

Official Proceedings of the Stutsman County Commission – November 17th, 2015

At 8:00 a.m., Chairman Klose called the mid-month meeting of the Stutsman County Commission to order. Dennis Ova, Dale Marks, David Schwartz, Craig Neys, and Mark T. Klose answered the roll call.

Curt Kaseman, United Sportsmen, spoke to the board regarding a public shooting range. The United Sportsmen put together a committee made up of Curt Kaseman, Gene Van Eckhout, and Frank Redlin; to gather information to develop and sustain a public and educational shooting range. The United Sportsmen of Jamestown North Dakota will be holding a public inquiry to see if there is enough support in the community of Jamestown and surrounding areas to develop and sustain a public and educational shooting range. The meeting will take place at the Knights of Columbus on December 3rd, 2015 at 7:00 p.m.

Connie Ova, JSDC, requested funds for strategic planning that was approved in 2013 in the amount of \$3,500. These funds were not used because JSDC applied for and received a grant from the ND Department of Commerce to cover the costs. The money has not been de-obligated and JSDC is requesting use of the dollars for the proposed update. Jamestown/Stutsman Development Corporation would like to update the strategic plan and use the funds that were approved in 2013. Stutsman County's portion is \$700. Schwartz made a motion, seconded by Marks to approve the request as presented. Motion carried.

Connie Ova is requesting monies for jobs development funds from the City of Jamestown and Stutsman County to defray the costs of expenses directly related to JSDC/City/County capital investments which have been paid out of the JSDC General Operations funds for 2015. Stutsman County's portion is \$1,015 and \$12,321 for the City of Jamestown. Neys made a motion, seconded by Ova to approve the request as presented. Roll call vote: Ova, Marks, Schwartz, Neys, and Klose voted aye.

Connie updated the commission with the new JSDC board members. Kelly Rachel and Lorrie Pavlicek agreed to serve a second term on the JSDC board. Eric Tuchscher, Brent Harris, and Gary Riffe stepped down from the Board of Directors and were replaced with Tom Hausmann, C. J. Janke, and Ritchie Wolf.

Nellie Degen, Fraternal Order of Police Lodge #4 liaison, presented an update on NDPERS. Degen presented the commission with a history of the North Dakota Public Employees Retirement System (NDPERS).

Mickey Nenow, Highway Superintendent and Tyler Michel, Assistant Highway Superintendent, presented a draft of an Overweight Self-Propelled Construction Equipment Policy. The policy pertains to the movement of overweight, self-propelled, construction equipment movement on Stutsman county paved highways or gravel roadways. The policy would apply to commercial and industrial construction related businesses. The purpose of the policy is to be proactive, to keep the county's roads in good shape and the county needed some way to monitor the overweight loads. The commissioners were worried about the township roads and how to protect them as well as monitoring the policy. The commissioners suggested gathering more information, visiting with the Sheriff's Office as well as bringing the policy up at a township association meeting.

Tyler Perleberg, Tax Director, requested approval of an abatement request for Parcel Number 74-9091290 which is owned by Tom and Patti Steffan. It is a mobile home located in Sunnyside Trailer Court and is in a state of dis-repair. Perleberg requested to allow a reduction in value from \$9,568 to \$1,200. Ova made a motion, seconded by Neys to approve the request as presented. Motion carried.

Sarah Van De Velde, Assistant Manager/9-1-1- Coordinator, presented the "Are You Prepared?" booklet to the commission. A committee of five members worked on the booklet. A \$12,000 homeland security grant paid 100% of this booklet. The booklet will be sent to all businesses and residents in Stutsman County. Additional copies of the booklet will be located in Emergency Management as well as Central Valley Health.

Josh Smaage, IT Director, requested permission to advertise for an IT assistant position. Smaage would like to advertise with the same salary range as before which was up to a step nine and have the position open until filled. Ova made a motion, seconded by Marks to approve the request as presented and be able to go up to a step nine for a salary range. Motion carried.

Casey Bradley, Auditor/COO, presented the results from the Law Enforcement PERS Survey.

Question one stated "Did you attend the training offered by the county for Law Enforcement PERS on October 7th?" Eleven people said yes and 10 people said no. Question two stated "Are you aware that if adopted by the county you would have to contribute 1.19% more into the retirement plan?" Twenty people responded yes while one responded no. Question three stated "Are you aware that the Law Enforcement plan contribution rates are set independently of the current plan and could increase or decrease independent of the current plan?" The question had 21 saying yes. Question four stated "Are you aware that the benefit payout formula is the same under both plans. There were 20 people who said yes and one who said no. Question five stated "Are you aware that the "Rule of 85" formula is the same under both plans, meaning eligibility for both plans for full retirement under the "Rule of 85" is the same?" There were 21 yes responses. Question six stated "Are you aware that if the county enrolled in this plan that all current law enforcement and corrections employees could opt between the two plans and all newly hired would be forced into the Law Enforcement Plan?" Twenty one people said yes zero no votes. Question seven stated "Would you recommend to the Stutsman County Commission to enroll Stutsman County law enforcement and corrections staff into the Law Enforcement PERS plan?" Six people responded yes and 15 responded no. Ova made a motion, seconded by Schwartz not to participate in the Law Enforcement NDPERS. Roll call vote: Marks, Schwartz, Neys, Klose, and Ova voted yes.

Auditor Bradley received inquiries about terminating ATM services contract with the North Dakota Fraternal Order of Police (FOP) as well as terminating all vending services. Stutsman County currently does not have a contract for vending services. The county can terminate the ATM services contract without cause by either party by giving written notice to the other at least 30 calendar days prior to the effective date of termination stated in the notice. The county does not have anyone lined up for ATM services. Delmar was contacted to provide vending services for the county; which they did not return calls back to the county. Bradley visited with Patrick from Turnkey. They are interested in putting in a market for Law Enforcement Center, Road Department, and Social Services. Turnkey has a kiosk and provides sandwiches, pop, etc. for staff. It is manned with a camera where you serve yourself. The employee can pay with cash or a debit/credit card. The only cost to the county would be to install the cameras. Schwartz made a motion, seconded by Ova to terminate the ATM contract services with the FOP, remove all vending equipment from Stutsman County property, and the FOP will not use Stutsman County facilities or property for any reason unless the specific activity has been approved in writing by the Stutsman County Commission. Roll call: Schwartz, Neys, Klose, Ova, and Marks voted aye.

Auditor Bradley presented information to the commission on the harassment investigation. On September 23, 2015, Sheriff Kaiser and Auditor Bradley requested a meeting with Joni Fredrickson because they had been receiving feedback from other staff that the situation in the State's Attorney's Office had become very bad and could be considered harassment under the county policy. During the meeting Ms. Fredrickson confirmed the feedback the county was receiving and also informed us of a number of other issues that were taking place in the State's Attorney Office. Sheriff Kaiser and Bradley both felt the information provided clearly violated the Stutsman County Harassment Policy which requires an investigation conducted by the Sheriff in a fair, prompt and complete manner. Because this directly involved the State's Attorney, they felt it was in the best interest of the county to have an outside party conduct the investigation. On October 5, 2015, Sheriff Kaiser reached out to Cass County Sheriff Laney to conduct the investigation. On October 7, 2015 Detective Gabrielson, from the Cass County Sheriff's Office began his investigation into the harassment allegations against State's Attorney Fremgen.

On page seven of the report Detective Gabrielson specifically points out his findings indicate that Mr. Fremgen's conduct likely violates the Stutsman County Personnel Policy in a number of different places. Specifically, he has likely violated the county's definition of unlawful harassment by creating an intimidating, hostile, or offensive work environment. It is pointed out on page seven State's Attorney Fremgen potentially violated the county's policy of workplace harassment, which is unwelcome conduct, whether verbal, physical, visual or innuendos that were derogatory, abusive or disparaging, bullying, threatening or disrespectful types of behavior, even if unrelated to a legal protective status, when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. The Stutsman County Commission, through Chapter six of the Personnel Policy, has committed to a zero tolerance policy towards unlawful discrimination or harassment. The philosophy as printed in the policy is "It is the policy of Stutsman County to provide a positive work environment that is free of discrimination, sexual and all other forms of harassment. This policy is a measure to ensure all employees will enjoy a safe workplace free from unreasonable interference, intimidation, hostility, or offensive behavior on the part of the commissioners, department heads, supervisors, co-workers or visitors. All employees are responsible for compliance with the guideline, as Stutsman County will not tolerate unlawful discrimination or harassment."

After reviewing the investigation report and reviewing the county's policy, Auditor Bradley firmly agrees that State's Attorney Fremgen's conduct violated our Personnel Policy as identified by Detective Gabrielson. Under normal circumstances, the county would follow the employee discipline policy and take appropriate actions to correct the situation. This is obviously a severe incident and would certainly look at termination of the employee as one of our only options to remedy the situation. Since State's Attorney Fremgen is not actually an employee but rather an elected official, it is not possible to fire him for violating the personnel policy. Likewise, the county is not able to terminate his employment for the gross mistreatment of the staff the county employs for his office. The county can appeal to the Governor's Office to remove him from office, which will be difficult, because his behavior has not risen to the level to be charged as criminal, however, his actions clearly created a hostile work environment which likely violates Title VII of the Civil Rights Act of 1964. Our other option is to bring in a third party to help coach State's Attorney Fremgen. Auditor Bradley recommends the Village Business Institute out of Fargo. They do a lot of work in the area and have the experience and expertise to help Stutsman County take the proactive measures necessary to try and mitigate the situation. As part of the corrective plan, State's Attorney Fremgen will be removed from his current office and will be relocated to an area on the first floor. Chief Assistant State's Attorney LeFevre will act as a liaison between State's Attorney Fremgen and the rest of the staff. All communication will be done through Chief Assistant LeFevre including electronic communication. State's Attorney Fremgen will work with a Leadership Coach to learn the skills necessary for effective supervision and will be strongly encouraged to attend individual counseling sessions as part of the corrective action plan. A crisis management meeting will be scheduled for the staff to meet with a counselor to help them deal with this situation. The Village also has an employee assistance program (EAP) which is \$30 per employee per year. The EAP program would cost approximately \$4500 and would decrease the costs for the counseling and leadership services that are needed in the State's Attorney's Office. Fritz Fremgen is willing to work on this as well as the staff in the State's Attorney's Office. Schwartz made a motion, seconded by Ova to enter in an agreement for EAP services for one year, authorize Auditor Bradley to enter into an agreement for counseling and coaching services, receive progress reports, relocate State's Attorney Fremgen's office, and have all communications to go through with Chief Assistant State's Attorney LeFevre. Roll call vote: Neys, Klose, Ova, Marks, and Schwartz voted aye.

Auditor Bradley presented information on the Spiritwood Lake zoning issue. Bradley attended the last Spiritwood Lake City board meeting. Spiritwood Lake City's response to the lawsuit filed by Lake of the Prairie 7:7 is the lease is with Stutsman County and, therefore; Lake of the Prairie needs to sue the county. Lindquist Law Office wrote in response to represent the county in the Spiritwood Lake matter and is proposing a flat fee of \$3,750 which the county's portion is \$1,625. This proposal is to fix the zoning or to de-annex the park from the city. Schwartz made a motion, seconded by Neys to enter into a contract with Dennis Lindquist as presented. Roll call vote: Klose, Ova, Marks, Schwartz, and Neys voted aye.

Schwartz made a motion, seconded by Ova to approve the taxable meals and mid-month bills. Motion carried.

General Revenue Fund		County Roads Fund Cont'd	
71422	A & B BUSINESS INC	\$315.80	71480 MDU \$174.15
71425	ATTORNEY GENERAL OFFICE-1250	\$15,325.00	71483 MEDINA CITY AUDITOR \$18.85
71426	BEHAVIORAL INTERVENTIONS	\$2,911.98	71485 NAPA AUTO PARTS \$932.08
	BERGQUIST, JERRY	\$122.15	71488 NORTHWEST TIRE INC \$728.74
71427	BLUE STAR DRY CLEANING & BEYOND	\$69.19	71490 OTTER TAIL POWER CO \$54.91
	BOND, JOSHUA	\$69.00	71495 POWER PLAN \$250.93
71429	BROWN & SAENGER	\$3,029.63	71496 PRAXAIR DISTRIBUTION INC \$46.15
71432	CARQUEST AUTO GA	\$62.00	71497 PRODUCTIVITY PLUS ACCOUNT \$924.50
71433	CASS COUNTY TREASURER	\$6,510.00	71498 QUILL CORPORATION \$87.62
71434	CBM FOOD SERVICE	\$7,237.67	71512 TDS METROCOM \$5.80
71437	CENTURYLINK	\$587.93	71517 TRUE NORTH STEEL \$229.20
71438	CNA SURETY	\$50.00	71519 TWO RIVERS PRINTING \$657.00
71439	CREATIVE ENERGY	\$379.35	71521 UNIVERSAL PRINTING SOLUTIONS, INC \$86.61
71440	DAKOTA PAPER CO	\$1,191.39	71529 WALLWORK INC, W W \$68.18
71443	DALSTED & RYAN P C	\$741.00	71530 WEST END HIDE & FUR \$20.79
71444	DAN POLAND MACHINE INC	\$103.50	
71445	DIAMOND DRUGS INC	\$191.90	Social Services Fund Total \$3,875.35
71446	DOWNTOWN DENTAL	\$173.00	71436 CENTRAL DAKOTA SANITATION INC \$1,060.76
71447	DR DAWN'S PET STOP LLC	\$135.36	71437 CENTURYLINK \$137.25
71457	GRAYBAR	\$109.76	71439 CREATIVE ENERGY \$2,149.34
71464	HOME OF ECONOMY	\$38.09	71462 HOBBY TIRE \$27.00
71465	INFORMATION TECHNOLOGY DEPT	\$1,237.00	71477 MAC'S \$22.36
71466	JAMESTOWN AMBULANCE	\$1,335.00	71486 NAPA AUTO PARTS-PARK \$92.26
71467	JAMESTOWN COMMUNICATIONS INC	\$42.50	71515 TRAUT WELLS \$992.50
71468	JAMESTOWN REGIONAL MEDICAL CENTER	\$917.82	
71470	JAMESTOWN SUN	\$715.88	71424 ANDERSON, JAY \$3,000.00
71471	JOBS HQ	\$316.44	71439 CREATIVE ENERGY \$6,050.00
71479	MARQUART, ANDREW S	\$1,398.32	71441 DAKOTA CENTRAL TELECOMMUNICATIONS \$86.69
71480	MDU	\$1,475.62	71448 ELSTON, DAN \$3,000.00
71481	MEDICINE SHOPPE	\$329.68	71449 ELSTON, RYLEY \$3,000.00
71482	MEDINA AMBULANCE SERVICE	\$791.00	71450 EXNER, TERRY \$1,120.00
	MICHEL, LYNDSEY	\$115.00	71451 EXNER, TIM \$80.00

71484	MYHRE LAW OFFICE	\$1,440.00	71454	FREY, MARVIN	\$1,920.00
	NEYS, CRAIG	\$201.25	71455	GEISINGER, ARLENE	\$160.00
71489	OTIS ELEVATOR COMPANY	\$3,528.85	71456	GEORGE, KAREN	\$1,056.00
71490	OTTER TAIL POWER CO	\$265.05	71459	HAZER, TERRANCE	\$640.00
71494	PHARMCHEM INC	\$325.00	71460	HERTEL, JERRY	\$480.00
71498	QUILL CORPORATION	\$25.68	71461	HIGGINS, ROD	\$2,560.00
71500	RECORD KEEPERS	\$114.00	71472	KLOSE, GENE	\$1,280.00
71501	RELIAS LEARNING LLC	\$3,600.00	71473	KLOSE, RICHARD	\$3,000.00
71502	RM STOUTD INC	\$85.18	71474	KOEHN, ANDREW	\$1,584.00
71503	ROCK RIVER ARMS INC	\$1,100.00	71475	KOEHN, KEVIN	\$1,488.00
71504	SANDNESS LAW OFFICE	\$90.00	71476	LANG, AUSTIN	\$464.00
71505	SANFORD FARGO	\$314.00	71490	OTTER TAIL POWER CO	\$44.36
71506	SANFORD NORTH	\$1,000.00	71491	OVA, GERALD	\$640.00
	SCHAFFER, DIANNE	\$50.00	71492	PATZER, DARRELL	\$432.00
71509	SMITTY'S CARPET SHOP INC	\$1,498.45	71493	PETERSON, CARL	\$960.00
71510	STUTSMAN COUNTY AUDITOR	\$1,990.00	71507	SAUBY, FRED	\$2,496.00
71511	SUNSET LAW ENFORCEMENT	\$585.30	71508	SAUBY, KRISTY	\$2,336.00
71512	TDS METROCOM	\$273.79	71516	TRAUTMAN, TOM	\$1,600.00
71513	TRANE U.S. INC	\$784.58	71522	VALENTA, ROBERT	\$3,000.00
71514	TRAUT LAWN IRRIGATION INC	\$150.00	71523	VANRAY, BILL	\$2,304.00
71520	TYLER TECHNOLOGIES INC	\$1,100.00	71524	VANRAY, CARMEN	\$2,816.00
	VEIL, JAMISON	\$199.53	71525	VANRAY, JEFF	\$2,304.00
71527	VISA AUD 1683	\$226.18	71526	VANRAY, KENT	\$2,304.00
71530	WEST END HIDE & FUR	\$14.04	71528	WALICKSKI, DONALD	\$640.00
71532	YOUTH CORRECTIONAL CENTER	\$3,989.72	71531	WHIPP, KERRY	\$400.00
	ZERR, LORISA	\$328.10		Veterans Service Fund	
	E911 Phone System Fund			BRATTON, DAVID G	\$115.00
71441	DAKOTA CENTRAL TELECOMMUNICATIONS	\$723.38	71437	CENTURYLINK	\$10.59
71512	TDS METROCOM	\$6.27	71512	TDS METROCOM	\$9.39
	County Roads Fund			County Agent Fund	
71421	3D SPECIALTIES INC	\$1,467.90	71441	DAKOTA CENTRAL TELECOMMUNICATIONS	\$255.37
71423	AMERIPRIDE SERVICES	\$406.63	71458	HARSTAD, ALICIA	\$108.68
	ANDERSON, CHARLES	\$262.20	71463	HOCHHALTER CARPENTRY INC	\$274.00
71428	BORDER STATES PAVING INC	\$286,130.35	71487	NDEAFCS	\$115.00
71430	BUFFALO CITY DIESEL	\$64.85		Commissary Fund	
71431	BUTLER MACHINERY CO	\$96.17	71518	TURNKEY CORRECTIONS	\$56.37
71435	CENTRAL BUSINESS SYSTEMS INC	\$75.00		Drug Program Fund Total	\$26.48
71439	CREATIVE ENERGY	\$208.64		Courthouse Building Fund	
71442	DAKOTA VALLEY ELECTRIC	\$8.00	71489	OTIS ELEVATOR COMPANY	\$651.39
71452	FARMERS UNION OIL CO-CENEX	\$2,789.28		County Correctional Center Construction Fund	
	GRUENSTEIN, LARRY	\$77.63	71499	RAY HAMMER FLOORING	\$1,801.00
71464	HOME OF ECONOMY	\$148.01	71509	SMITTY'S CARPET SHOP INC	\$5,461.05
	KOBLE, RON	\$79.35		Job Incentive Fund	
71478	MACKKE PLUMBING AND HEATING	\$5,150.00	71469	JAMESTOWN STUTSMAN DEVELOPMENT CORP	\$4,909.90

At 9:38 a.m., a motion to adjourn was made by Marks, seconded by Schwartz. Motion Carried.

ATTEST:

Casey Bradley
Auditor/COO

Mark T. Klose
Commission Chairman