

SHANNON COUNTY MINUTES OF JANUARY 10, 2014

The Shannon Board of County Commissioners met in regular session on January 10, 2014. Present: Lyla Hutchison, Bryan Kehn, Wendell Yellow Bull and Sue Ganje, Auditor. Absent: Anna Diaz and Eugenio White Hawk.

The Pledge of Allegiance was given and the meeting called to order at 12:15 PM. The agenda was reviewed for conflicts; none were indicated. Motion by Kehn, seconded by Hutchison, to approve the agenda as written. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to nominate Yellow Bull as Chairman for 2014. Kehn asked that nominations cease and with no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Yellow Bull, to nominate Kehn as Vice-Chairman for 2014. Hutchison asked that nominations cease and with no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to designate three feet of the bulletin board in the Courthouse Lobby for legal matters with information also going to the courthouses in Kyle and Pine Ridge. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to designate the following as locations for Chattel Mortgage Sales: courthouse steps in Hot Springs, Pine Ridge and Kyle. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to designate Wells Fargo Bank, Black Hills Federal Credit Union and First Interstate Bank as official depositories for Shannon County, with First Interstate as the active bank for 2014. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to reduce the amount for burial fees to \$1,000.00 total cost, representing a decrease of \$300 due to limited funding. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to not rehire any employee for a period of one year, if that employee has resigned and withdrawn their retirement funds. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to set the cost of prisoner care at up to \$69.00 per day for Fall River, Meade and Pennington Counties. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to set Commission meetings at Noon on the first Friday of each month. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Yellow Bull, to appoint Kehn as the Commission representative to the Weed Board. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to appoint Yellow Bull as the representative to the Extension Board. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to approve travel of the county commissioners and officials to attend Black Hills Association, Spring Workshop, Convention and Legislative meetings and to obtain travel approval for all other meetings. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to approve the following Resolution. With no further discussion and all voting yes, the motion carried.

SHANNON COUNTY RESOLUTION #2014-01

WHEREAS, the Division of Purchasing and Printing of the State of South Dakota has competitively bid state contracts for the purchase of necessary supplies, equipment and materials for state and local governments, and

WHEREAS, the Shannon County Board of Commissioners is authorized to purchase necessary supplies, equipment and materials for its use, and

NOW THEREFORE, BE IT RESOLVED, that the Board of Shannon County Commissioners enter into an agreement with the Division of Purchasing and Printing of the State of South Dakota to purchase equipment, supplies and materials.

Dated this 10th day of January, 2014.

/s/ Wendell Yellow Bull

Wendell Yellow Bull, Chairman

Shannon County Board of Commissioners

ATTEST:

/S/Sue Ganje

Sue Ganje, Shannon County Auditor

Motion by Kehn, seconded by Hutchison, to approve the following Resolution. After discussion, Kehn amended and Hutchison amended the resolution to set the Superintendent fee to \$125.00. With no further discussion and all voting yes, the motion carried.

SHANNON COUNTY RESOLUTION #2014-02

WHEREAS, pursuant to SDCL 12-15-11, the Board of County Commissioners at their first meeting shall set a fee for Election Board and the mileage rate;

NOW THEREFORE BE IT RESOLVED, that the Shannon County Board of Commissioners have set the fee for attendance of Election School at \$25.00; and

ALL ELECTION BOARDS WILL RECEIVE A FLAT FEE OF \$105.00; SUPERINTENDENTS OF EACH PRECINCT A FEE OF \$125.00; RESOLUTION AND ABSENTEE BOARDS WILL BE SET AT \$7.25 PER HOUR, and

ALL PROVISIONAL BOARDS WILL BE SET AT A \$20.00 FLAT FEE, and
 BE IT FURTHER RESOLVED, that the Shannon County Commissioners set the mileage rate
 at \$.37 per mile for the transporting of ballots and ballot boxes by the precinct superintendent.
 Dated this 10th day of January, 2014.

/s/ Wendell Yellow Bull

Wendell Yellow Bull, Chairman

Shannon County Board of Commissioners

ATTEST:

/s/ Sue Ganje

Sue Ganje, Shannon County Auditor

Motion by Hutchison, seconded by Kehn, to approve the following wages for 2014. With
 no further discussion and all voting yes, the motion carried.

Lori Bachand:	Yearly wage	\$15,800.00
Lynx Bettelyoun:	Yearly wage	\$31,672.44
Karen Bush	Hourly wage	\$12.00 per hour
Jim Daggett:	Yearly wage	\$38,625.00
Melody Engebretson:	Yearly wage	\$15,800.00
Susan Ganje:	Yearly wage	\$15,800.00
Edie Jenniges	Yearly wage	\$2,000.00
Susie Hayes:	Yearly wage	\$10,000.00
Archie Hopkins:	Yearly wage	\$12,193.86
Kristi Hudson:	Yearly wage	\$6,666.66
Michele Jensen:	Yearly wage	\$20,000.00
Lora Michael:	Yearly wage	\$5,400.00
Jacki Miller:	Yearly wage	\$5,400.00
Kelli Rhoe	Yearly wage	\$13,333.34
Rodney Roulliard	Hourly wage	\$12.30 per hour
Jim Sword:	Yearly wage	\$15,800.00
David White Face:	Hourly wage	\$13.19 per hour
Shari Winslow	Yearly wage	\$2,000.00
Leon Zimbleman:	Hourly wage	\$13.19 per hour

Motion by Kehn, seconded by Hutchison, to approve the minutes of the December 5
 and 30, 2013 meetings. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to approve the Auditor's Account with the
 Treasurer. With no further discussion and all voting yes, the motion carried.

TO THE HONORABLE BOARD OF SHANNON COUNTY COMMISSIONERS

I Hereby submit the following report of my examination of the cash and cash items in
 the hands of the County Treasurer of this County on this 31st day of December, 2013.

TOTAL AMT OF DEPOSIT IN WELLS FARGO BANK -	\$ 1,313.81
TOTAL AMT OF DEPOSIT IN FIRST INTERSTATE BANK, HS -	\$ 13,798.90
TOTAL AMOUNT OF ACTUAL CASH -	\$ 899.90
TOTAL AMT OF CHECKS IN TREASURER'S POSSESSION NOT EXCEEDING THREE DAYS -	\$ 674.93

MONEY MARKET SAVINGS:	WELLS FARGO BANK -	\$ 1,141.89
	FIRST INTERSTATE BANK, Hot Springs -	\$277,912.96
CERTIFICATES OF DEPOSIT-FIRST INTERSTATE BANK, Hot Springs -		\$250,000.00

Itemized list of all items, checks and drafts, which have been in the Treasurer's possession over three days:

Sheriff Change fund:	\$200.00		
Election Petty Cash:	\$15.00		
RETURNED CHECKS:			
BLACK FEATHER, DAVID -	\$75.00, LIC	MCDONALD, JOHN -	\$983.97, LIC
BLETHEN, RENE -	\$48.25, LIC	MESTETH, PERRY -	\$63.00, LIC
BURGESS, JEANNE -	\$45.00, LIC	MORRISON, NADINE -	\$15.00, LIC
CEDAR FACE, GAIL -	\$32.38, LIC	OLD HORSE, JOHN -	\$15.00, LIC
GARNETT, AQUALYNE -	\$64.00, LIC	PARTON, JOY -	\$32.00, LIC
GOINGS, TANYA L. -	\$71.00, LIC	POURIER, JOEL -	\$349.00, LIC
JANIS, JENNIFER -	\$90.50, LIC	RED CLOUD, JOHN -	\$45.90, LIC
LITTLE HAWK, JOLENE -	\$32.40, LIC	ROSS, WILLIAM -	\$53.00, LIC
LONE HILL, TRINA -	\$20.70, LIC	STANDING BEAR, CHARLES -	\$92.00, LIC
		TOTAL -	\$548,133.29

DATED THIS 31ST DAY OF DECEMBER, 2013

/S/Sue Ganje, Auditor

SUE GANJE, COUNTY AUDITOR OF SHANNON COUNTY.

Motion by Kehn, seconded by Hutchison, to eliminate compensation for Weed Board meetings for 2014. With no further discussion and all voting yes, the motion carried.

Connie Smith of the Lakota Country Times met with the Board to request designation as the official newspaper for the county for 2014. Motion by Hutchison, seconded by Kehn, to name the Lakota Country Times as the official newspaper of the Board. With no further discussion and all voting yes, the motion carried.

Highway Superintendent Lynx Bettelyoun presented propane quotes.

Fuel Quotes: 610 gallons Propane

Westco \$2.099

Nelson's no response

Lakota Plains no response

Motion by Kehn, seconded by Hutchison, to approve the bid of Westco for 610 gallons of propane at \$2.099 as the only bid. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Hutchison, to approve private roadwork for snow removal for the Shannon County School in the amount of \$472.00, which is paid. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to set February 7, 2014 at 12:30 PM as the time for a hearing on private roadwork. With no further discussion and all voting yes, the

motion carried.

Bettelyoun updated the board on the FEMA application for reimbursement of associated storm costs.

Diaz joined the meeting at 12:38 PM.

Damage sustained to the Caterpillar 140H during work performed after the October 2013 blizzard was also discussed. This may be reimbursed thru insurance or FEMA in the future, but needs to be repaired now. Motion by Hutchison, seconded by Kehn, to approve repair of the Caterpillar 140H at an estimated cost of \$32,205.00. With no further discussion and all voting yes, the motion carried.

Motion by Kehn, seconded by Diaz, to approve the following resolution setting annual load limits on county roads. With no further discussion and all voting yes, the motion carried.

SHANNON COUNTY RESOLUTION #2014-03

WHEREAS, the Shannon County Board of Commissioners did adopt the following 2014 ANNUAL LOAD RESTRICTIONS:

Shannon County will impose load and speed limits as follows in coordination with the State of South Dakota Highway's Annual Load Restrictions:

All oil roads will be posted at 30 Ton and 45 mph.

NOW THEREFORE, BE IT RESOLVED this amendment was approved and passed on this 10th day of January, 2014.

/s/ Wendell Yellow Bull

Wendell Yellow Bull, Chairman

Shannon County Board of Commissioners

ATTEST:

/s/ Sue Ganje

Sue Ganje, Shannon County Auditor

Archie Hopkins, Veterans Services Officer, presented his report, and advised he would be retiring at the end of January. Motion by Kehn, seconded by Diaz, to accept Hopkins' monthly report and place it on file. With no further discussion and all voting yes, the motion carried.

Motion by Hutchison, seconded by Kehn, to enter into Executive Session for personnel matters per SDCL 1-25-2 (1). With no further discussion and all voting yes, the motion carried and the Board went into Executive Session at 12:57 PM.

The Board came out of Executive Session at 1:15 PM. Discussion was held on Commission seats that would be open this election cycle. A break was taken at 1:23 PM.

The meeting resumed at 1:41 PM. Sheriff Jim Daggett presented his monthly report and then participated in a discussion on mental health matters with the Board and Pat Ginsbach, Deputy State's Attorney. Ginsbach stated that each claim needs to be reviewed to determine

the county obligation for expenses.

State’s Attorney Jim Sword joined the discussion at 2:01 PM. Ginsbach reported that Bennett County is suing Indian Health Services, using the Treaty of 1868.

Motion by Hutchison, seconded by Diaz, to approve bills as presented with the exception of claims from the Pennington County State’s Attorney and Auditor, Yankton, Redfield and Rapid City Regional Hospital as they are mental illness related expenses for which the county is not responsible. With no further discussion and all voting yes, the motion carried.

General Fund

AT&T Mobility	Cell Phone	\$100.16
Century Business	Copier	\$11.21
Culligan	Water	\$10.00
Diaz, Anna	Travel	\$39.96
Election Systems & Soft	Firmware Support	\$1,872.00
Fall River County Auditor	Firmware Support	\$1,256.40
Golden West	Telephone	\$241.95
Kehn, Bryan	Travel	\$66.60
Lakota Country Times	Publishing	\$502.96
Pheasantland Industries	Supply	\$11.65
Rapid Lube	Car Maint	\$36.95
SDPAA	Ins	\$11,303.75
SD Sheriff's Association	Dues	\$757.58
Shannon County Sheriff	Petty Cash	\$69.41
Verizon Wireless	Cell Phone	\$30.79
White Hawk, Eugenio	Travel	\$69.56
Yellow Bull, Wendell	Travel	\$47.36
Hutchison, Lyla	Travel	\$59.20
	General Fund Total	\$19,289.36

Road & Bridge

AT&T Mobility	Cell Phone	\$134.38
Culligan	Water	\$10.00
Dodge Town Inc	Repair	\$433.50
Golden West	Telephone	\$1.92
LaCreek Electric Assoc	Utility	\$697.84
Pine Ridge Auto Parts	Supply	\$71.94
SDPAA	Ins	\$10,741.47
Westco	Propane	\$1,626.73
	Road & Bridge Total	\$13,717.78

Emergency Management

SDPAA	Ins	\$6.69
	EM Total	\$6.69
	Grand Total	\$33,013.83

Discussion was held on an Ordinance for restaurant liquor licenses and a moratorium on the issuing liquor or malt beverage licenses as the county is the entity that would issue licenses. When the moratorium is lifted, the County could consider issuing liquor licenses, and discussed that the County could approve a policy that required applicants to get approval from the Tribe first.

Motion by Kehn, seconded by Diaz, to approve a resolution as follows to establish a moratorium on the issuance of liquor licenses. With no further discussion and all voting yes, the motion carried.

SHANNON COUNTY RESOLUTION #2014-04

WHEREAS Shannon County is a political subdivision of the State of South Dakota organized under a home rule charter; and

WHEREAS Shannon County has encompassed within its boundaries the Pine Ridge Indian Reservation, an Oglala Lakota Native American Reservation, that encompasses the entirety of Shannon County; and

WHEREAS the Pine Ridge Indian Reservation was originally part of the Great Sioux Reservation established by the Ft. Laramie Treaty of 1868; and

WHEREAS a law passed by Congress in 1832 banned the sale of alcohol to Native Americans; and

WHEREAS the ban of sale of alcohol to Native Americans was ended in 1953 by Public Law 277, signed by President Dwight D. Eisenhower, which law gave Native American's the option of permitting or banning alcohol sales and consumption on their lands; and

WHEREAS the Oglala Sioux Tribe chose to exclude alcohol on the Reservation after the enactment of Public Law 277; and

WHEREAS since 1999, activists from the Pine Ridge Reservation, the America Indian Movement and Nebraskans for Peace, have worked to have beer sales shut down in nearby White Clay, Nebraska, a border town selling alcohol annually to residents on the Pine Ridge Indian Reservation where alcohol consumption is prohibited; and

WHEREAS in 2004, the Oglala Sioux Tribe voted down a referendum to legalize alcohol sales; and

WHEREAS in 2006, the Oglala Sioux Tribal Council voted to maintain the ban on alcohol sales; and

WHEREAS voters, in an election by the Oglala Sioux Tribe on August 14, 2013 voted to end prohibition and legalize alcohol on the Pine Ridge Indian Reservation; and

WHEREAS the Shannon County Commission believes the sale of alcohol within the boundaries of Shannon County will increase rates of crime, poverty and other issues; and

WHEREAS the Shannon County Commission acknowledges the negative impacts that accompany the growth of liquor licenses within its boundaries; and

WHEREAS the Shannon County Commission believes it would be a positive step in placing a moratorium on the issuance of liquor licenses within its boundaries to enable it an opportunity to successfully utilize tools to prepare for the issuance of liquor licenses within Shannon County; and

WHEREAS a moratorium on issuing liquor licenses would not affect any incumbent businesses within the boundaries of Shannon County,

Therefore be it RESOLVED that a temporary moratorium on the issuance of alcohol licenses within the boundaries of Shannon County shall become effective January 1, 2014; and it is further

RESOLVED that no person, business entity or governmental agency shall be entitled to any license relative to the establishment of bars, packaged liquor stores, grocery stores, or restaurants and that no person, business entity or governmental entity shall be entitled to the issuance of an alcoholic beverage license within the boundaries of Shannon County; and it is further

RESOLVED that this Resolution shall remain in effect for 1 year from January 1, 2014 or until such a time as the Shannon County Commissioners deem that sufficient safeguards have been put in place to address the affects of issuing licenses for the sale of alcoholic beverages on the potential increase in crime, increase in poverty and the affect on Social Welfare agencies and families affected by the development of establishments within the boundaries of Shannon County to sell alcoholic beverages.

Dated this 10th day of January, 2014.

/s/ Wendell Yellow Bull

Wendell Yellow Bull, Chairman
Shannon County Commission

ATTEST:

/s/ Sue Ganje

Shannon County Auditor

The first reading of an ordinance establishing restaurant liquor licenses was held. Motion by Kehn, seconded by Hutchison, to approve the first reading of Ordinance #2014-01 as follows.

SHANNON COUNTY ORDINANCE #2014-01
AN ORDINANCE CREATING AN ON-SALE LICENSE FOR ALCOHOLIC BEVERAGES
FOR FULL-SERVICE RESTAURANTS

Section 1. Full-Service On-Sale Restaurant License: The terms used in this section mean:

1. "Bar": any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages.
2. "Full-service restaurant": any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths or the bar. Any restaurant that only serves fry orders of foodstuffs such as sandwiches, hamburgers or salads is not a full-service restaurant.

3. "Restaurant": any area in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where at least sixty percent of the gross revenue of the restaurant is derived from the sale of food and nonalcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen and the number and kinds of employees necessary for the preparing, cooking, and servicing of meals. Source: Statutory Authority; SDCL 35-4-110.
4. "Current Fair Market Value": the documented price of the on-sale license most recently sold between January 1, 2003 and January 1, 2008, through an arm's length transaction, less the value of any real or personal property included with the transaction. Source: Statutory Authority; SDCL 35-4-117.

Section 2. Documentation in Support of Initial Application for Full-Service Restaurant On-Sale License. An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the governing body upon an application form provided by the County to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential. Source: Statutory Authority; SDCL 35-4-112.

Section 3. Renewal of Full-Service Restaurant On-Sale License – Annual Report. The full-service restaurant licensee shall submit on forms provided by the County an annual report. Forms shall include an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall include the annual gross sales of the license for the following two categories:

1. Food and nonalcoholic beverage sales.
2. Total Gross Revenues

Source: Statutory Authority; SDCL 35-4-113

Section 4. Conditions of Renewal. When renewing a full-service restaurant on-sale license, the County shall condition the license renewal upon documents that at least sixty percent of gross revenue from the preceding twelve months operation of the full-service restaurant was derived from the sale of food and nonalcoholic beverages. Source: Statutory Authority; SDCL 35-4-114.

Section 5. On-Premises Consumption Required. A full-service restaurant on-sale license may only serve alcoholic beverages for on-premise consumption in the bar and dining room area of the restaurant. Source: Statutory Authority; SDCL 35-4-114.

Section 6. Advertisement of Full-Service Restaurant. No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises. A restaurant that has a full-service restaurant on-sale license may only be advertised or held out to the public as primarily a food eating establishment. Source: Statutory Authority; SDCL 35-4-115.

Section 7. Certain Licensees to Report Amount Paid for Other Licenses. The license fee charge for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein. However, any fair market value so established shall be a minimum of one dollar for each person residing within the County as measured by the last preceding decennial federal census.

1. The license fee shall be initially established by Resolution of the County Commissioners within ninety days of the adoption of Ordinance #2014-01. Subsequent changes to the

license fee shall not be made for a period of ten (10) years from the effective date of Ordinance #2014-01 unless a growth in population reported by the federal decennial census requires an increase to the fee.

2. Within 90 days of the effective date of Ordinance #2014-01, each licensee within the County who owns an on-sale license pursuant to SDCL 35-4-2(4) and (6) as of January 1, 2008, and who purchased the license or had the license transferred to such licensee at any time between January 1, 2003 and January 1, 2008, shall report the amount originally paid for the on-sale license to the County Auditor on forms provided by the County. Any form submitted pursuant to this provision shall be signed under oath and shall include the documents establishing the amount originally paid for the on-sale license. If the transaction for the purchase of the on-sale license included real or personal property, the full market value of the real or personal property on the date of the original sale shall be deducted from the total transaction price to determine the amount paid by the license for the on-sale license. The burden of establishing the amount paid for the license shall be on the licensee. Any licensee contesting the fair market value of the license on the date of purchase may file an objection to the report. The objection shall be filed with the County within thirty days of the date the license fee is set. The determination of the governing board may be appealed to the circuit court. Source: Statutory Authority; SDCL 35-4-117.

Section 8. Registration that Full-Service Restaurant On-Sale License is for Sale. The County shall maintain a registry of each full-service on-sale restaurant license that is being offered for sale and the County shall furnish a copy of the registry to anyone who requests a new full-service restaurant on-sale license. The existing full-service restaurant on-sale license is responsible for registering with the County that the full-service restaurant on-sale license is for sale. Source: Statutory Authority; SDCL 35-4-117.

Section 9. Registry of Full-Service Restaurant On-Sale Licenses. The County may only issue a new license under this action if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in Section Seven of this Ordinance and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered with the County under this Ordinance shall be sold at the current fair market price set by the County Commission pursuant to the Resolution adopted in accordance with Section Seven of the Ordinance. Source: Statutory Authority; SDCL 35-4-118.

Adopted this 10th day of January, 2014.

First Reading: 1/10/14

Second Reading: _____

Shannon County Commissioner

/s/ Wendell Yellow Bull

Wendell Yellow Bull, Chairman

ATTEST:

/s/ Sue Ganje

Sue Ganje, County Auditor

Motion by Diaz, seconded by Kehn, to table discussion on a proclamation in recognition

of the Treaty of 1868. With no further discussion and all voting yes, the motion carried and the matter tabled.

The Board requested Mel Engebretson, Register of Deeds, report to them when fee lands are transferred into tribal trust. A delinquent tax listing was requested for the next meeting and the amount of school versus county taxes payable for the current year was questioned.

Discussion was held on proposed 2014 legislation that would address emergency cash needs.

Motion by Diaz, seconded by Hutchison, to adjourn. With no further discussion and all voting yes, the motion carried and the Board adjourned at 3:43 PM.

ATTEST:

/s/ Sue Ganje

Sue Ganje, Shannon County Auditor

/s/ Wendell Yellow Bull

Wendell Yellow Bull, Chairman

Board of Shannon County Commissioners