

# Minutes of the Custer County Commission Meeting Wednesday, July 26, 2023.

## Members present:

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

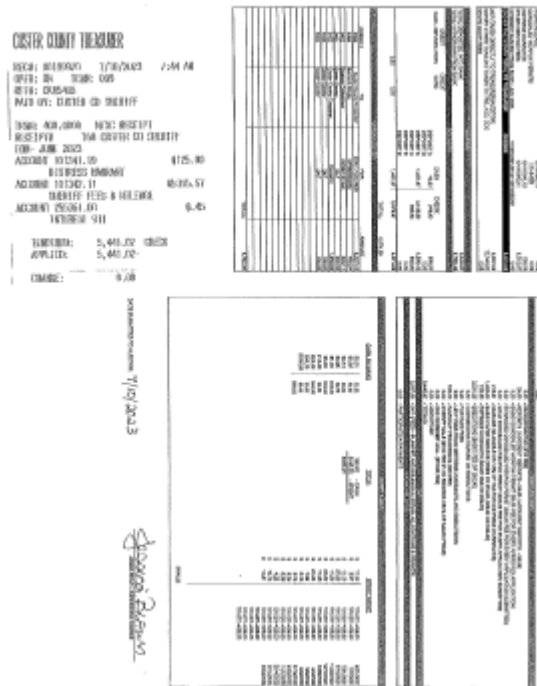
### A. Commission Meeting was called to order at 8:00 AM followed by the Pledge of Allegiance.

### B. Adopting of the agenda

1. Agenda amended to include the following:
  - a) add EMS Quarterly Report for signature and update on Flood Mitigation Plan after item "D-Conflict of Interest".
  - b) add under Item "G-Planning" #3 acknowledgment of access for Schmidt Tracts 1 and
2. Motion to approve as amended by Linde; seconded by Hartman; vote taken, all aye; motion carried.

### C. Consent Agenda

1. Approve Minutes of 7-12-2023 Commission Meeting.
2. Approve Monthly Reports



3. Vouchers approved as follows:

**PAYROLL:** July 25, 2023 payroll—Commissioners \$5,218.38; Auditor \$10,552.64; Treasurer \$12,268.48; Info Systems & Technology \$3,159.03; State's Attorney \$13,838.60; Courthouse Bldg \$7,631.14; Director of Equalization \$20,176.18; Register of Deeds \$5,149; Veterans' Service \$1,597.59; Human Resources \$3,015.17; Sheriff \$44,629.75; Coroner \$803.39; Nurse

\$1,050.12; Library \$8,997.84; Conservation \$712.91; Weed & Pest \$4,539.15; Planning \$7,248.34; County Road & Bridge \$42,32.42; Emergency Management \$2,867.13; 24/7 Sobriety \$2,271.96; Emergency Line F \$15,029.89.

Vouchers as follows:

**COMMISSIONERS:** Pitney Bowes/Purchase Power \$2,015.00; SD Public Assurance Alliance \$10,429.79; CAN Surety \$172.00; Selena Spring \$410.00

**ELECTION:** Lynn's Dakotamart \$20.63

**COURT:** Garland Goff \$881.10

**AUDITOR:** SD Public Assurance Alliance \$258.11

**TREASURER:** Quill \$293.95; SD Public Assurance Alliance \$258.11

**GIS:** SD Public Assurance Alliance \$51.62

**STATE'S ATTORNEY:** SD Public Assurance Alliance \$206.49; LexisNexis \$370.00; Culligan Water \$31.50

**COURT APPOINTED ATTORNEY:** Garland Goff \$1,128.35

**MAINTENANCE:** Black Hills Electric Co \$707.73; Black Hills Energy \$604.69; Hillyard \$604.69; SD Public Assurance Alliance \$1,152.31; Custer Ace \$24.95

**DIRECTOR OF EQUALIZATION:** Quill \$25.78; SD Public Assurance Alliance \$1,077.51

**REGISTER OF DEEDS:** Quill \$117.99; SD Public Assurance Alliance \$103.25

**VETERANS SERVICES:** SD Public Assurance Alliance \$51.62

**INFO TECHNOLOGY:** Golden West Technologies \$12,514.91

**HUMAN RESOURCES:** SD Public Assurance Alliance \$51.62

**SHERIFF:** French Creek Supply \$17.99; S&B Motor Parts \$76.94; SD Public Assurance Alliance \$20,295.69; Pheasantland Industries \$1,083.8; Custer Ace \$4.30; Innovative Office Solutions \$63.62; A&B Pure Water \$54.98; Artistic Custom Badges \$356.50; Battle Mt Humane Society \$1,083.00

**CORONER:** SD Public Assurance Alliance \$249.68; Clinical Lab of the Black Hills \$2,670.00

**PRISONER CARE:** City of Rapid City \$120.00; Pennington County Jail \$20,468.52; Correct RX Pharmacy \$96.0; Eric Swanson DDS \$196.00

**SEARCH & RESCUE:** SD Public Assurance Alliance \$5,499.38

**AIRPORT:** Custer Do it Best \$23.17; Grimms Pump Service \$626.79; SD Public Assurance Alliance \$51.62

**INDIGENT:** Chamberlain McColley's Funeral \$2,000.00

**NURSE:** SD Public Assurance Alliance \$103.25

**MENTALLY ILL:** Dean Schaefer \$30.00

**MI BOARD:** Husted Law \$115.20

**LIBRARY:** SD Public Assurance Alliance \$671.10

**EXTENSION:** SD Public Assurance Alliance \$51.62; Erin McGlumphy \$761.18

**WEED & PEST:** SD Public Assurance Alliance \$1,809.40; Kevin Armbrust \$46.90; Lance Catron \$56.65; Culligan Water \$6.50

**PLANNING:** SD Public Assurance Alliance \$907.94

**COUNTY ROAD & BRIDGE:** Black Hills Electric \$675.83; Butler Machinery \$2115.26; Floyd's Truck Center \$565.97; French Creek Supply \$635.35; Godfrey Brake \$99.15; S&B Motor Parts \$1,079.51; SD Public Assurance Alliance \$23,414.69; Servall Towel & Linen \$159.37; Town of Buffalo Gap \$63.00; Bituminous Paving \$238,383.00; Black Hills Truck & Trailer \$990.00; Custer Ace \$209.84; Pomp's Tire Service \$860.12; Croell \$3,282.60; A&I Distributors \$311.45; Culligan Water \$6.50; Centurylink-Lumen \$42.48; Matco Tools \$8.10; Nelson's Oil & Gas \$999.70; NSG Logistics \$2,627.93; Great Western Tire \$2012.65; Trail King Industries \$184.41

**FIRE PROTECTION:** SD Public Assurance Alliance \$12,286.20

**EMERGENCY MANAGEMENT:** SD Public Assurance Alliance \$1,298.74; SDEMA \$100.00

**SOBRIETY:** Intoximeters \$885.75; SD Public Assurance Alliance \$154.87; Redwood Toxicology \$180.00

**COUNTY BUILDINGS:** SD Public Assurance Alliance \$40,101.22; Custer Ace \$76.57; Apex Electrical Solutions \$716.69; Coolahan Trucking \$1,007.55

**EMERGENCY LINE:** SD Public Assurance Alliance \$412.98; Pheasantland Industries; A&B Pure Water \$54.97

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

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

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

## **E. Emergency Management**

1. EMS Director, Steve Esser, requested Chairman's and Finance Officer's signatures on LEMPG 3<sup>rd</sup> Quarter Report. This is necessary for 50% salary reimbursement. Motion to approve signatures made by Hartman; seconded by Linde; vote taken, all aye.

2. Esser stated a BLM Community Wildfire Protection Grant is pending; he met with Headwaters Economics based in Bozeman, MT. regarding assistance with flood mitigation plan on Upper French Creek, as well as in Custer City. Headwaters will be sending an MOU for review and signature, as well as updating the plan and engineering studies. Hopefully, by 2024 projects will be prioritized. Headwaters is also working with Hermosa on a study that was conducted after the 2007 flooding, and are working toward mitigation projects.

3. Esser shared concerns regarding radio issues, both digital and analog, noting that dispatch had issues with digital channels not working; he stated a temporary solution had been implemented.

## **F. Highway**

1. Highway Superintendent, Jesse Doyle, made a request for approval for ROW Occupancy by Black Hills Energy for an overhead line on Willow Creek Road Section 17 Twp 3S R5E, Custer County, SD. Motion to approve made by Busskohl; seconded by Hartman; vote taken, all aye; motion carried.

2. Doyle also presented request for approval for ROW Occupancy by Golden West Communications for buried fiber optic facility on Galaxy Trail Section 14 Twp 4S R4E, Custer County, SD. Motion to approve made by Hindle; seconded by Linde; vote taken, all aye; motion carried.

3. Doyle recommended approval for ROW Occupancy by Golden West Communications for a buried optic facility on Dakota Sur Road Section 27 Twp 4S R4E, Custer County, SD. Motion to approve made by Busskohl; seconded by Hindle; vote taken, all aye; motion carried.

4. Doyle presented Resolution 2023-14 BIG/Local Federal Bridge Programs Resolution Authorizing Submission of Applications, but noted he would like to hold off on this request. Doyle has been working with Brosz Engineering on the Buffalo Gap bridge replacement project and they feel there is one more test that can be done to boost the current BIG score; the current score is 41 and a score of 42.5 is needed to ensure bridge replacement. Doyle asked the Commission to table until later in the year and then have a goal of January 2024 for grant application completion. The first round of the grant process involves the testing, engineering, etc. of the existing bridge. The second round of the grant process encompasses the design & construction of the bridge. The actual construction and replacement of the bridge would be in the third phase of the grant process. Total amount of this phase of the project would be \$79,600; SD DOT will cover \$63,680 and local match would be \$15,920 (which is currently in the budget). Motion to table until further testing is completed; seconded by Busskohl; vote taken, all aye; motion carried.

## **G. Search & Rescue**

1. EMS Director, Steve Esser, requested Commission approval to surplus litter hauler and rescue litter to Fairburn VFD. Motion to approve made by Hindle; seconded by Busskohl; vote taken, all aye; motion carried.

## **H. Planning**

1. Planning Director, Terri Kester, presented the Commission with a request to vacate a 66' Road Easement, Black Hills Ranch Estates. Located at Lot 17, 14, 9, 10 & Lot 8 of Black Hills Estates. Deb & Roger Mattson joined the meeting via Zoom. Kester stated the Custer County Planning Commission previously denied this request due to fire safety concerns, noting that if approved, this vacation would remove one of the two current access and egress points for residents. This would adversely affect emergency services to the area. SD DOT, as well as the Argyle Fire Department have stated they are opposed to this vacation request. It was noted that only one resident is in favor of the vacation. Motion to deny request made by Hindle; seconded by Buszkohl; vote taken, all aye; motion carried.

2. Kester also presented a request of Variance: to Ordinance #2, Article IV (4), Section 1, 6. No more than two dwelling units shall be allowed on any lot, tract or parcel. (re: Sorenson). The request to build a third residence on the property was denied by the Custer County Planning Commission at the July 11, 2023 meeting and recommended that the owners replat the property to accommodate the new residence, and recommended the Commission deny the request. Motion to deny made by Linde; seconded by Buszkohl; vote taken, all aye; motion carried.

3. Kester requested Commission acknowledgment of legal access re: Schmidt Tracts 1 & 2. The Commission so acknowledged.

## **I. Executive Sessions**

1. Executive Sessions entered into at 8:16 AM and concluded at 9:03 AM.

a) Equalization—Executive Session as per SDCL 1-25-21(1) Personnel. Motion to move temporary full-time employee, Melissa Bradford, to temporary part-time made by Linde; seconded by Buszkohl; vote taken, all aye; motion carried. This change will take effect 9-1-2023 and remains an unbenefited position.

b) Human Resources—Executive Session as per SDCL 1-25-21(1) Personnel

(i) New shared position between Maintenance and Weed & Pest.

(ii) Custer Deputy Librarian position.

(iii) Hermosa Librarian hours & benefits

(iv) Employee disciplinary action

(v) Highway personnel

c) Legal update—Executive Session as per SDCL 1-25-2(3) Legal

## **J. Human Resources/Veterans Services**

1. The Custer Library Director position was discussed and the Library Board recommends the approval of interim director, Sarah Myers, as Library Director at a starting wage of \$50,000/annually. It was decided to discuss the matter with the payroll committee and readdress at the next Commission meeting. Motion to table until the August 9, 2023 Commission meeting made by Buszkohl; seconded by Linde; vote taken, all aye; motion carried.

2. HR Director, Todd Fish, appeared before the Commission and requested approval to reduce his full-time hours down to 32 hours per week at a rate of \$32/hour. These hours will be split 50/50 between Veterans Services and Human Resources. Motion to approve made by Linde; seconded by Hindle; vote taken, all aye; motion carried. This change will take effect August 6, 2023.

## **K. 1881 Courthouse Museum**

1. Commission Legal Counsel, Aaron Davis, presented the Commission with an update and noted that the proposed Lease Agreement was revised to include clarifications regarding maintenance, liability re: existing tree on the property and the legal description of property included in the lease. Davis proposed that for the remainder of 2023, Custer's Last Stop draw up an exhibit to add to the Agreement for 2024 that shows the exact portion of the property that will be leased, and in return, the cost of the survey/exhibit will be consideration for rent for the remainder of 2023. Beginning in January 2024, the terms of the Lease Agreement will include the Exhibit, and move forward from that point. Commissioner Hindle proposed a .20/sq foot rate, as is the current rate for hangar rent at the airport and is in favor of the rate staying consistent. Commissioner Busckohl countered that a business on main street would command a higher rate. It was noted that vendors during the 4<sup>th</sup> of July pay \$100 for 2 days for an 8x8 foot area. Further discussion was held regarding the rental rate; \$1000/annually was suggested for 2024, with option to adjust fee each year thereafter. Motion made by Hindle to approve .20/sq foot rate for 2024; motion dies for lack of a second. Motion by Busckohl to charge \$1,000 for 2024, with those funds to go to the Museum to help with expenses; seconded by Linde; vote taken, Hartman, Busckohl & Linde aye; Hindle nay; motion carried. A Release Agreement regarding the tree that has fallen from the Museum property onto the Custer's Last Stop property has been proposed as a first step in moving forward with the lease process. This Release will also clarify liability regarding the fallen tree. Motion to approve Release made by Hindle; seconded by Busckohl; vote taken, all aye; motion carried. It was noted that the Museum Board will replace a handrail that was damaged by the tree. Motion to approve Lease Agreement for 2023 with Exhibit made by Busckohl; seconded by Hindle; vote taken, all aye; motion carried. It is the intent of the Commission to have this Exhibit recorded at the Register of Deeds once executed.

## **L. Airport**

1. Brendan Hendrickson, Airport Manager, appeared before the Commission to discuss insurance renewal. Hendrickson noted that he received a quote from AIG that is less than that of the current carrier, QBE, however, the AIG quote did not include terrorism coverage. The question of whether or not terrorism coverage is necessary to secure various grants was brought up, and a representative from Mead & Hunt stated he would check into the matter. Commissioner Hartman stated that if terrorism coverage was needed, it could be purchased without further Commission approval. Hendrickson noted the quote from QBE was for \$6,037 with terrorism coverage and the quote from AIG was for \$5,195 without terrorism coverage. It was also stated that this amount was not in the budget and would require a supplement at the end of the year. Motion to approve the AIG coverage made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

2. A representative from Mead & Hunt addressed the Commission regarding previously discussed grant applications; the first being the AIP grant application, which is the bulk of the grant, for \$533K, to cover \$642K worth of costs. This comes with a state grant in the amount of \$32K, leaving a local share of \$32,111. This covers construction with Moss Rock Landscaping, as well as administrative fees. The Bill Grant will be discussed at the next Commission meeting. The second grant application covers Mead & Hunt's construction administrative costs as well as material testing, environmental testing as required by the FAA and close-out documents of both Grants. Of the two Grants, only one has been sent to Custer so far. It is nearing 90 days since the bid opening and he is recommending the Commissioners

approve authorization to execute the requirements for AIP Grant 3-46-001-019-2023, and all related documents. This included awarding the project to Moss Rock Landscaping. Motion to approve 1<sup>st</sup> grant made by Hindle; seconded by Linde; vote taken, all aye; motion carried. The 2<sup>nd</sup> grant will need to be brought forward to complete the funding for the project.

### **M. Custer County Housing**

1. Todd Fish presented an endorsement letter in show of support regarding current housing projects for Commission approval and signature. The area involved is the Sylvan Park Spring Subdivision Lot 4 & 5 project; 10-12 modular duplexes for 62 and older subsidized housing; 30-unit apartment building for subsidized housing. Fish stated he has completed the application with the state and is waiting on the housing study, cost estimates, DUNS number, and 501C. Fish stated he will need a letter of support from Custer County, Custer City and utilities as part of the application process. A Resolution of Support is needed as well, as the property will need to be annexed into the City of Custer boundaries. Fish stated this letter of support does not obligate the County to either of these projects. Commissioner Buszkohl stated he is not in favor of low-income rent-controlled housing in this project, as there is that type of housing already available in the area. Work force housing was discussed and noted there are 5 types. It was noted there is an income requirement for this type of housing, as well. Buszkohl stated that at the Housing Committee meetings he has attended, the idea of work-force housing was dismissed and that the planned project was solely for veterans and senior housing. Fish stated that senior housing has always been the main goal. Discussion was held regarding waiting lists for the area and these options help meet the need. Buszkohl reiterated he will support the senior and veteran housing, but not the low-income subsidized housing. He stated he sees a problem with having taxpayers who are already struggling, subsidize additional low-income housing; and that this option was not part of the original plan. Fish stated there is still a housing need for those in the 18-62 year old age bracket who have a lower income. Further discussion was held; Buszkohl recommended having Legal review, while Fish stated he did not feel this was necessary at this time. Motion to table until the August 9, 2023 Commission meeting made by Buszkohl; seconded by Linde; vote taken, all aye; motion carried.

### **N. Public Comment**

1. Joseph Bawdon, resident of Star Valley Estates, inquired as to the status of the McDill situation; noting that the houses still have not been relocated out of the roadway. Chairman Lintz stated that McDill is fighting the violations and that the matter is currently in the court system. Several residents were in attendance and it was noted that they could possibly bring a civil suit against McDill. Bawdon stated that a resident is unable to have their modular home delivered as the McDill houses are still blocking access to their lot.

2. Cindy Baumann-Bourne addressed the Commission with an ongoing problem upgrading her septic system. Bourne has been working with Custer County Planning, as well as the State of SD and multiple installers and stated she has had no guidance from Custer County, other than receiving a \$1,000 fine. Bourne said she would like to further discuss this matter at the August 9, 2023 Commission meeting and that her purpose in speaking during Public Comment was so that the Commission would be aware of the situation beforehand.

### **O. Old Business**

1. Commissioner Hindle presented an update of Scope of Work (re: Donald Zacher, Certified Appraiser, Dakota Appraisals, LLC) on Custer County Airport property/USFS property

land conveyance. Mr. Zacher quoted a \$12K fee, with \$5K down payment due upon signature of engagement letter. The remaining balance would be due within 30 days of completion of the appraisal. He noted the completion date would be 30 days after the inspection date with the USFS appraisal reviewer. It was noted this has been a very long ongoing project, and thusly, concerns were raised regarding inflation value of the property. Commissioner Hartman stated he would like to pay based on the lower value. Motion to accept appraisal terms with Dakota Appraisals, LLC and pay \$5K down and balance upon completion made by Hartman; seconded by Busckohl; vote taken, all aye; motion carried.

2. Discussion was held regarding relocation of an older skidsteer to the Custer County Fairgrounds to help with maintenance and it was decided this would a favorable option rather than using it as a trade in.

**P. Commission**

1. Mail call – Finance Officer, Dawn McLaughlin, presented the following correspondence:
  - a) Letter from Town of Hermosa in support of new construction of Hermosa County Library/Annex building. Chairman Lintz noted there has been little discussion held regarding the proposed building at this point. Commissioner Hindle stated many residents are in favor of the building.
  - b) Notice of Public Hearing of Custer Planning Commission on the Creation of the Tax Increment District Number Six. This proposed TIF District is for the following location: Rhoades Tract of Harbach Placer MS #570 Sections 19/30 T-3S R-5R, all located in the City of Custer, Custer County, SD, including within and adjacent rights-of-way. The public hearing is set for August 8, 2023 at 5:00 PM at the Custer City Hall Council Chambers.
  - c) Letter from BH Regional Multiple Use Coalition stating next meeting time and date of July 27, 2023 at 4:00 PM at the Spearfish, SD Holiday Inn.
2. Meeting Schedule – Dawn McLaughlin requested provisional/preliminary budget work session to be held Tuesday, August 15 at 8:00 AM; session to finalize budget requested to be held Tuesday, August 29 at 8:00 AM.
3. Meeting Reports – Hindle attended tax reform meeting; noting there was little discussion held regarding school funding. He also attended Library meeting. Linde attended City Council meeting; Busckohl attended County Alive, City Council, YMCA

**Q. Adjourn**

Motion by Busckohl and seconded by Hindle to adjourn the meeting at 10:27 AM; vote taken, all aye; motion carried. The next meeting will be Wednesday, August 9, 2023 at 8:00 AM 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 \_\_\_\_\_.