

**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  
JUNE 20, 2017**

- Present:** Commissioners Dennis Shupak, Chair; Maureen Davey (via teleconference); Mark Crago, Members; and Lori Dobitz, Administrative Assistant.
- Others Present: Mark Schreiner, Road Superintendent; Jerry Friend, Treasurer; Jerry Bokma, Facilities; Carol Arkell, DES; Monica Plecker, CTA Planner; Becky and Richard Sidwell; Carl Gates; Edith Viig; Todd Robinette; April Limburg, Planning; Burt Williams; Marissa Hauge, Economic Development; Bill Pronovost, DES; Nancy Rohde, County Attorney; Heidi Stadel, Clerk & Recorder; Coralee Hicks, citizen; Adrian Miller, Sidwell's Attorney; Marlo Pronovost and Mikaela Koski, Stillwater County News.
- Open Meeting:** Commissioner Shupak opened the meeting at 9:00 am with the pledge to the flag.
- Minutes:** Commissioner Crago **MOVED** to approve the minutes of May 9, 2017; and the canvass held on May 9, 2017. Commissioner Davey **SECONDED**. Motion passed unanimously.
- Claims:** Commissioner Crago **MOVED** to approve Claims No. 97781 through 97938 in the amount of \$ 171,275.52. Commissioner Davey **SECONDED**. Motion passed unanimously.
- Special issues:**
1. Rock Slide - Commissioner Crago presented an updated Hi-tech Rockfall Construction preliminary schedule. Mobilization will begin on July 24, 2017, and clean-up and demobilization on August 18, 2017, for the rockslide on the Stillwater River Road.
- Consent Agenda:**
1. Museum of the Beartooths - obtain funding to Stillwater County Historic Preservation FY 2017 in the amount of \$3,750, a matching grant
  2. 911/DES - Industrial Communications Dispatch Service Agreement
  3. Road Department - Nye Road striping project - High Mark Traffic Services quote approval \$12,600
  4. DES - Multi-County Mutual Aid Agreement Stillwater County
  5. Human Resources - Montana VEBA HRA - Employer adoption agreement - Health reimbursement account.
  6. Janitorial Services - Renewal of Agreements for Maid in Columbus
    - a. Sheriff's Department
    - b. Search & Rescue
    - c. Solid Waste

**File Items:**

1. Sheriff's Office - Fees in the amount of \$ 500 were collected for month ending May 2017.

Commissioner Davey **MOVED** to approve the consent agenda and place the file items to file. Commissioner Crago **SECONDED**. Motion passed unanimously.

**Regular Business:**

1. Road Department - Commissioner Crago **MOVED** to award the Bid Award to Knife River for the Park City Chip Seal Project in the amount of \$165,465.00. Commissioner Davey **SECONDED**. Motion passed unanimously.

2. Planning Department - Future Land Use Map (FLUM) PUBLIC HEARING (as duly advertised in the Stillwater County News May 25 and June 8, 2017). Commissioner Shupak opened the public hearing with the reading of written comments received:

- a. Written comments received during 30-day comment period

- i. Commissioner Crago read a comment in opposition of the FLUM from Richard and Rebecca Sidwell that was received during the comment period. In the written comment, the Sidwell's objected to the mapping of their real estate. In summary, their comment referred to Title 76, Chapter 2, Part 9 of the MCA, *A city, county, taxing district, or other political subdivision of this state may not adopt an ordinance or resolution that prohibits any existing agricultural activities or forces the termination of any existing agricultural activities ....* and stated they feel the FLUM is a direct threat to their property rights and are considering petitioning the county for a Declaration of Agriculture Covenant with an exception to build on the property.

- Written comments received prior to the 30-day comment period

- ii. Commissioner Crago read a letter dated February 1, 2017, in support of the FLUM from Marissa Hauge, Economic Development Coordinator for Stillwater County. Her letter stated the future land use map would allow for proactive planning for growth in Stillwater County. Lori Dobitz, Administrative Assistant, read a letter dated February 4, 2017, in support of the FLUM from Sue Taylor, Economic Development Director for Beartooth RC&D. She stated she believes that the future land use map is an important tool for the county to plan for the future and how that will evolve. She said it is not a regulatory document, but a planning document that was developed by the Stillwater County Planning Department.

MOTION - Following the reading of the written comments, Commissioner Davey **MOVED** to adopt Resolution 2017-29, a resolution to adopt the Future Land Use Map. Commissioner Davey's motion was not seconded for procedural correction. Motion Failed.

- b. Proposed Resolution to adopt FLUM - Commissioner Crago read proposed Resolution 2017-29, *a resolution adopting a new future land use map as an update and amendment to stillwater county's 2007 growth policy in accordance with MCA 76-1-604.*

Commissioner Shupak called for proponents, those in favor of the Future Land Use Map.

- i. Heidi Stadel, Clerk & Recorder and member of the City-County Planning

Board (CCPB). She said the CCPB has worked with Monica Plecker in trying to accomplish what we are setting with this map to develop the county in the area around the City of Columbus for future growth. A lot of consideration, time and effort in working with Monica in developing these tools which is needed to develop the county and city for future growth.

ii. Marissa Hauge, Economic Development Coordinator, stated her support still stands, saying we need to have something in place for future growth. The worst thing that can happen is not having a plan for the future and growth happening in places that we can't support it or it not happening at all, Hauge said.

iii. Mark Schreiner, Road and Bridge Superintendent, stated one of the reasons this was drafted is we have conflicting rules between the city and county for road development. He said this is one of the ways that we can confine that, by following one set of rules in the "donut area".

Commissioner Shupak called for opponents, those not in favor of the Future Land Use Map.

i. Richard Sidwell, Sidwell Land and Cattle Company, said he and the people being effected by the FLUM were not contacted directly. He said he is opposed to the FLUM as low density housing. He said the Commissioners are limiting their possibility of an expansion of other residential pieces. Stillwater Mining Company has changed hands and they have talked to the school board to see if they would be interested in another 500 homes. He said it is on the plat, it would not accommodate those homes in town so you are going to have to reach out to us. That means there maybe a pumping station somewhere in this development plan to move the sewage down, and if that happens, then low density housing isn't going to be a part of it. He said the Commissioners are going to want high density residential out there. He also said the city is pulling water out of the aquifer and they are losing water table. He said to try develop under low density isn't feasible and that has been his argument all along. He said the FLUM map is flawed. He introduced his attorney to speak on his behalf next.

ii. Adrian Miller, Attorney, Sullivan Miller Law Office, explained she is representing Richard and Becky Sidwell and Carl Gates. She said her clients property (Sidwell) owns 70 acres is in the new area that is being designated as a future land use of low density residential. She said this came up through the city planning board and the city would not pass this. Miller said the area is in the city as well as the extraterritorial jurisdiction in the city as to what the county refers to as the "donut zone", which she believes is under the city's regulations for zoning. She said she is confused as to why this is at the county instead of it being as part of the Columbus Area Growth Policy and not at the City. She said the biggest problem is looking at the requirements of a Growth Policy pursuant to 76-1-601, MCA, and the elements listed such as natural resources. She said the Commissioners would be substantially changing the growth policy without telling people what the policies, regulations, and other measures to implement that change, which is required. She said the three pages for the FLUM do not meet the statutory standard. She referenced 76-2-903 MCA which is specific to the adoption local ordinances regarding agricultural activities. She said she doesn't

understand why the Commission would want to change something when the people who own the majority of the land don't want the change. She asked the Commission why they are so "hell bent" on getting this passed through particularly the county when the city clearly doesn't want it. She said that is the city's extraterritorial jurisdiction, they are the ones who have zoning on it and not the county. She told the commissioners she hopes they reconsider before voting to pass the FLUM.

Commissioner Shupak called for any further comments. None heard.

Commissioner Davey **MOVED** to postpone the decision until the commission can talk to the County Attorney and the Land Use Attorney available to the commission through the Montana Association of Counties. Commissioner Crago **SECONDED**. Motion passed unanimously.

3. Library Board - Commissioner Davey **MOVED** to appoint Cory Hamilton to the Library Board for a 5-year term. Commissioner Crago **SECONDED**. Motion passed unanimously.
4. Old Hospital Building - Request for Proposals (RFP's) and/or request for qualifications (RFQ's) to secure an abatement consultant or consultants. Commissioner Davey said the commission received a recommendation from the Facilities Supervisor to go out for RFP's to abate the asbestos and other contaminants in the old hospital. This would be the first step in finding someone qualified to help us put something together if we choose to abate it.

Jerry Bokma explained this is the procedure to find a qualified, accredited, applicant that would assist the commission in finding an abatement contractors to a bid package so we can see the overall costs for abatement. Bokma said, regardless what you do with the building, whether a remodel or demolishing the building, it has to be abated. He recommended moving forward to find the costs.

Commissioner Davey **MOVED** to seek Request for Proposals (RFP's) and/or request for qualifications (RFQ's) to secure an abatement consultant with the old hospital as recommended by the Facilities Supervisor. Commissioner Shupak **SECONDED**.

Discussion - Commissioner Crago said Marissa Hauge, Economic Developer, worked on getting the grant so Weston could come in and conduct the initial evaluation of the facility on asbestos. It is his understanding that there is potential for a grant to remediate all of this work. He said the immediate issue with asbestos in that building is no longer an issue as long as we don't work in the building. If we are not disturbing the asbestos, the asbestos is not a harm to anybody, Commissioner Crago said. If the plan is to go in and work in the building, then it needs to be abated immediately. He said he didn't believe you will ever be able to convince him that the building needs to be worked in again. Crago said he thinks we can wait to see if we qualify for a grant as he would hate to waste \$100,000 - \$200,000 in taxpayers money if there is a federal grant available to satisfy the need of abatement. If we are not using the building or not working in the building, the asbestos is no longer an issue, he said. He will not vote to move forward stating *we are continuing to feed a building money that is not giving us*

*a return. It is time to spend the money studying a real solution to the building situation and move forward.*

Marissa Hauge, Economic Development, said we have completed Phase I - Assessment EPA. Generally the reason you do a Phase I, is to do a clean-up, Hauge said. She inquired why the commission is not doing phase II. She recommends doing Phase II and go for the clean-up dollars that are available rather than using local tax dollars.

Marlo Pronovost, Stillwater County News, said she knows the county received a letter from DEQ earlier this month, directing the commission to do this.

Nancy Rohde, County Attorney, said she thinks this decision should be postponed. Stating the remaining question as to whether or not those funds can be used because we need to know if Weston is accredited Montana firm. She said that would have to be answered first before we could move to Phase II. She said she agreed with Commissioner Crago not working in the building will not disturb the asbestos. Rohde said we need to answer the questions DEQ has posed and thinks it is premature at this point to go out for a RFQ for an abatement consultant.

Commissioner Davey said she spoke to Jerry Bokma about the accreditation, because he was charged with answering those questions from DEQ. Weston is accredited in the State of Montana, Davey said. She also said the Commissioners heard from the County Attorney that this is a public nuisance not only to employees but to the whole neighborhood. There is a possibility that the grant may not be award, and if it was awarded it would be at the end of 2018, according to Davey. She expressed that this is needed to make sure the abatement is taken care of.

Nancy Rohde said abatement can be done in different manners, ie. demolishing and or re-use. *There are other things we need to know, just not to get a general qualifications bid, there needs to be a plan.* She told the commissioners before they go forward, they need to know what they are going to use that building for.

Vote - Commissioner Shupak called for a vote. Commissioners Shupak and Davey voted Aye. Motion passed. Commissioner Crago did not vote.

**Public Comment:**

1. Nancy Rohde, County Attorney, stated the Commissioners just passed a resolution against county attorney's advice as their legal advisor. Lori Dobitz, Commissioners Administrative Assistant, informed the County Attorney that a resolution was not passed. Nancy Rohde clarified her statement and said that going out for a RFQ is against county attorney advice.
2. Richard Sidwell said the people of the county have spoken and they are not in favor of this old hospital building. He told the commission to move on. Two of you are voting against the public that doesn't want it, he said.

**Meeting Adjourned:**

Hearing no further business, Commissioner Shupak adjourned the meeting at 9:53 AM