

**OFFICIAL PROCEEDINGS OF THE
BOARD OF COUNTY COMMISSIONERS
MCKENZIE COUNTY, NORTH DAKOTA**

March 1, 2016

The Board of Commissioners of McKenzie County, North Dakota met at the Commissioner's Room at the McKenzie County Courthouse in Watford City, North Dakota on March 1, 2016. Present: Commissioners Richard Cayko, Doug Nordby, Ron Anderson, Vawnita Best, and Kathy Skarda, Auditor Svihovec, Deputy Auditor Johnsrud, and State's Attorney Rodenbiker. Chairman Cayko called the meeting to order at 9:00 a.m.

Brad Solberg presented the Treasurer's Report for the period ending February 29, 2016. Moved by Skarda, seconded by Nordby, to approve the Treasurer's Report, minutes, and bills as presented with the exception of three Sheriff's Office Vouchers for out of state travel (Defensive Edge, Douglas Pechtel, John E. Reid). All voting aye, motion carried.

Iida Lehto, American Legion Oratorical State Champion, presented her winning speech to the Board and those present at the meeting.

Facility Manager Carlson presented a proposal for \$6,580 for installation of an emergency shower at the Weed Board building. Moved by Nordby, seconded by Skarda, to approve the proposal for an emergency shower as presented. All voting aye, motion carried.

Lance Powell, Alexander Rural Fire District, requested a budget contribution from the Board to cover the balance due on a crash/rescue truck. Moved by Anderson, seconded by Nordby, to approve a \$79,000 budget contribution to the Alexander Rural Fire District toward the purchase of a crash/rescue truck. All voting aye, motion carried.

Moved by Anderson, seconded by Skarda, that the \$50,000 payment made to Montana Fire and Safety for a foam trailer is viewed by the Board as a contribution to the Alexander Rural Fire District. The Alexander Rural Fire District will resume ownership and liability for the trailer upon delivery. Emergency Manager Jappe is to obtain authorization, in writing, from Phillips 66 to transfer the \$50,000 grant from McKenzie County to the Alexander Rural Fire District for purchase of the foam trailer. All voting aye, motion carried.

Powell also discussed obtaining a portion of the building department fees back to the fire districts to assist with equipment purchases. The Board recommended that research be done as to what other fire districts in the State are doing for additional funding.

Moved by Anderson, seconded by Nordby, to award the bid for reconstruction of the Northern Bypass Phase II to Central Specialties, Inc. for \$29,881,555.46. All voting aye. PWD Kanwar reported that Martin Vettleson donated his 28.21 acres for right of way acquisition, valued at \$56,420.00. The Board authorized Kanwar to seek proposals for engineering services for the Northern Bypass Phase II construction survey.

Moved by Anderson, seconded by Skarda, to approve the Landfill Engineering services proposal from Burns & McDonnell Engineering Company Inc. for general services at \$175,000 for 2016 and also the Landfill Permitting services proposal. All voting aye, motion carried.

Jeff Shaffer updated the Board on the function and operation of the Fuel Master System.

PWD Kanwar updated the Board that he and HR Manager Willis are researching the possibility of separating the Building Department from the Planning Department. Kanwar also discussed that they are researching possibly combining the Building Department Official and Fire Marshall positions.

Highway Superintendent Dollinger presented proposals from International, utilizing the State bid, for the following trucks: Sign Truck Chassis at \$84,950.00 and Snow Plow Trucks at \$341,580.00. Dollinger requested to replace one snow plow truck and purchase two additional trucks for a total of three. Dollinger also requested approval to purchase one sign truck. Moved by Nordby, seconded by Best, to approve the purchase of three snow plow trucks and one sign truck from International, per the proposal presented by Dollinger. All voting aye, motion carried.

Moved by Anderson, seconded by Nordby, to approve Dollinger's request to add to the gravel stockpiles. All voting aye, motion carried.

Justin Smith, Watford City Public Works Superintendent, presented right of way easements and temporary construction easements in areas near the County Shop and LE Center, involving 11th Street improvement project. The Board tabled decision until revised easements with legal descriptions are presented.

County Housing Coordinator, Sarah Skarda, updated the Board on her position status and future options for expansion of her duties. Gene Veeder and Brent Sanford discussed that Skarda would fulfill a community role as essential workforce housing coordinator. Sanford and Veeder requested that Skarda's duties include management of Wolf Run Village apartments. The Board advised that Skarda and Veeder work with State's Attorney Rodenbiker on drafting a contract for that service.

The meeting recessed for lunch at 12:05 p.m.

The meeting reconvened at 1:00 p.m. and sealed bids were opened for nine county owned mobile homes. Bids will be awarded at 2:00 p.m. to the highest bidders.

Abatement Applications were presented to the Board. Alice Olson requested the Board purchase all of her property. Chairman Cayko indicated that the County was not interested in purchasing the property.

Moved by Best, seconded by Skarda, to approve the abatement applications as presented, affirming the denial by City of Watford City on all four of applications submitted by Alice Olson. All voting aye, motion carried. Approved abatement applications were for the following: City of Watford City (exempt properties); Joint Venture LLC (2016 mobile homes); McKenzie County Ambulance (emergency responder housing); First International Bank (duplicate assessment); Jennifer Jensen (abate garage value no longer on property); Harry & Melanie Smith (Veterans credit refund); William and Shirley Bottke (correct valuation to match CAMA).

Trevor Hunter, Crowley Fleck Law Firm, representing The Watford Hospitality Group LLC, presented information regarding the omitted property tax notice his client received from the Auditor. Mr. Hunter requested an extension of 45-60 days to allow time for his client to obtain an independent appraisal. State's Attorney Rodenbiker asked several questions to Mr. Hunter, Tax Director Paulson, and City Assessor Olson regarding the assessment process.

Moved by Anderson, seconded by Best, to approve the assessment and true and full value of \$4,259,700 for the omitted building on Watford Hospitality Group LLC property, described as IT 2091 part of SE1/4NW1/4 of Section 24, Township 150 North, Range 99 West, New Addition, Watford City (Tax Parcel ID #82-46-00150), for tax years 2013, 2014, and 2015; and to waive the accrued interest and penalty if the taxes are paid in full within 60 days (April 30, 2016). All voting aye, motion carried.

Moved by Nordby, seconded by Skarda, to award bid on Property #1 to Dennis Rothang for \$12,100.00. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to award bid on Property #2 to Dennis Rothang for \$15,100.00. All voting aye, motion carried.

Moved by Nordby, seconded by Skarda, to award bid on Property #3 to Paul & Dez Sorenson for \$25,100.00. All voting aye, motion carried.

Moved by Nordby, seconded by Skarda, to award bid on Property #4 to Dean Hepperle for \$18,011.00. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to award bid on Property #5 to Ken Sanford for \$21,000. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to award bid on Property #6 to Dennis Rothang for \$12,100.00. All voting aye, motion carried.

Moved by Nordby, seconded by Skarda, to award bid on Property #7 to Dennis Rothang for \$12,100.00. All voting aye, motion carried.

Moved by Nordby, seconded by Skarda, to award bid on Property #8 to Paul & Dez Sorenson for \$22,599.00. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to award bid on Property #9 to Doug Williamson for \$30,300.00. All voting aye, motion carried.

Dennis Rothang stated he only wanted Property #6. Rothang declines his bids on Properties 1, 2, and 7. Properties 1, 2, and 7 will go to next highest bidder.

Moved by Anderson, seconded by Skarda, to reconsider Properties 1, 2, and 7 and to award bids on Properties 1, 2, and 7 to Watford City Enterprises, LLC for \$9,000 each. All voting aye, motion carried.

Moved by Skarda, seconded by Best, to provide a 30 day notice to terminate the lot leases with Watford City Enterprises. All voting aye, motion carried.

The Board of Commissioners recessed to the County Park Board at 2:37 p.m., reconvening at 3:15 p.m.

Brent Bogar, NDAOGPC, presented updated revenue forecasts as follows: GPT Distribution to Political Subdivisions (State Forecast): \$630 Million down to \$438 Million. Biennium County General Fund: \$35 Million at \$20/barrel; \$40 Million at \$25/barrel; \$47 Million at Average (includes OMB forecast).

Moved by Nordby, seconded by Anderson, to approve Law Enforcement Center Change Order #1 for \$185,835.00. All voting aye, motion carried.

Assistant State's Attorney Neff updated the Board on status of Flat Top Road lawsuit. Mediation has taken place and was not successful. Neff also explained that charges on the bill from Epic Engineering were for review of survey records, deposition and preparation for mediation.

State's Attorney Rodenbiker discussed Dunn County's litigation with ND Industrial Commission regarding siting waste treatment facilities without county approval. The Board supported Rodenbiker pursuing support from neighbor counties and/or the NDACo in support of Dunn County's position.

Rodenbiker informed the Board that County vs. Buzick Quiet Title Action has been dismissed and recommended that no further action be taken. Moved by Anderson, seconded by Best, to follow the recommendation of State's Attorney Rodenbiker on the County vs. Buzick Quiet Title Action. All voting aye, motion carried.

Commissioner Cayko asked for a motion to close the meeting and enter into Executive Session for attorney consultation on the C.E. Brooks Quiet Title Action litigation pursuant to NDCC § 44-04-19.1. Moved by Best, seconded by Nordby, to move into Executive Session to discuss pending litigation. Roll call vote: Anderson, aye; Best, aye; Cayko, aye; Nordby, aye; Skarda, aye. Motion carried.

Executive Session began at 4:20 p.m. and was attended by Commissioners Anderson, Best, Cayko, Nordby, Skarda; State's Attorney Rodenbiker; Deputy Auditor Johnsrud; Auditor Svihovec. Executive Session was adjourned at 4:30 p.m. The public was invited to return to the meeting room and the meeting returned to open session. During Executive Session a motion was made to adopt the advice of the outside counsel.

Commissioner Cayko asked for a motion to close the meeting and enter into Executive Session for attorney consultation on the Great American Lodge escrow agreement pursuant to NDCC § 44-04-19.1. Moved by Anderson, seconded by Nordby, to move into Executive Session to discuss pending litigation. Roll call vote: Anderson, aye; Best, aye; Cayko, aye; Nordby, aye; Skarda, aye. Motion carried.

Executive Session began at 4:35 p.m. and was attended by Commissioners Anderson, Best, Cayko, Nordby, Skarda; State's Attorney Rodenbiker; Deputy Auditor Johnsrud; Auditor Svihovec. Executive Session was adjourned at 4:45 p.m. The public was invited to return to the meeting room and the meeting returned to open session. During Executive Session a motion was made to adopt the advice of State's Attorney Rodenbiker.

HR Manager Willis presented two sick leave donation requests. Moved by Best, seconded by Skarda, to approve the sick leave donation of Debbie Johnston (40 hours),

Sandy Meyer (40 hours), and Jeff Shaffer (40 hours) to Cindy Smith. All voting aye, motion carried. Moved by Anderson, seconded by Skarda, to approve the sick leave donation of Lloyd Clock (40 hours), Mike Ficken (20 hours), Tony Blass (20 hours), Max Kasner (20 hours), Ryan Sinclair (20 hours), Travis Bateman (20 hours), and Korey Lass (20 hours) to Bob Perry. All voting aye, motion carried. HR Manger Willis also presented a donated sick leave request for Nicole Shahin but had not received any information regarding length of time out or when she would return. The Board tabled this request until more information can be obtained.

The Board tabled the Personnel Policy review to the March 15, 2016, meeting.

Moved by Anderson, seconded by Best, to reconsider the motion for setting the omitted property building value. All voting aye, motion carried.

Moved by Anderson, seconded by Best, to approve the assessment and true and full value of \$4,259,700 for the omitted building on Watford Hospitality Group LLC property, described as IT 2091 part of SE1/4NW1/4 of Section 24, Township 150 North, Range 99 West, New Addition, Watford City (Tax Parcel ID #82-46-00150), for tax years 2013, 2014, and 2015; and to waive the accrued interest and penalty if the taxes are paid in full within 60 days (April 30, 2016) without protest or appeal. All voting aye, motion carried.

The meeting recessed at 5:24 p.m. until March 15, 2016, at 1:00 p.m.

March 15, 2016

At 11:00 a.m. Commissioners Cayko, Best, Nordby, and Skarda participated in a tour of the Hahn McKenzie Park Apartment complex with Superintendent Holen, Mayor Sanford, Gene Veeder, and Sarah Skarda prior to the meeting reconvening at 1:00 p.m.

The Board of Commissioners of McKenzie County, North Dakota met at the Commissioner's Room at the McKenzie County Courthouse in Watford City, North Dakota on March 15, 2016. Present: Commissioners Richard Cayko, Doug Nordby, Kathy Skarda, and Vawnita Best, Auditor Svihovec, and State's Attorney Rodenbiker. Absent: Commissioner Anderson. Chairman Cayko called the meeting to order at 1:00 p.m.

Moved by Nordby, seconded by Skarda, to approve the Planning & Zoning Consent Agenda as presented. All voting aye, motion carried. Approved was Oneoke "Spring Creek" – CUP. Denied was West Dakota Water – CUP.

RESOLUTION PERMITTING OBSTRUCTION OF SECTION LINE

WHEREAS, a petition to close a portion of a section line roadway in Township 152 North, Range 94 West of the 5th Principal Meridian has been filed in the office the McKenzie County Auditor, being further described as:

All in Township 152 North, Range 94 West of the 5th P.M.

Beginning at a point in the SW1/4SE1/4 of Section 31, T152N, R94W, 5th P.M. which bears N87°30'28"E 748.64' from the South ¼ corner of said Section 31, thence S89°57'56"E 881.77'; thence S01°00'04"E 8.60'; thence S67°51'20"W 64.64'; thence N89°57'54"W 546.08'; thence N00°07'32"E 23.91'; thence N88°04'45"W 276.18' to the point of beginning. Contains 0.471 acres more or less.

WHEREAS, Notice of Hearing was given and duly held by the McKenzie County Board of Commissioners on Tuesday, March 15, 2016 at 1:00 PM CDT in the Commissioners Room of the McKenzie County Courthouse, Watford City, North Dakota, with Commissioners Cayko, Nordby, Skarda, and Best present, and

WHEREAS, the petitioner and the Commissioners agreed that written permission to obstruct the section line right of way rather than closing the section line was a more appropriate solution, and

WHEREAS, the section line described above does not have an improved road and is not traveled by the public, and

WHEREAS, testimony has been received and evidence examined in favor of allowance of the obstruction of said section line as above described, on motion made by Commissioner Nordby, seconded by Commissioner Best, and a vote of 4 aye and 0 nay,

IT IS RESOLVED by the Board of County Commissioners for McKenzie County, North Dakota, that is in the interest of the public and the parties involved granting the relief agreed to and hereby permitting the section line to be obstructed as described.

Moved by Skarda, seconded by Nordby, to adopt the Law Enforcement Services Memorandum of Agreement between McKenzie County and the City of Alexander. All voting aye, motion carried.

Moved by Best, seconded by Skarda, to approve the Facilities Agreement with the City of Arnegard for January 1, 2016 to December 31, 2016 as presented. All voting aye, motion carried.

Moved by Skarda, seconded by Nordby, to approve the water bills and others as presented. All voting aye, motion carried.

Watford City Public Works Director, Justin Smith, presented a Temporary Construction Easement for Parcel No. 30-5A part of Lot 1, Block 1 in Peace and Justice Addition; as well as a Right of Way and Utility Corridor Easement for Parcel No. 29-1 part of Lot 1, Block 2, Peace and Justice Addition. Moved by Nordby, seconded by Best, to table decision on easements until the next meeting, allowing time for SA Rodenbiker to review the documents. All voting aye, motion carried.

Watford City Police Chief, Art Walgren, invited the Board to participate in Keith Braddock Memorial Dedication to be held on March 20, 2016 at 2:00 p.m. at the Civic Center.

Sheriff Schwartzenberger inquired as to the status of 2015 and 2016 Watford City Jail Facilities Agreement. Auditor Svihovec reported that she had provided copies of the most recent agreement as well as the calculations used to arrive at the contract agreement amount and reminded the Board that they had directed the Sheriff, early in 2015, to work with the Chief Walgren on developing an agreement for 2015 and 2016.

Moved by Nordby, seconded by Skarda, to approve the resolution declaring a Fire Emergency and Burn Ban for McKenzie County. All voting aye, motion carried.

Fire Emergency and Burn Ban Resolution for McKenzie County, North Dakota

WHEREAS, McKenzie County, North Dakota has very dry conditions with significant fuel supplies available; and

WHEREAS, McKenzie County, North Dakota has sustained or been threatened with rural fires as of this date, and the McKenzie County Department of Emergency Services has been in consultation with local fire departments; and

WHEREAS, all available resources remain committed to protecting life and property; and

WHEREAS, the cost of response, inordinate equipment wear and fire damages may be in excess of County resources.

NOW THEREFORE, BE IT RESOLVED, that the Board of McKenzie County Commissioners declare a Fire Emergency and Burn Ban to include a ban on ignition of fireworks, garbage burning, campfires, burning of farm or crop land and unnecessary off-road motorized travel when the North Dakota Rangeland Fire Index is in the High, Very High, or Extreme category and/or a Red Flag Warning has been issued for McKenzie County, North Dakota. The daily Rangeland Fire Index can be found at the following web site: http://www.crh.noaa.gov/bis/?n=fire_weather_public

ANY INDIVIDUAL WHO WILLFULLY VIOLATES THE BURN BAN IS GUILTY OF A CLASS B MISDEMEANOR (NDCC 37-17.1-10.1: MAXIMUM SENTENCE OF 30 DAYS IN JAIL AND A \$1500 FINE), AND RESTITUTION OF FIRE SUPPRESSION COSTS MAY BE SOUGHT FROM THE COURT.

Moved by Nordby, seconded by Skarda, to authorize Watford Hospitality Group LLC to receive the 5% discount on 2015 taxes if paid in full by April 30, 2016; and to acknowledge that by statute, the 2015 taxes can be paid in two installments (halves) without penalty, if the first installment is paid by March 1, 2016 and the second installment is paid by October 15, 2016, so that the second installment would not accrue interest or penalty provided it is paid by October 15, 2016, according to the Watford Hospitality Group LLC Tax payment options spreadsheet presented to the Board, which was the spreadsheet previously emailed to Trevor Hunter who represents the WHG. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to approve the Central Specialties Inc. construction contract, with stipulated price, for Northern Bypass Phase 2. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to approve the Property Management Agreement for Housing Coordinator to manage Wolf Run Village per agreement terms as presented, effective March 15, 2016. Cayko, Best, Nordby all voting aye, with Skarda abstaining, motion carried.

Wayne Olson and Butch Fleck have both expressed interest in filling the vacant position on the Planning and Zoning Board. Following discussion regarding both individuals, and acknowledging that both individuals would be excellent Planning & Zoning Board members, it was moved by Skarda, seconded by Nordby, to appoint Butch Fleck to serve 4 year term on the Planning & Zoning Board with a term expiring January 31, 2020. All voting aye, motion carried.

Public Works Director Kanwar presented a flood plain map and requested signature authorization for Jeff Shaffer to sign the Community Acknowledgement Form on County's behalf for the Hawk Creek Development floodway designation. Moved by Nordby, seconded by Skarda, to table the signature authority for the Community Acknowledgement Form. All voting aye, motion carried.

Moved by Nordby, seconded by Best, to approve purchasing 40,000 yards crushed scoria from Rink Construction at \$12.00/yard (5 year stockpile agreement). All voting aye, motion carried.

Highway Superintendent Dollinger presented a proposal for fencing the 32 acres purchased from Hegg's for the new county shop site from Dakota Fence for \$127,820.00. Board suggested signing the site immediately.

Dollinger requested approval to seek RFP for reconstruction of 8.1 miles for Route 31 improvements with an estimated cost of \$1.2 Million, (cement work \$800,000 and \$300,000 for gravel). Moved by Best, seconded by Skarda, to authorize Dollinger to seek a RFP for 8.1 miles of gravel reconstruction on Route 31. All voting aye, motion carried.

HR Manager Willis presented several sick leave donation requests to the Board. Moved by Best, seconded by Skarda, to approve the request for sick leave donation to Nicole Shahin as follows: Lloyd Clock 40 hours, Mike Ficken 20 hours, Ryan Sinclair 20 hours, Corey Lass 20 hours, and Catlin Sitting Bear 20 hours. All voting aye, motion carried. Moved by Best, seconded by Skarda, to deny Kelsey Aman's sick time donation to Sharon Lane in the amount of 39 hours and to Karen Thompson in the amount of 100 hours. All voting aye, motion carried. The Board authorized Willis to solicit donation of sick leave for Lane from current employees because Aman has submitted her termination notice.

HR Manager Willis presented a position description and classification for Assistant County Engineer. Moved by Skarda, seconded by Nordby, to approve the Assistant Engineer position description, without changing any current employee classifications. All voting aye, motion carried.

Commissioner Cayko asked for a motion to close the meeting and enter into Executive Session for attorney consultation on the Flat Top Road Lawsuit pursuant to NDCC § 44-04-19.1. Moved by Best, seconded by Skarda, to move into Executive Session to discuss pending litigation. Roll call vote: Best, aye; Cayko, aye; Nordby, aye; Skarda, aye. Motion carried.

Executive Session began at 4:10 p.m. and was attended by Commissioners Best, Cayko, Nordby, Skarda; Assistant State's Attorney Neff; and Auditor Svihovec. Executive Session was adjourned at 4:36 p.m. The public was invited to return to the meeting room and the meeting returned to open session.

SA Rodenbiker updated the Board on the escrow agreement with Great American Lodge. Attorneys for Great American Lodge requested the Board reconsider their request to deposit the escrow funds with another escrow agent. Rodenbiker discussed options for the funds held in escrow.

Moved by Skarda, seconded by Best, to direct State's Attorney Rodenbiker to seek authorization to deposit Great American Lodge escrow funds in a McKenzie County held Trust account. All voting aye, motion carried.

Moved by Best, seconded by Skarda, to approve sick leave donations to Sharon Lane from Malissa Schroeder in the amount of 30 hours and Sandy Meyer in the amount of 5 hours. All voting aye, motion carried.

HR Manager Willis reported that Social Services Director Des Sorenson indicated that Karen Thompson will have a 6 month checkup at the end of April and that her employment status would be reviewed at that time.

Moved by Skarda, seconded by Nordby, to deny Karen Thompson's request for donated sick leave, as she is able to work 30 hours per week and is earning 4 hours of vacation and sick leave each pay period that can be used to assist in making up lost hours. All voting aye, motion carried.

The meeting adjourned at 5:30 p.m. until April 5, 2016, at 9:00 a.m.

Linda Svihovec, Auditor

Richard Cayko, Chairman