

Park County Commission Meeting Minutes
Week of January 27 – 31, 2014
Park County, Montana

January 27, 2014

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

@9:04 a.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Malone and Tinsley; Raea Morris, administrative assistant; Marilyn Hartley, Lani Hartung, finance; Jeff Wood, citizen; John Mueller, minutes clerk

Lani Hartung, finance, said Olness and Associates has not received information on pending litigation from the county attorney, which is required before Olness can release its audit. The county attorney said he would have the information by week's end. Marilyn Hartley, finance, provided cost allocations for the refuse department.

Citizen Jeff Wood said he talked to Commissioner Tinsley about a sidewalk issue. Wood fell on the sidewalk in front of the courthouse on January 23. He will file a claim with the county HR Department. He said the city ordinance states property owners and businesses have a 24-hour timeframe to remove all snow, ice and fallen debris as a safety hazard. His complaint is to determine what can be done to ensure snow and ice is cleared from sidewalks per the owners' responsibilities. He said the city and county need to be held accountable for the 24-hour ordinance as written.

Correspondence for January 23 included:

- Memo re. Fleshman Creek Street closure update
- Memo re. Meigs Road maintenance
- Memo re. Yellowstone National Park remote vaccination program
- Memo re. commissioner letter to Forest Service
- Memo re. Montana Aeronautical Division Grant and Loan allocation
- Memo re. Angel Line Board member legal advertisement
- Memo re. January 28 elk brucellosis work group
- Memo re. January YGM Board meeting agenda

Correspondence for January 24 included:

- Memo re. Gardiner Arch Park open container request
- Memo re. courthouse sidewalk clearing

- Memo re. Fleshman Creek Project weekly update
- Memo re. employee retirement
- Memo re. citizen refuse disposal telephone call to public works
- Memo re. TCC agenda/information

Commissioners Malone and Tinsley reported on a January 24 meeting in Cooke City.

@9:43 a.m., the meeting adjourned.

Human Resources Department Updates

@10:02 a.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Malone and Tinsley; Jill Ouellette, HR; John Mueller, minutes clerk

Jill Ouellette, HR, said no one has taken advantage of a NACO prescription drug card program for a few months. Ouellette provided an employee accrual leave bank report, as well as an excess leave bank report. A Cooke City seasonal refuse site caretaker position was posted. Ouellette provided change of status forms for a fairgrounds caretaker and detention officer promotion.

Ouellette said she will file a claim for an individual who fell on ice in front of the courthouse building. OSHA 500 and MACo safety audit reports are due and will be worked on this week.

@10:29 a.m., the meeting adjourned.

January 28, 2014

Opening of Meeting: 9:03 a.m.; Commission Chambers

Attendance: Commissioners Durgan (via telephone), Malone and Tinsley; Raea Morris, administrative assistant; Lani Hartung, finance; Parks Frady, public works; Barbara Woodbury, environmental health; Kevin Feldman, CTA; Kristen Galbraith, Nittany Grantworks; Brenda Adams, Gary Barnhart, citizens; John Mueller, minutes clerk

Public Comment: Gary Barnhart said he votes no for online burn permits.

Citizen Dan Nelson said he attended a meeting on zoning where citizens were treated like kids. He said he walked out of the meeting and asked why citizens should take the issue seriously if the county does not.

Update on Current County Projects

Fleshman Creek Project: Wing wall work was completed at Main Street and the crossing is finished to grade. Crews are now working on C Street crossing and water line relocations at E Street crossing. Stream restoration continues in Reaches 7 and 8.

Citizen Gary Barnhart said the county and city applied for a floodplain permit in February, to which he protested because it would alter the streambed and his water right. He said the county later agreed not to alter the streambed. He said on Thursday the streambed 50 yards up H Street was altered, moving the entire stream roughly 50 feet with a big S-curve, which should not have been allowed. He said impeding the flow of the river bed was not part of the plan and it impedes the flow of his water right. Barnhart said he would have protested a county floodplain permit if he knew the streambed would have been altered 50 feet. He said cleaning out and meandering is fine.

Citizen Brenda Adams said the public never received a final copy of the final design plans. She has been to every meeting but two and never received one plan that says "final." Kristen Galbraith, Nittany Grantworks, said final plans were available at the library and in the courthouse for public review.

Barnhart said he is filing a complaint with the state at 11 a.m. for the moving of the streambed.

Gardiner Gateway Project: Parks Frady, public works, said focus group meetings continue.

Gardiner Sidewalk Extension Project: Project slated for construction in 2015. Bidding to take place in fall.

Museum Roof Restoration Project: Project bids due January 31. Opening is February 4.

Boulder River Road: No report

Fairgrounds Sewer Project: RFQ was opened on January 14. Project timeline meeting to be held today with fairgrounds manager and public works director.

Rock Creek Road: Construction has ceased for the winter season to be completed spring 2014.

TSEP County Bridge Improvement Project: Kevin Feldman, CTA Engineering, said he has discussed using borrow material with Crazy Mountain Ranch and access issues with local residents.

In other discussion, Feldman provided three copies of building use assessment reports completed by CTA.

Galbraith said she is working with DES and PCRFD#1 on a possible BLM assistance fire grant due on February 1. She is also looking into two other grants for fire and through the Recreational Trails Program.

Mike Inman, planning, said the next round of public meetings for the MDT Hwy 89 corridor study will be February 24 and 25 in Livingston and Gardiner, respectively. The remaining Planning and Development Board land use education and outreach forums will be held in Springdale, Clyde Park and Wilsall February 5, 12 and 19, respectively.

ACTION ITEMS

Discussion/Decision on Allocation of 30 Hours of Nittany Grantworks General Contract Hours for Capital Improvements Funding Applications for TSEP and CDBG Programs: Contract already budgeted for and voted on. Proposal would be no new cost to the county. Commissioner Malone moved to allow Nittany Grantworks to allocate 30 hours for TSEP and CDBG Capital Improvements funding applications. Commissioner Tinsley seconded the motion. Motion passed.

Discussion/Decision on Scope of Work, Budget & Contract for Fairgrounds Sewer Project Engineering Services: Kevin Feldman, CTA Engineering, provided a detailed breakdown of estimated project costs and associated scope of work, budget and contract for the Fairgrounds Sewer Project. Total cost for all services: \$48,300

Commissioner Durgan moved to move forward with recommendations as reviewed and submitted by Feldman. Commissioner Malone seconded the motion. Motion passed.

Discussion/Decision on Park County Use of Resource Advisory Council (RAC) Proposals: Commissioner Malone read into the record proposed projects submitted by entities for use of RAC funds. Malone said he thinks the Commission should object to any project submitted by a government agency. The agencies should use their own funds. He said he thinks RAC funds should be used for county roads.

Commissioner Tinsley said he would like more time to review the SRS funding program before making a decision.

Mike Inman, planning, said Park County applies for funding through a variety of agencies, including RAC funding. Letters of support are a key component of applications, so he cautions the Commission about openly opposing other agencies seeking funding.

The Commission will meet next on the issue on February 6.

CONSENT ITEMS

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

Correspondence included:

- Memo re. ExecUcare certificate of liability insurance

Review of Minutes for Week of January 20, 2014: Commissioner Malone noted a typo on Page 3 of 10. On Page 5 of 10, a sentence should read, “A contractor gave the Solid Waste Board an estimated cost of \$175,000 to demolish and remove the building, not including environmental study requirements.” On Page 6 of 10, a sentence should read, “Commissioner Malone moved to move forward with the process to allow Cooke City residents to vote whether to increase the mill levy to an annual maximum of 35.8 mills.”

Commissioner Malone moved to accept the minutes as amended. Commissioner Tinsley seconded the motion. Motion passed.

Adjournment: 10:40 a.m.

Personnel Meeting

@1:31 p.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Durgan (via telephone), Malone and Tinsley; Brett Linneweber, Kathy Carrick and Kim Lavender, county attorney’s office; Raea Morris, administrative assistant; Jill Ouellette, HR; Bruce Becker, city attorney; Natalie Storey, Livingston Enterprise; John Mueller, minutes clerk

County Attorney Brett Linneweber said he called the meeting, there is no legal basis to close the meeting and it should stay open to the public record.

Linneweber said he previously informed the Commission he will not run for re-election. He learned yesterday he was offered a position with the Yellowstone County, County Attorney’s Office and will move to Billings to take that job. Linneweber said his resignation from Park County will be effective February 24 at 8:00 a.m. Linneweber said he suggests the Commission put together a panel to select an interim county attorney.

Commissioner Malone moved to accept Linneweber’s resignation. Commissioner Durgan seconded the motion. Motion passed.

@1:48 p.m., the meeting adjourned.

Discussion Regarding Resident Concerns of Fleshman Creek Project

@2:30 p.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Durgan (via telephone), Malone and Tinsley; Parks Frady, public works; Mike Inman, planning; Kim Knutson, fair; Mike Adams, fair board;

Shannon Holmes, city of Livingston; Dan Nelson, Roundup Association; Kevin Feldman, CTA; Kurt Thomson, Stahley Engineering; Brenda Adams, John Adams, Gary Barnhart, citizens; John Mueller, minutes clerk

Discussing a city sidewalk project, Dan Nelson, Livingston Roundup Association, said rodeo participants use the curb on View Vista for parking and asked if such could continue with the new sidewalk project. Kurt Thomson, Stahley Engineering, and Shannon Holmes, city of Livingston, said yes. Equipment will be out of St. Mary's lot no later than June 15, but engineers feel the project is ahead of schedule.

Citizen Gary Barnhart said a surveyor was standing in his driveway one month ago and told him (the city) was putting sidewalks and curbs to Barnhart's driveway. Thomson said the surveyor should not have said that. That individual's job is to collect data. The sidewalk will go around the corner to a 15 to 25-foot radius. Thomson offered to show Barnhart the project plans when they are further along. Barnhart said that was fine.

Commissioner Tinsley said he thinks there may be a way to put a driveway next to a storm drain on Mr. Adams' property. Mr. and Mrs. Adams disagreed, saying a tree is in the way in that location when attempting to back their vehicle in.

Barnhart said he wants a new water line under the new paved sidewalk, which historically has been gravel.

Discussing the Fleshman Creek Project, Kevin Feldman, CTA Engineering, said CTA employees indicated there has not been trespassing on private properties to their knowledge. Feldman has directed his employees to be very diligent about where they go and to stay within easement flagging and are to go on Barnhart's property only to go to the door to notify Barnhart of upcoming work. Feldman said some parking on the east side of H Street on the city right of way has taken place.

Feldman said location of a drain outfall is within the city right of way. Water will flow downward into the creek. Storm drains contained within preliminary construction documents were sent to construction companies on June 20, 2013. Easement diagrams were developed solely for purposes of property lines and do not indicate storm drain or culvert locations.

Brenda Adams provided pictures of her property along the creek before and during construction. Adams said she went into the Clerk and Recorder's Office after a January 28 morning meeting. She and Barnhart have been as cooperative with the project as possible. Adams said a city finance department worker has not received \$9,000 for the storm drain in Stahley's budget. She asked why the projects have changed without affected property owner knowledge. Thomson said he will knock on Adams door with final sidewalk design plans once he has them as he offered to do for Barnhart.

Barnhart said Feldman neglected to mention that Scott Opitz, FWP, was running loose on his property when he addressed trespassing issues on private property. Barnhart said he told Opitz he was welcome back on his property as long as he told him who he was.

Tinsley asked Barnhart if he would like out of the contract. Barnhart said he can get out of the project at any time. He has said he supports the project at every moment. Tinsley said Barnhart can come to public project status update meetings each week at the Pickle Barrel where agency and other professionals involved in the project are present to answer questions. The Commission and staff do not have answers to such questions at Tuesday Commission project update meetings. Tinsley asked Barnhart if he wants the county to continue on the project, or would he like the county to go around his property. Barnhart said the project can continue as long as agreements are followed.

Brenda Adams asked who did the last locate. Tinsley said it likely was a 1-800-Locate person. Barnhart said it was not the locate guy trespassing on his property. Tinsley asked Adams and Barnhart to telephone him on his cell phone when someone trespasses on their property so he can come down and tell CTA or Sime an employee is trespassing instead of waiting until the weekly Tuesday update meeting. Holmes said he will tell all city personnel not to trespass on Barnhart or Adams property.

Commissioner Malone said Montana law permits Montana FWP personnel and surveyors to access private property without permission to complete work.

Discussing a streambed concern, Feldman said he is very confident the streambed is being constructed where plans state it would be constructed. The project in no way will affect the city's ability to run water through Freshman Creek. Holmes said Stahley is working with the city on replacing the planks at the weir to have better control of water elevation in the lagoon.

Barnhart said the streambed was moved over 60 feet and completed with meandering, so he filed a complaint with the city attorney about impeding his water right. Feldman said final design of the creek bed design was completed on April 23, 2013. Feldman said modifications made to preliminary streambed plans resulted from a desire to maintain a clump of willow trees and comply with landowner concerns with the stream adjacent to their properties.

Commissioner Durgan said the county has tried to be very transparent throughout the project. If Barnhart wants out of the contract then that may be the best solution. Concerns continue to be brought up without resolution.

Discussing Freshman Creek access concerns, Feldman said access to the stream has been established at the terminus of I Street, the alley between I and K Streets, further down Geyser Street, and two property owners at K Street have agreed to provide creek access.

@3:37 p.m., the meeting adjourned.

Park County Board/Committee Meetings

12:00 p.m. – Airport Board, Mission Field

5:30 p.m. – Museum Board, Yellowstone Gateway Museum

January 29, 2014

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

@9:00 a.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Malone and Tinsley; Raea Morris, administrative assistant; Brett Linneweber, county attorney; John Mueller, minutes clerk

Correspondence included:

- Memo re. Nittany Grantworks 2014 services
- Memo re. IRS 1099 forms
- Memo re. City-County Meeting agenda
- Memo re. Farm Bill Conference report
- Memo re. January 31 Solid Waste Board agenda
- Memo re. Public Lands Management meeting
- Memo re. Weed Board meeting agenda
- Memo re. RAC projects and agenda for February meeting
- Memo re. Senate flood insurance bill

County Attorney Brett Linneweber said statute exists on eligibility on appointing county attorneys, which may open his vacant seat to a statewide pool.

Commissioner Malone reported on a January 28 local elk brucellosis working group meeting.

@9:28 a.m., the meeting adjourned.

Signing of the Senior Center HUD/HOME Program Grant Document

@10:04 a.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Malone and Tinsley; Martha Miller, auditor; John Mueller, minutes clerk

The document is a 10-year required reporting procedure for a HUD/HOME grant program completed in 2010.

Commissioner Malone moved to sign the grant document. Commissioner Tinsley seconded the motion. Motion passed.

@10:08 a.m., the meeting adjourned.

January 30, 2014

Opening of Meeting: 9:03 a.m.; Commission Chambers

Attendance: Commissioners Malone and Tinsley; Raea Morris, administrative assistant; Parks Frady, public works; John Mueller, minutes clerk

County Department Updates

Public Works Department Updates: Parks Frady, public works, provided a written report on activities in his department.

ACTION ITEMS

Signing of the Annual Representation Letter for Olness and Associates Audit Services: Commissioner Malone moved to sign the letter for Olness and Associates on auditor services. Commissioner Tinsley seconded the motion. Motion passed.

Discussion/Decision on Acceptance of Final Change Order and Liquidated Damages for Search and Rescue (SAR) Building: Wendy Wood, SAR, provided a final change order for construction provided by CTA Engineering. Building was completed on January 7 (not December 24 as agreed upon with contractor), so the county will charge 49 days as liquidated damages, equaling \$24,500. Wood reviewed change orders that added to and subtracted from the overall building cost.

A change order will be a credit of \$22,593.44. The original bid was \$759,345; previous change orders amount: \$48,624; building cost with current change order: \$785,376. The final building cost is expected at \$870,136, which is \$10,000 less than the loan received for the project.

Commissioner Malone moved to accept the final change order and liquidated damages for the Search and Rescue building. Commissioner Tinsley seconded the motion. Motion passed.

CONSENT ITEMS

Public Comment Period, Signing of Administrative Documents/Claims and Review of Daily Correspondence/Agenda

Correspondence included:

- Memos re. Seven Point Subdivision
- Memo re. March Commission meeting schedule
- Memo re. Federal lands issues

Adjournment: 10:06 a.m.

Discussion/Decision Regarding Selection Process for County Attorney Position

@2:00 p.m., the meeting opened in the Commission Chambers.

Attendance: Commissioners Malone and Tinsley; Brett Linneweber, Kathy Carrick, Kim Lavender, Sandy Gordon, county attorney's office; Jill Ouellette, HR; Raea Morris, administrative assistant; Kara Bailey, city judge; Bruce Becker, city attorney; Natalie Storey, Livingston Enterprise; Lois Voges, citizen; John Mueller, minutes clerk

Jill Ouellette, HR, said the Commission has options in appointing an interim county attorney to fill County Attorney Brett Linneweber's office once vacated February 24, such as establishing a selection committee to review applications, interview candidates and provide recommendations. Ouellette said she can have interview questions and a full job description completed within a matter of hours.

County Attorney Brett Linneweber said he does not want to be part of the selection committee, and the idea is for the Commission to also be removed from the process to avoid appearance of bias or conflict of interest. Linneweber said he recommends the option of a caretaker filled by someone not interested in running for the office in November, which takes any politics on the Commission's part out of the issue. Linneweber said retired District Court Judge Nels Swandal is interested in a fulltime caretaker arrangement or will serve as a selection committee member if the Commission selects that option. The interim appointment expires the day the November vote is certified by the county commission. Swandal is out of the state and unavailable to accept any position until February 5.

Kathy Carrick read a portion of statute she said is associated with appointment of a vacant county attorney position. Carrick said she is uniquely aware of everything associated with the county attorney's office, and delaying an appointment will create chaos. Carrick said she does not think Linneweber should be involved with the appointment process having given his resignation from the position. Linneweber said he speaks for the office until the 24th. Tinsley said the Commission asked Linneweber for his assistance and input regarding a selection process for appointing an interim county attorney. The Commission has the final decision on this matter.

Bruce Becker said he likes the idea of a caretaker situation to avoid appearance of conflict of interest and enable Carrick and him to focus efforts on their campaigns.

Commissioner Malone said he thought about a similar situation two months ago with Governor Bullock's opportunity to appoint a caretaker for an open State of Montana Senate seat.

Commissioner Malone moved to set up an interview with Mr. Swandal (February 5 at 8:00 a.m.) and title the meeting appropriately. Commissioner Tinsley seconded the motion. Motion passed.

@2:25 p.m., the meeting adjourned.

January 31, 2014

No Commissioner Meetings Scheduled

Park County Board/Committee Meetings

1:00 p.m. – Solid Waste Board, East Room – Commissioner Tinsley attended

Voided Checks

Payroll #: 49216

Claims #: 79590

Clint Tinsley
Chairman, Park County Commission
Park County, Montana

Denise Nelson
Clerk & Recorder
Park County, Montana