

January 11, 2017

The Lincoln County Board of Commissioners met for a regular session on January 11, 2017, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Bennett, Commissioner Peck and Clerk and Recorder Robin Benson.

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

9:15 AM **Resolution 981, 2017 Holiday, Meal Reimbursement and Mileage Rates:** Present were Alan Gerstenecker, Bethany Rolfson and Nikki Meyer, Eureka via VisionNet.

Meal reimbursement rates are as follows:

In-State: \$5 for morning meal, \$6 for midday meal, and \$12 for evening meal.

Out-of-State: \$11 for morning meal, \$12 for midday meal, and \$23 for evening meal.

Commissioner Peck commented that we send employees out for training and other official business and he does not feel the meal reimbursement rates are enough to compensate for meals. Commissioner Bennett questioned why there is such a big difference between In-State and Out-of-State rates. Commissioner Cole agrees the rates are low.

Commissioner Bennett said he would be in agreement to increasing the In-State Meal Rates by \$1.00. **Motion** by Commissioner Peck to make in state and out of state rate meal reimbursement rates the same. Second by Commissioner Bennett. Commissioner Bennett commented that the county should find out what constitutes the In-State vs. Out-of-State rates and would like to conduct some research. Motion did not pass because the issue was tabled until next week.

9:30 AM **EPA Update:** Present were Mike Cirian, Nick Raines, Alan Gerstenecker, Bethany Rolfson and Nikki Meyer, Eureka via VisionNet. Also present via telephone conference were EPA representatives Jennifer Harrison, Christina Proggess, Dania Zinner, and Melanie Keller. Also present via telephone conference was Whitney Baush representing DEQ.

Mr. Cirian talked about team staff changes and those changes have been sent out to the county commissioners. Stan Christian will be taking the lead role for our area.

The last call letter has been sent out to landowners who have denied EPA access for investigation or clean up. There are approximately 600 properties still to be either inspected or construction removal. The goal is to get those completed this year. All construction for residential and commercial properties should be completed in 2017. Mr. Cirian described the extensive efforts put towards contacting those property owners and stated that we are at the point now that this is free to the property owner (removal/restoration), but may not be that way in the future. It is important for people to participate now. EPA has about 35 properties on the 2017 schedule now but is shooting for 80. If all 600 property owners say yes to the last call, the average is 10% of the investigations will go to clean-up. Best guess will be approximately 125 properties scheduled for the 2017 season. Jennifer said as the Community Involvement Coordinator, she will be in Libby again in February for continued community outreach efforts. She is in contact with Nick Rains to help coordinate those efforts. Jennifer said she is open and welcomes any suggestions to improve outreach.

Mr. Cirian said that out of 150 properties during the construction season in 2016 there were only 2 call backs on the list at any time; this is indicative of a very good turnaround in public perception. A big project currently underway is at the Evergreen Hotel in Libby. Nick said the reason EPA is helping with removal from walls is because the property owner plans to remove most walls and is leaving a shell, therefore, the property owner is planning to expose that material anyway.

Mr. Cirian said Operations and Maintenance (O & M) is the future of Libby when the total project is done. Determining Institutional Controls is part of that process. There have been meetings in Denver and EPA has started putting things on paper. EPA is working with DEQ, County, and the State but this process is in its infancy. There are a lot of discussions still to take place. Commissioner Peck said he would like to see an agreed upon timeline because there could be some legislative needs and he is ready to pull the trigger on that now. The legislature will not be meeting again for 2 years. Mr. Cirian clarified that there is one year of construction, then operational and functional phase, so EPA is still 2 years out at a minimum. Commissioner Cole commented that our very strong concern is the long term funding. Commissioner Peck asked about cost analysis saying that we can't talk about funding without a cost analysis. Mr. Cirian said that EPA can put the numbers together, but first we need to know what all O & M entails. Commissioner Peck said the major cost concern is with residential home owners. Nick said this is one of the areas where more discussions need to take place. Commissioner Cole said this has been talked about for years and finds it unacceptable that we don't have any answers. Commissioner Bennett asked about written records of those discussions over the past years. Mr. Cirian confirmed that EPA does have all that information from past meetings and discussions. Mr. Cirian commented that he is working with Nick to come up with a cooperative agreement and that EPA is currently looking at funding the Asbestos Resource Program (ARP) for the next 3 years. Commissioner Cole expressed that he is very pleased to hear that ARP is being continued. Commissioner Peck said that it goes beyond the cooperative agreement; what do the citizens live with in perpetuity? Commissioner Peck went on to say that there should be a plan developed and discussions have already taken place. Now we need a systematic action based process. Mr. Cirian agreed that agencies are past the just talking stage.

Christina said that fire preparedness / non time critical removal action is being coordinated with the forest service at the mine site (OU3) and surrounding forested areas to address concerns of fires around and at the mine site. There have been investigations going on since 2007 in OU3 for water, soil, bark and dust. The investigation results are on the EPA website if anyone wants to look at it; it is very thorough. EPA is working with DNRC, DEQ, and WR Grace pertaining to the dam to address any structural concerns. Commissioner Cole asked if that is going to be the next big issue as far as the OU3 site to ensure the dam is solid. Christina said it is a high priority.

Dania said she is working with the Port Authority (OU5) which is 400 acres of industrial property with recreational and commercial usage. EPA has taken a lead to put together a re-use task force for goals and re-visioning. The task force is looping the Libby ground water superfund site into this to have a comprehensive view in the planning. There will be an initial discussion with the Port Authority tomorrow and a site visit is scheduled for the first week in February. Commissioner Peck asked if anything has moved forward with delisting OU5 from superfund status. Dania explained that we are in the Operational and Functional phase right now and she is working to make sure O & M Plan is worked out. Once the O & M Plan is in place there will be a state review and 30 day public comment time will follow. If nothing comes back during public comment then a federal rule process will commence for delisting. Commissioner Bennett asked if an International Paper representative will be attending the planned meeting on January 23rd. Dania said the meeting on January 23rd is just a kick off planning meeting on what the process is going to look like. February meetings will include International Paper.

Christina said the summer was spent sampling the whole BNSF corridor railway system between Libby and Troy (OU6). Most results came back good with only a few areas with trace elements below remedial action construction.

Christina informed the commission that EPA is working with Jennifer McCully as part of the Libby Asbestos Response Plan to develop a unified command structure and testing it out. It is a complicated process to work out how all agencies will come together under a unified command center. Information and PR is a big part of that plan, joint information training is being organized by Jennifer McCully. Training is scheduled for February 8 & 9 and will include County, Forest Service, EPA, WR Grace and DEQ.

Commissioner Cole said we should plan for a comprehensive update in March.

10:30 AM **Administrative Issues:** Present were Alan Gerstenecker, Bethany Rolfson and Nikki Meyer.

- The commission read the minutes for January 4, 2017. **Motion** by Commissioner Peck to approve the minutes as submitted. Second by Commissioner Bennett, motion carried unanimously.
- Robin presented the eligibility update from the Department of Administration/Surplus Property Program. Robin said Lincoln County has nobody of record to participate in the surplus program. **Motion** by Commissioner Peck to approve the following people to participate in the State Surplus Property Program on behalf of Lincoln County: Marc McCully, Dave Kyriss, Ray Price, Mark Peck, Jerry Bennett, Mike Cole, Brian Alkire, and a representative from the Sheriff's Department. Second by Commissioner Bennett, motion carried unanimously. Robin will notify each person via email.
- **Motion** by Commissioner Bennett to sign a letter of support of the Museum, Inc. application for a Montana History Foundation education and outreach grant for the Heritage Museum. Second by Commissioner Peck, motion carried unanimously. No county money is obligated.
- Mike Fraser submitted a contract/agreement to the Clerk and Recorder for commissioner approval. Commissioner Peck commented that he feels Mr. Fraser has done a good job assisting the county and providing needed services. Commissioner Cole expressed some frustration in regards to communication provided for the Eureka fairgrounds sewer project, but overall appreciated Mr. Fraser's service. Commissioner Peck said regarding the fairgrounds project he felt there was a lack of information gathering provided to Mr. Fraser. **Motion** by Commissioner Bennett to approve the contract with Fraser Management & Consulting, PLLC as submitted. Second by Commissioner Peck, motion carried unanimously.
- Wendy discussed that The Western News has implemented a new computer system and can only provide statements and not invoices at this time. Wendy expressed her concern that the auditor will not approve claims being paid off of statements. Lincoln County could receive a negative finding during the audit process. Requesting commission approval to pay the Western News from statements. Bethany said The Western News did get a new computer system and they do not know how to access invoices. Commissioner Peck said the commission can write a letter of explanation for Wendy to place on the statements. Commissioner Bennett suggested a timeline for the Western News to start sending invoices. Wendy will draft a letter notifying The Western News that the county will pay off of statements for 3 months to give adequate time to begin submitting invoices.
- Wendy informed the commission that a bill was received from Business Owner's Assistant last month, but the invoice was dated March, 2015. All FY 15/16 invoices need to be paid by end of July. Wendy contacted Matt Pickett and was informed there was a miscommunication about when to submit invoices. Matt said he will be sending all invoices to Wendy soon but Wendy said she will need commissioner approval to pay the late invoices. **Motion** by Commissioner Peck to pay back dated invoices upon commissioner review and JV payment back to previous fiscal year. Second by Commissioner Bennett, motion carried unanimously.

11:00 AM **Public Comment Time:** Alan Gerstenecker, Robert Mast and Nikki Meyer, Eureka via VisionNet.

- Nikki Meyer asked Commissioner Cole to update her on last week's meeting about the Sheriff's Department restructuring the Troy Juvenile Detention Center. Commissioner Cole said the Sheriff's Department is conducting an informational study on what that may look like and costs associated. There will be more discussion as the study progresses.
- Robert Mast commented that he followed and participated during the study commissions meetings and findings. The study commission is totally unanimous on their findings and recommendations to the commission. Robert said he is shocked that elected officials either do not know or don't take the Montana Constitution seriously. Robert expressed that we have an opportunity to correct the wrong and hopes the commission takes the study commission findings and advice seriously. Commissioner Cole said the commission is taking it seriously and are moving forward with a path to fix it; we are considering how to fix it judicially or legislatively and those are moving forward. Commissioner Peck said there is no dispute that it is not correct and the county is not compliant, but for him personally, just simply doing a resolution will open us up to a lawsuit more so than the situation we are in now. Commissioner Peck informed Mr. Mast that the county has obtained independent counsel who is reviewing

this and will come back with a recommendation. Commissioner Peck said that he personally feels the best and cleanest way is to put the issue in front of a judge because a judge is the only person who has authority to overturn a certified election.

11:30 AM **Health Department Update:** Present were Kathi Hooper, Jennifer McCully, Jake Mertes and Nick Raines.

- Kathi informed the commission that she would like to schedule monthly Health Department updates. The City/County Board of Health is now complete and has 7 members.
- Due to the large animal seizure last August, Animal Control is already over budget. Kathi said she has never been over budget before and asked about the process. The animals are adoptable, but may have special needs. Kathi said she is aware of the over budget issue and is trying to keep costs down. Volunteers are showing up every day to help keep costs down but the vet bills have been substantial. Kathi said she is about \$6,000 over now, estimating \$10 to \$12,000 over budget by end of fiscal year.
- The license establishment inspections are completed for 2016 and results will be posted on the county website
- Kathi updated the commission on the fencing at the Fisher River and Bull Lake green box sites. She has not completely received funding for the Bull Lake site, but has received full funding for the Fisher River site. In the process of renewing agreements for green box sites that are on federal lands. Agreements are for 10 years.
- Jennifer presented a report showing numbers for immunizations and communicable disease in Lincoln County. Jennifer said it was notable to mention the increase in quitline calls from Lincoln County for tobacco prevention. There were 258 influenza immunizations administered in Lincoln County from October through December.
- Jennifer gave a report on community outreach and educational efforts in the community for Tobacco Prevention. Commissioner Cole asked how you quantify success; how do we track success from all the outreach work you are doing? Jennifer said that is difficult because there are many variables; there is a difference between absenteeism in the workplace and that schools are a breeding ground for flus and disease. The 2016 Community Health Assessment Public Meeting is scheduled for January 17 at 7:00 PM in the Maki Theater. The assessment is the result of a collaborative effort in Lincoln County to compile data and paint the picture of the overall health status and issues in Lincoln County.
- The Health Department is planning to apply for a grant to assist with violence against women. The grant is for educational and outreach resources for the citizens.
- Nick said there is still an evaluation by EPA of the Asbestos Resource Program pertaining to concerns over past expenditures that were brought to EPA by the county commission. There is still a delay in reimbursements until the investigation is finalized. EPA is still very interested in a new cooperative agreement. EPA has asked Nick to submit his grant application and they would like to approve it for another 3 years as stated by Mike Cirian during the EPA Update meeting held earlier today. Budget evaluations and negotiations are taking place. Nick said grant administration is also being discussed and they may be hiring that position within the grant. Robin discussed responsibilities of the grant administration stating strongly that it should not fall on the county or the commissioners. Nick said that ultimately, the responsibilities would fall under the City/County Board of Health.

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

- **Dorward Family Transfer:** Owner is David Dorward and he wants to give a land portion to his son. Lisa said easements are now in place to follow through with a family transfer and there is no evidence of evasion of subdivision review. The Planning Staff recommends approval of the request to use the exemption. **Motion** by Commissioner Bennett to approve the Dorward Family Transfer subject to planning staff recommendations. Second by Commissioner Peck, motion carried unanimously.
- **Velvet Grove 3-5 Phasing Plan Amendment:** Lisa explained each of the 4 phases and timeline for each phase to the commission. There will now be 4 total phases which differs from the preliminary plat approval of 3 phases. The Planning staff recommends the commission to accept the additional phase with date changes per phase. **Motion** by Commissioner Peck to approve Velvet Grove 3-5 Phasing Plan Amendment as presented subject to Planning Staff recommendations. Second by Commissioner Bennett, motion carried unanimously. Commissioner Bennett expressed his concerns about potential dust issues and citizen complaint.
- Lisa said that back in August, Tracy McIntyre was working on a county procurement policy for grants and wanted to know if that policy is in place. Commissioner Cole said he thought the policy was in the County Attorney's Office for approval. Lisa said she would check with the County Attorney, because there are grants she is currently working on.

2:00 PM **Swanson Lodge RV Park Discussion:** Present were Shelly Warrick, Monica Carter, Dee Fitzhugh, Lori Roth, L.F. Roth, Jake Mertes, Alan Gerstenecker and Bethany Rolfson.

Lori Roth, representing the neighborhood of Swanson Lodge road submitted a petition filed in Montana District 1 Judicial District Court for commission review. The petition requests an order to cease and desist against the further development of the Swanson Lodge RV Park. Lori stated that Mr. Silverman is the new owner of Swanson Lodge and its 90 acre parcel. During spring break up neighbors noticed construction trucks and thinning taking place. County Planner Lisa Oedewaldt was contacted; Lori stated that according to Lisa, no permits were filed. Lori said that no person living on Swanson Lodge road has been notified in person or by mail. Lori informed the commission that Mr. Silverman has drilled a well, and Northern Lights have hooked up power. According to Lori, Mr. Ken Davis is involved in the construction of the RV Park. Neighbors have formed a committee and put together the petition for cease and desist. Every person on Swanson Lodge road has signed the petition with notarization. Lori stated that Swanson Lodge road is a small county road, only 16 feet wide with no turnaround area; there are many safety concerns as well as noise, water and septic issues. Lori stated that as this RV Park development continues, according to Lisa, no permits have been put of record. Lori expressed her frustration about how this project keeps moving forward without the required permitting process. Jake said the RV Park must go through subdivision review at the county and state level and there have been no permits as of this date. Mr. Silverman needs to come see the Environmental Health Department, the County and the Planning Department very quickly. Jake said he will contact Ken Davis and that the development of this RV Park is in complete violation of county subdivision policy. Commissioner Peck mentioned that if the development does meet State

and DEQ requirements, the park may be permitted to proceed because there is no zoning in that area. Commissioner Cole thanked the citizens for bringing this to their attention and will follow up with the Planning Department.

2:30 PM **County Attorney Restructure Discussion:** Present were Jeffrey Zwang, Marcia Boris, Cyndi Miller, Bernard Cassidy, Vic White, Alan Gerstenecker, Bethany Rolfson and Nikki Meyer and Bobbie Stoken, Eureka via VisionNet. Commissioner Cole asked for any thoughts and comments regarding the restructure plan submitted to the commission. Commissioner Peck verified that the total budget appropriation increase requested for FY16/17 is \$4,084 and moving forward into next year appropriation adjustments would be \$6,609. Jeff said the numbers are based on wage tables provided by Payroll Clerk, Dallas Wamsley. Vic said that Dallas prepares the payroll wage reports and the county attorney's office has visited with Dallas to ensure the numbers are correctly reflected. Reclassification of positions has been completed.

With Mr. Cassidy's permission, Commissioner Peck asked what his plans are to retire, stating it has a significant and direct effect on the budget. Mr. Cassidy said he is hopeful to retire close to September 2017, possibly earlier, but there are trials and a homicide case that he needs to see through. Mr. Cassidy commented that there is a sense of duty, and wants to wrap it up for the best transition.

Commissioner Cole commented his surprise that with all the flux and changes, the budget difference is really pretty small and in that context feels pleased but asked if there is any way to make this work without the additional money. Commissioner Peck said the issue is that currently there is no SRS, the county is facing increased insurance costs, and we cannot continue with the current allocated costs to help fund the General Fund. Commissioner Peck said the county is facing how to trim \$500 to \$700,000 out of the General Fund. Commissioner Peck said he would like to see the changes done within budget.

Jeff said he does not want to make a promise here today; but possibly the \$4,084 figure could be mitigated. This money may be absorbed by not hiring the replacement from the recent employee retirement. Commissioner Peck said instead of approving a budget amendment let's finish out the year and see how it all plays out. Jeff said there is no problem with that, as long as the commission is aware there is a possibility of going over budget.

Mr. Cassidy said the quality of the services and work quality has readily improved. One downside of being down one staff person is we could make adjustments to the work load but we may have issues if a staff member is gone due to flu or any other reason; you can only keep a pace for so long.

Commissioner Peck said he would like the next FY to reflect for the retirement of Bernard Cassidy and see the cost saving reflected for next year's budget. Commissioner Peck made it very clear that we are headed for a budget year where budget increase requests will be denied.

Commissioner Cole said his personal opinion is that the County Attorney's office is one area that we want to see excel. Commissioner Bennett commented that coming from a business perspective that he agrees with Commissioner Peck to work through the year to see if the increase may be absorbed. **Motion** by Commissioner Peck to approve the reclassification of 2 positions in the County Attorney's office to a grade 10 and approval to fill the grade 5 position. Budget adjustments will be made at the end of fiscal year. Second by Commissioner Bennett, motion carried unanimously.

Meeting adjourned at 3:10 PM

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST: _____
Robin A. Benson, Clerk of the Board