

HUTCHINSON COUNTY COMMISSIONERS
Regular Commission Meeting
201 W Mentor St. Room 166
OLIVET SD 57052

MINUTES OF THE HUTCHINSON COUNTY COMMISSION

May 19, 2020

9:00 am Chairman Henke called the meeting to order with the Pledge of Allegiance.

Members in attendance: Chairman Henke, Commissioners Mehlhaff, Friesen, Ulmer and Wolf.

Adopt of Agenda: Motion was made by Mehlhaff, seconded by Friesen to amend the agenda to include Plat 2020-005 and lawn care. Motion carried.

Approval of minutes: Motion was made by Friesen, seconded by Wolf to approve the minutes from the May 5, 2020 meeting. Motion carried.

Reports: Treasurers Cash Drawer Audit \$8,714,424.71; Auditors Account with the Treasurer \$8,714,424.71; Drainage Permits - Mary Lindeman, Dennis Fuerst, Darrell Mehlhaff, Kelly Knodel, Carol Mikuska, Ruddy Bitterman, Schultz Farms, Todd Heckenlaible, Bruce Handel, & Maxwell Colony. Building Permits – Elton Stoebner, Gary Zanter, Hofer Living Trust, David Schmidt, Josie Lynn, Brian Schnoor, Ryan Holzbauer, Rudy Bitterman, John Baumiller, Jacob Geis, Jenne Roth, M.P.H.A., Marty Neugebauer, Steve Clauson, Gary Schnabel, Mark Ripp & PPM LLC.; April 2020 Reconciliation of Cash Assets showed Total Cash \$8,714,424.71. The General Fund was \$3,544,313.03; Road & Bridge Fund \$392,471.77; E-911 \$276,546.36; E&DS \$12,286.28; Domestic Abuse \$1,135.22; 24/7 Program \$287.00; M&P Fund \$9,569.53; & Other Governmental Funds \$4,477,815.52 adding to a Grand total of General Ledger Cash of \$8,714,424.71. Motion was made by Ulmer, seconded by Mehlhaff to approve reports as presented. Motion carried.

Claims Motion was made by Wolf, seconded by Friesen to approve claims as presented. Motion carried. Alternative HR LLC \$250.00 HR Services; American Stamp #132.35 Supplies; Automatic Building Controls \$360.00 Fire Alarm Contract; Avera Occ. Medicine #113.55 Drug Screening; Avera Queen of Peace \$3468.64 Poor Relief; Braley Law Office \$291.50 CAA Fees; Brandt Land Surveying \$1700.00 Land Survey; Brock White LLC \$1509.70 Supplies; Brosz Engineering \$4642.50 Engineering; Butler Machinery \$554.06 Parts/Repair; Davison Co. Sherriff \$190.00 Jail Rental; Dawson Colony \$970.00 Parts/Repair; Exc Management Finance \$25.00 Supplies; Keith Goehring \$4885.40 CAA Fees; Goldenwest \$225.00 Utilities; Huether's Lawn Service \$100.00 Lawn Care; Hutchinson Co. Treasurer \$7254.21 Tax Payments; Mark Katterhagen \$24.00 MI Hearing; Klaudt's Service \$2487.05 Repair; Kent Lehr \$203.70 MH Involuntary; Lewis/Clark Behavioral \$178.00 BMI Intake; Lewno Law \$196.50 MI Hearing; Lincoln County \$47.50 MI Involuntary; Darcy Lockwood \$24.00 MI Hearing;

Mcleod's \$1567.95 Absentee Ballots; Menno Lumber \$17.16 Supplies; Murtha Repair \$124.41 Parts; Diane Murtha \$50.00 Supplies; Northwestern \$2347.23 Utilities; Parkston Lumber \$421.29 Supplies; Pennington County \$83.19 Jail Rentals; Quill \$193.84 Supplies; Santel \$395.56 Utilities; SD Public Assurance \$78,334.93 Insurance Renewal; Sioux Equipment \$755.63 Parts/Repair; Specialty Automotive \$293.57 Parts/Repair; Spencer Quarries \$1550.06 Rock; Tools & Machinery Co \$221.62 Parts/Repair; Tripp Lumber \$53.08 Supplies; Truenorth Steel \$14,505.28 Supplies; United Laboratories \$1156.86 Supplies; US Bank \$2937.40 Supplies; Walter Welding \$195.94 Welding; Warrick Tread Service \$969.00 Supplies; Yankton County \$50.00 Sherriff's Fee; Yankton Rexall Drug \$47.95 Prescription Drugs;

Lawn Care: Motion was made by Friesen, seconded by Mehlhaff to have Farm Truck Enterprises continue mowing the old courthouse and to start mowing at the new courthouse when the grass is ready. Farm Truck Enterprises will also do weed control at both courthouse buildings. Motion carried.

Plat 2020-05: Plat of Tract 1, Suttons Addition in the West 85 Acres of the NW1/4 of Section 29, T100N, R56W of the 5th PM, Hutchinson County, South Dakota. Motion was made by Friesen, seconded by Ulmer to approve the plat. Motion carried.

Second Reading Amendment to Hutchinson County Ordinance #2020- 01 AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH CRISIS BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS (COVID-19). Motion was made by Friesen, seconded by Wolf to approve the Amendment to Hutchinson County Ordinance #2020- 01. Roll call vote: Ulmer-yes, Friesen – yes, Wolf – yes, Mehlhaff – yes and Henke – yes. Motion carried.

**AMENDMENT
TO
HUTCHINSON COUNTY ORDINANCE NO. #2020-01**

**AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH CRISIS BY
IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED
NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS
(COVID-19).**

Amendments to this Ordinance are set forth in bold print

WHEREAS, the Hutchinson County Commission has the authority to pass Ordinances pursuant to SDCL 7-8-20(10) for the purpose of promoting the health, safety, morals and general welfare, of the community and the promotion of health and the suppression of disease; and

WHEREAS, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been confirmed in more than 150 countries, including the United States; and

WHEREAS, COVID-19 is a severe respiratory disease transmitted by person-to-person contact, or by contact with surfaces contaminated by the virus. In some cases, especially among older adults and persons with serious underlying health conditions, COVID-19 can

result in serious illness requiring hospitalization, admission to an intensive care unit, and death; and

WHEREAS, the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the Secretary of the U.S. Department of Health and Human Services have declared the outbreak of COVID-19 as a public health emergency; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in response to the global pandemic of COVID-19; and

WHEREAS, on the same day, Governor Kristi Noem, issued Executive Order 2020-04 which declared a state of emergency to exist in the State of South Dakota in response to the spread of COVID-19; and

WHEREAS, the CDC and health experts have recommended social distancing to slow the spread of COVID-19; and

WHEREAS, social distancing is a method of slowing down or stopping the spread of a contagious disease by reducing the probability of contact between infected persons and those not infected in order to minimize disease transmission; and

WHEREAS, in response to the need to implement social distancing all schools in the state have been closed for at least two weeks; and

WHEREAS, on March 16, 2020, the White House issued guidance recommending that social gatherings of more than ten people be avoided and that people avoid eating or drinking at bars, restaurants, and food courts and on March 29, 2020, the White House extended the guidance recommendations through April 30, 2020;

WHEREAS, the guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

WHEREAS, many states and communities across the country have already implemented the White House recommendations by ordering all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate be closed until the public health emergency is over; and

WHEREAS, the failure to successfully implement social distancing will likely result in higher numbers of infected individuals and has the potential to overwhelm the capacity of the County's health care providers; and

WHEREAS, it is important that control measures be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of the County's residents, especially for seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19.

WHEREAS, since this original ordinance has been passed and had gone into effect, there have been over a million positive COVID-19 cases and tens of thousands of COVID-19 related deaths in the United States and well over 2,000 positive COVID-19 cases in South Dakota, and many South Dakota municipalities and counties had passed resolutions and ordinances limiting or restricting businesses to be open to the public; and

WHEREAS, the County can declare that an emergency exists that endangers or presents a hazard to the public health, welfare, and safety of the people such as the spread of the COVID-19 virus, and can thereby implement restrictions or limit the actions of individuals and businesses that the County has determined necessary to protect the

immediate health, welfare, and safety of the public, and may adopt by reference, actions, declarations, or standards to be followed by individuals and businesses; and

WHEREAS, the County has the authority to declare and abate nuisances within the County outside the city limits of its municipal jurisdictions in order to protect the public health, welfare, and safety of the people, pursuant to SDCL 7-8-33 and 21-10-1; and

WHEREAS, the County has the authority to approve the issuance of alcoholic beverages to licensees and also has the authority to adopt ordinances relevant to alcoholic beverage control outside the city limits in the County; and

WHEREAS, the County intends to have this ordinance amended so that if there is a violation of this ordinance by a licensee, then the South Dakota Department of Revenue can find grounds to either suspend or revoke the alcoholic beverage license, pursuant to SDCL 35-2-10 through 35-2-24; and

WHEREAS, the County has to balance the individual's and businesses' right to operate and be open to the public, and at the same time, the County has the obligation to protect the public health, welfare, and safety of the people; and

WHEREAS, the County intends to allow these businesses to re-open to the public subject to the adoption of certain restrictions and limitations set by the County and to be followed by the individuals and businesses outside of the city limits of Menno, Freeman, Olivet, Tripp, Dimock, and Parkston that are affected by this ordinance and will provide copies to those individuals and businesses to follow in order to be in compliance with this ordinance; and

WHEREAS, the County is amending this ordinance to allow the affected businesses to re-open to the public under the restrictions and limitations adopted by the County and also to declare that a nuisance exists as a result of the COVID-19 pandemic so that the County can exercise its abatement authority in the event that there is an outbreak of positive COVID-19 cases in the County and/or the surrounding area in order to slow the community spread of the COVID-19 virus.

NOW THEREFORE, BE IT ORDAINED, by the Hutchinson County Commission that:

1. Effective at 12:01 a.m. on April 1, 2020, all restaurants, food courts, coffee houses, bars, bars and grills, breweries, distilleries, wineries, clubs, cafes and other similar places of public accommodation offering food and beverages for on-site consumption, including any alcohol licensees with on-sale privileges located outside the city limits of Menno, Freeman, Olivet, Tripp, and Parkston, are closed to on-site/on-sale patrons, both inside and outside. These businesses may continue to operate in order to provide take-out, delivery service, and drive-thru service. Any business continuing to operate in order to provide off-site service should implement procedures to ensure social distancing and operate in compliance with federal and state health guidance in order to prevent the spread of COVID-19.

2. This ordinance shall remain in effect until such time as it is amended or repealed.
3. Any violation of this ordinance is subject to the general penalty provision in SDCL 7-18A-32. Each day a violation of this Ordinance is allowed to occur is considered a separate offense. Unless otherwise modified by resolution, the fine and costs for each violation shall be a daily fine of \$200.00 for each day the violation continues, plus court costs and restitution authorized by this ordinance and/or state law.

BE IT FURTHER ORDAINED, that this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare of Hutchinson County and shall become effective immediately upon passage.

Since the adoption of the original ordinance, the County hereby adopts the following amendments to the original ordinance:

BE IT FURTHER ORDAINED, that notwithstanding the other provisions of this ordinance, the County recognizes an emergency existed due to the community spread of the COVID-19 virus and hereby exercises its right to declare this emergency to be a nuisance to the public and an immediate threat to public health, welfare, and safety, and the County has the right to an immediate abatement of such nuisance, pursuant to SDCL 21-10-1 and 7-8-33.

BE IT FURTHER ORDAINED, that upon a determination by the Hutchinson County Emergency Manager or the Hutchinson County Sheriff's Office or any person designated by the County that a business or individual is operating in violation of this ordinance and/or amendments thereto and/or the restrictions and limitations set by the County in accordance with this ordinance, then it shall be declared a nuisance and such violation may be immediately abated and at the business's or individual's expense.

BE IT FURTHER ORDAINED, that any such violation of this ordinance by a licensee holding an alcoholic beverage license outside the city limits of the municipalities in the County, then the South Dakota Department of Revenue can find grounds to either suspend or revoke the alcoholic beverage license pursuant to SDCL 35-2-10 through 35-2-24.

BE IT FURTHER ORDAINED, that the businesses and individuals affected by this ordinance can be re-opened to the public subject to the adoption of certain written restrictions and limitations set by the County and to be followed by the businesses and individuals.

BE IT FURTHER ORDAINED, that any violation of this ordinance is subject to the general penalty provision in SDCL 7-18A-32. Each day a violation of this Ordinance is allowed to occur is considered a separate offense. Unless otherwise modified by resolution, the fine and costs for each violation shall be a daily fine of \$200.00 for each day the violation continues, plus court costs and restitution authorized by this ordinance and/or state law.

BE IT FURTHER ORDAINED, that the County shall have the authority to order the businesses and individuals affected by this ordinance to be immediately closed if the County believes it to be in the best interests to do so, such as an outbreak of the COVID-19 virus.

BE IT FURTHER ORDAINED, pursuant to SDCL 7-8-20(10), the County has the authority to pass ordinances and that this ordinance and its amendments thereto are necessary for the immediate preservation of the public peace, health, safety, and welfare of Hutchinson County and shall become effective immediately upon passage.

Dated this 19th day of May 2020.

HUTCHINSON COUNTY COMMISSION:
/s/ BRAD HENKE – Chairman

ATTEST:/s/DIANE MURTHA – Auditor

Highway Report: New Federal Bridge Program: Motion was made by Wolf, seconded by Mehlhaff to approve the following applications for the Federal Aid Bridge Replacement Program. Motion carried.

SN34-157-051 Located by Island Park

Estimated Cost of Project Including Engineering: \$930,000

Federal Share (81.95%): \$762,135

Local Share (18.05%): \$167,865

SN34-123-000 located on 268th St over Twelvemile Creek

Estimated Cost of Project Including Engineering: \$630,000

Federal Share (81.95%): \$516,285

Local Share (18.05%): \$113,715

SN34-151-150 located 7.0 miles South and 9 miles East of SW Parkston

Estimated Cost of Project Including Engineering: \$590,000 -

Federal Share (81.95%): \$483,505

Local Share (18.05%): \$106,495

SN34-140-046 located 1.9 miles West and 0.6 miles North of Milltown

Estimated Cost of Project Including Engineering: \$670,000

Federal Share (81.95%): \$549,065

Local Share (18.05%): \$120,935

Auditor Murtha-Cell Phone Motion was made by Friesen, seconded by Wolf to approve Auditor Murtha's request to be compensated for cell phone usage for county business on their personal cell phones. This compensation will be reimbursed through payroll and

will be treated as wages. Murtha will be compensated for \$30.00 of her monthly bill. Motion carried.

Malt Beverage Renewals: Motion was made by Wolf, second by Mehlhaff to approve the following applications. Motion carried.

Meridian Corner	Retail On-Off Sale	License #RB-19331
Parkston Country Club	Retail On-Off Sale	License #RB-2915
Pep's Pub LLC	Retail On-Off Sale	License #RB-26110
Ron's Service	Retail On-Off Sale	License #RB-20733

2017-2018 Audit: Motion was made by Wolf, seconded by Mehlhaff to approve Chairman Henke to sign the agreement for the 2017-2018 Audit. Motion carried.

Adjournment: Motion was made by Mehlhaff, seconded by Henke to approve adjourn at 11:35 am and to meet again on June 4, 2020 at 9:00 am. Motion carried.

/s/Brad Henke, Chairman

/s/Diane Murtha, Auditor

Please publish once at a cost of \$