

COUNTY COMMISSIONER MINUTES

FEBRUARY 3, 2009

LARAMIE, WYOMING

The Regular Meeting was called to order at 9:30 a.m. by Chairman Sullivan. Commissioners Chesnut and Gabriel were also present.

At this time a Public Hearing was held regarding the zoning regulations relating to businesses in a residential zone. Doug Bryant, County Planner said they will address any questions when it comes up on the regular agenda.

A second Public Hearing was held regarding the Zoning Regulations relating to automatic rezoning of agriculture land to residential when subdividing. No comments were made.

A third public hearing was held regarding the Zoning Regulations relating to nuisance violations.

Kimberly Starkey commented that adopting the nuisance regulation right now is premature and unnecessary, according to section 9.4.4 of the comprehensive plan titled Albany County Cleanup Campaign. This Cleanup Campaign has not taken place yet and should take place first before regulations are set.

Commissioner Chesnut stated that the Zoning Regulations relating to nuisance violations will be TABLED at this point but will accept comments from the public.

Jerry Kennedy said the nuisance ordinance would be devastating to agriculture. Many landowners display old equipment and the way the ordinance is published, it gives officers the right to enter your property and ticket if they feel these things are a nuisance. It would also give those officers a right to enter landowner's property.

Dieter Strum, residence at South Knoll spoke on behalf of 10 people that live around him. He is glad that Albany County is making an effort to clean up and does not feel that this is aimed at farmers and ranchers. Along Highway 287, which is the gateway to the city, is filled with trash, junk piles and automobiles on people's property that does not look good. This should not be the symbol for Laramie. The city has started to make efforts in cleaning up. This creates a general decay of property value. We want Laramie to be pleasant when people drive through and we do not want people to think it is Rawlins.

Kelley Kennedy who is a landowner on Welsh Lane as well as in Northern Albany County commented that this regulation would take away private landowners' rights. I have junk on my property that I need to get rid of but people taking away my rights are not fair.

Gene Kennedy, also a landowner on Welsh Lane as well as in Northern Albany County agreed to what everyone commented and agreed that things that need to be cleaned. He does not feel that it is the County Commissioners right to take private landowners rights away.

Steve Arthur, landowner on Mandel Lane feels that an addition to the ordinance leaves a lot of room for any individual to say what a nuisance really is. The disposal of tires is an issue because there is nowhere to dispose of them so they are left on the owners land. There are issues with land on 130 and 287 that landowners have worked their life to own, and do not feel that they should have their rights taken away. We certainly don't want to trash our property but we want to be able to do what we choose with the land we have worked for.

Doug Bryant, County Planner said there has been interest from the Commissioners over the years. A lot of these issues are incorporated into the Comprehensive Plan and the focus is on corridors and gateways especially since tourism and recreation are big for the county and we want it to look good and clean. We borrowed this regulation from Laramie County about eight months ago. We have so much agriculture in Albany County that we have looked at keeping it exempt from a lot of these regulations. I have spoken with the Laramie Rivers Conservation District numerous times and feel there are many things that need to be addressed when enforcing the county nuisance ordinances. Many buildings on ranchers' property are uninhabitable and may be an eye sore to some but it is their ancestors homestead and an important part of their land. We do not have the right to say whether these buildings should stay or go. The Wyoming Farm and Ranch Act states what agriculture means to the state and we want to incorporate as much of their information in the proposed amendments.

Chairman Sullivan stated that some farm equipment is a decoration to some and an eye sore to others. He thanked everyone that made comment.

Cheri Frank, Chair of the Albany County Planning and Zoning Commission stated that they jumped the gun on this and we would like to see it back for more review.

A fourth Public Hearing was held to discuss the Amendments to the Albany County Comprehensive Plan. No comments were made.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to CLOSE the public hearings at 9:54 a.m.

Christy Roberts, Chair of the Design Committee from the Main Street Program focusing on economics and liability and physical appearance of the downtown district spoke during

Public Comment regarding the new community plaza located at 1st and Grand. Christy is requesting assistance from the County on this project in the amount of \$10,000 for Phase I. The City has agreed to pledge \$50,000.00 and the matching funds. The Main Street Program has already raised \$35,000.000. Phase 1 of the plan is estimated to cost \$125,000.00 and Phase 2 is estimated to cost about \$150,000.00. The idea of the plaza was first introduced by the Streetscape Committee, which is a citizen based advisory committee. The committee came up with conceptual plans and held two public meetings to see what they wanted out of this project. The committee then came up with plans from those meetings.

Jeannette Reisenburg, member of the Rec Mill Board said the City Council would consider adding \$25,000.00 to the City request because it will ultimately become a City Park. This would allow them to qualify for a grant from the Laramie Rivers Conservation District in the amount of \$10,000.00. This is being done incrementally in hopes that Phase 1 requirements would be met. I guess living here for the past 25 years; I really appreciate what they have done with the University Plaza and the amenities. Although there is no central gathering place for the Community right now, this plaza will be that place. It would be a focal point for the Farmer's Market, the Christmas tree lighting and the Community Christmas trees will also be located in the plaza. There will also be an amphitheatre located in the plaza community use. There will also be donor recognition with a plaque and a historical timeline of events in the community. Maps will also be available to direct people to those sites. I would appreciate if you would consider this as an agenda item.

Commissioner Chesnut asked about public restrooms and Ms. Reisenburg responded that since the City leases the land from a private individual (38 years on a 50 year lease) the private individual does not want public amenities on site.

Commissioner Gabriel inquired about the time frame and Ms. Reisenburg responded that they have the construction documents and would like to go out to bid in March. They would like to get Phase 1 going so they really need the \$125,000.00 by end of March or early April.

Chairman Sullivan stated that the Laramie Rivers Conservation District is donating \$10,000.00 and you can match up to that amount. You can donate as much as you want up to the \$10,000.00 match. This would be a way to leverage the money that we donate. People are more receptive to giving what they can.

Commissioner Chesnut stated that the Laramie Rivers Conservation District money is not restricted to any one part. This is an important link to the community. With all the areas being constructed out here in the Courthouse and those on South 3rd, it will bring the same vision in branding Laramie. He also stated "if you build it, they will come."

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to APPROVE the Consent Agenda as follows: APPROVE the Minutes of the December 30, 2008 Special Meeting, the January 20, 2009 Regular Meeting and the January 22, 2009 Special Meeting of the Board; ACKNOWLEDGE RECEIPT of the January 27, 2009 Agenda of the Albany County Public Library Board of Directors; ACKNOWLEDGE RECEIPT of the MINUTES from September 11, 2008 and December 30, 2008 and the January 22, 2009 AGENDA of the Wyoming Association of Risk Management Property Insurance Joint Powers Board; ACKNOWLEDGES RECEIPT of the BALANCE SHEET as of December 31, 2008, the July through December 2008 INCOME STATEMENT and the July 2008 through June 2009 BUDGET VS. ACTUAL REPORT from the Wyoming Association of Risk Management Property Insurance Joint Powers Board; APPROVE the following Zoning Certificates; ACKNOWLEDGE RECEIPT of CORRESPONDENCE directed to the Board.

Doug Bryant, County Planner spoke regarding the amendment to the Zoning Regulations which would provide for “neighborhood businesses” in a Residential Zone by Conditional Use permit. There was a project that worked its way through the pipeline in Centennial. It was a coffee shop that was to go into a residential area. The residents wanted the coffee shop but they did not want to open the door for other businesses like gas stations. This is where the Planning & Zoning Commission started with this and could open the door for some of these small residential businesses. This is a small amendment to the Zoning Regulations.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to APPROVE the following amendment to the Zoning Regulations: Chapter IV, Section 4 – Conditional Uses add “Neighborhood business” Chapter II, Section 3 – Definitions add: Neighborhood Business. A commercial area within a Residential zone parcel, generally located adjacent to a public road, which provides convenience goods and services.

Doug Bryant, County Planner then spoke regarding an amendment to the Zoning Regulations relating to automatic rezoning of agriculture land to residential when subdividing. Right now if you go through the subdivision process starting with agriculture land it automatically changes to residential after the subdivision passes. The procedure itself automatically changes it to residential. The proposed amendment would repeal existing language and create new language which would terminate existing procedure whereby Agriculture zoned land is automatically rezoned Residential land upon subdivision. The Albany County Planning and Zoning Commission on November 12, 2008 approved the amendment.

Chairman Sullivan inquired as to what the process is right now to get zoning changed from agriculture to residential. Mr. Bryant said that the process is to have public meetings and

then go through the Planning and Zoning Commission and follow all the notice requirements. Then it would come before the Board to be approved and then the process of the subdivision can start. There are also publications that come from the County and a certified notice and signage goes through the developer.

MOTION was made by Commissioner Gabriel, seconded by Commissioner Chesnut and unanimously carried to APPROVE the following Amendment to the Zoning Regulations relating to automatic rezoning of agriculture land to residential when subdividing:
Zoning Resolution, Chapter V, Section 5 – Rezoning of Agricultural lands.

Note: Land use classifications shall comply with the definitions listed in Chapter II, Section 1. Any classification of land as Agriculture for land use/zoning purposes does not affect whether the property is classified as agriculture for ad valorem taxation purposes.

MOTION was made by Commissioner Gabriel, seconded by Commissioner Chesnut and unanimously carried to TABLE the Amendment to zoning regulations to nuisance violations and send back to the Planning and Zoning Commission for further review.

David Gertsch, Assistant Planner gave a little bit of background on the Comprehensive Plan. He stated the need for development that is growth efficient that is served by police, ambulance, fire and also those with public utilities. He stated there are growth areas defined in the Comprehensive Plan. Primary Growth Area 1 is around the City and is defined by the City Comp Plan and is those areas where services will be able to reach. Primary Growth Area 2 are those areas that are currently water and sewer districts and currently have centralized water. Primary Growth Area 3 are those areas that have schools, fire stations or public utilities such as Harmony. The Albany County Planning and Zoning Commission are recommending that Valley View be removed from the Comprehensive Plan as a Priority Growth Area (PGA) 3 due to the lack of existing residential development. They felt that future development should not be encouraged in this area. The Planning and Zoning Commission also recommended the definitions of Agricultural and Rural Residential land uses be modified to avoid the further subdivision 35 acre tracts of land that are presently not growth efficient. Many of the areas that have in the past been divided into 35 acre parcels are not near public service, residential development, utilities, etc. If the land use definitions, as they currently are in the Comprehensive Plan, are applied for future zoning of the County, this would allow 35 acre tracts to be split into 5 acre parcels, which would be denser than in practical for areas not designated a PGA 1, PGA 2 or PGA 3. The following amendments to the text of the Comprehensive Plan are as follows:

3.5.3 Priority Growth Area 3 (PGA) 3: Community Centers and Growth-Efficient Nodes
Existing PGA 3 community center include:

Woods Landing, Tie Siding, Harmony and Albany

3.6 Land Uses

Agricultural (A): (35 acres or greater);

Rural Residential (RR) (1du/5-34.9 acres):

Amend the Comprehensive Plan Maps as follows:

Remove Valley View as a PGA 3 from Map 3.8, Map 3.9 and Map 3.10.

Chairman Sullivan stated at upon approval of this it would include removing Valley View from primary growth area 3 and defining agriculture as 35 acres or more and rural residential as 5-34.9 acres.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to APPROVE the above stated Amendments to the Albany County Comprehensive Plan.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to UNTABLE Albany County Wind Energy Regulations.

David Gertsch, Assistant Planner, said the item was tabled on January 6, 2009 and stated he would discuss the issues that were brought up at that time. Three different alternatives have been prepared regarding the noise issue:

1. Allow for noise to be up to 55 dba as measured along any property line.
2. Allow for noise to be up to 55 dba from any residence or primary structure.
3. This alternative is similar to the first but adds an exemption for the property which the project is on if it is around federal or state lands.

The planning staff really recommends the first but do not have any objections with the third.

The issue with financial assurance is being addressed with three alternatives:

1. 100% needs to be up front at time of application and that of decommissioning costs.
2. 50% of the cost upfront at application and rest due at year five of the project.
3. 100% of the cost is due at year five. Some background on this is that most require the costs later on in the process; however we do recommend it up front when we have the best ability to get the money.

The issue of who is exempt because industrial siting is requiring wildlife impact studies is also questionable. This is not something that our staff recommends but that some do. All we require is that we get a Game and Fish review of the studies they have done.

Chairman Sullivan recommends we adopt our county regulations first. We would follow the same guidelines and regulations. It would be a mirror image of their regulations.

Dave Gertsch, Assistant Planner would work with Game and Fish to get the information needed. The amendment would be nothing more than they would ask for. It would be providing information to us.

Jerry Kennedy said he would favor the noise level at a primary residence rather than at the property line. A lot of those places may never have residence within that decibel level. If you cut back that noise at the property line, you cut back on those generators and income of \$7,500.00 to \$14,000.00 for the landowner and tax revenue of around \$20,000.00 for the County per year.

Chairman Sullivan said that all of sudden someone buys that property and that is there scenic view and they want to build their dream home. If there is some kind of compensation for the adjoining landowner for in the future, it may make it easier to deal with the issue.

Karyn Coppinger said that Jerry Kennedy made the point she wanted to make about noise. The problem with this noise ordinance is that it would make turbines go away and it would also hurt the revenue stream for the adjoining landowner and for the County. That being said, we feel that doing a waiver would be amicable. Have the nonparticipating landowner sign a waiver would be recorded so anyone that has anything to do with the land would know about the waiver that was signed. It is important that alternative three be added to number one so it would not apply to state and federal lands, because we are always bumping up to those lands. The combination of one and three would be great, alternative number two is preferred. We are still opposing the financial assurance at the time of application. We still have a lot of studies to do at the start and it places undue burden on the project when we have nothing there to protect. What I am hearing is that the permit is the hook and without the financial assurance we won't get the permit. We applaud the 100% assurance instead of the 145%. We would like to see decommissioning at a different time such as after construction not at the time of the permit application. The weed regulation says that you control noxious weeds within the area and 5 years after completion of the project. We feel that we should only have to control the weeds that we cause. Each turbine actually only takes up $\frac{1}{4}$ to $\frac{1}{2}$ of an acre. That equals to only about 50 acres of disturbance total. The footprint is actually really small. We use huge amounts of land to build although we only occupy a small amount.

Randy Gardner, Ridge line Energy spoke about the couple of proposed wind farms in the area. We are looking at protecting Albany County for what it is and what it needs to be. When we go to sell the power to the municipality we are looking at people to buy power for 20-40 years. When we go out to sell the power, we have to have county approval and having the money up front slows down the process. We would like to see decommissioning at the time of construction because if we have to have it at the time of permitting, it causes us pause and a significant chunk of change when we go to do the building.

David Evans from Hickey and Evans, representing PacifiCorp who is currently building a wind farm near Arlington informed the Board that they have been through this process and have tried to consider the different counties regulations. I use to be on the Industrial

Siting Council when they were going through recommended changes and how you go through page by page. We have great cooperation from the Planning Office and we look forward to working with them in the future. They have incorporated a lot of what we want to see and we have agreed to disagree on many items. Some of those we are not going to ask you to make changes to and we will work them out in the development. Generally it seems like it is consistent with the Comprehensive Plan and because it is too much jurisdiction by state agencies, such as game and fish. We think generally an applicant should report to the county about meeting the regulations of other agencies. We think we can work it out, but generally we are concerned about the permit being revoked. We prefer Natrona County's approach. They turn it over to the County Attorney to go to court. We have changes to jurisdiction for regulated utilities. They are governed by Public Service Commission and are monitored on a monthly annual basis for financial stability. The Public Service Commission sets the rates that can be charged and then works into their rate of return. Conflicting regulations are a more serious problem. We believe that regulated utilities should be exempt from decommissioning. Financial assurance should not apply to regulated utilities because we are already governed by the Public Service Commission. The first regulation we would like to have changed is that we would like decommissioning at 100% and to not apply to regulated utilities. We would like to see it at 36 months because the turbines may not turn for many months. We would also like this to be exempt. The weed issue should be taken care of on property that we have disturbed. This is when weeds will most likely occur. We get a little nervous on the road situation. There is a lot of impact on County Roads and the county should be protected by this. This should apply to all roads for access and what will be used. We want to make sure that the county is not hurt by road damage. We have done a lot of work with the planning department and some are big issues that will not be changed so they will stay consistent. I appreciate all the work you all go through.

Cheri Frank, Planning and Zoning Commission Chair stated that they would like to clear up with the Commissioners as to what is before them all today. I want to know if this is what the Planning and Zoning Commission had and if those are staff recommendations. We are prepared to take it back.

Commissioner Chesnut feels we need to give staff some direction as to what the Board is wanting. I would like to see alternative two, the 50/50 option. I think that the language on the weed issue should be where the disturbance is. Financial assurance would be into effect at the time of construction.

Chairman Sullivan said a waiver is a good option and where the public utilities are concerned the decommissioning should not be applied because they are regulated by the Public Services Commission.

Chairman Sullivan has stated that we need to have a joint meeting with Planning and Zoning. They turn to the County and the Game and Gish to see if they have met the requirements.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to TABLE the Albany County Wind Energy Regulations and send back to the Planning and Zoning Commission for further comment and review.

Doug Bryant, County Planner said that we have had some close calls over the last 7 years, but this is the first time a staff interpretation has come this far. We are all familiar with the phrase "those who maintain" which was adopted back in May 2003. Commissioner Chesnut and Gabriel are probably familiar with the discussion of the concept with a subdivision and the use of someone else's road that was previously maintained. There is an agreement between the landowners and those who maintain the road. This issue has come up in the Goose Creek Subdivision which is 2 small subdivisions off of Highway 130. It branches off onto Cloudland Road, which would be the access road and is privately maintained by those who live there. The applicant for the subdivision has not been able to come into an agreement with those who maintain the road.

Chairman Sullivan stated that all subdivisions coming off of a public road should in the future create a road improvement district. Therefore we would have a taxing authority and all landowners and future landowners would have to pay an annual assessment and have all rights to the road.

Greg Weiss, Attorney with Pence and MacMillan representing Mr. and Mrs. Patrick and Mr. and Mrs. Crow spoke to the Board regarding two basic problems with the staff interpretation and the related issue that has prevented his clients from going forward. My clients went into a road maintenance agreement with Hamaker Excavation for maintenance on the road where the subdivision would take place. This was so my clients would bear the cost of the extra travel on the road. This agreement is legally signed, executed and recorded in the Real Estate Department. The issue that Mr. Bryant keeps going back to is those who have historically maintained the road. This statement is not in the regulations. The status of the road is the purpose of the road maintenance agreement to see that the cost of increase is borne on those who are subdividing. Cloudland Road is essentially a private road. The question is who owns the road. It is those who own property that fronts the road. Up until now the road maintenance agreement that my clients have is the only recorded document for this road. This agreement ultimately shields the landowners of the cost of taking care of the road. I am afraid that past road maintenance agreements have been handled inappropriately. I do not know when the road was formed and I do not believe that it applies to this situation. The other situation is that my clients' application was deemed incomplete before the January 14th meeting. After further protest and complaints made to

the County Attorney, the only course was to appeal to Mr. Bryant's interpretation. Immediately after my clients' application was deemed incomplete, another similar road situation was brought up and all parties to this were heard by the Board. I feel that my clients should have had the same opportunity as those other people did. They wanted to be heard and I believe that other landowners would have liked to be heard to. I feel that my clients' application was handled inappropriately and it should be taken back to the Planning and Zoning Commission and not to the County Planning staff.

Doug Bryant, County Planner said this was a difficult situation. It was set for the agenda even though there was no road maintenance agreement at the time of the meeting. Staff and County personnel did arrive at the conclusion that it was incomplete because of the absence of a road maintenance agreement. What eventually grew out of this is that it was the disagreement of who maintains the road. I do concur with staff interpretation and with the Planning and Zoning Commission which did vote to agree with staff interpretation. I do believe that Mr. Weiss' clients do have a right to use the road. I do not know that in the easement there is anything that talks about subdivisions and increased road use. The last thing is the use of the word who has historically maintained the road. Mr. Weiss has used the phrase who is going to be using the road. As I mentioned earlier, we have used this interpretation from 2003 to current and it has worked for other subdivisions. I feel that this is a unilateral agreement between the people who are subdividing and a 3rd party company. It does not explain about what they will really do and it does not involve the people who are currently maintaining the road.

Chairman Sullivan asked what the fundamental flaw is that it is a unilateral contract that does not involve those who maintain the road.

Doug Bryant, County Planner said it is not our authority to say that snow removal and grading needs to be included in the agreement. The agreement needs to be notarized, recorded and should include all parties that have an interest in the road.

Keysa Gotschall, owner of lots 1 and 10 on Cloudland Road reminded the Board that the item was tabled because of the absence of a road maintenance agreement. We the people who live out on Cloudland have not heard from Mr. Weiss' clients about getting together and talking about a road maintenance agreement. We do have a covenant and a homeowners association. The tract owners bear the cost of the road. We maintain the road every 6 months and any changes has a 2/3 vote of all owners on Cloudland. We do have a road maintenance agreement filed on July 13, 1988 which the tract owners filed. Presently Shawn Fletcher takes care of our road and not long ago they tried to trick him into signing an agreement. We have talked with Hamaker Excavation and they were not aware of the road maintenance agreement that Mr. Weiss's clients had and would like out. It was a one-

time maintenance of the road. Once again they have 1 tract that has already been subdivided. All of the tract owners now have no less than 20 acres.

Mr. Weiss stated that we have just observed here what my clients have been dealing with. The covenant does not apply to my client. It is being used to stop my clients from subdividing their land.

Commissioner Gabriel asked if there is anyway all parties can get together and work up a road maintenance agreement. No attempts have been made from what we have heard.

Mr. Weiss said that he is willing to get together with the landowners but not to engage in negotiations with them. I will sit down and try to come up with an agreement that works for both parties. It has to be a good faith effort on both sides.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to DENY the appeal of staff interpretation relating to a road maintenance agreement and encourage the parties to get together and work up a road maintenance agreement.

Doug Bryant, County Planner stated that there have been occasions that staff may have made recommendation for denial but the developer was still able to take the application to Planning and Zoning and even the Board upon developer's request. This is an issue aside from this particular application and should be discussed between staff, Board and Planning and Zoning.

Commissioner Chesnut encouraged all parties to come together and not to be as hateful as before.

Marianne Viner, Public Health Director was present to present Amendment Number One to Grant Award Agreement for the U.S. Department of Health and Human Services, Public Health Preparedness and Response for Bioterrorism, Wyoming Department of Health and Albany County Public Health Nursing Services from October 1, 2008 through September 30, 2009 to add funding in the amount of \$2,000 to attend an international Public Health conference which will help with reimbursement of travel costs. MOTION was made by Commissioner Gabriel, seconded by Commissioner Chesnut and unanimously carried to APPROVE Amendment Number One to Grant Award Agreement as stated above.

Sheela Schermetzler, Grants Coordinator gave a brief synopsis of the Business Ready Community Grant that was approved by the Wyoming Business Council and State Land and Investment Board for Pete Lien and Sons, Inc. and stated that due to circumstances

Pete Lien and Sons, Inc. is not able to commence at this time and is requesting support to secure a twenty-four month extension (September 2008 through September 2010).

Scott Landguth, on behalf of Pete Lien & Sons informed the Board that they have had a number of delays because of the size of the project and the ongoing credit crunch. They are still on track for the permitting and are trying to extend the grant so to start construction in the spring of 2009. Scott indicated that there are number of pieces that are on some delay because of ordering. Commissioner Chesnut asked what input the SLIB staff had. Sheela Schermetzler said that she contacted them through e-mail and they have some concerns. They indicated that a new timeline should be submitted as to when the project will be done. We need to look at job projections, investments, WYDOT involvement with road construction and the County's willingness to be comfortable with the grant. I have not heard of any other red flags. I think it could affect future projects but we do have another outlet and that is to refer those projects to the City. MOTION was made by Commissioner Gabriel, seconded by Commissioner Chesnut and unanimously carried to APPROVE support and assistance from the Albany County Commissioners to secure a twenty-four month extension (September 2008 - September 2010) from the Wyoming Business Council and State Land and Investment Board for Pete Lien & Sons, Inc. Business Ready Community Grant.

Sheela Schermetzler, Grants Manager spoke on behalf of a Reimbursement Agreement by Pete Lien & Sons, Inc., and said this is a reimbursement agreement for another grant that is linked with this Business Ready Grant which is called an Industrial Road Project Grant. It is a one million dollar grant to be matched with another one million dollar grant and is coming from the Business Ready Community Grant. Up to this point we have not had an agreement from Pete Lien on the payment of those expenses. This particular agreement is to tie up all those loose ends. I am trying to protect the County where we get in the position of owning money on this grant.

Jim Schermetzler, Deputy County and Prosecuting Attorney asked whether the agreement had an amended Paragraph I D which states "The parties contemplated at the time the *Development Agreement* dated July 24, 2007, was executed that this Reimbursement Agreement would be entered into between the parties. The parties now wish to memorialize their understanding regarding reimbursement through the execution of the Reimbursement Agreement." Chairman Sullivan indicated no. Mr. Schermetzler does not want what the Commissioner's have because it is not the final version. The paragraph D that the Board has talks about the extension for 24 months that was handled in the previous action of the Board. What we have now is the recitation that the parties contemplated back when we did this in '07 that there would be a reimbursement agreement in effect holding the County harmless in the event that there were expenditures that aren't covered by the grant or the grant doesn't go through and that's what's important so that was the idea. When we met with the Pete Lien people several months ago Tim Chesnut was present at that meeting, one

of the things that we talked about was the fact that this reimbursement agreement had not been documented and there was some question whether it had been and it hadn't. The only thing different is this item **I D. MOTION** was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to **APPROVE** the Reimbursement Agreement by Pete Lien & Sons, Inc., in favor of the County of Albany, State of Wyoming (County) as proposed with **I D** as stated above.

Sheela Schermetzler, Grants Manager informed the Board on the Emergency Insect Management Program Grant Application to the State of Wyoming, Department of Agriculture. She stated that this is a continuation of an annual grant we have had since 2004. It is a popular grant with the Mosquito Districts, the City and the County that provides a lot of education regarding the West Nile Virus. This is the best bang for our buck and in the last year, we have not had any cases of West Nile Virus in the County. The money goes directly to the districts. We have had a couple of incidences but not like other places in the state. **MOTION** was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to **APPROVE** Emergency Insect Management Program Grant Application to the State of Wyoming, Department of Agriculture, in the amount of \$53,167.00 with a grant match of \$55,419.00 totaling \$108,586.00.

Rob Fisher, Road and Bridge Foreman, spoke about the bid process for the replacement of the 1956 Low Boy and had a bid opening on January 21st. Three bids were received and he recommends going with the low bid from Peterbilt of Wyoming because it met all specs. **MOTION** was made by Commissioner Gabriel, seconded by Commissioner Chesnut and unanimously carried to **AWARD** the bid for the new 50 ton, level deck, folding gooseneck trailer to Peterbilt of Wyoming – Cheyenne in the amount of \$71,800.00.

Mike Osterman, Road and Bridge Superintendent informed the Board that a potential vacation of the following road easement in Section 21, Township 16 North, Range 73 West has been requested. He stated that this easement is north of town on PFE road and it cuts through the blue line. There has never been a road there and nothing has ever been done. I need direction from the Board as to what they would like to do. Richard Bohling, Albany County and Prosecuting Attorney mentioned that the County normally just gives up roads. **MOTION** was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to direct Mike Osterman, Road and Bridge Superintendent to **PROCEED** with a process of vacation of the following road easement in Section 21, Township 16 North Range 73 West.

Randy Vickers, Emergency Management Agency Coordinator was present to discuss a grant application from FEMA for an Emergency Operating Center. The present operations for the County are not adequate. We need a place with our own command functions. It has been

on the radar now for about 5-6 years but there has been little or no funding since Katrina. We have considered putting this in the new West Laramie Fire Station. It is desirable for us to have communications west of the corridor because all other locations are east of the interstate. We know there is a small window of opportunity in FEMA grants and a very small window on construction of the West Laramie Fire Station. The county is the first step. The match will come from the E-911 funds. We have expended funds to equip LARC and consoles for the next 2 years. There will be a tower at the fire station. I don't have numbers for the tower but I do have solid numbers for the communications equipment. County IT will be doing all of the installing. Rodney Weakly would prefer a microwave and can backhaul using them. What this will do is add a basement to the fire station.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to APPROVE Resolution authorizing the submittal of a Federal Emergency Management Agency, (FEMA), Emergency Operating Center (EOC) grant by the Albany County Emergency Management Coordinator in an amount not to exceed \$1,000,000, (one million dollars) and requiring a match not to exceed \$250,000.

Jackie R. Gonzales, County Clerk informed the Board that the renewal of County liquor licenses will be coming up soon and that an increase in advertising has not been considered since 1997. Ms. Gonzales indicated she was not asking for an increase in the cost of the liquor license, just the advertising. Currently the County collects an advertising fee of \$35.00 with the average cost for advertisement being \$186.00. In order to consider the proposed change, a request to advertise under the Administrative Procedures Act was requested with the change of advertising to be borne on the applicant. MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to DIRECT the County Clerk to advertise under the APA to hold a public hearing to receive comments on the proposed increase of advertising fees.

Jackie R. Gonzales, County Clerk said we are at the end of our 3 year contract with our auditors and with the assistance of the County Attorney and the County Treasurer would like to prepare a Request for Bid to have awarded at the Board's May meeting. MOTION was made by Commissioner Chesnut, seconded by Commissioner Sullivan and unanimously carried to GRANT PERMISSION for the County Clerk with the assistance of the County Attorney and the County Treasurer to prepare Request for Bids for Auditing Services to be awarded at the Board's May meeting.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Sullivan and unanimously carried to APPOINT Pete Burns to the Albany County Weed and Pest Control District for a four year term to expire January 2013.

MOTION was made by Commissioner Chesnut, seconded by Commission Gabriel and unanimously carried to ACKNOWLEDGE RECEIPT of Letters of Resignation from Jim Thompson and Rob Fisher, Members of the Laramie Planning & Zoning Commission and DIRECTED the Clerk to advertise the unexpired terms. Commissioner Chesnut thanked both men for serving on this board.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to APPOINT Roland Kidwell to the Economic Development Joint Powers Board for a three year term to expire February 2012.

MOTION was made by Commissioner Gabriel, seconded by Commissioner Chesnut and unanimously carried to DENY the claim from Snowy Range Cattle Company.

Deborah Roden, Attorney with Woodhouse and Roden was present on behalf of her client Tiffany Reed. She spoke briefly about what has happened in the last year regarding the Starry Point Subdivision Preliminary and Final Plats. Over a year ago my client met with Mr. Bryant and planning staff to get her application for what the planner said was a small subdivision application. She completed the application per the help of the planning staff. Upon completion of the application, her client's application was then looked at by the Planning and Zoning Commission on December 10, 2008. At the December 10th meeting the Planning and Zoning Commission made a recommendation of denial because of a lien that was placed on the applicant from the Nine Mile Water and Sewer District. This application was then brought to the Board of County Commissioners meeting on January 6, 2009 where the County Commissioners asked about the 45 day period and when it would start. Your County Attorney, Richard Bohling, wisely informed you that the 45 days started on December 10th and the days are ticking. The Board then decided to send it back to Planning and Zoning and then come back to the Board within the 45 day period to make their recommendation. On January 14, 2009 the Planning and Zoning Commission met and had new findings and still found this application to be incomplete. Whether the Planning and Zoning finds this application to be complete or incomplete, Wyoming Statute still puts the ultimate decision on the Board of County Commissioners. The law is clear and if you follow your own Rules and Regulations, this application should be deemed approved because you failed to make a ruling within the 45 day period. I know that following the rules is not always easy and a lot of times you are not popular because of it but at the end of the day, it is the right thing to do. Everyone should be treated the same and they will be if you follow your own Rules and Regulations. In Chapter 4, Section 5 of your Subdivision Rules and Regulations the Planning Staff and the Planning and Zoning Commission just make recommendations. They do not make the decisions that are ultimately up to the Board of County Commissioners. Ultimately the 45 day period has lapsed and this subdivision shall be deemed approved.

Commissioner Gabriel asked Ms. Roden if she could please clarify in her opinion when the 45 day period started.

Ms. Roden said that at the December 10, 2008 meeting of the Planning and Zoning Commission, they made the recommendation to the Board; therefore the 45 day period shall start. This was also confirmed at the January 6, 2009 meeting of Board of County Commissioners, when discussion was held about when the 45 day period should be. I feel that no action was taken within the 45 day period and my client's application for a subdivision shall be approved.

Mason Skiles, Attorney for the Nine Mile Water and Sewer District stated that the applicant has not made any effort to complete this application. Many things would have been different if the applicant would have made more effort to meet the requirements of the application. I do not believe that the 45 day period is up and I disagree with Deb Roden.

Doug Bryant, County Planner said he does agree with Ms. Roden, that we need to follow our own Rules and Regulations. Section 3 of the Subdivision Regulations says that it must be a completed application. This may be the question, whether the application is complete or not. Section 4 of the Subdivision Regulations, states that the 45 day period starts when the Board of County Commissioners is in receipt of the report from Planning and Zoning. The two points I want to bring up are 1) is it a completed application and 2) should we be talking about the 45 day period and if so when does that time start. If you go by when the Board was in receipt of the recommendation, it would be from January 6th and that would give the Board until February 20th to make their decision.

Deb Roden made a couple more comments. My client has made efforts for 1 year. She has worked with planning staff and also went forward with the Planning and Zoning Commission. Mr. Bryant raised two points. The first being, is it a completed application. Yes, the Preliminary and Final Plats have been approved and we have put a request in for permits. The second point is when does the 45 day period start? Your County Attorney discussed at the January 6th meeting that it was from December 10th that the 45 day period would start. There was no objection from the Planning Staff at this meeting that January 24th would be the end of the 45 days. The Board of County Commissioners' ultimately makes the decision to approve or deny the application. The Planning staff and Planning and Zoning Commission are there to solely make recommendations to the Board. I submit that on the January 6th meeting everyone was in agreement that December 10th was the day that the 45 period would start; it does not say anything about a completed application. The 45 days has lapsed and my client's applications shall be deemed approved.

Cheri Frank, Planning and Zoning Commission stated that they did not have findings at the December 10th meeting. I thought we did but upon further listening of the meeting we

talked about it but never put it in the motion. She apologized for not attending the January 6th meeting where she could have explained more about what the Planning and Zoning Commission findings were. I was under the assumption that the clock was not ticking on this and evidently we were misinformed.

Richard Bohling, Albany County and Prosecuting Attorney said that upon receiving the recommendation, the Board of County Commissioners, has 45 days to take action. Number one, if this application was incomplete, it should never have been put in front of the Planning and Zoning Commission. Ultimately if the Board would like to interpret it as the day you acknowledge receipt of the recommendation, it would be from the January 6th meeting. MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to DENY the Starry Point Subdivision Preliminary and Final Plats due to an incomplete application.

Commissioner Gabriel reported to the Board that due to lack of space for the public, the office that was in the Commissioner's room will be taken out. A contractor has given me an estimate of \$1,000 with Garland Woods, Building Superintendant to help. RC Electric has done some work and the contractor will work on weekends to get this done and not disturb the County Attorney staff. If anyone has any recommendations, please let Pat know.

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to APPROVE Vouchers for January 2009 and directs the County Clerk to assign a voucher number to the following vouchers, signature stamp each voucher and to cause warrants to be issued in payment of each such account to wit: **GENERAL AND SPECIAL REVENUE EXPENDITURES:** 70115, UNITED STEEL BUILDING, \$64591.49, FABRICATION DEPOSIT; 70122, BLOEDORN LUMBER, \$112.87, BUILDING MAINTENANCE; 70126, MATTHEW CASTANO, \$1000.00, CONTRACT SERVICES; 70129, CLARK ENTERPRISES, \$2149.60, SUPPLIES; 70130, CLIMB WYOMING, \$4545.39, DECEMBER 2008 PAYMENT; 70131, CHRIS D'AMICO, \$127.53, MILEAGE; 70139, FIRST DATA MERCHANT SERVICES, \$274.50, MONTHLY FEES; 70161, LARAMIE OXFORD HOUSE, \$525.00, RENT; 70174, BETH MULLINS, \$49.36, MILEAGE; 70203, WALMART, \$37.46, OFFICE SUPPLIES; **COMMISSIONERS:** 70162, LAUER LAW OFFICE, \$277.78, HEARING OFFICER; 70173, CARRIE MOSES, \$70.00, RECEPTION CAKE; 70183, PLAINSMAN PRINTING, \$710.63, RECORDER BINDER; **GENERAL ACCOUNTS:** 70113, WYOMING DEPARTMENT OF TRANSPORTATION, \$565.00, COUNTY PLATES; 70124, BRESNAN, \$105.20, UTILITIES; 70128, CITY OF LARAMIE, \$1746.39, UTILITIES; 70132, DOOLEY OIL, \$1061.10, FUEL; 70141, GE CAPITAL, \$4653.00, COPIER LEASE; 70177, NATIONAL BUSINESS SYSTEMS, \$3300.00, POSTAGE; 70182, PITNEY BOWES, \$261.50, POSTAGE; 70187, ROCKY MOUNTAIN POWER, \$7723.30, UTILITIES; 70195, SOURCE GAS, \$4980.39, UTILITIES; 70199, TOWN OF ROCK RIVER, \$66.50, UTILITIES; **COURTHOUSE:** 70116, ACE HARDWARE, \$11.88, BUILDING SUPPLIES; 70119, ALSCO,

\$129.25, CLEANING SUPPLIES; 70155, KMART, \$170.79, SUPPLIES; 70156, KONE, \$945.54, ELEVATOR CONTRACT; 70189, SAMS CLUB, \$446.30, BUILDING SUPPLIES; **CLERK:** 70164, LINCOLN PRINTING, \$154.09, PRINTED ENVELOPES; **GRANTS:** 70203, WALMART, \$9.98, OFFICE SUPPLIES; **ELECTIONS:** 70134, ELECTION ADMINISTRATION, \$219.00, SUBSCRIPTION; 70135, THE ELECTION CENTER, \$300.00, DUES; 70164, LINCOLN PRINTING, \$154.09, PRINTED ENVELOPES; **IT:** 70204, RODNEY WEAKLY, \$601.05, TRAVEL & MILEAGE; **TREASURER:** 70175, NADA APPRAISAL GUIDES, \$154.00, DUES; 70191, LINDA SIMPSON, \$106.70, TRAVEL & MILEAGE; 70196, SOURCE OFFICE PRODUCTS, \$53.81, OFFICE SUPPLIES; 70206, WESTERN WATERWORKS, \$40.00, MAINTENANCE EQUIPMENT; **ASSESSOR:** 70197, STATE OF WYOMING A&I, \$10.00, STATE ACCESS FEE; **SHERIFF:** 70149, HOLLAND CLEANERS, \$133.85, UNIFORM EXPENSE; 70150, HSBC BUSINESS SOLUTIONS, \$120.84, AUTO EXPENSE; 70157, CHRISTOPHER KONIJA, \$56.07, SEARCH & RESCUE; 70160, LARAMIE GM AUTO CENTER, \$41.04, AUTO EXPENSE; 70169, MODERN PRINTING, \$121.00, OFFICE SUPPLIES; 70176, NAPA AUTO PARTS, \$291.00, AUTO EXPENSE; 70185, PUBLIC SAFETY CENTER, \$186.57, INVESTIGATIONS; 70188, ROCKY MOUNTAIN INFORMATION, \$150.00, OFFICE SUPPLIES; 70194, SNOW TRANSPORT SPECIALIST, \$594.15, SEARCH & RESCUE; 70206, WESTERN WATERWORKS, \$40.00, OFFICE SUPPLIES; **DETENTION:** 70116, ACE HARDWARE, \$44.96, DETENTION SUPPLIES; 70136, FALCON LABORATORIES, \$830.04, DETENTION SUPPLIES; 70140, FORTMANS PAINT & GLASS, \$222.46, DETENTION MAINTENANCE; 70146, HAWKINS COMMERCIAL, \$24.30, DETENTION MAINTENANCE; 70169, MODERN PRINTING, \$283.87, DETENTION SUPPLIES; 70185, PUBLIC SAFETY CENTER, \$199.57, DETENTION SUPPLIES; 70210, WYOMING LAW ENFORCEMENT ACADEMY, \$250.00, TRAINING; 70212, WYOMING RETIREMENT SYSTEM, \$239.85, REHIRED RETIREE FEE; 70213, ZEP MANUFACTURING, \$129.87, DETENTION SUPPLIES; **ATTORNEY:** 70123, RICHARD C. BOHLING, \$107.80, MILEAGE; 70153, CHRISTY JESSE, \$101.89, TRAVEL & MILEAGE; 70179, OFFICE DEPOT, \$390.10, OFFICE SUPPLIES; 70189, SAMS CLUB, \$206.66, OFFICE SUPPLIES; 70203, WALMART, \$36.26, OFFICE SUPPLIES; **INTERGOVERNMENTAL:** 70121, ARTECH SERVICES, \$5136.93, JAIL ENDOWMENT; 70181, PEAK WELLNESS CENTER, \$916.74, SERVICE AGREEMENT; **PLANNING:** 70117, SUSAN ADLER, \$380.00, JANITORIAL SERVICES; 70145, WILLIAM GRAY, \$440.00, SPECIAL PROJECTS; 70168, MODERN PRINTING, \$14.58, OFFICE SUPPLIES; 70206, WESTERN WATERWORKS, \$12.50, OFFICE SUPPLIES; **ENGINEERING:** 70142, GORMAN ENGINEERING, \$16575.13, ENGINEERING PLANNER; **CORONER:** 70114, MANDI ZARUBA, \$157.00, CONTRACT SERVICES; 70144, JENNIFER GRAHAM, \$121.31, TRAVEL & MILEAGE; 70172, MONTGOMERY STRYKER, \$1500.00, BURIAL; **COOPERATIVE EXTENSION:** 70120, AMERICAN SOCIETY OF ANIMAL SCIENCE, \$135.00, SUBSCRIPTION; 70186, RELIABLE CORPORATION, \$109.18, OFFICE SUPPLIES; 70203, WALMART, \$17.95, OFFICE SUPPLIES; **CLERK OF COURT:** 70165, KENNETH E. MARCUM, \$100.00, TRAVEL EXPENSE; 70170, MODERN PRINTING, \$30.99, OFFICE SUPPLIES; 70180, OFFICE MAX, \$114.73, OFFICE SUPPLIES; **DISTRICT COURT:**

70190, SCHILLING, WINN & INGRAM, \$2596.25, LEGAL SERVICES; **DRUG COURT:** 70159, LARAMIE COUNTY COMMUNITY COLLEGE, \$285.50, PARTICIPANT INCENTIVE; 70184, PSYCHOLOGY CLINIC, \$7666.66, CONTRACT SERVICES; 70203, WALMART, \$118.26, PARTICIPANT INCENTIVES; 70206, WESTERN WATERWORKS, \$40.00, OFFICE SUPPLIES; **ROAD & BRIDGE:** 70119, ALSCO, \$268.36, SAFETY CLOTHING; 70133, DRIVE TRAIN, \$6.98, VEHICLE REPAIR; 70137, FAT BOYS TIRE, \$300.86, VEHICLE REPAIR; 70152, J&S CONTRACTORS, \$1215.60, HEAVY EQUIPMENT REPAIR; 70158, LARAMIE AUTO PARTS, \$85.71, HEAVY EQUIPMENT REPAIR; 70163, LAWSON PRODUCTS, \$305.21, SHOP EQUIP/MAINT; 70193, SNAP ON TOOLS, \$113.30, SHOP EQUIP/MAINT; 70200, TRUE VALUE, \$28.59, HEAVY EQUIPMENT REPAIR; 70211, WYOMING MACHINERY, \$52.00, HEAVY EQUIPMENT REPAIR; **PUBLIC HEALTH:** 70170, MODERN PRINTING, \$255.00, OFFICE SUPPLIES; 70171, LOU ANN MONTGOMERY, \$51.15, MILEAGE; 70192, AMANDA SLUSS, \$1.65, MILEAGE; 70202, MARIANNE VINER, \$12.65, MILEAGE; 70205, WESTERN CARPET CLEANING, \$885.00, JANITORIAL SERVICE; 70207, KRISTEN WINEGAR, \$30.00, LT101 CASES; **WIC:** 70151, DENISE IVEY, \$59.45, CLINICAL SUPPLIES; 70167, MMS, \$21.81, CLINICAL SUPPLIES; **1% SALES TAX:** 70124, BRESNAN, \$94.95, COMPUTER REPLACEMENT; 70143, GFOA, \$147.00, REGISTRATION FEES; 70147, HEWLETT PACKARD, \$7390.00, COMPUTER REPLACEMENT; 70177, NATIONAL BUSINESS SYSTEMS, \$2595.37, PROGRAMMING; 70178, NATIONAL DISTRICT ATTORNEY'S ASSOC, \$595.00, REGISTRATION; 70204, RODNEY WEAKLY, \$470.96, COMPUTER REPLACEMENT; **MCH/TANF:** 70125, APRIL BROWN, \$11.55, MILEAGE; 70127, LORIE CHRISTY, \$5.50, MILEAGE; 70148, KAROL HODGES, \$283.45, MILEAGE; 70154, ANNE JOHNSON, \$13.20, MILEAGE; 70166, JOYCE MILLER, \$3.30, MILEAGE; 70171, LOU ANN MONTGOMERY, \$14.30, MILEAGE; 70192, AMANDA SLUSS, \$13.20, MILEAGE; 70201, LINDA VALENTI, \$29.70, MILEAGE; **DETENTION MEDICAL:** 70138, DARRYL FAULK, \$31732.00, NURSING SERVICES; 70198, THOMSON HEALTHCARE, \$77.90, MEDICAL EXPENSE; 70208, WORLDPOINT, \$115.49, MEDICAL EXPENSE; 70209, WYOMED LABORATORY, \$58.50, MEDICAL EXPENSE; **TOTAL GENERAL AND SPECIAL REVENUE EXPENDITURES:** \$191,056.02 **TOTAL EXPENDITURES: \$191,056.02**

MOTION was made by Commissioner Chesnut, seconded by Commissioner Gabriel and unanimously carried to ADJOURN the Regular Meeting of February 3, 2009 at 12:47 p.m.

BOARD OF COUNTY COMMISSIONERS
/s/ Tim Sullivan, Chairman

ATTEST:

Jackie R. Gonzales, County Clerk

