

PENNINGTON COUNTY BOARD OF COMMISSIONERS
Meeting of May 4, 2021

The Pennington County Board of Commissioners met at 9:00 a.m. on Tuesday, May 4, 2021, in the Commission Chambers in the County Administration Building, Rapid City, South Dakota. Chair Gary Drewes called the meeting to order with the following Commissioners present: Deb Hadcock, Lloyd LaCroix, Travis Lasseter and Ron Rossknecht.

REVIEW AND APPROVE AGENDA

MOVED by LaCroix and seconded by Lasseter to approve the agenda as presented. Vote: Unanimous.

EXECUTIVE PROCLAMATION: PENNINGTON COUNTY CORRECTIONS WEEK – MAY 2-8, 2021: MOVED by LaCroix and seconded by Lasseter to approve the Chair's signature on the proclamation declaring May 2-8, 2021 as Pennington County Corrections Week. Vote: Unanimous.

EXECUTIVE PROCLAMATION: PUBLIC SERVICE RECOGNITION WEEK – MAY 2-8, 2021: MOVED by Rossknecht and seconded by Lasseter to approve the Chair's signature on the proclamation declaring May 2-8, 2021 as Public Service Recognition Week. Vote: Unanimous

CONSENT AGENDA

MOVED by Rossknecht and seconded by LaCroix to approve the Consent Agenda. Vote: Unanimous.

7. Approve the minutes of the April 20, 2021 meeting.
8. Authorize the chair's signature to the Order of Organization and Incorporation for the Valley Heights Estates Sanitary District, with the following legal description: All of Valley Heights Estates Subdivision Located in Section 36, T2N, R8E and Sections 1 & 12 in T1N, R8E, BHM Pennington County, South Dakota.
9. Acknowledge the notice of intent to conduct a raffle – 4 River Shrine Club.
10. Acknowledge the notice of intent to conduct a raffle – Western South Dakota Catholic Foundation.
11. Reschedule the May 7, 2021 budget work session to Wednesday, June 2, 2021 starting at 8:30 a.m.
12. Approve to apply for the following grants: Fire House Subs Foundation, Farm Credit Services of America and Golden West.
13. Declare metal detector, asset #003723, as surplus property for the purpose of destruction or disposal.

End of Consent Agenda

ITEMS FROM FIRE ADMINISTRATION

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A. FIREWORKS BRIEFING— MOVED by Rossknecht and seconded by Hadcock to approve the Pennington County Resolution prohibiting the use of fireworks as provided in SDCL § 34-37-19. Vote: Unanimous.

PENNINGTON COUNTY RESOLUTION
A RESOLUTION PROHIBITING THE USE OF FIREWORKS
AS PROVIDED IN SDCL § 34-37-19

WHEREAS, the use of fireworks is a time-honored tradition in this Country that the Pennington County Commission must balance with the health and safety of citizens and protection of property when warm and dry weather conditions create an environment that is dangerously prone to the threat of fire; and

WHEREAS, South Dakota Codified Law (SDCL) § 34-37-19 authorizes the County Commission, by resolution, to prohibit the use of fireworks outside the boundaries of any municipality during specific days of the year and under certain conditions related to the South Dakota grassland fire danger index; and

WHEREAS, the Commissioners of Pennington County deem it necessary, in the interest of public health and safety, to adopt this Resolution to reduce the threat posed to the citizens and property of Pennington County by fires.

NOW, THEREFORE BE IT RESOLVED, that pursuant to SDCL § 34-37-19, Pennington County does hereby prohibit the use of fireworks outside the boundaries of any municipality in those areas of the County where the fire danger, as determined by use of the South Dakota grassland fire danger index published by the National Weather Service, has reached the extreme category in the County during the period from June twentieth (20th) to July second (2nd), inclusive, and during the period from December twenty-eighth (28th) to January first (1st), inclusive; and

BE IT FURTHER RESOLVED, that during the time periods stated in § 34-37-19, this Resolution shall be suspended if the grassland fire danger index falls below the very high category in the County and again becomes effective if the grassland fire danger index reaches the extreme category; and

BE IT FURTHER RESOLVED, that a violation of this Resolution is a Class 2 Misdemeanor punishable by up to 30 days in the Pennington County Jail, a \$500.00 fine or both; and

BE IT FURTHER RESOLVED, that this Resolution does not apply inside the Black Hills Forest Fire Protection District or to land in Pennington County owned or under the jurisdiction of the Federal Government or State of South Dakota; and

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BE IT FURTHER RESOLVED, that any prior Resolution(s) of the Pennington County Commission adopted pursuant to the provisions of SDCL § 34-37-19 are hereby repealed.

Approved by the Pennington County Commission this 4th day of May, 2021.

/s/ Chair Gary Drewes
Pennington County Board of Commissioners

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

B. FIRST READING OF ORDINANCE 726: MOVED by Rossknecht and seconded by Hadcock to approve the first reading of Ordinance 726 – An Ordinance Regulating Open Burning in Pennington County. Vote: Unanimous.

ITEMS FROM AUDITOR

A. AMENDING AND RESTATING RESOLUTION RELATING TO LEASE-PURCHASE OF COUNTY BUILDINGS, AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE-PURCHASE AGREEMENT AND APPROVING AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS AND AUTHORIZING CERTIFICATES OF PARTICIPATION: MOVED by Hadcock and seconded by LaCroix to approve the resolution to refinance County bonds. Vote: Unanimous.

RESOLUTION

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

BE IT RESOLVED by the Board of Commissioners of Pennington County, South Dakota (the “County”), that the Resolution adopted by this Board on March 16, 2021 is hereby amended and restated to read as follows:

Section 1. Recitals.

1.01. The County is authorized by South Dakota Codified Laws, Chapter 7-25, inclusive, as amended (the “Act”), to enter into lease-purchase agreements for acquisition of real or personal property that the governing body considers necessary or appropriate to carry out its governmental and proprietary functions. To the extent the parameters set forth in Section 2 hereof

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are satisfied, the governing body finds that it is necessary and appropriate to enter into a lease-purchase agreement and authorize the issuance of Taxable Certificates of Participation (Limited Tax General Obligation) (the “Series 2021A Certificates”), to prepay the lease obligations associated with the outstanding callable Certificates of Participation (Limited Tax General Obligation), Series 2017A maturing on or after June 1, 2026 (the “Series 2017A Certificates”), Certificates of Participation (Limited Tax General Obligation), Series 2016A maturing on or after December 1, 2024 (the “Series 2016A Certificates”) and Certificates of Participation (Limited Tax General Obligation), Series 2015A maturing on or after December 1, 2024 (the “Series 2015A Certificates”, and together with the Series 2016A Certificates and Series 2017A Certificates, the “Refunded Certificates”) and thereby refund the Refunded Certificates and to pay the costs of issuance related to the issuance of the Series 2021A Certificates.

1.02. Pursuant to a Ground Lease Agreement, dated as of March 1, 2003, between the County and U.S. Bank National Association (the “Trustee”) as amended and supplemented (the “Ground Lease”) the Trustee acquired certain interests in real property (the “Land”) from the County. The Trustee has leased its interest in the Land to the County pursuant to a Lease-Purchase Agreement, dated as of March 1, 2003, as amended (the “Lease”). The Lease provides that the Facilities (as defined in the Lease) acquired, renovated, constructed and equipped on the Land are to be sold to the County in accordance with the terms thereof.

1.03. The Trustee will execute and deliver a Tenth Supplemental Declaration of Trust (the “Tenth Supplemental Trust”), which will supplement and amend the Declaration of Trust, dated as of March 1, 2003, as amended (the “Trust Agreement”). Pursuant to the Trust Agreement the Trustee will (i) issue Taxable Certificates of Participation (the “Series 2021A Certificates”) in the lease payments to be made by the County under the Lease, and (ii) receive, hold, invest and disburse the proceeds of the sale of the Series 2021A Certificates and other funds provided by the County in an Escrow Account established under the Tenth Supplemental Trust in order to prepay the principal amount of the lease obligations related to the Refunded Certificates, including interest on the Refunded Certificates to the redemption dates of the Refunded Certificates. Upon execution and delivery of the Series 2021A Certificates, the Series 2017A Certificates shall be called for prior redemption on June 1, 2025 and the Series 2016A Certificates and Series 2015A Certificates shall be called for prior redemption on December 1, 2023. There is hereby appropriated, and there shall be deposited in the Escrow Account, with the proceeds of the Series 2021A Certificates, an amount sufficient with the investment earnings on the Escrow Account to pay all lease payments relating to the Refunded Certificates to and including the redemption dates of the Refunded Certificates and the redemption prices of the Refunded Certificates. Proceeds of the Series 2021A Certificates will also be used to pay the costs of issuance of the Series 2021A Certificates.

1.04. The Series 2021A Certificates will be purchased by Colliers & Company LLC (the “Original Purchaser”) pursuant to a Certificate Purchase Agreement between the County and

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the Original Purchaser (the “Certificate Purchase Agreement”) and the Original Purchaser will offer the Series 2021A Certificates for sale to the public by an Official Statement (the “Official Statement”) to be prepared at the direction of the County.

1.05. Forms of the following documents relating to the issuance of the Series 2021A Certificates, the prepayment of the lease obligations associated with the Refunded Certificates and the redemption of the Refunded Certificates (the “Documents”) have been prepared by Kutak Rock LLP as Bond Counsel, and submitted to the County and are on file in the office of the County Auditor and the Deputy State’s Attorney: (a) the Tenth Amendment to Lease; (b) the Tenth Supplemental Trust; (c) the Certificate Purchase Agreement; and (d) a Continuing Disclosure Agreement between the County and the Trustee. The County Auditor is authorized to cause an Official Statement to be prepared in connection with the offering of the Series 2021A Certificates and to be filed in her office.

Section 2. Authorization and Approval of the Documents. The financing described above is found to be favorable and is hereby approved. The Chair and County Auditor are authorized to approve the principal amount of the Tenth Amendment to Lease and the Series 2021A Certificates in an amount not exceeding \$37,000,000, with the term thereof not exceeding seventeen (17) years. The Series 2015A Certificates, the Series 2016A Certificates and Series 2017A Certificates shall be included in the refunding transaction only if, by inclusion thereof, the present value debt service savings resulting from the refunding is not less than 3.00%. If the interest rate or rates on the Series 2021A Certificates does not exceed an average yield of two percent (2.00%) per annum and the price at which the Series 2021 Certificates are to be sold to the Original Purchaser is not less than 99.2% of par (exclusive of original issue discount), the Chair and County Auditor are directed to enter into the Certificate Purchase Agreement with the Original Purchaser. Execution of the Certificate Purchase Agreement by such officers shall be conclusive evidence of their approval of the principal amount, purchase price, interest rates and other terms set forth therein. The forms of the Documents are hereby approved if the County Auditor deems them appropriate and the Documents are approved by the Deputy State’s Attorney. The Chair and the County Auditor are directed to execute the Documents if approved by the County Auditor. Copies of all Documents shall be delivered, filed and recorded as provided therein. The Chair and the County Auditor and the Deputy State’s Attorney are also authorized and directed to execute such other instruments as may be required to give effect to the transactions therein contemplated. The County will cooperate in the issuance of the Series 2021A Certificates and the Chair, the County Auditor and the Deputy State’s Attorney shall execute such other instruments as are necessary to the issuance of the Series 2021A Certificates. In lieu of the Tenth Amendment to Indenture and Tenth Amendment to Lease, the Chair and County Auditor are authorized to enter into an amended and restated Lease, an amended and restated Trust Agreement which reflects the terms of the Lease, Trust Agreement and Ground Lease which are currently operative after giving effect to all amendments thereof and Certificates previously retired. If such amendments and restatements are implemented they shall be included in the term “Documents” as used herein.

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

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

Section 5. Official Statement. The County will participate in the preparation of the Preliminary Official Statement and the final Official Statement relating to the Series 2021A Certificates and hereby authorizes the County Auditor to consent to the distribution of the Official Statement by the Original Purchaser in connection with the sale of the Series 2021A Certificates. The Preliminary Official Statement, except for the Permitted Omissions, will be deemed final by the County when authorized by the County Auditor as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934. As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, rating, if any, and other terms of the Series 2021A Certificates depending on such matters.

Section 6. Amendment. This resolution may be amended from time to time, prior to the issuance of the Certificates, by an administrative resolution adopted by this Board.

Section 7. Partial Invalidity. If any one or more of the provisions of this Resolution shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or enforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution shall be construed the same as if such invalid, illegal, or enforceable provision had never been contained herein, or therein, as the case may be.

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Dated this 4th day of May, 2021.

/s/ Chair Gary Drewes
Pennington County Board of Commissioners

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

ITEMS FROM REGISTER OF DEEDS

A. A RESOLUTION ESTABLISHING FEES TO BE PAID FOR UNCERTIFIED COPIES OF RECORDED DOCUMENTS IN THE REGISTER OF DEEDS OFFICE PURSUANT TO SDCL § 7-9-15(6): MOVED by Hadcock and seconded by LaCroix to approve Pennington County Resolution establishing certain fees in the Register of Deeds Office pursuant to SDCL § 7-9-15(6).
Vote: Unanimous.

PENNINGTON COUNTY RESOLUTION
A RESOLUTION ESTABLISHING FEES TO BE PAID FOR UNCERTIFIED COPIES OF
RECORDED DOCUMENTS IN THE REGISTER OF DEEDS OFFICE PURSUANT TO
SDCL 7-9-15(6)

WHEREAS, SDCL 7-9-15(6) provides that the Board of County Commissioners shall fix by resolution the fees to be paid by licensed abstractors of the county or by any person who has passed the written examination established by the Abstractors' Board of Examiners pursuant to SDCL 36-13-11 for uncertified copies of recorded instruments, which fee may not exceed the actual cost to the county for providing such copies:

NOW, THEREFORE BE IT RESOLVED, that pursuant to SDCL 7-9-15(6), the following fee schedule is adopted:

1. Digitized copies: \$0.02 / page
 - a. Daily work transferred onto flash drive by Register of Deeds staff;
 - b. Copies emailed by title company/abstracter's staff to their office;
 - c. Downloaded or scanned copies for set up of new title company plant with the title company/representative to provide labor.
This will be a one-time event coordinated with Register of Deeds office.
After plant set up, all further copies will be printed or emailed through the Register of Deeds print tracking software.
2. Letter, legal, or 11x17 paper copies: \$0.15 / page
3. Paper copies larger than 11x17: \$1.00 / page

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4. If Register of Deeds staff is asked to provide a copy whether in paper or electronic format: \$1.00 / page
5. Title companies/abstracters shall pay the fee charged for each duplicate roll of microfilm provided by Records Management in Pierre, SD.

BE IT FURTHER RESOLVED, that title companies/abstracters shall provide their own supplies e.g., flash drives & jump drives for transfer of documents from the Register of Deeds to the title companies/abstracter and,

BE IT FURTHER RESOLVED, that fees incurred shall be paid on a monthly basis to the Pennington County Register of Deeds and,

BE IT FURTHER RESOLVED, that the fees set forth herein shall be subject to annual review and,

BE IT FURTHERED RESOLVED, that for the support of county government this Resolution shall take effect upon publication.

Dated this 4th day of May, 2021.

/s/ Chair Gary Drewes
Pennington County Board of Commissioners

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

ITEMS FROM BUILDINGS & GROUNDS

A. LAMP LIGHTER INN PROPERTY DEMO & PARKING LOT PROJECT DESIGN SERVICES PROPOSAL – RENNER ASSOCIATES, LLC: MOVED by Rossknecht to approve the design contract for the Lamp Lighter Inn Property Demo & Parking Lot Project with Renner Associates, LLC in the amount of \$14,057.00 and further move to authorize Building & Grounds Director Mike Kuhl to have project design and administrative decision-making authority to include signing documents related to land use or similar project matters and to have expenditure authority up to \$50,000 as Pennington County's representative. MOTION withdrawn by Rossknecht. Item to be placed on the May 18th agenda for action.

ITEMS FROM CENTRAL STATES FAIR

A. AGREEMENT FOR ISSUANCE OF A RETAIL ON-SALE LIQUOR LICENSE TO CENTRAL STATES FAIR, INC: MOVED by Rossknecht and seconded by LaCroix to approve

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the agreement for issuance of one retail on-sale liquor license to Central States Fair, Inc. for use at the Fairgrounds pursuant to SDCL § 35-4-123. Vote: Unanimous.

ITEMS FROM EMERGENCY MANAGEMENT

A. COVID-19 UPDATE: Informational only.

ITEMS FROM HIGHWAY

A. SDDENR VOLKSWAGEN TRUCK REBATE PROGRAM APPLICATION: MOVED by Hadcock and seconded by LaCroix to authorize the Highway Department to submit a truck replacement application through the SDDENR Volkswagen Truck Rebate Program. Vote: Unanimous.

B. PROFESSIONAL SERVICES AGREEMENT – SONQUIST LANE: MOVED by Hadcock and seconded by LaCroix to approve the Professional Services Agreement #PC-1(2021) with Brosz Engineering, Inc. for construction engineering for the replacement of bridge 52-305-300 on Sonquist Lane in a not-to-exceed fee of \$68,425. Vote: Unanimous.

C. EMERGENCY PROCUREMENT – CHANGE ORDER #1 NEMO ROAD BRIDGE 52-306-261: MOVED by Hadcock and seconded by Lasseter to approve Change Order #1 in the amount of \$97,997.45 for Project BR 2021-3 in order to perform emergency repairs to Nemo Road Bridge 52-306-261. Vote: Unanimous.

D. HIRING REQUEST – FLAGGER POSITION: MOVED by LaCroix and seconded by Hadcock to grant an exception to the compensation policy and authorize advertisement of the flagger position at Grade A12, Step 7, \$14.46 per hour. Vote: Unanimous.

E. SOUTH ROCHFORD ROAD RECONSTRUCTION FUNDING (Cont. from 4/20/21 BOC mtg): MOVED by Rossknecht and seconded by Hadcock to repurpose the entire remaining earmarked funds for EM (6403)(06) South Rochford Road Reconstruction to P6480(04) Sheridan Lake Road reconstruction, contingent upon the transfer of the SIB Loan in the amount of \$8,852,000 from the Sheridan Lake Road project to the South Rochford Road project. Vote: Unanimous.

REQUEST FOR VARIANCE TO ORDINANCE 14 AND APPROVAL OF A SECOND APPROACH – STEVEN & CATHY NILSSON: MOVED by Hadcock and seconded by Rossknecht to approve the request for a variance to Ordinance 14 and a second approach for the property located at 11705 Deerfield Road, Hill City, South Dakota. Vote: Unanimous.

The Board took a ten-minute break.

ITEMS FROM PLANNING & ZONING

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

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A. VARIANCE / VA 21-05: Wild Springs Solar, LLC; Geronimo Energy. To reduce the setback from 25 feet to a (0) foot setback or 1.5 times height of structure for the construction of solar panel structures in an Agriculture District in accordance with Sections 205, 317, and 509 of the Pennington County Zoning Ordinance.

E1/2SW1/4, W1/2SE1/4; E1/2SE1/4; and GL6-7 of Section 6, T1N, R11E, BHM, Pennington County, South Dakota.

MOVED by Lasseter and seconded by Hadcock to approve VA 21-05 with (1) condition included because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, to wit: that this Variance applies only to solar panel structured, all other structures must maintain the proper setbacks or obtain separate Variances, the project is one contiguous property, all landowners agree, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship," to wit: to deny would create a substantial hardship in that it would deny economic development, and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done. Vote: Unanimous.

1. That the Variance applies only to solar panel structures. All other structures must maintain the proper setback or obtain separate Variances.

B. VARIANCE / VA 21-06: Wild Springs Solar, LLC; Geronimo Energy. To reduce the setback from 25 feet to a (0) foot setback or 1.5 times height of structure for the construction of solar panel structures in an Agriculture District in accordance with Sections 205, 317, and 509 of the Pennington County Zoning Ordinance.

That PT of NE1/4 S of Chicago Northwestern RR and the SE1/4 of Section 36, T2N, R10E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by LaCroix to approve VA 21-06 with (1) condition included because (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, to wit: that this Variance applies only to solar panel structured, all other structures must maintain the proper setbacks or obtain separate Variances, the project is one contiguous property, all landowners agree, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship," to wit: to deny would create a substantial hardship in that it would deny economic development, and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done, and applying the setback would impact the project's ability to meet its authorized interconnection production output. Additionally, applying the setback would result in inefficient land use, particularly considering the affected parcels are owned by participating landowners. Vote: Unanimous.

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1. That the Variance applies only to solar panel structures. All other structures must maintain the proper setback or obtain separate Variances.

C. SUBDIVISION REGULATIONS VARIANCE / SV 21-05: Tim and Terra Duda. To waive the requirement to dedicate and improve the Section Line crossing Lot 23 in accordance with Sections 209, 500, and 700.1 of the Pennington County Subdivision Regulations.

Lot 23 (also in Section 17), Block D, Edelweiss Mountain Development, Section 20, T1N, R5E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Lasseter to approve SV 21-05 based on Staff's findings that (1) granting the variance doesn't run counter to the public interest; and (2) special conditions exist, to wit: siting and topography, that excuse literal enforcement of the ordinance in that (a) enforcement causes "unnecessary hardship," to wit: existing platted rights-of-way already provide access to all existing lots, thus obviating the need for additional right-of-way, and (b) granting the variance not only observes the ordinance's spirit but also ensures substantial justice is done. Vote: Unanimous.

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

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

D. MINOR PLAT / MPL 21-15: Jessica Hessler – 7 Wonders, LLC; Fisk Land Surveying – Agent. To combine two lots to create Lot 1R of Lots 7 and 8 of Clear Creek Placer MS 1184 in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1 and 2 of Lot 7 and 8 (Replatted) of Clear Creek Placer MS 1184, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1R of Lot 7 and 8 of Clear Creek Placer MS 1184, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

Planning Commission recommended approval of Minor Plat / MPL 21-15 with five (5) conditions.

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1. That prior to filing the mylar with the Register of Deeds, the Certifications on the Minor Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;
2. That prior to filing the mylar with the Register of Deeds, the plat meets the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any requirements that are not met;
3. That prior to filing the mylar with the Register of Deeds, 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;
4. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
5. That following platting of the proposed lot, 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.

PLANNING & ZONING REGULAR AGENDA

E. SECOND READING OF ORDINANCE AMENDMENT / OA 21-02: Pennington County. To amend the Zoning Ordinance to add Section 324 – Accessory Dwellings to the Pennington County Zoning Ordinance.

MOVED by Hadcock and seconded by Lasseter to approve the second reading and final adoption of Ordinance Amendment / OA 21-02. Vote: Unanimous.

F. SECOND READING OF ORDINANCE AMENDMENT / OA 21-03: Pennington County. To amend Section 204-I “Standards for Manufactured Homes, Modular Homes and Site, or Stick-Built Homes” of the Zoning Ordinance [to amend and supersede the existing Section 204-I “Standards for Manufactured Homes, Modular Homes and Site, or Stick-Built Homes”].

MOVED by Hadcock and seconded by Lasseter to approve the second reading and final adoption of Ordinance Amendment / OA 21-03. Vote: Unanimous.

G. SECOND READING OF ORDINANCE AMENDMENT / OA 21-04: Pennington County. To amend Section 304 “Mobile Homes” of the Zoning Ordinance [to amend and supersede the existing Section 304 “Mobile Homes”].

MOVED by Hadcock and seconded by Lasseter to approve the second reading and final adoption of Ordinance Amendment / OA 21-04. Vote: Unanimous.

H. SECOND READING OF ORDINANCE AMENDMENT / OA 21-05: Pennington County. To amend Ordinance 106 “Public Nuisance” [to amend and supersede the existing Ordinance 106 “Public Nuisance”].

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MOVED by Hadcock and seconded by Lasseter to approve the second reading and final adoption of Ordinance Amendment / OA 21-05. Vote: Unanimous.

I. PUBLIC HEARING OF MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 21-07: Nothing Doing, LLC; Dannie Davis - Agent. To remove the subject property from the Planned Unit Development in order to rezone to Ranchette Residential in accordance with Sections 216 and 508 of the Pennington County Zoning Ordinance.

N1/2NW1/4SE1/4; SW1/4NW1/4SE1/4, Section 14, T1N, R5E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Lasseter to continue Planned Unit Development Amendment / PU 21-07 to the June 15, 2021 Board of Commissioners Meeting. Vote: Unanimous.

J. PUBLIC HEARING OF REZONE / RZ 21-13: Nothing Doing, LLC; Dannie Davis - Agent. To rezone 30 acres from a Planned Unit Development District to Ranchette Residential District in accordance with Sections 206, 216, and 508 of the Pennington County Zoning Ordinance.

N1/2NW1/4SE1/4; SW1/4NW1/4SE1/4, Section 14, T1N, R5E, BHM, Pennington County, South Dakota.

MOVED by Lasseter and seconded by LaCroix to continue Rezone/ RZ 21-13 to the June 15, 2021 Board of Commissioners Meeting. Vote: Unanimous.

K. LAYOUT PLAN / LPL 21-14: Don and Laura Elliott. To combine lots to create Lots 23-29; E1/2 Vacated Alley Adjacent to Lots, Block 3 of Silver City Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 23-25; E1/2 Vacated Alley Adjacent to Lots, Block 3 and Lot 26-29 and E10 ft of Vacated Alley Adjacent to Lots, Block 3 of Silver City Subdivision, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 23-29; E1/2 Vacated Alley Adjacent to Lots, Block 3 of Silver City Subdivision, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

MOVED by LaCroix and seconded by Rossknecht to approve Layout Plan / LPL 21-14 with nine (9) conditions. Vote: Unanimous.

1. That at the time of Minor Plat submittal, the Certifications on the Plat be in accordance with Section 400.3.1(n) of the Pennington County Subdivision Regulations;

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2. That at the time of Minor Plat submittal, the Plat be prepared by a South Dakota Registered Land Surveyor;
3. That at the time of Minor Plat submittal, the proposed legal description be corrected, per Department of Equalization comments;
4. That at the time of Minor Plat submittal, the plat meets 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 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;
6. That prior to the mylar being filed at Register of Deeds, the applicant provides percolation tests and soil profile hole information for the proposed lot or obtains an approved Subdivision Regulations Variance to waive these requirements;
7. That prior to the mylar being filed at Register of Deeds, the applicant obtains an approved Rezone for proposed Lots 1-6 and Comprehensive Plan Amendment (as applicable) or obtain an approved Lot Size Variance for the proposed lots;
8. That the applicant ensures all natural drainage ways are maintained and not blocked; and,
9. That approval of this Layout Plan does not constitute approval of any further applications to be submitted for the above-described property.

L. VACATION OF PLAT / VP 21-03: Scott and Terrie Sauder. To vacate notes on the plat of Lot 1, Block 2, Mountain Meadows Subdivision in Section 17, T2S, R7E.

Lot 1, Block 2, Mountain Meadows Subdivision, Section 17, T2S, R7E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Lasseter to approve Vacation of Plat / VP 21-03 with two (2) conditions. Vote: Unanimous.

1. That notes No. 7, 9, 13, and 14 be vacated only for Lot 1, Block 2, of Mountain Meadows Subdivision; and,
2. That all necessary resolutions for Vacation of Plat / VP 21-03 be recorded by the applicant at the Register of Deeds' office.

M. FIRST READING AND PUBLIC HEARING OF ORDINANCE AMENDMENT / OA 21-06: Pennington County. To amend Section 507-I-5-b "Construction Permits - Permit Requirements" of the Zoning Ordinance [to amend and supersede the existing Section 507-I-5-b "Construction Permits - Permit Requirements"].

MOVED by Hadcock and seconded by LaCroix to approve the first reading of Ordinance Amendment / OA 21-06. Vote: Unanimous.

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N. FIRST READING AND PUBLIC HEARING OF ORDINANCE AMENDMENT / OA 21-07: Pennington County. To amend Section 202 “Official Zoning Map” of the Zoning Ordinance [to amend and supersede the existing Section 202 “Official Zoning Map”].

MOVED by Lasseter and seconded by LaCroix to approve first reading of Ordinance Amendment / OA 21-07. Vote: Unanimous.

O. PUBLIC HEARING OF COMPREHENSIVE PLAN AMENDMENT / CA 21-07 – APPROVAL BY RESOLUTION: Pennington County. To amend the existing Comprehensive Plan, Comprehensive Plan “View to 2040” Section 3.1 “Land Use Designations and Standards” and “Land Use Description - Planned Unit Development” and to add to Section 3 “Land Use and Housing Element” Figure 3-2 “Official Zoning Map” page 3-16.

MOVED by LaCroix and seconded by Lasseter to approve the resolution for Comprehensive Plan Amendment / CA 21-07. Vote: Unanimous.

**RESOLUTION AMENDING THE PENNINGTON COUNTY
COMPREHENSIVE PLAN “VIEW TO 2040”**

WHEREAS, SDCL § 11-2-28 authorizes a county to amend the Comprehensive Plan; and

WHEREAS, the Pennington County Board of Commissioners (“Board”) adopted the Comprehensive Plan “View to 2040” (“Plan”) on May 5, 2020; and

WHEREAS, the Plan is incorporated by this reference and available at www.pennco.org; and

WHEREAS, the Board has implemented the Plan with the amendment to Section 202 of the Pennington County Zoning Ordinance (“PCZO”), which became effective on February 24, 2021; and

WHEREAS, the Board has concluded the amendment to Section 202 of the PCZO that was adopted on February 24, 2021, is incongruous with the original intent of the Plan; and

WHEREAS, the Board has concluded that an amendment to the Plan in conjunction with Section 202 of the PCZO is necessary to implement the Plan’s original intent; and

WHEREAS, the Pennington County Board of Commissioners has concluded that the best way to accomplish that is to amend the Plan by

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1. Including the Official Zoning Map of Pennington County that implements the original intent of the Plan (labeled as Figure 3-2) in Section 3, page 16; and
2. Amending the language describing a Planned Unit Development in Section 3, page 5 to ensure land zoned as Planned Unit Developments before February 24, 2021, can continue on the same terms and conditions of approval in accordance with Section 216 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS:

1. That Section 3, page 16 of the Plan be amended to include the Official Zoning Map of Pennington County (a copy of which is incorporated by this reference and on file at the Planning Department); and
2. That the “Purpose and Application” language describing a Planned Unit Development in Section 3, page 5 be amended to say the following:

The Planned Unit Development land-use designation is an overlay district that allows the ingenuity and imagination of builders, architects, site planners, and developers to flourish by giving them the ability to produce mixed-use development. Since a PUD is an overlay district, its uses must be compatible with the underlying district’s uses. A PUD that was not only legal but also in effect before February 24, 2021, is grandfathered in under the same terms and conditions of approval and may continue as a stand-alone district in accordance with Pennington County Zoning Ordinance, Section 216.

Dated this 4th day of May, 2021.

/s/ Chair Gary Drewes
Pennington County Board of Commissioners

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

ITEMS FROM CHAIR/COMMISSION MEMBERS

- A. PROPOSED RESOLUTION FOR BHACC/SDACC: Informational only.
- B. *INITIATED MEASURE 26 – Proposed Temporary Ordinance Regarding the Issuance of Local Medical Cannabis Establishment Permits and/or Licenses – To Set Board Public Hearings Dates and Times: MOVED by Lasseter and seconded by LaCroix to schedule board public hearing dates for June 2, 2021 at 2 p.m. and June 15, 2021 as part of the regular meeting agenda. Vote: Unanimous.

APPROVAL OF VOUCHERS:

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MOVED by Lasseter and seconded by LaCroix to approve the voucher in the amount of \$200.00 to the Rose Inn LLC. Vote: Yes: Drewes, LaCroix, Lasseter, Rossknecht; Abstain: Hadcock.

MOVED by LaCroix and seconded by Lasseter to approve the remaining vouchers entered below for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment totaling \$1,027,797.03. Vote: Unanimous.

10 Properties LLC, 950.00; AT&T Mobility, 4,827.34; BH Energy, 467.15; BH Energy, 219.08; BH Energy, 482.37; CC Property Management LLC, 2,473.00; Century Link, 270.30; City of Hill City, 56.35; City of Rapid City -Water, 4,058.97; City of Rapid City -Water, 2,361.26; City of Wall, 142.00; Clock Tower Gardens Apartments, 2,857.00; Cornerstone Apartments, 500.00; Eagle Apts LLC, 3,150.00; Executive Mgmt Fin Office, 159.75; Global Tel'link, 3.85; Harmony Heights, 5,675.00; Junek, Brad E, 3,500.00; Kieffer Sanitation/A Waste Management Co, 2,981.05; Knollwood Townhouse Properties, 568.00; Lowe's, 1,915.82; Maher William J, 2,754.00; Medical Waste Transport Inc, 712.64; Midcontinent Communications, 3,902.29; Midcontinent Communications, 1,553.24; Montana Dakota Utilities, 7,703.27; Montana Dakota Utilities, 1,554.02; Muth Holdings LLC, 350.00; Noon-Hwa Fan Cynthia, 2,200.00; Paradis Inc, 3,940.00; Pennington County Housing & Redevelopment, 500.00; Pioneer Bank & Trust, 4,280.52; Pioneer Bank & Trust, 932.02; Pioneer Bank & Trust, 4,957.64; Reliance Telephone Inc, 19.15; Rose Inn LLC, 200.00; SD Public Assurance Alliance, 299,038.44; Sorbel Susan R and Daniel E, 240.00; Southern Cross LLC, 240.00; The Nest Hotel, 203.00; Vast Broadband, 1,534.52; Vast Broadband, 200.00; Verizon Wireless, 1,026.43; Verizon Wireless, 728.16; Wellmark, 649,074.54; West River Electric, 1,808.14; Wex Bank, 726.72.

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 Rossknecht and seconded by Hadcock to go into Executive Session pursuant to SDCL 1-25-2(1) for the purpose of discussing personnel matters and SDCL 1-25-2(3) to consult with legal counsel. Vote: Unanimous. The Board remained in Executive Session from 12:51 p.m. until 1:38 p.m.

Commissioners Hadcock and Lasseter did not return after Executive Session.

MOVED by LaCroix and seconded by Rossknecht to come out of Executive Session. Vote: Unanimous.

PAYROLL

Commissioners, 9,195.63; Elections, 7,082.40; Auditor, 11,623.20; Treasurer, 39,240.48; State's Attorney, 143,288.17; Public Defender, 81,818.75; Buildings & Grounds, 64,215.09;

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Equalization, 40,608.30; Register of Deeds, 11,808.81; IT, 26,591.26; Human Resources, 7,751.20; Sheriff, 269,261.96; HIDTA Grant, 8,187.15; Jail, 328,620.66; JSC, 110,944.46; JSC Juvenile Alternative, 4,714.71; CCADP, 111,828.85; Economic Assistance, 33,617.62; Extension, 1,436.80; Natural Resources, 5,353.60; Pest Control, 4,423.20; Planning and Zoning, 17,842.56; Road & Bridge, 157,100.52; Fire Administration, 3,630.72; Dispatch, 102,733.11; Emergency Management, 4,989.29; 24-7 Program, 7,622.34; MacArthur Safety & Justice Challenge, 13,738.28.

PERSONNEL: Amounts listed are hourly, bi-weekly or per meeting depending on position.

24/7: Effective 05/02/2021: Kuwaaupe Morris, \$16.42; Jaden Abelseth, \$16.42.

Buildings and Grounds: Effective 05/02/2021: Steven Luken, \$22.80.

CCADP: Effective 05/17/2021: Jacob Holt, \$16.85; Spirit Grass, \$16.42.

Commissioners: Effective 05/03/2021: Brooks Uecker, \$14.46.

Highway: Effective 05/17/2021: Joseph Besson, \$16.42.

Jail: Effective 05/02/2021: Chelsea Sheffield, \$12.50. Effective 05/17/2021: Adam Johnson, \$22.80; James Schurdevin, \$15.21; Brendan Waln, \$22.80; Christine Hickox, \$28.42; Kayla Wickerd, \$12.50; Shyla Barton, \$12.50; Cassandra Key, \$12.50.

WSDJSC: Effective 05/16/2021: Nicholas Wright, \$25.17.

Law Enforcement: Effective 05/16/2021: Micah Mesman, \$25.17; Dustin Meyer, \$25.77. Effective 05/17/2021: Jason Welsh, \$25.17; Parker Frederick, \$25.17.

Planning and Zoning: Effective 05/02/2021: Chutima Supboon, \$19.46.

ADJOURN

MOVED by Rossknecht and seconded by LaCroix to adjourn the meeting. Vote: Unanimous. There being no further business, the meeting adjourned at 1:39 p.m.

/s/ Cindy Mohler, Auditor

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