

April 26, 2017

The Lincoln County Board of Commissioners met for a regular session on April 26, 2017, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Bennett, Commissioner Peck, County Administrator Darren Coldwell and Clerk and Recorder Robin Benson.

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

9:45 AM Tax Appeal Board Vacancy: Present were Accounting Deputy Wendy Drake, Alan Gerstenecker, John Blodgett and Krista Nemeroff, Eureka via VisionNet.

Robin said the Tax Appeal Board vacancy was advertised but no applications were received. The board is looking for a Troy representative. Commissioner Bennett said he will visit with some Troy residents and bring information back to the commission.

10:00 AM Nancy Higgins/Treasurer Monthly Report: Present were Accounting Deputy Wendy Drake, Alan Gerstenecker, John Blodgett, and Krista Nemeroff, Eureka via VisionNet.

Nancy submitted the Monthly Cash Reconciliation Report and Lincoln County Investment Reports for commissioner review with supporting documentation. Nancy commented that she missed the audit exit debriefing for FY 15/16 yesterday and discussed the audit finding relating to the county wide school portion of the Secure Rural Schools Title I payment between the funds. Nancy discussed solutions but said she wants to visit with the auditors first, and will come back to the commissioners at a later time to inform them of options to fix the error.

10:30 AM Administrative Issues: Present were Alan Gerstenecker, John Blodgett and Krista Nemeroff, Eureka via VisionNet.

- IT Director Ernie Anderson asked the commission if he can proceed with updating the county to Office 2016. Darren said there is basically not a choice to update from Office 2010 to Office 2016. Ernie said that historically the cost has been paid from the IT Department, but recommended that the cost be allocated out to all the departments proportionately. Commissioner Peck questioned that as long as it is budgeted for, what is the reasoning why it would be allocated to each department. Robin commented that at \$17.00 per month per user, it would be a truer account of how much it costs to fund a department. Commissioner Peck said he would defer how the cost will be paid to the Finance Department. Darren said he would like to allocate the cost per department to reflect actual costs per department. Because the budget packets have already gone out to department supervisors, it was decided the cost would come out of the IT budget for FY 17/18, but may be a shared cost in the future. **Motion** by Commissioner Peck to authorize the IT Department to proceed with the implementation and upgrade of Office 365/2016. Second by Commissioner Cole, motion carried.
- Darren informed the commission that the IT Department is working on a FB page for the Student Capitol Christmas Tree program. The students will be able to download pictures straight to the site. Darren commented the process for the pictures is still being worked out with the local high schools.
- Darren and Wendy Drake are working on insurance coverages for buildings and vehicles. Darren said he will report to the commissioners once the research is complete. Darren commented that the county needs to have firm control over what we are insuring and he feels the county does not have that assurance at this time.
- The Commissioners read the minutes for April 18 and 19, 2017. **Motion** by Commissioner Bennett to approve minutes for April 18 and April 19, 2017 as submitted. Second by Commissioner Peck, motion carried unanimously. **Motion** by Commissioner Peck to approve the closed meeting minutes dated April 11, 2017 as submitted. Second by Commissioner Bennett, motion carried unanimously.

10:45 AM Service Provider Designation:

Darren submitted the annual Service Provider Designation Form for commissioner signatures. The Board of County Commissioners designates Flathead Valley Chemical Dependency Clinic as the service provider to receive earmarked alcohol tax monies and/or State-Approval for the provision of chemical dependency treatment and prevention service in the county in accordance with 53-24-206 MCA. **Motion** by Commissioner Peck to approve designation of the earmarked alcohol tax monies to the Flathead Valley Chemical Dependency Clinic. Second by Commissioner Bennett, motion carried unanimously. .

11:00 AM Public Comment Time: Present were Alan Gerstenecker, JohnBlodgett, and Krista Nemeroff, Eureka via VisionNet.

- Commissioner Peck gave a brief report about his attendance at the American Forest Resource Council (AFRC) conference out of Stevenson, Washington. Commissioner Peck was asked to give a presentation at the annual conference. The council is a membership group, primarily mill and timber groups from the Northwest. The council is a professional group that provides legal support for its membership. The presentation was about the impact the lack of production on the forest is to our counties and the benefits of engaging in the legal process. Commissioner Peck said that Northwest counties are all in the same boat and the lack of funds is why counties don't enter into litigation. The goal is to organize a coalition of counties from 3 or 4 states. The idea is a co-op basis that each county pays into annually and those monies would pool. AFRC also lobbies and is professional in its service to counties and provides staff support. Commissioner Peck stated that its time for local government to stand up for themselves and we cannot do it individually. Commissioner Peck feels it is well worth looking into further; it is advantageous to take that next step and connect leadership pieces. It's time

to step up as counties and tell our stories especially as one loud voice. Commissioner Peck said he was very impressed with the conference and the people in attendance. Now is the time to come together as local governments.

Rita questioned about a coalition that already exists that is nationwide, stating the documentation would be beneficial moving forward. Rita suggested contacting former commissioner Marianne Roose who served on the board and may have further information.

- Commissioner Bennett shared about the Columbia River Basin Plan. Sanders County entered into cooperating status with Corp. of Engineers, EPA and USFW. Sanders County hired a lawyer and positive things came out of that. The scoping process is in closed session so Lincoln County can participate in that process. Commissioner Bennett told the group that he feels Lincoln County is very open to being involved in the process of drawing up an MOU with multiple counties. The Corp. of Engineers, EPA and USFW are meeting monthly and Lincoln County could be involved in that process.
- Rita questioned that she read in the Daily Interlake that Kalispell received \$700,000 in SRS funding. Commissioner Peck stated that potentially there may be confusion about SRS and the money is the 25% receipt forest reserves.

11:15 AM **Nonpartisan/Partisan Resolution to change Lincoln County to partisan elections:** Present were Alan Gerstenecker, Rita Windom, Valerie Crabtree, Betty J. Ward, Darren Short, Roby Bowe, Robert Mast, Bonnie Larson, Dick Wernham and John Blodgett. Also present from Eureka via VisionNet were Steve Curtiss, Bobbie Stoken, John Stoken, Jason Curtiss, Kurt West, Jennifer Curtiss, Richard T. Avery and Krista Nemeroff.

Commissioner Cole presented Resolution No. 988 to everyone in attendance and opened the discussion to the commissioners for comment. Commissioner Peck stated the Study Commission was right on target with their findings and although there was frustration for not taking immediate action, but we have come out exactly where we all wanted it. Commissioner Peck said it was a unique situation and he did not like the fact that commissioners can overturn a vote of people, but the bottom line is that Lincoln County is clearly outside the Montana Code by conducting non-partisan elections. Commissioner Peck said that for the record, it hurts that we are in this position, but there is no other recourse.

Commissioner Bennett said the board currently has put a lot of thoughtfulness into this issue and I believe we (the commissioners) are wanting to live by and honor the law. Commissioner Bennett agreed that it is a very serious thing, overturning a vote, but before this legislature was passed we did not have the authority, now we have the legal authority and it is the most expedient way to resolve this issue. Commissioner Bennett expressed that he is in full support of the resolution returning Lincoln County to proper standing with the MCA's.

Commissioner Peck commented that we are a nation of laws and we need to ensure that as a commission, we are abiding by those laws.

Commissioner Cole said that he is disappointed that we have to back up but unfortunately all the research and hiring a private law firm to review the issue combined with the work of the Study Commission, it is clear Lincoln County is outside the scope of the law by conducting non-partisan elections.

All three Commissioners expressed their appreciation and are thankful to Mike Cuffe for his work and efforts putting through HB 282 which was signed by the Governor on April 3, 2017. Resolution No. 988 states that by the Board of Commissioners of Lincoln County that Lincoln County's type of local election is restored to partisan local elections as required by MCA 7-3-111 and that pursuant to HB 282, that the Election Administrator of Lincoln County shall conduct local elections on a partisan basis, as it had done prior to the 2009 election and as required by MCA 7-3-111.

Motion by Commissioner Peck to approve Resolution No. 988 to put Lincoln County back into partisan elections and back into compliance of Montana law. Second by Commissioner Bennett. Motion carried unanimously.

Bonnie expressed that it is an honor to be here before the commission. Bonnie commented that if you operate outside the law there are consequences, and thanked the commission for taking the time and interest to put Lincoln County back into compliance.

Rita commented that she is thankful to Mike Cuffe who also attended the Study Commission's public meetings.

Commissioner Bennett said that Mr. Cuffe's involvement brought in a real expertise to the situation and the legislature being open to listening to the people with knowledge. By acting in the legislature, it is protective of the county and the commissioners appreciated the process and all the people involved.

Robert Mast stated that as a citizen he is very happy to see this move forward in the right direction.

Steve Curtiss asked when does the implementation of this correct process occur? Commissioner Cole answered that once the resolution was voted on and passed, it is in effect. Steve said he is very happy this has finally come to fruition; it was a long haul, and expressed thanks to the commission for being persistent. Steve said there is no question it was wrong therefore, there is no regret that we have moved forward but regrets that it happened to begin with. Steve ended the discussion by stating that this is in fact what due process in law is all about and expressed thanks to all who participated in this process.

1:00 PM **Rainy Creek Road/Mel Parker:** Present were John Blodgett and Alan Gerstenecker.

Mel gave a brief history of the property he purchased from WR Grace and the road that was built that hooked up to 102A county road. The road was moved by WR Grace to have a direct shot to the screening plant and to accommodate a direct line of site to the mine site.

Mel is requesting the road be moved back to the original state. Commissioner Peck said that the county easement moved with the new road. Mel asked if the county has reviewed any of this information that he has provided and if the county would clarify its standing. Commissioner Peck said he does not think there is any doubt it is a county road, but the statutes are such that if a private landowner wants to move a road, the easement automatically moves with it. Mel submitted a letter dated August 11, 2011 from the county to him and expressed his frustration for the decisions that were made at that time.

Commissioner Cole asked Mr. Parker what it is he is actually trying to do? Mr. Parker said he wants access to the existing road that EPA uses to attain access to the rock quarry on his property.

Commissioner Peck reiterated that a private property owner moved the road, not the county. The county easement moved with the road. Commissioner Peck said he cannot find a compelling reason for the county or its citizens to pay for it to be moved back to its original state, although he understands why Mr. Parker wants it moved.

1:30 PM Planning Department:

- **Annexation for Districts (cancelled)**
- **Callahan Creek / Mike Fraser:**

Mr. Fraser submitted a progress report and a estimated budget expenditure report to the commission for review. Removal began on April 3, 2017 with three crews. Excavated material was placed on Steiger's property in two locations and in three locations on the Pattee property. The reduced haul distances helped increase efficiency in removal. The Army Corps may take exception to allowing fill placed near the stream bank on the Pattee property to remain; it would fall back into the creek if there was bank erosion. To resolve the permitting and coordinating the fill and riprap construction will be a complex lengthy project. The progress report states that Mr. Welch proposed an agreement which was unacceptable. Mr. Fraser recommends the county to enter into an agreement with Welch's to place the fill after the necessary permits are approved. The county as part of the mitigation and restoration needs to define the flood plain limits and OHW mark. This information would be provided to Welch's for use in their permit applications. Material excavated from Welch's would be stock piled at the county pit for future reuse at Welch's property.

Mr. Fraser stated the county crews moved a lot of material in a short time period. All were cooperative and very professional. A private contractor would not have been able to react to land owner's requests. The county crews are to be commended.

Final Restoration Costs are estimated at \$253,953 (very preliminary final estimate). Restoration includes channel shaping, armoring and no plantings. Root wads and logs debris will naturally be placed during high water events. Natural stream hydraulics will create pools and riffles for fish passage.

Meeting adjourned at 2:00 PM.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST: _____
Robin Benson, Clerk of the Board