THE LINCOLN COUNTY BOARD OF COMMISSIONERS was brought to order by Chairman David Gillespie, at 8:30 a.m. on September 12, 2018 with Commissioners Jim Schmidt, Dan King, and Michael Poppens present. Commissioner Dale Long was absent. Deputy Auditor Celeste Saylor served as Clerk of the Board. Deputy State’s Attorney Drew DeGroot was also present.

ROUTINE BUSINESS:


CLAIMS:

GENERAL FUND: Independent Publishing LLC, Minutes/Notifications/Help Wanted $2,833.94; Sioux Valley News Inc, Minutes/Notifications/Help Wanted $1,348.04; Canton Pizza Ranch, Catering-South East Dist Mt $665.00; A & B Pure Water Online Corp, Water $59.06; Flowers By Bob, Flowers-Timmerman Funeral $60.00; Metlife, Employee Life Insurance $660.72; Professional Development Acad, High Perform Prgm Tuition $3,485.07; McLeod's Printing, absentee set for Scanner $800.00; Great Plains Psychological Svc, Crt Ordered Forensic Eval-Tp $1,962.50; Frieberg Nelson & Ask Llp, Crt Appt Attty $347.80; Carper, Nicholle, Crt Appt Attty $8,285.10; Jurors, Fees, Mileage $1,037.27; Peterson, Stuart, Rumpca & Rasm, Public Defender Cont-Aug $54,166.67; Multi-Cultural Center Of Sf, Interpreter $80.62; Eich Law Office Prof LLC, Crt Appt Attty $3,269.03; Kading, Kunstle & Goodhope Llp, Crt Appt Attty $658.00; Duffy, Ryan, Crt Appt Attty $3,208.55; The Krause Law Firm P.c, Crt Appt Attty $1,316.00; Strange, Farrell, Johnson & Brewers, Crt Appt Attty $301.47; Mido, Inc., Internet/Data Svc-Hrsbg $695.33; Tyler Technologies Inc, Training-Tax Billing $375.00; Verizon Wireless, Mobile Internet $412.09; Century Business Products, Copier Maint $534.05; Interstate Office Products, Supplies-Office $233.94; Beck, Pat, Grand Jury Proceedings $170.00; Headrick, Ronda, Travel-Mileage $211.68; Us Bank, Travel-Lodging $313.20; Sanford Health, Er Visit/Blood Collection $296.00; Pnb 0112, Executive Mgmt Fin, Network Tech Access Fee $74.25; City Of Canton, Rubble Site/Water/Sewer $1,206.72; MidAmerican Energy Co, Monthly Gas Usage-Crthse $530.27; Xcel Energy, Electricity $12,471.49; Grainger, Earplugs/Safety Glasses/GL $317.47; Midwestern Mechanical Inc, Repair Fire Sprinkler Dra $335.20; Geotek Engineering & Testing Sv, Project Costs $852.61; Canton Engineering Corp, Project Costs $43,983.74; Century Business Products, Copier Maint-Hwy $105.00; Graham Tire Co LLC-Corp, Repair Flat Tire Mower $181.55; MidAmerican Energy Co, Monthly Gas Usage-Hwy $63.12; Sturdavant's Auto Parts, Repairs/Supplies $1,499.56; Independent Publishing LLC, Advtssmnt Intersection Improvmt $120.52; Lyle Signs Inc, Signs $163.10; Lawson Products Inc, Nuts/Screws/Washers $579.42; Stan Houston Equip, Rbbr Hndl/Mortar Rpt/Cam/Anch/ $99.15; Sioux Valley News Inc, Advt Intersection Improvmt $67.20; Butler Machinery Co, Repairs- #35, 36 $915.84; South Lincoln Rural Water, Water-Hwy $100.20; Boyer Trucks Corp, Parts-Spring Bra/12 Rel $257.79; Brock White Construction Mat, Silt Fence Fencing/Turfing/St $1,419.65; Southeastern Electric Co-Op Inc, Electricity-Hwy $1,483.85; Diamond Mowers Inc, Repairs- #82 $776.57; Mido, Inc., Internet $11.17; Us Bank, Supplies-Office $35.77; Clark Engineering Corp, Project Costs $41,170.10; Geotek Engineering &Testing Sv, Project- Co Hwy 116 & Co H $170.00; Zabel Steel Co, Repairs- #44, #45 $569.74; A & B Pure Water Online Corp, Water $0.84; Novak Sanitary Sv Corp, Garbage/Recycling-Hwy $65.40; Lift Pro Equipment Co, Repair Flat Tire $256.64; Fastenal Company, Earplugs/Rapid Tap Pint $37.03; Canton Home & Farm Supply, Tape/Supplies/Sweeper/Bolts $58.98; Eneboe, Eric, Mileage-8/18-8/30/18 $454.44; Clark Engineering Corp, Project Costs $852.61; Us Bank, Help Wanted-Code Enfrcmt Off $99.00

HIGHWAYS: A-Ox Welding Supply Inc, Supplies $186.67; Concrete Materials, Warm Mix Asphalt/Ashphalt $43,983.74; Century Business Products, Copier Maint-Hwy $105.00; Graham Tire Co LLC-Corp, Repair Flat Tire Mower $181.55; MidAmerican Energy Co, Monthly Gas Usage-Hwy $63.12; Sturdavant's Auto Parts, Repairs/Supplies $1,499.56; Independent Publishing LLC, Advtssmnt Intersection Improvmt $120.52; Lyle Signs Inc, Signs $163.10; Lawson Products Inc, Nuts/Screws/Washers $579.42; Stan Houston Equip, Rbbr Hndl/Mortar Rpt/Cam/Anch/ $99.15; Sioux Valley News Inc, Advt Intersection Improvmt $67.20; Butler Machinery Co, Repairs- #35, 36 $915.84; South Lincoln Rural Water, Water-Hwy $100.20; Boyer Trucks Corp, Parts-Spring Bra/12 Rel $257.79; Brock White Construction Mat, Silt Fence Fencing/Turfing/St $1,419.65; Southeastern Electric Co-Op Inc, Electricity-Hwy $1,483.85; Diamond Mowers Inc, Repairs- #82 $776.57; Mido, Inc., Internet $11.17; Us Bank, Supplies-Office $35.77; Clark Engineering Corp, Project Costs $41,170.10; Geotek Engineering &Testing Sv, Project- Co Hwy 116 & Co H $170.00; Zabel Steel Co, Repairs- #44, #45 $569.74; A & B Pure Water Online Corp, Water $0.84; Novak Sanitary Sv Corp, Garbage/Recycling-Hwy $65.40; Lift Pro Equipment Co, Repair Flat Tire $256.64; Fastenal Company, Earplugs/Rapid Tap Pint $37.03; Canton Home & Farm Supply, Tape/Supplies/Sweeper/Bolts $58.98; Eneboe, Eric, Mileage-8/18-8/30/18 $454.44; Clark Engineering Corp, Project Costs $852.61; Us Bank, Help Wanted-Code Enfrcmt Off $99.00

911: Xcel Energy, Electricity $9.00; Mido, Internet $22.34; A & B Pure Water Online Corp, Water $29.95; Metlife, Employee Life Insurance $29.90
EMS: Verizon Wireless, Mobile Internet $42.63; Midco, Internet $11.16; Metlife, Employee Life Insurance $1.20
SOLID WASTE: Farm Gas Co-Op, Bulk Gas $585.45; South Lincoln Rural Water, Water-Transfer Station $51.20; Southeastern Electric Co-Op Inc, Electricity $280.00; AT&T Mobility, Mobile Internet $43.23; Vast Broadband, Phone-Transfer Station $53.01; Metlife, Employee Life Insurance $5.98
AIRPORT: Southeastern Electric Co-Op Inc, Electricity $290.63; Lincoln Co Rural Water, Water-Airport $5.00; Legacy Aviation LLC Corp, Airport Mgmt Fee-Sept $2,583.33; Vast Broadband, Phone-Airport $44.43
HIGHWAY BUILDING: Hoogendoorn Construction Inc, Hwy Building $175,354.80
LAW LIBRARY: Lexisnexis/Relx Inc, Law Library $280.00
PAYROLL:
Commissioner’s $4,478.00; FICA 224.12, Medicare 52.42
Auditor’s $11,463.20; FICA 621.13, Medicare 145.26, SDRS 1,007.83
States Attorney’s $31,674.91; FICA 1,765.33, Medicare 412.84, SDRS 1,900.49
Gen Gov Bldg $7,930.00; FICA 412.48, Medicare 96.48, SDRS 475.80
DOE $28,464.78; FICA 1,660.38, Medicare 388.29, SDRS 1,674.21
ROD $7,265.61; FICA 372.57, Medicare 87.14, SDRS 435.94
VSO $1,756.89; FICA 108.93, Medicare 25.47, SDRS 105.41
GIS $4,207.20; FICA 221.20, Medicare 51.74, SDRS 252.43
IT $4,613.10; FICA 268.76, Medicare 62.85, SDRS 276.79
WIC $274.24; FICA 17.00, Medicare 3.98
Sheriff’s $51,580.75; FICA 3,043.02, Medicare 711.68, SDRS 3,113.12
County 4-H $1,280.95; FICA 70.86, Medicare 16.57, SDRS 73.39
Weed Control $4,095.63; FICA 238.94, Medicare 55.88, SDRS 245.74
P & Z $10,018.79; FICA 593.04, Medicare 138.70, SDRS 412.46
Highway $34,003.41; FICA 1,925.25, Medicare 450.27, SDRS 2,040.20
Communications $20,103.86; FICA 1,137.51, Medicare 266.03, SDRS 1,206.23
EM MGMT $2,560.00; FICA 138.65, Medicare 32.43, SDRS 153.60
Transfer Station $4,014.72; FICA 210.11, Medicare 49.14, SDRS 233.62
Airport $488.56; FICA 30.29, Medicare 7.08
24/7 $1,968.01; FICA 119.54, Medicare 27.96

REPORTS:
Mileage reports were presented for Buildings and Grounds, Planning & Zoning, Highway, and Emergency Management for August 2018.

The Register of Deeds Report for August 2018 was presented in the amount of $95,997.30.

The Auditor’s Account with the County Treasurer for the month ending August 31, 2018 was presented as follows:  Total amount of deposits in bank, $5,399,278.77.  Total amount of actual cash, $11,346.38.  Total amount of checks and drafts in Treasurer’s possession not exceeding three days, $138,731.74. Total cash items, $748.43.  Funds invested, $11,746,766.77.  Total cash, $17,299,872.09.

PERSONNEL:


NOTICES & REQUESTS:
COMMISSIONER BRIEFING: Susan Irons, Veterans Services, asked for approval of out-of-county travel to Annapolis, MD for a VFW Training Conference October 15-19, 2018 and gave an update regarding Federal funding and enrollment services for FY2017 for Lincoln County.


COMMISSIONER BRIEFING: Jake Oakland, IT Director, requested several items be declared surplus and advised the Board of necessary software upgrades for the Register of Deeds.

MOTION by King and seconded by Poppens to declare the following items surplus for the IT department: item #2824, SWITCH Netgear 5pt 10/100, serial #1D517B34051AC (obsolete); item #2882, Print Server, HP JET (obsolete); item #4360 USB Printer (obsolete); item #5748,

MOTION by Poppens and seconded by Schmidt to approve the purchase of software for the Register of Deeds in the amount of $63,992.00, to be purchased out of the Register of Deeds Technology Fund, and to authorize Chair to execute the License and Services Agreement with Tyler Technologies for the software. King: “Aye” Schmidt: “Aye” Poppens: “Aye” Gillespie “Aye”. Motion carried.

PUBLIC COMMENT:
Jeff Barth, Minnehaha County Commissioner, attended the Lincoln County Commission meeting and introduced himself as an observer.

Commissioner Jim Schmidt stated he just returned from the State Convention where several awards were given out. He recognized the hard work by Buildings and Grounds Superintendent John Rombough in Lincoln County’s receipt of gold and platinum awards for safety.

REGULAR BUSINESS:
COMMISSIONER BRIEFING: John Rombough, Buildings and Grounds Superintendent, mentioned much credit for the safety awards goes to the excellent training by the Highway Department and Sheriff’s Office. He also presented quotes for carpeting upgrades associated with the space repurposing in the Department of Equalization. Rombough said he hoped to have quotes for electrical work too, but he has not been able to meet with anyone yet.

MOTION by Poppens and seconded by King to approve the purchase of carpet in the amount of $7,186.43 from Canton Home & Farm Supply and installation costs in the amount of $3,000.00 from Pro Flooring for the Department of Equalization. King: “Aye” Schmidt: “Aye” Poppens: “Aye” Gillespie “Aye”. Motion carried.

Commissioner Poppens briefed the Commissioners as to County Lien #9030. Application for Compromise/Settlement was received, Commissioners Poppens and Long reviewed the same, and they recommend that this lien be approved for compromise.


Commissioner Long joined the meeting by telephone.

PUBLIC HEARING was held as published at 9:30 a.m. on the appeal of the Planning Commission’s decision rendered on Conditional Use Permit 18-CUP-025: Conditional Use Permit proposing to allow the construction and operation of a Class C Swine CAFO (2,499 head). The property is a portion of the property legally described as the Northeast quarter (NE1/4) of Section 3, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota. Location: Southwest corner of the intersection of 291st Street & 474th Avenue – Beresford. Planning Commission approved (4-1-1).

COMMISSIONER BRIEFING: Planning & Zoning Director Toby Brown presented information on the application and background of this matter. He also included an updated Staff Report and a PowerPoint presentation with maps, conditions, and other information. Brown advised his department recommends upholding the Planning & Zoning Department’s decision, with amendment to the Conditions, with the addition of numbers 15-17. Commissioner Schmidt asked Brown to review the original 14 conditions for the record, which Brown read aloud while also displaying on the screen. Brown also advised while Class C permits a maximum of 2,499 animals, this barn plans for 2,400.

Commissioner Poppens questioned the boring tests, which Brown stated is a State requirement of DNR standards. Commissioner Schmidt indicated he was interested in some of the local contractors to be used for much of the work associated with building the facility as well as feeding the animals. Commissioner Schmidt reiterated that these kinds of operations bring economic development to rural areas. They have expanded their business and building a new feed mill, which will employ 15 people.

Lance Thury, Parkston-Kaylow Grain & Feed – Thury reiterated that these kinds of operations bring economic development to rural areas. They have expanded their business and building a new feed mill, which will employ 15 people.

Reid Jensen, South Dakota Farm Bureau – Jensen stated he knows Zylstra and how he runs his business. Right now it’s hard for farmers to expand and be profitable. Zylstra is doing all the right things.
Opponents:
Al Hoines is the closest neighbor to the proposed building site. He says neighbors are not as agreeable as Zylstra claims. 140 people have already signed a petition to stop the project. He is upset that this whole situation is changing the culture of the neighborhood. He believes setbacks need another look to put more space between barns and houses. He understands the legal aspect and the need for farmers to expand, but just thinks this is the wrong location.

Faith Kinkner lives half mile south of the site. She read a letter from her doctor regarding her worsening asthma symptoms, which the doctor attributes to exposure to commercial hog farming. She also shared a story of a friend who died due to an asthma attack. Kinkner also raised concerns about the increase of MRSA and the accuracy of the odor tool.

Andre Adams lives one mile south of the site. His main concern is decreased property values. He stated he is not against ag.

Larry Kinkner lives half mile south of the site. He explained that he and his wife have built up their property over the last 50 years, and is concerned that they will be forced off their land due to his wife’s health issues. He also worries about decreased property values.

Don Abbas, Worthing, believes the conditions and rules/requirements need to be updated before more CAFOs are allowed. He recommends following the SDSU and Iowa State guidelines for setbacks, tree shelters, biofilters, fencing, etc. He would also like to see signage requirements stating who owns and is responsible for the property with emergency phone numbers posted. He admires how the neighbors have come together. He also cautions that since Sioux County, Iowa has begun updating their requirements, the operators will start moving here.

Brad Venjohn agrees with everything Hoines said. His brother-in-law lives near Zylstra’s #2 barn and the odor from that barn is horrible at times. This past weekend the family had a birthday party for Venjohn’s nephew and the party was forced indoors after the smell became unbearable.

Mike Pederson lives near one of Zylstra’s other barns and is the neighbor Zylstra claimed to be working with regarding the smell there. He said he does not call Zylstra every time he can smell the barn. He discussed a pit additive study and stated alternatives need to be looked at, such as adding spice or essential oils, or soybean or canola oil, which may be more effective. He added that Zylstra has told him when more additive is used, the pit just “boils” which tells Pederson that more gasses are released. Pederson believes the Iowa odor footprint tool should be used as it is more accurate.

Tony Ventura, Hudson, questioned the statement on the application that states pit additives will be used as necessary. Ventura asked who decides when and how much additive. He also wonders who monitors fly mitigation. He has concerns about not all animal confinements being shown on Lincoln County’s map which is used to determine concentration areas. Ventura believes these barns should follow commercial guidelines. He also voiced concerns about camera operations and the security of curtain barns. In his opinion, pits should be fenced for the safety of owner(s) and anyone who may wander in. He reiterated the need for signage showing emergency information, including the physical address of the CAFO and contact phone numbers as well as 911.

Ernest Straatmeyer, Worthing, lives near two of these facilities. He raised questions about the procedures for mortalities and safety concerns about absentee operators. He presented a calendar showing an odor log he has kept. He stated one of the barns has been operating for a year without the conditions set forth having been met. According to Straatmeyer, the worst part isn’t the odor, but disease-carrying particles being airborne. An additional problem is the breakdown of the roads and who pays for repairs. He requests a moratorium be placed until more rules are enacted.

Glenadene Aamot lives about a mile away, downhill, from the site. She worries about the water supply with the waste eventually ending up in the aquifer.

Attorney Mitch Peterson of Davenport Evans in Sioux Falls spoke on behalf of several citizens. He stated he has been involved in several CUP appeal cases, some of which have gone before the South Dakota Supreme Court. He advised the Commission has a two-fold responsibility to evaluate the application. First, are the CAFO minimums met? If not, the project cannot proceed. However, even if minimums are met, the Commission may consider the application more subjectively and take into consideration the public’s concerns to determine if this project fits the area. He believes a Professional Engineer should be involved and a full report presented before a decision is made. Peterson also pointed out that just one more hog would move this barn into another class with ordinances (such as half-mile setbacks) which would render this project unpermitted.

The Commissioners asked for clarification of a few points from those in attendance and held brief discussion amongst the Board.

Commissioner Long disconnected the telephone call and left the meeting.

COMMISSIONER BRIEFING: Auditor Marlene Sweeter requested approval to issue a check out of the regular claim process due to circumstances associated with wetlands in the Delaware Township road project area.

MOTION by Poppens and seconded by Schmidt to authorize Auditor to issue a check out of the regular claim process in the amount of $154,700 to Ducks Unlimited for Westland Credits for the Delaware Township road project. King: “Aye” Schmidt: “Aye” Poppens: “Aye” Gillespie “Aye”. Motion carried.

MOTION by Poppens and seconded by King to approve and adopt the Public Comment Policy as presented effective beginning with the meeting on 9/25/2018. King: “Aye” Schmidt: “Aye” Poppens: “Aye” Gillespie “Aye”. Motion carried.

The Lincoln County Board of Commissioners

Public Comment Policy

The Lincoln County Board of Commissioners provides time for Public Comment at each meeting pursuant to SDCL §1-25-1. All comments and suggestions shall be subject to the following guidelines:

1. In order to ensure that everyone who wishes to speak has the opportunity to do so, comments will be limited to five (5) minutes per speaker. A maximum of thirty (30) minutes per meeting will be allotted for Public Comment. Each person who would like to speak shall sign in on the register at the entrance to the Commission room before the start of the meeting.

2. Public Comment shall be heard at the beginning of each regular meeting immediately following the first two items under Routine Business (approval of current Agenda and approval of previous Minutes). Persons wishing to speak shall be prepared to do so at 8:30 a.m.

3. There shall be no more than three (3) speakers on the same topic. If several people wish to speak on the same subject, the group must appoint a spokesperson.

4. Speakers shall address the Board of Commissioners from the podium at the front of the room and begin their remarks by stating their name and address for the record. Speakers who require special accommodations should contact the Lincoln County Auditor’s Office not less than twenty-four (24) hours prior to the meeting.

5. Public Comments shall be germane to the services or policies of the County.

6. Speakers who have prepared written remarks or supporting documents are required to leave a copy of such remarks and documents with the Commission Clerk. Please provide a minimum of six (6) copies of any documents.

7. Speakers shall at all times maintain proper decorum, being courteous in their language and presentation. Failure to abide by this requirement may result in forfeiture of the speaker’s right to speak. Speakers shall not use profanity or racial slurs. All comments must be made in a civil manner, without making obscene, derogatory, or slanderous remarks. Personal attacks will not be permitted.

8. Speakers shall not discuss the following: candidacy of any person seeking public office, including the candidacy of the person addressing the Board and subjects discussed in executive session, including, but not limited to, matters within the attorney-client privilege, anticipated or pending litigation, personnel, property acquisition, and matters which are made confidential by law.

9. The Chairman may interrupt or terminate an individual’s statement when it is too lengthy, personally directed, abusive, obscene, repetitive, or irrelevant.

10. Public Comment is not intended to require the Board of Commissioners to answer any impromptu questions. Speakers shall address all comments to the entire Board and not to individual Commissioners. Speakers should expect the Commissioners to refrain from engaging in dialogue, except to the extent necessary to clarify the speaker’s position. The Board will not entertain questions or comments called out from the audience. Discussions between speakers and members of the audience shall not be allowed.

11. No Public Comments shall be allowed regarding pending or tabled items. The proper time for comment on such items shall be at the date and time set for Public Hearing of said item.

12. No action will be taken on any item(s) presented during the Public Comment portion of the meeting on any issues brought forth that are not properly noticed on the Agenda. When appropriate, the Board may refer inquiries and items brought up during Public Comment to the proper department for follow-up.

Lincoln County Board of Commissioners

Attest: ____________________
Celeste Saylor, Deputy Auditor

Approved ____________________

Please publish the week of October 1, 2018.