

**STILLWATER COUNTY
COMMISSIONER MINUTES**

Notice: These minutes reflect the proceedings of the Board of County Commissioners. The official minutes are on file with the Clerk and Recorder MCA 7-4-2611(2)(b).

**REGULAR MEETING
July 9, 2019
6:30 PM Columbus Courthouse**

Present: Commissioners Mark Crago, Chair; Dennis Shupak, Tyrel Hamilton, Members; Heidi L. Stadel, Clerk & Recorder.

Others Present: Mike Borseth; Karla Johnson; Fiona Nave; Brent Nave; Shirlee Keffer; Sharon Cavendar; Scott Davies; Mikaela Koski, Stillwater County News.

Pledge to the Flag: Commissioner Crago opened the meeting with the Pledge to the Flag.

Minutes: None presented

Claims: None presented

Consent Agenda:

1. Absarokee Sewer RSID 5&7 – Notice of intent to file application and completed application for additional funding for the Wastewater Treatment Replacement Project
2. Health Insurance for County Employees – Administrative services agreement with EBMS for health insurance Program
3. Extension Services Agreement with MSU – Extension services agreement for FY 2019/20.
4. Road Department – Stillwater County Professional Services Agreement with 406 Excavating LLC for resurfacing Shane Ridge road in the amount of \$ 68,500.00

- File Items:**
1. Clerk of District Court – Quarterly report in the amount of \$12305.67
 2. Clerk & Recorder Report – Monthly report in the amount of \$6247.36

Commissioner Hamilton **MOVED** to consent to the consent agenda and to file the file items. Commissioner Shupak **SECONDED**. Motion passed unanimously.

- Regular Business:**
1. Impact Fee Agreement - Impact fee agreement between Caithness Beaver Creek LLC for support activities for a Northwestern Energy substation in the amount of \$8321.07. Commissioner Hamilton **MOVED** to approve the agreement. Commissioner Shupak **SECONDED**. Discussion – Commissioner Crago stated that the county, per MCA, charge up to 1.5% over a three year period on the construction costs of the wind farm to offset the impact of the wind farm to the area. This is the impact fee agreement for Caithness Beaver Creek and they have opted to write one check for the full amount instead of prorating it over the three year period. Motion passed unanimously.

2. Finance & HR - Olness & Associates engagement letter for County Audit Services. Commissioner Hamilton **MOVED** to approve the engagement letter. Commissioner Shupak **SECONDED**. Commissioner Crago explained that this is the company the County employs to conduct the annual and bi-annual audit. This is the engagement letter for the FY2018/19 audit. Commissioner Hamilton noted that the scheduled date for the audit is December 16, 2019. Motion passed unanimously.

Public Comments: None

Local Roundtable

Discussion:

Commissioner Crago opened the floor for the local roundtable discussion. Mike Borseth stated that he would like to discuss the Beartooth Zoning issue and has seen this process before, twice in Montana and once in Texas. Mike feels the Valley is in peril if this process is allowed to proceed. Mike referenced examples to look up in regard to this situation, one of which was Crown Butte. Mike encouraged the Commissioners to research these examples. The same tactic is currently being used. Mike urged the Commissioners to do their research and pay close attention to the language being used in the proposals. All it takes is one word to shut everything down. Mike asked the Commissioners to use extreme caution when reviewing this process. Commissioner Crago encouraged Mike to review the documents the County has on file regarding the Beartooth Front group and familiarize himself with the situation and how the County has approached it. Commissioner Crago further stated that the County would not want to jeopardize the relationship with Stillwater Mine and no decisions have been made during this phase of the process. The Commission has no intent to harm the mining industry in Stillwater County. Mike referenced Chandler, Arizona and how today it is unlawful to hold bible study in your home because of zoning laws and that there may be unintended consequences for these actions. Commissioner Crago recommended Mike attend the planning board meetings and voice his concerns so that all sides could have a voice during this process before they make their recommendation. Sharon Cavendar asked where and how obtain information in regard to this issue? Commissioner Crago responded that the paperwork is available for review. Sharon questioned how long this has been going on? Commissioner Crago answered that the process started in 2012 and is still ongoing. The petition was denied by the Clerk & Recorder because mineral interests were not considered in the petition, then the County was engaged in a lawsuit. The County was then asked to hold off on the lawsuit and the Commissions agreed to work with the planning board in regard to zoning. Mike asked for clarification of the meaning of the word commission. Commissioner Crago clarified that the County does not have a planning commission but does have a planning board. The information in regard to the zoning issue is available in the Clerk & Records office. Commissioner Hamilton stated that the petitioners felt that their process was violated with the denial of the petition. The Commission cannot deny the process. The process now is to work with the planning board. The planning will hear any proposed regulations and boundaries and will make a recommendation to the Commission. The Commission will then take public comment and no decisions will be until after that time. Mike asked where the Commissioners stand with a conflict of interest among planning board members. Commissioner Hamilton replied that the planning board is comprised of residents countywide no matter which side of the fence they sit on. The Commission cannot deny a person a seat on the planning board because of their opinion. Fiona Nave questioned what the Commissions obligation is once the planning board makes a recommendation? Commissioner Crago stated that there is no obligation to do anything with the recommendation of the planning board. The Commission will render a decision with the recommendation after the public has had an opportunity to review and comment on the recommendation. Commissioner Hamilton emphasized

the importance of making public comment on record, whether written or on a recorded meeting. Your opinion can be utilized unless it is a recorded public comment.

Commissioner Crago that the county has no zoning within the County to protect its residents, for example, when a wind farm comes to the County, there is no regulation in place for that. The wind farm tells the County how it will happen. There is nothing in place to protect the roads. The County has to hope they consent to a road agreement to protect the roads or a weed agreement to maintain the weeds in the area. Solar farms are inquiring about locating in the county. The residents of the county have to be aware that the County cannot protect itself if certain factors are not in place but the County also has to be wary of unintended consequences as well. The County cannot guide and direct growth the way that is appropriate to its needs because there is nothing in place to do so. Fiona explained that the State has numerous environmental and impact regulations that refer to surface lands and questioned why those regulations aren't sufficient? Commissioner Crago explained that those regulations protect private property but not publicly used lands such as county roads. Stillwater County is ready to grow and the Commission has to proceed cautiously to protect the County.

Commissioner Hamilton pointed out that a lot of the regulations state that the County may charge up to 1.5% for impact fees. The energy producers do not have to agree to pay the fees. The County can have protection in place to mitigate this by having guidelines in place for county requirements in regard to development. Fiona asked if you have to enact zoning to accomplish this? Commissioner Hamilton responded that the Commission is currently working with the planning department to determine what would be the best course of action for Stillwater County. Commissioner Crago recommended that interested persons look into Carbon County's developmental plan as an alternative to zoning. The Commission is currently researching what other counties in the state have in place as well. Karla Johnson commented that she had attended the planning board meeting and she was told that the Commission was on board with this. Commissioner Hamilton replied that again, the Commission is not denying them the process. Commissioner Hamilton further stated that for him, public input would carry more weight in his decision-making process than the planning boards recommendation. Fiona remarked that she sees what appear to be bullying tactics being used because a group of people did not get what they wanted so they have decided to sue. If they were trying to do what was acceptable to everyone as a whole, it would not need to go through the court system. This is a source of grave concern to her. She believes that this may not be funded by locals but may be funded by outside sources. Fiona also stated that she brought up the topic of mineral rights owners during the planning board meeting and that it was stated in the meeting that the mineral rights holders were irrelevant because they are only working with the surface rights. Mineral rights are the legal term for the real property these rights represent. Fiona restated that this is clearly a bullying tactic and the planning board seems to be having a difficult time dealing with these people. Brent Nave asked that once the Commissioners receive the recommendation, how long would the document be available for public review or comment? Commissioner Hamilton replied it would be a minimum of thirty days. Scott Davey asked if the public would have access to what outside sources are funding them and if so, would anyone be able to obtain those sources with a FOIA (freedom of information act) request? Commissioner Crago replied that it is a legal question and that he does not know the answer. Scott asked how a citizen could obtain that information or would it be available from the County Attorney? Commissioner Crago responded that the information may be available in the Clerk & Records office. Commissioner Hamilton also stated that you could visit the County Attorneys office and they may be able to help with that request as well. Shirlee Keffer stated that the problem in today's society is that people are not showing up for the meetings and what people need to do is to be engaged by talking to others and writing letters expressing your opinion. Shirlee further stated that it would be

good ethics to abstain from a vote on the planning board if you are a member of the Beartooth Group. Shirlee also expressed the concern that people need to show up at the planning board meetings whether opposition is there or not. Commissioner Crago added that until a month ago there were three positions available on the planning board since January of this year. Since this situation has arisen the planning board has received numerous applications for the one vacant spot left. County residents need to pay attention to what is going on the Commission encourages them to come in and ask questions and be informed. The County has taken the stance to defend minerals and has spent a good deal of money defending that stance and it is being paid for by the taxpayers. The County does not have any outside sources funding this. Mining is crucial and is the lifeblood of the County. Fiona said one of things about this situation is that it is the taxpayers who have to pay for this lawsuit. Commissioner Hamilton stated that it is his belief that the lawsuit is because they were denied a process and if they are given the process and they being given the opportunity to go through the process. Sharon asked when the next planning board meeting would be? Commissioner Hamilton answered that the next planning board meeting is August 7th at 6:30. Commissioner Shupak stated that there have been approximately thirty to forty people at their meetings with no opposition. Karla commented that at the planning board meeting she attended she had heard at least three times that if they did not get what they wanted they would sue. Also, one of the board members would look to an audience member during the meeting and roll her eyes when she heard something the chair of the planning board said that she did not like or agree with. Karla stated that she was appalled at this type of behavior and the disrespect being shown and that it was unacceptable. She admitted she had not been paying attention to this situation but she has now taken notice. Scott asked if the Commissioners had thought about doing a facebook page? Commissioner Hamilton stated that he does have a webpage but the preferred method of communication would be to contact him or the other Commissioners though the county email, then it will be documented and of public record. Shirlee recommended that everyone go to the county website and print up the agenda. Commissioner Hamilton also recommended reading the newspaper as a source of information as well. Commissioner Crago emphasized that if you are unable to attend a county meeting that you can also send an email and that it can be read during the meetings comments for an issue you may be concerned with. Mike said that for the people who work shift work, it can be a struggle to get to some of the meetings. Commissioner Hamilton noted the Commissioners walk-in meetings are also available for public comment and to check the website for current email addresses. Brent commented that people need to do their research and be familiar with the contents of the petition and submit educated comments. Commissioner Crago encouraged people to come to the courthouse and research the documents on file in regard to the petition. Commissioner Hamilton also encouraged people to attend the planning board meetings before a decision is made. Commissioner Crago stated that when you attend a meeting have your comments documented for public record. Shirlee reiterated that people should stay informed. Commissioner Shupak thanked people for coming in and stating their opinions because it helps the Commission make decisions. Shirlee asked if the county had passed regulations in regard to medical marijuana shops? Commissioner Crago responded that the county required setbacks in their ordinance. Commissioner Shupak thanked the Commissioners Crago and Hamilton for covering for him while he was out.

Meeting Adjourned: Hearing no further business, Commissioner Hamilton adjourned the meeting at 7:25 PM.

**Claims and
Warrants:**

None presented

APPROVED BY:

/s/

Mark Crago, Commissioner Chairman

ATTEST:

Heidi L. Stadel, Clerk and Recorder