

March 24, 2021

The Lincoln County Board of Commissioners met for a regular session on March 24, 2021 in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Bennett, Commissioner Peck, Commissioner Letcher, County Administrator Patrick McFadden and Deputy Clerk Corrina Brown. Present via phone was Ray Stout.

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

10:00 AM Commissioner and Dept Head Mandatory Training: Present were Derrick Perkins, Virginia Kocieda, Ernie Anderson, Sedaris Carlberg, Alyssa Ramirez, Dallas Bowe, Darren Short, Joe Nagle, Tricia Brooks, Wendy Drake, Kathi Hooper. Present via phone was Ray Stout.

Patrick introduced mandatory training on new HR procedures. Patrick advised video links will be sent to department heads who are encouraged to view as many as possible to enhance their training. Commissioner Bennett questioned the tracking of video views. Dallas stated that Department Heads should be advising her of which videos they have viewed, as well as, which videos their employees have viewed. Dallas will keep track of this required training by employee. Dallas informed the department heads video viewing can be done in the conference room or the commissioner meeting room. Patrick clarified next week's meeting will be for those not here today.

- Patrick also noted that budget season is here, therefore, each Department Head will be scheduled to meet with him.

10:30 AM Administrative Issues: Present was Derrick Perkins. Present via phone was Ray Stout.

- Patrick requested a signature on a correction of the Lincoln County Grant DEQ Contract No. 521005.
- Commissioner Bennett advised of a resolution to be done regarding Judge Cuffe and Sheffield Standing Order in RE: Issue of weapons in the courthouse and Lincoln County Annex Building.
- Corrina submitted the minutes for March 17, 2021 for approval.
Motion by Commissioner Peck to approve minutes as submitted. Second by Commissioner Letcher, motion carried unanimously.

10:45 AM Public Comment: There were no public comments.

11:00 AM SCOTT LENNARD– Panoramic: Present were Derrick Perkins, Brett McCully, County Planner Jake Mertes, Scott Lenard and Phil Soucy. Present via phone were Ray Stout & Nikki Myers.

Scott read the highlights of his notes focusing on the unresolved dust issues. Scott is concerned the dust issue and road maintenance may be pushed to himself and Phil. Phil stated he is here for a solution. The road oiling is not a permanent solution. Phil is concerned with the oil deteriorating over time but acknowledged it helps abate the dust. They would like to see chip sealing or a long-term solution and are willing to contribute financially to getting this fix. Commissioner Bennett advised when the abatement was issued the process did not have a proper process to object to the abatement and then move forward to a resolution. Commissioner Peck advised now that most of the lots are sold and the homeowners should get a letter and can now step in to resolve this per the covenants. Commissioner Peck encourages further meetings between homeowners, Stimson and County commissioners. Commissioner Bennett has been in discussions with the health department and advised he will reach out for future meetings. Scott and Phil advised they will participate in working to resolve this.

Scott Lennard submitted the following document:

Road Dust Issue On Panoramic View Subdivision 3/25/21

I'm here to question what is going on with the road dust and responsibility issues. I am getting exhausted with dealing with this issue for the past 11 years. That's 1/6th of my life I have been involved in trying to get the county, state, and EPA to address this issue. I and my neighbors have been told for the past 11 years that the issue will be resolved and taken care of. Now I'm very afraid that it will follow the path of least resistance and be pushed off on myself and Phil Soucy to take care of the road issue. I also expect the current commissioners to will be retiring soon and then be passed off to some new commissioners uninformed of the situation.

That's 11 years of breathing dust from the ever growing vehicle traffic to the Panoramic View real estate development. The developers showed little or no concern for the health of the local residents of the Taylor loop area. They have been allowed to get away with this due no enforcement of the dust problem.

It very much appears that through oversight or collusion with the past commissioners that Spencer and Chapman have been allowed to skate on many their responsibilities. Through my experiences and communication with others it appears that many rules have been broken including:

#1 Any responsibility to control dust on the road surface. I was told by Mark Peck that their preliminary plat approval contained a clause that they would have to be responsible for dust control and then conveniently the final plat approval omitted that requirement.

#2 Any responsibility to control the weeds on the roadside

#3 Any responsibility to build a water reservoir to use for fire prevention in their subdivision even though they were required to put up bond money to be returned on completion of project. It is my understanding that they failed to do the project and their bond money was returned to them.

#4 Now it appears that the developers Spencer & Chapman have no responsibility to anything now that the lots are sold and they can walk away leaving any liability to the lot owners even though they received generous profits from the sale of lots. Not to mention the profits from a gravel pit that was permitted by the state with no dust abatement measures to protect our neighborhood.

The whole thing just reeks of total mismanagement by the EPA, State and especially the county that approved the subdivision with no consideration for the health of the residents of the Taylor Loop area.

Now it appears that the responsibility of maintaining the road and its dust control issues will fall on Phil and me. Quite amazing and very Ironic since I myself may never use the road and Phil would use it very seldom. but will be required to maintain and control dust for the rest of our lives. This would even include our heirs or any new owners. The actual users of the road would have no responsibility. Every time a car drives up and down the road it will be costing Phil and I money to maintain the road. Does anyone in existence actually perceive this as being fair? That is the great irony #1

Here are several more of the many ironies involved in this debacle over the years

#2 Spencer and Chapman operated the gravel pit in the early years and absolutely covered us with dust. People in town were reporting forest fires in this area due to seeing the great plumes of dust rising. They were allowed by the state, EPA, and county to operate to haul gravel in town under the EPA cleanup "clean air" project to reduce any airborne asbestos pollutants to contaminate the air. The irony is that they were allowed to destroy our air quality in the process. Now I understand that certain timber sales have been curtailed or regulated due to the asbestos in the trees in this area. Since it is in the tree bark I think we can assume it is on the ground surface also. This has been stirred up and infiltrated our homes, neighborhood, and lungs for 11 years.

#3 Somehow we don't fit into any of the air quality districts for the exception of the wood burning rules. So our air quality can be contaminated with any pollutants except smoke. Evidently we can breathe dust, chemical pollutants, or even asbestos as long as it's not smoke. Evidently the health of the people in our neighborhood doesn't matter.

#4 Since Chapman & Spencer were allowed to skate on their responsibility to build the fire control reservoir; it was determined by the county planner at the time Kristin Smith that Phil and I would be responsible to put in a reservoir. I wasted a couple years of my life dealing with fire Marshall, planners, and fire department to construct a reservoir

#5. When developing our "subdivision" the original intent was to divide the property between us as a way to protect our boundaries and ward off any other surprises of new developments. Then we were required to put in power, perk tests, etc. to abide by all the county rules even though we didn't want or need any power, etc. Now it seems we may be held responsible to maintain a road for the traffic of others.

It seems that the road maintenance and dust control seems to be leaning toward Phil Soucy and myself, in spite of how much traffic exists on the road. Not only that but the present users might still have the right to scrape, grade, or snowplow the road at their convenience and then we would be responsible to replace the dust control measures each time. It would seem to me if we are held responsible for the road then they have no right to grade or snowplow the road. They would be constrained to our maintenance plan. This would include no grading, snowplowing, or destroying any speed bumps put in place to so that traffic speeds would be limited to the state enacted 25 MPH speed limit.

Here are the questions I would very much like to have answered:

#1 Did Spencer and Chapman have a dust control requirement on their preliminary plat approval and if so why was it omitted in the final?

#2 Commissioners Gerry Bennett & Mark Peck have both made statements that the county should have never approved of the original Panoramic Subdivision due to several factors. Why was this allowed to happen and how many "good old boy" deals happened along the way? Was everything legit on the power access through the state land and were there any conflicts of interest happening with county employees?

#3 Why was the Panoramic view fire control reservoir requirement ignored and why was their bond returned?

#4 Does the county really even has any authority to issue an abatement order and if so why has it taken so long and how much longer will the delays be allowed to happen?

#5 If Phil and I are required to maintain the road and provide dust control measures on a road that we never or seldom use, is it even lawful or fair to require us to maintain while the most dominant users never have to contribute to the costs?

#6 Since Stimson Lumber Company owns a section of the road above our neighborhood why have they never been mentioned in any of the discussions?

7 The area where we live actually touches the Libby city limits and is more connected physically, socially, and economically to the Libby community. Why are we in the Troy district?

#8 This whole thing started 11 years ago before Phil and I owned any property on panoramic View Rd. Why wasn't the problem taken care of back then and why has it now become our problem and responsibility?

The developers of the Panoramic Subdivision are the ones that made profits and were responsible for this road dust issue. They are the ones that should be held responsible, but I see that as very unlikely to happen. it appears that they are going to take their profits and run while leaving someone else "holding the bag". It seems very unlikely that any of the wrongs will be righted. The county has already admitted to me and others that the Panoramic Subdivision should have never been allowed to happen under these circumstances. I feel that they should be the ones responsible to take over the lower section of this road as a county road. The long term solution would be to chip seal it and totally eliminate the dust issue. If it helps Patti and I and Phil and Barbara Soucy would be willing share some of the costs just to have this thing "over and done with"

Scott Lennard

11:15 AM **Seifert Family Transfer:** Present were Derrick Perkins, Brett McCully and County Planner Jake Mertes. Present via phone were Ray Stout & Nikki Myers.

Jake recommends approval to the Seifert Family Transfer request to use exemption with the condition that all resulting parcels show legal access. Commissioner Bennett updated the meeting regarding discussions of the property and Falls Creek Road access.

Motion by Commissioner Peck to approve the Seifert Family Transfer per Planning Staff recommendation. Second by Commissioner Letcher, motion carried unanimously.

11:30 PM **Public Administrator Appt / Dissolution of Treasurer & Superintendent of Schools:** Present was Derrick Perkins. Present via phone were Ray Stout & Nikki Myers.

- Patrick advised legal review is pending postponing this topic.

11:45 AM **Weed Grant Revisit:** Present was Derrick Perkins. Present via phone were Ray Stout & Nikki Myers.

- Patrick advised this grant was cancelled making the topic mute.

12:00 PM **Meeting Adjourned**

LINCOLN COUNTY BOARD OF COMMISSIONERS

Jerry Bennett, Chairman

ATTEST: _____
Corrina Brown, Deputy Clerk of the Board