

Red Lane Water & Sewer District Dissolution/WWDC Level 1 Water Study

Clerk Odde informed the Commissioners that three of the four members of the Red Lane Water & Sewer District (RLW&SD) Board have resigned, and formal dissolution of the district may occur shortly. No action required on the Commissioners' part at this time.

RLW&SD Board member Carol Pickett updated the Commissioners on the progress being made on the Level 1 Water Study being conducted by the Wyoming Water Development Commission. Jim Van Dorn with Wyoming Rural Water gave a full report on the status of the Level 1 Study. Mr. Van Dorn stated that he would prefer the RLW&S District not be dissolved until after the Level 1 Study has been completed, in order to facilitate information gathering by the Wyoming Water Development Commission and implementation of the recommendations made as a result of the study. Ms. Pickett and Mr. Van Dorn indicated that the WWDC has several reservations about the integrity and performance of the current water system. Red Lane residents Lynn Beeson and Todd Shade spoke in support of the RLW&SD and commended Ms. Pickett on her hard work on this project.

Chairman Basse questioned whether either the RLW&S District or the Red Lane Watershed District was currently assessing any mills to pay for water system support or repairs. Neither district is doing so at this time. Ms. Pickett indicated that she would like to wait for the public scoping meeting to be held at the conclusion of the Level 1 Study before making any decisions on funding sources. The scoping meeting date will be publicized. It is anticipated that this meeting will be held on or about June 14, 2009.

Big Horn Basin Transportation Authority Subsidy

After recent discussions with the other Big Horn Basin counties, a consensus has been reached to divide the four counties' share of the state-required subsidy of \$18,750.00 equally among the counties. This would make Hot Springs County's share \$4,687.50. John P. Lumley moved that Hot Springs County develop a budget line item for one year in the amount of \$4,687.50 to be matched by the other three counties in the Big Horn Basin as the county's portion of the Big Horn Basin Bus Service Subsidy for the Fiscal Year 2009-2010. Frank T. Manning seconded the motion. Motion carried.

Forest Service Annual Road Maintenance Agreement

U.S. Forest Service representative Tim Elder appeared to discuss the annual Forest Service Road Maintenance Agreement between Hot Springs County and the U.S. Forest Service. There is some question as to whether Hot Springs County billed the Forest Service for work on Forest Service roads in 2008. Clerk Odde will investigate this and get back with Mr. Elder. Road & Bridge Foreman Jim Skelton was contacted via phone to discuss modifications to the current agreement, which expires on December, 30, 2009. The only modification suggested by Mr. Skelton was to add rebuilding two miles of the road, including changing "haul 5000 cubic yards of base" to "haul 3000 cubic yards of crushed gravel and 2000 cubic yards of base". Mr. Skelton estimated the County's costs for maintenance under this agreement to be about \$20,000.00—a reduction from the \$34,100.00 committed for last year. Frank T. Manning made a motion to sign the Forest Service Annual Road Maintenance Agreement for 2009-2010, subject to the discussed revisions to the Plan of Work outlined in the agreement. John P. Lumley seconded the motion. Discussion: With the discussed modifications, the County's share of the annual costs will be \$20,000.00, the Forest Services' share will be \$8,000.00, and the BLM's share will be \$4,000.00. Motion carried.

Public Hearing – Land Use Change for Proposed Tonn Gravel Pit

Chairman Basse declared the public hearing on the land use change for the proposed Tonn Gravel Pit off of Jones Road open at 5:15 p.m. County Planner Lee Campbell reviewed the progress of the land use change request from the initial application, through the Land Use Planning Board review, to the present time. Planner Campbell presented written comments regarding the land use change from Joe Holden, John & Kathryn Thompson, Gene & Laura Kuhman, Katrin Kolder & James Madsen, and Owl Creek Irrigation District Vice-President Matt Brown. The written comments were uniformly negative regarding allowing the land use change, primarily due to concerns about how the gravel pit would impact the local water levels and affect existing wells which have senior groundwater appropriations. A sampling map generated by Dan MacAfee of WYDOT identifying the characteristics of the proposed site was presented also. The Land Use Planning Board has forwarded the Tonn Land Use Change Request to the Commissioners with a "Do-Pass" recommendation, to include stipulations regarding the placement of monitoring wells, monitoring of those wells through the summer of 2009, and the necessity of addressing the adjacent neighbors' concerns. Planner Campbell discussed the possibility of issuing a Conditional

Use Permit. Mr. Tonn is not in favor of issuance of a Conditional Use Permit, as he feels any conditions should be imposed by the DEQ at such time as he files applications for Mining, Water Discharge and Air Quality permits. Chairman Basse called for public comment from members of the audience. Residents Weldon Althoff and John Jeffs (as representative for Leonard Shumway) spoke in favor of the land use change. After two more calls for comments, upon receiving none, Chairman Basse declared the public hearing closed at 5:45 p.m. After further discussion, the Commissioners asked County Attorney Jerry Williams if he had reviewed the document. Attorney Williams stated that, although he had received the document in a timely fashion from Planner Campbell, he has not had the opportunity to review it yet. John P. Lumley moved to table the land use change pending review by the County Attorney, with action to be taken no later than the June 16th Commissioners meeting. Frank T. Manning seconded the motion. Discussion: Mr. Tonn stated that he feels tabling the issue is just postponing the inevitable. Harry Hughes reminded the Commissioners that the original Land Use Planning Board meeting recommending the land use change for approval was held on April 16th, which makes the June 16th meeting 60 days later. Mr. Hughes is not sure that complies with the County's timeliness requirements regarding processing this type of application. Attorney Williams indicated that he believes the clock starts when the public hearing is actually held. The Commissioners indicated that if the County Attorney can have the review completed by the June 2nd meeting, they would be prepared to vote on the land use change at that time. Motion carried.

County Road 19 Easements

Local title officer Ernie Bunn presented a letter confirming that County Road 19 is indeed a county road, and confirming the boundaries of the road. Questioning by the Commissioners elicited the information that some of the necessary rights-of-way already exist, while others will have to be applied for from the BLM and other landowners.

Other Business

Assessor - Memorandum of Understanding for CAMA Equipment – County Assessor Shelley Deromedi presented a Memorandum of Understanding between the Wyoming Dept. of Revenue and Hot Springs County for Hardware for the CAMA system. The two things of note in the MOU are the specification that the County will be responsible for any updating of wiring and networking necessary to run the new hardware, and the notification that this is the last time that the new hardware will be paid for by the State. Future hardware upgrades will be the responsibility of the County. Frank T. Manning moved to sign the Memorandum of Understanding between the Wyoming Dept. of Revenue and Hot Springs County for Hardware for the CAMA system. John P. Lumley seconded the motion. Motion carried.

Lane 3 Comments – Project coordinator Harry Hughes reviewed the public comments received on the Lane 3 Study Draft Report. Comments were received from WYDOT and from Pat Schmidt via an editorial in the Independent Record. Chairman Basse stated that he had received a voicemail from landowner Alice Stump, but had not been able to connect with her directly yet. Mr. Hughes asked Commissioners if they had any further comments. Discussion ensued regarding including sidewalks in the plans. The Commissioners asked Mr. Hughes to include installation of five foot sidewalks in the final report. The final report will also include the recommendation that the County procure a sixty-foot right-of-way for the project.

County Government Annex – Guaranteed Maximum Price & Amendment #1 – Clerk Odde presented the documents for the Guaranteed Maximum Price proposal and Amendment #1 from Groathouse Construction for approval by the Commissioners. The Guaranteed Maximum Price is \$1,608,137.00, and includes a \$51,500.00 construction contingency and a 12% Construction Management fee. Any project costs over this amount will be the responsibility of the contractor. If the project comes in under budget, 100% of the savings will be returned to the county. John P. Lumley moved to accept the GMP Proposal & Amendment #1 from Groathouse Construction in the amount of \$1,608,137.00. Frank T. Manning seconded the motion. Motion carried.

Airport Land Use Assurance Compatibility Statement – Clerk Odde presented a letter for signature to Hans Anker with the FAA-U.S. Dept. of Transportation, certifying that all future land use decisions regarding the area surrounding any relocation of the Hot Springs County Airport will be compatible with normal airport operations. This letter is necessary to move forward with the grant for the Airport Study.

Frank T. Manning moved to approve the letter for signature. John P. Lumley seconded the motion. Motion carried.

Juvenile Justice Cost Survey – Clerk Odde reported that he has distributed this survey to the appropriate departments and is awaiting their reply. No action was taken by the Commissioners on this item.

Cooperative Law Enforcement Agreement – Clerk Odde reported that this is the annual agreement between the U.S. Forest Service and Hot Springs County regarding patrol of the Grass Creek Road and that portion of the Shoshone National Forest that is in Hot Springs County. The amount of reimbursement to the County for Law Enforcement Services from the U.S. Forest Service will not exceed \$3,200.00 per year. The agreement will run through March 31, 2010. John P. Lumley moved to approve the Cooperative Law Enforcement Agreement between the Hot Springs County Sheriff's Department and the U.S. Dept. of Agriculture, Forest Service. Frank T. Manning seconded the motion. Motion carried.

Resolution to Appoint Special Prosecutor – County Attorney Jerry Williams presented the Commissioners with the following resolution for approval:

**RESOLUTION #2009-06
IN THE MATTER OF THE APPOINTMENT OF SPECIAL PROSECUTOR**

**State of Wyoming v. David Alan Hull
Docket No. CR2007-6 / CR2007-11**

WHEREAS, Jerry D. Williams, Hot Springs County and Prosecuting Attorney, has advised the Hot Springs County Board of County Commissioners on or about the 19th day of May, 2009 that there is the need for the appointment of a Special Prosecutor in the case of the **State of Wyoming vs. David Alan Hull**; and

WHEREAS, W.S. 18-3-302(c) 1977, as amended, enables the County Commissioners of any county to employ one or more attorneys to appear and prosecute and assist the County and Prosecuting Attorney in behalf of the people of such county in any action or proceeding, whether civil or criminal; and

WHEREAS, in such case the nature and necessity of employment shall appear in the records of the County Commissioners according to W.S. 18-3-302(c) 1977, as amended; and

WHEREAS, it appears to the Board of County Commissioners that a special prosecutor is needed to assist the County and Prosecuting Attorney to carry out his duties due to the County and Prosecuting Attorney reporting an appearance of impropriety that may result should the Hot Springs County and Prosecuting Attorney's Office handle the above matter that now awaits sentencing on criminal charges; and

WHEREAS, Teton County Attorney, Steven E. Weichman, has agreed to assume the responsibilities and duties of Special Prosecutor, personally or by a deputy attorney in his office, in this matter, it being noted that while the Special Prosecutor will not charge for his time, that Hot Springs County could be responsible for expenses incurred by the Special Prosecutor in carrying out his duties;

NOW, THEREFORE, BE IT RESOLVED AND ESTABLISHED that Teton County Attorney, Steven E. Weichman, or any deputy attorney designated by him in his office, be and is hereby appointed and employed as Special Prosecutor in the above referenced criminal cause to perform the official duties in this matter that would otherwise be performed by the Hot Springs County and Prosecuting Attorney, and for that time and for this matter he shall have the same powers given by law to the Hot Springs County and Prosecuting Attorney as is so provided by W.S. 18-3-105, 1977, as amended.

SIGNED this 19th day of May, 2009.

Hot Springs County Board of Commissioners:

Attest: Hans Odde, County Clerk

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

After review and discussion of the resolution, John P. Lumley moved to approve the appointment of Stephen E. Weichman as special prosecutor in the case of **State of Wyoming vs. David Alan Hull**. Frank T. Manning seconded the motion. Motion carried.

Executive Session - John P. Lumley moved to enter Executive Session to discuss possible litigation issues at 6:52 p.m. Frank T. Manning seconded the motion. Motion carried. At 7:05 p.m. Frank T. Manning made a motion to leave executive session. John P. Lumley seconded the motion. Motion carried. No action was taken during the executive session. After resuming the regular meeting, at the recommendation of the County Attorney, John P. Lumley made a motion to hire an outside attorney to issue an opinion regarding pending litigation. Frank T. Manning seconded the motion. Motion carried.

Correspondence

Owl Creek Engineering – Final Cold Mix Project Cost Spreadsheet – Final Cost is \$1,955,842.09.
WYDOT – STIP Meeting Notification – 06-03-09
Board of Equalization – Appeals Process Changes
Fairboard Minutes
Wyoming Planning Association – Nomination Form
BuRec – BHB Runoff Forecast
Teton Conservation District – Biomass Utilization Working Group
Local Airport Traffic Count – April, 2009
LGLP – Excess Liability Coverage
Museum Board Minutes

Commissioners reviewed the foregoing correspondence. No action required or taken at this time.

Adjournment

There being no further business to come before the Board of County Commissioners at this time, John P. Lumley moved to adjourn the meeting. Frank T. Manning seconded the motion. Motion carried.

ATTEST:

Brad W. Basse, Chairman

Hans Odde, County Clerk