

**LAWRENCE COUNTY COMMISSIONERS MEETING – June 22, 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 June 22, 2021 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randy Deibert, Brandon Flanagan and Robert Ewing present. Absent-Randall Rosenau.

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

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

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

**MINUTES:** Moved-Seconded (Deibert-Flanagan) to approve the minutes of June 8, 2021 County Commission meeting. Motion Carried.

**TRAVEL REQUEST:**

**PUBLIC DEFENDER:** Moved-Seconded (Deibert-Flanagan) to approve the travel request for Jennifer B. Utter to attend the continuing legal education seminar-cross examination in Milwaukee, WI from July 21-24, 2021. Motion Carried.

**PERSONNEL:**

**SHERIFF:** Moved-Seconded (Flanagan-Deibert) to approve the cell phone per diem of \$104.00 per month for Tyler Sonne, effective June 7, 2021. Motion Carried.

Moved-Seconded (Deibert-Ewing) to approve Raygan Mattson as a part-time fill-in Correctional Officer I G1 at a base rate of \$19.26 an hour, effective June 8, 2021. Motion Carried.

**INFORMATION SYSTEMS & TECHNOLOGIES:** The board congratulated Greg Dias, Information Systems & Technologies Director, on graduating with honors from the Certified Government Chief Information Officers program.

**ABATEMENT:**

**LAWRENCE COUNTY:** Moved-Seconded (Flanagan-Deibert) to approve the abatement for Lawrence County on parcel #30820-00000-000-00 for 2021 taxes payable in 2022 as the property is now tax exempt. Motion Carried.

**CITY OF DEADWOOD:** Moved-Seconded (Deibert-Flanagan) to approve the abatement for the City of Deadwood on parcel #30075-00008-000-00 for 2021 taxes payable in 2022 as the property is now tax exempt. Motion Carried.

**RAFFLE REQUEST/SPEARFISH AREA CHAMBER OF COMMERCE:** Moved-Seconded (Flanagan-Deibert) to not object to the request to conduct a raffle for Spearfish Area Chamber of Commerce, with the drawing taking place October 28, 2021. Motion Carried.

**DEADWOOD HISTORIC PRESERVATION GRANT AGREEMENT FOR**

**COURTHOUSE MASONRY REPAIRS:** Moved-Seconded (Flanagan-Ewing) to approve and authorize the Chairman to sign the Not-for-Profit Grant agreement with the Deadwood Historic Preservation Commission for the Lawrence County Courthouse Masonry repairs. Motion Carried.

The Board thanked the Deadwood Historic Preservation for the grant.

**COUNTY SURPLUS SALE:** The county surplus sale has been set for September 11, 2021.

**SHERIFF:**

**PUBLIC SAFETY AND SERVICES CENTER PROJECT UPDATE:** Brian Dean, Sheriff, gave an updated on the schematic design time line. Dean stated the schematic design should be complete no later than the first of July.

**BUDGETS:** Brenda McGruder, Auditor, presented the budget information to the Board.

**HIGHWAY:**

**FUEL QUOTES:** The following fuel quotes were submitted as of June 14, 2021: **Spearfish Diesel #2 (dyed) 2500 gallons:** (prices per gallon) CBH Cooperative –\$2.529\*; Harms Oil Co-No Bid; MG Oil-No Bid. **Spearfish Unleaded 1300 gallons:** (prices per gallon) CBH Cooperative – \$2.858\*; Harms Oil Co-No Bid; MG Oil-No Bid. \*Represents lowest quote awarded.

**PERMITS:**

**SCHMALTZ:** Moved-Seconded (Deibert-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the private approach permit for Lawrence & Patricia Schmaltz to construct a private approach on the east side of Maitland Road. Motion Carried.

**WEAVER:** Moved-Seconded (Deibert-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the private approach permit for Verla Mae Weaver to construct a private approach on the south side of Crook City Road. Motion Carried.

**FUTCH:** Bruce Outka, Deputy State’s Attorney gave a staff report on the private approach permit for Joshua Futch.

Penny Doering, Re/Max in the Hills, and Terry Nagel, landowner, were present to speak in favor of the private approach permit.

Moved-Seconded (Deibert-Flanagan) to continue the private approach permit for Joshua Futch until the next meeting to construct a private approach on the west side of Maitland Road to allow for a review of the title commitment and Plat of property. Motion Carried.

**EDWARDS:** Moved-Seconded (Ewing-Deibert) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the private approach permit for Bryan Edwards to construct a private approach on the east side of Nemo Road. Motion Carried.

**EDWARDS:** Moved-Seconded (Ewing-Deibert) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the commercial approach permit for Bryan Edwards to construct a commercial approach on the south or east side of Vanocker Canyon Road located approximately 400 feet east of Nemo Road. Motion Carried.

**CENTURYLINK/LUMEN:** Moved-Seconded (Flanagan-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the utility permit for CenturyLink/Lumen to bore under Maitland Road approximately 0.0568 miles from Maitland Road and Forest Park Lane for construction of 6 pair copper drop beginning in Section 36, T6N, R2E and ending in Section 36, T6N, R2E. Motion Carried.

**CENTURYLINK/LUMEN:** Moved-Seconded (Deibert-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the permit to occupy County highway right-of-way for CenturyLink/Lumen located in Section 36 T6N, R2E along County Road: Maitland Road. Motion Carried.

**EXECUTIVE SESSION:** 8:38 a.m. Moved-Seconded (Ewing-Deibert) to go into executive session pursuant to SDCL 1-25-2(3). Motion Carried. 8:53 a.m. The Board opened for regular business with no action taken.

**MC RANCH, LLC.:** Moved-Seconded (Deibert-Sleep) to continue the consideration of the permit for MC Ranch, LLC. to construct a commercial approach on the west side of Christensen drive located approximately 580 feet south of E Colorado Blvd. to allow for a full board of Commissioners and the Highway Superintendent to be present. Abstain-Flanagan. Motion Carried.

**MC RANCH, LLC.:** Moved-Seconded (Deibert-Sleep) to continue the consideration of the permit to occupy County highway right-of-way for MC Ranch, LLC. located in Section 13, T6N, R2E along Christensen Drive to install sanitary and sewer lines to allow for a full board of Commissioners and the Highway Superintendent to be present. Abstain-Flanagan. Motion Carried.

**MC RANCH, LLC.:** Moved-Seconded (Deibert-Sleep) to continue consideration of the permit to occupy County highway right-of-way for MC Ranch, LLC. located in Section 13, T6N, R2E along

Christensen Drive to install water main-potable water to allow for a full board of Commissioners and the Highway Superintendent to be present. Abstain-Flanagan. Motion Carried.

**SPEED LIMIT/MCGUIGAN ROAD:** Moved-Seconded (Flanagan-Sleep) to change the speed limit from the corner of West Highway 14 and McGuigan Road to the corner of Oliver Street and McGuigan Road from 35mph to 45mph. Aye-Flanagan, Ewing and Sleep. Nay-Deibert.

Commissioner Deibert reminded the Commission that the design speed for the federal highway is 35mph.

**PLANNING & ZONING:**

**ANNUAL REVIEW:**

**CONDITIONAL USE PERMIT #132, #224 & # 398/COEUR WHARF:** Matt Zietlow, Environmental Manager for Coeur Wharf was present for the annual review of Conditional Use Permits #132, #224 and #398. No violations were found and will be reviewed in one year.

**COEUR WHARF TECHNICAL REVISION:** Matt Zietlow, Environmental Manager for Coeur Wharf was present to discuss the Technical Revision to State Mine Permit No. 476, 356, 434, 435 and 464.

The Board directed Amber Vogt, Planning & Zoning Administrator, to contact DENR and advise that the County has no objection to the technical revision.

**CHANGE OF ZONING #343/HANDER:** First Reading and public hearing was held on COZ #343. APPLICANT: Don Hander LEGAL DESCRIPTION: A portion of the NE ¼ NE ¼ Section 21, T6N, R4E VICINITY LOCATION: Hwy 34 SUMMARY: COZ from A-1 to C/LI in order to bring land into compliance with minimum lot size requirements and to facilitate building a storage garage ZONING: A-1 ACREAGE: 14.19 acres.

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

Don Hander, applicant, was present to answer any questions.

No public input was voiced and the hearing was closed.

Commission discussion topics: well, Approach Permit and fencing of cattle from adjoining land owner.

Second Reading scheduled: July 13, 2021 at 9:00 am.

**CONDITIONAL USE PERMIT #464/CARTER:** A public hearing was held on Conditional Use Permit #464 APPLICANTS: Zachary & Sara Carter LEGAL DESCRIPTION: Tract CP2, being a part of the SE ¼, all in Section 26, T6N, R3E VICINITY LOCATION: Hwy 85/Corner of Crook City Road SUMMARY: CUP for storage units ZONING: A-1 ACREAGE: 30 acres.

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

Zachary Carter, applicant, stated he spoke with Tom Paisley, City of Spearfish, about the turning radius between the buildings for fire safety.

No public input was voiced and the hearing was closed.

Moved-Seconded (Flanagan-Ewing) to approve Conditional Use Permit #464 based upon the Planning and Zoning Commission recommendation for approval, the concurrent recommendation of P&Z staff, as reflected in the staff report. APPLICANTS: Zachary & Sara Carter LEGAL DESCRIPTION: Tract CP2, being a part of the SE ¼, all in Section 26, T6N, R3E VICINITY LOCATION: Hwy 85/Corner of Crook City Road SUMMARY: CUP for storage units ZONING: A-1 ACREAGE: 30 acres. Motion Carried.

**CONDITIONAL USE PERMIT #465/MCGUIGAN FARM EXPERIENCES, LLC. & MCGUIGAN, INC. & CURTIS MCGUIGAN:** A public hearing was held on Conditional Use Permit #465 APPLICANTS: McGuigan Farm Experience, LLC/McGuigan, Inc./Curtis McGuigan LEGAL DESCRIPTION: SW ¼ NE ¼; SW ¼; S ½ NW ¼ and pt of W ½ SE ¼ (ex Lot 1 Dairy

Lane Addition; E ½ NE ¼ - E ½ SE ¼ (ex Lot 1 Dairy Lane Addition; Dairy Lane Addition Lot 1 in the W ½ SE ¼ of Section 29, T7N, R2E VICINITY LOCATION: North of Spearfish SUMMARY: Farm tours and education ZONING: A-1 ACREAGE: 560 acres.

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

Mike McGuigan, applicant, was present to answer any questions.

No public input was voiced and the hearing was closed.

Moved-Seconded (Ewing-Deibert) to approve Conditional Use Permit #465 based upon the Planning and Zoning Commission recommendation for approval, the concurrent recommendation of P&Z staff, as reflected in the staff report. LEGAL DESCRIPTION: SW ¼ NE ¼; SW ¼; S ½ NW ¼ and pt of W ½ SE ¼ (ex Lot 1 Dairy Lane Addition; E ½ NE ¼ - E ½ SE ¼ (ex Lot 1 Dairy Lane Addition; Dairy Lane Addition Lot 1 in the W ½ SE ¼ of Section 29, T7N, R2E VICINITY LOCATION: North of Spearfish SUMMARY: Farm tours and education ZONING: A-1 ACREAGE: 560 acres. Motion Carried.

**POWDER HOUSE PASS CID UPDATE ON LAND USE:** Amber Vogt, Planning & Zoning Administrator, presented a quarterly report for Powder House Pass CID. Greg and Jennifer Kaschmitter were present to answer questions.

**FIRE PLANS AND DEVELOPMENT:** Amber Vogt, Planning & Zoning Administrator, stated that a public hearing would be held on July 1, 2021 in front of the Planning & Zoning Board with the recommendation from the Fire Plan Committee.

**BID OPENING/PACKAGE (OFF-SALE) LIQUOR LICENSE:** The following bid was received for One (1) Package (Off-Sale) Liquor License. This license allows the sale of any alcoholic beverage, for consumption off the premises where sold. Minimum bid for the license shall be \$25,000. Wichterman and Son's Inc. - One (1) Package (Off-Sale) Liquor License - \$27,000.

Moved-Seconded (Flanagan-Ewing) to accept the highest responsible bid subject to the submission of Uniform Alcoholic Beverage License application, bid amount and Package (Off-Sale) Liquor License Issuance Agreement. Wichterman and Son's Inc. for One (1) Package (Off-Sale) Liquor License: - \$27,000. Motion Carried.

**RESOLUTION SETTING THE FEE FOR PACKAGE OFF-SALE LIQUOR LICENSES PURSUANT TO SDCL 35-4-11.1:**

Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the following Lawrence County Resolution #2021-23 A Resolution Setting the Fee for Package Off-Sale Liquor Licenses Pursuant to SDCL 35-4-11.1 Motion Carried. LAWRENCE COUNTY RESOLUTION #21-23 A RESOLUTION SETTING THE FEE FOR PACKAGE OFF-SALE LIQUOR LICENSES PURSUANT TO SDCL 35-4-11.1 WHEREAS, the Legislature of the State of South Dakota has provided for the approval package off-sale liquor licenses by the boards of county commissioners of the counties of said State pursuant to SDCL Title 35 as amended; and WHEREAS, SDCL 35-4-11.1, as amended, provides that the board of county commissioners shall on or before the first of September in each year determine by ordinance or continuing resolution the number of package off-sale liquor licenses (other than malt beverage) it will approve for the ensuing calendar year and the fees to be charged for the various classifications of licenses; and WHEREAS, the maximum number of package off-sale licenses issued outside municipalities are based upon the population of the county outside incorporated municipalities and improvement districts. However, the maximum allowable licenses need not be the number which the county commissioners authorize; and WHEREAS, Lawrence County (hereinafter "County") now qualifies for six (6) package off-sale liquor licenses, making four (4) additional licenses available for issuance July 1, 2021; and WHEREAS, County, in the previous Resolution #2021-22, set the number of available licenses presently available for sale at one (1) and established the method of sale through competitive sealed bids; and WHEREAS, on June 22, 2021, with notice having been previously given, competitive sealed bids were received and opened and the highest responsible bid determined to be \$27,000. NOW THEREFORE, BE IT RESOLVED, that the Lawrence County Board of County Commissioners hereby establishes that the fee for the issuance of the new package (off-sale) liquor license shall be \$27,000. NOW THEREFORE, BE IT FURTHER RESOLVED, that a successful bidder will be required to enter into a Package (Off-sale) Liquor License Issuance Agreement with County. Dated this 22 day of

June, 2021 FOR THE BOARD: Richard Sleep, CHAIRMAN Attest: Brenda McGruder, AUDITOR.

Moved-Seconded (Deibert-Ewing) authorize the Chairman to sign the Package (Off-Sale) Liquor License Issuance Agreement between Wichterman and Son's Inc. dba Steel Wheel Trading Post and Lawrence County. Motion Carried.

**ITEMS FROM THE COMMISSIONERS:**

**BLACK HILLS NATIONAL FOREST:** Moved-Seconded (Flanagan-Deibert) to send a letter of support on behalf of the landowners to the Black Hills National Forest, Northern Hills Ranger District who make use of and maintain five classified roads on National Forest Service land and request permanent access if permitted. Motion Carried.

Moved-Seconded (Flanagan-Ewing) to send a letter of support for the three separate proposals from Black Hills Energy for the installation of underground utility lines. Aye-Flanagan, Ewing, Ewing and Sleep. Nay-Deibert. Motion Carried.

**COMMITTEE REPORTS:** Commissioner Deibert reported on the upcoming meetings of the Multiple Use Coalition-June 25, 2021 and Black Hills Association of Local Governments-June 24, 2021.

**BILLS:** Moved-Seconded (Flanagan-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.

**Payroll:** Comm-\$7,038.11; Aud-\$11,646.10; Treas-\$14,425.33; States Atty-\$16,703.03; Pub Def-\$13,255.25; Gen Govt Bldg-\$9,782.95; Equal-\$14,005.36; Rod-\$8,889.17; Vso-\$1,736.20; Ist-\$9,675.86; Sher-\$57,315.31; Jail-\$28,854.40; Coroner-\$2,301.16; 24/7-\$231.27; Emerg Mgnt-\$4,660.01; E911-\$15,749.27; Highway-\$46,095.23; Weed-\$8,362.35; P&Z-\$6,293.58; **Bills:** Baumann, Michelle-\$92.40; Fitzgerald, John-\$92.40; Merwin, Megan-\$126.00; Schumacher, Dustin-\$126.00; A To Z Shredding-\$16.52; A&B Business, Inc Solutions-\$373.31; A&I Distributors-\$1,193.70; Apco International-\$893.00; BH Pioneer-\$1,159.81; Bi Geo Group-\$143.10; Bierschbach Equip & Supply-\$1,802.50; Black Hills Chemical-\$994.74; Black Hills Energy-\$13,435.73; Bob Barker Company-\$312.88; Bomgaars-\$34.33; Brownsville Fire Dept-\$4,423.00; Butler Machinery Co-\$138.46; Butte County-\$46,932.50; Cbh Cooperative-\$24,158.83; Century Business Products-\$321.06; Chris Supply Co-\$84.93; City Of Rapid City-\$920.00; Clinical Lab Of BH-\$2,126.80; Cornelius, Kaylee-\$420.00; Datatek Services-\$350.00; Deadwood Vol Fire Dept-\$5,241.00; Dept Of Hlth Lab Services-\$955.00; Dept Of The Treasury-\$64,620.30; Diamond Pharmacy-\$1,130.51; Dustbusters-\$76,033.42; Fastenal-\$46.00; Fidler-Isburg Funeral Chapel-\$1,390.00; Floyd's Truck Center-\$232.84; Galls-\$646.53; Grimm's Pump&Industrial Supply-\$34.60; Hartford-Priority Accounts-\$2,114.83; Holiday Inn Spearfish-\$279.00; Johner Gravel-\$30,859.87; Juneks' Chrysler/Dodge-\$1,688.11; LC Conservation Dist-\$5,000.00; Lewis & Clark-\$184.00; Lexisnexis Risk Data Mgnt-\$75.00; M&M Sanitation-\$150.00; Messerli & Kramer-\$317.91; Midcontinent Communications-\$113.33; Montana Dakota Utilities-\$108.20; Monument Health Network-\$4,733.11; Ms Mail-\$40.00; Murphy Petroleum Transport-\$30.00; Newman Signs-\$4,608.22; Oberle's Radiators & Repairs-\$175.00; Office Depot-\$104.77; Office Of Child & Family Serv-\$13,691.50; Office Of Child Support-\$401.54; Pcsa Addiction Treatment Serv-\$226.00; Pennington Co Jail-\$1,359.70; Pharmchem-\$428.25; Postmaster, Deadwood-\$150.00; Powerplan-\$332.00; Precision Construction & Roof-\$808,276.26; Quik Signs-\$42.32; Quill-\$220.91; Radiology Associates-\$176.80; Rasmussen Mechanical Serv-\$4,644.79; Rochford Fire Protection Dist-\$726.00; Sd Aao-\$1,430.00; Sd Dept Of Revenue-\$452.00; Sdrs Supplemental Retirement-\$3,007.50; Semerad, Sandra-\$47.60; Servall Towel & Linen-\$285.62; Silverado-\$324.16; Spearfish Auto Supply-\$61.99; Spearfish Police Dept-\$10,409.90; Sturdevant's Auto Parts-\$113.42; Sturgis Fire Department-\$3,246.00; Sysco Montana-\$2,389.69; Transource Truck & Equip-\$2,143.10; Triple K Tire & Repair-\$725.97; Turnkey Corrections-\$14.06; Twin City Hardware & Lumber-\$43.96; Vast Broadband-\$1,887.10; Verizon Wireless-\$107.56; Victims Of Violence-\$795.00; Voice Products Service-\$30,717.00; Wells Fargo Business Card-\$11,237.20; Wells Plumbing & Farm Supp-\$813.05; Western Communication-\$1,920.00; Western Sd Juvenile Serv-\$9,360.00; Wex Bank-\$438.81; White Drug-\$252.36; Whitewood Fire Prot District-\$4,094.00; Wilen Dentistry-\$1,309.00; **Witness & Jurors:** \$531.12.

**ADJOURN:** 10:34 a.m. There being no further business, Chairman Sleep adjourned the meeting.  
Motion Carried.

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Date Approved

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Richard Sleep, Chairperson

ATTEST:

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Brenda McGruder, Auditor