

LAWRENCE COUNTY COMMISSIONERS MEETING – April 27, 2021 page-1

Chairman Richard Sleep called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on April 27, 2021 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randall Rosenau, Randy Deibert, Brandon Flanagan and Robert Ewing present.

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

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

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

MINUTES: Moved-Seconded (Ewing-Rosenau) to approve the minutes of April 13, 2021 County Commission meeting. Motion Carried.

PERSONNEL:

SHERIFF: Moved-Seconded (Deibert-Flanagan) to approve Tyler Sonne as a full-time permanent Deputy I G1 at a base rate of \$24.61 an hour, effective May 9, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Alexander Clover as a full-time permanent Deputy II G2 at a base rate of \$26.66 an hour, effective May 9, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Brandon Rosenau as a full-time permanent Deputy I G1 at a base rate of \$24.61 an hour, effective April 25, 2021. Motion Carried.

Moved-Seconded (Deibert-Sleep) to approve Barb Baker as a full-time permanent Dispatcher II G1 at a base rate of \$20.44 an hour, effective May 1, 2021. Motion Carried.

Moved-Seconded (Flanagan-Sleep) to approve Nathan Lechner as a part-time fill-in Correctional Officer II G3 at a base rate of \$20.86 an hour, effective May 5, 2021. Motion Carried.

TREASURER: Moved-Seconded (Deibert-Flanagan) to approve Megan Schmit as a full-time permanent Secretary G2 at a base rate of \$18.13 an hour, effective May 3, 2021. Motion Carried.

USFS / WEED SPRAYING AGREEMENT: Moved-Seconded (Ewing-Rosenau) to approve and authorize the Chairman to sign the Participating Agreement #21-PA-11020308-041 between Lawrence, County of and the USDA, Forest Service Region 2, Black Hills National Forest Service Northern Hills Ranger District for weed spraying. Motion Carried.

ABATEMENT:

DENKE: Moved-Seconded (Flanagan-Deibert) to approve the abatement for William J Denke, Jr. on parcel #18300-00504-133-91 for 2020 taxes payable in 2021 and 2021 taxes payable in 2022 as the mobile was hauled to the dump in August of 2020. Motion Carried.

FEDERAL GOVERNMENT'S "30 x 30" LAND PRESERVATION GOAL: Moved-Seconded (Ewing-Rosenau) to approve and adopt the following Resolution #2021-17 A RESOLUTION OPPOSING THE FEDERAL GOVERNMENT'S "30 x 30" LAND PRESERVATION GOAL. Motion Carried. LAWRENCE COUNTY RESOLUTION #2021-17 A RESOLUTION OPPOSING THE FEDERAL GOVERNMENT'S "30 x 30" LAND PRESERVATION GOAL WHEREAS, Lawrence County is a political subdivision of the State of South Dakota; and WHEREAS, Lawrence County containing about 511,938 acres of land is situated in the State of South Dakota; and WHEREAS, the federal government owns 54% of the land within the County, and the United States Forest Service and Bureau of Land Management are responsible for managing over 279,159 acres of these federal lands; and WHEREAS, the Black Hills National Forest comprises 274,000 acres of land and the BLM comprises 4,708 acres within Lawrence County; and WHEREAS, designating lands as wilderness does not assure its preservation. Left in an undisturbed or natural state, these lands are highly susceptible to wildland wildfires, insect infestation and disease, all of which degrades the natural and human environment; and WHEREAS, the well-being, health, safety, welfare, economic condition, and culture of the County, its businesses, and its citizens depend on private land ownership and the use of these resources; and WHEREAS, many of Lawrence County's businesses and its citizens are involved in or otherwise depend on industries that utilize private lands and their resources, including the forest

products industry, livestock grazing, mining and mineral development, recreational industries, hunting and other outdoor recreation; and WHEREAS, these industries are important components of the South Dakota economy, and are major contributors to the economic and social wellbeing of Lawrence County and its citizens; and WHEREAS, on January 27, 2021, President Joseph R. Biden, Jr., issued Executive Order 14008 entitled Tackling the Climate Crisis at Home and Aboard (86 Fed. Reg. 7,619); and WHEREAS, in Section 216 of Executive Order 14008, President Biden directed the Secretary of the Interior, in consultation with the Secretary of Agriculture and other senior officials, to develop a program to conserve at least 30 percent of the lands and waters in the United States by 2030, which is called the “30 x 30” program; and WHEREAS under the 30 x 30 program, some 680 million acres of our Nation's lands would be set aside and permanently preserved in its natural state, preventing the productive use of these lands and their resources; and WHEREAS, there is no constitutional or statutory authority for the President, the Department of the Interior, the Department of Agriculture, or any other federal agency to set aside and permanently preserve 30 percent of all land and water in the United States, and no such authority is referenced in Executive Order 14008; and WHEREAS, placing private lands into permanent conservation status will cause dramatic and irreversible harm to the economies of many states, including South Dakota, and in particular rural counties such as Lawrence County whose citizens depend on private lands for their livelihoods; and WHEREAS, the 30 x 30 program, if implemented, will conflict with the plans, policies and programs of Lawrence County; and WHEREAS, Executive Order 14008 at 216(a) directs the Secretary of the Interior, in consultation with other relevant federal agencies to "submit a report to the Task Force within 90 days of the date of this order recommending steps that the United States should take, working with State, local, Tribal, and territorial governments, agricultural and forest landowners, fishermen, and other key stakeholders, to achieve the goal of conserving at least 30 percent of our lands and waters by 2030." NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lawrence County, South Dakota, as follows: 1. The Board opposes the 30 x 30 program, including its objective of permanently preserving 30 percent of the Nation's lands in its natural state by 2030, or any similar program that will set aside and prevent the productive use of millions of acres of our lands. 2. The Board further opposes the designation of lands in Lawrence County as wilderness, wilderness study areas, wildlife preserves, open space, or other conservation land, thereby restricting public access to such lands and preventing the development and productive use of the resources on or within such lands. 3. The Board supports the continued private ownership of land in the County, recognizing the Nation's need for domestic sources of minerals, energy, timber, food, and fiber. 4. The Board recognizes and supports the State of South Dakota's water rights system, and other state laws and programs governing water rights and water use, and opposes any federal designation of waters and watercourses within the County that would impair or restrict water diversions and uses authorized under South Dakota law. 5. The Board supports reasonable national, regional, and global greenhouse gas emissions policies and goals that are comprehensive, practical, cost-effective, and do not unnecessarily single out specific industries or activities, but opposes the use of global climate change as an excuse to set aside large tracts of land as preserves or open space to fulfill the 30 x 30 program's objectives. 6. The Board also maintains that any lands or other rights that are acquired to fulfill the 30 x 30 program's objectives should be acquired only from willing landowners and for the payment full and fair market value for all rights and interests acquired, and not through regulatory compulsion, and only after analyzing and considering the impacts of such land acquisitions on the well-being, health, safety, welfare, economy, and culture of Lawrence County, its businesses, and its citizens. 7. The Board shall send a copy of this Resolution to the Department of Interior and all other relevant Federal and State agencies; and Duly passed and adopted at a regular meeting of the Lawrence County Commission on the 27th day of April, 2021. Lawrence County Commission: Richard Sleep, Chairman ATTEST: Brenda McGruder, Auditor.

SHERIFF:

TRAVEL REQUEST:

SHERIFF: Moved-Seconded (Flanagan-Deibert) to approve the travel request for Jamie Pesicka Olson to attend South Dakota Mines Field GPS workshop in Rapid City, SD from May 17-19, 2021, May 20-21, 2021 and May 24-25, 2021. Motion Carried.

AUTOMATED BREATHALYZER KIOSK CUSTOMER AGREEMENT: Moved-Seconded (Deibert-Rosenau) to approve and authorize Brian Dean, Sheriff, to sign the Automated Breathalyzer Kiosk Customer agreement between Custom Control Systems, Inc. d/b/a Precision Kiosk Technologies (“PKT”) and Lawrence County, South Dakota, Sheriff's Office. Motion Carried.

SUPPLEMENTAL BUDGET: A Public Hearing was held on Resolution #2021-16 for a Supplemental Budget for 24/7 Sobriety Fund 24/7 PBT - \$10,000.00. No public input was voiced and the hearing was closed. Moved-Seconded (Flanagan-Deibert) to approve and adopt the following Resolution #2021-15 for a Supplemental Budget. Motion Carried. RESOLUTION #2021-16 TO ADOPT A SUPPLEMENTAL BUDGET WHEREAS, the County Budget for Lawrence County, South Dakota, for the fiscal year 2021, failed to provide sufficient revenue to enable the County to conduct the indispensable functions of Government, and WHEREAS, the Board of County Commissioners of said County deems it necessary to make a Supplementary Budget, providing for appropriation in the amounts set out below. NOW, THEREFORE, BE IT RESOLVED THAT SAID BOARD, make, approve and adopt a Supplemental Budget for Lawrence County, South Dakota, for the year 2021, and that in said budget there will be and is hereby appropriated the following sum of money, to-wit: 24/7 Sobriety Fund 24/7 PBT - \$10,000.00. The funds for the above amounts are to be provided from unappropriated cash balances and estimated revenue in the designated fund. Be it further RESOLVED that a hearing was held on the 27th day of April, 2021 at the hour of 8:25 a.m. in the Commissioners' Room in the Administrative Office Building at 90 Sherman Street, Deadwood, Lawrence County, South Dakota, and that said Notice of Hearing was posted according to law, SDCL 7-21-22. IN WITNESS WHEREOF, we have hereunto set our hands and official seal of Lawrence County, this 27th day of April, 2021. FOR THE BOARD OF COUNTY COMMISSIONERS Richard Sleep, Chairman ATTEST: Brenda McGruder Lawrence County Auditor.

HIGHWAY:
PERMITS:

STAMPE: Moved-Seconded (Flanagan-Deibert) to uphold the decision of Allan Bonnema, Highway Superintendent, and deny the private approach permit for Scott Stampe to construct a private approach on the west side of Upper Valley Road due to past policy only allowing one driveway per lot. Motion Carried.

SPEARFISH MOUNTAIN RANCH, LLC.: Approach permit for Spearfish Mountain Ranch, LLC. to construct an approach on the west side of Oak Drive will be continued on May 11, 2021.

VAST BROADBAND: Moved-Seconded (Deibert-Rosenau) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the permit to occupy County highway right-of-way for Vast Broadband located in Section 25, 26, 31 & 32 T6N, R3E & R4E along County Road: Crook City Road. Motion Carried.

PROJECT UPDATES: Allan Bonnema, Highway Superintendent, gave an update on upcoming projects.

MOLLER ROAD: Randy Sachau, 20023 Ashlee Ct, was present to discuss the maintenance of Moller Road and the new sub-division Cedar Berry Canyon Estates. Sachau added that the residents of Cedar Berry Canyon Estates, Crow Peak Bench and Wild Turkey Estates use Moller Road as an access road which will now service over 60 lots. Sachau stated that as of right now there is no maintenance arrangement on Moller Road.

Eric Neis, Attorney for Cedar Berry Canyon Estates and Trent Walters, Interstate Engineering, were present to address questions on behalf of Cedar Berry Canyon Estates.

Allan Bonnema, Highway Superintendent, stated that Moller Road is on the state map as a county secondary road. Bonnema offered an estimate of what it would cost the county to update Moller Road from Crow Peak Bench Road to Gobbler Road.

Moved-Seconded (Flanagan-Ewing) to direct Allan Bonnema, Highway Superintendent, to improve Moller Road in the manner proposed, based on it being a county secondary road. Motion Carried.

HIGHWAY 14 WEIGHT LIMITS: Discussion was held on the weight limits on Highway 14. No action was taken.

COYOTE LANE BRIDGE: Allan Bonnema, Highway Superintendent, discussed the condition of the bridge on Coyote Lane. Bonnema stated that the bridge is not included in the county 5-year plan. Bonnema added that that the County has a bid from True North Steel to purchase a modular steel frame bridge to replace the existing one.

NEW USFS FOREST SUPERVISOR INTRODUCTION: Steve Kozel, District Ranger introduced Jeff Tomac, as the new Forest Supervisor.

PLANNING & ZONING:

CONDITIONAL USE PERMIT #448-21/FRAWLEY RANCES, INC.: A public hearing was held on Conditional Use Permit #448-21 APPLICANT: Frawley Ranches, Inc. LEGAL DESCRIPTION: SE ¼ West of Hwy 85 ex ROW & Lot AB & E ½ SE ¼ SE ¼ in Section 26, T6N, R3E VICINITY LOCATION: Hwy 85 SUMMARY: The applicant is requesting a minor amendment to the existing CUP #448 for an outdoor wedding venue to be allowed to offer an indoor buffet line inside the barns ZONING: A-1 ACREAGE: 26 acres.

Amber Vogt, Planning & Zoning Administrator, presented her staff report.

No public input was voiced and the hearing was closed.

Moved-Seconded (Flanagan-Deibert) to approve Conditional Use Permit #448-21 based upon the Planning and Zoning Commission recommendation for approval, the concurrent recommendation of P&Z staff, as reflected in the staff report APPLICANT: Frawley Ranches, Inc. LEGAL DESCRIPTION: SE ¼ West of Hwy 85 ex ROW & Lot AB & E ½ SE ¼ SE ¼ in Section 26, T6N, R3E VICINITY LOCATION: Hwy 85 SUMMARY: The applicant is requesting a minor amendment to the existing CUP #448 for an outdoor wedding venue to be allowed to offer an indoor buffet line inside the barns ZONING: A-1 ACREAGE: 26 acres. Motion Carried.

PLANNING & ZONING UPDATES:

POWDER HOUSE PASS BOND: APPLICANT: Black Hills Development, LLC/Powder House Pass LEGAL: All of the Powder House Pass Development SUMMARY: Extension of the Bond to Development Areas. Moved-Seconded (Deibert-Ewing) to accept the amended Powder House Pass Community Improvement District (CID) Irrevocable Standby Letter of Credit and incorporating Exhibit A attached thereto for the infrastructure development projects identified therein, provided the final bid documents are received and do not exceed the bond amount. The term of the bond covers May 2021–May 2022. Motion Carried.

FIRE PLAN REQUIREMENTS: Amber Vogt, Planning & Zoning Administrator, stated that Rob Mattox was present at the last Planning & Zoning meeting and a lengthy discussion was held on the current fire plan requirements. Vogt added that the Planning & Zoning Board recommended that the County Commissioners review the fire plan requirements.

Rob Mattox, Wildland Urban Interface Specialist, discussed his concerns and changes he would like to see to the fire plan requirements.

Moved-Seconded (Rosenau-Ewing) to form a committee to review the fire plan requirements. Aye-Rosenau, Flanagan and Ewing. Nay-Sleep. Abstain-Deibert.

EXTENSION UPDATE:

Michelle May, Butte/Lawrence County Extension was present to give an update on the 4-H Youth Program.

PUBLIC SAFETY AND SERVICES CENTER PROGRAMMING PRESENTATION: Tony Vie and Joshua Kasper, Elevatus Architecture, and Brian Dean, Sheriff, presented the Lawrence County Public Safety & Services Center programming & conceptual design. A copy of the presentation is available for review in the Lawrence County Auditor's Office and posted on the Lawrence County website.

Vie and Dean reminded the Commission that Elevatus Architecture completed a study on the current jail facility that resulted in a recommendation to build a new facility. The cost of adding on to and renovating the current jail would likely cost more than a new facility.

In October 2020 Elevatus started working with Lawrence County representatives to create a "Programming and Conceptual Design" package for the Lawrence County Public Safety and Services Center. They explained that the presentation reflects the conceptual solutions developed to meet the County's needs for the project.

Both Vie and Dean emphasized that the design concepts and cost estimates reflected in the presentation are preliminary in nature and are subject to change as the project is more fully developed and refined.

Dean stated the next step in the process is schematic design and to enter into an agreement with Elevatus Architecture for that purpose. Commissioner Rosenau and Deibert will step down from the programming committee to allow for two other Commissioners to be involved on the schematic committee.

Moved-Seconded (Flanagan-Deibert) to appoint Daryl Johnson, member from the public, Commissioner Richard Sleep and Commissioner Robert Ewing to the Public Safety and Services Center schematic design committee. Motion Carried.

COURTHOUSE ROOF AND MASONRY PROJECT: Bruce Outka, Deputy State's Attorney, and Steve Williams, Williams & Associates, gave an update on the Courthouse Roof and Masonry Project. Outka stated that two quotes have been received but not in time to allow for review prior to the meeting.

ITEMS FROM THE COMMISSIONERS: The Board acknowledged a letter from Christopher Gengler in reference to the first mile of Higgins' Gulch Road.

Commissioner Deibert gave a report on the Black Hills Council of Local Governments and Multiple Use Coalition meetings.

Bruce Outka, Deputy State's Attorney, and Brenda McGruder, Auditor, reported on the new off-sale liquor license law and medical marijuana law going into effect on July 1, 2021.

BILLS: Moved-Seconded (Rosenau-Deibert) 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.

Bills: Mccroden, Matthew-\$74.00; Capp, Jacob-\$74.00; A To Z Shredding-\$50.66; A&B Business,Inc Solutions-\$2,081.73; Alpine Impressions-\$40.00; BH Pioneer-\$19.87; BH Truck And Trailer-\$84.63; Barnaud Law Firm Prof-\$1,423.20; Black Hills Chemical-\$477.46; Black Hills Disposal-\$90.00; Black Hills Energy-\$10,172.15; Bloom Law Office-\$414.10; Bomgaars-Supply-\$70.08; Centurylink-\$256.14; Childrens Home Society-\$142.00; Chris Supply Co-\$86.23; City Of Rapid City-\$840.00; Cochran, Leslie-\$30.60; Cornelius, Kaylee-\$540.00; Dept Of Hlth Lab Services-\$710.00; Dept Of The Treasury-\$71,709.11; Diamond Pharmacy-\$245.21; Elevatus Architecture-\$28.78; Fastenal-\$20.54; Fisher Sand & Gravel-\$810.60; Genpro Energy Solutions-\$140.38; Godfrey's Brake Serv-\$2,051.34; Harmelink & Fox Law Office-\$149.50; Heisler Hardware-\$30.66; High Plains Business Forms-\$165.05; Hillyard/Sioux Falls-\$236.09; International Academy Of Emd-\$155.00; Jacobs Precision Welding-\$85.43; Joe's Windsheild Repair-\$630.00; John Deere Financial-\$164.16; Johner Gravel-\$1,785.57; Jt Ventures-\$161.78; Juneks' Chrysler/Dodge-\$69,000.00; Karen Paige Hunt, Prof-\$7,454.55; Kinkade Funeral Chapel-\$1,170.00; Kinney Law-\$5,718.99; Kosel, Joseph-\$1,526.24; Lead, City Of-\$57.97; Leads Online-\$1,758.00; Leverington Funeral Home-\$1,450.00; Lueders-\$38.07; Macqueen Emergency-\$415.15; Midcontinent Communications-\$113.07; Montana Dakota Utilities-\$413.31; Monument Health Network-\$7,529.93; Ms Mail-\$50.00; Nalco Company-\$278.22; Northwest Pipe Fitt-\$871.80; Office Of Child & Family Serv-\$27,383.00; Office Of Child Support-\$401.54; Pharmchem-\$399.70; Pheasantland Industries-\$137.81; Pizza Lab-\$185.40; Pmb 0112-\$696.98; Powerplan Inc-\$306.98; Radiology Associates-\$286.97; Reserve Account-\$6,000.00; Rohr, Dennis-\$784.00; Sara J Fitzgerald-\$285.00; Schlimgen Law Firm-\$1,698.80; Schroeder, Krista-\$12.52; Sdrs Supplemental Retirement-\$2,957.50; Semerad, Sandra-\$17.00; Servall Towel & Linen-\$271.99; Silverado-\$864.44; Simon North Region-\$3,712.61; Skinner Law Office-\$2,354.95; Spearfish Auto Supply-\$124.24; Spearfish City Of-\$5,000.00; Spearfish Police Dept-\$10,155.95; Spearfish Rifle & Trap Club-\$200.00; Sysco Montana-\$2,143.20; Teen Court-\$15,000.00; Transource Truck & Equip-\$2,173.69; Triple K Tire & Repair-\$803.38; Twin City Hardware & Lumber-\$1,553.23; United Laboratories-\$379.52; Us Armor Corporation-\$178.00; Vast Broadband-\$1,788.85; Victims Of Violence-\$931.50; Wells Fargo Business Card-\$4,107.11; Western First Aid & Safety-\$1,761.63; White Drug-\$690.77; Yankton Co Sheriff-\$50.00;

Witness & Jurors: \$7,651.80.

ADJOURN: 11:55 a.m. There being no further business, Chairman Sleep adjourned the meeting.

Date Approved

Richard Sleep, Chairperson

ATTEST:

Brenda McGruder, Auditor