

**PROCEEDINGS OF THE PENNINGTON COUNTY
BOARD OF COMMISSIONERS
July 5, 2016**

The Pennington County Board of Commissioners met at 9:00 a.m. on Tuesday, July 5, 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 Buskerud to approve the agenda as presented. Vote: Unanimous.

CONSENT AGENDA ITEMS

The following items have been placed on the Consent Agenda for action to be taken by a single vote of the Board of Commissioners. Any item may be removed from the Consent Agenda at the request of a board member or citizen for separate consideration.

MOVED by Hadcock and seconded by Buskerud to remove Item 5 and Item 9 for separate consideration and approve the Consent Agenda as amended. Vote: Unanimous.

5. Removed for separate consideration.
6. Acknowledge the Order for Organization and Incorporation for the Engelhart Road District effective for tax year 2016 and after.

**ORDER FOR ORGANIZATION AND INCORPORATION
OF THE ENGELHART ROAD DISTRICT
PENNINGTON COUNTY, SOUTH DAKOTA**

WHEREAS, an election was petitioned to determine if the ENGELHART ROAD District should be formed;

AND WHEREAS, said election was held on June 21, 2016 and the results were a majority in favor of forming the ENGELHART ROAD District;

NOW, THEREFORE, BE IT ORDERED, that the Pennington County Commission acknowledge and declare the ENGELHART ROAD District to be organized and established as a governmental subdivision of the State of South Dakota and a public body, corporate and political to be effective as of today's date with taxing authority for the 2016 pay 2017 tax year and after.

BE IT FURTHER ORDERED that the ENGELHART ROAD District legal description is: N1/2 OF SECTION 18, T2N, R11E, BHM, Pennington County, SD.

/s/ Lyndell Petersen, Chairperson
Pennington County Board of Commissioners

ATTEST:

/s/ Julie A. Pearson, Auditor

7. Acknowledge the withdrawal of the reconveyance request for ZCC Inc. (Treasurer)
8. Approve the Warrant of Appointment for Mr. Tom Wilsey for a two year term to the Office of Highway Superintendent.
9. Removed for separate consideration.

End of Consent Agenda

5. APPROVAL OF THE MINUTES OF THE JUNE 21, 2016, BOARD OF COMMISSIONERS' MEETING: MOVED by Trautman and seconded by Buskerud to correct the minutes of the June 21, 2016, Board of Commissioners' meeting by adding the date to the following sentence. *A complaint was filed by Planning Director P.J. Conover against Commissioner George Ferebee. Commissioner Ferebee was given the opportunity to address or refute the claim on June 10, 2016, and chose not to do so.* Vote: Unanimous.
9. RUSHMORE CONNECTOR TRAIL COMMENT LETTER – WEED & PEST: MOVED by Trautman and seconded by Hadcock to approve the Chairman's signature on a revised comment letter for the Rushmore Connector Trail that removes a portion of the sentence in the second paragraph that reads "While we support the concept of the trail," and removes the first sentence in the last paragraph. Vote: Unanimous.

2017 BUDGET HEARINGS

- A. COURT SYSTEM – THE HONORABLE PRESIDING JUDGE CRAIG PFEIFLE
- B. TREASURER'S OFFICE – JANET SAYLER

PLANNING COMMISSION MEMBERS INTERVIEW & APPOINTMENTS (2 POSITIONS): Pennington County residents expressing interest in serving on the Planning Commission are Kyle Frisinger, Michael Gollither, Patrick Jones, Weldon Travis Lasseter, Rich Marsh and Tina Mulally.

MOVED by Ferebee and seconded by Hadcock that only the applicant being interviewed be in the Commission Chambers, with the other candidates waiting in the Commission Conference room until they have been interviewed. Vote: Unanimous.

MOVED by Ferebee and seconded by Trautman that each candidate introduce themselves and respond to spontaneous questions from the Commission. Vote: Unanimous.

MOVED by Ferebee and seconded by Buskerud that each commissioner select two applicants, and further moved that the successful candidates must receive three votes to be appointed to the Planning Commission. Vote: Unanimous.

Rich Marsh and Travis Lasseter were selected by written ballot to serve on the Planning Commission.

SDSU EXTENSION – RAPID CITY REGIONAL CENTER: Informational item

CITIZEN COMPLAINT AGAINST THE VOTE ON 6/10/2016 FOR LIEN RELEASE REQUEST – Frank Carroll: The Board discussed the complaint and took no action.

ITEMS FROM STATES ATTORNEY

- A. **VOCA GRANT – NEW FTE POSITION (VICTIM’S ADVOCATE):** MOVED by Buskerud and seconded by Hadcock to advertise for a new FTE position, Victim’s Advocate, to be completely supported by the VOCA grant, and further moved that the position will end if the grant funds end. The motion carried 4-1 with Ferebee opposing.
- B. **HEARING FOR BUDGET SUPPLEMENT FOR VOCA GRANT AWARD (SP16-007):** MOVED by Trautman and seconded by Hadcock to schedule a hearing at 9:15 a.m. on July 19, 2016, to supplement the General Fund State’s Attorney budget in the amount of \$65,596 from unanticipated revenue in 2016. The motion carried 4-1 with Ferebee opposing.

ITEMS FROM BUILDINGS & GROUNDS

- A. **COURTHOUSE ANNEX 1ST FLOOR REMODEL – AUTHORIZATION OF DESIGN SERVICES AGREEMENT AND TO BID PROJECT:** MOVED by Hadcock and seconded by Trautman to authorize the Chair’s signature to the AIA Document B105-2007, Standard Form of Agreement Between Owner and Architect, dated July 5, 2016, between Pennington County and Fennel Design, Inc. for professional services related to the design and construction of the project identified as the Pennington County Courts Remodel for a total lump sum fee of \$68,640 plus reimbursable expenses estimated to be \$1,300, and further moved to authorize for bids. A substitute motion by Ferebee to delay this item until January 2017 died for lack of a second. The motion carried 3-2 on a roll call vote: Buskerud – no, Ferebee – no, Hadcock – aye, Trautman – aye, Petersen – aye.
- B. **COURTHOUSE ENTRANCE ADDITION – AUTHORIZATION OF DESIGN SERVICES AGREEMENT:** MOVED by Trautman and seconded by Hadcock to authorize the Chair’s signature to the AIA Document B105-2007, Standard Form of Agreement Between Owner and Architect, dated July 5, 2016, between Pennington County and Fennel Design, Inc. for professional services related to the design and construction of the project identified as the Pennington County Courts Addition for a lump sum fee of \$222,000 plus reimbursable expenses estimated to be \$4,500. A substitute motion by Ferebee to delay this item until January 2017 died for lack of a second. The motion carried 3-2 on a roll call vote: Buskerud – no, Ferebee – no, Hadcock – aye, Trautman – aye, Petersen – aye.

ITEMS FROM HIGHWAY DEPARTMENT

- A. **AUTHORIZATION TO PURCHASE TWO 2016 JD 772GP MOTORGRADERS OFF THE MINNESOTA STATE BID:**
Commissioner Buskerud left the meeting.

MOVED by Trautman and seconded by Hadcock to authorize the Highway Department to purchase two 2016 John Deere 772GP Motorgraders off the Minnesota State bid for the price of \$296,102 each from RDO Equipment, 1540 Deadwood Avenue, Rapid City, SD.

The motion carried 3-1 on a roll call vote: Buskerud – not present, Ferebee – no, Hadcock – aye, Trautman – aye, Petersen – aye.

Commissioner Buskerud rejoined the meeting.

MOVED by Hadcock and seconded by Trautman to declare surplus for trade or sale, two 2009 John Deere 772GP Motorgraders, Capital Asset numbers 005852 and 005854. The motion carried 4-1 on a roll call vote: Buskerud – aye, Ferebee – no, Hadcock – aye, Trautman – aye, Petersen – aye.

ITEMS FROM COMPENSATION COMMITTEE

- A. CREATION OF NEW POSITION IN HIGHWAY DEPARTMENT – ENGINEER TECHNICIAN: A motion by Ferebee to postpone this item to the next meeting died for lack of a second. MOVED by Buskerud and seconded by Trautman to approve the position description for the Engineer Technician at Grade 15. The motion carried 4-1 with Ferebee opposing.

ITEMS FROM FIRE ADMINISTRATOR

- A. FIREWORKS AND OPEN BURNING RESOLUTION: Informational item.

ITEMS FROM PLANNING & ZONING

MOVED by Trautman and seconded by Hadcock to convene as the Board of Adjustment. The motion carried.

- A. VARIANCE / VA 16-06: Michael and Alyssa Pogany. To reduce the minimum required side yard setback from 25 feet to 15 feet in a Limited Agriculture District in accordance with Sections 206 and 509 of the Pennington County Zoning Ordinance.

Lot 24, Kieffer Ranch Estates, Section 21, T1S, R7E, BHM, Pennington County, South Dakota.

MOVED by Trautman and seconded by Buskerud to deny Variance / VA 16-06. Substitute motion: MOVED by Ferebee and seconded by Hadcock to postpone this item to the next meeting or until such time as the applicant can meet with neighbors.

Hadcock withdrew her second of the substitute motion, so the motion failed for lack of a second.

Trautman withdrew original motion to deny Variance / VA 16-06.

MOVED by Ferebee and seconded by Hadcock to honor the applicant's request to withdraw the Variance / VA 16-06 and refund associated fees except advertising. Vote: Unanimous.

- B. VARIANCE / VA 16-07: Beth Shuster. To reduce the minimum required side yard setback from 25 feet to 10 feet in order to bring an existing barn into compliance in a Limited

Agriculture District in accordance with Sections 206 and 509 of the Pennington County Zoning Ordinance.

Lot 3, Knotty Pine Subdivision, Section 33, T1S, R7E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Trautman to approve Variance / VA 16-07 with two (2) conditions. Vote: Unanimous.

1. That this Variance only applies for the existing 30' x 10' barn on the subject property. All other existing and proposed structures must maintain the proper setback and easement requirements or obtain separate Variance(s); and,
2. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Variance / VA 16-07, which is available at the Planning Office.

MOVED by Buskerud and seconded by Trautman to adjourn as the Board of Adjustment and reconvene as the Board of Commissioners. The motion carried.

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.

- C. SECOND READING OF REZONE / RZ 16-05 AND COMPREHENSIVE PLAN AMENDMENT / CA 16-05: Raymond and Shirley Darrough; Fisk Land Surveying – Agent. To rezone 10.00 acres from Limited Agriculture District to Low Density Residential District and to amend the Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Low Density Residential District in accordance with Sections 206, 207, and 508 of the Pennington County Zoning Ordinance.

NE1/4SE1/4SW1/4 of Section 16, T2N, R6E, BHM, Pennington County, South Dakota.

Approve the second reading of Rezone / RZ 16-05 and Comprehensive Plan Amendment / CA 16-05.

ORDINANCE NO. RZ 16-05

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:

NE1/4SE1/4SW1/4 of Section 16, T2N, R6E, BHM, Pennington County, South Dakota.

The above-described property is hereby rezoned from Limited Agriculture District to Low Density Residential District.

Dated this 5th day of July, 2016.

PENNINGTON COUNTY COMMISSION

/s/ Lyndell Petersen, Chairperson

ATTEST:

/s/ Julie A. Pearson, Auditor

- D. MINOR PLAT / PL 16-10 AND SUBDIVISION REGULATIONS VARIANCE / SV 16-02: Donald Brassfield; Renner & Associates – Agent. To create Lot C1 and Lot C2 of Brassfield Subdivision and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot C of Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot C1 and Lot C2 of Brassfield Subdivision, Section 28, T1S, R6E, BHM, Pennington County, South Dakota.

Approve Subdivision Regulations Variance / SV 16-02 to waive submittal of percolation tests and soil profile hole information and submittal of engineered road construction plans; and further moved to approve Minor Plat / PL 16-10 with eight (8) conditions.

1. That prior to filing the Plat with the Register of Deeds, the applicant submits percolation tests and soil profile information for Proposed Lots C1 and C2 to be reviewed and approved by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That prior to filing the Plat with the Register of Deeds, 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 prior to filing the Plat with the Register of Deeds, the applicant provides engineered road construction plans for road improvements, including width and surface requirements that meet Pennington County's Ordinance #14 standards, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
4. That prior to filing the Plat with the Register of Deeds, the notation for the existing Power Easement be corrected to indicate that it is a Black Hills Electric Cooperative Easement, rather than a Black Hills Power Easement;

5. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
6. That a Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
7. That the comments provided by the U.S. Forest Service be provided to the applicant and the applicant continually adhere to those comments; and,
8. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Minor Plat / PL 16-10 and Subdivision Regulations Variance / SV 16-02, which is available at the Planning Office.

E. 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.

Continue Planned Unit Development / PU 16-03 to the July 19, 2016, Board of Commissioners' Meeting.

MOVED By Trautman and Buskerud to recess until 1 p.m. Unanimous.

Commissioners Buskerud, Hadcock and Petersen returned to the meeting. MOVED by Buskerud and seconded by Hadcock to reconvene the meeting. The motion carried.

Commissioner Ferebee and Commissioner Trautman returned during the introduction of Item F.

PLANNING & ZONING REGULAR ITEMS

- F. HEARING REGARDING THE APPEAL AND FURTHER PROCEEDINGS FOR CONDITIONAL USE PERMIT REVIEW / CU 16-05: Spring Creek Hideaway, LLC / Brent and Pam Veurink. To allow a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 4, Peterson Subdivision MS 622, Section 11, T2S, R4E, BHM, Pennington County, South Dakota.

A motion by Buskerud send this item back to the Planning Commission to verify that all conditions of approval have been met failed for lack of a second.

MOVED by Hadcock and seconded by Trautman to amend the previous approval of Conditional Use Permit / CU16-05 in order to amend Condition #17 to state, "That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval continue to be met." The motion carried 4-1 with Buskerud opposing.

FY2017 COUNTY PROVISIONAL BUDGET

- A. NEW FTE REQUESTS

MOVED by Ferebee to approve one new FTE for the Register of Deeds and .5 FTE for Extension. The motion failed for lack of a second.

MOVED by Hadcock and seconded by Trautman to approve the 13.5 new FTE requests that are included in the budget. The motion carried 4-1 on a roll call vote: Buskerud – aye, Ferebee – no, Hadcock – aye, Trautman – aye, Petersen – aye.

- B. ANY OTHER ITEMS RELATING TO BUDGET PREPARATION/DIRECTION

MOVED by Trautman to leave COLA and merit as presented in the budget. The motion failed for lack of a second.

MOVED by Hadcock and seconded by Petersen to include a 2% COLA in the Provisional Budget. The motion failed 3-2 on a roll call vote: Buskerud – no, Ferebee – no, Hadcock – aye, Trautman – no, Petersen – aye.

MOVED by Hadcock and seconded by Trautman to leave the COLA and merit increases as presented in the budget. The motion failed 3-2 on a roll call vote: Buskerud – no, Ferebee – no, Hadcock – no, Trautman – yes, Petersen – yes.

The Board took a brief recess.

Commissioners Buskerud, Hadcock and Peterson returned to the meeting.

ITEMS FROM COMMISSION ASSISTANT

- A. 2016 COUNTY ACHIEVEMENT AWARD & OUTSTANDING SERVICE AWARDS
MOVED by Buskerud and seconded by Hadcock to continue this item to the next meeting.
The motion carried.

Commissioner Trautman returned to the meeting.

- B. SCHEDULING OF COUNTY SITE ANALYSIS PRESENTATION–SD DEPARTMENT OF AGRICULTURE: MOVED by Trautman and seconded by Buskerud to schedule a special meeting to hear the Site Analysis Presentation from South Dakota Department of Agriculture on Tuesday, August 23, 2016, at 1 p.m. Vote: 4-0 with Ferebee not present.

Commissioner Ferebee returned to the meeting.

APPROVAL OF VOUCHERS

MOVED by Hadcock and seconded by Buskerud 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 \$88,015.40. The motion carried.

BH Power Inc, 55.16; BH Power Inc, 568.82; Raquel Booth, 525.00; Century Link, 248.07; City Of Rapid City -Water, 14,384.24; Executive Mgmt Fin Office, 24.00; First Interstate Bank, 1,829.95; Montana Dakota Utilities, 3,789.54; Vast Broadband, 1,360.20; Verizon Wireless, 5,072.12; Wellmark, 60,158.30.

EXECUTIVE SESSION per SDCL 1-25-2

MOVED by Buskerud and seconded by Hadcock to grant an out of class pay adjustment to Laura Luthy to Grade 18 Step 7. Vote: Unanimous.

PAYROLL

Commissioners, 15,002.84; Human Resources, 9,634.68; Elections, 20,080.16; Auditor, 24,244.92; Treasurer, 57,865.01; IT, 48,351.29; State's Attorney, 202,917.21; Public Defender, 202,616.07; Buildings & Grounds, 114,905.71; Equalization, 77,483.12; Register of Deeds, 24,365.64; Sheriff, 474,829.16; HIDTA Grant, 8,983.08; Jail, 49,770.84; JSC, 193,046.49; JSC Juvenile Alternative, 9,385.00; CCADP, 134,106.50; Life Enrichment Center, 36,046.66; Economic Assistance, 64,822.33; Extension, 2,393.92; Weed & Pest, 28,494.29; Planning and Zoning, 25,422.46; Water Protection, 6,423.90; Road & Bridge, 188,638.73; Fire Administration, 6,976.79; Dispatch, 185,569.93; Emergency Management, 8,543.90; 24-7 Program, 24,957.42

PERSONNEL

Auditor: Effective 8/31/2016 – Kara Tines at \$23.62/hr.

July 5, 2016

Public Defender: Effective 6/20/2016 – Tammy Valdez at \$18.92/hr.; Effective 7/5/2016 – Kristine Jo Vasilakes at \$18.92/hr.; Effective 6/20/2016 – Cynthia Ferguson at \$19.40/hr.

State’s Attorney: Effective 7/28/2016 – Angela Shute at \$5,385/mo.

Treasurer: Effective 7/1/2016 - Laura Luthy at \$4,295/mo.

ADJOURN

MOVED by Hadcock and seconded by Buskerud to adjourn the meeting. The motion carried. There being no further business, the meeting was adjourned at 2:45 p.m.

/s/ Julie A. Pearson, Auditor

Published once at an approximate cost of _____.

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