

McPherson County Board of Commissioners
Minutes of Proceedings
August 15th, 2023

The McPherson County Board of Commissioners met in special session on Tuesday, August 15th, 2023 in the Commissioners chambers. Chairman Rick Beilke called the meeting to order at 9:05AM. Members present were Anthony Kunz, Mark Opp, Sid Feickert, and Jeff Neuharth. Others present State's Attorney Austin Hoffman.

Opp moved and Neuharth seconded to approve the agenda of the August 15th Special Meeting with the addition of a public comment period for items not on the agenda. All voted in favor. Motion carried. No conflicts of interest were declared.

A second reading by title was held at 9AM for ordinance 23-1 an ordinance establishing permitting requirements for hazardous material pipelines to the McPherson County planning and zoning ordinance #10-2. The board reviewed the ordinance. Opponents of the ordinance spoke. Neuharth moved and Feickert seconded to accept the second reading of Ordinance 23-1 an ordinance establishing permitting requirements for hazardous material pipelines to the McPherson County planning and zoning ordinance #10-2. All voted in favor. Motion carried.

A second reading by title was held for ordinance 23-2, an ordinance establishing the level of Cultivation to the McPherson County planning and zoning ordinance #10-2. The board reviewed the ordinance. Opp moved and Kunz seconded to accept the second reading of Ordinance 23-2, an ordinance establishing the level of Cultivation to the McPherson County planning and zoning ordinance #10-2. All voted in favor. Motion carried.

Kunz moved and Feickert seconded to adopt Ordinance 23-1, an ordinance establishing permitting requirements for hazardous material pipelines to the McPherson County planning and zoning ordinance #10-2. All voted in favor. Motion carried.

Neuharth moved and Opp seconded to adopt Ordinance 23-2, an ordinance establishing the level of Cultivation to the McPherson County planning and zoning ordinance #10-2. All voted in favor. Motion carried.

The Notice of Adoption for Ordinance 23-1 and 23-2 as well as Ordinances 23-1 and 23-2 are on file in the Auditor's Office and online for public view at <https://mcpherson.sdcounties.org/>.

RESOLUTIONS:

RESOLUTION NUMBER 23-7
"PLAT APPROVAL"

"Be it resolved by the Board of County Commissioners of McPherson County South Dakota, that the plat, "Plat of Lot 1 of Rath Addition, in the NW1/4 of Section 8, Township 125, Range 67 West of the 5th P.M., McPherson County, South Dakota", having been examined, is hereby approved in accordance with the provisions of SDCL 11-2-3, and any amendments thereof."

Dated this 15th day of August 2023 at Leola, South Dakota.

ATTEST:
Lindley Howard
McPherson County Auditor

Rick Beilke
Chairman of Board of Commissioners

Neuharth moved for the adoption of Resolution Number 23-7, Feickert seconded the foregoing motion. Upon roll call vote, Kunz, Neuharth, Feickert, Opp and Beilke all voted in favor. Motion carried, and resolution number 23-7 was declared duly adopted.

RESOLUTION NUMBER 23-8
“RESOLUTION IN SUPPORT OF EMINENT DOMAIN REFORM”

WHEREAS, the Fifth Amendment to the United States Constitution states that “Nor shall private property be taken for *public use*, without just compensation.” *U.S. Const. Amend. V. (emphasis added)*.

WHEREAS, the South Dakota State Constitution provides that “Private property shall not be taken *public use*, or damaged, without just compensation[.]” *SD CONST Art. 6 § 13 (emphasis added)*.

WHEREAS, the omission of “private use” from these laws implies a complete prohibition on the taking of private property for non-public purposes.

WHEREAS, on July 6, 2023, hundreds of citizens held a rally in Pierre in support of revisions to the South Dakota eminent domain law, culminating with approximately 2,000 signatures in support of eminent domain reform.

WHEREAS, the McPherson County Board of Commissioners is in support of the Constitutional rights of property owners.

NOW THEREFORE BE IT RESOLVED, that the Board of McPherson County Commissioners is in support of the Governor and Legislature revising South Dakota law to eliminate the taking of private property for non-public use.

Dated this 15th day of August 2023 at Leola, South Dakota.

ATTEST:
Lindley Howard
McPherson County Auditor

Rick Beilke
Chairman of Board of Commissioners

Kunz moved for the adoption of Resolution Number 23-8, Neuharth seconded the foregoing motion. Upon roll call vote, Kunz, Neuharth, Feickert, Opp and Beilke all voted in favor. Motion carried, and resolution number 23-8 was declared duly adopted.

Highway Right of Way Application

Kunz moved and Opp seconded to approve the revised McPherson County Highway Department Utility Occupancy Application and permit. All voted in favor. Motion carried.

Executive Session

Neuharth moved and Feickert seconded to enter executive session at 9:55AM to discuss personnel matters. All voted in favor. Motion carried. Feickert moved and Opp seconded to exit executive session at 10:15AM. All voted in favor. Motion carried. No action taken.

No public comments were heard on items not on the agenda. At 10:20AM Neuharth moved and Kunz seconded to adjourn the meeting. All voted in favor. Motion carried. The next regular board of commissioners meeting will be held on September 5th beginning at 9AM. The next zoning board meeting will be held on August 28th beginning at 9AM.

ATTEST:

Lindley Howard

McPherson County Auditor

Rick Beilke

Chairman of Board of Commissioners