

**BOARD OF MADISON COUNTY COMMISSIONERS**  
**September 7, 2021, Meeting Minutes**

On Tuesday, September 7, 2021, a meeting of the Board of Madison County Commissioners came to order at 9:30 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 Dino Fanelli, Kyle Stone, Luke Cordingley, Kila Shepherd, Jennifer Westfall, Van Puckett, Chris Fanelli, Paula McKenzie, Tommy Luksha, Vicki Tilstra, Allen Rohrback, Landon Dybdal, Mike Callahan, Bob Bates, Howard Sheridan, Joe Brummell, Dale Olson, Dick Engel, and those on the attached lists. Ryan Wolter, IT Support Specialist, administered the Webex connection. Those who attended via Webex or by phone included Emilie Saylor, Kelah Savage-Willauer, Ridgley Elser, Karen Ketchu, Craig Erickson, Becky Lawson, Kristy Ranson, Tony Simonsen, Jeremiah Theys, Andy/ Abby Thomas, Karen Mead, Jani Flinn, Janie Alt, Tim J, Sue Sherrard, Jon Malovich, Jacki, Bonnie, TL, David Kack, Lisa Stapp, Tammy Mahlstede, Jordan, Gail Nelson, Abbi Lee, Wayne Kerr, Pam Birkeland, Ida, Samantha Devore, Dayna, Michelle Schriock, Lyn Baughn, KC, Kendra Horn, Janna VerHow, Jolene Palmer, Tippy West, and unidentified Webex/phone attendees.

**Approval of Minutes:** After review, Ron Nye moved to approve the August 10, 2021, Board of Commissioners' meeting minutes with corrections. Jim Hart seconded the motion. All voted aye and the motion carried. Following review, Ron Nye moved to approve the August 24, 2021, Board of Commissioners' meeting minutes with corrections. Jim Hart seconded the motion. All voted aye and the motion carried.

**Public Health Office:** Emilie Saylor, Public Health Director, met with the Board to discuss the following topics. Kila Shepherd, HR Director, Dino Fanelli, Ennis School Board, Kyle Stone, Ennis School Board, Luke Cordingley, Sheridan resident, Jennifer Westfall, HR Generalist, Van Puckett, Director of Environmental Health, and Chris Fanelli, Ennis resident, were present for all or a portion of the meeting.

- **COVID Update including Nursing Homes Status:** Emilie presented an update on COVID status. She briefly discussed rapid tests and their reduced usage due to occasional inaccuracy. She expects the COVID numbers being reported today will increase rapidly since results of more accurate tests are still coming in. Total confirmed cases are 892 for Madison County, there are 39 active cases with 9 pending results expected to be confirmed, 8 fatalities, and the total of 59 hospitalizations includes one active and two past-week hospitalizations. The State of Montana's confirmed positives jumped significantly this past week to 129,487, an increase of over 3,000. Active cases also greatly increased to 6,086, from 4,822 last week. Montana's fatalities are up to 1,811 and active hospitalizations are currently 266, an increase from 223 last week. In conversations with parents of children affected by quarantine it was pointed out that the number of active hospitalizations seems low compared to the significant surge being experienced in the state, and Emilie noted that due to hospital staffing issues the hospitals are not operating at full capacity so we are looking at a different data set compared to last year. She reviewed a graph of daily new cases in Madison County, noting there were a lot of new cases last week with 11 in one day, the most seen in many months. The map of active cases in the State shows Madison County's numbers are high compared to other counties. There wasn't much change to the Vaccine Dashboard map, the County's fully vaccinated population of those eligible remains at 43%, and vaccine uptake by age group shows that the 12-17 age group has the lowest percentage of one-dose vaccines administered. Emilie reviewed guidelines for boosters/third doses, noting boosters are only recommended currently for immune-compromised individuals and are not yet approved for the general population. She announced a mobile vaccine clinic taking place in Virginia City and Ennis in the coming weekend.  
Madison Valley Manor: MVM's outbreak status has closed, they have met all requirements. The outbreak status was caused by a single positive case, but infection control measures were sufficient and there was no spread.

Tobacco Root Mountain Care Center: TRMCC currently has 27 residents, no staff or residents are quarantined or hospitalized due to COVID, but one resident is currently hospitalized due to other causes. Residents and staff are tested on a regular schedule, and visitors are allowed.

- **COVID Related Quarantine Discussion:** Emilie said there has been a lot of discussion about new legislation from Montana's last session and how it affects Public Health authority and practices specifically related to COVID, restrictions, and vaccine information. Emilie presented and reviewed Public Health's current practices regarding quarantines and close contacts and discussed conflicting policies they are working under. She noted they are still legally bound to past quarantine orders but cannot issue any new orders and went on to review and explain CDC exceptions and guidance, Montana House Bill 702 which prohibits discrimination based on a person's vaccination status, and state laws contained in Montana Code Annotated regarding the powers and duties of local health boards and officers. She discussed Public Health's responsibility to pass along CDC recommendations to the community as well as information about vaccine exemptions and stated that if any school or business does not accept that guidance it is incumbent on each to adopt a clear policy stating their position. She reviewed quarantine and close-contact policies currently being practiced in other Montana counties, and requested time be given for public comment and discussion of both sides of the issue before any decisions are made by the Board. Discussion ensued about HB 702's intent versus how it is being interpreted and conflicting quarantine vaccination exemptions, the emphasis on local/ County attorney guidance in the absence of guidance from DPHHS and higher authorities, alternatives to quarantine orders, the importance of keeping kids in school as much as possible, low COVID death rates of children, the current high rate of community spread, and several opinions from Webex attendees were voiced regarding upcoming decisions on school quarantine policies and COVID safety measures.

**Great West Engineering:** Becky Lawson, SMA Architects, and Craig Erickson, Great West Engineering, met with the Board via Webex/phone to discuss the following topics.

- **Manor Renovation Project:** Becky said TW Enterprises is working with Central Plumbing and Heating to swap out the boilers starting today and they are coordinating with the Manor about logistics and to provide temporary heat, which was not in the scope of the original project. The cost of providing temporary heat comes to \$3,112.40, and all agreed the cost should come out of the contingency funds set aside for the project. There was discussion about finding a contractor to assess and maintain heat controls, which is set up for various zones, and Becky reviewed progress on generator installation.
- **Tourism Grant for the Arena project:** Craig briefly reviewed progress on the Tourism Grant for the Fairgrounds arena project. The grant application is due in a week, letters of support are being gathered, and he is finalizing the scope of the project. An ad for architectural services to prepare the Preliminary Architectural Report was listed in the Madisonian, with proposals due on September 27, 2021.

**Clerk and Recorder:** Paula McKenzie, Clerk and Recorder, met with the Board to discuss the following topic. Tommy Luksha, GIS Coordinator, was present for this portion of the meeting.

- **Resolution 41-2021 - Expanding the Big Sky Transportation District:** Paula said she is completing the final stage of the Big Sky Transportation District expansion, which passed in the May 6, 2021 election, and Jim read aloud Resolution 41-2021. After review, Ron Nye moved to adopt Resolution 41-2021, a resolution expanding the Big Sky Transportation District, as presented. Jim Hart seconded the motion. All voted aye and the motion carried.

**Madison Valley Medical Center and Ruby Valley Medical Center:** Allen Rohrback, Madison Valley Medical Center CEO, and Landon Dybdal, Ruby Valley Medical Center CEO, met with the Board to discuss the following topic. Paula McKenzie, Clerk and Recorder, Tommy Luksha, GIS Coordinator, Vicki Tilstra, Finance Officer, and those on the attached list were present for this portion of the meeting.

- **Madison and Ruby Ambulance District:** Allen and Paula discussed options, process and timing for getting the proposed Ambulance District on the ballot on May 3, 2022. Further discussion ensued about establishing special districts, scheduling a public hearing, current frequency of ambulance calls, operating expenses, funding options, insurance reimbursements, setting up a board of trustees, having the Board of Commissioners oversee the service, and whether the levy should be permanent or temporary. Work on the map and defining boundaries is continuing, and Allen will continue to work with all involved on a resolution of intent. Later in the meeting there was further discussion about the potential for confusion

using fire or other districts to set ambulance district boundaries, districts that pay/do not pay for certain services, and the importance of including the Department of Revenue in the planning process.

**Claims:** The Board approved claims.

**Journal Vouchers:** Jim Hart moved to approve Journal Vouchers for the 8/21 accounting period. Ron Nye seconded the motion. All voted aye and the motion carried.

**Speed Study Request in Harrison:** Following review, Ron Nye moved to approve the request for a speed study through the Town of Harrison on U.S. Highway 287 North and write a letter to the Department of Transportation requesting a speed study to be done. Jim Hart seconded the motion. All voted aye and the motion carried.

**MVM Request for Budget Increase:** The Board discussed Madison Valley Manor's request for a budget increase to cover personal protective equipment (PPE), due to increased costs and an anticipated case surge. Vicki Tilstra, Finance Officer, was present for this portion of the meeting. Based on information garnered from the Madison Valley Manor Administrator and the Finance Office, Jim Hart moved to approve each of two Madison Valley Manor budget line item increases for \$5,000 each for personal protective equipment. Ron Nye seconded the motion. All voted aye and the motion carried.

**Housing Board Re-appointment:** After review, Jim Hart moved to approve the re-appointment of Mary Oliver to the Housing Advisory Board for a three-year term that will expire on December 31, 2023. Ron Nye seconded the motion. All voted aye and the motion carried.

**District One Road Crew Resignation:** After consideration, Ron Nye moved to accept the resignation of Floyd Ellis Shammel from Road District 1 effective October 28, 2021, send a letter of appreciation, and advertise for his replacement. It was noted that he will be hard to replace and has been an excellent blade operator for Madison County for many years. Jim Hart seconded the motion. All voted aye and the motion carried.

**Jack Creek Gravel Crushing Agreement:** Jim read an email requesting input on gravel crushing size for Jack Creek, and the discussed whether all the gravel should be crushed at the same size of 1 inch, rather than a 1½-inch subbase. A call was made to Jeremiah Theys, Great West Engineering, for confirmation and since he was not available the topic was continued.

**MDOT Bridge Construction Information Request:** The Board briefly discussed the request from the Montana Department of Transportation regarding bridge construction information. The topic was continued to allow time for consultation with Jeremiah Theys, Great West Engineering.

**MOU with Gallatin County – Juvenile Detention:** Jim read aloud the MOU with Gallatin County regarding juvenile detention. After review, Jim Hart moved to approve the Memorandum of Understanding (MOU) between Gallatin County and Madison County related to Southwest Montana Juvenile Detention. Ron Nye seconded the motion. All voted aye and the motion carried.

**MCEP (formerly TSEP) Start-Up Documents for Jack Creek Bridge:** The Board reviewed the Management Plan for TSEP (Treasure State Endowment Program) funding on the Jack Creek Bridge project and discussed updating the document, changing TSEP to MCEP (Montana Coal Endowment Program), and changing the Grant Administrator's name to Hannah Brook. After review, Ron Nye moved to approve the management plan for the Madison County/MCEP Management Plan, pending review by the County Attorney. Jim Hart seconded the motion. All voted aye and the motion carried.

**Safety Coordinator:** Mike Callahan, Safety Coordinator, met with the Board to discuss the following topic. Bob Bates, Former Safety Coordinator, Kila Shepherd, HR Director, and Jennifer Westfall, HR Generalist, were present for this portion of the meeting.

- **Monthly Safety Report for August 2021:** Mike said he is learning a lot about his new position and his Safety update for August included several investigation reports in process, job orientation with his predecessor, Safety self-inspections at several County sites, AED inspections, and supply orders. Thirteen days during the month were spent filling in as Senior Bus Driver.

**Madison and Ruby Ambulance District (continued):** The Board continued a discussion about setting up an ambulance district and establishing appropriate boundaries. Tommy Luksha, GIS Coordinator, participated by Webex, and Joe Brummell, Director of Emergency Management, was present for a portion of this topic. Discussion included using existing district boundaries versus setting up a special district, GIS layers and data accuracy, examples of other cross-district agreements, voter perception and fee tolerance, and coverage for remote areas of the County. Joe and Tommy will continue to work on defining ambulance district boundaries.

**Beaverhead-Deer Lodge Forest:** Dale Olson, Madison District Ranger, met with the Board to discuss the following topic. Howard Sheridan, Friends of Jack Creek, was present for this portion of the meeting.

- **Schedule A Road Maintenance Agreement:** Dale noted there were no changes made to this year's Schedule A road maintenance agreement and it was approved by the Board when it was on the Agenda earlier in the year, but the agreement got hung up on their end and was never signed. Jim and Dale discussed item #4, Hyde Creek Road, and Jim said it is acceptable as is for now but Dale will look into the issues discussed. Ron asked about Bear Gulch and will check in with the new ranger in that area after fire season is over. After discussion, Ron Nye moved to accept the Cooperative Forest Road Agreement Schedule A between Madison County and the Beaverhead-Deerlodge National Forest effective for 2021-2022 Field Season. Jim Hart seconded the motion. All voted aye and the motion carried.
- **West Fork Land Acquisition:** Dale presented a map of the West Fork Allotment, explaining that the parcels shown were recently sold by the West Fork Stockman's Association to the Beartooth Group, with the intention of selling it to the Forest Service. In order for the Forest Service to get that kind of money they would need for the acquisition they need to apply to the Land and Water Conservation Fund and are seeking support from the Board. Dan expressed concerns about private inholdings that are turned into government land and then badly managed, loss of tax dollars, roads that have been closed with no public input, conservation groups that buy grazing permits and don't use them, transactions such as this that set a bad precedent, and said if he was to support this he would want to see certain guarantees and perhaps some tax loss compensation. Discussion ensued about maintaining public use and trail access, fencing, permits, the Forest Service cattle plan, and grazing. Dale explained the circumstances behind the closure of the two roads mentioned. He also noted the West Fork lands are prime grazing land other than bear issues, they were originally sold due to depredation, and he wants to see them open again. This topic was continued to the September 21, 2021, regular Commission meeting for further discussion.
- **Forest Service General Update:** Dale updated the Board about the Greenhorn project, said the EA (environmental assessment) will be done in October and the final parts of the process are being scheduled, and he expects it will be completed sometime this winter. He also expressed appreciation for County support and road crew assistance with local wildfires and cleanup.

**Commercial Marijuana/House Bill 701 Discussion:** Several Ennis residents listed on the attached sign-in sheet met with the Board to discuss commercial marijuana operations in the County and House Bill 701. After several interactions with a local marijuana grower who has set up operations in a local subdivision, residents came to express concerns about HomeOwner's Association (HOA) rules being violated, negative impacts on neighbors and the surrounding area from bright lights, strong odors, excessive noise, and water usage, as well as threatening language, behavior, and signage. Results of research done by several residents and by the Board were reviewed, including Montana counties being referred to as "green" (the majority of county residents in favor of legalizing marijuana's recreational use) or "red" (the majority of residents voting against legalization); the power to opt in/out lies with each county, not with the State; procedures to opt in or out include a petition from residents leading to another election; recreational sales of marijuana will begin in January, 2022, and until then sales are limited to those with medical marijuana cards; and operations existing prior to any regulations developed regarding commercial operations would likely be "grandfathered in" to conditions currently in place. Further discussion included experiences of other counties and states, the original intent of the bill and unintended consequences, the reluctance of various entities to initiate regulations, existing and potential zoning laws, the need for County Attorney involvement in developing regulations, recommended distancing of commercial operations from property lines and community buildings, marijuana dangers and usage statistics for children and teenagers, and various existing regulations and licensing that should be considered with grow operations such as sanitation, power usage, and water rights. The attendees encouraged the Board to act quickly to prevent further problems developing in the County and protect vulnerable residents, the Board agreed to investigate several items discussed and encouraged attendees to move forward with a petition leading to another vote, and

attendees requested the County Attorney's attendance in a future discussion. The topic was continued to an upcoming regular Commission meeting.

**Jack Creek Road Project 124 Permit Application:** The Board called Jeremiah Theys, Great West Engineering, to discuss the 124 Permit application for tree removal along Jack Creek Road. Dr. Howard Sheridan, Friends of Jack Creek, was present for this portion of the meeting. Jon Malovich, Madison River Foundation, participated via phone/Webex. Jeremiah explained why a 124 Permit is needed on this project to address tree removal on the stream side of the road. He and Dr. Sheridan referred to discussions and meetings with a fisheries biologist with Montana Fish, Wildlife and Parks (FWP), and discussion ensued about community concerns such as allowing more time for public comment, opportunity for examination of project plans, removing trees and/or disturbing the stream side, bank stabilization, and removing any trees at all. Jeremiah reviewed design parameters the engineers were tasked with, including pushing the road away from the creek and creating a buffer zone where possible, widening the road wherever possible for safety, improving seven blind corners, and improving drainage, all while confining the work within the right-of-way and not installing retaining walls or abutments. He said there may be a change of grade in some areas in order to have a drainage ditch on the hill side which will drain to the culverts and then to a buffer area before anything drains into the creek, there will be some changes in vertical profile, and all of these elements together put trees within the construction impact area even though everything possible was done to minimize impact. There was additional discussion about tree impacts and felling methods, safety concerns about trees next to the road, erosion mitigation plans and stormwater pollution prevention, and potential damage to the stream riparian environment. Since the documentation for the approved DEQ stormwater pollution prevention plan has not been received, and the 124 permit is just being applied for and has not been approved yet, Jon requested holding off on all stream side construction at least until additional public input is received from the public meeting this week on September 9, 2021, and Jeremiah agreed that there is plenty of time to hold off. Following discussion, Jim Hart moved to submit the 124 Permit application for work on Jack Creek. Ron Nye seconded the motion. All voted aye and the motion carried. Dr. Sheridan asked about a rumored 40% cut to the road budget, there was discussion about false rumors and the misinformation spread on social media, and Jim explained that the budget was actually split up according to road mileage in each district.

**Jack Creek Gravel Crushing Agreement (continued):** The Board discussed the Jack Creek gravel crushing agreement by phone with Jeremiah Theys, Great West Engineering. Crushing everything to a 1-inch size was requested, rather than using differing sizes. Jeremiah explained how they were breaking it up between the base course and surfacing to keep the overall cost of materials down and said whatever the contractor is proposing and wants to use will be sufficient for the project. Jim noted 7/8-inch was also suggested, and the Board will request a new agreement from A.M. Welles reflecting the size of gravel they want to use. After discussion, Jim Hart moved to approve the A.M. Welles agreement for gravel crushing for the Jack Creek Road project, subject to changes. Ron Nye seconded the motion. All voted aye and the motion carried.

**Calendars:** There was no discussion on this topic.

With no further business, the meeting was adjourned at 3:45 p.m.

**Next meeting:** The next regular Commission meeting will be held on Tuesday, September 14, 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: October 26, 2021

Minutes prepared by:

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Jane Bacon, Commissioners' Clerk

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