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Thermopolis Hot Springs

# Independent Record

SPECIAL INTERNET PREVIEW

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## New housing project built to 'green' specs

Thermopolis' first low-income non-profit residential apartments will also be one of the first "green" buildings to be built in the county.

During a recent meeting of the Housing Committee, representatives from Wyoming Housing Network, a non-profit agency based in Casper, met with the committee to discuss the requirements the new Deer Run Apartments building must meet in order to fulfill "green" criteria.

In order for the project to be eligible for grant funding through the Wyoming Community Development Authority, other government agencies or non-profits, the project must meet water, energy and environmental conservation requirements determined by the Enterprise Green Communities program.

The project is expected to be built near 14th Street and Broadway Street within a quarter-mile of the Hot Springs County Fire Station and Thermopolis Middle School.

It will be three stories tall and will have 12 units divided into eight two-bedroom, two three-bedroom and two one-bedroom apartments.

### 'Green' requirements

In order to meet energy conservation requirements, each apartment will have Energy Star-rated appliances and furnishings. The apartment will be built to Energy Star guidelines, and requires each apartment to meet an Energy Star rating of 85 or lower.

The Energy Star rating for each apartment is determined by

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Members of the Hot Springs County Drama Team show off the Class 3A state championship trophy they won in Casper last weekend. The team had 10 All-state Cast members and 10 honorable mentions in the competition. — Joe Sova photo

## Drama Team takes state

by Cindy Glasson

Hot Springs County High School now claims bragging rights to yet another state title after the Drama Club brought home a state championship from Casper over the weekend.

The 25 students who attended the state competition was the largest team ever for coach Eric Kay.

"We actually were able to take several pieces for students who were not physically able to attend, so we competed with 30 (students)," Kay said.

The competition is held at Casper College each year. "The team, overall, is very young," Kay said. "For the vast majority of these kids, it was their first state drama experience and it can be pretty overwhelming with 700 kids from 27 districts all over a college campus."

Overall, the team had 10 honorable mentions along with 10 All-State Cast member winners. The team's arena show, "Fourteen Lines," placed 13 out of 24 performances.

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## Commission, WYDOT proceed with airport land project

by Cindy Glasson

Plans for a new county airport are still in the works after the Hot Springs County Commissioners met Tuesday to discuss their options with land acquisition.

Dusty Spomer with GDA Engineering presented a Resolution for Condemnation to the commissioners from the Wyoming Department of Transportation (WYDOT) for land west of Thermopolis owned by Joe Holden.

Spomer emphasized signing the document "does not presume condemnation is the eventual outcome, it is only in the event of failure of the negotiations."

WYDOT will continue with their process and the appraisal of the Holden land will continue.

"If at the end of that process there is not a willing sale, then the eminent domain process will begin," Spomer said. "It's all part of the process."

Commissioner Brad Basse, acting chairman in the absence of chairman John Lumley, said he was somewhat uncomfortable acting on the document without

the third commissioner in attendance.

"It's very serious to contemplate eminent domain," Basse said. "However, I've worked with this project for a long time and it won't be very long until we don't have an airport in Hot Springs County. If we stop this process now I don't see it being taken up again. This is a 100-year decision."

"I would be happy to sign this if I thought this was the way the property owner wanted to go," commissioner Mike Baker said. "I'm just not willing to go there yet."

"I think this closes our 'good faith' ability and I'm not sure we've used all the avenues available to us yet. I won't be voting for this at this time."

Spomer indicated he would be available to return for the next commissioners' meeting in two weeks if they wanted more time to think about the resolution, but said putting it off could put the project back approximately 90 days.

"It could dictate the start of construction," Spomer

said. "It could also affect our ability to regain access to the property for design and could create a legal liability."

Spomer said he had been told by WYDOT they could not proceed with a purchase offer to the landowner without the resolution in place.

"This is only used if negotiations are declined or cannot go forward," he said.

Baker said, as a landowner himself, if he had received the same resolution, after reading the first paragraph the rest of it wouldn't matter.

"I'd read this and figure, well, that's where they're going and the other paragraphs wouldn't mean anything," he said.

"We've made offers to negotiate and we've been flat shut down," Basse said. "I think this is their way of telling us that's the way they want to go."

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## Pearces, McGarvin-Moberly file rebuttal to land use suit

by Cindy Glasson

Russ and Lisa Pearce, along with McGarvin-Moberly, have filed a quick rebuttal to a suit recently filed against them and the Hot Springs County Commissioners.

On Nov. 22, Jean Cotton of Cotton Farms LLC, Donald and Nancy Scogin, Steven and Vicky Boyer, and Gene and Mary Lou McGee filed a petition against the commissioners, the Pearces and McGarvin-Moberly, requesting a reversal of a decision by the county commissioners to allow a land use change for acreage owned by Russ and Lisa Pearce.

"In granting the application, the board's actions were arbitrary, capricious, an abuse of discretion, not in accordance with law, without observance of procedure required by law," the petition reads.

John P. Worrall, attorney for the Pearces and McGarvin-Moberly, filed a response Nov. 29

denying all allegations contained in the petition.

The response requests the petition be denied and the judge order the petitioners to pay attorney fees and court expenses for the Pearces and McGarvin Moberly.

The response asks the judge to award the costs and attorney fees incurred by the Pearces and McGarvin-Moberly because they believe the petition was brought to the court in bad faith without any evidence to back up the petitioners' allegations.

According to the response, "Each and every objection was based on the conjecture, surmise and without any identifiable basis in fact or opinion of an expert."

### Special meeting

Two representatives from the Department of Environmental Quality (DEQ) and the state engineer's office attended a special

meeting of the Land Use Planning Board in October to give their professional opinions on the issues raised by the landowners.

Based on his findings, Dave Deutz with the Wyoming State Engineer's Office said the gravel pit would not interfere with Cotton's water use and as a natural spring, the water level will typically rise and sink along with the level of the Big Horn River.

"If individuals think they are being injured or affected, they can file a claim with the state engineer's office, but at this time, in my opinion, no, there will not be any interference with the water from this gravel pit," Deutz said.

"Because this is a limited operation, we don't do a lot of long, drawn-out studies," said Mark Moxley with the DEQ.

Moxley went on to say he had visited the area in question that

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### Warren Hill fun!



Grace Whitt goes airborne while sledding in ideal conditions on Warren Hill on a warm, sunny Sunday afternoon. — Joe Sova photo

## Future of 3-on-3 still unknown

The question of whether or not Thermopolis will host the 3-on-3 Basketball Tournament in May still doesn't have an answer after Tuesday night's meeting of the Thermopolis Town Council.

About five members of the Hot Springs County Chamber of Commerce Board of Directors and five members of the Hot Springs County Lodging Tax Board approached the town council to discuss the future of 3-on-3.

Mayor Bill Malloy spoke on behalf of the council, chamber president Donna Nally spoke for the chamber and Harvey Seidel spoke for the Lodging Tax Board.

The Town of Thermopolis can't directly provide money to help fulfill financial obligations for the 3-on-3 Basketball Tournament, but it still supports the event indirectly with up to \$6,000 in overtime pay to public works and police personnel during the event, Malloy said.

"We can't financially support it, but we want all to know the town does support it," Malloy said.

### Lodging Tax Board decision

In November, the Lodging Tax Board, which usually provide the bulk of the money needed to pay organizers of the event, decided they would not fund the 2011 tournament unless there is community support behind it.

In a prepared statement to the town council, Seidel iterated the board's position and also said the

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## Holiday Tour of Homes featured Monday

by Cindy Glasson

The annual Holiday Tour of Homes will be held Monday to benefit People for People in Hot Springs County.

This year's tour features five homes plus a new addition, the Merchant House, decorated by local business owners.

The tour will include the homes of Linda and Jerry Umbdenstock, Penny and Dan Herdt, Cindy and Ray DeVries, Liz and Tom Ryan, and the home of Julie Lehman.

The Merchant House is a home that has been opened for the evening with each merchant decorating a separate room in the house. Decorators include Needful Things, Hazel-n-Pearl's, Thermopolis Hardware, White Horse Country Store and Owl Creek Graphics.

While each of the rooms will be decorated with items from the stores, the merchants will not be selling items the night of the home tour.

The annual event was started in 1988 under the direction of Delores Loughlin, Janine Kelso and Pat Jemming. After all these years, the trio has taken on a consulting role, passing on the project to Judy Carswell, Shelley Deromedi, Renae Baldez and Kelly Andreen.

The Holiday Tour of Homes will be Monday, Dec. 13, from 5:30 to 8:30 p.m. Tickets are \$6 and are available at Needful Things, The Shoppe, Storyteller or from any committee member.

The reception following the tour will be at the Museum and Cultural Center from 7 to 9 p.m. Bring your tour ticket with you to the reception for a chance to win a door prize.

# Drama

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“When we crunched the numbers,” Kay said, “the only team that beat us in the state was Cheyenne Central. If an overall award was given, we would have taken second in the entire state. I was guardedly optimistic going in, but did not anticipate that level of dominance.”

“Also, we move back down to 2A next year, so I’m very optimistic about our future at state drama.”

Kay said he needs to give a huge thank you to Ron Philips for all his amazing help, especially with the designers as well as Jenny Manning who volun-

teers her time as the “Drama Mama” for the weekend.

### Individual honors

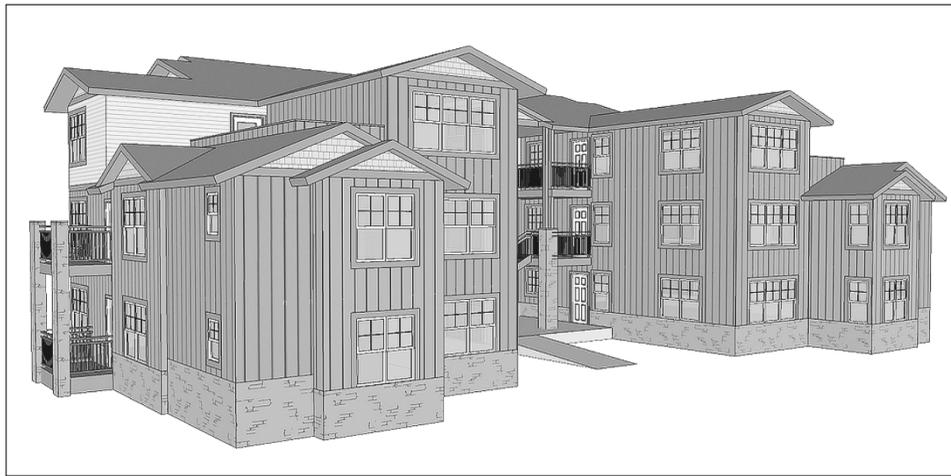
Honorable mention for All-state Cast awards went to freshman Tori Anderson for her humorous monologue, senior Lorraine Carver for her publicity piece for the play “All Because of Agatha” and the duet of juniors Megan Kraushaar and Cyle Hart for “Hamlet.”

First-place winners were Carver for “All Because of Agatha” and Kraushaar for her original script monologue. Carver also received second

place for “Boys Next Door,” and Henry Chism received a second-place award for his publicity for “Into the Woods.”

Receiving third place honors were senior Nicolle Davenport for her original script based on the play “Grease,” Hart for his dramatic monologue “Hit and Run” and senior Sarah Green for her publicity for “Alice in Wonderland.”

Others receiving awards included Tanner Abbott, Brandon Andretti, Anna Busch, Holly Dennis, Janea Gerrells, Kendra Gerrells, Spencer Hu and Hailey Jamieson.



The graphic above illustrates the preliminary design of an affordable housing complex to be built near the Thermopolis Middle School. — Parikh Stevens Architecture photo

# Pearce

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afternoon and agreed with Deutz that he doubted the pit would have any impact on the groundwater.

The response informs the judge the expert retained by the petitioners could not identify any damage to the petitioners’ water sources or springs that could result from the commission’s actions when he testified to the commission on behalf of the petitioners.

Carl Toboga with Intertech Environmental of Laramie was at the October meeting, acting as expert witness on behalf of the landowners in the area.

### Damage to aquifer

When questioned by county attorney Jerry Wil-

liams whether he had any substantial proof the mining operation would cause damage to the aquifer in question, Toboga answered he did not.

The report specifically denies charges that the commission acted, “arbitrarily, capricious, an abuse of discretion, not accordance with law, without observance of procedure required by law.”

It also specifically denies the commission failed to establish a proper record of findings and conclusions and the commission did not follow proper procedures.

“The allegation of jurisdiction venue is denied because there had been no actions or inactions of the Hot Springs County Board of Commissioners that have in any way aggrieved or affected the petitioners,” the filing states.

# Town

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board allocated \$15,000 for the event in its budget.

Seidel stressed the board has generally paid about \$20,000 annually for the event. The board regularly budgets for the event, which is often more than 25 percent of the board’s total budget.

He said the main reason the board made the decision is because of a lack of community interest and support based on a decline of sponsorships for the event.

Nally expressed the chamber’s financial position and it’s inability to pay the contractual obligations without help from the community. She said she wants all three entities to work as a team to resolve the issue and keep the event in Thermopolis.

“The town, the Lodging Tax Board and the chamber should all be on board to make it happen,” she said.

Malloy questioned the effectiveness of the event as a fundraiser. He drew upon his own experience raising money for various other causes and said he wouldn’t do a fundraiser unless it could guarantee a 40-percent return.

While Nally admits the 3-on-3 is not a big fundraiser that shouldn’t preclude bringing it to the community because it still brings money to Thermopolis.

### Does the community still want 3-on-3?

The hardship of the economy and a lack of volunteer support is also a measure of whether the community still wants the event in Thermopolis.

Since both are in a decline, Malloy questioned whether the event should go away. He said it is similar to when the Wildcat Marching Band stopped because of lack of support.

Chamber and lodging tax board members in attendance said they have received numerous comments in support of 3-on-3 from individuals in the communi-

ty, but they haven’t received the same comments from businesses.

Chamber board member Nancy Blaich, Eagle RV Park co-owner, was the exception. She said there have been many businesses she has talked to who are in support of the two-day tournament because it drives some business to them.

“It’s the right thing to do for the community,” Blaich said. She added that although some businesses suffer some hardship, the dollars spent in Thermopolis trickle down to those businesses through the ones that do benefit.

Malloy said businesses he’s talked to have not generally had positive comments on the event. Many downtown say they do not like the lack of parking during the weekend for their local customers, or the vandalism and shoplifting that occurs during the weekend.

Tim Blaich, co-owner of Eagle RV Park, asked the mayor if the town could afford to lose sales tax revenue.

Malloy responded by saying many businesses he has talked to say the participants don’t buy much when they are in town and the only reason many stores look busy is because the players are waiting to use the restrooms.

The main businesses who benefit are those in the lodging business because of the massive draw of the event, he said.

### How to make it a success?

The bottom line is that the town can’t afford to provide any financial assistance for the event this year. The town had to cut 25 percent of its budget, which included budget allotments for the chamber and all other agencies, Malloy said.

While the town doesn’t have an easy answer for both the chamber and the lodging tax boards, it does think it’s time to evaluate the event and to make the neces-

sary changes to make it a success.

Malloy suggested treating the event like a business and suggested charging more for teams to play in the tournament and to stop paying people to staff it.

In conclusion of the discussion, Lodging Tax Board member Ernest Cummings asked the mayor whether the town wants the 3-on-3 tournament or not.

“I would like to see it in Thermopolis. I would like to see any activity,” Malloy said.

Malloy also said it may make more sense to change the location of the event in order to appease downtown businesses concerns, but added he did not know at this time what else to do to get the “buy-in from the community” the Lodging Tax Board is looking for.

The first of two \$6,250 payments is due to the event organizer Dec. 20, Nally said. The second is due on May 20.

Lodging Tax Board president Angie Guyon did not know Wednesday morning if the board would have a special meeting before the deadline to discuss the issue.

The regular chamber board meeting took place Wednesday night and the next regular Lodging Tax Board meeting will be at noon Dec. 21 at Days Inn.

# Housing

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a variety of factors such as materials, installation of Energy Star appliances and a “blower” test to measure the air regulation inside the apartment. The lower the score, the better.

Green requirements also translate to the building phase, requiring contractors to recycle and use a certain percentage of recycled materials. The contractor also will be responsible for taking care of sedimentation and erosion controls.

The new buildings will use several measures to control air quality and temperature in the apartments, which will include using closed-system water heaters and proper HVAC sizing.

For water conservation, the project will need to have efficient laundry appliances for each apartment and the landscape must have an efficient irrigation system.

### What’s next

Greg Hancock, president of Wyoming Housing Network, said the agency will apply for a grant

operated through the WCDA in January to fund the project.

Once the application is accepted the WCDA will seek out public comments on the project in order to gauge public support, said Christian Pritchett, a WCDA representative who was in attendance at the meeting.

In order for the building to be three stories tall, the group will have to seek a variance from the Town of Thermopolis, Hancock said.

Hancock does not foresee the same level of resistance to the project the committee saw when it sought a zone change for the property earlier in the year.

“We’re responding to a special need in which there is not enough supply,” Hancock said. “We’re here to fill the gap.”

Once the project is completed, the management of the property will be through an outside consultant who will be based in Riverton and manage properties throughout the Big Horn Basin.

# Airport

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### Federal funding availability

County attorney Jerry Williams questioned Spomer about the availability of federal funding if the county didn’t go in this direction.

“Depending on how long this takes, the funding could drop and you could lose it all,” Spomer said. “Without the property, everything would eventually be lost.”

“Right now we need this resolution and the appraisal. We need both of these in order to create an offer to the landowner.”

The commissioners called Kevin Lebeda, project supervisor for WYDOT, and put him on speakerphone, asking if there was a way to perhaps modify the language in the eminent domain document, or if it had to be signed at all.

“It can be done without the eminent domain,” Lebeda said, “but this is the land we want for the project, and without an agreement (with the landowner), we’d have to use eminent domain anyway.”

“That would add about three

months to the process if we have to start all over. If it’s already in place then we won’t have to add that three months.”

Lebeda went on to tell the commissioners of all the projects like this that WYDOT handles, only about 10 percent end up needing the eminent domain agreement. Of that group, only about 10 percent eventually ends up in court.

Basse asked Lebeda what his experience has been with other landowners when they receive the agreement.

“I haven’t had to deal with this type of situation,” Lebeda said, “one where you’ve talked with the landowner first. I don’t think he’ll take it personally. His attorney will have already talked to him about this being a usual part of the process.”

“This is the form that is always used, unilaterally. We don’t ‘tweak’ it for each individual case.”

### Appraisal before offer

After finishing the call with Lebeda, the commissioners agreed they still need to com-

plete the appraisal before being able to make an offer, and the appraisal was at least a month from completion. That would mean an offer to Holden wouldn’t even be ready until early February.

Spomer then suggested to the commissioners they might want to look at another entity to walk them through the negotiations and land acquisition process.

“I’m really not happy with the way WYDOT is handling things right now,” he said. “I asked them about the eminent domain agreement three different times and now I’ve gotten three different answers as to whether it needs to be signed or not.”

“That’s not serving Hot Springs County very well at this point.”

The commissioners eventually decided to go ahead with a title policy search on their own along with continuing with the appraisal in preparation of making an offer on their own.

Any decision on signing the eminent domain agreement will wait until the Dec. 21 meeting.