

McPherson County Board of Commissioners
Minutes of Proceedings
February 12th, 2024

The McPherson County Board of Commissioners met in special session on Monday, February 12th, 2024 in the Commissioners chambers. Chairman Rick Beilke called the meeting to order at 10:00AM. Members present were Anthony Kunz (via teleconference), Mark Opp, Sid Feickert, and Jeff Neuharth. Others present State's Attorney Austin Hoffman and 19 members of the public.

Opp moved and Neuharth seconded to approve the agenda of the February 12th Special Meeting. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried. No conflicts of interest were declared.

Mike Klipfel spoke on behalf of the McPherson County Republicans. The group is requesting two action items be considered by the commissioners. First Request: McPherson County Republicans respectfully request of the commissioners that the citizens of the county be allowed to HAND COUNT one hundred percent of our election ballots in the precincts. Second Request: To allow the citizens to practice hand counting with the 2020 election ballots, (no longer under 22 month federal/state seal requirements), at the courthouse under Auditor Howard's supervision.

The second request from the McPherson County Republicans along with the Auditor's requested motion to allow destruction, per SDCL 12-20-31, of the 2020 general election ballots that the commission requested the auditor retain on September 6th, 2022, was discussed. Several citizens expressed their desire for the county to retain the ballots. State's Attorney Hoffman stated no federal, or state laws allow for any action other than destruction of the ballots after the retention period has been met. A court order would be required to release the ballots to the public. The board requested that the ballots be kept until after the 2024 primary election post-election audit. The McPherson County Republicans would need to take their request to a judge and receive an order before the commission could release the ballots for the purpose of practicing hand counting.

The received quote for the EMS Workstation of \$10,318 in 2024 and \$5,600 for each year after, was discussed. The workstation is necessary for the county to create a cast vote record (CVR). Several citizens spoke on CVRs and asked the county to purchase the workstation. Auditor Howard recommends the county does not purchase the EMS Workstation. Due to the standing OHE PRR 22-03 Decision and Order and with SB48 and SB213 defeated in the legislature it is unlikely that CVRs will become a public record in 2024. The county could not release the CVR even with the purchase of the EMS workstation.

The first request: McPherson County Republicans respectfully request of the commissioners that the citizens of the county be allowed to HAND COUNT one hundred percent of our election ballots in the precincts was discussed. Several citizens spoke in support. State's Attorney Hoffman gave his legal opinion.

The post-election audit in place for the 2024 primary and general election was discussed. The post-election audit laid out in SDCL 12-17B-18 to 12-17B-25 requires 2 races in five percent of voting precincts to be manually counted by hand and the results compared to the results produced by the tabulator.

Other election items discussed as part of public comment: Importance of using paper ballots; Dominion voting systems and ES&S voting systems; people moving to South Dakota for election integrity; asking for McPherson County to set hand counting precedent for other counties in South Dakota and the nation; residents of Eureka were asked if they preferred hand counting or tabulation; A letter against absentee voting and for hand counting was read; Brown County's use of vote centers and poll pads; post-election timeline and processes were discussed.

Neuharth moved and Opp seconded to enter executive session at 11:20AM to discuss personnel matters. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried. Neuharth moved and Opp seconded to exit executive session at 11:55AM. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried. No action taken.

Neuharth moved and Kunz seconded to perform a 100% post-election audit after tabulation on primary election night, the tabulated count will be sent to the state canvass. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried.

State's Attorney Hoffman cautioned that the statutes do not allow for auditing more than two races in five percent of the precincts.

Opp moved and Neuharth seconded to enter executive session at 12:10PM to discuss legal matters. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried. Feickert moved and Neuharth seconded to exit executive session at 12:25PM. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried. No action taken.

At 12:25PM Neuharth moved and Feickert seconded to adjourn the meeting. Upon roll call voted Kunz, Feickert, Neuharth, Opp and Beilke voted 'aye'. Motion carried. The next regular board of commissioners meeting will be held on March 5th beginning at 10AM.

ATTEST:

Lindley Howard

McPherson County Auditor

Rick Beilke

Chairman of Board of Commissioners