

**PENNINGTON COUNTY  
BOARD OF COMMISSIONERS' MINUTES  
April 2, 2013**

A meeting of the Pennington County Board of Commissioners was held on Tuesday, April 2, 2013, 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 and Nancy Trautman. Commissioner Holloway was not in attendance.

**OATHS OF OFFICE – COUNTY BOARD OF EQUALIZATION (SDCL 10-11-25)**

Judge Jeff Davis performed the oaths of office for the Commissioners to serve as members of the County Board of Equalization.

**APPROVAL OF THE AGENDA**

MOVED by Davis and seconded by Trautman 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 Buskerud and seconded by Trautman to approve Consent Agenda Items 6-8 and 10, 11, 13-15 as presented. Items 9 and 12 were removed for separate consideration. Vote: Unanimous.

6. Approve the minutes of the March 19, 2013, Board of Commissioners' meeting.
7. Correct the Personnel section of the March 5, 2013, minutes to show an effective date for N. Teal of 2/18/2013 instead of 2/18/2012.
8. 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 \$674,075.14.
9. *Removed for separate consideration.*
10. Approve the Chairman's signature on a letter of support for the Keystone XL Pipeline.
11. Approve the Authorization to Bid – Emergency Services East Communications Tower Project.
12. *Removed for separate consideration.*
13. Authorize the Highway Department to purchase bulk diesel and gas products from the State Contract List as follows: Contract #16470, Moyle Petroleum, 2504 West Main, Rapid City, SD; Contract #16464, Howe's Oil Company, 823 E. 14<sup>th</sup> Street, Sioux Falls, SD.
14. Approve the Federal Equitable Sharing Agreement and Certification between the Federal Government, Pennington County and the Pennington County Sheriff's Office and authorize the Chairperson's signature.

15. Declare surplus for donation to the Boys Club: asset #005560, a Multi-Use Station SM Quantum QMS 404 (exercise equipment).

Removed For Separate Consideration

9. MOVED by Buskerud and seconded by Trautman to approve the reimbursement request for travel expenses for Commissioner Davis totaling \$535.60. Commissioner Buskerud stated that he will provide statutory authority for the expenditure. Vote: Unanimous.

12. MOVED by Trautman and seconded by Buskerud to approve the Agreement for Maintenance of Hawthorne Ditch Facilities with Donna Klapperich in the amount of \$4000. Vote: Unanimous.

End of Consent Agenda

**ITEMS FROM AUDITOR**

- A. General Fund Supplement (SP13-006) Juvenile Diversion: MOVED by Trautman and seconded by Davis to supplement the 2013 General Fund Juvenile Diversion budget in the amount of \$19,000 from unassigned fund balance. Vote: Unanimous.
- B. General Fund Supplement (SP13-007) Auditor: MOVED by Trautman and seconded by Buskerud to supplement the 2013 General Fund Auditor's budget in the amount of \$64,831.00 from unassigned fund balance. Vote: Unanimous.
- C. General Fund OTO to Accumulated Building Supplement (SP13-008): MOVED by Buskerud and seconded by Davis to supplement the General Fund Operating Transfer Out (OTO) to Accumulated Building Equipment Replacement Reserve in the amount of \$46,687 and authorize approved OTO to Accumulated Building to the assigned equipment reserve. Vote: Unanimous.
- D. General Fund OTO to Accumulated Building Supplement (SP13-009) MOVED by Trautman and seconded by Buskerud to supplement the General Fund OTO to Accumulated Building Courthouse Remodel Reserve in the amount of \$97,575 and to authorize approved OTO to Accumulated Building to the assigned Courthouse Remodel Reserve. The motion carried 3-1 with Davis opposing.

**ITEMS FROM SHERIFF**

- A. Configuration Management Document Addendum B – Zuercher Technologies: MOVED by Davis and seconded by Trautman to authorize the Chairperson's signature on Addendum B to the Zuercher contract. Vote: Unanimous.

**ITEMS FROM EQUALIZATION**

- A. Abatement Applications: MOVED by Davis and seconded by Buskerud to approve the abatements/refunds for tax year 2012 as follows: Tax ID 64335, Breeze Inc., \$381.26; Tax ID 59301, Jordan D. Linial, \$600.98. Vote: Unanimous.

**ITEMS FROM BUILDINGS & GROUNDS**

- A. Update on Construction Projects – Mike Kuhl
- B. Parking Structure Addition Project – Change Order #1: MOVED by Trautman and seconded by Buskerud to authorize the Chairperson’s signature to Change Order #1, dated July 12, 2012, which decreases the Contract Sum by \$37,972.15 to \$4,244,071.85 and increases the Contract Time by 31 calendar days for the Heavy Constructors Inc., contract for the Parking Structure Addition. Vote: Unanimous.
- C. Parking Structure Addition Project – Certificate of Substantial Completion: MOVED by Trautman and seconded by Davis to authorize the Chairperson’s signature to the Certificate of Substantial Completion dated May 9, 2012, for the Parking Structure Addition Project, constructed by Heavy Constructors Inc. Vote: Unanimous.

**ITEMS FROM HIGHWAY DEPARTMENT**

- A. Green Valley Estates Drainage: MOVED by Trautman and seconded by Buskerud to authorize the Highway Department to enter into an agreement with D.C. Scott Surveyors Inc., in the amount of \$2,840 to complete the topographic route survey in Lot 7, and in Lots 32-28 inclusive of Block 5 of Green Valley Estates. Vote: Unanimous.

**PENNINGTON COUNTY HEALTH CARE TRUST BOARD UPDATE**

**FY2014 PENNINGTON COUNTY BUDGET DISCUSSIONS**

- A. Budget Preparation Guidelines: Information only, no action was taken.

MOVED by Buskerud and seconded by Davis to take a brief recess. Vote: Unanimous. The meeting reconvened at 10:40 a.m.

**ITEMS FROM PLANNING & ZONING**

MOVED by Davis and seconded by Trautman to continue Variance / VA 13-04 to the May 7, 2013, County Board meeting when all Commissioners will be in attendance. Vote: Unanimous.

- A. VARIANCE / VA 13-04: Sugar Daddy’s, Kerri Johnston. To reduce the minimum required front yard setback from 25 feet to 6 feet for a deck and from 25 feet to 21 feet for an existing building in a Highway Service District in accordance with Sections 210 and 509 of the Pennington County Zoning Ordinance.

Lot A of SE1/4SW1/4, Section 7, T2N, R5E, BHM, Pennington County, South Dakota.

**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 Buskerud and seconded by Davis to approve Consent Agenda Items B-F as presented. Vote: Unanimous.

- B. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 12-07 AND COMPREHENSIVE PLAN AMENDMENT / CA 12-05: RMS Lode/Matt Keck. To rezone 5.13 acres from Limited Agriculture District to Highway Service District and to amend the Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Highway Service District in accordance with Sections 210 and 508 of the Pennington County Zoning Ordinance.

EXISTING LEGAL: JR #2 Lode less Lot I, less Lot J and less Lot L of JR #2 and JR #5 Lodes and less Lot H2 of JR #2, #3 and #5 Lodes of JR #2 Lode MS 1864 and JR #3 Lode less Lots 1 and 2 of Lot E, less Lot H2 of JR #2, #3, and #5 Lode and less ROW, located in Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 2 of Stenson Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

Approve the first reading of Rezone 12-07 to rezone 5.13 acres from Limited Agriculture District to Highway Service District and approve Comprehensive Plan Amendment 12-05 to amend the Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Highway Service District.

- C. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 13-02: Jarvis and Frances Olson; Fisk Land Surveying – Agent. To rezone 7.65 acres from Limited Agriculture District to Low Density Residential District in accordance with Sections 206, 207, and 508 of the Pennington County Zoning Ordinance.

Located on a parcel of land located in the South One-Half of the Northeast One-Quarter of the Southeast One-Quarter (S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>) of Section Thirty-Five (35) in Township One North (T1N), Range Three East (R3E) of the Black Hills Meridian (BHM), Pennington County, South Dakota, more fully described as follows: Beginning at the southwest corner of said South One-Half of the Northeast One Quarter of the Southeast One Quarter (S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>) of Section Thirty-Five (35) in Township One North (T1N), Range Three East (R3E) of the Black Hills Meridian (BHM), Pennington County, South Dakota, said point being located on a 1/16th section line of said Section Thirty-Five (35) and being marked by a US Forest Service Monument; thence, northerly along the 1/16th section line of said Section Thirty-Five (35), North 00 degrees 09 minutes 00 seconds West, a distance of 260.00 feet more or less to a point marked by a rebar with survey cap

RW FISK 6565; thence, South 89 degrees 51 minutes 02 seconds East a distance of 1,282.70 feet more or less to a point located on the westerly line of the section line right-of-way for said Section Thirty-Five (35), said right-of-way being known as Paradise Drive, and said point being marked by a rebar with survey cap RW FISK 6565; thence, southerly on the westerly line of said section line right-of-way and on the westerly line of Paradise Drive right-of-way, South 00 degrees 00 minutes 43 seconds East a distance of 260.00 feet more or less, said point being located on a 1/16th section line and coincident with the northeast corner of Tract 14 of Leisure Hills Estates, and said point being marked by a monument with survey cap LS 2196; thence, westerly on said 1/16th section line and on the north line of said Tract 14 of Leisure Hills Estates, North 89 degrees 53 minutes 45 seconds West a distance of 549.64 feet more or less to the northwest corner of said Tract 14 of Leisure Hills Estates, said point being coincident with the northeast corner of Tract 15 of Leisure Hills Estates and said point being marked by a monument with survey cap LS 2196; thence, continuing westerly on said 1/16th section line and on the north line of said Tract 15 of Leisure Hills Estates, North 89 degrees 43 minutes 18 seconds West a distance of 542.94 feet more or less to the northwest corner of Tract 15 of Leisure Hills Estates, said point being coincident with the northeast corner of Tract 21 of Leisure Hills Estates and said point being marked by a monument with survey cap LS 2196; thence, continuing westerly on said 1/16th section line and on the north line of said Tract 21 of Leisure Hills Estates, South 89 degrees 54 minutes 44 seconds West 189.50 feet more or less to the point of beginning. Said tract of land contains 7.65 acres, more or less.

Continue Rezone 13-02 to the May 7, 2013, Board of Commissioners' meeting.

- D. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 13-01: Arlean Crow; Daniel Crow – Agent. To rezone 47.47 acres from Limited Agriculture District to General Agriculture District in accordance with Sections 205 and 508 of the Pennington County Zoning Ordinance.

Lot 8 Revised, Palmer Gulch Placer MS 690, Section 27, T1S, R5E, BHM, Pennington County, South Dakota.

Approve the first reading of Rezone 13-01 to rezone 47.47 acres from Limited Agriculture District to General Agriculture District.

- E. LAYOUT PLAT / PL 13-05: William Bennett; Renner & Associates - Agent. To create Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 3 of Summit Peak Estates Subdivision; Less Tract 2, 3, and 4 of Summit Peak Estates Subdivision and Less ROW (Also in Section 33) of Jolly No. 1 Lode MS 527; Less Tract 2 and 3 of Summit Peak Estates Subdivision and ROW (Also in Section 32) of Jolly No. 2 Lode MS 528; and Less Tract 1, 2, and 4 of Summit Peak Estates Subdivision and ROW (Also in Section 33) of Jolly No. 3 lode MS 529, located

in NE1/4 of Section 32 and in the NW1/4 of Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision, Sections 32 and 33, T1S, R5E, BHM, Pennington County, South Dakota.

Approve Layout Plat 13-05 to create Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision.

- F. LAYOUT PLAT / PL 13-04 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-01: Jarvis and Frances Olson; Fisk Land Surveying – Agent. To create Lots 1 and 2 of Olson Park Subdivision and to waive platting requirements in accordance with Section 400.1 and Section 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: S1/2NE1/4SE1/4, Section 35, T1N, R3E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2 of Olson Park Subdivision, Section 35, T1N, R3E, BHM, Pennington County, South Dakota.

Continue Layout Plat 13-04 and Subdivision Regulations Variance 13-01 to the May 7, 2013, Board of Commissioners' meeting.

End of Consent Agenda

**PERMITTED USES FOR GENERAL AGRICULTURAL ZONING – Jack Bradt**

MOVED by Davis and seconded by Buskerud to allow Jack Bradt to go back into business as he has been for 19 years, and further moved that Mr. Bradt apply to Pennington County for a Conditional Use Permit to operate the facility and that he has 120 days to provide the permit from the U.S. Forest Service that states that he can use the road easement to access his property. Vote: Unanimous.

Commissioner Buskerud left the meeting at this time and did not return.

**ITEMS FROM COMMISSION ASSISTANT**

- A. Resolution Supporting Efforts to Maintain the Tax Exempt Status of Municipal Bonds: MOVED by Davis and seconded by Trautman to approve the *Resolution of the Pennington County Commission Supporting Efforts to Maintain the Tax-Exempt Status of Municipal Bonds* and authorize the Chairperson's signature thereto. Vote: Unanimous.

**RESOLUTION OF THE PENNINGTON COUNTY COMMISSION  
SUPPORTING EFFORTS TO MAINTAIN THE TAX-EXEMPT STATUS  
OF MUNICIPAL BONDS**

WHEREAS, the tax-exempt status of municipal bonds is nearly a century old and is vital to funding local infrastructure and economic development; and

WHEREAS, of the \$1.65 trillion of local infrastructure investment over the last decade using tax-exempt bonds, nearly all of it was in six categories: \$514 billion for primary and secondary schools; \$288 billion for hospitals; \$258 billion for water and sewer facilities; \$178 billion for roads, highways and streets; \$147 billion for public power projects; and \$106 billion for mass transit.

WHEREAS, any move to change the current tax treatment of local government bonds would lead to higher borrowing costs for local governments; and

WHEREAS, without tax-exempt financing, much-needed infrastructure improvements would likely be delayed; and

WHEREAS, tax-exempt bonds are a critical tool for South Dakota counties to facilitate budgeting and financing of long-term investments in the infrastructure and facilities necessary to meet public demand for government services; and

WHEREAS at a time when infrastructure demands are great, increasing the cost of local government borrowing could have serious impacts on the national, state and local economies; and

WHEREAS, without the tax exemption, the effectiveness of the bond market would be significantly dampened, creating higher borrowing costs for county governments, less investment in infrastructure and fewer jobs.

NOW, THEREFORE, BE IT RESOLVED that Pennington County does hereby support maintaining the current tax-exempt status of municipal bonds.

Approved this 2<sup>nd</sup> day of April, 2013.

PENNINGTON COUNTY BOARD OF COMMISSIONERS  
/s/Lyndell Petersen, Chairperson

ATTEST:  
/s/Julie A. Pearson, Auditor

**EXECUTIVE SESSION per SDCL 1-25-2**

- A. Personnel Issue per SDCL 1-25-2(1)
- B. Contractual/Litigation per SDCL 1-25-2(3)
- C. Annual County Conference of Director of Equalization and Commissioners per SDCL 10-3-14

MOVED by Trautman and seconded by Davis to convene in executive session. Vote: Unanimous. The Board remained in executive session from 12:13 p.m. until 12:49 p.m. MOVED by Davis and seconded by Trautman to adjourn from executive session. The motion carried with three votes.

**PERSONNEL**

Public Defender: Effective 3/18/2013 – H. Haskell, \$14.67/hour; Effective 4/1/2013 - C. Ferguson, \$3017.00.

**PAYROLL**

Commissioners, 10,004.51; Human Resources, 4,747.58; Elections, 12,829.19; Auditor - liens, 2,997.65; Auditor, 19,241.30; Treasurer, 48,968.19; Data Processing - General, 53,226.57; State's Attorney, 147,221.50; Public Defender, 90,295.53; Juvenile Diversion, 10,815.64; Victim's Assistance, 5,387.37; Buildings & Grounds, 103,644.25; Equalization, 67,503.95; Register of Deeds, 22,583.79; Sheriff, 340,214.31; Service Station, 8,481.47; HIDTA Grant, 9,257.21; Jail, 464,609.72; Jail Work Program, 4,693.46; Coroner, 419.47; Hill City Law, 11,576.25; Keystone Law, 5,715.44; New Underwood – Law, 4,340.08; School Liaison, 17,084.43; Wall Law, 11,174.50; JSC Teachers, 18,727.43; Home Detention, 8,106.75; JAIG/JSC, 3,430.42; Alcohol & Drug, 139,900.64; Friendship House, 51,328.39; Economic Assistance, 53,040.63; Mental & Alcohol-SAO, 8,049.84; Mental & Alcohol-HHS, 3,632.01; Extension, 3,172.01; Weed & Pest, 8,927.54; Mountain Pine Beetle, ; Planning and Zoning, 20,747.80; Water Protection, 5,727.29; Ordinance, 3,632.01; Juvenile Services Center, 233,203.36; Highway, 179,008.31; Fire Administration, 5,647.04; Dispatch, 160,835.42; Emergency Management, 6,386.91; Emergency Management, 24-7 Program, 16,819.72; PCCCC Building Projects, 2,922.00.

**VOUCHERS**

Amcon Distributing Co, 1,629.20; At&T Mobility, 219.01; Bh Power Inc, 44,691.43; CBM Food Service, 9,418.45; City Of Hill City, 38.75; City Of Rapid City-Water, 1,508.88; City Of Wall, 135.00; Executive Mgmt Finance Office, 18.00; First Administrators, 131,537.24; First Interstate Bank, 3,351.73; Knology, 6,048.40; Latic Inc, 25.90; Medical Waste Transport, 123.05; Montana Dakota Utilities, 7,358.59; Qwest Communications, 3.55; Qwest Corporation, 243.04; Red River Service Corp, 5,199.98; US Bank NA, 455,565.00; Verizon, 5,116.56; West River Electric, 1,843.38.

**ADJOURN**

MOVED by Davis and seconded by Trautman to adjourn the meeting. Vote: Unanimous. There being no further business, the meeting was adjourned at 12:50 p.m.

Julie A. Pearson, Auditor

Published once at a cost of \_\_\_\_.

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