

Minutes of the Custer County Commission Meeting, Wednesday, August 7, 2024

Members present:

Commissioners Jim Lintz, Mark Hartman, Mike Linde, Michael Buszkohl, Craig Hindle 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. Amend Agenda to add DOE "Discuss amending Resolution 2023-18 to exempt concrete, pavers, etc. from 720 sq ft to zero; to exempt from assessments for ad valorem taxation" after Item "M" (before Public Comment).

2. Amend Agenda to add "Personnel" to Executive Session as per SDCL 1-25-21(1); Item "P", #3.

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

C. Consent Agenda

1. Approval of Minutes of July 19, 2024 Custer County Commission Special Proposed Custer Fire District Meeting.
2. Approval of Minutes of July 24, 2024 Custer County Commission Meeting
3. Monthly Reports
4. Travel Requests as follows: Auditor's Office- Dana Benjamin and Dawn McLaughlin to attend Tabletop the Vote conference in Deadwood, SD August 25, 2024 at an approximate cost of \$38 for meals.
5. Vouchers approved as follows:

COMMISSIONERS: SD Association Conference \$600; Southern Hills Publishing \$619.48; Valhalla Legal \$4,480.

COURT APPOINTED ATTORNEY: Colbath & Sperlich \$3,165.70; Southern Hills Law \$231.36.

COURT: Adrianna Burgess \$25.72; Alisha Herman \$16.55; Amy Kemmerer \$46.68; Blake Frybarger \$11.31; Bret Kraft \$45.37; Brian Vanzanten \$248.25; Carrie Zoellick \$62.40; Carrie-Ann Bates-Ray \$11.31; Charles Borrud \$19.17; Charles Greeb \$20.48; Charles Hardesty \$42.75; Cherene Giovagnoli \$30.96; Cheryl Steele \$11.31; Cheryl Wenzlaff \$15.24; Cheyanne Bailey \$13.93; Christopher Fancher \$11.31; Christopher Pelczarski \$11.31; Cindy Pownall \$11.31; Clinton Dikoff \$42.75; Cody Domina \$41.44; Corey McCartan \$11.31; Craig Emerson \$248.25; Craig Golder \$11.31; Craig LaFollette

\$315.54; Curtis Davis \$16.55; Daniel Austin \$13.93; Danyetta Harpe \$45.37; Darrell Swisher \$45.37; David Williams \$15.24; Debra Daybrest \$12.62; Dee Scragg \$12.62; Denice Reindl \$15.24; Dennis McConnell \$12.62; Diane Dunkel \$16.55; Dixie Hunsaker \$12.62; Dixie Whittaker \$11.31; Donna Carper \$49.30; Doyle Boisen \$17.86; Edwin Chambers \$16.55; Elizabeth Curry \$11.31; Frederica Star \$34.51; Gary Erickson \$51.92; George Comstock \$12.62; Glenn Simington \$12.62; Gregory Mayes \$16.55; Ian Pollard \$13.93; Idalyn Kolund \$161.79; James McGee \$45.37; James McMartin \$11.31; Janet Wetovick \$15.24; Jared Yates \$12.62; Jeffrey Yeargan \$55.85; Jennifer Burchett \$11.31; Jennifer McDonald \$12.62; Jerri Perli \$65.02; John Fotopoulos \$13.93; John Marxen \$45.37; Joy Parry \$11.31; Joyce Buxbaum \$40.13; Joyce Marianne Bradshaw \$11.31; Kari Filipi \$11.31; Kathlene Larsen \$19.17; Kelli Sletta \$263.97; Kelly Fish \$224.67; Kelsey Matthews \$49.30; Kerry Stever \$11.31; Kevin Ashton \$12.62; Kevin Kirsch \$11.31; Kevin McGarrigle \$24.41; Kimberly Hilton \$11.31; Larry Stalder \$12.62; Laura Myers \$11.31; Lynda Brenckle \$23.10; Mark Jurrens \$41.44; Matthew Sailors \$47.99; Matthew Spring \$13.93; Melinda Thaut \$49.30; Michael Chase \$153.93; Michael Hochstetler \$50.61; Michael Kear \$12.62; Michele Witt \$12.62; Michelle Tourville-Wheatley \$12.62; Mike Kunishige \$45.37; Nathan Wiederholt \$153.93; Nicholaus Benton \$169.65; Patricia Hoffman \$157.86; Payton Streff \$25.72; Pierre Wakefield \$41.44; Reagan Weller \$36.20; Rebecca Mathiesen \$19.17; Renee Terhaar \$37.51; Richard Wilson \$12.62; Richard Wise \$36.20; Robert Raney \$11.31; Robert Rittberger \$228.60; Roberta Fischesser \$13.93; Ronele Larson \$49.30; Ross Spencer \$34.89; Rylee Wolken \$42.75; Scott Bertolotto \$72.88; Selena Gomez-Holswirth \$45.37; Sharon Bielmaier \$17.86; Shelli Terwilliger \$46.68; Sheri Spurlock \$19.17; Sherrie Agena \$12.62; Steven Brock \$15.24; Steven Nothdurft \$58.47; Steven Paliswiat \$287.55; Tanner Woodford \$11.31; Terrence Kizer \$41.44; Theresa Ott \$267.90; Theresa Remley \$173.58; Thomas Sheffield \$11.31; Tina Frankenbery \$12.62; Wendy Schnider \$16.55;

AUDITOR: SD Association Conference \$400; Tyler Technologies \$11,500.

MENTAL ILLNESS BOARD: Husted Law Office \$769.20;

MENTAL HEALTH: New Trails Ministry \$300;

TREASURER: SD Association Conference \$200.

STATE'S ATTORNEY: Cinda Jones \$50;

MAINTENANCE: Black Hills Chemical \$41.04; Black Hills Energy \$783.95; City of Custer \$269.90; Custer Ace Hardware \$28.76;

REGISTER OF DEEDS: SD Association Conference \$200.

INFO TECHNOLOGY: Golden West Technologies \$8,698.41;

SHERIFF: Active 911 INC \$472.50; McLeod's Printing \$128.28; Pomp's Tire \$1,066;

SEARCH AND RESCUE: Insurance & Bonds \$713;

PRISONER CARE: Mary Seifert \$175;

AIRPORT: Brenden Hendrickson \$4,315.50; Mead & Hunt \$5,923.68; Moss Rock Landscaping \$244,404;

ELECTION: Carol Deathrage \$319.62; Mt Rushmore Telephone Company \$16.98; Southern Hills Publishing \$180;

WEED & PEST: Baker Cattle Company \$1,000; French Creek Supply \$12.48; Joe Panza \$51; Pomp's Tire \$95;

PLANNING: Splish Splash Car Wash \$13;

COUNTY ROAD & BRIDGE: A&B Welding \$12.30; Black Hills Energy \$360.25; Butler Machinery Co. \$63.71; CBH Cooperative \$7,360.38; Culligan \$13; Fastenal Company \$223.39; Floyd's Truck Center \$828.05; Great Western Tire \$5,080.95; Kieffer Sanitation \$308.38; Nelsons Oil and Gas \$469.94; NSG Logistics \$2,636.42; SD DOT Div of Finance \$1,318.58; Servall Towel & Linen \$122.25; Southern Hills Publishing \$94.18; Zep Sales & Services \$505.57.

COUNTY BUILDINGS: ADTECH Rapid Fire \$569.80;

24/7 SOBRIETY: Redwood Toxicology \$1,726.74;

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

D. Conflict of Interest Declarations –Commissioner Hartman stated he will abstain from voting under Item "H" Public Hearing-Streff.

E. Fairburn VFD

1. The Commission acknowledged an updated 2024 Fairburn VFD roster.

F. Custer VFD

1. The Commission acknowledged an updated 2024 Custer VFD roster.

G. Airport

1. Request was made for approval of Pay Request No. 3 re: API#3-46-0011-019-2023 Hangar Taxilane Extension Moss Rock Landscaping, Inc. in the amount of \$244,404.00 #101-4-331-429.02. Motion to approve payment made by Buszkohl; seconded by Linde; vote taken, all aye; motion carried. Commissioner Hindle stated the project is near completion and meets all expectations. He noted that reimbursements will be forthcoming. The land conveyance SOW has been approved by the USFS and the appraisal is underway.

H. 8:10 AM Public Hearing

1. Planning Director, Terri Kester, presented RE: Parcels #001606 and #001608 Vacation of a portion of a 66" Section Line ROW located on Lots 1&2, located in NE1/4 SE1/4 S8; NW1/4 SW1/4 S9 T4S R4E BHM, Custer County SD re: Lila Streff. Kester noted that the electric company is satisfied; adjacent landowners were notified and the hearing has been properly advertised. There were no comments from the public.

2. Kester presented Resolution 2024-11 Vacation of Section Line Right of Way for approval. Motion to approve made by Buszkohl; seconded by Hindle; vote taken, Buszkohl, Hindle, aye; Linde nay; Hartman abstained; motion carried. Commissioner Hartman recused himself on this issue; he noted that he did not have a conflict, but abstained from voting due to any perceived conflict.

I. Planning

1. Director Kester requested Commission approval to add an additional program to the current IWork GIS system in use for permitting in the Planning office. This would enable data transfer to be entered automatically, rather than updating Beacon manually. The annual fee is \$750. Motion to approve made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

J. Colt Clewley

1. Mr. Clewley spoke with the Commission via telephone regarding a letter he received from the Planning Department. The letter stated he needed to apply for a permit for wastewater installation per Ordinance 2, Article 8, which went into effect July 27, 2022. Mr. Clewley has not constructed or installed any wastewater lines on his property, which he has owned for 10 years. He noted that when he purchased the property, there was an RV dump onsite that is attached to the septic system. Clewley cited Article 8, Item 4 which states that wastewater disposal can serve up to two sources as long as it meets ARSD requirements. Clewley is unsure who installed the RV dump system. He purchased a camper that is onsite; noting the toilet has been non-working for a couple of years now and the system has been winterized for over a year. Clewley is actively seeking to sell his home and is including the camper in the sale as it would be one less thing to move. He notified his realtor about the RV dump. The

home is listed as a 3-bedroom, 2-bath, 1200 sq-foot home. Clewley noted the onsite camper has never been a rental or permanent residence at any time. He noted the letter from Planning also included information regarding Ordinance 2, Article 9 stating that he needed a permit for a new structure, as he covered his camper due to storm damage. He cited Article 9, Section 6 which states if storm damage occurs, a permit is not required to repair. Further permit exemptions were cited, as well. He stated his camper shelter is 280 square feet with the axles and rolling components remaining under the camper. He was told via telephone that he cannot currently sell his home until the permitting matter is resolved. Commissioner Hartman requested Kester explain the Planning Department's phone call to Mr. Clewley; Kester stated they received a call requesting information on the property, noting there was a cabin located on the property. (Camper that is completely enclosed) Kester stated the camper size is over the 160 sq-foot permit exemption and has been in place for 10 years with no assessment. Kester stated the way the camper is currently set up (as a permanent structure), it would count as an additional bedroom as far as the wastewater system is concerned; and his current system is only for a 3-bedroom home. Commissioner Linde asked if the matter could be tabled to allow for DOE and Planning to have an opportunity to examine the property, take measurements, etc. Motion to table until Planning and DOE examine the property made by Busskohl; seconded by Hindle; vote taken, all aye; motion carried. This will be tabled until the August 21, 2024 Commission meeting. Clewley was concerned about the fact that he might have to wait an additional 2 weeks to sell his home. It was noted he could still sell the property, but the fine remains contested. Kester stated the issue at hand is the fine, which is solely for the structure and not the RV dump/wastewater system. Clewley asked if that portion is being dropped, as his concern is that wastewater was addressed in the letter he received. Kester noted that needed to be in the letter based on information received. Clewley questioned the square-footage exemption regarding the camper issue. He advised making an appointment time before DOE & Planning visiting the property. Commissioner Hartman inquired about closed-in carport definition in Resolution 2023-18.

K. 8:30 AM Public Bid Opening

1. Highway Superintendent, Jesse Doyle, presented the two bids received for 2025 Mag Cl. Doyle noted that both bids were received within the proper time parameters and were properly date and time stamped. Doyle opened the following bids: 1) Rosane Construction at \$1.355 per gallon; 2) Z&S Dust Control at \$1.189 per gallon. Doyle requested the bid award be tabled until the end of today's meeting to allow time for document review. Motion to table award until the end of the meeting made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.

L. Highway

1. Doyle presented application for ROW Occupancy for Golden West Telecom re:

fiber optic installation on Big Pine Road; S33 T3S R4E 252 Fjerdingsren Place for Commission approval. Motion to approve made by Buszkohl; seconded by Hindle; vote taken, all aye; motion carried.

2. Doyle requested approval of an approach permit re: M&E Subdivision; Tract Jack West in S2 SE4; Sec 36 T3 R4 re: Mark Hartman; parcel #015907. Doyle stated that Ordinance 2 provides for private access easements and are allowed; these may be indicated on the plat and may only serve one parcel, unless otherwise approved by the Board. There is no requirement that access roads be developed. Kester noted that allowance has been made for private access easements to serve 2 parcels. This will be the second address on the road. Motion to approve made by Buszkohl; seconded by Hindle; vote taken, Buszkohl, Hindle and Linde, aye; Hartman abstained, motion carried.

M. Argyle VFD

1. Casey Brazell appeared before the Commission to discuss title to property in Argyle that is used for emergency services. Brazell stated the Argyle VFD has been discussing constructing a building on the property, as the current building is no longer large enough for their needs. He noted there are currently 3 trucks housed in the building, but there is not enough room. The land is currently deeded in Custer County's name; Brazell asked the Commission to consider selling the land to Argyle VFD so they could construct a fire hall; he is looking into bank financing to purchase and development of the property. Further discussion was held and it was decided to quit claim deed the property to Argyle VFD, with a deed restricting stating the property must be used for a fire hall; if not, the property would revert back to Custer County. Teri Morgan, Register of Deeds, stated that properties can have deed restrictions and that she would pull the deed to check prior restrictions. It was also decided it would be more beneficial to give the property to Argyle VFD than lease or sell to them. Motion to have the attorney draft a quit claim deed with deed restriction requiring land use for fire hall made by Hartman; seconded by Hindle; vote taken, all aye; motion carried.

N. Department of Equalization

1. Teri Morgan presented request for amendment of Resolution 2023-18 regarding ad valorem taxation for concrete and asphalt and noted that assessors need clarification. Morgan requested the Commission amend the Resolution to state that no concrete or asphalt be used for taxation purposes. Currently, anything over 720 sq. feet is assessed and taxed. It was noted that any Resolution amendments need to be advertised for 2 weeks (as per Tracy Kelley). The amendment will be drafted and presented at a future meeting for approval.

O. Public Comment –

1. LeaAnne McWhorter reminded the audience that Tuesday, August 13th is the

second summer legislative tax meeting in Pierre and noted that no public comment will be allowed during this session.

P. Commission

1. Mail call – none
2. Meeting Schedule –
 - a) Fall Convention will be held September 16-18, 2024 in Rapid City. Any Commissioners attending will contact the Finance Officer for enrollment and reservations.
3. Meeting Reports –Hindle attended Airport and Fire District meeting; Linde attended Historical Society meeting; Busskohl noted the Japanese cannon located at the museum was sold; no record of previous owner. Busskohl attended City Council and Planning Commission meeting. Hartman attended Planning Commission. Discussion regarding the current lease at Custer’s Last Stop was held; the question of whether or not the lease would continue with new owners was asked.

Q. Executive Session

1. Executive Session as per SDCL 1-25-2(3) Legal.
2. Executive Session as per SDCL 28-13.42 Indigent.
3. Executive Session as per SDCL 1-25-21(1) Personnel.

Motion to enter into Executive Sessions made by Busskohl; seconded by Hindle; vote taken, all aye; motion carried. Executive Sessions entered into at 8:52 AM and concluded at 10:13 AM.

R. Actions Taken By Commission Outside of Executive Session

1. Motion to approve Indigent request for cremation made by Hartman; seconded by Busskohl; vote taken, all aye; motion carried.
2. Motion to authorize Doyle to act as an agent of the County to bid on a Sheriff’s Execution Sale to be held August 17th, 2024 at 10:00 AM at the Custer County Highway Department East Shop, Missile Road, Hermosa, SD made by Busskohl; seconded by Hartman; vote taken, all aye; motion carried. It was noted that the budget allows for potential purchase.

S. Highway Department/Bid Award


1. Motion to untable Bid Opening re: 2025 Mag Cl made by Busskohl; seconded by Linde; vote taken, all aye; motion carried.
2. Superintendent Doyle once again noted the bid pricing: Rosane Construction at \$1.355 per gallon; Z&S Dust Control at \$1.189 per gallon with all bid documents meeting the proper bid criteria. Doyle noted the bid is for 200K gallons of Mag Cl. It is Doyle’s recommendation that the Commission accept the low bid of \$1.189 per gallon

from Z&S Dust Control. Motion to accept low bid from Z&S Dust Control made by Hindle; seconded by Buszkohl; vote taken, all aye; motion carried.

T. Adjourn

Motion by Buszkohl and seconded by Linde to adjourn the meeting at 10:17 AM. The next meeting will be at 8:00 AM, August 21, 2024 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 _____.