

The Sargent County Board of Commissioners met at 9:00 a.m. with the following members present: Dave Jacobson, Jason Arth, Sherry Hosford, Mike Walstead, and Bill Anderson. Also present was Dan Delahoyde, Jackson Township Supervisor; Mike Bassingthwaite, Interstate Engineering; Merrill Engquist, Road Supervisor; Tibby Hinderlie, The Sargent County Teller; and Pam Maloney, Sargent County Auditor.

Approve January 3, 2017 regular meeting and January 9, 2017 special meeting minutes as corrected. (Hosford/Arth, unanimous)

Mike Bassingthwaite, Interstate Engineering, updated the commission on the Hall Township Bridge Project. The final borrow pit release has been signed off from the landowners and some final paperwork has been completed. Following the inspection, Interstate Engineering is requesting a change order for object markers and Type 3 markers, one marker at each corner of each of the 2 new box culverts, as the wrong markers had been in the original plans. This change order will be at a \$1400 additional cost. Interstate Engineering will pay for the mobilization of Newman Signs to change out the original markers, as it was an error by the engineering firm in the original plans and bid specifications. Motion to approve the change order for object markers and Type 3 markers at a \$1400 additional cost. (Walstead/Hosford, unanimous)

Mr. Bassingthwaite also stated that the contractor has requested that all liquidated damages be reimbursed, as a good product was delivered, even if it was behind schedule. Construction started two weeks later than planned, due to delays on a previous project the contractor had been working on, and the contractor completed the Sargent County project 15 days past the contract's completion deadline. The contractor is being assessed \$1100/day in liquidated damages for 15 days at a cost of \$16,500. Mr. Bassingthwaite stated that Federal regulations require the imposition of liquidated damages for failure to complete a contract on time, and that reimbursement would not be allowed using the federal aid monies. According to ND DOT any reimbursement of liquidated damages would all have to be the county's expense. As the contractor was aware of the liquidated damages provisions in the contract, and is aware that Federal regulations prohibit reimbursement with Federal Aid funds, Sargent County does not plan to reimburse the liquidated damages to the contractor. The contractor also has a \$2000 re-mobilization fee for coming back to the job site with equipment to address some issues with a driveway belonging to one of the landowners that intersected the job site. The commission requested that the remobilization charge be considered to be part of the project and that a change order be submitted so payment may be authorized.

Dan Delahoyde, Jackson Township Supervisor, met with the commission to discuss additional permit applications that either have been or will be submitted for the Jackson Township Drain project. These applications are likely to involve applications to vacate or close section lines, an action which the commission has been unwilling to take, due to the loss of public right of way and the loss of public access. Mr. Delahoyde discussed actions that have been taken by some landowners to date, as well as actions which are expected to be requested in the future. Mr. Delahoyde's primary concerns are the potential detrimental infringement on Township rights of way; the potential detrimental effect on the Township's ability to maintain public roads and rights of way; and, the detrimental impact on the Township's authority to enforce its Zoning Ordinance.

Merrill Engquist, Road Supervisor, reported that the new Bobcat skid-steer loader has been ordered from Berube's of Lisbon, and should be received this week. The old Bobcat skid-steer loader is being traded in, as was authorized at the January 3, 2017, Commission meeting. There was also additional discussion regarding the NDACo/John Deere tractor rental program, as well of information that had been received concerning tractor lease programs. Commissioner Walstead will call and get answers to a few more questions.

The Alkali Lake road project, done in cooperation with the ND Game and Fish Department (ND G&F), has been completed, with the work being done by Crandall Construction, Inc., of Cayuga. It did, however, go over the \$12,000 grant. Mr. Engquist has placed a call to the ND G&F, and, based upon the original commitment made by the ND Game & Fish Department, the total cost of the project, approximately \$15,000.00, will be reimbursed to the county by ND G&F.

Mr. Engquist also asked the commission if the County should consider a "dry road" policy versus an "open road" policy. Currently, the road department runs under an "open road" policy, which means the roads are kept open, but might have snow and ice built up on them. A "dry road" policy would mean that the County Road Department would continue to work on the roads until they are totally free of ice and snow. The commission made no change to the current "open road" policy which has been in effect since the 1990's.

Mr. Engquist also suggested that the current Silver Lake park manager might also help out the road crew when needed. The Commission had no objection to this suggestion.

Lyle Bopp, States Attorney, arrived at the meeting at 10:00 a.m.

Motion to authorize the state's attorney to prepare deeds to Forman City for the following parcels: 26-8142000 – Part of Block 19 South of Old Highway 11 & Hwy R/W – Block 19 – First Addition – Forman City (south of old #11 curve on west side of Forman); and 26-9143000 – All of Block 20 – First Addition – Forman City (south of old #11 on west side of Forman). (Hosford/Arth, unanimous)

There are many employees interested in a webinar presented by the Upper Great Plains Transportation Institute regarding conflict response. This presentation can be watched at individual workstations, but Denise Brown of the Local Transportation Alternatives Program (LTAP) and Upper Great Plains Transportation Institute (UGPTI) will come down to help each employee get set up in the Learning Management System (LMS) and give them some instructions on how to access the system for this training session, and for others in the future.

There was also some discussion regarding the suggested installation of surveillance cameras out at the fairgrounds due to incidents involving livestock exhibits at the County Fair in 2015 and 2016. Commissioner Arth has checked with Dickey Rural Networks and was quoted a price of \$3500 camera & setup fee for 7 cameras – 2 at the county shop and 5 in the barns. The system would be tied in with the present Courthouse system, and would be monitored at the Sheriff's office in the Courthouse. It was unclear whether there would be an additional monthly fee along with the cameras/set up. Commissioner Arth will obtain additional information on that question. Commissioner Jacobson suggested that the fair board hire night security for the nights of the fair, as that seems to be the time of primary concern. He estimated that would be at a much lower cost. No action was taken at this time, pending additional information being obtained.

Motion to appoint Julie Colemer to a 3 year term on the Sargent County Park Board. (Hosford/Anderson, unanimous)

Commissioner Hosford inquired if the North Dakota Association of Counties has finished updating the County's employee personnel policy yet. No information has been received from NDACo. The auditor was requested to check on this.

The auditor was instructed to set up a group meeting consisting of Dave Jacobson, Commission Chair; James Peterson & Julie Colemer, Park Board Members; Russ Boutain, Park Manager; & Paula Hansen, Assistant Park Manager; to go over the job descriptions and working arrangements out at the park.

The Commission considered a request to conduct a wedding ceremony on the courthouse lawn on Saturday, June 17, 2017. Motion to allow the wedding ceremony to be held on the courthouse lawn at no cost to the wedding party, on the condition that the appropriate liability waiver is signed and returned prior to the day of the wedding. (Anderson/Hosford, unanimous)

Approve 2017 Sargent Seniors Council Contract and authorize Chairman to execute the same. (Hosford/Anderson, unanimous)

Travis Paeper, Sheriff, arrived at the meeting. There was discussion on the deputy matron's workweek hours. Sheriff Paeper requested that she be authorized to work 40 hours each week instead of the 35 hours that she has previously been authorized. The SCRAM 24/7 program is very time consuming and he believes 40 hours is warranted for her position. There is enough funding budgeted to cover the 40 hour workweek. Motion to authorize Vanessa Bayger, Sheriff's Deputy Matron, to work 40 hours/week beginning January 1, 2017. (Hosford/Anderson, unanimous) Sheriff Paeper was instructed to make sure Ms. Bayger didn't work any hours over 40 that would result in overtime pay.

Approve January payroll in the sum of \$184,114.19 (Nos. 13028-13083 & 74419-74434) and the following bills: (Walstead/Arth, unanimous)

74295	Concorde General Agency	JDA-Milnor Spec Home	781.44
74296	David Puetz Construction	JDA-Milnor Spec Home	10,244.00
74297	Quill. Com	Office Supplies	321.95
74298	Riverside Building Center	JDA-Milnor Spec Home	9,624.39
74299-74304		Health Unit Expense	502.92
74305	Forman City	Water/Sewer/Garbage	197.83
74306	Ottertail Power	Electricity	3,143.15
74307	Ransom County	VSO Salary/Benefits	852.24
74308	Mathias, Chris	Weed Board Travel	35.03

74310-74321		Health Unit Expenses	4,015.74
74322-74332		Human Services Expenses	1,459.43
74333	Ameripride Linen	Cleaning Services	88.15
74334	Avid Hawk, LLC	Web Services	45.00
74335	Bayger, Vanessa	Sheriff Travel	102.10
74336	Butler, Joe	Courthouse Maintenance	3.25
74337	Computer Prof. Unlimited, Inc.	Data Processing	1,255.58
74338	Dakota Paper Co.	Copier Paper	594.00
74339	CHS-Dakota Plains	Sheriff Gas Purchases	630.30
74341	Dickey Rural Networks	Telephone	1,130.65
74342	Forman Drug	Sheriff Supplies	4.13
74343	Forman Market	Supplies	55.01
74344	Galls	Sheriff Deputy/Matron Uniforms	1,146.27
74345	Gwinner One-Stop	Sheriff Gas Purchases	442.26
74346	Gwinner Transfer	Sheriff Oil Change	56.54
74347	Hardware Hank	Supplies	399.65
74348	Information Tech. Dept.	WAN Access/Teletype Rental	597.55
74349	J & M Printing	Business Cards	43.35
74350	Johnson, Bryan	Ammunition	679.00
74351	Keepsr, Inc.	Sheriff Equipment	437.99
74352	Lee's Service Station	Tires/Oil Change	1,333.27
74353	MidStates Wireless	Radio Repair	52.50
74354	MinnKota Communications	Radio Bracket	107.00
74355	NACO	2017 County Dues	450.00
74356	NDACo	2017 Dues/Marriage Licenses	7,103.00
74357	NDACo-Workmen's Comp.	2017 Est. Premium	39,188.64
74358	ND Clerk's Assoc.	2017 Membership Dues	100.00
74359	ND County Commissioner's Assoc.	2017 Membership Dues	1,600.00
74360	ND Newspaper Association	Printing/Publishing	191.40
74361	ND County Recorder's Assoc.	2017 Membership Dues	200.00
74362	ND State Radio	LETS Terminal	120.00
74363	ND Workforce Safety	Volunteer Coverage	12.35
74364	NDACO Resource Group	2017 Annual Agreement	33,726.24
74365	Neiber, Jason	Overpayment	310.00
74366	Nelson Home Center	Supplies	193.64
74367	Office of Attorney General	SCRAM 24/7	3,210.00
74368	Peterson, Brenda	Coroner Travel	21.40
74369	Pharmchem Inc.	Sweat Patch Kit/Analysis	858.00
74370	Reardon Office Equipment	Office Supplies	239.14
74371	Richland County Corrections	Prisoner Board	2,255.00
74272	Sargent County Teller	Printing /Publishing	366.24
74273	SC Treasurer	2016 Property Taxes	3,588.75
74274	Secretary of State	SC Fair Annual Report	10.00
74275	Secure Software Solutions	2017 PAT License Renewal	1,600.00
74276	SEMCA	2017 Grant Match	10,000.00
74277	SENDCCA	2017 Membership Dues	250.00
74278	Verizon Wireless	Sheriff MIFI Cards	160.04
74279	Village Family Service Center	2017 Yearly Contract	1,140.00
74380	Walstead, Michael	Commission Travel	116.64
74381	A W Diesel	Ford L9000 Repair	939.09
74382	Crandall Construction	Gravel Haul Only	77,278.82
		Cty Rd. #1, # 8, #12, & #14, & Alkali Lake Rd. Project	
74383	CHS-Dakota Plains	Qwiklift Lube Oil	555.60
74384	Ekstrom Repair	2003 GMC Repair	1,830.79
74385	Forman Repair	83 GMC & Cat Blade /Batteries	693.80
74386	Hansen Lumber & Hardware	Supplies	79.66
74387	Interstate Engineering	Engineering Services Cty. #2, #4, #10, & #14	66,453.59
74388	Kustom Machine, Inc.	Equipment Repair	185.36
74389	Lyle Signs, Inc.	Road Signs	2,604.40
74390	NDDOT Financial Services	Hall Township Bridge Project	97,041.29
74391	Rutland Oil Co.	Road Fuel	2,740.50
74392	SC Water Resource	40% Culvert Cost Share Drain #11	10,474.00
74393	Cenex Fleet Card	Extension Gas Purchases	31.07
74394	Dickey Rural Networks	911 Contract	247.00

74395	Forman Market	Extension Supplies	128.96
74396	Hardware Hank	Extension Supplies	4.49
74397	Mark Sand & Gravel	Washed Sand/Emergency Fund	2,513.32
74398	ND State Radio	State Radio Contract	6,314.88
74399	NDSU Ag. Communication	Extension Graphics	40.00
74400	NSC Minerals	Road Salt/Emergency Fund	3,368.25
74401	SC Auditor	Extension WAN Access	240.00
74402	Sargent County Teller	HCPF/Ext Printing/Publishing	71.50
74403	SC Treasurer	Extension Postage	89.62
74404	US Imaging	Record Digitization	18,505.00
74405	VISA	Extension Supplies	120.94
74406	Zuercher Tech. Inc.	Annual 911 Software Maintenance	675.00

The meeting recessed at 12:15 p.m.

The meeting reconvened at 1:15 p.m. with all Commissioners present.

Commissioner Arth reported that he had contacted the North Dakota Motor Vehicle Department regarding whether or not Sargent County could have a DMV branch office at the courthouse. He was told that the DMV considers the number of locations to be sufficient at this time, and vehicle owners also have access to the online license renewals service. The current contracts will be up in 2020, and branch office locations will be reviewed at that time.

State's Attorney Lyle Bopp presented a proposed Settlement Agreement and Release regarding the issues involved in the Administrative Hearing with Former Sargent County Social Services Director Wendy Jacobson that had been scheduled to commence on Tuesday, January 17. On January 9, States Attorney Bopp had received an offer from Ms. Jacobson's attorney to settle the matter for a payment of \$156,000 from Sargent County to Ms. Jacobson. At a special Meeting held on January 9, the Commission had: rejected Ms. Jacobson's settlement offer; authorized States Attorney Bopp to enter into negotiations with Ms. Jacobson's attorney; and, authorized the States Attorney to make a counteroffer of \$50,000.00. States Attorney Bopp and Ms. Jacobson's attorney negotiated a draft agreement that included a \$70,000.00 payment to Ms. Jacobson and a General Release from all liability for Sargent County and Ms. Jacobson among its terms. A copy of the agreement is attached to these minutes. Motion to approve the following resolution.

#### RESOLUTION OF ACCEPTANCE AND APPROVAL OF SETTLEMENT AGREEMENT AND GENERAL RELEASE

WHEREAS, on February 2, 2016, the Sargent County Commission terminated the employment of Sargent County Director of Social Services Wendy R. Jacobson, hereinafter referred to as former Employee, for cause; and,

WHEREAS, subsequent to the date of termination, the former Employee appealed the decision to terminate employment, and filed several complaints against Sargent County alleging violations of State and Federal statutes and regulations; and,

WHEREAS, it is the position of Sargent County that the former Employee has been afforded all rights and privileges protected, allowed or required by County and State policy as well as by State and Federal Law and Regulations, and that Sargent County has followed proper procedure throughout all steps in all proceedings concerning this matter; and,

WHEREAS, The Sargent County Commission and the Sargent County Social Services Board have sought, received and followed the advice and counsel of the Sargent County States Attorney's Office at all times throughout all proceedings concerning this matter, both before and after the date of termination of employment of the former employee; and,

WHEREAS, the Sargent County States Attorney and Assistant States Attorney have worked diligently on behalf of Sargent County concerning all matters involving appeals and other claims put forward by the former Employee for Administrative Hearings and potential subsequent litigation, reviewing documents, interviewing witnesses, preparing exhibits and doing all things necessary to properly represent and defend Sargent County in this matter; and,

WHEREAS, prior to the date of termination of the former Employee's employment by Sargent County, and at all times since, Sargent County has been willing to negotiate with the former Employee, her agents and legal representatives, to attempt resolution of all issues and disputes between the parties; and,

WHEREAS, subsequent to an offer of settlement communicated to the Sargent County States Attorney by the attorney representing the former Employee, and upon the direction of the Sargent County Commission provided at a Special Meeting of the County Commission held at 5:00 p.m. on Monday, January 9, 2017, at the Sargent County Courthouse, the Sargent County States Attorney and Assistant States Attorney did negotiate a proposed Settlement Agreement and General Release that fully, finally and completely resolves all issues between the parties and provides both parties, including officers, board members, officials and employees of Sargent County, with a General Release from any and all obligations and liability to each other; and,

WHEREAS, the Sargent County States Attorney and Assistant States Attorney have fully and completely reviewed all of the provisions, terms and conditions of the proposed Settlement Agreement and General Release with the members of the Sargent County Commission, and recommend its acceptance and approval as being in the best interests of Sargent County; and,

WHEREAS, the Settlement Agreement and General Release is intended for the benefit of the parties, only, and is not intended to impair or release any claims that either party may have against any other County, or against any Agency of the State of North Dakota or of the United States of America.

NOW, THEREFORE, the Sargent County Commission does hereby Resolve, Direct and Authorize the following:

1. The Sargent County Commission does hereby accept and approve the Settlement Agreement and General Release negotiated and recommended by the Sargent County States Attorney and Assistant States Attorney, including all of its provisions, terms and conditions, and finds the said Settlement Agreement and General Release to be a fair and reasonable settlement of all disputes between the parties, and in the best interests of Sargent County;
2. Authorizes and directs the Chairman of the Sargent County Commission, or, in the absence of the Chairman, the Vice-Chairman of the Sargent County Commission, and the Sargent County Auditor, or, in the absence of the County Auditor, the Deputy County Auditor, to immediately execute the Settlement Agreement and General Release on behalf of Sargent County;
3. Upon receipt of a signed resignation from employment from the former employee, effective February 2, 2016, and upon confirmation by the Sargent County States Attorney that the former employee has executed the Settlement Agreement and General Release, the Sargent County Commission does, by this Resolution, withdraw the motion terminating the employment of the former employee as of that date, Nunc Pro Tunc, and instructs the County Auditor to make a notation in the official records of the County indicating that said motion has been withdrawn;
4. Authorizes and directs the Sargent County Auditor and the Sargent County Treasurer to execute a check payable to the former Employee, from funds identified in the budget of Sargent County Social Services as contingent funds for legal purposes, in the amount stated in the Settlement Agreement and General Release, with said check to be delivered to the Sargent County States Attorney's Office and to be held there until such time as the States Attorney shall determine that the conditions of the Settlement Agreement and General Release pertaining to the former Employee have been fully complied with, and, upon such determination, the States Attorney shall deliver the said check to the attorney representing the former Employee;
5. All communications concerning this matter, whether now or in the future, shall be conducted through the Sargent County States Attorney's Office. No official, officer, board member, agent or employee of Sargent County is authorized to communicate on behalf of Sargent County with the former Employee or her legal representatives and agents, or with any other person or entity, concerning this matter, except through the Sargent County States Attorney's Office, unless such communication is specifically authorized by the Sargent County Commission.

Motion to approve Resolution made by: Commissioner Walstead

Motion to Approve Resolution seconded by: Commissioner Anderson

Voting "AYE": Arth, Walstead, & Anderson

Voting "NAY": Hosford & Jacobson

Resolution Approved (x) or Rejected ( ) on this 17<sup>th</sup> Day of January, 2017, at the Regular Meeting of the County Commission at the Courthouse in Forman, North Dakota.

Attest:

\_\_\_\_\_  
David L. Jacobson  
Chairman

\_\_\_\_\_  
Pam L. Maloney  
County Auditor

Upon the refusal of Chairman Dave Jacobson to sign and execute the Settlement Agreement and General Release on behalf of Sargent County, motion to authorize the Vice-Chairman to sign Settlement Agreement and General Release on behalf of Sargent County. (Anderson/Arth) Roll Call Vote: Yes – Walstead, Anderson & Arth. No – Hosford & Jacobson. Motion passed.

Meeting adjourned at 1:45 p.m.

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DAVID L JACOBSON – CHAIRMAN

ATTEST:

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PAM MALONEY – COUNTY AUDITOR