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JUL 13 2020

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July 10, 2020

Open Meetings Commission  
ATTN: Steve Blair, Counsel  
1302 E. Highway 14, Ste 1  
Pierre, South Dakota, 57501

*Re: Open Meeting Laws Violation Complaint submitted by Todd B. Woods – October 1, 2019  
Yankton County Commission Meeting*

Dear Steve Blair, Counsel for the Open Meetings Commission,

I have reviewed the Open Meeting Laws Violation Complaint of the October 1, 2019 Yankton County Commission Meeting submitted by Todd B. Woods. Enclosed herein are the Complaint, the October 1, 2019 Yankton County Commission Meeting, Agenda, Meeting Minutes, and attachments presented at the Yankton County Commission Meeting. Upon review, I believe there may be merit for review before the Open Meetings Commission. The Complaint listed three reasons for review before the Open Meetings Commission, as detailed below.

1. The Yankton County Commissioners added item #11A to approve Resolution YC 19-8, as an addition to the agenda.

SDCL 1-25-1.1 states that a public meeting must post its agenda at least twenty-four (24) hours before the commencement of the meeting. Resolution YC 19-8 was not listed in the posted agenda. While the motion to approve the agenda with the addition to approve Resolution 19-8 was carried, and Resolution YC 19-8 did not require any action or decision, it may constitute review before the Open Meetings Commission pursuant to SDCL 1-26-6(3) and 1-25-6.1.

2. Agenda item #12 to appoint an Acting Planning and Zoning Administrator, with the addition the Acting Planning and Zoning Administrator will act under the guidance of Commissioner Healy.

Agenda item #12 states "Appoint Acting Zoning Administrator."

Action 1945C in the Yankton County Commission minutes states: "A motion was made by Loest and seconded by Swensen to appoint Jessica Atkinson as acting Planning and Zoning Administrator under the Guidance of Commissioner Healy on Building Permits, Conditional Use and Variance applications and also to appoint the Planning and Zoning Commission to review any and all complaints that are received for zoning enforcement and render a decision on the complaints." The motion was carried.

The agenda did not prove that the Commission were to appoint a Commissioner of which would act in a supervisory role to the Planning and Zoning Administrator. Therefore, I believe the complaint may be submitted for review before the Open Meetings Commission pursuant to SDCL 1-26-6(3) and 1-25-6.1.

3. Agenda item #12 and the addition that all complaints received for zoning enforcement, and decisions made be reviewed and rendered by the Planning and Zoning Administrator.

Agenda item #12 states "Appoint Acting Zoning Administrator."

Action 1945C in the Yankton County Commission minutes states: "A motion was made by Loest and seconded by Swensen to appoint Jessica Atkinson as acting Planning and Zoning Administrator under the Guidance of Commissioner Healy on Building Permits, Conditional Use and Variance applications and also to appoint the Planning and Zoning Commission to review any and all complaints that are received for zoning enforcement and render a decision on the complaints." The motion was carried.

Agenda item #12 did not include the addition that "any and all complaints that are received for zoning enforcement and render a decision on the complaints," therefore, I believe the complaint may be submitted for review before the Open Meetings Commission pursuant to SDCL 1-25-6(3) and 1-25-6.1.

If you have any questions, do not hesitate to contact me.

Sincerely,



Caroline A. Srstka  
Assistant Attorney General  
2000 E 52nd Street, North  
Sioux Falls, SD 57104

encl.

cc: Todd B. Woods

November 6, 2019

Yankton County States Attorney  
Attn: Robert Klimisch  
410 Walnut St Suite 100  
Yankton, SD 57068

**VIA HAND DELIVERY**

Re: Open Meeting Laws Violation – October 1<sup>st</sup>, 2019 Yankton County Commission Meeting

Dear Mr. Klimisch,

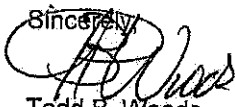
Under SDCL 1-25-6.1, let this serve as my notarized complaint of three open meeting law violations for the Yankton County Commission on October 1<sup>st</sup>, 2019.

First, the published agenda amended at the start of the meeting added item #11A resulting in the approval of Resolution YC 19-8. This was not part of the public packet or an item on the agenda.

Second, agenda item #12 titled "Appoint Acting Zoning Administrator" resulting in passing Action 19450C to appoint Jessica Atkinson as acting Planning and Zoning Administrator. The motion included Jessica would be under the guidance of Commissioner Healy. It also appointed the Yankton County Planning & Zoning Commission to review any and all complaints that are received for zoning enforcement and render a decision on the complaints. The addition of Commissioner Healy and the appointing the Planning & Zoning Commissioner as the enforcement arm of Yankton County were not publish agenda items or part of the packet available to the public.

Since the three matters I described above were not part of a published agenda or a part of the public packet 24 hours prior to the meeting this is a clear violation of open meeting laws. The resulting actions should be deemed invalid until the proper procedures are followed per South Dakota Codified Laws.

Sincerely,

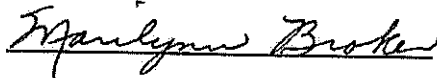
  
Todd B. Woods  
108 Starboard Street  
Yankton, SD 57078  
605-661-1530

Encl: Yankton County Commission October 1<sup>st</sup>, 2019 Agenda  
Yankton County Commission October 1<sup>st</sup>, 2019 Minutes  
Yankton County Commission October 1<sup>st</sup>, 2019 Packet Items 10 through 18

STATE OF SOUTH DAKOTA

COUNTY OF YANKTON

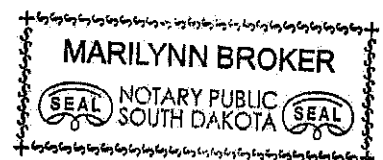
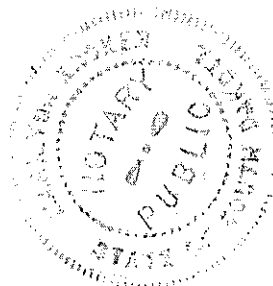
On this 6<sup>th</sup> day of November, 2019, before me, the undersigned, personally appeared Todd B. Woods, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.



Notary Public

Printed Name: Marilynn Broker

My Commission Expires: 4/15/2020





# Agenda

## Yankton County Commission

6:00 PM, Tuesday, October 1, 2019  
Commission Chamber  
Yankton County Government Center

DOCUMENTS WILL BE AVAILABLE AT AUDITOR'S OFFICE FOR REVIEW  
BEGINNING SEPTEMBER 30. COPIES AVAILABLE FOR \$1.00 PER PAGE

Meeting chaired by: Dan Klimisch, Chairperson

01 Call to order: 6:00 PM PLEDGE OF ALLEGIANCE

02 Roll Call: \_\_\_\_\_ Cheri Loest \_\_\_\_\_ Gary Swensen  
\_\_\_\_\_ Joseph Healy \_\_\_\_\_ Don Kettering \_\_\_\_\_ Dan Klimisch

### AGENDA ITEMS

No.	Time	Item Description	Presenter
03	6:00 PM	Abstain Financial Conflict of Interest (SDCL 6-1-17) Non-Financial Interest-Must State Reason for Abstaining	Commissioner Klimisch
04		Approval of Agenda	
05		Approval of Minutes from September 18, 2019 Commission Meeting	
06	6:05 PM	Public Comments	
07	6:10 PM	Claims September Payroll	Auditor
08	6:15 PM	Approve 5-Year Highway Plan	Mike Sedlacek
09	6:25 PM	PE Grant Approval for Stone Church Bridge	Mike Sedlacek
10	6:30 PM	Approve Gravel Bid/Mosquito Spraying	Mike Sedlacek
11	6:35 PM	Entrance Application- James Hansen	Mike Sedlacek

12	6:40 PM	Appoint Acting Zoning Administrator	Commissioners
13	6:45 PM	Year-To-Date Budget Review	Commissioners
14	6:50 PM	Repair of Road or Alternate Access	Mike Marlow
15	6:55 PM	Neighborhood Watch Guidelines Not Being Followed	Dan Dolejsi
<b>Board of Adjustment</b>			
16	7:00 PM	Conditional Use Permit- Tim Binder	Planning and Zoning
17	7:05 PM	Variance- Dale James	Planning and Zoning
18	7:10 PM	Variance- Joseph Bruening	Planning and Zoning
<b>Regular Session</b>			
19	7:15 PM	YAPG Conflict of Interest	State's Attorney
20	7:20 PM	Commercial Building Permit Fee Discussion	Don Kettering
21	7:35 PM	Zoning Ordinance Discussion/Land Use Direction for the Planning Commission	Commissioners
22	7:40 PM	Public Comments	
23	7:45 PM	Commissioner Updates	Commissioners
24	7:50 PM	Executive Session/Litigation Pursuant to SDCL 1-25-2(3)	State's Attorney
		Executive Session/Personnel Issue Pursuant to SDCL 1-25-2(1)	
		Items for Next Meeting	

YANKTON COUNTY COMMISSION MEETING  
October 1, 2019

The regular meeting of the Yankton County Commission was called to order by Chairman Dan Klimisch at 6:00 PM on Tuesday, October 1, 2019.

Roll Call was taken with the following Commissioners present: Cheri Loest, Gary Swensen, Joseph Healy, and Dan Klimisch; Absent: Don Kettering.

There were no conflicts of interest reported by Commissioners.

**Action 19440C:** A motion was made by Loest and seconded by Swensen to approve the meeting agenda with the following changes: Approval of MI Board Members and reschedule agenda items 13, 14, 15, 19 and 20. All present voted aye; motion carried.

**Action 19441C:** A motion was made by Loest and seconded by Healy to approve the minutes of the September 18, 2019 meeting. All present voted aye; motion carried.

There were public comments from Dale Knode and Patty Gramkow.

Chairman Klimisch closed the public comment portion of the meeting.

**Action 19442C:** A motion was made by Healy and seconded by Loest to approve the following claims; **Commissioners:** Clubhouse Hotel & Suites (Travel) \$564.00, River Rat Productions (Professional Services) \$550.00; **Elections:** Qualified Presort Services (Supplies) \$34.38, Verizon (Rentals) \$360.09; **Court:** Thurman Law Office (Neglected) \$4,033.70, Certified Languages International (Professional Services) \$128.70, Horn Law Office LLC (Professional Services) \$399.00, Horn Law Office LLC (Neglected) \$1,450.30 Juror Fees (11 @ \$50.00) \$550.00, Juror Mileage (2 @ \$8.40) \$16.80, Juror Mileage (2 @ \$.84) \$1.68, Juror Mileage (1 @ \$4.20) \$4.20, Juror Mileage (1 @ \$5.04) \$5.04, Juror Mileage (1 @ \$21.00) \$21.00, Juror Mileage (1 @ \$16.80) \$16.80; **Auditor:** Clubhouse Hotel & Suites (Travel) \$282.00, Patty Hojem (Travel) \$229.08, Qualified Presort Services (Supplies) \$109.68, One Office Solution (Supplies) \$143.29; **Treasurer:** Clubhouse Hotel & Suites (Travel) \$282.00, Qualified Presort Services (Supplies) \$105.36; **Data:** Leaf (Rentals) \$104.86; **States Attorney:** Century Business Products (Rentals) \$402.33, Hy-Vee (Supplies) \$27.47, Qualified Presort Services LLC (Supplies) \$33.81, Staples Credit Plan (Supplies) \$477.43; **Government Building:** City of Yankton (Utilities) \$2,991.08, JCL Solutions (Supplies) \$65.35, Northwestern Energy (Utilities) \$2,695.40; **Director of Equalization:** Matt Archer (Travel) \$314.04, Qualified Presort Services LLC (Supplies) \$11.52, Verizon (Maintenance) \$174.95, One Office Solution (Supplies) \$112.20; **Register of Deeds:** Qualified Presort Services LLC (Supplies) \$26.57, One Office Solution (Supplies) \$494.92, One Office Solution (Maintenance) \$8.33; **VA:** Qualified Presort Services LLC (Supplies) \$6.52; **Safety Center Building:** City of Yankton (Utilities) \$1,070.13, City of Yankton (Dumpster Fees) \$5.50, Cole Paper Inc. (Supplies) \$328.95, Hansen Locksmithing Inc. (Supplies) \$12.00, Northwestern Energy (Utilities) \$9,707.18, Nebraska Air Filter INC (Supplies) \$1,303.73, Pheasantland Industries

(Supplies) \$52.46, MidAmerican Energy (Utilities) \$512.04; **Sheriff:** Stewart Bass (Travel) \$11.00, Jack's Uniforms & Equipment (Ballistic Vest) \$3,257.35, Midcontinent Communications (Utilities) \$115.00, Northtown Automotive (Maintenance) \$130.71, Pennington County Jail (Travel) \$140.65, Qualified Presort Services LLC (Maintenance Contracts) \$105.87, Tire Muffler Alignment (Maintenance) \$79.38, One Office Solution (Supplies) \$29.56, One Office Solution (Maintenance Contracts) \$15.88, Cardmember Services (Fuel) \$65.26; **County Jail:** Avera Medical Group (Professional Services) \$816.00, Boller Printing Co (Supplies) \$189.00, Bob Barker Company Inc. (Supplies) \$109.09, Scott Family Dentistry, Inc. (Professional Services) \$1,173.00, Avera Medical Group Radiology (Professional Services) \$93.34, Diamond Drug (Professional Services) \$1,326.26, Summit Food Services LLC (Food Services) \$6,436.94, Hy-Vee (Supplies) \$12.99, Jacks Uniforms & Equipment (Uniforms) \$113.89, JCL Solutions (Supplies) \$741.92, JCL Solutions (Security Maintenance) \$104.00, Menards (Supplies) \$11.98, Strachan Sales Inc. (Food Services) \$450.99, Tire Muffler Alignment (Auto Expense) \$160.68, Top Quality Glove (Supplies) \$359.44; **Juvenile Detention:** Minnehaha County Juvenile Detention Center (Other) \$6,210.00; **Care of Poor:** Clubhouse Hotel & Suites (Travel) \$282.00, Qualified Presort Services LLC (Supplies) \$120.06; **Public Health Nurse:** Qualified Presort Services, LLC (Supplies) \$25.81; **Ambulance:** Avera Education & Staffing Solutions (Supplies) \$80.00, Avera Sacred Heart Hospital (Supplies) \$64.02, Stryker Sales Corporation (Supplies) \$767.55, The UPS Store 6716 (Supplies) \$315.96, City of Yankton (Utilities) \$366.07, Credit Collection Services Inc. (Professional Services) \$51.75, Cintas (Supplies) \$68.13, Airspace Monitoring Systems Inc. (Maintenance) \$206.85, Fox Run Quick Lube (Maintenance) \$86.24, Menards (Supplies) \$44.89, Northtown Automotive (Maintenance) \$442.47, Olson's Pest Technicians (Maintenance) \$114.00, One Office Solution (Supplies) \$42.02, Yankton Medical Clinic (Professional Services) \$167.00, Northwestern Energy (Utilities) \$901.33, MidAmerican Energy (Utilities) \$14.71; **Mental Illness Board:** Darcy Lockwood (Hearings) \$123.00, Kerri Cook-Huber (Hearings) \$90.00, Dana Larson (Hearings) \$200.00, Gary Mikelson (Hearings) \$2,234.00, Mark Katterhagen (Hearings) \$123.00, Lucille M. Lewno (Hearings) \$1,263.75; **County Extension:** Vast Business (Utilities) \$405.36, FP Mailing Solutions (Rentals) \$74.85, City of Yankton (Utilities) \$54.07, Hy-Vee (Supplies) \$123.11; **Soil Conservation:** Yankton County Conservation District (2<sup>nd</sup> Half Wage for Tree Mgr.) \$2,500.00; **Weed:** Bomgaars (Supplies) \$23.94, Battery Exchange (Supplies) \$136.95, C & R Supply Inc. (Supplies) \$98.64; **Planning & Zoning:** River Rat Productions (Professional Services) \$280.00, Pheasantland Industries (Supplies) \$61.80, Qualified Presort Services, LLC (Supplies) \$20.98, One Office Solution (Supplies) \$136.24; **Road & Bridge:** Bomgaars (Supplies) \$22.28, Battery Exchange (Supplies) \$113.95, Presto-X (Publishing's) \$105.00, Scotland Redi-Mix (Supplies) \$5,280.00, LG Everist (Supplies) \$1,062.49, City of Yankton (Utilities) \$78.69, Cox Auto Supply, Inc. (Supplies) \$684.82, Concrete Materials (Supplies) \$486.23, CenturyLink (Utilities) \$52.87, Clark Engineering (Bridges) \$10,551.48, Snap on Tools (Supplies) \$108.50, Nelson Service, LLC (Supplies) \$105.06, CHS (Fuel) \$18,856.00, Beth Wilhelms (Travel) \$84.49, Francotyp-Postalia, Inc. (Supplies) \$68.85, Hollaway Construction Co. Inc. (Bridges) \$25,393.50, Kimball Midwest (Supplies) \$289.33, Yankton County Observer (Publishing's) \$7.47, Riverside Hydraulics & Labs (Supplies) \$198.95, Truenorth Steel (Supplies) \$19,168.83, Yankton Redi Mix (Supplies) \$261.75, DirecTV (Utilities) \$85.24, Northwestern Energy (Utilities) \$705.10; **Emergency 911 Fund:** Vast Business (Utilities) \$112.45,



CenturyLink (Utilities) \$151.71, Vast Business (Utilities) \$1100.33; **Emergency Management:** Kopetsky's Ace Hardware (Supplies) \$107.69, Bomgaars (Supplies) \$158.82, Vast Business (Utilities) \$607.49, Clubhouse Hotel & Suites (Travel) \$1,294.84, Acutemp Thermal System (Supplies) \$3,100.00, MidAmerican Energy (Utilities) \$8.70, Qualified Presort Services, LLC (Supplies) \$1.73, Racom Corporation (Utilities) \$36.03, Two Way Solutions INC (Supplies) \$48.94, Tabor Lumber Cooperative (Supplies) \$148.44, One Office Solution (Supplies) \$781.39, One Office Solution (Maintenance) \$86.54; **Domestic Abuse:** River City Domestic Violence Center ('19 Allocated FDS Women Abuse) \$10,000.00; **24/7 Program:** Pharmchem Inc. (Supplies) \$2,073.60; General Fund \$62,999.40, Road & Bridge, \$82,980.54, Emergency Management, \$6,380.61. Healy, Loest and Klimisch voting Aye; Swensen Voting Nay; Motion carried, 3-1.

**Action 19443C:** A motion was made by Healy and seconded by Loest to approve the September, 2019 gross payroll: **Commissioners:** \$5,606.74; **Election:** \$0.00; Auditor: \$13,865.90; **Treasurer:** \$17,128.00; **States Attorney:** \$25,946.77; **Government Buildings:** \$10,362.76; **Director of Equalization:** \$25,119.31; **Register of Deeds:** \$13,254.90; **Veterans Service:** \$3,595.13; **Sheriff:** \$66,451.04; **County Jail:** \$78,886.81; **Coroner:** \$800.00; **Juvenile:** \$172.85; **Nurse:** \$3,049.25; **Ambulance:** \$54,490.54; **WIC:** \$1,803.70; **Extension:** \$7,023.84; **Soil Conservation:** \$2,944.95; **Weed:** \$7,193.11; **Planning & Zoning:** \$2,885.85; **Road & Bridge:** \$78,392.30; **E911:** \$83.97; **OEM:** \$10,178.98; **24-7 Program:** \$3,464.48. First Dakota National Bank \$34,483.20 (Withholding), First Dakota National Bank \$52,263.00 (FICA) First Dakota National Bank \$12,222.74 (Medicare), South Dakota Retirement System \$32,327.06 (Other Employees), South Dakota Retirement System \$19,431.12 (Sheriff), South Dakota Retirement System (Spouse Opt) \$133.67, South Dakota Retirement System (Supplemental) \$4,714.60, American Family Life Assurance Company (AFLAC) \$5,549.13, Legalshield \$25.90, Office of Child Support \$578.00, Nationwide Retirement Solutions \$69.44, Accounts Management \$50.00, Boston Mutual Life Insurance \$407.46., Colonial Life & Accident \$1,475.98, Optilegra \$467.68, Wellmark BC Health Insurance \$64,674.00, United Way of Greater Yankton \$47.50, Delta Dental \$1,002.60, VSP Vision \$157.75, WageWorks \$1,312.50. Gross Payroll \$431,701.18, Net Payroll \$321,674.22. All present voted aye; motion carried.

**Highway:** Highway Superintendent Mike Sedlacek presented several items for board approval, including The 5-Year Highway Plan, PE (Preliminary Engineering) Grant for Stone Church Bridge. Gravel bids were submitted by First Rate Excavate, 60,000 tons at \$6.00 per ton; Utica Gravel, Inc., 60,000 tons at \$5.95 per ton and Fischer Gravel, 20,000 tons at \$7.25 per ton. Sedlacek also presented an Entrance Application from James Hansen. The board also discussed having the county spray for mosquitoes in flooding areas of the county for individuals in the cleanup effort.

It was the consensus of the board to spray for mosquitoes in flooding areas.

**Action 19444H:** A motion was made by Loest and seconded by Healy to approve the Yankton County Highway Department 5-Year Road Plan. Roll call vote was taken with Loest, Healy, Swensen and Klimisch voting Aye; motion carried.

**Action 19445H:** A motion was made by Loest and seconded by Healy to approve the Stone Church Bridge PE Grant. Roll call vote was taken with Loest, Healy, Swensen and Klimisch voting Aye; motion carried.

**Action 19446H:** A motion was made by Loest and seconded by Healy to approve the gravel bids as presented from Utica Gravel, Inc. All present voted aye; motion carried.

**Action 19447H:** A motion was made by Healy and seconded by Loest to approve the gravel bids as presented from Fischer Gravel. All present voted aye; motion carried.

**Action 19448H:** A motion was made by Healy and seconded by Loest to approve the application for Entrance from James Hansen located in NE1/4 in S24-T96N-54W, Yankton County. All present voted aye; motion carried.

States Attorney Rob Klimisch presented a resolution for a joint mental illness board between Minnehaha, Lincoln and Yankton Counties.

**Action 19449C:** A motion was made by Healy and seconded by Loest to adopt the following resolution. Roll call vote was taken with Healy, Loest, Swensen and Klimisch voting aye; Motion carried, 4-0.

#### **RESOLUTION YC 19-8**

#### **CROSS-APPOINTING MINNEHAHA COUNTY AND LINCOLN COUNTY CURRENT REGULAR AND ALTERNATE LAY MENTAL ILLNESS BOARD MEMBERS TO THE TEMPORARY JOINT COOPERATIVE MENTAL ILLNESS BOARDS BETWEEN MINNEHAHA, LINCOLN, AND YANKTON COUNTIES**

**WHEREAS,** on September 24, 2019, Minnehaha and Lincoln Counties executed a Joint Cooperative Agreement for Consolidated Mental Illness Boards, and on October 1, 2019, Yankton County executed the Joint Cooperative Agreement for Consolidated Mental Illness Boards; and

**WHEREAS,** it is the recommendation of the Co-Chairs of the Joint Minnehaha-Lincoln County Board of Mental Illness that the Current Regular and Alternate Lay Mental Illness Board Members be Cross-Appointed as Regular and Alternate Lay Board Members of the Temporary Joint Cooperative Mental Illness Boards between Minnehaha, Lincoln, and Yankton Counties;

**NOW, THEREFORE, BE IT RESOLVED BY THE YANKTON COUNTY COMMISSION,** that it hereby appoints Minnehaha County residents Pam Tiede, Mary Ellen Heirigs, Mona Helseth, Jan Schmuck and Lincoln County residents Janae Poppens, Candice Gearman, Laurie Wernke, and Francie Miller as regular and alternate lay members to the Temporary Joint Cooperative Mental Illness Board between Minnehaha, Lincoln, and Yankton Counties to terms concurrent with those previously established by action of the Minnehaha County

Commission, Lincoln County Commission, and Yankton County Commission, pursuant to the terms of the Counties' Joint Cooperative Agreement.

Dated this 1st day of October, 2019.

Yankton County Chairman, Dan Klimisch /s/  
ATTEST: Patty Hojem, Yankton County Auditor /s/

**Action 19450C:** A motion was made by Loest and seconded by Swensen to appoint Jessica Atkinson as acting Planning and Zoning Administrator under the guidance of Commissioner Healy on Building Permits, Conditional Use and Variance applications and also to appoint the Planning and Zoning Commission to review any and all complaints that are received for zoning enforcement and render a decision on the complaints. Roll call vote was taken with Loest, Swensen, Healy and Klimisch voting aye; motion carried, 4-0.

**Budget Review:** Rescheduled to next commission meeting.

**Repair of Road or Alternate Access:** Commissioner Loest said she would call Mike Marlow along with Chairman Klimisch and States Attorney to view the property and discuss the issue at the next commission meeting.

**Neighborhood Watch Guidelines Not Being Followed:** Rescheduled to next commission meeting.

**Action 19451Z:** A motion was made by Swensen and seconded by Loest to recess the regular session and convene as Board of Adjustment. All present voted aye; motion carried.

**CUP Public Hearing:** This was the time and place for a public hearing for a Conditional Use Permit application from Tim Binder. Applicant requested a permit to develop multi-family dwellings in the second-story of a Commercial District. Said property is legally described as S200' W330' Parcel A NE4, NW4 exc Lt H-2, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The Planning Commission recommended approval.

Applicant Tim Binder spoke on his CUP request

**Action 19452Z:** A motion was made by Healy and seconded by Loest, to approve based on Findings of Fact from the September 10, 2019 Yankton County Planning Commission meeting the Conditional Use Permit as presented, pursuant to Article 19, Section 1907 of the Yankton County Zoning Ordinance. Roll call vote was taken with Healy, Loest and Klimisch voting Aye; Swensen voting Nay; Motion failed, 3-1.

**Variance Public Hearing:** This was the time and place for a public hearing for a Variance from Dales James a Variance to decrease minimum lot size from 2 acres to .69 acres and decrease the front yard from 100 feet to 50 feet in a Commercial District in Yankton County.

Said property is legally described as Lot 20 Blk 2 Sunrise Addition, S10-T93N-R55W, hereinafter referred to as Mission Hill South Township, County of Yankton, State of South Dakota. The Planning Commission recommended approval.

Applicant Dale James spoke on the Variance request.

**Action 19453Z:** A motion was made by Healy and seconded by Loest, to approve based on Findings of Fact from the September 10, 2019 Yankton County Planning Commission meeting the Variance to decrease minimum lot size from 2 acres to .69 acres as requested by Mr. James, pursuant to Article 19, Section 1907 of the Yankton County Zoning Ordinance. Roll call vote was taken with Healy, Loest voting Aye; Swensen and Klimisch voting Nay; Motion failed, 2-2.

**Action 19454Z:** A motion was made by Healy and seconded by Loest, to approve based on Findings of Fact from the September 10, 2019 Yankton County Planning Commission meeting the Variance for the setback front yard from 100 feet to 50 feet in a Commercial District, pursuant to Article 19, Section 1907 of the Yankton County Zoning Ordinance. Roll call vote was taken with Healy, Loest and Klimisch voting Aye; Swensen voting Nay; Motion failed, 3-1.

**Variance Public Hearing:** This was the time and place for a public hearing for a Variance to decrease front yard from 30 feet to 13 feet in a Moderate Density District application from Joseph Bruening in a Moderate Density District in Yankton County. Said property is legally described as Lot 10 Blk 1 Timberland Park Hills S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The Planning Commission did not approve the Variance.

Applicant Joseph Bruening spoke on the Variance request.

**Action 19455Z:** A motion was made by Loest and seconded by Healy, to deny the variance application as presented based on Findings of Fact from the September 10, 2019 Yankton County Planning Commission meeting, pursuant to Article 19, Section 1907 of the Yankton County Zoning Ordinance. Roll call vote was taken with all voting aye; motion carried.

**Action 19456C:** A motion was made by Loest and seconded by Swensen to recess the Board of Adjustment and reconvene in regular session. All present voted aye; motion carried.

**YAPG Conflict of Interest:** Rescheduled to next commission meeting.

**Permit Fee Discussion:** Rescheduled to next commission meeting.

**Zoning Ordinance Discussion:** The board presented three areas they wanted looked at with the zoning ordinance. The top three were Wind Ordinance, Agriculture and Telecomm services. It was a consensus of the board to have a joint meeting with the Planning and Zoning board and to give direction on moving forward with possible changes.

There was one public comment from Nancy Wenande.

Chairman Klimisch closed the public comment portion of the meeting.

**Commission Updates:** Commissioner Loest said the "Farm Forum" went well. Commissioner Swensen said he was sending information to Washington DC on the flooding issues. Chairman Klimisch explained the usage complaint.

No Executive Session was held.

**Action 19457C:** A motion was made by Swensen and seconded by Healy to adjourn. All present voted aye; motion carried.

The next regular meeting will be Tuesday, October 15, 2019 at 6:00 p.m.

**Dan Klimisch**, Chairman  
Yankton County Commission

ATTEST:  
**Patty Hojem**, County Auditor





## YANKTON COUNTY HIGHWAY DEPARTMENT

3302 W City Limits Road • Yankton, SD 57078

Ph: 605-260-4473 • Fax: 605-260-4492

### NOTICE TO RECEIVE BIDS ON CRUSHED SURFACING GRAVEL

Sealed bids will be received by the Yankton County Board of Commissioners in the Yankton Government Center in Yankton, South Dakota 57078, until 11:00 am on Tuesday September 24, 2019.

#### SPECIFICATIONS

1. Bidder shall furnish all royalty, materials, equipment, tools, and labor necessary to strip overburden, crush, weigh and test stockpiled 1" Crushed Gravel surfacing materials.
2. 1" Crushed Gravel surfacing material shall conform to Section 882 of the South Dakota Department of Transportation Standard Specifications for Roads & Bridges, 2015 Edition, for Gravel Surfacing.
3. Stockpiled 1" Crushed Gravel material will remain at the Pit Site until removed by county forces also with the availability to access the material when needed.
4. Location of the Pit to be located North of SD HWY 46 and West of US HWY 81.

The undersigned, being familiar with all of the conditions and requirements of Yankton County, hereby proposes to furnish Crushed Surfacing Gravel in the amount of 20,000 tons (more or less), to be stored for Yankton County and removed as needed by the Highway Department.

TONS AVAILABLE 20,000 PRICE PER TON \$ 7.25

Surface gravel test results shall be included with the bid blank. Failure to provide test results will result in the bid being rejected. Bid proposal shall acknowledge and include Yankton County's privilege to store such gravel at the site and remove it as needed at no extra cost to Yankton County. All bid prices to include any applicable taxes and or fees.

The Board of Yankton County Commissioners reserves the right to accept or reject any or all bids. Each bid must be enclosed in plain envelopes addressed to Yankton County Auditor, 321 W 3<sup>rd</sup> Street, Yankton, SD 57078. Mark as to the type of bid enclosed. Any bid documents received at the Highway Office will be deemed null and void.

Patty Hojem  
Yankton County Auditor

Mike Sedlacek  
Yankton County Highway Superintendent

#### BIDDER'S INFORMATION

Name: JASON FISCHER

Company: FISCHER GRAVEL

Address: 43283-295<sup>th</sup> STREET

City, State, Zip: LESTERVILLE, SD 57040

Phone/Email: 605 (660) 0757 - fischergravel@outlook.com

ACCEPTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_

REJECTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_



## YANKTON COUNTY HIGHWAY DEPARTMENT

3302 W City Limits Road • Yankton, SD 57078

Ph: 605-260-4473 • Fax: 605-260-4492

### NOTICE TO RECEIVE BIDS ON CRUSHED SURFACING GRAVEL

Sealed bids will be received by the Yankton County Board of Commissioners in the Yankton Government Center in Yankton, South Dakota 57078, until **11:00 am on Tuesday September 24, 2019.**

#### SPECIFICATIONS

1. Bidder shall furnish all royalty, materials, equipment, tools, and labor necessary to strip overburden, crush, weigh and test stockpiled  $\frac{3}{4}$ " Crushed Gravel surfacing materials.
2.  $\frac{3}{4}$ " Crushed Gravel surfacing material shall conform to Section 882 of the South Dakota Department of Transportation Standard Specifications for Roads & Bridges, 2015 Edition, for Gravel Surfacing.
3. Stockpiled  $\frac{3}{4}$ " Crushed Gravel material will remain at the Pit Site until removed by county forces also with the availability to access the material when needed.
4. Location of the Pit to be located West of US HWY 81 and South of SD HWY 46.

The undersigned, being familiar with all of the conditions and requirements of Yankton County, hereby proposes to furnish Crushed Surfacing Gravel in the amount of 60,000 tons (more or less), to be stored for Yankton County and removed as needed by the Highway Department.

TONS AVAILABLE 60,000 PRICE PER TON \$6.00

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Patty Hojem  
Yankton County Auditor

Mike Sedlacek  
Yankton County Highway Superintendent

#### BIDDER'S INFORMATION

Name: \_\_\_\_\_

Company: First Rate Excavate

Address: 1509 E 39th St N

City, State, Zip: Sioux Falls, SD 57104

Phone/Email: 605-381-5626 / jay.w@first-rate-excavate.com

ACCEPTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_

REJECTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_





**AMERICAN  
ENGINEERING  
TESTING, INC.**

American Engineering Testing, Inc.  
601 E. 48th St. N.  
Sioux Falls, SD 57104  
Phone: (605) 332-6371 | Toll Free: (800) 972-6364  
Email: bcard@amengtest.com  
www.amengtest.com

## Material Test Report

**Client:** FIRST RATE EXCAVATE, INC

**CC:** JAY W.

**Project:** PRODUCTION CHECKS 2017

**Location:** SIOUX FALLS, SD

**Job No:** 32-02264

**Report No:** MAT-17-24536-S3

**Issue No:**

This document shall not be reproduced, except in full, without written approval from American Engineering Testing, Inc.

**Date of Issue:**

12/1/2017

**Reviewed By:**

Adam Johnson  
Senior Engineering Technician

### Sample Details

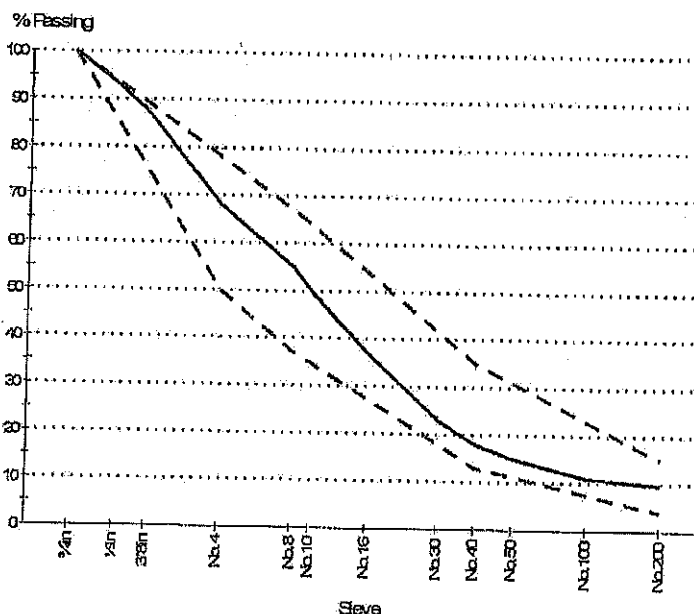
**Sample ID** 17-24536-S3  
**Field Sample ID** Utica Pit  
**Date Sampled** 11/30/2017  
**Source** UTICA PIT  
**Material** Gravel Surfacing  
**Specification** SDDOT GRAVEL SURFACING  
**Sampling Method** Field  
**General Location** Utica Pit  
**Location** Utica Pit  
**Date Submitted** 11/30/2017

### Atterberg Limit

**Liquid Limit:** 23  
**Plastic Limit:** 18  
**Plasticity Index:** 5 4 - 12

### Sample Description

### Particle Size Distribution



### Grading: ASTM C 136 / ASTM C 117

**Date Tested:** 12/1/2017  
**Tested By:** Adam Johnson

Sieve Size	% Passing	Limits
3/4 in (19.0mm)	100	100
1/2 in (12.5mm)	93	
3/8 in (9.5mm)	87	
No. 4 (4.75mm)	68	50 - 78
No. 8 (2.36mm)	55	37 - 67
No. 10 (2.0mm)	50	
No. 16 (1.18mm)	37	
No. 30 (600µm)	23	
No. 40 (425µm)	18	13 - 35
No. 50 (300µm)	15	
No. 100 (150µm)	11	
No. 200 (75µm)	9.8	4.0 - 15.0

COBBLES		GRAVEL		SAND			FINES (9.8%)	
(0.0%)		Coarse (0.0%)	Fine (32.0%)	Coarse (18.0%)	Medium (32.0%)	Fine (8.2%)	Silt	Clay

D85: 8.8315 D60: 3.0885 D50: 2.0000  
D30: 0.8414 D15: 0.3000 D10: 0.0842  
Cu: 36.69 Cc: 2.72



## YANKTON COUNTY HIGHWAY DEPARTMENT

3302 W City Limits Road • Yankton, SD 57078

Ph: 605-260-4473 • Fax: 605-260-4492

### NOTICE TO RECEIVE BIDS ON CRUSHED SURFACING GRAVEL

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#### SPECIFICATIONS

1. Bidder shall furnish all royalty, materials, equipment, tools, and labor necessary to strip overburden, crush, weigh and test stockpiled 1" Crushed Gravel surfacing materials.
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TONS AVAILABLE 20,000 PRICE PER TON \$ 7.50

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Patty Hojem  
Yankton County Auditor

Mike Sedlacek  
Yankton County Highway Superintendent

#### BIDDER'S INFORMATION

Name: T

Company: First Rate Excavate

Address: 1509 E 39th St N

City, State, Zip: Sioux Falls, SD 57104

Phone/Email: 605-331-5626 / jayw@firstrateexcavate.com

ACCEPTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_

REJECTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_



**AMERICAN  
ENGINEERING  
TESTING, INC.**

American Engineering Testing, Inc.  
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www.amengtest.com

## Material Test Report

Report No: MAT-18-21741-S1

Issue No: 1

Client: FIRST RATE EXCAVATE, INC.

CC: JAY W.

Project: PRODUCTION CHECKS

SIoux FALLS SD

Job No: 32-02264

This document shall not be reproduced, except in full, without written approval from American Engineering Testing, Inc.

*Adam Johnson*

Date of Issue:

10/23/2018

Reviewed By:

Adam Johnson

Senior Engineering Technician

### Sample Details

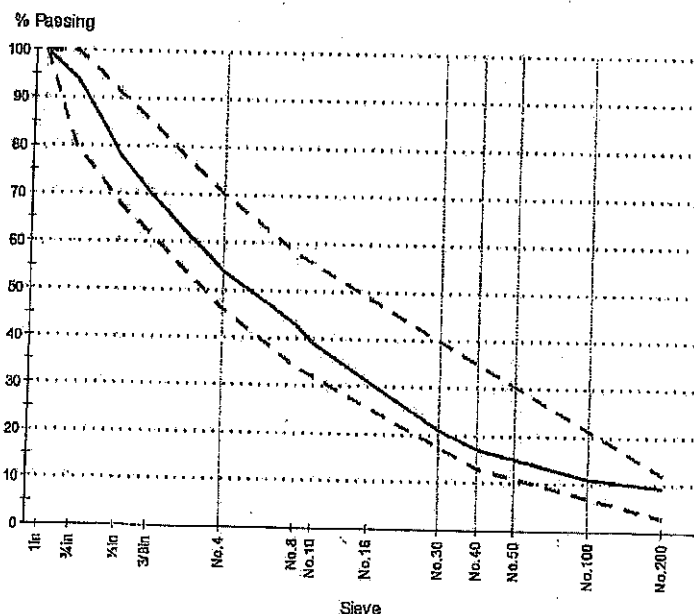
Sample ID: 18-21741-S1  
Field Sample ID: 10-18-18  
Date Sampled: 10/18/2018  
Source: Jason Fisher Pit  
Material: Aggregate Base Course  
Specification: SDDOT AGG BASE COURSE  
Sampling Method: Sampled by Client  
General Location: Jason Fisher Pit  
Location: 10-18-18  
Date Submitted: 10/19/2018

### Atterberg Limit

Liquid Limit: 22 <=25  
Plastic Limit: 17  
Plasticity Index: 5 0-6

### Sample Description

### Particle Size Distribution



### Grading: ASTM C 336, ASTM C 136

Date Tested: 10/20/2018

Tested By: Scott Dumdel

Sieve Size	% Passing	Limits
1in (25.0mm)	100	100
3/4in (19.0mm)	94	80 - 100
3/8in (9.5mm)	78	68 - 91
No. 4 (4.75mm)	70	
No. 10 (2.0mm)	54	46 - 70
No. 20 (0.85mm)	43	34 - 58
No. 40 (0.425mm)	39	
No. 60 (0.25mm)	31	
No. 100 (0.15mm)	21	13 - 35
No. 200 (0.075mm)	17	3.0 - 12.0

COBBLES	GRAVEL		SAND			FINES (9.2%)	
(0.0%)	Coarse (6.0%)	Fine (40.0%)	Coarse (15.0%)	Medium (22.0%)	Fine (7.8%)	Silt	Clay

D85: 15.0130 D60: 6.1600 D50: 3.6832  
D30: 1.1028 D15: 0.3000 D10: 0.1021  
Cu: 60.36 Cc: 1.93



## YANKTON COUNTY HIGHWAY DEPARTMENT

3302 W City Limits Road • Yankton, SD 57078

Ph: 605-260-4473 • Fax: 605-260-4492

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TONS AVAILABLE 60,000 PRICE PER TON \$5.95

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Patty Hojem  
Yankton County Auditor

Mike Sedlacek  
Yankton County Highway Superintendent

#### BIDDER'S INFORMATION

Name: Ralph Marquardt by Doug Marquardt POA Ralph Marquardt

Company: Utica Gravel, Inc.

Address: PO Box 1040

City, State, Zip: Yankton SD 57078

Phone/Email: 605 665 1053 / daveh@marqtrans.com

ACCEPTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_

REJECTED:

By: \_\_\_\_\_

Date: \_\_\_\_\_



## Yankton County Highway Department Entrance Application

**Applicant/Property Owner:**Name: James Hansen**Legal Description of Property:**24-96-54Mailing Address: P.O. Box 72NE 1/4 sec 24City, State, Zip: Custer S.D. 57730Parcel Number: 04.024.100.010Phone Number: 605.673.2390**Property Classification:**Email: Jayhant2@goldenwest.netFarm: ☐Field: ☒Business: ☐Residence: ☐Yankton County Highway No.: 452 nd Ave

Please attach a drawing or map showing the proposed location of the approach. The applicant will adhere to the specifications (see attached sheet) from the Highway Superintendent. The entrance must be installed no later than 90 days from the approval date. If an extension is needed, the applicant will need to meet with the Yankton County Commissioners.

All entrances will be at the landowner's expense unless otherwise stated. After the entrance is constructed the area must be reseeded (see attached sheet). The maintenance of the culvert will be the applicant's responsibility. There is a fee of \$75 to be paid at the time of the application.

Entrances to be built as directed and will be inspected during and after construction by the Yankton County Highway Superintendent or an appointed representative. If the entrance does not meet the terms of the application and specifications, the applicant shall make the proper adjustments at their own expense. You may drop off or mail the application to 3302 W City Limits Road, Yankton SD 57078.

Applicant's Signature

Date

Initial Approval (Superintendent)

Date

Chairman (Yankton County Commission)

Date Approved

**HIGHWAY DEPARTMENT USE ONLY:**

Fee paid: \_\_\_\_\_ Check No. \_\_\_\_\_

Comments: \_\_\_\_\_

Final Approval (Superintendent)

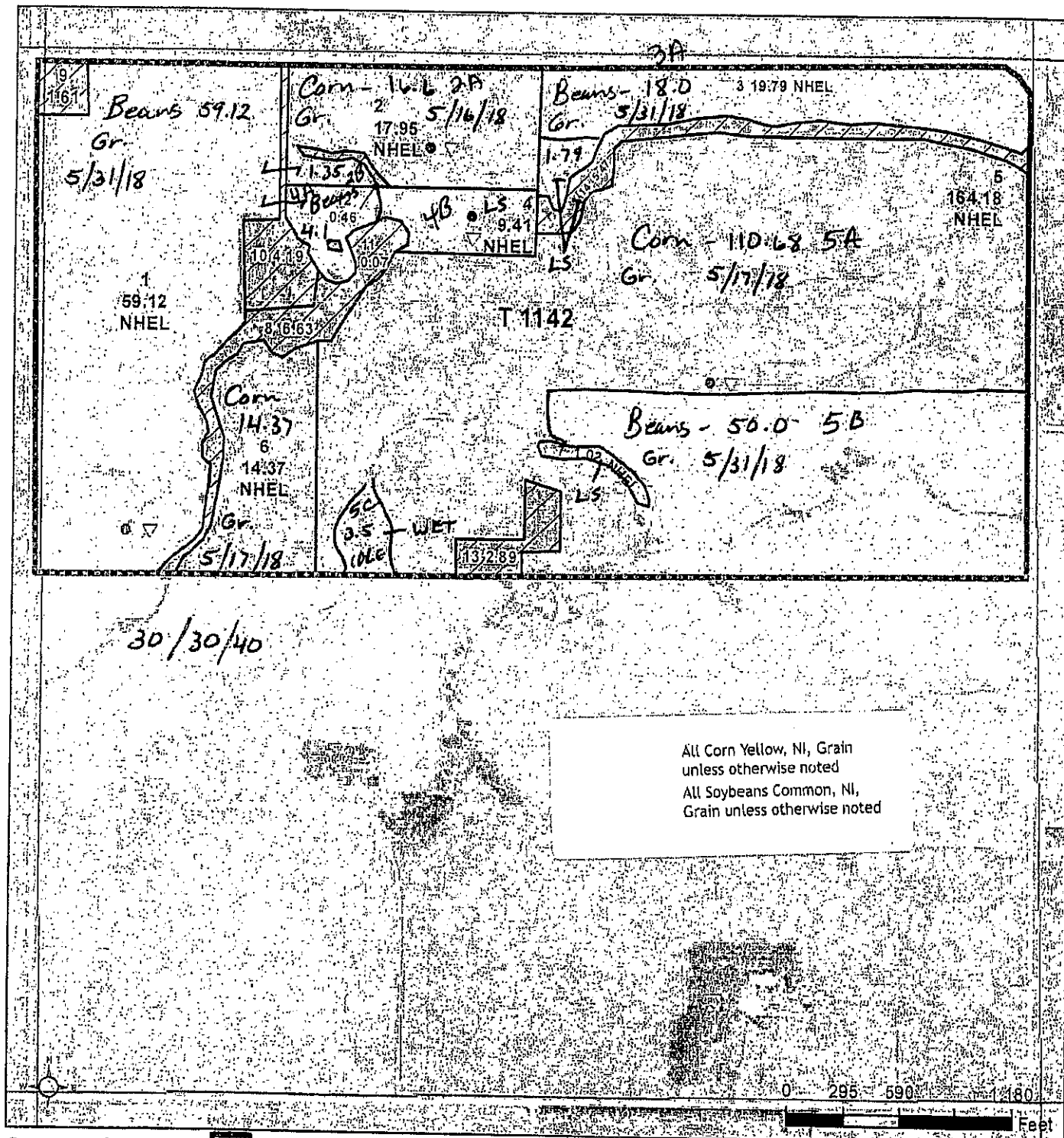
Date



United States  
Department of  
Agriculture

# Yankton County, South Dakota

1/1/2018



Common Land Unit

- Non-Cropland
- Cropland

Tract Boundary

PLSS

## Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation
- Compliance Provisions

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS). Refer to your original determination (CPA-026 and attached maps) for exact

2018 Program Year  
Map Created January 19, 2018

Farm 653

24 -96N -54W

**In Re: Access to Southeast Quarter of Section 7, Township 95 North, Range 57 West  
Yankton County, South Dakota**

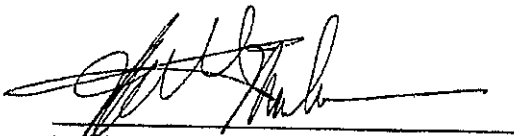
**APPLICATION FOR RIGHT OF  
ACCESS TO ISOLATED TRACT**

COMES NOW, the Marvin J. and Sandra A. Kramer Joint Revocable Trust, by and through its attorney, Michael F. Marlow of Yankton, South Dakota, and hereby submits this Application to the Yankton County Commission pursuant to SDCL Chapter 31-22 seeking access to an isolated tract of land. The Trust seeks access to an isolated tract of approximately 25-30 acres in the northeast corner of the Southeast Quarter (SE1/4) of Section 7, Township 95 North, Range 57 West in Yankton County, South Dakota, as shown on Exhibit A. Prior to recent rains, the Trust accessed its land by way of 429<sup>th</sup> Avenue, a minimum maintenance road, along the east side of the property. Due to recent rains, 429<sup>th</sup> Avenue, north of 299<sup>th</sup> Street, is covered by water and no travel is allowed according to posted signs. Thus, the isolated tract in question is not touched by a passable public highway which is in use or reasonably usable for motor vehicles.

Potential access to this isolated tract could be obtained utilizing the land of Layton Gall, the owner of the Northeast Quarter (NE1/4) of Section 7, Township 95 North, Range 57 West. Mr. Gall permitted limited access to plant and remove a forage crop from the property in the summer and fall of 2019, however, he has refused to permit any access for planting CRP grass in 2019 and any future dates. Mr. Gall and the Trust have also been unable at this time to agree to purchase a right-of-way from the isolated tract to a public highway through Mr. Gall's property.

Based on the foregoing, the Trust, pursuant to SDCL Chapter 31-22 seeks action by the Yankton County Commission to provide access to the isolated tract.

Dated this 18th day of September, 2019.



Michael F. Marlow  
Marlow, Woodward & Huff, Prof. LLC  
P.O. Box 667  
200 West Third Street  
Yankton, SD 57078  
Attorney for the Marvin J. and Sandra A. Joint Revocable Trust



## COMMISSIONER MEETING AGENDA REQUEST

321 W 3<sup>rd</sup>, Suite 100, Yankton, SD 57078

E-Mail: [patty@co.yankton.sd.us](mailto:patty@co.yankton.sd.us) or [karen@co.yankton.sd.us](mailto:karen@co.yankton.sd.us)

**Submission Deadline: 3:00pm on the Wednesday before scheduled meeting**

Date Request Submitted 9/10/19

Request is for Commission Meeting Dated 9/17/19

Name: Dan Dolejsi

Address: 30732 444th Ave

Phone: 605-999-9993

E-Mail Address: vickus@hughes.net

Topic to be Addressed and Length of Presentation: Neighborhood Watch

Approximately 5 min or so...

Specific Purpose for the Request (Please Also Attach Support Documents): \_\_\_\_\_

Guidelines that are Not being followed.

Person(s) Making Presentation to the Board: Myself

Audio/Visual Equipment Needed: no

For Office Use:

Approved ☒ Denied ☐ Reason(s): \_\_\_\_\_

Signature: [Signature]

Date: \_\_\_\_\_



## YANKTON COUNTY

APPLICATION # \_\_\_\_\_

Tim Binder@MV4006.com

Type or Print)

OWNER: Tim BinderOWNERS ADDRESS: 169 CLARK TRLOWNERS DAYTIME PHONE#: 605 665 0688DATE OF BUILDING PERMIT REQUEST: 8-13-2019

DESCRIPTION OF BUILDING PERMIT: \_\_\_\_\_

REASON FOR BUILDING PERMIT DENIAL: \_\_\_\_\_

DATE OF DENIAL: \_\_\_\_\_

JOB ADDRESS: 3300-3302 W. 8<sup>TH</sup> ST. YANKTON (HWY 52)LEGAL: S 200' W 330' PARCEL A NE 4 NW 4 EXC LTH-2TOWNSHIP: MTICA 93<sup>N</sup>-56<sup>W</sup> SECTION: 15EXISTING USE OF PROPERTY: CommercialPRESENT ZONING CLASSIFICATION: LSCPROPOSED ZONING CLASSIFICATION: LSCAFFECTED SECTION OF ZONING ORDINANCE: 1107 C4REASON FOR REQUEST: Develop second story into multifamily dwellings as well as northern portion of secondary buildingLIST SPECIFIC HARDSHIPS: NA

Applications will not be accepted nor acted upon until the following information has been provided by the applicant:

- A) Detailed Site Plan (Refer to handout)
- B) Location and Use of Adjacent Structures
- C) Application Fee(s)

SCHEDULED FOR PLANNING COMMISSION ACTION (Date): Sept 10, 2019SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date): Oct 1, 2019

\*TENTATIVE DATE: Final date announced at Planning Commission Meeting:

APPLICATION FEE: \$100.00CHECK #: 2384RECEIPT #: 5017

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the legal description is not delinquent.

Tim Binder

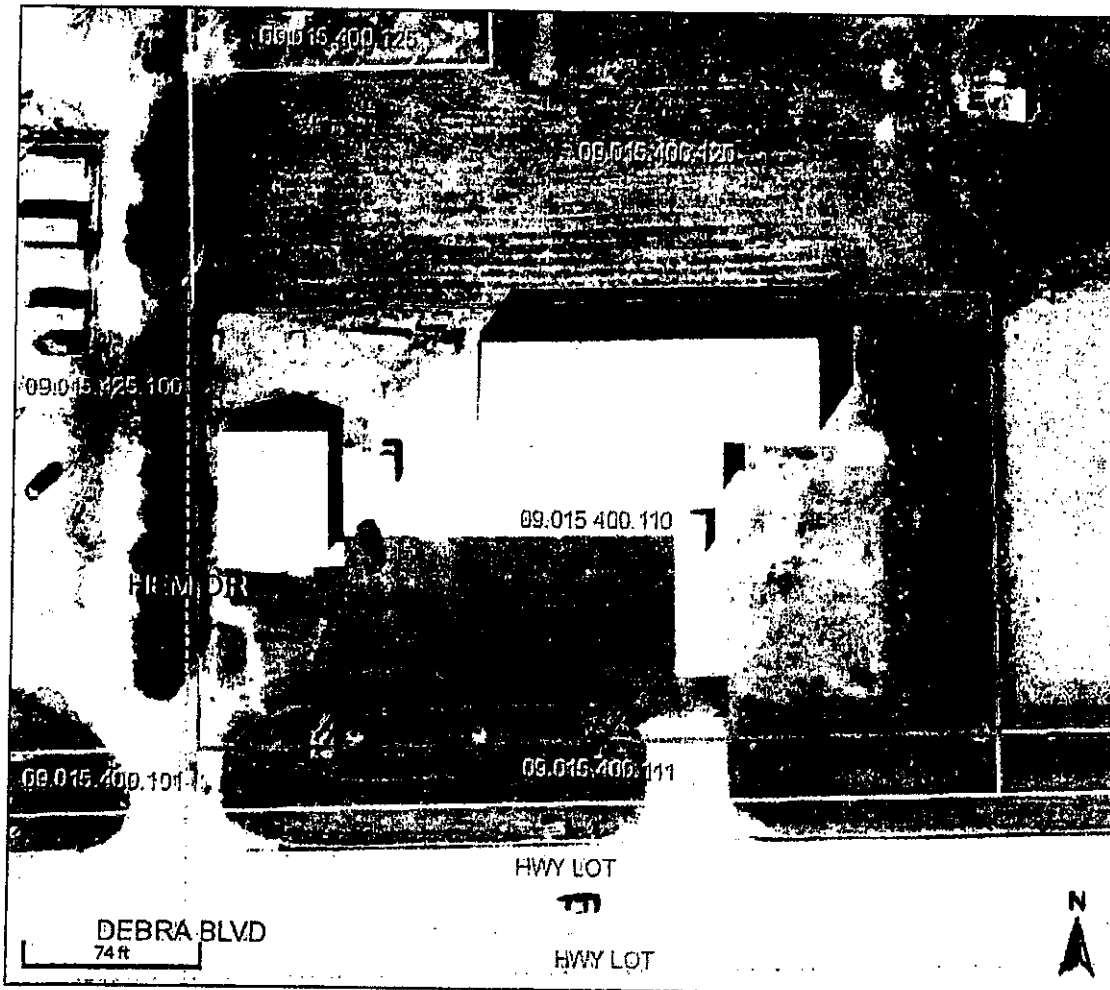
Date

Signature of Applicant/Owner

Date

8-13-19

# Beacon™ Yankton County, SD



Overview



Legend

- Townships
- Parcels
- Streets and Roads

Parcel ID	09.015.400.110	Alternate ID	n/a	Owner Address	BINDER, TIMOTHY
Sec/Twp/Rng	15-93-56	Class	NACC		169 CLARK TRL
Property Address	3300 WEST 8 ST	Acreage	n/a		YANKTON SD 57078
District	09633Y				
Brief Tax Description	S200' W330' PARCEL ANE4 NW4 EXC LTH-2				
	(Note: Not to be used on legal documents)				

Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 8/14/2019

Last Data Uploaded: 8/13/2019 10:19:24 PM

Developed by  Schneider  
GEOSPATIAL

## NOTIFICATION

August 31, 2019

Tim Binder  
3300 West 8<sup>th</sup> ST  
Yankton, South Dakota 57078

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 1,320 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date. You are hereby notified. Please take a moment to review the notice of public hearing described below.

### NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Planning Commission, Yankton County, South Dakota, at 7:05 P.M. on the 10th day of September, 2019, at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:

*Applicant is requesting a Conditional Use Permit to develop multi-family dwellings in the second-story of a commercial building in a Lakeside Commercial district. Said property is described as S200' W330' Parcel A NE4 NW4 Exc Lt H-2 S15 T93N R56W hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The address is 330 West 8<sup>th</sup> Street.*

The application may be reviewed at the Zoning Administrator's office, Yankton County Government Center, 321 West Third St., Yankton, S.D.

Sincerely,

Tim Binder  
Petitioner

BALENTINE, IONE M (D)  
3102 WEST 11 ST  
YANKTON SD 57078

BARKL, CHRIS (D)  
43422 SD HWY 50  
YANKTON SD 57078

BARRETT, BEAU C (D)  
3005 WEST 11 ST  
YANKTON SD 57078

BINDER, TIMOTHY (D)  
169 CLARK TRL  
YANKTON SD 57078

BOB LAW INC (D)  
3812 SD HWY 314  
YANKTON SD 57078

BRAUN, MARLIN R (D)  
3210 WEST 11 ST  
YANKTON SD 57078

BRAY, ELIZABETH (D)  
1000 RIVERVIEW LN  
YANKTON SD 57078

CATON, REBECCA (D)  
105 WAYNE ST  
YANKTON SD 57078

FEIMER, MICHAEL P (D)  
1004 MAY LN  
YANKTON SD 57078

GRAFF, GUY REVOCABLE TRUST (D)  
1007 APRIL LN  
YANKTON SD 57078

HANSON, STEVE (D)  
14355 SW ROCHESTER DR  
BEAVERTON OR 97008

HARTS, DONNA REVOCABLE TRUST (D)  
3412 SD HWY 314  
YANKTON SD 57078

HOFER, DAVID J (D)  
1009 APRIL LN  
YANKTON SD 57078

INHOFFER, RICK (D)  
3306 WEST 8 ST  
YANKTON SD 57078

JIM TRAMP CONSTRUCTION INC (D)  
2202 BURLEIGH ST  
YANKTON SD 57078

KIRCHNER, ORVILLE (LE) (D)  
3108 WEST 11 ST  
YANKTON SD 57078

KRAMER, DAVID M (D)  
54548 891 RD  
CROFTON NE 68730

LACROIX, MARLIN (D)  
1303 WEST 19 ST #4  
YANKTON SD 57078

LANGE FAMILY PROTECTION TRUST (D)  
118 LAKE SHORE DR  
UTICA SD 57067

LARSON, BARRETT P (D)  
2900 WEST 11 ST  
YANKTON SD 57078

LARSON, BARRETT P TRUST (D)  
2900 WEST 11 ST  
YANKTON SD 57078

LAW, BARBARA M LIVING TRUST (D)  
3004 DEER BLVD  
YANKTON SD 57078

LEET, LARRY REVOCABLE TRUST (D)  
1011 APRIL LN  
YANKTON SD 57078

MACY FAMILY TRUST (D)  
3701 WEST 11 ST  
YANKTON SD 57078

MACY, ROBERT M (D)  
3701 WEST 11 ST  
YANKTON SD 57078

MUELLER, MARY C (D)  
3204 WEST 8 ST  
YANKTON SD 57078

MUELLER, STEVEN (D)  
3204 WEST 8 ST  
YANKTON SD 57078

NEDVED, FRANK (D)  
1007 JUNE LN  
YANKTON SD 57078

PETERSON, MARK REV TRUST (D)  
2910 WEST 8 ST  
YANKTON SD 57078

PHIL SPADY CHRYSLER-JEEP-DODGE (D)  
316 CAPITOL ST  
YANKTON SD 57078

AFFIDAVIT OF MAILING

I, Timothy Binder, hereby certify that on the 24<sup>th</sup> day of September, 2019, I mailed by first class mail, postage prepaid, a true and correct copy of the Notice of Public Hearing to all owners of real property lying within a 1,320 feet radius of the proposed project to the most recent address of the recipient known to your Affiant.

A true and correct copy of the Notice of Public Hearing notification letters are attached as Exhibit #1 or #2.

A true and correct copy of the mailing list for owners of real property is attached as Exhibit #1A or #2A.

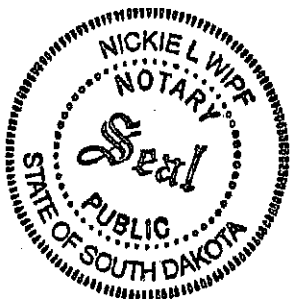
Dated the 24<sup>th</sup> day of September, 2019.

[Signature]  
(Name)  
Affiant

Subscribed and sworn to before me this 24<sup>th</sup> day of September, 2019.

[Signature]  
Notary Public - South Dakota  
My commission expires: 05-26-23

(SEAL)



YANKTON COUNTY  
APPLICATION #

debra.james@ymtmail.com  
05.010.300,320

Type or Print

OWNER:

Dale R. James

X

Variance Application

Conditional Use Permit

Rezoning Permit

OWNERS ADDRESS: PO Box 82 Lesterville SD

OWNERS DAYTIME PHONE#: 661-2014

DATE OF BUILDING PERMIT REQUEST:

DESCRIPTION OF BUILDING PERMIT: Pre-engineered Storage Building

REASON FOR BUILDING PERMIT DENIAL:

DATE OF DENIAL:

JOB ADDRESS: TBA Oak St Yankton SD 57078

LEGAL: Lot 20 Block 2 Sunrise Addition

TOWNSHIP: Mission Hill South SECTION: 10

EXISTING USE OF PROPERTY: material Storage

PRESENT ZONING CLASSIFICATION: Commercial

PROPOSED ZONING CLASSIFICATION:

AFFECTED SECTION OF ZONING ORDINANCE:

REASON FOR REQUEST: Variance for lot size from .69 acres instead  
of 2 acres & decrease frontyard from 100 ft to 50 ft

LIST SPECIFIC HARDSHIPS: With the existing setbacks it  
make it an unbuildable site

Applications will not be accepted nor acted upon until the following information has been provided by the applicant:

- A) Detailed Site Plan (Refer to handout)
- B) Location and Use of Adjacent Structures
- C) Application Fee(s)

SCHEDULED FOR PLANNING COMMISSION ACTION (Date):

SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date):

\*TENTATIVE DATE: Final date announced at Planning Commission Meeting:

APPLICATION FEE: 100 CHECK #: 10878 RECEIPT #: 5030

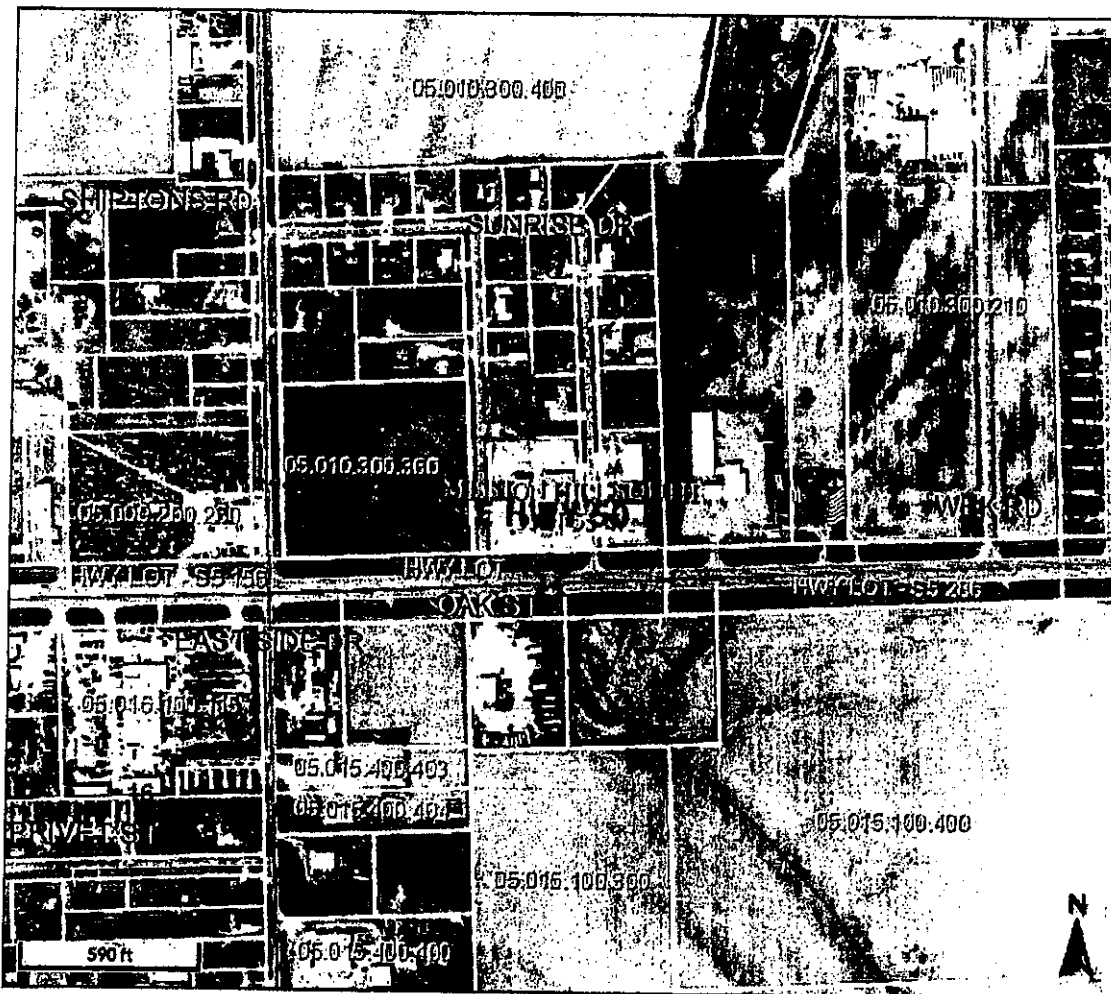
The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the legal description is not delinquent.

Name of Applicant

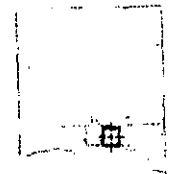
Date

Signature of Applicant/Owner

Date



Overview



**Legend**

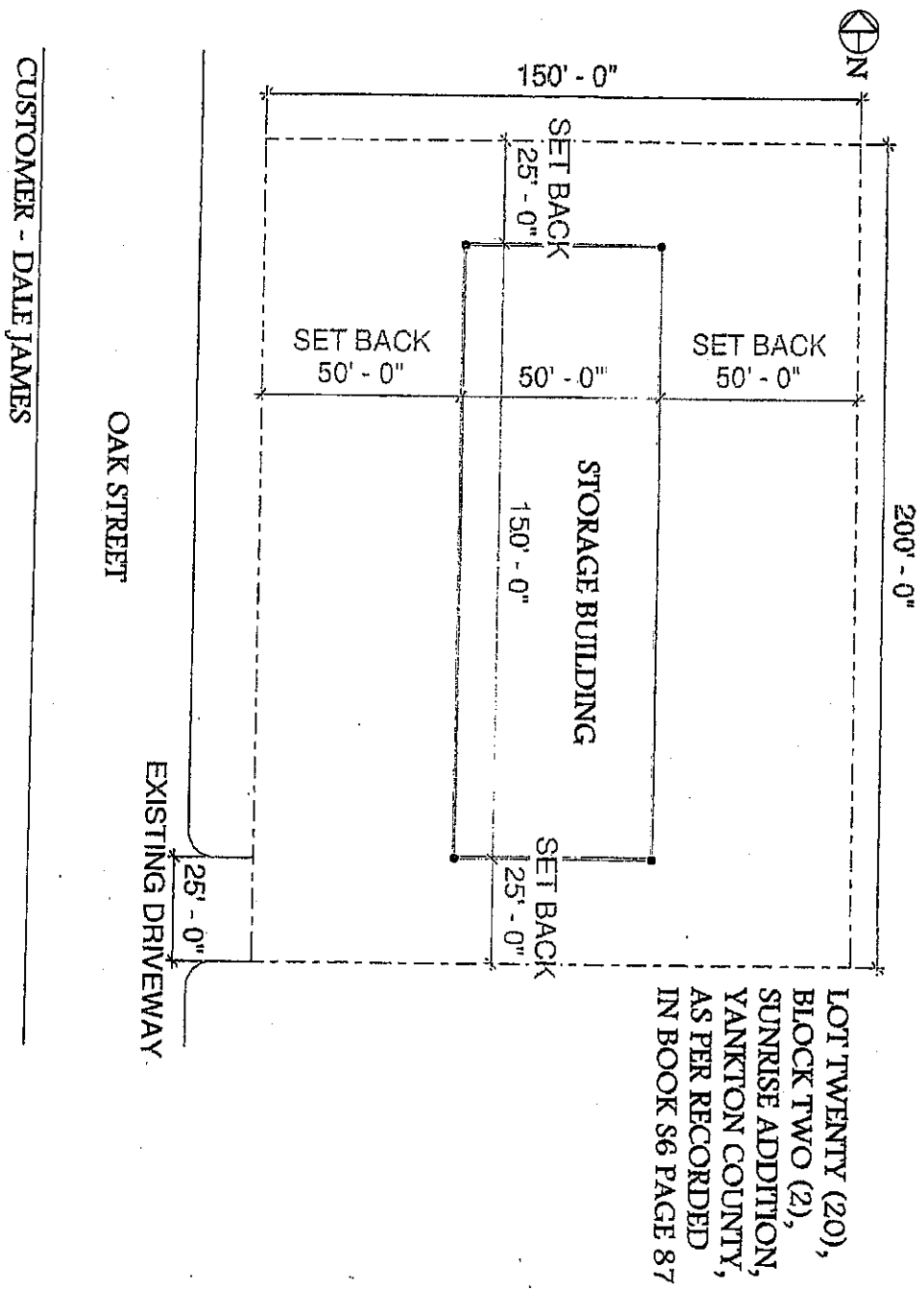
- ☐ Townships
- ☐ Sections
- ☐ Parcels
- ☐ Streets and Roads
- ☐ Streams

Parcel ID	05.010.300.320	Alternate ID	n/a	Owner Address	JAMES, DALER
Sec/Twp/Rng	10-93-55	Class	NACC		PO BOX 82
Property Address		Acreage	n/a		LESTERVILLE SD 57040
District	05633Y - 93-55 TWP/63-3				
Brief Tax Description	LT20BLK2 SUNRISE ADDN				
	(Note: Not to be used on legal documents)				

Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 9/4/2019  
Last Data Uploaded: 9/4/2019 3:04:19 AM

Developed by  **Schneider**  
GEOSPATIAL





AFFIDAVIT OF MAILING

I, DAVE R. JAMES, hereby certify that on the 31  
day of AUGUST, 2019, I mailed by first class mail, postage  
prepaid, a true and correct copy of the Notice of Public Hearing  
to all owners of real property lying within a 1,320 feet radius  
of the proposed project to the most recent address of the  
recipient known to your Affiant.

A true and correct copy of the Notice of Public Hearing  
notification letters are attached as Exhibit #1 or #2.

A true and correct copy of the mailing list for owners of real  
property is attached as Exhibit #1A or #2A.

Dated the 7 day of SEPTEMBER 2019.

[Signature]  
(Name)  
Affiant

Subscribed and sworn to before me this 3<sup>rd</sup> day of  
September, 2019.

[Signature]  
Notary Public - South Dakota  
My commission expires: 6-9-23

(SEAL)

ANDERSON, DEAN (D)  
1308 OAK ST  
YANKTON SD 57078

BARNETT, GUY W (D)  
1205 SUNRISE DR  
YANKTON SD 57078

BEATY, VIRGIL R (D)  
4518 N 95 ST  
OMAHA NE 68134

BLOW, DAREK L (D)  
1304 EAST SIDE DR  
YANKTON SD 57078

BRANAUGH, TIMOTHY F (D)  
2003 PENINAH ST  
YANKTON SD 57078

BRENDEN, JEREMY L (D)  
30855 445 AVE  
MISSION HILL SD 57046

CHIPMAN, ROBERT (D)  
1602 SUNRISE ST  
YANKTON SD 57078

CHYTKA, SAGE E (D)  
1604 SUNRISE DR  
YANKTON SD 57078

EAGLE VENTURE PROPERTIES LLC (D)  
PO BOX 711  
YANKTON SD 57078

EASTSIDE ENTERPRISES LLC (D)  
1501 WEK RD  
YANKTON SD 57078

EIDE FAMILY TRUST (D)  
1305 EAST SIDE DR  
YANKTON SD 57078

EILERS, ALAN M (D)  
1600 SUNRISE DR  
YANKTON SD 57078

FELDHACKER HOLDINGS LLC (C)  
3608 SD HWY 50  
YANKTON SD 57078

FLINN, BRANDON LEE (D)  
3211 SHIPTONS RD  
YANKTON SD 57078

GEORGESON, LILLIAN V (D)  
1309 SUNRISE DR  
YANKTON SD 57078

GUTHMILLER, DAN (C)  
2307 VALLEY RD  
YANKTON SD 57078

GUTHMILLER, DAN J (D)  
2307 VALLEY RD  
YANKTON SD 57078

HAAS, LEONARD J JR (D)  
1503 EAST SIDE DR  
YANKTON SD 57078

HANSEN, STEVE (D)  
1207 EAST SIDE DR  
YANKTON SD 57078

HANSEN, STEVEN D (D)  
1207 EAST SIDE DR  
YANKTON SD 57078

HEARTLAND HUMANE SOCIETY INC (D)  
3400 SD HWY 50  
YANKTON SD 57078

HEINE, MYRON (D)  
56031 898 RD  
SAINT HELENA NE 68774

HUNHOFF, MARK B REV TRUST (D)  
44619 305 ST  
VOLIN SD 57072

JAMES, DALE R (D)  
PO BOX 82  
LESTERVILLE SD 57040

JANSSEN, LOWELL REV TRUST (D)  
1112 TIMBERLAND DR  
YANKTON SD 57078

JOHNSON, LYLE D (D)  
1302 OAK ST  
YANKTON SD 57078

KANEB PIPE LINE CO (D)  
PO BOX 690110  
SAN ANTONIO TX 78269

KIBBLE, WILLIAM (D)  
2124 ISLEWORTH CIR  
THE VILLAGES FL 32163

KLEIN, KYLE JAMES (C)  
1607 EAST SIDE DR  
YANKTON SD 57078

KOLETZKY IMPLEMENT INC (D)  
PO BOX 589  
YANKTON SD 57078

ZAPPA LLC (D)  
PO BOX 91604  
SIOUX FALLS SD 57109

Yankton County Planning Commission  
Yankton County Board of Adjustment

Date filed: 08/15/19

Applicant

Bruening - Variances

EXHIBIT A - VARIANCE APPLICATION

District type: ☐ AG ☐ R1-Low ☒ R2-Moderate ☐ R3-High ☐ C-Comm.

☐ LC - Lakeside Commercial ☐ RT-Rural Transitional

Variance needed:

☐ Section 513 ☐ Section 515 ☐ Section 705 ☒ Section 715 ☐ Section 805

☐ Other 605

North Side/ Yard lot line: \_\_\_\_ feet or no closer than \_\_\_\_ feet to the \_\_\_\_ lot line.

East Side / Yard lot line: \_\_\_\_ feet or no closer than \_\_\_\_ feet to the \_\_\_\_ lot line.

South Side / Yard lot line: \_\_\_\_ feet or no closer than \_\_\_\_ feet to the \_\_\_\_ lot line.

West Side / Yard lot line \_\_\_\_ feet or no closer than \_\_\_\_ feet to the \_\_\_\_ lot line.

Accessory Building Size allowed:

Proposed building size:

Proposed sidewall height:

Affects Section: 713 and 715

**NOTE:**

Applicant is requesting a variance to decrease the front yard minimum requirement from 30 feet to 13 feet in a Moderate Density district.

PC: Article 7, Sections 713 #1 and 715 #1

BOA: Article 7, Section 715 #1

Planning Commission date: 09-10-19  
Board of Adjustment date: 10-01-19

Time: 7:25 PM  
Time: 7:10 PM

**YANKTON COUNTY**  
**BUILDING PERMIT APPLICATION**

Each building site must have a separate site plan

*Applicant to complete numbered spaces only.*

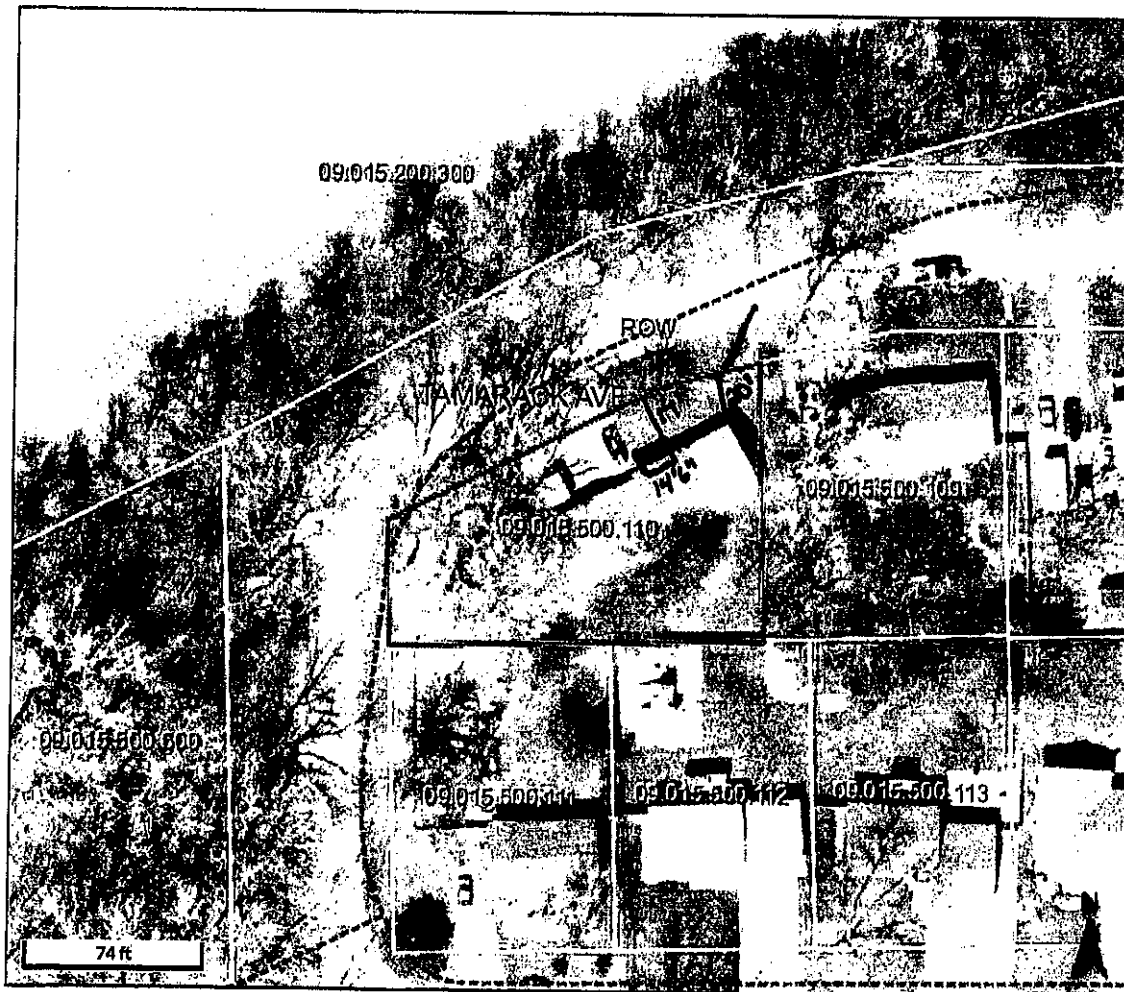
1. Job Address	119 Tamarack Ave		
2. Legal Description of Construction Site	LT 10 BK 1 Timberland Park		
3. Owner	Mail Address	Zip	Phone
Joseph Bruening	119 Tamarack Ave	57078	402-6514361
4. Contractor	Mail Address	Zip	Phone
"	"	"	"
5. Architect or Designer	Mail Address	Zip	Phone
6. Type and Use of Building			
Deck			
7. Class of Work (Check One) <input type="checkbox"/> New <input type="checkbox"/> Addition <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Repair <input type="checkbox"/> Move <input type="checkbox"/> Remove			
8. Describe Work:			
changing the 4' x 6' deck to a 12' x 14' 6" deck			
9. Valuation of Work: \$ 2000   Mobile/Manufactured Home Tax Affidavit Y N			

OWNER

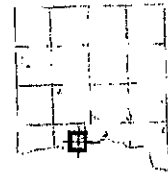
For Official Use Only-

SPECIAL CONDITIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:	PERMIT FEE 25 <sup>00</sup>	Check # 1090
<p style="text-align: center;"><b>NOTICE</b></p> <p>THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN ONE HUNDRED EIGHTY (180) DAYS OR CONSTRUCTION IS NOT SUBSTANTIALLY COMPLETED WITHIN TWO (2) YEARS OF ISSUANCE. I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY ZONING ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING CONSTRUCTION ACTIVITIES OR THE USE OF ANY PROPERTY.</p>			Type of Construction	Sewer/Water Certification of Service
			Total Square Feet	Number of Stories
			Zoning District	Number of Accessory Buildings
			Number of Dwelling Units	Property/Parcel/Lot Size
			<p><b>For County Officials Use Only</b></p> <p>When properly validated (in this space), this is your permit.</p> <p>The above application is hereby approved.</p> <p>Building Permit Number: _____</p> <p>Post Construction? Y N</p> <p>Zoning Administrator or Authorized Representative _____</p> <p>Date _____</p>	
Signature of Contractor or Authorized Agent _____ Date _____				
Signature of Owner (if owner builder) _____ Date _____				
BY THIS SIGNATURE, THE ZONING ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION				



#### Overview



#### Legend

- ☐ Townships
- ☐ Parcels
- ☐ Streets and Roads
- County Zoning District
  - <all other values>
  - COMMERCIAL
  - ETJ
  - HIGH DENSITY RESIDENTIAL
  - LAKE SIDE COMMERCIAL
  - LOW DENSITY RESIDENTIAL
  - MODERATE DENSITY RESIDENTIAL
  - PLANNED UNIT DEVELOPMENT
  - PUBLIC
  - RURAL TRANSITIONAL

Parcel ID	09.015.500.110	Alternate ID	n/a	Owner Address	BRUENING, JOSEPH D
Sec/Twp/Rng	15-93-56	Class	NACO		119 TAMARACK AVE
Property Address	119 TAMARACK AVE	Acreage	n/a		YANKTON SD 57078
	YANKTON				
District	09633Y - 93-56 TWP/63-3				
Brief Tax Description	LT 10 BK 1 TIMBERLAND PARK				
	(Note: Not to be used on legal documents)				

Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 9/26/2019  
Last Data Uploaded: 9/26/2019 3:09:33 AM

Developed by  **Schneider**  
GEOSPATIAL



## NOTIFICATION

August 31, 2019

Joseph Bruening  
119 Tamarack Ave  
Yankton, South Dakota 57078

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 1,320 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date. Therefore, you are hereby notified. Please take a moment to review the notice of public hearing described below.

### NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Planning Commission, Yankton County South Dakota, at 7:25 P.M. on the 10th day of September, 2019 at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:

*Applicant is requesting a variance to decrease the minimum lot size from 1 acre to .29 acres and decrease front yard from 30 feet to 13 feet in a Moderate Density district. Said property is described as Lot 10 Bk 1 Timberland Park Hills S15 T93N R56W hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The address is 119 Tamarack Ave.*

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D. or online at the Yankton County Website

Sincerely,

Joseph Bruening  
Petitioner



## NOTIFICATION

September 21, 2019

Joseph Bruening  
119 Tamarack Ave  
Yankton, South Dakota 57078

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 1,320 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date. Therefore, you are hereby notified. Please take a moment to review the notice of public hearing described below.

### NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Board of Adjustment, Yankton County South Dakota, at 7:10 P.M. on the 1<sup>st</sup> day of October, 2019 at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:

*Applicant is requesting a variance to decrease the front yard minimum requirement from 30 feet to 13 feet in a Moderate Density district. Said property is described as Lot 10 Bk 1 Timberland Park Hills S15 T93N R56W hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The address is 119 Tamarack Ave.*

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D. or online at the Yankton County Website

Sincerely,

Joseph Bruening  
Petitioner

METZ, LAVERN F (D)  
100 FORESTVIEW DR  
YANKTON SD 57078

MILLER, JEREMY J (D)  
104 GROVE ST  
YANKTON SD 57078

MONTREUIL, ZACHARY J (D)  
118 FORESTVIEW DR  
YANKTON SD 57078

MUTSCHELKNAUS, JOSEPH A (D)  
602 KIRBY ST  
YANKTON SD 57078

NOVAK, JOHN A (D)  
111 TAMARACK AVE  
YANKTON SD 57078

NOVAK, KYLE J (D)  
101 GROVE ST  
YANKTON SD 57078

OVERSETH, TERRY (D)  
107 TAMARACK AVE  
YANKTON SD 57078

PETERSEN, NATHAN J (D)  
116 FORESTVIEW DR  
YANKTON SD 57078

ROLSTON, PAUL F (D)  
104 FORESTVIEW DR  
YANKTON SD 57078

RYKEN LEGACY LAND TRUST (D)  
%RUSSELL RYKEN  
19597 EAST 70 ST N  
OWASSO OK 74055

SANCHEZ, JOSE A (D)  
110 GROVE ST  
YANKTON SD 57078

SANOW, MICHAEL (AKA MICHAEL P) (D)  
108 GROVE ST  
YANKTON SD 57078

SCARPACE, NANCY A (D)  
100 TIMBERLAND DR  
YANKTON SD 57078

SLATTERY, RICHARD T (D)  
103 COTTONWOOD LN  
YANKTON SD 57078

THYGESON, RAND (D)  
103 GROVE ST  
YANKTON SD 57078

TIMBERLAND PK HOMEOWNERS ASSOC  
% THYGESON, SHANDRA  
103 GROVE ST  
YANKTON SD 57078

TIRRELL, BRUCE A (D)  
111 FORESTVIEW DR  
YANKTON SD 57078

TOUPAL, JOHN E (D)  
102 GROVE ST  
YANKTON SD 57078

WALSH, CAROLINE A (LE) (D)  
102 FORESTVIEW DR  
YANKTON SD 57078

WARREN, LISA (D)  
100 GROVE ST  
YANKTON SD 57078

WATERS, ROBERT LEE (D)  
113 TAMARACK AVE  
YANKTON SD 57078

WEBER, MICHAEL (D)  
500 KIRBY ST  
YANKTON SD 57078

WOLLES, JESSICA (D)  
105 TAMARACK AVE  
YANKTON SD 57078

WUEBBEN, KENNETH J (D)  
100 COTTONWOOD LN  
YANKTON SD 57078

ZIEGLER, DAVID A (D)  
5821 HALFMOON WAY  
LAS VEGAS NV 89108

ZIEGLER, MARY L (D)  
5821 HALFMOON WAY  
LAS VEGAS NV 89108

ZIEGLER, WM (D)  
201 EAST 23 ST  
YANKTON SD 57078

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

[www.state.sd.us/atg](http://www.state.sd.us/atg)

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

July 15, 2020

Todd B. Woods  
108 Starboard St.  
Yankton, SD 57078

Re: In the Matter of Open Meeting Complaint 2020-03, Yankton County Commission,  
Yankton County, South Dakota

Dear Mr. Woods:

This letter is to acknowledge receipt of an open meetings complaint filed by you against the Yankton County Commission. The complaint was forwarded to me by Caroline Srstka, Assistant Attorney General, on behalf of the Yankton County States Attorney's Office. A copy of the complaint has been submitted to the Yankton County Commission. I have asked the County Commission to file a response no later than August 15, 2020, and that they mail you a copy of any response filed.

The Open Meetings Commission meets periodically and has not scheduled its next meeting. I will notify you of the date, time and location of the next Commission meeting. The Commission may ask that you make a brief presentation regarding the complaint.

If you have any questions please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", followed by a horizontal line.

Steven R. Blair  
Assistant Attorney General

SRB/jm

Cc: Yankton County Commission  
Caroline Srstka, Assistant Attorney General

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

[www.state.sd.us/atg](http://www.state.sd.us/atg)

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

July 15, 2020

Yankton County Commission  
321 W. 3rd St., Suite 100  
Yankton, SD 57078

Re: In the Matter of Open Meeting Complaint 2020-03, Yankton County Commission, Yankton County, South Dakota

Dear County Commissioners,

I assist the South Dakota Open Meetings Commission with their duties. Pursuant to SDCL 1-25-6(3), Assistant Attorney General Caroline Srstka, on behalf of the Yankton County States Attorney's Office, has forwarded to the Commission a complaint concerning the Yankton County Commission. The complaint was signed by Todd B. Woods. Enclosed is a copy of all the materials I have received.

If the County Commission wishes to file a response to the complaint, please send it to the above address on or before August 15, 2020. Please also send copies of any response to Todd B. Woods, 108 Starboard Street, Yankton, South Dakota 57078 and to Caroline Srstka, Assistant Attorney General, 2000 E. 52nd St. North, Sioux Falls, South Dakota 57104.

After I have received your response, all materials will be sent to the members of the Commission for their review. The Commission meets periodically and has not yet scheduled its next meeting. You will be given further notice of the meeting date, location, and time once the meeting has been scheduled.

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", followed by a horizontal line.

Steven R. Blair  
Assistant Attorney General

SRB/jm

Enclosures

Cc w/o Encl: Todd B Woods  
Caroline Srstka, Assistant Attorney General

AUG 17 2020

431751

Office of the  
**Yankton County State's Attorney**

410 Walnut Street, Suite 100  
Yankton, South Dakota 57078  
Telephone 605.665.4301  
Facsimile Number 605.668.1883



**Robert W. Klimisch**  
Yankton County State's Attorney

**Debra K. Lillie**  
Chief Deputy State's Attorney

**Tyler L. Larsen**  
Deputy State's Attorney

August 14, 2020

Office of Attorney General  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Todd B. Woods  
108 Starboard Street  
Yankton, South Dakota 57078

Caroline Srstka  
Assistant Attorney General  
2000 E. 52<sup>nd</sup> Street North  
Sioux Falls, South Dakota 57104

Re: Response to In the Matter of Open Meeting Complaint  
2020-03, Yankton County Commission, Yankton County,  
South Dakota

Dear Commission:

The Yankton County Commission responds as hereinafter set forth to Ms. Srstka's letter dated July 10, 2020, addressing her review/investigation of Mr. Woods' Open Meeting Laws Violation Complaint of the October 1, 2019, Yankton County Commission Meeting. The Complaint listed three reasons for review.

1. **WOODS' ALLEGED OPEN MEETING VIOLATION:** The Yankton County Commissioners added item #11A to approve Resolution YC 19-8, as an addition to the agenda.

**SRSTKA'S REVIEW:** Ms. Srstka's review held that this alleged Open Meeting violation should be submitted to the Open Meeting Commission for review for the Yankton County Commission's failure to post it as an agenda item at least twenty-four hours in advance before the commencement of the meeting.

**COUNTY'S RESPONSE TO NO. 1:** Agenda #11A was for the "Emergency Mental Illness Board Appointment". As set forth in Resolution YC 19-8, this was for the appointment of the Yankton County Mental Illness Board to also serve as the mental health board for Lincoln County due to the destruction of their mental health facility. This agenda item had been noticed for approval for the September 18, 2019, Yankton County Commission meeting. See Exhibit 1, attached hereto denoted as No. 07 page 1 sixth line "Emergency Mental Illness Board Appointment". As the paperwork was not completed by the September 18, 2019, meeting the matter was continued. See Exhibit 2, attached hereto denoted as "Emergency Mental Illness Board Appointment: Item will be rescheduled for a later meeting" on page 4, lines 8 and 9.

The item was not only continued from the preceding meeting but also the Yankton County Commission's action was only the acceptance of an agreement between the Yankton County Mental Illness Board and the Lincoln County Mental Illness Board. Action and/or discussion by the Board was not required or necessary. See Exhibit 4 which contains the video of the continuance request from the previous meeting and the addition to the preliminary agenda prior to approval of the final agenda.

Items may be added or deleted from the preliminary agenda prior to the approval of the final agenda.

2. **WOODS' ALLEGED OPEN MEETING VIOLATION:** Agenda item #12 to appoint an Acting Planning and Zoning Administrator, with the addition the Acting Planning and Zoning Administrator will act under the guidance of Commissioner Healy.

**SRSTKA'S REVIEW:** Ms. Srstka's review held that this "agenda item did not prove that the Yankton County Commission were to appoint a Commissioner of which would act in a supervisory role to the Planning and Zoning Administrator" and therefore should be submitted to the Open Meeting Commission for review.

**COUNTY'S RESPONSE:** The County's response is included in

response No. 3 as hereinafter set forth.

3. **WOODS' ALLEGED OPEN MEETING VIOLATION:** Agenda item #12 and the addition that all complaints received for zoning enforcement, and decisions made be reviewed and rendered by the Planning and Zoning administrator.

**SRSTKA'S REVIEW:** Ms. Srstka's review held agenda item #12 did not include the addition that "any and all complaints that are received for zoning enforcement and render a decision on the complaints" for the Yankton County Commission to appointment the Planning and Zoning Commission to perform such tasks.

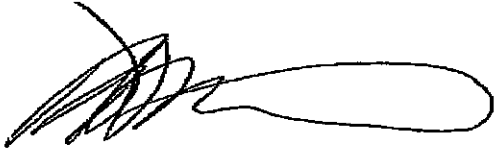
**COUNTY'S RESPONSE TO NO. 2 & NO. 3:** This agenda item was contained on the October 1, 2019, Agenda as No. 12 set for 6:40 pm entitled "Appoint Acting Zoning Administrator". See Exhibit 3, attached hereto denoted on line 1, page 2. Although the Complaint addresses these as separate violations, there was a single motion on Agenda item #12 which stated: "A motion was made by Loest and seconded by Swensen to appoint Jessica Atkinson as acting Planning and Zoning Administrator under the Guidance of Commissioner Healy on Building Permits, Conditional Use and Variance applications and also to appoint the Planning and Zoning Commission to review any and all complaints that are received for zoning enforcement and render a decision on the complaints."

A reasonable prudent person could conclude that an Agenda item stating "Appoint Acting Zoning Administrator" would involve the delegation of the duties of a zoning administrator to one or more persons. In this matter, the Yankton County Commission delegated duties of the zoning administrator position to Jessica Atkins for the performance of day-to-day routine matters, appointed Joseph Healy to review and assist in day-to-day routine matters and more complex zoning issues; and, appointed the Planning and Zoning Commission to assist in zoning enforcement and review. See Exhibit 4, attached hereto, which contains video of the discussion that occurred at the meeting regarding this agenda item and Exhibit 5 which is the Yankton Count Zoning Administrator job description.

All appointments occurred within the agenda item "Appoint Acting Zoning Administrator" and any other interpretation would result in limiting a commission in its ability to act on agenda items unless every conceivable action was addressed in the heading (ie. agenda item "Appoint Acting Zoning

Administrator To Handle Day-To-Day Activities, Appoint a Person to Help the Acting Zoning Administrator with Non-Day-To-Day Activities; and, Appoint the Planning Commission to handle Non-Day-To-Day Activities That Involve Zoning Complaints and Render Decisions. Requiring agenda items to include such detail would be cumbersome and impossible to manage.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Robert W. Klimisch', with a long horizontal flourish extending to the right.

Robert W. Klimisch  
Yankton County State's Attorney



# Agenda

## Yankton County Commission

6:00 PM, Wednesday, September 18, 2019

Commission Chamber

Yankton County Government Center

DOCUMENTS WILL BE AVAILABLE AT AUDITOR'S OFFICE FOR REVIEW  
BEGINNING SEPTEMBER 16. COPIES AVAILABLE FOR \$1.00 PER PAGE

Meeting chaired by: Dan Klimisch, Chairperson

01 Call to order: 6:00 PM PLEDGE OF ALLEGIANCE

02 Roll Call: \_\_\_\_\_ Don Kettering \_\_\_\_\_ Gary Swensen  
\_\_\_\_\_ Joseph Healy \_\_\_\_\_ Cheri Loest \_\_\_\_\_ Dan Klimisch

### AGENDA ITEMS

No.	Time	Item Description	Presenter
03	6:00 PM	Abstain Financial Conflict of Interest (SDCL 6-1-17) Non-Financial Interest-Must State Reason for Abstaining	Commissioner Klimisch
04		Approval of Agenda	
05		Approval of Minutes from September 3, 2019 Commission Meeting	
06	6:05 PM	Public Comments	
07	6:10 PM	Claims Pooled Cash Report, Auditor/Treasurer Report Request Native American/Columbus Day Off Approve County Employee Flu Shots Approve Lewis & Clark West Road District Emergency Mental Illness Board Appointment	Auditor
08	6:15 PM	Declare a County Emergency	Paul Scherschligt
09	6:30 PM	Snow Removal	Scot Woodmancy
10	6:35 PM	Eagle View Pictometry Contract	

EXHIBIT

1

11	6:50 PM	Entrance Application- Travis Devine Entrance Application- Daniel Grant Right of Way- Lyle Hauger	Mike Sedlacek
12	6:55 PM	Repair of Road or Alternate Access	Mike Marlow
13	7:10 PM	Neighborhood Watch Guidelines Not Being Followed	Dan Dolejsi
14	7:15 PM	Mission Hill Hog CAFO Odor Complaints	Commissioners
15	7:25 PM	Update on Zoning Enforcement	Planning and Zoning
16	7:30 PM	Zoning Ordinance Discussion/Land Use Direction for the Planning Commission	Commissioners
17	7:35 PM	Commercial Building Permit Fee Discussion	Don Kettering
18	7:40 PM	Public Comments	
19	7:45 PM	Commissioner Updates	Commissioners
20	7:50 PM	Executive Session/Litigation Pursuant to SDCL 1- 25-2(3)	State's Attorney
		Items for Next Meeting	

YANKTON COUNTY COMMISSION MEETING  
September 18, 2019

The regular meeting of the Yankton County Commission was called to order by Chairman Dan Klimisch at 6:00 PM on Wednesday, September 18, 2019.

Roll Call was taken with the following Commissioners present: Don Kettering, Gary Swensen, Joseph Healy, Cheri Loest, and Dan Klimisch.

There were no conflicts of interest reported by Commissioners.

**Action 19423C:** A motion was made by Healy and seconded by Kettering to approve the meeting agenda. All present voted aye; motion carried.

**Action 19424C:** A motion was made by Kettering and seconded by Loest to approve the minutes of the September 3, 2019 meeting. All present voted aye; motion carried.

There was one public comment from Dale Knode.

Chairman Klimisch closed the public comment portion of the meeting.

**Action 19425C:** A motion was made by Loest and seconded by Healy to approve the following claims; **Non-Departmental:** Accent (Refund-Ambulance) \$614.59, Diane Meyers (Travel) \$700.48; **Commissioners:** Intuvio Solutions (Professional Services) \$49.95, Boys & Girls Club of Brookings SD (Other) \$20,000.00, JoDean's Steakhouse & Lounge (Other) \$918.50, Yankton County Observer (Publishing) \$468.48, Yankton Daily P & D (Publishing) \$1,133.43; **Court:** Avera Sacred Heart Hospital (Professional Services) \$1,628.00, Megan Reeves (Professional Services) \$350.20, Harmelink & Fox Law Office (Professional Services) \$823.69, Fox & Youngberg PC (Professional Services) \$16,479.00, Great Palins Psychological Services (Professional Services) \$1,665.00, Horn Law Office LLC (Professional Services) \$2,137.90, Kennedy Pier Loftus & Reynolds, LLP (Professional Services) \$5,913.30, Department of Health (Lab Crt-Aug 2019) \$830.00, Thomson Reuters (Supplies) \$75.00; **Auditor:** Culligan (Supplies) \$13.50, Arrowwood Resort & Conference Center (Travel) \$101.95, first bankcard (Supplies) \$45.90, Leaf (Rentals) \$159.00, McLeod's Printing & Office Supply (Supplies) \$102.90, Qualified Presort Services LLC (Supplies) \$122.62, Security Shredding Services (Maintenance) \$210.00, One Office Solution (Supplies) \$14.46; **Treasurer:** Qualified Presort Services, LLC (Supplies) \$132.31, Security Shredding Services (Maintenance) \$70.00; **Data Processing:** Leaf (Rentals) \$104.86, Miller Consulting (Maintenance) \$8,986.70; **States Attorney:** C & B Operations, LLC (Supplies) \$78.32, Culligan (Supplies) \$6.75, Executive MGMT Finance Office (Utilities) \$24.00, Miller Consulting (Maintenance) \$160.00, Qualified Presort Services LLC (Supplies) \$53.23; **Government Building:** Kopetsky's Ace Hardware (Supplies) \$43.98, Wellmark Blue Cross & Blue Shield (Spouse Health Ins Coverage) \$964.01, MidAmerican Energy (Utilities) \$182.11, Olson's Pest Technicians (Maintenance) \$79.00, United Laboratories INC (Supplies) \$235.73; **Director of Equalization:** Matt Archer (Travel) \$206.00, Clubhouse Hotel & Suites (Travel) \$1,345.00,

Arrowwood Resort & Conference Center (Travel) \$203.90, Ecowater Systems (Supplies) \$30.00, First Bankcard (Supplies) \$159.36, First Bankcard (Travel) \$876.00, Michelle Goeken (Travel) \$200.00, McLeod's Printing & Office Supply (Supplies) \$219.00, Microfilm Imaging Systems (Maintenance) \$70.00, Qualified Presort Services LLC (Supplies) \$14.59; **Register of Deeds:** Executive Mgmt. Finance (Utilities) \$24.00, Microfilm Imaging Systems (Rentals) \$336.00, Qualified Presort Services LLC (Supplies) \$47.81; **VA:** Ramkota Hotel & Conference Center (Travel) \$216.00, Michael McDonald (Travel) \$368.12, Qualified Presort Services LLC (Supplies) \$6.01; **Safety Center Building:** Vast Business (Utilities) \$1,164.02, City of Yankton (Utilities) \$168.00, Menards (Supplies) \$7.98; **Sheriff:** City of Yankton (Fuel) \$2,892.20, Culligan (Supplies) \$33.75, Les Drake (Travel) \$33.00, Auto Value Yankton (Maintenance) \$32.98, Jack's Uniforms & Equipment (Uniforms) \$123.89, Qualified Presort Services LLC (Maintenance Contracts) \$132.65, Tire Muffler Alignment (Maintenance) \$19.72, One Office Solution (Supplies) \$29.56, One Office Solution (Maintenance) \$15.88; **County Jail:** Avera Education & Staffing Solutions (Professional Services) \$80.00, AMG Ear, Nose & Throat (Professional Services) \$363.78, Culligan (Food Services) \$26.25, Avera Medical Group Radiology (Professional Services) \$414.98, Summit Food Services LLC (Food Services) \$7,312.90, EZ Duz it Laundry (Uniforms) \$8.00, EZ Duz it Laundry (Supplies) \$143.60, Jack's Uniforms & Equipment \$263.74, Karl's TV (Minor Equipment) \$179.96, Correctional Risk Services (Inmate Medical Lab INS) \$1,076.00, Yankton Rexall Drug Co. (Professional Services) \$2,572.31; **Yankton Ares Search & Rescue:** City of Yankton (Supplies) \$72.85, Ferdig's Transmissions (Maintenance) \$472.48, Ferdig's Transmissions (Supplies) \$107.47, Menards (Supplies) \$38.28, Two Way Solutions INC (Supplies) \$349.96, One Office Solution (Supplies) \$45.78; **Care of Poor:** Qualified Presort Services LLC (Supplies) \$110.51, Thomson Reuters (Supplies) \$75.00; **Public Health Nurse:** TIAA Commercial Finances (Rentals) \$70.96, Shannon R Pavel (Travel) \$128.14, Qualified Presort Services, LLC (Supplies) \$13.57; **Ambulance:** Kopetsky's Ace Hardware (Supplies) \$59.67, Yankton Auto Body (Maintenance) \$969.15, Bound Tree Medical LLC (Supplies) \$3,088.08, City of Yankton (Utilities) \$800.00, Cintas (Supplies) \$68.13, Front Line Ready (Maintenance) \$50.00, First Bankcard (Supplies) \$1,644.23, Auto Value Yankton (Supplies) \$36.99, Matheson Tri-Gas, Inc. (Supplies) \$82.53, Matheson Tri-Gas, Inc. (Rentals) \$75.99, Menards (Supplies) \$36.21, Olson's Pest Technicians (Maintenance) \$114.00, Pitney Bowes Global Financial Services LLC (Rentals) \$215.34, Stewart Carpet Center (Maintenance) \$84.00, Tire Muffler Alignment (Maintenance) \$20.22, Verizon (Utilities) \$73.35, One Office Solution (Supplies) \$66.24; **Mentally Handicapped:** SD Achieve dba Lifescape (Care) \$300.00; **Mental Health Centers:** Ability Building Services (2<sup>nd</sup> Half 2019 Budget Allotment) \$11,192.50; **Mental Illness Board:** Darcy Lockwood (Hearings) \$90.00, Kerri Cook-Huber (Hearings) \$50.00, Mark Katterhagen (Hearings) \$90.00, Lewis & Clark Behavioral Health (Hearings) \$2,670.00, Lincoln County Treasurer (Hearings) \$1,449.00; Lucille M. Lewno (Hearings) \$1,110.00, Minnehaha County Auditor (Hearings) \$292.80; **County Extension:** Buhl's Cleaners (Supplies) \$37.82, Lauren Hollenbeck (Other) \$40.40, SDSU Extension (Travel) \$23.58, Katie Doty (Other) \$598.36, Dale Knode (Other) \$40.00, Leaf (Rentals) \$387.61, Danielle McFarland (Travel) \$464.80, Northwestern Energy (Utilities) \$257.83, Olson's Pest Technicians (Maintenance) \$150.00, Qualified Presort Services (Supplies) \$45.20, WNAK Radio (Other) \$170.00, Yankton Daily P & D (Publishing) \$76.40; **Weed:** Bomgaars (Supplies) \$10.96, C & R Supply Inc. (Supplies) \$264.99, First Bankcard (Supplies) \$48.66;

**Planning & Zoning:** Qualified Presort Services, LLC (Supplies) \$15.57, One Office Solution (Supplies) \$172.88, Yankton Daily P & D (Publishing) \$86.86; **Road & Bridge:** Appera (Supplies) \$112.33, C & B Operations LLC (Supplies) \$10,030.00, Bomgaars (Supplies) \$199.76, B-Y Electric (Supplies) \$1,712.47, B-Y Electric (Utilities) \$71.94, B-Y Water District (Utilities) \$78.00, Battery Exchange (Supplies) \$136.95, Vast Business (Utilities) \$167.55, LG Everist (Supplies) \$1,078.94, Cox Auto Supply, Inc. (Supplies) \$198.44, Concrete Materials (Supplies) \$8113.96, Journey Group (Bridges) \$8,787.45, Jim Kulish (Supplies) \$736.06, Direct TV (Utilities) \$80.99, CHS (Fuel) \$376.65, D-P Tools (Supplies) \$179.95, SFC Civic Constructors (Bridges) \$4,460.00, Filter Care of Nebraska (Supplies) \$69.15, Fastenal Industrial & Construction Supply (Supplies) \$26.99, I State Truck Centers (Supplies) \$257.72, I State Truck Centers (Maintenance) \$1,016.00, Janssen's Garbage Service (Utilities) \$45.00, Kimball Midwest (Supplies) \$186.17, Marks Machinery (Supplies) \$127.84, MidAmerican Energy (Utilities) \$21.11, Riverside Hydraulics & Labs (Supplies) \$246.27, Southeastern Electric Cooperative Inc. (Utilities) \$117.72, Truck Trailer Sales Services INC (Supplies) \$42.50, Titan Machinery (Rentals) \$7,120.00, Titan Machinery (Supplies) \$5,299.00, Yankton Fire & Safety Company (Maintenance) \$602.75; **Emergency 911 Fund:** Powerphone (Travel) \$1,103.00, CenturyLink (Utilities) \$1,274.63, Golden West Telecommunications (Utilities) \$147.18, SD Department of Public Safety (Utilities) \$3,090.00; **Emergency Management:** B-Y Electric (Utilities) \$53.42, Battery Exchange, (Maintenance) \$791.60, Vast Business (Utilities) \$265.62, City of Yankton (Supplies) \$211.42, First Bankcard (Supplies) \$553.23, First Bankcard (Maintenance) \$198.00, Miller Consulting (Maintenance) \$80.00, Midcontinent Communications (Utilities) \$8.95, Menards (Supplies) \$38.28, Qualified Presort Services, LLC (Supplies) \$38.92, Two Way Solutions INC (Supplies) \$175.00, One Office Solution (Supplies) \$36.82; **24/7 Program:** Pharmchem Inc. (Supplies) \$1211.00, Redwood Toxicology Laboratory Inc. (Supplies) \$1,727.58; **Non-Departmental:** Satellite Tracking of People LLC (Tracking Monitors) \$399.75, Byron Nogelmeier (Cam Daily Fee) \$2,094.00, Byron Nogelmeier (State Participation) \$818.00, Shelly Anderson (Road District) \$188.37, Yankton County Observer (Publishing) \$51.27, Yankton Daily P & D (Publishing) \$60.36; General Fund \$115,372.52, Road & Bridge, \$44,399.66, Emergency Management, \$2,451.26. All present voted aye; motion carried.

**Action 19426C:** A motion was made by Loest and seconded by Healy to approve the Auditor's Monthly Settlement with the Treasurer as of August 31, 2019 showed Total Cash of \$76,923.45. The General Fund was \$4,915,054.50; Special Funds were \$2,835,256.50; and Trust and Agency Funds were \$1,916,008.08 adding to a Grand Total of General Ledger Cash and Investments of \$9,666,319.08. A detailed report is on file with the County Auditor. All present voted aye; motion carried.

**Action 19427C:** A motion was made by Loest and seconded by Klimisch to approve Native American Day/Columbus Day (October 14, 2019) as a paid day off for Yankton County employees. Roll call vote was taken with Kettering, Swensen, Loest, and Klimisch voting Aye; Healy Voting Nay; Motion carried, 4-1.

**Action 19428C:** A motion was made by Healy and seconded by Swensen to allow all full and part time county employees to receive the yearly flu shot. All present voted aye; motion carried.

**Action 19429RD:** A motion was made by Kettering and seconded by Loest to authorize the formation of the Lewis & Clark West Road District legally described as Lots 1-6 of Block 1, Lots 1-8 inclusive of Block 2 and Lots 1-6 inclusive of Block 3. County of Yankton, State of South Dakota. All present voted aye; motion carried.

**Emergency Mental Illness Board Appointment:** Item will be rescheduled for a later meeting.

Commissioner Klimisch asked for a round of applause in honor of Paul Scherschligt, Director of Yankton County Emergency Management, on receiving the 2019 Achievement Award from the SD Emergency Management Association "In recognition of your expert tactical response and recovery operations executed during the 2019 Yankton County flooding event."

**Action 19430C:** A motion was made by Healy and seconded by Swensen to adopt the following resolution due to flooding issues in Yankton County. Roll call vote was taken with all voting aye; Motion carried, 5-0.

**YANKTON COUNTY  
RESOLUTION NO. 19-7  
RESOLUTION DECLARING AN EMERGENCY  
James River Flooding - Fall, 2019**

WHEREAS, the South Dakota James River Basin has received unprecedented above normal precipitation in September, 2019, resulting in historic flooding causing severe damage to property and risk to Yankton County residents' lives; and,

WHEREAS, Yankton County has evaluated all available resources needed to mitigate potential damage to critical infrastructure and ensure life safety for the residents of Yankton County and has found that all resources will be expended as early as September 18, 2019; and,

WHEREAS, the total costs for repair and improvements are not yet fully known but estimated to be in excess to what local resources are able to provide; and,

WHEREAS, the resulting damage and destruction will endanger and threaten the health, safety, and welfare of the public and the financial stability of the local governing units and the utility companies and power cooperatives generally; now therefore,

BE IT RESOLVED that the Board of Yankton County Commissioners does hereby declare an emergency due to the flooding of the James River in Yankton County, South Dakota.

Dated this 18th day of September, 2019

Yankton County Chairman, Dan Klimisch /s/  
ATTEST: Patty Hojem, Yankton County Auditor /s/

**Action 19431C:** A motion was made by Healy and seconded by Swensen to approve Building and Grounds Department to advertise for bids for snow removal for Safety Center, Government Building, and Extension Office. All present voted aye; motion carried.

Lori Mackey, Director of Equalization, presented two contracts with Pictometry. The first is a contract to cost share with the City of Yankton for aerial imagery of Yankton City and County. The amount of the contract is \$89,264.75 with the City share being 32% and the County share 68%. Payments will be made over a three year period. The second contract is between Pictometry and Yankton County for the Change Finder analysis for \$7,505.40.

**Action 19432DOE:** A motion was made by Kettering and seconded by Loest to approve the County's share of the Eagle View Pictometry Contract. Roll call vote was taken with Kettering, Healy, Loest, and Klimisch voting Aye; Swensen Voting Nay; Motion carried, 4-1.

**Action 19433DOE:** A motion was made by Loest and seconded by Healy to approve the Change Finder Contract. All present voted aye; motion carried.

**Action 19434H:** A motion was made by Healy and seconded by Kettering to approve the application for Entrance from Travis Devine located Tract A SW4 in S25-T95N/56W, Yankton County. All present voted aye; motion carried.

**Action 19435H:** A motion was made by Kettering and seconded by Loest to approve the application for Entrance from Daniel Grant located S464' N1361' E447' W487' in S19-T94N/54W, Yankton County. All present voted aye; motion carried.

**Action 19436H:** A motion was made by Kettering and seconded by Swensen to approve the Right of Way application for Lyle Hauger located in S27-T96N/55W. All present voted aye; motion carried.

**Repair of Road or Alternate Access:** Item will be further discussed at next meeting on October 1, 2019.

**Neighborhood Watch Guidelines Not Being Followed:** Item will be further discussed at next meeting on October 1, 2019.

Mission Hill Hog CAFO Odor Complaints: Ray Epp stated that the odor is from his process of applying manure on his field, and then the rain happened the next day.

**Update on Zoning Enforcement:** Item will be further discussed at next meeting on October 1, 2019.

**Zoning Ordinance Discussion:** Item will be further discussed at next meeting on October 1, 2019.

**Commercial Building Permit Fee Discussion:** Item will be further discussed at next meeting on October 1, 2019.

There was one public comment from Jay Cutts.

**Commission Updates:** Commissioners Kettering and Klimisch attended the Lewis & Clark Behavioral Health annual meeting. Commissioner Healy stated that the State conference in Pierre was well-attended. Commissioner Loest mentioned the "Farm Forum" being held September 19<sup>th</sup> at 7:00pm at Stockmen's Livestock, East HWY 50 and the Road Task Force open meeting on September 23<sup>rd</sup> at 7:00pm in the Commissioner's Room. Loest also mentioned that she was asked to speak at the "Women and Science" program at Mount Marty College. Commission Klimisch stated that as a delegate of the Association of County Commissioners, they passed a resolution to increase state sales tax by ½ cent and changed 2 policy statements to increase funding for mental health.

**Action 19437C:** A motion was made by Kettering and seconded by Loest to recess the regular session at 8:15pm and convene in executive session for personnel issue SDCL 1-25-2(3). All present voted aye; motion carried.

**Action 19438C:** A motion was made by Swensen and seconded by Loest to adjourn the executive session at 8:50pm and reconvene in regular session. All present voted aye; motion carried.

No action was taken on Litigation.

**Action 19439C:** A motion was made by Swensen and seconded by Healy to adjourn. All present voted aye; motion carried.

The next regular meeting will be Tuesday, October 1, 2019 at 6:00 p.m.

**Dan Klimisch**, Chairman  
Yankton County Commission

ATTEST:  
**Karen Faerber**, County Deputy Auditor



# Agenda

## Yankton County Commission

6:00 PM, Tuesday, October 1, 2019  
Commission Chamber  
Yankton County Government Center

DOCUMENTS WILL BE AVAILABLE AT AUDITOR'S OFFICE FOR REVIEW  
BEGINNING SEPTEMBER 30. COPIES AVAILABLE FOR \$1.00 PER PAGE

Meeting chaired by: Dan Klimisch, Chairperson

01 Call to order: 6:00 PM PLEDGE OF ALLEGIANCE

02 Roll Call: \_\_\_\_\_ Cheri Loest \_\_\_\_\_ Gary Swensen  
\_\_\_\_\_ Joseph Healy \_\_\_\_\_ Don Kettering \_\_\_\_\_ Dan Klimisch

### AGENDA ITEMS

No.	Time	Item Description	Presenter
03	6:00 PM	Abstain Financial Conflict of Interest (SDCL 6-1-17) Non-Financial Interest-Must State Reason for Abstaining	Commissioner Klimisch
04		Approval of Agenda	
05		Approval of Minutes from September 18, 2019 Commission Meeting	
06	6:05 PM	Public Comments	
07	6:10 PM	Claims September Payroll	Auditor
08	6:15 PM	Approve 5-Year Highway Plan	Mike Sedlacek
09	6:25 PM	PE Grant Approval for Stone Church Bridge	Mike Sedlacek
10	6:30 PM	Approve Gravel Bid/Mosquito Spraying	Mike Sedlacek
11	6:35 PM	Entrance Application- James Hansen	Mike Sedlacek

EXHIBIT

3

12	6:40 PM	Appoint Acting Zoning Administrator	Commissioners
13	6:45 PM	Year-To-Date Budget Review	Commissioners
14	6:50 PM	Repair of Road or Alternate Access	Mike Marlow
15	6:55 PM	Neighborhood Watch Guidelines Not Being Followed	Dan Dolejsi
<b>Board of Adjustment</b>			
16	7:00 PM	Conditional Use Permit- Tim Binder	Planning and Zoning
17	7:05 PM	Variance- Dale James	Planning and Zoning
18	7:10 PM	Variance- Joseph Bruening	Planning and Zoning
<b>Regular Session</b>			
19	7:15 PM	YAPG Conflict of Interest	State's Attorney
20	7:20 PM	Commercial Building Permit Fee Discussion	Don Kettering
21	7:35 PM	Zoning Ordinance Discussion/Land Use Direction for the Planning Commission	Commissioners
22	7:40 PM	Public Comments	
23	7:45 PM	Commissioner Updates	Commissioners
24	7:50 PM	Executive Session/Litigation Pursuant to SDCL 1-25-2(3)	State's Attorney
		Executive Session/Personnel Issue Pursuant to SDCL 1-25-2(1)	
		Items for Next Meeting	

Yankton County Commission Meeting

9/18/19 meeting - Moving MI agreement off agenda

<https://youtu.be/Yzk8GI2qz4Q?t=238>

10/1/19 meeting – Approval of agenda

<https://youtu.be/QZ8AHVELgs0?t=80>

10/1/19 meeting – MI board discussion

<https://youtu.be/QZ8AHVELgs0?t=2547>

10/1/19 meeting – Start of acting zoning administrator discussion

<https://youtu.be/QZ8AHVELgs0?t=2818>



# YANKTON COUNTY

## JOB DESCRIPTION

<b>Job Title:</b>	<b>Zoning Administrator</b>
<b>Reports To:</b>	<b>County Commission</b>
<b>Classification:</b>	<b>Exempt</b>
<b>Introductory Period:</b>	<b>180 Days</b>
<b>Self-Termination Notice Expectation:</b>	<b>Two Weeks</b>

### General Statement of Responsibilities

- Performs duties as assigned by the County Commission
- Creates, writes, updates, interprets, and enforces policies, procedures, and ordinances pertaining to zoning
- Reviews plats for conformance with the County's comprehensive plan and land use policies
- Serves as the County's liaison and first point of contact for any person, business, or government agency initiating property development within the County's jurisdiction
- Acts as the County's liaison with municipal planning commissions
- Serves as staff to the Yankton County Planning Commission
- Assists the public with application procedures, including building permits, variances, and conditional uses
- Works with the Director of Equalization and other County officials to update property development information and E911 addresses
- Advises the County Planning Commission on changes to land use regulations and policies
- Maintains accurate and current records pertaining to all zoning related applications
- Conducts personal inspections of property to verify compliance with County regulations
- Reviews and evaluates environmental assessment requests in relation to their conformance with County land use plans and policies

### Supervisor Responsibilities

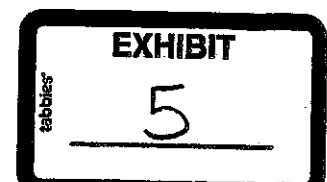
- May supervise interns or other temporary employees
- May supervise clerical support personnel, as assigned

### Minimum Qualifications

- High school diploma or GED and experience with land use regulation enforcement
- College coursework or degree in public administration, planning, or closely related field
- Ability to perform data entry and work processing functions using computer technology

### Other Requirements

- Ability to deal effectively with the public
- Ability to read, analyze, and interpret legal descriptions, maps, and other material associated with land development activities, including technical drawings and diagrams



- Ability to write reports and correspondence, which effectively communicates county policies and positions
- Ability to calculate figures and amounts such as area, circumference, proportions, and percentages
- Ability to define problems, collect data, establish facts, and draw valid conclusions
- Ability to effectively present information and respond to questions from individuals or groups
- Must have a valid Driver's License

**Certification**

I hereby certify that I have read and accept the duties and obligations associated with this position.

---

Signature of Employee

---

Date

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

October 9, 2020

Todd B. Woods  
108 Starboard St.  
Yankton, SD 57078

Robert W. Klimisch  
Yankton County State's Attorney  
410 Walnut Street, Suite 100  
Yankton, SD 57078

Re: In the Matter of Open Meeting Complaint 2020-03, Yankton County  
Commission – Yankton County

Dear Mr. Woods & Mr. Klimisch:

Enclosed please find the Notice of Hearing, and proposed agenda, regarding the October 23rd teleconference meeting of the Open Meetings Commission. As you can see from the agenda, presentations regarding complaints will begin at 9:30 a.m. central time or as soon thereafter as matters may be heard.

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", followed by a horizontal line.

Steven R. Blair  
Assistant Attorney General

SRB/jm  
Enclosures

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

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IN THE MATTER OF OPEN	)	OMC 2020-03
MEETINGS COMPLAINT AGAINST	)	
YANKTON COUNTY COMMISSION	)	NOTICE OF HEARING
- YANKTON COUNTY	)	

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TO: Todd B. Woods, 108 Starboard Street, Yankton, South Dakota 57078; Robert W. Klimisch, Attorney for Yankton County Commission, 410 Walnut Street, Suite 100, Yankton, South Dakota 57078:

Please take notice that a telephonic hearing regarding the above referenced open meetings complaint will be held before the South Dakota Open Meetings Commission, on Friday, October 23, 2020. Oral presentations regarding pending complaints will commence at 9:30 A.M. central time, or soon thereafter as matters may be heard, and proceed in the order noted in the attached agenda. The information necessary to access the teleconference is also included in the attached agenda.

Dated this 9<sup>th</sup> day of October 2020.



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Steven R. Blair  
Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501  
Telephone: (605) 773-3215

SOUTH DAKOTA OPEN MEETING COMMISSION

**AGENDA**  
**Teleconference Meeting Only**

**Teleconference dial-in number: 669-224-3412**

**Teleconference Access Code: 719-192-885**

October 23, 2020  
9:30 a.m. Central Time

1. Approval of the Agenda
2. Public Comment period as per SDCL 1-25-1
3. Approval of the Minutes of December 5, 2019 meeting
4. Consideration of Pending Complaints

*A. In the Matter of Open Meeting Complaint 20-01, Board of Trustees for the City of Ward*

Oral Presentations:

Complainant Tom Kampmann-15 minutes (a portion of this time may be reserved for rebuttal)

Board of Trustees for the City of Ward -15 minutes

*B. In the Matter of Open Meeting Complaint 20-02, Belle Fourche City Council*

Oral Presentations:

Complainant Mark Watson-15 minutes (a portion of this time may be reserved for rebuttal)

Belle Fourche City Council-15 minutes

*C. In the Matter of Open Meeting Complaint 20-03, Yankton County Commission*

Oral Presentations:

Complainant Todd B. Woods-15 minutes (a portion of this time may be reserved for rebuttal)

Yankton County Commission-15 minutes



D. In the Matter of Open Meeting Complaint 20-04, Pierre City Commission

Oral Presentations:

Complainant Caleb Matthew Gilkerson-15 minutes (a portion of this time may be reserved for rebuttal)

Pierre City Commission-15 minutes

5. Discussion regarding preparation of the minutes
6. Discussion regarding potential open meetings legislation
7. Election of Commission Chair & Co-Chair
8. Scheduling future meetings

All items are scheduled for 09:30 A.M. Central Time. Scheduled items may be delayed or moved to a later agenda item at the discretion of the OMC.

Due to public health concerns relating to Covid-19, and in accord with SDCL 1-25-1.6 and Executive Orders 2020-14, 2020-16, & 2020-30, this meeting is being held via teleconference only – no physical location will be provided for the public to listen and participate. If you wish to listen or participate in this meeting please dial 669-224-3412 and enter the access code 719-192-885 when prompted.

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

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IN THE MATTER OF OPEN	)	OMC 2020-03
MEETINGS COMPLAINT AGAINST	)	
YANKTON COUNTY COMMISSION	)	CERTIFICATE OF SERVICE
- YANKTON COUNTY	)	

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The undersigned hereby certifies that a true and correct copy of the Notice of Hearing and proposed Agenda in the above-captioned matter, was served by United States mail, first class, postage prepaid upon Todd B. Woods, 108 Starboard Street, Yankton, South Dakota 57078; Robert W. Klimisch, Attorney for Yankton County Commission, 410 Walnut Street, Suite 100, Yankton, South Dakota 57078.

Dated this 9<sup>th</sup> day of October 2020.



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