

## **MINUTES OF THE BOARD OF SHERIDAN COUNTY COMMISSIONERS**

The Board met in regular session at 9:00 a.m., October 16, 2012 in the Commission Boardroom, Sheridan County Courthouse, Sheridan, Wyoming. Chairman Mike Nickel called the meeting to order and led everyone in the Pledge of Allegiance. Members present were Commissioners Terry Cram, Steve Maier, Mike Nickel, Tom Ringley and Bob Rolston.

### **CONSENT AGENDA**

Commissioner Rolston made a motion to approve the (8) consent agenda items as published and authorize the Chairman to sign documents as required. Commissioner Cram seconded the motion, all voted in favor and the motion passed. Following are the consent items:

- a. Minutes from Regular Session, October 2, 2012;
- b. Minutes from Special Session, October 3, 2012;
- c. Affirm Findings of Fact for CU-12-010: Mullinax Briquette Manufacturing CUP;
- d. Release of Mortgage from Sheridan County to Andrew McFaul/Excalibur Construction, Inc. for Lot 12, Block 1, Woodland Park Subdivision – Phase One, acknowledging payment received of \$21,400;
- e. Affirm Agreement with Norwood Construction for work on Bird Farm Road, County Road #28;
- f. Affirm Findings of Fact for V-11-003: Sand Turn Lot Size Variance;
- g. Affirm Findings of Fact for Q-12-002: Beatty Spur Ankney Quarry;
- h. Affirm Findings of Fact for CU-12-008: Kinnison Vendor Sale CUP.

### **AGENDA**

Commissioner Rolston moved to approve the agenda as published, Commissioner Ringley seconded the motion, and it passed following a unanimous vote.

### **ANNOUNCEMENTS**

Chairman Nickel announced the county-wide fire ban is still in place, he listed the upcoming Free Landfill weekends and he explained the Code Red Program. Commissioner Cram introduced his son Kelly and grandson Evan who were present for the meeting from out of town.

### **PUBLIC COMMENTS**

There were no comments from the public.

### **DESIGN CONTRACT FACILITIES MAINTENANCE BLDG/DETENTION ENTRANCES**

Mike Mackey, Grants Administrator, reported on this contract to be funded by the State Land and Investment Board. Commissioner Ringley moved to award the contract and authorize the Chairman to sign project documents for design and construction administration of the County Storage Facility and Detention Center Entrances, to Malone Belton Abel P.C., in the amount of \$40,500. Commissioner Rolston seconded the motion and it passed unanimously.

### **FREE CLINIC/SHERIDAN HEALTH CENTER CONTRACT AWARD**

Following a staff report from Mr. Mackey regarding the (4) bids received, Commissioner Cram moved to award the contract and authorize the Chairman to sign project documents to O'Dell Construction, in the amount of \$527,000 for the Free Clinic/Sheridan Health Center Project, contingent upon approval by the Deputy County Attorney. Commissioner Maier seconded the motion and following a discussion regarding funding sources (SLIB, CDBG, and partnering with the hospital) for the above projects, all voted in favor. Commissioner Rolston thanked Mr. Mackey for his work securing grant funding for county projects.

### **CONTRACT AWARD FOR FIRE DAMAGE REPAIRS TO EVIDENCE BUILDING**

Mr. Mackey reported on the Request for Proposals following an electrical fire. Commissioner Rolston moved to award the contract and authorize the Chairman to sign project documents with O'Dell Construction, in the amount of \$30,062, for repair of the evidence storage facility at the Sheriff's Office, contingent upon approval by the Deputy County Attorney. Commissioner Ringley seconded the motion and it passed with a unanimous vote.

### **SAND/GRAVEL LEASE WITH BOARD OF LAND COMMISSIONERS**

Following a staff report from County Engineer, Ken Muller, Commissioner Maier moved to approve and authorize the Chairman to sign a State of Wyoming Board of Land Commissioners Sand and Gravel Lease, for the purchase of scoria material to resurface SR-Buffalo Creek Road, County Road #86. The term of the lease is for (2) years at the rate of \$.60 per ton. The motion passed, with all voting in favor, following a second from Commissioner Rolston.

## **W 5<sup>th</sup> STREET RECONNAISSANCE**

Mr. Muller discussed the proposed scope of work concerning West 5<sup>th</sup> Street and answered questions from the board concerning the previous agreement from the city to assume the ownership and responsibility for this road. Commissioner Ringley moved to approve and authorize the Chairman to sign the Final Reconnaissance Inspection Report for work on West 5<sup>th</sup> Street utilizing Sheridan Urban Systems Funding provided by WYDOT. Commissioner Maier seconded and the motion passed with the board voting in favor.

## **RESOLUTION 12-10-031 LAKE DESMET WATER RIGHTS**

The board discussed their frustration working with the Johnson County Commission regarding the potential lease with the Wyoming Game and Fish Commission and all agreed they are too far apart to reach an agreement. Commissioner Ringley moved to approve and authorize the Chairman to sign Resolution 12-10-031 dividing the ownership, control and public use of the specified water rights, previously held by the Lake DeSmet Counties Coalition Joint Powers Board; giving Johnson County 55% and Sheridan County 45%. The motion was seconded by Commissioner Maier and passed unanimously.

### **RESOLUTION 12-10-031 LAKE DESMET WATER RIGHTS**

RESOLVED that the Board of County Commissioners approve the following amendment to Section VII of the Joint Powers Board Agreement of Lake DeSmet Counties Coalition to add the following paragraphs:

Notwithstanding any other provision of this Agreement, the ownership, control and public use of the water rights now held by the Joint Powers Board shall be divided between the counties so that Johnson County has 55% and Sheridan County has 45% of the following water rights:

- a. Permit number 6225R for 38,960 acre-feet of storage with a priority date of 02/02/55.
- b. Permit number 973R for 24,000 acre-feet of storage with a priority date of 01/12/07.
- c. Permit number 5829R for 30,129 acre-feet of storage with a priority date of 04/03/50.
- d. Permit number 7009R for 17,738 acre-feet of storage with a priority date of 02/25/55.
- e. Permit number 6226R for 8,902 acre-feet of storage with a priority date of 02/04/55.
- f. Permit number 7291R for 37,340 acre-feet of storage with a priority date of 11/13/63.
- g. Permit number 6227R for 1,304 acre-feet of storage with a priority date of 03/08/55.
- h. Permit number 7532R for 740 acre-feet of storage with a priority date of 04/16/57.

Each county shall have the exclusive right to market and the right to retain all monies from the lease or sale of the percentage of the above-described water rights that each county holds.

All other Lake DeSmet assets, other than the Lake DeSmet water rights described above, shall continue to be owned, held and administered by the Joint Powers Board.

Monies from all sales and leases by the respective counties will be held by that county; provided, however, that both counties will have an obligation to fund the reserve accounts provided for in the Agreement between the Wyoming Water Development Commission and LDCC dated April 23, 2009 in the amounts of \$150,000 (operation, maintenance and replacement account) and \$100,000 (emergency maintenance account) in accordance with their obligations and rights: 55% Johnson County and 45% Sheridan County. Monies held in the investment accounts will be held by the JPB in accordance with its investment policies. Any county funding these accounts in excess of its percentage responsibility shall receive credit and reimbursement when such payment is made by the other county of its proportionate share.

The counties shall direct the JPB regarding the storage and release of water by the JPB who shall continue to administer the storage and release of water under the terms of this Agreement. The counties shall assume responsibility on the basis of 55% Johnson County and 45% Sheridan County for all obligations associated with the water rights which they own and hold in that proportion (e.g. contract water delivery out of Permit Number 973R and other water rights, Belus-Ballek obligations, etc.).

The counties may request the assistance of the JPB in the marketing of water; provided, however, that the decisions about the marketing and consideration to be paid for any sale or lease of water shall be exclusively vested in the individual counties.

The counties and the Joint Powers Board will file promptly with the State Engineer's Office or with the Wyoming Board of Control such petitions and applications as are necessary to add recreational uses to the exiting uses permitted for the above described water rights.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**BOARD OF COUNTY COMMISSIONERS**

**Sheridan County, Wyoming**  
**Mike Nickel, Chairman**  
**LDCC REAPPOINTMENT**

**ATTEST:**  
**Eda Schunk Thompson, County Clerk**

Commissioner Maier moved to reappoint Dave Clarendon to an unexpired 3-year term effective November 1, 2012 to November 1, 2015. The motion passed unanimously following a second by Commissioner Rolston.

**RESOLUTION 12-10-030 COAL SUPPORT**

Bob Green, GM Sustainable Development and External Relations for Cloud Peak Energy Resources LLC, updated the board and presented a Power Point concerning the recent acquisition of the Youngs Creek Mining Company, LLC. Following Mr. Green's presentation, Commissioner Rolston moved to approve and authorize the Chairman to sign Resolution 12-10-030 declaring Sheridan County's support for continued use and development of coal based power in the United States and the expansion of additional shipping capacity through new and existing ports. Commissioner Ringley seconded the motion and it passed with all voting in favor.

**RESOLUTION 12-10-030**

**Sheridan County's Support of Coal Use and Development**

**WITNESSETH**

**WHEREAS**, coal represents the most abundant source of energy in the United States; and  
**WHEREAS**, coal is one of the most reliable and affordable sources of fuel for electric generation; and

**WHEREAS**, consumers, businesses, communities and service providers need affordable electricity more than ever in this time of economic uncertainty, and stand to benefit from affordable and reliable coal-based electricity; and

**WHEREAS**, the coal reserves in Wyoming can meet the demands of the domestic market and earn revenue for the state of Wyoming by being exported to foreign markets via west coast ports; and

**WHEREAS**, coal generated electricity has increased by 183% since 1970, while emissions from coal-based power plants have been cut by 75% per generation unit; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of County Commissioners of Sheridan County, Wyoming support the continued use and development of coal based power in the United States, and support the expansion of additional shipping capacity through new and existing ports in order to allow for the sale of Wyoming resources to emerging markets.

**APPROVED AND ADOPTED** this 16<sup>th</sup> day of October, 2012.

**BOARD OF COUNTY COMMISSIONERS**

**Sheridan County, Wyoming**  
**/s/Mike Nickel, Chairman**

**/s/Eda Schunk Thompson, County Clerk**

**EXECUTIVE SESSION**

Commissioner Maier moved to adjourn into executive session pursuant to § 16-4-405 (iii) – matters concerning litigation, Commissioner Rolston seconded, and all voted in favor.

**ADJOURNMENT**

The board reconvened at 10:15 a.m. and there being no further business to come before the Board, the meeting was adjourned.

BOARD OF COUNTY COMMISSIONERS  
Sheridan County, Wyoming

Attest:

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Mike Nickel, Chairman

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Eda Schunk Thompson, County Clerk