

April 9, 2008

The Lincoln County Board of Commissioners met for a regular session at the Lincoln County Courthouse on April 9, 2008. Present were Chairman Commissioner Rita Windom, Commissioner John Konzen, Commissioner Marianne Roose, Bill Bischoff and Clerk and Recorder Tammy Lauer.

10:00 AM: Commissioner Windom called the **meeting to order**.

10:01 AM: **EPA Update:** Present were Ted Linnert, Matt Cohen, Paul Peronard, Catherine LeCours, Mike Cirian, Brad Black, Jeremie Vella, Paul Rumelhart, Kathy Hooper, Tony Berget, Peggy Williams, Brent Shrum and Don Cox. Representatives from Max Baucus and Jon Tester's offices were on the telephone.

Matt brought the Settlement Agreement between the Department of Justice on behalf of the Environmental Protection Agency and W. R. Grace & Co. and read the clauses of importance in the agreement. He mentioned that the Special Accounts guidance clause referred to \$11 million being put in a special interest bearing account to be used for O & M (Operations and Maintenance). Bruce from Baucus' office had questions about the \$11 million and how it will be disbursed. Commissioner Konzen asked when the O & M starts. Matt said it would be determined when the project is done. Commissioner Konzen asked if the ROD (Record of Decision) is not out yet and the rod comes out that the money Commissioner Windom asked how they arrived at the \$250 million figure. Matt said that they came up with that by looking at litigation in bankruptcy court, past experience, other creditors, etc. Bruce asked if there is money left over in the \$239 million pot can it be transferred to the O&M account. Matt said that it would be and that they don't know what the O&M will be but once they do, they may need more than \$11 million and adjust that. Matt clarified that the mine is not part of this settlement. Bruce said that it's possible that there was a mistake and it will cost more than \$250, then will EPA continue to fund the clean-up. Matt said EPA will continue beyond the settlement.

Matt stated that a "Public Health emergency" and "Facility" are not connected to each other. It is a mute point because it has already been determined that this is not a Public Health Emergency. Commissioner Windom asked about Page 5, item J. Paul said that it addresses the ATSDR (Agency for Toxic Substances and Disease Registry) issue and indirect costs. The definitions serve multiple purposes and item J is drawing a boundary around the settlement. Paul said the ATSDR is used for medical screening. In the future, ATSDR will be used again for information from patients.

Commissioner Windom said that she feels it is important for funds to stay in our community not go through several other avenues and then back to us. Paul said he hears her and understands her concern. Commissioner Konzen asked what the effect of the funds is on Troy. He was told that in the next year they will start clean up on properties in Troy. The new funds will help accelerate this. The Troy study is still ongoing. Paul said that they would start slow in Troy to determine the best way to proceed. For instance do they need another landfill in Troy for the disposal or do they haul it all to Libby. Paul stated that they have just started the clean up season this week. Two new contractors have been hired and are being watched to be sure they are handling things correctly. Also, the wage scale has been raised to the Heavy Construction scale so employees are seeing a 25% increase this year in their salaries.

Mike said Hazard Material trainings have recently taken place and they have had 32 extra people signed up. The benefit is that local contractors are educated on what to do if they find asbestos while on a job. They can contact EPA and not lose time on the job. Paul urged that it would be a really good idea if the County had someone trained as well. He is suggesting that eventually there will need to be someone local to handle asbestos issues. Commissioner Konzen agreed and said that they have previously decided to do that. He wanted to know the monetary effects of this to the County. Paul said that EPA is paying for now and eventually the O&M funds will pay for it.

The situation at Asa Wood is that they are now doing inside and outside inspections each day on all schools and will do a sampling next fall. Good things came from the incident at Asa Wood because now the children and teachers are educated on the hazards and know how to react to a situation involving asbestos. Paul said that there is no good plan to get the asbestos out of the walls in structures right now. Tony Berget said that there are many people that don't know what real vermiculite looks like; wouldn't it be a good idea to display samples somewhere to educate people? Paul thought that would be a good idea and suggested the courthouse.

Mike showed a map of Rainy Creek road and said that a property owner wants the gate removed. He is worried that the access is too available if they move it or take it down. They told the property owner that they will not pull the gate. He learned that the property owner wants to be paid for the gate being on his property however, the gate is not on private property but in the road easement.

Catherine said that they have a public meeting on the 29th in Troy to discuss findings. She is trying to educate the public on the process. They may be revisiting the properties again. Ted said that EPA is having it annual meeting on May 22nd and will update the science studies.

Commissioner Windom thanked Baucus's office for the support and commented on the great job Matt Cohen has done. Brad Black spoke about the contact he had from the claims specialist. Brad asked him if it would be possible to put together a trust for health care as well and gave him a rough figure. The Specialist told him that it would not be addressed in the bankruptcy issue. He saw the criminal case more able to fund the health care costs. Matt said that it's important to decide if it would be better to have a trust for Libby people only or would it be better to be a part of a large trust for asbestos victims nationwide. Brad wondered about the best avenue to get a trust for medical care. Matt said that the citizens of Libby need to get an organized voice.

11:30 AM: Kathi Hooper and Sarah Caswell about the **Animal control Issue:** They have been looking at the fee schedules for the County animal control. Adoption fees are low compared to other counties. Sarah wants to work on the problem of owners letting non-neutered or not spayed run. They showed the Commissioners the current fees. All costs are rising especially fuel costs. There was a discussion of making the licenses more accessible to the working force. They decided to sell dog licenses at the Annex and the Eureka Annex. The biggest change in the fees that they are proposing is the extra fees for the second and third time a dog is picked up. Commissioner Konzen moved to approve the proposed fee schedule. Commissioner Roose seconded and it was so moved.

Cruelty and neglect issues are not able to be enforced by animal control. They are an issue for Sheriffs dept. because it is State statute. Bill suggested that they check with Bernie to see if there is a way they can do a County ordinance. They will check with Bernie.

1:30 PM: **Subdivision Review** with Lisa Oedewaldt and Ken Peterson. Also present were Kendra Lind, Ken Davis, Byron Sanderson, John Damon, George Baker, Roger Jensen, Brett McCully, Charlie Stevens, Ryan C. Jones, Travis Flotre, Leland Kibler, Debbie Shoemaker, Dawn Marquardt and Jill Blomdahl, Deputy Clerk of the Board.

1:31 PM: **Public Hearing for Quartz Mtn. Estates.** Lisa opened the hearing for public comments. Roger Jensen is concerned about new wells and the wells below the road on existing properties and their water rights. Kendra informed him the DNRC is responsible for water rights and water issues and should be contacted if you have questions. He also wanted to know what's to keep the water runoff from running off in the lower portion. Conditions are stated that post development runoff must stay up above in the subdivision and must be the same as pre-development runoff. Roger asked who will take care of the road. He was informed the new road would be built to county standards and the county will take care of their part of the road and the Forest Service will take care of their part of the road. Roger and George Baker want a guarantee on their water rights. Lisa said she will contact the DNRC. Commissioner Konzen asked about the option to refuse parklands because this parkland is 30% slope and worthless. Is it homeowner parkland? Wildlife habitat? Open space? County does not want to assume responsibility for this type of park. The developer will look into this issue. Commissioner Windom asked about the thinning of trees and slash piles. The developer stated all thinning has been done and slash piles are almost gone.

1:55PM: **Fort Eustice**, 2 lots, Commissioner Konzen thought covenants were interesting and didn't realize one of the conditions is a County requirement. No other questions were asked.

2:00PM: **Willett's**, 2 lots. Lisa presented subdivision. Byron handed a fire risk assessment to Lisa. Lisa read assessment recommendation out loud.

2:02PM: **Fisher River Retreat**, 5 lots + remainder. Lisa presented subdivision and no questions were asked.

2:11PM: **Fallen Antler Estates**, 4 lots. Presentation is postponed until next week.

2:14PM: **North Shore**, 1 lot + remainder. The developer, Jim Beasley is here and is explaining to everyone what he has in mind. He admits to not communicating well with Ken on original plat submitted. There are several question asked about the creek and the road. Jim is explaining what he knows and what the Forest Service has told him. Ken Peterson has concerns regarding the Forest Service and the private road. Map is confusing but at the property it's clear and understandable per Jim. The commissioners would like to review this subdivision, again, when the comments from the Forest Service are sent to planning.

2:40PM: **The Ridge Subdivision**, 7 lots. The Surveyor has asked for variance on road approaches. Commissioner Konzen envisioned turnouts for emergency equipment. Planning Dept. misunderstood what the Commissioner Konzen was requesting. Per the surveyor, the owner will be in town next week and could discuss this personally with the Commissioners. It was agreed to meet with the owner at the next meeting. Commissioner Roose agreed to contact the Fire Department to receive their opinions and bring them to the next meeting.

2:50 PM **Am Lot 9A of Bordertown**, 3 lots: Commissioner Roose moved to approve subdivision as preliminary plat. Commissioner Konzen seconded and it was so moved.

2:53 PM **Park Place**, 4 Lots, Final Plat Approval: All corrections have been made and the County Attorney has approved. Commissioner Konzen moved to approve the final plat. Commissioner Roose seconded and it was so moved.

2:59 PM: **Brett McCully** brought a plat map that was discussed in January and recommended that a road change be made. He wanted the Commissioners to see the revised map. The Commissioners commented that they liked the new plan.

3:26 PM: Commissioner Windom read **Resolution #796** to adjust the Fair Budget for salaries and employee contributions and revenue from Insurance money received. Commissioner Roose moved to approve the resolution. Commissioner Konzen seconded and it was so moved.

3:34 PM: Commissioner Windom presented the **correction Quitclaim Deed to the Faust Addition** pertaining to the purchase of the Lincoln School. The legal description was incorrect on the original deed. Commissioner Konzen moved to approve the quitclaim deed. Commissioner Roose seconded and it was so moved.

3:36 PM: There was a discussion about the Vista Subdivision and the boundaries.

3:48 PM: The Commissioners discussed four separate **personnel issues** with Bill Bischoff.

4:00 PM: Commissioner Roose brought a resolution for an **amended budget for the Montana Cultural Trust for Cultural and Aesthetic Grant awarded to the Tobacco Valley Improvement Association Board of Arts for the Creative Arts Center Expansion Project.** Commissioner Roose moved to sign the agreement. Commissioner Konzen seconded and it was so moved.

4:09 PM: The meeting was **adjourned.**

LINCOLN COUNTY COMMISSIONERS

Commissioner Rita R. Windom, Chairman

ATTEST: _____
Tammy D. Lauer, Clerk of the Board