

LAWRENCE COUNTY COMMISSIONERS MEETING – May 21, 2019 page-1

Chairman Randy Deibert called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on May 21, 2019 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randall Rosenau, Daryl Johnson and Richard Sleep. Absent Brandon Flanagan.

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

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

DECLARE CONFLICTS: Commissioner Deibert declared a conflict with Neiman Enterprises, Inc. approach permit, raffle request for the Kenadi Jean Weis Foundation and Highway Authority signature on plat of Lot 7 Block 3 of Spring Creek Reserve

MINUTES: Moved-Seconded (Rosenau-Sleep) to approve the minutes of May 7, 2019 County Commission meeting. Motion Carried.

SEARCH & RESCUE MEMBERS: Moved-Seconded (Johnson-Sleep) to approve Adam John Altergott as a Search & Rescue member for insurance purposes. Motion Carried.

RICHMOND HILL ROAD DISTRICT: Moved-Seconded (Sleep-Deibert) to approve and authorize the Chairman to sign the following Order Amending the Boundary of the Richmond Hill Road District. Motion Carried. ORDER AMENDING THE BOUNDARY OF THE RICHMOND HILL ROAD DISTRICT. WHEREAS, an election was held among the eligible voters in the Richmond Hill Road District to determine whether or not a Road District should be incorporated. WHEREAS, this vote was held on March 8, 2019. WHEREAS, the vote has been cast and canvassed and a verified statement from the judges of the election has been received showing the whole number of ballots cast was Six (6), together with the number of Six (6) voting for and the number of Zero (0) voting against incorporation; WHEREAS, The Territory organized as a district is as follows: SHOWING THE LOCATION OF RICHMOND HILL ROAD ACCESSING THE FOLLOWING PROPERTIES. MORNING GLORY M.S. 1910; GOVERNMENT LOT 8 OF SECTION 23, T5N, R2E, B.H.M.; GRAYBACK M.S. 1382; MARGARITE NO.6 & MARGARITE NO.7 M.S. 1862; LOTS 1, 2A, 2B, 3, 4A, 4B, 4C & 4D OF GOLD CHEST SUBDIVISION IN GOLD CHEST & GOLD CHEST NO.1, M.S. 1734; LOT 2 OF THE SUBDIVISION OF MOBERG NO.3 M.S. 1734; MOBERG NO.2 M.S. 1734; TRACT A & LOT 1A OF THE SUBDIVISION OF GROUSE HILL M.S. 1670 AND MOBERG NO.3 M.S. 1734; ALLENTOWN & DENVER M.S. 1670; WALL, MORTON, & HARRISON M.S. 1955; SUMMIT FLAT, WM. B. ALLISON M.S. 1516; LITTLE ROCK, JOSEPH, WEDGE & JIM M.S. 1428. LOCATED IN THE SECTION 23, 26 & 35, T5N, R2E, B.H.M., LAWRENCE COUNTY, SOUTH DAKOTA. WHEREAS, the Board of County Commissioners are satisfied with the legality of such election. WHEREAS, it appearing that a majority of the voters at the election have voted in favor of incorporation of such territory. WHEREAS, the original order and exhibit were filed in the Lawrence County Register of Deeds Office as Document #: 2019-00906. WHEREAS, SDCL 31-12A-10 allows for exclusion of agricultural property from a district by notice to the County Auditor. WHEREAS, on April 12, 2019 the Lawrence County Auditor's Office received notice of exclusion of 4 properties to be excluded from the Richmond Hill Road District. WHEREAS, The Territory to be excluded from the district is as follows: MORNING GLORY M.S. 1910; GOVERNMENT LOT 8 OF SECTION 23, T5N, R2E, B.H.M.; MARGARITE NO.6 & MARGARITE NO.7 M.S. 1862; LOCATED IN THE SECTION 23, & 26, T5N, R2E, B.H.M., LAWRENCE COUNTY, SOUTH DAKOTA. WHEREAS, the boundary of the Richmond Hill Road District shall be amended to exclude these agriculture properties as depicted on the attached exhibit which is incorporated herein by this reference. NOW THEREFORE BE IT ORDAINED by the Lawrence County Board of Commissioners that the Richmond Hill Road District boundary is hereby amended pursuant to SDCL 31-12A. DATED this 21th day of May, 2019. Randy Deibert, Chairperson Lawrence County Commission. ATTEST: Brenda McGruder, Auditor.

BLACK HILLS ENERGY: Marsha Nichols, Business Account Manager, presented the Black Hills Renewable Energy subscription agreement.

Moved-Seconded (Rosenau-Johnson) to authorize the Chairman to sign the Memorandum of Understanding with Black Hills Energy for 25 years and 50% of the energy consumed at the service locations listed in the term sheet with the option to update at the time of signing the formal subscription agreement. Motion Carried.

USFS / WEED SPRAYING AGREEMENT: Moved-Seconded (Rosenau-Sleep) to approve and authorize the Chairman to sign the Participating Agreement Supplemental Project Agreement #19-PA-11020308-021 to Master Participating Agreement #18-PA-11020308-032 between Lawrence County Commissioners, Lawrence County Invasive Species Management and the USDA, Forest Service Region 2, Black Hills National Forest Service Northern Hills Ranger District for weed spraying. Motion Carried.

RAFFLE REQUEST / DUCKS UNLIMITED: Moved-Seconded (Johnson-Rosenau) to not object to the request to conduct a raffle for Ducks Unlimited, with the drawing taking place on June 17, 2019 and the Queen of Hearts game with the drawing taking place between week one and 54 of the game. Motion Carried.

RAFFLE REQUEST / THE KENADI JEAN WEIS FOUNDATION: Moved-Seconded (Rosenau-Johnson) to not object to the request to conduct a raffle for the Kenadi Jean Weis Foundation, with the drawing taking place on June 22, 2019. Motion Carried. Abstain-Deibert.

ALCOHOLIC BEVERAGE LICENSES: A public hearing was held on the applications for 2019-2020 Malt Beverage license and 2019 Wine and Cider License. THE BARN AT ASPEN ACRES LLC: Section 23 NW ¼ NW ¼ T7N R2E B.H.M.

No public input was voiced and the hearing was closed.

Commissioner Sleep expressed his concern with alcohol being served to 100+ people next to private property. Commissioner Rosenau commented that a CUP is in place with conditions for the outdoor activity. Commissioner Johnson added that an operating plan is also in place so if there are complaints the County has the opportunity to review it in a year.

Moved-Seconded (Rosenau-Johnson) to approve the following 2019-2020 Malt Beverage License and 2019 Wine and Cider License. NEW: RETAIL (ON-OFF SALE) WINE AND CIDER: THE BARN AT ASPEN ACRES LLC: Section 23 NW ¼ NW ¼ T7N R2E B.H.M. NEW: RETAIL (ON-OFF SALE) MALT BEVERAGE: THE BARN AT ASPEN ACRES LLC: Section 23 NW ¼ NW ¼ T7N R2E B.H.M. Motion Carried. Aye-Rosenau, Johnson and Deibert. Nay-Sleep.

A public hearing was held on the application for 2019-2020 Malt Beverage license. CUSTER CROSSING CAMPGROUND LLC: Tract B-1 (3.44 AC) & Lot C (2.20 AC) HES 246 Except Lot 1 in Sec 21, T3N, R4E, BHM.

Commissioner Sleep expressed his concern with alcohol being served in conjunction with ATV rentals. Mike Whalen, 12690 Merritt Estes Road, stated that at this time there are no ATV rentals at the campground.

No other public input was voiced and the hearing was closed.

Moved-Seconded (Rosenau-Johnson) to approve the following 2019-2020 Malt Beverage License. CUSTER CROSSING CAMPGROUND LLC: Tract B-1 (3.44 AC) & Lot C (2.20 AC) HES 246 Except Lot 1 in Sec 21, T3N, R4E, BHM. Motion Carried.

A public hearing was held on the applications for 2019-2020 Malt Beverage license. SD BOONDOCKS LLC (BOONDOCKS): Tract C of HES 54 Sec 25 T4N, R3E, BHM.

No public input was voiced and the hearing was closed.

Commissioner Sleep expressed his concern with alcohol being served in conjunction with ATV rentals. Amber Vogt, Planning & Zoning Administrator, stated that Boondocks has a restaurant and the ATV Rentals and mechanic operate out of the side building. Commissioner Deibert stated he feels the traffic pattern is much better in the area since the Department of Transportation put up the delineator post.

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Moved-Seconded (Sleep-Deibert) to approve the following 2019-2020 Malt Beverage License. SD BOONDOCKS LLC (BOONDOCKS): Tract C of HES 54 Sec 25 T4N, R3E, BHM. Motion Carried.

A public hearing was held on the applications for 2019-2020 Malt Beverage licenses.

No public input was voiced and the hearing was closed.

Moved-Seconded (Rosenau-Johnson) to approve the following 2019-2020 Malt Beverage Licenses. RENEWAL: RETAIL (ON-OFF SALE) MALT BEVERAGE: AKELA SPA OF DEADWOOD LLC: Lot 3 BLK 1 EX H1 (.68 AC) Oak Mt. Country Est. Sec 18 T5N R4E B.H.M. AW RENTALS LLC (RECREATIONAL SPRINGS RESORT): M.S. 1200 Lot 3-A2 Of Tract 3-A A S/D Of Jay#1,2&3 & Fay#3, Albert Steele Fraction, Hazard, Log Cabin & Violet #3 Of Sec 24, T4N, R2E, BHM. BAREFOOT RESORT ASSOCIATION INC (BAREFOOT RESORT): M.S. 2021 Lot 1R OF BAREFOOT EX UNITS D-1-O, D-1-1, D-2-0, D-2-1, D-2-2 & D-2-3. Sec. 2-T4N-R2E of Black Hills. BLACK HILLS CHAIRLIFT CO INC: M.S. 1122 Little Hope Fr. Etal Sur. Rites (Old Blue Chair #1) & (New Blue Chair #5) Sec 1, T4N, R2E, BHM. BLACK HILLS JOURNEY'S INC (FISH 'N FRY CAMPGROUND): Lots 1 of HES 297 & Lot 2 Ex Lot A of HES 297, in Section 18, T4N R4E BHM. BOARS NEST LLC (BELL LTD): Tract 59 Section 7, T4N, R3E, BHM. BW GAS & CONVENIENCE RETAIL, LLC (YESWAY #1192): Lot 1 & W 20' of Lot 2 of Lot A of Lot 1 NW1/4NW1/4 Subdivision of Section 3, T6N, R2E, B.H.M. CHEYENNE CROSSING STORE LLC: M.S. 1564 Spearfish Canyon Lot C-3 of Meadow 1-2-3 M.S 1564 (Cheyenne Xing Store) Section 22, T4N, R2E. CROW PEAK BREWING COMPANY, LLC: Crow Peak Brewing Company Tract Sec 4, T6N, R2E. CUSTER CAMP 1874 LLC (THE PASTA CORRAL): Lot 1 OF HES 286 in Sec 4, T3N, R5E, BHM. EAGLE TREE RESORTS CO LLC (RIM ROCK LODGE & CANYON BISTRO): BLDGS ON LEASED SITE; SPEARFISH CANYON LOT C-2 Sec 4 T5N R2E. EBRIGHT ENTERPRISES INC (TRAILSHED LODGE INC): Lot 4 Revised O'Neill Pass Ranchettes S/D of HES 617 Section 20 T3N R1E. ELKHORN RIDGE @ FRAWLEY RANCHES LLC: BLDGS ON LEASED SITE; FRAWLEY RANCHES ADDITION S 1/2 SECTION 26, E 1/2 NE 1/4 SECTION 26, W 1/2 NW 1/4 SECTION 26, E 1/2 NE SECTION 27, E 1/2 SE SECTION 27, SW SW SECTION 23, S 1/2 SE SECTION 22 T6 R3. JANICE G. KABERNA (HOM CAMPGROUND): Lot A of CRM Ex Tract 1 (10.01) and Lot 2. (3.09) Sec 27, T3N, R5E. LARRY KAISER (NEMO MERCANTILE): M.S. 1368 Tract 3 Sec 27, T3N, R5E, B.H.M. PLACER 601 INC (DEADWOOD KOA): M.S. 601 Scott & Crist Ex Lot A Sec 28-T5N-R3E. REYNOLDS & LIVINGSTON LLC (COUSINS BIG CHAIR): Lawrence County portion of Lot 1, Boyle S/D LOC SW1/4, SW1/4, S7, T2N, R5E, BHM, Lawrence County. SD CAMPGROUND AND RESIDENCY CENTER INC (SPEARFISH KOA): Parcel B (KOA Campground) NW1/4NW1/4, Sec.3, T6N, R2E, BHM. SEVEN DOWN LLC: Tract 7 (Seven Downs Arena) Section 27, T6N, R3E. LONNY OR SUSAN SMITH (ST. ONGE BAR & GRILL): Lots 1 & 2 Block 8 in Sec 23 R7E T3N. SPEARFISH CANYON RESORTS LLC (SPEARFISH CANYON RESORT): P.C. 953 LOTS C AND D OF LITTLE SPF. SECTION 36, T5N, R1E, B.H.M. TOMAHAWK LAKE COUNTRY CLUB: M.S. 1372 Pt. Ex Lot 1 of Norwood #8 (5.01AC) & Lot 1 of TR 0067'B' (5.82 AC) Pt Sec. 24-4-3 Pt Sec. 19 & 30-4-4 M.S. 1372 Lot 1 of Norwood #4 of M.S. 1372 (9.58A) & TR A Por. of B (2.877) & C of Tract 0067 & TR A of HES 57 & 66 (1.35AC) TRIPLE H HILLS LLC (MYSTIC HILLS HIWAY): M.S. 1748 TRACT 1 OF ST JOHN LODES ETAL Sec 1, Twp 3N, R3E. TROUT HAVEN PROPERTIES LLC: Tract 1 & 2 S/D of SW1/4 SW1/4, Sec 7 T2N, R5E. WHITETAIL CREEK RESORT LLC: Tract 54 Secs 5-6-7 & 8 (Whitetail Court) T4N R3E. WICHTERMAN & SONS INC (STEEL WHEEL CAMPGROUND): Tract D revised HES 297 in Sections 19 R4E T4N. WILD BILL'S CAMPGROUND (ALICIA GRIMM & KEITH GRIMM): Lot E EX H1 (.04AC) & H2 (.06A) & Lot E-2 of HES 137 (Wild Bill's Campground) Sec 18, T4N, R4E. Motion Carried.

A public hearing was held on the applications for 2019-2020 Malt Beverage licenses. RAR HOSPITALITY, LLC (BRANDIN' IRON RESTAURANT & PONDEROSA BAR): M.S. 1368 Lots 2 of Nemo Guest Ranch S/D 28-003-05. NEMO GUEST RANCH BUSINESS ENTERPRISE (NEMO GUEST RANCH CONVENIENCE STORE): M.S. 1368 Lots 1 of Nemo Guest Ranch S/D 28-003-05.

Mike Whalen, 12690 Merritt Estes Road, questioned the Commission as to what they were actually opposing. Whalen stated that he would like to hear the discussion and then would like the opportunity to address the Board at that time. Whalen stated he did not understand why this was being addressed as license renewal is an annual occurrence and the Commission has not had a problem with issuing the license in the past. Whalen referenced information provided to the Commission and public, specifically noting calls for service received by the Sheriff's Office. Whalen commented that none of the calls for service were alcohol related.

Bruce Outka, Deputy State's Attorney, and Amber Vogt, Planning & Zoning Administrator, gave a brief overview of the zoning on the property. Outka stated that approximately 3.41 acres is zoned General Commercial and approximately 14.35 acres is zoned Suburban Residential. Outka

added that the convenient store is located on Lot 1, the restaurant is located on Lot 2 and the campground is located on Lot 3. Outka further added that the Nemo Guest Ranch website advertises offering 38 RV sites and additional cabins. Outka added that campgrounds are not an allowed use in the Suburban Residential zoning district. Outka pointed out that the Applicant's state campground permit noted the availability of only 35 RV sites and 14 cabins. Outka presented the calls for service/complaints received from the Sheriff's Office.

Troy Saye, current Applicant, of 12737 Guest Ranch Loop, stated that in 2006 both businesses were operated by one applicant. Saye added that when filling out the applications, maybe he did not understand what was supposed to be included, or excluded, regarding the legal description set forth in the application. Saye added that he included all three lots in the application. Saye added that malt beverages are not sold on Lot 3. Saye went on to say that the matter of inclusion of Lot 3 in the application first came to his attention when the lessee of the restaurant transferred his license. Saye went on to say that he called the Auditor's Office questioning how both licenses can have the same legal description. Saye added he has no problem eliminating Lot 3 altogether. Saye added that the convenience store should be listed as Lot 1 and the Branding Iron Restaurant listed as Lot 2. Saye added that this is how it should have been for some time.

Brenda McGruder, Auditor, clarified that the applicants did call and question about all three lots being listed on both applications. McGruder added that she informed the applicants that they all need to be listed since they were tied to one parcel. McGruder further added that after speaking with legal counsel, the lots could be split on each application accordingly.

Commissioner Rosenau added that he understood splitting the parcels apart for purposes of the malt beverage licenses between the operators of Lot 1 and Lot 2. Rosenau noted however that the issue of a campground being operated on Lot 3 illegally (directly adjacent to Lot 1) still exists.

Commissioner Deibert added that owing to the popularity of the Guest Ranch a higher number of complaints have been received by the Sheriff's Office compared to other locations.

Commissioner Johnson stated that the reason the Board requested Applicant Saye to be personally present is because once a year the Commission has the opportunity to review the application before approval. Johnson cited ongoing complaints from neighbors regarding the Guest Ranch campground adding that the Board considered this as an opportunity to get the major player in the room to highlight the issues with the goal to encourage a dialog between all concerned toward resolution of the issues.

Commissioner Deibert opined that, regarding Lot 3, a change of zoning and/or a CUP are required and that these tools will allow the County to properly regulate and defend the campground related operations.

Concerning Lot 3, Vogt stated that the best option would be to bring Lot 3 into compliance by a rezone from Suburban Residential to Recreation Commercial. Vogt noted that an added benefit of the rezone is the requirement of a development plan which would require the owner to provide an accurate inventory of RV sites, etc.

Dominic Wolf, 22139 Cunmock Lane, stated that a few years back a CUP was issued for the Diers and it was located on Suburban Residential zoned property. Vogt added that a campground is no longer listed as a conditional use in the Suburban Residential zoning district.

Mike Whalen, 12690 Merritt Estes Road, added that there are two issues, one is the liquor license renewal and the other is a zoning issue. Whalen added that it does not feel really good to him, it is almost like blackmail. Whalen added that both problems can be resolved. Whalen commented that, looking at the list of complaints compiled by the Sheriff's Office, it appears a majority of the calls are accidents, maybe a liquor violation a while back, and otherwise, many of the complaints could be explained. Whalen further added that the new applicant for the Branding Iron Restaurant is in tune to the area and has brought a great atmosphere to the restaurant. Whalen commented that the campground has been around since 1947 and feels it should be grandfathered in as nothing has changed.

Russel Adam Rice, 323 West Myrtle Drive, explained his concept for the Branding Iron Restaurant. Rice added that when filling out the application he did question the legal description and felt he should not be responsible for lots 1 and 3. Rice further added that the application was

prefilled out for him and felt like he was blindsided by this. Rice said he plans to be in business for many years and expressed his desire to return to the area with his family. Rice added that he could not run business without the license. Rice ended by saying he should only be responsible for lot 2 and should not responsible for what goes on in the campground.

Ashley Parr, Attorney for Nemo Guest Ranch Enterprises, stated that much of the Commissions' concern is in regard to Lot 3 and its Suburban Residential zoning. Parr added that maybe one resolution would be to remove Lot 3 from both applications and place Lot 1 on the convenience store and Lot 2 on the restaurant. Regarding the complaints compiled by the Sheriff's Office, Parr noted that it is important to hear what Mr. Whalen and Mr. Saye have indicated. Parr went on to say that it is hard to tell which complaints relate specifically to the malt beverage license, or any problem with the operation of the malt beverage license. Parr added that the reason he and his client are present is to address any complaints related to the malt beverage license and any violation of SDCL 35-2.

No other public input was voiced and the hearing was closed.

Commissioner Johnson encouraged that discussion take place in the future regarding Lot 3 and the campground operation and steps taken bring it into compliance with zoning regulations.

Moved-Seconded (Rosenau-Johnson) to approve the following 2019-2020 Malt Beverage License. RAR HOSPITALITY LLC (BRANDIN' IRON RESTAURANT & PONDEROSA BAR): M.S. 1368 Lots 2 of Nemo Guest Ranch S/D 28-003-05. Motion Carried.

Moved-Seconded (Rosenau-Sleep) to approve the following 2019-2020 Malt Beverage License. NEMO GUEST RANCH BUSINESS ENTERPRISE (NEMO GUEST RANCH CONVENIENCE STORE): M.S. 1368 Lots 1 of Nemo Guest Ranch S/D 28-003-05. Motion Carried.

HIGHWAY:

FUEL QUOTES: The following fuel quotes were submitted as of May 8, 2019: **Deadwood Diesel #2 (dyed) 6400 gallons:** (prices per gallon) CBH Cooperative – \$2.427*; Harms Oil Co-No Bid; MG Oil – No Bid. **Deadwood Unleaded 3800 gallons:** (prices per gallon) CBH Cooperative – \$2.617*; Harms Oil Co-No Bid; MG Oil – No Bid. *Represents lowest quote awarded.

PERMITS:

CENTURYLINK: Moved-Seconded (Sleep-Rosenau) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the utility permit for Centurylink on County Road 5340 approximately 950' crossing east side to west side for construction of aerial fiber optic cable beginning in Section 9, T4N, R4E and ending in Section 4, T4N, R4E; County Road 5341 approximately 32' crossing west side to east side for construction of buried fiber optic cable beginning in Section 9, T4N, R4E and ending in Section 9, T4N, R4E; County Road 5340 approximately 234' crossing west side to east side for construction of buried fiber optic cable beginning in Section 17, T4N, R4E and ending in Section 17, T4N, R4E; County Road 1800 approximately 40' crossing west side to east side for construction of buried fiber optic cable beginning in Section 14, T4N, R4E and ending in Section 14, T4N, R4E; County Road 610 approximately 60' crossing west side to east side for construction of buried fiber optic cable beginning in Section 15, T4N, R4E and ending in Section 15, T4N, R4E; County Road 5341 approximately 32' crossing west side to east side for construction of buried fiber optic cable beginning in Section 15, T4N, R4E and ending in Section 15, T4N, R4E; County Road 1980 approximately 250' in the vicinity of Snowberry Lane for construction of aerial fiber optic cable beginning in Section 14, T3N, R4E and ending in Section 14, T3N, R4E; County Road 5820 approximately 75' in the vicinity of Benchmark Road for construction of aerial fiber optic cable beginning in Section 14, T3N, R4E and ending in Section 14, T3N, R4E; County Road 4040 approximately 75' crossing east side to west side for construction of buried fiber optic cable beginning in Section 27, T3N, R5E and ending in Section 27, T3N, R5E; County Road 260 approximately 56' crossing north to south at County Road 4040 for construction of buried fiber optic cable beginning in Section 22, T3N, R5E and ending in Section 22, T3N, R5E. Motion Carried.

Commissioner Johnson stated that the County needs to inform the utility companies that safety and traffic control are a priority and shall be in place during these projects.

CENTURYLINK: Moved-Seconded (Rosenau-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent and approve the permit to occupy County highway right-of-way for Centurylink for the placement of fiber optic cable and enclosures on County Road 5341-Spring Run Road located in Section 9, T4N, R4E; County Road 5340-Galena Road located in Section 18, T4N, R4E; County Road 610-Baumberger Road located in Section 13, T4N, R4E; County Road 0440-Elk Creek Road located in Section 16, T4N, R4E; County Road 1800-Erickson Road located in Section 11 T4N, R4E; County Road 1980-Benchmark Road located in Section 12, T3N, R4E; County Road 260-Vanocker Canyon Road located in Section 22, T3N, R5E; County Road 4040-Nemo Road located in Section 17, T3N, R5E. Motion Carried.

HEISINGER: Moved-Seconded (Rosenau-Johnson) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the approach permits for Chris Heisinger to construct an approach on the north side of Larson Road located approximately .41 miles west of the intersection of Windy Flats/Larson Roads contingent upon Forest Service approval and insulation of an 18" X 40' culvert. Motion Carried.

9:46 a.m. Commissioner Deibert left the meeting having earlier declared a conflict with the next agenda items.

Vice-Chairman Randall Rosenau then presided over the meeting.

NEIMAN ENTERPRISES, INC: Moved-Seconded (Sleep-Rosenau) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the approach permits for Neiman Enterprises, Inc. to construct an approach on the north side of Hillsview Road located approximately 980' east of the intersection of McGuigan Road and Hillsview Road. Motion Carried.

HIGHWAY AUTHORITY/PLAT: Allan Bonnema, Highway Superintendent requested guidance from the Board as to whether he should sign as Highway Authority on the plat of Lot 7 Block 3 of Spring Creek Preserve, a part of Tract B of Spring Creek Preserve, located in the NE1/4NE1/4, SE1/4NE1/4, excepting the Kerwin Lane Road right-of-way and excepting Lot 1 and Lot 2 of Loup Subdivision of Section 34, and the NW1/4NW1/4, excepting the south 82.5 feet thereof, of Section 35, all located in T.7N., R.2E., B.H.M., Lawrence County, South Dakota.

Moved-Seconded (Sleep-Rosenau) to authorize Allan Bonnema, Highway Superintendent to sign as the Highway Authority on the plat of Lot 7 Block 3 of Spring Creek Preserve, a part of Tract B of Spring Creek Preserve, located in the NE1/4NE1/4, SE1/4NE1/4, excepting the Kerwin Lane Road right-of-way and excepting Lot 1 and Lot 2 of Loup Subdivision of Section 34, and the NW1/4NW1/4, excepting the south 82.5 feet thereof, of Section 35, all located in T.7N., R.2E., B.H.M., Lawrence County, South Dakota. Motion Carried.

9:50 a.m. Commissioner Deibert returned to the meeting.

2019 MACK GRANITE 64FR BID: Moved-Seconded (Rosenau-Johnson) to approve and authorize the purchase of two (2) 2019 Mack Granite 64FR with extended warranty from the Marshall County bid from TranSource Truck & Equipment for 2019, per the recommendation of the Highway Superintendent. Motion Carried. (Bid on file in the Lawrence County Auditor's Office)

R.O.W. ENCROACHMENTS/BRIDGE PROJECT UPDATE: Allan Bonnema, Highway Superintendent, gave an update on the bid opening for Project Agreement (BRF 8244(00) 19-4, Lawrence County, PCN 076J Structure Number 41-092-060 set for June 11, 2019. Bonnema stated that the top bidders will have a year to complete the project with a completion date of July 1, 2020. The successful bidder will have a 90-day window to complete the project.

Commissioner Deibert asked Bonnema if he had spoken to the businesses that will be affected by the bridge project. Bonnema stated he has only spoken with Tom Jones of Yesway to date. Bonnema went on to say that in his opinion, that elimination of parking in the County right of way will create a bigger problem than currently exists. Commissioner Deibert stated that the problem is with the parking in such close proximity to the travelled portion of the highway adding that it is difficult to see oncoming traffic.

Commissioner Rosenau questioned whether by allowing the encroachment in the County right-of-way did the County accept liability. Bruce Outka, Deputy State's attorney, stated that there is no adverse possession against the sovereign. Commissioner Deibert added that the County should consider development and implementation of a permit process specifically geared to occupation of county rights-of-way that shifts the liability from the County and maintains the integrity of the easement.

Commissioner Sleep added that Guadalajara's might have potential parking in the rear of the building.

WHEEL TAX: Commissioner Johnson, Commissioner Rosenau, Allan Bonnema, Highway Superintendent, and Deb Tridle, Treasurer, gave an update on the wheel tax. Tridle presented a report from the Division of Motor Vehicles represented vehicles with a gross vehicle weight of 6001 and above. Bruce Outka, Deputy State's Attorney will draft an amended ordinance to be reviewed at the next meeting.

PLANNING & ZONING:

ORDINANCE #19-02/2018 BUILDING CODES: Second Reading was held on ORD 19-02, 2018 Building Codes. **APPLICANT:** Amber Vogt, Lawrence County Planning and Zoning Administrator **LEGAL:** Countywide - excluding municipalities. **SUMMARY:** 2018 International Building Code (replace existing 2012 Code version).

Moved-Seconded (Rosenau-Deibert) to approve Ordinance #19-02. **APPLICANT:** Amber Vogt, Lawrence County Planning and Zoning Administrator **LEGAL:** Countywide - excluding municipalities. **SUMMARY:** 2018 International Building Code (replace existing 2012 Code version). Motion Carried.

STEVE KOSEL, NH DISTRICT RANGER: Steve Kosel, NH District Ranger, gave an update on the Secure Rural Schools Act. Kosel stated that the Resource Advisory Committee functioning under the Secure Rural Schools Act, which includes Lawrence County, Custer County and Pennington County was created in 2014. Kosel further added that all of the committee member's terms have expired and will need to be reauthorized. Kosel commented that eight (8) of the past members have agreed to continue to participate on the Black Hills Resource Advisory Committee but seven (7) additional members will be needed.

Kosel gave an update on current Forest Service project to include, May 22, 2019 Media Day at Devils Bathub at 10:00 a.m., July 6, 2019 Celebration at Mount Roosevelt and the current closure of ATV/Seasonal roads.

PROPERTY MAINTENANCE UPDATE: Amber Vogt, Planning & Zoning Administrator, and Jeff Schroeder, Deputy Code Enforcement Officer, gave an update on the ongoing property maintenance cases.

Chad Adams was present to give an update regarding the ongoing complaint of running a business on a property that is not zoned commercial. Adams added that some of the vehicles present are owned by renters that live on the property and only 4 are tied with the business.

Adams stated that the purchase of the Kirk Power Plant has taken longer than anticipated, therefore delaying the removal of the vehicles from his property. Adams commented that he is also in the process of evicting a tenant, which is also prolonging the moving process.

Adams was instructed to notify Schroeder when the move takes place and the court date is set for the eviction.

Vogt commented that there has been improvement in this area.

ITEMS FROM THE COMMISSIONERS: Commissioner Rosenau gave an update on the Juvenile Services Joint Powers meeting. Commissioner Johnson gave an update on the Joint Library Board meeting. Commissioner Deibert stated that he received a call from the Butte County Chairman wanting to start discussion in reference to a shared jail and dispatch center.

BILLS: Moved-Seconded (Rosenau-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-\$6,870.32; Aud-\$11,010.89; Treas-\$13,511.87; States Atty-\$15,947.36; Pub Def-\$12,627.03; Gen Govt Bldg-\$9,338.69; Equal-\$15,334.69; Rod-\$9,583.95; Vso-\$1,490.40; Ist-\$9,387.04; Sher-\$45,760.19; Jail-\$24,445.44; Coroner-\$460.66; 24/7-\$239.80; Emerg Mgmt-\$4,570.10; E911-\$15,862.70; Highway-\$45,365.42; Mh Ser-\$95.00; Weed-\$4,073.59; Pz-\$5,921.91; **Bills:** Caserio, Beverly-\$37.80; Reindl, Staci-\$133.56; Hamann, Alex-\$48.52; Lindsey, Chelsea-\$26.00; 3d Specialities-\$5,011.50; A To Z Shredding-\$26.40; A&B Business,Inc Solutions-\$1,663.10; A&B Welding Supply-\$97.35; Aberdeen Llc-\$15,405.00; Air Connection-\$81.60; American Legal Publishing-\$475.00; At&T-\$5.58; BH Pioneer-\$1,740.65; Baymont Inn & Suites Pierre-\$57.00; Bi Geo Group-\$502.00; Black Hills Energy-\$11,851.28; Black Hills Psychology-\$450.00; Black Hills Pure-\$23.50; Black Hills Urgent Care-\$110.00; Bomgaars Supply-\$677.08; Butler Machinery Co-\$361.37; Butte Electric Coop-\$404.84; California State Disburse Unit-\$138.46; Cbh Cooperative-\$25,537.99; Century Business Products-\$459.38; Centurylink-\$1,956.61; City Of Rapid City-\$980.00; City Of Sturgis-\$1,150.00; Clinical Lab Of BH-\$2,328.00; Dakota Equipment Rental-\$40.00; Dept Of Hlth Lab Services-\$165.00; Dept Of The Treasury-\$58,812.48; Eddie's Truck Sales/Serv-\$1,144.57; Epc-\$211.20; Fastenal-\$84.96; Fisher Sand & Gravel-\$271.79; Galls-\$585.76; Geigle, Jd-\$41.00; Genpro Energy Solutions-\$726.43; Godfrey's Brake Serv-\$854.07; Heartland Paper Co-\$1,922.77; Jacobs Precision Welding-\$571.65; Jenner Equipment-\$54.89; Kimball-Midwest Co-\$276.60; Kinney Law-\$3,362.84; Knecht Home Center Of Spf-\$33.98; LC Treasurer-\$21.20; Lawson Products-\$309.68; Lead-Deadwood Sanitary-\$91.16; Lewis & Clark Bhs-\$178.00; Lexisnexis Risk Data Mgmt-\$75.00; McClure, Susan-\$300.00; Mcpherson Propane-\$69.00; Montana Dakota Utilities-\$264.26; NH Training Center-\$5,000.00; Nalco Company-\$239.20; Nelson, Christy-\$200.00; Nelson, Tonya-\$200.00; Northern Truck Equip-\$318.90; Novus-\$320.00; Office Of Attorney General-\$315.69; Office Of Child Support-\$983.09; Outdoor Motor Sports-\$15.98; Ovitz, David-\$350.00; Pcco Addiction Treatment Serv-\$452.00; Pennington Co Jail-\$863.00; Powerplan-\$174.39; Quik Signs-\$91.67; Quill-\$105.29; RC Regional Hospital-\$166.52; Rabe Elevator-\$1,181.80; Radiology Associates-\$8.71; Redwood Toxicology Lab-\$451.73; Rocket Lube-\$161.96; Sdrs Supplemental Retirement-\$2,782.50; Semerad, Sandra-\$1,690.20; Servall Towel & Linen-\$646.91; Simon-\$24,830.87; Sterna, Laura-\$250.00; Sturdevant's Auto Parts-\$101.43; Superior Printing-\$249.09; Sysco Montana-\$1,932.28; Thomson Reuters-West-\$193.87; Triple K Tire & Repair-\$745.16; Truenorth Steel-\$29,274.72; Turnkey Corrections-\$5.40; Twin City Hardware & Lumber-\$266.10; Tyler Technologies-\$2,138.00; Uline-\$64.56; Vast Broadband-\$1,420.65; Verizon Wireless-\$105.42; Victims Of Violence-\$570.00; Waste Connections-\$359.62; Watertree-\$32.40; Wells Fargo Business Card-\$7,281.35; Western Communication-\$275.00; Western Sd Juvenile Serv-\$11,700.00; Wex Bank-\$513.72; White Drug-\$3,507.27; Yankton Co Sheriff-\$50.00; **Witness & Jurors:** Paisley,T-\$65.20; Ardis,C-\$36.80; Goodrich,A-\$36.80; Ardis,C-\$36.80; Dell,K-\$95.60; Guerra,P-\$95.60; Brengle,W-\$47.72; Jandreau,M-\$52.34; Feeser,J-\$32.60; Swalley,L-\$97.80; Johnson,J-\$32.60; Diekhoff,P-\$20.00; Heinert,A-\$65.20; Chaves,S-\$33.44; Lizasuain,R-\$33.44; Pozoris,A-\$33.44; Walton,E-\$30.08; Ginther,J-\$65.20; Cutler,M-\$57.80; Tyonbrewer,T-\$147.68; Tobacco,S-\$97.80; Brooks,R-\$86.20; Fendrick,A-\$82.84; Roy,M-\$82.84; Schumacher,K-\$24.20; Fichtner,A-\$59.90; Brooks,T-\$86.20; Buth,K-\$20.00; Daugherty,P-\$31.76; Sorensen,R-\$35.12

ADJOURN: 11:27 a.m. There being no further business, Chairman Deibert adjourned the meeting. Motion Carried.

Date Approved

Randy Deibert, Chairperson

ATTEST:

Brenda McGruder, Auditor