

## LAWRENCE COUNTY COMMISSIONERS MEETING – May 26, 2020 page-1

Chairman Brandon Flanagan called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on May 26, 2020 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randall Rosenau, Daryl Johnson and Richard Sleep present. Commissioner Randy Deibert was available by video conferencing (GoToMeeting).

Roll-call voting was used and all motions were passed by unanimous vote, by all members present, unless stated otherwise.

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

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

**MINUTES:** Moved-Seconded (Johnson-Sleep) to approve the minutes of May 12, 2020 County Commission meeting. Motion Carried.

Moved-Seconded (Johnson-Sleep) to approve the minutes of May 12, 2020 Board of Adjustment meeting. Motion Carried.

### **PERSONNEL:**

**EQUALIZATION:** Moved-Seconded (Rosenau-Flanagan) to approve Brett Runge as a full-time permanent Deputy Director of Equalization/GIS Coordinator G2 at a base rate of \$27.75 an hour, effective June 1, 2020. Motion Carried.

Moved-Seconded (Rosenau-Flanagan) to approve Nicole Geuke as a full-time permanent Equalization Office Manager G3 at a base rate of \$22.27 an hour, effective June 1, 2020. Motion Carried.

**ALCOHOLIC BEVERAGE LICENSES:** A public hearing was held on the applications for 2020-2021 Malt Beverage licenses. Correspondence was received from Susan Ford-O'Dea. No other public input was voiced and the hearing was closed. Moved-Seconded (Rosenau-Deibert) to approve the following 2020-2021 Malt Beverage Licenses. Motion Carried. RENEWAL: RETAIL (ON-OFF SALE) MALT BEVERAGE AKELA SPA OF DEADWOOD LLC: Lot 3 BLK 1 EX H1 (.68 AC) Oak Mt. Country Est. Sec 18 T5N R4E B.H.M. AW RENTALS 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. 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. Sec. 2-T4N-R2E of Black Hills. BLACK HILLS CHAIRLIFT CO INC: M.S. 1122 Little Hope Fr. Etal Sur. Rites (Old Blue Chair #1) & (New Blue Chair #5), Sec 1, T4N, R2E, BHM. BLACK HILLS JOURNEY'S INC (FISH 'N FRY CAMPGROUND): Lots 1 of HES 297 & Lot 2 Ex Lot A of HES 297, in Section 18, T4N R4E BHM. BOARS NEST LLC (BELL LTD): Tract 59 Section 7, T4N, R3E, BHM. BW GAS & CONVENIENCE RETAIL, LLC (YESWAY #1192): Lot 1 & W 20' of Lot 2 of Lot A of Lot 1 NW1/4NW1/4 Subdivision of Section 3, T6N, R2E, B.H.M. CHEYENNE CROSSING STORE LLC: M.S. 1564 Spearfish Canyon Lot C-3 of Meadow 1-2-3 M.S 1564 (Cheyenne Xing Store) Section 22, T4N, R2E. CROW PEAK BREWING COMPANY, LLC: Crow Peak Brewing Company Tract Sec 4, T6N, R2E. CUSTER CAMP 1874 LLC (THE PASTA CORRAL): Lot 1 OF HES 286 in Sec 4, T3N, R5E, BHM. CUSTER CROSSING CAMPGOUND LLC: Tract B-1 (3.44 AC) & Lot C (2.20 AC) HES 246 Except Lot 1 in Sec 21, T3N, R4E, BHM. EAGLE TREE RESORTS CO LLC (RIM ROCK LODGE & CANYON BISTRO): BLDGS ON LEASED SITE; SPEARFISH CANYON LOT C-2 Sec 4 T5N R2E. EBRIGHT ENTERPRISES INC (TRAILSHED LODGE INC): Lot 4 Revised O'Neill Pass Ranchettes S/D of HES 617 Section 20 T3N R1E. 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. JANICE G. KABERNA (HOM CAMPGROUND): Lot A of CRM Ex Tract 1 (10.01) and Lot 2. (3.09) Sec 27, T3N, R5E. LARRY KAISER (NEMO MERCANTILE): M.S. 1368 Tract 3 Sec 27, T3N, R5E, B.H.M. NEMO GUEST RANCH BUSINESS ENTERPRISE (NEMO GUEST RANCH CONVENIENCE STORE): M.S. 1368 Lots 1, 2 and 3 of Nemo Guest Ranch S/D 28-003-05. PLACER 601 INC (DEADWOOD KOA): M.S. 601 Scott & Crist Ex Lot A Sec 28-T5N-R3E. RAR HOSPITALITYLLC (BRANDIN' IRON RESTAURANT & PONDEROSA BAR): M.S. 1368 Lots 1, 2 and 3 of Nemo Guest Ranch S/D 28-003-05. SD BOONDOCKS LLC (BOONDOCKS):

Tract C of HES 54 Sec 25 T4N, R3E, BHM. SD CAMPGROUND AND RESIDENCY CENTER INC (SPEARFISH KOA): Parcel B (KOA Campground) NW1/4NW1/4, Sec.3, T6N, R2E, BHM. SEVEN DOWN LLC: Tract 7 (Seven Downs Arena) Section 27, T6N, R3E. LONNY OR SUSAN SMITH (ST. ONGE BAR & GRILL): Lots 1 & 2 Block 8 in Sec 23 R7E T3N. SPEARFISH CANYON RESORTS LLC (SPEARFISH CANYON RESORT): P.C. 953 LOTS C AND D OF LITTLE SPF. SECTION 36, T5N, R1E, B.H.M. THE BARN AT ASPEN ACRES LLC: Section 23 NW ¼ NW ¼ T7N R2E B.H.M. TOMAHAWK LAKE COUNTRY CLUB: M.S. 1372 Pt. Ex Lot 1 of Norwood #8 (5.01AC) & Lot 1 of TR 0067'B' (5.82 AC) Pt Sec. 24-4-3 Pt Sec. 19 & 30-4-4 M.S. 1372 Lot 1 of Norwood #4 of M.S. 1372 (9.58A) & TR A Por. of B (2.877) & C of Tract 0067 & TR A of HES 57 & 66 (1.35AC) TRIPLE H HILLS LLC (MYSTIC HILLS HIWAY): M.S. 1748 TRACT 1 OF ST JOHN LODES ETAL Sec 1, TWP 3N, R3E. WHITETAIL CREEK RESORT LLC: Tract 54 Secs 5-6-7 & 8 (Whitetail Court) T4N R3E WICHTERMAN & SONS INC (STEEL WHEEL CAMPGROUND): Tract D revised HES 297 in Sections 19 R4E T4N WILD BILL'S CAMPGROUND (ALICIA GRIMM & KEITH GRIMM): Lot E EX H1 (.04AC) & H2 (.06A) & Lot E-2 of HES 137 (Wild Bill's Campground) Sec 18, T4N, R4E.

**HIGHWAY:**

**PERMITS:**

**HANSON:** Moved-Seconded (Rosenau-Sleep) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the approach permit for Douglas L. Hanson to construct an approach on the south side of Pahkama Road. Motion Carried.

**SCARRY:** Moved-Seconded (Sleep-Rosenau) to follow the recommendation of Allan Bonnema, Highway Superintendent and approve the permit to occupy County highway right-of-way for Earl Scarry located in Section 18 T5N, R3E along Maitland Road. Motion Carried.

**TSCHETTER/MUNRO EARTHMOVING LLC.:** Moved-Seconded (Rosenau-Sleep) to approve the permit to occupy County highway right-of-way for Richard Tschetter/Munro Earthmoving, LLC located in Section 32 T7N, R2E along Old Belle Road. Motion Carried.

**FEDERAL AID BRIDGE REPLACEMENT PROGRAM RESOLUTION FOR COUNTY AND URBAN PROJECTS:** Moved-Seconded (Deibert-Johnson) to approve and authorize the Chairman to sign the following 2020-15 Federal Aid Bridge Replacement Program Resolution for County and Urban Projects. Motion Carried. 2020-15 FEDERAL AID BRIDGE REPLACEMENT PROGRAM RESOLUTION FOR COUNTY AND URBAN PROJECTS WHEREAS, LAWRENCE COUNTY desires the replacement of the bridge hereinafter described: STRUCTURE NUMBER AND LOCATION: 41-214-100, 1.0 mi. east of Whitewood, SD. LIST OF CURRENT LANDOWNERS ADJACENT TO THE PROJECT (NAMES & ADDRESSES): Colin Thompson, 20229 Granny Lane, Whitewood; Wheeler Lumber LLC, 12127 Whitewood Service Road, Whitewood and Champion International Corporation, 12122 Whitewood Service Road, Whitewood. AND WHEREAS, LAWRENCE COUNTY is obligated and hereby agrees to provide proper maintenance as required by the Federal Highway Act as amended and supplemented thereto for project after construction is completed and to regulate or cause to be regulated the installation of utility facilities within the limits of the right-of-way of the proposed project in accordance with State and Federal requirements. AND WHEREAS, LAWRENCE COUNTY is obligated and hereby agrees to reimburse the State for all costs not reimbursable with Bridge Replacement Funds. AND WHEREAS, the bridge is in need of replacement for the following reasons: 1. The condition rating is 3 – Substructure. 2. The bridge is not located on a County or Township designated No Maintenance or Minimum Maintenance Road. 3. The bridge is located on a Federal Aid Route  X , a school bus route  X , a mail route  X , a field to farm to market route  X , a lake or recreation access route  X , or other (please specify). 4. The load carrying capacity of the existing bridge can      or cannot  X  be improved to carry legal loads by rehabilitation of the existing bridge. NOW THEREFORE BE IT RESOLVED: That the South Dakota Department of Transportation be and hereby is authorized and requested to program for construction, in accordance with the “Local Roads Plan” and the State’s “Standard Specifications for Roads and Bridges,” the bridge replacement project at the above described location. Items to be handled by State forces with Federal Participation will include hydraulic study review, foundations investigation (if necessary), plan reviews, and construction administration. Estimated Cost of Project Including Engineering: \$1,788,900; Federal Share (81.95%): \$1,466,004; Local Share (18.05%): \$322,896. Vote of Commissioners Yes 5 No 0 Dated at Deadwood, SD this 26<sup>th</sup> day of May, 2020. Chairman, Brandon Flanagan ATTEST: Brenda McGruder, Auditor.

Moved-Seconded (Deibert-Rosenau) to approve and authorize the Chairman to sign the following 2020-18 Federal Aid Bridge Replacement Program Resolution for County and Urban Projects. Motion Carried. 2020-18 FEDERAL AID BRIDGE REPLACEMENT PROGRAM RESOLUTION FOR COUNTY AND URBAN PROJECTS WHEREAS, LAWRENCE COUNTY desires the replacement of the bridge hereinafter described: STRUCTURE NUMBER AND LOCATION: 41-079-199, 13.0 miles south of Spearfish Latitude: 44.31543 Longitude: 103.88688. LIST OF CURRENT LANDOWNERS ADJACENT TO THE PROJECT (NAMES & ADDRESSES): U.S. Forest Service. AND WHEREAS, LAWRENCE COUNTY is obligated and hereby agrees to provide proper maintenance as required by the Federal Highway Act as amended and supplemented thereto for project after construction is completed and to regulate or cause to be regulated the installation of utility facilities within the limits of the right-of-way of the proposed project in accordance with State and Federal requirements. AND WHEREAS, LAWRENCE COUNTY is obligated and hereby agrees to reimburse the State for all costs not reimbursable with Bridge Replacement Funds. AND WHEREAS, the bridge is in need of replacement for the following reasons: 1. The condition rating is 4 on the super structure. 2. The bridge is not located on a County or Township designated No Maintenance or Minimum Maintenance Road. 3. The bridge is located on a Federal Aid Route \_\_, a school bus route \_\_, a mail route X, a field to farm to market route X, a lake or recreation access route X, or other (please specify)\_\_\_\_. 4. The load carrying capacity of the existing bridge can \_\_\_ or cannot X be improved to carry legal loads by rehabilitation of the existing bridge. NOW THEREFORE BE IT RESOLVED: That the South Dakota Department of Transportation be and hereby is authorized and requested to program for construction, in accordance with the “Local Roads Plan” and the State’s “Standard Specifications for Roads and Bridges,” the bridge replacement project at the above described location. Items to be handled by State forces with Federal Participation will include hydraulic study review, foundations investigation (if necessary), plan reviews, and construction administration. Estimated Cost of Project Including Engineering: \$540,000; Federal Share (81.95%): \$442,530; Local Share (18.05%): \$97,470. Vote of Commissioners Yes 5 No 0. Dated at Deadwood, SD this 26<sup>th</sup> day of May, 2020. Chairman, Brandon Flanagan ATTEST: Brenda McGruder, Auditor.

**WEIGHT LIMITS/FISHER INDUSTRIES HAUL ROAD AGREEMENT:** Chad Hardin, Manager, Fisher Sand and Gravel, presented a letter to the Commissioner in reference to the max gross weight limits on Old Highway 14 and Homestake Road. Discussion will be moved to the June 9, 2020 meeting when Allen Bonnema, Highway Superintendent is present.

Moved-Seconded (Deibert-Flanagan) to maintain the status quo regarding weight limits until the June 9, 2020 meeting. Motion Carried.

**ELECTED OFFICIAL AND STAFF/PLAN TO RESUME (CLOSER) TO NORMAL OPERATION:** Bruce Outka, Deputy State’s Attorney, gave an overview of the Department Head meeting held on May 14, 2020, to open the County Annex Building to the public. Deb Tridle, Treasurer, and Amber Vogt, Planning & Zoning Administrator, presented the protocol from each department as to how each office will handle customers. The decision will be made at the Special, June 4, 2020 meeting as to when the County building will be open to the public.

**PLANNING & ZONING:**

**NUISANCE COMPLAINT UPDATES:** The Commission noted receipt of a petition from the surrounding landowners to take immediate action against the legal owners/residents/lessee/or other occupants of real property located at 20764 Berry Lane, Sturgis SD 57785, registered owner Monty & Lois Roth.

Jeff Schroeder, Deputy Code Enforcement Officer, gave an update on the current progress at the Roth residence. Schroeder provided pictures of the property as of May 26, 2020. Schroeder presented a quote from Munro Earthmoving and General Contracting to come in and clean up the property.

Lois Roth and Trista Stees, 20764 Berry Lane, were present to discuss the nuisance complaint. Stees stated that letters have been received in the mail saying very hateful things, as well as neighbors dumping grass clippings on the property. Stees and Roth both stated they are working on getting the property cleaned up.

Moved-Seconded (Johnson-Rosenau) to allow for a dumpster to be dropped off and picked up at the cost to the County and to pay \$5.00 per tire to be taken to the landfill. Motion Carried.

The Commission stated that Roth is to report back to the board on June 23, 2020 with a final update and stated that if this nuisance is not taken care of the County would pay someone to resolve the issue and bill the landowner.

**SUPPLEMENTAL BUDGET:** A Public Hearing was held on Resolution #2020-17 for a Supplemental Budget for Emergency Management Fund Search & Rescue - \$3,377. No public input was voiced and the hearing was closed. Moved-Seconded (Rosenau-Flanagan) to approve and adopt the following Resolution #2020-17 for a Supplemental Budget. Motion Carried. RESOLUTION #2020-17 TO ADOPT A SUPPLEMENTAL BUDGET WHEREAS, the County Budget for Lawrence County, South Dakota, for the fiscal year 2020, 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 2020, and that in said budget there will be and is hereby appropriated the following sum of money, to-wit: EMERGENCY MANAGEMENT FUND SEARCH & RESCUE - \$3,377 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 26<sup>TH</sup> day of May, 2020 at the hour of 9:45 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 26<sup>th</sup> day of May, 2020. FOR THE BOARD OF COUNTY COMMISSIONERS Brandon Flanagan, Chairman ATTEST: Brenda McGruder Lawrence County Auditor.

**EXECUTIVE SESSION:** 9:55 a.m. Moved-Seconded (Rosenau-Sleep) to go into executive session pursuant to SDCL 1-25-2(3). Motion Carried. 10:39 a.m. The Board opened for regular business with no action taken.

Commissioner Rosenau gave an update on the Public Defender board meeting held on May 18, 2020.

**BILLS:** Moved-Seconded (Deibert-Rosenau) 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-\$7,033.31; Aud-\$11,641.73; Treas-\$13,549.12; States Atty-\$21,807.51; Pub Def-\$13,237.65; Gen Govt Bldg-\$9,663.16; Equal-\$15,733.24; Rod-\$9,682.79; Vso-\$1,736.20; Ist-\$9,653.45; Sher-\$53,147.07; Jail-\$28,452.46; Coroner-\$672.36; 24/7-\$367.03; Emerg Mgnt-\$4,650.41; E911-\$14,954.83; Highway-\$49,022.42; Mh Serv-\$97.00; Weed-\$4,204.08; P&Z-\$6,275.58; **Bills:** Moser, Douglas-\$212.00; Hamann, Alex-\$212.00; 3d Specialities-\$280.24; A To Z Shredding-\$91.80; A&B Business, Inc Solutions-\$807.62; A&B Welding Supply-\$35.94; A&I Distributors-\$3,358.95; Aspen Legacy Planning-\$1,480.70; Axon Enterprise-\$3,829.50; BH Pioneer-\$774.98; BH Window Cleaning-\$3,958.00; Barnaud Law Firm-\$9,272.74; Black Hills Energy-\$1,831.19; Bomgaars Supply-\$117.92; Breit & Boomsma PC-\$100.00; Butler Machinery Co-\$187.08; Central Restaurant Products-\$42.46; Centurylink-\$75.87; City Of Rapid City-\$400.00; Clinical Lab Of BH-\$15.00; Convergint Technologies-\$505.10; Credit Collections Bureau-\$212.16; Dakota Equipment Rental-\$2,999.76; Dale's Tire & Retread-\$6,420.00; Deadwood Dental-\$269.00; Deadwood Vol Fire Dept-\$21.76; Dept Of Hlth Lab Services-\$910.00; Dept Of The Treasury-\$65,133.82; Diamond Pharmacy-\$637.74; Fastenal-\$84.49; Godfrey's Brake Serv-\$1,402.93; Grimm's Pump Service-\$868.31; Heartland Paper Co-\$1,057.88; Hilt Construction-\$25.00; Horn Law Office Prof-\$212.00; Hoscheid Construction-\$4,781.64; Interstate Engineering-\$455.00; Jacobs Precision Welding-\$90.00; Johner Gravel-\$29,281.21; Journey Group Companies-\$123,749.64; K-Log-\$1,022.02; Kiesler's Police Supply-\$599.00; Kosel, Joseph-\$2,057.19; Lawson Products-\$502.95; Lee, James-\$15.00; Lynn's Dakotamart-\$54.22; Midcontinent Communications-\$111.57; Midwest Cleaning Solutions-\$113.00; Montana Dakota Utilities-\$10,383.88; Monument Health Network-\$299.56; Ms Mail-\$20.00; Nalco Company-\$261.24; Office Depot-\$163.81; Office Of Attorney General-\$315.69; Office Of Child Support-\$1,164.94; PCSO Addiction Treatment-\$226.00; Pennington Co Jail-\$858.58; Pennington County Sts Attny-\$215.00; Pizza Lab-\$69.75; Quill-\$199.71; Rabe Elevator-\$1,240.88; Rocket Lube-\$198.97; SDRS Supplemental Retirement-\$2,057.50; Semerad, Sandra-\$30.60; Servall

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Towel & Linen-\$441.60; Simon North Region-\$30,993.70; Spearfish Police Dept-\$10,618.61; Stadler Ind Service-\$404.70; Stan Houston Equip Co-\$749.50; Sturdevant's Auto Parts-\$15.29; Subway-\$55.13; Sysco Montana-\$1,437.39; The Glass Shop-\$681.00; Transource Truck & Equip-\$23.10; Triple K Tire & Repair-\$211.87; Trugreen Chemlawn-\$64.78; Turnkey Corrections-\$7.01; Twilight First Aid & Safety-\$268.50; Twin City Hardware & Lumber-\$235.83; Tyler Technologies-\$280.00; Vast Broadband-\$1,753.61; Verizon Wireless-\$106.43; Victims Of Violence-\$50.00; Wells Fargo Business Card-\$3,896.59; Western Communication-\$425.00; Yankton County-\$245.00.

**ADJOURN:** 10:48 a.m. There being no further business it was Moved-Seconded (Rosenau-Sleep) to adjourn the meeting. Motion Carried.

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Date Approved

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Brandon Flanagan, Chairperson

ATTEST:

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Brenda McGruder, Auditor