

February 4, 2020

The Board of County Commissioners met at 9:00 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.

Road and Bridge Superintendent/Solid Waste Manager Paul Alt met with the Board and gave his report. The report included that a county truck is broken down at Georgetown Lake, which will take most of the day to get it to the shop. The loaner backhoe was returned to Caterpillar, which did not charge for its use, and the Drummond Container Site backhoe has been repaired and returned to the site. Paul Alt stated that the county is not equipped to handle a proper carcass composting operation. County Attorney Blaine Bradshaw attended.

At 9:15 a.m. the Board held the bid opening for Contract Truck, Dump and Side Dump Rates Through 2020 as advertised in the *Philipsburg Mail* newspaper on January 9 and 16, 2020. Executive Assistant Mike Kahoe opened the two bids received as follow:

Patriot Excavation:	10-yard straight truck	\$85.00/hour
	18-yard truck and pup	\$115.00/hour
L&L Trucking:	12-yard dump truck	\$90.00 per hr. (lowest)
	20-yd belly dump	\$115.00 per hr. (lowest)
	20-yd side dump	\$125.00 per hr. (lowest)

Commissioner Adler moved to accept both bids and to call out the trucks with first priority given to the lowest bidder. Commissioner Hinkle seconded the motion. There was no public comment. The motion carried unanimously. County Attorney Blaine Bradshaw indicated that if these firms are not available when needed that other trucking firms could be used.

At 9:30 a.m. the Board held the bid opening on the “Improvements Project on Ambulance Building by Courthouse” as advertised in the *Philipsburg Mail* newspaper on January 9 and 16, 2020. Executive Assistant Mike Kahoe opened the only bid received as follows:

Doug Graybeal Construction: \$7,200.00

Commissioner Hinkle moved to accept the bid of Doug Graybeal Construction for \$7,200.00 and Commissioner Adler seconded the motion. There was no public comment. The motion carried unanimously. County Attorney Blaine Bradshaw drafted an agreement between the county and Doug Graybeal Construction. The Board fully approved the agreement. Chairperson Slaughter signed the agreement.

Georgetown Lake level was reported at 6,428.98 feet, according to the USGS gage and the dam tender’s report. The lake is approximately 6.24 inches below full pool. The outflow is estimated at approximately 15 cfs. Commissioner Adler moved to keep outflow at the current level for this week. Commissioner Hinkle seconded the motion. There was no

public comment. The motion carried unanimously. As public comment, Chuck Stokke noted that historically the lake has been 12 to 18 inches below full pool through the winter and he inquired why it is being operated differently this winter. Commissioner Adler noted that the lake level is within three inches of what it was last year at this time. The Board agreed to request a report from Dave Amman of DNRC prior to the next meeting. Chuck Stokke reviewed that the guidelines from the settlement agreement are that the ice layer should remain constant throughout the winter. The motion carried unanimously. Chuck Stokke inquired about how much water the new valve will release if it is necessary. The Board noted that Project Engineer Jeremiah Theys would have to answer that question. Silver Lake water was discussed and how the volume which flows into Georgetown Lake could be calculated and potentially measured.

MEETING WITH FEDERAL ENERGY REGULATORY COMMISSION (FERC) OFFICIALS

The Board met in the District Courtroom of the Courthouse with officials from the Federal Energy Regulatory Commission (FERC), County Attorney Blaine Bradshaw and county Project Engineer Jeremiah Theys with Great West Engineering of Helena regarding the Flint Creek Project. FERC officials from the Division of Dam Safety and Inspections were Kenneth Fearon, Deputy Director with the Washington, D.C. Office; Douglas Johnson, Regional Engineer, and Kelcy Adamec, Civil Engineer on this Project, both of whom are with the Portland Regional Office.

Commissioner Slaughter called the meeting to order and self-introductions were made by everyone present.

Following the printed meeting outline, the Commissioners made the first comments. Commissioner Adler commented about the cost of FERC requirements and studies, particularly the earthquake study. He inquired how does a study benefit anybody when an earthquake occurs. He also remarked about the delay in correspondence and responses from FERC.

Commissioner Hinkle noted that the project budget is in the hole and it is a unique situation that the county gets only 10% of revenue. He noted that he is in favor of making power and it is a great place to make power with no salmon or other issues. He stated that he is not in favor of spending other county funds on the dam project (only hydro-electric generation funds).

Commissioner Slaughter commented that this is a small county with a small population which must be run with public safety in mind, in addition to many other services. Funds generated from power production average about \$84,000, there are escalating regulations from FERC and the county has always been in favor of dam safety. He gave an example that the county jail is very high tech with reverse 9-1-1 and we do not need to be arguing about which color is on the call-down sheet when emergency notification will go through the 9-1-1 center. Commissioner Slaughter reviewed that the Part 12D Inspection was completed and it took 12 months for a response from FERC, which requested additional studies. He gave

the example that the Part 12-D study was to be done by DOWL Engineering because it met FERC requirements; studies about where water goes if dam should breach have been done several times; and studies are often done and sit on the shelf. He emphasized that the funds received when the county took the dam are gone and the funds produced through electric power production are gone.

Project Engineer Jeremiah Theys presented detailed costs of the annual recurring costs and five- year recurring costs, and construction costs, which since 2016 total expenses have been nearly \$900,000 (valve replacement and gabions completed; spillway and dam face improvements currently going on). Commissioner Slaughter noted that some of the funds are directly safety related, but studies like the EAP (Emergency Action Plan) are not directly safety related. Also, because of a spillway failure in Oroville, California, now the Flint Creek Dam spillway is under extra scrutiny even though an annual inspection had just been completed. Commissioner Adler commented that to meet FERC regulations just to do a bid is expensive; county is liable for the dam but the regulations are killing the project fund.

Douglas Johnson commented that FERC is in partnership with the county for dam safety; want to make dams safe for everyone; learn from history; Oroville is an example which started the spillway initiative; FERC is willing to work with county when a problem is identified; expensive because it is contracted out because county is not large enough to employ the necessary people; Oroville was design flaw from when it was built and it was a wakeup call for all dam operators. Douglas Johnson made a power point presentation which included FERC Organization and Regulatory Authority, that it is an "Independent Agency," Functions and Responsibilities, Flint Creek Project, Liability and Legal Obligations as Dam Owner, Embankment Dams and Concrete Spillways, Responsibility of Licensee, Notification of Modification, Flint Creek Consultant Safety Inspection Reports, Focused Spillway Inspections, Historical Embankment Dam Failures, Owners Dam Safety Program, Future Steps, Partnership, Failure to Act and License Surrender. Douglas Johnson explained the FERC's authority, particularly as it relates to the Flint Creek Project, and the dam owners' responsibilities.

Discussion was held on qualification for Part 12-D independent consultant and the City of Bonners Ferry and the Northern Lights Project near Troy were given as examples of small projects which have contracted for Part 12-D inspections. Kelcy Adamec commented that the county should designate someone specific for communication with FERC and that FERC would like to work cooperatively with Granite County to ensure safe operation of the dam and that the dam is maintained in a safe condition under current design standards. FERC will work cooperatively with Granite County as a partner. Kenneth Fearon said that dam safety has evolved. Douglas Johnson said that once some studies are completed they do not need to be done again. Also, FERC is not interested in overburdening any dam owner. The seismic study was discussed. Jeremiah Theys discussed the ODSP (Owners Dam Safety Program) audit which can be done by Part 12 consultant. FERC is willing to travel to Montana for an annual meeting. Both surrender and revocation of the license were reviewed.

Commissioner Slaughter opened the meeting to public comment. Deborah Frandsen, Senator Tester's representative, asked how the county gets only 10% of revenue and it was

explained that the county is purchasing the generating equipment under the existing contract. Danielle Tribble, Senator Daines' representative, noted that many small hydro facilities are facing the same problems with overly-burdensome regulations and she encouraged the Commission to work with congress and stakeholders, and to hold annual meetings. Commissioner Slaughter inquired if the dam could it be included in a federal infrastructure bill. Jeremiah Theys noted that there is a new federal program for high hazard dams. Scott Sylvester asked if FERC could provide a long-term schedule? Douglas Johnson indicated that it will be provided. Ken Fearon indicated that much of the schedule is dictated by the Part 12-D inspection. Dick Motta questioned the jurisdiction of FERC when Montana Power owned the dam and he noted that the contract would be different if the correct information has been available; also, there is a Montana law that public-private partnerships should not cost the county taxpayer anything. Douglas Johnson responded that if power was not being produced, jurisdiction would return to state DNRC but the project could not generate electricity. Dick Motta questioned why the county is the licensee and not Hydrodynamics. Kelcy Adamec indicated that she has researched the history from Montana Power and its surrender of the license; also, science has changed between the licensing and the current time. Dick Motta commented that Montana Power calculated the ongoing cost of maintaining the project at \$2.4 million, so it is not surprising that the county is having trouble keeping the project operating financially. Elena Gagliano noted that Montana Power felt it was too costly to maintain, county surrendered the license and then applied for a new license; why is it still referred to as a project. Kelcy Adamec responded that some projects consist of more than one hydroelectric plant, which are still considered one project. Elena Gagliano reiterated that if hydro was removed, it would come under Montana DNRC. She also noted that Flint Creek Hydroelectric was not present today. Commissioner Slaughter thanked the FERC officials for coming and said that Granite County is looking forward to working together with FERC on the Flint Creek Project. The people signing is were Gary Carlson, Chuck Stokke, Deborah Frandsen with U.S. Senator Jon Tester's office, Scott Sylvester with the *Philipsburg Mail* newspaper, Jackie Bolster, Sonny Capece with U.S. Congressman Greg Gianforte's office, Danielle Tribble with U.S. Senator Steve Daines' office, Elena Gagliano, Jeremiah Theys, Doug Johnson, Kelcy Adamec, Richard Motta, Ken Fearon, County Attorney Blaine Bradshaw and Town of Philipsburg Mayor Daniel Reddish.

The meeting with FERC officials concluded at noon.

Karen Petersen with the Granite Conservation District met with the Board regarding a proposed carcass removal and composting project. She noted that ranchers are under the gun for this year as calving has begun. The program was in effect for 12 years and then it got off track. The partners here today will offer suggestions for immediate solution and a long-term solution. Commissioner Adler noted that he had received a large number of calls in opposition to the compost project at Drummond and the smell in Drummond was terrible. Commissioner Slaughter noted that the state got involved and agreed that it was in the wrong place as water was running through the compost pile last year, which had not previously occurred. Commissioner Adler said that he is not against a composting program, but it needs to be in the proper location. Commissioner Slaughter noted that a landowner had agreed to have the program on their property and then changed their mind. Temporary solutions were discussed: Chad Bauer with Republic Services said that it is not feasible to have a roll-off

box at each site, which had been considered. Possibly could have leak-proof boxes, but would take about 6-months to get them. He agreed that he would work with the tipping fee of \$25/ton if hauled to Missoula. Calving will start next week. Commissioner Adler noted that the boxes would still be in town under that proposed option, which is not acceptable to him. Eric Graham with the Blackfoot Challenge noted that only carcasses from that area allowed at Clearwater facility; he is also working with Powell County for the Avon area. Possibilities are that carcasses can be hauled to the Missoula and Powell County landfills. James Jonkel with FWP said he is willing to cooperate, but will probably take a year to come together. Commissioner Slaughter noted that the water issue was new and unexpected. Jodi Cutler noted that how the site is managed is very important. Commissioner Slaughter noted that chips are available in Drummond area; the county could possibly haul chips to a new site and hopefully there is a possibility of a county employee operating a site in a new location. Wildlife and domestic animals must be kept separate due to chronic wasting disease. Rory Trimbo is new with FWP and will be based in Anaconda. Eric Graham mentioned there is a possibility that Clearwater site would take animals on a temporary basis. Carcass pickup and composting are not a problem, only the location. Chuck Johnson related that historically ranchers would dump carcasses on their own property; those places then attract bears and wolves which become habituated to the food source, which becomes part of the problem. He noted that the hauler currently uses an uncovered truck. A temporary place was considered by digging a big hole and burying the carcasses for this year only. Chuck Johnson noted that it would create a future liability for that landowner. Discussion was held that grant funds could possibly be used to assist with the extra work at the Clearwater site. Commissioner Slaughter noted that the county could possibly contribute on a temporary basis by hauling chips or other things. It was noted that in the past when the Clearwater site was full carcasses were hauled to Missoula. Karen Petersen indicated that grant funds used to haul carcasses could be used to haul carcasses to any site, including Clearwater. The fuel and truck costs are covered by FWP and the Granite Conservation District grant was used for the wage of the truck driver. Chuck Johnson noted that it is not only a predator control program but also a convenience for ranchers. Commissioner Slaughter requested that the group come back if they need specific assistance. Possibly the Rocky Mountain Stock Growers could become involved. Extension Agent Ben Hauptman noted that a meeting is scheduled tomorrow with people who may have ideas on how to sustain the carcass composting program. Karen Petersen agreed to contact the Clearwater Composting Project and investigate hauling to the landfill. A follow-up meeting with the Board was discussed and will be set at a future time. Signing in were Chad Bauer, Eric Graham, Rory Trimbo, James Jonkel, Chuck Johnson, Ben Hauptman and Karen Petersen.

The Board reviewed a proposed Consulting Agreement with Cynthia Ray to perform invoicing for the county Public Health Department. Commissioner Adler moved to table the matter until next week and Commissioner Hinkle seconded the motion. There was no public comment. The motion carried.

The Board discussed a potential change in the fee for an Encroachment Permit Application. Commissioner Adler noted that it is taking an increased amount of time for Road Superintendent Paul Alt to inspect the sites. Commissioner Adler moved that County Attorney Blaine Bradshaw be requested to draw up a Resolution to increase the fee from

\$125.00 to \$200.00 per application. Commissioner Hinkle seconded the motion. There was no public comment. Commissioners Adler and Hinkle voted in favor of the motion and Commissioner Slaughter voted in opposition of the motion. The motion carried.

The Board discussed a potential Snow Fence Agreement with Mungas Co. Inc. This agenda item was tabled by the Board until next week when Road and Bridge Superintendent Paul Alt meets with the Board.

Public Comment: Elena Gagliano commented that it is difficult to discuss the minutes when the draft minutes are not available prior to being approved by the Board.

Correspondence: None.

Commissioner Hinkle moved to approve the January 28, 2020 minutes as presented and Commissioner Adler seconded the motion. There was no public comment. The motion carried unanimously.

The Board held an employee evaluation on Granite County Public Health Nurse Jeana Dunlap RN, a probationary county employee. Jeana Dunlap did not waive her right to privacy and the session was closed to the public by Chairperson Bill Slaughter. Following the closed session, Chairperson Slaughter opened the meeting to the public. Commissioner Hinkle moved to terminate Jeana Dunlap's employment as the Granite County Public Health Nurse at 5:00 p.m. on Wednesday, February 5, 2020. Commissioner Slaughter seconded the motion. There was no public comment. The motion carried with Commissioners Slaughter and Hinkle voting in favor of the motion and Commissioner Adler recusing himself from voting on the motion. Chairperson Slaughter noted that the additional day of work (February 5, 2020) is for Jeana Dunlap to get the Public Health Office in order and he requested that Jeana Dunlap return the office keys, cell phone and laptop computer to Executive Assistant Mike Kahoe on that day. Jeana Dunlap would receive her final payment from the county soon after submitting her last time card.

The Board held a preliminary review of draft Resolution 2020-5 "A Granite County Resolution Supporting The Second Amendment Of The United States Constitution And Article II, Section 12 Of The Montana Constitution" as drafted by County Attorney Blaine Bradshaw. Commissioner Slaughter noted that some preliminary discussion led to the Board's request for the draft Resolution and that the Mayor of Philipsburg had informed the Board that the Town had passed a similar Resolution. Sandra Barbara inquired if other counties in Montana had passed a similar Resolution. Commissioner Hinkle indicated that Granite County may be the first in Montana. Commissioner Hinkle noted that the idea appears to be gaining momentum in other counties in Montana though. Commissioner Slaughter noted that red flag laws passed around the country put county sheriffs in a terrible position, and if such laws are passed in Montana then the Granite County Sheriff would be put in a predicament as the laws generally fail to provide due process procedures in the courts. John Barbara suggested that red flag laws should be specifically noted in the Resolution. The Board agreed with John Barbara and would like red flag laws mentioned in the Resolution as an example of unconstitutional infringements on the Second

Amendment. Scott Lyons noted the template from Rhode Island and the federal statute which defines an unorganized militia and an organized militia. The Board agreed to include the definitions of militia in the first paragraph. Elena Gagliano referred to Montana House Bill 357, a Montana legislative action where there was a provision that if it was vetoed by the governor, which it was, it will be on the November 2020 ballot as LR130 as a referendum. Elena Gagliano requested that it be included in Resolution 2020-5. Discussion was held on whether or not to include it. The Board agreed that it is not yet law, therefore it should not be included. Elena Gagliano reviewed Article II, Section 12 of the Montana Constitution and she noted that it differs from the U.S. Constitution. The proposed changes will be made to draft Resolution 2020-5 by County Attorney Bradshaw, and the first reading will be placed on the agenda for February 11, 2020. Signing in were Elena Gagliano, Sandra Barbara and John Barbara.

The session adjourned at 4:25 p.m.