

March 10, 2021

The Lincoln County Board of Commissioners met for a regular session on March 10, 2021 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 Bennett opened the meeting with the **Pledge of Allegiance**.

9:30 AM **Road Dept Equipment:** Present were DJ Welch, Marc McCully, Dave Kyriss and Derrick Perkins. Present via phone were Nikki Meyer and Ray Stout.

Road supervisors talked about purchase vs. lease options/cost for heavy equipment necessary for county road maintenance. There was a brief discussion regarding cost of maintenance of equipment if county owned or lease. Patrick suggested tracking separate maintenance cost per equipment so it can be reviewed 5 years later. Marc submitted a proposed lease agreement from Caterpillar for 6 loaders. Road supervisors and commissioners discussed selling used county equipment by bid.

**Motion** by Commissioner Peck to approve proposed lease agreement for 6 loaders as presented. Second by Commissioner Letcher, motion carried unanimously.

10:00 AM **Health Department:** Present were Kathi Hooper, Jennifer McCully, Alyssa Ramirez, Dorey Rowland, DC Orr, Dallas Bowe, Derrick Perkins. Present via phone were Nikki Meyer and Ray Stout.

#### **Public Health:**

- Jennifer said the county currently has 7 active covid cases and gave a brief update on the status of vaccines. Jennifer commented that public health is having difficulty finding enough people who want to receive a vaccine at this time. Jennifer requested approval to hire 2 grant funded, part-time positions for the Zero to Five Program. Dorey briefed the commissioners on community outreach and the roles of the positions. The Troy position will be coordinated with the public libraries. The Eureka position will be based out of the Eureka Annex. Jennifer said the grant is for 5 years, so looking for approval to hire two part-time people within the grant. **Motion** by Commissioner Peck to approve hiring 2 positions for the Zero to Five Program, fully grant funded to help with Zero to Five outreach and to assist with the assistant library positions. Second by Commissioner Letcher, motion carried unanimously.
- Jennifer submitted Resolution 2021-05 to acknowledge extra funding received not known at the time of budget approval. Funds received through PHEP, IAP and Cares Act grants. **Motion** by Commissioner Letcher to approve Resolution 2021-05 as submitted. Second by Commissioner Peck, motion carried unanimously.

#### **Environment Health:**

- Kathi submitted a contract to the commissioners between DEQ and Lincoln County for the purpose of funding the county to conduct its own air pollution control program. **Motion** by Commissioner Peck to approve the DEQ air quality contract upon one correction. Second by Commissioner Letcher, motion carried unanimously.
- Kathi said burn permits will start being mailed out next week. Last year approximately 700 burn permits were approved. Commissioner Peck asked about flexibility of the burn schedule if there are opportunities in other months based on air, climate, etc... Kathi said flexibilities are in place and will adjust the language accordingly.

#### **Solid Waste & Recycling:**

- Due to staffing changes at the Eureka landfill, Kathi is requesting permission to promote an employee to the vacant coordinator position. This promotion is within budget. **Motion** by Commissioner Letcher to approve an employee promotion at the Eureka landfill. Second by Commissioner Peck, motion carried unanimously.
- Kathi commented that in the last 4 weeks, FWP has harvested 10 deer at the Libby landfill. Six of these deer were positive for CWD. Another harvest will be scheduled at a later date.

10:30 AM **Administrative Issues:** Present were DC Orr and Derrick Perkins. Present via phone were Nikki Meyer and Ray Stout.

- The commissioners signed a consulting agreement with Environomics Inc. to provide consultation in the ongoing dialogue concerning the Kootenai Wildland Urban Interface Shared Stewardship proposal for Lincoln County. **Motion** by Commissioner Letcher to approve the agreement with Environmics Inc. as submitted. Second by Commissioner Peck, motion carried unanimously.
- Commissioner Bennett explained that the District Ranger in Eureka is retiring and submitted a letter to KNF Supervisor Chad Benson to consider hiring a person willing to live in the Tobacco Valley and be part of the community, a person with a strong forestry background willing to work with local officials to promote a healthy and resilient working forest and willing to promote recreation access and facilities.
- Patrick submitted 10 Mobile Homes Deleted or Gone Per DOR with Taxes Owing – January 2021. **Motion** by Commissioner Peck to abate taxes owed on 10 mobile homes as submitted. Second by Commissioner Letcher, motion carried unanimously.
- Commissioners signed a Water and Sewer Line Easement Agreement with the City of Libby for installation of a sewer main and/or water main on Education Way. **Motion** by Commissioner Peck to approve the easement agreement as submitted. Second by Commissioner Letcher, motion carried unanimously.
- Robin submitted the minutes for March 3, 2021 for approval. **Motion** by Commissioner Letcher to approve minutes as submitted. Second by Commissioner Peck, motion carried unanimously.

10:45 AM **Public Comment:** Present were Virginia Kocieda, DC Orr, and Derrick Perkins. Present via phone were Nikki Meyer, Ray Stout and Diane Watson.

DC thanked the commissioners for bringing in Dan Clark, Local Government Services to help educate the Board of Health (BOH) saying there has been improvement and meetings are considerably better. DC discussed that Bernhard was appointed, but according to a newspaper, Ivers narrowed the list of nominees. DC said that no member of the BOH can drop a candidate that has applied to serve. It is unethical, and now Ivers is doing it again for the City of Libby candidate.

DC commented that Ivers is trying to establish a preference for candidates with a medical background and said that Ivers met with a quorum of council members after the public meeting ended which is illegal.

DC said he will be requesting to be placed on the agenda to talk about having the state attorney general educate the county attorney about what constitutes an illegal meeting, and he will ask for a vote from the commissioners as to whether to turn this over to the state attorney general. DC stated this is about transparency and talked about the history of the BOH and its unethical behavior, misappropriation of funds and consequent disbandment.

Diane commented that she agreed with DC about transparency and expressed frustration that there is no indication that North Lincoln County residents could participate unless they were physically present in Libby. Diane said she is asking if BOH meetings could be available via Zoom, for all future meetings particularly when meetings are held in Libby. They are public meetings and North Lincoln County residents need to be able to participate.

11:00 AM **ARP Update:** Present were ARP Director Virginia Kocieda, Mandy Harcourt, Elzhon Anderson, Brett McCully, Mike Cirian, Tina Oliphant, DC Orr, and William Langhorne. Present via phone were Ron Catlett representing Senator Daines Office, Nikki Meyer and Ray Stout.

Virginia gave a summary about phone calls received and the status of current investigative sampling and abatements occurring on properties being remodeled and renovated in Libby and Troy. Virginia commented that she has received inquiries about LA contaminated bark around the OU3 site.

ARP is working with property owners and contractors to ensure best management practices are being used during all activities dealing with vermiculite.

Virginia talked about efforts working with realtors, the local title company and banks to introduce herself but also to educate them on regulations and best processes during buy/sell of properties. Virginia said she has been working with the Clerk & Recorder's Office on how to track refusal properties that have been sold so she can contact those owners. ARP is also focusing on building stronger relationships with general contractors and creating a brochure reminding contractors about state laws regarding asbestos and to contact ARP.

Virginia commented that ARP helped draft a new Operations and Maintenance Plan with Solid Waste and Recycling for the Class IV cell that accepts Libby amphibole asbestos contaminated waste at the landfill.

DC asked about meeting minutes and budget reports. Virginia said she meets with commissioners monthly and gives weekly updates to DEQ but can add budget information to her monthly report to the commissioners.

11:15 AM **Superfund Update – Beth Archer EPA:** Present were Mike Cirian, Will Langhorne, Tina Oliphant, Brett McCully, Virginia Kocieda, Elzhon Anderson, Mandy Harcourt, and Derrick Perkins. Present via phone were George Jamison, Dania Zinner, Tony Penfold, Beth Archer, Stan Christiansen, Moira Daven, Ray Stout and Nikki Meyer.

The commissioners met with representatives from EPA, DEQ, WR Grace and ARP to hear updates on the Lincoln County Superfund Operable Units.

Dania spoke about several of the operable units already partially delisted or in final stages for delisting from the federal register superfund list. Dania explained that partial delisting means a unit has been cleaned and there are partial areas to be deleted from the superfund federal registry with 5-year reviews. Dania commented partial delisting is exciting and conveys meaningful progress.

Virginia discussed hotline calls received at ARP and working with the public regarding abatements, sampling, construction process and other information regarding properties to be purchased or sold. Virginia gave a brief history on the MOA between ARP and the County and how it applies to OU4 and OU7.

Mike commended the work ARP is doing and commented that this is how we envisioned ARP coordinating with the public and DEQ.

Dania talked about environmental covenants to be negotiated with DEQ, and once that is completed, there could be partial delisting.

Tina asked about the OU4 and OU7 O&M Plan and questioned if OU5 or Kootenai Business Park could blend into that. Dania said yes, the institutional control plan and public comment would be a part of the process and Jason Rappe would take the lead and communicate with the port. George asked about a collaborative effort to move the process forward. Dania said DEQ is the lead in the process, but EPA could be included.

Beth commented the public comment period notice has gone out for OU6 or BNSF Rail Corridor. DEQ is reviewing the remedial action report and O&M Plan which could be wrapped up this summer. The deletion process would start in 2022.

George suggested that all reports be available for review prior to public comments and decisions. Documents need to be available and stated the county and public input should have participation in processes.

Tony gave a brief overview on the construction phase and permitting process at the spillway.

Mike said he is retiring at the end of March and spoke about what was supposed to be a 3-year project turned out to be 16 years. Mike said he is proud of the work and although there were hard decisions and negotiations, there was a lot of teamwork. Mike said he plans on staying in Libby and looks forward to continuing being a part of the community. Mike talked about the youth gun/trapping and skeet shooting program that he has been actively involved in.

12:00 PM **Break**

1:30 PM **Library Board – Covid Policy:** Present were Library Director Alyssa Ramirez, Barb Hvizdak, Chuck Gerheim, Annie Gassmann, Marilyn McDougall, Sheriff Darren Short, and Will Langhorne. Present via phone were Nikki Meyer and Ray Stout.

Barb introduced the library board members and updated the commissioners how the library is progressing to full hours and pre-pandemic services. Barb commended Alyssa for her leadership during the pandemic and the flooding that occurred in 2020. Barb mentioned the library board is reaching out to other libraries on how they are functioning and relying on our public health department as advisory. Some bigger libraries in Montana are still closed with only curbside pick-up. There are three library facilities in Lincoln County and the top priority is to keep employees and citizens safe. The library board decided it is best to continue with the mask mandate at this time. Worst case scenario would be to have a library covid outbreak and having to shut down due to quarantine.

Commissioner Bennett shared that we have to consider that library employees are county employees, and we have set a policy for all employees and all county properties. Commissioner Bennett expressed concerns of potentially having a library employee that disagrees with the library policy vs. the county employee policy and the same with some county buildings open to the public without the requirement of masks.

Chuck spoke briefly that controlling safety situations in county offices may be different than controlling safety situations in libraries. The Eureka and Troy libraries have much smaller spacing.

Commissioner Peck questioned what criteria the library board has for making its decisions.

Barb said the goal is to be mask free by June as the cases in Lincoln County continue to decrease.

Commissioner Letcher talked about consistency in all county buildings and for all county employees and expressed concern regarding potential lawsuit because there are separate rules for the Eureka, Troy and Libby libraries with no consistency in any of the library facilities; Eureka residents using the library has different rules than residents in Troy and Libby.

Patrick asked from an HR perspective, what is the policy for a situation when someone from the public comes in without masks? Chuck responded that they would give training to employees and specify how to respond and at what point an employee should call for help in enforcing the Board's masking mandate. Patrick and Commissioner Peck asked who would be the mask police?

Patrick then asked what is the policy for employees who decide not to wear masks? Alyssa responded that there is not currently a problem with employees, and none are anticipated.

Patrick noted that these things may change in the long run, that it will only take one, and that it has occurred in every department in the county buildings so far. In addition, Patrick explained that the county is liable for HR and Insurance, but has no authority to enforce policy, as the Library Board has that function. Patrick stated that there exists a disconnect and from that perspective is concerning.

Alyssa said the Eureka library is still by appointment only and curbside service. Not permitted in to browse yet. Troy and Libby libraries offer masks to the public if they come in without one.

Commissioner Peck expressed concerns regarding putting employees in situations they are not trained and equipped to deal with if anyone comes into a library not wanting to follow library policy.

Alyssa explained the libraries has employees who are not comfortable working without mask requirements. Patrick commented those same situations have arisen in other county offices and have been dealt with while maintaining county policy. Patrick offered to assist with barriers or any other needs to help with library safety concerns.

1:45 PM **Meeting Adjourned**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Jerry Bennett, Chairman

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