

**BOARD OF MADISON COUNTY COMMISSIONERS**  
**April 13, 2021, Meeting Minutes**

On Tuesday, April 13, 2021, a meeting of the Board of Madison County Commissioners came to order at 9:31 a.m. in the Second Floor Court Room of the Administrative Office Building in Virginia City, Montana, with Commissioners Dan Allhands, Ron Nye, and Jim Hart present. Jane Bacon, Commissioners' Clerk, was present to take minutes.

Those people in attendance at the meeting were Joe Brummell, Jennifer Martens, Gail Nelson, Allison Veland, Vicki Tilstra, Laurie Buyan, Alex Hogle, Jani Flinn, Ke'lah Savage, Ben Willauer, Jackie Haines, Andy Thomas, Ellis (Eli) Thompson, Dan Stroud, Justin Gatewood, John Benedict, Scott Kelley, Bob Nevin, and Joe Richardson. Ryan Wolter, IT Support Specialist, was present to administer the Webex connection. Those who attended via Webex or by phone included Laurie Schmidt, Becky Lawson, Craig Erickson, Jeremiah Theys, Lance Bowser, Beau Bradley, Jim Frey, Troy Hunter, Scott Payne, Kathy Barnes, Abby Thomas, Tommy Luksha, Rob Wallingford, Bernard Lea, Kacey Smart, Janie Alt, Keely Larson, Lisa Stapp, Abbi Lee, Carmin Hill, Britani Allhands, Melinda Merrill, Dave Reintsma, Carrie Tree, Lyn Baughn, Phil Fortner, Mark Brook, Lynda Holt, Jolene Palmer, Michelle Schriock, and several unidentified Webex/phone attendees.

**Approval of Minutes:** Following review, Jim Hart moved to approve the March 9, 2021, Board of Commissioners' meeting minutes as corrected. Ron Nye seconded the motion. Dan Allhands abstained from voting as he was not present for that meeting. The motion carried on a majority vote. After review, Ron Nye moved to approve the April 1, 2021, Board of Commissioners' Special Meeting minutes as presented. Jim Hart seconded the motion. All voted aye and the motion carried.

**Public Health Office/DES - COVID-19 Update:** Joe Brummell, Director of Emergency Management, met with the Board to present an update regarding COVID-19 status. Jennifer Martens, Public Health, Gail Nelson, TRMCC Administrator, and Allison Veland, MVM Administrator, were present for this portion of the meeting. Madison County has had 741 positive cases, currently has 14 active cases, 720 people have recovered, and has had 8 fatalities. Hospitalizations across the State have look good except for a couple of counties. The State and surrounding states are seeing an increase in positive cases and fatalities, and Montana currently has 1,124 active cases and 51 hospitalizations. Joe reviewed Montana county maps showing active cases, cumulative cases and bed capacity. County schools have all had cases reported in the last 14 days. He reviewed Incident Command Team operations and structure, noting that Public Health needs extra support due to recent staffing losses and the Public Information Officer position is unfilled. Joe discussed vaccines and said the County is doing pretty well with over 4,300 doses administered so far. The latest COVID surge includes increases in cases in the 20-39 age range as well as school-age kids, possibly due to many older people having been vaccinated. FEMA's announcement that COVID-19 funeral expenses incurred after January 20, 2020 will be reimbursed has begun to trickle down to the county level, he reviewed basic qualifications, and said applicants must register by phone at 1-844-684-6333 (no online registrations). Joe stated that DES and Public Health officials continue to resign across the State, including the County's regional DES Coordinator. Upcoming meetings and events were reviewed, as well as upcoming weather, drought conditions, and snow water equivalents. Open burning is closed in Twin Bridges, and Joe said the dry conditions locally are very dangerous.

- **Nursing Homes COVID Update:** Gail Nelson, TRMCC Administrator, and Allison Veland, MVM Administrator, updated the Board via Webex on COVID status at the nursing homes. Gail said the TRMCC census is 23, two admissions are scheduled for next week, no residents or staff members are quarantined or hospitalized, testing is being done once a week, and letters are going out today containing guidance about the new visitation policies. Allison said there are 15 residents at MVM, and because one staff member is quarantined the facility is in outbreak status even though that staff member was fully vaccinated. Eleven people have recovered from having COVID, testing is being done two times per week while in outbreak status, compassionate care visits are allowed in end-of-life situations, but other visitations are on hold due to outbreak status. The residents are 33.3% vaccinated, and clinics are taking place to increase vaccinations. Jim noted that with the departure of the CAO, staff members will need to

increase some efforts in the interim until the Human Resource position is filled, and Gail and Allison said they are working closely with the Finance Officer and keeping communication lines open.

- **Annual Satellite Renewal:** Joe said the satellite renewal has been included in the budget for the last two years, this year's rate is the same at \$7,760.40, and he explained what's included in the renewal.

**Human Resources:** Vicki Tilstra, Finance Officer, met with the Board to discuss the following Human Resource topics. Laurie Buyan, Executive Assistant to the Board of Commissioners, Joe Brummell, Director of Emergency Management, Jennifer Martens, Public Health, Gail Nelson, TRMCC Administrator, and Allison Veland, MVM Administrator, were present for this portion of the meeting.

- **Recommendation to Hire HR Specialist:** Vicki reviewed the interview committee's recommendation from the HR Specialist interviews, and there was discussion about the candidates' interview scores, qualifications, workload requirements, knowledge level required to reduce County liability, and employee confidence and confidentiality. After discussion, Jim Hart moved to approve extending an offer of employment for the HR Specialist position. Ron Nye seconded the motion. All voted aye and the motion carried. Wages for the position will be discussed at the next regular Commission meeting.
- **Recommendation to Hire Director of Public Health:** The interview committee's recommendation for the Director of Public Health position was reviewed and discussed, including input from Public Health Board members, hiring locally versus hiring for experience level, department staffing, qualifications of both applicants, and the local housing situation. Following discussion, Jim Hart moved to approve extending a conditional employment offer for the Public Health Director position. Ron Nye seconded the motion. All voted aye and the motion carried. Further discussion included negotiable wages and experience ratings, the need for an interim director, and the requirement for a Public Health official to carry a DPHHS emergency contact phone. These topics were continued to the next regular Commission meeting.

**Planning Office:** Alex Hogle, Planning Director, met with the Board to discuss the following topic.

- **Lower Golf Course Phase 2 Subdivision (YMC) Final Plat:** Alex explained the factors leading to this topic being postponed but said it is not a critical timeframe and it will be rescheduled.

**Claims:** The Board approved claims.

**Journal Vouchers:** Ron Nye moved to approve Journal Vouchers for the 3/21 accounting period. Jim Hart seconded the motion. All voted aye and the motion carried.

**Mental Health Local Advisory Council Appointment:** Jim said he has spoken with Mental Health LAC board members regarding a board member application. Based on the recommendation of the Madison County Mental Health Local Advisory Council, Jim Hart moved to appoint Lynne Johnson to the Mental Health Local Advisory Council for a four year term that will expire on December 31, 2024. Ron Nye seconded the motion. All voted aye and the motion carried.

**Great West Task Order #35 – Madison County Fairgrounds Levee Accreditation Feasibility Study:** The Board discussed Task Order #35 – Fairgrounds Levee Accreditation Feasibility Study, including available funding, costs, Twin Bridges' efforts to get their dike certified, and a planning grant. A call was made to Jeremiah Theys, Great West Engineering, to explain the situation and plan of action. Jeremiah explained that he is working with the Town of Twin Bridges to evaluate their levee on the east side of the river, one grant has been awarded and they are looking for another. Neither of the levees on both sides of the river were built by the Corps of Engineers, they've never been inspected, and are not recognized as levees in the current flood maps that were recently produced. This has an impact on the Fairgrounds, and the current flood map has a substantial impact on the town, since approximately 86 homes were brought into the floodplain and those homeowners will have to buy flood insurance. He is working with the community to do a feasibility study on the levee to determine what, if anything, can be done to meet FEMA's guidelines and protect flood areas. He and Ron have discussed having the County piggyback onto the town's study and get some flood protection work done on the Fairgrounds side of the levee. Discussion included a previous study done in the 1960s that was determined at the time to be too expensive, grant match amounts, County costs, and cost savings realized by adding on to the town's study. Funding source options were discussed such as House Bill 632 (infrastructure funding), CDBG grants, and rural

development. Jeremiah will research other options. This topic was continued to the next regular Commission meeting.

**Great West Engineering / SMA Architects:** Craig Erickson, Great West Engineering, and Becky Lawson, SMA Architects, met with the Board via Webex to discuss the following topic. Jani Flinn, Grant Administrator, was present for this portion of the meeting.

- **Contract for Tobacco Root Mountains Care Center Project:** Becky said there is a question to be resolved on the contract for the TRMCC project and she hopes to have the information later today, otherwise it will be rescheduled for the next regular Commission meeting.
- **Update on Madison Valley Manor Project (not on Agenda):** Becky said bids for the MVM project are due by the end of the week and noted the County Attorney recommended advertising for one contract rather than splitting the project up into several bids. If there are no bids for the entire project, then the County can still move forward without advertising in the same way and can break the project up. Ads were placed in the Madisonian, Bozeman Chronicle, and Montana Standard, they have reached out to several known companies and the Board is welcome to contact others who may be interested. She pointed out this project is challenging because it is heavy on the mechanical and electrical side but not much on general contracting, and the current bidding climate is unpredictable. Bidding results will be reviewed at the next regular Commission meeting.

**Mental Health Local Advisory Council:** Ke'lah Savage, Mental Health LAC Chair, met with the Board to discuss the following topics. Ben Willauer, County resident, was present for this portion of the meeting.

- **MHLAC Bylaws:** Ke'lah presented and reviewed the annually-updated MHLAC bylaws and noted that not much has changed, just a clarification in Article 5 regarding officers. Based on the recommendation of the Mental Health Local Advisory Council, Jim Hart moved to approve their bylaws amended on April 5, 2021. Ron Nye seconded the motion. All voted aye and the motion carried.
- **MHLAC Annual Report:** Ke'lah reviewed MHLAC activities for 2020, noting they weren't able to achieve their goals due to the big shifts required for the COVID outbreak. Three Council meetings were held in person before virtual meetings started, many activities and resources were then shifted to outlets such as FaceBook, more advertising in the Madisonian, and liaisons continued as much as possible with mental health organizations in the region. A peer support group was started at the end of 2019 but was only able to have a few in-person meetings before it shut down in February. Several Council members resigned, but the membership is building back up with four new members in the last few months. The group is not applying for any new grants this year. The online list of resources and online interactions have been built up, there are more mental health counselors in the area than before, and the telehealth services approved by the Governor during the pandemic are still in effect so there has been an influx of outpatient activity. Jim stated that the group does an excellent job of keeping County residents aware of mental health resources and acknowledged the challenges caused by COVID. Additional discussion included the ongoing need for mental health funding, upcoming legislation that may affect funds, and the effects of the pandemic on remote learning and family situations.

**Livestock Protective Committee Meeting Minutes and Predator Control MOU:** Dan informed the other Commissioners about the annual meeting of the Livestock Protective Committee. He reviewed their predator control memorandum of understanding with the Montana Stockgrowers Association, fees set at 50 cents per head for cattle and 10 cents for sheep, and there was discussion about predator control assessment for cattle that come in to Madison County in the summer months.

**Letter of Support for Headwaters RC&Ds Application to Continue to Host the Food and Agriculture Development Center:** Jim read the proposed letter of support for Headwaters RC&D and revisions were discussed. Following discussion, Ron Nye moved to approve sending a letter of support, with corrections, to the Agriculture Developmental Division of the Department of Agriculture for Headwaters RC&D's application to continue to host the Food and Agriculture Development Center. Jim Hart seconded the motion. All voted aye and the motion carried.

**Extension Vehicle Assignment:** The Board discussed assigning a different County vehicle to the Madison/Jefferson Extension agents. Laurie Buyan, Executive Assistant, was present for this portion of the meeting. Discussion ensued about the status and condition of several County vehicles that might be appropriate

for Extension Services. Laurie stated that vehicle changes should be listed on the Agenda, and Ron suggested the number of County vehicles should be reviewed.

**Dates for Budget Hearings:** The Board selected dates for preliminary budget hearings.

**First Reading of Ordinance 2-2021 – Amending Ordinance 1-93 by Removing a Portion of Axolotl Lakes Road:** The Board reviewed and read Ordinance 2-2021, which amends Ordinance 1-93 by removing a portion of Axolotl Lakes Road from Attachment A. Justin Gatewood, Virginia City Mayor, Ellis (Eli) Thompson, Virginia City resident, Jim Kleis, Virginia City resident, Scott Kelley, Virginia City resident, Kaitlin Macdonald, Virginia City resident, and Dan Stroud, County resident, were present for this portion of the meeting. Melinda Merrill, Berkshire Hathaway Realtors, Abby Thomas, Virginia City resident, Jolene Palmer, The Madisonian, Tommy Luksha, GIS Coordinator, Mark Brook, Detention Officer, Laurie Schmidt, Planning Board Member, Lynda Holt, Communications Officer, Kathy Barnes, Sheriff's Office, and others joined this portion of the meeting via Webex. Dan reviewed the process and timing for ordinance readings and hearings, and Jim read the ordinance aloud. There was discussion about the location of the portion of Axolotl Lakes Road being considered (on the section line of Sections 9 and 10), some of its history was reviewed, and Melinda described substantial improvements that were made to part of the road in 2004. Jim noted that several letters and emails have been received by the Board, both for and against Ordinance 2-2021, and they will be read and/or made available at the second reading. Dan assured attendees that the Board is not taking this issue lightly, he is researching the matter, and is unsure whether road closures outlined in Ordinance 1-93 can still be supported by state statutes. He said language in 2017 Montana Public Road Law basically states that there are no use limitations on public roads, Commissioners have the right to close roads temporarily for service or safety issues but not permanently, and Supreme Court cases have never ruled against the public's right to use a road except in cases of exclusive or private easements. He also noted that in current statutes for roads an ordinance needs to be very specific and can't contain more than one subject. Dan is consulting land use attorneys and the State Attorney, and one has already given an opinion that this is not legally enforceable even though it may have been deemed legal in 1993. There was brief discussion about road closures being unenforceable and keeping roads open/unlocked. Additional discussion included working out access options to include property owners as well as recreationists, costs and challenges of maintaining and plowing certain roads, road access changes that inevitably occur with more people and subdivisions moving into the area, buyers that should know prior to purchasing about ordinances affecting their property, and obtaining attorney opinions and Attorney General rulings prior to chipping away at the 1993 ordinance. Following discussion, Jim Hart moved to approve the first reading of Ordinance 2-2021, an ordinance amending Ordinance 1-93, which closes portions of enumerated County roads to automobile traffic and provides for snowmobile use. Ron Nye seconded the motion. All voted aye and the motion carried. Dan asked for everyone's patience while legal opinions are being pursued and the Board is doing its due diligence. After most of the attendees left the room, Melinda pointed out that one reason land purchasers are not informed about these things is the information doesn't come up on title commitments, and Jim said that goes to the argument that people knew what they were buying when they bought property, but they didn't.

**Airports:** Jani Flinn, Airport Board Secretary, met with the Board to discuss the following topics. Jackie Haines, NRMEDD Executive Director, was present for this portion of the meeting.

- **Ruby Valley Field – Recommendation of Award:** A conference call was made to Lance Bowser, Robert Peccia & Associates, to discuss his recommendation of award for the Ruby Valley Field SRE building project. Additional conference call participants were Troy Hunter, Choice Aviation, and Airport Board members Beau Bradley, Jim Frey, and Scott Payne. Lance reviewed the bid situation for the project, pointing out that the bids received were very high, but he feels the low bid is actually a very good price given the current market and price of materials. He discussed several funding options, suggested possible changes to the project, and reviewed the effect of each on cost and funding eligibility. Discussion ensued about the various options, projected costs, material availability, contractor reputations and ability to complete the project. There was agreement to move forward since prices are not expected to decrease, and a preference for building a minimum of two bays. Lance will make a recommendation to the FAA and inform the contractor so materials can be ordered as soon as possible, and he'll reschedule the topic on the Agenda after the next Airport Board meeting to report on exact costs.
- **AWOS Maintenance Agreement for Ruby Valley Field:** Jani presented the Ruby Valley Field AWOS maintenance agreement, which she said is the same as last year's agreement. After review, Ron Nye

moved to approve the AWOS maintenance agreement for Ruby Valley Field, for a total annual fee of \$5,500 paid by the County. Jim Hart seconded the motion. All voted aye and the motion carried.

- **Transfer of Crown Victoria to Ruby Valley Field as a Courtesy Car:** Jani said Ruby Valley Field (RVF) has an older Crown Victoria that is used as a courtesy car, and since the airport is getting more traffic she asked if the Board would be willing to transfer a Crown Victoria that the County isn't using to RVF to replace the older car. The Board agreed it is a good use of the vehicle. Following discussion, Ron Nye moved to approve the transfer of the gray Crown Victoria to Ruby Valley Field as a courtesy car. Jim Hart seconded the motion. All voted aye and the motion carried.

**Northern Rocky Mountain Economic Development District (NRMEDD):** Jackie Haines, New NRMEDD Executive Director, met with the Board to introduce herself and discuss the following topic. She said Rob Gilmore is working toward retirement and has a contract with the District through July of 2022, they are working closely together with a long transition period, and she briefly reviewed her background.

- **Presentation of New Madison County Economic Profile:** Jackie presented the Board with an updated economic profile for Madison County. She announced the launch of a new revolving loan fund of \$1.45 million available to regional small businesses for acquisitions, expansion and general support, said businesses looking for financing can apply even if they have been turned down by other banks, and she reviewed several details about the fund. She gave a brief update on the Children's Center and School, and said Rob is continuing to work closely on this project. Jackie distributed and reviewed a Big Sky tax resort report, which includes an analysis of the impact of COVID on 2020 tax resort numbers, provides a base for comparison to 2021, shows tracking by industry reflecting a net gain of \$1.1 million from 2019 to 2020 with total 2020 tax revenue of \$38.4 million, and she briefly contrasted Big Sky's slight increase with the declines experienced by West Yellowstone due to COVID. Other areas of note in the report included a look at the numbers of residents and non-residents working in Big Sky and residents who work elsewhere, the direct and indirect growth economic impact of the revenue gain, and how changes in revenue impacted employees and labor. Jim pointed out Big Sky's contribution to the rest of the County. Jackie's review of the County's economic profile included quarterly wage growth, housing market data, cost of living comparisons with other Montana and U.S. counties, population trends, demographics, education statistics, real estate data, and a COVID-19 Addendum with the most current economic data from a pandemic perspective.

**Request for Update on Petitioned County Road Issues:** Ellis (Eli) Thompson, met with the Board to get an update on requests for information about petitioned County road issues. Andy Thomas, Virginia City resident, Dan Stroud, County resident, Justin Gatewood, Virginia City Mayor, John Benedict, Virginia City resident, Scott Kelley, Virginia City resident, Bob Nevin, County resident, and Joe Richardson, County resident, were present for this portion of the meeting. Bernard Lea, Public Land Water Access Association (PLWA) President, Phil Fortner, Sheriff, and several others participated via Webex or phone. Eli is seeking answers about road issues that have been under discussion for a long time and/or have been turned over to attorneys. Pony-Mammoth road was discussed. Ron described efforts to resolve issues including conversations with Mammoth LLC, interactions with Mammoth residents regarding egress, and DNRC involvement. He discussed the effects of fire and erosion, reclamation, and his upcoming meeting with the new ranger. Eli asked about Bertha-Kennett and was told there is no new information. Discussion turned to Adobetown Road and Dan said he is working with the new owner, Heroes and Horses. Eli pointed out that the green gate is open but the road at the jackleg fence is gated and closed, asked why the Schultz route continued to be used, why the road surveyed and established in the 1860s is not being used, and reviewed 15 years of controversy. Andy expressed frustration about accessing Adobetown Road, observed there has never been a public process to re-route the original petitioned road established in 1871 and the road has somehow defaulted to another arbitrary route, the public is being locked out illegally, and he requested that the road be put back to the original route. At some point both routes have been locked, the alternate route is now unlocked but was not flagged as promised, and a jackleg fence has been erected across the road. He related that his efforts at solving the issue and requests for updates have been met with a lack of response and broken agreements, the landowner has illegally benefitted and blocked the road for ten years without penalty while the public is denied access to a County road and people are accused of trespassing, and the public has had to battle this on their own without support by the Commissioners who are supposed to represent them. He asked why the landowner has not been charged \$10 a day for undisputedly blocking the road, said the situation has gotten worse and the road is not even drivable, noted that encroachment of a public right-of-way/County road is illegal and punishable, and read from Montana Code Annotated about the Board of

Commissioners' right to remove any encroachment and to impose a fine. There was discussion about Sheriff's involvement, the possibility of negative reactions, and bad situations that have taken place in other counties. It was suggested that the County first remove the encroachment and then let the courts make a decision after the road has been opened. Further discussion included consulting with attorneys, title insurance documents, the accuracy of the 1868 Certificate of Survey, title search versus extended title search, requirement for public hearings on road changes, rights-of-way, 60-foot default road widths, information provided by the Road Review Committee (RRC), and a letter from the Public Land Water Access Association (PLWA). Bernard Lea, former president of the PLWA, participated by Webex with several comments and recommendations: If there is an accepted County easement shown on a map, it can be moved to satisfy both the public and landowners but an easement cannot be abolished until a new one is in place; state laws exist for a reason and there are laws to solve this issue; if an easement exists a property owner's issues are irrelevant and they can only petition to have a different easement granted; a precedent should not be set every time a road is blocked; original surveyors did accurate work using 100-foot chains; it doesn't matter if information doesn't show up on a title search when the road is a matter of public record; the BLM in Dillon could be consulted for support about how to get to their land; working together on a solution is always better than litigation; and he requested that the Board respond to his letter, which will also provide a matter of record as to how it deals with this situation. A call was made to Phil Fortner, Sheriff, to discuss the removal of obstructions on County roads – he questioned where the actual road is and mentioned alternate access through Brown's Gulch. Eli reiterated that the original, established County road is clearly identified in RRC documents provided in September 2019, several comments were made about opening the road as a first step, and the Board was strongly encouraged to do something so property owners don't continue to block County roads. Jim said the next discussion on this topic will be scheduled late in the day as requested, and the Board will inform Andy and Eli of the specific date and time.

**Calendars:** The Board reviewed calendars.

With no further business, the meeting was adjourned at 4:10 p.m.

**Next meeting:** The next regular Commission meeting will be held on Tuesday, April 20, 2021, beginning at 9:30 a.m. in the Second Floor Court Room of the Administrative Office Building in Virginia City, Montana.

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Dan W. Allhands, Chairman  
Board of Madison County Commissioners

Date Approved: May 18, 2021

Minutes prepared by:

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Jane Bacon, Commissioners' Clerk

Attest: \_\_\_\_\_  
Paula McKenzie, Clerk and Recorder, Madison County