

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., August 31, 2010, pursuant to adjournment on August 24, 2010. Commissioners present were: Hajek, Twedt, Barth, Kelly, and Pekas. Also present were Cindy Jepsen, Commission Recorder and Gordy Swanson, Chief Civil Deputy State's Attorney.

Chairman Hajek called the meeting to order,

MOTION by Pekas, seconded by Barth to approve the agenda. 5 ayes.

Commissioner Twedt thanked Barb Thaler of the Hartford Fire Department for assisting her with a medical emergency at a recent event and recognized all the volunteer EMT's and firefighters who give their time in service to their communities. Chairman Hajek welcomed back Commissioner Kelly.

## MINUTES

MOTION by Barth, seconded by Pekas to approve the August 24, 2010 Minutes. 5 ayes.

## VOUCHERS TO BE PAID

MOTION by Twedt, seconded by Barth to approve the following bills for payment totaling \$448,594.61 plus purchasing card purchases totaling \$11,344.82. 5 ayes.

A & B Business Equip	Var. Depts	1,497.75	ABN Army Surplus	Em Mgmt	1,526.94
Aire Serv Htg & Air	Em Mgmt	163.16	Allied Oil & Supply	Hwy Constr	599.38
Amazon Mktplace Pmts	Var. Depts	165.74	American Institution	JDC	134.62
Anderson, Elwood	Human Svcs	600.00	Anderson, Rodney Cla	Jail	45.00
Anesthesiology Assoc	Human Svcs	208.00	Arena Motel	EFSP Fund	610.00
Argus Leader	Var. Depts	10,224.22	Associated Consult/E	Var. Depts	414.25
Auto Body Specialtie	Hwy Constr	105.00	Avera Health Informa	Public Def	60.30
Avera Mckennan Hosp	Mental Ill	841.43	Avera Mckennan Hospi	Var. Depts	4,363.91
Awate, Elashe	Public Def	300.00	Best Buy 000001	Public Def	43.47
Beynon, Silvie	ARRA-HPRP	495.00	Bierschbach Equipmen	Hwy Constr	489.61
Billion, James A	Courts	1,927.00	Billion's	Var. Depts	267.66
Black Hills Window C	Facilities	4,000.00	Bob Barker Company,	Jail	3,717.04
Bob's Lock & Key	Jail	21.70	Boeckholt, Angie	Dir Of Eq	130.00
Boyer Trucks Sioux F	Hwy Constr	131.68	Brown & Saenger	Var. Depts	948.73
Buck's Muffler Shop	Sheriff	48.00	Builders Supply Comp	Facilities	286.50
Bureau Of Informatio	Var. Depts	417.00	Byre, Elton W	Human Svcs	395.00
Campbell Supply Co I	Facilities	143.51	Carper, Nichole A	Courts	7,802.16
Cartridge World	Info Tech	734.13	Caseys 000233	Em Mgmt	49.56
Casual Male #9319	Facilities	104.97	Catco	Hwy Constr	2,004.05
CBM Food Service	Jail	17,134.39	Center For Family Me	Human Svcs	174.83
Century Business Pro	Var. Depts	509.46	Chemco, Inc.	Var. Depts	4,800.34
Cliff Avenue Auto Pa	Hwy Constr	40.82	Cobraserve National	Human Svcs	370.27
Cole Papers, Inc.	Jail	1,076.82	Cole, John R	Dir Of Eq	130.00
Communication Svcs F	St Atty	62.00	Connecting Point	Info Tech	249.00
Constellation New En	Facilities	1,931.66	Construction Product	Facilities	343.67
Correct Care Solutio	Jail	95,765.50	Cumberland Apts I	Human Svcs	400.00
Dakota Forensic Cons	Coroner	6,000.00	Dakotabilities	St Atty	97.94
Dearborn, Lori	Human Svcs	78.93	Decastro Law Office,	Courts	1,886.00
Decisionone Corporat	Info Tech	395.47	Dell Rapids Chevrole	Sheriff	74.73
Devaney, Tom	Hwy Constr	110.04	Dewitt, Rob/Betsy	Human Svcs	500.00
Dosch, Korey	Dir Of Eq	130.00	Electric Constructio	Mus Maint	102.50
Element Properties L	Human Svcs	400.00	Fedex	Info Tech	20.84
Fluth, Rodney P	Human Svcs	450.00	Fred Pryor Seminars	Auditor	199.00
G & H Investments Ll	Human Svcs	400.00	G & R Controls Inc	JDC	410.82
Gearman, Jason	Mental Ill	163.54	Gene Rollinger Const	JDC	397.80
Glory House	Var. Depts	13,494.92	Gordmans Inc #43	Facilities	29.96
Grainger, Inc.	Facilities	92.67	Graybar Electric	Facilities	323.16

Gudeta, Dereje	Courts	75.00	Gunner, Andrea	Courts	749.80
Guzman, Sandra V.	Var. Depts	646.66	Hander, Inc.	JDC	69.39
Harold's Photo Cente	Public Def	1.45	Heartland Paper Comp	Jail	1,991.08
Hembree, Bill	Human Svcs	168.30	Hoekstra, Denise A.	Courts	121.60
Hoskins, William J	Mus Entpr	587.19	Hurtgen, Timothy T.	Human Svcs	550.00
Hy-Vee Accounts Rece	Var. Depts	215.85	Interim Healthcare	Human Svcs	172.48
Interstate Office Pr	Var. Depts	1,874.82	Intoximeters, Inc.	24/7 Prog	189.00
IOD Inc	Public Adv	60.20	Jarman Properties	Human Svcs	500.00
JCL Solutions-Janito	Var. Depts	1,641.88	Jcpenny Store 0211	Facilities	184.97
Johnson, Heidepriem,	Courts	1,239.20	Johnstone Supply Of	Facilities	351.57
Keystone Treatment C	Courts	180.00	Khoroosi, Sam	Courts	524.80
King, Duane	Dir Of Eq	130.00	Kleen Solutions, Inc	Jail	69.95
Kmart #7318	Em Mgmt	59.80	Koality Construction	Human Svcs	400.00
Kohl's Department St	Var. Depts	163.95	Kone, Inc.	Facilities	1,332.33
Kuhle, Donald	Human Svcs	660.00	Landscape Garden Cen	Facilities	199.88
Larson, Cliff/Marily	Human Svcs	400.00	Leesch, Mark	Human Svcs	500.00
Lewis Drug Stores	Facilities	320.57	Lexis-Nexis / Reed E	St Atty	185.00
Liebl, Shawn	Human Svcs	500.00	Light And Siren	Sheriff	1,626.80
Linweld, Inc.	Hwy Constr	443.83	Llano County (Tx)She	St Atty	75.00
Ludoc Enterprises In	Ambulance	2,395.83	Mac Arthur Co - Br 0	Facilities	865.24
Mac's, Inc.	Facilities	30.00	Malloy Electric Bear	Facilities	147.57
Marvs Body Shop Inc	Sheriff	108.00	Matchan, Hope	Courts	287.00
Maxwell Food Equipme	Var. Depts	262.39	Meadowbrook Apartmen	Human Svcs	400.00
Medical X-Ray Center	Var. Depts	266.57	Menards - East	Var. Depts	179.14
Menards - West	Var. Depts	37.68	Merrow, Danielle L	Human Svcs	395.00
Midamerican Energy C	Var. Depts	480.34	Midstates Utility Tr	Hwy Constr	209.44
Midway Service	Parks	43.95	Midwestern Mechanica	Var. Depts	448.37
Mikelson, Gary E	Mental Ill	252.53	Miller Funeral Home,	Human Svcs	1,548.30
Minnehaha Cnty Human	Human Svcs	142.60	Monick Pipe & Supply	Facilities	550.95
Moore, Rasmussen, Ka	Courts	3,914.40	Murray Properties, L	Human Svcs	600.00
Myrl & Roys Paving I	Hwy Constr	34,888.48	Nat'l Assn Of Counti	Planning	300.00
Nat'l District Attor	St Atty	595.00	Neavill, Patricia	Dir Of Eq	130.00
Newegg.Com Inc	Var. Depts	1,271.59	North Ridge Apartmen	Human Svcs	400.00
Northern Heights Dev	Human Svcs	400.00	Nyberg's Ace Hardwar	Var. Depts	92.35
Office Depot, Inc.	Var. Depts	401.80	Officemax	Var. Depts	115.96
Overhead Door Compan	Facilities	172.35	P & M Steel Company	Facilities	14.62
PBC Sioux Falls Llc	EFSP Fund	695.00	PCS MBL/Portable Com	Sheriff	18.60
Pharmchem Inc	24/7 Prog	1,165.00	Pheasantland Industr	Sheriff	247.36
Physicians Laborator	Human Svcs	99.95	Pospaper.Com	24/7 Prog	59.90
Quality Efficiencies	EFSP Fund	450.00	Quill Corp.	Public Def	556.94
Qwest	Jail	96.18	R & L Supply, Ltd	Facilities	690.45
Rapiscan Systems, In	Bldg Fund	2,004.19	RDO Equipment Co.	Hwy Constr	2,450.00
Redwood Biotech	Jail	930.00	Refinish Supply Cent	Hwy Constr	1,843.35
Reliance Telephone I	Public Def	3.74	Richard-Ewing Equipm	Facilities	26.21
Rochester Armored Ca	Treasurer	379.50	Rods Properties Llc	Human Svcs	410.00
Rolling Hills Townho	Human Svcs	438.00	Rural Metro Ambulanc	Var. Depts	618.63
Safelite Glass Corp.	Mus Ops	49.95	Sanford Hospital	St Atty	120.00
Sanford Hospital Med	Var. Depts	235.75	Savers Inc - Us Bene	Human Svcs	166.39
Scheels All Sports	Expenses	50.00	Schetnan, Thad S	Human Svcs	400.00
Scotty's Automotive	Commission	34.75	SD Achieve	Hwy Constr	123.65
SD Assn Of County Co	Var. Depts	1,600.00	SD Continuing Legal	Var. Depts	2,000.00
SD Dept Of Human Svc	Courts	600.00	SD Dept Of Public Sa	Human Svcs	40.00
SD Dept Of Revenue	Var. Depts	1,190.00	SD Dept Of Transport	Hwy Constr	93,590.53
SD Div Of Criminal I	Human Res	43.25	SD Emergency Managem	Em Mgmt	30.00
SD Risk Pool	Human Svcs	1,153.71	SD State Historical	Mus Ops	35.00
SF Leased Hsg Assoc	Var. Depts	1,342.00	Shawnee County(Ks)Sh	St Atty	50.00
Sheehan Mack Sales &	Hwy Constr	105.00	Shi, International C	Info Tech	443.37
Shoe Carnival	Facilities	74.97	Shopko Pharmacy #101	Human Svcs	210.97
Shopko Pharmacy #207	Human Svcs	175.78	Shopko Store #076	JDC	106.61
Sioux Empire Fair As	Fair	17,366.66	Sioux Empire FCU/190	St Atty	1,768.61
Sioux Falls City Fin	Var. Depts	11,455.42	Sioux Falls Ford, In	Hwy Constr	186.11
Sioux Falls Rubber S	Info Tech	5.00	Sioux Falls Two Way	Sheriff	63.44
Sioux Falls Utilitie	Var. Depts	13,820.05	Sioux Valley Energy	Var. Depts	1,386.64

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Skillpath Seminars	JDC	249.00	Solomon, Ghirmay	Courts	100.00
Songstad, Melinda	Courts	143.40	Stangeland, Lori	Dir Of Eq	130.00
State Steel Of SD	Facilities	92.72	Swenson, Keith	Human Svcs	400.00
System I Developer L	Info Tech	2,580.00	Tammen Oil	Sheriff	658.54
The Crackleberry Gro	Var. Depts	4,000.00	Thorin, Deyanira T	Courts	125.00
Tires, Tires, Tires	JDC	22.99	Tires,Tires,Tires In	Sheriff	995.65
Tomacelli's Pizza	Courts	98.38	Tractor Supply Co.	Facilities	59.98
Trane Comp	Facilities	259.23	United Parcel Servic	Mus Entpr	23.55
UPS Benefits Svc Ctr	Human Svcs	382.33	VB Falls Terrace Apt	Human Svcs	585.00
Verizon Wireless	Var. Depts	6,048.39	Vollan, Bruce	Arra-Hprp	550.00
Wal-Mart Pharmacy #1	Var. Depts	258.96	Wal-Mart Pharmacy #3	Human Svcs	1,052.03
Walgreen Co.	Human Svcs	1,471.90	Walgreens Pharmacy #	Human Svcs	141.00
Walton, Marcus	Public Def	26.64	Weber, Todd	Human Svcs	400.00
Weerheim, Tom	Courts	1,599.00	West Group	Var. Depts	1,743.21
Whitney, Dennis	Dir Of Eq	130.00	Wiebesiek, Stacy L	St Atty	27.00
Wilkes, Jeff	Dir Of Eq	130.00	Willow Wood Apartmen	Human Svcs	400.00
Xcel Energy, Inc.	Var. Depts	5,156.21	Yankton Medical Clin	Human Svcs	419.36

## REPORTS

The Minnehaha County Audit Report for the Year Ended December 31, 2009 was received and placed on file in the Auditor's office.

## PERSONNEL

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

1. To accept the resignation of Joshua Boehrns as Deputy Sheriff for the Sheriff's Office effective 9/2/10.
2. To hire Eric Lovro as Deputy Public Defender (21/2) for the Public Defender's Office at \$2,038.64/bi-weekly effective 9/7/10.
3. To promote Travis Krueger from Correctional Officer in Training (12/4) to Correctional Officer (13/4) for the Jail at \$18.035/hour effective 8/8/10.
4. To promote Kevin Keegan from Correctional Officer in Training (12/2) to Correctional Officer (13/2) for the Jail at \$17.166/hour effective 8/8/10.
5. To place Zachary Cegelske, Deputy Sheriff for the Sheriff's Office, on Military Leave without pay effective 8/18/10 to 9/1/10.

### Step Increases Due:

2. Andrea Bruce – Museum Interpreter – Museum – 9/1 to 9/2 – 9/13/10 – \$14.089/hour
3. Thomas Lien – Certified Civil Process Server – Sheriff's Office – 13/5 to 13/6 – 5/28/10 – \$18.948/hour
4. Richard Schmitt – Civil Process Server – Sheriff's Office – 12/8 to 12/9 – 7/21/10 – \$19.422/hour
5. Ryan Baker – Correctional Officer – Jail – 13/5 to 13/6 – 8/18/10 – \$18.948/hour
6. Corey Heise – Corrections System Operator – Jail – 9/1 to 9/2 – 8/8/10 – \$14.089/hour

Carey Deaver, Human Resources Director, introduced Carol Muller as the new Human Services Director.

Ken McFarland, Commission Administrative Officer, presented a request from the Juvenile Detention Alternative Initiative Partnership Committee (JDAI), which was established to address both the juvenile incarceration rate and problems with the disproportionate rate of minority confinement, to establish a new, temporary (1 year), 32 hour per week position for a JDAI Coordinator. The position would be funded by grants from the Council of Juvenile Services and the Annie Casey Foundation. MOTION by Barth, seconded by Pekas to accept the grants and to authorize the establishment of the JDAI Coordinator position. 5 ayes.

#### ABATEMENT

On the recommendation of Eli Whitney, Director of Equalization, MOTION by Twedt, seconded by Barth to approve the following abatement: Monte Koopman, ID 79827, 2007-2009 property taxes, \$1,750.55. 5 ayes.

On the recommendation of Pam Nelson, Treasurer, MOTION by Barth, seconded by Kelly to approve the following abatement: Dorothy Frantzen, ID 22865, 2009 property taxes, \$234.46 (Elderly Tax Freeze). 5 ayes.

#### LIEN

MOTION by Pekas, seconded by Barth to approve the compromise of lien DPNO 62636, in the amount of \$950, upon payment of \$835 within 10 days, on the recommendation of Hauge Associates. 5 ayes.

#### EM MGMT

Lynn DeYoung, Emergency Management Director, presented a request from the City of Sioux Falls for Minnehaha County Commissioners to declare an emergency/disaster for the approximately 1.2 million dollars of damage that resulted from the record rain during the summer of 2010. MOTION by Kelly, seconded by Barth to approve Resolution #MC10-37. 5 ayes.

### **RESOLUTION #MC10-37 RESOLUTION FOR DECLARATION OF EMERGENCY / DISASTER**

WHEREAS, Minnehaha County South Dakota, has suffered severe damage, brought on by severe summer storms, heavy rain and ground saturation, on the date of June 21 through August 2010.

WHEREAS, due to the severe summer storms, heavy rain and ground saturation, significant damage has been incurred to Minnehaha County and the City of Sioux Falls.

WHEREAS, Minnehaha County has committed all available resources and taken all possible actions within the jurisdictional boundaries to combat and alleviate the emergency/disaster, local resources are not adequate to cope with the situation.

NOW, THEREFORE, BE IT RESOLVED by the Minnehaha County Board of Commissioners at a meeting held on August 31, 2010, it is hereby requested that the Governor declare an emergency/ disaster to exist in MINNEHAHA COUNTY.

DATE: August 31, 2010

Anne Hajek  
Chairperson - Minnehaha County Board of County Commissioners

## ATTEST:

Cynthia Jepsen  
Deputy Auditor

## BRIEFING

Brent O’Niel, Urban Planner, City of Sioux Falls, gave a briefing on the creation of TIF district #10. The district would be located in the downtown area and used to fund certain eligible improvements related to the construction of a new building and parking ramp for CNA Surety.

## GRANT

Carol Muller, Human Services Director, requested that the Commission decline a grant for Project Safe Home from the US Dept. of Housing & Urban Development. Because of the complexity of the financing package for this project, primarily the impact on tax credit financing, the financial benefit of this grant does not justify the added requirements of the grant. MOTION by Pekas, seconded by Twedt to decline the grant. 5ays.

## LEASE

Michelle Boyd, Chief Deputy Sheriff, requested authorization for the Chairman to sign a lease agreement with First Dakota National Bank for the Fusion Center office space. The office space will allow better coordinated information and intelligence with and between state, local, tribal, and federal law enforcement agencies. The lease is completely funded through a homeland security grant. MOTION by Kelly, seconded by Barth to authorize the Chairman to sign the lease. 5ays.

## GRANT

Tim Devlin, Warden, requested authorization to expend State Criminal Alien Assistance Program (SCAAP) funds in the amount of \$50,300. The funds are earmarked for use in corrections and will be used to purchase a biometric (fingerprint) system, upgrades to inmate visitation system, new radio batteries for portable radios, upgrade to CCC radio antenna and a consultant review of the jail medical contract. MOTION by Pekas, seconded by Barth to authorize expenditure of the funds. 5 ayes.

## CONTRACT

Ryan Streff, Planner, requested approval of a contract with Novak Sanitary Services to provide dumpster service for the Minnehaha County Clean-up Project at the charge of \$300 per dumpster. The county advertised for bids on this project and no bids were received. Since the bid closing on August 4<sup>th</sup>, approximately 25 garbage haulers have been contacted. Novak Sanitary Services were the only company able to meet the bid specifications and provide the services that are required. MOTION by Twedt, seconded by Barth for approval of the contract. 5 ayes.

## APPEAL

Pursuant to deferral on August 24<sup>th</sup>, the Commission again considered the appeal of the County Planning Commission’s decision to deny Conditional Use Permit #10-28 to allow a Class 1 Major Home Occupation of a Garbage Hauling Business, Truck Repair and Truck and Dumpster Storage at Hofer Tracts 1 & 2 (ex H-1) SW ¼ Section 15-T101N-R51 W. Scott Anderson, Planning Director, read the 18 conditions which were included in the 8/24/10 motion which received a tie vote. Tom Clayton spoke on behalf of the petitioners and explained why they requested only 16 feet of paving instead of the 100 feet recommended by planning staff. In response to questions from the Commission, Mr. Clayton stated that R&S Sanitation is based in Salem, SD, has 2 trucks in

Salem and plans to have 4 trucks based on the subject property. Mr. Clayton presented letters sent from Cindy Swier to neighbors stating that R&S Sanitation meets condition #6. Mr. Anderson objected that he had not seen those letters, but later informed the commissioners he had found them in his file. Commissioners Hajek and Twedt questioned whether the signatures are evidence of agreement by the neighbors or simply acknowledgement of receipt of the letter. Mr. Clayton explained that he believed the form of the letters was a factor they could consider, as with the anonymous letter that was included with the commissioners' information packets. Commissioner Twedt urged Commissioners to make land use decisions based on the County's Comprehensive Plan. Janet Swier, proponent, stated that the property has been in commercial use for the last 25 years. Bob Kolbe, former County Commissioner, testified that he had helped develop the home occupation ordinances in response to earlier issues at this location. Mr. Kolbe believes that the change in use from implement sales to garbage hauling is a new use which should not be grandfathered in. Commissioner Kelly stated the business does not fit the home occupation ordinance and that garbage hauling is not a permitted use. Allowing this CUP would be unfair to those who have found commercially zoned locations for similar businesses. Commissioner Pekas said he felt this was an appropriate use of the land and that it was an opportunity to create a precedent for requiring business ownership by the homeowner in home occupation businesses. Commissioner Barth stated the property has been used commercially for many years and local businesses need support. He noted community support for the business and stated that he believes this is a unique property and a unique situation. MOTION by Pekas, seconded by Barth to approve CUP#10-28 with the following conditions:

1. The occupation shall be conducted entirely within a dwelling or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 750 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.
12. Any garbage containers used or stored on the property shall be kept clean of debris or liquid so as not to attract flies or create odors.
13. The applicant shall obtain a South Dakota Sales Tax License.
14. That the applicant shall hard surface the first 16 feet of private driveway extending north off of S.D. Highway 42 and that the balance of the driveway and employee parking area be treated with a dust control substance so that no dust is created from use.
15. That the applicant provides two off-street parking spaces for guests and customers and 1 additional parking space for each employee/driver. Each parking space shall be at least 9 feet by 18 feet in area.
16. The hours of operation shall be Monday to Friday from 5:30 a.m. to 6 p.m. and Saturdays from 9 a.m. to 1 p.m.

- 17. Landowner has an ownership interest in R&S Sanitation, Inc.
- 18. Permit conditional upon Ms. Swier's ownership and occupancy of the property.

VOTE on the motion: Barth and Pekas aye, Hajek, Kelly and Twedt nay. Motion fails.

MOTION by Barth, seconded by Pekas to adjourn into Executive Session for contract negotiations and personnel. 5 ayes. Following the Executive Session, the Commission adjourned until 9:00 a.m. on Tuesday, September 7, 2010.

APPROVED BY THE COMMISSION:

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Chairman

ATTEST:

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Deputy Auditor