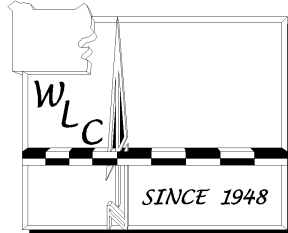


BIG HORN COUNTY STRATEGIC PLAN

Draft – March 7, 2007



WLC Engineering, Surveying, & Planning
200 Pronghorn
Casper, WY 82601-1723
Phone 307-266-2524

And

Ken Markert, AICP, Community Planning Consultant
2319 Davidson Ave.
Cody, WY 82414
307-587-4480

TABLE OF CONTENTS

Part 1. Introduction	Page 1
Part 2. Growth and Development Trends in Big Horn County	Page 3
Part 3. Summary of Consultant’s Outreach Efforts	Page 7
Part 4. Review of 1997 County Comprehensive Plan	Page 9
Part 5: Summary of a Process to Develop a New Big Horn County Plan	Page 11
Part 6. Evaluation of County Subdivision Review Process	Page 17
Part 7. Problem Land Uses	Page 25
Appendix	Page 30

PART 1: INTRODUCTION

by Ken Markert AICP

Project Background

Big Horn County officials have identified a number of unresolved land use and development issues including:

- ▶ Proliferation of unregulated mobile home parks and junkyards;
- ▶ Weaknesses in requirements for new subdivisions;
- ▶ Uncertainties about how to administer and enforce existing laws and regulations on land use and development; and
- ▶ How to proceed with a much needed update to the County's 1977 Comprehensive Plan.

The County Engineer and County Planner contacted planning consultants to discuss the County's situation and inquire how the consultants could help the County make more progress with these issues.

In response, the consultants recommended preparation of a Strategic Plan for Land Use and Development in Big Horn County. The concept of a strategic plan is to create a road map drawn up in a relatively short time that directs planning activities for the next two or three years. The overriding objective of the strategic plan is to help organize Big Horn County's planning activities and resources to most effectively address the land use and development issues facing the County.

Strategic Plan Components

The Strategic Plan will include the following items regarding the County Comprehensive Plan:

1. An evaluation of the 1977 Comprehensive Plan which will indicate the strengths and weaknesses of the plan.
2. An outline of areas that need to be supplemented or added to effectively update the 1977 Comprehensive Plan.
3. An outline of the process that can be used to update the 1977 Plan.
4. An estimated budget, timeline and grant opportunities for updating the 1977 Plan.

Pertaining to subdivision and zoning issues, the plan will:

5. Critique the County's subdivision regulations and review process with particular focus on density, access, potable water, irrigation, split estates, and utilities issues.
6. Identify and describe potential improvements to the subdivision regulations.
7. Estimate a budget and timeline for accomplishing improvements to the subdivision review process.

With regard to nuisance situations, including junkyards and unauthorized mobile home parks, the report will:

8. Characterize the nature and extent of nuisance situations.
9. Identify and describe the existing mechanisms that the County can use now for managing nuisance situations.
10. Identify and describe potential programs that the County can adopt to help manage nuisance situations including pros and cons of each.

PART 2: GROWTH AND DEVELOPMENT TRENDS IN BIG HORN COUNTY

by Ken Markert AICP

The consultants reviewed several sources of development trend data to help understand the present pressures on Big Horn County.

U.S. Census Bureau data indicate the following:

- ▶ The county population increasing 7.7 percent from 1990 to 2005.
- ▶ Population growth has been stronger in the unincorporated areas of the county.
- ▶ The county has had a slight population decline since 2000.

Census Bureau population estimates for 2005 are not as accurate as the 1990 and 2000 censuses. Therefore, the reported drop in population for 2000 to 2005 could be inaccurate.

Big Horn County assigns addresses to new construction in the unincorporated areas of the county. The addressing system is perhaps the County's most accurate measure of new development. This is because electrical utility providers require a county-assigned address before providing power to a new account. Other County permit systems (compliance permits and small wastewater treatment system permits) are more easily evaded and probably less accurate.

Big Horn County permitting data indicate the following:

- ▶ The number of addresses assigned for new homes went up dramatically in 2006 to 63 new addresses, rising from about 33 per year for the previous three years.
- ▶ Small wastewater treatment facility permits also increased significantly in 2006.
- ▶ Compliance permits for all sorts of new construction increased significantly in 2006, almost doubling over the previous year.

Subdivision development appears to be increasing in the county as well. The county approved only two major subdivisions in 2006 for a combined total of 13 lots. However, several much larger subdivisions are in-process. These include:

- ▶ A 138-lot proposal outside Basin
- ▶ Two 30-lot proposals outside Lovell
- ▶ A proposed 1,250-acre development of lots in the 20-acre to 40-acre size range.

Future population growth in the County can be difficult to accurately predict. However, a number of population projections are available for Big Horn County:

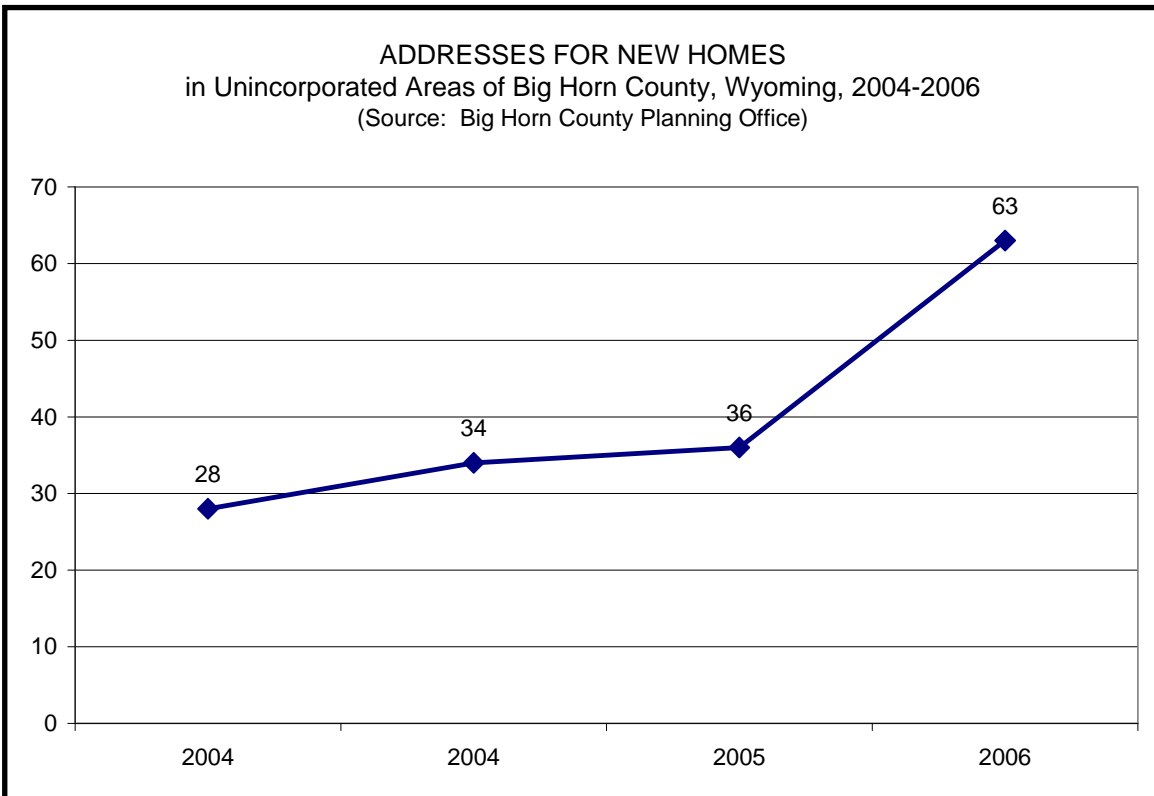
- ▶ The State of Wyoming’s Economic Analysis Division (EAD) makes a population projection to the year 2020. It shows negligible population growth in the county. This projection appears to be very conservative. In other locations in the state, the EAD projections are viewed as too low.
- ▶ The 2006 Wyoming Housing Needs Forecast uses two population growth projections developed by NPA Data Services, Inc. The first, the so-called “strong growth” forecast for Big Horn County, shows very slight population growth to the year 2020. More significant growth to the year 2030 is predicted (about an 11 percent increase over the 30 years, 2000-2030).
- ▶ The second NPA projection, the “very strong growth” projection, predicts the Big Horn County population will increase by 1,558 people or 12 percent by 2020 and a total of 3,163 or 28 percent by 2030.

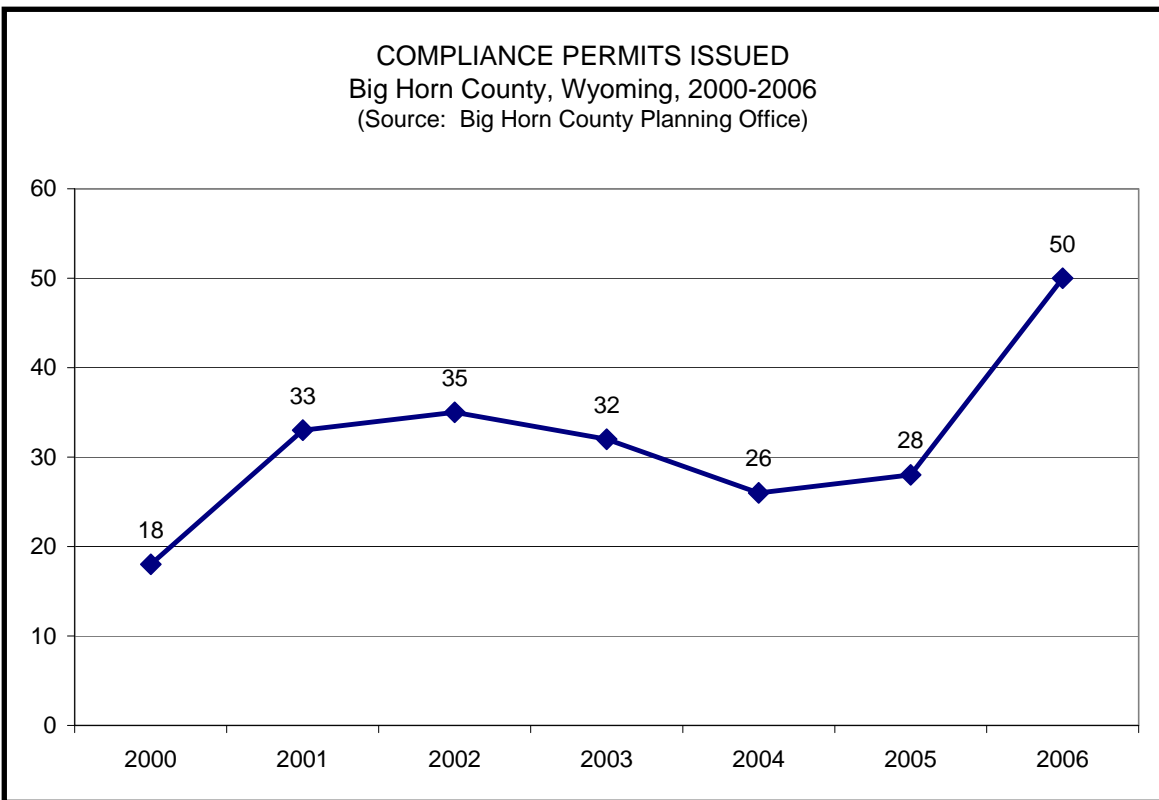
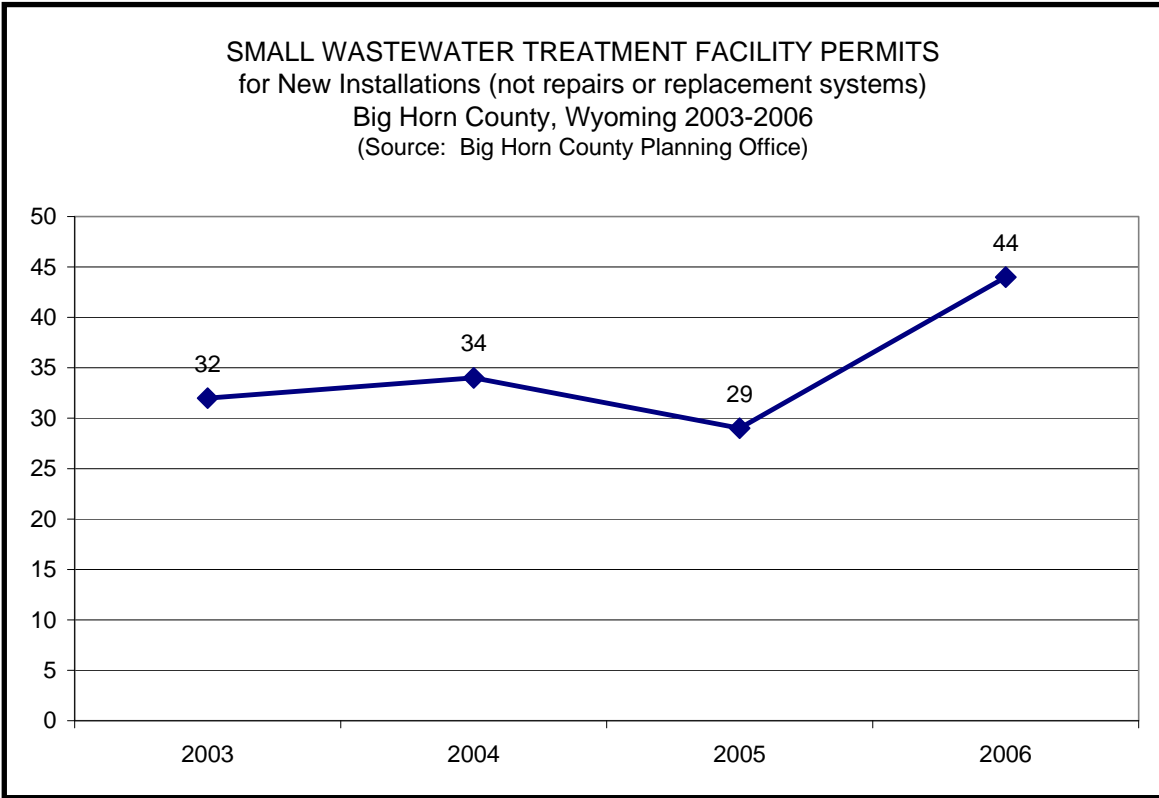
	2000	2020	2030
Moderate Growth Projection	11,461	11,768	*
Strong Growth Projection	11,461	11,944	12,684
Very Strong Growth Projection	11,461	13,019	14,624

* No projection available

On balance, the development trend data indicate that Big Horn County is probably likely to see more population growth than just flat or minimally increasing population. More and more young retirees will discover Big Horn County. Strongly increasing land and housing costs in Park County will also push more and more working families to look to Big Horn County for the best values in homes and property. Second home development is also a consideration that does not usually lead directly to population growth. The consultants believe Big Horn County will experience increasing population growth and development and that the County would be well advised to prepare for this.

AREA	1990 CENSUS	2000 CENSUS	2005 ESTIMATE	1990-2005 PERCENT CHANGE	2000-2005 PERCENT CHANGE
Big Horn County	10,525	11,461	11,333	7.7%	-1.1%
Basin	1,180	1,238	1,224	3.7%	-1.1%
Burlington	184	250	248	34.8%	-0.8%
Byron	470	557	548	16.6%	-1.6%
Cowley	500	560	582	16.4%	3.9%
Deaver	199	177	177	-11.1%	0.0%
Frannie (pt.)	142	180	182	28.2%	1.1%
Greybull	1,789	1,815	1,752	-2.1%	-3.5%
Lovell	2,131	2,361	2,277	6.9%	-3.6%
Manderson	83	104	101	21.7%	-2.9%
Incorporated	6,678	7,242	7,091	6.2%	-2.1%
Unincorporated	3,847	4,219	4,242	10.3%	0.5%





PART 3: SUMMARY OF CONSULTANT'S OUTREACH EFFORTS

by Ken Markert AICP

The consultants conducted an outreach phase of the study that involved interviewing County Commissioners, Planning and Zoning Commission members, and other county officials to understand their views of the problems and goals for land use and development in Big Horn County. The consultants also sought the views of land surveyors, engineers, real estate agents and similar interested people on land use and development issues in Big Horn County.

The County officials were asked to complete an “officials’ survey” concerning planning issues in Big Horn County. Ten officials completed the survey. The results of the survey were then presented to a joint meeting of the County Commissioners and Planning & Zoning Commission, which was also attended by the County’s attorney, engineer, planner and sheriff. The consultants also provided the survey to a number of people outside county government who have knowledge of land use and development issues in Big Horn County. The complete survey results and meeting summary are provided in the Appendix.

The survey results are summarized as follows:

- ▶ County officials believe that over the next ten years, the county will continue to grow both in the towns and in the rural areas and that subdivision development as well as commercial and industrial development will increase.
- ▶ With regard for goals for county planning, the strongest agreement among county officials was for preventing illegal subdivisions and better control over junkyards. Support was also very strong for updating the County’s 1977 Comprehensive Plan and for updating the County’s regulations on land use and development.
- ▶ With regard to the problem of illegal junkyards and mobile home installations, all county officials felt clarification of the legal authority for enforcement is necessary. Many of the officials felt revising the County’s land use codes would also help with these problems.
- ▶ When asked what areas of the County’s subdivision development review process need improvement, county officials most strongly agreed that water supply issues, impacts to neighbors, and consumption of agricultural land need to be handled better in the future.
- ▶ Most county officials felt the County should develop a general framework for planning and have local plans for portions of the county on an as-needed basis provided the local plans are consistent with general county policies. There was not much support for having totally independent plans for different areas of the county.
- ▶ County officials for the most part felt that the public should be extensively involved in the entire process of revising the 1977 Comprehensive Plan.
- ▶ There was strong agreement among the County officials that a revised comprehensive plan should address (1) property rights, (2) agricultural land

protection, and (3) protection of scenic areas. There was less agreement but still a majority in favor of having the plan address (1) development coordination with towns, (2) economic development, (3) nuisance land uses, and (4) wildlife habitats.

- ▶ The results from the survey of people outside county government were not remarkably different from the county officials' results, except that this group did not share the view of the county officials that the public should be extensively involved in making the plan. All of the people outside county government felt getting public input on a draft plan and getting input of key agencies and groups would be sufficient.

PART 4: REVIEW OF 1977 COUNTY COMPREHENSIVE PLAN

by Steven K. Kurtz, FAICP

This is a review of the Big Horn County Comprehensive Plan and several similar documents covering various areas within the county adopted in 1977 and amended in June, 1983. This combination of documents is really not comprehensive or a development plan for Big Horn County, but compliance permits for specific uses to comply with environmental policies. There are policies in place but no inventory, and no summary of existing conditions within the county, which are really the basic element of the plan. The policies are followed up with a compliance permit for any use that requires air quality permit, water discharge permit, any commercial use, any mobile home court, or any new right-of-way for utilities or transportation purposes. Permits are required for any activity that requires the transfer of water rights or would generate ten or more full time jobs. For any of these uses, a compliance permit is required which follows a process of review and approval by the county. The most highly developed of these plans for compliance permits is for the Shell area which is very similar to zoning and could be construed to be adopted as zoning.

These documents do not contain the basic elements of a comprehensive plan for a county. Those include an inventory and summary of the existing conditions in the county and goals, policies and objectives developed by citizens and planning commission and county commissioners to address a variety of areas. The plan should also include an element which deals with working with the BLM and Forest Service, memorandums of understanding for coordinated activities, and coordination with these federal agencies, as they own 70 plus percent of the county. (These may be in place.)

The plan should have maps that outline the existing conditions, constraints for growth, those areas to be preserved, those special areas requiring particular policies. A good plan should also include a work program which takes the goals and policies and objectives and turns them into tasks for implementation of the plan, assigning who does what, such that the plan, when adopted, becomes a work program for implementation.

The existing documents call for several local committees which would advise the planning commission and county commissioners on planning issues. This is a difficult format in that it would require much more staff than the county currently has, and a larger budget and maintenance of many committees and education of those committees as to planning policies. This is an excellent idea that needs to be made into a manageable format.

Compliance permits, as spelled out, take away local control from the county and give it to state agencies, which is not the goal of most counties. Most counties want to maintain local control of the growth of the county.

Our recommendation is that the policies be used, as they seem to represent the current values of the county as they did in 1977, and build on those. Use those policies for the basis of beginning discussions with a task force representing various areas of the county. The compliance permit is seemingly a method of controlling particular uses and

protecting the environment, but in no way creates a policy for where land uses should be or how growth can be managed or an overall policy for the future of the county.

PART 5: SUMMARY OF A PROCESS TO DEVELOP A NEW BIG HORN COUNTY PLAN

by Steven K. Kurtz, FAICP

What the Plan Is

The county development plan, or master plan, or comprehensive plan, is a written policy adopted by the county commissioners which outlines what kind of decisions the county will make in reviewing land use permits. It is the guide for the county which works towards accomplishing the vision that the people of the county have for the county.

- Individual land owners can use the plan to determine what the county has determined through a planning process the best use of their land.
- Municipalities can use the document in their planning and hopefully through the process of developing the plan, municipalities will be educated in planning and develop a working relationship with the county on growth in their areas.
- Developers can use the plan to determine the potential for development with the lands that they own or where, if they are interested in developing subdivisions or industry or recreation, those uses should occur.
- The public land managers can use the plan to work with the county in determining the county's plan for land use and take those policies into consideration in their planning and regulatory activities.
- The economic development staffs of the county and municipalities need a very strongly defined plan of land uses and development policies that the county will follow. Having a good planning process and a good review process will enhance the county's ability to attract the new and the types of businesses that the county would want.

Elements of a County Plan

Core elements of a plan include:

- A background and introduction stating the purpose of the plan; how the county got to this point of needing to do a plan; goals, policies and objectives or actions developed by a steering committee, the planning commission and board of county commissioners.
- A report of inventory, which is a summary of physical characteristics and existing condition of the county, and is a basic point from which to begin. Data generated by agencies that monitor population, housing, and economic conditions provide a true picture of the county and allow those working in the planning process one common background from which to work. This report of inventory would summarize the economics of the county, the existing land uses, and other existing conditions. An economic base study and population projections need to be completed so that there is a true understanding of what the components of the county economy.

- Population projections based on known information are critical in projecting what is likely to be the growth of the county population. The population projections should be translated into land use needs by land use type and growth areas needed. A key element of the plan is to project growth areas, such that the county and municipalities can respond to rapid growth through planning, in case projections are incorrect because of changes in the economy. In addition, land use areas, special areas of particular land uses suitable for growth, should be designated and outlined such that if growth occurs faster or slower than projected the county can react and have a solid policy to follow in implementing the plan.
- The plan should include a growth management area special plan, the lands adjacent to the municipalities, developed jointly by the county and the towns. These are areas where public utilities could be extended and urban development could occur.
- A most critical element in the plan, as the county's policies have been to preserve irrigated and agricultural land, is compact growth of the communities.
- Another element of the plan should be those special planning areas such as Shell and other communities around the county. These could be folded into the one master plan for the entire county.
- A rural area plan would develop the policies for those agricultural areas and those areas subject to potential subdivision and development and the policies needed to guide those areas as established in the plan.
- And finally, the plan should contain a public lands plan. While our interviews have not indicated any concern about the relationship with the with the federal land managers, but more that of cooperation, the county should develop their plan within a process such that the Forest Service and BLM can participate, and understand the county policies. With a continuing strong relationship between the county and federal land managers, they will subsequently consider the county's goals and policies in their planning and regulatory activities.

Public Participation

There are several methods of involving the public in the planning process and development of the plan. Some of these, which the consultants have used successfully, are:

- Appoint a steering committee which would guide the development of the plan, work the planning staff, and with the consultant who would be hired to assist the county in developing such a plan. This task force could include commissioners, planning commissioners, representatives from agriculture, industry, business, the BLM, the Forest Service, and representatives from each municipality. This committee could be appointed after the report of inventory is completed. The trick is to not wear these people out but have them learn about planning and the planning process so that when the plan is complete they can be the ones who help implement it.

- Use the planning commission as the planning committee and expand it to include others mentioned above.
- Include the 70 plus special districts in the process through their boards. These are the people that have the most planning needs and should be represented and participate in the process, through the steering committee.
- With urban and urban fringe areas being where many planning conflicts occur, the county planning process should include a review of the plans recently adopted by Greybull and Lovell and there should be municipal representatives in the process. This could council and municipal staff as either members of the steering committee or a separate committee could be established to deal with the urban issues.
- Committees for the special areas could be established as well if the desire is to designate special areas that would have specific plans within the large framework of the county plan.
- To obtain general public input a survey could be completed through the newspaper, mail, sample mailings, a Web site and other methods to have the general public comment on the needs of the county at the initial stages of the process and comment again on at the draft plan stage.
- Regular press releases and interviews with local news sources are an excellent way to inform the public about the process.
- Speaking at service clubs, schools, and a variety of other civic organizations is an excellent method of getting the story out and getting immediate feedback.
- Open houses at various locations around the county with the report of inventory and preliminary goals during the early stages of the process.

Mission Statement and Goals

Having this report of inventory in place, the steering committee could develop goals, policies and objectives, sometimes called actions or tasks. The committee should develop a mission statement for the county which summarizes what the county wants to be, such as remembering its heritage, preserving agriculture while diversifying the economy and growing, maintaining and increasing quality of life. .

There has been much discussion about preservation of the culture of the county, the agriculture, while wanting to entertain growth and yet manage growth. The goals need to deal with the planning process such that a planning process can be maintained which includes citizen involvement, intergovernmental coordination, reducing the regulatory burden on the landowner, and other components. A sample land use goal could be to provide appropriate and suitable land uses in appropriate and suitable areas of the county while allowing for a broad range of uses from residential to commercial to public to industrial. The goal of protecting ag land and open spaces is an important one.

Goals can be developed for each of the special planning areas as well as the rural ag areas and goals developed for agricultural and irrigated lands and open space/ recreation.

There should be goals for economics and the tax base. There should be goals for environmental quality, which is inclusive of the overall county water and sewer policies, private sewage disposal, water courses, air quality, recycling, wildlife, pollution prevention, prevention of blight and nuisances and environmental natural hazards such as floods, soils, smoke, and fire.

There should be goals for housing. If the county is to grow, there needs to be a place for people to live and there needs to be a variety of housing that is affordable wherever possible, and provides for a broad range of housing types. There should be transportation goals including rail, highways, roadways around communities and air. There should be goals for public facilities and services, for the public utilities of water and sewer, public lands and natural resources, and there should be a goal for working with the BLM and with the Forest Service.

The Process of developing the plan

Inventory

As mentioned above, the important first step in the process would be a report of inventory, which would summarize the basic condition of the county. This would include existing land use, land ownership, conditions, economic base, a summary of the planning process, etc. Jim Waller of the county has much good GIS and mapping information which would be the basis for the inventory. The consultants could provide mapping for this phase and could provide the analytical and conceptual plan mapping for the completion of the plan.

Steering Committee

The steering committee or task force should then be appointed and then should be trained so that they understand the basics of the statutes of Wyoming as to what the planning process is, what the purpose of the plan is, what planning is. This will help develop the committee for future implementation tasks and creates a fairly significant group of people who understand the planning process which is important for implementation of the plan in the future. They would review the Report of Inventory. The committee would move on to develop the mission statement and goals, policies, and objectives or actions as listed above.

The committee would then move on to develop the land use and transportation map and the policies and implementation strategies for the plan. The task would need to be divided up, as the county should, into special planning areas such as the rural agricultural area, the mining areas, the urban areas, and the urban fringe, where most of the growth of the county will likely occur in the future, which causes coordination problems between the counties and the municipalities. There should be a planning or growth management area around each municipality.

The next step is to develop a draft plan. The committee would work through this process with the consultants. A variety of organizations could come and present their concerns and thoughts for cooperation to the committee. This can include some of the 70 plus districts in the county, WYDOT, the federal land managers, agricultural associations, the municipalities, the economic development people, and a variety of

other stakeholders in the planning process. The consultant would prepare the draft plan from this input and inventory.

Public Review

Once a draft plan is created, there should be open houses in the various communities and county wide meetings to present the goals, policies and actions that have been developed, as well as presenting the land use and transportation plan.

These open houses are critical and should be handled as a one-on-one basis between the steering committee, the staff, the consultant, and individuals who are interested in the planning process. The plan should be revised subject to these comments. The comments should be all included in the plan document itself. Once the draft is completed and public workshops have been held, then the second draft of the plan would be completed, including those changes and additions or corrections made by the steering committee, planning commission, and the county commissioners. Then the county should hold a couple of public hearings on the plan or possibly a hearing in each community. If not, simply a public meeting in every community and public hearings based on the entire plan.

A work plan will be developed which will be an outline for how the county should proceed in the future, such as adopting zoning, updating the subdivision regulations, establishing an ongoing work group with the BLM and the Forest Service, and other activities to implement the plan.

After open houses and meetings on the plan, the Planning Commission would review the plan, make whatever changes it feels are needed, and a final plan created. The county would then hold public hearings on the plan and adopt the plan.

Project Schedule and Budget

We estimate that the time to complete a plan should be at least a year, factoring in and out the summer season and hunting season and the other seasons that interfere with committee functioning. The report of inventory phase would take a couple of months; the steering committee would meet for three or four months to develop goals, policies, and objectives or actions. Once that process is complete the plan development and public open houses, workshops, public hearings and adoption of the plan would take six months or so. More extensive public involvement and more extensive research into issues such as agricultural land would extend the project time line.

The consultants feel the plan could cost \$75,000 to \$125,000 complete depending on the exact scope of work and level of involvement of county staff. It is estimated that a one- to two-year long process would include much citizen participation and coordination with the many stakeholders in the process, which is a significant portion of the cost of the process. This is in a realistic relationship to the cost of other municipal and county plan work we have done.

The county could start on the Report of Inventory immediate, and apply to the Wyoming Business Council, for a grant of up to \$25,000 to help complete the plan. The next deadline for this grant application would be May 1. Thinking back to the

very beginning of this chapter as to who would use the plan, it would be good to approach other local governments, industry, and other agencies to assist with paying for the plan as well as participating in the process.

PART 6: EVALUATION OF COUNTY SUBDIVISION REVIEW PROCESS

by Ken Markert, AICP and Steven K. Kurtz, FAICP

Big Horn County originally adopted subdivision regulations in 1975. In addition, the County completely revised its subdivision regulations in August, 2006. More recently, the County has cited a number of problems with subdivision development including:

- ▶ Inappropriate on density
- ▶ Access problems,
- ▶ Concerns about potable water supplies
- ▶ Irrigation issues
- ▶ The problem of split estates
- ▶ Utilities issues

As part of the outreach effort in the making of this strategic plan, the consultants ask county officials their views on subdivision problems. The top concerns were with:

- ▶ Consumption of agricultural land
- ▶ Impacts to neighbors
- ▶ Water supplies.

The consultants reviewed the Big Horn County subdivision regulations to identify areas that could be improved. The consultants also reviewed the files of recently approved subdivisions to understand the County's actual subdivision review practices. The results of these reviews are noted below along with suggestions for improvements to the subdivision review process. Lastly, the consultants have prepared a budget for making the recommended improvements.

Evaluation of the County's Subdivision Review Process

Consumption of agricultural land

The County's subdivision regulations do not contain any express provision requiring conservation of agricultural land or preventing it use as development sites. In fact, many necessary subdivision requirements, such as not subdividing in flood plains or on steep slopes, tend to help make agricultural land preferable for development.

It should be noted that the loss of agricultural land to development is a multi-faceted problem. No single program or single regulation will be effective by itself; multi-faceted solutions are required. Communities having success in preventing development of agricultural lands usually employ a variety of tools including planning studies of agricultural resources and economics, financial incentives for farmers and ranchers, land use regulations, special incentives for developers, educational programs and other tools.

In terms of subdivision regulations, extra measures for subdivision developments in agricultural areas can be required. Buffer distances from irrigation facilities or

adjoining agricultural operations can be required. Control of domestic animals and fencing of subdivision properties can be required. Notifications concerning the “right to farm and ranch” can be required in the subdivision documents to help prevent nuisance complaints against agricultural operations by future lot owners. Subdivision regulations can also include incentives, such as relaxing certain requirements if the use of agricultural land for development is minimized.

Impacts to neighbors

The subdivision regulations do not contain any specific requirements to minimize impacts to neighbor. However, many requirements, such as those concerning roads, potable water supplies, irrigation water, and sewage disposal are intended to reduce or prevent impacts to neighboring properties.

The subdivision procedures also help address this issue by giving neighbors an opportunity to review and comment on subdivision proposals before they are finalized. The County’s requires subdividers to notify adjoining property owners of any subdivision applications. The notice alerts the neighbors to the Planning Commission public hearing on the subdivision. The County Commissioners may optionally hold their own public hearing on the final plat. (The subdivision regulations were also recently amended to provide a public hearing on simple subdivision applications.) It seems that the County’s regulations give neighbors adequate opportunities to participate in the subdivision review process.

Perhaps the best action the County can take to control the impacts to neighbors is to have good subdivision requirements and enforce them. It happens that people are unhappy with the change that a new subdivision signifies. It is of course impossible to prevent all such changes. However it is possible to objectively address the tangible problems associated with subdivisions and prevent or minimize those.

Potable water supplies

Subdivisions must comply with the County’s standards for potable water. In 2001, the State Legislature added new requirements to the county subdivision statute that required the State Department of Environmental Quality (DEQ) to review and comment on the water supply aspects of every subdivision application. Subsequently, the Legislature modified the statute to allow counties to opt out of the DEQ review for subdivisions of five or fewer lots. Big Horn County has opted out for simple (two or fewer lot) subdivisions. [Chapter V, Section 3.] The consultants believe that the DEQ review is usually very adequate in terms of its level of review for potable water supplies.

Big Horn County also requires subdivisions use existing rural water pipeline systems if one is located within a quarter-mile of the subdivision. [Chapter XVII, Section 2a.] In general, this is a good requirement and should be enforced to reduce the reliance on the less dependable groundwater sources. However, the 1,320 foot distance may be extreme and difficult to implement. Consideration should be given to reducing the distance to 300 to 400 feet.

Presently, the County subdivision regulations lack provisions for maintenance of water facilities within the subdivision. Subdivisions should include a mechanism for maintenance of any shared water supply facilities. Subdivisions should also have a means to assess costs to lot owners for necessary maintenance of the water supply facilities. A home owners' association or water users association should be required to handle these issues. The County should require documents establishing these entities be recorded with the final plat.

Access

The County's access standards appear reasonable and appropriate. All subdivision lots are required to have usable access to a public road. [Chapter XVII, Section 4c.] Engineering specifications are established for the design and construction of new subdivision roads. [Chapter XVII, Section 4.] There are some references to roadway standards in the regulations but no detailed references to cut sections, fill sections, cross sections of roadways other than a 24 foot width.

A possible problem is with regard to seasonal roads, where the County may reject a subdivision application if the public road requires substantial upgrading or maintenance to allow for all season traffic. [Chapter XVII, Section 4a.] Alternatively, the County can require a warning on the plat if all season access is doubtful. [Chapter XVII, Section 4b.] This provision has the potential for misuse and abuse. It would be better to develop a more systematic approach to reviewing the access and upgrade needs of existing roads leading to proposed subdivisions. The County should also consider developing standards for acceptable access for cases where the subdivision requires road access via public lands.

Density

The subdivision regulations do not contain any express requirements for density, such as minimum lot sizes. This is appropriate as court cases in other states have held that lot size requirements constitute zoning requirements and should not be contained in subdivision regulations.

The regulations specify that a simple subdivision is a one or two lot subdivision where the lots are less than 35 acres but larger than 5 acres. [Chapter V, Section 3.] The requirement that simple subdivision lots be at least five acres in size could be counter-productive in some respects. In other words, to utilize the simple subdivision process, in some instances applicants will enlarge their proposed lots over what is really needed or appropriate. Consideration should be given to reducing the minimum lot size for simple subdivisions.

Fire protection standards

The regulations contain one requirement concerning fire protection and that is the requirement of a plat warning notice if fire protection services are not adequate. [Chapter XVII, Section 7.] The County could improve on this. The National Fire Protection Association has recommended standards for rural subdivisions. Among these is a specification for on-site water storage for fire fighting purposes. The County could adopt such as standard for all subdivision or at least for smaller lot

subdivisions. The County could also refer all subdivision applications to the local fire districts to obtain their views prior to approval of the subdivision.

Irrigation

Irrigation issues in subdivision development typically include issues about the adequacy of irrigation water supplies, the protection of irrigation facilities, management of irrigation within the subdivision, and need for conservation of irrigation water, particularly when septic systems are involved. These are often complex and difficult issues during the review of a subdivision.

The County subdivision regulations presently contain the following requirements with regard to irrigation:

- The Planning Commission is required to consider the effects of the proposed subdivision on irrigation and drainage facilities. [Chapter V, Section 5.]
- For major subdivisions, the Planning Commission shall require measures to minimize the disruption of irrigation. [Chapter XVII, Section 1a.9.]
- For simple subdivisions, approval of irrigation water distribution plan by irrigation districts and associations. [Chapter VII, Section 2.] (Note the county regulations do not expressly require this for major subdivisions although the subdivision statute does.)

Several improvements could be made with regard to irrigation. First, the County could expressly require the approval of local irrigation districts concerning the water distribution plans of major subdivisions. While this is already required by statute, it would make the regulations more user-friendly if the requirement is spelled out in the county regulations.

Secondly, subdivisions should include a mechanism for internal regulation of irrigation water, such as the appointment of a subdivision water master. Subdivisions should also have a means to assess costs to lot owners for necessary maintenance of the subdivision's irrigation facilities. For larger subdivisions, a home owners' association or water users association should be required to handle these issues. The County should require documents establishing these entities be recorded with the final plat.

Thirdly, the County should establish design specifications such as laying out easements for irrigation facilities where surveyed easements do not already exist and specifying minimum sizes for these.

Split estates

The County regulations have requirements concerning split estates and mineral extraction. [Chapter XVII, Section 1g.] These requirements specify that land containing any active mineral extraction facilities cannot be included in any subdivision lots. In addition, buffer areas can be required to separate lot areas from the extraction areas. The requirements also allow the County to require plat warnings where future mineral extraction activities can be expected to occur.

These requirements could be improved by requiring more information on status of mineral estate. For example, a bill proposed in 2007 Wyoming legislative session would have required counties obtain the following information for subdivisions:

“A report by a professional landman or geologist which identifies all owners and lessees of the mineral estate on or under the land to be subdivided and summarizing existing mineral leases and past mineral exploration and development on or under the land. The applicant shall provide evidence that all owners and lessees of the minerals on or under the land to be subdivided have been notified by certified mail of the application for a subdivision permit. The board shall require the applicant to give notice on the plat that the surface estate of the land to be subdivided is subject to full and effective development of the mineral estate.” [House Bill 10.]

Big Horn County should consider if any of the requirements in this bill should be added to the county’s subdivision regulations.

Subdivision road maintenance

The County’s subdivision regulations lack provisions concerning future maintenance of subdivision roads. For both simple and major subdivisions, the plat warning concerning no public maintenance of roads is required. [Chapter VII, Section 1a. and Chapter XIV, Section 3e.]

As with irrigation facilities, establishment of a home owners association or road users association should be required to assume maintenance responsibilities. This would not guarantee maintenance of the subdivision roads but at least would make it more likely that proper maintenance would occur.

A more rigorous approach to this problem would be to require every subdivision application include a petition to establish an Improvement and Service District pursuant to Title 18, Chapter 12, Article 1 of the Wyoming Statutes. This would allow the County to establish a special district with taxing and bonding authority to govern the maintenance of subdivision facilities, including roads. Even this would not guarantee proper maintenance but would give the subdivision lot owners strong tools to carry out maintenance.

Utilities

There is no explicit language in the subdivision regulations about what public utilities should be provided by the developer (gas, electric, telephone, cable TV). The regulations include minimal standards for easements for these utilities that are within the subdivision and require review of the plat by utility companies. [Chapter XVII, 4k.] These requirements could be improved by specifying which utilities are required. For those that are required, minimum easement widths could be specified. In addition, the regulations should make it clear that the required facilities are the developer’s responsibility to have installed and there must be solid assurances that the required facilities will be installed.

Many communities use a development agreement to ensure that the community and developer both understand on what facilities the developer must install; such agreements also specify the terms of the developer's financial guarantees. Big Horn County should consider using development agreements for major subdivisions and have the agreements cover all required improvements (roads, water, sewer, and irrigation facilities, etc., not just utilities).

Illegal subdivisions

Illegal subdivisions were noted by the county officials as a significant problem. These are cases where a land parcel is divided in to one or several parts, typically by deeds containing a legal description and lacking a survey, and without a subdivision permit. By state law, the County is obligated to prevent illegal subdivision. Big Horn County should have a more comprehensive process to prevent illegal subdivisions (or at least catch them as early as possible).

A comprehensive approach to preventing illegal subdivisions should include education, monitoring of recorded deeds, and timely enforcement. The cooperation of many county offices, including the assessor, attorney, clerk, and planner, is necessary to have an effective strategy. Enlisting the support of local real estate professionals (surveyors, lawyer, lenders, real estate agents, and title insurers) is also important. Big Horn County will need to develop its own unique approach to this problem. However it is accomplished, the objective should be to prevent most illegal subdivisions preemptively before there is an attempt to record them. An equally important objective is to have swift enforcement against illegal subdivisions that slip through the system and are discovered after they are recorded.

General observations

Overall the subdivision regulations are very good. The comments here are about fine-tuning them.

- Overall, the subdivision regulations could be improved in terms of clarity. The addition of diagrams illustrating the review process would be helpful. The regulations might also benefit from use of more standard and consistent terminology. For instance, the "preapplication subdivision plan" could be called a "preliminary plat", which is the conventional terminology.
- There needs to be a clearer definition of the time frames for public hearings, the requirements for public hearings whether simple or major subdivisions. The process for submission and review of a simple subdivision seems to take as long as a major subdivision if the conservation district does not reply within 60 days, and the idea of a simple subdivision is that with the requirement that any division of land is a subdivision, the simple subdivision would be processed by the staff with notification to the planning commission and board of county commissioners that a simple subdivision record of survey is adequate. The staff review for a simple subdivision should be adequate with no submission to the planning commission and county commissioners except for final approval and signature upon recommendation of the staff.

- It would be good under Chapter 1, Findings, to list from the statutes the purposes of county subdivision regulations.
- A procedure for granting variances from subdivision design standards could be useful.
- More explicit language regarding acceptable financial guarantees would be in order. It would be an excellent idea to include a sample subdivision agreement in the regulations such that a developer knows what the requirements will be when they reach the final plat approval process.
- Section 9 page 8, the second paragraph that subdividers should be aware that the Big Horn County comprehensive plan may impose requirements in addition to those contained in this resolution is good. Once the plan is updated it would be good to add those references specifically to the subdivision regulations.
- There are simple and major subdivision classifications only. The state statutes allow a county to adopt minor subdivision requirements as well where five or fewer lots can be platted without having to be reviewed by the Department of Environmental Quality. Individuals will avoid the major subdivision process because for a three- to five-lot subdivision the developer must submit plans to DEQ and go through the entire review process.
- There should be phasing opportunities for developers. There are apparently a couple of large subdivision applications under review at the current time for large subdivisions allowing the developer to develop phases to build phases allows for a response to the market and not require the entire subdivision to be built when there may not be the current market for the subdivision.
- DEQ has established new pollution prevention plan requirements for sites. This is a big issue now and the county should work with DEQ and the developers to insure minimal erosion from the construction sites. This problem causes probably the most lawsuits of any in relation to the development of subdivisions.
- The impact questionnaire is a good one but could be expanded to include more information.
- Some key terms should be defined and a number of typographical errors should be corrected.

Improving the Subdivision Review Process

Improving the subdivision review process is the County's best way to improve the quality of new subdivisions that are going to occur in the future. Improving the process involves more than just improving the subdivision regulations, although that is an important part.

There are a large number of recommendations in this chapter for improving the County's subdivision regulations. Many of these are actually suggestions or ideas to consider. To actually revise the regulations, the County needs make some choices about which of these recommendations and ideas to adopt.

It may be productive to involving a wider group of people in identifying the problems and possible solutions with subdivisions in Big Horn County. The County could consider assembling a technical advisory committee of local real estate professionals to advise the County on subdivisions issues. Such a committee could be a sounding board for revisions to the subdivision regulations.

Some of the things that should be done to improve the subdivision review process include:

1. Support training for county officials involved in subdivision review. Training sessions and self-study materials are available through the Wyoming Planning Association, the Western Planner Conference, the American Planning Association and other such associations.
2. Consider using outside resources such as consulting engineers, geologists, and planners to help review larger subdivisions. With a small staff, it can be difficult to keep up with a surge in subdivision development. Outside assistance can increase the County's ability to handle the case load. It can also bring additional professional experience and perspective to bear on each subdivision.
3. Developing a strong system to prevent illegal subdivisions. It is necessary to stop illegal subdivisions if the County hopes to improve the quality of subdivisions. It is very discouraging to the honest subdivider to see the competition bypass the review process. This undermines public confidence in county government. Ultimately, the result is uncontrolled growth. The County should not let a lack of staff resources be the reason for failing to gaining better control of this problem.

Budget and Timeline

A complete rewrite of the subdivision regulations would cost in the \$20,000 to \$35,000 price range if outsource to consultants. Given the need for interaction with the public and multiple county agencies, the project would take about 12 months to complete.

Training should be on-going. Budgeting for training of planning staff, Planning Commission members and other county officials would be in the range of \$4,000 to \$6,000 annually.

The cost of outside consultant assistance in review of subdivision applications would be variable, depending on the number and size of subdivision applications.

The cost of developing a strategy for controlling illegal subdivisions is largely the cost of existing County staff. Carrying out the strategy involves other costs such as hiring additional staff to review deeds for illegal divisions, if this is not already being done.

PART 7: PROBLEM LAND USES

by Ken Markert, AICP

Two types of problem land uses are the focus of this section—unauthorized mobile home installations and junkyards. The unauthorized mobile home installations appear to be increasingly proliferating in certain areas of the county and the junkyard conditions have been a bane for many years.

The County expects to prepare a new comprehensive plan in the next one to two years. Following that, the County may be engaged in developing new land use and development programs to implement the plan. These new programs may include county zoning. Zoning is an effective regulatory mechanism for containing problem land uses like junkyards and for establishing standards for mobile homes. However, the County may decide not to pursue zoning. And even if the County decides it needs zoning, it will probably be several years before it is in effect. Therefore, getting these problem land uses under control in the near-term will require using other tools than zoning.

In this Chapter, the problem land uses are described and existing mechanisms for dealing with them are identified. Also described are a number of potential programs that the County can adopt to help manage the problem land uses.

Junkyards in Big Horn County

In February 2007, the consultants toured parts of Big Horn County with the County Planner to see examples of junkyard. Junkyards were observed that included inoperable motor vehicles as well as other types of materials. None of the observed junkyards were very large in size. One junkyard was screened from view by a board fence, but most were plainly visible with no effort made to screen the view. Some junkyards in Big Horn County have been established with Wyoming Department of Transportation authorization while others have not received this authorization

Existing Mechanisms to Control Junkyards

The consultants have identified three existing mechanisms to control junkyards. As the following discussion indicates, none of these existing tools is likely to totally meet the County's needs.

1. The Wyoming Junkyard Control Act establishes state regulation of commercial junkyards that are located near Interstate and primary highways. Junkyards within 1,000 feet of highways such as US 14, US 14A, US 16, US 20 and US 310 generally must be screen from view. Junkyards in established industrial areas are exempt. Misdemeanor penalties can be imposed for lack of compliance. [See W.S. 33-19-101 through 33-19-110.]

The County should contact the Wyoming Transportation Department to request enforcement of the act if there are unscreened junkyards along the primary highways.

2. The Wyoming Abandoned Vehicles Act contains provisions against having more than four inoperable, unregistered vehicles on a property visible from any public road. The means for enforcing this requires local law enforcement to impound the junk vehicles. [See W.S. 31-13-105.] The lack of any criminal penalties and the cumbersome problem of impounding junk vehicles make this statute of limited practicality.
3. Big Horn County Compliance Permit: A compliance permit is required in most areas of the county to establish a junkyard or salvage yard. Junkyards are prohibited in the Shell area. However, most of the local regulations merely require junkyards be maintained in a neat and orderly manner and not be a health or safety hazard. (The Frannie-Deaver area requirements actually require junkyards to be screened from view.)

Apparently, the compliance permit resolutions for all areas except Shell have largely been ignored and the advisory committees have gone out of existence. The County would need to reconstitute the committees to begin enforcing the resolutions. The Wyoming Supreme Court's 1996 Ford decision [924 P.2d 91] disallowed any county land use control program that is not zoning. The consultants believe it is doubtful that the compliance permit resolutions would be practical, effective and enforceable with regard to junkyards.

Potential Junkyard Control Mechanisms

The consultants have identified three potential programs for helping control junkyards. In addition, county zoning is another possible tool and the one that has worked best in other Wyoming counties to control junkyards. A combination of the mechanisms listed below may actually be the best strategy.

1. Vehicle Removal Service: The County could work with private vehicle recyclers to make it easier for property owners to dispose of junk vehicles. Some communities have programs where the locality pays a bounty to recyclers for each vehicle removed. A service such as this can work in conjunction with regulatory programs to make the overall effort more effective. Some legal research would be required to identify the limits of the County's ability to support such a program.
2. Junkyard Moratorium: Counties in Wyoming have been authorized through Wyoming Supreme Court decisions to enact moratoria against problem land uses. In 1998, the Supreme Court decided a moratorium case against Albany County. The case clarified the procedures a county must use to enact a moratorium. [See 951 P.2d 835.]

Big Horn County could consider enacting a moratorium on new or expanded junkyards. This would not address the existing junkyards but could stop the problem from expanding while the County prepares new regulations or zoning to permanently control junkyards.

3. County Junkyard Regulations: According to a 1985 Wyoming Attorney General's opinion, counties can enact junkyard regulations without enacting zoning. The opinion states the following:

“Junkyards and automobile graveyards may be regulated by counties pursuant to the delegated authority of state law. Ordinances and regulations so adopted must be reasonable and not arbitrary, must not violate any constitutional provision, must be a legitimate exercise of the power granted and must be reasonably related to the public health, safety, morals or general welfare. The regulations should be definite and certain in their terms and criteria and the standards set forth therein must be adequate.

“The power to regulate includes discarded solid waste materials placed on private property not part of a junkyard or automobile graveyard business. Such nuisances may also be abated by seeking injunctive relief or by notifying DEQ of the violation.” [Wyoming Attorney General's Opinion No. 85-3, May 21, 1985.]

Note that the opinion states that the County can seek an injunction against junkyards that are considered public nuisances. This is another option that the County could pursue. The consultants believe relying on the DEQ solid waste regulators to prevent or clean up junkyards is not a realistic strategy. DEQ has not been vigorous in this area and is unlikely to make a significant difference in dealing with the problem.

Unauthorized Mobile Home Installations

Unauthorized mobile home installations in Big Horn County are a problem for a number of reasons. Most often, such installations are hard to detect and monitor. Consequently, there is no assurance that such mobile homes have property sanitation, such as a county-approved septic system. Also due to questionable installation practices, these mobile homes may not have safe water supplies and may be a fire hazard to the occupants and nearby properties. Visual impacts of some installations can be fairly negative due to the poor physical condition of the units and the haphazard way they are set up.

Existing Mobile Home Programs

There are several existing programs that can help with certain aspects of the unauthorized mobile home installations.

1. US EPA Public Water Supply Program: The US EPA is the regulatory agency concerned with drinking water safety in Wyoming (the State has not assumed this duty). EPA's Public Water Supply program pertains to any water system with ten or more service connections. The program requires periodic testing of drinking water and establishes technical standards for water purity. If the County is aware of a group of ten or more mobile homes on a common water system, the County should check with EPA to see if the system is in the program. If not, the County should request EPA to get involved and get the system into compliance.

2. Big Horn County Compliance Permit: The County's compliance permit resolutions require a person to obtain a compliance permit before installing a mobile home. There are questions about the enforceability of the compliance permit resolutions, as noted previously.
3. Big Horn County Small Wastewater Treatment Facilities (SWTF) Program: The County's existing program for permitting septic systems should be used more vigorously to ensure that every mobile home has a proper means of sewage disposal. Any mobile home that is installed without a compliance permit should be immediately addressed. This means the County should notify the property owner of the SWTF permit requirements and allow a very limited time for compliance. In cases where compliance is not forthcoming, prosecution and possibly injunction against occupancy of the mobile home should be quickly sought.
4. Big Horn County Subdivision Regulations: The County's subdivision regulations apply to the occupancy of two or more mobile homes in any area, parcel or tract of land. Accordingly, the County could move against unauthorized mobile home installations as violations of the subdivision regulations. Similarly, the Wyoming Real Estate Subdivision Act specifies that the creation of a mobile home court constitutes a subdivision. [W.S. 18-5-302(a)(vii).] Penalties for violations include fines and imprisonment. This is one of the more potent tools available to the County to clean up the unauthorized mobile home installations.

Potential Mobile Home Installation Control Programs

The consultants have identified three potential programs or actions the County could take to gain better control of mobile home installations. As noted below, there are not many additional options for dealing with mobile home installations.

1. County Health Department Regulations: Some counties in Wyoming have local health department regulations governing the operation of mobile home parks. The State Health Department at one time regulated mobile home parks in counties without local health departments, however the state no longer does this. Unless Big Horn County were to set up its own health department, this option is not available.
2. County Zoning/Building Code: One possible way to address the mobile home situation is through the adoption of a building code. Most counties in Wyoming that have adopted a building code cite the county zoning statute as the authority for the code. This means that the County would most likely need to adopt zoning in order to adopt a building code. Consequently, using a building code to address the mobile home situation is not a good choice at this time.
3. Mobile Home Moratorium: As noted previously in the discussion on a junkyard moratorium, the County could adopt a moratorium concerning problem land uses. This would potentially include mobile home installations. A total ban on all mobile homes would not be appropriate. However, the County could place a

moratorium on mobile homes that are not constructed in accordance with the so-called HUD code.

Mobile homes constructed prior to 1976 do not meet the HUD code. Because of their health and safety risks, there is a legitimate public interest in preventing the installation and occupancy of these older mobile homes. A moratorium could seek to prohibit occupancy and installation of any such mobile home that is not already installed and occupied. The moratorium would give the County time to devise a permanent solution.

Ultimately, the County probably needs to employ a combination of increased use of existing programs and new programs to control mobile home installations. For example, the County should pursue any unauthorized mobile home installations that are already existing using the subdivision regulations, SWTF regulations and compliance permit resolutions. In addition, adopting a moratorium would help prevent worsening of the situation while the county develops and adopts a long term strategy, possibly based on zoning.

APPENDIX

Summary of January 23, 2007 Meeting,	Page 31
County Officials Survey Results,	Page 33
Wyoming Statute – Planning and Zoning Commission,	Page 36
Wyoming Statutes – Improvement and Service Districts,	Page 40
Wyoming Statutes – Abandoned Vehicles,	Page 55
Wyoming Statutes – Junkyard Control,	Page 71
Wyoming Attorney General’s Opinion #85-3,	Page 76

Summary of January 23, 2007 Meeting

The consultants met with Big Horn County officials to discuss the results of the “officials’ survey.” The consultants asked the county officials to react to the results of the survey and to add any additional comments that should be considered in creating the Strategic Plan.

These notes represent the main points made by Big Horn County Commissioners, Planning and Zoning Commission members and County staff. These points elaborate on the priorities and problems identified in the officials’ survey. They do not necessarily represent the group consensus on any point or issue.

Growth Trends:

- Recreation related development is likely to increase or strongly increase.
- Big Horn Lake water level problems will be improved leading to more recreational development.
- Recreational developments near existing ski areas are possible, although inadequate utilities has prevented expansion of one ski area.
- Development pressure on private land is bound to increase since federal land (72% of county) is off-limits for development.
- Growth pressure is being felt in areas across the county, including Lovell, Basin, Shell valley, and Hyattville.

Planning Priorities:

- Present planning priorities include providing assistance to towns because they do not have planning staffs.
- Other county departments can help with code enforcement by reporting violations to planning department.
- Buildings should be built to comply with the building code.

Subdivision Development:

- Preservation of agricultural land is going to be difficult to accomplish.
- Fire protection standards need to be reviewed.
- New developments in Hyattville are stressing the fire fighting capabilities of Manderson.
- Presently required mechanisms for private maintenance of subdivision roads do not work. County winds up taking over some maintenance responsibilities.
- Present mechanisms for management of irrigation water within subdivisions are a problem.
- Several fairly large subdivisions are in-process, including two 30-lot developments near Lovell, a 138-lot proposal near Basin, and a 1,200-acre development of 20- to 40-acre lots.

Comprehensive Plan:

- Some system of zoning should be considered to implement a county comprehensive plan.
- Smaller lots closer to town would be better than larger, overgrown lots.
- Need to find ways to better support the Planning Commission.
- Ideas like a single agricultural zone for the whole county and requiring plan amendments for subdivisions in agricultural areas should be considered.
- Towns seem to lack the capacity to expand.
- County has 72 special districts. Consider involving special districts in making of comprehensive plan.
- County has nearly completed a land use map for the entire county.

COUNTY OFFICIALS SURVEY RESULTS

1. What do you expect will happen in Big Horn County over the next 10 years with regard to growth in the following areas? (Please check one box for each topic, a – f.)

	<u>Strong Increase</u>	<u>Increase</u>	<u>Stay the Same</u>	<u>Decrease</u>	<u>Strong Decrease</u>
a. Population growth in county’s towns	0	⑨	1	0	0
b. Population growth in rural areas of the county	0	⑧	2	0	0
c. Subdivision developments	1	⑨	0	0	0
d. Commercial and industrial development	0	⑧	2	0	0
e. Recreation related development	1	5	4	0	0
f. Energy and/or mining related development	1	7	2	0	0

2. How would you rate the following as goals (a – g) for county planning in Big Horn County? (Please check one box for each item, a – g.)

	<u>Very Important</u>	<u>Somewhat Important</u>	<u>Not Important</u>
a. Better control over unregulated mobile home parks	6	4	0
b. Better control over junkyards	⑨	1	0
c. Preventing illegal subdivisions	⑩	0	0
d. Strengthen county requirements for new subdivisions	7	3	0
e. Update the County’s 1977 Comprehensive Plan	⑧	1	0
f. Update the existing county regulations on land use and development	⑧	1	0
g. Adopting a county building code	3	5	2

3. Several aspects of subdivision development as listed below (a – l). Please indicate which of these need to be handled better in the future and which are being adequately addressed. You can also indicate if you are undecided. Please check the corresponding box:

	<u>Needs Improvement</u>	<u>Adequately Addressed</u>	<u>Undecided</u>
a. Consumption of agricultural land	⑦	1	1
b. Electric power service	5	3	1
c. Lots sizes	6	3	1
d. Impacts to county roads	4	4	2
e. Impacts to neighbors	⑦	2	1
f. Irrigation and water rights	6	4	0
g. Provision of public services (emergency services, schools, etc.)	5	5	0
h. Sewage disposal	6	3	1
i. Subdivision road design and maintenance	4	4	2
j. Water supplies	⑧	2	0
k. Other (write in): Phone service	1		

4. With regard to individualized plans for separate areas of the county, which of the three statements below is most important to you? (Please check one.)

- 1 Each area of the county should have its own plan, even if it is inconsistent with the plans of neighboring areas or conflicts with county-wide development policies.
- ⑥ The county plan should be a general framework for planning and local plans can be developed as needed provided they are consistent general county policies.
- 1 The county should have one plan for the entire county with detailed policies for the entire county, even if the plan’s policies conflict with the desires of certain areas.

5. Which statement below comes closest to representing your view on involving the public in the preparation of a county comprehensive plan? (Please check just one)

- 0 It would be sufficient to involve the public by having them comment on a draft plan once it is prepared.
- 2 In addition to having public input on a draft plan, the input of key groups and agencies should be sought early in the planning process.
- 7 There should be an extensive effort to involve as many people as possible throughout the entire planning process.

6. Which of the following factors would allow the county to better control illegal junk yards and mobile home installations? (Please check any that apply)

- 3 More county personnel assigned to the problem
- 7 Revising the county's land use codes
- 6 Increasing public support for enforcement
- 10 Clarification of legal authority for enforcement
- 0 Other (write in): None

7. What issues should a comprehensive plan address? (Please check any that apply)

- | | |
|---|---|
| <input checked="" type="radio"/> 9 Agricultural land protection | 7 Nuisance land uses |
| 7 Development coordination with towns | <input checked="" type="radio"/> 10 Property rights |
| 7 Economic development | <input checked="" type="radio"/> 8 Protection of scenic areas |
| 5 Federal land use policies | 5 Scenic areas |
| 3 Housing affordability | 6 Wildlife habitats |
| 1 Other (write in): Utilities | |

ARTICLE 2 - PLANNING AND ZONING COMMISSION**18-5-201. Authority vested in board of county commissioners; inapplicability of chapter to incorporated cities and towns and mineral resources.**

To promote the public health, safety, morals and general welfare of the county, each board of county commissioners may regulate and restrict the location and use of buildings and structures and the use, condition of use or occupancy of lands for residence, recreation, agriculture, industry, commerce, public use and other purposes in the unincorporated area of the county. However, nothing in W.S. 18-5-201 through 18-5-207 shall be construed to contravene any zoning authority of any incorporated city or town and no zoning resolution or plan shall prevent any use or occupancy reasonably necessary to the extraction or production of the mineral resources in or under any lands subject thereto.

18-5-202. Planning and zoning commission; composition; residency requirements, terms and removal of members; vacancies; rules; record; meetings to be public; secretary; preparation and amendments; purpose; certifications and hearing; amendments.

(a) Each board of county commissioners may by resolution create and establish a planning and zoning commission. The commission shall be composed of five (5) members appointed by the board at least three (3) of whom shall reside in the unincorporated area of the county, provided that this provision shall not affect the membership composition of any existing commission. The terms of the members appointed to the first planning and zoning commission shall be of such length and so arranged that the terms of one (1) member will expire each year, and thereafter each member shall be appointed for a term of three (3) years. Any member of the commission may be removed for cause other than politics or religion and after public hearing by the board of county commissioners. If a vacancy occurs in the commission the board of county commissioners shall fill the vacancy by appointment for the unexpired term. The planning and zoning commission shall organize within thirty (30) days after its establishment, shall adopt rules for the transaction of its business and keep a record of its actions and determinations. Three (3)

members shall constitute a quorum for the transaction of business. All meetings, records and accounts of the commission shall be public. The county clerk shall serve as secretary to the commission.

(b) The planning and zoning commission may prepare and amend a comprehensive plan including zoning for promoting the public health, safety, morals and general welfare of the unincorporated areas of the county, and certify the plan to the board of county commissioners. Before certifying its plan or amendments thereto to the board the commission shall hold at least one (1) public hearing. Notice of the time and place of hearing shall be given by one (1) publication in a newspaper of general circulation in the county at least thirty (30) days before the date of the hearing. Any person may petition the planning and zoning commission to amend any zoning plan adopted under the provisions of W.S. 18-5-201 through 18-5-207.

(c) The planning and zoning commission shall prepare recommendations to effectuate the planning and zoning purposes and certify its recommendations to the board of county commissioners. Before adopting the recommendations the board shall hold at least one (1) public hearing. Notice of the time and place of hearing shall be given by one (1) publication in a newspaper of general circulation in the county at least fourteen (14) days before the date of the hearing. After public hearing has been held, the board shall vote upon the adoption of the planning or zoning recommendation. No planning or zoning recommendation shall be adopted unless a majority of the board votes in favor thereof.

18-5-203. Certificate required to locate buildings or use land within zoning resolution; issuance and denial; appeal upon denial.

It is unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or use any land within any area included in a zoning resolution without first obtaining a zoning certificate from the board of county commissioners and no zoning certificate shall be issued unless the plans for the proposed building, structure or use fully comply with the zoning regulations then in effect. The board of county commissioners shall act promptly upon any application filed with it and shall grant certificates when the proposed construction or use complies

with the requirements of the zoning resolution. If it denies the application, the board shall specify the reasons for such denial. The decision of the board of county commissioners may be reviewed by the district court and by the supreme court upon appeal in the same manner as provided in W.S. 15-1-609, for review of decisions of boards of adjustment.

18-5-204. Violation of W.S. 18-5-202(c); continuing violation.

No person shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or use any land in violation of a resolution or amendment adopted by any board of county commissioners under W.S. 18-5-202(c). Each day's continuation of such violation is a separate offense.

18-5-205. Enforcement of zoning resolution by injunction, mandamus or abatement; appeal.

Any zoning resolution passed by the board pursuant to W.S. 18-5-202(b) and (c) is enforceable in addition to other remedies provided by law by injunction, mandamus or abatement.

18-5-206. Penalty for violation of W.S. 18-5-201 through 18-5-204.

Whoever violates any provision of W.S. 18-5-201 through 18-5-204 shall be fined not more than seven hundred fifty dollars (\$750.00) for each offense.

18-5-207. Continuation of existing uses; effect of alteration or addition; future use after discontinuation of nonconforming use.

A zoning resolution enacted under the provisions of W.S. 18-5-201 through 18-5-206 shall not prohibit the continuance of the use of any land, building or structure for the purpose for which the land, building or structure is used at the time the resolution is adopted and it is not necessary to secure any certificate permitting such continuance. However the alteration or addition to any existing building or structure for the purpose of effecting any change in use may be regulated or prohibited by zoning resolution. If a nonconforming use is discontinued any

future use of such land, building or structure shall be in conformity with the provisions of the resolution regulating uses in the area in which the land, building or structure is located.

18-5-208. Coordination of planning efforts with federal agencies.

The board of county commissioners of a county which has officially adopted a comprehensive plan pursuant to W.S. 18-5-202(b) may participate in efforts to coordinate the plan with federal regional forest or other resource management plans as provided in the Federal Land Policy and Management Act of 1976 and federal regulations adopted pursuant to that act, including, but not limited to, Title 36, of the Code of Federal Regulations, part 219.7 and Title 43, of the Code of Federal Regulations, part 1610.3.

CHAPTER 12 - Improvement and Service Districts

18-12-101. Title; purpose; application and construction.

This act may be cited as the "Improvement and Service District Act".

18-12-102. Definitions.

(a) As used in this act:

(i) "Assessed value" means the total assessed value of real property within the district. Assessed value shall be determined from the last assessment roll of the county within which the district is located;

(ii) "Board" means the board of directors of an improvement and service district;

(iii) "Bonds" means bonds, warrants, notes or other evidences of indebtedness of an improvement and service district;

(iv) "Charges" means fees, tolls, rates and rentals;

(v) "Commissioners" means the board of county commissioners;

(vi) "District" means an improvement and service district as organized under the terms of this act;

(vii) "Elector" or "voter" means a person who is a qualified elector or an owner of land in the district, including any corporation, partnership or association owning land in the district provided the individual who casts the vote for a corporation, partnership or association presents the election judge with a written authorization to vote for the corporation, partnership or association. No person is a qualified elector who is under eighteen (18) years of age, a mentally incompetent person, or who has been convicted of a felony and his civil or voting rights have not been restored. In applying provisions of the Special District Elections Act of 1994 to this act, the terms "elector" or "voter" shall include qualified electors and landowners;

(viii) "Improvement" means and includes buildings, structures and all facilities of a public nature intended for public use, including but not limited to streets, sidewalks, curbs, gutters, alleys and other public ways, parks, recreational facilities, water, sewage, solid waste disposal and other sanitary systems and facilities, and with respect to the foregoing, such additional facilities or improvements as relate or contribute to the full public use and enjoyment thereof;

(ix) "Service" means the operation and maintenance of improvements and any other service authorized by this act;

(x) "Landowner" or "owner of land" means the person or persons holding a majority interest in the record fee title to one (1) or more parcels of real property or a person or the persons who are obligated to pay general property taxes under a contract to purchase real property;

(xi) "This act" means W.S. 18-12-101 through 18-12-140;

(xii) "Written authorization" means an affidavit filed with the election official conducting the election setting forth a general legal description of the property owned, the street or common name address for the property, the name or names of all owners of the property described, and a statement that the person signing the written authorization is the only person having authority to act on behalf of the owner or owners of the property.

18-12-103. Districts authorized; general function.

(a) Any unincorporated territory in this state may be formed into an improvement and service district to perform any of the following functions:

(i) Acquire, construct, operate and maintain improvements of local necessity and convenience;

(ii) Obtain improvements or services hereunder by contracting for the same with any city, town, county or other entity;

(iii) Furnish or perform any special local service which enhances the use or enjoyment of any improvement or facility.

(b) A district is a separate entity and a political subdivision of the state.

(c) Repealed by Laws 1981, ch. 157, 4.

18-12-104. Jurisdiction.

The commissioners of each county shall hear proceedings for the creation of improvement and service districts within the county which unless specifically otherwise provided, shall be governed by the Special District Elections Act of 1994.

18-12-105. Commencement by petition.

Proceedings for the formation of a district shall be commenced by filing a petition addressed to the commissioners of the county in which the land proposed to be included in the district is situated. The petition shall be accompanied by a filing fee of two hundred dollars (\$200.00).

18-12-106. Petition for formation.

A petition to form a district shall be signed by not less than sixty percent (60%) of the persons owning land within the territory proposed to be included in the district, whose land in the proposed district has an assessed value of sixty percent (60%) or more of the assessed value of all of the land within the proposed district.

18-12-107. Repealed by Laws 1998, ch. 115, 5.

18-12-108. Repealed by Laws 1998, ch. 115, 5.

18-12-109. Repealed by Laws 1998, ch. 115, 5.

18-12-110. Repealed by Laws 1998, ch. 115, 5.

18-12-111. Repealed by Laws 1998, ch. 115, 5.

18-12-112. Powers of district.

(a) Each district may:

(i) Have and use a corporate seal;

(ii) Sue and be sued, and be a party to suits, actions and proceedings;

(iii) Enter into contracts for the purpose of providing any authorized improvements and the maintenance and operation thereof, or otherwise to carry out the purposes of the district;

(iv) Accept from any public or private source grants, preferred loans, contributions and any other benefits available for use in the furtherance of its purposes;

(v) Borrow money and incur indebtedness and other obligations and evidence the same by certificates, notes or debentures, and issue bonds;

(vi) Assess the costs of improvements within the district against the property specially benefited upon a frontage, zone, or other equitable basis, in accordance with benefits;

(vii) Adopt bylaws not inconsistent with law;

(viii) Establish and collect charges for water, sanitation and related services and the use of improvements or services provided by the district, including authority to change the amount or rate thereof, and to pledge the revenues therefrom for the payment of district indebtedness;

(ix) Acquire and own or lease real or personal property, including easements and rights-of-way, within or without the district for district purposes;

(x) Contract with other districts for common use of improvements and services for the benefit of the inhabitants of all contracting districts;

(xi) Supply the inhabitants of the district with water for domestic and any other lawful use;

(xii) Provide for the collection, treatment or disposal of sewage, waste and storm water of the district and its inhabitants;

(xiii) Provide for the collection and disposal of garbage or refuse matter;

(xiv) Provide all services necessary to protect the health and welfare of residents in the district and the value of property therein and to enter into agreements with any public or private agency, institution or person for the furnishing of such services;

(xv) Provide for public recreation by means of parks, including but not limited to playgrounds, golf courses, swimming pools or recreation buildings;

(xvi) Provide for street lighting;

(xvii) Provide for the opening, widening, extending, straightening and surfacing in whole or part of any street and snow removal or clearance for the same or other roads or streets;

(xviii) Provide for the construction and improvement of bridges, culverts, curbs, gutters, drains and works incidental to any street improvement;

(xix) Provide subdivision control;

(xx) Do any and all other things necessary to carry out the purposes hereof;

(xxi) With the approval of the board of county commissioners, establish and collect charges for the use of any improvement to cover the cost of operating and maintaining the improvement. Following approval of the county commissioners and upon application by a district, an assessment roll shall be created by the county assessor's office to facilitate the collection of the improvement operation and maintenance charges, whether or not the assessor has created an assessment roll for the collection of indebtedness.

18-12-113. District board of directors.

(a) The district shall be managed and controlled by a board of directors consisting of three (3) members. The initial board shall consist of three (3) members elected at the organizational election. One (1) shall serve for three (3) years, one (1) for four (4) years and one (1) for five (5) years after formation of the district and until their successors are elected and qualified at the regular scheduled subsequent director election as provided in W.S. 22-29-112. Each year, commencing with the third anniversary of the first director election an election shall be held to elect a director to fill the vacancy resulting from expiration of the term of the director whose term expires at that time. A vacancy occurring on the board during the term of an original director or his successor shall be filled as provided in the Special District Elections Act of 1994.

(b) Repealed by Laws 1981, ch. 157, 4.

(c) Repealed by Laws 1981, ch. 157, 4.

18-12-114. Compensation; officers; rules and regulations; meetings.

(a) The members of the board shall serve without compensation but shall receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties.

(b) The board shall adopt rules, regulations and procedures for the district whether or not included in its bylaws, including those to govern the use and enjoyment of public improvements, facilities and services of the district.

18-12-115. Cost assessed in accordance with benefits.

When an improvement proposed by the board will benefit specific property in the district to a greater extent than other property the improvement may be financed with an assessment against the property specially benefited upon a frontage, zone or other equitable basis, in accordance with benefits.

18-12-116. Resolution of intent to provide for special assessment.

(a) The board may declare by resolution their intent to order improvements to be paid for by special assessment. The resolution shall specify:

(i) The nature of the improvement proposed;

(ii) The extent of the district to be improved;

(iii) The probable cost per unit of measurement as shown by estimates of a qualified engineer;

(iv) The time in which the cost will be payable; and

(v) The time when a resolution authorizing the improvements will be considered.

(b) Any resolution or directive in the premises may be modified, confirmed or rescinded at any time prior to the passage of the resolution authorizing the improvements.

18-12-117. Notice of resolution; hearing; objections.

(a) At the request of the board the county clerk shall give notice, by advertisement once in a newspaper of general circulation in the county, to the owners of the property to be assessed to provide:

(i) The nature of the improvement proposed;

(ii) The extent of the district to be improved;

(iii) The probable cost of the improvement;

(iv) The time at which the cost will be payable;

(v) The time when a resolution authorizing the improvements will be considered by the board;

(vi) That maps, estimates and schedules showing the approximate amounts to be assessed and all resolutions and

proceedings are on file and may be seen or examined at the office of the county clerk or other designated place; and

(vii) That all complaints and objections concerning the proposed improvement by owners of property subject to assessment will be heard and considered by the board before final action, under the provisions of the Wyoming Administrative Procedure Act [16-3-101 through 16-3-115].

(b) If objections to the improvement are made by owners or agents representing property subject to thirty percent (30%) or more of the projected dollar assessments the improvement may not be authorized and a new resolution for the same or a similar purpose encompassing property representing objections may not be considered within one (1) year thereafter.

18-12-118. Notice of apportionment; assessment roll.

(a) A copy of the resolution as finally adopted shall be recorded by the county clerk who shall within sixty (60) days after the adoption of the resolution by written notice, mailed or otherwise delivered, notify each owner of property to be assessed of the amount of assessment, the purpose for which the levy is made, the tax against each lot or parcel of land, and the date it becomes delinquent. The county clerk shall also notify each owner of property the amount of any operation and maintenance charges to be assessed within sixty (60) days after the assessment is approved by the board of county commissioners under W.S. 18-12-112(a)(xxi).

(b) The county assessor shall prepare a local assessment roll showing land assessed, the total amount of assessment and operation and maintenance charges if approved under W.S. 18-12-112(a)(xxi), the amount of each installment of principal and interest if the same is payable in installments, and the date when each installment will become due, and deliver the same, duly certified, to the county treasurer for collection.

18-12-119. Duty of county officials to levy and collect taxes.

The body having authority to levy taxes or make assessments within each county shall levy the taxes or assessments authorized herein and all officials charged with the duty

of assessing property and collecting taxes shall assess property and collect proceeds at the time and in the form and manner with like interest and penalties as property is assessed and other taxes are collected, and when collected they shall pay the same to the district ordering the assessment or levy and collection. The payment of the collections shall be made monthly to the treasurer of the district and paid into its depository to the credit of the district. All taxes levied under this act, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be administered as and on a parity with the tax lien of other general taxes.

18-12-120. Bond elections; resolution for submission of proposition to voters.

By resolution of its board a district may submit to its qualified voters, by mail ballot or at an election on a date authorized under W.S. 22-21-103, as determined by the board of county commissioners, the proposition of issuing bonds pursuant to this act to provide funds for the acquisition, construction, improving or financing of improvements as well as performing services for the benefit of the residents of the district, including any or all expenses incidental thereto or connected therewith.

18-12-121. Contents of resolution; notice of election.

(a) The resolution shall:

(i) State the purpose for which the bonds are proposed to be issued;

(ii) State the estimated amount of money to be raised by the bond issue;

(iii) State the principal amount of the bonds;

(iv) State the maximum rate of interest on the bonds;

(v) Fix the date of the election;

(vi) Fix the manner of holding the election.

(b) The notice of bond election shall include the following information:

(i) The amount of the proposed bond issue;

(ii) The maximum maturity of the bonds;

(iii) Statement by the board of the need for the issuance of the bonds and the purposes for which the proceeds of the bonds shall be devoted;

(iv) A description of the exterior boundaries of the district;

(v) A general description of the proposed improvement, utility or local service to be provided by the district;

(vi) Repealed by Laws 1981, ch. 157, 4.

18-12-122. Election procedures.

(a) Except as otherwise provided in this section, the bond elections of districts shall be called by the board of county commissioners at the request of the district and held in accordance with election dates and procedures set forth in W.S. 22-21-101 through 22-21-112. A proposal submitted in the bond election shall be approved by a majority of the voters in the district casting ballots in the election.

(b) The bond election ballot shall specify the name of the district, the total amount of the proposed bond issue, the maximum interest rate payable thereon, the term of years over which the bonds shall be repaid, and a brief description of the improvements, facilities or utilities to be acquired or constructed and the services to be rendered with the proceeds thereof. The question to be submitted on the ballot after such description shall be as follows:

For Issuance of Bonds

Against Issuance of Bonds

The voter shall place a mark in the square space immediately following the proposition shown on the ballot.

(c) If requested in the petition and if approved by the commissioners, the commissioners may order that a bond election, as described in subsections (a) and (b) of this section, be held concurrently with the organizational election, and if the bond election is ordered, the notice of election shall include the information required by W.S. 18-12-121(b). The judges of the election shall certify the returns of the election to the commissioners, and if a majority of the votes are in favor of the organization, the commissioners, by resolution shall declare the district organized.

(d) Repealed by Laws 1998, ch. 115, 5.

(e) Repealed by Laws 1998, ch. 115, 5.

(f) Repealed by Laws 1998, ch. 115, 5.

(g) A written authorization for voting purposes shall be filed with the election official conducting the special district election not later than thirty (30) days prior to the election.

(h) In examining any written authorization required or permitted to be signed by landowners, the county clerk or district secretary shall accept the first written authorization filed unless prior to certification the secretary or county clerk is furnished with written evidence, satisfactory to the county clerk or district secretary, that a new representative has been appointed by the owners, signed by a majority of the persons named as owners on the previously filed written authorization or as shown on a copy of a recorded deed attached to the written authorization.

18-12-123. Resolution for issuance of bonds.

The board, by resolution, shall determine whether coupon bonds or registered bonds of the district shall be issued and sold to raise money for any of the purposes for which the district was formed, if the bonds are authorized, and shall similarly fix and determine the denomination of each bond, which shall be not less than one thousand dollars (\$1,000.00), and the rate of interest which shall be paid thereon, payable annually or semiannually as the board shall by resolution determine, and the resolution shall also fix the number of years that the whole or a part of

the bonds shall run and the maturity thereof, neither of which shall exceed twenty-five (25) years from the date of the bond or the date of any series of the bonds.

18-12-124. Bonds secured by pledge of district.

The payment of the principal and interest on the bonds constitutes a liability of the district. The full faith and credit, and all taxable property lying within the district is pledged for the payment of the bonds in accordance with the terms thereof.

18-12-125. Exemption from taxation in this state.

The interest payable upon the bonds is exempt from any taxes levied or assessed by the state of Wyoming or any agency thereof.

18-12-126. Offer of bonds by the board; bond brochures.

(a) If the majority of the votes cast by the voters at the election on the proposition of issuing bonds of the district favors issuing the bonds, and if the issuance of the bonds is authorized by the board, the bonds may be sold at either public or private sale.

(b) After the voters of the district have approved issuance of the bonds, the board may prepare bond brochures to assist in the sale of the bonds. The board shall pay the expenses of preparing the bond brochures from the funds of the district or from the proceeds of the bond issue.

18-12-127. Deposit of proceeds of bonds.

Bonds issued by the board shall be sold at the time and in the amounts prescribed by the board but for not less than par. The proceeds of the sale of the bonds, exclusive of any premiums received, shall be deposited to the credit of the district in the county treasury. The proceeds deposited shall be drawn out as other district monies are drawn. The bond proceeds withdrawn shall not be applied to any purposes other than those for which the bonds were issued. Any premiums or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district. The expenses incurred for the preparation, sale and delivery of the bonds, including

legal fees of independent bond counsel retained by the district are legal charges against the fund of the district and may be paid from the proceeds of the sale of the bonds.

18-12-128. Printing of bonds.

After ascertaining the best terms upon, and the lowest interest at which the bonds can be sold, the board shall cause the bonds to be printed, with coupons if any attached, and shall have the bonds consecutively numbered and properly executed.

18-12-129. Signature on bonds.

Bonds shall be signed by the chairman and the treasurer of the board and countersigned by the secretary of the board. Coupons, if any, shall be signed by the treasurer of the board. At least one (1) of the signatures or counter signatures on the bond shall be manually affixed. Other signatures or counter signatures may be printed or mechanically reproduced. It is not necessary for any bond to bear the seal of the district.

18-12-130. How bonds mature.

All bonds shall mature serially in substantially equal annual installments of principal, or upon an amortization plan for the bonds of the series, or upon an amortization plan for the proposed bonds and all outstanding bonds of the district, or in any other manner as the board may determine.

18-12-131. Bonds subject to call and redemption.

All or any part of the bonds issued by the board may be issued subject to call and redemption before maturity at the option of the board. Such bonds and the resolution authorizing issuance thereof shall contain a provision to that effect and the resolution shall contain the price at which the bond shall be redeemed.

18-12-132. Register of bonds.

The county treasurer of each county shall keep a bond registration book which shows at all times by proper designation bonds that are authorized and the name in which the owner of each bond is registered.

18-12-133. Requirement of indemnity bond.

The board shall require the county treasurer in whose custody the proceeds of the sale of bonds are placed to be bonded under a suitable bond indemnifying the district against loss.

18-12-134. Duty to levy tax for interest and redemption of outstanding bonds.

The commissioners shall annually levy a tax for that year upon the property of the district for the interest and principal falling due on all outstanding bonds of the district. The levy shall be made at the same time as the levy of taxes for county purposes. The tax shall be sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve established to adjust for fluctuating tax levies.

18-12-135. Disposition of proceeds of taxes collected.

All taxes levied and collected pursuant to the foregoing provision shall be paid into the county treasury to the credit of the interest and sinking fund of the district and shall be used for the payment of the principal and interest of the bonds and for no other purpose.

18-12-136. Manner of payment of interest and principal of bonds.

The principal and interest on the bonds shall be paid in due course by the county treasurer of the county at the time and place required by the bonds.

18-12-137. Bonds eligible as investments.

The bonds issued under this act are eligible as legal investments for both public and private funds.

18-12-138. Repealed by Laws 1998, ch. 115, 5.**18-12-139. Rules and regulations; enforcement.**

The board may adopt reasonable rules and regulations not inconsistent with law for the government and control of the district organization and to facilitate the collection of assessments or charges. All rules and regulations adopted pursuant to this section shall be promulgated in accordance with the Wyoming Administrative Procedure Act and filed with the county clerk for each county in which the district is located.

18-12-140. Power to create local improvement districts vested in board.

In addition to all other powers provided in this chapter, the power to create local improvement districts in any district organized pursuant to this chapter, to assess the cost of the construction of public improvements of a local and municipal character or any part thereof against benefited property therein and to issue special assessment bonds, is vested in the board, and in exercising the powers granted in this section, the board need not follow the procedures listed elsewhere in this chapter but the local improvement districts shall be created, local improvements acquired, special assessments levied and collected, and special assessment bonds issued as provided in W.S. 15-6-101 through 15-6-448, except the board may act by resolution whenever W.S. 15-6-101 through 15-6-448 specify action by ordinance.

CHAPTER 13 - ABANDONED VEHICLES

31-13-101. Definitions.

(a) As used in this act:

(i) Repealed by Laws 1991, ch. 241, 4.

(ii) "Department" means the department of transportation;

(iii) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(iv) "Lienholder" means a person holding a valid security interest in a vehicle;

(v) "Local authorities" means as provided by W.S. 31-5-102(a)(xix);

(vi) "Owner" means as provided by W.S. 31-5-102(a)(xxvi);

(vii) "Police officer" means as provided by W.S. 31-5-102(a)(xxxiii);

(viii) "Registration" means the certificate of title or certificates and registration card issued under the laws of this state pertaining to the registration of vehicles;

(ix) "Vehicle" means:

(A) As provided by W.S. 31-5-102(a)(lviii) excepting every vehicle which is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of his agricultural operations;

(B) A housetrailer as provided by W.S. 31-1-101(a)(xxiii)(A) which is not installed on a permanent foundation and which is not taxable as real property; or

(C) A transportable home as provided by W.S. 31-1-101(a)(xxiv)(C) which is not installed on a permanent foundation and which is not taxable as real property.

(x) "This act" means W.S. 31-13-101 through 31-13-116.

31-13-102. Powers and duties of department; responsibility of the county.

(a) The department shall administer the provisions of this act.

(b) The department may adopt rules and regulations as necessary to carry out the provisions of this act.

(c) The removal, preservation, custody, storage and sale of abandoned vehicles impounded by a police officer are the responsibility of the county in which the vehicle is impounded.

31-13-103. Uniformity of provisions.

The provisions of this act shall be applicable and uniform throughout this state and in all political subdivisions therein but any city or town may enact or enforce any ordinance on a matter covered by this act which shall supersede this act to the extent that any conflict exists.

31-13-104. Abandonment on highway or property; removal; presumption of abandonment; title to vehicle; notice of intent to impound.

(a) No person shall abandon a vehicle upon any highway.

(b) No person shall abandon a vehicle upon any public or private property without the express consent of the owner or person in lawful possession or control of the property.

(c) Any police officer who has reasonable grounds to believe that a vehicle has been abandoned may remove the vehicle, or cause it to be removed, at the expense of the owner to a place of impoundment designated by the county commissioners of the county in which the vehicle is impounded. Removal of an abandoned vehicle from private property by a police officer shall be upon the written request, upon a form prescribed by the department, of the

owner or person in lawful possession or control of the property. The police department having jurisdiction shall immediately send a written report of the removal by a police officer to the sheriff of the county in which the vehicle is impounded, which report shall include a description of the vehicle, the date, time and place of removal, the grounds for removal, and place of impoundment of the vehicle. The sheriff of the county in which the vehicle is impounded shall submit the report provided by the police department to the department with a determination of the retail value of the vehicle as required in this subsection. Upon receipt of a report as provided, the department shall provide written notification to the vehicle owner of record and to lienholders of record, stating the grounds for removal by a police officer and the name of the place of impoundment of the vehicle. Notice shall not be required if the retail value of an abandoned vehicle removed by a police officer is six hundred dollars (\$600.00) or less as determined by the sheriff of the county in which the vehicle is impounded. As to vehicles not registered in this state, the department shall make a reasonable effort to notify the owner or any lienholder of removal by a police officer and the place of impoundment of the vehicle. The department shall forward a copy of the notice to the owner or person in charge of the place of impoundment of a vehicle removed by a police officer.

(d) For purposes of this section a vehicle is presumed to be abandoned if it is left unattended on a highway for more than twenty-four (24) hours after a notice of intent to impound has been placed on it pursuant to subsection (f) of this section, or on any public or private property without express consent of the owner or person in lawful possession or control of the property for more than five (5) days after a notice of intent to impound has been placed on it pursuant to subsection (f) of this section. Notwithstanding any other provisions of law to the contrary, any vehicle left unattended on private property for thirty (30) days after the expiration of the consent, oral or written, of the owner or the person in lawful possession or control of the property is presumed abandoned five (5) days after a notice of intent to impound has been placed on it pursuant to subsection (f) of this section. A transportable home impounded pursuant to this section shall be disposed of in accordance with W.S. 31-13-109.

(e) Except as otherwise provided by law, title to any vehicle impounded by a police officer not reclaimed by the registered owner or any lienholder within thirty (30) days of the notice provided by subsection (c) of this section shall vest with the county government where the vehicle is impounded.

(f) A notice of intent to impound an abandoned vehicle by a police officer shall be placed in a prominent position on a vehicle when a police officer reasonably believes it is abandoned. The notice of intent shall remain on the vehicle at least twenty-four (24) hours prior to removal if abandoned on a highway and five (5) days if abandoned on public or private property and impounded by a police officer.

31-13-105. Limitations on possession; presumption of abandonment; exceptions; expense of removal.

(a) No person shall possess four (4) or more abandoned vehicles on his property or on property which is in his lawful possession or control, if any four (4) or more of the vehicles are visible from a highway for more than thirty (30) consecutive days.

(b) For purposes of this section a vehicle shall be presumed to be abandoned if it is in an inoperable condition and is not currently registered.

(c) This section shall not apply to:

(i) Antique or historic motor vehicles as defined by W.S. 31-1-101(a)(xv)(A);

(ii) Vehicles kept in an enclosed garage or storage building;

(iii) Vehicles used for riprap on rivers, streams or reservoirs, or for erosion control;

(iv) Persons licensed in accordance with W.S. 31-13-114; or

(v) Vehicles used for educational or instructional purposes.

(d) A police officer may remove, or cause to be removed, any vehicle which has been abandoned under this section, at the expense of the person possessing the vehicle, to a place of impoundment designated by the county commissioners of the county in which the vehicle is impounded. Vehicles impounded under this section shall be disposed of in the manner provided by this act.

(e) Repealed by Laws 1989, ch. 256, 4.

(f) Repealed by Laws 1989, ch. 256, 4.

(g) Repealed by Laws 1989, ch. 256, 4.

(h) Repealed by Laws 1989, ch. 256, 4.

31-13-106. Mailing of notice of impoundment by a police officer; notice by publication.

(a) The notice required by W.S. 31-13-104 shall be provided by the department by personal delivery thereof to the person to be notified or by deposit in the United States mail of the notice in an envelope with postage prepaid, addressed to the person at his address as shown by the records of the department. Notice by mail is complete upon the expiration of four (4) days following deposit of the notice. Proof of the providing of notice shall be made by the certificate of any officer or employee of the department or affidavit of any person over eighteen (18) years of age, naming the person to whom notice was provided and specifying the time, place and manner thereof.

(b) The notice required by W.S. 31-13-104, if the identity of the vehicle owner of record or lienholders of record, if any, cannot be determined or if the registration contains no address for the owner, shall be by one (1) publication in a newspaper of general circulation in the county where the vehicle was abandoned. Notice by publication may contain multiple listings of abandoned vehicles. Any notice shall be in compliance with the provisions of subsection (a) of this section.

31-13-107. Redemption.

Any person upon satisfactory proof of ownership or right to possession may redeem an impounded vehicle by paying the

charges of towing, storage, notice, all other costs of impoundment, and any penalties imposed by the law of this state.

31-13-108. Disposition of abandoned vehicles impounded by a police officer; payment of expenses; extinguishment of liens.

(a) As to vehicles impounded by a police officer having a retail value of six hundred dollars (\$600.00) or more after thirty (30) days have elapsed from the date notice was given as provided in W.S. 31-13-106, the sheriff shall sell the vehicle and its contents, if any, at public auction to the highest bidder or cause an action to be filed pursuant to W.S. 31-13-112(e). Notice of the sale shall be published once in a newspaper of general circulation in the county where the vehicle is impounded not less than ten (10) days preceding the date of the sale, giving a full description of the vehicle together with engine or serial numbers or marks, if any, and the amount of money claimed to be due thereon and the time and place of sale. All expenses incident to the removal, preservation, custody, sale and storage of the vehicle shall be paid and any proceeds shall be distributed pursuant to W.S. 31-13-111. After any vehicle has been sold under this section, the former owner, any lienholder or person entitled to possession of the vehicle has no further right, title, claim or interest in or to the vehicle or its contents, and all liens, encumbrances and security interests are extinguished.

(b) As to vehicles having a retail value of less than six hundred dollars (\$600.00) and impounded by a police officer, they shall be disposed of by contract to persons licensed under this act or by auction.

(c) Repealed by Laws 1989, ch. 256, 4.

(d) Repealed by Laws 1989, ch. 256, 4.

(e) Repealed by Laws 1989, ch. 256, 4.

(f) The sheriff may sell for any person an abandoned vehicle as defined in this act and may charge a fee for the sale equal to ten dollars (\$10.00) plus the actual costs of publication and all other costs related to the sale. Except

as otherwise provided in W.S. 31-13-111(f), the proceeds of the sale conducted pursuant to this subsection less the expenses of the sale and the amount of any liens on the vehicle shall be given to the person on whose property the vehicle was abandoned.

31-13-109. Disposition of vehicles left unattended on private property and sold by the property owner or through a court action.

(a) Any vehicle left unattended on private property without the express consent of the owner or person in lawful control of the property for at least thirty (30) consecutive days may be sold by the owner or person in lawful control of the property at public auction to the highest bidder or may be sold following an action filed pursuant to W.S. 31-13-112(e). The thirty (30) day period begins on the first day the owner or person in lawful control of the property has knowledge the vehicle is left unattended without consent. For purposes of a vehicle left unattended without express consent at an establishment for the service, repair or maintenance of the vehicle, the thirty (30) day period begins on the day following the period when pursuant to an agreement the vehicle was to remain at the establishment.

(b) After the time period provided in subsection (a) of this section has expired, the owner or person in lawful control of the property shall give a written report to the department on a form prescribed by the department containing the following information:

(i) A description of the make, year, model, license plate number and state indicator, and vehicle identification number of the vehicle;

(ii) The names and addresses of the vehicle owner or driver and any lienholders if known;

(iii) The name and address of the owner of the property where the vehicle was left unattended;

(iv) The date the vehicle was left unattended without the express consent of the owner or person in lawful control of the property;

(v) If the vehicle is removed, the date, time and location of removal and the name and address of the person who removed the vehicle; and

(vi) The address of the current location of the vehicle.

(c) Upon receipt of the report provided in subsection (b) of this section, the department shall make reasonable efforts to identify the owner and any lienholders of record. The department shall forward the information obtained to the owner or person in lawful control of the property.

(d) The owner or person in lawful control of the property shall give a written notice of sale after the thirty (30) day time period provided in subsection (a) of this section expires but not less than ten (10) days preceding the date of sale to the sheriff of the county in which the vehicle is sold and by certified mail to the owner and any lienholder of record, if they are identified through reasonable efforts. The owner or person in lawful control of the property shall publish notice of the sale once per week for two (2) consecutive weeks in a newspaper of general circulation in the county where the vehicle is abandoned. The notice shall contain the following:

(i) A complete description of the make, year, model, license plate number and state indicator, and vehicle identification number of the vehicle;

(ii) The amount of money claimed for expenses incident to the removal, preservation, custody, storage and sale and if the vehicle is left unattended at an establishment for service, repair or maintenance, the cost of the services; and

(iii) The time and place of the sale.

(e) All proceeds from the sale pursuant to this section may be retained by the person selling the vehicle. The owner or lienholder is entitled to recover from the person selling the vehicle any proceeds of the sale in excess of the costs of the sale and monies owed for expenses related to removal, preservation, custody, storage and sale and if left unattended at an establishment for service, repair or maintenance, the cost of the services provided an action is

filed in the proper court for recovery within one hundred twenty (120) days of the sale.

(f) Upon receipt of satisfactory evidence from the seller that he has complied with this section and sold the vehicle, the sheriff shall execute a certificate of sale in duplicate for a fee of seven dollars and fifty cents (\$7.50) to be deposited in the county general fund. W.S. 31-13-110 and 31-13-111(a) and (f) apply to any sale under this subsection. Satisfactory evidence of compliance requires the following:

(i) A copy of the record required to be filed with the department;

(ii) A copy of the information provided by the department pursuant to subsection (c) of this section; and

(iii) Copies of the notice of the sale and proof of mailing and publication required by subsection (d) of this section.

(g) At any time prior to a sale under this section, the owner or lienholder of record may reclaim the vehicle upon payment of expenses incident to removal, preservation, custody, storage and sale, and if a vehicle was left unattended at an establishment for service, repair or maintenance, the cost of the services. Storage expenses shall be computed at the rate of five dollars (\$5.00) per day.

(h) A sheriff who executes a certificate of sale under this section is not liable to any person for damages resulting from the sale of a vehicle under this section.

(j) No person shall sell a vehicle under this section if a written court order prohibiting the sale is served on the proposed seller. The court order shall be served on the person selling the vehicle prior to the sale and shall not be issued except for good cause.

(k) Upon the sale of a vehicle under this section, the former owner, any lienholder or any person entitled to possession of the vehicle has no further right, title, claim or interest in or to the vehicle or its contents and all liens, encumbrances and security interests are extinguished.

31-13-110. Certificate of sale; certificate of title and registration card.

When any vehicle is sold, the sheriff, at the time of payment of the purchase price, shall execute a certificate of sale in duplicate. The original certificate of sale shall be delivered to the purchaser and the copy shall be retained by the sheriff. The certificate of sale shall contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle and a stipulation that no warranty is made as to the condition or title of the vehicle. The purchaser upon presentation of the certificate of sale to the county clerk of any one (1) of the counties of Wyoming, and payment of the fees required by law shall be issued a certificate of title and a registration card for the vehicle.

31-13-111. Transmission of return of sale and sale proceeds to county treasurer; payment of expenses and taxes; county abandoned vehicle account; duplicate receipts for proceeds; action for recovery of proceeds.

(a) When any vehicle is sold under this act the sheriff selling the vehicle shall transmit to the county treasurer of the county in which the vehicle was impounded, in duplicate, a return of sale setting forth a description of the vehicle, the purchase price, the name and address of the purchaser, the costs incurred in the sale, removal, preservation, custody and storage of the vehicle.

(b) The sheriff shall transmit to the county treasurer of the county in which the vehicle was impounded by a police officer, with the return of sale, the proceeds of the sale. Upon receipt of the return of sale and proceeds, the county treasurer shall deposit the proceeds in the general funds in the county treasury to the credit of an account to be known as the county abandoned vehicle account. The account is continuously appropriated only for the purpose of this act. When the account totals an amount necessary to carry out the purposes of this act, as set by the board of county commissioners for that county, but not to exceed one dollar (\$1.00) for each resident in the county, according to the most recent decennial federal census, all revenues thereafter received under this subsection and W.S. 31-3-103(f), together with all interest earned on the account, shall be transferred to the general

funds of the county treasurer. Upon receipt of the return of sale disclosing the costs incurred the costs shall be paid from the county abandoned vehicle account to each person or transferred to each governmental entity incurring the expenses. If the expenses exceed the sale proceeds, the allowable expenses prescribed in paragraph (g)(ii) of this section shall be paid.

(c) The county treasurer shall forward to the sheriff duplicate receipts for proceeds received by the county treasurer under subsection (b) of this section. The sheriff shall file one (1) of each receipt with the county clerk.

(d) Repealed by Laws 1993, ch. 27, 2.

(e) The owner or lienholder of a vehicle impounded by a police officer and sold pursuant to W.S. 31-13-108 is entitled to recover from the county any proceeds of the sale in excess of the costs of the sale, monies owed for expenses related to removal, preservation, custody, storage and sale of the vehicle and taxes provided an action is filed in the proper court for recovery within one hundred twenty (120) days of the sale.

(f) Notwithstanding any other provision in this act, the proceeds of the sale of any housetrailer or transportable home as defined in W.S. 31-13-101(a)(ix)(B) and (C) which is abandoned and sold pursuant to this act shall first satisfy the costs incurred in the sale, removal, preservation, custody and storage of the vehicle. Any balance then remaining shall be paid against any taxes due and owing. In the event the ad valorem levy has not been set for the current year, the current year's tax shall be computed upon the levy for the previous year. Any remaining taxes due and owing are cancelled.

(g) If the vehicle was abandoned on a highway or other public property, the allowable expenses shall be paid from the county abandoned vehicle account provided for by W.S. 31-13-111(b) and administered as follows:

(i) The county shall make reasonable efforts to locate the owner of the abandoned vehicle if the owner is known to be a resident of the county in which the vehicle is abandoned and to collect the expenses from the local owner;

(ii) The allowable expenses are:

(A) Removal or towing costs of four dollars (\$4.00) for every mile the vehicle is towed or sixty dollars (\$60.00) whichever is greater;

(B) Storage charges with a maximum amount allowed of thirty dollars (\$30.00);

(C) Sale and title costs not to exceed thirty dollars (\$30.00); and

(D) A two hundred dollar (\$200.00) limit for the total expenses associated with each abandoned vehicle.

(iii) Payment of the expenses associated with vehicles abandoned on private property shall not be provided from the county abandoned vehicle account.

31-13-112. Release of liability for removal and storage of, and for lost or damaged items in, abandoned vehicles; disposition of personal property within a vehicle; optional court action.

(a) A person who removes or stores a vehicle under this act or otherwise at the request of a police officer, shall not incur any civil liability for the removal or storage except for failure to exercise reasonable care in the performance of the removal or storage.

(b) If any vehicle is removed from any highway, or public or private property as provided herein, the owner of the vehicle may not institute in any state court a suit in law or equity against any police officer or his agents for the recovery of the value of any item in or on the vehicle that may be lost, stolen or damaged resulting therefrom.

(c) A person who has custody of a vehicle removed or stored or otherwise at the request of a police officer shall release the personal property within the vehicle to the owner of the vehicle or a person acting as agent for the owner during regular office hours upon presentation of proper identification. No charge may be assessed against the owner or agent for the removal or release of the personal property.

(d) If the owner of a vehicle or his agent removes the personal property from a vehicle which is stored at the request of a police officer, the vehicle shall be deemed abandoned unless within ten (10) days from the date of removal the owner or agent enters into a written agreement to pay the full charges for towing and storage. The owner or agent shall be informed in writing of this provision by the person who has custody of the vehicle before the personal property is released. A vehicle deemed abandoned under this section may be disposed of as are other abandoned vehicles.

(e) A property owner or person in lawful control of the property upon which a vehicle is abandoned or any sheriff who is authorized to sell an abandoned vehicle pursuant to this act may in lieu of selling the vehicle, file or cause to be filed by the county attorney if a sheriff, an action in the county where the vehicle is impounded in the circuit court. The action shall be in rem and against the vehicle, vehicle owner, and all known and unknown parties with an interest in the vehicle. The defendants in the action shall be served as provided in the Wyoming Rules of Civil Procedure. Judgment in the civil action is limited to the value of the vehicle as determined by its sale price at the sale conducted by the sheriff after judgment is entered. All expenses incident to the removal, preservation, custody, sale and storage of the vehicle shall be paid. Except as otherwise provided in W.S. 31-13-111(f), any remaining proceeds:

(i) Shall be distributed pursuant to W.S. 31-13-111 if a vehicle is impounded by a police officer pursuant to W.S. 31-13-104; or

(ii) May be retained by the property owner or person in lawful control of the property upon which a vehicle is abandoned who files an action pursuant to this subsection.

(f) After any vehicle has been sold under subsection (e) of this section, the former owner, any lienholder or person entitled to possession of the vehicle has no further right, title, claim or interest in or to the vehicle or its contents, and all liens, encumbrances and security interests are extinguished.

(g) As used in this section:

(i) "Personal property" means all property within the vehicle which is not mounted, attached or affixed to the vehicle. The cargo carried on commercial vehicles is not considered personal property;

(ii) "Proper identification" means identification which would be sufficient to establish authorization to release the vehicle.

31-13-113. Repealed by Laws 1993, ch. 27, 2.

31-13-114. Licensing of storage and disposal facilities; records by licensees.

(a) No person shall, unless licensed to do so by the department:

(i) Sell as a business used parts of or used accessories for vehicles;

(ii) Wreck or dismantle vehicles as a business for resale of the parts thereof;

(iii) Rebuild wrecked or dismantled vehicles as a business; or

(iv) Engage as a business in the storage or disposal of vehicles, the parts of which are suitable for reuse or recycling.

(b) Application for a license shall be made on a form prescribed by the department containing the name of the applicant, the address or addresses where the business or activity is to be conducted, the nature of the business or activity, enumerated in subsection (a) of this section, the residence address of the applicant if an individual, the names and residence addresses of the partners of the applicant if a partnership, the names and residence of the principal officers of the applicant, and the state of its incorporation if a corporation. The application shall be verified by the oath or affirmation of the applicant if a sole proprietorship, by a partner if a partnership, or by an officer if a corporation. The application shall be accompanied by a fee of twenty-five dollars (\$25.00) to be paid into the highway fund.

(c) The department shall issue to an applicant a license to carry on and conduct a business or activity as specified in the application for a period of one (1) year following the date on which the license is issued. The department shall reissue the license to the applicant when it is satisfied the applicant has complied with this act and the laws of this state relating to registration and certificates of titles of vehicles.

(d) The department shall suspend or revoke a license, upon fifteen (15) days prior written notice by certified mail and after giving the licensee an opportunity for a hearing, if it finds:

(i) The license was fraudulently procured or erroneously issued; or

(ii) The applicant, or any partner or principal officer of the applicant, if a partnership or a corporation, has failed to comply with this section and the laws of the state relating to registration of and certificates of title of vehicles.

(e) Every licensee shall maintain for three (3) years, in the form the department prescribes, a record of:

(i) Every vehicle or vehicle body, chassis or engine of or for a vehicle received or acquired by him, its description and identifying number, the date of its receipt or acquisition, and the name and address of the person from whom received or acquired;

(ii) Every vehicle or vehicle body, chassis or engine disposed of by him, its description and identifying number, the date of its disposition, and the name and address of the person to whom disposed; and

(iii) Every vehicle wrecked or dismantled by him and the date of its wrecking or dismantling. Every such record shall be open to inspection by any representative of the department or police officer during reasonable business hours.

(f) The department shall not issue a license under this law to any person who is located in any area with a residential zoning.

31-13-115. Providing disposal facilities by state.

If otherwise not economically available to resident owners of vehicles, the department or appropriate state agency shall provide, by contract to private persons or political subdivisions, facilities for the collection and proper disposal of the vehicles at the request of the owner.

31-13-116. Penalty for violation.

Every person convicted of violating this act may be fined not to exceed five hundred dollars (\$500.00), imprisoned for not more than six (6) months, or both.

CHAPTER 19 - JUNKYARD CONTROL

33-19-101. Citation of chapter.

This act [33-19-101 through 33-19-110] may be cited as the Junkyard Control Act.

33-19-102. Declaration of legislative policy; nonconforming junkyards deemed public nuisance.

It is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary highway systems within this state. The legislature hereby finds and declares that junkyards which do not conform to the requirements of this act [33-19-101 through 33-19-110] are public nuisances.

33-19-103. Definitions.

(a) Unless the context requires otherwise, the following terms when used have the meanings assigned to them:

(i) Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;

(ii) Automobile Graveyard. Any establishment or place of business which is maintained, used, or operated for storage, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts;

(iii) Junkyard. An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills;

(iv) Interstate System. That portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated by the transportation commission and

approved by the United States department of transportation pursuant to the provisions of title 23, United States Code, "Highways";

(v) Primary System. That portion of connected main highways, as officially designated or as may hereafter be so designated by the transportation commission and approved by the United States department of transportation pursuant to the provisions of title 23, United States Code, "Highways";

(vi) Commission. Transportation commission of Wyoming;

(vii) Engineer. State highway engineer or his duly authorized representative;

(viii) Federal Interstate System. National system of interstate and defense highways;

(ix) Person. Any individual, firm, agency, company, association, partnership, business, trust, joint stock company, or corporation who operates or allows a junkyard to be placed or to remain on premises controlled by him.

33-19-104. Time for compliance for previously lawfully established junkyards.

(a) Except as otherwise provided in this act [33-19-101 through 33-19-110], the owner of any junkyard that was lawful when established, but that is in violation of W.S. 33-19-105(b) and that cannot, as a practical matter to be determined by the engineer, be screened, may maintain such junkyard without liability under W.S. 33-19-110 as follows:

(i) If the junkyard was established on or before October 22, 1965, along a portion of a highway on the federal interstate system or the federal aid primary system, the junkyard may be maintained until, but not beyond July 1, 1970;

(ii) If the junkyard was established after October 22, 1965 and if the portion of the highway along which it was established became a part of the federal interstate system of the federal aid primary system after October 22, 1965, the junkyard may be maintained until, but not beyond

five (5) years after the date of erection or the date the portion of the highway involved became a part of the federal interstate system or the federal aid primary system, whichever date is later.

33-19-105. When license required; license fee; limitations on issuance of license.

(a) No person shall establish, operate or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of the interstate or primary systems, without obtaining a junkyard license from the commission. The commission shall establish and collect fees for the issuance of junkyard licenses, and all fees collected shall be paid to the commission.

(b) No junkyard license shall be issued for the establishment, operation or maintenance of a junkyard within one thousand (1,000) feet to the nearest edge of the right-of-way of the interstate or primary systems except for junkyards:

(i) Screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the interstate or primary systems, or otherwise removed from sight; or

(ii) Located within areas zoned for industrial use under authority of law; or

(iii) Located within unzoned industrial areas as determined from actual land uses and defined by regulations promulgated by the commission; or

(iv) Those which are not visible from the main traveled way of the highway system.

33-19-106. Screening; relocation or removal of junkyards; condemnation proceedings.

(a) If considered feasible by the commission, any junkyard in existence on the effective date of this act which is located within one thousand (1,000) feet of the nearest edge of the right-of-way of the interstate or primary systems and is visible from the main traveled way

of the interstate or primary systems shall be screened by the commission. The screening shall be at locations on the right-of-way or in areas outside the right-of-way acquired for the purpose, so that the junkyard is not visible from the main traveled way of the interstate or primary systems.

(b) When the commission determines that the topography of the land adjoining the interstate or primary systems will not permit adequate screening of such junkyards, or that the screening would not be economically feasible, the commission may require the relocation, removal or disposal of the junk and junkyard by negotiation or condemnation. When the commission determines that it is in the best interests of the state, it may acquire such land or interest in land as necessary to provide adequate screening of the junkyards.

(c) Damages resulting from any taking of property in eminent domain shall include, but not be limited to acquisition costs, leasehold value and moving costs.

33-19-107. Injunction to abate junkyards which are nuisances.

The establishment, operation or maintenance of any junkyard contrary to the provisions of this act [33-19-101 through 33-19-110] is a public nuisance and the commission may apply to the district court of the county in which the junkyard is located for an injunction to abate the nuisance.

33-19-108. Agreements with secretary of commerce.

The commission may enter into agreements with the secretary of commerce pursuant to title 23, United States Code, relating to the control of outdoor advertising and junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the state to comply with the terms of the agreements.

33-19-109. More restrictive ordinances or regulations saved; just compensation required for taking of property.

Nothing in this act [33-19-101 through 33-19-110] affects the provision of any lawful ordinance or regulation which is more restrictive than the provisions of this act, and nothing authorizes the taking of real or personal property,

or restriction of its reasonable and existing use, without just compensation.

33-19-110. Violation a misdemeanor.

Any person violating any provision of this act [33-19-101 through 33-19-110] is guilty of a misdemeanor.

Office of the Attorney General
State of Wyoming

Opinion No. 85-3
May 21, 1985

Barton R. Voigt
County and Prosecuting Attorney
QUESTION:

May the Board of County Commissioners adopt an ordinance or resolution for the regulation, restriction and abatement of junkyards which ordinance or regulation is not part of the planning and zoning permit system?

ANSWER:

Yes. See discussion.

STATUTES

Section 18-5-201, W.S. 1977, provides in part:

To promote the public health, safety, morals and general welfare of the county, each Board of County Commissioners may regulate and restrict the . . . use, condition of use or occupancy of lands for . . . industry, commerce, public use and other purposes in the unincorporated area of the county . . ."(Emphasis supplied.)

Section 18-11-101 et seq., allows each Board of County Commissioners to establish by resolution a Solid Waste Disposal District composed of "any portion of the county." Pursuant to Section 18-11-102, W.S. 1977, the governing board of the Waste Disposal District may exercise all the powers granted to cities and towns by Section 15-1-103(a)(xix), W.S. 1977, which provides in pertinent part:

(a) "The governing bodies of all cities and towns may: . . .

(xix) Declare and abate nuisances and impose fines upon parties who create, continue or permit nuisances to exist."

Section 102 continues by requiring the Solid Waste Disposal District to adopt "rules and regulations in managing the disposal of solid wastes within the district."

In addition, Section 35-11-103(d)(i), W.S. 1977, defines "solid waste" as ". . . garbage and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations, and from community activities. . ." (Emphasis supplied.)

Section 33-19-102, W.S. 1977, provides:

"It is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary highway systems within this state. The legislature hereby finds and declares that junkyards which do not conform to the requirements of this act are public nuisances.

Sections 33-19-103(a)(ii) and (iii), W.S. 1977, define a "junkyard" and an "automobile graveyard" to include any establishment maintained or used for storing or keeping "wrecked, scrapped, ruined or dismantled motor vehicle parts".

DISCUSSION

A "nuisance" is variously defined and classified. It is somewhat like the definition of a weed; it depends upon where it is growing. Erickson v. Hudson, 70 Wyo. 317, 335, 249 P.2d 523 (1952). A nuisance is a defendant's interference with a plaintiff's interests, Prosser, Law of Torts, Sec. 86, p. 571. "It is that activity which arises from unreasonable, unwarranted or unlawful use by a person of his own property thereby working obstruction or injury to rights of another, or to the public, and producing such material annoyance, inconvenience and discomfort that law will presume resulting damage". State ex. rel. Herman v. Cardon, 23 Ariz.App. 78, 530 P.2d 1115, 1118 (1975).

Nuisances are further classified as public, private or mixed. A public nuisance is one which affects an indefinite number of people, or all the residents of a particular locality, or all people coming within the extent of its range or operation, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Blacks Law Dictionary, Fifth Edition, p. 961 (West, 1979). Maintaining a public nuisance is by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare. Echave v. City of Grand Junction, 118 Colo. 165, 193 P.2d. 277 (1948).

Public nuisances are further classified as "nuisances per se" or "nuisances per accidens." A nuisance per se is a nuisance under all conditions. A nuisance per accidens or nuisance in fact may become a nuisance because of circumstance, surroundings, location or manner of operation. Burley v. City of Annapolis, 182 Md. 307, 34 A.2d 603 (1943). A junkyard falls into the latter category because the business of running a junkyard or an auto graveyard is a legitimate and necessary enterprise which is not necessarily a nuisance. It does not always affect adversely the public peace or safety nor is it normally a fire or safety hazard, even though it usually offends the aesthetic taste. Schuster v. Plumstead Township Zoning Board, 450 A.2d 799 (Pa. 1982). A junkyard or an auto graveyard may be a nuisance in fact depending upon the proof in each particular case and based upon the criteria set forth in the ordinance. Sohns v. Jensen, 11 Wisc.2d 449, 105 N.W.2d 818 (1960).

While a county is a "creature of the state" and may only do that which would be

authorized by law, it cannot be questioned that a state in the exercise of its police power, or a county in the exercise of delegated police power can regulate the business of dealing in junk and the disposal of waste materials. Gundling v. City of Chicago, 177 U.S. 183, 188 (1900); Engel v. O'Malley, 219 U.S. 128, 137 (1911): Accordingly, Sections 18-5-201 and 18-11-101, et seq., supra, delegate to a municipal body, including a county, the authority to license and regulate junkyards apart from the zoning and planning process. Similarly, Section 35-11-501 et seq. and the regulations promulgated thereunder also place restrictions upon the disposal of "solid waste", meaning garbage and other discarded solid materials regardless of whether these materials are disposed of in the course of conducting a business.

As a general rule, the police power of the state extends to the prevention and abatement of nuisances and a legislative body, including a Board of County Commissioners, may within constitutional limits prescribe what will constitute a nuisance. This power extends to the prohibiting of acts or things not considered offensive or injurious in the past. Hillmer v. McConnell Brothers, 414 P.2d 972, 973 (Wyo. 1966).

While a large measure of discretion is necessarily vested in the legislative body to determine not only what the interests of public convenience and welfare require and what measures are needed in serving these interests, care should be taken in the drafting of permitted regulatory provisions in setting forth substantive criteria for the ordinances or the regulations. This is necessary to preclude allegations that the governing body is acting in an arbitrary or capricious manner in regulating waste disposal. There must be some articulable standards in the ordinances or rules, violation of which will adversely affect the health, safety general comfort and welfare of the community.

With respect to regulation of individuals (as opposed to businesses) littering their property with garbage consisting of old discarded automobiles or tractors, the rules and regulations of the solid waste branch of the Department of Environmental Quality (DEQ) would prohibit such action unless the owner applies for and receives a permit from DEQ. The Junkyard Control Act (Sections 33-19-101 to 33-19-110, W.S. 1977) also prohibits such activity. SEE: AG Opinion No. 78-16, dated June 28, 1978.

Of course, private littering could also constitute a public nuisance which could be abated by action of the county attorney to obtain injunctive relief. The Wyoming Supreme Court in the case of Moore v. Jarvis, 44 Wyo. 92, 112 P.2d 818 (1932) states that the power of the courts to abate nuisance "with or without statutes undoubtedly exists and has existed for decades". Equity intervenes under such circumstances because preventive relief by injunction is more effective than the slow and inflexible processes of the criminal law as prevention of public injury is to be preferred to acting after the harm is done.

CONCLUSION

Junkyards and automobile graveyards may be regulated by counties pursuant to the

delegated authority of state law. Ordinances and regulations so adopted must be reasonable and not arbitrary, must not violate any constitutional provision, must be a legitimate exercise of the power granted and must be reasonably related to the public health, safety, morals or general welfare. The regulations should be definite and certain in their terms and criteria and the standards set forth therein must be adequate.

The power to regulate includes discarded solid waste materials placed on private property not part of a junkyard or automobile graveyard business. Such nuisances may also be abated by seeking injunctive relief or by notifying DEQ of the violation.

A. G. McClintock

Attorney General

Peter J. Millvaney

Deputy Attorney General

Civil Division

Lawrence A. Bobbitt, III

Senior Assistant Attorney General