A meeting of the Pennington County Board of Commissioners was held on Tuesday, December 4, 2012, in the Commissioners' meeting room of the Pennington County Courthouse. Chairperson Lyndell Petersen called the meeting to order at 9:00 a.m. with the following Commissioners present: Ron Buskerud, Ken Davis, Don Holloway and Nancy Trautman.

APPROVAL OF THE AGENDA
MOVED by Trautman and seconded by Holloway to approve the agenda as presented. Vote: Unanimous.

CONSENT AGENDA ITEMS
The following items have been placed on the Consent Agenda for action to be taken by a single vote of the Board of Commissioners. Any item may be removed from the Consent Agenda for separate consideration.

MOVED by Davis and seconded by Buskerud to approve Consent Agenda Items 5-7 as presented. Vote: Unanimous.

5. Approve the minutes of the November 20, 2012, Board of Commissioners’ meeting.

6. Approve the vouchers listed at the end of the minutes for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment totaling $325,785.59.

7. Approve the 2013 Animal Shelter Control Agreement and authorize the Chairperson’s signature thereto.

LIEN RELEASE REQUEST FROM REAL PROPERTY – BLACK HILLS AREA HABITAT FOR HUMANITY: MOVED by Buskerud and seconded by Trautman to release the liens in the name AW (Name withheld per SDCL 28-13-42) totaling $451.00 and the liens in the name of ALW totaling $4323.91 from the property at 524 Mall Drive, also identified as Lot 11 of Dakota Subdivision No. 1 in Rapid City, pursuant to the request submitted by Todd Schweiger, attorney representing the Black Hills Area Habitat for Humanity. Vote: Unanimous.

ITEMS FROM AUDITOR

A. ALCOHOLIC BEVERAGE LICENSE RENEWALS: MOVED by Davis and seconded by Trautman to approve the renewal of the license applications listed below. Vote: Unanimous.

Wine Retail (on-off sale)
Black Hills Receptions, Joanne Wagner
Country Store at the Forks, The Covington Consulting Group, Inc.
Dalcam EZ Mart, Dalcam Oil Company Inc.
Hart Ranch Golf Course, Hart Ranch Development Co.
Mt. Rushmore KOA, Recreational Adventures Co.
Powder House Restaurant, Bug Guys LLC/Powder House Restaurant
Prairie Berry Winery, Prairie Berry LLC
Summer Creek Inn, Summer Creek Inn LLC
Winery Hill City, Winery Hill City LLC

**Retail (on-sale) Liquor with Sunday Sales**
Central States Fair, Inc., Central States Fair, Inc.
The Gaslight, Vengeance LLC
Holy Smoke Resort, Danielle Banks
Horse Creek Inn Restaurant, Castle Creek Enterprises Inc.
Mount Rushmore National Memorial, Xanterra Parks & Resorts Inc.
Ponderosa Restaurant & Lounge, Melrose Enterprises Inc.
Powder House Restaurant, Big Guys LLC/Powder House Restaurant
Rimrock Tavern, Harley R. Scovel
Sally O’Mally’s Pub & Casino, KJL Inc.
Shipwrecked Lee’s Saloon & Casino, Rose Havorka

**Package Liquor (off-sale)**
Johnson Siding General Store, Patrick S. Shannon

B. **BUDGET SUPPLEMENT HEARING – 2012 CAPITAL PROJECTS FUND BUDGETS:** MOVED by Holloway and seconded by Trautman to supplement to the Capital Projects Fund budgets as follows: 1) Project Administration, $327,835.00; 2) Parking Structure, $1,400,000.00; 3) Administration Building, $2,000,000.00; 4) Courthouse, $10,000.00; 5) Energy Plant $2,000,000.00; 6) Evidence Building, $4,000,000.00, all from cash reserves (bond proceeds 2010 A, B, C). Vote: Unanimous.

C. **BUDGET SUPPLEMENT HEARING – 2012 GENERAL FUND BUDGETS:** MOVED by Holloway and seconded by Trautman to supplement the following budgets: 1) General Fund Election, $18,685.00; 2) General Fund State’s Attorney, $12,000.00; 3) General Fund Economic Assistance $20,925.00; 4) E911 Fund Communications, $42,500.00; 5) Modernization & Preservation Fund, $19,330.00; 6) Health Care Trust Fund, $170,000.00, all from over-collected revenues received in 2012. Vote: Unanimous.

D. **BUDGET SUPPLEMENT HEARING – 2012 GENERAL FUND BUDGETS:** MOVED by Trautman and seconded by Buskerud to supplement the following funds: 1) General Fund Election fund $284.11 from assigned election grant reserve, and the following supplements requests are from unassigned fund balance: 2) General Fund ITS, $216,000.00; 3) General Fund Equalization, $20,000.00; 4) General Fund Jail Medical, $120,000.00; 5) Title III Fund Mountain Pine Beetle, $200,000.00; 6) Haz Mat Fund (LEPC), $1,775.00. Vote: Unanimous.
ITEMS FROM EMERGENCY SERVICES USERS BOARD

B.  (Items A & B taken out of agenda order) LEASE-PURCHASE AGREEMENT WITH MOTOROLA SOLUTIONS, INC: Moved by Holloway and seconded by Davis to approve the Lease-Purchase Agreement with Motorola Solutions as specified for $1,266,037 and authorize the Chairperson’s signature thereto. Vote: Unanimous.

A. RESOLUTION RELATING TO LEASE-PURCHASE AGREEMENT WITH MOTOROLA SOLUTIONS, INC: MOVED by Buskerud and seconded by Holloway to approve the resolution relating to the Lease-Purchase Agreement and authorize the Chairperson’s signature thereto. Vote: Unanimous.

RESOLUTION RELATING TO LEASE-PURCHASE AGREEMENT

BE IT RESOLVED by the County Commissioners of Pennington County (the "Issuer"), as follows:

Section 1. It is hereby determined that it is necessary and desirable to enter into the Lease-Purchase Agreement (the "Lease"), with Motorola Solutions, Inc., as Lessor in an amount not to exceed $1,266,037 attached hereto as Exhibit A for the purposes therein specified with changes to be approved by the Chairman and County Auditor.

Section 2. The Issuer designates the Lease as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The Issuer reasonably anticipates that the amount of tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the Issuer (and all entities subordinate to, or treated as one issuer with, the Issuer) during this calendar year 2012 will not exceed $10,000,000. The Issuer has not designated more than $10,000,000 of obligations issued by the Issuer during this calendar year 2012 for purposes of Section 265(b)(3) of the Code.

Section 3. The Lease is hereby made a part of this Resolution and is hereby approved in the form submitted to this meeting and the Chairman is authorized and directed to execute, acknowledge and deliver the Lease on behalf of the Issuer with such changes, insertions and omissions therein as do not change the substance of the Lease, such approval to be evidenced conclusively by his execution of the Lease.

Section 4. The Chairman and all other officers of the Issuer are hereby authorized and directed to execute all other documents which may be required under the terms of the Lease and to take such action as may be required or appropriate for the performance of the duties imposed thereby or to carry out the purposes thereof. In the absence or disability of the Chairman any other officer of the Issuer may execute the Lease or other document. The execution of any document by any officer of the Issuer shall be conclusive evidence of its approval.

Adopted: December 4, 2012
C. COMMUNICATIONS SYSTEMS AGREEMENT WITH MOTOROLA SOLUTIONS INC: MOVED by Trautman and seconded by Buskerud to approve the Communications System Agreement with Motorola Solutions and authorize the Chairperson’s signature thereto. Vote: Unanimous.

D. EMERGENCY SERVICES COMMUNICATIONS TOWER EXPANSION/SIMULCAST PROJECT WEST SITE CONSTRUCTION CONTRACT AWARD: MOVED by Davis and seconded by Buskerud to award the contract for the Emergency Services Communications Tower Expansion/Simulcast Project West Site Construction to RCS Construction for a contract value of $251,003 and further moved to authorize the Chairperson’s signature on the contract. Bid documents are available at Emergency Services Communications Center. Vote: Unanimous.

ITEMS FROM EQUALIZATION

A. ABATEMENT APPLICATIONS: MOVED by Davis and seconded by Trautman to approve the following abatements/refunds: 2011 – ID #8007007, Iseman Homes Inc., $115.50; ID #8011343, Roger or Sylvia Johnson, $606.36; 2012 – ID #8004353, Teresa Smith, $70.44. Vote: Unanimous.

ITEMS FROM EXTENSION - 2012 4-H Program Update

ITEMS FROM WEED & PEST

A. MOUNTAIN PINE BEETLE UPDATE: MOVED by Trautman and seconded by Buskerud that a letter be sent to Diamond Lumber thanking them for their donation to help fight the Mountain Pine Beetle. Vote: Unanimous.

ITEMS FROM CHAIR

A. Commission Response To The Spring Creek Watershed and Implementation Project Letters to the Editor: MOVED by Davis and seconded by Trautman to authorize the Chairperson’s signature on the response to recent letters to the editor printed in the Hill City Prevailer. Vote: Unanimous.

ITEMS FROM PLANNING & ZONING

MOVED by Davis and seconded by Holloway to convene as the Board of Adjustment. Substitute motion: MOVED by Davis and seconded by Trautman to take a ten minute recess. Vote: Unanimous. The Board reconvened at 10:45 a.m.
MOVED by Trautman and seconded by Davis to convene as the Board of Adjustment. Vote: Unanimous.

A. VARIANCE / VA 12-10: Stuart Adrian. To reduce the setback requirements from the Section Line right-of-way and the east property line from 25 feet to 5 feet in a General Agriculture District in order to construct a detached garage in accordance with Sections 205 and 509 of the Pennington County Zoning Ordinance.

That Part of E1/2SE1/4 located between Highway 40 and Lot X of E1/2SE1/4, Section 20, T2S, R7E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Petersen to approve Variance VA / 12-10. The motion failed on a roll call vote: Buskerud – no, Davis – no, Holloway – no, Trautman – yes, Petersen-yes.

Davis gave notice that he might bring the item back for reconsideration during the meeting.

MOVED by Trautman and seconded by Buskerud to adjourn as the Board of Adjustment and reconvene as the Board of Commissioners. The motion maker and second agreed to withdraw their motion.

MOVED by Davis and seconded by Trautman to reconsider Variance / VA 12-10. Vote: Unanimous.

MOVED by Davis and seconded by Trautman to approve Variance / VA 12-10 to reduce the setback requirements from the Section Line right-of-way and the east property line from 25 feet to 10 feet. The motion carried 4-1 with Buskerud voting no.

MOVED by Trautman and seconded by Davis to adjourn as the Board of Adjustment and reconvene as the Board of Commissioners. Vote: Unanimous.

PLANNING & ZONING CONSENT AGENDA
The following items have been placed on the Consent Agenda for action to be taken on all items by a single vote of the Board of Commissioners. Any item may be removed from the Consent Agenda for separate action.

MOVED by Trautman and seconded by Buskerud to approve Planning & Zoning Consent Agenda Items B - G as presented. Vote: Unanimous.

B. SECOND READING AND PUBLIC HEARING OF MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 12-04: John Majchrzak. To amend the existing Planned Unit Development for High Country Guest Ranch to allow an outdoor summer venue / concerts starting in June and going to the end of August. A bandshell and parking lot will be constructed in the southwest corner of the property in accordance with Section 213 of the Pennington County Zoning Ordinance.
ORDINANCE NO. PUD 12-04

AN ORDINANCE AMENDING SECTION 508 OF THE PENNINGTON COUNTY ZONING ORDINANCE, REZONING THE WITHIN DESCRIBED PROPERTY:

BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY COMMISSION THAT THE PENNINGTON COUNTY ZONING ORDINANCE BE AND HEREBY IS AMENDED BY AMENDING THE ZONING OF THE FOLLOWING DESCRIBED PROPERTY:

Tract A less High Country Ranch Subdivision and less Right-of-Way, Ray Smith Placer MS 995, Section 15, T1S, R4E, BHM, Pennington County, South Dakota, in accordance with Section 213 of the Pennington County Zoning Ordinance.

To amend the existing Planned Unit Development for High Country Guest Ranch. The Major Planned Unit Development Amendment use is hereby approved in accordance with the following twenty-seven (27) conditions:

1. That the permitted uses allowed on Tract A less High Country Ranch Subdivision and less Right-of-Way, Ray Smith Placer MS 995 not exceed six (6) vacation cabins, an eight (8) bedroom bunkhouse, eight (8) campsites, 160 parking spaces, band shell, concession and merchandise building, restroom facility and community wastewater disposal system area for the uses on site and lodge;

2. That the retail space in the lodge be limited to 750 square feet, a kitchen for those using the lodge and dining area, guest registration area, and administrative offices are also permitted within the lodge and shall not be included in the 750 square feet of retail space;

3. That the permitted uses allowed on Lot 12 be offices (which shall include guest registration), laundry, outdoor movie screen, commercial trail ride operations, a shop and maintenance building and a commercial kitchen and dining facility;

4. That the permitted uses for proposed Lots 17-20 be for private single-family residences or nightly/weekly rentals;

5. The permitted uses on Lot 13 include up to a twenty (20) unit lodge not to exceed 21,000 square feet with a commercial kitchen and dining area be used only by those renting the lodge, swimming pool, meeting rooms, bike rentals, and a maximum of twelve (12) guest stables;

6. That an On-site Wastewater Treatment System Construction Permit for the restroom facilities must be applied for by May 1, 2013. Soil profile and percolation tests will be completed prior to application submittal. In addition the OSWTS must be approved by DENR prior to application submittal;

7. That prior to any construction work within the 100 year floodplain, a Floodplain
Development Permit be obtained;

8. That if any disturbance would occur on the property that is greater than 10,000 square feet, a Construction Permit be required. The Construction Permit will require erosion control measures to prevent sediment from leaving the site and entering into Newton Fork Creek;

9. The minimum required front setback for Lots 1-9 shall be 20 feet and the minimum side yard setback for Lot 9 shall be 10 feet along the east side with the exception of Lot 3;

10. That the setbacks for Lot 3 be 14 feet for the rear-yard and 23 feet for the side-yard for the existing deck;

11. That all perimeter setbacks be at least twenty-five (25) feet with exception of the existing barn/office to be zero (0) feet and the stable to be ten (10) feet;

12. The minimum required setbacks for Lots 14, 15 and 17, the residential/vacation cabins sites, shall be a 15 foot front, 25 foot side yard and rear yard;

13. The minimum required setback for Lot 16 be twenty (20) foot front, twenty (25) feet from the north and east property line, and eighteen (18) feet from the west property line;

14. That all residential or resort structures located on Lots 1-9 not exceed 32 feet by 36 feet;

15. That quiet hours be 10:00 p.m. for the concert area;

16. That the maximum size of the outdoor movie screen be 20 feet by 20 feet;

17. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;

18. That Ray Smith Drive be maintained in a dust free manner;

19. That any open fires have a permit from South Dakota Wildland Fire;

20. That if the structure for the restroom facilities is not constructed prior to operation in June 11, 2013, at least one port-o-potty unit (or similar) be required per 50 persons;

21. That prior to County Board approval of the PUD amendment, the documentation for the second means of ingress/egress be provided;

22. That traffic control, such as (flaggers) on Deerfield Rd be provided at the end of each concert;

23. That the ATV rentals not exceed seven (7) vehicles;
24. That all rental ATVs leaving the Planned Unit Development not exceed ten (10) miles per hour on the first 4/10 of a mile of Battle Ax Road off Deerfield Road;

25. That all ground disturbed areas (other than road surface) be seeded with an approved native seed mix in accordance with the U.S. Forest Service;

26. That all traffic for the concert venue be directed / limited to Ray Smith Drive; and,

27. That this Planned Unit Development shall be reviewed in one (1) year to verify all conditions are being met or upon a complaint basis.

Dated this 4th day of December, 2012.

PENNINGTON COUNTY COMMISSION
/s/ Lyndell Petersen, Chairperson

ATTEST:
/s/ Julie A. Pearson, Auditor

C. PRELIMINARY PLAT / PL 12-38: Nina McBride / Sandy Varney. To create Lot 1 of Chase Subdivision in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: NE1/4SE1/4; Unplatted portion of Lot B; NW1/4SE1/4; and Lot B of SE1/4SE1/4 less Right-of-Way, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1 of Chase Subdivision located in Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

To continue Preliminary Plat / PL 12-38 to the December 18, 2012, Board of Commissioners’ meeting.

D. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 12-12: Nina McBride / Sandy Varney. To rezone 3.046 acres from General Agriculture District to Low Density Residential District in accordance with Sections 207 and 508 of the Pennington County Zoning Ordinance.

Located on the following metes and bounds: A parcel of land located in NE1/4 of SE1/4 of Section 15, T2N, R6E, BHM and in Lot B of SE1/4 of SE1/4 of Section 15, T2N, R6E, BHM, Pennington County, South Dakota, said parcel of land is described as follows: Beginning at NE corner of said parcel from whence the E1/4 corner of said Section 15 bears N 13°13’34” E a distance of 1188.44’; thence S 24°15’00” E a distance of 79.85’; thence S 8°22’00” E a distance of 199.97’; thence along the arc of a curve to the left whose angle is 22°20’44” and whose radius is 418.80’ a distance of 163.33’; thence S
December 4, 2012

72°34’26” W a distance of 374.19”; thence N 6°00’00” W a distance of 254.55”; thence N 73°03’00” E a distance of 505.00’ to the Point of Beginning. Said parcel of land contains 3.046 acres more or less.

To continue Rezone / RZ 12-12 to the December 18, 2012, Board of Commissioners’ meeting.

E. MINOR PLAT / PL 12-40 AND SUBDIVISION REGULATIONS VARIANCE / SV 12-14: Parker Properties. To create Lot 2R Revised of Tract A of Home Sweet Home Placer MS 804 and to waive plating requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 2R of Tract A (also in Section 34), Home Sweet Home Placer MS 804, Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 2R Revised of Tract A, Home Sweet Home Placer MS 804, Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

To sustain the Planning Commission’s recommended approval of Subdivision Regulations Variance / SV 12-14 to waive engineered road construction plans, percolation tests, soil profile information, Section Line Highway improvements, road improvements to Local Road standards for Watson Parker Road, topographic information at a five foot interval, construction of a cul-de-sac on Watson Parker Road and information of the existing water system and approval of Minor Plat / PL 12-40 with the following two (2) conditions: 1. That prior to any work being done within the boundaries of the 100-year floodplain, a Floodplain Development Permit must be obtained; and, 2. That prior to filing the plat with Register of Deeds the Plat Heading be shown as: (formerly Lot 2R of Tract A…”

F. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 12-11 AND COMPREHENSIVE PLAN AMENDMENT / CA 12-07: RMS Lode/Matt Keck. To rezone 6.99 acres from Limited Agriculture District and General Agriculture District to Highway Service District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development District and General Agriculture District to Highway Service District in accordance with Sections 210 and 508 of the Pennington County Zoning Ordinance.

Lots A and C of J.R. No. 5 Lode MS 1864 and Government Lots 9, 10, and 11 all in the NE1/4 of Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

To approve Rezone / RZ 12-11 and Comprehensive Plan Amendment / CA 12-07.

G. FIRST READING AND PUBLIC HEARING OF ORDINANCE AMENDMENT / OA 12-05: Pennington County. To amend Section 400.3-1-n-3, 6, and 10; Section 500.5-1-a-3-a; and Section 500.5 - Table 1 of the Pennington County Subdivision Regulations.
To approve the first reading of Ordinance Amendment / OA 12-05.

End of Consent Agenda

EXECUTIVE SESSION per SDCL 1-25-2

A. Contractual/Litigation per SDCL 1-25-2(3)
B. Personnel Issue per SDCL 1-25-2(1)

MOVED by Davis and seconded by Buskerud to convene in executive session. Vote: Unanimous. The Board remained in executive session from 11:23 a.m. until 11:49 a.m. MOVED by Davis and seconded by Buskerud to adjourn from executive session. Vote: Unanimous.

MOVED by Davis and seconded by Trautman to award merit pay for 2013 to Office Manager Holli Hennies. Vote: Unanimous.

AUDITOR’S ACCOUNT OF THE TREASURER
To the Pennington County Board of Commissioners, I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer as of November 27, 2012: Total balances of checking/savings accounts, $33,593,265.73; Total balance of Treasurer’s Office safe cash, $9,400.00; Total certificates of deposit, $2,578,697.28; Total Prime Value Investment, $4,208,201.45; Total petty cash, $111,470.00; Total Cash Items, $726.18; Total long/short, (633.43); Total, $40,501,127.21. Submitted by Lori Wessel, Deputy Auditor.

PERSONNEL

PAYROLL
Commissioners, 9,396.50; Human Resources, 4,585.67; Elections, 22,724.32; Auditor - liens, 2,647.29; Auditor, 15,817.53; Treasurer, 48,524.36; Data Processing - General, 41,825.39; State's Attorney, 149,328.20; Public Defender, 97,135.85; Juvenile Diversion, 10,455.44; Victim's Assistance, 5,203.66; Buildings & Grounds, 102,669.43; Equalization, 62,802.39; Register of Deeds, 23,333.90; Sheriff, 345,280.02; Service Station, 8,051.33; HIDTA Grant, 9,055.71; Jail, 430,860.54; Jail Work Program, 4,819.36; Hill City Law, 11,434.59; Keystone Law, 5,339.65; New Underwood – Law, 4,170.67; School Liaison, 17,273.12; Wall Law, 12,044.12; JSC Teachers, 18,685.03; Home Detention, 11,488.12; JAIG/JSC, 3,313.42; Alcohol & Drug, 138,259.05; Friendship House, 45,031.16; Economic Assistance, 51,049.83; Mental & Alcohol-SA0, 7,775.38; Mental & Alcohol-HHS, 3,508.25; Extension, 4,280.16; Weed & Pest, 9,597.91; Planning and Zoning, 19,871.37; Water Protection, 5,532.00; Ordinance, 3,508.25; Juvenile Services Center, 225,730.59; Highway, 185,194.72; Fire Administration, 6,302.83; Title III MPB, 9,991.13; Dispatch, 169,036.27; Emergency Management, 5,065.14; Emergency Management, 212.11; 24-7 Program, 16,081.87; PCCCC Building Projects, 2,785.36.

VOUCHERS
ADJOURN
MOVED by Buskerud and seconded by Davis to adjourn the meeting. Vote: Unanimous. There being no further business, the meeting was adjourned at 11:50 a.m.

Julie A. Pearson, Auditor

Published once at a cost of ___.
Publish: December 19, 2012