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July 8, 2020

For Immediate Media Release: Resignation of Adam Carlson, County Commissioner, and successional process.

Musselshell County has experienced two vacancies within the three person Board of County Commissioners in 2020. This release of information is to inform the public of the procedures being employed to reestablish a quorum of commissioners by appointing an interim commissioner for filling the vacated seat for District 2 and nominating a person for the general election ballot for the recent District 3 vacancy. At present, there is a candidate for County Commissioner for District 2 to be placed on the general election ballot.

Tom Berry resigned effective March 6, 2020. Adam Carlson vacated his seat by operation of law by establishing a new residency outside his district to which he was elected. There is no dispute regarding how the vacancy occurred. The effective date for former Commissioner Carlson's resignation letter is July 6, 2020.

No existing Montana case law could be found that addresses this situation where two vacancies exist on a board of county commissioners occurring at different times within the same election cycle year although the statutory structure is clear to address the two vacancies in Musselshell County. The predominant issue of concern presently is the absence of a quorum of the governing Board to conduct the County's day to day affairs.

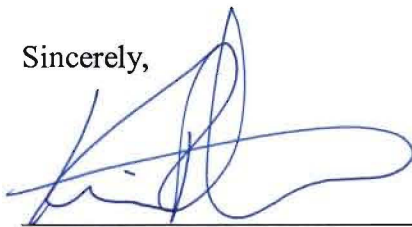
With the finality of Republican Commissioner Carlson's District 3 seat coming open with an effective date of July 6, 2020, the seat to be filled first to reestablish a quorum will be the seat vacated by former Commissioner Tom Berry on March 6, 2020. As such, this seat could have been eligible for a primary election because he represented a qualified partisan party notwithstanding that he was only in his second year of his six year term and was not up for reelection. Therefore, "a central committee shall, within 30 days of the occurrence of the vacancy, submit to the county compensation board three names of people who have lived in the unrepresented district for at least 2 years immediately prior to the occurrence of the vacancy." If no compensation committee were to exist, the district court judge must make the selection.

At the same time as the appointment process for Commissioner Berry's vacated seat from District 2 is being addressed by the Musselshell County Compensation Committee to fill the seat through December 31, 2020 to reestablish a quorum, the other vacant seat for District 3 is being addressed by the Musselshell County Central Committee. This procedure will be the same procedure authorized by law that the County used to previously place a partisan name on the ballot for the upcoming general election for District 2. "Whenever a vacancy occurs prior to August 1 before the general election held during the second or fourth year of the term, an individual must be elected to complete the term at that general election." Commissioner Carlson was in his second year and therefore, his seat must be filled by election in accordance with Montana law.

An Independent candidate has the opportunity to appear on the general election ballot for District 3 by meeting the statutory requirements for the office of commissioner. "A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed with the county election administrator prior to August 1 before the general election." A partisan nominee from a central committee for District 3 should be presented to the election administrator prior to August 1 for ballot printing concerns.

A successful candidate that appears on the ballot and is elected to fill the seat vacated by former Commissioner Carlson will finish the balance of the six year term (4 years) in office to maintain the staggered terms of the three Districts represented by the Board. By law, only on occasion when a vacant commissioner seat is filled by one of the appointment provisions under the commissioner vacancy statute is there a limitation on the duration of the appointment of an appointee. Generally an appointment would up until the successor from the next general election is determined or to the expiration of the unexpired term, either of which could be approximately two years or less.

Sincerely,



Musselshell/Golden Valley County Attorney
Kevin R. Peterson