

**Mercer County Commission  
Minutes  
May 1, 2019**

The meeting was called to order at 9:00 a.m. by Chairman Duane Scheurer. Present were Commissioners Dwight Berger, Wayne Entze, Marv Schwehr, and Auditor Shana Brost. Others present during portions of the meeting were Sarah Bauer, Merlin Dahl, Carmen Reed, Rylan Sundsbak, Jessica Binder, Elroy Opp, Eric Urness, Lauren Donovan, Brian Rusch, Ryan Vigesaa, Ken Link, David Straley, Chris Friez, Dawn Grannis, Travis Frey, Ken Miller, Gerald Bieber, Patsy Otto, Candy Strand, Joe Spiekermeier, Bill O'Connor, Casey Voigt, Elizabeth Simpenderfer, Michael Eslinger, Liza Taylor, Lora Wallender, Tyler Barth, Jim Albers, Colin Peterson, Shelly Sailer, Heather Vigesaa and Daniel Arens of BHG News.

Entze moved to approve the agenda with the additions of Eisenbeis road update, comments on luncheon, and truck ad. Berger seconded. All voted aye. Motion carried. Schwehr moved to approve the minutes from the April 17<sup>th</sup> meeting. Entze seconded. All voted aye. Motion carried.

The board reviewed the bills. Schwehr moved to approve the bills. Berger seconded. The following vouchers (#39698-39754) were approved for payment: ADVANCED BUSINESS METHODS, \$1,023.03; AED EVERYWHERE, \$113.10; AMSDEN, JACKSON, \$141.52; ARMOR INTERACTIVE, \$1,866.00; BERGSTROM ELECTRIC, INC., \$459.09; BEULAH JOB DEVELOPMENT AUTHORITY, \$606.34; BEULAH LUMBER CO., \$667.32; BEULAH PUBLIC SCHOOL DIST. #27, \$52.80; BHG, INC., \$6.08; BINDER, JESSICA, \$260.84; BOSCH, GWYN, \$58.00; BROST, SHANA, \$69.60; BUTLER MACHINERY, CO., \$845.69; CARDMEMBER SERVICE, \$2,683.51; SUPREME COURT CLERK, \$25.00; DAKOTA POWER HYDRAULICS, \$295.38; DOLL, BRANDON, \$245.00; ELECTRONIC COMMUNICATIONS, INC., \$50.00; EXPRESSWAY SUITES, \$169.20; FARMERS UNION OIL CO., \$2,306.80; FETZER ELECTRIC, LLC., \$1,575.92; FILMTOOLS, \$96.46; FIRESIDE OFFICE SOLUTIONS, \$155.24; GALLS/QUARTERMASTER, \$646.54; GUNSCH, WESLIE, \$112.52; HAZEN HARDWARE HANK, \$13.97; INTOXIMETERS, INC., \$216.00; ISAAK, RONALD, \$945.00; J & L AUTOMOTIVE LLC., \$381.75; JAKE'S AUTO GLASS, INC., \$303.50; MAC'S INC., \$30.97; MENARDS, \$104.88; MERCER COUNTY AMBULANCE SERVICE, \$300.00; MILBRADT, KURT, \$219.00; MILLER, NANCY, \$112.00; MINNESOTA VALLEY TESTING LABS INC., \$1,662.00; MONTANA DAKOTA UTILITIES, \$213.77; NDACS, \$50.00; ND ASSOCIATION OF COUNTIES, \$63.00; ND DEPT OF HUMAN SERVICES, \$2,115.57; NORTH DAKOTA ONE CALL, \$1.20; NEUBERGER OIL COMPANY, \$1,762.02; NORTHERN SAFETY CO. INC., \$717.94; OLSON ELECTRIC, \$2,787.97; OLSON, RONALD, \$158.26; POITRAS, RACHEL, \$23.67; PROFESSIONAL DEVELOPMENT ACADEMY, \$495.00; RDO EQUIPMENT COMPANY, \$4,725.12; SAILER SEPTIC SERVICE, \$140.00; SEIFERT, BRADLEY Q, \$399.99; SOUTHWEST BUESINESS MACHINES INC., \$7.61; TAYLOR, RYAN, \$673.00; TESKY, LEONARD, \$268.82; THE UNION BANK, \$1,170.00; VAXSERVE, \$67.13; VERIZON WIRELESS, \$1,415.44; WESTERN STEEL BUILDERS INC., \$810.00. All voted aye. Motion carried.

Entze moved to approve Treasurer Bills. Schwehr seconded. Schwehr, Entze, and Scheurer voted aye. Motion carried.

Schwehr moved to approve duplicate treasurer check #52826 in the amount of \$10.00 issued to Jennifer Krause. Berger seconded. All voted aye. Motion carried.

Schwehr moved to acknowledge the audit conducted by Rath and Mehrer for fiscal years 2017-2018. Berger seconded. All voted aye. Motion carried.

Berger moved to approve liquor license #435 for a daily event for on sale beer and liquor issued to Jimmy's Lounge. Schwehr seconded. All voted aye. Motion carried.

Carmen Reed, Emergency Manager/911 Coordinator, discussed the fire ban that went into effect on April 23<sup>rd</sup>. Reed stated the burn ban is attached to the fire danger rating map. Entze moved to approve the Fire Emergency Declaration and Burn Ban Proclamation that states a Stage I Burn Ban will be in effect whenever the Fire Danger Rating is high, very high, extreme and/or a Red Flag Warning has been issued for Mercer County, include all incorporated cities. Schwehr seconded. All voted aye. Motion carried.

Berger discussed the County Government Luncheon. He stated it was a good turnout with 110 people. Berger thanked everyone for the booths they set up and Wes for helping out. He noted maybe next time we could have a blood pressure booth. No further action was taken.

Schwehr discussed the truck ad he had placed on Bismar Online and requested it go in the local paper as well. No further action was taken.

Brian Rusch, ALLETE Clean Energy, presented a haul road agreement to the board.

Schwehr moved to approve the haul road agreement with ALLETE Clean Energy.

Berger seconded. All voted aye. Motion carried.

The board gave their portfolio updates.

The board recessed at 9:47 AM.

The board reconvened at 10:00 AM.

Travis Frey, Coteau, presented an agreement to the board for a concrete crossing on County 26. Frey stated they plan to cross on May 24<sup>th</sup> and will have the temporary bypass set up. Entze moved to approve the road agreement with Coteau. Schwehr seconded. Schwehr asked State's Attorney Binder if she was okay with the agreement and she stated she was. All voted aye. Motion carried.

Schwehr moved approve Utility and Occupancy Application and Permit #1711 issued to West River Telecommunications Cooperative to install new fiber optics facility for Ashley Scholl. Berger seconded. All voted aye. Motion carried.

Entze moved approve Utility and Occupancy Application and Permit #1712 issued to West River Telecommunications Cooperative to install new fiber optics facility for Dakota Waters. Schwehr seconded. All voted aye. Motion carried.

Schwehr moved approve Utility and Occupancy Application and Permit #1713 issued to West River Telecommunications Cooperative to install new fiber optics facility for Kyle Sailer. Berger seconded. All voted aye. Motion carried.

Next on the agenda was the Gerald Bieber section line dispute between sections 27 and 28 T144N R88W. State's Attorney Binder stated she has looked at the history and cannot show 20 years' worth of public use and there is not a public easement through there. Bieber stated he has a plat book from 1970s and it shows a deviation in the road at that time. Bieber added he had folks in the audience that can attest to using the section line in the 1980s. Binder stated on the map she looked at there was no deviation in 1989, noting plat books cannot be deemed legal authority. Binder added the legal affidavit filed by Mavis Flemmer was a declaration to the public that it was private land. Binder noted the landowner can give permissions for use, but it doesn't necessarily make it open to the public. Bieber stated the farm on this section line has been sold three (3) times from 1970 until now and all three (3) landowners have let him use the road to move equipment. Ken Link stated he drove that road in the late 1970s but wasn't sure it was public or not. State's Attorney Binder stated she cannot meet the 20 year criteria and although Bieber's use has been permissive, Binder does not have enough information to declare the road public.

Bieber made a request to the board to straighten out the section line so he could at least have access with an ATV or four-wheel drive. Berger stated improvements to the section line can be done with the board's approval at the landowner's expense. Binder stated she would be working with law enforcement to follow up on any encroachment issues. No further action was taken.

Berger moved to close the bids for the landfill expansion project of Cells 6 & 7 Phase I. Entze seconded. All voted aye. Motion carried. The Engineer's Estimate for the project is \$228,762. The following bids were opened by State's Attorney Binder and read aloud:

1. Wagner Construction	\$304,755.25
2. Unlimited Excavating	\$156,697.00
3. Central Specialties	\$344,532.47
4. Guthmiller & Sons Dirtworks, Inc.	\$206,592.95
5. Hanson's Excavating, Inc.	\$258,485.20
6. Jenson Brothers Construction, Inc.	\$261,214.25
7. Burski Excavating, Inc.	\$282,540.25
8. Baranko Bros, Inc.	\$291,586.09

Schwehr moved to table the awarding of the bids until May 15, 2019 until Houston Engineering has a chance to review all bids. Entze seconded. All voted aye. Motion carried.

Ken Miller, Road Superintendent, discussed the Ron Isaak crossing with the board.

Miller stated the existing concrete was used and his opinion would be to pay what the board had agreed upon and then assume no further liability. Berger moved to pay half of \$1,890 to Ron Isaak and assume no further liability on the Ron Isaak crossing. Schwehr seconded. All voted aye. Motion carried.

Schwehr asked Miller for an update on the Eisenbeis road on County 15. Miller stated the washout is on the private property side and there is a ditch block but it has a culvert. Miller noted it doesn't appear to be hurting anything. No further action was taken.

The board recessed at 10:48 AM.

The board reconvened at 11:00 AM.

Tyler Barth, Coyote Creek Mine, updated the board on the landowner access road between SW ¼ Section 31 T143N R88W and S ½ Section 36 T143N R89W. Barth stated on May 18, 2016 they received approval from the board for a temporary closure of the road but needed to maintain landowner access. Barth stated the alignment has changed slightly since 2016 but they will hit their overall goal hopefully a year sooner by 2024. The board thanked Barth for coming in.

The board recessed at 11:08 AM.

The board reconvened at 11:30 AM.

Next on the agenda was the commission vacancy. Chairman Scheurer stated there will be no public comment during this session. Scheurer asked if there was any nominations. Schwehr moved to nominate Merlin Dahl to fill the commission vacancy. Entze seconded. Schwehr thanked everyone for applying stating there were a lot of good, qualified applicants. Schwehr added Dahl is educated, has leadership experience as he was the school superintendent and principal, is a member of the Beulah Planning and Zoning, and is very qualified. Entze also thanked everyone for applying, adding it wasn't an easy decision. Entze admired all the interest in the position. Entze stated Dahl is a neutral type of individual that has worked in the public sector, and you cannot buy that type of experience. Entze added Dahl will be very good for Mercer County. Schwehr, Entze, and Scheurer voted aye. Berger nay. Motion carried.

Chairman Scheurer welcomed Merlin Dahl as a Mercer County Commissioner.

There being no further business the meeting was adjourned at 11:39 AM. The next regular meeting is scheduled for May 15, 2019, at 9:00 AM in the board room of the Mercer County Government Center, Stanton, North Dakota.

Approved: \_\_\_\_\_  
Duane Scheurer, Chairman

Attest: \_\_\_\_\_  
Shana L. Brost, Auditor