

Park County Commission Meeting Minutes
Week of May 4 – 8, 2009
Park County, Montana

May 4, 2009

Review Daily Agenda and Correspondence

@8:35:08 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Bill Hurley, director of 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:

- May 5 city/county meeting agenda
- Memo re. courthouse cannon restoration estimate
- Memo from Nittany Grantworks re. 9th Street Bridge administrative work
- Memo from Teamsters Local II re. law enforcement negotiations
- Memo from Montana DEQ re. landfill - To Commissioner Taylor for review
- Memo from MACo re. RIGWA tax protest
- Memo re. health department working on pandemic swine flu
- Memo re. Robert's Rules of Order meeting in Helena
- Application for Paradise TV Board
- Planning department report re. Rakela family transfer request denial
- Memo re. HP 980 wilderness bill
- Citizen memo re. snowmobiling in Cooke City
- Citizen memo re. condition of upper portion of Jardine Road
- Memo re. East Helena landfill - To Taylor for review
- Memo re. Fiddle Creek passable after culvert work
- Memo re. Campaign for Mental Health Recovery - To Taylor for review
- Citizen memo re. status of Deep Creek Bench Road
- Governing Online Forums newsletter
- May 19 Department Head meeting agenda
- Memo re. Shooting Star and Sunset Lane abandonment status
- Memo re. annual metal mines license tax meeting
- Citizen memo re. blowables from green boxes
- Memo re. Homeland Security grant for Myer's Flat
- Memo from fair manager re. Division of Criminal Investigation at fairgrounds
- American Farmland Trust newsletter - To Commissioner Durgan for review

@9:18:26 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

May 4, 2009

Park County Road Updates

@9:25:00 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Ed Hillman, road supervisor; Bill Hurley, director of operations; Lani Hartung, finance director; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss county road issues.

Road Supervisor Ed Hillman reviewed the road crewmen's work schedule for May 4. Hillman said the road crew will start working on a Pine Creek Road culvert on May 5 and Miller Drive Castle Mountain Road bridges will follow. He said a culvert on Fleshman Creek will be extended at some point.

Hillman said a new employee, Mike Ollerman, started work today. He said there are two decent ½-ton and one ¾-ton pickup trucks for sale for less than \$8,000. Commissioner Durgan said Mechanic Dan Hackman said a Ford water truck will work in Gardiner but it needs a compressor for the break system.

Commissioner Malone said a citizen said the Emigrant Meadow Road is in poor condition. Durgan asked about the status of the Mussetter Pit reclamation project. Hillman said the crew will have to work on that this week, but a track is still off the dozer.

Finance Director Lani Hartung provided the Commission with a year-to-date actual comparison of the road department budget through March 31. Hartung said Hillman is at 100 percent of what was budgeted, and he has \$108,000 left to spend and will need a budget adjustment. Hartung said she will come up with a spreadsheet of budget figures.

@10:05:04 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

May 4, 2009

Fiscal Year 2010 Budget Workshop

@10:11:46 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, director of operations; Lani Hartung, finance director; Marilyn Hartley, accounting; Martha Miller, auditor; Barbara Woodbury, sanitarian; Denise Nelson, clerk and recorder; Matt Dettori, Livingston Enterprise; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a Fiscal Year 2010 workshop.

Auditor Martha Miller provided the Commission with a copy of her proposed FY '10 budget. Miller said the budget will be the same as last year and this year's budget will be under budget.

Sanitarian Barbara Woodbury provided the Commission with a copy of her proposed FY '10 budget. Woodbury said she added personnel payroll money for the sanitarian-in-training and put in funds for trainings, memberships and fees.

Clerk and Recorder Denise Nelson provided the Commission with a copy of her proposed FY '10 budget and elections budget. Nelson said she will retain all of the current employees in her office.

@11:59:51 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

May 4, 2009

1:30 P.M. – Inspection of Upper Cottonwood Bench Road – Onsite – Commissioners Malone and Taylor

May 4, 2009

Discussion of Park County Proposed Response to Special Area Management Plan

@3:35:11 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Philip Fletcher, planning director; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss Park County's proposed response to a Special Area Management Plan (SAMP).

Planning Director Philip Fletcher said the SAMP constitutes the river jurisdiction of the Army Corps of Engineers. He said a report is 470 pages long with a consensus among Trout Unlimited and other agencies the report is good but does not go far enough, because jurisdiction of the Corps does not extend to floodplains and floodways. Fletcher said he might respond noting it is a comprehensive report with the limitations the study could not address. He said he thinks that would be consistent with public, environmental group and agency comments. Fletcher said the report does not impact setbacks or rules of the county.

@4:02:56 p.m., Commissioner Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

May 4, 2009

Metal Mines License Tax 2009 Annual Allocation

@4:04:41 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were John Beaudry, Stillwater Mining Company; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss a metal mines license tax allocation for 2009.

John Beaudry of the Stillwater Mining Company said Sweetgrass, Park and Stillwater counties receive a share of the allocation from the metal mines license tax. Beaudry said allocation is dependent on economic impact and residence location of mine employees.

Commissioner Durgan made a motion to accept the report and sign off on it. Commissioner Taylor seconded that motion. Motion passed.

The Commission signed off on the tax allocation form titled, *Purposes of the Allocation of Metal Mines License Tax Revenues Received and Allocated by the Montana Department of Revenue in Calendar Year 2009.*

Beaudry said the Stillwater Mining Company assisted displaced mine workers with trade adjustment assistance, providing relocation assistance and training through Job Service.

@4:31:38 p.m., Commissioner Malone adjourned the meeting.

May 5, 2009

8:00 A.M. – Full Scale Hospital Exercise – Community Room

May 5, 2009

Review Daily Agenda and Correspondence

@8:40:15 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Bill Hurley, operations; and Commission Minutes Clerk John Mueller. No public comment was made.

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

Correspondence included:

- Wind power newsletter – To Commissioner Durgan for review
- Advertisement for Hometown Productions distribution map
- Deficiency notice for Arthun Pit - To road supervisor for review
- Memo from Forest Service re. Livingston Peak Road relocation

- "Thank you" from Joe Brooks Chapter of Trout Unlimited re. Yellowstone River Clean up
- Memo from planning director re. creation and use of special districts for Wineglass and O'Rea Creek

@8:48:34 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting was adjourned.

May 5, 2009

9:00 A.M. – Personnel Meeting – Commissioners Chambers – Canceled

May 5, 2009

Conference Call Discussion Regarding Geothermal Options in Park County

@9:38:14 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Bill Hurley, operations; David Wilder, public citizen (via telephone); and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss geothermal options in Park County.

David Wilder said the Montana legislature passed amendments to a mineral act determining geothermal is not a mineral and no one has geothermal rights except the state. He said the amendment also mandated a 10-percent royalty, which makes geothermal untenable in Montana for anyone other than large corporations. Wilder said he thinks that legislation can be circumvented if the county entered into an agreement with the state on revenue sharing from the geothermal royalties in the county and the county took a percentage of those royalties and applied them to the debt it might have to take part in for the power generation. Wilder said he is looking for the county to partner with him in this endeavor, and asked if the Commission was interested.

Commissioner Malone asked Wilder to submit the contents of the conversation in a letter to the Commission for contemplation and to contact the state on the matter. Wilder said he will submit the letter to Director of Operations Bill Hurley.

@9:51:29 a.m., Commissioner Malone adjourned the meeting.

May 5, 2009

Fiscal Year 2010 Budget Workshop

@10:12:40 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Bill Hurley, operations; Lani Hartung, finance; Marilyn Hartley, finance; Martha Miller, auditor; Clay Williams, weed/junk vehicle; Alan Jenkins, coroner; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a Fiscal Year 2010 budget workshop.

Clay Williams provided the Commission with a copy of his proposed FY '10 weed, junk vehicle, and mosquito spraying budgets for Commission review.

Alan Jenkins, coroner, provided the Commission with a copy of his proposed FY '10 budget. Jenkins said demand for indigent proper burials has increased and he thinks the county will get more requests for those services.

@11:30:33 a.m., Commissioner Malone adjourned the meeting.

May 5, 2009

Discussion Concerning Meredith Ranch Road Easements

@1:34:01 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Mike Inman, planning; Philip Fletcher, planning; Brett Linneweber, county attorney; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss Meredith Ranch Road easements.

Senior Planner Mike Inman said confusion has resulted from email correspondence regarding road use and easements on Meredith Ranch Road. Inman said the county needs to clarify what is going on with the situation and what can be done in the future to assist the Madsen family in possible future Meredith Ranch Road development. Inman said the county needs to determine what can be done to resolve the issue of public use of private roads to allow them and other people to develop in the future. Inman said he can see the same situation reoccurring in areas similar to Meredith Ranch Road, and perhaps the county needs to look at taking over roads in areas where development is desirable or imminent.

County Attorney Linneweber said he suggests the Commission submit a letter to his office requesting research of any ideas the Commission may have on the issue. Commissioner Malone asked the planning department to submit a memo to the Commission requesting action on the issue, and the Commission will forward that request to the county attorney's office.

@1:56:42 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

May 5, 2009

City/County Meeting

@4:03:36 p.m., Commissioner Taylor called a meeting to order in the Community Room of the City/County Complex. County Commissioners Durgan, Malone and Taylor and

City Commissioners Rick Van Aken, Steve Caldwell, and Juliann Jones were present. Also present were Ed Meece, city manager; Bill Hurley, operations; Marc Richards, GIS/IT; Barbara Woodbury, sanitarian; Lori Benner, Nittany Grantworks; Mike Cox, Oasis Environmental; Tom Coleman, Oasis Environmental; and Commission Minutes Clerk John Mueller.

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

1. City Transfer of Funds for Angel Line Update: City Manager Ed Meece said Marilyn Hartley, county accounting; Miral Gamradt, city finance director; and Jesse Hogg, chief accountant; reconciled the Angel Line finances. He said the city may turn over \$20,000 of Angel Line reserves to the county, and no other transfers will take place. Meece said the review of funds is satisfactory provided it satisfies the Angel Line Board.

2. Recycling Efforts Update: Taylor said Full Circle Recycling will draw up a comprehensive proposal for recycling services in outlying areas of the county. Taylor said the county will purchase recycling boxes for remote sites of Gardiner, Wilsall, Chico, Arrowhead School, and Clyde Park.

Meece said the city has taken glass from private recyclers from Bozeman and Helena. He said glass recycling is free for city and county residents, but the city commission implemented a \$29 glass tipping fee for outside individuals and a \$15 fee if an individual wants to buy the product back.

3. Legislative Concerns: Taylor said House Bills 130-132 (mental health) passed into law without the governor's signature. Meece said the county commissioners may want to look into HB 150, a Montana Recreation Act, which would create more shielding from liability for public recreation fields.

4. Update on Advertising for Legislative Updates: No comment.

5. City/County Complex Telephone System Update: County GIS/IT Director Marc Richards said his research for a new phone system is complete. He said the county will go with an upgradable PBX system to be located in the building and maintained by the county IT department. Richards said there are 25 current phone lines in the building, T-1 lines will be rented from Qwest, and additional phone numbers and blocks will be bought. He said the approximate cost for the system will be \$100,000 and a rough bid and RFP will be put out. Richards said the county will have an option to lease the system for purchase, and there is a proposal to charge a \$5 dollar/month fee for anyone with a phone number on the service. Richards said the county IT department would support the IT management of the phone system, and both the city and county should see a significant drop from their current phone bills for anything on the new phone system. He said 911 Dispatch and elevator phones would not be part of the new phone system.

6. Cooperative IT program for the City and County Update: Richards said he put together a proposal based on city and county costs for IT services. He said he proposes a charge of \$75/month/computer for service and a computer replacement program for the county IT department to maintain city office phones. He said the proposal does not include specialty software. Richards said he presented Meece with a detailed proposal for the service, and Meece said he will talk with City Finance Director Gamradt about the issue this week.

7. "Donut" Zoning Issues: Commissioner Malone said the county is seeking members for a board of adjustments. Malone said the county planning staff is discussing going back to a city/county advisory group for the donut and whether those members have to live in the donut to be on the board. Meece said it would make sense to have a member of the county and city planning boards sit on that board.

8. Update of Fleshman Creek Flood Mitigation and Restoration Project: Lori Benner of Nittany Grantworks provided the commissions with a Fleshman Creek Flood Mitigation and Restoration Project Proposed Funding Package and a project area map. Benner said the project will span from the Sacajawea lagoon inlet to the Yellowstone River confluence and have a total budget of \$3,040,000. Benner said the NEPA scoping process will begin on June 9 or 11, and that may take a year to complete.

Mike Cox of Oasis Environmental said replacement of existing hydraulic structures, flood mitigation and habitat restoration is most possible on the selected project reach, and supporting Yellowstone Cutthroat trout in Fleshman Creek as a spawning channel is a big part of the habitat restoration component. He said the project should relieve maybe 90 percent of the maintenance costs the county experiences with culvert backups on the creek.

There was discussion about sizing a proposed lift station and future fairgrounds sewer piping at the time the Fleshman Creek project is designed.

Additional Public Comment: City Commissioner Steve Caldwell the city has not had access to the Community Room sound system the last two city commission meetings. Taylor said the county commissioners will check on that issue.

Taylor said Benner will research HVAC grant money and a shovel-ready project to culvert the Livingston ditch behind the museum.

The next City/County meeting is scheduled for June 2 @ 4 p.m. in the Community Room.

@4:51:27 p.m., the meeting adjourned.

May 6, 2009

Review Daily Agenda and Correspondence

@8:34:55 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Bill Hurley, director of 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 re. grader bids due May 11 @ 5 p.m.
- Memo re. bridging the information gap - To justice court for review
- Wind power newsletter - To Commission Durgan for review
- Memo from state of MT re. mental health - To Taylor for review
- Memo from state of MT re. webinar - To HR for review
- Memo re. coal-generated electricity - To Durgan for review
- Memo re. state of MT public notice and public meeting about community housing needs
- Citizen memo re. road to green boxes - A letter will be sent to the citizen notifying him green boxes may be moved
- Memo from BLM re. Holter and Hauser Lakes sites to open May 8
- Memo from planning director re. cancelation of special planning board meeting
- Politics Magazine newsletter
- Memo re. Montana Broker Properties business after hours on May 14
- April 16 Solid Waste Board meeting minutes
- Memo from New Dawn Technology re. global exchange
- Memo re. May 13 roundtable in Bozeman on rural development - To planning department for review

Director of Operations Bill Hurley said he put Joe Skaggs in touch with HKM Engineering about landfill post-closure expenses. Hurley said he recommends the county renew the contract of John Wayhoff for maintaining the Gardiner Sewer District, and that contract can be terminated with a 30-day notice.

@8:54:20 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting was adjourned.

May 6, 2009

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

May 6, 2009

Fiscal Year 2010 Budget Workshop

@10:10:15 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Bill Hurley, director of operations; Lani Hartung, finance; Marilyn Hartley, finance; Martha Miller, auditor; Brian Sparks, museum; Lois Hatfield, landfill; Philip Fletcher, planning; Mike Inman, planning; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a Fiscal Year 2010 budget workshop.

Landfill Manager Lois Hatfield provided the Commission with her proposed FY '10 budget.

Planning Director Philip Fletcher reviewed his proposed Fiscal Year 2010 budget with the Commission. Fletcher said the budget is a \$22,000 reduction compared to the last fiscal year's budget. Fletcher also presented the Commission with a proposed Parks and Recreation Board budget for FY '10, which currently contains \$78,000.

@11:57:25 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting was adjourned.

May 6, 2009

11:00 A.M. – Safety Edge Web Conference – Commissioners Chambers

May 6, 2009

Rakela Family Transfer Appeal

@2:05:14 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Philip Fletcher, planning; Mike Inman, planning; Shannan Piccolo, deputy county attorney; Kathleen Rakela, public citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to hear a Rakela family transfer appeal.

Kathleen Rakela, citizen, said this meeting is an appeal for a family conveyance for her son. Referring to correspondence sent to the Commission by Kathleen Rakela, Commissioner Malone said Rakela indicates in the third paragraph in June 2008 Rakela intended on selling the property after it was conveyed to her husband. Rakela said it was going to be sold after conveyance, but she now is going to convey the parcel to her son and it will not be sold.

Senior Planner Mike Inman provided a background and history of the previous family transfer exemption application of Rakela to her husband Rick Pittendorfer of 2.7 acres

from parcel #53 of Certificate of Survey 6-15A in Glastonbury, which occurred on July 14, 2008. Inman said the planning department denied the exemption citing Section VI (b) or V (b) of the 2006 Park County Subdivision Regulations, specifically the nature of the claimant's business. Inman said Rakela at that time had two subsequent minor subdivisions in the process of review in Glastonbury, Eagle's Nest and Eagle's Bluff, which he said was the reason for the original denial. Inman said the two subdivisions are still under review. Inman said that denial was made based on Chapter 5, the divisions of land exempt from subdivision review. He said for the purpose and general criteria for determining whether a proposal is an attempt to evade the Montana Subdivision Platting Act, the board of commissioners and its agents shall consider all of the surrounding circumstances, which include the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction is completed, and any pattern of exempt transactions that will result in the equivalent of subdivision without local government review. Inman said Rakela appealed that denial to the Park County Commission on October 20, 2008; and the Commission asked Rakela on multiple occasions her purpose in transferring the parcel, to which Rakela replied on more than on occasion it was to transfer it to her husband so he could sell it to buy another parcel adjoining their specific property. Inman said Rakela said in that meeting the subdivision regulations are too expensive and too onerous and the reason family transfers were allowed were to allow people who were not professionals a chance to get around the subdivision regulations. Inman said more specifically, Rakela asked if she could change her family transfer to her son and therefore be within her right to do that, and again the Park County Commission said there are procedures to follow under the county subdivision regulations, not a family transfer, if the intent is to subdivide property. Inman said this boils down to the purpose of what Rakela claims she is doing, and by definition that is a subdivision and not a family transfer.

Inman said Rakela's second family transfer application was denied because she basically whited out her husband's name and put her son's name on the same survey previously denied by the county commission, and she is now saying she is not attempting to subdivide her property.

Inman addressed numerous points within a synopsis of facts and history on the family transfers written by Rakela and submitted to the Commission. Inman said he did not give Rakela his blessing for a family transfer as Rakela has claimed, and he said he has documentation of his tracked time to 15-minute intervals, which was submitted with his timesheets. Inman said Rakela's family transfer requests were denied by both the Park County Commissioners and him.

Inman read into the record a verbatim transcription of selected dialogue from the October 28, 2008 Rakela family transfer meeting. Rakela said she objected to the transcription, as it is paraphrasing what she said and taken out of context. Commissioner Malone said Rakela can have a copy of the entire meeting audio.

Inman said he does not think there is any question of what is going on, and this is simply a case of somebody wanting to use a family transfer to get around subdivision

regulations. Inman said there are laws and regulations in place for specific reasons and both the subdivision regulations and the exemptions have specific purposes to them, and he think this falls under the definition of a subdivision and not a family transfer.

Malone asked Rakela her intention for the lot. Rakela said it was for her 15-year-old son to hold. She said she is willing to put something in the deed saying her son would not sell the lot for some specific amount of time. She said there was an actual meeting with Inman about a family transfer when she was originally going to transfer the lot to her son. She said she is trying to preserve the land, so when the lot next to them came available she thought she would transfer it to her husband.

Rakela said Inman stated on February 2 that the current regulations enable an individual to immediately sell a one-lot family transfer without ramifications. Inman said that statement is correct that at that time someone could turn around and sell a one-lot family transfer without ramifications, but he did not say the regulations allow for that sale. He said the regulations changed as of April 1, 2009 to try to get away from one-lot family transfers being sold off immediately, which goes against the intent of the family transfer. Inman said the family transfer is not for use as a way to get around subdivision review. Inman said Rakela's application came under the September 8, 2008 subdivision regulations, which cannot prohibit the one-lot transfer from being sold immediately.

Commissioner Taylor asked Rakela how transferring property to her 15-year-old son would enable her to protect her properties. Rakela said parcel #53 has a cliff and the portion at the bottom of the cliff is not seen from her house, so she can always keep the portion on the cliff so there will never be any houses built there. Taylor asked how creating a new parcel will preserve open space. Rakela said that is what she was trying to do when she was going to transfer to her husband for him to purchase the land next to them, but that is not what she is going to do now.

Malone asked Rakela if her son will build on his property. Rakela said hopefully he would. Rakela said her sister would be the custodian on the deed since her son is 15 years old.

Inman said the difficulty with this conveyance request is Rakela has shown up on record and identified what she is trying to do is avoid going through subdivision review. Rakela said she does not think that is true. Inman said for the record it is on the record and it is difficult when someone is denied for their reasoning for conveyance and then they come back saying that reasoning is not why they want to convey the property. He said from what has been seen through this entire process, Rakela through the family transfer, whether transferring to her husband or son, is wanting to sell that parcel to obtain other parcels around property she currently owns. Rakela said there was a loophole within the regulations allowing for that. Inman said there was never a loophole allowing for the sell of a parcel that did not go against the purpose of Chapter 5.

Inman read into the record the definition of a "subdivision" from the Park County subdivision regulations, which he said was taken directly from Montana state law. He

said Rakela falls into the definition of a subdivision based on what she has claimed on more than one occasion.

Malone asked why Rakela placed the transfer parcel along a public access road. Rakela said the road was already there and you have to have access to a property to build on it. She said covenants say access roads are not to be put in.

Inman said Rakela presented a sculpture of all parcels in the property at the last public meeting, and if she is saying the purpose of this transfer is to preserve her views, the parcel being transferred is not adjacent to the parcel that she's trying to protect her views. He said that was a different parcel she was talking about, which is why she wanted to transfer that parcel to sell it to get another parcel that actually protects her views. Inman said Rakela was very clear about that. Rakela said that is not entirely true, as it would wreck views of Emigrant Peak.

Deputy County Attorney Shannan Piccolo said Rakela was correct in saying there was no teeth to enforce someone doing a family transfer and selling the parcel, but that was for people going through the family transfer process legally in the first place. Piccolo said Rakela's previous family transfer was denied by the Commission because the Commission found the family transfer was not going to be used legally. Piccolo said therefore Rakela's argument is comparing apples to oranges and not apples to apples.

Commissioner Durgan said he still stands by what he said before, that it appears with what staff has come up with, this is an attempt to evade the subdivision criteria of Park County, and in doing so had the Commission granted the family transfer it would be aiding and abetting the evasion of the subdivision criteria and that is not what the Commission is supposed to be doing. He said the Commission is supposed to be following the regulations. Durgan said the Commission heard directly the applicant fully intended to sell the parcel upon transferring it to another family member and that is not the purpose of the family transfer, period, and he is not hearing anything different now.

Taylor said he has read through Rakela's written synopsis of facts and what the previous Commission stated and sees no evidence or information that makes him inclined to overturn what the previous Commission decided. He said changing names on the plats or adding Rakela's son's name to the family transfer application does not change intention or the proposal or purpose.

Rakela said she has told the Commission she changed the purpose of the family transfer so her son can keep the parcel. She said surveyor Warren Latvala was able to do a family transfer, and it seems like the Commission does not want her to do a family transfer either way. She said she is being denied her right to transfer a portion of her property to each member of her family. Inman said citizens are not entitled to such transfers if the reason for doing it is to avoid subdivision review. Inman said he thinks it should be pointed out very specifically to Rakela no one is denying her ability to subdivide her property and she has every right to subdivide her property and give it to her kids or subdivide it and sell it.

Malone said it states in Rakela's document of facts her intention was to sell the parcel and he does not see any fact she has changed her intention. He said it does not state in the facts it is her son's intention to keep the parcel for purposes of building. Rakela said she has changed her intention to give the parcel to her son to keep.

Inman said it says in paragraph three that Rakela changed the name for the conveyance to her husband with the thought that the lot would be sold to purchase the lot bordering her property and she would then perform a border transfer to make the adjacent lot a permanent part of her existing property. Rakela said she now wants the property to go back to her son.

Malone said the Commission depends on the planning staff to provide background and lawful information. He said he does not see anything from her facts to change his mind. Rakela said she has volunteered to put restrictions on the land. She said it seems like now she cannot go with the old or the new regulations, as she is volunteering to follow parameters of the new subdivision regulations.

Inman said he would like to point out something about the appeals process. Inman read a portion of the county subdivision appeals process into the record. He said that process does not say the landowner proposing to use the exemption may resubmit the family transfer with a different purpose and continue to do so until it satisfies the Commission. Inman said the point of this whole procedure is to give the applicant the chance to rebut presumptions and talk to the Commission, but he does not think the county wants to get into a situation where every time an application is denied applicants resubmit with different configurations until they eventually submit something the Commission is happy with, and they have gotten around the subdivision review.

Piccolo said Rakela has the right to appeal the matter to District Court. Rakela said there is already a complaint in the district court. Rakela said there is a total change of facts from the original application because she is giving it to her son to hold and the parcel is not going to be sold.

Rakela said, for the record, Mike Inman has made her do things in her subdivisions that other subdividers have not had to do. She said Inman has stated she had to get a notarized version of her title report per regulations and there is nothing in the application stating that as a requirement, and he made her go to a meeting at Arrowhead School and that is the first time anyone has had to go to a school meeting. Inman said all final plat information has to be notarized, because the clerk and recorder will not file it if it is not, and every subdivider must meet with the Park County Sheriff's Office and school board to consider making a voluntary donation per Commission recommendation. Inman said records can be reviewed, Rakela saying he is singling her out is completely inaccurate, and she can look at other subdivision files and see everyone is treated the same.

Commissioner Durgan made a motion the records show the Commission has seen no mitigating or substantial evidence that the decision the previous Commission made needs

to be changed, and that being said, the Commission will deny this application. Commissioner Taylor seconded that motion. Motion passed unanimously.

@2:56:27 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

May 6, 2009

3:00 P.M. – Parks and Recreation Board – West Room – Meeting minutes available at www.parkcounty.org and in the Planning Department

May 7, 2009

Review Daily Agenda and Correspondence

@8:48:43 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Bill Hurley, 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 requesting \$5,000 for a RSVP program – To finance director for review
- Memo from David Wilder re. geothermal telephone conversation
- Memo from MT Board of Crime Control re. website RFQ
- Memo from Sonoran Institute re. program applications
- Memo re. May 12 meeting at Wilsall Fire Department @ 7 p.m.
- Memo from Four Corners Recycling re. county recycling program proposal
- Memo re. mental health bills becoming law without governor signature
- Memo from Center for Health Transformation re. AHIP web seminar
- Governing Magazine newsletter
- Resolution for placing accounting and finance departments under direct supervision of the county commissioners
- Juror warrants for period ending April 1 and May 1 - To file
- Memo from undersheriff re. Warren Transport stabilizing soil along roadway edges
- Memo from Livingston Community Trust - To Commissioner Malone for review
- Memo from Alan Shaw re. right-of-way on Old Cinnabar Road - A meeting will be scheduled
- Memo from undersheriff re. moving basketball hoops to create more sheriff parking
- Memo from Sweetgrass County Commissioner re. Duck Creek and Main Boulder Road mileages - To file
- Memo from secretary of state re. National County Government Week - To clerk and recorder for review

- Memo re. CASA and GAL program funding request - To county budget file

Director of Operations Bill Hurley said he has been searching for ways and means to transfer the Gardiner Sewer District to the Gardiner, Park County Water and Sewer District. Hurley said he recommends the county change attorney services from the current contracted private attorney service. Commissioner Taylor said he is having the same problem of not receiving response to an email regarding a solid waste green box injunction. Commissioner Malone said he will visit with the county attorney's office about taking on the two cases.

@9:12:50 a.m., Deputy County Attorney Shannan Piccolo entered the meeting. Hurley explained the issue of lawyer services and inaction. Piccolo said she will follow up with private attorney Susan Swimley about contacting the Gardiner, Park County Water and Sewer District's attorney on the matter.

Commissioner Durgan said the county is about \$23,000 in the hole for its obligated to pay for juvenile detention. Durgan said other counties have not used their allocation from the Montana Board of Crime Control, and those monies may be available to Park County. He said the situation will affect the law enforcement budget.

@9:19:33 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

May 7, 2009

Review of Minutes for Week of April 27, 2009

@9:20:25 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to review Commission meeting minutes for the Week of April 27, 2009.

Commissioner Durgan requested a revision to Page 6 of 16, noting the correct spelling of "feel." On Page 7 of 16; third paragraph, the first sentence should read in part, "...state law mandates for a specific amount for the sheriff and the Commission..." On Page 9 of 16; the eighth paragraph should read, "Durgan said he viewed Fridley Creek last weekend and the edge of the road is sloughing off and narrowing the road where a bottomless culvert was put in."

Commissioner Malone requested a revision to Page 7 of 16; third paragraph, the second sentence should read, "In addition, anyone serving five or more years in one position is entitled to one percent per year longevity pay, however that cannot back date prior to 2007." On Page 9 of 16; second paragraph, the first sentence should read, "Citizen Kevin Funk said public auction sales are coming up in Los Angeles and Bozeman for water trucks."

Commissioner Durgan made a motion to accept the minutes as corrected. Commissioner Taylor seconded that motion. Motion passed.

@9:28:50 a.m., Malone adjourned the meeting.

May 7, 2009

Fiscal Year 2010 Budget Workshop

@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 were Bill Hurley, operations; Lani Hartung, finance; Marilyn Hartley, finance; Kim Knutson, fair manager; Mike Adams, fair board; Kelli Parker, fair board; Bruce Martin, maintenance; Brian Sparks, museum; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a fiscal Year 2010 budget workshop.

Fair Manager Kim Knutson presented the Commission with her proposed Fiscal Year 2010 budget. She said the fair board would again like to offer free gate entrance at the Park County Fair and would like \$2,000 from the Commission to cover that lost revenue.

Maintenance Director Bruce Martin presented the Commission with his proposed Fiscal Year 2010 budget. Martin said he has worked for 10 years without a pay raise, and his proposed budget includes a wage increase. Martin provided the Commission with a priority list of maintenance projects to be completed. He said the county could hire an employee with full benefits at minimum wage for the \$26,000 currently paid to the contract cleaners. Martin said he would like to have the proposed cleaner work 3 p.m. to midnight.

@11:40:13 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

May 7, 2009

Discussion of Nittany Grantworks Contract for Fiscal Year 2009

@2:08:23 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Lori Benner, Nittany Grantworks; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss a Nittany Grantworks contract for Fiscal Year 2009.

Lori Benner of Nittany Grantworks said her company has been providing contract retainer services to the county for grant development services since 2006 at 40 hours per

month. Benner provided the Commission with a handout of ongoing grant projects Nittany Grantworks is involved in, and asked the Commission to allocate 75 more hours to her FY '09 contract not to exceed a total dollar amount of \$3,750.

Commissioner Taylor made a motion to give Nittany Grantworks 75 more hours this year so Benner can work on the jobs she has going. Commissioner Durgan seconded that motion. Motion passed.

Benner said she will present an oral presentation and proposal for her services for FY '10. She said she is interested in starting a panel of individuals in FY '10 to track stimulus monies and open grant programs.

@2:41:37 p.m., Malone adjourned the meeting.

May 7, 2009

Presentation for Long-Term Solid Waste Disposal Services

@3:04:45 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was Dave Duffy, Valley View Landfill; Richard Wright, transfer station; Shannan Piccolo, deputy county attorney; Bill Hurley, operations; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a presentation for long-term solid waste disposal services for Park County.

Dave Duffy of Valley View Landfill said his landfill has received Park County's solid waste for four years and has had no problems with the relationship and no complaints from Park County Transfer Station Manager Richard Wright.

Duffy said Valley View's main drive is to keep the trash on the rail and not on the highway. He said Valley View is prepared to provide the county with options to stay on the rail, but will provide the county with a bid option for trucking garbage to Helena in county bottles. He said rail transfer of garbage helps the environment and may qualify for government cap and trade carbon credits in the future. He said he and Envirocon would work out details to haul Park County trash on the rails, and hauling garbage via rail keeps some revenue from the solid waste process in Park County since MRL operates out of Livingston. Duffy said the current operation works for Park County and for Valley View, and Park County has the most efficient means of moving solid waste of any of the counties Valley View serves.

Duffy said Valley View does not charge for tires at this point until Park County has control over individuals illegally dumping tires in the county.

Wright said hauling garbage by rail is the cheapest way the county can go. Duffy and Wright said the county would get a return on the investment of compactors at green box sites in a year or a year and a half.

@3:45:45 p.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting was adjourned.

May 8, 2009

Review Daily Agenda and Correspondence

@8:38:41 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Bill Hurley, 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:

- Email from Aeronautic Division Administrators - To Director of Operations Hurley for review
- Email from Park Conservation District requesting a May 14; 11 a.m. meeting with Commission
- Memo from Riverside Contracting re. open pit permit
- Memo re. national brucellosis elimination zone
- Memo re. investment act AAARA grant - To Nittany Grantworks for review
- Memo re. May 14 Big Brothers Big Sisters "Little Moments" luncheon

@8:45:28 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting was adjourned.

May 8, 2009

Fiscal Year 2010 Budget Workshop

@10:04:51 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, operations; Lani Hartung, finance director; Marilyn Hartley, accounting; Martha Miller, auditor; Brian Sparks, museum; Suzanne Brown, public health nurse; Ed Barich, superintendent; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a Fiscal Year 2010 workshop.

Public Health Nurse Suzanne Brown presented the Commission with her proposed FY '10 budget, asking for an increase of 90 and 42 hours for two county school nurses to

serve the needs for county school children programs. Brown also presented an emergency preparedness fund budget.

Ed Barich, superintendent of schools, presented the Commission with his proposed FY '10 budget. Barich said his budget is pretty much the same as last year.

@11:22:39 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting was adjourned.

May 8, 2009

Fiscal Year '09 Budget Transfers

@3:33:06 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Bill Hurley, operations; Lani Hartung, finance; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to discuss Fiscal Year '09 budget transfers.

Finance Director Lani Hartung the status of county department budgets reviewed with the Commission. Hartung said the Commission may consider keeping money in the general fund and transferring funds from PILT to departments and accounts in need.

Commissioners Malone and Taylor signed approved transfer of funds to various budgets.

@4:27:18 p.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting was adjourned.

Marty Malone
Chairman, Park County Commission
Park County, Montana

Denise Nelson
Clerk & Recorder
Park County, Montana