

**April 30, 2008**

The Lincoln County Board of Commissioners met for a regular session on April 30, 2008, in the Lincoln County Courthouse. Present were Commissioner Rita R. Windom, Commissioner John Konzen, Commissioner Marianne Roose, Bill Bischoff and Clerk and Recorder Tammy Lauer.

9:00 AM: Commissioner Windom **called the meeting to order** with the Pledge of Allegiance.

9:03 AM: **Land Transfer** between Troy Volunteer Fire Department and Mr. and Mrs. Hans Mueller. The Muellers will square off their land and the fire department will gain enough ground to build a satellite station. This is a part of Division Road and Piney Road. The county will trade the previous park land for the highway property. Commissioner Roose moved to approve the land trade for a utility site at Kootenai Vista. Commissioner Konzen seconded and it was so moved. The paperwork was signed, notarized and given to the Clerk and Recorder's office for recording.

9:30 AM: **Nancy Sutton, Treasurer:** Nancy brought research she had done on the Port Authority Fund. She has researched the fund and discovered an error from the past. Nancy knows how to fix the fund and she is asking for guidance on how to handle it.

9:50 AM: **Wings Week Declaration:** The Commissioners signed Resolution Number 798 proclaiming May 3 through May 10<sup>h</sup> as Wings Week. Commissioner Roose moved to approve the resolution. Commissioner Windom seconded and it was so moved.

10:00 AM: **DNRC:** Present were John Sholtzberger, Doug Turman, Steve Newman and Jeremie Vella: John came to explain the DNRC duties and the relationship in Lincoln County. John said that there are two programs to talk about. The first is the Trust Lands program. Of the 31,000 acres on State Lands only they cut 3.5 million annually. Commissioner Konzen asked if there is a correlation between DNRC and the Forest Service. John said sometimes but it doesn't always work out. Montana Environmental Project Act dictates some of the objectives. There are three different boundary lines that they deal with and different lines for different programs that they administer. Commissioner Windom asked how many acres in the Rainy Creek area belong to the State. John said the DNRC is concerned about those 640 acres. They are negotiating to trade that land for land that they can manage and be productive. Commissioner Windom offered the Commissioner's support on this. The second is the Service Forestry Program –Master Hazard Production Program. Doug talked about the Fire Program. He provided a picture of the area they protect. They will have four engines this year as they have gained one. They also have access to a state helicopter. They have 11 seasonal workers. The typical season starts in March and runs to November. Over the past 2 years they average 50 fires per year. Five large volume pumps have been distributed. The National Guard is releasing equipment and vehicles and DNRC is going to look into getting some of them. This program allows the ownership of the equipment to go right to the department so they have put out feelers and are hoping to get some fire departments to respond.

Commissioner Windom asked if Doug and John had seen the Neighborhood Plan for the Happy's Inn area. Doug said that he has seen it recently. DNRC of Kalispell would be impacted by this because the Libby area ends at McKilop. Within a few years the Libby area will go to the county line but now it does not. They are concerned about the growth they expect. They don't believe that there is enough fire equipment in the area for that type of growth. Commissioner Konzen suggested that DNRC work with the planning board to help with the growth policy. Commissioner Konzen said that loggers are frustrated with Idaho Loggers taking our timber at Taylor Peak. John said that the playing field was unlevel and now Montana loggers can go into Idaho to bid on timber sales. John said that his hands are tied to take the highest bidder even if they are from Idaho. The Commissioners thanked them for coming.

10:42 AM: **Mark Reller: Bonneville Power Administration Update:** Mark wants to bring the Commissioners up to date on some issues. He asked if they had seen the article in the Missoulian on the Bull Trout. He spoke about the Bull Trout issues and critical habitat. There is ongoing litigation on the endangered species. Salmon protection has not been addressed. The newest act says that no lawsuits can take place over the next 10 years so they can just concentrate on the Fish issues instead. An MOA is under way with Tribes that are agreeing not to sue for 10 years. So far the Kootenai is not included. Commissioner Konzen asked if he was confident that the Kootenai will be protected. Mark hopes it is; he knows Brian is fighting for the Kootenai. Commissioner Roose asked if there was anything they could do about this. Mark said a phone call to Bruce might be a good idea. The Biological Opinion goes to the judge May 5. In theory, that will end the current litigation and begin new litigation. The Sturgeon is on a whole different Bi-Op. They are looking at a habitat area and there is a lot of project support for this. It would have flood control benefits as well. It would make more water run through the Bonners Ferry area and less flooding. It goes from the town of Bonners Ferry north. He pointed out the pros and cons of the agreement. Mark asked what kind of questions will come up at the Public Meeting, May 15<sup>th</sup>. The Commissioners thought that spill issues would be the main thing that will come up.

11:30 AM: **Old Sinclair Creek Road Decision:** Commissioner Windom handed out an information sheet stating that this is not a public hearing. There have been public hearings on this previously. There will be no Public comment taken today. She introduced the participants; County Attorney Bernie Cassidy, County Commissioners, Bill Bischoff and Tammy Lauer. Steve Newman and Peggy Williams were here from the press. Commissioner Windom explained the documents in front of them for consideration and that the Commissioners had walked the property and watched a video about it. Commissioner Windom opened the discussion by asking for questions from County Attorney Bernie Cassidy about the documents. Commissioner Konzen asked for an interpretation of "two or more landowners benefit from the road." County Attorney Cassidy referred to his opinion and Judge Prezeau's opinion as well. County Attorney Cassidy gave a brief history of the decision so far. There is a statute that says that the Commissioners may not abandon the road if it benefits two or more landowners. County Attorney Cassidy said that the Commissioners are not bound by his opinion or by the statues because the Commissioners are able to do whatever they want with county roads. Judge Prezeau said that the Commissioners do not have to abide by the County Attorney's opinion of the law. Commissioner Windom said that she and Commissioner Roose are not experts on the law as County Attorney Cassidy is and that is why they stated that they felt they should stand by County Attorney Cassidy's opinion. They were aware that they could decide against it but felt it would not be prudent for them to do that. Commissioner Windom stated that the Commissioners have not discussed this in private sessions but that this is the time to discuss it. Commissioner Windom read a letter from County Attorney Cassidy stating that he didn't feel that the Commissioners can abandon a road. County Attorney Cassidy said that he backs that letter but again said that the Commissioners have the last say. Commissioner Konzen mentioned the fact that the land had been sold to Tungsten with an easement and he assumes that it was to limit access to that land. Commissioner Konzen thinks that the road is not a private road anymore and that the land has an access which he feels is adequate. Commissioner Windom asked if they were ready to

vote. Commissioner Roose moved not to abandon the county road. Commissioner Windom seconded and asked for discussion. Commissioner Roose said that they have discussed it to death. In favor were Commissioner Roose and Commissioner Windom, opposed was Commissioner Konzen. So it was moved 2 to 1. Commissioner Windom said she voted to not abandon the road because the law is the law. County Attorney Cassidy said that the Commissioners had sufficient documentation to make the decision.

1:30 PM: **Subdivision Review:** Lisa Oedewaldt and Ken Peterson

1:31 PM: **Harrell's Subdivision**, 4 Lots, Commissioner Review: Lisa presented the subdivision and conditions. The main concern is the Fire Department recommendations. The fire Department is asking for cisterns at each building site. A subdivision recently approved has a dry Hydrant and is less than one mile away from this subdivision. This plat will be returned to the Fire Department for consideration of the Dry Hydrant.

1:45 PM: **Little Hoodoo View II Subdivision**, 5 lots, Preliminary Decision: Lisa presented the subdivision that was reviewed last week. Commissioner Roose moved to approve the subdivision as preliminary plat. Commissioner Konzen seconded and it was so moved.

1: 49 PM: **Moraine Subdivision**, 5 lots, Preliminary Decision: Commissioner Konzen questioned the requirement of paving the road. He does not think we can require it. Ken Peterson agreed. That condition will be removed. This will be addressed next week.

1:55 PM: **Living Mountain**, 1 lot + remainder, Preliminary Decision: Lisa presented the subdivision. Commissioner Roose moved to approve as preliminary plat. Commissioner Konzen seconded and it was so moved.

#### **Final Plat Approvals:**

2:00 PM: **Open Range**, 4 lots: The conditions have been met. Commissioner Roose moved to approve final plat. Commissioner Windom seconded and it was so moved.

2:01 PM: **Upper West Vista**, 42 lots: The conditions have been met. Commissioner Roose moved to approve the final plat. Commissioner Konzen seconded and it was so moved.

2:05 PM: **Wilderness Club, Phase II:** Mylars are not available as they were sent for signatures. All conditions have been met. Commissioner Roose moved to give final plat approval. Commissioner Konzen seconded and it was so moved.

2:14 PM: **Parkside at Fisher Pines:** Ed Levert wrote a letter of concern about the fire assessment. He felt the person doing the fire assessment was not qualified to do this. He disagreed with the assessment. Dave DeGranpre is not an authorized fire assessor and is on the payroll for the developer. Commissioner Konzen said that he felt that Ed Levert's recommendation should be heeded. John Defoe said that the recommendations are being done at this time. Commissioner Konzen moved to give final plat approval. Commissioner Roose seconded and it was so moved. The final plat came in with Commissioner Roose's name on it as chairman so she signed it rather than cross it out and make changes per Chairman Windom's instruction.

2:25 PM: **Indian Springs Phase II:** Johna Morrison was available for questions. Commissioner Roose moved to approve the final plat. Commissioner Konzen seconded. There was a discussion about the time frame on phases. Commissioner Roose withdrew her motion and Commissioner Konzen withdrew his second. Commissioners Roose moved to approve the final plat with a condition that the phases be completed within every two years and the subdivision complete in 10 years. Commissioner Konzen seconded and it was so moved.

2:34 PM: **Wilderness Club Phase II revisited.** Commissioner Roose stated that the Commissioners should retract the vote on this subdivision and then she moved to approve the final plat with the condition that the phases be every two years and it be completed in 10 years. Commissioner Konzen seconded and it was so moved.

2:40 PM: **Deb Blystone on E-911 Addressing:** Deb said that the addressing has been completed other than ones that continue to come up from citizens wondering about their addresses and then Deb assigns them an address. Rexford is the only notices that have not gone out. Commissioner Konzen asked about the maintenance of the program. Deb said that she is maintaining it so far. She is unsure how it will work in the future. How to GPS the new roads is a major issue right now. Ric talked about the computers for the County and State interfacing to accept the address changes.

3:28 PM: The Commissioners were presented with **Resolution Number 789** to revise the Airport Budgets. Commissioner Roose moved to approve Resolution number 789. Commissioner Konzen seconded and it was so moved.

3:30 PM: Commissioner Konzen moved to approve the **minutes of the April 23, 2008** meeting. Commissioner Roose seconded and it was so moved.

3:35 PM: The Board of Commissioners went into executive meeting for **personnel issues**.

LINCOLN COUNTY BOARD OF COMMISSIONERS

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Commissioner Rita R. Windom, Chairman

ATTEST: \_\_\_\_\_  
Tammy D. Lauer, Clerk of the Board