

PENNINGTON COUNTY BOARD OF COMMISSIONERS
Meeting of August 7, 2018

The Pennington County Board of Commissioners met at 9:00 a.m. on Tuesday, August 7, 2018, in the Commission Chambers in the County Administration Building, Rapid City, South Dakota. Chair Lloyd LaCroix called the meeting to order with the following Commissioners present: Ron Buskerud, Mark DiSanto, George Ferebee and Deb Hadcock.

REVIEW AND APPROVE AGENDA

MOVED by Hadcock and seconded by Buskerud to approve the agenda as presented with the removal of item 14. Vote: Unanimous.

CONSENT ITEMS

MOVED by DiSanto and seconded by Buskerud to approve the Consent Agenda as presented. Vote: Unanimous.

5. Approve the minutes of the regular meeting – July 17, 2018.
6. Acknowledge disinterment permit #1227670.
7. Authorize the Chair's signature to the Revised Order of Organization and Incorporation for the Lakota Lake Encampment Road District effective for tax year 2018 and after with the legal description as presented.

ORDER FOR ORGANIZATION AND INCORPORATION
OF THE LAKOTA LAKE ENCAMPMENT ROAD DISTRICT
PENNINGTON COUNTY and CUSTER COUNTY, SOUTH DAKOTA

WHEREAS, an election was petitioned to determine if the LAKOTA LAKE ENCAMPMENT ROAD District should be formed,

AND WHEREAS, said election was held on May 17, 2018 for the property owners of record in Pennington County and Custer County, and the results were a majority in favor of forming the LAKOTA LAKE ENCAMPMENT ROAD District pursuant to SDCL 6-16-4 to 6-16-6, inclusive and Chapter 31-12A

NOW, THEREFORE, BE, IT ORDERED, that the Pennington County Commission acknowledge and declare the LAKOTA LAKE ENCAMPMENT 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 2018 pay 2019 tax year and after.

BE IT FURTHER ORDERED that the LAKOTA LAKE ENCAMPMENT ROAD District lying Within Pennington County and Custer County, which legal description in Pennington County is:

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THAT PART OF LAKOTA LAKE ENCAMPMENT SUBDIVISION LYING WITHIN
PENNINGTON COUNTY LOCATED IN SECTION 21, T2S, R06E, BHM Pennington County,
South Dakota.

Dated this 7th day of August, 2018

/s/ Lloyd LaCroix, Chairman
Pennington County Board of Commissioners

ATTEST: (SEAL)

/s/ Cindy Mohler, Auditor Elect

8. Authorize the Chair's signature to the Order Reaffirming Organization and incorporation for the Cedar Gulch Sanitary and Water District, a South Dakota Sanitary District, with the following legal description.

**A SOUTH DAKOTA
SANITARY DISTRICT
PENNINGTON COUNTY,
SOUTH DAKOTA**

WHEREAS, this Commission entered an order forming the CEDAR GULCH SANITARY AND WATER District, a South Dakota Sanitary District, on April 16th, 2013, with tax authority in 2013 payable in 2014 and after.

AND WHEREAS, the CEDAR GULCH SANITARY AND WATER District has operated as a Sanitary District since that time and provided water services to houses within the district boundaries.

AND WHEREAS, while working with the State of South Dakota a concern was raised regarding the original formation.

AND WHEREAS, to satisfy these concerns the residences within the CEDAR GULCH SANITARY AND WATER District petitioned for an election to reaffirm and/or form the CEDAR GULCH SANITARY AND WATER District.

AND WHEREAS, said election was held on July 24, 2018 for the registered voters of record in Pennington County, and the results were a majority in favor of forming and/or reaffirming the CEDAR GULCH SANITARY AND WATER District pursuant to SDCL 6-16-4 to 6-16-6, inclusive and Chapter 34-5A.

NOW, THEREFORE, BE IT ORDERED, that the Pennington County Commission acknowledge and declare the CEDAR GULCH SANITARY AND WATER District reaffirmed as an organized and established as a governmental subdivision of the State of South Dakota and a

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public body, corporate and political with the continuing effective date of April 16th, 2013, and continuing taxing authority since 2013 and for the 2018 pay 2019 tax year and after.

BE IT FURTHER ORDERED that the CEDAR GULCH SANITARY AND WATER District legal description is:

LOTS 1, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A AND 6B OF BLOCK 1; LOT 1 OF BLOCK 2; LOTS 3, 4, 5 AND 6 OF BLOCK 3 AND WASTEWATER LOT 1 OF CEDAR GULCH NO. 2 SUBDIVISION. ALL LOCATED IN THE SE % OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 9 EAST, BHM, PENNINGTON COUNTY, SD.

Dated this 7th day of August, 2018

/s/ Lloyd LaCroix, Chairman
Pennington County Board of Commissioners

ATTEST: (SEAL)
/s/ Cindy Mohler, Auditor Elect

End of consent agenda

LIEN RELEASE REQUEST – KL: MOVED by Hadcock and seconded by Buskerud to pull from consideration. Vote: Unanimous.

2018 CENTRAL STATES FAIR – Ron Jeffries General Manager: No action was taken at this time.

ITEMS FROM AUDITOR

- A. **NEW SPECIAL RETAIL (On-Sale) MALT BEVERAGE AND WINE LICENSE – RUSHMORE HOCKEY ASSOCIATION:** MOVED by Buskerud and seconded by DiSanto to approve a Special Retail (On-Sale) Malt Beverage and Wine License to Rushmore Hockey Association for the Jam for the Zam Fundraiser on September 15, 2018. Vote: Unanimous.
- B. **NEW (ON-OFF SALE) MALT BEVERAGE LICENSE – JOLLY LANE GREENHOUSE:** MOVED by DiSanto and seconded by Buskerud to approve the New (On-Off Sale) Malt Beverage License for Jolly Lane Greenhouse Inc. and hold the license until the property taxes have been paid. Vote: Unanimous.
- C. **9:15 a.m. PUBLIC HEARING – BUDGET SUPPLEMENT SP-007 – GENERAL FUND LAW ENFORCEMENT BUDGET:** MOVED by Hadcock and seconded by DiSanto to approve a supplement to the 2018 General Fund Law Enforcement budget in the amount of \$7,575 from current year non budgeted revenue. Vote: Unanimous.
- D. **9:15 a.m. PUBLIC HEARING – BUDGET SUPPLEMENT SP-008 – GENERAL FUND LAW ENFORCEMENT BUDGET:** MOVED by Hadcock and seconded by DiSanto to

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approve a supplement to the 2018 General Fund Law Enforcement budget in the amount of \$97,500 from current year non budgeted revenue. Vote: Unanimous.

ITEMS FROM SHERIFF

- A. PROPOSED NAME AND LOGO FOR FORMER NAU PROPERTY: MOVED by Hadcock and seconded by Buskerud to approve the new name, Care Campus, and the revised circle logo.

Substitute motion: MOVED by LaCroix and seconded by DiSanto to approve the new name, Care Campus, and the original heart logo. The motion failed 2-3 on a roll call vote: Buskerud – no, DiSanto – yes, Ferebee – no, Hadcock – no, LaCroix – yes.

The original motion carried 3-2 on a roll call vote: Buskerud – yes, DiSanto – no, Ferebee – yes, Hadcock – yes, LaCroix – no.

ITEMS FROM HEALTH AND HUMAN SERVICES

- A. AUTHORIZATION TO SUBMIT A PROPOSAL TO THE LEONA M. AND HARRY B. HELMSLEY CHARITABLE TRUST: MOVED by Hadcock and seconded by LaCroix to approve the request to submit the proposal to the Leona M. and Harry B. Helmsley Charitable Trust and to affix the Chair's signature to the proposal when complete. The motion failed 2-3 on a roll call vote: Buskerud – no, DiSanto – no, Ferebee – no, Hadcock – yes, LaCroix – yes.

EXECUTIVE SESSION – SDCL 1-25-2

- A. Personnel Issue per SDCL 1-25-2(1)

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

MOVED by Ferebee and seconded by Hadcock to go into Executive Session for the purpose of considering a personnel issue per SDCL 1-25-2(1) & contractual/pending litigation per SDCL 1-25-2(3) until 10:30 a.m. Vote: Unanimous.

MOVED by Hadcock and seconded by DiSanto to come out of Executive Session. Vote: Unanimous with Buskerud not present.

Buskerud joined the meeting at 10:35 a.m.

MOVED by Buskerud and seconded by LaCroix to approve the law firm Gunderson, Palmer, Nelson and Ashmore, LLP that represents Pennington County, to proceed with an appeal of Judge Pfeifle's decision in the matter of Duane Abata et al. vs. Pennington County Board of Commissioners et al. to the South Dakota Supreme Court.

Substitute motion: MOVED by Ferebee to delay this decision until the next Commission meeting on August 21, 2018. The motion died for the lack of a second.

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The original motion carried 4-1 on a roll call vote: Buskerud – yes, DiSanto – yes, Ferebee – no, Hadcock – yes, LaCroix – yes.

MOVED by Hadcock and seconded by Buskerud to approve and authorize the Chair's signature on a public release titled Pennington County Board of Commissioners statement concerning Ordinance Amendment 17-02. The motion carried 4-1 with Ferebee voting no.

ITEMS FROM PLANNING & ZONING

BOARD OF ADJUSTMENT: MOVED by Buskerud and seconded by Hadcock to convene as the Board of Adjustment. Vote: Unanimous.

- A. VARIANCE / VA 18-07: Mae Heikkinen. To reduce the minimum required side yard setback from 8 feet to a zero (0) foot setback on the southern property line in order to replace a deck on the subject property in a Suburban Residential District in accordance with Sections 208 and 509 of the Pennington County Zoning Ordinance.

Lot 8A of Lot 8, Meadow Ridge Subdivision, Section 2, T1N, R8E, BHM, Pennington County, South Dakota

MOVED by Hadcock and seconded by Buskerud to continue this item until the next Commission meeting on August 21, 2018. Vote: Unanimous.

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

PLANNING & ZONING REGULAR AGENDA

- B. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 18-04 AND COMPREHENSIVE PLAN AMENDMENT / CA 18-04: Gary Baldwin; Fisk Land Surveying – Agent. To rezone 5.00 acres from Limited Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to Suburban Residential District in accordance with Sections 206, 208, and 508 of the Pennington County Zoning Ordinance.

Tract 2, Berger Subdivision, Section 14, T2N, R8E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Buskerud to approve of Rezone / RZ 18-04 and Comprehensive Plan Amendment / CA 18-04. Vote: Unanimous.

- C. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 18-05: Alan or Rosemary Johnson. To rezone 1.04 acres from General Agriculture District to Suburban Residential

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District in accordance with Sections 205, 208, and 508 of the Pennington County Zoning Ordinance.

Lot A of NE1/4NW/14 and Lot B of NE1/4NW1/4 in Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

MOVED by DiSanto and seconded by Hadcock to approve of Rezone / RZ 18-05. Vote: Unanimous.

- D. LAYOUT PLAT / PL 18-20: Robert Raue; Renner Associates – Agent. To create Lot 3 of Jones Ranch Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: SE1/4 less 9.93 acres in SE1/4 and less Jones Ranch Subdivision, Section 36, T1N, R9E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 3, Jones Ranch Subdivision, Section 36, T1N, R9E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by DiSanto to approve of Layout Plat / PL 18-20 with the following ten (10) conditions. Vote: Unanimous.

1. That prior to filing the Plat with the Register of Deeds, the proposed lot obtain an approved Lot Size Variance or be Rezoned appropriately;
2. That at the time of new Plat submittal, an easement for the existing irrigation ditch be shown on the Plat, per County Highway Department comments;
3. That at the time of new Plat submittal, the applicant submit documentation stating that power will be constructed with underground construction or a 25-foot utility easement will be required on all lot lines, per West River Electric comments;
4. That at the time of new 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;
5. That at the time of new Plat submittal, the plat meets all requirements of § 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;
6. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;
7. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
8. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;

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9. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 18-20, which is available at the Planning Office; and,
10. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

- E. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 18-03 AND COMPREHENSIVE PLAN AMENDMENT / CA 18-03: Robert Raue; Renner Associates – Agent. To rezone 5.00 acres from General Agriculture District to Low Density Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to Low Density Residential District in accordance with Sections 205, 207, and 508 of the Pennington County Zoning Ordinance.

Located on the following metes and bounds description: Commencing at the northwesterly corner of the S416 feet of the E380 feet of the SW1/4 of SE1/4 of SE1/4, Section 36, T1N, R9E, BHM and the point of beginning; Thence, first course: westerly, parallel to the Section Line common to Sections 36, T1N, R9E, BHM, and Section 6, T1S, R10E, BHM, a distance of 568.67 feet±; Thence, second course: southerly, perpendicular to said section line a distance of 383.00 feet ±, to a point on the northerly edge of section line right-of-way; Thence, third course: easterly, along the northerly edge of said section line right-of-way, a distance of 568.67 feet±, to a point on the west boundary of said E380 feet of the SW1/4 of SE1/4 of SE1/4; Thence, fourth course: northerly, along the westerly boundary of said E380 feet of the SW1/4 of SE1/4 of SE1/4, a distance of 383.00 feet±, to the said point of beginning. Said Parcel contains 5.00 acres more or less.

MOVED by DiSanto and seconded by Hadcock to approve of Rezone / RZ 18-03 and Comprehensive Plan Amendment / CA 18-03. Vote: Unanimous.

- F. LAYOUT PLAT / PL 18-17: Jeffery Reed. To create Lots 3A and 3B of Snyder Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 3, Snyder Subdivision, Section 29, T1S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 3A and Lot 3B, Snyder Subdivision, Section 29, T1S, R7E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Buskerud to approve of Layout Plat / PL 18-17 with the following eleven (11) conditions. Vote: 3-2 with DiSanto and Ferebee voting no.

1. That prior to filing the Plat with the Register of Deeds, the proposed lots obtain approved Lot Size Variances or be Rezoned appropriately;

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2. That at the time of new Plat submittal, the note at the bottom of Page 1 be corrected from “the City of Rapid City” to “Pennington County”;
3. That at the time of new Plat submittal, an Access Easement for Lot 4 of Snyder Subdivision be dedicated on the Plat where the driveway currently exists;
4. That at the time of new Plat submittal, the Plat be corrected to show the correct road name of “Hart Ranch Road West”;
5. That at the time of new 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;
6. That at the time of new Plat submittal, the plat meets all requirements of § 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;
7. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;
8. That the applicant ensures that all natural drainage ways are maintained and are not blocked;
9. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of § 204(J) of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
10. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 18-17, 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.

ITEMS FROM THE CHAIR/COMMISSION MEMBERS

- A. **A RESOLUTION TO SUPPORT ALLOWING FOR THE APPOINTMENT OF MEMBERS TO THE COUNTY BOARD OF EQUALIZATION:** MOVED by Hadcock and seconded by LaCroix to have Buskerud bring the Resolution forward at the tomorrow’s Resolution’s Board meeting with a friendly amendment that three members shall be Commissioners.

Substitute motion: MOVED by Buskerud and seconded by Ferebee to postpone this item indefinitely. Vote: Unanimous.

- B. **2018 COUNTY ACHIEVEMENT AWARD – POSSIBLE NOMINATIONS:** MOVED by DiSanto and seconded by Buskerud to nominate the Courthouse Entrance Remodel Project for the 2018 County Achievement Award. Vote: Unanimous.

COMMITTEE REPORTS

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 584,675.11. Vote: The motion carried 3-2 with DiSanto and Ferebee voting no.

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AT&T Mobility, 683.94; BH Energy, 831.30; BH Energy, 130.82; BH Energy, 460.95; BH Energy, 1,324.38; BH Energy, 608.60; BH Energy, 1,198.39; Century Link, 7,086.42; Century Link, 134.18; Century Link, 126.70; City Of Box Elder, 375.73; City Of Hill City, 8.73; City Of Rapid City -Water, 13,437.66; City Of Rapid City -Water, 4,758.82; City Of Rapid City -Water, 2,029.19; Datel Software Solutions, 1,632.00; Delta Dental Of South Dakota, 33,710.56; Executive Mgmt Fin Office, 24.75; First Interstate Bank, 681.01; First Interstate Bank, 725.48; First Interstate Bank, 537.30; First Interstate Bank, 86.72; First Interstate Bank, 225.32; First Interstate Bank, 3,314.58; First Interstate Bank, 49.41; First Interstate Bank, 372.74; First Interstate Bank, 899.52; First Interstate Bank, 28.97; First Interstate Bank, 145.00; Lowe's, 58.94; Midcontinent Communications, 726.21; Midcontinent Communications, 2,965.19; Midcontinent Communications, 415.47; Montana Dakota Utilities, 198.93; Montana Dakota Utilities, 4,139.66; Pioneer Bank & Trust, 3,407.59; Pioneer Bank & Trust, 1,350.37; Pioneer Bank & Trust, 12,821.44; Pioneer Bank & Trust, 10,701.58; Reliance Telephone Inc, 9.20; Reliance Telephone Inc, 8.00; SDN Communications, 384.80; Sun Life Financial, 88,010.50; The Hartford, 2,705.24; Vast Broadband, 2,087.74; Vast Broadband, 311.21; Verizon Wireless, 778.04; Verizon Wireless, 4,616.38; Verizon Wireless, 525.21; Wellmark, 371,702.77; West River Electric, 441.26; West River Electric, 366.72; Wex Bank, 313.49

ITEMS FROM THE PUBLIC

PAYROLL

Commissioners, 16,206.43; Elections, 16,841.98; Auditor, 27,566.12; Treasurer, 70,247.71; State's Attorney, 275,841.94; Public Defender, 152,822.99; Buildings & Grounds, 142,675.13; Equalization, 103,063.40; Register of Deeds, 31,756.43; IT, 57,407.12; Human Resources, 11,560.95; Sheriff, 588,588.34; HIDTA Grant, 12,758.50; Jail, 763,572.43; JSC, 267,458.23; JSC Juvenile Alternative, 13,237.59; CCADP, 179,435.78; Economic Assistance, 68,085.25; Extension, 3,208.00; Weed & Pest, 33,545.68; Planning and Zoning, 35,284.34; Road & Bridge, 191,105.47; Fire Administration, 8,025.48; Dispatch, 228,204.60; Emergency Management, 11,742.24; 24-7 Program, 30,089.28.

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 July 26, 2018: Total balances of checking/savings accounts, 11,963,352.07; Total balance of Treasurer's Office safe cash, 13,400.00; Wells Fargo Securities Investments, 4,794,549.74; Total certificates of deposit, 2,036,387.42; Total Prime Value Investment, 26,217,915.90; Total petty cash, 16,305.00; Total NSF paid, 670.40; Total long/short, (367.68); Total, 45,044,402. Submitted by Lori Wessel, Deputy Auditor.

PERSONNEL

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Auditor: Effective 07/22/2018 - Shaun Woollett at \$16.04/hr. Effective 07/31/2018 – Mark Miller at \$15.28/hr.

HHS: Effective 08/20/2018 – Elizabeth Glynn at \$21.49/hr.

IT: Effective 07/30/2018 – Brian Uecker at \$22.57/hr.

Public Defender: Effective 07/01/2018 - Erin Jensen-Mills at \$23.69/hr. Effective 08/13/2018 – Lori Goad at \$23.69/hr.

State’s Attorney: Effective 08/08/2018 – Kristen Clanton at \$13.20/hr.

ADJOURN

MOVED by Hadcock and seconded by DiSanto to adjourn the meeting. Vote: Unanimous. There being no further business, the meeting adjourned at 11:28 a.m.

/s/ Julie A. Pearson, Auditor

Published once at an approximate cost of ____.

Publish August 22, 2018