

LAWRENCE COUNTY COMMISSIONERS MEETING – July 11, 2023 page-1

Vice-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 July 11, 2023 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randy Deibert, Richard Sleep and Eric Jennings. Absent-Commissioner Robert Ewing.

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

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

DECLARE CONFLICTS: Commissioner Deibert declared a conflict with the 9:00 a.m. agenda item: Revised Preliminary Plat/KR Deer Mt Club 2021, LLC.

MINUTES: Moved-Seconded (Deibert-Sleep) to approve the minutes of June 27, 2023 County Commission meeting. 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 June 30, 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)-\$76,396.14; total amount of cash in transit in Treasurer's possession (cash deposit in transit)-\$5,929.62; petty cash-\$2,725.00; total amount of deposits in bank include: CD's \$5,000,000.00; bank balance \$26,477,763.40; US Bank balance \$32,216,844.45; money market \$1,701,443.58. Total \$65,482,452.19. Motion Carried.

PERSONNEL:

AUDITOR: Moved-Seconded (Deibert-Jennings) to approve the classification change for Krystal L. Stulken as a full-time permanent CE 3 G1 at a base rate of \$22.61 per hour, effective July 23, 2023. Motion Carried.

STATE'S ATTORNEY: Moved-Seconded (Jennings-Deibert) to approve the new hire for Kristi Sims as a full-time permanent Deputy State's Attorney G7 at a base rate of \$3,011.96 per pay period, effective August 21, 2023. Motion Carried.

EMERGENCY MANAGEMENT:

LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT QUARTERLY

REPORT: Barb Baker, Emergency Management Administrative Secretary, presented the Local Emergency Management Performance Grant quarterly report. Moved-Seconded (Deibert-Flanagan) to authorize the Vice-Chairman to sign the quarterly Local Emergency Management Performance Grant report. Motion Carried.

COUNTY RESIDENCY POLICY/WYOMING: Bruce Outka, Deputy State's Attorney, reported that there is a request by an employee to live in Wyoming. Outka added that the residency policy does not specifically address out-of-state residency, and that the policy does not prohibit it by its general terms. The Board determined that the terms of the policy did not prohibit out-of-state residency, and further that department heads are vested with the discretion to impose response times for employees suitable to their respective departments.

SHERIFF:

PUBLIC SAFETY & SERVICES CENTER: Brian Dean, Sheriff, gave an update on the Public Safety and Services Center to include request for the weather delay extension and Change Order #2.

REQUEST FOR WEATHER DELAY EXTENSION: Moved-Seconded (Deibert-Flanagan) to affirm the decision of the Public Safety & Services Center Committee and add 31 days to the contract from August 12, 2024 completion date to September 25, 2024 completion date. Motion Carried.

CHANGE ORDER #2: Moved-Seconded (Deibert-Flanagan) to authorize the Vice-Chairman to sign the AIA Document G701-2001 Change Order #2 adding the amount of \$112,261.00 to the contract sum. Motion Carried.

SEARCH AND RESCUE FUNDING: Commissioner Deibert discussed the relationship between Emergency Management, Search and Rescue and the Sheriff's Office. Deibert added that Search

and Rescue is becoming a bigger expense and the County does not get any funding through the State or Federal Government for such activities. Sheriff Dean added that the Search and Rescue does fall under his auspices but the budget authority remains under the Emergency Management budget.

HIGHWAY:

FUEL QUOTES: The following fuel quote was submitted as of July 10, 2023: **Deadwood Diesel #2 (dyed) 4600 gallons:** (prices per gallon) CBH Cooperative – \$2.992; Olson Fuels – \$2.989**;; MG Oil – No Bid. **Deadwood Unleaded 3500 gallons:** (prices per gallon) CBH Cooperative – \$3.624; Olson Fuels – \$3.499**;; MG Oil –No Bid. **Spearfish Diesel #2 (dyed) 3800 gallons:** (prices per gallon) CBH Cooperative – \$2.992; Olson Fuels – \$2.989**;; MG Oil – No Bid. **Spearfish Unleaded 1000 gallons:** (prices per gallon) CBH Cooperative – \$3.624; Olson Fuels – \$3.499**;; MG Oil –No Bid. **Whitewood Diesel #2 (dyed) 900 gallons:** (prices per gallon) CBH Cooperative – \$2.992; Olson Fuels – \$2.989**;; MG Oil – No Bid. **Represents accepted quote.

BONICELLI: Moved-Seconded (Sleep-Jennings) to follow the recommendation of John Bey, Highway Superintendent, and approve the permit to occupy County Highway Right-of-Way submitted by Margaret Bonicelli located in Section 4, T3N, R5E along Vanocker Canyon Road, to update fence where existing fence line was positioned. Motion Carried.

ESSINK: Moved-Seconded (Deibert-Flanagan) to follow the recommendation of John Bey, Highway Superintendent, and approve the private approach permit for Heather Essink to construct a private approach on the south side of Yellow Creek Road located approximately ½ mile past the gun range heading SW contingent upon proof of property ownership. Motion Carried.

SHORT: Moved-Seconded (Jennings-Flanagan) to follow the recommendation of John Bey, Highway Superintendent, and approve the commercial approach permit for Michael Short to construct a commercial approach on the east side of Wildberger Road located near the corner of 14A and Wildberger Road. Aye-Sleep, Jennings and Flanagan. Nay-Deibert. Motion Carried.

JUSO RANCH ROAD SPEED LIMIT POSTING REQUEST: Bonnie Brooking, 21884 Juso Ranch Road, Lead requested a 20 m.p.h. speed limit sign be placed at each end of Juso Road due to the increased traffic going to the Pathways Spiritual Sanctuary located on the north end of the road. The Board instructed John Bey, Highway Superintendent, to use his discretion to put in place appropriate signage, other than speed limit signs, to slow traffic on the road.

PROJECT UPDATES: John Bey, Highway Superintendent, gave an update on the Nemo Phase 1 paving project, Nemo bridge preservation, North & South St. Onge Bridge and Magnesium Chloride Treatment.

BRIDGE IMPROVEMENT GRANT AGREEMENT FOR REHABILITATION/REPLACEMENT: Moved-Seconded (Deibert-Jennings) to approve and authorize the Vice-Chairman to sign the State of South Dakota Department of Transportation Bridge Improvement Grant agreement for Rehabilitation/Replacement for structure number 41-120-105 between the State of South Dakota and Lawrence County. Motion Carried.

PLANNING & ZONING:

PLATS:

PRELIMINARY PLAT/RELIABLE LAND HOLDINGS, LLC.: APPLICANT: Reliable Land Holdings, LLC LEGAL DESCRIPTION: 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-Flanagan) to approve the preliminary plat for APPLICANT: Reliable Land Holdings, 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 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 and contingent upon drive way access locations being shown on the final plat. Aye-Deibert, Jennings & Flanagan. Nay-Sleep. Motion Carried.

PRELIMINARY & FINAL PLAT/GREEN ACRES PROPERTIES, LLC.: APPLICANT:

Green Acres Properties, LLC/Jeff Moore and Donald & Linnea Williamson LEGAL DESCRIPTION: 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) declaring that the plat for APPLICANT: Green Acres Properties, LLC/Jeff Moore and Donald & Linnea Williamson meets exemption criteria per the subdivision ordinance, Chapter 4, Article 3. Motion Carried.

Moved-Seconded (Deibert-Jennings) to approve the preliminary & final plat for APPLICANT: Green Acres Properties, LLC/Jeff Moore and Donald & Linnea Williamson 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 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. Motion Carried.

PRELIMINARY & FINAL PLAT/MAITLAND PARTNERS, LLC.: APPLICANT: Maitland Partners, LLC. LEGAL DESCRIPTION: Tract B1 and B2, a sub of Lulu and Atlantis Lodes of M.S. 1611 located in the NW ¼ Section 22, T4N, R3E VICINITY LOCATION: Yellow Creek Road SUMMARY: Lot line revision ZONING: PF.

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

Moved-Seconded (Deibert-Flanagan) declaring that the plat for APPLICANT: Maitland Partners, LLC. meets exemption criteria per the subdivision ordinance, Chapter 4, Article 3. Motion Carried.

Moved-Seconded (Jennings-Flanagan) to approve the preliminary & final plat for APPLICANT: Maitland Partners, 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: Tract B1 and B2, a sub of Lulu and Atlantis Lodes of M.S. 1611 located in the NW ¼ Section 22, T4N, R3E VICINITY LOCATION: Yellow Creek Road SUMMARY: Lot line revision ZONING: PF. Motion Carried.

9:25 a.m. Commissioner Deibert left the table.

REVISED PRELIMINARY PLAT/KR DEER MT CLUB 2021, LLC.: APPLICANT: KR Deer Mt Club 2021, LLC. LEGAL DESCRIPTION: Lots 1, 2, and 10-73 and 75-100 of Blk A of Deer Mt Village and Lots 3-9 and Lots 74, Blk A-1 of Deer Mt Village (Legal Shortened) All located in Section 13, T4N, R2E and Section 18, T4N, R3E VICINITY LOCATION: Deer Mt SUMMARY: Revised Prelim Lots ZONING: PUD.

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

Gerard Keating, applicant, and Eirik Heikes, TerraSite, were present to explain the revised preliminary plat and exception. Keating stated this is for the safety of occupants and first responders. Heikes explained the water runoff.

Moved-Seconded (Jennings-Flanagan) to approve the exception to the cul-de-sac length of 1,114'. Aye-Jennings & Flanagan. Nay-Sleep. Motion Failed.

Commissioner Flanagan stated he does not have any concerns with the exceptions. Commissioner Sleep stated he would reconsider his vote.

Moved-Seconded (Jennings-Flanagan) to reconsider the exception to the cul-de-sac length of 1,014'. Motion Carried.

Moved-Seconded (Jennings-Flanagan) to approve the revised preliminary plat for APPLICANT: KR Deer Mt Club 2021, 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, 2, and 10-73 and 75-100 of Blk A of Deer Mt Village and Lots 3-9 and Lots 74, Blk A-1 of Deer Mt Village (Legal Shortened) All located in Section 13, T4N, R2E and Section 18, T4N, R3E VICINITY LOCATION: Deer Mt SUMMARY: Revised Prelim Lots ZONING: PUD. Motion Carried.

9:44 a.m. Commissioner Deibert returned to the table.

CHANGE OF ZONING #359/ELSON: Second Reading was held on COZ #359
OWNER/APPLICANT: David Elsom and Margaret & Jeremy Elsom LEGAL DESCRIPTION: Tract B & C of NE¼ SE ¼ of Section 17, T6N, R2E VICINITY LOCATION: Tinton Road SUMMARY: Rezone from A-2 to PF for subdivision ZONING: A-2 to PF in order to create a lot for his daughter/sister ACREAGE: 16.00 acres.

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

Moved-Seconded (Deibert-Flanagan) to approve COZ #359. OWNER/APPLICANT: David Elsom and Margaret & Jeremy Elsom 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 B & C of NE¼ SE ¼ of Section 17, T6N, R2E VICINITY LOCATION: Tinton Road SUMMARY: Rezone from A-2 to PF for subdivision ZONING: A-2 to PF in order to create a lot for his daughter/sister ACREAGE: 16.00 acres. Aye-Deibert, Sleep & Flanagan. Nay-Jennings. Motion Carried.

ORDINANCE 2023-01/JOHNSON: Second Reading was held on Ordinance #2023-01
APPLICANT: Gael & Terry Johnson LEGAL DESCRIPTION: All of SRD Zoned Property in Lawrence County VICINITY LOCATION: All of SRD Zoned Property in Lawrence County SUMMARY: Request an ordinance amendment to the existing SRD zoning district to add Wedding Venue as a Conditional Use Permit ZONING: SRD.

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

Moved-Seconded (Deibert-Jennings) to deny Ordinance #2023-01 due to the fact that it is inappropriate in this density. APPLICANT: Gael & Terry Johnson LEGAL DESCRIPTION: All of SRD Zoned Property in Lawrence County VICINITY LOCATION: All of SRD Zoned Property in Lawrence County SUMMARY: Request an ordinance amendment to the existing SRD zoning district to add Wedding Venue as a Conditional Use Permit ZONING: SRD. Motion Carried.

Vogt, stated that she is still working on compliance issues with the Johnsons.

CONDITIONAL USE PERMIT #485/JOHNSON: Upon the denial of Ordinance #2023-01 above, Conditional Use Permit #485 is deemed moot requiring no further action.
OWNERS/APPLICANTS: Gael & Terry Johnsen LEGAL DESCRIPTION: Tract H excepting Lot H-1 SW ¼ NW ¼ of Section 14, T5N, R45E. VICINITY LOCATION: Boulder Canyon SUMMARY: Permit wedding venue ZONING: SRD ACREAGE: 2.23 acres.

JOHNSON: Upon the denial of Ordinance #2023-01, the issuance of a permit for construction of a commercial approach on the west side of Bauer Ave is deemed moot requiring no further action.

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.

INFORMATION SYSTEMS & TECHNOLOGY/HIGHWAY:

SURPLUS COUNTY EQUIPMENT: Greg Dias, Information Systems & Technology Director, and John Bey, Highway Superintendent, were present to discuss using an online service for future County surplus auctions.

Moved-Seconded (Jennings-Flanagan) to allow staff to use online auction services to conduct County surplus auctions. Motion Carried.

EQUALIZATION/ INFORMATION SYSTEMS & TECHNOLOGY:

COUNTY GIS PROVIDER: Brett Runge, Director of Equalization, and Greg Dias, Information Systems & Technology Director, were present to discuss a different option for County GIS providers. Runge stated that she reached out to other Counties that use Beacon as their provider and gave an overview of the options provided.

Commissioner Deibert reviewed the issues with the County's current provider and feels Beacon would be a good option.

Runge was instructed to get the costs for the Beacon service, and a proposed agreement for consideration at the next Commission meeting.

ITEMS FROM THE PUBLIC: Ron Moeller, 11221 Sheep Tail Gulch, Lead, commented on Ordinance #2023-01, stating that many neighbors had been present at the various hearings and meetings at which the COZ was discussed and registered their opposition to the request and that their input should carry significant weight in decision making.

Ron Moeller, 11221 Sheep Tail Gulch, Lead, requested the information for a site tour of the Gild Edge Superfund site be sent to the Natural Resources Committee.

ITEMS FROM THE COMMISSIONERS: The Board acknowledged an invitation for a site tour of the Gild Edge Superfund site on July 17, 2023 at 9:00 a.m.

Commissioner Deibert reported that the Statewide Transportation Improvement Program (STIP) is available on the South Dakota Department of Transportation website.

BILLS:

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. Motion Carried.

Payroll: Comm-\$7,842.51; Aud-\$13,501.75; Treas-\$17,230.97; States Atty-\$16,767.95; Pub Def-\$15,010.74; Gen Govt Bldg-\$11,751.88; Equal-\$17,555.51; Rod-\$10,968.64; Vso-\$2,011.40; Ist-\$11,325.45; Sher-\$59,162.02; Jail-\$35,896.72; Coroner-\$2,774.04; 24/7-\$458.09; Emerg Mgnt-\$5,082.53; E911-\$18,771.69; Highway-\$56,288.82; Weed-\$9,096.86; P&Z-\$8,938.42; **Bills:** Runge, Brett-\$46.10; A&B Business, Inc Solutions-\$961.32; A&B Welding Supply-\$24.49; A&I Distributors-\$324.65; Ace Hardware Of Lead-\$55.98; Active Data Systems-\$7,661.00; Air Connection-\$174.71; At&T Mobility-\$1,068.43; BH Pediatrics & Neonatology-\$277.00; BH Pest Control-\$190.00; BH Pioneer-\$1,182.71; BH Truck And Trailer-\$136.58; Barnaud Law Firm Prof-\$1,014.00; Best Western Plus Ramkota-\$677.94; Big Sky Communications-\$30.00; Black Hills Chemical-\$1,607.92; Black Hills Energy-\$115.55; Bomgaars Supply-\$57.05; Brownsville Fire Dept-\$4,261.00; Butler Machinery Co-\$131.56; Butte Electric Coop-\$457.48; Cbh Cooperative-\$3,533.00; Cdw Government-\$14,357.62; Central Distribution-\$1,078.86; Century Business Products-\$445.66; Centurylink-\$93.47; Clinical Lab Of BH-\$3,697.00; Dakota Equip Rental/Chain Saw-\$475.00; Deadwood Vol Fire Dept-\$5,514.00; Deadwood, City Of-\$2,134.75; Dean Schaefer Court Reporting-\$54.00; Dept Of Hlth Lab Services-\$140.00; Dept Of The Treasury-\$74,343.57; Fmg Engineering-\$3,220.45; Gene's Lock Shop-\$133.00; Hartford-Priority Accounts-\$2,362.69; Heisler Hardware-\$7.56; Hilpert & Hale Prof-\$439.63; Janke, Wendy-\$388.00; Jerry Greer's Engineering-\$39.99; Jobgen, Kara-\$650.00; Johner Gravel-\$40,340.92; Juneks' Chrysler/Dodge-\$47,521.97; Karen Paige Hunt, Prof-\$1,865.86; Kennedy, Judith Ed-\$2,000.00; Kinney Law-\$1,217.03; LC Auditor-\$68.40; LC Conservation Dist-\$5,000.00; Lead, City Of-\$49.85; Lead-Deadwood Sanitary-\$938.18; Mabey, Brooke-\$240.00; Mastercard-\$9,652.27; Mcgas Propane-\$114.00; Mckesson Medical-\$308.82; Montana Dakota Utilities-\$2,226.88; Monument Health Network-\$2,343.66; Ms Mail-\$25.00; Nemo Volunteer Fire Dept-\$1,232.00; Northwest Pipe Fitt-\$348.52; Office Of Child Support-\$478.16; Pennington County Public-\$96.00; Pomp's Tire Service-\$8,640.00; Powerplan-\$1,225.53; Professional Development-\$4,000.00; Queen City Rocket Lube-\$88.69; Quik Signs-\$1,725.86; Quill-\$625.21; Rcs Construction-\$4,367,023.63; Ro Investigations&Research-\$5,098.97; Rochford Fire Protection Dist-\$736.00; Ryan, Suzanne-\$120.00; Schlimgen Law Firm-\$4,168.06; Sd Assn Of Co Comm-\$400.00; Sd Dept Of Transportation-\$72,187.55; Sd Reemployment Assistance Div-\$1,245.03; Sd State Treasurer-\$591.90; Sdn Communications-\$260.00; Sdrs Supplemental Retirement-\$4,040.00; Silverado-\$1,631.58; Spearfish Auto Supply-\$1,016.03; Spearfish City Of-\$184.45; State Disbursement Unit-\$599.47; Burdick, Laura-\$360.00; Sturdevant's Auto Parts-\$1,021.65;

Sturgis Responder Supply-\$299.70; Sysco Montana-\$2,374.53; Tnf Properties And Storage-\$800.00; Twin City Hardware & Lumber-\$2,258.90; Waeckerle Law-\$1,468.40; Washington State Support Regis-\$115.38; Waste Connections-\$1,430.02; Watertree-\$61.20; Wells Plumbing & Farm Supp-\$82.03; Western Construction-\$992,273.16; Wex Bank-\$644.54; White's Canyon Motors-\$114.95; White's Queen City Motors-\$99.46; Whitewood Fire Prot District-\$3,962.00; Youngberg Law-\$203.30; **Witness & Jurors:** \$1,786.90.

11:24 a.m. Moved-Seconded (Sleep-Jennings) to recess for lunch.

12:00 p.m. Vice-Chairman Flanagan reconvened the meeting.

BUDGETS: The board reviewed the 2024 preliminary budget.

EXECUTIVE SESSION PERSONNEL: 1:43 p.m. Moved-Seconded (Deibert-Sleep) to go into executive session pursuant to SDCL 1-25-2(1) for discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor. Motion Carried. 1:51 p.m. The Board opened for regular business with no action taken.

ADJOURN: 3:03 p.m. There being no further business, Vice-Chairman Flanagan adjourned the meeting.

Date Approved

Robert Ewing, Chairperson

ATTEST:

Brenda McGruder, Auditor