

**LAWRENCE COUNTY COMMISSIONERS MEETING – March 13, 2018 page-1**

Chairman Brandon Flanagan called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on March 13, 2018 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randy Deibert, Daryl Johnson and Richard Sleep present. Absent Randall Rosenau.

All motions were passed by unanimous vote, by all members present, unless stated otherwise.

**AGENDA:** Moved-Seconded (Johnson-Sleep) to approve the agenda as amended. Motion Carried.

**DECLARE CONFLICTS:** No conflicts were declared by the Lawrence County Commission.

**MINUTES:** Moved-Seconded (Deibert-Sleep) to approve the minutes of February 13, 2018 County Commission meeting. Motion Carried.

Moved-Seconded (Johnson-Flanagan) to approve the minutes of February 13, 2018 Board of Adjustment meeting. Motion Carried.

**TRAVEL REQUEST:**

**SHERIFF:** Moved-Seconded (Deibert-Johnson) to approve the travel request for Tom Derby and Shelley Dragoo to attend the AJA National Conference in Sacramento, CA on April 21-26, 2018. Aye-Deibert, Johnson and Flanagan. Nay-Sleep. Motion Carried.

**PERSONNEL:**

**SHERIFF:** Moved-Seconded (Sleep-Flanagan) to approve Robert Torres as a permanent full-time Correction Officer G2 at the base rate of \$18.70 an hour, effective February 25, 2018. Motion Carried.

**AUDITOR'S ACCOUNT WITH TREASURER REPORT:** Moved-Seconded (Deibert-Sleep) to accept the Auditor's Account with the County Treasurer. Motion Carried. As of February 28, 2018 showed the following: Total amount of actual cash-\$1,350.00; Total amount of checks and drafts in Treasurer's possession not exceeding three days (check deposit in transit)-\$108,178.25; Total amount of cash in transit in Treasurer's possession (cash deposit in transit)-\$8,099.97; petty cash-\$1,860.00; Total amount of deposits in bank include: CD's-\$3,000,000; bank balance \$10,995,530.50, money market \$8,734,746.38 Total \$22,849,765.10.

**PETITION TO VACATION OF PLAT:** Moved-Seconded (Johnson-Deibert) to set a public hearing for March 27, 2018 at 9:00 a.m. for legal description: Plat of Lots RH and FS being a Replat of Lot H of Nemo Placer M.S. 1368 and a portion of Nemo Placer M.S. 1368 Section 27, T3N, R5E, B.H.M., Lawrence County, South Dakota. Motion Carried.

**ABATEMENT:**

**ROBERT JOHNSTON:** Moved-Seconded (Sleep-Deibert) to approve the abatement for Robert Johnston on parcel #20970-00015-013-00 because the mobile home has been removed from the County. Motion Carried.

**SHERIFF:** Brian Dean, Sheriff gave a report on the Average Daily Population of the Jail and a large expenditure that will be coming due to an inmate having to spend 5 days in the hospital.

**HIGHWAY:**

**FUEL QUOTES:** The following fuel quotes were submitted as of February 15, 2018 and March 1, 2018: **Whitewood Diesel Blended 50/50 800 gallons:** (prices per gallon) CBH Cooperative - \$2.356\*; MG Oil - No bid; Harms Oil Co - No bid. **Spearfish Diesel #2 (dyed): 4300 gallons:** (prices per gallon) CBH Cooperative - No bid; MG Oil - \$2.1718\*; Harms Oil Co-No Bid. **Spearfish Unleaded 1000 gallons:** (prices per gallon) CBH Cooperative - No bid; MG Oil - \$2.155\*; and Harms Oil Co - No bid.\*Represents lowest quote awarded.

**2018 CHASSIS CAB TRUCK:** The following bid was received for One (1) New 2018 Chassis Cab Truck: White's Canyon Motors-\$52,629.20.

Moved-Seconded (Johnson-Flanagan) to follow the recommendation of Allan Bonnema, Highway Superintendent and accept the only bid from White's Canyon Motors and waive any irregularities for One (1) New 2018 Chassis Cab Truck-\$52,629.20. Aye-Deibert, Johnson and Flanagan. Nay-Sleep. Motion Carried.

**APPROACH PERMIT:**

**MARK STOCKS/ROGER SIECK:** Moved-Seconded (Sleep-Deibert) to follow the recommendation of the Highway Superintendent and approve the Approach Permit for Mark Stocks/Roger Sieck to construct an approach on the north side of 194th Street approximately 1 3/8 miles west of Highway 34 and 194th Street junction. Motion Carried.

**HORIZON INVESTMENTS, LLC:** Moved-Seconded (Sleep-Johnson) to follow the recommendation of the Highway Superintendent and approve the Approach Permit for Horizon Investments, LLC to construct an approach on the East side of Evans Lane approximately half way between Hillsview Rd and Highway 14. Motion Carried. Abstain-Randy Deibert.

**CULVERT BIDS:** Moved-Seconded (Johnson-Sleep) to approve and authorize the purchase of Corrugated Metal Culverts, Aluminum Box Culverts, Steel Culvert Headwalls, Grader Blades, Snowplow Blades, Galvanized Steel Sheet Piling, Steel Bridge Piling, Steel Guardrail, Galvanized Steel Bridge Decking, and Modular Steel Pre-engineered Bridges off the Beadle County Bid from TrueNorth Steel for 2018, per the recommendation of the Highway Superintendent. Motion Carried. (Bid on file in the Lawrence County Auditor's Office)

**BRIDGE INSPECTIONS:** Moved-Seconded (Johnson-Flanagan) to follow the recommendation of the Highway Superintendent and approve and authorize the Chairman to sign the BRIDGE REINSPECTION RESOLUTION #18-08. Motion Carried. Resolution #2018-08 BRIDGE REINSPECTION PROGRAM RESOLUTION FOR USE WITH SDDOT RETAINER CONTRACTS WHEREAS, Title 23, Section 151, United States Code and Title 23, Part 650, Subpart C, Code of Federal Regulations, requires initial inspection of all bridges and reinspection at intervals not to exceed two years with the exception of reinforced concrete box culverts that meet specific criteria. These culverts are reinspected at intervals not to exceed four years. THEREFORE, Lawrence County is desirous of participating in the Bridge Inspection Program using Bridge Replacement funds. The County requests SDDOT to hire Brosz Engineering, Inc. (Sturgis) (Consulting Engineers) for the inspection work. SDDOT will secure federal approvals, make payments to the Consulting Engineer for inspection services rendered, and bill the County for 20% of the cost. The County will be responsible for the required 20% matching funds. Dated this 13th day of March, 2018, at Deadwood, South Dakota. Board of County Commissioners of Lawrence County Brandon Flanagan, Chairman of the Board. ATTEST: Brenda McGruder, Deputy County Auditor.

**CITY OF SPEARFISH/COUNTY ROAD JURISDICTION:** The Board asked that Allan Bonnema, Highway Superintendent and Bruce Outka, Deputy State's Attorney, draft and be prepared to present a resolution transferring jurisdiction of certain roads from the County to the City of Spearfish.

**FEDERAL LANDS ACCESS PROGRAM:** A request will be made to Ali DeMersseman, Black Hills Council of Local Governments, to have her attend the next commission meeting to discuss the Federal Lands Access Program.

**R.O.W. ENCROACHMENTS:** An updated survey map of the Right-of-Way determination of the south side of West Highway 14 from Black Hills Energy Sports Complex through KOA Campground was presented to the Board. Further discussion has been scheduled for the next meeting.

**PLANNING & ZONING:**

**PLATS:**

**PRELIMINARY AND FINAL PLAT/LINNEMAN:** Moved-Seconded (Deibert-Johnson) to follow Planning and Zoning Commission and P&Z Staff Report and approve the Preliminary Plat for Brian & Lisa Linneman. Legal: Lots 35 & 36 of the Estates at Pillar Peak in Section 20 and 21, T5N, R4E. Vicinity Location: Hwy 85/Boulder Canyon SUMMARY: Allow for 2 Homes on 101 acres. Motion Carried.

Moved-Seconded (Deibert-Johnson) to approve the final plat with the condition that the areas depicted in the fire plan along the road be completed as well as the notation that any further subdivision would need fire plan review in affected areas and to follow Planning and Zoning Commission and P&Z Staff Report for Brian & Lisa Linneman. Legal: Lots 35 & 36 of the Estates at Pillar Peak in Section 20 and 21, T5N, R4E. Vicinity Location: Hwy 85/Boulder Canyon SUMMARY: Allow for 2 Homes on 101 acres. Motion Carried

**PRELIMINARY PLAT/BH DEVELOPMENT, LLC:** APPLICANTS: BH Development, LLC/Mid America Holdings, Co./Perlebach Investments, LLC. Legal: Lots 1-14, Blk 7 and Lots 1-10, Blk 8 of Wilderness Estates 2nd Addition, (legal shortened) in Section 8 T4N, R3E. Vicinity Location: Powder House Pass. Jerry Aberle, Powder House Pass Manager requested that consideration of the plat be continued until the next commission meeting to allow the legal description to be corrected.

**FINAL PLAT/BH DEVELOPMENT, LLC:** Legal: Lots 2, 3 & 8 Blk 7 of Wilderness Estates 2nd Addition, (legal shortened) in Section 8 T4N, R3E. Vicinity Location: Powder House Pass Moved-Seconded (Sleep-Flanagan) to continue until the next meeting on March 27, 2018. Motion Carried. Moved-Seconded (Sleep-Flanagan) to rescind the prior motion based on additional information being provided at the time of the meeting. Motion Carried.

Moved-Seconded (Johnson-Flanagan) to follow Planning and Zoning Commission and P&Z Staff Report and approve the Final Plat for BH Development, LLC. Legal: Lots 2, 3 & 8 Blk 7 of Wilderness Estates 2nd Addition, (legal shortened) in Section 8 T4N, R3E. Vicinity Location: Powder House Pass. Motion Carried.

**PRELIMINARY PLAT/BH DEVELOPMENT, LLC:** APPLICANTS: BH Development, LLC/BH Properties. LEGAL: Lots 1-12, Blk 1 and Lots 1-14, Blk 2 of Ridgewood Addition of Wilderness Estates 2nd Addition, (legal shortened) in Section 8 T4N, R3E. Vicinity Location: Powder House Pass. Moved-Seconded (Sleep-Flanagan) to continue until the next meeting on March 27, 2018. Motion Carried.

**LAYOUT PLAN/STARZ:** APPLICANTS: James and Tina Startz LEGAL: M.S. 1135 Claire #4 Located in Section 16, T4N, R4E. VICINITY LOCATION: Hwy 385 SUMMARY: Subdivide 10 Acre Parcel into 8 Acre and 2 Acre Parcels. Motion was made by Sleep to deny the Layout Plan for James and Tina Startz. Motion died due to lack of second. The issue discussed was access to the property crossing USFS property. While the Applicants are pursuing an access permit from the USFS, no permit has been issued. The Commission stated its reluctance to approve subdivision of the property under such circumstances. Applicants were encouraged to continue the access permitting process with the USFS and report back when that task is accomplished.

**TRANSFER C.U.P. 62-17:** Moved-Seconded (Johnson-Deibert) to approve the transfer of C.U.P. 62-17. From: David Arnio. To: Old Belle Road Enterprises, LLC. Legal: Tract A2 located in the NE 1/4 NE 1/4 of Section 32, T7N, R2E SUMMARY: Permit Trucking/Logging Business; Construction Business; Rental Units and Parking for Outside Storage. Motion Carried.

**SETBACK MEASUREMENT:** Jeff Schroeder, Deputy Code Enforcement Officer offered a report as to how neighboring counties and cities measure building setbacks - whether from the foundation or the outmost projection. Schroeder noted that both methods were used, and that Lawrence County has historically measured setbacks from the outmost projection. The Board referred the matter to the Planning & Zoning Commission for recommendations as to the best method for the County to employ going forward.

**THERMAL IMAGING CAMERAS:** Moved-Seconded (Deibert-Flanagan) to set the bid opening for April 10, 2018 at 8:25 a.m. for (6) Thermal Imaging Cameras. Motion Carried.

**HOMELAND SECURITY GRANT:** Moved-Seconded (Johnson-Deibert) to allow Paul Thomson, EM, to submit applications for the following Homeland Security Grants: HLS-2018-Lawrence County Emergency Management-00246, HLS-2018-Deadwood Police Department-00016, HLS-2018-Spearfish Fire Department-00317 and HLS-2018-Spearfish School District-00146. Motion Carried.

**EXECUTIVE SESSION PENDING LITIGATION:** 11:04 a.m. Moved-Seconded (Sleep-Flanagan) to go into executive session pursuant SDCL 1-25-2(3) with Bruce Outka and John Frederickson. Motion Carried. 11:43 a.m. The Board opened for regular business with no action taken.

Moved-Seconded (Deibert-Johnson) directing staff to file a claim with Claims Associates for legal representation regarding ongoing litigation in the matter of Oyen v. Lawrence County. Motion Carried.

**WEED ENFORCEMENT TASK FORCE:** Moved-Seconded (Sleep-Flanagan) to establish a weed enforcement task force for the specific and limited purpose of developing an active and manageable process to mitigate and proactively manage the continued expansion of invasive species in existing and future development. Motion Carried.

**BILLS:**

Moved-Seconded (Deibert-Sleep) to approve payment of the following payroll and vouchers listed below for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment drawn on the proper funds and various departments. Motion Carried.

**Payroll:** Comm-\$13,338.62; Aud-\$23,431.95; Treas-\$24,397.03; States Atty-\$30,895.70; Pub Def-\$24,595.48; Gen Govt Bldg-\$18,563.48; Equal-\$29,687.29; Rod-\$18,316.74; Ist-\$18,929.42; Disp-\$28,863.65; Sher-\$80,258.61; Jail-\$50,129.75; Coroner-\$1,476.70; 24/7-\$352.58; Emerg Mgmt-\$8,799.88; E911-\$4,105.60; Highway-\$95,820.52; Mh Ser-\$846.00; Weed-\$11,628.28; Pz-\$11,442.38; **Bills:** Ruffatto,Robert-\$69.00; Johnson,Patrick-\$69.00; Merwin,Megan-\$69.00; Pickett,Michael-\$25.20; A To Z Shredding-\$17.40; A&B Business,Inc Solutions-\$2,179.43; A&B Welding Supply-\$144.28; A&I Distributors-\$723.90; A&J Supply-\$13.98; Ace Hardware Of Lead-\$2.60; Active Data Systems-\$26.02; Ainsworth Benning Const-\$10,760.70; Alpine Impressions-\$225.00; American Family Life-\$3,056.91; At&T-\$10.99; Black Hills Energy-\$11,912.42; Breit Law Offices-\$297.18; Centurylink-\$1,944.74; Credit Collections Bureau-\$64.54; Deadwood Recreation Center-\$811.00; Delta Dental Of South Dakota-\$7,275.18; Dept Of The Treasury-\$58,825.03; Hartford-Priority Accounts-\$2,169.89; Midcontinent Communications-\$111.54; Montana Dakota Utilities-\$388.40; Northern Hills Rec Center-\$177.00; Office Of Attorney General-\$302.77; Office Of Child Support-\$983.09; Sd Assn Of Co Comm-\$100.00; Sd Retirement System-\$59,331.14; Sdrs Supplemental Retirement-\$2,866.00; Vast Broadband-\$1,685.47; Verizon Wireless-\$105.44; Wellmark Blue Cross-\$85,337.27; At&T Mobility-\$919.36; Audra Hill Consulting-\$1,594.17; Avera Mckennan Hospital-\$349.75; BH Land Analysis-\$999.00; BH Pest Control-\$190.00; BH Pioneer-\$807.36; Barnaud Law Firm-\$412.30; Bi Geo Group-\$464.60; Black Hills Disposal-\$90.00; Black Hills Energy-\$250.36; Black Hills Pure-\$11.50; Bob Barker Company-\$241.38; Breit Law Offices-\$297.18; Brown & Saenger-\$400.71; Bruemmer,Lynnel-\$70.20; Butler Machinery Co-\$4,817.92; Butte County-\$44,117.00; Butte Electric Coop-\$658.95; Cbh Cooperative-\$1,778.78; Century Business Products-\$487.87; Centurylink-\$109.84; Charm-Tex-\$148.32; City Of Rapid City-\$805.00; City/County

Alcohol&Drug-\$226.00; Clinical Lab Of BH-\$1,646.00; Cochran, Leslie-\$142.80; Convergint Technologies-\$881.11; Credit Collections Bureau-\$64.54; Dakota Equipment Rental-\$885.84; Deadwood, City Of-\$1,040.69; Dept Of Hlth Lab Services-\$1,050.00; Dept Of The Treasury-\$59,025.39; Digital Paging Company-\$1,358.63; Dmc Wear Parts-\$541.84; Ecolab-\$156.42; Ellingson,Joseph-\$1,768.30; Epc-\$139.26; Fastenal-\$117.35; G&H Distributing Of Rc-\$72.55; Galls-\$113.85; Gene's Lock Shop-\$911.96; Godfrey's Brake Serv-\$869.94; Grafix Shoppe-\$1,449.89; Harkins,Carolyn-\$103.25; Heartland Paper Co-\$1,546.58; High Plains Business Forms-\$78.73; Hilpert & Hale Prof-\$246.40; Interstate Engineering-\$4,015.00; Jacobs Precision Welding-\$274.02; Janke,Wendy-\$1,666.00; Jensen, Alana-\$30.34; Karl's-\$73.94; Katterhagen,Mark-\$15.00; Kimball-Midwest Co-\$808.64; Kinkade Funeral Chapel-\$975.00; Kinney,Matthew-\$5,163.20; LC Sheriff-\$291.80; L-3 Mobile Vision-\$235.54; Lead, City Of-\$62.85; Lead-Deadwood Sanitary-\$658.00; Lewis & Clark Bhs-\$320.00; Lewno,Lucy-\$166.47; Lexisnexis Risk Data Mgnt-\$151.00; Lincoln County-\$142.53; Lockwood, Darcy-\$15.00; Mack's Auto Body-\$384.85; Megas Propane-\$819.41; Mcleod's Office Supply-\$99.80; Mg Oil Company-\$10,846.53; Montana Dakota Utilities-\$5,093.78; Mountain Vista Dental-\$122.00; Murphy Petroleum Transport-\$30.00; Nalco Company-\$239.20; Nebraska Salt & Grain Co-\$5,739.29; Nelson,Christy-\$150.00; Nelson,Tonya-\$450.00; North Central Int'l-\$1,473.73; Northern Truck Equip-\$3,631.35; Office Depot-\$1,410.37; Office Of Attorney General-\$302.77; Office Of Child Support-\$983.09; Pennington Co Jail-\$763.35; Pennington County Sheriff-\$400.00; Pennington County Sts Attny-\$215.00; Phoenix Investigations-\$1,536.21; Pictometry International-\$750.00; Pitney Bowes-\$353.15; Pitney Bowes Global Financial-\$992.04; Postmaster, Deadwood-\$90.00; Public Safety Source-\$2,157.15; Quill-\$965.24; Rabe Elevator-\$1,125.51; Radiology Associates-\$53.87; Rapid Delivery-\$67.00; Rasmussen Mechanical Serv-\$1,518.35; Regional Health-\$923.69; Regional Health Home Plus Hme-\$40.42; Rena M Hymans-\$1,773.33; Reserve Account-\$7,000.00; Rhomar Industries-\$276.34; Rocket Lube-\$82.99; Root Spring Scraper Co-\$296.88; Sand Creek Printing-\$404.00; Sd Assoc Of County Commission-\$929.00; Sd Public Assur Alliance-\$176,234.38; Sd State Treasurer-\$1,152.44; Sdrs Supplemental Retirement-\$2,816.00; Sdsu Extension-\$6,307.00; Servall Towel & Linen-\$1,088.42; Shopko Pharmacy-\$16.24; Spearfish Auto Supply-\$807.60; Spearfish Police Dept-\$10,450.88; Stretch's Glass & Mirror-\$322.09; Sturdevant's Auto Parts-\$1,980.75; Sysco Montana-\$5,469.35; The Glass Shop-\$377.16; Thomson Reuters-\$186.61; Transource Truck & Equip-\$1,495.98; Triple K Tire & Repair-\$274.98; Twilight First Aid & Safety-\$107.35; Twin City Hardware & Lumber-\$2,545.08; Warne Chemical-\$1,542.40; Waste Connections Of Sd-\$800.52; Watertree-\$52.75; Wells Fargo Business Card-\$4,398.51; Wells Plumbing & Farm Supp-\$38.13; West River International-\$495.53; Western Sd Juvenile Serv-\$1,090.00; Wex Bank-\$925.47; White Drug-\$1,735.00; White's Canyon Motors-\$235.01; Yankton Co Sheriff-\$100.00; **Witness & Jurors:** Allerdings,E-\$52.52; Bordewyk,T-\$62.60; Carroll,P-\$66.80; Cockreham,R-\$64.28; Crawford,G-\$60.92; De Lano,M-\$14.28; Geppert,T-\$71.00; Gostola,C-\$52.52; Gruenwald,P-\$66.80; Hansen,M-\$62.60; Hansen,T-\$50.84; Hayward,N-\$52.52; Kinghorn,S-\$10.08; Lampe,B-\$66.80; Mcmillin,G-\$63.44; Rhodes,J-\$58.40; Ryan,M-\$61.76; Sternhagen,L-\$52.52; Teel-Hartman,M-\$60.92; Dinel,D-\$107.00; Morton,A-\$107.00; Morton,A-\$107.00; Carista,T-\$22.52; Thorman,J-\$32.44

**ADJOURN:** 12:02 p.m. There being no further business, it was Moved-Seconded (Sleep-Flanagan) to adjourn the meeting. Motion Carried.

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Date Approved

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Brandon Flanagan, Chairperson

ATTEST:

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Brenda McGruder, Deputy Auditor