

**December 2, 2020**

The Lincoln County Board of Commissioners met for a regular session on December 2, 2020 in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Bennett, Commissioner Peck, Commissioner Letcher, County Administrator Patrick McFadden, and Clerk and Recorder Robin Benson.

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

10:00 AM **USFS Update:** Present were Forest Supervisor Chad Benson and Will Langhorne. Also present was Nikki Meyer, Eureka phone conference.

Chad commented that there is not much hiring going on, we are borrowing people across the region. Hiring goes through a board set up in Missoula which is a big change for the forest service and comes with challenges not being able to hire locally.

The forest service has 83mmbf on the books for next year. Black Ram and Ripley projects are scheduled for next year. There were numerous objections on Black Ram. Ripley is progressing. Chad talked briefly about Good Neighbor Authority project opportunities. Commissioner Peck talked about salvage in the Graves Creek area, Eureka as a potential shared stewardship project. Chad gave a brief update on the Joint Chief applications; Lincoln County has made it into the next tier as far as what gets funded and he will keep the commissioners posted; should know more in January.

Commissioner Peck talked about the urban interface and having a committee representing all stakeholders to coordinate and make recommendations and proposals to the forest service, prioritizing projects including community protection work.

10:30 AM **Administrative Issues:** Present were DC Orr, Derrick Perkins, Will Langhorne, Sheriff Darren Short, and Mike Bradeen. Also present was Nikki Meyer, Eureka phone conference. Senator District 1, Mike Cuffe, Eureka present via VisionNet.

- Robin submitted the minutes for November 17 special meeting and November 18, 2020 regular meeting for approval. **Motion** by Commissioner Bennett to approve minutes as submitted. Second by Commissioner Letcher, motion carried unanimously.
- Commissioner Peck reminded the commission of the UServe contract, mentioning that it was reviewed by the county attorney. The contract is a joint agreement of the park board, city and county to support the tennis courts, each contributing \$1500 annually to UServe for tennis court maintenance.
- Commissioner Bennett talked about public comments made regarding the Peoples Petition. There was a question about a potential conflict of interest between Dr. Black and CARD receiving Cares Act funds. The county attorney did research and there appears to be no conflict of interest.  
There was a comment about the Board of Health ignoring people, and not allowing the public to participate and communicate in meetings. Commissioner Bennett said he does realize there are some technology issues with zoom meetings and phone conferencing, but when you sit on a board like that, you need thicker skin and people need to be able to communicate and the board members as well as the public need to be civil and respectful. Commissioner Peck commented that the board is made of volunteers with major authority but without any parliamentary training. Zoom is a challenge as well as lack of experience.  
Commissioner Bennett said another question is what the commissioners are going to do with the Peoples Petition. The petition carries weight, but it is not legal weight. The issues at hand are more than just a local issue, it is a state issue. Commissioner Bennett explained a statute and talked about the petition process of requiring 15% to qualify or would need 1,800 signatures. After reviewing statutes and talking with attorney's, Commissioner Bennett said he does not think there is anything the commission can do. Commissioner Bennett said he is open to anyone wanting further conversation.
- County Weed Director Mike Bradeen talked about a grant that was approved last spring to mitigate a new invader called Ventenata. The weed board is looking at a new grant funded by the State of MT Dept. of Ag Noxious Weed Trust Fund. The grant request would fund an education and inventory program to educate landowners and land users in Lincoln County. Commissioner Peck said he is comfortable moving forward but it needs to be placed on the agenda.
- Commissioner Letcher said he is working on a lease agreement with the Lincoln Conservation District. The agreement is being reviewed by the county attorney and he will keep the commission informed.

10:45 AM **Public Comment:** Present were Derrick Perkins, Katrina Newton and DC Orr. Present via VisionNet were Sen. Mike Cuffe, DC Orr, Deb Armstrong, Catherine Kahle, Pierce Barney, Diane Watson, and Carla Westbrook. Nikki Meyer present via phone conference.

- DC Orr commented that the public should have had the information from Commissioner Bennett months ago. Mr. Orr said that public comment time does not allow dialogue, and he is requesting to meet with commissioners to discuss the problems we have with the Board of Health (BOH). Patrick said he will coordinate with Mr. Orr to be placed on the agenda. Mr. Orr stated that you have to hear from the public, and people in Eureka are not allowed to hear and participate in BOH meetings which is unconstitutional.
- Catherine expressed frustration about the nomination of Mertes on the BOH and requested the commission to reject the appointment stating there is not enough Eureka representation. Catherine said that Ivers mutes the meeting, not allowing for public interaction. Catherine clarified that the petition was never meant to be a legal petition, it is a voice of the people you serve.
- Deb Armstrong questioned if the commissioners have researched or talked with the state lab regarding PCR testing, specifically cycle threshold.
- Pierce commented that he is not pleased with the BOH to reappoint Mertes. Pierce said the board needs restructuring, or add people to the board, but favors disbandment and restructuring with new qualified members.
- Diane expressed concern about Mertes being pushed through the appointment process, explaining that North Lincoln County is not fairly represented. Diane said there are other issues and mentioned that Dr. Black has stated there are no other options other than further restrictions. Diane said there are better options instead of further

infringing on people's life and liberties and expressed there should be positive messaging on personal health improvement.

- Carla Westbrook commented that she is grateful for the hard work by the commissioners. Carla read a letter expressing frustration regarding BOH restrictions based on faulty case and death rate numbers. Carla commented that North Lincoln County is underrepresented on the BOH, which is Libby dominated.
- Katrina submitted an article written by Hillsdale College stating its factual research on the Covid-19 fatality rate, who is at risk, deadliness of lockdowns, and where to go from here. Katrina said she is requesting the commissioners to hear and acknowledge the people of Lincoln County and how the restrictions are affecting them.

11:00 AM **District Board Appointments:** Present were Derrick Perkins and Katrina Newton. Present via VisionNet were Sen. Mike Cuffe, DC Orr, Deb Armstrong, Catherine Kahle, Pierce Barney, Diane Watson, and Carla Westbrook. Nikki Meyer present via phone conference.

Clerk & Recorder Robin Benson said a board vacancy public notice was advertised in the Western News, Tobacco Valley News, Montanian, courthouse bulletin boards, North Lincoln County Annex bulletin board and on the county website. Robin presented the board vacancies and applications for appointment as follows:

**Em-Kayan W/S District**, 1 vacancy. One application received / Reappoint John Hopkins.

**Eureka Cemetery District**, 2 vacancies. Two applications received / Reappoint Leigh Erickson & Wendy Eaton.

**Fisher River Valley Fire Service Area**, 1 vacancy. No applications received. Request to readvertise.

**Lincoln County Planning Board**, 2 vacancies. Three applications received. Robin explained that applications were sent to the county planner and to the board chairman for review and she was notified that one application was received from a Eureka resident and currently there are no vacancies available at this time from Eureka. The Planning Board is made up of 3 members from each commissioner district for a total of 9 members. / Reappoint Ernie Anderson and Kenny Rayome.

**Lincoln County Weed Board**, 2 vacancies. Two applications received / Appoint Samantha McCurry and reappoint Deena Shotzberger.

**Tax Appeal Board**, 2 vacancies. No applications received.

**Troy Lake Creek TV District**, 2 vacancies. One application received / Reappoint Deanise Killingsworth

**Wilderness Plateau W/S District**, 4 vacancies. Four applications received / Reappoint Dave Helmrick, Peggy Smith, Doug Dubler, and Jackson Garrison.

**Port Authority Board**, 1 vacancy. One application received / Reappoint Ted Werner.

**Lincoln County Fair Board**, 4 vacancies. No applications received. Request to readvertise.

**Tobacco Valley Industrial District**, 2 vacancies. No applications received. Request to readvertise.

**Board of Health (BOH)**, 1 vacancy. Seven applications received. Robin said she sent the applications to Kathi Hooper for the BOH to review. Kathi Hooper emailed Robin stating that at the November 23 meeting, the BOH voted to recommend Dr. Sara Mertes for reappointment and to urge the commissioners to revise the BOH to include additional representation from North Lincoln County.

Commissioner Peck commented that he agrees with the concern regarding North Lincoln County representation.

Commissioner Peck said one option is that George Jamison will volunteer to step aside, or the by-laws can be changed to increase board membership. Another option is to appoint Commissioner Letcher on the board and Commissioner Peck stepping down, giving the board more North Lincoln County representation. Commissioner Peck recommended placing this on the commissioner agenda during the next Eureka meeting and table the current recommendation until further discussion.

**Motion** by Commissioner Bennett to appoint board vacancies as presented excluding the Board of Health until December 16 and excluding all boards that will be readvertised. Second by Commissioner Letcher, motion carried.

11:15 AM **Mason Subdivision, Carlock Subdivision, Harrison Family Transfer:** Present were County Planner Jake Mertes, Byron Sanderson, Brett McCully and Derrick Perkins. Josh Nelson, Sands Surveying was present via phone.

- **Mason Subdivision** is located approximately 5 miles northwest of Libby off of Bobtail Road. The developers intend to create 2 lots from the 3.075-acre parcel. Jake said that planning staff recommends preliminary approval to Mason Subdivision subject to conditions and based on the finding in the staff report. Jake gave an overview of the conditions. **Motion** by Commissioner Bennett to grant preliminary approval subject to conditions and planning staff recommendation. Second by Commissioner Letcher, motion carried unanimously.
- **Carlock Subdivision** is located approximately 5 miles northwest of Libby off Bothman Drive. The developers intend to create 2 lots from the 4.78-acre parcel. Jake said planning staff recommends granting preliminary approval subject to conditions and based on the findings in the staff report. Jake commented about a condition per LVFD Steve Lauer that residential structures may not exceed 3600 square feet in size. Jake said this is first time he has seen such a condition, which is why he is bringing it to the commissioners attention. The commissioners talked about consistency and authorities. Commissioner Bennett commented that he is not comfortable restricting citizens on how big their homes can be. Commissioner Letcher said he would prefer to see language notifying homeowners that if their structure exceeds 3600 square feet in size, there could be difficulty with fire service and/or water supply. **Motion** by Commissioner Bennett to grant preliminary approval subject to conditions and planning staff recommendation, excluding the language of residential structures may not exceed 3600 square feet in size, per LVFD Steve Lauer, until there is further clarity and discussion. Second by Commissioner Letcher, motion carried unanimously.
- **Harrison Family Transfer:** Jake reminded the commissioners that the Harrison Family Transfer was tabled until further clarity from MACo to ensure the county was interpreting the laws correctly. Tara Depuy, MACo attorney sent an email stating that Lincoln County is correct in its analysis that once in the subdivision the acreage that was in the subdivision remains subject to all the restrictions on the subdivision as well as state law as applied to subdivision, including that family transfer and agricultural covenant exemptions from subdivision review are not available to land within a subdivision. If the person wants to do a family transfer, they have to go through the amended subdivision process which requires consent of all of the landowners in the subdivision as well as the lienholders and then back through subdivision review.

Josh Nelson of Sands Surveying spoke about the piece of land in question, clarified the intent and expressed the property is not part of any subdivision.

Brett commented that he is in agreement with MACo attorney Tara DePuy.

Jake said he does not agree with Josh Nelson's analysis and he feels it is an attempt at evasion.

Commissioner Bennett suggested Jake, Brett, and Mr. Nelson meet and discuss this further and to contact the MACo attorney with more specific questions since her email analysis was interpreted differently by the parties.

11:45 AM **Troy Dispatch:** Present were Kim Mole and Derrick Perkins.

Kim Mole talked about the numerous meetings she has attended regarding the dissolution of Troy Dispatch with no progress. Kim said she is more than frustrated but is very angry about the call transfer which is a total disregard for public safety. Kim said that from her background in law enforcement, she is very aware of how important minutes are when a person calls 911 during a crisis and questioned how much the county residents in Troy truly know that their 911 calls go to Troy Dispatch, then have a wait time as calls are transferred to the Sheriff's Department only to have to repeat the crisis again; it's a waste of valuable time. If the City of Troy citizens want to keep the dispatch, that is fine, but let them pay for it.

Commissioner Peck stated that he agrees that the safety concern is legitimate, and the call transfer is a safety issue. The commissioners and Kim discussed the statutes and how they may apply and discussed the Interlocal Agreement. Commissioner Peck commented that the legal question is who has authority from the joint agreement. Although the agreement is 25 years old, it is still legally binding. Troy Dispatch is a multi-jurisdictional special district. Commissioner Peck said he will be attending the next Troy City Council meeting next Wednesday to discuss this very issue with the council. Commissioner Peck said he has already discussed this with the Mayor and with the Chief of Police and both have commented that something needs to change, but we need to have this conversation with the city council.

Kim asked Commissioner Peck to relay to the Troy City Council that people's safety is on the line and that is a huge liability.

Commissioner Bennett talked about the joint agreement having no exit strategy for any specific party; everyone must agree.

Commissioner Letcher said the confusion is who the governing body is in a joint agreement.

12:00 PM **Meeting Adjourned**

## **LINCOLN COUNTY BOARD OF COMMISSIONERS**

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Mark Peck, Chairman

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