

May 30, 2017 Regular Session of the Beaverhead County Commissioners

The Board of Commissioners, in and for Beaverhead County, Montana, met in session on Tuesday, May 30, 2017 at 9:00 a.m. in the Commissioners' Room of the Beaverhead County Courthouse. Present: Chairman Tom Rice, Commissioner Mike McGinley, Commissioner John Jackson and Secretary Cindy Decker.

Updates on County Projects:

Road Supervisor Scott Jones and Road Secretary Jamie Flynn joined the meeting. Scott asked about the Pioneer Scenic Byway and what the plan is. Russ is up there checking it out to see how bad it is.

GIS Manager Scott Marsh, Sheriff Frank Kluesner and Deputy Malkovich also joined the meeting.

Scott reported that Rock Creek Bridge is in bad shape. Discussion ensued regarding what the remedy would be. Scott will take some pictures and measure the dimensions. Jamie will also check her records.

The crew has been blading in Medicine Lodge area. They also have spread 1000 yards of "pit run" on the Minor Lake Road in the Big Hole.

Mike mentioned that there will be a Preconstruction Meeting on the Elk Lake Road next Wednesday, June 7, 2017.

Joe Walsh will be coming down sometime soon to "sign off" on the walkway at Ten Mile Road.

Tom mentioned that he would like Scott to look into Hartwig Lane where Randy Smith lives. He also asked if there is a "children at play" sign in Monida. Scott replied that yes there should be, but now that sign is gone. He will look into it. There was also discussion regarding a speed zone in Monida.

Scott Marsh brought up the fact that there are no street signs in the town of Wisdom. He advised the commissioners that 911 funding is not an option for signage. Tom asked the Sheriff and Scott to find out exactly how many street signs are needed and what the approximate cost would be. They will begin with a few of the most prominent streets and then do a few more every year.

County Attorney Jed Fitch joined the meeting.

Deputy Malkovich briefed the commissioners regarding the Pioneer Scenic Byway closure. Over the Memorial Weekend, there were 60 vehicles at Crystal Park on Monday and 22 campers up past the closures without any regard for safety. It has been very frustrating. The "road closed" sign on the Wise River side was completely knocked down.

Jed suggested a "drive at your own risk" sign. We will just wait and see what Russ says after his trip up there.

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

BEAVERHEAD COUNTY ROAD WORK
May 21st to May 27th, 2017
Dillon, Lima and Wisdom Areas

DILLON AREA

- Bladed on the following roads: Medicine Lodge, Blacktail, and Nissen.
- Removed a cattle guard and installed a culvert on Lemhi Pass.
- Attended a MSHA safety meeting.
- Frost heave repairs on Miner Lake Road.
- Sign work on Webster Lane.
- Worked on the crosswalks on the Ten Mile Road trail project.
- Installed end markers on Blacktail Road.
- Moved equipment.
- Road checked Dillon area roads.
- Equipment service and repair.

LIMA AREA

- Bladed on the following roads: Big Sheep Creek and South Valley.
- Attended a MSHA safety meeting.
- Moved equipment.
- Road checked Lima and Dell area roads and bridges.
- Equipment service and repair.

WISDOM AREA

- Bladed on the following roads: Gibbonsville and Miner Lake.
- Hauled gravel to Gibbonsville Road.
- Repaired a cattle guard on Gibbonsville Road.
- Attended a MSHA safety meeting.
- Moved equipment.
- Road checked Jackson and Wisdom area roads.
- Equipment service and repair.

Action on Previous Meeting Minutes:

The minutes of the May 22, 2017 meeting were read and the following motion was made:

MOTION: Commissioner McGinley moved and Commissioner Jackson seconded that the minutes of the May 22, 2017 meeting be approved *with changes*. A verbal vote was taken and the motion carried unanimously.

Appoint Commissioner John H. Jackson to Beaverhead County Public School Transportation Committee

After brief discussion, the following motion was made:

MOTION: Commissioner McGinley moved and Commissioner Rice seconded that John H. Jackson be appointed to the Beaverhead County Public School Transportation Committee. A verbal vote was taken and the motion carried unanimously.

Review & Approval of Agreement to Lift Restrictive Agricultural Covenant on Joe Ivie Property

County Attorney Jed Fitch and County Planner Rob Macioroski joined the meeting and gave the commissioners a brief synopsis of the agreement. Rob referred to the letter from Mr. Ivie. There are problems or errors on the original survey regarding tracks 1A

MOTION: Commissioner Jackson moved and Commissioner McGinley seconded that the Agreement to Lift Restrictive Agricultural Covenant on a portion of the Joe Ivie Property in Lima be approved. A verbal vote was taken and the motion carried unanimously.

A copy of the agreement can be viewed below:



BEAVERHEAD COUNTY Filed 5/31/2017 At 9:00 AM
Debra L. Scott, Clerk and Recorder
By: _____

INDEXED

Agreement to lift Restrictive Agricultural Covenant

On this 30 day of MAY, 2017, the parties to this Agreement; Beaverhead County, a political subdivision of the State of Montana, whose address is 2 S. Pacific Street, Dillon, Montana, and Joe Ivie, whose address is 130 Christine, Dillon, Montana 59725; do hereby agree and intend that the following described action shall occur and bind each of them to said Agreement, and make a mutual exchange of promises to accomplish the same.

Whereas, Joe Ivie is the owner of record of two parcels of property in the vicinity of Lima, Montana, which are shown on Certificate of Survey Number 1728AE, and described as Tract 1A and Tract 1B. It should be known that he owned what is now known as Tract 1A, and then acquired what is now Tract 1B, through a purchase and boundary line adjustment with the neighboring owner, as reflected in Certificate of Survey Number 1683BA; and

Whereas, in October of 2013, the parties entered an agreement which allowed the subdivision of the parcel, as shown in COS 1728AE, and in which it was intended to place a restrictive agricultural covenant on that certain property created by the division, namely Tract 1B, but that due to an error, the agricultural covenant was inadvertently placed on both parcels, Tract 1A and Tract 1B; and

Whereas, the purpose of the agricultural use restrictive covenant is to allow a subdivision of property without a subdivision review, when no building or construction on the created parcel is intended, and the use will remain agricultural only. That was the intention here, to place such a restriction on Tract 1B, the acquired portion of the property. There would have been no utility for Mr. Ivie, nor for the County, in placing such a restriction on Tract 1A. With the erroneous language in place, Mr. Ivie is unable to build on the property, as he intended, and as should have been permitted.



288167 Fee:\$ 0.00 File: COS 1728AE Page:2
BEAVERHEAD COUNTY Filed 5/31/2017 At 9:00 AM

THEREFORE, by placing their signatures below, the parties do agree that the Restrictive Agricultural Covenant for **Tract 1A** of COS 1728AE, was never intended to be created, and by agreement of the parties is hereby lifted and nullified. This does not alter or affect the Restrictive Agricultural Covenant for **Tract 1B** of COS 1728AE, which remains in full force and effect, and was the basis by which the subdivision of this parcel occurred.

FURTHER, the parties agree and intend that this Agreement shall be recorded with the Beaverhead County Clerk & Recorder, with a reference to COS 1728AE, so that a public record of this Agreement shall be made.

C. Thomas Rice

C. Thomas Rice,
Chairman of the Beaverhead County Board of Commissioners

Joe Ivie 5-31-17
Joe Ivie

ATTEST: *Deb Scott*
Deb Scott
Clerk & Recorder



Withdraw Statement of Claim, Water Court Case #41B-311

County Attorney Jed Fitch joined the meeting and gave the Commissioners an explanation of this agenda item. This is only the well water right. The Golf Course and the City of Dillon have been contacted and neither has an objection.

The following motion was made:

MOTION: Commissioner McGinley moved and Commissioner Jackson seconded that the Statement of Claim on Water Court Case #41B-311 be withdrawn. A verbal vote was taken and the motion carried unanimously.

A copy of this Statement of Claim can be viewed below:



106249 Fee:\$ 0.00 File: 2017-07 Page:1
BEAVERHEAD COUNTY Filed 5/30/2017 At 3:15 PM
Debra L. Scott, Clerk and Recorder
By: John Jackson

REQUEST TO WITHDRAW STATEMENT OF CLAIM OR INTEREST IN STATEMENT OF CLAIM
INDEXED

I/We, Beaverhead County hereby request the withdrawal or withdrawal of interest of
Statement of Claim Number Case 418 311, 418 58158-00

Agreements
2017-07

The reason for this request is:

- I/We have an existing right which is exempt from filing
- This claim was for a use of water after July 1, 1973
- I/We have no existing water right to claim.
- I/We have no interest in said Statement of Claim
- Other/Comments



The well for this claim was abandoned/obliterated by
transfer of a portion of the property and re-entrance of the
area No Agency in approx 2005.

Statement Signed by Owner:

I declare under penalty of perjury (§ 45-7-201, MCA) under the laws of the state of Montana that the foregoing content of this form is true and correct. I further declare that I have the authority to sign this document for myself as an individual or in representational capacity as an officer of a corporation, member of a limited liability company, general partner of a limited partnership, trustee for a trust or other official capacity for an entity as defined under "person" in §85-2-102, MCA. (All current owners of the right as listed in the DNRC centralized record system are required to sign. Please attach DNRC's Withdrawal Agreement form if additional owner signatures are needed.)

5/30/17
(Date Signed)

Thomas Rice
(Signature of Claimant)

Chairman - Commission
(Office or Title)

5/30/17
(Date Signed)

John Jackson
(Signature of Claimant)

Commissioner
(Office or Title)

5/30/17
(Date Signed)

Michael McBride
(Signature of Claimant)

Commissioner
(Office or Title)

Recess

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

Budget Discussion

The Commissioners began to work on the Preliminary Budget. Sheriff Kluesner and Javier Negron joined the meeting to review their budget with the commissioners.

Unfinished Business/Other Topics of Discussion:

There was discussion regarding the CDBG meeting held in Jackson last week that Commissioner Jackson and Planner Rob Macioroski attended. They will keep everyone apprised.

The Commissioners opened their mail and email and responded accordingly.

The Commissioners worked on their individual County projects.

Payment of Invoices:

The Commissioners reviewed and approved invoices for a total of \$48,471.77, beginning with check #196866 and ending with check #196965. The Invoice Payment Schedule is located in the Financial Administrator's Office.

