

**CASCADE COUNTY COMMISSION MEETING  
OCTOBER 11, 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 were formally approved at the October 25, 2011 meeting. All exhibits are available at the Clerk and Records office.

**PRESENT:**

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

**Staff seated with Commission** –Brian Hopkins, Anita McNamara, Vince Kolar, Dave Sutton, John Stevens, Bonnie Fogerty, and Marie Sickels.

**Public:** Ace Eheles, John Bowlin, Linda Bowlin, Terry and Helen Guill, Pat and Gus Phillips, (represented by Mary Kay Mohland), Steve Erwin, Cindy Sikes, Charlotte Moltzan, Steve Moltzan, Bob Edwards, Vince Kolar, Roger Duncan, Milo Halvorson, Clayton M. Braden Steven Potts.

**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 Briggs made a **MOTION** to approve purchase orders and accounts payable checks #208940 through #209208 totaling \$444,999.23 dated 09/14/2011 through 09/16/2011. In addition, purchase orders and accounts payable checks #209203 through #209401 totaling \$1,212,551.18 dated 09/16/2011 through 09/23/2011. Also approve purchase orders and accounts payable checks #209402 through #209637 totaling \$379,152.70 dated 09/28/2011 through 09/30/2011. In addition, payroll checks #54818 through #64984 were issued totaling \$119,804.19 and direct deposits were made totaling \$774,753.26 for a payroll total of \$894,557.45 for the month of September.

**Motion carries 3-0**

**CONSENT AGENDA:**

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

- ◆ **Resolution 11-112:** Budget Appropriation for the Sheriff County Work Program (SWCP) Wal-mart foundation one time grant to purchase supplies needed to support the program in the amount of \$1,500.
- ◆ **Resolution 11-113:** Budget Appropriation for the 2011 Volunteer Fire Assistance Grants from the 2010 grant reallocation. For Dearborn and Cascade Fire Departments in the amount of \$1,800, Per Contract 11-114.
- ◆ **Resolution 11-115:** Budget Appropriation to purchase a vehicle within the Sheriffs Dept from the drug forfeiture program. Changing the department and GL account dollars for expenses into capital outlay in the amount of \$5,969.
- ◆ **Contract 11-123:** Contract between Alliance for Youth the fiscal agent for Juvenile Drug Treatment Court and Cascade County Regional Youth Services effective July 1, 2011 to June 30, 2012 with a budget not to exceed \$775 per month or a total of \$9,300. To outline contract term, scope of services, including law enforcement and community policing strategy activities implement by using Juvenile Drug Court funds.

*City-County Health Department*

- ◆ **Resolution 11-114:** Budget appropriation in the Air Quality program for a MT Dept of Environmental Quality grant for FY 2011, in the amount of \$20,498 Contract 11-83.
- ◆ **Contract 11-120:** 340B Contract Pharmacy Services Agreement with the Walgreens Company This 340B drug pricing program centers on a federal statute requiring drug manufacturers to sell outpatient drugs at a reduce4d cost to eligible healthcare centers, clinics and hospital drug manufacturers to sell outpatient drugs.
- ◆ **Contract 11-124:** Employment Contract with Sally Lyndon, RN, CRNP, effective August 20, 2011 through August 20, 2012 for an annual fee \$39,686.40

There were no additional comments related to the items on the Consent Agenda.

**Motion carries 3-0**

**AGENDA ITEM #1**

**MOTION TO APPROVE/DISAPPROVE RESOLUTION 11-116  
TRANSFER COUNTY PROPERTY TO NEIGHBORWORKS GREAT  
FALLS PROPERTY LOCATED AT 1209 6<sup>TH</sup> AVEUNUE SOUTH**

Brian Hopkins presented a proposal to donate to *Neighborworks* a small tract of land adjacent to a redevelopment property on 6<sup>th</sup> Avenue South. Counselor Hopkins stated that MCA allows the Commission to donate land to a corporation for the purpose of constructing low income housing without any requirement for an appraisal or receipt of fair market value.

The Commission agreed that this small land parcel is unusable for County purposes and would better serve the neighborhood re-development being undertaken by *Neighborworks*.

Commissioner Weber made a **MOTION** to approve Resolution 11-116 transferring the County property at 1209 6<sup>th</sup> Avenue South to Neighborhood Housing Services, Inc. dba/ NeighborWorks Great Falls and execute the quit claim deed to complete the transfer of the property.

**Motion carries 3-0**

**AGENDA ITEM #2**

**MOTION TO APPROVE/DISAPPROVE BID AWARD TO TRACTOR AND EQUIPMENT COMPANY FOR TWO (2) 2012 CATERPILLAR 160 M2 AWD MOTOR GRADERS IN THE AMOUNT OF \$424,500**

Dave Sutton, Superintendent of the Road and Bridge Dept. presented this bid award and read the synopsis from the October 11, 2011 Agenda Action Report. There were no additional comments.

Commissioner Briggs made a **MOTION** to accept the bid proposal from Tractor and Equipment Company for two (2) 2012 Caterpillar 160 M2 AWD motor graders for a purchase price of \$610,000 less trade in value allowance of our two (2) existing graders of \$185,500 for a total cost to Cascade County of \$424,500 and instruct staff to complete the purchasing process.

**Motion carries 3-0**

**Chairman Salina recessed the public meeting to open the public hearing.**

**AGENDA ITEM #3**

**PUBLIC HEARING WITH MOTION TO APPROVE/DISAPPROVE ABANDONMENT OF A PORTION OF A COUNTY ROAD**

**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**

Anita McNamara AICP presented the synopsis found in the Action Agenda Report dated October 11, 2011. McNamara clarified that the legal ad in the *Great Falls Tribune* had correctly referred to 9<sup>th</sup> Ave. NW as a "road" but the original report inadvertently referred to it as a "street". She also stated that this road abandonment proposal was properly noticed to other landowners. McNamara reported receiving an email from David Dobbs City Engineer stating no objection to the abandonment sent by Phillips Construction LLC.

**Call for Applicant**

Chairman Salina called for the Applicant in which **Steve D. Moltzon** of Moltzon's Auto Repair approached the Commission to present an estimate of the cost to repair and maintain 9<sup>th</sup> Ave. NW to County standard. (See exhibit

“B”) for Mr. Moltzon’s estimates for repair and improvement to 9<sup>th</sup> Ave. NW. He wanted to clarify for the audience that he would not be getting free land from the County as he would need to expend personal funds to prepare the land to usable condition. Mr. Moltzon also reminded the Commission that he would be paying more in taxes, thereby creating an asset to the County rather than the present land condition as a flooded, mosquito nuisance.

**Call for Proponents**

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

**Call for Opponents**

Chairman Salina called for Opponents in which **Linda Bowlin** owner of *JB Junk and Salvage*, stated she and her patrons have used this road 9th Ave. NW to access her property for thirty (30) years with no problems until Mr. Moltzon bought the adjacent property. Ms. Bowlin contends when Mr. Moltzon filled his property as part of his development, the road and surrounding properties began to have drainage issues. She also questioned the signature petitions saying that not all neighbors had signed and stated not all could attend this meeting to express their discontent. She added that this closed road is costing them lost revenue, since her business sign directs patrons down 9<sup>th</sup> Ave. NW. She ended with stating she was opposed to the closure of this road.

**Steve Potts** attorney representing Mr. and Mrs. Bowlin reminded the Commission of the previous confusion over the issue of 9<sup>th</sup> Ave. NW being a County road or street. He was surprised when he was not notified that 9th Ave. NW was determined to be a road and also surprised that the issue was not clarified in the Planning Departments Agenda Action Report. He reminded them of MCA (4-14-2615) which stated that board may not abandon a road unless all landowners agree. Mr. Potts believed all of the landowners along the road should have been contacted; and believes the County is obviously violating statute.

**Brian Hopkins** Chief Deputy County Attorney stated that this was a portion of a road.

**Mr. Potts** continued by reminding the Commission that Mr. and Mrs. Bowlin had benefited for years by having this clear access to their business which now they no longer have. He again was surprised that the Planning Department did not even address any of his issues from previous public hearing in their current report. He also stated that for any new development; this would not be approved, since access is required on both ends for emergency services. He questioned why the current standards did not apply to this situation. Mr. Potts pointed out the email message sent by David Dobbs City Engineer, (see Exhibit “B”) in which the Planning Department stated there were no objections. But they failed to address the concerns he had about the access to all property owners 9th Ave. He ended by stating that there is clear testimony

that the neighbors are against abandonment proposal and that according to the MCA this road cannot be abandoned.

**MaryKay Mohland** stated she was representing Pat and Gus Phillips of Phillips Construction LLC from the end of the lots where they stock pile gravel. She said if they close that road that there would only be one access which is already unsafe because they enter right at the point of the frontage road that goes from four lanes to two lanes. She also stated that if the road is abandoned more people would drive through the company's gravel yard requiring the company to install a fence gate which would take more time for the drivers to open a close with each gravel load.

**John Bowlin** stated that this road has not been taken care of and it is unusable due to all the water damage. He also stated that there is a risk of accidents if a gate is put in, with the required turns being made. He requested that the County needs to maintain the road and that he pays taxes to support road maintenance.

**Helen Guill** began by stating that this is the only year this road has been closed and when Mr. Moltzon's convention center was built, filled the drainage and caused these problems. She said that he should have to pay to fix the road and drainage ditches because he ruined it, and that the road closure and subsequent road abandonment is decreasing their property values because access is not available. She requested that the Commission reconsider this abandonment.

**Roger Duncan** commented that property values are lowered and that they have had access to the road for years and that the road abandonment would be a wrong decision.

**Cindy Sikes** 2417 Vaughn Frontage Road stated that they have had problems since Phillips Construction built their lot up. She presented several photographs of standing water around her home (see Exhibit "D") this last spring.

Chairman Salina called for Opponents 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 10:28 a.m.

#### **Chairman Salina reopened the Commission meeting at 10:29 a.m.**

#### **Discussion**

Commissioner Weber clarified that 9<sup>th</sup> Ave. NW does not qualify as a priority, road because it is not; 1. school bus routes, 2. missile roads or 3. high traffic route. She also reminded the audience that a decision to NOT abandon the road does not imply any maintenance will occur on the road in the near future. She did not wish anyone to have an unrealistic expectation since the County

does not have the resources to correct the drainage issues on 9<sup>th</sup> Ave NW. at this time.

Brian Hopkins stated that he would be reluctant to recommend this abandonment due to the amount of testimony and dissent on the proposal.  
**There was no further discussion.**

**Call for a Motion**

Commissioner Weber made a **MOTION** to **deny** the vacation and abandonment of the County road identified as bring that portion of 9<sup>th</sup> Avenue NW Northwest corner of Lot 16 of the Park Highway Garden Tracts along the Southerly Right -of-Way of said road, thence northerly 60ft. to the southwest corner of Lot 32, which is also a point of the Northerly Right -of-Way of 9<sup>th</sup> Avenue NW thence Southeasterly along said Right -of-Way 900 ft., which is also 118.35 feet from the Southwest corner of Lot 29, thence South along said Right -of-Way approximately 60 ft. to the Southeast corner of Lot 18, with the Southerly Right -of-Way of 9<sup>th</sup> Avenue NW, which is also the westernmost corner of Lot 19A, thence Northwesterly along said Right -of-Way approximately 900 ft. to True Point of Beginning, all in “Park Highway Garden Tracts” a non-platted subdivision in Cascade County, MT, containing 1.23966 acres, more or less, all in Section 4, Township 20 North, Range 3East, Cascade County, Montana.

**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.**

Milo Halvorson questioned what happened to SB200 and that in 1987 the option tax was presented and was due to sunset in 1989. He said he has Harold Blattie from the Montana Association of Counties (MACo) is researching this issue for him. He said that 430 million dollars has been collected for over 16 years and he wants to know where it is going.

**ADJOURNMENT:**

The meeting was adjourned at 10:37 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, October 19, 2010 at 2:00 p.m.