

**MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
REGULAR MEETING
Tuesday, September 15, 2009
County Courthouse, Rawlins, Wyoming**

The regular meeting of the Board of Carbon County Commissioners (BOCC) commenced Tuesday, September 15, 2009 at the County Courthouse in Rawlins, Wyoming. Attending the meeting were Chairman Terry Weickum, Vice Chairman Jerry Paxton; Commissioner Charles C. Young; County Clerk Gwynn Bartlett; Deputy Attorney Marcia Bean; and Deputy Clerk Kathy Turner.

Chairman Weickum called the meeting to order at 9:07 a.m.

VOUCHERS

Commissioner Paxton moved to approve the report of expenditures in the amount of \$228,805.11. Commissioner Young seconded and the motion carried unanimously.

Vendor	Detail Line Description	Total
A C TREE SERVICE	PINE TREE REMOVAL	\$3,000.00
ABSOLUTE SOLUTIONS	BATTERIES	\$908.75
ALCO	SUPPLIES	\$13.94
ALLEN, JEREMY	RENT & UTILITIES	\$919.00
ALSCO, AMERICAN LINEN DIVISION	MATS/SHOP SUPPLIES	\$302.42
AMERIGAS	PROPANE	\$760.45
ANDERSON HIGHWAY SIGNS	SIGNS	\$890.00
ASD HEALTHCARE	FLU VACCINE	\$775.00
AV-TECH ELECTRONICS	SPEAKERS/SIRENS/PARTS	\$361.82
BAGGS, TOWN OF	WATER & SEWER	\$243.75
BANK OF COMMERCE (ACH)	ACH FEES	\$32.50
BANK OF COMMERCE (DEBIT CARD)	COMPUTER/TRAVEL/TRNG/FUEL/DUES	\$5,098.39
BI-RITE PHARMACY	RX	\$5,807.39
BLACK HILLS AMMUNITION	AMMUNITION	\$539.00
BLACK, LEO	K9 DOG CARE	\$912.50
BOB BARKER COMPANY, INC.	JAIL SUPPLIES	\$410.59
BRESNAN COMMUNICATIONS	INTERNET SERVICES/NETWORK	\$3,005.21
BROWN, STEVEN	MILEAGE	\$62.50
BUILD RITE LUMBER SUPPLY	LUMBER/BATTERIES/SUPPLIES/KEYS	\$752.30
CARBON COUNTY COOPERATIVE EXT	REGISTRATION FEE	\$70.00
CARBON COUNTY FAIR ASSOCIATION	FAIR BOOTH RENTAL	\$25.00
CARBON COUNTY SENIOR SERVICES	1ST QTR MATCHING FUNDS/MEALS	\$65,037.50
CARBON COUNTY TREASURER	VARIOUS CASH ITEMS	\$1,404.53
CARBON MERCANTILE CORPORATION	UNIFORM PANTS	\$49.98
CARBON POWER & LIGHT INC	ELECTRICAL SERVICE	\$874.73
CASPER STAR-TRIBUNE	ADVERTISING	\$180.40
CBM FOOD SERVICE	JAIL FOOD	\$11,318.41
COMFORTECH HEATING	COARSE SALT	\$225.00
CONOCOPHILLIPS	FUEL	\$44.72
DAILY TIMES	ADVERTISING	\$2,187.94
DEFENSE TECHNOLOGY (FLORIDA)	PEPPERMACE	\$277.28
DIRTY MOP HOME CARE	SR CENTER LAWN CARE	\$22.50
DISHONG, JOHN & CAROL J	COUNTY FIRE TRUCK STORAGE RENT	\$150.00
DIXON, TOWN OF	WATER & SEWER	\$39.50
DRUMMOND REFRIGERATION	SENIOR CENTER REPAIRS	\$1,579.88
DUBOIS TELEPHONE EXCHANGE	TELEPHONE SERVICES	\$246.03
ELK MOUNTAIN, TOWN OF	WATER & SEWER	\$54.50
ENCAMPMENT, TOWN OF	WATER & SEWER	\$63.00
ENGSTROM, JAMES D. DDS	AUG SERVICES	\$2,500.00
FARMER BROTHERS COFFEE	SUPPLIES	\$222.94
FSH COMMUNICATIONS	PAYPHONE	\$70.00
GALLS, AN ARAMARK COMPANY	BOOTS/SHIRTS/RESPONDER KIT	\$377.19
GASES PLUS	CYLINDER RENTAL/SWITCH	\$668.76
GCR ELECTRONICS, LLC	SITE RENTALS	\$900.00

GOSVENOR, MAXINE	MILEAGE	\$20.00
HANNA, TOWN OF	WATER & SEWER	\$76.00
HASCO INDUSTRIAL SUPPLY	VALVE	\$164.02
HEIMAN FIRE DEPARTMENT	1000 GAL TANK	\$1,009.95
HIGH PLAINS POWER	ELECTRICAL SERVICE	\$32.48
HILLCREST SPRING WATER, INC.	SUPPLIES	\$44.90
HILLTOP CONOCO	FUEL	\$106.00
IDENTIX INCORPORATED	ANNUAL MTCE/ON SITE SUPPORT	\$4,027.00
IKON FINANCIAL SERVICES	LAND OFFICE COPIER RENT	\$185.45
IM DIAGNOSTICS	HCG KIT	\$60.70
INTERMOUNTAIN RECORD CENTER, INC.	TITLE SCANNING	\$83.56
J H KASPAR OIL COMPANY	FUEL	\$8,580.95
JACK'S BODY & FENDER REPAIR	PAINT STRIPES & DECAL VEHICLE	\$570.00
JACKALOPE PRINTING	SUPPLIES/ENVELOPES/CDS/TONER	\$428.00
JERRY'S DONUTS	SUPPLIES	\$17.98
KAISER, DON	LAWN CARE	\$130.00
KAR KRAFT INC	VEHICLE REPAIRS	\$751.62
KILBURN TIRE COMPANY	TIRE & VEHICLE REPAIRS/SHOCKS	\$964.34
KONE ELEVATORS ESCALATORS	ELEVATOR MAINTENANCE	\$2,725.97
LAB SAFETY SUPPLY	VESTS	\$1,555.37
LEXBO LLC	OFFICE RENTAL	\$450.00
LINCOLN PRINTING PLUS, INC.	ENVELOPES	\$160.69
MATTHEW BENDER & CO, INC.	WY STATS/COURT RULES	\$2,033.49
MEDICINE BOW, TOWN OF	WATER & SEWER	\$106.00
MEMORIAL HOSPITAL OF CARBON CTY	MEDICAL SERVICES/CHEST XRAYs	\$27,506.98
MERCK & COMPANY, INC.	PUBLIC HEALTH VACCINE	\$1,539.30
MODERN MARKETING, INC	SHERIFF SUPPLIES	\$600.72
MPM CORP / EVERGREEN DISPOSAL	GARBAGE SERVICES	\$117.50
MY AUTOMOTIVE, INC.	VEHICLE REPAIRS	\$574.84
NATIONAL RIFLE ASSOC	CERT RENEWAL-LAW ENFORCEMENT	\$30.00
OMAN, APRIL	CES SUPPLIES	\$28.85
P & P WEBER CONSTRUCTION LLC	CEMENT WORK-HANNA SENIOR CTR	\$2,500.00
PACKARD, CHANTEL	MILEAGE	\$54.00
PAGE ONE	PAGER SERVICE	\$264.46
PAXTON, JERRY	MILEAGE	\$636.50
PDR ENTERPRISES, INC.	MATERIALS & LABOR	\$62.05
PERKINS OIL CO	FUEL	\$1,964.21
PITNEY BOWES	SOFTGUARD & SERVICE AGREEMTS	\$624.00
PLATTE VALLEY RANCH SUPPLY	BOOTS	\$72.99
POWELL, THOMAS	TRAVEL-PLANNER I INTERVIEW	\$471.61
PRO-CHEM INDUSTRIAL, LLC	LAUNDRY & CLEANING SUPPLIES	\$562.29
PROJECT PREVENTION	AD/LUNCH/MILEAGE/WAGES/PHONE	\$1,758.47
PUBLIC SAFETY CENTER, INC	SUPPLIES/SPEED METER	\$1,404.77
Q BUSINESS SOURCE	PR CHECKS	\$207.65
QUILL CORPORATION	BOOKENDS/BINDERS	\$52.17
QWEST	TELEPHONE SERVICES	\$160.64
RAWLINS AUTOMOTIVE	SUPPLIES/BATTERY/AIR FILTERS	\$500.82
RAWLINS GLASS	WIND SHIELD REPLACEMENT	\$229.00
RAWLINS, CITY OF	WATER SERVICES	\$2,820.78
RELIABLE	SUPPLIES/TONER	\$559.02
RIVER STREET MOTOR CO	VEHICLE REPAIR	\$370.05
RIVERSIDE GARAGE & CABINS	SPRAY PAINT	\$12.27
ROCKY MOUNTAIN POWER	ELECTRICAL SERVICES	\$1,331.72
ROOP, KATHY	MILEAGE/WITNESS FEE	\$72.00
ROSCOE STEEL & CULVERT CO	DIMPLE BAND	\$407.00
ROSS AUTOMOTIVE SERVICES	VEHICLE REPAIRS	\$308.55
RYAN ELECTRONICS INC	MAINTENANCE CONTRACT FEE	\$4,007.29
SARATOGA AUTO PARTS, INC.	FUEL FILTERS/JACK/VEHICLE PARTS	\$1,414.22
SARATOGA SUN	ADVERTISING	\$395.13
SARATOGA, TOWN OF - WATER	WATER SERVICES	\$73.50
SHEPARD'S	DIESEL FUEL	\$3,189.38
SHIVELY HARDWARE	TOILET CLEANER	\$10.98
SNAKE RIVER PRESS	ADVERTISING	\$54.00
SOURCE GAS	GAS SERVICES	\$903.98
SQUARE SHOOTERS EATING HOUSE	SAFETY MEETING	\$205.74

STAN'S QUIK LUBE	VEHICLE MAINTENANCE	\$42.95
STAPLES ADVANTAGE	OFFICE SUPPLIES	\$542.07
STARCK, TRAVIS	K-9 DOG MAINTENANCE	\$456.25
SUNRISE SANITATION SERVICE, LLC.	GARBAGE SERVICES	\$55.00
T'S KEYS	DUPLICATE KEYS	\$4.00
T.W. ENTERPRISES, INC.	KEYS	\$32.60
TERMINIX	PEST CONTROL	\$40.00
TIRE DISTRIBUTION SYSTEMS, INC.	TIRES	\$724.20
TRADING POST	DIESEL FUEL/FUEL	\$157.45
TRUE VALUE OF RAWLINS	HARDWARE/LADDER/WET&DRY VACS	\$645.29
U S BANK	SUPPLIES/UNIFORMS/TRAVEL	\$315.56
UNION TELEPHONE COMPANY	PHONE SERVICES	\$702.35
VALLEY FOOD & LIQUOR	SUPPLIES	\$4.25
VALLEY OIL COMPANY	DIESEL FUEL/FUEL	\$2,718.35
VAN'S WHOLESALE	CLEANING SUPPLIES	\$542.29
VERIZON WIRELESS	PHONE SERVICES	\$483.60
WACO	REGISTRATIONS	\$195.00
WEICKUM, TERRY	MILEAGE	\$250.00
WELD CO SHERIFF'S OFFICE	PAPER SERVICE	\$37.00
WEST PAYMENT CENTER	WEST INFORMATION CHARGES	\$647.15
WILSON, MARGARET	PATCHES	\$30.00
WY ASSOCIATION OF SHERIFF'S	DUES	\$400.00
WY DIESEL SERVICE	VEHICLE REPAIRS/PARTS/AIR FILTERS	\$2,554.80
WY MACHINERY COMPANY	FILTERS	\$295.35
WY STATE FORESTRY	VEHICLE PARTS/UNIFORMS/SUPPLIES	\$14,949.26
WY STATIONERY	SUPPLIES/FILE CABINETS/PAPER	\$1,353.79
WY WASTE SERVICES-RAWLINS	GARBAGE SERVICES	\$1,051.76
XEROX CORPORATION-RENT	COPIERS	\$3,281.17
YAMPA VALLEY ELECTRIC	ELECTRICAL SERVICES	\$564.42
GRAND TOTAL		\$ 228,805.11

CLERK

Minutes

Commissioner Young moved to approve the minutes of the September 1, 2009 regular meeting of the Board of Carbon County Commissioners as presented. Commissioner Paxton seconded and the motion carried unanimously.

Bonds

Commissioner Young moved to approve a \$10,000.00 bond for Patricia Hays, Treasurer for the Carbon County Library Board. Commissioner Paxton seconded and the motion carried unanimously.

Monthly Receipts

Commissioner Young moved to accept Carbon County Clerk Statement of Fees Collected for the Month of August 2009 in the amount of \$16,317.00. Commissioner Paxton seconded and the motion carried unanimously.

Commissioner Young moved to accept the Planning and Development receipts in the amount of \$3,094.75 for the month of August 2009, and fees collected from the Clerk of District Court for the month ending August 2009 in the amount of \$3,399.82. Commissioner Paxton seconded and the motion carried unanimously.

DUNLAP WIND PROJECT

Chairman Weickum stated the BOCC has signed up to be an intervener for the Dunlap Wind Project however now the BOCC is considering withdrawing this position but stay heavily involved during the remainder of the process.

RECESS

Chairman Weickum recessed at 9:28 a.m. and reconvened at 9:34 a.m.

Kinetic Leasing

Clerk Bartlett stated she is in the process of obtaining lease/purchase documents for the rescue truck, fire truck, and snow plow truck with Kinetic Leasing and is waiting for a review of the documents from Barbara Bonds. She requested that upon Ms. Bonds review, Chairman Weickum be authorized to sign the documents.

Commissioner Paxton moved to authorize the Chairman's signature on lease/purchase documents with Kinetic Leasing for a rescue truck, fire truck and snow plow truck after Barbara Bonds' review. Commissioner Young seconded and the motion carried unanimously.

Fairgrounds Multipurpose Building

Clerk Bartlett advised the bids for the erection of the building at the fairgrounds will be opened today and Barbara Bonds and Mary Keating-Scott are preparing the lease/purchase documents and asked for approval of the documents when they are received.

Commissioner Paxton moved to authorize the Chairman's signature on the lease/purchase documents for the multipurpose facility at the Fairgrounds upon the approval and receipt of the documents from Barbara Bonds and Mary Keating-Scott. Commissioner Young seconded and the motion carried unanimously.

Private Road Hearing

Clerk Bartlett advised the next private road hearing for Charles S. Shireman and John Earl Shireman is scheduled for January 5, 2010 at 10:00 a.m. and may last the entire day. She requested approval to start the BOCC meeting that day at 8:00 a.m. rather than 9:00 a.m.

Commissioner Paxton moved to change the meeting time of the regular meeting scheduled on January 5, 2010 from 9:00 a.m. to 8:00 a.m. Commissioner Young seconded and the motion carried unanimously.

Homeland Security Grant

Clerk Bartlett presented a Homeland Security Grant adding Attorney DeLancey has reviewed the grant award and recommends approval.

Commissioner Young moved to accept the Grant Award for U.S. Department of Homeland Security (DHS), Office of Emergency Communications (OEC) and the Federal Emergency Management Agency (FEMA), Grant Programs Directorate, Interoperable Emergency Communications Grant Program (IECGP, Fiscal Year 2009, Project ID 09-GPD-CAR-IE-CGP9, with a grant award period of June 1, 2009 through March 31, 2011, total grant payment shall not exceed \$7,297.13. Commissioner Paxton seconded and the motion carried unanimously.

Agreement for Financial Advisory Services

Clerk Bartlett presented an agreement for George K. Baum & Company to assist with financing the multipurpose facility at the fairgrounds.

Commissioner Young moved to approve the Agreement for Financial Advisory Services between Carbon County and George K. Baum & Company, for the construction of a building on the County's fairgrounds, total compensation to George K. Baum & Company not to exceed \$5,000.00. Commissioner Paxton seconded and the motion carried unanimously.

Board Appointment

Clerk Bartlett advised the South Central Wyoming Emergency Medical Services Joint Powers Board (EMSJPB) is asking for approval to appoint Robert Hohn as the replacement for Jim Elliott as the at-large member.

Commissioner Paxton asked for a written resignation from Mr. Elliott before any decision is made. Clerk Bartlett called Mark Kostovny of the EMSJPB and confirmed he had received a written resignation from Mr. Elliott and the EMSJPB has accepted it.

Commissioner Paxton moved to authorize the County to support the appointment of Robert Hohn as the replacement for Jim Elliott as the at-large member to the South Central Wyoming Emergency Medical Services Joint Powers Board. Commissioner Young seconded and the motion carried unanimously.

AGENDA AMENDMENT

Commissioner Paxton moved to amend the agenda to include an executive session at 9:57 a.m. to discuss issues that are considered confidential by law.

EXECUTIVE SESSION

Commissioner Paxton moved to go into executive session at 9:57 a.m. with Clerk Bartlett and Deputy Attorney Bean to discuss matters considered confidential by law. Commissioner Young seconded and the motion carried unanimously.

Commissioner Paxton moved to come out of executive session at 10:14 a.m. and that the minutes of the session be approved as written and sealed and declared that no action was taken during the session. Commissioner Young seconded and the motion carried unanimously.

CARBON COUNTY COUNSELING CENTER

Commissioner Paxton moved to authorize the Chairman's signature on a letter to the Carbon County Counseling Center regarding insurance. Commissioner Young seconded and the motion carried unanimously.

CLERK

Energy Efficiency and Conservation Block Grant

Clerk Bartlett advised her office applied for and was awarded an American Recovery and Reinvestment Act grant in the amount of \$66,500.00 to replace furnaces at various County owned libraries. She presented the grant awarded noting Attorney DeLancey has reviewed and recommended it for approval.

Commissioner Young moved to authorize the Chairman's signature on the U.S. Department of Energy Notice of Award and Assistance Agreement for the Recovery Act – Energy Efficiency and Conservation Block Grant Program to replace and retrofit six of Carbon County's library branches with new energy efficient heating systems, Award No. DE-RW0000231, CFDA No. 81.128, total grant award of \$66,500.00 to Carbon County with a period of performance effective August 29, 2009 through August 27, 2012. Commissioner Paxton seconded and the motion carried unanimously.

ELECTED OFFICIALS / DEPARTMENT HEADS

Treasurer

County Treasurer Cindy Baldwin advised they are in the process of billing the 2009 taxes and have run into some computer complications.

Fire

Commissioner Paxton moved to remove a rescue truck sometimes known as the old bread truck from the Elk Mountain Fire Department's inventory and advertise to sell the rescue truck, a 1995 Chevrolet, VIN 1GBKP32N4S3327005. Commissioner Young seconded and the motion carried unanimously.

Mr. Trapp discussed an old water tender stating he would speak to the Town of Encampment to determine if they want the truck.

Road & Bridge

Bill Nation, Road & Bridge Superintendent, discussed installing new culverts and extensions, cleaning cattle guards and culverts, screen and gravel work at the Wiant pit, road blading in the County and loading up and hauling used culverts from Arch to Elk Mountain and Saratoga. Mr. Nation added that the CMAQ Project on County Road #701 was completed last Friday and the BOCC accepted its final completion. He added that crews have started applying base pavement to the West Sinclair Bypass project and he expects this phase to be completed next week.

FAIR MULTIPURPOSE BUILDING BIDS

Leroy Graham, Buildings Manager opened six sealed bids to erect the building at the Fairgrounds. Bids received were as follows: Alliance Construction totaling \$1,129,000.00; Wright Brothers totaling \$1,287,019.00; LM Olson totaling \$1,170,000.00; Spiegelberg Lumber & Building Company totaling \$1,124,201.00; A. Pleasant Construction totaling \$1,159,600.00; and WY-CON, Inc. totaling \$1,024,094.00. Mr. Graham advised he received one bid after the due date and it will be returned unopened. Mr. Graham stated he will review the bids and make a recommendation later in the meeting.

INDUSTRIAL DEVELOPMENT REVENUE BONDS

Mary Keating-Scott discussed industrial development revenue bonds a/k/a/ private activity bonds and she discussed the possibility of recruiting the Wyoming Business Council representative to assist with the process.

She overviewed how bonds are issued and the different kinds of bonds. She noted Carbon County was given the ability to allocate Recovery Zone Facility Bonds in the amount of \$36,484,000.00 and this allocation must be used in 2009 or 2010. She noted it is likely the legislature may declare a date in 2010 we must use the allocation by or they may reallocate.

Ms. Keating-Scott stated that Laramie County adopted a resolution outlining an application process for similar bonds that states the applicant has to demonstrate it will create new or additional employment, expand tax base, promote agriculture, manufactured, commercial or natural resources, and maintain and promote a stable, balanced and diversified economy. She further overviewed Laramie County's application process including the information required, fees, and marketing. Ms. Keating-Scott stated that the County has no liability to pay the bonds back if the company fails to do so.

Treasurer Baldwin clarified that the bonding ability can only be given to a company who will perform a project in Carbon County and that it does not matter where the company is located. Ms. Keating-Scott also stated that the County could give an allocation to a municipality within the County who could then act as the issuer of the bonds.

Ms. Keating-Scott recommended considering a policy and involving the Wyoming Business Council to assist. Treasurer Baldwin clarified that because the County may be the issuer, it would not impact the County's rating and Ms. Keating-Scott agreed.

Ms. Keating-Scott discussed separate bonds that the BOCC previously agreed to allocate to the Specific Purpose Tax Joint Powers Board (SPTJPB). She discussed her timeline for this and issuance of the bonds for these projects.

RECESS

Chairman Weickum called a recess at 11:25 a.m. and reconvened at 11:52 a.m.

BUILDING PERMIT

Dale Skidmore stated he applied for a building permit on Battle Pass and was denied by the Planning & Development Department. He stated he was present to request a variance so that he does not have to drill a well to obtain a building permit as he does not want plumbing. Chairman

Weickum clarified that the building permit was denied per language in the County's Zoning Resolution. Steven Brown, County Planner, concurred that this was the reason for denial. Mr. Brown asked that if this permit were to be approved, that the Commissioners make a determination of where they will overlook the language in the Zoning Resolution so he can be consistent on future cases.

Commissioner Paxton moved to grant a variance to Dale Skidmore regarding the water system on his cabin location on Battle Pass and to direct the County Planner to investigate changes to the Zoning Resolution to modify it in such a manner to relate it to common practices that have been used. Commissioner Young seconded and Mr. Nation stated he concurs with the variance due to the elevation. He asked that the recommendations brought forward to the Commissioners by the Planner be tied in with the seasonal/recreational use. The motion carried unanimously.

RECESS

Chairman Weickum recessed for lunch at 12:03 p.m. and reconvened at 1:30 p.m.

SEXUALLY ORIENTED BUSINESSES

Chairman Weickum opened a public hearing at 1:30 p.m. to listen to all interested parties and receive public comment concerning a Resolution regarding a Zoning Moratorium on the Establishment of Sexually Oriented Businesses. Steven Brown discussed the purpose of the resolution. Ms. Bean discussed this would impose a nine month moratorium. There being no public comment, Chairman Weickum closed the public hearing at 1:33 p.m.

Commissioner Paxton moved to adopt Resolution No. 2009-30, a Zoning Moratorium on the Establishment of Sexually Oriented Businesses. Commissioner Young seconded and the motion carried unanimously.

Resolution No. 2009 - 30 Zoning Moratorium on the Establishment of Sexually Oriented Businesses

Whereas, the Carbon County Board of County Commissioners (Board) on September 1, 2009, passed Resolution 2009-29 after the opportunity for public comment. The Board of County Commissioners is empowered by Wyoming Statutes §18-5-201 through §18-5-207 to promote the public health, safety, morals and general welfare of Carbon County, and the Board of County Commissioners may regulate and restrict the location and use of buildings and structures and the use, condition of use or occupancy of lands for residence, recreation, agriculture, industry, commerce, public use and other purposes in the unincorporated areas of Carbon County; and,

Whereas, the Carbon County Zoning Resolution does not contain sexually oriented business regulations in the unincorporated boundaries of Carbon County; and,

Whereas, based on studies and summaries of studies conducted in other communities, including but not limited to, Phoenix, Arizona; Brighton, Colorado; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Austin, Texas; Los Angeles, California; Garden Grove, California; Beaumont, Texas; New York, New York; Bradenton, Florida; Newport News, Virginia; Dallas, Texas; City of South Salt Lake, Utah; and St. Mary's, Georgia; and Compilation Studies completed by the Attorney General's Working Group on the Regulations of Sexually Oriented Businesses (June 6, 1989, State of Minnesota) and the American Center for Law and Justice, the County Commissioners of Carbon County recognize the significant planning, zoning, property and secondary effect issues surrounding or arising from the location and operation of sexually oriented businesses; and,

Whereas, Carbon County is in the process of reviewing a number of federal and state court decisions, including but not limited to, *City of Renton v. Playtime Theatre, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theaters*, 426 U.S. 50 (1976); and *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991) relating to this issue for guidance in writing regulations that will regulate sexually oriented adult entertainment in a constitutionally acceptable manner; and,

Whereas, Carbon County is in the process of reviewing the Sexually Oriented Business regulations of a number of other cities and counties in the State of Wyoming, including the cities of Rawlins and Evanston and the counties of Sweetwater, Albany and Laramie to evaluate the manner in which they regulate sexually oriented businesses; and,

Whereas, Carbon County intends its regulations pertaining to the establishment and operation of sexually oriented businesses to be in accordance with and in compliance with those rights guaranteed by the Constitution of this State and of the United States; and,

Whereas, the Board recognizes that the establishment of sexually oriented businesses for which there has been no planning nor regulations could negatively impact the health, safety and general welfare of the citizens of Carbon County;

Now therefore let it be resolved, that effective September 15, 2009, the Carbon County Board of County Commissioners hereby declares the following zoning regulations control the establishment of sexually oriented businesses during this Moratorium, with the following stipulations:

1. The effective area for the enforcement of this Moratorium shall be described as all those properties in the unincorporated areas of Carbon County, Wyoming.
2. The Moratorium will not affect sexually oriented businesses that have been legally established prior to the date of this resolution. None of which are currently operational in the unincorporated areas of Carbon County, Wyoming.
3. This Moratorium will be in force and effect for a period of nine months from the date of approval of **this** resolution or until the passage of sexually oriented business zoning regulations, whichever occurs first.
4. Resolution 2009-29 shall be superseded by this resolution after receiving comment.

Now therefore let it be resolved, the receipt, processing or issuance of all Carbon County Development Permits for the establishment or operation of a sexually oriented businesses will be controlled by the following zoning regulations:

CHAPTER VII SEXUALLY ORIENTED BUSINESSES

Section 7.1 PURPOSE

It is the purpose of this section to regulate the location of sexually oriented businesses to promote the health, safety and general welfare of the citizens of Carbon County, and to establish reasonable and uniform regulations to prevent or limit the adverse secondary effects and deleterious location and concentration of sexually oriented businesses within Carbon County. Sexually oriented businesses are allowed in MH Zone "Heavy Industrial" with a "Conditional Use Permit" granted by the Planning Commission.

Section 7.2 INTENT

The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction of the content of any communication material, including sexually oriented materials. Similarly, it is not the intent or effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or Article 1 and Article 20 of the Wyoming Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. It is not the intent or effect of this resolution to condone or legitimize the distribution of obscene material as defined by Wyoming Statute §6-4-301(iii).

Section 7.3 FINDINGS

Based on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991), and on studies and summaries of studies conducted in other communities, including but not limited to, Phoenix, Arizona; Brighton, Colorado; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Austin, Texas; Los Angeles, California; Garden Grove, California; Beaumont, Texas; New York, New York; Bradenton, Florida; Newport News, Virginia; Dallas, Texas; City of South Salt Lake, Utah; and St. Mary's, Georgia; and Compilation Studies completed by the Attorney General's Working Group on the Regulations of Sexually Oriented Businesses (June 6, 1989, State of Minnesota) and the American Center for Law and Justice, the County Commissioners of Carbon County find that,

- a. Carbon County has high community standards regarding sexually oriented business, particularly when nudity occurs as a form of sexually oriented business;
- b. the regulation of adult entertainment establishments and sexually oriented businesses is necessary to minimize the secondary effects of sexually oriented businesses, including but not limited to, increased crime, decreased property valuations, the spread of infectious diseases and deterioration of neighborhoods; and
- c. the regulation of sexually oriented businesses will preserve, promote and protect the public health, safety and general welfare of the citizens of Carbon County.

Section 7.4 DEFINITIONS

Terms involving sexually oriented businesses which are not defined in this Resolution shall have the meanings set forth in the Carbon County Zoning Resolution.

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated, slug-operated or any form of consideration, electronically, electrically or mechanically controlled still or motion

picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at one time, and where the images so displayed are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

ADULT BOOKSTORE OR ADULT VIDEO STORE

A commercial establishment which devotes a significant or substantial portion (10 percent or more of gross floor area) of its stock in trade or interior floor space to or devotes a significant or substantial portion of its advertising expenditures (10 percent or more of gross advertising expenditures) to the promotion of the sale, rental or viewing, for any form of consideration any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
- b. Devices, instruments or paraphernalia which are designed for use in connection with “specified sexual activities.”

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental or material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as the provisions of this definition are otherwise met.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- a. Persons who appear in a state of nudity or semi-nudity; or
- b. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- c. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

ADULT MOTEL

A hotel, motel or similar commercial establishment which:

- a. Offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and
- b. Offers a sleeping room for rent for a period of time less than eight hours; or
- c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time less than eight hours.

ADULT MOTION PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions that are distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” are shown.

ADULT NOVELTY STORE

Any retail store which devotes a significant or substantial portion (10 percent or more of gross floor area) of its stock in trade or interior floor space to or devotes a significant or substantial portion of its advertising expenditures (10 percent or more of gross advertising expenditures) to the promotion of the sale of paraphernalia, devices or equipment distinguished or characterized by an emphasis on depicting or describing specific sexual conduct or used in connection with specified sexual conduct.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

COUNTY

The unincorporated area of Carbon County, Wyoming.

ENTERTAINMENT

Any act or performance, such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by employees, agents, contractors or customers. The term Entertainment shall also mean bartenders, waiters, waitresses or other

employees exposing specified anatomical areas or engaging in “specified sexual activities” in the presence of customers.

EMPLOYEE

A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent or otherwise and regardless of whether said person is paid a salary, wage or other compensation by the operator of said business. Employee does not exclude a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

ESCORT

A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY

A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT

Includes any of the following:

- a. The opening or commencement of any sexually oriented business as a new business;
- b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- c. The additions of any sexually oriented business to any existing sexually oriented business; or
- d. The relocation of any sexually oriented business.

GROSS FLOOR AREA

Any area within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

SEXUALLY ORIENTED MASSAGE PARLOR

Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, or any other treatment manipulation of the human body which occurs as part of or in connection with “specified sexual activities,” or where any person providing such treatment, manipulation or service related thereto, exposes their “specified anatomical areas.”

MASSAGE

Any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping by hand or mechanical device.

MEMBER OF THE PUBLIC

Any customer, patron, club member or person, other than an employee as defined in this section, who is invited or admitted to a sexually oriented business.

NONPOROUS MATERIAL

Excludes wood, plywood, composition board or other porous material.

NUDE MODEL STUDIO

Any place where a person who appears semi-nude, in a state of nudity or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Wyoming or a college, junior college or university supported entirely or partially by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partially by public taxation; or in a structure:

- a. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and,
- b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- c. Where no more than one nude or semi-nude model is on the premises at any one time.

NUDITY OR STATE OF NUDITY

The showing of the complete human bare buttock, anus, male genitals, female genitals, pubic area, vulva, anal cleft, female breast (nipple); or a state of dress failing to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.

OWNER

When applied to a building or land, shall include any part owner, joint owner, tenant in common or joint tenant by entirety of the whole or part of such building or land.

OUTCALL SERVICES

Escorts and businesses which provide, as any portion of their business, nude or semi-nude services outside of the premises in any place of private resort or private quarters by models, dancers or other similar employees.

PATRON

Any person who contracts with or employs any outcall services or the customer of any business with a conditionally permitted use pursuant to this resolution.

CONSIDERATION

Any compensation, commission fee, salary, tip, gratuity, hire, profit, reward or any other form of compensation.

PERSON

An individual, proprietorship, partnership, corporation, limited liability company, association, owner, firm, joint venture, organization, trust and company or other legal entity.

PREMISES

The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to, the sexually oriented business, the grounds, private walkways and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the permittee as described in the application for a conditionally permitted use pursuant to Chapter V of the Carbon County Zoning Resolution.

PUBLIC NUDITY

The display of “specified anatomical areas” and/or “specified sexual activities” as defined herein. Specified sexual activities means:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse, sodomy; or
- c. Fondling or other erotic touching of human genitals, pubic regions, complete buttocks or female breasts.

PUBLIC PARK

A park, public recreation area, playground, swimming pool, golf course or athletic field which is under the control, operation or management of the state, a state agency, the county or a municipality.

RELIGIOUS INSTITUTION

A building which is used primarily for religious worship and related religious activities.

RESIDENTIAL

Pertains to the use of land, whether situated within the city or not, for premises such as homes, town homes, mobile homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for no transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premise which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes.

RENT OR SUB-RENT

Act of permitting a room to be occupied for any form of consideration.

SCHOOL

A public or private educational facility, including but not limited to, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities.

SEMI-NUDE, SEMI-NUDITY, OR IN A SEMI-NUDE CONDITION

A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEMI-NUDE DANCING BARS

Any business which offers its customers live entertainment involving semi-nudity or live entertainment which is distinguished by or characterized by an emphasis on the displaying of any portion of human buttocks, or the female breast with less than a fully opaque covering.

SEXUAL CONDUCT

Acts of:

- a. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
- b. Any penetration of the vagina or anus, however slight, by an object; or
- c. Any contact between persons involving the sex organs of one person and the mouth or anus of another; or
- d. Masturbation, manual or instrumental, of oneself or of one person by another; or
- e. Touching of the sex organs or anus, whether clothed or unclothed, of oneself or by one person by another.

SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one or more of the persons in a state of nudity or semi-nudity.

SEXUALLY ORIENTED BUSINESS

Any business activity, club or other establishment or place open to some or all members of the public within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting “specified anatomical areas” or relating to “specified sexual activities” is permitted. “Sexually oriented business” shall include, but is not limited to: an adult arcade, adult bookstore, adult cabaret/nightclub, adult novelty store, adult video store, adult model studio, adult motel, adult motion picture theater, adult peep show, adult theater, escort agency, massage parlor, nude model studio or sexual encounter center. Each sexually oriented business is a separate business regardless of ownership and must meet separation requirements.

SHALL

Always mandatory and not merely directory.

SPECIFIED ANATOMICAL AREAS

Includes any of the following:

- a. The human male genitals in a discernible turgid state, even if completely and opaquely covered; or
- b. Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttocks, anus or female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES

Includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
- c. Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

VIDEO-VIEWING BOOTH OR ARCADE BOOTH

Any booth, cubicle, stall or compartment that is designed, constructed or used to hold or separate patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, digital or other means of media (including but not limited to, film, video or magnetic tape, laser disc, CD-ROM, books, magazines or periodicals) for observation by patrons therein.

Section 7.5 LOCATION OF SEXUALLY ORIENTED BUSINESSES

No sexually oriented business shall be operated or located in any zoning district other than the MH Zone (Heavy Industrial) as defined in the Carbon County Zoning Resolution. Sexually oriented businesses shall be subject to the following additional restrictions:

- a. Sexually oriented businesses shall be conditionally permitted uses subject to the Planning Commission Approval pursuant to Chapter V of the Carbon County Zoning Resolution.
- b. No sexually oriented business shall be operated or located within a Highway and/or Scenic Overlay Area as designated by the Carbon County Land Use Plan.
- c. No sexually oriented business shall be operated or located within one thousand (1,000) feet of:
 - 1) Another sexually oriented business;
 - 2) Any religious institution;
 - 3) Any school, public or private, or a state licensed daycare center;
 - 4) Any public park or recreation area, public playground or public swimming pool;
 - 5) Any cemetery;
 - 6) The boundary of any residential zone district;
 - 7) A boys’ club, girls’ club or similar existing youth organization;
 - 8) Any library; or
 - 9) A dwelling unit.
- d. No more than one sexually oriented business shall be operated or maintained in the same building, structure or portion thereof.

- e. For the purposes of subsection (c.) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects from the property line of the lot or parcel containing the premises where a sexually oriented business is conducted, to the nearest property line of the lot or parcel of the premises of a use listed in subsection (c.). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
- f. For purposes of subsection (d.) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the property line of the lot or parcel in which each business is located. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
- g. Sexually oriented businesses shall be located with direct access to a public (federal, state or county) road.

Section 7.6 SIGNS

All signs shall comply with the provisions of the Carbon County Zoning Resolution. Notwithstanding anything contrary contained in the Carbon County Zoning Resolution, the more restrictive requirements shall prevail.

a. Sign Surface Area:

The sign surface areas of a business wall sign for an adult entertainment business shall not exceed two (2) square feet aggregate area for each one (1) foot horizontal length of façade, but not to exceed an aggregate area of thirty six (36) square feet on any one façade, whichever is the lesser.

b. Sign Appearance and Content:

- 1) Each letter forming a word on a sign shall be of solid color, and each letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- 2) Sign and sign structures may be illuminated provided, however, such illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or floodlights) or any flashing or animated lights (either interior to the sign, on the exterior of the sign or as a border to the sign). No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only;
- 3) Signs and exterior decoration/design shall contain no photographs, silhouettes, drawings, titles, graphic or pictorial representations in any manner of “nudity or state of nudity,” “semi-nudity or state of semi-nudity,” “specified sexual activities” or “specified anatomical areas.”

c. Type of Signs:

- 1) Only flat signs shall be permitted.
- 2) Painted wall advertising shall not be allowed.

d. Number of Signs:

Not more than one (1) business wall sign shall be permitted for a sexually oriented business. In addition to the one (1) permitted business wall sign, a sexually oriented business shall be permitted not more than one (1) pole or ground sign structure. All other sign structures shall be prohibited.

e. Signs Protecting Minors:

To protect minors from exposure to obscene material, any business providing adult entertainment or material shall have in place at each entrance to such business a sign, no greater than one (1) square foot in size, stating, “Persons under 18 years of age shall not be admitted”.

Other than the signs specifically allowed or required by this Section, no sexually oriented business shall attach, construct, or allow to be attached or constructed, any temporary sign, banner, light or other device designed to draw attention to a business location. It shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct or maintain any sign other than as provide herein and in the Carbon County Zoning Resolution.

Section 7.7 OPERATION STANDARDS

a. Public View:

- 1) All windows, doors and other apertures shall be architecturally screened or otherwise obscured to prevent the viewing of the interior of any material depicting,

describing or relating to “specified sexual activities” or “specified anatomical areas.”

- 2) No sexually oriented business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” by display, decorations, sign, show window or other opening from any public view.
- 3) No advertisement displays or merchandise available for sale or rent that includes or depicts explicit “specified sexual activities” or “specified anatomical areas” shall be visible from any public right-of-way.
- 4) No exterior portion of a sexually oriented business shall have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner.

b. Hours of Operations:

No sexually business, except for an adult motel, shall be open for business at any time between the hours of 2:00 a.m. and 6:00 a.m.

c. Restrooms:

Restrooms in any sexually oriented business shall not contain video viewing or reproduction equipment.

d. Illumination:

All sexually oriented businesses shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candles as measure at the floor level. This level of illumination shall be maintained at all time that any patron is present in the sexually oriented business.

e. Public Indecency:

No employee or owner of any sexually oriented business shall knowingly, or with reasonable cause to know, permit or allow a patron to commit in the sexually oriented business an act of “public indecency” as set forth in Wyoming Statute § 6-4-201.

f. Adult Video Viewing Booths:

All sexually oriented businesses which contain one or more adult video viewing booths shall comply with the following standards:

- 1) The sexually oriented business shall be configured in such a manner that there is an unobstructed view from a manager’s or employee’s station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. The view required in this subsection must be by direct line of sight from the manager’s or employee’s station. If the premises has two or more manager’s or employee’s stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager’s stations. The view required in this subsection must be by direct line of sight from the manager’s or employee’s station.
- 2) At least one employee shall be on duty at all times a patron is present inside the sexually oriented business.
- 3) All video viewing booths shall remain unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and at all times, no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- 4) No video viewing booth may be occupied by more than one person at any time.
- 5) No openings of any kind shall exist between video viewing booths.
- 6) The floor coverings in any video viewing booth must be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- 7) All wall surfaces and seating surfaces in viewing rooms or any room or area providing patron privacy are constructed of, or permanently covered by, nonporous, easily cleanable material.
- 8) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, windows and other surfaces.

g. Loitering:

It shall be the duty of the operator of a sexually oriented business to:

- 1) Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the sexually oriented business is located;
- 2) Post conspicuous signs stating that no loitering is permitted on such property;
- 3) Provide adequate lighting of the exterior of the premises to provide for visual inspection or video monitoring to prohibit loitering.

h. Public Nudity:

Public nudity is prohibited in the County of Carbon, including in any sexually oriented business.

i. Contact with the Public:

- 1) It shall be a misdemeanor for a person who knowingly or intentionally appears, entertains or performs in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least five feet from any patron or customer and on stage elevated at least two feet from the floor.
- 2) No member of the public shall be permitted at any time to enter into any of the nonpublic portions of a sexually oriented business, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees and the kitchen and storage areas, except that persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.
- 3) It shall be a misdemeanor for a patron or customer to pay or give directly any gratuity to any employee, before, during or after an employee has performed or entertained. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performer. It shall be a misdemeanor to operate a business knowing that the described violation occurs.
- 4) It shall be a misdemeanor for an employee, while semi-nude, to have physical contact with a customer or patron while on the premises. It shall be a misdemeanor for a customer to have physical contact with any employee while said employee is semi-nude in a sexually oriented business.

Subsection 1 of this section shall not apply to an employee of a sexually oriented business, who, while acting in the scope of their employment as a waiter, waitress, host, hostess or bartender comes within five feet of a patron.

j. Performances not prohibited:

This resolution shall not be construed to prohibit:

- 1) Plays, operas, musicals or other dramatic works that are not obscene;
- 2) Classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or
- 3) Exhibitions, performances, expressions or dances that are not obscene.

These exemptions shall not apply to the sexual conduct defined in § 6-4-301(v) of the Wyoming Statutes.

Determination of Obscenity:

Whether or not activity is obscene shall be judged by consideration of the following factors:

- 1) Whether the average person, applying contemporary community standards, would find the activity taken as a whole appeals to a prurient interest in sex; and
- 2) Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual conduct as described in Section §6-4-301(a)(v) of Wyoming Statutes.
- 3) Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.

k. Adult Motels:

It may be inferred from evidence that a sleeping room in a hotel, motel or a similar commercial establishment that has been rented and vacated two (2) or more times in a period of time less than eight (8) hours that the establishment is an adult motel as that term is defined in this chapter.

A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business permit, he rents or sub-rents a sleeping room to a person, and within eight (8) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

l. Outcall Services – Operation Requirements:

It is unlawful for any business or employee providing outcall services contracted for in Carbon County fail to comply with the following requirements:

- 1) All businesses permitted to provide outcall services shall provide to each patron a written contract in receipt of pecuniary compensation for services, three days prior to the date the services will occur.

m. Prohibited Conduct

Sexually oriented businesses shall not:

- 1) Provide or sell any alcoholic beverages on the premises of the sexually oriented business.
- 2) Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater such items may be on the stage as part of a performance.
- 3) Allow any door to any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside;
- 4) Provide any room in which employee or employees and patron or patrons are alone together without a separation by a solid physical barrier at least three (3) feet high and eighteen (18) inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

Section 7.8 INSPECTIONS

a. Permit Inspections:

An owner or operator of an adult entertainment establishment shall permit a representative of the Sheriff's Department, Planning and Zoning Department, County Health Department, Carbon County Fire Department and other County or State agency representative to inspect the premises of a sexually oriented business for insuring compliance with the law, at any time it is occupied or open for business.

b. Penalty:

A person who operates a sexually oriented business or his agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of the County as outlined in paragraph (1) above, at any time it is occupied or open for business. See Wyoming Statute § 18-5-206 for penalty provisions.

c. Do Not Apply:

The provisions of these sections do not apply to areas of an adult motel which are currently being rented by customers for use as a permanent or temporary habitation.

Section 7.9 VALIDITY AND SEVERABILITY:

If any article, section, paragraph, clause, phrase or provision of this Resolution of the location of any District boundary shown in the records of the Zoning Officer that forms a part hereof shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Resolution or records of the Zoning Officer as a whole or any part of provisions hereof other than the part so adjudged to be invalid or unconstitutional.

Section 7.10 INJUNCTION:

A person who operates or causes to operate a sexually oriented business in violation of any section or part of this section of the Carbon County Zoning Resolution is subject to a suit for injunction, as well as prosecution for criminal violations. Such violations shall be punishable by a fine of not more than seven hundred fifty dollars (\$750.00) per offense. Each day a sexually oriented business so operates is a separate offense or violation. See Wyoming Statutes §§ 18-5-205 and 206 for applicable penalty provisions.

Section 7.11 MINORS:

No person under the age of eighteen (18) shall be permitted:

- a. In any sexually oriented business;
- b. To purchase goods or services at a sexually oriented business; or
- c. To work at a sexually oriented business as an employee.

Dated this 15th day of September, 2009.

Carbon County Board of
County Commissioners
-s-Terry Weickum, Chairman
-s- Jerry Paxton, Vice-Chairman
-s- Charles C. Young, M.D., Member

Attest:

COMMISSIONERS DISCUSSION

Commissioner Paxton moved to approve Resolution No. 2009-31, The Board of County Commissioners, Carbon County Wyoming Emergency Resolution requesting the Governor of Wyoming petition the President, Wyoming Congressional Delegates and the Secretary of Agriculture to address beetle kill issues. Commissioner Young seconded and the motion carried unanimously.

**THE BOARD OF COUNTY COMMISSIONERS
CARBON COUNTY, WYOMING
EMERGENCY RESOLUTION 2009-31**

WHEREAS, The Board of County Commissioners has authority pursuant to WYO. STAT. § 18-5-201 et.seq to promote public health and safety and to regulate and restrict the use, conditions of use or occupancy of lands for residence, recreation, agriculture, industry, commerce, public use and other purposes in the unincorporated area of the county, and;

WHEREAS, Carbon County's forests are nearly a decade into a devastating bark beetle epidemic, which has already killed hundreds of thousands of acres of forest and is predicted to double in coming years, and;

WHEREAS, As a result of this mortality, our high country communities are in need of emergency action to reduce the risk of wildfire activity, which has increased in severity over the past ten years threatening lives, improved property, air quality, natural resources, and the economy of Carbon County, and;

WHEREAS, the exclusion of inventoried roadless areas, components of the National Landscape Conservation System and other designations, ignores the specific purpose for these areas, are counter-intuitive to forest health and perpetuate the spread of the Mountain Pine Beetle, and;

WHEREAS, The Wyoming Weed & Pest Control Council has designated the Mountain Pine Beetle (W.S. 11-5-102 (a)(xii) Designated Pests) as a pest which council has found, either by virtue of its direct effect, or as a carrier of disease or parasites, to be detrimental to the general welfare of persons residing within or on private, state, federal and municipally owned lands.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS FOR, AND ON BEHALF OF THE CITIZENS OF CARBON COUNTY, REQUEST THE GOVERNOR OF THE STATE OF WYOMING TO PETITION THE PRESIDENT, WYOMING CONGRESSIONAL DELEGATES AND THE SECRETARY OF AGRICULTURE TO ADDRESS THE FOLLOWING:

1. Support separate funding for the FLAME Act, S 561 or grant emergency spending status to catastrophic fire fighting costs so that Forest Service does not have to rob from its other accounts to pay for fire fighting.
2. Make full use of the expedited treatment authority within the Healthy Forest Restoration Act (HFRA) as another way to both promptly reduce the threat of wildfire in our forests and put our people back to work. Please encourage the Forest Service to take full advantage whenever feasible of the HFRA authority.
3. Within the Omnibus Public Lands Management Act, which our Senators supported, is legislation (the Forest Landscape Restoration Act) that grants the Forest Service the authority to identify landscape size treatment projects up to 50,000 acres. Given the vast federal forest lands in Carbon County, encourage your administration to identify at least one such area within Carbon County. Our forests are in desperate need of attention, and this legislation is a good starting point.
4. Encourage your administration to strengthen the green and salvage sale programs so that our mills and the people who work for them can count on a sustainable supply of logs in the future.
5. Authorize the Wyoming Landscape Conservation Initiative the authority to issue up to \$50 million in bonds to fund watershed protection and forest health projects.
6. Establish a baseline of greenhouse gas emissions from fires on federal lands to guard against air pollution and maintain the air quality of the County.
7. Provide for hazardous fuels reduction projects within campgrounds, areas of dispersed camping and within 300 feet of designated roads and trails on federal forests and rangelands.

8. Create a voluntary Beetle Mitigation Fund to be administered by the Wyoming State Forester to mitigate and remove beetle-infested trees from state-owned land. The public will be able to donate to the fund online.
9. Consider a comprehensive solution that incorporates cost containment measures and meaningful federal investment in hazardous fuel reduction, forest restoration and community fire assistance as recommended in the nation's forest health blueprint, the *Ten Year Comprehensive Strategy and Implementation Plan*.

Adopted at the regularly scheduled meeting of the Board of County Commissioners of Carbon County, held on the 15th day of September, 2009.

BOARD OF COUNTY COMMISSIONERS
-s- Terry L. Weickum, Chairman
-s- Jerry Paxton
-s- Charles C. Young

ATTESTED TO:

-s-Gwynn G. Bartlett, County Clerk
Carbon County, Wyoming

FAIR MULTIPURPOSE BUILDING BIDS

Mr. Graham returned and recommended the BOCC accept the low bid from WY-CON, Inc. in the amount of \$1,024,094.00.

Commissioner Paxton moved to accept the low bid from WY-Con, Inc. of Evanston to construct the multipurpose facility at the Fair Grounds in the amount of \$1,024,094.00 and to authorize the Chairman to execute the contract upon completion. Commissioner Young seconded and the motion carried unanimously.

There was discussion of when the current beef barn would be torn down and the BOCC asked that it be done as soon as possible and authorized Mr. Graham to use a company that will tear it down free of charge and haul it away. Mr. Graham noted one particular company has agreed to do this and will tear up the foundation but will not haul that part away.

EXECUTIVE SESSION

Commissioner Paxton moved to go into executive session at 2:02 p.m. with Clerk Bartlett and Matt Webster, IT Director to discuss personnel and matters considered confidential by law. Commissioner Young seconded and the motion carried unanimously.

Commissioner Paxton moved to come out of executive session at 2:25 p.m. and that the minutes of the session be approved as written and sealed and declared that no action was taken during the session. Commissioner Young seconded and the motion carried unanimously.

IT SPECIALIST

Commissioner Paxton moved to offer the IT Specialist position to William Weisenburg as a full-time position noting this would be contingent upon the results of a background check and drivers history. Commissioner Young seconded and the motion carried unanimously.

HOMELESSNESS GRANT

Commissioner Young moved to authorize the appropriate signatures on the Grant Agreement Between the Wyoming Business Council and Carbon County Attorney's Office for Homelessness Prevention and Rapid Re-Housing Program funds for a term of October 1, 2009 through September 30, 2012 in the amount of \$128,125.00. Commissioner Paxton seconded and the motion carried unanimously.

EMERGENCY MANAGER

John Zeiger discussed the refinery meeting recently held to discuss procedures for notifying him of problems there.

ADJOURNMENT

There being no further business, Chairman Weickum adjourned the meeting at 2:48 p.m.

-s- Kathy Turner, Deputy Clerk

Approved this 6th day of October 2009

BOARD OF COUNTY COMMISSIONERS
CARBON COUNTY, WYOMING

-s- Terry Weickum, Chairman