

September 14, 2016

The Lincoln County Board of Commissioners met for a regular session on September 14, 2016, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Larson, Commissioner Peck and Clerk and Recorder Robin Benson.

Commissioner Cole opened the meeting with the **Pledge of Allegiance**.

9:00 AM **EPA Update:** Present were Mike Cirian, Christina Proggess, Dania Zinner, Lisa DeWitt, Nick Raines , and Kathi Hooper. Also present via phone conference were Jennifer Harrison and Melanie Keller.

OU4-Construction: Mr. Cirian said good news is that approximately 150 properties will be completed by end of construction season. There are approximately ten properties under construction work at any given time. Out of 8,108+ properties identified in the superfund site, approximately 7,000 properties have been investigated and/or cleaned up to date. About 280 property owners after multiple communication efforts have told EPA to never contact them again. This is about 6% of the total properties in the superfund site area. There is now an ongoing last call for investigation in effect. March 31, 2018 is the deadline for investigations. Mr. Cirian commented that it is very impressive to note the project team is over 750,000 man hours without a lost time accident.

There was a brief discussion about how the county can be actively involved in the last call efforts. Commissioner Peck said he would like Partners Creative to help with the marketing. Mr. Cirian said he wants to target the specific property owners who have denied EPA access; possibly a letter from the commission to those property owners expressing support of allowing EPA access and investigation.

A draft handbook on institutional controls may be ready for the public in October. The idea is to have something ready as a starting point to actually look at and start getting community input.

A Community Involvement Plan Update and Responsiveness Summary is available at the EPA Office and libraries.

OU3-Mine Site and Forested Areas: Three crews are working to collect samples; work to be completed by end of this week. The focus is to collect data to further define the mine site and forested areas. Bark/duff sampling efforts are included for fire preparedness. There is an appraisal study for tailing impoundment at the dam hopefully to be completed by winter. Commissioner Larson suggested a site visit for the commission. Commissioner Cole agreed a site visit would be beneficial.

OU5-Port Authority: Recently finalized Institutional Controls Plan. The plan will be amended to include an Environmental Covenant for future protection. Negotiations are currently being discussed for the Final Remedial Action Report to be completed by September 30, 2016. Commissioner Larson commented the importance of this site for economic development.

OU6-BNSF Rail Corridor: Confirmatory sampling is ongoing for another month. Sampling is performed on both sides of the tracks between Libby and Troy.

OU8-State Highway Corridors: EPA is working towards completing the Institutional Controls Plan and Remedial Action Report.

Commissioner Peck said if we receive a strong response to the last call efforts, construction may go into 2018. There is the whole long term funding issue that needs to be clearly defined. To my knowledge nothing has been done to clarify this and a cost analysis has not been accomplished yet. It is time for this issue to be brought to the forefront and clearly defined and finalized.

10:00 AM **Troy Area Dispatch District (TADD) Discussion:** Present were Alan Gerstenecker, Fran McCully, Linda Rose, Hank La Sala, John R. Righter, Wayne Maffit, Clinton Taylor, Dan Burns, Danita Jordan, Dennis Dupuis, Robert Mast, Gerald Wallace, Gene R. Rogers, Jim Ward, Russell Clark, Robert H. Rice, Paula J. Rice, Lisa Oedewaldt, Kirk Kraft, Terri Chapel, Matthew Olsen, Brandon Huff, Brent Faulkner, Rhoda Richardson, and Laurel Scott.

Commissioner Larson said he realizes there is strong interest on both sides of this issue. The commissioners have received approximately 115 letters in favor of dissolution as well as emails of support for the TADD. County Attorney Bernard Cassidy is currently working on a potential resolution. Commissioner Cole said the Interlocal Agreement will need to be reviewed as well.

Lincoln County EMA, Kirk Kraft explained the county system in place now can dispatch using repeaters if Eureka or Troy Dispatch goes down. The 911 system would be turned over and the system currently in place would continue dispatching in those areas, but it is not the best solution. Setting up a relay station would be the best solution eventually. The cost for a relay station would be approximately \$160,000. A cost analysis was submitted by Mr. Kraft.

Commissioner Cole opened the floor for public comment.

Gene Rogers asked about the voters vs. property owners. Commissioner Larson said the legal interpretation of the law is 40% of registered voters in the dispatch district, not property owners. Commissioner Cole clarified the Resolution of Intent is not to dissolve the dispatch, but to put the dissolution option to the voters within the TADD and a time period for letters of opposition. The timeframe would not be less than 90 days.

Commissioner Larson commented that due to less revenue and advanced technology, all potential duplicated services needs to be taken into consideration. As there are advancements in technology, these are the decisions that have to be examined. These are not easy decisions to make, reflecting on the closure of the JP Office in Eureka as an example. Commissioner Peck said the law is clear that the Resolution of Intent is the next step in the process. It is a written protest process and not a ballot issue. The M.C.A. is very clear on how it is to be done. It is a complex and confusing issue also because the Interlocal Agreement and the City of Troy is also involved in the process.

Hank La Sala commented that he is in favor of the dissolution and the vote in 2014 was to increase the mill levy to 29 mills and to keep the TADD. Hank said according to the law there should only be one issue on a ballot and at the very least we should all be able to confirm the vote at the very least is questionable. The commission agreed that "questionable" is an accurate word to define the 2014 election.

Robert Rice said the 2014 vote had a 2 to 1 margin. If the process was wrong, there is up to 30 days to null and void that vote. It is frustrating that now after 2 years it is being brought up and now the public is feeling their votes don't matter.

Robert Rice stated that much of his information is from Facebook which is how he learned of the issue. Commissioner Peck said he believes the timeframe is 6 months and that the county did receive protest from Hank La Sala within that period; this issue has been ongoing for a long time. Commissioner Peck clarified this has been openly discussed and on the commission agenda, the press has been involved and further stated the public should take an active role in paying attention to what the county is doing. Commissioner Cole said that frustrations are understood, but this type of meeting is critical for the public to receive accurate information and also for the commission to hear public comment.

Commissioner Peck said so far the county cannot find somebody to definitively state the validity of the 2014 vote.

Hank La Sala felt it would be good to discuss the process. The first step is that the commission may pass a resolution of intent to dissolve TADD. The second step is for a timeframe to be established after the resolution is passed for the commission to receive objections to the dissolution by written comment. It would take approximately 1,025 objections for the dissolution process to stop and not move forward.

Commissioner Peck stated the other complexity is also that the City of Troy is involved in this by Interlocal Agreement. A question that needs to be answered is since it is a joint district, does the City of Troy have to agree to move forward with the process as well. Any registered voters in the TADD would be able to write letters of opposition should the Resolution of Intent move forward. Registered voters would be verified by Election Administrator Leigh Riggelman.

Clint Taylor submitted a letter from Clifton W. Hayden, Troy City Attorney to Darren Coldwell, Mayor City of Troy. Copies were made for the public in attendance.

10:30 AM **Administrative Issues:** Present were DC Orr, Alan Gerstenecker and Seaborn Larson.

- The commissioners read the minutes dated September 7, 2016. **Motion** by Commissioner Peck to approve minutes as submitted. Second by Larson Commissioner, motion carried unanimously.
- Commissioner Peck said there will be a wording change from “fiscal” to “budget” in the description of the County Administrator Job Description. **Motion** by Commissioner Larson to approve the county administrator’s job description with change in wording and to begin the advertisement/hiring process. Second by Commissioner Peck, motion carried unanimously. The job description was vetted through all the department supervisors for comment and input.
- Per Commission request, Clerk and Recorder Robin Benson submitted a report on the process for acquiring RFP’s for Audit Services for the Commission to review.
- Clerk and Recorder Robin Benson said she has 30 days after the budget is approved to send a “budget document” to the Department of Administration. A “budget message” needs to be submitted with the document. Historically, the budget message is written by a county commissioner. The commission agreed that Robin will coordinate the budget message with Commissioner Larson.

11:00 AM **Public Comment Time:** Present were Bonnie Larson, Brent Faulkner, Gene R. Rogers, Paula Rice, Robert H. Rice, Dan Burns, Clint Taylor, MegHan O’Brien, Dennis Dupuis, DC Orr, Alan Gerstenecker, and Seaborn Larson.

Bonnie Larson speaking as a Troy citizen said she is in favor of retaining the TADD and said she hears overwhelming support for the TADD from the community and organizations she is actively involved with.

Paula Rice expressed her support for the TADD and asked what the TADD boundaries are. Commissioner Larson clarified the boundaries are the same as the Troy School District and is a larger area than just the City of Troy. Robert Rice questioned what there is to gain by dissolving TADD. Commissioner Cole said there is a dual taxation going on clarifying that TADD taxpayers are also paying for county dispatch under the Sheriff’s Department.

Clint Taylor as a TADD supporter and board member asked to be updated about the process and any action to be taken specifically if the letter submitted by the Troy attorney is going to be reviewed by the county attorney.

DC Orr asked for clarification regarding the Interlocal Agreement. Commissioner Larson said it was signed in 1996 and should be reviewed every few years for weaknesses. There is a process for dividing assets should an interlocal agreement be discontinued.

Commissioner Peck said he realizes this is a tough issue, the will of the people were spoken, but the question is the validity of that vote. The commission clarified the Resolution of Intent does not dissolve the TADD and briefly explained the written protest process if the resolution of intent is passed.

Commissioner Peck acknowledged the 2014 process is in question, and the protest letter from Mr. La Sala was received within the 6 month timeframe.

Robert Rice asked how does the county feel and Commissioner Cole said he respects Troy’s decision. Commissioner Peck commented that it is not about whether you do or do not have a dispatch it is about the process and whether it was done right. Commissioner Cole said the county will continue to evaluate and review and that no decisions will be made without a public hearing in Troy.

DC Orr commended the commission for abiding by the process and realized the county is dealing with an issue as a result of lack of correct process. Mr. Orr continued saying Allen Payne became a deputy county attorney for the City/County Health Board and feels this was not beneficial to the public and questioned the legality. Mr. Orr further stated the Health Board did not publicize meetings. Mr. Orr said he did try to get on the advisory board, but nothing came of it. Mr. Orr continued by asking who is going to pay for clean ups moving forward and expressed his disdain on the minutes in health board discussions on this topic and believes the health board has violated due process laws. Mr. Orr stated that money EPA paid Allen Payne destroyed constitutional rights and there is nothing in the health board minutes on this issue to be found; the people in this area are being dealt a disservice

Commissioner Cole said the county is working very hard to ensure residents are not held accountable for the long term clean-up costs.

11:30 AM **Public Health Update:** Nikki Meyer, Kathi Hooper, Jennifer McCully, Amy Fantozzi, Seaborn Larson, Alan Gerstenecker, and DC Orr.

Kathi informed the commission that Jeannie Osler submitted a letter of retirement and Micki Carvey submitted a letter to resign. Both employees are currently at 16 hours per week. Kathi is requesting permission to increase another employee from part-time to full time to provide the same level of service of the county nurse. The change can be accommodated within existing budget. The office in Eureka will remain open for Tuesday clinics and also will utilize the office space for

vaccination and outreach services in Eureka. **Motion** by Commissioner Peck to approve the increased hours for one employee from part-time to full time, contingent that the county is able to maintain current services. Second by Commissioner Larson, motion carried unanimously.

Amy Fantozzi introduced herself as the tobacco prevention and early childhood specialist. Amy works alongside Unite for Youth and visits with youth groups in the community to educate kids about the dangers of tobacco use. Amy said she had an educational booth at a Nordicfest and shared her excitement that a couple of high school kids want to help lead an effort against tobacco use. Amy discussed her involvement countywide about education on the dangers of tobacco use and its prevention. Commissioner Cole said it sounds like we are touching the surface of tobacco use and sexually transmitted disease, but wanted to know how the public health department is working with drug use. Jennifer said the health department works alongside with Unite for Youth but does not currently have an adult drug use program, but is currently exploring suicide prevention. Jennifer also stated that Early Childhood Program identifies these issues to help break the cycle and to bring kids out of the world of drug use. Jennifer explained the no matter what topic we are discussing, substance abuse is in every conversation.

1:00 PM Eureka Airport Master Plan Project: Present were Tim Orthmeyer, Bill Caldwell and Martha G. Hendrickson. Tim updated the commission on the Eureka Master Plan Study. Grants have been received and the study is ready to move forward. Tim submitted the first invoice from Morrison Maierle for commission signature for the work that has been completed. The invoice is for \$67,792 or 42% of the contract amount. Commissioner Cole asked about the economic benefits for communities to have airports and the associated expenses. Tim said he would get a report developed by the state on economic impact of airports to communities. Tim said the report is about 5 or 6 years old and he would get a copy to the commission. **Motion** by Commissioner Larson to pay the invoice amount of \$67,792. Second by Commissioner Peck, motion carried unanimously. Commissioner Larson commented that as the county begins looking into discretionary and mandated service, it would be important and beneficial to have the economic benefits clarified.

1:30 PM Planning Department: Cancelled

2:00 PM Callahan Creek Update: Present were Mike Fraser, Lisa Oedewaldt and Alan Gerstenecker. Mike Fraser recommended Steve Brown of Garlington Law to review the Administrative Order of Consent and provide a memo of suggested changes. Mr. Fraser explained the removal and restoration plan will be in three phases. Phase 1 will be on the upper reaches. Vegetation will be limited to allow for natural growth to occur. Mr. Fraser is requesting the Commission to approve Task Order No. 2 not to exceed 46,237. **Motion** by Commissioner Peck to approve Task Order No. 2 not to exceed \$46,237. Second by Commissioner Larson, motion carried unanimously. Commissioner Peck asked if the total cost has in kind services. The county road department will be able to perform much of the work involved.

2:15 PM Kootenai Forest Stakeholders Coalition: Present were Paul McKenzie, Amy Robinson, Robyn King, Ed Levert, Jessie Grossman, Tim Dougherty and Nikki Meyer, Eureka via Vision Net
Robin King said the purpose of today's meeting is to update the commission on what the coalition is doing in their process and focus. The coalition group expressed its frustrations about procedural processes not being followed at the court level. Robin King said the coalition is looking for common ground management so we can move forward at the project level. A PowerPoint presentation was provided showing Forest Management Guidelines based on the 2013 revised Forest Plan. The guidelines seek more specific direction within the Forest Plan and encourage 70-90 MMBF timber harvest annually. Some of the topics in the presentation were old growth, regeneration harvest, retention skips, wildlife security, post-fire salvage, soils and Wilderness and Recreation. The presentation included the Mason-Bruce-Girard Study; objective is to verify the effectiveness of the vegetative guidelines in meeting a timber sale Allowable Sale Quota (ASQ) of between 70-90 MMBF/year of saw logs. KFSC Vegetative Guidelines treat more acres-removes less volume per acre than KNF preferred alternative. Budget is the primary limitation to increases to the ASQ for both alternatives. Agency outreach and unity is an important goal of the Kootenai Forest Stakeholders Coalition.

3:15 PM Eureka Road Department/Road Supervisor Discussion: Present were Marc McCully, Vic White and Dallas Wamsley.

Road District 3 Supervisor Tim White has retired. Commissioner Cole recommended to the H.R. Department to promote Ray Price to the supervisor position. The H.R. Department is looking for a formal appointment by the commission.

Motion by Commissioner Peck to promote Ray Price as the Eureka Road Supervisor. Second by Commissioner Larson, motion carried unanimously.

3:30 PM East Fisher River/Miller Lake Viewers Report:

Motion by Commissioner Larson to approve the viewers report submitted by Road Supervisor Marc McCully. Second by Commissioner Peck, motion carried unanimously. A public hearing date will be scheduled on October 12, 2016 during the regular commissioner meetings. Clerk and Recorder Robin Benson will public notice the hearing.

3:45 PM Road Department Discussion:

Marc is here to discuss that all road departments have 6 man crews. Road districts are basically all the same as far as mileage. Marc is questioning the approval of a new employee in Road District 2 bringing their crew to 7 people. Commissioner Larson asked about utilizing Dan Williams. The same question is asked by the Eureka Road Department. Commissioner Peck clarified that the decision may not have been the wrong decision, but this issue should have been worked out prior. Marc said all districts are basically the same as far as mileage of roads, employees and budgets. The question is do we maintain every district at 7 employees or keep Libby and Eureka at 6 employees and Troy at 7 employees. Fabricated Materials will be reduced according to the increase in wage, employer contributions and insurance cost. **Motion** by Commissioner Larson to allow 7 employees for each road department. Fabricated materials will be reduced accordingly to maintain current budget. Second by Commissioner Peck, motion carried unanimously.

4:15 PM Meeting Adjourned:

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mike Cole, Chairman

ATTEST:

Robin Benson, Clerk of the Board