

December 14, 2016

The Lincoln County Board of Commissioners met for a regular session on December 14, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, Commissioner Peck and Deputy Clerk Chris Nelson. Commissioner Mark Peck was absent from 8:45-9:00 AM.

Commissioner Cole opened the meeting with the **Pledge of Allegiance**.

8:45 AM Maintenance Purchase: Gutter Replacement. Present were Jerry Bennett and Maintenance Director Tom Magone. Tom presented two bids that were received for the gutter replacement at the Juvenile Probation building and recommended the lower bid from Fissori Construction for \$2,962. The work wouldn't be done until the spring but Tom also informed the Commissioners that due to the unexpected replacement of several heat pumps, his budget could be short. **Motion** by Commissioner Larson to accept the low bid of \$2,962 from Fissori Construction. Second by Commissioner Cole, motion carried.

9:00 AM IT Briefing: Present were Jerry Bennett, Bethany Rolfson, Alan Gerstenecker, Ernie Anderson and Ric Kessling. Ric said he wished to thank the past and present Commissioners for their support during his time as IT Director. Ric said the county has come a long way with its technology, but cautioned that as technology changes minute-by-minute, the county needs to strive to keep up. Ric expressed several other areas that the county needs to expand to help attract future employees and to continue to serve the public at a high level. Ric said that although he is retiring, he wanted the commissioners to know some of the issues that Ernie, when he takes over as director, will be coming to the commissioners with. Ric reiterated that the past and present Commissioners have been very good to IT and he has appreciated his time with Lincoln County. The Commissioners thanked Ric for his service and the presentation.

9:30 AM Auditor/Cost allocation plan: Present were Kathy Hooper, Matt Pickett, Alan Gerstenecker, Wendy Drake, Dallas Wamsley, Bob Denning, Robin Benson, Jerry Bennett, and Krista Nemeroff. Bob gave a brief history and explanation of allocated costs. Robin said she is uncomfortable with some of the percentages and is unsure of how long it's been since they were reviewed. Commissioner Peck said they need to get the correct percentages and bring the budget into alignment. Robin said if that were done, there would have to be a budget amendment. Robin wondered if each department would need to submit their own percentages. Bob said that it could be done like that but those numbers would need to be looked at to see if they are realistic. Commissioner Peck said that it seems as if money is simply being shifted around with no real change being made and asked when the last time the study had been updated. Dallas said the time study was done two years ago. Commissioner Peck said the deficits are going to have to be made up by cuts or distributing more mills into the general fund. Commissioner Peck said the biggest issue now is solid waste and there should have been more attention paid to the time study. He added that they need to get the County Administrator on board and work with Matt Pickett and make the issue part of the whole budget discussion. Commissioner Cole suggested meeting about the issue in mid-January. Robin commented that she is glad there is going to be a focus to adjust the Cost Allocation Plan; it needs to be done correctly and percentages need to be accurately reflected.

10:30 AM Administrative Issues: Present were Jerry Bennett, Matt Pickett, Vic White, Bethany Rolfson and Alan Gerstenecker.

- The Commissioners reviewed the minutes of December 7, 2016. **Motion** by Commissioner Larson to approve the minutes with one change. Second by Commissioner Peck motion carried unanimously.
- Commissioners approved a letter thanking Gary Elmore for his work as a member of the Lincoln County Rural Fire District Board.
- **Motion** by Commissioner Larson to move forward with the hiring process of Anya Petersen-Frey as the Lincoln County Administrator. Second by Commissioner Peck, motion carried unanimously.
- Commissioner Peck said that he will be allocating \$3,000 out of Libby Economic Development Fund to Turner Mountain for general repairs.
- Commissioner Larson said that he has allocated \$7,500 from the Troy Economic Development Fund to the Lincoln County 4H group as they had some unexpected shortfalls.

11:00 AM Public Comment: Susie Rice said she wanted to talk about the green boxes and said that they have no public green boxes in Libby for the elderly and those with limited income. She wondered why they didn't have any public green boxes in Libby. Commissioner Peck said this is the first time he has heard of the problem but would look into it. Susie said that a possibility could be Pioneer Park. Commissioner Peck said that Pioneer Park is City of Libby property and the green box site would be an attractant to bears.

11:30 AM Conifer Road right-of-way discussion: Present were Jerry Bennett, Steve Gunderson and Lisa Oedewaldt. Steve Gunderson said he ran into an issue when he was building a carport and a neighbor complained he was building in to the right of way. Steve said they found out the right of way is 60 feet when it had previously been thought that the easement was 40 feet. Steve is proposing up to 45 inch variance of the right of way. Commissioner Larson said he would support the variance. Commissioner Peck said this could set precedence for future building but felt the situation was unique enough to allow the variance. **Motion** by Commissioner Larson to approve the variance of up to 48 inches onto the 60 foot easement on Lot 7 of Mobile Estates Subdivision. Second by Commissioner Peck, motion carried unanimously.

1:15 PM Callahan Creek: Present were Mike Fraser, Lisa Oedewaldt, Krista Nemeroff and Jerry Bennett. Mr. Fraser said that Commissioner Larson and he met with the stakeholders and property owners on Callahan Creek. If the county decides to put fill outside the floodplain they would probably have to put it out to bid as it is not a function of the road department. If they use the fill for the hole created in the floodplain, they can use the road department. Mr. Fraser said the first part of next year, Kootenai Surveying should have the floodplain staked out.

1:30 PM **Planning Department:** Present were Lisa Oedewaldt, Jerry Bennett, Alan Gerstenecker, Deb Blystone and Bethany Rolfson.

Lisa presented the commissioners with a preliminary review on Sinclair Creek Cedars; pulled because of bridge concerns. The main concern is the two approach permits, bridge capacity, weed mitigation and floodplain. Commissioner Cole wondered about the easement and some possible property off of Sinclair Creek Road. Lisa stated she will look into that to double check. **Motion** by Commissioner Larson to approve the Sinclair Creek Cedars preliminary plat review subject to planning staff recommendations and conditions. Second by Commissioner Peck, motion carried unanimously.

Motion to approve the Cooper Family Transfer subject to planning staff recommendations and conditions. Second by Commissioner Peck, motion carried unanimously.

Motion by Commissioner Peck to approve the Preliminary Plat Extension on Romans Run subject to planning staff recommendations and conditions. Second by Commissioner Larson, motion carried unanimously.

2:00 PM **Lincoln County Port Authority Board Appointments:** Present were Bethany Rolfson, Jerry Bennet and Alan Gerstenecker. The Commission was presented with three letters of interest from Nathan Gassman, Paul Bunn and Tim Lindsey. There are two vacancies on the Lincoln County Port Authority. The Commissioners were also presented a letter from the Port Authority Board recommending Tim Lindsey and Nathan Gassmann. **Motion** by Commissioner Peck to appoint Nathan Gassmann and Tim Lindsey to the Port Authority Board. Second by Commissioner Larson. Commissioner Peck asked if the recommendation was discussed at a board meeting. Commissioner Larson said it was not, it was done by email. Motion carried unanimously.

Commissioner Peck raised the question of a replacement of Commissioner Larson as a member of the Port Authority Board. **Motion** by Commissioner Larson to appoint Jerry Bennett as his replacement on the Port Authority Board. Second by Commissioner Peck, motion carried unanimously.

2:15 PM **Public Hearing: Resolution 968-Road Naming and Signage:** Present were Lisa Oedewaldt, Deb Blystone, Jerry Bennett, Bethany Rolfson and Alan Gerstenecker. Lisa said Resolution 968 is to replace Resolution 804 to clean up some information and language that was not in the original resolution. No comments were received on the issue. Lisa and Deb both said this will make things easier for dispatch and even for the Post Office.

2:45 PM **County Board Appointments:** Present were Krista Nemeroff, Jerry Bennett, Bethany Rolfson, Alan Gerstenecker and Clerk and Recorder Robin Benson.

Robin met with the Commissioners to present applications received to serve on district boards that have expiring positions.

Motion by Commissioner Larson to appoint Ben Scott to the Libby Park Board. Second by Commissioner Peck, motion carried unanimously.

Motion by Commissioner Larson to reappoint Dave Helmrick and Peggy Smith and appoint Tom Roark to the Wilderness Plateau Water and Sewer District Board. Second by Commissioner Peck, motion carried unanimously.

Motion by Commissioner Peck to reappoint Rocky Schauer and Mark Petersen to the Lincoln County Weed Board. Second by Commissioner Larson, motion carried unanimously.

Robin told the Commissioners that Hank LaSala resigned from the Tax Appeal Board but there were no applicants for the position.

Motion by Commissioner Larson to reappoint Gail Butchart and Janis Neuman to the Eureka Cemetery Board. Second by Commissioner Peck, motion carried unanimously.

Motion by Commissioner Peck to reappoint Wendy Chopyak and Bill Fansler and appoint Janet Ihrke to the Em Kayan Water and Sewer District Board. Second by Commissioner Larson, motion carried unanimously.

Robin informed the Commissioners that Lake Creek and Troy TV District Boards have combined to one board. There were no applications received on either board.

Motion by Commissioner Larson to appoint LeeAnn Schermerhorn to the Tobacco Valley Industrial District Board. Second by Commissioner Peck, motion carried unanimously.

Motion by Commissioner Peck to reappoint Betty Mack, Leslie Graves, Sara Sherwood and Marion Eash to the Lincoln County Fair Board. Second by Commissioner Larson, motion carried unanimously.

Motion by Commissioner Larson to reappoint John Damon, Michael Hobbs, Josh Letcher and Jody Peterson to the Lincoln County Planning Board. Second by Commissioner Peck, motion carried unanimously.

3:00 PM **Steed Permit/MACo Summary Approval:** Present were Jerry Bennett, Alan Gerstenecker, and Bethany Rolfson. Commissioner Peck gave a brief synopsis of the issue and the findings of himself and Commissioner Larson. The Commission accepted the Final Findings as submitted. **Motion** by Commissioner Larson to approve Lakeshore Construction Permit Application No. 2013-11-25-RC. Second by Commissioner Peck and so ordered upon the unanimous consent of the Board.

3:15 PM **Partisan/Non-Partisan Discussion:** Present were Mike Cuffe, Jim Johnson, Jerry Bennett, Jesse Hunt, Bethany Rolfson, Rhoda Cargill, Steve Gunderson, Valerie Crabtree, Robin Benson, Bonnie Larson, K. Watson, Alan Gerstenecker, Betty Ward, Robert Mast, Bobbie Stoken, Krista Nemeroff, Dave Guild, Linda Guild, Gregg Johnson, Steve Curtiss, Charles Reiner.

Commissioner Peck said that he has done a lot of research on the issue as well as Commissioner Larson, Commissioner Cole, Mike Cuffe, and Chas Vincent. Commissioner Peck said he wanted to recognize the work of the Study Commission and said he agreed with their findings but said the real problem is how to fix it. He is not willing at this time to overturn a vote of the people by resolution but would support a resolution upholding the findings and the county's commitment to fix it. Commissioner Peck stated his personal opinion was that it needs to go to District Court and that he feels it is owed to incoming Commissioner Jerry Bennett to have time to look at the issue to help make a decision. Commissioner Larson said he likes the District Court option better than a legislative fix and would like to see the issue fixed. Commissioner Cole said he agreed with Commissioner Peck and said he would also support a Resolution outlining the problem and the

county's commitment to fixing it. Jerry Bennett said he agreed with the commission sentiment and wanted to see the issue be officially taken care of.

Jim Johnson said he knows the commission is working hard and he appreciates it but the problem has been around since 2009 and he feels that the issue is being picked to death and since the county is acting outside the law, the county should not hesitate to become compliant.

Rhoda Cargill said this is an issue of law and who has the authority to address that issue; in this case a judge. Rhoda asked who is addressing the issue of standing and when this would be addressed. Commissioner Peck said the issue of standing had only been brought to his attention Monday and he was unsure of a time frame.

Steve Curtiss said that he is disappointed that after two years of work on the issue by the Study Commission the issue hasn't been resolved. He also said there is a terrible imbalance in procedure and that we cannot continue to break the law.

Bobbie Stoken said she feels there has been a dragging of feet and doesn't understand why the county is getting advice from people that were part of the original problem.

Dave Guild said he is also upset at the lack of action by the Commissioners and said they must stop breaking the law or they need to change the county's form of government.

Rhoda Cargill asked the commission what the timeframe would be for finding out if they have standing and getting the issue resolved. Commissioner Cole said that he isn't sure what the time frame would be and said he feels remiss that he had voted on having the issue taken care of in December.

Robert Mast asked what repercussions would there be if a Resolution were passed. Commissioner Peck said they do not have the authority to pass a Resolution and he refuses to fix a mistake with another mistake.

Meeting adjourned at 3:45 PM

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST: _____
Chris Nelson, Deputy Clerk of the Board