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## BOARD OF PEMBINA COUNTY COMMISSIONERS PROCEEDINGS

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February 21, 2023

9:00 AM

Board of Pembina County Commissioners met in the Commissioners Meeting Room of the Courthouse. Chairperson Benjaminson called the meeting to order at 9:01 AM.

Roll call: Jim Benjaminson, Blaine W. Papenfuss, Darin Otto, and Andrew Cull. Absent: Laverne Doyle. A quorum was declared.

Motion made by Darin Otto and seconded by Blaine Papenfuss to approve the agenda as presented. All voting in favor; motion carried.

Motion made by Andrew Cull and seconded by Darin Otto to approve the February 7, 2023 meeting minutes as presented. All voting in favor; motion carried.

Commission discussed the concerns presented by Billie Joe Swift at the February 7, 2023 meeting. Garret Fontaine, Pembina County States Attorney, Sheriff Terry Meidinger and Chief Deputy Marcus Ramsay also present. Commission reviewed the letter presented by Sheriff Meidinger in response to Ms. Swift's concerns. States Attorney Fontaine explained he was unable to find anything of concern since there were no incidents that occurred during her tenure. His suggestion is to have the Sheriff Department have a policy in place to ensure all deputies are certified in a timely manner. Commissioner Benjaminson stated he feels there should be no liability to the county to reimburse Drayton City for the cost of her certification or late fees. Motion made by Darin Otto and seconded by Blaine Papenfuss to deny her request to reimburse Drayton City for her sidearm qualification fee and late fees. Discussion followed. Roll call vote: Jim Benjaminson – yes; Blaine Papenfuss – yes; Darin Otto – yes; Andrew Cull - yes. Motion carried.

Commission discussed the concerns presented by Tom Zaharia at the February 7, 2023 meeting. Devin Johnson, Highway Superintendent, also in attendance. Devin visited the site and presented LIDAR elevation maps showing the elevation profile of 151<sup>st</sup> Ave NE, the elevation profile of County Road 55 from the old driveway to 151<sup>st</sup> Ave NE, the elevation profile of the old driveway from County Road 55 and a map showing where the Pembina River breaks out during major flooding. There is an elevation difference of

roughly 2 – 2½ feet. Jim Moris reviewed the maps and elevations. Others attending were Tom Zaharia, Jim Meagher and David Lembke. Devin presented three options; one would be to have Mr. Symington have a hydraulic study completed for the area, another would be to shave the area down to a certain elevation and the third option would be to remove the driveway altogether. Motion made by Andrew Cull and seconded by Blaine Papenfuss to require Mr. Symington have a hydraulic study completed for the area, shave the area down when the thaw allows and authorize the Highway Department to cut the new driveway if it presents a threat of flooding in the spring. Discussion followed. Roll call vote: Jim Benjaminson – yes; Blaine Papenfuss – yes; Darin Otto – yes; Andrew Cull - yes. Motion carried.

Commission discussed the request received from Zelda Hartje at the February 7, 2023 meeting regarding a one-time donation of \$500.00 for the Talking Trail project, which she is interested in starting for the Pembina County Courthouse. Motion made by Darin Otto and seconded by Andrew Cull to grant the \$500.00 match for the Talking Trail project. Discussion followed. Roll call vote: Jim Benjaminson – yes; Blaine Papenfuss – no; Darin Otto – yes; Andrew Cull - yes. Motion carried.

Water Board members Randall Emanuelson and Bill Gunderson, Water Board Secretary Luann Kemp, and Water Board Attorney Rob Fleming met with the Commission. Zach Hermann and Paul LaClaire, Houston Engineering, also in attendance. Luann informed the Commission that the FEMA projects have gone well and they are beginning to receive reimbursement for these projects. Luann updated the Commission on Drain 34 and the RFQ process for engineers. Paul LaClaire gave general updates on the Tongue River Cut-off Channel and the Tongue River Snagging & Clearing project, which are joint projects between the Water Board and County Commission. Other projects discussed by Paul were the Bourbanis Dam project, the dam rehabs on Senator Young, Olson, Bourbanis and Herzog, Drain 16, Drain 66, Drain 81, and the FEMA drain cleanouts. Zach Hermann informed the Commission the Pembina/Walsh Joint Water Board, along with Houston Engineering, will be holding a meeting at 10:30 am on Thursday, February 23, 2023 in the Farmer's Room of the Pembina County Courthouse, regarding the proposed Cart Creek/North Branch-Park River retention project.

Mikka Willits, Tax Director, and Lisa Keney, County Assessor, met to discuss the 2023 soils valuations. Ms. Keney passed out a handout with the 2023 assessment information. Ms. Willits reviewed the information, focusing on the fact that Pembina County soils valuations are out of compliance due to updated soils values not being rolled over into the tax system. Mikka also discussed the approved land use modifier valuations, inconsistencies in residential and commercial property valuations, Native Woodland and Watershed Easement programs, notices of increases (NOI's) and the process landowners would be required to follow if they disagree with the productivity indexes (PI) on their land. The Tax Office, per NDCC 57-02-27.2, recommends the approval and rollover of soil valuations into the tax system. Discussion followed on compliance with the state and landowner soils cards. Robert Vivatson questioned if the

arbitrary increase in values and the inequities due to land use modifications would be addressed. Don Heuchert questioned how WRP and EWP parcels are being taxed. Motion made by Darin Otto to table a decision to the next meeting. Second by Andrew Cull. Roll call vote: Jim Benjaminson – yes; Blaine Papenfuss – no; Darin Otto – yes; Andrew Cull – yes. Motion carried.

Motion made by Andrew Cull and seconded by Blaine Papenfuss to go into Executive Session, per NDCC 44-04-19.2, for attorney consultation and negotiations with Walsh County and The Samuels Group. Roll call vote: Jim Benjaminson – yes; Blaine Papenfuss – yes; Darin Otto – yes; Andrew Cull – yes. Motion carried. The Executive Session began at 10:55 AM and was attended by Jim Benjaminson, Blaine Papenfuss, Darin Otto, Andrew Cull, Terry Meidinger, Marcus Ramsay, Garret Fontaine and Linda Schlittenhard. Motion made by Blaine Papenfuss and seconded by Darin Otto to adjourn the Executive Session at 11:28 AM and return to open session. Roll call vote: Jim Benjaminson – yes; Blaine Papenfuss – yes; Darin Otto – yes; Andrew Cull – yes. Motion carried.

Sheriff Meidinger addressed the commission regarding Walsh County looking at building a regional jail and are seeing what other counties would be interested in jumping on. He stated Cavalier County closed their jail a couple years ago and are looking at jumping on. He said Ron, Greg and himself discussed the possibility of a regional jail but Pembina County's was in way better shape than Cavalier and Walsh Counties so he didn't see the need for Pembina County joining it. The contract regarding the initial study was discussed. Walsh County would pay for all of it, unless other counties would be interested then they would have to pay a percentage of the study. Commissioner Cull stated he feels the study is to determine where it would be operated and how it would be operated. Commissioner Cull asked if our jail was out of compliance and Sheriff Meidinger said no, not at all. Commissioner Cull asked Sheriff Meidinger if he was for or against a new facility. Sheriff Meidinger stated at this time there is nothing wrong with Pembina County's facility so he doesn't know why we would contract out at this point. Female prisoners were discussed. Commissioner Papenfuss stated there wouldn't be the worry of finding workers to run the facility because he feels the contract states a regional advisory board would be responsible for that and Pembina County would just pay and not have to be involved in that part of it. Commissioner Cull stated if he is understanding it correctly, there would be a warden and the counties would still have their own sheriffs. Commissioner Papenfuss stated yes that is his understanding from the zoom meeting he had attended. He feels the county should see what they come up with. The infrastructure of the jail building was discussed. He stated he feels Walsh County wants it built in their county. Sheriff Meidinger stated his understanding is you basically buy a specific number of beds per year whether you fill them or not. The average number of prisoners Pembina County has at one time was discussed. Full is sixteen. The backlog in courts because of Covid was discussed and how that put a strain on jails nationwide. Prisoners had to sit longer. Another positive to

the regional jail would be the ability to segregate prisoners with medical issues. Right now, prisoners with mental health issues that have to be taken to a locked facility have to be taken to Jamestown or Prairie St. John or wherever the court tells them to go. Transport of these types were discussed. The county would not be responsible for transport. Commissioner Papenfuss stated the court would take place right at the regional facility. Commissioner Papenfuss stated Walsh County approved to go ahead with the study at their last meeting. He stated the study would cost approximately \$38,000.00. Commissioner Papenfuss stated Walsh County would take the lead on the study. Commissioner Papenfuss asked States Attorney Fontaine what he felt about the contract presented. He stated there were no glaring concerns. He did want to point out is not clearly spelled out in the document as to what it is actually going to cost. He stated Pembina County would be splitting the \$21,940.00 but the other thing is to get a better handle on how many counties would be going in on it which would affect costs. He stated in Exhibit B it has a whole host of new costs that are not in there. He stated there is no designation on who would be paying for it. He stated there needs to be clarity. He stated he wants to see who is responsible for what costs. He wants to know the total number of counties. Commissioner Papenfuss stated Walsh County gave the Samuels Group the \$16,00.00 to get going with this and the other \$21,000.00 to be split. States Attorney Fontaine stated yes Walsh County is paying the \$16,510.00 and the \$21,940.00 is going to be split up but to get confirmation on that. He stated he would be having a phone call with the Samuels Group to get confirmation. He stated he wanted clarification on Exhibit B and what total costs would be. Commissioner Cull asked Chief Deputy Ramsay and Sheriff Meidinger if they liked the idea of exploring it. He stated he would like to know how many counties would go in on it. Sheriff Meidinger said Ron said they were looking at about 50 beds. Auditor Schlittenhard stated she would want to know how much per bed would the county be paying for. Cost of what we pay and charge was discussed. Deputy Ramsay stated he was concerned about what would happen to our staff if word got out about this possibility. Would they leave before a determination was made. Commissioners Cull and Papenfuss stated they would be asked to work at the new facility. Deputy Ramsay stated he understood that but some will and some won't. Deputy Ramsay and Sheriff Meidinger stated they don't want to lose staff over something that might not happen. Commissioner Benjaminson stated he felt Bismarck's idea is to shut down all the small jails. Chief Deputy Ramsay stated he feels that way. Other jails in North Dakota discussed. States Attorney Fontaine stated he feels it's important to get Ron or somebody to come from Walsh County to come and talk to us collectively to get more information. He stated from a legal perspective of these kinds of things, if you jump into things, it's a lot harder to get out so get all the information you can before making a decision. Chief Deputy Ramsay recapped it would be we would have a number of beds we pay for and our prisoners would be house there. That would be the extent of it. Medical costs of prisoners discussed. The logistics of how it would be run would be set by the Samuels Group. Sheriff Meidinger stated he feels the county doesn't want to have any stake in the building, just the reserved beds because of liability issues. States Attorney Fontaine concurred that once a prisoner is taken to another facility, the liability is on them.

States Attorney Fontaine discussed Exhibit B and the Public Relations campaign being completely handled by them. He stated there are positives and negatives to that. Commission Papenfuss stated he feels the company needs to come and answer the questions the commission has. He stated he feels what will take some time is figuring out the number of counties interested in it and how that will affect costs for everyone. Housing for different counties around the region discussed. States Attorney Fontaine stated he would also like to know about violent inmates that typically get sent to the larger prisons. He will reach out to the Samuels Group to set up for a meeting for March 7<sup>th</sup> to ask the questions they all have. Motion by Blaine Papenfuss and seconded by Darin Otto to leave executive session. Roll call: Jim Benjaminson, yes; Blaine Papenfuss, yes; Darin Otto, yes; Andrew Cull, yes. Motion carried. The time was noted as 11:28 AM.

Motion made by Blaine Papenfuss and seconded by Andrew Cull to table The Samuels Group proposal to the March 7, 2023 meeting, if the Samuels Group is available. All voting in favor; motion carried.

Commissioner Benjaminson read a letter from Don Heuchert, questioning if the Commissioners are performing job performance evaluations for department heads, to be entered into the record.

Commissioner Otto informed the Commission the 911 Advisory Board/LEPC Task Force will be meeting on Tuesday, February 28, 2023 at 3:00 pm in the Farmer's Room of the Courthouse.

Commission reviewed the January 2023 financial statement and claims. Motion made by Andrew Cull and seconded by Blaine Papenfuss to approve the consent agenda as presented. All voting in favor; motion carried.

Motion made by Andrew Cull and seconded by Blaine Papenfuss to adjourn the meeting. All voting in favor; motion carried. Meeting adjourned at 11:35 AM.