REGULAR MEETING  
July 12, 2022  
6:30 P.M. Columbus Community Roundtable

PRESENT
Commissioners Tyrel Hamilton, Chair, Steve Riveland, member. Heidi L. Stadel, Clerk & Recorder

Others Present: Citizens – Brandon Garoutte, Carol Cushen, Les Jordan, Maureen Davey, Dan O’Neil, Diane O’Neil, Jeff Ruffatto, Gerald Dell, Diana Scollard, Jim Movius, Norm Moss

PLEDGE
Commissioner Hamilton opened the meeting with the Pledge of Allegiance.

MINUTES
May 24, 2022. Commissioner Riveland MOVED to approve the minutes from May 24, 2022. Commissioner Hamilton SECONDED. No discussion. Motion passed unanimously.

CLAIMS
109954 through 110050 in the amount of $571,636.95. Commissioner Riveland MOVED to approve the claims 109954 through 110050 in the amount of $571,636.95. Commissioner Hamilton SECONDED. No discussion. Motion passed unanimously.

ANNOUNCEMENTS

FILE ITEMS
Clerk & Recorder
A) Report for the month of June in the amount of $10,581.55.

Sheriff
A) Report for the month of June in the amount of $500.00
B) Quarterly report in the amount of $1550.00

Commission
A) PILT payment letter.

Commissioner Riveland MOVED to file the file items. Commissioner Hamilton SECONDED. Discussion – Commissioner Hamilton stated that the PILT payment for this year $527,213.00. Motion passed unanimously.

REGULAR BUSINESS
Commission
A) Appoint one Ambulance District Board member to an unexpired term ending May of 2023. Commissioner Riveland MOVED to appoint one Ambulance District Board member to an unexpired term ending May of 2023 being John Hungerford. Commissioner Hamilton SECONDED. No discussion. Motion passed unanimously.

B) Appoint one Library Board member to a five-year term ending June 2027. Commissioner Riveland MOVED to appoint one Library Board member to a five-year term ending June 2027 being Linda Halstead-Acharya. Commissioner Hamilton SECONDED. No discussion. Motion passed unanimously.

D) Appoint vacant Commissioner District #2 seat. Nancy Rohde stated that at this time, upon review and having met with each Commissioner separately, she is advising the Commission to forgo any appointment at this time. Nancy further stated that she has that opinion because we still have an election process in place. The General Election is in November and her advice is based upon the fact that the government is not going to violate any potential citizens rights to engage in the election process. Secondly, we are also going to ensure that the General Election is done with integrity and full fairness. It is the Commission’s decision as to what they do, whether they go ahead and appoint or they don’t but that is the advice she has given them. If they chose to add a third person, her further advice to them would be that they ask the Central Committee again for three names of qualified people from District #2 and who are willing and able to accept the short-term appointment for the remainder of the year. Commissioner Riveland MOVED to table this item, on advice from legal counsel, until September 13, 2022. Commissioner Hamilton SECONDED. Discussion – Maureen Davey stated that she is certainly not an attorney but she has read that statute numerous times and to her it is clear. We had a Primary Election and she thought that election was fair. It sounds like the County Attorney thinks that it won’t be a fair election if someone is appointed. There was a Primary, people came out to vote. Anyone could have signed up to run at that time. It was open for anyone. The position was open and anyone could have run at that time, no matter what party you were. There were a lot of people who had a long time to think about running for this position. To think that someone all of the sudden is going to run, and it is not going to be fair to them. I think we are not being fair to the person that won that election and I think we are not fair to the people in the south end of the county that deserve a Commissioner right now. Maureen further stated that she is very disappointed that it’s not an easy choice because somebody won an election and we have the Election Administrator here and it sounds like we don’t think the last election was fair and she certainly thinks it was fair and does not see any discrepancies and has not heard anything like that. Maureen went on to say that the Commissioners are their own elected positions and they have the authority to appoint someone here following that statute, it says shall it does not say may, it says shall and if there is not an appointment, she will be very disappointed in the elected officials, the Commissioner, and the County Attorney with her comments about the election process here. Maureen again addressed the Commissioners stating that she advises them to appoint someone.

Dan O’Neil stated that he very much disagrees with the County Attorney’s opinion on this. Dan referred to the last agenda meeting where he mentioned that when you follow the law, you are much more insulated than not following the law. The statute says the Commission will receive three names. The three names have already been submitted. Dan further stated that he did not know what other three names they need to give. He would like to ask the County Attorney that possibly later. The statute says the Commission shall appoint. It’s not a might appoint. It’s not a because it’s an election year lets think about appointing, it says shall appoint. Dan went on to say that he is with Maureen, he is very disappointed that this is even happening. If this weren’t and election year, would this be happening? Why is this such a problem, to do what the statute says. He does not understand that and is very disappointed in both the Commission and the County Attorney in this case.

Jim Movius stated that he respects the opinion of the County Attorney and if he were sitting in the Commissions position, he would be very careful not to follow it, she is there to keep you out of trouble. The arguments that he has heard that it would be an unfair advantage to another candidate, should that person run. If Mark Crago was running for re-election, he would have an advantage. If you appoint someone, they will have an advantage but he will disagree that it is unfair. This is the way things work. Jim went on to state that he is law trained but he is not licensed to practice in Montana. He does think that the will of the people who have voted and the importance of having the Commission at full strength outweighs any risk or disadvantage that might occur to another candidate. He would Nancy to inform you as to what risks are being taken that would expose the Commission to some sort of liability or the county to liability.
Fiona Nave stated that she would respectfully disagree with the County Attorney on this issue. She would say that at this point, there is no one who has come out and made any sort of an official declaration of any kind that there is going to be anything going on further in this election. She would remind both of the sitting Commissioners that they were chosen at the time of the Primary. They won their primaries and from that point on, there was no opposition. What she would ask is that since there is a deadline in September for write-in candidates, which is apparently what we appear to be concerned about, would the County Attorney reconsider this decision once that deadline has passed. Commissioner Riveland responded that this is why he made a motion to table the issue until September 13, 2022, which is the first Tuesday after the write-in filing deadline on September 6, 2022.

Dan O’Neil asked what is it that the Commission is so afraid of. What is it that the Commission is concerned about. If you follow the statute, you are much more insulated than not following the statute. If someone wanted to, by the Commission not following the statute, you are legally more at risk than you would be if you follow the statute. What is it that the Commission is so afraid of here. Commissioner Riveland responded that they are not afraid of anything other than the election integrity. Dan replied why is following the statute disrupting the integrity of the election. Commissioner Riveland responded that they have been advised and believe we are following statute. Dan replied that it says shall.

Carol Cushen stated that she has it on pretty good authority that there may be a write-in candidate. Carol further stated that she thinks the Commission should ask for another three names and that is the responsibility of the Republican Central Committee to give you three more names if they are not happy with the three names already presented and perhaps, they should do that, then there wouldn’t be a conflict. An unnamed person commented because a**hole Van Hoosier wants to run. Fiona asked if the Commission made a request for three more names. The Commission replied no. Carol added that Nancy said there was a possibility that they could ask for three more names. An unnamed person asked if the statute says they are required to do that. Several people responded yes.

Maureen Davey stated that they have someone sitting here that won the Primary, who has been engaged in this county and has been coming to a lot of the Commission’s meetings. Maybe someone else has been coming to all of the Commission’s meetings. We have a gentleman here that raised his hand, paid his fee, has been engaged in this county for twenty-two plus years and was appointed to a board by the city, the city-county planning board, among other boards he has been engaged with and she does not know who has been to more meetings than him. He has a commitment towards us and if anybody else has a commitment towards us, lets see them, have they stepped up? Have they stepped up to this? Not just for this election but as far as being engaged with the county in all the different organizations you can belong to because this candidate has. He hasn’t just come up for this job because it pays for something, he has been engaged in several other boards in this county and he has certainly got a lot invested in this county. To not give him a chance now is just bizarre.

Jerry Dell stated that if there is a concern about there being another candidate as a write-in, that would be no different than if someone would run against an incumbent, if there was an incumbent. Jerry further stated that he really strongly feels that the south end of the county is getting short changed by this decision. With everything that is going on and the decisions that have to be made about money to be spent in the south part of the county after the recent flooding, he thinks you need a third person on the Commission and I think you need him now.

Carol Cushen asked if Maureen, Ty or anyone take the position when they won the primary or did you have to wait for the General? Commissioner Riveland replied that he had to wait for the General.

Brandon Garoute asked Nancy Rohde if the Commission decides to go against her advice and make a decision, can she represent them as the County Attorney? Nancy replied that she cannot. Brandon replied that you are on your own if you make your own decision.
Jerry Dell stated that he thinks the citizens of the county have already spoken and spoken loud of who they want in this position. If there is a concern about a write-in candidate, in his short term in politics, he has seen three write-in candidates get severely defeated. Jerry does not think there should be any concern about the integrity of running against an individual the people have already spoken for. It is mind boggling.

Dan O’Neil asked if the Stillwater Republican Central Committee comes up with three more names, and it doesn’t happen to have the name of the person who ran against the candidate here and lost, will the Commission choose one of those three names or will the Commission table that again. Commissioner Riveland responded that he is not asking for three more names at this point. Dan replied that the County Attorney is. Commissioner Riveland responded that the Commission has to ask the central committee for three more names if they want three more names. Dan asked to clarify if the Commission is asking for three more names at this point or not. Commissioner Riveland replied no. Commissioner Hamilton replied that the Commission has not made that decision yet, no. Commissioner Hamilton stated that he does not disagree that the south part of the county needs representation. He thinks they need someone in there as soon as is responsible. He thinks the timeframe to September 13th has its merit. He supports the County Attorney’s recommendation to that and he is not going to put the Commission in a position where we can’t have representation from the County Attorney. Commissioner Hamilton further stated that moving forward, we go to September 13th and bring this back up. He thinks it is in the Commission’s best interest to appoint someone as soon as is responsible to the county.

Fiona Nave stated that the thing that is important is the people in the south county, not the Commission. The Commission needs to understand that yes, you have some obligations, and yes, there is a statute here that tells you what to do and you are getting legal advice from the County Attorney but the important most critical factor in this is not the Commission, it’s the people in the south county. They need representation. Fiona further stated that she has been near as involved in all of the questions and discussions regarding clean up, how to engage resources, etc… as the Commission has but she has been involved in some of it. Those people need assistance. The two of you are not enough and she would encourage them to make that appointment as soon as possible and she does not feel September is soon enough. Commissioner Riveland responded that first of all, it’s not about the Commission and its not about who fills the seat. He would make the same decision if the winner of the election process had been reversed. His decision would still be the same as long as there is still a write in candidate option available to whoever that would be. He does not want to interfere with the process. Let the process run and this will be brought back up after September 13th after the filing deadline. It’s not about who, it’s not about the Commission, its about the process. Fiona responded that also, she did not say anything about who. As you know, the Central Committee chose, since the election was two weeks away, not to do anything until the voters made their decision about what they wanted to do. The Central Committee did not comment one way or the other so that they would be no influence into that election. The Central Committee was very careful and understands the need to be careful but that election is over and it wasn’t close. She thinks it is time to do something.

Maureen Davey stated that the Commission came to the Central Committee and asked for three names. If this was going to be an issue, she has a hard time understanding why the Commission came to the Committee came to them and asked for three names. Commissioner Riveland responded he did not think that they did ask for three names.

Brandon Garoutte asked the Central Committee if the entire committee got to vote on the three names. Several people responded that all the voting members voted. Brandon said that he was told that there was a committee that included Maureen and one or two others. Maureen Davey stated that she was not sure that this was appropriate for this discussion. Commissioner Hamilton asked to keep the discussion relevant to the issue. Fiona Nave added that she can discuss the process with Brandon when the meeting is over. No further discussion. Motion passed unanimously.
Absarokee Sewer
A) Payment request #25 for Absarokee Sewer Wastewater project. Commissioner Riveland MOVED to approve Payment request #25 for Absarokee Sewer Wastewater project. Commissioner Hamilton SECONDED. Discussion – Commissioner Hamilton stated that the amount of the payment request is $8508.35. Motion passed unanimously.

Alternatives
A) Alternative contract renewal. Commissioner Hamilton explained that there was a miskey on the agenda. This is for a three-year contract in the amount of $33,000 per annum. Commissioner Riveland MOVED to approve the alternatives three-year contract renewal in the amount of $33,000 per annum. Commissioner Hamilton SECONDED. No discussion. Motion passed unanimously.

Commissioner Hamilton stated that he missed the announcements and wanted to give an update on the flooding and the status of the roads on the south part of the county. In the early stages of the flooding the bridge at Rocking J was lost. The county worked with the state, our congressman and representatives and got the bridge fixed quickly. The state came in, fixed it and reopened it. There was a short amount of time that stoplights were used and were not well received so they were removed. Grove Creek Road was not built to accommodate that level of traffic but was used of necessity so getting that road opened back up was good. The Commission met with our engineers today and they have a work plan for the Riddles Cliff Bridge. It is a three-day work window and they are going to start direct solicitation to area contractors. Six area contractors have been identified in the county that they will solicit to fix the Riddles Cliff Bridge. The Commission will be working with the landowners around the first washout to see if some type of temporary local access road can be built around the washout so that the Stillwater River Road will be passable in the near future. The work window slated for the Stillwater River Road construction project will be a thirty-day work window to completion once the county has gone through the FEMA process to get a contractor onboarded. This is above the FEMA threshold for a large project so this will take longer to work through the process so the county will be eligible for the reimbursement payment of 75% of the total cost of the project. The county does not want to jeopardize that funding. The same process applies to the North Stillwater Road. The county has equipment and rock ready to fix the road however the county has to go through the FEMA projects and contractors. This is the better way to work with FEMA. There will be channel realignment and other issues so the county will work with FEMA contractors as well as the Road & Bridge Department to get those roads opened as quickly as possible. There is a large hole by the Stillwater Mine. Stillwater Mine has secured private access so they are able to start to return to work. They are in the process of rerouting their tailing lines. We are fortunate there was not a breach although it clean treated water, it would not have been good if the lines had been breached. The county is working with state and federal representatives to see if the Forest Service can help with access as well as if the state can do anything to restore the public access to the mine. Stillwater County did not suffer any bridge damage with the exception of the Riddles Cliff Bridge. The county did lose a lot of private bridges and road access so the county continues to work with FEMA on this regarding public assistance, monetary wise to those structures, bridge access and the main argument for that is that it creates a public health, safety and emergency services access issue. The FEMA process is complicated and the county is continuing to work with them during the recovery efforts. FEMA is onsite in Absarokee at the Elementary School and will be there seven days a week from 8:00 a.m. to 6:00 p.m. to offer individual assistance. The individual assistance is for homeowners who have sustained substantial damage to their primary residence structures. The county is continuing to work with other agencies to offer assistance to residents regarding bank stabilization and bank rehabilitation so when they go through the permitting process, it is done correctly.

Maureen Davey asked if the county has plenty of money in the bank to help get through this. Commissioner Hamilton explained that the county will be doing an interfund loan with the PILT funds to the emergency fund. On these large projects, excluding the Riddles Cliff
Bridge repair due to the threshold, the FEMA threshold is $139,800, so anything over that amount is a large project. With the large projects, the county will be doing monthly or quarterly reimbursements directly from FEMA on actual expenses incurred. That money will come back fairly quickly from FEMA as opposed to a small project which can take time to close out. As the funds come back the county can repay the money to the PILT fund. Commissioner Riveland added that most of these are projected costs not to exceed, so the actual costs are figured at the end of the project. Commissioner Hamilton further stated that there is roughly a six-month work window once the Commission has their next meeting with FEMA on August 4th. By August 4th, the engineers will have their project scope and fee estimates for all these large projects to get them out to contractors and the county can ask for per project extensions on the six-month window once the scope of work is completed. A bigger project like the big hole by the Mine could potentially take longer than six months. Commissioner Riveland added that if everything goes right with the Stillwater River Road Project the completion date could potentially be August 20th for the bridge. The plan is to potentially be able to widen the road in the wash out area to open the road to traffic. The same applies to the North Stillwater Road. The engineers are working on the designs for these roads to put them out to bid to contractors. Hopefully within the next month the road will be open for local traffic and emergency services.

PUBLIC COMMENTS ON COUNTY BUSINESS – None heard.

With no further comments heard the meeting was adjourned at 6:32 p.m.

APPROVED BY: /s/ Tyrel Hamilton, Commissioner Chairman

ATTEST: Heidi L. Stadel, Clerk and Recorder