

**REPORT TO THE
MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
SPECIAL MEETING
December 15, 2022
Carbon Building-Courthouse Annex, Rawlins, WY**

A special meeting of the Board of Carbon County Commissioners (BOCC) commenced December 15, 2022, at 11:00 a.m. at the Carbon Building-Courthouse Annex in Rawlins, WY. Attending the meeting were Chairman, John Johnson, Vice Chairman, Sue Jones, John Espy, Travis Moore and Byron Barkhurst.

Chairman Johnson called the meeting to order at 11:00 a.m.

Formal Adoption of County Road 451 (Cherokee Road)

Chairman Johnson opened a public hearing at 11:01 a.m. to consider formal adoption of County Road 451 (Cherokee Road) as an official county road.

Public legal notices were placed in the Saratoga Sun for two consecutive weeks specifically on November 17 and 24; the Rawlins Times for four consecutive weeks specifically November 16, 23, 30, 2022 and December 7, 10, 14, 2022; and on the Carbon County website from November 10, 2022, through December 15, 2022.

Carbon County Attorney, Ashley Davis provided the background of Cherokee Road and the discussion between Bill Nation, Road & Bridge Superintendent, and landowners in approximately 2001-2002 when landowners approached Mr. Nation requesting it be made a county road. Agreements were signed between landowners at that time and the county where the landowners promised to provide easements if the county improved the road however some of those easements were never obtained. Attorney Davis referred to the map detailing which landowners had provided agreements for easements and which had not.

Kandis Fritz, Road & Bridge Coordinator provided cost estimates dating back to March 2002 for improvements of \$244,500.00 including signs, cattle cards, culverts, etc. She then provided a breakdown of the current costs of these items and the cost of maintaining the road.

Ms. Fritz detailed speed index surveys in 2001 and June 2022 and provided traffic counts. These surveys occurred over a course of several days. She also detailed locations of county signs.

Attorney Davis discussed the claims for damages from landowners and detailed existing easements. She discussed the current taxation of the easement areas and the fact that according to County Assessor Renee Snider the county could quit taxing that area and added that an easement through the middle of a property could prevent that landowner from having to subdivide through the county's normal process.

Ms. Davis discussed two options if the BOCC chose to move forward. First being adverse possession/prescription and second adoption by resolution. With adverse possession no damages would be considered and the county can only use the roadway where the public has traveled and the county has maintained vs. by resolution where damages would be considered and the county can look for the entire 60' easement.

Craig Kopasz of Engineering Associates was hired by the county as a view and he detailed his Viewer Report from December 8, 2022. This included structure, snow drifting/blowing issues, fencing etc. He stated the road is adequate to be a county road, but improvements would benefit this road.

Chairman Johnson called for public comments for or against the formal adoption.

No comments were made against formal adoption of the CR 451.

Waylan Morgan gave comment in favor. He feels the easement has moved further to the east over time including him moving their fence an additional five feet to help the county per an original agreement with Bill Nation. He would like to see this go back to the original easement.

Gwynn Bartlett gave comment that during her time as county clerk that she hasn't received any complaints, received requests for damages, and nobody has requested the county stop maintaining the road. She detailed the importance of maintenance for emergency services, school bus stops and access.

Trent Morgan commented that he resides in the area that receives the most snow. He said more damage has been done by those without the proper equipment and is favor of the county continuing to maintain this as a county road.

Gilberta Funk commented that their deciding to build a home was based on the information that the road was going to be a county road back when they purchased the property in 2001. Without Road & Bridge doing snow removal they wouldn't have access to their property. She stated she is very much for it.

John Hall commented that he built a house in 2012 and is very much in favor of making Cherokee Road a formal County Road and thanked Kandis and R&B for their work. He stated he wouldn't have built out there if wasn't a county road.

Adam Herring commented that they just purchased their property in June with the understanding that it was a county road and stated that him and his wife are in favor of it being a county road for the bus stop, access, and safety.

Voitech (Wojslaw) Marciniak commented he has lived out there for 30 years and has seen that road at its worst with bad snow and mud conditions making it impassable at times. He stated that more traffic has degraded the road currently and expressed the importance of county maintenance.

Greg Nelson commented that he is not opposed but is concerned about the speed, stop signs and enforcement. He understood this was part of the original agreement he made with Bill Nation. He is hoping the county will live up to the agreements and their obligations.

Commissioner Jones suggested some clarifications in speeds on county roads. Ms. Fritz said the first resolution didn't allow for tickets to be written. Speeds allowed on county roads is currently 55 mph. Attorney Davis stated citations have been written for running stop signs. She stated driver's license violations don't apply to private roads. If adopted as a county road, speed limits, stop signs and other traffic laws can be enforced. Ms. Fritz said once fully established signs will be fixed.

Chad Engstrom commented that he is in favor of it being a county road and reiterated the importance of snow removal and emergency services.

Giovanna Merendino commented that she is concerned about R&B equipment that has been cutting into the ditch and damaging culverts but stated she is most concerned about speeding and the danger to people and livestock and everyone's safety.

Sharon Watson commented about the speeding and dust especially with it being a bus route that has her most concerned.

Jenn Rothenberger commented that they have lived there 10 years with the assumption that it was a county road. She said it would be impossible to maintain the road themselves and stressed the importance of access. She also understands the issue with speeding. She also stated that the property values would decrease if not a county road. Commissioner Johnson asked about title insurance. She stated that it would not be attainable and could restrict buyers from obtaining financing. Rose Cain asked about this, and Ms. Rothenberger clarified that this was about legal access not necessarily just being a private road.

Attorney Davis again discussed the process moving forward. If the BOCC moves forward with a resolution, the county would hire three appraisers to assess the damages, assuming there would be claims for damages. Those claims would be filed with the county clerk during the 30-day notice period.

Commissioner Johnson asked Ms. Fritz for a recommendation. She recommended making it a county road and the width to be that of the right of way, 60' where available.

Chelsea Spencer provided comment that she is in favor but wants speed limits and stop signs enforced.

Lacy Herring questioned how the road will be maintained during this process? Chairman Johnson said health and safety is the primary concern and Road and Bridge will continue maintenance during this time.

Commissioner Jones stated she hopes to make this a county road with the proper structure of a county road. Commissioner Barkhurst agreed. He thanked the public for participating and stated

it needs to be surveyed and constructed to the proper width and done right moving forward. Commissioner Moore says he appreciates the participation in the public hearing. He agreed that he wants to see it done right this time. Commissioner Espy agrees moving forward in making Cherokee Road a county road. He wants to be respectful of property owners. Chairman Johnson said he hoped everyone feels heard. He relates to living on a county road and the importance and benefit of it.

Chairman Johnson closed the hearing at 12:12 p.m.

Waylon Morgan asked for clarification regarding adverse possession. Attorney Davis clarified this would set the current road as it currently is at this time. Mr. Morgan clarified that the road has moved from where the initial road was constructed and is taking more of his and his family's property than originally planned. He asked this be looked into. Doug Boyd WLC described the center line of the road at the original time back to 2001 when the road was set and noted it does appear to have "walked" over from that area a bit.

Commissioner Espy moved to adopt by resolution to initiate the procedure for establishment of County Road 451 (Cherokee Road) as an official county road per W.S. §24-3-101, more specifically defined as follows:

A strip of land delineated for a County Road easement located within Sections 13 & 24, Township 21 North, Range 88 West of the 6th P.M., Carbon County, Wyoming being 60 feet in width, 30 feet on either side of the following described centerline with sidelines extending and shortening so as to terminate at property lines and further described as: Commencing at the Northeast corner of said Section 24; thence S29°06'20"W a distance of 1345.25 feet to the Northerly right of way of Interstate 80 Frontage Road (Wagon Circle Road) and the Point of Beginning of this centerline description;

Thence N00°12'00"W along the centerline of an existing road referred herein as County Road 451 a distance of 1186.22 feet to the line common to the said Sections 13 & 24;

Thence N00°07'14"E along the said centerline and into said Section 13 a distance of 659.10 feet;

Thence N00°13'54"W along the said centerline a distance of 451.53 feet;

Thence N07°46'18"W along the said centerline a distance of 212.79 feet;

Thence along the said centerline 351.72 feet along the arc of a curve to the left, said curve having a radius of 570.00 feet, an internal angle of 35°21'18" and a long chord which bears N24°01'04"W a distance of 346.17 feet;

Thence N41°39'47"W along the said centerline a distance of 478.42 feet;

Thence N43°30'02"W along the said centerline a distance of 855.48 feet;

Thence N46°19'05"W along the said centerline a distance of 51.29 feet;

Thence N45°34'11"W along the said centerline a distance of 326.21 feet;

Thence N44°28'43"W along the said centerline a distance of 499.17 feet;

Thence N45°33'05"W along the said centerline a distance of 391.08 feet;

Thence N45°29'37"W along the said centerline a distance of 292.08 feet;

Thence N42°47'16"W along the said centerline a distance of 199.30 feet;

Thence along the said centerline 179.62 feet along the arc of a curve to the right, said curve having a radius of 1128.35 feet, an internal angle of 9°07'15" and a long chord which bears N38°13'38"W a distance of 179.43 feet;

Thence N33°49'01"W along the said centerline a distance of 428.64 feet;
Thence N32°38'21"W along the said centerline a distance of 246.62 feet to the Point of
Ending of this centerline description, said Point of Ending bears N53°21'22"W a distance
of 1030.58 feet from the C-N 1/16th corner of said Section 13
Containing 6,809.27 feet, 412.68 rods and 9.38 acres, more or less.

Commissioner Moore seconded. Attorney Davis clarified that the BOCC was proceeding with Option 2 and discussed the timeline recommending notices being sent to landowners and ads published in the newspaper in accordance with W.S. §24-3-110 with an objection deadline of February 3, 2023, at noon. At the February 7, 2023, regular meeting the BOCC will appoint three appraisers if there are claim for damages, each who are qualified electors in Carbon County. The appraisers would provide a report within 10 days of notification of appointment. The entire process will likely take until March. She detailed the process for a contested case hearing if this process is needed. Chairman Johnson clarified that the County is looking for an easement that is 60 feet in width, 30 feet on either side of the centerline. The motion carried unanimously.

Attorney Davis confirmed with the BOCC that she will have WLC stake out the road as originally planned. If consent is received of all landowners, the BOCC could proceed more quickly through the road completion process if they desire.

Attorney Davis stated that the County Attorney's Office can talk to individuals who are not represented by attorneys directly, and if attorneys are involved, the discussions will be between the individual's attorney and the County Attorney's Office. She will attempt to obtain easements from those that have not already provided one. Gwen Gale stated that there wasn't a response to her attorney in two years and Attorney Davis stated correspondence was provided to her attorney when the BOCC recently took action to move forward.

ADJOURNMENT

Commissioner Espy moved to adjourn the meeting at 12:29 p.m. Commissioner Moore seconded, and the motion carried unanimously.