

Dakota County Board of Commissioners
Monday, November 14, 2022-3:00 p.m.
County Board Meeting Room, First Floor
Dakota County Courthouse, Dakota City, Nebraska

Chair Giese called the meeting to order at 3:00 p.m. Present at Roll Call: Giese, Love, Gill, Launsby. Absent: Albenesius. Also present was Kim Watson, County Attorney and Joan Spencer, County Clerk, acting as Board Secretary. The location of the Open Meetings Act was noted.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL – Excused Absence

A current copy of the *Open Meetings Act* is posted on the west wall near the entrance of the County Board Meeting Room and is available for review by all citizens in attendance.

The Dakota County Board of Commissioners reserves the right to adjust the order of items on this agenda if necessary.

1. PUBLIC COMMENT. The Board of Commissioners will hear comments about any item not on the agenda. The Chair has the discretion to limit the time of comment.
2. CONSENT AGENDA *Any individual item may be removed by a Commissioner for special discussion and consideration. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners.*
 - a. Approval of the previous meeting minutes – October 31, 2022
 - b. Approval of payroll claims for October 30-November 12, 2022
 - c. Approval of AP claim/s if applicable
 - d. Veterans Office Quarterly Report for July to September, 2022.
3. NEW BUSINESS & RESOLUTIONS
 - a. **3:00 p.m. Public Hearing** for the purpose of giving citizens the opportunity to offer support, opposition or make neutral comment regarding changing the name of the planning commission from Dakota County Joint Planning Commission to Dakota County Planning & Zoning Committee.
 - b. **3:05 p.m. Public Hearing** for the purpose of giving citizens the opportunity to offer support, opposition or make neutral comment regarding the revision of zoning ordinances to include in Section 600.3 Conditional Uses provision for Carbon Dioxide Pipeline regulations.
 - c. Approve or not approve Resolution 22C-024 to allow a Planning and Zoning Name Change
 - d. Approve or not approve Resolution 22C-025 adding a Conditional Use for Carbon Dioxide Pipeline regulations.
 - e. Approve Resolution 22C-026 to certify Highway Superintendent for year calendar year 2022.
 - f. Approve Resolution 22C-027 to allow Chair to sign and approve the 5-year Master Agreement effective January 1, 2023, regarding Land Survey Corner Preservation between Dakota County and the Nebraska Department of Transportation.
4. MISCELLANEOUS & OLD BUSINESS
 - a. Jolene Gubbels, Highway Superintendent – Bi-weekly Road Report
 - b. Monthly Jail Report for October, 2022
 - c. Theresa Grove, Health Department Director, Quarterly Health Department Report
5. COMMISSIONER COMMITTEE REPORTS
6. MAIL AND/OR EMERGENCY BUSINESS
 - a. South Sioux City Notice of Hearing at 5:00 p.m. on November 14th at City Hall for public comment on redevelopment plan “HCI Real Estate—39th and G.”
7. ADJOURNMENT

Chair Giese moved, seconded by Commissioner Love, to excuse Commissioner Albenesius from today's meeting. ROLL CALL VOTE: Love- yes, Gill- yes, Launsby- yes, Giese- yes. UNANIMOUS MOTION CARRIED.

Chair Giese called for public comment about any item not on the agenda. (1) Dawn Bousquet, Treasurer, clarified that taxpayers can use a credit card on a federal holiday on which the courthouse is open, but, the Treasurer's Office does not have the bank credit card report available. (2) Trudy Jepsen, Hubbard, requested an update and finding a solution to move forward on M Avenue paving project. Chair Giese said the Board is working with the Village of Hubbard and possible annexation of the road; there is interest to build homes if the road is paved and NRD rural water project is out for bids. Chair Giese stated the M Avenue paving project is still his #1 priority for use of ARPA funds and sees potential growth in the area if the road is paved. Ms. Jepsen thought the Board would need to support Hubbard with the project and she would like to keep the door open in pursuing options with the State (relaxation of standards).

Chair Giese called for approval of the consent agenda items: (a) approval of the previous meeting minutes of October 31, 2022; (b) approval of payroll claims for October 30 – November 12, 2022 with approval of a pay increase for Health Department employee who is taking on an additional role of managing department grants; (c) approval of accounts payable claim; (d) Veterans Office Quarterly reports (July-September, 2022). Commissioner Love moved, seconded by

Commissioner Launsby, to approve the consent agenda items. ROLL CALL VOTE: Gill- yes, Albenesius- absent, Launsby- yes, Giese- yes, Love- yes. UNANIMOUS MOTION CARRIED.

Payroll: General Fund Employer: Gross Salaries-\$169,809.73; Net Pay-\$121,549.66; Total Retirement-\$11,757.85; Total FICA-\$12,620.11; Health Plan-\$40,000.00; Dental Plan-\$1,200.00; Life Insurance-\$203.64; Larry Albenesius-\$1,152.39; Robert Giese-\$1,198.54; Janet Gill-\$1,152.39; Troy Launsby-\$952.39; Scott Love-\$1,152.39; Cherie Conley-\$2,333.78; Robin Hansen-\$1,527.88; Paola Ledesma-\$1,439.38; Joan Spencer-\$2,367.92; Kathy Abbe-\$1,375.21; Dawn Bousquet-\$2,367.92; Maria Garcia-\$1,134.41; Stephanie Gatzemeyer-\$1,565.41; Jalissa Hattig-\$1,363.20; Brenda Landaverde-\$1,283.20; Samantha Mitchell-\$1,274.40; Debera Benton-\$1,360.00; Christy Abts-\$2,367.92; Melissa Collins-\$1,577.60; Joseph O'Neil-\$576.92; Karen Jimenez-\$1,569.60; Katherine Wiltgen-\$2,367.92; Louvontree Hunter-\$2,907.37; Debra Jensen-\$1,788.45; Johnette Gatzemeyer-\$512.00; Kevin Hansen-\$2,167.33; Tammy Dunn Peterson-\$1,292.80; Shaun Bird-\$2,581.28; Timothy Decker-\$2,507.65; Brian Ellinger-\$2,860.42; Penny Epting-\$3,888.15; Brian Fernau-\$2,666.70; Tyler Fulkerth-\$3,129.86; Martin Guerrero-\$3,789.58; Melvin Harrison III-\$2,940.28; Jason James-\$3,234.28; Douglas Johnson-\$2,485.18; Kimberly Johnson-\$833.14; Jared Junge-\$2,673.00; Christopher Kleinberg-\$2,583.09; Gregory Nyhof-\$2,424.68; Mardi Schnee-\$1,155.20; Ryne Sell-\$262.68; Sarah Hammond-\$2,178.85; Shantel Krull-\$1,016.00; Debra Schmiedt-\$3,476.65; Kimberly Watson-\$3,697.27; Emma Wiebelhaus-\$1,444.00; Jacob Acero-\$1,851.20; Juan Fernando Aguilar-\$1,690.82; Angelica Antonio Flores-\$1,989.00; Rebecca Broer-\$1,878.29; Kacie Brown-\$1,779.65; Lacey Clark-\$1,881.71; Leonardo Davalos-\$606.45; Elisabet DeRoin-\$1,912.14; Jesse Doelle-\$1,704.80; Maria Francisco Pablo-\$574.26; Brian Gomez-\$737.49; Jonathan Gray-\$2,102.07; Nicole Gray-\$1,709.73; Sara Gritten-\$1,909.16; Kara Groetken-\$2,249.40; Todd Hammer-\$2,423.10; Adam Hough-\$1,779.95; Keith Johnson-\$1,679.46; Brandon Long-\$1,231.56; Jose Magana-\$1,956.36; Jennifer Marquez-\$1,605.26; Skyler Miner-\$2,270.44; Keaton Mueller-\$1,877.67; Kelsey O'Neill-\$1,553.45; Zoey Olson-\$1,998.34; Kimberly Peterson-\$1,779.39; Adrian Ramos-\$1,679.40; Michele Rohde-\$1,518.75; Jonathan Romo-Rodriguez-\$1,841.28; Rebecca Schoep-\$1,905.75; Jennifer Svendsen-\$2,515.64; Estrella Vazquez-\$2,176.63; Randall Walsh-\$2,485.23; Steven Zarate-\$1,607.35; Deanna Hagberg-\$2,080.80; Jolene Gubbels-\$2,065.89; Jana Adam-\$1,400.40; Yvette Aldana-\$1,557.36; Jennifer Ankerstjerne-\$1,653.21; Theresa Grove-\$2,337.60; Courtney Swick-\$1,569.21; Willard Johnston-\$2,147.42; Nicholas Nieman-\$580.00; Extra Fit-\$1,471.00; Extra Sit-\$160.00; Retirement-\$7,981.67; Health Plan-\$2,550.00; Dental Plan-\$483.00; Colonial Health-\$219.59; Sheriff Union Dues-\$390.00; Colonial Life/Disability-\$ 54.00; Deferred Comp-\$670.00; Garnishments-\$1,331.06; Flex Plan Medical-\$1,002.58; VSP Vision Prem-\$419.35; Legal Shield-\$172.47; Liberty Nat'l Pretax-\$ 83.99; VSP Vision Base-\$ 83.43; **Road Fund Employer:** Gross Salaries-\$17,867.90; Net Pay-\$12,187.22; Retirement-\$1,206.09; Total FICA-\$1,304.40; Health Plan-\$4,000.00; Dental Plan-\$120.00; Life Insurance-\$ 19.51; Brent Byroad-\$1,980.80; Paul Jerome Conley-\$494.88; Robert Hacker-\$1,765.60; Lance Jacobsen-\$1,729.60; David Kneifl-\$1,861.34; Kimon Litras-\$1,869.60; Troy Madison-\$1,383.68; Vernon McFarland II-\$1,649.60; Dean Pallas-\$1,753.60; Jeffrey Stanwick-\$1,649.60; Jared Vedral-\$1,729.60; **Road Fund Employee:** Federal Tax-\$1,146.57; State Tax-\$587.01; FICA-\$1,057.16; Medicare-\$247.24; Retirement-\$804.05; Health Plan-\$725.00; Dental Plan-\$ 63.00; Colonial Health-PreTax-\$ 38.23; Colonial Health L/D-\$ 35.10; Garnishments-\$739.39; Road Union Dues-\$175.00; VSP Vision Prem-\$ 15.34; Legal Shield-\$18.44; Liberty National PreTax-\$6.50; VSP Vision Base-\$22.65; Health. **Health Program Grant Employer:** Gross Salaries-\$1,559.80; Net Pay-\$1,212.99; Retirement-\$105.29; Total FICA-\$117.34; Health Plan-\$500.00; Dental Plan-\$15.00; Life Insurance-\$2.55; Yesica Saldana Cisneros-\$1,559.80; **Health Program Grant Employee:** Federal Tax-\$88.13; State Tax-\$45.26; FICA-\$ 95.10; Medicare-\$22.24; Retirement-\$70.19; Dental Plan-\$21.00; VSP Vision-\$4.89; **Juvenile Services Aid Employer:** Gross Salaries-\$1,200.00; Net Pay-\$1,020.38; Retirement-\$81.00; Total FICA-\$ 91.80; Kristin Robinette-\$1,200.00; **Juvenile Services Aid Employee:** Federal Tax-\$ 14.98; State Tax-\$ 18.84; FICA-\$ 74.40; Medicare-\$ 17.40; Retirement-\$ 54.00.

Accounts Payable: General Fund: NACO-Registration fee-\$150.00.

Chair Giese opened the Public Hearing at 3:10 p.m. for the purpose of giving citizens the opportunity to offer support, opposition or make neutral comment regarding changing the name of the planning commission from Dakota County Joint Planning Commission to Dakota County Planning & Zoning Committee. There were no comments in support or opposition. Neutral comment was made by County Clerk to explain that the County Attorney supported removing the word Joint since all the villages in Dakota County now had their own Zoning Boards, but that statutes require keeping the word commission rather than changing to committee (§23-114—commission is how they derive their power). Chair Giese closed the public hearing at 3:19 p.m.

Chair Giese opened the Public Hearing at 3:19 p.m. for the purpose of giving citizens the opportunity to offer support, opposition or make neutral comment regarding the revision of zoning ordinances to include in Section 600.3 Conditional Uses, provision for Carbon Dioxide Pipeline regulations. Chair Giese asked for proponents—there were none. Chair Giese asked for comments in opposition. Ron Hartnett, Dakota City, would like a moratorium on pipeline regulations. He quoted from an article in the Wall Street Journal that pipelines have been only 20% effective and that the Board needs time to critically examine the safety and dangers of a pipeline in our county rather than listening to a sales pitch from the CO₂ pipeline companies. Careful steps need to be taken to address issues for first responders, abandonment, and cleanup. Paul McGuirk, rural Dakota County, stated he is opposed to having the pipeline go through his properties and asked if that would be a problem—can he tell them to stay off his land? Chair Giese asked for neutral comments on the proposed regulations. Brandy Naughton, Navigator CO₂, thanked the Planning Commission for 6 months of dialogue. She stated they have addressed Mr. Hartnett's concerns, many of which are addressed under federal regulations

(PHMSA). If the pipeline is abandoned, it is cleaned, disconnected and full land rights revert to the owner. If a landowner does not want to give the pipeline permission to go across their land, they will continue to negotiate and eminent domain is a last resort—but they do have that power. CO₂ is mildly toxic—“drunken state” and shortness of breath would happen before affixation level. Chair Giese noted that the Dakota County pipeline regulations are 5’ deep and 330’ from residence. The County Attorney clarified that a moratorium would have to be brought to the Board from the Planning Commission in order for the Commissioners to address that issue. Jean Broyhill, Dakota City, asked if pipelines are abandoned, are they drained? Brandy Naughton answered, “Yes—bled dry and filled with nitrogen or foam-like material and capped off—no product will remain in the pipeline.” Brent Niese, Summit pipeline, also addressed abandonment—PHMSA DOT195 regulations requires a written plan including cleaning and disconnected from well heads. 100% of the CO₂ will be captured at local ethanol plants versus 20% alluded to by Mr. Hartnett. With the pipeline at a 4’ depth, there will be no interference from a combine—a train could drive over it. Summit would be happy to help local Fire Departments with purchasing some needed equipment. Summit met with the Planning & Zoning 7 times to review the pipeline regulations. The system is monitored 24/7 and fire departments would help evacuate the area. Summit has 67% acquisition. Ron Hartnett thought the crop yield would go down. Mr. Niese said there would be no drop in value and they are paying 3 years of crop damage. No more comments. Chair Giese closed the hearing at 3:42 p.m.

Commissioner Love moved, seconded by Commissioner Gill, to approve Resolution 22C-024 which amends the Dakota County Joint Planning Commission bylaws name of organization to be Dakota County Planning Commission (remove the word Joint). ROLL CALL VOTE: Launsby- yes, Giese- yes, Love- yes, Gill- yes, Albenesius- absent. UNANIMOUS MOTION CARRIED.

BOARD OF COMMISSIONERS
DAKOTA COUNTY
RESOLUTION 22C-024

RESOLUTION AMENDING DAKOTA COUNTY PLANNING COMMISSION BYLAWS

WHEREAS, the County Board of Commissioners has the authority to amend planning commission bylaws which shall have the force and effect of law pursuant to Bylaws Article I, Organization, Section 1.4 Functions and Duties of the Planning Commission of Dakota County, Nebraska; and

WHEREAS, the County Board of Commissioners established the Dakota County Planning Commission pursuant to Regulation as set for by Neb. Rev. Stat. §23-114 .01; and,

WHEREAS, the Commission has determined it reasonable and necessary to recommend amending Section 1.1 Name of the Organization by removing the word Joint and changing Commission to Committee; and,

WHEREAS, it is the intent of the County Board to enact only on the proposed change of the Name of the Organization by removing the word Joint but not changing the word Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE DAKOTA COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the adoption of certain proposed amendments and revisions to the Dakota County Zoning Regulations was held on October 17, 2022, before the Dakota County Planning Commission as required by the State of Nebraska. The Planning Commission provided its recommendation of approval as noted in the Planning Department Report.
- II. A public hearing regarding the adoption of the proposed amendments and revisions to the Dakota County Zoning Regulations, was held by this Board as required by §23-114.01(2).
- III. Notice of each of the Public Hearings described above was published at least ten (10) days prior to each respective public hearing and the proof of publication has been filed in the Office of the Dakota County Clerk.
- IV. Notice of the time and place of each hearing was also given in writing to the clerks of the local governments which have jurisdiction over land within three (3) miles of the property affected by such action as required by Neb. Rev. Stat. §23-164.
- V. The proposed amendment to be approved by this Resolution are within Section 1.1 of the Dakota County Amended Bylaws for the Joint Planning Commission of Dakota County, Nebraska. Further, the Planning Department report is attached hereto and includes a red-line version in legislative format showing the proposed change for Section 1.1, along with all attachments to said Planning Department Report, all as attached hereto and known as Exhibit “A”.

FURTHER, BE IT RESOLVED THAT this Board in light of the above, after due deliberation and consideration, upon the recommendation of the Planning Commission, does not adopt in whole the proposed amendment to the Dakota County Amended Bylaws, specifically approval of the text amendment as shown in Exhibit “A” which changes the word Commission to Committee and directs the Planning Department to amend the Dakota County Amended Bylaws, and which amended Bylaws are attached hereto as Exhibit “B” and that the same have full force and effect of law, the effective date of the aforementioned Zoning Regulations shall be the 14th day of November, 2022.

FINALLY, BE IT RESOLVED THAT the Amended Bylaws enacted by this Resolution are intended to be a complete revision of the existing Zoning Regulations, and all previous Resolutions or parts of Resolutions of the Dakota County Board of Commissioners on said subjects or in conflict with the provisions of this Resolution are hereby repealed. The above Resolution was approved by a vote of the Dakota County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 14th day of November, 2022.

PASSED and APPROVED this 14th day of November, 2022.

Exhibit A

Planning Department Report

DAKOTA COUNTY PLANNING & ZONING: October 18, 2022 MINUTES Excerpt...

The regular meeting of the Dakota County Planning and Zoning Commission was called to order at 7:00 P.M. by Chairman Martin Rohde and the Pledge of Allegiance was said by all.

Roll Call: Present were: Scott Bousquet, Ron Collins, Tim Decker, Ron Gill, Gordon Hegge, Harold Moes and Martin Rohde. Absent: Dick McCabe (Paul Ireland has officially resigned waiting for new member to be appointed to his position) Also, present: Planning and Zoning Administrator Joe O'Neill and Dakota County Commissioner Larry Albenesius. Public present: see attached list

Notice was made regarding the Open Meeting Act posted on the wall.

Moved by Harold Moes, second by Ron Collins to approve the minutes of the August 16, 2022 regular meeting and the September 20, 2022 special meeting minutes. Consent unanimous. Motion carried.

Public Hearing was called to order by Chairman Rohde at 7:01pm for the purpose of hearing support, oppositions, criticism, suggestions or observations relating criticism, suggestions or observations relating changing the name of the planning commission from Dakota County Joint Planning Commission to the Dakota County Planning & Zoning Committee. Chair Rohde explained that the towns and villages used to use the county zoning regulations and now they have their own. Joe said that commission gets confused with Board of Commissioners so committee would be better. Chair Rohde opened the floor up for public comment. No comment. Public hearing closed at 7:03pm.

Motion made by Ron Collins, second by Scott Bousquet to approve the name change from Dakota County Joint Planning and Zoning Commission to Dakota County Planning and Zoning Committee and send their recommendation of approval to the Board of Commissioners. Roll Call Vote. Unanimous. Motion Carried.

Public Hearing was called to by Chairman Rohde at 7:04 pm for the purpose of hearing support, opposition, criticism, suggestions or observations relating to adding carbon dioxide pipeline regulations to the zoning ordinances.

Samantha Perry with Crary Huff Law Firm was in attendance and has been helping Mr. Kevin Pedersen with planning an event center for weddings, parties, etc. on his property north of Jackson.

Miscellaneous and old business. Building permits were issued to Gutzmann Bros – recreational shed-Waterbury, Chris Stewart – new home, Prairie Ridge Subdivision, Ponca. Informational Statements were issued to Ricky Claassen- storage shed-Dakota City, Nicky Komvonga – storage shed in the Farmsteads. Scott Bousquet brought up commercial solar panel farms and if we have much in our regulations pertaining to them. Joe said that is something that can be reviewed.

Marty opened up the floor for public comment. No Public.

Moved by Harold Moes, second by Ron Gill to adjourn. Consent unanimous. Motion carried

Meeting was duly adjourned at 7:33 P.M.

Respectfully submitted, Jolene Gubbels

Exhibit B

Amended Bylaws for the ~~Joint~~ Planning Commission of Dakota County, Nebraska

ARTICLE I

ORGANIZATION

SECTION 1.1 NAME OF THE ORGANIZATION. The name of the voluntary organization formed by this agreement shall be the Dakota County ~~Joint~~ Planning Commission.

SECTION 1.2. STATUTORY AUTHORITY. The Dakota County ~~Joint~~ Planning Commission is an agency voluntarily established by its members and the Dakota County Board of Commissioners under and by virtue of the power to do so granted by Nebraska Revised Statute

§ 23-114.01 and pursuant to the Interlocal Cooperation Act.

SECTION 1.3. PURPOSE. The Dakota County ~~Joint~~ Planning Commission is established for the purpose of promoting and preserving the public health, safety and welfare of the citizens of Dakota County, Nebraska. The purpose of the Dakota County ~~Joint~~ Planning Commission shall be achieved through the discussion, study and development of action recommendations on local and regional planning matters.

SECTION 1.4. FUNCTIONS AND DUTIES OF THE PLANNING COMMISSION. The functions and duties of the Dakota County ~~Joint~~ Planning Commission are those set forth in Section 23-114.01 of the Nebraska Revised Statutes and amendments and supplements thereto, and those powers and duties delegated to the ~~Joint~~ Planning Commission by the County Board of Commissioners for Dakota County, Nebraska. The ~~Joint~~ Planning Commission is established as a review and recommendation body only and is not empowered to have independent authority over the implementation of the plans it is responsible for preparing or to implement or administer any regulation or program established to implement the comprehensive plan or other plans prepared by the ~~Joint~~ Planning Commission. These authorities are left up to the Dakota County Board of Commissioners. The functions and duties of the Dakota County ~~Joint~~ Planning Commission shall include:

1. Formulate and adopt a comprehensive plan and other plans for the physical development of Dakota County;
2. Prepare and adopt a capital improvements program, subdivision regulations, building codes and zoning regulations as a means of implementing the comprehensive plan and other plans;
3. Consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions and citizens in regards to the formulation and implementation of the comprehensive plan and related regulations, codes and other means of implementing the plan;
4. Delegate authority to any group, of the types mentioned in the preceding item to conduct studies, make surveys, make

- preliminary reports on its findings and hold public hearings before submitting its final reports;
5. Conduct or sponsor studies or planning work for any public body or agency and receive grants, remuneration or reimbursement for studies or work;
 6. Hold and conduct public hearings, at which the ~~Joint~~ Planning Commission may summon witnesses, administer oaths and compel the giving of testimony on any matter relating the comprehensive plan or development in Dakota County, prior to making final reports and recommendations to the Dakota County Board of Commissioners;
 7. With consent of the Dakota County Board of Commissioners and in its own name, may:
 - Make and enter into contracts with private or public bodies;
 - Receive contributions, bequests, gifts or grant funds from public or private sources;
 - Expend funds appropriated to it by the Dakota County Board of Commissioners
 - Employ agents or employees; and,
 - Acquire, hold and dispose of property; and

The Dakota County ~~Joint~~ Planning Commission, by the authority of the Dakota County Board of Commissioners for Dakota County, Nebraska shall additionally have the authority to:

1. Grant Conditional Use Permits, Special Permits and exceptions as are specifically authorized by the Dakota County Zoning Ordinances and in accordance with the rules and regulations established for Conditional Use Permits, Special Permits and exceptions as set forth therein.
2. To permit the extension of a district where the boundary line of a district divides an urban type building lot in single ownership as shown on record.
3. To permit the reconstruction of a non-conforming building which has been destroyed, or partially destroyed by fire or act of God where the Commission shall find a compelling public necessity requiring the continuance of the non-conforming use building. This provision shall not apply to any use which is non-conforming due to its location in a floodway, flood plain or flood hazard area.

The ~~Joint~~ Planning Commission has review authority over any actions of the Dakota County Board of Commissioners which relate the above listed functions and duties of the Commission. The Dakota County Board of Commissioners shall not hold any public hearing or take any actions on matters relating to the comprehensive plan, capital improvements, building codes, subdivision development, annexation of territory or zoning, including amendments thereto, until it has received the recommendations of the ~~Joint~~ Planning Commission.

ARTICLE II

MEMBERSHIP

SECTION 2.1. MEMBERSHIP. The members of the Dakota County ~~Joint~~ Planning Commission, known as Planning Commissioners, shall be local citizens appointed by the Dakota County Board of Commissioners and said membership maintained by special appointment.

Appointments shall be made with due consideration to geographical and population factors. The ~~Joint~~ Planning Commission shall consist of nine (9) members and be appointed to represent the following areas: Unincorporated area of Dakota County (5 members), Village of Emerson (1 member), Village of Homer (1 member), Village of Hubbard (1 member), Village of Jackson (1 member).

SECTION 2.2. RESIDENCY OF PLANNING COMMISSION MEMBERS. A majority of the ~~Joint~~ Planning Commission members must reside in the unincorporated areas of Dakota County. Members shall be residents of the area they are appointed to represent.

SECTION 2.2. TERM OF SERVICE. The first ~~Joint~~ Planning Commission shall be appointed as follows:

- 3 members for 3 years
- 3 members for 2 years
- 3 members for 1 year

After the terms of the initial appointments, all terms shall be three (3) years. All members shall hold office until their successors have been appointed or until said members have been re- appointed.

SECTION 2.3. COMPENSATION AND EXPENSES. Members of the ~~Joint~~ Planning Commission shall serve with a compensation of fifteen (\$15.00) dollars per meeting for the time they commit to their service. Members may be compensated in an amount fixed by the County Board of Commissioners for actual and necessary expenses incurred in connection with his or her duties as a member of the ~~Joint~~ Planning Commission. The mileage reimbursement rate for travel by personal automobile shall be the prevailing rate established by the Nebraska Department of Administrative Services. Member expenses must be approved by the Board of Commissioners prior to being incurred. Members shall be reimbursed for necessary expenses following the administrative procedures followed by the County.

SECTION 2.4. REMOVAL OF MEMBERS. Any member of the ~~Joint~~-Planning Commission may be removed as a member of the ~~Joint~~ Planning Commission for inefficiency, neglect of duty, malfeasance or other good and sufficient cause. Written charges must be filed and a public hearing must be held regarding the charges, after which a ~~Joint~~-Planning Commissioner may be removed by a majority vote of the County Board of Commissioners.

ARTICLE III

OFFICERS AND THEIR DUTIES

SECTION 3.1. OFFICERS. The officers of the ~~Joint~~ Planning Commission shall consist of a Chairperson, Vice Chairperson and Secretary.

SECTION 3.2. TERM. The terms of all officers shall be for one year and all are eligible for reelection.

SECTION 3.3. DUTIES. The Chairperson shall preside at all meetings and hearings of the ~~Joint~~ Planning Commission and shall have the duties normally conferred by parliamentary usage on such officers. The Chairperson shall be one of the citizen members of the ~~Joint~~ Planning Commission and shall have the privileges of discussing all matters before the ~~Joint~~ Planning Commission and of voting thereon. The Vice Chairperson shall act for the Chairperson in his/her absence and shall be a citizen member of the ~~Joint~~ Planning Commission. The Secretary, with assistance from the Clerk, shall keep the minutes and records of the ~~Joint~~ Planning Commission, prepare the Chair agendas for regular and special meetings, provide notice of meetings to ~~Joint~~ Planning Commission members, arrange proper and legal notice of hearing, attend to correspondence of the ~~Joint~~ Planning Commission and attend to such other duties as are normally carried out by a Secretary.

ARTICLE IV ELECTION OF OFFICERS

SECTION 4.1. ELECTION OF OFFICERS. Nomination of officers shall be made from the floor at the annual organizational meeting, which shall be held on the Third Tuesday of February each year, and the elections of officers shall follow immediately after. A candidate receiving a majority of the vote of the entire membership of the ~~Joint~~ Planning Commission shall be declared elected and shall take office.

SECTION 4.2. VACANCIES IN ELECTED OFFICES. Vacancies in offices shall be filled immediately by regular election procedures.

ARTICLE V MEETINGS

SECTION 5.1. MEETING TIME AND LOCATION. Meetings will be held on the Third Tuesday of each month at 7:00 at 1863 N. Bluff Road, Hubbard, Nebraska or as set by the Chairperson. The ~~Joint~~ Planning Commission shall hold at least six (6) meetings per year.

SECTION 5.2. NOTICE. Notice of such meetings shall be published in the official newspaper of Dakota County, Nebraska or in a newspaper of general circulation at least ten (10) days before such meetings.

SECTION 5.3. QUORUM. Five (5) members of the ~~Joint~~ Planning Commission shall constitute a quorum and the number of votes necessary to transact business shall be a majority of the quorum. Voting shall be by roll call and a record call shall be kept as part of the minutes.

SECTION 5.4. SPECIAL MEETINGS. Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting when requested to do so in writing by a majority of the members of the ~~Joint~~ Planning Commission. The notice of such a meeting shall specify the purposes of such a meeting and no other business may be considered except by unanimous consent of the ~~Joint~~ Planning Commission. The Secretary, with assistance from the Dakota County Clerk, shall notify all members of the ~~Joint~~ Planning Commission in writing not less than five (5) days in advance of such special meetings. All meetings in which official actions is taken shall be open to the general public. The ~~Joint~~ Planning Commission shall have the right to hold executive sessions.

ARTICLE VI ORDER OF BUSINESS

SECTION 6.1. ORDER OF BUSINESS. The order of business at regular meetings shall be:

- a. Roll call
- b. Reading of minutes of previous meetings
- c. Communication and bills
- d. Report of officers and committees
- e. Old business
- f. New business
- g. Adjournment

ARTICLE VII COMMITTEES

SECTION 7.1. COMMITTEES. The following standing committees may be appointed by the Chairperson:

- a. Land Use Committee
- b. Thoroughfare Committee
- c. Public Facilities Committee
- d. Housing Codes Committee

- e. Economic Development Committee
- f. Budget and Finance Committee
- g. Public Relations Committee

SECTION 7.2. TERM. The standing committees may be appointed for any length of time.

SECTION 7.3. SPECIAL COMMITTEES. Special committees may be appointed by the Chairperson for purposes and terms which the ~~Joint~~ Planning Commission approves.

ARTICLE VIII
EMPLOYEES

SECTION 8.1. CLERK. The ~~Joint~~ Planning Commission may employ a Clerk to perform the duties of a Secretary and to perform such other duties as may be assigned by the Chairperson of the ~~Joint~~ Planning Commission, with prior approval from the Dakota County Board of Commissioners.

SECTION 8.2. CLERK DUTIES. The Clerk shall keep the minutes and records of the ~~Joint~~ Planning Commission, prepare Chair agendas for regular and special meetings, provide notice of meetings to ~~Joint~~ Planning Commission members, arrange proper and legal notice of meetings, attend to correspondence of the ~~Joint~~ Planning Commission and to such other duties as are normally carried out by a Secretary.

SECTION 8.3. STAFF OR EXPERTS. The ~~Joint~~ Planning Commission may employ such staff and or experts as it sees fit to aid the Commission in its work. Appointments shall be made by a majority vote of the entire membership and with approval from the Dakota County Board of Commissioners.

ARTICLE IX
HEARINGS

SECTION 9.1. PUBLIC HEARINGS. In addition to those required by Nebraska State Statutes and the Dakota County Zoning Ordinances and Subdivision regulations, the ~~Joint~~ Planning Commission may at its discretion hold public hearings when it decides that such hearings will be in the public interest.

SECTION 9.2. NOTICE. Notice of such hearings shall be published in the official newspaper of Dakota County, Nebraska or in a newspaper of general circulation at least ten (10) days before the time of the public hearing.

SECTION 9.3. RULES. The case before the ~~Joint~~ Planning Commission shall be presented in summary by a designated member of the ~~Joint~~ Planning Commission and parties in interest shall have privileges of the floor. A record shall be kept of those speaking before the ~~Joint~~ Planning Commission.

ARTICLE X
AMMENDMENTS

SECTION 10.1. AMMENDMENTS. These Bylaws may be amended by an affirmative vote of six (6) members of the ~~Joint~~ Planning Commission. All amendments to the Bylaws shall be presented in writing to all Commission members at least ten (10) days prior to voting on such amendments and with a voting dated stated as such.

DATED this 21st DAY of February, 2006.

Moved by _____, seconded by _____, that the above resolution be adopted. Carried.

YEAS: _____ NAYS: _____ ABSENT: _____

ABSTAIN: _____

~~Joint~~ Planning Commission, Secretary

~~Joint~~ Planning Commission, Chairman

Commissioner Love moved, seconded by Commissioner Gill, to approve Resolution 22C-025 adopting amended Dakota County Zoning Regulations revision of Zoning Ordinances to include Section 600.3 Conditional Uses adding a provision

for Carbon Dioxide Pipeline regulations (#18). ROLL CALL VOTE: Giese- yes, Love- yes, Gill- yes, Albenesius- absent, Launsby- yes. UNANIMOUS MOTION CARRIED.

BOARD OF COMMISSIONERS

DAKOTA COUNTY

RESOLUTION 22C-025

RESOLUTION ADOPTING AMENDED DAKOTA COUNTY ZONING REGULATIONS

WHEREAS, the County Board of Commissioners has the authority to amend zoning resolution which shall have the force and effect of law pursuant to Section 508 of the Zoning Ordinances of Dakota County, Nebraska; and

WHEREAS, the County Board of Commissioners established the Dakota County Planning Commission pursuant to Regulation as set for by Neb. Rev. Stat. §23-114 to 23-114.05, 23-168.04, 23-172 to 23-174, 23-174.02, 23-373 and 23-376; and,

WHEREAS, the Commission has determined it reasonable and necessary to amend Section 600.3 Conditional Uses by adding Carbon Dioxide Pipeline regulations.

WHEREAS, it is the intent of the County Board to enact the proposed text addition to Section 600 AG, Agricultural District-Section 600.3 Conditional Uses.

NOW, THEREFORE, BE IT RESOLVED BY THE DAKOTA COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the adoption of certain proposed amendments and revisions to the Dakota County Zoning Regulations was held on October 17, 2022, before the Dakota County Planning Commission as required by the State of Nebraska. The Planning Commission provided its recommendation of approval as noted in the Planning Department Report.
- II. A public hearing regarding the adoption of the proposed amendments and revisions to the Dakota County Zoning Regulations, was held by this Board as required by §23-114.01(2).
- III. Notice of each of the Public Hearings described above was published at least ten (10) days prior to each respective public hearing and the proof of publication has been filed in the Office of the Dakota County Clerk.
- IV. Notice of the time and place of each hearing was also given in writing to the clerks of the local governments which have jurisdiction over land within three (3) miles of the property affected by such action as required by Neb. Rev. Stat. §23-164.
- V. The proposed amendment to be approved by this Resolution are within Section 600.3 of the Dakota County Zoning Regulations. Further the Planning Department report is attached hereto and includes the proposed addition of Conditional Use definition #18 for Carbon Dioxide Pipeline regulations attached hereto and known as Exhibit "A".
- VI. The proposed amendments to the Dakota County Zoning Regulations are consistent with the Dakota County Comprehensive Development Plan and are designed to promote the health, safety and welfare of the present and future inhabitants of Dakota County.

FURTHER, BE IT RESOLVED THAT this Board in light of the above, after due deliberation and consideration, upon the recommendation of the Planning Commission, adopts the proposed amendment to the Dakota County Zoning Regulations, specifically approval of the text amendments as shown in Exhibit "A", and directs the Planning Department to amend the Dakota County Zoning Regulations, and which amended Zoning Regulations are attached hereto as Exhibit "B" and that the same have full force and effect of law, the effective date of the aforementioned Zoning Regulations shall be the 14th day of November, 2022.

BE IT ALSO RESOLVED THAT, pursuant to Neb. Rev. Stat. §23-114.03, the County Clerk is directed and instructed to, within fifteen (15) days of the date of this Resolution, publish these Regulations in book or pamphlet form or once in a legal newspaper published in and of general circulation in the county, and the County Clerk is further directed to spread these regulations in the minutes of the proceedings of the county board.

FINALLY, BE IT RESOLVED THAT the regulations enacted by this Resolution are intended to be a complete revision of the existing Zoning Regulations, and all previous Resolutions or parts of Resolutions of the Dakota County Board of Commissioners on said subjects or in conflict with the provisions of this Resolution are hereby repealed. The above Resolution was approved by a vote of the Dakota County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 14th day of November, 2022.

PASSED and APPROVED this 14th day of November, 2022.

Exhibit A

DAKOTA COUNTY PLANNING & ZONING: October 18, 2022 MINUTES Excerpt...

The regular meeting of the Dakota County Planning and Zoning Commission was called to order at 7:00 P.M. by Chairman Martin Rohde and the Pledge of Allegiance was said by all.

Roll Call: Present were: Scott Bousquet, Ron Collins, Tim Decker, Ron Gill, Gordon Hegge, Harold Moes and Martin Rohde. Absent: Dick McCabe (Paul Ireland has officially resigned waiting for new member to be appointed to his position) Also, present: Planning and Zoning Administrator Joe O'Neill and Dakota County Commissioner Larry Albenesius. Public present: see attached list. Notice was made regarding the Open Meeting Act posted on the wall.

Moved by Harold Moes, second by Ron Collins to approve the minutes of the August 16, 2022 regular meeting and the September 20, 2022 special meeting minutes. Consent unanimous. Motion carried.

Public Hearing was called to order by Chairman Rohde at 7:01pm for the purpose of hearing support, oppositions, criticism, suggestions or observations relating criticism, suggestions or observations relating changing the name of the planning commission from Dakota County Joint Planning Commission to the Dakota County Planning & Zoning Committee. Chair Rohde explained that the towns and villages used to use the county zoning regulations and now they have their own. Joe said that commission gets confused with Board of Commissioners so committee would be better. Chair Rohde opened the floor up for public comment. No comment. Public hearing closed at 7:03pm.

Motion made by Ron Collins, second by Scott Bousquet to approve the name change from Dakota County Joint Planning and Zoning Commission to Dakota County Planning and Zoning Committee and send their recommendation of approval to the Board of Commissioners. Roll Call Vote. Unanimous. Motion Carried.

Public Hearing was called to by Chairman Rohde at 7:04 pm for the purpose of hearing support, opposition, criticism, suggestions or observations relating to adding carbon dioxide pipeline regulations to the zoning ordinances. Joe read a letter from Lynelle Bieber stating her opposition for the pipeline. Paul McGuirk was not in favor of the pipeline crossing his sister's property. Joe told him that they had control of their ground and that the pipeline could not cross their property if they did not want them there. Nebraska does not have eminent domain. Commissioner Albenesius voiced his concern about the depth of the pipelines especially in the county road ditches. Joe said that the pipeline companies will work with the road department on road agreements to determine the proper depth of the ditch and the pipeline will be 5 feet below that. No further comments. Chair Rohde closed the public hearing at 7:14 pm.

Motion made by Scott Bousquet, second by Gordon Hegge to approve the pipeline regulations and send their recommendation of approval to the Board of Commissioners. Roll Call Vote. Unanimous. Motion Carried.

Samantha Perry with Crary Huff Law Firm was in attendance and has been helping Mr. Kevin Pedersen with planning an event center for weddings, parties, etc. on his property north of Jackson.

Miscellaneous and old business. Building permits were issued to Gutzmann Bros – recreational shed-Waterbury, Chris Stewart – new home, Prairie Ridge Subdivision, Ponca. Informational Statements were issued to Ricky Claassen- storage shed-Dakota City, Nicky Komvonga – storage shed in the Farmsteads. Scott Bousquet brought up commercial solar panel farms and if we have much in our regulations pertaining to them.

Marty opened up the floor for public comment. No Public.

Moved by Harold Moes, second by Ron Gill to adjourn. Consent unanimous. Motion carried

Meeting was duly adjourned at 7:33 P.M.

Respectfully submitted, Jolene Gubbels

Exhibit B

Section 600.3. Conditional Uses

18. Carbon Dioxide Pipelines

Introduction

Carbon dioxide pipelines if approved pursuant to this section shall be considered a permitted use in all zoning districts of Dakota County.

A. Definitions.

Applicant. As used herein, "Applicant" shall mean any entity that applies for a Pipeline Construction Permit and shall include any successor, employee, agent, representative, assignee, contractor, lessee, or sublessee, Applicant, licensee, invitee, guest, or permittee of Applicant, or any other person or entity that has obtained or hereafter obtains rights or interests from Applicant, or Property Owner to Property Owner's land.

CFR. Code of Federal Regulations

Property Owner. Property Owner, as used herein, shall mean the owner of the land over which or through which, the pipeline will ultimately go, together with his, her, or its heirs, successors and/or assigns. The Property Owner shall be identified by, and limited to, the owner listed on the County's property tax records.

Pipeline. "Pipeline" means a pipe with a nominal diameter of six inches or more, located in the county, that is used to transport carbon dioxide.

B. Compliance with Applicable Laws

Pipeline owners, operators and/or contractors, and their employees, agents, contractors, and invitees, must comply with all applicable local, state and federal laws and regulations in construction and operation of the Pipeline.

- a. Federal regulations. The provisions of 49 CFR Part 195 are hereby incorporated by reference.
- b. To the extent any regulations within this section conflict with state or federal regulations or laws regulating Hazardous Liquids or Materials Transmission Pipelines, those state or federal regulations and laws shall take precedence over these regulations.

C. Pipeline Construction Permit.

1. Pre-Construction Filing Requirements.

- a. Applicant must file with the Planning Commission the Pipeline Construction Permit Form including the following information:
 - i. Applicant contact information
 - ii. Description of project
 - iii. Proposed Project Location Maps
 - iv. Landowner line list (filed as confidential)
 - v. Planned typical best management practices
- b. Each Pipeline Construction Permit application shall be accompanied by at least two (2) sets of plans showing dimension and locations of the Pipeline, related items or facilities within the subject right-of-way or easement, and all proposed lift stations, pumps or other service structures related to such Pipeline, and the location, type and size of all known existing utilities, right-of-way, and roadway improvements. Also required for submittal are:
 - i. Cross-section drawings for all public street right-of-way and easement crossings;
 - ii. The maximum design capacity of the proposed transmission facility;
 - iii. The proposed maximum operating pressure, expressed in pounds per square

2. Hearings

- a. Appearance before the Planning Commission is required for the Pipeline project. The Planning Commission will hold a public hearing to review the permit information and will recommend approval or denial, and require any modifications and/or conditions, to the Dakota County Board of Commissioners. Ten (10) days prior to the Public Hearing date, a notice shall be published in a legal newspaper of the County.
- b. After a review of the Pipeline Construction Permit along with accompanying documents, maps, and recommendations by the Planning Commission, a Public Hearing date will be set by the Dakota County Board of Commissioners. Ten (10) days prior to the Public Hearing date, a notice shall be published in a legal newspaper of the County.
- c. The Applicant shows proof to establish that the proposed Pipeline will comply with all applicable ordinances along with applicable laws and regulations.

3. One Pipeline

Conditional Use approval for a Project shall be issued for the information provided in the application only, additional pipeline(s) would require a separate permit application or amendment.

4. Topsoil.

- a. Applicant at its own expense shall, unless otherwise agreed upon with the Property Owner, abide by all guidelines and recommendations of the local or regional field office of the United States Natural Resources Conservation Service or best management practices regarding the removal, storage, and replacement of topsoil.
- b. At a minimum, the applicant shall strip the topsoil from the trench line and area where sub soil will be stored in the Pipeline right-of-way or easement area and segregate all topsoil from the other excavated soil material, prior to construction and installation of any section of the Pipeline placed in the Pipeline right-of- way or easement area. Following the construction and installation of each section of the Pipeline, the topsoil shall be replaced, to the extent feasible, as near as practicable to its original location and condition. Topsoil deficiency shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the Property. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement in accordance with recommendations of the United States Natural Resources Conservation Service

5. Trash Cleanup

Construction related debris and material which is not an integral part of the Pipeline will be promptly removed from the Property Owner's property at Applicant's expense. Such material to be removed includes all litter generated by Applicant's employees, agents, contractors, or invitees, including construction crews. Following the completion of Applicant's construction activities on the Property Owner's property, Applicant shall keep the Property Owner's property clean and free of all trash and litter which may have been produced or caused by Applicant or its employees, agents, contractors or invitees or its operations on the property. Under no circumstances will Applicant bury or burn any trash, debris or foreign material of any nature on the Property Owner's property.

6. Pipeline Depth

Except for above-ground piping facilities, such as mainline block valves, pump stations, etc., the Pipeline shall be installed and maintained at 4 foot minimum throughout the county and 5 foot minimum under flow line of county roadway ditches.



7. Location of Pipeline

The location of the Pipeline shall be consistent with 49 CFR 195.210 (a) and (b). Distances from residences should be maximized where practical while accounting for other routing factors. The Pipeline shall not pass within a distance of three hundred and thirty (330) feet from an existing residence unless otherwise agreed upon with the affected Property Owner. The Applicant shall implement the following protections in residential areas:

- a. Applicant shall notify affected residential owners of work prior to the start of construction in the area of the residences.
- b. Applicant shall maintain access to residences at all times, except for periods when it is infeasible to do so or except as otherwise agreed between Applicant and the occupant. Such periods shall be restricted to the minimum duration possible and shall be coordinated with affected residential owners and occupants, to the extent possible.
- c. Applicant shall install temporary safety fencing, when reasonably requested by the owner or occupant, to control access and minimize hazards associated with an open trench and heavy equipment on a residential tract.
- d. Applicant shall notify affected residents in advance of any scheduled disruption of utilities and limit the duration of such disruption.
- e. Applicant shall separate topsoil from subsoil and restore all areas disturbed by construction to at least their preconstruction condition.
- f. Except where practicably infeasible, final grading and topsoil replacement, installation of necessary permanent erosion control structures and repair of fencing and other structures shall be completed in residential tracts within ten (10) days after backfilling the trench. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond Applicant's control prevent compliance with this time frame, temporary erosion controls and appropriate mitigating measures shall be maintained until conditions allow completion of cleanup and reclamation.
- g. Should a potable water well, or water supply, be damaged (diminishment in quantity or quality) by pipeline installation or operations, a comparable water supply will be immediately provided to the owner of the potable water well, or water supply and the potable water well, or water supply shall be restored or replaced at Applicant's expense.

8. Reclamation of Obligations

Following the completion of the Pipeline construction, Applicant will restore the area disturbed by construction as best as practicable to its original preconstruction topsoil, vegetation, elevation, and contour, unless otherwise agreed upon with the Property Owner.

9. Abandonment of Pipeline

Abandonment of the pipeline shall follow all applicable federal and state laws and regulations relative to removal, reclamation, and dissolution of the easement.

10. Change of Location of Pipeline

- a. County and Applicant acknowledge that the actual location of the Pipeline right-of-way or easement area may change because of various engineering factors. In the event, during the application review process or after a permit has been issued, the Pipeline area will be moved more than one hundred (100) feet, Applicant must submit an amendment to the Pipeline Permit Application or Permit to the Planning Commission. Said document and amendments to the Pipeline Construction Permit, as required, will be prepared by Applicant at its expense. All amendment submissions will be reviewed, and may be approved, by the Zoning Administrator or Planning Commission.
- b. Once installation of the Pipeline is complete, Applicant will deliver to the Planning Commission within six (6) months of completion, an "as-built" map that will show exactly where the Pipeline is located, in addition to any other improvements or facilities, whether located above-ground or below-ground.

D. Indemnification

The Applicant, and any successor pipeline owner(s) and/or operator(s) in interest shall indemnify, defend

expense, and claim of any kind, including reasonable attorneys' and experts' fees incurred by Dakota County and/or the Property Owner in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of the pipeline and/or related facilities, and the products contained in, transferred through, released or escaped from said pipeline and appurtenant facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any law, including all applicable environmental laws. This shall be true in all instances except for those caused by individuals or companies who intentionally, or by negligence, damage the Pipeline or related facility. No Property Owner or tenant thereof will be held responsible for a Pipeline leak that occurs as a result of his/her normal farming practices over the top of or near the Pipeline, provided no tillage or other agricultural method is used which penetrates the soil by more than two (2) feet from the undisturbed surface and they do not physically strike or impact the surface structures such as valves, etc. with machinery, equipment or other objects. This shall in no way relieve any Property Owner or tenant, agent or contractor of such Property Owner from their obligation to comply with the Nebraska One-Call Notification System Act and any amendments thereto (See Revised Reissued Statutes of Nebraska Sections 76-2301 to 76-2332), or relieve them of liability for their failure to do so. As between the Pipeline operator, the Property Owner or its tenant, a Pipeline leak which is not caused by a violation of the above provisions or other tortious conduct by Property Owner or its tenant shall not be the responsibility of said Property Owner, tenant, or invitees.

E. Protection of Proprietary Information

Dakota County will keep detailed information filed (not including the plans or Pipeline Construction Permit) restricted from public access for security purposes, to protect proprietary information, and to protect the commercial interests of the Applicant. Dakota County Emergency Management shall be notified of pipeline ownership or operator change in accordance with applicable federal and state requirements. Emergency contact information shall be kept up to date and on file with Dakota County Emergency Management at all times.

F. Variances

1. Hardship

Where the Planning Commission finds that extraordinary hardships, due to unusual topographic or other conditions, beyond the control of the Applicant, may result from strict compliance with these regulations, they may recommend a variance of the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent or purpose of the Pipeline Construction Permit, and will not be detrimental to the public health, safety or welfare or injurious to other property in the territory in which Pipeline is situated.

2. Application required

- a. The Dakota County Board of Adjustment shall hear and decide appeals and requests for variances from the terms of this Ordinance. A variance must be requested by the Applicant and approved by The Board of Adjustment. Additional conditions could be issued, as necessary, to further the purpose and objectives of this Ordinance. Applications for any such variance shall be submitted in writing by the Applicant at the time the Pre-Construction Requirements are filed with the Planning Commission, and shall state fully and clearly all facts relied upon by the and shall be supplemented with maps, plans or other additional data which may aid the Planning and Commission in the analysis of the proposed project.
- b. Applications for the variance shall be considered with the Pipeline Construction Permit application, and the Board of Adjustment will render their decision on the applied-for variance no later than sixty (60) days after the meeting at which the proposed Pipeline project application and request for variance was submitted.

3. Conditions

- a. In granting any variance, modification, and approvals, the Board of Adjustment may require such conditions as will, in their judgment, secure substantially the objectives or the standards and requirements so varied, modified, or approved. In granting any, the Board of Adjustment shall prescribe only conditions that they deem to, or desirable for, the public interest

way or easement area, and any probable effects of the proposed Pipeline on the health, safety and welfare of the surrounding residents and environment.

- c. The Board of Adjustment must ensure the preservation and enjoyment of the property rights of the Property Owner.

4. Requirements for Granting a Variance

The Board of Adjustment shall have the final authority to grant or deny a variance under this section. For each variance application, the Planning Commission shall report to the Dakota County Board of Adjustment their findings and recommendations. The Dakota County Board of Adjustment, shall hold a public hearing on all proposed variances under this Section

G. Severability and Separability.

Should any portion of this act be deemed unlawful for any reason or conflict with any existing state or federal law, that fact shall not affect any other portion or section of this act and any unaffected sections or portions of this act shall stand in effect.

H. Effective Date.

This Ordinance shall take effect and be in force from and after the date of adoption by the Dakota County Board of Commissioners.

Commissioner Love moved, seconded by Commissioner Launsby, to approve Resolution 22C-026 to certify the Dakota County Highway Superintendent for calendar year 2022. ROLL CALL VOTE: Love- yes, Gill- yes, Albenesius- absent, Launsby- yes, Giese- yes. UNANIMOUS MOTION CARRIED.

RESOLUTION 22C-026

SIGNING OF THE YEAR-END CERTIFICATION OF COUNTY HIGHWAY SUPERINENDENT 2022

Whereas: State of Nebraska Statutes, sections 39-2305 and 39-2501 through 39-2505 detail the requirements that must be met in order for a county to qualify for an annual Incentive Payment; and

Whereas: The State of Nebraska Department of Transportation (NDOT) requires that each county must annually certify (by December 31st of each year) the appointment(s) of the County Highway Superintendent(s) to the NDOT using the Year-End Certification of County Highway Superintendent form; and

Whereas: The NDOT requires that such certification shall also include the documentation of the County Highway Superintendent's appointment, i.e., meeting minutes showing the appointment of the County Highway Superintendent by their name as it appears on their License (if applicable), their License Number (if applicable) and Class of License (if applicable), the type of appointment, i.e., employed or under contract (consultant, or interlocal agreement with another county and/or incorporated municipality), and the beginning date of the appointment; and

Whereas: The NDOT also requires that such Year-End Certification of County Highway Superintendent form shall be signed by the County Board Chairperson and shall include a copy of a resolution of the County Board authorizing the signing of the Year-End Certification of County Highway Superintendent form by the County Board Chairperson.

Be it resolved that the County Board Chairperson of Dakota County is hereby authorized to sign the attached Year-End Certification of County Highway Superintendent form(s).

Adopted this 14th day of November, 2022, at Dakota City, Nebraska.

Commissioner Love moved, seconded by Commissioner Launsby, to approve Resolution 22C-027 to allow chair to sign and approve the 5-year Master Agreement effective January 1, 2023, regarding Land Survey Corner Preservation between Dakota County and the Nebraska Department of Transportation. ROLL CALL VOTE: Gill- yes, Albenesius- absent, Launsby- yes, Giese- yes, Love- yes. UNANIMOUS MOTION CARRIED.

RESOLUTION 22C-027

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A MASTER AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF NEBRASKA FOR COUNTY SURVEY SERVICES

Be it resolved by the chairperson of the Board of the County of Dakota, Nebraska, that:

1. The Cuntly shall enter into a 5-year Master Agreement with the Nebraska Department of Transportation concerning a Process for County to Provide Survey Services for Highway Projects within the boundaries of Dakota County.
2. The Chairperson of the board is hereby authorized and directed to execute said agreement on behalf of the County of Dakota and the County Clerk is authorized to attest said execution.
3. This resolution will be marked Exhibit "A" and a copy attached to each Original Agreement.

Passed and approved this 14th day of November, 2022.

Jolene Gubbels, Highway Superintendent, presented the Road Report for October 30 to November 12, 2022. Total road maintenance- 108.5 hours; culvert / road projects: 120th St. culvert extension- 27 hours; shoulder work on Old Hwy 20-

165.5 hours; gravel hauling- 24 hours; total tons hauled- 959.57; sign repair/ barricading- 4 hours. Grading concerns- Blyburg Road, 142nd Street; Gravel concerns- Blyburg Road, Oakdale Road, P Avenue. Ms. Gubbels stated bids for Moody Road project will be opened next Tuesday at 1:00 p.m.

Commissioner Love read the October, 2022, Jail Report:

October (Average per day):

County Inmates	Federal Inmates	Juveniles	Total-In-House
101	30	1.6	118

2022 Calendar (Average per day):

County Inmates	Federal Inmates	Juveniles	Total-In-House
90	21	0.29	109

2022-2023 Fiscal (Average per day):

County Inmates	Federal Inmates	Juveniles	Total-In-House
102	17	0.49	116

Federal Income

October Marshal	\$3,800.00	Fiscal Marshals:	\$168,534.36
October ICE:	80.00	Fiscal ICE:	160.00
October OMMS/SDMS:	<u>400.00</u>	Fiscal BIA/OMMS:	<u>1,120.00</u>
October Federal:	\$4,280.00	Fiscal Federal:	\$169,814.36

2022 Calendar Federal: \$510,870.04

October County Contracts: \$0.00 2022-23 Fiscal County Contracts: \$1,485.00

July Phone/Commissary Commission: \$10,416.27

Cost Per Inmate Per Day 2022:

<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sept</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
69.78	81.52	66.26	66.74	62.07	77.40	70.65	56.81	62.41	62.87		

The jail spent \$243,058.77 for the month of October—31% of yearly budget or ,8% under fiscal year budget. In October 2021, the jail had spent 32% of yearly budget. The Jail spent \$8,491.78 less than was allotted for October 2022 budget or 3.5% under budget for the month.

October Bookings:

DCSO:	37	DAKOTA COUNTY:	38
SSCPD:	38	OTHER NE:	14
NSP:	5	SIOUX CITY:	26
COURT/SELF:	7	OTHER IA:	8
FED:	5	OTHER STATES:	8
OTHER:	<u>5</u>	HOMELESS:	<u>3</u>
TOTAL:	97	TOTAL:	97

Theresa Grove, Health Department Director, presented the Quarterly Health Department Report: The Department is still offering Covid Vaccines every Wednesday from 9:30 a.m. until 4:00 p.m. A Flu/Covid shot clinic was held at El Ranchito on October 26th from 12:00 p.m. to 6:00 p.m. and over 100 shots were given. Night Clinic is held every other Thursday evening. Quarterly immunization vaccines- 251 kids. All quarterly grant reports and renewals have been successfully completed. The MHI blood pressure program will relocate within the courthouse to allow more room to meet with clients. From 6 – 8 p.m. on November 15th, the Health Department will be holding a men’s health program at the South Sioux City Library—PSI handouts, blood pressures and BMI’s will be taken.

Commissioner Committee Reports: Commissioner Love- Health Department; Commissioner Gill- Growing Community Connections. No applications for Weed Superintendent. No emergency business. Mail: Notice of Hearing from City of South Sioux City for redevelopment plan entitled “HCI Real Estate-39th and G” at City Hall council chambers tonight at 5:00 p.m.

Chair Giese adjourned the Board of Commissioners meeting of November 14, 2022, at 4:00 p.m.

Dakota County Board of Commissioners

Robert J. Giese, Chair

Joan Spencer, County Clerk/Board Secretary