

February 28, 2018

The Lincoln County Board of Commissioners met for a regular session on February 28, 2018, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Bennett, Commissioner Peck, County Administrator Darren Coldwell, and Clerk and Recorder Robin Benson.

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

9:45 AM **Snowshoe Mine Road Abandonment Petition:** Present were Marc McCully, Jay Sheffield, Jeff Koskela, Chris Nelson, John Blodgett, and Alan Gerstenecker.

McCully presented a petition signed by 10 land owners, petitioner is Steve Byington. All signers of the petition were verified as county landowners by the Clerk & Recorder's Office. Commissioner Peck explained the purpose of the abandonment is to facilitate a forest service trail access to Snowshoe Lake; it's a win win for the public and land owner. McCully is seeking a motion to approve the petition to be filed in the Clerk & Recorder's Office. **Motion** by Commissioner Bennett to accept the road petition abandonment from Steve Byington to be filed in the Clerk and Recorder's Office. Second by Commissioner Peck, motion carried unanimously. Robin explained the road abandonment process to include a viewer's report, public hearing and order of a survey. McCully said a viewer's report will be submitted to the commissioners.

10:00 AM **Board of Health (BOH)/Trihydro:** Present were Kathi Hooper, Noah Pyle, George Jamison, Jay Sheffield, Jessica Vanderhoef, Jeff Koskela, John Blodgett, Alan Gerstenecker, and Nikki Meyer, Eureka via VisionNet. Kathi submitted a letter from the BOH requesting additional funding for attorney fees. These are costs associated with Deputy County Attorney Jennifer Mariman's services. Kathi is requesting \$7,000 additional funds through end of fiscal year. Commissioner Peck explained recent changes in the county attorney's office and there is now more civil support. Commissioner Peck said it has been recommended by the county attorney's office to retain Jennifer Mariman, but the county attorney's office will be more engaged to help drive down future costs for legal services. Commissioner Bennett said he has no issue with a current budget increase, but moving forward, to use the county attorney's office to bring down costs associated with legal services. George commented that Jennifer attended almost all BOH meetings and expressed that it was very beneficial. **Motion** by Commissioner Bennett to approve a \$7,000 budget increase for current fiscal year in the Board of Health budget. Second by Commissioner Peck, motion carried unanimously. Funding may potentially come from PILT.

The following letter was submitted by Kathi Hooper.

Lincoln City-County Board of Health

418 Mineral Ave
Libby, MT 59923

February 14, 2018

Lincoln County Commissioners
512 California Ave
Libby, MT 59923
RE: Attorney Fees



Dear Sirs,

When the new Board of Health was formed in November of 2016, an attorney was designated for the Board of Health issues with a \$10,000 budget for fees. Since that time the Board has found that the attorney has been utilized much more than anticipated. We have had much activity due to EPA funding/complexities, investigation and inquiries. At this point we have used over this amount and are requesting that additional funds be available.

The Board has accomplished much in this last year. Many policies and procedures have been developed or updated; the by-laws have been rewritten; and there have been many legal questions answered along with review of policies, procedures and bylaws. Working with the County health department has been excellent as they share the desire to update and address health issues within the county limits.

Currently, we are up to date and do not anticipate the rate of usage of the attorney, and the Board of Health is requesting an additional \$7,000. for the remainder of the year. Your consideration is greatly appreciated. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet L. Ivers".

Janet L. Ivers
Chair

Trihydro: Commissioner Peck commented Trihydro provides engineering consulting services that specializes in superfund issues and the EPA. The county does not have the expertise and there are some complex issues regarding Institutional Controls, but it's difficult to know how to budget for this. Commissioner Peck expressed the county needs Trihydro to do the work for the BOH. Commissioner Peck said the costs need to be tracked separately to show impact to the county and to ensure we are accounting for those funds correctly.

Motion by Commissioner Peck to approve Trihydro Work Order No. 18-051WO-E. The funding source is pending Darren Coldwell's communication with EPA to come from the ARP grant funds. Commissioner Peck commended George Jamison for his expertise, time and commitment on the BOH Board.

10:15 AM **Misdemeanor Probation:** Present were Jennifer McCully, Jay Sheffield, Marcia Boris, Judge Matt Cuffe, Kathi Hooper, Jessica Vanderhoef, Jeff Koskela, Vel Shaver, Bill Foster, Alan Gerstenecker, John Blodgett and Nikki Meyer, Eureka via VisionNet.

Jennifer provided the following handout.

Commissioner Meeting
2/28/2018 @ 10:15

Community Supervision Officer

Misdemeanor probation:

46-23-1005. Misdemeanor probation offices -- officers -- costs. (1) A local government may establish a misdemeanor probation office associated with a justice's court, municipal court, or city court. The misdemeanor probation office shall monitor offenders for misdemeanor sentence compliance and restitution payments.

The purpose of misdemeanor probation is to promote the safety and well-being of the citizens through sentencing enforcement for certain misdemeanor cases. Misdemeanor Probation focuses on community safety and offenders' accountability for completion of every facet of their court ordered sentences. Monitor for compliance to court orders including: alcohol/drug testing, GPS monitoring, house arrest, SCRAM, attendance at treatment/anger management programs, payment of fees and restitution and regular reporting to officer.

In addition to proactive supervision, this program would help to reduce incarceration rates and mitigate the risks for re-offense and continual criminal behavior by directing and assisting probationers in personal and community adjustment.

A program would handle misdemeanor cases including, but not limited to:

- Driving Under the Influence
- Assault
- Partner/Family Member Assault
- Misdemeanor Possession of Controlled Substance and Paraphernalia
- Theft
- Sexual Assault, Violation of Protection Orders, Stalking
- Driving Without Privileges
- Various felonies amended to misdemeanors

Pretrial supervision: Pretrial supervision works with the defendant to successfully comply with the court's conditions of bail. Pretrial officers provide the structure under which the defendant determines day-to-day activities and choices. The court, at any time, may request a compliance report and thus it is to the defendant's benefit to positively participate with the Pretrial program in its entirety.

** Lincoln County Attorney, Marcia Boris estimates that as of early February, 8 people currently held on felony charges in Lincoln County jail would be considered suitable for pretrial supervision if it were available.**

Importance to a Successful Treatment Court: Since community supervision officers are most often in the field monitoring the status of drug offenders, it is vitally important that they create partnerships within the drug court team and the community
Opportunities:

- Partner with City(s) for misdemeanor probation
- County misdemeanor probation combined with felony pretrial supervision

Judge Sheffield explained there are defendants with specific assaults and violations that are qualified for monitoring to be sure they are following pretrial or suspended sentence conditions. Judge Sheffield said that currently clerks are spending approximately 6 hours a week for compliance work, and expressed this is not a viable option/process. Jennifer added the monitoring includes recouping fees and the prevention piece of mandatory classes/counseling.

County Attorney Marcia Boris said she has been asked to agree by attorneys to send someone home on their own recognizance and if there was supervision she would be more apt to agree to release, but currently is not comfortable without that supervision. Marcia said that moving forward, we need to look at costs and benefits.

Judge Cuffe commented that the longer someone sits in jail, the longer they interact with harder violators and the less time spent incarcerated the better off we are and the inmate as well. Commissioner Cole asked why Lincoln County does not have a probation officer. Nobody in attendance could answer that question.

Commissioner Peck said it is very compelling having two judges and the county attorney sitting here in this meeting; this is where we must go. Judge Sheffield explained this is a mandatory position before moving forward with a treatment center.

The probation officer costs, including screening software, vehicle, and wage was guesstimated at approximately 30,000+.

Jennifer said we are here to introduce the idea, and move forward. Commissioner Peck expressed this is a comprehensive piece to the jail issue. Bill Foster who works at Flathead Valley Chemical Dependency Clinic explained how the misdemeanor probation officer position helped in Flathead County, saying that overall and over time, the position ends up paying for itself and he encourages the county to look at this with long term in mind. Vel Shaver commented that statistically, up to \$64.00 is saved for every dollar spent on the probation officer position. Jennifer said she will put together more information and bring it back to the commission.

10:30 AM **Administrative Issues:** Present were Jeff Koskela, Tina Oliphant, John Blodgett, Alan Gerstenecker and Nikki Meyer, Eureka via VisionNet.

Robin presented the February 20 & 21, 2018 minutes to the commissioners for approval. **Motion** by Commissioner Bennett to approve the minutes for February 20 & 21, 2018 as presented. Second by Commissioner Peck, motion carried unanimously.

Commissioner Peck said he was approached by Gary Huntsberger about the Children's Theatre Presentation at the Maki Theatre and will be donating \$1,000 from the Libby Economic Development fund.

Commissioner Cole commented he is hosting a free fire contracting workshop that will help answer questions about what it takes to become a wildland firefighting contractor. The workshop is scheduled for March 15, from 5:30-8:00. People can register by calling 406-257-7711 ext. 5.

10:45 AM **Public Comment Time:** Present were Jeff Koskela, Tina Oliphant, Robert Mast, John Blodgett, Alan Gerstenecker and Nikki Meyer, Eureka via VisionNet.

Jeff urged commissioners to pursue the misdemeanor probation officer position and suggested utilizing some of our reserve deputies. Jeff said the county may already have people in place with reserve deputies and potentially they could attain some training. Commissioner Peck said it is worth looking into and potentially certifying deputies.

Robert commented that twice in the last three weeks, he traveled to Kalispell, and wanted the commissioners to know that our roads were noticeably better, clear, and he was amazed at the difference commending the county road crews.

11:00 AM **Port Authority Update/Board Member Appointment:** Present were Chas Vincent, Brett McCully, Jeff Koskela, Tina Oliphant, Robert Mast, John Blodgett, Alan Gerstenecker and Nikki Meyer, Eureka via VisionNet.

Darren informed everyone in attendance that nine people applied and the commissioners rated each application on a point basis and turned them into him to be calculated. Darren said top votes were for Ted Werner and Tony Petrusha and all other candidates were very close. Commission Bennett clarified that once we change by-laws we may be looking at adding two more members and will be setting up sub committees so we may utilize more of the candidates in the near future. The commissioners agreed that they were pleased with the number of good, qualified candidates.

Motion by Commissioner Bennett to approve the two-top scoring applicants, Ted Werner and Tony Petrusha. Second by Commissioner Peck, motion carried unanimously. Commissioner Bennett said Ted and Tony will be contacted to verify acceptance of the positions and then have a first meeting to move forward.

Tina said she would set that meeting up. New board members will also be included in the weekly port update meetings. Commissioner Bennett said we need a block of time to set up framework, to discuss plan and priorities, potentially a 2-hour meeting. Commissioner Peck said he appreciates the people that stepped up; there is a lot of work that needs done.

Tina encouraged the commission to send a letter of support to request inclusion of Lincoln County low income census tracts for eligibility as Opportunity Zone Investments. Tina gave a history saying that as part of the 2017 tax bill, a 2017 Tax Cut and Job Act was created establishing a tool for economic development by encouraging long term private investment into low income communities. The Act will establish federal tax incentive for reinvesting capital gains into these "opportunity zones". Congress is asking the governors to nominate low income community or eligible census tracks for these investments. States are limited to 25 census tracks. The deadline for governors to respond is March 21, 2018. Tina addressed some of the known mechanics of this new program and acknowledged that the structure is still uncertain, but believes Lincoln County should be proactive and send a letter to Governor Bullock outlining the reason to include Lincoln County census tracks. Tina believes this may be an important tool to attract business investment. Commissioners directed Tina to draft the letter for their review.

Chas commented the tract of data being used is very narrow, so in the letter we need to make sure the areas for affordable housing is not overenergized. Chas further clarified that one of the stipulations in the letter is only 25% of each census tract is eligible so you would want to be specific in area and make that a consideration. Chas also encouraged Tina to include mapping in her letter.

Tina strongly encouraged a three-member Loan Review Board and is seeking commissioner direction. Tina said the board would consist of people with expertise in loan financing; credit risk, reviews of loan applications, credit checks, and to ask appropriate questions to make final decisions. Commissioner Peck said he is completely supportive and not having this may have contributed to some of the past bad deals. Commissioner Peck further clarified this needs to have a separate skill set then the port board. Darren commented the commissioners will need to approve committee members. Tina will bring recommendations to the new port board for approval.

Recommendations for Immediate Loan Review Board submitted by Tina Oliphant.

IRP Background (Intermediary Relending Program from USDA):
Monies available from USDA as a loan (30 years, 1% interest).

Purpose is to enhance community access to financing when other sources are not adequate. This, in itself, is deemed to be economic development. There is no specific requirement of outcomes i.e. jobs, **allowing more flexibility in determining the economic benefits of this tool.**

2014: LCPA submitted application for funds and was awarded in 2016. This is a long and very Competitive process.

LCPA was successful with the following:

\$750,000 potential funds

- \$500,000 - up to (to be used within 3 years)
- \$250,000 cash match committed by LCPA

Note: Initially LCPA funded 3 loans from internal funds. They have been paid off or are performing well. LCPA no longer considers loans from internal funds.

Process:

After internal approval, LCPA submits projects to USDA and receives monies as they are approved. Principal and interest stays with LPCA and is available to relend, 2nd, 3rd 4th generation.....

Current Status:

Total Loans Deployed	Balance Owed to USDA	LOA's Match	Remaining Funds
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\$264,000	\$220,000	\$44,000	\$486,000
	Remaining \$280,000 must be deployed in 1.5 years		All loan payments are recycled - relent.

Recommendation:

- Start with a 3-member Loan Review Board for the first project
- This Loan Review Board has authority to approve loans
- Must show experience and confidence with credit risk and deal structure.
- Must have a bank presence
- Must show commitment to the program as a tool for economic development
- Expand to 5, 7 and 9 over time as needed to provide backup for potential conflict of interest and unavailability
- Activity is reported back to LCPA Board

Brett said the engineering company WGM's cost estimate for oversight of the cleanup at the finger joint site on the port property is \$16,700 dollars and \$5,000 for the onsite construction work. Brett said he will put bids out in the local papers. **Motion** Commissioner Peck to approve WGM Group contract for finger joint asbestos abatement oversight. Second by Commissioner Bennett, motion carried unanimously. Brett called several engineers; most did not want to deal with it.

11:30 PM **Kootenai Stakeholders:** Present were Robyn King, Chas Vincent, Tim Dougherty, Amy Robinson, Jessie Grossman, George Lacy, Jeff Koskela, Rod Delaney and Nikki Meyer, Eureka

Robyn suggested reviewing the MOA to determine a structure to be more productive and take a close look at the guideline document and discuss it.

Robyn conveyed that respectfully she is asking for input on the new county forester position. Commissioner Cole commented the county forester position would have a broader scope of responsibilities to include being a liaison between the county and the Kootenai Stakeholders group. Robyn said it has been incredibly helpful to have the county forester as part of the team and it gives a better perspective on county issues. Tim agreed saying the knowledge the county forester has of local community and leadership has been invaluable to the stakeholders group.

Chas said all those points are really important when looking at a job description, but we need to ask where his time would be best spent. The collaboration is an integral part of it and the job description needs to be larger including a collective mission, pointing out there is opportunity with state funding and engagement. Chas said there are expectations of the county forester and stakeholders working together.

Robyn commented that we have a lot more that we agree on than not, so let's focus on those conversations and efforts.

Tim commented that he is excited for Bryan Donner, District 3 Forest Ranger involvement.

Commissioner Peck said we should set up a special meeting to walk through the guidelines and the MOA. If we could follow through with our goals, Lincoln County could look a whole lot different. Commissioner Peck stated that with 2.2 million acres, we should be able to make everyone happy; recreation, wilderness, economic development and timber forest production. Commissioner Peck said the importance of adopting our natural resource plan is the forest service would have to refer to it as Lincoln County's growth policy and projects would have to be measured against the natural resource plan. Our values and needs of the county must be a part of this process. Robyn and Darren will coordinate to set up a special meeting.

1:00 PM **CARD Update:** Present were Tracy McNew, George Jamison, Jan Ivers, Brad Black, John Blodgett, Zach McNew and Alan Gerstenecker.

Brad discussed and gave a history on the Public Health Emergency Designation in Libby saying it went all the way to the White House and there are provisions in the affordable care act that addresses healthcare specifically to Libby.

Commissioner Bennett said there may be other benefits if that were to go away, as the mine and properties are cleaned up, the risk is reduced.

Commissioner Peck expressed that once the superfund declaration goes away and CERCLA no longer applies, what would the long-term funding sources look like if that goes away. Brad questioned what's the responsibility once CERCLA no longer applies. Brad said we need to determine the future of what happens with the Public Health Emergency Designation and healthcare. Commissioner Peck commented the commission was having a meeting with Senator Daines staff on Friday specific to these issues.

The following letters were submitted by Tracy McNew.

City-County Board of Health for Lincoln County

418 Mineral Ave
Libby, MT 59923



February 28, 2018

Douglas Benevento, Administrator
US. EPA, Region 8
80C-EISC
1595 Wynkoop Street
Denver, CO 80202-1129

Re: Health Care Concerns, Public Health Emergency Designation Libby Asbestos Superfund Site,
Lincoln County, Montana

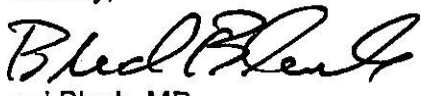
Dear Mr. Benevento:

The recent undated letter (copy attached) voiced concern that consideration of changes to the Public Health Emergency (PHE) designation not be made without community input and thorough vetting of the issue. The focus in the earlier letter was potential impacts on funding during Operation and Maintenance activities. However, there are additional concerns of equal or greater health care impacts.

The 2009 PHE designation specifically underscored the need for asbestos related health care, and initiated providing crucial medical care. The PHE designation was (and remains) an essential element allowing the "Libby provisions" to be included in the Affordable Care Act. Thousands of persons affected by exposure to Libby Amphibole asbestos have received screening, treatment and other services, and new cases continue at a steady rate. These services, which would otherwise not be available, were instituted as a part of a "long term solution". The importance of continuing these programs cannot be overstated. A 2017 community health needs assessment identified asbestos related disease as the #1 community health concern.

We would appreciate knowing whether, or to what extent, considerations of altering or rescinding the PHE are occurring. The City-County Board of Health for Lincoln County and the Lincoln County Health Officer formally request to be a party to any such dialogue concerning the medical and environmental health of Lincoln County.

Sincerely,



Brad Black, MD



Jan Ivers, Chair

County Health Officer City-County Board of Health Lincoln County, Montana Lincoln County, Montana
cc/encl: Lincoln County Commissioners

Mayor, City of Libby

Mayor, City of Troy

Montana, Department of Environmental Quality (Attn: Tom Livers)

Lincoln City-County Board of Health

418 Mineral Ave
Libby, MT 59923



Douglas Benevento, Administrator?

U.S. EPA, Region 8

BOC-EISC

1595 Wynkoop Street

Denver, CO 80202-1129

Re: Public Health Emergency Designation

Libby Asbestos Superfund Site Lincoln County, Montana

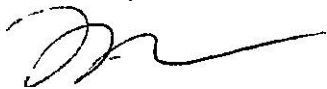
Dear Mr. Benevento:

As efforts progress to move the site into the post-construction phase, we are concerned that continuation or termination of the Public Health Emergency designation not be made without community input and thorough vetting of the issue.

In particular, we are concerned that rescinding the designation not jeopardize the availability to conduct future Operation and Maintenance activities, including funding, and other activities related to the long term protection of the remedy and public health. We also recognize there may be benefits to dropping the designation, under appropriate circumstances.

We would appreciate being part of a thorough examination of this topic.

Sincerely,



Jan Ivers, Chair

City-County Board of Health Lincoln County, Montana

cc:

Lincoln County Commissioners

Mayor, City of Libby

Mayor, City of Troy

Montana, Department of Environmental Quality (Attn: Tom Livers)

Two documents submitted by Tracy McNew titled ***EPA's Failure to Declare a Public Health Emergency in Libby, Montana***, dated September 2008 and ***EPA Announces a Public Health Emergency for the Libby Asbestos Site in Lincoln County, Montana*** are available from the Clerk and Recorder's Office.

1:30 PM **Planning Department Update:** Present were Jake Mertes, Brett McCully, Maranda Davis and Alan Gerstenecker.

- **Gardner Family Transfer:** Jake said Planning Staff has reviewed the request and recommends approval of the exemption request. **Motion** by Commissioner Bennett to approve the Gardner Family Transfer per Planning Staff recommendation. Second by Commissioner Peck, motion carried unanimously.
- **Grassy Knoll Final Plat Approval:** Jake said all conditions for final plat have been met and Planning Staff recommends approval. **Motion** by Commissioner Peck to approve Grassy Knoll Final Plat subject to Planning Staff conditions and recommendations. Second by Commissioner Bennett, motion carried unanimously.

2:00 PM **EMA Update:** Present were EMA Director Brent Teske and Alan Gerstenecker.

February EMA up-date submitted by Brent Teske

- Phones hooked up in EOC
- EOC Generator maintenance-replace turbo
- 2/9 Fire Co-op (minutes)
- 2/13 Mt Sky & TWE installed monitoring equipment on King/Blue/Pinkham generator sites. Reports every Tuesday by email on run cycle.
King 80hrs, 62% fuel Blue 27hrs, 72% fuel Pinkham 166hrs, 48% fuel.
- 2/12 Libby Creek flood repair, going to fly drone to look at repair (compare before and after results). Still' need culvert and drainage issues fixed, should we have a community meeting with Pinewood Village?
- 2/13/14 Attended MACO DES Billings
- 2/22 MT DES visit 1st quarter claims
- 2/26 Completed EMA Office safety evaluation per safety committee.
- 2/28 - Submitted 2018/19 EMPG (Emergency Management Performance Grant)

Brent said the EOC generator replacement cost is \$1,500.00.

Fire Co-op meeting, 11 people in attendance; discussion focused on county mutual aid, dispatch to contact fire departments and working on finalizing procedures and training for dispatch.

Thompson Contracting did flood repair on Libby Creek.

Community meeting with Pinewood Village; may revisit this.

MACo DES in Billings; great training, the state medical examiners talked about fatality management and what would we do with multiple casualties, can Lincoln County accommodate this and what is the coroner capacity etc...

Robin elaborated on safety evaluation forms stating she is trying to provide safety topics that require employee participation.

2:30 PM **PayneWest Insurance/Workers Compensation Update:** Present were Brad Salonen and Brent Teske.

Brad is here to give a mid-year workers compensation claims update. Brad said it was good to see Lincoln County offer early return to work stating, it can be a significant potential to reduce claim costs. Brad said Lincoln County does not have a frequency problem; frequency will drive the experience mod up vs. a couple of severity claims. About 26% of Lincoln County claims are from slips, trips and falls; this is low compared to other accounts that run at 40 – 50%. Brad said he has no information from MACo yet on what the experience modification factor will be, but he is expecting it to go down for the 7/1/18 renewal.

Brad said he is very proud and happy working with the Lincoln County account. Brad commented that he attends most of the safety committee meetings and likes what the leadership level is doing from the safety committee and commissioner levels.

3:00 PM **Meeting Adjourned**

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

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