

June 27, 2017

The Board of County Commissioners met in regular session Tuesday, June 27, 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 June 13, 2017 meeting were approved with a motion by Powell, seconded by Hammond and carried.

Andy Howe, Sheriff, met with the Board regarding mug shot fees. Powell moved, seconded by Packard and carried to set the fee for obtaining a mug shot at \$8.00.

Packard moved, seconded by Manning and carried to authorize the payment of the following claims. June Payroll: Commissioners \$8,032.07, Auditor's Office \$9,536.49, Treasurer's Office \$15,961.33, States Attorney's Office \$15,027.50, Courthouse \$2,685.67, DOE's Office \$10,231.91, ROD's Office \$6,705.24, Veteran's Office \$1,747.50, Sheriff's Office \$36,424.94, County Jail \$21,849.77, 24/7 Sobriety Project \$1,603.13, LEPC and Emerg. Mgmt. Office \$4,047.17, Highway Department \$39,360.55, County Nurse \$2,511.00; Extension Office \$2,904.00, Weed Department \$11,557.42, and Zoning Office \$2,428.23; June Bills: (Due to Other Government) State of SD Game Fish \$203.00 and Reliance Telephone \$500.00; (Payroll Withholdings) Aflac \$808.09; Clay Co Treasurer \$46,950.20; Colonial Life \$359.97; Conesco/Washington \$24.45; Dearborn National \$213.15; New York Life Insurance \$244.02; Optilegra Inc. \$17.92; Performant Recovery \$366.39; SD Retirement System \$21,047.30; SD Supplemental Retirement \$1,875.00; SDRS Roth Plan \$450.00; United Way of Vermillion \$179.00; Vermillion Federal Credit \$1,496.00 and Wellmark Blue Cross \$47,965.62; (Professional Services and Fees) Billings, John P \$1,974.00; Brevik Law Office LLC \$207.33; Flex System (Tasc) \$1,611.85; Houska, Randy DDS \$307.00; Johnson Engineering Co \$22,608.10; Katterhagen, Mark \$15.00; Lewno, Lucille M \$105.46; Lincoln County Auditor \$35.55; Lincoln County Treasurer \$718.24; Louie's Carpet Cleaning \$405.30; Mikelson, Gary Attorney \$45.00; Netsys Plus, Inc. \$962.00; Sanford Health Clinic \$321.56; Security Shredding Svc \$35.00; Sitting Crow, Elijah \$3.00; Swanda, Karen \$15.00; Volin Rural Fire Assoc. \$205.04; Yankton Co Sheriff \$50.00 and Yankton Medical Clinic \$750.54; (Law Office) Kch Law \$135.45; McCulloch, James E \$445.00 and Peterson, Stuart, Rumpca \$6,098.12; (Mental Health) Sesd Activity Cntr \$360.00; (Repairs and Maintenance) Century Business Products \$29.12; Clay Co Historical Society \$500.00; Clay Union Electric Co \$60.00; Flex System (Tasc) \$34.30; Hollaway Const. Co. \$42,260.00; Intek \$313.71; Olson's Pest Technician \$75.00; Paul's Plumbing, Inc. \$59.52; Pressing Matters \$91.25 and Turner Plumbing Inc. \$1,191.96; (Data Processing/Clay Creek) Netsys Plus, Inc. \$88.00; (Supplies & Materials) Agterra Tech In. \$250.00; American Stamp & Marketing \$44.16; Bob Barker Co. Inc. \$121.81; Bomgaars \$29.99; Brunick Service, Inc. \$18.00; Campbell Supply Co. \$247.91; Clay Co Treasurer \$132.20; Clay Union Electric Co. \$305.55; Concrete Materials \$5,220.26; D-Ware Inc. \$1,000.00; Diamond Mowers Inc. \$734.40; FedEx \$130.70; Hollaway Const. Co. \$4,276.45; Hollenbeck, Lauren \$50.46; Jerry's Chevrolet \$74.97; John Deere Financial \$167.41; Mark's Machinery \$629.08; Natl. 4-H Council Supply \$42.84; O'Reilly Auto Parts \$56.34; Sanford Health Clinic \$14.00; Sign-Up Ltd. \$47.91; Sturdevant's Auto Part \$331.47; Vermillion Ace Hardware \$24.99; Vermillion Ford \$289.98 and Walmart Community/Gecr \$95.66; (Travel and Conference) Aden, Cynthia \$46.59;

Hollenbeck, Lauren \$74.40; Sdaao C/O Wendy Semmler \$300.00 and Sdvsoa \$75.00; (Utilities) Clay Union Electric Co \$64.04; City of Vermillion \$3,263.88; Verizon Wireless \$56.40; Verizon Wireless Sheriff \$263.70; Verizon Wireless Emg \$40.01 and Vermillion Garbage Svc \$156.00; (Payment) Domestic Violence \$270.00; Jacobson, Sheila \$50.00; Goodman, Timothy \$20.00; Jensen, Stephanie \$50.00; Mattes, Steven \$279.40; Dakota PC Warehouse \$464.98; Dept of Revenue \$541.86; Hy-Vee, Inc. \$572.80; Sioux Falls 2-Way \$1,370.88; The Soap Guys \$56.00; Vermillion Food Pantry \$1,875.00; Walmart Community/Gecr \$149.00; Ebel, Nicole \$50.00; Bertram, Jolynne \$50.00; Gehm, Peter \$50.00; Gray, Jolinda \$50.00; Jacobsen, Pamela \$50.00; Knodel, Bryant \$79.40; Logue, Tom \$65.96; Peltier, Andrew \$50.00; Ramakrishnan, Michele \$56.72; Johnson, Wyatt Lee \$41.00; Jost-Wilch, Sarah \$20.00 and Wilch-Tweten, Sandra \$20.00; (JDC/Special Eqp.) Galls LLC. \$691.10; Jack's Uniforms & Equipment \$191.47 and Sdacc Office \$2,807.92; (Publishing) Star Publishing \$445.62.

Packard moved, seconded by Manning and carried to appoint the following people to the Clay County Historic Preservation Commission: 1 year term – Tom Sorensen, Jim Stone, Dennis Konkler, 2 year term – Ted Muenster, Bill Ranney, Molly Rozum, 3 year term – Jim Wilson, Ed Gerrish, Evelyn Schlenker, and Patrick Morrison.

Hammond moved, seconded by Packard and carried to appoint Ina Peterson as Director of Equalization due to the upcoming retirement of Director of Equalization Gene Lunn.

John Davidson met with the Board and Alexis Tracy, State's Attorney, regarding the Fifth Amendment to the U.S. Constitution, specifically the "taking" of property in regards to the proposed changes to the zoning ordinance.

Jim Burk and Jillian Jez, State of South Dakota, were present via conference call with the Board, State's Attorney Alexis Tracy, and Emergency Management Director Layne Stewart regarding the County Rangeland Fire Protection Agreement. Powell moved, seconded by Packard and carried to authorize the Chairman to sign the agreement and to pass and adopt the following Resolution #2017-14 for County Rangeland Fire Protection.

**RESOLUTION #2017-14
County Rangeland Fire Protection**

WHEREAS the County has not established a Rangeland Fire Protection Plan;

BE IT HEREBY RESOLVED, that the list of individuals set forth below, are hereby authorized to request rangeland fire assistance, on behalf of the County of Clay as specified in SDCL 41-20A-11. The authority to request assistance as provided shall continue in full force and effect until terminated or modified by resolution of the County of Clay Board of Commissioners.

County Fire Assistance Authorization list:			
Effective Date: June 27, 2017			
Name of Individual	Position	Daytime Phone	Emergency or Cell Phone
Layne Stewart	Emg. Mgmt. Dir.	605-677-7185	605-677-9812
Andy Howe	Sheriff	605-677-7100	605-670-1915
Jerami West	Chief Deputy	605-677-7100	605-677-9981

BE IT HEREBY RESOLVED, that Layne Stewart, Emergency Management Director, is appointed County Rural Fire Coordinator for the County of Clay. The County Rural Fire Coordinator is hereby authorized to act as a single point of contact, on behalf of the County of Clay, in dealing with administrative matters such as burn bans, billings, or questions

about this Rangeland Fire Agreement specific to the County. This authority shall continue in full force and effect until terminated or modified by resolution of the County of Clay Board of Commissioners.

Dated the 27th day of June, 2017.

Commissioner Powell moved the adoption of the foregoing Resolution; Motion seconded by Commissioner Packard.

Vote of the Commission: Packard Aye Powell Aye Manning Aye Hammond Aye Mockler Aye.

Upon which voting the foregoing Resolution was declared passed and adopted.

ATTEST:

Carri R. Crum, County Auditor

Travis Mockler, Chairman
Board of County Commissioners
Clay County, South Dakota

Mike Bauer, Executive Technologies, met with the Board to discuss a quote for a phone system for the County.

Cynthia Aden, Zoning Administrator, presented a plat on behalf of Jeffrey J. Olson. Manning moved, seconded by Hammond and carried to pass and adopt the following Resolution for plat of Jeff Olson Addition in the W1/2 of the NW1/4 of Section 32-T93N-R51W of the 5th P.M., Clay County, South Dakota; Jeffrey J. Olson, owner.

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 Jeff Olson Addition in the W1/2 of the NW1/4 of Section 32-T93N-R51W of the 5th P.M., Clay County, South Dakota; Jeffrey J. Olson, 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 June 27, 2017.

Carri R. Crum
County Auditor, Clay County, SD

At 10:00 a.m., a first reading and public hearing was held regarding Ordinance #2017-01, an amendment to the 2013 Revised Zoning Ordinance for Clay County. Specifically, the Board of County

Commissioners considered adoption of amendments to Section 2.02, Definitions; Section 3.07, Concentrated Animal Feeding Operations (CAFO); Section 4.05.01, NRC: Natural Resource Conservation District; Section 4.05.02, A-1: Agricultural District; and 4.0508, APO: Aquifer Protection Overlay District, which were recommended by the Clay County Planning Commission.

Chad Peterson was present and discussed the regulations as they apply, and would potentially apply, to his family. He talked about the stress on family farms and told those present that he wanted to join the family farming, but it was not possible for his family's farm to expand due to current conditions in Clay County. He said livestock are value-added agriculture and make it possible for many local farmers to survive. Peterson said he knows others his age who would have joined their family's farming businesses but could not, and explained that it hurts them to know that they have to choose another career. Powell asked if the County's regulations would make it easier, or more difficult, for him and people his age to get into farming. Peterson said he cannot speak for everyone, but the proposed regulations would help his family farm move forward. He said also that with the right operating practices, it is actually better for the environment. Peterson discussed the additional jobs that expansion could bring and also the college education required for a farmer to run larger operations. Barbara Yelverton asked if his family would use outside investors for expansion, and Peterson said yes. Peterson said he has been fed for 20 years by "share croppers," so to speak, and the investors his father would use are from South Dakota. Sharon Gray asked if it was the process, the number of cattle, or the setbacks that make it difficult for his family to expand. Peterson said the process and the requirement to spend a lot of capital in order to even bring forth a proposal to the County. He said he agrees that there should be setbacks. Peterson also said Iowa has 3 times the population and 20 times the animals as South Dakota, and Sioux County is still a great place. Mark Winegar asked if Peterson could point to any specific parts of the proposed ordinance that would help. Peterson spoke about the economic impact to farmers and how it would allow his family's farm to operate. The increased number of livestock units would help his family. Jerry Wilson asked what part of the present ordinance's process hinders his family. Peterson discussed problems his cousin had with a previous proposal and the costs involved.

Charles Yelverton said the numbers had not changed except dairy, and he does not think 5,600 will make that much difference. Barbara Yelverton said the process does not change. Cynthia Aden, Zoning Administrator, replied that the process does change significantly; currently the water quality permit costs \$10,000-12,000 up front, and the changes will allow a discussion to take place first to discover whether the site is good before the operator needs the water quality permit. The SD Department of Environment and Natural Resources (DENR) wants the County to have done some review first before the operator applies for the water quality permit. Powell said the change in the process makes sense to him because the information about the site is being gathered first. Jerry Wilson said he does not see any place in the current ordinance that says Aden cannot talk to people. He said he grew up on a small family farm where there was no place for him. He cited statistics that claim large dairies put family farmers out of business. J. Wilson is concerned that a medium operation would be allowed over aquifer zone B. He is also concerned that an operation could expand without increased setbacks to neighboring property and worries that the County will be sued and taxpayers will pay. Powell reviewed section 3.07 with J. Wilson. J. Wilson said the DENR will not regulate Animal Feeding Operations (AFOs), only Concentrated Animal Feeding Operations (CAFOs). Hammond and Mockler said the DENR will assist the County if the County requests it. Hammond said on page 12 of the new general permit just passed by the State in April the SDCL 34A-3A-24 addresses shallow aquifer. Hammond and Wilson discussed the aquifer zones in relation to AFOs and CAFOs. Aden clarified that medium AFOs were added to

conditional use permit requirements so that the County would have more regulatory ability. Hammond and State's Attorney Alexis Tracy discussed SDCL 34A-3A-24. J. Wilson asked where it says the County will request the DENR's assistance in regulation of medium AFOs in the shallow aquifer. Aden pointed out section 3.07 6F. Cindy Struckman-Johnson asked if it could be added that a request will be made by the County to the DENR, so as not to assume that the County will. Hammond referred back to the State's general permit as it regulates operations, and the aforementioned statute.

Sharon Gray said the process is getting cleaned up and clear, but her concern is with animal numbers and she thinks if numbers were kept as-is the County would have a proposal that a lot of people could get behind. Her next concern was setbacks. She asked if limiting existing operations from expansion is what the Commissioners are concerned about. Manning pointed out some existing Clay County family operations that want to expand but are limited. Hammond and J. Wilson discussed buffer strips. Norma Wilson said the reduction of setbacks is an arbitrary thing. The protection of citizens and water must be considered. Aden said it is a delicate issue, that setbacks could also be a "taking" to an existing operation. Peterson discussed environmental regulations and cover crops as they pertain to animal feeding operations and pointed out that certain practices of an animal feeding operation are not regulations but are a matter of practice for better, more successful farming.

Richard Menzel spoke on health hazards of large farming operations, treatment of animals, and the Old Testament.

Gray discussed Small A and Small B with Aden in regard to pollution hazards. Gray also clarified that dairy numbers are the only numbers being increased and asked that the number be kept at 3,500. Powell and Mockler spoke with Gray about the statistical break-even number of 4,500 for dairy as it relates to the economy. Gray said if they cannot break even at 3,500 then that is maybe not the type of farming Clay County needs.

N. Wilson talked about her observation at a dairy facility. Struckman-Johnson asked for a compromise of 4,500. The Board discussed milk prices and supply with B. Yelverton. J. Wilson asked why Clay County would want to shift focus away from family operations. Mockler explained it opens many opportunities for other jobs such as trucking, veterinary services, and higher sale prices of crops used for feeding the animals, etc. The audience discussed that these types of jobs attract foreign labor, not local people, to which Powell replied that, regardless of where they are from, farm workers are buying homes, groceries, attending churches, and spending money in the communities in which they work, not just sending money back to family in their native countries. He also discussed "takings" in relation to reduced property values and said reducing the animal numbers could also be considered a "taking" from the existing farmers who cannot expand because it is taking away from their opportunities to make a living. B. Yelverton and J. Wilson discussed Sioux County, Iowa. C. Yelverton discussed public health concerns and that the ordinance does not set rules about how a farmer takes care of its animals regarding antibiotics. Mockler discussed federal Food & Drug Administration regulations regarding antibiotic usage in livestock. Struckman-Johnson said she feels the Board favors economic development over environmental protection. Menzel quoted statistics regarding respiratory diseases.

Packard asked if a compromise of 4,500 is possible in the opinion of the audience. Hammond said previous discussion regarding reduction of the dairy number and talked about his own experience being on dairy farms in the past few years. Gray discussed the referral process for ordinances to be brought to

an election. Powell said he has been asked by a local farmer why he needs to go across the river to Nebraska to farm instead of being able to make it in Clay County. N. Wilson asked if buffer strips could be added as a requirement of setbacks. Manning said he would rather have animals inside than to have the smell like the operation along the interstate which has been discussed in previous meetings. J. Wilson discussed water pollution and cleanup operations and suggested that the Board is blind to the topic of water pollution getting worse. Manning and Hammond cited studies that found buffer strips did not hinder pollution. Struckman-Johnson asked that a qualifying statement be added to the ordinance regarding reducing the chance of pollution by using buffer strips. Winegar said he worries that there is an assumption with very little research and said that pollution coming downstream is not necessarily coming from farmland.

Powell moved, seconded by Hammond and carried to proceed with the previously scheduled second reading of the proposed Ordinance #2017-01 on July 6, 2017 at 10:00 a.m.

Alexis Tracy discussed answers received from Executive Technologies to the Board's questions on the phone system quote. Powell moved, seconded by Packard and carried to authorize the Chairman to sign the contract for the phone system.

Tracy reported the payroll addition of Jill Dotson as Legal Assistant/Victim's Witness Assistant beginning July 10, 2017 at the annual salary of \$34,274.80.

Manning moved, seconded by Powell and carried to authorize the Chairman to sign an Acceptance of Service for a foreclosure matter in which the County is owed Real Estate taxes.

At 12:24 p.m. Manning moved, seconded by Packard and carried to adjourn and reconvene Thursday, July 6, 2017 at 9:00 a.m.

ATTEST:

Travis Mockler, Chairman
Board of County Commissioners

Carri R. Crum, County Auditor
