

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., February 15, 2005, pursuant to adjournment on February 8, 2005. Commissioners present were: Twedt, Pekas, Hajek, Kolbe, and Zweep. Also present were Sandy Kinder, Deputy Auditor, and Gordy Swanson, Chief Civil Deputy State's Attorney.

Chairman Twedt called the meeting to order.

## ZONING

At the request of the petitioner, MOTION by Hajek, seconded by Kolbe to defer the public hearing to consider a request to rezone property legally described as the NE1/4 (Ex. H-2 & Ex. Otterby's Addition) in Section 12-T102N-R50W from the A-1 Agricultural District to the I-1 Light Industrial District until March 15, 2005. 5 ayes.

## MINUTES

MOTION by Kolbe, seconded by Hajek to approve the Minutes for February 8, 2005. 5 ayes.

## VOUCHERS TO BE PAID

MOTION by Hajek, seconded by Kolbe to approve the following bills for payment. 5 ayes.

A & B Business Equip	Var. Depts	1,045.73	A to Z Language Inte	Var. Depts	305.00
Albers, Tyrone	Sheriff	64.00	Alliance Communicati	Metro-911	823.25
Anderson, Elwood	Human Svcs	300.00	Anesthesiology Assoc	Correction	144.00
APCO International,	Metro-911	379.00	Argus Leader	Var. Depts	2,006.38
ASAP Software Expres	Auditor	131.25	Avera Health Plans,	Human Svcs	372.30
Avera Home Med. Equi	Correction	223.75	Avera McKennan Hospi	Var. Depts	37,165.21
Avera McKennan Hospi	Pub. Adv.	17.93	Avera McKennan Regio	Correction	51.00
Avera Queen of Peace	Var. Depts	462.00	Beadle Plaza Apts	Human Svcs	50.00
Belitz, Clarence H /	Human Svcs	800.00	Berkeley Nucleonics	Sheriff	4,231.00
Best Business Produc	Reg Deeds	45.55	Blomker, Douglas	Emer Mgmt	72.00
Bob Barker Company,	Var. Depts	2,423.35	Boyd, Michelle	Correction	21.00
Boyer Trucks Sioux F	Hiway Cons	423.98	Braithwaite, Tacey E	Mental Ill	187.50
Brown & Saenger	Var. Depts	2,676.48	Building Sprinkler,	Facilities	307.04
Bureau of Informatio	Var. Depts	1,176.31	Byre, Elton W	Human Svcs	350.00
Campbell Supply Co.,	Var. Depts	206.20	CBM Food Service	Correction	29,044.62
Center for Family Me	Correction	142.93	Chemco, Inc.	Var. Depts	1,134.71
City Centre Hotel Co	Court Sys.	144.21	City-Wide Taxi, Inc	Human Svcs	232.38
Cleveland Heights Ap	Human Svcs	350.00	Collins, Jerry	Human Svcs	250.00
Communication Servic	Court Sys.	68.75	Conexis Benefit Admi	Human Svcs	821.42
Culligan Water Condi	Var. Depts	170.00	D & B Tune-up / Ferd	Juv Det Cn	244.35
Dade Behring, Inc.	Correction	138.10	Dakota Diesel Servic	Hiway Cons	172.04
Dakota Fluid Power,	Hiway Cons	191.32	Dakota Riggers & Too	Hiway Cons	203.46
Davidson, John Q	Mental Ill	152.00	Decisionone Corporat	Info Svcs	1,625.66
Dells True Value / O	Hiway Cons	6.84	Dialnet / Ahrens Tel	Var. Depts	640.71
Dietrich, Donna K	Mental Ill	863.74	Dresbach, Steve	Mental Ill	2,144.40
DTN Corporation	Cnty Exten	177.00	Dunham Property Mana	Human Svcs	450.00
Dust Tex Service, In	Museum Mtc	12.12	Ekeren, Marvin R	Mental Ill	114.00
Elert & Associates	Metro-911	5,099.77	Ellwin, Arch	Museum	400.00
Evercom	Correction	7,000.00	Family Drug	Human Svcs	1,536.27
Family Service, Inc.	Human Res.	300.00	Farrell, Lorae J	Court Sys.	180.20
Fastenal Company	Hiway Cons	86.38	Fluth, Rodney P	Human Svcs	495.00
Fortin, Margaret	Mental Ill	152.00	Frontier	Metro-911	178.35
Fuerst, Myron M.	Human Svcs	430.00	Galland Legal Clinic	Court Sys.	655.20
Gansz, Kevin	Museum	83.12	Gary's Gun Shop, Inc	Emer Mgmt	20.00
Gastroenterology	Correction	402.83	GCSA of SD	Cnty Exten	50.00
George Boom Funeral	Human Svcs	2,235.00	Glasford, Tara L	Court Sys.	1,406.00
Global Equipment Com	Juv Det Cn	169.95	Glory House	Social Ser	7,500.00
Golden Creek Investo	Human Svcs	106.00	Graham Tire Co. - No	Hiway Cons	25.44

Graybar Electric Com	Metro-911	33.30	Great Plains Int'l T	Hiway Cons	128.43
Gunner, Andrea	Court Sys.	129.20	Harris, Jon	Sheriff	46.00
Hauff Mid-America Sp	Museum	4.50	Healthworks/Eastern	Var. Depts	902.00
Hewlett-Packard Comp	Dir. Eq.	164.00	Hobby Lobby Stores,	Museum Ent	28.57
Hofer, Ryan	Human Svcs	300.00	Homestead Trails, Lt	Human Svcs	525.00
Hoskins, William J	Museum	300.00	Hosmer, David M. Law	Mental Ill	811.77
Howalt-McDowell Insu	Correction	100.00	Hunter's Lawn & Land	Human Svcs	102.00
Hy-Vee Food Store #1	Juv Det Cn	175.95	Hy-Vee Food Store #1	Museum	19.07
Hy-Vee Pharmacy #163	Human Svcs	135.97	Hy-Vee Pharmacy #163	Human Svcs	241.97
Insight Public Secto	Sheriff	615.00	Institutions Service	Correction	51.01
Interstate Office Pr	Var. Depts	558.86	Investors Management	Human Svcs	1,310.00
J & S Properties	Human Svcs	450.00	Jefferson Partners,	Human Svcs	765.00
John Schneiderman	Info Svcs	240.00	Johnson Estates/Beld	Human Svcs	250.00
Johnson Feed, Inc.	Hiway Cons	3,347.56	Johnson, Heidepriem,	Comm.	9,173.50
Kettering Law Office	Mental Ill	114.20	Key Partnership	Human Svcs	328.00
Kjelden, Reed	Human Svcs	450.00	Kmart #4041	Juv Det Cn	456.90
Kmart #7318	Human Svcs	65.27	Knobloch, Kathy	Human Svcs	525.00
Kohl's Department St	Juv Det Cn	29.99	Kooistra, Nelva	Mental Ill	114.00
Koopman & Sons Gas C	Hiway Admi	252.60	Kreislers, Inc.	Correction	1,670.61
Lacey's Chemical Res	Hiway Cons	140.00	Lakeview Apts / Wiem	Human Svcs	700.00
Lason Systems, Inc.	Reg Deeds	256.50	Lawson Products, Inc	Hiway Cons	94.61
Leesch, Jerald K	Human Svcs	725.00	Lewis Drugs	Var. Depts	296.99
Lincoln County Audit	Mental Ill	225.00	Linweld, Inc.	Var. Depts	414.54
Lutheran Social Serv	Court Sys.	50.00	Lyle Signs, Inc	Hiway Cons	84.38
M&T Fire and Safety,	Emer Mgmt	153,350.00	Mac's, Inc.	Hiway Cons	59.98
Malloy Electric Bear	Hiway Admi	21.06	Manatron, Inc.	Dir. Eq.	1,955.00
Master Blaster, Inc.	Var. Depts	58.00	McBreen, Larry/Renta	Human Svcs	450.00
Meadowbrook Apartmen	Human Svcs	450.00	Medical X-Ray Center	Var. Depts	385.67
Menards - East	Hiway Cons	51.76	Menards - West	Human Svcs	25.45
Michaels Fence & Sup	Culture	734.00	Microfilm Imaging Sy	Reg Deeds	152.10
Midamerican Energy C	Var. Depts	4,909.51	Midcontinent Communi	Cnty Exten	29.85
Midwest Copier Solut	Cnty Exten	236.00	Midwest Oil Company	Hiway Cons	985.71
Midwest Psychiatric	Mental Ill	393.03	Mikelson, Gary E.	Mental Ill	186.47
Miller & Swier,	Mental Ill	148.00	Milstead, Michael W	Sheriff	35.00
Minnehaha Cnty Priso	Correction	90.00	Minnesota Historical	Museum	14.95
Murfield, Gary	Human Svcs	350.00	Murray Construction,	Human Svcs	680.00
Nebraska Dept. of Mo	St Atty	3.00	New World Systems	Metro-911	1,690.00
Nies Properties, LLC	Hiway Cons	350.00	Norberg Paints, Inc.	Facilities	79.80
North Ridge Apartmen	Human Svcs	450.00	Northern Safety Tech	Hiway Cons	256.69
Northern Truck Equip	Hiway Cons	168.00	Novak Sanitary Servi	Var. Depts	817.25
Office Depot, Inc.	Info Svcs	643.24	Officemax	Info Svcs	54.97
Orthopedic Institute	Correction	213.17	Otter Tail Energy Se	Facilities	32,473.14
Palmer, Alex	Correction	47.00	Palmer, Barbara	Mental Ill	607.50
Pastime Software Com	Mus Grant	650.00	Pennington County Pu	Mental Ill	74.00
Peters, Scott N, P.C	Mental Ill	4,522.96	Pfeifer Implement Co	Hiway Cons	186.40
Pheasantland Industr	Correction	153.80	Physicians Laborator	Correction	39.00
Pomp's Tire Service,	Hiway Cons	18.45	Portable Computer Sy	Var. Depts	34,655.00
Prairie Publications	Comm.	273.75	Prairie Wind Apts/In	Human Svcs	450.00
Pride Neon, Inc	Hiway Cons	36.08	Qualified Presort Se	Var. Depts	13,377.60
Quam, Jerry	Hiway Cons	53.99	Quest Engineering, I	Hiway Cons	284.88
Qwest	Var. Depts	3,198.81	Qwest Interprise	Var. Depts	2,055.71
RDO Equip/Powerplan	Hiway Cons	85.06	Record Keepers, Inc.	Var. Depts	3,328.21
Refinish Supply Cent	Hiway Cons	45.40	River Tower Apartmen	Human Svcs	271.00
RJ Rental Properties	Human Svcs	425.00	Robson True Value	Facilities	16.04
Roemen's Auto Supply	Hiway Cons	73.75	SD Secretary of Stat	Correction	50.00
SD State Treasurer	Sales Tax	331.07	SDACHS	Hiway Admi	390.00
Security Labs, Ltd	Info Svcs	275.00	SF Area Humane Socie	Animal Con	1,571.69
SF City Finance	Facilities	30.00	SF City Finance - Fu	Var. Depts	7,465.60
SF Rubber Stamp Work	Var. Depts	54.50	SF Two Way Radio Ser	Metro-911	295.00
Shay, Duane	Human Svcs	350.00	Sheehan Mack Sales &	Hiway Cons	1,942.94
Sherwin Williams	Hiway Cons	107.39	Shopko Pharmacy #207	Human Svcs	23.29
Silver Glen MHC, LLC	Human Svcs	480.00	Sioux Empire FCU / V	Info Svcs	1,073.07
Sioux Empire FCU / V	St Atty	194.07	Sioux Empire FCU / V	Sheriff	500.54
Sioux Empire FCU / V	Correction	348.48	Sioux Empire FCU / V	Sheriff	576.70
Sioux Empire FCU / V	Emer Mgmt	1,270.87	Sioux Empire FCU / V	Metro-911	85.98
Sioux Empire FCU / V	Dir. Eq.	104.53	Sioux Falls Ford, In	Hiway Cons	30.69
Sioux Falls Utilitie	Var. Depts	365.63	Sioux Valley Clinica	Var. Depts	598.57
Sioux Valley Health	Human Svcs	272.71	Sioux Valley Hospita	Correction	390.04

Sioux Valley Hospita	Sheriff	38.75	Sioux Vocational	Juv Det Cn	4,416.61
Siouxland Oral & Max	Human Svcs	1,536.92	Smith Publishing Co.	Reg Deeds	282.00
Somerset Partnership	Human Svcs	700.00	South Dakota Network	Metro-911	8,249.35
Spence, Rebecca L	Court Sys.	1,237.00	Stan Houston Equipme	Hiway Cons	25.00
State Radio Communic	Metro-911	4,224.00	Sturdevant's Auto Pa	Hiway Cons	597.15
Sunshine Foods	Human Svcs	183.67	SV Physician Partner	Var. Depts	320.60
Swanson, Gordon	St Atty	10.90	Talavera, Zoila Judi	Court Sys.	470.83
Taylor, Robert H	Human Svcs	350.00	Thorin, Deyanira T	Var. Depts	125.00
Thurman, Creighton A	Mental Ill	241.97	Tower Apartments	Human Svcs	105.00
TR Designs & Indoor	Museum	305.00	Union Telephone Comp	Metro-911	321.91
Urban Indian Health	Human Svcs	16.00	US Marshals Service	Correction	1,153.00
US Postal Service	Human Svcs	1,500.00	US Postal Service	Cnty Exten	56.96
US Postmaster	Cnty Exten	74.00	Van Ruler, Marlin E	Human Svcs	250.00
Vantek Communication	Metro-911	80.00	Variety Foods, Inc.	Correction	801.44
Velvet Uniforms, Inc	Var. Depts	689.16	Voigt, Debra	Court Sys.	152.70
W.T.Kirkman Oil & El	Museum	47.95	W.W. Grainger, Inc.	Var. Depts	78.88
Wal-Mart Pharmacy #3	Human Svcs	8.00	Walgreens Pharmacy	Human Svcs	9.99
Walgreens Pharmacy	Human Svcs	483.31	Walgreens Pharmacy	Human Svcs	32.26
Walgreens Pharmacy	Human Svcs	77.05	Warwick, Helen	Human Svcs	350.00
Waste Management of	Facilities	474.55	Weig, Mary	Human Svcs	450.00
Wells Fargo Home Mor	Human Svcs	792.00	West Pointe Townhous	Human Svcs	450.00
Wheelco Brake & Supp	Hiway Cons	57.90	Wilsey & Associates,	Hiway Cons	21,225.81
Xcel Energy, Inc.	Var. Depts	2,487.00	Yankton County Sheri	Mental Ill	148.50
Yankton County Treas	Mental Ill	673.35	Zabel Steel Co.	Hiway Cons	113.70

## PERSONNEL

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

1. To accept the resignation of Melvyn Makinson as Correctional Systems Operator for the Sheriff's Office effective 2-27-05.
2. To hire Patrick Rickerl and Michael Colwill as part-time Correctional Officer I (9/3) for the Sheriff's Office (Project 24/7) at \$15.238 per hour effective 2-15-05.
3. To increase the hourly rate of Dortha Kuper, temporary Clerical Worker for the Highway Department to \$13.80 per hour effective 1-3-05.
4. To hire June Schroeder as temporary Clerical Worker for the Director of Equalization at \$9.25 per hour effective 2-1-05 through 6-30-05.

Step increases due:

1. Rhonda Ritter – Juvenile Correctional Officer I – JDC – 10/3 to 10/4, 12-21-04 – \$16.477 per hour
2. Rachel Haan – Correctional Officer II – Sheriff – 10/2 to 10/3, 1-31-05 – \$16.153 per hour
3. Tyrell Bose – Security Officer Lead (Army Guard) – Sheriff – 10/1 to 10/2, 1-12-05 – \$15.531 per hour
4. Deanna Larson – Communication QA Training Manager – Metro – 15/4 to 15/5, 2-5-05 – \$21.567 per hour
5. Carol Viet – Tax & License Specialist – Treasurer – 4/2 to 4/3, 2-12-05 – \$10.663 per hour

## ABATEMENTS

Dennis Whitney, Deputy Director of Equalization, presented an Application for Tax Abatement from Kenneth Eichhorn. Mr. Eichhorn is requesting Owner Occupied status on his current residence for 2004. In January, 2003, Mr. Eichhorn owned a primary residence in Sioux Falls that he was claiming Owner Occupied status on and had purchased another lot to construct a new home. After the construction of the new home, the owner did not file a new application for Owner Occupied status for that residence upon moving. SDCL 10-13-40 sets the deadline to file as March 15th of each year. The Equalization Office recommended denial of the request. The applicant was present to answer questions and stated that he feels the law should be based on whether a person occupied the dwelling by a certain date, not if they return the proper paperwork. MOTION by Pekas, seconded by Hajek to approve the abatement for Kenneth Eichhorn, ID #69849, 2004 taxes - \$1,769.06 (difference between owner occupied and non-owner occupied). 3 ayes, Zweep and Kolbe nay.

MOTION by Hajek, seconded by Pekas to approve the following abatement: CC Storage, LLC., ID #74883, 2004 taxes - \$757.98. 5 ayes.

#### NOTICES

Notice was received of the East Dakota Water Development District Regular Board Meeting on February 17, 2005.

#### LIENS

Commissioner Pekas, County Aid Lien Liaison, briefed the Commission on a request to compromise DPNO 35901, Mackoff Kellogg Law Firm, petitioner. He explained that during foreclosure action a lien in the amount of \$4,686.70 was discovered against the property. The current owner, Popular Financial Services, LLC., obtained the property through a Sheriff's sale in July, 2004 as part of the foreclosure. The lien was for services provided to the prior owners. The liens are for various services and date back to March, 1996. The petitioner is requesting a release of the property upon payment of \$3,436.59. Gordy Swanson, Chief Civil Deputy State's Attorney, explained that the proposed compromise amount (\$3,436.59) was superior to the mortgage and that the balance would be junior. To collect the portion filed after the mortgage, the County would have had to participate in the foreclosure action. MOTION by Pekas, seconded by Kolbe to approve Resolution MC05-08. 5 ayes.

#### RESOLUTION MC05-08

WHEREAS, a County Aid Lien in the amount of \$4,686.70 purports to exist in favor of Minnehaha County and against DPNO 35901 as Lienee, and

WHEREAS, the Mackoff Kellogg Law Firm for Popular Financial Services, LLC. has filed an application with the County Auditor stating such facts as provided for by Law,

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

Release the lien only in so far as the real property upon payment of \$3,436.59 from the petitioner.  
Legal Description of real property: Lot 22 in Block 20 of West Mesa Highland addition to the City of Sioux Falls.

If payment is not made within one year from approval, this agreement is null and void

Dated at Sioux Falls, South Dakota, this 15th day of February, 2005.

APPROVED BY THE COMMISSION:  
Carol Twedt, Chairman

ATTEST:  
Sandy Kinder, Deputy Auditor

#### HEARING

Gordy Swanson, Chief Civil Deputy State's Attorney, was present for the scheduled hearing to consider the renewal of a non-exclusive cable TV franchise agreement with WMW Cable TV Company of Hartford to provide cable services to the unincorporated areas of Hartford, Benton, Wayne, and Wall Lake Townships. Mr. Swanson briefly explained the purpose of the agreement and commented on the compensation paid to the County which is currently set at 3% of the annual gross subscriber revenue. He noted that after reviewing the FCC rules and federal laws on this matter, in his opinion, the rate could be set at 5% and could be based on total gross revenue. Miles Schumacher, Attorney for WMW Cable TV Company, introduced Rick Freemark, WMW Cable Manager, and addressed the fee structure for the franchise noting that it is modeled after the franchise with the City of Hartford. He also noted that it was not practical to raise the franchise fee for the small amount of customers served as it costs more to service the rural areas. Mr. Schumacher requested that a change be made to the agreement which would allow internal restructuring without commission consent and change the accounting from monthly to annually. MOTION by Zweep, seconded by Kolbe to renew the Non-Exclusive Cable Franchise Agreement with WMW Cable TV Company with the 3% payment to the County, and allow for yearly accounting and exemption from commission approval for internal transfers. Commissioner Hajek cautioned the 10 year term of the renewal. SUBSTITUTE MOTION by Hajek to renew the agreement with a 5 year term. Motion dies for lack of a second. VOTE on the main motion, 4 ayes, Hajek nay.

#### BID AWARD

Lynn DeYoung, Emergency Management Director, reported that bids were opened on February 7, 2005, for one emergency response vehicle for Emergency Management. One bid was received from M & T Fire and Safety, Inc. (Crimson Fire) in the amount of \$327,868 with all of the options contained in the bid specifications. Rosenbauer Firefighting Technology Central Division did not submit a bid, but did submit a letter objecting to the specifications claiming that they eliminated them from the bid process. Gordy Swanson, Chief Deputy State's Attorney, gave his legal opinion of the specifications, and noted that they should focus more on needs and expectations and not address specific designs by name. Mr. DeYoung explained the process used to compile the specifications for the vehicle. Harold Boer, Rosenbauer Central States Fire Apparatus President, stated that he felt the specifications were specific to one vendor, and he did not submit a bid due to past experience with exceptions to bid specifications. Roger Parker, Midwest Regional Sales Manager for Crimson Fire, supported the specifications as written and stated that if rebid, his price has already been exposed. MOTION by Pekas, seconded by Hajek to reject all bids and re-let with new specifications. 5 ayes.

#### PROGRAM

On January 11, 2005, the Commission authorized the Sheriff's Department to participate in the 24/7 Sobriety Pilot Program. This program allows defendants arrested on certain DWI charges to be released from jail and allowed to live at home, as long as they agree to alcohol breath tests on a daily basis. The

program is funded through a grant awarded to the Attorney General by the National Highway Traffic Safety Administration. The pilot program was to end December 15, 2005. Sheriff Mike Milstead reported that additional funding has been granted for this program to continue an additional two years. Initially \$60,000 was approved for funding of the program which was to include a 15% administrative fee to the County. After calculating the actual costs, the County will receive a 4.3% administrative fee. Sheriff Milstead stated that the program was still beneficial and requested that the Commission authorize one additional FTE at 40 hours per week, and twelve hours of part time employment to cover weekends. Sheriff Milstead explained that the qualifications for the position were reviewed and it was determined that the position should be considered as a Correctional Officer and that this position would be covered under the Deputies Association. He also stated that if the cost of the program increases, additional funding can be applied for. MOTION by Hajek, seconded by Zweep to authorize the request for personnel. 5 ayes.

## FUNDS

Sheriff Mike Milstead reported that the Sheriff's Department has received \$18,450 in funding from the Attorney General's State Drug Funds. These funds are intended to support drug enforcement efforts. Sheriff Milstead requested authorization to accept the funding for the purchase of a drug dog for the Sheriff's Department and the continuation of a vehicle lease for an additional 3 years. MOTION by Hajek, seconded by Zweep to authorize the acceptance of funding for the purchase of the drug dog (\$10,000 dog/equipment and \$1,250 dog expenses) and continuation of the vehicle lease (\$7,200). 5 ayes.

## REPORT

Hugh Grogan, Human Services Director, presented an update on the South Dakota Catastrophic Pool. Mr. Grogan gave a brief history of the program which started in 1985 to protect county budgets from catastrophic medical expenses. He stated that currently 61 counties participate in the program. Commissioners thanked Mr. Grogan for the update.

## HEARING

Pat Herman, Planner, was present for the scheduled hearing to consider a request to rezone from the RS-1 Rural Residential District to the R-1 Rural Residential District property legally described as Lot 1, N120= Lot 2, Lot 2A, Lot 3, Lot 4A, Lot 5, & Lot 6, all in Sorums Northview Addition in Section 10-T102N-R49W; Tract 1A Sorums 2<sup>nd</sup> Addition & the N64.9 E142.5 S207.4 W143.3 of Lot 2 Sorums 1<sup>st</sup> Addition both in the SW1/4 SW1/4 in Section 10-T102N-R49W; NE1/4 NE1/4 (E S430' N863' E476' & Ex W396' E466' S27' & Ex Berrys Subd) & the NW1/4 NE1/4 (Ex Trs 5-9 & Ex E150' W310' S25' N375' & Ex Egger's Addition and Ex Bliss Trs) in Section 16-T102N-R49W; Tracts 2, 6, & 7 Egger's Addition NW1/4 NE1/4 in Section 16-T102N-R49W; E931' N 446' of the NE1/4 SE1/4 (ex. N34' E183' thereof) in Section 9-T102N-R49W. Subject properties are located in Renner. Ms. Herman noted that the properties were previously located in the Joint Jurisdictional Boundary. In September, 2004 the City of Sioux Falls and Minnehaha County approved an amendment revising the boundaries of the joint jurisdictional area detailed in "Sioux Falls 2015: A Growth Management Plan" which removed this area. This rezoning request will bring the properties in conformance with the County Zoning Ordinance and staff recommended approval. No one spoke in opposition to the request. MOTION by Zweep, seconded by Kolbe to approve Ordinance MC16-72-05. 5 ayes.

ORDINANCE MC16-72-05

## 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:

Lot 1, N120' Lot 2, Lot 2A, Lot 3, Lot 4A, Lot 5, & Lot 6, all in Sorums Northview Addition in Section 10-T102N-R49W; Tract 1A Sorum's 2<sup>nd</sup> Addition & the N64.9 E142.5 S207.4 W143.3 of Lot 2 Sorum's 1<sup>st</sup> Addition both in the SW1/4 SW1/4 in Section 10-T102N-R49W ; NE1/4 NE1/4 (E S430' N863' E476' & Ex W396' E466' S27' & Ex Berrys Subd) & the NW1/4 NE1/4 (Ex Trs 5-9 & Ex E150' W310' S25' N375' & Ex Eggers Addition and Ex Bliss Trs) in Section 16-T102N-R49W; Tracts 2, 6, & 7 Egger's Addition NW1/4 NE1/4 in Section 16-T102N-R49W; E931' N 446' of the NE1/4 SE1/4 (ex. N34' E183' thereof) in Section 9-T102N-R49W are hereby rezoned from the RS-1 Rural Residential District to the R-1 Rural Residential District and the official zoning map referred to in Article 2.03(A) is amended to include the property in the R-1 Rural Residential District.

Approved this 15th day of February, 2005.

BOARD OF COUNTY COMMISSIONERS

Carol Twedt, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

APPEAL

Phil Kappen, Assistant Planning Director, was present for an appeal to the Planning Commission decision to deny a Conditional Use Permit to transfer two building eligibilities 2 miles northwest of Renner. Mr. Kappen explained that the petitioner owns two parcels of property and would like to transfer one building eligibility from the floodplain to an area outside the floodplain and one from a landlocked area to the same receiving area. The County Zoning Ordinance was amended in 2004 to allow for the transfer of building eligibilities if the request meets all of the conditions set forth in the ordinance. The petitioner did not meet the condition that the transfer must occur between contiguous parcels under the same ownership. One of the transfers is between two parcels that are not contiguous. The petitioner had previously owned the intervening property and had inquired about transferring out of the floodplain, prior to the ordinance amendment, but was told that it would not be allowed. The petitioner then sold the intervening land. Chuck Sutton, Auctioneer/Land Broker, was present to represent the petitioner, LeAnn Hummel. He gave a brief history of the ownership of the land within the Boy family. He noted that had the petitioner known that the ordinance would be amended, she would have kept a small strip to keep the parcels contiguous. He also noted that the eligibility has no value if it remains in the floodplain. MOTION by Zweep, seconded by Hajek to approve Resolution MC05-09. 4 ayes, Kolbe nay.

## RESOLUTION MC05-09

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Minnehaha County that an appeal was heard on the decision of the Minnehaha County Planning Commission to deny a conditional use permit to transfer a building eligibility from the NE1/4 NE1/4 of Section 32-T103N-R49W to the NE1/4 NW1/4 Section 32-T102N-R49W. The Board hereby overrules the Planning Commission decision to deny the conditional use permit, and upholds the Planning Commission's

approval of a transfer from the SE1/4 NW1/4 (except S417.42' W417.42' and except Tract 1 of Boy's Addition) in Section 32-T103N-R49W to the NE1/4 NW1/4 Section 32-T103N-R49W.

Approved this 15th day of February, 2005.

BOARD OF COUNTY COMMISSIONERS  
Carol Twedt, Chairman

ATTEST:  
Sandy Kinder, Deputy Auditor

LEGISLATIVE BRIEFING

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

SUPPLEMENT

MOTION by Zweep, seconded by Kolbe to approve the following supplements from the Emergency Management Fund to the Emergency Management Budget: \$4,982 representing a grant from Citizen's Corp; \$153,350 representing a 2004 Homeland Security Equipment grant; and \$493 representing a FY2002 Equipment grant.

OLD BUSINESS

Commissioners discussed the time that will be allowed for proponents/opponents to present information on the appeal of the denial of a conditional use permit for the expansion of an existing concentrated animal feeding operation (CAFO) on property legally described as the S1/2 NW1/4 and the NW1/4 SW1/4 in Section 34-T104N-R52W, Tom Meyer, Petitioner, scheduled for February 22nd.

Commissioner Pekas left the meeting.

MOTION by Hajek, seconded by Zweep to adjourn until 9:00 a.m. on Tuesday, February 22, 2005. 4 ayes.

APPROVED BY THE COMMISSION:  
Carol Twedt, Chairman

ATTEST:  
Sandy Kinder, Deputy Auditor