

September 24, 2019  
HAND COUNTY BOARD OF COMMISSIONS  
COURTHOUSE COMMISSION CHAMBERS  
AND  
HAND COUNTY BOARD OF ADJUSTMENT  
COURT ROOM  
MILLER, SOUTH DAKOTA

The Hand County Board of Commissioners convened at 10a on Tuesday September 24, 2019. Commissioners present included Chairman J.D. Wangsness, Commissioners Greg Palmer, Jim Jones, Gib Rodgers and Luke Wernsmann. The purpose of the meeting was to finalize the budget for 2020.

The Pledge of Allegiance was said aloud.

Auditor DeBoer presented 2020 proposed budget to the commissioners. DeBoer reviewed the following changes from the last revision to the current revision. These revisions were at the direction of the county commission:

The 111 Commissioner budget was increased by \$30,217.27. \$30,000 was added to cover contributions to On Hand Economic Development Corporation (OHEDC) and \$217.27 was added to cover dues for the Northeast Council of Governments (NECOG). The changes to these two budgets were the result of discussion with the city of Miller who reduced funding of the cited programs; and which were picked up by the county.

The 151 States Attorney budget was lowered in wages but increased in profession fees and services by \$7,500 to cover the costs associated with the East Central Dakota Victim Witness Coordinator (ECSDVWC) (\$5,500) which had previously been paid from the jail fund but are now to be paid from the states attorney's fund because the program is under the state's attorney. Additional fees were added in professional fees to help offset the potential increase in costs associated with evidence processing.

The 440 Mental Health budget was increased by \$2,300 to cover costs associated with the Statewide 211 initiative.

The final change was the inclusion of \$50,000 to the capital outlay fund which was created to fund the courthouse elevator repairs or replacement. This item was not properly noted in the previous budget presentation.

The chairman called for comment from those in attendance.

Elton Anson, States Attorney came forward and asked that the funds (for payroll) removed (above) be returned to his budget. Anson explained that in the previous meeting he discussed the increase in wages for himself and his secretary and no objections were heard from the commission. [The commission allowed the amounts to be calculated into the proposed budget.] Anson pointed out that three members of the committee that objected are at the commission table and none of them raised the question. Anson attributed the objection to Treasurer Sheri Koeck who was not present. Anson also explained that the committee was set up to discuss wages for 2018-2019 and that was accomplished and "ran its course" and is effectively done. Anson stated the committee made sure it gave themselves raises and effectively padded their own nests. Anson also told the commission this committee was the same group that wanted to close the courthouse on Fridays. Anson also added the official policy of the county does not reference the committee as the body to approach regarding wages, only the commission. Anson added several reasons for his request including his assertion that the wage committee lacked authority to

intermediate wages between departments and the commission, that his office is seeing more filings, that his office is prosecuting work from the Miller Police Department, South Dakota Game Fish and Parks, South Dakota Highway Patrol and the Division of Criminal Investigation, that the cases are more complex and require more time. Anson also offered several reasons to increase the pay of the office secretary, most notably her credentials as a paralegal. The commission instructed the auditor to return the states attorney's budget to the original request for payroll, thus allowing the increase in pay for both employees.

Chairman Wangsness responded to Anson's comments. Wangsness explained the committee wanted to establish the CPI as a consistent method of keeping wages current. The chairman also said that he wanted to know if the part-time status of the state's attorney office needed to change because of workload.

Commissioner Jones commented that Anson's original request was accepted to the proposed budget without objection. Jones explained that the question for the committee came up with regards to the duties of the zoning administrator and how it relates to extra duties and the committee was to confine itself to that topic.

Commissioner Rodgers commented that his memory was that the committee was in place to keep a level playing field for the four offices on 2<sup>nd</sup> floor and the rubble site manager. He added that the committee was to help bring uniformity and lesson the hap-hazard manner department heads were asking for wage changes.

Chairman Wangsness said the committee and the commission's goal was to establish a baseline for wages and that each department was still able to a baseline from which to act from that point on.

The commissioners discussed how the county successfully went from the bottom of the bottom third to the top of the bottom third of counties as it relates to wages. Commissioners agreed that helped establish a good baseline but is not rigid.

Commissioner Jones offered a motion to honor the original decision to offer the wage increases, as Anson proposed. Jones added that the motion also adopts the recommendation of the committee to remove the graduated pay system of 90% then 95% before reaching 100%, and to reduce the probationary period from six months to three months, and to offer 90% of the full wage for those three months. Jones also added to increase the states attorney's secretary wage to \$23 per hour. A couple commissioners questioned the multiple items in the motion so chairman Wangsness attempted to abbreviate the contents of the motion as follows: To approve the request of the state's attorney prior to the last change, thus nullifying the decrease that was suggested by the committee. Jones amended the motion to honor the original request the states attorney presented which included the wage increases. Commissioner Rodgers seconded the motion. During discussion it was concluded the CPI increase would be applied in January. Jones amended his motion to be to honor the states attorney's original request (including the wage increases and the addition of CPI) for both employees. Commissioner Palmer offered the second. All members voted in favor thereof.

The chairman declared a recess of the county commissioners and asked for a motion to convene as the zoning Board of Adjustment. It was moved by Jones, seconded by Palmer, all voting in favor thereof.

After a brief discussion it was agreed to recess for five minutes and move up to the courtroom so that gallery members could sit down.

At 10:37 the chairman called the meeting back to order inside the courtroom. The chairman informed the gallery (approximately 47 persons) and participants that the purpose of the meeting was for the board of adjustment to consider the application of a conditional use permit (C.U.P.) for Ratio, LCC & Pipestone Vet Services who seek to construct a swine production facility in Section 32 of Pearl Township (32-111-67). A public hearing was held previously held on the matter but board member Wernsmann was unable to attend.

The chairman asked Wernsmann if he was comfortable to proceed and Wernsmann answered in the affirmative.

The chairman asked for a motion to close the public hearing. Member Jones moved, Member Palmer seconded and all members voted in favor thereof to close the public hearing. The chairman declared the hearing as closed and opened the boards work session so they could consider the application.

The chairman asked for a motion to approve the application so the group could move to discussion. A motion was made by Member Palmer, seconded by Member Jones. The chairman asked for discussion or question directed to the applicant. The applicant was represented, primarily by Nick Fitzgerald of Pipestone Vet Services, Pipestone, MN. The property owners, Kirk Aughenbaugh and his father were also present.

Member Rodgers asked the applicant about their plans for acquiring water. The applicant said they plan to drill wells. There is an option to use rural water supplied by Mid-Dakota but there would need to be an infrastructure buildout if that is the case. The applicant said their preference is to use wells. There was discussion about the depth of the wells and which underground aquifer would be sought. Regardless of depth, the project would require the acquisition of water rights as their expected consumption would require it. If the applicant can not supply enough water, the project would, most likely, not occur.

Chairman Wangsness asked the applicant what their application status is with the South Dakota Department of Environment and Natural Resources (SD-DENR). The applicant responded that their application is still being processed. The DENR also receives public notice and respond as appropriate. The applicant said the DENR does not provide information to applicant or public until they issue their final decision for the record.

Member Jones questioned the applicant if road haul agreements were in place with all possible governmental entities, whether the county or townships. The applicant said that they plan to use two primary routes, both on the county road system. These routes are, from US HWY 14, 363<sup>rd</sup> Avenue to 206<sup>th</sup> Street, East one mile to 364<sup>th</sup> Avenue and then south to the project. From SD HWY 45, 211<sup>th</sup> Street east to 364<sup>th</sup> Avenue and south to the project.

The applicant said they do not intend to use any township roads.

Member Jones asked the applicant what their position would be if the county required the applicant to make and maintain the roadways so that the county suffers no loss from its use. The applicant said they expect and are prepared for such a condition.

Member Jones asked the applicant about their use and design (and maintenance) of a shelter belt around the property and how it would compare to the facility he inspected in Davison County, and if it would be in similar design to the recommendations set out by South Dakota State University (SDSU) to control and neutralize odors?

The applicant responded that they use a landscape architect which is shared with the NRCS so they can be advised of the correct species of trees to use and survive. The applicants have not used SDSU in the past. Member Jones asked specifically if cedar trees would be used? The applicant said they would use cedar trees as well as other suitable trees.

The board asked and was presented with a diagram (drawn diagram) of the shelter belt plan. It was displayed for the board.

Member Rodgers questioned the applicant about the buffer zone they intend to use to protect neighboring water and wetlands. The applicant responded that they would follow the guidelines of the DENR. The diagram of the facility details the intended uses of the grounds for buildings and vegetation.

Member Rodgers raise concerns that the DENR's 100-foot setback is insufficient and based on the levels in the wetland / standing water, those lines are not well defined. The applicant said that there is a difference in DENR guidelines based on whether the ground is farmed or not. The applicant's intent would be to find a middle ground on where the median line might be and then establish the setback according to that. The applicant said if the water is high, the applicant would adjust accordingly. The applicant later explained that the application of nutrients was controlled via GIS technology so that the application stops when the setback or exclusion zone is entered.

Member Rodgers affirmed that he would feel better if the setback was larger. Rodgers also shared that DENR does not regulate the use of commercial fertilizer nor does it regulate the application amounts of manure. It is based on the injury discovered after application. The applicant asserted that a producer, in an effort to lower input costs, does not want to over apply any product. The "incentive" is to be frugal with costs, like any other producer.

The applicant showed the board the "exclusion areas" on the facility map where no application of manure would take place.

During the review of the facility map, Member Wernsmann questioned an area labeled "pond". The applicant said the area was reserved (to prevent other uses) for a liquid pond should the drainage tile / ground water inspection system contain too much water and needs to be pumped out and held. The holding pond would be where that water would be stored. The pond is not intended to hold manure but the water within is treated the same as manure for regulatory purposes.

Member Rodgers questioned the role of the DENR in operations, inspections, site visits and compliance at the facility. The applicant explained that they are required to keep records, provide samples and report to the DENR on their operations and management of manure.

Member Jones questioned the input or cooperation with the US Fish and Wildlife Service (USFWS) in addressing their concerns which were expressed in writing. The applicant answered that DENR has jurisdiction on the topic and they are working with DENR to ensure compliance. The USFWS concerns are addressed by DENR and their status on those concerns is not known. The applicant said they are not aware of who submits comments until after the DENR provides their response to the commenters. The applicant maintains that they have not been in conversation with USFWS. The applicant said that the DENR can add conditions to the project if they feel it is appropriate.

Member Jones asked the applicant if they had ever interacted with USFWS in the past on other projects. The applicant does not believe that has been an issue in the past but they do work on mitigation

projects that are identified. Chairman Wangsness asked member Jones if he wanted to add that coordination to the applicant's permit. Jones did not believe the county ordinance did not allow for that as a conditioned use but said it would provide "good optics" for the applicant.

Member Rodgers again expressed concerns about how closely the DENR monitors these facilities after operations begin. It was the consensus that DENR is the appropriate agency for oversight as the county does not have sufficient skills to investigate claims like DENR.

Member Jones explained how he approached the facility in Davison County but no one answered the door. Jones questioned who represents the facility locally and who is contacted with concerns. The applicant said they provide a sign board that has emergency contact information, facility staff (the farm manager) and administrative staff contact information. The property, like any, is accessible upon request of the owner or operator but is controlled for access to maintain disease control or exposure to their livestock. The building itself is a controlled environment designed to keep harmful contaminants out. The facility will be staff everyday and management is accessible by telephone.

Member Jones described the facility as a "vault", sealed from the outside, and a concerned neighbor can't just stop and talk. The applicant said tours are available upon request and accessibility to staff is done via a controlled entry that summons staff to the door. The applicant said their preference is that the manager live close to the facility for accessibility.

Member Rodgers questioned who to contact if someone sees questionable application or concerns regarding application of manure. The applicant said the contact information is on the board and that does not preclude the notification to the sheriff, the county zoning administrator and the DENR.

If violations occur, the Aughenbaugh would be the responsible parties as the owner of the facility.

Member Palmer questioned the useful life of the facility and how decommissioning of the facility involves and how it is planned for. The applicant said the life of the facility is 40 years but they have already had facilities exceed their expected life and remain in operation. The applicant said the new facilities continue to get better with each build. The applicant said there is no decommissioning plan. Member Palmer said he would like to see such a plan. Member Jones said that no other builder, except wind energy systems, are required to provide such a plan. The applicant said that they would still be under the requirements of DENR for removal of manure and the structures would be dealt with like others take care of their structures. Additionally, the applicant said the DENR has a fund to handle such cases where a facility is abandoned and the responsible parties do not respond appropriately.

The chairman summarized the additional conditions as follows:

- Must have approval for sufficient water and water rights.
- Must have approval of the South Dakota Department of Environment and Natural Resources.
- Must have an equitable road haul agreement in place between the applicant and the county, and townships if they choose to opt into the county's plan.

- Must have an approved shelter belt with input from either the Hand County Soil Conservation District or the Natural Resources Conservation Service (NRCS) or both.

[The official, additional conditions, will be spelled out in the board of adjustment's "findings of facts" which is produced by the county attorney and approved by the adjustment board. The conditions above are paraphrased version from discussion during the meeting. Ddb]

The chairman reminded the group that a motion had been made, a second had been offered and then requested a roll-call vote on the motion to approve with the additional conditions. The roll-call vote was: Palmer voted "I", Wernsmann voted "I", Jones voted "I", Rodgers voted "Nay" and Wangsness voted "I". The motion carried.

Chairman Wangsness requested a motion to adjourn as the board of adjustment so they could reconvene as the board of commissioners. It was moved by member Wernsmann, seconded by member Palmer with all voting in favor thereof to adjourn the board of adjustment.

At 12:16p the board of commissioners were brought back into session by motion of Wernsmann, seconded by Jones.

Toby Qualm, lead auditor with the South Dakota Department of Legislative Audit reviewed with the board that he and his staff are auditing the financial statements of the county for the years 2017 and 2018. Qualm presented the board with an engagement letter which outlines the process. Qualm also provided a document to the chairman to complete. Qualm said that the commissioners can express any concerns with him at any time.

The engagement letters will be added to the October 1<sup>st</sup> agenda for approval.

The chairman brought us back to the discussion of the wage committee. The chairman brought the board back to the discussion of the zoning administrator. It was discussed how the position of zoning and assessor would be melded together into one position paid from the assessor's budget and as a result, he would earn retirement and the CPI increase would be applied. The topic then turned to what amount the zoning duties would account for. Augspurger requested a raise and that remained to be completed.

The chairman requested that Auditor review the committees report. DeBoer began with the recommendation that the CPI increase not be part of a person's wage discussion, that it be removed from consideration and applied automatically but capped at a maximum of 3%. The commission agreed.

The next topic was about individuals asking for raises separately or as a group. The states attorney commented the committee had no authority and commissioner Jones agreed. The decision should be and rest only with the commissioners. The question is whether the committee should exist.

The next topic was that the highway department's entry level pay may or may not have had the CPI applied and establish a new base pay for new highway employees. There is no policy on how to deal with new hires. The discussion turned to the graduated system of giving 90% at hire, 95% after six months and then 100% of the wage after one year. It was the consensus of the commission to abandon that graduated scale and also abandon the second six months as a probationary period, graduated wage. Jones liked the process to a punishment.

The recommendation is to eliminate the graduated steps, pay the new employee the full wage from the beginning and screen new employees during the probationary period based on performance.

The group discussed the use of earned vacation only after the 1<sup>st</sup> year anniversary. The auditor recommended that vacation be available to employee after six months.

The next topic was about office hours of the veteran service office to mid-week rather than Monday and Tuesday. The current plan hours are Monday and Tuesdays but when a holiday falls on Monday, the office hours are not made up. The commission wants the VSO open two full days a week irrespective of holidays or closings. The expectation is that the office will be open eight full days each month. The commissioner decided to bring the topic to the October meeting and invite the VSO to that meeting.

The next topic was the 911 county coordinator. The group recommended the 911 coordinator be paid \$200 per month as on-call, as needed, available 24/7 to meet system needs. This position would be separate, unlike the others because of the segregations of duties.

The commission agreed and will place it on the October agenda.

The next topic was the "Flood Plane Manager". The committee recommends having the emergency manager act as the flood plane manager and receive the mail and process it. The commission agreed and it will be placed on the October agenda.

The next topic returned to the wage of the zoning administrator. It was recommended that the position of assessor and zoning be combined. The only topic left was Terry Augspurger's request to be paid more for his zoning duties. The chairman asked how much time is spent on zoning. Augspurger was directed to research the subject. The auditor commented that he is, by ordinance, the clerk of the zoning board and also spends considerable time on zoning rather than auditor business. The auditor suggested that if a raise is applied, the duties of clerking the zoning meetings be shifted to the zoning administrator.

The assessor was instructed to research the topic and report back during the October meeting.

The melding of the rubble site manager and highway superintended into one position assigned to the superintendent. The board agreed.

The next topic was to state for the record the melding of the auditor and welfare, treasure and passports, register of deeds and driver licenses. The commission agreed to make it part of the record at the October meeting.

The last topic was whether the elected officials should have been on the 90% scale upon hire and then put on the full pay after six months. The commission agreed and it will be placed on the October agenda. This was applied to the auditor when elected. The auditor was directed to research the minutes.

The last topic was the review and adoption of the resolution setting out the approved budget for 2020. It was moved by Jones, second by Palmer to approve the resolution. All members voted in favor thereof and all signed the resolution.

The chairman informed the commission that he has declared September 29, 2020 as Pleasant Valley Church day in and for Hand County. A proclamation will be delivered to the church by Terry Augspurger.

The chairman called for any public comment. No one offered any comment.

Commissioner Rodgers reminded the board of the roadway that was discussed in previous years about the dirt road along 363<sup>rd</sup> Avenue south of 206<sup>th</sup> Street

It was moved by Jones, seconded by Rodgers to disband the wage committee (or whatever title it might have had). All members voted in favor thereof.

It was then moved by Wernsmann, seconded by Jones to adjourn the meeting. The chair declared the meeting adjourned at 1:08p.

The next regular scheduled board meeting will be on October 1, 2019 at 9:30 in the morning.

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James D. Wangsness, Chairman  
Hand County Board of Commissioners, and,  
Zoning Board of Adjustment

(Attest)

Doug DeBoer, Hand County Auditor

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