

**MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
SPECIAL MEETING
Wednesday, April 1, 2009
County Courthouse, Rawlins, Wyoming**

A special meeting of the Board of Carbon County Commissioners (BOCC) commenced Wednesday, April 1, 2009 at the County Courthouse in Rawlins, Wyoming. Attending the meeting were Chairman Terry Weickum, Vice Chairman Jerry Paxton; Commissioner Charles C. Young; County Clerk Gwynn Bartlett; and Chief Deputy County Attorney Cal Rerucha.

Chairman Weickum called the meeting to order at 10:30 a.m. and announced that the matter before the BOCC today is a Private Road Application filed by White Brothers Properties, LP, Docket #2009-01, filed with the Carbon County Clerk on March 6, 2009. Chairman Weickum noted that this hearing was duly advertised in the Daily Times and the Saratoga Sun. He added that this hearing is to review this application in the time frames as outlined by Wyoming Statute 24-9-101(c) which requires that the BOCC review the application within thirty (30) days of its receipt.

Roll call was performed by Clerk Bartlett. Present were Chairman Weickum, and Commissioners Paxton and Young.

Peter Nicolaysen was present representing White Brothers Properties, LP, along with Tim White of White Brothers Properties, LP. Tom Thompson was present representing Saratoga Land & Cattle along with Roger Osborne of Saratoga Land & Cattle. Court Reporter Sabrina Trevathan was also present.

Chairman Weickum asked Cal Rerucha if he had reviewed the application and if he had met with Bill Nation, Road & Bridge Superintendent. Mr. Nation overviewed the area of the proposed road. Mr. Rerucha stated that this meeting is to determine whether or not the petitioner, through his attorney, has met the requirements to establish a private road. Mr. Rerucha stated that after his review of the application, all the requirements of the applicable statute have been met. He recommended the BOCC entertain appointing a hearing examiner and to order a second hearing to be set. Mr. Rerucha asked the BOCC if they would require a bond on the matter and present Orders appointing a Hearing Examiner including a bond amount if the BOCC desires. He also asked for permission that the parties to the matter be allowed to review the document as to form and content.

Commissioner Paxton moved to appoint Eric Nelson as the Hearing Examiner for Docket #2009-01 and further to require a bond of the application in the amount of \$10,000.00. Commissioner Young seconded and Mr. Nicolaysen stated that the requirement of a bond is not appropriate as there is an existing road and there would be no injury to Saratoga Land & Cattle. Mr. Rerucha asked about cost of the action including viewers and appraisers fees and asked how Mr. Nicolaysen proposes those fees be handled. Mr. Nicolaysen stated that these costs are typically paid by the petitioner. Mr. Rerucha asked what Mr. Nicolaysen feels is an appropriate bond amount and he responded \$2,500.00 would be fair. Mr. Rerucha asked Mr. Nelson what he feels would be an appropriate bond amount. Mr. Nelson stated a bond anywhere between the two sums could be appropriate. Mr. Thompson spoke on behalf of Saratoga Land & Cattle and stated they feel that under 24-9-101(c), the applicant must give a description of the proposed road location. He stated the applicant previously stated that they could not provide the description due to lack of access however Mr. Nicolaysen's previous statement that it is an existing road made him wonder if it were an existing two-track road that goes through the middle of the ranch. Mr. Thompson stated that he feels a \$10,000 bond is nominal and he believes that the BOCC must look at the petition again to determine if 24-9-101(a)4 has been met. Mr. Rerucha stated that the petition as presented meets the statutory requirements and recommended the BOCC move forward. The original motion carried unanimously.

Commissioner Paxton moved to grant the hearing examiner authority to set a hearing date as provided in Wyoming Statute 24-09-101(e). Commissioner Young seconded and the motion carried unanimously.

Mr. Rerucha asked for a recess to confer with the parties and the hearing examiner. Chairman Weickum called a recess at 10:46 a.m. and reconvened at 10:59 a.m.

Mr. Thompson stated that W.S. 24-9-101(a)4 requires the petition include a description of the proposed route. He stated that he objects to the petition as his client is not aware of the specific location of the road.

Mr. Rerucha stated that during the recess, there was a request by the petitioner to allow an irrevocable letter of credit from the bank or a bond.

Commissioner Paxton moved to amend the motion made previously approving an Order Appointing a Hearing Officer to state the requirement of a \$10,000.00 bond rather be a \$10,000.00 bond or an irrevocable letter of credit. Commissioner Young seconded and the motion carried unanimously.

Chairman Weickum turned the meeting over to Mr. Nelson, Hearing Examiner.

Mr. Nelson stated that per Wyoming Statute, sixty days must be given for notification of the next hearing and he would propose a date after meeting with the parties and the County Clerk. He explained that after that hearing, the BOCC would be asked to make a determination as to whether there is currently legal access by other means. He also stated he would talk with the parties to determine the amount of discovery the parties may be presenting.

There were no further comments by any party.

ADJOURNMENT

There being no further business, Chairman Weickum adjourned the meeting at 11:04 a.m.

-s- Gwynn G. Bartlett, Carbon County Clerk

Approved this 7th day of April 2009.

BOARD OF COUNTY COMMISSIONERS
CARBON COUNTY, WYOMING

-s- Terry Weickum, Chairman