

McPherson County Board of Commissioners
Minutes of Proceedings
March 5th, 2024

The McPherson County Board of Commissioners met in regular session on Tuesday, March 5th, 2024 in the Commissions chambers. Chairman Rick Beilke called the meeting to order at 10:05AM. Members present were Sid Feickert, Anthony Kunz, Jeff Neuharth (via Zoom), and Mark Opp.

Kunz moved and Feickert seconded to add Plat Approval "Mettler Family Cemetery" to the agenda. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Feickert moved and Opp seconded to amend the March 5th agenda with the removal of 'Ordinance 24-1: An Ordinance to protect the residents of McPherson County from unnecessary legal expenses - first reading'. Upon roll call vote: Opp, Feickert voted 'Aye'; Kunz, Neuharth and Beilke voted 'Nay'. Motion failed.

Kunz moved and Opp seconded to approve the agenda with the addition of the Plat Approval. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried. No conflicts of interest were declared

Opp moved and Kunz seconded to approve the minutes of the February 6th and February 12th meetings. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Kunz moved and Feickert seconded to approve the minutes of the September 5th, 2023 and February 6th drainage commission meetings. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried

CLAIMS APPROVED:

A&B Business, Service, \$74.34; Agtegra, Hwy Supplies, \$959.20; Amazon, Supplies, \$414.39; Aramark, Supplies, \$431.31; ATT, Cellphone/Hotspot, \$523.63; Auto Value, Hwy Supplies, \$100.19; Butler, Hwy Supplies, \$3,001.23; Century Business Products, Printer Contract, \$21.76; CHS, Propane, \$5,781.38; Crawford Truck & Equipment, Hwy Supplies, \$2,074.17; CRS, Inmate Insurance, \$33.35; Dependable Sanitation, Utilities, \$261.00; DANR, Stormwater, \$600.00; Trisha Erdmann, Reimb., \$26.51; Eureka City, Utilities, \$85.80; Eureka MFG Inc, Hwy Supplies, \$665.26; FEM, Utilities, \$413.10; Gene's Oil, Fuel, \$925.67; Heartland Waste, Utilities, \$40.00; Holiday Inn, Weed Conf, \$551.94; Kimball Midwest, Hwy Supplies, \$578.98; Lakeside Lumber, Hwy Supplies, \$669.78; Leola City, Utilities, \$181.72; Linde Gas & Equipment, Hwy Supplies, \$201.95; McLeod's Printing, Election Signs, \$29.98; McPherson Co Herald, Publishing, \$351.92; MDU, Utilities, \$846.01; Menard's, Hwy Supplies, \$187.34; Microfilm Imaging, ROD/M&P Equipment/Software, \$1,564.40; NASASP, Annual Fees, \$39.00; NW Blade, Publishing, \$420.36; NWGF Mutual Ins., Feb/Mar VSO Rent, \$533.32; Pomp's Tire Service, Hwy Supplies, \$1,200.78; Premier Equipment, Hwy Supplies, \$1,291.09; Quill, Paper, \$145.92; Ron's Service Center, Tires/Oil Change, \$1,068.24; Runnings, Hwy Supplies, \$1,569.93; Michael Schwingler, Fuel Reimb, \$58.21; SDACO, Spring Conf, \$600.00; SD DOT, Bridge Inspection, \$691.31; SD Police Chiefs' Assoc., Conference Dues, \$115.00; SD Public Health Lab, Test, \$40.00; Kris Jacobsen, Clerp Admin, 1st Qtr, \$323.00; Share Corporation, \$261.26; Streicher's Inc, Sheriff Supplies, \$34.98; Visa, Hwy Supplies, \$49.75; Visa, Hwy

Supplies, \$527.38; Visa, Supplies/Sub, \$751.34; Web Water, Courthouse Water, \$174.75; CorTrust, Deliq Tax/Auto Deposit Fee, \$18,841.74; State Treasurer, Money Due to State, \$77,435.99; State Treasurer, Sales/Excise Tax, \$1,131.10; SDACC, M&P January Fees, \$62.00; January 2024 Apportionment remitted to Cities/Schools/Townships/Fire Districts, \$219,966.46; February Payroll Reimbursements: Sam Boshard, Miles, \$71.40; Richard Kolb, Miles, \$3.57; George Hulscher, Miles, \$35.70.

Kunz moved and Feickert seconded to approve the forgoing claims. All present voted in favor. Excused Neuharth. Motion carried.

SALARIES OF OFFICERS AND EMPLOYEES:

Commissioners, \$6,637.10; Auditor, \$9,596.96; Treasurer, \$9,305.87; State's Attorney, \$6,032.24; Government Building, \$4,555.78; Director of Equalization, \$14,449.60; Register of Deeds, \$9,505.87; Veteran Service Officers, \$2,569.06; Sheriff, \$6,717.75; Extension, \$4,401.12; Weed, \$1,393.66; Planning & Zoning; \$300.00; Road & Bridge, \$55,015.93; Snow Removal, 113.04; 911, \$14.00; Emergency Management, \$166.67; Eureka Joint Law, \$4,596.66; Leola Joint Law, \$5,196.66.

McPherson County's Share of the following:

Social Security and Medicare: CorTrust Bank: \$10,420.24

Insurance: American Family, \$420.40; Avera, \$3,375.96; Guardian Vision, \$123.89; MetLife, \$161.36; South Dakota Retirement System, \$8,099.91; Colonial Life Vision, \$57.18.

OTHER MATTERS DISCUSSED AND ACTION TAKEN:

Executive Session 1-25-2(3)

Opp moved and Neuharth seconded to enter executive session at 10:15AM to consult with legal counsel. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried. Feickert moved and Kunz seconded to exit executive session at 10:55AM. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried. No action taken.

Public Concerns

Attorney Sara Frankenstein spoke about the initiated ordinance petition received by McPherson County. 10 citizens asked Frankenstein questions, and several citizens including Mike Mardian, Marian Kallas, Tod Gohl, Colin Hoffman and Kristin Schauer voiced their concerns about the petition, the Help America Vote Act, tabulating ballots, the post-election audit, HB1140, the proposed Ordinance 24-1 and various other election related concerns. Feickert requested hand counting be placed on the April 2nd agenda.

Ordinance 24-1 An Ordinance to Protect the Residents of McPherson County from Unnecessary Legal Expenses

Discussion was held on proposed ordinance 24-1. Several citizens voiced concerns about the ordinance and timing. Neuharth moved and Kunz seconded to accept the first reading of Ordinance 24-1 an ordinance to protect the residents of McPherson County from unnecessary legal expenses and to set the second reading for April 2nd, 2024, at 10am in the commission chambers at the courthouse in Leola. Upon roll call vote: Kunz, Neuharth and Beilke voted 'Aye'; Opp, Feickert voted 'Nay'. Motion carried. A copy of the ordinance is on file in the Auditor's Office and online for public view at <https://mcpherson.sdcounties.org/>.

County Initiative Petition

The Board acknowledged receipt of the proposed County Initiative petitions received on February 29th according to SDCL 7-18A-13. The verification process found in ARSD Ch. 5:02:08 in being completed by the Auditor’s Office. Once verification is completed the petitions will be considered filed. Attorney Sara Frankenstein and State’s Attorney Austin Hoffman warned that the petition language contains a potential violation of the federal Help America Vote Act among other potential issues.

Kunz moved and Neuharth seconded to have Auditor Lindley Howard sign the Gunderson, Palmer, Nelson and Ashmore LLP Retention letter hiring Sara Frankenstein as special counsel. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted ‘Aye’. Motion carried.

BIDS:

At 1PM the following bids for 2024 supply of bituminous plant mix (black top), asphalt road oil and asphalt emulsions were opened and read aloud:

The following bids were received for Bituminous Plant Mix (Black Top) for 2024:

- Lien Transportation Company – \$95.00 per ton
- Jensen Rock & Sand (Aberdeen) - \$95.00 per ton
- Jensen Rock & Sand (Mobridge) - \$105.00 per ton

The following bids were received for asphalt road oil and asphalt emulsions for 2024:

	<u>Jebro</u>	<u>Flint Hills</u>
AE 150S per ton	\$770.09	\$688.00
CSS1H 50/50 per ton	\$470.09	\$386.00

Neuharth moved and Opp seconded to approve all bids received for bituminous plant mix, asphalt road oil and asphalt emulsions. Upon roll call vote: Kunz, Feickert, Neuharth, Opp and Beilke voted ‘Aye’. Motion carried.

The following bids were received for 30,000 ton + or – of state spec ¾” gravel surfacing at two locations (yet to be determined) and at bidder’s discretion crushing of asphalt chunks.

Wm. D. Scepaniak, Inc.	gravel \$3.65/ton	asphalt chunks \$5.00/ton
H.F. Jacobs & Son Construction Inc.	gravel \$5.18/ton	asphalt chunks no bid
Morris, Inc.	gravel \$6.80/ton	asphalt chunks \$7.50/ton

Feickert moved and Neuharth seconded to approve low bid for gravel crushing and asphalt crushing. Upon roll call vote: Kunz, Feickert, Neuharth, Opp and Beilke voted ‘Aye’. Motion carried.

RESOLUTIONS:

RESOLUTION NUMBER 24-6

“ESTABLISHING PLANNING AND ZONING MEETING DATES AND FEES”

WHEREAS, SDCL 11-2-3.1 requires that McPherson County Planning and Zoning commission meet no less than once every three months;

WHEREAS, a predetermined schedule is necessary to efficiently conduct Planning and Zoning business and will offer permit applicants and the public the opportunity to better plan for these meetings;

WHEREAS, there is an inherent cost of holding planning and zoning meetings as SDCL 11-2-3.2 requires that per diem and expenses of the county planning commission shall be paid by the county;

WHEREAS, the cost of each planning and zoning meeting in 2024 is \$600 per meeting;

NOW THEREFORE BE IT BE RESOLVED that the Planning and Zoning Board will meet on the third Tuesday of the months of January, April, July, and October. The Planning and Zoning Board reserves the right to call additional special meetings to conduct planning and zoning business. However, should a permit applicant request a special meeting of the planning and zoning board, for the purpose of securing their permit at an earlier date, the permit applicant shall be responsible for the meeting costs. The meeting costs shall be revalued in January of each year.

Dated this 5th day of March 2024 at Leola, South Dakota.

ATTEST:

Lindley Howard

McPherson County Auditor

Rick Beilke

McPherson County Commission Chair

Kunz moved for the adoption of Resolution Number 24-6, Neuharth seconded the foregoing motion. Upon roll call vote, thereon: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried, and resolution number 24-6 was declared duly adopted.

RESOLUTION NUMBER 24-7

"PLAT APPROVAL"

"BE IT RESOLVED by the Board of County Commissioners of McPherson County, South Dakota, that the Plat, "Plat of Mettler Family Cemetery, in SE1/4 of the SW1/4 of Section 23, Township 128 North, Range 71 West of the 5th P.M., McPherson County, South Dakota" having been examined, is hereby approved in accordance with the provisions of SDBL 11-2-3, and any amendments thereof."

Dated this 5th day of March 2024 at Leola, South Dakota.

ATTEST:

Lindley Howard

McPherson County Auditor

Rick Beilke

McPherson County Commission Chair

Opp moved for the adoption of Resolution Number 24-7, Feickert seconded the foregoing motion. Upon roll call vote, thereon: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried, and resolution number 24-7 was declared duly adopted.

Drainage Board

At 12PM Feickert moved, and Kunz seconded to forgo meeting as the McPherson County Drainage Commission for the month of March. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Highway Department

Several areas around the county were marked with active farming in the right of way. Highway department will be notifying landowners and reminding them to keep the right of ways clear of crops. Glenn Spitzer will be looking at a Trackhoe at public surplus and comparing the asking price to lease costs. Spitzer updated the board on pearock price increases. County road 18 with 6 miles of deteriorating pavement was discussed. The cost benefit of pavement in that area was discussed. Road width in one area of 353rd Ave was discussed. Spitzer went over options to widen the area without hauling in additional material. McPherson and Campbell County highway departments are going to collaborate this summer for a joint effort on resealing 10 miles in Campbell County and 20 miles in McPherson County. This will allow both counties to reseal while also continuing maintenance on the gravel roads.

Veteran's Service Officer

Kunz moved and Feickert seconded to reimburse Sam Boshard \$35 for Rich Kezar Veteran of Armed Services Award at the Aberdeen Area Chamber of Commerce Community Champions Luncheon held on February 13th. Upon roll call vote: Feickert, Kunz, Neuharth and Beilke voted 'Aye'; Opp voted 'Nay'. Motion carried.

Auditor's Office

Notice of Leola Schools Powerlifting Club's raffle per SDCL 22-25-25 was given to the board. No objections noted.

Feickert moved and Opp seconded to follow the State of South Dakota and grant Good Friday (3/29) and Easter Monday (4/1) as additional holiday days. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Emergency Management – Burn Ban

The public is reminded of Ordinance 21-1 regulating open burning. The ordinance requires citizens to check the National Weather Service Grassland Fire Danger Index (<https://www.weather.gov/unr/rfd>) before performing open burning or igniting burn barrels. Open Fires are prohibited when McPherson County is in the very high or extreme category or a red flag warning has been issued. Burn Barrels are prohibited when McPherson County is in the extreme category. The commission can restrict burning further via resolution if conditions warrant. A copy of ordinance 21-1 is on file in the Auditor's Office and online for public view at <https://mcpherson.sdcounties.org/>.

Executive Session 1-25-2(3)

Kunz moved and Feickert seconded to enter executive session at 2:30PM to discuss personnel matters. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried. Kunz moved and Feickert seconded to exit executive session at 2:55PM. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Eureka Office Space

Possible repairs needed to the Eureka City Building including replacing a portion of the roof and the furnace/AC/Ductwork were discussed. The County may request to have a building inspection completed. Action on the building inspection may be taken at the April Meeting. Neuharth moved and Opp seconded to have the chairman sign the month to month rent agreement between Northwest GF

Mutual Insurance Co and the McPherson County VSO. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

State's Attorney

Neuharth moved and Kunz seconded to table the State's Attorney agenda items until the April 2nd meeting date. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Meeting Authorizations

Feickert moved and Opp seconded to approve the following meetings: Lindley Howard, Vicki Geffre, and Tiffany Weiszhaar to attend the SDACO Spring Workshop in Pierre in May; Brooke Graves and Hunter Heinrich to attend Conference in Aberdeen in May. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

Miscellaneous Items and Reports

The following miscellaneous items and reports were reviewed and approved: VSO Hours February 2024, Register of Deeds statement of fees collected during the month of February 2024 for the amount of \$3,969.20, Register of Deed's Modernization and Preservation fees collected during month of February 2024 for the amount of \$180.00, Auditor's Account with the County Treasurer as of February 29th, 2024 as follows: total amount of deposits in Leola Bank, \$303,238.54; total amount of actual cash, \$786.40; total amount of checks and drafts in treasurer's possession not exceeding three days, \$51,573.78; Itemized list of all items, checks and drafts in the Treasurer's possession over three days, \$1,263.68; CD's, \$1,173,205.63; Super savings, \$1,208,563.30; total, \$2,738,631.33.

The next Board of Commissioners meeting will be held on Tuesday, April 2nd beginning at 10AM; Board of Equalization Tuesday, April 9th beginning at beginning at 10AM; Board of Commissioners Tuesday, May 7th beginning at 9AM.

At 3:30PM Kunz moved and Feickert seconded to adjourn the meeting. Upon roll call vote: Opp, Feickert, Kunz, Neuharth and Beilke voted 'Aye'. Motion carried.

ATTEST:

Lindley Howard

McPherson County Auditor

Rick Beilke

Chairman of Board of Commissioners