

**PROCEEDINGS OF THE BOARD OF THE COMMISSIONERS**  
**MEAGHER COUNTY, MONTANA**

**March 1, 8, 15, 25, 2011**

**Tuesday**

March 1, 2011

9am – 4:55pm

Met in Commissioner's Chambers

**Meeting Called to Order:**

Chairperson Schlepp called meeting to order at 9:00am.

**Commissioners Present:**

Chairperson Nancy Schlepp and Vice Chairman Ben Hurwitz.

**Clerk and Recorder Update:**

Clerk and Recorder, Dayna Ogle, met with the Commission to discuss several issues. First, she had a new audit contract from Strom & Associates requiring \$800 more to conduct a federal audit, which is required because of the FAA airport grant money received in the past year. Chair Schlepp signed the contract. Ogle then presented an agreement with Bank of the Rockies to renew the direct deposit program, which was also signed by Chair Schlepp. Ogle then addressed the issue of payroll deductions, particularly payments to insurance companies for supplemental policies that a few employees are receiving. Her representative from MACo suggested that, since there were so few employees using these benefits, she contact the individual companies to see if they would bill the employees directly, thus streamlining the payroll process. Chair Schlepp raised her concerns and it was agreed to revisit the issue closer to open enrollment.

**Policy Handbook Review:**

Ogle then met with the Commission to review changes made to the Personnel Policy Handbook based on input from employees at the February 1, 2011 meeting. The first item for discussion was the grievance procedure. Ogle felt that it was unnecessary to make the procedure available for short-term or temporary workers and Commissioner Hurwitz agreed. Chair Schlepp voiced her concern wondering what would happen if one of these employees were to have an issue but did not have access to a grievance procedure. Would that make the County liable for any issues that arise? It was agreed to strike the line that short-term employees would not have access to the grievance procedure.

The next issue was regarding benefits to be paid on a prorated basis to part-time employees. Two part-time employees had been grandfathered in to receiving the full benefits they had already been receiving when it was decided to prorate part-time benefits. One of those employees wanted it mentioned in the handbook that they had been grandfathered in by the Commission. Ogle suggested instead that the Commission write a letter to each of the relevant employees stating that, the original to be sent to the employee and a copy to be kept in their personnel folders.

**Action 1:**

**RESOLUTION 2011-12**

Commissioner Hurwitz moved that the Commission write a letter to the two part-time employees who are receiving full-time benefits informing them that they will continue to receive full-time benefits as long as they are employed by Meagher County. One copy of the letter will be sent to the employees and another kept in their personnel files. Chair Schlepp seconded. A vote was held and passed unanimously. It is therefore resolved.

Ogle continued through the rest of the manual pointing out any other changes that were made. She told the Commission that Jason Phillips at the Meagher County News said he could print and bind the handbooks for \$4 apiece. We would need 100 copies she thought.

**Action 2:**

**RESOLUTION 2011-13**

Commissioner Hurwitz moved to approve the changes to the draft of the Meagher County Personnel Policy Handbook and that the Handbook is now in its final form. Chair Schlepp seconded. A vote was held and passed unanimously. It is therefore resolved.

### **Road Department:**

Road Supervisor, Ray Ringer, called in to the Commission to discuss unused vacation time. He told the Commission that he has more vacation he is required to use by the end of March than he can possibly use, as is required by County policy. He said the weather has been so bad he has not been able to take what he had planned and he is wary of taking much in the near future. He requested to have until the end of April to take his required vacation time.

### **Action 3:**

#### **RESOLUTION 2011-14**

Commissioner Hurwitz moved that Ray Ringer be given till the end of April to use any leave time due to expire, due to extreme snow conditions. Chair Schlepp seconded. A vote was held and passed unanimously. It is therefore resolved.

Schlepp told Ringer she had received a call regarding one of his trucks, which was in the Ringling area, but refused to plow a private property. The driver had told the person he could not do it because it would trigger overtime. Ringer said he had already taken care of the matter and that it would not happen again.

Hurwitz then asked Ringer about a letter received from Terry McDermott, who was invoiced for snow removal the Road Crew had done. Mr. McDermott sent an invoice back to the County with pictures of two gates of his that were damaged when the snow was removed. Ringer responded that he was aware of it. He was the one who did it.

### **IT Report:**

IT Consultant, Jim McDanel, met with the Commission to give them an update. He is building a webpage for the County. Using the state's template, he said, it is very easy to update. It will cost a one-time \$600 fee to the state and then \$50 a month to post it through the state's servers.

The state is also in the process of switching to Windows 7, which means the County will need to update as well. Also, some of the computers purchased for the County by the previous IT consultant already need to be replaced. He thought this could be done for about \$500 a computer. In addition, another computer dedicated to the new mapping program that might be made available to the County by Triangle Communications would be needed and would probably cost around \$600.

McDanel also suggested that, since Triangle is installing fiber optic cable countywide, including in the Courthouse, that would be a good time to update the phone system.

### **Buildings Maintenance Supervisor:**

J.R. Shinabarger met with the Commission to discuss an issue he had encountered. A local businessman approached him to ask what the County's policy was regarding choosing local vendors to supply services to the Courthouse. Chair Schlepp said there's no legal requirement to bid out smaller jobs. Commissioner Hurwitz suggested bidding the job each time and if the bids are close, to alternate them. Schlepp told Shinabarger to handle things as he sees fit.

Shinabarger then left the meeting and Hurwitz raised the issue of the TV District. He said that Tim McGuire only receives about four or five calls whenever the service goes down, and that the County taxes \$40 a resident to keep the TV District going. There is \$120,000 budgeted to update the system, Hurwitz continued. He wondered if the Commission could get McGuire to come in with a proposal to do a survey regarding usage. Schlepp suggested it might be good time to review everything like the TV District that is in perpetuity. Clerk and Recorder Ogle informed the Commission that just last week a gentleman came by the Courthouse with new equipment for the District. Hurwitz agreed that it was too late to do anything then regarding the District.

### **County Attorney Report:**

County Attorney, Kimberly Deschene, met with the Commission to give them an update. She said she has had a few criminal proceedings, some misdemeanors in Justice Court, and some probate cases. Chair Schlepp raised the issue of the gate damaged by the Road Crew and whether the County had to pay for it. Deschene replied that as long as the County was receiving fees in exchange for the service, they would be required to pay. Schlepp then told Deschene about a

home health care provider in Helena which has Meagher County on its website as one of the counties it serves. But it does not serve us, and as long as we are listed on their website, the hospital cannot serve as home health care providers. Schlepp said she would call them and request “Meagher County?” be removed from the web page. If she had no success, then Deschene could write them a cease and desist letter.

### **Fire/DES Update:**

Fire Chief, Rick Seidlitz, gave his monthly report to the Commission. He also gave them a draft of the final EOP plan and said he would return April 12 with a final copy for the Commission to sign. Then he showed the commissioners some maps he made of Meagher County using a mapping program he has.

### **Triangle Communication—Mapping Program:**

Todd Klassy, Shane Parsons, and Wes Herren from Triangle Communications met with the Commission to give them a presentation on the mapping program they want to set up for the County. Also present were IT Consultant, Jim McDanel, and Fire Chief, Rick Seidlitz. The system uses Google Earth and combines it with a Cadastral overlay. It is web-based to make it much faster than the Cadastral the County is currently using. The County can add layers of data as needed. Parsons, the programmer, will work with McDanel to help him get things up and running before turning control of the program completely over to him. Another computer, which will link to the network, will be required to run the program. It will be set up in the back room of the Clerk and Recorder’s Office. Other county offices will be able to link in to it, as will members of the public.

### **Sheriff Report:**

Sheriff Jon Lopp presented his report to the Commission. He discussed a few personnel matters, then told the Commission he has three new reserve officers, who were sworn in recently. Four of his employees—two deputies and two dispatchers—are attending a Crisis Intervention Workshop in Helena, paid for with grant money, so they will be able to handle mental health crises.

Chair Schlepp asked Lopp where he stands budget-wise for the year. He said his department is close but they will make it. He budgets for fifteen hours of overtime per person per month, including himself, he said. So there is a cushion when events like the McDonald incident arise. He then explained how the staffing works for the sheriff and deputies when they are on duty or on call.

Finally, he discussed the Red Ants Pants Music Festival coming up in July. He said the Jefferson County Sheriff has sent him a copy of the ordinance they use for the Rocking the Rivers festival and that he will need to come up with something similar for this and future large events. The organizers will be responsible for security within the festival grounds, and the deputies will be outside the gate with the ambulance.

### **Chad and Angie Evans—Airport Land Acquisition:**

Chad and Angie Evans met with the Commission to discuss issues they have been having with Stelling Engineers and the airport land acquisition. Also present was County Attorney, Kimberly Deschene. First, they said they were offended because the first time they heard anything regarding this matter was from Stelling and not the commissioners. Commissioner Hurwitz replied that Stelling was supposed to handle everything. Secondly, they do not know what Stelling wants. In each communication, Chad said, the parcel size they were trying to acquire from the Evanses was a different size. And the reason Stelling wanted the land had changed several times too. First it was for airspace. Then it was for a fence. Now it’s for a taxiway. Chad said all they want is fair answers and a fair price, and the \$1400 offered to them for the parcel was not a fair price. Chair Schlepp asked the Evanses if they had a fair price in mind. Chad said they had originally counter-offered \$1900 for the land but it was rejected out of hand. Deschene suggested that the Evans’ remaining land would be devalued if a taxiway were put in and that they should seek legal advice before they agree to anything.

Mike Beckhoff of Stelling Engineers was then called and joined the meeting by speaker phone. Hurwitz asked him what the size of the parcel was. He responded that it was .39 acre. He also stated that he had Ferro Appraisal Service, a firm from Great Falls, do an appraisal and the value they came up with was \$1400. Angie replied that the value is based on an ag appraisal and that it

is unfair. Schlepp asked about the taxiway. Beckhoff replied that it probably won't happen but that they have to plan for it anyway. Schlepp then asked Beckhoff to write a new buy-sell agreement with everything they had talked about. Hurwitz asked how set is the cost. Beckhoff replied that the FAA is willing to pay the appraised value but the owners will have to prove higher value if they don't accept the appraisal. Deschene reiterated that the appraisal is flawed and an ag appraisal in this situation is unfair. Hurwitz told Beckhoff that they can appraise the land at whatever value they want, but it's the Evanses who have the final decision. Schlepp suggested a third-party appraisal, at which point the Evanses replied that they would seek legal advice. No decisions were made and Beckhoff left the meeting, followed by Chad and Angie.

**Public Comment:**

Jason Phillips of the Meagher County News met with the commissioners to ask them a few questions. First, he asked whether the commissioners had decided on a policy of whether to publish names of juvenile defenders. Deschene said that it is legal but that she felt it was bad policy. Schlepp replied that they had actually resolved not to publish names in the paper (Resolution 2011-02).

Next, Phillips asked whether the tax levy money for the Mountain View Medical Center had been paid yet. Hurwitz replied that he had seen Bill Galt that morning and asked him to write the Commission a letter, even one sentence, requesting that the funds be paid, for December (2010) and again in June for that payout. Phillips asked if it was County policy to require the hospital to write a letter of request. Hurwitz replied that he wasn't sure if it was legally required or not but that that is how it had been done for a while. Schlepp said that it is tax money voted for the hospital so the County cannot keep it. It has to be paid out regardless of whether it is requested or not.

**Minutes:**

Minutes for the February 15, 2011 meeting were approved without change.

**Claims:**

Commission was presented Voucher #1151, CK#42060 – CK#42071 and CK#42073-CK#42111 totaling \$37,675.14 Check number 42072 was voided as it did not print, and check number 42112 was voided too. Commission approved and signed as presented.

**Meeting Adjourned:**

Chairperson Schlepp adjourned the meeting at 4:55pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, March 8, 2011.

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**CLERK & RECORDER**

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**CHAIRMAN**

**SEAL**

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**VICE-CHAIRMAN**

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**COMMISSIONER**

Note: Minutes taken by Assistant to the Clerk & Recorder, Nathan Sanders  
Distributed March 8, 2011 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle

**Tuesday**  
March 8, 2011  
9am – 4:45pm  
Met in Commissioner's Chambers

**Meeting Called to Order:**

Vice Chair Hurwitz called meeting to order at 9:00am.

**Commissioners Present:**

Vice Chairman Ben Hurwitz and Commissioner Herb Townsend.

**MSU Extension:**

Dave Phillips, the Central Region Department Head for MSU Extension, met with the Commission to check in and see how the newly-hired County Extension Agent, Nico Cantalupo, was working out. Both commissioners expressed their pleasure with Cantalupo. Townsend said he was impressive. Hurwitz said he has a lot going on, he's really personable, and he is the right guy. Townsend asked Phillips if Cantalupo has had any concerns or issues. Not at all, replied Phillips. He is very pleased to be here in Meagher County, he added. Townsend then asked if Cantalupo was required to do anything district wide. Phillips replied that he has been asked to do some 4-H events around the district but that is everything.

**County Sheriff:**

County Sheriff, Jon Lopp, was requested by the commissioners to come in and discuss his budget. Lopp said that things were tight but he should make it. Clerk & Recorder Dayna Ogle pointed out to the Commission that the Sheriff's Department has a separate budget for Special Police, and it is this budget that is supposed to be paying Deputy Nick Rauser. Lopp added that he has three new reserve officers who were trained in Glendive for around \$600 apiece. They will take shifts and work for free to pay off the training costs. Also, Lopp mentioned that the City Council has passed a new medical marijuana ordinance which requires suppliers to obtain a license to grow and sell. The Sheriff's Department will handle the licensing and in return will receive half the licensing fees. Lopp concluded by pointing out that the majority of the high-priced items in the budget are purchased early in the fiscal year. So barring any unforeseen circumstances, the department should finish the year right in line with its budget.

**Attendance:**

Chairperson Schlepp phoned in at 1:30 pm to get an update on the progress of the meeting. She said she was still concerned about the issues with the land acquisition at the airport. Vice Chair Hurwitz told her that he had spoken with Mike Beckhoff of Stelling Engineers and he had told him it was not necessary to acquire the land parcel owned by Chad and Angie Evans. Schlepp responded that Beckhoff had told her that it was necessary. It was agreed that Beckhoff and the members of the Airport Board should meet with the Commission soon. Schlepp left the meeting.

**Action 1:**

**RESOLUTION 2011-15**

Commissioner Hurwitz moved that \$109,604 be moved into the General Fund from PILT and that \$10,500 be moved into the Library Fund from PILT. Commissioner Townsend seconded. A vote was held and passed unanimously. It is therefore resolved.

**Public Health Nurse Update:**

County Public Health Nurse, Kari Jo Kiff, met with the Commission to give her monthly report. Of note, she informed the Commission that she had hired Brooke Weishaar as her new PHEP Assistant. Vice Chair Hurwitz signed her contract. Nancy Hereim is working through some issues on the new billing system. JR would like to donate the fridge from the basement office to a group in the community. Kiff said she would place a classified ad in the newspaper. Kiff said she would like to get a plaque showing the years and amount of funding her department has received from the Bair Grant. The Commissioners thought that was a great idea. She then mentioned cell phone boosters that are going to be put up at the elementary school and the training center, provided by grant money from the state PHEP program. She finished her report by asking the Commission if they remember how much of the CSBG funds were allocated to the health department for the year. She is in the process of applying for new funding. The Commissioners suggested she request \$6000 and use that money to fund some other programs.

**Public Comment:**

John Dracon and Pam Sundstrom, members of the Hospital District Board dropped in to meet with the Commission. Dracon handed the commissioners the minutes of the previous hospital board meeting and addressed the issue of the mil levy not being paid out. Dracon recommended to the Commission that they simply cut a check and send it to the hospital. Hurwitz responded that they want a request in writing simply so there is a paper trail. Sundstrom agreed that a paper trail is a good idea, especially as the community is demanding accountability from them. Townsend interjected that if the hospital does not want the money, the County should return it to taxpayers. He continued that he took exception to the full-page letter the hospital board had published in the Meagher County News stating that taxpayer money has been a detriment to private donations. Hurwitz agreed that it would be nice to be able to return that money to the taxpayers, but Sundstrom pointed out that the County would need to be released legally from their obligation.

Dracon then pointed out that county taxpayers have paid out \$520,867 to the hospital since the 20 mils went into effect. He wondered aloud what condition the hospital would be in without that support. Sundstrom then stated that she felt the hospital should be accountable to the public whether they are receiving public funding or not. For as long as the hospital has been around, she continued, it has always been the public rescuing the facility whenever there were crises. And if the hospital starts to sink again, she offered, it would be the public coming to the rescue.

Dracon then returned to the issue of the public letter written by the hospital board. The letter makes various financial assertions, many of which are inaccurate if not untrue, he asserted. He asked the Commission if the District Board should respond to the assertions. Townsend replied that they should just present the facts in their report and let the facts speak for themselves.

Hurwitz then raised the issue of the mission of the District Board. When the process started and the District Board was revived, he said, he wanted voters to be educated so they could make informed decisions if another mil levy was requested. Now that it appears the hospital will not be asking for a levy though, he wondered, what is the mission? Sundstrom replied that the District Board needs to be kept in place to continue their financial oversight. Townsend agreed, stating there is a need for continued due diligence.

#### **Minutes:**

Minutes for the March 1, 2011 meeting were approved with changes.

#### **Claims:**

Commission was presented Voucher #1152, CK#42113 through CK#42150, totaling \$109,311.02. Commissioners approved and signed as presented.

#### **Landfill Licenses:**

Commissioner Townsend signed applications to renew licenses for Class II and Class III solid waste management at the Meagher County Solid Waste Transfer Station for FY2012.

#### **Meeting Adjourned:**

Vice Chair Hurwitz adjourned the meeting at 4:45pm.

#### **Next Meeting:**

Commissioners are scheduled to meet Tuesday, March 15, 2011.

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**CLERK & RECORDER**

**SEAL**

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**CHAIRMAN**

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**VICE-CHAIRMAN**

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**COMMISSIONER**

**Tuesday**

March 15, 2011

8am – 4:20pm

Met in Commissioner's Chambers

**Meeting Called to Order:**

Vice Chair Hurwitz called meeting to order at 8:00am.

**Commissioners Present:**

Vice Chairman Ben Hurwitz and Commissioner Herb Townsend.

**Stelling Engineers/Airport Board—Airport Land Acquisition/Fence Project:**

Mike Beckhoff, from Stelling Engineers, met with the Commission and members of the Airport Board, Ed Roatch and Bill Galt, to discuss the fence project. Before Galt and Roatch arrived, Beckhoff visited with the Commission to give them an update on the land acquisition project. Showing them a map, he pointed out the relevant parcels and whether they had been or will be acquired, and from whom.

Roatch and Galt arrived at 9:00am. Vice Chair Hurwitz asked what happens if the County Commissioners do not want to build a fence at the airport but the Airport Board does. Galt replied that a fence has always been in the long-term plan. Beckhoff then distributed a handout with a pie chart to show where the funding for the projects at the airport come from. The money for the runway improvement came primarily from stimulus money (\$1.8 million) with the remainder coming from Airport Improvement Project (AIP) funding (about \$700,000), collected and distributed by the FAA. Galt continued that the reason the board had selected Stelling in the first place was that they would do the engineering at no cost for the runway project to be kept on the shelf so that if the money became available, it would be shovel-ready. When the stimulus money was made available, they had a shovel-ready project ready to go. The small portion the County was required to pay for the runway project they actually got back, Galt continued, by selling the gravel.

Beckhoff pointed out that, going forward, the stimulus money is gone. Ninety-five percent of money for the fence project (estimated \$347,320) would come from AIP, which, even though it comes from the FAA, is not federal tax money. Rather it is collected through fees levied on the airline industry and airline passengers. The remaining five percent of the project (estimated \$18,280) is the sponsor share. Half of that, Beckhoff was confident, could be covered with grant money from Montana Aeronautics.

Beckhoff then gave the Commission a description of the fence—woven wire, eight feet tall, with three strands of barbed wire at the top. Hurwitz questioned the necessity of a fence that tall with barbed wire at the top. Galt replied that wildlife is not the biggest concern of the FAA. Since 9/11 the biggest concern has been security. And that is why the proposed hydraulic gate is also necessary. The Feds, he said, set the standards but they also pay for the required upgrades as well.

Beckhoff then addressed the issue of cost. When using federal money, he said, the products used must meet Buy American Guidelines. Less costly posts and cast fittings from China cannot be used. Also, prevailing wages must be paid. For 2011, he continued, the Montana Wage Rate for a Group 2 Laborer is \$19.97/hour plus fringe benefits of \$6.75. Posts will be 16 feet on center and there will be brace panels every 500 to 600 feet.

Beckhoff reminded the commissioners that Mercy Flight has to be considered too. Hurwitz asked if the engineering costs included labor for a full-time inspector. Beckhoff replied that they did. Townsend asked if the old fence could be kept. Beckhoff replied that new materials are required to be used but that the old fence could stay up too, or the materials could be kept—to sell, scrap, recycle. Galt reiterated that Mercy Flight is driving the whole fence project.

Townsend asked what options the County has. Beckhoff replied that there are three. First, do nothing. Second, build the fence. Even though it is too late for this year it could be funded and completed in 2012. And finally, the county could make sure, he said, that the current fence is mended and the gates always closed. Roatch then argued for the hydraulic, automatic gate in the

proposed plan. He said that even with signs up reminding people to close the current gate, he still finds himself having to close it often when he drives by on the highway.

Townsend asked Galt and Roatch what the airport board's recommendation was. Galt replied that the fence is in the long range plan and that they have to do this. Roatch stated that even if the county cannot pay, they should be able to raise money from pilots and others who have a vested interest. He continued, stating that since the accident, it is vital to do this. If they know about the risk of wildlife on the runway, as they know firsthand now, and do nothing about it, and then another incident happens, the board and the county will be facing serious liability issues.

Hurwitz replied that they should be able to get by with the estimated \$9000 required from the county. Then he asked Roatch if he would write a well-thought-out letter for the Meagher County News explaining to the community the importance of the fence and where all the funding was coming from. Mention too, he requested, that none of the FAA money is coming from federal tax dollars; rather that it is coming from fees assessed on the airline industry and its consumers. Roatch felt that was a good idea.

**Action 1:**

**RESOLUTION #2011-16**

Commissioner Townsend moved to proceed with the project to build the fence at the airport as proposed by Stelling Engineers. Vice Chair Hurwitz seconded. A vote was held and passed unanimously 2-0. It is therefore resolved.

**Bill Northey, U.S. Bank—Harmon Trust:**

Bill Northey, from U.S. Bank, along with his colleague, Jason Jewett, met with the Commission to give them an update on the performance of the investments inside the Harmon Trust. Vice Chair Hurwitz shared with Commissioner Townsend how he had spoken with Northey two weeks previously regarding the trust and the fact that it is currently not generating sufficient income to meet its monthly obligation to the nursing home. The portfolio, according to Northey, is currently worth approximately \$1,083,000. The monthly obligation to the nursing home is \$2625, which is \$31,500 annualized. The current estimated annual income of the portfolio, however, is only \$29,000, or \$2416 monthly on average.

Northey continued, pointing out that the Commission is not obligated by the trust document to spend the income any particular way. MCA Title 7, however, governs that county investments be restricted to Treasury or Federal Agency obligations with maturities no longer than five years. He has been utilizing securities with maturities ranging from one year to five years. He then gave the commissioners a handout showing how low yields are compared to historical averages. Even if the entire portfolio were invested in five-year obligations, the best they could hope to achieve would be a 2.1% yield. In order to meet its monthly obligations, however, he pointed out, the portfolio would have to generate 2.9%. Currently the portfolio is yielding close to 2.7% but the problem, he pointed out, is that there are some high yielding bonds that are maturing soon. There is a 6% Fannie Mae, for example, that is maturing in May. With interest rates as low as they are, the best they can hope to replace that with is about 2.1%, and that is going to be a problem going forward too, at least until short-term interest rates start to rise again.

What do we pay you, Hurwitz asked Northey. Northey replied that U.S. Trust has been charging the trust 60 basis points (.60%) for the last two years, which is a 50% discount to its normal fee schedule. In light of current interest rates though, he offered extend the fee concession and to lower it to 40 basis points for as long as the current rate environment persists. Townsend thanked Northey and said that would definitely help the county meet its obligations. Northey then suggested that even if there is an income deficit, the situation is only temporary and within 18 months, he believes, the Fed will start cranking up short-term rates, which will raise the entire yield curve. Hurwitz then stated that the county cannot afford to take on any more obligations, even when things improve, like they did with 911. They will need to stockpile cash for another rainy day. Northey then stated that he was actively managing the portfolio and that if he could sell a two-year note to buy a five-year, he would do it.

Chairperson Schlepp arrived at 10:00am. Hurwitz then asked Northey if he would drop the fee to an annual rate of \$2500. Jewett replied that currently that is only 19 basis points and he was not sure they could drop the fee that low. Northey then reiterated that the obligations to the nursing home were made in better times. Things will get worse before they get better, he asserted. And he reminded that the trust does not require the county to pay the nursing home. Hurwitz responded that the County has made a commitment to the nursing home and if there is not

enough income generated from the trust, the taxpayers will have to pay the difference. Northey then replied that they would have to check on the fee and get back to the commissioners, and he reminded them they have dropped their fee three times already, so they have been a good partner. No decision was reached. Chair Schlepp thanked Northey and Jewett for working with them on fees. The commissioners thanked them for coming.

### **County Planner:**

Brian Clifton, County Planner, met with the Commission by phone to discuss FEMA flood plain designations and the County Growth Policy. He said that regarding the flood plain, FEMA has ruled that the county is compliant the way they are and have been. The Special Flood Hazard Areas have been undesignated. The existing regulations are sufficient. The county provides information to people regarding where they should build and where they should not build. And the regulations regarding floods are built into the subdivision rules, so the county is covered and people can still apply for and file claims against flood insurance. At that point, Clifton's cell call was dropped.

Hurwitz raised the issue of Johnny Gluhm, who wants to use recycled tires to build a fence. Hurwitz stated that he felt the Commission could tell him no. Clerk & Recorder, Dayna Ogle, suggested that that kind of thing would go into a covenant. Hurwitz countered that Gluhm has asked the Commission for permission to subdivide. Schlepp replied that they had already granted permission.

Clifton called back in at 11:10am. Hurwitz shared with him the tire fence issue and asked him what the county's options were. Clifton replied that it is a zoning issue, and since the county has no zoning regulations, there is nothing the county can do to stop the building of the fence.

Clifton then returned to the original issue of the Growth Policy. He said that it is not a regulatory document. It is used to set goals regarding land use—"we support wind farms;" "we support mining;" etc. From those goals regulations are then adopted that hold enforcement power. Schlepp asked if they could wait till next fiscal year to revisit the Growth Policy. Clifton replied that by law it is required that counties either update or re-adopt their growth policies every five years. If the County decides to make changes, he continued, there would have to be public hearings with public comment time. If it is simply re-adopted, it can be done through a simple resolution. Schlepp then asked if it was required to update the numbers and statistics? Not really, replied Clifton. It is a living document, he continued, and can be changed at any time. Townsend asked what the Planning Board had to say regarding the document. They can only make recommendations regarding content, Clifton responded, but that is who you would bounce ideas off of.

### **Action 2:**

#### **RESOLUTION #2011-17**

Vice Chair Hurwitz moved to re-adopt the existing Meagher County Growth Policy for another five years. After a brief discussion, Commissioner Townsend seconded the motion. A vote was held and passed unanimously, 3-0.

### **Greg Jackson, MACo—Review Property & Liability, Workers' Comp Pool Programs:**

Greg Jackson, from MACo, met with the Commission to give them an update on the state of the Property & Liability and Workers' Comp Pool Programs in which the County participates. He said he was trying to visit all the counties with new commissioners. He said the trustees would be meeting April 9-10 to determine renewal options and rates for both programs. The renewals would be effective July 1 and payments would be due August 15.

Regarding property, he recommended the county to increase its reinsurance by 10% since Allianz backed out of reinsurance for the program.

Commissioner Townsend asked him about the Grassy Mountain Fire District. Townsend described the situation briefly and Jackson responded that if the county is the de facto board, then they would defend the county if the District, or somebody living there, were to sue. Hurwitz told Jackson that the county served them notice last year that it does not provide them any different protection than it does any other residents of the county, but that we still collect monthly fees from them mainly because there is no entity there to ask us to stop collecting. Jackson replied that it appears the county would be liable then and that they would cover us, our truck, our volunteers. Hurwitz then asked if the county will have to sue to get out of collecting

fees. Jackson did not know the answer but recommended that the County Attorney call Mike Sehestedt to get some ideas from him regarding Grassy, liability, and collecting fees.

Jackson then turned to the packet he handed out to the Commission. Focusing first on the Property side, he showed a graph indicating that the trending in claims paid out is positive even though there is a current deficit. He then stated that there would be changes in premium of 2-5% up or down, or no change at all, depending on loss ratios. Liability, he said, they would try to keep stable by adding a level of self insurance retention. Workers' comp, he added, should stay the same. He also pointed out some workshops county employees can attend to attain loss control credits for the county, which would lead to premium discounts.

### **County Attorney Business:**

County Attorney, Kimberly Deschene, met with the commissioners to give them an update on what her office is working on, and to talk about a possible office reorganization. She said she has been working on a few criminal cases. Chair Schlepp asked her about a letter the Commission had received from Chad and Angie Evans counter-offering \$5000 for the piece of land Stelling Engineers was trying to acquire for the airport. Who is supposed to respond to that, she asked. The County is not going to purchase that land she stated. Deschene replied that that was clearly Mike Beckhoff's responsibility to handle. Vice Chair Hurwitz asked about some complaints he had been receiving from a few people who had been stopped by Deputy Rauser either for driving with a suspended license or without insurance. Rauser had had their cars towed and Hurwitz wondered if this was really necessary. Deschene said she would look into it. And finally Schlepp raised the issue of Grassy Mountain Fire District and the potential liability that comes from the county collecting fees from them. Deschene said that definitely does create a liability. Deschene suggested putting a petition together on behalf of the Grassy residents, who appear to want to disband the district anyway.

Deschene then presented the Commission with a detailed plan to reorganize her office. The details are as follows:

- 1) The County Attorney's Office will be located at 200 S. Central Ave. in White Sulphur Springs. The small office inside the current county attorney office will be retained for the county attorney's exclusive use. The rest of the county attorney's office will be vacated and returned to the control of the commissioners to be used however they see fit.
- 2) The county will enter into a lease agreement with Deschene & Swandal PC in the amount of \$1000 per month for the use of building space, equipment, supplies and support staff.
- 3) The position of the current county attorney's assistant will be eliminated. The assistant (Dayna Shepherd) will be relieved of her duties immediately; however, she will be compensated with full pay and benefits through the end of May 2011, to allow her time to secure other employment.
- 4) The county attorney agrees to keep the office at 200 S. Central open to the public Monday through Thursday from 10am-4pm, except for holidays and special circumstances. The county attorney is available 24 hours a day for certain functions, such as obtaining search warrants.
- 5) County business will take priority over private business.

The proposal continues, stating that the support staff at Deschene & Swandal PC will not be county employees and that Deschene & Swandal PD will be at all times responsible for their compensation. However, it is appropriate for the county to defray the cost of the support staff because at least half their time will inevitably be directed to county business.

The plan should be implemented by April 1, 2011, according to the document. It continues, describing how this plan will reduce the annual budget of the county attorney's office by \$19,000. Attached to the plan is an opinion from the State Attorney General in 1995 which, Deschene claims, justifies the legality of her proposal.

Vice Chair Hurwitz spoke out in support of Deschene's legal right to reorganize her office. Chair Schlepp countered that she wants to see the plan take effect at the beginning of the next fiscal year (July 1, 2011). Commissioner Townsend stated that the county's expense in this arrangement would be to pay Shepherd's salary (\$2660) for two months. Schlepp raised her concern that this would set a precedent to give employees separating from service two months' severance pay. Hurwitz countered that it is not necessary to pay severance at all. Townsend suggested paying her three months' worth.

**Action 3:**

Vice Chair Hurwitz moved to accept the County Attorney’s reorganization proposal as submitted. Commissioner Townsend seconded but requested it be opened to discussion. After discussion, there was a vote and it was defeated 1-2, to be considered at a later time.

It was decided to meet with Shepherd. Deschene told the Commission she would go get Shepherd but wanted to talk with her personally first. Shepherd then entered Commission chambers with Attorney, Michael Kakuk. Kakuk asked the commissioners for a copy of the meeting agenda. He pointed out that this part of the meeting was listed as the first item on the agenda and questioned whether the Commission was really only on its first item of business for the day. He then told the commissioners that they cannot take action today anyway since no one was put on notice. Hurwitz then asked Kakuk to dictate how he would like this item of the agenda to read for the next Commission meeting. County Attorney Office Reorganization is sufficient, he replied.

**Minutes:**

Minutes for the March 8, 2011 meeting were approved with changes.

**Claims:**

Commission was presented Voucher #1153, CK#42151 through CK#42162, and CK#42164 through CK#42182, totaling \$118,198.89. Check #42163 as the claim was made out to the incorrect vendor. Commissioners approved and signed as presented.

**Meeting Adjourned:**

Chair Schlepp adjourned the meeting at 4:20pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, April 5, 2011.

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**CLERK & RECORDER**

\_\_\_\_\_  
**CHAIRMAN**

**SEAL**

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**VICE-CHAIRMAN**

\_\_\_\_\_  
**COMMISSIONER**

Note: Minutes taken by Assistant to the Clerk & Recorder, Nathan Sanders  
Distributed April 5, 2011 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle

**Friday**

March 25, 2011

3:00pm – 3:15pm

Met in County Attorney’s Office

**SPECIAL SESSION:**  
**COUNTY ATTORNEY REORGANIZATION AND  
REDUCTION IN FORCE**

**Meeting Called to Order:**

Chairperson Schlepp called the meeting to order at 3:00pm.

**Commissioners Present:**

Chairperson Nancy Schlepp, Vice Chairman Ben Hurwitz and Commissioner Herb Townsend.

Also present were County Attorney, Kimberly Deschene, Sue Phelan, Tary Buckingham, Sandy Pritchard, Donna Morris, Chris Dodson, Keith Leger, Becky Hurwitz-Leger, Chad Deschene, and Jason Phillips from Meagher County News.

**Commission Chair Introduction:**

Chair Schlepp began the meeting by explaining that Attorney Michael Kakuk was unable to attend and therefore no decisions would be made at this meeting. This would be a public forum, she added, where County Attorney Deschene will make a brief presentation regarding her reorganization proposal, and then there would be time for public comment. The issue would be taken up again at the April 5 County Commission meeting, she concluded.

**County Attorney Presentation:**

Deschene began her presentation by listing the reasons for her desire to reorganize the County Attorney office and move it to her private practice of Deschene & Swandal PC. First, she said, it's difficult getting back and forth between offices. There are also accessibility issues for the elderly, she continued. Moving the county office under the same roof with her private office would increase her efficiency as well. Her proposal, she asserted, is lawful, well reasoned, and will save Meagher County \$19,000 a year. The difficult part of the proposal, she added, is that if it is approved, there will be a county job eliminated. The position of County Attorney Assistant would no longer be needed and would therefore be eliminated.

**Public Comment:**

Chair Schlepp opened the floor to questions. Sandy Pritchard asked who would take that duty previously filled by the County Attorney Assistant. Deschene replied that it would be whoever works at Deschene & Swandal PC. The job would amount basically to answering the phone and taking mail. Deschene continued, stating that she can do the rest of the job pretty much on her own.

Sue Phelan then asked if the position will be paid for by the County. Deschene replied that no, it will not. The proposal, she did say, includes a lease agreement with a moderate stipend to cover the cost of working out of her private office. There is a long history in Montana, she added, of part-time county attorneys working out of private offices. John Potter and Linda Hickman are two examples from Meagher County. She thought a lot about whether to work out of the Courthouse or out of her private office, she continued, but she kept coming back to the issue of accessibility for the elderly.

Chair Schlepp interjected that in her own personal feeling, the proposal is very fair and that the monthly stipend suggested in Deschene's proposal would likely not cover even half of her expenses.

**Meeting Adjourned:**

Schlepp then asked if there were any further questions. There were not. Schlepp adjourned the meeting at 3:12 pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, April 5, 2011.

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**CLERK & RECORDER**

**SEAL**

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**CHAIRMAN**

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**VICE-CHAIRMAN**

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**COMMISSIONER**