

Park County Commission Meeting Minutes  
Week of September 28 – October 2, 2009  
Park County, Montana

September 28, 2009

Review Daily Agenda and Correspondence

@8:31:13 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Raea Morris, executive assistant; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- Newsletter from Center for Health Transformation re. growth vision for reform
- Citizen memo re. LDBOA geo-tourism
- PCRFD#1 daily status report
- Memo from solid waste board member re. green box surveillance cameras
- Memo re. government access to ORION database information
- October 1 and 19 Upper Yellowstone Watershed Basin Coalition meetings
- Memo re. September 28 law and justice meeting
- Citizen memo re. electric for green box sites
- Memo from MT Association of Oil, Gas and Coal Counties re. revising energy policy - To Commissioner Durgan for review
- Memo re. HOME grant applications
- Memo re. Smith/Jesson Road abandonment petition
- Memo re. Miller Lane Bridge permit
- Memo re. Buckeye Placer Subdivision final plat
- Memo from Yellowstone Business.org re. Yellowstone Business Partnership
- Citizen memo re. Jardine Road approach permit
- Gallatin County Commission press release
- Senior Center project request for bids
- Montana DEQ dust violation for Jardine Road
- Memo from planning department re. culvert replacements on U.S. 89
- Three citizen memos re. refuse assessments - To Solid Waste Board for review
- Memos from YGM board director - To Taylor for review
- Memo from city manager re. disposal of county garbage at city transfer station
- Memo from planning director to road supervisor re. required floodplain permit
- Refuse Board application from citizen
- Memo from MT DEQ re. Arthun Pit
- Memo from city schools superintendent re. community center study
- Memo from surveyor re. Hill Road - To Commissioner Malone for review

- Memo re. State Administration of Veteran's Affairs Committee - To Durgan for review
- Memo re. November 3-4 MT Small Business Conference
- Memo re. landfill monitoring
- Icing workshop - To road department for review
- Library Board meeting agenda
- Memo from GIS/IT manager re. telephone system
- Memo from county treasurer re. citizen concern
- Memo from federal energy regulatory commission re. Bear Creek hydroelectric project
- Memo from MT DEQ re. Billings refinery
- Memo from fair manager re. fair board application
- Memo re. Cedar Creek culvert project
- Memo re. 2009 sanitarian fall conference
- Memo re. Infrastructure Planning and Financing Workshop - To planning department for review
- Memo re. potential stream restoration project in Silvergate
- Memo re. courthouse emergency generator automatic monitoring
- Memo re. road legal advertisement
- The Commission reviewed confidential matters

@9:03:51 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

#### September 28, 2009

#### Discussion of Park Conservation District Mill Levy Increase

@9:05:48 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Lani Hartung, finance director; Shannan Piccolo, civil deputy county attorney; Jacquie Nelson, Jessica Cox and Gayleen Malone of the Park Conservation District; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss a Park Conservation District mill levy increase.

Jacquie Nelson of the Park Conservation District said the district received 0.88 mills last year and would receive 0.9 mills this year with an increase in property taxes. Nelson said the district would like to have the full possible mill value of 1.5 mills, which would equate to \$33,800 dollars. Nelson said the district would use the money to conduct outreach to youth and new landowners, which was usually completed through watershed grants, pay salaries, and complete 310 flood permit administration. Nelson said the district has never had funds to educate citizens about natural resources. She said the increase would not affect the county budget.

There was discussion about charging applicants for 310 permits. Gayleen Malone, Park Conservation District supervisor, said the district has never charged for those permits, and violations take a lot of time to administer. She said the district should have an increase in funding as its mills have not been adjusted for years.

Commissioner Malone made a motion to raise the mills to 1.5 mills. Commissioner Durgan seconded that motion. Motion passed.

@9:24:17 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

September 28, 2009

Discussion of Montana Clean Contract

@10:06:11 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Kirk McClain, Montana Clean; Raea Morris, executive assistant; Ed Meece, city manager; Pam Payovich, city of Livingston; Shannan Piccolo, civil deputy county attorney; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss a Montana Clean contract.

Kirk McClain of Montana Clean said he made some changes to the contract his company has with Park County for janitorial services. McClain reviewed those changes with meeting attendees.

Addressing work checklist and scope of work, McClain said he does not think the checklist should go beyond the scope of work listed in the contract and additional work can be emailed to him and billed at his hourly rate. He said his crew has started to address complaints Montana Clean has received about courthouse cleaning issues.

Addressing materials, McClain said it is common practice the clients provide treated mops and dust mop heads, and he provides all cleaning chemicals, wax, and stripper. McClain said he thinks it does not make sense to disinfect phones. There was discussion about individual offices taking care of that need, unless a note is put on the phone each night. There was discussion about Montana Clean disinfecting door handles and light switches.

McClain said he would like a three-year contract with a negotiable out after three years. He said that gives him peace of mind and ensures his employees they have a job in the long term. City Manager Ed Meece said he thinks three years is a long time to go on a professional services contract. He said he does not have a problem with the city entering into the contract or an interlocal agreement with the county for Montana Clean services. There was discussion about a 30-day termination clause in the contract with "reasonable cause." Meece said he thinks "non-performance" and "reasonable cause" contract

terminology needs to be defined and a defined mediation process for non performance established.

Addressing security of city/county complex, McClain said he does not feel it is his responsibility to lock the complex down, and the building should be secured when his crew comes in. He said the building always has access through the courtroom afterhours. There was discussion about locking all main office suite doors off hallways. McClain said he will work with his cleaning supervisor on the issue of leaving multiple office doors open, but his crew will need a second set of keys.

Addressing complaints, McClain said he changed wording to reflect the client notify the contractor immediately by email of non performance and the contractor will remedy the problem within 24 hours of receiving the email.

Addressing health and safety concerns and N1H1 influenza, McClain said he recommends going to touch-free toilets, sinks, and soap and paper towel dispensers, or using center-pull paper towel or free falling paper towel dispensers.

Civil Deputy County Attorney Shannan Piccolo said she will work on agreed-upon contract language and present a draft for consideration.

@11:03:43 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

#### September 28, 2009

10:30 A.M. – Selection and Appointing of Fair Board Applicants – Commissioners Chambers – Canceled

#### September 28, 2009

#### Consider a Resolution for Designation of an American Recovery Reinvestment Act Bond

@11:04:39 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Ed Meece, city manager; Miral Gamradt; city finance director; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to consider signing a resolution for designation of an American Recovery Reinvestment Act bond.

Commissioner Malone said Park County is authorized to have a bond for X-amount of money through the American Recovery Reinvestment Act per the recent MACo meeting. City Manager Ed Meece said the city of Livingston is about to close on a bond for the city's wastewater treatment project, and it has not identified any positive uses for recovery bonds beneficial to the city beyond what it is already doing. Miral Gamradt,

city finance director, said the city was looking for free money for forgiveness of grants, which is not provided with the reinvestment bonds.

Commissioner Taylor made a motion to sign Resolution #1067 , “Resolution to Designate Park County a Recovery Zone for the Purpose of the American Recovery and Reinvestment Act of 2009,” to send it to the Department of Administration. Commissioner Durgan seconded that motion. Motion passed.

@11:20:40 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

#### September 28, 2009

##### Signing of Resolution Approving Annexation of Adjacent Property into PCRFD#1

@11:42:10 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to sign a resolution approving annexation of adjacent property into Park County Rural Fire District #1.

Commissioner Durgan made a motion to sign Resolution #1068, which approves the annexation of adjacent property into Rural Fire District #1, noting that property is on the Swingley Route. Commissioner Taylor seconded that motion. Motion passed.

@11:43:53 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

#### September 28, 2009

1:00 P.M. – Signing of Contract Between Park County and Montana Clean – Commissioners Chambers – Canceled

#### September 28, 2009

##### Discussion of Septic System for Roundup Association Office at Park County Fairgrounds

@1:30:26 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Barbara Woodbury, sanitarian; Kim Knutson, fair manager; Dan Nelson and Bruce Becker of Livingston Roundup Association; Mike Adams, fair board; Scott Nelson, CTA Engineering; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss a Roundup Association Office septic system at the fairgrounds.

Bruce Becker of the Livingston Roundup Association said a new ticket booth building was constructed at the fairgrounds without a septic system. He said the association used a handicap portable restroom for this year's rodeo, but it would like to put in a septic system for the building and has submitted an application.

Scott Nelson of CTA Engineering said the fairgrounds sit within a floodplain/high groundwater area, which prohibits construction of a new septic system for the ticket booth. Nelson said there is talk of a long-term fix for the entire fairgrounds with a centralized pump station and sewage pumped into the city sewer system.

Sanitarian Barbara Woodbury said she understood the agreement between the county, engineers and the Roundup Association was to continue to limp along until the Fleshman Creek Project could include a lift station to sewer the fairgrounds, and not putting in a new septic system. Woodbury said it is illegal to put new septic systems in the floodplain. She said the ultimate solution is on the horizon within five years and she recommends continuing in the fashion of limping along with portable toilets. She said perhaps the association could buy a portable toilet for a couple of years until a best, ultimate solution can be determined.

Becker said he does not see any hard facts as to when a proposed Fleshman Creek Project will be completed. The Commission said the Fleshman Creek Restoration Project is undergoing public comment and review at this time, but the project will go forward.

Dan Nelson, Roundup Association member, asked why the association cannot put in a septic system for the building if a system is legal and the association is willing to put money toward it. Woodbury said it is illegal to have a septic system in the floodplain, and her maps show the entire fairgrounds area lies in the floodplain. She said she knows of two problem systems at the fairgrounds already.

Woodbury said she can provide a denial letter for the septic system application, and she will obtain in writing whether the designed Fleshman Creek pump station will have the capacity to handle fairgrounds sewage. She said she will talk to the city director of public works about the feasibility of hooking a fairground's sewage system into the city's existing system and to the city building inspector about working with the association on an extended portable toilet lease.

There was discussion about only allowing the Roundup Association to use the new ticket building until the restroom sewage system is solved.

@2:05:29 p.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

September 28, 2009

Discussion of Fiscal Year 2010 Budget

@2:15:14 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Lani Hartung, finance director; Philip Fletcher, planning; Martha Miller, auditor; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss the county's Fiscal Year 2010 budget.

Finance Director Lani Hartung presented the Commission with a resolution for a September 29 meeting that would approve the Fiscal Year 2010 Park County budget. There was discussion about adjusting the law enforcement budgeted reserve amount, subtracting 2.0 mills from the Sheriff's Office budgeted reserves. Malone Commissioner Durgan said he is not comfortable with making that change without first informing the Sheriff's Office. Commissioner Malone said he will talk to Sheriff Lutes about that proposal.

@3:01:56 p.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

September 29, 2009

Review of Daily Agenda and Correspondence

@8:39:20 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, executive assistant; Shannan Piccolo, civil deputy county attorney; Ed Hillman, road supervisor; Matt Cocharo, citizen; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- Citizen memo re. trailer access to 9<sup>th</sup> Street Island
- Memo from solid waste board chairman
- Memo re. county Emergency Operating Plan updating funds
- LTAP fall newsletter
- October 1-2 Education Committee meeting
- Memo re. MCA compact disk subscription
- MACo conference invoice
- Memo from MDT re. paving projects
- Memo from Dept of Revenue re. statewide school levies
- Memo re. Livingston Community Trust
- Memo re. rewiring of Commissioners phone project

Commissioner Taylor said septic systems on 9<sup>th</sup> Street Island are full and need to be pumped. There was discussion about how to deal with that issue and 9<sup>th</sup> Street Bailey Bridge weight limits. Commissioner Taylor said he will contact a local septic hauler and island resident about the issue.

@8:52:34 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

September 29, 2009  
Park County Road Updates

@9:00:54 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, executive assistant; Shannan Piccolo, civil deputy county attorney; Ed Hillman, road supervisor; Matt Cocharo, citizen; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss county road issues.

Road Supervisor Ed Hillman said the road crew patched and graded Convict Grade Road to Springdale and completed the Miller Drive Bridge on September 29. Hillman said he needs to spend two hours completing a reclamation project in Gardiner. Hillman said a culvert needs to go in on Robinson Bench and Eight Mile and a new bridge deck put on Cinnabar Road. There was discussion about patching needs on various county roads.

Commissioner Malone said he responded to a Montana DEQ letter noting a citizen complaint about dust on Jardine Hill Road.

Citizen Matt Cocharo asked about a speed limit sign on Merrill Lane and said residents there agree 25 MPH is fine as long as it is enforced. He said without posted signs, motorists can drive 35 MPH without repercussions. Commissioner Malone said legal advice from Civil Deputy County Attorney Shannan Piccolo on the issue states the 15 MPH ordinance was not correctly passed in 1987 because a traffic study was not conducted and no school is present, thus the speed limit remains 25 MPH. Malone advised Hillman to erect yellow advisory 15 MPH signs on Merrill Lane. Hillman said a 3M grant will pay for those signs.

Cocharo said a stop sign is missing from the corner of Canyon View and Merrill Lane, and he thinks a stop sign should be erected coming off the north end of Miller Drive to Merrill Lane.

@9:33:48 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

September 29, 2009

Weekly Human Resources Updates

@9:35:40 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Jill Ouellette, human resources; Shannan Piccolo, civil deputy county attorney; Martha Miller, auditor; Marc Richards, GIS/IT; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to update the Commission on weekly human resources department activities.

Human Resources Analyst Jill Ouellette presented the Commission with employee timecards for signatures. There was discussion about employee status change forms, videos for the lending library, a change in employee status from non-exempt to exempt, and a road and bridge personnel memo and permanent hire.

Ouellette said it is hard for her to do her job only having contact with the Commission on a weekly or bi-monthly basis, as circumstances come up needing immediate attention. She said she needs clarity on how she is supposed to communicate with the commissioners in emergency situations. There was discussion about telephoning the commissioners, and setting up personnel issues meetings. Commissioner Durgan said he thinks the three commissioners need the discretionary ability to meet with the HR person at any time on any circumstance, and he said he will continue to do that as part of his prerogative and his duty. He asked why the Commission is going this route with HR when the Commission has an open door policy with all other departments. There was discussion about Durgan approving overtime hours without the full Commission's knowledge. Malone said the Commission needs to supervise its employees as a body.

Malone said he does not want to know what person in a specific office is causing an issue. He said it is up to the department heads to work with HR and the county attorney on such matters. Malone said the door is always open to Ouellette to come in and give her information and she is welcome to do that as all department heads stop in that way.

Ouellette reported on her activities within the HR Department since the last update meeting. There was discussion about an employee PERS payback issue and the need for a standardized performance appraisal form.

@10:21:39 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

September 29, 2009

Discuss Amending Mosaic Contract for Senior Center Rehabilitation Project

@10:33:07 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Julianne

Brown, NRM RC&D; Martha Miller, auditor; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss amending a Mosaic contract for a Senior Center rehabilitation project.

Julianne Brown, Northern Rocky Mountains Resource Conservation and Development Council, said any changes to the contract in question must come before the Commission for approval. Brown said the contractors on the project need to increase the contract's hazardous materials line item by \$8,000 and reduce the historic design line item by \$8,000. Civil Deputy County Attorney Shannan Piccolo said changing the line items would not increase the overall cost of the project.

Commissioner Taylor made a motion to sign the amendment. Commissioner Malone seconded that motion. Motion passed.

@10:37:52 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

September 29, 2009

Public Hearing to Amend Subdivision Application for Buckeye Placer Minor Subdivision

@11:01:20 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Philip Fletcher, planning; Mike Inman, planning; Mike Adkins, citizen; Gerald DuBiel, citizen; William Smith, citizen; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss amending a subdivision application for Buckeye Placer Minor Subdivision.

Senior Planner Mike Inman said the developer is requesting a boundary relocation that changes access to a lot, which will require the developer to put in a new access road to an existing lot. Inman said a public hearing was scheduled, the adjoining landowners were notified and the Commission must review the amendment application. Inman said the subdivision application is ready to go once signed by the Commission and the road is approved by Road Supervisor Ed Hillman.

Inman presented the Commission with a list of his recommendations in regards to construction of the new access road, which include 1) the new access and road be built and maintained to county standards, delineated in Chapter VI of the *2009 Park County Subdivision Regulations*; 2) the new access shall not be in violation of any existing covenants or conditions already placed on the subdivision; 3) the new road shall be built and approved by the Park County Road Supervisor prior to final plat approval of the proposed amendment; and 4) the proposed amended plat shall clearly delineate the

location of the road in relation to the public access easement and the irrigation ditch and easement to the north.

Commissioner Taylor made a motion to accept the amended subdivision by Michael Adkins on the Buckeye Placer Minor Subdivision also to include the covenants enclosed and all conditions imposed. Commissioner Malone seconded that motion. Motion passed.

@11:13:49 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

#### September 29, 2009

#### Review of Minutes for Weeks of September 14 and 21, 2009

@11:37:13 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present was Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to review Commission meeting minutes for the Weeks of September 14 and 21, 2009.

Reviewing meeting minutes for the Week of September 14, 2009, Malone requested a revision to Page 15 of 20; fourth paragraph, the first sentence should read, "Linneweber said the judge mandated Park County follow Montana Code in effect at the time of the petition, so the laws from 2005 will be used as the petition was filed two days before the '07 laws came into effect on October 1, 2007."

Commissioner Taylor made a motion to accept the minutes of September 14 as corrected. Commissioner Malone seconded that motion. Motion passed.

Reviewing meeting minutes for the Week of September 21, 2009, Commissioner Taylor requested a revision to Page 4 of 4, noting which commissioner attended outreach meetings in Wilsall, Clyde Park, Gardiner and Cooke City.

Commissioner Taylor made a motion to accept the minutes for the Week of September 21. Commissioner Malone seconded that motion. Motion passed.

@11:43:01 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

#### September 29, 2009

#### Public Hearing and Signing of Resolution to Pass Fiscal Year 2010 Budget

@1:01:01 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Lani Hartung, finance; Martha Miller, auditor; Philip Fletcher, planning; Allan Lutes,

sheriff; Scott Hamilton, undersheriff; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled as a public hearing and signing of a resolution to pass the county's Fiscal Year 2010 budget.

Finance Director Lani Hartung presented the Commission with a resolution to approve the county's Fiscal Year 2010 budget, which decreases the county-wide mills by 1.697 mills from last year's budget.

Commissioner Malone said the Commission proposed to reduce 1.697 mills from the Sheriff's Office cash reserves (3.1 percent) from \$609,757 to \$548,182 after a discussion with Malone, Sheriff Allan Lutes, Undersheriff Hamilton, Commissioner Taylor and Finance Director Lani Hartung that morning. Sheriff Lutes said he understands the cash reserve reduction from the Sheriff's Office budget will be a one-time deal to help the county out, as he understands it is for the common good. Lutes said the Sheriff's Office budget reserves have been intentionally built to accommodate for emergencies and unexpected expenses.

Commissioner Taylor made a motion to accept the budget with the cut in mills to the Sheriff budget as reflected in Resolution #1069 with a total mill levy of 77.626. Commissioner Durgan seconded that motion. Motion passed.

@1:07:53 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

#### September 29, 2009

#### Discussion of Solid Waste and Issue of Illegal Dumping

@3:01:14 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Bill Moser, solid waste board; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss solid waste and illegal dumping issues with a solid waste board member.

Park County Solid Waste Board Member Bill Moser said he is adamantly against having 10-12 new county employees to monitor green box sites, at a total solid waste refuse system cost of \$346,000 per year. Moser said at least three votes on the solid waste board at the present time agree a lot of the problem with the public regarding solid waste issues is generated by contact with county employees representing the trash collection. Moser said he thinks the county should consider erecting surveillance cameras at green box sites to monitor the green box abuse problem.

Moser presented the Commission with the type of cameras and voltage specifics he said would be necessary to implement a trial surveillance program. He said permanent cameras could cost \$3,500/site minimum for the first year to buy cameras and then a \$20/month for Park Electric and \$100 to \$175 per month bill to a service provider. Moser said he thinks the recently cleaned Harvat's Flat dump site would serve as a good sample camera site, and he is present to ask the Commission for a couple hundred dollars for an off-the-shelf Heartland America camera for a fixed site. Moser said the cameras could be mounted on green box site roll offs and could tell the Commission inside of two months whether roll offs are being abused, who is abusing them, and give enough results to either approve cameras or scrap the idea. Moser said the county would have to protect any permanent camera with a bulletproof structure, and he is willing to donate steel, under-counter hot water heaters erected at 25 feet at each site for that purpose.

Commissioner Taylor asked what would keep citizens from damaging cameras at sites. He said he likes the idea of cameras at green box sites, but he does not like the idea of 50-foot towers to protect cameras at green box sites.

Commissioner Malone asked for the definition of "illegal dumping." He said he thinks green box site workers would be more helpful than a "Gestapo" as described by Moser. He said he thinks the refuse board needs to tighten up what illegal dumping is and look at the dumping rules as posted on the website and green box sites, and the county needs to help people out before reprimanding them. Malone said green box sites in the county with green box attendants do not have illegal dumping problems.

Commissioner Durgan said he thinks Cooke City's refuse system is a model concept, and the Commission has tried many things with green box sites.

There was discussion about improvement of signage at green box sites.

Moser said he agrees the rules need reviewed, but the county needs to start doing something. Durgan said he agrees the Commission has to do something. Taylor asked Moser to research the Sacajawea Statue camera and how that system works.

Taylor said the Commission is going to work with the Concerned Citizens attorney about gaining options for green box site management. He said he would like to know the 17 conditions the county is to meet per a lawsuit injunction.

The Commission said at this point it would like a more refined proposal with how a surveillance camera system would work and tightened illegal dumping language.

@3:59:00 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

September 30, 2009

Review of Daily Agenda and Correspondence

@8:34:04 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, executive assistant; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- PCRFD#1 daily status report
- Memo from landfill re. Harvat's Flat cleanup tonnage
- Memo from planning department re. Venus Heights II staff report
- Memo re. Montana Transportation Commission federal projects
- Memo re. mountain states pipeline transmission
- Memo re. Montana LTAP audit control classes - To auditor for review

@8:51:42 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

September 30, 2009

Public Hearing for Petition to Abandon Shooting Star Trail

@9:31:40 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Philip Fletcher, planning; Bret Allen, Shooting Star Ranch; Hank Rate, surveyor; Stacy Bragg, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled as a public hearing for petition to abandon Shooting Star Trail.

Petition Applicant Bret Allen of Shooting Star Ranch said the ranch is trying to get the last portion of Shooting Star Trail abandoned. He said the ranch has maintained that part of the road for the last 10 years, and the ranch will provide a turn-around at the end of the road if abandonment is awarded. Civil Deputy County Attorney Shannan Piccolo said the road does not access any public lands, so there is no concern with that.

Surveyor Hank Rate said his understanding from Park County Historian Jerry Brekke's report is the county road extends another half mile to the west beyond the iron gate in place. He said the mile from the Stermitz place is not being driven but it is a county road. Rate said he is not in favor of abandoning a chunk of road in the old historic pattern, and his biggest concern is abandoning a portion of an original road in Cinnabar Basin and later having to address a half mile that has been cut off. He said that creates a domino

effect that makes it hard to deny subsequent abandonment requests. Rate said he would like to see an attorney general's opinion on the county's responsibility to maintain county roads.

There was discussion about concerns of access to Lyon Creek and High Lake trailheads above Shooting Star Lane and private property and how the Forest Service has changed its management theory of access to such trailheads in the last 20 years. Commissioner Malone said a statement from the Forest Service states abandonment of the portion of Shooting Star Trail in question would not prohibit public trail access.

Allen said it is news to the Shooting Star Ranch owner if there is a county road beyond the closed gate. Allen said he would like to abandon that extra half mile as well if it in fact is a county road.

Citizen Stacy Bragg said the current Forest Service travel plan added the trail in question as Trail #106 as a foot travel and horse travel trail. Bragg said historically the public used that trail and questioned whether a historic precedence was thus established. Bragg asked whether an access point/small parking area in the proposed turnaround could make the trail the least obtrusive to the ranch in order for the public to enter the park.

Deputy County Attorney Shannan Piccolo said the county road does not access public land if it in fact extends as far as Rate says it does. She said the Forest Service had the easement from the county road to the trailhead across private property, but it abandoned that 20 years ago. She said the county cannot abandon a road that serves as the only access to public land, but that is not the case in this situation.

Commissioner Malone said the petitioner can amend his abandonment application to capture the additional half mile of county road according to the Commission's information and Commissioner Durgan's recommendation. Piccolo said she will make a legal determination of the additional half mile in question, and the petitioner may be able to submit an amendment or may have to file a new petition.

@10:16:36 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

September 30, 2009

Public Hearing for Petition to Abandon Sunset and Shamrock Lanes

@10:30:21 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Philip Fletcher, planning; Steve Woodruff, attorney; Hank Rate, surveyor; Marine Sheridan, citizen; Tena Versland, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled as a public hearing for petition to abandon Shamrock and Sunset Lanes.

Petitioner Attorney Steve Woodruff presented the Commission with a plat map for part of the Acreville Subdivision from Plat 489A in and around a gravel pit, which he said is the focal point of the abandonment effort. Woodruff said the abandonment of the road segment in question does not have any impact on the legal status of surrounding roads, and the surrounding homeowners' interest in abandonment is to not have a public easement through their properties. He said the gravel pit makes access to and development off the county road impractical. Woodruff said there would be no loss of legal or physical access to any parcel on the plat by abandoning the petitioned roadway, and the petitioners therefore seek the Commission's approval of the petition.

Deputy County Attorney Shannan Piccolo said Montana Code Annotated 714-26-15 states a county commission cannot abandon any road or right of way that is used to access private land benefitting two or more landowners. Piccolo said it looks that the road in question benefits four landowners so she cannot advise the Commission to approve the petition without all four landowner signatures.

Surveyor Hank Rate said he objects to piecemeal abandonment and thinks the county should go after a broadcast quiet title to clear the issue up because he thinks the developer is no longer in business and no one may have title to the surface of the roadways. He said prescriptive action may be taken, but one does not exist until acted on by a court.

Woodruff said he thinks it would be worth the county exploring the concept of common-law dedication before bringing quiet title action. He said at some point the county began maintaining the roads, and if that was at the invitation of the original developer, then that is a classic case of common-law dedication. Woodruff said common-law dedication requires an offer by a developer and an acceptance by the roadway through maintenance and other activities. Woodruff said the road in question is not used to access the fourth individual's land, as his access is off of Paradise Lane. He said that is why he thought giving the landowner certified notice of the petition was sufficient.

Citizen Tena Versland said the fact the landowner planted a lawn on the road in question demonstrates he does not think he or anyone else is going to use the road for access. She said the road is full of knapweed, and if the county is not going to abandon its roads, when will it maintain the knapweed. She said abandoning it will bring in tax revenue and she is more comfortable with spraying knapweed on property she owns.

Planning Director Philip Fletcher said he wrote a report on the abandonment petition, and based on his analysis of information he has his reasoning was exactly that of Woodruff's. He said the planning department's recommendation is to grant the abandonment because it does not feel as a practical matter access should be an issue, as the roads simply do not provide access to anything.

Rate said this abandonment would not directly affect the Horseshoe Road. He said it should be a simple thing to do to exercise a quiet title action, as someone driving over a road does not give them legal access. Rate said the Commission should commit to

ironing out the rest of the Paradise Builders area if it agrees to the current abandonment request.

There was discussion as to whether a prescriptive easement or common-law dedication should be made before the abandonment request is granted. Piccolo said she can come back with a legal determination on the matter. Malone said he does not have any problem with abandonment of the road in question, but he does not want to get the county in a legal hassle with adjacent landowners.

Commissioner Durgan made a motion to conditionally approve the abandonment petition pending legal opinion the Commission is permitted to abandon the road when surrounding legal access is in question. The motion died for a lack of second.

Commissioner Taylor said he would like to hear from the fourth landowner and Piccolo regarding her research and not make a decision that may later be reversed. Malone said he agrees it would be cleaner to have all documents on the table. Piccolo said she can have a determination on the matter by the end of October.

@11:28:08 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

September 30, 2009

Discussion of Park County Revolving Loan Fund with RC&D

@11:34:18 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Philip Fletcher, planning; Martha Miller, auditor; Lani Hartung, finance; Tracy Mosley, Extension; RC&D Representatives Julianne Brown, Gary Slane, Teresa Koper, and Tom Vincent; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss a Park County revolving loan fund.

Finance Director Lani Hartung said Park County's Revolving Loan Fund is at \$219,797 as of June 30, 2009, is available for lending and has no outstanding loan payments. There was discussion about \$63,000 unaccounted for.

Gary Slane, Northern Rocky Mountain Resource Conservation & Development Council (NRM RC&D), said RC&D could assist a Park County revolving loan fund program with policy development, procedures of income accounts, marketing of the plan, administering funds and application documentation, conducting credit analysis and loan packaging and development, and collaborating with other bank sources to create complete packages.

Commissioner Malone said Park County does not currently have a loan review committee and the Commission's objective is to get the funds out on the street and put to use. There

was discussion about a fund marketing plan. Slane said RC&D works with the city of Livingston with several loans at this time and plans to increase the city's marketing plan.

There was discussion about whether Park County or RC&D would conduct marketing and administrative services, creating business plans, phasing partnerships into a single entity effort, reviewing loan applications, and developing a review process to monitor business recipients in order to ensure applicants comply with loan covenants. There was discussion about the significance of a third-party loan committee in opening up more interest and creating independence from a government entity and public review of private finances, which keeps records confidential.

Slane said RC&D perhaps can use a sub-recipient agreement with the city of Livingston as a basis in drafting the county's revolving loan fund program. Slane said RC&D will put together a contract or proposal or both and will submit that document to the Commission and Fletcher for review and further development.

@12:17:11 p.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

#### September 30, 2009

7:00 P.M. – Public Hearing for Cedar Creek Project 16 km North of Gardiner – Yellowstone Association Headquarters; Gardiner, MT

#### Voided Checks

Claims #s: 67355; 67409  
Payroll #s: 45022

#### October 1, 2009

#### Review of Daily Agenda and Correspondence

@8:47:42 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Raea Morris, executive assistant; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- Memo from city manager re. city/county meeting agenda item
- Northern Rocky Mountain RC&D accomplishments and update
- PCRFD#1 daily status report
- Memo re. open burning permits
- Memo from Park Electric Coop re. electric to green box sites

- Memo re. MACo representative present at courthouse October 1 to discuss employee insurance benefit plans
- Memo from MACo re. American Recovery and Reinvestment Act allocation bond documentation
- Memo from solid waste board member re. ride in trash trucks to view operations
- Commissioner cellular phone bill
- Memo from CTA Engineering re. Boulder River Ranch culvert
- Memo from CTA Engineering re. Gardiner drainage issue at AmeriGas facility
- Memo from MT Association of Hardrock Counties re. \$250 annual assessed dues
- Memo from Attorney Susan Swimley re. Park County Gardiner Sewer District transfer of assests
- Memo from GIS/IT manager re. cordless phone and headset requests

Commissioner Durgan reported on a proposed bridge project to replace two culverts in tandem at Cedar Creek. Durgan presented a map of that proposal.

Commissioner Malone said he viewed the courthouse cannon with an individual who can restore it and the wheels will be refurbished first at \$1,100 apiece after Christmas.

Commissioner Taylor said the Commission received a bill from a citizen who cleaned his borrow pit from trees cut down by the county road crew. Commissioner Taylor said he will discuss the matter with Road Supervisor Ed Hillman.

@9:24:17 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

October 1, 2009

Appoint Commissioner as County Representative to South Central Montana Interoperability Consortium

@10:14:48 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 made.

The meeting was scheduled to appoint a commissioner as the county representative to the South Central Montana Interoperability Consortium.

Commissioner Taylor made a motion to appoint Commissioner Malone and Peggy Glass, as the 911 Communications Director, as the county's representatives to the South Central Montana Interoperability Consortium. Commissioner Durgan seconded that motion. Motion passed.

@10:16:39 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

October 1, 2009

Overview of City Solid Waste Proposal Plan

@1:38:21 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Ed Meece, city manager; Clint Tinsley, city public works director; Sandy Wulf, assistant city public works director; Camden Easterling, Livingston Enterprise; Jim Hunt, citizen; Bill Moser, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss a city of Livingston solid waste disposal plan.

Commissioner Malone said the Commission toured the city's solid waste and transfer station operations and is conducting exploratory research on joining the city for solid waste services.

City Manager Ed Meece said he provided the Commission on September 23 with a proposal on how the county may coordinate its solid waste system with the city system. He said the proposal states the city would accept county green box waste minus hazardous waste at a rate of \$53/ton, which is the same rate charged to the city internally and the same tipping fee to city and county residents and the general public at the city transfer station. Meece said \$3 of that fee includes a charge toward paying off the construction cost of the transfer station over 10 years, after which time the \$3 will come off the rate. Meece said the city's waste hauling contract with Montana Waste is \$38.90/ton. Meece said the city's proposal includes plans to buy a new scale for its transfer station by purchasing the county's current scale for \$2,000 per month for one year.

Meece said the city would allow the county to conduct a trial effort of dumping county green box roll off dumpsters at the city transfer station. Meece said the county's rail car solid waste system is a labor intensive process where metal and other items must be sorted. He said the city's process does not require that. Meece said the primary cost of any solid waste system is transportation/hauling and labor and the way to attach rate and cost effectiveness of a system is to reduce those costs as much as possible. Meece said the county would know its hauling costs for 8.5 years if it goes with the city's system.

Meece said the county really only has one third of a landfill, because of restrictions of what can be dumped there, which affects the city and county trash rates. He said combining efforts could reduce total manpower needed from seven workers to two to four.

Commissioner Taylor said the county's solid waste contract with Envirocon expires in April 2010. Malone said, for the benefit of the public, the county needs to look at every cost, and rates will have to increase if it maintains the status quo.

Commissioner Durgan said there is no logical reason and it is ludicrous to have two solid waste systems in a county the size of Park County and the city the size of Livingston.

Meece said he agrees it makes much more sense for the two systems to be together if they are operating as effectively as possible. He said his goal is to put the two refuse systems back together and do so in the most cost-effective way. Durgan said that answer will never be answered unless the city and county try something together.

Citizen Jim Hunt said the two refuse entities were together at one time. He said the county's cost per ton dumped at the landfill is increasing because of a decrease in volume dumped, which can cause problems for an enterprise system.

Citizen Bill Moser asked if the city will work toward entering into an agreement with the individual contracted with by the county to remove Freon from old refrigerators so those appliances do not end up on the side of the road at a magnified cleanup cost.

Taylor said the county will bring county green box roll offs to the city transfer station within a couple of weeks to view how that operation would work with county garbage. Malone said the Commission and county solid waste board need to re-review the numbers he has put together regarding county solid waste tonnages and expenses and make a decision.

@2:32:05 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

October 1, 2009

Signing of Contract between Military Affairs and Park County for Update of Emergency Operations Plan

@2:50:41 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Bill Moser, citizen; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to sign a contract between Military Affairs and Park County for updating of an emergency operations plan.

Commissioner Malone said the contract would provide Park County with \$19,040.25 to update its emergency operations plan.

Commissioner Durgan made a motion to accept the contract. Commissioner Taylor seconded that motion. Motion passed.

@2:55:51 p.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

October 2, 2009

Review of Daily Agenda and Correspondence

@8:39:37 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Raea Morris, executive assistant; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- October 6 RC&D meeting agenda - To Commissioner Durgan for review
- Update from Gallatin County Commission
- Memo from MACo re. five-year loss run
- Vision Air newsletter - To Durgan for review
- Memo re. October 5 special meeting of Park County Fair Board - To Durgan for review
- Memo from GIS/IT Manager re. long-distance calling code for new phones

@8:44:07 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

October 2, 2009

10:00 A.M. – Commissioner Malone at Resource Conservation & Development Meeting  
– Bozeman

Marty Malone  
Chairman, Park County Commission  
Park County, Montana

Denise Nelson  
Clerk & Recorder  
Park County, Montana