

December 12, 2007

The Lincoln County Board of Commissioners met for a regular session on December 12, 2007, in the Lincoln County Courthouse. Present were Commissioner Rita Windom, Commissioner John Konzen, Bill Bischoff and Clerk and the Recorder Tammy Lauer.

11:00 AM: Commissioner Windom called the **meeting to order**.

11:00 AM: **Public hearing for Old Sinclair Creek Road:** This meeting was recorded for the County Attorney, Bernard Cassidy on cassette tape. Present were: Tim Rooney, John Vignali, Daniel R. Wilson, Marie Stavenow, Richard Stavenow, Jack Bullock, Ora Bullock, Charles W. Runge Sr., Vivian R. Purdy, Cheryl Larson, Bob Stauffer, Jim Stauffer, Diane Stauffer, Donna Edwards, Joan Edwards, Rodney Miller, Dale Miller, Gary Purdy, Amy Guth, Alvin Benitz, Darrell Handy, and Steve Newman.

Commissioner Windom opened the public meeting by explaining to the people that the hearing would be one hour and everyone should have an opportunity to voice their concerns. Dan Wilson, Attorney for Stauffer and Stavenow, began by showing a video tape of the road in question that was prepared by the Stavenows. The Stavenows own 4.66 acres. The video tape showed all of the trees that would have to be cut to make the road. It showed the property lines and the proximity to the Stavenow home and the existing road. Marie and Richard had several comments about the age of the road, use of it, wildlife, privacy, dust issues and taxes on the road on the video tape. Dan presented a history of the situation. He suggested that the Commissioners should grant the petition to abandon the road. He said the Montana Supreme Court would have the final say when Tungsten appeals the decision. He noted that Tungsten had offered to maintain the road and he doesn't feel this is legal by statute because a road district has to be formed. He talked about the trees that would need to be removed. He spoke about the costs of maintaining the road to the County. Commissioner Windom said that Mr. Wilson is wrong about taxes paying for the road. Lincoln County does not have taxes for roads.

Jim Stauffer, adjacent property owner, made some comments on the historical issues of the sale of the property and the road. He and his brothers sold the property in 1991. They thought that there was no legal access and granted a 20' easement through their property. The problem began when Tungsten was unsuccessful in gaining a wider easement on the existing easement. Jim feels that Tungsten purchased the property with one thing in mind but changed mid stream. Commissioner Konzen asked Jim if he had intended when he sold the property in 1991 that it would not ever be subdivided. Jim stated that the reason for the 20' easement was to keep a purchaser from making a subdivision. Jack Bullock stated that he was in favor of the petition to abandon the road. He criticized the Commissioners for having the public hearing in Libby instead of Eureka and felt that the Commissioners did it on purpose to reduce the number of participants. Dale Miller is 82 years old and remembers the road in question as a trail. He said it was never a road. His sister went to school on that trail. He gave more history of the road. John Vignali, Tungsten Holdings, stated that Mr. Wilson implied that their appeal was "dirty" but it was simply to keep the road alive. He stated that the County road can be maintained by an individual and an individual can build a road. The notion that the County Commissioners should not do anything but let the Supreme Court make the decision is wrong. The County depends on the County Commissioners to make decisions for the County.

Amy Guth spoke about the County road being gated at some point. This is why trees have grown up in the road. She believes that the road was never used because of the fence. She spoke about Mr. Wilson not being the attorney for Stavenows but for a Title Company. Judge Prezeau has told the Commissioners that they have the right to make the decision in the ruling.

Cheryl Larson pointed out that Sinclair Creek Road gave up a right of way for that road. They felt that in doing that it claimed a right to the Old Sinclair Creek Road. Gary Purdy said the County is considering reopening the road and will turn it over to Tungsten.

Commissioner Windom said that has not been determined. Gary doesn't understand how that County road can be turned over to Tungsten. John Vignali said that a "majority rules" idea is a lynch mob attitude. Rod Miller said that a big share of the names on the petition he obtained himself. He said no one refused to sign the petition. He feels that anyone would sign it.

Commissioner Windom thanked everyone for coming. She stated that they will be meeting with the County attorney and it will be 6 weeks before they will make a decision.

1:30 PM: **Kathi Hooper and Sarah Welch, Eureka Animal Control:** Kathi recently received a proposal from the Friends of the Shelter group in Eureka. It was similar to the proposal presented by the town of Eureka with a few exceptions. Commissioner Konzen noted that this is the result of the town of Eureka's unwillingness to come to an agreement. The town of Eureka wanted \$3500 per month to run the shelter which is beyond what the County is able to pay. The Commissioners were concerned about the auto renew clause. Commissioner Windom also is concerned that there is still an understanding that the building would one day move to another location. Friends of the Shelter in Eureka have intentions of building their own facility soon. Commissioner Windom asked if we have any experience with Friends of the Shelter. Kathi said that the Friends of the Shelter have been very good to work with through this process. Steve Newman asked why the City changed their mind about working with Friends of the Shelter. Kathi did not know. Commissioner Roose has been consulted on this and is in favor of the Friends of the Shelter proposal. Commissioner Konzen said that he feels that all three city contracts should be looked at in the next budget year. Commissioner Konzen moved that they accept the Friends of the Shelter proposal revised with the elimination of the renew clause and an addition of a clause about the building being moved. Commissioner Windom seconded and it was so moved.

Kathi spoke a little about the air quality progress.

2:00 PM: **Susan Farmer, Upcoming Clerk of Court:** Susan wanted to thank the Commissioners for appointing her in the Clerk of Court position when Nadine Pival retires. She asked for permission to move Patty Noble to the Assistant Clerk of Court position as of December 24, 2007. Commissioner Konzen moved to allow Susan to appoint Patty Noble as Assistant Clerk of Court.

Commissioner Windom seconded and it was so moved. Susan had some additional questions about personnel issues in the Clerk of Court department.

2:31 PM: The Commissioners discussed some **administrative issues**.

3:38 PM: The **meeting was adjourned**.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Rita R. Windom, Commissioner

ATTEST:

Tammy D. Lauer, Clerk of the Board