

November 16, 2016

The Lincoln County Board of Commissioners met for a regular session on November 16, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, and Recorder Robin Benson. Commissioner Peck was in attendance via VisionNet from 10:00 to 11:00 A.M.

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

10:00 AM **Partisan/NonPartisan Resolution Vote:** Present were Bobbi Stoken, Bonnie Larson, Steve Curtiss, Josh Letcher, Robin Haidle, WM Boucher, Roger Pressell, John Stoken, Richard J. Avery, Dave Guild, Linda Guild, Rhoda Cargill, Jennifer Curtiss, Madelon Martin, Kurt West, John Brunner, Susan Horal, Bob Horal, Linda Babb, Darrell Babb, Gloria Schmidt, Gregg Johnson, Bert Hall, Matt Charlton, Linda Curtis, Randy Wilson and Nikki Meyer. Also present from Libby via VisionNet were Alan Gerstenecker, Kay Watson, John Rios, Donna Rios, Charlotte Woods, Linda K. Gerard and Vic White.

Commissioner Cole welcomed and thanked the public for attending. Robin handed out copies of the resolution to the public. Commissioner Larson stated he has been working with the study commission over a year and has reviewed the Findings of Fact, researched the history and has attended most of the Study Commission's public meetings. Commissioner Larson is convinced moving forward with the resolution for Lincoln County to become compliant with the law and the Montana Constitution is the right thing to do. Commissioner Peck said that as he reads the statutes combined with a very compelling report by the study committee, in his opinion the nonpartisan issue as it is should be reversed, however, there has been no legal determinations or legal assurance the resolution process is right. The facts as known today, Commissioner Peck said he believes the 2009 election was not properly done. If the answer is the resolution, he will support it, but it has not been vetted through county attorney. Commissioner Peck continued saying that as a county commissioner, we have not publicly advertised a public hearing for turning over a process that the people voted, although it was done wrong. Today, to vote on that, is premature. Commissioner Peck said he would like to schedule a public hearing because the public deserves to know the decision of the commission and why it is being made. We need to get this right and make sure as a county we are on solid ground. Commissioner Cole said he concurs with Commissioner Peck and agreed the information brought forth is hard to dispute. Commissioner Larson said that he did send the resolution to the county attorney and MACo attorney, but has not heard back yet.

Steve Curtiss thanked the commission for addressing this issue. Respectfully as a rebuttal to Commissioner Peck's comments, the Study Commission has worked diligently for one year and has put much effort to get this issue out to the people. Steve said that in February 2016 Dan Clark from the Local Government Center, Bozeman informed the public of this issue and the issue was publicly recognized in 2015. The Study Commission has put together a serious document and has made it available to the public for over a year. In May 2016 the study commission held a public meeting in Libby with Dan Clark with the commission in attendance. A public open house was held in Eureka again with Dan Clark present. In all meetings attend by Mr. Clark; he clearly stated to the public that Lincoln County is not compliant with the law. The study commission held more public meetings; the point being that for one solid year there has been a serious process of educating the public. Respectfully, to Commissioner Peck, the Study Commission as an elected group feels the public has been notified and presented the facts. This process has gone on for over a year. The amount of time the public has been involved is satisfactory for the commission to make a decision today. The Study Commission has done everything to maintain the public process. This is probably the study commissions last public meeting and it is time for us to get our final report to the state. The Study Commission would like to write in the report that local government did correct Lincoln County back to being compliant with the law and the Montana Constitution.

Bonnie Larson introduced herself to the public. She reiterated that the study commission's two year term ends soon. We are here to serve the commission and the public. Bonnie read the Findings of Fact to the public in attendance. The Study Commission supports the county commissioners to pass a resolution to make Lincoln County compliant. The County Commissioners carry out law and implement budgets. It is very important that our form of government be according to the law. If Lincoln County is not compliant with the law then we are set up for lawsuits and decisions overturned made by the commission. The Study Commission is here to lend our support for the commission to return Lincoln County back in compliance. The study commission did visit with several attorneys and a district judge. The study commission received excellent opinions and conducted extensive research and we (study commission) would not make a recommendation to the county commissioners without a unanimous agreement that Lincoln County become compliant with the law.

Bobbi Stoken said the Finding of Facts were presented to the county commission in September and questioned what has the commission done since it was presented six weeks ago. Commissioner Cole said the commission is conducting research and presenting it to legal counsel. Commissioner Larson verified that he sent the Finding of Fact to the county attorney, but said the county attorney may be biased because he was involved and named in the document.

Rhoda Cargill asked who specifically is the legal resources? Commissioner Cole said the county attorney and MACo attorney. Rhoda said this issue has been ongoing for many months and this is a precedence setting action by the county commission. That being stated, any direction the commission goes is at risk because there is no precedence and without precedence what is right? This issue has been discussed enough; the direct route is to put Lincoln County back in compliance with law by resolution. Rhoda ended by saying she, respectfully asks the commission to have the courage to pass the resolution today.

Linda Babb said she attended the public meeting at Riverstone Lodge in Eureka and at that time it was going to be run through the attorneys. Why did you wait all this time to do so? You (county commission) need to make a decision, you are elected to make decisions.

Josh Letcher said he agrees with Commissioner Peck to have a process. As a study commission we have done the public meetings, newspaper articles, pamphlets, booth at the fair, questionnaires, and had public meetings during county commissioner meetings. At the last meeting in September the commission stated they would vote to pass a resolution to make Lincoln County compliant. Now Commissioner Peck is requesting more meetings and to pass this in four weeks? Commissioner Peck said he is not looking for an absolute answer, but wants to look at what the legal people say. I do not personally feel that I have all the information needed to make a decision today. Josh said it is the commissioners judiciary responsibility to get this done.

Commissioner Peck stated the study commission has done your duty and done it well, now it is my job to make a decision in the window of opportunity that we agreed upon.

Dave Guild said with respect to the commissioners, this issue has been known for a long time, yet not jumped on it and had it resolved prior to the 2016 general election. Commissioner Cole disagreed stating the last presentation by the study commission to the county commissioners was a little over a month ago. Bobbi Stoken commented that the study commission had the option to have something ready to put on the ballot, but the study commission chose not to do this.

John Rios said he is a member of the Lincoln County Republican Central Committee and he would like to pose two questions. When was the question asked to the county attorney and how much time do you give him to give an opinion to the commissioners? John said he attended the public meeting held at the Ponderosa Room and maybe there is legal precedence; it was said that the Montana Attorney General has given an opinion to a similar situation so there actually has been some legal precedence. Steve agreed that the attorney general has given an opinion under Elected Official form of government must have partisan elections. The opinion was provided by Dan Clark. John asked when the county attorney will answer the query to give commission time to act prior to December 15 as agreed upon.

Bobbi said the county attorney was involved at that time and did advise commission to put the nonpartisan issue to the voters although MACo had said clearly to not do this. Bobbi said the county attorney is biased and should not be a part of the decision made by the county commission. Commissioner Peck said that if we do not get something from the county attorney then we will have to make a decision without it. Commissioner Peck said he will talk to Dan Clark about the AG opinion.

10:30 AM **Administrative Issues:**

- The Commission signed the Federal Financial Assistance Award Cooperative Agreement 17-PA-11011400-004 between Lincoln County and the USDA, Forest Service Kootenai National Forest. The county accepts the award of \$25,000 for the Ksanka Creek Restoration Planning Project. **Motion** by Commission Larson to accept and sign the agreement as submitted. Second by Commissioner Cole, motion carried.
- **Motion** by Commissioner Larson to sign the annual MACo/CRS Inmate Excess Medical Insurance Program Renewal. Second by Commissioner Cole, motion carried.
- Commissioner Larson presented the Montana Logging Association 2016 Winter Meeting in Kalispell December 2 & 3, 2016 as informational to the commission.
- The Commissioner read the minutes for November 9, 2016. **Motion** by Commissioner Larson to approve the minutes as submitted. Second by Commissioner Cole, motion carried.
- Robin informed the commission she will need date, time and location for any public notice to be submitted to the newspapers for the partisan/nonpartisan issue discussed earlier today.
- Robin submitted the Interlocal Agreement between Lincoln County and the Town of Eureka in order to establish a City-County Board of Health for Lincoln County.

11:00 AM **Public Comment Time:** Present were Randy Wilson, General Manager Interbel Telephone Coop., Inc., Eureka.

Randy Wilson discussed his efforts to bring local Montana TV Networks to Lincoln County. Lincoln County has been in the Spokane demographic market area since the 1960's before we had Montana networks. Randy has submitted a petition to put North Lincoln County in the Montana DMA which was approved by the FCC August of this year. Randy said that people want Montana news and there was no opposition from Spokane networks. Randy said his goal is to expand it to satellite customers. Commissioner Larson asked how to get this for South Lincoln County. Randy said he would re-write certain sections of the petition to include South Lincoln County. The FCC does allow county government to apply for a DMA modification for satellite viewers. Randy said there would be no cost to the county.

Randy said he would offer to direct this effort with commission approval. Commissioner Larson said he would coordinate efforts to put this on the commission agenda for November 30, 2016.

1:30 PM **Planning Department: Cancelled**

12:00 PM **Meeting Adjourned**

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST: _____
Robin Benson, Clerk of the Board