

MEMORANDUM

TO: Laramie County Commissioners
FROM: Gay Woodhouse
DATE: November 20, 2018
RE: Resolution: Creating County Events Department, A New Fair Advisory Board and Providing for the Transition of Existing Fair Staff to Laramie County Employee Positions

Facts

The Laramie County Commissioners have put forth a proposed resolution entitled “Creating County Events Department, a New Fair Advisory Board and Providing for the Transition of Existing Fair Staff to Laramie County Employee Positions.” The resolution seeks to dissolve the Laramie County Fair Board of Trustees and seeks to implement “A County entity, to be called the Laramie County Events Department.”

Applicable Law

In order to determine the propriety of the proposed resolution, one must review and analyze all applicable statutes. When construing a statute, a court begins with the issue of whether the statute is clear and unambiguous. If the statute is clear and unambiguous, the courts give effect to the statute’s plain language by respecting the ordinary and obvious meaning of the words. The statute is construed as a whole, giving effect to every word, clause and sentence. *See Jones ex rel. Jones v. State Dept. of Health*, 2001 WY 28, ¶ 11, 18 P.3d 1189, 1194 (Wyo. 2001). Mandatory statutes must be obeyed. *In re Hartt’s Estate*, 295 P.2d 985, 991 (1956). Use of the word “shall” therefore, indicates mandatory intent. *Mayland v. State*, 568 P.2d 897, 899 (Wyo. 1977).

Pursuant to W.S. § 18-2-101 et seq. and W.S. § 18-3-504, the County, by and through its county commissioners may exercise other powers or perform such other duties as provided by law. Wyoming Statute § 18-9-101 grants the county commissioners authority to “[a]ppoint a board of *trustees* to control, maintain and manage the fairgrounds...parks and pleasure grounds.” (emphasis

added). Further, W.S. § 18-9-102 provides “[t]he board of trustees...shall be composed of not less than five (5) nor more than nine (9) competent citizens of the county appointed by the board of county commissioners.” The statute also requires that the board of county commissioners annually appoint a successor to any trustee whose term has expired or who has been removed for cause. *Id.* at (a) and (h). Finally, once appointed the board has “perpetual existence.” *Id.* at (c).

Argument

The ordinary and plain language of W.S. § § 18-9-101 and 18-9-102 only permits the county commissioners to establish a “board of trustees to control, maintain and manage the fairgrounds...parks and pleasure grounds.” The County’s plan to institute the “Laramie County Events Department” and the “Laramie County Fair Advisory Board” runs afoul of the above-referenced statutes. The legislature used the word “board of trustees” for a purpose. If the legislature intended anything different it would have set it forth in the statute. The word “trustee” has a special meaning in the law. A trustee is “someone who stands in a fiduciary or confidential relation to another.” BLACK’S LAW DICTIONARY, 1748 (10th Ed.). Moreover,

A trustee is bound to perform all acts which are necessary for the proper execution of his trust...And, indeed, a trustee seems generally to be bound and take the same care of the trust fund as a prudent and discreet man would take of his own property. And to make no profit or advantage out of it for himself personally.

1 William W. Story, *A treatise on the Law of Contracts* § 374, at 328-30 (1874). The County’s decision today improperly removes the protections of the County Fair imposed by the state legislature.

The County’s decision to create a “Laramie County Fair Advisory Board” to “function in an advisory capacity to the Director of Laramie County Events Department” also violates W.S. § 18-9-101. Pursuant to that statute, the commissioners may appoint a board of trustees “to *control, maintain and manage the fairgrounds....*” W.S. § 18-9-101(a)(iii) (emphasis added). The Laramie

County Fair Advisory Board effectively rips this control, maintenance and management of the fairgrounds and merely imposes an “advisory” role.

Given the above, the dissolution of the Laramie County Fair Board of Trustees and the imposition of the “Laramie County Fair Advisory Board” is a violation of Wyoming law.

This resolution also poses a problem in regards to current Laramie County Fair Trustees. The resolution effectively removes all Trustees in contravention of W.S. § 18-9-102(h), which provides that the commissioners may remove any trustee “*for cause without a public hearing unless the trustee requests that the action be taken during a public hearing*” (emphasis added). This resolution removes all current trustees without cause and without a public hearing for each trustee. This action would contravene the basic dictates of due process as prescribed by Article I, Section 6 of the Wyoming Constitution.

Finally, the proposed resolution erodes the democratic process. On May 2, 2017, the Laramie County voters passed a 1% specific sales and use tax. The purpose of said tax, or Proposition 4 A, as it was known was as follows:

To collect \$9,885,000.00 and interest earned thereon *to the Laramie County Fair Board* to be used for the design, construction, equipping, and furnishing of a multipurpose facility at the Laramie County Archer Complex. The proposed facility will be an open-span building that will host a variety of events year-round for both residents and visitors, including trade shows, expositions, sporting events, RV rallies, concerts, horse and stock shows, etc. The Archer Complex was purchased in 2004 by Laramie County as a multifunctional campus for citizens to use and enjoy year-round.

(emphasis added). The people of Laramie County voted that the County Fair Board shall have control of these funds, not the Laramie County Events Department and not the Laramie County Fair Advisory Board. This proposed resolution breaches the public trust in our democratic process. The people of Laramie County will now question every Sixth Penny Ballot Initiative as a way for

the County to raise funds for one entity and surreptitiously transfer said funds to a wholly different entity.

Conclusion

The County Commissioners' proposed action violates Wyoming law by unilaterally dissolving the Laramie County Fair Board. The County Commissioners' institution of an "advisory board" and a "Laramie County Events Department" serves no purpose but to impermissibly rip the County Fair Board of its right to "control, maintain and manage the fairgrounds." Finally, the County Commissioners' proposed action removes all current Trustees without cause and without due process. The Laramie County Fair Board asks the County Commissioners to vote "No" on this proposed resolution because it violates Wyoming law.

West's Wyoming Statutes Annotated

Title 18. Counties

Chapter 9. Fairgrounds, Airports, Parks, Pleasure Grounds and Recreational Systems

Article 1. Generally

W.S.1977 § 18-9-102

§ 18-9-102. Board of trustees

Currentness

(a) The board of trustees provided by W.S. 18-9-101(a)(iii) shall be composed of not less than five (5) nor more than nine (9) competent citizens of the county appointed by the board of county commissioners. Trustees shall serve five (5) year terms which shall be staggered. The board of county commissioners shall annually appoint a successor to the trustee whose term expires. The term of each succeeding trustee shall commence on the first Monday in January next following the date of his appointment. A trustee may be appointed for successive terms.

(b) As soon as the original board has been appointed they shall organize by electing a chairman, secretary and treasurer of the board. As soon as they organize they shall file without fee a certificate showing their organization with the county clerk and the secretary of state. Upon filing the certificate the board of trustees is a body corporate, empowered to sue and be sued under the name of "Board of Trustees of County".

(c) No member of the board of trustees shall be personally liable for any action or procedure of the board. The board has perpetual existence and it is not necessary to file any certificate other than that filed upon the original organization.

(d) Each year when a new member of the board is appointed the trustees shall meet and again organize by electing a chairman, secretary and treasurer. Each member of the board shall serve without compensation and the board treasurer shall give bond in such amount and such securities as approved by the county commissioners conditioned upon the faithful performance of his duties and the accounting for all board monies. The board may pay the secretary such compensation as proper for secretarial, accounting and other services required of him apart from his duties as a member of the board.

(e) Repealed by Laws 1991, ch. 201, § 2.

(f) If a county is without title to sufficient land it may acquire such lands as deemed necessary by gift, purchase or condemnation under the right of eminent domain.

(g) Repealed by Laws 1991, ch. 201, § 2.

(h) The county commissioners may remove any member of the board of trustees for cause without a public hearing unless the trustee requests that the action be taken during a public hearing. Vacancies on the board of trustees shall be filled by the county commissioners for the balance of the unexpired term created by the vacancy.

Credits

Laws 1951, ch. 150, § 4; Laws 1977, ch. 124, § 1; Laws 1985, ch. 80, § 1; Laws 1991, ch. 201, §§ 1, 2; Laws 2012, ch. 104, § 1, eff. March 21, 2012.

Codifications: W.S. 1957, § 18-326.

W. S. 1977 § 18-9-102, WY ST § 18-9-102

Current through the 2018 Budget Session of the Wyoming Legislature

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2017 Specific Purpose Tax Information Guide

*Laramie County, and the
Towns of Albin, Burns, Pine Bluffs
& City of Cheyenne*

Election Day: May 2, 2017



What Is The Sixth Penny Tax?

State law allows counties, in cooperation with cities and towns, to fund specific projects through a voluntary sales tax. Counties, cities and towns pass resolutions that include proposed projects and amounts needed to complete those projects. Voters are then asked to vote on those projects. If approved by the majority of voters, a "sixth penny" sales tax is added to your purchases. When the specific amount is collected, the tax stops.



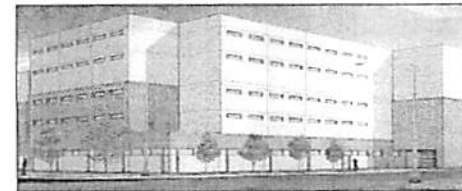
Court Expansion (Prop. 1)



Laramie County seeks \$9 million to remodel and expand the existing Laramie County Courthouse to provide courtroom and office space for a fourth District Court Judge authorized by the Wyoming Legislature along with building systems and physical plant upgrades.

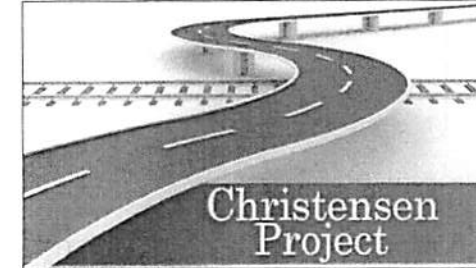
The **City of Cheyenne** seeks \$9 million for the construction of a new Municipal Court facility to be located at 2101 O'Neil Avenue as an addition or remodel to the City of Cheyenne's current government building or for the construction of a new Municipal Court at such other location as determined appropriate. The facility would house three judges (two court judges and a juvenile judge) plus administrative staff.

County Jail Expansion (Prop. 2)



Laramie County seeks \$16,176,680 million to construct an addition on the existing Laramie County Detention Center located at 1910 Pioneer Avenue for the purpose of expanding inmate capacity, providing additional administrative space, and for updating and improving existing infrastructure of the current facility. The county's inmate population continues to grow, especially in the female category. The plan is to expand the jail from 325 beds to 445 beds.

Christensen Project (Prop. 3)



The **City of Cheyenne** seeks \$15 million for The Christensen Road Overpass Project which begins at Commerce Circle, near the I-80 and Campstool Road interchange in the center of the Cheyenne LEADS Business Parkway. The new road crosses the Union Pacific Railroad mainline, then continues north to US Highway 30. The length of the project is 1.25 miles. The absence of an overpass on Christensen Road is a critical public safety concern. This project would provide better access and response times for fire, police and emergency personnel, particularly to the eastern portion of the LEADS Business Parkway and I-80/Campstool developments.

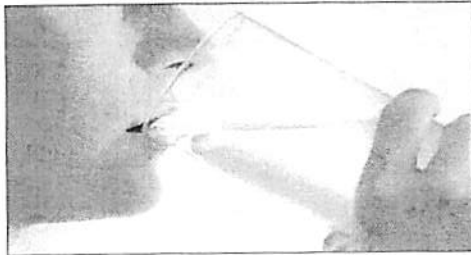
Archer Multipurpose Facility (Prop. 4)



The **Laramie County Fair Board** seeks \$9,885,000 million for the design, construction, equipping, and furnishing of a multipurpose facility at the Laramie County Archer Complex located east of Cheyenne. The proposed facility will be an open-span building that will host a variety of events year-round for both residents and visitors, including trade shows, expositions, sporting events, RV rallies, concerts, and horse and stock shows. The multipurpose facility will be a self-sustaining large venue infrastructure with a positive cash flow.

Proposition 5 (\$11,970,000)

- **Albin:** Adequate housing expansion
Emergency generators/water source
- **Burns:** Road, parking, watering improvements
- **Cheyenne:** Greenway expansion/maintenance
Street improvements
- **Laramie County Fire District #1:**
New Archer Complex fire station
- **Pine Bluffs:** Infrastructure improvements
Clean water system renovation
New Public Works facility



Proposition 6 (\$11,969,000)

- **Albin:** New water meter system/O&M*
- **Burns:** Remodel town-owned buildings/O&M*
Street and drainage maintenance
- **Cheyenne:** Multipurpose indoor turf facility
- **Laramie County:** Radio equipment/O&M*
- **Pine Bluffs:** Refurbish recreational facilities



Proposition 7 (\$14,870,000)

- **Albin:** Replace vehicle storage facility/O&M*
Resurface Town Hall parking lot
- **Burns:** Dump truck and attachments
4th Street sewer line completion/O&M*
- **Cheyenne:** Construct gymnasium/offices/O&M*
Fire stations remodel/apparatus rehab
- **Laramie County:** Emergency storage facility
- **Pine Bluffs:** Upgrade town cemetery

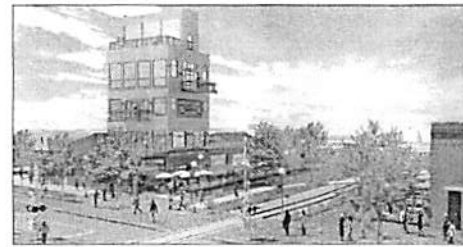


Proposition 8 (\$8,848,000)

- **Albin:** Utility truck, equipment, training
1950s sewer line replacement
- **Burns:** Radios and communication equipment
- **Cheyenne:** Purchase East Community Park land
Street improvements
- **Pine Bluffs:** Debt reduction
Replace town equipment

Proposition 9 (\$11,700,500)

- **Albin:** Replace existing water lines
Community Center repairs/maintenance
- **Burns:** Improve town parks
Water/sewer upgrades
- **Cheyenne:** West Edge infrastructure/enrichment
- **Eastern Laramie County Solid Waste Disposal District:** Purchase new scraper, shop addition
- **Laramie County:** Upgrade 911 communications
Sheriff technology upgrades
- **Laramie County Fire District #2:** New station
- **Pine Bluffs:** Street maintenance/repair plan



Past Sixth Penny Projects

- Albin:** Community Center addition
Sewer improvements
Heavy equipment purchase
- Burns:** Sewer line upgrades
Heavy equipment upgrades
Liberty Park improvements
- Cheyenne:** Botanic Gardens Conservatory/Remodel
Public Safety Center
Norris Viaduct
- Laramie County:** Laramie County Library
City/County Health Department
County Government Complex
- Pine Bluffs:** Park Rehabilitation
Water Main improvements
Butler Avenue paving

* O&M means Operations and Maintenance

Frequently Asked Questions

When is the election?

The election is scheduled for Tuesday, May 2, 2017. Vote Centers are open from 7 a.m. to 7 p.m.

How can I vote?

You can vote on election day - Tuesday, May 2, 2017 - or you can vote early or by absentee ballot beginning March 23. For more information on early/absentee voting, call the Laramie County Clerk's Election Office at 633-4242.

When will this tax start and end?

The tax will start on October 1, 2017 and end once all the approved projects have been funded to their approved amount.

If approved, what will the tax rate be?

Currently, Laramie County is collecting 6 cents (which will end on April 1) on every dollar spent (except on non-prepared food). If approved, there would be a tax holiday from April to October when the tax collected would be set at 5 cents.

Will tourists pay this tax?

Yes! Anyone who purchases items in Laramie County (except non-prepared food) will pay this tax.

How does the ballot work?

Voters will be presented with a menu-style of Specific Purpose Tax (Sixth Penny) propositions.

For more information about the 2017 Specific Purpose Tax Ballot, go to www.laramiecounty.com.



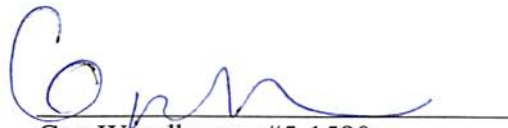
This brochure is made available to the residents of Laramie County to provide information on 2017 Specific Purpose Tax Projects.

REQUEST FOR PUBLIC HEARING

The resolution of the Laramie County Commissioners today, November 20, 2018, effectively removes all current Trustees of the Laramie County Fair Board of Trustees, namely Jordan Hanslovan, Lorrell Walter, Cody Nusbaum and Ron Gregory. This removal was without cause as required by W.S. § 18-9-102(h).

Therefore, Jordan Hanslovan, Lorrell Walter, Cody Nusbaum and Ron Gregory all request a public hearing on their removal.

DATED this 20th day of November, 2018.



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