

JEFFERSON COUNTY COMMISSIONERS
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ROBERT MULLEN, CHAIR

LEONARD WORTMAN

CORY KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
June 14, 2016**

Present: Commissioners Mullen, Wortman and Kirsch; Steve Haddon, County Attorney; Tom Harrington, JLDC; Chuck Wideman, Deb Hanneman, Heather Dove, Arnold Buchannan, John Kountz, Bob & Connie Sims, Doug Salsbury, Hervey Perez, Jim & Jeanne Reinschmidt, Patti Reed, Vera Jensen, Jenny Scott, Andrea Mulligan, Tim Mulligan, Doug Bachma, Angel Adams, Denise Bausch, Kate Dinwiddie, Francine Janik, Ilene Scott, Duane Scott, Kevin & Dana Brunet, Julie Eakin, Holly Harper, Terry Ross, John Kountz, Gerry & Marty Keogh, Bridget Morse, Trent Biggers, Lee Bruner, Lyndie Ziesing, Karen Choquette, Matthew Haus, Marlene Molenda, Caitlyn Jenkin, Tom Jenkin, Kory Klapan, Maxine Samuelson

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

REPORTS

Commissioner Mullen noted the receipt of the May Clerk and Recorder fees report.

CALENDAR REVIEW

- 6/15 Boulder Senior lunch and meeting - noon
- Beaverhead - Deerlodge working group - Butte - 1:00
- JLDC - Montana City - 2:00
- 6/16 Meeting regarding proposed Boulder rest area - 10:00

COMMISSION REPORTS

Commissioner Kirsch reported that he attended the Solid Waste safety meeting. This was his first time attending this meeting, but he plans to attend more.

Commissioner Kirsch reported that on Thursday he attended the BTAC meeting. That group is going along well and Drew Dawson doing well leading the group.

ITEMS FOR COMMISSIONERS' ACTION OR REVIEW

SPECIAL DECLARATION - WEIGHT LIMIT ON WHITETAIL ROAD FOR SAFETY CONCERNS

Commissioner Mullen read the declaration as follows:

**DESIGNATION OF EMERGENCY AREA NEAR CONSTRUCTION PROJECT
WHITETAIL ROAD, JEFFERSON COUNTY, MONTANA**

WHEREAS, Montana State Highway 69 is undergoing reconstruction between mile markers 31.8 to 37.6, within Jefferson County, Montana; and,

WHEREAS, commencing May 31, 2016, a detour has been established around the reconstruction area with motor vehicles with a GVW of 20,000 pounds or greater being prohibited from accessing or driving on the detour route and other county roads. *See, Resolution No. 06-2016, Resolution Temporarily Closing Certain County Roads to Motor Vehicles with a GVW of 20,000 pounds or greater*; and,

WHEREAS, the Jefferson County Road Department Supervisor, and the Jefferson County Sheriff's Office have advised the Jefferson County Commission motor vehicles with a GVW of 20,000 or greater are circumventing the road closures by accessing the Whitetail Road, a county maintained state secondary highway; and,

WHEREAS, due to the design, construction and topography of the Whitetail Road, the Jefferson County Commission has determined the increased traffic of motor vehicles with a GVW of 20,000 or greater on the Whitetail Road threatens public safety; and,

WHEREAS, pursuant to the authority of Mont. Code Ann. § 7-14-2128, the Jefferson

County Commission has deemed it to be in the interests of public safety to designate the Whitetail Road as an emergency area and to temporarily close the Whitetail Road to motor vehicles with the GVW of 20,000 or greater.

NOW THEREFORE, the Jefferson County Commission hereby designates the Whitetail Road as an emergency area near a construction project and temporarily orders the Whitetail Road closed to all motor vehicles with a GVW of 20,000 or greater. This emergency designation shall be removed no later than 30 days after the completion of the Highway 69 construction project when Highway 69 is fully reopened to all classes of motor vehicles.

Dated this 14th day of June, 2014.

**Board of County Commissioners
Jefferson County, Montana**

Bob Mullen, Chair

Leonard Wortman, Commissioner

Cory Kirsch, Commissioner

ATTEST:

Bonnie Ramey
Jefferson County Clerk and Recorder

Commissioner Wortman moved to approve the special declaration. Commissioner Kirsch seconded. Commissioner Wortman stated that he feels that this is very important to keep large trucks off of that road during the road construction. The motion carried.

DISCUSS PLACING THE CREATION OF A SPECIAL AMBULANCE DISTRICT ON THE NOVEMBER BALLOT

Commissioner Wortman read a letter from Dunwiddie Law Firm requesting that the creation of an ambulance district be placed on the November ballot.

Commissioner Wortman stated that this meeting is to take public comment on placing this issue on the ballot. He wants to make clear that the Commission is in no way trying to create an ambulance district. The sole purpose is to decide if we want to put it on the ballot.

Commissioner Mullen said we have received a lot of correspondence; a lot of people have a keen interest in this topic. Rather than going through those letters, he would ask that people state if they are opposed or in favor of the district and why. Also, if there is someone who feels strongly that there is some way still to mutually come up with an operating service for those inside and outside of Whitehall, he would be interested in hearing about that as well.

Bob Sims stated that he has two questions. First, the \$29 fee to those within the district - if that fee changes, who controls how it changes. Commissioner Mullen stated that a decision for a fee change would come from the elected board, which is elected by the people in the district. Secondly, if the district is formed and is sued, who pays if they are found liable. Steve Haddon, County Attorney, stated that the district, if created, would be a special district under the law, the same as a fire district. Under state statute, there is a laundry list of powers delegated to the district; they can sue or be sued, they can enter into contracts, etc. If the district is sued and loses, they would have to have insurance.

Holly Harper stated that she would like to see the creation of the district on the ballot for a number of reasons. As a resident of Cardwell, she would like qualified people on the other side of a 9-1-1 call. There is a lot of information swirling; if people that are unaware of the issues, they are hiding. She is tired of this, tired of the venom that is coming out through this. One of the strengths that came out through the Horizons program was the ambulance; she is tired and saddened of hearing about it. People need to vote and be done with it.

Arnold Buchanan stated that Whitehall has been operating the ambulance successfully for many years. The Whitehall ambulance has been the sole provider for many years, and at this time there is no apparent need to tax property owners. He noted that PULSE was allowed to continue to operate while Whitehall was restructuring their ambulance service. Whitehall is now fully staffed by paid crew. He said that PULSE failed to get enough signatures on the petition to place this on the ballot. He doesn't feel that it is right, and possibly illegal, to take public money to put pressure on a public entity.

Andrea Mulligan stated that she lives in Cardwell and works at Saint James Community Hospital, a hospital that receives many of the patients serviced by the two ambulance services. For years the former Whitehall ambulance had a high quality ambulance, they had well trained staff, they did a good job on their transports and they were highly regarded. She stated that the

same is true for the PULSE staff, but the same can't be said of the current Whitehall ambulance. They aren't as well trained and don't have as many staff. She just wants to see this on the ballot so that it can be voted on.

Jean Reinschmidt stated that she lives in the Whitehall area but she is in Madison County. She stated that she would like to refute something that Mr. Buchanan said. They went out and got signatures for the petition, but he was one of the people that went out to interfere with the petition process. She stated that he went to Patty Reed's house and tried to get copies of the names on the petition. The Whitehall town clerk was involved in taking petitions out of the Corner Store and copying them. She took all of the petitions that were signed for the recall and pasted them up on the wall of the town meeting the previous night, trying to intimidate people. She stated that there has been a lot of intimidation from the Town Hall. She feels that it is time for the people to be able to vote and decide.

Dana Brunette stated that she lives in Whitehall, although she has been informed by the mayor that she lives out of the city limits. She is for the district. Her family has lived here a bit over 10 years and they have used the ambulance here twice in that time; once for a life or death situation for her daughter. The people on the ambulance knew exactly what to do without hesitation, and those are the same people that are now with PULSE. She would vote yes for the district, and she would like to see it put on the ballot so that they have that choice.

Matt Haus, attorney for the town of Whitehall, stated that he thinks that it is important to put the legal context of this decision of the Commissioners out there. That is, the standard before deciding to place it on the ballot is public convenience and necessity. He thinks that the necessity is the important thing to remember here; this isn't a matter of if people think that it is a good idea, or whether they support it, its whether it rises to that very high standard of necessity to create a special district. He is not sure if having two ambulance services in the area is a necessity and he doesn't see how the Commission can vote for placing this on the ballot. He hasn't seen any information in the letter from Katherine Dinwiddie, nor provided at this meeting that established that very high standard of necessity that the Commission needs to find to place this on the ballot. With the dearth of information that they are operating under, he struggles to see how the Commission could vote for placing this on the ballot and finding that there was necessity. If further information is provided, we would appreciate it being placed on a future agenda so that they can respond. Regardless of personal opinions of the players, he would think that most people would be concerned with an effort to undermine a town's services. There has been an effort between this petition, the petition to recall four of the six town council members - if you look at it as a whole, it is a pretty clearly organized attempt to dissolve a town's service, and he thinks that should be troubling.

Tom Jenkin stated that he has a couple concerns. If the is district formed, who would collect the \$29; he doesn't think that the County should be in position to collect taxes for a private entity. Commissioner Mullen stated that the County currently does this for other districts. Tom stated that he hasn't heard anything about contact with Madison or Silver Bow Counties, and that is a concern for him. He would be against this; he feels that we have a good ambulance.

Jenny Scott stated that she lives outside of Whitehall and she would be in agreement with placing this on the ballot. As far as comments about this undermining the town - the past two administrations worked fine with the former ambulance service. There were no waves and great things were accomplished. She noted that the PULSE staff are working without pay.

Tom Harrington stated that he would like to see this on the ballot. There has been a lot of anguish over the past year or so and he would like people to have the opportunity to be heard. As a county resident, he really doesn't have any say in the Whitehall ambulance. Public safety is a pretty important factor and he thinks that this is an opportunity for people to speak out and say if they want it or don't want it. As for public safety purposes, he has a little different perspective on the ambulance and the public safety aspect, having worked with search and rescue for 20 years. He has seen the ambulance crew in some very tough and stressful situations and he knows of people that are here today that wouldn't be if it weren't for the training and dedication that they have.

Bob Sims wanted to respond to the comment that there is no pressing need to put this on the ballot. He stated that there is a safety concern and he would like to see the Commission place this on the ballot to address that concern. He stated that if the letter to the editor that was in the Ledger is in any way correct, we apparently have an ambulance service being dispatched by the County that is not the first choice of anyone needing services. He asked what the liability is to the County if the County is dispatching a service that is less than optimal. Steve stated that DPHHS licenses ambulance services, and the Whitehall ambulance is a licensed service. People can sue for anything; in his judgement, it is a defensible lawsuit. Bob stated that he spoke with Jim DeTienne, who told him that there is nothing in Montana law that allows you to pull the ambulance license of a certified ambulance. He also told him that the ambulance's ability to do a job is dependent on the personnel on the ambulance. If there is no one around who has the training to do the job and you run the ambulance out with a secretary driving it, they are still licensed by the State of Montana, but they don't even meet the minimum requirements. There is a liability question here, because the County is the one that sent them out. There is a need to put this on the ballot.

Matt Haus stated that he would like to respond to these comments. When the ambulance crew resigned, Jim DeTienne yanked the license of the Whitehall ambulance. You can't say that there is no avenue to do that, because he personally did it. In regards to the letter to the editor, he has talked to the ambulance crew about that incident, but he can't comment on it because of privacy laws.

Tim Mulligan stated that he is a Cardwell resident. He would like the Commissioners to consider this in a way other than us versus them. If you had a group of people that came to you that wanted to form an ambulance district, without the history of us versus them, you would need to consider what is best for the rural county residents. For him it is simple - he wants the most qualified people to show up in the least amount of time. He stated that his wife is here today because of the PULSE staff. They live outside of the city limits and can't vote for the people making the decisions. He said that rural residents have a say on everything else - fire, garbage,

etc., except for emergency services.

John Kountz, area rancher, asked how this will be assessed; is it per household. Commissioner Wortman stated that he isn't sure that it has been determined how it would be assessed. John said that his problem with the whole thing is that both ambulance crews are good people and do a good job. He doesn't think they are talking about what the problem really is - finances - even if we have a district, someone will need to get the finances figured out. He asked how this is going to be remedied by a district. He is kind of in limbo - maybe we need a vote, maybe we don't, but he doesn't think we are talking about the right thing.

Duane Scott stated that John got ahead of him and asked most of the questions he has. He asked if anyone has figured what the \$29 per household will raise and if it will be enough to run a district. Commissioner Mullen stated that we don't know that at this time. Duane asked if that will be available before the vote, so they know that it will be a viable number to run an ambulance. Commissioner Wortman stated that pre-vote information would have to be available. Duane asked if the district is formed, if the surrounding counties get a free ride. He stated that he doesn't have an opinion one way or the other. He asked who will be taking care of money coming in. The Commissioners need to look at if this will be a viable thing.

Julie Egan stated that she has been a Whitehall resident of about two years. If she lived rurally, she would want this on the ballot. She would rather have experience over inexperience when it comes to her life.

Connie Sims asked for clarification - the district will not include the Town of Whitehall, they will not be assessed and they will not vote if this is on the ballot. That is correct. Connie stated that she is for the district.

Karen Jokat stated that she has lived in Whitehall for 45 years. She works at the Country Store and they have worked for everything for our safety services - ambulance, Search and Rescue. They had a perfectly working ambulance, who were well trained, partly by the town. They also felt like we took pride in the fact that we helped train our EMTs - we had better equipment on our ambulances than Butte. They built a building that is ridiculous and will be utilized. She stated that they built an ambulance service once and they can do it again. They have the knowledge and have the funds to back it. She said that the former crew turned their back on the town and walked away with no explanation. They had no recourse to this. She stated that they are building another ambulance service; they have the equipment or some of the equipment. Hopefully they will get all of it back. They continue to work every day to finance our safety services. Karen said that the reason the feelings are so strong here is that this is a home group. They have never had a problem with finances until recently, they never had to pay extra taxes and they had a good ambulance service. They can be told that it is a personal feud that has destroyed the ambulance service, but feuds destroy people, not services.

Holly Harper stated that two years ago she didn't understand that she wasn't paying for service. She assumed, as did many until they knocked on their door, that they paid for the service and

they had a voice. There should be real money behind real services. They got a map of the high school district, with a little dot in the middle, which is the town of Whitehall. They call it the donut map. The little dot in the middle runs everything, and there is no representation for everyone else. It doesn't make any sense. It started out as a town entity, and suddenly the town entity is covering an area far beyond the town. There is no opportunity for representation, there is really no responsibility. There is language in the town document that says they are responsible for service in the town of Whitehall, but she is from Cardwell.

Lyndie Ziesing stated that she is a resident of Whitehall and was a part of the first crew for the town of Whitehall as an RN. She taught the first nationally certified EMT course. They were called volunteers and they considered themselves volunteers, but the town did pay them minimum wage so that they could be covered by workers compensation. She worked with the ambulance for 15 years and as a result developed PTSD. This is a concern for all emergency service workers and when there becomes underlying dissension, it increases the stress factor. This service was built from the ground up to provide the best service. She stated that if you are concerned with life and the life of the ambulance, you wouldn't just walk out and pull the rug out from under it. If this goes to a vote and it doesn't pass, where are we? It would be best to have a good sit down and work it out.

Andrea Mulligan stated that she did serve on the ambulance board for two years. In that capacity they had some ability to oversee the finances of the ambulance board. The ambulance service took money in and that money was put back into the ambulance service. They were able to make monthly payment for building, paid staff, and money went to the town for town services; this came for charges for calls. She stated that money can be generated outside of the proposed fee. The ambulance bills for services that in turn support the ambulance.

Arnold Buchannan said that he would like to comment on a couple things that have been said. Regarding the ambulance letter in the paper - he tried to follow up on that. He was told by a man with as much experience as anyone on the PULSE team that the crew operated within the law and with good judgement. That is all that can be said without violating HIPPA laws.

Kate Dinwiddie, attorney for PULSE, thanked the Commissioners for honoring her request to have a public hearing. She stated that she worked with the Red Lodge/Roberts special district, and they followed a similar path. They started with a petition, then went to the Commission and asked to place the question on the ballot. Regarding funding, Kate stated that the \$29 fee will generate \$51,000/year. Also, as someone already noted, there will also be fees for services. The PULSE crew has already billed out \$42,000 in the February, March and April time frame. As for not including Silverbow or other parts of the county, there is a way through the alteration of special districts - 7-11-1023, MCA. This gives the County Commissioners the ability to alter the boundaries of a special district, if they choose. This is done through a petition process. She stated that she thinks that the public convenience and necessity issue has been well addressed. She noted that 82% of the calls that Whitehall was running were outside of the city limits. Also, there are 1,573 registered voters within the proposed district. Commissioner Mullen asked about

the population of Whitehall. It was answered that the Town of Whitehall has about 778 residents.

Tim Mulligan stated that he apologizes for the way that he presented himself when he first spoke, as if the Commission were to make the decision on the formation of the district. He said that placing this on the ballot is the most democratic way to deal with this.

Matt Haus, stated that he wants to make sure that we are focused on the right thing here. If you want to talk about the democratic process, the petition process is that. He said that 25% is a pretty low threshold to place this on the ballot. Without the petition, public convenience and necessity are the standard. If the Commissioners don't know how the fee is going to work, how do you know that the necessity is there.

Kevin Brunett stated that he been listening to some song and dances tonight, but when it comes to safety, he wants PULSE to come if he calls, not the dog and pony show.

Lee Bruner stated that he farms south of town and does some volunteer work with PULSE, but he doesn't speak for them tonight. He hadn't planned to speak tonight, but as he sat and listened, he thought about the various districts that he has worked with throughout his life - mosquito, garbage, fire, etc. He said that if he had to pick only one to keep, he would keep the ambulance. It disturbs him that with the most important service, he has no say, and no voice. He urged the Commissioners to put this to a vote.

Trent Biggers stated that he lives in Madison County, within the high school district. He is the service manager for Jefferson Valley EMS. Jefferson Valley EMS supports the formation of the district. This isn't a competition; this is about sustainable, secure services from the beginning and equal representation. The Country Store has supported the ambulance for many years, but that isn't sustainable. We cannot rely on the generosity of the Country Store and the Ladies Auxiliary. He noted that the idea of a district is nothing new; we have mosquito, fire, ambulance etc. This is just new to this area, and they are prepared for the challenge. The idea that the crew walked out and abandoned the town isn't true. From the beginning of the district discussion, they have been clear from the beginning that we would respond if called. Their vision is if the district is formed, Jefferson Valley EMS and PULSE would transfer all equipment and infrastructure to the district and all staff are committed to make that change.

Joe Adams stated that he is caught in the middle - he is a free enterprise guy. If people want to start a business they should be able to do it. He even offered to donate \$1000 to the new ambulance service if they would stop trying to take Whitehall's property. They should go earn money and not go to the government for help. If they are so sure that it is a good thing, they can take the money from their own pockets. He said that there is \$300,000 worth of business in the whole valley. If you did the paperwork right and billed everything and divide the income in half, the most each ambulance can have is \$150,000, which is not enough for both services to survive. Once on the dole, they will up the fees; there is no other way to operate. He added that workers comp and other insurances are fairly reasonable to counties, etc., but not the same for private

entities. If they want to run as a private enterprise, they should do it, but don't bill the public.

Commissioner Wortman stated that the purpose of the meeting tonight is to hear public comment. The Commission is not going to make a decision tonight. They will leave it open for comment for a couple weeks and this will be on the June 28 ballot for a decision.

Commissioner Mullen asked if anyone here at this meeting thinks this is fixable. The response from those in attendance was a resounding no.

Steve Haddon, County Attorney, stated that he would like to make an observation. He is not a policy maker, but a lawyer, and part of his career as a lawyer has been as a litigator. One of the things that he has learned to recognize is that when issues become personal, everyone gets their dander up. The observation he wants to make is that, in any case that involves money, the Montana Supreme Court requires mediation. He said that if there is any potential for an olive branch on both side they should bring in mediator and try some give and take from both sides. Instead of having two separate services they could be combined and allow for input for those that don't have it now.

Commissioner Mullen stated that there is a model in our communities that works well, and that is the fire department. There is both a city and rural fire department and they work together. Regarding what Steve mentioned, time is of the essence as we have roughly 60 days to get it on the ballot so that it can be voted on.

John Kountz stated that he doesn't care who did what or said what; a lot has already been invested in the ambulance. They are looking at blowing that apart and starting over. There has got to be a way that this can be worked out. Wars are expensive; he doesn't care what has happened in the past.

Commissioner Wortman stated that he would like to throw out as a possibility. He doesn't know if mediation would work, but he would like to see people give it a try. He noted that the Commissioners are responsible for the health, safety and welfare of the citizens, and he would be willing to pay for the mediation. The lawyers will talk to clients and get back to County.

Commissioner Wortman stated that he would like to thank everyone for attending, and for keeping things civil.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

BOB MULLEN, CHAIR

LEONARD WORTMAN, COMMISSIONER

CORY KIRSCH, COMMISSIONER