

The Deuel County Commissioners met in regular session on May 7th, 2024 at 9:00 AM in the Commission Room of the Courthouse with Chairman Jay Grabow presiding. Those present were Commissioners Jay Grabow, Steve Rhody, Scott Fieber, Harry Mewherter and Judith Homan. Also present was Auditor Courtney Parker as well as several members from the public. The meeting began with prayer and the Pledge of Allegiance. 1) Mewherter moved, seconded by Fieber to approve the agenda as presented. All voted yes and the motion carried. 2) Rhody moved, seconded by Homan to approve the minutes from April 2nd, 8th, 9th, and 16th. All voted yes and the motion carried.

Appointments

9:00 AM – Highway Superintendent Jamie Broksieck

Broksieck had quite a few topics to discuss with the board. 3) Homan moved, seconded by Rhody to approve the resignation of Dallas Olson. All voted yes and the motion carried. 4) Fieber moved, seconded by Rhody to approve hiring Kenneth Martinmaas at \$20.93 per hour. All voted yes and the motion carried. Broksieck asked if we can hire Richard Eidet back as part-time help due to the shortage of help. 5) Rhody moved, seconded by Homan to approved hiring Richard Eidet back as part-time help at \$24.95 per hour with no benefits offered. All voted yes and the motion carried.

Grabow gave a brief description on the Bituminous Paving Inc contract for the 443 overlay project. They were the low bidder at \$1,359,947.00. 6) Homan moved, seconded by Grabow to approve and sign the contract from Bituminous Paving Inc for the 443 overlay project for \$1,359,947.00. All voted yes and the motion carried.

Broksieck explained we needed to sign these BIG contracts so they can start work on the two BIG rehab projects, Peg Munky Run and the Gary Gulch, that are 80% funded by the state and 20% funded by the county. 7) Rhody moved, seconded by Grabow to approve State of South Dakota Department of Transportation Bridge Improvement Grant Agreement for Preservation – Local Administration Contract of structure #20-050-273, Peg Munky Run, for \$618,300.00. All voted yes and the motion carried. 8) Homan moved, seconded by Mewherter to approve State of South Dakota Department of Transportation Bridge Improvement Grant Agreement for Preservation – Local Administration Contract of structure #20-200-114, the Gary Gulch, for \$728,700. All voted yes and the motion carried.

Broksieck presented a SDDOT haul road agreement for 188th street, east of the Brandt Exit on I-29. He explained it is only one page and doesn't look very in-depth so he is suggesting to SDDOT that Deuel County's haul road agreement is used. There is push back from SDDOT and they want to use theirs. He also suggested a 50/50 split on the overlay but there was no comment. Grabow stated he suggests that until SDDOT accepts the findings of Broksieck, we don't sign the agreement. Grabow commended Broksieck on standing his ground and offering our haul road agreement.

Broksieck stated the road grader in Brandt needs work done. The transmission isn't shifting right. Broksieck stated that there is roughly 7,000 hours on it. He received a quote from Butler Cat of \$30,265.00 at worst case scenario. 9) Rhody moved, seconded by Fieber to approve the quote of \$30,265.00 to fix the machine. All voted yes and the motion carried. Also, Broksieck stated he needs two sets of carbide blades for road graders. They are \$2,208 per set. 10) Mewherter moved, seconded by Fieber to approve the purchase of two sets of carbide blades at \$2,208.00 per set. All voted yes and the motion carried.

Highway department is in need of 2,500 ton more in pea rock resulting in \$32,480.00. This year the highway department will be chip sealing 43 miles. 11) Homan moved, seconded by Fieber to approve the purchase 2,500 ton of pea rock for a total of \$32,480.00. all voted yes and the motion carried.

Broksieck is looking to purchase 1 1/8 inch crushed granite. The highway department uses this for soft spots and bedding culverts. It is \$10.00 per ton and they need 500 ton. 12) Mewherter moved,

seconded by Rhody to approve the purchase of 500 tons of 1 1/8 crushed granite in the amount of \$5,000.00. All voted yes and the motion carried.

9:30 AM – Jacob Beutler

Beutler returned as the Board of Commission tabled the discussion of his Ag Status denial on the April 16th meeting, as they waited to hear from Director of Equalization Donna Rhody. Donna Rhody explained that the 4.10 acres is not being primarily used for Ag purposes, so it does not qualify. Donna Rhody explained he is no different than if someone lived in town and had farm land within the 20 air miles of their house. Donna Rhody called SD Department of Revenue and they stated both parcels need to primarily be Ag. Beutler stated that his small acreage is no different than Steve Rhody's. Steve Rhody commented stating that he raises cattle on his place and that's why he qualifies as Ag. There was discussion held on if Beutler started raising goats or chickens on the land then its primary use would be Ag. Beutler stated then he will buy one chicken and then he will be considered Ag. Donna Rhody stated that if SD Dept of Revenue agrees that one chicken is considered Ag she will classify it as Ag. SD Dept of Revenue will need to define if it is the unit or individual parcel, as well as, how many livestock does it take to be considered Ag in order for the Board to move forward. Topic is tabled again to wait for responses from SDDOR.

9:45 AM – Director Of Equalization Donna Rhody

Donna Rhody explained there have been a few noise disturbance complaints. Three different types; traffic, commercial, and wind tower. Donna Rhody stated that ARSD 64:04:04:05, Functional and external obsolescence allowances must be estimated by analyzing the market value using the income or sales comparison approaches. The estimate of value obtained by either approach, when compared to the value obtained by the cost approach, indicates the degree of obsolescence present, indicates that noise disturbances still be compared by sales of like property. If anyone that wants to appeal for noise disturbances has to compare sales. If there are no sales, there's nothing for them to compare to. Donna Rhody explained that even if the noise is taken care of/lowered/stops, the assessment cannot be raised back to previous assessment until the following November 1st date. This is when the director can adjust the assessments again. The assessments can't be contingent on noise lowering. Donna Rhody explained that there needs to be proof of occurrence and the affect it will have on market value given by tax payer before anything can be lowered. Burden of proof is on property owner. Donna Rhody included OSHA and HUD as a reference guide of standards the noise would have to beat or meet in order for assessments to be lowered.

Donna Rhody explained there are a few noise complaints about the school parking lot, Crystal Springs Feeds and wind towers. Discussion was had on hiring someone to help determine if Crystal Springs Feeds is too loud or not. Mewherter said he will contact Geotech to see if they will come to the next meeting.

10:00 AM – Surplus Equipment Sealed Bid Letting

There were only four bids on the 8'X16' enclosed trailer and no other sealed bids were placed for the other three items, 1500 Ram Pickup, Chevy Tahoe and Pontiac Sunfire. Stuart Storlien bid \$4,250.00, Calvin Musch & LeAnn Kruse bid \$3,532.00, Spud & Jenny Nelson bid \$3,061.00 and Renae Engelkes bid \$1,500.00. As stated in the notice, the top three bidders on each item can raise their bid orally at the meeting. Musch and Storlien raised their bids until Storlien bid \$5,150.00. Musch didn't raise his bid anymore. At that point, Grabow closed the bids. 13) Fieber moved, seconded by Homan to approve Stuart Storlien as high bidder at \$5,150.00 for the 8'X16' enclosed trailer as well as place the rest of the unbid surplus items on Purple Wave. All voted yes and the motion carried.

10:15 AM – Gary Legion & Auxiliary Ball Program

No one from the Gary ball program showed up for their appointment. The topic was tabled.

10:30 AM – Executive Session Pursuant to SDCL 1-25-2(3) Consulting with Legal Counsel for Litigation Matter

14) Mewherter moved, seconded by Rhody move into Executive Session Pursuant to SDCL 1-25-2(3) to consult with legal counsel for litigation matter. All voted yes and the motion carried. Chairman Grabow declared the Commissioners out of Executive Session at 11:05 AM.

11:05 AM – Executive Session Pursuant to SDCL 1-25-2(1) Personnel Matters

15) Homan moved, seconded by Grabow move into Executive Session Pursuant to SDCL 1-25-2(1) to discuss a litigation matter. All voted yes and the motion carried. Chairman Grabow declared the Commissioners out of Executive Session at 11:15 AM.

16) Fieber moved, seconded by Homan to prepare findings of fact. All voted yes and the motion carried.

- The subject property owned by the Zirbels is in two parcels East Parcel and West Parcel. Both are greater in size than 10 acres.
- The subject property owned by the Zirbels is not touched by a passable public highway.
- The subject property is not touched by an unvacated section line right-of-way.
- Until 1959, 478th Ave extended North to the East Parcel owned by Zirbel's predecessors in title.
- In the 1959, Altamont Township vacated the section line right-of-way for 478th Ave North of 174th St.
- In 1989, the State Legislature of South Dakota adopted SDCL 31-3-6.1.
- The neighboring landowners and Zirbels have been unable to come to an agreement regarding access to Zirbels' isolated tract.
- Zirbels provided an Affidavit regarding the facts, a copy of which is attached to the minutes of the meeting of the County Commissioners on May 7th, 2024.
- Deuel County's Board of Commissioners shall conduct a meeting at the subject property pursuant to SDCL 31-22-2 through 31-22-4, for the purpose of locating the right-of-way and assessing damages therefor.
- Deuel County's Board of Commissioners shall serve notice upon all affected landowners NLT 5 days prior to the meeting to be held pursuant to SDCL 31-22-2.

Conclusions of Law

- In 1989, the State Legislature of South Dakota adopted SDCL 31-3-6.1. The statute provides that "no county or township may vacate a highway which provides access to public lands or public waters embracing an area of not less than forty acres." This statute is not retroactive.
- Vacated right-of-ways are no longer rights-of-way, they revert to the adjoining landowners according to SD law. SDCL 31-3-10
- The subject property is an isolated tract and subject to the provisions of SDCL 31-22.
- Pursuant to SDCL 31-22, the Zirbels' are entitled to a right-of-way across neighboring property.
- The State's Attorney presented a discussion of all the provisions of SDCL 31-22 and directed the County Commissioners on their duty according to South Dakota Law. The State's Attorney advised that an outline will be provided to the Commissioners to follow during the meeting at the subject property.

17) Mewherter moved, seconded by Rhody to hire Jack Peterson for Legal Counsel. All voted yes and the motion carried.

New Business

18) Fieber moved, seconded by Homan to approve the April 2024 Cash Balance sheet. All voted yes and the motion carried.

**DEUEL COUNTY AUDITOR'S ACCOUNT WITH TREASURER
END OF MONTH CASH BALANCE- APRIL 2024**

CASH TOTAL				\$ 3,493.06
CHECKS TOTAL				\$ 266,199.93
CASH ITEM				\$ -
CASH CHANGE SHERIFF				\$ 50.00
TOTAL CASH ASSETS ON HAND				\$ 269,742.99
CHECKING ACCOUNT BALANCE				\$ 1,486,340.80
PREMIUM MM FIRST BANK & TRUST OF TORONTO				\$ 6,376,831.94
SD FIT				\$ 1,054,221.88
CREDIT CARDS				\$ 892.66
CD		DNB		\$ 250,000.00
		FB&T		\$ -
INTERST EARNED: March: \$68,983.59 April: \$26,080.94 Total: \$95,064.53				
REVOLVING LOAN				\$ 38,276.88
GRAND TOTAL CASH ASSETS				\$ 9,476,307.15
GL CASH BALANCE BY FUNDS:				
GENERAL				\$ 5,072,780.51
SP REVENUE FUNDS				\$ 1,722,901.08
TRUST & AGENCY FUNDS				\$ 2,680,625.56
Townships	\$154,884.01	Cities	\$275,173.98	
Schools	\$2,039,162.67	Rural Fire	\$38,077.96	
TOTAL GENERAL LEDGER CASH				\$ 9,476,307.15

19) Homan moved, seconded by Mewherter to approve the travel request for three deputies to travel to the Deputy Conference in Pierre, SD on June 11, 2024. All voted yes and the motion carried.

20) Rhody moved, seconded by Grabow to approve an abatement of taxes 2023 Payable 2024 for the elderly freeze program. All voted yes and the motion carried.

21) Homan moved, seconded by Rhody to move the Regular Commission meeting on Tuesday, June 4th to Friday, June 10th due to the primary election. All voted yes and the motion carried.

Discussion on the 4-H horse arena/fairgrounds during Crystal Springs Rodeo was had. 4-H Advisor, Deb Lessman asked if we can do anything to keep people for the Crystal Springs Rodeo off the horse arena/fairgrounds so no damage is done. Homan explained her grandkids rodeo and if someone is traveling from rodeo to rodeo normally anyone can stay overnight at any rodeo grounds and that it's public land. The board of commission made a decision that they are public grounds and it should remain open for the public to use.

Discussion was on the quarterly budget and which departments are over and under budget based on the first quarter of the year. Grabow said he acknowledges that there are once a year expenses

that come out of budgets at different times of the year. As a whole, the board should know what is being spent because it is tax payer money. All budgets are still within normal spending ranges. There was discussion on the highway budget being reduced by \$400,000.00 to recoup costs due to a mild winter. The Board of Commission will discuss with Highway Superintendent Jamie Broksieck at a later date about the reduction.

Discussion was had on a fee for a special on-sale four-day liquor license for the Crystal Springs Rodeo. 22) Fieber moved, seconded by Rhody to not set a fee or offer the special on-sale four-day liquor license. A malt beverage license will still be offered to the Crystal Springs Rodeo Association. All voted yes and the motion carried.

Approval of Warrants

23) Fieber moved, seconded by Mewherter to pay warrants as presented. All voted yes and the motion carried.

Paid Early: Clear Lake Township \$59,864.40, RAIF Reimbursement; Wellmark BlueCross BlueShield \$24,634.13, Health Insurance; SD Dept. of Revenue \$138.82, Excise Tax; SD Dept. of Revenue \$152,819.30, Fees due to State;

Current Warrants: A&B Business Solutions 191.88 Supplies, Appera 305.84 Rugs, AT&T Mobility 294.28 Utilities, Bjerke Sanitation 320.00 Utilities, Bratland Law 1455.20 CAA Fees, Brian's Glass & Door Inc 675.00 Repair & Supplies, Butler Machinery Co 703.79 Repair, Caar Properties 435.96 Overpayment Taxes, Clear Lake Building Center 164.88 Supplies, City Of Clear Lake 184.54 Utilities, Clear Lake Courier 710.55 Publications/Supplies, Clear Lake Veterinary Clinic 153.76 Supplies, Clear Lake Area Development 4500.00 2nd Qtr Funds, Clark Rogness 7000.00 Overpayment Taxes, CU Mortgage Direct 1050.86 Overpayment Taxes, Dacotah Bank 410.52 Overpayment Taxes, Dakotaland FCU 1003.15 Overpayment Taxes, Deuel County Farmers Union Oil 25.00 Repair, Deuel County Motor Supply Inc 239.17 Repair, Deuel County Treasurer 1018.08 Delinquent Taxes, Ecolab Pest Elimination Div 58.32 Prof Service, Election Systems& Software Inc 2580.72 Supplies, Fleetpride 1483.67 Supplies, Foley & Foley Law Office, P.C. 789.99 CAA Fees, Green Roby Oviatt LLP 1345.90 CAA Fees, H-D Electric Coop, Inc 746.07 Utilities, Hillyard/Sioux Falls 413.38 Supplies, Inter-Lakes Comm Action Inc 1594.00 May Support, ITC 13336.92 Camera System Install, Johnson Controls 274.56 Supplies, Kibble Equipment LLC 490.43 Repair, Josefina Koopmans 344.88 Prof. Services, Arnold Krause 132.95 Overpayment Taxes, Deb Lessman 228.96 Travel/Supplies, Craig Magedanz 408.00 Conf. Reimbursement, Maynards 24.32 Supplies, Menards 115.61 Supplies, Michael Fieber 501.31 Overpayment Taxes, Microfilm Imaging Systems 90.00 Rent, Mill Supply, Inc. 1127.51 Repair & Supply, Byron Nogelmeier 150.00 April Scram, Northwestern Energy 1575.21 Utilities, Office Peeps Inc 2000.95 Supplies, Ottertail Power Co 4037.56 Overpayment Taxes, Overhead Door Co Of Watertown Inc 637.00 Repair, Owen Peterson 501.91 Overpayment Taxes, Powerplan Oib 249.66 Repair, Michelle Prins 1024.98 Overpayment Taxes, Quadiant Leasing USA Inc 672.63 Rental, RC Technologies 150.00 911 Utilities, Running's Supply Inc 163.73 Repair, Sd Dept Of Transportation 2164.91 Fuel, South Dakota Dept Of Revenue 100650.55 End of Month Fees, SDACO 592.00 April M&P Fees/ Workshop, Stan Houston Equipment Co, Inc 402.00 Supplies, Teesdale Law Office, PLLC 1049.05 CAA Fees, The Lodge Deadwood 210.00 Conference, TrueNorth Steel Inc 18534.32 Repair Culverts & Bands, Vanguard Appraisals, Inc 1000.00 Prof. Service, West Central Communication Inc 142.00 Repair, Yankton Co Treasurer 145.00 BMI Hearing,

Payroll

April Payroll: Commissioners \$10,351.05, Election \$133.63, Auditor's Office \$10,461.15, Treasurer's Office \$11,278.93, State's Attorney's Office \$8,212.40, General Gov't Building \$5,898.72, Director of Equalization Office \$16,956.34, Register of Deeds Office \$9,537.04, Veteran Service Officer \$1,443.05, GIS \$759.35, Sheriff's Dept. \$45,676.46, County Assist \$401.05, Extension Office \$4,052.07, Weed & Pest \$2,258.06, Planning & Zoning \$5,479.81, Road & Bridge \$83,317.92, Civil Defense \$431.29

Public Comment

There was no public comment.

Adjournment

There being no further business 24) Rhody moved, seconded by Grabow to adjourn. All voted yes and the motion carried.

ATTEST:

Courtney Parker, Auditor
Published one time at the approximate cost of _____.

Jay Grabow, Chairman