

June 15, 2022

The Lincoln County Board of Commissioners met for a regular session on June 15, 2022 in the Lincoln County Annex, Eureka, Montana. Present were Commissioner Teske, Commissioner Letcher, Commissioner Bennett, County Administrator Jim Hammons and Clerk and Recorder Robin Benson.

Meeting allows for teleconferencing and VisionNet availability.

Commissioner Bennett opened the meeting with the **Pledge of Allegiance and Prayer.**

9:15 AM **Recreational Marijuana Excise Tax/City of Libby:** Present were Dianne Hansen, Ray Stout, Kathleen Sheffield, Rebecca Nelson and Solomon Alcain.

Commissioner Bennett explained the county did receive a letter from the City of Libby expressing that county governments are authorized by resolution to initiate a ballot of county electors concerning the question of applying a tax on the retail value of marijuana and marijuana products sold as Adult-Use Dispensary or Medical Marijuana Dispensary, capped at 3%. The City of Libby requests that the commission approve a resolution initiating a ballot as described with a rate of 3% to be conducted by a special mail ballot election. The City of Libby agrees to participate in the cost of a mail ballot election on this question.

Commissioner Bennett expressed the county should follow in the same way. Any revenue received would go to law enforcement or mental health services. Commissioner Bennett will follow up with Robin about preparing a resolution.

10:00 AM **Planning-Final Plat Approval Downing Subdivision/Final Plat Approval One Up Subdivision:** Present were Planning Consultant Kristin Smith, County Planner Jesse Haag, Byron Sanderson, Dianne Hansen, Solomon Alcain, Ray Stout and Rebecca Nelson.

Kristin commented that both final plats have been reviewed and were approved earlier this year.

- Final Plat One Up Subdivision: 2 lots in Eureka area, all 9 conditions of approval have been met. Planning staff recommends commissioners to approve final plat. **Motion** by Commissioner Letcher to approve final plat for One Up Subdivision based on planning staff recommendation. Second by Commissioner Teske, motion carried unanimously.
- Final Plat Downing Subdivision: 2 lots in the Rexford area, all 7 conditions of approval have been met. Planning staff recommends commissioners to approve final plat. **Motion** by Commissioner Letcher to approve final plat of Downing Subdivision based on planning staff recommendation. Second by Commissioner Teske, motion carried unanimously.

10:15 AM **ARP Update:** Present were ARP Director Amanda Harcourt, Rebecca Nelson, Ray Stout, Solomon Alcain, and Tom Lane.

*ARP Director Amanda Harcourt submitted and read the following report:*

[Asbestos Resource Program \(ARP\) Report for Commissioner's Meeting](#)

June 15th, 2022

10:15 – 10:30

In May, ARP received 23 hotline calls. 19 were from Libby, 4 from Troy. Most of the requests were for U.S. Environmental Protection Agency (EPA) comfort letter/MT Department of Environmental Quality (DEQ) status letter requests.

ARP also received 71 utility locate tickets from properties within the Superfund site in May: 61 from Libby, 10 from Troy.

ARP completed 22 site visits within May. Most of these site visits were to confirm digging locations for utility locates and to active asbestos abatement/sampling projects.

ONGOING/PLANNED ABATEMENTS:

386 Riverside Drive, Troy – planned soil removal – on going; Work was tentatively scheduled Spring of 2022. ARP hasn't been able to contact the property owner to move forward with abatement activities since fall of last year. ARP was able to contact the property owner. She will be sending the signed SOW to ARP next week.

713 Michigan Avenue, Libby – planned indoor removal from residential building; waiting to hear from property owner about hiring a contractor.

42162 US Hwy 2, Libby- NOPEC- Property owner encountered Vermiculite Insulation falling out of the ceiling of an old outbuilding on the property. The property owner has hired an abatement contractor and the building has been demolished. ARP ran oversite during the demolition and all activities met EPA criteria for the removal.

757 E 5<sup>th</sup> St, Libby- Property is currently under contract to the perspective buyer. VCI was released on the East side of house, contaminating a large area of the side yard and a portion of the understructure. ARP has been in contact with the new property owner and will be drafting an abatement SOW when the property closes.

803 Minnesota Ave, Libby-While installing a new outlet the property encountered VCI. ARP conducted a site visit and confirmed the present of VCI within the wall cavity that the outlet was being installed. There was also a release of VCI in the basement where he was feeding electric to the new outlet. ARP is drafting a SOW for the abatement of the wall cavity and a spot clean a seal in the basement.

Asa Wood School, Libby-ARP contacted Ron Goodman (Superintendent of Schools) The Asa Wood building has been sold and work for the brownfield grant is scheduled to start July. The property owner has plans to demolish the west wing of the building after the regulated asbestos has been removed. The west wing is the main area of the structure containing VCI withing the CMU. ARP will be contacting the new property owner to discuss the property and timelines.

#### ONGOING/PLANNED SAMPLING:

GID 11192, Troy – Property was designated a non-use area during the time of investigation. The property has since been developed. The sampling SOW has been finalized. The property owner will be soliciting an asbestos inspector to collect the soil samples at the property. ARP will be running oversight during sample collection.

287 Terrace View, Libby- ARP identified gross levels of VV on areas of the property where tree stumps had been removed. ARP conducted a second site visit, and the property owner is planning significant construction near the area where the stumps had previously been removed. ARP will be conducting oversight during his work activities to see if the SOW needs to be modified. Property owner is waiting on weather conditions to improve before starting construction activities.

288 Hummingbird Ln, Troy-NOPEC property. ARP was contacted by the property owner to draft a sampling SOW for the property. ARP will be conducting the interior inspections for the three structures on the property.

#### **FUNDING**

The ARP program is funded through a Memorandum of Agreement with DEQ. This is funding coming from a cooperative agreement between DEQ and EPA. The agreement designates \$600,000 over two years starting with costs from July 1<sup>st</sup>, 2020, until May 31<sup>st</sup>, 2022. Total costs incurred by ARP & reimbursed by DEQ since July 2020 is approximately \$549,700 leaving a remaining balance of \$50,300. The last reimbursement came in April. Claims for May reimbursement will be sent to DEQ on the 16<sup>th</sup> June.

Dianne commented that she has spoken to residents, and they all expressed they feel safe regarding vermiculite contamination.

10:30 AM **Administrative Issues/Old Business:** Present were Dianne Hansen, Ray Price, Rita Collins, Rebecca Nelson, Tom Lane and Solomon Alcain.

- Robin submitted the minutes for June 8 regular meeting for approval. **Motion** by Commissioner Teske to approve minutes as submitted. Second by Commissioner Letcher, motion carried unanimously. Robin thanked County Administrator Jim Hammons for taking minutes in her absence.
- Commissioner Letcher said he had a phone interview with Kristin Omgig, of Rocky Mountain Law regarding water rights and suggested the county seek outside counsel to help citizens with water rights issues. Seeking permission to move forward with contract. Commissioner Bennett suggested an MOU with the city's for the hours spent working with city residents or cities to contact Kristin themselves. Commissioner Bennett explained there is no concern with residential wells. **Motion** by Commissioner Teske to move forward with contract between Lincoln County and Kristin Omgig of Rocky Mountain Law for legal counsel, to be paid out of PILT. Second by Commissioner Letcher, motion carried unanimously. Commissioner Bennett clarified the reason is that federal agencies that have objected to private water rights on streams for use and we want to join and help defend this cause. We do not need more instream rights.
- Commissioner Letcher submitted an easement agreement between the Eureka School District and Lincoln County. J. Tiffin Hall wrote the easement. Commissioners agreed to sign the easement agreement.
- Ray submitted a quote for a front-end loader brusher boom attachment from John Deere of \$84,418.70. The cost is to be absorbed in the FY 22/23 road budget. Current loader is 30 years old and no longer working, nor can it be repaired.

10:45 AM **Public Comment Time:** Present were Janelle Kimberlin, Liz Voorhies, John Bursell, Jane Vass, Roxanne Escudero, Andy Escudero, Dianne Hansen, Rebecca Nelson, Ray Price, Rita Collins, Tom Lane and Solomon Alcain.

Janell Kimberlin commented that job service usually uses the Eureka Office for the job fair event which is this Friday from 11:00am to 1:00PM. There is more interest this year and Janell is asking to use the conference room for overflow during the event. Commissioner Letcher will check and ensure the room is not already reserved during that timeframe.

Andy said he is here to talk about getting potholes filled on Rustic Avenue between Vanderwood and Plummer. This is not really a street, but a 20' utility easement. Open to any suggestions including potentially closing the alley. None of the residents maintain the road/easement. It is private property not owned by county.

Commissioner Bennett explained it is a private road, utility easement, and to block it off would require a legal opinion from an attorney. It is not a county road. Previous owners agreed to a maintenance agreement in their deeds to contribute to road maintenance. Commissioner Bennett said he would have to ask the county attorney to give an opinion to determine if the county has any authority. There is a previous agreement that owners are responsible for the road maintenance. Andy said he did seek legal counsel and it was the attorney's opinion the road maintenance agreement cannot be enforced.

Commissioner Bennett commented that he personally has no issue with blocking it off, but would have get a legal opinion before they do that; it's not a public matter, it's a private matter. There is other access available. Commissioner Bennett offered to check with the county attorney to render an opinion if the county can be involved. Commissioner Bennett invited Andy to come in to visit for further conversation.

Roxanne expressed the hardship is residents cannot even have their trash picked up because trucks get stuck in the holes. Roxanne submitted pictures indicating this is what we have to deal with every day.

Dianne asked about what the commissioners thought of the hand-count primary election.

Commissioner Bennett said Robin and Brent did not participate since they were on the ballot. Commissioner Bennett said he spent a lot of time helping and it went really well, but hopes we don't ever have to do it again. The entire state was waiting on Lincoln County for two close races, and we endeavor to not do that again. We are really blessed with volunteers to get the job done and it was a great job. Commissioner Bennett stated that he was really impressed and the accuracy in which they did it.

Dianne talked about a website IV3.us to help with voter rolls cleaning.

Robin explained that there is a legal process for moving active to inactive and cancelling electors in the election database that all Montana counties must adhere to. Robin encouraged Dianne to visit the Election Center to learn more about the process and legal requirements. No electors are cancelled from information on any website.

Commissioner Bennett commented that he looked at the number of undeliverable ballots and expressed the election department does a great job keeping the database clean and agreed with Robin to come in and visit with the election administrator to learn about the actual process.

11:00 AM **MT FWP/Ethan Lula (tentative):** Present were Seth Carbonari, Rita Collins, Dianne Hansen, Rebecca Nelson, Solomon Alcain and Tom Lane.

*Ethan Lula read and briefed the commissioners on the following report:*

Lincoln Co. Commissioners Meeting  
6/15/22  
FWP Update and Notes

#### **Staffing Changes**

##### **2022 Projects**

Annual population surveys complete

Non-game surveys (Great Gray Owl, Amphibian surveys)

Upcoming pine marten study

- UM grad student coming on to conduct the analysis

Elk plan rewrite – Meetings in August

- Online scoping coming soon
- Large statewide effort

Mule deer Initiative

- Working with USFS and DNRC to identify habitat improvement areas, fuels projects.
- Planned public meetings to discuss completed mule deer research and upcoming initiative
  - Statewide focus

Bighorn Sheep

- Not much of an update on Koocannusa- Working with FS to redesign habitat treatments and possibly deploying GPS collars to monitor vital rates beginning this winter.
- Very concerned with the development of property around the Galton winter range near Roosville and potential of domestic pathogen introduction
- 2021 BHS Hunter was successful (Brad Ossler of Trego)

##### **2022 Hunting Season Updates**

HD 101 and 109 were combined during the 2021 season setting process.

- Most seasons unaffected with two exceptions
- Last-week WTD antlerless harvest opportunity on private land was eliminated (increased B licenses in response)
- Mule deer season (antlered buck) shortened to 3 weeks w/ limited permits for the last two weeks of the season. Maintains 109 season structure for improved buck age class.

Mountain Lion season structure changed

- From Limited Permits
- To unlimited permits w/in groupings of HD and quota based + SLL that run beyond quota fill.

##### **WMA maintenance and usage**

Working on a management plan for Woods Ranch and West Kootenai WMAs.

- Veg inventory and grazing assessment
- Will be released for public comment
- Hope to be complete by the end of this year (Woods Ranch)

Conducting experimental weed treatments on Woods Ranch to mitigate knapweed and cheatgrass.

New FWP maintenance division

- Experiencing same difficulties with obtaining materials as everywhere else
- Repairing/replacing fencing on WMAs

Seeing some increased impacts of recreation on WMAs in the area

##### **Upcoming FWP projects**

2023- Initiate Black Bear Monitoring

2023-Initiate Camera Population Abundance Estimation

Not specific to the county – Noxon Elk Project (Sanders County), evaluating the effects of predation on elk populations (huge effort, multi-year study).

Ethan said the Eureka Warden position is still vacant.

Working on the Elk Plan, although it is difficult to monitor Elk populations. Will be asking for public feedback, and looking at other means to monitor, possibly cameras.

FWP priority is black bear monitoring. Bear harvest is going way up, but not sure what that means regarding population.

Starting 2023 will be conducting a black bear monitoring program.

2023 FWP will be deploying a pile of game cameras. The system is also used in Idaho, for elk, deer, black bear and moose.

11:15 AM **USFS Update/Seth Carbonari:** Present were Rita Collins, Rebecca Nelson, Solomon Alcain and Tom Lane.

*Seth Carbonari read and gave an overview of the following report:*

Lincoln County Commissioner's Meeting  
15 June, 2022  
Eureka, Montana



Updates from the Rexford/Fortine Ranger Districts:

Kootenai Drainage currently at ~485% average snowpack.

Road closure on 7202 Road to Lake Geneva due to a sluff. Some small slides on Grave Creek that have been cleared so far.

- 1) Current planning projects:
  - a. Working on Edna-Fortine roadside fuel reduction/wildfire resiliency project. CE. Finalizing analysis for decision and consultation with USFWS
  - b. Preliminary work on Sunday Creek. Targeted CE for fuels reduction and wildfire resiliency.
  - c. Next large scale project is planned for Swamp Creek.
  - d. Quite a few small NEPA projects related to road access to private property, special uses, etc.
- 2) Timber Update:
  - a. In progress
    - i. Thirsty Frank- ~18,000 ccf Sold to Stoken for \$22.07 a ton (41,327 tons) road work started. 1168 Acres
    - ii. Highway Dickey- ½ finished- ~12,000 ccf
    - iii. Laughing Ant- operations ongoing-~800 ccf
    - iv. Hagadore Frass-completed other than some road work- ~14,000 ccf
    - v. Williams Grave ~2,300 ccf Sold to Burk Construction (\$28.45/ton) (7,389 tons) Currently working on as conditions allow
    - vi. Dead Triangle ~10,000 ccf Sold to Stoltze Lumber Company (\$48.89/Ton) (26,335 tons) operations ongoing
  - b. Recently Sold
    - i. Meadow GNA ~6,500 ccf- 1<sup>st</sup> GNA sale on district. Sold to Stoltze (\$35.98 a ton). 663 Acres
  - c. Future
    - i. Dream Weaver ~11,000 ccf. Tentatively advertise in June. 748 acres
    - ii. Still Pinkham ~26,000 ccf. Tentatively advertise in July. 1,285 acres
    - iii. Banks Saddle ~11,500 ccf. Tentatively advertise in September. 688 Acres
    - iv. Young Dodge- possible small sale through GNA ~100 acres.
    - v. Castle Edna TS (Edna/Fortine Project) start prepping this summer. No volume still finalizing units.
- 3) Fire/Fuels-
  - a. Treatments
    - i. ~700 acres of prescribed burning accomplished this spring.
    - ii. 634 acres of thinning/piling in Priority Fireshed planned this summer. Mix of contractors, GNA and FS crews.
    - iii. 660 acres outside of Fireshed.
    - iv. ~800 acres of fall pile burning planned
    - v. ~800-1,200 acres of prescribed burning possible this fall if conditions allow.
  - b. 1 engine down in NM.
- 4) Recreation
  - a. Continuing work on Douglas Hill CG/OHV project. Making some changes based on public comments and will be going out for another round of public input soon.
  - b. Recreation levels on the lower side with weather.
  - c. Great American Outdoors Act continues
    - i. Rexford Bench water system replacement design
    - ii. North Dickey Campground improvements
- 5) Other
  - a. The Kootenai Complex chosen as one of the Initial Landscape Investments to protect communities and improve resilience.
  - b. Short a few fire positions and a few other temporary positions. A couple vacant permanent positions trying to fill including two in silviculture, and Archaeologist, and an engineer.
  - c. 13 person Youth Conservation Corp crew working with MCC leadership.

Seth commented that he is impressed with public outreach; tons of outreach within the school systems.

Watching water, rivers closely, Geneva Road area is closed from rising water. There is a lot of snow still up high to come down. All agencies are working together to help with road watch and flood mitigation.

Recreation down due to obvious current weather conditions.

**11:30 AM Rodeo Association Loan Discussion:** Present were Mike Cole, Pam Rackley, Jennifer Curtiss, Alice B. Elrod, and Rebecca Nelson.

Mike Cole said he is excited and enthused to submit a payment for \$20,000 and hopes to be on schedule and back to normal.

Commissioner Bennett commented that we will need to re-do the agreement; with the 2 years of covid, probably need to just update that.

Mike expressed that the cookshack is toast and he has a volunteer company to take that out and get rid of it. The rodeo is basically gone to food trucks and everyone seems to be happy with that; going well.

There was a brief conversation about electric power meters and possibly consolidating them.

Commissioner Letcher discussed that the Town of Eureka approved the preliminary plan and we may have a better water/sewer system in a few years.

**11:45 AM Tobacco Valley Board of History Lease Agreement:** Present were Rita Collins, Jennifer Curtiss, Alice B. Solomon Alcain, Ray Stout,

Commissioner Letcher asked if everyone has had time to review the new draft agreement between Lincoln County and the Tobacco Valley Board of History. Commissioner Letcher said the Town of Eureka voted not to take over but did have parking concerns.

Rita commented that the Board of History would like to have an attorney look at the current draft of the new lease before signing.

**12:00 PM Break**

**Meeting Adjourned** at 12:00 PM

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

**ATTEST:** \_\_\_\_\_

Jerry Bennett, Chairman

Robin Benson, Clerk of the Board