

JEFFERSON COUNTY COMMISSIONERS  
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ROBERT MULLEN, CHAIR

LEONARD WORTMAN

CORY KIRSCH

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**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
May 10, 2016**

**Present:** Commissioners Mullen, Wortman and Kirsch; Steve Haddon, County Attorney; Tom Harrington, JLDC; Noah Youde, Colleen Teeling, Duane and Sue Schaff, Ike Stevenson, Jeremy DeBorde

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

**MINUTES**

Commissioner Wortman moved to approve the minutes of April 12. Commissioner Kirsch seconded. The motion carried.

Commissioner Wortman moved to approve the minutes of April 19. Commissioner Kirsch seconded. The motion carried.

Commissioner Wortman moved to approve the minutes of April 26. Commissioner Kirsch seconded. The motion carried.

**REPORTS**

Commissioner Mullen noted the receipt of the April expense and revenue reports from the Clerk and Recorder.

**CORRESPONDENCE**

Commissioner Mullen noted the receipt of the alcohol tax funds earmark form. Commissioner Wortman moved to continue to run the funds to Boyd Andrew. Commissioner Kirsch seconded. The motion carried.

## **CALENDAR REVIEW**

- 5/11 MACo District meeting - Gardiner  
North Jefferson County Library Board - Clancy - 5:00  
Fair Board meeting - 7:00
- 5/12 STI - Whitehall - 7:00  
CTAC - Whitehall - 8:00  
LEPC meeting - Whitehall - 9:30  
Survey review - 1:30  
Mosquito board - 4:30  
Weed Board - 6:00

## **COMMISSION REPORTS**

Commissioner Kirsch reported that the Commission was busy last week with jail expansion meetings in Whitehall, Boulder and Clancy. He noted that there doesn't seem to be a lot of support one way or the other.

Commissioner Wortman reported that he attended the Black Tie/Blue Jeans fund raiser in Whitehall on Saturday night.

Commissioner Mullen reported that on Wednesday he had a Mental Health Local Advisory Council meeting, and this month they decided to have a mixer and invited people to come in and meet each other.

## **ITEMS FOR COMMISSIONERS' ACTION OR REVIEW**

### **DISCUSS AND DECIDE ON MAKING A LOAN FOR SKILLS USA NATIONAL LEADERSHIP CONFERENCE ATTENDANCE**

Commissioner Mullen welcomed Noah Youde back, and asked how the fund raising is going and if he still needs money. Noah answered yes to both. He stated that he received a \$200 donation from the Boulder Kiwanis, and the gun raffle is still underway. He is still short \$400 - 500, dependent on the results of the gun raffle.

Commissioner Wortman moved to do the \$3000 loan for the Skills USA Leadership trip, contingent on the promissory note being drawn up. Commissioner Kirsch seconded. The motion carried.

### **DISCUSS AND DECIDE ON ZONING VARIANCE REQUEST - GREEN**

Commissioner Mullen read a letter from Mr. Green, the proposed developer, withdrawing his request to contest the zoning. Since Mr. Green withdrew his request for a variance, this file will be closed.

## DISCUSS AND DECIDE ON ZONING VARIANCE REQUEST - DeBORDE

Commissioner Mullen gave a background of the zoning variance request and called for comments.

Duane Schaff stated that he and his wife live on Sawmill Road just above the DeBordes. They had a well getting 8 gallon-per-minute before seismic trucks came in doing testing. He stated that 8 homes lost wells at that time. They dug a new well and now get 30 gpm. He noted that the people above them get 3 gpm. The DeBordes have a good well and he is assuming that they want to put the new house on the north side.

Jeremy DeBorde stated that they plan to put the dwelling on the south side, just off of McClellan Creek Road.

Commissioner Wortman stated that when he looks at this, the R4 allows for two dwellings, which they do, and they could have two separate wells with that, but currently have one. For him, the reason that the conditional uses were put in there is for exceptions. He doesn't know why they would be listed if there was no way to use them. One of the conditional uses allowed is for family hardship. His feelings on this, and he has spent a lot of time thinking about this, are that he would be supportive of granting a conditional use.

Commissioner Kirsch stated that he has to respectfully disagree; he reads the regulations differently. He feels that the spirit of the zoning regulations is to keep density down. The DeBordes could remove the trailer and construct a home and stay within zoning regulations. A lot of people spent a lot of time working on the regulations.

Commissioner Wortman countered that with the DeBordes' current acreage and dwellings, they already comply with the regulations, so it isn't a question if the second dwelling went outside of the bounds of the regulations. The purpose of conditional uses is to grant exceptions to this; otherwise why would they ever be considered if there was no reason for them.

Commissioner Kirsch stated that maybe he is reading it wrong, but permitted uses are okay with no question; conditional uses are not so easily done. He feels that it would be one or the other.

Steve Haddon, County Attorney, stated typically you have a permitted use - in this case one home per 10 acres, and a conditional use, which is a variance to the permitted use. In the case of a hardship, get conditional use, which is a variance to a permitted use; it is outside of that which is automatically allowed by the subdivision regulations. That is what has to go through approval here. It is in addition to, not one or the other.

Jeremy DeBorde stated that they do rely on the rental property to make their mortgage payment. Also, they only have one well on the property now, but would be allowed two under the zoning.

Commissioner Mullen asked what type of house they will be building. Ike Stevenson stated that they haven't decided yet. Commissioner Mullen stated that hardship seems to denote something temporary and asked if they have discussed a mobile.

Commissioner Kirsch stated that it seems it has to be one or the other - permitted or conditional - not one from each list. Commissioner Wortman stated that when people got together and came up with these regulations, they specified projects that would be allowed, with the permission of the Commissioners. A dwelling for a family hardship is one of those projects. To him, this fits perfectly with that.

Duane stated that we all have family hardships; he lost both parents, but we took care of them in their home and had nurses come in to take care of them at home.

Commissioner Kirsch stated that he wants to reiterate work and time to put this together; the spirit of the zoning is one purpose per 10 acres.

Steve stated that this section is very ambiguous; it can be read both ways.

Commissioner Kirsch asked if this could be tabled. He wishes that Jerry were here to answer questions and give some guidance.

Steve said that he is terribly empathetic to this situation, but we need to do the right thing. We don't want to open the floodgates and have everyone up there wanting a variance to the zoning. He would like to speak with Jerry on this and get his input.

Commissioner Wortman stated that he has struggled with this a lot. One thing that Commission Mullen alluded to earlier is what happens later; this is a permanent solution to a temporary situation. He is not sure how to deal with this.

Commissioner Kirsch read a letter from Ken Vivrette, who has served on zoning board. He stated that people that live around the DeBordes' want to subdivide, and he feels that approval of this would open a door that has been kept closed until now. Commissioner Kirsch stated that it might be good to talk to him.

Commissioner Mullen stated that most of the letters that the Commission has received have been in opposition this. Also, their property is close to 30 acres, when another residence wouldn't be an issue.

This item will be tabled until the 17<sup>th</sup> .

#### DISCUSS AND DECIDE ON INSTALLATION OF KOUNTZ ROAD BRIDGE

Commissioner Wortman stated that this project had been part of the Pipestone project; this was one of the things that was identified as contributing to the flooding in Whitehall. We have gotten

approval from DNRC to use about \$259,000 of the Pipestone Creek funding towards the bridge. We had planned to replace under TSEP program, but that requires a 50% match from the county.

Commissioner Wortman moved to proceed with replacing culverts on Kountz Road with a 50-foot span bridge, using DNRC grant funds. Commissioner Kirsch seconded. The motion carried.

CANCEL DELINQUENT TAXES

Commissioner Mullen read a memo from the Clerk and Recorder requesting the Commissioners cancel delinquent tax bills.

Commissioner Kirsch moved to cancel the taxes as requested by the Clerk and Recorder. Commissioner Wortman seconded. The motion carried.

**MEETING ADJOURNED**

**ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**BOB MULLEN, CHAIR**

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**LEONARD WORTMAN, COMMISSIONER**

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**CORY KIRSCH, COMMISSIONER**