

**REPORT TO THE  
MINUTES OF THE BOARD OF  
CARBON COUNTY COMMISSIONERS  
REGULAR MEETING  
Tuesday, July 3, 2018  
Carbon County Courthouse, Rawlins, WY**

The regular meeting of the Board of Carbon County Commissioners (BOCC) commenced Tuesday, July 3, 2018 at the Carbon County Courthouse, Rawlins, WY. Attending the meeting were; Chairman John Johnson; Commissioners Leo Chapman, John Espy, Bob Davis and Sue Jones.

Chairman Johnson called the meeting to order at 9:00 a.m.

**ADDITIONS / CORRECTIONS**

There were no additions or changes to the agenda.

**VOUCHERS**

Commissioner Chapman moved to approve the main amount of bills for \$12,465.54. Commissioner Espy seconded and the motion carried unanimously.

BALESTRIERI, MICHELLE	993.38	MILEAGE/LODGING/MEALS
CARBON COUNTY TREASURER	956.16	ADMIN EXP BAD CKS/O & S
HIGH PERFORMANCE CLEAN INC	10516	MAY CLEANING
<b>Grand Total</b>	12465.54	

**CONSENT AGENDA**

Commissioner Espy moved to approve the consent agenda noting any item could be removed for further discussion. The consent agenda includes the June 19, 2018 regular meeting minutes; Planning & Development monthly receipts for June 2018 totaling \$8,300.00; a bond for Denise N. Pfeffer Carbon County School District #1 Treasurer in the amount of \$50,000.00; and Notice of Valuation Changes in the amount of -\$348,020.00. Commissioner Davis seconded and the motion carried unanimously.

**Public Health**

Public Health Nurse Amanda Brown provided an update of services her office provides. The County Attorney's Association was requesting the Attorney General determine whether or not the CHO should be a county employee or contract as they have recently released conflicting information and there is no new information. Attorney Davis stated that the CHO contract is eligible to be signed because the county is the contractor and we further contract with our CHO.

Ms. Brown discussed the Immunization Contract. There has been a user agreement in the past however after an incident in another county has caused the state to require the county to sign the agreement. The agreement requires the county to replace any vaccines ruined due to intentional sabotage. Commissioner Espy questioned why the county would be liable for the actions of a state employee and Ms. Brown stated she would look into this further and return at a future meeting.

Commissioner Jones discussed the prevention management agreement and that a Laramie entity may want to contract with the county.

### **CORONER**

County Coroner Paul Zamora discussed the new county coroner position and asked that the current county employee taking the position be allowed to transfer her salary. After discussion the BOCC stated it would consider an increase after she is certified.

### **IT**

IT Director Matt Webster reported that he received quotes from the two major postage machine companies in the area. Pitney Bowes, the county's current company proposed 3 meters at \$16,000 more over 5 years than the NeoPost/Hasler quotes. Both have very similar options and would suffice for the county's needs. While the county currently uses Pitney Bowes Mr. Webster has contacted two local businesses who uses Hasler who highly recommend the company therefore Mr. Webster recommended accepting the low quote and leasing meters from Hasler for 3 years.

Commissioner Espy moved to approve three Government Product Lease Agreements with Meter Rental Agreements with Neopost USA Company postage meters at the Carbon Building, Courthouse and Jail in a total five year amount of \$25,549.80. Commissioner Davis seconded and the motion carried unanimously.

Mr. Webster requested the Chairman's signature on the Master services Agreement with Civic Plus for the county's website redesign. The design was required by Civic Plus to continue hosting the site.

Commissioner Espy moved to ratify the Chairman's signature on the Master services Agreement with Civic Plus for the county's website redesign. Commissioner Jones seconded and the motion carried unanimously.

### **Sheriff**

County Sheriff Archie Roybal requested and received authorization to hire a street deputy for the Hanna area.

Sheriff Roybal reported the county will require a maintenance agreement with Motorola for the county's radio. This is in addition to the county's maintenance contract with Yancey Allison.

There was discussion about impact assistance funds for various projects scheduled to occur in Carbon and Albany Counties and Sheriff Roybal asked about hiring positions now so officers could be certified and ready when projects begin. The BOCC asked him to wait until the next meeting and discuss this further.

Sheriff Roybal reported he and Matt Webster are attending a dispatch presentation by Motorola at the City of Rawlins today to help them determine what the best E911 system will be for the county.

### **Road & Bridge**

Bill Nation, Road & Bridge Superintendent reported that Ekola Bridge dedication will be July 31 at 10:00 a.m. at the bridge. Bids are being accepted for the old bridge now. Mag Chloride will be implemented soon on various roads at a price of \$3,500 per mile. Mr. Nation stated the Congestion Mitigation Air Quality 90%/10% match grant is opening and he would like to reset gravel and mag chloride on the Dad/Wamsutter road.

Treasurer Bentsen reported the county has approximately \$450,000 in SRS, Forest Reserve funds that can be used on roads. Mr. Nation reported that the undercarriage of a D6 dozer he has primarily for firefighting needs repairs. He suggested he use part of these funds for the repairs.

### **Treasurer**

Treasurer Patty Bentsen reported that the Fremont County Treasurer will be attending a NACO meeting next week regarding the underpayment of PILT to counties and he will report back to the counties at that time. The BOCC discussed that there is time to wait to join a suit until they hear back. She also reported the tax sale is August 15.

### **Commissioners**

Commissioner Chapman moved to approve the Memorandum of Understanding Between Board of Commissioners of the County of Carbon, Wyoming; the Town of Hanna, Wyoming; the Town of Elk Mountain, Wyoming; the Town of Medicine Bow, Wyoming; the Town of Sinclair, Wyoming; the Town of Saratoga, Wyoming; the Town of Encampment, Wyoming; the Town of Riverside, Wyoming; the City of Rawlins, Wyoming; the Board of Commissioners of the County of Albany, Wyoming; the City of Laramie, Wyoming; and the Town of Rock River, Wyoming for Impact Assistance Funds from the Ekola Wind Energy Project. Commissioner Davis seconded and the motion carried unanimously.

Commissioner Jones moved to approve the Agreement Between Owner and Contractor for Construction Contract with Straight Stripe Painting Inc. for seal coat and pavement markings at the Dixon Airport in the amount of \$122,763.44. Commissioner Chapman seconded and the motion carried unanimously.

Attorney Davis presented a Lease Agreement with Les Dunmire for a repeater storage building. To have a new repeater there must also be an equipment storage container for related equipment

and the repeater will require its own lease agreement with PacifiCorp. The repeater will assist fire with improved communications.

Commissioner Chapman moved to authorize the Chairman's signature on a Lease Agreement Between the Board of Carbon County Commissioners and Les Dunmire in the amount of \$10.00 for a term through June 30, 2043 for a repeater in the Arlington Area. Commissioner Espy seconded and the motion carried unanimously.

Commissioner Espy moved to instruct the clerk to publish the statement of receipts and expenditures for the fiscal year ending June 30, 2018 per W.W. 18-3-515. Commissioner Davis seconded and the motion carried unanimously.

**Clerk**

Gwynn Bartlett, County Clerk requested and received authorization to replace a vacancy in her office.

She discussed the county's retirement plan noting that the county currently pays 8.60% for employees that qualify for the law enforcement plan and the employees contribute 8.60%. In addition public employees contribute 7.0% and the Clerk requested the BOCC change law employees to 7.0% and the county picks up the other 8.60%. In addition the public employee plan is set to increase on both sides by 0.25% each in September and she requested the county pickup both the employee and employer's portions.

Commissioner Jones moved to make all employee contributions to the WY Retirement Plan 7.0% as of September 1, 2018 and for the county to pay any increases to WY Retirement slated for September 2018 for both the employee and employer sides. Commissioner Davis seconded and the motion carried unanimously.

Commissioner Chapman moved to approve the Contract Among the Wyoming Department of Health, Public Health Division, Carbon County Health Officer and Carbon County through June 30, 2019 in the amount of \$9,600.00 and the Agreement for Services between Dr. Archie Kirsch and Carbon County for the same term in the amount of \$6,000.00. Commissioner Davis seconded and the motion carried unanimously.

Commissioner Davis moved to approve the Lease Agreement between the Board of County Commissioner and the WY Department of Health Public Health Division through June 30, 2019 in the amount of \$3,640.00. Commissioner Chapman seconded and the motion carried unanimously.

**COMMISSIONERS / CITIZEN'S DISCUSSION**

Commissioner Espy reported the WY Public Lands Initiative process noting there is one more meeting in July and the Ferris Mountain area will be discussed at that time.

Chairman Johnson reported that the Memorandum for Impact Assistance funds for the TB Flats Wind Project was approved by the Industrial Siting Council with payments beginning Quarter 2 of 2019 with payments coming for four quarters. The joint meeting with other municipalities and the county was held for the Ekola Flats meeting recently and an agreement is being made currently.

Commissioner Chapman stated he attended the recent Economic Development Corporation meeting where impacts of upcoming wind projects were discussed.

Commissioner Jones reported she attended the WY Aeronautics and Federal Aviation Administration meeting last week for the Dixon Airport. The State of WY will perform its inspection of the fuel tank later this month. She also attended the WY County Commissioner Association meeting regarding the funds for prevention management. She stated the WY Big Brothers Big Sisters organization may want to administer these funds and the program for Carbon County.

### **Planning & Development**

Commissioner moved to accept the Certification of Recommended Action for Planning & Zoning Case File #2018-03, Robert and Janice Konrath's request for a Zone Change from Ranching Agriculture and Mining to Highway Commercial for the existing Elk Mountain I-80 Conoco Station and to schedule public hearing for August 7 at 11:15 a.m. Commissioner Jones seconded and the motion carried unanimously.

### **PUBLIC HEARING – LIQUOR LICENSES**

Chairman Johnson opened a public hearing at 10:45 a.m. to hear requests to renew liquor licenses.

Clerk Bartlett stated notices were placed in the Rawlins Daily Times for two consecutive weeks specifically on June 6 and 13.

Clerk Bartlett presented the following renewal licenses for the Board's consideration.

**Malt Beverage Licenses:** Michael Allen Konrath dba Elk Mountain Conoco, Hookers Store and Café LLC dba Hookers Store and Café LLC, Ken & Kimberly Thyne dba Ten Mile Inn, Manjeet Inc. dba Three Forks Muddy Gap Service and Robert F. Konrath dba Walcott Service.

**Retail Liquor Licenses:** Cody Resources LP dba A Bar A Ranch with a guest ranch designation, Rendezvous Lodge LLC dba Rendezvous Lodge, Three Forks Lodge Inc. dba The Lodge at Three Forks and Whistle Pig Inc. dba Whistle Pig Saloon / Beaver Liquor.

**Resort Liquor License:** Brush Creek LLC dba Brush Creek Ranch and Old Baldy Corporation dba Old Baldy Club both with resort designation.

**Restaurant Liquor License:** Water Valley Inc. dba Water Valley Ranch with a guest ranch designation.

**Limited Retail Liquor License (Club):** Sinclair Golf Course Inc. dba Sinclair Golf Course with golf club designation.

Chairman Johnson called for public comments for or against the renewals. There being none, he closed the hearing at 10:47 a.m.

Commissioner Espy moved to approve all liquor license and malt beverage renewals each for a term of one year expiring August 31, 2019 as read in the minutes. Commissioner Jones seconded and the motion carried unanimously.

### **EXECUTIVE SESSION**

Commissioner Espy moved to go into executive session at 10:48 a.m. with Gwynn Bartlett, Ashley Mayfield Davis, Archie Roybal and Matt Webster to discuss personnel, potential litigation and other matters considered confidential by law. Commissioner Chapman seconded and the motion carried unanimously.

Archie and Matt left the session at 10:56 a.m.

Commissioner Espy moved to come out of executive session at 11:08 a.m. noting no action was taken and that the minutes be signed and sealed. Commissioner Chapman seconded and the motion carried unanimously.

### **JAIL UPGRADES**

Commissioner Espy moved to authorize a contract agreement with CML and waive the procurement policy for jail upgrades in the total amount of \$98,000.00 using Jail Operations & Maintenance funds. Commissioner Jones seconded and the motion carried unanimously.

### **PLANNING & ZONING PUBLIC HEARING**

Chairman Johnson opened a public hearing at 11:10 a.m. to hear P&Z C.U. Case File #2018-08, Amendment to C.U. Case 2016-04 Brush Creek Farms. Today's proposed amendment would be to the Brush Creek Ranch conditional use permit issued in 2016. If approved, today's changes would be incorporated into the original permit. Today's hearing is about a new use not new land area for the Brush Creek Farms. County Planning Director Sid Fox presented the case.

Gayle Grider McDonald, Owners Representative for Brush Creek LLC introduced Dave Shultz with Sage Engineering, Ben Nemec with Martin & Martin both civil engineers and Mike Williams Chief Operating Officer of Brush Creek. Ms. McDonald explained that Brush Creek Ranch purchased the TZ Ranch, now known as part of the Brush Creek Ranch, all of which is also in the conditional use permit and they are proposing the Brush Creek Farms be located on

the TZ Ranch. The goal of the farms is to take product from farm to table for their guests. The guests will also learn about the process of farming with the project.

Chairman Johnson called for public comments for or against the case. There being none he closed the hearing at 11:24 a.m.

Commissioner Davis moved to approve the amendment to approve Resolution 2018-12, C.U. Case File #2018-08, Amendment to C.U. Case 2016-04 Brush Creek Farms including all the conditions in the original permit. Commissioner Chapman seconded and the motion carried unanimously.

### **Resolution No. 2018 – 23**

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

C.U. Case File #2018-08/AMENDMENT C.U. Case #2016-04

“Brush Creek Farms”

**WHEREAS**, pursuant to the Carbon County Zoning Resolution of 2015, as amended, and Wyo. Stat. Ann. §18-5-202(b), the Carbon County Planning and Zoning Commission advertised to hold a public hearing on Monday, June 4, 2018, which said hearing was advertised by public notice at least thirty (30) days prior to said hearing; and

**WHEREAS**, at the Monday, June 4, 2018, 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 public hearing; and

**WHEREAS**, at the conclusion of the Monday, June 4, 2018, public hearing, the Carbon County Planning and Zoning Commission voted to certify in writing its recommendation to the Carbon County Board of County Commissioners pursuant to the Carbon County Zoning Resolution of 2015, as amended for Carbon County, Wyoming; and

**WHEREAS**, the Carbon County Board of County Commissioners, pursuant to the Carbon County Zoning Resolution of 2015, as amended, and Wyo. Stat. Ann. §18-5-202(c) and after receipt of said certified recommendation; advertised by public notice at least 14 days prior to a public hearing to take public input and comments which said hearing occurred on Tuesday, July 3, 2018; and

**WHEREAS**, at said public hearing on July 3, 2018, the Carbon County Board of County Commissioners provided the opportunity for the public to comment and for the Carbon County Board of County Commissioners to consider any comments which were made on the proposed application; and

**WHEREAS**, the Carbon County Board of County Commissioners in considering said application have also reviewed and considered the Carbon County Comprehensive Land Use Plan, as amended; and the Carbon County Zoning Resolution of 2015, as amended, specifically, Section 5.4, Conditional Use Permits; and

**WHEREAS**, the Carbon County Board of County Commissioners have determined that the proposed permit is in general conformance with the Carbon County Comprehensive Land Use Plan, as amended, and the Carbon County Zoning Resolution of 2015, 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 Board of County Commissioners, by majority vote, the Carbon County Board of County Commissioners moved to approve the following Conditional Use Permit Application:

**C.U. Case File #2018-08/AMENDMENT-C.U. Case File #2016-04:** A Conditional Use Permit Amendment for the Brush Creek Ranch guest ranch and resort, in the Ranching, Agriculture and Mining (RAM) Zone. The request is to add the “Brush Creek Farms” project as further described in the application and presented to the Planning & Zoning Commission and Board of County Commissioners. The approved project area for “Brush Creek Farms” is approximately 8+/- acres which will be incorporated into the larger guest ranch activities as previously permitted in Case File #2016-04 and hereby incorporated by reference..

**Project Name:** Brush Creek Farms (part of Brush Creek Ranch)

**Petitioner:** Brush Creek LLC (Land Owner & Applicant)

**General Site Location:** The proposed project is located on the north side of HWY 130, approximately 8.3 miles east of the intersection with HWY 230; approximately 0.8 miles north of mile post marker 60.8 on HWY 130.

**Legal Description:** Approximately 8 acres located within SE1/4, SE1/4, Section 9, Township 16 North, Range 82 West of the 6<sup>th</sup> P.M., Carbon County, Wyoming; being part of the larger Brush Creek Ranch and TZ Ranch. Entire legal description recorded with Warranty Deed, Book 1192, Page 142-Exhibit A.

**C.U. CASE #2018-08 – TERMS AND CONDITIONS OF APPROVAL:**

1. No construction activity between March 15th and June 30th to protect sage grouse without written approval from the Wyoming Game and Fish Department which will be provided to the Carbon County Planning and Development Department.
2. The building permit application must include a site plan prepared by a licensed surveyor.
3. The maximum building height is limited to 35 feet.
4. The applicant must include an exterior “lighting plan” for the BCF Development with the Building Permit Application. The “lighting plan” should include the location, height, and voltage of all proposed exterior lighting, and further include measures designed to minimize unintended horizontal lighting.
5. The applicant must submit all of the required State approvals\permits with their building permit applications prior to issuance of County building permits, including but not necessarily limited to:
  - a. In accordance with W.S. 35-9-108, as applicable, construction plans must be approved by the State Fire Marshall.
  - b. A wastewater permit “Notification of Coverage” from WDEQ indicating the adequacy of the septic system for the proposed uses is required prior to issuance of any building permits.
  - c. A water well permit from WSEO for the proposed well is required prior to issuance of any building permits.



6. The Applicant(s) must submit proof of a valid brewery and distillery license from the Wyoming Liquor Commission to the Carbon County Planning and Development Department upon receipt.
7. The Applicant(s) shall notify the Carbon County Planning & Development Department in writing of any material changes to the project subsequent to the County issuance of the Conditional Use Permit.
8. Upon approval by the Board, the following provisions from the Zoning Resolution will be incorporated into the final Resolution:
  - a. In accordance with Section 5.4-H, Expiration of Conditional Use Permits:
    - Any use for which a conditional use permit is granted must be commenced within two (2) years from the date of approval. If the Project is not commenced within two (2) years from the date of approval then the conditional use permit shall expire and become null and void and be of no further effect, except as extended in compliance with Section 5.4-I, Extension of Conditional Use Permits.
  - b. In accordance with Section 5.4-J, Transfer of Conditional Use Permits:
    - No conditional use permit shall be transferred without the prior approval of the Board of County Commissioners.
  - c. 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.

**Amendments to Conditional Use Permits:** A Conditional Use Permit may be amended pursuant to the procedures and standards as required for a new CUP application.

**C.U. CASE #2016-04 – TERMS AND CONDITIONS OF APPROVAL:**

1. The staff is recommending that the applicant set-up a wildlife working group with the Wyoming Game & Fish (WG&F) Department to review project development plans and operations. The purpose of the wildlife working group is to exchange information on the existing and proposed wildlife mitigation and enhancement programs and to solicit WG&F department input on potential wildlife mitigation and enhancement programs. This condition is dependent upon WG&F cooperation and participation. The applicant will report back to the County Planning & Zoning Commission on the activities of the wildlife working group at the one (1) year anniversary date of this CUP.
2. Within six (6) months of the Board’s approval, the applicant shall prepare and submit a shooting range operations plan that addresses, at a minimum, the following:
  - a. Schedule of operations.
  - b. Noise mitigation.
  - c. Wildlife disturbance.

The shooting range operations plan shall be reviewed and approved by the Planning & Zoning Commission and become part of the approved CUP.
3. Setbacks and Lighting:
  - a. 50 feet from natural creeks for new structures except for structures directly associated with such water bodies such as docks and pump houses. Irrigation ditches and head gates are exempt from this setback requirement. Additions to existing structures with in the setback shall be allowed so long as they do not encroach farther into the setback than the existing structure and are otherwise the minimum necessary to achieve the purpose of the

addition. Existing structures can be replaced or maintained in the current locations. Notwithstanding above setbacks, replacement structures shall be allowed in adjacent locations to facilitate construction schedules and engineering requirements.

Lighting: 90% cutoff down cast lighting except for agricultural use lighting.

4. All existing and proposed signs will require the submittal of individual sign permit applications.
5. The Applicant(s) shall notify the Carbon County Planning & Development Department in writing of any material changes to the project subsequent to the County issuance of the Conditional Use Permit.
6. Upon approval by the Board, the following provisions from the Zoning Resolution will be incorporated into the final Resolution:
  - a. In accordance with Section 5.4-E, Expiration of Conditional Use Permits:
    - Any use for which a conditional use permit is granted must be commenced within two (2) years from the date of approval. If the Project is not commenced within two (2) years from the date of approval then the conditional use permit shall expire and become null and void and be of no further effect, except as extended in compliance with Section 5.4-F, Extension of Conditional Use Permits.
  - b. In accordance with Section 5.4-G, Transfer of Conditional Use Permits:
    - No conditional use permit shall be transferred without the prior approval of the Board of County Commissioners.
  - c. 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.

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

That the Carbon County Board of County Commissioners hereby approves this Conditional Use Permit (CUP) as certified to them in writing by the Carbon County Planning and Zoning Commission as represented in the Conditional Use Permit (C.U. Case #2018-08/AMENDMENT C.U. Case #2016-04 – “Brush Creek Farms”).

**PRESENTED, READ, AND ADOPTED** at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, this 3rd day of July, 2018.

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

-s- Willing John Johnson, Chairman  
On behalf of the Carbon County  
Board of County Commissioners

Attest:

-s- Gwynn G. Bartlett, Carbon County Clerk

**LIBRARY**

Chairman Johnson stated that a Library Board Member has requested to hold an executive session today. Patty Hays, Library Board Member stated that the board as a group has not approved any topic for the library to be discussed today.

### **EXECUTIVE SESSION**

Commissioner Espy moved to go into executive session at 11:29 with Gwynn Bartlett, Ashley Mayfield Davis and Joyce Menke to discuss personnel, potential litigation and other matters considered confidential by law. Commissioner Chapman seconded and the motion carried unanimously.

Joyce left the session at 11:48 a.m. and Patty Hays and Mike Morrell entered the session.

Patty and Mike left the session at 12:04 p.m. and Cindy Bloomquist came in.

Commissioner Espy moved to come out of executive session at 12:14 p.m. noting no action was taken and that the minutes be signed and sealed. Commissioner Chapman seconded and the motion carried unanimously.

### **LIBRARY**

Library Board Member Joyce Menke offered her resignation from the board.

Commissioner Jones moved to regretfully accept Joyce Menke's resignation from the Library Board. Commissioner Chapman seconded and the motion carried unanimously.

Attorney Davis stated that Cindy Bloomquist has submitted a written resignation from the Library Board and had to leave today's meeting for another appointment.

Commissioner Davis moved to accept Cindy Bloomquist resignation from the Library Board. Commissioner Espy seconded and the motion carried unanimously.

### **PLANNING & ZONING PUBLIC HEARING**

Chairman Johnson opened a public hearing at 1:30 p.m. to hear P&Z C.U.W. Case File #2018-03, Commercial Wind Energy Facility, Ekola Flats Wind Energy Project. Nat Drucker, Associate Renewable Development for Invenergy, the owner of the project presented a PowerPoint with summary information about the project noting the project is in conjunction with PacifiCorp who will take ownership later this year. Krista Mann, Director of Renewable Development was also present.

Chairman Johnson asked when a company uses larger turbines and less of them, why the materials cost doesn't go down significantly. Mr. Drucker stated the savings is labor installation. Obviously turbines are more expensive but they are newer technology and efficient. In order for them to function correctly they have to be spaced out further therefore leaving the same cabling and road costs. The savings come from operations and maintenance and installation.

Commissioner Davis asked about a camp site and housing facility and he asked if there would be housing at the facility. Mr. Drucker stated that is not the plan however if there is a housing shortage if all the proposed projects occur simultaneously. If they were to house individuals on site they would follow appropriate rules. Mr. Fox reported the Game & Fish comments came after the Planning & Zoning Commission meeting therefore there were no recommended conditions. Mr. Drucker expects a monitoring plan approved by Game & Fish as a requirement for the Industrial Siting Permit.

Chairman Johnson confirmed that the plan is to break ground Spring 2019 and he asked for as much notice as possible so the county can prepare for the impacts including hiring of appropriate law enforcement. Mr. Drucker stated roads and foundation work will precede turbine delivery.

Commissioner Espy asked if they had housing in Medicine Bow if the county could lease one for a Sheriff Deputy. Mr. Drucker stated that may be possible.

Commissioner Davis asked about limiting public access for hunting rights. Mr. Drucker stated the project is state and private land and he does not know if the state limits hunting when the land is leased for a wind project. Ms. Mann was looking into the answer.

Chairman Johnson asked if the residents of the Rock Creek valley will have a chance to comment on the access route on Highway 13 as they will be heavily impacted with the turbine delivery.

Chairman Johnson called for public comments for or against the case. Cindy Wallace, Economic Development Director stated her organization is in favor of the project and asked the BOCC for favorable consideration.

Kenda Colman, Medicine Bow Town Council Member echoed Ms. Wallace's comment. She feels Invenenergy has worked hard, kept the Town of Medicine Bow informed and communicated well.

There being none he closed the hearing at 2:13 p.m.

Commissioner Chapman moved to approve Resolution 2018-24, A resolution of the Board of County Commissioners of Carbon County Adopting the Recommendation of the Carbon County Planning and Zoning Commissioner pertaining to C.U.W. Case File #2018-03, Commercial Wind Energy Facility, Ekola Flats Wind Energy Project. Commissioner Espy seconded and the motion carried unanimously.

#### **Resolution No. 2018 – 24**

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

C.U.W. Case File #2018-03

Commercial Wind Energy Facility

*“EKOLA FLATS WIND ENERGY PROJECT”*

**WHEREAS**, pursuant to Wyo. Stat. Ann. Title 18, Ch. 5, Art. 5 Wind Energy Facilities; and 18-5-502, County Regulation of Wind Energy Project; and

**WHEREAS**, pursuant to Section 5.9 – Wind Energy Facilities-Overlay District of the Carbon County Zoning Resolution of 2015, as amended, the Carbon County Planning and Zoning Commission held a public meeting on Monday, June 4, 2018, which said meeting was advertised by public notice prior to said meeting; and

**WHEREAS**, at said public meeting, 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 meeting; and

**WHEREAS**, at the conclusion of said meeting, the Carbon County Planning and Zoning Commission voted to certify in writing its recommendation to the Carbon County Board of County Commissioners pursuant to the Carbon County Zoning Resolution of 2015, as amended, specifically, Section 5.9 – Wind Energy Facilities-Overlay District (Item #14, Part F), for Carbon County, Wyoming; and

**WHEREAS**, notice of the proposed Wind Energy Facility was published by the Applicant twice in two different weeks in the official newspaper of general circulation in Carbon County at least twenty (20) days prior to the public hearing required by Section 5.9 and W.S. §18-5-506. The notice, published in the Rawlins Daily Times on May 23, 2018, and May 30, 2018, and in the Saratoga Sun on May 23, 2018 and June 13, 2018, included a brief summary of the Wind Energy Facility, invited the public to submit comments and identified the time and date of the hearing. As required by Section 5.9(14)(D), the Applicant did submit affidavits of public notice in their application for Conditional Use Permit prior to the Board’s hearing. In addition, the County prepared a notice and published said notice in in the Rawlins Daily Times on May 17, 2018, and in the Saratoga Sun on May 23, 2018, that included a brief summary of the proposed Wind Energy Facility and invited the public to submit comments and identified the time and date of the hearing; and

**WHEREAS**, the Applicant has provided to Carbon County an affidavit which certified that the Applicant has undertaken reasonable efforts to provide written notice to all owners of land within one (1) mile of the property line of the proposed Wind Energy Facility and to all cities and towns located within twenty (20) miles of the Wind Energy Facility; and

**WHEREAS**, the Applicant has provided to Carbon County an affidavit which certified that the Applicant has undertaken reasonable efforts to provide written notice to the record owners of mineral rights located on or under the lands where the proposed Ekola Flats Wind Energy Project will be constructed. Said notice included a statement of the applicants intention to construct the Ekola Flats Wind Energy Project, features of the project, a legal description of the boundaries of the project, and where the application may be examined and persons to contact for additional information; and

**WHEREAS**, the Carbon County Board of County Commissioners, pursuant to Section 5.9 – Wind Energy Facilities-Overlay District of the Carbon County Zoning Resolution of 2015, as amended, and Wyo. Stat. Ann. Title 18, Ch. 5, Art. 5, Wind Energy Facilities and after receipt of said certified recommendation from the Carbon County Planning and Zoning Commission; held a public hearing, which said public hearing occurred on Tuesday, July 3, 2018; and

**WHEREAS**, at said public hearing, the Carbon County Board of County Commissioners provided the opportunity for the public to comment and for the Carbon County Board of County Commissioners to consider any comments which were made on the proposed Wind Energy Facility; and

**WHEREAS**, the Carbon County Board of County Commissioners in considering said application have also reviewed and considered Wyo. Stat. Ann. Title 18, Ch. 5, Art. 5 Wind Energy Facilities and the Carbon County Comprehensive Land Use Plan, as amended; and the Carbon County Zoning Resolution of 2015, as amended, specifically, Section 5.9 – Wind Energy Facilities-Overlay District; and

**WHEREAS**, the Carbon County Board of County Commissioners have received certification that the proposed WECS project will comply with all the standards required by W.S. 18-5-504; and received certification that the proposed WECS project will comply with all applicable zoning and county land use regulations; and determined that the proposed Wind Energy Facility is in general conformance with the Carbon County Comprehensive Land Use Plan, 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 Board of County Commissioners, by majority vote, the Carbon County Board of County Commissioners moved to conditionally approve the following Conditional Use Permit Application for a Commercial Wind Energy Facility.

**C.U.W. Case #2018-03:** Request for a Conditional Use Permit for a Commercial Wind Energy Facility in the Ranching, Agriculture and Mining (RAM) Zone. The request is to allow the applicant (Invenergy) to install, construct, operate, and maintain the “Ekola Flats Wind Energy Project”. The Project is planned to be transferred to PacifiCorp, and as such, PacifiCorp or their contractor would become the Operator of the Project.

**Project Description:** The Ekola Flats Wind Energy project includes up to 100 wind energy turbines with the potential of generating up to 250 megawatts and all associated components and facilities as more specifically described in the application that are necessary to generate electricity and deliver electricity to the transmission grid., including;

- All accessory uses necessary for operations and maintenance of the Wind Energy Facility, including an operations & maintenance center, storage, parking facilities, and similar support facilities.

The Application Area is located on approximately 27,000 acres, generally located as follows:

**Legal Description:**

**EKOLA FLATS WIND PROJECT**

\*Description includes PacifiCorp-controlled parcels to be included in final permit area

**TOWNSHIP 24 NORTH, RANGE 80 WEST**

Sec 34 ALL Excl. N/2 N/2

Sec 35 All

Sec 36 All

**TOWNSHIP 24 NORTH, RANGE 79 WEST**

Sec 31 All

Sec 32 S/2 SW/4 and SW/4 SE/4

Sec 33 All

Sec 35 All

**TOWNSHIP 23 NORTH, RANGE 79 WEST**

Sec 1 All

Sec 3 All  
Sec 4 ALL EXCEPT SW/4 SW/4, E/2 N/2 N/2, and SE/4 NE/4  
Sec 5 All  
Sec 6 N/2 (roads/collection only)  
Sec 7 All  
Sec 9 All  
Sec 10 SW/4 SW/4  
Sec 11 All  
Sec 13 All  
Sec 14 N/2 S/2 and SW/4 SW/4  
Sec 15 All  
Sec 16 All  
Sec 17 All  
Sec 19 All  
Sec 20 SE1/4: E1/2E1/2SW1/4: SE1/4NE1/4 \*R0012346  
Sec 21 All  
Sec 22 E/2  
Sec 23 All  
Sec 25 All  
Sec 26 All  
Sec 27 All  
Sec 28 N1/2SE1/4NW1/4: SW1/4SE1/4NW1/4: E1/2SW1/4NW1/4: NW1/4SW1/4:  
W1/2NE1/4SW1/4: NW1/4NW1/4NE1/4: NE1/4NE1/4NW1/4: S1/2NE1/4NW1/4 \*R0012349  
Sec 29 All  
Sec 31 All  
Sec 32 S1/2S1/2SE1/4NE1/4: N1/2NE1/4SE1/4: E1/2NW1/4: SW1/4NE1/4 \*R12350  
Sec 33 All  
Sec 35 All  
Sec 36 All

**TOWNSHIP 23 NORTH, RANGE 80 WEST**

Sec 1 All  
Sec 2 All excl. SE/4 NE/4  
Sec 11 All  
Sec 13 All  
Sec 14 All  
Sec 15 All  
Sec 23 All  
Sec 24 All  
Sec 25 All  
Sec 26 E/2  
Sec 35 All  
Sec 36 All

**TOWNSHIP 23 NORTH, RANGE 78 WEST**

Sec 17 W/2 SW/4  
Sec 18 SE/4, S/2 NW/4, and N/2 SW/4

**TOWNSHIP 22 NORTH, RANGE 79 WEST**

Sec 4 N1/2SE1/4NE1/4; SE1/4SE1/4NE1/4 \*R0011120

**TOWNSHIP 22 NORTH, RANGE 80 WEST**

Sec 1 All North of US HWY 30

Sec 2 All North of US HWY 30

**General Location:** Northeast Carbon County; north of US Highway 30/287 and along Carbon County Road #121; and generally east of the Seven Mile Hill Wind Energy Facility.

**CONDITIONS OF APPROVAL:**

1. Nothing in this permit's conditions is intended to preempt other applicable State and Federal laws or regulations. All WECS Project facilities shall be constructed to meet and be maintained in compliance with all Federal, State, and County requirements, including all Wyoming Industrial Siting Council requirements. If compliance issues arise at any time during the review, development or operational phases, the Applicant(s) or Owner(s), at the discretion of the County may be requested to provide additional studies or reports prepared by qualified professionals addressing the issues and mitigation measures that may be needed to maintain compliance.
2. Conditional Use Permit is granted for up to 100 wind turbines and accessory uses as generally described in the application. The Applicant(s) shall notify the Carbon County Planning and Development Department in writing of any material changes to the Project subsequent to the County issuance of the Conditional Use Permit.
3. This permit is subject to final approval and issuance of a permit by the Industrial Siting Council. The Applicant(s) shall submit a copy of all subsequent Federal and State approvals, including all required studies, reports and certifications prior to the issue of any applicable building permits.
4. All structures proposed within the application area require a building permit. Multiple WECS Towers may be permitted with a single application as long as the site plan or plan of development includes all relevant details adequate to determine general conformance with the applicable standards and conditional use permit conditions. Project structures other than WECS Towers require an individual building permit application for each structure.
5. Each building permit application shall include a letter of consent from the surface private property owners upon which the WECS project will be located or other legal documentation which demonstrate consent of the surface property owner.
6. When not conflicting with colors required by the Federal Aviation Administration or other Federal Agencies, towers and blades shall be painted off-white or another non-reflective, unobtrusive color. The color selected is intended to help the Project blend with the natural visual character of the area.
7. The Applicant(s) shall enter into a Public Road Use Agreement (PRUA) for review by the County Road Superintendent and County Attorney and approval by the Board of County Commissioners prior to use of County roads by the Project's traffic. The Applicant(s) shall provide financial assurance for County road construction and maintenance as determined by the Board.
8. Site Specific Setback Waiver: The Applicant(s) shall submit site specific tower locations as part of the building permit application. Any tower closer than the minimum setbacks as listed in the County Commercial WECS Setbacks and Standards shall be forwarded to the Board to request a setback waiver. The Applicant(s) shall submit an explanation and



justification as to why each setback waiver is necessary. In all cases, the setbacks shall comply with the minimum standards provided in §18-5-504, Minimum Standards.

9. Operations and Maintenance:

- a. Routine scheduled maintenance shall include the repainting of painted equipment and painted structures, and maintenance of grounds or landscaping as appropriate to the location.
  - b. All solid wastes and hazardous materials related to the construction, operation, maintenance and decommissioning of a Project shall be handled, stored or disposed of in accordance with the approved waste management plan and in accordance with all applicable Federal, State, and County laws and regulations. The permittee shall be responsible for litter control including the regular cleanup of litter blown from dumpsters and similar storage areas.
  - c. On April 1st of every even numbered year after the third anniversary of the permit, the Owner(s) or Operator(s) of the WECS shall submit to the Carbon County Planning and Development Department a statement that lists all WECS currently inoperative for longer than six continuous (6) months. All WECS that remain inoperative for eighteen (18) continuous months or longer must be removed unless the Owner(s) provides a written plan and schedule acceptable to the Carbon County Planning and Zoning Commission for refurbishing and/or reactivating the inoperative WECS.
  - d. The Owner(s) or Operator(s) of the WECS shall control and eradicate noxious and invasive weed species within the disturbed areas of the project. Weed control shall be maintained as directed by the Carbon County Weed and Pest District or the appropriate public entity having jurisdiction.
10. The Applicant(s) shall provide the applicable wireless telecommunication service providers, the Wyoming Department of Transportation and local emergency service provider(s) (911 operators) copies of the Project's summary and site plan. To the extent that the above provider(s) demonstrate a likelihood of interference with their communications resulting from the WECS(s), the Applicant(s) shall take reasonable measures to mitigate such anticipated interference.
- a. If, after construction of the WECS(s), the Owner(s) or Operator(s) receives a written complaint related to interference with emergency services communications, local broadcast of residential television or other communication venues, the Owner(s) or Operator(s) shall assess whether there has been signal degradation as a result of the WECS and then in the event of degradation shall reasonably cooperate to respond to the complaint and take reasonable measures with the cooperation of the complainant as necessary to alleviate or mitigate the interference.
  - b. The Owner(s) or Operator(s) shall mitigate light impact on existing residences that are visible within one (1) mile of a Project WECS Tower light/beacon while still meeting applicable FAA lighting requirements.
11. If there are any variations in the Project's construction which would materially impact the original Emergency Management Plan, the Emergency Management Plan shall be supplemented and revised following construction of the WECS project and approved by the County Sheriff and Emergency Management Coordinator.
12. To the extent not inconsistent with confidentiality and security obligations under State and/or Federal law, the Owner(s) or Operator(s) shall provide the Carbon County Planning

and Development Department with a detailed map of the site within ninety (90) days after operation begins. The Project Map will include the geographic coordinates of each WECS structure, all roads within the WECS Project area, and public roads and turnouts connecting to roads of the WECS Project. The Project Map shall be updated by the Owner(s) or Operator(s) every five (5) years or after the completion of any significant additional construction.

13. The Owner(s) or Operator(s) of the WECS Project shall maintain a current General Liability Policy issued by an insurance company authorized to do business in Wyoming covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. The Applicant(s) shall provide proof of insurance to the Board of County Commissioners prior to the Board's approval of the submitted application or otherwise demonstrate adequate self-insurance. If the application is approved, the Owner(s) or Operator(s) of the WECS shall provide proof of insurance to the Board annually. Proof of insurance may be made by providing a certificate of insurance.
14. No conditional use permit shall be transferred without the prior approval of the Board of County Commissioners. The Board's approval shall not be unreasonably withheld upon good cause shown. Any transferee shall agree in writing to be bound by the terms of the Conditional Use Permit. It is specifically understood and agreed that as of the date of the Carbon County Board of County Commissioners hearing on July 3<sup>rd</sup>, 2018, the Applicant intends to transfer this permit to PacifiCorp for construction, development, and operation of the Project. The Board hereby approves of such transfer, subject to PacifiCorp agreeing in writing to be bound by all terms of the Conditional Use Permit as the owner of the permit. This Conditional Use Permit shall not have any additional transfers other than the aforementioned transfer under this paragraph without prior approval of the Board of County Commissioners.
15. Within six (6) months of the Board's approval, and on an annual basis thereafter until construction is completed, the permit holder shall provide a progress report of the WECS Project to the County Planning and Zoning Commission. The annual report\progress report shall include a written summary of Project's progress and include an appearance at a regularly scheduled County Planning and Zoning Commission meeting.
16. 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.

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

That the Carbon County Board of County Commissioners hereby approves the Conditional Use Permit – Commercial Wind Energy Facility (C.U.W. Case #2018-03) as certified to them in writing by the Carbon County Planning and Zoning Commission in the Ranching, Agriculture and Mining (RAM) Zone for the “Ekola Flats Wind Energy Project”.

***Expiration of Permit:***

The Ekola Flats project must be commenced within two (2) years from the date of approval. If the WECS Project is not commenced within two (2) years from the date of approval, and no authorized extension granted, then the conditional use permit shall expire and become null and void and be of no further effect. If the WECS Project is not operational within two (2) years from the date of commencement, or any authorized extension, then the conditional use permit shall expire and become null and void and be of no further effect. For the purpose of this Section, commencement of construction of Project Structures, buildings and other physical assets, including roadways, of the WECS Project shall be considered commencement of the project. The Ekola Flats Project shall be considered to be operational if the project is generating electricity.

**Extension of Permit:**

If the WECS project has not been commenced or has not become operational as required, the Applicant(s) may request from the Board an extension of the permit for a period of up to twenty-four (24) months upon a showing of good cause. The Applicant(s) shall apply to the County, through the Planning Department, in writing for the extension no later than ninety (90) days prior to the expiration of the permit or any previously granted extension. At the time of the application for the extension the Applicant(s) shall provide such information as is necessary for the County to determine whether good cause exists for the extension. Good cause may include, but is not limited to, good faith efforts to obtain required authorization for the WECS Project from other agencies with jurisdiction, such as the Wyoming Industrial Siting Council, good faith efforts to obtain required authorization from other agencies with jurisdiction, delay in construction due to weather conditions, pending litigation, or other causes which have delayed the project and which are beyond the reasonable control of the Applicant(s). The Applicant(s) may request not more than two (2) separate extensions, from the Board, with such total extension period not to exceed forty-eight (48) months. The Board shall promptly consider the application for the extension and either allow it or deny it. Requests for subsequent extensions of the permit shall first be presented to the Commission no later than ninety (90) days prior to the expiration of the permit or any previously granted extension. The Commission shall recommend either approval or denial of the extension of the permit. The recommendation of the Commission shall be considered by the Board at the next regular meeting of the Board. No permit shall expire during the time the decision on the extension is being considered.

**PRESENTED, READ, AND ADOPTED** at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, this 3rd day of July, 2018.

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

-s- Willing John Johnson, Chairman  
On behalf of the Carbon County  
Board of County Commissioners

Attest:

-s- Gwynn G. Bartlett, Carbon County Clerk

**ADJOURNMENT**

Commissioner Espy moved to adjourn the meeting at 12:34 p.m. Commissioner Davis seconded and the motion carried unanimously.

A regular meeting of this Board will be held August 7, 2018 at 9:00 a.m. at the Carbon County Courthouse, 415 West Pine Street, Rawlins, WY. The public is invited to attend or you can listen online at the website listed below. To get on the agenda, call the Clerk's Office by the Thursday before the meeting. Per Wyo. Stat. §18-3-516(f), access to county information can be obtained at [www.carbonwy.com](http://www.carbonwy.com) or by calling the Clerk's Office at (307) 328-2668 or 1-800-250-9812.