

July 19, 2017

The Lincoln County Board of Commissioners met for a regular session on July 19, 2019, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Bennett, County Administrator Darren Coldwell, and Clerk and Recorder Robin Benson. Commissioner Peck was absent.

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

9:30 AM **EPA Update:** Present were Mike Cirian, Christina Proggess, Lisa DeWitt, Dania Zinner, Nick Raines, Tony Berget and John Blodgett.

OU4 & OU7 (Residential and Commercial) Construction Update: Mr. Cirian said EPA has identified approximately 90 properties to complete this season. Last Call has been successful, the deadline was March 31, but there has been properties coming in up to last week. Mr. Cirian said the goal is to get properties cleaned up, so EPA will investigate properties that came in beyond the deadline. At almost 140 properties total, construction will go into next year's construction season for at least 2 months. Mr. Cirian informed the commission there are 27 properties requesting interior cleanings.

ARP Update: Mr. Cirian said the final stages are completed to move forward with the cooperative agreement. All EPA questions have been answered. Commissioner Cole asked Nick if the new agreement looks good on his end. Nick said all indications received, everything looks good and EPA is routing it through the grant approval process.

OU5/Port Authority Property: Dania said she is working on the O&M Plan and has received comments from DEQ and the Port Authority Board. Dania said there will need to be one more site inspection as we near the end of the operational functional period and they will also need Environmental Covenants before partial deletion. Dania said she is excited about an upcoming Redevelopment Event which will be an expert roundtable discussion. The focus will be how to redevelop property from other groups that have gone through similar contamination type issues to give the Port Board ideas regarding redevelopment. Lisa said she is working on the Environmental Covenant and it is coming along smoothly.

OU6 (BNSF Corridor) Site Update: Dania said EPA and DEQ are negotiating a Consent Decree with BNSF for IC's and O&M. There is no clean up; samples came back ok, and the O&M plan will be finalized in the next few months. Dania explained there was a large sampling event last summer, which mostly came back as non-detect with a few trace samples.

OU3 Mine Site: Christina said DNRC is working on the design phase to acknowledge concerns for a short term solution placing in a coffer dam because of the stability of a deteriorating spill way and addressing tailings impoundment. Various alternatives are being evaluated and she is working with DEQ and DNRC to come up with long term strategies and those plans are making progress.

Christina said there is a planned meeting with the Logging Association, the Wood Products Association, and the Forest Service to discuss the revised boundary for OU3 and working inside and outside those boundaries. Nick commented that he and Commissioner Peck plan to be in attendance. Commissioner Cole asked about the number of MMBF that is accessible. Christina said that within OU3, there are about 10,000 acres and outside boundaries there is even more timber, but she does not know how much of that is marketable, stating those conversations are starting in August with W.R Grace and other agencies.

Christina said DNRC has finalized a response plan in case of a fire within OU3 and feels there have been good strides with coordination and agencies feel more prepared. Christina said the concern is currently there would be a 72 air data timeframe and they are looking for ways to shorten that timeframe. Commissioner Bennett asked about the purpose of the analyses? Christina replied that air data is to provide air quality information to the public during a fire as quickly as possible. Nick clarified the Board of Health and Dr. Black will be answering those questions and will have a lot of input.

Tony Berget asked about a dump truck load of asbestos and he would like to see the county push to have that cleaned up. Tony informed the commissioners that there is a walking path to the load of asbestos off of Kootenai River Road. Mr. Cirian said it is currently not on the agenda to be cleaned up, but he will go out and take a look at it.

Christina informed the commission that she has received a request from the Confederated Salish Kootenai Tribe requesting an update or any changes in the boundary and expectations regarding the Kootenai River.

Lisa said DEQ continues working as a support agency. Lisa said the City of Libby is amenable to the draft covenant for OU1. DEQ will continue working on O&M and what that means to Libby and how to maintain data and tracking system to access data in the future.

Nick commented that he is meeting with Commissioner Peck, Chas Vincent, DEQ and Lisa DeWitt to discuss SB20 from the 2015 legislative session and SB315 from the 2017 legislative session. Discussion will focus on the future of those bills, what's next, and how to fill required positions.

10:30 AM **USFS Update/Bryan Donner:** Present were Nikki Meyer.

Summer Season activities are in full swing; employees at the high school orientation session totaled about 110 with 65 being temporary seasonal employees and volunteers.

Wildland Fire Update:

South Fork Hill Fire, 35 acres is currently being patrolled on a daily basis

Handful of smaller fires have been suppressed and are out or soon to be

All district resources are currently available

Umpqua crew of 6 are helping out now and Virginia crew of 6 will be here Friday

Current large planning projects:

Ten Lakes Travel Management EIS progressing
Proposed Action for Pinkham Meadow project is being scoped this week
Blowdown Salvage; Trego Triangle and Sutton Salvage 17
Gateway Restoration Project moving towards draft decision expected next month

Green Box Sites:

Pinkham/Othorp Green Box Site-timber sale sold with operations to begin soon

West Kootenai main county road cattle guard installation formal agreement being prepared now for fall operations

Ksanka Creek Restoration currently reviewing the draft Watershed Study

Status of Gateway Road near border off of Airport Road. Commissioner Cole said he has not had time to share information he has received with Commissioner Bennett and Commissioner Peck for evaluation. Bryan said there are discrepancies of road ownership and maintenance.

Capitol Christmas Tree: Seven trees have been nominated and are being evaluated right now. The capitol architect from Washington is in Lincoln County looking at the trees; 4 of the trees are in the West Kootenai and Eureka area, 1 tree is in Sanders County and 2 are in the Yaak. Species are Spruce, Douglas Fir or a true fir. The selected tree will be publicly announced two weeks before cutting.

Lake Koocanusa Scenic By-Way Update: Forest Service is looking for a landscape architect in the region.

Sewer Line installation on NFS land and at County Fairgrounds Update:

Special Use Permit application is needed from the county to design and to make the FS financial obligation work.

Commissioner Cole said the county is looking for funding sources. Commissioner Cole requested a couple more weeks to have necessary conversations for funding research.

Timber Sales Update:

Three to four large sales are currently active to some degree

Bid opening on Deep Grave Sale tomorrow

Several smaller sales are going or will be active soon; three or four smaller sales to be offered soon.

11:15 AM **Public Comment:** There were no public comments.

11:30 AM **Administrative Issues/CDBG Grant for Jail/:** Present were Sheriff Bowe, Jessica Vanderhoef, Ernie Anderson and Nikki Meyer.

Detention Facility: Darren has been discussing jail options; spoke with Flathead County and the Department of Commerce. Darren said there are funds through CDBG for a planning grant for \$25,000 with a \$15,000 county contribution. Darren said if we go this route, may want to create a committee. Darren said Helena is very receptive, and feels the jail facility is a good project and that Lincoln County would qualify to meet the grant; the problem is that we are 1 year away, so what do we do in the interim. Sheriff Bowe expressed frustration and said obviously it would be nice to move forward yet he understands the money side. Sheriff Bowe said the whole facility is getting old and there are issues every day and realized this is not going to be an easy solution. Darren informed the commissioners that Jim Muskovich, MACo loss prevention for jail facilities is scheduled next Wednesday on the commissioner's agenda. Darren suggested moving sheriff administrative offices to the main level of the courthouse and the county offices move to the former Asa Wood School or the community college and close the county annex building in Libby. Darren said the county will need proactive community members in support. Commissioner Cole asked Sheriff Bowe if that concept makes sense or would the sheriff's department be open to that concept. Sheriff Bowe said he is very open to that concept, it makes sense and would save the taxpayers a lot of money, as long as the engineers can pass off on it. Sheriff Bowe said it would be a huge cost savings instead of looking at a new building. Commissioner Cole asked Sheriff Bowe if he feels there is enough room downstairs to solve the spacing issue. Sheriff Bowe answered yes and we could keep dispatch where it is at. Darren said he will hold off on the CDBG grant at this time. Sheriff Bowe said there are a lot of unknowns that would come out of a planning grant and we need to keep in mind the parking lot would potentially be expanded into a recreation area.

Frontier E911 Contract: Ernie said he needs signatures for the new E911 Frontier Contract. Ernie said that County Attorney Bernie Cassidy has reviewed the contract and feels it's a good contract and includes a 5 year maintenance plan. Jessica Vanderhoef said she is comfortable and thinks it will be good. Pricing is about the same and is paid out of the E911 fund. **Motion** by Commissioner Bennett to approve the Frontier Contract for E911 total \$121,813.79 with Addendum. Second by Commissioner Cole, motion carried.

Unite For Youth/SAMSHA Grant: Commissioners approved the SAMSHA Grant Application that funds the Lincoln County Unite For Youth Program. **Motion** by Commissioner Bennett to approve and sign the SAMSHA Grant Application in the amount of \$341,074 for FY 17/18. Second by Commissioner Cole, motion carried. The grant is for a 5-year period. Commissioner Cole commented that it is a very good program for Lincoln County and appreciates the work that is done through the Unite for Youth Program. The Unite for Youth Program is 100% grant funded, there is no county obligation.

County Health Insurance: Darren is requesting approval of the JPT Health Insurance Plan for Lincoln County for FY17/18. **Motion** by Commissioner Bennett to approve the JPT Health Insurance Plan for Lincoln County for FY 17/18. Second by Commissioner Cole, motion carried. Darren commented that he will be researching other insurance options in the future.

Commissioners reviewed the **minutes** for June 27, 28 and July 5 and 10, 2017. **Motion** by Commissioner Bennett to approve all minutes as presented. Second by Commissioner Cole, motion carried.

11:45 PM **Johnson Property Donation/Vote:** Present were Nikki Meyer.

Commissioner Cole explained that the county has been offered property (6 acres) from Clarence and Marjorie Johnson who want to donate their property to the county. There are some conditions; not to be sold or subdivided and if possible,

turned into a public park, and the property is to remain pristine. Commissioner Bennett said he drove by the property and expressed concern that there is already a nearby park at the former Plummer School and the bathrooms are closed due to vandalism. Commissioner Bennett felt the county would be accepting another piece of property to maintain with no benefit to the county. The property is located at the corner of Farm to Market and Dawson. The commissioners decided to wait for Commissioner Peck to return since the property is in his district. Commissioner Cole tabled the discussion until next week.

1:00 PM **Eureka Airport Projects/Tim Orthmeyer:** Present were Nikki Meyer. Commissioner Peck attended via VisionNet.

Tim submitted the contract with Boundary Electric for signage for the Taxiway Engineering Airport Project in Eureka.

Tim said the FAA Grant has been issued and awarded. Tim submitted two invoices detailing a summary of expenses for the design and bidding phases. The Final Design was \$30,000 and Construction Management was \$19,074.99 for a total of \$49,074.99. **Motion** by Commissioner Bennett to approve payment of \$49,074.99 as submitted. Second by Commissioner Peck, motion carried. Commissioner Bennett commented about previous discussions of moving into an airport maintenance phase. Tim said he has visited with the Airport Board to discuss project priorities and potentially hangar rental fees if there is a demand to bring in revenue.

1:30 PM **Planning Department:** Present were Jake Mertes, Kristin Smith and Byron Sanderson. Commissioner Peck attended via VisionNet.

Final Plat Approval/Creekside Woods: Kristin explained Creekside Woods is 2 lots and was originally approved in 2013. There has been one extension and developers have submitted final plat application. Kristin said that originally, there was one condition regarding fire risk reduction which is very standard when a fire risk evaluator recommends it. The subdivision is 20 acres total with 2 lots off of Bull Lake Road and is heavily timbered. Kristin further explained that the issue is there was communication between former planning staff and developers that the fuels reduction mitigation is not needed which is contrary to past practices. The applicant went forward with the communication from planning staff at the time, (which also was not communicated with the commissioners) that the condition is waived due to no buildings. Kristin clarified that fire risk is for future homes, public health and safety and the condition has not been fulfilled.

Commissioner Cole clarified that final plat is being presented without the fire mitigation condition being met. Kristin said yes, but the problem we are facing is that the planning staff waived the condition without commissioner approval and that is contrary to regulations.

Byron gave a brief history of the property development. Kristin said the county has allowed bonding for this in the past which allows the developer to meet the condition. Commissioner Cole said it sounds like the problem is with county, not property owners. Commissioner Bennett asked if planning has looked at minutes around those dates. Kristin said she has only looked at the project file, not minutes. Byron said that John Damon did go through the minutes and could not find any formal discussion regarding this issue. Commissioner Peck clarified that Don Crawford did the original Fire Risk Assessment (FRA) and a second FRA was conducted by Brad Lord. Kristin said there is no clarity as to why a second FRA was conducted.

Byron informed the commissioners they may see another situation with correspondence similar from previous planning staff and clients.

Kristin stated that we want to make it clear for the record that this is inconsistent with what was originally approved and what we have here today. Commissioner Peck said that having to fire treat the entire subdivision from a developer standpoint can be expensive. Commissioner Bennett asked if there are proposed housing and road sites within the subdivision. Jake said the subdivision is 150 to 200' from Bull Lake Road and has been annexed into the Bull Lake Fire District.

Commissioner Peck said he is comfortable with Brad Lords FRA recommendation since there are established home sites. Byron said he wants to be clear that the landowners believe the plat will be filed today and encourages planning staff to contact the landowners with discussion as to why this is taking place. Kristin stated the planning staff has no authority to change conditions without governing body approval; the law is very clear. Kristin suggested the landowners could bond for that work and the commissioners can grant Brad Lords FRA, instead of Don Crawfords. Kristin said to address applicants concern with cost, Brad Lords FRA is a more feasible option. Kristin suggested the commissioners can approve final plat today but can grant a change in condition #3, to Brad Lords FRA and make it clear to the landowners that they can bond for the work.

Commissioner Bennett agrees that planning staff needs to have a discussion with the landowners. Kristin said the commissioners could agree with the communication from Lisa Oedewaldt and grant approval, but that would be against county subdivision regulations and would be inconstant with prior practices. Commissioner Bennett commented there is fire wise money available and fuels reduction may not cost as much as we think. Commissioner Peck said he cannot approve it today, so the approach is to explain why it was not approved and options moving forward. **Motion** by Commissioner Peck to change condition #3 of preliminary plat to a condition of Brad Lord's FRA on the 2 home site lots. Second by Commissioner Bennett, motion carried unanimously. Commissioner Peck asked Byron if he feels the county is being unreasonable and Byron said no, the county is not being unreasonable. Commissioner Bennett suggested asking Brad Lord or one of the developers why there was a 2nd fire risk assessment.

Commissioner Peck said an apology is in order by the county and requested Darren to draft a letter **Motion** by Commissioner Peck to deny final plat based upon lack of fire mitigation being accomplished, and the plat does not meet all the conditions based on departure from standard practices. Second by Commissioner Bennett, motion carried unanimously.

Solmenson, Middle Thomson Lake Shore Permit: Kristin said permission for the floating dock was granted approval by former planning staff without any permit. Kristin said she contacted all the agencies and there are no issues and everything is compliant. A Lake Shore Permit was submitted to the planning board and the recommendation from planning staff, is to approve Solmenson Lake Shore Permit with conditions. **Motion** by Commissioner Peck to approve

the Solmenson Lake Shore Permit subject to planning staff recommendations and conditions. Second by Commissioner Bennett, motion carried unanimously.

Kristin encouraged the commission to allow the planning board to get county emails to keep business separate from personal emails. Commissioners unanimously agreed to support that request. Kristin will coordinate with the IT Department.

Meeting adjourned at 2:30 PM

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

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