

**PENNINGTON COUNTY
BOARD OF COMMISSIONERS' MINUTES
October 1, 2013**

A meeting of the Pennington County Board of Commissioners was held on Tuesday, October 1, 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 Don Holloway was not in attendance.

APPROVAL OF THE AGENDA

MOVED by Davis and seconded by Buskerud to remove Item 20, Request to Set a Speed Zone – Clear Creek Placer Road District at the request of the applicant, and approve the agenda as amended. 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 5-11 as presented. Vote: Unanimous.

5. Approve the minutes of the September 20, 2013, 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 \$295,433.54.
7. Approve the revisions to the Video Recording Policy of Commission Meetings.
8. Approve the Highway Department's request to enter into the Services/Contract Agreement with the South Dakota Department of Game, Fish and Parks for snow removal for the Hill Top Parking Lot off of Deerfield Road for the period December 1, 2013, to April 1, 2014.
9. Approve the request by the IT Director to rescind the motion made during the September 20, 2013, meeting that placed the IT Systems Analyst at Grade 20C. It was noted that the correct step/grade is 20E which will pay the Systems Analyst more than those being supervised per County Wage Policy 220, Reclassification.
10. Approve the amendment to Contract for Library Services – Rapid City Public Library - and authorize the Chairperson's signature.
11. Approve the request from Weed & Pest to declare surplus 40 cases of red marking paint for the purpose of donation.

End of Consent Agenda

Pennington County Employee Service Recognition Awards

Commissioner Buskerud presented awards from the South Dakota County Convention.

Outstanding Service Award Winner for 2013: Scott Guffey, Director of Weed and Pest, for his work on the Mountain Pine Beetle problem.

Safety Awards: Pennington County Highway Department and Pennington County Buildings and Grounds.

Years of Service Certificates:

Captain Jay Evenson, 30 years, Sheriff's Office
Randy Walker, 30 years, Highway Department
Hiene Junge, 30 years, Highway Department
Luanne Thovson, 25 years, Department of Equalization
James Hohenthauer, 25 years, Buildings and Grounds
Karen Romey, 25 years, Health & Human Services
Lt. Joe McDonald, 25 years, Jail

Second Reading And Public Hearing – Ordinance #106 – An Ordinance For The Declaration And Abatement Of Public Nuisances (To Prohibit Texting While Driving):

MOVED by Buskerud and seconded by Davis to approve the second reading of the amendment to Pennington County Ordinance No. 106, An Ordinance for the Declaration and Abatement of Public Nuisances. Vote: Unanimous.

PENNINGTON COUNTY ORDINANCE NO. 106

AN ORDINANCE FOR THE DECLARATION AND ABATEMENT
OF PUBLIC NUISANCES

PURSUANT TO SDCL 7-8-33 and 7-18A-2, and consistent with the purpose of creating and maintaining a safe and healthy environment for the public welfare of Pennington County residents and their posterity; and

WHEREAS, the County believes a general definition of and a non-exhaustive list of enumerated conditions declared to be public nuisances will serve to clarify potential public nuisance situations in unincorporated areas; then therefore,

BE IT ORDAINED BY THE PENNINGTON COUNTY COMMISSION AS FOLLOWS:

Section 1. Definitions:

Clean Fill: Any concrete, rock, gravel, sand, dirt, or clay which has not been used as an absorbent for a regulated substance. Articles that contain chrome, are petroleum based such as asphalt, are compactible or burnable materials such as but not limited to paper, wood or plastic are prohibited.

Public Nuisance: Unlawfully doing an act or omitting to perform a duty which act or omission: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) in any way renders other persons insecure in life or in the use of property; (3) renders the ground, the water, the air, or food a hazard or an injury to human health; and in addition, (4) the specific acts, conditions, and things listed in Section 3 are hereby declared to constitute public nuisances, however, such additional enumeration is not deemed to be exclusive.

Manure: Animal excreta and other materials such as bedding, straw, soil, hair, feathers and other debris normally included in animal waste handling operations.

Stockpiling: In this context, it is unhealthful accumulation of a substance which causes a noxious odor, provides for infestation of flies, mosquitoes, rodents or other pests or is present in such concentrations that potential exists to cause contamination of water or soil by leaching, lateral transport, absorption, or other movement.

Adult Bookstore: “Adult Bookstore” means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premise by use of motion picture devices or any other coin operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

Specified Sexual Activities: “Specified sexual activities” is defined as

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Specified Anatomical Areas: “Specified anatomical areas” is defined as

- A. The following shall not be less than completely and opaquely covered:
 1. Human genitals, pubic region;
 2. Buttocks;
 3. Female breasts below a point immediately above the top of the areola;
 4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Adult Entertainment Cabaret: “Adult entertainment cabaret” means a public or private establishment which features topless dances, strippers, male or female impersonators, or similar entertainers.

Adult Motion Picture Theater: “Adult motion picture theater” means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical area for observation by patrons therein.

Electronic Communication Device: “Electronic communication device” means wireless or cellular phones, PDA’s, BlackBerries, smartphones, MP3 players, laptop or notebook computers utilizing VoIP (Voice-over Internet Protocol) technology, wireless and cellular phones utilizing push-to-talk technology, and any other mobile communication device that uses shortwave analog or digital radio transmission between the device and a transmitter to permit wireless communications to and from the user of the device.

Electronic Message: “Electronic message” means a self-contained piece of digital communication that is designed or intended to be transmitted between two electronic communication devices. An electronic message includes, but is not limited to, email, a text message, an instant message, a command or request to access a World Wide Web page, or other data that uses a commonly recognized electronic communications protocol. An electronic message does not include the

use of global positioning or navigation systems or voice or other data transmitted as a result of making a phone call or data transmitted automatically by an electronic communication device without direct initiation by a person.

Section 2.

- A. No persons, owner, occupant or person in charge of any house, building, lot, premises or motor vehicle in any unincorporated areas of Pennington County shall create, maintain or commit, or permit to be created, maintained or committed, any public nuisance as defined in Section 1 of this ordinance or as enumerated in Section 3 of this ordinance.
- B. Property classified as agricultural by the Pennington County Director of Equalization shall not be considered a nuisance in regard to the Definition in Section 1 for Clean Fill, Manure or Stockpiling; nor for the Definitions in Section 3 subparagraphs A, B, C, E, G and J.

Section 3.

The following are hereby declared to constitute public nuisances:

- A. Abandoned property: Any deteriorated, wrecked, dismantled or partially dismantled; inoperable and/or abandoned property in unusable condition having no value other than nominal scrap or junk value, which has been left unprotected outside of a permanent structure from the elements. Without being so restricted, this shall include deteriorated, wrecked, dismantled, or partially dismantled, inoperable, abandoned, and/or unlicensed motor vehicles, abandoned mobile homes, trailers, boats, machinery, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles in such condition. This shall not include any item which may be reasonably recognized as an antique by dealers in those types of items.
- B. Breeding place for flies, rodents, and/or pests: The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items.
- C. Combustible materials: Any dangerous accumulation upon any property of combustible refuse matter such as papers, sweepings, rags, grass, dead trees, tree branches, wood shavings, wood, magazines, cardboard, etc.
- D. Garbage and refuse: Household waste, including, but not limited to, items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linen and other apparel, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking utensils, and discarded household fixtures, when such items are stored, collected, piled or kept on private or public property, and in view of adjacent properties or public right-of-ways.
- E. Fill: Filling a gravel pit or other hydrologically or environmentally sensitive area with something other than clean fill.

- F. Impure Water: Any well or supply of water which is not in compliance with or is in violation of sanitary sewer district regulations, state water regulations, or state waste laws or county ordinances.
- G. Manure Disposal: Any un-spread accumulation of manure which has been transported from the point of generation. Any manure deposited within 300 feet of a residence without benefit of incorporation into the soil.
- H. Polluting River: Depositing any dead animal, decayed animal, vegetable matter, garbage, discarded, items, manure or any slops or filth whatever, either solid or fluid, into any water body designated or undesignated as a source of water supply, or allowing such material to be deposited or remain in an area where runoff from such material may end up on such water body.
- I. Transport of Materials: Deposition, permitting deposition or negligent deposition on any road, highway or public right-of-way any manure, septage, garbage, rubbish, fill, fuel, fertilizers, wastes, chemicals, or wood while engaging in handling or removing any such substances.
- J. Vegetation: Weeds and grass, exclusive of crops and pasture land, growing to a height of greater than eighteen (18) inches.
- K. Adult bookstores, adult entertainment cabarets or adult motion pictures theaters that are located within 1000 feet of any existing residential zone, school, church, park, playing fields, or other areas in which large numbers of minors regularly travel or congregate.
- L. Operation of motor vehicle while using an electronic communication device: No person may operate a motor vehicle while using an electronic communication device to compose, read, or send an electronic message when the vehicle is in motion.

Exceptions: It is not a public nuisance if the electronic communication device is being used:

- 1) In the reasonable belief that a person's life or safety is in immediate danger; or
- 2) In an emergency vehicle while in the performance of official duties.

Section 4. Public Nuisance Penalty and Remedy:

- A. Any person who maintains, commits, or fails to abate a public nuisance as required under the provisions of this ordinance shall be subject to a maximum penalty of thirty (30) days in jail or a two hundred dollar

(\$200.00) fine, or both. A separate offense shall be determined on each day during or on which a violation occurs or continues.

- B. In addition, the County may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through SDCL 21-10-9.

Section 5. Notwithstanding any provision of this Ordinance to the contrary, it is expressly declared that a person shall not be charged with a violation of this Ordinance and no relief can be sought against the person under the provisions of this Ordinance when the conduct or activity which is alleged to violate this Ordinance is conduct or activity which is authorized by permit, license, authorization, or approval issued by the United States of America, the State of South Dakota, Pennington County, or any municipality within the County, and any agency or department of those governmental entities.

Section 6. Severability. If any provision of this ordinance shall be held invalid, it shall not effect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

Approved this 1st day of October, 2013.

PENNINGTON COUNTY BOARD OF COMMISSIONERS

/s/ Lyndell Petersen, Chairperson

ATTEST: (SEAL)

/s/ Julie A. Pearson

Pennington County Auditor

Pennington County Resolution in Support of State Legislation Prohibiting the Use of Electronic Communication Devices While Driving: MOVED by Buskerud and seconded by Trautman to approve the Resolution entered below and authorize the Chairperson's signature thereto. Vote: Unanimous.

PENNINGTON COUNTY COMMISSION RESOLUTION IN SUPPORT OF STATE LEGISLATION PROHIBITING THE USE OF ELECTRONIC COMMUNICATION DEVICES TO COMPOSE, READ OR SEND ELECTRONIC MESSAGES WHILE OPERATING A MOTOR VEHICLE

WHEREAS, according to the NHTSA, in 2010 3,092 people were killed in crashes involving a distracted driver and an estimated additional 416,000 were injured in motor vehicle crashes involving a distracted driver, and

WHEREAS, texting while driving is one of the most dangerous of all distracted driving activities because it takes your hands off the wheel and eyes and mind off the road, and

WHEREAS, sending or reading a text averages 4.6 seconds and, at 55 mph that's like driving the length of a football field blindfolded which creates a crash risk 23 times worse than nondistracted driving, and

WHEREAS, without a uniform state-wide law prohibiting such activity, motorists and pedestrians are subject to a checkerboard application of inconsistent local ordinances further confusing those subject to the law and leaving significant populated areas without adequate safeguards in place; now therefore,

BE IT HEREBY RESOLVED that the Pennington County Commission is in favor of legislation being introduced and enacted during the 2014 legislative session prohibiting the use of electronic devices while operating a motor vehicle.

Duly passed and adopted by the Pennington County Commission on the 1st day of October, 2013.

PENNINGTON COUNTY COMMISSION:

/s/ Lyndell Petersen, Chairperson

ATTEST: (SEAL)

Julie A. Pearson, Pennington County Auditor

Lien Release Request – Kirk Murphy

MOVED by Trautman and seconded by Buskerud to approve the request submitted by Kirk Murphy to release the following liens from the property legally described as Lot 9, Glore Brothers Addition, Pennington County, SD, Property ID 2409. The liens are recorded as (Names withheld per SDCL 28-13-42) A.B.J., \$2980.37; A.B.J., \$160.33; J.J., \$323.93; K.W., \$302.90. Vote: Unanimous.

Proposed Cain Creek Land Exchange Letters: MOVED by Trautman and seconded by Davis to approve the signatures of the five sitting commissioners on the letters opposing the Cain Creek Land Exchange. Vote: Unanimous.

Agricultural (AG) Taxation – Reports from Commissioner Trautman & Brenda Whiting

ITEMS FROM AUDITOR

- A. **General Fund Supplement SP13-013 – Accumulated Building Fund Tower Project Budgets:** MOVED by Buskerud and seconded by Trautman to supplement the General Fund Operating Transfer budget in the amount of \$84,400 from Assigned General Fund Reserves and approve the Operating Transfer in the same amount. It was further moved to supplement the Accumulated Building Tower Project budget in the amount of \$84,400 from the transferred funds. Vote: Unanimous.

ITEMS FROM HUMAN RESOURCES

A. County Employee Handbook – Information Item

Items From Chair

Commissioner Buskerud read a Proclamation from South Dakota Governor Dennis Daugaard declaring the week of September 30, 2013, as Manufacturing Week.

EXECUTIVE SESSION per SDCL 1-25-2

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

MOVED by Davis and seconded by Buskerud to convene in executive session. Vote: Unanimous. The Board remained in executive session from 9:54 a.m. until 10:30 a.m. MOVED by Buskerud and seconded by Trautman to adjourn from executive session. 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 Davis to approve Planning & Zoning Consent Agenda Items A-E as presented. Vote: Unanimous.

- A. MINOR PLAT / PL 13-19: Robert Tschetter; Fisk Land Surveying – Agent. To create Lots 1R and 2R of Berry Development in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1, 2, and 3, Berry Development, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1R and 2R, Berry Development, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

Approve Minor Plat / PL 13-19 with one (1) condition: 1. That prior to filing the plat with Register of Deeds, the 33-foot access easement be signed as Meander Lane.

- B. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 13-16 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-10: Alison Lewis; Fisk Land Surveying – Agent. To rezone 3.71 acres from Limited Agriculture District to Low Density Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lots 4, 5, 7, 8, 9, and 10, Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

Approve Rezone / RZ 13-16 and Comprehensive Plan Amendment / CA 13-10.

- C. MINOR PLAT / PL 13-18 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-10: Wade and Sharon Reynolds. To create Lots 1 and 2 of Reynolds Subdivision and to waive platting requirements in accordance with Sections 700.1 and 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: E1/2SW1/4 and W1/2SE1/4 lying south of Spring Creek Road, Section 5, T2S, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2 of Reynolds Subdivision, Section 5, T2S, R9E, BHM, Pennington County, South Dakota.

Approve Subdivision Regulations Variance / SV 13-10 with the exception of dedication of a drainage easement for the portion of Spring Creek traversing the southwest portion of proposed Lot 1, and approve Minor Plat / PL 13-18 with the following six (6) conditions:

1. That the Certificate of Planning Director be removed from the plat;
2. That a drainage easement be dedicated on the plat for the portion of Spring Creek traversing the southwest portion of proposed Lot 1;
3. That the dedicated access easement on existing W1/2SE1/4 lying south of Spring Creek Road be vacated on the plat;
4. That an access easement be dedicated on the plat if the applicant is proposing to share the existing approach off of Lower Spring Creek Road to provide access to proposed Lot 2;
5. That an approved Floodplain Development Permit be obtained prior to any work being conducted within the boundaries of the 100-year floodplain; and,
6. That following platting of the proposed lots, any on-site wastewater treatment system be subject to the requirements of Section 204-J of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit.

- D. MINOR PLAT / PL 13-17 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-09: Arlin Stratmeyer. To create Lots 7 Revised, 8 Revised, and 9 of A & J Subdivision and waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 7 and 8, A & J Subdivision, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 7 Revised, 8 Revised, and 9 of A & J Subdivision, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

Approve Subdivision Regulations Variance / SV 13-09 to waive road improvements to Adjenty Court and Stratmeyer Court and waive submittal of engineered road construction

plans for the required road improvements, and approve Minor Plat / PL 13-17 with the following eight (8) conditions.

1. That an Operating Permit be obtained for the existing on-site wastewater treatment system on proposed Lot 7 Rev prior to filing the plat at the Register of Deed's Office;
2. That the spelling of the last name of the owners of proposed Lot 7 Rev be corrected on the plat prior to filing the plat at the Register of Deed's Office;
3. That the minimum required setbacks be maintained for all structures and on-site wastewater treatment systems on each of the proposed lots in accordance with the Pennington County Zoning Ordinance and South Dakota Administrative Rules. If it is ever determined in the future that any of these improvements are not meeting the minimum required setbacks, it will be the responsibility of the landowner to correct;
4. That the applicant provide verification that Lot 9 will be incorporated into the Pine Haven Road District;
5. That prior to filing the plat at the Register of Deed's Office, Adjenty Court and Stratmeyer Court be improved to Low Density Residential Local/Collector Road Standards, including a 24-foot-wide, four (4)-inch graveled driving surface, a surety or bond be posted for the road improvements, or the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement;
6. That prior to the required road improvements being conducted on Adjenty Court and Stratmeyer Court, engineered road construction plans be provided or else the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement; and,
7. That all U.S. Forest Service boundary markers and corner be protected, no personal property or utilities be located on National Forest System Lands, and no access be provided through National Forest System Lands.
8. That a Fire Mitigation Plan, for proposed Lot 9, addressing thinning, building construction materials, and landscaping be reviewed and approved by the County Fire Coordinator prior to issuance of a Building Permit on proposed Lot 9.

E. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 13-17 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-11: Rapid City DSDP VIII, LLC; Austin Rogers – Agent; (Landowner – Jerry and Donna Olson). To rezone 1.5 acres from Limited Agriculture District to General Commercial District and amend the Pennington County Comprehensive Plan to change the Future Land Use from Suburban Residential District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

The following describes a parcel of real property being a portion of Tract 1, less Utility Lot 1, less Lot B, less Lot WR of the NE1/4NE1/4, less Lots H1, H2, H3, H4 and less ROW of Longview Road, all in Paul Subdivision, Section 15, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, being more particularly described as follows: COMMENCING at the Southeast corner of Lot H-4 of Tract 1 of Paul Subdivision recorded in Book

11 of Highway Plats at Page 173, said corner marked by a 5/8" rebar capped "LS 3712"; THENCE; along the southerly boundary line of said Lot H-4, also being the southerly Right-of-Way line of Longview Road, South 87°54'00" East, 242.58 feet to a found 5/8" rebar capped "LS 3712" marking the Southwest corner of said Lot H-4; THENCE; leaving said southerly boundary line along the westerly boundary line of said LOT H-4, South 02°06'47" West, 11.22 feet to a point on the southerly Right-of-Way of Longview Road; THENCE; leaving said westerly boundary line, along said southerly Right-of-Way line, also being the Southerly boundary line of Lot H1 as shown on the official plat thereof on file in the Pennington County Register of Deeds office in Book 11 of Plats at Page 67, North 87°53'13" West, 112.49 feet to a set 5/8" rebar capped " CETEC LS 4725" marking the beginning of a curve to the left; THENCE; along said curve to the left 90.79 feet to a set 5/8" rebar capped "LS 4215" marking the Northwest corner of said Lot C, said curve having a central angle of 37°03'34", a radius of 460.00 feet, and being subtended by a chord which bears South 86°36'37" West, a distance of 90.64 feet to the POINT OF BEGINNING; THENCE; leaving said southerly Right-of-Way line, along the northerly boundary line of said Lot C, South 49°16'36" East, 168.91 feet to a set 5/8" rebar capped "LS 4725" marking the Northeast corner of said Lot C; THENCE; leaving said northerly boundary line, along the easterly boundary line of said Lot C, South 40°43'03" West, a distance of 271.80 feet to a set 5/8" rebar capped "LS 4725" marking the Southeast corner of said Lot C, said point also being on the northerly Right-of-Way line of SD Highway 44; THENCE; leaving said easterly boundary line, along the southerly boundary line of said Lot C, also being the northerly Right-of-Way line of said SD Highway 44, North 49°15'59" West, a distance of 277.06 feet to a set 5/8" rebar marking the southwest corner of said Lot C, said corner also marks the intersection of the Right-of-Way lines for said Longview Road and said SD Highway 44; THENCE; leaving said southerly boundary line, and said northerly Right-of-Way line, along the southeasterly Right-of-Way of said Longview Road, also being the westerly boundary line of lot C, 297.53 feet along the arc of a curve to the right, said curve having a central angle of 37°03'34", a radius of 460.00 feet and being subtended by a chord which bears North 62°25'35" East, a distance of 292.37 feet to the POINT OF BEGINNING; The above-described parcel of real property contains 65,282.32 Sq. Ft., 1.498 Acres, more or less and is SUBJECT TO a 15 foot wide Right-of-Way Easement granted to the Rapid Valley Irrigation Ditch Company being centered on the centerline of the Murphy Ditch, said Easement is recorded in Book 15 at Page 8318 of Miscellaneous Record, Pennington County Recorders Office; Also SUBJECT TO an Access and Culvert Maintenance Easement granted to the Rapid Valley Irrigation Ditch Company for the maintenance of a 48 inch pipe and the aforementioned Murphy Ditch, said Easement is recorded in Book 16 at Page 5460 of Miscellaneous Records, Pennington County Recorders Office; Also SUBJECT TO all easement and reservations of record.

Approve Rezone 13-17 and approve Comprehensive Plan Amendment 13-11.

End of Consent Agenda

REGULAR PLANNING & ZONING ITEMS

- F. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 13-14 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-08: Mitch Morris. To rezone 200.73 acres from General Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to Suburban Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Being 200.73 acres of land located in the NE1/4 of Section 32 and in the NW1/4 of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 200.73 acres of land being more particularly described by metes and bounds as follows, all measurements are to be considered as being followed by the words "more or less"; COMMENCING, for location purposes only, at the northeast corner of Section 32 also being the northwest corner of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian; Thence, South 00°04'45" West, along the common line between Section 32 and Section 33, a distance of 500.00 feet to the POINT OF BEGINNING of the herein described tract; Thence, South 89°51'35" East, parallel to and 500 feet distant from the north line of the NW1/4 of Section 33, a distance of 2656.35 feet to a point for corner on the east line of the NW1/4 of Section 33; Thence, South 00°08'05" West, along the east line of the NW1/4 of Section 33, a distance of 2165.91 feet to a point for corner; Thence, North 89°41'05" West, along the south line of the NW1/4 of Section 33, a distance of 2654.26 feet to the southwest corner of the NW1/4 of Section 33 also being the southeast corner of the NE1/4 of Section 32; Thence, North 89°42'51" West, along the south line of the NW1/4 of Section 32, a distance of 1270.58 feet to a point for corner; Thence, North 06°22'35" West, a distance of 2169.92 feet to a point for corner, 500 feet south of the north line of the NE1/4 of Section 32; Thence, South 89°48'35" East, parallel to and 500 feet distant from the the north line of the NE1/4 of Section 32, a distance of 1514.54 feet to the POINT OF BEGINNING and containing 200.73 acres, more or less, of land.

MOVED by Buskerud and seconded by Trautman to deny without prejudice Rezone / RZ 13-14 and Comprehensive Plan Amendment / CA 13-08 pursuant to Planning Commission recommendation and a recent foreclosure sale. The motion carried 4-0 on a roll call vote: Buskerud – yes, Davis – yes, Trautman – yes, Petersen – yes.

This item was reconsidered at the end of the Planning & Zoning Items.

Commissioner Buskerud briefly left the meeting and returned during Item G.

- G. THE SPRING CREEK WATERSHED MANAGEMENT AND PROJECT IMPLEMENTATION PLAN – PROJECT UPDATE / FEEDBACK – SD DENR: Pete Jahraus, Non-Point Source Manager, and Barry McLaury, Spring Creek Project Manager

for the South Dakota Department of Environment and Natural Resources were in attendance for this item.

H. THE SPRING CREEK WATERSHED MANAGEMENT AND PROJECT IMPLEMENTATION PLAN – ADVISORY GROUP RECOMMENDATIONS.

MOVED by Buskerud and seconded by Davis to continue two onsite wastewater applications: SPC2013PC98B for Warren Alexander and SPC2013PC101B for Jeff Hermanson, for further information. Vote: Unanimous.

MOVED by Davis to approve riparian application SPC2013PC105 for Darrell Sullivan and postpone SP2013PC98A until Warren Alexander has an opportunity to disclose information. The motion died for lack of a second.

MOVED by Trautman to approve riparian application SPC2013PC105 for Darrell Sullivan. The motion died for lack of a second.

MOVED by Buskerud and seconded by Trautman to approve riparian application SPC2013PC105 for Darrell Sullivan. There was a 2-2 tie vote* on the roll call vote: Buskerud - no, Davis - no, Trautman – yes, Petersen – yes.

MOVED by Trautman and seconded by Petersen to approve riparian application SP2013PC98A for Warren Alexander. There was a 2-2 tie vote* on the call vote: Buskerud – no, Davis – no, Trautman – yes, Petersen – yes.

**7-8-18. Tie vote of commissioners. When the board of county commissioners is equally divided on any question, it shall defer a decision until the next meeting of the board and the matter shall then be decided by a majority of the board.*

MOVED by Buskerud and seconded by Trautman to approve the recommendation that the Pennington County Board of Commissioners allow continuous cost-share application submittals for Segment 2. The Advisory Group will meet at least twice per year but not more than quarterly to consider the applications and make recommendations to the Board of Commissioners. Vote: Unanimous.

MOVED by Trautman and seconded by Petersen to approve the Spring Creek Watershed Management and Project Implementation Plan Segment 2 Amendment for submission to the South Dakota Department of Environment and Natural Resources. Vote: Unanimous.

I. THE SPRING CREEK WATERSHED MANAGEMENT AND PROJECT IMPLEMENTATION PLAN – PARTICIPANT AGREEMENTS: MOVED by Buskerud and seconded by Trautman to continue the request for the chairperson’s signature on the Spring Creek Watershed Management and Project Implementation Plan participant agreements. Vote: Unanimous.

- F. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 13-14 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-08, Mitch Morris (*Brought back from earlier in the meeting*): MOVED by Buskerud and seconded by Davis to reconsider the denial without prejudice of Item 22F and bring it back for the October 15, 2013, County Board meeting since more information has now become available. 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 September 24, 2013: Total balances of checking/savings accounts, \$26,695,481.01; Total balance of Treasurer's Office safe cash, \$9,700.00; Total certificates of deposit, \$2,592,133.11; Total Prime Value Investment, \$3,075,836.74; Total petty cash, \$111,470.00; Total Cash Items, \$0; Total long/short, (\$485.00); Total, \$32,484,135.93. Submitted by Lori Wessel, Deputy Auditor.

PAYROLL

Commissioners, 10,004.51; Human Resources, 4,747.58; Elections, 12,716.57; Auditor - liens, 3,497.26; Auditor, 18,611.81; Treasurer, 52,716.52; Data Processing - General, 81,177.74; State's Attorney, 149,202.89; Public Defender, 112,655.49; Juvenile Diversion, 11,826.66; Victim's Assistance, 5,387.37; Buildings & Grounds, 109,945.64; Equalization, 70,714.05; Register of Deeds, 24,624.06; Sheriff, 367,589.06; Service Station, 8,335.53; HIDTA Grant, 9,985.42; Jail, 521,419.61; Jail Work Program, 4,834.41; Coroner, 419.47; Hill City Law, 12,474.12; Keystone Law, 5,385.15; New Underwood - Law, 4,340.09; School Liaison, 17,173.18; Wall Law, 13,967.91; Home Detention, 11,713.71; Alcohol & Drug, 133,589.99; Friendship House, 80,469.98; Economic Assistance, 59,703.28; Mental & Alcohol-SAO, 8,049.84; Mental & Alcohol-HHS, 3,632.01; Extension, 3,234.00; Weed & Pest, 18,918.96; Planning and Zoning, 23,650.58; Water Protection, 6,117.03; Ordinance, 3,632.01; Juvenile Services Center, 216,331.44; Highway, 186,835.93; Drug Seizure, 1,983.37; Fire Administration, 7,028.09; Title III MPB, 2,466.20; Dispatch, 164,870.93; Emergency Management, 7,096.73; 24-7 Program, 19,552.68; PCCCC Building Projects, 3,194.72.

VOUCHERS

Amcon Distributing, 407.30; Att, 5.51; BH Power Inc, 49,587.83; CBM Food Service, 10,675.17; Century Link, 7,939.80; City Of Box Elder, 463.41; City Of Hill City, 17.05; City Of Rapid City Water, 19,505.74; Executive Mgmt Fin Office, 20.00; First Administrators Inc, 178,711.35; FSH Communications LLC, 60.00; Montana Dakota Utilities, 3,972.42; Orbitcom Inc, 45.86; Pioneer Bank Trust, 4,732.11; Rapid Valley Sanitary, 213.36; RR Waste Solutions, 54.22; SDN Communications, 4,054.98; Verizon Wireless, 5,409.96; West River Electric, 1,430.31; WEX Bank, 2,995.13; WOW Internet Cable And Phone, 5,132.03.

ADJOURN

MOVED by Davis and seconded by Buskerud to adjourn the meeting. Vote: Unanimous. There being no further business, the meeting was adjourned at 11:48 a.m.

Julie A. Pearson, Auditor

October 1, 2013

Published once at a cost of ____.

Publish: October 16, 2013