

JEFFERSON COUNTY COMMISSIONERS
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CORY KIRSCH, CHAIR

LEONARD WORTMAN

BOB MULLEN

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
May 9, 2017**

Present: Commissioners Kirsch, Wortman and Mullen; Steve Haddon, County Attorney; Kellie Doherty, Personnel Officer; Tom Harrington and Micky Zurcher, JLDC; Amy Tenney & Dan Krause, Boyd Andrew; Pete Novich and Tyler Holland, Novich Insurance; Gary Craft, Mayor of Boulder; Jan Anderson, *Boulder Monitor*; Paul Backlund, Drew Dawson, Jennifer Wise, Steve Marquis, Owen Voight, Ed McCauley, Shannon Gardner, Cherche Prezeau, Kevin & Janice Campion, Marv Goehring, Mike Careton, Dean Hershy

The meeting was called to order and opened with the Pledge of Allegiance.

MINUTES

Commissioner Mullen moved to approve the minutes of April 4. Commissioner Wortman seconded. The motion carried.

Commissioner Wortman moved to approve the minutes of April 11. Commissioner Mullen seconded. The motion carried.

REPORTS

Commissioner Kirsch noted the receipt of April expense and revenue reports from the Clerk and Recorder's office.

CALENDAR REVIEW

- 5/09 Meeting regarding TEDD/Urban Renewal - 3:30
- Head Start meeting in Whitehall - 4:00
- Fair board meeting - 7:00
- 5/10 Canvas of Jefferson Valley Rural Fire election - 8:00

- Meeting with Gary Spaeth - 11:00
- Boyd Andrew board meeting - Helena - noon
- Boulder Chamber of Commerce meeting - 5:00
- Planning Board meeting - 7:00
- 5/11 STI meeting - Whitehall - 7:00
- CTAC meeting - Whitehall - 8:00
- Juvenile Detention board conference call - 8:30
- Tri-Co Fire - Helena - 9:00
- Survey Review Committee - 1:30
- North Jefferson Library Board meeting - 5:00
- Weed Board meeting - 6:00
- 5/13 Mariah's Challenge color run - 9:00
- Green Your Spring - 10:00
- 5/15 JLDC working meeting - 9:00

COMMISSION REPORTS

Commissioner Mullen reported that on Tuesday night he attended a Whitehall Head Start meeting. RMDC has given notice that they may discontinue the program there due to the fact that they are short of enrollment that is income eligible and the current teacher is retiring. They will make a decision on June 2nd. They will be meeting again this afternoon to discuss their options.

Commissioner Mullen reported that on Wednesday he attended the Local Mental Health Advisory Committee meeting. He noted that May is Mental Health month, so they decided to help with the fun run and green your spring events in Boulder.

Commissioner Mullen reported that on Thursday he and Commissioner Wortman went on a tour of the Pipestone/Jefferson Slough projects. He was very impressed with what has been accomplished to date.

Commissioner Mullen reported that last night he attended the Museum Board meeting. They introduced a couple new board members and employees, discussed Clancy's Day and passed their proposed budget.

Commissioner Wortman reported that last Tuesday evening he attended a GPS training session facilitated by Melissa Morris.

Commissioner Wortman reported that yesterday he met with people from WGM, the engineering firm that did the feasibility study for Boulder rest area, the Department of Transportation, and the City of Boulder. He stated that it was a very positive meeting. The state is very interested in pursuing the rest area at the Boulder interchange. The County has agreed to put utilities across the interstate which will facilitate the rest area and future development. They indicated that there

would be a quicker time line than originally thought, and they would like to start construction next spring, with the project to be completed by next fall. This will be a year-round facility. He is going to try to set up public meeting on June 6 to have WGM do a presentation on the feasibility study.

Commissioner Wortman reported that yesterday he met with SMK and the engineer from Morrison-Maerle who designed the bleacher cover. It may not be as dire a situation as we originally thought. The original estimate that he got was \$45,000 to \$55,000 to fix it, but they got a bid from someone that was \$70,000. Yesterday he found that we can attach the bleachers to the cover and stabilize the bleachers for much less.

Commissioner Kirsch reported that he attended the solid waste safety meeting. They are still recovering from the unexpected death of a site attendant.

Commissioner Kirsch reported on the BTAC meeting, which was pretty much business as usual. He stated that between Jan Anderson, Drew Dawson and Commissioner Mullen, we got the money pushed through legislature and signed by the Governor.

Commissioner Kirsch reported on the Solid Waste board meeting; they are trying to figure out how to balance the budget, and if there needs to be a rate increase.

ITEMS FOR COMMISSIONERS' ACTION OR REVIEW

AMY TENNEY & DAN KRAUSE - BOYD ANDREW UPDATE ON PROGRAMING & EARMARK TAX DOLLARS

Amy Tenney, Director of Boyd Andrew, thanked the Commissioners for their continued support with the ear mark of alcohol tax dollars. They have worked with 25 Jefferson County residents in Boulder and Whitehall on treatment programs. They also have a prevention program, run in Jefferson County by Barb Reiter, who has facilitated many programs over the past year.

Commissioner Mullen asked how the recent change in the legislature to allow mental health centers to compete going to affect her program. Amy stated that competition is always seen as a good thing for the consumer; her concern is with quality control oversight. The state didn't request an increase in funding for their oversight division, and currently there is one person for the entire state. She discussed funding and uncertainty due to uncertainty on the federal level.

Commissioner Wortman stated that there had been talk about beds being available for short-term treatment and asked what is happening with that. Amy stated that some money has been allocated, but she hasn't heard if it is going to happen.

Dan Krause, Director at Riverside, stated that things going well; they are fully staffed. He noted that they are seeing harder and harder cases, many with co-occurring mental health issues, which they are staffed to handle. Commissioner Wortman stated that he likes to promote the use of

local services, and he would like to encourage them to look at contracting with local vendors for meals. Dan stated that he had a conversation with a local provider, but the cost would be higher. While they like to support local businesses, they need to also consider their budget.

DISCUSS AND DECIDE ON LOCKED GATE ON ROCKY ROAD

Cherche Prezeau, attorney for Shannon Gardner, stated that she is prepared to provide background information on this issue, as there are all new Commissioners and a new County Attorney since this happened. She distributed out packets of background material (on file in the Clerk and Recorder's office). She stated that they started the litigation in 2008 after Mr. Felska was granted preliminary plat approval for his subdivision. After he was granted approval, Mr. Felski came in and bulldozed wide swath over an existing dirt road/path, causing significant difficulty to the landowners that owned the underlying property - which is owned by Patricia Baerga and Shannon Gardner. They brought the lawsuit against Mr. Felska and his development company saying that they had some real concerns about his ability to use the road for the new subdivision. Cherche gave a brief timeline of the history of Rocky Road.

Cherche stated that since the 2009 subdivision approval, the Commission has been aware that the road is being litigated, and agreed to abide by the ruling of the court in May 2013. The District Court granted summary judgment on counts one, two and three, which state that Rocky Road does not provide public access to the subdivision or public access. After that, they entered into a settlement agreement with Mr. Felska for damages; this is a confidential settlement agreement. She stated that there is no documentation that the road was ever made public.

Cherche stated that Shannon Gardner put up gate after they did the math on the potential average daily travel, to stop the potential for 400 trips per day past her house. Shannon stated that she put up the gate after trying other things to keep people out; signs were placed and were ripped out, she received threats, she tried to let people know that road not to be used, which Felska was supposed to tell buyers.

Steve Marquis asked if the lawsuit was for the moving of the road, or for the access, or both. Cherche stated that the lawsuit was to quiet title and for damages. Steve asked about the people that had deeded access through the property. Shannon stated that Jennifer has a deed, but it is for the road on the current traveled way, and the road has changed location three times in the past ten years.

Commissioner Mullen stated that all of the plats that he has seen seem to indicate that there is an easement there; he asked who gave the easement and why isn't it available for everyone to use. Cherche stated that there are two sections of road that we are talking about; the first one is through Boulder Valley Heights and it goes through Patricia Baerga's property. That is not an easement; when created, it was for the purpose of accessing Boulder Valley Heights, it was never intended to provide access beyond that. She noted that none of this was done in secret; everything went before the court.

Ed McCauley stated that the subdivision that was created - Tract 2 minor - when brought before the Commission, there was a public easement established. The road has moved around, but where road goes now to the left is where the old road was. He stated that the roads within the subdivision are along existing roads. He suggested that they move the gate back where it originally was, and let her go through the gate as well.

Dean Hershy stated that what Ed is saying is certainly true; he was using road before anyone in here was born. As he said, the road went slightly off to the left. Before the subdivisions were thought of this was the only road for access. This is his only access to his property. He was not told anything about this, or given a key. He noted that the gate doesn't keep people off of Shannon's property, it keeps them from leaving it. As a landowner, it would have been nice to be informed.

Commissioner Mullen stated that he is not sure he is ready to make a decision today. He is sure that dust from the road so close to the home would be troublesome. He would like to have a title company research the easement. He would like to find a way to work it out for everyone's best interest.

Jennifer asked they couldn't make Mr. Felska put the road back where it was supposed to be. Shannon stated that he designed the subdivision around the "present traveled way", but he didn't follow that when he improved the road. As far as the subdivision, he has already made an agreement and it isn't a legal access for them anyway. After they won the lawsuit she told Jennifer they were going to put up a gate and she asked them not to. Shannon stated that they tried to police it themselves, but things kept escalating and she was getting physical threats.

Cathy stated that we have maps back to 1870 that would show the original road.

Steve Haddon, County Attorney, stated that maps may not be sufficient to show easement or to show or not show a road.

Commissioner Kirsch stated that there are a lot of moving parts and things to figure out, and he likes Commissioner Mullen's idea of hiring someone to research this. He can sympathize with the Gardners who didn't plan to have traffic by their house when they bought the property, and also with the existing landowners.

OWEN VOIGT - MINING RECLAMATION IN COUNTY, IN COOPERATION WITH GOLDEN SUNLIGHT MINE & ASH GROVE

Owen Voight stated that he came to give an FYI to the Commission. Ash Grove has historical gold mines on their properties. He owns Legacy Mining and does reclamation of sites and ships the material to Golden Sunlight Mine. They will be removing arsenic from the watershed. He stated that Ash Grove will donate the royalties to a charitable organization that provides housing and educations to orphans in Africa. Everything will be in and benefit Jefferson County. They will be hauling 4 loads a day from Sawmill Road to Golden Sunlight.

PETE NOVICH - CONSIDERATION FOR PROPERTY-CASUALTY INSURANCE

Pete Novich, Novich Insurance Agency, stated that they have been working with Madison County, and they see a lot of overlap with property/casualty and worker's compensation. He is asking that the Commission consider changing property/casualty portion of the County's insurance over to them.

DISCUSS AND DECIDE ON COUNTY INSURANCE

Commissioner Mullen stated that the Commission needs to decide what discount options we want to take on the County health insurance. He said that it seems like the premiums are going to go up 11 to 12%. We can save 2% by requiring enrollees to attend health training, and can save an additional 2% by committing to renewing coverage for three years.

Commissioner Wortman stated that we are at the point in the budget cycle that it is too late to do anything different, so we would essentially be extending coverage for two years; he feels that we should extend for three year. This would give us time to research other options and see what the federal government is doing.

Commissioner Wortman moved to remain where we are for a three year commitment. Commissioner Mullen seconded. The motion carried.

APPOINT BOARD MEMBER

Commissioner Kirsch noted the receipt of an application to serve on the Health Board from Christina Binkowski.

Commissioner Wortman moved to appoint Christina to the Health Board. Commissioner Mullen seconded. The motion carried.

DISCUSS \$500,000 EARMARK FROM THE STATE TO THE CITY OF BOULDER

Drew Dawson presented the sequence of events with Making Boulder's Future Bright to this point and where they see things progressing.

Drew stated that we need to begin to discuss our next steps. We need to establish a relationship with Sheila Hogan, Director of DPHHS. There should be the adoption of a resolution or some other mechanism that will set up an advisory board. If you look at the identified uses of the funds, it is getting pretty complicated, pretty fast. He feels that the money, for the most part, is about leveraging more money.

3:21 - Commissioner Mullen left for another meeting

There was discussion of how to staff this; they have exceeded the capacity of someone to deal

with on a volunteer basis. There will need to be an understanding of the projects and how they tie together, and the knowledge of grant writing. The draft budget calls for \$30,000/year, but that probably isn't enough to get someone qualified. He stated that the city and county will need to help, and asked if this would fall under the umbrella of JLDC. Many of the projects may overlap. He suggested that maybe he and Tom Harrington can come up with staffing options, or it might be best to contract with someone.

Kevin Campion stated that he thought this \$500,000 was an impact from MDC closing and for Main Street. It seems like now they are into properties beyond Main Street and across the interstate.

Commissioner Kirsch stated that they projects mentioned are part of the master plan.

Drew noted that there is a Main Street Montana project; we will be getting them involved, but some of these projects will make us more eligible for Main Street Montana money.

Commissioner Wortman stated that he thinks that the JLDC is a good vehicle for something like that. He noted that if the county is going to put money into this, projects will have to have an impact in the county.

DISCUSS AND DECIDE ON FACILITIES CONSTRUCTION ISSUES

Commissioner Wortman stated that we have the paperwork to add on to the intercap loan to cover the cost of the fix to the bleacher covers at the fairgrounds. It provides for an additional \$60,000, which may not all be needed. A resolution is needed to approve the increase to the loan, and this will be placed on a future agenda.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

CORY KIRSCH, CHAIR

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