

LAWRENCE COUNTY COMMISSIONERS MEETING – July 25, 2023

Chairman Robert Ewing called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on July 25, 2023 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Brandon Flanagan, Randy Deibert and Richard Sleep. Absent-Commissioner Eric Jennings.

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

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

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

MINUTES: Moved-Seconded (Sleep-Flanagan) to approve the minutes of July 11, 2023 County Commission meeting. Motion Carried.

JUNE 13 & 27, 2023 MINUTE CORRECTION: Moved-Seconded (Flanagan-Deibert) to amend the minutes for June 13 & 27, 2023 striking out “with the removal of the bill for First District Association of Local Governments” from the Bills motion. Motion Carried.

PERSONNEL:

HIGHWAY: Moved-Seconded (Flanagan-Deibert) to approve the new hire Joshua Newman as a full-time permanent Heavy Equipment Operator at a base rate of \$27.32 per hour, effective August 14, 2023. Motion Carried.

TRAVEL REQUEST:

HIGHWAY: Moved-Seconded (Flanagan-Deibert) to approve the travel request for John Bey to attend the 2023 County Convention in Sioux Falls, SD from September 11-13, 2023. Motion Carried.

AUTOMATIC SUPPLEMENT:

INVASIVE SPECIES MANAGEMENT: Moved-Seconded (Deibert-Sleep) to approve the automatic supplement of \$5,100.00 to the Weed Chemical Budget from grant proceeds. Motion Carried.

SCHNEIDER GEOSPATIAL PROFESSIONAL SERVICE AGREEMENT/BEACON:

Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the Professional Services Agreement between Lawrence County and Schneider Geospatial, LLC. effective October 1, 2023. Motion Carried.

ABATEMENTS: Moved-Seconded (Deibert-Flanagan) to follow the recommendation of Brett Runge, Director of Equalization, and approve the abatement for Horatio G. & Tammie L. Minet on parcel #18185-00504-120-00 for 2023 taxes payable in 2024. The contractor tore out the foundation after property was assessed. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to deny the abatement for Deadwood Gem, LLC. on parcel #26450-00300-020-00 for 2023 taxes payable in 2024 as the lot is platted and could be sold. Aye-Flanagan, Deibert and Sleep. Nay-Ewing. Motion Carried.

RAFFLE REQUEST:

YOUNGLIFE SPEARFISH: Moved-Seconded (Sleep-Deibert) to not object to the request to conduct a raffle by YoungLife Spearfish, with the drawing taking place August of 2023. Motion Carried.

NATURAL RESOURCES COMMITTEE: Bill Coburn and Mitch Iverson, Natural Resources Committee, were present to discuss the Timber Sale Program, Chimera Fuels Reduction Project and Cooperating Agency status.

Coburn voiced his concern with the timber sale project noting that the Forest Service is behind in the units being sold and that it is affecting the local mills.

Coburn and Iverson commented on the Chimera Fuels Reduction Project. Coburn stated that the Forest service signed the project without taking any of the County’s comments into account.

Iverson added that the Natural Resources Committee provided a lot of comments and the Forest Service agreed to meet to discuss, and when the time came for a meeting the Forest Service went silent. Iverson added that if the Forest Service would have met with the Natural Resources Committee the County's comments might have been explained.

Coburn stated that the Forest Service is not honoring the County's Cooperating Agency status agreement and a strong message must be sent.

Commissioner Deibert stated a letter of grievance needs to be sent to the Regional and Chief Foresters, stating that the County is not being contacted according to the Cooperating Agency Memorandum of Understanding.

SHERIFF:

PUBLIC SAFETY & SERVICES CENTER: Brian Dean, Sheriff, and Bruce Outka, Deputy State's Attorney, gave an update on the Public Safety and Services Center to include the electrical easement for Black Hills Power, Inc.

Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the electrical easement between Lawrence County and Black Hills Power, Inc. Motion Carried.

The Board discussed vacating any old easements as soon as possible.

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

JACOBS & RAKOW: A Public Hearing was held on a Petition for Vacation of Section Line Right-of-Way
LEGAL DESCRIPTION FOR THE VACATION: EXHIBIT A SHOWING THE LOCATION OF A PROPOSED SECTION LINE RIGHT OF WAY VACATION LOCATED ON LOT 1 AND TRACT 2, A SUBDIVISION OF LOT 2 OF SOUTH, DALO, CATTIE AND CAVOURE LODES, M.S. 1726, LOCATED IN THE W1/2W1/2 OF SECTION 30, T5N, R3E AND THE E1/2E1/2 OF SECTION 25, T5N, R2E, B.H.M., LAWRENCE COUNTY, SOUTH DAKOTA AFFECTING THE LANDOWNERS: JOEL A JACOBS AND DEBRA A JACOBS; JASON RAKOW.

Brandon Voss, Voss Homes, was present to explain the request for the vacation of a section line.

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

Commissioner Flanagan questioned how the lots to the south would have access? Voss stated he did not know.

Commissioner Deibert added that he is not able to vote on the request today as there is not enough information.

Moved-Seconded (Deibert-Flanagan) to continue Lawrence County Resolution #2023-15, Resolution & Order to Vacate a Portion of a Highway, Part of Which Is Located on a Section Line/Highway/Right of Way until the August 22, 2023 Commission meeting. Motion Carried.

HIGHWAY:

FUEL QUOTES: The following fuel quote was submitted as of July 26, 2023: **Spearfish Diesel #2 (dyed) 2600 gallons:** (prices per gallon) CBH Cooperative – \$3.20**; Olson Fuels – \$3.209; MG Oil – \$3.2932. **Spearfish Unleaded 1100 gallons:** (prices per gallon) CBH Cooperative – \$3.652; Olson Fuels – \$3.599**; MG Oil – \$3.795. **Represents accepted quote.

PERMITS:

A COLLECTIVE US/WECHSLER: Moved-Seconded (Flanagan-Sleep) to follow the recommendation of John Bey, Highway Superintendent, and approve the permit to occupy County Highway Right-of-Way submitted by A Collective US/Julia Wechsler located approximately 10.2 miles from Belle Joli Winery to the end of Vanocker Canyon Road to film and photograph casual motorcycle riding for South Dakota Tourism. Aye-Flanagan, Sleep and Ewing. Nay-Deibert. Motion Carried.

TEMPORARY EASEMENT/AGREEMENT FOR VOLUNTARY RIGHT-OF-WAY

DONATION PROJECT NO: BRO 8041 (184) PCN 0854/41-079-199: Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the Temporary Easement Agreement for Voluntary Right-of-Way donation between Lawrence County and Joe & Carol Doerges. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the Temporary Easement Agreement for Voluntary Right-of-Way donation between Lawrence County and Charles or Ann Grash. Motion Carried.

DEPARTMENT OF TRANSPORTATION/ROCHFORD ROAD HAUL ROUTE

INSPECTION REPORT: John Bey, Highway Superintendent, informed the Board of the haul route inspection report Agreement No. 1 dated June 14, 2023 for Highway Project No. P6403 (10), PCN-08P3 North Rochford Road. Bey will sign the inspection report as the Highway Superintendent.

Moved-Seconded (Flanagan-Sleep) to approve and authorize the Chairman to sign the haul route agreement if necessary. Motion Carried.

PROJECT UPDATES: John Bey, Highway Superintendent, gave an update on the 2023 Chip Seal schedule, Nemo Bridge Preservation and St. Onge Bridges.

PERMIT FEE SCHEDULE: John Bey, Highway Superintendent, presented some examples of utility permit fee schedules from other counties.

Commissioner Deibert asked Bey to research what utility companies are charging for their permits.

FIVE-YEAR COUNTY HIGHWAY AND BRIDGE IMPROVEMENT PLAN: A public meeting is set for September 5, 2023 at 9:00 a.m. for the Five-Year County Highway and Bridge Improvement plan.

DALTON LAKE ROAD SPEED LIMIT: Wolfgang & Kathleen Schmidt, 12645 Dalton Lake Road, Nemo presented a two page letter requesting a 20 m.p.h. speed limit sign be placed at the beginning of their property at the cattle guard as well as near the green gate at 12655 Dalton Lake Road due to increased traffic and dust. Kathleen stated that they are unable to hay their property due to the dust.

Sheriff Dean added that the problem these folks are having is not overstated. Dean stated that the problem is the trail head and the traffic that comes around from Nemo. He added the traffic is astounding.

Commissioner Deibert stated that during the Natural Resources Committee meeting tomorrow at 2:00 p.m. the acting District Ranger of the Northern Hills District will be present and that he would like to ask the Acting DR if the County can apply magnesium chloride on this section of road and if so then the County can continue the discussion regarding an agreement. Deibert added that this is a health, safety and welfare issue. Deibert added he would also like to know the plan for the dust control during the timber sale in this area.

Commissioner Sleep added that the County needs to get together with the Forest Service and get some type of agreement established or the County will be applying magnesium chloride on all of the Forest Service roads.

Kathleen stated that they are not sure who owns the road and they don't know who to call when they have issues.

SHERIFF:

PUBLIC SAFETY & SERVICES CENTER COMMUNICATIONS TOWER REPORT:

EXECUTIVE SESSION: 9:09 a.m. Moved-Seconded (Sleep-Ewing) to go into executive session pursuant to SDCL 1-25-2(3) consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters. Motion Carried. 9:18 a.m. The Board opened for regular business with no action taken.

Brian Dean, Sheriff, reported on the Public Safety and Services Center communications tower.

Dave Pieczynski, RFCC radio, presented a power point presentation on the Lawrence County Public Safety Radio System.

Dean, requested affirmation from the Board to move ahead with the radio tower, solicit additional contract information from Pieczynski and potentially going to bid.

Bruce Outka, Deputy State's Attorney, added that the County would need to have an agreement with Pieczynski to move forward with design work and additional information about the estimated costs so that a determination can be made whether the project must be bid.

The bidding process was discussed.

Dean requested that the Board consider that this expenditure be taken out of the Dispatch Budget and not the Public Safety & Services Construction fund as the Building Committee is watching the building contingency fund very carefully.

Moved-Seconded (Flanagan-Deibert) to allow Brian Dean, Sheriff, and Bruce Outka, Deputy State's Attorney, to enter into an agreement with Dave Pieczynski, RFCC radio, to begin the bidding document process and allow Dean or Outka to sign the agreement. Aye-Flanagan, Deibert and Ewing. Nay-Sleep. Motion Carried.

PLANNING & ZONING:

CHANGE OF ZONING #361/KROH/SHINING DAWN ELEMENT, LLC.: First Reading and Public Hearing was held on COZ #361 OWNER/APPLICANT: Jennifer Kroh/Shining Dawn Element, LLC. LEGAL DESCRIPTION: Tract B a subdivision of McLeod M.S. 1153 located in Section 18, T4N, R3 VICINITY LOCATION: Hwy 85 SUMMARY: Rezone from RC to HSC ZONING: RC.

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

The Board acknowledged an email from Jonathan & Jackie Grosdidier in opposition to the change of zoning.

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

Second Reading scheduled: August 22, 2023 at 9:15 a.m.

DEVELOPMENT PLAN #2023-04/KROH/SHINING DAWN ELEMENT, LLC.: A public hearing was held on development plan DP # 2023-04 OWNER/APPLICANT: Jennifer Kroh/Shining Dawn Element, LLC LEGAL DESCRIPTION: Tract B a subdivision of McLeod M.S. 1153 located in Section 18, T4N, R3 VICINITY LOCATION: Hwy 14A/Hwy 85. SUMMARY: Development Plan for Storage Units next to Powder House Pass. ZONING: HSC.

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

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

The Board requested more detail on the development plan graphically showing all the improvements that are planned.

Moved-Seconded (Deibert-Ewing) to continue until August 22, 2023 following the COZ #361 application results. OWNER/APPLICANT: Jennifer Kroh/Shining Dawn Element, LLC LEGAL DESCRIPTION: Tract B a subdivision of McLeod M.S. 1153 located in Section 18, T4N, R3. VICINITY LOCATION: Hwy 14A/Hwy 85. SUMMARY: Development Plan for Storage Units next to Powder House Pass. ZONING: HSC. Motion Carried.

CHANGE OF ZONING #362/OLD APOSTOLIC LUTHERAN CHURCH/WILLIAMSON: First Reading and Public Hearing was held on COZ #362 OWNER/APPLICANT: Old Apostolic Lutheran Church/Donahue Williamson LEGAL DESCRIPTION: Tract 2 of the NE ¼ of Section 32, T7N, R2 VICINITY LOCATION: Vista Hills Place/Old Belle Rd SUMMARY: Rezone from A-1 to SRD in order to subdivide ACREAGE: 26.613 acres.

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

Shannon Vasknetz, 13024 Coyote Place, Whitewood stated that the church is looking to build a much larger church as they have outgrown the current location.

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

Second Reading scheduled: August 22, 2023 at 9:30 a.m.

RECESS: 10:08 a.m. Moved-Seconded (Flanagan-Sleep) to recess the County Commission meeting and convene as the Board of Adjustment. Motion Carried. At 10:24 a.m., the Chairman called the Commission meeting back to order. See Board of Adjustment minutes for detail.

DEPARTMENT OF TRANSPORTATION ROAD PROJECTS: Mike Carlson, Rapid City Area Engineer, SD DOT, was present to give an update on the following projects: US 85 Cheyenne Crossing to Wyoming Line, US 14A Savoy to Cheyenne Crossing, US 85 Lead to Pluma, SD 473 US 14A to Multiplate, US 385 reconstruction, 2026 Crook City Road left turn lane, 2027 intersection reconstruction Colorado Blvd. and US 85 and 2028 box reconstruction in Deadwood.

MULTIPLE USE COMMITTEE: Moved-Seconded (Flanagan-Ewing) to appoint Commissioner Sleep to the Multiple Use Committee for 2023 and Commissioner Deibert as the alternate for 2023. Motion Carried.

EXTENSION UPDATE:

Michelle May, Butte/Lawrence County Extension was present to give an update on the 4-H Youth Program.

ITEMS FROM THE PUBLIC: None.

ITEMS FROM THE COMMISSIONERS: Commissioner Deibert gave an update on the Black Hills Association of County Commissioners/Officials held in Philip SD on July 14, 2023.

The Board acknowledged a resolution of intent to annex real property into the City of Whitewood.

Commissioner Deibert stated he received an email from Cheryl Chapman, PHD, West River Water Project, in reference to doing a presentation. Deibert stated he forwarded the email to Bruce Outka, Deputy State's Attorney, to refer to the Natural Resources Committee first.

BILLS: Commissioner Deibert noted for the record that the Court Appointed Attorney bills are still running over \$10,000.00. Amber Richey, Public Defender Director, reported that the Court Appointed Attorney fees increase is possibly due to conflicts that occur and the vacancies of an attorney in the Public Defender's office and the current resignation of L. Adam Bryson.

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-\$7,842.51; Aud-\$13,496.77; Treas-\$17,054.10; States Atty-\$16,570.56; Pub Def-\$15,010.74; Gen Govt Bldg-\$11,875.21; Equal-\$16,915.91; Rod-\$10,968.62; Vso-\$2,011.40; Ist-\$11,325.45; Sher-\$61,859.90; Jail-\$41,340.76; Coroner-\$374.04; 24/7-\$1,120.50; Emerg Mgnt-\$5,082.53; E911-\$20,659.93; Highway-\$54,041.40; Weed-\$9,194.30; P&Z-\$8,816.76; **Bills:** Sargent, Debbie-\$43.44; A To Z Shredding-\$64.74; A&B Business, Inc Solutions-\$2,833.23; American Family Life-\$2,580.94; American Jail Association-\$100.00; At&T Mobility-\$408.50; Audra Hill Consulting-\$489.13; Avera Health DbA Aess-\$1,000.00; Avera McKenna Hospital-\$86.00; BH Pioneer-\$267.00; BH Windshield Repair-\$60.00; Barnaud Law Firm-\$630.75; Bi Inc-\$2.80; Big Sky Communications-\$136.00; Black Hills Chemical-\$1,232.32; Black Hills Energy-\$1,712.31; Bluepeak-\$1,853.94; Bob Barker Company-\$94.22; Brosz Engineering-\$18,810.00; Butler Machinery Co-\$421.86; Central Distribution-\$10,297.56; Century Business Products-\$337.86; Centurylink-\$255.94; Chadams-\$2,100.00; City Of Rapid City-\$1,320.00; Corr Construction Services-\$103,517.91; Deadwood Recreation Center-\$655.00; Deadwood, City Of-\$24,000.00; Delta Dental Of South Dakota-\$8,910.20; Dept Of Hlth Lab Services-\$1,230.00; Dept Of The Treasury-\$76,170.61; Diamond Pharmacy-\$1,495.09; Dustbusters-\$212,546.63; Elevatus Architecture-\$71,000.00; Fmg Engineering-\$1,574.95; Godfrey's Brake Serv-\$156.57; Janke, Wendy-\$180.00; Jerry Greer's Engineering-\$21.50; Johner Gravel-\$6,270.00; Jt Ventures-\$283.25; Juneks' Chrysler/Dodge-\$90.95; Karen Paige Hunt, Prof-\$221.95; Katterhagen, Mark-\$15.00; Kimball-Midwest Co-\$757.98; Kinney Law-\$2,469.13; LC Sheriff-\$276.00; LC Treasurer-\$16.50; Larson, Val-\$15.00; Lewno, Lucy-\$165.10; Lexisnexis Risk Data Mgnt-\$75.00; Lincoln County-\$110.00; Mabey, Brooke-\$360.00; Megas Propane-\$330.50; Montana Dakota Utilities-\$83.50; Monument Health Network-\$1,391.18; Monument Health Rc Hospital-\$922.00; Nalco Company-\$360.99; Nelson Law-\$921.33; Newman Signs-\$403.42; Northern Hills Rec Center-\$92.00; Odp Business Solutions-\$132.54; Office Of Child Support-\$478.16; Olson Fuels-\$43,237.17; Parr Law-\$3,771.00; Pennington County Sheriff-\$904.00; Percy, Melissa-\$1,140.00;

Powerplan-\$305.37; Precision Kiosk Technologies-\$1,350.00; Pwc Products Sales-\$749.00; Queen City Rocket Lube-\$231.04; Quik Signs-\$240.00; Quill-\$187.79; Radiology Associates-\$48.61; Redwood Toxicology Lab-\$619.89; Pitney Bowes-\$265.58; Rfcc-\$1,788.75; Ryan, Suzanne-\$240.00; Schlingen Law Firm-\$4,900.19; Scott Peterson Motors-\$609.58; Sd Assn Of Co Comm-\$200.00; Sd Retirement System-\$76,482.32; Sdrs Supplemental Retirement-\$4,040.00; Servall Towel & Linen-\$308.30; Simon North Region-\$97,828.65; Southside Service-\$123.38; Spearfish Auto Supply-\$41.47; Spearfish Police Dept-\$11,059.73; State Disbursement Unit-\$599.47; Sturgis Responder Supply-\$179.85; Sysco Montana-\$3,312.79; Thomson Reuters-West-\$911.94; Turnkey Corrections-\$7.88; Twin City Hardware & Lumber-\$208.86; Verizon Wireless-\$107.05; Victims Of Violence-\$1,505.00; Waeckerle Law-\$530.00; Washington State Support Regis-\$115.38; Wellmark Blue Cross-\$121,937.72; Western Construction-\$410,658.52; Western Sd Juvenile Serv-\$12,540.00; White Drug-\$14.72; White's Canyon Motors-\$114.95; Yankton Co Sheriff-\$50.00; **Witness & Jurors: \$777.77.**

11:15 a.m. Chairman Ewing recessed for lunch.

11:35 p.m. Chairman Ewing reconvened the meeting.

BUDGET: The board continued the review of the 2024 preliminary budget, meeting with Oakley Perry, SDSU Extension, Wade Huntington, Public Health Regional Manager, Paul Thomson, Emergency Manager Director, Brian Dean, Sheriff, John Bey, Highway Superintendent, Patricia Brown, Deadwood Library and Sarah Shoop, Hearst Library.

Moved-Seconded (Deibert-Ewing) to set the 2024 Provisional Budget as presented and set the Public Hearing for September 5, 2023 at 9:30 a.m. for consideration of the adoption of the 2024 Annual Budget.

ADJOURN: 2:31 p.m. There being no further business, Chairman Ewing adjourned the meeting.

Date Approved

Robert Ewing, Chairperson

ATTEST:

Brenda McGruder, Auditor

LAWRENCE COUNTY BOARD OF ADJUSTMENT – July 25, 2023

Chairman Robert Ewing called the meeting of the Lawrence County Board of Adjustment to order at 10:09 a.m. on July 25, 2023, in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioner Brandon Flanagan, Randy Deibert and Richard Sleep. Absent-Commissioner Eric Jennings.

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

VARIANCE #207/KOBRIGER: A Public Hearing was held on VAR #207
OWNER/APPLICANT: James Kobriger LEGAL DESCRIPTION: Lot 5 of Misty Meadows Sub located in Section 30, T3N, R5E VICINITY LOCATION: Nemo SUMMARY: Request for a 25’ variance to the 25’ rear setback for 0’ setback ZONING: PF.

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

James Kobriger, Applicant, was present to explain the need for the variance.

Joyce Nelson, 12445 Misty Meadows Road, Nemo claims that the USFS has moved her signs 4 different times including about a month ago. Nelson added that she has been to court and referenced the plats. Nelson requested that the Board give him a 0’ setback and approve the variance.

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

Commissioner Deibert stated that if a survey was done as part of the building permit there would not be a need for a variance now, and therefore he cannot support the variance.

Bruce Outka, Deputy State’s Attorney, stated that he had a conversation with Travis Lunders, Forest Service investigator, and the Forest Service is not opposed to a 0’ setback.

Commissioner Flanagan and Ewing added that due to the circumstances they will support the variance.

Moved-Seconded (Flanagan-Ewing) to approve Variance #207 as: 1). Pursuant to SDCL 11-2-53(2) as granting the variance would not be injurious to the neighborhood or detrimental to the public interest/welfare; and 2). That special conditions exist, namely, due to the inaccuracy of the original plat an extraordinary and exceptional situation exists on the property such that a variance is necessary. Further, that denial of the variance will create peculiar and exceptional practical difficulties. OWNER/APPLICANT: James Kobriger LEGAL DESCRIPTION: Lot 5 of Misty Meadows Sub located in Section 30, T3N, R5E VICINITY LOCATION: Nemo SUMMARY: Request for a 25’ variance to the 25’ rear setback for 0’ setback ZONING: PF. Aye-Flanagan, Sleep and Ewing. Nay-Deibert. Motion Carried.

ADJOURN: 10:24 a.m. There being no further business it was Moved-Seconded (Flanagan-Ewing) to adjourn the meeting. Motion Carried.

De Approved

Robert Ewing, Chairperson

ATTEST:

Brenda McGruder, Auditor