

YANKTON COUNTY COMMISSION MEETING
November 3rd, 2009

The regular meeting of the Yankton County Commission was called to order by Chairman Bruce Jensen at 4:00 PM on Tuesday, November 3rd, 2009.

Roll Call was taken with the following Commissioners present: Donna Freng, Bruce Jensen, Mark Johnson, and Allen Sinclair. Commission Tamisiea was absent.

Action 09420C: A motion was made by Sinclair and seconded by Freng to set the agenda with the following changes/additions: Generator maintenance contract~Safety Center
Voting Aye: All Nay: None Motion carried.

Action 09421C: A motion was made by Johnson and seconded by Freng to approve the minutes of the October 20th, 2009 meeting of the Board and amending the action sequence for Actions 09383 & 09385 to reflect the Board went into Board of Adjustment, no action resulted and the Board then reconvened in regular session to approve "A Resolution Amending the Yankton County Zoning Ordinance – Ordinance #16; Article 9 and Article 15."
Voting Aye: All Nay: None Motion carried.

Greg Henderson of District III advised the Board of the application process for the Energy Efficiency Conservation Block Grants. The process is underway for proposed energy conservation improvements at the Safety Center.

The Board returned the issue of the proposed Highway Maintenance facility to the table. Larry Ness of the First Dakota National Bank discussed financing options with the Board. A Certificate of Participation is often utilized by government entities and in lieu of paying interest on bonds or guaranteeing a face value at the conclusion of the project, the investor receives a return based on lease revenues (in the instance, the County would in effect lease the structure proposed until construction costs are paid in full, at which time the structure would become County property. This type of financing would allow prepayment. Kevin Bender of Welfl Construction discussed the Design Build option with the Board. The Board then reviewed and discussed the architectural proposals as submitted. Action was deferred until later in the proceedings.

Two indigent claims were presented to the Board for consideration. #1 Request for County payment (no specified amount) for a medical assistance (Denial recommended by Jennifer Adamson, Poor Relief Administrator) #2 Request for County payment of a medical procedure of \$4,714.28 (not repriced amount). (Denial recommended by Adamson as preapproval by the County was not sought).

It was the consensus of the Board to deny both requests as recommended.

Action 09422C: A motion was made by Sinclair and seconded by Johnson to recess the regular session of the Board and convene as a Board of Adjustment.
Voting Aye: All Nay: None Motion carried.

The Board of Adjustment considered the appeal of Al Binder, represented by Tim Binder, said appeal arising from the decision of the Yankton County Zoning Administrator, to enforce Article 15, Section 1525, Camping Units requiring placement in a designated campground or the obtaining of a Conditional Use Permit in a Moderate Density Rural Residential District. Comments were taken from residents of the Black Walnut court. Mr. Binder advised they are open to working with the County to resolve the issue.

Action 09423Z: A motion was made by Johnson and seconded by Freng to deny the appeal.

Voting Aye: Johnson, Freng, Sinclair, Jensen Nay: None Motion carried.

The Board of Adjustment considered the appeal of Ken Hansen, said appeal arising from the decision of the Yankton County Zoning Administrator, to enforce Article 15, Section 1525, Camping Units requiring placement in a designated campground or the obtaining of a Conditional Use Permit in a Moderate Density Rural Residential District.

It was suggested a Conditional Use permit be obtained for a specific number of lots in the court to be designated for RVs.

Action 09424Z: A motion was made by Sinclair and seconded by Johnson to deny the appeal.

Voting Aye: Sinclair, Johnson, Freng, Jensen Nay: None Motion carried.

Action 09425C: A motion was made by Sinclair and seconded by Johnson to adjourn as a Board of Adjustment and reconvene in regular session.

Voting Aye: All Nay: None Motion carried.

Action 09426C: A motion was made by Sinclair and seconded by Johnson to approve the following liquor license renewal applications and transfers:

Glenridge Golf Course-Mark Peterson, Chairman, located in the NE4 NE4, Section 36, Township 96, Range 54 and Sunday sales;

LakeView Inc dba **The Quarry** located in S2 N2 NE4, Section 17, Township 93, Range 56 and Sunday sales;

Jerry & Terry Fleege dba **Riverside Station** located in S108' Outlot A Government Lot 2, Section 3, Township 93, Range 55 and Sunday Sales;

Captain Norm's LLC located in Parcel C Exc Lot h-1 and E15' Parcel D and Exc N370' and S290' W35' E50' Parcel D, Section 17, Township 93, Range 56 and Sunday Sales; JoDean Corporation dba **Jo Dean's** located in Lt 1 & N100' Lot 2, NE4 SE4 Section 24, Township 93N, Range 56W and Sunday sales;

Stuart Huber located in Parcel of 2 acres NW4 NW4 Section 6, Township 95N, Range 55W; (Inactive license)

Magillys Lakeside Eatery located in N2 NW4 SW4, Section 17, Township 93N, Range 56W of the 5th PM.

Transfer from Tom & Christie Schell dba Boulder Creek to **Stuart Huber** located in the W12 Rods Exc Lots H-1 through H-4, NW4 NW4, Section 7, Township 95N, Range 55W of the Fifth PM

Transfer from Russell Marsh dba Lewis & Clark Marine LLC to **Magillys Lakeside Eatery** located in N2 NW4 SW4, Section 17, Township 93N, Range 56W of the 5th PM.

Voting Aye: All Nay: None Motion carried.

Action 09427C: A motion was made by Sinclair and seconded by Johnson to recess the regular session of the Board and convene as a Board of Adjustment.
Voting Aye: All Nay: None Motion carried.

Action 09428Z: A motion was made by Sinclair and seconded by Johnson to approve
A Lot Size Variance Permit, for Richard & Julie Fischer as follows:
Richard & Julie Fischer, 42964 SD Highway 46, Lesterville, SD
LEGAL DESCRIPTION (Physical Location): Fischer Tract A, SW4, Section 33, Township 96N, Range 57W, Yankton County, SD

1. Planning Commission recommends approval 9-0.
2. A lot size variance of 9.49 acres or lot size of 10.51 acres.
3. Granting of variance will bring property into compliance with Yankton County Zoning Ordinance, variance will not confer on the applicant any special privilege
4. No nonconforming lands, structures or buildings were considered grounds for this recommendation
5. Use of applicants' property is allowed by the Yankton County Zoning Ordinance and in the district
6. Variance request approval per Section 1907, Parts 1 through 10 of the Yankton County Zoning Ordinance

Voting Aye: All Nay: None Motion carried.

Action 09429C: A motion was made by Freng and seconded by Johnson to adjourn as a Board of Adjustment and reconvene in regular session.
Voting Aye: All Nay: None Motion carried.

Action 09430Z: A motion was made by Sinclair and seconded by Freng to adopt the following resolution: Whereas it appears that Richard & Julie Fischer, owners of record, have caused a plat to be made of the following real property: Fischer Tract A, SW4, Section 33, Township Ninety-Six (96)N, Range Fifty-Seven (57) West of the 5th PM, Yankton County, South Dakota and has submitted such plat to the Yankton County Planning Commission and the County Commission, of Yankton County, South Dakota for approval. Now therefore be it resolved that such plat has been executed according to the law and conforms to all existing applicable zoning, subdivision and erosion and sediment control and the same is hereby approved. The county Auditor is hereby authorized and directed to endorse on such plat the proper resolution and certify the same.

Voting Aye: All Voting Nay: None Motion carried.

Sheriff Hunhoff advised the Board two jailers have submitted their resignations and he recommends employing Christopher Meier and Debra Klemme to replace them.

Action 09431S: A motion was made by Sinclair and seconded by Freng to accept the Sheriff's recommendation to hire Christopher Meier and Debra Klemme.

Voting Aye: All Voting Nay: None Motion carried.

Hunhoff advised the Board costs for E911 signs has risen considerably and it was the consensus of the Board that the charge to the county residents for E911 signs will not be increased at this time.

The issue of a petition to vacate county right-of-way was returned to the table. Due to a discrepancy with the original plat with road dedication and the actual current physical size and location of the roadway, the Board adopted the following:

Action 09432H: A motion was made by Sinclair and seconded by Johnson to adopt the following resolution:

YANKTON COUNTY BOARD OF COUNTY COMMISSIONERS
YANKTON COUNTY, SOUTH DAKOTA

A Resolution For Rededication of Non-Conforming Roads in Yankton County.

WHEREAS, South Dakota Codified Law allows Yankton County to dedicate to the public any road used, worked, and kept as a public highway continuously for twenty (20) years; and,

WHEREAS, Yankton County has the power to vacate, change or locate any highway in Yankton County, South Dakota; and,

WHEREAS, the roads that have been used, worked, and kept in repair as a public highway continuously for twenty (20) years legally located or dedicated to the public are as follows: Lewis and Clark Trail, Drees Drive, Stackerl Avenue, Kniest Avenue, Madison Drive, Oak Hills Drive, Russell Road, Sleepy Hollow Drive, and Crest Lane (hereinafter "Lake Roads"); and,

WHEREAS, said Lake Roads either do not allow for a sixty-six foot (66') wide right-of-way due to the destruction of trees or valuable buildings or to avoid unsuitable terrain or said Lake Roads location is not in accordance with the dedicated right-of-way; and,

WHEREAS, Yankton County wants to adopt a resolution setting forth its intention regarding said Lake Roads; and,

WHEREAS, Yankton County received a petition regarding the location of an existing right-of-way in relation to the dedicated right-of-way adjacent to the following property, to-wit:

The South fifty feet (50') of lot C-29, Lots C-30, B-40, B-41, Far View Heights, in the Southeast Quarter (SE ¼) of Section 13, Township 93 North, Range 57 West, of the 5th P.M., Yankton County, South Dakota (hereinafter "Loecker Property")

and,

WHEREAS, the Yankton County Commission in order to establish a fair and efficient process concerning said Lake Roads adopts the following resolution, to-wit:

NOW THEREFORE, BE IT RESOLVED, that Yankton County upon request will consider re-dedicating to the public a thirty foot (30') in width right-of-way fifteen feet from said Lake Road's center line.

BE IT FURTHER RESOLVED, the right-of-way East and adjacent to the Loecker Property shall henceforth be re-dedicated from a sixty-six foot (66') right-of-way to a thirty feet (30') in width right-of-way fifteen from the Lake Road's center line.

Dated this 3rd day of November, 2009.

Bruce Jensen, Chairman Yankton County Commission

Attest – Paula Jones, Auditor, Yankton County, SD

Voting Aye: Sinclair, Johnson, Freng, Jensen Nay: None Motion carried.

Action 09433Z: A motion was made by Johnson and seconded by Freng to adopt the following resolution: Whereas it appears that Yankton County, owner of record, has caused a replat to be made of the following real property: Lewis & Clark Trail Vac-1, being part of the original road right of way & also including the E6' S50' Lot C-29, and also the E6' of Lot C-30, B-40 and B-41, Far view Heights, SE4, Section 13, Township Ninety-Three (93)N, Range Fifty-Seven (57) West of the 5th PM, Yankton County, South Dakota and has submitted such plat to the Yankton County Planning Commission and the County Commission, of Yankton County, South Dakota for approval. Now therefore be it resolved that such plat has been executed according to the law and conforms to all existing applicable zoning, subdivision and erosion and sediment control and the same is hereby approved. The county Auditor is hereby authorized and directed to endorse on such plat the proper resolution and certify the same.

Voting Aye: All Voting Nay: None Motion carried.

The Board returned the discussion of proposed architectural services for a Highway maintenance shop to the table.

Action 09444H: A motion was made by Sinclair and seconded by Johnson to table a decision on selecting an architect for the proposed project, to reject the bids received and contact all firms submitting proposals and ask that they rework their original proposals and submit new proposals.

Voting aye: All Nay: None Motion carried.

Action 09445W: A motion was made by Freng and seconded by Johnson to approve travel expenses for Weed Department personnel to attend a weed conference.

Voting aye: All Nay: None Motion carried.

Action 09446ROD, H, Aud,S,VA: A motion was made by Johnson and seconded by Freng to accept into the record the October Secondary Road report indicating total expenditures for October of \$29,280.91, the Register of Deeds Statement of Fees collected for October 2009 in the amount of \$11,882.00 and the Register of Deeds statement of transfer fees collected during the month of October 2009 in the amount of \$6,942.00 and copy fees of \$486.60; the Sheriff's monthly fee report for October, 2009 indicating revenue of \$6,756.13; the Veterans Service Officer's report for October, 2009.

Voting Aye: All Nay: None Motion carried.

Action 09447C: A motion was made by Sinclair and seconded by Freng to approve the following claims, with the exception of the Mercer Group bill: **Commissioners:** River Rat Productions (Services) \$250.00, Yankton County Observer (Legal Notices) \$370.08, National Association of Counties (Dues) \$28.06; **Elections:** Western Office Plus (Supplies) \$39.90; **Court:** 9 Payees @\$50.00 (Grand Jury Fees) \$450.00, 2 Payees @ \$20.00 (Witness Fees) \$40.00, 2 Payees @66.60 (Witness Fee/mileage) \$133.20, 1 Payee (Grand Jury/mileage) \$11.10, 2 Payees @\$4.44 (Grand Jury/mileage) \$8.88, 1 Payee (Grand Jury/mileage) \$2.96, 1 Payee (Grand Jury/mileage) \$22.20, 1 Payee (Grand Jury/mileage) \$13.32, Fox, Youngberg & Lewno (Public Defender) \$9,000.00, SD Dept of Health (Lab) \$735.00, Holt County Sheriff (Services) \$18.50, David Bergendahl (Testimony) \$756.40, Horn Law Office (Legal Counsel) \$289.80, Pennington County Sheriff (Services) \$25.00; **Auditor:** National Association of Counties (Dues) \$28.06, Western Office Plus (Supplies) \$99.19; **Treasurer:** National Association of Counties (Dues) \$28.06, Western Office Plus (Supplies) \$159.00; **States Attorney:** A & B Business (Supplies) \$41.00, Knology (Utilities) \$150.77, Pitney Bowes (Supplies) \$345.99, Staples (Supplies) \$1,849.18, Security Shredding (Maintenance) \$35.00, West Payment Center (Books) \$484.00; **CLERP SDACC (Catastrophic Legal Expense)** \$7,840.54; **Government Buildings:** Ace Hardware (Supplies) \$2.99, Bullseye Fire (Maintenance) \$336.70, City of Yankton (Utilities) \$441.41, MidAmerican Energy (Utilities) \$507.79, Northwestern Energy (Utilities) \$1,693.01; **Director of Equalization:** AllTel (Utilities) \$28.52, Americ Inn Lodge (Travel) \$359.96, Jurgens Printing (Supplies) \$197.00, National Association of Counties (Dues) \$28.06; **Register of Deeds:** Brown & Saenger (Supplies) \$141.90, Executive Mgmt Finance (Utilities) \$30.00, National Association of Counties (Dues)

\$28.06; **Veterans Service:** National Association of Counties (Dues) \$28.06; **Predatory Animal:** Dept of Game, Fish & Parks (2nd Half 2009 Budget) \$1,416.38; **Court House & Safety Center:** Ace Hardware (Supplies) \$12.87, City of Yankton (Utilities) \$1,355.54, Electair (Maintenance) \$35.00, JCL Solutions (Supplies) \$278.98, Knology (Utilities) \$368.15, MidAmerican Energy (Utilities) \$1,112.21, Northwestern Energy (Utilities) \$6,076.71, Nebraska Air Filter (Supplies) \$260.58; **Sheriff:** AllTel (Utilities) \$85.59, Bomgaars (Supplies) \$5.59, Fedex (Supplies) \$5.54, Optics Planet (Supplies) \$594.99, National Association of Counties (Dues) \$28.06, Knology (Utilities) \$143.37, Northtown Automotive (Maintenance, Supplies, Labor) \$187.14, Pitney Bowes (Supplies) \$346.00, Ray O'Herron Co. (Supplies) \$226.01, Lewis & Clark Ford (Maintenance) \$817.56, Span Publishing (Books) \$144.00, Wal-Mart (Supplies) \$366.94, Yankton Motor (Maintenance) \$35.00; **County Jail:** Accurate Controls (Supplies) \$1,453.75, Avera Sacred Heart Hospital (Care) \$262.29, CBM Food Service (Meals & Supplies) \$2,590.40, Cash-Wa Distributing (Supplies) \$623.15, Crawford Supply (Supplies) \$128.16, Ecolab (Supplies) \$2,277.15, Hy-Vee (Supplies) \$136.88, Kaiser Appliance (Supplies) \$25.99, Keefe Supply (Supplies) \$380.08, Knology (Utilities) \$83.62, Moore Medical (Supplies) \$273.99, Pitney Bowes (Supplies) \$345.99, Yankton Medical Clinic (Supplies) \$70.13; **Coroner:** National Association of Counties (Dues) \$28.06, Melisa Smith (Supplies) \$39.82; **Care of Poor:** Avera Sacred Heart Hospital (Care) \$5,143.72, National Association of Counties (Dues) \$28.07, Opsahl-Koster Funeral Home (Funeral Expense) \$1,869.50, Wintz & Ray Funeral Home (Funeral Expense) \$1,250.00, Xerox (Maintenance) \$56.89, Yankton Medical Clinic (Services) \$297.14, Avera Radiology (Services) \$153.28, Yankton Anesthesiology (Services) \$176.00; **Public Health Nurse:** National Association of Counties (Dues) \$28.06, Xerox (Maintenance) \$56.89; **Ambulance:** Aspen Mills (Supplies) \$1,858.50, AllTel (Utilities) \$197.06, Boller Printing (Supplies) \$94.00, Bound Tree Medical (Supplies) \$351.80, City of Yankton (Utilities) \$198.95, Credit Collections (Services) \$619.40, Embroidery & Screen Works (Supplies) \$93.00, Hy-Vee (Supplies) \$80.94, Darla Edinger (Services) \$1,000.00, Knology (Utilities) \$177.33, Linweld (Supplies) \$25.00, Henry Schein (Supplies) \$78.00, MidAmerican Energy (Utilities) \$10.77, Master-Tech Auto (Supplies) \$95.39, Northwestern Energy (Utilities) \$589.77, National Association of Counties (Dues) \$28.06, Photography by Jerry (Supplies) \$56.50, Ron's Auto Glass (Maintenance) \$200.00, MT & RC Smith (Bond) \$100.00, Vogt's Cleaners (Maintenance) \$53.50; **Mental Illness Board:** Denise Cody (Hearings) \$3.00, Donna Dietrich (Hearings) \$916.46, Joan Kittelson (Hearings) \$3.00, Gary Mikelson (Hearings) \$8.20, Nelva Kooistra (Hearings) \$45.00, Cathy Rehfuss (Hearings) \$45.00, Yvonne Slowey (Hearings) \$365.00; **Senior Citizens:** City of Yankton (2009 Budget) \$9,301.78; **County Extension:** Appera (Supplies) \$64.48, Ace Hardware (Supplies) \$35.98, City of Yankton (Utilities) \$124.89, Days Inn (Travel) \$171.00, Sharon Guthmiller (Travel) \$386.08, J & H Cleaning (Services) \$200.00, Knology (Utilities) \$225.17, LEAF (Rental) \$79.20, MidAmerican Energy (Utilities) \$18.64, National Association of Counties (Dues) \$28.06, Christine Pospishil (Travel) \$1.48, Andres Renteria (Travel) \$9.62, SDCAS (Dues) \$90.00, Suzanne Tessier (Travel) \$7.40, Western Office Plus (Supplies) \$315.63; **Soil Conservation:** (2nd Half Wages Tree Manager) \$2,500.00; **Weed:** Bomgaars (Supplies) \$23.97, National Association of Counties (Dues) \$28.06; **Planning & Zoning:** AllTel (Utilities) \$27.05, Doug Hevle

(Travel) \$17.76, National Association of Counties (Dues) \$28.07, Printing Specialists (Supplies) \$63.54; **Road & Bridge:** AllTel (Utilities) \$31.81, Bomgaars (Supplies) \$138.77, B-Y Electric (Move Cable for Bridge) \$4,527.33, B-Y Electric (Utilities) \$25.53, B-Y Water (Utilities) \$90.00, City of Yankton (Utilities) \$32.86, D-P Tools (Supplies) \$60.90, Farm Plan (Supplies) \$11.74, MidAmerican Energy (Utilities) \$417.07, Northwestern Energy (Utilities) \$751.81, National Association of Counties (Dues) \$28.07, Qwest (Utilities) \$97.86, Pollman Excavation (Maintenance) \$8,176.00, Yankton Winnelson (Supplies) \$188.74; **911 Fund:** City of Yankton (2nd Half) \$30,000.00, Qwest (Utilities) \$1,381.94, State Radio Communication (Utilities) \$2,400.00; **Emergency Management:** Alltel (Utilities) \$113.59, Ace Hardware (Supplies) \$8.49, B-Y Electric (Utilities) \$46.00, City of Yankton (Utilities) \$47.15, Embroidery & Screen Works (Supplies) \$272.00, MidAmerican Energy (Utilities) \$16.00, National Association of Counties (Dues) \$28.07, Racom (Utilities) \$28.30; **24/7 Sobriety Fund:** Pharmchem (Supplies) \$80.00, Intoximeters (Supplies) \$1,500.00; **Capitol Project:** Geotek Engineering (Services) \$3,238.00.
 Total General Fund \$79,801.36, Road & Bridge \$14,578.49, 911 Fund \$33,781.94, Emergency Management \$559.60, 24/7 Program \$1,580.00, Capitol Project \$3,238.00.
 Voting Aye: All Voting Nay: None Motion carried 4-0.

Action 09448C: A motion was made by Sinclair and seconded by Johnson to approve the following payroll for October 2009: **Commissioners:** \$4,316.81; **Auditor:** \$10,320.10; **Treasurer:** \$11,672.17; **States Attorney:** \$19,100.03; **Custodian:** \$2,077.43; **Director of Equalization:** \$15,031.79; **Register of Deeds:** \$7,979.57; **Veterans Service:** \$1,866.22; **Courthouse & Safety Center:** \$3,501.50; **Sheriff:** \$36,020.32; **County Jail:** \$43,863.76; **Juvenile Detention:** \$1,100.00; **Nurse:** \$2,443.55; **Ambulance:** \$28,649.91; **Extension:** \$2,500.63; **Soil Conservation:** \$2,211.74; **Weed:** \$2,051.06; **Planning & Zoning:** \$2,791.47; **Road & Bridge:** \$52,934.07; **OEMHS:** \$3,357.91; **24/7 Program:** \$2,132.50. South Dakota Retirement System (Buy Back) \$166.63, South Dakota Retirement System \$12,374.34 (Sheriff/EDS), South Dakota Retirement System \$18,520.78 (Other Employees), South Dakota Retirement System (Payroll Deduction-Spouse Opt) \$300.10, South Dakota Retirement System (Supplemental) \$555.00, American Family Life Assurance Company \$3,532.20, Prepaid Legal Services, Inc \$159.40, Office of Child Support \$697.00, Nationwide Retirement Solutions \$128.26, Office of Child Support \$371.00, First Dakota National Bank \$15,275.12 (Withholding), First Dakota National Bank \$30,917.28 (FICA) First Dakota National Bank \$7,230.68 (Medicare), Blue Cross Blue Shield \$35,217.69 Gross Payroll \$321884.72, Net Payroll \$196,439.24.
 Voting Aye: All Nay: None Motion carried

Action 09449C: A motion was made by Sinclair and seconded by Freng to authorize the Auditor to move the sum of \$8,176.00 from designated funds within the General Fund to Road & Bridge fund and further to authorize expenditures totaling \$20,724.00.
 Voting Aye: All Nay: None Motion carried.

Action 09450H: A motion was made by Johnson and seconded by Freng to approve an application for occupancy of right-of-way made by Slowey construction for water/sewer line installation in Section 17, Township 93N, Range 55W.

Voting Aye: All Nay: None Motion carried.

The Board acknowledged receipt of the approved City/County lease agreement for the Yankton County Courthouse and Safety Center.

Action 09451C: A motion was made by Sinclair and seconded by Johnson to approve the service agreement with Titan Energy for the Safety Center generators in the amount of \$3,125.00 for the first of three years, \$3,250.00 for the second year and \$3,697.00 for the third year.

Voting Aye: All Nay: None Motion carried.

The next regular meeting of the Board will be Tuesday, November 17, 2009 at 4:00 PM in the Commission chambers.

A motion was made by Sinclair to adjourn.

Bruce Jensen, Chairman
Yankton County Commission

ATTEST: Paula Jones, Auditor

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