

January 3, 2018

The Lincoln County Board of Commissioners met for a regular session on January 3, 2018, 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**.

10:30 AM **Administrative Issues:** Present were Alan Gerstenecker, John Blodgett and Nikki Meyer, Eureka via VisionNet.

- The commissioners read the minutes for regular meeting December 13 and special session December 27, 2017. **Motion** by Commissioner Bennett to approve all minutes as presented. Second by Commissioner Peck, motion carried unanimously.
- Robin said the Tax Appeal Board received no applications and still has one vacancy. Darren Coldwell is the Tax Appeal Board Secretary and he asked Laura Schrader if she would serve a 3 year term. Laura accepted and Robin is requesting a motion to approve Laura to the Tax Appeal Board per Darren Coldwell's request. **Motion** by Commissioner Peck to appoint Laura Schrader to the Tax Appeal Board to serve a 3 year term. Second by Commissioner Bennett, motion carried unanimously.
- Robin explained that the Lincoln County Fair Board did not receive enough applications to fill vacancies open. Bobbie Stoken was the only application received and she was appointed to fill an unexpired term. Applications were received late from Marion Eash and Betty Mack requesting to be reappointed. No application was received from Sharon LaBonty but Robin received minutes from the Fair Board that Sharon LaBonty was nominated by the Fair Board as Vice Chair. Robin said she felt that the Fair Director transition is why the applications were received late. Robin is requesting a motion to reappointed Betty Mack, Marion Eash and Sharon LaBonty to serve a 2 year term on the Lincoln County Fair Board. **Motion** by Commissioner Peck to appoint Betty Mack, Marion Eash and Sharon LaBonty to serve a 2 year term on the Lincoln County Fair Board. Second by Commissioner Bennett, motion carried unanimously.
- Robin presented Resolution 998 establishing the 2018 Holiday Schedule, mileage and meal reimbursement rates for Lincoln County. Robin reminded the Commissioners that they did previously increase the In-State meal rates for employee travel and asked if those rates would still apply. Commissioner Peck said he wants to keep the rates as is. **Motion** by Commissioner Peck to approve Resolution 998 as presented. Second by Commissioner Bennett, motion carried unanimously.
- Robin reminded the Commissioners of a Tax Abatement request from the DOR about refuse assessment fees. Robin said she did contact Kathi Hooper and she has conducted a refuse assessment review and talked with the property owner and a refund will be approved in January to be paid out of Solid Waste.
- Darren informed the commission that Nancy Huuges will be contracted out to help the county set up mental health services. No decisions were made on the funding of the position; there is still further discussion to take place. Commissioner Peck expressed frustration that there were other cuts that could have been made by the state that he feels would not have been so detrimental to rural communities.
- Darren submitted letters to be signed by Lincoln, Sanders, and Mineral Counties to the Eureka Ranger District, Cabinet Ranger District and Libby Ranger District in support of fire salvage efforts. The letters state the counties appreciate the opportunity to be part of the process as the ranger districts work to develop the NEPA documents and final decision for the Cub Creek Project, West Fork Fire and Caribou Fire Salvage and Restoration Projects. Commissioner Peck said the letters are important due to the fact they are being signed by commissioners of three counties. **Motion** by Commissioner Peck to approve the response letters as presented to the forest service regarding salvage efforts for the NEPA and final decision and restoration projects on the Caribou, Cub Creek and West Fork fires. Second by Commissioner Bennett, motion carried unanimously. Commissioner Peck commented on the efforts, considering amount of salvage state wide needs to be recognized; there is a balance between the green program and salvage efforts.
- Darren submitted a letter for commissioner approval and signature to Senator Steve Daines in support for the S. 2206 "Protect Public Use of Public Lands Act" submitted on December 7, 2017 and formally request inclusion of the Ten Lakes Wilderness Study Area (WSA). **Motion** by Commissioner Bennett to approve and sign letter as presented. Second by Commissioner Peck, motion carried unanimously.

10:45 AM **Public Comment Time:** There were no public comments.

11:00 AM **County Marijuana Shop Ordinance:** Present were Sheriff Bowe, Undersheriff Huff, Youth Pastor Warner, Maggie Anderson, Jeff Koskela, John Blodgett, Alan Gerstenecker and Nikki Meyer, Eureka via VisionNet. Commissioner Bennett said he had a discussion about a marijuana dispensary that set up 508 feet from a school with several community members. After Oct. 2017, MCA allows local governments some authority regarding public health and safety issues; the commissioners are the decision makers on where these dispensaries can be located and we even have the right to inspect them. Commissioner Bennett expressed that the county needs to set the guidelines on how this will look for our community. Marijuana is still considered a Class 1 drug, not legal by the federal government. Commissioner Bennett stated the history of medical marijuana shows it is the gateway for states to move into recreational use and is also a gateway to many other drugs. Statistics show that since 2011, there has been a 61% increase statewide on drug related crimes. Commissioner Bennett said we want to start this discussion with our community now and is looking for any public comments. Commissioner Peck agreed, stating it is important to get ahead of it before it ends up in our lap from some situation with no clear direction. Commissioner Cole questioned what this is supposed to look like with very little to no MCA direction. Commissioner Bennett conveyed that looking at human nature, guidelines are necessary and he does not take issue with alcohol and wine or other natural remedies when used with moderation within the confines of the law. Sheriff Bowe commented that he has always been pro for legitimate uses such as illnesses and disease, but the recreational side he is not in favor of.

Commissioner Bennett stated the Supreme Court reversed a district court decision saying the legislature in its exercise of the states police powers is permitted to circumscribe a right to protect the public health and welfare over a property interest in any particular job or employment.

Commissioner Peck questioned what the commissioner authority is. Commissioner Bennett read MCA 50-46-328 as follows:

### **Local Government Authority To Regulate**

50-46-328. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of registered premises and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating dispensaries or as storefront businesses.

Commissioner Bennett stated that we could say this will not happen in our county, or adversely affect a business, or entity/agencies but as he interprets the law, the commissioners have authority.

Darren commented that as a citizen, there is a place for it; explaining a relative with stomach cancer that medical marijuana did help.

Commissioner Peck stated that we would like to think we could trust our medical marijuana community, but that did not happen in the first round.

Commissioner Bennett revealed that in the initial round, 2/3 of marijuana grown in Montana went on the black market, which is why the federal government raided and stopped dispensaries across the state.

Representing Unite for Youth, Maggie Anderson submitted Lincoln County statistical data regarding alcohol and marijuana use from surveys given to 8<sup>th</sup> through 12<sup>th</sup> high school students. Maggie expressed there is a link to opening that door starting with marijuana leading to opiate and meth use. Marijuana use does contribute to future use for other substance abuse and our community is really dealing with that right now, noting that the decisions we make as adults has a critical impact on our youth.

Robin asked if medical marijuana is medicinal, as far as location, why is it not located in the medical district. Maggie said that is a great question and noted the FDA has not recognized marijuana as a medical benefit. Undersheriff Huff commented the medical providers would greatly oppose dispensaries adjacent to them.

Commissioner Bennett said we could establish a policy to enforce the health and safety of the community.

Maggie said we need to greatly look at our young people who are our future adults. Seeing a decrease in alcohol use and an increase in medical marijuana use, commenting the availability and access to marijuana is very high in Lincoln County. Information from the student surveys show that more than 50% of our seniors use marijuana. Maggie wanted to be clear that the THC in the 1960s were at 5%, now it is up to 80%; marijuana is not the same product as in prior years and now has a detrimental effect on young brains. Maggie said that it is very concerning because marijuana is a depressant. Maggie expressed she is thankful to the commissioners for looking at this now, and asked the commission to look at our young people and make decisions with them in mind. Maggie commented she is hopeful the commissioners consider retail availability and number of facilities allowed in our community. Maggie said that once our youth get into the scene of substance abuse, that becomes the choice. This has potential to be a big problem here, we need to be proactive, and preventive and not reactive to problems.

Commissioner Peck questioned if the legal efforts don't work as well as education does, such as education in the schools, church, and providing information to parents.

Youth Pastor Matt Warner commented it is critical to consider the youth perception of our community and what we allow our community to look like. Parents now have the perception that marijuana is a non-issue because it's not meth or opiates. Commissioner Bennett agreed that as elected officials, we have a responsibility to the community.

Sheriff Bowe encouraged the commissioners to allow for law enforcement to have the right to inspections; inspections go a long way when dispensaries know they are going to be watched.

No decisions were made at this time.

**1:30 PM Planning Department:** Present were Don and Juanita Shanklin, Carl and Mary Hammond, Noel Duram, Brett McCully, Jake Mertes, Kristin Smith, John Blodgett, Alan Gerstenecker and Nikki Meyer, Eureka via VisionNet.

**MBMI Development Inc. Subdivision/Road Improvement Bond Extension Request:** The Planning Department has received a request to further extend a road improvements bond for MBMI Development Inc. Subdivision. This makes a 4<sup>th</sup> extension to the Subdivision Improvement Agreement (SIA). Kristin realizes this situation is unusual, but it is worthy to note that every deadline has been missed and no improvements have been made. Commissioner Peck stated he tends to agree, it sets a horrible precedence and there has been no work done at all. Commissioner Bennett reminded the commission that they did agree to a 3<sup>rd</sup> and final extension in the past and not go past that. Commissioner Peck expressed it is highly unfair to others that were not given this amount of leeway. **Motion** by Commissioner Bennett to accept the Planning Staff recommendation to vacate the plat of MBMI subdivision and return the deposited funds of \$45,000. If the developer would like to continue to pursue development the county will require them to resubmit an application for subdivision at that time. Commissioner Peck commented that Noble Excavating was hired to put in the roads in the spring. Commissioner Cole stated the importance of maintaining a consistent process. Second by Commissioner Peck, motion carried unanimously.

Noel Duram gave a history of Hammond Subdivision which is a 40 acre piece split in half to two 20 acre parcels. Noel spoke of his processes with former county planner Lisa Oedewald the expressed frustration at the county level of service. Noel said the preliminary plat was approved but the developers did not understand the condition of emergency service turnaround. Noel said that by all the work already done, the subdivision has met requirements of subdivision regulations for a two lot subdivision. Noel commented the buyers and sellers are both trying to get the subdivision to completion and is asking commissioners to consider the situation. Noel said the safety and sanitation requirements have been met; we need to get this done and this is what we are asking for at this time.

Kristin said this subdivision is not ready to be submitted. The road maintenance agreement and covenants are not yet completed. Jake said roads need to be certified to meet county standards, missing examining land surveyor signature, documentation showing driveway meets standard and a letter from the surveyor stating all conditions have been met has not been received.

Noel said Kristin and Jake have been good to work with but commented that the developers have experienced dishonesty with the surveyor and at the county level. Noel will continue to work with Jake to attain all required missing documents as stated. Commissioner Peck said the bottom line is that there is not a lot of negotiating with subdivision approval to meet MCA codes and county subdivision regulations. Noel said he would like to be put on the January 17 commissioner meeting agenda.

2:00 PM **Callahan Creek Update/Mike Fraser:** Present were John Blodgett, Alan Gerstenecker, Brett McCully, and Nikki Meyer, Eureka via VisionNet.

Mr. Fraser submitted a progress report for Callahan Creek Restoration and Mitigation project. The report states that EPA has decided to not pursue a violation against Dennis Welch. Further, EPA will not hold the county responsible for restoration if the 4,000 cubic yards on the Welch property remobilize. The EPA asked for a restoration plan on the remaining area of Callahan Creek. They suggested a plan to stabilize the slide would be appropriate to reduce future sediment contributions from continual sloughing. Mr. Fraser suggests a follow up call would be needed after the county considered this information.

EPA suggests the county consider stabilizing the Callahan Road slide. This could be a major activity due to the size, vertical reach and horizontal length. The county did not contribute to instability of the slope or erosion from Callahan Creek from the channel work in 2016. Mr. Fraser does not believe there is a connection between restoration resulting from the counties actions and correction efforts for the slide.

Mr. Fraser and the Commissioners agreed they will wait for contact from EPA for further discussion.

*A copy of the Callahan Creek Restoration and Mitigation Progress Report can be obtained in its entirety from the Clerk and Recorder's Office.*

2:30 PM **Meeting Adjourned**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

---

Mike Cole, Chairman

**ATTEST:** \_\_\_\_\_  
Robin A. Benson, Clerk of the Board