

## **LAWRENCE COUNTY COMMISSIONERS MEETING – July 23, 2019**

Chairman Randy Deibert 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 23, 2019 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randall Rosenau, Daryl Johnson, Richard Sleep and Brandon Flanagan.

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

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

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

**MINUTES:** Moved-Seconded (Rosenau-Sleep) to approve the minutes of July 9, 2019 County Commission meeting. Motion Carried.

### **PERSONNEL:**

**SHERIFF:** Moved-Seconded (Rosenau-Flanagan) to approve Heather Buske as a part time fill-in Cook I G1 at a base rate of \$16.34 an hour, effective July 10, 2019. Motion Carried.

Moved-Seconded (Rosenau-Flanagan) to approve Alex Clover as a full-time permanent Deputy I G1 at a base rate of \$24.13 an hour, effective July 15, 2019. Motion Carried.

Moved-Seconded (Rosenau-Johnson) to approve Kyle Anderson as a full-time permanent Deputy II G1 at a base rate of \$25.62 an hour, effective July 21, 2019. Motion Carried.

Moved-Seconded (Rosenau-Johnson) to approve Tristan Blain as a full-time permanent Correctional Officer I G2 at a base rate of \$19.26 an hour, effective July 9, 2019. Motion Carried.

Moved-Seconded (Johnson-Flanagan) to approve Brittany Hunsley as a part-time fill-in Correctional Officer I G1 at a base rate of \$18.88 an hour, effective July 23, 2019. Motion Carried.

Moved-Seconded (Johnson-Rosenau) to approve Thomas Myers as a part-time fill-in Correctional Officer I G3 at a base rate of \$19.65 an hour, effective June 22, 2019. Motion Carried.

Moved-Seconded (Johnson-Rosenau) to approve Brianna Rommen as a full-time permanent Dispatcher 1 G3 at a base rate of \$19.65 an hour, effective July 23, 2019. Motion Carried.

Moved-Seconded (Rosenau-Sleep) to approve the cell phone per diem of \$104.00 per month for Mary Stevens, Alex Clover and Steve Muller, effective July 21, 2019. Motion Carried.

**OUT-OF-CLASS PAY:** Brenda McGruder, Auditor, presented a proposed policy covering employee's working out-of-class. The Board instructed McGruder to bring any such instances of additional compensation for employees working out-of-class before the Board for approval as such instances arise.

**PAYMENT IN LIEU OF TAXES FUNDS:** The Board discussed the Payment in Lieu of Taxes (PILT) funds received in June. Moved-Seconded (Sleep-Johnson) to receipt the PILT funds of \$589,505.00 into the Road and Bridge Fund for 2019. Motion Carried.

**MEADOWCREST SANITARY DISTRICT:** The Board acknowledged receipt of the proposed Meadowcrest Sanitary District Petitions. Public examination of survey, map and petition will be posted according to SDCL 34A-5-5.

**PICTOMETRY AGREEMENT:** Moved-Seconded (Flanagan-Johnson) to approve and authorize the Vice-Chairman to sign the agreement between Pictomertry International Corp. (“Pictomertry”) and Lawrence County, SD (“Customer”). Motion Carried.

**AUTOMATIC SUPPLEMENTS:**

**INSURANCE & BONDS:** Moved-Seconded (Johnson-Flanagan) to approve the automatic supplement of \$188,620.11 to the Insurance & Bonds budget for vehicle and building damage. Motion Carried.

**HIGHWAY:**

**ANNEX BUILDING VAV/CONTROL REPLACEMENT PROJECT BIDS:** Bruce Outka, Deputy State’s Attorney, advised that a mandatory pre-bid meeting was held on July 15, 2019 at 8:00 a.m.in the Commission Room. Rasmussen Mechanical was the only bidder in attendance.

The following bid was received for the Annex Building VAV/Control replacement project:  
Rasmussen Mechanical Services-\$145,415.00.

Moved-Seconded (Sleep-Rosenau) to accept the lowest responsible bid from Rasmussen Mechanical Services-\$145,415.00, waive any irregularities for the Annex Building VAV/Control replacement project and authorize the Chairman to sign the notice of award, notice to proceed and agreement between owner and contractor. Motion Carried.

**PERMITS:**

**THOMPSON:** Moved-Seconded (Flanagan-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent and approve the approach permit for Colin Thompson to construct an approach on the west side of Yellow Creek Road located across from the Tri-City Rubble Site. Motion Carried.

**BRIDGE IMPROVEMENT GRANT PROGRAM RESOLUTIONS:** Moved-Seconded (Flanagan-Rosenau) to approve and authorize the Chairman to sign the following Bridge Improvement Grant Program Resolution 2019-16 Authorizing 5-year county plan amendments for Structure Number #41-120-105. Motion Carried. Bridge Improvement Grant Program Resolution 2019-16 Authorizing 5 Year County Plan Amendments. WHEREAS, Lawrence County wishes to amend their previously approved 5 Year County Plan for the Bridge Improvement Grant Program: ADDITION/REMOVAL OF STRUCTURE NUMBER(S) AND LOCATION(S): Addition: Structure #41-120-105 Located on Christensen Road Just Off Intersection with Maitland Road over False Bottom Creek NOW THEREFORE BE IT RESOLVED: That the South Dakota Department of Transportation be and hereby is requested to accept the Amended 5 Year County Highway and Bridge Improvement Plan, previously approved on October 9, 2018. Vote of Commissioners/Council: Yes 5 No 0. Dated at Deadwood, SD, this 23<sup>rd</sup> day of July, 2019. Chairman, Randy Deibert. ATTEST: Brenda McGruder, County Auditor. \*NOTE – In lieu of a formal Resolution, the County may submit their certified or approved Commission Meeting minutes, detailing the specific changes made to their existing and approved 5 Year Plan. Motion Carried.

Moved-Seconded (Rosenau-Deibert) to approve and authorize the Chairman to sign the following Bridge Improvement Grant Program Resolution 2019-17 Authorizing Submission of Applications for Structure Number #41-120-105. Motion Carried. Bridge Improvement Grant Program Resolution 2019-17 Authorizing Submission Of Applications WHEREAS, Lawrence County wishes to submit an application(s) for consideration of award for the Bridge Improvement Grant Program: STRUCTURE NUMBER(S) AND LOCATION(S): Structure Number 41-120-105 Located on Christensen Road Just Off Intersection with Maitland Road over False Bottom Creek and WHEREAS, Lawrence County certifies that the project(s) are listed in the county’s Five-Year County Highway and Bridge Improvement Plan\*; and WHEREAS, Lawrence County agrees to pay the 20 % match on the Bridge Improvement Grant funds; and WHEREAS, Lawrence County hereby authorizes the Bridge Improvement Grant application(s) and any required funding commitments. NOW THEREFORE BE IT RESOLVED: That the South Dakota Department of Transportation be and hereby is requested to accept the attached Bridge Improvement Grant application(s). Vote of Commissioners/Council: Yes 5 No 0. Dated at Deadwood, SD, this 23<sup>rd</sup>

day of July, 2019. Randy Deibert Chairman/Mayor ATTEST: Brenda McGruder County Auditor/City Finance Officer \*NOTE – not applicable for cities applying for the grant – simply mark ‘NA’ Minimum required is 20%; must match percent shown on application. Motion Carried.

**PROJECT UPDATES:** Allan Bonnema, Highway Superintendent, gave an update on the North Rochford Road paving project and R.O.W. encroachments on West Highway 14.

**CHRISTENSEN DRIVE:**

**EXECUTIVE SESSION LITIGATION:** 8:53 a.m. Moved-Seconded (Rosenau-Sleep) to go into executive session pursuant SDCL 1-25-2(3) with Bruce Outka, Deputy State’s Attorney. Motion Carried. 9:24 a.m. The Board opened for regular business with no action taken.

**PLANNING & ZONING:**

**RECESS:** 9:25 a.m. Moved-Seconded (Flanagan-Rosenau) to recess the County Commission meeting and convene as the Board of Adjustment. Motion Carried. 9:44 a.m. The Chairman called the meeting back to order.

**COMPREHENSIVE PLAN UPDATE:** Amber Vogt, Planning & Zoning Administrator, gave a status update on the Comprehensive Plan update. Vogt stated, Ali DeMerssman, Black Hills Council of Local Governments Executive Director, was present at the Planning & Zoning meeting on July 11, 2019 and presented sample surveys and proposed dates for the upcoming stakeholders’ meetings.

**EXIT 8 COMMUNITY PATH:** Tonya Vig, Engineering Tech/Floodplain Administrator City of Spearfish, Kyle Mathis, City Engineer, Richard Sudmeier, FMG Engineering, and Zack Keeney, FMG Engineering gave an update on the selected route for the Exit 8 Community Path. The Commission agreed with the alignment as presented.

It was noted that more detail regarding design and construction will be forthcoming. Additionally, the City shall be required to submit applications for the appropriate permits from the County, e.g. permit to occupy ROW. An additional future component shall be an agreement between the City and County regarding issues related to maintenance and liability, among others.

**GENERAL GOVERNMENT BUILDINGS:** Tim Agena, General Government Buildings Foreman, updated the Board on the 5-year buildings and maintenance plan.

**ITEMS FROM THE PUBLIC:**

**D.C. BOOTH LAND ACQUISITION:** Moved-Seconded (Flanagan-Deibert) to concur with the D.C. Booth land acquisition and approve and authorize the Chairman to sign a letter of Lawrence County Commission Support of the proposal to acquire 64.62 acres to preserve as open space and serve as an extension of the operations at D.C. Booth. Motion Carried.

**CITY OF LEAD/HEPATITS SHOTS:** Moved-Seconded (Flanagan-Johnson) to allow the City of Lead to use the vaccine purchased by Lawrence County under contract with GKS. Motion Carried.

City of Lead will be billed directly from the State of South Dakota for the administration of the immunization and billed by Lawrence County for the cost of the vaccine.

**ITEMS FROM THE COMMISSIONERS:** Commissioner Sleep gave an update on the Weed Board meeting held on July 17, 2019.

**BUDGET:** The board reviewed the 2020 Preliminary budget, meeting with Amber Vogt, Planning & Zoning Administrator, Jesse Ketzer, Veteran Service Officer, Paul Thomson, Emergency Management Director and Allan Bonnema, Highway Superintendent.

**EXECUTIVE SESSION PERSONNEL:** 12:23 p.m. Moved-Seconded (Sleep-Deibert) to go into executive session pursuant SDCL 1-25-2(1) to discuss personnel. Motion Carried. 12:42 p.m. The Board opened for regular business with no action taken.

**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-\$6,870.32; Aud-\$11,146.63; Treas-\$12,812.75; States Atty-\$15,958.25; Pub Def-\$12,627.03; Gen Govt Bldg-\$9,244.31; Equal-\$15,384.26; Rod-\$7,916.74; Vso-\$1,447.96; Ist-\$9,377.03; Sher-\$48,075.95; Jail-\$32,616.66; Coroner-\$920.66; 24/7-\$303.43; Emerg Mgnt-\$5,198.14; E911-\$16,748.86; Highway-\$49,307.43; Mh-\$695.00; Weed-\$9,591.03; Pz-\$5,914.12;

**Bills:** Runge, Brett-\$200.00; Symonds, Carmen-\$200.00; Fisher, Jason-\$200.00; Hohn, Louise-\$200.00; A To Z Shredding-\$20.00; A&B Business,Inc Solutions-\$1,422.91; Active Data Systems-\$1,902.00; American Legal Publishing-\$2,863.00; Audra Hill Consulting-\$601.37; BH Occupational Medicine-\$60.00; BH Pioneer-\$120.00; Barnaud Law Firm Prof-\$10,609.95; Bi Geo Group-\$474.50; Black Hills Energy-\$14,203.79; Black Hills Psychology-\$450.00; Bob Barker Company-\$265.41; Bomgaars Supply-\$37.68; Bruemmer, Lynnel-\$37.40; Butler Machinery Co-\$1,909.91; California State Disburse Unit-\$138.46; Cbh Cooperative-\$9,085.50; Center For Education-\$124.95; Centurylink-\$1,956.61; Charm-Tex-\$147.46; Clark Printing-\$27.05; Dakota Equipment Rental-\$2,275.00; Dept Of Hlth Lab Services-\$395.00; Dept Of The Treasury-\$64,748.22; Floyd's Truck Center-\$48.67; G&H Distributing-\$201.07; Galls-\$80.66; Godfrey's Brake Serv-\$172.82; Heartland Paper Co-\$1,125.46; Heisler Hardware-\$22.87; Intoximeters-\$480.00; Joe's Windsheild Repair-\$235.00; Katterhagen, Mark-\$15.00; Kch Law-\$50.00; Kinney Law-\$2,964.31; Koala Electric-\$1,928.67; Lawson Products-\$115.39; Lead-Deadwood Regional Hospital-\$818.65; Lee, James-\$15.00; Lewis & Clark Bhs-\$178.00; Lewno, Lucy-\$116.50; Lexisnexis Risk Data Mgnt-\$75.00; Lockwood, Darcy-\$15.00; Lpn Holdings-\$400.00; Mack's Auto Body-\$7,607.70; McClure, Susan-\$350.00; Mcleod's Office Supply-\$99.90; Midcontinent Communications-\$112.09; Minnehaha County-\$174.60; Montana Dakota Utilities-\$90.56; Nalco Company-\$582.00; Nelson Law-\$354.90; North Central Int'l-\$560.80; Northern Truck Equip-\$142.00; Northwest Pipe Fitt-\$120.23; Office Of Attorney General-\$315.69; Office Of Child Support-\$983.09; Pennington Co Jail-\$1,483.10; Pennington County Sts Attny-\$215.00; Powerplan-\$733.47; Radiology Associates-\$59.11; Redwood Toxicology Lab-\$451.67; Regional Health-\$1,967.31; Reserve Account-\$6,000.00; Rocket Lube-\$84.99; Sd Aao-\$1,400.00; Sdrs Supplemental Retirement-\$1,959.50; Secretary Of State-\$30.00; Semerad, Sandra-\$20.80; Servall Towel & Linen-\$840.38; Silverado-\$171.09; Simon North Region Sd-\$885,029.21; Sirchie-\$188.83; Spearfish Auto Supply-\$272.48; Spearfish City Of-\$845.00; Spearfish Police Dept-\$10,658.24; Sysco Montana-\$2,545.54; Teen Court-\$7,500.00; Thomson Reuters-West-\$2,305.35; Transource Truck & Equip-\$21.78; Triple K Tire & Repair-\$480.95; Turnkey Corrections-\$42.77; Twin City Hardware & Lumber-\$91.93; Tyler Technologies-\$4,393.00; Vast Broadband-\$59.99; Verizon Wireless-\$107.51; Veterans Of Foreign War-\$59.00; Victims Of Violence-\$1,341.50; Waste Connections Of Sd-\$359.62; Watertree-\$39.60; Wells Fargo Business Card-\$5,215.03; Western Communication-\$30.00; Western Sd Juvenile Serv-\$580.00; White Drug-\$4,263.27; Winner Police Department-\$67.20; Yankton Co Sheriff-\$50.00; Yankton County-\$120.00; Z&S Dust Control-\$144,732.80; **Witness & Jurors:** Harper,J-\$71.76; Retzlaff,M-\$32.60; Moore,C-\$30.92; Dahl,L-\$20.00; Big Crow,B-\$151.20; Broussard,E-\$65.04; Daniels,D-\$81.84; Detweiler,A-\$78.48; Espinoza,K-\$93.60; Geddes,B-\$83.52; Heaton,M-\$81.84; Mccarty,M-\$93.60; Quenzer,J-\$60.00; Tyler-Streff,C-\$85.20; Abrahamson,M-\$20.08; Ainsworth,S-\$22.60; Beets,M-\$29.32; Brooking,H-\$61.76; Covell,H-\$60.92; Cudmore,J-\$14.20; Dennis,M-\$10.84; Ebright,J-\$32.68; Epping,J-\$20.08; Fowler,E-\$15.88; Goetz,R-\$22.60; Hafner,J-\$62.60; Hancock,B-\$22.60; Hausle,D-\$20.08; Hegge,C-\$64.28; Jacobs,F-\$25.96; Kilmer,K-\$62.60; Kloefkorn,I-\$26.80; Ladson,J-\$22.60; Larson,J-\$22.60; Leppert,T-\$13.36; Losey,K-\$12.52; Markworth,D-\$63.44; Mechaley,M-\$23.44; Opstedahl,M-\$58.40; Pederson,K-\$62.60; Ribstein,K-\$25.12; Rogers,C-\$12.52; Rude,A-\$13.36; Russell,D-\$18.40; Schmit,C-\$12.52; Schnaible,B-\$65.12; Shear,M-\$20.08; Sneesby,K-\$14.20; Speiser,A-\$31.00; Sperry,R-\$25.12; Stewart,D-\$26.80; Thompson,E-\$15.88; Walkins,K-\$71.00

**ADJOURN:** 1:01 p.m. There being no further business, Chairman Deibert adjourned the meeting.  
Motion Carried.

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Date Approved

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Randy Deibert, Chairperson

ATTEST:

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Brenda McGruder, Auditor

## **LAWRENCE COUNTY BOARD OF ADJUSTMENT – July 23, 2019**

Chairman Randy Deibert called the meeting of the Lawrence County Board of Adjustment to order at 9:25 a.m. on July 23, 2019, in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randall Rosenau, Daryl Johnson, Richard Sleep and Brandon Flanagan present.

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

**DECLARE CONFLICTS:** No conflicts were declared by the Lawrence County Board of Adjustment.

**VARIANCE #173/NOPENS:** A Public Hearing was held on Variance #173. APPLICANTS: Timothy & Anne Nopens LEGAL: Lot 8 of Blacktail Subdivision of Placer Claim 55 Section 21, T5N, R3E PARCEL ID: 26220-00055-000-80 VICINITY LOCATION: Maitland Road SUMMARY: Applicant is requesting a 22.4' NW corner variance to the 25' setback and a 10.6' SW corner variance to the 25' setback ACREAGE: .69 acres

Amber Vogt, Planning & Zoning Administrator gave an overview of the staff report.

Anne Nopens, applicant, stated as of right now, when it snows, the snow falls right on the walk way.

Kim Maag, 21057 US Highway 385, stated she was in favor of the variance.

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

Commissioner Johnson stated that the Planning & Zoning Commission denied the variance.

Commissioner Flanagan stated that he does not see where the exception lies so he would not be able to vote in favor of the variance.

Moved-Seconded (Johnson-Rosenau) to approve Variance #173. APPLICANTS: Timothy & Anne Nopens LEGAL: Lot 8 of Blacktail Subdivision of Placer Claim 55 Section 21, T5N, R3E PARCEL ID: 26220-00055-000-80 VICINITY LOCATION: Maitland Road SUMMARY: Applicant is requesting a 22.4' NW corner variance to the 25' setback and a 10.6' SW corner variance to the 25' setback ACREAGE: .69 acres. Aye-Rosenau, Johnson, Sleep and Deibert. Nay-Flanagan. Motion Carried.

**VARIANCE #174/MAAG:** A Public Hearing was held on Variance #174. APPLICANTS: Kim & Aaron Maag LEGAL: Tract 4, Blk A of Bowman SD Section 34, T5N, R3E PARCEL ID: 26300-00758-000-12 VICINITY LOCATION: Hwy 385 SUMMARY: Applicant is requesting a variance to the 1-foot free board required for a structure in the floodplain. The existing pole building requires a .315' variance. Existing structure is at 4790.695' and should be at 4791.01' ACREAGE: .61 acres.

Amber Vogt, Planning & Zoning Administrator gave an overview of the staff report.

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

Commissioner Johnson stated that the Planning & Zoning Commission approved the variance.

Moved-Seconded (Flanagan-Rosenau) to follow Planning & Zonings recommendation and approve Variance #174. APPLICANTS: Kim & Aaron Maag LEGAL: Tract 4, Blk A of Bowman SD Section 34, T5N, R3E PARCEL ID: 26300-00758-000-12 VICINITY LOCATION: Hwy 385 SUMMARY: Applicant is requesting a variance to the 1-foot free board required for a structure in the floodplain. The existing pole building requires a .315' variance. Existing structure is at 4790.695' and should be at 4791.01' ACREAGE: .61 acres. Motion Carried.

**ADJOURN:** 9:44 a.m. There being no further business, it was Moved-Seconded (Rosenau-Sleep) to adjourn the Board of Adjustment Meeting. Motion Carried.

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Date Approved

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Randy Deibert, Chairman

ATTEST:

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Brenda McGruder, Auditor