

COMMISSIONERS APPROVAL

KANENWISHER 

FOSS

CHILCOTT 

IMAN 

STOLTZ 

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

Date.....January 30, 2012

► Minutes: Glenda Wiles

► The Board met at 8:25 a.m. to address a request for road department personnel to handle traffic flagging/control on a portion of Ricketts Road for private landowner Brian Bauchman. Mr. Bauchman is hiring Tarzan Tree Contractors to trim trees on his private property and along the easement of Ricketts Road. **Commissioner Chilcott made a motion to utilize road department personnel for traffic control along Ricketts Road when the trees are trimmed or cut down. Commissioner Iman seconded the motion and all voted "aye". (5-0)**

► The Board met at 8:30 a.m. for a discussion and decision of road department supervisor and foreman job descriptions. Present at this meeting was Human Resource Director Robert Jenni. Discussion included the operations of the road department which would include road and bridge projects and equipment usage plus administrative issues which would include budgeting, grants and general office management. The Board reviewed two job descriptions brought forth by Robert Jenni making certain amendments and to concur that one position should be an Operations Manager and the second position should be an Administrative Director.

Public Comment: Ren Cleveland stated it is important to have someone with the ability to write a contract for service.

Commissioner Chilcott made a motion to continue this decision until Robert Jenni's update tomorrow at 10:00 a.m. at which time the position descriptions will be amended according to today's discussion. Commissioner Foss seconded the motion and all voted "aye". (5-0)

► The Board met at 9:20 a.m. with Deputy County Attorney Dan Browder to review codification materials. Items of discussion included Chapter 1 (County Government); Chapter 2 (Meetings and Open Government) and Chapter 4 (General Penalty). (See attached). After review with certain amendments, the Board concurred these chapters will be brought forward for decision at the time of codification.

▶ The Board met with Chief Financial Officer Klarryse Murphy at 10:30 a.m. to discuss their goals for the FY2013 budget implementation.

▶ The Board met at 1:30 p.m. to continue the January 9, 2012 discussion of amending the Flood Plain Regulations by Ordinance. Present at this meeting was Flood Plain Administrator Eric Anderson, Planning Administrator Terry Nelson and Deputy County Attorney Dan Browder.

CHAPTER 2

MEETINGS AND OPEN GOVERNMENT

SECTION:

- 2-2-1: Scope and Purpose
- 2-2-2: Specific Agenda to Be Posted
- 2-2-3: Public to Have Comment on Matters not on Agenda
- 2-2-4: Creation of Agenda
- 2-2-5: Regular and Special Meetings
- 2-2-6: Opportunity for Public Participation
- 2-2-7: BCC to Consider Data and Comments Submitted by the Public
- 2-2-8: Penalty

2-2-1: SCOPE AND PURPOSE:

Section 2-3-103(1), MCA, requires the BCC to develop procedures for permitting and encouraging public participation in decisions of the BCC that are of significant interest to the public and to allow public comment on public matters over which the BCC has jurisdiction. (Res. 1372, 1/13/2004)

2-2-2: SPECIFIC AGENDA TO BE POSTED:

To assure adequate notice before a decision is made or action is taken on any matter of significant interest to the public or that has been presented during the open public comment portion of a prior meeting on a public matter within the BCC's jurisdiction, the BCC will post its weekly agenda specifically identifying such matters on the main bulletin board on the third floor of the Ravalli County Administrative Center. The agenda will be posted a minimum of two days prior to the time scheduled. The agenda may be amended and re-posted, as needed, until two days prior to the time scheduled. Matters that require statutory notice by publication or posting will be complied with as the particular statute may require. (Res. 1372, 1/13/2004)

2-2-3: PUBLIC TO HAVE COMMENT ON MATTERS NOT ON AGENDA:

The agenda for each meeting of the BCC shall include an item identified as "Comments on public matters, not otherwise on the agenda of the meeting, that is within the BCC's jurisdiction." The Chair or presiding officer of the BCC will provide reasonable time for any person to submit data or comments, either orally or in writing, on public matters within the BCC's jurisdiction. "Public matters" do not include contested cases and other adjudicative proceedings. (Res. 1372, 1/13/2004)

2-2-4: CREATION OF AGENDA:

Specific agenda items shall be those matters requested or approved for placement on the agenda by one or more of the

County Commissioners. The public may request issues be added to the agenda either during a regular meeting under the item identified as "Comments on public matters within the BCC's jurisdiction," or by making an oral or written request directly to one of the Commissioners. (Res. 1372, 1/13/2004)

2-2-5: REGULAR AND SPECIAL MEETINGS:

The BCC, for the purpose of conducting county business, will hold regular meetings commencing at 9:00 a.m. on the Tuesday and Thursday of each week for the purpose of taking action on public matters within the BCC's jurisdiction. The office of the BCC is open for business from 9:00 a.m. until 5:00 p.m. on every business day. No notice will be given of routine matters or impromptu discussions with county employees, vendors, or other citizens. In addition to regular meetings, the BCC may hold special meetings as County business requires, with appropriate notice to the public. All meetings of the BCC are open to the public unless closed as provided by statute. On occasions when a quorum of the BCC is not available, regular meetings may be cancelled, and on such occasions as much advance notice will be given to the public as is practical. (Res. 1372, 1/13/2004)

2-2-6: OPPORTUNITY FOR PUBLIC PARTICIPATION:

A. Before taking action on matters of significant public interest, excluding contested cases and other adjudicative proceedings, the Chair or presiding officer will provide reasonable time for any person to submit data or comments, either orally or in writing, regarding action that may be taken by the BCC.

B. Before taking action on public matters within the BCC's jurisdiction presented at the public comment portion of a previous meeting, the Chair or presiding officer will allow any person to submit data or comments, either orally or in writing, regarding action that may be taken by the BCC. (Res. 1372, 1/13/2004)

2-2-7: BCC TO CONSIDER DATA AND COMMENTS SUBMITTED BY THE PUBLIC:

For any matters addressed by a public hearing held by the BCC or by any other County board, the appropriate time for the public to submit data and/or comments is before the close of the public hearing. The BCC will consider the record of submitted data and public comments made at a hearing prior to making a decision upon the subject matter of that hearing. The BCC will not consider new information submitted or presented after the close of a public hearing, but will allow, at the BCC's public meeting, comments, argument, and opinions exclusive of new data as to the

decision the Commissioners should make based on the information presented at the previous hearing. However, if the BCC is making a decision in an adjudicative capacity, the Commissioners will not receive nor consider information submitted or presented outside of the official public process. All deliberations of the BCC regarding matters that are of significant interest to the public shall be open for public observation, except as otherwise may be provided by Montana law.

(Res. 1372, 1/13/2004)

2-2-8: PENALTY:

The penalty provisions of this Code shall not apply to this chapter. (2012 Code.)

CHAPTER 1

COUNTY GOVERNMENT

SECTION:

- 2-1-1: Plan of Government
- 2-1-2: Form of Government
- 2-1-3: General Structural Suboptions
- 2-1-4: Additional Structural Suboptions
- 2-1-5: Justices of the Peace
- 2-1-6: Elected Officials; General Qualifications
- 2-1-7: Commencement of Term and Oath of Office
- 2-1-8: Powers Generally

2-1-1: PLAN OF GOVERNMENT

A. On November 7, 2006, a majority of County voters amended the alternative COMMISSION FORM of government of Ravalli County to (1) increase the size of the Board of County Commissioners ("BCC") to 5 members; and (2) change the term for commissioners to 4 years.

(Ravalli County Election Returns recorded November 17, 2006; Order, Thomas v. Ravalli County, DV-2006-577 (21st Jud. Dist. Ct, Sept. 18, 2007).)

B. The ratified plan of government for Ravalli County, Montana, is therefore currently the COMMISSION FORM under sections 7-3-401 through -442, MCA, amended as described in this chapter. (Certificate Establishing the Plan of Government, 1/18/2011.)

2-1-2: FORM OF GOVERNMENT

A. Commission form: The commission form consists of an elected board of county commissioners and other elected officers as provided in the plan of government. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the BCC. The BCC shall appoint the heads of departments and other employees, except for those appointed by other elected officials. (§ 7-3-401, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

B. Nature of government: This form shall have general government powers. (§ 7-3-402, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

C. Role of presiding officer of commission: The presiding officer of the BCC shall be referred to as the chairman or chair. All members of boards and committees must be appointed by the chairman with the consent of the BCC. The chairman must be recognized as the head of the local government unit and may vote as other members of the BCC. (§ 7-3-403, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

2-1-3: GENERAL STRUCTURAL SUBOPTIONS:

A. General structural suboptions (see § 7-3-411, MCA). Ravalli County's plan of government further defines the structural characteristics of the form by including the suboptions in subsections B through H below.:

B. Selection of BCC members. The BCC members shall be nominated from the district in which the member resides and elected at large. The Apportionment Plan describing the current commissioner districts is on file with the County Clerk and Recorder and in the office of the BCC. (§ 7-3-412, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

C. Type of election. Local government elections shall be conducted on a partisan basis. (§ 7-3-413, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

D. Chairman of commission. The Chairman of the BCC shall be elected by the members of the BCC from their own number for a term established by ordinance. (§ 7-3-414, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

E. Administrative assistants. The BCC may appoint one or more administrative assistants to assist it in the supervision and operation of the local government. (§ 7-3-415, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

F. Terms of BCC members. BCC members shall be elected for overlapping terms of office. (§ 7-3-416, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

G. Size of BCC and community councils. The size of the BCC shall be five (5) commissioners. (§ 7-3-417, MCA; Ravalli County Election Returns recorded November 17, 2006; Certificate Establishing the Plan of Government, 1/18/2011.)

Terms of elected officials. The term of office of elected officials shall be 4 years. (§ 7-3-418, MCA; Ravalli County Election Returns recorded November 17, 2006; Certificate Establishing the Plan of Government, 1/18/2011.)

2-1-4: ADDITIONAL STRUCTURAL SUBOPTIONS:

A. Additional structural suboptions for county and consolidated governments. Ravalli County's plan of government further defines the structural characteristics of the form by including the following suboptions. The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices. (§ 7-3-431, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

B. Legal officer. A legal officer, who shall be called the county attorney, shall be elected. (§ 7-3-432, MCA; Certificate

Establishing the Plan of Government, 1/18/2011.)

C. Law enforcement officer. A law enforcement officer, who shall be called the sheriff, shall be elected. (§ 7-3-433, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

D. Clerk and recorder. A clerk and recorder shall be elected. (§ 7-3-434, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

E. Clerk of district court. A clerk of district court shall be elected. (§ 7-3-435, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

F. Treasurer. A treasurer shall be elected. (§ 7-3-436, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

G. Surveyor. The office of surveyor has been consolidated with the office of treasurer, which is elected. (§ 7-3-437, MCA; Res. 684, 12/30/1993; Certificate Establishing the Plan of Government, 1/18/2011.)

H. Superintendent of schools. The office of superintendent of schools has been consolidated with the office of clerk and recorder, which is elected. (§ 7-3-438, MCA; Ravalli County Commissioner Journal 14-476, 09/28/1981; Certificate Establishing the Plan of Government, 1/18/2011.)

I. Assessor. The office of assessor has been consolidated with the office of treasurer, which is elected. (§ 7-3-439, MCA; Res. 374, 1/10/1986; Res. 468, 12/28/1988; Res. 684, 12/30/1993; Certificate Establishing the Plan of Government, 1/18/2011.)

J. Coroner. The office of coroner has been consolidated with the office of sheriff, which is elected. (§ 7-3-440, MCA; Ravalli County Commissioner Journal 7-558, 3/4/1942; Certificate Establishing the Plan of Government, 1/18/2011.)

K. Public administrator. A public administrator shall be elected. (§ 7-3-441, MCA; Certificate Establishing the Plan of Government, 1/18/2011.)

L. Auditor. The office of auditor has been consolidated with the office of county attorney, which is elected. (§ 7-3-442, MCA; Res. 467, 12/28/1988; Certificate Establishing the Plan of Government, 1/18/2011.)

2-1-5: Justices of the Peace

Two justices of the peace shall be elected. (Mont. Const. art. VII sec. 5; § 3-10-101, MCA; § 7-4-2203, MCA)

2-1-6: ELECTED OFFICIALS; GENERAL QUALIFICATIONS:

A person is not eligible for a county office who at the time of election is not all of the following: (1) Of the voting age required by the Montana constitution; (2) A citizen of the state; and (3) An elector of the county in which the duties of the office are to be exercised.
(\$ 7-4-2201, MCA; 2012 Code.)

2-1-7: COMMENCEMENT OF TERM AND OATH OF OFFICE:

A. Commencement of Term. Unless otherwise provided and allowed by law, County commissioners and County Officials take office at one minute past midnight (12:01 A.M.) on January 1 succeeding the date of the election at which the county commissioner or County Official was elected.

B. Oath. Unless otherwise provided and allowed by law, a county commissioner elected to take office shall take the oath of office on the last business day of December following the commissioner's election. (\$ 7-4-2105, MCA; 2012 Code.)

2-1-8: POWERS GENERALLY:

The BCC has legislative, administrative, and other powers provided or implied by law, which powers shall be liberally construed. (Mont. Const. art. XI, sec. 4(1)(b) and 4(2); 2012 Code.)

CHAPTER 4

REMEDIES; GENERAL PENALTY

SECTION:

- 1-4-1: Selection of Remedy
- 1-4-2: Penalty
- 1-4-3: Application of Provisions
- 1-4-4: Liability of Officers
- 1-4-5: Persons Authorized to Issue Citations

1-4-1: SELECTION OF REMEDY:

To enforce the provisions of this Code, the County may elect any and all available remedy or combination of remedies available in law or equity, including but not limited to misdemeanor prosecution, injunctive relief, or civil penalty. (2012 Code.)

1-4-2: PENALTY:

Unless specifically provided elsewhere in this Code or unless otherwise required by law, any person convicted of a violation of any section or provision of this Code shall be subject to a fine -- either through civil or criminal action -- not to exceed five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both such fine and imprisonment.

B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by any such person, and he or she may be punished or fined accordingly, unless otherwise specifically provided in this Code. (2012 Code.)

1-4-3: APPLICATION OF PROVISIONS:

A. Application of Penalty: Unless otherwise provided, the penalty set out in section 1-4-2 of this chapter shall be applicable to every section of this code the same as though it were a part of each and every separate section. A separate offense shall be deemed committed for each day such duty or obligation remains unperformed or such act continues,.

B. Breach of Provisions: Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this Code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply.

C. Prohibited acts include causing and permitting. Whenever the Code makes any act or omission unlawful, the Code shall also make it unlawful to cause, allow, permit, aid, abet, suffer, or conceal the fact of such act or omission.

(2012 Code.)

1-4-4: LIABILITY OF OFFICERS:

No provision of this Code designating the duties of any County body, officer, or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the BCC to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (2012 Code)

1-4-5

PERSONS AUTHORIZED TO ISSUE CITATIONS:

- A. Any law enforcement officials employed by the County.
- B. If there is an animal control officer hired or contracted by the County, the animal control officer may issue citations relating to Title X, Chapter Y of the Code.
- C. Each of the following county officials: . . .
(2012 Code.)