

**PROCEEDINGS OF THE PENNINGTON COUNTY  
BOARD OF COMMISSIONERS  
December 6, 2016**

The Pennington County Board of Commissioners met at 9:00 a.m. on Tuesday, December 6, 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.

**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.

MOVED by Buskerud and seconded by Hadcock to approve Consent Agenda Items 5, 6, 8, 9, 11 and remove Agenda Items 7, 10, 12, 13, 14 for separate consideration. The motion carried.

5. Approve the minutes of the special November 10, 2016 Board of Commissioners' meeting as presented.
6. Approve the minutes of the regular November 15, 2016, Board of Commissioners' meeting as presented.
7. Removed for separate consideration.
8. Authorize the Budgeted General Fund Operating Transfer to the E911 Fund in the amount of \$11,824. (AUD)
9. Budget Supplement SP16-020 – Schedule a public hearing at 9:15 a.m. on December 20, 2016 to supplement the General Fund State's Attorney Budget in the amount of \$20,000 from General Fund unassigned fund balance and to reverse the motion of November 15, 2016 for a contingency fund transfer.
10. Removed for separate consideration.
11. Pursuant to SDCL 33A-1-22, confirm the reappointment of Alexander Purcell as Veterans Service Officer for a four (4) year term effective January 2017 thru the first Monday in January 2021. (HHS)
12. Removed for separate consideration.
13. Removed for separate consideration.
14. Removed for separate consideration.

Removed for Separate Consideration

7. MOVED by Hadcock and seconded by Trautman to approve the minutes of the special November 22, 2016 Board of Commissioners' meeting as presented. The motion carried with three votes and Ferebee and Buskerud abstaining.
10. MOVED by Hadcock and seconded by Trautman to authorize Buildings & Grounds to advertise for bids for the LED Lighting Project at the James Kjerstad Events Center on the Fairgrounds. The motion carried 4-1 with Ferebee voting no.
12. MOVED by Ferebee and seconded by Buskerud to approve the 2017 Scenic Township #7 Maintenance and Snow Removal Agreement for an increase of up to \$75 per hour.

Substitute motion: MOVED by Trautman and seconded by Hadcock to direct the Highway Superintendent to negotiate with the Scenic Township for a better price, target \$75 per hour.

Substitute motion: MOVED by Ferebee that the District 4 County Commissioner do the negotiating with the Scenic Township. The motion died for lack of a second.

The roll call vote on the first substitute motion carried: Buskerud - yes, Ferebee - yes, Hadcock - yes, Trautman - yes, Petersen - yes.

13. MOVED by Hadcock and seconded by Trautman to declare eight (8) vehicles as surplus for the purpose of trade. Capital Asset Numbers: 37015, 22004, 26897, 26898, 26900, 26899, 26901, and 26902. (Sheriff) The motion carried 4-1 with Ferebee voting no.
14. MOVED by Buskerud and seconded by Hadcock to authorize the Sheriff to purchase nine (9) replacement vehicles including six (6) Dodge Chargers per State Contract #16998 from Wegner Auto, 330 East Sioux Ave., Pierre, SD, one (1) Chevrolet Tahoe per State Contract #16995 from Jerry's Automotive, 306 N 16<sup>th</sup> St., Beresford, SD, and two (2) Ford Interceptor SUV's per State Contract #16997 from McKie Ford, 2010 E Mall Dr., Rapid City, SD. The motion carried 4-1 with Ferebee voting no.

End of Consent Agenda Items

**COUNTY CARES PRESENTATION – SELF SERVICE TERMINAL, TREASURER JANET SAYLER**

**REQUEST TO PURCHASE TAX DEED PROPERTY ID #63725 – MR. DARREN HAAR**

MOVED by Trautman and seconded by Hadcock to accept the appraised value of \$200 and approve the selling of Tax ID #63725 (Boulevard Addn, Block 25, S200' of Lot 41, Rapid City, Pennington County, South Dakota) to Darren Haar in the amount of \$200 plus \$30 for filing fee as a for private sale of surplus property and further moved to authorize the chairman's signature to the Quit Claim Deed. The motion carried.

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

MOVED by Ferebee that Chief Deputy State's Attorney Alderman work with Habitat for Humanity and bring back a finished product to the next meeting. The motion died for lack of a second.

MOVED by Hadcock and seconded by Trautman to approve a subordination agreement in the amount of \$2,150.27 for liens in the name of SLH (Account 4767S) to be entered into by Pennington County and recorded with the Register of Deeds, and further moved to authorize the Chairman's signature on the agreement. The motion carried.

**RAPID CITY PUBLIC LIBRARY UPDATE**

- A. 2016 3<sup>RD</sup> QUARTER PENNINGTON COUNTY STATISTICS.

**ITEMS FROM THE AUDITOR**

- A. BUDGET SUPPLEMENT SP16-018 – ACCUMULATED BUILDING FUND DEBT SERVICE BUDGET. MOVED by Trautman and seconded by Hadcock to approve a supplement to the Accumulated Building Fund Debt Service budget in the amount of \$206,415 from Accumulated Building Fund restricted fund balance. The motion carried.
- B. BUDGET SUPPLEMENT SP16-019 - ACCUMULATED BUILDING FUND BUDGET. MOVED by Hadcock and seconded Trautman by to approve a supplement to the Accumulated Building Fund budget in the amount of \$300,000 from the Accumulated Building Fund restricted fund balance.

MOVED by Hadcock to call the question. The chairman called for a vote and it carried 4-1 with Ferebee voting no.

The roll call vote carried 3-2: Buskerud - no, Ferebee - no, Hadcock - yes, Trautman - yes, Petersen - yes.

- C. RESOLUTION TO SURPLUS & CONVEY PROPERTY TO SD SCHOOL OF MINES AND TECHNOLOGY; MOVED by Ferebee and seconded by Hadcock to approve the Resolution to Surplus & Convey Property to the SD School of Mines & Technology. The motion carried

RESOLUTION

WHEREAS, Pennington County has legally obtained a piece of property by tax deed for nonpayment of property taxes dated August 21, 1989, and

WHEREAS, said lot is not being held or needed by Pennington County for a public purpose and has been unsuccessfully offered to the public at previous public auctions, and

WHEREAS, said lot is contiguous to land owned and operated by The South Dakota School of Mines & Technology, and

WHEREAS, SDCL 6-5-2, 6-5-3 & 7-18-30 read that a county may convey and transfer any real property to another government type for continued public use by resolution, and

WHEREAS, Pennington County Commission has already approved by motion to convey and transfer said property as described below to the South Dakota School

of Mines and requests that The Board of Regents arrange the introduction of the necessary legislation for the upcoming session to formally accept said property as described below, and

WHEREAS, upon approval of acceptance by the State Legislature and completion of all other necessary actions by the State of South Dakota, the Board of Regents and the South Dakota School of Mines & Technology, the Pennington County Commission will execute a Quit Claim deed.

NOW, THEREFORE BE IT RESOLVED that the Pennington County Board of Commissioners declare as surplus the property legally described as: The unplatted portion of Government Lot 2, Section 1, T1N, R7E; and a portion of Government Lot 5 and 6 of Section 6, T1N, R8E as described in Deed Book 37 Page 6039 recorded on August 24, 1989, as the vacated parts of Lot 1 through 5, parts of Lots 29 through 37, and the balance of Lots 6 and 7, Block 8 of Denman's Addition, which was vacated per Miscellaneous Book 76 Page 24 recorded on March 28, 1961 for conveying and transferring to the South Dakota School of Mines and Technology upon favorable action by the State of South Dakota, the South Dakota State Legislature and the Board of Regents for the continued public use of said property and that the Chair affix his signature to the Quit Claim Deed at the appropriate time.

Dated December 6, 2016

/s/ Lyndell Petersen, Chairman  
Pennington County Commission

ATTEST:

/s/ Julie A. Pearson, Pennington County Auditor

- D. ALCOHOLIC BEVERAGE LICENSE RENEWALS. MOVED by Ferebee and seconded by Trautman to approve the renewals of the following Alcoholic Beverage Licenses: Silver Dollar Saloon, Etho LLC (Liquor Retail On Sale w/Sunday Sales); Dollar General Store #15207, Dolgen Midwest LLC (Wine Retail On-Off Sale). The motion carried.

#### **ITEMS FROM BUILDINGS & GROUNDS**

- A. PC HEALTH FACILITY PROJECT, BID RESULTS & CONSTRUCTION CONTRACT AWARD. MOVED by Hadcock and seconded by Trautman to authorize the Chairman's signature to the AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor, dated November 29, 2016, between Pennington County and Scull Construction Services for construction of the project identified as the Pennington County Health Facility for a lump sum fee of \$9,135,000. The motion carried 3 – 2 with Ferebee and Buskerud voting no.

**ITEMS FROM THE COMPENSATION COMMITTEE**

- A. ALIGNING FMLA AND EMERGENCY LEAVE BENEFITS. MOVED by Hadcock and seconded by Buskerud to add language to the emergency leave policy that will allow employees to access all their accrued sick leave bank to care for eligible family members during a FMLA qualifying event. The motion carried 4-1 with Ferebee voting no.

**ITEMS FROM FIRE ADMINISTRATION**

- A. INTRODUCTION OF NEW PENNINGTON COUNTY FIRE ADMINISTRATOR – JEROME HARVEY.
- B. RESOLUTION TO TRANSFER TITLES ON FIRE TRUCKS: MOVED by Buskerud and seconded by Hadcock to approve the resolution to transfer ownership and titles of the twelve (12) 2004 Freightliner/Pierce FL70 vehicles to the respective rural fire protection district(s) or volunteer fire department(s) of Pennington County as shown below. The motion carried.

**Fire Suppression Vehicles Owned by Pennington**

<b>Serial Number</b>	<b>Volunteer Fire District/Department</b>
1FVDBUDCX4DM82115	Box Elder Fire District & Box Elder VFD
1FVDBUDCO4DM82124	Doty Fire District & Doty VFD
1FVDBUDC54DM82118	Johnson Siding Fire District & Johnson Siding VFD
1FVDBUDC34DM82117	Keystone Fire District & Keystone VFD
1FVDBUDC84DM82114	North Elk Fire District & North Haines VFD
1FVDBUDC94DM82123	North Elk Fire District & North Haines VFD
1FVDBUDC74DM82122	Rochford Fire District & Rochford VFD
1FVDBUDC34DM82120	Rockerville Fire District & Rockerville VFD
1FVDBUDC14DM82116	City of Wall & Wall VFD
1FVDBUDC54DM82121	Whispering Pines Fire District & Whispering Pines VFD
1FVDBUDC24DM82125	Wasta VFD
1FVDBUDC74DM82119	Hayward Fire District & Hayward VFD

**RESOLUTION OF THE PENNINGTON COUNTY COMMISSION**

**WHEREAS,** Pennington County has ownership of 12 fire suppression vehicles as listed on the attached spreadsheet entitled Fire Suppression Vehicles Owned by Pennington County; and,

**WHEREAS,** the vehicles were purchased in 2003 and 2004 with Community Development Block Grant funds, Title III funds, local fire department funds and rural fire protection district funds; and,

**WHEREAS**, the Pennington County fire departments have expressed a desire to retain the vehicles in Pennington County; and,

**WHEREAS**, SDCL §§ 6-5-2 & 6-5-3 authorize Pennington County to transfer personal property that is not held for a public purpose by the County to a political subdivision or nonprofit corporation for public purposes ; and,

**WHEREAS**, the Pennington County Commission deems it to be in the best interest of the public to transfer ownership of the 12 fire suppression vehicles to rural fire protection districts classified as political subdivisions and volunteer fire departments classified as nonprofit corporations within Pennington County; and,

**WHEREAS**, volunteer fire departments and rural fire protection districts within Pennington County have for the past years paid vehicle insurance, repairs, maintenance, upkeep, training, and other costs related to the fire suppression vehicles; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Pennington County Commission that each identified vehicle on the spreadsheet entitled Fire Suppression Vehicles Owned by Pennington County shall be transferred to its respective rural fire protection district or volunteer fire department as listed on the spreadsheet; and,

**IT IS FURTHER RESOLVED** that the Fire Administrator shall be authorized to sign the vehicle title for transferring ownership upon execution by the rural fire protection districts and/or volunteer fire departments of a release of liability and waiver of any claims against Pennington County that may arise in connection with the ownership, use, or possession of the fire suppression vehicles from the date of the transfer of ownership of each vehicle.

Passed, adopted and approved by the Pennington County Commission, South Dakota, this 6<sup>th</sup> day of December, 2016.

/s/ Lyndell Petersen, Chairman  
Pennington County Commission

ATTEST:

/s/ Julie A. Pearson, Pennington County Auditor

**ITEMS FROM HIGHWAY DEPARTMENT**

- A. 9:30 A.M. PUBLIC HEARING – TO REVISE THE OFFICIAL PENNINGTON COUNTY HIGHWAY SYSTEM – NORRIS PEAK RD: RESOLUTION 2016-12-06. MOVED by Ferebee and seconded by Buskerud to authorize the Chairman’s signature on Resolution 2016-12-06. The motion carried.

PENNINGTON COUNTY  
RESOLUTION 2016-12-06

WHEREAS, Pennington County would like to modify its Highway System due to the realignment of a section of Norris Peak Road, and

WHEREAS, the changes in Pennington County's Highway System are in accordance with the South Dakota Department of Transportation's "Policy and Procedures for County Highway System Revisions" adopted 6/18/09 and SDCL 31-12-2;

THEREFORE, BE IT RESOLVED by the Pennington County Board of Commissioners that the following changes be made to the Pennington County Highway System:

**Add to the Primary County Highway System:**

**1. Norris Peak Road: approximately 0.607 miles**

Starting 0.120 miles west and south of the east ¼ corner of Section 31, T2N, R6E, at the intersection of Norris Peak Road and Norris Peak Lane, then approximately 0.607 miles northeasterly to 0.054 miles north and west of the northeast corner of Section 31, T2N, R6E.

All in the E1/2 of the NE1/4 and the NE1/4 of the SE1/4 of Section 31 and the SE1/4 of the SE1/4 of Section 30, Black Hills Meridian, Pennington County, South Dakota.

**Delete from the Primary County Highway System:**

**2. Norris Peak Lane: approximately 0.702 miles**

Starting 0.120 miles west and south of the east ¼ corner of Section 31, T2N, R6E, at the intersection of Norris Peak Road and Norris Peak Lane, then northwesterly approximately 0.702 miles to a point approximately 0.168 miles west and south of the northeast corner of Section 31, T2N, R6E.

All in the NE1/4 of the SE1/4 and the NE1/4 of Section 31, and the SE1/2 of the SE1/4 of Section 30, T2N, R6E, Black Hills Meridian, Pennington County, South Dakota.

**3. Norris Peak Road to be Eliminated: approximately 0.216 miles**

Starting at a point approximately 0.168 miles west and south of the northeast corner of Section 31, T2N, R6E, at the intersection of Norris Peak Road and the segment of Norris Peak Road to be eliminated, then northeasterly 0.216 miles to 0.054 miles north and west of the northeast corner of Section 31, T2N, R6E.

All in the NE1/4 of the NE1/4 of Section 31 and the SE1/4 of the SE1/4 of Section 30, Black Hills Meridian, Pennington County, South Dakota.

Norris Peak Road is being added to the Primary County Highway System due to the realignment of Norris Peak Road. Norris Peak Lane is being removed from the Primary County Highway System due to the realignment of Norris Peak Road. Norris Peak Lane will be on the County Secondary Road System.

Adopted this 6<sup>th</sup> day of December, 2016.

/s/ Lyndell Petersen, Chairman  
Pennington County Commission

ATTEST:

/s/ Julie A. Pearson, Pennington County Auditor

- B. ROCHFORD VOLUNTEER FIRE DEPT. AGREEMENT FOR ELECTRICAL POWER USAGE. MOVED by Ferebee and seconded by Hadcock to approve the 2017 Agreement for Electrical Power Usage at Rochford Volunteer Fire Department and authorize Highway Superintendent's signature. The motion carried.
- C. RESOLUTION 2016-12-07 TO CHANGE SPEED LIMIT ON TWILIGHT DRIVE; REMOVE SCHOOL ZONE. MOVED by Ferebee and seconded by Hadcock to adopt and to authorize the Chairperson to sign Resolution 2016-12-07, to remove the school speed zone on Twilight Drive between Covington Street and Plateau Lane. The motion carried 4-1 with Buskerud voting no.

**RESOLUTION 2016-12-07**

WHEREAS, the Pennington County Board of Commissioners has determined that the existing school speed zone on Twilight Drive does not function as was originally intended; and

WHEREAS, the existing school speed zone does not meet the warrants for school speed zone crossings, and

WHEREAS, the Board has the authority to establish such speed zones on County roads pursuant to SDCL 32-25-9.1 and SDCL 7-18A-2;

THEREFORE, BE IT RESOLVED that the school speed zone limiting the maximum speed of travel at 15 mph "When Children are Present" be removed on Twilight Drive beginning at a point 200 feet west of the intersection of Covington Street on Twilight Drive, in the NE1/4 of the NW1/4, Section 10, T1N, R8E, BHM, and ending 200 feet east of the intersection of Plateau Lane on Twilight Drive, in the NW1/4 of the NE1/4, Section 10, T1N, R8E, BHM, for a total distance of 1,462 feet.

Dated this 6th day of December 2016.

/s/ Lyndell Petersen, Chairman  
Pennington County Commission

ATTEST:



/s/ Julie A. Pearson, Pennington County Auditor

MOVED by Ferebee and seconded by Buskerud to take a five minute recess. The motion carried.

The meeting reconvened at 11:03 a.m. with Commissioner Ferebee absent.

**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 Trautman and seconded by Hadcock to approve the consent agenda as presented. The motion carried with Ferebee absent.

- A. PLANNED UNIT DEVELOPMENT REVIEW / PU 05-09: Richard Sterkel. To review an existing Planned Unit Development in accordance with Sections 213 and 508 of the Pennington County Zoning Ordinance.

Lots 1, 2, and 3 of Morrison Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota

Continue the review of Planned Unit Development / PU 05-09 to the December 20, 2016, Board of Commissioner's meeting.

- B. LAYOUT PLAT / PL 16-27: Three Forks Development Co.; Bob Brandt – Agent. To combine Lot 14, Lot 15, and Lot 16 to create Lot 14R of The Forks at Remmington Ranch in accordance with Sections 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 14, Lot 15, and Lot 16 of The Forks at Remmington Ranch, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 14R of The Forks at Remmington Ranch, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

Approve Layout Plat / PL 16-27 with the following six (6) conditions:

1. That at the time of Minor Plat submittal, eight (8) foot minor drainage and utility easements be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That at the time of Minor Plat submittal, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;

3. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
4. That prior to a Building Permit being issued for Proposed Lot14R of The Forks at Remmington Ranch, the landowner meet with the Pennington County Fire Coordinator to discuss Fire Safety issues/concerns;
5. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 16-27, which is available at the Planning Office; and,
6. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

C. LAYOUT PLAT / PL 16-26: Pat and Stacey Brown; Davis Engineering – Agent. To reconfigure lot lines in order to create Tract A Revised, Tract B Revised, Tract C Revised, and Lot 13 Revised of J.S. Johnson Subdivision in accordance with Sections 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract A, Tract B, Tract C, and Lot 13 of J.S. Johnson Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract A Revised, Tract B Revised, and Tract C Revised, and Lot 13 Revised of J.S. Johnson Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

Approve of Layout Plat / PL 16-26 with the following fourteen (14) conditions:

1. That prior to applying for a new plat with the Planning Department, all necessary certifications and statements be added to the Plat, per Section 400.3 – Final Plat (and Minor Plat) of the Pennington County Subdivision Regulations;
2. That prior to applying for a new plat with the Planning Department, the applicant submits topography at five (5) foot intervals or a Subdivision Regulations Variance be obtained waiving this requirement;
3. That prior to applying for a new plat with the Planning Department, an eight (8) Foot Utility and Drainage Easement be dedicated on the interior side of all side lot lines or a Subdivision Regulations Variance be obtained waiving this requirement;
4. That prior to applying for a new plat with the Planning Department, the Agent delete the old lot lines and lot numbers for Lots 11, 12 and 15 Revised as they appear on the submitted Layout Plat;
5. That prior to applying for a new plat with the Planning Department, a note for the Proposed Major Drainage Easement be added to the Plat to read, “Any major drainage easement show hereon shall be kept free of all obstructions including but not limited to buildings, walls, fences, hedges, trees and shrubs. These easements grant to all public authorities the right to construct, operate, maintain, inspect, and repair such improvements and structures as it deems expedient to facilitate drainage from any source.”;

6. That prior to applying for a new plat with the Planning Department, percolation tests and profile hole information be submitted for proposed Lot 13 Revised, Tract A, Tract B Revised, and Tract C Revised or a Subdivision Regulations Variance be obtained waiving this requirement;
7. That prior to applying for a new plat with the Planning Department, the applicant and/or agent meet with Staff to discuss which “Notes” from Plat Book 21, Page 82 and Plat A201415555 are to be included with the new Plat;
8. That prior to applying for a new plat with the Planning Department, the following be added to the proposed plat title (Formerly Lot 13 and Tracts A, B & C of JS Johnson Subdivision) and relabel the 100-year floodplain also as floodway;
9. That at the time Building Permits are applied for, for each of the lots, addresses will be assigned and said lot addresses shall be posted so they are clearly visible at all times in accordance with Pennington County’s Ordinance #20;
10. That the applicants ensures that all natural drainage ways be maintained and are not blocked;
11. That following platting of the proposed lot, 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;
12. The prior to filing a Minor Plat with the Register of Deeds, the applicant and/or agent vacate any portions of Plat Book 21, Page 82 and Plat A201415555 that the applicant and/or agent no longer deem necessary;
13. That within ten (10) business days of the approval of PL 16-26, the Landowner signs a Statement of Understanding (SOU) for PL 16-26; the SOU is available at the Planning Department; and,
14. That the approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described properties.

D. LAYOUT PLAT / PL 16-28: Black Hills Raptor Center; Davis Engineering – Agent. To create Tract A of Black Hills Raptor Center Addition in accordance with Sections 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: PT NW1/4SE1/4 Less RTY, Section 35, T1N, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract A of Black Hills Raptor Addition, Section 35, T1N, R9E, BHM, Pennington County, South Dakota.

Approve Layout Plat / PL 16-28 with the following fourteen (14) conditions:

1. All thirteen (13) conditions of Conditional Use Permit / CU 16-31 must be adhered to;
2. That prior to applying for a new plat with the Planning Department, the parent parcel (Pt NW1/4SE1/4 Less RTY, Section 35, T1N, R9E, BHM, Pennington County, South Dakota) and proposed Tract A obtain approved Lot Size Variances or approved Rezone and/or Comprehensive Plan Amendments;

3. That the applicants and landowners are made aware of all the Conditions and Special Conditions set forth by the South Dakota Department of Transportation relative to the approved Highway Approach Permit. Building Permits will not be approved without approved ingress/egress for Proposed Tract A from E. Highway 44 without SDDOT approval;
  4. That prior to applying for a new plat with the Planning Department, the applicants, landowners, or agent discuss with West River Electric the need for a twenty-five (25) foot easement to accommodate an overhead powerline and add said easement to a new plat, if agreed upon;
  5. That prior to applying for a new plat with the Planning Department, all necessary certifications and statements be added to the Plat, per Section 400.3 – Final Plat (and Minor Plat) of the Pennington County Subdivision Regulations;
  6. That prior to applying for a new plat with the Planning Department, the applicant submits topography at five (5) foot intervals or a Subdivision Regulations Variance be obtained waiving this requirement;
  7. That prior to applying for a new plat with the Planning Department, an eight (8) foot Utility and Drainage Easement be dedicated on the interior side of all side lot lines or a Subdivision Regulations Variance be obtained waiving this requirement;
  8. That prior to applying for a new plat with the Planning Department, a note for the proposed Major Drainage Easement be added to the Plat to read, “Any major drainage easement show hereon shall be kept free of all obstructions including but not limited to buildings, walls, fences, hedges, trees and shrubs. These easements grant to all public authorities the right to construct, operate, maintain, inspect, and repair such improvements and structures as it deems expedient to facilitate drainage from any source.”;
  9. That prior to applying for a new plat with the Planning Department, percolation tests and profile hole information be submitted for proposed Tract A or a Subdivision Regulations Variance be obtained waiving this requirement;
  10. That at the time Building Permits are applied for, for proposed Tract A, addresses will be assigned and said lot addresses shall be posted so they are clearly visible at all times in accordance with Pennington County’s Ordinance #20;
  11. That the applicant ensures that all natural drainage ways be maintained and are not blocked;
  12. That following platting of the proposed lot, 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;
  13. That within ten (10) business days of the approval of PL 16-28, the Landowner signs a Statement of Understanding (SOU) for PL 16-28; the SOU is available at the Planning Department; and,
  14. That the approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described properties.
- E. VACATION OF PLAT / VP 16-02: John and Lorene Baum. To vacate notes on the plat of Lot 10, Block 4, Paha Sapa High Country Tract 2 Subdivision, Section 18, T2N, R6E.

Lot 10, Block 4, Paha Sapa High Country Tract 2 Subdivision, Section 18, T2N, R6E, BHM, Pennington County, South Dakota.

Approve vacation of Plat / PL 16-02 and to leave the statement “No Building in This Area” on the plat where indicated, with the following two (2) conditions:

1. That all necessary resolutions for Vacation of Plat / VP 16-02 be recorded by the applicant at the Register of Deeds’ Office; and,
2. That the applicant signs a Statement of Understanding within ten (10) business days of approval of Vacation of Plat / VP 16-02, which is available at the Planning Office.

End of consent agenda

Commissioner Ferebee returned to the meeting at this time.

**PLANNING AND ZONING REGULAR ITEMS**

- F. VACATION OF SECTION LINE / VS 16-07: Paul Whalen. To vacate the east 33 feet of Section Line Right-of-Way lying along the north-south boundary of Lot A1-A4; Lot B1-B4 of Warren Lamb Subdivision, located in Section 18, T1N, R7E, BHM.

That portion of Section Line Right-of-Way lying along Lot A1-A4; Lot B1-B4 of Warren Lamb Subdivision, located in Section 18, T1N, R7E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Trautman to approve with three (3) conditions. Motion carried.

1. That prior to the Vacation of Section Line Right-of-Way being filed with the Register of Deeds, the legal description on Exhibit “A” continue to be per Pennington County Register of Deeds recommendation; and
2. That all necessary resolutions and exhibits vacating the Section Line Right-of-Way be recorded by the applicant at the Register of Deeds Office; and,
3. That the applicant signs a Statement of Understanding (SOU) within ten (10) business days of approval of Vacation of Section Line Right-of-Way / VS 16-07. The SOU is available at the Planning Office.

- G. 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 6.279 acres from 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.

Commencing at the northeasterly corner of Lot F of the W1/2 of the SE1/4 of the SE 1/4, common to a point on the southerly edge of railroad right-of-way, and the point of beginning; Thence, first course: S64°26'46"E, along the southerly edge of said railroad right-of-way, a distance of 321.21 feet, to the northwesterly corner of Lot 1 of Heavlin No. 2 Addition; Thence, second course: S64°24'45"E, along the northerly boundary of said Lot 1, common to the southerly edge of said railroad right-of-way, a distance of 39.96 feet; Thence, third course: S03°25'28"W, a distance of 192.92 feet, to a point on the southerly boundary of said Lot 1; Thence, fourth course: S03°25'28"W, a distance of 10.35 feet; Thence, fifth course: S89°52'49"E, a distance of 112.68 feet; Thence, sixth course: S00°10'58"E, a distance of 25.00 feet, to a point on the section line common to Sections 19 and 30; Thence, seventh course: S89°49'02"W, along the section line common to said Sections 19 and 30, a distance of 427.63 feet, to the southeasterly corner of said Lot F; Thence, eighth course: N00°10'35"E, along the easterly boundary of said Lot F, a distance of 385.32 feet, to the point of beginning. Said Parcel contains 2.331 acres more or less; Section 30, T1N, R9E, BHM, Pennington County, South Dakota.

Commencing at the Section Corner common to Sections 19, 20, 29, and 30 T1N, R9E, BHM, and the point of beginning; Thence, first course: S00°01'11"W, along the section line common to said Sections 29 and 30, a distance of 325.00 feet; Thence, second course: N90°00'00"W, a distance of 40.00 feet; Thence, third course: N55°02'38"W, a distance of 69.83 feet; Thence, fourth course: N75°00'00"W, a distance of 175.00 feet; Thence, fifth course: S88°00'00"W, a distance of 230.00 feet; Thence, sixth course: S85°00'00"W, a distance of 165.00 feet; Thence, seventh course: N00°07'18"E, a distance of 260.00 feet, to a point on the section line common to said Sections 19 and 30; Thence, eighth course: N89°49'02"E, along the section line common to said Sections 19 and 30, a distance of 660.06 feet, to the point of beginning. Said Parcel contains 3.948 acres more or less; Section 30, T1N, R9E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Buskerud to approve Rezone / RZ 16-11 and Comprehensive Plan Amendment / CA 16-08. The motion carried.

- H. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 16-12 AND COMPREHENSIVE PLAN AMENDMENT / CA 16-09: Stromer Properties, LLC; Brook Stromer. To rezone 15.01 acres from Limited Agriculture District to General Commercial District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lot A2, Bar P-S Subdivision, Section 20, T1N, R9E, BHM, Pennington County, South Dakota.

MOVED by Ferebee and seconded by Hadcock to approve Rezone / RZ 16-12 and Comprehensive Plan Amendment / CA 16-09. The motion carried.

- I. LAYOUT PLAT / PL 16-24: Deborah Munyan. To create Lots 1-2 of Munyan Estates 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 and Lot 2, Munyan Estates; Section 4, T1S, R9E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Buskerud to approve Layout Plat / PL 16-24 and the Planning Department staff, the State's Attorney's Office, the Applicant and the Agent work together to finalize the language for the deed restriction that is to be filed at Register of Deeds, with eleven (11) conditions. The motion carried.

1. That upon filing the Plat with the Register of Deeds, a Deed Restriction also be filed restricting the residential use of proposed Lot 2 until such time that a second means of ingress and egress is constructed;
2. That prior to filing the Plat with the Register of Deeds, proposed Lots 1 and 2 be Rezoned or approved Lot Size Variance(s) be obtained;
3. That at the time of new Plat submittal, the applicant submits percolation tests and soil profile information for proposed Lot 2 to be reviewed and approved by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
4. That at the time of new Plat submittal, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;
5. That at the time of new Plat submittal, the Plat heading be corrected to state "Lot 1 and Lot 2 of Munyan Estates, formerly Government Lot 1 of Section 4...", as required by the Register of Deeds;
6. That at the time of new Plat submittal, the applicant provide engineered road construction plans for road improvements, including width and surface requirements that meet road authority standards, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
7. That at the time of new Plat submittal, a 66-foot-wide Right-of-Way be dedicated along Bradsky Road on the portion outside of the Section Line Right-of-Way, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
8. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
9. That addresses be properly posted on the existing residence and any future structures constructed on proposed Lot 2 and at the approaches so they are visible from both directions of travel on Bradsky Road, in accordance with Pennington County's Ordinance #20;

10. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 16-24, which is available at the Planning Office; and,
  11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.
- J. SECOND READING 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.

MOVED by Trautman and seconded by Hadcock to approve the Second Reading of Planned Unit Development / PU 16-03 as amended through today with forty five (45) conditions. The motion carried 4-1 with Ferebee voting no.

**ORDINANCE NO. PUD 16-03**

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:

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.

To rezone 12.91 acres from General Agriculture District to a Planned Unit Development to allow for a Specialty Resort Development with the following forty-five (45) conditions:

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 sign 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 prior to the placement of any on and off-premise signs, the applicant must obtain approval of a Sign Permit. 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 [(Century Construction, LLC and/or its successor) or the Custer Trail Subdivision #1 Homeowner's Architectural Review Committee] prior to the issuance of a Sign Permit issued by the Planning Director;
8. 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;
9. 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, in accordance with Pennington County's Ordinance #20;
10. 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;
11. 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;
12. 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;
  13. That all music being provided for outdoor activities be in compliance with the County Noise Ordinance;
  14. That the applicants apply for a Temporary Building Permit for the event tent. Said Temporary Building Permit will be valid for a period not to exceed twelve (12) continuous months after approval. In addition, the Temporary Building Permit will be reviewed for possible permanent permitting during the February 2018 review;
  15. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
  16. 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;
  17. 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;
  18. 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;
  19. 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;
  20. That the applicants comply with South Dakota Codified Law 34-18;
  21. 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);
  22. That temporary port-a-potties only be placed on subject properties when needed, not to exceed ten (10) continuous months in any calendar year and 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;
  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 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;
27. That written approval from the Developer be obtained prior to issuance of permits;
  28. That Lots 3, 4, 10, 11 and 12 of the Specialty Resort be a Bed and Breakfast (specialty resort) with up to 10 guest rooms, and events such as: weddings, receptions, corporate events, family reunions, bridal and baby showers, Christmas parties and other types of gatherings similar in nature, up to a maximum of 150 daily guests. The specialty resort would also be allowed to have: beer and wine sales (with proper permits), a bistro/restaurant, gift shop, spa cabana/gazebo, storage shed, permanent tent, kitchen, bathrooms and to also be used for a vacation home rental and private single-family residence;
  29. 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;
  30. 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;
  31. 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;
  32. 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 property permits) for future underground holding tanks for designed and engineered water system;
  33. 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;
  34. 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;
  35. 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;
  36. 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;
  37. 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;
  38. That Lots 10, 11, 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;
  39. 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;
  40. That Lot 29 have a fifteen (15) foot front, rear and side yard setback;

41. 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;
42. That proposed Guest Houses, on specified lots, must comply with Section 318 of the Pennington County Zoning Ordinance;
43. That the Planning Director has the final determination on the location of lot setbacks and on the interpretation of conflicting Conditions of Approval;
44. That Conditional Use Permit / CU 14-04 end once Planned Unit Development / PUD 16-03 is approved; and,
45. 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.

Dated this 6th day of December, 2016.

PENNINGTON COUNTY COMMISSION

/s/ Lyndell Petersen, Chairman

ATTEST:

/s/ Julie A. Pearson, Auditor

K. SECOND READING 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 Ferebee to remove 319.C.7 from the proposal. Motion died for lack of a second.

Moved by Hadcock and seconded by Trautman to approve the Second Reading of Ordinance Amendment/ OA 16-01 with the proposed changes.

A substitute motion by Ferebee to accept the changes minus C.7, died for lack of a second.

The roll call vote carried 4-1: Buskerud – no, Ferebee – yes, Hadcock – yes, Trautman – yes, Petersen – yes.

ORDINANCE #34-32

AN ORDINANCE AMENDMENT TO THE PENNINGTON COUNTY ZONING ORDINANCE.

BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS THAT THE PENNINGTON COUNTY ORDINANCE #34 BE AMENDED AS FOLLOWS:

SECTION 103: Definitions shall be amended to include the following:

**FLOODWAY** (also termed “regulatory floodway”): The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**PRIVATE WATER SYSTEM:** A water supply system that provides water for human consumption to fewer than 15 service connections, that regularly serves fewer than 25 individuals, or that serves 25 or more individuals for no more than 60 days per year.

**PRIVATE WASTEWATER SYSTEM:** See On-site Wastewater Treatment System definition.

**PUBLIC WASTEWATER SYSTEM:** A facility for the treatment of wastewater owned by the state or any of its political subdivisions.

**PUBLIC WATER SYSTEM:** A water supply system that provides water for human consumption to 15 or more service connections or that serves an average of 25 or more individuals for 60 or more days per year.

**TRANSFER:** As used in Section 319-C-5, the term transfer shall mean the grant or conveyance of an ownership interest in the Vacation Home Rental property from an entity, trust, person or combination thereof to another entity, trust, person, or combination thereof. The grant or conveyance of an ownership interest in the Vacation Home Rental property from one spouse to his or her respective spouse by lawful marriage shall not be considered a transfer.

**VACATION HOME RENTAL (VHR):** Any dwelling unit that is rented for pay or other consideration, leased, or furnished in its entirety to the public on a daily or weekly basis for more than 14 days in a calendar year and is not occupied by an owner or manager during the time of rental. This term does not include a bed and breakfast establishment as defined in SDCL 34-18-9.1(1). [ref. SDCL 34-18-1 (17)].

SECTION 208: Suburban Residential District shall be amended to include the following:

20. Vacation Home Rental in accordance with Section 319.

SECTION 319: Vacation Home Rental shall be amended to read as follows:

**TRANSFER:** As used in Section 319-C-5 of this Ordinance, the term transfer shall mean the grant or conveyance of an ownership interest in the Vacation Home Rental property from an entity, trust, person or combination thereof to another entity, trust, person, or combination

thereof. The grant or conveyance of an ownership interest in the Vacation Home Rental property from one spouse to his or her respective spouse by lawful marriage shall not be considered a transfer.

A. Purpose:

To establish regulations and standards for owners of Vacation Home Rental (VHR) properties in Pennington County for the protection of the public health, safety, and welfare, and to minimize the impacts of such use.

B. Zoning Requirements:

1. VHRs are allowed uses in:
  - a. Highway Service Zoning Districts;
  - b. General Commercial Zoning Districts; and,
  - c. May be allowed in Planned Unit Developments, per Section 213(B)(2).
2. VHRs are prohibited in:
  - a. Heavy Industrial Zoning Districts; and,
  - b. Light Industrial Zoning Districts.
3. As long as the subject property for the VHR is a minimum of 1-acre with a combination of acceptable Public and/or Private Systems, as determined by the South Dakota Department of Health and the Pennington County Planning Department; VHRs are permitted with approval of a Conditional Use Permit in:
  - a. General Agriculture Zoning Districts;
  - b. Limited Agriculture Zoning Districts;
  - c. Low Density Residential Zoning Districts; and,
  - d. Suburban Residential Zoning Districts.

C. Permit Requirements:

1. A Conditional Use Permit is required for a VHR prior to operation in those zoning districts designated in accordance with the Zoning Requirements of this Section.
2. A Conditional Use Permit is not required for VHRs of 14 days or less (cumulative) in a calendar year in any zoning district [ref. SDCL 34-18- 1(17)].
3. The Owner must have applied for a South Dakota Vacation Home Lodging License from the South Dakota Department of Health. A copy of the application or license must be provided to the Planning Department prior to operation. At the time of issuance of the Vacation Home Lodging License from the South Dakota Department of Health, a copy of the license shall be furnished to the Planning Department.

4. The Owner must obtain a South Dakota Sales Tax License from the South Dakota Department of Revenue. A copy of the License must be provided to the Planning Department prior to operation.
5. Conditional Use Permits for VHRs in General Agriculture Districts, Limited Agriculture Districts, Low Density Residential Districts and Suburban Residential Districts shall be allowed to be transferred if the following conditions are met:
  - a. Conditions that must be met by the existing owner(s):
    1. Notify the Planning Department in writing of the transfer at least twenty (20) days prior to the date of the transfer.
    2. Pay the VHR Conditional Use Permit Review Fee to the Planning Department and complete an information sheet provided by the Planning Department.
  - b. Conditions that must be met by the new owner(s) upon transfer, *prior* to being able to operate the VHR.
    1. Sign off on existing information provided for in the original application under Sections 319-D, E, F, and G for the Conditional Use Permit that is transferring ownership and update all pertinent contact information.
    2. The Owner must have applied for a South Dakota Vacation Home Lodging License from the South Dakota Department of Health. A copy of the application or license must be provided to the Planning Department prior to operation. At the time of issuance of the South Dakota Vacation Home Lodging License from the South Dakota Department of Health, a copy of the license shall be furnished to the Planning Department. The Owner must also provide proof of a South Dakota Sales Tax License.
    3. Notify surrounding property owners of land within five-hundred (500) feet of the outer boundaries of the VHR property of the change of ownership and new Local Contact information. The Planning Department shall provide a list of the relevant property owners. The notice must be sent out within ten (10) days of the transfer of the VHR property or any time prior thereto.
  - c. If the new owner(s) want(s) to change any of the items of the

Conditional Use Permit required under Section 319-D, E, F, or G of the Zoning Ordinance, a new hearing will be set and the documentation treated as a new application.

- d. One (1) year from the transfer, the Planning Department will do a one-year review of the Conditional Use Permit.
6. Permits required by this Section are in addition to any license, permit, or fee required elsewhere in this Ordinance or required by State Law. Any person holding a CUP issued under this Section must also comply with all applicable federal, state, and local laws and regulations.
7. Vacation Home Rentals are prohibited in floodways.

D. Local Contact:

An Owner may retain a Local Contact to comply with the requirements of this Section, including, without limitation, the filing of an application for a Conditional Use Permit, the management of the VHR, and compliance with the conditions of the Conditional Use Permit. The Conditional Use Permit shall be issued only to the Owner of the VHR. The Owner of the VHR is ultimately responsible for compliance with the provisions of this Section (Section 319). The failure of the Local Contact to comply with this Section (Section 319) shall be deemed as non-compliance by the Owner.

E Application for Vacation Home Rental Conditional Use Permit:

The following information must be provided:

1. Site plan depicting the layout of the property, including all existing and proposed structures with setbacks, wells and/or water lines, on-site wastewater treatment system and/or sanitary sewer lines, and on-site parking spaces.
2. An interior diagram/plan of the VHR.
3. The maximum number of overnight occupants.
4. Acknowledgement from the Owner that the VHR meets all Fire Safety Standards for Vacation Home Establishments in accordance with current South Dakota Codified Laws.
5. Specifications of the existing wastewater treatment system.

F. Performance Standards:



All Conditional Use Permits issued, pursuant to this Section (Section 319), are subject to the following standards:

1. The maximum occupancy allowed in a VHR shall be no greater than two (2) persons per bedroom, plus four (4) additional persons, but may be fewer based on the capacity of the wastewater system. Children age 5 and under are not counted as occupants.
2. VHRs are limited to a maximum of five (5) bedrooms.
3. The number of on-site parking spaces as determined in accordance with Section 310.
4. The Owner/Local Contact shall educate occupants and/or guests of the VHR of Pennington County Ordinance 106. It is not intended that the Owner or Local Contact act as a peace officer or be placed in harm's way through implementation of this directive.
5. Where the Owner does not reside full-time within 50 miles driving distance of the VHR, a Local Contact shall be designated. The Local Contact shall reside within 50 miles driving distance of the VHR. The Owner or Local Contact shall be responsible for responding in a reasonable time to complaints about the VHR. The name, address, and telephone contact number of the Owner and/or Local Contact shall be kept on file at the Planning Department. The Notice of Hearing Letter shall also contain the name and phone number of the Local Contact. Upon change of Local Contact, the owner shall provide to the Planning Department the new information and written notice to all property owners within five-hundred (500) feet via First Class Mail. The list of property owners within five-hundred (500) feet will be provided by the Planning Department.
6. The wastewater system utilized by the VHR must be approved by the South Dakota DENR and/or must comply with Section 204-J.
7. The Owner shall keep records as required per SDCL 34-18-21. The report shall be provided to the Planning Department upon request.
8. Any lights used for exterior illumination shall direct light away from adjoining properties. Lighting shall be pointed/shielded downward to minimize upward glare.
9. Occupancy of recreational vehicles (RVs), camper trailers and tents shall not be allowed. Children under the age of 13 are allowed to "camp out" in a tent on the premises, but count toward the maximum occupancy.

10. The minimum age allowed for the principal renter of a VHR is 21 years of age.
11. Quiet hours shall be from 10 p.m. until 7 a.m.
12. The use of open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other devices (as applicable) shall not be allowed without permission from the Local Contact or Owner. The Local Contact or Owner must comply with any and all federal, state and/or local laws, ordinances or rules regarding open burning, burn barrels, fire pits, fireworks, fireplace or the burning of any flammable material. The Local Contact or Owner must provide proof of compliance.
13. The maximum number of day guests allowed, not to include overnight guests, shall be double the maximum occupancy of the VHR.
14. In granting or denying a Conditional Use Permit for a Vacation Home Rental, the Planning Commission and/or Board of Commissioners may consider the provision of a restrictive covenant which expressly and specifically excludes the use of a residence as a Vacation Home Rental.

G. Sign and Notification Requirements:

1. Interior Informational Signage. Each VHR shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:
  - a. The name of the Local Contact or Owner of the unit, and a telephone number at which that party may be reached on a 24-hour basis;
  - b. The maximum number of occupants permitted to stay in the unit;
  - c. The maximum number of day guests permitted to visit the unit;
  - d. The number and location of on-site parking spaces;
  - e. The use of open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other devices (as applicable) shall not be allowed without permission from the Local Contact or Owner.
  - f. The rules/regulations for pets and applicable leash laws;
  - g. The quiet hours;
  - h. The trash pick-up day and location of trash disposal;
  - i. Notification that the renter and occupants are responsible for the creation of any disturbances or for violating any other provisions of this Section;
  - j. Notification that failure to conform to the parking and occupancy regulations of the VHR unit is a Violation of County Ordinance;
  - k. A statement that: "Guests are expected to be courteous to all neighbors and to respect property boundaries;"
  - l. Local emergency and law enforcement contact information;

- m. The property address; and,
- n. If a Special Flood Hazard Areas (SFHA) is located within one (1) mile of the Vacation Home Rental, then a color map illustrating where the SFHA is located, as determined by the Federal Emergency Management Agency, shall be posted.

Dated this 6th day of December, 2016.

PENNINGTON COUNTY COMMISSION

/s/ Lyndell Petersen, Chairman

ATTEST:

/s/ Julie A. Pearson, Auditor

**ITEMS FROM COMMISSION ASSISTANT**

**A. AIR QUALITY LIAISON – COMMUNITY AT-LARGE MEMBER APPOINTED BY THE COMMISSION - UPDATE**

**APPROVAL OF VOUCHERS**

MOVED by Hadcock and seconded Buskerud by 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 \$335,601.04. The motion carried 4-1 with Ferebee voting no.

City Of Box Elder, \$108.48; City Of Rapid City -Water, \$128.49; Montana Dakota Utilities, \$4,558.12; Verizon Wireless, \$464.53; Rainbow Gas Company, \$1,026.82; Pioneer Bank & Trust, \$296.47; Century Link, \$7,841.41; Amerigas, \$107.49; Kieffer Sanitation/A Waste Management Co, \$144.20; Reliance Telephone Inc, \$23.60; BH Power Inc, \$298.98; SDN Communications, \$769.60; Global Tel'link, \$10.64; Vast Broadband, \$1,266.04; Pioneer Bank & Trust, \$3,192.04; Verizon Wireless, \$426.34; Bh Power Inc, \$259.07; City Of Box Elder, \$32.65; City Of Rapid City -Water, \$15,499.95; Verizon Wireless, \$5,313.56; Executive Mgmt Fin Office, \$27.00; Century Link, \$250.09; First Interstate Bank, \$2,323.37; Wex Bank, \$306.07; Vast Broadband, \$2,966.02; Pioneer Bank & Trust, \$4,129.33; Pioneer Bank & Trust, \$3,569.19; BH Power Inc, \$286.00; City Of Box Elder, \$85.60; City Of Rapid City -Water, \$2,292.79; Montana Dakota Utilities, \$1,117.98; West River Electric, \$1,900.85; Verizon Wireless, \$522.31; City Of Hill City, \$19.46; City Of Wall, \$264.00; Reliance Telephone Inc, \$3.20; First Interstate Bank, \$6,355.47; BH Power Inc, \$94.78; AT&T Mobility, \$215.11; Vast Broadband, \$2,510.59; Pioneer Bank & Trust, \$3,095.22; Wellmark, \$81,815.09; Wellmark, \$73,165.27; Wellmark, \$106,517.77

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

Executive session was not needed today.

**AUDITOR'S ACCOUNT OF THE TREASURER**

To the Pennington County Board of Commissioners, I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer as of November 22, 2016: Total balances of checking/savings accounts, \$20,151,995.82; Total balance of Treasurer's Office safe cash, \$10,600.00; Total certificates of deposit, \$3,530,738.85; Total Prime Value Investment, \$24,953,063.42; Total petty cash, \$15,505.00; Total Cash Items, \$906.98; Total long/short, (\$473.65); Total, \$48,662,336.42. Submitted by Lori Wessel, Deputy Auditor.

**PERSONNEL**

**ESCC:** Effective 11/20/2016 – Matthew Ostendorf at \$18.02/hr.

**FIRE ADMINISTRATOR:** Effective 12/01/2016 – Jerome Harvey at \$5612.00/mo.

**INFORMATION TECHNOLOGY:** Effective 12/1/2016 – Amalia Hertel at \$20.86/hr.; Effective 12/5/2016 - Jesse Perrigo at \$21.91/hr.

**PUBLIC DEFENDER:** Effective 11/21/2016 – Kristine Vasilakes at \$18.92/hr.

**STATES ATTORNEY:** Effective 12/01/2016 – Kate Ackerson at \$18.92/hr.

**PAYROLL**

Commissioners, 15,689.24; Human Resources, 10,469.08; Elections, 21,030.51; Auditor, 30,568.32; Treasurer, 71,931.85; IT, 57,306.07; MacArthur Grant, 8,625.12; State's Attorney, 229,002.94; Public Defender, 138,613.51; Buildings & Grounds, 145,890.89; Equalization, 96,407.49; Register of Deeds, 27,386.76; Sheriff, 553,420.14; HIDTA Grant, 11,627.78; Jail, 727,526.65; JSC, 251,649.41; JSC Juvenile Alternative, 11,444.34; CCADP, 157,173.06; Life Enrichment Center, 56,995.05; Economic Assistance, 75,108.35; Extension, 3,195.76; Weed & Pest, 10,616.09; Mountain Pine Beetle, 9,452.00; Planning and Zoning, 28,893.85; Water Protection, 6,831.30; Road & Bridge, 217,952.29; Fire Administration, 7,390.53; Dispatch, 212,270.06; Emergency Management, 9,935.40; 24-7 Program, 29,857.97.

**ADJOURN**

MOVED by Buskerud and seconded Hadcock by to adjourn the meeting. The motion carried. The meeting was adjourned at 1:31 p.m.

/s/ Julie A. Pearson, Auditor

Published once at an approximate cost of \_\_\_\_\_.

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