

McPherson County Board of Commissioners
Minutes of Proceedings
March 4th, 2025

The McPherson County Board of Commissioners met in regular session on Tuesday, March 4th, 2025 in the Commissioners chambers. Chairman Mark Opp called the meeting to order at 10:00AM. Members present were Mark Opp, Jeff Neuharth, Sid Feickert, Neal Woehlhaff and Mike Mardian.

Neuharth moved and Feickert seconded to approve the March 4th agenda. All voted in favor. Motion carried. No conflicts of interest were declared.

Feickert moved and Woehlhaff seconded to approve the February 4th, February 14th, and February 21st Commission minutes and the February 4th Drainage Commission minutes. All voted in favor. Motion carried.

PUBLIC COMMENTS:

At 10:15AM no public comments were heard by the board.

CLAIMS APPROVED:

Aberdeen Chrysler, Hwy Supplies, \$450.50; Agtegra, Hwy Supplies/Antifreeze, \$3,080.28; Amazon, Supplies, \$64.49; Area IV Senior Meals, 2025 Allocation, \$3,000.00; ATT, Cellphone/Hotspot, \$490.76; Auto Value, Hwy Supplies, \$1,013.54; Beck Law Office, Miles, \$26.16; Butler, Hwy Supplies/Trailer, \$75,856.64; Century Business Products, Printer Contract, \$45.25; Certified Languages, Translator, \$169.95; CHS, Propane, \$6,625.61; Crawford Trucks & Equipment, Hwy Supplies, \$3,824.82; CRS, Inmate Insurance, \$40.61; Dependable Sanitation, Utilities, \$264.00; Dickey Rural Telephone Coop, Server Maint & Backup/Fix, \$514.64; DMI, Hwy Supplies, \$159.91; Eureka City, Utilities, \$98.75; ECDC, Jan St Attny Rent, \$300.00; Eureka Mfg, Hwy Supplies, \$67.50; FEM, Utilities, \$620.36; Gene's Oil, Fuel, \$847.36; G&R Controls, Training, \$1,019.00; Johnny & Renee Schwingler, Plumbing Fixes, \$450.85; Kimball Midwest, Hwy Supplies, \$574.86; Lakeside Lumber, Hwy/Sheriff/VSO Supplies, \$383.68; Lamb Motor Co, New Patrol Vehicle, \$50,860.00; Leola City, Utilities, \$231.74; Linde Gas & Equipment, Hwy Supplies, \$943.80; McPherson Co Herald, Publishing, \$441.69; MDU, Utilities, \$836.88; Menards, Courthouse Supplies, \$38.89; Microfilm, Equip Rent, \$728.80; City of Mobridge, 2025 Maintenance, \$3,326.56; Moser Excavating & Trucking, Snow Removal, \$1,360.00; NASASP, 5 yr Membership, \$190.00; NW Blade, Publishing, \$486.52; Overhead Door, Cable, \$360.00; Plastix Plus LLC, New Vehicle Supplies, \$1,647.61; Pumps, Hwy Supplies, \$6,959.71; Premier Equipment, Hwy Supplies, \$270.59; Quaschnick Soft Water, Softener Salt, \$84.00; Quill, Ext Supplies, \$110.23; Ron's Service Center, Oil Change, \$133.77; SDACO, New Officials Training, \$125.00; SD Public Health Lab, Tests, \$80.00; SDACC, Spring Workshop, \$375.00; Kris Jacobsen CLERP Admin, 1st Quarter, \$2,351.00; SDPAA, Trailer Ins, \$422.79; SDSU-SDLTAP, Conf Registration, \$150.00; Share Corp, Hwy Supplies, \$475.05; Streicher's, Sheriff Supplies, \$175.98; Transource Truck & Equipment, Hwy Supplies, \$435.08; Valley Telco, Phone/Internet, \$1,236.36; Vestis, Courthouse Supplies, \$211.58; Visa, Supplies, \$124.20; Visa, Supplies, \$102.92; Visa, Subs, Supplies, \$907.97; January 2025 Apportionment Remitted to Cities/Schools/Townships/Fire Districts, \$317,901.86; State Treasurer, Money Due to State, \$70,743.21; State Treasurer, Sales Tax, \$17.63; SDACC, M&P January Fees, \$92.00; Web Water, Courthouse Water, \$141.75; Cortrust, Direct Deposit Fee, \$15.00; February Payroll Reimbursements: Samantha Barrett, Miles, \$46.90; Dave Ackerman, Reimb., \$33.96; Logan Heupel, Miles, \$13.40; George Hulscher, Miles, \$46.90.

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

SALARIES OF OFFICERS AND EMPLOYEES:

Commissioners, \$6,637.10; Auditor, \$9,663.60; Treasurer, \$9,571.93; State's Attorney, \$6,920.43; Government Building, \$4,678.64; Director of Equalization, \$10,140.80; Register of Deeds, \$9,571.93; Veteran Service Officers, \$2,435.73; Sheriff, \$12,192.11; Extension, \$4,262.40; Planning & Zoning, \$400.00; Road & Bridge, \$55,203.80; Snow Removal, \$2,027.222; Eureka Joint Law, \$5,080.40; Leola Joint Law, \$5,100.00.

McPherson County's Share of the following:

Social Security and Medicare: CorTrust Bank: \$10,709.58

Insurance: American Family, \$440.79; Avera, \$2,569.14; Guardian Vision, \$114.36; MetLife, \$154.37;

South Dakota Retirement System, \$8,406.75; Colonial Life Vision, \$47.65.

RESOLUTIONS:

**RESOLUTION 25-12
"PLAT APPROVAL"**

"Be it resolved by the board of County Commissioners of McPherson County, South Dakota, that the plat showing Aman First Addition in the SE1/4 of Section 14-T125N-R72W of the 5th P.M., McPherson County, South Dakota, having been examined is hereby approved in accordance with the provisions of SDCL 11-3, and any amendments thereof."

Dated this 4th day of March 2025.

ATTEST:

Lindley Howard

McPherson County Auditor

Mark Opp

McPherson County Commission Chair

Neuharth moved for the adoption of Resolution Number 25-12, Feickert seconded the foregoing motion. All voted in favor. Motion carried and Resolution Number 25-12 was declared duly adopted.

BIDS:

At 10AM the following bids for 2025 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 2025:

Lien Transportation Company \$90.00 per ton

Jensen Rock & Sand \$90.00 per ton

Neuharth moved and Mardian seconded to accept both bids. All voted in favor. Motion carried.

The following bids were received for asphalt road oil and asphalt emulsions for 2025:

	<u>Jebro</u>	<u>Flint Hills</u>
AE 150S per ton	\$770.09	\$669.00

CSS1H 50/50 per ton	\$470.09	\$381.00
MC70/ton	\$1185.75	no bid

Neuharth moved and Woehlhaff seconded to approve all bids received for bituminous plant mix, asphalt road oil and asphalt emulsions. All voted in favor. Motion carried.

OTHER MATTERS DISCUSSED AND ACTION TAKEN:

Highway Department

Mardian moved and Neuharth seconded to amend the Rural Access Infrastructure 5-year plan changing the structure type from CMP Culverts to concrete boxes for structure #47-4525-1701A/B and 47-47001325A/B/C/D; the structure change will require hydrology studies. All voted in favor. Motion carried. Spring Load limits will go on soon. Spitzer is discussing with neighboring counties and watching conditions. An update was given on blading and surplus equipment to be sold this year was discussed. A road tour meeting is scheduled for March 14th leaving from the Eureka Highway Shop at 9AM.

Permits to Occupy Right of Way

Neuharth moved and Woehlhaff seconded to approve the following permits to occupy right of way submitted by FEM Electric to install power cable by boring at the following locations:

- Between Section 33 and Section 34 of T127N-R69W
- Between Section 33 of T127N-R69W and Section 5 of T126N-R69W
- Between Section 4 and Section 3 of T126N-R69W
- Between Section 31 of T127N-R69W and Section 6 of T126N-R69W
- Between Section 1 of T126N-R70W and Section 36 of T127N-R70W
- Between Section 19 of T128N-R71W and Section 25 of T128N-R72W
- Between Section 1 and Section 2 of T126N-R70W
- Between Section 7 and Section 8 of T128N-R72W
- Between Section 15 and Section 14 of T127N-R73W

All voted in favor. Motion carried.

Drainage Board

At 10:30AM Neuharth moved, and Woehlhaff seconded to meet as the McPherson County Drainage Commission. All voted in favor. Motion carried. The Drainage Commission meets concurrently with the Board of Commissioners and their minutes are listed in a separate section.

Demkota Permit

Scott Langner, on behalf of Demkota, updated the board.

Feickert moved and Neuharth seconded to extend the 5-mile manure variance permit granted to Demkota Beef Plant until September 1st, 2025 the following conditions will continue: (1) To lessen road wear Demkota will travel the original route - hwy 10, north on C23, west on C2 and south on C21 to location for approximately 50% of the loads, the other 50% of the load will be hauled on the alternative route - enter McPherson County going west on C2, south on C21 to location, (2) approval must be obtained from Wachter and Weber Townships in McPherson County and also from Brown County and Dickey County if the approved route and/or alternate route includes any of their county roads. All voted in favor. Motion carried. The permit fees will remain as outlined in Resolution 25-4.

Discussion was held on the 5-mile manure ordinance origin and purpose. Mike Klipfel shared concerns with turkey manure from Spring Creek Colony.

FYI Treasurer's Office

With the new system 605 Drives the Treasurer's Office cannot do Motor Vehicle transactions after 4:30PM. The Treasurer Office will post notes and publications to get the word out.

Courthouse Maintenance

Discussion was held on the Commission Room Door, no action taken. The Boiler was fixed last week to resolve the issues seen after the condensate tank leaked earlier this month. Everything is now running well. Plumbing repairs were discussed.

Executive Session

Neuharth moved and Mardian seconded to enter executive session at 10:55AM to discuss legal matters 1-25-2(3). All voted in favor. Motion carried. Neuharth moved and Feickert seconded to exit executive session at 11:15AM. All voted in favor. Motion carried.

As a result of executive session, Neuharth moved and Woehlhaff seconded to hire Ryan Cwach, Birmingham and Cwach, to represent McPherson County for the limited purpose of responding to HP24-001 Applicant's Interrogatories and Requests for Production of Documents (First Set) to McPherson County Commission (fee to be included in the \$200/hour paid to Domina Law). All voted in favor. Motion carried.

As a result of executive session, Mardian moved and Neuharth seconded to have the chairman sign the special counsel Professional Services Agreement between McPherson County and Domina Law Group PC LLO and Birmingham & Cwach. All voted in favor. Motion carried.

Public Hearing and 1st Reading: Ordinance 2025-1 An Ordinance Establishing Zoning Regulations for Data Processing Centers

At 11:15AM a first reading and Public hearing was held on Ordinance 2025-1. Public concerns were heard by Mike Lapka, Wayne Breitag, Tim Leppert, Wade Weiszhaar, Brandon Swate, Jerome Wahl, Mike Klipfel. Bill Connors, representing the Leola Data, responded to several questions from the board and the audience.

Mike Lapka recommended adding the requirement of 12 studies to the ordinance, discussion was held. Mardian moved and Woehlhaff seconded to add to the ordinance that the following studies are required: Environmental Impact Study, Energy Consumption Study, Water Usage Study, Carbon Footprint Study, Heat & Air Quality Impact Study, Noise Impact Study, Economic Impact Study, Public Health & Safety Study, Electromagnetic Field Exposure Study, Emergency Response Study, Community Impact Study, Study on Tax Revenue. All voted in favor. Motion carried.

Setbacks at 1 mile were discussed along with lower setbacks. No setback changes were made. County growth, tax revenue and proposed annual allocation to the county from the data center was discussed. Recommendations from State's Attorney Austin Hoffman were reviewed. The board removed #3, 4, 5, 6, 7a, 7b, 7c, and 8 from Section 5.33.09 Decommissioning, restoration or Abandonment of a Data Processing Center.

Mardian moved and Woehlhaff seconded to rescind the motion to add to the ordinance that the following studies are required: Environmental Impact Study, Energy Consumption Study, Water Usage Study, Carbon Footprint Study, Heat & Air Quality Impact Study, Noise Impact Study, Economic Impact Study, Public Health & Safety Study, Electromagnetic Field Exposure Study, Emergency Response Study, Community Impact Study, Study on Tax Revenue. All voted in favor. Motion carried.

Mardian moved and Feickert seconded to add to the ordinance that the following studies are required: Environmental Study, Energy Consumption Study, Water Usage Study, Carbon Footprint Study, Heat & Air Quality Impact Study, Noise Impact Study, Economic Impact Study, Public Health & Safety Study,

Electromagnetic Field Exposure Study, Emergency Response Study, Community Impact Study, Study on Tax Revenue. All voted in favor. Motion carried.

Neuharth moved and Mardian seconded to hold a second reading and public hearing on Ordinance 2025-1 An Ordinance Amending McPherson County Ordinance 24-1, An Ordinance establishing zoning regulations for data processing centers in McPherson County, on April 1st at 10:30AM; Neuharth will work with the State's Attorney to define the added 12 studies. Upon roll call vote: Neuharth, Feickert and Mardian voted 'Aye', Woehlhaff and Opp voted 'Nay'. Motion carried.

Taylor Deurmier – County Health Nurse

Taylor Deurmier spoke with the board about navigating the cancellation of the SD Department of Health Public Health Alliance (PHA) Contract the County holds with Avera Eureka Hospital effective May 31st, 2025. Without the PHA contract with the Department of Health Deurmier will no longer be able to continue administering the WIC program or delivering pregnancy care. The patients she was serving will transition to a state employee. Deurmier could continue with community nursing (separate from WIC and pregnancy care) if the county wants to work directly and the Eureka Hospital to reach an agreement. This dissolution of the PHA contract will also affect the health education program Deurmier administers in the local schools. Brandon Swate offered public comments.

Auditor's Office

Lindley Howard presented the 2024 Annual Report. Discussion was held on many of the included exhibits and trends over the past few years. The full annual report is filed with the Department of Legislative Audit, available online at https://mcpherson.sdcountries.org/?page_id=13 and in person at the Auditor's Office during business hours. An abbreviated annual report is also published in the legal newspapers.

Meeting Authorizations

Mardian moved and Neuharth seconded to approve the following meeting authorizations: Commissioners Mardian, Opp and Woehlhaff to SDACC Workshop in April; Lindley Howard to attend SDACO Workshop and Welfare workshop in April; Brooke Mehlhaff and Hunter Heinrich to attend SDAAO Conference in June and Vanguard User Meeting in August; Hunter Heinrich to attend Annual Assessor's School in September. All voted in favor. Motion carried.

Miscellaneous Items and Reports

Name change is noted for employee #165.03.

At 3:00PM Woehlhaff moved and Mardian seconded to adjourn the meeting. All voted in favor. Motion carried.

A road tour meeting is scheduled for March 14th, 2025, leaving from the Eureka Highway Shop at 9AM. The School and Public Land Sale will be on March 20th, 2025, at 1:15PM in the courtroom. The next regular meeting will be held on April 1st, 2025, beginning at 10:00AM. The Board of Equalization meeting will be held on April 8th beginning at 10AM

ATTEST:

Lindley Howard

McPherson County Auditor

Mark Opp

Chairman of Board of Commissioners