

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 NOVEMBER 10, 2015

Present: Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members. Others Present: Nancy Rohde, County Attorney; April Limburg, Planning Department; Bill Hand; Bill Peterson; Burt Williams; Cathy Donohoe; Vanessa Monson; Kayce Donohoe Arthun; Stephan Harris; Hank Lischer; Carole Peterson; Coralee Hicks; Rita Westrum; Joan Brownell; Meg Hatch; Jack and Bonnie Martinell; Becky Grey; Alex Heyneman; Charles and Lana Sangmeister; Jane Moses; Cameron Clevidence; Larry Winslow; and Rick Hanners, Stillwater County News.

Public Comments: No comments were heard.

Minutes Approval: Commissioner Davey **MOVED** to approve the minutes of September 15, 2015, and the emergency meetings of September 19 and 20, 2015. Commissioner Dell **SECONDED**. Motion passed unanimously.

Special Issues: Stillwater River Road Rockslide

Commissioner Dell informed the commission that a contract between Shannon & Wilson for the specialized engineering services on the Stillwater River Road Rockslide will be on the agenda of November 17, 2015, for approval.

Regular Business:

1. Planning - Final Plat approval for the following Subdivisions:
 - a. Viig Minor Subdivision
 - b. Dick Family Subdivision

April Limburg, Planning Staff, explained all conditions have been met with the exception of the taxes being paid, which is expected in the next couple of days. Commissioner Dell **MOVED** to conditionally approve the final plats of the Viig Minor Subdivision and the Dick Family Subdivision, with the condition they will be executed once the second half of the taxes are paid. Commissioner Davey **SECONDED**. Motion passed unanimously.

2. Road Department - Encroachment Permit Applications #2015-41 thru 2015-43 - Applicant NWE for the installation of approaches and culverts to access installation of 100kV overhead electric transmission lines from the new substation off the Rapelje Road to the mine site at Nye.

Commissioner Davey **MOVED** to conditionally approve the applications as recommended by the Road Superintendent. Commissioner Dell **SECONDED**. Motion passed unanimously.

3. Sheriff - Commissioner Dell read a letter by Undersheriff Charles Kem whom submitted a copy of the MT Sheriff and Peace Officer Association (MSPOA) Grant Application for alcohol compliance checks. The local DUI Task Force voted to apply for the grant which will help offset the costs involved with performing alcohol compliance checks. Kem stated if the grant is approved by the MSPOA the money will pay for expenses related to the execution of compliance screening, including overtime costs for participating officers and payments of informants. There are no matching funds required with this grant, Kem stated.

Commissioner Davey **MOVED** to approve the grant application as recommended by the DUI Task Force. Commissioner Dell **SECONDED**.

Discussion - Commissioner Davey raised questions regarding the pay of the confidential informants; use of private or county vehicles and fueling of the vehicles. Nancy Rohde, County Attorney, said this funding will help offset those costs. **Vote:** Commissioner Shupak called for a vote on the motion. Motion passed unanimously.

4. Beartooth Front - Citizen Initiated Zoning Petition submission to Commissioners to begin the process of the creation of a zoning district.

Kayce Donohoe Arthun, stated she is a fourth generation Stillwater County landowner whom had the great fortune to grow up at the end of the road up the Limestone area outside of Nye. She said she is before the Commission today, representing a group of concerned landowners that came together about a year and half ago. She said this group of Stillwater County landowners are concerned with the interest of the oil and gas development. The landowners are looking at what they can do in regards to putting some legal regulations in place for oil and gas development, she said. This is by no means asking that oil and gas development be banned, but for there to be reasonable regulations in place, Arthun said. In reviewing the Montana Code Annotated (MCA), the group discovered code 76-2-101, MCA, a process to create a citizen initiated zoning district. The process was started by the group, visiting with the commissioners and landowners within the proposed district. She said the proposed area/district is approximately 80,000 acres, with over 600 deeds of record within it. She said 60% of the landowners within the proposed area need to sign the petition and they have accomplished that goal. We are here today to present the petition and the signatures as well as some backup documentation, she said. We would like to present that in the 10:00 am discussion meeting with the Commissioners. At that meeting, she stated, two landowners within the proposed district, would like to present information as well as two individuals that will be giving expert testimony that is relevant.

Commissioner Dell asked if she is going to present the petition in this agenda meeting to the Commissioners. She said they would like to present it all together in the discussion meeting at 10:00 am. Commissioner Davey said this is the official record. Nancy Rohde, County Attorney said she would rather see the petition be presented to the Commissioners right now.

Hank Lischer asked the Commission if they (Beartooth Front Group) could have a brief postponement in order to assemble the paper work of the petition. Commissioner Dell agreed with the request.

At this point in the meeting, Commissioner Shupak carried on with the agenda.

5. Columbus Airport - Woltermann Memorial - MDT Aeronautics Division Grant and Loan Application for 2016 taxiway project. Commissioner Dell read an email from Travis Eickman, Morrison Maierle, Inc., Airport Engineer, explaining the application is being brought forward as the FAA has announced there may be funding available for the construction of the pavement reconstruction at the airport in 2016 vs 2017 as the originally communicated. The application is non-binding, but is due by November 13, 2015, to be considered at the MDT Aeronautics Board meeting in January. He stated the application can be withdrawn or amended ahead of that meeting is desired.

Commissioner Davey stated that this is a joint venture with the City of Columbus and Stillwater County. In the past the FAA has provided grants with a 95% - 5% match requirement and has since gone to a 90% - 10% match, where the city and county each would have to match the grant 5%. She said this would be a very large project we, the county, have not budgeted for it. She does not feel comfortable moving forward at this time.

Commissioner Dell **MOVED** to conditionally approve the grant and loan application with the condition the City Council also signs on to approving the grant and loan application. Commissioner Davey **SECONDED**.

Discussion - Commissioner Dell said this is a large chunk of money that we would have to come up with in a year that we don't have it budgeted. **Vote:** Commissioners Dell and Shupak voted yea. Commissioner Davey voted nay. Motion passed.

File Items

1. Elections - Special Districts term extension change pursuant to House Bill 84, effective Nov. 4, 2015.
2. Road and Bridge - New Shop Building Progress - Letter from Great West Engineering, Inc.
3. Justice Court - Report for month ending Oct. 31, 2015, fees collected \$13,762.10
4. Clerk & Recorder - Report for month ending Oct. 31, 2015, fees collected \$6,330.60
5. City County Planning Board - membership vacancies/resignation
6. Economic Development - Report for month ending Oct. 31, 2015.

Commissioner Dell **MOVED** to place the file items to file. Commissioner Davey **SECONDED**. Motion passed unanimously.

Beartooth Front Kayce Donohoe Arthun presented to the Commission, two binders that hold a petition of signatures for the *CREATION OF A CITIZEN INITIATED ZONING DISTRICT WITH PLANNING AND ZONING COMMISSION, DATED SEPTEMBER 12, 2014*; and one binder that holds *PROPOSED STILLWATER COUNTY BEARTOOTH FRONT DISTRICT, SUBMISSION TO THE COUNTY COMMISSIONERS OF STILLWATER COUNTY, MONTANA, NOVEMBER 10, 2015*. Maps of the proposed boundary were also submitted and will be discussed at the

Commissioner discussion meeting scheduled at 10:00 am, today.

Meeting Adjourned - Commissioner Dell announced that a Commissioner Discussion will take place at 10:00 AM to hear the presentation of the Beartooth Front Citizen Initiated Zoning District Petition and that no action will be taken at that discussion. He also stated the Board of Canvassers will meet to canvass the mail ballot municipal election held on Tuesday, November 3, 2015.

Hearing no further business, Commissioner Dell adjourned the meeting at 9:24 a.m.

Commissioner Discussion Meeting
Beartooth Front Citizen Initiation Zoning Petition Presentation
November 10, 2015
10:00 AM

Present: Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members. Others Present: Kayce Donohoe Arthun; Julia Haggerty, MSU Department of Earth Sciences; Kevin Chandler, Montana Bureau of Mines and Geology; Hank Lischer; Burt Williams and approximately twenty other persons were in attendance.

Presentation: Hank Lischer addressed the Commissioners stating there are two steps in front of them, one is the signatures need to be verified and they want to acknowledge that it is going to be a big task. He said there are 600 or more signature sheets which represent one deed record but in some instances more than one deed record. Some signature sheets involve multiple owners. He said his group is prepared to help with the verification process. The other issue he said is the absence of specific rules regarding signature matters, part one zoning rules does not contain any, Stillwater County has not adopted an ordinance with respect to that. He said his group is prepared to work with the county to adopt some reasonable standards to work with on some of the signatures by participating with the county and resolving any issues that are linked to those many signatures. He said they expect the Commission will have further proceedings with respect to the petition and that they look forward to the opportunity to try to persuade the Commission that their case is a good one and that it would be in the public interest or convenience to grant the petition. He said *we are asking that you Commissioners accept the petition and grant it. What we are asking for is some set of reasonable regulations with respect to oil and gas activity within the district. We don't propose to ban fracking. We are asking as a matter of environmental and public health that some set of reasonable regulations be adopted.*

Burt Williams - explained to the Commission the reasoning behind the boundary of the proposed district. He said the Bureau of Land Management (BLM) just completed a set of planning documents in which they examined the foreseeable development scenario for oil and gas. He said they based the boundary on the presence of oil and gas. There is a series of domes that are the northern extension of the oil and gas activity down in the Bighorn Basin starting at Nye and going over to the Prior Mountains. So we made reference to that we drew the boundaries he said.

Kevin Chandler - gave the Commissioners a presentation on the overview of hydrogeology along

the Beartooth Front in regards to water and water quality. He is currently conducting a bedrock aquifer study of Stillwater County and was asked by this group to present some factual evidence of what is going on with the ground water. He said this group is concerned for several reasons. The way the rocks are all fractured, one of the concerns with oil and gas, there are a lot of regulations, and in some cases it is hard to tell if the regulations will be enforced. He said this group is asking for a set of regulations that we know will get enforced, not trying to stop oil and gas development. Commissioner Davey asked Mr. Chandler if his role today is to defend this group, part of this group, or here professionally. He said he is here professionally. There are issues with oil and gas development, and even oil and gas people will tell you that he said. He said he personally, as a geologist, he believes if fracking is done right, fracking is minor compared to surface problems in most cases.

Julia Haggerty - stated she is not a geologist, she is a resource geographer. She studies policy aspects and energy development with particular focus on communities experiencing energy development. She presented the commission with a publication from the MSU Local Government Center which focuses explicitly on experiences the communities out east have had with energy development. She gave an oral presentation and provided a summary of the academic literature on local costs and benefits of oil and gas development. The analysis included local impacts, economic benefits, and benefits and burdens on regulations and fiscal policies. She said in her summary, that all of these points should encourage a conservative approach to the potential benefits of oil and gas development, and hopefully, a willingness to continue to discuss and develop a proactive management strategy on the part of the local governments. Commissioner Davey asked if this is going to be comparable to the Bakken. Kevin Chandler answered it will not. It is very heavy, it is limited, and part of the worries the group has is the not very reputable firms coming in to exploit these smaller deposits. Burt Williams stated the BLM analysis of this has a graph that shows that each time the price of oil goes up, there is a flurry of activity in this area. It is related to times when there appears to be a scarcity of oil so the tendency then is to go to all of the lesser producing pieces of oil and gas and try to develop them, he said. That is why we are here today to try to get something in place that can react to that when it happens.

Kayce Arthun Donohoe - recapped the presentation and thanked the Commissioners for their time and consideration, adding she is available for any questions the commission may have.

Commissioner Davey - thanked everyone for attending the meeting. She said this is the voice of the people and we are here to listen. That is what our job is, to listen to you. This will be a long process and when we get all of the names (signatures) validated, she said, and we will work with the Clerk & Recorder and go through the process on this petition.

Meeting Adjourned: Commissioners Shupak and Dell thanked everyone for attending and closed the meeting at 10:43 AM.

Canvass of Election continued on next page

**SPECIAL AGENDA
NOVEMBER 10, 2015
BOARD OF CANVASSERS
1:30 PM**

Present: Commissioners Dennis Shupak, Chair; Maureen Davey and Gerald W. Dell, Members; and Heidi Stadel, Election Administrator.

2015 Municipal General

Election: The Board of Canvassers (commissioners) met with Heidi Stadel, Election Administrator, to canvass the votes of the Mail Ballot Municipal Election for the Town of Columbus held on Tuesday, November 3, 2015.

Heidi Stadel, Election Administrator, presented the Canvass of Votes to the Board. She reported the following:

Columbus registered active voters:	788
Total Ballots returned:	369
Voter turnout/total returned	47%
Total ballots counted	361
Voter turnout/counted	46%

Commissioner Davey **MOVED** to certify the canvass as presented by the Election Administrator. Commissioner Dell **SECONDED**. Motion passed unanimously. The canvass is filed with the Clerk & Records Office under Document No. 363856.

Meeting Adjourned: Hearing no further business, Commissioner Shupak adjourned the meeting at 1:35 PM.