

LAWRENCE COUNTY COMMISSIONERS MEETING – June 23, 2020 page-1

Chairman Brandon Flanagan 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 23, 2020 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. Commissioner Randy Deibert was available by video conferencing (GoToMeeting).

Roll-call voting was used and all motions were passed by unanimous vote, by all members present, unless stated otherwise.

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

DECLARE CONFLICTS AND DISCLOSURES: Commissioner Deibert declared a conflict with the 10:15 a.m. agenda item: Petition for Improvement of Section Line and Agreement for Improvement of Section Line Highway

MINUTES: Moved-Seconded (Rosenau-Sleep) to approve the minutes of June 9, 2020 County Commission meeting. Motion Carried.

CARES ACT FUNDS: Moved-Seconded (Sleep-Johnson) to approve and authorize the Chairman to sign the following Lawrence County Resolution No. 2020-20 A Resolution Authorizing the Execution of Contractual Documents with the State of South Dakota for the Receipt of Cares Act Funds to Address the Covid-19 Public Health Crisis. Motion Carried. Lawrence County Resolution Number 2020-20 A Resolution Authorizing the Execution of Contractual Documents with the State of South Dakota for the Receipt of Cares Act Funds to Address the Covid-19 Public Health Crisis WHEREAS, pursuant to section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020) (the “CARES Act”), the State of South Dakota has received federal funds that may only be used to cover costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (b) were not accounted for in the budget most recently approved as of March 27, 2020, for the State of South Dakota; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and WHEREAS, Lawrence County acknowledges that the State of South Dakota, in its sole discretion, may retain full use of these funds for the purposes delineated in the CARES Act; and WHEREAS, Lawrence County acknowledges that in order to provide financial assistance to counties and municipalities in South Dakota, the State of South Dakota, in its sole discretion, may allocate CARES Act Funds Act on a statewide basis to reimburse counties and municipalities as delineated herein; and WHEREAS, Lawrence County seeks funding to reimburse eligible expenditures incurred due to the public health emergency with respect to COVID-19; and WHEREAS, Lawrence County acknowledges that any request for reimbursement of expenditures will only be for expenditures that were not accounted for in the budget for Lawrence County most recently approved as of March 27, 2020; and WHEREAS, Lawrence County acknowledges that it will only seek reimbursement for costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; NOW, THEREFORE BE IT RESOLVED by the County Commission of Lawrence County that the [chairman/other] of the Lawrence County Commission may execute any and all documents as required by the State in order to receive CARES Act funds. It is further RESOLVED that any request for reimbursement will be only for those costs authorized by the State that: (1) Are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) Were not accounted for in the County budget most recently approved as of March 27, 2020; and (3) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. It is further RESOLVED that the County will not request reimbursement from the State under the CARES Act for costs for which the County previously received reimbursement, or for which the County has a reimbursement request pending before another source. Approved and adopted this 23rd day of May, 2020. Brandon Flanagan, Commission Chairman Lawrence County, South Dakota ATTEST: Brenda McGruder, Auditor Lawrence County, South Dakota.

LOCAL GOVERNMENT COVID RECOVERY FUND REIMBURSEMENT

AGREEMENT: Moved-Seconded (Sleep-Johnson) to approve and authorize the Chairman to sign the Local Government COVID Recovery Fund Reimbursement Agreement between the Bureau of Finance and Management and Lawrence County. Motion Carried.

JURY TRAIL EXPENSE: Bruce Outka, Deputy State's Attorney, informed the Board that a letter was received from Judge Michelle Comer stating that additional expense may be incurred for jury selection due to the COVID-19 pandemic.

PERSONNEL:

HIGHWAY: Moved-Seconded (Rosenau-Flanagan) to approve Travis Brooks as a full-time permanent Light Equipment Operator at a base rate of \$23.57 an hour, effective June 22, 2020. Motion Carried.

HIGHWAY/OUT-OF-CLASS PAY: Moved-Seconded (Rosenau-Flanagan) to approve the out-of-class pay for Daniel Sheeler at a base rate of \$29.89 for 24 hours on June 23, 24 & 25, 2020. Aye-Johnson, Rosenau and Flanagan. Nay-Sleep and Deibert. Motion Carried.

Moved-Seconded (Rosenau-Flanagan) to approve the out-of-class pay for Norm Burlison at a base rate of \$29.89 for 16 hours on June 26 & July 26, 2020. Aye-Johnson, Rosenau, Deibert and Flanagan. Nay-Sleep. Motion Carried.

TREASURER: Moved-Seconded (Johnson-Sleep) to approve Megan V. Schmit as a full-time permanent Accounting Clerk G1 at a base rate of \$15.76 an hour, effective July 6, 2020. Motion Carried.

SHERIFF: Moved-Seconded (Johnson-Flanagan) to approve Dustin James as a full-time permanent Correctional Officer I G1 at a base rate of \$19.26 an hour, effective June 21, 2020. Aye-Johnson, Sleep, Deibert and Flanagan. Nay-Rosenau. Motion Carried.

Moved-Seconded (Rosenau-Flanagan) to approve Chelsea Lindsey as a full-time permanent Deputy II G1 at a base rate of \$26.13 an hour, effective June 21, 2020. Motion Carried.

Moved-Seconded (Johnson-Flanagan) to approve Sam McCue as a full-time permanent Deputy II G2 at a base rate of \$26.66 an hour, effective June 21, 2020. Motion Carried.

VOLUNTEER SEARCH AND RESCUE: Moved-Seconded (Johnson-Sleep) to approve Wesley Ryan Wages as a Volunteer Search and Rescue member for insurance purposes. Motion Carried.

CROW PEAK BENCH ROAD DISTRICT: Brenda McGruder, Auditor, stated that the Commission will need to acknowledge receipt of the proposed Crow Peak Bench Road District Petitions, pursuant to SDCL 31-12A-3 and define the boundaries of the district consistent with the exhibit attached to the petition and public examination of the survey, map and petition will need to be posted according to SDCL 31-12A-4.

The Board acknowledged receipt of an email from Randy Sachau and Lonnie R. Braun.

The Spearfish City Council minutes and Resolution 2020-13 approving the petition and application for the incorporation of the Crow Peak Bench Road District were submitted to the Commission.

Commissioner Flanagan explained that the exhibit attached to the Petition depicts Crow Peak Bench subdivision lots along with two lots from the Wild Turkey Estates Subdivision as included in the proposed district. Flanagan continued mentioning that the two landowners from Wild Turkey Estates Subdivision have expressed the desire to not be included in the road district as they would be subject to paying road district fees and homeowners' association fees. Flanagan added that he tends to agree with the fact that the two lots should not be included unless the landowners would petition to be part of the road district.

Bruce Outka, Deputy State's Attorney, noted correspondence that has been previously received and copies are available for view.

Commissioner Deibert stated that he agrees with Commissioners Flanagan in theory but feels that if the two lots were part of the road district they would be maintaining a portion of the road that they would be using. Deibert added that if the proposed road district excluded the two lots they would be able to maintain roads outside of its jurisdiction. Bruce Outka, Deputy State's Attorney, added that SDCL 31-12A-26 allows for road work projects outside of the district area. Deibert added that if the map was revised, eliminating the two lots from Wild Turkey Estates Subdivision, once the road district is formed they have the option to maintain that portion of the road. Outka added there is a statute prohibiting the County from surrendering jurisdiction of the section line

road to a road district; however, the question presented here is not about giving up jurisdiction of the section line, but rather one of defining the boundaries of the proposed district.

Commissioner Johnson stated that the proposed road district may have the ability to maintain roads outside of its jurisdiction but it does not have the right to do that. Johnson added that if the Wild Turkey Estates subdivision does not want the proposed road district maintaining their road, I cannot imagine the law would allow for that. Johnson continued offering that it is not proper to bring the lots into the proposed road district when the two landowners did not want to be a part of the district. Deibert added that his point was that the two landowners would not be double taxed.

Commissioner Deibert noted that the Crow Peak Bench subdivision has taken steps to form a road district and applauded them for doing so. Deibert added that he wished the Wild Turkey subdivision would do likewise.

Seeking clarification, Commissioner Flanagan asked Outka about whether the commission had the option to define the boundary of the proposed road district excepting out of Lot 20 Block 2 and Lot 8 Block 1 of Wild Turkey Estates? Outka stated that statute does not offer much guidance in that regard adding that he is not aware of any case law providing clarification. Outka stated that one could argue that it is an all or nothing proposition: meaning that the commission must approve the boundary as submitted, and as circulated in the signature gathering process for the petition or disapprove without modification. Commissioner Deibert added that in support of Outka's statement that the people signed the petition with the attached map without the exclusion of the lots.

Moved-Seconded (Deibert-Flanagan) to approve the boundaries of the proposed Crow Peak Bench Road District as presented. Nay-Johnson, Sleep, Deibert, Rosenau and Flanagan. Motion Failed.

Moved-Seconded (Rosenau-Flanagan) to disapprove the boundary of the proposed Crow Peak Bench Road District, as presented, citing the fact that Lot 20 Block 2 and Lot 8 Block 1 of Wild Turkey Estates were included improperly therein. Motion Carried.

SHERIFF:

NEMO UPDATE: Brian Dean, Sheriff, gave an update on Troxell Lane, Martin Road and the Nemo Highway in the greater Nemo area. Dean stated that three meetings have been held and feels progress has been made and questions are being answered. Dean stated that Amber Vogt, Planning & Zoning Administrator, was present at the last meeting and did an excellent job explaining the issues and laying out the facts. Vogt added that her office has been monitoring the area, and noted the development of a fence that has been placed along Troxell Lane. She noted that the fence has helped to relieve traffic pressure on the road from the Guest Ranch. Dean thanked the Board for allowing additional personnel to be hired in his department. As a result, patrolling in areas like Nemo has increased 196%. He further explained that the increased patrolling represents actual deputies in cars helping to resolve issues.

PUBLIC SAFETY AND SERVICES CENTER PROJECT UPDATE: Brian Dean, Sheriff, stated that Bruce Outka, Deputy State's Attorney, Randy Deibert, Commissioner, and he will be traveling to Indiana to tour a facility designed by Elevatus.

EXECUTIVE SESSION: 8:37 a.m. Moved-Seconded (Johnson-Rosenau) to go into executive session pursuant to SDCL 1-25-2(3). Motion Carried. 9:00 a.m. The Board opened for regular business with no action taken.

Moved-Seconded (Rosenau-Flanagan) to allow Commissioner Johnson and Bruce Outka, Deputy State's Attorney, to explore options on land and potentially make a conditional offer to be ratified by the Commission at a later date. Motion Carried.

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

HIGHWAY:

FUEL QUOTES: The following fuel quotes were submitted as of June 16, 2020: **Deadwood Diesel #2 (dyed) 6700 gallons:** (prices per gallon) CBH Cooperative –\$1.598*; Harms Oil Co-No Bid; MG Oil – No Bid. **Deadwood Unleaded 4000 gallons:** (prices per gallon) CBH Cooperative –\$1.971*; Harms Oil Co-No Bid; MG Oil – No Bid. **LC Buildings & Grounds Diesel #2 1000 gallons:** (prices per gallon) CBH Cooperative –\$1.598*; Harms Oil Co-No Bid; MG Oil – No Bid. **Spearfish Unleaded 1000 gallons:** (prices per gallon) CBH Cooperative –\$2.021*; Harms Oil Co-No Bid; MG Oil – No Bid. *Represents lowest quote awarded.

PERMIT:

MONTANA-DAKOTA UTILITIES CO.: Moved-Seconded (Johnson-Rosenau) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the permit to occupy County highway right-of-way for Montana-Dakota Utilities Co. located in Section 2 T4N, R2E along the Stewart Slope Road. Motion Carried.

PROJECT UPDATES: Allan Bonnema, Highway Superintendent, gave an update on the KOA Bridge on W Highway 14, Whitewood Valley Bridge, Chip Seal Project, Paving project, Doresett Road Bridge.

ARTESIAN WELL GIFT: Bob Ewing, 3226 W Fairground Loop, stated that the Association has been dissolved and an agreement has been drawn up to transfer ownership to the County.

CITY/COUNTY REC PATH EASEMENT AGREEMENT: Moved-Seconded (Rosenau-Flanagan) to approve and authorize the Chairman to sign the City/County Rec Path Easement Agreement between Lawrence County and the City of Spearfish contingent upon the legal description being corrected. Aye-Johnson, Deibert, Rosenau and Flanagan. Nay-Sleep. Motion Carried.

Moved-Seconded (Rosenau-Flanagan) to approve and authorize the Chairman to sign the permit to occupy County highway right-of-way for the City of Spearfish located in Section 4, 5 and 9 T6N, R2E along the Hillview and McGuigan Road and specifically incorporating the Rec Path Easement Agreement referenced above as a part thereof reflecting the conditions of its issuance. Aye-Johnson, Deibert, Rosenau and Flanagan. Nay-Sleep. Motion Carried.

Bruce Outka, Deputy State's Attorney, further added, that the permit and Easement Agreement will be recorded in the Register of Deeds Office.

ACCEPT DEDICATION AND RESPONSIBILITY FOR MAINTENANCE OF A PORTION OF ROADWAY: Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the following Lawrence County Resolution No. 2020-16 A Resolution to Accept Dedication and Responsibility for Maintenance of a portion of Roadway. Motion Carried.

LAWRENCE COUNTY RESOLUTION NO. 2020-16 A RESOLUTION TO ACCEPT DEDICATION AND RESPONSIBILITY FOR MAINTENANCE OF A PORTION OF ROADWAY WHEREAS, as part of the approval of final plat #2020-2899 by the Lawrence County Commission on May 12, 2020, an area of land comprising approximately 0.76 was designated and dedicated therein to "Public Roadway"; and WHEREAS, said area of land is adjacent to the Nemo Road which is a part of the County highway system; and WHEREAS, improvements to the adjacent Nemo Road may presently occupy all, or a portion of the area dedicated to "Public Roadway"; and WHEREAS, acceptance by the County of the area dedicated to "Public Roadway" is desirable for the County to occupy, improve and develop said area in a manner convenient and appropriate for use as a public highway. NOW, THEREFORE, BE IT RESOLVED, by the Lawrence County Board of Commissioners that the area dedicated in plat #2020-2899 as "Public Roadway" shall hereby be accepted as part of the County highway system for use as a public highway with the County responsible for the improvement and maintenance of the area as deemed appropriate by the County. Dated this 23th day of June, 2020. FOR THE BOARD: Brandon Flanagan, CHAIRMAN ATTEST: Brenda McGruder, AUDITOR.

GRAVEL CRUSHING BID: Moved-Seconded (Rosenau-Flanagan) to authorize the crushing of 40,000 tons/more or less of gravel by Rogers Construction, Inc. from the Benchmark Road Pit at \$7.79 per ton utilizing the Pennington County bid, per the recommendation of the Highway Superintendent. Motion Carried. (Bid on file in the Lawrence County Auditor's Office)

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 Permit #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.

Moved-Seconded (Johnson-Sleep) to support the Technical Revision to State Mine Permit No. 476, 356, 434, 435 and 464 concerning Coeur Wharf Ruby Dump. Motion Carried.

TYLER TECHNOLOGY ABSTRACT SOFTWARE PROPOSAL: Moved-Seconded (Rosenau-Flanagan) to authorize the Chairman to sign the letter of agreement between Tyler Technologies and Lawrence County to produce a base abstract, growth abstract and TIF abstract for South Dakota counties in the amount of \$9,9750.00. Motion Carried.

DISCRETIONARY FORMULA: Moved-Seconded (Deibert-Johnson) to approve and authorize the Chairman to sign the following Lawrence County Resolution No. 2020-21 Discretionary Formula SDCL 10-6-35.2. Motion Carried. Lawrence County Resolution No.2020-21 Discretionary Formula SDCL 10-6-35.2 WHEREAS, the County of Lawrence, State of South Dakota has deemed it in the best interest of the County to adopt a Resolution implementing a Discretionary Formula for the reduced taxation of new structures and additions and partially constructed structures pursuant to SDCL 10-6-35.2. NOW, THEREFORE, BE IT RESOLVED, that the following properties shall be, and hereby are, specifically classified for the purpose of taxation pursuant to SDCL § 10-6-35.2: X-Any new industrial or commercial structure, or any addition, renovation, or reconstruction to an existing structure, located within a designated urban renewal area as defined in SDCL § 11-8-4, if the new structure, addition, renovation, or reconstruction has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(1)); X-Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(2)); X-Any new nonresidential agricultural structure, or any addition to an existing structure, if the new structure or addition has a full and true value of ten thousand dollars or more (SDCL § 10-6-35.2(3)); X-Any new commercial structure, or any addition to an existing structure, except a commercial residential structure as described in SDCL § 10-6-35.2(5), if the new structure or addition has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(4)); X-Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(5)); X-Any new affordable housing structure containing four or more units with a monthly rental rate of the units at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority, for a minimum of ten years following the date of first occupancy, if the structure has a full and true value of thirty thousand dollars or more (SDCL § 10-6-35.2(6)); X-Any new residential structure, or addition to or renovation of an existing structure, located within a redevelopment neighborhood established pursuant to SDCL § 10-6-56 if the new structure, addition, or renovation has a full and true value of five thousand dollars or more. The structure shall be located in an area defined and designated as a redevelopment neighborhood based on conditions provided in SDCL § 11-7-2 or 11-7-3 (SDCL § 10-6-35.2(7)); or X-Any commercial, industrial, or nonresidential agricultural property which increases more than ten thousand dollars in full and true value as a result of reconstruction or renovation of the structure (SDCL § 10-6-35.2(8)); and be it FURTHER RESOLVED, that any structure classified pursuant to this Resolution shall, following construction, initially be valued for taxation purposes in the usual manner, and that value shall be referred to in this Resolution as the "Pre-Adjustment Value"; and be it FURTHER RESOLVED, that the assessed value to be used for tax purposes of any structure classified pursuant to this Resolution shall, following construction, be calculated as follows: a. For the first tax year following construction, 100% of the Pre-Adjustment Value; b. For the second tax year the following construction, 100% of the Pre-Adjustment Value; c. For the third tax year following construction, 100% of the Pre-Adjustment Value; d. For the fourth tax year following construction, 100% of the Pre-Adjustment Value; e. For the fifth tax year following construction, 100% of the Pre-Adjustment Value; and be it FURTHER RESOLVED, that the Board of County Commissioners may, if requested by the owner of any of the above described property, not apply the above formula, in which case the full assessment shall be made without application of the formula. In waiving this formula for the structure of one owner, the Board of County Commissioners is not prohibited from applying the formula for subsequent new structures by that owner; and be it FURTHER RESOLVED, that for purpose of this Resolution, the assessed valuation during any of the five years may not be less than the assessed valuation of the property year preceding the first year of the tax years following construction; and be it FURTHER RESOLVED, that any structure that is partially constructed on the assessment date may be valued for tax purposes pursuant to this Resolution and the valuation may not be less than the assessed valuation of the property in the year preceding the beginning of construction; and be it FURTHER RESOLVED, that following the five-year period under this section, the property shall be assessed at the same percentage as is all other property for tax purposes. Approved this 23RD day of June,

2020 Lawrence County Commission by: Brandon Flanagan Chairman Attest: Brenda McGruder, County Auditor.

Commissioner Flanagan noted that this action should not be considered as the commission being against economic development, but rather one to protect the tax payers and the school district.

NUISANCE COMPLAINT UPDATES: Jeff Schroeder, Deputy Code Enforcement Officer, gave an update on the current progress at the Roth residence and ongoing nuisance complaints.

Moved-Seconded (Johnson-Rosenau) to follow the recommendation of Jeff Schroeder, Deputy Code Enforcement Officer, and to cancel further action against Lois Roth, 20764 Berry Lane, as the issue has been resolved. Motion Carried.

ALCOHOLIC BEVERAGE LICENSE: A public hearing was held on the applications to sell intoxicating liquor (Class-Retail (On-Off Sale) Malt Beverage & SD Farm Wine). No public input was voiced and the hearing was closed. Moved-Seconded (Johnson-Rosenau) to approve the following applications to sell intoxicating liquor (Class-Retail (On-Off Sale) Malt Beverage & SD Farm Wine). Motion Carried. Class-Retail (On-Off Sale) Malt Beverage & SD Farm Wine Ichiban @ Boondocks, LLC: (Restaurant Only) Tract C of HES 54 Sec 25 T4N, R3E, BHM.

WHITEWOOD ECONOMIC DEVELOPMENT ORGANIZATION: Chris Chiller, Whitewood Economic Development Organization (WEDO), gave an overview of the projects that are underway currently. Chiller added that WEDO intends to partner with Western Dakota Tech and that a suitable location has been found in Whitewood to adequately serve the functions of the Vo-Tech. Chiller stated that he was present to request funding for the purchase and remodeling of the building. Chiller stated that the County is being offered the opportunity to be the sole funder of the project. He explained that he spoke with a representative of the Lawrence County Revolving Loan Fund and was informed that the fund had less than a \$60,000 balance while he was seeking \$100,000 for the project. Accordingly, Chiller requested that the \$100,000 WEDO sought be taken from the Mine Severance Tax Fund.

Bruce Outka, Deputy State's Attorney, discussed the options for funding the project to include a conventional loan, the Revolving Loan Fund and Mine Severance Tax Funds.

Commissioner Deibert stated he liked the idea of transferring the money from the Mine Severance Tax Fund to the Revolving Loan Fund, and if the money became available to pay back the Mine Severance Tax Fund from later acquired federal funding the same could be done to replenish the fund. Outka added that discussion had not occurred with the Revolving Loan Fund staff whether federal funds might be used to replenish the Mine Severance Tax Fund.

Commissioner Flanagan stated that he does not feel the County should be the funding mechanism for any specific economic development corporation, but on the other hand, the County does have funds available to be loaned.

Chiller stated that the building needs to be ready to occupy by December.

Outka quoted and reviewed SDCL 10-39-54.3 (2) regarding the allocation of Mine Severance Tax funds by the County.

Moved-Seconded (Deibert-Rosenau) to agree with the intent and subject to all items being researched, corroborated and finalized. Motion Carried.

10:42 a.m. Commissioner Deibert left the meeting.

PETITION FOR IMPROVEMENT OF SECTION LINE AND AGREEMENT FOR IMPROVEMENT OF SECTION LINE HIGHWAY: APPLICANT: Black Hills Forest Acres, LLC LEGAL: Commencing at the point on the south boundary of Aspen Way which is the northeast corner of Lot 1 Block 1 of Whitewood Forest Addition as shown on the plat of record Plat Document 78-4400 and is common to the northwest corner of Tract A of the SW1/4NW1/4 of Section 21 as shown on the plat of record Plat Document 81-3166, which is the TRUE POINT OF BEGINNING; thence along the center line of the section line right-of-way, being 33 feet each side of the section line between Sections 20 and 21 and along the lot line common to said Lot 1 Block 1 and said Tract A S 00.02'18"W a distance of 188.84 feet to the southeast corner of said Lot 1

LAWRENCE COUNTY COMMISSIONERS MEETING – June 23, 2020 page-7

Block 1; thence continuing along said section line and said Tract A S 00.01'18"W a distance of 100.00 feet to the Point of ending.

The Board acknowledged receipt of an email from Eric Rath, Fred Bourne and the Whitewood Forest Acres Road District in opposition to the Black Hills Forest Acres, LLC petition for improvement of section line.

The Board acknowledged receipt of written information and comments from Thomas Brady, attorney for Whitewood Forest Acres Road District and Homeowners' Association. Brady stated that he is unable to personally appear at the June 23, 2020 Commission meeting.

Commissioner Johnson stated that all correspondence has been received by the Board.

Commissioner Flanagan stated that an onsite was done on June 16, 2020.

Roger Tellinghuisen, Attorney for applicant, discussed and reviewed several topics to include: the proposed maintenance agreement between the owner and the County, concerns raised in the correspondence concerning road engineering, the isolated tract statues, the dissolution agreement between Rath & Wolff in reference to the logging trail, section lines as public highways and negotiations with Eric Rath.

David Lust, Attorney for Fred Bourne, stated that all of this property was owned by Black Hills Forest Acres and that this right-of-way was never intended to be used and that his client does not feel that the Black Hills Forest Acres owners should be rewarded for their poor planning.

Fred Bourne, 11999 Aspen Way, commented on the other access to the property. Bourne added that discussion has gone from the Black Hills Forest Acres property being an isolated tract, to discussion of access by 4-wheeler only and now access by truck traffic. Bourne noted that the property does have access, but that such access is simply inconvenient for Black Hills Forest Acres development purposes and now the Black Hills Forest Acres owners are attempting to impose access for its property across his.

Tony Rath, 11896 Crook City Road, stated that the \$95,000 price for access is negotiable and that the owners are willing to negotiate further.

Commissioner Flanagan stated he is not comfortable at this time opening the section line, and the existing road bed is the proper location.

Commissioner Johnson commented on the \$95,000 offer and that it may cost \$50,000 to build the road. Tellinghuisen stated it is not simply a matter of the \$95,000 asking price noting a list of additional conditions attached to the asking price that would result in additional financial encumbrances above the stated amount.

Commissioner Flanagan opined that from the discussion, further negotiation between the parties leading toward an amicable resolution is possible.

Commissioner Sleep stated he hopes the parties will work something out.

Commissioner Johnson encouraged the parties to come to their own resolution.

Discussion will continue at the July 28, 2020 Commission Meeting.

Dale Greg, Orrin Engbrecht, Rodney Reed, John Jorgenson, Officers of the Whitewood Forest Acres Road District and Homeowners Association, voiced their concern with the opening of the section line.

11:19 a.m. Commissioner Deibert returned to the meeting.

KIRK POWER PLANT PROJECT: Dave Comes, Illustra Advisory, LLC., presented a proposal for the Kirk Power Plant.

COURTHOUSE ROOF AND MASONRY INSPECTION UPDATE: Tim Agena, General Government Building Foreman, and Bruce Outka, Deputy State's Attorney, gave an update on the

recent inspection by Renaissance Roofing, Inc. of the courthouse roof and masonry. Agena stated that the east entry of the Courthouse has been closed due to failure of some of the blocks and the potential for objects falling on the public using the entrance. Agena stated that an estimate has been received for the emergency scaffolding at the east entry of the Courthouse. Outka discussed the possibility of declaring an emergency due to the condition of the building and water detected leaking into Judge Comer's office.

Moved-Seconded (Deibert-Flanagan) to declare the existence of an emergency regarding the condition of the courthouse roof and masonry and the need to expedite repairs to avoid further water damage to the structure and to mitigate the dangerous situation posed to the public by the potential for falling masonry from the exterior of the building. Motion Carried.

BILLS: Moved-Seconded (Rosenau-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. Motion Carried.

Payroll: Comm-\$7,033.31; Elect-\$621.93; Aud-\$11,937.77; Treas-\$12,900.59; States Atty-\$13,863.93; Pub Def-\$13,069.24; Gen Govt Bldg-\$9,675.16; Equal-\$15,788.04; Rod-\$8,753.50; Vso-\$1,736.20; Ist-\$9,522.59; Sher-\$54,893.80; Jail-\$31,193.78; Coroner-\$472.36; 24/7-\$299.39; Emerg Mgnt-\$4,650.41; E911-\$17,591.33; Highway-\$45,366.63; Weed-\$9,445.06; Pz-\$6,277.82; **Bills:** A To Z Shredding-\$19.72; A&B Business,Inc Solutions-\$921.26; Ace Hardware Of Lead-\$19.55; Adams Salvage Recycling-\$90.73; American Legal Publishing-\$475.00; Audra Hill Consulting-\$1,715.08; BH Federal Credit Union-\$250.00; Barnaud Law Firm Prof-\$2,432.45; Bi Geo Group-\$13.80; Black Hills Energy-\$13,823.54; Black Hills Urgent Care-\$145.00; Bob Barker Company-\$234.98; Bomgaars Supply-\$12.99; Breit & Boomsma PC-\$35.09; Butler Machinery Co-\$107.00; Cbh Cooperative-\$1,917.60; Centurylink-\$557.31; Charles Mix Co Sheriff Office-\$60.00; City Of Rapid City-\$1,000.00; Cook-Huber, Kerri-\$20.00; Credit Collections Bureau-\$212.16; D&W Crane & Rigging-\$4,795.93; Dakota Equipment Rental-\$1,278.17; Dept Of Hlth Lab Services-\$1,010.00; Dept Of The Treasury-\$64,300.96; Diamond Pharmacy-\$622.05; Ds Solutions-\$175.00; Fastenal-\$93.00; Floyd's Truck Center-\$132.34; G&H Distributing-\$43.70; Gene's Lock Shop-\$50.00; Genpro Energy Solutions-\$477.85; Heartland Paper Co-\$2,194.31; Hilpert & Hale Prof-\$1,553.50; Hp-\$224.20; Jacobs Precision Welding-\$252.67; Joe's Windsheild Repair-\$2,470.00; K-Log-\$649.69; Karen Paige Hunt, Prof-\$1,105.55; Katterhagen, Mark-\$21.00; Kinney Law-\$301.90; LC Plan & Zone-\$39.39; Language Line Services-\$50.00; Lawson Products-\$2,039.91; Lewno, Lucy-\$258.75; Lexisnexis Risk Data Mgnt-\$75.00; Lockwood, Darcy-\$21.00; M&M Sanitation-\$350.00; Mid-Continent Testing-\$564.00; Midcontinent Communications-\$111.57; Montana Dakota Utilities-\$141.18; Monument Health Network-\$695.95; Ms Mail-\$375.00; Murphy Law Office, PC-\$172.90; Nelson, Christy-\$420.00; North Central Int'l-\$1,212.18; Office Of Child Support-\$632.31; Pennington Co Jail-\$1,867.25; Pharmchem-\$428.25; Pitney Bowes Global Financial-\$765.24; Quill-\$365.98; Rasmussen Mechanical Serv-\$277.73; Rocket Lube-\$169.98; Sacrison Asphalt-\$710.45; Sara J Fitzgerald-\$504.00; Sdrs Supplemental Retirement-\$1,937.50; Semerad, Sandra-\$22.80; Servall Towel & Linen-\$420.19; Spearfish City Of-\$169.95; Spearfish Police Dept-\$10,580.91; Street Image-\$35.57; Sturdevant's Auto Parts-\$187.22; Sysco Montana-\$614.08; Triple K Tire & Repair-\$675.87; Turnkey Corrections-\$12.62; Twin City Hardware & Lumber-\$604.52; Tyler Technologies-\$14,621.96; United Parcel Service-\$73.99; Vast Broadband-\$1,447.26; Verizon Wireless-\$106.07; Victims Of Violence-\$260.00; Wells Fargo Business Card-\$8,692.87; Western Sd Juvenile Serv-\$5,000.00; White Drug-\$377.78; White's Queen City Motors-\$87.88; Williams & Associates-\$6,520.00; Williams Properties-\$600.00; Wolff, John-\$300.00; Yankton Co Sheriff-\$100.00; **Witness & Jurors:** \$491.80.

ADJOURN: 11:58 a.m. There being no further business it was Moved-Seconded (Rosenau-Flanagan) to adjourn the meeting. Motion Carried.

Date Approved

Brandon Flanagan, Chairperson

ATTEST:

Brenda McGruder, Auditor