

Colorado company threatens to sue county

LAWSUIT, from Page 1

Commissioners Strnad and Max Linin he had contacted other contractors in the area who do chip seal work and asked why they did not bid on the Sherman County project.

Enfield said he was told by the contractors no one from Sherman County had asked for them to bid or even let them know the project was going to be coming up.

The original proposal from Rocky Mountain Chipseal was sent to former Public Works manager Way in January 2010, and set forth two options for the project, with the first option being 34 miles of old U.S. 24, and a second option including 9 miles of County Road 65 and one mile of County Road 16.

The chip seal company has been operating under the impression they were hired to do the second option. Therefore, Peters had parked equipment on Sherman County property over the winter with plans to do the second phase beginning in May.

In March, before asking Peters to attend another meeting with the commissioners, Enfield said he did not feel it was good to have Rocky Mountain Chipseal do any more work for the county, and felt the Colorado company should come back and fix the problems on old U.S. 24.

Peters was on the agenda for April 12, but did not appear. Attorney J. Aaron Atkinson of Atkinson and Boyle appeared on behalf of his client. He said he had spoken to Peters about the turmoil over the project and did not feel it was going to be productive for Peters to attend.

At that meeting Atkinson said not allowing his client to continue with the second phase of the contract would mean the company would lose in excess of \$68,000, which the county would be obligated to pay his client. He said his client was counting on doing the second phase of the work, worth about \$215,000.

Enfield wanted to know what Peters was willing to do to fix the problem with the original project.

Even more to the point, what contract was there?

At the April meeting Enfield noted the proposal was not approved by the three commissioners, and he did not feel it was a contract. The proposal has the signature of Commissioner Chuck Thomas as chairman of the commission, but there is no record in any minutes of a motion being made to approve the project.

Atkinson said it was his client's understanding the signed proposal was as good as a contract, and was told by Way he could begin planning the project without any more

paperwork.

And that's where the potential lawsuit question was raised.

Atkinson laid three possible options before the commissioners in April:

- If we can talk about Option 1 being Rick and Rocky Mountain does the May work and also does a fog seal, if the county will agree to pay for the material he will split the labor costs. (Fog seal-that is, adding oil to the surface of the rock - had been suggested by Peters as a possible way to solve the flying rock problem.)

Atkinson said the estimate for the fog seal would be \$62,000 for oil and \$18,000 for labor he would split with the county.

- He said the Second Option would be Rocky Mountain doesn't do the work and he would agree to back off some of his demand for payment of loss of income by dropping it by \$10,000 to \$58,000. He said the drop in price would compensate the county for the number of times they have had to broom the road.

- Atkinson told the commissioners the only other option would be to settle the issue in court, and he left the meeting to give the commissioners time to discuss the options and to discuss them with both County Attorney Bonnie Selby and Attorney David Rogers from Wichita who works with Bud Cowan at Foulston Siefkin law firm.

"I am dead set not to give him a dime," Enfield said.

The commissioners told Atkinson they would have an answer for him after their meeting on April 19.

A letter arrived from Atkinson later that week laying out the options and saying Rocky Mountain Chipseal had followed the instructions from the Sherman County officials - Way and Thomas - and felt the work was done properly.

Strnad asked County Attorney Selby if Peters views the proposal as a contract, and then lowered the shot rate without a change order, did he violate his own contract?

Selby said she could understand what the commissioners were saying about it not being a contract. She said the definition of a contract is when two or more people come to an agreement on specific duties, performance or supplies for an agreed price.

"That is going to be the argument," Strnad said. "I would like to say one person out of a group of three does not constitute the board of county commissioners. We did not have that on this project."

Selby said. "I agree any one of you cannot obligate nor have the authority without agreement in an open meeting to give the authority to one person."

"Sherman County did not agree," Strnad said.

Enfield said the problem was the county has a project that is getting worse and needs to find a way to get some money to help get it fixed.

"This is one that did not get past the chairman's chair," Strnad said.

At the April 19 meeting commissioners unanimously voted to ask Atkinson for an extension to look at the proposals and to tell Peters to get his equipment out of the Sherman County lot as they were not going to do the second phase this year.

At the May 10 meeting the commissioners agreed to say "no" to both proposals from Atkinson and write a letter to have the equipment removed.

At the May 17 meeting the commissioners reviewed a letter drafted by Rogers to be sent out under County Attorney Selby's letterhead stating why Sherman County was not going to pay any money to Rocky Mountain Chipseal, and if the equipment was not removed by June 1, the county would be charging \$500 a day for storage.

The equipment has been removed, and so far the Sherman County commissioners have not heard from Atkinson or been served with legal papers.

Enfield said a lot of questions remain about the way the chip seal project was done.

matters of record

Goodland Police

The following incidents have been reported to the Goodland Police Department:

May 5 - 1:22 p.m., 520 W. 12th, arrested juvenile for disorderly conduct against James Mull. Case referred to county attorney.

May 6 - 12:36 a.m., 1534 Syracuse Ave., arrested Austin Buell, Ryan Scott, Johny Troy and Anna Charmayne Day for minor in possession or consumption of alcohol and unlawfully hosting minors consuming cereal malt beverage. Case referred to county attorney.

May 7 - 12:46 a.m., 500 W. 19th, arrested Jonathan Lee Prater and Matthew Edward Hackman for minor in possession and consumption of alcohol, transporting open container and careless driving. Case referred to county attorney.

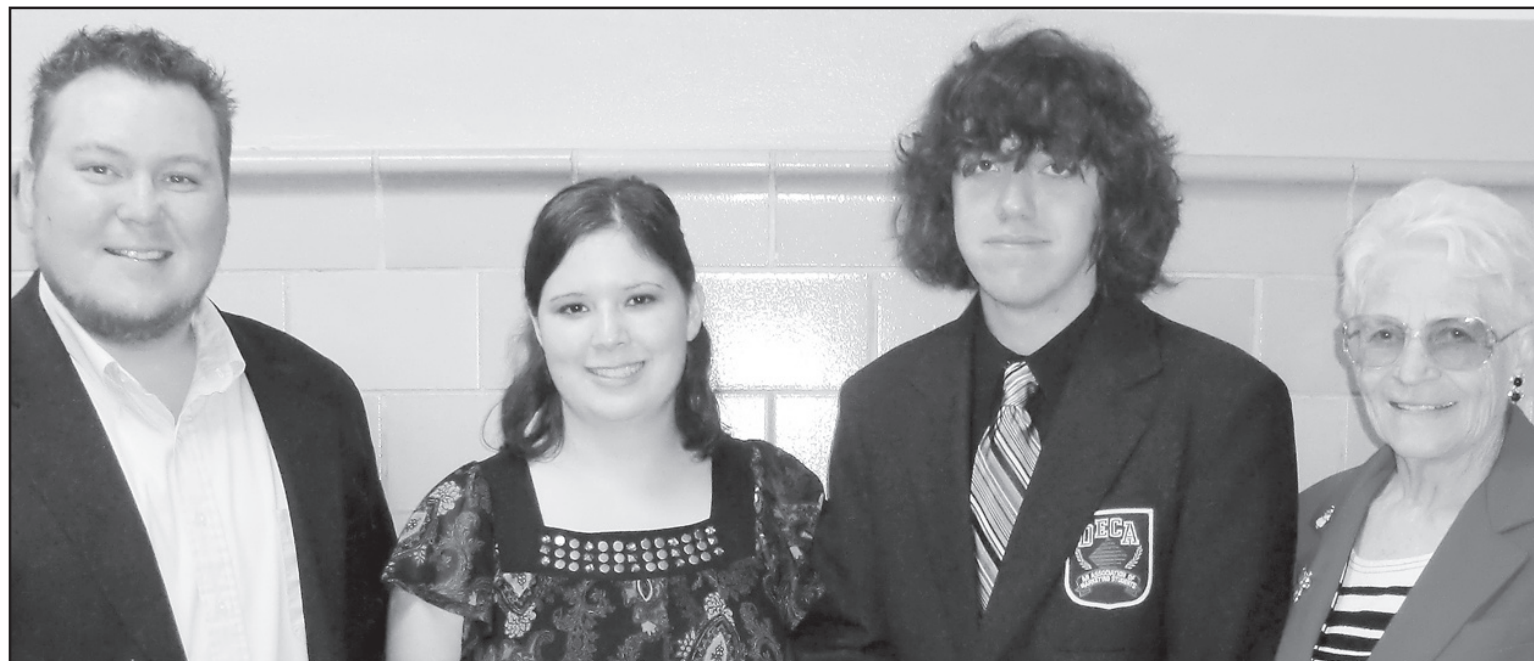
May 8 - 12:11 a.m., 1208 Cattle-trail Ave., arrested Taylor Macleod, Zachary Severance, Sydne Massey and Yeilin Arias for minor in possession and consumption of alcohol. Case referred to city attorney.

May 9 - 10:32 a.m., 1110 Wyoming Ave., report of criminal damage to city property.

May 10 - 8:37 p.m., 1200 Center Ave., arrested Virgil Ray Baumfalk, Jr., for driving under influence and transporting open container. Case referred to city attorney.

May 11 - 4:08 a.m., 2325 Enterprise Rd., criminal damage to property reported at McDonalds.

May 12 - 9:05 a.m., 924 Main Ave., report of counterfeit money at Casey's Country Store.



The two DECA scholarship winners were Jacob Terry (center right) and Kaitlyn Lammers (center left). Their instructor was Chase Topliff (far left) and Vera Beneda (far right), mother of Alan Beneda for whom the scholarship is named.

Seniors accept Allan E. Beneda scholarship

Two Goodland High School seniors recently accepted the annual Allan E. Beneda Memorial scholarship. Beneda was a 1979 graduate of Goodland High School. He was very dedicated and enthusiastic towards the Goodland High School DECA Chapter. After graduation, he

pursued a degree in marketing education. Shortly after, he tragically passed away. After Beneda's death, his family established a scholarship to honor senior DECA members who showed the same dedication and enthusiasm for DECA that Allan Beneda showed.

The 2010-2011 Allan E. Beneda Scholarship recipients are Jacob Terry and Kaitlyn Lammers. Both students were presented with a \$100 scholarship. Jacob Terry, a four year DECA member, plans to attend the University of Kansas and will major in management of information

systems. He is the son of Gregg and Sandra Terry. Kaitlyn Lammers, a four year DECA member, plans to attend Northwest Technical College and will major in computer graphics. She is the daughter of Mike and Kathy Lammers.

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Dear Goodland Star-News customers:

Signs of recovery and progress continue in Sherman County, Goodland, Kanorado and Brewster. We ask you to join *The Goodland Star-News* in celebrating as part of our annual progress section.

Topics this year are: City projects — Main Avenue and water treatment project; Hospital improvements and future plans for dialysis clinic, new construction, remodeling in town and an update on Northwest Kansas Technical College expansion and mobile application program.

Other topics will include the city, county economic development combined effort and new director. Hopefully progress on a grocery store, and how the city and county can work together on fire services. What's next for the Goodland school district?

We encourage your business to submit — at no charge — a few brief paragraphs highlighting significant changes or expansions since the spring of last year. We are interested in a description of what your business does or the products available, names of the owners and staff, address of business, hours of operation, your phone number and web address if you have one.

You may include a brief history of the business or highlights of the past and years of staff service. These will be edited by our news staff for the progress edition.

We have not raised the promotional display rates from last year. Display advertising is available from a special section full page (\$660), 1/2 page (\$340) or 1/4 page (\$165). This can provide the proper space to showcase the progress of your business. We encourage you to include a staff photo. We can help if you need a photographer, and can make an appointment to take a picture.

You may want to show your encouragement of community progress through a 1/8th page ad (\$105).

Call Jessica or Anne by Tuesday, June 14, to reserve your advertising space and get a **15 percent discount** on your display space. Call (785) 899-2338 and we can help you promote your business.

Deadline for business news items is noon on Thursday, June 16. Deadline for progress edition advertising is noon on Wednesday, June 22. Plans are to publish the completed section in the Tuesday, June 28, edition of *The Goodland Star-News*.

Sincerely,

Tom Betz
Editor

The
Goodland Star-News

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