

**November 1, 2021 Regular Session of the Beaverhead County Commissioners**

The Board of Commissioners, in and for Beaverhead County, Montana, met in session on November 1, 2021 at 9:00 a.m. in the Commissioners' Room of the Beaverhead County Courthouse. Present: Chairman John H. Jackson, Commissioner Mike McGinley, Commissioner C. Thomas Rice and their Assistant Cindy Decker.

**Updates on County Projects**

Road Supervisor Bob Ferris and Public Works Secretary Jamie Flynn joined the meeting. Bob stated that the Rock Creek Bridges project is still ongoing and the pile driver has finally been fixed.

County Attorney Jed Fitch, Superintendent of Schools Mike Miller, Facilities Assistant Jim Sivils, Casey Elliott from the Tribune, DES Coordinator Tom Wagenknecht and GIS Coordinator Tracy Sawyer.

Jed asked if the crew took the grader over Buster Brown Road and if it was difficult because of the gates and fences. Bob replied that, yes, it was. Jed will be contacting the attorney regarding this being a safety issue.

Mike Miller advised that he submitted the Home School Registration to the State last Friday. He also stated that he had about 20 parents that did not respond. If he doesn't hear soon, Jed will need to get involved. Last year, there were pretty good results after a letter was sent.

He will be attending the Wise River school board meeting and then to Reichle this afternoon to bring some text books for them. He will also deliver some of the left-over apples from the Kiwanis Club last week.

Jed commented that he is signed up for the County Attorney convention and hopes to attend. Thorin Geist has obtained a new position in Missoula but has agreed to finish out some of the felony cases he is working on. Jed will conduct an interview today with someone interested in the Deputy County Attorney position.

Ms. Suenram has gotten the misdemeanor load down in Justice Court. There are 70 felony cases right now in Beaverhead County. Compared to other counties this is many more than any other county our size.

Tracy mentioned that the agreement for Stibal lane is ready for signatures but Bob would like Jed to take a look at it first.

Jim stated that the jail project is still on hold because the parts have not arrived yet. Chris Booth has been transferred to Billings for rehab and is off the ventilator which is great news.

Mike asked Tom W. who is responsible for ordering the fobs for the new secret stairway door and the courtroom doors for security. Tom responded that he will get together with the Sheriff to coordinate.

Commissioner McGinley said that the water line break at the Fairgrounds has been located. The main line is directly under the 4H building. There is currently discussion regarding who is responsible whether it's the city of Dillon or the county. This seems to be the time to redo that entire line. There should be some negotiations with the city soon to decide how to proceed. Mike also commented that the 4H concession stand is about worn out too.

Mike stated that there is an insurance claim on the 4H building now.

Bob expressed concern that the ground around his shop is still terribly torn up and wonders when the city water project will wrap up. It was initially thought that it would be done by now but who really knows.

The following Road Department Report was submitted and scanned into the minutes:



**BEAVERHEAD COUNTY ROAD WORK**  
 October 24<sup>th</sup> to October 30<sup>th</sup>, 2021  
 Dillon, Lima and Wisdom Areas

**DILLON AREA**

- Bladed on the following roads: Blacktail, Trapper Creek, Cherry Creek, Big Horn, Browne's Bridge, Burma, Old Armstead and Medicine Lodge.
- Installed a culvert on the North Fork Road.
- Installed reflectors on the Scenic Byway.
- Road checked Dillon area roads.
- Equipment service and repair.

**LIMA AREA**

- Bladed on the following roads: Big Sheep Creek and Sage Creek.
- Moved equipment.
- Road checked Lima and Dell area roads.
- Equipment service and repair.

**WISDOM AREA**

- Bladed on the following roads: Lower North Fork.
- Culvert installation on Upper North Fork Road.
- Willow removal on Upper North Fork and Lower North Fork Road.
- Shop cleaning.
- Road checked Jackson and Wisdom area roads.
- Equipment service and repair.

**Action on Previous Meeting Minutes**

The minutes of the October 25, 2021 meeting were read and the following motion was made:

MOTION: Commissioner McGinley moved and Commissioner Rice seconded that the minutes of the October 25, 2021 meeting be approved. A verbal vote was taken and the motion carried unanimously.

**Public Comments on Subjects Under County Jurisdiction Not on Agenda**

**Chamber Update**

Chamber of Commerce Executive Director Rebecca Jones joined the meeting and began the discussion. She said that the Dillon Halloween Party was held yesterday and there were 440 children's costume tickets given out and she figures that there were about 700 people that attended.

There will be a BLM update this month. Also, the Gala will be held in January at the Frontier Event Center. The membership drive is coming up as well.

**Discussion & Action ~ Variance Request of County Subdivision Regulation's 18-month Restriction on the Sale of Parcels Created by Family Transfer Exemption from Mandatory Subdivision Review – Regarding a Parcel Created by Certificate of Survey**

Clerk & Recorder Stacey Reynolds, Deputy Clerk & Recorder Tina Caron, DES Coordinator Tom Wagenknecht, County Attorney Jed Fitch, Planner Rob Macioroski, Planning Secretary Rochelle Hoerning, Surveyor Travis Wilson, Bart Crane and Landowners Jeff & Keni Crane joined the meeting.

Jed began the discussion by stating that when a parcel is created by family transfer, it cannot be sold for 18 months as a way to ensure that family transfer isn't used to evade subdivision. He repeated what was said last week and reminded everyone about the Ordinance that was adopted in 2007.

The debate whether this Ordinance is enforceable or can be upheld in a Court of law can be explained this way; every elected official has a duty to enforce any Ordinance and the Clerk & Recorder has the duty to enforce this one. Whether it can be upheld, is another question. There is no Supreme Court decision on this because no one has



taken it that far as of yet. Beaverhead County must enforce this County Ordinance. This specific Ordinance restricts the **sale** of a Family Transfer.

A Variance request is in front of the commissioners today. In 14 years there have only been 2 requests and only 1 followed through. The Commissioners have the authority to either grant the variance or deny it. Of course, there are pros and cons for both ways. Keni said that she has done some research and handed Jed a printout of the same to review. It was MCA 76-3-201 which Jed read aloud with an explanation. He does not believe that this applies to this situation.

Commissioner McGinley asked if all four lots actually touch the county road; Keni replied in the affirmative.

Jed reminded everyone that the reason the Ordinance was created in the first place is so that family transfers cannot be used to evade subdivision. Bart commented that a law needs to be passed on the state level so this is less confusing. Keni said that she wishes there was a checklist or guidelines for the regular citizen regarding land laws. Commissioner McGinley said that what is in front of us today, is a request for a variance and we need to focus on that. The way that Beaverhead County defined evasion of subdivision, is if you do a family transfer and sell it before 18 months, that's evasion; period.

There was discussion regarding the ages of the children who have been named in the family transfer. Jed advised that since they are all under the age of 18, the property cannot be sold without a trustee and conservator and a whole other legal issue. Bart asked for mercy for this young couple.

Jeff left the meeting as he was very upset and Bart followed him.

Jed advised that no motion or decision should be made without Jeff in the meeting. He advised that maybe this could be delayed until either later today or next week. We need to respect the landowner. Bart returned to the meeting and said that it is fine if a decision is made today, rather than kick the can down the road. Keni concurred.

Commissioner McGinley reminded everyone that really, the purpose of government is to be slow so people have the right to be involved. Decisions that are made quickly, sometimes turn out to be the wrong ones. This decision today, is a very difficult one.

After discussion, the following motion was made:

**MOTION:** Commissioner Rice moved and Commissioner McGinley seconded that the Variance Request of County Subdivision Regulation's 18-month Restriction on the Sale of Parcels Created by Family Transfer Exemption from Mandatory Subdivision Review – Regarding a Parcel Created by Certificate of Survey be **denied**. A verbal vote was taken and the motion carried unanimously.

Commissioner Rice urged the landowners to pursue other options and wished them the best. Bart and Keni thanked the commissioners for their time and left the meeting.

### Recess

At 12:00 noon, Chairman Jackson recessed the meeting. At 1:30 p.m., Chairman Jackson reconvened the meeting with Commissioner McGinley, Commissioner Rice and their Assistant Cindy Decker present.

### Unfinished Business/Other Topics of Discussion

Routine matters occupied the attention of the Board for the remainder of the day.

### Payment of Invoices

The Commissioners reviewed and approved invoices for a total of \$365,470.31, beginning with check #208337 and ending with check #208379. The Invoice Payment Schedule is located in the Financial Administrator's Office.

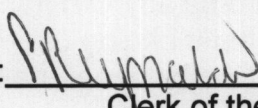
### Public Comments on Subjects Under County Jurisdiction

There were no public comments.

### Adjourn

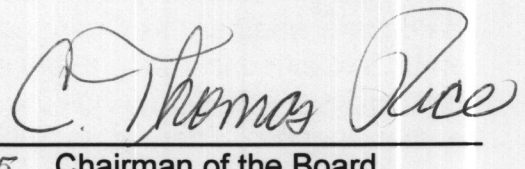
There being no further business to come before the Board, the meeting was adjourned at 5:00 p.m.

Attest:



Clerk of the Board

Approved:



VICE

Chairman of the Board