

**BILLINGS COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING JULY 6, 2021.**

The meeting was called to order by Chairman Michael Kasian at 9:00 A.M. with Commissioners Dean Rodne and Lester Iverson in attendance.

Others were present during portions of the meeting: Sandy Short, Sarah Short Sarbacker, Joey Kessel, Tammy Simmioniw, Shae Peplinski, Danielle O'Brien, Ryan Jilek, Daphne Senn, Amy McCann, Cal Klewin, Major Dean Wyckoff, Ken Vein, EMS Directors Mitch Gilseth and Kyle Michels, Maintenance Supervisor Travis Bertelsen, Sheriff Pat Rummel, Clerk of Court/Recorder Juliana Hammerstrom, Deputy Auditor Jonna Bertelsen, States Attorney Pat Weir, Tax & Zoning Director Stacey Swanson

The board reviewed the commission minutes from June 1st regular & 16th special meetings. Iverson moved to approve. Rodne seconded. All voted aye.

Chairman Kasian asked for any additions or changes to the agenda. Rodne requested to add the topic of Eberts gravel. The board was in agreement. Rodne moved to approve the amended agenda for the meeting. Iverson seconded. All voted aye.

Kasian asked States Attorney Weir and Road Superintendent Iverson if there was an update on the sign request from last meeting. Jeff Iverson has been in touch with NDLTAP. Weir will meet with Jeff and they will report at the next commission meeting.

Kasian stated that a representative from the Eberts family called him regarding a letter previously sent to the board. States Attorney Weir will review the file in full and report back at the next meeting.

School Superintendent Shae Peplinski was present to discuss the annual Bankhead Jones request for the school district. The request was for \$350,000 sent to the school in July of 2022. Bankhead Jones funds may only be used for roads and schools. Rodne moved to approve the request. Iverson seconded. All voted aye.

The board reviewed Resolution 2021-17 regarding no engine brakes on Highway 85 near Fairfield. Kasian moved to approve the resolution. Iverson seconded. All voted aye. The Resolution reads as follows:

RESOLUTION NO. 2021-17

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF BILLINGS COUNTY,
NORTH DAKOTA, CONCERNING THE USE OF ENGINE BRAKES ON VEHICLES**

WHEREAS, the Board of County Commissioners of Billings County, North Dakota finds that the operation of an engine brake on a gasoline powered or diesel powered motor vehicle not equipped with exhaust mufflers, or equipped with the defective or modified exhaust mufflers, so as to create excessive noise through the use of said engine brake in populated areas, adversely affects the public health, safety and welfare of residents of the County, and therefore, is a nuisance in fact; and

NOW, THEREFORE, BE IT RESOLVED by The Board of County Commissioners of the County of Billings, North Dakota, as follows:

Section 1: Definitions: "Engine compression brake" shall mean any device that utilizes air compression and/or rapid release of compressed air in the cylinders of combustion engines to slow or retard vehicle speed. These devices are commonly referred to as "air brakes," "compression brakes," "engine brakes," "engine retarders" or exhaust brakes," and are sometimes marketed as "Jacob's Brakes," "Jake Brakes," "Pacbrakes," "TecBrakes" or "D-Celerator brakes."

"Noise baffling device" shall mean a properly functioning muffler or engine exhaust silencer that eliminates the offensive and disturbing noise caused by use of engine compression brakes. The muffler or engine exhaust silencer must reduce the noise to levels meeting vehicle noise emission standards set or authorized by the Noise Control Act (42 U.S.C. §4901 *et seq.*) and the United States Environmental Protection Agency, and must also comply with all other federal, state or local laws and regulations relating to vehicle noise levels.

Section 2: Use of Engine Compression Brake Prohibited. It shall be unlawful for the operator of a motor vehicle to engage, or allow to be engaged, operate, or use, an engine compression brake, or any similar mechanical exhaust device designed to aid in the deceleration of any vehicle which results in the emission of excessive and loud noise from the vehicle, while the vehicle is operated on Highway 85 between 1600 feet north of mile marker 91 and 1200 feet north of mile marker 92.

Section 3: Exclusions. This resolution shall not apply to operation of any public safety vehicle or to the operation of a vehicle involved in an emergency not caused by the operator of the vehicle utilizing the engine compression brake, wherein the operator reasonably believes that use of the engine compression brake is necessary to avoid or mitigate a collision or mishap.

Section 4: Penalties. Any person and/or the firm or corporation for whom the driver is employed violating this resolution shall be deemed guilty of a Class B misdemeanor and, upon conviction thereof shall be punished by of a fine of not more than one thousand five hundred dollars, or by imprisonment in the county jail for thirty days, or by both such fine and imprisonment.

Section 5: Signage. The County will forward this Resolution to the North Dakota Highway Department for placement of the appropriate signage warning drivers of the prohibition.

Section 6: Severability. If any sentence, clause, section or part of this Resolution is for any reason be found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the Resolution.

Section 7: Effective Date. This Resolution shall be in effect from its adoption and publication once in the official county newspaper.

WHEREAS, the Billings County Board of County Commissioners recognizes that the use of engine brakes, also known as “jake brakes” can be a noise violation or nuisance when used in or near residential areas.

WHEREAS, the Board wishes to regulate activities within the County which pose a potential noise violation or nuisance for these areas.

NOW, THEREFORE, BE IT HEREBY RESOLVED BILLINGS COUNTY HAS DECLARED THAT NO ENGINE BRAKES, ALSO KNOWN AS “JAKE BRAKES” MAY BE USED ON HIGHWAY 85 BETWEEN 1600 FEET NORTH OF MILE MARKER 91 AND 1200 FEET NORTH OF MILE MARKER 92.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Billings County, North Dakota, this 6th day of July, 2021.

By: _____
Michael Kasian, Chairman

By: _____
Marcia Lamb, Auditor

After discussion of the recent Presidential and Congressional approval of Juneteenth as a national holiday, Iverson moved to approve 8 hours of vacation for all county employees. Rodne seconded. All voted aye.

After review of a gravel lease agreement, the board requested that stronger language be included to state that the landowner understands and agrees that the ownership and title to any and all stockpiled aggregate material stockpiled on the property, at all times during the period of the Lease, remains the sole property of Billings County. States Attorney Weir will add this language to all further leases.

Theresa Liebsch was present as the Regional Vision Zero Coordinator. The objective of the program is to prevent traffic deaths. They provide driver’s, safe driving and teen driving education courses,. They set up booths at various events. Sheriff Rummel stated that his office would like to be kept in the loop for any outreach in Billings County.

Sheriff Rummel stated that he did not have a written report due to being out at fires. The board discussed the various fires and where they started.

Tax & Zoning Director Stacey Swanson presented 4 pipeline Applications that were approved with conditions by the Road Superintendent & Weed Officer.

- Tim Hendricks – water line crossing Sully Street in Fryburg.
- Steve Demaniow – water line crossing Frank’s Creek Rd, 18-141-99; 24-141-100
- Tesoro High Plains Pipeline, LLC – Oil line crossing section line b/t Billings County & Dunn County. 18-144-97 (Dunn Co) to 13-144-98 (Billings Co)
- Duane Thorsteinson – water line crossing Plumely Draw Rd. 28-139-102

Rodne moved to approve the applications. Iverson seconded. All voted aye.

Auditor Lamb brought up the Length of Service Award Program for the Rural Fire District volunteers. As the Fire District is a political subdivision, they should be the sponsors of the program and the county can help to fund it. There are various options through the IRS for implementation and they can hire a benefits firm to do all of the required IRS reporting and communications.

Lamb then presented the quarterly pledge report. Kasian moved to approve. Iverson seconded. All voted aye.

Cal Klewin was present from the Theodore Roosevelt Expressway Association to give an update on the Highway 85 corridor. North Dakota has allocated \$50 million and waiting for Federal match. Klewin also requested that the board approve funding the TR Expressway Association for 2022. Kasian moved to approve \$8,000 for 2022 as has been done in previous years. Rodne seconded. All voted aye.

The Little Missouri River Crossing and the Raise Grant Resolution were next on the agenda. Attorney Tami Norgard was present over teleconference. Chairman Kasian stated his opinion that eminent domain was not an appropriate method for the county to proceed and Commissioner Rodne supported that view. Commissioner Iverson agreed that eminent domain was not the preferred method but is necessary as the landowners wouldn’t consider an offer to purchase. He stated that the offer was fair and the county has the support of the highest

governmental authorities to proceed. Commissioner Rodne stated that he felt there should have been a public vote on the bridge and to have landowner agreement. Attorney Norgard stated that the Environmental Impact Statement needs to be upheld in litigation but that the decision to move forward on the bridge was solely that of the Commissioners. States Attorney Weir pointed out that it is important to document that all of the decisions of the previous commission were legal, that District Court Judge Greenwood fully upheld these decisions, and that the issue before the commission is whether to proceed with the project as no court would substitute its decisions for that of the commission. Chairman Kasian stated that in his view, there existed a conflict of interest concerning the authorizations by previous commissioners. He then read from his notes of conversations concerning the bridge with individuals who had contacted him. He wanted the commission to go on record as being against eminent domain. Attorney Norgard stated that the existing commission cannot forever bind future commissions. Rodne agreed with Kasian that the eminent domain process should end. Kasian moved to rescind all previous authorizations for a bridge over the Little Missouri River located at the Short Ranch. Chairman Rodne seconded. Kasian asked for all those in favor. Kasian and Rodne voted aye. Kasian did not ask for those opposed. Auditor Lamb requested a roll call vote. Kasian, Rodne and Iverson voted aye. The board then discussed the continuing need for a water crossing. Rodne stated that two low-water crossings could be constructed for the cost of the present bridge project. He stated he would do research to see if there is another area for a low water crossing. There was discussion of using the existing EIS to gain support for another location between a willing landowner. Sheriff Pat Rummel stated that there is a need for a river crossing, that there are roads that should be used but that he is against the county using eminent domain. Chairman Kasian made a motion stating that the county recognizes a need for a crossing on the Little Missouri River north of Medora and that the county negotiate with the US Forest Service or private property owners to accomplish this. Commissioner Iverson seconded the motion. After no further discussion, all voted aye.

Commissioner Iverson stated Trevor Burian would like a cattleguard placed on the section line. It is on a half mile fenced on both sides and not open range. Weir stated that he would like to discuss cattleguards and whether it is the owner or the county responsibility. The county needs to have a policy on when and how to place a guard whether on section line or not.

Maintenance Supervisor Travis Bertelsen presented his report. He went over the notes for the HVAC and rewindow projects. The fire suppression system for the courthouse is from 2001 and should be replaced. One quote has been received for \$5,971.88. He will request two more quotes. Discussion ensued regarding a \$1/hour increase in Travis' salary. As the Gallagher salary study is being finalized it was decided to table this until the next meeting.

Ken Vein and Amy McCann were present from the Theodore Roosevelt Presidential Library Foundation to discuss the progress on the design and concept of the library. They plan on a July 2025 opening. The Library will have a development agreement in place with the county. They are having regular meetings to be sure they are addressing the emergency services concerns and the county needs. They are requesting feedback from all regarding design etc. They must comply with county ordinances in order to proceed. The facility will be open year round.

The board recessed for lunch at 12:00pm.

Auditor Lamb requested to set a special meeting date to discuss the preliminary budget. The board tentatively set July 22, 2021 at 9am.

Ambulance Directors Kyle Michels and Mitch Gilseth were present to give their monthly report. They additionally mentioned that Badlands Search and Rescue has nothing to do with Billings County and they have not been called out by the ambulance, fire or Sheriff's office.

The following claims were approved for payment:

Blue Cross Blue Shield of ND	19816	\$	3,950.60
ND Public Employee Retire System	19817	\$	881.89
701 Meats	19818	\$	384.70
All Around Tire & Oil	19819	\$	1,461.20
Aramark	19820	\$	81.35
B.G. Excavation, Inc	19821	\$	4,300.00
Billings County Pioneer	19822	\$	931.31
Blue Sky Dumpsters, LLC	19823	\$	567.20
Boss Office Products	19824	\$	188.26
Bound Tree Medical	19825	\$	1,352.64
Braun Distributing Inc	19826	\$	155.10
Brooks & Associates, C.E.	19827	\$	648.32
Burly's Roughrider Bar & Steakhouse	19828	\$	649.50
Butler Machinery Co.	19829	\$	1,666.29
Capital One	19830	\$	790.90

Central Mechanical Inc	19831	\$	5,400.00
Charbonneau Car Center	19832	\$	584.03
Chimney Butte Land LLLP	19833	\$	1,667.70
Cowboy Café	19834	\$	215.05
Creative Energy	19835	\$	1,280.31
Deans Distributing	19836	\$	5,794.05
Dickinson Public Library	19837	\$	3,921.53
Dillman Katie	19838	\$	23.78
Dooley Enterprises Inc	19839	\$	867.44
Dryland Enterprises	19840	\$	10,500.00
Ecolab Pest Elim Div	19841	\$	251.00
Electro Watchman Inc	19842	\$	1,078.80
ERE Trucking LLC	19843	\$	10,312.50
Ferguson Enterprises Inc	19844	\$	281.36
Fisher Industries	19845	\$	9,103.24
Fleck's Furniture & Appliances	19846	\$	899.00
Four Corners Café	19847	\$	240.00
Gallagher Benefit Services	19848	\$	1,795.00
George's Tire LTD	19849	\$	10,785.00
Hlebechuk Construction Inc	19850	\$	38,012.50
Interstate Power Systems Inc	19851	\$	2,054.95
J and J Operating LLC	19852	\$	3,183.46
J P Steel & Supply Inc	19853	\$	1,741.79
James Oil Well Service Inc	19854	\$	2,660.00
Just-In Glass	19855	\$	60.00
KLJ Engineering LLC	19856	\$	67,448.11
Kohler Communications Inc	19857	\$	226.25
Kubik Bogner Ridl & Selinger PLLP	19858	\$	3,525.00
Kutzler Marilyn	19859	\$	110.88
Larry's Alignment	19860	\$	80.00
Lindbo Ashley	19861	\$	200.00
Logo Magic	19862	\$	144.00
Malkowski Trucking	19863	\$	8,875.00
Medora Convenience	19864	\$	30.11
Menards Dickinson	19865	\$	685.69
Metro-Billing Services	19866	\$	46.00
MGM Rural Sanitation LLC	19867	\$	296.50
Midstate Communications	19868	\$	1,067.72
Montana Fluid Solutions LLC	19869	\$	15,960.00
Motorola Solutions	19870	\$	340.68
ND Association of Counties	19871	\$	1,193.00
ND Attorney General's Office	19872	\$	150.00
ND Cowboy Hall of Fame	19873	\$	200.00
NDACo Resources Group INC	19874	\$	4,073.28
Nelson International	19875	\$	24.06
Northern Plains Erosion Control	19876	\$	310.00
Northwest Tire Inc	19877	\$	40.98
Nutrien Ag Solutions	19878	\$	4,887.10
Pump Systems Inc	19879	\$	3,919.18
Pyramid Communications	19880	\$	788.01
Quality Quick Print	19881	\$	265.00
Ramkota Hotel	19882	\$	86.40
RDO Equipment Co	19883	\$	3,029.97
Rodne, Dean	19884	\$	31.36
Roughrider Septic	19885	\$	270.00
RPM Auto Repair	19886	\$	3,056.61
Rummel Patrick	19887	\$	333.00
Runnings Supply Inc	19888	\$	597.32
Sax Customs LLC	19889	\$	3,120.00
Sax Motor Co.	19890	\$	582.57
Southwest Business Machines	19891	\$	884.10
Stein's Inc	19892	\$	332.76
Temp Right Service Inc	19893	\$	220.00
Tessco Inc	19894	\$	438.40
Thyssen Krupp Elevator	19895	\$	564.99

Total Safety US Inc	19896	\$	23.00
TrueNorth Steel Inc	19897	\$	14,753.46
Vogel Law Firm	19898	\$	8,028.62
West Dakota Oil Inc	19899	\$	10,769.42
Western Choice Cooperative	19900	\$	24,178.27
Westlie Crossroads Truck Ctr	19901	\$	7,193.91
Wyckoff Dean	19902	\$	322.50
Zoll Medical Corp	19903	\$	1,504.42
Aramark	19904	\$	241.10
Billings County Historical Society	19905	\$	21.80
Billings County Rural Fire District	19906	\$	446.02
Billings County School District	19907	\$	5,099.08
Brosz Engineering	19908	\$	1,282.50
Cerberus Security	19909	\$	30.00
Dakota Insurance	19910	\$	25.00
General Equipment & Supplies	19911	\$	4,611.69
Kasian, Michael	19912	\$	105.28
Krebs Machine & Repair	19913	\$	333.83
Mac's Inc	19914	\$	22.86
ND Association of Counties	19915	\$	112.52
ND State Treasurer	19916	\$	626.64
PostMaster	19917	\$	484.00
RELX Inc	19918	\$	233.40
Romanyshyn Trucking	19919	\$	6,630.00
Southwest Water Authority	19920	\$	5,557.04
Southwest Water Authority	19921	\$	87.14
Southwestern Dist Health Unit	19922	\$	343.32
Steffen Saw and Bike	19923	\$	109.89
Verizon Wireless	19924	\$	2,082.85
Westlie Crossroads Truck Ctr	19925	\$	53.41
Belfield Automotive Supply	19926	\$	1,374.47
Midstate Communications	19927	\$	120.94
CenturyLink	19928	\$	961.97
Directv	19929	\$	122.99
Information Technology Dept	19930	\$	1,023.50
Medora, City of	19931	\$	762.85
Reservation Telephone	19932	\$	40.32
Roughrider Electric Coop	19933	\$	4,290.30
Verizon Wireless	19934	\$	43.20
Visa	19935	\$	6,388.67
Visa	19936	\$	2,594.81
Wex Health Inc	19937	\$	63.00
ND Public Employee Retire System	19938	\$	11,139.00
ND Public Employee Retire System	19939	\$	44,206.96
ND Public Employee Retire System	19940	\$	650.00
NDFOP State Lodge Treasurer	19941	\$	25.00
North Dakota Public Health Ins Trust	19942	\$	73,349.97
Prudential Service Center	19943	\$	14.29
State Dispersement Unit	19944	\$	717.00
Wex Health Inc	19945	\$	2,579.61

The board approved the revenue vouchers for the month of June: Recorder \$3,240.65; Zoning \$700.00; Court \$145.00; EMS \$3,484.94, Sheriff 405.00.

Revenues for materials and/or services rendered in June: Cash Bar Permits \$50.00, Fireworks Permits \$166.00, WEED SPRAYING: Jodee Egly \$24.52, Page Myers \$42.61, Ted & Kay Tescher \$78.47, Dale Baranko \$13.77, Ernest & Nell Buckman \$63.48, Cody Cerkoney \$29.06, Tate Miller \$21.29, Randall & Sue Mosser \$55.06, Kevin Kessel \$63.72, Allan Richard \$54.26, Bill Cerkoney \$80.65.

Revenues for the month of June: Sheriff \$7,590.03 permits:, Highway Distribution \$9,869.20; Oil & Gas Production Tax \$368,845.55; Royalties \$24,739.89; Unorganized Oil & Gas Production Tax \$24,589.71; Interest \$7,293.85; Sheriff 24/7 \$300.00; LEPC \$9,037.50, Fed PILT \$135,250.00, BLM Mineral Royalty \$71,364.23.

Payroll in the following amounts was approved for June: General Fund \$195,524.08; Road and Bridge Fund \$133,392.54; Weed Fund \$29,773.87.

With there being no further business, the meeting ended at 2:50pm.

Michael Kasian, Chairman

Attest: _____

Marcia Lamb, Auditor/Treasurer