

February 2, 2022

The Lincoln County Board of Commissioners met for a regular session on February 2, 2022 in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Bennett, Commissioner Teske, Commissioner Letcher, 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**

9:45 AM **County Forester Update / Jennifer Nelson:** Present were Tony Penfold, Keith Cole, and Dallas Bowe, *County Forester Jennifer Nelson submitted the following report:*

#### **Commissioners Update 2/2/22**

**MSU Forest Stewardship Workshop funding request-** Cindy Peterson with MSU Extension, conducts the MSU Forest Stewardship Workshop requesting \$5000 and up to \$7500 of Title III funds for the Eureka workshop being held in August. As of today - 16 ownerships, 27 total participants, 2,100 acres.

**MOTION** by Commissioner Letcher to approve the request of \$5,000 of Title III funds for the MSU Forest Stewardship Workshop in Eureka. Second by Commissioner Teske, motion carried unanimously.

**Burn Permits for Libby Air Pollution Control District** – NIC is working on the Lincoln County burn permitting site. Met yesterday to train and discuss administration and content. FireSafe Council burn permit subcommittee will meet next week to work on the customized wording and determine who needs access and level of access, also outreach strategies. Dustin Webb representing the Health Dept on the committee. Expect to be online by the first part of March.

**Joint Chiefs Grant** - awarded to the KNF - see handout

**Era of Mega Fires** - Lincoln County FireSafe Council is partnering with the Kootenai Climate Group to bring the film to the Dome Theater on April 14.

**Landfill Timber Sale** – working with Bryan Alkire on removing trees from the new cell location, approx. 12 ac, and a fuels reduction thinning between the landfill and Pipe Creek Road.

**CWPP** – finishing up the mapping to share with Steve Kimball and the DNRC Roadmap project.

**Rabbit Tracts** – will start up again soon. FS mastication contract in currently in contracting.

**FWP KFRI Chain of Lakes project** – draft agreement has been sent to FWP

10:00 AM **USFS Update / Chad Benson:** Present were Jennifer Nelson, Tony Penfold, and Keith Cole.

Chad commented the Black Ram Project has been hung up at very high levels. Partners are inquiring and there is a briefing today at the White House level. Yaak Forest Council is showing a FB video gathering support for the project.

2022 Season

Knotty Pine Project scheduled

Edna Fortine Project moving forward

Salvage work from last year's fires

Working on potential commercial aspect for mushroom picking

Anticipating 65,000 mmbf harvest for the 2022 season

Chad briefed the commission on Joint Chiefs funds, and after 3 years, 1.2 million was awarded to the Kootenai for 2022, and a big piece of that will go for contracting. Joint Chiefs is a 3 year program. The Kootenai ranked number 1 out of 10 requests from the region. Chad expressed that it is exciting to anticipate what this opportunity will look like. Potentially the Kootenai may receive 4.5 million over the next 2 years.

Good Neighbor Authority (GNA) Project contracts are showing a 35 to 45 percent overrun on all the projects, mainly due to the timber market going back up. There is potentially \$800,000 to 3 million towards GNA projects. Chad commented that the information changes, but there is lots of money going into projects and those projects are being prioritized.

GNA intent is to leverage 2.7 million with the state as contract work and veg treatments within the county.

Chad thanked the commission for the Cooperative Schedule A work, utilizing the county workforce.

Ripley Project, waiting for a court date, but showing unprecedented support.

10:30 AM **Administrative Issues:** Present were Ron Catlett and Winston Taylor from Senator Daines Office, Joe Nagle, Nick Raines, Kathi Hooper, and DC Orr.

- Robin submitted the minutes for January 26, 2022 regular meeting for approval. **Motion** by Commissioner Teske to approve minutes as submitted. Second by Commissioner Letcher, motion carried unanimously.

- Commissioner Bennett received a letter from the Department of Revenue (DOR) regarding Charter Communications, Inc., that resolves centrally assessed property appeals for tax years 2021. DOR will pay the States Portion of \$30.00 and Lincoln County will pay the county portion of \$96.00 estimate of protested tax (net of interest due) to be refunded.
- Commissioner Bennett said he will be filling out a survey for the Montana Statewide Public Safety Radio System Expansion. Commissioner Bennett explained the state is looking as spending ARPA funds to do a statewide expansion of the system. Commissioner Bennett said it would be beneficial if Lincoln County sites might qualify.
- Kathi commented that she asked Maintenance Director Joe Nagle to look into electrical issues at the Libby Annex Building that is making computers and phones go down consistently. Estimated cost for the electrical upgrade is \$2,700 but was not budgeted in the maintenance department budget. **Motion** by Commissioner Teske to approve electrical upgrade in the Libby Annex Building, anticipated at \$2,700 to be paid out of the PILT fund, unless a different resource is available.
- Representing Senator Daines Office, Ron Catlett introduced Winston Taylor who will be taking over Lincoln County representation for Senator Daines. Winston will be working with Lincoln, Mineral, Sanders and Lake counties. Winston gave a brief overview of his history and experience, commented that he is happy to be here to represent the Senator as best he can.

10:45 AM **Public Comment Time:** Present were Ron Catlett, Winston Taylor, DC Orr, Nick Raines and Tony Petrusha. DC said he is here to ask to be placed on the commissioner's agenda. DC explained that the turning point in his recent acquittal was when he took the witness stand and talked about body cam footage from Captain White. There is no dispute on where Amber was standing, and his truck tracks were 6 to 8 feet away showing his separation from Amber and not 1 foot as claimed. DC said Captain White did not put that in his report, and ignored exculpatory evidence, proving Amber lied about the distance violating 45-7-205 MCA. Captain White refused to document that evidence. DC talked about 45-2-302 MCA; the process Captain White should have taken after viewing the evidence. DC clarified there was no crime committed and listed everything he had to do and go through including being arrested in front of his grandkids, and spending \$10,000 for an attorney, and theft of his possessions/stolen property, all for covering up for a county cop; everything was political, not criminal. DC talked about the County Attorney's history of using authority for political gain, stating that Zwang and Boris both had that evidence (body cam video) in their possession, yet went ahead and charged him. Given evidence of no crime, DC is requesting a written opinion from the county attorney explaining why she refuses to investigate and prosecute crimes against him, including a written opinion of what the probable cause was for his arrest and prosecution. DC said he will follow up with an email to the commissioners' listing crimes against him. DC said the county attorney is threatening to destroy evidence being held at the landfill. DC commented the commissioners could order landfill crew to preserve evidence, since they are aware of the camper and backhoe. DC told the commissioners they need to be aware of ramifications of legal cases that are working through the docket and expressed that he is not interested to sue the county and is willing to sign a paper indemnifying the county, if the county can get the requested opinions.

Commissioner Bennett provided copies to DC of his research, including the Montana Constitution which does declare separation of powers and it is really the attorney general that oversees the county attorney's office; commissioners oversee employees.

DC asked commissioners to request landfill employees to preserve his property.

Commissioner Bennett commented that we will give that some consideration, but the rest of it is in the Attorney Generals hands. Commissioner Bennett provided a supreme court case basically saying that the county attorney has prosecutorial judgement to pursue cases, and that is outside commissioner purview.

DC stated this is not going away and he hopes the commissioners will help and thanked commissioners for what they have done.

11:00 AM **Tony Petrusha, Year End Update:** Present were Nick Raines and Brett McCully.

*Tony Petrusha gave an overview of the following report:*

### Request to present to the County Commissioners

Request for agenda item on next Libby meeting in February, requested by:

Tony Petrusha,  
Recreation Project Manager, Cabinet Country Consulting, Libby, MT  
January 24, 2022

I have been engaged by The City of Libby, Lincoln County Commissioners and the Libby Park District to perform Project Management services related to recreation. Each of the three entities budgeted \$10,000 annually to fund this assigned scope of work for a 3 year period, January 31, 2023 will end the current agreement. For reporting year 2021, \$5,918 has been invoiced and paid.

The Kootenai Wellness Aquatic Center and the Libby Area Trails Plan are the two projects currently being worked, they are summarized below.

#### Libby Pool Project (Kootenai Wellness Aquatic Center)

1. Four organization meeting were held in 2021 with discussion centered on how to re-convene pool project activities.
2. At this time the committee would like to meet with community business leaders to get their input on an aquatic facility in Libby.

Greater Libby Area Trails Plan

1. Libby Outdoor Recreation Association (LORA), a group consisting of representatives from 14 different organizations in the community.
2. Participated in City of Libby source water delineation plan, no action to follow.
3. Withdrew request from DNRC for Section 16 bike course; will take another approach given the new development adjacent to golf course.
4. Accomplished road bed and drainage upgrade to FS128. Acquired \$20,000 from RAC toward paving FS 128.
5. Accomplished vault toilet approval for Nordic ski course.
6. Participated in first annual Forest Fair, presenting recreational opportunities and future developments and receiving public comments.
7. Established parking area on USFS property for Flower Creek area trail head parking.
8. Trail crew completed improvements to the historical Norgard trail, and started on Snow shoe trail.
9. Working with USFS to obtain easements for non-motorized trails from Nordic ski course to Snowshoe road and a second section around private property for Snowshoe trail.
10. Continue to refine the Flower Creek Recreation Development Plan, it will be used for presenting the big picture for recreation in east Cabinet, Flower Creek area.

The main activity this year is to get LORA established as a tax exempt non-profit organization. It is currently registered as a non-profit with the state of Montana, and we are working on completing the 501 (c)(3)

Thank you for your continued support

**11:15 AM Planning / Brown Family Transfer / Stillo Lakeshore Construction Permit / Board Member Appointment:**  
Present were County Planner Nick Raines, Ken Rayome Jr, and Brett McCully.

- Vacant Planning Board Position: Nick explained the Clerk & Recorder did advertise the vacancy in November 2021 and 5 applications were received. The planning board reviewed the applications and voted to recommend the appointment of James Gibson. **Motion** by Commissioner Letcher to appoint James Gibson to serve on the Lincoln County Planning Board as recommended. Second by Commissioner Teske, motion carried unanimously.
- Brown Family Transfer: Nick explained the parcel history and intent to transfer 20.5 acres to 3 children in 3 separate parcels. Planning staff reviewed the request and recommend the commission to approve request conditional upon the owner/representative:
  1. Clarifying access to Parcels B and C
  2. Providing draft "to-be-executed" deed(s) or other acceptable method of conveyance for each family gift/sale.**Motion** by Commissioner Teske to approve the Brown Family Transfer subject to two conditions as presented and based on planning staff recommendation. Second by Commissioner Letcher, motion carried unanimously.
- Stillo Lakeshore Construction Permit: Planning received an application for a lakeshore construction permit for the construction of a dock along Bull Lake. Nick gave an overview of the proposed dock and 5 conditions for approval. The Planning Board reviewed the application and voted to recommend the approval of the Stillo Lakeshore Construction Permit. Nick commented the Planning Board agreed the recommended approval would not inhibit lake traffic and all other details and construction are within regulations. **Motion** by Commissioner Teske to approve the Stillo Lakeshore Construction Permit subject to 5 conditions and based on planning staff recommendation. Second by Commissioner Letcher, motion carried unanimously.

11:30 PM **Meeting Adjourned**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

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Jerry Bennett, Chairman

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