

JEFFERSON COUNTY COMMISSIONERS
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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
June 29, 2005**

Present: Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Jay Cole, Weed Coordinator; Matt Johnson, County Attorney; Craig Doolittle, County Sheriff; Kellie Doherty, Personnel Officer; Cory Fitzgerald, D.D. Craft, Chris Hahn, RaNay Keller, Eileen Johnson, Jan Anderson, *Boulder Monitor/Jefferson County Courier*

MINUTES

Commissioner Weber moved to approve the minutes of June 8. Commissioner Lythgoe seconded. The motion carried, with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

Commissioner Weber moved to approve the minutes of June 22. Commissioner Notbohm seconded. The motion carried.

SUBDIVISION REVIEW

FINAL PLAT APPROVAL - BOULDER LAGOONS

Harold Stepper, County Planner, presented his staff report and recommended that final plat approval be granted. Commissioner Weber asked how much possible room for expansion they will have. DD Craft stated that they currently have 20 acres, and this will bring them up to 66.94 acres. Commissioner Weber moved to grant final plat approval. Commissioner Notbohm seconded. The motion carried.

DISCUSS AND DECIDE ON LIFTING AG RESTRICTION ON HAHN PROPERTY

Commissioner Lythgoe read the letter of request from Chris Hahn (attached). Harold stated that this property no longer meets the definition of agricultural land. It was a larger tract in the past, but was split when the interstate went through. Commissioner Notbohm moved to lift the ag restriction. Commissioner Lythgoe seconded. The motion carried.

RESOLUTION 22-2005 LIFTING AG RESTRICTION ON HAHN PROPERTY

Commissioner Weber read the resolution as follows:

RESOLUTION 22-2005

**RESOLUTION TO APPROVE OF THE REVOCATION OF AN
AGRICULTURAL COVENANT**

WHEREAS, Chris Hahn owns a 3.2 acre tract of land (*See attached Exhibit "A"*) that has a restrictive agricultural covenant placed upon it; and

WHEREAS, Montana Code Annotated §76-3-207(1)(c) requires that an agricultural covenant running with the land is only revocable through the mutual consent of the governing body and the property owner; and

WHEREAS, a public hearing was held on June 29th, 2005 where the Commission heard testimony on said property and covenant;

NOW, THEREFORE BE IT RESOLVED, that pursuant to §76-3-207(1)(c), MCA the Jefferson County Board of Commissioners hereby gives consent to revoke the agricultural covenant placed upon the above described property.

DATED this 29th day of June, 2005.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Weber seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS AND DECIDE ON RECOMMENDATION FROM THE WEED BOARD TO MAKE THE WEED COORDINATOR A FULL-TIME POSITION

Commissioner Lythgoe stated that the Commission has received a letter from the Weed Board requesting that the Weed Coordinator position go to full time. Cory Fitzgerald, chair of the Weed Board, stated that it looks like they are going to lose Jay this fall, and they will need to advertise for the position. The board feels that it will be difficult to get someone on a part-time basis. They also feel that they miss out by not having someone on during the winter, noting that there are grants available, meetings and subdivisions going on during the winter months. The Weed Board feels that they need to be serving the citizens of Jefferson County 12 months of the year. Commissioner Lythgoe stated that he feels this is a legitimate request. The Commission has tried several things with this position over the years. Commissioner Notbohm stated that this has been going on for a while. Additional duties were assigned, such as grant writer, to justify a full time position. He understands where the board is coming from, but this would be viewed by some of the public, himself included, as giving someone a half-year paid vacation. He understands that things will pop up during the off season, but not enough to make this a year-round job. Commissioner Lythgoe stated that he would like Jay to speak to this.

Jay stated that, as Cory said, there is a lot that goes on in the winter months. The noxious weed trust fund grant needs to be worked on during the winter, and it takes some time to work on. There are a lot of educational/training meetings that take place during the winter, as well as private applicator certification training. Also during the winter, is a time to collect his thoughts and gear up for the coming season. Winter is a time to collect information and attend meetings. If this is not done, you need to play catch-up in the spring. He agreed that there are times when it is slow, but by keeping the position part-time, it is restricting the time that he can be working in the summer too. He noted that there is more to the job than just disbursing herbicides.

Commissioner Weber stated that it is important that any department, especially one that deals with alternate ways to deal with anything, have time for educational opportunities. During his campaign, he was asked many times about the weed issue and why someone is not out doing training. Also, surrounding counties are suggesting that the weed position go to full time for better control. He feels that the board has some valid concerns. Commissioner Lythgoe stated that he thinks that there is planning that can be done in the winter that there isn't time for in the summer. There are probably more grants available that aren't currently being utilized. There are a lot of new subdivisions, and most of those people don't understand weeds; there could be training to help them deal with weeds more effectively. Jay stated that the last couple years he has been meeting with homeowners associations, which usually meet during the winter, on how to deal with weeds. Also, there are the weed management plans, which are difficult to keep up with during the summer. Jay stated that he could spend half of his day answering and returning calls. He stated that a lot of time is spent in the winter drawing up plans to start in the spring.

Commissioner Notbohm stated that the budget needs to be considered, and it is now that time of year. He stated that the Commission is also getting a request for help in the planning department,

and wondered if there may be a way to combine and help both the weed and planning departments. Commissioner Notbohm recommended that they find a way to combine the positions.

Cory stated that he was getting tired of getting phone calls last year when Jay was out of hours. He noted that the County is not paying him to look at weeds. There is a big problem with non-compliance, and a lot of absentee landowners. Cory stated that there is a set time-line for dealing with non-compliance that needs to be started in winter. If they wait until spring, its fall until anything can be done. By then it is too late. Commissioner Lythgoe stated that Cory has a good point; they ask too much of volunteers. Cory stated that he really doesn't mind, noting that weeds are a passion of his. He would still be involved even if he wasn't on the board.

Commissioner Lythgoe asked Jay if his budget would allow this. Jay stated that he thinks so; there is enough for full-time and a little extra. He stated that the number of calls asking about the cost-share program are almost equal to those asking to do something about the neighbor's weeds. Commissioner Weber stated that his problem is that Jefferson County is that neighbor, and we have been requested to do more about our weeds. Commissioner Weber noted that Commissioner Notbohm made a recommendation, and asked him if that was his motion. Commissioner Notbohm stated that it was. His main concern is the budget consideration, and planning and weeds go hand-in-hand.

Commissioner Lythgoe asked Jay if there is enough in his budget to fund a full-time position, without getting into the general fund. Jay stated that he can't say for certain, without knowing what the cash reserve is. They lost the opportunity to go for a mill, so he requested that amount. Commissioner Lythgoe noted that there is no motion on the floor yet. He stated that Harold is asking for a full-time person, not half-time, and looking at what Harold has coming across his desk week after week, full-time is something that they will need to discuss. Commissioner Notbohm stated that he doesn't remember what the figure was, but if they are looking at full-time help for Harold and take the weed to full-time, that is a lot of money. Cory stated that they need to get the position advertised; Jay will only be here until August.

Commissioner Weber moved to accept the Weed Board's recommendation to make the Weed Coordinator position full-time. Commissioner Lythgoe seconded. The motion carried, with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay. Commissioner Lythgoe asked if the position description will need to be re-written. Jay will discuss this with Kellie.

RESOLUTION 23-2005 DISPOSAL OF BODIES - BURIAL OF PERSONS ON PRIVATE PROPERTY

Commissioner Lythgoe asked if there have been any changes to the resolution since they last saw it. Matt stated that there are a couple minor changes, and one major change. A vault is no longer required, due to the extra expense that it causes. A coffin of some sort will be required, which will still allow for future removal if needed. Craig Doolittle, County Sheriff, stated that it is a whole different circumstance when someone is buried with a coffin. He stated that if the recent

find of an unmarked burial site had been dug up without a coffin, it would have instigated a lengthy and costly investigation. Commissioner Lythgoe asked if it would be appropriate to require something on a wooden casket that will last longer; a plate or something along those lines. Craig stated that this is not a bad idea; noting that a new property owner may not mind a person interred on the land, but they may not want a headstone and may remove it. RaNay Keller stated that when her mother died, the funeral home showed her a plastic tube containing information that went into the coffin. Commissioner Lythgoe stated that this is a good idea.

RaNay asked how they came up with the required distance from property lines. Matt stated that they asked at what point the neighboring property owner will not be affected, and came up with 100 feet. Craig stated that also put this in if there is a property dispute. He stated that there are instances of property-line disputes that affected pet graves.

Commissioner Lythgoe stated that while the requirement for a vault makes sense, one reason people consider private property burial is cost, so the change is appropriate. RaNay stated that she checked with half a dozen neighbors and all agree - this is Montana. If you own land and want to be buried there, you should be. She noted all the unmarked graves around Clancy. Commissioner Notbohm stated this is why cemeteries are needed.

Commissioner Weber stated that there is no law against burial on private property; the Commission's concern is the future. He asked if it would be appropriate to add the requirement for a plastic tube with personal information. Commissioner Lythgoe stated that it needs to be in the resolution. Matt stated that it can certainly be added, and he feels that it would be appropriate.

RaNay stated that at the last meeting, Matt mentioned something about a pamphlet being created. Matt stated that it is in the works.

Commissioner Weber moved to implement the resolution as amended. Commissioner Lythgoe seconded. Commissioner Notbohm stated that he can't agree with this; he felt when the vault was considered it took care of his concerns. He can't agree with this without the vault. The motion carried, with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

FORM COMMITTEE TO RESEARCH ANIMAL CONTROL ORDINANCE

Commissioner Lythgoe stated that it is his recommendation to appoint Janie Wunderwald from the north end, Michael Gilles from the central region and Leonard Wortman from the south end, as well as the Sheriff, the Sanitarian and the Public Health Nurse. Commissioner Notbohm stated that because this can be a contentious issue, they need to be aware of both sides. The applicants need to be interviewed or expand the number on the committee. Commissioner Lythgoe stated that he has done this. The Mr. Gilles is for control, Leonard is a dog owner and Janie has been attacked. Other applicants are also dog owners. Matt stated that if the public record is checked, there are several tickets against Leonard. He just wants to make the Commission aware of this. Craig stated that he doesn't think that this is a problem that will be a conflict. Just be aware that there is a wide spectrum on the committee, from a dog owner with

tickets to a person that has been attacked. Commissioner Notbohm stated that Leonard told him up from that he has dogs and has had problems. The issue with animal control has always been money, but they do need some control. Commissioner Lythgoe stated that he feels the mix he recommended is a pretty good mix, geographically and philosophically. Commissioner Notbohm asked who on the committee will vote. Commissioner Lythgoe stated that all will be voting members.

Commissioner Lythgoe moved to appoint Leonard Wortman, Michael Gilles and Janie Wunderwald, in addition to Craig, Marilyn and Megan to the animal control committee. Commissioner Notbohm seconded. The motion carried. Commissioner Lythgoe stated that he will put Megan in charge of calling the first meeting.

DISCUSS AND DECIDE ON BOULDER OUTLAWS 4-H CLUB'S REQUEST FOR \$400 FOR FAIR PREMIUMS.

Commissioner Lythgoe stated that he feels this has already been decided. Commissioner Lythgoe moved to deny the request for \$400 to go directly to the Boulder Outlaws for fair premiums. Commissioner Weber seconded. Commissioner Lythgoe noted that the Commission has given \$400 to Extension for 4-H development in outlying areas. Commissioner Weber stated that some uses of the money are printing the fair book, ribbons and some premiums. Commissioner Notbohm stated that in the last resolution, the money was directed to outlying areas and asked if this is stated differently now. Commissioner Lythgoe stated that it is not, noting that Extension knows the intent of the money. Commissioner Notbohm stated that if the money was earmarked for Boulder 4-H, he would vote for it. Commissioner Lythgoe stated that it was. The motion carried.

RESOLUTION 21-2005 AMENDING SUBDIVISION REVIEW PROCESS PER SENATE BILL 116

Commissioner Weber read the resolution as follows:

RESOLUTION 21-2005

WHEREAS, the 2005 Legislative session has passed new laws which may affect subdivision regulations for Jefferson County; and

WHEREAS, Senate Bill 116 has been passed and signed into law immediately; and

WHEREAS, Senate Bill 116 effects the procedure and time-frame for the subdivisions process,

THEREFORE, it is hereby resolved:

The Jefferson County Commission hereby adopts the following process and procedure

out of Senate Bill 116 until the county subdivision regulations are amended;

REVIEW OF SUBDIVISION APPLICATION (76-3-604 MCA)

(1)(a) Within five (5) working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to MCA 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by MCA 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2)(a) Within fifteen (15) working days after the reviewing agent or agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as

provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency of the governing body to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) A determination is made that the application contains the required elements and sufficient information; and

(b) The subdivider or the subdivider's agent is notified.

(4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an application contains sufficient information as provided in subsection (2), the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days based on its determination of whether the application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

(a) The subdivider and the reviewing agent or agency agree to an extension or suspension of the review period, not to exceed 1 year; or

(b) A subsequent public hearing is scheduled and held.

(5) If the governing body denies or conditionally approves the proposed subdivision, it shall send the subdivider a letter with the appropriate signature that complies with the provisions of 76-3-620.

Dated this 29th day of June, 2005.

CHAIR

COMMISSIONER

COMMISSIONER

Attest:

Clerk & Recorder

Commissioner Lythgoe stated that this is a resolution that has to be done, based on new regulations passed by the legislature. He stated that for almost this reason alone, Harold needs full-time help. Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

SIGN ADDENDUM TO PUBLIC DEFENDER CONTRACT

Commissioner Lythgoe read the document and moved to approve it. Commissioner Notbohm seconded. The motion carried.

OPEN AND AWARD COUNTY PAPER OF RECORD BIDS

One bid, from the *Whitehall Ledger*, was presented for review. The bid was as follows:

- first printing of legal advertisements - \$8.00 per folio
- second printing of legal advertisements - \$6.00 per folio
- display ads - \$4.00 per column inch

Commissioner Weber moved to accept the *Whitehall Ledger* bid for legal notices. Commissioner Notbohm seconded. The motion carried.

SIGN CONTRACT WITH DENNING, DOWNEY & ASSOCIATES FOR AUDIT SERVICES

Commissioner Lythgoe stated that he and Bonnie have discussed this. This is the accounting firm that did the audit last year, and we have the option to renew the contract. Commissioner Weber moved to allow Commissioner Lythgoe to enter into the contract for audit purposes. Commissioner Notbohm seconded. The motion carried.

CALENDAR REVIEW

- 6/30 Betsy Allen - Senator Burn's office - law library - 1:00
Solid Waste budget meeting - 2:00
- 7/05 Fair board meeting - 7:00
- 7/06 District Court budget - 8:30

COMMISSION REPORTS

DEPARTMENT HEAD/ELECTED OFFICIAL MEETING

Commissioner Lythgoe stated that the Department Head meeting went well. They discussed getting a county credit card, and Bonnie stated that the County can't get a credit card through the bank, as they require a social security number. She will be looking elsewhere and reporting back to the Commission.

MONTANA TUNNELS ADVISORY GROUP

Commissioner Lythgoe stated that he met with Scott Mendenhall, Daryl Miller and Jan Anderson at Marks-Miller post yard regarding MTAG and their desire to inform the public regarding mining. They discussed the size and content of the articles to be in the paper.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Commissioner Lythgoe reported that the Commission met with Richard Opper, head of DEQ, and Mike Valenski, the Governor's natural resources person, in Helena on Tuesday regarding the Golden Sunlight Mine backfill option. They gave their presentation, but received no indication of what his opinion would be. Commissioner Lythgoe stated that he thinks the meeting was appropriate and timely.

HEALTH BOARD

Commissioner Lythgoe reported that he attended a Health Board meeting the previous night. There were three applicants for the PHN II position, two of which scored very closely in the interviews. Second interviews will be conducted. Joan Miles, Health Officer for Lewis & Clark County, has offered her services to Jefferson County. Ray Barnicoat will pursue the contract. Commissioner Lythgoe stated that, hopefully, they will soon be up to full staffing in the Health Department. In her report, Marilyn stated that she and Jeanine Ford are pursuing getting the WIC contract back in Jefferson County. Commissioner Lythgoe stated that he feels this will be difficult, per the meeting with State officials when the contract went to Broadwater County. Whoever has the contract, Marilyn would like to see increased services in Jefferson County.

JEFFERSON RIVER WATERSHED

Commissioner Weber reported that he attended a watershed meeting in Whitehall on Thursday. The USGS gave a presentation, and the watershed group expressed an interest in working with Jefferson County as we draw up our "laundry list" of what we would like USGS to look at.

GRIEVANCE

Commissioner Weber reported that the Commission has received four grievances from an employee. He did an investigation, and decided that three had no basis, and agreed with the employee on the fourth.

SOLID WASTE BOARD

Commissioner Weber reported that the Solid Waste board is not completely comfortable with their budget. The preliminary budget has been turned in, but they will be meeting again to work on it some more.

CLANCY DAY

Commissioner Notbohm reported that he attended Clancy Day on Saturday. He stated that the event was very well attended.

MOSQUITOS

Commissioner Notbohm stated that he has been working on mosquito issues. The board held a meeting and discussed getting education for the board members in the future. The board needs to be set up in such a way that it doesn't fold again. He stated that he told Bill Hadfield that the board would pay for training.

ELECTED OFFICIAL/DEPARTMENT HEAD CONCERNS

Commissioner Notbohm stated that he has had another call from a developer in the south end. He realizes that it is not the function of the county to babysit, but something needs to be done, as this concerns a county road. The Commission and Ben need to go down there and decide what needs to be done, and the developer will need to abide by the decision. Commissioner Lythgoe stated that he is not opposed to going down there. His position is that he will back up Ben's recommendation. The Commission needs to be part of the discussion, but it is Ben's decision. Commissioner Weber stated that it is important to note that the Commission is not disagreeing with anything Ben has said. He doesn't in any way want to make the statement that they don't support Ben. If the Commission has been requested to come down there, he is okay with that, if subdivision regulations allow. Commissioner Lythgoe stated that he has no problem with this, although they need to go to Ben and see if he thinks it is a good idea. If Ben is okay with this, he is all for it; he is not one to micro-manage managers. Again, he has no problem going down there, as long as Ben agrees it is a good idea. Commissioner Notbohm stated that he is not siding with the developer over Ben. There is a personality conflict and he is trying to find a way to resolve it. It is Commissioner Weber's district, but all the Commissioners are concerned with roads. The personality issue is clouding the situation, and needs to be resolved. Commissioner Weber stated that as long as they approach this for the health, safety and welfare of the county; and he asked Matt if this will conflict with subdivision laws. Matt stated that the developer will encroach on the county road and some work was done prior to getting a permit. Ben has sent out some requirements, and this is not so much a subdivision issue as a road issue. They don't do this often, but in this situation it may be necessary. Commissioner Weber stated that he has a copy of a letter, which Commissioner Lythgoe hasn't seen yet, from Ben to Matt. Ben wants to do what is most beneficial to the county. He doesn't feel that this is stepping on toes, and he agrees with not micro-managing departments. However, he doesn't feel that Ben will feel that

way. Ben's suggestions are exemplary, and in the best interest of the county. Commissioner Weber stated that he saw the permit, which was incomplete. The permit was not denied, just returned as incomplete. Commissioner Lythgoe stated that he doesn't want to turn this into a carnival. Matt stated that if the meeting takes place, they need to make sure that the focus is on the road, not personalities. The meeting also needs to be noticed. Commissioner Lythgoe stated that he is all for the meeting, as long as Ben is okay with it. He will let Commissioner Weber or Notbohm talk with Matt. Commissioner Notbohm stated that he would like Matt to talk to the developer and ask that he agree to do things the County's way. Commissioner Lythgoe stated that he is not comfortable with that; they can meet and make a recommendation, and the developer can deal with it how he deals with it. Commissioner Weber stated that he will talk with Ben.

Credit Card - Bonnie stated that she has had Leslie searching all afternoon, and it doesn't matter who they look at, everyone requires one person's social security number. And, that person is responsible for any unpaid balance. Commissioner Lythgoe made a call, then suggested that Bonnie check with his credit union. Bonnie stated that she will contact them.

Memo request - Kellie stated that Bonnie has asked her to get a letter from the Commission indicating that the new matrix will be implemented on July 1. She also needs to know what the COLA will be for department heads, as well as several employees who are not in a union, and not a department head or elected official. This is usually dealt with in the me-too clause of the union contracts.

CORRESPONDENCE

Commissioner Notbohm stated that the Commission has received a letter from Ben stating that the Solid Waste department will no longer pay the Central Shop \$700/month, but will instead pay for services rendered. Commissioner Notbohm noted that it is budget time, and the Commission needs to make sure that the Central Shop stays viable. Commissioner Weber noted that there is no contract between the Central Shop and Solid Waste District, which is part of the issue.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER