

LAWRENCE COUNTY COMMISSIONERS MEETING – June 12, 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 June 12, 2018 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randy Deibert, Daryl Johnson, Richard Sleep and Randall Rosenau.

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

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

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

MINUTES: Moved-Seconded (Deibert-Flanagan) to approve the minutes of June 7, 2018 County Commission meeting. Motion Carried.

PERSONNEL:

PUBLIC DEFENDER: Moved-Seconded (Rosenau-Deibert) to follow the recommendation of the Public Defender Board and approve Amber L. Lopez as a full-time permanent Public Defender Director G10 at the base rate of \$3,413.30 per pay period, effective June 24, 2018, and to express gratitude to Matt Pike for his years of service as Director of the Public Defender Office. Motion Carried

HIGHWAY: Moved-Seconded (Rosenau-Flanagan) to approve Richard Hagerty as a full-time seasonal summer help/mowing at the base rate of \$22.44 per hour, effective June 4, 2018. Aye-Flanagan, Deibert, Johnson and Rosenau. Nay-Sleep. Motion Carried.

SHERIFF: Moved-Seconded (Johnson-Deibert) to approve Robert Torres as a part-time (under 20) fill-in Correctional Officer G2 at the base rate of \$18.70 per hour, effective June 18, 2018. Motion Carried.

Moved-Seconded (Rosenau-Sleep) to approve Koreena Schultes as a part-time (under 20) fill-in Correctional Officer G1 at the base rate of \$18.33 per hour, effective June 10, 2018. Motion Carried.

Moved-Seconded (Rosenau-Deibert) to allow for the advertising of a full-time Correctional Officer. Motion Carried.

AUDITOR'S ACCOUNT WITH TREASURER REPORT: Moved-Seconded (Johnson-Rosenau) to accept the Auditor's Account with the County Treasurer. Motion Carried. As of May 31, 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)-\$103,370.82; total amount of cash in transit in Treasurer's possession (cash deposit in transit)-\$5,334.13; petty cash-\$1,860.00; total amount of deposits in bank include: CD's-\$3,000,000.00; bank balance \$15,431,544.63, money market \$8,748,712.00. Total \$27,180,256.63.

USFS COOPERATING AGENCY STATUS: Moved-Seconded (Deibert-Rosenau) to contact the Forest Service and enter into a formal agreement similar to the terms and conditions contained in the model MOU and to include in Section I "Purpose" additional language recognizing that the opportunity for county involvement at the inception of any environmental analysis process is a vital component in furtherance of the mutual benefit and interests of the parties as contemplated in this MOU. Motion Carried.

SHERIFF: Brian Dean, Sheriff gave an update on the Average Daily Population of the Jail.

JAIL CONTRACT:

LEAD/DEADWOOD REGIONAL HOSPITAL MEDICAL AGREEMENT: Moved-Seconded (Deibert-Rosenau) to approve and authorize the Chairman to sign the Jail Medical Agreement with the Lead/Deadwood Regional Hospital. Motion Carried.

HIGHWAY:

FUEL QUOTES: The following fuel quotes were submitted as of May 29, 2018: **Deadwood Diesel #2 (dyed): 6700 gallons:** (prices per gallon) CBH Cooperative - \$2.456*; Harms Oil Co - No Bid; MG Oil - \$2.659. **Deadwood Unleaded 4100 gallons:** (prices per gallon) CBH Cooperative - 2.741*; Harms Oil Co - No bid; MG Oil - No Bid. **Spearfish Unleaded 900 gallons:** (prices per gallon) CBH Cooperative - \$2.791*; Harms Oil Co - No bid; MG Oil - No Bid. *Represents lowest quote awarded.

PERMITS:

APPROACH PERMIT/CHASE: Moved-Seconded (Sleep-Deibert) to follow the recommendation of Allan Bonnema, Highway Superintendent and deny the approach permit for Kay Chase to construct an approach on the north side of Kerwin Lane. Motion Carried.

APPROACH PERMIT/BLACK HILLS ENERGY: Moved-Seconded (Deibert-Rosenau) to follow the recommendation of Allan Bonnema, Highway Superintendent and approve the approach permit for Black Hills Energy to construct an approach on the north side of Weisman Road (0262) located approximately 2.65 miles east of Highway 34 intersection. Motion Carried. Special conditions: Temporary approach must be removed once access to the project yard is no longer needed.

APPROACH PERMIT/PEPPING: Moved-Seconded (Johnson-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent and approve the approach permit for Mike Pepping to construct an approach on the west side of Bear Ridge Rd located approximately 1.5 miles south of Homestake Road. Aye-Flanagan, Johnson, Sleep and Rosenau. Nay-Deibert. Motion Carried. Special conditions: Hidden driveway signage must be installed.

COUNTY HIGHWAY SYSTEM REVISIONS: Moved-Seconded (Rosenau-Deibert) to advertise and set a public hearing for June 26, 2018 at 8:30 am for a resolution transferring road jurisdiction. Motion Carried.

2018 CHIP & SEAL PROJECTS: Moved-Seconded (Johnson-Deibert) to approve and authorize the advertising for bid opening for the 2018 Chip & Seal Projects for July 10, 2018 at 8:30 a.m. Motion Carried.

BRIDGE 41-092-060: Allan Bonnema, Highway Superintendent informed the board that the deck on Bridge 41-092-060 needs to be replaced. He also stated that the Bridge Improvement Grant has a rehabilitation program. Moved-Seconded (Deibert-Rosenau) to negotiate a design contract with Brosz engineering for the bridge deck overlay for Bridge 41-092-060 and to pursue the rehabilitation grant through the Bridge Improvement Grant program. Motion Carried.

PLANNING & ZONING:

PLANNING AND ZONING UPDATE: Amber Vogt, Planning & Zoning Administrator gave an update on Nuisance Complaint Process and 2018 Budget.

ZONING CLARIFICATION: Amber Vogt, Planning & Zoning Administrator presented a letter from Faegre Baker Daniels LLP re: the Valley Corner property requesting a zoning clarification. She asked the Commission for their opinion on the letter and they stated that she should put the property owners on notice that there are existing zoning regulations issues related to the setbacks, parking, loading/unloading and sign regulations.

PLATS:

PRELIMINARY AND FINAL PLAT/MAAG: APPLICANTS: Aaron & Kimberly Maag
LEGAL: Tract 4, Blk A of Bowman Sub all located in Sections 34, T5N, R3E (Legal Shortened)
VICINITY LOCATION: Highway 385 **SUMMARY:** Combine 5 lots into 1.

Moved-Seconded (Sleep-Johnson) declaring that the plat for Aaron & Kimberly Maag meets exemption criteria per Subdivision Ordinance, Chapter 4. Aye-Flanagan, Johnson, Sleep and Rosenau. Nay-Deibert. Motion Carried.

Moved-Seconded (Sleep-Johnson) to approve the preliminary & final plat for Aaron & Kimberly Maag based upon the Planning and Zoning Commission recommendation for approval and the concurrent recommendation of P&Z staff, as reflected in the staff report. LEGAL: Tract 4, Blk A of Bowman Sub all located in Sections 34, T5N, R3E (Legal Shortened) VICINITY LOCATION: Highway 385 SUMMARY: Combine 5 lots into 1. Motion Carried.

PRELIMINARY AND FINAL PLAT/BERGUM: APPLICANTS: Gerald & Sharleen Bergum LEGAL: Tract 1A1-A, 1A1-B and Tract B Revised of Gray Subdivision in Section 36, T6N, R4E VICINITY LOCATION: Whitewood Service Road SUMMARY: Additional Lot in the Gray SD/D.

Moved-Seconded (Deibert-Rosenau) to approve the preliminary & final plat for Gerald & Sharleen Bergum based upon the Planning and Zoning Commission recommendation for approval and the concurrent recommendation of P&Z staff, as reflected in the staff report. LEGAL: Tract 1A1-A, 1A1-B and Tract B Revised of Gray Subdivision in Section 36, T6N, R4E VICINITY LOCATION: Whitewood Service Road SUMMARY: Additional Lot in the Gray SD/D. Motion Carried.

CHANGE OF ZONING #322/NELSON: Second Reading Hearing was held on COZ #322. APPLICANT: Terry Nelson SUMMARY: PF to HSC LEGAL: VICINITY LOCATION: Highway 385 and Brownsville Road.

Commissioner Deibert felt that the Recreation/Commercial Zoning classification was a more apt fit for the subject property. Commissioner Sleep questioned the requested change of zoning asking whether the change was for need or want. Commissioner Flanagan noted that a development plan was not a prerequisite to request a change of zoning. Terry Nelson, Applicant stated he was in favor of Planning & Zoning recommendation to split the property in half leaving the west half Park Forest and the eastern portion Highway Service Commercial. Commissioner Johnson expressed his concern with problems posed by the ever-increasing popularity of off-road vehicle use, and the possibility of this type of business being operated on the property.

Sleep made a motion to deny the application for COZ #322. Motion Died for lack of second.

Moved-Seconded (Rosenau-Flanagan) to follow Planning & Zoning and P&Z Staff report, and approve COZ #322 with the condition that no campground or off-road vehicle rentals be allowed on the subject property and that access from the Brownsville road be approved by the Highway Superintendent. APPLICANT: Terry Nelson SUMMARY: PF to HSC LEGAL: VICINITY LOCATION: Highway 385 and Brownsville Road. Aye-Rosenau and Flanagan. Nay-Deibert, Johnson and Sleep. Motion Failed.

Moved-Seconded (Deibert-Sleep) to deny the application for COZ #322. APPLICANT: Terry Nelson SUMMARY: PF to HSC LEGAL: VICINITY LOCATION: Highway 385 and Brownsville Road. Aye-Deibert, Johnson, Sleep and Rosenau. Nay-Flanagan. Motion Carried.

ORDINANCE #18-02/WILSON: Second Reading was held on proposed ORD #18-02. APPLICANT: David Wilson SUMMARY: Add Taxi Business as Allowed Use in SRD. Moved-Seconded (Deibert-Rosenau) to follow Planning and Zoning and P&Z Staff and approve and adopt Ordinance #18-02. Motion Carried.

CONDITIONAL USE PERMIT #445/WILSON: A Public Hearing was held on C.U.P. #445. APPLICANT: David Wilson LEGAL: Lot 2 OF Hoffman S/D Formerly Tract B-2 OF Tract B of Lot 7 of Gov't Lot 1 and a Portion of Lot 8 of Gov't Lot 1 Located in Gov't Lot 1 of Section 4, T6N, R2E, B.H.M., Lawrence County, South Dakota SUMMARY: Operate Taxi Business VICINITY LOCATION: Highway 14A (Spearfish). No public input was voiced and the hearing was closed.

David Wilson, applicant explained his business plan to the Commissioners.

Two additional conditions were discussed. 1. When the proposed applicant owns 20 or more fleet vehicles the parking area will be required to be paved and striped. 2. All improvements in the flood plain shall be approved by the City of Spearfish.

Moved-Seconded (Johnson-Rosenau) to follow the recommendation for approval found in the Planning and Zoning staff report for the reasons set forth therein incorporating the conditions contained therein and adding the two additional conditions regarding paving of the parking area and coordination of site improvements with the City of Spearfish, all as on file in the Planning and Zoning Office, Conditional Use Permit #445 for David Wilson to Operate a Taxi Business. Motion Carried.

AGNICO EAGLE MINES, LTD/GREGG LOPTIEN: Gregg Loptien and Sandor Ringhoffer, Agnico Eagle Mine, Joy Jenkins, EPA, and Pat Gochnour, Gochnour & Associates, Inc. were present to give a summary of the Gilt Edge Project and Remedial/Investigative drill program.

BAD CHECK CHARGES: Moved-Seconded (Johnson-Sleep) to approve and authorize the Chairperson to sign the following Resolution 2018-12 for Dishonored Checks And Procedure For Collecting For Insufficient Fund Or No Account Checks. Motion Carried. A RESOLUTION FIXING COSTS AND EXPENSES CHARGEABLE FOR DISHONORED CHECKS AND PROCEDURE FOR COLLECTING FOR INSUFFICIENT FUND OR NO ACCOUNT CHECKS WHEREAS, Lawrence County receives insufficient fund or no account check from individuals conducting business with Lawrence County; WHEREAS, Lawrence County incurs costs and expenses collecting insufficient fund or no account checks; WHEREAS, pursuant to SDCL 57A-3-422 Lawrence County is authorized to collect forty dollars for costs and expenses from any person who issues a check or other draft to Lawrence County, including any of its departments, which is not honored upon presentation; WHEREAS, pursuant to SDCL 7-11-4.2, if a county receives an insufficient fund or no account check, the county shall institute a collection procedure; and WHEREAS, SDCL Ch. 22-30A details the procedure for collecting insufficient fund or no account checks; NOW, THEREFORE, BE IT RESOLVED, any person who issues a check or other draft to Lawrence County, including any of its departments, which is not honored upon presentation, may be charged a fee of \$40.00 for costs and expenses incurred in collection; IT IS FURTHER RESOLVED THAT, that the Lawrence County Treasurer shall follow the procedure for collecting insufficient fund or no account checks as set forth in SDCL 22-30A and according to any other applicable statute or rule. Dated this 12th day of June, 2018. Brandon Flanagan, Chairman. ATTEST: Brenda McGruder, Auditor.

ABATEMENTS:

LAWRENCE COUNTY: Moved-Seconded (Deibert-Sleep) to approve the abatement for Lawrence County on parcel #26999-00005-000-60 because the cabin was torn down. Motion Carried.

BILLS:

Moved-Seconded (Deibert-Johnson) 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-\$6,669.31; Aud-\$10,237.18; Treas-\$12,350.83; States Atty-\$15,462.25; Pub Def-\$12,300.94; Gen Govt Bldg-\$9,315.70; Equal-\$14,867.34; Rod-\$9,158.36; Vso-\$993.80; Ist-\$7,162.89; Disp-\$14,278.08; Sher-\$46,991.32; Jail-\$22,195.31; Coroner-\$966.55; 24/7-\$207.40; Emerg Mgnt-\$4,412.44; E911-\$2,052.80; Highway-\$44,199.11; Mh Ser-\$376.00; Weed-\$6,690.95; Pz-\$5,721.19; **Bills:** Tridle,Debora-\$41.00; Green,Sheree-\$26.00; Agena,Timothy-\$10.62; Atkinson,Sally-\$41.00; Bracha,Maria-\$184.80; Kline,Steven-\$12.60; Moser,Douglas-\$93.96; American Family Life-\$2,902.07; At&T Mobility-\$682.13; Breit Law Offices-\$297.18; Credit Collections Bureau-\$64.54; Deadwood Recreation Center-\$756.00; Delta Dental Of South Dakota-\$7,547.52; Dept Of The Treasury-\$58,144.57; Hartford-Priority Accounts-\$2,011.35; Northern Hills Rec Center-\$177.00; Office Of Attorney General-\$302.77; Office Of Child Support-\$983.09; Sdrs Supplemental Retirement-\$2,660.00; Wellmark Blue Cross-\$87,210.73; 5.11-\$223.98; A&B Business,Inc Solutions-\$1,683.54; A&B Welding Supply-\$498.34; A&J Supply-\$79.99; Aberdeen Llc-\$46.00; At&T Mobility-\$247.51; Audra Hill Consulting-\$699.63;

Axon Enterprise-\$1,331.00; BH Pest Control-\$190.00; BH Physical Therapy-\$160.00; BH Pioneer-\$1,323.00; Barnaud Law Firm-\$820.74; Black Hills Energy-\$162.61; Black Hills Pure-\$11.50; Bob Barker Company-\$47.85; Butler Machinery Co-\$1,356.46; Butte Electric Coop-\$411.97; Cbh Cooperative-\$30,205.20; Cdw Government-\$3,338.00; Central Restaurant Products-\$29.36; Century Business Products-\$548.69; Centurylink-\$109.48; Chris Supply Co-\$10.35; City/County Alcohol&Drug-\$1,338.50; Clinical Lab Of B.H-\$4,222.00; Clubhouse Hotel & Suites Pierre-\$584.00; Cow Country Equipment-\$3,610.20; Dakota Equipment Rental-\$1,447.70; Deadwood, City Of-\$1,106.41; Dmc Wear Parts-\$1,450.00; Ds Solutions-\$175.00; Eb Communications-\$110.00; Eddie's Truck Sales/Serv-\$75.84; Election Sys & Software-\$2,059.48; Ellingson,Joseph-\$3,039.16; Fastenal-\$30.65; G&H Distributing Of Rc-\$152.09; Galls-\$734.76; Gene's Lock-\$8.00; Godfrey's Brake Serv-\$846.84; Great Western Tire-\$610.00; Grimm's Pump Service-\$1,090.33; Harding Co State's Attorney-\$58.80; Heartland Paper Co-\$925.88; Horn Law Office Prof-\$403.80; Hp-\$5,264.64; Jacobs Precision Welding-\$35.00; Johner Gravel-\$9,258.16; Johnson Machine-\$37.98; Katterhagen, Mark-\$6.00; Kiesler's Police Supply-\$1,303.00; Kimball-Midwest Co-\$293.68; Kinney, Matthew-\$568.90; Knecht Home Center Of Spf-\$655.19; Kosel,Joseph-\$15,760.50; LC Assessor-\$25.42; LC Plan & Zone-\$35.33; Lawson Products-\$341.49; Lead, City Of-\$91.97; Lead-Deadwood Sanitary-\$766.89; Lee, James-\$15.00; Lewis & Clark Bhs-\$480.00; Lewno, Lucy-\$113.25; Lexisnexis Risk Data Mgnt-\$77.50; Lincoln County-\$37.60; Lockwood, Darcy-\$6.00; McClure, Susan-\$100.00; Montana Dakota Utilities-\$2,342.80; Ms Mail-\$60.00; Nelson Law-\$786.45; Nelson, Christy-\$250.00; Nelson, Tonya-\$350.00; North Central Int'l-\$1,186.27; Northern Hills Casa-\$7,500.00; Novus-\$60.00; Office Depot-\$95.74; Pennington County Sheriff-\$400.00; Pictometry International Corp-\$13,678.33; Pitney Bowes Global Financial-\$992.04; Pizza Lab-\$174.90; Plumbmaster-\$77.94; Postmaster, Deadwood-\$378.00; Proguard-\$169.32; Quill-\$449.44; Rabe Elevator-\$1,431.35; Ramkota Inn Pierre-\$203.98; Rapid City Police Dept-\$710.00; Rasmussen Mechanical Serv-\$2,460.00; Regional Health-\$1,036.72; Rena M Hymans-\$868.24; Rocket Lube-\$54.99; Sd State Treasurer-\$600.00; Sears-\$1,905.95; Servall Towel & Linen-\$1,009.08; Simon-\$486.01; Spearfish Auto Supply-\$2,039.97; Spearfish Motors-\$633.16; Spearfish Police Dept-\$10,724.79; Sturdevant's Auto Parts-\$1,212.89; Sysco Montana-\$2,915.54; Thomson Reuters-West-\$184.64; Transource Truck & Equip-\$1,105.38; Triple K Tire & Repair-\$2,326.16; Truenorth Steel-\$12,369.10; Twilight First Aid & Safety-\$155.45; Twin City Hardware & Lumber-\$546.51; Waste Connections Of Sd-\$800.52; Watertree-\$45.80; Wells Plumbing & Farm Supp-\$1,010.00; Western Communication-\$347.50; Wex Bank-\$792.34; White's Canyon Motors-\$52,738.48; White's Queen City Motors-\$420.00; Yankton Co Sheriff-\$150.00; **Election Workers, Witness & Jurors:** Aman,B-\$170.00; Ammons,S-\$174.20; Asmussen,P-\$199.20; Benning,E-\$211.80; Bruce,A-\$170.00; Calabro,P-\$166.80; Caserio,C-\$211.78; Cook,S-\$170.00; Frederickson,J-\$37.50; Garlick,D-\$170.00; Geigle,E-\$209.28; Glanzer,C-\$170.00; Goss,D-\$150.00; Gustafson,A-\$170.00; Headley,P-\$170.00; Hughes,L-\$150.00; Jorgensen,K-\$211.80; Kellogg,D-\$211.80; Kinghorn,S-\$150.00; Littleton,D-\$170.00; Lungren,B-\$211.80; Ommen,C-\$195.00; Pisani,S-\$150.00; Quaschnick,E-\$216.00; Rech,J-\$170.00; Robinson,P-\$150.00; Sager,M-\$170.00; Silvernail,G-\$195.00; Taylor,J-\$207.60; Tetrault,R-\$170.00; Waisanen,A-\$150.00; Weber,P-\$150.00; Wuitschick,C-\$170.00; Allerdings,E-\$52.52; Bordewyk,T-\$62.60; Carroll,P-\$66.80; Cockreham,R-\$64.28; Crawford,G-\$60.92; Hansen,M-\$62.60; Lampe,B-\$66.80; Rhodes,J-\$58.40; Hamann,A-\$22.52; Schafer,M-\$55.28; Chyba,R-\$42.68; Matamoros,J-\$35.12; Wood,T-\$35.12; Sorenson,R-\$42.68; Sorenson,K-\$20.00; Kyte,M-\$35.12

ADJOURN: 11:40 a.m. There being no further business, it was Moved-Seconded (Deibert-Flanagan) to adjourn the meeting. Motion Carried.

Date Approved

Brandon Flanagan, Chairperson

ATTEST:

Brenda McGruder, Auditor