

April 24, 2024

The Lincoln County Board of Commissioners met for a regular session on April 24, 2024 in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Hammons, Commissioner Letcher, Commissioner Teske, Administrative Assistant Jennifer Brown and Clerk and Recorder Corrina Brown.

Meeting allows for zoom participation: Present online were Bob Etchels, Chanel Geer, Chelsea Franke, Dallas Bowe, DJ Welch, Evan Comella, Feleisha Storkson, Jeff Smith, Jesse Haag, John Baisden Jr., Kristine Griffin, Lance Wachholz, Melanie Howell, Noah Pyle, Paul Wachholz, Ray Stout, Rebecca Nelson, Ryan Olsen, Sierra Gustin and Wyatt Franke.

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

10:00 AM Lincoln County Ambulance Floating Mills Discussion: Present were Blair Shupe, David Helmrick, Jamie Shupe, Jan Ivers, Jerry Bennett, Katie Davis, Katrina Newton, Pat Shira, Patsy Reece, Penny Kyes, Rachel Duram and Scott Shindledecker.

Rachel Duram referred to a letter of concerns from the Ambulance Board. She spoke of the ambulance allotment of 5 mills by voters and noted they did not receive 2 voter approved floating mills. Commissioner Letcher advised of working with Finance and MACo, noting this discussion has shown ballot language was not clear regarding 2 permanent floating mills versus voted mills. He mentioned that MACo is reviewing this matter and he will communicate with Rachel as this progresses. Pat Shira, with the Troy Ambulance, expressed concerns regarding a lack of communication between the commissioners and the ambulance board. She questioned their status as volunteers working as contractors and advised Emergency Management Agency (EMA) had agreed to address this with them. Katrina Newton received clarification from Commissioner Letcher that there is a county wide ambulance board who receives mills, yet the ambulance services are their own entities. He added around 2016 MACo determined, statewide, they were not county employees. He said state legislation dictates fire department can pay into PERS but the ambulance cannot. Dave Helmrick advised insurance premiums went sky high following MACo's decision and emphasized the importance of maintaining ambulance services. Commissioner Teske agreed with the need to obtain an answer regarding workers' compensation and the budget. Penny Kyes, Libby Volunteer Ambulance, inquired if the commission could make a decision in favor of the ambulance service, highlighting their reliance on approximately \$20,000 per year and the necessity for additional and consistent funds for long-term planning. Commissioner Letcher assured them of the commission's full support for the county ambulance service. Commissioner Teske stated the emergency operations plan is laid out in quarterly meetings of LEPC, Local Emergency Planning Committee, and advised attendance will enhance communication. Rachel stated the Ambulance Board meets three times per year and the next board meeting is in Libby on May 4th at 10 o'clock. Katrina requested the commissioners ask to include the ambulance in a face-to-face meeting with MACo.

10:15 AM BMS Public View Invoice Discussion: Present were Jerry Bennett, Katrina Newton, Mike France, Noel Duram and Scott Shindledecker.

Wendy Drake, Finance Director, advised the Publicview budget interface of Black Mountain Software on the county website requires her to manually synchronize with accounting. She stated it has not been synced in the past year with no complaints. Wendy confirmed the same budget information is already publicly posted- on the finance page of the county website. **Motion** by Commissioner Hammons to not renew that portion of the invoice. Second by Commissioner Teske. Commissioner Teske noted that if this was accurate and had clear transparency available to the public, he'd be in favor of it. No public comments. Motion carried. ** Black Mountain Software invoice 30213 \$7,900 Publicview line item*

10:30 AM Administrative Issues/Old Business: Approve Minutes / Board Appointments: Present were Blair Shupe, Dallas Bowe, Jamie Shupe, Jerry Bennett, Katie Davis and Sedaris Carlberg.

- Review of April 17, 2024, meeting minutes for approval: **Motion** to approve the April 17, 2024, minutes by Commissioner Teske. Second by Commissioner Hammons. No comments. Motion carried.
- Commissioner Hammons presented a contract with Evanson Engineering for the Kootenai Business Park sewer main extension for signature. **Motion** by Commissioner Teske to approve the contract with Evanson Engineering for the updates at Kootenai Business Park. Second by Commissioner Hammons. No comments. Motion carried.
- Clerk and Recorder, Corrina Brown presented the board vacancies, applicants and board recommendations.

Lincoln County Library (1): no applicants	Lincoln County Weed Board (1): no applicants
Troy Park District (1): 1 applicant re-appointed Robin Ridgway	Tobacco Valley Industrial Depot (4): no applicants
Eureka Fire Service Area (2): 2 applicants re-appointed Warren Powell & Tom Hall	Lincoln County Rural Fire District (2): 2 applicants re-appointed Jay Dinning & Kirby Kulbeck
McCormick Fire District (2): 1 applicant re-appointed John Driebusch	Trego/Fortine/Stryker FSA (2): 1 applicant re-appointed Dale Baldwin
Upper Yaak FSA (2): 2 applicants re-appointed Wayne Zellmer & George Lacy	Lincoln County Fair (1): 1 applicant Appointed Megan Morgan
Libby Park District (3): 2 applicants re-appoint Jim Germany & appointed Pat Engberg	Troy Rural Fire District (3): 4 applicants re-appointed Herb Gregory, Bob Welch & appointed Katie Davis

Motion by Commissioner Teske to approve the board appointees as presented and recommended by the boards. Second by Commissioner Hammons. Commissioner Hammons inquired and Jamie Shupe stated they don't want a changing of the guard and the issue is that two females are applying. No further comments. Motion carried.

- A closed session was convened and then cancelled due to failure to meet requirements of a closed meeting.

10:45 AM **Public Comment Time - Non-Agenda Items:** Present were Kathleen Sheffield, Katrina Newton, Mike France and Noel Duram.

Kathleen Sheffield, Victim Witness Advocate, reminded attendees of National Crime Victim's Right Week and a candlelight vigil is planned for Thursday, April 25th, at 7 pm, in front of the courthouse. Everyone is welcome.

11:00 AM **Ranch Subdivision-Final Plat Approval:** Present were DJ Welch, Jamie Shupe, Jesse Haag, Katrina Newton, Mike France, Noel Duram and Scott Shindledecker.

Jesse Haag, Planning Director, presented the Ranch Subdivision with an amended name, "The Ranch at Eureka," a major subdivision of 624 acres into 30 lots. He stated it received preliminary approval and has satisfied the eleven conditions. It has covenants with conditions. The Planning Board recommends granting final approval. **Motion** by Commissioner Hammons to grant final approval for The Ranch at Eureka. Second by Commissioner Teske. Jesse confirmed it has been addressed. Commissioner Letcher stated he would have liked to have seen public access to a little lake. No public comments. Motion carried. Paul Wachholz and Kristine Griffin each expressed appreciation via zoom.

11:15 AM **ARP Building Lease/Purchase Discussion:** Present were Blair Shupe, DJ Welch, Jamie Shupe, Noel Duram and Scott Shindledecker.

Commissioner Letcher explained that four years ago, the current ARP building became available for sale and given the county's need for space, they considered options of purchasing versus leasing. The ARP building currently accommodates three personnel with three offices and serves as storage for their testing equipment. The county opted to lease the ARP building for \$25,000 per year over four years, with the possibility of purchasing it at the end of the lease term. The lease is set to expire in May, with a remaining purchase balance of \$140,000. Commissioner Teske clarified that PILT funds cover the lease associated with space. Wendy Drake, Finance Director, advised of an annual rent payment of \$28,000 from EPA to the general fund. Commissioner Teske agreed to obtain a copy of the rent payment agreement, discuss the arrangement with ARP and revisit this during the May 1st commissioner meeting.

11:30 AM **Road 2 Budget Meeting:** Present were Blair Shupe, DJ Welch, Jamie Shupe, Noel Duram and Scott Shindledecker.

DJ presented his preliminary budget, noting that he received wage and insurance information from HR. Commissioner Hammons reviewed wage details and DJ indicated his budget has slightly decreased due to the departure of long-term employees. He currently has seven full-time employees. He hopes to save on maintenance costs with leases of a new grader, a hoe and two loaders. DJ provided an estimate of gravel expenses and noted the Troy pit is projected to have 20 years of gravel remaining. He confirmed an annual review of his vehicle insurance list is conducted with the insurance provider. DJ is seeking engineering input regarding the reduced state weight limit on the Roosevelt Bridge. He plans to upgrade a one-ton pickup and replace an aging sander on the back of a dump truck. Detailed costs on fabricated and raw material numbers will be necessary after bids are received. DJ mentioned having a few Schedule D roads with the Forest Service, which are not known until July. He is converting to hot mix to reduce the need for chip sealing. He plans to stagger dump truck purchases every other year due to ongoing maintenance issues.

11:43 PM **Break**

1:30 PM **Decision-Resolution 2024-15 Lower Yaak Zoning District:** Present were Ben Blew, Brett McCully, Jeffery Barger, Jeremy Newmaster, Jesse Haag, John Chott, John Damon, Kate France, Kristin Smith, Marshal Butterfield, Martha Cervantes, Matt Franke, Melody Newmaster, Noel Duram, Owen Baisden, Pam Covey, Paul Johnson, Phil Soucy, Ray Stout, Robert Bittner, Scott Shindledecker and Tamara House.

Commissioner Letcher announced resolution 2024-15 Lower Yaak zoning district, advising of the resolution adoption process and meeting agenda. Kristin Smith detailed the timeline of the zoning process, with today scheduled for the decision. Commissioner Letcher noted the resolution is vague regarding commercial and industrial definitions. He added this is a small community with limited private land and significant public land, together with the impact associated with this location near a highway where industry could thrive. He added commercial and industrial endeavors in Lincoln County should not be restricted. He feels agriculture should be listed under permitted uses. He said guidelines for zoning are to facilitate the adequate provision of transportation, water, sewage, schools and other public requirements and the absence of schools in this zoning plan is contradictory. Commissioner Letcher called for a motion to deny resolution 2024-15. **Motion** by Commissioner Hammons to adopt and approve Resolution 2024-15 for county zoning in the lower Yaak. Second by Commissioner Teske- to bring it to the floor for discussion. Jesse Haag, Planning Director, started discussion by advising the details are not set in stone and can be amended as the Commission, Planning Board and residents see fit. The board discussed agriculture, with horticulture listed under permitted uses and commercial and industrial activities prohibited. The discussion focused on the point where agricultural activities transition into commercial or industrial endeavors, falling under the definitions of commercial and industrial land use. Commissioner Letcher cautioned about potential interpretation challenges, emphasizing the need for comprehensive and definitive guidelines. Commissioner Letcher expressed concern about the interpretation of Lincoln County residents' use of timber and farming, whether classified as rural small or large farms and the potential elimination of half of them. He emphasized that while allowing individuals to restrict their own property is one thing, he expressed concern about restricting the property around them. He does not want to see a property owner zoned out of private land usage because of the neighbors' desires. Commissioner Teske questioned how to protect those who have been on these properties for generations and do not

want their livelihoods, tranquility, and lifestyles impacted. He understands both sides, recognizing one of the great things about America is communities coming together to shape their own future. He acknowledged that growth and growing pains come with expanding development. Commissioners agreed that this is just the first step and anticipate similar issues arising in other areas. Commissioner Letcher stressed the importance of making clear rules without leaving them open to interpretation. Commissioner Teske expressed concerns regarding the 20-acre division density requirement, as several 10-acre properties in that area have already been approved. Kristin advised the board had thoroughly discussed these specifics, deciding that fewer details were more appropriate for the area. She added that the process had been vetted through the Planning Board and now the minority potentially could overrule the majority. Jesse advised of a lot of comment from people within the proposed district during this process. Jesse noted a significant amount of comments from people within the proposed district during this process. He reminded everyone that Lincoln County is the third fastest-growing county in Montana over the last couple of years, emphasizing the need to balance newcomers with established residents and ensure everyone can enjoy what the county offers with predictability and reasonable assurances of what their community will look like in the future. Commissioner Letcher opened the public comment period.

Noel Duram of Eureka questioned if zoned for no commercial, no farming, no agricultural, do they no longer get the tax exemption for twenty acres and above becoming taxed residential. He stated we have the second highest unemployment rate in the state, yet we are adding restrictions thus reducing jobs. Restricting somebodies' property is a form of tyranny.

Paul Johnson advised he is for zoning and thinks the 20 acre is in the county's right to oversee when subdividing. He feels with commercial; zoning out agriculture is prohibited by state law. He feels agricultural, mining, etc. can't be banned.

Owen Baisden advised of a bigger community the commissioners oversee and the larger part of the community supports their presence. He questioned limiting potential businesses and jobs which benefit the larger community.

Matt Franke advised he is for the zone with a concern that with commercial any type of industry can exist. He added without some kind of zoning they have no legal recourse. He feels zoning protects his own back yard.

Jeff Smith (zoom), Attorney representing Investment Foundation LLC, owners of lots 5,6 &7 in the proposed zoning district and have been granted preliminary approval of West Pine Creek and South Yaak subdivisions. We submitted two letters of concerns for the record. The zoning did not take into account these approved subdivisions. We want to ensure we are approved as a non-conforming use and this is not left up to interpretation of non-conforming use. Jeff expressed concern with a lack of response for suggested changes to the zoning. We feel this proposed zoning would be invalidated in court due to illegal spot zoning as the requested use is significantly different than the prevailing use in the area around it. This zoning is designed to benefit a small number of people. MCA 76-2-203 zoning must/shall be in accordance with the growth policy plan adding the majority of residents in the growth policy plan support economic development in the county along with employment and higher paying jobs which zoning limits. Other issues identified in the growth policy is the county needs to develop work force housing and encourage a variety of lot sizes with new subdivisions where this proposed zoning requires minimum lot sizes of 20 acres, again contrary to residents surveyed. Only 11.8% of residents surveyed were very supporting of citizen-initiated zoning. MCA 76-2-212 precludes counties from zoning minimum lot requirements, as this zoning proposes. He added a public records request of correspondence related to the proposed zoning and given these concerns and think this issue should be tabled to entertain proposed changes or entertain a motion to make these already approved subdivisions a non-conforming use, take out the 20 acres and limitation of commercial use encouraging growth.

Jesse Haag read a response prepared regarding stated zoning concerns. **Ref. Lower Yaak Zoning District–Landowner Comment dated 4-24-2024.* Jeff noted for the record that despite being busy, Jesse read a pre-made statement yet did not take the time to communicate directly. Commissioner Teske stated the letter Jesse wrote was requested clarification for the commissioners, for our information.

Commissioner Letcher advised of seven other properties in the area not included in this, making it not really about the neighborhood. Jeff expressed concern of no willingness to compromise and listen to owners of three of these lots.

Wyatt Franke targeted one issue stating when purchasing property, you have to do research. His example is FWP contradicts Owen Baisden's claim of no impact on wildlife and highlighted growth policy support of wildlife protection.

Mike France stated less is more and this is a perfect example where less government is better. He believes a fire does not need put out. He expressed support for the school. He advised that government is like fire and dangerous, and encouraged tabling the proposed zoning, adding that getting more information is a good idea.

Katrina Newton encouraged tabling this with more discussion as this affects all of Lincoln County and should not be subject to interpretation.

Jeremy Newmaster advised he and his wife also feel this should be tabled and apologized for not being a part of this zoning discussion. He took a day off work to be here and would like to be a part of this going forward.

Phil Soucy as a landowner, thinks for the sake of how it's setting president down the road, we have to pump the brakes.

Pam Covey of the upper Yaak, with a small business and livestock, is very concerned about zoning restrictions spreading to other areas. They have promised their children the ability to build on this land and depriving them of this opportunity is stealing from them. She feels this should be tabled.

John Baisden Jr. (zoom), owner of property with preliminary plat approval, asks that this be tabled. He feels this has been a sham process and does not want it rushed through without the knowledge of the citizens of Lincoln County. He feels the process has been very tainted and has disturbing concerns, considering wildlife and his sale of honey, along with the policing of such sales. He questioned both the policing of property usage and having a twenty-acre minimum. He would like to get this right if it's going to set a precedent. How do we fund policing this? He wants this process flushed out.

Commissioner Hammons questioned the process going forward if this is tabled. Jesse advised that the zoning was revised and changed over the months-long process. He informed the commissioners that they have the ability to alter language, and notice would be given to people within the district, with public notice also provided.

Commissioner Teske questioned the difference between minimum lot size and density requirement. Jesse confirmed density could affect lot size indirectly but also wouldn't preclude it. Commissioner Teske questioned why this is part of the zoning document if we don't have the map to enforce it and it seems to have a misinterpretation of meaning. It's one of

the more controversial issues. Kristin advised minimum lot size requires a land use map associated with the growth policy which we don't have, and the zoning policy was modified to be density to where there is one dwelling per twenty acres.

Commissioner Letcher stated it says no accessory dwelling over 1000' or 30'x30'. If a person has a 30'x40' shop with an apartment is that a shop or accessory dwelling. He'd like to see this clarified.

Chelsey Franke (zoom) advised those against the zoning, we want the same thing in our children and grandchildren to be able to live the life we were promised and if there is commercial or industrial right next door to our safe residential community, we don't get that. She advised this started as a citizen-initiated zoning over a year ago and has personally requested Owen get involved repeatedly with no response. She requests if this is tabled that it not be for a year or more. She feels they have been working hard on this and encourages people to reach out to for information from those who know this process.

Ryan Olsen (zoom) and wife purchased the old Winn farm. They have attended some of the planning meetings and are concerned this is setting a precedence for the entire county. We feel this will in the end affect everybody in Lincoln County. We are strongly in favor of private property ownership rights and zoning does have a tendency to significantly infringe upon those rights. I think the plan presented needs a lot more review and consideration. We were not made aware of this; it was neighbors who brought this to our attention, and we all need to be involved We strongly suggest this be tabled pending further review and consideration.

Commissioner Hammons questioned the process if this goes back to the Planning Board. Kristin advised it would have to be directed to the Planning Board and procedurally it's tabled until the commissioners bring it back up again.

Jeff Smith (zoom) expressed appreciation and encouraged tabling this back to the Planning Board. He stated they will do their best to be a part of the process. He feels it's best for everyone is to get this straightened out now avoiding litigation.

Commissioner Teske questioned if in a couple months if everyone doesn't get their way will we be in the exact same spot. I want assurance these issues will be addressed in depth and clarified so we don't end up right back here.

Commissioner Hammons rescinded his motion then **motioned** to tabled it to send it back to the Planning Board.

Commissioner Teske stated this has been one of the most publicized and debated thing he's seen in local government. Second by Commissioner Teske. Further comments. Matt Franke questioned the school being back in question. He added the people in the zone are affected by this and we petitioned the county to have this zoned. No additional comments on the last motion. Motion carried.

*Kristin advised the planning board meets the 3rd Tuesday of every month.

2:45 PM **Superfund Update – Melody Wunderlin**: Present were Crawford Dinning, Melody Wunderlin and Ray Stout.

Melody informed that the groundwater site at the Kootenai Business Park is operational. The feasibility study for a remedy and O&M is progressing steadily. Commissioner Teske acknowledged that ARP does a commendable job of keeping the county informed of property projects.

2:50 PM **Public Hearing – Bottlenose Preliminary Plat**: Present were Brett McCully, Crawford Dinning, Jesse Haag, John Damon and Kirstin Smith.

Kirstin commenced the public hearing with an overview of the proposed Bottlenose Subdivision. She mentioned that the Planning Board recommends granting preliminary approval, subject to nineteen conditions outlined in the staff report. Commissioner Teske suggested including language that restricts vehicular access directly to Farm to Market Road, unless otherwise permitted. **Motion** by Commissioner Teske to approve the Bottlenose subdivision preliminary plat subject to twenty conditions and finding in the staff report. Second by Commissioner Hammons. Brett provided a fire department letter to Jesse. Jesse stated a utility easement between the lots was a concern. Commissioner Teske advised of public comment across the parcel yet noted private property does not allow that. Motion carried.

3:10 PM **Adjourned**

LINCOLN COUNTY BOARD OF COMMISSIONERS

Josh Letcher, Chairman

ATTEST: _____

Corrina Brown, Clerk of the Board