

Park County Commission Meeting Minutes
Week of January 12 – 16, 2009
Park County, Montana

January 12, 2009

Park County Road Updates

@9:02:07 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Road Crewmen Mark Smith and Brad Wilson; Shannan Piccolo, deputy county attorney; Bill Hurley, operations; Public Citizens Margot Aserlind and Tom Sarrazin; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to update the Commission about Park County road issues.

Road Crewman Brad Wilson presented the Commission with a letter drafted by the former Commission and civil attorney for placement in citizen mailboxes referencing plowing snow onto county rights-of-way. Wilson said the road crew needs to have the memo for distribution and asked if the Commission will review and/or update it.

Crewman Mark Smith said his paved roads from Emigrant to Gardiner will be open and clear by this afternoon due to high temperatures. He said high country roads still have ice and he is still getting phone calls asking why he is not sanding to the top of Big Creek and Cinnabar. He said the bus route on Jardine is open but more snow came last night, which he will take care of this morning or afternoon.

Wilson said roads north of Emigrant look good with ice conditions in the mountains. Wilson said Wilsall has some ice issues in town.

There was discussion about the county's policy of sanding gravel roads on a case by case basis. Smith said that policy creates a problem when individuals receiving sand talk with those who did not. Smith said his equipment in the Gardiner area creates a personal safety factor because it is not designed for roads there. He said he was in the creek twice in Cinnabar and three times in Tom Miner last year. Wilson said single-axle plow trucks are absolutely not to be used on icy mountain roads.

Wilson said an issue continues at a Forest Service access at the Shields with forest users parking on the road making it hard for Crewman John Young to plow the county road. Wilson said the Commission needs to talk with the Forest Service to see if it can address the parking issue there.

There was discussion about proposed cattle guards for bison on the Corwin Springs Bridge. Wilson said an option exists in lieu of putting cattle guards on that bridge, which is to erect a fence parallel to the road. Wilson said cattle guards are a huge liability for the county, and he said the Commission should not let Montana Fish, Wildlife and Parks dictate to the county where cattle guards will be installed. The Commission asked Smith

to come up with an estimate of the current traffic use on the Corwin Springs Bridge where FWP is proposing the cattle guards. The Commission said it will write a letter to FWP with other alternatives.

Commissioner Malone said he was approached by citizens about a culvert on the Pine Creek cut-across road at Pine Meadows Road. Malone said he looked at the culvert and both landowners said it is too high. Wilson said the culvert was shot by a transit, is on private property, and he has no idea why the county did the work. Smith said Qwest left a four-inch gap in the culverts when it did work on them, which caused water to run under the culvert and sink the road. Malone said the road crew needs to roll the wire, clean the fence posts and clear the area if it left the area in its current state. He said if the county put the culvert in wrong, it needs to repair it. Wilson said the culvert was put in correctly. Malone and Wilson said they will go look at the culvert in question.

Smith asked if a meeting between the road department and the Commission had been scheduled. Taylor said a meeting has been scheduled with the sheriff's office and county attorney for January 15 at 1:30 p.m., to discuss the definition of an "emergency."

Smith said a draft of a union contract was delivered to the Commission and county attorney for review.

Durgan said a citizen asked him if the road crew can get on top of Cinnabar Road and blade the snow back. Smith said he will get to that.

There was discussion about snow drifting problems at the Grizzly Creek Ranch entrance to Stan Lumpston's place where no snow fence is in place. Smith said snow fence between Stan Lumpston's place and Divide Creek is working well, but he is battling three- to four-foot snow drifts between Grizzly Creek and Lumpston's. Smith said the only solution will be to get permission from Grizzly Creek to allow Smith to build snow berms in the fields on the west side of Tom Miner Road on Grizzly Creek and Stan Lumpston's place.

Malone asked Wilson to draft a written record of where snow fence is in place and where it was in place in the past, as well as to write down the priority snow fence areas for the Commission record.

Malone opened the floor to public comment. No public comment was made.

@9:47:09 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

January 12, 2009

Review Commission Meeting Minutes for Weeks of December 29 and January 5

@9:51:12 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was

Shannan Piccolo, deputy county attorney; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to review Commission meeting minutes for the Weeks of December 29, 2008 and January 5, 2009.

Reviewing Commission meeting minutes for the Week of January 5, 2009, Commissioner Malone requested a revision to Page 2 of 19, noting the correct spelling of Tom “Sarrazin.”

Commissioner Taylor requested a revision to Page 9 of 19, noting the correct spelling of George “Bryce.”

Commissioner Durgan requested a revision to Page 4 of 19, noting the correct spelling of “O’Hair” Lane. On Page 10 of 19, last paragraph; the second sentence should read, “Martin said the sheriff needs to be moved upstairs and the treasurer needs to move downstairs in cold storage at the quonsot hut because of a lot of weight stored on the second floor.” On Page 16 of 19, Durgan noted the correct spelling of Dan “Semmens.” On Page 18 of 19, a bullet point should read, “Memo from HKM re. landfill gas monitoring - To file” A second bullet point should read “Announcement for Northern Rocky Mountain RC&D and Northern Rocky Mountain Economic Development District February 9 - To Durgan for review” A third bullet point should read, “Announcement of Montana Wind Working Group meeting on January 9 - To Durgan for review”

Durgan made a motion to approve the minutes of January 5 - 9 with corrections and additions noted. Taylor seconded that motion. Motion passed.

Reviewing Commission meeting minutes for the Week of December 29, 2008, On Page 1 of 16, Durgan noted the correct meeting date of December 29.

Taylor made a motion to approve the minutes. Durgan seconded that motion. Motion passed.

Malone opened the floor to public comment. No public comment was made.

@10:14:29 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

January 12, 2009

10:00 A.M. – Review of Correspondence, Public Contacts and Determine Action Plan – Commissioner Chambers – Canceled – Commissioner Malone reviewed correspondence earlier in the morning as part of newly adopted protocol to review daily correspondence

January 12, 2009

9th Street Bridge Engineering Updates and Discussion

@11:02:27 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Jim Scoles, Morrison Maierle, Inc; Camden Easterling, Livingston Enterprise; Shannan Piccolo, deputy county attorney; Bill Hurley, county operations; Public Citizens David DePuy, Chuck Donovan, Dann Babcox, Margot Aserlind, Brad Shepard, Coletta Morgensen, Ray Olson, Roy Senter, and Bob Skillman; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss 9th Street Bridge engineering updates.

Commissioner Malone opened the floor to public comment. Ray Olson said it is refreshing to be having a meeting on this subject.

Jim Scoles, lead bridge engineer of Morrison Maierle, Inc., said he is present to brainstorm with the new Commission about potential funding and construction options available to the county for infrastructure and in particular 9th Street Bridge work.

Scoles said a primary funding option available to the county is through the federal government's Off System funding program, which funnels funds through Montana Department of Transportation to replace deficient bridges. Scoles said MDT gets \$1 million to \$12 million per year for Off System bridges. He said MDT rates structures and develops designs to fix them, as it did with the Corwin Springs Bridge through the program. Scoles said ranking is two-fold, including the degree of deficiency of the bridge and a county ranking. He said it takes five to 10 years to gain money to start work through the program, and there typically is no county dollar match required.

A second funding source is the Montana Department of Commerce's Treasure State Endowment Program (TSEP), which is a program set up for water, wastewater and bridge projects comprised of interest generated from coal taxes. Scoles said the program is a competitive grant process with a required state/local 50/50 dollar match. Scoles said the program is a quicker process and money is disbursed through legislative approval. Scoles said TSEP provides 50/50 share grant money to develop a preliminary engineering study as well as grant money for project construction. Scoles said construction money is not guaranteed, but is awarded after a preliminary engineering study is conducted outlining all possible options, meeting all environmental requirements, containing public input, and including a long-term solution. Scoles said the engineering grants consist of \$20,000 TSEP funds and \$20,000 local match for a total project cost of \$40,000, which he said is adequate today to conduct an engineering study. He said TSEP funds are available on March 31, 2009, so the county should plan to act now. He said money is awarded on a first-come-first-serve basis upon receipt of application and Commission resolution.

A third potential funding source is through the federal FEMA program. Scoles said FEMA programs require a grant match process, but FEMA does not replace many bridges in the state of Montana.

Scoles said a fourth funding source is the Western Federal Lands program, which requires federal land on one side of a bridge.

Malone asked about a proposed federal presidential stimulus and whether Park County should have a plan ready to go in the event the stimulus money comes through. Scoles said "yes." He said many agencies will have more money if a stimulus goes through, so it may provide an opportunity to fit the bridge project into some program if a good understanding of the goal and project exists.

Public comment was made by Brad Shepard of Siebeck Island. Shepard asked if federal grant funds can be matched with TSEP and local funds. He also asked if EPA river enhancement grants could be used for a new bridge because that would do good things for the river if the bridge is designed correctly. Scoles said programs could possibly be matched. He said TSEP is friendly to match and allows for in-kind county match efforts, which actually help rankings if community and funding sources are noticed in the application. Shepard said there will be a potential very serious problem this year if debris cannot be removed from the 9th Street Bridge. Shepard said he thinks it may be wise to contact FEMA with the potential debris issue now rather than waiting for after the fact. Commissioner Durgan said the Commission should explore that suggestion.

Public comment was made by Bob Skillman who has family on the island. Skillman asked if the county can obtain emergency money for island access if high water takes out the Bailey bridge this spring. Scoles said TSEP has some emergency funds or MDT may be able to help.

Public comment was made by Chuck Donovan. Donovan said debris is pulled off of bridge abutments every year and will dam this year if it cannot be removed. Durgan said one suggestion was to set up a crane or excavator during the flood season to remove debris, but that is not a good answer because of expense.

Malone said it seems to him the west channel is getting more water flow than it historically had. He said that fact is putting the whole city at risk if water continues to cut into that channel.

Public comment was made by David DePuy who lives on the west channel. DePuy said the river has consistently deepened the channel on the west side and his concern is spring debris and river water coming down through his and neighbors' yards, as well as down Fleshman Creek and into the swimming pool. He said he does not see any short-term solution to fixing the bridge other than buying another Bailey bridge. He said used Bailey bridges are available.

Malone asked if a short-term fix exists, such as removing some bridge piers and spanning the river with the Bailey bridge. Scoles said he does not see a good temporary or short-term fix with the number of stakeholders involved with the situation. Malone said it seems the county is restricting citizen egress and ingress.

Public comment was made by Margo Aserlind of 9th Street Island. Aserlind said at one point a letter was written asking to put more water into the west channel. Aserlind said the Yellowstone River Taskforce strongly recommended five years ago that 9th Street Bridge piers be removed or pilings changed.

Scoles said the west channel was much shallower when the bridge was built, and scouring has always been an issue as short pier spans are not ideal on the Yellowstone River. Scoles said rerouting rivers has become more challenging in the last 20 years.

Shepard said channel designs were created by a geomorphic engineer in the early 90s who contracted with Fish, Wildlife and Parks which requested recommendations for work at the tip of Siebeck Island to control channel flows. Shepard said an option presented by the engineer was to put in hard structures on both sides of the island tip to equalize channel flows. He said that option was expensive but a potential long-term solution. He said a second option was to conduct periodic excavations of the river channels, which is less environmentally friendly and is hard to permit. Shepard said maybe the engineering data can be reviewed in FWP files. He said he can look into obtaining those files.

Scoles said the county wants to carefully think through any short-term options. He said even though removing some existing bridge piers may help with flow and passage of debris, it would be a negative if a contractor building a new bridge does not have the existing structure to work off of. He said the county does not want to remove the bridge in the wrong order.

Public comment was made by Roy Senter who care-takes a place on the island. Senter asked why the current bridge piers cannot be fixed. Scoles said they can be fixed, but the problem of log jamming and scouring will continue to exist with other piers.

Public comment was made by Dann Babcox of Park County Rural Fire #1. Babcox asked how long a report would take to complete. Scoles said the report can be completed in a couple of months to a year depending on the amount of research done and public meetings conducted. He said TSEP construction money would not be available for a couple of years because it is tied to legislation. Scoles said getting a preliminary engineering report completed sooner may help the county go after other funding, and it forces the county to consider a long-term solution.

Malone said the county needs to get its act together as this is a definite need. Scoles said once the report is written, the county may be able to involve state legislators or submit it to the governor to possibly get things moving.

Aserlind said she sees it as a three-phase effort. She said the 9th Street Bridge needs to be redone or rebuilt, then attack the isthmus, and then work on the head of the island.

Malone said the county needs to get the Army Corps of Engineers back in to reevaluate the situation with the county.

Skillman said a big fire on the island would be a big problem because fire trucks cannot access the island with the bridge weight limit. Scoles said the load limit needs to be readdressed. Babcox said emergency fire services have a preliminary plan in place to fight a fire on the island. He said services have permission from the state to take empty trucks across the Bailey bridge, but they would have to be filled up on the island side.

Shepard asked the chances of suspending a local bridge from the interstate bridge piers. Shepard asked if grant monies exist for private island citizens. Scoles said he is not aware of such funds, but one never knows what may turn up on a search of the internet. Shepard said perhaps resubmitting an emergency funding request to FEMA without inclusion of the city swimming pool may encourage FEMA to reconsider funding.

Malone said it is a good idea to get FEMA back in to hold discussion with the new Commission.

Public comment was made by Ray Olson. Olson asked if anyone has put a price on a new bridge. Scoles said at the last meeting he mentioned a cost of \$1 million to \$2 million. He said the engineering study would take a more in-depth look based on hydrology and piers proposed upstream and downstream. He said there is some technology that would enable a new bridge to free-span the river, or a one-pier bridge could be built.

Aserlind said a neighbor asked her to ask if the bridge could be well-sanded and whether a stop sign off the bridge at River Driver could be taken out to protect motorists coming off the bridge. She said the bridge traffic needs the right of way there and a three-way stop would create that.

Olson said plowing of the bridge has helped a lot.

@12:16:57 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

January 13, 2009

No Commission Meetings Scheduled – Commissioners Malone and Taylor attended a MACo Loss Control Seminar – Helena

7:30 A.M. – Job Service Employers Committee Meeting – Livingston Job Service

2:00 P.M. – IT Advisory Committee Meeting – Community Room

January 14, 2009

No Commission Meetings Scheduled – Commissioners Malone and Taylor attended a MACo Loss Control Seminar – Helena

January 15, 2009

Review Daily Agenda and Correspondence

@8:31:53 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Bill Hurley, county operations; Raea Morris, Commission executive assistant; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo from Bridger Communication - To county attorney for review
- Memo re. MACo News online
- Memo re. MACRS annual meeting March 30 - April 2 - To Commission for review
- Memo re. Neighborhood Stabilization Program meeting
- Memo re. Gallatin National Forest online proposed projects listing
- Memo re. Great Falls transportation study
- Emails re. Park County Senior Citizens Center project
- Memo re. Park Extension Office forest manager workshop on January 16
- Email from undersheriff re. Billings Gazette article and false evacuation order
- Memo from RC&D re. selection of officers on January 13
- Memo from RC&D re. resolution for CDBG application
- Memo re. NACo newsletter
- Legal advice to Commission from deputy county attorney
- Memo from museum director re. consulting services
- Email from Congressman Rehberg representative
- Memo re. Park Conservation District watershed group meeting on January 19
- Reminder of juvenile conference call on January 22 - Commissioner Durgan will attend
- Memo from Van Jamison re. wind energy - To Taylor for review
- Email from Forest Service re. renewal of capture facility permit with Department of Livestock
- Memo from MACo re. childrens health insurance - To public health nurse
- Email from Sue Martin requesting meeting with Commission re. account for public administrator
- Memo from RC&D re. board terms expiring
- Email from Van Jamison re. renewable energy webinar on February 4
- Legal advice to Commission from deputy county attorney

- Email re. customer service training for transportation - To Barb Williams of Angel Line for review
- Memo re. meeting scheduled with Ron Archuleta of Forest Service on February 5 at 10 a.m.
- Memo re. area fire meeting
- Announcement of IT advisory committee meeting at 2 p.m. on January 13
- Memo from accounting department re. temporary help - To Commission for review
- Memo from clerk of court re. warrant list for jurors ending December 31, 2008
- Memo from Local Technical Assistance Program
- Memo re. maintenance agreement for courthouse department printer services
- Memo from DEQ re. landfill methane monitoring report
- Memo re. meeting conflict with law enforcement - The Commission canceled a 1:30 p.m. January 15 meeting with the road crew
- Invoice re. heating and AC system

Director of Operations Bill Hurley presented the Commission with a string of emails regarding a DEQ file for a sewer spill remediation project on Fleshman Creek.

Commissioner Durgan said he had citizen inquiries from the Shields and Cooke City area asking if a commissioner will meet with residents there as had been done in the past.

Durgan said the Northern Rocky Mountain RC&D nominating committee recently met and it was announced that Josh Kellar is leaving the agency. Durgan said it was asked whether Commissioner Malone and Durgan wanted to serve on the RC&D board of directors.

Commission Executive Assistant Raea Morris said she received a citizen telephone call from Dennis Tilton of Shooting Star Ranch regarding ice on Cinnabar Road. Durgan said Road Crewman Mark Smith is in danger of operating his small sanding truck on Cinnabar Road because the truck is not suitable for that terrain.

@9:17:20 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

January 15, 2009

9:00 A.M. – Claims Review Meeting – Commissioners Chambers

January 15, 2009

Consider Approval of Contract between RC&D and Senior Citizens Center

@10:04:52 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Shannan Piccolo, deputy county attorney; Martha Miller, auditor; Brett Linneweber,

county attorney; Barb Williams, senior center; Rick VanAken, senior center; Julianne Brown, NRM RC&D; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to consider a building improvement project contract between the Northern Rocky Mountain RC&D and the Park County Senior Citizens Center.

Deputy County Attorney Shannan Piccolo said the county attorney's office approved of the contract language, and representatives of the Community Development Block Grant program, Rocky Mountain RC&D and the Park County Senior Citizens Center said they approved of the grant language.

Commissioner Taylor made a motion to approve the contract between the Northern Rocky Mountain RC&D and Park County. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Malone opened the floor to public comment. No public comment was made.

@10:10:13 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

January 15, 2009

Discussion of Ordering Equipment and Supplies for Landfill

@10:37:46 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Lois Hatfield, landfill manager; Marilyn Hartley, accounting; Bill Hurley, county operations; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss procedures for ordering landfill equipment and supplies.

The Commission reviewed landfill expenditure and revenue reports for Fiscal Year 2007, FY '08 and FY'09.

Landfill Manager Lois Hatfield said she was told she is to have Mechanic Dan Hackmann order all supplies for landfill machinery at a 30-percent cost markup. She said she has a real problem with that because she is capable of ordering equipment parts from equipment manuals and can have it delivered without a shipping cost. Hatfield said she still has completed all claims and paperwork even with Hackmann ordering parts, and with her budget issues she does not want to pay a cost markup.

Commissioner Durgan said he would like to meet with Hackmann to hear his side of the story regarding the ordering protocol, but he feels the 30 percent markup may be excessive. Commissioner Taylor said the 30 percent may be excessive and Hackmann could have to stop an entire job if an incorrect part is ordered, but he should not be

making a living off the landfill. Taylor said the Commission needs to get everyone back in and work out the issue.

Marilyn Hartley, accounting, said the mechanic was an internal service fund, which is why the markup began, but is no longer now that he is under the road department budget.

Commissioner Malone said he would like to know from Hartley the cost per hour for the mechanic including benefits so the landfill could pay for equipment work but not a 30-percent markup. Malone said he thinks that markup is excessive and Hatfield should order her own parts. Hartley said Hackmann costs the county \$28.51 per hour including benefits. Malone said a \$50 per hour mechanic fee should cover all utilities and other shop expenses.

Hatfield said she needs to order cutting edges for a landfill track loader and the Commission said she could do that.

Taylor said the Commission will discuss the issue with Hackmann, and Hatfield may be charged a fee if a wrong part is ordered and Hackmann has to interrupt his work as a result.

Taylor made a motion Hatfield can buy her own parts in a trial period through the end of the budget year and the Commission will meet with Hackmann to discuss the issue. Durgan seconded that motion. Motion passed.

Malone said Taylor will be the main contact person for the landfill and can decide if an issue requires a public meeting.

Hatfield said she will purchase shingles and landfill personnel will replace shingles windblown off of the landfill blower house. She said the landfill has office space in the county shop, even though it does not currently use it.

In other discussion, Hatfield said tons of roll off garbage are coming into the landfill and no money is being generated from it. She said every other day Trail Creek and Chico comes in at four tons with no generated money, and she has to pay for that tonnage. Hatfield said the solid waste board has complained about charging citizens too much at the landfill and she does not know what will happen if that board lowers landfill fees.

Durgan said monitors at green box sites require paying an FTE and the reason the Commission pulled monitors off sites was because they were still being abused with excess garbage and garbage being thrown over the fences. Durgan said until the county gets an operation similar to the current transfer station or the Cooke City transfer station where citizens bring trash, check in, get observed and helped, the green box sites will experience abuse. He said citizens will be upset whatever the Commission decides.

Hatfield said she and Transfer Station Manager Richard Wright put forth proposals to put compactors at green box sites and close other sites. She said she and Wright proved the county would save fuel, trucks and man hours if it closed some green box sites.

Taylor said if the county does not control roll off usage, its income and expenses to maintain roll offs will not match. He said until the county buckles down with services at green box sites the problem will exist with blowables at the landfill from roll offs and Wright's transfer station operations won't be able to keep up. He said the county cannot keep going at \$200,000 per year so people can throw their garbage whenever they want.

Malone opened the floor to public comment. No public comment was made.

@11:16:14 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

January 15, 2009

1:00 P.M. – Defining “Emergency” with Snow Issues – Commissioners Chambers –
Canceled due to Sheriff's Office schedule conflicts

January 15, 2009

Discussion of Sign-In Card for the Bank and Computer Projects for 2009

@2:02:35 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Marc Richards, GIS/IT; Erica Hoffman, GIS/IT; Shannan Piccolo, deputy county attorney; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss a bank sign-in card and computer projects for 2009.

No public comment was made.

GIS/IT Manager Marc Richards said the county has server backup records at First Interstate Bank and needs to remove former Commissioner Lahren's name from the access signature list and add current Commission Chairman Marty Malone. Richards presented the Commission with a memo to sign to permit him, Erica Hoffman, and Malone to access county server records at the bank. Richards said Hoffman will present an application for signatures in the future.

Discussing temperature in the IT room and cooling possibilities, Richards said temperature in that room has gone up due to added equipment and the room cannot be maintained cool enough. Richards said the best option at this time is to create airflow and circulation, which may be done by taking out the wall between the back room and front room and installing a door in the back area to create airflow. He said the room is big enough, and the issue is a lack of circulation. Richards said he suggests a door in the

east room or DES office. Malone asked about a wall or ceiling plenum to move warm air from the IT room into the community room with a fan system.

The Commission gave Richards the authorization to talk to Tri-Valley for ideas.

Discussing the courthouse phone system, Richards said he spoke with Doug Brekke and Doug Dunn who said they do not like the Qwest phone system proposal, which is basically paying to move the PBX switch from Qwest's office to the county building. Richards said Brekke and Dunn suggested thinking proactively and going with a voice-over IP system, but that option is probably cost prohibitive for the county. Richards said an alternative would be to get a switch for inside the building, use the phone lines already in the building, and use better software and a switch to manage phone lines to have transferable voice mail. He said the county would have to get all new phone sets for the building and create its own link to Qwest with a T-1 or microwave shot. He said the microwave would provide a 911 backup if the phone system went down. Richards said the best thing right now is to go with a voice-over IP but that will require all new cable through the whole building.

Taylor asked how that option would relate to the city. Richards said if the city decides to tag along with the county on the project, it would be part of the same system, and if it did not it would continue with the current system. Richards said City Manager Ed Meece said he is interested in more research on the system, as had been suggested by Malone.

Durgan asked how the cost would be shared with the city. Richards said the cost likely would be broken out by phone calls outside of the building and a monthly fee for the switch. Durgan said he is all in favor of going along with the IT department conducting more research, but he understood the voice-over IP was not an option because it was too expensive. He said he is pleased if a switch can be obtained in the building with some control over it. Taylor said he also liked that idea.

Malone asked if another vendor exists, and Richards said that needs to be researched.

Richards said he will start running double Cat-5 cable to each office.

@2:26:22 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

January 15, 2009

3:30 P.M. – Planning Board Meeting – Community Room – Minutes available at www.parkcounty.org and in the planning department

6:00 P.M. – Solid Waste Board Meeting – Community Room – Minutes available at www.parkcounty.org and in the Commission office

January 16, 2009

Review Daily Agenda and Correspondence

@8:38:14 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Raea Morris, Commission executive assistant; Bill Hurley, operations; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo from Sue Martin re. public administrator petty cash fund - Auditor Miller has reviewed - To deputy county attorney for action
- Memo from Montana DES re. volunteer deputy DES coordinator - The Commission said it is favorable to having a deputy DES coordinator
- Memo re. emergency services meeting on Feb 26 in Gallatin County
- Memo re. Feb 18 meeting for FEMA pre disaster mitigation presentation - The Commission will contact Nittany Grant Works and add agenda item regarding FEMA money award for 9th Street Island
- Announcement of January 21 brucellosis meeting
- Memo re. House Bill 194 hearing cancelation
- Yellowstone Teton Clean Energy Coalition January newsletter
- Memo from LTAP re. legislation issue
- Memo re. 3M road sign grants
- Memo re. information for Fleshman Creek project
- Announcement of January 20 Cooperative Weed Management meeting - To Commissioner Durgan for review
- Memo from architect re. building inspector and concrete slab for rabbit and poultry barn - To Durgan for review
- Memo re. public information request
- Memo re. 2009 Montana Liquid and Gas Line Association conference
- Memo from MACo re. Secure Rural Schools payments to states
- Announcement of January 15 meeting for 911 Communications
- Memo from accounting re. violation of policy - To file
- Announcement of work zone traffic supervisor seminar Feb 2-4 - To road crew for review
- Memo re. structural engineer requesting meeting for January 19-23
- Memo from Representative Rehberg requesting citizen input on stimulus package
- Memo re. winter use and plowing of Bannack Trail in Cooke City
- Memo re. snow plow permits for Monument Avenue and Bannack Trail in Cooke City - To file
- Memo from Dorsey and Whitney re. Cooke City resort tax - To deputy county attorney for review
- Memo re. NACo rural road assessment

- Memo re. interagency grizzly bear committee updates
- Memo from county superintendent re. School Bill 165 update
- Memo from LTAP re. concrete paving course
- Memo re. 2009 city and county performance institute seminar in Las Vegas
- American Farmland Trust e-newsletter - To Durgan for review
- Memo requesting support for House Bill 11 - To Morris for review

The Commission reviewed its upcoming agenda.

The Commission will ask the deputy county attorney if it can put a reserve on the Oshkosh plow truck if the county decides to sell it.

Addressing a memo from Tim Griffiths regarding a Fleshman Creek Voyich property project, Commissioner Durgan made a motion to approve as conditional approval of the amount of \$21,472 if the Commission likes the design of the project. Commissioner Taylor seconded that motion. Motion passed.

@9:29:00 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

January 16, 2009

Discussion of the Combining of Gardiner and Park County Water and Sewer District

@9:36:11 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Shannan Piccolo, deputy county attorney; Barbara Woodbury, sanitarian; Bill Hurley, operations; Gardiner Water District representatives Ron Shorter; Mike Crettella, Nancy Deliner; Public citizens T. Stone, Joseph Gross, and Patrick Murtagh; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss the combining of the Gardiner and Park County Water and Sewer District.

Gardiner Water District Representative Ron Shorter provided the Commission with a history of the proposal to combine the Gardiner water and sewer districts. Shorter said a professional engineer's report was conducted and identified several advantages of the water district taking over the sewer district as far as maintaining finances and grant eligibility. Shorter said an election was held in Gardiner based on citizen petition which passed in a landslide. He said there was a disagreement between the Commission and the water district as to when the district was responsible for taking over operations. Shorter said the water district has no authority to operate the system without a discharge permit and a lawyer was hired, per Commission recommendation, and the lawyer came to same conclusion a Shorter.

Shorter said in order for the discharge permit to transfer, a written agreement must be submitted to the state and then it will take 30 to 40 days for the discharge permit to

transfer. Shorter said the water district determined it needs to own the Parelli property adjacent to the system or have a blanket easement in order to operate the system and expand in the future. Shorter said the district made an offer to the county to purchase an easement on the Parelli property, talks broke down, and the district never got a response. He said the district also determined it needs a long-term lease for office space in the Gardiner depot because no other space in the town exists.

Commissioner Malone said Shorter gave him a tour of the entire project in December during which they viewed the office, pumping stations, sewer ponds, and the Parelli property. Malone said he can see clearly the district needs access to that property. Malone said he would like to expedite however the county can make that property available to the water district.

Durgan said legal counsel for the county determined transfer of the Parelli property to any entity must sold at fair market value. He said the county can possibly work out an easement agreement, and he does not think there is any big disagreement about moving offices.

Director of Operations Bill Hurley said a reasonable easement would sidestep a lot of issues and that sounds like progress.

Ron Shorter asked what gives the county the authority to transfer a sewer system if it cannot transfer property. Commissioner Taylor said the county is creating a district. Shorter said a blanket easement for that property is fine with the district. Shorter said the district submitted an email to former Commissioner Lahren about purchasing a blanket easement for the property for \$500.

Malone said the length of an easement must exceed the life of a project or any improvements. Deputy County Attorney Piccolo said she would have to check into whether a lifelong easement can be obtained. Durgan said the Commission can check with Attorney Susan Swimley on the matter, who was retained by the Commission as counsel for this effort.

Hurley said there is an easement on the Parelli property for a sewer line that crosses it. Hurley said therefore the district may be talking about a modification to that easement. Shorter said a blanket easement would be easiest. Malone said the county is in agreement with providing the Gardiner Water District with an easement drawn up by legal counsel.

Engineer Patrick Murtagh said the water district is a separate political entity and it might be to everyone's advantage to enable the water district to own the Parelli property due to liability issues.

Shorter said the water district cannot intermix bonds with the sewer district until they are paid off. Shorter said his understanding of RSID bonds held by the county on the sewer system is they will stay with the county and the county will continue to bill on taxes until the RSIDs are paid off. Shorter said it has to be understood that any of that money

charged for operations and maintenance has to cease. He said his understanding is any money received on the taxes from the day the district takes over has to go toward paying down the existing RSID bonds and can be used for nothing else. Shorter said the district already has rates in place for the sewer system once it takes it over. Hurley said the money assessed under RSID 5 and 5-A currently on the tax bill for the people living in the district has always been strictly to pay off the principle and interest of those bonds, which expire in 2012. Hurley said once the bonds are paid off the county will stop possessing them. Hurley said the only thing on the tax bills in Gardiner is two bills separated between the two RSID bonds.

Shorter said real property needs to be deeded to the district, there is state land the sewer district leases, and he is not clear if there are any fees the county pays the state for that land. Hurley said does not think there are fees. Shorter asked if the district needs to contact the state to see if that agreement will continue with transfer of the system. Malone said the Commission will clear that up.

Malone said a permit for the station on Forest Service property to Park County needs to be transferred to the Gardiner sewer district. Shorter said in addition to that the district needs a list of all personal property and any permits and licenses, which would be the discharge permit.

Malone asked about easements in question. Shorter said there are quiet title actions where county property was given to one private property owner per court decision for a sewer main that runs through the middle of private property. He said there are several other people who have not gone to court yet who want to get quiet title to county property. Hurley said he was unaware that was going on and there has been no action taken by the county to date to investigate further, or cause further action to consider public lines are going through private properties. He said nothing has been done about pipes already across private properties. Shorter said perhaps the county attorney can look into whether any recourse or prescriptive easements exist for a legal right to maintain sewer lines on private properties. Malone said all those easements have to be transferred. Shorter said the quiet title business needs to be looked into.

Discussing a depot lease agreement, Shorter said he understands the county can only go into a five-year lease agreement. He said the district would like a 50-year agreement. Piccolo said she does not have an answer to lease duration and will research it.

Durgan said law enforcement, the water district and the city library have leases in the Gardiner depot. Shorter said the \$300 per month rent is fair to everyone, and the district pays utilities in addition to that. Durgan said he would like to work out a lease longer than five years. Shorter said the longer the lease the better. Shorter said the district has nowhere to go for office space and would like see the depot building stay in the hands of local government. Malone said he thinks the Commission agrees with that.

Discussing the coordination of accounting files and billing that would come about with the transfer, Nancy Deliner asked who is the financial contact for the county. The

Commission said it will be the point of contact. She said at the time of the transfer the district will need current financial statements and historical costs of assets. Hurley said the county can certainly put an estimated value on all assets. Deliner said the district will need a vendor list. Deliner said the last reporting she has is from May of 2008, which shows a gain of \$56,000 on the books. She asked if that money would come over to the district upon transfer. She said in her mind it should because it is money Gardiner residents put in. Hurley said the current balance is in the negative, and that number ebbs and flows. Malone said he agrees that receivables and excess cash should go back to the people of Gardiner.

Hurley said once the county and district have signed an agreed upon document, then and only then can the county apply to Montana DEQ for transference of the discharge permit. He said DEQ will take up to 30 days to consider and make the transfer. He said the moment the discharge permit transfers the practical date and hour is the moment that permit is transferred from the county to the district.

Providing summarization, Malone said Hurley needs to come up with a list of assets for water district accounting personnel, the district's engineer will apply the depreciation internally, the county needs to get the state lease transferred and contact the Forest Service to make sure that use permit is transferred, ensure all county employee contracts with operators are moved, legal counsel will create an easement document to submit to the water district for review, legal counsel will draft a long-term agreement for the depot building, and the deputy county attorney will research the quiet title issue.

Commissioner Taylor made a motion to proceed on with what was just discussed as far as who is going to look at what. Commissioner Durgan seconded that motion. Motion passed.

Malone opened the floor to public comment. Joseph Gross talked about developing a dump on an easement in Gardiner to burn excess wood. Mike Crettella said the district appreciates the new board of commissioners acting in an expedient way on this matter.

@10:30:53 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

January 16, 2009

Discussion of December Safety Meeting Minutes

@11:31:40 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Brett Linneweber, county attorney; Belinda Van Nurden, DES coordinator; Jill Ouellette, human resources; Shannan Piccolo, deputy county attorney; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss December safety meeting minutes.

Jill Ouellette said she was approached by Belinda Van Nurden with a copy of a memo from County Attorney Linneweber about words shared in a safety meeting. Linneweber said that memo contained confidential legal advice to elected officials, and he asked why that advice is going out to non-elected officials because it waives attorney client privilege. He said that should not happen again.

Linneweber said his memo was directed at the policy as stated in an apparent first version of the safety committee minutes, and he never referred to any individual in the memo. He said the policy as stated in the apparently first version of the minutes is illegal. Ouellette said that version was never sent. He said the minutes he had stated verbatim "If there is an accident due to negligence the employee will receive a verbal notice and if that negligent behavior results in injury that employee will be written up." He said that policy is illegal because it violates the county's personnel and insurance policy. He said any proposed discipline always first goes through MACo.

Van Nurden said only one version of the minutes went out. She said if the safety committee puts minutes out that are incorrect, she needs to know about it. Van Nurden said she sends minutes out to safety committee members for review, but did not receive those reviews. Malone said applying a return/receipt message to an email can rectify the review problem in the future. Malone said the draft should be sent to all safety committee members and not disseminated to county employees until she receives a return/receipt message.

Linneweber said if anyone is thinking about enacting a policy it needs to be first run by the county attorney or MACo. Linneweber said if minutes stated "The safety committee is recommending the following:" that would be fine, but as stated it contradicts the county personnel and insurance policy. Ouellette said it was never an intention to create a policy.

Ouellette said corrected minutes should go out. Linneweber and the Commission said they agree with that, and Van Nurden said she will put out new minutes.

@ 11:45:45 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

January 16, 2009

1:30 P.M. – O'Connell v. Park County Litigation Strategy – Commissioners Chambers
(Closed Meeting)

The Commission met with legal counsel in a closed meeting to discuss litigation strategy.

January 16, 2009

Review of Park County Road Foreman Job Descriptions and Duties

@ 3:32:14 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was

Jill Ouellette, human resources; Shannan Piccolo, deputy county attorney; Road Crewmen Mark Smith, Skip Ehret, and Winn Treible; Dan Hackmann, mechanic; Ray Sundling, public citizen; Ed Hillman, public citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to review a Park County road foreman job description and duties.

Commissioner Malone opened the floor to public comment. No public comment was made.

Human Resource Analyst Jill Ouellette passed out the county's current job description for the road and bridge supervisor. Malone said the purpose of the meeting is for the Commission to hear employee and public comment on the job of road foreman and what that job might consist of.

Citizen Ray Sundling said he thinks the road foreman should be the same as the supervisor with a CDL, able to operate all equipment and train people working for him.

Road Crewman Mark Smith said he echoes those sentiments exactly. He said each individual working for the Park County road department is mandated to have a Class A Type 1 CDL, which is important for liability. He said the foreman should be able to train workers on the top of the line motor graders the county uses today. He said the foreman position should be able to do the job as well as if not better than the people underneath the position. Road Crewman Skip Ehret said he agrees with Smith's comments.

Ed Hillman said road crewmen also need a tank endorsement to operate a water truck.

Mechanic Dan Hackmann said he personally feels it would be a duplicate of services to have both a road foreman and a supervisor position. He said some counties are big enough with the number of crewmen employed to have separate shop/road supervisors, but with Park County's nine employees he is wondering about that. He said everyone in Park County's road crew multi-tasks.

Sundling said he agrees with Hackmann and it does look like the county has enough employees or money to have two supervisors. He said everyone should be available to operate a snowplow or road grader when the crew is short handed.

Commissioner Taylor said he envisioned the county having a working foreman who works with the men on actual road work, and the second position would be an individual who goes out and looks at jobs, gets specs, orders all materials, inventories gravel piles, salt sand and all equipment, schedules projects, checks on maintenance and serves as a foot guy for the crewmen. He said the working foreman would be in the field with the crewmen and someone crewmen would go to if they had a problem with a grader or other problems.

Sundling asked if individual blade men take care of that now. Taylor said they pretty much do.

Road Crewman Winn Treible said his opinion is the second guy would be a part-time job at best because road crewmen know what is going on with their roads as far as road conditions and replacing a bridge or culvert. Treible said he sees the second position in question as secretarial who would phone Pacific to order a needed culvert. He said that way the supervisor position would be making the calls into a secretary and keeping sign inventory and everyone else in the road department running straight. Treible said as far as a road foreman goes the county does not need one.

Road Crewman Mark Smith said he foresees a potential major problem with who is going to be in charge if one individual is ordering materials and another is manning the job. He said there will be a huge amount of friction between the two men and there may be budgetary processes if disagreements come about with two people working on the same bottom line. He said he thinks there should only be one person doing a job, because the crew only averages three or four major projects a year with the rest being general maintenance. He said road operators consider a culvert general maintenance.

Malone said counties are mandated by federal law to have a plan to look at all signs within their jurisdiction to ensure retro-reflectivity is correct and there are no excessive signs. He said the county is faced with a mandate from federal law to come up with a plan by a specified year and come up to code with correct OEM markings, because MACo said counties need to reduce liability of county roads. Malone said the county is faced with that and it will take a body to do it.

Smith said he is privy to and understands that issue completely, but he said it appears it looks like a discussion to put someone in a position of power for something that is menial. He said supervisory roles and ordering things is a significant responsibility, the road department budget is tight already, and he does not want to see mistakes. He said the road department needs operating capital and he sees problems if a lead is put in charge of a project and someone else is in charge of ordering equipment.

Smith said Local 2 Union told him the county is stepping on a line with this proposal based on the unit determination that has been signed on, which excludes supervisors, so however this is done that wording must be removed or the road crew will have to start its union negotiations back at square one. He said the job description handed out by Ouellette said "operates equipment," which puts this position into an operator status and brings it into this bargaining unit. Smith said based on his understanding, if an employee gets behind a piece of equipment they become an operator and not a supervisor. He said a supervisor, unless they are in the bargaining unit, cannot get into a piece of equipment because effectively they are taking away somebody's job. He said the same may go for hiring someone to inventory signs in a road crewman's work territory.

Referencing a culvert installation project, Malone asked who makes the call of how big the culvert is to be and what the elevation and slope will be. Smith said the way it stands

right now the lead guy is the person who has the most experience with the particular task or job at that time and is not based on geographic location. Treible said at this point everyone puts their head together, but there always seems to be a lead guy and that individual's opinion and idea is followed.

Hillman said as road super in the past, he usually decided who was going where and whoever had the most experience ran the excavator and decided how much grade was needed, and if that individual didn't like something he would call Hillman and usually the whole group would talk about it cooperatively. Hillman said regarding road sign inventories, he was doing that when employed and about 90 percent of the county's roads are not up to code as far as signs go.

There was discussion about hypothetical issues if a job was done incorrectly and who would be responsible under the union contract.

Smith said he perceives in the union agreement there will be four job descriptions for the road department, one of which could be a lead operating engineer.

Malone said he is hearing from the road crew and public the road foreman position proposal will not work and that it is not a good expenditure of taxpayer money. Smith said he is 90 percent certain it would fail and create bigger problems and require more meetings to solve the problems out there now. He said he has had discussion with road crew members and received input from them, and he does not see it working.

Taylor said his thought is if the department had a working foreman type who is busy doing his job, the department may need someone else to do the footwork and someone to evaluate signs and roads. Smith said the crew already has an operating engineer. He said he does not see any easy answer and he does not see a foreman position as a viable option in his opinion. Hillman said everything Taylor was talking about was always done by the road supervisor and he does not see the function of a foreman position because everything brought up by Taylor was always done by the road supervisor.

Durgan said the Commission and road crew once discussed a dispatch position and asked if that would be something a dispatcher can handle. Treible said a secretary or dispatcher would be a full-time job. Taylor said there are a lot of duties the county is trying to combine into one job. Smith said if a dispatcher becomes reality that person could document crewmen's whereabouts into a working log book

Smith asked who will appear Monday mornings for county road update meetings. He said formerly there was a gigantic communication gap between the road supervisor position and the road laborer position. He said at times they would get information they needed and other times they would not. He said his thought is the lead operating engineer would be the Monday morning liaison who goes back to shop and tells the crew what the week project is per the Commission. Smith said the road crew has started to establish a new open line of communication with the new Commission which did not

exist in his previous 16 months, and he does not want to jeopardize that with too many hands in the pot.

Malone asked what duties are not being covered since December 12 when the Commission became the supervisory body of the road department. Smith said *carte blanche*, the problem is road crewmen being able to decide what hours and days they will work, which has caused some semi-crises due to the application of work week time via sick leave, vacation time, and holiday time. He said operators that get 40 hours in by Wednesday leave the rest of the crew to pick up work for the rest of the week. He said crewmen have gotten into disagreements and two men jump in a truck and leave and no one knows where they go. He said road crewmen are still doing their jobs, but they are just doing it whenever they choose. He said thus the duties of a foreman would be to enforce a starting and work day time. Smith said the duties of scheduling are lax right now. Smith said there needs to be a position to establish accountability of crewmen.

Smith said what the crew is running into is an enormous safety problem when an individual chooses on his own accord to go into an area and if something happens to them and they have no one to contact there is a major lawsuit liability issue going down. He said there needs to be someone there establishing times of work.

Malone asked if a potential foreman could verify when a crewman works. Smith said a dispatcher or lead operator could verify where and when a crewman works.

Treible said the road department needs one boss and man in charge of the road department who is capable of coming into the field and directing the crew on projects and who will take the responsibility of those projects. Treible said if the Commission sees it that way, the crew does need someone chasing paper and ordering things.

Hillman said it looks to him to be a duplication of duties with a supervisor and foreman position. He said it looks to him the road department needs either one or the other. He said duties in question were always handled by the supervisor before and he does not see why the department needs an in-between man.

Citizen Jim Taylor said he is a taxpayer of Park County. Taylor said he thinks the department needs a foreman that is going to work because if a guy quits after 8 hours, then he can get on the maintainer and finish the job. He said the department needs a working foreman rather than someone running around in a pickup truck. Ehert said he agrees with Jim Taylor's comment. Jim Taylor said he does not think the county needs a union on the road department because they never had one before. Durgan said that was voted in by the road crew and the Commission had no hand in that situation. Taylor said if the crew works with the commissioners they don't need a union.

Sundling asked if the road crewmen have two-way radios in their vehicles. Smith said they do, and the road department and Commission are working on improving radio coverage in department vehicles.

Ouellette said she will sit down with the road department to record duties they feel they need and she can provide the Commission of what duties are. Smith said he would be happy to sit down with Ouellette and work on that.

In additional public comment, Sundling asked about the 9th Street Bridge and how the Commission plans to proceed with that issue. There was discussion on that topic.

@4:45:45 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

Marty Malone
Chairman, Park County Commission
Park County, Montana

Denise Nelson
Clerk & Recorder
Park County, Montana