

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., February 19, 2002, pursuant to adjournment on February 12, 2002. Commissioners present were: Kolbe, O'Connor, Pekas, Twedt, and Zweep. Also present were Jody Hilmoe, Deputy Auditor, and Gary Colwill, Deputy State's Attorney.

Chairman Kolbe called the meeting to order.

#### ZONING ITEM

Phil Kappen, Assistant Planning Director, was present for the first reading of amendments to the 2001 Minnehaha County Revised Drainage Ordinance. The changes include the requirement that both owner and contractor sign the drainage permit application, clarifications to the permit fee section, and a significant increase to the inspection fee if application is made after drainage work is already done. MOTION by O'Connor, seconded by Pekas to Authorize the County Auditor to Publish Notice of Hearing on March 5, 2002, for these amendments. 5 ayes.

#### APPROVE MINUTES

MOTION by Twedt, seconded by Pekas to approve the Minutes for February 12, 2002. 5 ayes.

#### VOUCHERS TO BE PAID

MOTION by Zweep, seconded by O'Connor to approve the following bills for payment. 5 ayes.

A & B BUSINESS EQUIP	VAR. DEPTS	22.13	AAMLID, SANDRA	CNTY EXTEN	53.32
ABN ARMY SURPLUS	SHERIFF	110.00	ACCURINT	SHERIFF	26.00
ACE TOWING, INC	HIWAY CONS	90.00	ADAMS, DOUGLAS P	MENTAL ILL	169.36
ALFORD TIRE COMPANY	HIWAY CONS	42.50	AMERICAN PUBLIC HUMA	SU OF POOR	750.00
ANESTHESIOLOGY ASSOC	SU OF POOR	160.00	ARGUS LEADER	VAR. DEPTS	482.94
ARNOLD MURRAY CONSTR	SU OF POOR	685.00	ASHBURY APTS, LTD PA	SU OF POOR	341.00
AT & T	CORRECTION	20.42	AUTOMOTIVE BRAKE & E	HIWAY CONS	19.00
AVERA MCKENNAN HOSPI	PUB. DEF.	38.05	B.J. PROPERTY MANAGE	SU OF POOR	340.00
BACKHAUS, ROGER L.	SU OF POOR	440.00	BATTERIES PLUS	SHERIFF	269.90
BAZER, EDGAR J	SU OF POOR	425.00	BRAITHWAITE, TACEY E	MENTAL ILL	357.00
BRANDON LUMBER CO.,	HIWAY CONS	509.72	BRENDE & SCHROEDER L	COURT SYS.	3,470.00
BREVIK & THURMAN, LL	MENTAL ILL	345.73	BROWN & SAENGER	VAR. DEPTS	3,739.93
BUREAU OF ADMINISTRA	VAR. DEPTS	1,012.44	BURNETTE, SARA L	MENTAL ILL	330.00
BUS SYSTEMS, INC.	SU OF POOR	286.00	BUTLER LAW OFFICE, P	COURT SYS.	252.00
BYRE, JONN E	SU OF POOR	340.00	CARLSON, DON C	MENTAL ILL	63.00
CATERING BY MARLIN'S	CORRECTION	7,653.91	CENTER FOR FAMILY ME	SU OF POOR	2,400.00
CHEMCO, INC.	FACILITIES	2,201.37	CHERRY TREE / BECKMA	SU OF POOR	340.00
CHICK, GLENN E (AUT	FACILITIES	290.00	CHRYSLER FINANCIAL	METRO-911	305.85
CISCO SYSTEMS, INC.	DATA PROC.	368.00	CLAIMS ASSOCIATES, I	CNTY INS	2,832.46
CLANCEY, LISA	REVENUES	281.40	CLASSIC CLEANERS	CORRECTION	17.50
CLEVELAND HEIGHTS AP	SU OF POOR	510.00	CLIMATE SYSTEMS, INC	FACILITIES	462.56
COLE PAPERS, INC.	HIWAY CONS	62.58	COLWILL, MICHAEL T	AIR GUARD	199.95
COMMUNICATION SERVIC	VAR. DEPTS	1,275.00	COMPAQ COMPUTER CORP	HIWAY ADMI	5,534.00
COMPUTER SYSTEM PROD	HIWAY ADMI	43.69	CONCRETE MATERIALS	HIWAY CONS	262.31
CONNECTING POINT	HIWAY ADMI	2,569.75	CONSECO FINANCIAL SE	SU OF POOR	392.37
CULLIGAN WATER CONDI	METRO-911	100.60	DAKOTA DENTAL/TIMOTH	CORRECTION	1,255.00
DAKOTA POLICE & SPOR	SHERIFF	24.00	DAKOTA SPLASH	HIWAY ADMI	18.50
DATALINE ASSOC./FIOR	DATA PROC.	4,160.00	DAVIDSON, JOHN Q	MENTAL ILL	457.50
DAVIS TYPEWRITER CO.	SHERIFF	52.50	DECISIONONE CORPORAT	DATA P.	1,867.15
DEE BEE MANAGEMENT-L	SU OF POOR	465.00	DENEVAN, JAMES P	SU OF POOR	250.00
DEYOUNG, LYNN	EMER MGMT	166.00	DIAMOND PRODUCTS	SHERIFF	130.70
DIETRICH, DONNA K	MENTAL ILL	369.35	DONALD E RILEY, PH.D	COURT SYS.	2,861.25
DOWNING, MARK	SU OF POOR	340.00	DRESBACH, STEVE	MENTAL ILL	2.30
DUNN, THERESA L	DIR. EQUAL.	90.19	DZINIC, VERNESA	COURT SYS.	212.48
EKEREN, MARVIN R	MENTAL ILL	63.00	ELECTRIC SUPPLY CO.,	DATA PROC.	541.78
ELERT & ASSOCIATES	METRO-911	5,000.00	ENGELGAU, ELAINE	ST ATTY	37.80
ESTATE OF DONALD J.	INHER. TAX	62.30	ESTATE OF IRMA W. PE	INHER. TAX	180.69
FIRST NATIONAL BANK	SU OF POOR	425.00	FLEETPRIDE / HOLT, I	HIWAY CONS	1,568.46
FLYNN, LEO T	COURT SYS.	5,013.39	FOUNTAIN RIDGE INVES	SU OF POOR	340.00

FREMONT INDUSTRIES,	FACILITIES	763.60	FRETTY, JAKE	SU OF POOR	340.00
GALLAND LEGAL CLINIC	COURT SYS.	1,925.50	GALLS, INC.	CORRECTION	89.99
GANSZ, KEVIN	MUSEUM	391.38	GARFIELD APTS LIMITE	SU OF POOR	440.00
GIEBINK, JEFF G	COURT SYS.	1,936.00	GLOBAL COMPUTER SUPP	METRO-911	39.95
GOEDE, DANIEL J, D.D	SU OF POOR	319.22	GREAT PLAINS INT'L T	HIWAY CONS	17.63
GREAT PLAINS PSYCHOL	COURT SYS.	2,650.00	GREATAMERICA LEASING	PUB. ADV.	149.03
GROMER, JEFF	SHERIFF	264.74	GUZMAN, SANDRA V	VAR. DEPTS	412.50
HAUGAARD, STEVEN G.	COURT SYS.	428.80	HAUK, BERT	SU OF POOR	170.00
HEALTHCOMP EVALUATIO	HIWAY ADMI	62.00	HEALTHWORKS/EASTERN	METRO-911	180.00
HEDMAN'S IRON HORSE	DIR. EQUAL.	35.00	HEIMDAL, MARIE ANN	COURT SYS.	90.00
HEWLETT-PACKARD	DATA PROC.	1,931.77	HIGH PLAINS TECHNOLO	DATA PROC.	10,926.00
HILL VIEW APTS, LTD	SU OF POOR	440.00	HOEKMAN, JAMES	SHERIFF	91.00
HOEKSTRA, DENISE	COURT SYS.	40.50	HOLIDAY MOBILE PARK/	SU OF POOR	205.00
HOWALT-MCDOWELL INSU	VAR. DEPTS	1,252.50	HURTGEN, TIMOTHY T	SU OF POOR	250.00
HY-VEE FOOD STORE #1	JUV DET CN	521.66	HY-VEE FOOD STORES,	SU OF POOR	25.99
INLAND TRUCK PARTS &	HIWAY CONS	21.46	INTERSTATE OFFICE PR	VAR. DEPTS	12,019.53
J & S TRAVEL ASSOCIA	MUSEUM	2,188.48	J D EVANS, INC.	HIWAY CONS	175.80
J.C. PENNEY COMPANY,	METRO-911	29.99	J.H. LARSON COMPANY	MUSEUM MTC	27.72
JANITOR'S CLOSET	MUSEUM MTC	2,335.08	JOSTEN CONCRETE PROD	HIWAY CONS	257.15
KALLEMEYN, RICHARD	DIR. EQUAL.	81.00	KENNELLY, DR. DANIEL	MENTAL ILL	1,200.00
KERKHOVE, DAVID	SU OF POOR	350.00	KMART #7306	HIWAY CONS	14.98
KMART PHARMACY #7306	SU OF POOR	625.40	KMART PHARMACY #7318	SU OF POOR	157.75
KOHL'S DEPARTMENT ST	JUV DET CN	189.93	LAFAYETTE INSTRUMENT	SHERIFF	75.00
LANGUAGE LINE SERVIC	VAR. DEPTS	269.50	LASSEGARD, SAMUEL C.	SU OF POOR	330.00
LCM PATHOLOGISTS, P.	CORONER	18.20	LEE, TAMARA D	MENTAL ILL	119.05
LINCOLN COUNTY AUDIT	REVENUES	333.05	LINCOLN COUNTY SHERI	ST ATTY	23.10
LINWELD, INC.	HIWAY CONS	40.87	LITHIA AUTOMOTIVE, I	VAR. DEPTS	1,418.35
LOCKWOOD LAW OFFICE,	COURT SYS.	1,069.55	LOFGREN ASSOCIATES,	COURT SYS.	2,983.11
MASTER BLASTER, INC.	HIWAY CONS	10.50	MCGREEVY CLINIC	SU OF POOR	176.63
MCILRAVY, CLAYTON	SHERIFF	150.77	MEDICAL X-RAY CENTER	SU OF POOR	310.50
MEYER, ROBERT D., MD	SU OF POOR	78.40	MICROFILM IMAGING SY	REG DEEDS	829.90
MIDAMERICAN ENERGY C	VAR. DEPTS	1,493.58	MIDCONTINENT COMMUNI	CNTY EXTEN	34.20
MIDWEST OIL COMPANY	HIWAY CONS	45.59	MILLER FUNERAL HOME,	SU OF POOR	1,875.00
MILLER, STEVE	COURT SYS.	955.77	MINNEHAHA CNTY DATA	HIWAY ADMI	76.14
MINNEHAHA CNTY HIGHW	COMMISSION	197.76	MINNEHAHA CNTY METRO	VAR. DEPTS	513.89
MOEN, STEPHANIE L	MENTAL ILL	640.00	MOTOROLA, INC.	VAR. DEPTS	14,856.31
MURPHY, JEFF	SU OF POOR	440.00	NELSON, ADAM D	MUSEUM	53.00
NETEGRITY	DATA PROC.	25,521.00	NGUYEN, LAM	COURT SYS.	50.00
NITES INN / SMITH HO	SU OF POOR	635.00	NORTH RIDGE APARTMEN	SU OF POOR	515.00
NOVAK SANITARY SERVI	FACILITIES	289.25	NYBERG'S ACE HARDWAR	JUV DET CN	57.96
OBALLA, OJULU A	COURT SYS.	112.50	OFFICE DEPOT, INC.	DATA PROC.	111.59
OFFICEMAX	VAR. DEPTS	869.65	ORTHOPEDIC INSTITUTE	SU OF POOR	412.47
OVERHEAD DOOR COMPAN	HIWAY CONS	25.00	P & M STEEL COMPANY	HIWAY CONS	190.85
PALMER, DAVID ALAN,	COURT SYS.	4,101.60	PAM OIL, INC.	SHERIFF	15.24
PENNINGTON CNTY SHER	ST ATTY	18.00	PETERS, SCOTT N, P.C	MENTAL ILL	3,203.21
PETERSON, TOM	HIWAY CONS	39.98	PHYSICIANS LABORATOR	SU OF POOR	100.70
PITNEY BOWES, INC	CNTY EXTEN	222.45	PRAIRIE PUBLICATIONS	COMMISSION	264.54
PUEBLO CHIEFTAIN	ST ATTY	57.12	QWEST	VAR. DEPTS	7,834.99
R & L SUPPLY, LTD	CORRECTION	28.00	RABUCK, STEVEN K	COURT SYS.	194.30
RADIO SHACK	METRO-911	39.31	RECORD KEEPERS, INC.	VAR. DEPTS	3,037.56
REDI TOWING	SHERIFF	51.00	RELIABLE OFFICE SUPP	PUB. DEF.	1,008.64
RICHARD-EWING EQUIPM	CORRECTION	21.23	RURAL METRO MEDICAL	CORONER	340.00
SAFETY SYSTEMS CORPO	SHERIFF	1,118.51	SANITATION PRODUCTS	HIWAY CONS	200.98
SATURN OF SIOUX FALL	SHERIFF	47.08	SAX ARTS & CRAFTS	MUSEUM	32.50
SHELLING, SHELDON	MENTAL ILL	200.00	SF CITY FINANCE	VAR. DEPTS	157,186.25
SF CITY FINANCE - FU	VAR. DEPTS	215.86	SF WHEELCHAIR TRANSP	SU OF POOR	205.00
SILVER GLEN MHC, LLC	SU OF POOR	225.00	SIOUX EMPIRE FCU / V	SHERIFF	1,538.43
SIOUX EMPIRE FCU / V	SHERIFF	17.50	SIOUX EMPIRE FCU / V	SHERIFF	71.18
SIOUX EMPIRE FCU / V	METRO-911	12.30	SIOUX FALLS FORD, IN	CORRECTION	36.88

SIoux FALLS UTILITIE	SU OF POOR	77.05	SIoux VALLEY HOSPITA	SU OF POOR	3,927.68
SIoux VALLEY SW ELEC	HIWAY ADMI	129.94	SIouxLAND ORAL & MAX	SU OF POOR	69.58
SIRCHIE FINGER PRINT	CORRECTION	70.20	SOUTHEASTERN BEHAVIO	VAR. DEPTS	33,537.65
SPINK COUNTY SHERIFF	ST ATTY	17.10	STAN HOUSTON EQUIPME	HIWAY CONS	12.50
STREICHER'S	SHERIFF	90.00	SVEC, HARVEY	SU OF POOR	295.00
THORIN, DEYANIRA T	COURT SYS.	375.00	TILBERG, MICHELLE	CNTY EXTEN	249.00
TIMEKEEPING SYSTEMS,	JUV DET CN	84.65	TRI-TECH, INC.	ST ATTY	3,406.35
UNITED PARCEL SERVIC	METRO-911	23.96	UNIVERSITY PHYSICIAN	VAR. DEPTS	735.44
US POSTAL SERVICE	MUSEUM	125.00	VANTEK COMMUNICATION	SHERIFF	96.00
VELVET UNIFORMS, INC	VAR. DEPTS	605.30	VOLUNTEERS OF AMERIC	JUV DET CN	2,175.00
WALGREENS PHARMACY #	SU OF POOR	17.29	WALLIN, BRIAN L	COURT SYS.	1,245.63
WALLY'S COMMERCIAL L	MUSEUM MTC	158.70	WEGNER AUTO CO., INC	HIWAY CONS	42,102.00
WEST PUBLISHING CORP	PUB. DEF.	851.25	WHEELCO BRAKE & SUPP	HIWAY CONS	1,192.04
WOODBURY COUNTY SHER	PUB. DEF.	22.20	XCEL ENERGY, INC.	VAR. DEPTS	2,194.67
YANKTON COUNTY SHERI	MENTAL ILL	49.50	YANKTON MEDICAL CLIN	SU OF POOR	381.19
97TH DISTRICT COURT	ST ATTY	10.00			

## REPORTS

The following reports were received and placed on file in the County Auditor's Office: Minnehaha County Sheriff's Department Monthly Report, January 2002; Register of Deeds Official Statements of Marriage, Recording and Transfer Fees Collected, all for January 2002; Auditor's Account with the County Treasurer, January 31, 2002.

Total on Deposit in Banks, Interest Bearing, Open Accounts	\$10,531,273.61
Total on Deposit in Banks, CD and Savings	11,900,000.00
Total Amount of Actual Cash	5,229.43
Total Amount of Checks and Drafts Which Have Been in The Treasurer's Possession Over Three Days	7,296.28
<b>Total</b>	<b>\$22,443,799.32</b>

## PERSONNEL

MOTION by Twedt, seconded by Zweep to approve the following personnel changes. 5 ayes.

1. To accept the resignation of Jeanette Bahrenfuss as Custodian II for the Facilities Department effective 2-13-02.
2. To adjust the step placement of Lenora Giles as Communications Operator II for Metro Communications to 25/2 at \$13.3298 per hour effective 2-2-02.
3. To accept the resignation of Anne Retzlaff as Data Processing Director effective 2-11-02 and to authorize the payment of thirteen weeks severance pay.
4. To appoint Curtis Lunde as Acting Director (51/9) for the Data Processing Department at \$2,566.80 biweekly effective 2-12-02.
5. To hire Travis Urban as temporary Laborer for the Highway Department at \$10.00 per hour effective 2-19-02.
6. To increase the hourly rate of pay for Russell Hanneman, Park Worker for the Highway Department to \$9.00 per hour effective 2-19-02.
7. To increase the hourly rate of pay for Richard Lahn, Park Worker for the Highway Department to \$9.00 per hour effective 2-19-02.
8. To increase the hourly rate of pay for Russell Fleming, Park Worker for the Highway Department to \$9.00 per hour effective 2-19-02.
9. To increase the hourly rate of pay for John Mork, Park Worker for the Highway Department to \$9.25 per hour effective 2-19-02.

Step increase:

1. Vance Siemonsma--Correctional Officer II--Sheriff (Jail)--25/3 to 25/4 2-24-02--\$14.5993 per hour

## LIEN

MOTION by O'Connor, seconded by Twedt to release the lien (DPNO 28620) in the amount of \$300.00 in full upon payment of \$150 within 10 days on the recommendation of Hauge Associates. 5 ayes.

## ANIMAL CONTROL ORDINANCE

Pursuant to deferral on February 12, 2002, Deputy State's Attorney Gary Colwill reviewed revisions to address changes made to Section 3.02 of the ordinance, which add procedures necessary to deal with vicious animals. MOTION by Pekas, seconded by Twedt to approve the proposed amendments. 5 ayes. MOTION by Zweep, seconded by O'Connor to approve Ordinance MC29-02 as amended. 5 ayes.

Ordinance MC29-02

AN ORDINANCE ENACTING THE 2002 MINNEHAHA COUNTY ANIMAL CONTROL ORDINANCE, AND FOR THE REPEAL OF ALL ORDINANCES, RESOLUTIONS, RULES AND REGULATIONS IN CONFLICT HEREWITH.

WHEREAS, the Board of County Commissioners intends to regulate the ownership and possession of animals in order to protect and promote the public health, safety and welfare for the residents and animals in the unincorporated areas of Minnehaha County, and

WHEREAS, these regulations shall be in full force and effect from and after its passage and publication as provided by law, and

WHEREAS, these regulations shall repeal and replace An Ordinance for Animal Control in Rural Minnehaha County, and

WHEREAS, the Board of County Commissioners conducted a public hearing on this date.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners that the 2002 Minnehaha County Animal Control Ordinance is hereby adopted and placed on file with the County Auditor.

### ARTICLE I. GENERAL PROVISIONS

1.01 TITLE. This ordinance shall be known as the 2002 Minnehaha County Animal Control Ordinance.

1.02 INTENT. These regulations are enacted for the purpose of regulating the ownership and possession of animals in order to protect and promote the public health, safety and welfare for the residents and animals of the unincorporated areas of Minnehaha County.

1.03 Effective Date. These regulations shall be in full force and effect from and after its passage and publication as provided by law.

1.04 SAVING CLAUSE. These regulations shall in no manner affect pending actions either civil or criminal, founded on or growing out of any regulations hereby repealed. These regulations shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.

1.05 SEVERABILITY. Should any provision of this ordinance be declared invalid for any reason, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof.

1.06 DEFINITIONS. The following words, terms, and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandonment. To deliberately desert and/or to relinquish the supervision or care of an animal.

Alter. To render an animal permanently sterile and incapable of reproduction.

Animal. Any mammal, bird, reptile, amphibian or fish, except humans.

Animal Control Facility or Shelter. A building, property or facilities approved by the County Commission for the impounding of animals.

Animal Control Officer. An individual or organization employed or appointed by the Board of County Commissioners to enforce the ordinance.

Board of County Commissioners. The governing body of Minnehaha County.

Bodily Injury. Any physical injury to a human being caused by an animal, including but not limited to injuries wherein the skin is broken, interior or exterior bleeding or bruising occurs, or bone tissue or muscle damage is suffered.

Commercial Kennel. Commercial kennel refers to kennel services for dogs, cats and similar animals. Typical uses include commercial animal breeding with four (4) or more animals, boarding kennels or pet motels.

County Health Board. The County Health Board as defined by SDCL 34-2-1.

Enclosed Lot. Any parcel of land or portion thereof in private ownership, around the perimeter of which a wall or fence has been erected of such a height and surety so as to retain the species of animal within the bounds for which the fence was erected.

Exotic Animal. Any animal which is ordinarily found in an unconfined state and is usually not kept as a household pet, including, but not limited to: lions, tigers, cheetahs, panthers, leopards, cougars, mountain lions, ocelots, any wild members of the genus felis, lynx, bobcats, foxes, minks, skunks, raccoons, bears, non-human primates, wolves and coyotes. "Exotic Animal" shall not include domestic ferrets (*Mustela furo*), livestock, or household pets as defined herein. Alleged domestication of any exotic animal shall not affect its status under this definition. The determination of exotic animal status for an animal not listed herein will be made by an Animal Control Officer.

Household pet. An animal customarily permitted to be kept in a dwelling for company or pleasure, including, but not limited to, dogs, cats, pot-bellied pigs, gerbils, hamsters, tropical fish, or common house birds, provided that such animals are not kept to supplement food supplies or for any commercial purpose. Household pet shall not include animals which are the offspring of a household pet and a exotic animal as defined herein.

Impound. The act by an Animal Control Officer of taking up and confining an animal within an animal control facility or shelter.

Leash or Lead. Means a cord, thong, or chain by which an animal is controlled by the person accompanying it.

Livestock and Poultry. Livestock includes but is not limited to horses, mules, cattle, bison, burros, llamas, alpacas, swine, sheep, and goats. Poultry includes, but is not limited to chickens, turkeys, game birds, peafowl and ostriches.

Owner. A person who owns, has, keeps, harbors, or knowingly permits an animal to remain in, on or about his premises.

Premises. A lot, parcel, tract or plot of land together with all buildings and structures thereon.

Provocation. Means the threatening, teasing, or striking of an animal or the threatening of the animal's owner either on or off the animal owner's property.

Residential Development Area. An area of land that is located in a residential zoning district; a residential subarea within a planned development zoning district; or a subdivision of 5 or more lots, the lots being five acres in size or less.

Run At Large. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash or lead.

Vicious Animal. A vicious animal is one that bites or attempts to bite any person; bites another animal; or in a vicious and terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated.

## **ARTICLE II. RABIES CONTROL AND LICENSING**

2.01 RABIES CONTROL - VACCINATION REQUIRED. Every dog, cat or other animal commonly vaccinated for rabies held as a household pet, six (6) months of age or older, is hereby required to be vaccinated against rabies by a licensed veterinarian. It shall be the animal owner's responsibility to secure the required vaccination. Vaccination against rabies shall be given yearly.

2.02 KEEPING RABID ANIMALS PROHIBITED. No person shall knowingly harbor or keep any animal infected with rabies or an animal known to have been bitten by an animal known to have been infected with rabies.

### 2.03 IMPOUNDING FOR OBSERVATION OF RABIES.

(A) When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner must within twenty-four (24) hours place the animal under the care and observation of the Animal Control Officer or a licensed veterinarian for a period of not less than ten (10) days, except in those cases when an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for said animal the Animal Control Officer may, if s/he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.

(B) At the end of ten (10) days observation period, the animal shall be examined by the Animal Control Officer, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.

(C) Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

- (D) Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.
- (E) Any animal that has bitten any person may be euthanized by order of the Animal Control Officer unless proof of a current rabies vaccination effected not less than thirty (30) days prior to the bite is provided within twenty-four (24) hours of the bite. Any animal that has bitten any person may be euthanized by order of the Animal Control Officer if in the Animal Control Officer's opinion, based on sound judgment, a greater risk to human life exists in not doing so. In making such a determination, the Animal Control Officer shall take into consideration the following factors:
  - (1)The history of the animal including the possibility of its exposure to rabies.
  - (2)The vaccination record of the animal.
  - (3)The health of the animal.
  - (4)The nature, location and seriousness of the bite.
  - (5)The circumstances surrounding the bite including whether or not the bite was provoked.
  - (6)The tolerance of the person bitten to the vaccines used for treatment.

### ARTICLE III. CONTROL OF ANIMALS

3.01 RUN AT LARGE. The owner of an animal shall not permit such animal to run at large. An animal shall be deemed to be running at large whenever such animal is off the premises and not under the immediate physical control of its owner, possessor, keeper, agent, servant, or a member of the immediate family thereof. Whenever an animal is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.

#### 3.02 VICIOUS ANIMAL.

- (A) An animal may be declared to be vicious by an Animal Control Officer or the attending physician of the victim of an animal bite or scratch and may request such declaration under the following guidelines:
  - (1)An animal which, in a vicious or terrorizing manner, approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
  - (2)An animal, while on private property, in a vicious or terrorizing manner, approaches in apparent attitude of attack, or bites, inflicts injury, or otherwise attacks a mailman, delivery man, or other person, or other animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
  - (3)Any animal of a known propensity, tendency or disposition to attack, to cause injury, or to otherwise threaten the safety of human beings or animals.
  - (4)An animal while at large which, in a vicious or terrorizing manner, approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal.
  - (5)No animal may be declared vicious if the injury or damage is sustained to any person or animal who was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- (B) An animal declared to be vicious shall be taken into custody and impounded by the Animal Control Officer. If the animal is running at large it may be captured by the Animal Control Officer, or, if it can not be captured and constitutes a public safety risk, it may be destroyed by the Animal Control Officer or any Law Enforcement Officer. If the animal is in the custody of the owner, the Animal Control Officer may either verbally or in writing left at the owner's residence, order the owner to deliver the animal into the custody of the Animal Control Officer within twenty-four (24) hours. If the animal is not delivered to the Animal Control Officer within twenty-four (24) hours as ordered, the Animal Control Officer may petition any Magistrate or Circuit Court Judge having authority in Minnehaha County for an Order authorizing the Animal Control Officer to enter on to the owner's premises and take custody of the animal.
- (C) An animal that is declared vicious, once in the custody of the Animal Control Officer, shall be held pending a final determination regarding the disposition of the animal. If the Animal Control Officer and Owner can not agree on the disposition of the animal, the

Animal Control Officer shall request that the State's Attorney's Office commence proceedings to summons the owner into court and show cause why the animal should not be destroyed. The owner shall bear all costs associated with the impoundment and board of the animal during the period of impoundment.

- (D) An animal declared vicious, which is running at large with no proof of ownership and for which no ownership can be immediately established, shall be deemed an abandoned animal and may be destroyed by the Animal Control Officer without prior judicial approval.

3.03 RECORD OF BITES. The Animal Control Officer shall keep an accurate record of all animal bites.

3.04 RESIDENTIAL DEVELOPMENT AREA - FURTHER LIMITATIONS. The following limitations shall apply in a Residential Development Area:

- (A) It is unlawful for any person to have or to keep more than a combined total of four (4) dogs (*Canis lupus familiaris*), cats (*Felis silvestris*) or pot bellied pigs over the age of six months.

(B) Disturbing the Peace. The owner or custodian of an animal located within a residential development area shall not allow the animal to create a disturbance by making loud noises so as to be a nuisance to a neighbor or neighbors at any time of the night or day. A nuisance shall constitute an ongoing problem over several days and at several intervals throughout a 24 hour period for any length of time. The Animal Control Officer shall have the authority to use all reasonable means to abate such nuisance, including but not limited to requiring that the owner make bona fide efforts to quiet his animal and impoundment of the animal when the owner is absent from the premises. Upon impoundment of an animal for violation of this Section, the Animal Control Officer shall attempt to locate and notify the absent owner by any reasonable means as readily as possible. No summons and complaint shall be issued nor shall there be a conviction for violation of this Section unless there are at least two (2) or more complaining witnesses from separate households who shall have signed such complaint. An Animal Control Officer who has personally investigated the complaint of a single complainant and observed the behavior of the animal complained of, with regard to its frequent, habitual and continued loud noises, may satisfy the requirement for the second complaining witness and may testify to his observations at trial. This section shall not apply to any commercial kennel operating pursuant to a conditional use permit issued by Minnehaha County.

3.05 EXOTIC ANIMALS - PROHIBITED.

- (A) No exotic animal as defined by this ordinance may be housed or kept except for those legally within the County at the time of the adoption of this ordinance. Any exotic animals that are housed or kept prior to the effective date of this ordinance must be registered with the Animal Control Officer within ninety days subsequent to the adoption of this ordinance. This provision shall not apply to any circus or exotic animal exhibit or display that is validly and legally operating within the County for a specific and limited time period.

3.06 INJURED ANIMALS.

- (A) If an animal is injured and the owner cannot be found, it will be the duty of the Animal Control Officer to determine if that animal for humane reasons, due to the extent of the injury and the suffering, shall be humanely euthanized. The County and Animal Control Officer shall not be held liable in any way for this humane act.

#### **ARTICLE IV. DISPOSITION OF ABUSED ANIMALS**

4.01 In cases where an animal or animals have been seized by the Animal Control Officer or Law Enforcement Officer based upon cruelty, neglect or abandonment, such animal may be adopted to another owner or humanely euthanized thereby extinguishing all property rights of the existing owner following the procedures as hereinafter provided:

- (A) Upon seizure of the animal or animals, the Animal Control Officer shall serve notice upon the existing owner, if the identity of said existing owner is known, informing said existing owner of the Animal Control Officer's intent to have said animal disposed of.

(B) The existing owner shall have five (5) business days to:

- (1) Declare in writing and deliver to the animal shelter keeping said animal or animals -  
 (a) Notice of said existing owner's intent to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof, and;

(b) Notice that said existing owner shall pay when due all impoundment, board and veterinary costs until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

(2) Pay all impoundment, board and veterinary costs, up to the date of the owner's declaration of intent to maintain his ownership of said animal or animals to the animal control shelter.

(C) Upon notification of said existing owner's intent to maintain ownership of the animal or animals and the objection to the adoption of euthanasia thereof said existing owner shall continue said payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

4.02. If the existing owner of the animal or animals fails to declare the hereinbefore stated intent or fails to make any payment in a timely manner, or if the identity of the existing owner is unknown or notification to the existing owner cannot be made, the Animal Control Officer shall give actual written notice or published notification to the owner by publication once a week for two successive weeks in an official newspaper of the County of intent to transfer ownership of the animal or animals to the animal shelter. The owner shall have ten days following receipt of notification or following the date of final publication to comply with all of the provisions of Section 4.01 of this ordinance, or ownership of the animal or animals will be transferred to the animal shelter.

**ARTICLE V. IMPOUNDMENT AND RECLAMATION OF ANIMALS**

5.01 IMPOUND AUTHORITY. The County Health Board, the Animal Control Officer, Law Enforcement Officer, or any other person or proper authority is hereby authorized and empowered to impound any animal found in violation of any provision of this ordinance.

5.02 COSTS OF IMPOUNDMENT. Before any person may redeem any animal impounded under the provisions of this ordinance, s/he shall first pay all costs incurred by the County in impounding such animal. The known owner of an animal that has been impounded must pay all costs incurred by the County in impounding such animal.

5.03 DISPOSITION OF UNREDEEMED ANIMALS.

(A) If an impounded animal is wearing means of identification, the animal shall be confined by the Animal Control Officer for a period of five days, excluding Sundays and holidays.

(B) If an impounded animal is not wearing means of identification, the animal will be impounded for no more than three days, excluding Sundays and holidays. The Animal Control Officer or a designee may dispose of animals impounded under this article after the impoundment period in any humane means.

**ARTICLE VI. COMMERCIAL KENNELS**

6.01 REQUIREMENTS.

(A) Commercial kennels shall be constructed to the standards of the Animal Welfare Act- Part 3,Sub-part A, Sections 3.1-3.12.

**ARTICLE VII. ENFORCEMENT**

7.01 ENFORCEMENT OF ORDINANCE. It shall be the duty of the Animal Control Officer to carry out and enforce all the provisions of this ordinance. No person shall hinder, delay or obstruct the Animal Control Officer, his/her assistant, or any law enforcement officer when such officer is engaged in performance of an official duty.

**ARTICLE VIII. SANCTIONS**

8.01 CLASS 2 MISDEMEANORS. Violations of this County Ordinance shall be deemed Class 2 Misdemeanors.

Adopted this 19<sup>th</sup> day of February, 2002.

BOARD OF COUNTY COMMISSIONERS

Robert Kolbe  
Michael J. O'Connor

Carol Twedt

ATTEST:

Jody Hilmoe  
Deputy Auditor

James Zweep  
John Pekas

DUMP BODIES - PURCHASE

Tom Wilsey, Assistant Highway Superintendent, requested the Commission's approval to purchase two (2) dump bodies, 15' Crysteel models with Force America Hydraulic Systems, pursuant to SDCL 5-18-18, at a total cost of \$44,690.00 off of SD contract #21147, dated July 12, 2001, with Northern Truck Equipment Corp, Sioux Falls, who have extended their contract to Minnehaha County. MOTION by Zweep, seconded by Pekas to approve this purchase. 5 ayes.

LEASE AGREEMENT

Dave Atherton, Metro Communications Director, requested the Commission's approval of a lease agreement between the County and Ronald E. and Judith Person, for a square of land approximately 150' x 150' on which the County has tower and radio equipment, located in the SE1/4 of Section 2-T102N-R51W Minnehaha County. The lease runs through January 1, 2005, and the cost is \$1500 per year. MOTION by O'Connor, seconded by Zweep to approve the lease. 5 ayes.

INTERFUND TRANSFERS

MOTION by Twedt, seconded by O'Connor to authorize interfund transfers from the General Fund to the Emergency Management Fund (\$53,043.50 each in February and July, total transfer \$106,087) and the E911 Fund (\$32,370 January through November and \$32,377 in December, total transfer \$388,447) in accordance with the 2002 annual budget. 5 ayes.

LIEN RESOLUTION

Sue Roust, County Auditor, requested approval of a resolution to address lien compromise recommendations from collections agencies contracting with the county. A similar resolution was approved in 1995, however it specifically names Hauge Associates, and the new resolution does not name a specific agency. MOTION by Pekas, seconded by O'Connor to approve Resolution MC02-06. 4 ayes, Zweep, nay.

RESOLUTION MC02-06

A RESOLUTION TO AUTHORIZE THE COMPROMISE/SETTLEMENT OF CERTAIN COUNTY AID LIENS

WHEREAS: Minnehaha County from time to time retains the services of certain firm(s) as collectors for certain county aid liens which have had no activity for a period of time, as determined by the Commission, said liens being on file with the Minnehaha County Auditor, and

WHEREAS: Minnehaha County has charged such firm(s) with the responsibility to make recommendations for a compromise or settlement of said liens to the Board of Commissioners, and

WHEREAS: Minnehaha County wishes to make the compromise/settlement of said liens as efficient as possible, now

THEREFORE BE IT RESOLVED, by the Minnehaha County Board of Commissioners that such firm(s) shall present their recommendations for lien settlements to the Commission of the County Aid Lien Compromise/Settlement Application attached to this resolution, and

BE IT FURTHER RESOLVED, that the Commission shall consider said recommendations at its regular weekly meetings, and, by motion, accept or reject said recommendations, and

BE IT FURTHER RESOLVED, that said applications, recording the action of the Board of Commissioners, shall be placed on file with the Minnehaha County Auditor.

Dated this 19th day of February, 2002.

APPROVED BY THE COMMISSION:

Robert Kolbe  
Michael J. O'Connor  
Carol Twedt  
James Zweep  
John Pekas

ATTEST:  
Jody Hilmoe  
Deputy Auditor

TREASURER'S OFFICE EVALUATION PROPOSAL

Billie Jo Waara, County Treasurer, presented a proposal from RSM McGladrey, Inc., to evaluate the financial accounting systems in the Treasurer's Office. She reviewed the three phases of the proposal and stated that the cost of the evaluation, which is budgeted, will not exceed \$7,800. Cathy Hall and Michael Miller of RSM McGladrey, Inc., noted that they have done similar evaluations for other counties and look forward to working with Minnehaha County. The Commissioners thanked Ms. Waara for her work on this project.

#### ZONING HEARING

Dave Queal, Planning Director, was present for the second reading and public hearing of an amendment to the 1990 Revised Zoning Ordinance for Minnehaha County which would rezone from the A-1 Agricultural and Perry PD Planned Development to the RC Recreation/Conservation District property legally described as Tract 10 and Tract 12 Perry Warren Estate's Addition NW1/4 Section 28-T101N-R48W; Part of the SE1/4 NW1/4 lying south of H-1, H-2 and H-3 Section 28-T101N-R48W; Tracts 1, 2, 3, 4 and 5 G. H. Perry Addition in the N1/2 Section 28-T101N-R48W; and Blocks 6, 7, 8, 9, 10 and 11 Riley's Addition to East Sioux Falls. The subject property is located 2.5 miles east of Sioux Falls, and the Planning Commission has recommended approval of this rezoning. Mr. Queal noted that this land is to be used for Arrowhead Park, East Sioux Falls Park and the City's Arboretum, so this rezoning is needed because A-1 Agricultural zoning does not allow parks. There was no one present who wished to speak on this item. MOTION by Zweep, seconded by O'Connor to approve Ordinance MC16-60-02. 5 ayes.

#### ORDINANCE MC16-60-02

AN ORDINANCE AMENDING ORDINANCE MC16-90 BY REZONING CERTAIN PROPERTY.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC16-90 be amended as follows:

Tract 10 and Tract 12 Perry Warren Estates Addition NW1/4 Section 28-T101N-R48W; Part of the SE1/4 NW1/4 lying south of H-1, H-2 and H-3 Section 28-T101N-R48W; Tracts 1, 2, 3, 4 and 5 G. H. Perry Addition in the N1/2 Section 28-T101N-R48W; and Blocks 6, 7, 8, 9, 10 and 11 Rileys Addition to East Sioux Falls are hereby rezoned from A-1 Agricultural and Perry PD Planned Development to RC Recreation/Conservation and the official zoning map referred to in Article 2.03(A) is amended to include the property in the RC Recreation/Conservation District.

Approved this 19th day of February, 2002.

BOARD OF COUNTY COMMISSIONERS

Robert Kolbe

John Pekas

Michael J. O'Connor

Carol Twedt

James Zweep

ATTEST:

Jody Hilmoe

Deputy Auditor

#### WELFARE FAIR HEARING APPEAL

Hugh Grogan, Welfare Director, presented an appeal to the Commission on a decision by the Welfare Office to deny assistance in paying for a funeral. He stated that the assistance was applied for after the funeral had already been held, and Welfare policy requires application for the cost of the funeral prior to the funeral. Kate Groth, Staff Attorney with East River Legal Services, spoke on behalf of the applicant. She stated that the death occurred on a Sunday, the applicant was not aware of County policy regarding funeral assistance, and that she would have qualified in her financial situation had she applied prior to the funeral. Ms. Groth also stated that, although the total cost of this funeral is \$8,000, the applicant is only asking for the \$1,800 allowed by Welfare policy. MOTION by O'Connor, seconded by Pekas to grant the \$1,800 funeral cost assistance to the applicant. Mr. Grogan explained that the amount paid is not automatically \$1,800, but that this is the maximum allowed and any amount the family could pay would be deducted from this. He also stated that the family was insistent on the particular funeral they wished to have, and that the applicant signed a contract with the funeral home for payment of the funeral costs. Deputy State's Attorney Gary Colwill stated that, as the funeral home already has a contract for payment from the family, any action taken by the Commission would have no effect on this. Commissioners Twedt and Zweep stated they wouldn't support the motion as it goes against Welfare guidelines and would set a dangerous precedent. Commissioners O'Connor and Pekas both expressed feelings that the funeral home should have informed the applicant of County Aid restrictions, however Mr. Pekas stated that he couldn't support the motion due to County policy. VOTE on the motion: O'Connor aye, 4 nays. Motion defeated. MOTION by O'Connor, seconded by Pekas to deny the appeal. 5 ayes.

#### LEGISLATIVE BRIEFING

Ken McFarland, Administrative Assistant, briefed the Commission on proposed legislation affecting county government.

#### NEW BUSINESS

Chairman Kolbe noted that the State distributed weather radios to elected officials and other local leaders.

MOTION by Pekas, seconded by O'Connor to adjourn into Executive Session. 5 ayes.

Following the Executive Session, the Commission adjourned until the 5:00 p.m. Joint City/County Meeting today.

Jody Hilmoie, Deputy Auditor