

Annexation - HB57

# Beware the stranger bearing gifts

And no one is stranger than Pete Illoway.

Every legislative session, every stinkin' session, those who want to expand the annexation power of Wyoming municipalities introduce one or several bills. They do not accept defeat gracefully.

This session is no exception.

I may be on the opposite side of this particular Bill (HB57) than my usual allies.

Perhaps it is my distrust for the players. Perhaps it is my natural cynicism.

But annexation is one subject where these "representatives" of the people try to stick it to the people every time they open their mouths. Even when you might think the statute change may be innocuous and harmless, you need to be suspicious.

The Wyoming Supreme Court, in *Cotton v. City of Cheyenne* (improperly cited as Board of County Commissioners, of the County of Laramie 2004 W 16 85 P.3d 999) provides a clear and concise ruling on the subject of annexation but the City of Cheyenne continues to approve and pursue illegal annexations.

HB57 ostensibly seeks to "clarify" another provision of the statute which has never been much of an issue.

Simply put, this Bill states that a municipality which annexes land it owns under what is referred to as a "407" annexation cannot then annex from that land if it is itself separated from the city (town) proper.

Both Cheyenne City attorney Mike Basom (he of the infamous "Basom Line" which now defines abject failure) and former Cheyenne City Council Patrick Collins assured residents and District Court that the statute already had such a restriction.

That, of course, was a lie and the proposed change to the statute confirms that it was a lie. Their lackey, Pete Illoway, would not have fronted such a Bill if it were already covered in the statute. Would he?

By itself, and offered at a time of more honesty and forthrightness in municipal government, at least here in Cheyenne, this statute change might be helpful and harmless. But not standing alone.

This group never does anything to help residents, in this particular case, county residents, without doing more for themselves. It just doesn't happen. Never.

My opposition to this piece of legislation, standing on its own and without reflection in the record, comes from my personally review of countless case files, attending several court hearings, trials and even appeals, and reading more legal briefs on this and other legal subjects than I should admit or remember.

Over and over and over, it is repeated that "if the Legislature had intended to deal with the matter, they would have done so. In the absence of such action, the statute is unambiguous and stands as written."

Anyone who has read many areas of Wyoming statutes or has attended even a couple sessions of the Wyoming Legislature knows that is simply not the case.

The Legislature does the best it can. But it is comprised of many people who just do not understand the critical nature of passing clear and unambiguous legislation. It was pointed out on these pages prior to the last general election how an earlier Legislature put contradictions in two areas dealing with how many write-in votes are necessary in the primary to qualify for the general election ballot.

It is clear that the LSO does not catch all the contradictions. It is clear that legislators mean well but have no concept of how the words "meaningful participation" will be reinterpreted - unintentionally and deliberately. Vagueness is a staple in Wyoming statutes and what it is not written is often used as controlling language.

That is the concern I have with HB57. And while our adversaries on the issue of annexation are not particularly intelligent, they have shown themselves to sometimes be particularly sly and deceitful.

Beware this gift.

The annexation that the City of Cheyenne just lost in District Court involved 2200 acres (not the 62 acres reported, after the Court's rejection, in the WT-E). Opposition to that annexation was not based just on the exemptions the City granted for that parcel of land, which is separated from the present City by F.E. Warren Air Force Base. There were also -402 issues.

*Two years ago, the City of Cheyenne tried to get the Legislature to change the law to exclude federal land like F.E. Warren from affecting "adjacency" or "contiguity." That failed, too. They will keep trying.*

There are those of us who believe that annexation of distant land violates state statutes, no matter who owns the land. The Supreme Court well articulated what a "community" is and should remain and it did not allow for satellite or island cities separated from the municipality annexing the distant land. There are countless reasons, legal and practical, why such detached cities should not be allowed.

What I believe will happen if this is the only change made to -407 now is that a city like Cheyenne will later argue that no other rules or restrictions apply to annexing distant land that they own because the Legislature, in 2007, had the chance to make those changes in -407 and did not do so. Hence, what is not written should be, and will be, controlling.

# Residents ignore Cheyenne Light wind power program



Customers of Cheyenne Light, Fuel and Power have been repeatedly informed about a voluntary renewable energy offered by the Company.

According to CLFP's January 26, 2007 report to the Public Service of Wyoming, the little money so far generated by this voluntary program will be sent to Bonneville Environmental Foundation as soon as they bill Cheyenne Light for it.

Each of the three Laramie County newspapers published stories at the introduction of the offering. Cheyenne Light has provided billing inserts, brochures, website information, posters, advertising, etc., to inform the residents in their service area about the program.

We Americans tend to concern ourselves only with the end price. How we get there is less important. We are content to pull up to the gas pump and pay the current \$1.96 per gallon, unconcerned and unaware of why the price is that low. Where the oil to produce that gasoline comes from is of no importance to us. A country could be holding our Embassy employees hostage but if they will sell oil to us at \$35 a barrel, we can overlook that.

Beginning July 1, 2006, customers, both residential and commercial, maybe industrial, could subscribe to purchase renewable energy blocks. The minimal cost per block for this voluntary wind energy program was \$3.50.

And if we can pay a lower cost per kwh by using natural gas than from wind power, bring on that natural gas.

The silence has been deafening.

Collectively, we need to bow our heads in shame. We can, and probably should, do so much better. Thirty of over 30,000 customers put some money, albeit it little, where their mouths have been. The **TOTAL** revenue generated for the six-month period ended December 31, 2006, was \$1,225,000! **ONE THOUSAND TWO HUNDRED TWENTY-FIVE DOLLARS!** That's it. \$805.00 of that came from a single, unidentified commercial customer.

In spite of the many people who have lamented for years about not having access to alternative forms of energy, and criticized Cheyenne Light for not availing itself of wind energy in an area where the wind seemingly blows constantly, 24/7, those people have stayed on the sideline.

Breaking down the residential participation: The \$420.00 represents \$70.00 a month. At \$3.50 per "energy block," that is twenty (20) blocks per month on average. *Single customers may have subscribed for more than one block. And not all 29 subscribers have been in the program since the outset.* Participation stinks. There is no other conclusion.

They either are still unaware of the program or, as so often happens, have decided to "let the other guy do it."

Here's the deal: I don't want anyone to ever bitch to me about utility companies not using enough renewable energy sources. This program is not the only measurement of users concern on the subject but it is one of them. And it is the only one available to Cheyenne Light customers at this point. So, unless you're one of the 29 residential customers who have subscribed or the single commercial customer, don't waste my time.

The lack of acceptance ... no, let's call it what it is ... the **rejection** of this Cheyenne Light offering is almost total.

*Editor's note: I am a supporter of Cheyenne Light, Fuel and Power Co. I know they have made mistakes and their customers may have lost some of their respect and affection for the Company during the last couple years of ownership by XCel Energy. But, I also remember that Cheyenne Light bought the land for the first Business Park east of town and then sold it to LEADS for what they had paid for the land - when LEADS had finally raised enough money to make the transaction. I opposed the City of Cheyenne's attempted hostile takeover of the Company a couple years back and I opposed the City's efforts to change the statutes to enable them to accomplish such a takeover. Under the worst of circumstances, customers of Cheyenne Light are much better served under their stewardship than the City's.*

When gas and electric rates increased dramatically in the past, many local residents spewed their dislike for the Minnesota parent of Cheyenne Light - XCel Energy. But XCel is no longer involved.

So why the repudiation?

*Yes, I notice when the parent company of Cheyenne Light (Black Hills) spends advertising money with the Wyoming Tribune-Eagle which has not supported their interests as I have, but not with the Cheyenne Herald. That causes me only temporary pique, not long-term angst. This a good company, a great civic citizen, and they are trying to increase your availability of wind energy. No one who knows me will mistake me for a "greenie." I come from a logging family and have fell trees myself. I thought this offering would be better received and supported. I was shocked, disappointed and somewhat upset to see the actual results for the past six months. Whether my words here will help or hurt the program, I don't know. I don't choose my subjects or words with that concern.*

Do some think it is just another revenue stream, a profit source, for Cheyenne Light? Is there a resentment for yet another large corporation trying to extract still more money from the lowly customer?

Well, the money doesn't stay in Cheyenne Light's bank account very long and it doesn't just get transferred to its current ownership in Rapid City, either.

Dave Featherly