

LAWRENCE COUNTY COMMISSIONERS MEETING – June 13, 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 June 13, 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 presented. Motion Carried.

DECLARE CONFLICTS: Commissioner Deibert declared a conflict with the 8:25 a.m. agenda item: Resolution #2023-13, A Resolution and Order to Vacate a Section Line, A Portion of which is Located on a Section Line; 9:00 a.m. agenda item: PRELIMINARY & FINAL PLAT APPLICANT: Diamond R Trust & PRELIMINARY & FINAL PLAT APPLICANT: Spearfish Mountain Ranch, LLC and 10:00 a.m. agenda item: Resolution #2023-14, A Resolution and Order to Vacate a Portion of Highway, Part of Which is Located on a Section Line.

MINUTES: Moved-Seconded (Flanagan-Deibert) to approve the minutes of May 23, 2023 County Commission meeting. Motion Carried.

PERSONNEL:

SHERIFF: Moved-Seconded (Deibert-Flanagan) to approve the step raise for Kendale Shain as a full-time permanent Correctional Officer1 G3 at a base rate of \$22.09 per hour, effective June 18, 2023. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the step raise for Jacqueline Huiner as a full-time permanent Correctional Officer1 G3 at a base rate of \$22.09 per hour, effective June 18, 2023. Motion Carried.

Moved-Seconded (Flanagan-Sleep) to approve the cell phone per Diem of \$104.00 per month for Travis Love, effective May 25, 2023. Motion Carried.

STATE'S ATTORNEY: Moved-Seconded (Flanagan-Deibert) to approve the cell phone per Diem of \$50.00 per month for Brenda Harvey, Jeff Erlandson, Tom Adams, Janelle Madsen, Janice Silvernail, Brianna McCroden and Shelly Baumann, effective June 18, 2023. Motion Carried.

AUDITOR'S ACCOUNT WITH TREASURER REPORT: Moved-Seconded (Sleep-Jennings) to accept the Auditor's Account with the County Treasurer. Motion Carried. As of May 31, 2023, 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)-\$77,332.26; total amount of cash in transit in Treasurer's possession (cash deposit in transit)-\$6,304.41; petty cash-\$2,725.00; total amount of deposits in bank include: CD's \$5,000,000.00; bank balance \$28,697,704.49; US Bank balance \$33,467,584.42; money market \$1,698,691.37. Total \$68,951,691.95. Motion Carried.

PARKING RAMP USE: Moved-Seconded (Sleep-Flanagan) to approve the request from McPherson Auction & Realty to use the employee parking in the ramp in conjunction with the Deadwood Mountain Grand on June 15 & 16, 2023 with Deadwood Mountain Grand making alternative parking arrangements for employees to park on the upper level of the parking ramp and coordinating with the Sheriff's Office. Motion Carried.

INFORMATION SYSTEMS & TECHNOLOGY:

INDEED.COM: Greg Dias, Information Systems & Technology Director, explained the Indeed.com process for listing job notices. Dias stated he would budget for the service so all departments would have access to the service.

REGISTER OF DEEDS:

CSC MEMORANDUM OF UNDERSTANDING AGREEMENT: Davida Hansen, Register of Deeds, presented the CSC Memorandum of Understanding Agreement.

Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the CSC Memorandum of Understanding Agreement. Motion Carried.

INSURANCE COMMITTEE:

MEDICARE TYPE F SUPPLEMENT: Brenda McGruder, Auditor, presented the Early Group Retirement Program (EGRP) offered by Wellmark BCBS. The EGRP is a group sponsored plan that pays secondary to Medicare. These plans look and pay like a Medicare Supplement but are not regulated by the State Insurance Division like Medicare Supplements. Applicants will need to be enrolled in both Medicare A & B before electing EGRP. Wellmark will bill each member individually for premiums.

Moved-Seconded (Sleep-Ewing) to present the Early Group Retirement Program (EGRP) offered by Wellmark BCBS at budget time.

Substitute motion (Deibert-Flanagan) to approve offering the Early Group Retirement Program (EGRP) offered by Wellmark BCBS. Aye-Flanagan, Deibert, Jennings & Ewing. Nay-Sleep. Motion Carried.

VSP VISION CARE: Moved-Seconded (Jennings-Flanagan) to offer VSP Vision Care to all eligible Lawrence County employees with the premium being paid 100% by the employee effective 1-1-2024. Motion Carried.

SHERIFF: No Report.

8:25 a.m. Commissioner Deibert left the table.

PETITION FOR VACATION OF SECTION LINE/HIGHWAY/RIGHT-OF-WAY/

SPEARFISH MOUNTAIN RANCH, LLC. & ERLANDER: A Public Hearing was held on a Petition for Vacation of Section Line Right-of-Way LEGAL DESCRIPTION FOR THE VACATION: That portion of the section-line highway in Township 6 North, Range 4 East, Black Hills Meridian, Lawrence County, SD between: SE 1/4, Section 19 and NE 1/4, Section 30; NE 1/4, Section 30 and NW 1/4, Section 29; and, S 1/2, Section 20 and N 1/2, Section 29 AFFECTING THE LANDOWNERS: SPEARFISH MOUNTAIN RANCH, LLC; THOMAS AND SHARON ELANDER.

Roger Tellinghuisen, Attorney for Applicant, presented Lawrence County Resolution #2023-13, A Resolution & Order to Vacate a Portion of a Highway, Part of Which Is Located on a Section Line/Highway/Right of Way.

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

Moved-Seconded (Jennings-Sleep) to approve, adopt, and authorize the Chairman to sign Lawrence County Resolution #2023-13, Resolution & Order to Vacate a Portion of a Highway, Part of Which Is Located on a Section Line/Highway/Right of Way. Motion Carried.

LAWRENCE COUNTY RESOLUTION #2023-13 RESOLUTION & ORDER TO VACATE A PORTION OF A HIGHWAY, PART OF WHICH IS LOCATED ON A SECTION LINE/HIGHWAY/RIGHT OF WAY WHEREAS, a petition was presented to the Board of County Commissioners of Lawrence County, South Dakota, signed by all adjacent landowners as there are fewer than three, requesting that a portion of a highway, part of which is located on a section line/highway/right of way be vacated, WHEREAS, the Board of County Commissioners set a date for hearing and evidence having been presented to the Board of County Commissioners that notice has been given of the time, place and purpose of said hearing by publication of notice in the B.H. Pioneer, Spearfish, South Dakota once each week for two consecutive weeks prior to the date of hearing, and WHEREAS, the Board of County Commissioners having acted as a committee of the whole concerning said vacation, and WHEREAS, said section line does not constitute a portion of a South Dakota State Trunk Highway System nor the Lawrence County Highway System, and WHEREAS, the public interest will be better served by the proposed section line vacation, now therefore, BE IT RESOLVED by the Lawrence County Board of Commissioners as follows: That the described portion of a highway, part of which is located on a section line/highway/right of way be vacated: LEGAL DESCRIPTION FOR THE VACATION: That portion of the section-line highway in Township 6 North, Range 4 East, Black Hills Meridian, Lawrence County, SD between: SE 1/4, Section 19 and NE 1/4, Section 30; NE 1/4, Section 30 and NW 1/4, Section 29; and, S 1/2, Section 20 and N 1/2, Section 29 AFFECTING THE LANDOWNERS: SPEARFISH MOUNTAIN RANCH, LLC; THOMAS AND SHARON ELANDER Dated this 13th day of June, 2023 Robert Ewing, Chairman Lawrence County Commission ATTEST: Brenda McGruder, Lawrence County Auditor.

8:27 a.m. Commissioner Deibert returned to the table.

HIGHWAY:

FUEL QUOTES: The following fuel quote was submitted as of June 7, 2023: **Spearfish Diesel #2 (dyed) 1900 gallons:** (prices per gallon) CBH Cooperative – \$2.943**;; Olson Fuels – \$3.059; MG Oil – No Bid. **Spearfish Unleaded 1100 gallons:** (prices per gallon) CBH Cooperative – \$3.52** Bid; Olson Fuels – \$3.649; MG Oil –No Bid. **Whitewood Diesel #2 (dyed) 650 gallons:** (prices per gallon) CBH Cooperative – \$2.943**;; Olson Fuels – \$3.059; MG Oil – No Bid.

**Represents accepted quote.

WBI ENERGY TRANSMISSION, INC.: Moved-Seconded (Sleep-Deibert) to follow the recommendation of John Bey, Highway Superintendent, and approve the utility permit for WBI Energy Transmission to bore under Lookout Mountain Road approximately 2.05 miles from Juncture of Highway 85 & I-90 for construction of a natural gas transmission pipeline beginning in Section 36 T7N, R2E and ending in Section 36, T7N, R2E and approve the permit to occupy County Highway Right-of-Way submitted by WBI Energy Transmission, Inc. located in Section 36, T7N, R2E along County Road: Lookout Mountain Road, to install natural gas transmission pipeline. Clarification of Dimensions for Ordinance #07-01. Approval upon the condition that: 1. The Depth is no less than 36 inches the full length of the excavation and the depth is closely monitored. 2. The location of the excavation is as far as possible away from the edge of the road. This is to protect your utility from future disturbances such as drainage repairs, or road surface expansion. The 36-inch depth and the 5-foot clearance measurement in our current ordinance is only a minimum and should only be allowed if there is proof that the maximum depth and clearance is not possible. Motion Carried.

EWERT: Moved-Seconded (Deibert-Sleep) to follow the recommendation of John Bey, Highway Superintendent, and approve the private approach permit for Chris & Shelby Ewert to construct a private approach on the north east side of Lookout Mountain Road located approximately 500' NW of corner of Lookout Mountain Road & Sunset Ranch Road. Motion Carried.

MCKEE: Moved-Seconded (Deibert-Flanagan) to follow the recommendation of John Bey, Highway Superintendent, and approve the private approach permit for Richard McKee to improve a private approach on the south side of Merritt Estes Road located approximately .40 +/- west of the county road, Nemo Highway pavement with the condition that the Forest Service does not object. Motion Carried.

KEOUGH: Moved-Seconded (Deibert-Sleep) to follow the recommendation of John Bey, Highway Superintendent, and approve the commercial approach permit for Casey & Heidi Keough. This is an improvement to an existing approach on the east side of Nemo Road located approximately ½ mile south of Nemo. Motion Carried.

REQUEST TO EXTEND FOGELSONG ROAD MAINTENANCE: Matt Hoffman, 11490 Fogelsong Road, submitted a petition for improvement of County Highway pursuant to SDCL 31-12-27.1 to maintain .30 miles more or less, of the Fogelsong Road.

Moved-Seconded (Jennings-Ewing) to approve and authorize the Chairman to sign the agreement for improvement of a portion of a county road pursuant to SDCL 31-12-27.1 between Matt Hoffman and Lawrence County for .30 miles more or less, of the Fogelsong Road with the petitioner paying total improvement cost of \$24,644.32 (not to exceed). Motion Carried.

PROJECT UPDATES: John Bey, Highway Superintendent, gave an update on North Bridge on the St. Onge Road (41-163-053), South Bridge on St. Onge Road (41-165-066), Preservation Project on the Nemo Road Bridge (41-238-262), pre-construction meeting for Phase 1 of the Nemo Mill and Overlay project.

Bey reported that Paul Nelson will be retiring after 9 years of service and stated he has been a great asset to the Highway Department.

Commissioner Sleep requested additional signage on the Homestake Road at the narrow points east of the Crow Peak Bench Road.

PLANNING & ZONING:

PLANNING & ZONING UPDATES: Amber Vogt, Planning & Zoning Administrator, gave an update & review of upcoming items, to include scheduled on-site visits for pending small-scale gravel pits on Monday, June 26th at 3:00 p.m.

PLATS:

LAYOUT PLAN/RELIABLE LAND HOLDINGS, LLC.: APPLICANT: Reliable Land Holdings LLC. LEGAL DESCRIPTION: Proposed Lots 1-6 of Tract E in the Crook Mt Estates 2 located in the E ½ of the SW ¼ of Section 34, T6N, R4E. VICINITY LOCATION: Crook Mt Road SUMMARY: Creating new subdivision ZONING: PF.

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

Moved-Seconded (Deibert-Ewing) to acknowledge the layout plan for APPLICANT: Reliable Land Holdings LLC. noting that the Forest Service Easement does exist and with the following concern: number of driveways and would like to see them consolidated. Aye-Flanagan, Deibert, Jennings & Ewing. Nay-Sleep. Motion Carried.

LAYOUT PLAN/GREEN ACRES PROPERTIES, LLC. & MOORE & LIVINGTSON: APPLICANTS: Green Acres Properties, LLC./Jeff Moore and Donald & Linnea Williamson LEGAL DESCRIPTION: Proposed Tract 1 and 2 of Crook Mountain Yak Ranch Sub; being a portion of Riley Wolff Tract 2 and that part of SW ¼ SE ¼ of Section 28 lying North of Centennial Estates, T6N, R4E. VICINITY LOCATION: Crook City Road SUMMARY: Creating new subdivision ZONING: PF.

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

Moved-Seconded (Deibert-Flanagan) to acknowledge the layout plan for APPLICANTS: Green Acres Properties, LLC./Jeff Moore and Donald & Linnea Williamson with the understanding that it is a consolidation and a lot line revision. Motion Carried.

PRELIMINARY & FINAL PLAT/BOURBON VALLEY, LLC.: APPLICANT: Bourbon Valley, LLC. LEGAL DESCRIPTION: Lots 1-6 of Tract B of HES 491; formerly USFS Small Tract 0190, located in the S ½ SE ¼ of Section 23,, the SW ¼ SW ¼ of Section 24, the NW ¼ NW ¼ of Section 25 and the N ½ NE ¼ of Section 26, T3N, R3E VICINITY LOCATION: Rocky Johnson Road SUMMARY: New subdivision ZONING: PF.

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

Doug Bell, 2732 Lanark Road, Rapid City, was present and explained the history of the property and the purpose of the new subdivision.

Moved-Seconded (Deibert-Ewing) to approve the preliminary plat for APPLICANTS: Bourbon Valley, LLC. 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 DESCRIPTION: Lots 1-6 of Tract B of HES 491; formerly USFS Small Tract 0190, located in the S ½ SE ¼ of Section 23,, the SW ¼ SW ¼ of Section 24, the NW ¼ NW ¼ of Section 25 and the N ½ NE ¼ of Section 26, T3N, R3E VICINITY LOCATION: Rocky Johnson Road SUMMARY: New subdivision ZONING: PF. Aye-Flanagan, Deibert, Sleep & Ewing. Nay-Jennings. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the final plat for APPLICANTS: Bourbon Valley, LLC. with the condition to sign as the highway authority as N/A (non-applicable) 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. LEGAL DESCRIPTION: Lots 1-6 of Tract B of HES 491; formerly USFS Small Tract 0190, located in the S ½ SE ¼ of Section 23,, the SW ¼ SW ¼ of Section 24, the NW ¼ NW ¼ of Section 25 and the N ½ NE ¼ of Section 26, T3N, R3E VICINITY LOCATION: Rocky Johnson Road SUMMARY: New subdivision ZONING: PF. Aye-Flanagan, Deibert, Sleep & Ewing. Nay-Jennings. Motion Carried.

PRELIMINARY & FINAL PLAT/JOSEPHSON & HOMISTON: APPLICANT: Josephson, Benjamin & Jimmie Lynn and Homiston, Jason and Kristy LEGAL DESCRIPTION: Tract 22A-1 Revised and Tract 22A-2 Revised formerly Tracts 21, 22A-1, 22A-2, 26, 27, 28, 29A and 29B all in the Aspen Hills Development, located in the NW ¼ of Section 33, T6N, R2E. VICINITY LOCATION: Spearfish area SUMMARY: Revision of lot lines/combo ZONING: PF.

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

Moved-Seconded (Deibert-Flanagan) declaring that the plat for APPLICANTS: Josephson, Benjamin & Jimmie Lynn and Homiston, Jason and Kristy meets exemption criteria per the subdivision ordinance, Chapter 4, Article 3. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the preliminary plat for APPLICANTS: Josephson, Benjamin & Jimmie Lynn and Homiston, Jason and Kristy 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 DESCRIPTION: Tract 22A-1 Revised and Tract 22A-2 Revised formerly Tracts 21, 22A-1, 22A-2, 26, 27, 28, 29A and 29B all in the Aspen Hills Development, located in the NW ¼ of Section 33, T6N, R2E VICINITY LOCATION: Spearfish area SUMMARY: Revision of lot lines/combination ZONING: PF. Motion Carried.

Commissioner Deibert commented on the notes stating that item 6 needs to be removed as there are not contours listed on the final plat and asked that Vogt look at the rest of the notes.

Moved-Seconded (Deibert-Flanagan) to approve the final plat for APPLICANTS: Josephson, Benjamin & Jimmie Lynn and Homiston, Jason and Kristy 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 DESCRIPTION: Tract 22A-1 Revised and Tract 22A-2 Revised formerly Tracts 21, 22A-1, 22A-2, 26, 27, 28, 29A and 29B all in the Aspen Hills Development, located in the NW ¼ of Section 33, T6N, R2E. VICINITY LOCATION: Spearfish area SUMMARY: Revision of lot lines/combination ZONING: PF. Motion Carried.

9:29 a.m. Commissioner Deibert left the table.

PRELIMINARY & FINAL PLAT/DIAMOND R TRUST: APPLICANT: Diamond R Trust LEGAL DESCRIPTION: Lot 4A-1 and 4A-2, a sub of Lot 4A, being a portion of Lot 6 in Section 7, all of Tract 0047 in Section 8 and all of Lot 4 in Section 8, all located in T3N, R4E. VICINITY LOCATION: Hwy 385 SUMMARY: Replatting ZONING: PF.

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

Moved-Seconded (Flanagan-Sleep) to approve the preliminary & final plat for APPLICANTS: Diamond R Trust 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 DESCRIPTION: Lot 4A-1 and 4A-2, a sub of Lot 4A, being a portion of Lot 6 in Section 7, all of Tract 0047 in Section 8 and all of Lot 4 in Section 8, all located in T3N, R4E. VICINITY LOCATION: Hwy 385 SUMMARY: Replatting ZONING: PF. Motion Carried.

PRELIMINARY PLAT/SPEARFISH MOUNTAIN RANCH, LLC.: APPLICANT: Spearfish Mountain Ranch, LLC. LEGAL DESCRIPTION: Lots 1-34 of Wild Flower Estates, formerly the S ½ SW ¼, except the highway right of way in Book 280, page 187, and except Lot H1 of the S ½ SW ¼, and that portion of the SE ¼ lying south of Lots H2 and H3 (a/k/a I-90 right of way) of the SE ¼, and except the railroad right of way as conveyed in Book 79, page 114, and except the highway right of way conveyed to Lawrence County, Book 273, page 59, and except the highway right of way conveyed to the State of South Dakota, in Warranty Deed book 280, page 240. All located in Section 17, T6N, R4E. VICINITY LOCATION: Whitewood SUMMARY: Replatting ZONING: PF.

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

Moved-Seconded (Flanagan-Jennings) to approve the preliminary plat for APPLICANTS: Spearfish Mountain Ranch, LLC. 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 DESCRIPTION: Lots 1-34 of Wild Flower Estates, formerly the S ½ SW ¼, except the highway right of way in Book 280, page 187, and except Lot H1 of the S ½ SW ¼, and that portion of the SE ¼ lying south of Lots H2 and H3 (a/k/a I-90 right of way) of the SE ¼, and except the railroad right of way as conveyed in Book 79, page 114, and except the highway right of way conveyed to Lawrence County, Book 273, page 59, and except the highway right of way conveyed to the State of South Dakota, in Warranty Deed book 280, page 240. All located in Section 17, T6N, R4E. VICINITY LOCATION: Whitewood SUMMARY: Replatting ZONING: PF. Motion Carried.

9:35 a.m. Commissioner Deibert returned to the table.

PRELIMINARY & FINAL PLAT/MERKLE: APPLICANT: Bret Merkle LEGAL DESCRIPTION: Lots 4A and 5A of Dancing Sky Addition, formerly Lots 4 & 5 being a portion of 2B of Wilderness Estates 2nd Addition and portions of Tract 2 and Tract 3 of Powder House Pass (legal shortened) VICINITY LOCATION: Hwy 85 SUMMARY: replat ZONING: PUD.

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

Moved-Seconded (Deibert-Flanagan) to approve the preliminary & final plat for APPLICANTS: Bret Merkle 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 DESCRIPTION: Lots 4A and 5A of Dancing Sky Addition, formerly Lots 4 & 5 being a portion of 2B of Wilderness Estates 2nd Addition and portions of Tract 2 and Tract 3 of Powder House Pass (legal shortened) VICINITY LOCATION: Hwy 85 SUMMARY: replat ZONING: PUD. Motion Carried.

FINAL PLAT/BH DEVELOPMENT, LLC.: APPLICANT: BH Development, LLC. LEGAL DESCRIPTION: Lot 1 Blk 9 of Trailside Addition being a sub of a portion of Tract 2 and 2F of Powder House Pass located in Section 18, T4N, R3E VICINITY LOCATION: Hwy 85 SUMMARY: Creating new lot for Commercial area ZONING: PUD.

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

Moved-Seconded (Flanagan-Deibert) to approve the final plat for APPLICANTS: BH Development, LLC. 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 DESCRIPTION: Lot 1 Blk 9 of Trailside Addition being a sub of a portion of Tract 2 and 2F of Powder House Pass located in Section 18, T4N, R3E. VICINITY LOCATION: Hwy 85 SUMMARY: Creating new lot for Commercial area ZONING: PUD. Motion Carried.

PRELIMINARY & FINAL PLAT/KLEIN & CHIPMAN: APPLICANTS: Gregory & Collette Klein/David & Karin Chipman LEGAL DESCRIPTION: Tract K Revised and Chipman Tract located in Section 17, T4N, R2E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Lot line changes ZONING: PF.

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

Moved-Seconded (Flanagan-Deibert) declaring that the plat for APPLICANTS: Gregory & Collette Klein/David & Karin Chipman meets exemption criteria per the subdivision ordinance, Chapter 4, Article 3. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve the preliminary & final plat for APPLICANTS: Gregory & Collette Klein/David & Karin Chipman noting that any improvement of the Section line must come before this body 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 LEGAL DESCRIPTION: Tract K Revised and Chipman Tract located in Section 17, T4N, R2E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Lot line changes ZONING: PF. Motion Carried.

PRELIMINARY & FINAL PLAT/SHINING DAWN ELEMENTS, LLC.: APPLICANT: Shining Dawn Element, LLC. LEGAL DESCRIPTION: Plat of Tract of A and Tract B a subdivision of McLeod M.S. 1153 located in Section 18, T4N, R3E. VICINITY LOCATION: Hwy 85 SUMMARY: Subdivision/Fire Plan needs to be implemented ZONING: RC.

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

Moved-Seconded (Flanagan-Deibert) to approve the preliminary plat for APPLICANTS: Shining Dawn Element, LLC. 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 DESCRIPTION: Plat of Tract of A and Tract B a subdivision of McLeod M.S. 1153 located in Section 18, T4N, R3E. VICINITY LOCATION: Hwy 85 SUMMARY: Subdivision/Fire Plan needs to be implemented ZONING: RC. Motion Carried.

Moved-Seconded (Deibert-Sleep) to continue consideration of the final plat for APPLICANTS: Shining Dawn Element, LLC. until June 27, 2023. LEGAL DESCRIPTION: Plat of Tract of A and Tract B a subdivision of McLeod M.S. 1153 located in Section 18, T4N, R3E. VICINITY LOCATION: Hwy 85 SUMMARY: Subdivision/Fire Plan needs to be implemented ZONING: RC. Aye-Deibert, Sleep, Jennings & Ewing. Nay-Flanagan. Motion Carried.

CHANGE OF ZONING #291-23/BH PROPERTIES, LLC. & BH DEVELOPMENT & POWDER HOUSE PASS: Second Reading 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.

Ron Williams, AE2S Engineering, stated that Planning & Zoning Commission approved the Land Use Map with the exclusion of the portions along Black Forest Road but did not give a reason for the denial. Commissioner Ewing stated he also sits on the Planning & Zoning Commission and the reason was because there was a room full of opponents like there is today. Williams added that there are controls in place by the County and by the Community Improvement District that would not allow the applicants to do whatever they want in the area. Williams stated that his clients would not develop the lots in a manner detrimental to the neighborhood.

Commissioner Deibert disclosed that Philip Hammond, 21351 Sleighride Loop, Lead who was an opponent at the May 23, 2023 meeting, is his godson.

Commissioner Deibert asked John Frederickson, Attorney for Powder House Pass, if they would consider placing a covenant on the lots along Black Forest Road to make them storage units only? Frederickson stated they would consider that option but asked that this board approve this change of zoning due to the fact that the Board has the authority to approve or deny the development plan.

Moved-Seconded (Jennings-Ewing) to approve COZ #291-23 OWNER/APPLICANTS: BH Properties, LLC/BH Development and Powder House Pass with the exclusion of the portions along Black Forest Road, due to the impact on the surrounding properties health, safety and welfare and due to adjacent land uses 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 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. Motion Carried.

TREASURER:

STATE STATISTICS: Deb Tridle, Treasurer, gave an update on the license sales and vehicle titles, investments, wheel tax revenues, postage cost, ATV permits and license plate sales and call volume.

UNCOLLECTIBLE BUILDING ON LEASE SITE TAXES: Deb Tridle, Treasurer, quoted SDCL 10-22-30. Presentation to county commissioners of uncollected distress warrants-- Examination--Placement on uncollectible list. The treasurer shall present to the board of county commissioners each distress warrant returned by the sheriff uncollected. The board shall examine each return. If the taxes described in any distress warrant cannot be collected, the board shall declare the taxes to be uncollectible and the treasurer shall place the taxes on the uncollectible list. A distress warrant may be reissued for the taxes by the order of the board of county commissioners or on written demand of the sheriff. The treasurer does not need to make an additional effort to collect any mobile home taxes or taxes on a building on a leased site declared to be uncollectible until it is determined either by the board of county commissioners or the treasurer that the tax has become or may become collectible.

Moved-Seconded (Flanagan-Deibert) to declare parcel #14000-00404-000-05 uncollectible pursuant to SDCL 10-22-30. Motion Carried.

10:06 a.m. Commissioner Deibert left the table.

PETITION FOR VACATION OF SECTION LINE/HIGHWAY/RIGHT-OF-WAY/ JIM A

ROBINSON TRUST: A Public Hearing was held on a Petition for Vacation of Section Line Right-of-Way LEGAL DESCRIPTION FOR THE VACATION: TRACT 5R (FORMERLY PORTIONS OF TRACT 4 AND 5) AND TRACT 6 OF BULLDOG RANCH SUBDIVISION NO. 2, ALL LOCATED IN A PORTION OF H.E.S. 569, SECTION 8, SECTION 9, SECTION 16 AND SECTION 17, TOWNSHIP 3 NORTH, RANGE 3 EAST, OF THE BLACK HILLS MERIDIAN, LAWRENCE COUNTY, SOUTH DAKOTA. AFFECTING THE LANDOWNERS: JIM A ROBINSON TRUST.

Roger Tellinghuisen, Attorney for Applicant, presented Lawrence County Resolution #2023-14, A Resolution & Order to Vacate a Portion of a Highway, Part of Which Is Located on a Section Line/Highway/Right of Way.

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

Moved-Seconded (Flanagan-Jennings) to approve, adopt, and authorize the Chairman to sign Lawrence County Resolution #2023-14, Resolution & Order to Vacate a Portion of a Highway, Part of Which Is Located on a Section Line/Highway/Right of Way. Motion Carried. LAWRENCE COUNTY RESOLUTION #2023-14 RESOLUTION & ORDER TO VACATE A PORTION OF A HIGHWAY, PART OF WHICH IS LOCATED ON A SECTION LINE/HIGHWAY/RIGHT OF WAY WHEREAS, a petition was presented to the Board of County Commissioners of Lawrence County, South Dakota, signed by all adjacent landowners as there are fewer than three, requesting that a portion of a highway, part of which is located on a section line/highway/right of way be vacated, WHEREAS, the Board of County Commissioners set a date for hearing and evidence having been presented to the Board of County Commissioners that notice has been given of the time, place and purpose of said hearing by publication of notice in the B.H. Pioneer, Spearfish, South Dakota once each week for two consecutive weeks prior to the date of hearing, and WHEREAS, the Board of County Commissioners having acted as a committee of the whole concerning said vacation, and WHEREAS, said section line does not constitute a portion of a South Dakota State Trunk Highway System nor the Lawrence County Highway System, and WHEREAS, the public interest will be better served by the proposed section line vacation, now therefore, BE IT RESOLVED by the Lawrence County Board of Commissioners as follows: That the described portion of a highway, part of which is located on a section line/highway/right of way be vacated: LEGAL DESCRIPTION FOR THE VACATION: TRACT 5R (FORMERLY PORTIONS OF TRACT 4 AND 5) AND TRACT 6 OF BULLDOG RANCH SUBDIVISION NO. 2, ALL LOCATED IN A PORTION OF H.E.S. 569, SECTION 8, SECTION 9, SECTION 16 AND SECTION 17, TOWNSHIP 3 NORTH, RANGE 3 EAST, OF THE BLACK HILLS MERIDIAN, LAWRENCE COUNTY, SOUTH DAKOTA. AFFECTING THE LANDOWNERS: JIM A ROBINSON TRUST Dated this 13th day of June, 2023 Robert Ewing, Chairman Lawrence County Commission ATTEST: Brenda McGruder, Lawrence County Auditor.

10:08 a.m. Commissioner Deibert returned to the table.

ITEMS FROM THE PUBLIC: None.

ITEMS FROM THE COMMISSIONERS: The board acknowledged an email from Todd Christensen, Golden Crest Project Manager, requesting the opportunity to discuss their project.

The board acknowledged three letters from Department of Agriculture and Natural Resources in reference to Pesticide General Permit, Biosolids General Permit and Wharf Resources (USA), Inc. Commissioner Deibert suggested the Pesticide General Permit and Biosolids General Permit be presented to the Natural Resources Committee for review.

BILLS: Commissioner Deibert questioned the cost of the Court Appointed Attorney bills and the Public Defender budget in comparison to the State's Attorney budget. Bruce Outka, Deputy State's Attorney, noted that the Public Defender was short an attorney and has just filled the position. Deibert stated that the State's Attorney handles all the cases and maybe we should hire them all out and get rid of the Public Defender's office. Brenda McGruder, Auditor, added that the Public Defender's Office bills the defendant for the services which supplements the budget. Moved-Seconded (Deibert-Jennings) 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-\$15,685.02; Aud-\$25,428.31; Treas-\$34,830.83; States Atty-\$32,841.86; Pub Def-\$23,590.13; Gen Govt Bldg-\$23,985.45; Equal-\$34,179.81; Rod-\$21,937.25; Vso-\$4,020.40; Ist-\$22,650.10; Sher-\$116,668.88; Jail-\$78,398.01; Coroner-\$2,548.08; 247/7-\$1,046.15; Emerg Mgnt-\$10,165.06; E911-\$37,834.23; Highway-\$105,030.83; Weed-\$15,942.54; P&Z-\$18,831.68; **Bills:** Baumann, Michelle-\$56.10; Hansen, Davida-\$40.00; Isburg, Damon-\$75.00; Palmer, Ryan-\$514.69; Merwin, Megan-\$472.00; Cynkar, Elizabeth-\$472.00; A To Z Shredding-\$54.60; A&B Business, Inc Solutions-\$2,551.03; A&B Welding Supply-\$23.70; A&I Distributors-\$1,913.85; Air Connection-\$3,915.78; American Legal Publishing Corp-\$475.00; American Family Life-\$2,580.94; Black Hills Energy-\$9,505.72; Deadwood Recreation Center-\$655.00; Delta Dental Of South Dakota-\$8,654.28; Dept Of The Treasury-\$69,393.05; Express Collections-\$607.59; Northern Hills Rec Center-\$92.00; Office Of Child Support-\$712.16; Sd Retirement System-\$72,692.08; Sdrs Supplemental Retirement-\$4,065.00; State Disbursement Unit-\$599.47; Washington State Support Regis-\$115.38; Wellmark Blue Cross-\$121,349.56; At&T Mobility-\$1,181.67; Audra Hill Consulting-\$344.52; Avera Mckennan Hospital-\$334.91; BH Pest Control-\$190.00; BH Pioneer-\$1,457.87; Barnaud Law Firm Prof-\$4,878.40; Black Hills Chemical-\$1,259.41; Black Hills Energy-\$113.55; Black Hills Psychology-\$450.00; Black Hills Pure-\$40.00; Bomgaars Supply-\$47.65; Butler Machinery-\$10,178.28; Butte Electric Coop-\$604.80; Carquest Of Spearfish-\$25.47; Cdw Government-\$47,850.81; Century Business Products-\$737.18; Centurylink-\$93.02; Chadams-\$3,590.00; Civil Air Patrol Magazine-\$155.00; Dakota Equip Rental/Chain Saw-\$963.91; Deadwood, City Of-\$2,068.14; Dept Of The Treasury-\$75,676.86; Dustbusters-\$25,408.92; Ecolab-\$168.93; Express Collections-\$266.94; Fastenal-\$407.34; Federal Express Corp-\$17.68; Fmg Engineering-\$3,149.91; Galls-\$199.62; Godfrey's Brake Serv-\$4,667.25; Gordon Law Office-\$2,957.27; Grimm's Pump&Industrial Supply-\$1,315.71; Hartford-Priority Accounts-\$2,325.12; Heisler Hardware-\$23.99; Hilpert & Hale Prof-\$603.10; Interstate Engineering-\$3,725.62; Ivory Family Dentistry-\$1,447.00; Janke, Wendy-\$460.00; Jerry Greer's Engineering-\$851.41; Joe's Windsheild Repair-\$315.00; Juneks' Chrysler/Dodge-\$2,532.42; Karen Paige Hunt, Prof-\$139.10; Kimball-Midwest Co-\$832.88; Kinney Law-\$5,105.07; Knecht Home Center-\$1,893.74; Kosel, Joseph-\$4,510.45; LC Assessor-\$34.00; LC Plan & Zone-\$46.42; LC Treasurer-\$15.00; Lawson Products-\$42.59; Lead-Deadwood Sanitary-\$926.63; Legal & Liability Risk Mgnt-\$150.00; Lexisnexis Risk Data Mgnt-\$75.00; Lincoln County-\$345.40; Lookout Plan & Code Consulting-\$184.06; Mabey, Brooke-\$240.00; Make It Happen Counseling-\$400.00; Mastercard-\$10,083.77; Minnehaha County, Sd Juvenile-\$9,684.36; Montana Dakota Utilities-\$3,050.90; Monument Health Network-\$766.17; Moss, William Psy-\$1,400.00; Ms Mail-\$740.00; Northern Truck Equip-\$1,519.00; Odp Business Solutions-\$220.29; Office Of Child & Family Serv-\$29,723.00; Office Of Child Support-\$712.16; Olson Fuels-\$48,333.33; Pennington County Public-\$160.00; Pharmchem-\$401.40; Pitney Bowes Global Financial-\$967.68; Postmaster, Deadwood-\$470.00; Precision Kiosk Technologies-\$1,350.00; Queen City Rocket Lube-\$99.61; Quill-\$224.92; Ramkota Inn Pierre-\$462.00; Rapid Delivery-\$15.60; Rcs Construction-\$1,324,601.83; Riverside Technologies-\$1,518.00; Rushmore Communications-\$4,174.45; Rushmore Hydroseeding-\$1,600.00; Ryan, Suzanne-\$120.00; Schlimgen Law Firm-\$8,681.46; Scott Peterson Motors-\$1,994.57; Sd Dept Of Transportation-\$76,584.55; Sd Human Services Center-\$611.63; Sdn Communications-\$260.00; Sdrs Supplemental Retirement-\$4,095.00; Servall Towel & Linen-\$308.30; Sonnel Technologies-\$2,553.83; Spearfish Auto Supply-\$1,140.55; Spearfish City Of-\$268.90; Spearfish Police Dept-\$10,888.89; State Disbursement Unit-\$599.47; Sterna, Laura-\$360.00; Sturdevant's Auto Parts-\$785.31; Sturgis Responder Supply-\$2,858.58; Summit Fire Protection-\$176.00; Sysco Montana-\$5,066.35; Thomson Reuters-West-\$536.93; Tnf Properties And Storage-\$800.00; Top Quality Mfg Co-\$804.60; Transource Truck & Equip-\$2,892.68; Twin City Hardware & Lumber-\$957.51; Tyler Technologies-\$7,035.45; Walk-N-Roll-\$978.06; Washington State Support Regis-\$115.38; Waste Connections-\$1,426.63; Watertree-\$90.00; Western Communication-\$81.84; Wex Bank-\$484.70; White's Canyon Motors-\$1,877.79; **Witness & Jurors:** \$4,497.10.

ADJOURN: 10:33 a.m. There being no further business, Chairman Ewing adjourned the meeting.

Date Approved

Robert Ewing, Chairperson

ATTEST:

Brenda McGruder, Auditor