

Park County Commission Meeting Minutes  
Week of December 16–20, 2013  
Park County, Montana

**December 16, 2013**

@9:01 a.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan, Malone and Tinsley; Raea Morris, administrative assistant; Scott Hamilton, PCSO; Bob Smith, Cooke City; Frank Rigler, citizen

Public Comment/Review of Daily Correspondence and Agenda/Signing of Administrative Documents and Upcoming Claims/P.O.'s

Correspondence for December 12 included:

- Memo re. Southern Montana RAC meeting
- Memo re. tentative 2014 claims schedule
- Memo re. Chicory Road RSID
- Memo re. LEPC meeting room reservation
- Memo re. MACo SRS website links update
- Memo re. Nittany Grantworks letters of support requests
- Memo re. Cooke City area resort tax dates and application
- Memo re. Gardiner Community Center issue

Correspondence for December 13 included:

- Memo re. Airport Board applicant recommendation
- Memo re. Cooke City Fire/EMS followup
- Memo re. weekly Fleshman Creek Project update
- Memo re. St. Mary's School Fleshman Creek Project meeting
- Memo re. motor pool vehicle shortage
- Memo re. Montana Stockgrowers cattle and sheep predator control invoices

Public Comment

Citizen Frank Rigler said people in the valley oppose zoning. He said he and Warren Wagner will attend the Thursday land use outreach meeting to express concerns about Bill Berg (planning board chairman), who at one time made a comment about tearing down and building houses along the river. Rigler said the Corwin Bridge will be gone in time if no riprap is placed around it.

Commissioner Malone reported on a Montana Fish, Wildlife and Parks meeting in Whitehall last week.

Commissioner Tinsley reported on a December 12 countywide Capital Improvements Projects meeting in Gardiner.

@9:51 a.m., the meeting adjourned.

#### Human Resource Department Updates

@10:05 a.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan, Malone and Tinsley; Jill Ouellette, HR; Scott Hamilton and Jay O'Neill, PCSO; John Mueller, minutes clerk

Jill Ouellette, HR, said the PCSO Detention Department continues to have issues with turnover of detention officers and difficulty in getting applicants for open positions. An issue may be the work schedule, which can result in long shifts affecting detention officers' days off, ultimately resulting in officers quitting. An idea is to have two part-time individuals who can be hired with funds already in the budget and work when regular staffers take leave.

Commissioner Tinsley moved the HR Department can immediately post two, permanent part-time detention center positions working up to 16 hours per week. Commissioner Durgan seconded the motion. Motion passed.

Ouellette said she and the Public Works Director have opted to use the term "foreman" for department supervisors.

Ouellette provided performance appraisals for an employee completing a probationary period in the Clerk and Recorder's Office with requested wage increase and a second appraisal in another department with no requested increase. Ouellette provided change of status forms for a new and retiring detention officer, as well as an exit interview for the retiring officer, and a November employee sick and annual leave bank report.

Airport Board interviews were held for two applicants for one board seat. Ouellette said a resolution can be passed to accept the new personnel policy handbook, but a few grammatical/typo revisions need to be made.

@10:41 a.m., the meeting adjourned.

#### Discussion of Moving Forward on Museum Roof Project

@10:41 a.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan, Malone and Tinsley; Parks Frady, public works; Shannan Piccolo, civil deputy county attorney; John Mueller, minutes clerk

Parks Frady, public works, said paperwork for the proposed project has been completed. Project bids due January 10 to be opened on January 14. Project completion date is May 15.

@10:47 a.m., the meeting adjourned.

Discussion/Decision on Replacement and Update of Video Equipment for Connectivity with Courts and Other Agencies

@11:05 a.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan, Malone and Tinsley; Jay O’Neill, detention; John Mueller, minutes clerk

Jay O’Neill, PCSO, said a video equipment vendor was not reliable, thus a quote was sought from One Vision Solutions that amounted to \$15,000. The current video equipment is outdated.

Commissioner Durgan moved to accept the detention officer’s recommendation to proceed with purchasing the new video equipment. Commissioner Tinsley seconded the motion. Motion passed.

@11:13 a.m., the meeting adjourned.

Discussion of Building Assessment Evaluation Progress

@11:30 a.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan, Malone and Tinsley; Parks, Frady, public works; Bob LaPerle, CTA; John Mueller, minutes clerk

Bob LaPerle, CTA Engineering, provided recommendations of office space needs/use prioritizations based on responses to surveys and interviews with City-County Building personnel.

@11:59 a.m., the meeting adjourned.

Signing of Letter of Support for 2014 Tri-County Network

@1:06 p.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan and Tinsley; Raea Morris, administrative assistant; John Mueller, minutes clerk

Commissioner Durgan said the letter of support is an annual action supporting agencies funding Tri-County Network to combat domestic violence.

Commissioner Durgan moved to sign the letter of support. Commissioner Tinsley seconded the motion. Motion passed.

@1:09 p.m., the meeting adjourned.

#### Litigation Strategy – Fletcher v. Park County

@1:35 p.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan, Malone and Tinsley; Shannan Piccolo, civil deputy county attorney; John Mueller, minutes clerk

Commissioner Durgan moved to close the meeting to the public to discuss litigation strategy. Commissioner Tinsley seconded the motion. The meeting was closed to the public, the audio recording was turned off and the recording secretary exited the Commission Chambers.

@3:01 p.m., the meeting reopened.

Commissioner Durgan moved that legal counsel provide information and answers to subpoena duces tecum provided by plaintiff's counsel. Commissioner Tinsley seconded the motion. Motion passed.

@3:04 p.m., the meeting adjourned.

#### **December 17, 2013**

**Opening of Meeting:** 9:01 a.m.; Commission Chambers

*Attendance:* Commissioners Malone and Tinsley; Raea Morris, administrative assistant; Parks Frady, public works; Barbara Woodbury, environmental health; Mike Inman, planning; Lani Hartung, finance; Kevin Feldman, CTA (via telephone); John Mueller, minutes clerk

#### **Department Updates**

Lani Hartung, finance, asked if the biweekly claims run could be done on December 24.

#### **Update on Current County Projects**

Fleshman Creek Project: Kevin Feldman, CTA Engineering, said crews are attempting to complete work on tying into sanitary sewer lines at Main Street before the holiday.

Telemetry workers will be onsite tomorrow to transfer operation of the lift stations to the city. Some Construction crews will be off work for two weeks for the Christmas holiday.

Gardiner Gateway Project: No report

Gardiner Sidewalk Extension Project: No report

Museum Roof Restoration Project: Parks Frady, public works, said the design plan is under review by MDT.

Boulder River Road: No report

Fairgrounds Sewer Project: Draft RFQ is being reviewed by county legal counsel.

Rock Creek Road: "Construction Zone" signs were placed on the road. Construction has ceased for the winter season to be completed spring 2014.

TSEP County Bridge Improvement Project: The contract has been approved. Construction will commence summer 2014. The county will determine work it can perform on the projects. CTA Engineering will draft a scope of services for the project.

## **ACTION ITEMS**

Signing of the Mental Health Intergovernmental Transfer Agreement: Commissioner Tinsley moved to approve the Mental Health Intergovernmental Transfer Agreement. Commissioner Malone seconded the motion. Motion passed.

Discussion/Decision and Signing of a Road Department Preferred Vendor: Parks Frady, public works, said the document denotes the company has provided continuous competitive pricing on small ticket items for the road department.

Commissioner Tinsley moved to sign the Road Department preferred vendor for True North Steel. Commissioner Malone seconded the motion. Motion passed.

Discussion/Decision on Liquidation Damages for Finalization of Search and Rescue Building

*Attendance*: Commissioners Malone and Tinsley; Raea Morris, administrative assistance; Parks Frady, public works; Shannan Piccolo, civil deputy county attorney; Wendy Wood and Gregg Todd, PCSO; Ben Elias, CTA; John Mueller, minutes clerk

Wendy Wood, SAR, said the project contractor requested an extension of 81 days to December 24 due to property flooding, a county no fire ban, delivery issues, change orders and other building delays. Ben Elias, CTA Engineering, said requests for extra time due to materials and delivery issues are not justifiable. CTA feels a 25-day

extension is justifiable. Wood and Todd said they think granting a 41-day extension would maintain best relations among all parties.

Commissioner Tinsley moved to accept the recommendation of 40 days. After December 24 a \$500-per-day penalty will resume. Commissioner Malone seconded the motion. Motion passed.

## **CONSENT ITEMS**

### Review of Daily Correspondence and Agenda/Signing of Administrative Documents and Upcoming Claims/P.O.'s

Mike Inman, planning, asked the Commission to address individuals who state they are gunning for county advisory board members or board efforts to derail a public process.

Correspondence included:

- Memo re. Clark Common Boundary Relocation appeal
- Memo re. invoice and affidavit of publication for Angel Line Board
- Memo re. Montana DNRC Water Right Compact
- Memo re. City-County Building insurance
- Memo re. annual PCSO/Forest Service law enforcement contract
- Memo re. Library Board meeting agenda

Review of Minutes for Week of December 9, 2013: Commissioner Tinsley moved to approve the minutes for the Week of December 9 through 13. Commissioner Malone seconded the motion. Motion passed.

**Adjournment:** 10:41 a.m.

## **December 18, 2013**

### Department Head Meeting

@9:35 a.m., the meeting opened in the Community Room

*Attendance:* Commissioner Tinsley; Shannan Piccolo, civil deputy county attorney; Martha Miller, auditor; Lani Hartung, finance; Parks Frady, public works; Clay Williams, weed; Paul Shea, museum; Ed Hillman, road; Barbara Woodbury, environmental health; Mary Anne Keyes, MSU Extension; Belinda Van Nurden, DES; Raea Morris, administrative assistant; Kristen Galbraith, Nittany Grantworks; Mike Inman, planning; John Mueller, minutes clerk

Report from Commission: Commissioner Tinsley said CTA Engineering presented building use/office space need options to the Commission and the assessment is ongoing.

No immediate decisions/actions expected. A lot of issues hinge on building security, specifically with the courts and law enforcement.

Roundtable Discussion of Activities: Department heads and elected officials provided updates of current and ongoing projects and efforts.

@10:28 a.m., the meeting adjourned.

**Opening of Meeting:** 1:10 p.m.; Gardiner Community Center

*Attendance:* Commissioners Durgan, Malone and Tinsley; Raea Morris, administrative assistant; Mike Inman, planning; Parks Frady, public works; Barbara Woodbury, environmental health; Karen Reinhart, YGM; Mary Anne Keyes and Katie Weaver, MSU Extension; Joe Regula, YNP; Citizens Bill Berg, Barbara Read, Charles Kleba, Richard Parks, Katrina Hecimovic, Harry Miller, Frank Rigler, Warren Wagner, Chris McIntosh, Ron Shorter; John Mueller, minutes clerk

**Public Comment**

Citizen Frank Rigler said the Corwin Bridge is in jeopardy. The east side of the bridge is being undercut by the river. \$2,000,000 of public funds was put into building the bridge.

Citizen Harry Miller said a ditch that flooded and washed over the road this spring/summer near Corwin Springs has flooded numerous times. The culvert needs to be cleaned out. Citizen Warren Wagner said the culvert is too small. The Commission said it will bring the concerns to MDT.

**County Department Updates**

Undersheriff Scott Hamilton provided specifics of the structure of the Park County Sheriff's Office and the office's law enforcement, public safety, Search and Rescue, jail/detention responsibilities and animal control issues. A new Search and Rescue building is being built at a cost of \$800,000 and paid for with BN Settlement Funds interest. The department is implementing a new records management system.

Parks Frady, public works department, provided an overview of his job responsibilities, which include oversight of road and bridge, solid waste, junk vehicle and weed departments, as well as involvement in countywide CIP projects, such as the fairgrounds sewer project, Fleshman Creek Restoration Project and Gardiner Gateway Project.

Mike Inman, planning director, provided an overview of his job responsibilities, which include zoning administration, subdivision review, assisting the Planning and Development Board, Parks Board, and conducting long-range county planning.

Barbara Woodbury, environmental health, provided an overview of her job responsibilities, which include licensing of restaurants, public accommodations and

tourist homes, addressing subdivision septic system issues/wastewater treatment, and conducting floodplain administration.

Mary Anne Keyes and Katie Weaver, MSU Extension, provided an overview of their job responsibilities, which include serving as a resource to provide research-based information to citizens and local community and economic development assistance.

Karen Reinhart, Yellowstone Gateway Museum, provided an overview of YGM, its history, programming, exhibits, community resources and assistance to county residents.

### **Update on Current County Projects**

Fleshman Creek Project: Kevin Feldman, CTA Engineering, said Frady said a sanitary sewer lift station should come on line this week. Box culvert installed under Main Street. To be backfilled, but road likely closed through the holiday. Crewmen will not be working for two weeks commencing 3 p.m. December 20.

Gardiner Gateway Project: Parks Frady, public works, said Design phase being done by Western Federal Lands through FLAP grant. \$10 million obtained to be split between National Park Service and Park County to do sewer, water, roadway, curb and gutter and sidewalk infrastructure improvements. Construction expected to commence fall 2014 or spring 2015.

CTEP Projects – Gardiner Sidewalk Extension Project: Spinoff project from GGP. Public input requested improvements to the north side of the Yellowstone River. CTEP funds were available in the county's coffer. Extension of sidewalks along Highway 89 to the rodeo grounds.

Fairgrounds Sewer Project: Project being piggybacked with the Fleshman Creek Project sewer infrastructure improvements to address fairgrounds septic system problems. The current fairgrounds septic systems are inadequate. \$100K grant from DNRC to put in septic system. Park County will match with \$200,000. Fall at latest will have a central sewer system at the fairgrounds.

Museum Roof Restoration Project: Frady said

Boulder River Road: Being administered by Sweet Grass County, which is the co-applicant with the USFS. Park County must pay funds into the project because the road crosses into Park County. Western Federal Lands doing project design.

Rock Creek Road: "Construction Zone" signs were placed on the road. Construction has ceased for the winter season to be completed spring 2014.

TSEP County Bridge Improvement Project: County Bridge Enhancement Projects: scope of services for final design to be discussed by Commission tomorrow. \$218,000 project with funds provided half by Park County half by TSEP.

Gardiner Refuse Site Update Project: Site improvements will include installation of compactor units to reduce consistent avian and terrestrial wildlife issues at the site. Roll off bin will be onsite to collect construction/demolition waste as it currently is. A bear-proof fence will be erected.

Citizen Chris McIntosh said the county wants to be certain not to attract bears to Gardiner city proper with restricted hours at the Gardiner refuse site. McIntosh asked why the Gardiner site is closed at times when it does not get abuse received by other county refuse sites not closed at any time.

Citizen Richard Parks said he has concerns with local residents not able to get to the refuse site during work hours in the summer time. He suggests having more access and not less.

Citizen Barbara Read said a restaurant in town keeps refuse in an open flatbed truck full of garbage before it can get it to the green box site. Such invites wildlife problems. She asked if fuel savings experienced from the revamped refuse system can be put toward man hours to have the green box site open and available to residents.

McIntosh asked if Park County collects YNP refuse. It does not. He asked how the new design will facilitate him dumping at the updated refuse site as part of his private refuse collection business in town.

## **ACTION ITEMS**

Appointing of County Planning Board Members: Mike Inman said five individuals applied for three open county planning board seats – incumbents Lewis Wilks, Frank Schroeder and Tracy Isaly, and Citizens Anne Hallowell and Bruce Reed. An interview process was followed because more applicants existed than seats.

Inman said the interview committee scored the applicants in order from highest qualified to sit on the board to least in the following order: Wilks, Schroeder, Isaly, Hallowell, Reed. The committee recommends the three incumbents continue on the board as they interviewed as the most qualified.

Commissioner Durgan moved to accept the three incumbents per the Planning Board's recommendation. Commissioner Tinsley seconded the motion. In discussion, Commissioner Malone said he supports Anne Hallowell. He said a valid case exists for having term limits for board members. Motion passed.

Appointing of County Resident to City Planning Board: Inman said one county-appointed resident sits as a liaison on the city of Livingston planning board. Anne Hallowell occupied the seat for a number of years, but did not reapply. Citizen Peter Fox was the lone applicant.

Commissioner Tinsley moved to appoint Peter Fox as the county representative to city planning board. Commissioner Durgan seconded the motion. Motion passed.

## **CONSENT ITEMS**

### Review of Daily Correspondence and Agenda/Signing of Administrative Documents and Upcoming Claims/P.O.'s

Correspondence included:

- Memo re. MSU Extension Ranchers Roundtable
- Memo re. employee policy handbook comments
- Memo re. Cooke City Resort Tax
- Memo re. public works meeting agenda request
- Memo re. citizen Museum Board resignation letter
- Memo re. December SWB meeting agenda
- Memo re. Clark Boundary Relocation appeal packet
- Memo re. Board of Health member resignation
- Memo re. Livingston Enterprise Board of Health position legal advertisement
- Memo re. MSU Extension board training flyer
- Memo re. PCSO employee retirement party

Citizen Warren Wagner said the grader operator in the Gardiner area is doing a very good job.

### **Park County Board/Committee Meetings**

4:00 p.m. – Planning and Development Board Meeting, Gardiner High School, Gardiner – Commissioner Tinsley attended

6:00 p.m. – Land Use Outreach and Education Forum, Gardiner High School, Gardiner – Commissioner Tinsley attended

**Adjourn:** 2:56 p.m.

### **December 19, 2013**

**Opening of Meeting:** 9:05 a.m.; Commission Chambers

*Attendance:* Commissioners Durgan, Malone and Tinsley; Raea Morris, administrative assistant; Mike Inman, planning; Parks Frady, public works; Martha Miller, auditor; Lani Hartung, finance; Kevin Feldman, CTA; John Mueller, minutes clerk

## County Department Updates

### Public Works Department Updates

Parks Frady, public works director, provided a written report of activities his department has been involved in.

Kevin Feldman, CTA Engineering, said a private landowner made an agreement with Sime Construction to remove materials from his property, which has caused concern in adjacent landowners about placing fill in the floodplain not written into existing project permits/documentation.

Mike Inman, planning, said the Planning and Development Board will put together a schedule with MSU about scheduling education and outreach forums for the remainder of the county. Forums held to-date in Cooke City and Gardiner.

Commissioner Tinsley reported on a December 18 Planning and Development Board public outreach forum in Gardiner.

### **ACTION ITEMS**

Discussion/Decision Regarding Fleshman Creek Condition of Approval City of Livingston Central Telemetry Upgrade: Frady said the county must get approval from the city of Livingston for the new sanitary sewer lift stations associated with the Fleshman Creek Project. The city will take over ownership/management of the station. The cost is to be shared three ways between Livingston Healthcare, city of Livingston and Park County.

Commissioner Durgan moved to accept the proposal. Commissioner Tinsley seconded the motion. Motion passed.

Discussion/Decision to Hire CTA for Treasure State Endowment Program Task Order for Final Design on Bridge Replacement and Rehabilitation: Kevin Feldman, CTA Engineering, said CTA completed a PER for Rock Creek Road North, Indian Creek Road, Cottonwood Creek Road and Castle Mountain Road Bridges through the TSEP program. Commissioner Tinsley moved to hire CTA for Treasure State Endowment Program task order for final design on bridge replacement and rehab. Commissioner Durgan seconded the motion. Motion passed.

Discussion/Decision on Signing Change Order #1 for Fleshman Creek Restoration Project: Feldman provided an extensive list of changes included in the change order. Commissioner Tinsley moved to sign Change Order #1 for the Fleshman Creek Restoration Project. Commissioner Durgan seconded the motion. Motion passed.

Discussion/Decision on Recommendations for Airport Board Applicants: The Airport Board interviewed two candidates, Laurence Hoem and Don Wilson. Commissioner

Durgan moved to accept the recommendation of the board and appoint Don Wilson to the Airport Board. Commissioner Tinsley seconded the motion. In discussion, Commissioner Malone said he thinks there needs to be board term limits and new members on county boards. Malone said he supports Laurence Hoem for the board. Motion passed. Commissioner Malone voted in opposition to the motion.

Signing of the Annual Contract with Forest Service and Law Enforcement:

Commissioner Tinsley voted to sign the contract. Commissioner Durgan seconded the motion. Motion passed.

Discussion/Decision on Allocation of SRS Funds for Park County: Lani Hartung, finance, said the deadline to allocate funds is December 20, which has traditionally been 85% and 15% to Title I and Title II, respectively. Total funds are \$680,000.

Commissioner Tinsley moved to approve the allocation as has been done in the past. Commissioner Durgan seconded the motion. Motion passed.

## **CONSENT ITEMS**

Public Comment Period, County Departmental Updates, Signing of Administrative Documents/Claims in Signature folder and Review of Daily Correspondence/Agenda:

Correspondence included:

- Memo re. fairgrounds space reservations
- Memo re. Thompson Law Firm Clark Appeal
- Memo re. Fleshman Creek Project telemetry upgrade
- Memo re. MACo mineral impact sequestration funds distribution
- Memo re. city of Livingston Fleshman Creek upgrade telemetry upgrade letter
- Memo re. December 19 PILT conference call
- Memo re. Gardiner Land Use Outreach session comment

Appeal of the Denied Boundary Line Exemption for Michael J. Clark

@1:30 p.m., the meeting opened in the Commission Chambers.

*Attendance:* Commissioners Durgan and Malone; Mike Inman, planning; Erika Braaksma, Michael Clark, Brandon Clark, citizens; David Albert, surveyor; John Mueller, minutes clerk

Mike Inman, planning director, said the proceeding is an opportunity for the applicant to provide additional information to the Commission about his boundary line adjustment exemption request. Inman said the application was denied upon review by Park County Attorney's Office and Planning Department based on perceived intent of the application, which states, in part, the adjustment would create an 80-acre tract to be sold to provide capital to operate the remaining ranch. Inman said the subdivision review procedure in

state statute exists for landowners wishing to create a parcel with intent to sell. He said based on information in Clark's application stating the boundary line adjustment is being sought to sell a portion of the property, the intent appears to be an attempt to evade subdivision review.

Appellant Michael J. Clark read into the record a prepared statement explaining reasons for the boundary line adjustment exemption application.

Dave Albert, land surveyor, read a statement into the record. Albert said he advised his client, Michael Clark, that the boundary line adjustment would be most time and cost efficient. Albert said he does not think reasons stated by Inman constitute grounds for denial. Albert said the adjustment would not create a new tract of record and no wording in Montana Code Annotated speaks to a required use of a parcel generated by a boundary relocation. He said he can find nothing stating one cannot sell a piece of land created with boundary relocation. Albert said Clark's intent to sell is not intent to evade the subdivision rule, but rather is using the boundary line adjustment exemption for what it was designed to do.

Erika Braaksma read into the record a history of herself and the property in question. She said it is of utmost importance the sale of the proposed parcel created from the boundary line adjustment goes through.

Commissioner Durgan said he does not know if he can support an exemption, as the Commission is bound to abide by state and county statute as adopted, and failure to do so can open the county to litigation. Durgan said he would like consultation with the county legal staff on the matter. The civil deputy county attorney was unable to review all documentation provided by the appellants because of ongoing litigation this week. Commissioner Malone said his opinion is the proposed exemption is just a swapped tract, and the applicant is not creating another tract.

Commissioner Durgan moved to postpone a decision for a rescheduled meeting on January 8 at 1:30 p.m. Commissioner Malone seconded the motion. Motion passed.

**Adjournment:** 2:45 p.m.

### **Park County Board/Committee Meetings**

1:00 p.m. – Solid Waste Board, East Room – Meeting canceled – No quorum of board members

### **December 20, 2013**

No Commission Meetings Scheduled

Marty Malone  
Chairman, Park County Commission  
Park County, Montana

Denise Nelson  
Clerk & Recorder  
Park County, Montana