

**CASCADE COUNTY COMMISSION MEETING
SEPTEMBER 20, 2011
COMMISSION CHAMBERS
COURTHOUSE ANNEX, ROOM 111
9:30 a.m.**

Notice: These minutes are paraphrased and reflect the proceedings of the Board of Commissioners. MCA 7-4-2611 (2) (b). These minutes are in draft form until officially approved at the October 11, 2011 meeting.

PRESENT:

Commission- Chairman Bill Salina, Commissioner Joe Briggs and Commissioner Jane Weber.

Staff seated with Commission – Brian Hopkins, Rina Fontana Moore, Anita McNamara, Mark Donohue, Bonnie Fogerty, and Marie Sickels.

Public: Ray Hitchcock, Cindy Sikes, Charlotte Moltzan, Steve Moltzan, Carol Benoit, Ace Eheler, Roger Duncan, John Bowlin, Linda Bowlin, Vickie Workman, G. Spencer Workman, Vince Kolar, Carl Donovan, Daphne R. Hankins, Laurie L. Tyner, Clayton M. Braden, Paul Stephens, Steven T. Potts and media.

CALL TO ORDER: Chairman Salina called the meeting to order.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was recited.

READING OF THE WEEKLY CALENDAR: Bonnie Fogerty read the calendar.

APPROVAL OF PURCHASE ORDERS AND ACCOUNTS PAYABLE

WARRANTS: Commissioner Weber made a **MOTION** to approve purchase orders and accounts payable checks #208379 through #208708 totaling \$517,514.04 dated 08/29/2011 through 09/02/2011. In addition, purchase orders and accounts payable checks #208709 through #208939 totaling \$630,356.35 dated 09/07/2011 through 09/09/2011. As provided by the Clerk and Records/Auditors office.

Motion carries 3-0

CONSENT AGENDA:

Commissioner Briggs made a **MOTION** to approve the consent agenda and minute entries, and routine contracts as follows;

- ◆ **Resolution 11-106: Budget Appropriation for the 2011 Volunteer Fire Assistance Grant. \$9,000. Refers to contract 11-107 Volunteer Fire Assistance Program Contract DNRC, Sub grant number VFA-12-070 Project 2011 Volunteer Fire Assistance Award in the amount of \$9,000 with a match of \$1,000 for County Rural Fire Departments**
- ◆ **Resolution 11-108: Prosecutorial Assistance in the case of State vs. Brandon George McKamey.**
- ◆ **Contract 11-114: Volunteer Fire Assistance Program Contract DNRC, Sub grant number VFA-12-071. Additional funding for the 2010**

Volunteer & Rural Fire Assistance increased Grant in the amount of \$1,800.

◆**Contract 11-115: Advertising Contract between Aging and KRTV Communications, Inc. Effective 10/01/2011-12/31/2011 total investment of \$6,000 with option B with KRTV paying for production.**

◆**Contract 11-116: Consultant Services Agreement with Big Sky Civil & Environmental, Inc. CTEP project for beautification of 2nd Avenue North from 57th Street South to MAFB main gate in the amount of \$35,000.**

◆**Contract 11-118: Memorandum of Agreement between the State of Montana and the Cascade County Sheriff's Office for home visits for Juvenile drug court youth effective until June 20, 2012.**

City-County Health Department

Contract 11-113: Employment Contract with John MacMillan Bruce IV, DDS in the amount of \$110,000 effective August 25, 2011 to terminate no later than August 24, 2012.

Contract 11-117: Task Order 12-07-5-21-003-0 MT DPHHS WIC program effective October 1, 2011 through June 30, 2012 total budget amount payable \$270,000 Master Contract effective July 1, 2005 – June 30, 2012

Contract 11-119: Employment Contract with Julie Wood MD in the amount of \$155,547.09 effective July 1, 2011 – June 30, 2012.

There were no comments made concerning the consent agenda.

Motion carries 3-0

AGENDA ITEM #1

MOTION TO APPROVE/DISAPPROVE RESOLUTION 11-107 CONSOLIDATION OF RURAL POLLING PLACES WITHIN CASCADE COUNTY

Rina Fontana Moore stated that due to increased turnout on (vote by mail) and inability to staff polling places this consolidation is needed. She also stated that this would also allow them to vacate the Lazy Doe Bar and Belt School which was not appropriate polling places. She stated that this would not be in effect until June of 2012 which will give them plenty of time to inform the voters. Commissioner Weber questioned if all the polling places are ADA accessible, in which Ms. Moore affirmed that they were. Commissioner Weber also mentioned that burden of obtaining judges and extra staff to man the polling places, and stated with less judges and delivery staff it would be saving money. Commissioner Briggs questioned how many voters would be affected by this consolidation; Ms. Moore stated nearly 1,000 with 376 in Simms/Sun River area, 400 in the Sun Prairie area and 22 at the Lazy Doe Bar. Again it was mentioned that this will require less judges and less delivery staff.

Carl Donovan of the Cascade County Democratic Central Committee approached the Commission to speak in favor of this consolidation he stated that he often has argued about closing polling places, but understands that due to lack of judges and some polling place sites not being ADA accessible; this is

a good choice. He also commended Rina for her hard work since coming into office with the mail in ballots and voting running more smoothly than ever.

Commissioner Weber made a **MOTION** to approve Resolution 11-107 the consolidation of rural polling places within Cascade County, Montana.

Motion carries 3-0

AGENDA ITEM #2

**PUBLIC HEARING ON THE DISCONTINUATION OF A PORTION OF A COUNTY STREET 9th AVENUE N.W. Request by Steven D. Moltzan
Public Hearing**

Chairman Salina opened the public hearing at 9:45 a.m.

Reading of the Public Notice

The reading of the public notice was waived without objections and made part of the record (see exhibit "A").

Staff Presentation

Mark Donohue read verbatim Action Agenda #2 Report dated September 20, 2011.

Call for Applicant

Chairman Salina called for the Applicant in which **Steven D. Moltzan of 2201 NW Bypass** approached the Commission stating that he lives adjacent to the road that has been unusable all year and half of it fills with water. He also stated that other 4 wheel drives get stuck in the mud and tear up his fence trying to try to get unstuck, and that there has been no maintenance on the road from the County.

Call for Opponents

Chairman Salina called for Proponents in which **Linda Bolwin of 2535 9th Ave NW** stated that this road has been here for years and that the sign states that her business is down the road, it has been a loss of income since the County will not fix the road. She stated that she and her husband have tried repeatedly many times to speak with someone from the county to get the road fixed. She also said that the reason for the road being so muddy is due to everyone else building it up and that the water table was too high. She showed photos of the closed road (see exhibit "B") and stated that the County has not cooperated. She stated she did not want to lose the road and did not know anything about this until she got notice in the mail for this public hearing.

Commissioner Weber questioned if this road was used primarily or if the other entrance is the primary one. Ms. Bowlin stated that County used to maintain the road and she is waiting for it to dry up since their piece of land is affected.

Chairman Salina questioned if the closed sign was ours and how long has this road been closed.

Ace Eheler of 2539 Vaughn Road stated he has lived on his property for 55 years and that everything worked fine and water ran into the culverts until the coulee was filled in. He also mentioned that the road should run both ways for fire protection. He also questioned who gets the land if the road gets closed?

Chairman Salina stated that this is an easement and that the County has not used its right to build or maintain this road.

There was further discussion from staff and the public concerning the status of this portion of 9th Avenue NW. The terms County road, easements, right of way, street, were mentioned.

Commissioner Briggs stated he felt that this public meeting was helpful but felt he could not continue until he knew the exact legal status of the road.

Steve T. Potts of 600 Central Avenue stated he was representing the Bowlins and pointed out the in 7-14-2615(4) MCA states that the board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment. He stated he spoke with Mark Donohue this morning and he stated he must have been overlooked this code. Mr. Potts also questioned what was stated in the public notice and if the road was maintained or not. He then stated that his client Mr. Bowlin was hard of hearing and he wanted the Commission to know that this will decrease the value of his property.

Brian Hopkins stated that code 7-14-2616 MCA covering County streets was not the same thing as 7-14-2615(4) MCA, which covers County road. He said that a petition was signed by all owners, but he would like to take another look at it.

Linda Bowlin of 2535 9th Ave NW spoke again questioning if the work she requested the County to do on the road; was not done because they were planning on vacating it. She also questioned why she was not notified when this process started.

John Bowlin of 2535 9th Ave NW questioned why everybody was not notified. He said that there were other concerned landowners that were not able to be present and wondered if the legal notice was posted. He announced that they run their business pay taxes and had to hire a lawyer to help us protect our property. He also stated that they would hurt his income due to abandonment of this road.

Cindy Sikes of 2417 Vaughn Road stated she did not receive any notification that this abandonment was taking place. She said that when everyone builds up their properties; hers will go down in value and that there used to be a natural drain that was cut out. She also said she did contact the County but has gotten no help.

Roger Duncan of 2513 Vaughn Road stated he has been there for thirty years and the road has too, he requested they continue to keep the road there.

Paul Stephens of 820 3rd Avenue North stated he had driven the road some ten years ago and it had washboards then. He stated he has done business with the Bowlins' and they are great people who always gave great service. He also stated that he felt the Moltzons' who are the direct competitors were performing a transparent attempt to put others out of business. He said he would like to see the Commission fix the road.

Chairman Salina called for Opponents three times in which there were none.

Call for Proponents

Chairman Salina called for Proponents three times in which there were none.

Informational Witnesses

John Watts of 2125 7th Avenue North stated that in his opinion he felt that the Commission should table this for awhile if it is adopted it would only benefit one person and hurt the others. He suggested that they have three options; adopt, leave it, or build up the road which would make everyone happy. He also stated that they should fall back on statutes and do the right thing.

Chairman Salina called for Informational Witnesses in which there were no further comments.

Close of the Public Hearing

Chairman Salina closed the Public Hearing at 10:34 a.m.

Call for a Motion

Commissioner Briggs made a **MOTION** to table the discontinuation and refer action back to Staff.

Motion carries 3-0

Commissioner Briggs stated he would like to view some items before action and thanked all who attended the public hearing.

AGENDA ITEM #3

PUBLIC HEARING ON THE DISCONTINUATION OF A PORTION OF A COUNTY STREET 25th Avenue South request by Daphne Hankins

Public Hearing

Chairman Salina opened the public hearing at 10:36 a.m.

Reading of the Public Notice

The reading of the public notice was waived without objections and made part of the record (see exhibit "C").

Staff Presentation

Mark Donohue read verbatim Action Agenda #3 Report dated September 20, 2011. The Commission had some questions concerning this discontinuation.

Call for Applicant

Chairman Salina called for the Applicant- **Laurie Tyner of 1900 28th Avenue South** spoke for her mother **Daphne Hankins**. She said that her and her mother have been buying property one piece at a time since 1973. They have been cleaning up each lot of garbage, junk vehicles, old foundations, removing cisterns, and also planting trees and shrubs. She also said that the Diocese did sign off on the petition and that her mother would like to put a home on one lot.

Call for Opponents

Chairman Salina called for Opponents three times in which there were none.

Call for Proponents

Chairman Salina called for Proponents three times in which there were none.

Informational Witnesses

Chairman Salina called for Informational Witnesses in which there were no further comments.

Close of the Public Hearing

Chairman Salina closed the Public Hearing at 10:45 a.m.

Comment

Brian Hopkins stated this is different than the previous request to discontinue a County Street.

There was some discussion on emergency vehicle access to these lots.

Call for a Motion

Commissioner Weber made a **MOTION** to discontinue the County Street identified as beginning at the Northwest corner of Lot 1, Block 5, of Sexton Park Subdivision, along the Southerly right of way of said street, thence northerly 60 ft. to the southwest corner of Lot 12, Block 4 which is also a point of the Northerly right of way of 25th Avenue South; thence 60ft. South to the Northeast corner of lot 6, Block 5, which is also a point of the Southerly right of way thence 263.2 feet west to the true point of beginning, all in the Sexton Park Subdivision, a platted subdivision in Cascade County, Montana .362 acres, more or less, all in Section 19, Township 20 North, Range 4, subject to 2 conditions.

Motion carries 3-0

AGENDA ITEM #4

MOTION TO APPROVE/DISAPPROVE FINAL SUBDIVISION PLAT OF PHASE 7 SPRING TREE RIDGE

Anita McNamara read verbatim Action Agenda #4 Report dated September 20, 2011. There were a few questions about the number of lots and emergency access to the lots.

Commissioner Weber made a **MOTION** to conditionally approve the Final Subdivision Plat of Phase 7, Spring Tree Ridge. This proposed subdivision is located in the NE ¼ of Section 33, and SE ¼ of Section 28, all in Township 20 North, Range 3E, P.M.M., Cascade County, Montana, subject to the applicant to have met the 5 conditions of the Preliminary plat approval.

Motion carries 3-0

PUBLIC PARTICIPATION IN DECISIONS OF BOARD AND ALLOWANCE OF PUBLIC COMMENT ON MATTERS THE COMMISSION HAS JURISDICTION, ON ITEMS NOT COVERED BY TODAY'S AGENDA.

ADJOURNMENT:

The meeting was adjourned at 10:59 a.m.

NEXT MEETING DATE:

All meetings are held in the Commission Chambers at the Courthouse Annex. The next meeting will be a work session meeting that will be held on Wednesday, September 28, 2010 at 2:00 p.m.