

BOARD OF MADISON COUNTY COMMISSIONERS
September 15, 2020, Meeting Minutes

On Tuesday, September 15, 2020, a meeting of the Board of Madison County Commissioners came to order at 9:35 a.m. in the Second Floor Court Room of the Administrative Office Building in Virginia City, Montana, with Commissioners Ron Nye and Jim Hart present. Commission Chair Dan Allhands was absent for personal reasons. Laurie Buyan, Executive Assistant to the Board of Commissioners, was present to take minutes.

Those people in attendance at the meeting were Joe Brummell, Melissa Brummel, Jani Flinn, Vicki Tilstra, Kipp Proctor, Bonnie O'Neill, Alex Hogle, Kevin Germain, Paul Grigsby, Mike Duncan, David Laufenberg, Laurie Schmidt, Pat Bradley, Justin Ekwall, and those who participated via Webex. Ryan Wolter, IT Support Specialist, was present to administer the public connection to the meeting via Webex.

Approval of Minutes: Jim Hart moved to approve the August 18, 2020, Commission meeting minutes with corrections. Ron Nye seconded the motion. All voted aye and the motion carried.

COVID-19 Update: Joe Brummell, DES, and Melissa Brummell, Public Health Director, met with the Board via Webex to give an update on the current COVID-19 status. Melissa reviewed the briefing situation update, noting that we are Day 195 into the event. She stated that Madison County now has 96 confirmed positive cases, but no active cases, and no current hospitalizations. She noted that there been a total of 1,802 tests in Madison County. The state of Montana is currently at 9,107 confirmed positive cases, with 138 fatalities, 144 active hospitalizations, and 6,842 recovered. The United States has 6.57 million confirmed cases and 194 thousand fatalities. Jim Hart asked about cases related to Labor Day. Melissa responded that it takes up to two weeks to know if this resulted in any new cases. There was also discussion about cases tied to the Sturgis Rally. Melissa reviewed statistics for long term care facilities and assisted living facilities noting that TRMCC had one staff case with no associated cases, Madison Valley Manor has had none, and Home Park has had none. She stated that schools are up and rolling and things seem to be going okay. She also discussed other investigations she has conducted for measles, chicken pox, and other back to school infections. Joe then updated the Board on the Incident Command Team upcoming meetings and events, current and predicted weather conditions, air quality issues due to smoke, and the status of local fires.

Claims: The Board approved claims.

Resolution Committing Funds for Cliff Lake, Wade Lake, and Horn Creek Road FLAP Project: Jani Flinn, Grant Administrator, discussed a proposed resolution to authorize matching funds for the Cliff Lake and Wade Lake road project. Vicki Tilstra, Finance Officer, was present for this portion of the meeting. Jani stated that in creating the resolution, she used the numbers that were provided to her by Western Federal Lands. Vicki asked if the project funds will run through Madison County. Jani responded that we won't know for sure until we see the contract documents. Jim Hart read the proposed resolution. Following review, Jim Hart moved to approve Resolution 32-2020, a resolution authorizing matching funds of \$139,000, or 13.42% of the total estimated amount, for the Cliff and Wade Road improvement project through Western Federal Lands. Ron Nye seconded the motion. All voted aye and the motion carried.

Sheridan Cemetery District Board Appointment: Following discussion, Jim Hart moved to appoint Peggy Buyan to the Sheridan Cemetery Board to fulfill an unexpired three year term that will expire on December 31, 2022. Ron Nye seconded the motion. All voted aye and the motion carried.

Air Ambulance Training Center: Jani Flinn, Airport Board Secretary, met with the Board to discuss a proposal for an Air Ambulance Training Center in Twin Bridges, Montana. Ron Nye stated that this proposal was discussed at last night's Airport Board meeting and he felt it would be good for the Ruby

Valley. He added that it is something that should be pursued. Jani stated that the Airport Board agreed and encouraged continued interest. She offered to help put together a response. Ron stated that an email response would be sufficient at this point.

Airport Board Meeting Update: Jani Flinn, Airport Board Secretary, reported that the grand opening of the Ennis Airport, following completion of the runway construction project, would be held on October 17, 2020, beginning at 12:00 noon and that the completion date for the project is still holding at September 28, 2020. Jim Hart will send an email invitation to Senator Daines, Senator Tester, and Congressman Gianforte. Jani also discussed concerns from homeowners regarding through the fence access at the airport. She added that things will really get moving once the airport is re-opened.

Motor Grader Bids: The Board discussed for motor graders that were received for Road District 2. Kipp Proctor, RDO Equipment, Bonnie O'Neill, Chief Administrative Officer, and Vicki Tilstra, Finance Officer, were present for this portion of the meeting. The Board received two bids; and at the previous meeting there was discussion about accepting both bids and purchasing one motor grader for District 2 and one motor grader for District 3. Kipp discussed this option but felt it would be better for the County and in the constituents' best interest to re-advertise for an additional grader because the bid documents called for the purchase of one motor grader, not two, and if the bid were for more than one grader, the bidders both know essentially where they are and that there is a good chance that the next round of bids would be even more competitive. He added that both he and the other bidder have agreed to furnish a replacement grader until the new one arrives. Jim Hart agreed that this seemed like the most logical way to go. Following much discussion, Jim Hart moved to accept the bid from RDO Equipment for the 2021 John Deere 772G, with the premium circle, for the amount of \$301,719.84, as specified, and to consider the 5 year lease option. Ron Nye seconded the motion. All voted aye and the motion carried.

Lee's Pool Subdivision – Preliminary Plat: Alex Hogle, Planning Director, met with the Board to discuss the preliminary plat of the Lee's Pool Subdivision and Planned Unit Development. Kevin Germain, Lone Mountain Land, Paul Grigsby, Attorney for Howard and Brenda Sheridan, Mike Duncan, Fisheries Division of Montana Fish, Wildlife and Parks, David Laufenberg, Conservation District Planning Board member, Laurie Schmidt, Planning Board Chair, Pat Bradley, Planning Board member, and Bonnie O'Neill, Chief Administrative Officer, were present for this portion of the meeting. Referring to the review process, Alex opened the discussion acknowledging the process has been prolonged due to a mid-process correction requested by the applicant and scheduling challenges posed by the onset of the COVID-19 pandemic. He also noted that the meeting today is a 'public meeting', not a 'public hearing', explaining the public hearing for the proposed subdivision was conducted by the Planning Board on June 29, 2020. He noted a recommendation from the Planning Board has been forwarded to the Board of Commissioners (Planning Board Addendum). Providing a project summary, Alex stated the proposal is a subdivision preliminary plat and a Planned Unit Development (PUD) regarding the proposed mixed residential/commercial use and also including a requested modification to the applicable 'construction setbacks from waterbodies' outlined in Section IV.B of the subdivision regulations. Referring to the staff report, Planning Board Addendum, and several maps and graphics, Hogle summarized the staff report for the project including general information, public and agency comments received, evaluation of the review criteria, and staff findings and recommendations. Alex contrasted the Planning Board recommendations to the staff recommendations as they differed in regard to the requested construction setback modification to allow a 40-foot setback vs the 100-foot standard. On this topic Hogle noted a point of focus of the Planning Board's recommendation is an interpretation of Section IV-B(1)(c) of the subdivision regulations, and whether the ability to reduce an applicable construction setback is limited to 'rivers' or if the provision applies to all waterbodies outlined under the section. Interpretation of this point had been requested by the applicant of the county attorney, who had not yet weighed in on the request.

*Dan Allhands, Commission Chair, joined the meeting at this point via Webex and was online for the remainder of the meeting.

Ron Nye asked about conservation easements. Kevin discussed the various conservation easements on the property and Alex pointed them out on the map. After Alex's presentation, the Board asked if the applicant had a presentation. Kevin stated that Alex did a great job and briefly discussed the project stating

that they live and die by the subdivision regulations. He noted that he has read them back and forth and that there is no definition of a river in the regulations. He then read the definition of a river from Webster's Dictionary which was "a natural stream of water" and said that when you go to the definition of a stream, it defines it as a river. He added that he doesn't feel that this is a reason to deny a subdivision. He disagreed with the Planning Board's decision that this is a river. Ron Nye asked about the wet lands banking program. Kevin stated that they have built wetlands on Lee Poole's property and that they are also looking at purchasing credits. There was also discussion about utilities and road access, expansion of ponds, straw waddles, and the flexibility of Planned Unit Developments. Alex added that there was a strong conversation on the topic of clustering, alpine environment and preserving the natural characteristics of the land. Others who commented at the meeting were Mike Duncan and David Laufenberg. Mike gave a brief background on his involvement in the project and noted that he had very short notice to respond with his initial comments. He has since become more familiar with the project. He stated FWP's recommendations as an agency are very lofty and that no stream is the same. They try to shoot high to do what's best for the resources but regardless, it's never a good idea to build within 40 feet of a stream, regardless of its size. He added that stream has the same ability as the Madison River to deliver sediment, other pollutants, and increase water temperatures down the stream. He stated that's his biggest concern. He has visited the stream, seen the wetlands, and there probably aren't fish up there, but there are fish below. He stated that Jack Creek is already impaired and those waters are delivered to Moonlight Creek, to Jack Creek, to the Madison River and to Ennis Lake. What gets delivered with them is concerning. Any sedimentation with a potential for pollutants that gets into a stream is hard to get out. He added that the stress during construction also needs to be taken into consideration. He stated that his concerns are outlined in the letter he submitted and that he would answer any questions the Board might have. There was discussion about impaired streams in Montana, how sediment from that stream would be created and travel, the cumulative effects of what might happen down the road, and how stream impairment is determined. David Laufenberg discussed his background, noting that he has also only been here for six months or so, but in that time has spent a lot of time on Jack Creek. He stated that Jack Creek is interesting because it actually carries more sediment as it flattens out and discussed reasons why this might be happening. He further stated that he is concerned about the road project that is going on right now on Jack Creek. There was further discussion about sediment impact in Jack Creek. At this point it was noted that the next appointment was waiting and this portion of the meeting was continued to next Tuesday at 2:00 p.m. In closing, Jim Hart expressed his appreciation to Alex and the Planning Board for their efforts on this project and Kevin also for his patience.

Closed Meeting RE: Personnel Matter/Pending Litigation: The Board closed the meeting at this point to discuss a personnel matter that may lead to litigation.

Calendars: The Board reviewed calendars.

With no further business, the meeting was adjourned at 4:27 p.m.

Next meeting: The next regular Commission meeting will be held on Tuesday, September 22, 2020, beginning at 9:30 a.m. in the Second Floor Court Room of the Administrative Office Building in Virginia City, Montana.

Dan W. Allhands, Chairman
Board of Madison County Commissioners

Date Approved: September 29, 2020

Minutes prepared by:

Attest: _____
Kathleen Mumme, Clerk and Recorder, Madison County

Laurie Buyan, Executive Assistant to the
Board of Commissioners