

PENNINGTON COUNTY BOARD OF COMMISSIONERS
Meeting of September 4, 2018

The Pennington County Board of Commissioners met at 9:03 a.m. on Tuesday, September 4, 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, George Ferebee and Deb Hadcock.

DiSanto joined the meeting at 9:05 a.m.

REVIEW AND APPROVE AGENDA

MOVED by Ferebee and seconded by DiSanto to approve the agenda with moving Item 23C in front of Item 10. The motion failed on a roll call vote: Buskerud – no, DiSanto – yes, Ferebee – yes, Hadcock – no, LaCroix – no.

MOVED by Hadcock and seconded by Buskerud to approve the agenda as presented. The motion carried 3-1 on a roll call vote: Buskerud – yes, DiSanto – no, Ferebee – left meeting with his packet in his hand at 9:07 a.m. and did not vote, Hadcock – yes, LaCroix – yes.

Commissioner Ferebee did not return to the meeting.

CONSENT ITEMS

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

5. Approve the minutes of the regular meeting – August 21, 2018.
6. Schedule a hearing at 9:15 a.m. on Tuesday, September 18, 2018 to supplement the General Fund John T Vucurevich budget in the amount of \$115,000 from current year revenue.
7. Approval of request for Pennington County Resolution Supporting the Awarding of a CRISI Grant for the Upgrading of the Rapid City, Pierre & Eastern (RCP&E) Main Line between Rapid City and Ft. Pierre.

PENNINGTON COUNTY RESOLUTION

Statement of Support for the awarding of a United States Department of Transportation Federal Grants For the Upgrading of the RCP&E Main Line Between Rapid City and Ft. Pierre, South Dakota

WHEREAS, The Rapid City, Pierre & Eastern Railroad provides critical freight services to the counties across South Dakota. The railroad is an important means of moving grain from the state to consuming locations, both domestic and international, and serves numerous other industries, ranging from cement to bentonite clay production; and

WHEREAS, This railroad is a significant part of the overall economic foundation of South Dakota. It plays a very important part of providing freight transportation services across western South Dakota, through a region known as “West River”; and

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WHEREAS, The Pennington County Board of Commissioners became aware that South Dakota Department of Transportation will be submitting to the U.S. Department of Transportation a federal grant request for important improvements to the Rapid City, Pierre & Eastern Railroad between Rapid City and Ft. Pierre. This line passes through the heart of the West River region, an area that is highly rural. After these improvements are complete, the entire line between will be able to handle modern 286,000 lb. freight cars at 25 mph. Currently the line is limited to 263,000 lb. freight cars moving at 10 mph; and

WHEREAS, It is vital that the rail network in the West River region of South Dakota be improved to better meet the needs of agriculture and other industries; and

WHEREAS, Federal grants will augment matching contributions offered by both the State of South Dakota and the railroad to allow these new investments to be made; and

NOW THEREFORE BE IT RESOLVED, The Pennington County Board of Commissioners hereby respectfully request that U.S. Department of Transportation provide its full support to this grant request.

Dated this 4th day of September, 2018.

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

ATTEST: (SEAL)
/s/ Pennington County, Auditor/Deputy

8. Approval of the Emergency Management 2019 State and Local Agreement Sub-Recipient Agreement.
 9. Declare a pressure washer from the Highway Shop as Surplus for the purpose of disposal.
- End of consent agenda

ITEMS FROM HIGHWAY

- A. TRANS-CANADA/HIGHWAY DEPT INFORMAL PRESENTATION: No action was taken at this time.

RESOLUTION OF WITHDRAWAL FROM THE MITCHELL RAPID CITY (MRC) RAIL AUTHORITY (LYNDELL PETERSEN, PENNINGTON COUNTY MRC LIASON):
MOVED by Buskerud and seconded by DiSanto to approve and authorize the Chair's signature on the Resolution to request the withdrawal of Pennington County, SD from the Mitchell Rapid City (MRC) Regional Railroad Authority. Vote: Unanimous.

PENNINGTON COUNTY RESOLUTION

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**A RESOLUTION TO REQUEST THE WITHDRAWAL OF PENNINGTON COUNTY,
SD FROM THE MITCHELL RAPID CITY (MRC) REGIONAL RAILROAD
AUTHORITY**

WHEREAS, the County of Pennington, South Dakota hereby requests to withdraw from the MRC Regional Railroad Authority pursuant to the provisions of SDCL Chap. 49-17A, et. seq., and acts amendatory thereto; and

WHEREAS, the MRC Regional Railroad Authority was formed by the Counties of Davidson, Aurora, Brule, Lyman, Jones and Jackson, South Dakota, on or about the 16th day of March, 1987; and

WHEREAS, the County of Pennington, South Dakota joined the MRC Regional Railroad Authority on or about the 18th day of March 1993; and

WHEREAS, the County of Pennington, South Dakota desires to be withdrawn from the MRC Regional Railroad Authority as the South Dakota Department of Transportation has no identified priority of extending the South Dakota owned rail banked line of approximately 97.6 miles from Kadoka to Rapid City. It is the position of the Pennington County Board of Commissioners that the rail needs of this region are currently being met with the existing rail lines; and

NOW THEREFORE BE IT RESOLVED, that the Pennington County Auditor shall cause a duly certified copy of this resolution to be submitted to the MRC Regional Railroad Authority for its consideration of Pennington County's request for withdrawal pursuant to SDCL § 49-17A-12; and it is

FURTHER RESOLVED, that the Chair of the Pennington County Commission and the Pennington County Auditor are hereby authorized to execute on behalf of Pennington County, South Dakota any and all documents necessary to withdraw from the MRC Regional Railroad Authority.

Dated this 4th day of September, 2018.

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

ATTEST: (SEAL)
/s/ Pennington County, Auditor/Deputy

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FORMATION OF HARD ROCK MINING COMMITTEE: MOVED by LaCroix and seconded by DiSanto to instruct Bruce Ellison to come up with a draft of a formation for the Hard Rock Mining Committee for composition and purpose. Vote: The motion carried 3-1 with Hadcock voting no.

9:15 A.M. PUBLIC HEARING – TITLE III PUBLIC INPUT ON PROPOSED PROJECTS: MOVED by LaCroix and seconded by DiSanto to take public input (written and/or verbal) for the following proposed projects for 2019: wildland firefighter equipment and training; increasing the protection of people and property from wildfire; emergency response equipment or vehicles; search & rescue response and training; and other emergency services as allowed by the Secure Rural Schools and Self Determination Act of 2000 and 2008. The total cost of these projects is \$34,139. Vote: Unanimous. No public comments were received.

ITEMS FROM AUDITOR

A. **9:15 A.M. PUBLIC HEARING – BUDGET SUPPLEMENT SP18-009 & OPERATING TRANSFER – 2018 ACCUMULATED BUILDING OPERATING TRANSFER OUT BUDGET AND ACCUMULATED BUILDING FUND TO THE CAPITAL PROJECTS FUND:** MOVED by Hadcock and seconded by LaCroix to approve the 2018 Accumulated Building Operating Transfer Out budget supplement, in the amount of \$4,500,000.00 and authorize an operating transfer of the same amount from the Accumulated Building Fund to the Capital Projects Fund. Vote: Unanimous.

ITEMS FROM EMERGENCY MANAGEMENT

A. **2018 PENNINGTON COUNTY LOCAL EMERGENCY OPERATION PLAN – ADDITION OF MASS FATALITY OPERATION ANNEX AND THE HAZMAT PLAN ANNEX:** MOVED by DiSanto and seconded by Buskerud to adopt an updated 2018 Local Emergency Operation Plan (LEOP). Vote: Unanimous.

ITEMS FROM HUMAN RESOURCES

A. **PENNINGTON COUNTY EMPLOYEE HANDBOOK UPDATES:** MOVED by Hadcock and seconded by LaCroix to approve the updated Pennington County Employee Handbook as presented. Vote: Unanimous.

MOVED by Buskerud and DiSanto to take a break until 10:00 a.m. Vote: Unanimous.

The Board reconvened at 10:03 a.m.

10:00 A.M. REQUIRED PUBLIC HEARING PER SDCL 7-21-8 CONSIDERSATION OF THE FY2019 PROVISIONAL BUDGET AS THE ANNUAL BUDGET OF APPROPRIATIONS, EXPENDITURES AND REVENUES FOR PENNINGTON COUNTY, SD

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MOVED by DiSanto and seconded by Buskerud to reduce the 2019 Dispatch revenues by \$60,000. Vote: Unanimous.

- A. SHERIFF'S OFFICE BUDGETS REQUEST 2019: MOVED by Buskerud and seconded by Hadcock to authorize the Auditor's Office to make the changes to the six Sheriff's Office Budgets as follows: For budgets, increase the Law Enforcement budget by \$124,722; increase the Jail budget by \$36,794; reduce the JSC budget by \$14,212; increase Juvenile Alternative budget by \$12,015; reduce the CCADP budget by \$146,428; increase Search and Rescue budget by \$433; and for revenues reduce JSC Secure revenue by \$4,176; and increase Juvenile Alternatives revenue by \$17,500. Vote: Unanimous.
- B. ANY AND ALL OTHER ITEMS RELATED TO THE FINAL BUDGET: MOVED by Hadcock and seconded by Buskerud to continue the FY2019 Provisional budget until the September 18, 2018 Commission meeting for final numbers. Vote: Unanimous.

ISOLATED TRACT – MR. ROBERT L. & MRS. BARBARA STEELE: MOVED by Buskerud and seconded by DiSanto that Robert and Barbara Steele, owners of a tract of land legally described as the South half of Lot Three (3), Section three (3), Township One (1) South, Range Nine (9) East of the Black Hills Meridian, Pennington County, South Dakota are entitled to an easement or right-of-way across adjacent lands to reach a public highway as said tract of land meets the minimal acreage requirements established by law and is isolated as that term is defined in SDCL Chapter 31-22 in that the tract of land is not touched by a passable public highway or section line right-of-way and lacks access to a public highway by any known easement of record. Vote: Unanimous.

MOVED by LaCroix and seconded by Buskerud to have Robert and Barbara Steele provide a detailed illustration describing the surrounding land(s) over which a right-of-way is desired with the location of the proposed right-of-way clearly depicted thereon and that a letter be sent from the Commission Office to the same addressees from the August 17, 2018 notice inviting each to attend and provide their own detailed illustration of proposed route(s), if they so choose, for consideration by the Board at the September 18, 2018 Commission meeting. Vote: Unanimous.

REQUEST FOR APPROVAL OF THE OF THE ANNEXATION OF PRAIRIE ACRES MOBILE HOME PARK: MOVED by Buskerud and seconded by LaCroix to approve annexation of Prairie Acres Mobile Home Park by the City of Rapid City. The motion tied 2-2 with DiSanto and Hadcock voting no and will be back on the agenda on September 18, 2018.

EXECUTIVE SESSION – SDCL 1-25-2

A. Contractual/Pending Litigation per SDCL1-25-2

MOVED by Buskerud and seconded by DiSanto to go into Executive Session for the purpose of contractual/pending litigation per SDCL1-25-2(3), with regard to the bid award for the Jail Expansion and Remodel Project. Vote: Unanimous.

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MOVED by Buskerud and seconded by DiSanto to come out of Executive Session. Vote: Unanimous.

ITEMS FROM BUILDINGS AND GROUNDS

A. **BID AWARD RECOMMENDATION – JAIL EXPANSION AND REMODEL PROJECT**: MOVED by DiSanto and seconded by Hadcock to reject all bids in regards to the Jail Expansion and Remodel Project due to exceeding the budget and have the project rebid. Vote: Unanimous.

EXECUTIVE SESSION – SDCL 1-25-2

B. **Contractual/Pending Litigation per SDCL1-25-2**

MOVED by DiSanto and seconded by Hadcock to go into Executive Session for the purpose of contractual/pending litigation per SDCL1-25-2(3), with regard to Aggregate Stockpile Project regarding the Kjerstad Pit. Vote: Unanimous.

MOVED by DiSanto and seconded by Buskerud to come out of Executive Session. Vote: Unanimous.

ITEMS FROM PLANNING & ZONING

PLANNING & ZONING CONSENT AGENDA

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 Buskerud and seconded by Hadcock to approve the Planning and Zoning consent agenda as presented. Vote: Unanimous.

A. **MINOR PLAT / PL 18-23**: Dan Wharton. To reconfigure lot lines to create Lots 1R and Lot 2R of Forty Oaks Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1 and Lot 2, Forty Oaks Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1R and Lot 2R, Forty Oaks Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

Approve of Minor Plat / PL 18-23 with the following five (5) conditions:

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1. That upon filing the Plat with the Register of Deeds, eight (8) foot Minor Drainage and Utility Easements continue to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That upon filing the Plat with the Register of Deeds, 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;
3. That the Certifications on the plat be in accordance with § 400.3(1)(n) of the Pennington County Subdivision Regulations;
4. That the applicant ensures that all natural drainage ways are maintained and are not blocked; and,
5. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Minor Plat / PL 18-23, which is available at the Planning Office.

PLANNING & ZONING REGULAR AGENDA

- B. REQUEST TO REFUND PENALTY FEE - Rob Livingston: MOVED by Hadcock and seconded by Buskerud to deny the request to waive the penalty fee in the amount of \$900.00. Vote: Unanimous.
- C. REQUEST TO NOT SUBMIT ENGINEERED ROAD CONSTRUCTION PLANS AND NOT TO BUILD TO ORDINANCE 14 STANDARDS: Ken Nash: MOVED by DiSanto and seconded by Hadcock to approve the request to waive the following Ordinance 14 Standards for road construction in a section line right-of-way: 1) To submit engineered road construction plans and 2) to surface the road with four inches of crushed gravel in lieu of six inches of base course gravel. Vote: Unanimous.
- D. ROAD CONSTRUCTION WITHIN A SECTION LINE RIGHT-OF-WAY / CS 18-03: Ken Nash. To improve 30 feet of a Section Line Right-of-Way to construct a driveway.

PT NW1/4SW1/4 and Balance of Lot C of NW1/4SW1/4 ALL N of HWY, Sections 13 & 14, T1S, R6E, BHM, Pennington County, South Dakota.

MOVED by Buskerud and seconded by Hadcock to approve the request to construct a Road within the Section Line Right-of-Way / CS 18-03, which includes constructing the Section Line Right-of-Way to County Ordinance 14 Standards, with the following eight (8) conditions. Vote Unanimous.

1. That the roadway located within the Section Line Right-of-Way be improved to meet all requirements of Ordinance 14 (which includes submittal of engineered road construction plans) or a request to waive these requirements be approved by the Board of Commissioners;
2. That if the amount of disturbed area exceeds one (1) acre, a Department of Environment and Natural Resource's Storm Water Construction Permit is obtained;

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3. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
4. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties;
5. That if culverts are installed, the design is submitted to the County Drainage Engineer for review prior to installation;
6. That any disturbed areas shall be stabilized and re-vegetated as required in the 507(A) of the Pennington County Zoning Ordinance;
7. That any monuments establishing property boundaries be replaces as necessary, if disturbed by construction of the road; and,
8. That the applicant sign a Statement of Understanding within ten business (10) days of approval of CS 18-03, which is available at the Planning Department.

- E. FIRST READING AND PUBLIC HEARING OF REZONE / RZ 18-06 AND COMPREHENSIVE PLAN AMENDMENT / CA 18-05: TDG Real Estate, LLC; Michael Gennaro – Agent. To rezone 9.20 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 Planned Unit Development Sensitive to Low Density Residential District in accordance with Sections 205, 207, and 508 of the Pennington County Zoning Ordinance.

All (also in Section 14) of Hermosa Lode MS 1111 and All (also in Section 14) of Glendale #3 Lode MS 1111, Section 23, T2S, R6E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by DiSanto to approve of Rezone / RZ 18-06 and Comprehensive Plan Amendment / CA 18-05. Vote: Unanimous.

- F. REQUEST FOR FORMAL ACTION TO CLOSE SECTION LINES, PER SDCL 31-18-3, BETWEEN SECTIONS 17, 18, 19, 20, AND 24: Pete Lien & Sons. MOVED by Hadcock and seconded by Buskerud to approve the formal action to close section line, per SDCL 31-18-3. Vote: Unanimous.

- G. TO CONSIDER MOTION TO AMEND PRELIMINARY PLAT / PL 17-44 - APPROVAL ADOPTED ON DECEMBER 19, 2017: Laredo Holdings, LLC; Ryan Kaski. To reconfigure lot lines to create Lots 9A, 9B, 12A, 12B, 13A, 13B, 16R Common, 17A, 17B, 18A, and 18B, Block 6, Sunset Ranch and to waive platting requirements in accordance with Sections 400.2 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 9, 12, 13, 17, 18, Block 6, Sunset Ranch, Section 33, T2N, R10E, BHM, Pennington County, South Dakota.

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PROPOSED LEGAL: Lots 9A, 9B, 12A, 12B, 13A, 13B, 16R Common, 17A, 17B, 18A, and 18B, Block 6, Sunset Ranch, Section 33, T2N, R10E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Buskerud to approve Preliminary Plat / PL 17-44 with the following seventeen (17) conditions: Vote: The motion carried 3-1 with DiSanto voting no.

1. That Fire Sprinkler Suppression Systems be installed in all new residential structures larger than 3,600 square feet, excluding the garage square footage if the following conditions are met:
 - a. a. A fire wall constructed between the garage and habitable space consisting of 5/8 inch Type X sheet rock, fire tape, and a self-closing fire rated door; and
 - b. b. Upon completion the builder shall provide an affidavit certifying that the above referenced fire mitigation improvements have been completed.
2. For residential structures larger than 3,600 square feet excluding the garage square footage – a Residential Sprinkler System design and Fire Mitigation Plan shall be submitted for review to the Planning Director and the County Fire Administrator or jurisdictional entity. The System may need approval after installation by a qualified professional and Building Permits for residential structures requiring a Residential Sprinkler System and Fire Mitigation Plan review shall not be approved until after the review is completed;
3. That prior to the Plat being recorded with the Register of Deeds, the current landowner provide any new landowner with a copy of the approved Fire Mitigation Plan for Sunset Ranch;
4. That prior to the Plat being recorded with the Register of Deeds, the applicant make corrections and additions to the Plat, per comments received by the Register of Deeds, Department of Equalization, Addressing Coordinator, and 9-1-1 Emergency Services;
5. That prior to the Plat being recorded with the Register of Deeds, the newly dedicated public right-of-way be named and noted on the Plat;
6. That prior to the Plat being recorded with the Register of Deeds, eight (8) foot minor drainage and utility easements continue to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
7. That prior to the Plat being recorded 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;
8. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;

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9. That prior to the Plat being recorded with the Register of Deeds, the plat meet the scaling requirement of one (1) inch equals one hundred (100) feet or an approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements;
10. That prior to the Plat being recorded with the Register of Deeds, the plat continues to meet all necessary requirements of Section 500 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance(s) be obtained waiving any of these requirements;
11. That addresses be properly posted on any future residence(s) constructed on the proposed lots and that the addresses are posted, in accordance with Pennington County's Ordinance #20;
12. That the applicant ensures that all natural drainage ways are maintained and are not blocked and that all necessary drainage ways continue to be properly noted on plats;
13. That an approved Floodplain Development Permit be obtained *prior* to any work within the Special Flood Hazard Area of Sunset Ranch;
14. That following platting of the proposed lots, any on-site wastewater treatment system(s) be subject to the requirements of Section 204-J of the Pennington County Zoning Ordinance, including the requirement to obtain an Operating Permit;
15. That prior to Final Plat submittal, the following note continue to be on the plat: *All persons applying for a Pennington County Building Permit will need to provide an engineered septic system plan to be reviewed and approved by the Pennington County Environmental Planner. A reserve drainfield area will be shown when a Building Permit is applied for on any of the lots;*
16. That the applicant signs the Statement of Understanding (SOU) within ten (10) business days of Board of Commissioner approval of Preliminary Plat / PL 17-44 and. The SOU is available at the Planning Office; and
17. That approval of this Preliminary Plat does not constitute approval of any further applications to be submitted for the above-described property.

H. PLANNED UNIT DEVELOPMENT REVIEW / PU 16-03: Dan and Nancy Evangelisto / Century Home Crafters, LLC; Century Land Holdings, LLC; and Summer Creek Inn, LLC. To review a Planned Unit Development to allow for a Specialty Resort Development to include uses, such as vacation home rentals, weddings, receptions, picnics, family reunions, 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

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

MOVED by DiSanto to revise condition #14 to read that there be no amplified sound on lots 3, 4, 10, 11, 12 and 45 in PUD 16-03, from 11:00 p.m. to 7:00 a.m. on Friday and Saturday and 10:00 p.m. to 7:00 a.m. Sunday through Thursday. The motion died due to the lack of a second.

MOVED by LaCroix and seconded by Hadcock to leave condition #14 as is. Vote: The motion carried 3-1 with DiSanto voting no.

MOVED by DiSanto and seconded by Hadcock to approve the revised condition for #24, adding in specific lots. Vote: Unanimous.

MOVED by DiSanto to change condition #27 to read permanent tent, not temporary. The motion died due to the lack of a second.

Hadcock claimed point of order that the Evangelisto's have been fined for vacation home rental.

MOVED by LaCroix to add a new condition #28, allowing the tent for 5 years, until June, 2023, and bump all other conditions down so that there would actually be 44 total conditions. There was no second.

MOVED by Hadcock and seconded by Buskerud to accept condition #28 but allowing the tent for only 3 years, until 2021 not 5 years.

Substitute motion: MOVED by DiSanto and seconded by LaCroix to keep condition #28 with 5 years. MOVED by DiSanto and seconded by LaCroix to call the question. The

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substitute motion tied on a roll call vote: Buskerud – no, DiSanto – yes, Hadcock – no, LaCroix – yes.

MOVED by Buskerud and seconded by Hadcock to accept condition #28 with 3 years. Vote: The motion carried 3-1 on a roll call vote: Buskerud – yes, DiSanto – no, Hadcock – yes, LaCroix – yes.

MOVED by Buskerud and seconded by Hadcock to approve of the extension of Planned Unit Development / PU 16-03 with amended language to Conditions #14, #24, and #27, and #43 with the following forty-four (44) conditions. Vote: The motion carried 3-1 with DiSanto voting no.

1. That the applicants sign a Statement of Understanding (SOU) within twenty (20) days of the approval of the extension of PU 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 Developer [hereafter known as Century Construction LLC and/or its successor or the Custer Trail Subdivision One Home Owners architectural review committee] 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, which directs attention to the Inn 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 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;

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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, 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 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 driveway in front of the Inn and up past the over-flow parking lot, have a 24-foot-wide driving surface and four (4) inches of gravel; the other two-way roads, within the PUD, have 16- to 18-foot-wide driving surfaces, with four (4) inches of gravel; and all one-way roads, have a 12-foot-wide driving surface, with four (4) inches of gravel. The responsible Street Authority shall meet or exceed roadway requirements, per State and County regulations;
13. That the intensity and duration of sounds from any and all sources, within the lots of the Planned Unit Development, are in compliance with South Dakota Codified Law 22-18-35;
14. That quiet hours for all Lots in the Planned Unit Development / PU 16-03, be from 11:00 p.m. to 7:00 a.m. on Friday and Saturday and from 10:00 p.m. to 7:00 a.m. Sunday through Thursday;
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

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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 for structures located on Lots 10, 11, and 12 a portable fire extinguisher with a minimum 2 A-BC rating shall be placed at each exit door and shall be inspected and tagged annually; records of said inspection shall be maintained. Fire extinguishers shall be permanently mounted 5'3" from the floor or the ground to the gauge, each Exit Door shall be unlocked during occupancy; each Exit Door in the commons area shall be equipped with Panic Hardware and swing away open to the outside allowing unobstructed exiting of the area by patrons; each Exit Door area shall be equipped with emergency exit lighting; that a minimum of one 36-unit first aid kit be provided and accessible to the public at all times; First aid kit needs to be inspected monthly with consumables and dated items replaced as needed. Appropriate records are to be maintained that no open fire shall be permitted, unless approved and granted a permit by the South Dakota Division of Wildland Fire. (Phone: 605-393-8011/2582/2583) Copies of the permit shall be available for inspection during normal business hours or anytime the Camp Fire Permit is in use by the Johnson Siding Fire Chief and or his designated representative; that barbecue pits, fireplaces, and incinerators shall be located, constructed, maintained, and used as to minimize fire hazard and smoke nuisance, both on and off the property. The South Dakota Division of Wildland Fire (Phone: 605-393-8011/2582/2583) shall approve the facilities before the use is permitted; Copies of the respective permit shall be available for inspection during normal business hours or anytime the permitted item is in use by the Johnson Siding Fire Chief and or his designated representative;
25. 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;
26. That written approval from the Developer be obtained prior to issuance of permits;
27. 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, event structure, kitchen, bathrooms and to also be used for a vacation home rental and private single-family residence;

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28. That the event structure, referred to in Condition #27, shall be for the existing 40'x100' event area that is currently covered by the 40'x100'temporary membrane tent and used as open space and covers the existing kitchen and bathroom. The event structure shall be made of six (6) inch thick insulated stick-built sides, which tie into the existing stick-built kitchen and bathroom structure. A temporary membrane roof shall be permitted to remain until September 2021 and shall be replaced with a stick-built roof, so that no temporary membrane is in use for the event structure. The Landowners shall apply for a Building permit to replace the current tent walls, with six (6) inch thick, stick-built insulated walls, prior to October 01, 2018. This work shall be completed prior to the expiration of the Building Permit, which shall be December 31, 2019.
29. That Lots 13, 14, 15, 16, 17, 18, 20, 21, 28, 29, 30-37, and 41 each allow 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 the Pennington County Zoning Ordinance;
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;

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40. That Lot 29 has a fifteen (15) foot front, rear and side yard setbacks;
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 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; and,
44. That this Planned Unit Development be reviewed on September 4, 2018, or upon complaint of violation of applicable provisions of the Zoning Ordinance or PU 16-03, or as deemed necessary by either the Planning Commission or Board of Commissioners to ascertain all the Conditions of Approval are being met.

ITEMS FROM THE CHAIR/COMMISSION MEMBERS

- A. 2018 PROPOSED RESOLUTIONS AND POLICY STATEMENT CHANGES – SOUTH DAKOTA ASSOCIATION OF COUNTY COMMISSIONERS – BOARD POSITIONS: MOVED by Buskerud and seconded by Hadcock to support the 2018 proposed resolutions and policy statements. Vote: Unanimous.
- B. SPECIAL ANIMAL COMMITTEE MEMBER APPOINTMENT: MOVED by Hadcock and seconded by DiSanto to allow Jim Coleman to remain on the Special Animal Keeping Committee and be declared as a non-voting member. Vote: Unanimous.
- C. REVISIT THE BOARDS’S POLICY REGARDING RECONSIDERATION OF ACTION TAKEN BY THE BOARD: MOVED by DiSanto and seconded by Buskerud to continue this item until the September 18, 2018 Commission meeting. Vote: Unanimous.

COMMITTEE REPORTS

APPROVAL OF VOUCHERS MOVED by DiSanto and seconded by Hadcock 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 \$257,628.44. Vote: Unanimous.

AT&T Mobility, 731.06; BH Energy, 16.73; BH Energy, 228; BH Energy, 314.14; BH Energy, 813.31; Century Link, 129.89; Century Link, 133.56; Century Link, 7122.08; City Of Box Elder, 285.9; City Of Hill City, 32.55; City Of Rapid City -Water, 168.2; City Of Rapid City -Water, 21443.22; City Of Wall, 145.5; Midcontinent Communications, 1423.65; Midcontinent Communications, 2350.77; Montana Dakota Utilities, 711.05; Montana Dakota Utilities, 2868.14; Pioneer Bank & Trust, 1147.28; Reliance Telephone Inc, 3.94; Total, 40068.97; Vast Broadband, 224.47; Vast Broadband, 2031.96; Verizon Wireless, 212.3; Verizon Wireless, 5195.95; Wellmark, 208429.89; West River Electric, 123.34; West River Electric, 1341.56.

ITEMS FROM THE PUBLIC

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PAYROLL

Commissioners, 15,499.23; Elections, 14,035.78; Auditor, 28,457.32; Treasurer, 64,456.59; State's Attorney, 255,760.66; Public Defender, 142,940.69; Buildings & Grounds, 117,609.63; Equalization, 84,453.89; Register of Deeds, 27,850.83; IT, 52,534.49; Human Resources, 10,562.95; Sheriff, 527,201.87; HIDTA Grant, 9,441.29; Jail, 623,724.46; JSC, 215,571.67; JSC Juvenile Alternative, 9,904.30; CCADP, 151,542.31; Economic Assistance, 53,252.80; Extension, 2,935.50; Weed & Pest, 27,401.62; Planning and Zoning, 33863.27; Road & Bridge, 167961.85; Fire Administration, 6879.94; Dispatch, 191384.74; Emergency Management, 9234.32; 24-7 Program, 24642.05;

PERSONNEL

HHS: Effective 09/5/2018 – Alicia Hansen at \$16.86/hr. & Stacey Remily at \$21.49/hr.

Public Defender: Effective 08/27/2018 – Michelle Potts at \$5,477.00/mo. Effective 09/04/2018 – Sharlene Nesbit at \$15.28/hr. Effective 09/16/2018 – Jennifer Hall at \$19.49 & Jamie Giedd at \$21.49/hr.

ADJOURN

MOVED by DiSanto and seconded by LaCroix to adjourn the meeting. Vote: Unanimous. There being no further business, the meeting adjourned at 12:47 p.m.

/s/ Julie A. Pearson, Auditor

Published once at an approximate cost of ____.

Publish September 19, 2018