

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

**September 4, 11, 18, 2012**

**Tuesday**

September 4, 2012

8:30am-4:20pm

Met in Commissioner's Chambers

**Meeting Called to Order:**

Chair Schlepp called the meeting to order at 8:30am.

**Commissioners Present:**

Chair Nancy Schlepp, Vice Chair Ben Hurwitz, and Commissioner Herb Townsend.

**Bruce Smith—Road Report:**

Road Supervisor, Bruce Smith, met with the commissioners to give his monthly Road report. Of note, he mentioned a bridge in the Ringling area, near Tim Collins's residence, that needs repaired. He said an eight-foot culvert should be sufficient. They also have a scraper that needs fixed or replaced. Currently the scraper needs a part that will cost \$2000. Schlepp asked if a scraper was on his list of things that need replaced. He replied that it is now.

Hurwitz mentioned that Howard Zehntner told him he would like a few loads of gravel going up to the Tenderfoot Road divide. Hurwitz told Zehntner the commissioners would discuss it. He added that the County still has not received a written agreement from the Forest Service to maintain the road there if the State declares it a county road. Townsend asked him what they would maintain. Hurwitz told him whatever is on Forest Service land they should maintain. Smith suggested just taking a grader up to the road instead of gravel. Schlepp agreed that they are not required to gravel the road.

**Cemetery Board Appointments:**

**Action 1:**

Hurwitz moved to appoint Cindy Mesecher to the Mayn Cemetery Board. Townsend seconded. A vote was held and passed unanimously (3-0). It is so moved.

**Action 2:**

Hurwitz moved to appoint Mike Wofford to the Mayn Cemetery Board. Townsend seconded. A vote was held and passed unanimously (3-0). It is so moved.

**Property/Liability Agent Contract Renewal:**

The Commissioners briefly discussed whether to retain Mid-Montana Insurance agent, Jodi Tierney, as the County's insurance agent. They agreed to renew her contract for one more year and to see how things go.

**Action 3:**

**RESOLUTION 2012-#82**

Townsend moved to renew the County's contract with Mid-Montana Insurance and its agent, Jodi Tierney, for property, liability, and worker's compensation insurance for fiscal year 2012-13. Hurwitz seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.

**Clerk & Recorder/Treasurer Salary:**

It was agreed that both the Clerk & Recorder and Treasurer should receive the \$2000 annual stipend they are entitled to for doing duties above and beyond their elected positions. It was decided to do this as part of the overall budget process, so no action was necessary.

### **Grassy Mountain Fire District Board Appointment:**

#### **Action 4:**

Hurwitz moved to appoint Paul Kroeger as a trustee to the board of the Grassy Mountain Fire District. Townsend seconded. A vote was held and passed unanimously (3-0). It is so moved.

### **Meagher County Ambulance—Ambulance Garage:**

Members of Meagher County Ambulance did not show up for the meeting.

### **FWP Decision—Sixteenmile Creek Fishing Access Plan:**

Schlepp noted a letter the commissioners had received from Fish, Wildlife and Parks, stating that they were proceeding with the next step of the Sixteenmile Creek Fishing Access Plan, another public comment period. Schlepp suggested they re-submit the letter originally sent to FWP outlining the County's opposition to the plan. It was agreed.

### **County Building Inspection Certification:**

*Clerk & Recorder, Dayna Ogle and Deputy Clerk & Recorder, Christy Rogers, joined the meeting.*

Rogers explained to the commissioners some of the issues that had arisen with the certification of recently contracted Building Inspector, Kyle Harlan. Of note, the County would pay the State .5% of the fees it receives, which was not mentioned by Harlan originally. The County would also assume liability for any issues with the inspection process. It would be required to maintain records and send copies to the State, and an annual audit would be required as well. Harlan is not eligible to do mechanical even though the contract he signed states that that would be included. Once the County becomes certified for commercial, it would be required to have someone available to do those inspections regardless of whether Harlan was still around or not. Schlepp said her main concern was the audit and associated costs. Rogers added that any funds taken in for inspections would have to stay in the building inspection area. It could not be used for growth policy or planning board, for example. Hurwitz said his understanding originally was that the County would be able to take in 25% of the inspection fees plus have the convenience of having someone around to do the inspections, all without any added bureaucracy. It was agreed to have Harlan attend a future meeting to discuss these issues.

### **Open Budget Session:**

Clerk & Recorder, Dayna Ogle, joined the commissioners to hold an open budget session. County Superintendent, Helen Hanson, met with them at 10:00am to discuss her budget. No other department heads joined the meeting.

### **Adopt FY 12/13 Budget:**

#### **Action 5:**

#### **RESOLUTION 2012-#83**

Townsend moved to accept the budget for fiscal year 2012/13 as presented. Hurwitz seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.

### **Lunch:**

The commissioners broke for lunch at 11:50am.

### **Sixteenmile Creek Bridge—Field Visit:**

The commissioners joined Road Supervisor Smith and visited a bridge crossing Sixteenmile Creek into the City of Sixteen. They returned at 3:25pm. The commissioners concluded the bridge looked adequate for its present usage.

**Jon Lopp—Sheriff Report:**

Due to the commissioners returning late from their field visit, Sheriff Lopp rescheduled his Sheriff report to the following meeting.

**Minutes:**

**Action 6:**

Hurwitz moved to approve the minutes from the previous meeting (August 21) with one change. Townsend seconded. A vote was held and passed unanimously (3-0). It is so moved.

**Jim Richard—CTEP Paperwork:**

Jim Richard was unable to attend the meeting but he did send some paperwork—applications for outdoor advertising permits to place Welcome To Meagher County signs around the County—which Schlepp duly signed.

**Meagher County Hospital District Board Update:**

Pam Sundstrom, Chair, and Sandy Harris, from the Hospital District Board, met with the commissioners to give an update. First, they gave the commissioners a letter of resignation from fellow board member, Marcy Rethwisch. Sundstrom shared her hesitance at actively recruiting a replacement board member for Rethwisch, given that the District Board has little work to do. Schlepp asked her and Harris if they would like someone appointed. Sundstrom said unless someone came forward to volunteer to be on the Board, it was not necessary. Schlepp agreed as long as they were comfortable not having a third member.

Townsend pointed out to Sundstrom and Harris that the County is still on the hook for the loan to the hospital. Hurwitz stated that the collateral is on the Harmon Trust account and not on the building itself. They briefly discussed the closing of the hospital in Townsend and what led to it.

**PUBLIC COMMENT:**

Clerk & Recorder Ogle returned to the meeting to wrap up some final budget issues.

**Claims:**

Commission was presented Voucher #1313, CK#44434 through CK#44485 totaling \$96,920.50. Commission approved and signed checks as presented. Also presented were Health Insurance Voucher #1310, CK#218244 through CK#218250, totaling \$21,228.85; Payroll Deduction Voucher #1311, CK#218251 through CK#218257, totaling \$91,575.36; and Payroll Voucher #2, CK#218225 through CK#218243, totaling \$13,527.91. Commission approved as presented.

**Meeting Adjourned:**

Chair Schlepp adjourned the meeting at 4:20pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, September 11, 2012.

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CLERK & RECORDER

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CHAIRMAN

SEAL

\_\_\_\_\_  
VICE-CHAIRMAN

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COMMISSIONER

**Tuesday**  
September 11, 2012  
8:45am-3:00pm  
Met in Commissioner's Chambers

**Meeting Called to Order:**

Chair Schlepp called the meeting to order at 8:45am.

**Commissioners Present:**

Chair Nancy Schlepp, Vice Chair Ben Hurwitz, and Commissioner Herb Townsend.

**Jerry Zieg, Bob Jacko, Vince Scartozzi—Tintina Resources Update:**

Also present were County Treasurer, Sue Phelan; Deputy Treasurer, Shauna Porter; County Extension Agent, Nico Cantalupo; and Jim Richard. Vice Chair Hurwitz began the discussion by sharing some thoughts he had from a recent tour of Archer Coal, in Gillette, WY. He imagines, he said, that permitting will be a significant issue for the copper mine. Zieg agreed but pointed out that Tintina has been working closely with the DEQ right from the very beginning of the project to make sure they are doing things right. It has been a successful approach, he feels.

Hurwitz asked who will be the copper mine's biggest detractor. Zieg replied that there has been no negativity as of yet. If Tintina shows they are doing a high quality job, he continued, some of the usual opponents will not feel the need to fight the project.

Townsend asked how far Tintina will go in the project. Will they do the actual mining as well, he wondered. Zieg told Townsend that companies involved in projects such as this often go through several transitions. Sometimes smaller companies are created. Sometimes chunks are sold off to larger companies. It is all about financing the project. Their job, he added, is to build the right management team for the project. The important thing is to get the right people in place and set the tone for an effective project. The ownership structure and financing generally falls into place as things proceed.

Hurwitz felt that water would be a major concern. Jacko agreed, stating that one bone of contention in mining projects like this is always the tailings pond. Anything drawn from the ground that is not saleable goes into the pond, where it stays forever. Any discharge from the pond has to be treated in order to meet DEQ, state, or federal standards.

Hurwitz asked if the pond water would be discharged into Sheep Creek. Jacko said it would, so everything there has to be analyzed and they have to plan with DEQ their treatment process. Hurwitz asked why the tailings had to be kept in water. Zieg said that because they are sulfides, they would eventually oxidize and turn into sulfuric acid. Water prevents that from happening. Hurwitz said if that is the case, the ponds must be taken care of in perpetuity.

Jacko said that was the case. That is why the bonding process is so vital. They have to assume that the project will get shut down at some point and the bonding covers that possibility. Scartozzi asked Jacko if the pond would be covered eventually. Jacko told him it is a possibility but they have to prepare to manage the pond in perpetuity. Hurwitz asked if they put part of the tailings back into the mine. Zieg said they can usually put up to half of them back in the mine, and they are always looking for new options. Separating various minerals often requires different technologies. Cobalt, for example, they will only take if they can extract it in a cost-effective manner.

Hurwitz asked if there were any landowner issues. Zieg said there were not but they are concerned about broader issues such as roads and infrastructure. Ongoing dialogue with the community is crucial.

Schlepp asked if they had completed an economic assessment. Jacko gave an overview of the recently completed Preliminary Economic Assessment (PEA). He explained that the PEA is done from a very high level, with a plus-or-minus thirty-percent accuracy. It is not detailed like the

feasibility study, which would be the next step. The mine is a \$210 million project. They estimate a 15-year mine life. Everything would be underground. They expect to extract 1.1 million tons a year, or 3300 tons per day. They expect to need a 200-man-power load (including clerical jobs and everything). It will take 16-18 months to complete construction. The ore body is approximately 12.2 million tons, at 2.99% copper. The exploration decline applications have been sent to the relevant agencies. That will allow them to drill up to 1500 meters deep for a more detailed, definitive look. They are looking at beginning the feasibility study, which will take a year, by the end of this year. And finally, they should be ready to file a mine operating permit application by the end of 2013 or the beginning of 2014.

Hurwitz shared that at Black Thunder and Stillwater mines, the workers are bused in from various communities. He wondered if this mine would do the same. Jacko did not think it would. With 200 employees spread over four shifts, worst case there would be 50 cars, so probably no buses would be needed. Schlepp wondered about man camps. Jacko also felt there would be little need for them either as there are plenty of living opportunities in and around White Sulphur Springs.

Schlepp wondered about road traffic. Jacko said there would be two phases to look at. The first is construction. During this phase, there is likely to be lots of truck traffic, as the workforce is likely to swell to 300-400. The second phase is operations. The concentrate made on site would be shipped off site, which would take eight trucks a day. Supplies coming in would be two to three more. So they are likely looking at a daily truck count of twelve maximum, which is pretty benign compared to much larger operations.

Hurwitz asked how this project stacks up against other operations. Zieg replied that it stacks up very well. For one thing, it is extremely rare to find this much in high quality mineral deposits so close to a highway. That gives them a unique access situation. He said it is pretty similar to other high-grade deposits, with similar pros and cons. He added that the copper here is in very distinct layers, with nothing in the rock between, which makes it easier to mine.

Townsend said the County's biggest concern is to have the required infrastructure in place so that the County and Tintina can help each other. Obviously they would like Tintina's 200 workers to live in White Sulphur Springs, but they need to be ready for that possibility.

Schlepp asked Richard if he could think of any issues. Richard said that this project is different from the Stillwater Mine, which he also worked on. One of the main issues will be the ability of the schools to absorb all the kids of the new workers. A lot of that would be determined by the number of outside workers, which could be significant, he added, since there are not a lot of people in the County with the required skill sets to work the mine. It will be best to wait and get the reports as they are written. Then they can start to address capital improvements and other issues.

Cantalupo wondered what kinds of assurances Tintina could give the County, say if ownership changed hands and the philosophy of the new owners was different from that of the current owners. What if promises made by Tintina were not kept by the new company? Richard assured Cantalupo that the impact plan originally agreed to gets passed on from company to company.

Townsend reiterated his concern that the County needs to be ready to handle an influx of new residents. There is a good school system, a hospital, churches, and bars. People will want to live here.

Hurwitz wondered if having the mine on private land was not a big plus. Jacko agreed, saying it is huge! Zieg added that the footprint is small relative to other mines. It is on private land. And there is only one agency they have to work with, the State DEQ, which makes things much easier.

Hurwitz asked if they had encountered any blatant discrimination against underground mining. Zieg said they have not, but they are still under the radar. There will always be people who are going to try to stop any sulfide mining, on principle alone. Zieg added that being on private land makes the project harder to block too. Jacko added that many environmental groups have bigger war chests than a lot of mining companies. Tintina has attorneys too, he continued, and they are

ready for legal challenges. It is simply an expected part of the permitting process. Zieg added that if they do their job well it will be hard for opponents to gain traction.

Jacko concluded the meeting by telling the commissioners that the tailings ponds are built to withstand the 50- to 100-year flood event.

### **Sue Phelan—Treasurer Update:**

Treasurer Sue Phelan met with the commissioners to give her monthly report. She had the commissioners sign off on the checks written by her office in the month of August. Then she mentioned that new janitor/maintenance person, Ken Martin, would like to handle the outside maintenance—mowing lawn, shoveling walks—if Alvin (Kujath) is unavailable to do so. She said he is currently working on painting the men's restroom on the bottom floor of the courthouse. Schlepp added that they did budget for some new windows this year.

Phelan then addressed three separate tax delinquency cases. The first is a mobile home whose owners are listed in the tax rolls as Richard and Francine Baker. It turns out, however, that it belongs to Ken Mikesell, who said he has the title and has already hauled it off his property. Phelan asked the commissioners to forgive the taxes on it and remove it from the tax rolls. Taxes have not been paid on it since 2008 and currently \$584.75 including penalties and interest is owed.

The next case is a company called Silvertip Logging, Inc., which was involuntarily dissolved. Tax owed including penalties and interest is \$11,566.81, which dates back to 1996. And finally, Timberline Ranch, whose back taxes owed including penalties and interest are \$9,396.37. AT&T Broadband LLC is also delinquent but she wanted to do some further research on that one.

After a brief discussion, it was decided to forgive the three and remove them from the tax rolls.

#### **Action 1:**

##### **RESOLUTION 2012-#84**

Hurwitz moved to forgive the original tax amount including all penalty and interest to date (currently \$584.75) and remove from the tax rolls the mobile home (12x60 1749/M645873) listed as being owned by Richard A. and Francine B. Baker. Townsend seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.

#### **Action 2:**

##### **RESOLUTION 2012-#85**

Hurwitz moved to forgive the original tax amount including all penalty and interest to date (currently \$11,566.81) and remove from the tax rolls Silvertip Logging Inc. Townsend seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.

#### **Action 3:**

##### **RESOLUTION 2012-#86**

Hurwitz moved to forgive the original tax amount including all penalty and interest to date (currently \$9,396.37) and remove from the tax rolls Timberline Ranch. Townsend seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.

### **Kimberly Deschene—County Attorney Update:**

Deschene met with the commissioners to give her weekly update. Of note she updated them on the ongoing dispute between Howard Zehntner and the Forest Service regarding the closed gate on his property. The State Attorney General's office is threatening legal action against Zehntner unless he removes the gate. After a brief discussion it was agreed that it is a disagreement between two parties, Zehntner and the Forest Service, and the County should do nothing and say nothing unless compelled to.

### **Rick Seidlitz—Fire/DES:**

Fire Chief Seidlitz met with the commissioners to give an update of area wildland fires. Of note, there is a fire near Sixteen that has already spread to 2600 acres. It appears to have started at the edge of where the Maudlow-Toston fire ended.

At 10:55am, Dave Bales and Tom Kempton of the Forest Service joined the meeting to give an update on the status of the Moose Mountain fire. They had a map of the area and showed how they were able to contain it, in spite of strong winds.

### **Minutes:**

#### **Action 4:**

Townsend moved to approve the minutes from the previous meeting (September 4, 2012) with one change. A vote was held and passed unanimously (3-0). It is thus moved.

### **Lunch:**

The commissioners broke for lunch at noon. They returned at 1:00pm.

### **Kari Jo Kiff—Health Nurse Report:**

Health Nurse Kiff gave her monthly report to the commissioners. Of note, she mentioned a cold chain breach, in which \$1700 worth of flu vaccine was received at the hospital but never refrigerated as required. As a result the vaccines spoiled. Clerk & Recorder Ogle is working with the insurance company to see if the vaccine would be covered under the County's policy. Kiff has spoken with hospital CEO, Aaron Rogers, and head clinic nurse, Kay Lowe, regarding facility improvements.

She mentioned that she will be taking some personal leave. Her assistant, Cynthia Stuhlberg, will be managing various aspects of her office (temperatures, mail, phone, fax), while billing assistant, Lorna Fox, will handle invoices and checks. Tobacco Prevention Specialist, Aaron Blair, will continue with his work plan and reports.

### **Kyle Harlan—County Certification:**

Kyle Harlan met with the commissioners to discuss some issues that arose in the certification process for the County to use him as its building inspector. Also present was Deputy Clerk & Recorder, Christy Rogers. Rogers handed out a sheet listing the issues that arose. Townsend said that things do not appear as simple as Harlan made them out to be. Hurwitz asked him if he is getting certified in the areas he is not yet. Harlan said he was, in plumbing, mechanical, and electrical, by the end of the year.

Hurwitz said his fear is the cost of the annual audit. Harlan told him the way they do the annual audit is every three years. They audit where the fees go to make sure they go to code enforcement or anything else dealing with the inspection process. Schlepp wondered how much an audit will cost. Rogers told her the County's single audit runs around \$4000. Hurwitz asked how many inspections trigger an audit. Rogers replied that once the County certifies, they will receive an audit annually.

Hurwitz told Harlan they did not want to create any new work. He asked how much work would be involved. Harlan replied that in his case at least, it would only entail a phone call to him letting him know someone plans to build. Rogers asked him about the \$2000 inspection fee the Ambulance Department paid to the State to build its new garage. She asked whether that was all inclusive. He replied that it was not, that it only covered the structure.

Harlan reiterated his plan to receive his mechanical, plumbing, fuel gas piping, and electrical certifications by the end of the year. His plan then would be to offer to do all inspections at one time at a reduced cost.

Rogers pointed out that if the County did go on to be certified, it would be taking on much more liability and her office would be assuming significantly more work. Hurwitz asked Harlan whether he has liability insurance. He does not, he replied. He does have errors and omissions coverage of \$500,000 per incident. Rogers countered that the County's agent, Jodi Tierney, said that Harlan would need to carry his own liability coverage with the County named as the insured.

Schlepp suggested talking to the other municipalities who have contracted with Harlan. The counties are Pondera and Toole. The cities are Conrad and Choteau. If the costs are more than the revenue, they should take another look at their agreement with him. Hurwitz added that if there was much more work involved too, they should re-consider. He asked Rogers to talk to the County's auditor to see how much the audit would cost.

*Schlepp* left the meeting at 2:35pm.

**Sheriff Report:**

The Sheriff Report was re-scheduled to the following week.

**PUBLIC COMMENT:**

There was no public comment.

**Claims:**

Commission was presented Voucher #1314, CK#44486 through CK#44516 totaling \$17,555.66. Commission approved and signed checks as presented.

**Meeting Adjourned:**

Vice Chair Hurwitz adjourned the meeting at 3:00pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, September 18, 2012.

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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, Nate Sanders.  
Distributed September 18, 2012 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle

**Tuesday**  
September 18, 2012  
9:00am-3:00pm  
Met in Commissioner's Chambers

**Meeting Called to Order:**

Chair Schlepp called the meeting to order at 9:00am.

**Commissioners Present:**

Chair Nancy Schlepp, Vice Chair Ben Hurwitz, and Commissioner Herb Townsend.

**Carol Hatfield, USFS—Introduce New Supervisor:**

Carol Hatfield, Ranger of the White Sulphur Springs District of the Lewis & Clark National Forest, met with the commissioners to introduce her new supervisor to them. He was running late. Hurwitz raised the issue of the road maintenance agreement on the Tenderfoot land that had been discussed previously. Hatfield said she would like to wait for her supervisor to discuss that. Hurwitz asked why they never sent a blade down the Tenderfoot road or sprayed for weeds. She said she did not see the point since the gate was locked. She added that the Forest Service is getting sued for some of its roadside hazard projects, in Cabin Gulch and Butte Creek to name a few, by Sarah Jane Johnson and Michael Gerrity. They have brought five suits over the course of six days. Hatfield said the Forest Service was planning a big landscaping project in the Castles too, for which they would also likely be sued.

*Hatfield's supervisor, Bill Avey, joined the meeting at 9:15am.*

Avey, Forest Supervisor for the Lewis & Clark National Forest, told the commissioners he attended forestry school in northern Wisconsin. He began as a ranger in Big Horn, Wyoming, and with the exception of a brief stint in Utah, has served his entire career in Wyoming and Montana, most recently at Big Timber.

Schlepp asked him about the Livingston fires. He told her the fire at Pine Creek would likely burn until it starts snowing. He also mentioned the lawsuits Hatfield mentioned. The Forest Service was planning to open bids Friday for clearing roadside land of hazardous fuel. The suits challenging such programs are usually timed for about this period. It could take six months to a year to get clearance to proceed. Schlepp asked if the Forest Service could choose the court. Avey said to a certain extent they could. He added that the Department of Justice defends them but at each level of court, different attorneys handle things.

Hurwitz asked why the US Attorney's office is not handling the Zehntner affair. Avey replied that it is a county road, which is governed by state law, which is why the State Attorney General's office handles it. Hurwitz told him they have decided to let a judge decide the status of that road. Townsend asked Avey if the Forest Service would like a road. Avey replied that they would consider it, but in a quid pro quo kind of arrangement. For maintenance and jurisdiction, the Forest Service would consider taking over a road from the County if the County were to take a road from the Forest Service. Generally the roads exchanged would be similar in length and condition. Hurwitz said he feels that the County already does its share, as many county roads lead to Forest Service land. He added that if the Forest Service can afford \$10 million to buy additional land, it should be able to maintain the roads on that land. He added that the Bair Company is setting aside money for road maintenance and weed spraying.

Avey countered that the Bair Co. funds are land and conservation funds. The Forest Service's fundamental position is that the road is a county road and can be addressed with a Schedule A maintenance agreement. Then he added that even if the Bair Company had conveyed the land to private landowners the County would still be responsible for maintaining it. He did concede that Hurwitz raised a good point that many of the county roads lead to Forest Service lands, and suggested using more RAC funds to pay for maintenance.

They briefly discussed weeds. Hurwitz mentioned that Howard Zehntner asked the County to put some gravel on the road. The county crew took three loads up, but did not go down the hill past the divide. For one thing, they are not equipped to get a belly dump down there. Schlepp added that the County will not maintain that road if Zehntner claims it is not a county road.

Townsend asked if there were funds available for an alternate road should Zehntner prevail. Avey said there are but engineers say it will cost around \$1 million. That would be to upgrade the old logging road there.

Avey addressed the fire situation, saying they were still under fire restrictions. They foresee no moisture at least until the end of the month. And with the Northwest and California heating up too, resources will be stretched even further. Hurwitz told Avey about the wonderful agreements the County has in place with the Forest Service and the State and how there are never any jurisdictional issues on fires. Whoever gets there first gets started. Avey said he really appreciates that cooperation.

Hurwitz suggested that the County come up with a list of roads they would be willing to take over in exchange for having the Forest Service handle maintenance of the Tenderfoot Road. Schlepp suggested Moose Creek, as there are people there year round who cannot plow to get to their places.

Avey asked if there were any other issues. They briefly discussed weeds and roads. Schlepp complimented Hatfield on being great to work with, as she is thoughtful and responsive. She also complimented the Forest Service fire chiefs, Jess Secrest and Marc Hamlen. And she added that Erin Fryer is great too!

*County Attorney, Kimberly Deschene, joined the meeting at 9:50am.*

#### **Jon Lopp—Sheriff Report:**

Sheriff Lopp met with the commissioners to give his monthly report. They briefly discussed the locked gate at the Zehntner property. It was agreed that the gate needed to be opened. He then went over his report. The report is on file in the Clerk & Recorder's office.

#### **Jack Berg—Ambulance Garage:**

Member of the Meagher County Ambulance Board, Jack Berg, joined Lopp to discuss the progress of the ambulance barn. He said they were working on the bottom of the footings and hoped to pour the pad soon. Richard Pauley was going to do the plumbing work in the foundation itself. He said that Dave Wendt had spoken to the guys working on Main Street and they were going to allow them to use their excavator to work on the rock. He also said they were changing some of the plans, with the help of an engineering firm, to save about \$10,000 in concrete. They also might be able to get the \$2000 permitting fees waived by the State since they are a non-profit.

Hurwitz asked who is doing the slab. Lopp replied that it would be Todd Young, or maybe Larry Berg. Berg explained why they had decided on Styrofoam forms, namely because they can be left in the footings and provide some insulation.

Berg then informed the commissioners of more repairs required to the primary ambulance. He said they have already put \$10,000 into repairs this fiscal year alone and wondered what options they had to cover the costs. Schlepp reminded him that there is a grant coming up in February to replace an ambulance, which would free up money for repairs.

#### **Jerry Churchill, Justice of the Peace—Resignation:**

Judge Churchill met with the commissioners to submit a letter of resignation, effective September 21, 2012, due to family issues. He recommended they appoint City Judge, John Wells, to replace him and serve out the remainder of his time. Churchill left at 10:30am and the commissioners briefly discussed the situation.

Some of the concerns the commissioners shared was whether it was legal to have one judge as city and county judge; whether there would be jurisdictional overlap; and whether someone who appeared before the judge in city court, for example, might face prejudice if he were later to appear in justice court. It was agreed to discuss the issue more, later in the meeting.

### **Minutes:**

#### **Action 1:**

Hurwitz moved to accept the minutes from the previous meeting (September 11, 2012) without change. Townsend seconded. A vote was held and passed unanimously (3-0).

### **County Certification:**

Deputy Clerk & Recorder, Christy Rogers, joined the commissioners to share what she learned making phone calls to other municipalities and counties where Kyle Harlan has contracted to be building inspector. First, as for audits, she said there were two options, and they depend on the amount of work done annually. For a couple hundred dollars, they could have the audits done on an annual basis. Or they can choose the rotating option, where audits are performed every three years on, for \$600-1000. Funds can be used for things such as copies but documentation is required to show those copies were for the inspection program.

Conrad uses him the most, she continued. They are building a new city hall and Harlan is helping. It has been a smooth process though. Pondera County has had to clean up its resolution and contract with Harlan since he became certified but they have issued no new permits yet. Toole County just signed on but they have liability questions too. Conrad did an indemnification clause. Mid-Montana Insurance, the County's provider, is really pushing him to secure his own liability coverage.

She said she had spoken with Lydia Rooney. She said personally she and Bob like Harlan. He is very responsive. Hurwitz said the commissioners' main concern is how much added work the Clerk & Recorder Office will be taking on. Rogers replied that, personally, she worries that the County will be assuming huge liability for something that is not going to benefit them. Hurwitz said he just sees the future with the copper mine and all the potential new building that will happen as a result.

Schlepp said another concern is his licenses, or lack thereof. Rogers agreed, adding that he has been with Pondera County a year and has been going to get his licenses all along. Townsend suggested they give him till January 1 to secure the licenses. Schlepp pointed out that they have a signed contract. Townsend countered that it should be null and void until he is certified. It was agreed to discuss it further.

### **Kimberly Deschene—County Attorney Update:**

County Attorney Deschene visited with the commissioners to give her weekly report. They briefly discussed a series of letters between Assistant Attorney General, Jennifer Anders, and Howard Zehntner's attorney, Hertha Lund, regarding potential legal action by the State to gain public access past the gate at his property. It was agreed that the County did the right thing by staying on the sidelines, out of the fray.

They then discussed the resignation of Judge Churchill and how to replace him. Deschene told them that City Judge Wells can legally be the County's Justice of the Peace in addition to his duties as City Judge. There is no conflict. He can even be a temporary replacement. She suggested placing an ad in the Meagher County News to see who else might be interested. Hurwitz suggested appointing him on an interim basis. Townsend added that they appoint him for a month and solicit applications.

### **Lunch:**

The commissioners broke for lunch at noon. They returned at 1:30pm.

### **Becky Hurwitz-Leger, County Assessor—Budget Questions:**

County Assessor, Hurwitz-Leger, was unable to attend the meeting.

### **Dayna Ogle, Clerk & Recorder—Outstanding Issues:**

#### *TV District Survey*

Ogle first mentioned the written survey that had been discussed to judge interest in the TV District. She said if they do it, County Assessor Hurwitz-Leger will need results before January. Schlepp felt they had already done enough with the phone survey and was against a written survey. Hurwitz is for it, and Townsend said he would like more time to think about it. Hurwitz said no tax should go on forever. He did concede that things have gotten better. Tim McGuire, TV District Chair, and BJ Hawkins, Public TV Director, have both become more responsive since the phone survey was done

Townsend pointed out that McGuire needs less money than Hawkins to run things but it was likely that more people watched the channels on public TV than watched Hawkins's public TV channel. He wondered how much work it would be to do a survey. First the district would need defined and then a mailing sent out. Ogle suggested that even without the survey, they should consider re-wording the original tax, as assessment is based on number of TVs per household.

Hurwitz said they could make it voluntary. Schlepp asked about the possibility of keeping the transmitter run by McGuire and getting a PBS station from Billings or elsewhere. After all, how many communities the size of White Sulphur Springs have their own broadcast channel?

#### *Fire Restrictions*

The commissioners told Ogle the Stage One Fire Restrictions are still in place.

#### *Transfer Site Well*

It was agreed that Ogle would follow up about getting a company to drill the transfer site well deeper.

#### *Courthouse Replacement Windows*

It was agreed to let Janitor/Maintenance Man, Ken Martin, replace one window before deciding whether to bid the rest of them.

### **John Wells, City Judge:**

City Judge Wells joined the commissioners to discuss the possibility of replacing Judge Churchill as Justice of the Peace. Schlepp told him that in order make the process as fair as possible, they would like to appoint him as temporary JP and ask for applications, including his own, hopefully. Wells was in agreement. He asked if it would be okay to do all of his arraignments, city and county, at City Hall on one day each week. He is his own clerk, he continued, and the paperwork is the hard part. By doing all arraignments at once, it frees up the rest of the week for paperwork.

Ogle warned the commissioners that the Secretary of State is cautious in appointing someone temporarily to an elected office. Wells said he is already filed as County pro temp, so he can step right in, as he has in the past to fill in for Churchill when he is at conferences. Wells left the meeting at 2:05pm. The commissioners agreed to run an ad in the newspaper for three weeks to solicit interest for the position.

### **Dayna Ogle, Clerk & Recorder—Outstanding Issues (continued):**

#### *Spoiled Vaccine*

Ogle told the commissioners that the Health Department's vaccine that spoiled because of a breakdown in communication when Health Nurse Kiff was out of the office, is covered by insurance but there is a \$2000 deductible. As a result they did not file a claim. Schlepp said if the fund runs out or in the red, the commissioners would make the fund whole.

### *Soil & Water Conservation*

Ogle told the commissioners that centrally assessed utilities in Meagher County do not pay taxes to the Soil & Water Conservation District whereas they regularly do in other counties, according to County Assessor Hurwitz-Leger. It was agreed to have Hurwitz-Leger report back on this issue.

### *Health Insurance*

Ogle told the commissioners that Julie Blockey, the County's health insurance agent would like to give a Health Savings Account presentation to County employees. Schlepp said she thought they had decided to wait until next year to do that, to go a year with the new plans in place and then revisit it. It was agreed to wait.

### *Document Scanning*

Ogle said she is looking to find a company to scan documents. She said there is a company from Spokane who will do it for \$6000-8000 but they want to take the bound books back to Spokane to unbind them, scan the pages, and rebind them. It was agreed that no County books would leave the courthouse. She said there are 64 books that need scanned, with about 650 pages each--and 52,000 microfilm images to scan. She will keep looking into potential options.

### *Mock Election*

Ogle told the commissioners about her idea for holding a mock election at the schools. She said she would like the older kids to vote ballots with County candidates and initiatives. There may be a potential problem if she used a copy of the actual ballot. She will take all the necessary precautions to insure the ballots cannot be mistaken with each other—including using colored paper and a watermark stating "Mock Election." The commissioners were in agreement that this is a great idea. She is awaiting approval from the Secretary of State's office to continue.

### *Courthouse Backdoor*

It was agreed to ask Ken Martin if he could replace the lock on the back door of the courthouse, before deciding to bid out the job.

### *Disciplinary Policy*

Ogle asked the commissioners if putting an employee back on probation is an option anymore. It was part of the old policy, she said. Townsend said the employer is the commissioners, not the department head. But it should be up to the department head whether an employee goes back on probation. Schlepp asked what the benefit of putting an employee back on probation was. Hurwitz said if someone is not doing their job, they should let them go. Townsend added that that should be up to the commissioners, by recommendation of the department head. That way the department head does not have to worry about legal action.

Ogle handed the commissioners the Fixed Asset Depreciation Schedule for FY 11/12.

She mentioned that Marc Pryor and Alvin Kujath were both hired as temporary employees, Pryor in February and Kujath in March. County policy is that temporary employees are hired for 12 months at a time. She told them to keep it in mind.

### **PUBLIC COMMENT:**

There was no public comment.

### **Claims:**

Commission was presented Voucher #1315, CK#44517 through CK#44548 totaling \$38,748.93. Commission approved and signed checks as presented.

### **Meeting Adjourned:**

Chair Schlepp adjourned the meeting at 3:00pm.

### **Next Meeting:**

Commissioners are scheduled to meet Tuesday, October 2, 2012.

**CLERK & RECORDER**

**CHAIRMAN**

**SEAL**

**VICE-CHAIRMAN**

**COMMISSIONER**

Note: Minutes taken by Assistant to the Clerk & Recorder, Nate Sanders.  
Distributed October 2, 2012 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle