

October 8, 2019

The meeting of the McCook County Commission was called to order in their Meeting Room by Chairman Charles Liesinger.

Members present: Chuck Mehlbrech, Marc Dick, Dean Koch and Steve Gordon.

Chairman Liesinger led the Pledge of Allegiance.

Chairman Liesinger called for approval of the Agenda. Motion made by Koch to approve the Agenda as sent & posted. Second by Dick and motion carried.

The minutes from the September 24<sup>th</sup> meeting were sent to Board members for review prior to publication. Motion made by Mehlbrech to approve the minutes for publication. Second Gordon and motion carried.

Citizen Input: none.

Commissioner Reports: receiving calls of concern regarding road & culvert repairs/replacement.

Michelle Zelmer, Hwy Dept Administrative Assistant, presented a highway status report from Hwy Supt Kreutzfeldt. Update: Gross Lake on 435<sup>th</sup> Ave north of I-90 – 12.5” water over centerline of road as of 9/3/19, water is going down significantly; Lehrman Lake on 431<sup>st</sup> Ave north of I-90 – 10.5” water over centerline of road as of 9/4/19, water continues to run out to the west but rather slowly now; Huls Waterfowl Production Area on 431<sup>st</sup> Ave 6 miles north of Spencer – we have built up the road 2 feet opening as a one lane road at that location; Janssen Lake on 257<sup>th</sup> St near Fuel Mart – water remains very deep but the tile is operating; 257<sup>th</sup> St east of US81 – still waiting for the culvert to arrive; bridge on 263<sup>rd</sup> St 1 mile below the dam remains closed until a new plan is approved; magnesium chloride has been applied to 453<sup>rd</sup> Ave from 262<sup>nd</sup> St to SD42; and Bridge on 262<sup>nd</sup> St below the dam – severe damage is now showing at the east abutment (scour, damaged wood pile & lost wing). FEMA will be in County on Thursday to begin inspecting damaged sights from spring flooding. The fall damage assessments are complete but have no estimates yet. No annual culvert inspections will be completed due to flooding. Current projects include fall mowing (50% complete), bridge & culvert repair work, blading roads and patching potholes.

Motion made by Mehlbrech to convene as Drainage Commission. Second made by Gordon and motion carried.

Zelmer presented the following drainage permit applications, noting that downstream landowner signatures were obtained and Kreutzfeldt has signed off on them. All permits are available for inspection at the Hwy Dept Office.

D19-030	Dawn Stahl	SW4 Ex Lot H-1 & Ex E56AC 18-101-54
D19-033	Katherine Marquardt Family Trust	S2N2 17-102-53

The Board reconvened as Board of County Commissioners.

Laurie Schwans, Register of Deeds, met with the Board to let them know that she will not reimburse the County for the portion of lodging expense that she approved for payment out of the Modernization & Preservation Fund because State Law supersedes County policies and SDCL states that the Register of Deeds is the administrator of the M&P Fund. Commissioner Gordon noted that he attended the M&P Fund presentation at convention and Schwans was not present. Schwans said she wasn't there because she already heard the information. Laura Schultz, HR Coordinator, was present and noted that the lodging policy doesn't have to do with what funds a claim is paid out of, using M&P Fund is okay, but the county policy should be followed. Schwans reiterated that she won't reimburse the County. Commissioner Koch told Schwans that she's using the M&P Fund to circumvent the county lodging policy which states that an employee pays the difference between the convention rate and where an employee chooses to stay. Schultz asked Schwans if she used M&P funds for other training related expenses such as mileage or meals. Schwans stated she did not. It was also noted that Schwans had a free room at the convention site because of a committee that she served on. It was stated that it was not prudent use of taxpayers'

dollars. Koch asked that the employment attorney and the States Attorney be consulted for an opinion. Schultz also noted that a payroll deduction was discussed. Schwans said to do what was needed.

Geralyn Sherman, Welfare Director, and the Commissioners reviewed Care of Poor cases. Three accounts were turned over to AAA Collections (2019-23, 2019-21 & 2018-01). Two Applications for Poor Relief Assistance were received from Avera McKennan Hospital (2019-33 & 2019-40).

The following building permits were issued the month of September:

19-42	Zach & Rachel Potter	personal dog kennel	Tract 1 Eich Add NE4NE4 Ex Lot H-1 & Ex Public Road ROW 24-103-55
19-43	Kreutzfeldt Constr	single family home	SE4 25-101-53
19-44	Nick Even	2 18'x21' used bins	NW4 Ex Lot H-1 1-102-53
19-45	Ralph Weber	residence	Lot 2 of Tract 1A of Millers Subdivision in NW4

The September SEFP Facilitator's Report was noted and filed.

The September Law Enforcement Reports for each City/Town and the services received were noted and filed.

Motion was made by Koch to authorize Chairman Liesinger to sign the Weed & Pest Fund Grant Application - FY2021. Second made by Gordon and motion carried.

Auditor Sherman asked about the letter sent to Chairman Liesinger regarding Court Security Grant money, noting that it was also sent to 10 other groups including Sheriffs, State's Attorneys, Circuit Court Administrators and Presiding Judges. It noted that grant applications should be submitted to the State Court Administrator by December 1, 2019. No action taken by the Board at this time.

Motion was made by Koch to convene as Planning Commission. Second made by Gordon and motion carried.

Tracy Hofer, Planning & Zoning Administrator, presented three plats for approval. Following review of the Plat Review Form, motion was made by Dick, second by Koch, and carried, to approve the following Planning Commission resolution:

WHEREAS, the plat of Tract 1-A of Janet's Addition in Lot 1 in the SE ¼ of Section 14, T 102 N, R 54 W of the 5<sup>TH</sup> P.M., McCook County, South Dakota, prepared by Paul C. Kiepke, a duly licensed Land Surveyor in and for the State of South Dakota, heretofore filed in the office of the County Auditor of McCook County, South Dakota, has been submitted to the County Planning Commission of the said County of McCook, South Dakota; and

WHEREAS, the County Planning Commission, in regular meeting assembled had duly considered said plat and finds as a fact that said plat is in conformity and does not conflict with the Master Plan for the County of McCook, South Dakota, heretofore adopted by this Commission.

NOW THEREFORE, be it resolved by the County Planning Commission of McCook County, South Dakota, that the plat of Tract 1-A of Janet's Addition in Lot 1 in the SE ¼ of Section 14, T 102 N, R 54 W of the 5<sup>TH</sup> P.M., McCook County, South Dakota, prepared by Paul C. Kiepke, a Land Surveyor, be and the same is hereby approved and its adoption by the Board of Commissioners of the County of McCook, South Dakota, is hereby recommended.

The undersigned does hereby certify that the foregoing resolution was passed by the County Planning Commission of McCook County, South Dakota, at a meeting thereof held on the 8<sup>th</sup> day of October, 2019.

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Chair, County Planning Commission  
McCook County, South Dakota

Hofer presented the 2<sup>nd</sup> plat. Following review of the Plat Review Form, motion was made by Gordon, second by Dick, and carried, to approve the following Planning Commission resolution:

BE IT RESOLVED by the County Planning Commission of McCook County, South Dakota, that the plat showing Tract 1 and Tract 2 of Hoogshagen Addition, an Addition in the Southeast Quarter of Section 31, Township 101 North, Range 53 West of the 5<sup>th</sup> Principal Meridian, McCook County, South Dakota, having been examined, is approved in accordance with the provisions of SDCL of 1967, Chapter 11-6, and any amendments thereof.

Adopted this 8<sup>th</sup> day of October, 2019.

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Chair, County Planning Commission  
McCook County, South Dakota

Hofer presented the 3<sup>rd</sup> plat. Following review of the Plat Review Form, motion was made by Gordon, second by Koch, and carried, to approve the following Planning Commission resolution:

BE IT RESOLVED by the County Planning Commission of McCook County, South Dakota, that the plat showing Tract 1 of Waters Addition, an Addition in the Southwest Quarter of Section 13, Township 102 North, Range 53 West of the 5<sup>th</sup> Principal Meridian, McCook County, South Dakota, having been examined, is approved in accordance with the provisions of SDCL of 1967, Chapter 11-6, and any amendments thereof.

Adopted this 8<sup>th</sup> day of October, 2019.

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Chair, County Planning Commission  
McCook County, South Dakota

The Board reconvened as Board of County Commissioners.

Motion was made by Dick, second by Koch, and carried, to approve the following County Commissioners Resolution:

BE IT RESOLVED by the Board of County Commissioners of McCook County, South Dakota, that the plat of Tract - A1 of Janet's Addition in Lot 1 in the SE ¼ of Section 14, T 102 N, R 54 W of the 5<sup>TH</sup> P. M., McCook County, South Dakota, which has been submitted for examination pursuant to law, is hereby approved and the County Auditor is hereby authorized and directed to endorse on such plat a copy of this Resolution and certify the same.

Approved this 8<sup>th</sup> day of October, 2019.

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Chairman of the County Board of Commissioners  
McCook County, South Dakota

Motion was made by Gordon, second by Dick, and carried, to approve the following County Commissioners Resolution:

BE IT RESOLVED by the County Commission of McCook County, South Dakota, that the plat of Tract 1 and Tract 2 of Hoogshagen Addition, an Addition in the Southeast Quarter of Section 31, Township 101 North, Range 53 West of the 5th Principal Meridian, McCook County, South Dakota, be and the same is hereby approved.

Approved this 8<sup>th</sup> day of October, 2019.

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Chairman of the County Board  
McCook County, South Dakota

Motion was made by Gordon, second by Koch, and carried, to approve the following County Commissioners Resolution:

BE IT RESOLVED by the County Commission of McCook County, South Dakota, that the plat of Tract 1 of Waters Addition in the Southwest Quarter of Section 13, Township 102 North, Range 53 West of the 5<sup>TH</sup> Principal Meridian, McCook County, South Dakota, be and the same is hereby approved.

Approved this 8<sup>th</sup> day of October, 2019.

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Chairman of the County Board  
McCook County, South Dakota

Zoning Administrator Hofer informed the Commission that she is receiving numerous complaints about the odor from a hog confinement unit located in Spring Valley Twp, south side of SD42. Hofer did contact DENR and was informed that there are suggested "best practices" for odor control but producers don't always follow them.

Adam Molseed, Community Development Representative, Governor's Office of Economic Development, presented information to the Board regarding sales and use tax rebate for livestock development. Feedlots, hog units, poultry, dairies and aquatic animal projects qualify. Tracy Hofer, Planning & Zoning Administrator, was present.

The Board reconvened as Board of County Commissioners.

Laura Schultz, HR Coordinator, reviewed a Safety Benefits Survey and the recommended improvement plans with the Board. Schultz gave Board members copies of recommended policies, asking them to review the policies prior to the next meeting. Schultz presented a combined job description for Hwy Maintenance Worker, VSO and Weed Supervisor/Applicator to the Board for their review. Schultz informed the Board that compliments have been received about the grooming of the Courthouse yard. Also, a thank you was received from the Montrose City Finance Officer regarding assistance received during the September flooding. Schultz told the Board that employees celebrated Homecoming with McCook County schools by participating in a dress up week. Following the festivities,

some employees discussed continuation of having a weekly Workout Wednesday. By donating \$1 employees can choose to wear workout gear or blue jeans, with proceeds being donated to the McCook County Food pantries at the end of the year. Schultz asked the Board for their consideration in this suggestion. Approval granted. ☺ Schultz also noted that a weather policy will be available for their review at the next meeting.

Motion was made by Dick to enter into Executive Session for personnel discussion, SDCL 1-25-2(1) at 11:45 a.m. Second made by Mehlbrech and motion carried. Laura Schultz, HR Coordinator, was present. Chairman Liesinger declared out of Executive Session at 12:17 p.m.

Motion made by Koch, second Gordon, and carried, to pay claims: GENERAL FUND: Bi-Weekly Payroll: 9/7/19: Commissioners 1692.30; Auditor 4593.64; Treasurer 3718.60; States Attorney 2560.64; Custodian 1278.75; Dir of Equalization 5529.39; Register of Deeds 3124.18; Veterans Service Officer 258.90 \*new hire: Brian (BJ) Havard \$17.26/hr; Sheriff 10360.46; Contract Law 4733.19; Care of Poor 192.31; Welfare 126.00; Community Health Nurse Secretary 1342.60; 4-H Program Assistant, 1259.36; Weed 365.38 \*new hire: Brian (BJ) Havard \$17.26/hr; Drainage 310.97; Planning & Zoning 297.51. A&B Business, 2 monthly copier contracts 142.47; Advanced Systems, annual copier count 780.33; AutoEx LLC, law enforcement vehicle supplies/parts & service 3616.64, oil change Suburban 94.66; Avera Queen of Peace Hospital., blood alcohol service 222.00; Card Service Center, dog food 45.77 NRA membership 60.00 law enforcement supplies 81.73; Central Farmers Coop, lawn mower tire repair & gas 118.75; Chesterman Co, water 56.85; Child's Voice, witness testimony fee 850.00 mileage 51.04; City of Bridgewater, October ambulance appropriation 3530.66; Custom Cage, vehicle accessory 1750.00; End Zone, meals for runaways 33.52; Mike Fink, September expenses 459.20; Roger Gerlach, Deputy St Atty services 118.75; Tracy Hofer, conference lodging 641.84; Inter-Lakes Community Action, October CSW funds 740.59; KW Electric, electrical work 403.39; Lincoln County Treasurer, reimburse mental illness hearing expenses 364.13; Marco Technologies, monthly copier contract 106.58; McCook Conservation District, 4<sup>th</sup> Qtr appropriation 3750.00; McCook County EMS, October appropriation 8707.86; McCook County Publishers, publishing 945.23; McCook County Treasurer, postage 15.00; McLeod's Printing, tax notices & paper 364.85 door hangers 149.90; MES Companies shield camera & installation 237.50; Microfilm Imaging System, scanning equipment rent 489.00; MidAmerican Energy, utilities 29.55; Mitchell Clinic, prisoner care 119.00; Noll Collection Service, lien collection fee 64.38; Office Depot, office supplies 325.20; Ramkota Hotel-Pierre, convention lodging 623.94; RBS Sanitation, garbage service 71.78; Record Keepers Inc, vault box storage 19.25; Salem City, utilities 96.60; Salem Special, envelopes 295.00; SD Achieve d/b/a LifeScape, services for 6 residents 360.00; SD Dept of Health, 4<sup>th</sup> Qtr CHN services 1303.00; Sioux Falls Food Bank, food pantry delivery charges 70.00; South Dakota Public Health, lab services 40.00; Southeastern Behavioral, 4<sup>th</sup> Qtr allotment 1404.50; Triotel Communications, telephone/internet service 699.50; United Laboratories, janitorial supplies 885.64; Van Diest Supply, Amine weed spray 2687.40; Verizon Wireless, cell phone service 273.55 internet modem service 255.66, I-Pad service 42.61; Xcel Energy, utilities 923.08; Zapp Hardware, janitorial supplies 78.91.

COUNTY ROAD & BRIDGE FUND: Bi-Weekly Payroll: 9/23/19: Hwy Dept 22065.77 \*new hire: Brian (BJ) Havard \$17.26/hr. Appeara, towel & mat rental 116.42; Butler Machinery, parts 207.79; Card Service Center, printer 74.87; Central Farmers Coop, post clips 10.00; Chesterman Co, water 24.00; Cole's Petroleum, no lead gasoline 16725.01; Gessner Welding & Repair, sign supplies 324.22; Iron Wheel Sales & Service, filters 71.85; North American Truck, parts 239.32; Pheasantland Industries, barricade signs 3683.82; Pomp's Tire Service, tires 547.25; Productivity Plus Account, poly wafers 522.00; Puthoff Repair, supplies 1050.85; RBS Sanitation, garbage service 52.47; Safety-Kleen, parts washer 197.22; Salem City, utilities 145.93; Salem Lumber, supplies 118.41; Sioux International, oil pump 92.29; Southeastern Electric, utilities 33.00; Spencer Quarries, mixed aggregate 5401.99; Stan Houston Equipment, supplies & labor 2384.30; Stern Oil, oil 738.90; Sturdevant's Auto Supply, supplies 836.89; T&C's Pit Stop, cookies for

Transportation meeting 11.98; Triotel Communications, telephone/internet service 119.38; Xcel Energy, utilities 484.59; Z&S Dust Control, mag chloride 21166.95; Zapp Hardware, supplies 60.94 .

911 EMERGENCY REPORTING SYSTEM FUND: Golden West Telecommunications, 911 telephone service, 371.72; Mitchell Regional 911, 4<sup>th</sup> Qtr 911 service 16076.36; Triotel Communications, 911 telephone service, 193.20.

EMERGENCY & DISASTER SERVICES FUND: Bi-Weekly Payroll: 9/23/19: EDS Director 1269.23. End Zone, EOC meals 63.90; Salem Farmers Market, food for shelter-flood disaster 94.94; South Eastern Council of Governments, assistance with PDM update 7357.51; Brad Stiefvater Jr, flooding mileage 605.22; T&C's Pit Stop, diesel fuel 320.39; Triotel Communications, telephone/internet service 87.92.

24/7 SOBRIETY FUND: Bi-Weekly Payroll: 9/23/19: Sheriff Secretary/Dispatcher 172.81.

PAYROLL CONTRIBUTIONS – ALL FUNDS: 9/23/19: Dir of IRS, county share of FICA 3716.05 Medicare 869.08; SD Retirement System, county share of retirement contribution, 3768.94; Wellmark BCBS of SD, county share of health insurance premium 6124.84.

The Auditor's Account with the County Treasurer for the month of September, 2019: deposits in banks, \$5,569,410.32; cash to deposit, \$954.86; checks to deposit, \$54,622.60; CC payments, \$707.30; Cash Items (postage) \$15.00; Treasurer's Cash, \$1,555.00; Register of Deeds, \$450.00; Sheriff, \$500.00; CD's, \$800,000.00. The total deposits on hand: \$6,428,215.08.

Auditor Sherman presented information to the Board from States Attorney Fink pertaining to a Class Action Notice regarding a National Prescription Opiate Litigation. If there is a settlement, funds will be distributed at the county level. McCook County's allocation is \$2820 based upon \$0.51 per capita.

Auditor Sherman presented a Facilities Use Agreement, drawn up by States Attorney Fink, for the request from the Salem Community Women to use the Courthouse Community Room for kids to visit with Santa on Friday, December 6<sup>th</sup> following a holiday parade. Motion was made by Koch to have Auditor Sherman complete the agreement and present it to the group for signature. Second made by Mehlbrech and motion carried.

Mike Fink, States Attorney, noted that this meeting is in reference to the Schwartz/Stockwell access easement. Present Harold Schwartz, Patrick Glover, Meierhenry Sargent LLP, Lloyd Stockwell, Bernard Stockwell and Matthew Tysdal, Heidepriem, Purtell, Siegel & Hinrichs LLP. Fink introduced Wade Druin who works with Steve Shaykett, Shaykett Appraisal. Druin continued with his explanation of the appraisal process and comparison sales that were used to determine a value on the change of use. Tysdal asked for more explanation of comparable and Glover asked how it was determined which properties were comparable. Druin noted page 26 of the Appraisal Report and the Sales Comparison Grid was reviewed. There were no questions from the Commissioners. Fink reviewed the easement description and bills related to the easement process. At this time, other parties spoke. Lloyd Stockwell stated that he wants pins to be 6' long, buried to standard depth. Fink placed a call to Clark Engineering to see if this would increase the cost in placement of the pins; it won't. Glover noted that 18" is the depth required for pin placement and the pins are unnecessary when going by the legal description, plus this adds a \$1500 expense to Schwartz. Bernard Stockwell stated that based on the relationship of neighbors, it's best to set pins and this is a legitimate request. Bernard also noted objection to the appraisal of \$5000, salt in wound; selling off heritage. And Schwartz was offered \$20,000/acre. Lawyers are getting their money, Stockwells aren't. Lloyd Stockwell said Schwartz wouldn't take \$20,000/acre for the isolated tract and this is b---s---. Schwartz stated Stockwells are liars. States Attorney Fink told the Attorneys to stop their clients bickering and presented a resolution to the Board. At this time, Lloyd Stockwell said he changed his mind, he prefers to rent. Fink stated that we are past that point. The Commissioners spent time discussing the \$5000 appraisal and pin placement. Motion was made by Dick to approve Resolution of the McCook County Board of County Commissioners Establishing Right of Way to Isolated

Tract Pursuant to SDCL Chapter 31-22, as amended; map (Ingress & Egress Exhibit), the legal description, damages due Stockwells \$9500, setting pins and county fees. Second was made by Koch. Roll call vote was taken. Ayes: Koch, Dick, Gordon, Mehlbrech and Liesinger. Nays: none. Motion carried to approve and adopt Resolution 2019-13.

#### RESOLUTION 2019-13

#### RESOLUTION OF THE MCCOOK COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING RIGHT OF WAY TO ISOLATED TRACT PURSUANT TO SDCL CHAPTER 31-22

**WHEREAS**, on January 3, 2019, Harold Schwartz and Colleen Schwartz submitted their Application for the Establishment of a Right-of-Way to an Isolated Tract, Pursuant to SDCL Chapter 31-22, by which the Applicants (Schwartz) sought a right of way to that portion of the Applicants' following described property located West of the Vermillion River:

The North Half (N1/2) of Section Twenty Three (23), Township One Hundred One (101) North, Range Fifty Three (53), West of the 5<sup>th</sup> P.M., McCook County, South Dakota, except that part of the West 54.16 acres of said N1/2 contained therein, and except that part of Lot H-1 in the NW1/4 contained therein, and except Lot H-2 and H-3 in the NW1/4 contained therein, and except that part of Lot H-3 in the NE1/4 contained therein, and except Lot 1M-1 in the NW1/4, and Except the South 1260 feet of the N1/2 and except the East 1338' of said N1/2, all located in Section 23, Township 101 North, Range 53 West of the 5<sup>th</sup> P.M., McCook County, South Dakota and

The South 1260 feet (S 1260') of the North Half (N1/2) of Section Twenty Three (23), Township One Hundred One (101) North, Range Fifty Three (53) West of the 5<sup>th</sup> P.M., McCook County, South Dakota, except that part of the West 54.16 Acres of said N1/2 and except the East 1338 Feet (E 1338') of said South 1260 Feet. (**The Benefitted property**).

Specifically, the Applicant sought the establishment of an Ingress/Egress Easement over Property owned by Lloyd Stockwell, which property is generally described as:

The West Fifty Four Point Sixteen Acres of the Northwest One Fourth (W tr.26 A of NW1/4) except Lot H-1, of Section Twenty Three (23), in Township One Hundred One (101) Range Fifty Three (53), West of the 5<sup>th</sup> P.M., McCook County, South Dakota (**The Burdened property**), and

**WHEREAS**, on June 17, 2019, the McCook County Board of County Commissioners visited the general area of the claimed isolated tract, and thereafter heard the evidence submitted by Applicant and Objecting Party (Lloyd Stockwell) and determined that the subject parcel located West of the Vermillion River was isolated, and

**WHEREAS**, the Board again met on July 23, 2019, and considered the recommendations of Schwartz and Stockwell regarding the location of the right-of-way, and decided to direct the County's surveyor to prepare a map of an easement area following the North end of the Burdened Property, then leading Southeastwardly to the Benefitted Property, and

**WHEREAS**, the Board again met on August 13, 2019, and reviewed the map prepared by the Surveyor, and directed that said surveyor prepare a legal description related to the subject easement area, and further directed that the County's Appraiser perform an evaluation of damages, and

**WHEREAS**, final proceedings were held before the Board on October 8, 2019, at which time, the Board determined the location and dimensions of the right-of-way, and heard evidence related to the damages due Stockwells, as well as the costs of the proceedings to be assessed to the Applicant,

#### **NOW THEREFORE BE IT RESOLVED:**

1. That the McCook County Board of County Commissioners determines that such portion of the Benefitted property located West of the Vermillion River is an "isolated tract" as that term is utilized in SDCL Chapter 31-22;
2. The owner of the isolated tract (Schwartz) has been unable to agree with the owner of the adjoining land (Stockwell) for purchase of a right-of-way from such isolated tract of land to a public highway;
3. Applicant has duly sought relief from the Board of County Commissioners for McCook County, pursuant to SDCL 31-22-2. Thereupon, the county commissioners cause to be served upon the owners of the adjoining land (Stockwell) notices in writing of such times when the board would visit and hold proceedings to lay out one right-of-way across the Burdened land, and assess the damages therefor, which notices have been served at least five days prior to the dates set for such visits and appraisals;
4. The board of county commissioners visited the land for purposes of laying out such right-of-way. The distance from the County Courthouse to the subject land is 24.5 miles (one way) or 49 miles round trip. Pursuant to SDCL 31-22-6, each commissioner is entitled to be paid (by Schwartz) the amount of \$3.00 for the day spent on location; each commissioner is entitled to five cents per mile necessarily traveled in going to and returning from the lands where such right-of-way is located (\$1.23 each);
5. Benefitted party shall have a thirty foot (30') ingress/egress easement over the Burdened property, as reflected upon the Attached Survey Affidavit, which is made a part of this resolution by reference. Upon execution and after the time for Appeal has run, this Resolution and the attached map shall be recorded with the McCook County Register of Deeds, and indexed against the Burdened and Benefitted properties identified above. Upon recordation, such easement shall permit private use by the owner of the Benefitted property, for ingress/egress only, and for such purposes as are necessary for Benefitted party's reasonable enjoyment of the isolated tract. **This easement shall run with the land.**
6. Damages due Stockwells are \$9,500.00.

A. Benefitted party shall pay Burdened Party the sum of **\$9,500.00**, as damages.

B. Benefitted party shall further pay to McCook County, the sums due the commissioners and costs, less the Benefitted party's deposit:

i. Commissioners fees and travel (for 5 commissioners):	\$ 21.15
ii. Surveyor Fees for work performed to date:	\$4,461.79
iii. Surveyor Fees for future work (setting pins):	\$1,500.00
iv. Appraiser Fees:	\$5,325.00
v. Recording Fees:	\$ 30.00
Less Deposit:	(\$10,000)
<b>Net due County</b>	<b>\$1,337.94</b>

Upon payment of the sum assessed to the owner of the land over which such right-of-way is laid, the right of the owner of such isolated tract to the free use of said right-of-way shall be complete; provided the owner of such isolated tract shall have paid all of the costs of the proceedings in laying out and assessing the damages of said right-of-way. Applicant has deposited the sum of \$10,000.00 with McCook County State's Attorney's office. This sum shall be forwarded to the Auditor as partial reimbursement for the costs and commissioners' fees incurred as reflected in Paragraph 6B above. Applicant shall pay the balance due to the appropriate parties. This Resolution shall not be recorded, and the subject easement shall not be effective, until payment is made in full.

7. Hereafter, the right-of-way shall be kept and maintained by the owner of the isolated tract of land, at his or her sole expense (SDCL 31-22-8).

8. Once the time for any appeal has run, or in the event of an appeal and affirmation by the Circuit Court (and the South Dakota Supreme Court, as the case may be), then the County surveyor shall enter upon the Burdened Property and set iron monuments (deep) so as to identify the 30' easement established herein. After such monuments are set, the surveyor shall file a new survey map with the McCook County Auditor's office, reflecting that such monuments were in fact placed upon the Burdened property.

Vote of the McCook County Commission:

Aye 5 Nay 0

Dated this 8th day of October, 2019 at Salem, South Dakota.

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Charles Liesinger  
Chairman, McCook County Commission

ATTEST:

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Geraldyn Sherman  
Auditor, McCook County

(SEAL)

The meeting adjourned subject to call.

Dated this 8<sup>th</sup> day of October, 2019.

Charles Liesinger \_\_\_\_\_  
Chairman, McCook County Commission

ATTEST:

\_\_\_\_\_  
Geraldyn Sherman  
Auditor, McCook County