

September 28, 2016

The Lincoln County Board of Commissioners met for a regular session on September 28, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, Commissioner Peck and Clerk and Recorder Robin Benson.

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

9:45 AM **Maggie Anderson/New Grant: Meeting Cancelled**

10:00 AM **Vic White / Policy Manual / H.R. Update:** Present were Vic White, Dallas Wamsley, Alan Gerstenecker, Caleb Soptelean, Alan Gerstenecker and Kristan Nemeroff, Eureka via VisionNet.

Vic said the Personnel Policy and Procedure Manual is ready but he has one correction to make before it can be signed. There was a brief discussion about the hiring process for the county administrator position; specifically where the position will be posted outside the county. Dallas said the commission can look at a list of places suggested by Matt Pickett. Dallas said the new State PERS system conversion has been down since its inception which is causing stress and is difficult to get required reports completed on time.

Advertisements for two job postings will be going out for the Eureka and Libby Road Departments.

10:30 AM **Administrative Issues:** Present were Alan Gerstenecker, Tina Oliphant, Ric Kesling, and Ernie Anderson.

- The Commissioners read the minutes for September 14, 2016 in its entirety. **Motion** by Commissioner Peck to approve the minutes as amended by Commissioner Larson. Second by Commissioner Peck, motion carried unanimously.
- **Motion** by Commissioner Larson to sign a letter of support of the Kootenai River Development council and a Big Sky Trust Fund application for a Planning Grant for Preliminary Engineering for a Water Main Extension of the Kootenai Business Park. Commissioner Larson said there is a lot of discussion on the water needs of the area and this will allow for determining costs and alternatives for a future reliable potable water supply.
- Robin Benson submitted a brief write up on the Economic Impact of the Libby and Eureka Airports to the commission for review. The submittal was sent to Robin from Tim Orthmeyer, Morrison and Maierle.
- IT Director, Ric Kesling updated the commission on the status of the current server/computer issues the county has recently been dealing with. There will be work conducted over the weekend, and the system should be back and running efficiently on Monday.
- Clerk and Recorder Robin Benson informed the commission that a Joel Openheimer, Inc. established since 1969 will restore the 1909 survey of Lincoln County. The quote is between \$4500 to \$6500, but they cannot get an actual cost to us until they see the map. The company is located in Chicago. Robin said the records preservation fund is healthy at \$76,000 and wanted the opinion from the county commission as to whether to move forward with the restoration project. All commissioners were in agreement the 1909 survey of Lincoln County should be restored and framed for the public to view.
- Robin discussed District Boards that historically have not been appointed with commission approval. Robin said there are many laws to learn regarding boards and how they function. Each board training helps to educate herself and also the board members as well. Robin said next spring she is hoping to have a person from the Department of Administration at the board training to help answer questions from the board members, the county commission and the Clerk and Recorder. We are headed in the right direction each time we all gather under the same roof collectively.
- Commissioner Peck commented that it is time to start discussions on long term budget strategy now. Drilling through mandatory vs. discretionary services and the level of services the county offers to the public. We need to train and empower department heads to look at their budgets and the relationships with revenues. It is felt that there are opportunities to improve efficiencies that departments are not aware of at this time. Commissioner Larson added that we need to look hard at duplicated services and attain public input.

Commissioner Peck said it would be beneficial to organize a citizen group representing Libby, Troy and Eureka in an advisory capacity. If we are going to prioritize services then the public needs to be involved in that process. Robin Benson will draft a resolution from the commission on process, timeframe, mission and expectations of a citizen group.

11:00 AM **Public Comment Time:** Present were Maggie Anderson, Alan Gerstenecker and Caleb Soptelean.

Maggie Anderson representing Unite for Youth Program submitted a 2016 Montana Prevention Needs Assessment Survey by youth in grades 8-12. The survey is administered in schools by the Department of Public Health and Human Services (DPHHS). The survey is a comparison of youth drinking statistics from 2008 to 2016 in Lincoln County.

Commissioner Peck asked if there has been an increased presence of the county in the schools and connectivity with tobacco prevention as well as alcohol education. Maggie said she works alongside the county health department and appreciates the commission acknowledging the importance of public health. Maggie said the efforts by the county health department have made a big difference, especially with Tobacco Prevention Specialist, Amy Fantozzi joining the county health department. Maggie discussed some of the kid's leadership opportunities and said we need more occasions to encourage and build up a kid who may feel a reduced self-worth. Commissioner Peck expressed the importance of mentoring by parents, extra-curricular activities such as sports, choir, band etc...that are positive influences.

Maggie informed the commission of an upcoming community meeting with Jermain Galloway who speaks nationally on drug abuse, media, music, and signs and symptoms of drug use education for parents. The community meeting is scheduled for Thursday, October 6, 2016 in the Ponderosa Room from 9:30-11:30 AM. Maggie discussed a new supplementary grant for a community program called Unite for Youth and STOP Underage Drinking which identifies ways to be more comprehensive in prevention efforts.

1:30 PM **Planning Department Update:** Present were Lisa Oedewaldt, Josh Letcher, Jennifer Curtiss, Steve Curtiss, Mike Cuffe, Bob Windom, Rita Windom, Rhoda Cargill, Bonnie Larson, Alan Gerstenecker, and Steve Gunderson. Also present via VisionNet were Paul Wachholz, Dawn Marquardt, Sara Arriojoni, and Darwin Pluid.

- **Livingston Family Transfer** off of Sophia Lake. The Planning Department has received a request from Robert Wunderlich, (Glacier Surveying) on behalf of his client Beverly Livingston, to transfer a portion to her daughter, Marky Hinkle; and to her son Mark Livingston. **Motion** by Commissioner Peck to approve the Livingston Family Transfer with Option 2 as recommended by planning staff. Second by Commissioner Larson, motion carried unanimously.
- **Velvet Grove 1 and Velvet Grove 2 Final Plat Approval:** **Motion** by Commissioner Peck to approve final plat for Velvet Grove 1 & 2 subject to planning staff recommendations. All conditions have been met per planning staff.
- **Geldrich Lake Shore Permit** on Upper Thompson Lake. **Motion** by Commissioner Larson to approve Geldrich Lake Shore Permit subject to planning staff recommendations. Second by Commissioner Peck, motion carried unanimously.
- **Nelson Lake Shore Permit** for Jeffrey & Dhana Nelson on Middle Thompson Lake. **Motion** by Commissioner Larson to approve Nelson Lake Shore Permit subject to planning staff recommendations. Second by Commissioner Cole, motion carried. Commissioner Peck recused himself from voting due to being related to the Nelsons.
- **Velvet Grove Lots 3-5 Subdivision Preliminary Approval:** **Motion** by Commissioner Larson to approve preliminary plat for Velvet Grove Subdivision Lots 3-5 subject to planning staff recommendations. Second by Commissioner Peck, motion carried unanimously. Commissioner Cole requested that a stop sign be placed on Airport Road. Lisa will add the stop sign as part of the conditions for approval.

2:00 PM **Callahan Creek:** Present were Mike Fraser, Lisa Oedewaldt, Mike Cuffe, Josh Letcher, Steve Curtiss, and Jennifer Curtiss.

Mr. Fraser updated the commission on the process regarding the Callahan Creek Restoration Project. The work/restoration schedule and tracking the budget will be combined. Mr. Fraser submitted a removal plan to the commission for review. There are 3 private owners that will be contacted to attain permission to enter and provide access of the county as well as agreement for removal. Commissioner Cole asked if there will be road building to access properties. Mr. Fraser said there will be a minimal amount of road work. The commission signed Task Order 2; approved two weeks ago during the regular commissioner meeting.

Mr. Fraser said we are making progress towards the restoration and feels it is a good plan. We know what we are doing and are moving forward, but we do have to work alongside other agencies.

2:15 PM **Study Commission Update:** Present were Study Commission Members Josh Letcher, Rita Windom, Steve Curtiss and Bonnie Larson. Also present were Alan Gerstenecker, Mike Cuffe, Jennifer Curtiss, Rhoda Cargill, Bob Windom, Steve Gunderson, John Rios, Charles F. Woods, Charlotte Woods, Robert Mast, and Leland R. Kibler. Steve Curtiss on behalf of the Lincoln County Study Commission said the study commission is honored to serve in their position and although there have been challenges they have learned a lot and are glad to be able to do this service for the county. Steve presented Findings of Fact and supporting documents stating that in 1974 the Montana State Constitution set forth that all counties would be governed by the Elected Official form of government. The elections were required by law to be partisan elections with no exceptions. The Elected Official form of government is the current form of government in Lincoln County. The Study Commission, upon review, believes this form of government has served the citizens of Lincoln County well and should be retained. The Findings of Fact further state that in 2009, the Board of Lincoln County Commissioners made a significant mistake by entering a process that culminated in a special election on November 3, 2009 to change elections from partisan as required by law for our Elected Official form of government, to nonpartisan elections. In order to hold nonpartisan elections, the citizens would be required to engage in a process to change the form of government to one other than Elected Official. It is important to understand that the process used to attain the special election was in and of itself a flawed process. Steve read the Findings of Fact in its entirety. The Study Commission strongly recommends the commission to return to partisan elections.

Bonnie stated that during the process, it was interesting to have had the ability to visit with a District Judge and with attorneys. Bonnie stated that Lincoln County is currently acting outside the law and outside the constitution by holding nonpartisan elections.

Rita commented that it has been an interesting journey over the past two years. She is thankful to the Clerk and Recorder's Office, especially Election Administrator Leigh Riggleman and Deputy Clerk Chris Nelson for their diligence in researching old records and finding data requested by the study commission. Rita commented that visiting with legal counsel it raises questions and issues of potential lawsuits. Rita said her biggest concern is how the partisan issue and election went through its journey and came through fruition. There was definitely a lack of transparency and feels strongly that the public did not know what was going on and feels the public would not have voted for nonpartisan if they were informed of the history and facts. Josh said he feels it is best for the county to be back in compliance with the law and the county commission does have that authority.

Steve asked if the commission had any questions after reading the packet submitted prior to today's meeting.

Commissioner Peck said he feels the information in the packet is pretty compelling and that it is clear that mistakes were made especially in process. The argument will be people voted on it, although there is no denying it was on a flawed process. The biggest issue now is how to drill out the ramifications on how to move forward. The issue must be acted on one way or the other. Steve said the options are very slim; Elected Official form of government by law must hold partisan elections. The issue was given to the people to vote on in a very erroneous and flawed process, this is the whole problem. As the Study Commission Board, we conclusively concur this is not a legislative issue. It is a local issue, a decision by the county commission. The Study Commission believes the commission has the lawful authority to pass a resolution. Rita asked if after reviewing the packet is there a recommendation by the commission to draft a resolution? Commissioner Peck agreed the county is currently outside the law. Commissioner Cole said that as a board they have not discussed the information in the packet yet, but it is a situation that does need to be dealt with. Commissioner Cole commended the study commission for their work, time and research on this issue.

Steve said it is never a desire to point fingers or prosecute anyone, we simply are saying the study commission board unanimously requests the problem be fixed so Lincoln County is operating within legal statutes. Steve feels the county commission would not want the legal responsibility of not fixing this and strongly advises commission to draft a resolution. The Study Commission will be holding more public hearings and presenting the findings of fact after which the study commission will prepare a final report. Steve said the study commission is asking the Lincoln County Board of Commissioner to entertain a motion to bring this issue back into compliance by resolution.

Rita informed the commission that there is a small window of time to be in compliance by January 1, 2017. The study commission feels certain that their research is correct and requesting the commission to by resolution put Lincoln County back to partisan elections is the correct process forward. Commissioner Larson who is an ex-officio member of the study commission, attending most of the meetings, agrees the county needs to come back into compliance and supports a resolution.

Alan Gerstenecker asked if there is an alternative solution through the judicial system or judge to make a decision; was that considered an option by the study commission? Steve said members of the study commission did meet with a district judge and it is recommended the county quickly go back into compliance.

Rita asked Clerk and Recorder Robin Benson to explain the difference between partisan and nonpartisan. Robin said the main difference is in ballot layout for local candidates only, who would be on both the republican and democrat ballots in the primary election.

Motion by Commissioner Peck that no later than December 15, 2016, the county commission will have a resolution prepared and voted on by the commission. Second by Commissioner Larson. Commissioner Cole asked for further discussion. Steve questioned if December 15 allows enough time for the commission. Commissioner Peck said this should not carry over to another commissioner and it gives ample time to research and ensure the process is correct and have a vote on.

Steve informed the county commission that the study commission is available and able to assist in this process. Rita commented that she would like to have the resolution as part of the study commission's final report; the public needs to know this is being discussed. Rita said the study commission is doing their part on getting information to the public and the county can build on that.

Robert Mast commented the public meetings are advertised and he is hoping for a large public turnout.

John Rios asked if the public will be invited in commission discussions or involved in the resolution verbiage.

Commissioner Peck said all discussions will be an agenda item.

Motion carried unanimously.

Rita commented that the study commission started out to study county government and they would have looked more in depth into county departments, but when this issue came along, we thought this was the most prudent issue to spend time on. Commissioner Larson said we may need a handout on pertaining to partisan and non-partisan and what it means. People need to understand that it is a ballot layout issue and following the law.

John Rios asked about the study commission not having opportunity to look at all the departments and does that mean we have to wait another 10 years to look into departments? Commissioner Cole said it is always an ongoing process year after year we are always looking at all departments and how to improve.

Commissioner Peck stated that in the near future the county is going to be looking at services; we cannot continue as is with the decreased revenues. It would be beneficial to have citizens from Eureka, Troy and Libby on a committee to act in an advisory capacity on the county budget. Citizens need to be involved in the services if we are prioritizing them. In our current form of government, it is citizen participation and is the duty as a citizen to participate in local government business and decisions. Commissioner Peck stated for clarification that under this form of government, there is limited authority over elected officials. Elected officials have their own statutory guidelines and requirements.

The County Commission thanked the Study Commission for two years of research, time and commitment.

3:30 PM Meeting Adjourned:

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST: _____
Robin Benson, Clerk of the Board