

January 8, 2020

The Lincoln County Board of Commissioners met for a regular session on January 8, 2020, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Peck, Commissioner Bennett, Commissioner Letcher, County Administrator Patrick McFadden and Clerk and Recorder Robin Benson.

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

9:15 AM **Budget Update/Wendy Drake:** Present were Dallas Bowe, Ray Stout and Derrick Perkins. Also present was Nikki Meyer, Eureka via VisionNet.

Wendy submitted a Statement of Expenditure Budget vs. Actual Report for commissioner review. Lincoln County is 50% through the budget year, the report shows what percent has been expended by departments/funds. Wendy said she has set up for all department heads to enter their budgets in the budget prep system and will conduct training in April for next fiscal year. Wendy requested that any wage or COLA decisions for employees be approved in April, so salaries are completed before the budget packets go out to department heads in May. Wendy commented she would like to have the first budget department head meeting in May.

Dallas talked about health insurance and is hoping to have rates by April or May.

9:45 AM **Tobacco Valley Industrial District (TVID) Board Appointment:** Present were Ray Stout and Derrick Perkins. Also present was Nikki Meyer, Eureka via VisionNet.

Robin said the TVID requested advertisement for 3 vacancies on their board. Robin said she placed advertisements in the Tobacco Valley News, on the North Annex Public Bulletin Board and county website. One application was received from M. Jamie Stark. Robin said she did receive a TVID Board recommendation to appoint Mr. Stark to the board.

Motion by Commissioner Bennett to appoint M. Jamie Stark to serve on the Tobacco Valley Industrial District Board per the TVID Board recommendation. Second by Commissioner Letcher, motion carried unanimously.

10:00 AM **Health Department Update:** Present were Jennifer McCully, Kathi Hooper, Jake Mertes, Guy Uithof, Ray Stout, and Derrick Perkins. Also present was Nikki Meyer, Eureka via VisionNet.

- Kathi said she applied for and received scholarship money to attend environmental health and public health conferences and training in New York. The scholarship money will pay for these expenses.
- Kathi is requesting a letter of support from the commissioners to the MTDEQ for the redesignation of Libby PM 2.5 nonattainment area to attainment and proposed attainment area maintenance plan. The letter states the commissioners fully support the MT DEQ request to the US EPA for the redesignation to assist with economic development and communicate to the public that Lincoln County is moving forward with a clean environment.
- Kathi said that 2019 inspections have been completed and grades will be available on the county website. Kathi commented that the Environmental Health Department is starting 2020 fully staffed.
- Jennifer updated the commissioners on the tobacco/vaping flavor bans and the age change from 18 to 21 to purchase tobacco products.
- Kathi received approval for the landfill extension application allowing for 10.5 acres. The asbestos cell is now part of the landfill and she is working with EPA and ARP to determine those operations.
- Kathi talked about the review of refuse assessments/recycling and options to help extend the life of the landfill.
- Kathi talked about green box sites in the county and said she is making progress on upgrading the West Kootenai site.

10:30 AM **Administrative Issues:** Present were Derrick Perkins and Ray Stout. Also present was Nikki Meyer, Eureka via VisionNet.

- Robin said the safety committee does not have its own budget but has a line item in the general fund used for travel. There is \$1200.00 budgeted for county employees to attend MACo safety conferences. Usually 2 to 3 employees attend MACo SafetyFest annually, but this fiscal year, MACo added a Safety Coordinator's Training. Currently, the safety budget has approximately \$139.00 left in its budget. Robin is asking permission for that line item to be overspent so 2 or 3 employees may attend the MACo SafetyFest in Missoula in March. Robin clarified the line item in the general fund would be overspent, not the budget itself. Commissioner Bennett asked for cost of the travel for the conference. Robin said she will get that information to the commission.
- Robin presented the minutes for December 18, 2019 for approval. **Motion** by Commissioner Bennett to approve minutes as submitted. Second by Commissioner Letcher, motion carried unanimously.
- Patrick submitted a letter from City Mayor Brent Teske requesting reappointment of Jennifer Nelson to the City of Libby Planning Board. Per MCA 76-1-221, one member to be appointed by the mayor upon the designation by the county commissioners of the county in which the city is located. **Motion** by Commissioner Bennett to approve the recommendation by the City Mayor for Jennifer Nelson's reappointment to serve on the City of Libby Planning Board. Second by Commissioner Letcher, motion carried unanimously.
- Patrick submitted a contract renewal for Fraser Management for \$200/mo. for consulting services. **Motion** by Commissioner Bennett to renew the Fraser Contract as submitted. Second by Commissioner Letcher, motion carried unanimously. Commissioner Letcher commented he is consulting with Mike Fraser to help with the fishpond repairs and sewer issues at the fairgrounds.
- The Commissioners signed a letter of support for a Libby Rod and Gun Club Grant Application through the Department of Fish Wildlife and Parks.

10:45 AM **Public Comment Time:** Present were DC Orr, Guy Uithof, and Derrick Perkins. Also present was Nikki Meyer, Eureka via VisionNet.

- DC Orr asked what the afternoon closed meeting pertains to. Commissioner Peck said the meeting is about the proposed settlement with the Payne Firm. Commissioner Peck explained the meeting is with our counsel; the

county attorney, commissioners, and attorney for the city/county health board. Once the settlement is agreed, it will be available to the public.

Mr. Orr commented the city council has been using Alan Payne to help with the health board. Commissioner Peck said Mr. Payne may be representing the City, but he is not representing the Board of Health. Mr. Orr stated that the city took a vote to hire a new attorney, and the mayor is contradicting that legal vote of the council and Mr. Orr said he has serious concerns. Mr. Orr said if the decision is between government agencies, we cannot close the meeting and is requesting a specific reason why the county feels it can violate the Montana Sunshine Laws. Mr. Orr expressed that he recommends the county to file criminal charges and not continue the cover up. Mr. Orr said his main concern has always been that while the EPA was paying for our legal counsel, the Record of Decision came down that violates all property owners in the superfund site that assigned liability to homeowners into perpetuity.

- Guy said he received a letter from the Fisher River Fire Service Area Board of a fee increase and is requesting an audit on the fire service funds and expenditures over the last 10 years before any fee increases. Commissioner Peck commented that before raising fees, making sure funds are spent appropriately is a good start. Commissioner Peck said he will contact the chairman of the fire service board.
- Trish said her part-time employee has resigned in the Clerk of Court Department and funds for that position are already in budget and she is requesting permission to advertise to fill that position. The commissioners agreed to allow Trish to begin the hiring process to fill the part-time position.

11:00 AM **Property Tax Delinquency/Kurt Cole:** Meeting cancelled, Mr. Cole did not appear.

11:15 AM **Resolution 2020-01 Special Deputy County Attorney:** Present were County Attorney Marcia Boris, Ray Stout and Derrick Perkins. Also present was Nikki Meyer, Eureka via VisionNet.

Marcia presented Resolution 2020-01 for the purpose of prosecuting violations of Title 30, Chapter 10, MCA. Marcia said there are no changes from Resolution 2019-23 except a name change and there is no cost or fees paid by Lincoln County. **Motion** by Commissioner Bennett to approve Resolution 2020-01 as presented. Second by Commissioner Letcher, motion carried unanimously.

11:30 AM **Planning Department/Roberts Family Transfer/Pate Family Transfer:** Present were Jake Mertes, Byron Sanderson and Derrick Perkins. Also present were Nikki Meyer, Eureka via VisionNet.

Roberts Family Transfer: Jake said he received a request from Kootenai Surveyors on behalf of Ronald and Paula Roberts to transfer a 1.22-acre portion of property to their daughter and retain the remaining 1.22-acre portion for themselves. Jake said planning staff conducted its review and recommends approval to use exemption. **Motion** by Commissioner Bennett to approve the Roberts Family Transfer subject to planning staff conditions and recommendation. Second by Commissioner Letcher, motion carried unanimously.

Pate Family Transfer: Jake said he received a request from Kootenai Surveyors on behalf of Donald Pate to transfer a 40-acre portion of his property to his wife, Jill Pate and retain the remaining 118.70-acre portion for himself. Jake said planning staff conducted its review and recommends approval to use exemption. Jake said the property was held in a trust and then transferred solely to Mr. Pate. Commissioner Letcher talked about a cabin on the property that may not have a permitted septic and would like to have that questioned. **Motion** by Commissioner Letcher to table the Pate Family Transfer for up to 60 days until further information and clarification regarding that a portion of the property is listed on the Zillow For Sale Site and clarification on the septic system and some inconsistencies in the application. Second by Commissioner Bennett, motion carried unanimously.

12:00 PM **Meeting Adjourned**

2:00 PM **Closed Meeting, Attorney Client Privilege: Discussion EPA Final Determination & Proposed Negotiated Settlement with Doney Crowley Law Firm.**

Present were Commissioner Peck, Commissioner Bennett, Commissioner Letcher, County Administrator Patrick McFadden, County Attorney Marcia Boris, Special Deputy County Attorney Jennifer Mariman, Wendy Drake, Derrick Perkins, DC Orr and Clerk and Recorder Robin Benson.

Commissioner Peck opened the meeting and explained the meeting's purpose and why it is a closed session.

Commissioner Peck said the purpose is to discuss a proposed settlement with the Doney Crowley Law Firm regarding the EPA Grant.

Mr. Orr asked for a statutory reference for closing the meeting and violating his constitutional rights to be present.

County Attorney Marcia Boris referenced 2-3-203(4)(a) MCA.

Commissioner Peck closed the meeting to the public.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mark Peck, Chairman

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