

Park County Commission Meeting Minutes  
Week of May 7 – 11, 2012  
Park County, Montana

May 7, 2012

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:36:14 a.m., Chairman Taylor 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; Ed Barich, superintendent of schools; Raea Morris, administrative assistant; Citizens David Duncan, Laurie Cox, Jason Cajune, Ellen Winter, Gregg Todd, John Payne and Larry Gillet; and John Mueller, minutes clerk.

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

Citizen John Payne said many parents of children attending the Pine Creek School District are unhappy with the way the Pine Creek School Board has been running in general after a teacher was removed from her classroom by the administration. Payne read into the record seven counts against two members of the Pine Creek School Board, which parents feel enable the county commissioners to suspend the board members in question until an investigation is completed. Payne said a concern is three-quarters of the school's enrollment are out of district students, and parents of those children have no ability to vote for school goings-on, thus their only recourse is to approach the Commission for assistance. He said some families feel they are experiencing retaliation for their complaints with a threat from the board chair that the district may no longer allow students outside of the district to attend Pine Creek School.

Ed Barich, superintendent of schools, asked Civil Deputy County Attorney Shannan Piccolo to research the legal term "competent jurisdiction" in attempt to clarify what role the Commission can or cannot take in the citizen's request for assistance.

Citizen Jason Cajune read into the record a statement that stated, in part, Pine Creek Board of Trustees Laura Criesen and Jane Tecca made a decision in an inappropriate session to remove a teacher in front of school children during a school day based upon bullying and sexual harassment complaints. The statement said parent efforts to obtain information about the issue have resulted in mocking, derision and outright threats and retaliation by threatening to not renew applications to children living outside of the district. Cajune said he feels the alleged actions are enough to remove the two board members in order to conduct an investigation on the grounds of unethical behavior, malfeasance and misuse of tax dollars. Cajune read into the record a letter from his wife that stated, in part, violations were made against the board's stated public philosophy and code of ethics.

Citizen Ellen Winter read into the record a letter, which stated, in part, her child was in the teacher's classroom when that teacher was removed by the administration. The letter stated Board Chair Jane Tecca told Winter the board will not be "intimidated or harassed" into providing information on the matter, and Tecca told Winter to "get a job or do something constructive," called her "pathetic" and told Winter not to email her again unless "the school was on fire."

Citizen Dave Duncan said the school board has denied eight public requests for discussion items to be put on the board agenda. He said Pine Creek School is a public school funded by public money, thus parents have the right to be heard. Duncan said his wife, Ellen Winter, has two jobs in addition to taking care of his children. He said what his wife does is honorable and not pathetic as the word used by Tecca suggested.

Commissioner Taylor said the Commission will look into the county's options in the matter as soon as it can.

@9:08:40 a.m., the meeting was recessed until after the 11:00 a.m. scheduled meeting.

@11:15:07 a.m., Taylor reopened the meeting.

Correspondence included:

- Memo document re. Resolution #1129 county bridges CIP
- Memo email re. CWMA meeting
- Memo document re. county board citizen application
- Memo document re. MACo FY 2013 floating mill determination
- Memo document re. May 10 PERS meetings
- Memo email re. economic development director weekly schedule
- Memo email re. veteran's oil forms
- Memo email re. Highway 212 citizen comment

Commissioner Malone said he is curious as to how many standing orders exist regarding the refuse department, and he would like to make a standing order that there are to be no blowables at the landfill.

Citizen Larry Gillet said holes patched by the county in Merrill Lane last year only lasted three months.

@11:36:28 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 7, 2012

Public Hearing to Approve Revision of Park County Onsite Wastewater Regulations to Allow 1000-Gallon Septic Tanks

@9:17:19 a.m., Chairman Taylor 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, environmental health; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled as a public hearing to approve a revision to Park County's onsite wastewater regulations to allow 1,000-gallon septic system tanks.

Barbara Woodbury, environmental health, said individuals approached the county Board of Health requesting reduction of the mandatory size of a septic tank in a one to three bedroom home from the county's current standard of 1,500 gallons to the state standard of 1,000 gallons. Woodbury said the board voted to reduce the size to 1,000 gallons, which requires a change to Section 8.4 in the county's current regulations, as well as to remain current with DEQ-4 requirements.

Commissioner Malone moved to approve 1,000-gallon septic tanks to meet international standards. Commissioner Durgan seconded the motion. Motion passed.

@9:19:30 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 7, 2012

Discussion/Decision of Waiving Conflict of Interest Between Park County and Rural Fire District #1 for IT Services Agreement ; Signing of IT Services Agreement

@9:34:49 a.m., Chairman Taylor 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; Erica Hoffman, IT; Dann Babcox, PCRFD#1; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to consider waiving a conflict of interest issue between Park County and Park County Rural Fire District #1 in order for the county to provide PCRFD#1 with IT services.

Dann Babcox, PCRFD#1 said an agreement needs to be drafted for the Park County IT Department to conduct IT work for PCRFD#1. Civil Deputy County Attorney Shannan Piccolo said the county cannot represent both Park County and PCRFD#1 through an agreement without a waiver of conflict of interest.

Commissioner Malone moved to waive the conflict of interest between Rural 1 and Park County for IT Services. Commissioner Durgan seconded the motion. Motion passed.

@9:36:13 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 7, 2012

Discussion/Decision to Revise Motion from April 26, 2012, Meeting Regarding MACoHCT Choice of Plans for FY2013

@10:04:33 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Jill Ouellette and Scott Hamilton, insurance committee; Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to revise a motion from an April 26, 2012, Meeting regarding MACo Healthcare Trust (HCT) Choice of Plans for FY 2013.

Jill Ouellette, insurance committee, provided the Commission with a memorandum from the county Health Insurance Committee showing results of employee votes regarding three RM employee health benefit plans the Commission should offer, as MACo said the county can offer only three RM plans.

Commissioner Malone moved to offer the RM 1500, 2000 and 3000. Commissioner Durgan seconded the motion. Motion passed.

@10:24:22 a.m., Durgan moved to adjourn the meeting. Taylor seconded the motion. The meeting adjourned.

May 7, 2012

Discussion/Decision of Increased Hours for Vacant Position in Justice of Peace; Discussion of Judge Serving as Court of Record

@10:50:07 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Kathy Carrick, deputy county attorney; Linda Budeski, justice of peace; Jill Ouellette, HR; Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to consider increasing hours for a vacant position in the Justice of Peace Office and discuss the JP Office serving as a court of record.

Linda Budeski, Justice of Peace, said her caseload has increased from 1,984 cases in 2008; 2,431 cases in 2009; 3,027 cases in 2010; 2,938 cases in 2011 and close to 900 cases so far this year. Budeski also said the number of appeals has increased every calendar year in Park County since from 2009 to present, with 15 appealed cases in 2011 and 11 already so far in 2012. She said appeals double the burden on the county attorney's and sheriff's offices and the police department by requiring testifying twice. Kathy Carrick, deputy county attorney, said Court of Record designation remedies the issue of testifying twice, as appeal records from Justice Court are sent directly to the District Court, thus avoiding conducting the process all over again.

Budeski said she is requesting increasing hours for the vacant clerk position to a fulltime position as a remedy to her increasing caseload, as her office no longer has time to conduct general maintenance of records.

Commissioner Malone asked if a position can be advertised at an undefined set of hours, not guaranteeing a full time job and giving Budeski the leeway to determine how much the employee will work each week. Jill Ouellette, HR, said varying hours becomes an issue when an employee works more hours per consecutive weeks than corresponding fringe benefits reflect.

Commissioner Durgan moved to offer a three-quarter-time position with the option to re-evaluate the position at five months. Commissioner Taylor seconded the motion. Motion passed unanimously.

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

May 7, 2012

Review of Minutes for Week of April 30, 2012

@1:09 p.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present was John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to review Commission meeting minutes for the Week of April 30, 2012.

Commissioner Malone requested a revision to Page 2 of 20, the second paragraph should read, "Tracy Mosley, MSU Extension, said the Montana Cowboy Hall of Fame and Western Heritage Center committee selected Big Timber, but property offered by Park County is the second choice." On Page 7 of 20, Malone noted the correct spellings of O'Hair and Brisbin

Commissioner Taylor requested a revision to Page 9 of 20; first full paragraph, the first sentence should read, "Barbara Woodbury said the Board of Health denied a septic tank holding variance request for a chicken processing plant in Wilsall at its April 30 meeting."

Commissioner Malone moved to approve the minutes as corrected. Commissioner Durgan seconded the motion. Motion passed.

@1:23 p.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 7, 2012

12:00 P.M. – Community Networking Meeting – Job Service, Livingston

May 8, 2012

7:30 A.M. –Job Service Employers Committee – Job Service, Livingston – Commissioner Malone attended

May 8, 2012

County Road Updates/ Engineering Services Updates

@8:13:56 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; Shannan Piccolo, civil deputy county attorney; Parks Frady and Mark Westenskow, CTA; Clint Tinsley, city of Livingston; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to discuss county road issues and engineering services updates.

Road Supervisor Ed Hillman said crewmen will dig test holes at the Alvin Pierce Ranch near Chico to test a possible gravel source. He said Steve Koontz will provide a price on gravel from Mission Creek. Hillman said a patching crew will patch on Pine Creek, Mill Creek and Gardiner roads. He said Guthrie, Canyon View and parts of Miller Lane were graded, bad spots on Swingley were done and crewman are currently grading Pepper Lane, Coal Camp Road, Divide Road and the north end of Shields Rive Road East.

Commissioners Durgan and Taylor told Hillman he can inform Jill Ouellette, HR, to advertise for a vacant road crewmen position.

Taylor said an estimate of \$5,850 per building was provided to fire proof two outlying road shops per state code.

Parks Frady, CTA Engineering, said a culvert was installed on Coal Camp Road last week, and a permit has not been received from the Army Corps of Engineers for work on a creek erosion issue on Mill Creek Road. Westenskow said Bainter Construction will attempt work on Mill Creek Road if the permit comes in within the next two days, otherwise the project will not commence until after high water recedes.

Westenskow provided an “*Update Meeting Agenda*” document of CTA’s ongoing engineering efforts, as well as a summary of a Gardiner green box site proposal.

@8:50:33 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 8, 2012

Discussion/Status of Fleshman Creek Project

@8:50:52 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; Shannan Piccolo, civil deputy county attorney; Mark Westenskow, CTA; Clint Tinsley, city of Livingston; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to discuss the status of the Fleshman Creek Restoration Project.

Mark Westenskow, CTA Engineering, said CTA continues its sanitary issues analysis using data provided by the city of Livingston. Westenskow said Oasis Environmental may finish with its modeling of the creek next week.

@8:55:35 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 8, 2012

Daily Correspondence/Agenda and Briefing on Current County Projects

@9:10:54 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

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

Correspondence included:

- Memo documents re. Pine Creek School parents complaints
- Memo email re. River View Subdivision material changes meeting
- Memo email re. May 8 Web Committee meeting
- Memo email re. landfill trash picker positions
- Memo email re. land acquisition fund
- Memo email re. S Zone Agency administrator meeting
- Memo document re. Jim's Backhoe Morrison Creek proposal
- Memo email re. monofill tire application comments

@9:34:57 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 8, 2012

Human Resources Updates

@9:35:19 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Jill Ouellette, HR; and John Mueller, minutes clerk. No public comment made.

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

Jill Ouellette, HR, provided a MACo employee health benefits contract for initials from Commissioners Malone and Taylor on the first two pages which were missed previously. She provided change of status forms for a permanent weed sprayer position and road department positions and three weed employees working on a blowable refuse issue at the landfill to be paid from refuse funding. She provided an exit interview questionnaire from a detention officer.

Ouellette said she is finalizing lunch logistics for the May 15 mandatory employee safety training day and cross-referencing and finding missing data for a DOT audit.

Ouellette said she thinks a meeting should be held to discuss priority projects that need to be completed in the Human Resources Department, such as deciding on what work could possibly be farmed out to consultants. She said a training database has been ready for use for one year, and it would be helpful to have a person (preferably already on the county payroll) who can handle stress and computer issues associated with the HR Department work on that effort for possibly one hour per day. Commissioner Malone said he suggests Ouellette submit a plan and proposed individuals to assist her with said issue. Ouellette said she will submit a proposal before discussing any personnel assistance.

@9:55:46 a.m., Durgan moved to adjourn the meeting. Malone seconded the motion. The meeting adjourned.

May 8, 2012

10:00 A.M. – Discussion/Approval of New Road - Peterson Lane – Commission Chambers – Canceled by GIS Department

1:00 P.M. – Senior Citizens Meeting – Senior Center, Livingston – Commissioner Taylor attended

2:00 P.M. – Cooperative Weed Management Meeting – USDA Office, Livingston – Commissioner Durgan attended

2:00 P.M. – ITAC Meeting – Community Room – Commissioner Malone attended

3:00 P.M. – Web Committee Meeting – East Room

May 9, 2012

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:34:25 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; Tracy Mosley, MSU Extension; Ed Hillman, road; and John Mueller, minutes clerk. No public comment made.

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

Correspondence included:

- Memo email re. citizen Cooke City sewer district election comment
- Memo document re. ACOE Peterson Creek Road flooding damage
- Memo document re. citizen public information request comment
- Memo email re. Willow Park Project layout
- Memo document re. Tom Roe Construction Main Boulder Road maintenance invoice
- Memo document re. Hogenson Construction pipe hauling invoices
- Memo document re. Commission copy machine annual maintenance contract from Terrell's Office Supply
- Memo document re. DIS CountySilo invoice
- Memo document re. Lemke Excavation contractor list addition
- Memo document re. Wagon Wheel Trading Post Company beer and wine license
- Memo document re. Public Group equipment sales check
- Memo document re. IT Manager grant award and Granite TCS contract meeting requests
- Memo document re. Great West Engineering letter of transmittal
- Memo email re. Keystone Pipeline
- Memo document re. May 10 Agency Administrator meeting agenda

The Commission said it will change its policy on granting public information requests to allow the Commission chair to sign off on requests to release public information.

Tracy Mosley, MSU Extension, said the deadline for comments for a proposed Designated Surveillance Area boundary adjustment is approaching. She said she will travel to Lewistown on May 14 to attend an oil forum.

@9:08:35 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 9, 2012

Discussion/Decision on FY '13 County Health Insurance Employee Monthly Benefit

@9:13:38 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were

Martha Miller, auditor; Marilyn Hartley, finance; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to consider a FY'13 county health insurance employee monthly benefit.

Commissioner Malone moved to postpone the meeting until the finance director returns to work. Commissioner Durgan seconded the motion. Motion passed.

@9:17:37 a.m., the meeting adjourned.

May 9, 2012

Awarding of Janitorial Services Bids

@9:30 a.m., Chairman Taylor 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; Kelly Johnson, maintenance; Diane Gracey and Leanne Sudbeck, Montana Clean. No public comment made.

The meeting was scheduled to award janitorial service bids.

Commissioner Malone said the county reviewed three bids submitted.

Commissioner Malone moved to accept the lowest qualified bidder, Montana Clean. Commissioner Durgan seconded the motion. Motion passed.

@9:36:04 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 9, 2012

Review and Consider the D'Ewart First Minor Subdivision Final Plat Application

@10:05:16 a.m., Chairman Taylor 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; Mike Inman, planning; David Avant, applicant (via telephone); and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to review and consider the D'Ewart First Minor Subdivision Final Plat Application.

Subdivision Administrator Mike Inman said the applicant for the D'Ewart First Minor Subdivision Final Plat Application has met all county requirements for final plat application approval, received Montana DEQ approval and approval for the road approach from the road supervisor.

Commissioner Malone moved to approve the final plat application for the D'Ewart First Minor Subdivision Final Plat Application. Commissioner Durgan seconded the motion. Motion passed.

@10:09:15 a.m., Durgan moved to adjourn the meeting. Malone seconded the motion. The meeting adjourned.

May 9, 2012

Discussion/Decision on Electrical Work in IT Room

@10:33:44 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Erica Hoffman, GIS/IT; Kelly Johnson, maintenance; and Bill Berg, planning board. No public comment made.

The meeting was scheduled to consider electrical work in the IT Room.

Erica Hoffman, GIS manager, said the county has only one outlet hooked to the backup generator and is unsure which outlet is connected. Hoffman said she is not comfortable with that setup and is proposing a distribution center pulling from the generator that permits growth. She said the cost is \$2,000 for labor and materials, and the contractor wants 50 percent upfront for the materials. Hoffman said she'd like to have the work completed by the end of May or first of June, and the project will be paid for with grant funds from the public health nurse.

Commissioner Malone moved to allow Hoffman to proceed with the electrical issues with a contract drafted by the civil deputy county attorney. Commissioner Durgan seconded the motion. Motion passed.

@10:39:30 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 9, 2012

Discussion/Consideration of Developing a Park County Atlas

@11:00 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Mike Inman, planning; Erica Hoffman, GIS/IT; and Bill Berg, planning board. No public comment made.

The meeting was scheduled to consider developing a Park County atlas planning tool.

Senior Planner Mike Inman provided an atlas planning tool developed by Future West, Montana FWP and the Beaverhead County Planning Board to assist Beaverhead County in updating its growth policy and for use as a planning and economic development initiatives marketing tool. Inman said he would like to turn a similar tool for Park

County into an interactive mapping site on the county website. He said the Planning and Development Board made a recommendation to the Commission at its April 19 meeting to pursue creating an atlas for Park County. He said the total cost could be \$20,000, \$5,000 may be obtained from planning grants, Vision Livingston has shown interest and Future West has offered fundraising services for the effort.

Inman said he needs direction from the Commission about funding and whether the Commission will fund a portion of the cost with the remainder funded by matching funds. He said he needs to know whether he can identify county GIS personnel to work on GIS elements of the effort. Commissioner Taylor said he would like the county GIS Department to assist with the effort if possible considering its existing workload. Erica Hoffman, GIS/IT, said her department could assist in some aspects.

Bill Berg, planning board, said he thinks the atlas tool will help with economic development efforts and in updating the county growth policy.

Commissioner Duran moved to direct the Planning and GIS Departments to work with necessary individuals to develop an atlas strategy for presentation to the Commission. Commissioner Malone seconded the motion. Motion passed.

@11:26 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

May 9, 2012

Discussion/Possible Decision on TV Grant

@2:37:11 p.m., Chairman Taylor 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; Genevieve Essig, Billie Kaye Harms, Robert Queen and Stu Sites, TV district; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to consider a television equipment grant for the Paradise and Shields Valley TV Districts.

Billie Kaye Harms said the TV districts are considering applying for a \$166,322-grant for television equipment. She said the deadline is June 15, funds must be paid for upfront, but the districts have been told they have a 90-percent chance of receiving grant funds.

Commissioner Malone moved to forward the grant and promissory note pending legal review. Commissioner Durgan seconded the motion. Motion passed.

@2:51:39 p.m., Durgan moved to adjourn the meeting. Malone seconded the motion. The meeting adjourned.

May 9, 2012

Discussion/Decision of Insurance Agent for Fiscal Year 2013 MACo Insurance Programs

@3:19:20 p.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; Martha Miller, auditor; Dan Gutebier and Krista Gindlesperger, Taylor-Leavitt; Greg Jackson, MACo; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to consider an insurance fiscal agent for FY '13 for MACo insurance programs

Greg Jackson, MACo, provided a report of Park County's property liability and worker's compensation histories and renewal costs. Jackson said the county is looking at a 9.3-percent premium increase from the previous year due to primary loss ratio adjustments and a new Brit premium.

@4:17:01 p.m., Durgan moved to adjourn the meeting. Malone seconded the motion. The meeting adjourned.

May 9, 2012

Discussion of Former Donut Zoning and Interim Zoning Discussion of Possible Determination of Moving Forward

@4:20:04 p.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Mike Inman, planning; Shannan Piccolo, civil deputy county attorney; Raea Morris, administrative assistant; Bill Berg, Dave Haug, Tracy Isaly and Dale Reinhart, Planning and Development Board; Dann Bacox, PCRFD#1; Wes Venteicher, Livingston Enterprise; Citizens Howard Harper, Gary Barnhart, Nelson King, Sharon Sweeney Fee, Kerry Fee, Matt Wilhelm, Peter McKenzie, Dan Nelson, Sue Nelson, Mary Karell, Billie Kaye Harms, Clyde Funk, Rob Forstenzer, Tom Curtis and Chuck Donovan; and John Mueller, minutes clerk.

The meeting was scheduled to consider moving forward with a donut zoning district.

Zoning Administrator Mike Inman said the Planning and Development Board requested a meeting be scheduled for the Commission to provide an update on whether it is moving forward with a process to address the former donut zoning district issue.

Commissioner Taylor said the civil county attorney's opinion is the Commission's decision not to enact interim zoning in a quick and efficient manner on March 28 constituted a non-emergency regarding donut zoning district status, thus the remaining options are citizen or county-initiated zoning. Taylor asked if the county can use different regulations and commit to interim zoning or use the same regulations that were

used for the former donut zoning district and change them. Taylor said at this point he does not think the Commission is going to write zoning rules for the donut area. He said the people should come forward with citizen-initiated zoning if they want zoning in the donut area.

Commissioner Durgan said zoning has existed in the donut area for almost 40 years, and the Commission is not proposing establishing a new zoning district but use of the former regulations as a starting place to work on permanent regulations. Durgan said Montana Code Annotated (MCA) 72-2-205 permits the Commission to ask planning staff to review the rules and regulations that were in the former donut zoning area when it was thrown out due to a procedural error, and he feels the Commission has an obligation to make the transition as painless and simple as it can. Durgan read into the record his reasons why he thinks there should be regulations in the donut. He said an alternative is to wait for the citizens to petition for zoning.

Citizen Gary Barnhart asked if Durgan thinks most citizens in the donut area favor zoning regulations. Durgan said he has had many citizens approach him saying they feel there is a need for zoning in the former donut district.

Civil Deputy County Attorney Shannan Piccolo said the County Attorney's Office opinion at this point is the county can either do nothing and allow citizens to initiate zoning in the donut district or go through the process of county-initiated zoning, which has specific procedures for adoption, including the county coming up with proposed regulations and holding public meetings for citizens to comment on those regulations. She said the county's legal consultant, Montana Association of Counties, agreed with the county attorney's opinion on the issue, and her office put much effort into reviewing case law in making its legal opinion on the matter.

Inman said interim zoning in the former donut zoning district is no longer an option. He said procedures for county-initiated (201) zoning per MCA is as follows: a notice of a public hearing on the county's proposed zoning district boundaries and regulations must be advertised; the Commission must give the public the opportunity to review and comment on the proposals; the Commission must review Planning and Development Board proposals to the regulations and district and make amendments it feels are appropriate; the Commission may pass a resolution of intent to adopt the regulations; that resolution must be noticed for a required period of time; 30 days after the first public notice of intent to adopt the county must accept any written protests from citizens within the proposed zoning district; and the Commission may adopt the resolution creating the zoning district and regulations within 30 days after that period. Inman said, however, should 40 percent of the real property owners or 50 percent of people on deeds titled for agricultural purposes protest establishment of the district, the county commission may not implement the district and cannot attempt a zoning effort in the same area for one year.

Citizen Tom Curtis said the county attorney's opinion that emergency status provisions are no longer an option can be contested in many ways and argued against by many lawyers.

Commissioner Malone said the Commission's idea was to start the procedure and ask if people wanted zoning in the donut area by holding a public hearing, which the Commission did on March 28. He said many in attendance at that meeting expressed opinions he had not heard before and that citizens did not want zoning in the former donut. Malone said, therefore, his opinion was to back off and send a postcard to every individual in the donut area to express their opinions on the matter so the Commission can make a decision the people want. He said he does not live in the donut so he is listening to citizens who do live there. Malone said he thinks the county should have moved forward the day after the district court decision nullified the donut zoning district if a true emergency existed.

Tracy Isaly, planning board, said it sounds like Malone did not understand that asking for more time for public input at the March 28 hearing would be a mistake by nullifying the option of interim zoning. She asked if that were the case, can the Commission now say it made a mistake, did not understand the procedure, does not need the 30 days and would like to now implement the emergency zoning. Piccolo said such cannot be done.

Kerry Fee, Park County Environmental Council, said the Commission directed staff and legal counsel to move forward with enacting interim emergency zoning in the donut at the March 28 public hearing. Fee said a heavy truck business in the Five Acre Tracts would damage the county road in about a month, which would cost the county and Wineglass residents and landowners.

Citizen Howard Harper said he would bet there are more people living in the proposed zoning district who do not want zoning there than who do.

Citizen Sue Nelson said she thinks a lot of the disagreement with zoning in the donut area is based on different opinions of residential, agriculture, commercial and industrial land uses being zoned as different designated areas. She said the ability for landowners to determine whether they want to be in or out of the proposed donut district possibly could alleviate issues.

Citizen Dan Nelson asked how citizens can rest assured their comments and desired changes to proposed regulations would actually be addressed if given to the planning board.

Citizen Chuck Donovan said the county will not fix the regulations if they adopt them.

Dale Reinhart, planning board member, said he has always thought the donut zone has benefited the county and has never seen a landowner get hurt by the zoning designation. Reinhart said that does not mean someone has not been hurt, but he has never seen it. He said he is disappointed by the events that have happened and is disappointed no donut zoning exists. He said the Commission stated at its December meeting that it was going to start the process of enacting emergency zoning in the donut, but would make it better by looking into mixed uses, how agricultural uses fit in the district, economic

development issues and whether district boundaries were correct. Reinhart said there are now no protections for the tens of thousands of housing units that have been approved by the planning board over the last decades within the donut area, which is a transition area between the city of Livingston and the county where growth has been encouraged. Reinhart said he is hearing from Commissioner Taylor that citizens will have to initiate zoning on their own if they want it, and he is not encouraged about the future of putting protections back in place.

Citizen Peter McKenzie said he agrees with Reinhart and is very disappointed. He said he is also disturbed the current meeting was not better noticed. McKenzie said it is the process he disagrees with. He said he was told by the county attorney's office for two years that zoning existed in the donut, but that office could not produce any documentation. He said the county would have been in a major lawsuit if he would have sold his property to individuals with the false knowledge zoning parameters were in place. McKenzie asked how citizens will know their input will not get thrown into the toilet as it was done before during the county growth policy debate. He said the county needs to take zoning discussions slowly and do them right, as there is no emergency situation as no developers have any money to develop at this time.

A citizen said her children attend school in the donut and she does not want her kids in school near a chicken processing plant or tire pit. She said zoning is what the citizens make of it and urges the commissioners to initiate zoning and the process by which the donut residents can provide input into how the donut area and county looks in the future.

Citizen Rob Forstenzer said he is extremely disappointed the situation has come to this. He said it seems like a huge disservice to lose a system that worked for 40 years due to oversight or lack of decisions and then have to start from scratch. Forstenzer said he bets the majority of people who live in the donut were not unhappy with the former regulations. He said he would like to see another legal opinion on the issue to be absolutely certain the emergency status is no longer an option.

Citizen Nelson King, Wineglass Property Owners Association president, said his association is blessed with covenants without teeth, thus homeowners there were trying to find some regulatory framework to work within through the donut regulations. He said he has looked into citizen-initiated zoning, and that zoning will result in noncontiguous zoning all over the place that will be hard to administer. King said he is in favor of a new process to zone the donut.

Bill Berg, planning board, said the planning board understood for years the donut zoning regulations needed to be revised. Berg said a lot of strategic planning and deliberation was lost when the emergency zoning status was lost. He said an attempt should be made to get back to the plan to enact zoning in the donut by recognizing a mistake was made and the donut district was not done away with through a deliberate attempt.

Taylor said he was sorry to the people for making a mistake and losing the donut zoning district, but such was done in attempt to involve the public in the donut zoning district

discussion when asking for 30 more days of public comment. Taylor said any sin made was in trying to involve the people. He said the Commission had a plan to enact emergency zoning, but the Commission decided to listen to the public, which said it did not like the 65-page donut zoning regulation document and wanted to change it and wanted something different. He said thus is why 30 more days was asked for at the March 28 meeting, but the Commission was mistaken by not knowing such would result in the donut going away. Taylor said Malone's motion at the March 28 meeting to send out postcards was further attempt to get citizens in to comment on the issue. Taylor said he sympathized with landowners in the donut who want protections, but one of the last things in the world he wants to do is tell the people what they should do with their property. He said he would rather a group of people get together and form their own zones, but he is not going to build zoning regulations and tell citizens what to do with their property.

Taylor said his question is where the county goes on the issue from this point, but he is not in favor of the commissioners doing its own zoning. He said it seems the most accurate and equitable zoning would come from the citizens themselves who feel they need protections. He said he has seen citizen-initiated zoning districts work, particularly in Cooke City.

Donovan told Taylor not to apologize for taking public comment. He said the best thing the Commission does is listen to the people. McKenzie said the Commission did the right thing on March 28.

Durgan said he feels bad about the situation, and he does not want to tell anyone what to do on his/her property, but he does not want people to have to go through the citizen-initiated zoning process. He said such will take lots of work and will result in lots of battles.

Inman said a lot of political fear surrounds county-initiated zoning, with fears of someone else telling someone what they can or cannot do with their property. Inman said the reality is the county-initiated zoning process is not designed to do that, as the process he earlier outlined is likely the most difficult public process the Commission could embark on. Inman said he disagrees with procedural statements made about citizen-initiated zoning. He said such zones must be contiguous to existing, nearby districts, can be as small as 40 acres, and citizens have to do all the work and pay all expenses to create such a zone. Inman said he administers seven different zoning districts, and Cooke City is the only good, enforceable district. Inman said he cautions citizens going down the road of citizen-initiated zoning. He said as the county planner he recommends the commissioners initiate county zoning by starting with the existing former donut district regulations and fixing all ambiguities to come up with a draft the citizens can comment on in order to let the people figure out what it would and would not like in the regulations. Inman said things can change within zoning regulations. as zones can move and be added to or withdrawn from.

Isaly said she has been on the planning board for three terms, was part of a growth policy group on the west side and was part of a citizen-initiated zoning district on Quinn Creek Road on the Park County side. Isaly said she has personally seen both county and citizen-initiated zoning, and the latter process pits neighbor against neighbor, is contentious and difficult to do. Isaly said she really thinks it is in the best interest of Park County for the commissioners to be leaders on the donut zoning issues. She said it is less about personal property rights than it is about protecting a certain area in the county that needs protection. She said the Commission needs to step up to the plate and begin the process, because as Inman defined that process is designed to not require the Commission to force proposed regulations down peoples throat, but for people to come to the Commission to tell it what they want.

Malone said he will take in McKenzie's idea to notify every property owner within whatever area is to be talked about when the next full-fledged public hearing is held. Malone said state law does not require the Commission to hold a public hearing to find out whether the people are interested in having zoning, and he thinks such a hearing needs to be held. Malone said zoning must be done from the ground up with the public involved.

Citizen Sharon Sweeney-Fee said three meetings on the issue have been held and asked how many more public meetings need to be held to generate input before a decision is made on what to do.

@5:43:10 p.m., Malone moved to adjourn the meeting. Durgan seconded the motion. In discussion, King asked if another meeting will be held on the issue. Durgan said the Commission will check with its assistant to see when a meeting can be held. Inman asked if the county is sending a mailing to everyone living in the former donut district. Taylor said such meeting notice logistics and timeframes will be discussed with planning staff and legal counsel, but will include a large advertisement in the newspaper. The meeting adjourned.

May 10, 2012

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:43:55 a.m., Commissioner Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

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

Correspondence included:

- Memo email re. LEPC meeting cancelation
- Memo email re. economic development director out of office schedule
- Memo email re. open container request

- Memo email re. Federal Highways Administration
- Memo email re. May 17 Planning Board agenda
- Memo email re. GIS/IT economic development project requests
- Memo email re. \$125/month rate for Green Acres port-a-let

@9:02:08 a.m., Durgan moved to adjourn the meeting. Malone seconded the motion. The meeting adjourned.

May 10, 2012

9:00 A.M. – Safety Meeting – Commission Chambers

10:00 A.M. – Local Emergency Planning Committee – Community Room – Canceled

12:00 P.M. – Critical Incident Stress Management – Community Room

May 10, 2012

1:00 P.M. – Discussion/Decision of Task Order for Planning, Design and Construction of Search and Rescue Facility – Commission Chambers – Canceled due to scheduling conflict

May 11, 2012

No Commission Meetings Scheduled

Randy Taylor, R.S.  
Chairman, Park County Commission  
Park County, Montana

Denise Nelson  
Clerk & Recorder  
Park County, Montana