

April 30, 2019

The Board of County Commissioners met in regular session Tuesday, April 30, 2019 at 9:00 a.m. Members present: Travis Mockler, Phyllis Packard, Leo Powell, Micheal Manning, and Richard Hammond.

Packard moved, seconded by Powell and carried to approve the agenda with the addition of a mobile home zoning ordinance violation and a request by Atkins Family Limited Partnership for plat of Tracts 1-5 of Atkins' Addition, Sec. 16, T95N, R53W.

Minutes of the April 9, 2019 meeting were approved with a motion by Manning, seconded by Packard and carried.

Prairie Center Township board members Bob Fallon and Matt Olson were present to discuss water on Greenfield Road near the old Greenfield Store. They said the township wants to do work north of Greenfield to move water west. They would like to increase the size of culverts near 309 St. and near Erickson's property because the culverts cannot handle the water. Everyone on the east gets too much water and then Gary Madsen also gets the water. The township wants to put larger culverts to help get rid of water and said Greenfield Rd. is a dam.

David Grage said water that comes by his driveway goes west through Majestic Farms. He said at times the water goes from 6 ft. to 30 ft. wide. The culvert on the field approach east of him is small and restricts water. A bigger one would help. He said then the water runs across the road south of him at Anthony Port's property. Powell said they have opened that up before.

The township board members said if the culvert is bigger at 309 St. it will take pressure off because it is all going over 309 St., and the road is washed out.

Charles Bohr said the water comes over and drowns his property.

Polley asked if it is the east-west culvert, and the group clarified that it is the one that runs under Greenfield Rd. There was discussion regarding all the culverts in the area. Polley said he wouldn't swear by it but thinks they are all 18" culverts in that area. Micheal Manning asked if the Corps of Engineers would need to be involved. Powell said if the size of culverts is increased, it could be considered putting water on others, and that would be a problem. He said the ditches were not designed for this, that they are "borrow ditches" to build the road. He also discussed the commissioners having a tour of roads.

Donnie O'Connor said recommendations in the previous drainage study were never done. Polley said he has a copy of the study. Polley asked if they are requesting to increase the culvert at Port's property. Port said there is only an 18" concrete culvert. He said the culvert is clear, but water can't get through fast enough. Powell said if those culverts are increased, it will flood Madsen's property faster. Fallon said if the water can go west before it gets to Port's it will help both Port and Madsen.

Grage suggested putting a new culvert north of Port's grove and said it would help direct the water through his field and over to Majestic Farms instead of to Port's and Madsen's properties.

Mockler said the Board will contact the township regarding the matter.

Bohr said a lot of water backfills onto his property from the south because it can't move fast enough, and there is no culvert at 312 St. Powell asked Polley if the county can clean both ditches at the curve. Polley said it was done some time back, but he does not remember the year. Fallon said Pollman did clean the south side. Powell asked if the bottom of the ditch is higher than the bottom of the culvert. Polley said it's on his list to check when he gets a chance. Olson said the area near the cemetery should be cleaned out, too, and the culvert at the cemetery goes under Greenfield Rd. Micheal Manning said it might make a difference. Powell moved to put the area on a tour of roads and notify townships of the schedule. Packard seconded the motion. All voted aye; motion passed.

Max Andersen was present for the Fairview Township Board. He said 466 Ave. south of Main St. washed out, and a temporary culvert was placed there. He said the township is asking for approval for an 18" culvert. He said he thinks Turner's development contributed to the water problem because water goes east then across, not south as was previously thought. At 316 St. & 466 Ave., a culvert goes north and drains on Ufford's property. Andersen said he wants one that goes west, but it will affect Mike Manning. He is concerned water will come to his property. Andersen said he wants to know what the township needs from county in order to do that. Mockler discussed liability. Micheal Manning asked for clarification on the area in question. Andersen said the area is across from Travis Wells' property, and the flow of water was discussed. The dead end at Wells' causes water to get to his basement and floods his front yard. Andersen said Ufford says there was a culvert years ago, and there was a waterway on Ufford's side, but it needs to be cleaned. It was said that there is a tube in side of the bluff, but the water doesn't get to it due to years of farming. Mockler asked if Ufford will sign off on a culvert installation. It was discussed that Ufford said he does not want to put water on Heine's property and said they should get Heine to sign off on the culvert installation. Hammond showed the area on Pictometry with 10' contours. Andersen said water drains quickly because it is so sandy. Micheal Manning said the water has to go down the hillside, so it should take a while to get to Heine's property. It was discussed that Heine does not want the water. Andersen said the water goes there now when rain is heavy. Andersen said Turner's development complicated the water issue and allowed water to come out to the ditch and run south. There used to be a huge swamp out there where the development is located.

Bill Willroth said water pours east from Schoellerman's, not to the west as those residents have claimed. Micheal Manning said water historically went east because the Cypress drive area used to be a swamp. Andersen said there was a reason someone put a culvert going down the bluff. Mockler and Micheal Manning said the township does not need county permission because it is a township road. There was discussion about whether there is an old riverbed that runs all the way to Jefferson. Hammond said it shows on Pictometry about 1/2 mile south of Alex Ufford's property.

Mike Manning said water is designed to go north, and a culvert is there, but no one has maintained it. He asked what happens when no one keeps the culvert open. Andersen said a 2" rain goes over the road and runs into the south ditch near Mike Manning's bins, and he said Mike

Manning has a legitimate concern. Andersen said where the culvert is going north the water goes on the west side of Ufford's property. Mike Manning said he thinks there was a waterway there previously, but now it goes over and near his grain bins. Micheal Manning clarified it is west of 466 Ave. where the culvert crosses 316 St. at the corner, and the water comes from Greenfield Rd. all the way down. Andersen said the culvert goes north but not far enough north. Mike Manning said water would clean out faster if the area was cleaned out, and he plans to tile his quarter to divert water around the ditch and into the gulley/ravine that already exists because he thinks it will help immensely. Powell said the subservient landowner has to take the water from upstream and cannot dam it up, if that's the route it is supposed to take, but a person cannot put new water on that landowner either. Powell asked State's Attorney Tracy about township responsibility for road ditches.

Andersen asked if he has to go back to maps from the 1940's that show where water was designed to go. Hammond said there are different soil types in low spots, and Pictometry does indicate where water goes. He said the Director of Equalization can print it. There was much discussion regarding Pictometry.

Manning moved, seconded by Hammond and carried to accept the low bid of \$2.55/gallon from Brunick Service for 10% ethanol blend fuel.

Packard moved, seconded by Hammond and carried to accept the low bid of \$1.04/gallon from Star Energy for propane.

Manning moved, seconded by Packard and carried to approve a Right-of-Way Application from Clay Rural Water on 306 St. (County Rd. #D4) in Section 20, Township 94, Range 51.

Packard moved, seconded by Hammond and carried to approve a Right-of-Way Application from Clay-Union Electric on 312 St. in Section 15, Township 93, Range 51.

Polley gave an update that 302 St. east of Wakonda and 306 St. are not going to be open until the engineer inspects the bridges. Polley said he has 25 bridges on emergency inspection with the State. He wants everything on the Vermillion River and Yankton-Clay and Clay Creek ditches inspected. Polley also said the west county line south of the Bluff will remain closed as well. Polley and Emergency Management Director Layne Stewart discussed FEMA notification. Polley said FEMA has been notified. Stewart said he spoke with Turner County, and they have \$1.5 million in bridge damage. Polley said when Johnson Engineering inspects Clay County's bridges, he will know the same day if there is a problem, but to get it in writing will take a few days. Polley said the department is working on moving water to the south near Meckling, and the area has been one-called. It was discussed that water needs to move east across Edelen's land. Polley said all culverts from Jetley Park up to the concrete culvert that was complained about at the annual Ditch Board meeting and the one north of Delaney's driveway have been one-called so they can work on them. Powell said maybe the board should be hiring contractors to do this cleaning to in order to free up the highway department personnel for other projects. Polley said his personnel will find the bottom of culverts, check them to see what needs to come out, and then hire someone because the highway department does not have the equipment, such as the laser, to do it. Polley discussed the pipe under Jetley Park and at Freeburg's land. He said there

are two waterways that go east near Delaney's land. Powell said it would be easy to go south to the Yankton-Clay Ditch, and it would not involve digging up Jetley Park. Polley said three culverts would have to be installed. Powell discussed Lateral 50. Polley said there is quite a bit of drop from Hwy. 50 to Cottonwood, but the creek cannot go anywhere until the Vermillion River goes down. Powell said the Yankton-Clay Ditch is still flowing downstream, and he thinks trees at end of the ditch where it dumps into the river are slowing it down, so those trees need to be cleaned out. Powell said at Meckling going east there are spots where water is stopped due to grass, and he does not think the State gave 1" drop per mile as was designed. Polley said 1" per mile is pretty flat. Mockler said east of Meckling to the bypass is the State's responsibility to clean out. Polley said either the State or a farmer cleaned out south of Freeburg's land and the next township road kitty corner to the west. Powell thanked Polley for the wonderful job the highway department has done, chasing signs around, etc, this spring.

Polley said there will be a change to the micro-surfacing plans. He cannot do Bluff Rd to the landfill or east of Wakonda due to too much road breakup. He will instead do from Highway 46 to the Volin Oil, 455 Ave. north of Burbank, and Timber Rd. There will be a \$75,000 addition to the contract because of wider roads, but he will not be doing any chip sealing, so there should not be any change to the department's budget.

Sheriff Andy Howe reported that the tax deed property at 919/925 W. 8th (AKA W. Chestnut) was sold to the highest bidder, Thomas Rouse, for \$5,900. Powell moved, seconded by Packard and carried to accept the bid from Rouse.

Powell moved, seconded by Packard and carried to authorize the Chairman to sign Emergency Management Director Stewart's SLA Quarterly Activity Report. Stewart gave a brief update on the status of the disaster declaration from the State and the request for a Presidential declaration. Stewart said he expects it to be a few months before FEMA inspectors could be here. He said gravel & culverts have been the main damages, and there is a ballpark estimate of \$1 million in damages, which does not count any bridges, FAS roads, or University Rd.

Karen DeLange, Alternative HRD, met with the Board to present the HR review report and make recommendations for policies and training.

Powell excused himself from the meeting at 11:20 a.m.

Sheriff Andy Howe met with the Board to discuss personnel changes within the department. He reported a deputy and his part-time administrative assistant have resigned. He would like to hire a full-time jailer and have the Jail Administrator cover some of the part-time administrative assistant's duties. This would, by Howe's projections, require a need to add approximately \$14,000 to the jail budget. Manning moved, seconded by Packard and carried to approve the hiring of a full-time jailer. Howe requested to have reserve deputy Michael Smith work as a part-time deputy to help cover some open shifts until the position is filled. The consensus of the Board was to allow the request, as the commissioners have elected to cover reserve deputies under the County's Workers Compensation Insurance, and Smith is already trained, certified, and outfitted with equipment.

Zoning Administrator Cynthia Aden met with the Board to present a plat. Aden said the plat meets zoning regulations. Manning moved, seconded by Hammond to approve the following Resolution for plat of Tract 1, Tract 2, Tract 3, Tract 4, and Tract 5 of Atkins' Addition in Section 16, Township 95 North, Range 53 West of the 5th Principal Meridian, Clay County, South Dakota; Atkins Family Limited Partnership, owner.

**RESOLUTION #2019-13
RESOLUTION OF COUNTY COMMISSIONERS**

WHEREAS it appears that the owners thereof have caused a plat to be made of the following described real property:

A plat of Tract 1, Tract 2, Tract 3, Tract 4, and Tract 5 of Atkins' Addition in Section 16, Township 95 North, Range 53 West of the 5th Principal Meridian, Clay County, South Dakota; Atkins Family Limited Partnership, owner.

Be it resolved that the Board of County Commissioners of said County has examined the same and that it appears that the system of streets set forth therein conforms to the system of streets of existing plats and section lines of said County, that adequate provision is made for access to adjacent un-platted lands by public dedication or section line when physically accessible, and that all provisions of the subdivision regulations of said County have been complied with, and that all taxes and special assessments, if any upon the tract or subdivision have been fully paid and that such plat and the survey thereof have been executed according to law, and the same is hereby accordingly approved.

Travis Mockler, Chairman
Board of County Commissioners

I, Carri R. Crum, County Auditor of Clay County, South Dakota do hereby certify that the within and foregoing is a true copy of the Resolution passed on April 30, 2019.

Carri R. Crum
County Auditor, Clay County, SD

Aden also spoke with the Board regarding a mobile home issue. The mobile home has not been moved, but the ownership was changed April 22, 2019 to the previous owner's sister. Aden said she spoke with the new owner and informed her that the mobile home still needs to be moved. She also spoke with the previous owner and explained the issues. Aden said the previous owner and current owner have expressed no interest in moving the mobile home. They have not

provided Aden a plan of action by the date she specified in her request, which was dated April 22, 2019. State's Attorney Tracy requested that the matter be tabled so she can review the matter.

Packard moved, seconded by Hammond pass and adopt the following Resolution #2019-12 for Opt Out. Roll call vote: Hammond Aye, Manning Aye, Powell Absent, Packard Aye, Mockler Aye. Motion passed.

**ATTENTION TAXPAYERS:
NOTICE OF
PROPERTY TAX INCREASE
OF \$105,000**

RESOLUTION #2019-12 FOR OPT OUT

THE GOVERNING BOARD OF Clay County Commissioners do state that the above said board is unable to operate under the tax limitation measure currently in statute in regards to the rural fire protection levy. We therefore OPT OUT of such tax limitation for purposes of raising additional tax dollars for rural fire protection in the amount of \$105,000 starting with calendar year 2019 taxes payable in the calendar year 2020. This opt out will be for 10 years, which will be through taxes payable in the calendar year 2029. This action has been taken by the board and approved by at least a two-thirds vote of the board.

This decision may be referred to a vote of the people upon a petition signed by at least five percent of the registered voters in the district and filed with the governing body within twenty days of the first publication of this decision.

Unless this action is referred to a vote of the people and reversed by such vote, this resolution authorizes the county auditor to spread an excess levy to raise tax dollars in the above stated amount.

Signed: Travis Mockler Board Chairman

Phyllis Packard Board Member

Micheal Manning Board Member

Richard Hammond Board Member

Leo Powell was absent Board Member

Attest: Carri R. Crum Clay County Auditor

Date 4/30/2019

Manning moved, seconded by Packard to pass and adopt the following Resolution #2019-08 for Reyeconveyance. Vote of the Board: Mockler Aye, Packard Aye, Powell Absent, Manning Aye, Hammond Aye. Motion passed.

**RESOLUTION #2019-08
Resolution for Reconveyance**

WHEREAS Clay County holds under Tax Deed proceedings Tax Deed Document #D 139917, Book D80, Page 785, covering property described as the N 27' of 15 & S 16' of 16 Block 2, College Park, City of Vermillion, Clay County, South Dakota, according to the recorded plat thereof, and commonly known as 113 Linden Ave., Vermillion, South Dakota; and

WHEREAS Scot D. Mannschreck, 113 Linden Ave., Vermillion, SD, 57069, is the prior record owner of the above described property; and

WHEREAS SDCL 10-25-41 provides for the restoration of title to said record owner upon payment of not less than all taxes, interests and costs represented in the Tax Deed; and

WHEREAS SDCL 10-25-42 provides that the county commission may fix a higher price for the reconveyance or to annex to the reconveyance any conditions or qualifications as the county commissioners may establish; and

WHEREAS Scot D. Mannschreck has made known in public meeting with the Board of Clay County Commissioners of Clay County, South Dakota, that he intends his father to become the record owner, and has advised that his father will provide funds to pay all taxes, interest and any higher price for the reconveyance of the property that county commissioners may establish; and

WHEREAS, at public meeting on March 5, 2019, with a passing motion of the Board of Clay County Commissioners of Clay County, SD, it was declared that all taxes due on the property to date shall be paid, plus a 100% penalty shall be paid, plus all expenses that Clay County has and will incur until the transaction is finalized shall be paid, at which time a Quit Claim Deed shall be issued to Scot D. Mannschreck.

WHEREAS Scot D. Mannschreck, 113 Linden Ave., Vermillion, SD, 57069, has deposited \$22,231.57 with the Clay County Treasurer in the form of a cashier's check, and this amount represents all the taxes, interest and costs owing on said Tax Deed, as well as the higher price for reconveyance and the additional costs and expenses required to be paid by the Clay County Commissioners;

NOW THEREFORE, BE IT RESOLVED, by the Board of Clay County Commissioners, that the property be restored to Scot D. Mannschreck, and that the Clay County Treasurer is hereby authorized to issue a Quit Claim Deed thereto.

Commissioner Manning moved the adoption of the foregoing resolution. Motion seconded by Commissioner Packard.

Vote of Commission: Mockler Aye, Packard Aye, Powell Absent, Manning Aye, Hammond Aye.

Upon which voting the resolution was declared passed and adopted.

Dated at Vermillion, South Dakota this 30th day of April, 2019.

Board of County Commissioners
Clay County, South Dakota

ATTEST:

Carri R. Crum, County Auditor

Packard moved, seconded by Hammond and carried to approve the following claims for payment: April Bills: : (Payroll) Commissioner's \$6,897.49; Auditor's Office \$4,999.32; Treasurer's Office \$14,404.54; State Attorney's Office \$18,166.14; Courthouse \$2,525.41; Director of Equalization \$8,147.43; Veteran's Service \$1,323.10; Register of Deeds \$5,087.39; 24/7 \$1,766.97; Sheriff's Office \$32,434.72; Jail \$19,004.25; Emergency MGMT & LEPC \$3,387.40; Highway \$37,044.31; Nurse \$2,289.31; Extension \$2,724.72; Weed \$1,017.14; Planning & Zoning \$2,317.70; (Due to Other Governments) State of SD Game Fish \$219.00; (Payroll Withholdings) Aflac \$770.19; Colonial Life \$525.26; Consec/Washington \$24.45; Dearborn National \$224.28; Div. Of Child Support \$675.00; New York Life Insurance \$328.57; SD Retirement System \$25,922.40; SD Supplemental Retirement \$2,325.00; SDRS Roth \$960.00; United Way of Vermillion \$382.00; Vermillion Federal \$2,071.00 and Wellmark Blue Cross \$54,984.39; (Due to Other Government) State of SD Game Fish \$386.00; (Other Insurance) Mendoza, Andrew \$500.00; SD Public Assurance Alliance \$424.31 and Tri State Insulation \$250.00; (Processional Services and Fees) Avi System, Inc. \$464.87; Bureau of Administration \$2,335.59; EMS Association \$299.69; Gapp, Debra \$1,247.50; Katterhagen, Mark \$36.00; Lewno, Lucille M \$446.25; Lockwood, Darcy \$36.00; Netsys Plus, Inc. \$50.00; Pharmchem, Inc. \$885.05; Sanford Health Occupational \$46.00; SD Dept of Health Lab \$10.00; Vermillion Federal \$20.11; Yankton Co Sheriff \$150.00 and Yankton Medical Clinic \$246.30; (Law Office) Brevik Law Office LLC \$206.55; McCulloch, James E \$4,216.97; Mikelson, Gary, Attorney \$397.75; Peterson, Stuart, Klen \$6,344.48; Rhinehart Law, PC \$6,413.58 and Thompson, Craig K \$5,386.89; (Mental Health) Dakotabilities \$360.00; (Repairs and Maintenance) Bear, Inc. DBA Todd's Electric \$366.22; Ben's Handyman Service \$230.29; Canon \$90.00; Century Business Products \$30.00; Fast Auto Glass, Inc. \$320.00; Johnsen Heating Cooling \$661.18; Johnson Feed, Inc. \$123.03; Olson's Pest Technician \$209.00; Turner Plumbing Inc. \$213.01 and Vermillion Federal Credit \$60.00; (Data Processing) Bureau of Administration \$24.75; Mastel Bruce \$35.00; (Supplies & Materials) A & B Business \$168.16; Aden, Cynthia \$7.92; Bob Barker Co Inc. \$105.91; Boyer Ford Trucks \$1,264.74; Brunick Service, Inc. \$2,451.14; Bunyan's Bar & Grill \$92.50; Campbell Supply Co \$571.31; Coyote

Enterprise LLC \$12.99; Davis Pharmacy \$134.16; Fast Auto Glass, Inc. \$437.80; FedEx \$200.14; Graham Tire S.F. North \$2,891.52; Herren-Schempp \$27.00; Hy-Vee, Inc. \$20.79; Jack's Uniform & Equipment \$383.74; JCL Solutions \$374.20; Light and Siren \$5,090.00; McLeod's Printing & Supply \$200.74; Mes Companies \$32.00; Mills & Miller, Inc. \$1,722.50; North Central Rental \$6,600.00; Orr Farm Supply \$46.71; Pharmchem, Inc. \$1,211.00; Quill Corporation \$720.19; Sing-Up LTD \$23.40; Sturdevant's Auto Parts \$1,478.98; Truenorth Steel \$23,198.56; Vermillion Ace Hardware \$89.75; Vermillion Federal \$1,956.36; One Office Solution \$269.65 and Wheelco Brake and Supply \$846.88; (Copier Supplies) Quill Corporation \$65.61 and Reliance Telephone \$500.00; (Travel and Conference) Aden, Cynthia \$38.33; Howe, Andy \$85.00; Manger, Bill \$138.92; SDSU Extension Service \$39.42 and Terwilliger, Lisa \$42.00; (Inmate Travel) Brunick Service, Inc. \$275.00; (Utilities) City of Vermillion \$1,174.83; Kyte, David \$105.00; Midco Business \$210.00; Star Energy \$1,348.36; Verizon Wireless \$108.59; Verizon Wireless Sheriff \$320.08; Verizon Wireless Emg \$40.01; Vermillion Ace Hardware \$74.95; Verm/Clay Co. Landfill \$1,269.52 and Vermillion Garbage Svc \$176.00; (Payment) Brunick Service, Inc. \$1,457.81; SD Dept of Rev Anderson \$1,563.50; Hy-Vee, Inc. \$4,516.13; Sanford Health Clinic \$2,545.00; SD/NE Pls. Mgmt. Proj. \$500.00; The Soap Guys \$32.00 and Walmart Community/Geer \$126.40; (JDC/Special Eq) Clay County Ems \$90.00; Minnehaha County JDC \$10,341.89; (Buildings and Structures) Clay County Ems \$150.00; Aden, John \$400.00; Bear, Inc. DBA Todd's \$612.97 and Turner Plumbing Inc. \$250.19; (Books) Thomson Reuters – West \$510.26; (Furniture and Minor Equipment) Canon \$209.96.

At 11:58 a.m., Manning moved, seconded by Packard and carried to enter an Executive Session for personnel and legal matters per SDCL 1-25-2.

At 12:39 p.m., Packard moved, seconded by Manning and carried to exit the Executive Session.

Packard excused herself at 12:40 p.m.

Polley discussed whether he can have a private individual's drainage cleaned so that it does not continue to damage a county bridge.

At 12:52 p.m., Manning moved, seconded by Hammond and carried to adjourn and reconvene at 9:00 a.m. on Tuesday, May 7, 2019.

Travis Mockler, Chairman
Board of Clay County Commissioners

Attest:

Carri R. Crum, County Auditor

