

**MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
REGULAR MEETING
Tuesday, October 5, 2010
County Courthouse, Rawlins, Wyoming**

The regular meeting of the Board of Carbon County Commissioners (BOCC) commenced Tuesday, October 5, 2010 at the County Courthouse in Rawlins, Wyoming. Attending the meeting were Chairman Terry Weickum; Vice Chairman Jerry Paxton; Commissioner Charles Young; Deputy County Attorney Mike Kelly; and County Clerk Gwynn Bartlett.

Chairman Weickum called the meeting to order at 9:02 a.m.

VOUCHERS

Commissioner Young moved to approve the report of expenditures in the amount of \$674,434.35. Commissioner Paxton seconded and the motion carried unanimously.

| Vendor | Detail Line Description | Total |
|--|---------------------------|--------------|
| ABSOLUTE SOLUTIONS | SUPPLIES | \$499.86 |
| ALBANY COUNTY TREASURER | GRANT WORKSHOPS | \$100.00 |
| ALSCO, AMERICAN LINEN DIVISION | MATS | \$241.35 |
| AMERICAN CORRECTIONAL ASSOCIATION | SUBSCRIPTIONS | \$75.00 |
| AMERICAN PLANNING ASSOCIATION | PLANNING BOARD MEMBERSHIP | \$150.00 |
| AMERIGAS | PROPANE SERVICES | \$1,674.77 |
| BARTLETT, SUE RN | MEALS/MILEAGE | \$61.14 |
| BI-RITE SPORTING GOODS | RADIOS | \$99.99 |
| BOB BARKER COMPANY, INC. | SUPPLIES | \$129.08 |
| BOYS & GIRLS CLUBS OF CARBON COUNTY | GRANT FUNDING | \$8,067.21 |
| BRESNAN COMMUNICATIONS | IT WIDE AREA NETWORK | \$2,475.00 |
| BUILD RITE LUMBER SUPPLY | SUPPLIES | \$300.44 |
| BUSEY, SHARALEE | MEALS/MILEAGE | \$25.60 |
| C O V E | GRANT FUNDING | \$5,718.72 |
| CACTUS JACKS | MEALS | \$1,785.00 |
| CARBON COUNTY VETERINARY HOSPITAL | VET SERVICES | \$132.00 |
| CARBON POWER & LIGHT INC | ELECTRICAL SERVICES | \$346.24 |
| CASH-WA DISTRIBUTING | SUPPLIES | \$95.30 |
| CASPER WINNELSON CO | PARTS | \$12.96 |
| CATERPILLAR FINANCIAL SERVICES CORP | LEASE PAYMENTS | \$191,110.92 |
| CBM FOOD SERVICE | JAIL FOOD | \$6,362.44 |
| CHAMBERS, JOHN D., P.C. | LEGAL SERVICES | \$63.00 |
| CLARK, RITA | MILEAGE | \$81.00 |
| COMMUNITY RESOURCE CENTER | GRANT FUNDING | \$1,388.28 |
| COMPUTER SOFTWARE ASSOCIATES | OCT WEBHOST FEE | \$250.00 |
| COWBOY SUPPLY HOUSE | SUPPLIES | \$300.00 |
| DAILY TIMES | NEWSPAPER ADS | \$2,132.19 |
| DEFUR, DANIELLE | MEALS/MILEAGE | \$188.91 |
| DELEON, JOHN | LEGAL SERVICES | \$1,920.00 |
| DIXON, TOWN OF | WATER SERVICES | \$83.00 |
| DOMINION VOTING SYSTEMS, INC. | SOFTWARE FEES/MAINTENANCE | \$12,600.00 |
| DRUMMOND REFRIGERATION LLC | BUILDING MAINTENANCE | \$914.74 |
| EAGLE UNIFORM SUPPLY | MATS | \$71.14 |
| EMBLEM ENTERPRISES, INC. | SUPPLIES | \$532.66 |
| ENGLISH ROSE LIFESTYLES / BIG ORDER SVGS | SUPPLIES | \$157.24 |
| EVANS, JULIE | MILEAGE | \$25.20 |
| FARMER BROTHERS COFFEE | SUPPLIES | \$157.18 |
| FEDEX | POSTAGE | \$29.61 |
| GASES PLUS | SUPPLIES | \$118.57 |
| GLOBALSTAR USA | TELEPHONE SERVICES | \$3.92 |
| GOSVENOR, MAXINE | MILEAGE | \$46.00 |
| GRAINGER | PARTS | \$242.55 |
| GREATER WY BIG BROS/SISTERS | GRANT FUNDING | \$1,313.44 |
| HAGOOD, VICKI | MILEAGE | \$33.70 |
| HASCO INDUSTRIAL SUPPLY | SUPPLIES | \$69.38 |
| HAYES, JAYME | LAWN CARE | \$75.00 |

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| HEIMAN FIRE DEPARTMENT | SUPPLIES | \$293.53 |
| HERRING, ROS | LAWN CARE | \$17.00 |
| HETTGAR, BRIDGET M RN | MILEAGE | \$61.00 |
| HIGH PLAINS POWER | ELECTRICAL SERVICES | \$361.97 |
| HILLCREST SPRING WATER, INC. | SUPPLIES | \$21.85 |
| HILLTOP LUBE & AUTOMOTIVE | VEHICLE MAINTENANCE | \$52.00 |
| HOPKINS MEDICAL PRODUCTS | SUPPLIES | \$78.95 |
| HOT SPRINGS CLERK OF DISTRICT COURT | TRIAL PREPARATION | \$505.74 |
| IM DIAGNOSTICS | MEDICAL SUPPLIES | \$58.45 |
| IMPERIAL FASTENER CO., INC. | SUPPLIES | \$235.00 |
| INDEPENDENT TABULATION, INC. | ELECTIONS SUPPLIES | \$26.74 |
| INTERMOUNTAIN RECORD CENTER, INC. | CLERK IMAGING | \$719.37 |
| IRON J TOWING | TOWING SERVICES | \$230.00 |
| J H KASPAR OIL COMPANY | FUEL | \$13,691.19 |
| JACK'S BODY & FENDER REPAIR | VEHICLE MAINTENANCE | \$140.00 |
| JACKALOPE PRINTING | SUPPLIES | \$15.98 |
| KAISER, DON | LAWN CARE | \$130.00 |
| KAR KRAFT INC | VEHICLE MAINTENANCE | \$570.18 |
| KENCO SECURITY AND TECHNOLOGY | ALARM MONITORING | \$34.00 |
| KILBURN TIRE COMPANY | VEHICLE MAINTENANCE | \$106.26 |
| KING SOOPERS CUSTOMER CHARGES | SUPPLIES | \$27.65 |
| L & L ELECTRIC | ELECTRICAL REPAIRS | \$1,043.00 |
| LANNAN'S SUPPLY CO | SUPPLIES | \$14.36 |
| LARIAT INTERNATIONAL TRUCKS | PARTS | \$55.95 |
| LONG BUILDING TECHNOLOGIES, INC. | BUILDING MAINTENANCE | \$840.00 |
| LOSE'S CLEANING SERVICE | LAWN CARE | \$2,400.00 |
| MACPHERSON, KELLY & THOMPSON, LLC | LEGAL SERVICES | \$1,604.33 |
| MASSEY, SHERRY | GRANT ADMINISTRATION | \$60.00 |
| MATTHEW BENDER & CO, INC. | SUBSCRIPTIONS | \$470.19 |
| MEDICINE BOW, TOWN OF | WATER SERVICES | \$54.00 |
| MEMORIAL HOSPITAL OF CARBON COUNTY | MEDICAL SERVICES | \$529.50 |
| MOELLER, MARIE | CLEANING SERVICES | \$273.00 |
| MOORE MEDICAL CORP. | MEDICAL SUPPLIES | \$518.03 |
| MORIARITY, CATHERINE M | ADMINISTRATION FEES | \$15.00 |
| MPM CORP / EVERGREEN DISPOSAL | GARBAGE SERVICES | \$100.00 |
| MURANE & BOSTWICK, LLC. | LEGAL SERVICES | \$2,646.65 |
| NATIONAL BUSINESS SYSTEMS | POSTAGE | \$3,500.00 |
| NIEZWAAG, ROBERT J. JR | MILEAGE | \$714.40 |
| OVERHEAD DOOR COMPANY | BUILDING MAINTENANCE | \$176.75 |
| PAGE ONE | TELEPHONE SERVICES | \$264.88 |
| PENCE AND MACMILLAN LLC | LEGAL SERVICES | \$559.66 |
| PIONEER PIPELINE 6 | SINCLAIR BYPASS ROAD | \$290,615.85 |
| PITNEY BOWES | POSTAGE | \$2,889.00 |
| PRO-CHEM INDUSTRIAL, LLC | SUPPLIES | \$128.29 |
| QUALITY INN | ROOM CHARGES | \$74.90 |
| QUESTAR GAS | GAS SERVICES | \$10.00 |
| QUILL CORPORATION | OFFICE SUPPLIES | \$432.06 |
| QWEST | TELEPHONE SERVICES | \$927.70 |
| RAWLINS, CITY OF | WATER SERVICES | \$2,113.00 |
| RESERVE ACCOUNT | POSTAGE | \$10,000.00 |
| RIVERSIDE GARAGE & CABINS | SUPPLIES | \$22.24 |
| ROCKMOUNT RESEARCH AND ALLOYS INC | PARTS | \$913.08 |
| ROCKY MOUNTAIN POWER | ELECTRICAL SERVICES | \$1,745.92 |
| ROSS' AUTOMOTIVE SERVICES | VEHICLE MAINTENANCE | \$64.11 |
| S & P BRAKE & CLUTCH SUPPLY, INC. | PARTS | \$26.95 |
| SARATOGA AUTO PARTS, INC. | PARTS | \$384.55 |
| SARATOGA SUN | NEWSPAPER ADS | \$78.75 |
| SECRETARY OF STATE | NOTARY | \$30.00 |
| SHEA, DIXIE F | MILEAGE | \$24.00 |
| SHEEHAN TRUCKING | CONSTRUCTION/MAINTENANCE | \$380.00 |
| SHEPARD'S | FUEL | \$129.87 |
| SHIVELY HARDWARE | SUPPLIES | \$1,539.07 |
| SINCLAIR, TOWN OF | GRTS WYDOT SINCLAIR 12TH ST | \$1,132.40 |
| SMARTMOTION TECHNOLOGY, INC. | SUPPLIES | \$988.00 |
| SNAP-ON TOOLS | SUPPLIES | \$275.45 |
| SOURCE GAS | GAS SERVICES | \$2,055.14 |

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| STEPHENSON, LEE ANN | MILEAGE | \$36.00 |
| TERMINIX | PEST CONTROL | \$70.00 |
| TRADING POST | FUEL | \$291.41 |
| TRENT & WILKERSON LAW OFFICE, LLC | LEGAL SERVICES | \$273.00 |
| TRUE VALUE OF RAWLINS | SUPPLIES | \$155.13 |
| ULINE | SUPPLIES | \$1,197.93 |
| UNION TELEPHONE COMPANY | TELEPHONE SERVICES | \$765.94 |
| VAN'S WHOLESALE LLC | JAIL SUPPLIES | \$230.72 |
| WEEMS, LORETTA | MEAL | \$7.50 |
| WEST WINDS BAKERY & DELI | SUPPLIES | \$136.28 |
| WESTERN WY FAMILY PLANNING | GRANT FUNDING | \$2,020.70 |
| WESTERN WYOMING CONSTRUCTION | ASPHALT OVERLAY | \$71,196.00 |
| WY BRAND INDUSTRIES | SUPPLIES | \$86.20 |
| WY DEPT OF CORRECTIONS | SUPPLIES | \$364.05 |
| WY DEPT OF FAMILY SERVICE | W.I.C COPIES | \$10.86 |
| WY MACHINERY COMPANY | PARTS | \$65.04 |
| WY STATE BAR | ANNUAL LICENSE FEE | \$1,605.00 |
| WY STATIONERY | OFFICE SUPPLIES | \$1,582.54 |
| XEROX CORPORATION-RENT | IT COPIERS | \$1,838.43 |
| YOCUM, LEO | MILEAGE | \$45.00 |
| GRAND TOTAL | | \$674,434.35 |

CLERK

Minutes

Commissioner Young moved to approve the minutes of the September 21, 2010 regular meeting 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 September 2010 in the amount of \$1,364.36 and Carbon County Clerk Statement of Fees Collected for the month of September 2010 in the amount of \$16,564.13. Commissioner Paxton seconded and the motion carried unanimously.

Bonds

Commissioner Young moved to authorize the Chairman's signature on a bond for Patricia Hays, Treasurer for the Carbon County Library Board in the amount of \$10,000.00. Commissioner Paxton seconded and the motion carried unanimously.

Carbon County Life Insurance

Clerk Bartlett discussed the life insurance comparison for Carbon County and noted she would make a recommendation at a future meeting about possibly changing companies.

Wyoming County Commissioners (WCCA) Spring Meeting

Clerk Bartlett reported that almost everything has been sponsored for next April's WCCA meeting in Saratoga and has received some verbal commitments and some actual payments already. She still lacks the banquet and registration bags. She also discussed a quote received from the Old Penitentiary Joint Powers Board. She noted that because she had sent letters before getting the quote she does not have enough from the sponsor to come close to covering the Old Penitentiary's estimate. She also reported she has contacted the Brush Creek Lodge about the welcome reception and noted Michael Williams from the Brush Creek Lodge is present today.

Stop Loss Proposal

Clerk Bartlett presented an application and proposal from Cigna for the Chairman's signature. She noted this was approved at the last meeting with a stop loss limit of \$45,000.00.

Healthcare Reform

Clerk Bartlett discussed healthcare reform and noted she is working with Meritain Health to implement necessary changes. She stated she will have the BOCC act on any formal amendments to the plan and will only make recommendations. Clerk Bartlett discussed one of the amendments necessary will be to remove the lifetime maximum limit of \$1 million however the County can change its plan to have annual limits for specific services without losing grandfather status. She noted we must remove limits on in / out of network coverage for mental health and there may be a change to emergency care under mental health. She stated she will be presenting amendments in the future. Chairman Weickum stated other counties have hired a consultant and Clerk Bartlett stated that would be her recommendation.

Dixon Airport

Clerk Bartlett reported that last fiscal year the County purchased a tool carrier for the loader transferred from Road & Bridge to the Dixon Airport. She was under the impression that the County would be reimbursed for the equipment totaling \$26,000.00 however according to the Airport Development Group, this was not the case. She did note the loader can now be used anywhere, not solely at the airport and that the grant funds are still available for use on other things. Chairman Weickum stated it was his understanding also that the County would be reimbursed.

Courthouse Security Wall

Clerk Bartlett asked for permission to use Homeland Security funds to build a security wall on the third floor where the jury room is including bullet resistant glass. She stated documentation has been completed and Sheriff Colson will be getting quotes. Clerk Bartlett stated it will protect the judge and the jury and anyone else in that area.

Commissioner Paxton moved to authorize Clerk Bartlett to solicit quotes according to the procurement policy to construct a security wall on the third floor of the Courthouse for security purposes. Commissioner Young seconded and the motion carried unanimously.

Hanna Senior Center and Fire Hall

Clerk Bartlett reported that at previous meetings the BOCC had discussed that the Town of Hanna will deed the Hanna Senior Center and Hanna Fire Hall to the County in return for four annual payments. She asked if there has been any progress on this. Chairman Weickum stated he has not heard anything recently and asked Deputy Attorney Mike Kelly to follow up with Peggy Trent, Town of Hanna's attorney.

Healthcare Meeting

Clerk Bartlett reported that per Chairman Weickum's request, she scheduled a meeting for October 12 at 1:00 p.m. in the BOCC chambers to discuss healthcare. She invited all subsidiary board members and directors. Clerk Bartlett also noted she left a message with Sean Harkins of the Rawlins Daily Times inviting him and asking him to let others at that office know. She noted Bridget Manley from the Rawlins Daily Times asked for the self insurance balance and end of year report which Clerk Bartlett provided and invited her to the meeting. There was a discussion about the current healthcare procedure. Clerk Bartlett advised Mark Moreno from Meritain Health will also be attending.

ELECTED OFFICIALS / DEPARTMENT HEADS

Attorney

Deputy Attorney Kelly advised he has a meeting with Peter Young who is Glenn Baker's attorney in reference to the Skyline situation who is looking for a schedule for Mr. Baker to get his property on October 12th.

Deputy Attorney Kelly advised he is looking into individuals who are being detained who need emergency medical attention not related to the reason they are being detained, as this is a sufficient amount of money.

Deputy Attorney Kelly advised that the City of Rawlins requested the County Museum submit a zone change request for land the County owns at the new Museum site. The City had prepared a zone change and requested County signature. When the County returned the City prepared change, it was denied due to typos. Deputy Attorney Kelly pointed out the City had prepared the document and he also noted he will prepare a corrected document and resubmit it.

Deputy Attorney Kelly advised that there will be a rally on the Courthouse lawn at the end of October and asked if the BOCC would require any special conditions. The BOCC opted to require a letter be submitted and it would respond accordingly.

Deputy Attorney Kelly reported that he received a signed indemnity agreement from the University of Wyoming to cover the Cooperative Extension Service employees. He feels that the County would be protected if it allowed University CES employees to drive vehicles. Chairman Weickum recommended that 4-H individuals be allowed to ride in vehicles but only if they are registered members of 4-H.

Commissioner Paxton moved to authorize University of Wyoming employed County Extension Office personnel to operate County vehicles. Commissioner Young seconded and the motion carried unanimously.

HANNA OLD BANK BUILDING

Clerk Bartlett advised one bid was received for the property formerly known as the First State Bank of Hanna. She opened the only sealed bid from Greg Cooksey who bid \$12,500.00.

Commissioner Paxton moved to reject the bid from Greg Cooksey in the amount of \$12,500.00 for the property formerly known as the First State Bank of Hanna located in the East ½ of Section 19, Township 22 North, Range 81 West, of the 6th P.M., Carbon County Wyoming. Commissioner Young seconded and the motion carried unanimously.

Treasurer

County Treasurer, Cindy Baldwin, presented a handout prepared by the Wyoming Tax Payers Association regarding a sales tax exemption on wind projects. Commissioner Paxton reported that the Legislative Service Office is drafting bills to provide counties and municipalities sales tax up front and added that he feels the legislative committee is in favor of ensuring counties and municipalities receive their shares up front. Chairman Weickum asked for Treasurer Baldwin to assist him with information for an upcoming meeting he will attend on the matter.

Treasurer Baldwin provided the balance and other purchase information on the Memorial Hospital levy account. She also reported fuel sales at the Dixon Airport are \$1,060.13 total since inception. Treasurer Baldwin reported the E911 account currently holds \$527,205.75. Compared to last quarter, now that the City and County are not exchanging money, the County generated \$17,000.00 this quarter.

Chairman Weickum asked Clerk Bartlett to have Sheriff Colson appear at the next meeting to provide an update on the purchase of a dispatch system.

Treasurer Baldwin advised Joe Meyer, State Treasurer has decided to wait until after the legislative session to determine a course of action for the severance tax distribution overpayment.

Assessor

County Assessor, Sheryl Snider, presented rebates and abates for the Chairman's signature. She reported there has been notice of valuation changes of \$8,091,346 with deductions of abates of \$4,833,422 making a positive adjustment in valuation of \$3,257,924.

Assessor Snider reported staff members have been attending required trainings. She also reported Tom Roberts, current Chair of the State Board of Equalization, will be providing a seminar on County Board of Equalization hearings and she invited the BOCC and County Attorney.

Fire Department

County Fire Warden, Dwight France, reported that the County Fire Department at Ryan Park obtained a new fire truck through a Homeland Security grant and last week there was a problem with the truck with a repair estimate of approximately \$8,000.00 for parts and labor. Mr. France reported he was upset as the Ryan Park Fire Chief did not contact him about repairing the vehicle and that department took it to Cheyenne for repairs. The BOCC asked Mr. France to notify all County fire departments that no repairs are to be made without his prior approval.

BUREAU OF LAND MANAGEMENT

Patrick Madigan Field Manager for the Bureau of Land Management (BLM) discussed a wild horse gathering near Adobe Town where some will be taken out of state and some will be treated for fertility and released. Mr. Madigan reported that due to the national attention, he wanted to make the BOCC aware of the BLM's plans.

ELECTED OFFICIALS / DEPARTMENT HEADS

Emergency Management

John Zeiger reported on future meetings he will be attending including one regarding reservoirs and dams in the County that may be considered high risk.

Planning

Sid Fox, County Planning Director, reported the public hearing on the draft Land Use Plan was held yesterday before the Planning & Zoning Commission and this has been continued to a special meeting due to some edits that may be made.

MEMORIAL HOSPITAL OF CARBON COUNTY (MHCC)

Dan Jessop, MHCC Chief Executive Officer, and Rick White, MHCC Chief Financial Officer, overviewed MHCC's financial information. Mr. Jessop reported MHCC will implement a rate increase. He noted a blood gas analyzer needs replaced therefore he requested he be allowed to replace the equipment ranking sheet with an ambulance first then the blood gas analyzer and requested authorization to purchase the ambulance now.

Chairman Weickum discussed the levy account and asked Mr. Jessop to come forward soon with a plan of how much MHCC would like to see in the levy account and how it should grow each year.

Commissioner Young moved to authorize the Memorial Hospital of Carbon County to expend \$124,700.00 for a new ambulance and \$35,000.00 for blood gas analyzers. Commissioner Paxton seconded and there was discussion by Chairman Weickum of how the old ambulance will be disposed of. The original motion carried unanimously.

Chairman Weickum asked MHCC to be diligent in getting rid of the old ambulance. Mr. Jessop invited the BOCC to attend the strategic planning sessions October 12 and 13.

EXECUTIVE SESSION

Commissioner Paxton moved to go into executive session at 11:30 a.m. with Clerk Bartlett and Deputy Attorney Mike Kelly to discuss personnel and potential litigation 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 11:58 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 11:58 a.m. and reconvened at 1:32 p.m.

PLANNING & ZONING

Public Hearing Z.C. Case File No. 2010-02

Chairman Weickum opened a public hearing at 1:32 p.m. to hear Planning & Zoning Z.C. Case File No. 2010-02. Sid Fox, Planning Director presented Z.C. Case File No. 2010-02 – Tyler and Heather Mortensen’s request for a Zone Change from Ranching, Agriculture, Mining (RAM) to Residential (RD) on Lot 21 of Tract “A” located in Ryan Park.

Chairman Weickum called for comments for or against this case. Deputy Attorney Kelly noted that a variance has been requested to reduce the setback to five feet and he wanted to ensure the neighbors were contacted. Mr. Fox noted that written approval of the variance was received by the adjacent landowners. There being no public comments, Chairman Weickum closed the public hearing at 1:40 p.m.

Commissioner Paxton moved to approve Planning & Zoning Z.C. Case File No. 2010-02 Tyler and Heather Mortensen’s request for a Zone Change from Ranching, Agriculture, Mining (RAM) to Residential (RD) on Lot 21 of Tract “A” located in Ryan Park noting this is subject to findings in the staff report. Commissioner Young seconded and the motion carried unanimously.

Commissioner Young moved to approve Resolution No. 2010-32, A Resolution of the Board of County Commissioners of Carbon County, Wyoming adopting the recommendation of the Carbon County Planning and Zoning Commission regarding Z.C. Case File No. 2010-02. Commissioner Paxton seconded and the motion carried unanimously.

Resolution No. 2010 - 32

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 September 7, 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 October 5, 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 the Carbon County Zoning Resolution; 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 the applicable provisions of the Zoning Resolution; 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) Z.C. Case File #2010-02 – Tyler and Heather Mortensen: Zone change request from Ranching Agriculture and Mining (RAM) to Residential (RD) on Lot 21 of Tract “A” located in

Ryan Park. The lot size is 4,156.8 sq.ft. The density for the RD zoning district being a maximum of one (1) single-family dwelling unit and associated structures permitted on Lot 21.

Legal Description:

Lot 21, Tract "A", Ryan Park, Carbon County, Wyoming. SUBJECT, HOWEVER, to all easements, reservations, restrictions, and rights-of-way of record or apparent upon the ground.

Density:

Pursuant to the recommendations of the Carbon County Planning and Zoning Commission: The density for the RD zoning district being a maximum of one (1) single family dwelling unit and associated structures on Lot 21, Tract "A", Ryan Park.

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 and the existing zone shall be changed from Ranching, Agriculture, Mining (RAM) to Residential (RD) on Lot 21, Tract "A", Ryan Park, Carbon County, Wyoming.

PRESENTED, READ, AND ADOPTED at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, this 5th day of October, 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

Public Hearing C.U. Case File No. 2010-05

Chairman Weickum opened a public hearing at 1:44 p.m. to hear Planning & Zoning C.U. Case File No. 2010-05. Mr. Fox presented C.U. Case File No. 2010-05 – Union Telephone (Applicant) and Saratoga Land and Cattle Company, Inc. (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 2,500 square feet.

Chairman Weickum called for comments for or against this case. Deputy Attorney Kelly stated that the existing tower is sitting on the border of Saratoga Land and Cattle property and University of Wyoming property therefore does not meet the setback requirements. Mr. Fox explained that in RAM zoning the setback is 40 feet from the property line and that Deputy Attorney Kelly is correct that the building technically does not comply with setbacks. There being no public comments, Chairman Weickum closed the public hearing at 1:50 p.m.

Commissioner Paxton moved to approve Planning & Zoning C.U. Case File No. 2010-05 Union Telephone Company and Saratoga Land and Cattle Company, Inc.'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 2,500 square feet approximately 1.25 miles north of Saratoga on HWY 130 and approximately 1,250 feet west on a private road with the tower being approximately 30 feet with the overall tower height of 37 feet. Commissioner Young seconded and the motion carried unanimously.

Commissioner Young moved to approve Resolution No. 2010-33, 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. 2010-05. Commissioner Paxton seconded and the motion carried unanimously.

Resolution No. 2010 - 33

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 September 7, 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 October 5, 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 the Carbon County Zoning Resolution, Section 5.6, Conditional Use Permits; 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 the Carbon County Zoning Resolution, 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 #2010-05 – Union Telephone Company (Applicant) and Saratoga Land and Cattle Company, Inc. (Owner): Request for a Conditional Use Permit in the Ranching, Agriculture, Mining (RAM) Zone. The request is to permit a telecommunication facility for cellular and microwave communications and their appurtenant uses and structures located on approximately 2,500 sq. ft. The existing tower height is approximately 30 feet with the overall tower height of 37 feet. The *existing* telecommunication facility has improved signal strength along portions of the WY-130 and near the Town of Saratoga. The telecommunication facility is located approximately 1.25 miles north of Saratoga on HWY 130 and approximately 1,250 feet west on a private road.

Legal Description:

A certain tract of land situated in the Northeast ¼ of the Northeast ¼ of Section 2, Township 17 North, Range 84 West of the 6th Principal Meridian, Carbon County, Wyoming, more particularly as follows: BEGINNING at the Northeast corner of said Section 2; thence West 50.00 feet, thence South 50.00 feet, thence East 50.00 feet, thence North 50.00 feet, to the POINT OF BEGINNING, said tract being 2,500 square feet, or 0.057 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 replacement 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. COMPLIANCE WITH APPLICABLE LAWS: The applicants shall comply with all federal, state, and local regulations.
4. 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.
5. 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.

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 #2010-05) on approximately 0.057 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 5th day of October, 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

**Public Hearing – Carbon County Zoning Resolution of 2003 Amended 11-17-2009
Proposed Amendments – Chapter VII Sexually Oriented Businesses**

Chairman Weickum opened a public hearing at 1:54 p.m. to hear public comment on the Proposed Amendments to the Carbon County Zoning Resolution of 2003 Amended 11-17-2009.

Mr. Fox reported that this matter was certified to the BOCC pursuant to 18-5-202(c) on September 7, 2010 by the Planning and Zoning Commission. Notice of the time and place of the hearing was published in the Rawlins Daily Times and Saratoga Sun on September 15, 2010, and in the Snake River Press on September 17, 2010 satisfying the 14 day advance notice requirement of the statute. Mr. Fox reported that all sexually oriented business would require a conditional use permit before approval and this type of business would only be allowed in light and heavy industrial zones and highway commercial zones.

There being no further public comments, Chairman Weickum closed the public hearing at 1:57 p.m.

Commissioner Young moved to approve Resolution No. 2010-34, A Resolution of the Board of County Commissioners, Carbon County, Wyoming adopting the recommendation of the Carbon County Planning and Zoning Commission for the Proposed Amendments to the Zoning Resolution of 2003 Amended 11-17-2009 Chapter VII regarding sexually oriented businesses. Commissioner Paxton seconded and the motion carried unanimously.

Resolution No. 2010 - 34

Zoning Resolution on the Establishment of Sexually Oriented Businesses

WHEREAS, the Carbon County Board of County Commissioners (Board) on July 6, 2010, passed Emergency Resolution 2010-27. 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 has reviewed 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 has reviewed 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 resolution will require a period of notice and comment before both the Planning and Zoning Commission and Carbon County Board of County Commissioners may pass such regulations;

NOW THEREFORE LET IT BE RESOLVED, that effective the 5th day of October, 2010, the Carbon County Board of County Commissioners hereby declares the following zoning resolution controls the establishment of sexually oriented businesses, with the following stipulations:

1. The effective area for the enforcement of this resolution shall be described as all those properties in the unincorporated areas of Carbon County, Wyoming.
2. The resolution 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. Resolution 2010-27 shall be superseded by this resolution upon the recommendation of the Planning and Zoning Commission.

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 ML Zone “Light Industrial”, C-2 Zone “Highway Commercial” and MH Zone “Heavy Industrial” with a “Conditional Use Permit” granted by the Board of County Commissioners, after review by the Planning and Zoning Commission.

Section 7.2 INTENT

The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on 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 community standards regarding sexually oriented businesses, 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 for 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 of 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 four hours; or
- c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time less than four 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 excludes 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 NUDITY

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

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

PUBLIC PARK

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

RELIGIOUS INSTITUTION

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

RESIDENTIAL

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

RENT OR SUB-RENT

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

SCHOOL

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

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

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

SEMI-NUDE DANCING BARS

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

SEXUAL CONDUCT

Acts of:

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

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, books, magazines or periodicals by photographic, electronic, digital or any other means or media 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 ML Zone “Light Industrial”, C-2 Zone “Highway Commercial” and 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 Planning Commission review and Carbon County Board of County Commissioners approval pursuant to Chapter V of the Carbon County Zoning Resolution.

- b. No sexually oriented business shall be operated or located along a State designated Scenic Highway or Byway 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 provided 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 oriented 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 measured at the floor level. This level of illumination shall be maintained at all times 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 any sexually oriented business operated in Carbon County.

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 a 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 four (4) 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 four (4) 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 5th day of October, 2010.

**CARBON COUNTY BOARD
OF COUNTY COMMISSIONERS**

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

Attest:

-s Gwynn G. Bartlett, County Clerk

COMMISSIONER DISCUSSION

Commissioner Paxton discussed a meeting of the Upper Platte Valley Beetle Kill Coalition regarding watershed. He further discussed beetle kill and other meetings he will attend. Chairman Weickum reported on a meeting he will be attending.

RECESS

Chairman Weickum called a recess at 2:12 p.m. and reconvened at 2:30 p.m.

WHITE LODGING SERVICES CORPORATION RESTAURANT LIQUOR LICENSE

Chairman Weickum opened a public hearing at 2:30 p.m. to listen to all interested parties and receive public comment concerning a Restaurant Liquor License application for White Lodging Services Corporation.

Clerk Bartlett reported for the record that notice was placed in the Rawlins Daily Times for four consecutive weeks. Clerk Bartlett added that the prorated fee in the amount of \$1,506.85 was paid to her office at the time the application was filed. She did state her concern that a Restaurant Liquor License is dependent upon proof of a valid food service permit however her office has only received the application for the permit and not the actual permit. She noted that the Wyoming Liquor Division advised her to proceed with approval with the application only.

There being no public comment, Chairman Weickum closed the public hearing at 2:33 p.m.

Commissioner Paxton moved to approve White Lodging Services Corporation dba Brush Creek Saloon's application for a Restaurant Liquor License for a term of October 5, 2010 through August 31, 2011. Commissioner Young seconded and the motion carried unanimously.

DIXON AIRPORT – AUTOMATED WEATHER OBSERVING SYSTEM (AWOS)

Barry Bryant, Dixon Airport Manager, discussed items in his September 7th Memorandum for BOCC.

Mr. Bryant discussed current projects including AWOS noting the tower is held up on a UHF license from the Federal Communications Commission (FCC) but it will be completed upon receipt of that. He reported the wildlife study is going well, he is working on the Wyoming Aviation Capital Improvement Projects (WACIP) and snow removal equipment may be purchased with this, possibly updating lighting, or an approach system. He also mentioned a security gate is being looked at for the main entrance. Chairman Weickum asked about equipment for mowing and Mr. Bryant stated this is part of the WACIP however this can not be Federal Aviation Administration (FAA) funds. Chairman Weickum suggested sterilization of the grass and weeds around the lighting and near the runway. Steve Marshall from Airport Development Group recommended for safety reasons sterilizing a circle around each light. Mr. Bryant stated he will have the area sterilized.

Mr. Bryant reported there is still nobody building a hangar even on the earmarked spots therefore Mr. Bryant suggested opening up the spots to a first come first serve basis. He also suggested waiving lease fees for the first number of years and providing a waiver of liability insurance while constructing their hangars. Deputy Attorney Kelly discussed standards for building at the airport. Mr. Marshall stated that the standards are industry standards. There was discussion by the BOCC of reducing the liability insurance requirement from \$2 million to \$1 million. Clerk Bartlett suggested she contact Local Government Liability Pool (LGLP) asking if they have a recommendation. Mr. Bryant asked if each potential builder would present his case to the

BOCC. Deputy Attorney Kelly asked about continuing liability insurance for the hangar similar to what one has on a home.

Commissioner Paxton stated he feels there should be some incentive offered for these individuals to build on the airport. Chairman Weickum asked if the lease fee were waived for the first five years and the liability insurance reduced to \$1 million, would that help these individuals accomplish building. Mr. Marshall stated that grant assurance compliance must be considered however he feels that this can be maintained to help the airport be sufficient. Mr. Marshall also noted the BOCC could charge less than \$0.25 per square foot and rather than charging for the building footprint as standards are now, the BOCC could charge for the entire lot but reduce the fee per square foot and he would have a recommendation at a future meeting.

Brent Wilson stated he is ready to build but needs some assurance before moving forward as to the lease fee and insurance requirements however the BOCC stated it could not answer that today. Mr. Wilson asked if the liability insurance that will cover the building, would this cover the construction as well and would the BOCC allow individuals to construct their own. Chairman Weickum asked Mr. Wilson to return on October 19 for his answers and supply estimates from his insurance company as to various increments of liability. Mr. Wilson stated he has not applied for a building permit as he was not sure if he would be authorized to construct the building. Mr. Bryant reported that Mr. Wilson's building is pre-engineered and has been approved by the State Engineer.

Mr. Bryant presented a Wyoming Department of Transportation agreement regarding AWOS and noted Deputy Attorney Kelly has reviewed the document.

Commissioner Young moved to approve the Cooperative Agreement Between the Wyoming Department of Transportation (WYDOT) and the Dixon Airport, for maintenance of the Dixon Airport navigational aids with a total payment to the County of \$5,927.00. Commissioner Paxton seconded and the motion carried unanimously.

Mr. Bryant presented a Memorandum of Agreement (MOA) Between Federal Aviation Administration and Carbon County / Dixon Airport for operation and maintenance of an Automated Weather Observing System (AWOS) III PT and added that Deputy Attorney Kelly has reviewed the MOA and recommends approval. Mr. Bryant stated this is to assure the FAA that the County will properly maintain the AWOS equipment being installed.

Commissioner Paxton moved to approve the Memorandum of Agreement Between Federal Aviation Administration, Carbon County / Dixon Airport Agreement No. DTFANM-10-L-00131, Carbon County / Dixon Airport is willing to operate and maintain the AWOS III PT facility at the Dixon Airport, Dixon, Wyoming. Commissioner Young seconded and the motion carried unanimously.

Mr. Bryant reported that Stocks Construction is slated to provide snow removal service at the airport.

Commissioner Paxton discussed implementing an airport board again. Clerk Bartlett stated that the bylaws would need to be reviewed first. The BOCC directed Clerk Bartlett and Deputy Attorney Kelly to proceed with review of the bylaws and implementing the board again.

DIXON AIRPORT MASTER PLAN

Steve Marshall, Airport Development Group presented the Dixon Airport Inventory and Forecast. Mr. Marshall discussed existing issues and problems that he has identified.

ADJOURNMENT

There being no further business, Chairman Weickum adjourned the meeting at 3:58 p.m.

-s- Gwynn G. Bartlett, Carbon County Clerk

Approved this 19th day of October 2010

BOARD OF COUNTY COMMISSIONERS
CARBON COUNTY, WYOMING

-s- Terry Weickum, Chairman