

## **FALL RIVER COUNTY UNAPPROVED MINUTES OF NOVEMBER 19, 2019**

The Fall River Board of County Commissioners met in regular session on November 19, 2019. Present: Joe Allen, Joe Falkenburg, Heath Greenough, Paul Nabholz, Deb Russell and Sue Ganje, Auditor. Greenough's Oath of Office was placed on file with the County Auditor.

The Pledge of Allegiance was given, and the meeting called to order at 9:00 a.m.

The agenda was reviewed for conflicts; none were noted. ALL MOTIONS RECORDED IN THESE MINUTES WERE PASSED BY UNANIMOUS VOTE, UNLESS OTHERWISE STATED. The full context of the meeting can be found on the county website under Commissioners at <http://fallriver.sdcounties.org>, or, <http://www.Youtube.com>, Fall River County Commission SD.

Motion made by Nabholz, seconded by Greenough, to approve the agenda, as written.

Motion made by Nabholz, seconded by Russell, to approve the minutes of November 5, 2019 with the amendment to reflect the correct contract # change to 32119, effective May 2019, for the Highway Department's new 259D3 Compact Track Loader.

There were no county assistance or death expense applications.

Motion made by Russell, seconded by Greenough, to surplus to junk an election laptop Auditor's Office, #01377; TOA Sound System, Extension Office, #00252 and 2 office chairs, Treasurer's Office, #01687 and #01657.

Kelli Rhoe, Treasurer, met with the board. Motion made by Allen, seconded by Greenough, to approve the Real Estate Tax Payment Agreement between the County and Virginia Birlew, Angel Apodaca and Micah Birlew, parcel #20000-00805-16300, in the amount of \$100.00 per month, with an approximate pay off date of December 2021. With Nabholz voting no, all others voting yes, by roll call vote, motion passes.

Motion made by Allen, seconded by Russell, to approve the Real Estate Tax Payment Agreement between the County and Michael Johnson, parcel #72110-00100-00600, in the amount of \$200.00 per month, with an approximate pay off date of December 2020. With Nabholz voting no, all others voting yes, by roll call vote, motion passes.

A discussion was held on county tax deeds and how to sell them, or to transfer lots within cities or towns to that entity. More discussion will follow, with a possible vote at the next commissioner's meeting. The mayors of the cities and town in the county will be invited.

Lyle Jensen, Building Supervisor, met with the board. Motion made by Russell, seconded by Allen, to approve the quote from Golden West for a replacement camera on the first floor, in the amount of \$749.16.

The supplement and contingency hearing was held as advertised. Motion made by Greenough, seconded by Nabholz, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2019-39**  
**Contingency Transfers 2019, #4**

WHEREAS, SDCL 7-21-32.2 provides that the Board of County Commissioners may adopt a transfer appropriation from the contingency budget to other appropriations, which are insufficient, a contingency transfer shall be approved and adopted to the following Departments: Court Appointed Attorney Fees 10100X4260153, \$11,000.00; Abuse & Neglect 10100X4260154, \$4,300.00; IT/GW Technology 10100X4342171, \$5,060.00; Juvenile Care 10100X4272215, \$6,760.00; Mental Illness Board 10100X4221445, \$5,440.00; 24/7 Sobriety Expense, 24800X4260211, \$147.57;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners to adopt the Contingency Transfer #4 for 2019.

Dated at Fall River County, South Dakota this 19<sup>th</sup> day of November 2019.

ATTEST:

/s/Sue Ganje

Fall River County Auditor's Office

/s/Joe Falkenburg

Fall River County Board of Commissioners

The second reading of an ordinance prohibiting the use of unmuffled dynamic brake devices was held. Motion made by Allen, seconded by Russell, to approve the second reading and the following resolution:

**Ordinance 2019-01**  
**Use of dynamic brake device prohibited**

A. Except as provided in this section, the use or operation of a dynamic braking device on unmuffled vehicles is hereby prohibited within Fall River County at the locations set out as follows:

**Zone 1** – Highway 385 milepost #38, 1 1/4 miles north of Hot Springs traveling south-east to intersection with Highway 79.

**Zone 2** – Highway 18 milepost #33, 1 1/2 miles west of Hot Springs traveling east to intersection with Highway 385.

**Zone 3** - Highway 79 milepost #28, 1 1/3 miles north of junction with Highway 385/18, traveling south to Cheyenne River at milepost #46.

B. A dynamic braking device is a device used on vehicles that converts the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. These devices are commonly referred to as “air brakes,” “engine brakes,” “compression brakes,” “Jacob’s Brakes,” or “Jake Brakes.”

C. This section shall not apply to State/County/City emergency vehicles, whether or not responding to an emergency.

D. As an affirmative defense to a charge of a violating of this section, the driver of the vehicle must prove by a preponderance of the evidence that:

1. The driver of the vehicle was operating the vehicle in compliance with all applicable laws at the time the unmuffled dynamic braking device was used; and

2. The speed of vehicle was reasonable given all of the relevant circumstances; and

3. The driver believed that the use of the unmuffled dynamic braking device was necessary to either:

a. Avoid an imminent threat to the safety of the driver or any other person; or

b. Avoid an imminent threat to property.

4. The driver's belief as to the necessity for using the unmuffled dynamic braking device was objectively reasonable.

E. A violation of this ordinance shall be subject to a fine of \$\_\_\_\_\_ per violation.

First Reading: November 5, 2019

Second Reading: November 19, 2019

ATTEST:

/s/Sue Ganje

Fall River County Auditor's Office

/s/Joe Falkenburg

Fall River County Board of Commissioners

With Nabholz and Greenough voting no, all others voting yes, by roll call vote, motion carries.

Discussion was held on apportionment of the PILT class action monies. Motion made by Nabholz, seconded by Russell, to table the PILT discussion until later in the meeting.

Randy Seiler, Highway Superintendent, met with the board. Motion made by Russell, seconded by Allen, to approve the October 2019 fuel used or work performed to reimburse the highway department as follows: Work performed for the Replacement of 911 signing (10-17-19 thru 10-23-19) for \$1,576.55; Sheriff's Department for \$2,638.07; Weed and Pest Office for \$255.36; Building for \$77.02; Emergency Management for \$82.42; Director of Equalization for \$217.98; and GIS for \$89.17.

Propane quotes were presented as follows:

|           |                |                    |
|-----------|----------------|--------------------|
| 11/8/2019 | Propane Quotes | 500 Gal (Edgemont) |
|           | Hi-D-Way       | \$1.10/gallon      |
|           | Nelson's       | \$1.30/gallon      |
|           | Dakota Propane | No Bid             |

Motion made by Nabholz, seconded by Greenough, to accept the low bid from Hi-D-Way at \$1.10 per gallon, for 500 gallons, for a total of \$550.00.

Fuel quotes were presented as follows:

|            |                         |                                 |
|------------|-------------------------|---------------------------------|
| 11/13/2019 | E-10 Gasoline Quotes    | 8000 Gal Gasoline (Hot Springs) |
|            | Nelson's Oil & Gas, Inc | \$2.26/gal                      |
|            | PJ's Fuel               | No Bid                          |
|            | MG Oil                  | \$2.231/gal                     |

Motion made by Russell, seconded by Greenough, to accept the low bid from MG Oil at \$2.231 per gallon, for 8,000 gallons of gasoline, for a total of \$17,848.00.

Motion made by Nabholz, seconded by Russell, to approve the Work order, Proposal #18-S787 Amendment #1, Dewey Rd Bridge, Preservation of #SN24-029-014, in the amount of \$22,677.00.

Motion made by Russell, seconded by Greenough, to approve the Work order for Argentine Bridge, #SN24-020-020, in the amount of \$78,690.00. With Nabholz voting no, all others voting yes, motion carries.

Seiler updated the board on activities and noted that the 5-year plan had been approved.

Jerry Kaiser, Butler Machinery, and Wade Isler and Sid Houdek, RDO, met with the board. Quotes were presented for a new road grader. Motion made by Nabholz, seconded by Greenough, to table the quotes until the December 3, 2019 meeting to get Randy's opinion on quotes and discuss buy backs.

Motion made by Russell, seconded by Nabholz, to pay the bills as follows:

**GENERAL FUND**

|                           |                          |            |
|---------------------------|--------------------------|------------|
| ANOKA COUNTY SHERIFF      | TAX DEED SERVED          | \$70.00    |
| AUDRA HILL CONSULTING,INC | MI QMHP EVALUATION       | \$725.77   |
| A-Z SHREDDING INC         | SHREDDING                | \$26.00    |
| BARNYARD VETERINARY SER   | ANIMAL CARE              | \$227.90   |
| BEESEY LAW OFFICE         | MENTAL ILLNESS           | \$1,083.50 |
| BLACK HILLS CHEMICAL      | SUPPLY                   | \$369.12   |
| BH FIRESIDE COUSELING LLC | MENTAL ILLNESS           | \$600.00   |
| BUILDER'S FIRST SOURCE    | SUPPLY                   | \$1,062.78 |
| CAMERON, GEORGE           | COURT REPORTER           | \$243.20   |
| CARDMEMBER SERVICE        | CARDMEMBER SERVICE       | \$2,818.83 |
| CASS COUNTY SHERIFF DEPT  | TAX DEED SERVED          | \$57.00    |
| CENTURY BUSINESS LEASING  | COPIER LEASE/METER/USAGE | \$491.41   |
| CHEYENNE SANITATION       | SANITATION COLLECTION    | \$371.73   |
| CHRIS SUPPLY              | SUPPLY                   | \$601.47   |

|                                 |                             |             |
|---------------------------------|-----------------------------|-------------|
| CULLIGAN SOFT WATER             | RENTAL/SUPPLY               | \$217.42    |
| EN-TECH LLC                     | FUMIGATION                  | \$410.00    |
| FARRELL,FARRELL &GINSBACH       | CAAF                        | \$4,857.30  |
| FALL RIVER COUNTY HERALD        | PUBLISHING                  | \$30.87     |
| GOFF, GARLAND LEE               | MENTAL ILLNESS/A & N        | \$4,356.70  |
| GOLDEN WEST                     | PHONE BILL/LONG DISTANCE    | \$1,348.80  |
| HEARTLAND PAPER COMPANY         | SUPPLY                      | \$270.36    |
| HILLS EDGE AUTO SALES           | CAR MAINTENANCE             | \$124.19    |
| HILLYARD/SIOUX FALLS            | SUPPLY                      | \$319.78    |
| HOT SPRINGS ACE HARDWARE        | SUPPLY                      | \$61.97     |
| HOT SPRINGS AMBULANCE           | INMATE AMBULANCE SERVICE    | \$555.25    |
| HOT SPRINGS AUTOMOTIVE          | SUPPLIES                    | \$308.98    |
| CITY OF HOT SPRINGS             | CITY WATER BILL             | \$738.69    |
| HUNT, KAREN PAIGE               | MENTAL ILLNESS              | \$228.00    |
| LYNNS DAKOTAMART                | INMATE OTC MEDICINE         | \$29.19     |
| LYNN'S DAK. MART PHARMACY       | INMATE PHARMACY             | \$276.13    |
| MARCO                           | COPIER LEASE                | \$165.00    |
| MARTY'S AUTO BODY               | SERVICE                     | \$120.00    |
| MASTEL, BRUICE                  | DATABASE SETUP & MONITORING | \$35.00     |
| MCGLUMPHY, ERIN                 | TRAVEL REIMBURSEMENT        | \$445.93    |
| MEADE COUNTY AUDITOR            | PRISONER BOARD              | \$80.00     |
| MICROFILM IMAGING SYSTEMS       | SCANNING EQUIP LEASE        | \$202.50    |
| NEOFUNDS                        | POSTAGE                     | \$1,797.53  |
| O'NEILL, JUSTIN                 | CAAF                        | \$1,737.47  |
| PENNINGTON COUNTY JAIL          | INMATE HOUSING PENNINGTON   | \$6,320.00  |
| QUILL CORPORATION               | SUPPLIES                    | \$88.11     |
| SD DEPARTMENT OF HEALTH         | BLOOD DRAWS                 | \$405.00    |
| SD DEPT OF REVENUE              | AUTO/MI STATE REMITT        | \$60.00     |
| SDSU:DEPT OF ANIMAL SCI.        | SUPPLY                      | \$37.50     |
| SERVALL                         | RUGS AND MATS SERVICE       | \$377.31    |
| SOFTWARE SERVICES INC           | SOFTWARE SERVICES           | \$2,080.00  |
| NORTON, MIKAYLA                 | BLOOD DRAWS                 | \$150.00    |
| TWILIGHT INC                    | FIRST AID SUPPLY            | \$106.64    |
| 211 HELPLINE                    | ALLOTTED BUDGET 2019        | \$1,500.00  |
| YELLOW ROBE, LUKE               | EXPERT WITNESS              | \$1,500.00  |
| DAVIS, WILLIAM S                | JURY FEE & MILEAGE          | \$20.08     |
|                                 | TOTAL FOR GENERAL FUND      | \$40,110.41 |
| <b>COUNTY ROAD &amp; BRIDGE</b> |                             |             |
| B H ELECTRIC COOP INC.          | UTILITY HWY ELECTRIC        | \$40.53     |
| BUTLER MACHINERY CO.            | EQUIPMENT                   | \$59,831.00 |
| CARDMEMBER SERVICE              | CARDMEMBER SERVICE          | \$1,480.96  |
| CHEYENNE SANITATION             | SANITATION COLLECTION       | \$74.00     |
| CITY OF EDGEMONT                | CITY OF EDGEMONT WATER      | \$80.60     |
| GOLDEN WEST                     | PHONE BILL/LONG DISTANCE    | \$259.39    |

|                                    |   |              |
|------------------------------------|---|--------------|
| SIMON MATERIALS                    | CONCRETE                                | \$17,062.50  |
| CITY OF HOT SPRINGS                | CITY WATER BILL                         | \$307.17     |
| PJ'S HI-D-WAY                      | UTILITY                                 | \$468.82     |
| RAPID DELIVERY                     | DELIVERY CHARGES                        | \$65.05      |
| TRUE NORTH STEELE                  | HEADWALL                                | \$30,700.00  |
| GRIMES, WES                        | REFUND                                  | \$170.00     |
|                                    | TOTAL FOR COUNTY ROAD AND BRIDGE        | \$110,540.02 |
| <b>911 SURCHARGE REIMBURSEMENT</b> |   |              |
| CARDMEMBER SERVICE                 | CARDMEMBER SERVICE                      | \$76.32      |
| GOLDEN WEST                        | PHONE BILL/LONG DISTANCE                | \$787.17     |
| CENTURY LINK                       | 911 DISPATCH LINES                      | \$599.22     |
| SIMUNEK, TRINA                     | UNIFORM ALLOWANCE                       | \$146.97     |
|                                    | TOTAL FOR 911 SURCHARGE REIMBURSEMENT   | \$1,609.68   |
| <b>EMERGENCY MANAGEMENT</b>        |   |              |
| CARDMEMBER SERVICE                 | CARDMEMBER SERVICE                      | \$42.93      |
| GOLDEN WEST                        | PHONE BILL/LONG DISTANCE                | \$148.67     |
| MARCO                              | COPIER LEASE                            | \$38.90      |
| NEOFUNDS                           | POSTAGE                                 | \$1.45       |
| QUILL CORPORATION                  | SUPPLIES                                | \$23.98      |
|                                    | TOTAL FOR EMERGENCY MANAGEMENT          | \$255.93     |
| <b>24/7 SOBRIETY FUND</b>          |   |              |
| CARDMEMBER SERVICE                 | CARDMEMBER SERVICE                      | \$25.99      |
|                                    | TOTAL FOR 24/7 SOBRIETY FUND            | \$25.99      |
|                                    | TOTAL PAID BETWEEN 11/6/19 AND 11/19/19 | \$152,542.00 |

Break was taken at 10:25 a.m. and meeting resumed at 10:32 a.m.

Public comment was heard from Deputy Vince Logue and Sheriff Evans. Discussion was held on pay raises and the number of inmates currently in Fall River County.

Dustin Ross, Andersen Engineers, met with the board. Motion made by Allen, seconded by Nabholz, to approve the following resolution:

#### **FALL RIVER COUNTY RESOLUTION #2019-40**

##### **A plat of Lot 26 and a public access and utility easement of Shep's Canyon Estates Subdivision**

##### **Containing a portion of the NE1/4 of Section 27, T8S, R5E, BHM, Fall River County, South Dakota**

WHEREAS, there has been presented to the County Commissioners of Fall River County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section

line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now and therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated this 19<sup>th</sup> day of November, 2019.

ATTEST:

/s/Sue Ganje

Fall River County Auditor

/s/Joe Falkenburg

Fall River County Board of Commissioners

Motion made by Allen, seconded by Greenough, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2019-41**

**A plat of Hatch Tract 1 & Hatch Tract 2, Located in Govt. Lot 3 of Section 31, T8S, R3E,  
BHM, Fall River County, South Dakota**

**Formerly the E. 660' of Govt. Lot 3, Less Lot A**

WHEREAS, there has been presented to the County Commissioners of Fall River County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now and therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated this 19<sup>th</sup> day of November, 2019.

ATTEST:

/s/Sue Ganje

Fall River County Auditor

/s/Joe Falkenburg

Fall River County Board of Commissioners

Motion made by Allen, seconded by Russell, to approve by the following resolution, contingent on receiving the signature by Rich Zacher, from the SD Dept. of Transportation:

**FALL RIVER COUNTY RESOLUTION #2019-42**

**A plat of Murray Tract 1, Murray Tract 2, and Wells Tract of Hoffner Subdivision, Located  
in the E1/2SE1/4 of Section 17, T8S, R5E, BHM, Fall River County, South Dakota**

**Formerly Lots 5A, 5B, 5C, and 5D of Hoffner Subdivision**

WHEREAS, there has been presented to the County Commissioners of Fall River County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now and therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated this 19<sup>th</sup> day of November, 2019.

ATTEST:

/s/Sue Ganje

Fall River County Auditor

/s/Joe Falkenburg

Fall River County Board of Commissioners

Motion made by Nabholz, seconded by Russell, to take the PILT discussion off the table.

Motion made by Nabholz, seconded by Allen, to approve apportioning the extra PILT monies in the amount of \$18,627 as follows: 5% off of the total to the schools, with 25% of the apportioned amount to the township, fire and ambulance districts, and county funds as apportioned, as done earlier this year.

Discussion was held on the pros and cons of a full time states attorney. Motion made by Russell, seconded by Allen, to approve classifying the State's Attorney position as full time, effective 1-1-2020, for the 2020 election, and to have candidates run for that position. With Falkenburg and Nabholz voting no, all others voting yes, by roll call vote, motion carries.

Paul Nabholz, Commissioner, met with the board to update them that the Custer/Fall River Landfill had approved the same budget and the same cost for dumping permits.

Susie Hayes, Director of Equalization, met with the board. Discussion was held on Ag Land Task Force, the possibility of purchasing a vehicle next year and the possibility of overtime by staff in the next few months.

Brian Ahrendt, State's Attorney, met with the board. Motion made by Russell, seconded by Allen, to approve the 2020 contract between Oglala Lakota and Fall River County. With Nabholz voting no, all others voting yes, by roll call vote, motion carries.

Motion made by Russell, seconded by Greenough, to enter into executive session, as per SDCL 1-25-2 (1) and SDCL 1-25-2 (4) for personnel and legal purposes at 11:18 a.m. There are no action items when the board comes out of executive session except to adjourn. Allen stepped out of the meeting momentarily.

The board came out of executive session at 11:55 a.m.



Motion made by Russell, seconded by Nabholz, to adjourn at 11:53 a.m.

/s/ Joe Falkenburg

Joe Falkenburg, Chairman

Board of Fall River County Commissioners

ATTEST:

/s/ Sue Ganje

Sue Ganje, Fall River County Auditor