

January 17, 2024

The Lincoln County Board of Commissioners held a regular session on January 17, 2024, in the Lincoln County Annex, Eureka, Montana. Present was Commissioner Letcher. Present in Libby, Montana via zoom were Commissioner Teske, Commissioner Hammons, Administrative Assistant Jennifer Brown and Clerk and Recorder Corrina Brown.

Meeting allows for Zoom participation. Present online were Scott Shindledecker, Ray Stout, Jenn McCully, Michelle Byrd, Kevin Schmaltz and Andy Evensen.

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

10:30 AM Administrative Issues/Old Business: Approve Minutes / Board Appointments / Mazariegos/Green Court Order Split Commissioner Comments to the Court / Kootenai Falls Trail Grant: Present were Veronica Bovee-Anderson, Doug Allen, Jesse Haag in Libby. Rebecca Nelson, Kirsten Hollard, Brett McCully, Doug Eckland, Tiffany Eckland and Mark Chalmers in Eureka.

- Review of regular meeting minutes for approval: Commissioner Letcher was absent and abstained from voting. **Motion** to approve the January 10, 2024 minutes by Commissioner Hammons. Second by Commissioner Teske. No comments. Motion carried.
- Clerk and Recorder Corrina Brown presented board openings and applications.

McCormick Fire District (1): no applicants	Lincoln County Fair Board (1): no applicants
Lincoln County Planning Board (1) Libby district: 1 applicant -appointed Veronica Bovee-Anderson	Lincoln County Weed Board (1): 1 applicant -re-appointed Deena Shotzberger
Eureka Area District Dispatch Board (1): 1 applicant -appointed Stormy Langston	Board of Health (1) County Rep.: 2 applicants -appointed Amy Fantozzi

Motion by Commissioner Teske to approve the board positions as recommended by the individual boards. Second by Commissioner Hammons. Discussion revolved around the Board of Health, addressing the timing and volume of public interest, the consideration of re-advertising, the residency of board members and the utilization of board recommendations. Veronica inquired of the Libby representative opening for the Board of Health and if the advertisement for this board opening will be limited to Libby residents or extended to county-wide residents. Commissioner Teske stated that the attorney advised on a county residency requirement within interlocal agreements and the current structure of municipal appointments to the board appears to be based county-wide. The commissioners suggested that the Board of Health revise their bylaws to align with residency requirements outlined in their interlocal agreements. No additional comments were made. Commissioner Hammons and Commissioner Teske voted in favor, while Commissioner Letcher dissented. The motion carried.

- Jesse Haag Planning Director submitted a proposed letter of comment to the court regarding the Mazariegos /Green Court Order Split, as discussed at last week’s meeting. **Motion** by Commissioner Teske to approve the letter for the court order split for Mazariegos/Green. Second by Commissioner Hammons. Doug Allen, Attorney, commented that legally, this twenty-acre split qualifies as an exemption from subdivision laws. He advised we have a literal life-and-death situation here and asked if the commissioners had thought this over. Commissioner Letcher expressed empathy for this situation but acknowledged the importance of adhering to the established structure and suggested starting the process of a minor subdivision sooner rather than later. Commissioner Teske expressed concern with the idea that the court is the most efficient avenue, stating that although this process exists, it should not be used as a means to subvert the subdivision rules and regulations. He emphasized the commissioners’ letter conveys to the court that they don’t believe this is an appropriate use of this exemption. Allen read statute. No further comments. Motion carried.
- Jesse re-presented the court-ordered split to settle the estate of the deceased Donald R. Lundeen, along with the proposed letter to the court as requested last week. **Motion** to approve our petition to the court order split comment to district court for the Lundeen estate by Commissioner Teske. Seconded by Commissioner Hammons. No comments. Motion carried.
- Commissioner Hammons discussed the Kootenai Falls Trail Grant application, with funding intended for new bathrooms at the new parking located near Kootenai Falls, adding that this is an in-kind grant match.

10:45 AM Public Comment Time: Present were Veronica Bovee-Anderson, Jesse Haag in Libby. Rebecca Nelson, Kirsten Hollard, Brett McCully, Doug Eckland, Tiffany Eckland and Mark Chalmers in Eureka.
No public comment.

11:00 AM Public Hearing: Bighorn Estates Subdivision: Present were Veronica Bovee-Anderson, Jesse Haag in Libby. Rebecca Nelson, Kirsten Hollard, Brett McCully, Doug Eckland, Tiffany Eckland and Mark Chalmers in Eureka.

Jesse presented the Bighorn Estates Subdivision report for consideration, advising that the Planning Board reviewed it and recommended approval, subject to the conditions outlined in the report. Jesse read the review with findings of fact, noting the criteria mandated by MCA 76-3. The Planning Department’s recommendation is to grant preliminary approval subject to conditions and based on findings in the staff report. Jesse mentioned to Commissioner Teske that the standard course for approval from DEQ is to review public comments. Jesse also advised that the state-required conditions have not been included in their reports but feels it is helpful in this process to restate these in future reports for all involved.

Commissioner Teske received a public comment regarding dust suppression and noted condition six is to address dust control and suppression. Jesse clarified this condition would be in the covenants and not apply during development.

Commissioner Letcher offered a correction to 3. Impacts on Local Services. Water supply and wastewater treatment as the nearest public wastewater and water systems are in Rexford and not in Eureka. Jesse agreed to correct this noting it is still further than required to connect to that system.

Commissioner Letcher opened public comment.

Brett McCully advised lot 6 not lot 12 has the home affecting sanitation review and it's Darcy Lynn Lane not Road.

Mark Chalmers expressed aquifer concerns, requesting clarification of DEQ review. Commissioner Letcher advised once preliminary approval is given, it initiates the process where the owner has to go to the DEQ and prove their septic, water systems, and stormwater systems are all okay. They work through this process with the Montana Department of Environmental Quality (DEQ), which can be a short or long process. Mark asked if the results are made public right away. Commissioner Letcher confirmed this is public information and once the DEQ announces findings, they submit it to the county planning department and the involved engineers, adding subdivisions have spent years seeking DEQ approval.

Jesse added that the Montana Bureau of Mines and Geology is currently conducting a groundwater study in the Eureka area, and this location is on the edge of it. He sought information specific to this location and they had not looked at several of the adjacent wells and there wasn't anything in that study specifically applicable here. He advised the public can review this study. DEQ will determine if there is a sufficient quantity of water and will collaborate with DNRC to ensure there are rights to the water. They can also require a public test if there are any concerns. All public comments must be submitted to DEQ, and they review these comments, considering it valuable on-the-ground information that may not be apparent in a desktop review. Commissioner Letcher commented that if any concerns arise in the wells or within the subdivision, they may monitor the wells outside the subdivision or conduct pump tests with a stringent process. Mark referenced his letter.

Kirsten Hollard questioned the public hearing structure. Commissioner Letcher advised that this is not the normal process; however, sometimes, we prefer to provide more information on the process to the public as it reduces confusion and consternation.

Kevin Schmaltz noted allowances for dust mitigation once the covenants are established and the subdivision is created but does that mean during the actual construction of the subdivision there will be dust mitigation during that process.

Jesse advised dust suppression requirements are to be written into the covenants which would imply they are to be after final plat so there is nothing specifically requiring them to suppress dust during construction, yet this concern has merit.

Kevin questioned the creation and path of Darcy Lynn Lane. During the creation of the document outlining the direction of the road was there any other options considered for the ability to service the different properties created on the subdivision by Darcy Lynn Lane that would not require traveling along that property line. Jesse stated the terrain plays a big part in the design of the road and asked Brett to respond. Brett McCully, Evenson Engineering, stated Yes, we did look at that. We were constrained by Stone Mountain Road, which connects to private property to the north and the ridgelines, making this the only viable route to access that property. We kept it along the north boundary of the subdivision at minimal length. We were limited due to geography.

Kevin questioned if going around to the south of the property off Stone Mountain was not an option. Commissioner Letcher reminded everyone that this is public comment, and although there has been some back and forth for clarification, from the standpoint of the Board of Commissioners, we are here to hear concerns and questions, but not to discuss the design or designers of the subdivision.

Kevin advised my comment is, I believe, based on the size and scope of the project, it's a major subdivision and it's going to be a large road with a decent volume of traffic. Our experience on Sky View Drive with the amount of dust and noise created makes me believe that it's going to impact my and my family's ability to enjoy our property on a permanent basis and eventually negatively impact our property values. Having that road as close to our properties as it is, I believe a better solution based on the topography that could still operate would be to have it turn from north back down south and service the rear of the properties that have been created. I think there are opportunities based on the size of the property to explore other options for a service road that would be able to provide easements to all the properties and I believe it should be reviewed as such.

Andy Evenson with Evenson Engineering addressed a couple of comments. On the construction dust mitigation, the applicant, the owner, is responsible for mitigating dust during construction. If the disturbance area is greater than an acre, they will have to obtain a construction stormwater permit through the Montana DEQ, and the disturbance for this project does exceed an acre, so they will have to get this and will address the construction dust concerns. Concerning water dependability and availability, the terms of that are spelled out in the Montana Administrative Rules. We evaluate the dependability and availability based on that and supplied the comments received to the DEQ hydrogeologist. We did not receive any comments back, and they will have another opportunity to review those once we submit the whole package to DEQ. The road location and design are significantly constrained by the topography to the south, and there is really only one option to bring in a road to serve the rest of the properties where the proposed Darcy Lynn Lane is located.

Commissioner Letcher asked for any additional public comments and advised that they will consider all comments and information before making a decision in the next couple of weeks at a regularly scheduled meeting.

11:40 AM **Adjourned**

LINCOLN COUNTY BOARD OF COMMISSIONERS

Josh Letcher, Chairman

ATTEST: _____

Corrina Brown, Clerk of the Board