

## 2010 Legal and Public Notices

**Action 13537C:** A motion was made by Sinclair and seconded by Moore to approve the October, 2013 gross payroll: **Commissioners:** \$4,811.43; **Auditor:** \$8,864.24; **Treasurer:** \$13,743.75; **States Attorney:** \$21,076.66; **Custodian:** \$2,882.90; **Director of Equalization:** \$18,259.53; **Register of Deeds:** \$11,465.02; **Veterans Service:** \$2,080.05; **Courthouse & Safety Center:** \$5,551.21; **Sheriff:** \$50,686.78; **County Jail:** \$49,497.57; **Coroner:** \$720.00; **Juvenile Detention:** \$0.00; **Nurse:** \$2,394.48; **Ambulance:** \$36,383.60; **Extension:** \$5,571.98; **Soil Conservation:** \$2,006.24; **Weed:** \$2,835.10; **Planning & Zoning:** \$4,355.99; **Road & Bridge:** \$53,173.60; **OEMHS:** \$4,721.72; **WIC:** \$422.55; **24-7 Program:** \$5,223.19. South Dakota Retirement System (Buy Back) \$166.63, South Dakota Retirement System \$22,212.72 (Other Employees), South Dakota Retirement System \$14,511.84 (Sheriff/EDS), South Dakota Retirement System (Payroll Deduction-Spouse Opt) \$190.85, South Dakota Retirement System (Supplemental) \$2,591.66, American Family Life Assurance Company (AFLAC) \$3,419.53, Legalshield \$89.65, Office of Child Support \$379.00, Nationwide Retirement Solutions \$128.26, First Dakota National Bank \$26,772.76 (Withholding), First Dakota National Bank \$37,490.92 (FICA), First Dakota National Bank \$8,768.02 (Medicare), Boston Mutual Life Insurance \$543.04, Colonial Life & Accident \$1,521.42, Blue Cross Blue Shield \$46,995.62, Garnishment/Capital One \$430.00. Gross Payroll \$306,727.59, Net Payroll \$228,765.12. All present voted aye; motion carried.

**Action 13538MI:** A motion was made by Sinclair and seconded by Johnson to approve the September 2013 Mental Illness hearings income report. The report showed that 20 counties paid Yankton County a total of \$5,638.40 for providing representation from the Yankton County State's Attorney Office at September 2013 MI hearings held at the South Dakota Human Services Center. All present voted aye; motion carried.

**Action 13539W:** A motion was made by Johnson and seconded by Sinclair to approve travel expenses for Weed Control Supervisor Tom Schramm to attend the District 2 Weed Control meeting Nov. 8 at Mitchell. All present voted aye; motion carried.

**Action 13540C:** A motion was made by Sinclair and seconded by Freng to approve travel expenses for county officials to attend the quarterly eight-county meeting at Tyndall on Nov. 20. All present voted aye; motion carried.

**Action 13541Z:** A motion was made by Sinclair and seconded by Freng to authorize the chairman to sign a contract that will pay up to \$3,500 to Planning and Development District III for assisting Zoning Administrator Patrick Garrity with the Highway 52 Corridor Study. All present voted aye; motion carried.

**Action 13542Z:** A motion was made by Sinclair and seconded by Freng to recess the regular session and convene as Board of Adjustment. All present voted aye; motion carried.

**Wildwood Park Administrative Review:** The Board, Zoning Administrator Garrity and States Attorney Rob Klimisch resumed a review of six zoning enforcement requests from homeowners in Wildwood Park Addition. The requests were based on concerns about frequent occupancy of campers and small sheds, and the placement of portable toilets, on four lots in the housing development. Commissioner Freng said some lot owners are using Wildwood Park Addition as a campground, which is not permitted in a moderate-density rural residential development. There was discussion of Section 1525 of the Yankton County Zoning Ordinance, which states no camping unit shall be parked and occupied on a residential lot for a period greater than 14 days within a calendar year. At the Oct. 15 Board meeting, four of the lot owners with campers and/or small sheds said they do not stay overnight on their lots more than 14 nights per year. States Attorney Klimisch said it was his interpretation of Section 1525 that the word "occupied" does not only refer to overnight stays in camping units. Garrity said the current zoning ordinance language does not specifically prohibit the small sheds, but he said camping units should be covered except for the 14 days they are being used. Garrity also said any storage trailers or portable toilets on Wildwood Park Addition lots should be removed.

**Action 13543Z:** In response to an enforcement request from Sherry Miller, a motion was made by Sinclair and seconded by Freng to direct the zoning administrator to notify owners that portable toilets

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must be removed and all campers must be covered when not in use on Lots 11, 19, 20 and 24 in Wildwood Park Addition. All present voted aye; motion carried.

**Action 13544Z:** In response to an enforcement request from Tim Miller, a motion was made by Sinclair and seconded by Johnson to direct the zoning administrator to notify owners that portable toilets must be removed and all campers must be covered when not in use on Lots 11, 19, 20 and 24 in Wildwood Park Addition. All present voted aye; motion carried.

**Action 13545Z:** In response to an enforcement request from Tammy Zautke, a motion was made by Freng and seconded by Johnson to direct the zoning administrator to notify owners that portable toilets must be removed and all campers must be covered when not in use on Lots 11, 19, 20 and 24 in Wildwood Park Addition. All present voted aye; motion carried.

**Action 13546Z:** In response to an enforcement request from Suzanne and Gerard Zweber, a motion was made by Freng and seconded by Sinclair to direct the zoning administrator to notify owners that portable toilets must be removed and all campers must be covered when not in use on Lots 11, 19, 20 and 24 in Wildwood Park Addition. All present voted aye; motion carried.

**Action 13547Z:** In response to an enforcement request from Kenneth Kulhavy, a motion was made by Sinclair and seconded by Freng to direct the zoning administrator to notify owners that portable toilets must be removed and all campers must be covered when not in use on Lots 11, 19, 20 and 24 in Wildwood Park Addition. All present voted aye; motion carried.

**Action 13548Z:** In response to an enforcement request from Guy and Susie Chaney, a motion was made by Johnson and seconded by Freng to direct the zoning administrator to notify owners that storage trailers and portable toilets must be removed and all campers must be covered when not in use on Lots 11, 19, 20 and 24 in Wildwood Park Addition. All present voted aye; motion carried.

**Variance Public Hearing:** This was the time and place for a public hearing for a Variance of Maximum Accessory Structure application from Larry Chester. Applicant is requesting a Variance of Maximum Accessory Structure size from 1,200 square feet to 1,620 square feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Tract D, E \_ NW \_ in S8-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. E911 address is TBA on Ridgeview Drive, Tabor, S.D. The Planning Commission recommended approval 8-2 with two abstentions. No public comments were received at the hearing.

**Action 13549Z:** A motion was made by Sinclair and seconded by Johnson, based on Findings of Fact from the Oct. 8, 2013 Yankton County Planning Commission meeting and on file in the Zoning Administrator's Office, to approve a Variance of Maximum Accessory Structure application from Larry Chester. The variance allows an increase in Maximum Accessory Structure size from 1,200 square feet to 1,620 square feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Tract D, E \_ NW \_ in S8-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. E911 address is TBA on Ridgeview Drive, Tabor, S.D. All present voted aye; motion carried.

**Variance Public Hearing:** This was the time and place for a public hearing for a Variance of Minimum Lot Requirement application from Dianna Hampton and Corey Highland. Applicants are requesting a Variance of Minimum Lot Requirement from twenty (20) acres to eleven +/- (11.01) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as Highland Tract 1 in SW \_ SW \_ in S16-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. E911 address is 29380 442 Ave., Irene, S.D. The Planning Commission recommended approval 12-0. No public comments were received at the hearing.

**Action 13550Z:** A motion was made by Johnson and seconded by Freng, based on Findings of Fact from the Oct. 8, 2013 Yankton County Planning Commission meeting and on file in the Zoning Administrator's Office, to approve a Minimum Lot Requirement Variance for Dianna Hampton and Corey Highland, pursuant to Article 19, Section 1907 of the Yankton County Zoning Ordinance.

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The variance allows a reduction in minimum lot requirement from twenty (20) acres to eleven +/- (11.01) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as Highland Tract 1 in SW \_ SW \_ in S16-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. E911 address is 29380 442 Ave., Irene, S.D. All present voted aye; motion carried.

**Variance Public Hearing:** This was the time and place for a public hearing for a Variance of Minimum Yard Requirement application from Dianna Hampton and Corey Highland. Applicants are requesting a Variance of Minimum Yard Requirement (side yard) from seventy five (75) feet to forty (40) feet to construct an accessory structure in an Agriculture District (AG) in Yankton County. Said property is legally described as Highland Tract 1 in SW \_ SW \_ in S16-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. E911 address is 29380 442 Ave., Irene, S.D. The Planning Commission recommended approval 12-0. No public comments were received at the hearing.

**Action 13551Z:** A motion was made by Sinclair and seconded by Freng, based on Findings of Fact from the Oct. 8, 2013 Yankton County Planning Commission meeting and on file in the Zoning Administrator's Office, to approve a Variance of Minimum Yard Requirement for Dianna Hampton and Corey Highland, pursuant to Article 19, Section 1907 of the Yankton County Zoning Ordinance. The variance allows a side yard reduction of Minimum Yard Requirement from seventy five (75) feet to forty (40) feet to construct an accessory structure in an Agriculture District (AG) in Yankton County. Said property is legally described as Highland Tract 1 in SW \_ SW \_ in S16-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. E911 address is 29380 442 Ave., Irene, S.D. All present voted aye; motion carried.

**CUP Public Hearing:** This was the time and place for a public hearing for a Conditional Use Permit application from White Crane, LLC. Applicant requested a permit to construct two (2) family unit houses in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 20 and Lot 31 of Crestview Homes in the NE1/4 of S21-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. E911 address is TBA on Violet Drive, Yankton, SD. The Planning Commission recommended approval 7-3. Yankton attorney Mike Stevens was present to answer questions on behalf of White Crane, LLC. No public comments were received at the meeting.

**Action 13552Z:** A motion was made by Johnson and seconded by Freng, based on Findings of Fact from the July 9, 2013 Yankton County Planning Commission meeting and on file in the Zoning Administrator's Office, to approve a Conditional Use Permit for White Crane, LLC to construct two (2) family unit houses in a Moderate Density Rural Residential District (R-2) in Yankton County, pursuant to Article 19, Section 1905 of the Yankton County Zoning Ordinance. Said property is legally described as Lot 20 and Lot 31 of Crestview Homes in the NE1/4 of S21-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. All present voted aye; motion carried.

**Action 13553Z:** A motion was made by Sinclair and seconded by Freng to adjourn as Board of Adjustment and reconvene in regular session. All present voted aye; motion carried.

**Action 13554Z:** A motion was made by Sinclair and seconded by Freng to adopt the following resolution: Whereas it appears Dianna K. Hampton and Violet F. Pickering, owners of record, have caused a plat to be made of the following real property: Highland Tract 1 in SW \_ SW \_ in S16-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota, and has submitted such plat to the Yankton County Planning Commission and the Yankton County Commission for approval. Now therefore be it resolved that such plat has been executed according to law and conforms to all existing applicable zoning, subdivision and erosion and sediment control and the same is hereby approved. The County Auditor is hereby authorized and directed to endorse on such the proper resolution and certify the same. All present voted aye; motion carried.

**Action 13555Z:** A motion was made by Sinclair and seconded by

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Johnson to appoint Glen Ekeren to serve the remaining two years of an open term on the Yankton County Planning Commission. All present voted aye; motion carried.

**Tax Deed Land Issue:** States Attorney Klimisch and the Board discussed a 13-acre parcel of farm ground in the east half of the northeast quarter of Section 30 in Walshtown Township. The 13-acre parcel became county property on a tax deed in 2011. Klimisch said the previous owners did not pay property taxes on the parcel because they believed it was sold along with their other farm property in 1996. Register of Deeds Hunhoff said the confusion apparently stemmed from a long-established fence line that was thought to be an east-west boundary, but did not match the legal descriptions on file for the 1996 property transfer. A secondary issue was discussed regarding a one-rod access easement the Wilmer Frohreich family has through adjacent land owned by Brad Kleinsasser. Klimisch said he has discussed the issue with the parties involved and recommends the following course of action: 1) The Board transfers the 13-acre Yankton County-owned parcel to Kleinsasser; 2) Kleinsasser transfers a one-rod tract along his east property line to Frohreich for access; and 3) Frohreich transfers the one-rod tract he has through Kleinsasser's property to Kleinsasser.

**Action 13556C:** A motion was made by Johnson and seconded by Moore to approve the transfer of a 13-acre county-owned parcel in the east half of the northeast quarter of Section 30 in Walshtown Township from Yankton County to Brad Kleinsasser on the following conditions: Kleinsasser will transfer a one-rod tract along his east property line to Frohreich; and Frohreich will transfer his one-rod easement through Kleinsasser's property to Kleinsasser. All present voted aye; motion carried.

**Action 13557Z:** A motion was made by Sinclair and seconded by Johnson to recess the regular session and convene in executive session with Zoning Administrator Garrity to discuss contractual issues. All present voted aye; motion carried.

**Action 13558Z:** A motion was made by Freng and seconded by Johnson to adjourn from executive session and reconvene in regular session. All present voted aye; motion carried.

Chairman Jensen said no action will be taken as a result of the executive session.

**Action 13559COR:** A motion was made by Sinclair and seconded by Freng to recess the regular session and convene in executive session with County Coroner Arica Nickles to discuss contractual issues. All present voted aye; motion carried.

**Action 13560COR:** A motion was made by Johnson and seconded by Freng to adjourn from executive session and reconvene in regular session. All present voted aye; motion carried.

Chairman Jensen said no action will be taken as a result of the executive session.

**CEM Recognition:** Chairman Jensen commended Yankton County Emergency Manager Paul Scherschligt for recently earning Certified Emergency Manager Advanced status from the State of South Dakota. Scherschligt explained the training and other criteria involved in the certification process. He said his longtime history with the Lesterville Fire Department and his experience from the 2011 flood event were also taken into consideration in the state's review of his application for advanced professional certification.

**Highway Report:** Highway Superintendent Brian Gustad said work has been completed on rebuilding approximately 1,000 feet of the county-line road east of Gayville. Gustad said Yankton County and Clay County highway departments worked together on the project with Yankton County providing the front-end work and Clay County completing the back-end portion of the project.

**Highway Equipment:** Supt. Gustad said he anticipates unspent funds from his budget at the end of the year and requested the Board's permission to use some of those funds to purchase a new truck chassis and dump/body sander.

**Action 13561H:** A motion was made by Johnson and seconded by Sinclair to approve a right-of-way application from B-Y Water for installation of a water transmission line in multiple locations along Timberland Drive south of Highway 52. All present voted aye; motion carried.

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**Action 13562H:** A motion was made by Johnson and seconded by Freng to approve an application from Dave Thomas to construct a highway entrance at 3109 W. 11th Street in rural Yankton. The legal description of the property is Lot 2 of Balaidd's Addition in Section 15, Township 93 North, Range 56 West. All present voted aye; motion carried.

**Action 13563H:** A motion was made by Moore and seconded by Johnson to authorize Supt. Gustad to advertise for bids for a new truck chassis and dump/body sander with bids to be opened Nov. 25 and awarded at the Dec. 3 meeting. All present voted aye; motion carried.

**Highway Staffing:** Supt. Gustad notified the Board that Garth Paulsen resigned, effective Nov. 15, after 10 years as an equipment operator. Gustad said his budget still includes a salary for the shop foreman position that was eliminated earlier this year in a restructuring of the highway department management chain. Gustad requested approval to hire two new highway maintenance workers, using the budgeted salary for the vacated shop foreman slot to pay the second new employee.

**Action 13564H:** A motion was made by Sinclair and seconded by Freng to hire one highway maintenance worker to replace the individual who resigned in November. A roll call vote was requested. Voting aye: Sinclair, Freng, Johnson and Jensen. Voting nay: Moore. Motion carried 4-1.

**Action 13565H:** A motion was made by Moore and seconded by Johnson to hire a second highway maintenance worker to be paid from the salary slot budgeted for the vacated shop foreman position. A roll call vote was requested. Voting aye: Moore and Johnson. Voting nay: Freng, Sinclair and Jensen. Motion failed 3-2.

**Utica Snow Removal:** Cherie Hoffman, president of the Utica Town Board, asked the Commission for preliminary approval for an agreement to have the County Highway Department plow the Town of Utica after snowstorms. Hoffman said her Board is primarily concerned with the streets that are part of the school bus route. Highway Supt. Gustad said the County plows streets in the Town of Lesterville and could provide the same service in Utica. Gustad said the County has a standard set of hourly rates for each piece of equipment. The Board asked Gustad and Hoffman to work out the details of an agreement and bring it to the next Board meeting on Nov. 19 for final approval.

**Gravel Request:** Doug Hevle, 43371 W. 10th St., said 310th Street west of Yankton, needs gravel. Hevle said 13 homes have been built along the two-mile stretch and it has considerable traffic for a gravel road. Hevle asked the Board to direct the Highway Department to provide a gravel application to the road. It was noted during discussion that 310th Street is not officially part of the Yankton County highway maintenance program. Officials have not added new roads to the county system since the 1970s, due to the high cost of building new roads and the liability of adding roads that were under-built by developers. The road along 310th Street was built by a private developer several years ago, but it is not built to county standards. Commissioner Johnson said a road should be built to county standards before it is considered for inclusion in the county road maintenance program. Johnson estimated the cost of a six-inch gravel application to the road would be in the \$10,000 range. Zoning Administrator Garrity said one option for property owners along 310th Street is to form a road district. The Board asked Garrity to provide Hevle with direction in forming a road district or joining an existing road district.

**Dakota Plains Project:** Matt Winsand, general manager of Dakota Plains Ag Center, and Toby Morris of Northland Securities informed the Board that plans are moving forward to build a large grain handling facility at Napa Junction, located 2.5 miles north of Highway 50 on 437th Avenue. Rebuilding the gravel roads from Highway 50 to the Napa Junction location is estimated to cost \$2.8 million or more, depending on the need for turning lanes. Commissioner Moore said the new road must be built to state specifications to handle the large amount of heavy truck traffic that will result from the project. Winsand and Morris said they will return to an upcoming meeting with an update on the project.

**County Shop Parcel:** States Attorney Klimisch and the Board discussed a small frontage lot owned by Yankton County on Broadway Avenue, adjacent to the former County Highway Shop. Klimisch said South Dakota Codified Law 6-13-2 states a public body must receive 90 percent or

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more of the appraised value when selling property. Klimisch said sales options include sealed bids, public auction, or listing the property with real estate brokers. If the County fails to receive an offer of 90 percent or more, Klimisch said the County could have the property re-appraised to determine if a lower value should be applied. The Board asked Klimisch to contact the State Department of Legislative Audit and ask if any other options or alternatives are available to the County regarding the 90 percent requirement.

**Next Meeting:** The next regular meeting of the Board will be held Tuesday, Nov. 19, 2013 at 3:30 p.m. in the Commission Chamber of the County Government Center. Items on the next meeting agenda will include: environmental testing proposal for Government Center; insurance proposal from Catastrophic Risk Services to cover large medical bills incurred by inmates; and proposal to do snow removal for Town of Utica.

A motion was made by Johnson to adjourn.

**Bruce Jensen, Chairman**  
Yankton County Board of Commissioners

ATTEST:  
**Patty Hojem, County Auditor**  
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# Schools

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help steer professional growth rather than punish schools.

In effect, Schopp said, there will be an index for student performance, on which schools will get scores, and a separate index for teacher and principal effectiveness that won't be part of the scoring system.

"We really believe this is the right thing to do, to separate them," Schopp said.

The department won't receive individual evaluations and instead will get a school's evaluation information in aggregate.

Don Kirkegaard, the state board's president, told Schopp she needs to let school districts know "yesterday" if the department is backing off on evaluations.

School districts' personnel are working hard on the evaluation processes, according to Kirkegaard. He is superintendent of the Meade district headquartered at Sturgis.

As for the school climate criteria, it hasn't been developed yet.

A special committee working on it decided instead to recommend scrapping it as a measurement, according to Abby Javurek-Humig. She is director for the department's division of assessment and accountability.

Some schools are doing well in their self-assessments of climate while others are struggling, Javurek-Humig said.

"Everyone of them has a different way to do it," she said.

State board member Patricia Simmons of Sioux Falls said she is "disappointed" that school climate wouldn't be considered.

Another member of the board, Stacy Phelps of Rapid City, challenged Javurek-Humig on a plan to measure attendance more precisely.

Currently schools need to reach a threshold of 94 percent attendance. The change under consideration would measure the percentage of an elementary or middle school's students who are in attendance at least 94 percent of the time.

Other changes in the works call for measuring a school's academic performance by using three years of student achievement data rather than one, offering three ways to measure a high school's student college-readiness rate, developing a way to measure student career readiness and rewarding elementary and middle schools for student academic growth.

Most or all of these changes will need the state board's approval through a formal rule-making process. Schopp said they will be presented to her advisory council and to the department's accountability panel.

"None of these things are finalized," Schopp said.

South Dakota's current NCLB waiver covers the 2013-14 academic year. Javurek-Humig said the U.S.

Department of Education sent reviewers to South Dakota in August to gauge the compliance with the waiver requirements.

She said the state department hasn't received the federal report yet. Reapplication to continue the waiver for 2014-15 will be due at end of February or 60 days after state's receipt of monitoring report, whichever is later, she said.