

1. 5:30 P.M. Board Of Commissioners Special Meeting Materials

Documents:

[11232020_SPECIAL_CCAGEN.PDF](#)

[11232020_CCSPECIALFINALAGENDA.PDF](#)



COUNTY OF ALBANY
525 GRAND AVE ROOM 105 · LARAMIE, WYOMING 82070
(307) 721-2541 · FAX (307) 721-2544
COMMISSIONERS@CO.ALBANY.WY.US

COUNTY COMMISSIONERS' SPECIAL MEETING AGENDA
VIA ZOOM
MONDAY, NOVEMBER 23, 2020

PLEDGE OF ALLEGIANCE

SPECIAL MEETING: 5:30 p.m.

1. Call to order and roll call.
2. Comments from the public.
3. Disclosures.
4. Consideration of changes on the agenda.
5. Present for **APPROVAL**, RFP for the purchase of UVC Robots and **DIRECT** the Clerk to Advertise. (Bailey Quick, Grants Specialist)
6. **ACKNOWLEDGE** Receipt of Update Retirement Notification Letter from Sheriff David S. O'Malley, effective November 23, 2020 at 12:00 p.m. (Commissioners)
7. Present for **APPROVAL**, Resolution 2020-036, Resolution Acknowledging and/or Accepting the Retirement or Resignation of Albany County Sheriff, David O'Malley and Declaring a Vacancy in the Office of the Albany County Sheriff's Office. (Commissioners)
8. **ADJOURN.**



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Resolution 2020-036

RESOLUTION ACKNOWLEDGING AND/OR ACCEPTING THE RETIREMENT OR RESIGNATION OF ALBANY COUNTY SHERIFF, DAVID O'MALLEY AND DECLARING A VACANCY IN THE OFFICE OF THE ALBANY COUNTY SHERIFF'S OFFICE

WHEREAS, on September 8, 2020, Albany County Sheriff Dave O'Malley (hereinafter referred to as "Sheriff O'Malley") submitted a formal letter to the Board of County Commissioners for Albany County (hereinafter referred to as "County Board") giving official notice of his intent to retire from the Albany County Sheriff's Office (hereinafter referred to as the "Sheriff's Office") effective January 2, 2021.

WHEREAS, on September 15, 2020, the County Board in its regular meeting acknowledged or accepted Sheriff O'Malley's retirement.

WHEREAS, on September 28, 2020, the Albany County Democratic Party Central Committee filed a *Complaint for Declaratory Judgment and Motion for Preliminary Injunction and Memorandum in Support Thereof* in the 2nd Judicial District Court in Albany County, Wyoming, Case No. 35281, seeking declaration that the Sheriff's Office is not vacant and any efforts by the County Board to select a replacement in the office is void *ab initio*.

WHEREAS, on September 29, 2020, the 2nd Judicial District Court in Albany County, Wyoming granted a *Temporary Restraining Order*; and on October 14, 2020, entered an *Order on Motion for Preliminary Injunction* enjoining the County Board from declaring a vacancy in Sheriff O'Malley's elected position or selecting an individual to assume the duties of Albany County Sheriff until the disposition of the underlying *Compliant for Declaratory Judgment*. This *Order on Motion for Preliminary Injunction* remains in effect against the County Board.

WHEREAS, Sheriff O'Malley reclassified the position of former Albany County Undersheriff Josh DeBree to that of Lieutenant within the Sheriff's Office due to Sheriff O'Malley's concerns as to who will be appointed as the future Albany County Sheriff, and the potential termination of the appointed Undersheriff who is a member of the executive staff of the Sheriff's Office under Wyoming Statute § 18-3-611.

WHEREAS, on November 20, 2020, Sheriff O'Malley submitted a formal letter to the County Board giving official notice that, due to a myriad of circumstances, he intends to retire from the Sheriff's Office effective November 23, 2020 at 12:00 p.m., rather than January 2, 2021 as was previously acknowledged and accepted by the County Board. A copy of the letter is marked Exhibit 1 and is attached hereto and incorporated herein.

WHEREAS, the County Attorney on behalf of the County Board filed on November 20, 2020 with the 2nd Judicial District Court in Albany County, Wyoming, *Defendant's Application to Vacate the Preliminary Injunction* due to the elected office of Albany County Sheriff will be unoccupied on November 23, 2020 at noon and there will be no

individual to assume the duties of Albany County Sheriff. A copy of this letter is marked Exhibit 2 and is attached hereto and incorporated herein.

WHEREAS, on November 23, 2020, the 2nd Judicial District Court in Albany County heard the County Board's request and found the following: _____.

WHEREAS, the County Board shall determine a vacancy in an elective office under Wyoming Statute § 22-18-102 and initiate the process to fill the vacancy under the provisions of Wyoming Statute § 22-18-111.

WHEREAS, pursuant to Wyoming Statute § 22-18-101 (a)(ii), a vacancy occurs in an elected office if during the term of that office the incumbent resigns.

WHEREAS, the 2nd Judicial District of Albany County, Wyoming has ruled that a retirement is effectively a form of resignation. *See Order on Motion for Preliminary Injunction*, p. 15, ¶ 28 (citing *State ex rel. Herman v. City of Grand Island*, 145 Neb. 150, 154, 15 N.W.2d 341, 244 (1944)).

WHEREAS, Policy #106 of the Sheriff's Office as to Administration Organization provides for a chain of command in the temporary absence of the Sheriff and Undersheriff from duty, in that the Lieutenant, as designated by the Sheriff, shall have the responsibility of making administrative decisions and otherwise conducting the affairs as the Chief Executive Officer of the Office.

WHEREAS, Sheriff O'Malley designated Lieutenant Josh Debree to serve as the Chief Executive Officer of the Sheriff's Office until the vacancy of Albany County Sheriff is filled by the County Board.

NOW THEREFORE THE BOARD OF COUNTY COMMISSIONERS OF ALBANY COUNTY, WYOMING, RESOLVES:

Section 1. That the foregoing recitals are incorporated in and made a part of this resolution by this reference.

Section 2. That the County Board acknowledges or accepts the letter from Sheriff O'Malley dated November 20, 2020 revising the date of his retirement to be effective on November 23, 2020 at noon.

Section 3. That as of November 23, 2020, a vacancy exists in the elected office of Albany County Sheriff for the unexpired term of Sheriff O'Malley.

Section 4. That the County Board initiates the process to fill the vacancy under the provisions of Wyoming Statute § 22-18-111(a)(ii) including the requirement that the Chairperson of the County Board to send a letter to the County central committee of the political party of the incumbent when a vacancy occurs, which is the Albany County Democratic Central Committee.

Section 5. That due to Sheriff O'Malley reclassifying the Undersheriff position of the Sheriff's Office to Lieutenant, there is no Undersheriff in the Sheriff's Office and the County Board does not have the authority to appoint an individual to temporarily act in the absence of the elected County Sheriff until the vacancy is filled by the County Board.

Section 6. That per Policy #106 of the Albany County Sheriff's Office, Lieutenant Josh Debee was designated by the outgoing Sheriff O'Malley the responsibility of making administrative decisions and otherwise conducting the affairs as the Chief Executive Officer of the Sheriff's Office until the vacancy of Albany County Sheriff is filled by the County Board.

PASSED, APPROVED, AND ADOPTED THIS ____ day of November 2020.

THE BOARD OF COUNTY COMMISSIONERS
OF ALBANY COUNTY, WYOMING

By: _____
Terri Jones, Chairperson

ATTEST:

By: _____
Jackie R. Gonzales,
Albany County Clerk



ALBANY COUNTY SHERIFF

525 GRAND AVE ROOM 101 • LARAMIE, WYOMING 82070
(307) 755-3520 • FAX (307) 721-2500

DAVID S. O'MALLEY
SHERIFF
DOMALLEY@CO.ALBANY.WY.US

November 20, 2020

TO: Albany County Commission
Terri Jones – Chairperson
Heber Richardson
Pete Gosar

FR: David S. O'Malley
Albany County Sheriff

RE: Update Retirement Notification

As you know, I previously notified you of my intent to retire on January 2, 2021. My retirement was acknowledged and accepted at the September 15, 2020 meeting of the Commission.

Due to a myriad of circumstances, I have made the decision to move up my date of retirement.

I intend to retire effective Monday, November 23, 2020 at 12:00 p.m.

Thank you for your continued support.

xc: Personnel file



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November 23, 2020

Carrie Murthy, Chairperson
Albany County Democratic Central Committee
P.O. Box 782
Laramie, Wyoming 82073

RE: Notice of Vacancy of the elected office of Albany County Sheriff

Dear Ms. Murthy:

I am attaching a copy of the signed Resolution 2020-036 which was approved by the Board of County Commissioners of Albany County on November 23, 2020. The Resolution acknowledges and/or accepts the retirement or resignation of Albany County Sheriff, David O'Malley and declares a vacancy in the office of the Albany County Sheriff's Office.

Accordingly, pursuant to Wyoming Statute § 22-18-111(a)(ii), I am notifying you, as the Chairperson of the Albany County Democratic Central Committee of the political party that Sheriff O'Malley represented at the time of his election of the vacancy in the elected office of Albany County Sheriff as of this date, November 23, 2020 for the unexpired term of Sheriff O'Malley.

It is incumbent upon you as the Chairperson of the Albany County Democratic Central Committee to call a meeting of the Albany County Democratic Central Committee no later than fifteen (15) days after you receive notice of this vacancy. At the meeting of the Albany County Democratic Central Committee, the Committee shall select and transmit to the Albany County Board of Commissioners the names of three (3) persons qualified to hold the office. Within five (5) days after receiving these three (3) names, the Albany County Board of Commissioners shall meet to fill the vacancy within the time specified.

Please feel free to contact me should you have any further questions.

Sincerely,

Terri Jones, Chairperson
Albany County Board of Commissioners

c. Commissioners
Albany County Clerk

PETE GOSAR
COMMISSIONER

TERRI JONES
COMMISSIONER CHAIRMAN

HEBER RICHARDSON
COMMISSIONER