

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., August 1, 2006, pursuant to adjournment on July 25, 2006. Commissioners present were: Kolbe, Hajek, Pekas, Twedt, and Zweep. Also present were Sandy Kinder, Deputy Auditor, and Gordy Swanson, Chief Deputy State's Attorney.

Chairman Kolbe called the meeting to order and expressed condolences on the death of David Carter.

AGENDA

MOTION by Pekas, seconded by Twedt to approve the Agenda. 5 ayes.

MINUTES

MOTION by Zweep, seconded by Pekas to approve the Minutes for July 25, 2006. 5 ayes.

VOUCHERS TO BE PAID

MOTION by Hajek, seconded by Twedt to approve the following bills totaling \$426,440.77. 5 ayes.

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|----------------------|------------|-----------|----------------------|------------|----------|
| A & B Business Equip | Var. Depts | 84.97 | Al-Ostaz, Mohammed | Court Sys. | 1,182.50 |
| All About Travel, In | Pub. D. | 460.71 | Alpine Foods, Inc | FEMA Fund | 800.00 |
| American Institution | Juv Det Cn | 1,005.21 | Anderson, Scott A. | Plan & Zon | 52.12 |
| Arena Motel | Human Svcs | 538.00 | Argus Leader | Comm. | 745.69 |
| Avera McKennan Hospi | Var. Depts | 57,015.49 | Avera McKennan Regio | Correction | 1,033.32 |
| Al Svc Inc/Laceys Ch | Hiway Cons | 75.00 | Batteries Plus | Pettigrew | 81.94 |
| Beckman, Laura | Musm Entpr | 150.00 | Border States Electr | Facilities | 160.42 |
| Brentwood Apartments | Human Svcs | 450.00 | Brown & Saenger | Var. Depts | 291.67 |
| Builders Supply Comp | Facilities | 547.16 | Bureau of Informatio | Reg Deeds | 48.00 |
| C & J Sayles, Inc. | Musm Store | 513.18 | Campbell Supply Co., | Facilities | 353.55 |
| Canfield Business In | Human Svcs | 719.70 | Carlson, Scott B Att | Court Sys. | 5,759.60 |
| CBM Food Service | Juv Det Cn | 6,133.51 | Century Business Lea | Pub. Adv. | 113.32 |
| City of Dell Rapids | Sheriff | 4,154.87 | Cliff Avenue Auto Pa | Hiway Cons | 10.69 |
| Cole Papers, Inc. | Hiway Cons | 709.04 | Colton Water Dept. | Hiway Admi | 42.35 |
| Communication Servic | Pub. D. | 110.00 | Concrete Materials | Hiway Cons | 3,056.00 |
| Construction Product | Hiway Cons | 38.50 | CRC Properties LLC/S | Human Svcs | 450.00 |
| Crescent Electric Su | Facilities | 27.50 | Dacotah Bank | Sheriff | 389.00 |
| Dakota Dental/Timoth | Correction | 3,509.00 | Dakota Fluid Power, | Hiway Cons | 48.08 |
| Dakota Riggers & Too | Var. Depts | 252.79 | Dallas County Consta | St Atty | 60.00 |
| Daubys Sports Center | Juv Det Cn | 28.00 | Dell Rapids Ford, In | Sheriff | 194.43 |
| Dialnet/Ahrens Telec | Correction | 29.25 | Dietrich, Donna K | Mental Ill | 1,631.03 |
| Dresbach, Steve | Mental Ill | 540.00 | Dust Tex Service, In | Museum Mtc | 12.86 |
| Eggers, Laurel Olson | Court Sys. | 1,742.00 | Eggert, Staci | Sheriff | 89.00 |
| Eirinberg, James A | Court Sys. | 3,119.03 | Ergometrics, Inc. | Metro-911 | 3,587.25 |
| Eugene Beckman & Son | Hiway Cons | 133.00 | Facilities Petty Cas | Facilities | 97.22 |
| Fastenal Company | Hiway Cons | 48.35 | First National Pawn | Sheriff | 75.00 |
| Fox, Youngberg & Lew | Mental Ill | 160.54 | Friest, Eileen | Human Svcs | 450.00 |
| Galland Legal Clinic | Court Sys. | 155.80 | Geotek Engineering & | Build Fund | 112.43 |
| Glasco, Randy | Human Svcs | 400.00 | Glynn County Sheriff | St Atty | 25.00 |
| Golden Valley Apts | FEMA Fund | 500.00 | Graham Tire Co. - Do | Var. Depts | 849.30 |
| Gustave A. Larson Co | Facilities | 63.20 | Guzman, Sandra V. | Court Sys. | 250.00 |
| Hander, Inc. | Human Svcs | 140.46 | Hanson Pipe & Produc | Hiway Cons | 666.00 |
| Harold's Photo Cente | Var. Depts | 20.17 | Hauk, Bert | Human Svcs | 450.00 |
| Hofeman, Dallas | Human Svcs | 625.00 | Holiday Credit Offic | Hiway Cons | 116.70 |
| Hosmer, David M. Law | Mental Ill | 95.07 | Hughes County Sherif | St Atty | 11.30 |
| Huron Culvert & Tank | Hiway Cons | 20,721.71 | Ingalls, Janelle M | Juv Det Cn | 59.96 |
| Insight Public Secto | Metro-911 | 176.35 | Interstate Office Pr | Var. Depts | 1,271.42 |
| J.H. Larson Company | Facilities | 638.46 | Janitor's Closet, Lt | Var. Depts | 203.15 |
| Jensen, Theresa | Human Svcs | 45.44 | Jim Hawk Truck Trail | Hiway Cons | 139.38 |
| Johnstone Supply | Facilities | 51.79 | Kabeiseman & Pollard | Mental Ill | 156.80 |
| Karl's, Inc. | Juv Det Cn | 99.00 | Kennedy, Rokahr, Pie | Mental Ill | 177.20 |
| Kleen Solutions, Inc | Correction | 250.40 | Kone, Inc. | Facilities | 180.57 |
| Kooistra, Nelva | Mental Ill | 180.00 | Koopman & Sons Gas C | Hiway Cons | 60.00 |
| Kreisers, Inc. | Correction | 105.90 | Kriens Construction | Pettigrew | 5,225.48 |
| LCM Pathologists, P. | St Atty | 200.00 | Lewis Drug Stores | Facilities | 37.18 |

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| Linweld, Inc. | Hiway Cons | 39.62 | Lodermeier Family Pa | Human Svcs | 525.00 |
| Lutheran Social Serv | Court Sys. | 1,362.50 | Malloy Electric Bear | Facilities | 407.84 |
| Maximum Promotions, | Facilities | 333.95 | Maxwell Food Equipme | Museum | 9.60 |
| Menards - East | Var. Depts | 137.17 | Menards - West | Var. Depts | 173.12 |
| Merrow, Danielle L | Human Svcs | 450.00 | Mid American Special | Metro-911 | 764.04 |
| Midamerican Energy C | Var. Depts | 954.10 | Midcontinent Communi | Info Svcs | 80.00 |
| Midwest Land Surveyi | Hiway Cons | 9,261.55 | Midwestern Mechanica | Museum Mtc | 214.98 |
| Miller Funeral Home, | Human Svcs | 1,850.00 | Minnehaha Cnty Human | Human Svcs | 123.00 |
| Moore, Rasmussen, Ka | Court Sys. | 738.60 | Mulder, Dee A. | Mental Ill | 165.75 |
| Myrl & Roy's Paving, | Hiway Cons | 41,220.51 | Nat'l Directory of L | St Atty | 139.00 |
| NCADRC | Pub. D. | 1,560.00 | Nyberg's Ace Hardwar | Var. Depts | 269.81 |
| Office Depot, Inc. | Museum | 13.49 | Olson Painting/Reise | Museum Mtc | 6,114.90 |
| Pheasant View Apts. | Human Svcs | 450.00 | Phillips 66 Company | Var. Depts | 40.35 |
| Pine Meadows/Univers | Human Svcs | 248.00 | Plusco Printing & Co | Human Svcs | 89.07 |
| Pontiac Cadillac of | Sheriff | 109.92 | Presto-X-Company | Var. Depts | 487.00 |
| Quest Engineering, I | Hiway Cons | 676.32 | Qwest | Var. Depts | 442.52 |
| Rehfuss, Cathy A | Mental Ill | 180.00 | Riverview Residentia | FEMA Fund | 328.00 |
| Riviera Hotel | Pub. D. | 709.56 | Rugamba, Patrick M | Court Sys. | 270.00 |
| Rural Metro Ambulanc | Coroner | 400.00 | SD Dept of Revenue | Var. Depts | 104.00 |
| SD Newspaper Assn Se | Comm. | 39.39 | SDAAO | Dir. Eq. | 2,400.00 |
| Sherman, Jim | Human Svcs | 250.00 | Sherwin Williams | Hiway Cons | 67.97 |
| Shopko Pharmacy | Human Svcs | 18.94 | Sioux Falls City Fin | Var. Depts | 457.32 |
| Sioux Falls Ford, In | Sheriff | 168.26 | Sioux Falls Two Way | Sheriff | 214.75 |
| Sioux Falls Utilitie | Var. Depts | 6,491.42 | Sioux Valley Wireles | Hiway Admi | 37.95 |
| Solomon, Ghirmay | Court Sys. | 50.00 | Speednet, Inc | Metro-911 | 96.00 |
| Stoney Creek Townhom | Human Svcs | 300.00 | Strunk, Lisa | Court Sys. | 195.00 |
| Swift Contractors, I | Build Fund | 193,176.83 | T & A Service & Supp | Hiway Cons | 92.82 |
| Thesenvitz,Mickelson | Court Sys. | 763.40 | Thorin, Deyanira T. | Var. Depts | 225.00 |
| Thurman, Creighton A | Mental Ill | 243.28 | Tower of David, Ltd | Human Svcs | 117.00 |
| TSP Four, Inc. | Build Fund | 5,596.35 | Underground Develope | Hiway Cons | 1,120.00 |
| Us Postmaster | Var. Depts | 273.00 | USD School of Law | Pub. D. | 765.00 |
| Van's Auto Electric | Hiway Cons | 125.00 | Vander Haag's, Inc. | Hiway Cons | 29.02 |
| Velvet Uniforms, Inc | Var. Depts | 1,134.17 | Viking Office Produc | Pub. D. | 328.86 |
| Voigt, Debra | Court Sys. | 547.20 | Wal-Mart Pharmacy | Human Svcs | 17.78 |
| Walgreen Co. | Human Svcs | 828.52 | West Group | Var. Depts | 191.00 |
| West Pointe Townhous | Human Svcs | 100.00 | Westergard, Rod | Hiway Admi | 13.89 |
| Western Souvenirns | Musm Store | 58.12 | Willow Wood Apartmen | Human Svcs | 295.00 |
| Xcel Energy, Inc. | Var. Depts | 382.85 | Yanacheak, Wendy | Pub. Adv. | 21.92 |
| Yankton County Sheri | Mental Ill | 132.00 | Zabel Steel Co. | Hiway Cons | 62.03 |

REPORT

The following report was received and placed on file in the County Auditor's Office: Auditor's Account with the County Treasurer as of June 30, 2006.

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

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|---|-----------------|
| On Deposit in Banks | |
| Interest-bearing open accounts | 7,441,697.87 |
| CD's and savings | 16,000,000.00 |
| Cash | 18,553.85 |
| Checks in Treasurer's possession for more than 3 days | 5,826.15 |
| Total | \$23,466,077.87 |

PERSONNEL

MOTION by Pekas, seconded by Zweep to approve the following personnel changes. 5 ayes.

1. To promote Bryan Hall as Deputy Public Defender III (21/1) for the Public Defender's Office at \$1997.60 biweekly effective 8-2-06.
2. To hire Steven Bowers as Deputy Public Defender I (17/1) for the Public Defender's Office at

\$1,718.80 biweekly effective 8-7-06.

3. To hire Sarah Bonrud as Legal Office Assistant 1 (6/3) for the Public Defender's Office at \$12.867 per hour effective 8-7-06.
4. To accept the resignation of Jennifer Goldammer as Legal Office Assistant I for the Public Defender's Office effective 8-3-06.
5. To accept the resignation of Adam Bunger as Communications Operator for Metro Communications effective 6-25-06.
6. To hire Jay Knuppe as Appraiser I (7/3) for the Equalization Office at \$13.81 per hour effective 8-7-06.
7. To accept the resignation of Kathy Cline as Correctional Officer I for the Sheriff's Office effective 7-28-06.
8. To accept the resignation of James Holiway as PT Army Guard Security Officer for the Sheriff's Office effective 7-23-06.
9. To accept the resignation of Sarah Bonrud as PT Correctional Officer for the Sheriff's Office effective 8-4-06.
10. To hire Steven Oberle as PT Army Guard Security Officer (8/1) for the Sheriff's Office at \$13.693 per hour effective 8-1-06.
11. To hire Kurt Woodard as PT Army Guard Security Officer (8/1) for the Sheriff's Office at \$13.693 per hour effective 8-1-06.
12. To hire Willard Huffman as Laborer for the Highway Department at \$9.50 per hour effective 8-5-06.
13. To rescind the hire of Pam Macalouso as temporary Summer Horticulture Intern for the Extension Office effective 7-13-06.

Step increases due:

1. Cheri Scharffenberg – Deputy Public Defender I – Public Defender – 17/1 to 17/2, 8-1-06, \$1,787.44 biweekly
2. Janet Fritza – Public Advocate I – Public Advocate – 17/1 to 17/2, 8-1-06, \$1,787.44 biweekly
3. Jerry Lenderts – Correctional Officer II – Sheriff – 10/3 to 10/4, 7-17-07, \$16.971/hr
4. Joan Hall – Legal Office Assistant I – Sheriff – 4/3 to 4/4, 7-5-06, \$11.202/hr
6. Paul Bengford – Deputy State's Attorney III – State's Attorney Office – 21/5 to 21/6, 7-17-06, \$2,292.80 biweekly

NOTICES

Notice of Biosolids Management Application and Recommendation for the City of Sioux Falls was received from the SD Department of Natural Resources to allow the City to land-apply treated biosolids

produced at the wastewater treatment facility.

Notice of Surface Water Discharge Application and Recommendation for the City of Colton was received from the SD Department of Natural Resources for the discharge of treated wastewater into Colton Creek.

LIEN

MOTION by Pekas, seconded by Twedt to authorize in rem action against the property of both the lienee and his wife for DPNO 45159 in the amount of \$850 as part of litigation being pursued by Hauge Associates, Inc. 5 ayes.

AGREEMENT

Mark Aspaas, AIA, presented an agreement with Architecture Incorporated to study floor plan options for adding a 5th & 6th floor to the Minnehaha County Courthouse. A study of parking options on the county complex will also be part of this agreement. Total compensation for the studies will be based on an hourly rate with the total not to exceed \$20,000. Cost estimates for both studies will be provided within 30 days of the execution of the agreement. Commissioner Twedt asked that Mr. Aspaas provide an update in 3 weeks. MOTION by Hajek, seconded by Zweep to authorize the Chairman to sign the Agreement for the Provision of Limited Professional Services with Architecture Incorporated. 5 ayes.

HEARING

The Commission held the public hearing to consider supplementing the County Cemetery and Sioux Empire Fair budgets. No one spoke in opposition to the request. Commissioner Twedt recognized the efforts of the Abandoned Cemetery Board and commented on a letter from Margaret Novak, Abandoned Cemetery Board Chairman. MOTION by Pekas, seconded by Hajek to approve MC06-46. 5 ayes.

RESOLUTION MC06-46
FOR SUPPLEMENTAL BUDGET

WHEREAS it is necessary to supplement the 2006 Annual Budget in order to carry on the indispensable functions of Minnehaha County; and

WHEREAS, the adoption of the proposed Supplemental Budgets were duly considered by the Minnehaha County Commission on the 1st day of August, 2006, at 9:15 a.m., in the Commission Meeting Room, pursuant to due notice; now, therefore, be it

RESOLVED by the Minnehaha County Commission that the following Supplemental Budgets be, and the same is, hereby approved for the purpose of providing budget to conduct the indispensable functions of Government, to-wit:

From the General Fund to the following budgets:

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|-------------------|------------------|
| County Cemetery | \$ 1,000.00 |
| Sioux Empire Fair | <u>50,000.00</u> |
| Total | \$51,000.00 |

APPROVED BY THE COUNTY COMMISSION:
Robert Kolbe, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

AGREEMENT

On July 5, 2005, the Commission approved an agreement with the Second Circuit Bar Association and John Jastram and John Henry Peters for the purchase of artwork to be displayed on the front landing of the Minnehaha County Courthouse. The purchase of the artwork was funded through private donations through the Second Circuit Bar Association. The County agreed to be responsible for remodeling the Courthouse landing, replacing the existing flagpole with two, and to provide lighting. Mark Aspaas, AIA with Architecture Incorporated, presented agreements to complete the County's responsibilities associated with this project, which are estimated at \$39,000. MOTION by Zweep, seconded by Hajek to authorize the Chairman to sign the Standard Form of Agreement Between Owner and Contractor for Small Project between Minnehaha County and the following contractors: Peska Construction (\$14,300 for concrete work on landing and sidewalk), Thompson Electric (\$10,787 for electrical lighting work), and Jans Corporation (\$13,897 for construction and contract administration). 5 ayes.

BEVERAGE APPLICATION

MOTION by Twedt, seconded by Hajek to approve a request to consume/blend alcoholic beverages at the Renner American Legion Post 307 on August 5, 2006, in conjunction with Renner Days Celebration. 5 ayes.

RESOLUTIONS

At the request of of the SD Association of County Commissioners, MOTION by Zweep, seconded by Twedt to approve Resolution MC06-47. 5 ayes.

RESOLUTION MC06-47

WHEREAS, a constitutional amendment (Judicial Accountability Initiated Law) will be submitted to South Dakota voters in November 2006, designated Amendment E; and

WHEREAS, Amendment E was drafted by a resident of California and the petitions were circulated primarily by paid out-of-state persons; and

WHEREAS, the Amendment E petition failed to get more than a few thousand signatures in California, and thus was never submitted to California voters; and

WHEREAS, South Dakota voters were told that Amendment E simply provided for a remedy for intentional judicial misconduct; and

WHEREAS, if approved by the voters, Amendment E would actually allow lawsuits against all South Dakota citizen boards, including county commissioners, school board members, city council members, planning and zoning board members, township board members, public utilities commissioners, professional licensing board members, jurors, judges, prosecutors, and all other citizen boards; and

WHEREAS, Amendment E would authorize and encourage jury nullification in South Dakota, which was previously rejected overwhelmingly by South Dakota voters in 2002; and

WHEREAS, Amendment E would prohibit summary judgment, a legal remedy currently available and used to quickly and inexpensively rid our courts of frivolous lawsuits; and

WHEREAS, Amendment E would permit convicted felons, whose convictions have been affirmed by our Supreme Court, to sue the prosecutors who prosecuted the felons, the jurors who voted to convict the felons, and the judges who sentenced the felons, thus burdening our courts and citizens with countless expensive and needless lawsuits; and

WHEREAS, the author of Amendment E has publicly stated that with the passage of Amendment E, Judicial Accountability Initiated Law members from across the country will "purposely drive to South Dakota...just for the privilege of getting a traffic ticket so you can demand a jury trial. I anticipate traffic courts to be among the first courts to all but totally close....," thus depriving South Dakota citizens of their constitutional right of access to our courts and making it clear that Amendment E is not intended to help cure any alleged problems with South Dakota courts; and

WHEREAS, if approved, Amendment E would establish a new entity to investigate complaints with an initial budget of two million six hundred fifty thousand dollars, plus the cost of a facility, with authority to hire as many employees as it deemed appropriate without legislative appropriation, consultation, review, or approval; and

WHEREAS, the South Dakota Constitution already provides for the Judicial Qualifications Commission, which hears complaints and investigates allegations of judicial misconduct, and operates very economically, with an average annual expenditure of eleven thousand five hundred fifty-nine dollars over the past ten years; and

WHEREAS, if approved, Amendment E would likely violate the federal Constitution, thereby subjecting South Dakota taxpayers to millions of dollars in damages and attorney fees; and

WHEREAS, Amendment E would be devastating to the South Dakota economy, harming economic development and driving existing businesses from South Dakota:

NOW, THEREFORE, BE IT RESOLVED, by the Minnehaha County Board of County Commissioners, that the Commission strongly urges all South Dakota voters to protect our citizen boards, to protect our system of justice, to protect economic development, to protect all our citizens from frivolous lawsuits that would be authorized by the Judicial Accountability Initiated Law, and to vote against Amendment E.

Dated this 1st day of August, 2006.

APPROVED BY THE COMMISSION:

Robert Kolbe, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

Gordy Swanson, Chief Civil Deputy State's Attorney, presented a resolution that would allow the State's Attorney, or his designee, to accept service of process on actions relating to the foreclosure of real estate mortgages. During foreclosure action, the County is routinely named as a defendant because of its status as a first priority lien holder by virtue of the real property taxes against the property. Pursuant to SDCL 15-6-4(d) (4), civil actions are to be served upon any county commissioner. In most cases, foreclosure complaint and summons are sent directly to the State's Attorney. The resolution would eliminate the duplication of services. Commissioner Pekas felt it was important for commissioners to be aware of these actions and noted that it is the commission's responsibility to receive service. Commissioner Hajek spoke in support of presenting information on civil actions to all of the commissioners. MOTION by Hajek, seconded by Pekas to approve the resolution. 2 ayes, Twedt, Pekas, and Kolbe – nay. Motion fails.

NUISANCE

Pursuant to deferral on July 18th, Phil Kappen, Assistant Planning Director, requested that the Commission declare a public nuisance on property described as the Bauer and Agape Tire properties in the N240' E181.5' E314.5' N969.44' W674' NE1/4 of Section 25-T101N-R48W and the E314.5' N969.44' W674' (except the N240' E181.5') NE1/4 of Section 25-T101N-R48. He noted that the deferral was requested because he had received information through a third party that the property had been cleaned up. Mr. Kappen went to the site on July 31st to verify the information. He reported that some cleaning had taken place, however the property was still out of compliance with county ordinance. He also presented current photos of the site. Scott Anderson, Planning Director, stated that the property poses a public safety issue. The property owner was not present at the meeting. Mr. Kappen noted that the property owner's attorney was present at the July 18th meeting and was informed of the 2 week deferral. MOTION by Pekas, seconded by Twedt to declare the Bauer and Agape Tire properties as a public nuisance. 5 ayes.

MOTION by Hajek, seconded by Twedt to adjourn into Executive Session. 5 ayes. Following Executive Session, the Commission adjourned until 9:00 a.m. on Tuesday, August 8, 2006.

APPROVED BY THE COMMISSION:

Robert Kolbe, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor