

## **FALL RIVER COUNTY APPROVED MINUTES OF JANUARY 6, 2022**

The Fall River Board of County Commissioners met in regular session on January 6, 2022. Present: Joe Allen, Les Cope, Joe Falkenburg, Heath Greenough, Deb Russell and Aaron Eberle, Administrative Assistant.

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, under Fall River County Commission, SD at <http://www.YouTube.com>.

The meeting was turned over to Deputy Auditor Julie Tomlinson, who asked for nominations for the Chairman of the Board. Nomination was made by Russell, seconded by Allen, for Falkenburg as Chairman.

Tomlinson asked for further nominations. Motion made by Greenough, seconded by Cope, to have nominations cease and cast a unanimous vote for Falkenburg. With Falkenburg voting no, all others voting yes, Falkenburg is the Chair for 2022. The meeting was turned back to the Chairman of the Board.

Motion made by Greenough, seconded by Allen, to nominate Russell as the Vice-Chair.

Motion made by Greenough, seconded by Allen, to have nomination cease and cast a unanimous vote. Russell is the Vice-Chair for 2022.

The board reviewed the list of items to approve, Susan Henderson asked to remove the First National Bank of Lead as a depository. There was no other discussion.

Motion made by Greenough, seconded by Cope, to approve the consent agenda through the indigent burial rate as follows: To approve setting the meeting dates on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday of each month; to appoint the Fall River County Herald-Star as the Official newspaper for 2022; to designate three feet of the bulletin board in the courthouse lobby for legal matters and to also post Commission agendas on the ground, side and first floor doors of the courthouse; to designate chattel mortgage sale places as the Courthouse front door, Oral Post Office, Oelrichs Post Office, and the Edgemont Post Office; to set the banks for the county as First Interstate Bank, First National Bank of Lead, Black Hills Federal Credit Union, Black Hills Community Bank, Liberty National Bank, Schwab Treasury; to set the prisoner care per day at \$85.00 as per Sheriff's Office recommendation; to approve the Monument Health Clinic as the health care facility for the jail, under the direct supervision of Dr. Avery Sides, as primary caregiver for inmates and the Fall River Healthcare Clinic under the supervision of Tina Norton, LPN as the secondary; to approve Tina Norton, LPN as Inmate Contract Nurse, \$1,250.00 per month; to set the ride-a-long fee for prisoner and mental health transports at \$40.00 per day to Rapid City and \$100.00 per day to Yankton and Sioux Falls and to set the Indigent burial rate at \$1,900.00.

Motion made by Cope, seconded by Allen, to appoint Joe Allen and alternate Joe Falkenburg to the L.E.P.C. board; to appoint Joe Falkenburg and alternate Heath Greenough to the Weed board; to appoint Les Cope and alternate Deb Russell to the Custer/Fall River Regional Waste Management Board; to appoint Deb Russell and alternate Les Cope to the Black Hills Council of Local Governments Board

(6<sup>th</sup> District of Local Governments); to appoint Heath Greenough and alternate Joe Falkenburg to the Resource, Conservation and Development (R C & D) board; to appoint Joe Allen and alternate Les Cope to the Western SD Juvenile Services Center Board, to appoint Deb Russell and alternate Joe Falkenburg to the Prairie Hills Transit Board; to appoint Joe Falkenburg and alternate Heath Greenough to the 4-H/Extension Board; to appoint Deb Russell and alternate Les Cope to the Black Hills Regional Multiple Use Coalition; to approve travel for the county officials to attend meetings of the Black Hills Associations and to request office supervisors to obtain travel approval for all other meetings requiring more than same-day travel; to approve the following resolutions on State Bids, Election fees and mileage; to approve the following listing: Longevity schedule; 2022 Commission salaries; 2022 salaries for appointed officials, and the 2022 listing of employee wages, including per diem for the weed board at \$25.00 per meeting plus mileage, to set the chairman of the mental health board's fee of \$125.00 per hour; to not rehire any employee who is eligible for and has retirement funds withheld, for a period of 6 months, if that employee has resigned and withdrawn their SD Retirement Funds, unless specifically authorized by the Board; to approve having government agencies notify the county on activities and to appoint Stacey Martin, PIO (Public Information Officer), with Melissa Fleming and Bobbie Janis as assistant:

**FALL RIVER COUNTY RESOLUTION #2022-01**

WHEREAS, the Division of Purchasing and Printing of the State of South Dakota has competitively bid state contracts for the purchase of necessary supplies, equipment and materials for state and local governments, and

WHEREAS, the Fall River County Board of Commissioners is authorized to purchase necessary supplies, equipment and materials for its use, and

NOW THEREFORE, BE IT RESOLVED, that the Board of Fall River County Commissioners enter into an agreement with the Division of Purchasing and Printing of the State of South Dakota to purchase equipment, supplies and materials.

Dated this 6<sup>th</sup> day of January, 2022

/s/Joe Falkenburg, Chairman  
Fall River County Commissioners

ATTEST:

/s/Aaron Eberle, Administrative Assistant  
Fall River County Auditor's Office

**FALL RIVER COUNTY RESOLUTION #2022-02**

WHEREAS, pursuant to SDCL 12-15-11, the Board of County Commissioners at their first meeting shall set a fee for Election Board and the mileage rate;

NOW THEREFORE BE IT RESOLVED, that the Fall River County Board of Commissioners have set the FLAT FEE FOR ATTENDANCE OF ELECTION SCHOOL AT \$25.00; and

BE IT FURTHER RESOLVED, that the Fall River Board of County Commissioners has set the fee for Election Boards for the Primary and General and all Special Elections as follows:

ALL ELECTION BOARDS WILL RECEIVE A FLAT FEE OF \$150.00; SUPERINTENDENTS OF EACH PRECINCT, A FEE OF \$160.00; RESOLUTION, ABSENTEE AND PROVISIONAL BOARDS WILL BE SET AT \$10.00 PER HOUR, and

BE IT FURTHER RESOLVED, that the Fall River County Commissioners set the mileage rate at \$.42 per mile for the transporting of ballots and ballot boxes by the precinct superintendent.

Dated this 6<sup>th</sup> day of January, 2022

/s/Joe Falkenburg, Chairman  
Fall River County Commissioners

ATTEST:

/s/Aaron Eberle, Administrative Assistant  
Fall River County Auditor's Office

**FALL RIVER COUNTY RESOLUTION #2022-03**

WHEREAS, pursuant to SDCL 7-7-9.1, 7-7-12 and 7-12-15 the Board of Commissioners by Resolution may establish the salary payable to the County Treasurer, County Auditor, County Register of Deeds, County State's Attorney and County Sheriff; and

WHEREAS, the salary may not be less than the following schedule and is based upon the most recent decennial federal census. The Fall River Census is 7,094.

Treasurer, Auditor, Register of Deeds - Population under 10,000: \$33,825.00;  
State's Attorney - Population under 10,000: \$37,673.00  
County Sheriff – Population under 10,000: \$41,256 plus 10% for jail admin

BE IT RESOLVED, that the Fall River Board of County Commissioners set the salaries as follows, effective January 1, 2020:

Treasurer, Teresa Pullen:	\$47,720.04 (plus \$21,335.28 from Oglala Lakota County)
Auditor, Sue Ganje:	\$59,031.00 (plus \$21,335.28 from Oglala Lakota County)
Reg. of Deeds, Mel Engebretson:	\$53,992.68 (plus \$21,335.28 from Oglala Lakota County)
State's Attorney, Lance Russell:	\$72,876.00 (plus \$29,160.12 from Oglala Lakota County)
Sheriff, Bob Evans	\$59,400.24

Passed and approved this 6<sup>th</sup> day of January, 2022.

/s/Joe Falkenburg, Chairman  
Fall River Board of County Commissioners

ATTEST:

/s/Aaron Eberle, Administrative Assistant

Fall River County Auditor's Office.

**FALL RIVER COUNTY RESOLUTION #2022-04**

WHEREAS, SDCL 12-14-1 allows for the establishment of polling locations in each County; and NOW THEREFORE, BE IT RESOLVED, that the FALL RIVER 2022 polling places be established as follows:

**BEAVER PRECINCT**

Oral School – Fall River Water Users District, 27600 W Oral Rd, Oral, SD

**CASCADE PRECINCT**

Cascade Fire Hall – 27974 Cascade Rd (Hwy 71) – rural Hot Springs, SD

**EDGEMONT AREA PRECINCT**

St James Parish Center – 306 3<sup>rd</sup> Ave, Edgemont, SD

**HOT SPRINGS PRECINCT 1, HOT SPRINGS PRECINCT 2, HOT SPRINGS PRECINCT 3, HOT SPRINGS PRECINCT 4 AND JACKSON PRECINCT**

Mueller Center – 801 S 6<sup>th</sup> St, Hot Springs, SD

**OELRICHS AREA PRECINCT**

Oelrichs Community Center – 108 E 6<sup>th</sup> St, Oelrichs, SD

Dated this 6<sup>th</sup> day of January, 2022.

/s/Joe Falkenburg, Chairman  
Fall River County Board of Commissioners

ATTEST:

/s/Aaron Eberle, Administrative Assistant  
Fall River County Auditor's Office

**Longevity Pay**

Longevity pay after 2 years of continuous service with the County, the employee shall be paid \$25.00 per month equating to \$300.00 per year. For each year of service after the initial 2 years of service, the employee shall be paid \$50.00 per month equating to \$600.00 per year. For twenty years of service and up shall be paid \$75.00 per month equating to \$900.00 per year.

**Wages for 2022**

**COMMISSIONERS**

Allen, Joe	Commissioner	\$9,600.00
Cope, Les	Commissioner	\$9,600.00
Falkenburg, Joe	Commissioner	\$10,200.00
Greenough, Heath	Commissioner	\$9,600.00
Russell, Deborah	Commissioner	\$10,200.00

**ELECTED OFFICIALS**

**Salary**

**Eligible for Longevity**

**Oglala Lakota County**

Engebretson, Melody (Mel)	Register of Deeds	\$53,992.68	600.00 per year	\$21,335.25
Evans, Bob	Sheriff	\$59,400.24	600.00 per year	
Ganje, Sue	Auditor	\$59,031.00	900.00 per year	\$21,335.25
Pullen, Teresa	Treasurer	\$47,720.04	600.00 per year	\$21,335.25
Russell, Lance	State's Attorney	\$72,876.00		\$29,160.00

**APPOINTED OFFICIALS**

	Veteran's Service Officer	\$49,120.32	600.00 per year	
Cullen, Dan				
Heidebrink, Lillian	Director of Equalization Emergency Management	\$31,259.88		\$14,460.00
Maynard, Frank	Hwy Superintendent	\$62,642.64	900.00 per year	
Seiler, Randy	GIS	\$68,478.60	900.00 per year	
Stacey Martin	Weed Supervisor	\$48,481.80	600.00 per year	
Steinmetz, Nina	Maintenance Supervisor	\$49,841.28	600.00 per year	
Weishaupt, David		\$41,720.16	300.00 per year	

**Hourly, or per call/meeting**

Allen, Elizabeth	Coroner	\$150.00 Per Call		
Allen, Elizabeth	Deputy Sheriff	\$23.06	600.00 per year	
Belt, Isnalawica	Deputy Sheriff	\$21.25		
Berens, Larry	Security	\$12.00		
Berens, Larry	24/7 Register of Deeds Office	\$13.00		
Birkland, LaVella	Hwy Department	\$17.00	600.00 per year	
Blessing, Brett	State's Attorney Office	\$23.79	600.00 per year	
Boche, Carol	Hwy Department	\$17.81	600.00 per year	
Buchholz, Martin	Hwy Department	\$22.13	600.00 per year	
Costa, Samuel	Assessor's Office	\$17.05		
Denison, Frances	Auditor's Office	\$20.66	600.00 per year	
Eberle, Aaron	Jailer	\$17.58	600.00 per year	
Fleming, Malachiah	Dispatcher	\$16.50		
Fleming, Melissa	Hwy Department	\$21.93	600.00 per year	
Gibson, Carlo	Weed Board	\$19.86	600.00 per year	
Hageman, Wayne	Jailer	\$25.00 Per Meeting		
Hansen, Bradley	Dispatcher	\$23.16	600.00 per year	
Heimgartner, Paula	Treasurer's Office	\$16.00		
Holmes, Chaela	Sheriff's Office	\$13.00		
Hosterman, Rachel	24/7 Auditor's Office	\$16.75		
Hylle, Amanda	Assessor's Office	\$13.00	600.00 per year	
Janis, Bobbie	Deputy Sheriff	\$21.62		
Johnson, James (Cody)	Jailer	\$13.00		
Logue, Vincent	Extension Office	\$25.70	600.00 per year	
Luther, Brandon	Treasurer's Office	\$21.31	600.00 per year	
Lawrence, Amy	Hwy Department	\$16.75		
Maciejewski, Anna	24/7 Hwy Department	\$16.18	600.00 per year	
Maciejewski, Calvin	Maintenance Office	\$23.91	900.00 per year	
Madsen, Toni	Hwy Department	\$13.00		
Martin, Ken	Deputy Sheriff	\$18.41	600.00 per year	
McMillan, Thomas	Maintenance Office	\$23.25	300.00 per year	
Mendez, Jose	Hwy Department	\$19.20	600.00 per year	
Miles, Jay	Dispatcher	17.05		
Mraz, Jennifer	Deputy Sheriff	\$22.33	600.00 per year	
Norton, Lyle	Weed Board	\$24.08	600.00 per year	
Novotny, Bob	Weed & Pest	\$25.00 Per Meeting		
Oechsle, Kenneth	Jailer	\$11.50		
Otteson, Anthony	Assessor's Office	\$19.25	300.00 per year	
Petersen Dee, Tamra	Jailer	\$16.75		
Pokorski, David	Dispatcher	\$21.31	600.00 per year	
Quintana, Veronica	Hwy Department	\$16.50		
Raskiewicz, Casey	Hwy Department	\$18.80		
Robistow, Joshua	Assessor's Office	\$14.00		
Romey, Cody	Dispatcher	\$13.00		
Rough Surface, Hayley	Auditor's Office	\$16.00		
Schmidt, Stacy	Hwy Department	\$20.47	600.00 per year	
Schubbel, Frederick		\$19.86	600.00 per year	

Shaw, Nikki	Treasurer's Office	\$16.18	600.00 per year
Sides, John	Weed Board	\$25.00 Per Meeting	
Simunek, Trina	Dispatcher	\$20.33	600.00 per year
Spitzer, Kristi	Nurse's Office	\$23.28	900.00 per year
Steinmetz, Clayton	Hwy Department	\$17.05	
	Register of Deeds		
Stover, Crispeen	Office	\$15.10	
Timmins, Kathy	Treasurer's Office	\$17.41	600.00 per year
Tomlinson, Julie	Auditor's Office	\$18.14	600.00 per year
Tuma, Tyson	Hwy Department	\$17.05	
Two Bear, Lynn	State's Attorney Office	\$18.75	
Wood, Wesley	Maintenance Office	\$16.75	
Wyatt, Jerry	Weed & Pest	\$25.00 Per Meeting	
Zimiga, Austin	Jailer	\$21.31	600.00 per year

Motion made by Russell, seconded by Greenough, to approve the agenda with the correction of hiring Crispeen Stover as the administrative assistant at the Highway Department, effective in two weeks, instead of immediately; also allowing supervisors of departments to advertise immediately, instead of waiting two weeks, or until the next Commission meeting, to do so.

Motion made by Russell, seconded by Allen, to change the December 30, 2021 commission minutes' designation in the General Fund Surplus Analysis from Supplement fund to the Argentine and Chilson Bridge projects, in the amount of \$216,000.00. With Greenough voting no, all others voting yes, motion carried.

Motion made by Russell, seconded by Allen, to approve the December 30, 2021 minutes.

Motion made by Greenough, seconded by Russell, to approve sending unpaid, with no re-payment agreement, liens to Credit Collections Bureau.

No applicants for county assistance met with the board.

Frank Maynard, Emergency Management, met with the board. Motion made by Greenough, seconded by Allen, to approve the L.E.M.P.G. single signature form and authorize the chairman to sign.

Maynard spoke of the annual inspection of the airplane, where it was found that a new radio needed to be installed. In the future, Maynard will call commissioners before allowing extra costs to be incurred or he will bring additional costs to a meeting to provide for a more formal approval.

Motion made by Greenough, seconded by Russell, to approve the HLS grant in the amount of \$53,894.84 for sheriff's office vehicle computers, but wait until the vehicles are here in the County's possession, before installation.

Maynard also reported on being approved for the 2022 L.E.P.C. grant and fires and incidents.

Lily Heidebrink, Director of Equalization, met with the board. Motion made by Greenough, seconded by Allen, to approve Cody Romey to start his Assessor certification process.

Teresa Pullen, Treasurer, met with the board. Motion made by Russell, seconded by Allen, to approve allowing Pullen to remove uncollectable NSF checks from the Auditor's Account with the County Treasurer as follows:

**RETURNED CHECKS:**

Brun, Cyril	9/2/2020	\$	806.60
Caveye, Russell	10/26/2020	\$	64.77

Pullen also spoke of the selling of tax certificates. Most counties don't sell the certificates, because they do not want to give up the 10% interest to a 3<sup>rd</sup> party. Those counties that do sell certificates have school districts that do not get State funding, so the selling of certificates brings in the needed funds. If we went to selling of certificates the County would get stuck with the substandard properties to sell at auction. Pullen will compile more accurate figures to bring to the next meeting.

Stacey Martin, GIS, met with the board. Motion made by Greenough, seconded by Cope, to approve the road naming procedure as written.

Motion made by Greenough, seconded by Allen, to approve setting a 1<sup>st</sup> reading for February 3, 2022 at 9:30 a.m. for a change to Ordinance 2006-01.

Bob Evans, Sheriff, met with the board to state that there are 13 males and 3 females in the Fall River County Jail, with 2 males and 1 female in the Pennington County Jail, for a total of 19 inmates. Sheriff Evans stated that the 1 female in Pennington County may be back in Fall River County soon.

The hearing for Sealed Bids on the 2015 CAT 140 M3 AWDB motor grader was held as advertised. Bids were received from the following:

Quality Real Estate, Inc., Oral, SD	\$140,100.00
Butler Machinery Company, Rapid City, SD	\$118,000.00

Motion made by Allen, seconded by Russell, to accept the high bid from Quality Real Estate, Inc, Oral, SD, for the 2015 Cat 140 M3 AWDB motor grader, in the amount of \$140,100.00.

Brett Blessing, Highway Foreman, met with the board. Motion made by Greenough, seconded by Allen, to set the private road work hearing for February 3, 2022, 9:55 a.m. as per SDCL 31-11-41 thru 31-11-45.

Motion made by Russell, seconded by Allen, to approve the December 2022 to the highway department for fuel used or work performed as follows: Sheriff's Department for \$442.62; Weed and Pest Office for \$13.31; and Emergency Management for \$38.40.

Motion made by Russell, seconded by Cope, to approve hiring Crispeen Stover, \$15.10 per hour, Full-time, Administrative Assistant, Highway Department, effective January 17, 2022, as per Union Contract.

Motion made by Russell, seconded by Allen, to approve allowing Ken Martin to provide additional training for the new administrative assistant, in the amount of \$18.41 per hour.

Blessing updated that board that they are down to one plow truck, they have been doing maintenance, repairs and they will be graveling again as the weather allows. Discussion was also held possible amounts for private road work; it will be decided during the private road work hearing in February. Highway Superintendent Seiler should be back to work on January 18, 2022.

Jerry Heiser, Butler Cat, will be retiring February 1, 2022. Heiser introduced Phil Melmer; he will be the area representative. Heiser commended Fall River County for asking all the right questions. Melmer looks forward to working with the County.

Motion made by Greenough, seconded by Allen, to approve the bills as follows:

**GENERAL FUND**

BLACK HILLS CHEMICAL	SUPPLY	\$212.67
BLACK HILLS ENERGY	UTILITY POWER ELECTR	\$4,132.22
BOMGAARS SUPPLY	SUPPLY	\$203.89
CENTURY BUSINESS LEASING	COPIER LEASE AND USA	\$438.45
CHEYENNE RIVER ANIMAL HOSPITAL	SERVICES	\$289.20
EN-TECH LLC	FUMIGATION	\$125.00
DUDE SOLUTIONS, INC.	GIS SUPPORT CONTRACT	\$313.85
FALL RIVER HEALTH SERVICE	INAMTE MEDICAL	\$2,505.40
FALL RIVER COUNTY HERALD	PUBLICATION	\$31.00
CITY OF HOT SPRINGS	HANGAR RENT	\$1,200.00
LYNN, JACKSON, SHULTZ &	A&N	\$138.60
MASTERCARD	COUNTY CREDIT CARD	\$1,264.32
MCGLUMPHY, ERIN	TRAVEL REIMBURSEMENT	\$410.13
OTIS ELEVATOR COMPANY	SERVICE CONTRACT	\$451.38
PENNINGTON COUNTY JAIL	TRANSPORTATION	\$489.80
POWELL, DEBRA J	BLOOD DRAW	\$75.00
RUSSELL, LANCE	TRAVEL REIMBURSEMENT	\$25.30
SD DEPARTMENT OF HEALTH	ANALYSIS	\$750.00
SERVALL	RUG/UNIFORM SERVICE	\$187.13
NORTON, MIKAYLA	BLOOD DRAWS	\$525.00
VANGUARD APPRAISALS INC	2022 LICENSE AGREEME	\$12,550.00
WEED & PEST CONFERENCE	2022 WEED & PEST CON	\$450.00
MILES, SASHA	BLOOD DRAW	\$75.00
	TOTAL FOR GENERAL FUND	\$26,843.34

**COUNTY ROAD & BRIDGE**

BLACK HILLS ENERGY	UTILITY POWER ELECTRIC	\$937.86
GRANGAARD CONSTRUCTION	ROAD PROJECT	\$190,828.35
MASTERCARD	COUNTY CREDIT CARD	\$126.19
SEILER, RANDY	CELLPHONE REIMBURSEMENT	\$75.00
	TOTAL COUNTY ROAD & BRIDGE	\$191,967.40

**911 SURCHARGE REIMBURSEMENT**

CENTURY BUSINESS LEASING	COPIER LEASE AND USAGE	\$72.08
MASTERCARD	COUNTY CREDIT CARD	\$6.00
	TOTAL FOR 911 SURCHARGE REIMBURSEMENT	\$78.08

**EMERGENCY MANAGEMENT**

MASTERCARD	COUNTY CREDIT CARD	\$6.00
	TOTAL FOR EMERGENCY MANAGEMENT	\$6.00



**L.E.P.C GRANT**

BASTIAN, TRACY	PILOT	\$100.00
	TOTAL FOR L.E.P.C. GRANT	\$100.00
	TOTAL PAID BETWEEN 12/31/21 AND 1/6/22	\$218,994.80

Break was taken at 10:00 a.m. and the meeting reconvened at 10:07 a.m.

Public comment was heard from Susan Henderson with concerns about land being returned to Agriculture after a solar farm has outlived its usefulness and with frustrations regarding the Department of Revenue. Additional comments were heard from Lisa Pawloski, Southern Hills Coordinator for United Way, thanking Fall River County employees for their contributions.

The Board agreed that the ag petitions should be turned back in by January 20, 2022, to allow enough time for Trish Ladner to take them to Pierre.

Discussion was held on a letter of support to the Legislators for Draft Bill 50. The board agreed to sign and send the letter to Legislators and the Governor.

Dave Weishaupl, Building Supervisor, met with the board. Motion made by Greenough, seconded by Allen, to approve the Golden West quote for a SonicWALL Advanced Gateway Security Suite Bundle in the amount of \$2,343.80.

Weishaupl updated the board that he and Sheriff Evans are looking at blueprints for the jail and getting quotes for the plumbing repairs and/or replacement; he will also be looking into air units and will bring quotes back to the Commission.

The 2<sup>nd</sup> reading to Ordinance 2021 – 01 – Amended to allow for Variance 2021 – 01 A was held as advertised. Motion made by Russell, seconded by Allen, to approve the following ordinance:

**Ordinance 2021-01 Amended, to allow for Variance, 2021-01A**

**An Ordinance providing for variances.**

**Be it ordained by the County of Fall River that the following variance ordinance be adopted.**

The purpose of the variance is to modify the strict application of the specific requirements of Fall River County Zoning Ordinances, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land; the variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her lot as the ordinance intended.

*(A) Application procedure.*

- (1) A property owner may make application for a variance using forms available from the County Auditor's Office. A fee of \$500.00 shall accompany the application.
- (2) The applicant shall, by certified mail or personal contact, where the applicant acquires signatures of each adjacent property owner, shall notify all property owners within the setback requirements prescribed by ordinance, exclusive of rights-of-way, as to the nature of the variance request and the time and date and location at which the request will be considered. A list of those property owners and their mailing addresses shall be provided to the County Auditor prior to the public hearing on the matter.

(3) Upon application for a variance, the applicant shall place a sign, provided by the county, on the property in clear view of the public right-of-way identifying that the property is being considered for a zoning variance. The sign shall be placed on the structure or post not less than ten days prior to the public hearing on the matter and shall remain until a decision on the request has been made.

(4) Upon receipt of the application, legal notice shall be published in the County's official newspaper of the date, time and place of the public hearing at least ten days prior to the hearing.

(5) The Board shall issue its decision within 30 days of the hearing, except that the applicant may request a continuance.

(B) *Standards for variances.*

(1) Variances shall be granted only where the special circumstances or conditions fully described in the finding of the Board, do not apply generally in the district.

(2) Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

(3) For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicants of a reasonable use of their land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land.

(4) Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

(5) The granting of any variance is in harmony with the general purposes and intent of this chapter and will not be injurious to the neighborhood, detrimental to the public welfare or in conflict with any plan for development.

(C) *Requirements for the granting of a variance.* Before the Board shall have the authority to grant a variance, the persons claiming the variance have the burden of showing:

(1) The granting of the permit will not be contrary to the public interest;

(2) The literal enforcement of this chapter will result in unnecessary hardship;

(3) That by granting the permit contrary to the provisions of this chapter, the spirit of this chapter will be observed;

(4) By granting the permit, substantial justice will be done.

(D) *Denial of variance.* In the event the request for a variance is denied by the Board, reapplication shall not be permitted for a period of one year, unless the Fall River County Board of Commissioners determines that the circumstances surrounding the request have substantially changed.

(E) *Court review.* Any person, firm or corporation aggrieved by any decision of the Board may appeal the decision to the Circuit Court. Appeals must be made within 30 days of the decision of the Board.

(F) *Costs.* Costs shall not be allowed against the Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Adopted this 6<sup>th</sup> day of January, 2022 by the Fall River County Commission. This ordinance shall become effective on the twentieth (20<sup>th</sup>) day after publication.

FALL RIVER COUNTY COMMISSION:

/s/Joe Falkenburg, Chairman

ATTEST:

/s/Aaron Eberle, Administrative Assistant

Fall River County Auditor's Office

First Reading: December 30, 2021  
Second Reading: January 6, 2022  
Adopted: January 6, 2022  
Published: January 13, 2022  
Effective Date: February 2, 2022

Motion made by Russell, seconded by Allen, to approve the 2022 Fall River and Oglala Lakota Contract and authorize the chairman to sign.

Motion made by Russell, seconded by Cope, to adjourn at 10:44 a.m.

/s/Joe Falkenburg  
Joe Falkenburg, Chairman  
Board of Fall River County Commissioners

ATTEST:  
/s/Aaron Eberle, Administrative Assistant  
Fall River County Auditor's Office