

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., November 3, 2009, pursuant to adjournment on October 27, 2009. Commissioners present were: Pekas, Hajek, Barth, Kelly, and Twedt. 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 Hajek to approve the Agenda. 5 ayes.

#### MINUTES

MOTION by Hajek, seconded by Barth to approve the Minutes for October 27, 2009. 5 ayes.

#### VOUCHERS TO BE PAID

MOTION by Hajek, seconded by Barth to approve the following bills totaling \$1,303,280.95 for payment. 5 ayes.

Adler, Jeremy	Var. Depts	25.00	Advance Auto Parts	Sheriff	7.90
Advertising Arts Inc	Sheriff	175.00	Alvine & King LLP	Courts	2,131.79
American Sports	Sheriff	252.00	Anacon Leasing Inc	Public Def	262.00
Andersen, Norma	Mental Ill	90.00	Anderson, Carol	Human Svcs	300.00
Anderson, Elwood	Human Svcs	400.00	Appeara / Dudley Lau	Hwy Constr	36.03
Arena Motel	Var. Depts	1,050.00	Argus Leader	Var. Depts	3,970.07
Ash, Margaret Randal	Mus Grants	3,725.00	Avera Home Medical E	Human Svcs	94.50
Avera McKennan Hospi	Var. Depts	3,667.51	Avera Radiology-Yank	Human Svcs	39.47
Billion's	Sheriff	86.25	Black Hills Ammuniti	Sheriff	537.00
Black-Top Paving Inc	Hwy Constr	558,464.27	Braithwaite, Tacey E	Mental Ill	289.00
Brende,Schroeder,& M	Courts	3,460.00	Brevik Law Office Pr	Mental Ill	463.10
Brown & Saenger	St Atty	19.09	Burgard, Robin A	Human Svcs	450.00
Campbell Supply Co I	Facilities	23.64	Canfield Business In	Bldg Fund	2,530.00
CBM Food Service	Jail	12,184.90	Center for Family Me	Var. Depts	310.71
Chapel Hill Funeral	Human Svcs	3,175.00	Chemco, Inc.	Var. Depts	4,139.94
Citi	Human Svcs	952.86	Civic Research Insti	Jail	149.95
Clay County SD Clerk	St Atty	5.99	Climate Systems, Inc	Facilities	114.00
Cody, Denise	Mental Ill	30.00	Computer Forensic Re	Public Def	300.00
Concrete Materials	Hwy Constr	749.08	Constellation New En	Facilities	1,601.06
Country View MHC	Human Svcs	381.33	Crittenden, John	Hwy Constr	188.71
Dakota Embalming & T	Coroner	50.00	Dakota Forensic Cons	Coroner	6,000.00
Days Inn	Extension	139.50	Decastro Law Office,	Courts	1,315.40
Denbow, Carol	Human Svcs	400.00	Dietrich, Donna K	Mental Ill	2,960.75
Dobberpuhl, Randy	Human Svcs	67.71	Dunlap, Donald K	Courts	107.40
Dust Tex Service, In	Var. Depts	17.72	Eirinberg, James A	Courts	1,869.40
Enalls, Harvey	Sheriff	20.00	Fairfield Inn - Bro	Extension	139.50
Fiskum, Paul	Mem Day	120.00	Fluth, Rodney P	Human Svcs	400.00
G & H Distributing,	Facilities	108.00	G & R Controls Inc	JDC	137.76
G&W, Inc DBA Gary Co	Human Svcs	156.00	Genzlinger, Janeen	Courts	315.40
Grainger, Inc.	Facilities	51.06	Graybar Electric Com	Facilities	313.62
Guzman, Sandra V.	Var. Depts	75.00	H & R Roofing Of SD,	JDC	340.00
Hander, Inc.	Human Svcs	156.12	Hanson, Allan	Human Svcs	200.00
Harris, Hank	Mus Entpr	250.00	Haugaard, Steven G	Mental Ill	1,955.00
Heesch, Loren	Mem Day	154.43	Hembree, Bill	Human Svcs	188.70
HenkinSchultz Commun	Sheriff	1,821.48	Home Federal Savings	Human Svcs	474.22
Horn, Garrett	Mental Ill	721.00	Hosmer, David M. Law	Mental Ill	113.36
Howalt-McDowell Insu	Facilities	250.00	Hughes County Sherif	St Atty	14.30
Hy-Vee Accounts Rece	Human Svcs	150.98	Int'l Assn of Assess	Dir of Eq	350.00
Interpreter Services	Public Def	80.00	Interstate Arms Corp	Sheriff	5,311.96
Interstate Office Pr	Var. Depts	1,152.03	Intoximeters, Inc.	24/7 Prog	2,467.50
J D Evans, Inc.	Hwy Constr	10,980.00	JCL Solutions-Janito	Var. Depts	102.23
Jerke & Sons Const	Hwy Constr	97,421.21	Johnson Feed, Inc.	Hwy Constr	5,261.36
Johnson,Miner,Marlow	Mental Ill	309.90	JRap Apts/Jannel Rap	Human Svcs	375.00

Keller, Francis M DB	Human Svcs	310.00	Kingsbury County She	St Atty	10.00
Kittelton, Joan M	Mental Ill	15.00	Kjelden, Mike	Facilities	1,468.00
Kleen Solutions, Inc	Jail	133.90	Kmart	Human Svcs	75.44
Kohl's Department St	JDC	46.98	Kooistra, Nelva	Mental Ill	180.00
Kpradith, Kyto	Public Def	50.00	Lang Properties LLC	Human Svcs	500.00
Lassegaard, Samuel C	Human Svcs	1,110.00	Lautwein, Dawn	Info Tech	520.56
Leesch, Carol	Human Svcs	600.00	Lewis & Clark BHS	Mental Ill	1,846.00
Lewis Drug Stores	Facilities	413.74	Lincoln County Audit	Mental Ill	866.27
Ludoc Enterprises In	Ambulance	2,395.83	Lutheran Social Serv	Var. Depts	22,737.36
Lyle Signs, Inc.	Hwy Constr	2,737.38	Lyon County MN Sheri	St Atty	50.00
Mac's, Inc.	Hwy Admin	10.90	Malloy Electric Bear	Var. Depts	34.31
Marshall & Swift	Dir of Eq	2,356.67	May & Johnson, P.C.	Courts	983.88
McGrath, Michael J,	Mental Ill	1,953.00	Medical X-Ray Center	Jail	125.56
Meister, Bob	Hwy Admin	129.00	Menards - East	Facilities	34.25
Metro Communications	Var. Depts	371,682.85	Midamerican Energy C	Var. Depts	2,047.19
Midwest Alarm Compan	Hwy Admin	70.00	Midwest Boiler Repai	JDC	127.50
Midwest Management	Human Svcs	400.00	Mikelson, Gary E	Mental Ill	41.00
Miller Funeral Home,	Human Svcs	2,245.30	Miller, Steve	Courts	2,601.01
MKT Equipment	JDC	223.25	Mobile Electronic Se	Sheriff	50.00
Moore, Dave	Mus Entpr	250.00	NASCO	JDC	86.94
Newman Signs Inc	Hwy Constr	376.80	Nilson, Kevin	Info Tech	695.20
Nyberg's Ace Hardwar	Var. Depts	26.45	Orthopedic Institute	Jail	265.05
Palmer, Barbara	Mental Ill	2,587.50	Peterson, Bill	Mus Entpr	300.00
PharmChem Inc	24/7 Prog	440.00	Pheasantland Industr	Sheriff	161.20
Primary Products Co	JDC	300.00	Provo, Tom	Human Svcs	280.00
Psych Assoc of Yankt	Mental Ill	500.00	Quality Efficiencies	Human Svcs	905.00
R & L Supply, Ltd	Facilities	12.68	RDO Equipment Co.	Hwy Constr	1,535.97
Redwood Biotech	24/7 Prog	310.00	Redwood Estates LLC	Human Svcs	550.00
Rehfuss, Cathy A	Mental Ill	285.00	Rettedal, John	Human Svcs	500.00
Richard-Ewing Equipm	Facilities	40.39	Roach, Marty J	Hwy Constr	104.50
Ronning Commercial,	Human Svcs	950.00	Rural Metro Ambulanc	Var. Depts	1,098.71
Schelling, Sheldon	Mental Ill	922.50	SD Dept of Legislati	Commission	47,025.00
SD Dept of Public Sa	Human Svcs	80.00	SD Dept of Revenue	St Atty	5,668.00
SD Dept of Transport	Hwy Constr	3,730.06	SD Risk Pool	Human Svcs	470.25
SD Secretary of Stat	Public Def	60.00	SD State Treasurer	Sales Tax	9,070.76
SF Winnelson Company	Facilities	31.68	Sherwin Williams	Facilities	6.48
Shipley's Laundry &	Mus Entpr	20.60	Sigler Fire Equipmen	Facilities	79.25
Sign A Rama	Em Mgmt	622.83	Signwarehouse.Com	Mus Ops	114.95
Sioux Empire Prop LL	Human Svcs	400.00	Sioux Empire SHRM	Human Res	315.00
Sioux Falls City Fin	Var. Depts	13,704.77	Sioux Falls Partners	Human Svcs	500.00
Sioux Falls Two Way	Jail	130.00	Sioux Falls Utilitie	Var. Depts	11,496.91
Sioux Valley Energy	Var. Depts	280.41	Slowey, Yavonne C	Mental Ill	450.00
Smith Publishing Co.	Reg Deeds	238.50	Southeastern Behavior	Jail	5,978.50
Stansell, Roger	Hwy Admin	89.25	Streicher's	Em Mgmt	3,149.99
Sturdevant's Auto Pa	Hwy Constr	29.02	Thorin, Deyanira T	Public Def	75.00
Thurman, Creighton A	Mental Ill	719.44	Tires,Tires,Tires In	Sheriff	895.00
Truckstop Souvenir	Mus Entpr	200.00	United Rentals, Inc	Facilities	274.75
Velvet Uniforms, Inc	Jail	72.25	Verizon Wireless	Em Mgmt	810.22
Vision Care Associat	Human Svcs	280.48	Voigt, Debra	Courts	418.20
Wal-Mart Pharmacy	Human Svcs	73.68	Wal-Mart Pharmacy	Human Svcs	1,331.56
Weinberg, P.M., Inc.	Human Svcs	146.00	Westwick Motel, Inc.	EFSP Fund	160.60
Wilson, Robert	Commission	23.05	Xcel Energy, Inc.	Var. Depts	3,106.52
Yankton County Sheri	Mental Ill	425.00	Yankton County Treas	Mental Ill	3,037.45
Youth Communication	JDC	189.04	Zdorovtsov, Christin	Extension	437.33

## REPORT

The following report was received and placed on file in the County Auditor's office: South Dakota Department of Transportation Five-Year 2010-2014 Statewide Transportation Improvement Program.

## PERSONNEL

MOTION by Hajek, seconded by Barth to approve the following personnel changes. 5 ayes.

1. To increase the hourly wage of Randy Megard, part-time Museum Aide for the Museum to

\$9.5000/hour effective 11-3-09.

2. To place Cheri Travis, Senior Accounting Technician for the Auditor's Office, on leave without pay effective 10-22-09.
3. To correct the action on 10-27-09, which should have reflected a start date of 11-2-09, as opposed to 10-31-09, for Damon Griffith, Deputy Sheriff for the Sheriff's Office.

Step Increases Due:

1. James Hoekman – Deputy Sheriff Captain – Sheriff's Office – 23/G to 23/H, 10-8-09, \$2,829.59/bi-weekly
2. Vance Siemonsma – Deputy Sheriff – Sheriff's Office – 16/I to 16/J, 10-12-09, \$23.8260/hour

Special Commission Action Requests:

1. To recognize the following significant employee anniversaries for November: 5 years - Pam Nelson; 10 years - Michael Tuschen; 15 years - Jeffrey Gromer; 20 years – Gary Murra; and 25 years – Ronald Friedbauer
2. To record volunteers in County Departments for October 2009. The list is on file in Human Resources.

Carey Deaver, Human Resources Director, briefed the Commission on recommended policy updates to the following sections of the employee handbook: Introduction, Pay Information and Corrections, Retirement, and Drug Free Workplace. The Commission will consider adopting the changes at a future meeting.

NOTICE

Notice of Public Hearing to Adopt Rules relating to alcohol and drug abuse programs was received from the SD Department of Human Services.

LIEN

Commissioner Barth, County Aid Lien Liaison, briefed the Commission on a request to compromise DPNO 37968 in the amount of \$1,174.32. The applicant was in the process of purchasing a home when the lien was noted during the title search. The lien is for services provided between 1997 and 2008. Two payments have been received. Commissioner Kelly did not believe the applicants made serious efforts to repay the lien. MOTION by Barth, seconded by Hajek to approve Resolution MC09-46. 4 ayes, Kelly nay.

RESOLUTION MC09-46

WHEREAS, a County Aid Lien in the amount of \$1,174.32 purports to exist in favor of Minnehaha County and against DPNO 37968 as Lienee, and

WHEREAS, said lienee has filed an application with the County Auditor stating such facts as provided for by Law,

NOW, THEREFORE, BE IT RESOLVED that after due consideration of the circumstances the Board of County Commissioners finds it advisable and proper to authorize the Chairman of the County

Board and the County Auditor to execute the following:

Compromise and release the lien upon payment of \$587.00. If payment is not made within one year from approval, this agreement is null and void.

Dated at Sioux Falls, South Dakota, this 3rd day of November, 2009.

APPROVED BY THE COMMISSION:

John Pekas, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

PUBLIC COMMENT

Commissioner Twedt introduced Cindy Heiberger, county resident.

HIGHWAY

Bob Meister, Highway Superintendent, requested authorization to purchase 2 pick-up trucks off of bids awarded by the State of South Dakota. The trucks will replace 2 that were sold at the surplus auction. MOTION by Twedt, seconded by Barth to authorize the purchase of one, ¾ ton, 4X4, extended cab, short box pick-up, with options, from Murdo Ford at a cost of \$24,499 off of state contract 15571; and one, ¾ ton, 4X4, crew cab, short box pick-up, with options, from Lamb Motor Co. at a cost of \$24,436 off of state contract 15770. 5 ayes.

Mr. Meister also presented Change Order 1, in the amount of \$10,428.97, for Project MC50-338-140, installation of pre-cast box culvert on 258th Street east of the MN line. The change order is for an additional 256.24 cubic yards of undercut needed to stabilize the surface under the box culvert. MOTION by Kelly, seconded by Twedt to approve Change Order 1, in the amount of \$10,428.97, to the contract with Jerke and Sons Construction. 5 ayes.

RFP

Sue Roust, Auditor, reported that the deadline for proposals for a purchasing card program for Minnehaha County is today at 3:00 p.m. She requested approval of a review committee comprised of herself, Darlene Johnson (Auditor's office), Kristin Trana (Sheriff), and Lloyd Olson (Facilities), to evaluate the proposals and make a recommendation to the Commission. Facilities will serve as the pilot department for the new system. MOTION by Hajek, seconded by Barth to approve the recommended review committee. 5 ayes. Ms. Roust also requested that the Commission review a proposed draft of a purchasing card policy. The draft policy sets the individual purchase limit at \$500, with exceptions for travel related expenses, and details other guidelines for card use. Additional areas of the policy will be finalized once a provider is selected. The review committee will bring a recommendation in 3 to 4 weeks.

DRAINAGE

Phil Kappen, Assistant Planning Director, presented 2 drainage permit applications for tiling in Sections 17 and 20 of Clear Lake Township. In November 2008, the Commission approved a permit for the same applicant, Vern McAreavey, to perform drainage work on his land. Staff had also approved an additional permit prior to the Commission action. The applicant installed more that what was shown on his original application for both permits. He has now paid the penalty fee and applied for the 2 additional permits asking that he be allowed to keep the additional tiling that was installed. The US Fish and Wildlife Service

have concerns about water draining into their wetland area as they do not want open water. Staff has been told that there is an existing dike on the outlet to the wetland area causing water to back up onto the USFWS land. In addition to the drainage already done, the applicant is proposing to install tile that would drain directly into Twin Lakes. It is unknown whether that tile would cross through land owned by SD Game Fish and Parks, or outlet into the GFP property and flow into Twin Lakes. The applicant told staff that he thought he was only showing the area to be drained on his application rather than individual tile lines. Staff has concerns that work was done without a permit, but noted that the additional tile installed under permit #09-149 in Section 20 was small and recommended approval. Mr. Kappen explained that staff believed the additional tile in Section 17 would not greatly impact the elevation of Twin Lakes. Because of that, staff did recommend approval of permit #09-150 with the stipulation that the connection in Section 18 be removed. Commissioner Hajek asked about what information is required on the application. Mr. Kappen responded that they need a general idea of what the area is going to be. Maps show that work installed on this project was extensive compared to the drawing on the application. Commissioner Twedt expressed disappointment in the penalty process noting that over half of the drainage issues coming before the Commission are those that have done more work than stated. Jason McAreavey, the applicant's son, was present on behalf of his father and explained that when he and his father purchased tiling equipment, his father went to the Natural Conservation Resource Service and asked what areas of their land could be tiled. They then went to County Planning to apply for a permit. He said his father misunderstood the information requested by staff and did not realize each tile line should be drawn in. Had he understood, his father would have been unable to get the permit because he did not know exactly where the lines would be. Mr. McAreavey noted that the permit does not indicate what size tile is to be installed and explained that a 12" tile would drain the same amount as two 6" tiles. Their intent was not to install a single line, but to drain an area. Steve VanderBeek with the SD GFP explained that the GFP advocates the conservation of natural functioning wetlands. He was not aware of the drainage work being done on the McAreavey property and received information that there is additional drainage on the south side of Twin Lakes adding more water to Twin Lakes. GFP did not have the opportunity to voice their opinion on these drainage projects and questioned whether there were other projects in the area that they may not be aware of. Mr. Kappen reported on one additional area. Mr. VanderBeek expressed concerns on the drainage and water quality and clarity of Twin Lakes because there is no outlet, photos show the water levels of the Lake were much lower than they are now, and discharge from tiling has elevated nitrate and phosphorus levels. He added that Twin Lakes is not a lake, but a shallow glacial wetland that is not listed as a meandered lake by surveyors. He displayed photos showing water running through an abutting property running 3-1/2" inches deep and 16" wide. The tile comes out of the ground and runs down a trench. Without the tile, the water would collect on the McAreavey property. The GFP purchased the Twin Lakes property in the 1960's and enclosed all the water there. The water today, goes beyond the boundary of the GFP property. Mark DeSchepper, opponent, explained that the area being drained was previously classified as a wetland. He explained that according to the County Drainage Ordinance, to get a drainage permit the landowners 1/2 mile downstream of any outlet have to sign releases. That was not done in this case. He believed the permits were issued improperly because protocol was not followed. After talking with staff, Mr. DeSchepper was told that staff could issue permits for drainage that outlet into a named lake, stream, or river in Minnehaha County. A review of the Ordinance showed staff issued permits could be approved for drainage that outlet into 14 named streams or rivers of the county, but no lakes were shown. He showed aerial photos dating back to 1961 to give a history of the ground and explained that the photos show that the area was not as wet as it is now. He believed 40+ acres of his land have water on it now, and that his neighbor, Norma Eie, has 70+ acres with water. Older photos show that the water was limited to the GFP property. Mr. DeSchepper responded to a question from Commissioner Barth on what his solution would be on this issue. Mr. DeSchepper felt he should have been consulted before issuing the permit and wanted the tile in Section 17 and 20 removed. Norma Eie, opponent, explained that the water on her property is taking income from her and stated that she was never noticed on the drainage projects and doesn't want them there. Bryan Schultz with the US Fish and Wildlife Service reported that they own property to the southwest of the McAreavey property and were not aware that the drainage work was already done. He explained that tiling speeds up the water delivery rather than

allowing it to percolate into the water table and that large scale projects impact the landscape's capacity to hold water. Due to the extensive drainage that appears to have been installed, Commissioner Hajek asked how many permits have been applied for by the McAreaveys and how many times have they done tiling. Mr. Kappen recalled 3 applications and could not say how many times that they have performed drainage work. If those applications were done according to ordinance, the neighboring landowners would have had to sign off before the permit could be issued. Gordy Swanson, Deputy State's Attorney, could not immediately advise on how the County would go about revoking a mistakenly granted permit. To allow for legal review, MOTION by Barth, seconded by Hajek to defer consideration for 1 week. 5 ayes.

#### BRIEFING

Lynn DeYoung, Emergency Management Director, gave an update on two H1N1 flu vaccination clinics. Both clinics targeted specific groups according to guidelines set by the State of SD and the Center for Disease Control. He reviewed the objectives, staffing levels, planning process, site set-up, and event. The next session for those in the target group is set for 11/5/09 at the Expo building. Mr. DeYoung encouraged those people meeting the criteria to visit the County or City of Sioux Falls websites to complete required paperwork for the clinic. Commissioner Pekas commented on the invitation method, noting that it was confusing to the public. He also asked whether an EBS alert could be broadcast to notify the public of vaccination opportunities.

#### APPOINTMENT

Pursuant to the Joint Powers Agreement for Consolidation of Mental Illness Boards, MOTION by Hajek, seconded by Kelly to recommend the appointment of Brenda Ask as Co-Chair and John Peterson and Vance Myrabo as Alternate Co-Chairs to the Lincoln County Board of Mental Illness. 5 ayes.

#### OLD BUSINESS

Commissioner Hajek announced that the Minnehaha and Lincoln County Commissions and the Sioux Falls City Council will meet on 11/4/09 at 7:30 a.m.

MOTION Barth, seconded by Hajek to adjourn into Executive Session to discuss personnel. 5 ayes. Following the Executive Session, the Commission adjourned until 9:00 a.m. on Tuesday, November 10, 2009.

#### APPROVED BY THE COMMISSION:

John Pekas, Chairman

#### ATTEST:

Sandy Kinder, Deputy Auditor

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