

**CASCADE COUNTY COMMISSION MEETING**  
**January 9, 2018**  
**COMMISSION CHAMBERS**  
**COURTHOUSE ANNEX, ROOM 111**  
**9:30 A.M.**

**COMMISSION MINUTES**  
**JOURNAL NUMBER 58**

**Notice:** Pursuant to MCA 2-3-212(1), the official record of the minutes of the meeting is in audio form, located at [cascadecountymt.gov](http://cascadecountymt.gov) and the Clerk and Recorders Office. This is a written record of this meeting to reflect all the proceedings of the Board. MCA 7-4-2611 (2) (b). These are to be officially approved on January 23, 2018.

**Commission:** Madam Chair Jane Weber, Commissioner Joe Briggs, and Commissioner Jim Larson.  
**Staff:** Carey Ann Haight – County Attorney’s Office, Alex Dachs – Planning Division, Bob Rosipal – Sheriff’s Office, Scott VanDyken – Sheriff’s Office, William Darby – Sheriff’s Office, Trista Besich – Community Health Care Center, Rina Moore – Clerk & Recorder’s, Bonnie Fogerty – Board of Commissioners, and Frank Warren – Clerk and Recorder’s.

**Public:** Traci Rosenbaum, Dan Vuckovich, Louis Hermiller, Karen Carlson, Neal Rubino, Susan Pencoske, Casey Dawson, Judson Burrows, Gloria Burrows, Richard Hopkins, Shannon Wilson, Glen Coulter, Tony Poupa, Nancy Rossmiller, Donna Rossmiller, Rich Liebert, Erin Tropila, Jolene Shalper, Dexter Busby, Mike Kleinsasser, John Wipf, Kelly Manzer, Thomas Jackson, Erin Tingey, Bill Rogers, Sarah Converse, Brenda Bymes, Helen McLeavy, and Ric Valois.

**Motion to Approve or Disapprove:**

2018 Presiding Officer, Jane Weber, Chairman of the Board of the County Commissioners, Cascade County, MT

(Per Ordinance 12-01, R0247337- Each member will serve as the presiding officer during the 3rd & 6th year of his or her term in office.)

Commissioner Briggs moved that Jane Weber take over as chair in 2018.

Commissioner Larson thanked the other Commissioners for assisting him during his time as chair in 2017.

**Motion Carries 2-0** – Commissioner Weber abstained from voting on this motion.

**Reading of the Commissioners’ calendar:** Bonnie Fogerty read the calendar.

**Purchase orders and accounts payable checks:** Commissioner Briggs made a **MOTION** to approve invoices and accounts payable checks. *See agenda for payment information.*

**Motion Carries 3-0**

**Consent agenda:** Routine day-to-day items that require Commission action. Any Commissioner may pull items from the Consent Agenda for separate discussion/vote.

**Approval of the Minutes and Consent Agenda Items:** Commissioner Larson made a **MOTION** to (A) Approve minute entries for December 20, 2017, and December 26, 2017. (B) Approval of Routine Contracts as Follows:

**Consent Agenda**

**Resolution 18-01:** Establishing a Regular Cascade County Commission meeting scheduled for 2018. **R0349993**

**Resolution 18-02:** Establish a daily rate of credit for incarceration for FY 2017-2018. Daily per diem rate: \$ 89.75. **R0349994**

**Resolution 18-04:** Prosecutorial assistance in the case of State of Montana v. T.N.M. **R0349997**

**Resolution 18-05:** Prosecutorial assistance in the case of State of Montana v. T.Y.S. **R0349997**

**Contract 18-01:** Cascade County Noxious Weed Management Plan. Effective January 1, 2018 –

December 31, 2019. **R0349999**

**Contract 18-02:** Cooperative Agreement and Noxious Weed Management Plan between City of Great Falls & Cascade County. (Annual) *Not recorded at this time*

**City-County Health Department**

**Resolution 18-06:** Budget Appropriation for the Voluntary National Food Regulatory Program Standards Grant Programs.

Total Amount \$ 17,700 Ref: Contract 17-205 (14,700) and Contract 17-206 (\$3,000) **R0349998**

**Community Health Care Center**

**Contract 18-03:** Employment Agreement between Cascade County for the Community Health Care Center, Inc. and Nell Ryan, MN, RN, FNP. Effective: August 8, 2017 – September 30, 2019.

Annual Base Salary: \$ 41.87 per hour. **R0350000**

**Contract 18-04:** Employment Agreement between Cascade County for the Community Health Care Center, Inc. and Angela Carroll, LCSW, LAC. Effective: September 26, 2017 – September 30, 2019.

Annual Base Salary: \$ 54,787.20. **R0350001**

**Contract 18-05:** MOU between CHCC, CCHD, & MT DPHHS Immunization Program for deputizing and oversight of public health departments to provide vaccines for children (VFC) purchased vaccine to entitled children. *Not recorded at this time*

**Motion Carries 3-0**

**Comments:**

**Madam Chair Weber** suggested that regular agenda items # 4 and # 5 be flipped. This meaning Zoning Board of Adjustments will become agenda item # 4, and Planning would become agenda item # 5. It was communicated the reasoning for this would become obvious when they get to those agenda items.

**Commissioner Briggs and Commissioner Larson** were fine with this suggestion.

**AGENDA ITEM #1**

**Motion to Approve or Disapprove:**

***Board Appointment***

**Compensation Board (1 vacancy) 3-year term**

**Term Expires: June 30, 2020**

Applicants: Darren Brown, Cindy Johnston, James McNamara, Jr., Kerry Yates

Requesting Re-Appointment: Anne Martinez (Served 1 term)

**Comments:**

**Commissioner Briggs** moved that a 2<sup>nd</sup> term is extended to Anne Martinez in recognition of her work so far.

**Motion Carries 3-0**

**AGENDA ITEM #2**

**Motion to Approve or Disapprove:**

***Board Appointment***

**Regional Airport Authority (1 vacancy) 3-year term**

**Term Expires: June 30, 2020**

Applicants: Dexter Busby, David Cooley, Darrel Krause, Richard Hart, Cindy Johnston  
James McNamara, Jr. Robert Moretti, Bob Morgan, Robert David Smith

**Comments:**

**Madam Chair Weber** shared with the public that the Airport Authority Board is comprised of seven members, of which the city appoints four and the county appoints three.

**Commissioner Larson** moved that Robert D. Smith is appointed.

**Commissioner Briggs** agreed that Mr. Smith would be an ideal appointment based on his background that is aligned with this particular board.

**Madam Chair Weber** emphasized that the commissioners do not discuss these appointments in advance as that would be inappropriate.

**Motion carries 3-0**

**AGENDA ITEM #3**

**Motion to Approve or Disapprove:**

***Board Appointments***

**Weed Board (3 vacancies) 3-year term**

**Term Expires: December 31, 2018**

Applicants: Darren Brown, Michael Edwards, Brent Hansen, Steffen Janikula, Darrel Krause, Scott Wethern

Requesting Re-Appointment: Bruce Keaster (Served 1 term)

**Vacancy # 1 Comments:**

**Commissioner Larson** vocalized that Bruce Keaster, who is requesting re-appointment, has served one term with the Weed Board and has been a good member of this board. It was his suggestion that Bruce is re-appointed.

**Commissioner Briggs** advised he would make a motion to re-appoint Bruce Keaster to the Weed Board. It was also reiterated that it is the normal process to allow people up to two terms, at least, on any given board.

**Motion to appoint Bruce Keaster – Vacancy # 1**

**Motion Carries 3-0**

**Vacancy # 2 Comments:**

**Madam Chair Weber** commented that Michael Edwards has a tract of land and is a licensed private applicator. Mr. Edwards also being a CPA is ideal as grants are utilized in regard to this board. Also, Brett Hansen is a rancher, with a Bachelor of Science degree in ranching and that he sprays weeds on his own ranch. Lastly, Mr. Janikula, while a city employee, has experience in spraying and works on the Rivers Edge Trail. These two applicants were her top choices along with Bruce Keaster.

**Commissioner Larson** echoed that Mr. Janikula was also at the top of his list. Also, Brett Hansen would be a contender, as he has been ranching his whole life. Lastly, Scott Wethern also has a spraying license. He feels any of these three would be appropriate.

**Commissioner Briggs** indicated this was a particularly difficult decision as there were not a lot of discriminators as far as any skill set that jumped out, with the exception of Mr. Janikula. He felt Mr. Janikula's background would be an asset. He had earlier discussed with Joshua Blystone whether there would be a conflict of interest as Mr. Janikula is a city employee, and was assured there would not be. Commissioner Briggs, then motioned that Steffen Janikula is appointed for the 2<sup>nd</sup> vacancy spot.

**Public Comment**

**Rich Liebert** – shared that he farms a ranch out in Eden, and is also a member of the Eden Weed Management District. He feels it is great that the Commission elaborates on where the applicants live, farm, and what their activities are related to rural Cascade County.

**Motion to appoint Steffen Janikula – Vacancy # 2**  
**Motion Carries 3-0**

**Vacancy # 3 Comments:**

**Chairman Larson** made the motion to appoint Michael Edwards. Mr. Edwards is a CPA and has a private back feeder license.

**Madam Chair Weber** shared she was pleased with this motion as she seeks a variety of backgrounds/experience when considering appointments. Since there is already someone on the Weed Board who is a rancher, it would be good to have a person who is a smaller landholder, as many smaller landowners are also dealing with weed issues.

**Motion to appoint Michael Edwards – Vacancy # 3**  
**Motion Carries 3-0**

**AGENDA ITEM #4**

**Motion to Approve or Disapprove:**

***Board Appointments***

**Zoning Board of Adjustments (2 vacancies) 2-year term**

**Term Expires: December 31, 2019**

Applicants: Rodney Blake, Carolyn Craven, Thomas Jackson, J.C. Kantorowicz  
Charles Kuether, Richard Liebert, Bob Morgan, Brian Neilsen, Craig Rude  
Trent Short, Brandon Skogen, Melissa Smylie, Russell Armstrong Snyder  
Gerald Stinson, Carl Thrasher, Logan Tinsen, Erin Troplia  
Requesting Re-Appointment: Jim Edwards (Served 5+ terms)

**Comments:**

**Madam Chair Weber** explained that unlike the Planning Board whose role is to make recommendations for Commission action; the Zoning Board of Adjustments (ZBOA) serves as an independent body with decision-making authority under state statute. The ZBOA is a very important board selected by the commissioners. The County Commissioners do not intervene in the decision issues facing the ZBOA and essentially “step aside,” so as not to influence the ZBOA in their deliberations of staff reports the Planning Department prepares for the ZBOA. Therefore, it is very important that the Commission select people for this board who can make unbiased decisions and be able to vote without having to recuse themselves from votes.

**Commissioner Briggs** reiterated this is a decision-making board and in essence a quasi-judicial board which means it’s charged with receiving the testimony and facts of the matter and deciding upon those facts and the law, not upon personal privilege. It can be difficult as some of the matters that come before the board can be emotional and members of this board will need to separate themselves from their personal feelings and follow the law and regulations. Historically, the commission has not appointed anyone to the ZBOA that did not already have experience from serving on the Planning Board as the ZBOA is complex and convoluted and requires an eye for detail, and there is a learning curve to it. This board also does not meet often. Typically the board terms are limited to 3 or 4, but he is less sensitive to that with the ZBOA due to the learning curve and how seldom this board meets.

**Carey Ann Haight** confirmed that the ZBOA will make a decision versus a recommendation, where the Planning Board makes a recommendation which is then either adopted or denied by the Commission Board. The ZBOA’s decision is essentially final but subject to appeal. Those appeals would not be based on whether someone liked or did not like the decision, but rather was the decision legal or not legal.

**Madam Chair Weber** turned to counsel for review of discussions held at the January 3, 2017 Work Session. Since the Planning Department anticipates receiving an amended Special Use Permit application on the Madison Food Park (MFP) in the future, the Commissioners had discussed

whether individuals who submitted comments to the Planning Department or commented on social media on the original SUP application should be considered for appointment to the ZBOA. For this reason, County Planner Alex Dachshad been instructed to review public comment received on the original application and identify whether any of the 18 applicants had submitted written comment. He was also instructed to contact ZBOA applicants who had not submitted written comment to the planning office and directly ask them whether they had commented on the MFP proposal in any public forum (including social media). The Commissioners had been clear at the Work Session that any comment, regardless of whether a position (pro or con) had been taken on the proposal, may disqualify a ZBOA applicant from consideration. Dachs was prepared to present his findings to the Commission for consideration. Before asking Dachs for his findings, Chair Weber asked counsel to weigh in on this process.

**Carey Ann Haight** feels it is entirely appropriate for the Commission Board to take that information into consideration as it makes a decision regarding the applicants and appointment thereof. While it's appropriate for our community to express interest, and to have expressed interest in a project that might have a significant impact, having that carry over into a Zoning Board decision making setting is very problematic. She then provided the comparison of not wanting to take your case to a judge that has an expressed opinion on the matter they are going to hear.

**Alex Dachs** provided information on applicants who have made any public comment, in regards to Madison Food Park and whether the applicants are city or county residents. Please refer to audio (43:15) for further details.

**Madam Chair Weber** explained that Commissioners Briggs and Larson believe members of the ZBOA should reside outside of incorporated communities. Although she does not agree with this position and it is not required by statute, she asked Commissioner Briggs to explain why he prefers the Commissioners not consider applicants who reside within incorporated cities and towns.

**Commissioner Briggs** communicated that it is two-fold. First, he feels experience on the Planning Board is essential, and the Commissioners have routinely selected citizens for the ZBOA who have previously or currently sit on the Planning Board. Secondly, from the standpoint of city vs. county, yes everyone that lives in the city is a county resident; however, funding for county planning comes only from rural county resident taxes. City residents are not assessed taxes to fund the county planning process. State law requires that Planning Board members must be freeholders in the county and own and reside on property outside of the city limits. Logically in his mind, since zoning is the application and the judicial portion of the planning operations it amazes him that the legislature has not imposed the same requirements on ZBOA membership.

**Commissioner Larson** added that the city has its own board, regarding zoning issues, and that is why he feels the County Commission should appoint people to our Zoning Board that reside in the county.

**Madam Chair Weber** stated there are fewer people residing in the rural county, and when issues arise that may potentially affect rural areas it may be difficult to find ZBOA applicants who can remain unbiased when faced with issues in their locale. Allowing incorporated town and city applicants to the ZBOA would allow for a larger pool of applicants. Chair Weber then stated when applying the criteria that applicants have previous experience on the Planning Board, three applicants rise to the top. First, Mr. Jim Edwards has served at least five terms on the ZBOA and previously on the Planning Board. Chair Weber then noted Mr. Edwards has informed the Planning Staff that he would recuse himself on future discussions/votes regarding the MFP project. Second, Mr. Charles Keuther, who has served on the Planning Board, and is willing to serve on the ZBOA. Mr. Keuther's application indicates he does not want to serve on both the Planning Board and ZBOA, only one of the boards. Therein, Chair Weber's request to flipflop the agenda order and consider Agenda Item #5 (ZBOA Appointments) before Agenda Item #4 (Planning Board Appointments). Chair Weber acknowledged that Planning staff confirmed Mr. Keuther has not made any public comment on the original MFP application, thus making him eligible for appointment. Third, Mr. Richard Liebert, who has previously served on the Planning Board, applied to both the ZBOA and the Planning Board openings. However, Chair Weber acknowledged that Planning staff reported Mr. Liebert has commented on the MFP proposal, and as previously discussed may be eliminated from consideration.

**Commissioner Larson** agreed that Charles Keuther is at the top of his list to be moved from the Planning Board to the ZBOA.

**Commissioner Briggs** echoed that Charles Keuther was the easy selection, as far as ZBOA, given the recusal with Jim Edwards and made a motion to appoint Charles Keuther to the 1<sup>st</sup> vacancy on the ZBOA.

#### **Public Comment**

**Larry Kralj – 210 24<sup>th</sup> Ave S** asked if any of the applicants had communication with Friesen. If so, they should be excluded. He does not understand how anyone could not have an opinion on MFP, as they would either need to be brain-dead or have already made up their mind. He eluded to the fact that people already on Planning Board, which the Commissioners seem to prefer, have most likely formed an opinion on Friesen as well. Larry then asked Commissioner Briggs if he is going to recuse himself after very publicly stating his tremendous support for MFP.

**Madam Chair Weber** responded that the MFP application for a Special Use Permit does not come before the Planning board for decision, so Planning Board members would not have been in communication with Mr. Friesen. Instead, the ZBOA may be deliberating/voting on the MFP application sometime in the future. Therefore, Charles Keuther would have had no reason for prior communications with Friesen.

**Commissioner Briggs** then reminded Mr. Kralj that the MFP item will not come before the Commission. If for some reason it did, the Commission's role would simply be to determine that the process was followed, and done in a legal manner. The Commission would not weigh in on the negative/positive attributes of the plant. The county is the first of many processes for regulatory review. Most of the things the Commission is being challenged on are not things that are within the jurisdiction of this body.

**Larry Kralj** then inquired if Commissioner Briggs would mind recusing himself from the selection process as he has already stated an opinion.

**Madam Chair Weber** advised that would not be an appropriate request and looked to counsel for guidance.

**Carey Ann Haight** reminded the audience that the public comment period is an opportunity for public comment and not a Commission interrogation period, nor is it a discovery process.

**Larry Kralj** then advised Carey Ann that a public comment period means it is time for the public to speak and if Carey did not like that maybe she should find a new job.

**Madam Chair Weber** then advised Mr. Kralj that if he could not be respectful in his comments, she would ask that he be removed from commission chambers.

**Rich Leibert – Eden, MT** explained that when he expressed his opinions on MFP they were neither pro nor con, but merely based on his experience on the Planning Board. He believed his questions would help sharpen the focus of the proposal on water, wastewater, and other matters.

**Judson Burrows – 111 Fife Road** communicated his frustration over being directed by the Commissioners Office to speak to the Planning office on matters regarding MFP, but when he contacted the Planning office they directed him back to the County Commissioners. Mr. Burrows acknowledged that Commission Weber did return a telephone call and spoke to him about the process.

#### **Motion to appoint Charles Keuther – Vacancy # 1**

#### **Motion Carries 3-0**

**Commissioner Larson** spoke on Jim Edwards, who is currently on the ZBOA but is asking for re-appointment. Mr. Edwards advised he would recuse himself from any items pertaining to the MFP. He has served 5+ terms already, and the appointments typically don't go past 3 terms. In that light, he would not be recommending Jim Edwards.

**Madam Chair Weber** concurred with Commissioner Larson's observations regarding Mr. Edwards. While Mr. Edwards has served the county well, he has indicated he will recuse himself from any vote on the MFP proposal; and she noted it is highly unusual for a board member to serve so many terms. She surmised there were not sufficient candidates for past appointment openings.

**Commissioner Briggs** expressed he is in a bit of a quandary as he is less sensitive to the applicant serving 5 terms, as the board does not meet frequently, but it would be odd to appoint Mr. Edwards to another term just because of his length of service. He then indicated that while the MFP application is not in front of the ZBOA, he has to assume it will come forward. Having to have one of the members have to recuse themselves is at best problematic as this will probably be the biggest thing coming down the pike over the next couple years. Based on that, he concurs it would best to pick someone other than Mr. Edwards. The only other person he knows of who has planning experience would be Rich Liebert.

**Madam Chair Weber** reiterated requiring ZBOA appointees to have previous Planning Board experience is a self-imposed guideline, not a requirement of state statute. While she respects the work Mr. Liebert has done she feels there are other good candidates in the mix. Trent Short, who does reside in the county, has a degree in Construction Engineering, implying he has the ability to read and analyze complex zoning issues. Also in breaking with tradition, and not selecting someone from within the city, she believes Carl Thrasher, who is Chief of the Gore Hill Fire Department, is someone who could make unbiased decisions. Chair Weber added that Mr. Thrasher has an MS degree in Mechanical Engineering, indicating he would also be competent in analyzing ZBOA issues.

**Commissioner Larson** advised that Carl is one he would have considered, but being he had a city address he did not keep on his list. In the end, he landed with Gerald Stinson as his next choice.

**Madam Chair Weber** felt that Gerald Stinson did not have a comparable background to Trent Short or Carl Thrasher. Mr. Stinson did not have any particular educational or professional experience that would lend itself to the analytical complexities of this particular board.

**Commissioner Briggs** reiterated it is important to appoint someone who has had some experience on the Planning Board.

**Commissioner Larson** made the motion to appoint Richard Leibert to the ZBOA.

**Madam Chair Weber** reiterated that while Richard Leibert stated he had not taken any position on the MFP but merely commented, she would look to counsel as to whether his appointment could jeopardize any future items the ZBOA would have before them.

**Carey Ann Haight** advised the short answer is yes. It is her job to be cautious in her advice to the Commission and conservative in that advice. If Mr. Liebert were appointed to this board she would not hesitate in asking that he recuse himself should the MFP come before the ZBOA.

### **Public Comment**

**Jaybe Floyd – Great Falls, MT** wished to point out two things. One being that just by submitting questions or request for clarifications, for this application, does not necessarily indicate bias but instead might indicate civic engagement. She has a problem with disqualifying someone just for asking questions. The second item would be that this application has not been withdrawn, but is on hold for amendments. She pointed out that previous comments made will not be for what will ultimately be submitted, but instead, those comments would be for the original application.

**Casey Dawson – Belt, MT** inquired if any of the existing three ZBOA board members will need to recuse themselves from the MFP item.

**Commissioner Briggs** responded that to the best of the Commission's knowledge, none of the existing ZBOA members have indicated a need to recuse themselves on any future MFP application. He added that counsel briefs the ZBOA on every issue that comes before them to determine if a conflict of interest exists. If any conflict of interest arises at that time, they would have to recuse themselves.

**Shannon Wilson – 1201 6<sup>th</sup> Avenue S** spoke in favor of Rich Leibert. Just because someone has questions should not disqualify a person, in her mind. She added that Rich has been involved in a lot of issues around the county and is extremely knowledgeable.

**Erin Tropila – 811 5<sup>th</sup> Avenue N** expressed her curiosity over not including city residents in the ZBOA appointment process. There is no law stating city residents cannot serve on the ZBOA, and that exclusion item was not indicated on the application, nor was it communicated on the public notice. It is her opinion that removing Carl Thrasher from consideration, due to his having a city address, would be unacceptable. She could understand a preference in selecting county residents, but not a requirement. She is concerned that more qualified applicants are being excluded solely because of their being a city resident.

**Madam Chair Weber** explained there is disagreement between the Commission on the city vs. county issue. She indicated her fellow Commissioners strongly believe that since funding for the Planning staff comes from a rural mill and is only paid by rural residents, Commissioner Briggs/Commissioner Larson believe ZBOA members should be rural residents. Chairman Weber disagrees with this self-imposed criteria because state statute does not require that ZBOA members be rural residents. She then reiterated her support that Carl Thrasher be considered.

**Commissioner Briggs** added that every member of the City Board of Adjustments and Planning Board are city residents.

**Rich Leibert – Eden, MT** echoed Commissioner Briggs sentiment that having Planning Board experience is important to being successful on the ZBOA. He feels that criteria would be more important than whether the applicant resides within/outside the city limits.

**Motion to appoint Richard Leibert – Vacancy # 2**

**Motion Fails 2-1 with Commissioners Weber and Briggs opposed.**

**Madam Chair Weber** advised one vacancy still remains. After careful review of the applicant qualifications, and disregarding whether an applicant resides in the city or the county. The two applicants that rise to the top of her list are Trent Short and Carl Thrasher.

**Commissioner Briggs** moved to appoint Trent Short to vacancy #2 on the ZBOA

**Madam Chair Weber** shared that she is probably going to vote in favor of this as Mr. Short has also served on the Great Falls Planning Board.

#### **Public Comment**

**Tony Poupa – 309 Hasting Road** shared he is a contractor & advised that since Mr. Short has been identified as an engineer he could possibly benefit financially from the MFP going forward.

**Motion to appoint Trent Short – Vacancy # 2**

**Motion Carries 3-0**

#### **AGENDA ITEM #5**

**Motion to Approve or Disapprove:**

***Board Appointments***

**Planning Board (3 vacancies) 2-year term**

**Term Expires: December 31, 2019**

**(1 vacancy) Fill term remainder term expires: December 31, 2018**

Applicants: Dexter Busby, Martin Byrnes, Tom Lambert, Richard Liebert,

James McNamara, Jr., Bob Morgan Brian Neilsen, Trent Short

Russell Armstrong Snyder, Carl Thrasher, Shon Weaver

Requesting Re-Appointment: Mark Carlson (Served 2 terms)

Dan Johnstone (Served ½ term)

Charles Kuether (Served 1 term)

#### **Comments:**

**Madam Chair Weber** reminded the public that state statute requires those appointed to a County Planning Board must reside in the rural county area. Therefore, any applicants who are not rural county residents will not be considered. Of the 14 applicants, eight (8) qualify for consideration.

Three current Planning board members are requesting re-appointment: Dan Johnstone, Mark Carlson, and Charles Keuther. However, Mr. Keuther was just appointed to the ZBOA and has indicated he would only serve on one board. Chair Weber asked the Commission begin by addressing the three vacancies for 2-year term appointments.

**Commissioner Briggs** stated that Dan Johnstone has only served ½ of a term and was fulfilling a remainder of a term. He then made a motion that Dan Johnstone be appointed to serve a 2-year term of his own.

**There was no public comment.**



**Motion to appoint Dan Johnstone – Vacancy # 1 – 2-Year Term**

**Motion Carries 3-0**

**Commissioner Larson** communicated that Mark Carlson is asking for re-appointment, and shared that it is not unusual to have a member for 3 terms, so he would not object to Mr. Carlson serving another term. He proceeded to make a motion for Mr. Carlson to be appointed to serve a 2-year term.

**There was no public comment.**

**Motion to appoint Mark Carlson – Vacancy # 2 – 2-Year Term**

**Motion Carries 3-0**

**Commissioner Larson** suggested that Dexter Busby be considered for the last 2-year term appointment.

**Commissioner Briggs** concurs and made the motion that Dexter Busby be appointed to the last 2-year term spot on Planning Board.

**Public Comment**

**Rich Leibert – Eden, MT** commended Mr. Busby for applying but questioned his background. He communicated how it is vital the Commission appoint operating farmers/ranchers who can best serve rural county planning issues that arise. There should be an agricultural voice on the Planning board to serve rural Cascade County.

**Motion to appoint Dexter Busby – Vacancy # 3 – 2-Year Term**

**Motion Carries 2-1 with Commissioners Larson and Briggs in favor.**

**Commissioner Larson** recommended Richard Leibert be appointed to complete the remainder of the term that runs through December 31, 2018.

**Motion to appoint Richard Leibert – Vacancy # 1 – Fill term remainder. Term expires December 31, 2018**

**Motion Carries 3-0**

**AGENDA ITEM #6**

**Public Hearing:**

Montana Eggs, LLC. Application for a new or expanding industry classification to provide potential tax abatements for the expansion of the egg processing facility.

**Commissioner Larson** vocalized that he wished to go on the record and have noted this issue had previously been voted on by the Commission. He does not feel this needs to be brought back up.

**Madam Chair Weber** indicated that a reconsideration of the original decision was requested and this issue had been discussed during the Work Session where it was agreed it would be readdressed at this Commission meeting. Therefore, this item will move forward on this agenda.

**Recess the Commission Meeting:**

Chair Weber recessed the Commission Meeting at 11:12 a.m.

**Public Hearing:**

Chair Weber opened the public hearing at 11:13 a.m.

**Reading of the Public Notice:**

The reading of the public notice was waived without objections and made part of the public record (see exhibit “B”).

**Staff Presentation:** Carey Ann Haight, Cascade County Chief Civil Deputy, presented this item by reading the synopsis which can be found within Action Agenda Report # 6 dated January 9, 2018.

**Call for Applicant:**

Chair Weber called for the Applicant.

**Dan Vuckovich of Anderson Zurmuehlen - 112 23<sup>rd</sup> Avenue SW - Great Falls, MT**, spoke on the applicants' behalf and outlined the project specifics. Mr. Vuckovich began by thanking the full commission for reconsidering this hearing. He then shared how he feels the outcome of the previous hearing did not really end with a decision or outcome but instead with a split vote. That was the primary reason for asking that the full commission hear this request. The second reason was due to one commissioner specifying two reasons for denying the prior resolution request. Reason #1: The application was not filed timely, and the request came after the project was completed. Mr. Vuckovich emphasized how Montana Eggs, LLC understood the importance of timeliness because of the implications with the county budgeting process. It was the understanding of Montana Eggs, LLC., based on research done after the last hearing, that for the abatement request application to be considered it must be submitted within the current year that the applicant is applying to the Montana Department of Revenue, on or before January 1<sup>st</sup> of the tax year. The original abatement request would not affect the county until FY 2019, and as such the county would have time to consider its budgeting process. The first tax abatement application (to the city) was filed, with the State, in March 2017, well in advance of the project being completed. The city did approve that abatement request. Reason #2: The abatement must not have been needed as the project was already completed by Fall 2017 and the county tax abatement request was submitted after the facility was completed. Mr. Vuckovich agreed the project was completed by the time the county abatement request was submitted, but that did not mean that sizable loans, obtained for the expansion, had been satisfied. Mr. Vuckovich stated there is nothing in the "ARMS" (Administrative Rules of Montana), or in the County's criteria that indicate cash needs are a requirement for consideration of tax abatement. The objective of this property special tax provision is about promoting businesses expansion or attracting new business into the community. Those expansions and/or new businesses strengthen the tax base of the county/city/state.

Mr. Vuckovich detailed Montana Eggs, LLC's 20-year history within Great Falls and Cascade County. In 2011, a major expansion was completed on Stuckey Road, and \$3.6 million was invested in that expansion project. In May 2016, Wilcox Farms bought the property on 38<sup>th</sup> Street (North Star Park). The construction of this new processing plant was completed in September 2017. Montana Eggs, LLC invested \$7 million into the construction of this facility, and \$2.5 million into egg grading equipment. It is estimated that Montana Eggs, LLC will create an additional 24 jobs, and next year's payroll is projected to be \$1,190,000.00. In response to a question asked at the December 12, 2017 Commission meeting, pertaining to how many jobs were actually out there, there are currently 28 positions. They have only been in operation for 4 months, and are not currently in full production. The additional 24 positions is a realistic number, that Montana Eggs, LLC believes will occur. Regarding employee makeup, Mr. Vuckovich stated no Hutterite colony members are currently employed at the plant. This new plant more than doubles the number of eggs that can be processed. Approximately 24 million dozen eggs will be processed, and approximately 70% of those will be sold out of state. That translates to money being brought back into this community from out of state. This processing facility is a perfect example of clean value-added industry. One of the county criteria, for this application, is that a project result in additional unsubsidized developments in this area. Due to this project, there have been three chicken barns built in Cascade County at a cost of \$2-\$3 million dollars each. This does not take into account other new/remodeled egg barns that are happening within the *Golden Triangle* area. These new developments contribute to the tax base of both the counties and the State of Montana.

Mr. Vuckovich further clarified the egg facility's connection to the Hutterite colonies and corrected some misconceptions about the colonies. He said one of the biggest misconceptions is the colonies do not pay taxes. Mr. Vuckovich explained that the Hutterite Colonies fall under Code Section 501D of the Internal Revenue Code. Many people think this means they fall under a tax-exempt status. This is not true. Colonies and their members pay taxes. In the years that the colonies generate an income, which is not guaranteed to be the case for an agriculture-based business, both the colonies and members are required to file tax returns and pay taxes on that income. Last year, Anderson Zurmuehlen filed 3,000 individual colony tax returns. Montana Eggs, LLC was formed as an LLC and is being taxed as a partnership. As a partnership, any income/loss generated by that LLC is

allocated to the members of the LLC. Members would be required to indicate that on their return with their other income and pay the appropriate taxes. Mr. Vuckovich addressed several other commonly heard opinions. First, that Montana Eggs, LLC should not receive any abatement because the Hutterites already get too many breaks. Second, that Montana Eggs, LLC is circumventing labor law. As previously mentioned, the colonies pay taxes; and again no colony members are employed by Montana Eggs, LLC. The wages being paid are above minimum wage, and highly competitive. The company is required to follow all State/Federal/Local labor laws. Lastly, if a private citizen cannot get a tax abatement, why should the Hutterites get it? Mr. Vuckovich responded that anyone who invests the money and meets the criteria, is eligible. It is his belief that this project met the requirements under MCA 15-24-1401 & MCA 15-24-1402 and ARMS 42-19-1235, as well as the guidelines established by the Board of County Commissioners. He then posed the question "if this project doesn't qualify, since it has met those requirements, which projects would qualify?"

### **Questions by the Commission**

**Commissioner Briggs** understands that anytime a new facility is built DOR does not set the value of the build-out, for tax purposes, until January 1<sup>st</sup>. Commissioner Briggs asked whether the property tax bill that Montana Eggs, LLC just received is still on the land only and does not cover the improvements or the new facility?

**Dan Vukovich** responded that would be correct. Like any other building project, the improvements are assessed once a year, in January, by the State, establishing the taxes going forward. The first tax bill due with the improvements would be in November of that year, in this case November 2018.

**Commissioner Briggs** pointed out that this is before the commission prior to any taxes being levied on the building. The request is to reduce their tax liability going forward and does not remove any taxes they have currently paid and are currently funding the services of the county, schools, or any of the other entities that get a portion of their property tax. All the Commission is doing is recognizing the investment they have made and encouraging investment by giving them a reduced front-end cost for the new investment.

**Commissioner Larson** reiterated that if an abatement request is going to be submitted he would ask that it be submitted prior to the project being completed because now there is a revenue stream. He does not see the need for a tax abatement when there is a revenue stream.

**Dan Vuckovich** responded that he was not following Commissioner Larson's thought process as they came to the County, and asked for the abatement, prior to any taxes being levied on the expansion. Taxes were only on the land at that point.

**Madam Chair Weber** advised Commissioner Larson to limit his discussion to questions for Mr. Vuckovich as the Commission will discuss the merits of the abatement request after the hearing is closed and the Commission meeting is back in session.

**Commissioner Larson** suggested this abatement may not be needed. There are 30 colonies involved here which are major entities of their own. If Montana Eggs, LLC is saying there is not enough money in the LLC, those colonies would take care of that.

**Dan Vuckovich** equated Commissioner Larson's question to a scenario. He said if General Mills wished to newly establish in the county and build a plant that would increase the tax base and employment levels, would the Commission tell them they have enough money to do it themselves? Mr. Vuckovich reiterated that the 6 colonies in Cascade County, in 2016, paid over \$600K in property taxes to Cascade County.

### **Call for Written Testimony:**

Chair Weber called for written testimony.

Chair Weber indicated written/phone call correspondence (8) had been received and would be made part of the public record (see exhibit "C").

### **Call for Proponents:**

Chair Weber called for Proponents.

**Tim McInerney – 2701 Huckleberry Drive** – Shared that he is a realtor, with ReMax, in Great Falls. Mr. McInerney indicated he has listed the former Montana Eggs property, on Stuckey Road. He stated his long history of interacting with the Hutterites in Montana, finding them to be astute

business people and very involved in their communities. When the Stuckey Road property was listed, he asked if they could do some work on the property and they immediately asked for a listing of businesses in/around Great Falls to hire. The colony members have the expertise to do the work themselves, but opted to provide work to local businesses. They also could have gone to any number of communities to build their plant but chose Great Falls. He indicated that they are paying taxes on both facilities at this point. He observed that tax abatements have been granted to other businesses, not necessarily in Cascade County but within Montana, to businesses that have no real establishment in Montana. North Central Montana is primarily agriculture, and does not have some of the attributes other Montana cities can offer. He believes that getting some of these agricultural processing plants established and growing in Montana is going to be a big benefit.

**Commissioner Larson** asked Mr. McInerney when the Stuckey Road property was listed.

**Tim McInerney** responded that it was listed in October 2017.

**Jolene Schalper – 300 Central Avenue** - GFDA works very closely with the county/city on economic development items. They want community members to be employed long-term and to utilize our agriculture and our natural resources as competitive advantage. This is a great project, and she wants to thank Montana Eggs, LLC for their investment in the community. She indicated that Montana Eggs, LLC could have established anywhere, but chose to remain in Cascade County. Wilcox Farms operations are in Washington. The GFDA tools in economic development are quite limited. They don't have the several million dollars that other large cities, within Montana, have to invest in economic development. Tax abatement is an incentive that they recommend to all of their clients, and GFDA advises clients to apply as early as possible. This tool aids the businesses when they are making large decisions on cash flow. GFDA looks at the long term to ensure a project is sustainable the first 5-10 years. Aiding a business in their cash flow operations during the initial start-up period allows businesses to repay their loans, make hires, and hopefully further expansions. Lastly, she communicated that tax abatements need to be predictable. Companies need predictability to eliminate their risk or they are not going to invest in our community.

**Commissioner Larson** questioned how much financial assistance the GFDA provided to Montana Eggs, LLC.

**Jolene Schalper** responded she was not sure of the loan total.

**Dan Vuckovich** wished to clarify that any GFDA financial assistance was a loan. There was no grant funds given to Montana Eggs, LLC. They are repaying a \$90,000 loan. **Commissioner Briggs** asked if that loan was GAP financing.

**Jolene Schalper** stated she believed it was GAP financing.

### **Call for Opponents:**

Chair Weber called for Opponents.

**Richard Hopkins – 80 Hawk Drive** – communicated that the colonies, and their representatives, have indicated there are misconceptions about this project but they never really provide full disclosure on any projects the colonies are involved with. It was news to him that there were 30 colonies involved with this egg facility. They are a corporation. They pay property taxes, but they do not pay their members a livable wage. He suggests we hold off on granting the abatement and see what kind of tax breaks they get from the Federal government. He also provided his opinion that the previous comparison of a General Mills abatement to Montana Eggs, LLC is not logical as General Mills would not compete directly with the single-family farm/ranches in Montana, where the Hutterite colonies do. The individual farmers/ranchers simply can't compete with the colonies. Mr. Hopkins stated he has attempted to purchase property, but has been unsuccessful when the Hutterites can outbid private entities on land purchases.

**Rich Leibert – Eden, MT** – Wished to begin by acknowledging Montana Eggs, LLC has done a lot of good work. He is a member of Montana Farmers Union and he was behind the Stuckey Road facility. He commends both Montana Eggs, LLC and the colonies for convincing the city to award an abatement of over \$300K in ten years. He asked if the county has the short and long-term financial effects on the county fiscal funding. He expressed his desire for every beginner farmer/rancher, in Cascade County, to be awarded an abatement. He feels this should be tabled if the hard numbers on the abatement financial impact cannot be provided.

**Madam Chair Weber** stated that without this new development, the county would see no additional taxes. The DOR has not yet calculated the taxes on the infrastructure, so these figures are not yet available. As specified by law, the abatement is a 50% reduction for the first 5 years; with 10% each year thereafter until 100% taxes are paid in the tenth year.

**Rich Leibert** advised that this is a question of fairness. Can he invite other beginner farmers/ranchers to come before this board and ask for an abatement?

**Madam Chair Weber** advised there are restrictions/requirements for requesting an abatement. For example, 50% or more of the product must be sold out of state. There is a certain fiscal investment for new or expanding businesses that must occur. Those requirements must be met prior to an abatement proposal coming before the Commission.

**Rich Leibert** expressed his opinion that the previous split vote was a tie. A 1 to 1 vote is still a decision.

#### **Informational Witnesses:**

Chair Weber called for informational witnesses.

**Kelly Manzer – 713 13<sup>th</sup> Street SW** – Requested definition of a tax abatement and clarification on the process specifically to Montana Eggs, LLC abatement request. *There was a brief discussion on this matter. Please refer to the audio file, found on the Cascade County website, for details.*

#### **Close to Public Hearing:**

Madam Chair Weber closed the Public Hearing at 12:12 p.m.

#### **Reopen the Commission Meeting:**

Madam Chair Weber opened the Commission Meeting at 12:13 p.m.

**Commissioner Larson** explained that the city has already granted an abatement request, for Montana Eggs, LLC. He added there will be upcoming Federal tax law changes implemented that will likely benefit Montana Eggs. He then shared that the State of Montana has already taken away a large number of dollars used for county purposes. He reiterated the request for an abatement should not be given. He indicated he is guilty himself of not asking the right questions on previous abatement requests, but this one has plenty of questions. It was emphasized that during the December 12, 2017 meeting Mr. Vuckovich responded to a question in a way that led Commissioner Larson to believe the Stuckey Road plant was still in operation. He feels he was misled during that previous meeting. Commissioner Larson questioned the actual number of workers, at the new facility, based on the Stuckey Road location closing and being for sale. He feels the number of current workers might be lower than when it being presented. Commissioner Larson said that two weeks ago, the costs were stated at \$9.5M and in two weeks that has graduated to \$13M. He questioned why the increase and asked if why the estimates provided in the overview were not lining up for him.

**Dan Vuckovich** - \$2-\$3M needed to be invested to start generating those eggs. Then add a feed, etc. on top of that.

**Commissioner Larson** asked if we were now discussing Montana Eggs, LLC or the colonies.

**Madam Chair Weber** interjected to request that Commissioner Larson allow Mr. Vuckovich to answer the question.

**Dan Vuckovich** indicated that Commissioner Larson had stated the colonies got \$500K each, so he is addressing the question that if the colonies had invested \$300K it would have been \$200K right to their pockets. Mr. Vuckovich stated that the colonies each had to invest in their chicken barns and the processing of the chickens. That investment does not drop down to the bottom line. There are operational costs to take into consideration. Mr. Vuckovich then addressed the issue of employment numbers. Today there are 28 employees. Last time they met, Commissioner Larson stated 18 employees were working. Mr. Vukovich clarified that number; and there are 28 employees currently working at the plant. Yes, the Stuckey Road plant is closed but no one was misled on that. The Stuckey Road structure is being considered for a hard-boiled egg facility. In the meantime, they are looking to see if there is any interest in that facility.

**Commissioner Larson** stated if that property is sold it would not be in the business plan.

**Dan Vuckovich** said they are looking into operational options. It is their property and they are looking into what option(s) would provide the biggest return.

**Commissioner Larson** indicated it was stated, by Mr. Vuckovich, that the colonies would be unsubsidized, and as a member of the LLC, if this abatement is granted along with the city abatement it is already subsidized.

**Madam Chair Weber** asked that Commissioner Larson keep the discussion among the Commission as the opportunity to question Mr. Vuckovich has passed. She did ask if he had more questions for Mr. Vuckovich.

**Commissioner Larson** replied no.

**Commissioner Briggs** indicated there has been a lively discussion and it's been useful as he was able to glean some more information on how the tax process works with the colonies. This fundamentally comes down to the idea of economic development. He has no expectations, as a commissioner, in trying to dissect a business -its financial sheets, cash flow, or bank arrangements. He does not feel this is the Commission's job. In his opinion, the State of Montana has provided precious few tools to attempt to assist businesses to expand or attract new businesses. Tax abatement is one tool. He has not heard anyone talking about environmental impacts, regarding Montana Eggs, LLC which is an issue with other requests. It is a clean business that employees many people, within our community, that would not be otherwise employed. As previously stated, there is no loss of tax revenue, right now, as this as the new valuations have not even been created/accessed. By saying yes to this request, Cascade County is saying it is open to business, and to come look to invest here. He then thanked Montana Eggs, LLC for choosing Great Falls as the location for their facility.

**Madam Chair Weber** stated that she had requested reconsideration of this request. She was not for the December 12, 2017 meeting and felt a full contingent of commissioners should be present to debate and decide on the request. Chair Weber said Cascade County needs to show its willingness to embrace new/expanding businesses. The Commissioners have previously approved tax abatements for projects where construction has already started. Super 1 Foods is a prime example of that, and she recalled all three commissioners voted in favor of that tax abatement. There are criteria within both state statute and additional criteria established by the county. This business has followed procedure and met all the established criteria. Chair Weber feels some of the dialogue heard both during the December 12, 2017 meeting and this Commission meeting has been "smoke and mirrors." She stated the Commission must make decisions based on the established criteria, and discussions should "stay with that box."

#### **Motion to Approve or Disapprove:**

**Resolution 18-03:** A tax benefit for a new or expanding industry - Montana Eggs, LLC. *R0349995*

**Commissioner Larson** communicated he was **AGAINST Resolution 18-03** granting the application for a tax benefit for a new or expanding industry - Montana Eggs, LLC and made a motion to deny the abatement request.

**Motion Fails 2-1 with Commissioners Weber and Briggs opposed.**

**Commissioner Briggs** made a motion to **APPROVE Resolution 18-03** granting the application for a tax benefit for a new or expanding industry - Montana Eggs, LLC.

**Motion Carries 2-1 with Commissioner Larson opposed.**

**Public Participation in decisions of the Board and allowance of public comment on matters the Commission has jurisdiction, on items not covered by today's agenda. (MCA 2-3-103)**

**Kelly Manzer** – Asked whether it would have been possible to avoid having to re-vote due to a commissioners' absence.

**Madam Chair Weber** responded that the item could have either been tabled, or she could have asked that it be postponed during the Work Session due to knowing she would not be present at the December 12, 2017 Commission meeting. **Commissioner Briggs** added a further complication, as the legal notices for the Public Hearing, had already been placed before it was known Commissioner Weber would not be present for the hearing. He stated he could have tabled it at the December meeting but then rescheduling and readvertising the public hearing would have been needed.

**Rich Leibert – Eden, MT** - Wished to thank the County Road Department for all their hard work. He also wished for the commissioners to entertain a request from incorporated family farmers/ranchers to make it known they too can apply for tax abatements. The wealth should be shared and not be exclusively for other corporations or LLC's. Next, he asked that the commission meetings be held in the afternoons, periodically, to make it easier for farmers/ranchers to attend. Lastly, he recommended that live streaming is made available for commission meetings.

**Adjournment:** Madam Chair Weber adjourned this Commission Meeting at 12:37 p.m.