

## **LAWRENCE COUNTY COMMISSIONERS MEETING – August 17, 2021**

Chairman Richard Sleep called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on August 17, 2021 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randy Deibert, Brandon Flanagan and Robert Ewing present. Absent-Randall Rosenau.

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

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

**DECLARE CONFLICTS:** Commissioner Deibert declared a conflict with the 9:15 a.m. agenda item - Change of Zoning #345/Keating Resources, LLC. and 9:30 a.m. Amended Master Plan/Keating Resources

**MINUTES:** Moved-Seconded (Deibert-Ewing) to approve the minutes of July 27, 2021 County Commission meeting. Motion Carried.

**AUDITOR'S ACCOUNT WITH TREASURER REPORT:** Moved-Seconded (Deibert-Flanagan) to accept the Auditor's Account with the County Treasurer. Motion Carried. As of July 31, 2021, 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) - \$72,883.41; total amount of cash in transit in Treasurer's possession (cash deposit in transit) - \$6,428.44; petty cash - \$1,860.00; total amount of deposits in bank include: bank balance \$16,077,167.70; money market \$11,969,987.24. Total \$28,129,676.79.

### **TRAVEL REQUEST:**

**EMERGENCY MANAGEMENT:** Moved-Seconded (Deibert-Sleep) to approve the travel request for Paul Thomson, Rene Larson, Ken Hawki and JD Geigle to attend the South Dakota Emergency Management Conference in Watertown, SD from September 12-17, 2021. Motion Carried.

### **PERSONNEL:**

**INFORMATION SYSTEMS & TECHNOLOGY:** Moved-Seconded (Flanagan-Deibert) to approve Steve Kline as a full-time permanent Deputy Director G2 at a base rate of \$28.84 an hour, effective December 20, 2020. Motion Carried.

**REGISTER OF DEEDS:** Moved-Seconded (Deibert-Flanagan) to approve Sheri Williams as a full-time permanent Recording Clerk G3 at a base rate of \$18.46 an hour, effective August 16, 2021. Motion Carried.

Moved-Seconded (Ewing-Deibert) to allow employees to donate leave to Lisa Kitzmiller upon the exhaustion of the employee's accumulated vacation time, "comp time" and sick leave. Motion Carried.

**GENERAL GOVERNMENT BUILDINGS:** Moved-Seconded (Flanagan-Deibert) to approve a lateral transfer per Article III Section 3.3 of Lawrence County Personnel Policies for Desiree Phinney as a full-time permanent Custodian I at a base rate of \$14.76 an hour. Base Rate effective August 8, 2021. Motion Carried.

**SHERIFF:** Moved-Seconded (Ewing-Flanagan) to approve the Family Medical Leave Act extension for Anthony Spencer for an additional 12 weeks. Motion Carried.

Moved-Seconded (Ewing-Flanagan) to approve the Family Medical Leave Act extension for Jolene Wetz for an additional 12 weeks. Motion Carried.

Moved-Seconded (Deibert-Sleep) to approve Garrett Liggett as a full-time permanent Correctional Officer I G1 at a base rate of \$19.26 an hour, effective August 17, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Joshua Morford as a full-time permanent Correctional Officer I G3 at a base rate of \$20.04 an hour, effective August 15, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Marina Cleveland as a full-time permanent Correctional Officer II G3 at a base rate of \$21.28 an hour, effective August 15, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Brandon Rosenau as a full-time permanent Deputy I G 2 at a base rate of \$25.13 an hour, effective August 15, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Tyler Sonne as a full-time permanent Deputy I G 2 at a base rate of \$25.13 an hour, effective August 15, 2021. Motion Carried.

**EQUALIZATION:** Moved-Seconded (Deibert-Flanagan) to approve Chancie Baenen as a full-time permanent Administrative Secretary G 1 at a base rate of \$17.35 an hour, effective September 6, 2021. Motion Carried.

**RESOLUTION #2021-26 LIQUOR LICENSES:** Moved-Seconded (Flanagan-Deibert) to approve the following Resolution #2021-26 Liquor Licenses for 2022. Motion Carried.

RESOLUTION #2021-26 LIQUOR LICENSES WHEREAS, Lawrence County has the authority to determine the number of On-Sale and Off-Sale liquor licenses it will approve for the ensuing calendar year, SDCL 35-4-11.1, and WHEREAS, the State of South Dakota by virtue of SDCL 35-4-2 determines the fees to be charged for the various classifications of licenses, and THEREFORE, BE IT RESOLVED that we, the Board of County Commissioners, will approve up to Six (6) Off-Sale, Seven (7) On-Sale Liquor Licenses and Retail On-Off Sale Wine License, and BE IT FURTHER RESOLVED that the Board of County Commissioners list the following fee schedule as a matter of record and current license holders. A) On-Sale dealer-any person who sells or keeps for sale any alcoholic beverage for consumption on the premises where sold. Those current license holders being closer to Spearfish (1st class city) to be charged a renewal fee of \$1,500.00: Vezaro Inc./Guadalajara Mexican Restaurant. Those current license holders being closer to Lead, Deadwood or Whitewood (2nd class cities) to be charged a renewal fee of \$1,200.00: Lead Country Club Black Hills Chair Lift Co Inc./Dark Horse Saloon Spearfish Canyon Resorts, LLC/Spearfish Canyon Lodge Spearfish Canyon Resorts, LLC/Latchstring Restaurant Boulder Canyon Management, LLC Tomahawk Lake Country Club, Inc. B) Off-Sale dealer - any person who sells or keeps for sale any alcoholic beverage for consumption other than on premises where sold. Renewal Fee - \$400.00; New License Fee - \$27,000.00: Larry Kaiser/Nemo Mercantile Susan Smith/St. Onge Bar & Grill Wichterman and Sons, dba Steel Wheel Trading Post C) Retail On-Off Sale Wine – Renewal Fee - \$500.00 Unlimited Licenses available Seven Down LLC/Seven Down Arena Triple H Hills LLC/Mystic Hills Hideaway Cheyenne Crossing LLC Wichterman and Sons Inc./Steel Wheel Campground Barefoot Resort Association Inc./Barefoot Resort Crow Peak Brewing Company LLC BW Gas & Convenience Retail LLC/Yesway #1192 Double Diamond LLC/Recreational Springs Resort Eagle Tree Resorts Company LLC/Rimrock Lodge & Canyon Bistro RAR Hospitality LLC/Brandin' Iron Restaurant & Ponderosa Bar Elkhorn Ridge@Frawley Ranches LLC The Barn at Aspen Acres LLC Boars Nest LLC Mulley Hill Lodge LLC DATED at Deadwood, South Dakota, this 17th day of August, 2021. FOR LAWRENCE COUNTY COMMISSIONERS Richard Sleep, Chairperson ATTEST: Brenda McGruder, Auditor.

**2022 LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT:** Rene' Larson, Emergency Management Administrative Assistant, presented the 2022 Local Emergency Management Performance Grant and discussed the changes.

Moved-Seconded (Deibert-Ewing) to approve and authorize the Chairman to sign the 2022 Local Emergency Management Performance Grant. Motion Carried.

**SURPLUS PROPERTY:** Moved-Seconded (Deibert-Ewing) to declare one Panasonic laptop docking station SN# 2ATYA35588 surplus and donate to the City of Deadwood. Motion Carried.

**ABATEMENT:** Moved-Seconded (Deibert-Flanagan) to approve the abatement for Justin Coupens on parcel #31090-02600-070-00 for 2021 taxes payable in 2022 as the property was destroyed in a fire on July 10, 2021. Motion Carried.

**EVERGREEN ESTATES ROAD DISTRICT MINOR ADJUSTMENT TO BOUNDARIES:**

Moved-Seconded (Deibert-Ewing) to approve and authorize the Chairperson to sign the following Order Approving Evergreen Estates Road District minor adjustment to the boundaries. Motion Carried. ORDER APPROVING EVERGREEN ESTATES ROAD DISTRICT MINOR ADJUSTMENT TO BOUNDARIES WHEREAS, meetings were held among the trustees of the Evergreen Estates Road District to determine whether or not a minor adjustment of boundaries for: Tract 2, a Subdivision of Gold Edge No. 3 Lode M.S. 1672, located in Section 30, T5N, R3E, BHM, Lawrence County, South Dakota, according to Plat recorded as Document No. 2007-06660; Tract 1, a Subdivision of Gold Edge No. 3 Lode M.S. 1672, located in Section 30, T5N, R3E, BHM, Lawrence County, South Dakota, according to Plat recorded as Document No. 2007-06660; Eagle No. 2 Lode Mining Claim of Mineral Survey No. 1701, located in Section 30, Township 5 North, Range 3 East, BHM, Lawrence County, South Dakota, as defined and described in patent of record; Lot 7A of Bellefish Subdivision #2, formerly Lots 7 and 20 of Bellefish Subdivision #2, located in Norton No. 2, M.S. 1675, situated in the S1/2 of Section 19, T5N, R3E, B.H.M., Lawrence County, South Dakota, according to Plat recorded in Document No. 2020-07959, be adjusted, WHEREAS, the meetings were held on July 22, 2021 with the vote of the trustees being 3-0 and August 9, 2021 with the vote of the trustees being 3-0, WHEREAS, The Territory annexed into the district is as follows: Tract 2, a Subdivision of Gold Edge No. 3 Lode M.S. 1672, located in Section 30, T5N, R3E, BHM, Lawrence County, South Dakota, according to Plat recorded as Document No. 2007-06660; Tract 1, a Subdivision of Gold Edge No. 3 Lode M.S. 1672, located in Section 30, T5N, R3E, BHM, Lawrence County, South Dakota, according to Plat recorded as Document No. 2007-06660; Eagle No. 2 Lode Mining Claim of Mineral Survey No. 1701, located in Section 30, Township 5 North, Range 3 East, BHM, Lawrence County, South Dakota, as defined and described in patent of record; Lot 7A of Bellefish Subdivision #2, formerly Lots 7 and 20 of Bellefish Subdivision #2, located in Norton No. 2, M.S. 1675, situated in the S1/2 of Section 19, T5N, R3E, B.H.M., Lawrence County, South Dakota, according to Plat recorded in Document No. 2020-07959, WHEREAS, a written letter of approval has been received from the owners of the land, WHEREAS, the Board of County Commissioners are satisfied with the legality of such meetings of the Evergreen Estates Road District Trustees, WHEREAS, it appearing that a majority of the votes at the meetings of the Evergreen Estates Road District Trustees have voted in favor of the minor adjustment of boundaries, NOW THEREFORE BE IT ORDAINED, by the Lawrence County Board of Commissioners that the Evergreen Estates Road District minor adjustment of boundaries hereby be adjusted pursuant to SDCL 31-12A. DATED this 17th day of August, 2021. Richard Sleep, Chairperson Lawrence County Commission ATTEST: Brenda McGruder, Auditor.

**LEGISLATIVE AUDIT / 2019-2020 AUDIT:** Bruce Hintz, Department of Legislative Audit, was present to inform the Board that he is currently auditing Lawrence County for 2019 and 2020. Moved-Seconded (Deibert-Flanagan) to authorize the Chairman to sign the engagement letter with the Department of Legislative Audit. Motion Carried.

**SHERIFF:**

**SHERIFF'S REPORT:** Brian Dean, Sheriff, updated the Board on an upcoming expenditure for Zuercher Technologies LLC. and the longevity status of his staff.

**PUBLIC SAFETY AND SERVICES CENTER PROJECT UPDATE:** Brian Dean, Sheriff, gave an update on the Finance Committee meetings and the most recent projected cost estimate for the project. Dean stated that the process is very complicated and stressed the importance of proper decision making that nets value to the taxpayer. Dean stated that the Schematic Design Committee is scheduled to meet today and reported that the project has all of the issues that one would anticipate with a \$40,556,764 budget. Dean stated that the uncertainty of the world, e.g. material pricing, etc. has added to the difficulties – all of which were anticipated. Dean added that the Committee is working diligently to find solutions. Steve Williams, Williams & Associates, reported on the alternate bidding process.

**SUPPLEMENTAL BUDGET:** A Public Hearing was held on Resolution #2021-25 for a Supplemental Budget for General Fund Court Appointed Attorney-\$155,000.00 Court Appointed Attorney A&N-\$5,000.00 No public input was voiced and the hearing was closed. Moved-Seconded (Flanagan-Ewing) to approve and adopt the following Resolution #2021-25 for a Supplemental Budget. Motion Carried. RESOLUTION #2021-25 TO ADOPT A SUPPLEMENTAL BUDGET WHEREAS, the County Budget for Lawrence County, South Dakota, for the fiscal year 2021, failed to provide sufficient revenue to enable the County to conduct the indispensable functions of Government, and WHEREAS, the Board of County

Commissioners of said County deems it necessary to make a Supplementary Budget, providing for appropriation in the amounts set out below. NOW, THEREFORE, BE IT RESOLVED THAT SAID BOARD, make, approve and adopt a Supplemental Budget for Lawrence County, South Dakota, for the year 2021, and that in said budget there will be and is hereby appropriated the following sum of money, to-wit: GENERAL FUND COURT APPOINTED ATTORNEY-\$155,000.00 COURT APPOINTED ATTORNEY A&N-\$5,000.00 The funds for the above amounts are to be provided from unappropriated cash balances and estimated revenue in the designated fund. Be it further RESOLVED that a hearing was held on the 17th day of August, 2021 at the hour of 8:25 a.m. in the Commissioners' Room in the Administrative Office Building at 90 Sherman Street, Deadwood, Lawrence County, South Dakota, and that said Notice of Hearing was posted according to law, SDCL 7-21-22. IN WITNESS WHEREOF, we have hereunto set our hands and official seal of Lawrence County, this 17th day of August, 2021. FOR THE BOARD OF COUNTY COMMISSIONERS Richard Sleep, Chairman ATTEST: Brenda McGruder Lawrence County Auditor.

**HIGHWAY:**

**FUEL QUOTES:** The following fuel quote was submitted as of August 10, 2021: **Spearfish Unleaded 800 gallons:** (prices per gallon) CBH Cooperative -\$3.228\* \*Represents lowest quote awarded.

**PERMITS:**

**WILSON:** Moved-Seconded (Ewing-Flanagan) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the private approach permit for David Wilson to construct a private approach on the west side of Whitewood Valley Road. Motion Carried.

**OMAN:** Moved-Seconded (Ewing-Flanagan) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the private approach permit for Tabor Oman to construct a private approach on the east side of Whitewood Valley Road. Motion Carried.

**LANTIS:** Moved-Seconded (Flanagan-Deibert) to the extent the County has any remaining authority, if any, to do so, then to authorize the Chairman to sign the private approach permit for Travis Lantis to construct a private approach on the east side of Maitland. Motion Carried.

**PEDERSEN EXCAVATION INC.:** Moved-Seconded (Flanagan-Deibert) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the permit to occupy County highway right-of-way for Pedersen Excavating, Inc. located in Section 8, T6N, R2E along County Road: 1215 McGuigan Road. Motion Carried.

**DEPARTMENT OF TRANSPORTATION MAINTENANCE AGREEMENT:** Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the South Dakota Department of Transportation Agreement to provide for the striping and continued maintenance of County roads within Lawrence County. Motion Carried.

**RURAL ACCESS INFRASTRUCTURE PROGRAM:** Allan Bonnema, Highway Superintendent, reported on the Rural Access Infrastructure program. Bonnema requested that we hire Brosz Engineering to do the small structure inventory.

Moved-Seconded (Flanagan-Sleep) to hire Brosz Engineering to complete the small structure inventory according to the Rural Access Infrastructure Program. Motion Carried.

**PROJECT UPDATES:** Allan Bonnema, Highway Superintendent, gave an update on the North Rochford Road Overlay Project Phase 4, Maitland Road Grading and Paving Project and current bridges that are planned for bid letting in the future.

**FIVE-YEAR COUNTY HIGHWAY AND BRIDGE IMPROVEMENT PLAN:** A public meeting is set for September 28, 2021 at 10:30 a.m. for the Five-Year County Highway and Bridge Improvement plan. The plan has to be submitted to the State by October 15, 2021.

Commissioner Rosenau arrived at 9:05 a.m.

**PLANNING & ZONING:**

**CHANGE OF ZONING #344/KRUTHOFF:** Second Reading was held on COZ # 344  
APPLICANT: Richard Kruthoff LEGAL DESCRIPTION: Govt Lot 4 ex pt Lot h-4 (.78), Lot H-5 (1.75), Tract A (5.20), Lot B of Lot 4 (5.14), Lot CH-2 (1.39) & ROW (.69) TN of Lot 4 (5.14), Lot CH-2 (1.39 and ROW in Section 6 & 31, T7N, R2E (legal description shortened)  
VICINITY LOCATION: Corner of Homestake Road & Hillsview Road SUMMARY: COZ from A-1 to PF for subdivision of 3 lots ZONING: A-1 ACREAGE: 24.98 acres.

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

Moved-Seconded (Flanagan-Ewing) to approve COZ #344. APPLICANT: Richard Kruthoff  
LEGAL DESCRIPTION: Govt Lot 4 ex pt Lot h-4 (.78), Lot H-5 (1.75), Tract A (5.20), Lot B of Lot 4 (5.14), Lot CH-2 (1.39) & ROW (.69) TN of Lot 4 (5.14), Lot CH-2 (1.39 and ROW in Section 6 & 31, T7N, R2E (legal description shortened) VICINITY LOCATION: Corner of Homestake Road & Hillsview Road SUMMARY: COZ from A-1 to PF for subdivision of 3 lots ZONING: A-1 ACREAGE: 24.98 acres. Motion Carried.

**CHANGE OF ZONING #345/KEATING RESOURCES, LLC.:** First Reading and Public Hearing was held on COZ #345 APPLICANT: Keating Resources, LLC LEGAL DESCRIPTION: Hanify No 6 and Hanify No 7 Lodes in M.S. 1204; Foster Fraction, Gamba Fraction, Addie, Eva, Lavis Lodes in M.S. 1221, all located in Section 13, T4N, R2E (legal description shortened) VICINITY LOCATION: Deer Mt and Terry Peak Summit SUMMARY: COZ from PF to PUD for subdivision ZONING: PF ACREAGE: 50.61 acres.

Commissioner Deibert declared a conflict, but would be available for questions.

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

Oz Enderby, 21375 Mule Deer Drive and representing the Deer Mountain Road District, stated they are in support of the Change of Zoning but wanted it noted in the record that access to one of the road district private road would need to be worked out with Keating Resources, LLC.

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

Bruce Outka, Deputy State's Attorney, highlighted the fact that there will need to be future cooperation between the developer and the Road District related to road issues.

Second Reading scheduled for September 7, 2021 at 9:00 a.m.

**AMENDED MASTER PLAN/KEATING RESOURCES:** Second Reading was held on the amended master plan APPLICANT: Keating Resources VICINITY LOCATION: Deer Mt and Terry Peak Summit SUMMARY: Land Use Sketch for Deer Mountain Club - Amendment to original Mystic Miner PUD Zoning District ZONING: PUD.

Commissioner Deibert declared a conflict, but would be available for questions.

Amber Vogt, Planning & Zoning Administrator, presented her staff report. Vogt pointed out that the proposed master plan calls for individual septic sewer systems on lots of one acre or more and for a community drain field system servicing properties less than one acre. Vogt mentioned the current Deer Mountain Road District private road concerns. Vogt stated that a letter was received from Greg and Jennifer Kaschmitter, Powder House Pass, addressing their concerns with the master plan. Vogt reported on the road development, platting, development agreements, timber plan and bonding.

Commissioner Sleep offered his opinion that a central sewage system should be used rather than individual septic tanks.

Shane Matt, TerraSite Design, reported on the relevant County and State sewage system standards. Matt added that if the system does not perk correctly it will have to be an advanced treatment system. A request was made by the commission for perk testing to be completed in 6-8 areas denominated for higher density.

Commissioner Flanagan asked about county specifications for maximum road grades. Vogt stated up to 14% on stretches of 200 or less. Matt added that in some areas, as proposed, the grade would

be 16%. Flanagan stated the ordinance is setup at 14% because some areas are not meant to be developed. Flanagan stated he would not be inclined to approve anything that did not follow county regulations on road grades.

The board requested more information to include: a proposed development agreement, a list of all exceptions to standards in the proposed master plan – including proposed road grades exceeding the maximum allowed; and, an explanation justifying each exception.

The board asked to be kept current on road district related issues.

Moved-Seconded (Rosenau-Sleep) to continue discussion of the amended master plan to the September 7, 2021, meeting and to toll the 45-day decision making period for the interim timeframe: August 17, 2021 thru September 7, 2021 APPLICANT: Keating Resources VICINITY LOCATION: Deer Mt and Terry Peak Summit SUMMARY: Land Use Sketch for Deer Mountain Club - Amendment to original Mystic Miner PUD Zoning District ZONING: PUD, to allow for more information to be proved. Motion Carried. Abstain-Deibert

**PLATS:**

**PRELIMINARY & FINAL PLAT/LARSEN:** APPLICANTS: Charles & Agnes Larsen LEGAL DESCRIPTION: Tract E Revised and Tract I Revised of Reebe Ranch Estates in Section 28, T7N, R1E (legal shortened) VICINITY LOCATION: Red Hill Road SUMMARY: Movement of lot lines ZONING: A-1 ACREAGE: Tract ER (12.224 Acres) and Tract IR (12.3626 Acres).

Moved-Seconded (Ewing-Rosenau) to approve the preliminary & final plat for Charles & Agnes Larsen 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 E Revised and Tract I Revised of Reebe Ranch Estates in Section 28, T7N, R1E (legal shortened) VICINITY LOCATION: Red Hill Road SUMMARY: Movement of lot lines ZONING: A-1 ACREAGE: Tract ER (12.224 Acres) and Tract IR (12.3626 Acres). Motion Carried.

**FINAL PLAT/WILLIGROD:** APPLICANT: Jenny Willigrod, Trustee LEGAL DESCRIPTION: Plat of Lots 2A of Blk 11 of Apple Springs SD Section 11 & 14, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Combine lots ZONING: SRD.

Moved-Seconded (Rosenau-Deibert) to approve the final plat for Jenny Willigrod, Trustee 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: Plat of Lots 2A of Blk 11 of Apple Springs SD Section 11 & 14, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Combine lots ZONING: SRD. Motion Carried.

**FINAL PLAT/JENNER:** APPLICANTS: Douglas & Rhonda Jenner LEGAL DESCRIPTION: Plat of Lots 13A of Blk 4 of Apple Springs SD Section 11 & 14, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Combining Lots ZONING: SRD.

Moved-Seconded (Ewing-Flanagan) to approve the final plat for Douglas & Rhonda Jenner 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: Plat of Lots 13A of Blk 4 of Apple Springs SD Section 11 & 14, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Combining Lots ZONING: SRD. Motion Carried.

**PRELIMINARY PLAT/WINTER:** APPLICANT: David Winter LEGAL DESCRIPTION: Plat of 1, 2 and 3 of Tract A2 of Majestic Heights, Section 13, 23, 24, 25, T5N, R3E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: New lots ZONING: PF.

Moved-Seconded (Flanagan-Rosenau) to approve the preliminary plat for David Winter 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: Plat of 1, 2 and 3 of Tract A2 of Majestic Heights, Section 13, 23, 24, 25, T5N, R3E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: New lots ZONING: PF. Motion Carried. Abstain-Deibert.

**PRELIMINARY & FINAL PLAT/TKACH/BEY:** APPLICANTS: Tkach Family Revocable Trust/John Bey LEGAL DESCRIPTION: Lots 12A and 14A Blk D of Boulder Heights Ad No 1 all located Section 14, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Combine lots ZONING: SRD.

Moved-Seconded (Flanagan-Deibert) declaring that the plat for Tkach Family Revocable Trust/John Bey meets exemption criteria per Subdivision Ordinance, Chapter 4 Article 3. Motion Carried.

Moved-Seconded (Flanagan-Rosenau) to approve the preliminary & final plat for Tkach Family Revocable Trust/John Bey 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 12A and 14A Blk D of Boulder Heights Ad No 1 all located Section 14, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Combine lots ZONING: SRD. Motion Carried.

Commissioner Deibert noted for the record that the preliminary plat was good and provided the information that was needed.

**PRELIMINARY & FINAL PLAT/SMITH:** APPLICANTS: Todd & Michelle Smith LEGAL DESCRIPTION: Lot 57A of Golden Hills SD in 31, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Revised lots-move lot lines ZONING: PF.

Moved-Seconded (Flanagan-Sleep) declaring that the plat for Todd & Michelle Smith meets exemption criteria per Subdivision Ordinance, Chapter 4 Article 3. Motion Carried.

Moved-Seconded (Rosenau-Sleep) to approve the preliminary & final plat for Todd & Michelle Smith 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: Lot 57A of Golden Hills SD in 31, T5N, R4E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Revised lots-move lot lines ZONING: PF. Motion Carried. Abstain-Deibert.

Commissioner Deibert stated he would be abstaining because the correct data is not on the documents.

**PRELIMINARY & FINAL PLAT/POWDER HOUSE PASS/BH DEVELOPMENT, LLC.:** APPLICANTS: Powder House Pass and BH Development, LLC LEGAL DESCRIPTION: Tract B1R Revised of Wilderness Estates 2nd Addition in 18, T4N, R3E (legal shortened) VICINITY LOCATION: Hwy 85 SUMMARY: Revised lot-adding acreage into the community hall ZONING: PUD.

Moved-Seconded (Deibert-Ewing) to approve the preliminary & final plat for Powder House Pass and BH Development, 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 B1R Revised of Wilderness Estates 2nd Addition in 18, T4N, R3E (legal shortened) VICINITY LOCATION: Hwy 85 SUMMARY: Revised lot-adding acreage into the community hall ZONING: PUD. Motion Carried.

**PRELIMINARY PLAT/BH DEVELOPMENT LLC.:** APPLICANT: BH Development, LLC LEGAL DESCRIPTION: Tank Lot, Lots 8-24, Blk 5; Lots 3-9, Blk 7; Lots 12-39, Blk 8; Lots 1-4, Blk 9 and Dedicated Public ROW, in Trailside Addition of Powder House Pass Section 17 & 18, T4N, R3E (legal shortened) VICINITY LOCATION: Hwy 85 SUMMARY: New Lots ZONING: PUD.

Moved-Seconded (Rosenau-Flanagan) to approve the preliminary plat for BH Development, 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: Tank Lot, Lots 8-24, Blk 5; Lots 3-9, Blk 7; Lots 12-39, Blk 8; Lots 1-4, Blk 9 and Dedicated Public ROW, in Trailside Addition of Powder House Pass Section 17 & 18, T4N, R3E (legal shortened) VICINITY LOCATION: Hwy 85 SUMMARY: New Lots ZONING: PUD. Motion Carried.

**PRELIMINARY & FINAL PLAT/LEAD COUNTRY CLUB INC.:** APPLICANT: Lead Country Club, Inc. LEGAL DESCRIPTION: Tract 1, Blk 5 of Ironwood Estates in Section 30 and 31, T4N, R3E (legal shortened) VICINITY LOCATION: Hanna Road SUMMARY: New lots ZONING: SRD.

Moved-Seconded (Rosenau-Flanagan) to approve the preliminary & final plat for Lead Country Club, Inc. contingent upon planimetric features being listed on the preliminary plat and 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, Blk 5 of Ironwood Estates in Section 30 and 31, T4N, R3E (legal shortened) VICINITY LOCATION: Hanna Road SUMMARY: New lots ZONING: SRD. Motion Carried. Abstain-Deibert.

**PRELIMINARY & FINAL/LICK:** APPLICANTS: Michael & Cynthia Lick LEGAL DESCRIPTION: Tracts C1 Revised & C2 Revised of Tract C, a sub of Lot 2, located in the SE ¼ of in Section 24, T5N, R3E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Revised lots ZONING: PF.

Moved-Seconded (Rosenau-Ewing) to approve the preliminary & final plat for Michael & Cynthia Lick 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: Tracts C1 Revised & C2 Revised of Tract C, a sub of Lot 2, located in the SE ¼ of in Section 24, T5N, R3E (legal shortened) VICINITY LOCATION: Boulder Canyon SUMMARY: Revised lots ZONING: PF. Aye-Rosenau, Flanagan, Ewing & Sleep. Nay-Deibert. Motion Carried.

**RECESS:** 10:30 a.m. Moved-Seconded (Deibert-Rosenau) to recess the County Commission meeting and convene as the Board of Adjustment. Motion Carried. At 11:07 a.m., the Chairman called the Commission meeting back to order. See Board of Adjustment minutes for detail.

**THE TIMBERS/WATER STORAGE PLAN:**

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

Kurt Campbell, HC Properties, and Joe Noble, AE2S, were present to discuss the approved water storage plan and their request to change the plan.

Discussion was held on the wildfire mitigation process.

Moved-Seconded (Deibert-Ewing) to approve the modification of the original water storage plan, approved as part of the subdivision process, with the following requirements: a 30,000-gallon tank for potable water; retention of the existing 25,000 tank for fire protection; arrangement with the appropriate fire department for inspection of the hookup areas that will be used for fire suppression; and, retention of dry hydrant(s). Motion Carried.

**CHANGE OF ZONING #341/KISSACK/PTTTMAN:** Second Reading was held on COZ #341. APPLICANTS: Kissack/Pittman LEGAL DESCRIPTION: SE ¼ of the NE ¼; and the SW ¼ of the SW ¼ (except Fremont, Elkhorn and Missouri Valley RR CO. ROW) and E ½ of the SE ¼ Except Lots 1 in SE ¼ SE ¼ of Section 8. T6N, R4E VICINITY LOCATION: Hwy 34 SUMMARY: COZ from A-1 to A-2 for subdivision ZONING: A-1 ACREAGE: 149.91 acres

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

Mitch Harmon, Whitewood Mayor, stated that the City of Whitewood is currently doing an annex study. Harmon advised that he has been in contact with the Kissack's and they requested the 160 acres be included in the study. Harmon also reported a new study was done. Harmon expects that the annexation will happen, and would like to see 40 acre tracts rather than golf course-type tracts.

Rich Denief, 8820 Nemo Road, reiterated that the request was for A2 zoning.

Commissioner Flanagan, commented that area proposed for rezoning is a growth area for Whitewood noting it is right along a main highway. He also commented about the viability of the area as ranch property.



Commissioner Deibert reflected on the list of considerations contained in the zoning ordinance, and specifically, Section 17.005. He concluded that the answers to the questions posed in the considerations supported the requested rezone.

Commissioner Sleep felt the zoning should be left as is.

Moved-Seconded (Deibert-Rosenau) to approve COZ #344. APPLICANTS: Kissack/Pittman  
LEGAL DESCRIPTION: SE ¼ of the NE ¼; and the SW ¼ of the SW ¼ (except Fremont, Elkhorn and Missouri Valley RR CO. ROW) and E ½ of the SE ¼ Except Lots 1 in SE ¼ SE ¼ of Section 8. T6N, R4E VICINITY LOCATION: Hwy 34 SUMMARY: COZ from A-1 to A-2 for subdivision ZONING: A-1 ACREAGE: 149.91 acres. Aye-Rosenau, Deibert and Flanagan. Nay-Ewing and Sleep. Motion Carried.

Guy Carr, 351 S Heptner Road Rozette WY, stated that there are no plans to start development immediately, but that the approved rezoning was key for them to purchase the property.

Bruce Outka, Deputy State's Attorney, explained the referendum process.

**MEDICAL CANNABIS DISPENSARIES & LICENSING PREVIEW:** Amber Vogt, Planning & Zoning Administrator, gave a preview of Ordinance #2021-04, related to medical cannabis dispensaries and Ordinance #2021-01, related to licensing provisions for cannabis dispensaries. A joint public hearing with Planning and Zoning and First Readings is scheduled for August 31, 2021 at 8:00 a.m.

#### **ITEMS FROM THE PUBLIC:**

**MAITLAND ROAD PAVING PROJECT 2022:** Tom Marts, 3615 Forest Park Lane, was present to discuss paving a portion of Maitland Road. Marts stated that the project has been in the lineup for the past 7 years. Marts commented on the opt out and the construction of the new safety center and the added taxes. Marts added that money is already in the system to build the jail. He noted that the Maitland Road has more traffic than ever and also that dust cannot be controlled with Mag water. Marts further added that Maitland Road is an arterial road and added his safety concern that there is no centerline striping. Marts concluded offering that the Maitland Road is by far the busiest gravel road in the County.

Sleep felt that paving the road would exacerbate the safety concerns related to speed, etc.

Commissioner Deibert stated he has never been in support of paving that particular road section and the issue is speed. Deibert added that if speed is controlled safety will increase. Deibert added that he has received comments from long-time residents living along the road who do not want it paved.

Commissioner Ewing explained he is not an advocate for paving county roads. Ewing added that there would need to be a lot of work done prior to paving this section. Ewing stated that the Board did not forever bar the project but simply removed it from the present plan.

Kyle Craig, 3075 Burno Gulch Road, stated that the group was present last year for the 5-Year Road Plan discussion and that he recalls all of the then commissioners unanimously stating, "let's just get it done." Craig pointed out that the group wants done what the commission previously said it would do. With reference to this statement, several commissioners corrected Mr. Craig, clarifying that the comment about getting a project done was in reference to another portion of the Maitland Road (install asphalt from McDermott to Christensen Drive) which originally was planned as a joint project with the City of Spearfish. It was further noted that this "other" project remains in the works for 2021.

Commissioner Sleep stated that gravel roads are more common than paved roads in the county. Sleep added that a plan to do something is not a guarantee to do so.

Commissioner Rosenau reminded those present that the box culvert project for the road was still planned. Rosenau added that it is another step toward paving.

Jane Lockwood, 3734 Maitland Road, stated the residents have waited patiently in line for many years for the project to be completed. Lockwood added that it is unfair to have the project removed at the last minute.

Robin Marts, 3615 Forest Park Lane, expressed her concern with the blind corners as well as a portion of straight away and having to dodge traffic.

Jeff Miller, 2320 Maitland Road, stated that Maitland road is already a speed trap and people are unsafe. Miller stated that consideration should be given to the car count. He agreed that the Maitland Road is the busiest gravel road in Lawrence County. Miller stated someone is going to get killed and nothing is being considered.

No action was taken.

**ITEMS FROM THE COMMISSIONERS:** None.

**BILLS:** Moved-Seconded (Deibert-Sleep) to approve payment of the following payroll and vouchers listed below for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment drawn on the proper funds and various departments. Motion Carried.

**Payroll:** Comm-\$7,038.11; Aud-\$11,652.50; Treas-\$13,267.56; States Atty-\$16,660.75; Pub Def-\$13,260.05; Gen Govt Bldg-\$10,431.90; Equal-\$15,432.58; Rod-\$8,518.44; Vso-\$1,736.20; Ist-\$9,675.85; Sher-\$52,816.64; Jail-\$24,376.37; Coroner-\$2,101.16; 24/7-\$234.69; Emerg Mgnt-\$4,660.01; E911-\$15,659.98; Highway-\$47,168.53; Weed-\$10,164.05; P&Z-\$6,294.778; **Bills:** Heck, David-\$38.64; Nelson, Kesha-\$149.48; A To Z Shredding-\$21.38; A&B Business,Inc Solutions-\$2,934.89; A&B Welding Supply-\$72.10; A&I Distributors-\$1,178.74; A&J Supply-\$36.63; At&T Mobility-\$1,113.80; Audra Hill Consulting-\$366.12; Axon Enterprise-\$4,371.74; BH Occupational Medicine Corp-\$35.00; BH Pest Control-\$190.00; BH Pioneer-\$867.99; Barnaud Law Firm Prof-\$3,156.15; Bickle's Truck & Diesel-\$320.50; Black Hills Animal Recovery-\$332.00; Black Hills Chemical-\$1,415.60; Black Hills Energy-\$14,937.95; Black Hills Pure-\$89.50; Black Hills Urgent Care-\$65.00; Butler Machinery Co-\$1,747.40; Butte Electric Coop-\$362.40; Cbh Cooperative-\$3,428.26; Century Business Products-\$500.65; Centurylink-\$585.93; Chadams-\$275.00; Charm-Tex-\$60.35; City Of Rapid City-\$1,200.00; Clerk Of Courts-\$10.00; Coban Technologies-\$1,710.00; Cornelius, Kaylee-\$1,200.00; Dakota Equipment Rental-\$2,544.40; Deadwood, City Of-\$1,563.11; Denny's Welding-\$25.00; Dept Of Hlth Lab Services-\$1,513.00; Dept Of The Treasury-\$62,763.86; Diamond Pharmacy-\$255.71; Elevatus Architecture-\$48,000.00; Execuline Business Systems-\$56.25; Fidler-Isburg Funeral Chapel-\$5,720.00; Galls-\$912.36; Gene's Lock Shop-\$18.00; Godfrey's Brake Serv-\$209.74; Great Western Tire Company-\$56.95; Hamilton Excavation-\$480.00; Hartford-Priority Accounts-\$2,111.33; Harvey's Lock & Security-\$52.00; Heisler Hardware-\$26.35; Holiday Inn Spearfish-\$125.00; Ipicd-\$95.00; Jamar Technologies-\$70.76; Kansas Payment Center-\$6.00; Katterhagen, Mark-\$15.00; Knowbe4-\$2,732.40; Language Line Services-\$37.80; Lead Fire Protection District-\$9,584.00; Lead-Deadwood Sanitary-\$969.00; Lee, James-\$15.00; Lewis & Clark Bhs-\$368.00; Lewno, Lucy-\$166.51; Lexisnexis Risk Data Mgnt-\$75.00; Lockwood, Darcy-\$15.00; Lynn's Dakotamart-\$9.95; McClure, Susan-\$120.00; Montana Dakota Utilities-\$2,388.33; Monument Health Network-\$1,893.24; Ms Mail-\$300.00; Nalco Company-\$297.70; National Medical Resources-\$302.43; Nelson Law-\$1,285.90; Nelson, Christy-\$360.00; Office Depot-\$897.05; Office Of Child Support-\$234.00; PcsO Addiction Treatment Serv-\$452.00; Pennington Co Jail-\$837.86; Pharmchem-\$1,030.65; Phoenix Investigations-\$972.16; Powerplan-\$1,703.75; Precision Kiosk Technologies-\$1,350.00; Quill-\$212.95; Randy And Sons Welding-\$97.37; Rapid Delivery-\$29.10; Rasmussen Mechanical Serv-\$1,009.60; Rocket Lube-\$206.46; Rockmount Research & Alloys-\$1,349.59; Safariland-\$825.00; Schlimgen Law Firm-\$1,934.01; Sd Assn Of Co Comm-\$555.00; Sd Department Of Public Safety-\$5,400.00; Sd Dept Of Transportation-\$483.48; Sdrs Supplemental Retirement-\$2,997.50; Semerad, Sandra-\$153.40; Servall Towel & Linen-\$299.90; Silverado-\$306.15; Spearfish Auto Supply-\$463.22; Spearfish Police Dept-\$10,582.76; St Onge Fire Protection Dist-\$1,170.00; Sterna, Laura-\$804.40; Streicher's-\$151.99; Sturdevant's Auto Parts-\$586.39; Summit Fire Protection-\$178.50; Sunshine Towing&Transport-\$101.00; Sysco Montana-\$3,804.32; Top Quality Mfg Co-\$555.00; Transource Truck & Equip-\$3,022.62; Triple K Tire & Repair-\$2,240.97; Turnkey Corrections-\$10.32; Twin City Hardware & Lumber-\$635.70; Victims Of Violence-\$1,610.00; Walk-N-Roll-\$135.19; Waste Connections Of Sd-\$1,072.33; Watertree-\$68.40; Wells Fargo Business Card-\$7,489.20; Wells Plumbing & Farm Supp-\$186.19; Western Communication-\$690.00; Western Sd Juvenile Serv-\$14,300.00; Wex Bank-\$657.29; White Drug-\$23.00; White's Queen City Motors-\$36,349.00; Wilen Dentistry-\$715.00; Yankton Co Sheriff-\$100.00; **Witness & Jurors:** \$1,224.28.

**ADJOURN:** 12:51 p.m. There being no further business, Chairman Sleep adjourned the meeting.  
Motion Carried.

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Richard Sleep, Chairperson

ATTEST:

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Brenda McGruder, Auditor

## **LAWRENCE COUNTY BOARD OF ADJUSTMENT – August 17, 2021**

Chairman Richard Sleep called the meeting of the Lawrence County Board of Adjustment to order at 10:30 a.m. on August 17, 2021, in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioner, Randall Rosenau, Randy Deibert, Brandon Flanagan and Robert Ewing 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 Commission sitting as the Board of Adjustment.

**VARIANCE #192/BOARS NEST RESORT, LLC.:** A public hearing was held on Variance #192 APPLICANT: Boars Nest Resort, LLC LEGAL DESCRIPTION: M.S. 1832 Cannonball No 2 Lode in Section 5, T4N, R3E VICINITY LOCATION: Hwy 85 SUMMARY: An 18.2' SE corner variance to a 25' front setback for a garage in the south portion of the Lot & a 6.4' SE corner and a 5.7' NE corner variance to the 25' front setback for a garage in the north portion of the lot ZONING: PF ACREAGE: 13.15 acres.

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

No public input was voiced and the hearing was closed.

Moved-Seconded (Ewing-Rosenau) to approve Variance #192 APPLICANT: Boars Nest Resort, LLC LEGAL DESCRIPTION: M.S. 1832 Cannonball No 2 Lode in Section 5, T4N, R3E VICINITY LOCATION: Hwy 85 SUMMARY: An 18.2' SE corner variance to a 25' front setback for a garage in the south portion of the Lot & a 6.4' SE corner and a 5.7' NE corner variance to the 25' front setback for a garage in the north portion of the lot ZONING: PF ACREAGE: 13.15 acres. Motion Carried.

**VARIANCE #193/SCHULTZE/KNUTSEN:** A public hearing was held on Variance #193 APPLICANTS: Joan Schultze/Dwayne Knutsen LEGAL DESCRIPTION: Lot E of the Sub entitled Lots A, B, C, D, E, F, G and H of M.S. 1741, in Section 34, T4N, R3E VICINITY LOCATION: Brownsville Rd SUMMARY: A TBD variance to the 25' front setback for a covered porch addition to existing residence ZONING: PF ACREAGE: 2.6 acres.

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

Dwayne Knutsen, applicant, was present and stated that this property has been in his family since the 1950's.

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

Moved-Seconded (Ewing-Rosenau) to approve Variance #193 APPLICANTS: Joan Schultze/Dwayne Knutsen LEGAL DESCRIPTION: Lot E of the Sub entitled Lots A, B, C, D, E, F, G and H of M.S. 1741, in Section 34, T4N, R3E VICINITY LOCATION: Brownsville Rd SUMMARY: A TBD variance to the 25' front setback for a covered porch addition to existing residence ZONING: PF ACREAGE: 2.6 acres. Motion Carried.

**VARIANCE #194/HEGGE:** A public hearing was held on Variance #194 APPLICANT: Randy Hegge LEGAL DESCRIPTION: Lot 20 of Spearfish Canyon lots in Section 9, T4N, R2E VICINITY LOCATION: Spearfish Canyon SUMMARY: 7.7' variance to the 25' front setback from the road ROW on NE corner to build an addition to an existing residence for an attached garage with living space ZONING: PF ACREAGE: .32 acres

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

Randy Hegge, applicant, explained that the variance is being requested due to the location of the septic system and the required turning radius required to access the garage.

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

Commissioner Deibert stated he is not seeing a hardship and feels a more creative footprint could be used to meet the setback.

Moved-Seconded (Ewing-Rosenau) to approve Variance #194 APPLICANT: Randy Hegge  
LEGAL DESCRIPTION: Lot 20 of Spearfish Canyon lots in Section 9, T4N, R2E VICINITY  
LOCATION: Spearfish Canyon SUMMARY: 7.7' variance to the 25' front setback from the road  
ROW on NE corner to build an addition to an existing residence for an attached garage with living  
space ZONING: PF ACREAGE: .32 acres. Aye-Rosenau, Flanagan, Ewing and Sleep. Nay-  
Deibert. Motion Carried.

**ADJOURN:** 11:07 a.m. There being no further business it was Moved-Seconded (Ewing-  
Rosenau) to adjourn the meeting. Motion Carried.

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Date Approved

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Richard Sleep, Chairman

ATTEST:

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Brenda McGruder, Auditor