

Gregory County Commission Proceedings

The regular meeting of the Gregory County Commission was held Wednesday, September 16, 2020, at 9:00 a.m. in Burke with the following members present: Jeff Johnson, Myron Johnson, Jessy Biggins, Kelsea Sutton and Bob Hausmann. Also present: Julie Bartling, Gregory County Auditor.

The meeting was opened and the Pledge of Allegiance was recited.

Approval of Agenda: Motion by Jessy Biggins, second by Bob Hausmann to approve the agenda as presented. All members present voted aye. Motion carried.

Approval of Minutes: Motion by Jessy Biggins, second by Myron Johnson to approve the minutes of the September 1, 2020 as read. All members present voted aye. Motion carried.

Conflicts of Interest: The Chair asked if there were any conflicts of interest from members present. Commissioner Bob Hausmann stated that he has a conflict with the Jensen Conditional Use Permit application that will be heard as a Board of Adjustment. No other conflicts were noted.

Ex-Parte Communications: The Chair inquired if there have been any ex-parte communications by any member present. None were noted.

Public Input: The Commission opened the floor for public input. No one appeared before the Commission.

Plat Approval: The following plat was presented for approval by the Commission: Lot 1, Bailey 2nd Subdivision, located in the SW¼ of Section 4, T95N, R68W. Motion by Jessy Biggins, second by Myron Johnson to offer the following Resolution of Approval:

APPROVAL – GREGORY COUNTY BOARD OF COMMISSIONERS (SDCL, 11-3-8)

WHEREAS: the owner of the land herein platted as **LOT 1, BAILEY SECOND SUBDIVISION**, located in the SW¼ of Section 4, Township 95 North, Range 68 West of the 5th p.m. Gregory County, SD, have presented this plat to the Gregory County Board of Commissioners for their consideration and approval, and it appears that the land lies outside the platting jurisdiction of any municipality and
WHEREAS: it appears that this plat conforms to all requirements of SDCL, 11-3-8, NOW THEREFORE:
BE IT RESOLVED: that the plat be approved this 16th day of September, 2020.

Upon roll call for vote: Myron Johnson-aye; Jessy Biggins-aye; Kelsea Sutton-aye; Bob Hausmann-aye; Jeff Johnson-aye. Resolution approved.

Plat Approval: The following plat was presented for approval by the Commission: Lots 9 and 10, a subdivision of a portion of Tract B. located in Section 21, T97N, R68W. Motion by Jessy Biggins, second by Myron Johnson to offer the following Resolution of Approval:

APPROVAL – GREGORY COUNTY BOARD OF COMMISSIONERS (SDCL, 11-3-8)

WHEREAS: the owner of the land herein platted as **LOTS 9 and 10**, a subdivision of a portion of Tract B, located in Section 21, Township 97 North, Range 68 West of the 5th p.m. Gregory County, SD, have

presented this plat to the Gregory County Board of Commissioners for their consideration and approval, and it appears that the land lies outside the platting jurisdiction of any municipality and WHEREAS: it appears that this plat conforms to all requirements of SDCL, 11-3-8, NOW THEREFORE: BE IT RESOLVED: that the plat be approved this 16th day of September, 2020.

Upon roll call for vote: Myron Johnson-aye; Jessie Biggins-aye; Kelsea Sutton-aye; Bob Hausmann-aye; Jeff Johnson-aye. Resolution approved.

Board of Adjustment: Motion by Kelsea Sutton, second by Myron Johnson to adjourn as a Board of County Commissioners and to convene as a Board of Adjustment. All members present voted aye. Motion carried.

Variance Application: The following variance was presented to the Board: Charles and Nadeen Peterson to build a house on a parcel of land less than 40 acres in an Ag District and request a setback from the road to be 75' instead of 150', in Tract IN, N500' E900' of SE¼ NW¼ less 0.26 AD ROW, Section 20-97-68, Whetstone Township.

The Commission discussed potential concerns with a 75' setback, that, dust will be a problem due to heavy truck traffic. The County takes measures to control dust to the best of its ability, and the owners need to be aware of the situation. Motion by Jessie Biggins, second by Myron Johnson to approve the variance. All members present voted aye. Motion carried.

Conditional Use Permit: A conditional use permit application was received for the Jensen Family Trust to expand their campground for 10 additional camping spots with water and electric service provided in an Ag District in NW¼ SE¼; S½ SE¼ in Section 4-95-67, Star Valley Township.

The Planning and Zoning Board approved the permit with the following stipulations: (1) Wheels cannot be removed from campers; (2) Campers may remain at the site year-round, however, any renters must be transient.

Opposing the permit were Martin Lawler, a neighboring land owner, who sited the expansion would further invade privacy. Also opposing was Julie Baker, representing herself, her husband, Dalen and her son, Casey. The Bakers are concerned with the expansion blocking access to their property, increased fire danger to baled hay, excessive speed and littering along the access road and along property lines.

Amy Bartling-Jacobsen, States Attorney, discussed the facts of recreational traffic on county roads and the increased camping and boating along and near the Missouri River in Gregory County.

The Commission discussed proper action to take upon the application, in consideration of the stated opposition.

Motion by Jessie Biggins to approve the conditional use permit with the stipulations set out by the Planning and Zoning Board.

Motion by Kelsea Sutton to offer a substitute motion to approve the permit with the stipulations of the Planning and Zoning Board, plus to add that a gate should be put across the access road and should be completed by the time the camping sites are completed.

After further discussion, Commissioner Sutton withdrew her motion and a substitute motion by Commissioner Myron Johnson was made to discuss the permit application further at the October 6, 2020 meeting, giving the Jensen family an opportunity to appear and be heard. Commissioner Kelsea Sutton second the motion. Upon call for vote: Myron Johnson-aye; Jessy Biggins-aye; Kelsea Sutton-aye; Bob Hausmann-abstain; Jeff Johnson-aye. Motion carried.

Reconvene as Commissioners: Motion by Bob Hausmann, second by Kelsea Sutton to adjourn as a Board of Adjustment and to reconvene as a Board of County Commissioners. All members present voted aye. Motion carried.

Annual Budget Adoption: The Commission opened the hearing to adopt the 2021 budget at 10:00 a.m. Motion by Kelsea Sutton, second by Myron Johnson to enter into executive session at 10:16 a.m. to discuss personnel. All members present voted aye. Motion carried.

Motion by Bob Hausmann, second by Myron Johnson to adjourn from executive session at 10:45 a.m. with no action taken. All members present voted aye. Motion carried.

The Commission will take action on the 2021 Annual Budget later in the meeting.

Sidewalk Repairs: Two quotes were received for repair of the sidewalks and east rear driveway pad. Motion by Kelsea Sutton, second by Bob Hausmann to not accept either quote and to advertise for firm bids for the concrete work to be opened on October 6, 2020. All members present voted aye. Motion carried.

Roof Bid Letting: The bid letting for replacement of the courthouse roof was held at 10:45 a.m. as advertised. No bids were received. The Commission will look towards rebidding the project in early 2021.

Travel Request: Motion by Kelsea Sutton, second by Bob Hausmann to approve the following travel request:

Laura Kahler, Extension Office

Sept 23, 2020

Pierre for ETHICS SD Training

All members present voted aye. Motion carried.

Law Enforcement contract: Motion by Kelsea Sutton, second by Myron Johnson to authorize the Chair to sign a Law Enforcement Services Contract with the City of Gregory for on-call law enforcements at a rate of \$400.00 per requested time, effective September 1, 2020. All members present voted aye. Motion carried.

Hearing to Vacate a Section-Line Road: The hearing to entertain a Petition to Vacate A Section Line Road, which was filed in the Gregory County Auditor's Office on August 12, 2020 was held at 11:00 as published in the county legal newspapers. The road is located in Section 27 of Turgeon Township and is called Prairie Drive.

Present for the hearing were: Jane Taylor; Tim Whalen, Taylor's attorney; Becky Gnirk Mitchell (via zoom); Chad Peck; Amy Bartling-Jacobsen, Gregory County States Attorney and Brad Ellwanger, Highway Superintendent.

Mr. Tim Whalen opened the hearing with comments as to why the Commission should approve the petitioner's request. The following reasons were proposed to the Commissioners for closure purposes:

- 1) The section-line road sought to be vacated is not used by the public on a regular basis.
- 2) A section of the road is in a state of such disrepair that said repairs are burdensome on the county.
- 3) The section line runs precariously close to the Taylor's property.

Becky Gnirk Mitchell appeared via zoom and presented her reasons for opposition to the petition. Ms. Mitchell presented the following reasons to keep the road open.

- 1) The road is for public use and she needs to use it for access to her property.
- 2) The road is in very good condition and is not a burden to the county.
- 3) The road is not precariously close to the Taylor's property.
- 4) Accessibility from the north is not guaranteed due to weather conditions and potential ownership change prohibiting access.

Mr. Whalen rebutted Ms. Mitchell's opposition, citing that her property is not land locked as she has access to it. Mr. Whalen also commented that Prairie Drive is not a road for public use.

The public comment portion of the hearing was closed by the Chair.

Motion by Kelsea Sutton, second by Bob Hausmann to enter into executive session at 11:38 a.m. to garner legal advice. All members present voted aye. Motion carried.

Motion by Kelsea Sutton, second by Myron Johnson to adjourn from executive session at 11:57 a.m. with no action taken. All members present voted aye. Motion carried.

Motion by Jessy Biggins, second by Kelsea Sutton to deny the petition to vacate a section-line road described in said petition citing it is in the best interest of the public to keep the road open. All members present voted aye. Motion carried.

BIG Program Application: Motion by Kelsea Sutton, second by Bob Hausmann to offer the following resolution for submission of a BIG Program Application for Bridge Structure 27-010-197, 1 mile south of Dallas for 2021 funding.

**BRIDGE IMPROVEMENT GRANT PROGRAM
RESOLUTION AUTHORIZING SUBMISSION OF APPLICATIONS**

WHEREAS, Gregory County wishes to submit an application(s) for consideration of award for the Bridge Improvement Grant Program:

STRUCTURE NUMBER(S) AND LOCATION(S):

27-010-197
1 mile south of Dallas, South Dakota

and WHEREAS, Gregory County certifies that the project(s) are listed in the county's Five-Year

Highway and Bridge Improvement Plan*;

and WHEREAS, Gregory County agrees to pay the 20% match on the Bridge Improvement Grant funds:

and WHEREAS, Gregory County hereby authorizes the Bridge Improvement Grant application(s) and any required funding commitments.

NOW THEREFORE BE IT RESOLVED:

That the South Dakota Department of Transportation be and hereby is requested to accept the attached Bridge Improvement Grant application(s).

Upon roll call: Myron Johnson-aye; Jessy Biggins-aye; Kelsea Sutton-aye; Bob Hausmann-aye; Jeff Johnson-aye. Resolution passed.

Executive Session: Motion by Kelsea Sutton, second by Bob Hausmann to enter into executive session at 12:40 p.m. to discuss personnel issues. All members present voted aye. Motion carried.

Motion by Kelsea Sutton, second by Bob Hausmann to adjourn from executive session at 1:15 p.m. with no action taken. All members present voted aye. Motion carried.

Annual Budget Adoption: Motion by Kelsea Sutton, second by Jessy Biggins to offer the following resolution to adopt the 2021 Gregory County Annual Budget with the following changes made to the Provisional Budget:

Budgets:

Landfill	\$137,300 to \$137,328
Road and Bridge	\$3,264,245 to \$3,286,260
Sheriff	\$383,188 to \$384,983
24/7 Sobriety	\$23,172 to \$22,826
Weed Dept.	\$69,043 to \$70,765
Auditor	\$93,097 to 93,933

RESOLUTION

ADOPTION OF ANNUAL BUDGET FOR Gregory County, South Dakota

Whereas, (7-21-5 thru 13), SDCL provides that the Board of County Commissioners shall each year prepare a Provisional Budget of all contemplated expenditures and revenues of the County and all its institutions and agencies for such fiscal year and,

Whereas, the Board of County Commissioners did prepare a Provisional Budget and cause same to be published by law, and

Whereas, due and legal notice has been given to the meeting of the Board of County Commissioners for the consideration of such Provisional Budget and all changes, elimination's and additions have been made thereto.

NOW THEREFORE BE IT RESOLVED, That such provisional budget as amended and all its purposes, schedules, appropriations, amounts, estimates and all matters therein set forth, SHALL BE APPROVED AND ADOPTED AS THE ANNUAL BUDGET OF THE APPROPRIATION AND EXPENDITURES FOR Gregory County, South Dakota and all its institutions and agencies for calendar year beginning January 1, 2021 and ending December 31, 2021 and the same is hereby approved and adopted by the Board of County Commissioners of Gregory County, South Dakota, this 16th day of September, 2020.

The Annual Budget so adopted is available for public inspection during normal business hours at the office of the county auditor Gregory County, South Dakota. The accompanying taxes are levied by Gregory County for the year January 1, 2021 through December 31, 2021.

Upon roll call vote: All members present voted aye. Motion carried.

County Health Insurance Plan: Motion by Bob Hausmann, second by Myron Johnson to change the county's health insurance agency representation to Risty Benefits, Inc. effective 9-16-2020. All members present voted aye. Motion carried.

Payroll Deferral Program: Motion by Myron Johnson, second by Kelsea Sutton to not participate in the deferred payroll tax program which is in effect from 9-1-2020 through 12-31-2020. The commission chooses not to assume the liability should an employee leave employment during the deferred period. All members present voted aye. Motion carried.

Adjourn: Motion by Bob Hausmann, second by Jessy Biggins to adjourn. All members present voted aye. Motion carried.

ATTEST: _____
Julie Bartling, Gregory Co. Auditor

Jeff Johnson, Chair