

**PROCEEDINGS OF THE PENNINGTON COUNTY  
BOARD OF COMMISSIONERS  
November 1, 2016**

The Pennington County Board of Commissioners met at 9:00 a.m. on Tuesday, November 1, 2016, in the Commission Chambers in the County Administration Building, Rapid City, South Dakota. Chairperson Lyndell Petersen called the meeting to order with the following Commissioners present: Ron Buskerud, George Ferebee, Deb Hadcock and Nancy Trautman.

**REVIEW AND APPROVE AGENDA**

MOVED by Trautman and seconded by Hadcock to approve the agenda as presented. The motion carried.

Chairman Petersen noted that the agenda includes a bid opening at 11 a.m. and that item will be held as advertised and scheduled.

**VETERANS RECOGNITION – Sgt. Colton Levi Derr Foundation – Executive**

**Proclamation:** MOVED by Trautman and seconded by Ferebee to approve the Executive Proclamation for Veterans Appreciation Week, Pennington County, SD, and authorize the Chairman’s signature. 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 at the request of a board member or citizen for separate consideration. The motion carried.

MOVED by Hadcock and seconded by Buskerud to remove Consent Agenda Item 12 for separate consideration and approve the remaining Consent Agenda Items as presented. The motion carried.

6. Approve the minutes of the regular October 18, 2016, Board of Commissioners’ meeting as presented.
7. Approve the minutes of the special October 20, 2016, Board of Commissioners’ meeting as presented.
8. Acknowledge Disinterment Permit 1123150 from the South Dakota Department of Health.
9. SP16-015 - Schedule a public hearing at 9:15 a.m. on November 15, 2016, to supplement the Capital Projects Fund budgets as outlined – Courthouse Remodel \$1,546,500; County Health Facility \$1,932,150; Highway Building \$2,017,700 and Jail/Laundry and Kitchen \$170,000, from restricted fund balance in the Capital Projects Fund.
10. SP16-016 – Schedule a public hearing at 9:15 a.m. on November 15, 2016, to supplement the Capital Projects Fund Bond Service Fees budget in the amount of \$147,500 from bond proceeds received in the current year.
11. SP16-017 – Schedule a public hearing at 9:15 a.m. on November 15, 2016, to supplement the Accumulated Building Fund Debt Service budget in the amount of \$5,622,048 from

bond proceeds received in the current year for the refinance of 2011 A (\$5,530,000) and Accumulated Building Fund restricted fund balance (\$92,048).

12. Removed for separate consideration.

Removed for Separate Consideration

12. MOVED by Trautman and seconded by Hadcock to approve the Chairman's signature on the U.S. Geological Survey Joint Funding Agreement 17EMSD0026 as presented by Emergency Management. The motion carried 4-1 with Ferebee opposing.

End of Consent Agenda Items

**COUNTY CARES – PENNINGTON COUNTY 4-H YOUTH PROGRAMMING:** Matthew Olson and Jane Amiotte, SDSU Extension 4-H Youth Program Advisors, reported on 2015-2016 4-H Youth Programs and growth in attendance.

**2017 MEMORANDUM OF UNDERSTANDING – SDSU EXTENSION AND PENNINGTON COUNTY:** MOVED by Hadcock and seconded by Trautman to approve the 2017 Memorandum of Understanding between Pennington County and SDSU Extension and authorize the Chairman's signature. The motion carried.

**LIEN RELEASE REQUEST (MG Name withheld per SDCL 28-13-42)**

MOVED by Trautman and seconded by Buskerud to release \$253.28 of liens totaling \$558.28 recorded in the name of MG. The motion carried.

**ITEMS FROM AUDITOR**

- A. **PUBLIC HEARING – BUDGET SUPPLEMENT SP16-013 – HEALTH CARE TRUST FUND:** MOVED by Hadcock and seconded by Buskerud to approve a supplement to the Healthcare Trust Fund 2016 operating budget in the amount of \$500,000 from over collected current year revenue. Vote: Unanimous.
- B. **PUBLIC HEARING – BUDGET SUPPLEMENT SP16-014 – JAIL BUDGET:** MOVED by Hadcock and seconded by Buskerud to supplement the Jail Budget in the amount of \$191,000 from over collected current year revenues. Vote: Unanimous.
- C. **2017A BONDING REISSUE RESOLUTION:** MOVED by Trautman and seconded by Hadcock to authorize the Chairman's signature on the following resolution. The motion carried 5-0 on a roll call vote: Buskerud – aye, Ferebee – aye, Hadcock – aye, Trautman – aye, Petersen – aye.

RESOLUTION

RESOLUTION RELATING TO LEASE-PURCHASE OF COUNTY BUILDINGS AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE-PURCHASE AGREEMENT AND APPROVING AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS AND AUTHORIZING CERTIFICATES OF PARTICIPATION

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

Section 1. Recitals.

- 1.01. The County is authorized by South Dakota Codified Laws, Chapter 7-25, inclusive, as amended (the “Act”), to enter into lease-purchase agreements for acquisition of real or personal property that the governing body considers necessary or appropriate to carry out its governmental and proprietary functions. The governing body finds that it is necessary and appropriate to issue Certificates of Participation (Limited Tax General Obligation), in one or more series to refund the 2010B Certificates (the “2017A Project”).
- 1.02. The County has agreed with U.S. Bank National Association (the “Trustee”) that the Trustee has, pursuant to a Ground Lease Agreement, dated as of March 1, 2003, between the County and the Trustee (the “Ground Lease”) as amended and supplemented, acquired certain interests in real property (the “Land”) from the County, and the Trustee has leased its interest in the Land and has leased and agreed to sell the Facilities, as defined in the Lease-Purchase Agreement, dated as of March 1, 2003 (the “Original Lease”), as amended and supplemented by the First Amendment to Lease-Purchase Agreement, dated as of March 1, 2008 (the “First Amendment to Lease”), the Second Amendment to Lease-Purchase Agreement, dated as of December 1, 2010 (the “Second Amendment to Lease”), the Third Amendment to Lease-Purchase Agreement, dated as of December 1, 2011 (the “Third Amendment to Lease”), the Fourth Amendment to Lease-Purchase Agreement, dated as of July 1, 2014 (the “Fourth Amendment to Lease”), the Fifth Amendment to Lease-Purchase Agreement, dated as of October 1, 2015 (the “Fifth Amendment to Lease”), the Sixth Amendment to Lease-Purchase Agreement, dated as of February 1, 2016 (the “Sixth Amendment to Lease”) and the Seventh Amendment to Lease-Purchase Agreement, dated as of October 1, 2016 (the “Seventh Amendment to Lease”) between the County and the Trustee, to be acquired, renovated, constructed and equipped thereon to the County pursuant to the Original Lease, as amended and supplemented by the First Amendment to Lease, the Second Amendment to Lease, the Third Amendment to Lease, the Fourth Amendment to Lease, the Fifth Amendment to Lease, the Sixth Amendment to Lease and the Seventh Amendment to Lease.
- 1.03. The Trustee will execute and deliver one or more Supplemental Declarations of Trust (the “Supplemental Trusts”), which will supplement and amend the Declaration of Trust, dated as of March 1, 2003 (the “Original Trust”), as amended and supplemented by the First Supplemental Declaration of Trust, dated as of March 1, 2008 (the “First Supplemental Trust”), the Second Supplemental Declaration of Trust, dated as of December 1, 2010 (the “Second Supplemental Trust”), the Third Supplemental Declaration of Trust, dated as of December 1, 2011 (the “Third Supplemental Trust”), the Fourth Supplemental Declaration of Trust, dated as of July 1, 2014 (the “Fourth Supplemental Trust”), the Fifth Supplemental Declaration of Trust, dated as of October 1, 2015 (the “Fifth Supplemental Trust”), the Sixth Supplemental Declaration of Trust, dated as of February 1, 2016 (the “Sixth Supplemental Trust”) and the Seventh Supplemental Declaration of Trust, dated as of October 1, 2016 (the “Seventh Supplemental Trust”) pursuant to which the Trustee will (i) issue one or more Certificates of Participation (the “Certificates”) in the lease payments to be made by the County under the Original Lease, as amended and supplemented by the First

Amendment to Lease, the Second Amendment to Lease, the Third Amendment to Lease, the Fourth Amendment to Lease, the Fifth Amendment to Lease, the Sixth Amendment to Lease and the Seventh Amendment to Lease between the County and the Trustee (the Original Lease, as amended and supplemented by the First Amendment to Lease, the Second Amendment to Lease, the Third Amendment to Lease, the Fourth Amendment to Lease, the Fifth Amendment to Lease, the Sixth Amendment to Lease and the Seventh Amendment to Lease is referred to herein as the “Lease”) and (ii) receive, hold and invest the proceeds of the sale of the Certificates and disburse such proceeds to pay for the 2016B Project.

1.04. The Certificates will be purchased by Dougherty & Company LLC (the “Original Purchaser”) pursuant to one or more Certificate Purchase Agreements between the County and the Original Purchaser (the “Certificate Purchase Agreements”) and the Original Purchaser will offer the Certificates for sale to the public by one or more Official Statements (the “Official Statements”).

1.05. Forms of the following documents relating to the 2017A Project (the “Documents”) are directed to be prepared by Lindquist & Vennum LLP as Bond Counsel, and submitted to the County and are hereby directed to be filed with and approved by the County Auditor and the Deputy State’s Attorney: (a) the Amendments to Lease; (b) the Supplemental Trusts; (c) the Certificate Purchase Agreements; and (d) the Official Statements.

Section 2. Authorization and Approval of the Documents. The financing described above is found to be favorable and is hereby approved. The Chairman, the Vice Chair and County Auditor are authorized to approve the principal amount of the Amendments to Lease, the Certificates, not exceeding \$26,500,000, the term thereof not exceeding twenty-one (21) years, the interest rate or rates thereon not exceeding an average yield of four percent ( 4%) per annum and the price not less than 99.4% of par (exclusive of original issue discount) and at which the Certificates are to be sold to the Original Purchaser, and are directed to enter into Certificate Purchase Agreements with the Original Purchaser and their execution of the Certificate Purchase Agreements shall be conclusive evidence of their approval of the principal amount, purchase price, interest rates and other terms set forth therein. The Certificate Purchase Agreement will provide that the County pay from other available funds all of the costs of issuance including the underwriter’s fee. The forms of Documents to be prepared are hereby approved if the County Auditor deems them appropriate and the Documents are approved by the Deputy State’s Attorney. The Chairman and the County Auditor are directed to execute the Documents if approved by the County Auditor. Copies of all Documents shall be delivered, filed and recorded as provided therein. The Chairman and the County Auditor and the Deputy State’s Attorney are also authorized and directed to execute such other instruments as may be required to give effect to the transactions therein contemplated. The County will cooperate in the issuance of the Certificates and the Chairman, the County Auditor and the Deputy State’s Attorney shall execute such other instruments as are necessary to the issuance of the Certificates.

Section 3. Modification, Absence of Officers. The approval hereby given to the Documents includes an approval of such additional details therein as may be necessary and appropriate and such modifications thereto, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the Deputy State's Attorney prior to the execution of the Documents. The execution of any instrument by the appropriate officer or officers of the County herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof. In the absence of the Chairman or the County Auditor, any of the Documents authorized by this resolution to be executed may be executed by such officer as, in the opinion of the Deputy State's Attorney, may execute documents in their stead.

Section 4. Payment of Lease Payments. The County will pay to the Trustee promptly when due, all of the Lease Payments (as defined in the Lease) and other amounts required by the Lease. To provide moneys to make such payments, the County will include in its annual budget, for each fiscal year during the term of the Lease, moneys sufficient to pay and for the purpose of paying all Lease Payments and other amounts payable under the Lease. The County's current tax levies are sufficient to make Lease Payments (as defined in the Lease) and other amounts required by the Lease, without increasing the current levy above any amount which would require an opt out or other increase under South Dakota Codified Laws Section 10-13-35.

Section 5. Arbitrage Certification. The Chairman and the County Auditor, being the officers of the County charged with the responsibility for issuing the Certificates pursuant to this Resolution, are authorized and directed to execute and deliver to the Trustee a certificate in accordance with the provisions of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and Sections 1.148-1 et al of the Regulations, stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Certificates which make it reasonable to expect that the proceeds of the Certificates will not be used in a manner that would cause the Lease or the Certificates to be arbitrage bonds within the meaning of the Code and Regulations.

Section 6. Official Statements. The County will participate in the preparation of the Preliminary Official Statements and the final Official Statements relating to the Certificates and hereby authorizes the County Auditor to consent to the distribution of the Official Statements by the Original Purchaser in connection with the sale of the Certificates. The Preliminary Official Statements, except for Permitted Omissions, will be deemed final by the County when authorized by the County Auditor as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934. As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, rating, if any, and other terms of the Certificates depending on such matters.

Section 7. Amendment. This resolution may be amended from time to time, prior to the issuance of the Certificates, by an administrative resolution adopted by this Board.

Partial Invalidity. If any one or more of the provisions of this Resolution shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Adopted this 1<sup>st</sup> day of November, 2016

By Lyndell Petersen, Its Chairman

ATTEST: (SEAL)

By Julie A. Pearson, Its County Auditor

D. ALCOHOLIC BEVERAGE LICENSE RENEWALS: MOVED by Hadcock and seconded by Trautman to approve the following alcoholic beverage license renewal applications. The motion carried.

<b>Business Name</b>	<b>Owner Name</b>
<i>Wine Retail (on-off sale)</i>	
Black Forest Inn Bed & Breakfast	The B-R Group LLC
Black Hills Receptions & Rentals	Joanne Wagner
Caputa Store	Caputa Store
Country Store at the Forks	The Covington Consulting Group, Inc.
Crooked Creek Resort & RV Resort	J Bar J Resorts LLC
Dalcam EZ Mart	Dalcam Oil Company Inc.
Hart Ranch Golf Course	Hart Ranch Development Co.
High Country Guest Ranch	Blended Arrow LLC
Mt. Rushmore KOA	Recreational Adventures Co.
Powder House Restaurant	Big Buys LLC/Powder House Restaurant
Reptile Gardens	Black Hills Reptile Gardens Inc.
Summer Creek Inn	Sumer Creek Inn LLC

Liquor Retail On Sale With Sunday Sales

Caputa Store	Caputa Store
Central States Fair, Inc.	Central States Fair, Inc.
Country Inn Bar & Casino	The Covington Consulting Group, Inc.
Horse Creek Inn Restaurant	Castle Creek Enterprises Inc.
Moonshine Gulch Saloon	Betty Harn
Mount Rushmore Nat'l. Memorial	Xanterra Parks & Resorts Inc.
Ponderosa Restaurant & Lounge	Jaegyn Enterprises Inc.
Powder House Restaurant	Big Guys LLC/Powder House Restaurant
Rimrock Happy Tavern	Rimrock Holdings LLC
Sally O'Malleys Pub & Casino	KJL Inc.

The Gaslight

Rockin' 4 LLC

**ITEMS FROM BUILDINGS & GROUNDS**

- A. **CONTRACT AWARD – RESIDENTIAL DEMOLITION PROJECT:** MOVED by Hadcock and seconded by Trautman to authorize the Chairman's signature to the Agreement Between Owner and Contractor for Construction Contract, dated November 1, 2016, between Pennington County and RCS Construction, Inc., PO Box 9337, Rapid City, for demolition work identified as the Residential Demolition Project for a lump sum fee of \$94,000. The lump sum value shall be reduced by Deduct Alternate values of \$3,000 each if associated structures have been relocated before demolition work begins. The motion carried. Bid documents are on file at Buildings & Grounds.

**Request for Funding Allocation for LED Lighting in the James Kjerstad Events Center at the Central States Fairgrounds – Mr. John Kaiser, Operations Manager, CSF:** This request was recommended for approval by the Building Committee. The Board of Commissioners will take action on November 1, 2016.

**Request for Approval of Planning Director's Signature on Building Permit Prior to Re-platting and Building Permit Application – Mr. Bob Brant:** MOVED by Ferebee and seconded by Hadcock to direct the Planning Director to sign a building permit for an 8,000 sq. foot one story building on Lots 15 and 16 at the Forks at Remington Ranch before the platting process is completed. The motion carried.

**PENNINGTON COUNTY COMPREHENSIVE PLAN CONSULTANT SELECTION (Cont. from 10/20/16 Special BOC Meeting):**

MOVED by Ferebee and seconded by Hadcock to table Item 20 until the Bid Opening (Item 22) is completed. The motion carried.

**11:00 AM – BID OPENING OR THE COURTHOUSE ENTRANCE REMODEL**

MOVED by Trautman and seconded by Hadcock to accept the bids as presented. The motion carried.

<b>Contractor</b>	<b>Bond or Check</b>	<b>Addenda</b>	<b>Base Bid</b>	<b>Unit Price Micropiles Add</b>	<b>Unit Price Micropiles Deduct</b>
Ainsworth- Benning	X	X	\$2,209,700	+\$155	-\$144
Dean Kurtz	X	X	\$2,350,000	+\$175	-\$75
Gustafson Builders	X	X	\$2,485,700	+\$165	-\$130
Rangel Construction	X	X	\$2,281,200	+\$162	-\$162
RCS Construction	X	X	\$2,396,000	+\$155	-\$144
Scull Construction	X	X	\$2,345,000	+\$158	-\$144

**PENNINGTON COUNTY COMPREHENSIVE PLAN CONSULTANT SELECTION**  
**(Cont. from above)**

MOVED by Ferebee and seconded by Trautman to bring the item for Comprehensive Plan Consultant Selection (Item 20) off the table. The motion carried.

MOVED By Ferebee to continue this item for at least two more meetings. The motion died for lack of a second.

The Board voted twice by ballot and Matrix Design Group and Louis Berger each received two votes resulting in ties on both votes. One commissioner did not vote to select a comprehensive plan consultant.

MOVED by Trautman and seconded by Petersen to select Matrix Design Group as the consultant for the Comprehensive Plan update and rewrite. Roll call vote: Buskerud – no, Ferebee – abstain, Hadcock – no, Trautman – yes, Petersen – yes.

MOVED by Buskerud and seconded by Hadcock to continue this item to the November 15, 2016, meeting to allow the Planning Director and interested board members to speak to both companies to see what can be done to adjust the proposals downward to have a final determination of the price. The motion carried 3-1 on a roll call vote with Ferebee abstaining. Buskerud – aye, Ferebee – abstain, Hadcock – aye, Trautman – aye, Petersen – no.

**PLANNING & 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 Buskerud to approve the Planning & Zoning Consent Agenda as presented. The motion carried.

- A. SECOND READING OF REZONE / RZ 16-09: Pacifica Loan Pool, LLC; Davis Engineering – Agent. To rezone 45.00 acres from General Agriculture District to Limited Agriculture District in accordance with Section 508 of the Pennington County Zoning Ordinance.

NE1/4SW1/4NW1/4NE1/4; N1/2SE1/4 NW1/4 NE1/4; NW1/4SW1/4NE1/4NE1/4;  
E1/2SW1/4 NE1/4NE1/4; SE1/4NE1/4NE1/4; E1/2W1/2SE1/4 NE1/4; NE1/4SE1/4  
NE1/4, Section 16, T1S, R7E, BHM, Pennington County, South Dakota.

Approve the second reading of Rezone / RZ 16-09.

ORDINANCE NO. RZ 16-09

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:

NE1/4SW1/4NW1/4NE1/4; N1/2SE1/4 NW1/4 NE1/4; NW1/4SW1/4NE1/4NE1/4; E1/2SW1/4 NE1/4NE1/4; SE1/4NE1/4NE1/4; E1/2W1/2SE1/4 NE1/4; NE1/4SE1/4 NE1/4, Section 16, T1S, R7E, BHM, Pennington County, South Dakota.

The above-described property is hereby rezoned from General Agriculture District to Limited Agriculture District.

Dated this 1st day of November, 2016.

PENNINGTON COUNTY COMMISSION

/s/ Lyndell Petersen, Chairperson

ATTEST:

/s/ Julie A. Pearson, Auditor

- B. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 16-11 AND COMPREHENSIVE PLAN AMENDMENT / CA 16-08: LLB Investments Limited Partnership; Russ Rearick – Agent. To rezone 22.08 acres from General Agriculture District and Highway Service District to General Commercial District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive and Highway Service District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lot 2 (also in Section 19), Heavlin #2 Subdivision, Section 30, T1N, R9E, BHM, Pennington County, South Dakota.

Continue Rezone / 16-11 and Comprehensive Plan Amendment / CA 16-08 to the December 6, 2016, Board of Commissioner’s meeting.

- C. LAYOUT PLAT / PL 16-24: Deborah Munyan. To create Lots 1-3 of Munyan Addition in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: GL 1 less Bradsky Road; Section 4, T1S, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1, Lot 2, and Lot 3, Munyan Addition; Section 4, T1S, R9E, BHM, Pennington County, South Dakota.

Continue Layout Plat / PL 16-24 to the December 6, 2016, Board of Commissioner's meeting.

End of Consent Agenda Items

**PLANNING AND ZONING ITEMS**

- D. THE SPRING CREEK WATERSHED MANAGEMENT AND PROJECT IMPLEMENTATION PLAN – SEGMENT 3 – SECOND AMENDMENT TO GRANT AGREEMENT: MOVED by Hadcock and seconded by Buskerud to approve the Chairman's signature on the Spring Creek Watershed and Implementation Project – Segment 3 – Second Amended Grant Agreement and submit it to the South Dakota Department of Environment and Natural Resources.

A substitute motion by Ferebee to give notice to South Dakota Department of Environment and Natural Resources that Pennington County desires to terminate its sponsorship of the Spring Creek 319 Project died for lack of a second.

Roll call vote: Buskerud – aye, Ferebee – no, Hadcock – aye, Trautman – aye, Petersen – aye.

- E. APPEAL OF CONDITIONAL USE PERMIT / CU 16-16: Carey or Deborah Kassube. To allow a commercial storage rental and painting business in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 1-2 of J and Lot J of Parcel 2, Canyon Park Subdivision, Section 18, T1N, R7E, BHM, Pennington County, South Dakota.

Commissioner Hadcock announced that she would abstain from voting on this item. MOVED by Trautman and seconded by Buskerud to continue the appeal of Conditional Use Permit / CU 16-16 to the November 15, 2016, Board of Commissioners' meeting with the applicant's concurrence. The motion carried with Hadcock abstaining.

- F. FIRST READING AND PUBLIC HEARING OF PLANNED UNIT DEVELOPMENT / PU 16-03: Dan and Nancy Evangelisto. To rezone 12.91 acres from General Agriculture District to a Planned Unit Development to allow for a Specialty Resort Development to include uses such as vacation home rentals, weddings, receptions, picnics, family reunions, satellite church for 100-150 people, church functions, parties, single-family residences, bed and breakfast, storage gift shop, spa, cabana, bistro, detached accessory structure with living quarters, duplex, etc., on the subject properties, in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 3 and that 1/2 of private drive adjacent to said lot; Lot 4; Lot 7 and that 1/2 of private drive adjacent to said lot; Lot 10 and that 1/2 of private drive adjacent to said lot; Lot 11 and that 1/2 of private drive adjacent to said lot; Lot 12 and that 1/2 of private drive adjacent to said lot; Lot 13 and that 1/2 of private drive adjacent to said lot; Lot 14 and that 1/2 of private drive adjacent to said lot; Lot 15 and that 1/2 of private drive adjacent to said lot; Lot 16 and that 1/2 of private drive adjacent to said lot; Lot 17 and that 1/2 of private drive adjacent to said lot; Lot 18 and that 1/2 of private drive adjacent to said lot; Lot 19 and that 1/2 of private drive adjacent to said lot; Lot 20 and that 1/2 of private drive adjacent to said lot; Lot 21, Lot 22 and that part of private drive adjacent to said lot; Lot 23B and that 1/2 of private drive adjacent to said lot; Lot 27 and that 1/2 of private drive adjacent to said lot; Lot 28 and that 1/2 of private drive adjacent to said lot; Lot 29 and that 1/2 of private drive adjacent to said lot; Lot 30 and that 1/2 of private drive adjacent to said lot; Lot 31 and that 1/2 of private drive adjacent to said lot, Lot 32 and that 1/2 of private drive adjacent to said lot; Lot 33 and that 1/2 of private drive adjacent to said lot; Lot 34 and that 1/2 of private drive adjacent to said lot; Lot 35 and that 1/2 of private drive adjacent to said lot; Lot 36 and that 1/2 of private drive adjacent to said lot; Lot 37 and that 1/2 of private drive adjacent to said lot; Lot 41 and that 1/2 of private drive adjacent to said lot; Lot 42 and that 1/2 of private drive adjacent to said lot; Lot 43 and that 1/2 of private drive adjacent to said lot; Lot 44, Lot 45 and that 1/2 of private drive adjacent to said lot; all located in Custer Trails Subdivision #1, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Petersen to approve the first reading of Planned Unit Development / PU 16-03 with fifty-nine (59) conditions. The motion carried 4-1 with Ferebee opposing.

1. That the applicants sign a Statement of Understanding (SOU) within ten (10) days of the Second Reading of PUD 16-03. The SOU is available at the Planning Department;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That the applicants ensure the residential character of the property is maintained;
4. That daily and event operations of the specialty resort be conducted by owners, on-site manager, and staff as necessary;
5. That all natural drainage paths be continually maintained;
6. That the business sign (the one proposed, by the applicant, for placement on the brick wall by the applicant) which directs attention to the Bed and Breakfast, shall be allowed with an approved Sign Permit. Such sign shall not exceed the area of the existing subdivision square feet and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;
7. That the address be properly and continually posted on both the residence and at the approach, for all structures with addresses, so it be visible in both directions of the approach, accordance with Pennington County's Ordinance #20;

8. That the applicant maintain an Emergency Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
9. That a minimum of 34 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance. Existing and approved required parking for 150 guests must be located on Lots 3, 4, 10, 11, and 12 with over flow parking on Lot 45 until an established use has been determined for Lot 45;
10. That the roadways should consist of a 24-foot-wide, 4-inch graveled driving surface to accommodate two-way traffic and to be maintained by the applicable Street Authority;
11. That all music being provided for outdoor activities be shut down by 10:00 p.m.;
12. That temporary structures, such as tents, only be erected after the approval of a Temporary Building Permit, or the applicant obtain a regular Building Permit for a tent or a more permanent structure;
13. That temporary port-a-potties only be placed on subject properties when needed, not to exceed ten (10) continuous months in any calendar year;
14. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
15. That the applicants obtain all necessary permits from other governing bodies for operation of the Specialty Resort including, but not limited to, approval from the South Dakota Department of Health for the Bed & Breakfast and Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;
16. That a smoke detector be placed in each sleeping room utilized for the Bed and Breakfast with a minimum of at least one (1) smoke detector per floor;
17. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed on each floor level of the Bed and Breakfast so it accessible to all guests at all times and the fire extinguisher shall be inspected and tagged annually;
18. That the maximum number of people staying at the Bed and Breakfast establishment, at one time, be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
19. That the applicants comply with South Dakota Codified Law 34-18;
20. That the physical address of each structure be posted in each guest room utilized for Bed and Breakfasts, the Specialty Resort, and Vacation Home Rental(s);
21. That port-a-potties may be utilized by the guests of the events for wastewater disposal at a ratio of one port-a-potty per 50 guests. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;
22. That prior to the placement of any on and off-premise signs, the applicant must obtain approval of a Sign Permit;
23. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, as determined by the Planning Director, shall require an amendment to this Planned Unit Development / PU 16-03;

24. That Summer Creek Drive should have a minimum of a 4-inch gravel surface and be maintained in a dust free manner;
25. That measures be taken by the Road District, along Summer Creek Road and parking spaces, prohibiting people from backing directly into the Right-of-Way of Summer Creek Drive;
26. That the Planned Unit Development consist of not more than 40 structures, consisting of single-family dwellings, detached accessory buildings, Vacation Home Rental, specialty resort, bed and breakfast, and event building;
27. That dwellings of two stories within the Planned Unit Development must have a heated, enclosed floor area of at least 1,400 sq. feet; having not less than 800 sq. feet of heated area on the main floor, not including basements, porches, screened porches, garaged or stoops;
28. That dwellings of a single-story within the Planned Unit Development shall have a heated, enclosed ground floor area of at least 1,000 sq. feet, not including basements, porches, screened porches, garages or stoops;
29. That all split level or multi-level dwellings (not including two story dwellings) within the Planned Unit Development shall have a heated enclosed floor area of at least 1,300 sq. feet, not including: porches, screened porches, garages, stoops, or basements, unless approved in writing by the Developer, prior to a Building Permit being approved by the Planning Director;
30. That all enclosed attached and detached garages within the Planned Unit Development must be a minimum of 265 square feet, unless otherwise approved in writing by the Developer, prior to a Building Permit being approved by the Planning Director;
31. That all garages, within the Planned Unit Development shall be constructed in substantial architectural conformity with the construction of the dwelling;
32. That all ancillary/accessory structures and storage sheds within the Planned Unit Development must be approved in writing by the Developer or architectural review board and must be maintained by the lot owner;
33. That carports and pole buildings are not allowed within the Planned Unit Development;
34. That no on-street vehicular parking shall be permitted, except in accordance with reasonable standards, which may be established by the Road District and may be reviewed by local Public Safety agencies to ensure emergency vehicle pass-ability on the interior roadways;
35. That each lot owner shall provide off-street parking spaces for at least two vehicles, prior to the occupancy of any dwelling constructed on said lot, in accordance with reasonable standards established by the Developer, with a minimum size requirement of nine (9) feet by eighteen (18) feet;
36. That all boats, motorcycles, trailers, travel trailers, campers, or other recreational vehicles, not to exceed two in number, must be parked and/or stored within a garage or fully enclosed ancillary/accessory structure;
37. That any vehicle that is required to be registered with the South Dakota Department of Motor Vehicles, which is not so registered, may not be kept on the lot, unless such vehicle is stored in an enclosed garage;
38. That any non-operating vehicles, equipment, unused objects or apparatus, or any portion thereof, shall not be permitted to remain on any lot;

39. That no more than two (2) of the following may be parked on any lot within the Planned Unit Development and must be stored within an enclosed garage or an ancillary/accessory structures: boats, motorcycles, trailers, travel trailers, campers, or other recreational vehicles;
40. That every effort will be made for signs within the PUD to use natural materials, i.e. stone, concrete, native woods and blend into the surrounding area and to have a minimal impact. Signs must be approved in writing by Developer and/or architectural review board prior to the issuance of a Sign Permit issued by the Planning Director;
41. That the following be permissible, with approved Sign Permits reviewed and signed by the Planning Director (where applicable): an existing and approved development/subdivision entrance sign located on Lot 3; two (2) additional entrance signs immediately off of Carbon Loop Road; one (1) event site sign located on retaining wall on Lots 10-11-12, similar to the development sign; and other signs as needed. All signs within the PUD must comply with the Pennington County Sign Ordinance unless otherwise specified within PUD 16-03;
42. That Lots 3, 4, 10, 11, and 12 of the Specialty Resort be for a Bed and Breakfast up to ten (10) rooms and events, such as: weddings, receptions, company picnics, family reunions, bridal and baby showers, Christmas parties and other types of small gatherings similar in nature, up to a maximum of 150 daily guests. The Specialty Resort also be allowed to have: Beer and Wine sales (with applicable permits), a Bistro, Gift Shop, Spa, Cabana/Gazebo, storage shed, and to also be used as a Vacation Home Rental and private single-family residence;
43. That Lots 13, 14, 15, 16, 17, 18, 20, 21, 28, 29, 30-37, and 41 each allow for one (1) of the following with approved permits: Single-family dwelling, Vacation Home Rental; bed and breakfast, or specialty resort;
44. That Lot 7 allow for three (3) Recreational Vehicle (RV) sites, not to include Park Models, for use by friends and family of the PUD or for one (1) of the following with approved permits: single-family dwelling, vacation home rental, bed and breakfast, and specialty resort. The existing on-site wastewater treatment systems must comply with Section 204-J and obtain an Operating Permit prior to County Board approval;
45. That Lots 19 and 22 each allow for one (1) of the following with approved permits: Single-family residence with guest house living quarters within a detached accessory building, duplex, Vacation Home Rental, bed and breakfast, and specialty resort;
46. That Lot 23B allow for one (1) of the following with approved permits: Single-family dwelling, Vacation Home Rental, bed and breakfast, specialty resort, and easement (with proper permits) for future underground holding tanks for designed and engineered water system;
47. That Lot 27 allow for one (1) of the following with approved permits: the existing garage/accessory building, single-family dwelling with guest quarters living quarters within a detached accessory building, duplex, Vacation Home Rental, bed and breakfast, and specialty resort;
48. That Lots 41, 42, 43, and 44 allow for one (1) of the following with approved permits: specialty resort, bed and breakfast, single-family dwelling, and Vacation Home Rental;

49. That Lot 45 allow for one (1) of the following with approved permits (if applicable): parking lot, specialty resort, bed and breakfast, single-family dwelling and Vacation Home Rental;
50. That Lots 3-4 have a zero (0) foot setback on all interior lot lines, a fifteen (15) foot front and rear yard setback, and a ten (10) foot side yard setback;
51. That Lots 7, 13, 14, 15, 17, 18, 27, 28, 32, 33, 34, 36, 37, 41, 42, 44 and 45 have a fifteen (15) foot front and rear yard setback, and a ten (10) foot side yard setback;
52. That Lots 10, 11, and 12 have a zero (0) foot setback on all interior lot lines, a fifteen (15) foot front and rear yard setback, and a ten (10) foot side yard setback;
53. That Lots 20, 21, 30, 31, 35 and 43 have a ten (10) foot setback on all property lines and that this PUD replaces any existing setback requirements previously approved;
54. That Lot 29 have a fifteen (15) foot front, rear and side yard setback;
55. That Lots 16, 19, 22 and 23B have a fifteen (15) foot front, rear and side yard setback on all property lines not adjacent to the Right-of-Way. Lot lines adjacent to the Right-of-Way will have a zero (0) foot setback;
56. That proposed Guest Houses, on specified lots, must comply with Section 318 of the Pennington County Zoning Ordinance;
57. That the Planning Director has the final determination on the location of Lot Setbacks and on the interpretation of conflicting Conditions of Approval;
58. That Conditional Use Permit / CU 14-04 end once Planned Unit Development / PUD 16-03 is approved; and,
59. That this Planned Unit Development be reviewed on April 24, 2017, or upon complaint of violation of applicable provisions of the Zoning Ordinance, or as deemed necessary by either the Planning Commission or Board of Commissioners to ascertain all the Conditions of Approval are being met.

G. FIRST READING AND PUBLIC HEARING OF ORDINANCE AMENDMENT / OA 16-01: Pennington County. To amend Section 103 - Definitions; Section 208 - Suburban Residential District; and Section 319 - Vacation Home Rental Ordinance of the Pennington County Zoning Ordinance.

MOVED by Buskerud and seconded by Ferebee to deny the first reading of Ordinance Amendment / OA 16-01. The motion failed 3-2 on a roll call vote: Buskerud – yes, Ferebee – yes, Hadcock – no, Trautman – no, Petersen – no.

MOVED by Hadcock and seconded by Petersen to approve the first reading of Ordinance Amendment / OA 16-01.

Amendment: MOVED by Buskerud and seconded by Petersen to amend the previous motion to approve the first reading of Ordinance Amendment / OA 16-01 with the elimination of all references to Suburban Residential Districts. The amendment failed 2-2 on a roll call vote with Ferebee abstaining: Buskerud – aye, Ferebee – abstain, Hadcock – no, Trautman – no, Petersen – aye.

The roll call vote on the motion to approve the first reading of OA 16-01 carried 4-1: Buskerud – no, Ferebee – aye, Hadcock – aye, Trautman – aye, Petersen – aye.

**APPROVAL OF VOUCHERS**

MOVED by Hadcock and seconded by Trautman to approve the vouchers entered below for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment totaling \$354,648.73. The motion carried 4-1 with Ferebee voting no.

BH Power Inc, \$1,540.97; BH Power Inc, \$283.68; BH Power Inc, \$452.38; Century Link, \$7,840.46; Century Link, \$250.09; City Of Box Elder, \$599.67; City Of Rapid City -Water, \$15,863.61; City Of Rapid City -Water, \$6,384.21; City Of Wall, \$375.00; Executive Mgmt Fin Office, \$27.00; Kieffer Sanitation/A Waste Management Co, \$144.20; Medical Waste Transport Inc, \$338.77; Montana Dakota Utilities, \$3,135.56; Montana Dakota Utilities, \$569.91; Pioneer Bank & Trust, \$8,863.61; Pioneer Bank & Trust, \$13,340.64; Reliance Telephone Inc, \$4.40; Sdn Communications, \$769.60; Vast Broadband, \$2,653.69; Vast Broadband, \$3,419.61; Verizon Wireless, \$1,502.88; Verizon Wireless, \$5,737.61; Wellmark, \$212,913.16; Wellmark, \$65,750.30; West River Electric, \$62.71; West River Electric, \$1,825.01.

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

Executive session was not needed today.

**PERSONNEL**

Auditor: Effective 10/19/2016 - Kathy Lewis, \$14.83/hr.

Buildings & Grounds: Effective 10/17/2016 – Weston McPherson at \$18.92/hr.

Public Defender: Effective 11/7/2016 – Shannon R. Lapp at \$4,402.58/month

Register of Deeds: Effective 10/17/2016 – Leslie Beck at \$15.57/hr.

State’s Attorney: Effective 10/1/2016 – Emily Lessin at \$5,318.00/month

**PAYROLL**

Commissioners, 15,002.84; Human Resources, 9,934.68; Elections, 21,973.99; Auditor, 27,003.09; Treasurer, 58,872.68; IT, 48,965.70; MacArthur Grant, 7,759.12; State's Attorney, 206,212.53; Public Defender, 134,962.93; Buildings & Grounds, 115,025.36; Equalization, 79,613.60; Register of Deeds, 28,644.92; Sheriff, 425,407.17; HIDTA Grant, 9,540.10; Jail, 628,991.60; JSC, 212,902.23; JSC Juvenile Alternative, 9,239.19; CCADP, 135,537.54; Life Enrichment Center, 44,780.86; Economic Assistance, 64,864.06; Extension, 2,514.56; Weed & Pest, 9,660.00; Mountain Pine Beetle, 7,561.60; Planning and Zoning, 25,422.44; Water Protection, 6,423.91; Road & Bridge, 185,206.47; Fire Administration, 7,170.67; Dispatch, 171,970.28; Emergency Management, 8,834.64; 24-7 Program, 24,670.38.

**ADJOURN**

MOVED by Hadcock and seconded by Trautman to adjourn the meeting. The motion carried. There being no further business, the meeting was adjourned at 1:27 p.m.

/s/ Julie A. Pearson, Auditor

November 1, 2016

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