81; Airport Lighting Company \$248.00

MENTALLY ILL: Blackburn & Stevens \$32.10; Pennington County Public \$139.00; Audra Hill consulting \$363.50

MENTAL HEALTH: New Trails Ministry \$300.00

MENTAL ILLNESS BOARD: Audra Hill Consulting \$125.63

LIBRARY: Amazon \$701.15

EXTENSION: Verizon \$40.01; A&B Business \$144.09

WEED & PEST: Verizon Fleet \$32.38; A&B Business \$155.03; Powersport \$109.21

PLANNING: Verizon Fleet \$16.19; A&B Business \$179.67

COUNTY ROAD & BRIDGE: Verizon Fleet \$372.37; A&B Business \$210.13; Walmart \$643.08; Amazon \$20.89; Dollar General \$26.63; Sam's Club \$94.45; Butler Machinery \$2,522.02; Floyd's Truck Center \$494.75; French Creek \$192.49; Mt Rushmore Telephone \$121.31; S&B Motor Parts \$1,658.09; Servall Towel & Linen \$132.81; Town of Buffalo Gap \$83.00; Snap on Tools \$86.25; Black Hills Truck & Trailer \$10,775.67; Custer Ace \$71.99; The Corner Station \$49.45; A&I Distributors \$1,489.15; Culligan Water \$13.00; Ramkota Hotel \$82.00; CenturyLink-Lumen \$37.84; Matco Tools \$381.50; SDACHS \$110.00; Great Western Tire Inc. \$117.35; CBH Cooperative \$6,338.42; Powerplan \$3,485.08

EMERGENCY MANAGEMENT: Verizon \$64.25; A&B Business \$192.07; BJ's \$35.99; Shell Oil \$60.63; PSS \$275.00

SOBRIETY: Intoximeters \$380.00; Redwood Toxicology Lab \$80.00

COUNTY BUILDINGS: Amazon \$848.86; Menard's \$404.64; Lowes \$189.16; Sherwin Williams \$67.04; Sam's Club \$896.96; Custer Ace \$8.97; Justice Fire & Safety \$673.00

EMERGENCY LINE: A&B Business \$197.22; Range Telephone Service \$26.27; Quill \$223.95; A&B Pure Water \$54.97

Motion to approve by Hindle; seconded by Buszkohl; vote taken, all aye; motion carried.

E. Conflict of Interest Declarations – None.

F. Highway

1. Right of Way Occupancy approval delegation was discussed, with Highway Superintendent Doyle stating he is not in favor of this option. Doyle said granting approval needs to stay within the Commission, however, he noted that in the case of a true emergency, he will step in and then contact the Commission as soon as possible. Commissioners Hartman, Buszkohl and Linde agreed.

2. Doyle discussed the updated Right of Way Occupancy Application and noted the current form is a "catch all" agreement. Legal Counsel, Aaron Davis, has reviewed the document and noted he has added a requirement that the applicant assume liability to bring the ROW back to status quo upon job completion, thus putting leverage to Golden West to be able to go after any subcontractors; once this is done it will give Custer County legal recourse if the damages exceed the \$5K bond amount. Motion to approve Utility ROW Occupancy and General Application made by Hindle; seconded by Buszkohl; vote taken, all aye; motion carried. It was noted this would be posted on the County Website and take effect immediately.

3. An update regarding a 33' ROW on Hazelrodt Cutoff was addressed, with Aaron Davis having researched the matter. Davis stated these issues come up from time to time and there is case law stating if a roadway is county-maintained for a 20-year period; it becomes a public roadway. Davis noted that 33' of this road would become a dedicated public roadway and if the County desires that portion to become a 66' ROW, as per SDCL, petitions would need to be executed, as well as public hearings, etc. Commissioner Linde stated the County should still proceed with the survey; Davis agreed. Doyle stated the survey is in the works, but has not yet started. Doyle stated he is not necessarily asking for the road to be widened at this point, but perhaps in the future and noted that if problematic, another option would be to change this area to a no-maintenance road.

4. Doyle requested Commission acknowledgement of agreement for mag cl with CSP for DOT access road funding. Doyle noted that since the change in leadership at CSP, he has secured a \$66,825 contribution for mag cl application on LH Road; Lame Johnny Road from Hwy 79 to CSP entrance; Lower French Creek and America Center Road. Doyle thanked Jason Gooder for a positive working relationship and noted that Gooder was the key to funding success. Doyle noted the funding is from SD DOT, through CSP. Doyle relayed that there would be additional message boards addressing

"CSP Main Entrance" information to mitigate traffic on these side roads. The Commission so acknowledged.

G. Sheriff

Sheriff Marty Mechaley discussed the Town of Hermosa Law Enforcement Contract that runs from July 2023 through July 2024. Mechaley stated that in November 2021, the Hermosa Marshal was decertified and at that point, Custer County began providing law enforcement coverage to the town. The contracted coverage fee was \$80K annually, with an additional annual fee of \$8K for dispatch services. The Town of Hermosa is currently advertising for its own law enforcement position, which Mechaley agrees with. Mechaley is not seeking to increase the contract amount and would recommend offering the same contract for an additional year. It was noted that either party would have the option to step aside with a 30-day notice. Motion to renew existing contract at same rate and terms for one year made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

H. Executive Session

Motion by Busskohl to enter into Executive Session as per SDCL 1-25-2(3) Legal; seconded by Hartman; vote taken, all aye; motion carried. Executive Session entered into at 8:22 AM and concluded at 8:43 AM with no action taken.

I. Old Business

1. Star Valley Estates nuisance re: McDill was revisited, with Mr. McDill in attendance. McDill stated that he was arrested by Custer County Sheriff's deputies upon his arrival in Custer, noting there were 4 outstanding warrants locally and stated he felt he was in enough trouble without speaking before the Commission. Chairman Lintz noted that the Commission did not put Mr. McDill in that position, but rather, McDill did that on his own. Commissioners Busskohl and Linde both asked McDill what his plan is to remedy the current situation and McDill stated his current plan was pushed aside by his arrest. McDill said he would take care of his warrants, but feels he has done nothing wrong. State's Attorney, Tracy Kelley, stated that his criminal complaints have no bearing on his ability to move the buildings that are in the right of way and noted the court can order McDill to move the buildings. The Commission stated they will allow Kelley to continue to pursue the matter. It was noted that the developer, as well as landowners, can pursue for remedy as well. McDill stated it would be helpful if the Commissioners would provide him with the address of the mover, at which point, Kevin McGowan stood up and provided his address for the record. McGowan requested McDill provide him with payment and he will move the buildings presently.

J. Custer County Housing

1. Todd Fish and Oonagh Wood appeared before the Commission to present

Resolution 2023-12 Payment In Lieu of Taxes (PILOT) for Custer County Housing and Redevelopment Commission Subsidized and Low Income Housing. Custer County Housing receives \$5K annually and loses approximately \$10K every year on its properties and cannot sell or raise rent on the Boot Hill properties. Therefore, the Housing Commission is asking for Custer County to gift \$13K (subject to change) annually back to the Housing Commission for a period of 30 years. This amount would be for the County's portion of taxes only. Additionally, this amount is only to help cover losses incurred and the figure would need to be adjusted annually. Commissioner Hindle stated 30 years is too long of a term, and Commissioner Hartman said that 5 years would be a better option. Motion to approve Resolution 2023-12 for a period of 5 years made by Linde; seconded by Hindle; vote taken, all aye; motion carried. It was noted that \$5K will be paid in 2023 and the updated amount would take effect in 2024.

Resolution 2023-12

PAYMENT IN LIEU OF TAXES (PILOT) FOR CUSTER COUNTY HOUSING AND REDEVELOPMENT COMMISSION SUBSIDIZED AND LOW INCOME HOUSING

WHEREAS: 11-7-72. Commission property exempt from taxes and special assessments--Exemption terminated on transfer to private ownership--Utility and service charges payable.

The properties of a commission are declared to be public properties used for essential public and governmental purposes, and the properties and the commission are exempt from all taxes and special assessments of the first or second class municipality, the county, the state, or any political subdivision of the state, and the exemption shall continue so long as there is outstanding:

- (1) Any bond or other obligation issued by a commission which is secured by such properties or revenues therefrom; or
- (2) Any agreement for payment of contributions by the federal government to the commission with respect to such properties.

For any property in the redevelopment project area, the tax exemption terminates if the commission sells, leases, or otherwise disposes of the property to a private individual or corporation for development or redevelopment. The low-rent public housing project properties, redevelopment project properties, and housing development project properties shall be separately categorized for exemption or nonexemption under the foregoing provisions. The commission shall in good faith proceed to discharge obligations outstanding against its properties. This section does not relieve a commission from payment of proper charges measured by the service rendered for utilities and special services such as charges for heat, water, electricity, gas, sewage disposal, or garbage removal

WHEREAS: 11-7-73. Exempt housing project to make payments in lieu of taxes--Annual statement--Percentage of rentals to be paid--Distribution of payments to governmental units.

Notwithstanding the provisions of § 11-7-72, any housing project of the commission that has become occupied, either in whole or in part, and is exempt from taxation pursuant to § 11-7-72 shall make payments in lieu of taxes. The commission shall file with the proper director of equalization, on or before May first of each year, a statement of the dwelling unit rentals of that project collected during the preceding calendar year. Unless a greater amount is permitted pursuant to federal legislation and has been agreed upon between the commission and the municipality or the county which created the commission, five percent of the revenue from the dwelling unit rentals shall be charged to the commission as payments in lieu of taxes. The payments in lieu of taxes shall be distributed to all of the appropriate governmental units in the area of operation in such proportions that each governmental unit will receive from the payments the same proportion as it would if property taxes were paid. However, no payments in lieu of taxes

shall exceed the amounts which would be payable in property taxes on the project if the project was not exempt from taxation. The term, dwelling unit rental, means the total revenue collected for rentals of residential dwelling units. The term, dwelling unit rental, does not include any revenue from other income, fees, or services that may be received by the commission. The records of each housing project shall be open to inspection by the director of equalization.

Source: SL 1950 (SS), ch 13, § 28; SDC Supp 1960, § 45.3628 (2); SL 1968, ch 186, § 11; SL 2010, ch 72, § 1.

THEREFORE BE IT RESOLVED: That Custer County Housing and Redevelopment Commission shall be annually gifted its annual Payment In Lieu Of Taxes (PILOT) for all subsidized and/or low-rent housing income properties under the control of or owned by Custer County Housing and Redevelopment Commission for a period of 5 years during an expansion of subsidized and/or low-rent housing income property or until the relinquishment of those properties to private ownership. This period covered will be for PILOT payable 2024 thru 2028.

Dated this ____ day of _____, 2023.

Custer County Commissioners

Chairman, Jim Lintz

Mark Hartman

Craig Hindle

Mike Linde

Mike Busskohl

Attest: _____

Dawn McLaughlin, County Finance Officer

K. Maintenance

1. Joseph Panza, Maintenance Supervisor, discussed options regarding air conditioning in the 4H Quonset and Fine Arts buildings at the Hermosa fairgrounds. Panza stated he has previously tried swamp coolers and that was not effective. Window Air Conditioning units are not feasible, as the electric service is inadequate and wondered if maybe floor units would work in the Fine Arts building. It was suggested that barn roof fans may provide temporary relief in the Quonset building and noted that remedy would be available through the maintenance budget. It is unknown how much longer those buildings will remain serviceable.

2. Panza requested approval to dispose/recycle an obsolete GIS printer that is currently in storage. Motion to approve recycle made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

L. Custer Fire District

1. Matt Spring and Selena Spring appeared before the Commission to present an update on the Fire District creation. Spring noted that the contract with Tim Behlings was moving at a slow pace, to the disappointment of other local fire chiefs. Spring stated he would be willing to meet with chiefs during the next few months to discuss and educate. Chairman Lintz stated he would like to hear from Behlings, but may need to replace him and move forward. Spring recommended changing the name of the fire district from "Custer" to something more neutral. The question of whether a petition with the required number of signatures is needed to add the fire district formation question to the ballot in 2024 or if the Commission could bypass a petition and add this to the ballot was brought up. Commissioner Hartman stated it is time to replace Behlings and appoint Matt Spring in the interim to get the process in motion, noting that he has had very productive discussions with Spring thus far. Motion to appoint Matt Spring as interim Fire District director made by Hartman; seconded by Buskohl; vote taken, all aye; motion carried.

M. 1881 Courthouse Museum

1. Discussion of Lease Agreement between Custer's Last Stop (formerly Pizza Works) and Custer County/1881 Courthouse Museum as held and it was noted the previous lease has expired and needs renewal. The \$100 annual fee was noted and questioned as being too low. It was brought to Commission attention that a fence is being constructed between the properties and that the owner was told by both the City of Custer and Custer County to halt work on the project. The question of insurance was also raised. The Commission noted that a representative from Custer's Last Stop should be present to make request regarding the property. Motion to table until July 12, 2023 Commission meeting made by Buskohl; seconded by Hartman; vote taken, all aye; motion carried.

N. Planning

1. Planning Director, Terri Kester, appeared before the Commission to request approval of Final Plat: Tract Holland 1A and Tract 1B of Henderson Subdivision, located in the SE ¼ of Section 9, the NE ¼ of Section 16, and the NW 1/4 of Section 15, all in T4S, R4E, BHM, Custer County, SD. Kester noted there was a USFS special use permit for access to the property. Motion to approve made by Buskohl; seconded by Linde; vote taken, all aye; motion carried.

2. Kester also requested approval of Variance: to Ordinance #2, Article IV (4), Section 1, 7, C. The minimum distance between any structure and any property line other than a right of-way shall be fifteen feet (15'). Kester stated this is a 4' setback

request and there are no objections by adjacent landowners. Motion to approve made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

3. Approval of: Final Plat: Lot 9A and LOT 9B, Block 8, Custer Highlands Subdivision, local in the SE ¼ of Section 14, T4S, R1E, BHM, Custer County, SD was recommended by Kester. Motion to approve made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.

O. Public Comment –

1. Linda Kramer, Town of Hermosa, thanked the Commission for signing the Law Enforcement Contract and noted the town will continue the search for a law enforcement officer.

2. Todd Fish thanked the Commission for the work on Limestone Road.

3. Mike Baldwin, Weed & Pest Supervisor, addressed ongoing internet issues at his office, as well as at the Highway shop. Those issues have not been resolved and an updated modem may need to be purchased and installed. Jessica Phelps noted the Library has had issues, as well. Golden West and the NOC have replaced some of the components to try and mitigate the problem, but more needs to be done.

4. Jerry Styles, newly-elected member of the Hermosa Board of Trustees, stated he was looking forward to working the Custer County Commissioners.

P. Search and Rescue

1. S&R is seeking reimbursement for drone insurance (Global Aerospace) in the amount of \$507. It was noted that in 2024, this amount will be paid from the S&R budget in the Auditor's office rather than be reimbursed. Discussion to research whether or not the County's insurance covers drones was held. Motion to reimburse made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

Q. Airport

1. Brenden Hendrickson, Airport Manager, made a request for reimbursement for purchase of 6 bulbs from Interlight. He stated this was an emergency purchase and that Custer County does not have an account with Interlight, thus necessitating him to cover the cost personally. Motion to reimburse made by Hindle; seconded by Linde; vote taken, all aye; motion carried.

R. Library

1. Library Director, Jessica Phelps, requested Executive Session as per SDCL 1-25-21(1) Personnel. Executive Session entered into at 9:47 AM and concluded at 9:55 AM. Motion to supplement Library budget to include temporary part-time help as needed (20 hours) made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.

2. Phelps presented an update on the Library Director position and recommended that Sarah Myers perform interim duties. Motion to increase Myer's wage to \$25/hour while performing as interim director made by Linde; seconded by Hindle; vote taken, all aye; motion carried.

3. Phelps requested a budget supplement for the Library's Jump Start Summer Reading Program in the amount of \$1,000. Motion to approve supplement made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

S. Raffle Request

1. Raffle request was received from A Place for Meow Rescue to be held July 22, 2023. The Commission so acknowledged.

T. Commission

1. Finance Officer, Dawn McLaughlin, requested July 3, 2023 Courthouse closure, following State of SD closure guidelines. McLaughlin noted that the new ATV/UTV permit changes became effective July 1, 2023 and that the State of SD was experiencing issues relating to the new system and would be unavailable to help county offices during the holiday weekend. Based on the State of SD holiday schedule, motion to approve Custer County Courthouse and offices closing July 3, 2023 made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

2. Mail call – none

3. Meeting Schedule – Chairman Lintz may attend Black Hills Association meeting to be held July 14, 2023 in Haakon County.

4. Meeting Reports – Lintz attended Fair Board meeting; Buskohl attended S&R open house; Custer City Council meeting; Custer County Alive and Sportsmen's Bash. Fire Chiefs meeting to be held in July (possibly). Lintz, Hindle and Aaron Davis requested to attend.

U. Adjourn

Motion by Buskohl and seconded by Linde to adjourn the meeting at 10:05 AM. The next meeting will be at 8:00 AM July 12, 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 _____.