

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

**July 5, 12, 19, 2011**

**Tuesday**

July 5, 2011

8:30am – 4:00pm

Met in Commissioner's Chambers

**Meeting Called to Order:**

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

**Commissioners Present:**

Vice Chair Ben Hurwitz and Commissioner Herb Townsend.

**Sue Phelan—Tax Sale:**

County Treasurer, Sue Phelan, met with the commissioners to inform them that there would be no tax sale for the year as she did not get notice to the newspaper in time. She said it would be pushed back to next year. MACo had told her that as long as there is a newspaper in town, the sale has to be listed in the paper. It cannot simply be posted around the community.

**Ray Ringer—Road Report:**

Road Department Supervisor, Ray Ringer, met with the commissioners to give his monthly road report. All flood damage will be repaired by the end of the week except Benton Gulch Road. He found a Ford tractor in Ennis for about \$14,000 he needs to go look at it. It is all rebuilt but needs AC in the cab. Hurwitz asked him about trucks. Ringer told him he was going to look at one in Great Falls, that they might even take one of the old trucks on a trade in. Townsend asked how many miles there are to mow currently. Fifty to sixty, Ringer replied.

They then discussed Benton Gulch. Hurwitz told Ringer they still had not heard anything from FEMA or the Forest Service. Ringer said his original estimate for repairing the road included hauling equipment and materials from town and that it would take two to three weeks. Townsend said the County cannot afford that and that they should have an agreement with the Forest Service to maintain the road. Ringer told him there was a verbal agreement between the County and the Forest Service to alternate years maintaining the road. It was agreed not to put any equipment at Benton Gulch until they could get somebody from the Forest Service to meet with the Commission.

They briefly discussed the Tenderfoot Road issue and also new trucks.

Townsend left the meeting at 9:30am.

**Budgeting:**

Clerk and Recorder, Dayna Ogle, joined Hurwitz to work on the budget for FY 11/12.

**Harold Blattie, MACo Executive Director/Mike Sehestedt, MACo Chief Legal Counsel—  
Current Status, Hospital District Board:**

Blattie and Sehestedt joined the commissioners by phone to discuss some issues regarding the Hospital District Board. Blattie first informed Hurwitz and Ogle that if the local government unit reduces a levy or does not levy in a given year, it does not restrict their ability to levy in the future. He did point out, however, that it is not unanimous whether the reinstated levy could be assessed retroactively to make up for the loss of mils from suspending or reducing it previously.

Ogle asked Blattie what happens to the Hospital District Board if a levy is not assessed. Hurwitz added that the Commission had reactivated the District Board a year ago to look into the

financial health of Mountainview Medical Center. In the meantime, he added, the hospital has become financially healthy, with \$1.8 million in the bank. Should they disband the District Board or deactivate it, he asked. Blattie replied that oversight of the money is determined by which entity put the levy question on the ballot. If the County did, and then assessed the levy county wide, they have oversight of the funds. If the District Board requested the levy, and then assessed it district wide, they have oversight. And if oversight does fall to the District Board, they have one purpose: to enter into an agreement with the hospital as to how the funds will be used. Upon hearing that the County assessed the levy, Sehestedt remarked that the District Board is a totally empty vessel.

Blattie asked Ogle for the history of the hospital mils. Ogle replied that there was originally a statutory 3 mils but she was not sure how far in the past it went. Blattie estimated based on his records that it began around 1989-90. Then five mils were added to the three, Ogle continued. Blattie added that this was probably around 1992-93. Ogle then told him about the 20 mils that were voted to add to the previous 8 mils, and now those have been assessed and paid out.

Blattie then concluded that with a private, non-profit hospital corporation like Mountainview Medical Center that has requested no mils: 1) they can levy in the future, and 2) if the Board of County Commissioners placed the levy on the ballot all along, then the County Commissioners have sole authority and oversight of the funds, making the Hospital District is non-operational.

Hurwitz reminded Blattie and Sehestedt that the hospital does not want any money this year. Sehestedt told Hurwitz to keep what the County already has to use in the future for medical purposes. The citizens of Meagher County will receive an 8-mil tax break this year. Ogle asked about delinquent taxes coming in. Sehestedt told her the same thing, to hold if for future purposes. Blattie added that she should start running that account like a reserve levy fund. Keep it to cover the County for future shortfalls, delinquent or protested taxes.

Blattie then addressed the issue of what to do with the District Board. Hurwitz said they can either keep them or disband them. Blattie asked him what would happen if someone challenged the legality of how the County uses the district. Sehestedt suggested simply not funding them. Hurwitz said they do not fund them as it is. Sehestedt suggested maybe having them look over the shoulder of the hospital board but that it is difficult to make them go away. Blattie added that they just had an election to fill the seats on the District Board. They would have some questions to answer from the community if they suddenly tried to disband the board.

Hurwitz asked if the District Board has the right to attend committee meetings of the hospital board. Sehestedt said if no county money is involved, then no, they do not have the right. He said even if there is county money involved, he is not sure.

Ogle pointed out that warrants are not run through the County. Rather the County gives the hospital a lump sum. Blattie said in that case as well, the District Board would have no oversight. Sehestedt added that if the Hospital District Board was running like a hospital district board, they would submit a budget to the Commissioners and run warrants through the County.

Hurwitz then asked about the Harmon Trust. He gave some background of the money and where it came from and asked if that would be considered public money. Sehestedt said he would have to see the terms of the trust before deciding.

Townsend returned to the meeting at 1:30pm.

### **Hospital District Board—Language Used in Letter from Otto Ohlson to John Dracon:**

Present for this portion of the meeting, in addition to Commissioners Hurwitz and Townsend, were Leone and Martin Michalec, who remained for the remainder of the day, and attorney Michael Kakuk.

Kakuk told the commissioners he was there to discuss the letter written by Otto Ohlson on Mountainview Medical Center letterhead to Hospital District Board Chair, John Dracon, in which he insinuates that Dracon might be suffering from dementia. He read the part of the letter he found offensive, then stressed the need for civility in public discourse. He also told the commissioners he had e-mailed the hospital board to let them know he was coming to the

commission meeting today to address this issue and all he heard back was an e-mail from Bill Galt saying “surely you understand our frustration.” He told the commissioners he would like them to send a letter to Ohlson letting him know that this kind of behavior is not okay.

Hurwitz asked if this does not approach defamation of character. Kakuk replied that it could even be considered libelous. He then pointed out that he is no longer speaking as a member of the Hospital District Board, as his term expired, but rather he is speaking personally. He asked the commissioners to write a letter requesting a written apology. Townsend said he would like to see more teeth. He argued that Ohlson’s letter went too far and that a letter to him is not enough. Let’s charge them with defamation of character, he continued. Kakuk responded that that is a decision that can only be made by Dracon. Kakuk thanked the commissioners for their time and left the meeting at 2:10pm.

Hurwitz pointed out that Ohlson is an employee of the County. He told Townsend he agrees with him, saying he wishes there was something else they could do. Townsend said he would hate to see this go by the wayside, suggesting they write a letter asking for a public apology and that they are considering further action. They agreed to consult County Attorney, Kimberly Deschene, regarding a letter.

Martin Michalec then joined the conversation. He said there were two main issues. First, this has become a community issue and it needs to be addressed in the same forum. Secondly, he continued, Ohlson has impugned Dracon’s mental ability, and he is not qualified to make that judgment.

Townsend suggested that maybe from Dracon’s point of view, it would be better if this were dropped. Michalec replied that this is not fair to Dracon. He has been a dedicated public servant and he deserves better than this. After further discussion, Townsend and Hurwitz agreed to write Ohlson a letter expressing concern and asking for a public apology.

**Action 1:**

Townsend moved to approve the minutes of the previous meeting (June 21, 2011) with changes. Hurwitz seconded. A vote was held and passed unanimously (2-0).

Townsend and Hurwitz then briefly discussed the status of the Hospital District Board. Townsend said since there is no county money involved anymore, he thought the board could remain a board in name only, but he conceded they would not have anything to do. Hurwitz said that, in a conversation with (District Board member) Pam Sundstrom, she said she would like to see the board remain in place, to look over the hospital’s shoulder. Hurwitz added that it would be a shame to see the board disband after all the work they did recently. Michalec argued it was important to support Dracon as it is a hostile environment he has been dealing with. The money the hospital says they have, he added, fluctuates a lot. Hurwitz wondered why this is such a secret. Michalec wondered why things have to be so adversarial.

County Superintendent joined the meeting at 2:40pm.

**Jon Lopp—Sheriff Report:**

Sheriff Jon Lopp met with the commissioners to give his monthly report. Hurwitz asked him why the Sheriff Department is still racking up overtime. Lopp replied that (new deputy) Shane Sereday has been training so there have only been three officers available. Hurwitz pointed out that Sereday received overtime as well though. Lopp replied that it was because he was watching Doug Eaton. They had sent Eaton to Broadwater County Jail because he said he had serious health problems and they have a full-time nurse on duty there. Then they sent him to Townsend hospital, who eventually sent him to Helena, where a 24-hour watch was required.

Every eight days, Lopp continued, there are two days with two cops on both shifts. On the other days where there is only one cop on duty, if either the on-call or on-duty cop needs time off, one of the other cops has to cover. That results in overtime. Hurwitz told Lopp he only agreed to hire a third deputy because he thought they could eliminate overtime. We are asking all county employees not to use any overtime, Hurwitz added. Lopp replied that he is doing his best not to have overtime. Having Sereday will help. Hurwitz asked whether they could pay a deputy a stipend to be on call. Lopp said they already do that, but without the stipend.

Hurwitz asked about other cases. Lopp briefly touched on some and then told the commissioners that Marcy Rethwisch has been driving around taking pictures of his deputies, and he was sure they would be hearing from her soon.

**Hospital District Board—New Members/Current Status:**

Michael Kakuk returned to the meeting to give an update on the Hospital District Board's progress. He told the commissioners that the writing of the report is done and it is in the editing process. They would have a draft out soon, which would be made available for public comment for thirty days, after which it would be published.

He then pointed out that his term on the board has expired but he would be willing to stay on if the commissioners chose to reappoint him. He warned them though not to do it if they did not want answers. He said he was going to make sure two questions were answered. First, is the Harmon Trust public money? And second, if it is public money, does that subject the hospital to open meeting laws?

**Action 2:**

Hurwitz moved to appoint Michael Kakuk to a one-year term on the Hospital District Board. Townsend seconded. A vote was held and passed unanimously (2-0).

**Action 3:**

Hurwitz moved that the following occur:

WHEREAS, The Board of County Commissioners of Meagher County, State of Montana, have received nominating petitions and write-in intent declarations equal to the number of positions to be elected, and there is no other reason for the Hospital District Board election;

THEREFORE, the regular Hospital District Board election will not be held and the necessary Notice of Cancellation has been made;

BE IT RESOLVED, the Hospital District Board candidate Pam Sundstrom is hereby duly elected by acclamation for a three-year term to the Hospital District Board.

Townsend seconded. A vote was held and passed unanimously (2-0).

**Action 4:**

Hurwitz moved that the following occur:

WHEREAS, The Board of County Commissioners of Meagher County, State of Montana, have received nominating petitions and write-in intent declarations equal to the number of positions to be elected, and there is no other reason for the Hospital District Board election;

THEREFORE, the regular Hospital District Board election will not be held and the necessary Notice of Cancellation has been made;

BE IT RESOLVED, the Hospital District Board candidate Marcy Rethwisch is hereby duly elected by acclamation for a two-year term to the Hospital District Board.

Townsend seconded. A vote was held and passed unanimously (2-0).

**Public Comment: Policy Changes—Nepotism Policy/Disciplinary Process:**

A public comment period was held regarding changing the County's nepotism policy and disciplinary process. There was no comment.

**Action 5:**

**RESOLUTION 2011-#45**

Hurwitz moved that Meagher County adopt in its entirety MCA 2-2-302 to replace the nepotism policy currently in place. Townsend seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.<sup>1</sup>

**Public Comment:**

County Extension Agent, Nico Cantalupo, dropped by briefly to help the commissioners finalize a list of questions regarding the Tintina mining project, to be sent to Jerry Zieg, who would be meeting the Commission the following week. Clerk and Recorder Ogle was present, as was Jim Richard. Hurwitz said that people would invest and move their businesses here if they knew the copper mine was a sure deal.

Jim Richard met with the commissioners regarding the following week's meeting regarding the use of CTEP funds. He said the proposal for the projects his committee is working on would cost somewhere between \$22,000 and \$30,000, which would mean a local match of \$3000-4000. He told the commissioners he wanted to know their level of commitment before proceeding, reminding them that the City has approximately the same amount as well. Townsend and Hurwitz both agreed that they would look favorably upon using County funds for the local match, but that the City should be asked as well.

**Claims:**

Commission was presented Voucher #1173, CK#42609 through CK#42649, totaling \$65,359.48. Commission approved and signed checks as presented. CK#42618 totaling \$19,245.00 was voided as it was processed for the wrong fiscal year. CK#42574 totaling \$1377.30 from Voucher 1169 was also voided, as it was made out to the wrong vendor. Payroll Voucher #12, CK#217921-CK#217934, totaling \$10,558.38; Payroll Deduction Voucher #1171, CK#42593 through CK#42599, totaling \$88,187.16; and Health Insurance Voucher # 1172, CK#42600 through CK#42608, totaling \$20,881.32 were also presented and approved.

**Meeting Adjourned:**

Vice Chair Hurwitz adjourned the meeting at 4:30pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, July 12, 2011.

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**CLERK & RECORDER**

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**CHAIRMAN**

**SEAL**

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**VICE-CHAIRMAN**

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**COMMISSIONER**

Note: Minutes taken by Assistant to the Clerk & Recorder, Nathan Sanders  
Distributed July 12, 2011 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle

<sup>1</sup> Note Resolution 2011-#26 (May 3, 2011), which was passed mistakenly before two public hearings could be held.

**Tuesday**  
July 19, 2011  
8:30am – 4:05pm  
Met in Commissioner's Chambers

**Meeting Called to Order:**

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

**Commissioners Present:**

Chairperson Nancy Schlepp and Commissioner Herb Townsend.

**Budgeting Workshop:**

The commissioners spent the morning with Clerk and Recorder, Dayna Ogle, working on the budget for FY 2011/12.

**Kyle Harlan—Contract Building Inspections:**

Kyle Harlan, a former building inspector for the State, who worked with Meagher County for 15 years, made a proposal to the commissioners to be brought on as a contractor to handle the building inspections in the County. He said he is only proposing what the state already imposes on the County, the difference being that he would leave 25% of the fees collected with the County, whereas the state keeps 100%. After a brief discussion, Schlepp suggested it was something that should be considered. She asked him his timeframe. He said he is very patient, that he has already been working on this for three months.

Clerk and Recorder Ogle joined the meeting at 1:25pm.

There was more discussion, this time regarding handicapped accessibility and available tax credits for upgrades to existing buildings. Schlepp thanked Harlan for his time.

**Jon Lopp—Excessive Overtime/Budget Issues:**

County Sheriff, Jon Lopp, met with the commissioners to discuss the overtime hours his deputies have used in the past year and his budget overage. Townsend told him that (Vice Chairman) Hurwitz is still upset about the overtime. Lopp acknowledged this and told Townsend it was not just the overtime that was messed up. A lot of other things have happened as well. Townsend agreed, saying he screwed up the Special Police budget as well. Lopp contended that was a simple accounting error. Townsend then asked for verification on the total amount budgeted by Lopp for the new fiscal year. He asked if it was really \$290,000. Ogle replied that it was. She explained to Townsend that while the General Jail budget was over by \$65,000 for the year, the Special Police budget was \$30,000 to the good. So in effect, the Sheriff's total budget was only \$35,000 in the hole, as opposed to \$65,000.

Schlepp asked Lopp if he could account for where all the excessive overtime came from. He replied that the department used 181 hours in the McDonald incident in addition to about \$2500 in unexpected expenses. The Eaton case involved 66 hours. The search for the missing floater on the Smith River used 90 hours. Training took up 120 hours. And most of the remainder, he contended, was used on covering for (former Undersheriff) Rodger Shroyer, who had used 324 hours of vacation over the course of the year.

Schlepp then told Lopp about an idea Townsend had suggested earlier in the morning budgeting session. She asked Lopp how he would feel about having a new line in the budget just for emergencies. It would still fall under the Sheriff budget but at least it would be simpler to track. Lopp thought that was a good idea. Ogle then estimated that the hours of overtime spent on emergencies (330) cost the County about \$10,000 in payroll and deductions. Schlepp suggested taking that amount, plus \$4000 for related expenses, and putting it in his emergency budget line for the year.

Lopp told the commissioners that he had always budgeted 15 hours of overtime per month for each deputy. Last year he failed to do so. He also told the commissioners that Deputy Sereday would be back in training for three months in the fall, so he would be back down to three guys.

Townsend asked Ogle if all of the Sheriff's sick and vacation pay was fully funded. She replied that the accrued leave is fully funded but not what will be accrued in the coming year.

Townsend asked Lopp if he could change shifts around when Sere day is at training in order to minimize the need for overtime. Lopp said he could and that he could also take on more hours himself. He could not just cut down to one-man shifts though. His men would not get 40 hours in each week, which might cause them to look elsewhere for work. The deputies already do lots of on-call time without any compensation.

Lopp also pointed out that \$11,500 in his budget overage was reimbursed for training for the mental health agreement. It came in and went into the General Fund. Forest patrols resulted in \$4000 in reimbursed overtime as well. And \$8000 of his overage was supposed to come out of the FY 2009/10 budget but came out of FY 2010/11 by mistake. He acknowledged that he should have been more vigilant.

Schlepp suggested they put big ticket items on hold till the end of the year to see where the department budget stands. Lopp agreed. Schlepp then suggested to Ogle doing a budget amendment to move the \$11,500 in unexpected revenue back into the Sheriff Department budget. She said they should add a new budget line, make a budget amendment, and revisit it later. Ogle asked if wages should be included too. Schlepp replied that they should, if it is possible.

#### **Carol Hatfield, Jess Secrest and Erin Fryer, U.S. Forest Service—Projects for RAC Funds:**

Carol Hatfield, Jess Secrest and Erin Fryer met with the commissioners to finalize the proposals to be submitted to the RAC Committee August 3 for Meagher County's allocation of its share of the funds. A cover letter in support of the proposals was signed by Schlepp.

#### **B.J. Hawkins—Public TV Contract Renewal:**

B.J. Hawkins presented the commissioners with a contract and her proposed budget for the public TV station for the coming year. She said it was basically an operating budget for \$15,000, the same as it had been the previous few years. Schlepp confirmed with her that the funds came from a voted mil in perpetuity. Townsend pointed out that the mil that is assessed brings in \$26,520 and is supposed to be split evenly between Public TV and the booster. By using \$15,000 for public TV it only leaves \$11,520 for the booster. Hawkins replied that she was certain it was all reimbursable. Townsend said he would like to postpone a decision till the next meeting, when Hurwitz would be back, and they could get representatives from each of the TV districts in the county. It was agreed.

#### **Clark Mader and Roger Bridgeford, Montana Waste—Transfer Site Issues:**

Clark and Roger from Montana Waste met with the commissioners to discuss some issues that have arisen at the transfer site. Also present were Mayor Julian Theriault and Arnold Harris. Schlepp told them she had asked them to come so they could discuss some of the issues arising from the recent inspection of the site. Bridgeford began by saying that the ash from the burn site will definitely be an issue to deal with, as it is a Class II waste. Mader stated that the County might have to start charging a fee. Bridgeford continued that Lincoln, for example, has about 30 tons of ash a season. They do not charge for concrete but that is a cost as well. He recommended trying to charge a fee.

Schlepp asked, for comparison, what other counties charge. Lewis & Clark, Bridgeford stated, charges \$85 a year, while Park charges \$135 annually. Meagher County does not charge a solid waste fee. Schlepp asked who is responsible for site maintenance. Bridgeford said traditionally there has been a gentleman's agreement that Montana Waste maintains the site in exchange for being able to use it. Schlepp asked about water, one of the main issues in the recent inspection. Bridgeford replied that water is usually the responsibility of the site owner. Bridgeford said that he heard the County was considering running a city water line to the site. He suggested also the possibility of hauling water and storing it in a cistern. He argued that all options should be investigated before deciding on any one.

Schlepp then asked who will respond to the notice from the DEQ. Bridgeford said he would handle that and submit it by the August 1 deadline. It was generally agreed that until the water issue was resolved, they would keep the status quo but make more of an effort to keep things clean. Schlepp suggested maybe having a written agreement for future reference.

**Public Comment:**

Sarah Calhoun met with the commissioners to discuss the progress of preparations for the Red Ants Pants Music Festival. Mayor Theriault remained for public comment and Jason Phillips from Meagher County News was also present. Calhoun began by asking the commissioners about the potential for the County to spray for mosquitoes right before the festival. She reminded them that they had intimated when she had met with them earlier that they would handle the spraying. Townsend wondered if Mike Held was still spraying. Schlepp suggested asking Held to spray and then splitting the cost 50/50 with the City. Calhoun stressed that something needs to be done, the mosquitoes are so bad. She does not know a ball park cost but they are tight on their budget and would appreciate all the help they can get. Schlepp said she would call Mike Held and ask him.

After Calhoun left, Phillips asked the commissioners if there had been a decision on the status of the Harmon Trust funds. Schlepp replied that they had yet to receive a response. He asked if anything else significant had happened during the meeting. Schlepp told him they spent the morning budgeting and they formally put in for the RAC funds.

Russell van Lieshout then dropped by with a camera to take pictures of the commissioners for the new county website. The commissioners convinced him to return for the next meeting.

**Action 1:**

Townsend moved to accept the minutes of the previous meeting (July 12, 2011) without change. Schlepp seconded. A vote was held and passed unanimously (2-0).

**Claims:**

Commission was presented Voucher #1176, CK#42697, totaling \$1482.86 and Voucher #1201, CK#42698-CK#42717, totaling \$22,132.14. Vouchers were approved and checks signed as presented.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, August 2, 2011.

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**CLERK & RECORDER**

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**CHAIRMAN**

**SEAL**

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**VICE-CHAIRMAN**

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**COMMISSIONER**

Note: Minutes taken by Assistant to the Clerk & Recorder, Nathan Sanders  
Distributed August 2, 2011 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle

**Tuesday**  
July 12, 2011  
8:15am – 4:50pm  
Met in Commissioner's Chambers

**Meeting Called to Order:**

Chairperson Schlepp called the meeting to order at 8:15am.

**Commissioners Present:**

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

**Geri Pavlovich, USDA Farm Service Agency—Secretarial Disaster Declaration:**

Geri Pavlovich of the USDA Farm Service Agency met with the commissioners to update them on the possibility of receiving a Secretarial Disaster Designation. In addition to the Presidential Disaster Declaration, which Meagher County had already received, there is the Secretarial Designation, which would allow producers to apply for emergency aid and to receive tax provisions through the FSA and other provisions through the SBA. The process is initiated, she said, with a letter to the governor, who then contacts the Secretary of Agriculture. The declaration is for communities with damage of such a magnitude that they will need federal assistance. There is a 90-day window to file the request, she continued, and Meagher County already qualifies as it is contiguous to Wheatland County, which has already qualified.

At 8:40 am Dick Roma joined the meeting.

**Jerry Zieg and Nate Chutis, Tintina Resources—Copper Mine Update:**

Jerry Zieg and Nate Chutis, from Tintina Resources, met with the commissioners to give them an update on the copper mine project at Sheep Creek. Also present for the meeting were Sue Phelan, County Treasurer; Shauna Porter, Deputy Treasurer; Becky Hurwitz-Leger, County Assessor; Dick Roma, consultant; Michael Kakuk, attorney; Dayna Ogle, County Clerk and Recorder; Ed and Bev Fryer, Castle Mountain Ranch; Nico Cantalupo, County Extension Agent; Ray Ringer, Road Department Supervisor; Kory Hofland and Conrad Pederson from the Department of Revenue. Zieg handed a power point presentation and a packet of licenses and relevant regulatory correspondence to each commissioner.

Zieg began his presentation by giving a background of himself and the project. Copper was originally found in the Sheep Creek area in the 1980s, but it was not till copper prices jumped to \$4-plus a pound that interest was rekindled. Tintina, which was created in 2009 from NovaGold, is focused on the largest and most accessible of eight separate deposits at Sheep Creek. Zieg stressed that this is still an exploration project and they probably would not be able to break ground for at least three years.

Work on the first deposit could take up to eight years, Zieg said. Best case scenario they could be there decades. Worst case would be 8-12 years. Townsend asked if this would be an underground mine. Definitely, Zieg replied. This would not be an open pit. Hurwitz asked how Tintina was doing raising money for the project. Zieg replied that they have raised \$35 million earlier this year so far, and the President/CEO is working hard to raise more. Hurwitz then asked how this site compares to others in yield and quality. Zieg replied that it is one of the rare instances that does compare well. Townsend then asked what the commissioners can do help Tintina. Zieg stressed the need for avenues of dialogue so things can be worked out as much as possible in advance. They do not want to have to deal with issues late in the game, he continued.

Hurwitz then asked how the ore will be hauled away. Zieg replied that the shortest way would be to Belt, but the easiest drive would be Livingston. They have yet to decide but do need to talk to the Department of Transportation regarding highway upgrades. Also, he continued, wherever they decide to take the ore, they will need to build loading sites. Dick Roma then asked how much would be done on site. Zieg replied that they mill on site, crush on site, and make the concentrate on site. When taken out of the ground, he continued, the ore is about 2.5% copper. Once the concentrate is made it is about ten times that percentage. Then it is all shipped out.

Zieg explained the tailings and what they do with them. Fifty percent will be put back into the ground and the remainder will go into submerged lined tailings ponds, which will be covered.

Roma asked how they bore. By conventional blasting, replied Zieg. Hurwitz asked if they will use a lot of water. Zieg said they will but first they have to de-water the mine. That water can be used for the mill. They will also drill wells on site. The number one priority, he said, is to make sure the surrounding water is not compromised. They are constantly reviewing the hydrology and water quality.

Ed Fryer then asked Zieg how the 2.5% concentration compares to the 8-10% that was mentioned in the newspaper. Zieg replied that different zones have different concentrations. Generally deeper zones have higher concentrations. He then mentioned that they have discovered silver and cobalt in much of the ore in this zone as well.

Phelan asked whether the employees would be mostly outsiders or locals. Zieg replied that it would take at least 100 employees to work in a mine this size, maybe as many as 150. He said a portion could be local but much of the work would involve highly-skilled workers. Phelan then asked Zieg if he could anticipate things Tintina would require that the County is lacking. He said housing will certainly be a need. He had heard that there are five to seven new jobs created by each new job the mine would create.

Chutis then added that every load of ore concentrate is assayed as it leaves the site in order to know what the royalties will be. Zieg said it is important to know the composition of the ore before it goes to the smelter because of the cobalt and silver.

Schlepp then asked what kind of impacts to the County should be expected. Zieg said that housing would definitely be an issue, as there would be an influx of population. There is no excess maintenance required for roads right now, but the company will work the County to develop a plan. They still do not know where the tailings will go, he continued. And they will need enough power to run the plant, which they will probably need to obtain from the main line.

Zieg added that right now Tintina only has permits for drilling. They are required to do various studies—hydrology, cultural/archaeological, wildlife, etc.—before they can acquire the other required permits. Zieg added that the company does have a good working relationship with the DEQ, which is important.

Hurwitz told Zieg he had heard horror stories of eastern Montana where the local communities were not ready for oil companies coming in. He stressed to Zieg the importance of the company keeping the commissioners up to date so that things can develop in an orderly fashion. Zieg added that it is important to make the benefits from the operation last well into the future, even after the mine is gone. He said generally the first thing that needs to be planned with a new mine is the closing of it.

Hurwitz then asked, given commodity prices near all-time highs, at what point with falling prices would Tintina have to stop mining. Zieg replied that fundamentally the copper market looks strong. He added that the company's projections were based on a copper price of \$2.50 per pound, not the current \$4. Hurwitz then asked how much will likely have been invested by the time Tintina takes its first load from the site. Zieg replied that up to \$150 million would not surprise him.

There were no further questions and Zieg and Chutis left the meeting.

### **Kory Hofland and Conrad Pederson, Department of Revenue—Puget Sound Energy Litigation Update:**

Kory Hofland and Conrad Pederson met with the commissioners to give an update on the status of the Puget Sound litigation. Also present were County Assessor Hurwitz-Leger, County Treasurer Phelan, and Deputy County Treasurer Porter.

Hofland began by giving a list of various companies that had protested central valuations. Puget Sound Energy was protesting for the years 2005-2007. That case was decided in favor of the state and the Dept of Revenue is waiting for the 60-day response time to end. Qwest protested back to 2004 but they were recently acquired by CenturyLink, who decided not to pursue the appeal any further. Pacificorp also lost their appeal. They have sixty days to respond. In the Verizon Wireless case, the district court upheld the State Tax Appeal Board's (STAB) ruling. Within six months, Hofland continued, the Pacificorp and Puget Sound cases should be settled once and for all.

Schlepp pointed out that the Puget Sound ruling was only for years 2005-2007. What would happen for years 2008-2010, she wondered. Hofland replied that they would likely just settle all of those years to conclude the case. Townsend asked how much the Department of Revenue will settle for. Hofland replied that they have yet to settle for over a 3-4% reduction in value. If they can settle for the cost of litigation, they will do so.

Schlepp then said she was surprised the Supreme Court allowed STAB to raise valuations. Hofland replied that the process is a double-edged sword. If they find that something was missed in the original valuation, they have the ability to raise it.

After some further discussion, Hofland and Pederson left the meeting.

### **Rick Seidlitz, Fire Chief, and Representatives from the USFS—Federal Aid for Flood Damage Repair:**

Rick Seidlitz, Fire Chief and DES Coordinator, along with acting Helena Ranger, Eric, Townsend Ranger, Heather, and White Sulphur Springs Ranger, Carol from the U.S. Forest Service, met with the commissioners to discuss the status of federal funding for the repair of roads damaged by recent flooding. Seidlitz began by telling the commissioners that FEMA has approved funding for all of the requests submitted by the County. They will cover 75% of everything: equipment, materials, wages.

Hurwitz asked if the Helena Forest Service could help out too. Eric replied that because the County signed on to Emergency Relief for Federally Owned Roads (ERFO), there is a possibility of obtaining aid from them. Five parks in the region have submitted notices of intent, for which there will be field reviews in the next couple weeks. Eric said that if the County is found eligible for ERFO aid, it will be at 100%. The only problem, Seidlitz countered, is that if ERFO funds are used to repair Benton Gulch Road, there probably will not be enough damage elsewhere in the County to qualify for FEMA. Hurwitz then asked Eric if there was any possibility through ERFO of slightly relocating Benton Gulch Road. Eric replied that it was possible but that the easements on private land would have to be re-done. Seidlitz added that with FEMA's 75% funding and RAC covering the remaining 25%, the County would be covered. Eric then added that ERFO funding comes from a \$100 million pot federally. He had no idea how local proposals would stack up against others nationally.

Schlepp pointed out that the County has received calls that people are driving through Benton Gulch regularly in spite of it being closed. Seidlitz added that it has become a main thoroughfare. Eric replied that there needs to be county signs on either side. Heather countered that Broadwater County will not close Confederate Gulch as there are mining claims there in litigation.

Townsend asked for verification that 25% of the costs of the repairs would come from Title II money. Hatfield replied that the next RAC meeting is August 3 and that she would be submitting Benton Gulch Road and the Smith River Gravel Crushing projects for approval. FEMA has approved everything else. Seidlitz reminded the commissioners that they agreed to assess two mils when the disaster was put into effect. That is about \$13,000-plus that goes into the pot for repairs.

Road Department Supervisor Ray Ringer joined the meeting at 11:00am.

Schlepp asked Eric if the County could pull their ERFO application if needed. He replied that they could. He also pointed out that ERFO might cover the remaining 25% after FEMA.

Townsend then wondered just how the County would fix Benton Gulch Road. Ringer replied that they were waiting for the go-ahead from Fish, Wildlife and Parks. Hurwitz told him not to wait. Ringer replied that FEMA had told him to get an environmental impact report first. Hurwitz recommended he call Gary Bertolatti.

Heather then shared with the commissioners that FWP came to her to make sure Benton Gulch would be open for hunting season. Ringer added that FEMA also said a geologist survey would be needed if they were going to use native materials to repair the road. Eric and Heather both felt that would be unnecessary.

Ringer added that the Road Department has been tracking everything on timesheets—hours, equipment, etc.—to keep track of expenses for the flood. Townsend then commented that the Road crew would be doing nothing else for about a month. Ringer assured him they had no big

projects planned anyway. Schlepp then summarized that the County needs two things: permission from an FWP biologist to proceed, and USFS permission to use Forest Service soil.

Ringer pointed out that much of the Sheriff Office's overtime was due to flooding and that FEMA will pay that 100%. Also, he added, there is a big culvert hole at Horse Creek (6 feet diameter and 30 feet long) that FEMA recommended contracting out.

### **Transfer Site:**

Clerk and Recorder Ogle joined the commissioners at 11:35am.

Schlepp told the commissioners that the County is required by DEQ to supply a Port-A-Potty and sanitizer for the transfer site. She wondered if the County should charge Disposal Service rent for using the site. Ringer replied that he has been saying that for years. Hurwitz agreed. Schlepp suggested they talk to them. Ogle interjected that Wes Stidham said he could have a Port-A-Potty there Monday through Friday but has three Saturday weddings the next three weeks. Ringer suggested that running a water line there would be cheapest in the long run.

### **Public Comment: Policy Changes—Disciplinary Process:**

There was a public hearing on the change of the Disciplinary Process. There was no comment.

### **Action 1:**

#### **RESOLUTION 2011-#46**

Commissioner Townsend moved that the County adopt the new Disciplinary Process with one change, effective immediately. Hurwitz seconded. A vote was held and passed unanimously (3-0). It is therefore resolved.

### **Sheriff Department Overtime:**

Ogle told the commissioners she had decided to move Nick Rauser's pay back to the General Fund from the Special Police Fund, as had been decided earlier, stating that the Special Police Fund was funded by the City for one deputy. Rauser would have been the second. Schlepp wondered what kind of authority the commissioners have over the Sheriff's budget. Hurwitz read a statute stating that they clearly do have authority in financial matters, including departmental budgets. Emergencies are subjective, he continued. The Road Department had a major emergency repairing flood damage and they did it all with only three hours of overtime, he pointed out. He went on to say he wants to make a new policy: no overtime. Schlepp contended that puts the commissioners in a gray area. She does not want to micro-manage, she added. Besides, she said, this is not just Jon (Lopp). The Sheriff Department has been doing this for years with overtime. Ogle asked what the policy is, whether there are requirements. The other hard part, added Schlepp, is that they are \$37,000 over budget, which is more than half of other departments' entire budgets.

The commissioners then left at 11:55am to attend the LEPC lunch.

### **County Board of Health Meeting:**

Present, in addition to the County Commissioners, were County Health Nurse, Kari Jo Kiff; her assistant Brooke Weishaar; County Sanitarian, Deen Pomeroy; WSS Mayor, Julian Theriault; and Sandy Harris.

Kiff gave her quarterly report. Then Pomeroy introduced the Board to the concept of the Location Conformance Permit, which is in use in Fergus and Cascade Counties. He showed the Board a sample permit from Fergus County, which is issued at no cost. The permit makes it easier for the County to track new homes and to make sure builders are in compliance. Cascade County, he continued, assesses nominal fees. Maybe Rick Seidlitz could do this, he suggested. Schlepp asked if there are fines. He replied that there are not but if someone is building without a permit, the County could put a halt to the building until a permit is obtained. Townsend asked Pomeroy to see how to put the ordinance into place.

Pomeroy then touched briefly on some of the new House Bills and on a recall of ducklings and chicks due to a salmonella outbreak. He concluded by giving a brief update on preparations for the Red Ants Pants Music Festival. He said he would be there the first night licensing and inspecting vendor booths.

The meeting adjourned at 1:45pm.

**Kari Jo Kiff, County Health Nurse—Positions and Pay:**

Joining Kiff were her assistant, Brooke Weishaar and Tobacco Prevention Specialist, Aaron Blair. Kiff began by telling the commissioners that neither Blair nor Weishaar felt inclined to accept the County's recent offer of employment at \$10 an hour. Kiff said she had researched other counties of similar size and acknowledged on a spreadsheet she handed to the commissioners that the rates of pay were all over the board.

Hurwitz interrupted her to share the Commission's standpoint with Blair and Weishaar. He assured them that the offer was not a reflection on them. Meagher County is simply a county that does not pay its employees well, even though the money involved is not county money. How could the commissioners tell a blade operator who makes \$13.25 an hour, he asked, that they pay a tobacco prevention specialist \$17 an hour? It skews the payroll and they just cannot do it, he stated.

Blair asked if there was a wage standard. Hurwitz replied there was not. Kiff said the whole issue boils down to 1) county money versus not county money; and 2) benefits versus no benefits. Townsend interjected that what Hurwitz said is pretty much the wage standard. Kiff asked about the dispatchers. Townsend replied that the county needs to stay in line on the upside.

Blair handed the commissioners a handout. Weishaar argued that she feels she has been an asset to the community. They have seen quite a bit of success with their activities, she added. Within three weeks of the Expo, for example, they had 64 new registered users on the LEPC website. Kiff then pointed out that a part of the challenge with grants is that the money has to be spent or it will be lost. There needs to be a reasonable wage in order to get things done.

At which point, Assistant to the Clerk and Recorder, Nate Sanders, pointed out to Chairperson Schlepp that the offer the commissioners agreed to was based on \$12 an hour, not the \$10 an hour that Weishaar and Blair were arguing against. Blair then asked if half time was an option. Schlepp asked for a new motion. There was none.

Kiff then presented the commissioners with the new tobacco contract and the new maternal health contract, both of which were duly signed. Weishaar stated \$12 is certainly better than \$10 and that she likes working with Kiff and wants to stay involved. Blair said he would prefer working half time but that he would accept the offer as is.

**Public Hearing: CTEP Follow-up Meeting:**

Jim Richard met with the Commission to give them an update on the progress of the committee he had formed to develop a proposal for projects to use the available CTEP funds. Angie Evans was also present.

Richard presented a written report to the commissioners. He then reminded them of the availability of CTEP funds to both the County and the City of White Sulphur Springs, which means the County Commission should work closely with the City Council. He is working on a proposal for the 2011/12 fiscal year.

He mentioned that one of the items the committee had considered was a digital reader on the courthouse lawn. The smallest he could find would run about \$20,000. Without the reader board, the total cost for all the projects would be around \$30,000. Schlepp and Hurwitz both said they would not be thrilled about a reader board. Evans added that the Chamber website is up and running and has quite a bit of traffic. She added that the bank already has a digital reader.

Richard then suggested that the City fund the two welcome signs and the 16 planters on Main Street. The cost would run between \$7500 and \$11,000, which would require a local match of \$1000-1400.

Schlepp pointed out that Brian Obert recommended the County get together with the highway department before making any plans since a new road and sidewalks were going in the future. Richard acknowledged they should meet sometime but then stated he felt the proposals he has in mind will not be affected by the future construction.

Hurwitz asked Richard which projects he recommends be funded by the County's portion of CTEP funds. Richard responded that the County should fund the golf course fence and trees, flowers at the nursing home, and directional signs. He added that the golf course would provide minimal maintenance to the welcome sign there. Edwards Grocery Store would mow and water around the welcome sign to be placed on their property and would allow the city to tap into their electric line.

Schlepp mentioned that her husband had asked her if CTEP funds could be used outside of city limits, maybe for some Welcome to Meagher County signs, for example. Absolutely, replied Richard.

Schlepp then suggested it would be beneficial to meet with Brian from the Department of Transportation to make sure the CTEP projects do not duplicate anything the State was already planning. Richard and Mayor Theriault should be present as well.

Richard then concluded by focusing on four points. First, the City's CTEP funds need to be utilized. Next, the projects need to be divided into components and bid out. Third, they may want to specify the design to a certain level so that bidders are bidding apples to apples. And finally, non-profit groups do not want to choose contractors. Therefore they should be chosen by the commissioners.

### **Hospital District Board—New Members/Current Status:**

Hospital District Board members, Michael Kakuk and Marcy Rethwisch, met with the commissioners to discuss some issues regarding the hospital. Also present were County Attorney, Kimberly Deschene, and Jason Phillips, from Meagher County News.

Kakuk began by asking Hurwitz how the talk with MACo regarding Harmon Trust funds went. Hurwitz told him that MACo Chief Legal Counsel, Mike Sehestedt, had told him he would not be able to tell whether the money was county money without seeing the trust documents. Kakuk then re-phrased the issue, telling the commissioners that if the County is paying certain hospital bills, then it is county money. If not, then the District Board is done with the clinic. Once they get through the first level, he continued, things get incredibly murky. Eventually the County will need to ask for an Attorney General opinion regarding the open meeting laws.

Townsend wondered how much was in the trust when it first started. He thought \$200,000 and that it might have tripled through investing it. Rethwisch added that there are loan documents that guarantee loans to the hospital. Schlepp asked what the role of the District Board is if the money is for a specific purpose. Kakuk replied that the statute is clear: if the money is used anywhere there, the Board has access.

Hurwitz then asked if the tax money to the hospital goes away whether the County still has an oversight obligation. Kakuk asked if there was a separate fund. That would be a good repository for collected money, he suggested. Then he admitted that they do not even know if there is a need for the hospital district anymore. It needs to be researched.

Townsend asked where things stood with the letter (to Mountainview Medical Center board member, Otto Ohlson). Deschene asked if Ohlson wrote the letter in his capacity as an employee of the County. If not, she contended, then it is not the County's business. Schlepp stated that she is not for writing a letter and prolonging this controversy. Kakuk retorted that that would be sending a message that it is okay to be a bully. Deschene argued that they need to promote class and civility and not take Ohlson's tone. All incivility needs to be brought to an end. Townsend agreed, saying they should not perpetuate any antagonism.

Rethwisch stated it is unfortunate that Ohlson is on the Hospital Liaison Board. This letter sets a bad tone, she added, and it is difficult to address any issues without effective communication. She suggested requesting a new liaison board be appointed. It should not take two months to get questions answered that come up.

Schlepp acknowledged that there have been many valid points shared, but the hospital board members feel like they have been under attack. As a County Commissioner not running the hospital, she said, she does not want to address any of that. She is all for taking the high road. Hurwitz felt that Henry Bloom had already addressed the issue so well in the newspaper.

Schlepp concluded by saying the commissioners referee every time they enter the Commission Chambers. If the commissioners start picking sides, she contended, it would set a precedent. She does not want to go down that road. Deschene suggested that she could draft something to the hospital board promoting bridge building. Schlepp agreed and said they would consider it at the next meeting.

**Action 2:**

Townsend moved to approve the minutes from the previous meeting (July 5, 2011) with changes. Schlepp seconded. A vote was held and passed unanimously (3-0).

**Public Comment:**

Carol Hatfield, White Sulphur Springs District Ranger, met with the commissioners to review the project proposals for the RAC money. The next meeting, she stated, was August 3. There was general agreement among the commissioners in support of six of the seven projects she submitted. The commissioners were in agreement not to ask for any funding of a snowmobile for Sean Tripp. They also agreed to cut the request for funding of Showdown Ski Area from \$75,000 to \$18,000-20,000. Hatfield said all she would need from the commissioners was a cover letter to add to the proposals stating their support for the projects.

**Claims:**

Commission was presented Voucher #1175, CK#42652-CK#42684, totaling \$23,718.65 and Voucher #1000, CK#42685-CK#42696, totaling \$22,431.24. Vouchers were approved and checks signed as presented.

**Action 3:**

Hurwitz moved to adjourn the meeting. Schlepp seconded. A vote was held and passed unanimously. The meeting was adjourned at 4:50pm.

**Next Meeting:**

Commissioners are scheduled to meet Tuesday, July 19, 2011.

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**CLERK & RECORDER**

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

**SEAL**

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

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

Note: Minutes taken by Assistant to the Clerk & Recorder, Nathan Sanders  
Distributed July 19, 2011 to Chairman Schlepp, Commissioner Hurwitz, Commissioner Townsend, and Clerk & Recorder Ogle