

LAWRENCE COUNTY COMMISSIONERS MEETING – February 28, 2023 page-1

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 February 28, 2023 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Richard Sleep and Eric Jennings present. Commissioner Brandon Flanagan and Randy Deibert were available by video conferencing (GoToMeeting).

All motions were passed by unanimous vote, by all members present, unless stated otherwise. Roll call voting was used if any member voted in the negative pursuant to SDCL 1-25-1.5.

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

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

MINUTES: Moved-Seconded (Sleep-Jennings) to approve the minutes of February 14, 2023 County Commission meeting. Motion Carried.

TRAVEL REQUEST:

SHERIFF: Moved-Seconded (Jennings-Sleep) to approve the travel request for Megan Merwin and Liz Cynkar to attend the 48th Annual International Training Conference in San Antonio, TX from April 15-21, 2023. Motion Carried.

PERSONNEL:

SHERIFF: Moved-Seconded (Sleep-Jennings) to approve the step raise for Jamie Pesicka Olson as a full-time permanent E-911 Coordinator G3 at a base rate of \$27.77 per hour, effective February 26, 2023. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve the step raise for Robert Goode as a full-time permanent Correctional Officer II G2 at a base rate of \$23.00 per hour, effective February 26, 2023. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve the step raise for Lauralee Frey as a full-time permanent Correctional Officer II G3 at a base rate of \$23.46 per hour, effective February 26, 2023. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve the step raise for Krista Kerutis as a full-time permanent Correctional Officer I G3 at a base rate of \$22.09 per hour, effective February 26, 2023. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve the step raise for Raygan Mattson as a full-time permanent Dispatcher II G2 at a base rate of \$23.00 per hour, effective February 26, 2023. Motion Carried.

Moved-Seconded (Sleep-Jennings) to approve the new hire for Travis Love as a full-time permanent Correctional Officer I G1 at a base rate of \$21.23 per hour, effective March 6, 2023. Motion Carried.

Moved-Seconded (Sleep-Jennings) to approve the new hire for Jacob Westover as a full-time permanent Deputy II G3 at a base rate of \$29.98 per hour, effective April 5, 2023. Motion Carried.

Moved-Seconded (Sleep-Jennings) to approve the cell phone per Diem of \$104.00 per month for Jacob Westover, effective April 5, 2023. Motion Carried.

Moved-Seconded (Sleep-Ewing) to approve the cell phone per Diem of \$104.00 per month for Brandon Rosenau, effective February 28, 2023. Motion Carried.

NATIONAL OPIOID SETTLEMENT AGREEMENTS: Moved-Seconded (Jennings-Sleep) to approve and authorize Brenda McGruder, Auditor, to electronically sign on behalf of Chairman Ewing the settlement participation forms for the Allergan Settlement. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve and authorize Brenda McGruder, Auditor, to electronically sign on behalf of Chairman Ewing the settlement participation forms for the Teva Settlement. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve and authorize Brenda McGruder, Auditor, to electronically sign on behalf of Chairman Ewing the settlement participation forms for the CVS Settlement. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve and authorize Brenda McGruder, Auditor, to electronically sign on behalf of Chairman Ewing the settlement participation forms for the Walgreens Settlement. Motion Carried.

Moved-Seconded (Jennings-Sleep) to approve and authorize Brenda McGruder, Auditor, to electronically sign on behalf of Chairman Ewing the settlement participation forms for the Walmart Settlement. Motion Carried.

MATHIS HOMEOWNER’S ROAD DISTRICT: Moved-Seconded (Jennings-Sleep) to approve and authorize the Chairman to sign the following Amended Order Declaring Mathis Homeowner’s Road District Incorporated. Abstain-Deibert. Motion Carried. AMENDED ORDER DECLARING MATHIS HOMEOWNER’S ROAD DISTRICT INCORPORATED WHEREAS, SDCL 31-12A-5.1 requires the approval of the petition, if the territory is within the subdivision jurisdiction of a municipality, to first be submitted to the municipality’s governing body for approval at its discretion and upon approval shall be presented to the county board of commissioners, WHEREAS, the City of Spearfish approved the petition for formation of the Mathis Homeowner’s Road District on November 7, 2022, WHEREAS, an election was held among the eligible voters in the Mathis Homeowner’s Road District to determine whether or not a Road District should be incorporated, WHEREAS, this vote was held on February 10, 2023, WHEREAS, the vote has been cast and canvassed and a verified statement from the judges of the election has been received showing the whole number of ballots cast was Six (6), together with the number of Six (6) voting for and the number of Zero (0) voting against incorporation, WHEREAS, The Territory organized as a district is as follows: Map of Mathis Homeowner’s Road District, Including the NE1/4NW1/4 and Tract 1, Tract 2, Tract 3, Tract 4, Tract 5A, Tract 6A, Tract 7, Tract 8 of the NE1/4NW1/4 of Section 8, Less the Section Line Right of Way, All Located in Township 6 North, Range 2 East of the Black Hills Meridian, Lawrence County, South Dakota. More Particularly Described as: Commencing at the N1/4 Corner of Section 8, Township 6 North, Range 2 East of the Black Hills Meridian, Lawrence County, South Dakota, Thence S 00°01'58" E along the east boundary of Said NE1/4NW1/4 of Section 8 a distance of 33.00 feet to a point on said line and the Northeast corner of Tract 5 A of NE1/4NW1/4 of Section 8 and the TRUE POINT OF BEGINNING; thence S 00°01'58" E continuing along said east boundary of NE1/4NW1/4 a distance of 1287.86 feet to the Southeast Corner of Said NE1/4NW1/4 and common to the Southeast Corner of Tract 8 of the NE1/4NW1/4; thence N 89°33'57" W along the south boundary of said NE1/4NW1/4 a distance of 1327.59 feet to the Southwest Corner of said NE1/4NW1/4 and the Southwest Corner of Tract 4; thence N 00°04'36" W along the west boundary of NE1/4NW1/4 a distance of 1287.52 feet to a point on said west boundary and the Northwest Corner of Tract 1; thence S 89°34'51" E along the South Line of the 66 foot Section line right of way (south line of the Hillview Road right of way) a distance of 1328.57 feet to the point of beginning. Containing 39±.26 Acres more or less. Existing properties included in the metes and bounds described herein include all platted lots according to plat documents 97-4453 and 2015-4366; and the 60 foot public right of ways dedicated on plat document 97-4453 currently described as Scott Avenue and Sarah Avenue. WHEREAS, the Board of County Commissioners are satisfied with the legality of such election, WHEREAS, it appearing that a majority of the voters at the election have voted in favor of incorporation of such territory, NOW THEREFORE BE IT ORDAINED by the Lawrence County Board of Commissioners that the Mathis Homeowner’s Road District is hereby incorporated pursuant to SDCL 31-12A, DATED this 28th day of February, 2023 (Nunc Pro Tunc: February 14, 2023) Robert Ewing, Chairperson Lawrence County Commission ATTEST: Brenda McGruder, Auditor.

SHERIFF:

SHERIFF’S REPORT: Brian Dean, Sheriff, reported that Brandon Rosenau and Marina Cleveland graduated from the Law Enforcement Training’s Basic Certification Course on Friday, February 24, 2023 with honors.

PUBLIC SAFETY AND SERVICE CENTER PROJECT UPDATE: Brian Dean, Sheriff, gave an update on the Public Safety and Services Center construction.

WESTERN SOUTH DAKOTA JUVENILE SERVICE CENTER: Moved-Seconded (Sleep-Ewing) to approve and authorize Brian Dean, Sheriff, to sign the amended Western South Dakota Juvenile Service Center Joint Powers Agreement effective through October 31, 2023. Motion Carried.

HIGHWAY:

FUEL QUOTES: The following fuel quote was submitted as of February 17, 2023: **Spearfish Unleaded 1100 gallons:** (prices per gallon) CBH Cooperative – \$3.166*; Olson Fuels – no bid; MG Oil –no bid. *Represents accepted quote.

BID OPENING/NEMO ROAD STRUCTURE PRESERVATION: The following bids were received for the Nemo Road Structure Preservation BRF 6404(00)22-1, PCN 08WJ Structure Number 41-238-262: JV Bailey Company, Inc.-\$589,440.00; Corr Construction Services, Inc. – \$425,117.95.

Moved-Seconded (Deibert-Jennings) to follow the recommendation of the Highway Superintendent and accept the lowest responsible bid, contingent upon SDDOT approval, from Corr Construction Services, Inc.– \$425,117.95, to waive any irregularities, and to approve and authorize the Chairman to sign the construction agreement and Notice to Proceed. Aye-Flanagan, Deibert, Jennings and Ewing. Nay-Sleep. Motion Carried.

PERMITS:

PP4 SENIOR LIVING LLC.: Moved-Seconded (Sleep-Jennings) to follow the recommendation of John Bey, Highway Superintendent, and approve the utility permit for PP4 Senior Living, LLC. to bore under St Onge Road approximately 600 to 1200 feet from North Bound Lane of Hwy 85 and Colorado Blvd intersection for construction of Peaceful Pines Development water main utility beginning in Section 15 T6N, R3E and ending in Section 15, T6N, R3E with the condition that the casing would be extended an additional 8 feet to the south. Motion Carried.

PP4 SENIOR LIVING LLC.: Moved-Seconded (Sleep-Jennings) to follow the recommendation of John Bey, Highway Superintendent, and approve the permit to occupy County highway right-of-way submitted by PP4 Senior Living, LLC. located in Section 15, T6N, R3E along County Road: St Onge Road, to install a 6” water line. Motion Carried.

MONTANA-DAKOTA UTILITIES: Moved-Seconded (Deibert-Sleep) to follow the recommendation of John Bey, Highway Superintendent, and approve the permit to occupy County highway right-of-way submitted by Montana-Dakota Utilities located in Section 21, T6N, R3E along County Road: S. Rainbow Road, to install natural gas distribution with the clarification of dimensions: For ordinance # 07-01 Approval upon the condition that: 1. The depth is no less than 36 inches the full length of the excavation and the depth is closely monitored. 2. The location of the excavation is as far as possible away from the edge of the road. This is to protect your utility from future disturbances such as drainage repairs, or road surface expansion. The 36-inch depth and the 5-foot clearance measurement in our current ordinance is only a minimum and should only be allowed if there is proof that the maximum depth and clearance is not possible. Motion Carried.

BH DEVELOPMENT, LLC.: The permit to occupy County highway right-of-way submitted by BH Development, LLC. located in Section 20, T4N, R3E along County Road: Brownsville Road to install storm water drainage will be resubmitted for consideration at the next meeting. Motion Carried.

BH DEVELOPMENT, LLC.: The permit to occupy County highway right-of-way submitted by BH Development, LLC. located in Section 19, T4N, R3E along County Road: Brownsville Road to install domestic waterline will be resubmitted for consideration at the next meeting. Motion Carried.

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION PLANNING AND RESEARCH (SPR) PROGRAM: John Bey, Highway Superintendent, stated that he submitted the South Dakota Department of Transportation Statewide Planning and Research program (SPR). Bey stated that no maximum amount of local funding was voted on at the last meeting.

Moved-Seconded (Deibert-Flanagan) to list the amount of total funding at \$50,000 with a 20% county match noting that, if awarded, the grant it does not have to be accepted. Flanagan withdrew his second.

Moved-Seconded (Deibert-Sleep) to list the amount of total funding at \$50,000 with a 20% county match noting that, if awarded, the grant it does not have to be accepted. Aye-Deibert and Sleep. Nay-Flanagan, Jennings and Ewing. Motion Failed.

Moved-Seconded (Flanagan-Ewing) to list the maximum amount of local funding that will be available to complete the study at \$50,000.00. Aye-Flanagan, Deibert, Sleep, Jennings and Ewing. Motion Carried.

PLANNING & ZONING:

CONDITIONAL USE PERMIT #300-23/HAY CREEK RANCH, LLC./KROEBELE: A public hearing was held on Conditional Use Permit #300-23 OWNER/APPLICANT: Hay Creek Ranch, LLC/Cindy Kroebele LEGAL DESCRIPTION: Lot 2 of HES 471 located in Section 3, T3N, R4E. VICINITY LOCATION: Nemo Rd/ Penny Lane SUMMARY: Add living quarters in pole barn ZONING: PFD ACREAGE: 20.09 acres.

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

Cindy Kroebele, Owner, was available by video conferencing (GoToMeeting) to answer questioned.

No public input was voiced and the hearing was closed.

Moved-Seconded (Sleep-Jennings) to approve Conditional Use Permit #300-23 based upon the Planning and Zoning Commission recommendation for approval, the concurrent recommendation of P&Z staff, as reflected in the staff report. OWNER/APPLICANT: Hay Creek Ranch, LLC/Cindy Kroebele LEGAL DESCRIPTION: Lot 2 of HES 471 located in Section 3, T3N, R4E. VICINITY LOCATION: Nemo Rd/ Penny Lane SUMMARY: Add living quarters in pole barn ZONING: PFD ACREAGE: 20.09 acres. Motion Carried.

PLATS

PRELIMINARY & FINAL PLAT/BECHEN: APPLICANT: Douglas Bechen LEGAL DESCRIPTION: Lots 2A-1 and 2A-2 of Lot 2A of Lot 2 of T & M Subdivision located in the NW ¼ of Section 16, T6N, R4E VICINITY LOCATION: Hwy 34/Whitewood SUMMARY: Move lot lines ZONING: RR.

Moved-Seconded (Sleep-Jennings) to approve the preliminary & final plat for Douglas Bechen 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 2A-1 and 2A-2 of Lot 2A of Lot 2 of T & M Subdivision located in the NW ¼ of Section 16, T6N, R4E VICINITY LOCATION: Hwy 34/Whitewood SUMMARY: Move lot lines ZONING: RR. Motion Carried.

ITEMS FROM THE PUBLIC: None.

ITEMS FROM THE COMMISSIONERS: Commissioner Deibert reported on the upcoming Black Hills Association of County Commissioners and Officials meeting on March 3, 2023 in Timber Lake, SD.

Commissioner Sleep and Deibert reported on the Natural Resources meeting held on February 27, 2023.

Commissioner Jennings reported on the Multiple Use Collation meeting and how to stimulate more interest.

The Board acknowledged a thank you from Whitewood Senior Citizen Center, Spearfish Senior Citizen and Northern Hills Area CASA program for their yearly allocation.

BILLS: Moved-Seconded (Jennings-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-\$7,842.51; Aud-\$13,906.55; Treas-\$16,610.05; States Atty-\$15,531.22; Pub Def-\$11,565.81; Gen Govt Bldg-\$11,581.36; Equal-\$18,860.40; Rod-\$10,968.64; Vso-\$2,009.80; Ist-\$11,323.86; Sher-\$53,336.92; Jail-\$31,856.04; Coroner-\$372.44; 24/7-\$483.36; Emerg Mgnt-\$5,082.53; E911-\$17,623.09; Highway-\$60,015.93; Weed-\$4,635.30; P&Z-\$8,962.16; **Bills;** Tridle, Debora-\$275.00; Atkinson, Sally-\$48.00; Palmer, Ryan-\$398.11; Sprenger, Janette-

\$15.30; A To Z Shredding-\$11.68; A&B Business,Inc Solutions-\$2,650.87; A&I Distributors-\$349.31; Air Connection-\$176.41; American Family Life-\$2,580.94; Arrowwood Resort-\$108.92; At&T Mobility-\$1,221.30; Audra Hill Consulting-\$273.20; BH Physcial Therapy-\$100.00; BH Pioneer-\$563.38; BH Regional Multiple-\$100.00; Barnaud Law Firm Prof-\$1,204.90; Behrens-Wilson Funeral Home-\$1,760.00; Black Hills Chemical-\$1,200.94; Black Hills Energy-\$9,413.92; Bluepeak-\$1,814.41; Bob Barker Company-\$65.16; Bomgaars Supply-\$143.10; Bruemmer, Lynnel-\$198.00; Butler Machinery-\$481.28; Butte-Lawrence Co Fair-\$10,000.00; Cbh Cooperative-\$3,837.19; Centurylink-\$257.30; Cornelius, Kaylee-\$180.00; Credit Collections Bureau-\$467.71; Dakota Equip Rental/Chain Saw-\$930.24; Deadwood Eye Care-\$75.00; Deadwood Recreation Center-\$680.00; Delta Dental Of South Dakota-\$8,730.84; Dept Of Hlth Lab Services-\$180.00; Dept Of The Treasury-\$71,231.80; Diamond Pharmacy-\$2,508.60; Division Of Motor Vehicules-\$71.00; Ecolab-\$156.42; Efurnituremax-\$548.99; Epco-\$1,294.08; Fastenal-\$348.23; Floyd's Truck Center-\$2,190.90; Fmg Engineering-\$2,533.87; Galls-\$297.29; Godfrey's Brake Serv-\$205.25; Hilpert & Hale Prof-\$892.30; International Academy Of Emd-\$30.00; Jacobs Precision Welding-\$27.97; Janke, Wendy-\$180.00; Kiesler's Police Supply-\$1,437.62; Kinney Law-\$2,106.12; Lead, City Of-\$46.49; Mabey, Brooke-\$120.00; Macqueen Emergency-\$51.38; Mckesson Medical-\$169.72; Midcontinent Communications-\$154.52; Montana Dakota Utilities-\$6,314.77; Monument Health Network-\$3,029.39; Ms Mail-\$90.00; NH Alcohol & Drug Services-\$10,000.00; Nalco Company-\$323.76; Nelson Law-\$457.70; Newman Signs-\$137.26; North Central Int'l-\$575.95; Northern Hills Rec Center-\$132.00; Northwest Pipe Fitt-\$119.76; Odp Business Solutions-\$57.05; Office Of Child Support-\$456.46; PcsO Addiction Treatment Serv-\$226.00; Powerplan-\$547.07; Queen City Rocket Lube-\$198.22; Quill-\$34.97; Rapid Fire Protection-\$364.80; Redwood Toxicology Lab-\$710.28; Riverside Technologies-\$1,020.00; Runnings Supply-\$1,380.00; Ryan, Suzanne-\$60.00; Sanford Health Occupational-\$234.00; Sd Retirement System-\$73,321.68; Sd Sheriff's Association-\$345.00; Sdrs Supplemental Retirement-\$3,595.00; Servall Towel & Linen-\$317.40; Sirchie Acquisition Company-\$302.46; Spearfish Auto Supply-\$21.38; Staples-\$372.20; State Disbursement Unit-\$599.47; Sterna, Laura-\$240.00; Sturdevant's Auto Parts-\$79.78; Sturgis Guns-\$124.74; Sturgis Responder Supply-\$1,436.69; Sunshine Towing-\$230.00; Sysco Montana-\$3,834.38; Triple K Tire & Repair-\$1,224.41; Turnkey Corrections-\$24.80; Twin City Hardware & Lumber-\$302.68; Victims Of Violence-\$425.00; Waeckerle Law, Prof-\$1,531.60; Wellmark Blue Cross-\$120,307.08; Wells Fargo Banks-\$241.33; Western Communication-\$845.20; White Drug-\$78.89; **Witness & Jurors:** \$1,980.36.

ADJOURN: 9:17 a.m. There being no further business, Chairman Ewing adjourned the meeting.

Date Approved

Robert Ewing, Chairperson

ATTEST:

Brenda McGruder, Auditor