

**PENNINGTON COUNTY
BOARD OF COMMISSIONERS' MINUTES
September 1, 2015**

The Pennington County Board of Commissioners met on Tuesday, September 1, 2015, in the Commission Chambers in the County Administration Building at 130 Kansas City Street, Rapid City, South Dakota. Chairperson Lyndell Petersen called the meeting to order at 9:00 a.m. with the following Commissioners present: Ron Buskerud, George Ferebee and Deb Hadcock. Commissioner Nancy Trautman was not in attendance.

APPROVAL OF THE AGENDA

MOVED by Buskerud and seconded by Hadcock 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 Hadcock and seconded by Buskerud to remove Item 5 for separate consideration and approve the remaining consent agenda items as presented. Vote: Unanimous.

5. Minutes of the August 18, 2015, meeting - removed for separate consideration.
6. Approve the vouchers located 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 \$121,591.82.
7. Approve and adopt the Americans with Disabilities Act (ADA) documents listed below to comply with the ADA and instruct the ADA coordinator to follow the guidelines set forth in the Agreement with the Department of Justice.
 - a. Americans With Disabilities Act Employment Policies
 - b. Americans With Disabilities Act Effective Communications Policy
 - c. Americans With Disabilities Act Grievance Procedure
 - d. Americans With Disabilities Act Written Procedures Notice

Removed for Separate Consideration

5. Approval of the Minutes of the August 18, 2015, Board of Commissioner's Meeting:
Moved by Ferebee to expand the explanation for the withdrawal of the motion to pass a Wheel Tax (Any and all Business Relating to the FY 2016 Budget) to state that the action was inconsistent with state law. The motion died for lack of a second.

MOVED by Hadcock and seconded by Buskerud to approve the minutes of the regular Board of Commissioners' meeting held August 18, 2015, as submitted. The motion carried 3-1 with Ferebee opposing.

End of Consent Agenda

COUNTY RESOLUTION: MEDICAL WASTE TRANSPORTATION FACILITY FOR STERICYCLE HEALTHCARE COMPLIANCE SOLUTIONS – Bridget Kelly, Regional Environmental Manager: MOVED by Hadcock and seconded by Buskerud to approve the Resolution to Approve a Medical Waste Transportation Facility. The motion carried 3-1 with Ferebee opposing.

**PENNINGTON COUNTY RESOLUTION
A RESOLUTION TO APPROVE A
MEDICAL WASTE TRANSPORTATION FACILITY**

WHEREAS, Stericycle desires to establish a medical waste truck to trailer transfer facility for the purposes of a medical waste transportation located at 900 East Omaha Street, Rapid City, SD; and

WHEREAS, the siting of this proposed facility is not in conflict with any established zoning laws or ordinances; and

WHEREAS, Stericycle will file a medical waste transportation facility application with the South Dakota Department of Environment and Natural Resources (DENR); and

WHEREAS, DENR will review that application to determine that the facility can be operated within the South Dakota laws and regulations; and

WHEREAS, DENR may recommend the approval of the permit with conditions adequate to safeguard the environment; and

WHEREAS, the Board of Minerals and Environment will review, modify, approve or deny the permit if the tentative recommendations and/or conditions of the permit are contested by any interested party; and

WHEREAS, the County Commission of Pennington County is required by South Dakota law SDCL 34A-6-103 to approve of a medical waste transportation facility prior to the issuance of a medical waste transportation facility permit.

NOW THEREFORE BE IT RESOLVED by the Pennington County Board of Commissioners of Pennington County, SD hereby approves operation of the proposed medical waste transportation facility to be operated under the terms of a medical waste transportation facility permit to be issued by the Board of Minerals and Environment.

Approved and dated this first day of September, 2015.

The Pennington County Board of Commissioners
/s/ Lyndell Petersen, Chairman

Attest: (SEAL)
/s/ Julie A. Pearson, Auditor

ITEMS FROM AUDITOR

- A. NEW (ON-OFF SALE) MALT BEVERAGE LICENSE AND NEW (ON-OFF SALE) WINE LICENSE: MOVED by Hadcock and seconded by Buskerud to continue the applications for Hisega Lodge to the October 6, 2015, Board of Commissioners' meeting. Vote: Unanimous.

ITEMS FROM EMERGENCY MANAGEMENT

- A. DISASTER AWARENESS AND SAFETY DAY 2015: The 7th Annual Disaster Awareness and Safety Day will be held Saturday, September 12, 2015.
- B. NEW COMMUNITY EMERGENCY RESPONSE TEAM (CERT) CLASSES STARTING SEPTEMBER 21 FOR ADULTS & TEENS

ITEMS FROM FIRE ADMINISTRATOR

- A. ANNEXATION OF AREAS BY RAPID CITY – UPDATE: No action was needed at this time.

The Board of Commissioners continued with other items on the agenda since it was not yet 10 a.m., the time advertised for the FY2016 Budget Hearing.

ITEMS FROM HIGHWAY DEPARTMENT

- A. AMERICANS WITH DISABILITIES (ADA) RAMP UPGRADES: MOVED by Hadcock and seconded by Buskerud to authorize the Highway Department to advertise for bids for ADA sidewalk ramp upgrades in Rapid Valley. A substitute motion by Ferebee to delay until Pennington County discusses the agreement with the Department of Justice died for lack of a second. The motion carried 3-1 with Ferebee opposing.
- B. MAGNESIUM CHLORIDE APPLICATIONS: MOVED by Ferebee and seconded by Hadcock to grant the Highway Superintendent the discretion to spend up to \$10,000 per annum to apply Mag Water on road locations of his choosing. Ferebee and Hadcock agreed to amend the motion to authorize the expenditure for three years. Vote: Unanimous.

EXECUTIVE SESSION per SDCL 1-25-2

MOVED by Buskerud and seconded by Hadcock to convene in executive session. Vote: Unanimous. The Board remained in executive session from 9:48 until 10:02.

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

MOVED by Hadcock and seconded by Ferebee to adjourn from executive session Vote: Unanimous. Commissioner Buskerud rejoined the meeting after the motion.

10 A.M. - HEARING FOR CONSIDERATION OF THE FY2016 PROVISIONAL BUDGET AS THE ANNUAL BUDGET OF APPROPRIATIONS, EXPENDITURES AND REVENUES FOR PENNINGTON COUNTY

- A. RECOMMENDATION FOR NEW EMPLOYEE ASSISTANCE PROGRAM: MOVED by Hadcock and seconded by Petersen to approve the Health Care Trust Board's recommendation to switch the EAP provider to Connections, Inc., effective January 1, 2016, and increase the Board's professional services line item to \$11,000 for the adjusted expense of the new provider. Commissioners Hadcock and Petersen voted yes and Commissioners Ferebee and Buskerud voted no.

Chief Deputy State's Attorney Jay Alderman advised the Board that due to the tie vote, the motion will be brought forward on the next agenda.

- B. NATIVE SUN NEWS MINUTES REQUEST – No action was taken.

C. SUBSIDY REQUESTS

1. East and West Pennington Conservation Districts: MOVED by Hadcock and seconded by Buskerud to deny funding for the Conservation Districts in the 2016 budget. Vote: Hadcock and Buskerud voted yes, Petersen voted no and Ferebee abstained from voting. The Chairperson announced that the motion failed because three votes are needed for a motion to pass.

MOVED by Ferebee and seconded by Petersen that organizations requesting subsidies from Pennington County that have something new or different to present, should be allowed to do so. Vote: Unanimous.

2. WAVI
3. Black Hills Vision
4. Ellsworth Task Force
5. Front Porch Coalition

- D. WHEEL TAX – Board directive and subsequent procedure/staff directive if passes

MOVED by Buskerud and seconded by Ferebee to continue the discussion of the Wheel Tax to the September 18, 2015, Board of Commissioners' meeting. Vote: Unanimous.

- E. WAGE STUDY: MOVED by Hadcock and seconded by Petersen to accept the wage study and incorporate it into the FY2016 Budget. Vote: Unanimous.

F. NEW FTE REQUESTS:

1. Treasurer: MOVED by Petersen and seconded by Hadcock to approve one new FTE in the Treasurer's budget for 2016. Commissioners Hadcock and Petersen voted yes and Commissioners Ferebee and Buskerud voted no. The motion will be brought forward on the next agenda.
2. State's Attorney: MOVED by Petersen and seconded by Hadcock to approve three FTEs for the State's Attorney. Commissioners Hadcock and Petersen voted yes and Commissioners Ferebee and Buskerud voted no. The motion will be brought forward on the next agenda.
3. Public Defender: MOVED by Petersen and seconded by Hadcock to approve one FTE for the Public Defender. Commissioners Hadcock and Petersen voted yes

and Commissioners Ferebee and Buskerud voted no. The motion will be brought forward on the next agenda.

G. ANY AND ALL OTHER ITEMS RELATED TO THE BUDGET

1. Pennington County Fire Service Board/Fire Administrator Position: MOVED by Buskerud and seconded by Hadcock to retain the position of Fire Administrator in the 2016 budget. The motion carried 3-1 with Ferebee opposing.
2. Other Commission Direction: A motion by Buskerud to remove \$709,000 from Accumulated Building died for lack of a second.

10:30 A.M. BOARD OF ADJUSTMENT

MOVED by Hadcock and seconded by Petersen to convene as the Board of Adjustment. Vote: Unanimous.

- A. VARIANCE / VA 15-20: Chelsea “Chuck” and Donna Ferguson. To reduce the minimum required lot size from 40 acres to 0.914 acre in a General Agriculture District in accordance with Sections 205 and 509 of the Pennington County Zoning Ordinance.

Commencing from the southeast corner of Tract G of Guyette Placer M.S.1489 located in SW1/4SW1/4 of Section 18, T2S, R7E, B.H.M. Pennington County, South Dakota. Thence around a right hand curve along the south right-of-way line of Highway 40 with a length of 48.27', a radius of 879.93', a chord bearing of S42°51'20"E and a chord distance of 48.26' to the Point of Beginning and northeast corner of proposed Lot 3 of Rushmore Cave Subdivision. Thence continuing around the same right-hand curve with a length of 131.33', a radius of 879.93', a chord bearing of S37°00'41"E and a chord length of 131.21' to a point on the line between a portion of Govt. Lot 4 and Lot B of Govt. Lot 4 thence N78°43'55"W a distance of 39.24' to the northern corner between Lot B and Tract A of Govt. Lot 4, thence N85°35'07"W along the northern boundary of Tract A a distance of 211.90' to a the northwest corner of Tract A, thence S8°11'00"W along the western boundary of Tract A a distance of 417.20' to a point, thence S4°18'07"E a distance of 200.00' to a point, thence S12°37'03"E a distance of 57.47' to a point, thence N85°17'00"W a distance of 78.20' to the south west corner of Proposed Lot 3 of Rushmore Cave Subdivision, thence N5°50'00"E a distance of 668.30' to a point coinciding with the northwest corner of proposed Lot 3 of Rushmore Cave Subdivision, thence N69°51'11"E a distance of 226.47' to the Point of Beginning. Said Parcel containing 0.914 acres more or less

MOVED by Hadcock and seconded by Ferebee to approve Variance / VA 15-20. The motion failed 3-1 with Buskerud voting no. (The Board of Adjustment requires four votes for approval).

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

PLANNING AND ZONING CONSENT AGENDA ITEMS

The following item(s) 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 Hadcock and seconded by Ferebee to approve the consent agenda as presented.
Vote: Unanimous.

- B. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 15-09 AND COMPREHENSIVE PLAN AMENDMENT CA / 15-09: Rodney Alexander; Renner & Associates – Agent. To rezone 7.615 acres from Highway Service District to Low Density Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Highway Service District to Low Density Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Located on the following metes and bounds descriptions: Commencing at the northwesterly corner of the Tin City Lode, M.S. 2504, located in Section 22, T2S, R4E, BHM, common to a corner on the southerly boundary of Lot 1 of the NW1/4 of the NE1/4 of Section 22, T2S, R4E, BHM, and the point of beginning; Thence, first course: S 76°20'56" E, along the northerly boundary of said Tin City Lode, common to the southerly boundary of said Lot 1, a distance of 299.56 feet, to the northeasterly corner said Tin City Lode; Thence, second course: S 13°46'22" W, along the easterly boundary of said Tin City Lode, common to the southerly boundary of said Lot 1, a distance of 613.03 feet, to a corner on the southerly boundary of said Lot 1, common to a corner on the northerly boundary of Lot 2 of the W1/2 of the NE1/4 of Section 22, T2S, R4E, BHM; Thence, third course: S 13°39'24" W, along the easterly boundary of said Tin City Lode, common to the northerly boundary of said Lot 2, a distance of 392.89 feet; Thence, fourth course: S 45°00'00" W, a distance of 122.46 feet; Thence, fifth course: S 90°00'00" W, a distance of 134.00 feet; Thence, sixth course: N 48°00'00" W, a distance of 120.00 feet, to a point on the westerly boundary of said Tin City Lode, common to a point on the northerly boundary of said Lot 2; Thence, seventh course: N 13°40'34" E, along the westerly boundary of said Tin City Lode, common to the northerly boundary of said Lot 2, a distance of 744.97 feet, to a corner on the northerly boundary of said Lot 2, common to a corner on the southerly boundary of said Lot 1; Thence, eighth course: N 13°49'06" E along the westerly boundary of said Tin City Lode, common to the southerly boundary of said Lot 1, a distance of 340.17 feet, to the point of beginning. Said parcel contains 7.615 acres, more or less.

Continue Rezone / RZ 15-09 and Comprehensive Plan Amendment / CA 15-09 to the October 6, 2015, Board of Commissioners' meeting.

- C. SUBDIVISION REGULATIONS VARIANCE / SV 15-17: Rodney Alexander; Renner & Associates – Agent. To waive platting requirements in order to create Lots 1 and 2 of Tin City Lode MS 2504 in accordance with Section 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All, Tin City Lode MS 2504, Section 22, T2S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2, Tin City Lode MS 2504, Section 22, T2S, R4E, BHM, Pennington County, South Dakota.

Continue Subdivision Regulations Variance / SV 15-17 to the October 6, 2015, Board of Commissioners' meeting.

End of Consent Agenda

REGULAR PLANNING ITEMS

D. VACATION OF PLAT / PL 15-01: Martin or Shirley Printz. To vacate Lot A in the NE1/4NW1/4 of Section 33, T2N, R12E.

EXISTING LEGAL: Lot A in the NE1/4NW1/4, Section 33, T2N, R12E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: All of Section 33 less right-of-way, T2N, R12E, BHM, Pennington County, South Dakota.

MOVED by Buskerud and seconded by Hadcock to approve Vacation of Plat / PL 15-01 with two (2) conditions. Vote: Unanimous.

1. That, prior to filing with the Register of Deeds, the applicant either remove two of the three existing approaches or obtain approval from the Board of Commissioners to allow more than one approach on the property; and,
2. That a Statement of Understanding be signed, within seven (7) business days of VP 15-01 being approved.

REQUEST FOR APPROVAL OF ADDITIONAL APPROACHES - Martin or Shirley Printz: MOVED by Ferebee and seconded by Hadcock to deviate from Ordinance 14 and permit Martin and Shirley Printz to keep three approaches to their property. Vote: Unanimous.

2015 PROPOSED RESOLUTIONS AND POLICY STATEMENTS – SOUTH DAKOTA ASSOCIATION OF COUNTY COMMISSIONERS – No action was taken by the Board of Commissioners.

EXECUTIVE SESSION per SDCL 1-25-2

MOVED by Hadcock and seconded by Ferebee to convene in executive session for contractual matters. Vote: Unanimous. The Board remained in executive session from 1:15 p.m. until 1:42 p.m. and reconvened with Ferebee, Hadcock and Petersen present.

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

MOVED by Hadcock and seconded by Ferebee to adjourn from executive session. 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 August 24, 2015: Total balances of checking/savings accounts, \$14,307,050.38; Total balance of Treasurer's Office safe cash, \$10,000; Total certificates of deposit, \$3,589,580.44; Total Prime Value Investment, \$18,654,596.35; Total petty cash, \$12,205.00; Total Cash Items, \$1,124.72; Total long/short, (\$505.89); Total, \$36,574,051.10. Submitted by Lori Wessel, Deputy Auditor.

PERSONNEL

Emergency Services Communications Center: Effective 9/23/2015 – Thomas Reese, \$21.35/hr.

IT: Effective 8/25/2015 – Daniel de Jesus, \$20.34/hr.

Public Defender: Effective 9/8/2015- Jeanette Pitts, \$4,961.00.

PAYROLL

Commissioners, 11,033.91; Human Resources, 5,028.30; Elections, 14,908.21; Auditor - liens, 3,724.00; Auditor, 17,336.11; Treasurer, 51,419.36; IT, 50,633.53; State's Attorney, 151,618.72; Public Defender, 126,455.23; VAWA Grant, 23,484.07; Juvenile Diversion, 9,008.66; VOCA, 5,645.36; Buildings & Grounds, 112,667.11; Equalization, 74,582.72; Register of Deeds, 23,417.65; Sheriff, 394,954.06; Service Station, 9,057.79; HIDTA Grant, 9,430.86; Jail, 528,417.74; Jail Work Program, 4,921.37; Jail Medical, 10,400.00; Coroner, 462.01; Hill City Law, 13,312.02; Keystone Law, 5,104.92; New Underwood – Law, 473.88; School Liaison, 16,482.16; Wall Law, 11,358.13; JSC Juvenile Alternative, 8,492.14; CCADP, 131,343.08; Adams House, 33,739.78; Economic Assistance, 60,422.69; Mental & Alcohol-SAO, 8,163.60; Mental & Alcohol-HHS, 3,938.06; Extension, 0.00; Weed & Pest, 13,935.46; Planning and Zoning, 17,561.44; Water Protection, 5,863.99; Ordinance, 887.21; Juvenile Services Center, 165,002.61; Road & Bridge, 185,719.19; Fire Administration, 6,930.24; Dispatch, 204,704.61; Emergency Management, 8,327.10; 24-7 Program, 22,373.40.

VOUCHERS

Amerigas, \$86.82; BH Power Inc, \$55,427.64; BH Power Inc, \$629.79; BH Power Inc, \$293.32; BH Power Inc, \$1,084.96; Century Link, \$26,855.89; Century Link, \$321.30; Century Link, \$3.61; City Of Box Elder, \$563.12; City Of Hill City, \$70.60; City Of Rapid City -Water, \$17,556.27; City Of Rapid City -Water, \$2,356.28; Executive Mgmt Fin Office, \$24.00; First Interstate Bank, \$760.96; Montana Dakota Utilities, \$3,181.42; Montana Dakota Utilities, \$413.31; Reliance Telephone Inc, \$7.48; Vast Broadband, \$3,691.48; Verizon Wireless, \$758.99; Verizon Wireless, \$5,437.46; West River Electric, \$236.58; West River Electric, \$950.43; Wex Bank, \$820.11; Wimactel Inc, \$60.00.

ADJOURN

MOVED by Hadcock and seconded by Ferebee to adjourn the meeting. The motion carried with Ferebee, Hadcock and Petersen voting yes. There being no further business, the meeting was adjourned at 1:44 p.m.

Julie A. Pearson, Auditor
Published once at a cost of ____.
Publish: September 16, 2015

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