

## **FALL RIVER COUNTY APPROVED MINUTES OF FEBRUARY 16, 2023**

The Fall River Board of County Commissioners met in regular session on February 16, 2023. Present: Joe Allen, Les Cope, Joe Falkenburg, Heath Greenough, Deb Russell and Sue Ganje, Auditor.

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

The agenda was reviewed for conflicts; Greenough noted a conflict with the pay raise for Malachiah Fleming. 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.sdcountries.org>, or, under Fall River County Commission, SD at <http://www.YouTube.com>.

Motion made by Greenough, seconded by Russell, to approve the agenda, with a letter to the judge regarding the Manlove billing.

Motion made by Russell, seconded by Allen, to approve the minutes of February 2, 2023.

Motion made by Russell, seconded by Greenough, to surplus to junk #02269, an IBM typewriter, from the Treasurer's Office.

Motion made by Greenough, seconded by Russell, to approve travel for Commissioners to attend the 2023 SDACC Spring Workshop, April 19 and April 20, 2023, at the Ramkota, in Pierre, SD.

Motion made by Russell, seconded by Allen, to table changing the second meeting date in April to allow for Commissioner travel to attend the 2023 SDACC Spring Workshop until the next meeting.

Motion made by Russell, seconded by Greenough, to approve travel for Sue Ganje and Stacy Schmidt, Auditor's Office; Melody Engebretson, Register of Deeds and Treasurer's office – one person to be determined, to attend the 2023 SDACO Spring Conference, May 17 and May 18, 2023, Ramkota in Pierre.

Motion made by Greenough, seconded by Russell, to approve travel for Aaron Eberle, Auditor's Office, to attend the 2023 SDACWO Spring Workshop, April 12 and April 13, 2023, in Pierre, SD.

Motion made by Russell, seconded by Allen, to approve the transfer of parcel #78100-03300-00300 to Oelrichs Historical Society from Fall River County.

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

### **FALL RIVER COUNTY COMMISSION RESOLUTION NUMBER 2023 – 08**

WHEREAS, Alexander Hamilton, in *Federalist 22*, penned the following truism: "The fabric of the American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority." and

WHEREAS, State Senator Julie Frye-Mueller has been elected twice to the South Dakota Senate by the PEOPLE of South Dakota Legislative District 30; and

WHEREAS, State Senator Julie Frye-Mueller won two Senate Terms in spite of State Senator Lee Schoenbeck’s Political Action Committee, South Dakota Strong, spending thousands of dollars on misleading political advertisements; and

WHEREAS, State Senator Lee Schoenbeck unilaterally stripped State Senator Julie Frye-Mueller of her Committee Assignments; and

WHEREAS, State Senator Lee Schoenbeck convinced members of the South Dakota Senate to suspend District 30 State Senator Julie Frye-Mueller’s rights as a State Senator, over the objection of Lieutenant Governor Larry Rhoden, and without basic due process of law to have a copy of the charges against her, confront her accuser and to have any presumption of innocence; and

WHEREAS, the People of District 30 have been deprived of representation in the South Dakota State Senate, which is tantamount to taxation without representation; and

WHEREAS, Senator Lee Schoenbeck and the State Senate have acted in haste and in an arbitrary and capricious manner; and

WHEREAS, Thomas Jefferson, wrote in *Notes on the State of Virginia* in 1782: “We lay it down as a fundamental, that laws, to be just, must give a reciprocation of right; that, without this, they are mere arbitrary rules of conduct, founded in force, and not in conscience.” and

WHEREAS, Senator Julie Frye-Mueller has not committed drunkenness, crimes, corrupt conduct, gross incompetency, malfeasance or misdemeanor in office; and

WHEREAS, in *Bond v. Floyd*, 385 U.S. 116, the United States Supreme Court ruled: “We therefore hold that the disqualification of Bond from membership in the Georgia House because of his statements violated Bond’s right of free expression under the First Amendment.” and

WHEREAS, Thomas Jefferson wrote that “Opinion, & the just maintenance of it, shall never be a crime in my view; nor bring injury on the individual.” and

NOW, THEREFORE, BE IT RESOLVED BY THE FALL RIVER COUNTY COMMISSION, that Senator Julie Frye-Mueller be immediately restored to all of her rights as a South Dakota State Senator, including but not limited to restoration of her committee assignments; and

BE IT FURTHER RESOLVED BY THE FALL RIVER COUNTY COMMISSION, that the members of the South Dakota Senate voting to unconstitutionally suspend Senator Julie Frye-Mueller and deprive the People of South Dakota Legislative District 30 representation are rebuked and censured for their irresponsible and unconstitutional actions.

Moved, passed and adopted this 16<sup>th</sup> day of February, 2023.

/s/Joe Falkenburg, Chairman  
Fall River County Commissioners

/s/Deborah Russell, Vice-Chairwoman  
Fall River County Commissioners

/s/Joe Allen  
Fall River County Commissioners

/s/Les Cope  
Fall River County Commissioners

ATTEST:

/s/Heath Greenough  
Fall River County Commissioners

/s/Sue Ganje, Auditor  
Fall River County

Motion made by Greenough, seconded by Russell, to approve Participation in Teva, Allergan, CVS, Walgreens, Walmart National Opioid Settlements.

Motion made by Russell, seconded by Allen, to approve CP 2023-01, as the applicant was below the income guidelines.

Motion made Cope, seconded by Greenough, to deny CP 2023-02, as the applicant was above the income guidelines.

Lyle Norton, Sheriff, reported to the Board that there are 8 males and 2 females in the Fall River County Jail, with 1 male and 1 female in the Pennington County Jail.

Motion made by Greenough, seconded by Allen, to approve hiring Jordan Hanson, part-time dispatcher, \$18.50 per hour, effective February 12, 2023, as per union contract.

Motion made by Allen, seconded by Greenough, to approve purchasing additional equipment to accompany computers for vehicles, with Wi-Fi access, in the amount of \$39.99 per month and installation of the devices in two vehicles at one time.

Norton stated that Deputy Belt is working on an equipment proposal and will bring it back to the Board.

Frank Maynard, Emergency Management, met with the Board. Motion made by Russell, seconded by Greenough, to approve the cell phone for Gary Baker, with a monthly charge of \$43.00.

Motion made by Greenough, seconded by Russell, to approve the purchase of a Canon imageFormula DR-M140 Office Document Scanner, that will be used by Emergency Management, Extension and Weed & Pest Offices, in the amount of \$704.06.

Maynard stated that the Angostura EAP Exercise is scheduled for March 22, 2023, at 10:00 a.m. at the Oral School Building.

Dan Cullen, Veteran's Service Officer, reported to the Board that he assisted the VA with PACT ACT Conference, worked out issues for many veterans, met with and explained benefits to more than 50 Veterans and/or dependents, provided State Home applications and successfully referred several to the State Home, and filed 162 disability and/or pension claims with the Veterans Benefit Administration. Over \$420,000.00 of disability or pension awards were awarded in the 2022 4<sup>th</sup> quarter.

The hearing for The Lodge at Angostura, LLC – Retail (on-off sale) Malt Beverage and SD Farm Wine and a Retail (on-off sale) Wine and Cider was held as advertised. Motion made Allen, seconded by Cope, to approve Retail (on-off sale) Malt Beverage and SD Farm Wine and a Retail (on-off sale) Wine and Cider for the Lodge at Angostura, and authorize the chairman to sign.

Randy Seiler, Highway Superintendent, met with the Board. Motion made by Russell, seconded by Allen, to approve the January 2023 transfers to reimburse the Highway Department for fuel used or work performed as follows: Sheriff's Department for \$3,767.66; Weed and Pest Office for \$140.80; Building for \$160.36; Emergency Management for \$55.92; and Director of Equalization for \$10.62.

Seiler stated that a scale for the loader will cost \$14,800.00. This will be convenient if the Board approves to have gravel at all pits across the County. Seiler will officially bring it back to the Board for approval.

Seiler updated the Board that he will be receiving the traffic counters on March 8, 2023; he will put them on Shep’s Canyon Road, Buffalo Gap Road and Maitland Road for at least a week and then move around to the other areas in the County. The Beams will be put up on the Chilson Bridge soon. The State is pursuing other means for R-O-W for the Igloo Project. The Highway Department will be working on Oral Road to repair a hole. Seiler will bring back a cost of Roads comparison.

The Hearing for sealed bids for 1” Aggregate Base or Limestone Ledge Rock Base was held as advertised. Bids received are as follows:

**KD Contractors, Hot Springs:**

	For 1” Aggregate Base
Oral Area Pit	\$8.00 per ton
West Cheyenne Pit	\$7.91 per ton
	For 1” Limestone Ledge Rock
Shep’s Canyon Quarry	\$9.00 per ton
Cottonwood Quarry	\$9.00 per ton
Collins Quarry	\$8.34 per ton

**Simon Contractors, Rapid City, SD:**

	For 1” Aggregate Base
Maverick Pit	\$8.75 per ton
	For 1” Limestone Ledge Rock
Hot Springs Quarry	\$10.75 per ton
Loring Quarry	\$10.75 per ton

Motion made by Allen, seconded by Russell, to accept all bids from KD Contractors, Hot Springs, and Simon Contractors, Rapid City. With Cope and Greenough voting no, all others yes, by roll call vote, motion carried.

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

**GENERAL FUND**

AUDRA HILL CONSULTING, INC	MI QMHP EVALUATION	\$305.90
CURA HOSPITALITY	INMATE MEALS	\$12,411.98
A-Z SHREDDING INC	SHREDDING	\$131.92
BLACK HILLS CHEMICAL	SUPPLY	\$518.82
BLACK HILLS ENERGY	UTILITY	\$3,909.05
CAMERON, GEORGE	COURT REPORTER	\$127.40
CENTURY BUSINESS LEASING	COPIER LEASE & METER	\$593.25
CORRECT RX PHARMACY SERV.	INMATE PHARMACY	\$136.92
EN-TECH LLC	FUMIGATION	\$450.00
ENGBRETSON, MELODY	REIMBURSEMENT	\$74.35
FALL RIVER HEALTH SERVICE	INMATE MEDICAL	\$474.60
FALL RIVER COUNTY HERALD	PUBLICATION	\$32.34

GALLS	UNIFORM ALLOWANCE	\$173.66
GOLDEN WEST TECHNOLOGIES	IT SUPPORT/CONTRACT	\$9,691.08
HILLS EDGE AUTO SALES	CAR MAINTENANCE	\$270.80
HUSTEAD LAW OFFICE, P.C.	CAAF	\$506.06
QUADIENT LEASING USA, INC	POSTAGE MACHINE LEASE	\$760.80
MANLOVE PSYCHIATRY GROUP	COURT ORDERED QMHP	\$6,350.00
MCLEODS OFFICE SUPPLY CO.	TOWNSHIP BOOKS	\$74.78
MENARDS	SUPPLY	\$37.98
NELSONS OIL & GAS INC.	PROPANE/FUEL UTILITY	\$1,240.80
ONSITE FIRST AID, LLC	FIRST AID	\$156.25
PENNINGTON COUNTY JAIL	INMATE HOUSING PENNINGTON	\$6,129.00
PRAIRIE HILLS TRANSIT	2023 BUDGET ALLOTMENT	\$13,000.00
QUILL CORPORATION	SUPPLIES	\$684.10
QUALIFIED PRESORT SERVICE	MAILING	\$3,738.63
CITY OF RAPID CITY	BLOOD ANALYSIS	\$400.00
SD DEPARTMENT OF HEALTH	BLOOD DRAWS	\$680.00
SDAAO	2023 DUES	\$150.00
SENTRY PSYCHOLOGICAL	EVALUATION	\$500.00
SERVALL	RUGS AND MATS SERVICE	\$450.72
SOFTWARE SERVICES INC	SOFTWARE SERVICES	\$3,294.00
SOUTHERN HILLS LAW PLLC	CAAF	\$1,784.63
STEVENS AUTOMOTIVE	SERVICE	\$889.19
STEVENS, LAREE	BLOOD DRAW	\$150.00
NORTON, MIKAYLA	BLOOD DRAW	\$900.00
STEVENS PLUMBING	JAIL REPAIRS	\$81.64
VANGUARD APPRAISALS INC	WEB SITE LICENSE	\$4,031.25
WEED & PEST CONFERENCE	SUPPLY	\$165.00
YANKTON CO. SHERIFF	PAPERS SERVED	\$50.00
YANKTON CO TREASURER	QMHP/MI	\$124.30
	TOTAL FOR GENERAL FUND	\$75,631.20
<b>COUNTY ROAD &amp; BRIDGE</b>		
BLACK HILLS ENERGY	UTILITY	\$881.87
GOLDEN WEST TECHNOLOGIES	IT SUPPORT/CONTRACT	\$8.25
NELSONS OIL & GAS INC.	PROPANE/FUEL UTILITY	\$28,163.52
ONSITE FIRST AID, LLC	FIRST AID	\$48.80
SEILER, RANDY	CELL REIMBURSEMENT	\$75.00
STURDEVANT'S AUTO VALUE	SUPPLY (REISSUE)	\$1,024.13
	TOTAL COUNTY ROAD & BRIDGE	\$30,201.57
<b>911 SURCHARGE REIMBURSEMENT</b>		
CENTURY BUSINESS LEASING	COPIER LEASE & METER	\$83.29
GOLDEN WEST TECHNOLOGIES	IT SUPPORT/CONTRACT	\$24.75
	TOTAL FOR 911 SURCHARGE REIMBURSEMENT	\$108.04
<b>EMERGENCY MANAGEMENT</b>		
GOLDEN WEST TECHNOLOGIES	IT SUPPORT/CONTRACT	\$1,426.67
	TOTAL FOR EMERGENCY MANAGEMENT	\$1,426.67
	TOTAL PAID BETWEEN 2/3/22 AND 2/16/23	\$107,367.50

Motion made by Russell, seconded by Allen, to approve the letter to the judge regarding the Manlove billing.

The second reading of Medical Marijuana Ordinance #2021-01 Amended was held as advertised. Motion made by Allen, seconded by Russell, to approve the second reading of Medical Marijuana Ordinance #2021-01. With all voting yes, by roll call vote, motion carried.

Break was taken at 9:47 a.m. and the meeting reconvened at 9:54 a.m.

Public comment was heard from Commissioner Falkenburg stating that local attorneys are not interested in doing public defender work at this time. Additional comments were heard from Luke Broyles about tax assessments on old sandstone buildings in town. Director of Equalization Lily Heidebrink stated that some were of no value because there was no useful purpose or not much left of the building, while others had slight value for possible storage.

Jennifer Sietsema, Black Hills Council of Local Governments, reported to the Board about their 2020 through 2022 performance report. There has been \$338 million in grants and loans for the region. Sietsema encourages people to take advantage of the money; if it's not used it will go to other states. Water, sewer, road and infrastructure are eligible projects that Counties may apply for through the Black Hills Council of Local Governments. Seitsema will present annual reports in the future.

Lily Heidebrink, Director of Equalization, met with the Board. Motion made by Greenough, seconded by Allen, to approve hiring Samuel Kipp, uncertified assessor, at \$15.50 per hour, effective February 21, 2023, as per union contract.

Heidebrink gave to the Board the final review of 2023 Intentions. All sales are reviewed yearly. Values are based on what the mortgage company will cover, what realtors state the value is, what the insurance company states the value is and what banks will loan. Edgemont residential home values had a median increase of 27%, while Hot Springs values had a median increase of 14%. Other areas of the County had a median value increase of 11% to 46%, dependent on where the homes were located. Last year the county was totaled at \$921.8 million, while this year the overall increase was at \$1.131 billion. Further information will be on the County Website.

Teresa Pullen, Treasurer, met with the Board. Motion made by Greenough, seconded by Allen, to approve the removal of Nikki Shaw from the bank account as a signatory, due to Shaw's resignation.

Motion made by Russell, seconded by Cope, to authorize adding Kathy Timmins as a bank account signatory.

Motion made by Cope, seconded by Russell, to approve Chaela Holmes to become an Deputy Treasurer, with a \$0.35 per hour increase.

Dustin Ross and John McBride, Andersen Engineers, met with the Board. Motion made by Allen, seconded by Russell, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2023-09**

**A Plat of Tract A Revised and Fire Hall Tract, located in Gov. Lot 1 and Gov. Lot 2 of Section 2, T9S, R2E, BHM, Fall River County, South Dakota**

**Formerly Tract 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 16<sup>th</sup> day of February, 2023.

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

ATTEST:

/s/Sue Ganje  
Fall River County Auditor

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

**FALL RIVER COUNTY RESOLUTION #2023-10**

**A Plat of Fire Department Tract, located in the N1/2NW1/4 of Section 35, T8S, R6E, 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 16<sup>th</sup> day of February, 2023.

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

ATTEST:

/s/Sue Ganje  
Fall River County Auditor

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

**FALL RIVER COUNTY RESOLUTION #2023-11**

**A Mykelsi Tract 2, located in the E1/2NW1/4 and in the NE1/4 of Section 27, T9S, 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 16<sup>th</sup> day of February, 2023.

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

ATTEST:

/s/Sue Ganje  
Fall River County Auditor

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

**FALL RIVER COUNTY RESOLUTION #2023-12**

**A Kerr Tract 1 and Jeninges Tract 1, located in the SW1/4SE1/4SE1/4 of Section 10, and the W1/2NE1/4NE1/4 of Section 15, All in T7S, R5E, BHM, Fall River County, South Dakota**

**Formerly Lot G-3 Revised of Gillis Subdivision, Tract G-1, the remainder of Tract G-2, Jenniges Tract, Kerr Tract, and that part of the abandoned Burlington Northern Railroad Line lying East of Tract G-1**

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 16<sup>th</sup> day of February, 2023.

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



ATTEST:

/s/Sue Ganje

Fall River County Auditor

Dave Weishaupl, Building Supervisor, met with the Board. Motion made by Russell, seconded by Allen, to approve the Golden West Quote for HP ProDesk 600 G6 Desktop Mini Computer, for the Jail, in the amount of \$1,548.96.

Discussion was held on how the EPA's policies were affecting large livestock and feedlots, as well as waters in the United States. This is devastating to producers and farmers. Further discussion was held on funds available for development of a Water Project.

Motion made by Cope, seconded by Allen, to approve sending a letter to the Governor and the Congressional Senators and Representative regarding the EPA's policies affecting large livestock and feedlots and authorize the Chairman to sign.

Motion made by Cope, seconded by Allen, to approve sending a letter to the Governor and the Congressional Senators and Representative regarding the EPA's policies affecting the waters of the United States and authorize the Chairman to sign.

The Board agreed in sending a letter to the Governor, the DANR and DGR Engineering regarding help with a water project on HWY 71 for a housing development in the area. However, they agreed that the housing project needed to do things to help as well.

Discussion was held on retirement and green projects. The House and Senate have bills now in legislation, so there is no need for a letter at this time.

Motion made by Greenough, seconded by Russell, to approve the 2023 Fall River and Oglala Lakota Contract.

Motion made by Russell, seconded by Greenough, to enter into executive session as per SDCL 1-25-2 (1) for personnel purposes and as per SDCL 1-25-2 (3) for legal purposes at 10:52 a.m.

The meeting resumed at 11:33 a.m.

Motion made by Allen, seconded by Cope, to adjourn at 11:40 a.m.

/s/Joe Falkenburg

Joe Falkenburg, Chairman

Board of Fall River County Commissioners

ATTEST:

/s/Sue Ganje, Auditor

Fall River County Auditor's Office