

MINUTES
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, October 20, 2014, at 9:00 a.m.
Room 317, Capitol Building
Helena, MT

Please note: *The Land Board has adopted the audio recording of its meetings as the official record, as allowed by [2-3-212, MCA](#). These minutes provide an abbreviated summary of the Land Board discussion, public testimony, action taken, and other activities. The time designations listed are approximate and may be used to locate the referenced discussion on the audio recording of this meeting. Access to an electronic copy of these minutes and the audio recording is provided from the Land Board webpage at <http://dnrc.mt.gov/LandBoard>. The written minutes summary, along with the audio recordings, are listed by meeting date on the Land Board Archive webpage.*

Members Present

Governor Steve Bullock
Attorney General Tim Fox
Secretary of State Linda McCulloch
Superintendent of Public Instruction Denise Juneau (via phone)

Members Absent

Commissioner of Securities and Insurance Monica Lindeen

Testifying Staff

John Tubbs, DNRC Director
Darlene Edge, FWP Land Conservation Specialist
Valerie Balukas, DNRC Legal Counsel
Shawn Thomas, DNRC Trust Land Management Division (TLMD) Administrator
John Grimm, DNRC TLMD Real Estate Management Bureau Chief

Attachments

Related Materials, Attachment 1 – sign-in sheet
Related Materials, Attachment 2 – written testimony submitted by Cheryl Schwenk (item 1014-3)

Call to Order

00:00:06 Governor Bullock called the meeting to order.
00:00:29 Ms. McCulloch moved to approve the September 15, 2014, minutes. The motion was seconded by Mr. Fox and carried unanimously.

Business Considered

1014-1 FWP: Garrity Mountain Wildlife Management Area Addition

00:00:42 Mr. Tubbs gave an overview of the item.
00:01:16 Ms. Edge
00:03:38 Mr. Fox moved to approve item 1014-1. The motion was seconded by Ms. McCulloch.

Board Discussion/Comments

00:03:49 Governor Bullock

00:04:14 The motion to approve item 1014-1 carried unanimously.

1014-2 Timber Sales

A. Runamuk (Limited Access)

00:04:22 Mr. Tubbs gave an overview of item 1014-2A.

00:05:53 Ms. McCulloch moved to approve item 1014-2A. The motion was seconded by Ms. Juneau and carried unanimously.

B. South Fitzpatrick

00:06:10 Mr. Tubbs gave an overview of item 1014-2B.

Public Comment

00:06:59 Julia Altemus, Montana Wood Products Association, Executive Vice President

00:07:39 Mr. Fox moved to approve item 1014-2B. The motion was seconded by Ms. McCulloch and carried unanimously.

C. Cilly Excaline

00:08:10 Mr. Tubbs gave an overview of item 1014-2C.

00:09:16 Ms. Juneau moved to approve item 1014-2C. The motion was seconded by Mr. Fox and carried unanimously.

D. Cilly Lost Heli (Contract Harvest)

00:09:39 Mr. Tubbs gave an overview of item 1014-2D.

Public Comment

00:10:55 Randall Knowles

00:11:31 Mr. Fox moved to approve item 1014-2D. The motion was seconded by Ms. McCulloch and carried unanimously.

1014-3 Sale of Cabin and Home Sites: Set Minimum Bid for Sale – Sale 711

00:11:48 Mr. Tubbs gave an overview of the item.

Public Comment

00:12:48 Cheryl Schwenk

00:17:31 Governor Bullock

00:17:43 Ms. Schwenk

Board Discussion/Comments

00:19:53 Governor Bullock

00:20:13 Ms. Balukas

00:22:09 Governor Bullock

00:22:13 Ms. Balukas

00:23:44 Mr. Fox

00:24:26 Ms. Balukas

00:24:28 Mr. Fox

00:25:01 Ms. Balukas

00:26:12 Mr. Fox

00:26:37 Ms. Balukas

00:26:56 Ms. McCulloch moved to approve item 1014-3. The motion was seconded by Mr. Fox.

00:27:08 Governor Bullock

00:27:29 Ms. Schwenk

00:27:38 Governor Bullock

00:27:43 Ms. Schwenk
00:28:14 Governor Bullock
00:28:21 Ms. Schwenk

00:28:38 The motion to approve item 1014-3 carried unanimously.

1014-4 Sale of Cabin and Home Sites: Final Approval for Sale
A. Gallatin County – Sale 710
B. Missoula County – Sale 712
C. Flathead County – Sale 714

00:28:51 Mr. Tubbs gave an overview of items 1014-4A through 1014-4C.

Public Comment

00:30:22 Mr. Knowles

00:31:56 Mr. Fox moved to approve items 1014-4A through 1014-4C. The motion was seconded by Ms. Juneau and carried unanimously.

1014-5 Land Banking Parcels: Preliminary Approval for Sale
A. Carter County
B. Custer County
C. Garfield County
D. McCone County
E. Powder River County

00:32:14 Mr. Tubbs gave an overview of items 1014-5A through 1014-5E.

00:34:09 Ms. McCulloch moved to approve items 1014-5A through 1014-5E. The motion was seconded by Mr. Fox and carried unanimously.

1014-6 Land Banking Acquisition: Final Approval for Purchase – Hougardy Farm

00:34:33 Mr. Tubbs gave an overview of the item.

Public Comment

00:35:21 Mr. Knowles

00:36:32 Ms. McCulloch moved to approve item 1014-6. The motion was seconded by Ms. Juneau.

Board Discussion/Comments

00:36:47 Mr. Fox
00:37:17 Mr. Thomas
00:37:45 Mr. Grimm
00:38:35 Mr. Fox
00:39:04 Mr. Grimm
00:39:39 Mr. Fox
00:39:52 Mr. Tubbs
00:39:54 Mr. Fox
00:40:00 Governor Bullock
00:40:05 Mr. Tubbs
00:40:28 Governor Bullock
00:40:31 Mr. Tubbs

00:40:47 The motion to approve item 1014-6 carried unanimously.

1014-7 Easements

00:40:54 Mr. Tubbs gave an overview of the item.

Public Comment

00:41:42 Mr. Knowles

00:42:12 Mr. Fox moved to approve item 1014-7. The motion was seconded by Ms. McCulloch and carried unanimously.

General Public Comment

00:42:43 Paul McKenzie, F.H. Stoltze Land and Lumber Company, Lands and Resource Manager

00:46:27 Mr. Knowles

00:48:25 Ms. Altemus

00:49:28 Governor Bullock

Adjournment

00:51:07 Adjournment

PRESIDENT

ATTEST

/s/ Steve Bullock
Steve Bullock, Governor

/s/ John E. Tubbs
John E. Tubbs, DNRC Director

10/18/14

RE: Setting Minimum Bid for Sale #711

To the Montana State Board of Land Commissioners,

Good morning. My name is Cheryl Schwenk and I am here representing my and my husband's interest in the matter of Land Board Sale #711, Lot 16, located on a section of the Clearwater River referred to as Elbow Lake.

We are, and have been the lease holders of Lot 16 on the Clearwater River for 21 years. We are grateful for the opportunity to be part of the DNRC Land Banking Sale program and would still like to ultimately purchase the property from the State of Montana/DNRC.

Three main points bring us here today. We respectfully disagree with the current appraised value of \$150,000 for the land. SB 0369 mandated a three point appraisal process which was to include land value, improvements value and access value. The appraisal performed did not specifically meet those guidelines. Secondly, we have been unable to obtain a preliminary title insurance commitment letter from Insured Titles prior to signing an Offer to Purchase Form with the State of Montana/DNRC. Thirdly, we received an email from the DNRC attorney, Valerie Balukas, Saturday Oct. 18, at approximately 3 pm, fully informing us on the informal and formal hearing guidelines for this pilot program. Having this knowledge early on would have changed the way we viewed having a second appraisal done for evidence supporting our claim. Our thoughts were, why spend the extra money in the preliminary grievance process when our funds would be better spent in the final formal hearing venue with an attorney arguing our points.

It is evident in the second grievance letter dated July 24, 2014, page 4, paragraph 5, our attorney was questioning the informal hearing process. The quote from the letter also supports the intent to ultimately exercise the presumed right to a formal hearing;

"Finally I am puzzled as to just what an "informal hearing" constitutes, as that term is cited in ARM 36.2.705 (16)(a), as that term is not used in 77-2-317(1)(c) MCA, nor is it defined in any of the Department rules, or for that matter the Administrative Procedures Act. Specifically, how can my clients submit evidence when there is no defined procedure for either the hearing itself or the evidence. It is presumed that my clients are not waving a formal hearing under the Act, and they are entitled to full judicial review of any Department final decision if they agree to this "informal hearing.""

In all fairness, the DNRC should have clarified this confusion regarding a formal hearing after receiving this letter. For these reasons, Tim and I are requesting an extension to the informal hearing process, or an additional informal hearing. We would like to present additional evidence supporting a reevaluation of the initial appraisal and also to resolve the issues surrounding the preliminary title search before committing to a purchasing agreement with the State of Montana/DNRC.

Additionally, if the extension is granted, we would also ask for a postponement of the decision by the Land Board members on the determination of the fair market value of Lot 16 at today's meeting, and defer this decision to a future Land Board meeting.

Thank you for the opportunity to present our concerns regarding the issues surrounding the request for an extension. We understand the nature of a "pilot" program warrants some change or reevaluation of procedures to further improve the process. The information in the email received from the DNRC attorney, on Sat., October 18, 2014, should have been made apparent early in the hearing process, not on the weekend before the Land Board meeting. This knowledge would have dramatically changed the scope of information presented at the final informal hearing.

The prospective sale and purchase of Lot 16 on the Clearwater River is a substantial transaction. We feel it is prudent to resolve these remaining issues prior to completing our agreement. We are fully committed to getting this right for all parties involved.

Thank you for your time and consideration. Please feel free to ask any questions regarding the presentation.

Tim and Cheryl Schwenk

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