

COMMISSIONERS APPROVAL

IMAN 
 CHILCOTT 
 FOSS 
 KANENWISHER 
 STOLTZ 
 PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, Commissioner Matt Kanenwisher and Commissioner Ron Stoltz

Date.....June 23, 2011

► Minutes: Beth Perkins

► The Board met with Civil Counsel Karen Mahar regarding procedures for county boards at 9:00 a.m. Present were Civil Counsel Geoff Mahar, Civil Counsel Dan Browder, Human Resource Director Robert Jenni, Environmental Health Director Lea Guthrie, Planning Administrator Terry Nelson, Planner Tristan Riddell, Clerk & Recorder Regina Plettenberg, Park Board members Gary Leese, William Delaney, John Conlan, Lee Tickell, Maggie Wright, Bill LaCroix, Pam Erickson and Ravalli Republic Reporter Whitney Bermes.

Civil Counsel Karen Mahar presented the Board with an agenda. Commissioner Iman requested any conflicts of interest be disclosed. Hearing none, he then requested the County Attorney staff report be read.

Civil Counsel Dan Browder discussed the County board statutes MCA 7-1-201 through 203 (See Attached). Civil Counsel Karen Mahar discussed board differences such as statutory and appointed versus elected. She also reviewed the 2009 legislation change for special districts. Discussion followed regarding which statutes the County Park Board is operating under. The Park Board is an older board operating under the old statutes until they are re-assessed and then they would be under the new 2009 statutes. Karen noted if there is a big turnover on a board that would be a good time to have training. She also discussed board ability to independently hire. Generally, all contracts are approved by the Commissioners. The Health Officer is a good example of how a Board can select but that individual is a county employee with final decision by the Commissioners. Civil Counsel Dan Browder discussed ex-officio members. Ex-officio does not mean non-voting. The member should be identified as non-voting or voting. It is the Commissioners' responsibility that boards understand the open meeting laws and post public notices for the public to be able to attend. Specifically, a board cannot create a subcommittee to avoid public participation.

Karen reviewed quasi-judicial boards and ex parte communication with the Board (See Attached). Discussion followed regarding the disclosure of ex parte communication. Board

members are officers and are subject to the code of ethics. Other items discussed were conflicts and removal.

Commissioner Iman opened public comment.

Lee Tickell asked if the County Attorney is available to a board member for a possible conflict of interest. Karen replied generally, the County Attorney's Office does not advise a member however, it depends on the conflict and there are ethical rules.

Regina Plettenberg asked about the process for contacting the County Attorney's Office for board members. Commissioner Kanenwisher replied there is a policy that is being developed on for prioritization of requests.

Pam Erickson asked about quorums. Karen replied notice is required for an open public meeting and there needs to be a quorum present.

Commissioner Iman closed public comment. He requested any public comment on items not on the agenda. Hearing none, he then adjourned the meeting.

► The Board met to interview TBID Board of Trustees applicant Inge Peterson at 10:15 a.m.

► The Board met for discussion regarding the Stevensville Airport with Ron McCann at 10:30 a.m. Ron McCann presented the Board with a request for funds to continue to operate and maintain the Stevensville Airport. In the past the Airport has operated yearly with \$20,000 and approximately \$16-\$18,000 in expenses. Lease income has gone towards debt service. There are two cds to be used towards the maintenance of the runway within FAA compliance. The request included a part-time Airport Manager with the possibility of having the Ravalli County Airport Manager do both airports. The Stevensville Airport is FAA compliant and in a good location.

Jim Johnson stated owners pay taxes on the hangars but are not receiving anything back for those taxes. Commissioner Kanenwisher replied those taxes go to operate the County such as law enforcement and road infrastructure. Jim stated this is the only airport in the State of Montana that does not receive any kind of monetary assistance from the County. Commissioner Kanenwisher replied the County does not own this airport. Commissioner Foss requested a financial plan prior to making any kind of decision. She clarified the limited funds available for the County. Commissioner Iman stated the bottom line is the County does not own the airport. The items to be investigated are how the airport can come back to the County, under what circumstances, and how to proceed. The Board concurred to have these items prior to making any decisions.

► The Board met for discussion and possible decision on MOU with City of Hamilton regarding funding for the DUI processing facility at 11:20 a.m. Present were Civil Counsel Karen Mahar, Undersheriff Perry Johnson, and Administrative Assistant Glenda Wiles.

The MOU has been reviewed by both the County Attorney's Office and the City of Hamilton. Approval was recommended with two changes in paragraph 2 to "screen, access, and refer" and paragraph 4A "and screening of individual who came in contact with officers under the influence of drugs". Undersheriff Perry Johnson suggested adding language that the County will continue to operate and maintain the facility as long as it is the main processing facility in the County.

Karen suggested adding the language of “until a comparable facility is provided for this purpose”. The Board concurred.

Commissioner Chilcott made a motion to approve the MOU between the County and the City of Hamilton for the purpose of the Intoxilizer Room as amended here today. Commissioner Kanenwisher seconded the motion and all voted “aye”. (5-0)

Ravalli County Attorney

205 Bedford Street, Suite C ♦ Hamilton, MT 59840 ♦ (406) 375-6750 ♦ Fax (406) 375-6731

6/23

County Attorney:

Bill Fulbright

Deputy Attorneys:

John Bell
Daniel Browder
Karen Mahar
T. Geoffrey Mahar
Angela Wetzsteon

Agenda for BCC meeting on procedures for county boards

June 23, 2011, 9:00 am

Commissioners Meeting Room

- 1) Open Meeting
- 2) Description of topics to be discussed (Karen)
- 3) Disclosure of conflicts of interest
- 4) Attorney Staff Report:
 - County board statutes 7-1-201 through -203 (Dan)
 - Board differences (statutory; appointed v. elected; rural districts; special districts; independent authority; budgetary approval) (Karen)
 - Ex officio members, nepotism, conflicts, removal (Dan)
 - Quasi-judicial boards & ex parte communication (Karen)
 - Parliamentary procedure, resolution, by-laws (Karen)
 - Open meeting law applicability (Dan)
- 5) Public Comment
- 6) BCC review of any written comment submitted
- 7) BCC discussion & questions
- 8) Public Comment on Items Not on Agenda
- 9) Adjournment



Part 2

Boards

7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, Title 7, chapter 11, part 10, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

- (a) the number of board, district, or commission members;
- (b) the terms of the members;
- (c) whether members are entitled to mileage, per diem, expenses, and salary; and
- (d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, district, or commission may be assigned responsibility for a department or service district.

(b) An administrative board, district, or commission may:

(i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law;

(ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, district, or commission must grant the board, district, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, district, or commission may employ personnel to assist in its functions.

(3) (a) Administrative boards, districts, and commissions may be made elective.

(b) If an administrative board is made elective and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. A position for which there were no nominees must be filled by appointment by the county commissioners for the same term as if the position were filled by election. If there is only one nominee for a position, the nominee may be declared elected by acclamation.

(4) Administrative boards, districts, and commissions may not sue or be sued independently of the local government unless authorized by state law.

(5) Members must be appointed by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy.

(6) The county commissioners shall maintain a register of appointments, including:

(a) the name of the board, district, or commission;

(b) the date of appointment and confirmation, if any is required;

(c) the length of term;

(d) the name and term of the presiding officer and other officers of each administrative board, district, or commission; and

(e) the date, time, and place of regularly scheduled meetings.

(7) Terms of all members, except elected members, may not exceed 4 years. Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(8) An administrative board, district, or commission must consist of a minimum of 3 members and must have an odd number of members.

(9) The resolution creating an administrative board, district, or commission may provide for voting or nonvoting ex officio members.

(10) Two or more local governments may provide for joint boards, districts, or commissions to be established by interlocal agreements.

(11) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting unless the resolution creating the board, district, or commission specifies otherwise.

(12) An administrative board, district, or commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

(13) An administrative board, district, or commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

(14) Unless otherwise provided by law, a person must be a resident of the county to be eligible for appointment to an administrative board, district, or commission. The county commissioners may prescribe by resolution additional qualifications for membership.

(15) A person may be removed from an administrative board, district, or commission for cause by the county commissioners or as provided by resolution.

(16) A resolution creating an administrative board, district, or commission must contain, if applicable, budgeting and accounting requirements for which the board, district, or commission is accountable to the county commissioners.

(17) If a municipality creates a special district in accordance with Title 7, chapter 11, part 10, the governing body of the municipality shall comply with this section if the governing body chooses to have the special district governed by a separate board.

History: En. Sec. 1, Ch. 543, L. 1995; amd. Sec. 1, Ch. 254, L. 1999; amd. Sec. 22, Ch. 286, L. 2009.

Compiler's Comments:

2009 Amendment: Chapter 286 in (1) in first sentence inserted reference to Title 7, chapter 11, part 10; inserted (17) requiring a municipality to comply with this section if a special district is governed by a separate board; and made minor changes in style. Amendment effective July 1, 2009.

Saving Clause: Section 42, Ch. 286, L. 2009, was a saving clause.

Transition: Section 43, Ch. 286, L. 2009, provided: "(1) Subject to subsection (2), a special district in existence on *(the effective date of this act)* *(effective July 1, 2009)* must comply with the provisions of *(sections 1 through 20)* *(Title 7, ch. 11, part 10)* upon alteration of its boundaries or a change in its amount or method of assessment. If dissolution is proposed for a special district in existence on *(the effective date of this act)* *(effective July 1, 2009)*, the proposal is subject to the provisions of *(section 20)* *(7-11-1029)*."

(2) A special district in existence on *(the effective date of this act)* *(effective July 1, 2009)* is required to comply with the provisions of *(section 10)* *(7-11-1014)* only upon alteration of its boundaries."

1999 Amendment: Chapter 254 inserted language in (3)(b) authorizing cancellation of administrative board election when number of candidates is equal to or less than number of positions, appointment of persons when no nominees for position, and election of person by acclamation when only one nominee; and made minor changes in style. Amendment effective October 1, 1999.

Case Notes:

Standing of Board of Adjustment to Appeal District Court Review of Board Decision: After plaintiffs built an addition on their house, they applied for a zoning variance because the addition violated the subdivision setback requirement. The variance was denied by the defendant board of adjustment, and plaintiffs appealed to District Court for a writ of certiorari. The court granted the variance, and the board appealed. Plaintiffs contended that the board lacked standing because the board was a quasi-judicial body, not an aggrieved party, and because under this section, an administrative board may not sue or be sued independently of the local government unless authorized by state law. The Supreme Court disagreed. The writ of certiorari was directed to the board, and plaintiffs' petition named the board as the opposing party, so the board was a party to the litigation and had standing to appeal. *Arkell v. Middle Cottonwood Bd. of Zoning Adjustment*, 2007 MT 160, 338 M 77, 162 P3d 856 (2007).

Attorney General Opinions:

County Powers Not Inclusive of Legislative Powers -- Closing of County Incinerator Considered Administrative Act Not Subject to Initiative and Referendum: Absent a charter granting self-government powers, a county that exercises only general powers is limited to whatever powers that the Legislature expressly or impliedly grants. Even though the Montana Constitution extends initiative and referendum

authority to voters of local government entities, that power is limited to the local government's legislative authorization. Beyond basic corporate powers exercised by a Board of County Commissioners, a general government county functions through administrative boards, districts, and commissions created under specific statutory authority. In this case, Park County created an administrative refuse district and subsequently closed the county-owned incinerator. The closing of the incinerator was subject to the powers of initiative and referendum only if it was within the county's legislative jurisdiction. However, the incinerator closing was an administrative rather than legislative act and thus was not subject to initiative and referendum. 50 A.G. Op. 8 (2004).

Setting of Compensation for Mosquito Control Board Employees -- Approval Required: A mosquito control board may not set the level of compensation of board employees without the approval of the Board of County Commissioners. 47 A.G. Op. 11 (1998). See also 38 A.G. Op. 35 (1979).

Setting of Compensation for Weed Control Board Employees -- Approval Required: A weed control board may not set the level of compensation of board employees without the approval of the Board of County Commissioners. 47 A.G. Op. 11 (1998). See also 38 A.G. Op. 35 (1979).

7-1-202. Creation of new boards. Subject to 7-1-201 and 7-1-203 and in addition to the following, a county may create administrative boards, districts, and commissions that are not otherwise provided for by law:

- (1) county building commission;
- (2) cemetery districts;
- (3) county fair commission;
- (4) mosquito control board;
- (5) museum board;
- (6) board of park commissioners;
- (7) road district;
- (8) rodent control board;
- (9) solid waste district;
- (10) television district;
- (11) weed management district.

History: En. Sec. 2, Ch. 543, L. 1995; amd. Sec. 10, Ch. 114, L. 2003; amd. Sec. 23, Ch. 286, L. 2009.

Compiler's Comments:

2009 Amendment: Chapter 286 inserted (7) allowing creation of a road district; and made minor changes in style. Amendment effective July 1, 2009.

Saving Clause: Section 42, Ch. 286, L. 2009, was a saving clause.

Transition: Section 43, Ch. 286, L. 2009, provided: "(1) Subject to subsection (2), a special district in existence on *(the effective date of this act)* *(effective July 1, 2009)* must comply with the provisions of *(sections 1 through 20)* *(Title 7, ch. 11, part 10)* upon alteration of its boundaries or a change in its amount or method of assessment. If dissolution is proposed for a special district in existence on *(the effective date of this act)* *(effective July 1, 2009)*, the proposal is subject to the provisions of *(section 20)* *(7-11-1029)*."

(2) A special district in existence on *(the effective date of this act)* *(effective July 1, 2009)* is required to comply with the provisions of *(section 10)* *(7-11-1014)* only upon alteration of its boundaries."

2003 Amendment: Chapter 114 deleted former (1), that read: "(1) Unless otherwise specified by law, the state laws providing for the organization and operation of the following administrative boards, districts, and commissions must be given the status of local ordinances for 1 year following October 1, 1995, and the following boards, districts, and commissions shall continue to function during this period under the respective laws until the boards, districts, or commissions are reorganized by the county commissioners pursuant to the provisions of 7-1-201"; in (10) substituted "weed management district" for "weed control district"; and made minor changes in style. Amendment effective October 1, 2003.

7-1-203. County commissioners to assume duties of administrative boards, districts, and commissions. (1) If the minimum number of qualified persons is not available for membership on an administrative board, district, or commission, the county commissioners may by resolution, at a public meeting, assume the duties of the administrative board, district, or commission and may act as that board, district, or commission with the same powers and duties as that board, district, or commission.

(2) County commissioners, acting in the capacity of an administrative board, district, or commission may not receive any compensation in addition to their compensation as county commissioners.

History: En. Sec. 3, Ch. 543, L. 1995.

2-4-613. Ex parte consultations. Unless required for disposition of ex parte matters authorized by law, the person or persons who are charged with the duty of rendering a decision or to make findings of fact and conclusions of law in a contested case, after issuance of notice of hearing, may not communicate with any party or a party's representative in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate.

History: En. Sec. 14, Ch. 2, Ex. L. 1971; R.C.M. 1947, 82-4214; amd. Sec. 44, Ch. 61, L. 2007.

2-15-102. Definitions. As used in this chapter, the following definitions apply:

.....

(10) "Quasi-judicial function" means an adjudicatory function exercised by an agency, involving the exercise of judgment and discretion in making determinations in controversies. The term includes but is not limited to the functions of:

- (a) interpreting, applying, and enforcing existing rules and laws;
- (b) granting or denying privileges, rights, or benefits;
- (c) issuing, suspending, or revoking licenses, permits, and certificates;
- (d) determining rights and interests of adverse parties;
- (e) evaluating and passing on facts;
- (f) awarding compensation;
- (g) fixing prices;
- (h) ordering action or abatement of action;
- (i) adopting procedural rules;
- (j) holding hearings; and
- (k) any other act necessary to the performance of a quasi-judicial function.

(11) "Quasi-legislative function" generally means making or having the power to make rules or set rates and all other acts connected with or essential to the proper exercise of a quasi-legislative function.

(12) "Unit" means an internal subdivision of an agency, created by law or by administrative action, including a division, bureau, section, or department, and an agency allocated to a department for administrative purposes only by this chapter.

SIGN IN SHEET – COMMISSIONERS MEETING ROOM

****PLEASE PRINT YOUR NAME LEGIBLY****

THANK YOU!

DATE: 6/23/2011

MEETING: Discussion of legalities surrounding
county boards

John Conlan

Pam Erickson

Lori Schellberg

Kayla Clark

CHIP PIGMAN

Beth Perkins

6/28

From: Janet Woodburn [jwoodburn@sapphirehc.org]
Sent: Thursday, June 23, 2011 2:28 PM
To: Ron Stoltz; Greg Chilcott; J.R. Iman; Matt Kanenwisher; Suzy Foss
Cc: Beth Perkins; Klarryse Murphy; rickfuhrman@imt.net
Attachments: May County Report for Submission.xlsx; budget estimates.xlsx

Dear County Commissioners,

Attached please find our final report to the County. I am also attaching a budget estimate for Sapphire Community Health which extends until the end of August, 2011.

I will be in attendance at your meeting on Tuesday June 28, to answer any questions you may have, or please feel free to contact me.

Best wishes,

Janet

Janet Woodburn, M.Ed.
Executive Director
Sapphire Community Health, Inc.
303 North Third Street
Hamilton, MT 59840
406-363-5056

**Sapphire Community Health, Inc.
Ravalli County Utilization Report**

May 2011

Number of Patients:	All Patients	Low Income Uninsured Patients
Patients Served	143	70
Total Patient Visits	202	96
Patient Charges:	\$	\$
Medical Visits	\$ 32,082	\$ 12,571
Procedures	\$ 6,925	\$ 3,939
Laboratory	\$ 12,290	\$ 7,591
Vaccine Administration and Medications	\$ 30	\$ 30
Total Charges	\$ 51,327	\$ 24,131
Patient Responsibility		\$ 539
Current Month Sliding fee adjustment		\$ 23,592
Total Slide adjustment to-date		\$ 80,000

ESTIMATE ONLY ***SUBJECT TO CHANGE***ESTIMATE ONLY

June 22 Proposed Budget Summary

	2011	
	May	June
Estimated beginning cash on hand	\$ 162,848	\$ 146,806
Estimated patient charges	\$ 50,000	\$ 16,000
Estimated write-off	\$ (25,000)	\$ (8,000)
Estimated insurance adjustment	\$ (4,500)	\$ (4,500)
Estimated Total Cash Received	\$ 20,500	\$ 3,500
Estimated Cash Expenses	\$ (36,542)	\$ (50,894)
Estimated net cash increase or (decrease))	\$ (16,042)	\$ (47,394)
Estimated ending cash on hand	\$ 146,806	\$ 99,412

Phil on vacation for 2 weeks in June - reduced income by 50%

ESTIMATED Cash Balance including SHUT DOWN COSTS	
Total cash available as of June 30	\$ 99,412
Less additional expenses:	
Employee vacation/sick pay out	\$ 17,461
Malpractice tail insurance - 3 years for 2 policies (Sapphire & Dr. Haggerty)	\$ 32,603
Employee severance - one month's pay + benefits	\$ 25,955
July shut down expenses	\$ 16,527
August 1 - 15 expenses	\$ 3,000
Total additional expenses	\$ 95,545
Net cash on hand	\$ 3,867

Doesn't include contract termination fees or legal fees.

	May	May Actual	June	June Revised	July	August 1 - 15
60000 · Advertising and Promotion		158				
60300 · -Audit Services	500	500			4500	
60350 · Bad Debt Expense		1910		1500		1000
60400 · Bank Service Charges	40	40	40	40	40	40
61000 · Business Licenses and Permits						
61100 · Board Expense	0	37	0		0	
61700 · Computer and Internet Expenses	1073	928	1073	2617	1073	
62000 · Continuing Education		1028	1200	1200		
62400 · Depreciation Expense						
62500 · Dues and Subscriptions						
63300 · Insurance Expense				2907		
63500 · Janitorial Expense	250	370	250	362	250	
63600 · Laboratory Fees	1250	1147	1250	2397	1250	
63625 · Legal Expense	0		0		0	
63650 · Licenses and Fees	0		0		0	
64900 · Office Supplies	50	39	50	0	100	
64920 · Medical Supplies	500	559	500	223		
64950 · Office Furniture Expense						
66000 · Payroll Expenses	20599	18548	23386	27591	1860	400
66200 · Payroll Fringe & taxes	5356	7879	5760	5010	280	60
66500 · Postage and Delivery	60	36	60	110	60	
66600 · Printing and Reproduction	0		0		500	
66700 · Professional Services	2500	6093	2500	2500	2500	
67000 · Reference Materials						
67100 · Rent Expense	3000	3000	3000	3000	3000	1500
67200 · Repairs and Maintenance	150	954	150	130		
67300 · Security Expense	73		73		73	
67700 · Small Medical Equipment	0		0		0	
67800 · Staff Meeting Expense	0		0		0	
68100 · Telephone Expense	400	410	400	564	400	
68200 · Transcription Services						
68400 · Travel Expense		57				
68600 · Utilities	641	455	641	718	641	
68700 · Vaccines and Medicines	100	-144	100	25		
Total Expenses	36,542	44,004	40,433	50,894	16,527	3,000