

November 7, 2017

The Board of County Commissioners met in regular session Tuesday, November 7, 2017 at 9:00 a.m. Members present: Travis Mockler, Phyllis Packard, Leo Powell, Micheal Manning, and Richard Hammond.

Packard moved, seconded by Manning and carried to approve the agenda.

Minutes of the October 31, 2017 meeting were approved with a motion by Manning, seconded by Hammond and carried.

Rod Polley, Highway Superintendent, met with the Board to discuss highway matters. Polley reported that he received permission from the SD Dept. of Transportation to burn the cattails on Lateral 50, and the SDDOT will send staff to help oversee the fire.

He also received a request from Ray O'Connor for cleaning on University Rd. The ditch is silted in, and O'Connor would like to clean it. It was the consensus of the Board that Polley get the agreement in writing and that O'Connor should re-seed the ditch when done.

Polley also reported to the Board a drain tile complaint he received from a landowner on 302 St.

Powell moved, seconded by Packard and carried to pass and adopt the following Resolution #2017-21 for Fund Transfer.

**RESOLUTION # 2017-21
FUND TRANSFER**

BE IT RESOLVED by the Clay County Board of Commissioners the transfer of funds from the General Fund (10100) in the amount of \$752,040 to Highway Fund (20100) as levied for in the 2017 Budget.

Motion by Commissioner Powell seconded by Commissioner Packard.

Vote of the Board: Ayes 5, Nays 0.

Dated this 7th day of November, 2017.

Board of County Commissioners
Clay County, South Dakota

Travis Mockler, Chairman

ATTEST:

Carri R. Crum, County Auditor

The Board discussed scanning of documents with Alexis Tracy, State's Attorney, and Carri Crum, Auditor.

Manning moved, seconded by Powell and carried to approve the 1-day malt beverage license for Westlund/Peterson Post #44 on November 13, 2017.

Sam Heikes met with the Board to discuss his bee population. He discussed an award he received in 2014 for establishing a pollinator habitat and referenced the benefits of honey bees on crop yields. Heikes said when the beekeeper he works with came to load the bees, he found that he lost 40% of the bees this year. He said he heard the aerial sprayer that allegedly affected the Prairie Sun Organics farm and saw it less than a mile away, and although he cannot say for certain it was the cause of the drop in his bee population, bees are a bell-ringer for environmental quality. Heikes requested a resolution from the Board supporting the health of people in the joint-jurisdiction area. Mockler discussed the sensitive site registration process with Heikes and Glen Pulse of Prairie Sun Organics.

Pulse also discussed his farm with the Board. He said he has learned that state testing levels mirrored the testing he had done privately, and the levels were so high in his grass that his organic certifier has required him to send soybean samples from his field. State's Attorney Tracy asked if the Pulses are seeking civil damages. She said it sounds as if the Commission has no control over the items he is speaking of, that it sounds to her like those are civil damage items. Pulse said he has discovered that SDCL 39-1-17, a pesticide preemption law, prevents local legislation. He said he was originally going to ask for an ordinance to be passed, but since the County cannot do that due to the legislation he is asking the Commission to pass a resolution in support of changes at the state level. Pulse said he is meeting with the Deputy Secretary of the Dept. of Agriculture and an agricultural inspector of pesticides on November 21st and would like to be able to take the resolution with him.

Hammond asked which lab the State used for his testing. Pulse said it was the SD State University lab and the parts per billion were significant for a drift incident.

Pulse thanked the Board for its time and consideration and said if something does not change, he will be out of business. He said he is in a 3-year transition phase where he has to maintain organic practices but cannot have an organic certification, and he cannot guarantee an aerial spraying incident will not happen again next year.

Mockler asked if Pulse maintains setbacks on his land, and Pulse said he has a 30-foot buffer strip that is required nationally. Mockler said he read that the federal guidelines have a 200-foot buffer, and Pulse said if he had buffers that large he would not have any land left.

Tracy discussed draft language of a resolution, and the Board said they would likely need more time than the 21st of November. Tracy advised that the Board would need to carefully weigh property rights and takings issues before passing any resolution. Hammond and Manning discussed with Pulse aerial spraying vs. ground application. Hammond also discussed the current zoning ordinance with Tracy.

The following Auditor's Account with the County Treasurer Report was accepted and placed on file.

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

To the Honorable Board of County Commissioners of Clay County
items in the hands of the County Treasurer as of November 1, 2017.
I hereby submit the following report of my examination of the cash:

Total amount of deposits in banks

10,150,809.56

Amount of actual cash		2,977.33
Total amount of checks and drafts in Treasurer's Possession not exceeding three days		619,462.96
Itemized list of all items, checks and drafts which have been in the Treasurer's possession over three days:		2,124.78
Checks returned and not deposited		
Cash Items		
Investments		1,000.00
Cash Variation		0.00
Total	Dated this 1st day of November, 2017.	10,776,374.63

Carri R. Crum, County Auditor

At 10:55 a.m., Powell moved, seconded by Manning and carried to enter an Executive Session per SDCL 9-34-19.

At 11:03 a.m., Powell excused himself from the meeting.

At 11:17 a.m., Packard moved, seconded by Manning and carried to exit the Executive Session.

At 11:18 a.m., Packard moved, seconded by Hammond and carried to adjourn and reconvene Tuesday, November 14, 2017 at 9:00 a.m.

ATTEST:

Travis Mockler, Chairman
Board of County Commissioners

Carri R. Crum, County Auditor
