

Commission Meeting Minutes; Park County, Montana  
Week of July 28 – August 1, 2008

July 28, 2008

8:30 A.M. – Park County Road Issues –Commissioner’s Chambers – Canceled

July 28, 2008

Review Minutes for Week of July 21, 2008

@9:02:36 a.m., Chairman Lahren called a meeting to order in the Commissioner’s Chambers. Commissioners Denton and Lahren were present. Also present was Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to consider meeting minutes for the Week of July 21, 2008.

On Page 1 of 6, Commission Denton noted the correct spelling of “Mingos” and “John” Payne.

Lahren made a motion to approve the minutes as read. Denton seconded that motion. Motion passed.

@9:02:55 a.m., Lahren made a motion to adjourn the meeting. Denton seconded that motion. The meeting was adjourned.

July 28, 2008

Review Correspondence, Public Contacts and Determine Action Plan

@10:01:52 a.m., Chairman Lahren called a meeting to order in the Commissioner’s Chambers. Commissioners Denton and Lahren were present. Also present was Bill Hurley, operations; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to review correspondence, public contacts, and determine action plans.

Lahren said he received a phone call from a citizen in Gardiner concerned about a narrow sidewalk right-of-way for the proposed Gardiner sidewalk project.

Commissioner Denton said the Wilsall Senior Center submitted an invoice for \$4,500 requesting any possible financial assistance from the county. Denton said there was a lot of damage done to the building, and it now looks very good. Denton said she submitted a Commissioner-approved resolution to the solid waste board at its July 17 meeting and the board was okay with the resolution language. Denton said Linneweber reviewed that

resolution and the Commission will meet to consider passing it at a public meeting July 31 at 9 a.m.

Correspondence included:

- Letter from Brad Shepard re. 9th Street Bridge
- Heard Across Montana - To Director of Operations Bill Hurley for review
- Letter from Brenda Gilbert re. Hoyem's culvert - Lahren said the issue was resolved last week
- Invoice from IronWolf re. crushing millings on 7/16 @ the City Yard
- Citizen letter to donate two lots to the county at Park View Memorial Gardens
- Memo re. Undersheriff Gary Tanascu retiring July 31

@10:42:51 a.m., Lahren made a motion to adjourn the meeting. Denton seconded that motion. The meeting was adjourned.

July 28, 2008

Fiscal Year 2009 Budget Workshop

@1:18:26 p.m., Chairman Lahren called a meeting to order in the Commissioner's Chambers. Commissioners Denton and Lahren were present. Also present was Polly Miller, human resources; Marilyn Hartley, accounting; Bill Hurley, operations; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled as a FY '09 budget workshop.

Polly Miller and Marilyn Hartley provided the Commission with a summary report of Fiscal Years '06 – '08 Commission general budget. Miller and Hartley worked with the Commission to determine preliminary, proposed FY '09 budget figures.

Miller read into the record Requests for Estimate of Taxable Values for the planning, road, county general, and ambulance taxing jurisdictions.

@2:17:49 p.m., Lahren made a motion to adjourn the meeting. Denton seconded that motion. The meeting was adjourned.

July 28, 2008

3:00 P.M. – O'Rea Creek Railroad Crossing Meeting – Onsite

July 29, 2008

Consider Final Design for Gardiner School Sidewalk

@10:03:13 a.m., Chairman Lahren called a meeting to order in the Commissioner's Chambers. Commissioners Denton and Lahren were present. Also present was Lori Benner, grants coordinator; Bill Hurley, operations; Bill Lloyd, Great West Engineering;

Public Citizens Joseph Gross, Tim McLaughlin, Mike Cretella, Aaron Suderman, and Barbara Read; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to consider a final design for the Gardiner School Sidewalk Project.

Bill Lloyd of Great West Engineering presented construction plans for the Gardiner School Sidewalk project for review. Lloyd said there have been citizen concerns about parking and narrowing of a roadway regarding proposed sidewalk design plans.

Public comment was made by Mike Cretella. Cretella asked why the plans propose narrowing the road and why they do not propose locating the sidewalk in the county right-of-way. He said it makes no sense having a 60-foot road right-of-way and ending up with a 20 foot roadway after the sidewalk is built. He said that would result in a one-way street.

Lloyd said a professional survey was not done for this project because that survey likely would have exceeded Great West Engineering's budget for the entire project because more retaining walls would have to be built. Lloyd said he agreed the road would be a one-way road in a certain stretch because of car parking. He said the sidewalk has been narrowed from six feet to four feet in some areas to minimize narrowing the roadway.

Lahren said he has a problem with the proposed plan and that any construction needs to be done right. Lahren said narrowing the road will potentially create an unsafe situation for the public, and the Commission must address that. Lahren said more time and planning on the project will be a benefit in the long run. Lahren said his recommendation is to contact Hank Rate and have a survey done, which will likely put off the construction phase of the project to next year. Lahren said modification of the design plans and public input will be done after the survey is completed. Lahren tasked Lori Benner and Great West Engineering to contact Rate about the survey work.

Lloyd said Great West Engineering would need to define the county road right-of-way with a survey to ensure the sidewalk project was not encroaching on private property. Lloyd said he needs to know the project's desired minimum street width, minimum sidewalk width, and whether a shoulder is desired.

Benner said she will check with Safe Routes to Schools regarding the money the county has obtained for the project. Lloyd said those funds will not go away.

Public comment was made by Tim McLaughlin. McLaughlin asked if any criteria existed under which the Safe Routes to School money must be used. Benner said specific specifications, such as road and sidewalk widths, are not required to be met to receive the Safe Routes to Schools money.

Public comment was made by Barbara Read. Read said she wants to put in a duplex at the northeast corner of Stone and 3<sup>rd</sup> Streets in Gardiner. She said she is concerned with

limited parking because she would need four total parking spaces and it appears the proposed sidewalk design plans would not allow for that. She said there needs to be a safe place to park vehicles and she recommends putting the sidewalk as close to the right-of-way as possible.

@10:39:10 a.m., Lahren made a motion to adjourn the meeting. Denton seconded that motion. The meeting was adjourned.

July 29, 2008

1:00 P.M. – Fiscal Year 2009 Budget Workshop – Canceled

July 29, 2008

Election/Selection of Successful Bidder for Rabbit and Poultry Barn

@3:01:35 p.m., Chairman Lahren called a meeting to order in the Commissioner's Chambers. Commissioners Denton, Durgan and Lahren were present. Also present was Bill Hurley, operations; Kim Knutson, fair manager; Brett Linneweber, county attorney; Jim Snyder, architect; and Public Citizens Mike Adams, Ed Flatt, Myron Kovash, and Dan Nelson; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to consider election/selection of a successful bidder for the rabbit and poultry barn.

Commissioner Durgan said he and the fair board selected four bids deemed acceptable. Those bids were Kovash Enterprises, Diamond D Construction, KB Building; and Maus Construction. Durgan said three other bids were determined nonresponsive.

Kim Knutson said the committee eliminated the lowest and highest bids and four bids were determined to be beyond the project budget. Durgan said the committee selected Diamond D Construction as the recommended bidder at a bid of \$177,800. Knutson said Kovash's work schedule was not as detailed as the three other bidders.

Lahren made a motion to accept the bid of \$137,456.58 by Kovash because it is the lowest bid and he has to do what the specs are and if they can't do it for that price that is their problem as a bidder. Durgan seconded that motion.

There was discussion. Durgan said the bid of \$137,456.58 includes all bid and performance bond fees and there will be no deductions from that bid figure.

Lahren made a friendly amendment to the motion: Lahren made a motion to conditionally accept the bid of Kovash Enterprises for the construction of the Rabbit and Poultry Barn, with the condition that the successful bidder enter into a contract approved by the County Attorney and that ensures compliance with any required state or federal requirements, including any performance bond, Little Davis Bacon Act requirements, and any other Title 18, MCA, Public Contracts requirements. The motion includes the provision that

the successful bidder's failure to do so in a reasonable time (as determined by the Commission) will result in the County either selecting the next reasonable and responsible lowest bidder or re-advertisement of the bid at the Commission's discretion. Durgan accepted the amendment to the motion. Motion passed.

Kovash said he is okay with the specified construction deadline of December 31, 2008 as stated in the project manual.

Snyder said he will serve as the construction point person to make sure the building is built to specifications and the building schedule is maintained. Snyder will address contractor payment requests and approve them based on what percentage of work is completed. Lahren said all communication is to be only between the architect and the builder and the fair board or no other individual is to advise the builder about anything regarding a change in work plan. Snyder said he will draft an owner/architect agreement that pertains only to construction. Lahren said the agreement will ensure quality control of the construction work.

Knutson said the project is to commence September 2, 2008 and the fair board is responsible for the demolition of the existing building.

@3:36:26 p.m., Lahren made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

#### July 29, 2008

5:00 P.M. – Yellowstone Gateway Museum Board Meeting – Yellowstone Gateway Museum

#### July 30, 2008

9:00 A.M. – Exemption Appeal Tolmacheve Family Transfer – Commissioner's Chambers – Canceled

10:00 A.M. – Fiscal Year 2009 Budget Workshop – Commissioner's Chambers – Canceled

1:00 P.M. – Park County Claims – Commissioner's Chambers

1:30 P.M. – Fiscal Year 2009 Budget Workshop – Commissioner's Chambers – Canceled

#### July 30, 2008

Public Hearing to Consider Planning Board Recommended Amendments to the Park County Subdivision Regulations Including Oral and Written Public Comment

I. Call to Order

@7:00:01 p.m., Chairman Lahren called a meeting to order in the Commissioner's Chambers. Commissioners Denton and Lahren were present. Also present was Mike Inman, planning; Philip Fletcher, planning; Public Citizens Don Wilson, Shirley Wilson, Mel Anzick, Helen Anzick, George Bornemann, Chuck Donovan and Marty Malone; and Commission Minutes Clerk John Mueller.

The meeting was scheduled as a public hearing to consider planning board recommended amendments to the *2006 Park County Subdivision Regulations* including oral and written public comment.

## II. Discuss Conflict of Interest

The Commission reported no conflicts of interest.

## III. Planning Department Presentation on Process and Planning Board Recommended Amendments to the *2006 Park County Subdivision Regulations*

Planner Mike Inman said the planning department presented recommended amendments to the planning board one year ago. The planning board conducted a public comment analysis and findings of facts with regards to recommended amendments. The Commission received all public comments, the planning board recommended amendments to the *2006 Park County Subdivision Regulations*, and a planning staff report on those recommendations at a public Commission meeting one month ago. Inman said at tonight's meeting the Commission can postpone a decision on accepting or denying the proposed amendments to analyze public comment or it can go through public comment and make a decision to adopt or deny the recommended amendments.

## IV. Questions from the Commission

The Commission had no questions about recommended amendments.

## V. Open Public Hearing: @7:08:54 p.m., Lahren opened the meeting to public comment

### A. Public Comment on the Planning Board Recommended Amendments to the *2006 Park County Subdivision Regulations*

Public comment was made by Mel Anzick on behalf of George Bornemann. Addressing recommended amendment #27, Anzick said the text should state setback distances from the Yellowstone, Shields and Boulder Rivers should be a 150-foot "horizontal" distance from the mean high water mark. Anzick said adopting fire protection packages is a good idea and tanks and ponds are good, but for minor subdivisions that can be onerous and difficult to ensure they are being properly maintained. Anzick said the developer should be allowed to come up with other options. Regarding developing in the Wildland Urban Interface (WUI) Anzick said development near a highly wooded area should be more stringently viewed than development in or near a town. Anzick asked how a developer is to know if a proposed development area is in the WUI.

Public comment was made by Don Wilson. Wilson said the county is jumping the gun on the WUI. He said the county is heading in the right direction, but it must take the subjectivity out of defining where the WUI is. He said having subjectivity is not a good way to deal with the public and he does not want to rely on his local fire protection agent to determine the WUI because he does not feel that individual is qualified to make that determination. Wilson asked the difference in recommendation #40 relating to Parkland Designation. Wilson said he would like to know how the Commission feels about possible options when dealing with the fire regulations.

B. Close Public Hearing: @7:43:41 p.m., Lahren made a motion to close the public comment component of the meeting. Denton seconded that motion. Motion passed

C. Commission Discussion, Public Comment Analysis, Findings of Fact, Motion(s), and Determination

Lahren said he has a problem with the WUI because its definition is supposedly scientific yet subjective. Fletcher said the county has to come up with a WUI plan by next year per state law, and that project is in the planning staff's work program for FY '09. Fletcher said that work program will establish methodologies of how to determine the WUI and answer tough questions. Fletcher said a WUI map is not a state requirement and should not be the focus of a WUI definition because maps are visual images of a set of data figures, so if you have the definition from the figures you don't have to map out those data.

Inman said it is difficult to map a WUI because a local fire protection authority can look at a piece of property for slope, vegetation, access to roads, water features on the property, and distance from the local fire protection authority and come up with many different data sets on one property. He said to come up with that many detail data sets for the entire county would be impossible, and as soon as a map was made it would be out of date because as soon as someone builds a house the map would need to be updated. Inman said a map would be a generalized area, and so a fire protection authority would still have to go out and conduct a site visit to determine what is on the ground. He said a map is a good generalization tool but each development needs to be looked at on a case by case basis.

The Commission analyzed public comment.

Public Comment: Larry Lahren, citizen in Park County, requested that language in the *2006 Park County Subdivision Regulations* be modified so that the Planning Department will conduct a file and literature search for cultural resources (paleontological, prehistoric, historic and roads and trails).

Finding of Fact: Lahren said requested action takes the burden off of the subdivider and makes it more efficient to conduct a file and literature search through the planning

department. He said such activity is already administered by the planning department and this statement clarifies that fact in the subdivision regulations.

Motion: Denton made a motion to include language in the *2006 Park County Subdivision Regulations* that states: “The legal description of the proposed development area should be provided to the Park County Planning Department at the earliest time possible. The Planning Department will conduct a file and literature search at the State Historic Preservation Office and with the Park County Historian. Based on these findings and recommendations, the Park County Planning Office will make recommendations for the nature and type of cultural resource evaluations requirements for the proposed development area.” Lahren seconded that motion. Motion passed.

Public Comment: Mike Graham, Paradise Valley Fire Chief, offered comments pertaining to fire standards. As to Appendix B; Definitions; “Approved,” Graham questioned how “the other entity having jurisdictional authority” would be determined.

Finding of Fact: The Commission said this comment was addressed by a conversation with Planner Inman during a public meeting and does not need any further discussion.

Graham asked why the definition for “Driveway” was removed from the fire protection appendix.

Finding of Fact: The Commission said the definition of “Driveway” is included in the “Definition” section of the *2006 Park County Subdivision Regulations*.

Graham commented about Paradise Valley requiring all barrel style hydrants for drafting ease and dependability. He also questioned who appoints the Fire Protection Authority (FPA).

Finding of Fact: The Commission said the question was answered by Planner Inman during a public meeting.

Graham commented he would like fittings to be compatible countywide since different districts provide mutual aid to each other. He expressed support of much of the document, specifically page 8: 1. sub ii.; ‘Having a qualified expert certify bi-annually Fire Protection Water Supply Features’. He questioned page 10: C. 1, stating only five wells on the west side of Paradise Valley produce 100 gallons per minute. C. 2. takes away 50% of the resources required in option C. 1.

Finding of Fact: The Commission said the items raised by Mr. Graham are addressed in the draft fire protection standards, as identified by Planner Inman.

Public Comment: Dann Babcox, Park County Rural One Assistant Fire Chief, addressed Page 8 saying fire officials have no way to enforce this item as they are a volunteer agency.

Finding of Fact: The Commission said the restrictive covenants required by the County Commission shall address maintenance of fire protection features and systems.

Public Comment: George Bornemann commented about set-back distances from the Yellowstone, Shields and Boulder Rivers.

Finding of Fact: The Commission said the diagram included in recommendation #27 explains this comment and provides necessary clarification.

George Bornemann said it is difficult to maintain fire protection features and there needs to be more flexibility on the part of the developer. Addressing the WUI he said it is not defined and asked how a developer is to know if a property is in the WUI.

Findings of Fact: The Commission said flexibility is allowed under section II-E of the draft fire protection standards. Maintenance is specified in the draft fire protection standards and restrictive covenants. The Commission said development proposals in the WUI may be required to provide additional water supplies or a secondary access as determined by the fire protection authority and the County Commission. It said the WUI is defined but a map is not defined and a map is not required by the State. The WUI designation will be determined by local the Fire Protection Authority.

Public Comment: Don Wilson said he had concerns on the WUI and its lack of definition and subjectivity.

Finding of Fact: The Commission said it previously addressed that issue in the Commission Findings of Fact pertaining to Mr. Bornemann's comments.

Wilson asked the difference in recommendation #40 addressing a Park Board and Parkland dedication.

Finding of Fact: The Commission said that was clarified by Planner Inman in today's meeting.

Public Comment: Mardi Madsen commented on physical and legal access and private roads in Park County. She commented when subdivisions or larger parcels are sold with private roads, private roads must be dedicated to public use. Madsen cited the Meredith Ranch, saying it was built to subdivision regulations in 2002 and now six of the property owners are precluded from subdividing based upon the definition of physical and legal access. She said that decreases property values and creates hardships. She said the public does not know how to dedicate a private road to the public when it's owned by multiple people. She said to change the definition of physical and legal access back to the old definition in the 2005 subdivision regulations or create a method for declaring a private road for public access or design a variance provision.

Findings of Fact: The Commission said the issue of physical and legal access is adequately addressed in the Planning Board's analysis of public comment regarding

physical and legal access (dated May 15, 2008) and in the current definitions of physical and legal access in the *2006 Park County Subdivision Regulations*.

Determination: Commissioner Denton made a motion to accept the Park County Planning Board recommended amendments to the *2006 Park County Subdivision Regulations*, with the inclusion of the Findings of Fact and motions identified above. Lahren seconded that motion. Motion passed.

The Commission said the recommended amendments will take effect on September 1, 2008.

VI: Adjourn: @9:03:29 p.m., Lahren made a motion to adjourn the meeting. Denton seconded that motion. The meeting was adjourned.

@9:04:12 p.m., Lahren reopened the meeting for public comment. Chuck Donovan asked what issues were accepted by the Commission that had been submitted by Bob Fry in April 2007.

@9:06:01 p.m., Denton made a motion to adjourn the meeting. Lahren seconded that motion. The meeting was adjourned.

#### July 31, 2008

8:30 A.M. – Meeting at Montana Department of Transportation to Discuss 9th Street Island Bridge – Helena – Lahren

9:30 A.M. – Consider Resolution Establishing Park County Solid Waste Board – Commissioner’s Chambers – Canceled

10:00 A.M. – Fiscal Year 2009 Budget Workshop – Commissioner’s Chambers – Canceled

#### July 31, 2008

##### Myers Flat Radio Site Bid Opening

@10:31:47 a.m., Vice-Chairman Durgan called a meeting to order in the Commissioner’s Chambers. Commissioners Denton and Durgan were present. Also present was Bill Hurley, director of operations; Peggy Glass, Park County 911; and Commission Minutes Clerk John Mueller. No public comment was made.

The meeting was scheduled to open Myers Flat radio site bids.

Commissioner Durgan opened two sealed bids. A bid was received by Northwest Tower for \$184,068.00 at 4:24 p.m. on July 28, 2008. A bid was received by Saber Communications Corporation for \$349,508.00 at 2:57 p.m. on July 28, 2008.

The Commission discussed postponing the bid on the Myers Flat radio tower site until it can consult with the county attorney and the state of Montana regarding bid criteria.

Denton made a motion to postpone the bid on the Myers Flat radio tower site until Monday, August 4 at 10 a.m. Durgan seconded that motion. Motion passed.

@10:45:35 a.m., Denton made a motion to adjourn the meeting. Durgan seconded that motion. The meeting was adjourned.

July 31, 2008

1:00 P.M. – Rural Special Improvements Development Meeting – Commissioner’s Chambers – Canceled

1:30 P.M. – Review Correspondence, Public Contacts and Determine Action Plan – Commissioner’s Chambers – Canceled

2:00 P.M. – Meeting to Hear Public Concerns - Cooke City – Denton

3:00 P.M. – Park County Road Updates Meeting – Commissioner’s Chambers – Canceled

4:00 P.M. – Park County Fair Meeting Discussion on Budgetary Spending – Commissioner’s Chambers – Canceled

7:00 P.M. – Cooke City Water District Board Meeting – Cooke City – Denton

August 1, 2008

No Meetings Scheduled

Larry A. Lahren  
Chairman, Park County Commission  
Park County, Montana

Denise Nelson  
Clerk & Recorder  
Park County, Montana