

McLean County Commission Proceedings

Tuesday, March 15, 2022

The final regular March meeting of the Board of Commissioners was called to order at 8:32 a.m. by Chairperson Steve Lee. Present were Commissioners Lee, Steve Cottingham, and Barry Suydam. Also present were Auditor Beth A. Knutson, Highway Superintendent Jim Grey, Wold Engineering Representative Mike Rivinius, Chief Deputy Auditor Lori A. Foss, and Al Christianson of Great River Energy.

Moved by Cottingham, seconded by Suydam, to approve the minutes of the previous meeting as submitted. Roll Call Vote: Aye: Cottingham, Lee, and Suydam. Nay: None. Motion carried.

Highway Superintendent Jim Grey was present with an update on department operations including letting the board know the department has shifted to a four-day week and crack sealing has started. Grey notified the board that some areas have placed road restrictions and requested permission to do the same on county roads starting tomorrow at 7:00 a.m. to allow for sign placement.

Moved by Suydam, seconded by Cottingham, to approve the following resolution authorizing Grey to implement restrictions effective 7:00 a.m. on March 16, 2022:

Resolution

Whereas, NDCC '39-12-03 provides that whenever any highway will be seriously damaged or destroyed by reason of deterioration, rain, snow, or other climatic condition unless the weight of vehicles, trucks, or other commercial vehicles thereon is limited, local authorities may by resolution impose restrictions as to the weight of the vehicles and the same shall be noticed by erection of signs designating the provisions of the resolution at each end of the portion of the highway effected thereby; and

Whereas, the Board of McLean County Commissioners has determined that highways which are under its jurisdiction may be seriously damaged by reason of deterioration, rain, snow or other climatic conditions unless the weight of vehicles, trucks, or other commercial vehicles thereon is limited;

Therefore, it is Hereby Resolved, that 6 ton per axle not to exceed 65,000 pounds road restrictions are imposed on all McLean County asphalt roads except McLean County #18 to the Great River Energy Plant;

That 6 ton per axle not to exceed 65,000 pounds road restrictions are imposed on all other McLean County roads except McLean County Highway #16 extending 7 miles south of Riverdale to the Fisher Industries (Sand and Gravel) Plant.

It is Hereby Ordered, that the McLean County Highway Superintendent shall cause notice of such restrictions to be posted at each end of the portion of the highway effected thereby. Road restrictions imposed shall begin within 24 hours after said signs have been erected.

Dated: This 15th day of March, 2022.

McLean County Board of Commissioners

Steve Lee, Chairman

Steve Cottingham

Barry Suydam

Attest:

Beth A. Knutson, Auditor

It is Hereby Resolved that the above-stated road restrictions are hereby removed.

Dated: This ___ day of _____, 2021.

McLean County Board Of Commissioners

Steve Lee, Chairman

Steve Cottingham

Barry Suydam

Attest:

Beth A. Knutson, Auditor

Roll call vote: Aye: Cottingham, Lee and Suydam. Nay: None. Motion carried.

Rivinius presented various options for county road projects that could be completed in 2023 utilizing House Bill 1505 funding along with tentative five-year plan for federal aid projects through 2027. The projects proposed for 2023 include: 1) overlays near Wilton including portions of Old 83 Loop, Township 60 Road and County Road (CR) 24 including road widening in some areas as needed; 2) CR 17 overlay west of Washburn; 3) CR 20 overlay near Falkirk; and 4) CR 2 overlay west of Max. Federal aid could also be applicable to parts of the Wilton project option. He also presented chip seal projects for 2022. The board directed Rivinius to return to the next meeting for a decision and directed Grey to visit with Knutson with regard to fund availability prior to that meeting.

Rivinius requested and received authorization from the board to begin negotiations for temporary easements for the CR 20 Bridge project utilizing the \$750 minimum payment policy already in place from the previous bridge project.

James C. Falcon and Cammie Wright of NorDak North Publishing joined the meeting.

Knutson revisited the postage meter purchase that was presented at the last meeting. She has been in contact with Kelly Heinert of Dakota Business Solutions who addressed concerns that were brought up by Auditor's Office staff. She has also been in contact with Pitney Bowes who presented much higher pricing. The total cost for various contract lengths quoted from Dakota Business Solutions was 36 months at a cost of \$12,400; 48 months at a cost of \$14,293; and the original 60 months at a cost of \$16,213. She went on to explain the role that Presort Plus would play in our mail operations.

Tax Director Todd Schreiner; Property Appraiser Elizabeth Patterson; Ryan Henning and Bill Pedersen of Apex Clean Energy; and Jason Frye of Falkirk Mining joined the meeting.

Moved by Suydam, seconded by Cottingham, to approve the postage meter purchase from Dakota Business Solutions at a total cost of \$16,212.80 over 60 months. Roll Call Vote: Aye: Cottingham, Lee, and Suydam. Nay: None. Motion carried.

Knutson presented language for the mill levy question to be placed on the June Primary Election ballot regarding the end of the Farm-to-Market levy in 2024 that can be replaced by an equal increase to the County Road & Bridge levy upon approval by the county voters. She stated that this would not be an increase in total amount levied, it would maintain the current level of 20 mills. The difference would be the entire 20 mills would be levied under County Road & Bridge versus currently 10 mills are generated by the County Road & Bridge levy and the other 10 mills are generated by the Farm-to-Market levy.

The language presented was as follows *"As per N.D.C.C. 57-15-06.7 (5), shall the governing body of McLean County be granted authority to levy a total of 20 mills for County Roads and Bridges which includes the 10 mills previously levied for Farm to Market, which was repealed by 2015 SB 2144."* Discussion followed by the board requesting that additional wording be added explaining that this would not be an increase in mills. Knutson will return at the next meeting with further revision for the board's approval.

Knutson went on to discuss setting up meetings in various larger cities to educate voters on the ballot measure. Lee commented that attendance might be low at the proposed meetings but went on to suggest securing times on city commission/council meeting agendas to present the information in that manner.

Wade and Amanda Haseleu of Underwood joined the meeting.

Moved by Cottingham, seconded by Suydam, to approve issuing a 2022 Class 1 Beer and Liquor license to Roseann Becker for her business, Rosies, located on Brush Lake (f/k/a Brush Lake Pavilion). Background checks for outstanding violations have been completed by the Sheriff's Department and all necessary fees have been received. Roll Call Vote: Aye: Cottingham, Lee, and Suydam. Nay: None. Motion carried.

Moved by Cottingham, seconded by Suydam, to approve the raffle permit application from the Sakakawea Fence Stretchers Inc. for a raffle drawing to be held on August 2, 2022, with ticket sales taking place from March 20 through August 2, for four rifles and one shotgun with a total prize value of \$2,500.00 with the proceeds going toward repairs to a recently acquired snowmobile trail groomer. Roll Call Vote: Aye: Cottingham, Lee, and Suydam. Nay: None. Motion carried.

Knutson presented the Pledge of Securities for the month of February received from TruCommunity Bank. On February 28, 2022, the total public deposits were \$23,437,635.65 and total pledged securities were \$24,600,664.30.

Moved by Cottingham, seconded by Suydam, to accept the Pledge of Securities for the month of February from TruCommunity Bank. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Knutson presented various transfers including the following budget amendments: \$916,073.14 from Unorganized Township Road to County Road to complete the transfer that should have been made at the end of 2021 to close out that year and bring the County Road fund balance to a positive; \$264,311.52 from the remaining funds in the now inactive Dakota Central Social Services account to the current Dakota Central Human Service Zone to close out the inactive account; \$159.82 from County General to Law Enforcement Grants to cover an overage in that account; \$0.01 from County General to Disaster Emergency Grants to cover an overage in that account; \$300,000.00 from Painted Woods to Water Management District to correct posting errors due to new account creation; \$5,752.46 from Leafy Spurge to Weed Control to complete the transfer that should have been made at the end of 2021 to close out that year; and \$85.78 from County Fair to County General to complete the transfer prior year tax collections that now go to the county. Total transfers of this type amount to \$1,486,382.73.

Moved by Suydam, seconded by Cottingham, to approve the 2021 budget amendments as presented. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Moved by Cottingham, seconded by Suydam, to approve the following transfers from County General closing out the previous year and funding the current year at the approved budget amount: \$21,782.82 to School Resource Officer; \$27,713.86 to Veterans

Services; \$24,768.34 to Disaster Emergency Fund; \$102,698.17 to County Agent; \$1,600.00 to Jobs Promotion; and \$3,500.00 to McLean-Mercer Rescue Boat amounting to total of \$182,063.19. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Schreiner and Patterson presented recommendations from Monday's meeting of the Planning & Zoning Commission.

Patterson presented an application submitted by Falkirk Mining Company, of Underwood, ND, requesting approval of a Conditional Use Permit involving land located in portions of Sections 1, 2, 3, and 5, Township 146 North, Range 82 West, and portions of Sections 33 and 34, and all of Sections 35 and 36, Township 147 North, Range 82 West, known as 8th Addition to Permit NAFK-8405 containing 3,359.7 acres, more or less. The above-named applicant seeks approval of a Conditional Use Permit to continue surface coal mining operations.

Wade and Amanda Haseleu questioned Frye regarding the placement of their home in the published map of the permitted area and requested that the area surrounding their home be removed from the project beyond the 500-foot boundary. Lee questioned the 500-foot boundary as it applies to current and future structures. Frye would like the current map to remain unchanged for permitting purposes as years of work has already gone into this permit and it would cause a significant setback in mining operations due to the fact that any revisions would have to be approved by the Public Service Commission. The Haseleus were told by previous Falkirk Mining representatives that their homestead area would never be affected by mining operations. Lee questioned whether the 500-foot boundary could be increased. Amanda questioned when they could have stopped this before it got to this point stating that they would like official action on their behalf protecting their farmstead area. She went on to ask if Frye would be willing to sit down with them and hammer out a good faith agreement extending the 500-foot perimeter around the Haseleu property. Lee stated the commission could table action on this approval until the next regular meeting, but he would like to see a resolution happen quickly.

Moved by Suydam, seconded by Cottingham, to table the decision on Falkirk Mining Company's Conditional Use Permit application for the 8th Addition to Permit NAFK-8405 until 9:00 a.m. on Tuesday, April 5, 2022. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Adam Ourada of Falkirk Mining Company joined the meeting.

Patterson presented an application submitted by Discovery Wind LLC, of Charlottesville, VA, requesting a zoning change involving land described as the SE portion of the NW¼ of Section 24, Township 146 North, Range 83 West, formally known as Longfellow Township. The above-named applicant seeks a zoning change to allow the construction of a 197' meteorological tower to measure the wind resource in the area.

Pedersen discussed the operation briefly stating that installation will take less than a day as the structure is temporary and will be held in place by guidewires.

Chief Deputy Richard Johnson and Assistant Jail Administrator Casey Howe joined the meeting.

Moved by Cottingham, seconded by Suydam, to concur with the Planning and Zoning Commission and approve the request for a zoning change from Discovery Wind LLC, of Charlottesville, VA, involving land described as the SE portion of the NW¼ of Section 24, Township 146 North, Range 83 West, formally known as Longfellow Township. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Patterson presented an application submitted by Discovery Wind LLC, of Charlottesville, VA, requesting a zoning change involving land described as the NE portion of the SW¼ of Section 21, Township 146 North, Range 81 West. The above-named applicant seeks a zoning change to allow the construction of a 197' meteorological tower to measure the wind resource in the area.

Moved by Suydam, seconded by Cottingham, to concur with the Planning and Zoning Commission and approve the request for a zoning change from Discovery Wind LLC, of Charlottesville, VA, described as the NE portion of the SW¼ of Section 21, Township 146 North, Range 81 West. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Schreiner presented proposed changes to Sections 6.5.1 Electrical Power Transmission Lines, 6.5.2 Residential Occupancy in Commercial Districts, and 7.3.4 Subdivisions of the McLean County Zoning Ordinance as drafted by States Attorney Ladd Erickson. Schreiner will work with Knutson and Erickson to ensure publication requirements are met.

Chairperson Lee opened a public hearing at 9:30 a.m. for Falkirk Mining Company's request for a temporary section line closure.

Ourada presented the request on behalf of Falkirk Mining Company to temporarily close the section line road between NE4 of Section 32 and the SE4 of Section 29, Township 145 North, Range 83 West, in order to conduct surface coal mining and reclamation operations. After the completion of surface coal mining and reclamation operations, Falkirk will restore the closed sections line roads to as good a condition as existed prior to the closing of such roads to the extent required by the Board of McLean County Commission.

Moved by Suydam, seconded by Cottingham, to approve the temporary section line closure as presented. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Resolution of
McLean County Commission

Whereas, The Falkirk Mining Company ("Falkirk") has petitioned the Board of County Commissioners of McLean County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

- a. The section line road between NE4 of Section 32 and the SE4 of Section 29, Township 145 North, Range 83 West

Whereas, a public hearing was held upon the Petition of Falkirk before the Commission on the 15th day of March, 2022, at 9:30 a.m. CDT, in the Courthouse in the City of Washburn, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

Now, Therefore, be it resolved that the Commission does hereby find, conclude, and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Falkirk's conduct of surface coal mining operations.
4. That the temporary closing of said section line roads does not deprive adjacent land owners access to their property.
5. That a public benefit exists in temporarily closing said section line roads and that the interests of public and the affected landowners will be protected.

Be it Further resolved, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Falkirk's surface coal mining operations which affect the use of said section line roads by the general public are completed:
 - a. The section line road between NE4 of Section 32 and the SE4 of Section 29, Township 145 North, Range 83 West
2. That Falkirk provide farmers access to their lands for farming purposes during the time that said section line roads are temporarily closed.
3. That within a reasonable period of time after completion of surface coal mining operations Falkirk shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.
4. That Falkirk inform the Commission when the restoration of said section line roads is completed, at which time Falkirk shall tender said section line roads to the Commission for acceptance for general public use.
5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Falkirk to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.
6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the McLean County Auditor.

Dated this 15th day of March, 2022.

Attest:

McLean County Commission

Beth Knutson, County Auditor

By: _____

By: _____

By: _____

Knutson presented the calendar for the 2023 budgeting process with the preliminary budget approved on August 2 and the final budget approval tentatively set for October 6.

Moved by Cottingham, seconded by Suydam, to approve the 2023 budget calendar. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Joe Mayer of Sunde Sand and Gravel joined the meeting with bids for the scheduled bid opening.

Foss presented updated job descriptions for the following positions for approval: Jailer/Dispatcher, Jailer/Dispatcher Sergeant, Patrol/Contract Deputy, Patrol/Contract Deputy/School Resource Officer, Patrol/Contract Deputy/Transport Officer, Patrol Corporal, Patrol Sergeant, and Sheriff. Lee questioned the 160-hour maximum per each 28-day work schedule voicing his concern that new hires may come on board thinking they only have to work 160 hours. Foss explained the change to 160 versus the previous 171 reflects our current practice and provides a basis for overtime calculation. She then deferred to Johnson who further explained that all new hires are aware that they are scheduled to work over the 160 but also understand that overtime is paid or comp time is accrued for hours over 160.

Moved by Cottingham, seconded by Suydam, to approve the updated job descriptions as presented. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Johnson presented a request to purchase equipment needed to equip two additional patrol units that are needed due to reassignment of staff to various positions. The total cost of the equipment is \$25,306.96. The department currently has about \$71,000 in the last year's auction sales proceeds account. The department requests to utilize those funds to complete the equipment purchases along with requesting an additional \$9,451.59 of those funds to cover the overage in this year's vehicle purchases for a total expenditure of \$34,758.55. There is a possibility that additional funds may come from Totten Trail gaming activities and a donation from Three Affiliated Tribes.

Moved by Cottingham, seconded by Suydam, to approve the requested purchases as presented up to a total of \$34,758.55 with funds from the auction account. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Johnson notified the board that Federal Prisoner Transport Officer Chris Liebel has resigned his position. The department would like permission to advertise for one Federal Prisoner Transport officer with a limit of 19 hours per week to fill the vacancy.

Moved by Cottingham, seconded by Suydam, to advertise to fill one part-time Federal Prisoner Transport Officer position. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Johnson then requested permission to fill a female Jailer/Dispatcher position vacancy created by the recent resignation of Justina Jones. He had contacted the three females remaining on the active hiring list and all have declined the position.

Moved by Suydam, seconded by Cottingham, to advertise to fill one or more female Jailer/Dispatcher positions. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Knutson presented a letter from the City of Garrison requesting a portion of the county's ARPA funds for that city's benefit. She informed the board that the cities had each received their own ARPA funding. Another city has called and inquired on the same matter. Discussion followed. Lee would like Knutson to bring amounts back at the next meeting showing what each city in the county received from ARPA.

Highway Superintendent Jim Grey rejoined the meeting for the 10:00 a.m. Class 5 Gravel Crushing and Stockpiling bid opening. Sundre Sand & Gravel of Minot bid the crushing at \$2.50 per ton. Fisher Sand & Gravel of Dickinson bid the crushing and stockpiling of gravel at \$6.25 per ton. Aggregate Construction of Minot bid the crushing and stockpiling at \$3.19 per ton. Gravel Products Inc. of Minot bid the crushing and stockpiling of gravel at \$2.75 per ton. Grey recommended that all bids except the one from Fisher Sand & Gravel be accepted.

Moved by Cottingham, seconded by Suydam, to accept the bids from Sundre Sand & Gravel, Aggregate Construction, and Gravel Products Inc. as submitted. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

States Attorney Ladd Erickson joined the meeting.

Grey opened equipment rental bids from Donn Brown Construction of Des Lacs and Sundre Sand & Gravel of Minot.

Moved by Suydam, seconded by Cottingham, to accept all equipment rental bids submitted. Roll Call Vote: Aye: Cottingham, Suydam, and Lee. Nay: None. Motion carried.

Patterson and Schreiner rejoined the meeting

Pedersen and Henning of Apex Energy presented information on their Discovery Wind Project located near Rainbow Energy Center and Great River Energy facilities. They are operating on a five-year development period with operations starting in 2025. When completed, the facility will employ 12-20 full-time positions; during construction they will employ 200-300 positions including many local individuals. Henning addressed environmental issues including impact on wildlife including eagles and also discussed environmental surveys that will be completed over the next two years. Henning commented that they make sure their projects are compliant with both state and federal guidelines. There is currently a goal of 40,000 acres to be leased for this project.

Erickson discussed the amendments to the county's planning and zoning ordinance that were presented to the Planning and Zoning Commission yesterday requesting guidance on the meeting format that is planned to hear public comment on the changes. In this type of situation previously, a joint meeting was held of the County Commission and the Planning and Zoning Commission in the evening to allow both boards to hear all comments following a three-week public comment period. Lee stated that the meeting would be a special meeting of the county commission so that would be the only item acted on by the board at that meeting.

Pedersen, Cottingham and Lee went on to discuss environmental setbacks in regard to the project along with adjacent leasing of properties along with Discovery Wind Energy's innovative, community-based leasing that spreads some of the financial benefits more broadly among landowners.

Moved by Suydam, seconded by Cottingham, to approve the following vouchers for payment:

A detailed list of checks is available for public inspection anytime during regular business hours in the McLean County Auditor's Office.

Roll Call Vote: Aye: Lee, Cottingham, and Suydam. Nay: None. Motion carried.

Knutson informed the board of the County Park Board meeting set for Tuesday, April 5, at 8:00 a.m., immediately before the first regular April meeting of the County Commission.

There being no further business, the chairperson declared the meeting adjourned at 10:46 a.m. until the next regularly scheduled meeting on Tuesday, April 5, 2022. The commission minutes and agenda can be found on the county website at <http://www.mcleancountynd.gov>.