

STILLWATER COUNTY COMMISSIONERS 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 OCTOBER 6, 2015

Present: Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members; Lori Dobitz, Administrative Assistant.

Others Present: Mark Schreiner, Road Superintendent; Stephanie Moodry, Environmental Health Director; Nancy Rohde, County Attorney; Coralee Hicks; Heidi Stadel, Clerk and Recorder; Linda Halstead-Acharya; Karl Gaustad; Katie Alt; Randy Werdal, Road Foreman; Carol Arkell, Rural Addressing; Rita Westrum; Lori Eversole; Sheriff Clifford Brophy; and Ric Hanners, Stillwater County News.

Public Comments: Public Comment on matters within the Commissioners jurisdiction pursuant to §2-3-103, MCA, public comments will be accepted on any public matter that is not scheduled on the Agenda. No comments were heard.

Regular Business:

1. South Grove Creek Road Petition- Commissioner Dell said the county received a petition on August 18, 2015, submitted by Peter Halstead, et al. to close 422 feet of South Grove Creek Road. The petition was deemed valid by the Clerk and Recorder on August 20, 2015. Certified letter were mailed on September 4, 2015, to landowners who's land abuts said road of the public hearing. Legal notice of the public hearing was published in the Stillwater County News on September 10 and September 17, 2015. A Public Hearing was held on September 29, 2015, at 1:30 PM. The Investigator's Report was read for the record and public comments were heard. Commissioner Dell said the Commission received further written comments since the public hearing from the following individuals:

Opposing the abandonment - Peggy Jokie; Tom and Angie Osborne; Linda Halstead - Acharya; Rita Westrum; Diane Signoracci; Martha Baxter; and Clint Teegardin.

Supporting the abandonment - Renee Coppock on behalf of Tippet Rise, LLC and Willow Crossing LLC.

Commissioner Dell stated now is the time and place for the decision on the petition whether to grant or deny the petition for abandonment.

Motion - Commissioner Davey **MOVED** to adopt **Resolution 2015-08** granting the abandonment as petitioned. Commissioner Shupak **SECONDED**.

Discussion - Commissioner Davey stated in the 1980's the Davey Ranch had cattle up on South Grove Creek Road. She said for three (3) years they drove that road and it was a two-track road, there were no homes off the road at that time. Since then several houses have been built with addresses off South Grove Creek Road. Looking at some of the Commissioners correspondence dated in 1995, we received a letter from Clint Teegardin about the road because they were going to move to Montana and build a home. She said she is not sure when the road was improved, but now going up on it a couple of months ago, there has been considerable improvements. She said this was before the Tippet Rise agreement was made. Back in the 1980's when it was a two track road, the county maintained it, according to statute that gives the county authority on how to maintain county roads. It looks like at this time, in the past three (3) years, we've had several petitions to abandon county roads, she said. Two were denied, one was granted. One was going to going to public land which according to statute we can not abandon a road accessing public lands. The second petition was denied because there were two landowners involved and one disagreed with the other on the abandonment, which follows the statute, she said. This same road was petitioned again and both landowners agreed on the abandonment and it was granted by the Commission. She said the county has abandoned numerous roads upon citizen initiated petitions. She explained to those present, in order for the Commission to grant a road abandonment petition, there are Montana law (statutes) that guide us.

Commissioner Davey then asked the County Attorney if she feels we have meet the criteria for abandonment. Nancy Rohde, County Attorney, responded saying it is of her opinion the county has met the requirements of the statute. The petition was signed by at least ten free holders, validated by the Clerk and Recorder. The petition also gives the proper legal description of what is being requested to abandon. That legal description has also been validated, she said. The petition notes that there are two landowners affected, because their land abuts what is being abandoned. Both of those landowners agree to the abandonment. The proponents, Willow Crossing and Tippet Rise, cite the safety issue with the gate. She said where the gate is located on the Tippet Rise property is actually in the county right-of-way. That gate has to be moved one way or another because it is in the county's right-of-way, she said. Safety is a proper and valid reason for the County Commissioners to consider abandoning the road. It is their duty to provide access on a county road and to do so safely for the motoring public. She said the road was petitioned in 1913 and it was used for a wagon road for proper ingress and egress into that land area. That a proper petitioning for a road back in 1913. It is not a recreational use road. There is no public land that this road goes into. There is no water ways that it goes into. It is simply private land that it goes to. All of the statutes have been meet and all requirements have been met, she reiterated. There is no reason not to, from a legal standpoint, not to grant this petition.

Commissioner Dell stated since this petition was started, there has been a lot of conversation, there has been a lot of accusations at the public officials. He said he feels that we, the commission, have done what we are charged to do by the state statutes. It saddens me in a way that has brought out some of the comments and accusations that have been made since this process started. I myself received one (call) at home at night, accusing me and my fellow commissioners of taking a bribe.

It still upsets me. The people that have done this, don't know me and they don't know the commission, he said.

Commissioner Shupak said the petition has meet the criteria and the road should be closed as petitioned.

Linda Halstead-Acharya stated she understands the petition has met all the criteria, but it is up to your discretion, am I correct, she asked. Commissioner Dell said that is correct..

Commissioner Davey added that since she has been in office, *we have numerous county roads on the books that have never been developed. You would never know they were there, except going into those books and reading that, she said. Part of our duties is taking care of those roads at our discretion. We have some roads that are basically a driveway to someone's house. We don't maintain those like we do our main collector roads. It is at our discretion to maintain those county roads. This road goes through and ends on this landowners property and this would be a savings to the county not to maintain this road. And because this is a deeded road, it will go back on the tax rolls.*

There are two advantages there, she said, *I know on the Davey Ranch, we have places we walk on our land to see the views. That is part of owning your own land.*

Vote - Commissioner Dell called for a vote on the motion. All voted in favor. Motion passed unanimously. Resolution 2015-38 is filed with the Clerk and Recorder under Document No. 363564.

2. Flood Plain Regulations - Commissioner Dell read the draft resolution to adopt the new regulations. Stephanie Moodry, Floodplain Administrator, stated *as we went through the process of a public hearing, we have not received any public comments regarding these regulations. These regulations are a model that is produced by the State of Montana which is viewed by FEMA and the State DNRC program that meets state and federal requirements. The model is put together very well in her opinion. It is worded well so the public can understand it,* she said.

Motion - Commissioner Davey **MOVED** to adopt **Resolution 2015-39** adopting the Floodplain Regulations. Commissioner Shupak **SECONDED**.

Discussion - Commissioner Davey thanked Stephanie Moodry for all her hard work in getting the floodplain regulations updated.

Vote - Hearing no further comments, Commissioner Dell called for a vote on the motion. Motion passed unanimously.

Special Issues:

1. Stillwater River Road - Emergency mill resolution adoption; and update on status of road. Mark Schreiner, Road Superintendent, explained the county is requesting proposals for Rock Stabilization Engineering Services for qualified engineering services to assist the county in engineering services and/or removal of rock from the slope with firms that specialize in unstable slopes and perform rock

slope design, rock fall mitigation, rock slope stabilization, rock slope mapping, and landslide investigation and stabilization design. The RFP will be due to the county no later than October 20, 2015.

Resolution - Commissioner Dell read a draft resolution to impose a 2 mill emergency levy for Tax Year 2015. Commissioner Shupak **MOVED** to adopt **Resolution 2015-40** imposing an Emergency Mill Levy for the Stillwater River Road Rockslide. Commissioner Davey **SECONDED**. Motion passed unanimously. This Resolution is filed with the Clerk and Recorder, Document No. 363566.

Consent Agenda:

1. Commissioners:
 - a. Minutes of August 25, 2015 Regular Agenda
 - b. Custodial Agreement - renewal for Advanced Cleaning services at the County West Annex Facility.
 - c. MACo/CRS Inmate excess medical insurance program renewal for policy year 2015-2016.
 - d. MDT - speed limit recommendations on Secondary S-306 Columbus-North

File Items:

1. Human Resources - New Hire Frank Clouse, Solid Waste Site Attendant
2. Financial Monthly and/or Quarterly Reports - Clerk of District Court collected fees in the amount of \$9,640.96; and Clerk and Recorder collected fees in the amount of \$5,595.45.

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

Meeting Adjourned: Hearing no further business, Commissioner Dell adjourned the meeting at 9:31 a.m.