

BROOKINGS COUNTY COMMISSION MEETING

Tuesday, December 29, 2009

The Brookings County Board of County Commissioners met in regular session on Tuesday, December 29, 2009 with the following members present: Donald Larson, Alan Gregg, Mary Negstad, Deanna Santema and Dennis Falken.

CALL TO ORDER

Chairperson Larson called the meeting to order.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OF AGENDA

The agenda for the December 29, 2009 commission meeting was approved as amended without objection from the board.

CONSENT AGENDA

The consent agenda was approved as amended without objection from the board.

The consent agenda consisted of the minutes from the December 22, 2009 commission meeting.

Travel/Education Requests: Chris Lilla and Larry Klingbile to travel to Chamberlain, SD to attend an appraisal class on commercial appraising offered by the Professional Appraisers Association of South Dakota January 19-20, 2010; Jon Kieckhefer to attend Private Applicator Training January 6, 2010 in Howard, SD, to attend a Crop Production Meeting January 12, 2010 in Howard, SD, to attend a Crop Production Meeting January 13, 2010 in Flandreau, SD, to attend Private Applicator Training January 26, 2010 in Salem, SD and in Madison, SD and to attend Private Applicator Training February 16, 2010 in DeSmet, SD.

Personnel Action Notice: routine step increase-Shawn Hostler to \$20.58.

ROUTINE BUSINESS

Deputy Finance Officer Stacy Steffensen presented the Finance Officer's Report.

Motion by Gregg, seconded by Negstad to transfer cash from budget line 101-4-211-4290 in the amount of \$34,985.44 to fund 759, the Brookings County Fire Trust. Background information was provided by Commission Assistant Stephanie Vogel. Roll call vote: Gregg "aye," Negstad "aye," Santema "aye," Falken "aye," Larson "aye." Motion carried.

Motion by Negstad, seconded by Santema to approve and authorize Chairperson Larson to sign Resolution #09-51: End of the Year Contingency Transfers. Background information was provided by Commission Assistant Stephanie Vogel. Roll call vote: Negstad "aye," Santema "aye," Falken "aye," Gregg "aye," Larson "aye." Motion carried.

RESOLUTION #09-51

END OF THE YEAR CONTINGENCY TRANSFERS

WHEREAS, the Brookings County Board of County Commissioners did approve a line for contingency transfers in the 2009 annual budget, and

WHEREAS, the Brookings County Board of County Commissioners finds it necessary to transfer funds from said contingency line.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners within and for the County of Brookings, State of South Dakota, that the following amount(s) and item(s) be transferred:

FROM: General Fund contingency line 101-4-112-4290
TO: 101-4-151-4110 (Salaries) \$15,000
State's Attorney Total: \$15,000

FROM: General Fund contingency line 101-4-112-4290
TO: 101-4-411-4110 (Salaries) \$2,000
Welfare Total: \$2,000

FROM: General Fund contingency line 101-4-112-4290
TO: 101-4-165-4110 (Salaries) \$14,000
Veterans Total: \$14,000

FROM: General Fund contingency line 101-4-112-4290
TO: 101-4-211-4150 (Health Insurance) \$16,400
Sheriff's Office Total: \$16,400

FROM: General Fund contingency line 101-4-112-4290
TO: 101-4-223-4110 (Salaries) \$500
Drainage Total: \$500

FROM: General Fund contingency line 101-4-122-4290
TO: 101-4-911-4260 (Others – WIC) \$1,500
Operating Transfers Out Total: \$1,500

Total Contingencies \$49,400

Donald L. Larson
Donald L. Larson, Chairperson

ATTEST:
Vicki Buseth
Vicki Buseth, Finance Officer

Motion by Falken, seconded by Gregg to approve the following operating transfer and cash from General Fund 101-4-911-4260 to WIC 231-3-371-0000 for \$1,500. Background information was provided by Commission Assistant Stephanie Vogel. Roll call vote: Santema "aye," Falken "aye," Gregg "aye," Negstad "aye," Larson "aye." Motion carried.

The board discussed designating undesignated funds from the 2009 General Fund Surplus Cash for the Administration Office Construction/Remodel project. Background information was provided by Commission Assistant Stephanie Vogel.

Motion by Falken, seconded by Gregg to designate an additional \$500,000 from the 2009 General Fund Surplus Cash for Administration Office Construction/Remodel. Roll call vote: Falken "aye," Gregg "aye," Negstad "aye," Santema "aye," Larson "aye." Motion carried.

Be it noted, the General Fund Surplus Analysis for December 2009 was presented to the board.

Be it noted, there were two administrative changes, approved by the South Dakota Department of Revenue, to the adopted and printed 2010 Annual Budget. The first was under

TIF/Debt Service Fund (401), \$290,000 showed under current property tax levy (311) and was moved to Other Taxes/TIF Property Taxes (312/319). The second was in the General Fund (101) Cash Balance Applied was listed as \$540,000 and was reduced to \$537,946. The subtotal under Means of Finance was reduced from \$10,410,037 to \$10,407,983 and the 5% as required by SDCL 7-21-18 was reduced from \$522,453 to \$520,399.

Be it noted, the full text of Ordinance #2009-01, approved on November 17, 2009 is as follows:

ORDINANCE # 2009-01

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE 1997 REVISED ZONING ORDINANCE

WHEREAS, BROOKINGS COUNTY has previously adopted the 1997 Revised Zoning Ordinance; and

WHEREAS, the Brookings County, South Dakota, Board of County Commissioners deems it necessary, for the purpose of promoting the health, safety, and the general welfare of the County, to amend the 1997 Revised Zoning Ordinance.

THEREFORE, BE IT ORDAINED BY BROOKINGS COUNTY, SOUTH DAKOTA, that the 1997 Revised Zoning Ordinance of Brookings County be amended as follows:

SECTION A. That Article 24.00, TRANSMISSION PIPELINE RISK REDUCTION OVERLAY DISTRICT be added.

SECTION B. In all respects the 1997 Revised Zoning Ordinance shall remain unchanged and is hereby re-ordained.

FIRST READING: November 10, 2009

SECOND READING: November 17, 2009

Donald L. Larson
Chairperson, Brookings County
Board of County Commissioners

ATTEST:

Vicki Buseth
Brookings County Finance Officer

**ARTICLE 24.00
TRANSMISSION PIPELINE RISK REDUCTION OVERLAY DISTRICT**

Section 24.01: Land Use in Transmission Pipeline Overlay District

Purpose

The Brookings County Planning Commission and Board of County Commissioners recognize: (1) that oil and gas transmission pipelines are federally regulated, including 49 Code of Federal Regulations (CFR) 190 through 195, and that oil and gas transmission pipelines and pipelines which transport gas from methane digesters are state regulated, through South Dakota Codified Laws (SDCL) Chapter 49-34B and SDCL Chapter 49-41B and (2) that Brookings County can implement safety measures to protect citizens and sensitive environmental areas within the borders of Brookings County through SDCL Chapter 7-8-20.

The Brookings County Planning Commission and Board of County Commissioners recognize: (1) that third-party damage and pipeline right-of-way encroachment are significant threats to pipeline safety; (2) that transmission pipelines may pose a risk to public safety and/or the environment if ruptured or damaged; and (3)

that certain land use practices can reduce the likelihood of accidental damage to gas and hazardous liquid pipelines and reduce adverse impacts of pipeline failures located within Brookings County.

The purpose of the Transmission Pipeline Risk Reduction Overlay District is to protect public health and safety by reducing the likelihood of pipeline damage and reducing the adverse impact of pipeline failures through risk-based land management decisions. It is the intent to accomplish this, as much as possible, by public education, early consultation among stakeholders and securing public cooperation.

The Transmission Pipeline Risk Reduction Overlay District will be incorporated into Brookings County Geographic Information Systems mapping and used primarily when issuing Zoning and Building permits to facilitate discussions among developers, landowners, and pipeline operators.

The Transmission Pipeline Risk Reduction Overlay District will enhance and not preclude the requirements of the South Dakota One Call System.

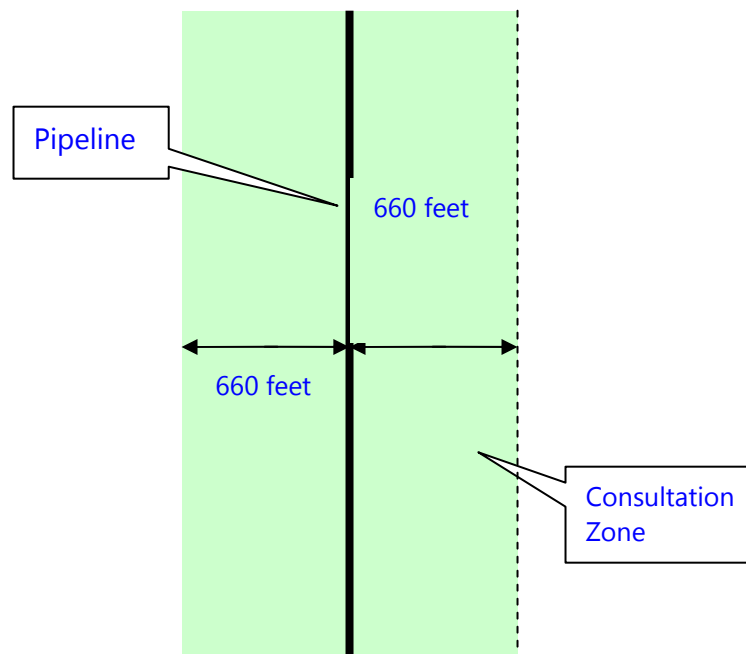
The Transmission Pipeline Risk Reduction Overlay District and the provisions of this article will be applied to federally and state regulated hazardous liquid and gas transmission pipelines, and pipelines which transport gas from methane digesters but will exclude gas gathering or distribution pipelines.

Brookings County reserves the right to implement the Transmission Pipeline Risk Reduction Overlay District on new direct service pipelines constructed for non-agricultural and non-residential facilities such as gas power plants and commercial methane digesters .

Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations.

Definitions

1. **Consultation Zone:** An area extending 660' from each side of a transmission pipeline, which defines when a property developer/owner, who is planning new development in the vicinity of an existing transmission pipeline, should initiate a dialogue with a transmission pipeline operator.



2. **Development:** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

3. Development Permit: for the purposes of the Consultation Zone requirements, means any permit for development activity that involves construction, grade modification, excavation, blasting, land clearing, or the deposit of earth, rocks or other materials that places an additional load upon the soil. Construction that involves work totally within an existing building footprint and does not involve excavation, such as residential remodeling projects, is specifically exempted from these Consultation Zone requirements.

4. Distribution Pipeline: A gas pipeline other than a gathering or transmission line (reference 49 CFR 192.3). A distribution line is generally used to supply natural gas to the consumer and is found in a network of piping located downstream of a natural gas transmission pipeline.

5. Easement: (1) A legal instrument giving a transmission pipeline operator a temporary or permanent right to use a right-of-way for the construction, operation, and maintenance of a pipeline. It may also include temporary permits, licenses, and other agreements allowing the use of one's property. (2) An easement is an acquired privilege or right, such as a right-of-way, afforded a person or company to make limited use of another person or company's real property. For example, the municipal water company may have an easement across your property for the purpose of installing and maintaining a water line. Similarly, oil and natural gas pipeline companies acquire easements from property owners to establish rights-of-way for construction, maintenance and operation of their pipelines. (3) A legal right, acquired from a property owner, to use a strip of land for installation, operation and maintenance of a transmission pipeline.

6. Encroachment: (1) A human activity, structure, facility, or other physical improvement that intrudes onto a transmission pipeline right-of-way. (2) Encroachment refers to the unauthorized use of a right-of-way in violation of the easement terms.

7. Excavation: Any operation in which earth, rock or other material [in or on the ground] [within 12" of grade level] is moved, removed or otherwise displaced by means of any tools, equipment or explosives and includes, without limitation, backfilling, grading, trenching, digging, ditching, drilling, pulverizing, rubblizing, well-drilling, augering, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and demolition of structures, except that, the use of mechanized tools and equipment to break and remove pavement and masonry down only to the depth of such pavement or masonry, the use of high-velocity air to disintegrate and suction to remove earth, rock and other materials, and the tilling of soil for agricultural or seeding purposes shall not be deemed excavation. Backfilling or moving earth on the ground in connection with other excavation operations at the same site shall not be deemed separate instances of excavation.

8. Gas Transmission Pipeline: means a "transmission line" as defined by Title 49, Code of Federal Regulations, Section 192.3. A pipeline, other than a gathering line, that: (1) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large-volume customer that is not downstream from a distribution center; (2) operates at a hoop stress of 20 percent or more of specified minimum yield strength; or, (3) transports gas within a storage field. (Reference 49 CFR 192.3) A gas transmission pipeline includes all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

9. Hazardous Liquid: Petroleum, petroleum products, or anhydrous ammonia and carbon dioxide (49 CFR 195.2); or liquid natural gas (LNG) or a liquid that is flammable or toxic (49 CFR 193.2007).

10. Hazardous Liquid Pipeline: means a pipeline designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2. All parts of a pipeline facility through which a hazardous liquids move in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies

associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

12. Maximum Allowable Operating Pressure (MAOP): means the maximum pressure at which a pipeline or segment of a gas transmission pipeline may be operated under Title 49, Code of Federal Regulations, Part 192.

13. Maximum Operating Pressure (MOP) means the maximum pressure at which a hazardous liquid pipeline or segment of a pipeline may be normally operated under 49 CFR Part 195.

14. Nonconforming Use or Structure: A use or structure that is impermissible under current zoning restrictions but that is allowed because the use or structure existed lawfully before the restrictions took effect.

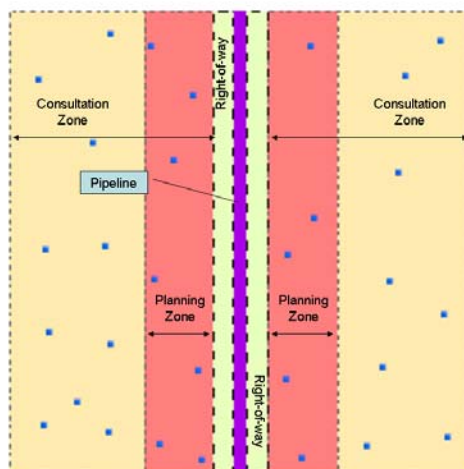
15. Person: Any individual, firm, joint venture, legal entity, partnership, corporation, association or cooperative, public or private.

16. PIPA Report: A document scheduled to be available in early 2010 through the U. S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) that provides recommended practices for land use and planning in the vicinity of transmission pipelines. The document is intended to be available on the PHMSA Pipeline Safety Stakeholder Communications web site.
(<http://primis.phmsa.dot.gov/comm/LandUsePlanning.htm>)

17. Pipeline: means the same as is defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

18. Pipeline Facility: means all parts of those physical facilities through which gas, hazardous liquids or carbon dioxide are moved in transportation as defined by 49 CFR Parts 192, 193 and 195.

19. Planning Zone: means an area around a transmission pipeline, based on characteristics of the pipeline and the surrounding area. The Planning Zone is a corridor in which risk-based land management decisions may have potential benefits in protecting pipelines, mitigating the immediate consequences of a pipeline incident, and facilitating emergency response to a potential transmission pipeline incident.



20. Potential impact radius (PIR) is defined as the radius of a circle within which the worst case failure of a gas transmission pipeline could have significant instantaneous impact on people or property not protected by structures or other obstructions. The PIR is calculated by the formula:

$$r = 0.69 * (\text{square root of } (p * d^2))$$

'r' is the radius of a circular area in feet surrounding the point on the pipeline of a potential failure

'p' is the pipeline's maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch

'd' is the nominal diameter of the pipeline in inches

The 0.69 factor is appropriate for natural gas pipelines. Different factors apply for other gases, depending upon their heat of combustion (see ASME B31.8-2004, Managing System Integrity of Gas Pipelines, 2005).

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Pipeline MAOP (psig)	Pipeline Diameter (inches)								
	6	8	10	12	16	24	30	36	42
200	59	78	98	117	156	234	293	351	410
400	83	110	138	166	221	331	414	497	580
600	101	135	169	203	270	406	507	608	710
800	117	156	195	234	312	468	585	703	820
1000	131	175	218	262	349	524	655	786	916
1200	143	191	239	287	382	574	717	860	1004
1400	155	207	258	310	413	620	775	929	1084

This table gives Planning Zone distances (in feet) for natural gas transmission lines, based on the PIR calculation for different combinations of pipeline diameters and MAOP. For example, a 30-inch pipeline with MAOP of 1,000 psig has a PIR of 655 feet. In this case, a Planning Zone extending 655 feet on either side of the pipeline could be defined.

21. Right-of-way (ROW): (1) A piece of property, usually consisting of a narrow, unobstructed strip or corridor of land of a specific width, which a pipeline company and the fee simple landowner both have legal rights to use and occupy. (2) A defined strip of land on which an operator has the right to construct, operate and maintain a pipeline. The operator may own a right-of-way outright or an easement may be acquired for specific use of the right-of-way.

22. Right-of-way agreement: See "*Easement*"

23. Rural: An area outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development. (Reference 49 CFR 195.2)

24. South Dakota One Call: The South Dakota One Call system provides for communication between excavators and underground facility operators so buried utilities can be marked in advance of any digging. Following the One Call procedure works to reduce damages to underground infrastructure, helps to ensure public and worker safety, and protects the integrity of utility services. South Dakota Codified Law (SDCL) Chapter 49-7A authorizes the use of South Dakota One Call in South Dakota.

25. Transmission Pipeline: A pipeline, other than a gathering line, that transports gas or hazardous liquids from producing areas to refineries and processing facilities and then to consumer areas and local distribution systems.

Establishment and Delineation of Transmission Risk Reduction Pipeline Overlay Zones

Boundaries for the Transmission Pipeline Risk Reduction Overlay District are shown on published maps entitled "Brookings County Transmission Pipeline Risk Reduction Zone Map" dated November, 2009, as produced by Brookings County Geographic Information Systems (GIS). This map will be updated as needed. Said map is hereby adopted by reference as part of this ordinance as if the map is fully described herein. The Transmission Pipeline Risk Reduction Overlay District will be a computerized

mapping file maintained by the Brookings County Geographic Information Systems specialist. The Overlay District will be utilized by the Planning and Zoning Office for the purpose of issuing building permits, conditional use permits, variances and enforcement of the Brookings County Zoning Ordinance and Brookings County Subdivision Ordinance. The pipeline information will not be available online.

The mapping data was derived from the National Pipeline Mapping System (NPMS), a geographic information system (GIS) created by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) in cooperation with other federal and state governmental agencies and the pipeline industry. Additional information was provided by local pipeline operator (s).

Consultation Zone

The purpose of the consultation zone is to identify the need for communication between property developers/owners within Brookings County and pipeline operators when new development is planned within 660' of an existing transmission pipeline. The Transmission Pipeline Risk Reduction Overlay District is designed to be a tool to identify where new development triggers the need for such consultation. The implementation of the consultation zone does not imply a previous lack of communication. The consultation zone dialogue will serve to: (1) protect pipelines by promoting adequate consideration of the potential safety impacts of the development on the transmission pipeline; and (2) raise awareness of the potential safety impacts of the pipeline on the development.

When a building permit is requested within the boundaries of the Transmission Pipeline Risk Reduction Overlay District, the person requesting a permit will be verbally informed that the building is being constructed near a transmission pipeline. A pipeline safety brochure will be provided along with the building permit. The permit office will notify the pipeline operator of the building permit request, the type and size of building. The property developer/owner is to initiate a consultation with the transmission pipeline operator as early as possible in the development planning process.

The consultation zone will be applied to the existing Northern Natural Gas Company pipeline, new transmission pipelines and any pipeline that requires a Conditional Use Permit (CUP) from the Brookings County Planning Commission. Transportation of gas from a methane digester to a manufacturing plant or transportation of natural gas to a power production plant are two examples of pipelines that require CUPs.

The consultation zone distance used in Brookings County is 660 feet for existing transmission pipelines. Future pipelines will be evaluated on a case by case basis to determine the potential impact radius (PIR). If the PIR is greater than 660', the PIR will be annotated on the findings of fact on the applicants CUP.

Planning Zone

The purpose of the planning zone is to enforce the requirement for communication between property developers/owners within Brookings County and transmission pipeline operators when new development is planned within the planning zone distance of; (1) an existing natural gas transmission pipeline; or (2) a distance to be determined based on the site-specific and pipeline specific characteristics for future liquid pipelines. The Planning Zone is a tool to identify where new development requires a physical response. The Planning Zone is a corridor in which certain land management practices may have potential benefits in protecting pipelines, mitigating the immediate consequences of a pipeline incident, and facilitating emergency response to a potential transmission pipeline incident.

When an individual or organization requests a building permit and the location is within the Planning Zone then the permit office staff will request a detailed site plan. A hand rendered drawing will suffice. The building permit requestor will be given a brochure with the point-of-contact for the appropriate gas company's personnel and the recommended land management practices for new development near existing transmission pipelines. They will also be notified to contact the South Dakota One Call to have the pipeline located and marked prior to the issuance of a building permit. The individual or organization requesting the building permit must confirm or correct the actual location of the pipeline on the site drawing.

If excavation will occur completely outside of the right-of-way, a building permit will be issued. The pipeline operator will be notified that a building permit has been issued and will be provided with the location of the construction by the permit office.

If the actual excavation will occur inside the right-of-way, the developer must obtain a written, signed encroachment agreement from the pipeline operator. The encroachment agreement must be submitted to the building permit issuing office before a building permit will be issued. The pipeline operator will be notified that a building permit has been issued and will be provided with the location of the construction by the permit office. A copy of the encroachment agreement will be kept on file in the permit office.

Planning Zone: Natural Gas

Planning Zone Distance

The Planning Zone is determined on a case by case basis, depending upon the specific characteristics of the pipeline, such as the type of product, size of the pipe and Maximum Allowable Operating Pressure (MAOP):

In Brookings County the following distances will be utilized for existing pipelines;

Northern Natural Gas Company gas transmission lines, the planning zone distance is defined as 117 feet on either side of the pipeline.

Basin Electric gas transmission lines, the planning zone distance is defined as 262 feet on either side of the pipeline.

The Planning Zone distance for new facilities will be defined based on the potential impact radius (PIR) of the pipeline as these facilities are constructed.

Planning Zone: Liquid Pipelines

Currently Brookings County is not aware of any hazardous liquid pipelines within its boundaries. The following actions would occur if hazardous liquid pipelines would be located in Brookings County at any time.

Determining the appropriate Planning Zone distance for a hazardous liquid pipeline is potentially much more complex because of the varying flow characteristics of released liquids and the effect of the terrain surrounding the pipeline on the path of the release. Assembling the information and analysis needed to define the planning zone should be a collaborative effort by the pipeline operator and local government.

A planning distance for liquid pipelines may be defined based on a pipeline- and location-specific analysis considering the following three elements:

- *How much liquid might be spilled?*
- *Where would the spilled liquid go?*
- *What locations would be impacted?*

The fundamental factors to be considered in an analysis to establish the planning zone distance for liquid pipelines are listed below.

“How much liquid might be spilled?”

- Can be derived from pipeline flow rates, spill detection time, pipeline shutdown time, and drain down volume from various locations along the pipeline (this information can be obtained from the pipeline operator).

“Where would the spilled liquid go?”

- Overland flow:
 - Soil cover type / vegetation (flow resistance)
 - Soil absorption / permeability (seepage and retention)

- Topography / contour / digital elevation model (direction of flow, speed of flow, retention areas and volumes)
- Drainage systems such as culverts, streams, gullies, farm tiles, roadside ditches
- Flow barriers such as railroad and road embankments, curbs, dikes, bulkheads
- Fluid properties such as viscosity, density, vapor pressure
- Vapor cloud extent, if any – especially for highly volatile liquid pipelines
 - Heavier than air vapors settling in low spots
 - Vapor dispersion – dangerous for how far downwind?

“What locations would be impacted?”

- Thermal impact from fire
- Blast overpressure from explosion,
- Toxic, asphyxiation effects, etc.,
- Environmental effects from spill

Various models have been developed to support an analysis based on these elements. Each must consider a multitude of site-specific factors, which should be evaluated in their as-modified (i.e. post-development) condition. When using such models the model should be fit-for-purpose and the user should have expertise in hazard analysis. As noted, assembling the information and analysis needed to define the planning zone would be a collaborative effort by the pipeline operator and local government.

Severability

Should any article, section or provision of this ordinance be declared invalid, such decision shall not affect the validity of this ordinance as a whole or any other part thereof.

First Reading: November 10, 2009

Second Reading: November 17, 2009

Adopted this 17th day of November 2009.

Published: January 14, 2010

Effective Date: February 2, 2010

Donald L. Larson
 Don Larson, Chairperson
 Brookings County Board of County Commissioners

ATTEST:

Vicki Buseth
 Brookings County Finance Officer

Motion by Gregg, seconded by Santema to approve the following Automatic Supplement for unanticipated expenses incurred and reimbursement made to Brookings County. Department: Highway; Amount \$105,000; Reason: to allow the Finance Office to show the revenue received and expenditures sent to other entities for the County Wheel Tax as a separate budgeted line item, and increase 201-3-316-0000 and increase 201-4-750-0000. Roll call vote: Gregg “aye,” Negstad “aye,” Santema “aye,” Falken “aye,” Larson “aye.” Motion carried.

REGULAR BUSINESS

Motion by Falken, seconded by Santema to appoint Ruth Schroeder to the Brookings Health System Board of Trustees for a term to run January 2010 through January 2012. Roll call vote: Negstad "aye," Santema "aye," Falken "aye," Gregg "aye," Larson "aye." Motion carried.

Motion by Negstad, seconded by Gregg to appoint Barbara Telkamp to the Swiftel Center Advisory Committee for a term to run January 2010 through January 2012. Roll call vote: Santema "aye," Falken "aye," Gregg "aye," Negstad "aye," Larson "aye." Motion carried.

PUBLIC HEARING

As scheduled, the board held a public hearing at 9:00 a.m. on the Application for Franchise made by Buffalo Ridge II, LLC, an Oregon limited liability company, to construct, maintain and operate electrical transmission lines and facilities in Brookings County.

Chairperson Larson opened the public hearing and called for opponents. Todd Boyd, general legal counsel for Interstate Telecommunications Cooperative, said that although ITC appreciates the need for wind development in South Dakota, they have had issues in the past with the wind towers' electrical lines causing inductive interference with their copper telephone lines, disrupting service to their clients. He said that at this time they do not anticipate problems because of the use of fiber optic lines in the rural areas where this project is to take place, but he's concerned that as the wind towers expand and get closer to the city of White, where copper lines are still in place, there could be issues in the future. Boyd asked that provisions for cost sharing for the mitigation of any interference issues be addressed, as well as the adherence to SDCL 49-32-3.1 be enforced.

Commissioner Negstad asked if ITC had been in contact with Buffalo Ridge II, LLC. Terry Peterson with ITC says they have been in contact with Buffalo Ridge II and they are aware of the concerns. He says the issue is wanting to be prepared to deal with problems similar to those that have come up in the past as there could be large costs involved if the interference occurs.

Commissioner Falken said that future additions to the Buffalo Ridge project seem to be the concern, so he feels comfortable at this time moving forward. But he also questioned how Buffalo Ridge II, LLC could circumvent the state law that was noted. Boyd said that there has been no satisfaction of the statute to date which speaks to notification procedures and their concern is that decisions will be made and they won't be notified. Falken said that he doesn't have a problem with adding the language that ITC is requesting, but he's not sure what the language should be to satisfy both parties as Buffalo Ridge II, LLC was not represented at the meeting. Commission Assistant Stephanie Vogel noted that the board also received correspondence from Sioux Valley Energy regarding the application as well.

Chairperson Larson called for proponents.

Planning and Zoning Director Robert Hill said that the State Public Utilities Commission permitted this project and held several public hearings and during all of those hearings he had never heard of this issue. He believes that this should have been discussed at the state level at the time of those hearings. Boyd disagreed saying the he believes the PUC would defer the decision to the local governing board. Commissioner Falken said that this project has gone before the PUC and that there would have been time at those hearings to bring this to light, but the ultimate decision is up to the county commission.

Chairperson Larson closed the public hearing.

Motion by Falken to amend Resolution #09-52 to stipulate that Buffalo Ridge II, LLC work through any potential conflicts with incumbent utilities and abide by SDCL 49-32-3.1. Motion died for lack of a second.

Deputy State's Attorney Mark Kratochvil said that he is not prepared to recommend what changes should be made to the resolution. Commissioner Larson said that he's concerned that if the board acts on the application and resolution, they could be in violation of a state statute and he would like to have Kratochvil research the statutory requirements before action is taken. Kratochvil recommended that the board table action and give him time to research the issue further.

Motion by Negstad, seconded by Santema to table action on Resolution #09-52: a resolution authorizing the application for franchise for Buffalo Ridge II, LLC until January 12, 2010.

Commissioner Falken questioned the urgency of any timelines with this project. Hill said that he doesn't believe two weeks will be an issue to research the topic. Commissioner Larson stated that he does not want the commission to do anything that may be in conflict of a state statute, but he doesn't want to hold up the process of developing alternative energy sources in the county either.

Roll call vote on the motion to table: Falken "aye," Gregg "aye," Negstad "aye," Santema "aye," Larson "aye." Motion carried.

REGULAR BUSINESS

The board discussed how to proceed with the joint City-County Intergovernmental center. Commissioner Falken said that the subcommittee on this issue met several times and came up with the property on the north half of the 500 block of 3rd Street, across from the public library with the cost estimates being \$1,758,000 to acquire the property and \$200,000 to remove properties and make is suitable to build on.

Motion by Falken to proceed with negotiating the purchase price of the property on the north half of the 500 block of 3rd Street for a joint city-county intergovernmental center, seconded by Gregg.

Gregg said that he believes it's wise to move forward with working with the city in sharing this type of space.

Local builder and developer, John Mills, said that he has three purposes in coming to the commission. He wanted to thank them for exploring the possibility of a joint intergovernmental center, he encouraged them to stay the course, as this is not going to be an easy process and that he believes there will be inherent savings if both the city and county can operate out of one building.

Brookings County resident Barbara Telkamp asked the commission to slow down, despite how slow the process has gone already. She provided a history of the county's space needs and believes it is going to be a difficult process in coming up with an agreement that will satisfy both entities. Telkamp said that there are benefits to the county building its own facility. She said you can build the facility that best serves the offices the county is responsible for and be the captains of your own ship.

Brookings City Manager Jeff Weldon says the property in question does have enough space for a building, parking and green space. He asked that the commission concur with the city council and move forward with this project. Weldon says it will be a difficult project, but it can be done. He says the days of intergovernmental turf fighting are over and this is a new age and a new economy and we have to rise to the tax-payer challenge of a new structure of intergovernmental governance and that's what this building and process represents.

Commissioner Santema wanted to clarify that she didn't realize it was only half the block, she thought it was the whole block that was available. She thanked the subcommittee for their work on finding a potential joint location. She said that in considering her decision she looked at several things, including the space that could be shared by the city and county, however, she said each would still need their own office space because they are two separate entities. Santema is also concerned that this location is in the Central Historic Residential District and is subject to referral. She is also concerned about the cost of purchasing the property, taking properties off the tax roll and displacing households. Santema said that the county has the funds available to construct a building on its own without having to purchase property or demolish structures, and that the county is still responsible for remodeling the courthouse for the courts' needs as well. She believes it is best that the county remain in its own building.

Commissioner Negstad also thanked the subcommittee for their work. She is concerned that the cost of a joint facility be split accordingly and that it not be just an even 50/50 deal. She also wants to be fiscally responsible to the county citizens and has concerns with the loss of tax dollars. Negstad said that another referral could slow the timeline down and she too thought that it was

the entire block of properties, not just half. She also doesn't believe its being a good steward of the citizen's money to spend \$1 million for properties without building anything.

Commissioner Falken said he doesn't think he ever misled anyone about the size of the property and that this motion moves the county into negotiations on these properties in question. He doesn't want to drag this out so that they don't build for 2 more years. Falken said the main goal was to be in proximity to the courthouse, which this is. He said that the cost is more than what he was hoping to spend, but feels comfortable that the county has enough after designating additional dollars earlier in the meeting for this project. Falken said he wants to move forward, but this is far from being a project that is going to happen. He said that if this board didn't want a joint building, then they should have voted down the option at even looking into the possibility. Falken says he understands the concerns, but feels this is a good opportunity.

Commissioner Santema said that she honestly thought it was the whole block and somewhere along the line misunderstood. However, she said that with the cost estimate that came back, she doesn't feel like she can support it at this time. Falken said that the vote today is for an attempt to purchase the property to build, it's not what is going to get built or how, it just gives the authority to make the attempt.

Commissioner Negstad said that she too did not understand that it was only half the block. She said her vote this fall was to look into the possibility of a joint location, but since then she has questions that give her concerns whether the county can even work with the city after the possibility of using the R&T Center for extension office space fell through.

City Manager Jeff Weldon said that facts changed in that case and he had to renew a lease, so the final analysis was that it didn't work. He said he still wants to look into opportunities that may arise with regards to the County Resource Center space at the Swiftel Center. Weldon also said that the city will pay for the percentage of programmable space that they will use in a new facility. He also noted that none of the properties in question are on the historical register, but since the property is in a historic district it will have to go through the review process which takes approximately 6 months, but it will not cause the project to stop.

Commissioner Negstad apologized to Weldon, but said last week was a real shock to find that the R&T Center space was no longer available.

Chairperson Larson said that any discussion on the R&T Center or potential YES Center is out of order.

Roll call vote: Gregg "aye," Negstad "no," Santema "no," Falken "aye," Larson "aye."
Motion carried.

Larson said that now instead of being those that follow maps, we are those that make maps and reappointed Commissioner Falken and Gregg to continue as subcommittee members with the joint city-county intergovernmental center project and to report back to the board as necessary.

Commission Assistant/Human Resources Director Stephanie Vogel presented the Commission/HR report.

Vogel updated the board on a grievance hearing, errors that have occurred as part of open enrollment, the first meeting of the year agenda and notification of a property being placed on the National Register of Historic Places.

Vogel provided background information on the Request to Fill Vacancy for a new Administrative Coordinator position in the HR/Commission Department. Motion by Falken, seconded by Gregg to proceed with the change of the current Deputy Director of HR/Commission position change to Information Technology Support Specialist and to create the new Administrative Coordinator position. Roll call vote: Negstad "aye," Santema "aye," Falken "aye," Gregg "aye," Larson "aye." Motion carried.

Vogel also discussed the website logo design and updated the board on applicants for the Veterans/Welfare Director position and Deputy Sheriff position.

COMMISSIONER'S REPORTS AND DISCUSSION

Commissioner Negstad had no report.

Commissioner Santema reported on the BATA meeting.

Commissioner Falken said that even though the meeting today was uncomfortable at times, they need to respect each others' opinions and now try to make the best possible building. He said this could all still fall apart and then they're back to building on the parking lot.

Commissioner Santema said that even though the vote was 3 to 2, she's now in with the majority and is ready to move forward from here. Commissioner Negstad said that she is not totally against a joint facility, but she has reservations. She said that as far as what happened with the R&T Center, she believes Weldon could have informed the board prior to their meeting last week about the lease renewal.

Commissioner Gregg thanked everyone that spoke on the joint facility issue and appreciated their work in preparing their statements. He apologized for the misunderstanding that the purchase would only be for half the block. Gregg also suggested that the issue of moving extension to the R&T Center be put on an upcoming agenda. He said that the new lease is only for 3 years and that they should start working on the process of finding a new location for extension as that issue will be back to their table in the future.

Commissioner Negstad said that she wants the board to decide what the Resource Center is worth to the county.

Commissioner Falken agreed with Gregg that they should lock up the amount of square feet they need and keep the dialogue open with the city.

Commissioner Larson agreed with Gregg and Falken that they need to be proactive with the situation at the Swiftel Center. He also thanked the other board members for their tolerance of the chair this past year and he believes they will realize over the next few days the historical relevance of the decision they made today to move towards a joint city-county intergovernmental building.

Brookings County resident Barbara Telkamp said that she'd like to make a prediction that it won't be long before the commission will need to start talking about adding on to the courthouse for the courts' needs. She said this new joint facility will solve some of the problems, but it won't solve them all. Larson agreed and said that he recognizes how they need to think beyond their lifetimes.

Commissioner Larson said that he asks one thing of the new chair in 2010, that when the board has their discussions, they need to try to get their questions answered prior to the meetings and it's been difficult when there's an issue at the table to keep to that issue.

Commissioner Larson asked if there is an opportunity for county employees to purchase off the "Marketplace" website and if the county should be a pilot county in offering it to the employees. Commissioner Falken cautioned the board in moving forward with a program that encourages county employees to make purchases out of town.

Commissioner Larson also reported on the upcoming USDA meeting in Wahpeton, ND January 6, 2010.

ADJOURNMENT

There being no further business, Chairperson Larson declared the meeting adjourned until 8:30 a.m. Tuesday, January 5, 2010.

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