

June 18, 2019

The Board of County Commissioners met at 8:30 a.m. in regular session in the Commission Office of the Granite County Courthouse with Chairperson Bill Slaughter and Commissioners Scott Adler and Charles Hinkle attending. Also attending was Executive Assistant Mike Kahoe. The session convened with the pledge of allegiance.

Commissioners Slaughter and Adler participated in the regular quarterly meeting of the Granite County Safety Committee. The minutes of that meeting are kept separately.

As an administrative matter, Bill Lloyd with Great West Engineering of Helena contacted the Board by speaker telephone regarding the Pre-Disaster Mitigation Plan contract. He suggested that a fifth team meeting be held, rather than holding a community meeting, at no additional cost. He said that he will email a copy of the letter that Jerry Grebenc, with Great West Engineering, had written to the Board requesting acceptance of the change of scope and change of schedule. The Board agreed to put the change order matter on a future Board agenda for decision at that time.

Road and Bridge Superintendent Paul Alt met with the Board and gave his report. The report included that he is working on a piezometer at the Flint Creek Dam which appears to be plugged; the crew will finish cold patching at Georgetown Lake and a blade will be moved up there today. Rick Day met with the group and requested some dust control on a subdivision road at Georgetown Lake. Paul Alt agreed to check with him when the road crew is putting down dust control in the area.

Forest Service Engineer Wade Jerome and Soils Scientist/Web Manager Sara Rouse with the Pintler Ranger District of the Forest Service met with the Board regarding the Forest Service Road Project Plans for 2019. Copies of the plans were given to each Board member. Wade Jerome noted that the roads have been inventoried, set by mile post, identified size and length of culverts needed, how much gravel needed to install culverts and do road surfacing, some brush clearing and stump removal, and crowning of the road for drainage. He noted that a similar project with the county was done last year and it worked well; it allows him and the crew to know where they are; and the overall deck is a treatment common to all roads, ditches, surface and crown, sight distance and repairing or replacement of culverts to get the road up to standard. Sara Rouse noted that roads included are FS Road 1558 (off upper Willow Creek), Carpp Ridge Road, Viking Lane and others. Commissioner Hinkle asked Sara Rouse if this project was an emergency and she replied that it was not. Commissioner Hinkle inquired if these roads were to be done by the Forest Service if they would be done by the project. Wade Jerome responded that if the Forest Service did these roads it would be done by the project. Commissioner Hinkle indicated that some bids on the project were opened last week for work by the hour, which was a surprise to him, and he did not think that it was open government. Chairperson Slaughter noted that the project had been previously discussed. Commissioner Hinkle asked Commissioner Slaughter to show him where in the minutes or on the agenda it was

discussed. Paul Alt indicated that he had contacted every local contractor with the requisite equipment that he could think of to submit a bid. Commissioner Hinkle indicated that Paul Alt had not asked all local contractors as Mr. Kanduch had not been contacted. County Attorney Blaine Bradshaw noted that the applicable law here includes the federal and state procurement laws, and also the County's new Procurement Policy applies (which allows for statutory exemption to formal bidding). An applicable federal procurement statute expressly allows the Forest Service to complete such a road project as a part of an existing Cooperative Agreement with a local government as is the case here. There is a specific state statute MCA 7-5-2034, which allows an exemption for formal bid as determined by the Commission; however, at the Commission's discretion, a bid notice could still be published in the newspaper to give notice of the subcontracts to this project. The County Attorney expressed his personal opinion that newspaper notice of such projects is always a good idea. Wade Jerome noted that the project is done in pieces and it is a good partnership with the county to accomplish a lot of work at a reasonable price. County Attorney Bradshaw stated that the agenda should be followed in regards to this matter and advised the Commission to review and decide upon the plan first. Commissioner Hinkle stated that he feels that it is a guaranteed way to use the money so it does not have to be turned back and it should be advertised in the paper for at least two weeks. Commissioner Adler moved to accept the Forest Service Road Plan which was presented this morning. Commissioner Slaughter seconded the motion. As discussion, Commissioner Hinkle indicated that he has not had time to look at the plans. Commissioner Slaughter asked for public comment on the motion. Elena Gagliano inquired if there is a county procurement policy and Commissioner Slaughter indicated that there is one. Elena Gagliano asked for the new procurement policy to be placed on the County's website and that was agreeable with the Board. Paul Alt stated that he had asked every local contractor to submit a sealed bid. Elena Gagliano inquired how contractors bid on the project if they haven't seen the plans. Commissioner Slaughter stated that the bids are for equipment by the hour, not by the project. Sara Rouse noted that there was a rough plan, utilizing what was done last year and a cost estimate, and although there was not a mile by mile plan, it was not a blind thing that the Forest Service was asking for. Elena Gagliano inquired what the difference is between Title 7 and Title 18. Blaine Bradshaw noted that MCA 7-5-2304 is the exemption to the formal bidding process. Commissioner Hinkle stated that it seems to him that 7-5-2304 applies only to emergencies. County Attorney Bradshaw stated that he was firm in his legal opinion and he would not debate the law. County Attorney Bradshaw noted that MCA 7-5-2034 does not state emergency, but the language states that the exemption is for purchases "made necessary by fire." Heidi Hinkle commented that anyone building a house or a road would want to look at the plans and it is not out of order to look at the plans. She does not think that Commissioner Hinkle is out of order in requesting that he look at them. Commissioner Slaughter indicated that no one said Commissioner Hinkle was out of order. Local excavator contractor Doug Benson commented that he put in a bid on this project by the hour and he could have bid the entire project, but it would be much more expensive. He indicated that he worked on the project last year and it went very well. He noted that Mr.

Kanduch advertises in the newspaper as a logger, not a contractor; and Mr. Benson further noted that he is available to answer any questions. Commissioner Slaughter asked if Commissioner Hinkle would like to take a recess so he could review the plans in more detail, and Commissioner Hinkle indicated that he would. Commissioner Slaughter stated at 9:55 a.m. that a 15-minute recess would be taken for Commissioner Hinkle to review the plans. Sara Rouse noted that engineer Wade Jerome is on site all during the project and he has a local Forest Service road man devoted to the project. Commissioner Adler noted that some county projects have been bid by the hour and also FEMA work was bid by the hour. Commissioner Slaughter noted that the Board had previously agreed on the Schedule A Road Maintenance Plan with the Forest Service about two weeks ago. Commissioner Hinkle indicated that he has seen so much money wasted on fires and also operators move very slowly when paid by the hour. Wade Jerome noted that the Forest Service road crew is scheduled to be here next week and there is a lot to do before the weather gets bad. The session reconvened at 10:12 a.m. Commissioner Slaughter asked if there was any further public comment. Ken Pfeiffer stated that the people on Viking Lane are interested in getting their road upgraded and they are in favor of the plan. Commissioner Slaughter commented that there is a partnership between the Forest Service and the county where they can work on each other's roads. The motion carried unanimously. Wade Jerome indicated that there is not a clean way to intermingle private equipment and Forest Service equipment on a project; also, when people calculate a project bid they include some risk and when it is bid by the hour it reduces the risk; and the Forest Service needs some excavation work done with equipment that the Forest Service does not have. He assured the Board that the project will be managed well. He noted that if the Forest Service had all the equipment, it would not involve outside equipment and he noted that it went well last year. Paul Alt noted that if there is a breakdown, the contractor is not paid and daily time sheets are turned in by each contractor for review by the Forest Service. Commissioner Hinkle inquired why the Upper Willow Creek road would not be done by the Forest Service. Wade Jerome stated that it works well together with the public and private partnership, and there is a possibility that the funding could be lost if the project is delayed. Commissioner Hinkle referred to the County attorney's legal opinion regarding MCA 7-5-2304 and requested an attorney general's opinion on that section of law. County Attorney Bradshaw stated that an attorney general's opinion could be requested, but such should be directed by motion of the county commission. Mr. Bradshaw further said that the issue is whether the project should be done by the hour or by the project, as it could be done either way, and the legal issue here is whether the subcontracts would need to be formally bid or not. Commissioner Adler moved that the work be done by the hour. Commissioner Slaughter seconded the motion. Commissioner Slaughter asked for public comment on the motion. Heidi Hinkle inquired whether a Forest Service official would be on site and Wade Jerome responded that he and Road Superintendent Paul Alt would be on site. Commissioners Slaughter and Adler voted in favor of the motion and Commissioner Hinkle opposed the motion. Commissioner Adler suggested that Kanduch be given until the end of the day at 3:30 p.m. to submit a bid. Commissioner Hinkle stated that it should be advertised. Superintendent Paul Alt stated that they would like to keep

the money in the county. County Attorney Blaine Bradshaw noted that federal statute has a local preference for the funds and such preference does not distinguish between local county government versus local private contractors in the county. Commissioner Slaughter moved that the bids be opened at the end of the day and that Mr. Kanduch be given the opportunity to submit an hourly bid proposal on the project for equipment needed. Commissioner Adler seconded the motion. Commissioner Slaughter asked if there was any comment on the motion from the public. Scott Sylvester with the *Philipsburg Mail* newspaper inquired of the Forest Service's representatives if there is any reason that it cannot be advertised in the newspaper. Wade Jerome noted that equipment is on the way. Scott Sylvester asked if this occurs next year is there any reason it would not be bid. Wade Jerome stated that if that was the case that it would likely be done by the Forest Service itself. Elena Gagliano inquired about the bidding process. Commissioner Slaughter stated that the Board is following County Attorney Blaine Bradshaw's legal advice. Heidi Hinkle stated that by not bidding the project it is very unfair, due to lack of notice, to the people of the county who elected the Commissioners. Commissioner Slaughter noted that Paul Alt has been here his entire life and knows which local contractors in the county have the appropriate equipment. The motion carried unanimously. Commissioner Slaughter thanked the Forest Service for putting the plans together and noted that the bids will be opened at 3:30 p.m. today. Also attending were Rick McGill, Kip Turley, Evelyn Pfeiffer, Cindy McGill, Bobbie Beyer, Roger Beyer, James C. Burke and James M. Burke.

The Granite County Compensation Board was reconvened at 10:40 a.m. to continue discussion regarding setting annual salaries for the 2019-2020 fiscal year for county elected officials. Members attending were Commissioners Slaughter, Adler, and Hinkle, citizen members Cathy Smith, Terrie Wilson and Carl Sundstrom, and County Attorney Blaine Bradshaw, Clerk and Recorder Sarah Graham, and Treasurer Vicki Harding. Sheriff Scott Dunkerson and citizen member Hal Seward were unable to attend and sent their regrets. Also attending was Executive Assistant Mike Kahoe. Clerk and Recorder Sarah Graham reviewed the information presented to the Compensation Board regarding current pay for elected officials and deputies, including some percentages of possible raises for the Compensation Board's information. Sarah Graham stated that changing the base pay of elected officials should not be considered at this time, as it was done two years ago to change the base rate to get it up to similar sized counties and at that time it was done as two separate things. Commissioner Slaughter noted that sheriff's deputies are hard to retain in small counties and that it is expensive to have them live in Philipsburg. Sarah Graham brought up the County Attorney's recent idea that local officials should go to the legislature to request a change in the law to allow county compensation boards across the state to have the discretion to increase sheriffs and deputies pay, to be able to set hazard pay. Commissioner Slaughter noted that members of the compensation board would be the strongest voice at the legislature. Carl Sundstrom inquired if the deputies are on the county's pay matrix and Sarah Graham responded that all deputy pay is based on the elected official's salary. County Attorney Blaine Bradshaw noted that the Forest Service Agreement (for patrol of campgrounds, etc.) could potentially be re-structured and used as an avenue to increase pay for sheriff's deputies, and that he brought this idea up to the

Sheriff who said he would like to look into that idea more. Carl Sundstrom commented that he likes the idea of hazardous pay for the sheriff and the sheriff's deputies; he noted that the pay is important but that other aspects of the employment, including retirement and insurance, should be considered. Commissioner Slaughter inquired what it would take to get the sheriff's deputies up to a living wage. Discussion was held on hazardous pay for sheriff's deputies. Treasurer Vicki Harding moved to give an additional 2% raise to elected officials and Cathy Smith seconded the motion. Commissioner Slaughter suggested sending a letter to MACo regarding hazardous pay for sheriffs and deputies at the discretion of the Compensation Board. Terrie Wilson commented that it should be thought about how other elected officials would ask to be included in that in the future. Commissioner Slaughter suggested that possibly 9-1-1 funds could be utilized to cover the hazardous pay for sheriffs and deputies, with the legislature's approval. Sarah Graham noted that the 2% would be on the base elected official's salaries and other additional wages are then added to the base pay, like additional pay for combined offices and longevity. The motion carried with all members voting in favor except Sarah Graham was a nay vote even though nay votes were never specifically called for during the voting. Commissioner Adler abstained from voting. The Compensation Board agreed to draft a letter to MACo regarding how the hazard pay could be given to the sheriffs and deputies through the legislature. County Attorney Blaine Bradshaw agreed to draft a proposed statute for the Compensation Board to submit to the state legislature and will encourage its passage.

A Standard Audit Contract Amendment with auditor Donald Nolan Davies P.C. was considered by the Board. The amendment reduces the Standard Audit Contract by \$1,000.00 because a federal audit was not required for the 2017-2018 fiscal year audit. Commissioner Hinkle moved to approve the contract amendment which reduces Donald Nolan Davies contract by \$1,000.00 since a federal audit was not needed for the 2017-2018 fiscal year. Commissioner Adler seconded the motion. There was no public comment. The motion carried unanimously.

Shane Worley, President of Edwards Tract A Homeowners' Association at Georgetown Lake, met with the Board to renew the Edwards Tract A Lease with Granite County. Discussion was held regarding an area near the Tract A dock and jetty. Shane Worley indicated that the Edwards Tract A Homeowners' Association's insurance does not cover the public beyond the gate. Planning Director Linda Bouck noted that the plat for the subdivision gives public access to Georgetown Lake. Shane Worley quoted from a letter dated March 18, 2016 from Leonard W. Frank, then president of Edwards Tract A Marina to County Attorney Blaine Bradshaw. Linda Bouck noted that Montana Power conducted business under a completely different set of rules than those which the county must operate under. County Attorney Blaine Bradshaw commented about allowing all subdivision owners access to the jetty, but not the dock. Shane Worley commented that the Tract A Association pays dues to have exclusive access to its dock. County Attorney Bradshaw indicated that if the access becomes a problem that the agreement could be redone; also, if people violate the lease they could be charged with trespass. Discussion was held that the plat indicates access to all owners of lots in the Edwards Tracts. Linda Bouck reviewed the

access noted on the Edwards Tracts plat as access to Georgetown Lake and that when the land ownership changed from private ownership (Montana Power) to public ownership (Granite County) that things changed. Shane Worley stated that he reads the lease as proposed differently. Commissioner Slaughter indicated that there may be a way to allow access while keeping people off of the Tract A dock. Linda Bouck noted that swimming and fishing is not allowed from the public land in the area and it is posted; also, the jetty is not part of the dock and is county property. The Board suggested that Shane Worley go back to his group to see how public access can be accommodated. County Attorney Blaine Bradshaw indicated that language in the existing lease is somewhat ambiguous and it should be rewritten prior to being renewed. Shane Worley noted that historically the lease has allowed them exclusive access. County Attorney Bradshaw indicated that the no swimming or fishing clause can be revised in the draft Lease; also, he questioned is there much reason for people, other than dock owners, to go down there as it is swampy and insect ridden and there are other close, public access points to the lake. County Attorney Blaine Bradshaw noted that the lease continues as a month to month tenancy until it is renewed. Shane Worley noted that Tract A has sole use of the marina area in the current lease, according to the map attached to the lease. County Attorney Bradshaw said that is the point that is ambiguous in the current Lease. Linda Bouck noted that it is a safety issue for swimming or fishing when boats are utilizing the marina. Discussion was held on the possibility of the county selling the property. Commissioner Adler moved to renew the existing lease for a term five (5) years with an option to re-negotiate (no option to automatically renew the Lease), and Commissioner Hinkle seconded the motion. There was no public comment or further discussion. The motion carried unanimously.

Georgetown Lake level was reported at 6,429.67 feet, according to the USGS gage and the dam tender's report. The lake is approximately 1.32 inches above full pool with an estimated 42.3 cfs through the power plant and an estimated 42.3 cfs over the weir below the power plant. Commissioner Adler moved to make no adjustment in the outflow at 42.3 cfs. Commissioner Hinkle seconded the motion. There was no public comment. The motion carried unanimously.

The Board considered the final plat approval for the Fox Hill Major Subdivision. Planning Director Linda Bouck explained that everything is completed except for a washed out culvert. Surveyor/Engineer Gordon Sorenson, the developer's agent, requested a Subdivision Improvement Agreement to October 31, 2019 to complete the work. Developer John "Rusty" Bruce noted that he has received the street signs, but they need to be installed. Commissioner Adler moved to grant the requested Subdivision Improvement Agreement and final plat approval for the Fox Hill Major Subdivision requiring a \$10,000.00 check, which the county will hold, as bond to assure completion of the work. Commissioner Hinkle seconded the motion. There was no Board discussion or public comment. The motion carried unanimously. John "Rusty" Bruce presented a check to the Board in the amount of \$10,000.00 which will be held as bond in the Granite County Treasurer's vault until the subdivision work is completed. Board members signed the

Subdivision Improvement Agreement and the subdivision plat. County Attorney Blaine Bradshaw attended.

In an administrative action, Chairperson Bill Slaughter signed a Lab Services Agreement with Pioneer Technical Services for the laboratory analysis of material from the county-leased Middle Fork Gravel Pit.

The proposed revised draft Law Enforcement Agreement with the Town of Philipsburg was discussed with County Attorney Blaine Bradshaw, Mayor Daniel Reddish and Town Attorney Robert Medof. Discussion was held that the base rate of \$82,859.00 for the 2019-2020 fiscal year would increase to \$85,159.00 to cover the town's share of increased costs to the county Sheriff's Department as determined by the county Compensation Board. Mayor Daniel Reddish agreed to take the request to the Philipsburg Town Council's meeting tonight for a decision.

The Board discussed the process for replacing Granite County Planning Board members who had not been attending regular meetings. Planning Director Linda Bouck noted that the Planning Board is requesting to replace the members representing the Georgetown Lake Area and the Upper Flint Creek Area as they have missed more than three (3) consecutive meetings and according to the Planning Board bylaws, the positions are then declared vacant. The Board agreed to thank those members by letter for their service and to advertise the vacant positions. The action was taken on the motion of Commissioner Adler and second by Commissioner Hinkle. There was no Board discussion or public comment. The motion carried unanimously.

Public Comment: None.

Correspondence: None.

The Board reviewed draft minutes for the June 11, 2019 regular session and the June 12, 2019 special joint session. The minutes were approved, with a minor revision, on the motion of Commissioner Adler and second by Commissioner Hinkle. There was no public comment. The motion carried unanimously.

The Board considered the union counterproposal from the IUOE Local 400 Road Unit for a two-year collective bargaining agreement or contract. The Board agreed to a counterproposal to the union for a three-year contract. County Attorney Blaine Bradshaw agreed to communicate the Board's decision to the union representative.

At 3:30 p.m. the Board reviewed the bids received for equipment for hourly work on the Forest Service Road Project for 2019 as follow:

Patriot Excavation LLC, Doug Benson

Cat 315: \$119.50/hr

Cat 320: \$150.00/hr

Barkell Trucking and Excavating, Keith Barkell

Komatsu 170 Exc./Thumb: \$125.00/hr

Little Bear Construction Co., Andy Weaver

320 CL Cat Excavator: \$150.00/hr

330 DL Cat Excavator: \$200.00/hr

Nelson Construction LLC, Michael Nelson

Cat 320 Excavator with link thumb including operator: \$120.00/hr

Commissioner Adler moved to accept the proposals of Patriot Excavation for a Cat 315 at \$119.50/hour and Nelson Construction LLC for a Cat 320 at \$120.00/hour, provided that they pass the Forest Service inspection, provide proof of liability insurance and workers' compensation insurance, and have a signed subcontractor agreement with Granite County, as drafted by the County Attorney. Commissioner Slaughter seconded the motion. The Board discussed that if more contractors are needed that they will be selected in order of the next lowest bids first and placed on the Board's agenda for final approval. Road and Bridge Superintendent Paul Alt reported that he had contacted Patti Kanduch and they declined to put in an hourly bid proposal at this time. Commissioners Slaughter and Adler voted in favor of the motion and Commissioner Hinkle voted to oppose the motion. Commissioner Slaughter signed the subcontractor agreements, as drafted by the County Attorney and that were approved by the Forest Service, with both Patriot Excavation LLC and Nelson Construction LLC. County Attorney Blaine Bradshaw and Scott Sylvester with the *Philipsburg Mail* newspaper attended.

The session adjourned at 3:50 p.m.