

**LAWRENCE COUNTY COMMISSIONERS MEETING – November 26, 2019 page-1**

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 November 26, 2019 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Daryl Johnson, Richard Sleep and Brandon Flanagan. Absent Randall Rosenau.

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

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

**DECLARE CONFLICTS AND DISCLOSURES:** Commissioner Deibert declared a conflict with value real property/declare surplus/sale of real property.

**VICE CHAIRMAN:** Moved-Seconded (Flanagan-Deibert) to appoint Commissioner Daryl Johnson as acting Vice-Chairman for the November 26, 2019 Commissioner meeting in the absence of Vice Chairman Randall Rosenau. Motion Carried.

**MINUTES:** Moved-Seconded (Sleep-Flanagan) to approve the minutes of November 12, 2019 County Commission meeting. Motion Carried.

**CONTINGENCY TRANSFER:** Moved-Seconded (Flanagan-Deibert) to approve the contingency transfer of \$30,000.00 to the Juvenile Detention budget. Motion Carried.

**PERSONNEL:**

**VETERAN SERVICE OFFICER:** Moved-Seconded (Flanagan-Deibert) to approve Jesse Ketzner as a full-time permanent Veteran Service Officer at a base rate of \$21.22 (2019 wage scale) an hour, effective January 2, 2020. Motion Carried.

**HIGHWAY/OUT-OF-CLASS PAY:** Moved-Seconded (Flanagan-Deibert) to approve the out-of-class pay for Norm Burleson at a base rate of \$29.30 for 8 hours on November 14, 2019. Motion Carried.

Moved-Seconded (Flanagan-Deibert) to approve the out-of-class pay for Daniel Sheeler at a base rate of \$29.30 for 8 hours on November 25, 2019. Motion Carried.

**PUBLIC DEFENDER:** Moved-Seconded (Johnson-Sleep) to approve the cell phone per diem of \$50.00 per month for Jennifer Utter, effective November 24, 2019. Motion Carried.

**SHERIFF:** Moved-Seconded (Flanagan-Deibert) to approve Megan Merwin as a full-time permanent Sergeant G2 at a base rate of \$28.02 an hour, effective November 24, 2019. Motion Carried.

Moved-Seconded (Johnson-Flanagan) to approve Chelsea Lindsey as a part-time fill-in Correctional Officer II G2 at a base rate of \$20.45 an hour, effective November 22, 2019. Motion Carried.

**EXECUTIVE SESSION PERSONNEL:** 8:18 a.m. Moved-Seconded (Sleep-Johnson) to go into executive session pursuant to SDCL 1-25-2(1) to discuss personnel. Motion Carried. 8:27 a.m. The Board opened for regular business with no action taken.

**LAWRENCE COUNTY NO SMOKING POLICY:** The Board directed Bruce Outka, Deputy State's Attorney, to remind all county employees and state employees that smoking is not allowed on the county campus in Deadwood, and with respect to vehicles, smoking is also prohibited in all County vehicles.

The policy as stated in the Personnel Manual: 2.14) SMOKING: It is the policy of Lawrence County that smoking shall not be permitted in county vehicles, buildings and facilities.

**RESOLUTION #2019-33 A RESOLUTION PROVIDING FOR A FULL-TIME STATE'S**

**ATTORNEY FOR LAWRENCE COUNTY:** Moved-Seconded (Johnson-Flanagan) to approve and authorize the Chairman to sign the following Resolution #2019-33, A Resolution Providing for A Full-Time State's Attorney for Lawrence County. Motion Carried. LAWRENCE COUNTY RESOLUTION #2019-33 A RESOLUTION PROVIDING FOR A FULL-TIME STATE'S ATTORNEY FOR LAWRENCE COUNTY. WHEREAS, the Lawrence County Commission adopted a full-time State's Attorney for Lawrence County in December of 1982 as provided in SDCL 7-7-12 and; WHEREAS, the Lawrence County Commission deems it necessary and appropriate for the need of Lawrence County that the position of State's Attorney be a full-time position as provided by SDCL 7-7-12; NOW, THEREFORE, BE IT RESOLVED that the Lawrence County Commission does hereby designate the position of Lawrence County State's Attorney as a full-time position for the term of office to be elected in 2020 and commencing on or about January 1, 2021. DATED THIS 10<sup>th</sup> DAY OF DECEMBER, 2019 Randy Deibert, Chairman. ATTEST: Brenda McGruder, Auditor.

**AUTOMATIC SUPPLEMENTS:**

**COURTS/TEEN COURT BUDGET:** Moved-Seconded (Flanagan-Sleep) to approve the automatic supplement of \$10,223.40 to the Courts-Teen Court budget for participation in the Diversion Fiscal Incentive Program. Motion Carried.

**AMBULANCE AGREEMENT:** Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the Lead-Deadwood Ambulance Agreement. Motion Carried.

**SHERIFF:**

**SURPLUS GLOCK 21(S)** Moved-Seconded (Johnson-Sleep) to declare three (3) Glock 21 Serial Number-BLFV335, BHXH148, BKXH147 surplus and allow for trade-in. Motion Carried.

**HEALTH NURSE REPORT:** Wade Huntington, South Dakota Department of Health Regional Manager, was present to review the quarterly Community Health Report.

**2020 STATE / COUNTY COMMUNITY HEALTH NURSE AGREEMENT:** Moved-Seconded (Flanagan-Johnson) to approve and authorize the Chairman to sign the 2020 State/County Community Health Nurse Agreement. Motion Carried.

**HIGHWAY:**

**FUEL QUOTES:** The following fuel quotes were submitted as of November 26, 2019:

**Spearfish Unleaded 1000 gallons:** (prices per gallon) CBH Cooperative –\$2.558\*; Harms Oil Co-No Bid; MG Oil – No Bid. \*Represents lowest quote awarded.

**NORTH ROCHFORD ROAD OVERLAY PROJECT-PHASE #3:** The following bids were received for the North Rochford Road Overlay Project-Phase #3: Sacrison Paving Inc.- \$1,640,327.75; Simon Contractors of SD, Inc.-\$1,469,544.85; Western Construction Inc.- \$1,643,447.00.

Moved-Seconded (Flanagan-Johnson) to follow the recommendation of the Highway Superintendent and accept the lowest responsible bid from Simon Contractors of SD, Inc.- \$1,469,544.85, to waive any irregularities, and to approve and authorize the Chairman to sign the construction agreement and notice to proceed. Motion Carried.

**PERMITS:**

**CENTURY LINK:** Moved-Seconded (Flanagan-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the utility permit for Century Link approximately .01 miles from Spring Run Road and Hidden Treasure Lane for construction of a customer service drop beginning in Section 9, T4N, R4E and ending in Section 9, T4N, R4E Motion Carried.

**MUDGE:** Moved-Seconded (Sleep-Flanagan) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the approach permit for Ken & Roberta Mudge to construct an approach on the north side of Tinton Road located .389 miles from the intersection of McGuigan Road. Motion Carried.

**DORSETT BRIDGE UPDATE:** Allan Bonnema, Highway Superintendent, gave an update on the Dorsett Bridge.

**COUNTY SECONDARY ROAD RESOLUTION 2019-31:** Bruce Outka, Deputy State's Attorney, presented a draft county secondary road resolution pursuant to the decision of the Circuit Court in Oyen v. Lawrence County, Civ. 15-000361. Outka was instructed to add the approximate road mileage of the portion of road to be added at 3.87 miles to the resolution. The resolution will be considered at the December 10, 2019 Commission Meeting.

**PLANNING & ZONING:**

**ANNUAL REVIEW:**

**CONDITIONAL USE PERMIT #205-12/DUCO MINING:** Jeff Schroeder, Deputy Code Enforcement Officer, stated he spoke with Cody Schad, representative for Duco Mining, and Schad stated that they were still working with investors. The Board will revisit the annual review on December 10, 2019.

**EXECUTIVE SESSION LITIGATION:** 9:14 a.m. Moved-Seconded (Sleep-Deibert) to go into executive session pursuant to SDCL 1-25-2(3) to consult with legal counsel about ongoing litigation. Motion Carried. Commissioner Deibert left the meeting having earlier declared a conflict with the agenda item. Acting Vice-Chairman Daryl Johnson then presided over the meeting. 9:29 a.m. The Board opened for regular business with no action taken.

**VALUE REAL PROPERTY/DECLARE SURPLUS/SALE OF REAL PROPERTY:** The Board opted to continue discussion of the matter regarding the parcel legally described in that Quit Claim Deed filed in Book 254, Page 103 with the Lawrence County Register of Deeds in Section 2, T2N, R1E, BHM, Lawrence County, South Dakota, to a later date.

Commissioner Deibert returned to the meeting.

**PETITION FOR VACATION OF SECTION LINE RIGHT-OF-WAY:** A Public Hearing was held on a Petition for Vacation of Section Line Right-of-Way. LEGAL DESCRIPTION FOR THE VACATION: The East 33' of Lot 10 of Meadow Crest Subdivision located within the SE1/4NE1/4 of Section 17, along the Section Line common to Sections 16 & 17 of Township 5 North, Range 4 East of the Black Hills Meridian, Lawrence County, South Dakota.

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

Moved-Seconded (Flanagan-Deibert) to approve, adopt, and authorize the Chairman to sign Lawrence County Resolution #2019-32 Resolution & Order to Vacate a Portion of a Highway, Part of Which Is Located On a Section Line. Aye-Johnson, Flanagan and Deibert. Nay-Sleep. Motion Carried. LAWRENCE COUNTY RESOLUTION #2019-32 RESOLUTION & ORDER TO VACATE A PORTION OF A HIGHWAY, PART OF WHICH IS LOCATED ON A SECTION LINE WHEREAS, a petition was presented to the Board of County Commissioners of Lawrence County, South Dakota, signed by at least one percent of the ballots cast for the last gubernatorial election in Lawrence County, requesting that a portion of a highway, part of which is located on a section line be vacated, WHEREAS, the Board of County Commissioners set a date for hearing and evidence having been presented to the Board of County Commissioners that notice has been given of the time, place and purpose of said hearing by publication of notice in the B.H. Pioneer times, Lead, South Dakota once each week for two consecutive weeks prior to the date of hearing and WHEREAS, the Board of County Commissioners having acted as a committee of the whole concerning said vacation, and WHEREAS, said section line does not constitute a portion of a South Dakota State Trunk Highway System nor the Lawrence County Highway System, now therefore, WHEREAS, the public interest will be better served by the proposed section line vacation, and BE IT RESOLVED by the Lawrence County Board of Commissioners as follows: That the described portion of a highway, part of which is located on a Section Line be vacated: LEGAL DESCRIPTION FOR THE VACATION: The East 33' of Lot 10 of Meadow Crest Subdivision located within the SE1/4NE1/4 of Section 17, along the Section Line common to Sections 16 & 17 of Township 5 North, Range 4 East of the Black Hills Meridian, Lawrence County, South Dakota, AFFECTING THE LANDOWNERS: Steve and Karen Marcus. Dated this 26<sup>th</sup> day of November, 2019 Randy Deibert, Chairman Lawrence County Commission ATTEST: Brenda McGruder, Lawrence County Auditor. I Brenda McGruder, the duly appointed Auditor of Lawrence County, South Dakota, do hereby certify that the within and foregoing resolution was passed by the Lawrence County Board of County Commissioners at a regular session held November 26<sup>th</sup>, 2019. Dated at Deadwood, South Dakota, the 26<sup>th</sup> day of November, 2019. Brenda McGruder, Lawrence County Auditor.

**COEUR WHARF/TECHNICAL REVISION:** Amy Gilpin, Environmental Compliance Coordinator, was present to discuss State Mine Permit Nos. 476, 336, 434, 435 and 464 Technical Revision-Flossie Dump, Portland Spray area, and haul road travel route between Portland mining area and Flossie Dump.

Moved-Seconded (Flanagan-Deibert) to affirm that the technical revisions are consistent with the C.U.P. Motion Carried.

**COMMUNITY ASSISTANCE PROGRAM FUNDING UPDATE:** Rob Mattox, Wildland Interface Specialist, and Paul Thomson, Emergency Management Director, gave an update on the Community Assistance Program funding.

**SPEARFISH PLANNING COMMISSION STAFF REPORT/WORDEMAN:** The Commission reviewed the Spearfish Planning Commission staff report regarding Ryan Wordeman-storage unit parcel and had no input regarding the proposed plan. The Commission discussed the potential for a TIFD, and if so, the county has adopted a policy of asking for inclusion of an administrative fee for county's expenses in administering the TIFD during the life of the TIFD.

**ITEMS FROM COMMISSIONERS:** Commissioner Sleep asked about the status of the road jurisdiction discussion with the City of Spearfish. Sleep noted that this issue needs to be resolved.

**BILLS:** Moved-Seconded (Flanagan-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-\$11,897.52; Aud-\$11,298.63; Treas-\$13,891.90; States Atty-\$14,174.54; Pub Def-\$10,229.21; Gen Govt Bldg-\$8,303.00; Equal-\$15,403.75; Rod-\$9,155.95; Vso-\$1,363.08; Ist-\$9,387.03; Sher-\$44,517.11; Jail-\$26,256.20; Coroner-\$460.66; 24/7-\$346.07; Emerg Mgmt-\$4,608.70; E911-\$15,704.70; Highway-\$47,387.89; Weed-\$4,073.59; Pz-\$5,941.31; **Bills:** Fitzgerald, John-\$336.00; Mcgruder, Brenda-\$72.00; Larson, Rene-\$34.00; Lucero, Robin-\$66.00; Derby, Tommie-\$120.00; Schumacher, Dustin-\$120.00; Stulken, Krystal-\$66.00; Atkins, Kimberly-\$66.00; Reindl, Staci-\$89.04; A To Z Shredding-\$20.00; A&B Business,Inc Solutions-\$541.84; A&B Welding Supply-\$184.62; Anderson Excavation-\$4,682.50; Aspen Legacy Planning-\$229.30; At&T-\$5.90; Audra Hill Consulting-\$907.52; BH Physcial Therapy-\$160.00; BH Pioneer-\$363.50; Barnaud Law Firm Prof-\$183.50; Bi Geo Group-\$32.20; Black Hills Energy-\$12,020.09; Black Hills Pure-\$23.50; Butler Machinery Co-\$2,121.76; Centurylink-\$1,974.24; Clinical Lab Of BH-\$1,629.00; Cna Surety-\$50.00; Convergint Technologies-\$1,159.82; Credit Collections Bureau-\$402.58; Deadwood Mountain Grand-\$474.00; Dept Of The Treasury-\$59,386.87; Eb Communications-\$110.00; Ertz, Dewey J-\$2,100.00; Fastenal-\$4.27; Fidler-Isburg Funeral Chapel-\$1,170.00; Floyd's Truck Center-\$96.24; Fox & Youngberg-\$197.32; Galls-\$910.72; Gene's Lock Shop-\$899.80; Heartland Paper Co-\$369.19; Hp-\$77.22; Id Zone South-\$399.00; Karl's-\$229.99; Katterhagen, Mark-\$15.00; Knecht Home Center-\$159.99; Kosel, Joseph-\$1,225.47; LC Plan & Zone-\$48.36; LC Treasurer-\$42.40; Lawson Products-\$139.14; Lead-Deadwood Regional Hospital-\$14.41; Lee, James-\$15.00; Lewno, Lucy-\$166.50; Lexisnexis Risk Data Mgmt-\$77.00; Lockwood, Darcy-\$15.00; Marshall & Swift/Boeckh-\$5,670.00; Midcontinent Communications-\$112.16; Montana Dakota Utilities-\$3,000.21; Ms Mail-\$470.00; Nalco Company-\$261.24; Nebraska Salt & Grain Co-\$10,775.60; Nelson, Christy-\$250.00; Nelson, Tonya-\$800.00; North Central Int'l-\$742.95; Northern Truck Equip-\$76,679.50; Northwest Pipe Fitt-\$23.78; Office Of Attorney General-\$315.69; Office Of Child Support-\$852.01; PcsO Addiction Treatment Serv-\$452.00; Pennington Co Jail-\$800.40; Powerplan-\$21.38; Ramkota Inn Pierre-\$385.00; Rasmussen Mechanical Serv-\$523.93; Ray O'herron Co-\$1,122.02; Redwood Toxicology Lab-\$828.03; Regional Health-\$261.15; Root Spring Scraper-\$131.69; Sand Creek Printing-\$166.70; Sara J Fitzgerald-\$429.00; Sd Assoc Of Criminal Defense-\$150.00; Sd Continuing Legal Education-\$200.00; Sd Public Assur Alliance-\$545.75; Sd Sheriff's Association-\$1,222.91; Sdrs Supplemental Retirement-\$1,970.00; Servall Towel & Linen-\$1,098.32; Spearfish Ambulance Service-\$299.11; Spearfish Police Dept-\$9,786.37; State Bar Of South Dakota-\$1,245.00; Street Image-\$1,460.00; Summit Companies-\$147.00; Superior Printing-\$66.39; Sysco Montana-\$2,183.97; Teen Court-\$10,223.40; Thomson Reuters-West-\$257.00; Time Equipment Rental & Sales-\$3,389.00; Top Quality Mfg-\$67.50; Transource Truck & Equip-\$75.74; Triple K Tire & Repair-\$964.42; Turnkey Corrections-\$17.98; Twin City Hardware & Lumber-\$504.75; Tyler Technologies-\$4,837.00; Us Armor-\$391.00; Vast Broadband-\$1,751.78; Verizon Wireless-\$212.37; Wells Fargo Business Card-\$15,978.24; Western Communication-

\$3,678.60; Western Sd Juvenile Serv-\$17,940.00; Williams Properties-\$275.00; Wolff's Plumbing & Heating-\$75.00; Yankton Co Sheriff-\$100.00; **Witness & Jurors**-\$1,100.24.

**ADJOURN:** 11:05 a.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