

LAWRENCE COUNTY COMMISSIONERS MEETING – November 1, 2022 page-1

Chairman Randall Rosenau called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on November 1, 2022 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioner Robert Ewing, Randy Deibert, Brandon Flanagan and Richard Sleep.

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

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

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

MINUTES: Moved-Seconded (Sleep-Rosenau) to approve the minutes of October 25, 2022 County Commission meeting. Motion Carried.

Moved-Seconded (Sleep-Rosenau) to approve the minutes of October 25, 2022 Board of Adjustment meeting. Motion Carried.

STATE AND LOCAL CYBERSECURITY GRANT PROGRAM: Moved-Seconded (Deibert-Sleep) to approve and authorize the Chairman to sign the State and Local Cybersecurity Grant program letter of support to Governor Kristi Noem. Motion Carried.

SURPLUS:

9MM GEN 17: Moved-Seconded (Deibert-Sleep) to declare two (2) 9mm Gen 17 Serial Number BUAA996 and Serial Number BPKN999 and allow for trade in. Motion Carried.

KENMORE WASHER & DRYER: Moved-Seconded (Deibert-Sleep) to declare the Kenmore washer Serial Number 101TNMX21811 and Kenmore Dryer Serial Number 809KWYP24946 surplus and destroyed. Motion Carried.

COUNTY CHRISTMAS PARTY: Moved-Seconded (Sleep-Flanagan) to allow the closure of the Lawrence County Offices from 12:00 p.m. – 1:30 p.m. on December 13, 2022 for the County Christmas Party. Motion Carried.

SHERIFF:

SHERIFF'S REPORT: Brian Dean, Sheriff, gave an update on the PSAP upgrade and the damages caused to the antennas due to a wind storm. Dean stated that each antenna cost \$1,200.00.

PUBLIC SAFETY & SERVICES CENTER PROJECT UPDATE: Brian Dean, Sheriff, gave an update on the Public Safety & Services Center. Dean reported that Steve Williams, Williams & Associates Architecture, Inc., along with the Public Safety & Services Committee opened the request for proposals on October 31, 2022 at 2:00 p.m. for the Commissioning Agent. Dean stated a recommendations will be presented at the next Commission Meeting.

2023 LIQUOR LICENSE RENEWALS: A public hearing was held on an application for renewal of liquor licenses for 2023. No public input was voiced and the hearing was closed. Moved-Seconded (Flanagan-Deibert) to renew the following liquor licenses for 2023 provided all property taxes are paid and the appropriate paperwork is received. Motion Carried. PACKAGE LIQUOR - OFF SALE LICENSE LARRY KAISER, (Nemo Mercantile): M.S. 1368 Tract 3, Section 27, T3N, R5E, B.H.M. MATTINGLEYS LLC (St. Onge Bar): LOTS 1 & 2 BLOCK 8, Section 23, T7N, R3E BLACK HILLS, LLC (Steel Wheel): TRACT D REVISED HES 297 plat: 2004-6035 Sec 19, T4N, R4E, BHM, Lawrence County, SD. RETAIL AND SUNDAY ON-SALE LICENSE LEAD COUNTRY CLUB, INC.: Block 5 Ironwood Estates Section 31, T4, R3 VEZARO INC.(Guadalajara Mexican Restaurant): Lot 3 & Pt Lots 2 & 4 & Pt of Lot B of Lot A of Lot 1 (NW4NW4) 3-6-2 SPEARFISH CANYON RESORTS LLC, (Spearfish Canyon Lodge): P.C. 953 LOT C AND D OF LITTLE SPF. SECTION 36, T5N, R1E, B.H.M. LAWRENCE COUNTY, SD SPEARFISH CANYON RESORTS LLC, (Latchstring Restaurant): M.S. 991 PT. LOT Ab-1 OF CASCADE PLACER SPEARFISH SCHOOL DISTRICT Section 36, T5N, R1E, B.H.M., Lawrence Co, SD BLACK HILLS CHAIRLIFT CO.INC., (Dark Horse Saloon): GOV'T LOTS 6 EX LOT A(.329A) & 11 EX TRACT 1(12.705A) & EX TERRY PEAK ESTATES LOTS 1-7 & ROW (STEWART T-004 R-02; M.S. 1122 LITTLE HOPE FR. ETAL SUR. RITES(OLD BLUE CHAIR #1) & (NEW BLUE CHAIR # 5) MINERAL 1035 THRU 1135 TOMAHAWK LAKE COUNTRY CLUB: Tomahawk Tract, Formerly a Part of HES 66 and HES 57 of Section 19; Parts of Norwood No. 5 and Norwood No. 6 of MS 1372; Tract 0067A, Tract 0067 C, and Part

of Tract 0067B; Tract A of HES 57 and HES 66, and Lot 1 of Norwood No. 4 of MS 1372; All located in the NE1/4, SE1/4 and SW1/4 of Section 19 and the NW1/4 of Section 30, T4N, R4E, BHM BOULDER CANYON MANAGEMENT LLC, (Boulder Canyon Country Club): Golf Course Tract 1 Section 14, T5N, R4E of the BHM; and Apple Springs S/D Back Nine Tract 1, 2, 3 and 4; and Golf Course Tract 1 & Golf Course Tract 2 A subdivision of Lot D Revised of the SW ¼ of NW ¼ of Section 13 and a subdivision of the East ½ of the NE ¼ of Section 14 Less the previously platted R.O.W. all located in T5N R4E BHM; and Apple Springs Tract Located in NE1/4 NW1/4 Less ROW; Unplatted Balance of W1/2 NE1/4 lying north of US HWY 14-A ROW; Unplatted Balance SE1/4 NW1/4 lying north of US HWY 14-A ROW; of Section 14, T5N R4E BHM and SE1/4 SW1/4; N1/2 SW1/4; E1/2 NW1/4; SW1/4 NW1/4; Unplatted Balance of the SW1/4 SW1/4 of Section 11, T5N R4E BHM RETAIL ON-OFF SALE WINE SEVEN DOWN LLC: TRACT 7 (Seven Down Arena) plat: 2006-201 Section 27, T6N, R3E THE CROSSINGS AT SPEARFISH CANYON LLC (Cheyenne Crossing): M.S. 1564 SPEARFISH CANYON LOT C-3 OF MEADOW No. 1 Lode, M.S. 1564 located in the NW ¼ of S22 T4N R2E, BHM plat: 1991-1411 Lawrence County, SD. TRIPLE H HILLS LLC (Mystic Hills Hideaway): M.S. 1748 TRACT 1 OF ST JOHN LODES ETAL plat: 2013-2432 1-3-3 BLACK HILLS, LLC (Steel Wheel): TRACT D REVISED HES 297 plat: 2004-6035 Sec 19, T4N, R4E, BHM, Lawrence County, SD. BAREFOOT RESORT ASSOCIATION INC. (Barefoot Resort): M.S. 2021 LOT 1R OF BAREFOOT EX UNITS D-1-O,D-1-1,D-2-0,D-2-1,D-2-2 & D-2-3. plat: 2004-6945 MINERAL 1995 THRU 2079, Sec. 2-T4N-R2E of Black Hills. CROW PEAK BREWING COMPANY LLC: Crow Peak Brewing Company Tract 4-6-2. BW GAS & CONVENIENCE RETAIL LLC (Yesway 1192): Lot 1 & W 20' Lot 2 of Lot A of Lot 1, NW1/4NW1/4 Subdivision of Section 3, T6N, R2E, B.H.M. EAGLE TREE RESORTS CO LLC: DBA RIM ROCK LODGE; BLDGS ON LEASED SITE; SPEARFISH CANYON LOT C-2. DOUBLE DIAMOND LLC(Recreational Springs Resort): M.S. 1200 Lot 3-A2 Of Tract 3-A A S/D Of Jay#1,2&3 & Fay#3, Albert Steele Fraction, Hazard, Log Cabin & Violet #3 Of Sec 24, T4N, R2E, BHM. ELKHORN RIDGE @ FRAWLEY RANCHES LLC: BLDGS ON LEASED SITE; FRAWLEY RANCHES ADDITION S ½ SECTION 26, E ½ NE ¼ SECTION 26, W ½ NW ¼ SECTION 26, E ½ NE SECTION 27, E ½ SE SECTION 27, SW SW SECTION 23, S ½ SE SECTION 22 T6 R3. RAR HOSPITALITY LLC (Branding Iron Restaurant): M.S. 1368 LOT 2 NEMO GUEST RANCH S/D plat: 2000-582 28-3-5 THE BARN AT ASPEN ACRES, LLC: TOWNSHIP 7 NORTH, RANGE 2 EAST OF BLACK HILLS MERIDIAN, LAWRENCE COUNTY, SOUTH DAKOTA SECTION 23 NW ¼ NW ¼ MULEY HILL LODGE LLC: Tract 37 and Lot A, a subdivision of Tract 37, as shown in the Plat recorded in Plat Book 5, Page 104, located in Section 24 T5N R3E BHM JUTRDA LLC (FISH N' FRY CAMPGROUND AND CAFE): Lot 1 of HES 297 & Lot 2 Ex Lot A of HES 297, in Section 18 and 19, T4N R4E BHM. BOAR'S NEST ROADHOUSE LLC: Tract 59 Section 7, T4N, R3E, BHM.

HIGHWAY:

PERMITS:

MATHIS: Moved-Seconded (Sleep-Ewing) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the private approach permit for Beth Mathis to construct a private approach on the east side of Maitland Rd located at 20565 Maitland Rd. Motion Carried.

GIBBONS: Moved-Seconded (Deibert-Rosenau) to have Allan Bonnema, Highway Superintendent, request that an approach be permitted or removed by David Gibbons. Motion Carried.

BLACK HILLS ELECTRIC COOPERATIVE: Moved-Seconded (Flanagan-Deibert) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the utility permit for Black Hills Electric Cooperative to bore under Englewood Road approximately .1 miles from Englewood Trailhead for construction of a 3 phase power beginning in Section 20 T4N, R3E and ending in Section 20, T4N, R3E. Motion Carried.

PROJECT UPDATES: Discussion was held on the ongoing issues with the City of Spearfish and the road issues. Bonnema stated he had an informal meeting with the City of Spearfish in reference to the jurisdiction issues.

Discussion was held on the rest area at Exit 1. The Board supports the rest area remain at Exit 1.

Bonnema gave an update on a meeting held with the Forest Service regarding a cooperative road maintenance agreement. Bonnema was provided with a proposed list of roads to be included in the agreement. The Forest Service requested Bonnema to discuss the cooperative road maintenance agreement with the County Commissioners.

PLANNING & ZONING:

VARIANCE #196/ZACHMEIER: Mike Zachmeier of 10426 Tollgate Flats requested to extend his required 6 month movement of the existing building on his property that was part of VAR #196 which was denied on May 10, 2022.

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

Mike Zachmeier, 10426 Tollgate Flats, was present to answer questions.

The Board discussed options for the structure to come into compliance and a timeline when the structure will be in compliance.

Zachmeier stated that some work has been done to get the structure moved.

Moved-Seconded (Deibert-Flanagan) to continue Mike Zachmeier of 10426 Tollgate Flats requested to extend his required 6 month movement of the existing building on his property that was part of VAR #196 which was denied on May 10, 2022 until November 10, 2022, Commission Meeting. Motion Carried.

DECLARE SURPLUS REAL PROPERTY: Declare surplus real property legally described as Lawrence County's interest in Tract B S1/2 SW1/4 SE1/4 Section 29, T6, R3 (.25 ac.) as recorded in Plat Book 7 Page 79, in the Lawrence County, South Dakota Register of Deeds Office.

Moved-Seconded (Flanagan-Deibert) to declare real property legally described as Lawrence County's interest in Tract B S1/2 SW1/4 SE1/4 Section 29, T6, R3 (.25 ac.) as recorded in Plat Book 7 Page 79, in the Lawrence County, South Dakota Register of Deeds Office, surplus as it is no longer necessary, useful or suitable for the purpose for which it was acquired. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to appoint Amber Vogt, Bruce Outka and Jeff Schroeder as three real property owners to appraise the property and issue a report on their findings regarding value (pursuant to SDCL 6-13-2). Motion Carried.

PLANNING & ZONING:

CONDITIONAL USE PERMIT #469/REVIEW OF COMPLAINT: Continued from October 25, 2022 Commission Meeting: Conditional Use Permit #469 for the review of complaint. PERMIT HOLDER: Troy Schulte TYPE: Campground (4 units allowed) SUMMARY: Review alleged violation (8 units present)/Action to terminate CUP.

Jeff Schroeder, Planning Deputy Code Enforcement Officer, presented his staff report. It was noted that 4 sites are allowed, but that 7 sites exist with power.

Troy Schulte, applicant, was present to answer questions.

Ewing commented that the applicant has come into compliance. Ewing stated that the power poles should be reduced to 4 total and an inspection be done in 3 months.

Commissioner Deibert agreed with a review in 3 months and the 3 power poles be de-energized.

Moved-Seconded (Flanagan-Ewing) to leave Conditional Use Permit #469 in place for now and do a 3 month review with photographs and report and to allow only 4 energized power poles for campers. Motion Carried.

Commission Flanagan noted for the record that the next violation will be the third strike and the CUP will be revoked.

Amber Vogt, Planning & Zoning Director, cautioned the applicant to make sure all of the conditions of the CUP are being followed.

ITEMS FROM THE PUBLIC: Ron Moeller, 11221 Sheeptail Gulch Road, Lead, commented on the State and Local Cybersecurity Grant program letter of support to Governor Kristi Noem. Moeller stated that no specific programs were listed in the letter. Commissioner Deibert stated that a list of estimated cost of items had been presented to the Governor's staff previously as part of another discussion.

Bruce Outka, Deputy States Attorney, added that Governor Noem was questioned on her support of the program, on October 26, 2022 while she was in Deadwood for a town hall meeting.

ITEMS FROM THE COMMISSIONERS: Commissioner Deibert discussed charging a fee for utility companies to occupy county rights-of-way, whether an application fee should be charged for highway permits. Deibert stated he would bring up the topic at the next SDACO Executive Board meeting and the next BHACC/O district meeting to see how other counties handle the permit process.

The Board acknowledged a letter from the South Dakota State Historical Society stating that the Homestake Hydroelectric Plant No 2, Highway 14A, Spearfish vic, Lawrence County will be nominated to the National Register of Historic Places on Friday, December 9, 2022 at the Cultural Heritage Center in Pierre SD

The Board acknowledged a letter from the Department of Agriculture and Natural Resources notifying the County that DTRC, LLC has submitted a Notice of Intent to conduct Mineral Exploration within Portions of Section 12 & 13; T5N-R2E and Portions of Sections 7, 8, 17, 18, 19, 20, & 30; T5N-R3E in Lawrence County. The board requested that Jerry Aberle, from DTRC, LLC. come to a meeting to give an update.

FOREST PLAN REVISION: Commissioner Sleep voiced his concern with allocating \$50,000.00 to the Forest Plan Revision to be held by Black Hills Council of Local Governments and whether the County was losing interest payments by not maintaining the funds in its account.

Commissioner Deibert reminded the Board that a group of county representatives is working on a proposal to hire a consultant to work on behalf of the participating counties as part of the Forest Plan Revision. He further explaining that out of the 5 counties involved, three have committed funds. He recommended that it is time for Lawrence County to move beyond the earlier commitment of funds and to actually disperse funds to BHCLG to show good faith with the other cooperating counties.

Deibert stated that there have been 1000's of volunteer hours committed to this project, so far. Black Hills Council of Local Governments has agreed to facilitate the planned this project at no additional cost to the counties.

Brenda McGruder, Auditor, explained that a public hearing is scheduled for the next Commission meeting for the purpose of granting spending authority for the funds. McGruder added that just because spending authority is granted does not mean that the money is automatically dispersed. Another step or approval is required for a check to be issued.

Chairman Rosenau thanked Commissioner Deibert for all his work that he has done on the Forest Plan Revision project.

BILLS: Moved-Seconded (Flanagan-Ewing) 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: Payroll: Comm-\$7,470.00; Elect-\$591.09; Aud-\$12,445.17; Treas-\$15,235.18; States Atty-\$19,135.17; Pub Def-\$13,742.67; Gen Govt Bldg-\$10,901.82; Equal-\$16,069.98; Rod-\$9,796.03; Vso-\$1,914.60; Ist-\$10,592.39; Sher-\$53,469.02; Jail-\$30,584.74; Coroner-\$316.26; 24/7-\$449.55; Emerg Mgnt-\$4,631.52; E911-\$18,572.87; Highway-\$49,149.73; Weed-\$4,425.49; P&Z-\$8,133.44; **Bills:** Bracha, Maria-\$46.00; Isburg, Damon-\$190.00; Meehan, Michael-\$180.00; Mattson, Raygan-\$81.00; Karlson, Stephany-\$166.34; A&B Business,Inc Solutions-\$121.00; American Family Life-\$2,742.14; Deadwood Recreation Center-\$625.00; Delta Dental Of South Dakota-\$8,415.80; Dept Of The Treasury-\$67,249.37; Northern Hills Rec Center-\$107.00; Office Of Child Support-\$456.46; Sd Retirement System-\$69,534.98; Sdrs Supplemental Retirement-\$3,557.50; State Disbursement Unit-\$599.47; Wellmark Blue Cross-\$115,128.09; A&B Welding Supply-\$23.70; A&I Distributors-\$1,175.18; BH Pioneer-\$21.35; Barnaud Law Firm-\$432.37; Black Hills Chemical-\$38.70; Black Hills Energy-\$245.78; Board Of Police Commissioners-\$693.00; Brosz Engineering-\$110.00; Butler Machinery Co-\$20.11; Claims Associates-\$5,000.00; Cornelius, Kaylee-\$60.00; Deadwood, City Of-\$1,590.48; Dustbusters-\$37,304.06; Galls-\$554.70; Genpro Energy Solutions-\$1,215.00; Interstate Engineering-\$1,134.44; Jacobs Precision Welding-

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\$10.92; Janke, Wendy-\$120.00; Kimball-Midwest Co-\$816.02; Knecht Home Center-\$27.83; Kosel, Joseph-\$2,086.00; LC Sheriff-\$534.00; Lawson Products-\$124.36; Lead, City Of-\$43.41; Mabey, Brooke-\$60.00; Mg Oil Company-\$4,283.10; Monument Health Network-\$954.26; Moss, William Psy-\$1,750.00; Odp Business Solutions-\$65.97; Olson Fuels-\$4,347.84; Pete Lien & Sons-\$888.01; Pfefferle, Sarah-\$116.88; Powerplan-\$532.01; Queen City Rocket Lube-\$323.09; Queen City Tire-\$969.00; Quill-\$18.50; Ryan, Suzanne-\$100.00; Schlimgen Law Firm-\$2,008.70; Sd Dept Of Transportation-\$1,033.62; Semerad, Sandra-\$30.60; Simon North Region Sd-\$16,216.39; Sterna, Laura-\$111.10; Sysco Montana-\$1,946.54; Triple K Tire & Repair-\$837.94; Truenorth Steel-\$49,246.10; Twin City Hardware & Lumber-\$2,440.96; Welke, Renae Dr Od-\$1,500.00; Western Communication-\$650.00; White Drug-\$46.28; **Witness & Jurors:** \$593.53

ADJOURN: 9:42 a.m. There being no further business, Chairman Rosenau adjourned the meeting. Motion Carried.

Date Approved

Randall Rosenau, Chairperson

ATTEST:

Brenda McGruder, Auditor