

Minutes of Fergus Co. Commissioners Business Meeting  
July 10, 2017 – 2:00 p.m.  
Fergus County Commissioners  
Fergus County Complex Basement - 121 8<sup>th</sup> Ave S - Lewistown, MT 59457

Present: Commissioner Carl Seilstad, Commissioner Sandra Youngbauer, Commissioner Ross Butcher, and Clerk & Recorder Rana Wichman. Public present: See attached sign in sheet.

**CALL TO ORDER:**

Presiding Officer Seilstad called the meeting to order at 2:00 p.m.

**APPROVAL OF MINUTES:**

Presiding Officer Seilstad asked if there were any alterations or corrections to the June 26, 2017 minutes. Hearing none the minutes will stand approved as distributed and they will be on file with the Clerk and Recorder and on the Fergus County Website.

**PUBLIC COMMENT ON AGENDA ITEMS:** None

**PUBLIC HEARING:**

Presiding Officer Seilstad opened the public hearing regarding the consolidation of the offices of the Fergus County Coroner and the Fergus County Sheriff. Seilstad reported that Fergus County is currently involved in litigation regarding the Fergus County Coroner owning a funeral home.

- Levi Talkington of the Lewistown Police Department stated that the community is best served leaving the Coroner situation as it currently is.
- Dick Brown said he sent the Commissioners a letter in which he stated his opposition to consolidation. He said in other counties the budgets increased significantly with consolidation. There are more autopsies and you have the additional wages for a deputy sheriff. He also said Fergus County's Coroner has always been as it is now. It is his understanding that both the Lewistown Police Department and the Fergus County Sheriff's Department are opposed to consolidation.
- Undersheriff Rick Vaughn stated that consolidation is financially prohibitive. It will be a big burden on taxpayers. He would like to see the Courts settle it. He said he always sees professionalism when working with Dick.
- Guest Linda Anderson said Dick Brown is an elected official. She would like to have the community weigh in on this and make the decision.
- Guest Steve Kirkegard stated he has been both a coroner and a deputy. Having the consolidated office will require two deputies and many times they are taken away from their other duties. He supports continuing with the current independent coroner office.
- Jon Polich with the Lewistown Police Department said he has worked with consolidated offices in the past and it is quite burdensome.
- During the discussion the question came up as to why Ralph Milfeldt with Creel Funeral Home didn't run for Coroner. Kendra Milfeldt said that if it isn't right for one, it isn't right for anyone. She said it is in violation of the MACO Code of Ethics. She said people are feeling pressured.
- Guest Tom Wojtowick said it currently is a conflict of interest and he is in favor of consolidation.

- Sheriff Troy Eades stated he is not interested in being coroner. He also stated if another death occurs in the Fergus County Jail and the office has been consolidated, an independent coroner will have to be called in.
- Torger Oaas, Dick Brown's attorney, said there is no law against funeral home owners being coroner. He said he doesn't feel that Brian Hopkins and Kent Sipe had sufficient information when they wrote their opinions. He went on to say that people in nursing homes, assisted living homes, etc., sign a form stating which funeral home you want to use. A majority of these decisions are made prior to death. No witnesses have been provided stating they were pressured. A judge cannot mandate that the offices be combined. Dick takes pride in his work and wants to be Coroner. Oaas doesn't feel there is sufficient if any evidence that there is a conflict. He went on to say that even in non-facility deaths the family signs a form designating a funeral home. He said that the split is almost 50/50 between Cloyd's and Creel's when there is a Coroner call.
- Ralph Milfeldt of Creel Funeral Home asked if Fergus County doesn't want to avoid the possibility of a conflict of interest. Currently 38 of 56 counties have consolidated offices.
- Kendra Milfeldt said when County Attorney Tom Meissner tried to get an agreement with Ralph Milfeldt to work as deputy coroner he didn't respond as people would have felt even more pressured. She asked if a truly independent coroner had been considered. Commissioner Seilstad told her that the issue at hand is consolidation.
- Tom Wojtowick asked how this works in elections if it is indeed a conflict. Commissioner Seilstad said you cannot put stipulations like this on someone running for office.
- Commissioner Ross Butcher said the code of ethics is a guideline and not a code of law.
- Tom Wojtowick said that people should realize there is another option also in the Central Montana Crematorium.

Presiding Officer Seilstad closed the public hearing.

**BID OPENINGS:** None

**PERSONNEL ANNOUNCEMENTS:**

- 1) Road Department (2)
- 2) Extension Office Manager

**ANNOUNCEMENTS / REPORTS:**

The County is working on the FY1718 budget.

**DISCUSSION / ACTION ITEMS:**

- 1) June 30, 2017 and July 10, 2017 claims: Commissioner Youngbauer moved to approve the June 30, 2017 and July 10, 2017 claims. Commissioner Butcher seconded. Passed unanimously.
- 2) Consolidation of the offices of Fergus County Coroner and Fergus County Sheriff: Commissioner Butcher moved to leave the discussion on consolidation open until the August 10, 2017, 2:00 p.m. Commissioner meeting. Commissioner Youngbauer seconded. Commissioner Seilstad said people can call or give written comments prior to that meeting. Passed unanimously.

**APPOINTMENTS:**

- 1) North Fork Flat Willow Rural Fire: Commissioner Youngbauer moved to appoint Robert Berwald to the North Fork Flat Willow Rural Fire Board. Commissioner Butcher seconded. Passed unanimously.
- 2) Council on Aging: Commissioner Butcher moved to appoint Jennifer Granot and Vivian Shammel to first terms on the Council on Aging. Commissioner Youngbauer seconded. Passed unanimously.

**PUBLIC INPUT:** None

**OTHER BUSINESS:**

Commissioner Seilstad stated that the July 19, 2017, Commissioner meeting has been cancelled.

**NEXT MEETING DATES:**

July 19, 2017	Business Meeting	Fergus Co. Commissioners
Wednesday, 5:15 p.m.	<b><u>CANCELLED</u></b>	712 W. Main St., Suite 210 Lewistown, MT 59457

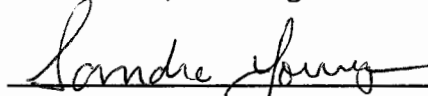
July 26, 2017	Business Meeting	Fergus Co. Commissioners
Tuesday, 2:00 p.m.		712 W. Main St., Suite 210 Lewistown, MT 59457

August 10, 2017	Business Meeting	Fergus Co. Commissioners
Thursday, 2:00 p.m.		712 W. Main St., Suite 210 Lewistown, MT 59457

Reminder: Agenda items are due to the Commissioners 10 days prior to the meeting.

**FERGUS COUNTY COMMISSIONERS:**

  
\_\_\_\_\_  
Carl Seilstad, Presiding Officer

  
\_\_\_\_\_  
Sandra Youngbauer, Commissioner

Attest:

  
\_\_\_\_\_  
Ross Butcher, Commissioner

  
\_\_\_\_\_  
Rana J. Wichman, Clerk & Recorder

**Fergus County Public Meeting  
Attendance Roster**

Meeting Date: \_\_\_\_\_

Name	Address	Public Comment?	
		Yes	No
R. J. Brown	Lewistown	✓	
Jane Brown	Lewistown	✓	
Loyle Dooe	Lewistown	✓	
Ralph Mihfeld	Lewistown	✓	
STEVE KIRKEGARD	LEWISTOWN	✓	
Kendra Mihfeld	"	✓	
Blaine Klubam	Lewistown		✓
Tom Hjortrup	"	✓	
Diane Fitz	Lewistown	X	✓
John Hill	LEWISTOWN		
Verin J. Talley	LEWISTOWN POLICE DEPT	✓	
Bob Hill	Sheriff's Office	✓	
Wynne Hill	Sheriff's Office	✓	
Deborah Hill	News Argus		X
Diane Cochran	Co Atty		X
Bill Hill	Judges		X
Joe Zabolon	KKLO KLCU		

# **FERGUS COUNTY CORONER'S OFFICE**

**P.O. BOX 595**

**Lewistown, Montana 59457**

*Jeremy R. Bristol*  
Deputy Coroner

*R. J. (Dick) Brown*  
Coroner

*Keith W. Kucera*  
Deputy Coroner

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June 30, 2017

Fergus County Commissioners  
Fergus County Courthouse  
Lewistown, MT 59457

Re: Public Hearing on Consolidation of Sheriff and Coroner Offices

Commissioners,

This letter is to inform you of my intent to attend your meeting on Monday, July 10<sup>th</sup>, 2017 at 1400 hours to oppose the above consolidation of elected offices. My reasons for opposing this action are listed below. Sending this letter now allows you time to understand and if needed, look into my concerns/objections.

If this consolidation is done you must understand that the cost of running the Coroner's Office will increase significantly. In my years as coroner several counties have HAD to consolidate these offices and in each case the budgets of these offices have increased. In this county if the Sheriff/Coroner requests/requires an additional person to operate the consolidated offices the cost for a deputy, just wages and benefits, is around \$60,000.00 per year, not including a vehicle, equipment and training.

Every Sheriff that has assumed the office of Coroner has at least doubled the autopsies being requested which would increase Fergus County's budget by about \$25,000.00 to \$30,000.00 per year. (i.e. an autopsy is \$2,000.00 to the county, I currently budget for 7 per year out of my average 31 coroner cases. I am assuming that a Sheriff/Coroner would conduct autopsies on 20 or more of the coroner cases. I can explain my reasoning to you if you want).

The two items I have shown above effectively more than double my current budget and that should be one of your major concerns as commissioners.

Also remembering that the Coroner of Fergus County has always been a mortician/funeral director and owner of a funeral home in Lewistown.

You are already aware of the fact that the Fergus County Sheriff's Department is opposed to the consolidation and are in agreement with the Lewistown Police Department in maintaining the current system. These are the two primary agencies that the Coroner's Office works with, along with the Montana Highway Patrol, Montana Department of Criminal Investigation and the Fergus County Attorney.

Above I referred to the fact that several counties have HAD to consolidate the Sheriff and Coroner. I state this because the counties I know that have consolidated these offices have done so out of necessity, by this I mean the Coroner either retired, did not want to run again or died in office and no one in the county ran for or requested to be appointed as Coroner so they consolidated the offices. The counties I am referring to are Cascade, Chouteau, Custer, Gallatin, Hill, Missoula, Phillips, Roosevelt and Yellowstone all had vacancies due to either the coroner retired or resigned. Musselshell County the Coroner died in office and again no one in the county wanted the job. I feel that this is the only time the offices should be consolidated, if someone wants the job and will run for it they should have that opportunity. A person that wants the office will do a much better job than someone that has it forced on them.

You also need to understand that if these offices are consolidated, I or for that fact anyone, can run for the consolidated office, so consolidating these offices to prevent me from being Coroner is a non-issue.

In closing you need to know that this consolidation, if it is done, will not eliminate the current litigation as we, my attorney Torger Oaas and myself, plan to continue on and are confident we will prevail.

If you have any questions please contact me at anytime.

Sincerely,

R. J. (Dick) Brown  
Fergus County Coroner

# **Torger Oaas**



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## **Attorney at Law**

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June 30, 2017

Fergus County Commissioners  
712 W. Main  
Lewistown, MT 59457

Re: Creel Funeral Home v. Fergus County and Richard "Dick" Brown

Dear Commissioners,

In view of the upcoming public hearing, I thought I would pass along some information that may be helpful to you in the decision making process.

This information is set forth in summary form in my letter to Mitch Young and Evan Thompson dated 4-12-17. What Dick and I did was to look at the numbers to see what the scope of any alleged conflict of interest might be. I was unaware at the time that all (and I mean all) facility deaths do not involve a conflict of interest because of their procedure in obtaining the funeral home selection from the family ahead of time. This fact reduces the non-facility coroner cases (where there is a potential for a conflict) to 1.5 coroner cases per month! This fact amazed me in that it shows we are dealing with a situation where there is only a very very minor opportunity for abuse. (Remember that in some of the 1.5 coroner cases per month, there is an unknown number of pre-designations of funeral home preference – so the actual number of coroner cases (1.5) is actually less – Cloyd does not have the records to show the actual number).

One conclusion that can be made from these facts is there is no need to do anything including taking the drastic step of consolidating the offices of Sheriff/Coroner.

The current system worked fine for many years when Geof Morrison and Jim Harris owned Creels. I believe these individuals understood that they did not lose any business because of the Cloyd-Coroner arrangement. In fact, Jim Harris will be one of our witnesses if the case goes to trial.

My impression from attending the last meeting is that all the stakeholders involved – the Lewistown Police Department, the Fergus County Sheriff Department and the Coroner's Office, do not want consolidation.

Now, in addition to that, the actual statistics show there is really not even an opportunity for a conflict to arise.

The decision boils down to whether or not a consolidation should happen. I truly believe the residents of Fergus County would be better off by leaving the situation as is. Risking losing Dick Brown as Coroner is not worth it. It is important to have someone like Dick who takes pride in his work as a Coroner and maintains very high standards in that capacity. Thank you in advance for considering this information.

Yours truly,



TORGER OAAS  
Attorney at Law

TO/ks

cc: Dick Brown  
cc: Evan Thompson  
cc: Mitch Thompson