

April 18, 2012

The Lincoln County Board of Commissioners met for a regular session in the Eureka Annex of the Lincoln County Courthouse. Present are Commissioner Marianne Roose, Commissioner Tony Berget, Commissioner Ron Downey, Executive Assistant Bill Bischoff and Clerk and Recorder Tammy Lauer.

10:30 AM: Commissioner Roose **opened the meeting** with the Pledge of Allegiance.

10:30 AM: **Tracy McIntyre, TVID:** Tracy talked about the status of the new building at the Industrial District Site. Commissioner Roose read a letter from Robert Haidle, TVID Board Chairman, as an annual report. The Tobacco Valley Business Park Industrial District wrote a letter to the commissioners requesting that Ethel White be appointed to the board to replace Tim Flannery. Commissioner Downey moved to approve the appointment of Ethel White to the TVID board and it carried. Tracy presented a letter from the Tobacco Valley Senior Citizens Center announcing that they have chosen to withdraw the CDBG planning grant that they wanted for a new building. At this time, due to the economy, it is not feasible to build a new facility. Tracy will write a letter to withdraw the application. Commissioner Berget moved to allow Tracy to withdraw the application with CDBG on behalf of the county and it carried. Tracy also talked about an open forum that will be held on April 30<sup>th</sup> for the commissioner candidates. Commissioner Roose congratulated Tracy on becoming the president of the Montana Economic Development Association. Tracy is the youngest president of this association. Tracy talked about the Rendezvous this next weekend in Eureka.

11:00 AM: **Ten Lakes Snowmobile Association:** Members of the TLSA present are Jim Voyles, Scott Baney, Don Truman, Curt West, Josh Letcher, Buck Schelmerhorn and George Williams. Jim is the spokesman today. They have some concerns about the current Forest Plan that the KNF has drafted. Jim heard at a meeting that the Commissioners are ready to put the plan through, and his group is concerned that all of the facts are not known. He noted that many hours have been spent for this cause. The TLSA sent a letter to at least 1500 citizens of the county asking them to send letters to the USFS asking that the draft of the Forest Plan be rejected. Jim is sure that at least 500 people wrote letters on this subject. Jim talked about the parts of the Forest Plan that the club disagrees with. The club would like to see a Plan with no increases in gated roads and flexibility in the water shed that maximizes availability of forest recreation areas. Buck talked about the town of Eureka's area water issues. The town has another million dollar project that is being required by DEQ. They stated that the town does not feel that they have been given sufficient time to review and comment to the Forest Plan. Betty Holder, USFS, said she will submit the letter to find out if an extension is possible. Jim discussed the wilderness areas and how they will affect the city water. They formally requested the commissioners to not support the Forest Plan that has not addressed the concerns of the citizens. Commissioner Roose said that the comment period has been extended from April to May already. She stated that the commissioners are not trying to rush the Plan through but have voiced their concern that the plan is taking 10 years and they are hoping for a solution soon. Commissioner Berget asked how long an extension the club is hoping for. Jim stated that he is not looking to drag it out forever but would like sufficient time to respond and to research the extensive plan. Commissioner Roose announced that the commissioners have not made a choice yet. Leanne Schelmerhorn said that she is here representing the town of Eureka and they are concerned about the water issues. Don talked about the plan not dealing with the water shed in the comment process. He also talked about the Border Patrol's concerns. There was a discussion about the use of the forest by snowmobilers and recreation usage. Josh talked about the number of people that come from other areas to use the forests in Lincoln County. Jim said that he would be more than willing to spend more time going over the concerns in more detail in the future.

11:40 AM: The commissioners were presented with **Resolution #875** which is a resolution to designate April 22-28, 2012 as **Crime Victims' Rights Week**. Commissioner Downey moved to approve the resolution and it carried.

11:45 AM: **Tim White, Eureka Road foreman,** wrote a letter concerning Lime Creek Road. The Forest Service is requesting that the county take it over as a county road. Tim stated that the road has been maintained by the county for years and most residents are under the impression that it is a county road. Commissioner Roose said she is fully aware and agrees with the policy of the commissioners to not take on any new roads, however, this appears to be an exception.

11:50 AM: The Department of Revenue has sent a **tax abatement for Timothy Hodel** on property that had been taxed in error for improvements not on the property. Commissioner Downey moved to approve the abatement and it carried.

1:30 PM: **Kiowa Hills Subdivision,** Lots 5, 6, and 7, Plat #7057, 6 recreational Vehicle pads, commissioner review, Public hearing: Kristin Smith, Planning Director, explained that this is a subdivision for lease where the owners of lots 5, 6, & 7 are requesting recreational vehicle pads on their lots. Kristin showed a map of the lots and the proposed changes. An engineer has placed drain field and replacement areas as well as mixing zones. Kristin stated that the covenants have been changed in the office of the Clerk and Recorder. The planning staff recommends approval subject to the 3 conditions and a consideration for addressing a quiet hours plan. At this time Kristin opened the meeting for public hearing. Bill Conelly asked if the subdivision is just allowing RV's or can it be two houses. Kristin explained that she believes that it would be either. Butch Cate asked who would enforce quiet hours. Kristin said it would be a covenant which is not enforced by anyone except homeowners. Steve Mangold was the original developer. He said that the lots are at the far end of the subdivision. Steve does not agree with the amendment to the covenants. He designed the covenants so that every owner has a vote per lot. He feels that the lots owned by 2 people should only have one vote. He said that the covenants said that two RV's have always been allowed in this subdivision and one septic system and one drain field per lot. He objects to the 3<sup>rd</sup> RV spot because it is too crowded. He feels that the septic system will be overused. He is an experienced septic system installer. He is suggesting that the new covenants be voided and return to the old covenants. Derri Massey is the owner of Lot 5, Kiowa Hills. She has prepared a statement. The request began by a letter to Kristin stating that they wish to increase the usage of the lots. They were asking for 2 permanent lots and one temporary lot for visiting family. She stated they were not aware of the violations until they received letters telling them about it. Since that time they have worked with Kendra Lind in the sanitation department to rectify the situation. Gary Snyder is owner of Lot 4; he read the letter to the commissioners. He is not in support of the changes of the covenants. He was hoping to build a home for a year round home in the future. He feels his property value would decrease if this request is granted. He feels that all existing covenants have been broken by the owners of lots 5, 6 and 7. He asked the county to answer why the covenants are being broken. He said he received a letter in May of 2011 from Kristin Smith saying that the lots in the subdivision were single resident lots. He feels that since that time he has been ignored when questioning the changing of the covenants. He

brought a copy of the old covenants which state "single family residential" lots in the first one. He is concerned that the amended covenants state that a "majority" of the lot owners when there are 8 lots and only 3 of the lots are making that request. He is aware of at least 3 lots that are against it. Tim Massey said that he believes that the votes are by number of owners not one vote per lot. Derri Massey said again that she appreciates that Mr. Mangold stated that he had intended 2 RV's per lot. She said she understands that the commissioners don't have authority over covenants. Charity Waldo talked about the mixing zones spilling over onto her property next to the subdivision where her garden is. She said she also understood this subdivision to be single family lots only. She has a letter from the owner of Lot 2 Shawn Folk to read. He is not in favor of the amendment of the covenants. He has already built a house on his property and understood it to be single family lots. Derri reminded the commissioners that the covenants are not the business Ms. Waldo and the commissioners. Steve Mangold spoke again about the covenants and the Waldos. He said that the Waldos have a valid concern and the commissioners do have some say in the covenants. He feels that this can work. He thinks that getting rid of the amended covenants and allowing 2 RV's can make it work. Gary Snyder said that he doesn't understand why we are here if not to discuss the covenants. He was told that a change cannot take place without a change to the covenants so the change of the covenants is absolutely the issue. He was told that in order for a change of covenants there needs to be a meeting of a homeowners association. There was no such meeting so he doesn't feel the covenants can be changed. Brian Launius, Enviro-tech Consulting engineer, addressed the issues of the septic systems. State law says that you can cross property lines with mixing zones. He explained the mixing zone and what can be done within the boundaries. Charity said she wants to know how to know that it won't affect her property. Brian said that the DEQ makes those determinations. Mr. Waldo said that when this started he and Charity were very cooperative however since then the bulldozers have been on his property, they have knocked trees down on his property, and damaged a fence on his property. Steve asked for a ruling about the vote per lot or per owner. Commissioner Roose said today is a public hearing only. Kristin said that June 14<sup>th</sup> is the deadline for the decision on this. Commissioner Roose closed the public hearing.

2:30 PM: **Open Range Lot 4**, 4 recreational vehicle pads, PM #6894, commissioner's review, Public Hearing: Kristin presented the subdivision. The Planning staff and the Planning Board recommend approval. She opened the floor to public comment. Butch Cate asked why the RV's are already there if it is not approved. Kristin said this is a situation that is coming up a lot and they are trying to bring them into compliance as soon as they can. Butch asked if this would have been approved had it been submitted prior to them having the RV's there. Kristin said that she believes it would have been approved because there is no adverse impact to the criteria that cannot be mitigated. Jim Perhay would like to go on record opposing the subdivision and request that the land is returned to a single family lot. In 2008 the subdivision was approved as 4 lot single family lots. The DEQ sent a letter to the 4 owners of lot 4 telling them that they are in violation of laws of DEQ. He is concerned about the errors in the drawings by Enviro-tech which doesn't show the dump site, holding tank, road and other issues. He feels that the owners of the other 3 lots have the same intentions which would allow for 16 trailers in the 10 acres. There have been law enforcement calls to the lot already for disturbances of the peace and animal cruelty. Shawn Andrews is a resident of Lot 4, seasonally, and stated that he made the intentions of what they intended to do obvious when they purchased the property. He does not deny the use of the property as a weekend retreat. The public hearing was closed and the deadline for the decision is June 14, 2012.

2:55 PM: **Denegal Subdivision**, 5 lots, Tract 1, COS 3972FC, Gov't Lot 3, S21, T37N, R27W, Commissioner review: Kristin presented the subdivision and the 12 conditions of approval plus one suggested conditions. Planning staff recommends approval with conditions. Commissioner Berget questioned the pedestrian access and Kristin showed the condition addressing that issue. Sam Cordi said that the pedestrian area is a natural drainage and shouldn't be a problem. The commissioners will decide on this subdivision next week.

3:05 PM: **Montana Summit Subdivision**, 2 residential lots, commissioner's review: Kristin presented the subdivision and conditions. Kristin is adding the #12 condition for an easement across the property for access to Corvette Heights. Dianna Luke, from Carstens survey, has no problem with that condition. This subdivision will be voted on next week.

3:10 PM: **Wilderness Club Phase III**, final plat: Commissioner Berget moved to approve the final plat now that all conditions have been met and it carried.

3:15 PM: The **meeting was adjourned**.

## LINCOLN COUNTY BOARD OF COMMISSIONERS

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Marianne Roose, Chairman

ATTEST: \_\_\_\_\_  
Tammy D. Lauer, Clerk of the Board