

**REPORT TO THE  
MINUTES OF THE BOARD OF  
CARBON COUNTY COMMISSIONERS  
REGULAR MEETING  
Tuesday, June 5, 2018  
Carbon County Courthouse, Rawlins, WY**

The regular meeting of the Board of Carbon County Commissioners (BOCC) commenced Tuesday, June 5, 2018 at the Carbon County Courthouse, Rawlins, WY. Attending the meeting were; Chairman John Johnson; Commissioners Leo Chapman, Bob Davis, John Espy and Sue Jones.

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

**ADDITIONS / CORRECTIONS**

Chairman Johnson added a Memorandum of Understanding with the Department of Revenue for the Assessor. There were no other changes to the agenda.

**VOUCHERS**

Commissioner Chapman moved to approve the report of expenditures in the amount of \$65.00. Commissioner Espy seconded and the motion carried with all voting for the motion except Commissioner Jones who abstained due to conflict.

Commissioner Chapman moved to approve the report of expenditures in the amount of \$773,267.85 making the aggregate total of bills today to \$773,397.85. Commissioner Davis seconded and the motion carried unanimously.

ACME ELECTRIC COMPANY, LLC	\$380.48	FAIR ARENA LIGHTS REPAIR
APEX COMMUNICATIONS	\$9,067.76	MAINTENANCE CONTRACT
ASPEN FAMILY DENTAL	\$125.00	DENTAL SERVICES
AVFUEL CORPORATION	\$11,014.15	FUEL
AYALA, MEGAN	\$55.41	MEALS
BAGGS, TOWN OF	\$150.00	APRIL 2018 RENT
BANGS, DANIELLE	\$16.50	MILEAGE
BENTSEN, JUSTIN & AMY	\$2,100.00	HIDDEN VALLEY FUELS MITIGATION
BISCEGLIA, DEBRA	\$168.96	TSHIRTS
BLACK HILLS ENERGY	\$8,928.00	HEATING FUEL
BLAKEMAN PROPANE	\$678.12	HEATING FUEL
BOB BARKER COMPANY, INC.	\$91.66	PENS
BOMGAARS SUPPLY	\$157.95	TOOLS
BUILD RITE LUMBER SUPPLY	\$3,627.13	BUILDING IMPROVEMENT ITEMS
BULBS.COM	\$44.71	LIGHTING SUPPLIES

CANDY MOUNTAIN	\$320.00	CLEAN OUT TRAILER SIGNS
CARBON COUNTY SENIOR SERVICES	\$47,500.00	QUARTERLY PAYMENT
CARBON COUNTY TREASURER	\$292,164.65	CAP FACILITY TAX TO PAY OFF SERIES A BONDS
CARBON COUNTY VETERINARY HOSPITAL	\$157.50	VETERINARY SERVICES
CASPER WINNELSON CO	\$2,106.39	REPAIR ITEMS
CBM FOOD SERVICE	\$11,088.80	SUPPLIES/JAIL MEALS
CDW GOVERNMENT, INC.	\$881.87	INK/PROJECTOR
CHEMATOX, INC.	\$410.00	TESTING SERVICES
CONTROL SOLUTIONS, INC	\$193.00	CALIBRATION SUPPLIES
COWBOY CHEMICAL	\$283.00	LAUNDRY SUPPLIES
COWBOY SUPPLY HOUSE	\$2,884.89	TRASH BAGS/PAPER PRODUCTS
DELEON, JOHN	\$2,560.50	LEGAL SERVICES
DH PACE COMPANY	\$334.32	B&G MAINT & REPAIR CARBON BLDG
DIXON, TOWN OF	\$308.00	WATER
DOMINION ENERGY	\$109.42	HEATING FUEL
ENCAMPMENTK-12	\$250.00	POST PROM LOCK IN FUNDING
FABIN, MARY L.	\$40.00	MILEAGE
FIRED UP RESCUE	\$770.13	FIRE PROTECTION EQUIP
FLEXSHARE BENEFITS	\$4,906.93	INSURANCE EXPENSES
GERMAN, JENNIFER	\$19.00	MILEAGE
GLAXOSMITHKLINE PHARMACEUTICALS	\$260.50	VACCINES
GRAINGER	\$62.54	URINAL REPAIR ITEMS/PADS
GRAPHIC SPORTS	\$175.89	STAMPS
HAHN CONSTRUCTION	\$500.00	CIRCUIT COURT GATE
HEM JR/SR HIGH SCHOOL	\$250.00	GRADUATION FUNDING 2018
HIGH PERFORMANCE CLEAN INC	\$10,516.00	APRIL CLEANING
HIGH PLAINS POWER	\$382.99	ELECTRIC SERVICE
HIGH PLAINS VISION CENTER	\$350.00	VISION SERVICES
INTERMOUNTAIN LOCK & SECURITY	\$140.30	ENTRY KNOB BALLS
IRON J TOWING	\$200.00	TOWING SERVICES
J H KASPAR OIL COMPANY	\$9,362.03	FUEL/MOTOR OIL
JOHNSTON, RANAE	\$66.50	MILEAGE
KENCO SECURITY AND TECHNOLOGY	\$37.00	MONITORING SERVICES
KINETIC LEASING	\$121,246.00	LEASE PAYMENTS
KIRSCH, ARCHIE P	\$1,300.00	HEALTH SERVICES
KTGA/KBDY	\$224.00	ADVERTISING
L M OLSON CONSTRUCTION	\$2,500.00	20 FOOT CONTAINER
MACPHERSON, KELLY & THOMPSON, LLC	\$964.75	LEGAL SERVICES
MATTHEW BENDER & CO, INC.	\$148.00	COURT RULE SUPPLEMENTS
MEDICINE BOW, TOWN OF	\$469.00	05/05/2018 ACCIDENT RESPONSE
MEMORIAL HOSPITAL OF CARBON COUNTY	\$31,914.25	EMERGENCY DETENTIONS/VACCINATION

MIDWEST MOTOR EXPRESS INC.	\$65.00	FIRE MAINT & REPAIR VEHICLE
MIRACLE-EAR CASPER	\$3,000.00	HEARING AID
MOORE MEDICAL CORP.	\$203.14	JAIL HEALTH SUPPLIES
MOUNTAIN WEST MOTORS	\$1,031.33	VEHICLE REPAIRS
MURANE & BOSTWICK, LLC.	\$1,336.60	LEGAL SERVICES
MY OFFICE ETC.	\$57.96	PLANNING SUPPLIES
NATIONWIDE	\$100.00	NOTARY BONDS
NATRONA COUNTY LEGAL	\$1,385.00	EMERGENCY DETENTIONS
NATRONA COUNTY SHERIFF'S OFFICE	\$390.00	JUVENILE HOUSING
NORCO, INC.	\$34.91	NITROGEN
NYC BROADWAY DANCERS	\$1,000.00	TRIP DONATION
PERKINS OIL CO	\$1,121.00	FUEL
PHILLIPS 66-CONOCO-76	\$48.06	FUEL
PICHE, JIM	\$112.60	LUMBER REIMBURSEMENT
PROJECT LIFESAVER INTERNATIONAL	\$136.25	MILEAGE FOR INSTRUCTOR
QUILL CORPORATION	\$1,240.42	OFFICE SUPPLIES
RAPID FIRE PROTECTION, INC	\$320.00	WATER GAUGE/SPRINKLER INSPECTION
RAWLINS AUTOMOTIVE	\$1,096.07	VEHICLE MAINTENANCE ITEMS
RAWLINS EYE CARE	\$350.00	VISION SERVICES
RAWLINS HIGH SCHOOL CLASS OF 2018	\$250.00	GRADUATION PARTY 2018 DONATION
RAWLINS MIDDLE SCHOOL CLASS OF 2022	\$500.00	PROMOTION PARTY DONATION
RAWLINS, CITY OF	\$3,990.00	BUILDING PERMIT/PLAN REVIEW
REMICK, SHELIA	\$69.44	REMICK MILEAGE 04/17/2018
RIVERSIDE GARAGE & CABINS	\$110.35	FUEL
ROBIDOUX ENTERPRISES	\$100.00	AIR COMPRESSOR REPAIR
ROCKIN' M PAINTING	\$1,423.00	EXHIBIT HALL PAINTING
ROCKY MOUNTAIN POWER	\$12,524.51	ELECTRIC SERVICE
		REIMBURSEMENT FOR PERMIT ARLINGTON
RUTHERFORD, JOHN	\$100.00	REPEATER
RYAN ELECTRONICS INC	\$28,645.68	RADIOS/ACCESSORIES
SARATOGA AUTO PARTS, INC.	\$219.75	DEF FLUID/ALTERNATOR
SARATOGA FEED & GRAIN	\$324.50	ROAD 702 GATE
SARATOGA MIDDLE HIGH SCHOOL	\$250.00	POST GRADUATION FUNDING 2018
SARATOGA SUN	\$114.00	CRIME VICTIMS' RIGHTS WEEK AD
SCHERMETZLER, SHEELA M ED.S.	\$6,756.18	GRANT APP PREP/NEEDS ASSESSMENT 2
SHEPARD CONSTRUCTION SOLUTIONS, LLC	\$9,900.00	CRISIS CENTER ADDITION
SHIVELY HARDWARE	\$93.96	SHOVEL/BATTERY/BULBS
SIMPLYWELL	\$435.00	LAB UPLOADS
SMITH MEDICAL PARTNERS, LLC	\$280.68	BIRTH CONTROL
SOUTH CENTRAL WY EMS	\$11,250.00	QTR 4 FUNDING
STAPLES ADVANTAGE	\$525.43	JAIL SUPPLIES

STC CONSTRUCTION CO INC	\$21,687.00	PAVING
STODDARD, CURTIS T.	\$73.00	DENTAL SERVICES
SUNRISE SANITATION SERVICE, LLC.	\$65.00	TRASH SERVICE
T.W. ENTERPRISES, INC.	\$696.80	GENERATOR REPAIR
TAYLOR AUTO REPAIR	\$272.50	SUPPLIES
TRUE NORTH STEEL	\$20,957.50	CULVERTS/CATTLE GUARD/STEP BASES
TRUE VALUE OF RAWLINS	\$658.01	BUILDING MAINTENANCE ITEMS
U W C E S	\$14,479.25	SALARY MATCHES
VALLEY OIL COMPANY	\$652.71	FUEL
VOLUNTEER FIREMEN PENSION FUND	\$390.00	VOL FF PENSION
W C & P A A	\$600.00	2018 DUES
WEX BANK	\$588.58	FUEL
WICK, L.A.	\$2,100.00	FUELS MITIGATION
WY COUNTY COMMISSIONER'S ASSOCIATION	\$10,985.00	WCCA FY19 DUES
WY MACHINERY COMPANY	\$22,249.45	REPAIR ITEMS/REPAIRS/CUTTING EDGES
WY PEACE OFFICERS ASSOC	\$10.00	DALE MILLER MEMBERSHIP
WY RENTS, LLC	\$624.75	GENIE RENTAL
YOUNG, CHARLES MD	\$450.00	MEDICAL SERVICES
ZIRMED, INC	\$3.50	CLAIMS
<b>Grand Total</b>	<b>\$773,397.85</b>	

## CONSENT AGENDA

Commissioner Chapman moved to approve the consent agenda after removing a bond for Brandee Nicole Forster. The consent agenda includes the May 15, 2018 regular meeting minutes; bonds for DeBari T. Martinez, Treasurer Carbon County Museum for \$1,000.00, Gregory C. Ryan, Treasurer for Highline Watershed Improvement District for \$5,000.00, Robert Cooper, Treasurer Carbon County School District #2 Recreation Board for \$10,000.00; Planning and Zoning Receipts for May 2018 for \$4,075.00, Clerk receipts for May 2018 for \$34,441.50; and Notice of Valuation Changes in the amount of -\$782,079.00. Commissioner Espy seconded and the motion carried unanimously.

Commissioner Espy moved to approve a bond for Brandee Forster, Clerk/Treasurer for the Town of Dixon for \$50,000.00 contingent upon her signature as principal on the bond. Commissioner Jones seconded and the motion carried unanimously.

## Public Health

Amanda Brown, Public Health Nurse presented several contracts for the BOCC's consideration. Attorney Davis mentioned an attorney general opinion regarding the health officer contract stating this position should be a county employee rather than a contractor however the same office issued the contract presented today so the County Attorney's Association is reviewing the issue and will report at a future meeting.

Commissioner Davis moved to authorize the Chairman's signature on Amendment One to the Memorandum of Understanding Between Wyoming Department of Health, Public Health Division and Carbon County adding \$18,500.00. Commissioner Espy seconded and the motion passed unanimously.

Commissioner Davis moved to authorize the Chairman's signature on the Contract Between Wyoming Department of Health, Public Health Division and Carbon County through June 30, 2020 in the amount of \$277,481.00. Commissioner Espy seconded and the motion passed unanimously.

Ms. Brown reported the Prevention Management Officer contract aligns with her office's mission and she stated her interest in the county approving the contract for those services to be under public health.

She has an administrative assistant vacancy and she requested and received authorization to replace the vacancy.

Ms. Brown discussed the 2018 County Health Rankings report.

### **Economic Development**

Cindy Wallace, Executive Director for Carbon County Economic Development Corporation requested a letter of support for the Wyoming Wind Coalition Grant Application to fund a position for one to one and one half years.

Commissioner Espy moved to authorize the Chairman's signature on a Letter of Support for the Wyoming Wind Coalition Grant Application. Commissioner Chapman seconded and the motion carried with Commissioners Espy and Chapman and Chairman Johnson voting for the motion and Commissioners Davis and Jones voting against.

### **Coroner**

Paul Zamora, County Coroner requested approval to replace a part time employee position with a full time employee. Mr. Zamora requested authorization to apply for a full-time position as requested in his budget

### **Buildings & Grounds**

Building Manager Jim Piche presented the Custodial Cleaning Contract for 307 Professional Clean for approval.

Commissioner Espy moved to authorize the Chairman's signature on the Agreement for Services for custodial services with 307 Professional Clean in the amount of \$125,820.00 through May 31, 2019. Commissioner Chapman seconded and the motion passed unanimously.

Mr. Piche reported fairgrounds cleanup continues and is approximately 90% complete. The Carbon County Youth Crisis Center addition is progressing well. The air conditioning unit at the jail has been repaired and new rooftop units are in process and the Rawlins Senior Center unit has been repaired as well. Commissioner Davis asked if the county's bobcat could be used at the fairgrounds during fair and Mr. Nation replied he typically begins mowing during this time but that he would have it where the BOCC wanted. The BOCC stated it would consider the request for one during budget then decide how to move forward.

## **IT**

Matt Webster, IT Director discussed upgrade options for the county website. The current version hosted by CivicPlus will become obsolete and is required to be updated. The two options available are a one-time redesign fee of \$5,625 to upgrade our current version or a one-time redesign fee of \$5,625 and our annual hosting, maintenance and support fee from \$2,500 to \$4,000 per year with \$7,125 being due at signing. This option would automatically update our website every 48 months at no additional cost. Mr. Webster stated he really doesn't have a preference but would probably recommend option two to avoid unexpected redesign fees in the future. The BOCC concurred with Mr. Webster's recommendation to pay the higher fee per year vs. paying it all at once every few years.

## **Road & Bridge**

Bill Nation, Road & Bridge Superintendent presented the Road Use Agreement for TB Flats Wind Energy Project for final approval.

Commissioner Espy moved to authorize the Chairman's signature on the Road Use Agreement for TB Flats Wind Energy Project. Commissioner Chapman seconded and the motion passed unanimously.

Mr. Nation reported that his crews are working on blading roads, cattle guards, and W.W. Clyde continues work on the Sage Creek Road, County Road 401. Paving will begin in the next couple weeks. There will be 32 miles of pavement and it will not be paved all the way to Highway 70.

## **Planning**

Mr. Fox presented the Source Water Protection Plan (SWPP) from the City of Rawlins. The City is designing the plan to protect its drinking water supply from contamination and they are asking the county, as a landowner in the recharge zone, for assistance by providing participation. The BOCC agreed to attend the meeting.

## **Attorney**

Ashley Mayfield Davis, Deputy County Attorney reported she is working on a lease agreement with Les Dunmire for a repeater storage container to be placed on his property. She asked what the BOCC would like the term to be. She also mentioned if the county would like the container

back at the end of the term and be responsible for removal or if he would retain that. The BOCC opted that it would remove it unless the lessor wanted it.

Attorney Davis presented a Memorandum of Understanding Among The Department of Revenue, Carbon County and Carbon County Assessor for the administration of the Computer Assisted Mass Appraisal (CAMA) system for approval.

Commissioner Jones moved to authorize the Chairman's signature on the Memorandum of Understanding Among The Department of Revenue, Carbon County and Carbon County Assessor for the administration of the Computer Assisted Mass Appraisal (CAMA) system. Commissioner Chapman seconded and the motion passed unanimously.

### **Clerk**

Gwynn Bartlett, County Clerk provided the Defendants' Answers to Plaintiff's Second Set of Interrogatories provided by MacPherson, Kelly & Thompson LLC for approval.

Commissioner Espy moved to authorize the Chairman's signature on the Defendants' Answers to Plaintiff's Second Set of Interrogatories. Commissioner Chapman seconded and the motion passed unanimously.

Commissioner Chapman moved to reappoint Cindy Baldwin to 2009 Specific Purpose Tax Joint Powers Board. Commissioner Jones seconded and the motion passed unanimously.

Clerk Bartlett asked the BOCC to cancel tomorrow's budget hearing and reschedule for June 14 to balance the budget to allow her and the Treasurer additional time to prepare the necessary information.

### **Treasurer**

Treasurer Bentsen reported that forest reserve funds are sent to the county and with the new administration Carbon County will lose some funds. It was previously \$400,000 and will now be approximately half. The county had already received some of these funds therefore next year's payment will be reduced by this amount.

### **Commissioners**

Commissioner Jones reported that the WY County Commissioners Association has requested counties approve a resolution supporting an effort to have a statewide county employer workers compensation group. All counties would be required to approve the resolution for any further action to occur.

Commissioner Jones moved to adopt Resolution 2018-19, a resolution supporting the Wyoming County Commissioners Association Workers Compensation Consolidation Work Plan. Commissioner Chapman seconded and the motion carried unanimously.

**RESOLUTION NO. 2018-19**

**County Employer Group Preliminary Approval, on behalf of Carbon County, Wyoming**

**WHEREAS**, Wyoming Statute § 27-14-101 establishes a mandatory worker's compensation system for all eligible employees, including county employees; and

**WHEREAS**, Wyoming Statute § 27-14-109 authorizes counties to "establish a collective system to report payroll, pay premiums, process injury reports, manage claims and provide other services" for purposes of county employee workers compensation; and

**WHEREAS**, Wyoming Statute § 18-3-522 authorizes counties to "cooperate with associations and organizations of other counties or county officials within or without this state for the furtherance of good government and the protection of county interests;" and

**WHEREAS**, Counties in Wyoming collectively employ thousands of Wyoming residents who, in their respective departments engage in substantially similar work; and

**WHEREAS**, Counties in Wyoming collectively pay over \$4 million dollars annually in workers compensation premiums; and

**WHEREAS**, Carbon County desires to develop a collective system of employees for purposes of reducing premium costs and improving worker safety

**NOW, THEREFORE, BE IT RESOLVED THAT** the Carbon County Commissioners do adopt the following preliminary approval of a collective workers compensation work plan developed by the Wyoming County Commissioners Association in consultation with county and state representatives, and directs the Wyoming County Commissioners Association and appropriate county staff to further develop a work plan that establishes the following:

- A governing board or guidelines for the appointment of a governing board;
- Staffing requirements and estimates of costs for staffing;
- Premium rate estimates and proposed targets for premium rebates;
- Proposal for base-line safety program to establish minimum discounts;
- Proposal for interaction between the counties, the collective group, and the state to manage claims; and
- Proposal for the formal adoption of a collective account that includes a process for decision-making on entry and exit, failure of individual counties to create/sustain safety programs, and other future decision making.

**BE IT FURTHER RESOLVED** that adoption of this preliminary approval does not obligate Carbon County Commissioners to approve a final work plan, or to join the collective account.

**PASSED AND APPROVED** this 5<sup>th</sup> day of June, 2018.

BOARD OF CARBON COUNTY COMMISSIONERS

By: -s- Willing John Johnson, Chairman

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

Commissioner Jones moved to authorize the Chairman's signature on the Wyoming Department of Transportation Aeronautics Division Certificate of State Grant-In-Aid for improvements at the Dixon Airport seal coat and marking, Project No. ADWX18A in the amount of \$158,890 from the Aeronautics Division and \$17,654 from Carbon County. Commissioner Chapman seconded and the motion passed unanimously.

Commissioner Espy moved to authorize the Chairman's signature on the Memorandum of Agreement for the Savery Creek Bridge Replacement Project. Commissioner Chapman seconded and the motion carried unanimously.

### **Memorial Hospital of Carbon County (MHCC)**

Woody Hathaway Jr. interim Chief Financial Officer reported on April 2018 financials.

### **Certifications**

Commissioner Chapman moved to accept the Certification of Recommended Action from the Carbon County Planning & Zoning Commission for the following Case Files – C.U. Case File #2018-08/Amendment – C.U. Case File #2016-04 for Brush Creek Ranch guest ranch and resort request to add the Brush Creek Farms which will consist of a kitchen, dining hall, brewery and distillery and pavilion and C.U.W. Case #2018-03 Ekola Flats Wind Energy Project for a commercial wind energy facility and to schedule a public hearing for July 3, 2018 at 11:15 a.m. both at the County Courthouse in Rawlins, Wyoming. Commissioner Jones seconded and the motion carried unanimously.

### **Commissioners / Citizens Discussion**

Commissioner Davis reported he received an e-mail regarding the historical portion of the Savery Creek Bridge for the Savery Museum. They would also like the truss portion as well.

Commissioner Espy reported the WY Public Lands Initiative will soon make recommendations to the BOCC. He also attended a healthcare workshop and discussed how Idaho has transitioned to a regional system.

Chairman Johnson reported he and Commissioner Davis attended a substance abuse forum recently and they will move forward with more information.

### **Public Hearing – Z.C. Case #2018-02 – Rohrer and Mack**

Chairman Johnson opened a public hearing at 11:15 a.m. to hear Planning & Zoning Z.C. Case # 2018-02 Rohrer and Mack. Sid Fox, County Planning Director presented a request for zone change from Rural Residential Agriculture (RRA-20) (RAM) Zone District to RRA-26.93 and RRA-13.10 located in the proposed Mack Minor Subdivision encompassing approximately 40.03 acres with a waiver of a 40' access easement as the access is already existing. There being no comments, Chairman Johnson closed the hearing at 11:18 a.m.

Commissioner Chapman moved to approve Resolution No. 2018-20 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 # 2018-02 Rohrer and Mack for a zone change from Rural Residential Agriculture (RRA-20) to RRA-26.93 and RRA-13.10 located in the proposed Mack Minor Subdivision encompassing approximately 40.03 acres. Commissioner Davis seconded and the motion carried unanimously.

**Resolution No. 2018 – 20**

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

**Z.C. Case File #2018-02**

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

**WHEREAS**, at the Monday, April 30, 2018, public hearing, the Carbon County Planning and Zoning Commission provided the public the opportunity to comment and the Carbon County Planning and Zoning Commission considered any public comments which were made at said public hearing; and

**WHEREAS**, at the conclusion of said Monday, April 30, 2018, public hearing, the Carbon County Planning and Zoning Commission voted to certify in writing its recommendation to the Carbon County Board of County Commissioners to adopt the change as an amendment to the Carbon County Official Zoning Map for Carbon County, Wyoming; and

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

**WHEREAS**, at said public hearing on June 5, 2018, the Carbon County Board of County Commissioners provided the opportunity for the public to comment and for the Carbon County Board of County Commissioners to consider any comments which were made on the proposed amendment; and

**WHEREAS**, the Carbon County Board of County Commissioners in considering the proposed amendment have also reviewed and considered the Carbon County Comprehensive Land Use Plan, as amended; and the Carbon County Zoning Resolution of 2015, as amended; and

**WHEREAS**, the Carbon County Board of County Commissioners have determined that the proposed amendment is in general conformance with the Carbon County Comprehensive Land Use Plan, as amended, and the applicable provisions of the Carbon County Zoning Resolution of 2015, as amended; and otherwise promotes the health, safety and general welfare of the residents of Carbon County; and

**WHEREAS**, at a regularly scheduled meeting of the Carbon County Board of County Commissioners, by majority vote, the Carbon County Board of County Commissioners moved to approve the proposed zoning amendment to the Carbon County Official Zoning Map.

**Z.C. Case File #2018-02:** Request for a Zone Change from Rural Residential Agriculture (RRA-20) to RRA-26.93 and RRA-13.10, located in the proposed Mack Minor Subdivision encompassing approximately 40.03 acres. The RRA Zone is intended to be applied in areas of the County which are particularly suited to large lot development that allow both agricultural and residential uses.

**Minor Subdivision Name:** Mack Minor Subdivision

**Petitioners:** Marcus Rohrer (Applicant) and Daniel and Darla Mack (Land Owners)

**Rural Addresses:** 301A and 301B Wyoming Highway 71

**General Site Location:** Approximately 2.5 miles south of Rawlins and approximately 1/2 mile east of WY HWY 71\Carbon County Road #401 (Sage Creek Road)

**Legal Description:** The NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 30, T21N, R87W, Carbon County, Wyoming, more completely described as follows: Beginning at the Center  $\frac{1}{4}$  corner of said Section 30; Thence S89°51'54"E, 1319.37' to the C-E 1/16 corner of said Section 30; Thence S0°05'54"E, 1322.44' to the SE 1/16 corner of said Section 30; Thence N89°48'45"W, 1319.07' to the C-S 1/16 corner of said Section 30; Thence N00°06'42"W, 1321.23' to the Center  $\frac{1}{4}$  corner of said Section 30, the point of beginning.

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

That the Carbon County Board of County Commissioners, hereby adopts this amendment as certified to them in writing by the Carbon County Planning and Zoning Commission and the existing zone shall be changed from Rural Residential Agriculture (RRA-20) to RRA-26.93 and RRA-13.10, located in the proposed Mack Minor Subdivision encompassing approximately 40.03 acres

**PRESENTED, READ, AND ADOPTED** at a regularly scheduled meeting of the Board of County Commissioners of Carbon County, Wyoming, on this 5th day of June, 2018.

**BOARD OF COUNTY COMMISSIONERS OF  
CARBON COUNTY, WYOMING**  
-s- Willing John Johnson, Chairman  
On behalf of the Carbon County  
Board of County Commissioners

Attest:

-s- Gwynn G. Bartlett, Carbon County Clerk

**Public Hearing – MIN SUB Case #2018-01 – Mack**

Chairman Johnson opened a public hearing at 11:19 a.m. to hear Planning & Zoning MIN SUB Case # 2018-01 Mack. Sid Fox, County Planning Director and Sarah Hutchins GIS Specialist presented a request to create two lots, lot 1 - 26.93 acres and lot 2 - 13.10 acres in conjunction with Z.C. Case #2018-02 to comply with the Carbon County Zoning Resolution of 2015 as amended. There being no comments, Chairman Johnson closed the hearing at 11:23 a.m.

Commissioner Davis moved to authorize the Chairman's signature on the plat for MIN SUB Case # 2018-01 Mack for a zone to create two lots, lot 1 - 26.93 acres and lot 2 - 13.10 acres in conjunction with Z.C. Case #2018-02 to comply with the Carbon County Zoning Resolution of 2015 as amended. Commissioner Espy seconded and the motion carried unanimously.

### **EXECUTIVE SESSION**

Commissioner Espy moved to go into executive session at 11:26 a.m. with Gwynn Bartlett. Ashley Mayfield Davis and Sidney Fox to discuss personnel, potential litigation and other matters considered confidential by law. Commissioner Chapman seconded and the motion carried unanimously.

Mr. Fox left the session at 11:54 a.m.

Commissioner Espy moved to come out of executive session at 12:01 p.m. noting no action was taken and that the minutes be signed and sealed. Commissioner Chapman seconded and the motion carried unanimously.

### **Public Hearing – C.U.W. Case #2018-02 Little Medicine Bow Wind Energy Project**

Chairman Johnson opened a public hearing at 1:30 p.m. to hear Planning & Zoning C.U.W. Case# 2018-02 Little Medicine Bow Wind Energy Project. Sid Fox, County Planning Director presented a request for a Conditional Use Permit for a Commercial Wind Energy Facility in the Ranching, Agriculture and Mining (RAM) Zone located approximately 15 miles north of the Town of Medicine Bow. The application did include setback waivers, otherwise known as variances to allow the applicant to permit a preliminary site plan. Due to this Mr. Fox included a proposed condition that if the permit was approved the applicant would return prior to construction and the county would require setbacks and if towers were not in conformance then the criteria would be further evaluated.

This is a Bureau of Land Management parcel with an existing transmission line and state highway by easement. The transmission line would require a federal NEPA review in cooperation with the BLM and US Fish & Wildlife Service. This is outstanding at this time. The case was sent out for referral with comments back from Q Creek Ranch, High Plains Power, and the WY Game & Fish Department. The staff review was slightly different as a wind project under the Zoning Resolution as the wind energy chapter for conditional use it is largely based on state statute for wind energy development and the burden is largely on the applicant. The applicant must certify they are in compliance or will be in compliant with standards and criteria. The Planning & Zoning Commission voted 4-0 to deny the application largely due to setback conformance.

Sean Larson and Melanie Martin of Hathaway and Kunz, LLP representing Little Medicine Bow Wind Project presented a power point requested that after public comment they be allowed a small break then time for response to the comments.

Ms. Martin stated that in 2011 they signed a wind lease establishing an interest in real property. In 2012 the BLM identified this as a category 4 project and the developer worked with investors' supplies and contractors through 2015. WYDOT allowed preliminary engineering in 2016 and locations were staked for the BLM site visit. Also in 2016 there was an ongoing negotiation with grazing leases with Q Creek on surface impact payments and as part of this process the preliminary site plan was provided to Q Creek. The developer purchased the Medicine Bow School Building as an operations center and to provide a recreation center, giving back to the community.

They hope to initiate construction on state parcels in late 2018 and obtain federal approvals by the first quarter 2019 with complete construction in the second and third quarters of 2019 and commercial operations to follow in the fourth quarter. Office of State Land and Investments (OSLI) stated wind development is compatible with other operations on the state property including agricultural operations and other leases including easements for transmission lines.

The applicant, Juan Carlos Carpio-Delfino, CEO of Viridis Eolio LLC, owner of Little Medicine Bow Wind S LLC, discussed past efforts and noted this project is differentiated from the Viridis Eolia project. In 2016 Allandale Industries, also a company of Mr. Delfino, assigned all wind leases to ten entities which then established two independent projects, one Viridis Eolia and the LMB Wind Projects. He stated at the time of assignment all companies were in good standing with the State of WY. He mentioned starting with LMBW is the pilot project and much smaller scale as an experimental project to the Viridis Eolia project. Substantial investments have been made on both projects.

Mr. Delfino reported internal roads are 3.6 miles with 13 turbines and the preliminary layout based on the best production has been designed. The final site plan with turbine locations will be the second phase during the building permitting phase. They are requesting a waiver for setbacks. According to Mr. Delfino the Planning & Zoning Commission's concerns were of setbacks from an occupied structure by statute which requires 5.5 times the turbine height. He states this is a skid trailer, not a permanent occupied structure.

Local and state taxes over an estimated 20 year life cycle is \$19.45 million including property taxes, wind energy production and state lease royalty. They expect 36 workers with a peak of 61 and allow of 13 plus 1-2 operations workers. He discussed traffic during construction and operations, housing, and a 6 month construction time frame.

Commissioner Jones asked who they will sell power to. Pacificorp has agreed to purchase the power according to Mr. Delfino. Chairman Johnson also asked about sage grouse and the eagle take permit. Ms. Martin replied that the project is both not in the core area and the wildlife surveys have not found any sage grouse use of the site. She added the eagle take permit environmental assessment will be sufficient.

Commissioner Davis asked what they hope to achieve by this pilot project. Mr. Delfino stated the project can be constructed simply and quickly and is a proof of concept project and is a showcase project for investors. This is a stand-alone project and Commissioner Davis asked if they can put this project together and then develop the larger project? Mr. Delfino stated they

need to see permitting processes through various agencies, they need to see transmission, how they manage construction, logistics, scheduling, transportation, and that all this information is valuable on a smaller scale for use in the larger project.

Commissioner Espy asked about setback issues on the northern parcel and why they wouldn't move to the southern parcel. Mr. Delfino stated they see the structure as non-permanent as it has no water or electricity and is a skid trailer. They have put considerable work and capital over 10 years and since they do not see this as a permanent structure, but rather temporary structure, they desire to move forward. They have had property rights with a lease from the state since 2011 therefore they plan to use it for a wind lease and on the setback issue they could develop on the south but only with substantially less megawatts which would deter them from building on the southern section.

Commissioner Chapman asked if negotiations with Q Creek have occurred and Mr. Delfino stated they have done this. Mr. Larson stated they offered a reasonable resolution with a reply from Q Creek that he interpreted to mean no resolution will occur anytime soon.

Commissioner Jones asked if this project would connect to Viridis and would LMBW solely be for capital for the second project. Mr. Delfino stated they have the same owner and are connected. He again explained starting with a smaller project to prove feasibility. Commissioner Jones asked if this was to avoid industrial siting project and he replied that no, they have made DEQ aware of these projects. She again stated her confusion with the three named companies and asked if they are seeking production tax credits in both 2018 and 2019. Mr. Delfino discussed the reasons for the various names stating Allandale is no longer involved as it assigned all the leases years ago.

Kenda Colman representing the Medicine Bow Town Council stated they are in support of the project. She stated this is the first wind company that has wanted to do anything in the community that will be long lasting. She stated Q Creek's structure is a skid structure with no permanent infrastructure and questioned why they put it in this particular spot stating she felt it was put there deliberately to halt this project. She feels the company has applied in good faith and encouraged the BOCC to work with this company.

Troy Maddox of Medicine Bow stated he does not like the fact this project is on public ground and this will cause loss of access to that land. He felt access should be brought back and asked why one company should have it for their gain.

Daniel Zyvoloski, representing Q Creek Land & Livestock Company stated their opposition of today's case. Q Creek operates on 560,000 acres, 241,000 deeded and the remainder in BLM, state leases and an Anadarko lease. Q Creek initiated the TB Flats Project in 2008 by leasing a MET tower from the WY Business Council and then purchased additional towers and conducted various additional studies. In 2016 they selected Invenergy for the project. Mr. Zyvoloski stated Q Creek fully supports wind development. He pointed out Section 5.9 from the Carbon County Zoning Resolution of 2015 which states the developments should be compatible and to facilitate economic opportunities for local residents. He also pointed out the Facility Decommissioning

and Bonding, stating the county could be sitting on a \$3 million reclamation bond with a simple corporate guarantee and that should concern the county.

He stated LMBW plans to use a QF Power purchasing agreement, meaning a developer can use federal regulations from 1978 to force a utility to take their power. Typically QF developments are only 10% successful. Mr. Zyzvoloski asked why the applicant would expend \$1 million and the risk to develop a pilot project that has a 10% success rate. He believes this is a strategic development to secure development of the larger Master Plan. Mr. Zyzvoloski stated Viridis will have 621 turbines over 98,000 acres of public lands with 300 miles or roads, 47 miles transmission lines, 9 substations, 15 MET towers and an operations building. Towers are connected by connector lines to substations then are transferred through lines. He feels the applicant is using the LMBW QF pilot project to allow them to crack into PacifiCorp's transmission line. They don't have access to the Shirley Basin substation. Mr. Zyzvoloski feels this is disguised in a manner to develop critical infrastructure for the larger plan.

Mr. Zyzvoloski stated they have an outfitter license to operate on public lands and the project would significantly change their operations. Q Creek has significant property devaluation issues with this project. He understands that WY has difficult decisions to preserve WY's land while increasing economic opportunities however payments from the federal lands will go to the US Treasury.

Another issue is the Shamrock shipping corrals located next to the one of the project sections. Q Creek has asked the applicant more than once how they will deal with the issue of cattle transfer to adjacent lands with no response. Mr. Zyzvoloski stated the project will also require a road setback variance from the BOCC. He presented a map of compliant tower locations and on the southern section only 3 of the 6 towers are compatible while on the north section all seven tower locations are statutorily prohibited. He provided pictures of the supposed temporary skid structure including copies of their septic permit, rural assigned address, an application to permit a groundwater well and the building permit.

Mr. Zyzvoloski discussed the various companies involved including copies of documents from the WY Secretary of State showing how two of the 11-12 companies developing Viridis were inactive or revoked at one time.

Mr. Zyzvoloski stated a connected action tying the transmission line to the larger project will trigger a NEPA study and will have to obtain an eagle take permit, noting these are two of the toughest permits required for the project. Mr. Zyzvoloski again expressed he feels this project is tied to the larger Viridis project even when the applicant maintains it is a stand-alone project.

Chairman Johnson asked Mr. Zyzvoloski to further discuss legal access to the Shirley Basin substation. Mr. Zyzvoloski stated they approached Q Creek for a location for a substation and sold them acreage for this however maintained ownership of the surrounding land.

Darin Scheer, Q Creek's Counsel reported Q Creek will see a major impact from both the proposed project and the larger master plan. They are a landowner, not a competitor for land and

by installing the initial MET tower years ago they were taking control of their land with the foresight of future wind development.

Mr. Scheer stated the so called “good faith” negotiations were really done through the OSLI process and they did not consider their request for a financial number for surface impact payments was unreasonable as it would be LMBW’s responsibility to offer an amount for Q Creek to negotiate with in addition to the fact that Q Creek was not provided with the scope and extent of the operation to even offer a number. OSLI stated that they would then determine the payment and Mr. Scheer noted that this is the first time in his 15 years of practice before OSLI that he’s seen an applicant not submit a negotiable number for these payments.

Mr. Scheer stated that the reality is that this project is tied to the larger project and that it will have a large impact on various landowners and the public. He feels the siting of the turbines on public ground is working around the edges of the process. The potential impact of the larger project on view shed and property value and natural characteristics will be addressed at the proper time according to a June 1 letter from LMBW. Mr. Scheer feels like this is the time to consider these issues and that the forum would be Industrial Siting Commission (ISC). Mr. Scheer feels like they are avoiding ISC to avoid the detailed social, economic and environmental analysis but that this all needs done as this is tied to a larger project and that if this project doesn’t occur others will come forward and the scrutiny needs done for the level of impact this will have.

Mr. Scheer addressed several examples of letters from DEQ discussing their concern for representations that this is a stand-alone project rather than a phased larger project that will require ISC review.

Mr. Scheer addressed international corporations noting that when they disappear it is difficult to chase them down for a bonding obligation therefore they requested sufficient bonding in place so the county doesn’t get stuck with the fee and Q Creek doesn’t get stuck with a mess on adjacent property.

There has been no right-of-way permit granted for the LMBW transmission line to date. Mr. Scheer addressed W.S. 18-5-509 regarding the BOCC’s opportunity to refer the project to the ISC. The referral can be made when the BOCC finds there is a potentially adverse environmental, social and economic issues which the BOCC doesn’t have the expertise to address, especially considering this is part of a larger project. The referral decision must be made within 30 days of the application being complete however the BOCC didn’t have the opportunity to review within 30 days of P&Z declaring completeness.

The applicant stated in a letter to the BOCC June 1, 2018 that there are no adverse environmental, social and economic issues. Mr. Scheer stated that they avoid analysis because the project is exempt so questioned how they would know there will be no adverse issues. He adamantly disagreed with their statement and again suggested ISC is the means to evaluate this.

Mr. Scheer stated the applicant is required to certify the W.S. 18-5-504, minimum setbacks and that it will comply with all the county land use regulations and they certified this. The only party that can offer a waiver of the setbacks is the landowner, not the BOCC.

Mr. Scheer addressed the living quarters structure stating the septic system it is tied into is a \$15,000 system and also addressed the other documents that he feels makes this a permanent structure and told the BOCC the ranch has plans for this to be occupied and people will be there full-time. One water well was attempted and will be tried in another area and a generator is used for power. The building permit provides one year to comply with the requirements of the permit therefore Q Creek's plans to occupy the building are valid and that the applicant should not be able to dictate where the building is located.

While the setback issues are a concern, there are larger issues including them to make accommodations for the applicant for a company that they don't agree with the applicant's processes.

Mr. Scheer cited a statute 18-5-504 Permit for a wind energy facility, Mr. Scheer states the CUP is the permit, that does not comply with the standards and that 5.5 times tower height is non-negotiable and statutorily required.

Mr. Scheer discussed that in light of the fact that this application does not meet the zoning regulations due to setbacks and if the northern parcel is removed the economics of the project is changed.

Intentionally sited on public lands to shift impacts to adjacent landowners, they don't believe LMBW negotiated in good faith, and that LMBW has skirted ISC scrutiny; there is a failure to comply with the county's Zoning resolution as well as statutory setback, changing project economics making heightened bonding concerns

Mr. Scheer suggested the options are to deny the application which would allow the applicant to refile an application addressing concerns, rescind the determination of completeness as they certified certain things that were not true then consider referring this to ISC if a new application was submitted and that the BOCC has no option to approve the application as submitted due to the setback issues. He stated that approving this with a condition of alleviating the setback issue turns the process "on its head".

Attorney Davis stated the Planning and Development Department reviews the application, sends a letter to the applicant stating that the BOCC may need to determine completeness so this will be determined today triggering the 30 day window to refer to ISC.

Commissioner Jones asked if Q Creek holds grazing leases on the master plan project, Viridis. Commissioner Chapman asked if Q Creek has plans to have a wind farm on the property and Mr. Scheer stated not to his knowledge. He stated that regardless of the developer Q Creek would object to the wind farm due to the reasons stated.

Chairman Johnson allowed LMBW to offer comments as they previously requested. Marianne Shanor of Hathaway and Kunz LLC asked to refocus on the requirements of a CUP for the LMBW project only. They must demonstrate compatibility with other existing uses including grazing and this project does that.

Ms. Shanor discussed the setback standards noting that they do not require them to consider the Q Creek dwelling and it is non-occupied and cannot be currently occupied, there is no access as required by the building permit, there is no certificate of occupancy, no electrical permit, no water currently, no employees to occupy the structure, their website doesn't advertise job openings, it is not up to US building codes and it appears to have no foundation. They contend this does not fall under the definition of primary structure.

They provided a map with what they believe to be the route required for access to the structure in question and that it is approximately 10 miles of road needed for access. They believe the 5.5 times height setback does not apply as this is not a primary structure.

Mr. Larson returned to state that negotiations with Q Creek were in good faith and that they disagree that they needed to make the first offer. He stated OSLI determined the negotiations were in good faith and declared the end of the allowed 90 day negotiation period. November 2017 Q Creek used the tower location information to apply for a building permit to locate its structure to try to create setbacks which would prevent the project from being built on the southern section. They also feel that with Q Creek's TB Flats negotiations they have reason to believe there was reason for Q Creek to delay the negotiations and cause LMBW issues. LMBW did provide the site plan for both locations March 2017.

Ms. Shanor stated that 30 or more turbines in all planned phases and the estimated cost is over \$216,383,802 for ISC to have jurisdiction and that ISC has agreed it does not have jurisdiction over the project. There was discussion about the 30 day completeness of the application referencing Sid Fox's letter April 10, 2018 stating the application has been deemed complete therefore a referral to ISC cannot be legally made. Further Ms. Shanor stated that there are no significant issues that would warrant ISC referral.

Ms. Martin stated LMBW is not being used for the master plan however it could tie into a transmission line project later but at this time it is solely for the LMBW project.

Ms. Shanor stated the estimated cost to decommission the facility is \$2.9 million and the cost analysis is in the application, Appendix J. They feel there is potential a dangerous precedent set with allowing Q Creek's structure to be classified as a primary structure. She added that they have two options. They can grant the CUP with a setback variance from County Road #99. Then they could address setback issues by making a determination that Q Creek's structure is not primary, a residential dwelling or occupied or they could defer decision on the setback and require the applicant to submit site specific tower locations as part of the building permit application and request setback waivers. They ask for favorable consideration and feel all conditions have been met for the CUP to be issued today.

Mr. Delfino closed by saying they feel the case is important for WY business in general. Installing a skid trailer in the middle of an agricultural field with no water, power or other items to prevent a wind project from developing from a competitor creates a dangerous precedence. He alleges that Q Creek knew exactly where to locate the skid trailer to keep this project from proceeding. He questioned that if Q Creek has 500,000 acres of land, why did they choose this very location.

Chairman Johnson called for additional public comments. Cindy Wallace, Economic Development Director reported they submitted a letter of support. As a tax paying citizen, not representing EDC, she stated that the issue of the trailer could be avoided by wind development regulations that would prevent such activity. She suggested developers of potential wind farms or other developments be notified of a building permit application that would affect the development. She noted that she doesn't feel this will affect wildlife. As far as view shed she feels they are beautiful but understands differing points of view.

There being no further comments, Chairman Johnson closed the hearing at 4:36 p.m.

Chairman Johnson asked Mr. Fox to clarify timing of the building permit application. Mr. Fox stated that late November 2017 the application was issued. The building permit was issued based on the Zoning Resolution independent of the setback requirement and while he was aware of LMBW's potential development, he had no application at the time and the building permit met the criteria. Chairman Johnson stated the decision should be based on statute, not all the he said she said that has occurred today.

### **EXECUTIVE SESSION**

Commissioner Espy moved to go into executive session at 4:40 p.m. with Gwynn Bartlett. Ashley Mayfield Davis and Sidney Fox to discuss personnel, potential litigation and other matters considered confidential by law. Commissioner Chapman seconded and the motion carried unanimously.

Commissioner Espy moved to come out of executive session at 5:00 p.m. noting no action was taken and that the minutes be signed and sealed. Commissioner Chapman seconded and the motion carried unanimously.

### **C.U.W. Case #2018-02 Little Medicine Bow Wind Energy Project**

Attorney Davis reported that under the statute the BOCC is not able to issue a permit for a wind energy facility if it does not comply with statutory setback requirements or if a waiver is received. She suggested allowing the applicant the opportunity to comply with a revised site plan or waiver by July 2, 2018.

Commissioner Espy moved to table Conditional Use Permit Application 2018-02 until determining whether Little Medicine Bow Wind LLC revises its application and site plan by July 2, 2018. Commissioner Jones seconded and Commissioner Chapman pointed out a waiver could

be received from Q Creek as well. Sid asked if this would be heard at the July 3 meeting or if they would submit information by the July 2 date. Attorney Davis stated they would submit information by July 2 and then it could be scheduled for additional public hearing thereafter. The motion carried unanimously.

### **ADJOURNMENT**

Commissioner Espy moved to adjourn the meeting at 5:04 p.m. Commissioner Chapman seconded and the motion carried unanimously.

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