

**MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
REGULAR MEETING
Tuesday, July 6, 2010
County Courthouse, Rawlins, Wyoming**

The regular meeting of the Board of Carbon County Commissioners (BOCC) commenced Tuesday, July 6, 2010 at the County Courthouse in Rawlins, Wyoming. Attending the meeting were Chairman Terry Weickum; Commissioner Charles C. Young; Deputy County Attorney Mike Kelly; and County Clerk Gwynn Bartlett. Vice Chairman Jerry Paxton was absent and joined the meeting at 9:07 a.m.

Chairman Weickum called the meeting to order at 9:04 a.m.

VOUCHERS

Commissioner Young moved to approve the report of expenditures in the amount of \$95,611.80. Chairman Weickum seconded and the motion carried unanimously.

Vendor	Detail Line Description	Total
CARBON COUNTY TREASURER	VARIOUS CASH ITEMS	\$886.51
CARBON COUNTY TREASURER	FY2010 BAD CHECKS/SHORTAGES	\$73.09
CENTRAL STATES FIRE APPARATUS, LLC.	FOAM TRUCK CHASSIS	\$91,519.00
CHEMDRY OF SNOWY RANGE	CARPET CLEANING	\$3,133.20
GRAND TOTAL		\$95,611.80

CLERK

Minutes

Commissioner Young moved to approve the minutes of the June 15&16, 2010 regular meeting and the June 22&23, 2010 budget workshop of the Board of Carbon County Commissioners as presented. Commissioner Paxton seconded and the motion carried unanimously.

Monthly Receipts

Commissioner Young moved to accept the report of Department of Planning and Development receipts for the month of June 2010 in the amount of \$550.00; Clerk of District Court receipts for month ending April 2010 in the amount of \$3,628.99 and month ending May 2010 in the amount of \$2,430.87; and the Carbon County Clerk Statement of Fees Collected for month ending June 2010 in the amount of \$14,605.90. Commissioner Paxton seconded and the motion carried unanimously.

Bonds

Commissioner Paxton moved to approve a bond for Jana C. Cook, Clerk/Treasurer for the Town of Encampment in the amount of \$50,000.00; and a bond for Michael J. Smith, Board Member for the Jeffrey Center Board in the amount of \$5,000.00. Commissioner Young seconded and the motion carried unanimously.

Fireworks Permit Application

Clerk Bartlett advised Dwight France approved a fireworks permit for Brush Creek Ranch for a fireworks display on July 4, 2010.

Board Resignation

Clerk Bartlett presented a resignation from Adam George from the Museum Board and advised Bob Woodhouse, Jeffrey Center Board passed away and she will advertise for this position.

Commissioner Paxton moved to accept the resignation of Adam George from the Museum Board effective July 1, 2010. Commissioner Young seconded and the motion carried unanimously.

Clerk Bartlett stated that she has advertised for the Museum Board and advised three applications were received and one application was received late. The Board agreed to interview the three applicants that submitted applications before the deadline.

AGENDA AMENDMENT

Clerk Bartlett advised the 2:00 p.m. meeting for the grant sponsorship has been cancelled.

Commissioner Paxton moved to amend the agenda to cancel the 2:00 p.m. grant sponsorship and will conduct board telephone interviews at that time. Commissioner Young seconded and the motion carried unanimously.

Amendment to Public Health Nursing Contract

Clerk Bartlett advised that on June 17, 2010, Chairman Weickum signed an amendment to the Public Health Nursing contract which became effective July 1, 2008 to extend the date of the contract for six months.

Commissioner Young moved to ratify the Chairman's signature on Amendment Number One to Contract Between Wyoming Department of Health, Aging Division and Carbon County Public Health Nursing to extend the date of the contract for six months or until the new contract has been signed and executed, to commence on the date the last required signature is affixed. Commissioner Paxton seconded and the motion carried unanimously.

Emergency Management Coordinator Letter

Clerk Bartlett presented a letter for the Board's consideration to Carol Luckenbach at the Wyoming Office of Homeland Security advising her that John Zeiger, Emergency Management Coordinator will be a full-time employee effective July 1, 2010.

Commissioner Young moved to approve the Chairman's signature on a letter to Carol Luckenbach, Wyoming Office of Homeland Security, advising that effective July 1, 2010, Carbon County's Emergency Management Coordinator, John Zeiger, is a full-time employee working at least forty hours per week. Commissioner Paxton seconded and the motion carried unanimously.

Shireman Private Road

Clerk Bartlett reported she received an Order of Dismissal on the Shireman private road case that it has been settled and will bill them for any expenses related to the case.

Merit Energy

Clerk Bartlett reported Merit Energy has withdrawn their property tax assessment - contested valuation as of June 23, 2010.

Hanna Old Bank Building

Clerk Bartlett advised she has contacted an appraiser who has looked at the old bank building in Hanna and will do the appraisal and asked if the BOCC still wanted to have the building appraised. She asked Deputy Attorney Mike Kelly if an appraisal is necessary before the County sells it and he stated he would have to look into that. She stated the appraiser sounded like he was trying to talk her out of having an appraisal done. Commissioner Paxton stated he would like to move forward with an appraisal and Chairman Weickum agreed. Clerk Bartlett asked if she should advertise once the appraisal is completed and Chairman Weickum replied yes.

Foam Tanker-Pumper Contract

Clerk Bartlett presented an acceptance of bid from Max Fire for a foam fire truck. She stated Larry Trapp has reviewed the proposal and recommends approval.

Commissioner Young moved to accept a contract from Max Fire in the amount of \$262,963.00 for delivery in 120 days. Commissioner Paxton seconded and the motion carried unanimously. Chairman Weickum noted that a check in the amount of \$95,519.00 has been issued for the chassis.

E-911 System

Clerk Bartlett reported that Positron and Motorola will be at the July 20, 2010 BOCC meeting to discuss their E-911 systems.

Memorial Hospital of Carbon County (MHCC)

Clerk Bartlett advised she attended the most recent Specific Purpose Joint Powers Board meeting and the county's project at MHCC was discussed. She advised that bonding was discussed and that MHCC sounded like they would like to begin construction later this year. She advised the BOCC may want to discuss the timeline with MHCC later today.

Criswell Trucking

Clerk Bartlett stated she received a \$250,000.00 cash bond from Criswell Trucking, contractor for Dad/Wamsutter road project and she asked if the BOCC wanted to consider the bond as satisfying the contract requirements. The BOCC and Deputy Attorney Kelly agreed the cash bond is acceptable.

ELECTED OFFICIALS / DEPARTMENT HEADS

Rural Addressing

Thomas Powell, Planner I, discussed the need to correct numerous addresses and that a letter has been sent to everyone affected. He advised he will have a draft of the Master Street Address List for E-911 in the next couple of weeks.

Attorney

Deputy Attorney Mike Kelly noted as discussed earlier, Merit Energy has withdrawn their property tax assessment claim.

Emergency Management

John Zeiger, Emergency Management Coordinator reported that the County was under a tornado watch on July 4 and he received a report of one touching down between Arlington and Elk Mountain.

Mr. Zeiger reported he would be reorganizing the Local Emergency Planning Committee soon.

Road & Bridge

Bill Nation, Road & Bridge Superintendent reported he is working a rural high risk road project for the Seminole Road and may be able to obtain grant funds to modify several miles of the road near the Dugway. Mr. Nation requested a contract for a similar project be approved for County Road #291 in the amount of \$72,719.00.

Commissioner Paxton moved to approve the Agreement for Services between Carbon County and McMurry Ready Mix for a road safety upgrade to Carbon County Road #291. Commissioner Young seconded and the motion carried unanimously.

Mr. Nation noted that later this year he will be doing some bridge rechanneling due to the recent flooding. Mr. Nation noted he may ask the BOCC to bid the bridge for County Road 752 then hire an architect/engineer to complete the project.

Commissioner Paxton moved to authorize the Road & Bridge Department to apply for a safety upgrade grant for the Seminole Road. Commissioner Young seconded and the motion carried unanimously.

Sheriff

Sheriff Colson presented a contract for ankle bracelet monitoring and noted this includes GPS monitoring.

Commissioner Paxton moved to approve the Service Agreement between ExacuTrack Services and the Carbon County Sheriff's Office for ankle bracelet monitoring. Commissioner Young seconded and the motion carried unanimously.

Senior Services

Jill Duthie, Executive Director for Senior Services, Inc., reported that five of the nine grants applied for have been awarded.

RECESS

Chairman Weickum called a recess at 10:26 a.m. and reconvened at 10:47 a.m.

Assessor

County Assessor Sheryl Snider presented abates and rebates for the Chairman's signature. She reported that there have been several notice of value changes issued by the Department of Revenue totaling an increase of \$9,445,788.00 in valuation for past years.

Treasurer

County Treasurer Cindy Baldwin reported that her office will be advertising the tax sale as Friday is the last day to pay property taxes without being reported on the sale.

MEMORIAL HOSPITAL OF CARBON COUNTY (MHCC)

Dan Jessop, MHCC Chief Executive Officer, discussed MHCC's financials, reported the critical access designation was approved, and that the charge master will be changed dramatically and he hopes this will not create a large impact.

Chairman Weickum discussed the County's specific purpose tax project, improvements to MHCC, and noted that he needs the hospital to cooperate closely with the County and George K. Baum on the process to ensure funding is in place before construction begins. Mr. Jessop noted he is working on the guaranteed maximum price with the construction manager at risk.

EXECUTIVE SESSION

Commissioner Paxton moved to go into executive session at 11:17 a.m. with Clerk Bartlett and Deputy Attorney Mike Kelly to discuss personnel, matters relating to the acquisition of real property, and other matters considered confidential by law. Commissioner Young seconded and the motion carried unanimously

Commissioner Paxton moved to come out of executive session at 11:36 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.

RECESS

Chairman Weickum recessed for lunch at 11:37 a.m. and reconvened at 1:34 p.m.

PLANNING & ZONING

Public Hearing C.U. Case File No. 2010-03

Chairman Weickum opened a public hearing at 1:34 p.m. to hear Planning & Zoning C.U. Case File No. 2010-03. Sid Fox, Planning Director, and Troy Maddox, Planning & Zoning Chairman, presented C.U. Case File No. 2010-03 – Union Telephone Company (Applicant) and Roland and

Cheryl Bowen (Owner's) request for a Conditional Use Permit in a Ranching, Agriculture, Mining (RAM) Zone to allow a communication facility for cellular and microwave communications on approximately 0.147 acres.

Chairman Weickum called for comments for or against this case. There being no public comments, Chairman Weickum closed the public hearing at 1:43 p.m.

Commissioner Paxton moved to approve Planning & Zoning C.U. Case File No. 2010-03 Union Telephone Company and Roland and Cheryl Bowen's request for a Conditional Use Permit in a Ranching, Agriculture, Mining (RAM) Zone to allow a communication facility for cellular and microwave communications on approximately 0.147 acres along the portions of the I-80 corridor and near the Town of Elk Mountain with the tower being approximately 80 feet in height. Commissioner Young seconded and the motion was amended to add that this is approved with recommended conditions and the motion carried unanimously.

Commissioner Young moved to approve Resolution No. 2010-24, A Resolution of the Board of County Commissioners of Carbon County, Wyoming adopting the recommendation of the Carbon County Planning and Zoning Commission regarding C.U. Case File No. 2010-03. Commissioner Paxton seconded and the motion carried unanimously.

Resolution No. 2010 - 24

A Resolution of the Board of County Commissioners of Carbon County, Wyoming adopting the recommendation of the Carbon County Planning and Zoning Commission

WHEREAS, pursuant to Wyo. Stat. Ann. §18-5-202(b) and (c), the Carbon County Planning and Zoning Commission held a public hearing on June 1, 2010 which said hearing was advertised by public notice at least thirty (30) days prior to said hearing; and

WHEREAS, at said public hearing, the Carbon County Planning and Zoning Commission provided the public the opportunity to comment and the Carbon County Planning and Zoning Commission considered any public comments which were made at said hearing; and

WHEREAS, at the conclusion of said public hearing, the Carbon County Planning and Zoning Commission voted to certify in writing its recommendation to the Carbon County Commissioners to adopt this amendment to the Carbon County Zoning Resolution of 2003 as amended for Carbon County, Wyoming; and

WHEREAS, the Carbon County Commissioners, pursuant to Wyo. Stat. Ann. §18-5-202(c) and after receipt of said certified recommendation for approval of this amendment to the Carbon County Zoning Resolution of 2003, as amended and subsequent amendments advertised by public notice at least 14 days prior to a public hearing to take public input and comments which said hearing occurred on July 6, 2010; and

WHEREAS, at said public hearing, the Carbon County Commissioners provided the opportunity for the public to comment and for the Carbon County Commissioners to consider any comments which were made on the proposed amendments; and

WHEREAS, the Carbon County Commissioners in considering the said amendment have also reviewed and considered the Carbon County Land Use Plan of 1998 as amended; and

WHEREAS, the Carbon County Commissioners have determined that the proposed amendment is in conformity with the Carbon County Land Use Plan of 1998 as amended and otherwise promotes the health, safety and general welfare of the residents of Carbon County; and

WHEREAS, at a regularly scheduled meeting of the Carbon County Commissioners, by majority vote, the Carbon County Commissioners moved to approve the following amendment(s) to the Carbon County Zoning Resolution of 2003 as amended.

(1) C.U. Case #2010-03 – Union Telephone Company (Applicant) and Roland and Cheryl Bowen (Owners): Request for a Conditional Use Permit in a Ranching, Agriculture, Mining (RAM) Zone to allow a communication facility for cellular and microwave communications on approximately 0.147 acres near the Town of Elk Mountain. The proposed tower height is approximately 80 feet. The proposed telecommunication facility will improve signal strength along the portions of the I-80 corridor and near the Town of Elk Mountain. The subject property is located approximately 0.8 miles off Carbon County Road #402 (Elk Mountain-Arlington/Wagon Hound Road).

Legal Description: A parcel of land located in the South Half of the Northwest Quarter of Section 21 (S½ NW¼ 21), Township 20 North, Range 80 West of the 6th P.M., Carbon County, Wyoming, being more particularly described as follows: Beginning at a point lying N 46° 20' 45" E, a distance of 897.08 feet from the west quarter corner of said Section 21; Thence N 00°

00' 00" W for a distance of 80.00 feet; Thence S 90° 00' 00" E for a distance of 80.00 feet; Thence S 00° 00' 00" E for a distance of 80.00 feet; Thence N 90° 00' 00" W for a distance of 80.00 feet to the point of beginning. Said parcel contains an area of 6,400.00 Sq. Ft. or 0.147 acres, more or less.

All bearings reported herein are referred to true meridian based on GPS observations. All in accordance with Drawing No. 81701, attached hereto and by this reference made a part hereof.

Access:

Access to the site will be provided via an existing private gravel road from Carbon County Road #402 or #3, (Elk Mountain-Arlington/Wagon Hound Road) to the tower site. The access road R.O.W. is 25 feet wide and approximately 4,352 feet long.

Land Use:

Telecommunication facilities and appurtenant uses and structures.

Density:

Zero (0) single-family dwellings are permitted on approximately 0.147 acres.

Staff Conditions:

1. CARBON COUNTY ZONING: All development must be in conformance with the applicable provisions of the Carbon County Zoning Resolution of 2003, as amended.
2. BUILDING PERMITS AND ZONING: Building construction or placement of structures on the subject property will require an application for building permit(s) and zoning certificate(s) in accordance with the Carbon County Zoning Resolution of 2003, as amended.
3. CONSTRUCTION: Construction must commence within two (2) years from the date of approval. A construction schedule must be submitted with the building permit application.
4. FIELD CONTACT REPRESENTATIVE: During construction of the project, the applicant shall designate a field contact representative (FCR) who will be responsible for overseeing compliance with conditions of approval, protective measures and coordination with the County and other regulatory agencies.
5. COMPLIANCE WITH APPLICABLE LAWS: The applicants shall comply with all federal, state, and local regulations.
6. VIOLATION: In the event the actions occurring pursuant to this permit are found to be in material violation of the terms and conditions of this permit, or are found to have been obtained by fraud, this permit shall be subject to all remedies allowed by law. Violation of any of the above restrictions can be grounds for terminating this Conditional Use Permit.
7. Co-LOCATION: Constructed tower should allow for co-location to minimize the need for construction of additional towers in this area by other wireless carriers.
8. Tower construction shall occur between July 1 and March 14, unless otherwise authorized by the Wyoming Game and Fish Department.
9. Raptor deflection devices shall be incorporated into the construction, unless otherwise authorized by the Wyoming Game and Fish Department.
10. All on-site surface disturbances shall be reclaimed quickly and invasive plants managed to minimize spread off-site.
11. Applicant must follow the recommendations of the State Historic Preservation Office's letter dated May 26, 2010. If any cultural materials are discovered during construction, work in the area shall halt immediately, the federal agency and SHPO staff be contacted, and the materials be evaluated by an archaeologist or historian meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 22716, Sept. 1983).

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

1. That the Carbon County Board of Commissioners, hereby adopt these amendment(s) as certified to them in writing by the Carbon County Planning and Zoning Commission regarding the Conditional Use Permit (C.U. Case #2010-03) on approximately 0.147 acres near the Elk Mountain-Arlington/Wagon Hound Road in the Ranching, Agriculture, Mining (RAM) Zone.
2. That any use for which this conditional use permit is granted must be commenced within two (2) years from the date of approval, otherwise this conditional use permit shall become null and void and be of no further effect in the absence of further action on the part of Carbon County.

PRESENTED, READ, AND ADOPTED at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, this 6th day of July, 2010.

BOARD OF COUNTY COMMISSIONERS OF CARBON COUNTY, WYOMING

By: -s- Terry Weickum, Chairman
-s- Jerry D. Paxton, Vice Chair
-s- Charles C. Young, M.D.

Attest:

-s- Gwynn G. Bartlett, Carbon County Clerk

*Proposed Land Parcel to Serve
Union Telephone Company's Elk Mountain Communications Site
ROLAND & CHERYL BOWDEN Lands – Located in
Section 21, T20N, R80W, Carbon County, Wyoming*

LEGAL DESCRIPTION

A parcel of land located in the South Half of the Northwest Quarter of Section 21 (S½ NW¼ 21), Township 20 North, Range 80 West of the 6th P.M., Carbon County, Wyoming, being more particularly described as follows:

Beginning at a point lying N 46°20'45"E, a distance of 897.08 feet from the west quarter corner of said Section 21;

Thence N 0°00'00"W for a distance of 80.00 feet;

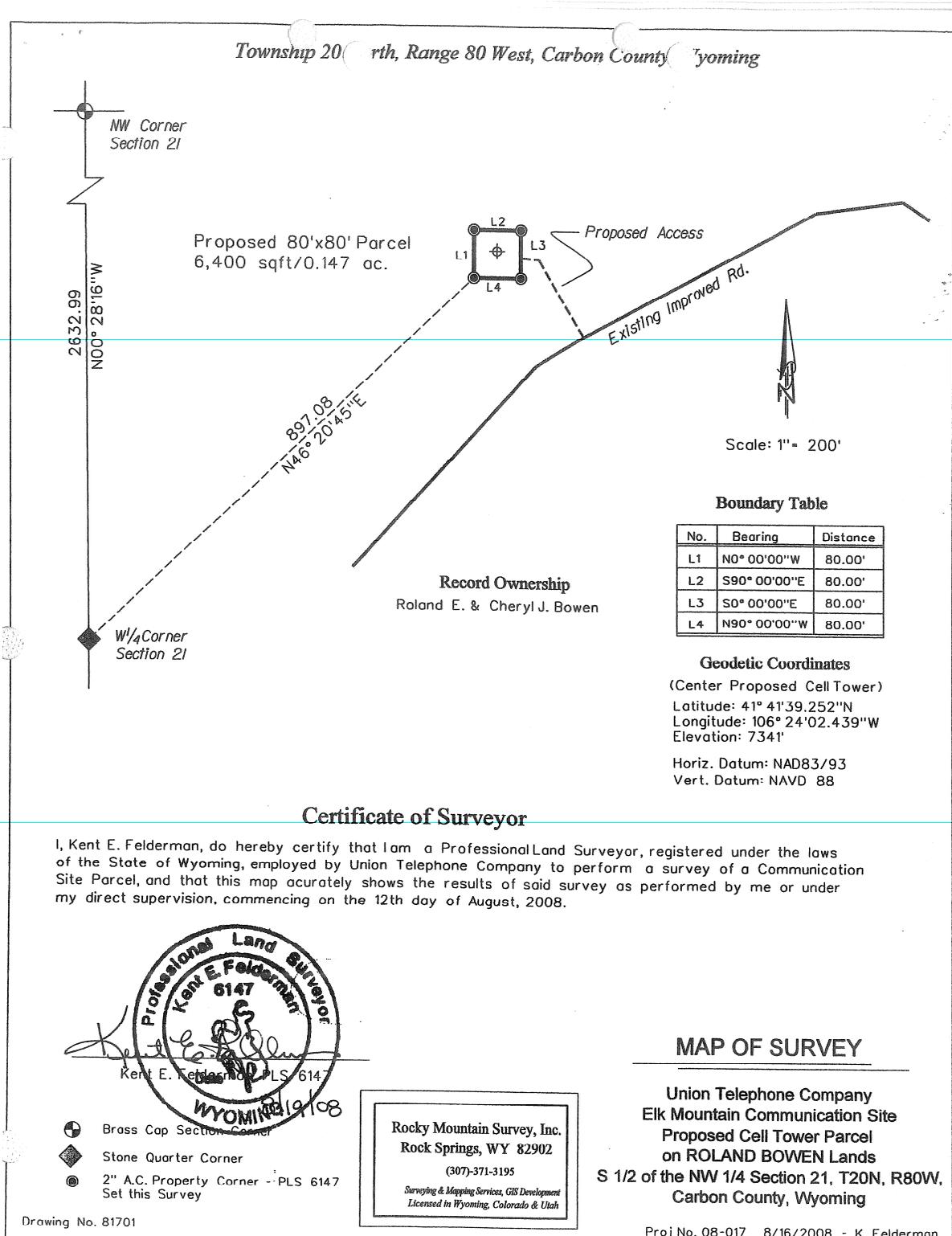
Thence S 90°00'00"E for a distance of 80.00 feet;

Thence S 0°00'00"E for a distance of 80.00 feet;

Thence N 90°00'00"W for a distance of 80.00 feet to the point of beginning.

Said parcel contains an area of 6,400.00 SqFt. or 0.147 acres, more or less.

All bearings reported herein are referred to true meridian based on GPS observations.



Public Hearing C.U. Case File No. 2010-04

Chairman Weickum opened a public hearing at 1:47 p.m. to hear Planning & Zoning C.U. Case File No. 2010-04. Mr. Fox, Planning Director presented C.U. Case File No. 2010-04 – Union Telephone Company (Applicant) and Berger Cattle Company, L.P. (Owner’s) request for a Conditional Use Permit in a Ranching, Agriculture, Mining (RAM) Zone to allow a communication facility for cellular and microwave communications on approximately 0.08 acres.

Chairman Weickum called for comments for or against this case. There being no public comments, Chairman Weickum closed the public hearing at 1:53 p.m.

Commissioner Paxton moved to follow staff recommendations and approve Planning & Zoning C.U. Case File No. 2010-04 Union Telephone Company and Berger Cattle Company, L.P.’s request for a Conditional Use Permit in a Ranching, Agriculture, Mining (RAM) Zone to allow a communication facility for cellular and microwave communications on approximately 0.08 acres along the portions of the WY-130, near the Town of Saratoga and the Platte Valley area with the tower subject to the recommendations outlined in the report. Commissioner Young seconded and the motion carried unanimously.

Commissioner Young moved to approve Resolution No. 2010-25, A Resolution of the Board of County Commissioners of Carbon County, Wyoming adopting the recommendation of the Carbon County Planning and Zoning Commission regarding C.U. Case File No. 2010-04. Commissioner Paxton seconded and the motion carried unanimously.

Resolution No. 2010 - 25

A Resolution of the Board of County Commissioners of Carbon County, Wyoming adopting the recommendation of the Carbon County Planning and Zoning Commission.

WHEREAS, pursuant to Wyo. Stat. Ann. §18-5-202(b) and (c), the Carbon County Planning and Zoning Commission held a public hearing on June 1, 2010 which said hearing was advertised by public notice at least thirty (30) days prior to said hearing; and

WHEREAS, at said public hearing, the Carbon County Planning and Zoning Commission provided the public the opportunity to comment and the Carbon County Planning and Zoning Commission considered any public comments which were made at said hearing; and

WHEREAS, at the conclusion of said public hearing, the Carbon County Planning and Zoning Commission voted to certify in writing its recommendation to the Carbon County Commissioners to adopt this amendment to the Carbon County Zoning Resolution of 2003 as amended for Carbon County, Wyoming; and

WHEREAS, the Carbon County Commissioners, pursuant to Wyo. Stat. Ann. §18-5-202(c) and after receipt of said certified recommendation for approval of this amendment to the Carbon County Zoning Resolution of 2003, as amended and subsequent amendments advertised by public notice at least 14 days prior to a public hearing to take public input and comments which said hearing occurred on July 6, 2010; and

WHEREAS, at said public hearing, the Carbon County Commissioners provided the opportunity for the public to comment and for the Carbon County Commissioners to consider any comments which were made on the proposed amendments; and

WHEREAS, the Carbon County Commissioners in considering the said amendment have also reviewed and considered the Carbon County Land Use Plan of 1998 as amended; and

WHEREAS, the Carbon County Commissioners have determined that the proposed amendment is in conformity with the Carbon County Land Use Plan of 1998 as amended and otherwise promotes the health, safety and general welfare of the residents of Carbon County; and

WHEREAS, at a regularly scheduled meeting of the Carbon County Commissioners, by majority vote, the Carbon County Commissioners moved to approve the following amendment(s) to the Carbon County Zoning Resolution of 2003 as amended.

(1) C.U. Case #2010-04 – Union Telephone Company (Applicant) and Berger Cattle Company, L.P. (Owner): Request for a Conditional Use Permit in a Ranching, Agriculture, Mining (RAM) Zone to allow a communication facility for cellular and microwave communications on approximately 0.08 acres. The proposed telecommunication facility will improve signal strength along the portions of the WY-130, near the Town of Saratoga, and the Platte Valley area. The proposed tower height is approximately 82 feet, overall height 87 feet. The proposed tower will be located on private land, the Berger Ranch, approximately 3.75 miles southwest of WY-130 and approximately .5 mile off of Carbon Co. Road #387 (S. Spring Creek Road).

Legal Description:

A parcel of land, located in Section 4, T16N R84W, 6th, PM, Carbon County Wyoming, more particularly as follows: Commencing at the East Quarter Corner of Section 4, Township 16 North, Range 84 West of the 6th Principal Meridian, Carbon County, Wyoming; Thence, S 79° 20' 15" W a distance of 1495.10' to a point, with said point being the True Point of Beginning; Thence, S 00° 00' 00" E a distance of 60.00' to a point; Thence, S 90° 00' 00" W a distance of 60.00' to a point; Thence, N 00° 00' 00" E a distance of 60.00' to a point; Thence, N 90° 00' 00" E a distance of 60.00' to the True Point of Beginning. Said parcel contains 0.08 Acres more or less.

All bearings reported herein are referred to true meridian based on gps observations. All in accordance with Exhibit "A", attached hereto and by this reference incorporated herein.

Access: Access to the site will be provided via an existing private ranch road from Carbon County Road #387 (South Spring Creek Road) to the tower site. The access road R.O.W. is 25 feet wide and approximately .5 miles long.

Land Use: Telecommunication facilities and appurtenant uses and structures.

Density: Zero (0) single-family dwellings are permitted on approximately 0.08 acres.

Staff Conditions:

1. CARBON COUNTY ZONING: All development must be in conformance with the applicable provisions of the Carbon County Zoning Resolution of 2003, as amended.
2. BUILDING PERMIT AND ZONING: Building construction or placement of structures on the subject property will require an application for building permit(s) and zoning certificate(s) in accordance with the Carbon County Zoning Resolution of 2003, as amended.
3. CONSTRUCTION: Construction must commence within two (2) years from the date of approval. A construction schedule must be submitted with the building permit application.
4. FIELD CONTACT REPRESENTATIVE: During construction of the project, the applicant shall designate a field contact representative (FCR) who will be responsible for overseeing compliance with protective measures and coordination with the County and other regulatory agencies.
5. COMPLIANCE WITH APPLICABLE LAWS: The applicants shall comply with all federal, state, and local regulations.
6. VIOLATION: In the event the actions occurring pursuant to this permit are found to be in material violation of the terms and conditions of this permit, or are found to have been obtained by fraud, this permit shall be subject to all remedies allowed by law. Violation of any of the above restrictions can be grounds for terminating this Conditional Use Permit.
7. Co-LOCATION: Constructed tower should allow for co-location to minimize the need for construction of additional towers in this area by other wireless carriers.
8. Tower construction shall occur between March 15 and November 15, unless otherwise authorized by the Wyoming Game and Fish Department.
9. Raptor deflection devices shall be incorporated into the construction, unless otherwise authorized by the Wyoming Game and Fish Department.
10. All on-site surface disturbances shall be reclaimed quickly and invasive plants managed to minimize spread off-site.
11. Applicant must follow the recommendations of the State Historic Preservation Office's letter dated May 26, 2010. If any cultural materials are discovered during construction, work in the area shall halt immediately, the federal agency and SHPO staff be contacted, and the materials be evaluated by an archaeologist or historian meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 22716, Sept. 1983).

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

1. That the Carbon County Board of Commissioners, hereby adopt these amendment(s) as certified to them in writing by the Carbon County Planning and Zoning Commission regarding the Conditional Use Permit (C.U. Case #2010-04) on approximately 0.08 acres near the Town of Saratoga in the Ranching, Agriculture, Mining (RAM) Zone.

2. That any use for which this conditional use permit is granted must be commenced within two (2) years from the date of approval, otherwise this conditional use permit shall become null and void and be of no further effect in the absence of further action on the part of Carbon County.

PRESENTED, READ, AND ADOPTED at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, this 6th day of July, 2010.

**BOARD OF COUNTY COMMISSIONERS OF
CARBON COUNTY, WYOMING**

By: Terry Weickum, Chairman
Jerry D. Paxton, Vice Chair
Charles C. Young, M.D.

Attest:

-s- Gwynn G. Bartlett, Carbon County Clerk

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Spring Creek Site Legal Description

The following is a description of a 60' x 60' parcel of land, located in Section 4, T16N R84W, 6th PM, Carbon County Wyoming, more particularly as follows and as shown on the attached Exhibit A:

Commencing at the East Quarter Corner of Section 4, Township 16 North, Range 84 West of the 6th Principal Meridian, Carbon County, Wyoming;

Thence, S 79° 20' 15" W a distance of 1495.10' to a point, with said point being the True Point of Beginning;

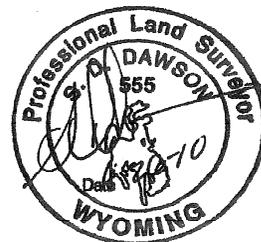
Thence, S 00° 00' 00" E a distance of 60.00' to a point;

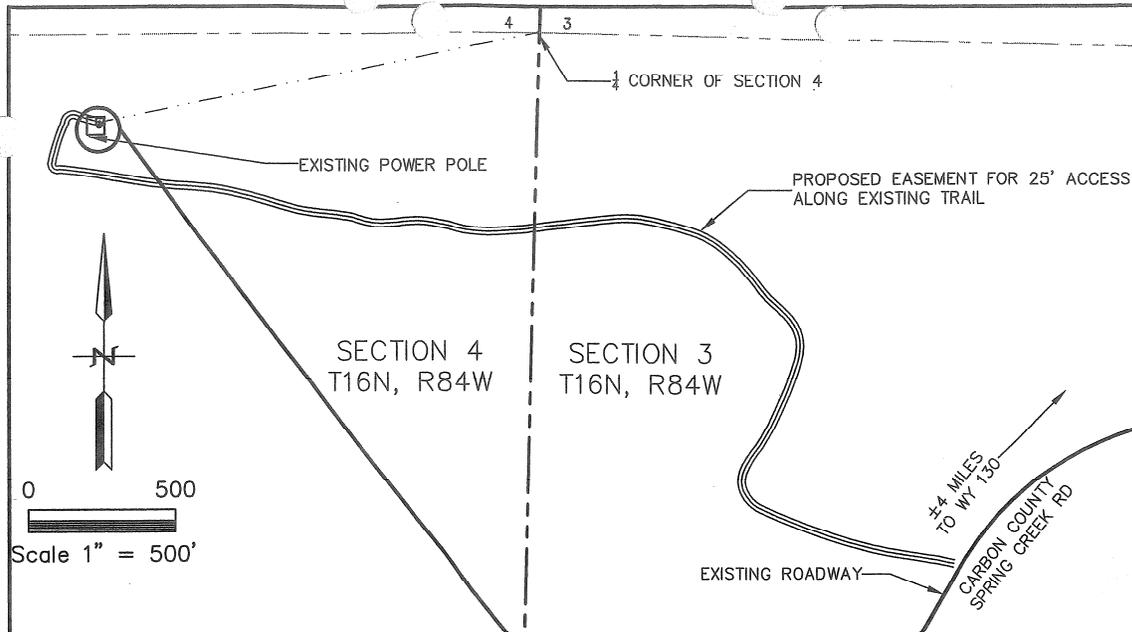
Thence, S 90° 00' 00" W a distance of 60.00' to a point;

Thence, N 00° 00' 00" W a distance of 60.00' to a point;

Thence, N 90° 00' 00" E a distance of 60.00' to the True Point of Beginning.

Said parcel contains 0.08 Acres more or less.





LEGAL DESCRIPTION

PORTIONS OF SECTION 4, THE SW 1/4 OF SECTION 3, TOWNSHIP 16 NORTH, RANGE 84 WEST, 6TH P.M., CARBON COUNTY, WYOMING, ACROSS BERGER CATTLE COMPANY LIMITED PARTNERSHIP PROPERTY.

RECORD OWNERSHIP

Berger Cattle Company Limited Partnership

LEASEE

UNION TELEPHONE COMPANY

BASIS OF BEARING

GPS Observation of found points dated January 19, 2009 and January 29, 2009

ANTENNA SITE GEODETIC COORDINATES (Center of Proposed Cell Tower)

Latitude: 41°22'58.368" N
 Longitude: 106°50'31.143" W
 NAVAD 88 Elevation: 7097 FT.

Horizontal Datum: NAD 83/03
 Vertical Datum: NAVD 88

LEASE SUMMARY

The proposed Antenna is 60.0 feet X 60.0 feet and contains approximately 3600.00 Sq. Ft. or 0.083 Acres more or less.

CERTIFICATE OF SURVEYOR

D. Dawson, a registered Professional Land Surveyor in the State of Wyoming, do hereby certify that this Map of Survey was prepared from notes made during a field survey conducted by me and or under my direct supervision during the month of January 2009 that the monuments are set or found as shown and that this plat correctly represents said survey of the land depicted hereon to the best

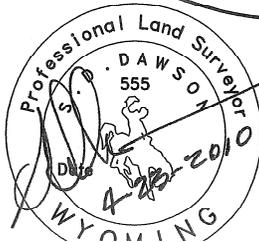
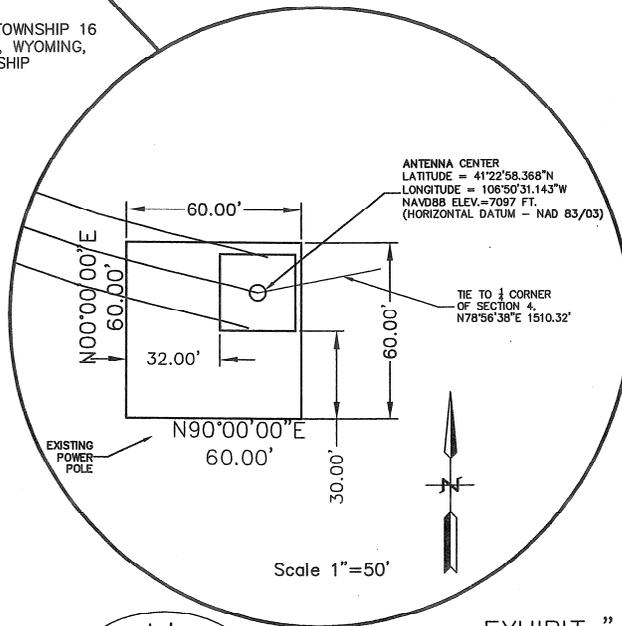
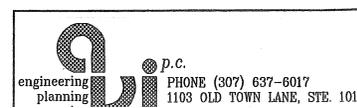


EXHIBIT "A"
 CELL TOWER SITE
 AND
 ACCESS EASEMENT
 PREPARED FEBRUARY 2010



Sexually Oriented Businesses Moratorium

Mr. Fox noted that the original resolution adopted to prohibit sexually oriented businesses has expired and recommended the BOCC adopt a resolution extending the moratorium on the matter. Deputy Attorney Kelly noted that this will extend the moratorium 120 days or until such time other rules are adopted.

Commissioner Paxton moved to extend the zoning moratorium on the establishment of sexually oriented businesses for 120 days or until permanent rules are in place related to Resolution 2009-30. Commissioner Young seconded and the motion carried unanimously.

Mr. Fox noted he would be bringing a resolution approving this change later today.

Planning Fee Schedule

Mr. Fox discussed the planning fee schedule and presented a resolution. Adelaide Fletcher asked if applicants would receive the discount offered to the County and Mr. Fox stated he would need to contact the Rawlins Daily Times to determine this.

Commissioner Paxton moved to approve Resolution No. 2010-26, a Resolution of the Carbon County Board of Commissioners for the Establishment and/or Modification of Fees or Charges to be Assessed for Applications, Building and Zoning Permits, and Publications. Commissioner Young seconded and the motion carried unanimously.

RESOLUTION NO. 2010 - 26

A RESOLUTION OF THE CARBON COUNTY BOARD OF COMMISSIONERS FOR THE ESTABLISHMENT AND/OR MODIFICATION OF FEES OR CHARGES TO BE ASSESSED FOR APPLICATIONS, BUILDING AND ZONING PERMITS, AND PUBLICATIONS.

WHEREAS, due to ongoing changes in the economic situation of the County and the current development occurring within Carbon County and in adjacent counties, the Commissioners have determined that it is in the best interest of the citizens of the county to revise the Carbon County Department of Planning and Development Fee Schedule and associated public notice policy; and

WHEREAS, the Carbon County Board of County Commissioners desires to amend the existing Fee Schedule; and

WHEREAS, in accordance with the Carbon County Zoning Resolution, Section 6.7(c), The Board may establish a zone change fee sufficient to cover the cost of the public notice, as well as other expenses incidental to the review and processing of the application; and

WHEREAS, in accordance with the Carbon County Zoning Resolution, Section 5.6(c), the record owner, or as may be applicable, the applicant, shall pay a fee for a conditional use permit based on a fee schedule approved by the Board of County Commissioners; and

WHEREAS, in accordance with the Carbon County Zoning Resolution, Section 6.3(a), Building Permit Fees, to be set by the Board of County Commissioners and reviewed on a regular basis, and

WHEREAS, in accordance with Section 2.09 of the Subdivision Regulations; each application for a subdivision permit shall be accompanied by a fee to be determined by the Board; and

WHEREAS, the Board of County Commissioners have the authority, as set forth in the Carbon County Subdivision Regulation and the Zoning Resolution, to set a fee schedule sufficient to cover the cost of the public notice, as well as other expenses incidental to the review and processing of Zoning and Subdivision applications; and

WHEREAS, Carbon County is desirous of providing for uniform fees and charges to be assessed for applications, building and zoning permits and publications by resolution;

AND WHEREAS, Carbon County now finds a need to update fees and charges to more actually reflect the cost to Carbon County;

NOW THEREFORE, BE IT RESOLVED BY THE CARBON COUNTY BOARD OF COUNTY COMMISSIONERS that the following fee schedule shall apply to Carbon County Department of Planning and Development applications, building and zoning permits, and publications unless otherwise prescribed by law:

APPLICATIONS:

*Conditional Use Permit	\$100.00
*Zone Change	\$100.00
*Planned Unit Development	\$100.00
Major Subdivision:	
*Preliminary & Final Plat	\$100.00
*Subdivision Permit.....	This fee shall be the greater of \$100.00 <u>or</u> \$10.00 per lot <u>up to</u> a maximum fee of \$1,000.00
*Minor Subdivision	\$100.00
*Variance	\$50.00

*Plus the actual cost of public notice charges.

BUILDING AND ZONING PERMITS:

Sign, Floodplain or Solar Access Permit.....	\$20.00
<u>Value of Improvements or Market Rate Replacement Cost:</u>	<u>Fee</u>

\$ 500.00	to 1,000.00	.....	\$20.00
\$ 1,001.00	to 10,000.00	.....	\$30.00
\$ 10,001.00	to 25,000.00	.....	\$40.00
\$ 25,001.00	to 50,000.00	.....	\$50.00
\$ 50,001.00	to 100,000.00	.....	\$60.00
\$100,001.00	to 200,000.00	.....	\$100.00
\$200,001.00	to 300,000.00	.....	\$200.00
\$300,001.00	to 400,000.00	.....	\$300.00
\$400,001.00	to 500,000.00	.....	\$400.00
\$500,001.00	and over.....		\$500.00 plus
	½ % of the total cost of construction not to exceed \$1,000 maximum		
Non-Commercial Wind Generators, in accordance with above.			

Commercial Wind Generators\turbines and..... \$308.66
 Associated Transmission Line Towers or Poles (First Structure)
 (Each Subsequent Structure)..... \$84.20

PUBLICATIONS: available on-line www.carbonwy.com free
 Carbon County Zoning Resolution\$25.00
 Carbon County Subdivision Regulations (Major & Minor)\$25.00
 Carbon County Land Use Plan\$30.00
 Carbon County Economic Development Corporation (CEDS).....\$30.00

Plus applicable postage charges

Payment must be provided in advance. Application Fee must be paid at the time the application is submitted and is not refundable. Applicant is responsible to pay all publication charges. The newspaper will bill the applicant directly for Public Notice charges.

PRESENTED, READ, AND ADOPTED at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, this 6th day of July, 2010.

BOARD OF COUNTY COMMISSIONERS OF CARBON COUNTY, WYOMING

By: -s- Terry Weickum, Chairman
 -s- Jerry D. Paxton, Vice Chair
 -s- Charles C. Young, M.D.

Attest:
 -s- Gwynn G. Bartlett, Carbon County Clerk

INVENERGY UPDATE

Brett Oakleaf, Business Development Director for Invenergy, discussed the Pacificorp / Rocky Mountain Power project for a power plant to be located north of Sinclair. He stated that Invenergy is on the short list of bidders and will know who the successful bidder is in September.

He stated this would be a combined cycle project of two combustion turbines and one steam turbine for higher efficiency from heat recovery. He believes there would be approximately 450-500 workers for two years to complete construction.

BOARD INTERVIEWS / APPOINTMENTS

Adelaid Fletcher was interviewed for consideration of appointment to the Museum Board and the Library Board respectively. Clerk Bartlett noted that one application was received late for the Museum Board and the BOCC opted not to consider it.

Clerk Bartlett stated she did receive two renewal applications for reappointment to the Museum Board; one renewal application for the Platte Valley Community Center Joint Powers Board; one application for appointment to the Senior Services Board – Saratoga Area; and one application for an alternate to the Senior Services Board – Saratoga Area.

Commissioner Paxton moved to appoint Leo Yocum to a 3-year unexpired term on the Senior Services Board representing the Saratoga Area expiring April 2011. Commissioner Young seconded and the motion carried unanimously.

The BOCC approved Herm Weinert being Mr. Yocum's alternate.

Commissioner Paxton moved to reappoint Rocky Fiedor to a 3-year term expiring June 2013 to the Platte Valley Community Center Joint Powers Board. Commissioner Young seconded and the motion carried unanimously.

SEXUALLY ORIENTED BUSINESS MORATORIUM

Commissioner Young moved to approve Resolution 2010-27, Emergency Zoning Moratorium on the Establishment of Sexually Oriented Businesses for a maximum of 120 days or a shorter period if permanent rules are established during that time period effective July 6, 2010. Commissioner Paxton seconded and the motion carried unanimously.

Resolution No. 2010 - 27 Emergency Zoning Moratorium on the Establishment of Sexually Oriented Businesses

Whereas, the Carbon County Board of County Commissioners (Board) on September 15, 2009, passed Resolution 2009-30 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;

Whereas, the Board recognizes that the passage of sexually oriented business zoning regulations will require a period of notice and comment before both the Planning and Zoning Board and Carbon County Board of County Commissioners may pass such regulations;

Now therefore let it be resolved, that effective July 6th, 2010, the Carbon County Board of County Commissioners hereby declares the following emergency 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 one hundred twenty days from the date of approval of **this** resolution or until the passage of sexually oriented business zoning regulations, whichever occurs first.
4. Resolution 2009-30 shall be superseded by this resolution upon the recommendation of the Planning and Zoning Board.

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 MESSAGE 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 NUILITY

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-NUILITY, 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 6th day of July, 2010.

Attest:

-s- Gwynn G. Bartlett, County Clerk

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

SALARY PUBLICATION

Commissioner Paxton moved pursuant to Wyo. Stat. §18-3-516(b)(i) to approve the Publication of Gross Salaries for Carbon County Wyoming July 2010. Commissioner Young seconded and the motion carried unanimously.

PLANNING FEE SCHEDULE

Deputy Attorney Kelly noted that the Rawlins Daily Times has determined that applicants will not be entitled to the discount for advertising offered to the County when placing ads related to planning cases. The applicant must pay the newspaper directly at its normal rate.

Adelaide Fletcher noted that she disagrees and she feels the applicant shall be entitled to decide which newspaper the notice would be published in. The BOCC explained that the official publication of the county is the Rawlins Daily Times and that the other papers in the county had the opportunity to have this designation however the Daily Times submitted the lowest bid.

COMMISSIONERS DISCUSSION

Commissioner Paxton reported that he met with the Revenue Committee regarding taxation of wind farms and a subcommittee will be formed to further investigate this. He also noted the sawmill in Encampment will be open soon noting this will utilize beetle kill trees. Commissioner Paxton noted that he will be attending the Resource Advisory Committee meeting later this month and the Committee has put out a request for proposal for a project already.

Chairman Weickum discussed the Revenue Committee meeting regarding taxation of wind farms and compared Wyoming's taxes to other states.

Commissioner Paxton noted he will be attending a EMCC meeting this week regarding a socioeconomic impact study related to the impacts wind farms have in counties. He stated this will be forwarded to the legislative committee looking into the tax issues.

RECESS

Chairman Weickum called a recess at 2:58 p.m. and reconvened at 3:06 p.m.

BOARD INTERVIEWS / APPOINTMENTS

Gene Carrico was interviewed for reappointment to the Museum Board. Mr. Carrico noted the Museum Board has an application in with the Board of Adjustment for the new museum property to have a zone change completed with the City of Rawlins. Mr. Carrico asked for authorization to use County property near the County's Road & Bridge shop. He stated he would also need an easement through the County property and he asked for Deputy Attorney Kelly's assistance with this. Deputy Attorney Kelly noted that the Bureau of Land Management has no objection with the zone change.

Clerk Bartlett noted that Leon Corpuz, Jr. had scheduled an interview but contacted her office and was unable to make it today.

Commissioner Paxton moved to appoint Leon Corpuz, Jr. for an unexpired three-year term expiring July 2012 and reappoint Dave Throgmorton and Gene Carrico to the Museum Board for three-year terms expiring July 2013. Commissioner Young seconded and the motion carried unanimously.

Clerk Bartlett noted that two additional applications were received for the two open positions on the Public Library Board from Julie Evans and Christine Throgmorton. The BOCC tried unsuccessfully to reach both by telephone.

Commissioner Paxton moved to appoint Adelaide Fletcher and to reappoint Julie Evans to the Public Library Board for three year terms expiring July 2013. Commissioner Young seconded and the motion carried unanimously.

Clerk Bartlett noted that a letter was received from Catherine MacPherson stating she did not wish to be considered for reappointment to the Saratoga – Carbon County Impact Joint Powers Board. She stated her office advertised the opening and did not receive any applications and will re-advertise.

ADJOURNMENT

There being no further business, Chairman Weickum adjourned the meeting at 3:40 p.m.

-s- Gwynn G. Bartlett, Carbon County Clerk

Approved this 20th day of July 2010

BOARD OF COUNTY COMMISSIONERS
CARBON COUNTY, WYOMING

-s- Terry Weickum, Chairman