

Piedmont Board of Trustees

April 2, 2024

Unapproved Regular Meeting Minutes

- 1) The Meeting of the Piedmont Board of Trustees was called to order at 6:30 p.m. on Tuesday, April 2, 2024, beginning with the Pledge of Allegiance. In Attendance: Phil Anderson, Jack Parks, Phil Aitken, Bruce Lutz & Mike Johns.
- 2) Lutz made a **Motion, Seconded** by Parks to approve the Agenda as written. All voted "Aye". **Motion carried.**
- 3) Minutes: Minutes of the Regular Meeting on March 19, 2024: **Motion** by Lutz to approve, **Seconded** by Johns. All voted "Aye". **Motion carried.**
- 4) Library: a) Written Report was in the packet. b) Information about the proposal to paint a mural on the building wall facing the Park was in the packets. The Board briefly discussed and would like more time to look it over before having more discussion. \*Also in the packet was a letter from Megan asking the Board to be closed a few extra hours June 2-7 to allow Megan to attend the Library Institute and not overwork the other Assistants. Aitken made a **Motion, Seconded** by Johns to approve the shorter hours for the week of June 2-7. All voted "Aye". **Motion carried**
- 5) Planning & Zoning: a) A plat on property North of town will be on P&Z's next Agenda. Getting a lot of feedback on it from the Attorney, Bill Rich and the County.
- 6) Park: a) Easter Egg Hunt went well.
- 7) Street Maintenance: a) Waiting for the bed to be put on the Truck. Paperwork is in the office to get the Truck registered. b) This needs to be discussed at a Planning Meeting. Get a few more large copies for that meeting.
- 8) Water System: a) State Drinking Water Report is in the packets. b) Board has a list of properties that are not yet hooked up to water. Plan to hook properties up and put the cost on their water bill to make it more affordable. Will discuss this further in a Planning Meeting.
- 9) Finance: a) Lutz made **Motion** to pay the bills, except check #7862 that is on the Agenda under New Business. **Seconded** by Johns. All voted "Aye". **Motion carried.** Bills Paid: Merchant Bank fees: \$.56, \$.25. SD Dept. of Treasury \$796,800.00, USDA Rural Development-Phase 1 \$2,407.00, A&B Business Solutions \$275.75, Bartlett & West \$2,250.00, BH Energy \$504.40, Bill Rich \$450.00, Black Hills Library Consortium \$2.99, Clerk Books \$200.00, Core & Main \$1,672.50, Curt Johnson-map storage \$100.00, Trail West-surcharge \$5,626.22, MasterCard \$1,781.70, SD Public Assurance Alliance-pickup insurance \$277.56. Mileage: Bruce Lutz \$42.84, Diana Evans \$107.10, Mike Johns \$42.84, Phil Anderson \$186.66. Payroll: Planning & Zoning \$540.26, Trustees \$1,426.81, Maintenance \$1,135.91, Water \$705.32, Library \$5,569.33, Finance Office \$3,592.75.
- 10) Old Business: None

New Business: a) Nicole Dahlquist from Untangled is asking the Board for permission to do the 3<sup>rd</sup> Annual Back Yard Family Nights from 5:30 -7:70 p.m. on the 3<sup>rd</sup> Thursday of each month from May to September. Also asking for the August Rally fee to be waived. Allowing 2 food trucks to take up no more than 8 spots on those nights. Lutz made a **Motion** to allow the Back Yard Family Nights, **Seconded** by Parks. All voted "Aye". **Motion carried.** b) Aitken made a **Motion, Seconded** Lutz to approve the payment of the document holder from Curt Johnson. All voted "Aye". c) Re-zoning of Properties North of town will be discussed at the next Planning Meeting. d) Parks made a **Motion, Seconded** by Aitken to go into Executive Session pursuant to SDCL 1-25-2 subsection 3 to discuss some legal issues concerning the referendum petition turned in by the Stagebarn Subdivision. All voted "Aye". **Motion carried.** 7:00 p.m. / Lutz made a **Motion, Seconded** by Aitken to come out of Executive Session. All voted "Aye". **Motion carried.** / The City Attorney explained to the Public that the Title on the Petitions was difficult and unclear about what was being referred. But also that the Board of Trustees sits as a Board of Adjustment and that it can not be referred. The Citizens were then given a chance to comment. It was said that the legal was taken from the Minutes for the Title. Also mentioned was that the Board should take into consideration even if 1 person is not happy with a Board decision, that this all seemed to happen very quickly, etc. Board members responded with the process for a Conditional Use and that sadly you can never make everybody happy. Attorney pointed out that it appeared the wrong minutes were looked at when getting the title for the Petition. Parks made a Motion to Reject the Petition for the Municipal Referendum that was presented to the Finance Officer on March 28, 2024, because the Petition does not comply with State law, including the following:

The Petition is not in the proper form:

SDCL 9-20-7, provides "if the matter intended to be covered by the referendum petition is the whole of any ordinance or resolution, the petition shall contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length."

No ordinance was passed in this matter. The Petition does not set out the subject matter of any resolution nor does the petition set forth, at length, any portion of an ordinance or resolution.

Rather, the title set forth in the Petition reads, "**Ordinance establishing the subdivision of the Piedmont Municipal Code Pursuant to SDCL 11-6-27 Passed on March 5, 2024.**"

The Board of Trustees did not take any action regarding subdivisions of land covered by SDCL 11-6-27 on March 5, 2024.

On March 5, 2024, the Board of Adjustment did vote to approve the recommendation of Planning and Zoning to grant a Conditional Use Permit.

Pursuant to Piedmont Code and State law, the Board of Trustees sits as the Board of Adjustment when deciding to adopt Conditional Use permits.

On March 5, 2024, A motion was made, and passed, approving the recommendation of the Planning and Zoning Board to approve a Conditional Use Permit. The Board of Adjustment approved the recommendation of the Planning and Zoning Board with conditions.

As stated in *Bechen v. Moody County Board of Commissioners*, when sitting as the Board of Adjustment, the Board of Trustees and the Board of Adjustment do not become a single entity. Instead, the decision regarding the Conditional Use Permit was made by the Board of Adjustment, not the Board of Trustees.

Decisions by the Board of Adjustment to grant Conditional Use Permits are not subject to referendum.

Instead, as noted in *Gonsor v. Day County Planning Commission* and SDCL 11-2-61.1 the exclusive remedy to challenge the grant of a Conditional Use Permit by a Board of Adjustment is by filing a writ of Certiorari with the Circuit Court.

**Seconded** by Aitken. All voted "Aye". **Motion carried.**

**11)** Public Comment: Patty Lisko said she thinks all of this is a Big Mistake.

**12)** Executive Session: Aitken made a **Motion, Seconded** by Johns to go into Executive Session in 5 minutes pursuant to SDCL 1-25-2 subsection 3. All voted "Aye". **Motion carried.** 7:45 p.m. /Lutz made **Motion, Seconded** by Aitken to come out of Executive Session. All voted "Aye". **Motion carried.**

**13)** Being there was no other business, Lutz made a **Motion** to adjourn the meeting, **Seconded** by Aitken. All voted "Aye". **Meeting Adjourned.** 8:15 p.m.

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Philip C. Anderson, President  
Piedmont Board of Trustees

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Diana L. Evans  
Finance Officer

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