

TOWN TO SELL INFRASTRUCTURE TO BHE

**By Brittany Trandahl
Gazette Reporter**

The consideration of an asset purchase agreement between the Town of Upton and Black Hills Energy (BHE) was first discussed at the Town Council's regular meeting in May. The agreement would be for the final transfer of electric utility power lines, poles, transformers, and property in the amount of \$211,252.50.

The original contract entered into by the Town of Upton and BHE in 1979, dictates that BHE be responsible for the upkeep and maintenance of the infrastructure while paying towards the balance (established by the 1979 appraisal) in quarterly installments. Not to be confused with the Franchise Agreement between the two entities that allows BHE to provide power to the Town of Upton. That agreement expires in December 2024 and will be revisited at that

time.

"The purpose of this purchase agreement would be to clean up the books before we go into a new franchise," stated Regional Manager of Public Affairs with BHE, Lynn Kendall. "We got our legal team to draft a bill of sale, but we're not wanting to do anything to go against your ordinances or statutes."

City Attorney Mark Hughes expressed concerns with the legality of this sale, stating that the original contract does not explicitly say that BHE has the right to purchase anything. "I just don't know if it's [original contract] binding for anyone," stated Attorney Hughes. "Statute says that you have to go through the process if you're buying municipal property. You have to show that it'll be an economic benefit to the town, you have to have an appraisal of the assets, and then you have to go through

the process we do when we sell property [advertisement and public hearings]"

"The difficulty with an appraisal would be determining what is the Town's and what is ours at this point," added Ken Meirose, Operations Manager with Black Hills Corporation. "There's nothing that says this pole or that pole belongs to the Town of Upton or BHE."

Attorney Hughes agreed that finding someone to assess this equipment and property and ultimately find a value would be very difficult. But the Statute does require an appraisal of some sort and whether the original appraisal from 1979 would suffice, is unclear.

Attorney Hughes also cautioned against following through with the sale without going through the proper procedures as other power

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