

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., August 25, 2009, pursuant to adjournment on August 18, 2009. Commissioners present were: Pekas, Barth, Kelly, and Twedt. Commissioner Hajek was absent. Also present were Sandy Kinder, Deputy Auditor, and Gordy Swanson, Chief Civil Deputy State's Attorney.

Chairman Pekas called the meeting to order.

AGENDA

MOTION by Barth, seconded by Kelly to defer consideration of a lien compromise request for DPNO 51298 and approve the Agenda. 4 ayes.

MINUTES

MOTION by Barth, seconded by Kelly to approve the Minutes for August 18, 2009. 4 ayes.

VOUCHERS TO BE PAID

MOTION by Twedt, seconded by Barth to approve the following bills totaling \$444,784.02 for payment. 4 ayes.

A & B Business Equip	Var. Depts	880.86	ABN Army Surplus	Var. Depts	582.10
Ace Towing, Inc.	Hwy Constr	240.00	Allied Oil & Supply	Hwy Constr	590.71
Alvine & King LLP	Courts	5,538.44	Anacon Leasing Inc	Public Def	329.00
Appeara / Dudley Lau	Hwy Constr	72.24	Architectural Roofin	Bldg Fund	42,321.00
Arena Motel	Var. Depts	1,805.00	Argus Leader	Var. Depts	3,363.33
Austad, Dean B	Human Svcs	475.00	Automatic Building C	Facilities	166.26
Avera Gastroenterolo	Human Svcs	412.93	Avera Home Medical E	Human Svcs	49.73
Avera McKennan Hospi	Var. Depts	19,058.28	Avery, Bob	Parks	122.45
A1 Svc Inc/Laceys Ch	Hwy Constr	95.00	Bear Wallow Books	Mus Store	146.62
Bierschbach Equipmen	Hwy Constr	16,500.00	Billion's	Sheriff	68.75
Bob Barker Company,	Jail	1,490.68	Boe, Richard	Human Svcs	150.00
Boyer Trucks Sioux F	Hwy Constr	38.53	Brennan Hill Townhou	Human Svcs	410.00
Brentwood Apts/Domin	Human Svcs	1,200.00	Brevik Law Office Pr	Mental Ill	191.58
Brown & Saenger	Var. Depts	517.91	Bureau of Informatio	Var. Depts	1,249.70
Cadwell,Sanford,Deib	Bldg Fund	7,986.50	Canfield Business In	Planning	2,350.74
Carlson, Lisa	Courts	1,789.80	Carper, Nichole A	Courts	606.80
Catco	Hwy Constr	9.12	CBM Food Service	Jail	33,323.59
Center For Family Me	Courts	551.00	Chemco, Inc.	Var. Depts	7,024.80
Clerk of Magistrate	St Atty	5.00	Cliff Avenue Auto Pa	Hwy Constr	3.93
Cody, Denise	Mental Ill	30.00	Com-Tec Security, LL	Jail	511.30
Communication Svcs F	Var. Depts	227.00	Concrete Materials	Hwy Constr	28,422.16
Construction Product	Hwy Constr	22.07	Construction Signing	Hwy Constr	1,050.00
Cooey, Carla F	Courts	352.00	Country Meadows Apts	Human Svcs	1,000.00
Country View MHC	Human Svcs	875.00	Crestview Apts-Luv I	Human Svcs	600.00
Crew & Crew	Courts	139.40	Cutler & Donahoe LLP	Courts	287.00
Cyntom Property Mana	Human Svcs	500.00	Davis, Kory	Human Svcs	660.00
Deer Hollow Ltd Ptnr	Human Svcs	1,000.00	Der Hagopian, Jack	Courts	366.57
Diamond Mowers, Inc.	Hwy Constr	258.22	Diamond Vogel Paint	Hwy Constr	552.00
Dietrich, Donna K	Mental Ill	434.77	Donovan, William	Em Mgmt	26.73
DTN Corporation	Extension	147.00	Dust Tex Service, In	Var. Depts	17.73
Ebert's Properties,	Human Svcs	185.00	Ehresmann, Scott	Human Svcs	400.00
Eide Bailly LLP	Human Svcs	113.75	Electric Constructio	Mus Maint	90.88
Engbrecht, Roger	Human Svcs	400.00	Evans, Henry K	Courts	1,495.40
Exide Technologies	Hwy Constr	281.02	Express Copy & Print	Extension	132.23
Farland, Lawrence A	Human Svcs	350.00	Fastenal Company	Hwy Constr	23.19
First United Methodi	Human Svcs	375.00	Fisher, Kendall	Human Svcs	500.00
Fiskum, Paul	Mem Day	91.68	Fluth, Rodney P	Human Svcs	400.00
Fods, Randy	Hwy Constr	159.98	Fonder, Roger M DBA	Planning	488.15
Friest, Eileen	Human Svcs	400.00	Galls, Inc.	Em Mgmt	718.44
Gaylord Bros.	Mus Ops	485.55	Great Plains Int'l T	Hwy Constr	17.54
Guzman, Sandra V.	Var. Depts	325.00	H&H Mobile Home Svc	Human Svcs	350.00

Heartland Paper Comp	Jail	1,792.10	Heirigs, Mary Ellen	Mental Ill	96.00
Hembree, Bill	Human Svcs	224.40	Hoekstra, Denise A.	Courts	2,240.20
Horn, Garrett	Mental Ill	196.60	Howe Heating & Plumb	Facilities	267.50
Humboldt Fire & Ambu	Em Mgmt	825.00	Hurtgen, Timothy T.	Human Svcs	1,425.00
Hy-Vee Accounts Rece	Mus Entpr	18.82	Hy-Vee Pharmacy	Human Svcs	249.98
Inland Truck Parts &	Hwy Constr	55.91	Interstate Office Pr	Var. Depts	1,495.62
Intoximeters, Inc.	24/7 Prog	4,091.25	IOD Inc	Public Def	61.85
J.C. Penney Company,	JDC	94.97	JCL Solutions-Janito	Jail	1,442.39
Jefferson Partners L	Var. Depts	591.22	John Morrell & Co	Human Svcs	538.46
Johnson, James M	Human Svcs	660.00	Johnson, Neal	Hwy Admin	33,656.75
Johnson, Richard L	Courts	240.00	Kennedy, Pier & Knof	Mental Ill	244.00
Kennedy, Renee S	Courts	1,535.20	Khoroosi, Sam	Courts	459.20
Kittelson, Joan M	Mental Ill	24.00	Kleen Solutions, Inc	Jail	391.65
Kmart	St Atty	45.98	Kreislers, Inc.	Jail	1,742.86
Krell, Lynn	JDC	19.74	Larson, Donald/Jessi	Human Svcs	400.00
LCM Pathologists PC	Coroner	3,637.90	Leaf Inc.	Var. Depts	189.77
Lewis Drug Stores	Var. Depts	5,674.96	Lichty, Jessica	St Atty	748.00
Linweld, Inc.	Hwy Constr	253.63	Lipp, Niklas	Human Svcs	400.00
Lockup USA Productio	Jail	204.50	Lutheran Social Serv	Pass-Thru	12,146.65
Mac's, Inc.	Hwy Constr	105.96	Mailway Printers	Mus Ops	1,240.00
Master Blaster, Inc.	Hwy Constr	166.00	Matchan, Hope	St Atty	8.98
Mayer, Michael P	Hwy Constr	14.96	McCoy, Debra	Musm Entpr	150.00
Menards - East	Var. Depts	60.78	Metro Communications	Jail	10.00
Michels, Jeremy	Human Svcs	400.00	Midamerican Energy C	Human Svcs	451.00
Midcontinent Communi	Var. Depts	246.97	Mike Kroger Masonry,	Bldg Fund	24,000.00
Mikelson, Gary E	Mental Ill	82.00	Miller Sellers Herou	Library	4,230.00
Minnehaha Cnty Priso	Jail	10.00	Minnehaha Funeral Ho	Human Svcs	3,175.00
Monarch Sales	Var. Depts	444.28	Murray Const	Human Svcs	400.00
Muth Technology	Em Mgmt	18,112.00	Nat'l Sheriffs' Asso	Sheriff	150.00
Newman Signs Inc	Hwy Constr	1,923.24	Newman, Scott G	Human Svcs	400.00
North Central Heart	Human Svcs	1,353.99	North Cleveland Apts	Human Svcs	600.00
Northland Chemical C	JDC	363.42	Novak Sanitary Servi	Human Svcs	202.50
Oakwood Estates/Inve	Human Svcs	400.00	Panasonic Finance So	Extension	203.12
Payflex Systems USA,	Human Svcs	94.36	PBC Sioux Falls LLC	EFSP Fund	399.90
Peters, Scott N PC	Mental Ill	5,371.31	Pheasantland Industr	Jail	341.56
Precision Dynamics C	Jail	1,051.26	Primary Products Co	JDC	300.00
Qualified Presort Se	Var. Depts	3,986.35	Quality Efficiencies	Human Svcs	400.00
Qwest	Var. Depts	757.72	Redwood Estates LLC	Human Svcs	640.00
Refinish Supply Cent	Hwy Constr	184.99	Reh fuss, Cathy A	Mental Ill	54.00
Reitz, Robert DDS PC	Human Svcs	27.00	Riedemann, Gayleen	Human Svcs	450.00
River Tower Apartmen	Human Svcs	165.00	Sanford Health Plan-	Human Svcs	281.32
Sanford Hospital - R	Human Svcs	200.00	Sanford Hospital Med	St Atty	57.75
Sanford Laboratories	Coroner	1,963.62	Scheels All Sports	Expenses	125.00
Schulte, Kenneth F	Human Svcs	700.00	Schuneman Equip Co	Hwy Constr	223.20
SD Dept of Correctio	Bldg Fund	12,319.70	SD Dept of Revenue	Hwy Constr	9.00
SD Human Services Ce	Public Def	537.80	SD Magazine LLC	Mus Store	325.00
SD Planners Associat	Planning	250.00	Servall Towel & Line	Var. Depts	108.12
Shopko Store	JDC	234.98	Sioux Falls City Fin	Var. Depts	744.31
Sioux Falls Ford, In	Hwy Constr	49.18	Sioux Falls Humane S	Humane Soc	3,611.77
Sioux Falls Utilitie	Var. Depts	6,064.94	Sioux Valley Energy	Var. Depts	408.26
Solomon, Ghirmay	Courts	50.00	Stoney Creek Townhom	Human Svcs	330.00
Swanda, Karen	Mental Ill	30.00	Swanson, Gordon	St Atty	159.10
T Dist, Inc / TC Mou	Var. Depts	759.36	Tally Ho Apartments	Human Svcs	495.00
Taylors Place LLC	Human Svcs	985.00	Thesenvitz,Mickelson	Courts	1,129.60
Thissen, Sara	Extension	25.87	Thorin, Deyanira T	Courts	109.16
Tires,Tires,Tires In	Sheriff	1,098.56	TK Enterprises	Human Svcs	500.00
TWL Supplies Inc	Jail	249.80	US Postal Service	Extension	42.05
US Postal Service	Extension	44.58	USD-DHSF (Dental Hyg	Human Svcs	223.00
Wal-Mart Pharmacy	Human Svcs	473.16	Waste Management of	Jail	477.89
Weldetensae, Mengste	Human Svcs	540.00	Wheelco Brake & Supp	Hwy Constr	34.02
Xcel Energy, Inc.	Var. Depts	60,200.07	Yankton County Sheri	Mental Ill	125.00

REPORTS

The following reports were received and placed on file in the County Auditor's Office: 2009 Minnehaha County Tax Deeds Appraisal Board Report, South Eastern Council of Governments 2008 Annual Report, and the Auditor's Account with the County Treasurer as of 7/31/09.

On Deposit in Banks	
Interest-bearing open accounts	7,425,685.07
CD's and savings	19,000,000.00
Cash	19,001.66
Checks/drafts in Treasurer's possession for more than 3 days	5,478.34
Total Cash on Hand	26,450,165.07
Total AS/400 Cash Balance	26,450,165.07

PERSONNEL

MOTION by Twedt, seconded by Barth to approve the following personnel changes. 4 ayes.

1. To rescind the action dated 8-4-09 promoting Melinda Storley to Correctional Officer in Training for the Jail.
2. To hire Christopher Morgan, Richard Rahn, and Danny Thorson as part-time Correctional Officer in Training (12/A) for the Jail at \$15.6584/hour effective 8-24-09.
3. To hire Emily Penry as Deputy Sheriff (16/A) for the Sheriff's Office at \$19.0782/hour effective 8-24-09.
4. To hire Alexa Linton as temporary, part-time Tax & License Technician (10/B) for the Treasurer's Office at \$14.5403/hour effective from 9-2-09 to 12-31-09.
5. To end the temporary part-time employment of Tyler Olson as Laborer for the Highway Department effective 8-13-09.
6. To end the temporary part-time employment of York Thomas as Laborer for the Highway Department effective 8-17-09.
7. To end the temporary part-time employment of Kole Nordmann as Laborer for the Highway Department effective 8-20-09.

Step Increases Due:

1. Trae Umstead – Information Technology Director – IT – 24/F to 24/G, 7-30-09, \$3,047.16/bi-weekly
2. Bonnie Costain – Senior Deputy State's Attorney – State's Attorney's Office – 22/L to 22/M, 8-15-09, \$2,900.32/bi-weekly
3. Jacqueline Rasmussen – Senior Deputy Public Defender – Public Defender's Office – 22/G to 22/H, 8-18-09, \$2,563.47/bi-weekly
4. Kyle Helseth – Deputy Director of Equalization – Equalization – 21/H to 21/I, 8-28-09, \$2,380.44/bi-weekly
5. Larry Bakken – Appraiser III – Equalization – 18/D to 18/E, 8-28-09, \$23.2449/hour
6. Cory Winter – Deputy Sheriff – Jail – 16/E to 16/F, 8-25-09, \$21.5852/hour
7. Michael Ladd – Correctional Officer – Jail – 13/I to 13/J, 7-21-09, \$20.5451/hour

8. Rodney Hohn – Highway Maintenance Worker – Highway – 12/G to 12/H, 8-28-09, \$18.6129/hour

NOTICES

Notice of intent to conduct a fund raising raffle on 11/4/09 was received from Great Plains Ministry.

Notice was received that a disinterment and reinterment permit was issued by the SD Department of Health for the remains of Gerald Halvorson, Dell Rapids Cemetery, Dell Rapids, SD.

LIEN

On the recommendation of Hauge Associates, Inc., MOTION by Barth, seconded by Twedt to release DPNO 48534 in the amount of \$1,032.00 in full upon payment of \$600.00 within 30 days. 4 ayes.

RESOLUTION

At the request of the Sioux Falls School District, MOTION by Twedt, seconded by Barth to approve Resolution MC09-32. 4 ayes.

RESOLUTION MC09-32 SCHOOL DISTRICT MINOR BOUNDARY CHANGE

WHEREAS, SDCL § 13-6-85 and § 13-6-86 allow for school district minor boundary changes when all statutory and factual requirements are met; and the Lennox School District No. 41-4 and the Sioux Falls School District No. 49-5 received a petition for minor boundary change involving the property located in southwest Sioux Falls, Minnehaha County, South Dakota, originally assigned to the Lennox School District and seeking to be changed to the Sioux Falls School District; and

WHEREAS, by Action 35449.C10, adopted July 27, 2009, and Action 35459.C11, adopted August 10, 2009, the Sioux Falls School District approved the Petition to Make a Minor Boundary Change to transfer the area to the Sioux Falls School District; and

WHEREAS, by Action 39-08-09, adopted August 10, 2009, the Lennox School District approved the Petition to Make a Minor Boundary Change to transfer the area to the Sioux Falls School District; and

WHEREAS, pursuant to SDCL § 13-6-86.1 and SDCL § 13-6-87, the county commissions of Minnehaha County and Lincoln County, the counties with property affected by the boundary change, are required to set the effective date of the boundary change for tax allocation purposes, as well as school district voting purposes; now

THEREFORE BE IT RESOLVED, by the Minnehaha County Board of Commissioners that the minor boundary change approved by the Sioux Falls School District and Lennox School District transferring the property in southwest Sioux Falls, Minnehaha County, South Dakota, legally described in the Petition of Owners for Minor Boundary Change of School Districts (Exhibit A) attached hereto, from the Lennox School District No. 41-4 to the Sioux Falls School District No. 49-5 shall be effective August 10, 2009.

Dated this 25th day of August, 2009

APPROVED BY THE COMMISSION:

John Pekas, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

CHANGE ORDER

Ken McFarland, Commission Administrative Officer, presented Change Order 7 to the Construction Manager at Risk contract with Henry Carlson Company for the Courthouse Addition Project. The change order is a credit for \$19,130 and changes the Guaranteed Maximum Price to \$10,940,955.00. The change order adds miscellaneous building corrections and an upgrade to CAT 6 cable and deducts expenses already paid to Sayre Associates as part of the parking lot project. The final cost of the Courthouse Project totaled \$11,504.850. Commissioner Barth asked that the construction manager at risk process be discussed at a future Building Committee meeting. MOTION by Barth, seconded by Kelly to authorize the Chairman to sign Change Order 7 to the CM@R contract with Henry Carlson Company. 4 ayes.

BID AWARD

Bob Meister, Highway Superintendent, reported that bids for Project MC 50-338-140, installation of precast box culvert on 258th Street approximately ¼ mile west of the Minnesota State Line, were opened at 10:30 a.m. on 8/19/09. The following bids were received: Jerke & Sons Construction - \$108,246.19, Nolz Dragline and Construction Inc. - \$108,987.35, Midwest Contracting, LLC. - \$119,796.00, and Hollaway Construction Co., Inc. - \$125,496.50. Mr. Meister recommended award to the low bidder. MOTION by Twedt, seconded by Kelly to award Bid 7-09 to Jerke & Sons Construction in the amount of \$108,246.19. 4 ayes.

GRANT

Ken McFarland, Commission Administrative Officer, reported that the County has received notice of a grant award in the amount of \$129,300 from the Energy Efficiency Conservation Block Grant program. The County previously entered into an agreement with Mckinstry for a technical energy audit and grant application assistance. The application was for two projects: 1) smaller boiler for the energy plant estimated at \$100,000 and 2) variable frequency drive for the water chiller estimated at \$70,000. MOTION by Barth, seconded by Kelly to authorize the Chairman to sign the U.S. Department of Energy Notice of Award and Assistance Agreement. 4 ayes.

TAX DEEDS

Sue Roust, Auditor, briefed the Commission on the 2009 tax deed properties. She reported that the County has tax deeds on 14 properties this year. The auction is tentatively set for 6:00 p.m. on Thursday, September 24th. The Surplus Property Appraisal Board recommended giving four properties to adjacent property owners. Each is valued under \$500. Of the remaining properties, four are bare lots where cities have razed a house as a nuisance, four are nuisances that should be razed, and two are owner-occupied. The Commission will be asked to approve the sale notice, date, and minimum bids at next week's meeting. MOTION by Kelly, seconded by Barth to authorize the Auditor to offer tax deeds 2508, 2516, 2517, and 2518 to adjacent property owners. 4 ayes.

HEARING

Pat Herman, Planner, was present for the scheduled hearing to consider adopting the 2009 Flood Plain Ordinance for Minnehaha County. The proposed ordinance repeals MC32-09, the 2003 Minnehaha

County Flood Plain Management Ordinance. The proposed ordinance includes updated text and adopts the new Federal Emergency Management Agency flood insurance rate panel maps. Staff has received some calls with questions on the new maps. Most have been referred to the city of Sioux Falls. Minor changes were made to the county's flood plain. No one spoke in opposition. MOTION by Barth, seconded by Twedt to adopt Ordinance MC36-09, the 2009 Flood Plain Management Ordinance for Minnehaha County which includes the adoption of the new Flood Insurance Rate Maps effective September 2, 2009. 4 ayes. The entire ordinance is on file in the County Auditor's office.

APPEAL

Pursuant to deferral on 8/18/09, the Commission considered an appeal of the Planning Commission decision denying a Conditional Use Permit to allow for a rubble dump facility on property legally described as the W1000.89' of Lots B & C of Tract 1, & the W250' S206' E340' of Tract 4, All in Waitt Tracts 1, 2, 3, 4, & 5 inclusive, in the NE1/4 of Section 35-T101N-R51W. The property is located at 46451 267th Street. The decision had been deferred at the request of the applicant's attorney. Proponents and opponents were allowed time to present supporting comments on the appeal. Today, both sides were allowed additional time to discuss issues brought up at the last meeting. Phil Kappen, Assistant Planning Director, answered questions raised by commissioners at the last meeting. He reported that a current traffic count averaged 2594 vehicles per day and that four different school districts have boundaries in the area, but only two run buses on the portion of County Highway 148 in front of the proposed site. He also reported that he researched the cost of reclamation of the disposal site and arrived at an estimated cost of \$12,000 per acre. Rollyn Samp, attorney for the applicant, handed out a 2 page summary in support of the Conditional Use Permit. He argued the CUP was denied primarily because a second construction and demolition debris site in the same area could cause the city of Sioux Falls to lose up to \$1 million per year due to loss of users at the Sioux Falls Sanitary Landfill and that the actions of the city and city employees in trying to protect the sanitary landfill from this rubble site could rise to inverse condemnation. He did not feel the opponents provided facts to support the denial, only opinions, and he believed that the city of Sioux Falls had somehow influenced the staff report and lobbied commissioners. He asked that the Commission overturn the decision and allow private enterprise to prevail. A letter in support of the CUP was also submitted from neighboring property owner Arvy Krienitz. Mr. Kappen noted that Mr. Krienitz was actually one of the applicants for the CUP. He also explained that the staff report contained land use issues only and that any information regarding competition with the city was not a land use issue. Mr. Kappen also indicated that if this application was in a different area of the county without all the population, he would be looking at this request much differently. Jim Larson, opponent, stated that the opposition is not the influence of the city of Sioux Falls, but the opposition expressed by area residents. He reiterated concerns regarding the safety of those in the area due to the site adding an additional stopping place for trucks to turn into the facility. He noted that the home owners had constructed homes with the knowledge of the landfill's location, but that the expansion of the landfill has been away from their homes. Ann Decker, opponent, expressed concern that the 10 acre site would grow larger toward her residence in the future. Terry Leininger, opponent, reported that he owns property across from the site, has put money into his building site, and when he applied for his building permit there was no rubble facility across the street. Mr. Samp asked Commissioner Kelly what city staff or officials had contacted him. The commissioners all stated that they have not been contacted by representatives of the city of Sioux Falls regarding this facility. Commissioner Barth questioned why the facility could not be placed further west, not directly across from a housing development. He was opposed to the location, not the business. Commissioner Twedt explained that her decision is based on the staff recommendation for denial due to 1) the close proximity to residential subdivisions and the incompatibility of the proposed use to residential areas 2) change in the traffic pattern in the area, and 3) the noise from the deceleration and acceleration of trucks, along with the unanimous vote of the Planning Commission. Commissioner Kelly explained that the Planning Commission unanimously voted to deny the permit and that it was wrong to say the city was responsible for the denial. Forty to fifty area residents attended the Planning Commission meeting to

oppose the CUP. Commissioner Pekas explained that the decision is a land use issue, that the city is a neighbor to this project and should be allowed to comment (although no contact was made regarding this application), that the public is free to question the commission's motives, and that this decision has nothing to do with competition. MOTION by Twedt, seconded by Kelly to uphold the Planning Commission decision to deny the Conditional Use permit. 4 ayes.

OLD BUSINESS

Commissioner Twedt requested a report on the 2009 Sioux Empire Fair as soon as possible. Commissioners discussed media reports on the fair and comments made by interim management that the past years' attendance records are unreliable. Commissioner Barth reported that attendance was up slightly this year and that they are still working on determining total revenue. Follow up was requested.

MOTION by Barth, seconded by Twedt to adjourn into Executive Session for personnel discussion. 4 ayes. Following the Executive Session, the Commission adjourned until 9:00 a.m. on Tuesday, September 1, 2009.

APPROVED BY THE COMMISSION:

John Pekas, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

Published once at the total approximate cost of \$_____