



## **PUBLIC MEETING**

May 12, 2020  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, May 12, 2020, at 9:00 AM in Zoom Meeting <https://zoom.us/j/5669454978>.

### **Roll Call**

Chair Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Roger Baltz, Jessica Makus, Nicho Hash, Charles Lane, Sherry Smith, Nadine McCarty, Jonathon Ambarian, and Misty Edwards, Recording Secretary. All attendees were present via Zoom.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Public Meeting Minutes for April 14, 16, 21, 23, 28 and 30, 2020. (Nadine McCarty)

Roger Baltz reported on consent action item 2 a and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

### **Direction to the County Attorney's Office to Respond to a Civil Action by the Public Employees' Retirement Board of the State of Montana and to Pursue Any and All Other Legal Options in Conjunction with Other Counties and Stakeholders. (Nicho Hash/Charles Lane)**

Charles Lane, Deputy County Attorney, presented the request for direction from the County Commission to the County Attorney's Office to respond and defend the civil action against the Montana Public Employees' Retirement Board (MPERB) and seek and join any other parties in determining the constitutional authority of the MPERB to assess and compel payment of pension liabilities deemed unfunded by MPERB.

On May 1, 2020, MPERB filed a declaratory judgment action against Lewis and Clark County in the First Judicial District seeking a determination Article 8 Section 15 grants the board authority to assess unfunded liability payments based on the separation of the County and PureView Health Center. On that day, the Montana Association of Counties (MACo) filed a declaratory judgment against MPERB and Montana Public Employees' Retirement Association (MPERA) seeking similar relief, however, asking the Court to conclude MPERA and MPERB do not have authority under the Montana Constitution to demand such payment. Pursuant to Montana Code Annotated section 7-5-2104, the Board of County Commissioner has jurisdiction and power, under such limitations and restrictions as prescribed by law, to direct and control the prosecution and defense of all suits to which the county is a party.

Mr. Lane confirmed that MPERB has no formal policy or procedure to appeal the demand therefore, the action is to seek court determination.

Commissioner Geise emphasized that the correct procedure should be to work through the legislature. The demand action is not legal; there is no direction given for such action in state statute.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

**Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.**

**Adjourn**

There being no further business, the meeting adjourned at 9:20 a.m.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Susan Good Geise, Chair  
Andy Hunthausen, Vice Chair  
Jim McCormick, Member

ATTEST:

  
Paulette DeHart, Clerk of the Board