November 6, 2014

Commissioner Gartner opened the meeting at 10:00 a.m., with Adam Gartner and Jim Skillestad present. Also present were, Ric Holden, Matt Rosendale, Shane Eaton, Don Rau, Vern Heinrich, Ed Crockett, Irene Moffett, Dale Evans, Bo Kindopp, Maggie Copeland, Theresa Haynie, Paul Hoplauf, Vicki Viall, Beth Schultz, Michael Bacon, Jason Stuart, Ranger Review Reporter and Shirley Kreiman, Clerk & Recorder.

Hearing on Ordinance #8-Regulating Use of Dawson County Roads, 2nd Reading

Kubesh Family-Written comments submitted. (Exhibit A)

Montana Petroleum Association-Written comments submitted. (Exhibit B)

Matt Rosendale-I am a State Senator as well as a citizen. Did you receive comments from the Petroleum Association? Response, Yes. I want to make several comments. There is a lot of subjectivity in the document. You are leaving a lot of decisions too arbitrary. I am concerned about the financial obligations to defend such cases. I want to make sure that we avoid the conception we are driving away business. I will submit some written comments. There appears to be a lack of definitions, such as what constitutes a heavy load, culverts, (power lines) conduit could be construed. You need a much broader definition section. Again I will submit some written comments for your review.

Ric Holden-I am a farmer and rancher and I also represent the Buffalo Rapids District. I am submitting some proposed amendments. (See Exhibit C). It is difficult to have pieces of an ordinance and put them together into a policy, so I have identified segments.

- Section 1, Right of Way, Too broad of language that does not recognize trails that are roads that exist, fields that come up against trails.
- Section 2, No reference in regards to existing fences vs. new fences. Geographical conditions of the roads that may include cliffs, swamps and irrigation ditches. Considerations need to be made for these conditions. This goes further than I think we want to go. It doesn’t take into consideration grading and mowing of surface. Allow, but dovetail with the fencing.
- Section 4, Encroaching and trenching irrigation pipelines. You need to consider grading and gravity flow, you cannot defy gravity. You need to take in geographical conditions for mailboxes.
- Amendment 7, Definitions for example large heavy loads, normal use, normal weather conditions, normal vs. abnormal. Sections A&B conflict with each other. Violation to use them under adverse conditions and violation when weather is normal, does this mean you can never use them with a large heavy load?
- Section C Part 7-Increased traffic is too broad of a term, there is going to be increased traffic during harvest, what are you trying to control in that circumstance? You need to establish a baseline, which would mean you would have to start measuring traffic. How long would it take just to measure the main arteries? What is adverse?
- Section 4, page 2 Weights during emergency circumstances. You need to be able to lift the restriction for emergency circumstances.
- Part 5-Emergency Vehicles. I’ve suggested language for emergency vehicles, so fire trucks could be exempt for hauling water.
- Irrigation canals and ditches. Note that Bureau of Reclamation rules supersede county rules. Also you may want to note that irrigation landowners are taxed at a higher rate.
- Part 8 Sec A, I’m recommending some amendments. Irrigation drainage, new uses would have to be approved. They were mapped in 1940. (Project was certified in 1940) I’m sure more roads and bridges have been approved since then. The back slope is too rigid, we need some flexibility. Sec D, intentionally negligent, add “with cause”. A farmer may intentionally block the ditch because of a turnout into a field. With cause as it may be done with a purpose. Strike out 8E, issue of land owners & Buffalo Rapids Project, this doesn’t fit in your section. 8F, Right of Way, this needs to be done in cooperation with Road Supervisor. Sometimes a road grader will push dirt and plug a culvert, I know it is not your intention to issue violations of something that is out of their control. Section 8G is redundant. If you revise 8D then remove 8G.
Section 9 Violations. There should be 3 basic elements, 1) Notification, 2) Enforcement, 3) Appeal. There is no clear flow. $100-$500 fine and possible jail time. No tiers first offense, 2nd offense. Someone could get thrown in jail for tearing up a cattle guard. I would suggest removing jail time. Most importantly add Section C an appeal process. 1 simple addition should do away with a lot of legal problems.

Bob Kindopp-I'm with Lower Yellowstone Electric Coop and I'm also speaking on behalf of other coops represented. Some of the previous suggestions also address our concerns and we can also submit our comments in writing. Our concerns are with the Utilities. Definitions are needed. Forms of encroachments- All work contemplated must meet standards (Satisfaction of the Road Sup.) Standards are various. The Road Supervisor would not be able to dictate some of the standards we need to adhere to. Definitions would need to be applicable. Backfill. Form of encroachment is also overhead crossing, more definition of what makes an encroachment especially in regards to utilities. Resurface encroachment, the way it is written is a method of interpretation. Part 4 encroachment permits, needs more definition. Improper installation on improper Right of Way with (liable?) injuries or loss of wages. Current crossing may not all be permitted. There is nothing in regards to anything existing. Existing from what point forward? County will attach notice. Concerning a state highway move, if we have existing lines in the row they pay 75% of the move and relocation off of right of way, they pay 100%. We need a definition of existing. On the Co-ops behalf, if we are financially obligated, then this reflects on their members. Fees are not defined, what are the applicable fees? They have a designated fee and have been redefined in Mackenzie County. (What exemptions have they done?) There is a difference for electric lines. Electric utilities are away from other utilities. There the townships have more local control than the county. When you own a section line and the section line is in the middle of the county road, 1 sheet crossing permit, there is no fee in place. 1 major problem is #4 encroachment permit, which may be revoked for any reason. A change to include existing lines, this should be omitted. To revoke without notice as construed by a road Supervisor is too broad sweeping. (Note that this is in regards to a violation)

Bill Evans-Golden West. I just wanted to note that we have to build to electrical standards. When we get approval, a consideration needs to be discussed. What we are held to for utility inspections. We understand this is a work in progress and what we would like is to be able to have a statewide attorney review this and submit suggested revisions.

Commissioner Gartner-We have also received comments from Dave Gult with the Petroleum Association and we will be reviewing their comments. Exhibit B. We also have written comments from the Kubesh family, Exhibit A.

Paul Hopfauf-Representing MDU. I will email you my comments as well. I will highlight 6 key points.

1. In Section 4B incorporate existing infrastructure.
2. Emergency Repairs, 24 hours notice, we try to make notice, but there may be times when repairs need to be made in a timely manner and would suggest you include language for except in a case of emergency.
3. Burial depth. Consider 30” gas lines. If we start at 48” fiber optics sharing fox trenching gets very expensive. We need to ensure public safety.
4. Trenching. A bullet on encroachments made, we struck it out. Also on backfill with gravel. Gravel is very abrasive and for proper backfill sand should be allowed.
5. Calendar days for notice. 14 days might not be enough to engineer a change, so I would ask for more time.
6. Revocation of permits, if less reasonable people are involved, we need a better definition. With rights of cure.

Michael Bacon-Since my name was mentioned as drafting this ordinance, I just wanted to note that I did not draft this alone.

Commissioner Gartner-That is correct, it was a collaborative effort between the road department, the commissioners and the county attorney.

Shane Eaton- What notification was there of this meeting? I think it would be wise to make some phone calls, talk to reporters and get the information out there. It is a disservice to
taxpayers otherwise. Ordinance #8 replaces Ordinance #4. I would like to see a copy of Ord #4 and see what and why we are changing it. I will submit my comments in writing. (Exhibit D)

- Proper maintenance, what is the definition of that? Does the county know the conditions of the roads and the current widths of the roads? We need an inventory on the roads out there you are starting from….which roads currently have violations. Do you have a sense of how many miles? How many do we have to clean up, this could have an effect on taxpayers.
- Exemption, what does it cost to get an exemption? Is there a permit or how do we get exempted?
- FAS roads, are there exceptions for those roads?
- What is your position on buildings in the right of way? Are you going to make them move? It is not clearly defined.
- Restore to original condition, What is the definition of original condition? How can the county restore the road, if they can’t keep up with maintenance?
- Economic consequences of not farming up to the road, it doesn’t make sense not to farm productive land, What is the burden on anyone farming the Right of Way? You need to remove this part.
- Encroachment permit, What is the cost? What roads are in violation?
- The term fence, loosely defined. There is no definition, or what is not (a fence) Part 6 I don’t know how they can remove a fence if they can’t keep up with mowing. You are opening yourselves up for lawsuits. Part C. What does the County assume liability for? Are you going to post signs on all trees in the right of way?
- Part D, “may appear” term. Fences abutting cattle guards, Who is liable? This will come up. Is there an inventory? Bridges, do we have an inventory from the date implemented of the conditions of bridges. Is there a depreciation schedule on roads and bridges? Are you limiting traffic as some may not be safe. Part B-Will the county assume liability if there is a legal road? There are no signs or guard rails on roads. You need to write in, when the County will take liability.
- Cattle guards-Is there a cost to remove them?
- Mail Boxes-What is the violation if they don’t conform? What authority does the county have to dictate mailbox placement? Define, how far is off of road. What liability are they recusing themselves from? An employee hitting a mailbox?
- Definition for normal wear and tear term. I don’t think it should be up to a non elected position.
- Road closed-How long will it be closed? Closed until fixed? Or closed until it is returned to original condition? Or closed until the rain quits or the mud dries up? What is the violation for driving on a closed road?
- Heavy truck traffic-There are times when we are going to use the roads heavily. You need to work on communication and talk to business entities.
- “Any person utilizing Right of Way” This is vague. Normal standards. What is normal standard? Using a horse and buggy? Traffic needs to be documented. Normal is not historic use. We don’t want to go down that road.
- 10 days to respond to cure or correct. This is too short of a turn around. Late fees? Why do we charge late fees if you pay a violation? I don’t think we need late fees.
- Fined and put in jail. I read this as both will be imposed. Imprisonment should not be a consequence. If you get put in jail for a plugged culvert, the jails will get pretty full. If an entity is involved, who will be doing the jail time?
- 2nd and 3rd violations-I don’t know that we need a tiered system. The ordinance is too overreaching and too vague. It puts too much power in the hands of the County. I want to see Ordinance #4 and the Road budget and what angle we need to take. Are there any violations of fences? The towns of Bloomfield and Lindsay need to be held to the same standard. We may see the Keystone Pipeline and Dawson County could be the next obstruction to it. We don’t need that kind of publicity. We need some communication with businesses. Fines and permits are not the road we want to go down. You have said you are going to revise this, what is the time-line? (Summation of comments received via email later, - Exhibit D)

Commissioner Gartner-We are not sure of the timeline. We’re not sure if we are going to just make revisions or start all over.
Shane Eaton-You need to take some boxed ads.

From Audience? - What was the commissioners intent with this?

Commissioner Gartner - To address the impacts we are receiving on certain roads for oil impacts.

Prior Meeting Minutes:
A motion was made to accept and approve minutes for October 21, 2014. The motion was seconded. All voted in favor. Motion carried.

Administrative Items:
Approved Travel Requests:
- Trish Olson, to attend Montana Prematurity Summit in Billings on November 13th.

Capital Outlay approved: The Commissioners approved a Correction Facility Lease of 25 Workstation Computers, $775.00 Monthly for 36 months, total of $24,871.00 on October 23, 2014.

Gravel Pit Agreement - An agreement was made between Dawson County and Jim Nagle in regards to an opencut mining gravel pit on Section 22 of Township 17N Range 50E. ($3.00 per ton for gravel and gravel 1 mile of road) The agreement was signed on October 22, 2014.

Old Business:
MT Association of Oil, Gas & Coal Counties Request - A request was received for a contribution for litigation support. The item was tabled.

New Business:
Comments prior to new business:

Maggie Copeland - I understand the commissioners are not considering selling Newport Square over a title issue. I represent a group of neighboring residents and we have approached the city to request the property be transferred back to the city and consider it be taken as a park. The City has indicated they would consider the possibility. We are asking that if the county does take possession of the property that you would consider deeding it over to the city for the benefit of the public.

Sale of Newport Square - The Commissioners stated that they had a title search done and the last owner of record was Paul Worthington who obtained the property in 1946.

September Payroll - The board of Commissioners certified the payroll warrants register total and the Invoice Journal total for the month of September 2014 and noted they were in agreement.

Release of Easement and Access Road - The Richey TV District had an easement and access to the tower site in Richey. The District was dissolved by Resolution 2012-15 by the Dawson County Board of Commissioners. Ira Zuroff and Wanda Zuroff are now the current owners of said property. The building has now been removed and there is no longer a need for the easement. (T22, R52E, Section 21, a tract of land 100 feet by 100 feet used for tower and translator, Beginning at the Southeast corner of the Southwest Quarter of the Northwest Quarter of Section 21, Township 22 North, Range 52 East, MPM; thence North 225 feet, more or less, to the tract of land mentioned above. Also, an access road, beginning at a point on the County Road, being 197 feet North of the corporate limits of the Town of Richey, Montana, thence going in a northeasterly direction six-tenths (.6) miles, more or less, to the site) A motion was made to Release of Easement and Access Road. The motion was seconded. All voted in favor. Motion carried.

Easement Mid-Rivers - A motion was made to approve the public utilities encroachment application and permit submitted by Mid Rivers Communications for a bore/Case Crossing on County Road 422, Section 12 &13 T19N R50E.
Green Valley Campground Sewer Fees-The Commissioners met with Marvin Tweet this week. He will not allow them to put a meter on his pump. He pumps liquid from septic tanks down to the lagoon. Since he is connected to the MSSD #1 with his system, he needs to be assessed. Since he won’t allow a meter, the commissioner discussed that they would like to send him a letter of intent and advice him that if does not allow a meter they will have to shut it off. A motion was made to send a letter regarding the issue. The motion was seconded. Shane Eaton asked how much time he had to comply. Do you have a timeline? Commissioner Gartner stated that they would determine that later.

Highland Park, Community Garden-The commissioners received a complaint that the load of manure on the community garden was too close to the well and in violation. County Planner, Dianna Broadie stated that the park is Residential Zoning and Community Gardens are allowed. Composted Manure is a use that would be normal to parks. There are 2 factors. 1, if they do it, it does have to be open to the entire community. They have resolved the well head issue. Randy Hansen is willing to push the manure off and replace it with topsoil. She saw no issues with zoning as long as it is open to the public. There is a possibility there will be a petition from the public and the zoning committee may need to review the matter.

Letter to Governor and MT Legislators in regards to Eastern MT financial needs for infrastructure, public health & safety, transportation and other issues-The commissioners stated that Jason Rittal had drafted a letter on behalf of the Eastern Plains Economic Development Committee to the Governor outlying the number of infrastructure projects already going on in eastern Montana and a request for assistance. A motion was made to approve signing the letter on behalf of Dawson County. The motion was seconded. All voted in favor. Motion carried.

Road Report
Joe Sharbono stated that they hoped to finish with Road 467 today. They have 3 guys on mowers and they hope to finish next week.

Irene Moffett stated that she had concerns about Road 437, a road where waste is being delivered to Oakland Disposal. Trucks are getting stuck on roads in the 1st mile. A request for gravel. The 1st mile use to be 26 ft wide and the operator narrowed the road to 20-22 feet. My daughter drives that road every day. She saw a semi coming. There are 40 trucks going by there. She was driving slow and easy but was on the narrow stretch. The semi pulled over as far as he could but it was on a sharp hill and she had to take the ditch. This was probably the only place she could have done it without rolling the vehicle. Are you going to do something about the road? There is a lot of heavy traffic on them and somebody is going to get killed. The commissioners will go look at it. Joe Sharbono stated that as far as his list of priorities he felt there were other areas worse than that one. Comparatively to all of the roads I travel, it is a good road.

Travel Authorization-A motion was made to approve travel requests for:

Road Report;

Correspondence/Information:

- List of available state agricultural and grazing leases, bidding is open from December 15 through January 28, 2014. List is available on our webpage, bulletin board, and bid packet available at http://www.dnrc.mt.gov/trust/agm/leaseavailability.asp.
- Notice from Dawson County High School of Budget Amendment $72,816.30 for unanticipated enrollment.
- Treasurer’s cash report for Quarter ended September 2014
- Copy of letter sent from the Dawson County Domestic Violence Program to Department of Justice regarding Victim/Witness Surcharge Funds
Public Comment:
Shane Eaton- In regards to the administrative item on your agenda regarding the gravel pit agreement. What is the estimated weight per truck load or how are you charging? Response- The trucks are weighed empty and they estimate the tons per truck load. Regarding the letter from the EPEDC. Mr. Gartner are you recusing yourself from voting on matters? I read something in the paper awhile back, isn’t there a conflict of interest? Response- all of the board members are county or city officials, so no, I don’t recuse myself. Is it typical for you to have the Road report on all of your agendas, and not all other departments? Response- Yes, as most of our complaints come concerning roads, so we try to publicly address them. If the roads are the biggest problem, couldn’t the county hire more employees to address the road conditions? The commissioners have seen a 35% pay raise in the last 10 years. Couldn’t you use that money for road employees? Shouldn’t you look at having a committee for compensation who would review this? Or do like they do in Prairie County and commissioners are paid by the hours they actually work or on a daily basis? I understand that when you are all together you have to follow open meeting laws and you have inability to act without violating them. Wouldn’t the taxpayers be better served having a committee looking at the commissioner salary as it seems excessive? Excessive to have 3 individuals managing the department.

Irene Moffett- I also wanted to say that we have a bad hill out in our country and they did a beautiful job with the Furrell Hill.

The meeting adjourned at 12: 30 p.m.

DATED this 6th day of November, 2014.

________________________________________
Adam J. Gartner, Chairman

________________________________________
Douglas A. Buxbaum, Member

________________________________________
James A. Skillestad, Member

ATTEST: ________________________________
Shirley A. Kreiman, Clerk & Recorder
October 30, 2014

PUBLIC COMMENT regarding replacement of Ordinance #4 with Ordinance #3.

1. In Ordinance #6, road supervisor, or his designee is given too much power in definition of "normal wear and tear" and other definitions regarding road conditions. Road supervisor or designee should not have final say. Instead there should be a board made up partially by those affected, not one person.

2. Should be more restriction as to proximity of road to homes and operating structures of current establishments located on county roads. If home or structures are located closer than 100 feet the trucks should not be allowed to transport.

3. Should be more concerns regarding human and animal safety hazards caused by heavy truck traffic carrying oil and gas waste.

4. Rules for transport of Oil and Gas waste should not be the same as for normal agriculture farming operations.

Kubesh Family
140 RD 454
Glenkive, Montana 59330
DAWSON COUNTY BOARD OF COUNTY COMMISSIONERS
COUNTY OF DAWSON
GLENDIVE MT – November 2014

That seems to me to put quite a bit of responsibility on both the Commissioner and the Road Supervisor and create the opportunity to make an arbitrary decision when the engineering data suggests a bridge or a road is to be built.

Also, it appears there is no notice provision for a posting. The State gives advance notice of a road limit so long distance transportation can make alternative arrangements. I think this would also be a necessary part of the public.

Some advance notice should be given.

Section 9. Encroachment. Does the Commission review all encroachments permits correctly? It seems like the requirement for Commission approval would be quite a bit of extra work and create the possibility of dealing with the permit process.

In the last few bullets there is one that seems excessive. Third bullet from the bottom under the encroachment permits may be needed for any reason is astonishing. I am not aware of the extent that MVBA members use the county road right of way for gathering or pipeline information, but I would imagine that communications and electrical providers most likely place a utility line within the county right of way. Being able to revoke that permit for excessive or a serious problem and careful in making the revocation. The fifth bullet from the bottom deals with a permit holder with a breaching permit, so there is obviously an encroachment permit in the county where the permittee was issued only very long ago. I would ask you give serious consideration to revocation for no reason.

I am understanding that there are multiple utilities in the county road right of way, including telecommunications, pipeline, and electric service lines. It might prove worthwhile for the owners of these utilities to give you some feedback on the requirements of the ordinance, particularly in this section. I have sent copies of this to MVBA members, but they are small owners that should probably hear this after our comment.

Section 7: Damages to County Roads, Bridges, and Cable Guards

Section A: Problematic in several aspects. Current law requires that any large equipment that exceeds statutory weight limits is required to have an overweight permit. MVBA issues these permits, and the County has agreed to the issue. Bridges on the route of a overweight permit are analyzed at no cost before the permit is issued because the bridge can handle the permitted weight. Reducible loads, the gravel, water, agricultural products, etc. are not allowed to exceed statutory weight, even with permits. So, any weight over and above the statutory weight is currently illegal and subject to a variety of penalties. Section A gets very ambiguous in this area.

a) The addition of "includes increased truck traffic" as designing the road. This would imply that any increase in weight to the road would be in violation of this section. Any well developments, gravel removal, agricultural operation, a highway maintenance project, or a variety of others could fall under this section.

b) Further, defining the conditions that affect county roads to include rain, snow and heat essentially means all the time.

From the Desk of former State Senator Ric Holland

Pete Redwine

For immediate release

Road Ordinance No. 8

Local Dawson County numbers, Ric Holland, appeared before the Dawson County Commissioners to testify on newly drafted county road regulations. The commissioners have opened up the road review process to the public for feedback. A public hearing was held Thursday to the one that originally commented on the road review ordinance during Ordinance Number Eight.

Holland expressed some concerns with the proposed rules. For proposed rules would make a broad and sweeping declaration that the state of the road condition will determine if a bridge or road is to be built.

In addition, Holland commented that any encroachment changes must affect future development and that new sewer lines must be no further than 15 feet.

Road safety permitting requirements within the ordinance can be reviewed to ensure that the road is not where the county is to be pulled up and moved to balance the road.

Holland pointed out that the number of fees have been reduced from the current fees and some people are not even aware of the county fees. He also pointed out that the most recent meeting may not be the best time to look at the current fees, but the current fees may be the most up-to-date.

"The new rules concerning the number of fees increase the cost of the fees and the cost of the fees is not reflected in the current fees. Holland pointed out that these fees amount to a fee that is raised and not the fees that are raised for the fees are raised.

From the Desk of former State Senator Ric Holland

Pete Redwine

For immediate release

Road Ordinance No. 8

Local Dawson County numbers, Ric Holland, appeared before the Dawson County Commissioners to testify on newly drafted county road regulations. The commissioners have opened up the road review process to the public for feedback. A public hearing was held Thursday to the one that originally commented on the road review ordinance during Ordinance Number Eight.

Holland expressed some concerns with the proposed rules. For proposed rules would make a broad and sweeping declaration that the state of the road condition will determine if a bridge or road is to be built.

In addition, Holland commented that any encroachment changes must affect future development and that new sewer lines must be no further than 15 feet.

Road safety permitting requirements within the ordinance can be reviewed to ensure that the road is not where the county is to be pulled up and moved to balance the road.

Holland pointed out that the number of fees have been reduced from the current fees and some people are not even aware of the county fees. He also pointed out that the most recent meeting may not be the best time to look at the current fees, but the current fees may be the most up-to-date. Holland pointed out that these fees amount to a fee that is raised and not the fees that are raised for the fees are raised.
Amendments proposed by Bi Holden

Proposed Ordinance No. 8 Regulating the Use of Dawson County Roads

1. County Right of Way
   A. The maximum right of way on all Dawson County roads is 30 feet
       beginning from the midpoint of the road extending 15 feet on both sides of the road,
       unless the Dawson County Board of County Commissioners determines
       that the roadway shall be widened.
   B. No lease or permit for the construction of any structure or building shall be
       granted on any Dawson County road without the express approval of the
       Dawson County Board of County Commissioners.

2. Notice
   A. No notice shall be required prior to the construction of any structure or building
       on a Dawson County road.

3. Procedure
   A. The Dawson County Board of County Commissioners shall be notified
       of any proposed construction within 30 days of the date of the proposal.

4. Enforcement
   A. The Dawson County Board of County Commissioners shall have the
       authority to require the removal of any structure or building that
       is not in compliance with the provisions of this ordinance.

5. Damages
   A. Any damages suffered as a result of the construction of any structure or building
       on a Dawson County road shall be assessed to the party responsible for the
       construction.

6. Appeal
   A. Any appeal of a decision made by the Dawson County Board of County Commissioners
       shall be made to the Dawson County Board of County Commissioners.

Page 1

7. Damage to County Roads
   A. Any person or entity who violates this ordinance shall be liable for all costs and damages
       incurred.

8. Enforcement
   A. Any violation of this ordinance shall be enforced by the Dawson County Board of County Commissioners.

9. Severability
   A. If any part of this ordinance is declared invalid, the remaining parts shall remain in effect.

10. Effective Date
    A. This ordinance shall take effect upon publication.

Page 2
2001 Montana Legislature

About Bill - Links

SENATE BILL NO. 300

INTRODUCED BY R. HOLDEN

AN ACT ALLOWING THE GOVERNOR TO ISSUE AN EXECUTIVE ORDER TO EXEMPT VEHICLES FROM SIZE AND WEIGHT LIMITS UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Governor's authority to exempt vehicles from size and weight limits. (1) The governor may, through executive order, exempt vehicles from the size and weight limits imposed under this part:

(a) upon a request of the director of the department of transportation and any other agency involved in the need to move oversized or overweight vehicles on the highway during emergency circumstances;

(b) for a specified, limited period of time; and

(c) during emergency circumstances and to ensure unusual conditions to ensure the general welfare of the public.

(2) The agency director who requests the executive order may specify the areas in which the exemption is in effect, the duration of the exemption, the types of vehicles to be exempted, and any other appropriate conditions of the order.

(3) For the purposes of this section, "emergency circumstances" means conditions brought about by a weather event or a natural or other occurrence for which the movement of vehicles that may exceed size and weight limits is necessary for responding to the event or occurrence or for moving supplies, agricultural or other products, or equipment in a manner that is necessary because of the event or occurrence.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 16, part 1, and the provisions of Title 61, chapter 16, part 1, apply to [section 1].

END

Latest Version of SB 300 (SB300.ENR)


10/28/2014
DAWSON COUNTY BOARD OF COUNTY COMMISSIONERS
COUNTY OF DAWSON
GLENDIVE MT – November 2014

Ordinance #8 Testimony

1. What is the definition of proper maintenance? What roads are not receiving proper maintenance? What roads have specific issues that are “barring” from proper maintenance?

2. What is the cost to get an exception from the county in the event a right of way is less than 60 feet or more than 100 feet? Can an owner of an exception be made on a 58 foot county road? It appears that there is no mention of current right away agreements being grandfathered in.

3. What is the county’s position on buildings, trees, utility poles, and other private assets that are located in the right of way? Will the structure have to be moved, and who is liable if the structure is not moved?

4. What is the definition of “original condition”? What is the width of the road supposed to be, width of the shoulder, width of borrow pit, depth of borrow pit, what is amount of gravel supposed to be, and what is the proper vegetation in the borrow pit? If county is short of labor how can it find time to restore county right of way? Which roads are currently in violation of the proposed ordinance? What are the economic development consequences from not farming or grasing the right of way? Who in the county is burdened from farming the right of way and who is obstructing the peace from farming the right of way? Doesn’t the county benefit from the farming of the right of way since the farming controls the weeds and saves the county from spending money on weed control, if the county had the money to control the weeds?

5. What does the “Enforcement Application & Permit” cost and how often does it need to be renewed? What roads are currently in violation of the proposed ordinance? Who is in the county is burdened from a fence in the right of way, and who is obstructing the peace? What is the economic benefit of granting the right of way? What is the definition of a fence?

6. Again, how can the county have time to restore the right of way is short of labor currently? The term “may” is a term that will open the county up to lawsuits since it is a non-binding term.

7. Does the county assume liability for trees, weeds, and other hazards in the county right of way? Will the county post such hazards to make public aware of them?

8. The term “may” appears again, and how can the county find time to remove fences? What about fences abutting a cattle guard? Is a permit needed for that fence? Who is liable for the fence that is in the right of way?

9. What is current condition of bridges and culverts – such as age, quality, depreciation schedule, current load limit, replacement time line, width, and protective siding?

10. Does the county assume liability on bridges and culverts and a legal road has an accident due to the poor condition of the bridge/culvert?

11. Is any cost assigned to the removal of a cattle guard?

12. What is the violation of a mailbox does not conform to US Postal standards? What authority does the county have over mailbox standards? What defines the shoulder and how far is “off of the shoulder of the road” meant? Does the county assume liability for damage to mailboxes caused by the county, or not liability from someone other than the county performing the damage?

13. Why can’t the county define large/heavy loads numerically? What is the definition of “normal wear and tear” and why leave that interpretation up to the uneducated road foreman? What is current condition of roads? Such as width, shoulder width, borrow pit depth and width, gravel condition, and slope? Do not know current condition of road, how can you know when it is being adversely affected? Will a road be closed until it is fixed? What is the violation for driving on a closed road? Will exceptions be made to drive on a closed road?

14. Why not use communication and leadership in these few road issue situations? Are not our fuel and property taxes paying for the use of and maintenance of roads?

15. What is the definition of “normal standard”? Should we all be driving horses and buggies? It surely can’t be historic use. “Normal standard” is really unaffordable.

16. Why only a 10 day period for a violator to respond? Why late fees on a violation? It is not an invoice for work that has been performed.

17. Why does the jail time for an entity? What about an individual who violates the ordinance?

Why only is it a “person” who is found guilty will pay the fine and do jail time? The sentence that describes the fine and jail time makes no sense.
General Comments

Work on situations with leadership and communication. Think outside of the box to solve problems, not more legislation. The Ordinance is overreaching, puts too much power into the hands of the county commissioners and road foreman, vague in definitions, and poorly written. There are too many opportunities for the county to enter into a lawsuit the way it is written. This is an unnecessary angle to try and solve the problem of heavy use. Taxpayers need to have more facts presented as to the need for such severe penalties.

Need an inventory of roads/bridges/culverts. It is pointless to enforce this ordinance without an inventory since we have no idea of current condition of roads today.

What about West Glendive, Lindsay, Roosevelt? 60 feet of right of way? Again, lawsuits are waiting.

What is in Ordinance #6 and why not have it on website to read? We need to know what we are changing from to see if it is necessary to change.

What about holding up Keystone with this ordinance. All the talk of economic development but we are going to punish current business and potentially new ones because of lack of leadership.

Has the Road Department budget grown over the last 30 years as much as other line items in the county budget? Put more focus on the road budget and putting the county assets to work. County should focus on “Road Haul Agreements” to take care of the issues with extensive truck use of county roads for short periods of time.

The ordinance does not mention when the county will be liable for conditions of the roads and right of way. I think the county should list the circumstances in which they will take liability and when they will not notice with signs for hazards in the right of way.

Who owns the county right of way? Do landowners pay taxes to the county or the city? Does the county merely have an easement for road maintenance, and not an easement that gives the county full control of land use within the right of way? Does the county have such power to dictate what a landowner can and cannot do on property that taxes are paid on? Should the county pay landowners for loss of revenue if farming and grazing is diminished? Remember, the county “bought” many of these rights of way with declaration and not compensation. I would suggest the county pay landowners for the easement the county declared before increasing any other budgets other than the road budget.

Thank you and sincerely,

Shane L. Eaton
November 18, 2014

Commissioner Gartner opened the meeting at 5:30 p.m., with Adam Gartner, Doug Buxbaum and Jim Skillestad present. Also present were, Linda Prescott, Jason Stuart, Ranger Review Reporter and Shirley Kreiman, Clerk & Recorder.

Prior Meeting Minutes:
A motion was made to accept and approve minutes for November 6, 2014. The motion was seconded. All voted in favor. Motion carried.

Administrative Items:
Approved Travel Requests:
- Robert Andress to travel to Las Vegas December 7th-11th for an Electronic Evidence Conference
- Kevin Peña to travel to Butte November 16th-22nd for a Haz-Waper 40 hr course.

Green Valley Campground Letter-A letter was sent to Marvin Tweet regarding capping his connection to the Metropolitan Sanitary Sewer District on November 19, 2014.

Old Business:
Ordinance #8-Road Use-No draft revision is available yet.

Sale of Newport Square-This item is being tabled until we can find out what options are available.

Request from MT Assoc of Oil, Gas & Coal Counties-The commissioners agreed they will contact some other counties to see if there is any interest in combing resources for a contribution as requested by the association to fight litigation for the effects on Sagegrouse. Linda Prescott stated that she was aware of some studies done in South Dakota that determined that 70% of the loss of the grouse in that region was due to West Nile Virus.

Airport Lease-Commissioner Buxbaum stated that the Airport Board did not indicate any problems with the rewritten lease. Commissioner Gartner expressed concern in regards to it not addressing livable space and its effects on Craig Hostetler. The other commissioners agreed they should do some research on the matter.

New Business:
Capital Outlay Authorization-A motion was made to approve the request for capital outlay to Weizel Security $4,695.00 and a new DVR and Camera System for $12,076.88 for the correction facility. The motion was seconded. There was some question about budget concerns. Shirley Kreiman stated that Tom Green had stated that the upgrade was needed and thought it was in his budget. All voted in favor. Motion carried.

Sr. Citizen Center-A motion was made to approve the request to close the Sr. Citizen Center on Friday November 28th, the Friday following Thanksgiving. Employees will take personal leave or no pay. The motion was seconded. All voted in favor. Motion carried.

Health Dept./Glendive Medical Center Agreement-A motion was made to approve the agreement between the health department and the Glendive Medical Center for the purpose of providing Registered Dietician Consultation to the WIC program. The motion was seconded. All voted in favor. Motion carried.

October Claims- All claims against the County were audited and approved for the month of October 2014. This list contains all claims against the County including payroll withholdings, deductions and contribution warrants.

<table>
<thead>
<tr>
<th>Check #</th>
<th>Date</th>
<th>Payee</th>
<th>Amount</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>85461</td>
<td>9/30/2014</td>
<td>SUMMIT BEHAVIOR</td>
<td>$0.00</td>
<td>VOID</td>
</tr>
<tr>
<td>85462</td>
<td>10/31/2014</td>
<td>ACTION FOR EASTERN MONTANA</td>
<td>$5,094.00</td>
<td>Printed</td>
</tr>
<tr>
<td>85463</td>
<td>10/31/2014</td>
<td>ADVANCED CHEMICAL SOLUTIONS</td>
<td>$385.50</td>
<td>Printed</td>
</tr>
<tr>
<td>85464</td>
<td>10/31/2014</td>
<td>ADVANTAGE CONSULTING, LLC.</td>
<td>$3,200.00</td>
<td>Printed</td>
</tr>
<tr>
<td>85465</td>
<td>10/31/2014</td>
<td>AHLERS &amp; ASSOCIATES</td>
<td>$350.00</td>
<td>Printed</td>
</tr>
<tr>
<td>Date</td>
<td>Description</td>
<td>Amount</td>
<td>Status</td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------</td>
<td>----------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>MSC INDUSTRIAL SUPPLY COMPANY</td>
<td>$52.02</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>MSU EXTENSION SERVICE</td>
<td>$8,650.02</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>MURPHREE, LAUREEN</td>
<td>$1,076.49</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>NAPA AUTO PARTS</td>
<td>$1,739.65</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>NEW WEST HEALTH SERVICES</td>
<td>$1,150.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>NICHOLS, LINDA</td>
<td>$138.32</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>NORMONT EQUIPMENT</td>
<td>$589.04</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>OFFICE DEPOT, INC.</td>
<td>$164.87</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>OTIS ELEVATOR COMPANY</td>
<td>$94.19</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>PATTERSON OFFICE SUPPLIES</td>
<td>$470.90</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>PEW, HUNTER</td>
<td>$70.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>PFIIZER INC</td>
<td>$2,716.10</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>PRO TECH DIESEL</td>
<td>$692.38</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>PRO-BUILD</td>
<td>$45.40</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RANCH &amp; FARM WHOLESAL</td>
<td>$1,763.50</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RANGER REVIEW</td>
<td>$33.60</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RAYMOND, BRUCE</td>
<td>$349.98</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RCS EXTINGUISHERS SERVI</td>
<td>$210.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RDO EQUIPMENT</td>
<td>$4,891.99</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>REDDIG, JUDY</td>
<td>$31.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>REINHART, BRANDI</td>
<td>$133.69</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>REYNOLDS ELECTRIC</td>
<td>$160.25</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>REYNOLDS MARKET</td>
<td>$759.72</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RICHLAND COUNTY HEALTH DEPT</td>
<td>$3,000.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>ROBINS SERVICE</td>
<td>$765.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>ROBINSON, WENDI</td>
<td>$625.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>ROLLING RUBBER TIRE FACTORY</td>
<td>$74.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>RUNNINGS SUPPLY, INC.</td>
<td>$468.06</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SAFEGUARD BUSINESS SYSTEMS</td>
<td>$192.35</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SCHLEVE, GAYLE</td>
<td>$160.50</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SCHUTZ FOSS ARCHITECTS, PC</td>
<td>$2,637.70</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SELBYS</td>
<td>$52.52</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SEMASS</td>
<td>$0.00</td>
<td>Void</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SIDNEY HEALTH CENTER</td>
<td>$153.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SILHA, LANCE</td>
<td>$154.31</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SILVERNALE SILHA FUNERAL HOME</td>
<td>$2,000.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SKERRITT, MELISSA ANN</td>
<td>$375.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SKILLESTAD, JIM</td>
<td>$6.99</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SLAGSVOLD, KENNY</td>
<td>$150.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SMITH MEDICAL, PARTNERS, LLC</td>
<td>$1,116.01</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SPRINT</td>
<td>$364.30</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>STAATS</td>
<td>$170.63</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>STANDARD SIGNS, INC.</td>
<td>$240.65</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>STATE FARM INSURANCE</td>
<td>$2.55</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>STRADIS MEDICAL, LLC</td>
<td>$591.90</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>STRYKER, MISTY</td>
<td>$60.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>SWARNY, BRUCE</td>
<td>$150.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TAB ELECTRONICS</td>
<td>$981.30</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TASER INTERNATIONAL</td>
<td>$1,361.89</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TERRY TRIBUNE</td>
<td>$36.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>THERACOM, A CAREMARK COMPANY</td>
<td>$938.40</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TIRE-RAMA GLENDIVE</td>
<td>$958.71</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TMT 2, INC.</td>
<td>$270.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TOWN OF RICHEY</td>
<td>$356.03</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TRAIL STAR TRUCK STOP</td>
<td>$8,662.92</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>TRI STATE TRUCK &amp; EQUIPMENT, INC.</td>
<td>$3,102.76</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>U.S. BANK</td>
<td>$2,556.79</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>UNRUH, LES</td>
<td>$0.00</td>
<td>Void</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>US FOODSERVICE, INC.</td>
<td>$2,451.49</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>UTILITIES UNDERGROUND</td>
<td>$339.74</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>VC ROOMS, LLC.</td>
<td>$435.00</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>VERIZON WIRELESS</td>
<td>$620.62</td>
<td>Printed</td>
<td></td>
</tr>
<tr>
<td>10/31/2014</td>
<td>VOGEL, PETER L.</td>
<td>$2,925.00</td>
<td>Printed</td>
<td></td>
</tr>
</tbody>
</table>
West Glendive Fire Department Request - A letter of request was received from the West Glendive Fire Department for an increase in their contract for rural fire control. They stated that they are responding to an increased amount of wrecks and it is putting stress on their West Glendive Fire Department cash and budget. They attached a list of the number of incidents that they respond to outside of the district and city. A motion was made to approve the request for an increase of $20,000 to the contract with the West Glendive Fire Department for rural fire control effective retroactively to July 1, 2014 ($35,000 annually to $55,000 annually). The motion was seconded. All voted in favor. Motion carried.

Transfer of Interest - A motion was made to transfer funds from Interest Clearing fund to cover interest from investments to the appropriate designated funds in the amount of $18,331.56 for the month of October 2014. Motion carried.

Road Report - Joe Sharbono stated that they should finish up the last of the mowing tomorrow. They are currently in the process of winterizing the blades. They have been doing a lot of sanding. They got rid of a lot of brush on Road 467. They did most of the work on Road 303, but they did not quite finish everything they needed to do on the culvert. Joe also stated that he received a phone call from Dan Forbes regarding the Keystone Road Haul Agreement and the proposed ordinance. Joe said he reassured them it should not affect the road haul agreement as it already exceeds the requirements of the proposed ordinance.

Correspondence/Information:
- Budget Amendment Resolution from Dawson County High School for unanticipated enrollment
- Justice of the Peace, Ed Williamson, will be out of the office though Nov 23rd. Stacey Nerison will be covering for him.
- Letter to EPA on proposed rules of the Clean Water Act, they question the definition of navigable.

Public Comment: None
The meeting adjourned at 6:00 p.m.

DATED this 18th day of November, 2014.

Adam J. Gartner, Chairman

Douglas A. Buxbaum, Member

James A. Skillestad, Member

ATTEST: ___________________________________
Shirley A. Kreiman, Clerk & Recorder