

LAWRENCE COUNTY COMMISSIONERS MEETING – May 23, 2023 page-1

Chairman Robert Ewing 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 23, 2023 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Brandon Flanagan, Randy Deibert, Richard Sleep and Eric Jennings.

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

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

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

MINUTES: Moved-Seconded (Sleep-Flanagan) to approve the minutes of May 9, 2023 County Commission meeting. Motion Carried.

TRAVEL REQUEST:

SHERIFF: Moved-Seconded (Flanagan-Deibert) to approve the travel request for Patrick Johnson to attend the MOCIC Training in Branson, MO from August 20-25, 2023. Motion Carried.

PERSONNEL:

HIGHWAY: Moved-Seconded (Deibert-Ewing) to approve the 5% increase for John C. Bey as a full-time permanent Highway Superintendent at a base rate of \$3,587.49 per pay period, effective July 2, 2023. Motion Carried.

STATE'S ATTORNEY: Moved-Seconded (Deibert-Ewing) to approve the 5% increase for Brenda K. Harvey as a full-time permanent State's Attorney at a base rate of \$3,953.58 per pay period, effective July 2, 2023. Motion Carried.

PUBLIC DEFENDER: Moved-Seconded (Jennings-Flanagan) to approve the new hire for Becky (Schmit) Steveson as a full-time permanent Deputy Public Defender G10 at a base rate of \$3,192.60 per pay period, effective June 5, 2023. Motion Carried.

Moved-Seconded (Jennings-Flanagan) to approve the cell phone per diem of \$50.00 per month for Becky (Schmit) Steveson, effective June 5, 2023. Motion Carried.

PLANNING & ZONING: Moved-Seconded (Deibert-Flanagan) to approve the classification change for Janette T. Sprenger as a part-time fill-in P&Z Assistant Tech G2 at a base rate of \$23.61 per hour, effective May 27, 2023. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the new hire for Amie Miller as a full-time permanent P&Z Assistant Technician G1 at a base rate of \$22.71 per hour, effective June 4, 2023. Motion Carried.

SHERIFF: Moved-Seconded (Deibert-Ewing) to approve the step raise for Andrew Nelson as a full-time permanent Correctional Officer1 G2 at a base rate of \$21.66 per hour, effective May 21, 2023. Motion Carried.

Moved-Seconded (Deibert-Ewing) to approve the step raise for Krista Kerutis as a full-time permanent Correctional Officer 2 G1 at a base rate of \$22.53 per hour, effective May 21, 2023. Motion Carried.

Moved-Seconded (Deibert-Sleep) to approve the step raise for Anthony Panza as a full-time permanent Deputy 1 G2 at a base rate of \$27.71 per hour, effective May 21, 2023. Motion Carried.

Moved-Seconded (Deibert-Ewing) to approve the step raise for Raygan Mattson as a full-time permanent Dispatcher 2 G3 at a base rate of \$23.46 per hour, effective May 21, 2023. Motion Carried.

Moved-Seconded (Deibert-Ewing) to approve the step raise for Nathaniel Eriksen as a full-time permanent Correctional Sergeant G3 at a base rate of \$25.14 per hour, effective June 4, 2023. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the classification change for Anthony Spencer as a full-time permanent Correctional Officer 2 G3 at a base rate of \$23.46 per hour, effective May 25, 2023. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the classification change for Travis Love as a full-time permanent Deputy 1 G1 at a base rate of \$27.13 per hour, effective May 25, 2023. Motion Carried.

ABATEMENT: Moved-Seconded (Flanagan-Jennings) to approve the abatement for PTD 2, LLC. on parcel #26710-01652-030-00 for 2023 taxes payable in 2024 as the improvement does not exist. Motion Carried.

USFS ZEPPELIN PROJECT SCOPING COMMENTS: Bruce Outka, Deputy State's Attorney, presented the comments submitted by the Natural Resource Committee in reference to the Zeppelin scoping document.

2023 STATE / COUNTY COMMUNITY HEALTH NURSE AGREEMENT: Moved-Seconded (Flanagan-Jennings) to approve and authorize Bruce Outka, Deputy State's Attorney, to electronically sign on behalf of the Chairman for the 2023 State/County Community Health Nurse Agreement. Aye-Flanagan, Sleep, Jennings and Ewing. Nay-Deibert. Motion Carried.

PARADISE ACRES ROAD DISTRICT: The Board acknowledged receipt of the proposed Paradise Acres Road District petitions. Public examination of survey, map and petition will be posted according to SDCL 31-12A-4.

RAFFLE REQUEST:

SPEARFISH AREA CHAMBER OF COMMERCE: Moved-Seconded (Jennings-Sleep) to not object to the request to conduct a raffle by the Spearfish Area Chamber of Commerce, with the drawing taking place on October 26, 2023. Motion Carried.

SHERIFF:

JAIL CONTRACT/MONUMENT HEALTH LEAD-DEADWOOD HOSPITAL JAIL MEDICAL AGREEMENT: Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the 2023-2024 Jail Medical Agreement with the Monument Health Lead-Deadwood Hospital. Motion Carried.

PUBLIC SAFETY AND SERVICE CENTER PROJECT UPDATE: Brian Dean, Sheriff, gave an update on the Public Safety and Services Center construction.

Greg Dias, Information Systems & Technology Director, gave an overview of the communications with outside organizations. Dias stated that we are dealing with Bureau of Information and Telecommunications, Attorney General's Office, and United Judicial Systems. The Sheriff's Office receives services from all these entities. Dias gave an overview of the communication carriers that will be used for each of these services.

HIGHWAY:

FUEL QUOTES: The following fuel quote was submitted as of May 23, 2023: **Deadwood Diesel #2 (dyed) 6800 gallons:** (prices per gallon) CBH Cooperative – No Bid; Olson Fuels – \$3.009**;
MG Oil – No Bid. **Deadwood Unleaded 4200 gallons:** (prices per gallon) CBH Cooperative – No Bid; Olson Fuels – \$3.299**;
MG Oil – No Bid. **Spearfish Diesel #2 (dyed) 3000 gallons:** (prices per gallon) CBH Cooperative – No Bid; Olson Fuels – \$3.009**;
MG Oil – No Bid. **Spearfish Unleaded 900 gallons:** (prices per gallon) CBH Cooperative – No Bid; Olson Fuels – \$3.299**;
MG Oil – \$3.7237. **Whitewood Diesel #2 (dyed) 500 gallons:** (prices per gallon) CBH Cooperative – No Bid; Olson Fuels – \$3.009**;
MG Oil – No Bid. **Represents accepted quote.

PROJECT UPDATES: John Bey, Highway Superintendent, gave an update on the damage due to the large amount of rain to the bypass for the north bridge on the St. Onge Road.

BRIDGE IMPROVEMENT GRANT AGREEMENT FOR REHABILITATION/

REPLACEMENT: John Bey, Highway Superintendent, gave an update on the Bridge project by Wheeler Lumber in Whitewood. Bey stated that the amount budgeted for the project was \$794,615.00 and the amount the county will be responsible for after the bids were received came in at \$1,976,773.56. Bey stated that Doug Kinniburgh, South Dakota Department of Transportation, has options for the county to consider for project funding. Kinniburgh explained the options, to include: Federal Funding Program, Bridge Improvement Grant, Federal Bridge

Investment Program, advance on STBGP Funds and State Infrastructure Bank loan. Kinniburgh added that the bids will be considered on Thursday, May 25, 2023.

Bey, commented that this project is coming due right at budget time and this would be the only bridge for 2024.

Doug Wessel, Brosz Engineering, noted that bids in excess of the engineers' estimates have been commonplace across the state due to increase in material and labor costs.

Moved-Seconded (Flanagan-Deibert) to recommend accepting the bid for bridge structure #41-214-100/project number BRF 6545(00)21-2 PCN 08FA and to explore other funding options. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the State of South Dakota Department of Transportation Bridge Improvement Grant amendment(s) to agreement 717598 for rehabilitation/replacement between the State of South Dakota and Lawrence County for bridge structure #41-214-100/project number BRF 6545(00)21-2 PCN 08FA. Motion Carried.

BRIDGE IMPROVEMENT GRANT AGREEMENT FOR PRESERVATION: Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the State of South Dakota Department of Transportation Bridge Improvement Grant amendment(s) to agreement 717879 for Preservation between the State of South Dakota and Lawrence County for bridge structure number 41-238-262/project number BRF 6404 (00)22-1 PCN 08WJ. Motion Carried.

HILL STREET (SPEARFISH ANNEXATION): John Bey, Highway Superintendent, gave an overview of the Hill Street annexation. Bey stated that if the City of Spearfish does not take over jurisdiction, construction and maintenance of this portion of road, Lawrence County would incur a great deal of expense.

Bruce Outka, Deputy State's Attorney, will reach out to the City of Spearfish to set up a meeting with Commissioner Ewing and Sleep to discuss Hill Street and other road jurisdiction items.

SRP FUNDED PLANNING STUDY: Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the joint powers agreement for funding of a transportation planning study between the State of South Dakota acting by and through its Department of Transportation and Lawrence County. Aye-Flanagan, Deibert, Jennings and Ewing. Nay-Sleep. Motion Carried.

OLD BELLE ROAD/SPEED LIMIT: The board acknowledged an email from Robert Eddy, 4610 Old Belle Road, Spearfish, requesting to lower the speed limit on Dairy Lane to Camp Comfort Road. John Bey, Highway Superintendent, gave an overview of the traffic counts and collision reports. The board decided to leave the speed limit as currently posted.

VETERANS' SERVICE OFFICER: Jesse Ketzer, Veterans' Service Officer, was present to report on the 2021/2022 department statistics.

LEGISLATIVE SUMMER STUDY: COUNTY FUNDING AND SERVICE PRIORITIES: Bruce Outka, Deputy State's Attorney, will submit the scope of the study to examine the appropriate administration and funding of certain services to be provided by county governments to South Dakota Association of County Commissioners.

PLANNING & ZONING:

CHANGE OF ZONING #291-23/BH PROPERTIES, LLC. & BH DEVELOPMENT & POWDER HOUSE PASS: First Reading and Public Hearing was held on COZ #291-23

OWNER/APPLICANTS: BH Properties, LLC/BH Development and Powder House Pass
LEGAL DESCRIPTION: All of the Powderhouse Pass CID Property - Provided in Exhibit A
VICINITY LOCATION: Hwy 85/14A
SUMMARY: Amendment to the PUD Land Use Map
ZONING: PUD.

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

Proponents: Ron Williams, AE2S Engineering, stated that his clients are requesting that the commission reevaluate Planning & Zoning's decision from May 4, 2023 and include the two lots along Black Forest Road into the PUD land use map. Williams stated that his clients would not

develop the lots in a manner detrimental to the neighborhood. Williams stated that his clients plan to leave a thick tree buffer between the existing residence and the proposed commercial lots.

Opponent: Michelle Jacobs, 11288 Black Forest Road, Lead stated that she has residential property all around her, and now two commercial lots are proposed right next to her property. Jacobs stated that at present the developer's declared intention is to construct storage units, but with the zoning going to commercial that could change to other uses. Jacobs also voiced her concern with traffic and safety.

Opponent: Philip Hammond, 21351 Sleighride Loop, Lead voiced his concern with traffic and safety.

Proponent: Ron Williams, AE2S Engineering, stated that the development has an existing community room and the developers would not intentionally put the property to a use that would be adverse to the existing uses. Williams added that Black Forest Road would be improved to include widening and paving.

Opponent: Philip Hammond, 21351 Sleighride Loop, Lead voiced his concern with speed once the road is paved.

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

Second Reading scheduled for June 13, 2023 at 9:15 a.m.

CONDITIONAL USE PERMIT #482/KEOUGH: A public hearing was held on Conditional Use Permit #482 OWNERS/APPLICANTS: Casey & Heidi Keough LEGAL DESCRIPTION: Lot 2 of the Sub of HES CRM of the sub of Lot A of the sub of Lot 10 of Section 27, T3N, R5E VICINITY LOCATION: Nemo Road SUMMARY: Specialty Resort/Wedding Venue ZONING: PF ACREAGE: 3.09 acres.

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

Casey Keough, applicant, was present to answer questions.

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

Moved-Seconded (Flanagan-Deibert) to approve Conditional Use Permit #482 with the added conditions: #26. The existing approach shall be reviewed by the Highway Superintendent and he may require additional permission for an updated approach, prior to the opening of the wedding venue. #27. Porta potties are required during events, or until a commercial system is installed, and based upon the Planning and Zoning Commission recommendation for approval and the concurrent recommendation of P&Z staff, as reflected in the staff report.

OWNERS/APPLICANTS: Casey & Heidi Keough LEGAL DESCRIPTION: Lot 2 of the Sub of HES CRM of the sub of Lot A of the sub of Lot 10 of Section 27, T3N, R5E VICINITY LOCATION: Nemo Road SUMMARY: Specialty Resort/Wedding Venue ZONING: PF ACREAGE: 3.09 acres. Motion Carried.

CONDITIONAL USE PERMIT #483/BAUER: A public hearing was held on Conditional Use Permit #483 OWNERS/APPLICANTS: Curt & Danette Bauer LEGAL DESCRIPTION: SE ¼ SE ¼ less Tract B & NE ¼ SE ¼ less N ½ SW ¼ E ¼ SE ¼, Section 16, T3N, R3E VICINITY LOCATION: Gudat Road SUMMARY: Campground ZONING: PF ACREAGE: 71.00 acres.

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

Danette Bauer, applicant, was present to answer questions.

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

Moved-Seconded (Deibert-Flanagan) to approve Conditional Use Permit #483 with the added conditions: #32. A detailed site plan shall be approved prior to the opening of the campground through the Development Plan process. #33. All onsite improvement of roads be suitable for emergency vehicles to provide suitable ingress and egress and based upon the Planning and Zoning Commission recommendation for approval and the concurrent recommendation of P&Z

staff, as reflected in the staff report. OWNERS/APPLICANTS: Curt & Danette Bauer LEGAL DESCRIPTION: SE ¼ SE ¼ less Tract B & NE ¼ SE ¼ less N ½ SW ¼ E ¼ SE ¼, Section 16, T3N, R3E VICINITY LOCATION: Gudat Road SUMMARY: Campground ZONING: PF ACREAGE: 71.00 acres. Motion Carried.

EXECUTIVE SESSION PERSONNEL: 9:20 a.m. Moved-Seconded (Deibert-Flanagan) to go into executive session pursuant to SDCL 1-25-2(1) discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. Motion Carried. 9:28 a.m. The Board opened for regular business with no action taken.

ITEMS FROM THE PUBLIC: None.

ITEMS FROM THE COMMISSIONERS: The board acknowledged a letter from the Department of Agriculture and Natural Resources in reference to Hubbard Feeds, dba Ridley Block Operations for surface water discharge permit.

The board acknowledged a letter from Fitzgerald Law Firm in reference to Resolution #2023-01 of intent to annex real property into the City of Whitewood.

Commissioner Jennings reported that the South Dakota Agricultural Land Trust will be meeting on June 3, 2023 at 7:00 p.m. at the Matthew Opera House.

Commissioner Deibert suggested that in the future, applications for mineral extraction could be vetted by the Natural Resources Committee.

BILLS: Moved-Seconded (Deibert-Flanagan) 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 with the removal of the bill for First District Association of Local Governments. Motion Carried.

Payroll: Comm-\$7,842.51; Aud-\$15,349.13; Treas-\$17,412.96; States Atty-\$16,754.53; Pub Def-\$11,565.81; Gen Govt Bldg-\$11,884.22; Equal-\$17,132.29; Rod-\$10,968.63; Vso-\$2,009.80; Ist-\$11,323.85; Sher-\$53,971.00; Jail-\$32,936.35; Coroner-\$1,574.04; 24/7-\$524.71; Emerg Mgnt-\$5,110.53; E911-\$16,726.64; Highway-\$51,868.54; Weed-\$4,718.36; P&Z-\$8,963.61; **Bills:** Phinney, Desiree-\$29.98; A To Z Shredding-\$38.80; A&B Business,Inc Solutions-\$1,365.78; A&B Welding Supply-\$248.80; A&I Distributors-\$1,044.80; Ace Hardware-\$323.90; Andrews Law Office-\$2,757.40; BH Pioneer-\$210.00; Barnaud Law Firm-\$1,713.91; Bi Inc-\$50.40; Bickle's Truck & Diesel-\$177.95; Black Hills Chemical-\$4,506.20; Black Hills Energy-\$1,808.93; Black Hills Pure-\$11.50; Blackburn & Stevens-\$128.40; Bluepeak-\$1,810.94; Bob Barker Company-\$172.65; Bomgaars Supply-\$265.21; Butler Machinery-\$1,162.59; Cbh Cooperative-\$3,152.00; Centurylink-\$347.54; Chadams-\$2,100.00; City Of Rapid City-\$680.00; Cloudflare-\$5,000.04; Dakota Equip Rental/Chain Saw-\$74.70; Dakota Fluid Power-\$39.93; Dept Of Hlth Lab Services-\$1,035.00; Dept Of The Treasury-\$69,073.45; Diamond Pharmacy-\$1,310.28; Dustbusters-\$132,024.14; Elevatus Architecture-\$34,310.54; Express Collections-\$584.65; Fastenal-\$43.01; Galls-\$875.00; Godfrey's Brake Serv-\$552.99; Grimm's Pump & Industrial Supply-\$165.25; High Plains Business Forms-\$668.30; Intellectual Technology-\$133.42; Janke, Wendy-\$360.00; Jerry Greer's Engineering-\$174.97; Joe's Windsheild Repair-\$270.00; Juneks' Chrysler/Dodge-\$80,000.00; Kinney Law-\$1,963.42; Knecht Home Center- \$55.96; Kosel, Joseph-\$5,342.07; LC Treasurer-\$16.50; Lamb Painting-\$3,622.46; Language Line Services-\$13.72; Lawson Products-\$280.99; Lead, City Of-\$67.77; Lewis & Clark Bhs-\$184.00; Lexisnexis Risk Data Mgnt-\$75.00; Mabey, Brooke-\$60.00; Midcontinent Communications-\$154.13; Montana Dakota Utilities-\$413.05; Monument Health Network-\$8,759.89; Nalco Company-\$323.76; Nelson Law-\$745.40; Nutrien Ag Solutions-\$444.00; Office Of Child Support-\$712.16; Olson Fuels-\$2,607.58; Pcs0 Addiction Treatment Serv-\$452.00; Pennington Co Jail-\$481.49; Pharmchem-\$648.67; Phoenix Investigations-\$998.20; Precision Kiosk Technologies-\$1,350.00; Professional Development-\$1,645.00; Queen City Rocket Lube-\$220.02; Quill-\$62.03; Rfcc-\$1,080.00; Riverside Technologies-\$330.00; Ryan, Suzanne-\$60.00; Safe Life Defense-\$420.96; Schlimgen Law Firm-\$1,616.54; Sd Aao-\$700.00; Sd Association Of County-\$100.00; Sd Overhead Doors-\$310.20; Sdrs Supplemental Retirement-\$4,140.00; Servall Towel & Linen-\$317.40; Sign Solutions Usa-\$594.32; Simon North Region-\$55,651.10; Sirchie Acquisition Company-\$475.06; Spearfish Auto Supply-\$758.18; Spearfish Police Dept-\$11,429.70; State Disbursement Unit-\$599.47; Sterna, Laura-\$513.30; Sturdevant's Auto Parts-\$113.16; Sturgis Responder Supply-\$386.33; Sysco Montana-\$3,827.38; Turnkey Corrections-

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\$30.19; Twin City Hardware & Lumber-\$1,225.36; Vanway Trophy And Award-\$149.00; Verizon Wireless-\$106.84; Victims Of Violence-\$355.00; Washington State Support Regis-\$115.38; Wells Fargo Banks-\$223.85; Western Communication-\$160.00; Western Sd Juvenile Serv-\$9,240.00; White Drug-\$58.68; White's Canyon Motors-\$156.05; Yankton County-\$135.00, **Witness & Jurors: \$879.64.**

ADJOURN: 10:26 a.m. There being no further business, Chairman Ewing adjourned the meeting.

Date Approved

Robert Ewing, Chairperson

ATTEST:

Brenda McGruder, Auditor