

Regular Meeting Minutes
Butte County Courthouse
Commission Meeting Room
839 5th Avenue
Belle Fourche, SD 57717
Phone: 605-892-4485

Tuesday November 7, 2023

THE BOARD OF BUTTE COUNTY COMMISSIONERS CONVENED AT 9:30 A.M. on November 7, 2023. The meeting was recorded. Commissioners present were Harms, Ager, Walton, Herman, and Erk.

Motion by Erk, Second by Herman to approve the meeting agenda with moving #7 after public comment and addition of Executive Session: Personnel SDCL 1-25-2(1). Vote Unanimous. Motion Carried.

Motion by Walton, Second by Ager to approve minutes of 17October2023 Regular Meeting Minutes with no changes. Vote Unanimous. Motion Carried.

Motion by Ager, Second by Herman to approve the Bills for Payment as presented by Auditor Annie Capp with no changes. Vote Unanimous. Motion Carried. Approval Sheet signed by all Commissioners and Auditor.

Motion by Herman, Second by Erk to approve payment of Apportioning and Other payments per Printout as presented by Auditor Annie Capp with no changes. Vote Unanimous. Motion Carried. Approval Sheet signed by all Commissioners.

Motion by Herman, Second by Walton to approve Travel Request as presented with no changes. Vote Unanimous. Motion Carried.

- Sheriff Office – Fred Lamphere to attend Meeting with Congressmen and Representative in Washington DC from November 7-9, 2023. Travel and Lodging paid by F.A.I.R. Sheriff Lamphere was asked to represent South Dakota regarding border security.

No Abatements

Beginning at 9:38 AM an opportunity for Public Comment was opened.

- Clayton Johnson of 3J Towing passed out some documentation to all commissioners. Mr. Johnson stated that on Oct 24th 3J Towing was served a court order terminating services with the county in relation to a civil suit. Mr. Johnson spoke on the positive response and driving record of the company. He further stated removal has caused up to four hours of wait time.
- Robert VanSickle began by speaking on the constitution, quoting a line from the Declaration. Mr. VanSickle cautioned the commissioners that people will only suffer so long and that commissioners could gain a lot of valuable information/expertise from the citizens speaking at the podium.
- Sue Broadhurst spoke about the five-year plan and the difficulty of finding the plan on the county website. Video/Audio recording was questioned and why there isn't someone to do the recording as with other counties/cities.
- Travis Ismay mentioned Audio/Video recording and requested that the commissioners move forward with the implementation as soon as possible.
- Katie Hoffmann has questions on Lamphere travel and why more focus isn't given to local concerns instead of federal issues. Ms. Hoffmann is concerned about private discussions between commissioners and why they do not speak for everyone to hear. Ms. Hoffmann believed that hearing from all commissioners on agenda items would be more valuable than only one.

- Rose VanSickle spoke regarding prayers for the county commissioners. Ms. VanSickle spoke on States Attorney McCartney history in another state. Ms. VanSickle then asked if the commissioners were required to take a drug test to serve the county and suggested that commissioners spend more time with cannabis organizations.

Motion by Walton, Second by Ager to go into Executive Session for Legal Counsel 1-25-2(3) at 9:49 AM. Vote Unanimous. Motion Carried. Out of Executive Session at 10:21 AM with no action taken.

Motion by Herman, Second by Ager to go into Executive Session for Personnel 1-25-2(1) at 10:22AM. Vote Unanimous. Motion Carried. Out of Executive Session at 10:37AM with no action taken.

A short recess was taken at 10:37AM. Meeting was back in session at 10:45AM

States Attorney LeEllen McCartney provided definitions and explanations on Juvenile Diversion programs. McCartney explained the reason for programs instituted by Senate Bill 73 Juvenile Justice and Public Safety. Programs like truancy, teen court, ABC, and juvenile diversion, were developed to prevent juveniles obtaining criminal records, specifically for low level petty offenses. These are self-funding programs with federal reimbursement funds issued for every successful case. These programs are only available to juveniles (under 18). Deferred Prosecution agreements are different. These are used for those that do not qualify for a Juvenile Diversion program.

States Attorney LeEllen McCartney asked to discuss some items currently in storage and requested the commissioners approve the surplus of office furniture.

Motion by Walton, Second by Ager to approve dispose of office equipment currently stored in storage valued under \$500. Vote Unanimous. Motion Carried.

States Attorney McCartney and Treasurer Debbie Lensegrav discussed RESOLUTION 2023-19 - A Resolution Establishing A Temporary Suspension On Tax Certificate Sales. McCartney discussed the reason for the resolution as a result of litigation and actions still to be taken with legislation.

Motion by Walton, Second by Ager to approve RESOLUTION 2023-19 - A Resolution Establishing A Temporary Suspension On Tax Certificate Sales. Vote Unanimous. Motion Carried.

BUTTE COUNTY RESOLUTION 2023-19

A RESOLUTION ESTABLISHING A TEMPORARY SUSPENSION ON TAX CERTIFICATE SALES

WHEREAS, SDCL §§ 10-23 et seq. provides for an annual sale of tax certificates for the amount of delinquent property tax due on real property, and

WHEREAS, the constitutionality of South Dakota's statutory scheme for sale and redemption of tax certificates and for issuance of Treasurer's tax deeds has been questioned by the United States Supreme Court in *Tyler v. Hennepin County*, 143 S.Ct. 1369 (2023), and

WHEREAS, it is necessary for legislative changes to ensure that the statutes governing tax certificate redemptions and the issuance of tax deeds does not constitute an unconstitutional and unlawful governmental taking,

NOW, THEREFORE BE IT RESOLVED that Butte County will temporarily not sell tax certificates for delinquent property taxes payable in 2023, and prior years.

BE IT ALSO RESOLVED that Butte County will not issue Tax Deeds to holders of tax certificates, including certificates held by the County and by third parties, until questions surrounding constitutionality of the tax deed process are resolved.

Approved and adopted this 7th day of November 2023

Stan Harms
Chair, Butte County Commission

ATTEST:

Annie Capp
Butte County Auditor

States Attorney McCartney presented an activity report including grand jury, social services cases, current county residents in jail and charges related to inmates. SA McCartney noted that as of the beginning of November there were the same number of cases as year end 2022.

Veterans Service Officer, Jasen Saivong, presented an activity report for October including disability compensation claims, spousal death, tax exemption, home loan assistance, and DAV transportation numbers.

Highway Administrator Lori Johnston presented an activity report including snow removal, replacement of culverts, Camp Crook activities with WBI Electric, and finish of mowing expected current week.

Motion by Herman, Second by Erk to approve Application to Construct a Cattle Guard Across a County Road – Allen & Barb Lamb – Riley Road. Vote Unanimous. Motion Carried.

Chief Deputy Sheriff March presented request for surplus of equipment damaged and totaled in the 2022 June hailstorm.

Motion by Ager, Second by Erk to authorize surplus of 2016 Haulmark. Vote Unanimous. Motion Carried.

Chief Deputy Sheriff March discussed the removal of 3J Oil Medics and Towing from Butte County towing rotation and the reason for this action. Chief Deputy March could not speak about the case as it is pending.

Kaylee Snyder from Black Hills Council of Local Governments provided some background, presented a new Mitigation Plan, and discussed the new grant period. A grant was applied for and received to update the Hazard Mitigation Plan that is required to be updated every five years. The current plan expires August 2024. 75/25% grant – 27.51 per person per hour.

Motion by Walton, Second by Herman to authorize Chairman Harms to sign Performance Contract between Butte County and Black Hills Council of Local Governments for the Butte County Natural Hazard Mitigation Plan Update once corrected. Vote Unanimous. Motion Carried.

Auditor Capp presented an activity report including letter from Barb Cline of Prairie Hills Transit, Auditor's workshop recap, October building repairs/maintenance log, preliminary 2024 Butte County tax levy rate, and upcoming County tour date with Belle Fourche Leadership class. Auditor Capp presented the 2024 Butte-Lawrence County Fair Agreement. Motion by Erk, Second by Herman to authorize Chairman Harms and Auditor Capp to sign 2024 Butte-Lawrence County Fair Agreement. Vote Unanimous. Motion Carried.

Auditor Capp discussed the open position program HIRECLICK and interest from department heads. Any department heads interested in participating to share the \$90.00 monthly fee.

Auditor Capp presented the Security Assessment Agreement with Dakota State regarding Project Boundary Fence. Motion by Herman, Second by Walton to authorize Auditor Capp to sign the Security Assessment Agreement and schedule the assessment. Vote Unanimous. Motion Carried.

Auditor Capp presented an alternative work schedule from Equalization employee Karen Nemire's request to the commissioners. Employee's supervisor has approved the request. Motion by Walton, Second by Herman to approve the alternative work schedule request. Vote Unanimous. Motion Carried.

Auditor Capp presented quotes to the commissioners from Architectural Specialties. One quote is with mobile wireless microphones for \$38,157.64 and the other was with one central microphone in the ceiling for \$15,356.53. Motion by Ager, Second by Erk to approve Quote # 400669 for audio/video equipment in the amount of \$15,356.53. Vote Unanimous. Motion Carried.

Motion by Ager, Second by Herman to approve wage adjustment for Sheriff Office: Brandon Wolfe - Step 3 - \$17.58. Vote Unanimous. Motion Carried.

Auditor Capp recommended that the commission create a Technology Committee in the future to address any technology and security issues. Technology Committee to be created prior January 2024. Auditor Capp to do some research on bylaws, members of committee, etc.

Auditor Capp presented 2024 Annual Liquor License Renewal Applications. All applications have been reviewed and paid. Motion by Ager, Second by Erk to approve all 2024 Annual Liquor License Renewal Applications. Vote Unanimous. Motion Carried.

Committee Reports were given:

- Herman – BH Council meeting was held with a lot of positive progress on projects throughout the Black Hills.
- Walton – Weed and pest meeting held went well. Ambulance meeting held, new contract with finance company being drafted.

Old Business

- Commissioner Ager to follow up on Courthouse roof and flooring repairs.
- Commissioner Ager asked about potentially updating the county website. Commissioner Erk asked if it was possible to increase the time our current provider spends on the website. Auditor Capp will follow up with requesting quotes from outside sources.

Motion by Herman, Second by Ager to adjourn the meeting at 11:52 AM. Vote Unanimous. Motion Carried.

Payments

SALARY

ASSESSOR'S OFFICE/PLANNING \$6,449.26, AUDITOR'S OFFICE \$8,873.87, BUILDING \$3,851.84, COMMISSIONERS \$4,158.92, DISPATCH \$11,539.80, ELECTION \$2,113.18, EM/911 \$913.21, EXTENSION \$1,828.00, HIGHWAY DEPT/WEED CONTROL \$24,109.85, JUDICIAL \$1,220.99, NURSE'S/WIC OFFICE \$1,914.40, REGISTER OF DEEDS OFFICE \$4,525.98, SHERIFF/JAIL DEPT \$23,026.78, STATES ATTORNEY OFFICE \$12,646.11, TREASURER'S OFFICE \$8,948.86, VETERAN SERVICE OFFICE \$828.40.

COUNTY SHARE FICA

BUTTE COUNTY SHARE \$8,621.44

SDRS RETIREMENT

BUTTE COUNTY SHARE \$6,658.43

GROUP INSURANCE

BUTTE COUNTY SHARE \$27,633.44

PROFESSIONAL SERVICES

R BCHMN \$50.00, ECOLAB \$175.00, PNNINGTN CO JAIL \$3,879.44, SD DEPT TRANS \$7,156.92, ES&S \$4,837.88, WSTRN SD JVNLE SRVCS \$10,200.00, BHVR MNGMNT \$400.00, MEADE CO AUDTR \$25,112.50, C BRLL \$252.00, MNMNT HLTH \$9,886.21, SNSHNE TWNG \$258.00, BARNAUD LAW \$6,635.20, S FSCHR \$150.00, J QUNN \$50.00, SDACO \$100.00, K DLAHYDE \$540.60, HLPRT & HALE \$1,187.96, SDML WRKRS' COMP \$40,840.00, LANGUAGE LINE \$295.12, DONOVN PLMBNG, T MUTCHLR \$120.00 \$1,239.37, JUROR FEES \$545.88, VOICE PRDCTS \$6,330.45, NLSN LAW \$834.60, Z PRDCTNS \$399.00, FSH WNDW CLNING \$99.00, WTNS FEES \$40.00, CNTRL SQUARE TECH \$35,366.94, DKOTABLTs \$360.00, L TLLSCH \$263.50, MNUMNT HLTH SPRFSH \$374.72, EXEC MGMT FNANCE \$11.00, WAECKRL LAW \$616.10, FIRE MRSHL \$80.00, KNNY LAW \$5,723.37, CO DRG \$451.74, JHNS & KSL \$2,343.57

PUBLICATIONS

BH PIONEER \$77.64, LXSXNS \$322.00, THMSN REUTRS-WST \$337.39

RENT/LEASE

BH PURE \$179.50, A&B BSNSS \$256.35, CNTRY BSNSS PRDCTS \$978.89

REPAIRS/MAINTENANCE

OBRLE'S RADIATRS & RPAIRS \$88.00, KONE \$479.01, GGT LAWN SRVCS \$292.26, G&R \$824.80, ISC \$648.35, AUTO PROS \$894.76, CRNETT CNSTRCTN \$987.04

SUPPLIES

LYNN'S DKOTAMART \$91.26, OFFCE MPORM \$252.14, DKOTA LMBR \$42.73, FRST NTRSTATE-MSTR CARD \$4,642.57, CBH \$3,165.35, CARL'S TRALR SALES \$35.46, O'REILLY AUTO PARTS \$55.77, SDSU XTNSN \$15.00, NATL TST SYSTMS \$1,302.52, NUTRN AG \$3,698.69, SIGN SLUTNS \$244.21, DIAMND TRCK EQPMNT \$685.60, SRCHIE \$58.45, PTNY BOWS \$1,068.48, HLLYRD \$522.40, MG OIL \$14,277.98

TRAVEL/CONFERENCE

HMPTN INN \$346.41, SDSU XTNSN \$288.36

UTILITIES

BF CTY \$811.70, BH NRGY \$531.98, MDU \$514.49, NSLND \$75.76, AT&T MBLTY \$856.73, BLUPEAK \$1,777.47, RFUSE SLUTNS \$264.60, RPD CTY \$280.00, GOLDN WST \$23.80, AT&T \$38.06, CNTRYLNK \$29.38

APPROVED BY THE COMMISSION:

Stan Harms, Chairperson

ATTEST: Annie Capp, BC Auditor