

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 11, 2017

- Present:** Commissioners Dennis Shupak, Chair; Maureen Davey (via teleconference) and Mark Crago, Members; and Lori Dobitz, Administrative Assistant.
- Others Present: Marissa Hauge, Economic Development; Monic Plecker, CTA Planner; Webb Mandeville, Planning Board; Rebecca Carter, Clerk & Recorder's Office; Marlo Pronovost, Stillwater County News; Heidi Stadel, Clerk & Recorder; Nancy Rohde, County Attorney; Coralee and Jim Hicks; Jerry Friend, Treasurer; Becky Sidwell; Clifford Brophy, Sheriff; Linda Halstead-Acharya 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 16, 2017. Commissioner Davey **SECONDED**. Motion passed unanimously.
- Claims:** Commissioner Crago **MOVED** to approve claims no. 97941 - 97998 in the amount of \$128,022.31. Commissioner Davey **SECONDED**. Motion passed unanimously.
- Consent Agenda:**
1. Planning Office
 - a. Beartooth Mountain Christian Ranch Staff Housing Phase 2 - Final Plat
 - b. CDBG Planning Grant Application in the amount of \$18,000 to update Growth Policy
 2. USDA - Predator Control Memorandums of Understanding for cattle and sheep.
 3. Cemetery Boards - Appointments for three-year terms
 - a. Park City - Rick Hedges
 - b. Rosebud - Terry Ekwortzel
 - c. Rapelje - Noel Wodrich
 4. Facilities - Courthouse Re-roof project - Empire Roofing proposal approval
- File items:**
1. Department Reports
 - a. Treasurer - cash and investments for April 2017 totaled \$31,989,677.24
 - b. Clerk and Recorder - fees collected for June 2017 totaled \$14,677.72
 - c. Justice Court - fees collected for June 2017 totaled \$16,614.45
 - d. Clerk of District Court - fees collected for quarter ending June 2017 totaled \$12,210.82
 2. Clerk & Recorder/Elections - Notice of Primary Municipal Election cancelled by Election Administrator pursuant to 13-14-115 MCA

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

Special Issues: 2017 Fire Season - Commissioner Crago explained that the Fire Warden contacted the local fire chiefs and it is their recommendation to remain in Stage I Fire Restrictions and keep the burn permit system closed at this time. Eight fires were reported in the county this past week (2-vehicles; 3-lightning; 1-fireworks, 1-human caused, and 1- power line down from the storm) The Commissioners concurred with the recommendation.

Regular Business: 1. Planning
a. Future Land Use Map (FLUM) - Planner's response to public hearing testimony.

Monica Plecker submitted a memo to the Commission to address the testimony provided by Andrea Miller on behalf of Richard Sidwell the public hearing held on June 20, 2017. She gave five responses to the comments made by Ms. Miller including the adoption of the map into a non-regulatory document will in no way cause termination of the existing agriculture uses. She stated the City-County Planning Board has put a lot work into this map and invested way too much time and effort to not see this map be supported by the governing body. She reminded the commission that they are entertaining a recommendation and have every right to make any amendments that they see fit and if in that particular area of concern the commission felt a better land use designation (dulce zone) would fit, it could be changed.

Becky Sidwell said the City Council voted against the FLUM and now it has been brought in front of the Commission and asked why the board is trying to throw out the city's vote. Commissioner Davey stated the city did not vote on the issue as it died for lack of a second. Monica Plecker said it was a joint venture between the city and the county as the work for it was supported by the city council and the county commissioners. She said the city and the county have two different roles in that area and we are not talking about zoning and that is where the city has jurisdiction in that "donut area". We are talking about the fact that the county commissioners are responsible for subdivision review and are responsible for development patterns and have a clear role in developing this map, she said.

Commissioner Davey said she herself after serving on the planning board for a seven years and being part of the growth policy that was written she understands this is not a regulatory map, it is a tool.

Motion #1 - Commissioner Davey **MOVED** to approve the Future Land Use Map (FLUM). Commissioner Crago **SECONDED**.

Discussion: Commissioner Davey said the commissioners have heard from several people that don't approve of this and they come with their reasons but the reasons don't match what this is suppose to be doing. Davey said it is not regulatory, it is for the future to look at growth. She said the City Council didn't get a second when a motion was made, so they didn't vote on it at all. Davey said this was postponed in a previous commissioner agenda meeting pending further input from the county attorney.

Nancy Rohde, County Attorney, explained she has not had the opportunity to review the FLUM and the opponents findings and also the contract planners response. She stated she would like to have additional time to review everything fully before a decision is made.

Vote on Motion #1 - Commissioner Shupak called for a vote on the motion. Motion failed.

Motion #2 Commissioner Crago **MOVED** postpone action on the FLUM until Tuesday, August 1, 2017. Commissioner Davey **SECONDED**. Motion passed unanimously.

b. Willow Crossing - Building for Lease of Rent application approval for development located in N1/2, NE1/4, T4S, R17E, PPM. Monica Plecker, Contract Planner stated the Planning Board, on June 7, 2017, reviewed the application submitted for Willow Crossing, which resulted in a lengthy conversation. She read the findings summary and the suggested conditions of approval. Monica stated Willow Crossing has placed 6 housing units on its property consisting of 4-single units and 2-double units to be used as temporary housing units for performing artists and visiting students to Tippet Rise. She relayed that the Planning Board think there are ways the BLR Regulation could be clarified as nuisance what is actually lease or rent. She said much of the discussion with the Planning Board included the lack of a definition of "lease or rent" and with no monetary exchange can it be reviewed as such. The planning board members voted to recommend approval.

Motion - Commissioner Davey **MOVED** to approve the Willow Crossing BLR as recommended by the Planning Board and the Contract Planner. Commissioner Crago **SECONDED**. Motion passed unanimously.

2. Old Hospital Building - RFP and/or RFQ Proposals/Scope of Services to secure an abatement consultant. Jerry Bokma, Facilities Supervisor; submitted to the commission 3 proposals for a consulting firm that would prepare bid documents to conduct a full-scale abatement. Bokma said all of the proposals are around \$6,800 with each firm located in Billings. It is his recommendation to use Northern Industrial. Commissioner Davey said she has read through the proposals and said this is the next step to mitigate the public nuisance that we were informed about by the County Attorney. Davey said a way to handle a public nuisance is by abating it, that is in the Montana statutes.

Motion - Commissioner Davey **MOVED** to postpone the decision on the RFP/RFQ for a few weeks. Commissioner Shupak **SECONDED**.

Discussion - Commissioner Davey said the commissioners received a letter from the County Attorney stating it is a public nuisance and this would be a way to abate it. The newspaper has written several articles on how serious the asbestos is, Davey said. During a working session on July 10, 2017, the County Attorney suggested the commission postpone the decision on the RFP/RFQ. Commissioner Davey said she would honor that request but felt it important to keep moving ahead with abating it. Davey said the roof is leaking on this county owned building which is in need of the maintenance. Northern Industrial took samples of asbestos and mold in May 2017. Davey said Northern Industrial results were partly based upon laboratory analysis. She said it Northern Industrial's opinion that the removal of the two walls approximately 18 months did not result in an asbestos fiber release leading to any contamination of the various buildings.

Commissioner Crago stated he didn't think this should be postponed as he feels this is an obsolete topic because there is no plan for the building. He said it is unknown if the building is going to be remodeled and worked in, or remodeled and sold, or abated and demolished. He said his concern is about using a company the county and the hospital have used since 2005. He said it is time to get fresh eyes on the ground. The county is in a good position to receive a grant for the mitigation and fulfil the grant process that the Economic Developer has applied for. Crago said until there is a set plan for the building, it is a waste of taxpayer money and county employee time. Commissioner Crago doesn't agree with re-roofing the building either. County Attorney Rohde agreed with Commissioner Crago.

Commissioner Davey expressed her confusion saying the county attorney advised the commission to move forward with an abatement and now she is advising against it. Nancy Rohde said she has changed her opinion after further research and thinks the abatement needs to go through the grant process that Marissa Hauge, ED Coordinator, has been able to establish. Rohde said as long as the building is sealed and not disturbed, she believes it can wait. She said we can move forward once a plan is in place rather than abating it right now without a plan. She said we need to identify what is going to happen to that building and what we are going to do in the future. It is against the Montana statutes to piece meal contracts and feels this is what the commission is doing, she said. Rohde said the resolution process is needed with a plan identified, a public hearing, the public's input, then adopt a resolution stating the direction the commissioners are going to take. Rohde warned the Commission that if they (commission) continue to spend money doing things in that building without that in place, they would be violating the Montana statutes and be subject to criminal prosecution. She said she is concerned about splitting contracts and piecemealing and said we have to stop doing that. Commissioner Davey requested the statutes the county attorney was referring to, Rohde replied 7-5-2301 and 7-5-2305, MCA.

Commissioner Davey said she was alarmed after hearing another Commissioner accompanied by three other persons had entered the taped off area.

Vote: Commissioner Shupak called for a vote on the motion to postpone. Commissioners Davey and Shupak voted aye. Commissioner Crago abstained. Motion passed 2-0 vote.

3. Commissioners Resolution - Commissioner Crago **MOVED** to adopt **Resolution 2017- 31**, establishing the compensation for Elected Officials for FY 2017-2018 as recommended by the compensation board (3.5% increase w/an additional 1% base for longevity). Commissioner Davey **SECONDED**. Motion passed unanimously. Filed in the Clerk & Records Office - Document No. 369321.
4. Columbus Airport - Woltermann Memorial - Grant and Loan Documents
 - a. FAA Grant Offer for the 2017 Airfield Pavement and Electrical Rehabilitation for \$2,282,823.30
 - b. Resolution 2017-32 - Acceptance of MDT Aeronautic Grant (\$53,553) and Loan (\$145,085) - contingent upon receipt of FAA grant - Filed in the Clerk & Records Office - Document No. 369480.
 - c. Notice of Award to Knife River in the amount of \$1,918,775.05 for Schedule 1 and Additive Alternatives No. 1 and 2 - contingent upon receipt of FAA grant.

Commissioner Crago **MOVED** to approve the grant offer and adopt **Resolution 2017-32** for the acceptance of the MDT grant and loan, award the grant to Knife River as recommended by the Airport Board and Morris and Maierle. Commissioner Davey **SECONDED**. Motion passed unanimously. Filed in the Clerk & Records Office -Document No. 369480.

Public Comment

Old Hospital Building Comments

1. Commissioner Davey stated she is in favor of moving forward and finding out what to do with the old hospital. She said that process starts with hiring an architect and showing the public what that building could be used for.
2. Linda Halstead -Archarya submitted a letter to the commission urging them to not invest more tax dollars in the old hospital building and listen to their constituents and take the comments to heart.
3. Richard Sidwell said the commissioners need to stop and start over on the old hospital building and let the public decide as they are the ones that are going to pay the bill.
4. Commissioner Davey said after listening to law enforcement, she would like to take law and justice out of the original plan and start over by presenting it to the public with good dollar figures. Commissioner Crago told Davey there has to be a second plan which gives the public an option. Commissioner Davey said she is very conservative about how the tax dollars are spent and one of the county's communities is trying to build a new school which is very important to them.
5. Sheriff Brophy addressed Commissioner Davey and stated he attended all three public meetings in Absarokee, Columbus, and Park City. He said everyone except one person said do not put money into the old hospital building.

Other Public Comments

1. Monica Plecker, CTA Contract Planner, is pursuing new employment and thanked the Commissioners for the opportunity to serve the community for the past two-years. She said it was a very positive experience and said the Planning Boards have done very good work. The Commissioners thanked her and wished her well in the future.

Meeting Adjourned:

Hearing no further business, Commissioner Shupak adjourned the meeting at 10:05 AM.