

STATE OF WYOMING )  
 )  
COUNTY OF HOT SPRINGS )

OFFICE OF THE BOARD OF  
COUNTY COMMISSIONERS  
THERMOPOLIS WYOMING  
March 3, 2009

The Hot Springs County Board of Commissioners met in regular session on Tuesday, March 3, 2009 at 9:00 a.m. in the Commissioners' Room at the Courthouse. Present were Commissioners Brad W. Basse, John P. Lumley, and Frank T. Manning. Also present were Clerk to the Board Hans Odde, and Administrative Assistant to the Commissioners Penny Herdt. Chairman Brad W. Basse led those present in the Pledge of Allegiance.

**Approval of Agenda**

John P. Lumley made a motion to approve the agenda with the following amendments:

Add: Other Business 8. Consider Appointment of Part-Time Magistrates  
2:30 p.m. Executive Session Personnel/Litigation

Frank T. Manning seconded the motion. Motion carried.

**Approve Minutes**

Frank T. Manning made a motion to approve the minutes of February 3, 2009 and February 17, 2009 as presented. John P. Lumley seconded the motion. Motion carried

**Approve Bills**

The following bills were submitted for approval: (see attached) Payroll for February, 2009 - \$143,673.42.

**Christman Inquiry**

Citizens Joe and Missy Christman requested a few minutes of the Commissioners' time. Chairman Basse agreed to hear from the Christman's as there was a bit of clear time on the agenda, but indicated to them that the Commissioners would not be able to take any official action, as they were not officially on the agenda. Joe Christman reviewed his ongoing dog case and indicated that his attorney suggested that he request guidance from the County Commissioners regarding who might have financial responsibility for the case. As the case is being handled in Circuit Court, which the County Commissioners have no authority over or responsibility for, Mr. and Mrs. Christman were referred to 5<sup>th</sup> Judicial Circuit Court Judge Thomas Harrington for further guidance.

**Emergency Management Monthly Report**

Emergency Management Coordinator Bill Gordon reported that the FY 2006 Homeland Security Grant money which was to be expended or encumbered by March 31, 2009, has been used to purchase six portable radios. These radios will be available for use by any county agency that might have need of them. Coordinator Gordon reported that the first training for the CodeRed emergency contact system will take place on March 5<sup>th</sup>. The school district will not be participating at this time, as they have just entered into a contract with another company for an alternate parent-notification system. In May, Coordinator Gordon will be assisting the Wyoming Department of Health with a Regional Strategic National Stockpile Distribution Exercise to be held in Cody. Mr. Gordon reported that he has begun investigating the possibility of holding a Regional (Bighorn Basin) Infectious Livestock Exercise later this year, possibly between the end of the State Fair and the beginning of hunting season. Chairman Basse asked about the County's compliance with the Emergency Management Regulations regarding PETS (Pets Evacuation and Transportation Standards) in case of a county-wide emergency. Coordinator Gordon replied that there are no official regulations regarding PETS in an emergency situation, and that his department is currently emphasizing personal responsibility and forward planning for that type of situation. As a final note, Coordinator Gordon informed the Commissioners that April 12-18, 2009 is National Public Safety Telecommunicators Week.

**Road and Bridge Monthly Report**

Road & Bridge Supervisor Jim Skelton reported that reclamation work is proceeding at the gravel pit. The tank has been moved from the airport and set in place. Mr. Skelton reported that the Lake Creek project is substantially complete—the creek is running nicely and they are keeping an eye on it to make sure there are no erosion problems. As part of the crushing project, there will be another change order to

obtain some additional crushed gravel material. An additional component of the change order is that oil for the Cold Mix Asphalt project will come from the Sinclair refinery in Casper.

Supervisor Skelton indicated that the HazMat license/certification fees for county employees have been increased to \$95.00. He would like to see the county pick up this expense for the employees. Commissioners agreed that this should come out of county funds.

Planner Lee Campbell reported that the legal review for Road 19 is awaiting County Attorney Jerry Williams' selection of an attorney to assist him with that review.

Commissioner Manning will work with Mr. Skelton to obtain possession of the Hot Springs County road records currently located at the engineering firm of Donnell & Allred in Worland.

### **Maintenance Monthly Report**

Maintenance Supervisor Chuck Carver reported that he has been working on annual maintenance for the cooling tower system and the grounds equipment in preparation for the spring and summer. He has completed the annual battery replacement in the electronic lock system. Mr. Carver indicated that he plans to contact the lock manufacturer regarding the necessity of annual battery replacement, as the batteries are rated for a much higher number of cycles before replacement than the locks are experiencing in a year's time.

### **Red Rocks Commercial Center Draw Down Request #22**

Chris O'Byrne presented Draw Down Request #22 for the Red Rocks Commercial Center in the amount of \$23,594.00 for approval. Brad Basse recused himself from discussion and voting due to his status as a sub-contractor on the project. Frank T. Manning moved to approve Draw Down Request #22 for the Red Rocks Commercial Center in the amount of \$23,594.00. John P. Lumley seconded the motion. Motion carried. Citizen C.W. Clark questioned the change in covenants for the business park regarding the name change from Red Rocks Business Park to Red Rocks Commercial Center. He questioned whether retail would now be permitted. Chairman Basse told him that retail will never be permitted in the Commercial Center and the name change was strictly to improve the marketability of the property.

### **Youth Alternatives – Monthly Report / Draw Down Request**

Youth Alternatives Director Bob Wyss reported that the county has received a refund of \$7,200.00 so far from the unused WCCA juvenile transportation set-aside monies. By the end of April, he expects to receive a total refund amount of \$10,150.00.

The "7 Habits of Highly Effective Teens" books and iPods to load them on have been purchased for use by participants in the program. Director Wyss indicated that he has two participants graduating shortly and two new participants coming into the program.

LeRoy Hayes has been hired to help with on-call coverage, class teaching and community service. The new Volunteers of America Grant will start on April 1, 2009. Director Wyss reported that he is still working with various local and state officials to establish a pilot program to set aside money for professional services for program participants that could be accessed through a simple application/draw-down process as opposed to the complicated grant-writing process that is currently required.

Director Wyss presented Draw Down Request #21 in the amount of \$2,297.40 for the Commissioners' approval. John P. Lumley moved to approve WCCA/OJJDP "Non-Participating State" Grant Reimbursement Request #21 for the time period 02/01/09-02/28/09 in the amount of \$2,297.40. Frank T. Manning seconded the motion. Motion carried.

### **Planner Monthly Report**

**Flood Plain Permits** – Planner Lee Campbell presented two flood plain permit applications for the Commissioners' approval. The applications are complete and meet with Mr. Campbell's approval. Frank T. Manning moved to approve Floodplain Development Permit #01-2009 submitted by Bryan Evensen. John P. Lumley seconded the motion. Motion carried. John P. Lumley moved to approve Floodplain Development Permit #02-2009 submitted by Mike Hubele. Frank T. Manning seconded the motion. Motion carried.

**DEQ Delegation Agreement** – Planner Campbell presented the following Resolution calling for delegation by the DEQ of the authority to administer and share enforcement of W.S. 35-11-301(a) regarding the permitting of septic systems within the county.

**BOARD OF COUNTY COMMISSIONERS**

**WHEREAS**, the County of Hot Springs officially requests that the Administrator of the Water Quality Division and the Department of Environmental Quality delegate the authority to administer and share enforcement of the provisions of W.S. 35-11-301(a), (iii), including the authority to develop and adopt necessary rules, regulations, standards and permit systems, to review and authorize construction, conduct inspections, and to issue permits;

**WHEREAS**, the County of Hot Springs, through the Board of County Commissioners, and the Wyoming Department of Environmental Quality, through its Director, and the Water Quality Division, through its Administrator, will enter into a Delegation Agreement in which the County of Hot Springs is delegated the authority to permit small waste water facilities pursuant to W.S. 35-11-304 (a), (I) through (v);

**WHEREAS**, W.S. 35-11-901 (q) allows the County of Hot Springs through its County Attorney, to share enforcement of violations of the Wyoming Environmental Quality Act or the local small wastewater program;

**WHEREAS**, the County of Hot Springs, through its Board of County Commissioners, shall appoint and designate a local official to authorize and inspect small wastewater facilities and administer the provisions of the Delegation Agreement;

**WHEREAS**, the purpose of the Delegation Agreement is to “enhance the foster state-local cooperation and conformity in the regulation of small wastewater facilities, and to conserve and promote the public health, safety and welfare of the citizens of Hot Springs County;

**THEREFORE BE IT RESOLVED BY THE HOT SPRINGS BOARD OF COUNTY COMMISSIONERS** as follows:

The Board hereby accepts the authority to enforce and administer the provisions of W.S. 35-11-301 (a), (iii) within the incorporated municipalities as requested and the unincorporated boundaries of Hot Springs County, excepting certain portions of the Wind River Indian Reservation, as delegated by the Administrator of the Water Quality division and the Director of the Department of Environmental Quality; recognizing that the Board has adopted the rules, regulations and standards contained within the Sewage Disposal System Regulations, Hot Springs County, Wyoming, effective upon the 1<sup>st</sup> day of April, 2009; and the Board appoints and designates Lee A. Campbell as the designated local official, who is officially authorized to administer and share enforcement of the Hot Springs County Sewage Disposal System Regulations and the Delegation Agreement, both of which are incorporated herein by this reference.

**WITNESS** our hands this 3<sup>rd</sup> day of March, 2009.

ATTEST:  
Hans Odde, County Clerk

Brad W. Basse, Chairman  
John P. Lumley, Vice-Chairman  
Frank T. Manning, Member  
Hot Springs County Board of Commissioners

Frank T. Manning moved to approve Resolution #2009-03 as presented. John P. Lumley seconded the motion. Motion carried. Planner Campbell then presented the Delegation Agreement between Hot Springs County and the Wyoming Department of Environmental Quality, dated March 3, 2009, for approval. John P. Lumley moved to approve the Delegation Agreement. Frank T. Manning seconded the motion. Motion carried.

**Weed & Pest Mill Levy**

Marvin Andreen, Jay Duvall and Chip Axtell appeared before the Commissioners to request approval of a special mill levy of 1 additional mill as permitted for their annual budget. Funds produced by this levy provide funds for the county Mosquito Control program and the Noxious Weed Control program, among other projects. Frank T. Manning moved to approve the special mill levy for the 2009-2010 budget year. John P. Lumley seconded the motion. Motion carried.

**Excavation Site Backfill Bid Opening/Award**

After calling for any further bids to be received and receiving no response, Chairman Basse declared the Backfill Project closed to acceptance of further bids at 11:30 a.m. The following bids were received by the Commissioners for the Backfill of the Demolition Site for the Public Health/Governmental Annex Project: Canyon Concrete Sand & Gravel - \$10,600.00; D&A Construction - \$22,752.00. After review of

the bids, Frank T. Manning moved to award the contract for backfill of the demolition site to Canyon Concrete Sand & Gravel as the low bidder in the amount of \$10,600.00. John P. Lumley seconded the motion. Discussion: In the interest of full disclosure, Commissioner Lumley stated that he was employed by another company owned by Mr. Ray DeVries—the owner of Canyon Concrete Sand & Gravel. Motion carried. The bid documents completed by both bidders contained a contract to be executed upon award of the bid in order to ensure timely completion of the project. Frank T. Manning moved to approve the contract with Canyon Concrete Sand & Gravel in the amount of \$10,600.00. John P. Lumley seconded the motion. Motion carried.

### **Cold Mix Asphalt Project Change Order #2**

Owl Creek Engineering representative Harry Hughes presented Change Order #2 calling for Mountain Construction to produce 12,000 tons of Grade W Base Course material at the contract price of \$4.27/ton for crushing, and changing the haul location for the oil for the project from the Cenex refinery in Laurel, Montana to the Sinclair refinery in Casper, Wyoming. The Grade W material addition results in an additional cost of \$51,240.00. This brings the total contract price to \$448,391.00. There will be no change in the completion date of the contract. The change order has been recommended by Mr. Hughes and signed by Mountain Construction. John P. Lumley moved to approve Cold Mix Asphalt Project Change Order #2 in the additional amount of \$51,240.00, for a total contract cost of \$448,391.00. Frank T. Manning seconded the motion. Motion carried.

### **Pearce Subdivision**

Planner Lee Campbell and Russ Pearce presented the Commissioners with the original mylars for the Pearce Subdivision along with a copy of the Declaration of Protective Covenants to be filed with the plat. The Land Use Planning Commission recommends approval of the subdivision and the land use change. John P. Lumley moved to approve the Pearce Subdivision as submitted. Frank T. Manning seconded the motion. Motion carried. Frank T. Manning moved to approve the land use change for the Pearce Subdivision lands from ag to residential. John P. Lumley seconded the motion. Motion carried. Planner Campbell stated that the accompanying Declaration of Protective Covenants have been reviewed for completeness and compliance with county requirements, and meet with his approval.

### **BLM West-Wide Energy Corridor**

BLM Representative Carol Sheaff appeared before the Commissioners to discuss the 3500'-wide West-Wide Energy Transport Corridor established by the BLM which runs through part of the east side of Hot Springs County. The West-Wide Energy Transport Corridor came about as a result of the Energy Policy Act of 2005, which called for designating energy transport corridors to foster future energy delivery projects by completing a Programmatic Environmental Impact Statement to be used as a starting point for said projects. Planner Lee Campbell stated that he has major concerns with the corridor in that it crosses critical wildlife habitat within the county. Ms. Sheaff stated that companies contemplating an energy delivery project are not absolutely required to locate it within the BLM's corridor, and that companies contemplating such projects would still have to acquire rights of way, easements and agreements with private landowners prior to proceeding with their project. The BLM has no current or known future applications pending for any major energy transport project within the West-Wide Corridor.

### **Assessor – Tax Rebate**

County Assessor Shelley Deromedi presented the following tax rebate for the Commissioners' approval:

**Rebate #04-09** – Smith Oil Field Service, Inc., Parcel #2373 – Personal Property of Smith Oil Field Service, Inc., in District 101 for 2008 –A leased track hoe was inadvertently assessed to both Smith Oil Field Service and the leasing company, resulting in an over assessment of 10,272. Taxes in the amount of \$813.54 to be rebated.

Frank T. Manning moved to approve Rebate #04-09 to Smith Oil Field Service, Inc. in the amount of \$813.54. John P. Lumley seconded the motion. Motion carried.

### **Hospital Generator**

Clerk Odde reported that he had been approached by HSCM Hospital officials regarding possible funding sources for replacing the hospital's 130 KW Generator. This generator provides emergency electrical backup for hospital life services in case of a power failure. The generator failed its last annual load test

and was taken out of service and replaced with a rented generator until such time as a replacement could be purchased. After exploring several sources of funding, Emergency Management Coordinator Gordon indicated that this was an ideal project for Homeland Security funding. If the project involved a "like-for-like" exchange (i.e., replacing the 130 KW generator with a 130KW generator), planning and review costs would be greatly reduced, as would the time necessary to procure and install the new generator. The Commissioners asked Clerk Odde to encourage the hospital officials to continue gathering quotes for purchase and installation of a new 130 KW generator. Clerk Odde will report back to the Commissioners as he receives the information from the hospital.

**Other Business:**

**Public Health/Governmental Annex Draw Down Request #6** – Clerk Odde presented Draw Down Request #6 in the amount of \$20,954.08. John P. Lumley moved to approve Public Health/Governmental Annex Project Draw Down Request #6 in the amount of \$20,954.08. Frank T. Manning seconded the motion. Motion carried.

**Lane 3 Feasibility Study Draw Down Request #4** – Clerk Odde presented Draw Down Request #4 in the amount of \$1,022.00. John P. Lumley moved to approve WBC CDBG Lane 3 Feasibility Study Draw Down Request #4 in the amount of \$1,022.00. Frank T. Manning seconded the motion. Motion carried.

**LUP Board Member Resignation** – Clerk Odde reported that Hub Whitt has resigned his position with the Land Use Planning Board. Clerk Odde has started advertising for the position. Frank T. Manning moved to accept Mr. Whitt's resignation. John P. Lumley seconded the motion. Motion carried. A letter will be sent to Mr. Whitt accepting his resignation.

**Hospital Board Member Resignation** – Clerk Odde presented the Commissioners with a letter of resignation from the Hospital Board from Brian Yarrington effective February 24, 2009. John P. Lumley moved to accept Mr. Yarrington's resignation and send him a letter thanking him for his seven years of service on the board. Frank T. Manning seconded the motion. Discussion: Clerk Odde will begin advertising for the position immediately. Motion carried.

**Probation & Parole Office Space/Network Drop Request** – This item was tabled until March 17<sup>th</sup>. At that time it is hoped that County Attorney Jerry Williams and Sheriff Lou Falgoust will be able to be present to discuss the options for providing space to Probation & Parole on a regular basis. Clerk Odde will investigate computer services and phone services at the different locations that may be available.

**State Grant-In-Aid Fly-In Request** – Clerk Odde presented the Airport Fly-In Grant-In-Aid Award Certificate for the Commissioners' approval. This is a 100% of Eligible Costs grant requiring no match on the county's part. John P. Lumley moved to accept the Airport Fly-In Grant-In-Aid award in the amount of \$1,161.00. Frank T. Manning seconded the motion. Motion carried.

**Public Officer Disclosure Statements** – Clerk Odde reviewed the Public Officer Disclosure of Benefit or Interest Statements required to be filled out annually by all County Officials who invest public funds or have authority to decide how public funds are invested. These forms are public documents and will be kept on file in the Clerk's Office.

**Appointment of Part-Time Magistrates** – Clerk Odde presented the following resolution appointing part-time magistrates in Hot Springs County for consideration by the Commissioners:

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
HOT SPRINGS COUNTY  
RESOLUTION NO. 2009-04**

**WHEREAS**, Hot Springs County Circuit Court of the 5<sup>th</sup> Judicial District is in need of Part-time Magistrates; and

**WHEREAS**, effective July 1, 2006 Magistrates must reside in the 5<sup>th</sup> Judicial District, Washakie, Park, Hot Springs and Big Horn County; and

**WHEREAS**, the appointment of cross-county part-time magistrates will aid the circuit Court in the assignment of cases where conflicts of interest arise and otherwise allow the Court to manage its docket more efficiently; and

**WHEREAS**, the Circuit Court Judges have recommended the appointment of the following attorneys as part-time magistrates:

Thomas W. Harrington, resides in Washakie County  
Edward G. Luhm, resides in Washakie County  
Wendy Press Sweeny, resides in Washakie County  
William R. Shelledy, Jr., resides in Washakie County  
Louis L. Walrath, resides in Hot Springs County  
Jerry Williams, resides in Hot Springs County

**WHEREAS**, it is in the best interests of the administration of justice for the citizens of Hot Springs County that the above-named attorneys be appointed as part-time magistrates in and for the Circuit Court of Hot Springs County, Fifth Judicial District.

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HOT SPRINGS COUNTY** that Thomas W. Harrington, Edward G. Luhm, Wendy Press Sweeny, William R. Shelledy, Jr., Louis L. Walrath, and Jerry Williams be appointed as part-time magistrates for the Circuit Court, pursuant to W.S. 5-9-110 subject to further Order of the Circuit Court Judges.

**RESOLVED THIS 3<sup>rd</sup> day of March, 2009.**

ATTEST:  
Hans Odde, County Clerk

Brad W. Basse, Chairperson  
John P. Lumley, Vice-Chairman  
Frank T. Manning, Commissioner

John P. Lumley moved to approve Resolution #2009-04 as presented. Frank T. Manning seconded the motion. Motion carried.

Citizen C.W. Clark reviewed the new law signed by Governor Freudenthal last week affecting property tax assessment appeals.

**Correspondence**

UW-CES – 2008 Impact Statements  
Koerwitz, Michel, Wright & Associates – Peer Review Statement  
HSC Planning Office – Scenic View Subdivision

Commissioners reviewed the foregoing correspondence. No action was required or taken on any correspondence items.

**Executive Session**

John P. Lumley moved to enter Executive Session at 1:45 p.m. to discuss Personnel/Litigation issues. Frank T. Manning seconded the motion. Motion carried. Those participating included Sheriff Lou Falgoust, Under Sheriff Dave Larson and Commissioners Basse, Lumley and Manning. Frank T. Manning moved to leave Executive Session at 2:05 p.m. John P. Lumley seconded the motion. Motion carried. No action was taken during or as a result of the Executive Session.

**Adjournment**

There being no further business to come before the Board, John P. Lumley moved to adjourn. Frank T. Manning seconded the motion. Motion carried.

Attest:

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Brad W Basse, Chairman

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Hans Odde, Clerk to the Board