

Park County Commission Meeting Minutes
Week of November 1 – 5, 2010
Park County, Montana

November 1, 2010

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:34:28 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; Philip Fletcher, community development; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- Memo re. county website updates
- Memo re. meeting with Economic Development Association in Bozeman
- Memo re. grant awards
- Memo re. November 4 Juvenile Detention Board meeting
- Memo from assistant finance director re. money saving ideas
- Memo from civil deputy county attorney re. general RFQ application
- Memo from Montana Clean re. contract extension
- Memo re. unfair labor practice decision district court appeal
- Memo re. e-recycling

Commissioners Malone and Taylor reported on an October 29 visit to Cooke City and Gardiner. Malone said the commissioners viewed the Gardiner jail facility. He said Gardiner residents would like the county to help them pay for bear-proof garbage receptacles. Commissioner Taylor said he will talk with the finance director about ordering 10 bear boxes.

Commissioner Durgan said the Airport Board will submit a letter about a proposed wind farm on Mission Ranch. Durgan said a resident on Billman Lane is complaining about abandoned vehicles in front of his home.

@9:12:30 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

November 1, 2010

Review of Minutes for Week of October 25, 2010

@10:12:26 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 review Commission meeting minutes for the Week of October 25, 2010.

Commissioner Durgan requested a revision to Page 8 of 14, noting he attended a Fair Board meeting and Commissioner Taylor attended a Museum Board meeting.

Commissioner Malone requested a revision to Page 2 of 14, a motion should read, "Commissioner Taylor made a motion to abandon the eight-tenths of a mile section of road that crosses the Spear Lazy U Ranch property."

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

@10:14:16 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

November 1, 2010

Discussion of Budget to Actual and Treasurer's Cash

@10:32:22 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; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss budget to actual and treasurer's cash reports.

Finance Director Lani Hartung provided the Commission with a Treasurer's Cash report for September 2010 and reviewed budget to actual figures.

@10:49:13 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

November 1, 2010

Consider Decision for Reappointing Election Audit Committee

@11:37:56 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Frank Rigler, citizen; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to consider a decision to reappoint an Election Audit Committee.

Commissioner Malone said Clerk and Recorder Denise Nelson recommended county employees Martha Miller, Lani Hartung and Raea Morris for the Election Audit Committee.

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

@11:38:42 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

November 1, 2010

Consider Resolution to Appoint Special Deputy County Attorney to Justice Court Case

@3:01:31 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Brett Linneweber, county attorney; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to consider a resolution to appoint a special deputy county attorney for a Justice Court case.

County Attorney Brett Linneweber said the chief deputy county attorney is a good friend of an individual in a justice court case, and he and the civil deputy county attorney are not available to work the case. Linneweber said the attorney general's office will hear the case for a per diem cost only as long as the case does not go to trial.

Commissioner Durgan made a motion to approve the resolution to appoint a special deputy county attorney. Commissioner Taylor seconded that motion. Motion passed.

@3:04 p.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

November 2, 2010

Election Day - All Offices Closed

12:30 P.M. – Onsite Viewing of 9th Street Bridge Replacement Project Site with Senator Tester – 9th Street Bridge

November 3, 2010

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:34:17 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:

- Citizen memo re. refuse assessments
- Citizen memo re. November 9 Montana Department of Livestock rule
- Citizen memo re. Boulder refuse fee adjustment
- Citizen memo re. Boulder refuse assessment
- Citizen memo re. Boulder refuse assessment
- Memo re. City of Livingston proposed master plan
- Memo re. invoice from Fisher Sand and Gravel
- Memo re. draft RFP for Zia Report
- Citizen memo re. survey of Billman Lane right of way
- Memo re. Cooke City snow removal bids
- Memo from Dept of Revenue re. oil and gas producing counties
- Memo from Oasis Environmental re. invoice
- Memo re. Commission postage log

Commissioner Malone said a bison management committee meeting has been rescheduled for December 7 and 8 at Chico Hot Springs.

@8:58:26 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

November 3, 2010

County Road Updates

@9:03:55 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; Shannan Piccolo, civil deputy county attorney; Lenore Haws, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to discuss county road issues.

Citizen Lenore Haws said the Commission told another citizen a surveyor would mark boundaries of her property, which was done. Civil Deputy County Attorney Shannan Piccolo said there is no issue as far as the county is concerned regarding her fence, as it is on her property and not in the county right of way. Haws said she is disappointed in the

county commissioners because she thought it would be an open commission and if there was anything that was going to be done on private property the landowners should be notified. She said she does not think it was a nice thing that was done. Commissioner Malone said the issue was about the county road, not her property, but her point is taken. Haws said she feels it is the duty of the county commissioners to notify her as a private property owner. Piccolo said a neighbor complained Haws' fence was in the county right of way, but that issue is now settled.

Road Supervisor Ed Hillman said snow fence has been erected in all areas south of Livingston, but snow fence needs erected in Clyde Park and Wilsall. Hillman said the road crew will patch a hole on Rock Creek Road tomorrow and submit hours worked to Crazy Mountain Ranch.

Community Development Director Philip Fletcher said he spoke with a citizen who inquired about the status of the 9th Street Bridge project.

@9:40:09 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

November 3, 2010

Human Resources Updates

@9:41:46 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, HR; Philip Fletcher, community development; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss activities in the Human Resources Department.

Human Resources Analyst Jill Ouellette said a fairgrounds caretaker position was filled, interviews for a temporary road crewman position will be held November 5 and a fire planner position interview will be conducted today. Ouellette said a landfill operator resigned and the Commission needs to decide how it wants to address that departure. She said over a dozen applications have been received for an Angel Line driver position.

Commissioners Durgan and Taylor said they will have revisions for a Community Development Director position description to Ouellette by Friday.

@9:52:33 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

November 3, 2010

Opening of Bids for the 9th Street Bridge Replacement Project Contractor

@10:02:24 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, community development; Lani Hartung, finance; Ed Hillman, road; Kevin Feldman and Mark Westenskow, CTA Engineering; Dennis Morelock, Tractor and Equipment; Jim Wickens, Sletten Construction Company; Brian Oswood, Morgan and Oswood Construction; Chad Allen, Cop Construction; Citizens Margot Aserlind, Kevin Funk and Ray Olson; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to open bids for a 9th Street Bridge Replacement Project contractor.

Kevin Feldman of CTA Engineering opened sealed bids from TCA LLC, Sletten Construction, Cop Construction and Morgan and Oswood Construction submitted to the clerk and recorder's office prior to submittal deadline.

Commissioner Malone read total bid amounts into the record as follows: TCA LLC: \$733,437.00; Sletten Construction: \$751,225.00; Cop Construction: \$661,438.50; Morgan and Oswood: \$2,055,079.50.

Malone said CTA will review bids for discrepancies, recommend a firm to the county for award, send bids to the Federal Highway Administration for final concurrence, and an award will be submitted to a contractor after a decision is made by the Commission at a public meeting scheduled for November 10 at 1:30 p.m.

Citizen Kevin Funk asked the status of a Rural Special Improvement District (RSID) on the project. Malone said there has been no talk of an RSID for some time. Community Development Director Philip Fletcher said there were early discussion about and RSID at the time of the PER meeting months ago, but those ended. Civil Deputy County Attorney Shannan Piccolo said an RSID would be something the people on the island would have to initiate.

@10:14:58 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

November 3, 2010
Final Decision on Viers Family Transfer

@1:01:38 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 and Philip Fletcher, community development; Shannan Piccolo, civil deputy county attorney; Mike Busby, citizen; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to consider a final decision on a Viers family transfer exemption.

Senior Planner Mike Inman said the only new information on the matter is an October 25, 2010, letter submitted by Civil Deputy County Attorney Shannan Piccolo. The Commission reviewed a staff report and findings of fact submitted by Inman.

Commissioner Taylor made a motion to deny the Viers family transfer using the findings of fact provided by Mike Inman (*see below*). Taylor said he does not think the exemption follows all the criteria and where it really runs astray is the Viers stated at the pre-application meeting the purpose was to sell the parcel, and that is not what the family transfer is designed for. Commissioner Durgan seconded that motion saying he would like to make it known, after review of questions that came up during the last hearing on the issue, the civil attorney reviewed those questions and said there was no basis for the questions that were posed and she is still recommended denial of the exemption. Commissioner Taylor accepted Durgan's amendment to the motion. Motion passed unanimously.

Planning Division Recommended Findings of Fact:

- The applicant, Kimberly G. Viers submitted a family transfer exemption proposal to the Community Development Department on August 4, 2010, proposing to transfer one parcel to her husband, Charles Michael Busby.
- The family transfer exemption application identifies that the remaining portion of the original parcel will be sold to a third party.
- The family transfer application does not comply with the *2010 Park County Subdivision Regulations* section V-E-2. F6(b), which states: "*The Board reviews all applicable information, including the exemption application and all affidavits stating that the claimant(s):*
 - b. That all parcel(s), including any non-transferred portions of the original parcel, will not be sold for a period of three years from the date of the approval*

The exemption application includes an affidavit stating that the transferred parcel will not be sold for a period of three years. The included affidavit does not include language pertaining to the remaining portion of the original parcel.

- Kimberly G. Viers and Charles Michael Busby attended a pre-application meeting on March 4, 2010, at which time the applicant(s) identified that it was their intention to subdivide the property into two separate parcels, one of which would be retained by the applicant(s), and one to be sold to a third party.
- The family transfer exemption proposal does not comply with section V-A [Purpose] of the *2010 Park County Subdivision Regulations*, which states: "*MSPA provides that certain division of land, which would otherwise constitute Subdivisions, are exempt from local subdivision review and approval, unless the Board determines the use of the exemption is an attempt to evade the MSPA. The applicants are proposing to create one transferred parcel, and one "subdivided" parcel as may be defined by state statute and the subdivision regulations, which defines a subdivision as: A division of land or land so divided which creates one or more parcels containing less than 160-acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public*

@1:08:12 p.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

November 3, 2010

2:00 P.M. - Transportation Advisory Committee - Community Room – Commissioner Durgan attended

3:00 P.M. - Parks and Recreation Board - East Room – Meeting minutes available in the Community Development Department

November 4, 2010

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:35:27 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; Ed Hillman, road supervisor; Philip Fletcher, community development; Jill Ouellette, HR; and Commission Minutes Clerk John Mueller. No public comment made.

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

Correspondence included:

- Memo re. road supervisor webinar - To road supervisor for review
- Memo re. DEQ railroad cleanup meeting
- Memo re. Cooke City snow plowing contract
- Memo from FWP re. Willow Creek
- Memo from Taylor-Leavitt re. hearing audit at road shop - To road supervisor for review
- Memo re. refuse assessment request form
- Memo from city manager re. RFP for city/county waste management plan
- Citizen memo re. Main Boulder refuse assessment
- Memo re. Myer's Flat gravel invoice

Commissioner Malone said a citizen telephoned about patchwork on Rock Creek Road coming up. Road Supervisor Ed Hillman said the holes had water in them when patch was applied.

Community Development Director Philip Fletcher said a landowner and a National Park Service employee attended a November 3 Parks and Recreation Board meeting, and the board will meet onsite with those gentlemen on November 11 to review a proposed Castle Mountain Road trail project. Fletcher said his department is going to conduct a traffic count on Jardine Road and Stone Street in Gardiner prior to a November 19 meeting to discuss the Gardiner Sidewalk Project.

@9:05:32 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

November 4, 2010

8:30 A.M. – Juvenile Detention Board Meeting – Juvenile Probation Office – Commissioner Durgan attended

9:30 A.M. – Claims Review – Commissioners Chambers

1:00 P.M. – County Employee Safety Tape Viewing – Community Room

1:30 P.M. - Review / Consideration of Engineer Recommendations Regarding Condition 17 of the Yellowstone View Condominiums Major Subdivision - Commissioners Chambers – Canceled

November 4, 2010

Signing of Resolution to Abandon Hill Road

@3:01:43 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to sign a resolution to abandon Hill Road.

Commissioner Malone said the county attorney's and clerk and recorder's offices approved the abandonment petition, the public was duly notified of the petition with no objection and 10 freeholders agreed to the petition as required by law.

Commissioner Taylor made a motion to sign Resolution #1088 to abandon Hill Road. Commissioner Malone seconded that motion. Motion passed.

@3:02:34 p.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

November 5, 2010

No Meetings Scheduled

Marty Malone
Chairman, Park County Commission
Park County, Montana

Denise Nelson
Clerk & Recorder
Park County, Montana