

**Anaconda-Deer Lodge County
Commission Meeting
6:00 p.m. October 20, 2015
Courthouse Courtroom**

Present: Commission Chair Hart, Commissioner Mulvey, Commissioner Lux-Burt, Commission Vice-Chair Vermeire, Commissioner Smith, CEO Ternes Daniels, and County Attorney Krakowka.

Others Present: Julie Hoffman, Clerk of the Commission

Commission Chair Hart called the meeting to order at 6:00 p.m. and the Pledge of Allegiance was recited.

Commission Chair Hart explained the Commission Rules of Procedure.

APPROVAL OF MINUTES FROM THE COMMISSION MEETING OF OCTOBER 6, 2015 AND THE COMMISSION WORK SESSION OF OCTOBER 13, 2015.

Rose Nyman reviewed the draft minutes and commented she never objected to the draft minutes of April 21, 2015 only to the total omission of her comments. She talked about two different issues on April 21st and one was summarized and one was not addressed.

Commissioner Smith moved to approve the minutes from the Commission Meeting of October 6, 2015 and the Commission Work Session of October 13, 2015; seconded by Commissioner Mulvey.

Motion carried unanimously.

APPROVAL OF CLAIMS

Approximately two-thirds of the claims were for projects according to Commissioner Lux-Burt.

CEO Ternes Daniels reported that \$249,326.00 was paid to Mungas for the West Valley Sewer Project; \$159,919.10 was paid to H&H Contracting for the waterlines project; and \$152,614.78 was paid to Jordan Contracting for the Washoe Park Project. All of these are infrastructure projects.

Commissioner Vermeire moved to authorize payment of claims numbered 120778 through 120876 in the amount of \$764,516.05; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

REPORTS OF BOARDS, OFFICIALS, COMMITTEES

Commissioner Smith and Commissioner Vermeire attended the Old Works Golf Course Authority Board Meeting.

Commissioner Lux-Burt attended two West Valley Sewer meetings and the Health Board Meeting. In addition, she attended the Granite County Commission Meeting.

Commissioner Mulvey attended the DUI Task Force Meeting.

CEO Ternes Daniels has been attending to the day-to-day business of the County.

County Attorney Krakowka attended the last half of the DUI Task Force Meeting and an Adult Protection Team Meeting. He informed the Commission that Anaconda Community Intervention (ACI) is working with Roots Church in order to use their facility for youth activities. Matt Buerkle with ACI has some great ideas with regard to this.

UNFINISHED BUSINESS

Resolution No. 15-26, a Resolution to Create an Account Budget for the Anaconda-Deer Lodge County Local Government Review Study Commission Board for Fiscal Year 2015-2016

CEO Ternes Daniels informed the Commission MCA stipulates Study Commissions must create an account budget by resolution. The money is in the budget which was approved by the Commission in September.

Commissioner Mulvey moved to approve Resolution No. 15-26; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Resolution No. 15-27, a Resolution to Designate the Planning Director as the Environmental Certifying Official to Produce an Environmental Record Review

CEO Ternes Daniels informed the Commission this resolution is in keeping with the requirements for the CDBG award for the West Valley and Economic Development Project at Job Corps, as well as any other grant funding that may have the same requirement.

Commissioner Vermeire moved to approve Resolution No. 15-27; seconded by Commissioner Mulvey.

Motion carried unanimously.

Request by Mary Ann Van Cleave to Remove Sewer Fees from her Property at 211 W. 6th Street

Commissioner Lux-Burt stated last week that she was not in favor of removing sewer fees from properties that are uninhabitable and she stands by that decision. She believes the Commission needs to move forward and establish criteria. With the West Valley sewer going in and the wastewater treatment plant project beginning next year, she feels everyone should pay their part.

Commissioner Mulvey agreed with Commissioner Lux-Burt and would like to table this item until the Commission can come up with guidelines.

Commissioner Vermeire was in agreement with Commissioners Mulvey and Lux-Burt about setting up criteria and conditions with regard to time frames and uninhabitable homes.

Commission Chair Hart would like to establish criteria as the Commission will probably be receiving more requests in the future.

Commissioner Mulvey informed the Commission Jane Dierenfeldt submitted a letter on behalf of the Board of Health and asked CEO Ternes Daniels to read it.

CEO Ternes Daniels clarified if formal action was taken at the Board of Health Meeting with regard to the letter. After confirming it was, CEO Ternes Daniels read the letter (attached to the minutes). CEO Ternes Daniels

believes the County is following the current sewer ordinance in terms of following the process for hearing these requests. She suggested two Commissioners work with Staff to create criteria and come up with a resolution to evaluate the criteria. She recommended the Van Cleave and Nordholm requests be tabled or denied until criteria are established.

Doug Clark, Planning Director, informed the Commission the intent of last week's discussion was to meet the requirements of the ordinance. However, the discussion presented a starting point to set criteria. The County will start to see more requests as sewer rates increase. He informed the Commission that Staff is prepared to work with whoever has the motivation to work with them and give them direction, noting that at the end of the day the decision ultimately falls to the Commission. Citing the 30-day stipulation in the ordinance, Mr. Clark suggested denying the request without prejudice so that Van Cleave and Nordholm have the opportunity to re-present their cases if the criteria would allow for that. In addition, Mr. Clark agreed with the Board of Health noting that the County does not want to encourage residents from vacating homes and "mothballing" them.

Carl Nyman, 19 Apple Rose Drive: After thinking about Mr. Clark's comments from last week's meeting, Mr. Nyman believes that what the County provides with the sewer fee is a sewer system that is there all of the time. The system needs to be at a certain capacity at all times to provide the service to everyone. He stated the real incentive is for a house to either be fixed up or torn down so a livable structure can be built to start generating income for the County.

Commission Chair Hart would like to address the formation of a committee to establish criteria on next week's Work Session.

Commission Lux-Burt asked the County Attorney if the Commission can dismiss or reject the request with prejudice.

County Attorney Krakowka advised the Commission dismissing with prejudice is a legal term used by a judge where it would not be allowed to be heard again. He noted the Commission is not a court. As the hearing is being met by due process by the Planning Department and coming before the Commission, it would be advantageous for the Commission to either eliminate the fee or deny the request.

Doug Clark clarified that his intent is not to use the term, only to deny with the intent of letting them know they can have the option of coming back in the future and re-presenting their case. He also noted he stated "without prejudice."

County Attorney Krakowka stated they could be informed of that. County Attorney Krakowka inquired if Van Cleave and Nordholm were present at the meeting, as this would also serve as a way to inform them. Doug Clark stated they were not in attendance and were not notified it was on the agenda. He stated Staff would communicate with them whatever the Commission directs them to do.

Commissioner Lux-Burt moved to deny the request by Mary Ann Van Cleave to remove sewer fees from her property at 211 W. 6th Street; seconded by Commissioner Mulvey.

Motion carried unanimously.

Request by Wilfred Nordholm to Remove Sewer Fees from his Property at 7 & 9 Cedar Street

Until fair and equitable criteria are established, Commissioner Lux-Burt feels the same way about this request as she does the Van Cleave request.

CEO Ternes Daniels agreed with Commissioner Lux-Burt and does not believe the request should be approved until criteria are set. She agreed with Carl Nyman's comments that it is about the system and paying for the system.

Commissioner Mulvey moved to deny the request by Wilfred Nordholm to remove sewer fees from his property at 7 & 9 Cedar Street; seconded by Commissioner Vermeire.

Motion carried unanimously.

Request by Robert Wallis to Remove Sewer Fees from his Property at 508 Cedar Street

This house was in disrepair and it was demolished and removed by Mr. Wallis. He plans on making the property an extension of his yard. Therefore, Commissioner Lux-Burt is in favor of approving this request.

Commissioner Vermeire noted the sewer line was deemed inoperable as concrete was poured into the line.

CEO Ternes Daniels concurred with Commissioner Lux-Burt, noting the house was demolished and the property was improved.

Commissioner Vermeire moved to approve the request by Robert Wallis to remove sewer fees from his property at 508 Cedar Street; seconded by Commissioner Mulvey.

Motion carried unanimously.

Agreement between Anaconda-Deer Lodge County and Butte Teamsters Union Local #2 (Clerical Teamsters) July 1, 2015 through June 30, 2017

CEO Ternes Daniels informed the Commission changes were made to the language regarding banked holidays, the County's health insurance contribution, 2% salary increase, a .10 increase in the County's contribution to the pension fund, as well as a six-month probationary period instead of a 90-day probationary period. All of the changes went before the union and were approved.

Commissioner Vermeire moved to approve the Agreement between Anaconda-Deer Lodge County and Butte Teamsters Union Local #2 (Clerical Teamsters) July 1, 2015 through June 30, 2017; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Award of Bid for the Anaconda-Deer Lodge County RDU3 Storm Water Plan, AFFCO Storm Water Ditch Upgrade Project

CEO Ternes Daniels recommended the County go with the low bid from H&H Contracting in the amount of \$549,901.25.

Commissioner Lux-Burt moved to award the bid for the Anaconda-Deer Lodge County RDU3 Storm Water Plan, AFFCO Storm Water Ditch Upgrade Project to H&H Contracting in the amount of \$549,901.25; seconded by Commissioner Mulvey.

Motion carried unanimously.

Request by Anaconda-Deer Lodge County Law Enforcement to move forward with a Major Development Permit (MDP) in order to Utilize County-Owned Property in the Mill Creek TIFID for a Shooting Range

Commissioner Lux-Burt is glad Law Enforcement is going through the MDP process so property owners are aware of what is taking place as Law Enforcement needs a place to practice and this seems like a good, safe place to do so.

Commission Chair Hart appreciates that a temporary set-up was considered in case another business or the TIFID is interested in developing the area in the future.

CEO Ternes Daniels would like to get the MDP process moving forward now that the project has been thoroughly discussed.

Carl Nyman, Superfund Coordinator advised the MDP allows for construction of the shooting range and suggested the motion should allow for Law Enforcement to utilize the site as a shooting range. He informed the Commission he has been in contact with Detective Steve Barclay and Wayne Wendt to put the details together. They will work with Shane Ellingson to prepare the MDP application to present it to the Planning Board at its November meeting.

Commissioner Lux-Burt moved to approve the request by Anaconda-Deer Lodge County Law Enforcement to utilize County-owned property for a shooting range; seconded by Commissioner Mulvey.

Motion carried unanimously.

Montana Tobacco Use Prevention Program Summit Grant Application Request for Tri-County Tobacco Prevention Olympics

Commissioner Lux-Burt believes this will be a good event and something the kids can get behind. The grant request is in the amount of \$4,000.

Katherine Basirico, Public Health Director, informed the Commission she worked with a group of 13-year olds who are really excited about this project. Normally, Summits consist of speakers and maybe one or two activities for the kids. The goal of this event is to make it fun and have some healthy competition between the three counties. ADLC applied for \$3,200 instead of the \$4,000. The event will be held in the style of the Olympics in June 2016 at Kennedy Common.

Commissioner Lux-Burt moved to approve the Montana Tobacco Use Prevention Program Summit Grant Application Request for Tri-County Tobacco Prevention Olympics; seconded by Commissioner Vermeire.

Motion passed unanimously.

Montana Tobacco Use Prevention Program Policy Grant Application Request for Tobacco Free Parks

CEO Ternes Daniels informed the Commission that Katherine Basirico provided a detailed Staff Report at last week's meeting. She acknowledged there was some discussion and concern regarding the grant.

Katherine Basirico, Public Health Director, informed the Commission discussions with a group of youths took place with regard to this project as well. Possible topics for this grant included tobacco free schools, tobacco free parks, eliminating smoking in the movies (not in the theatres but actually in the movie industry), counter

marketing at local events if they are sponsored by tobacco companies, or point-of-sale advocacy. The kids decided they would like to address tobacco free parks. Ms. Basirico noted that Helena just passed an ordinance connected with the Parks and Rec Department working with just one of its parks. Although it may not pass, the intent of the project is to help the kids learn the process. The kids will select a park or a trail, work with the County Attorney and come before the Commission.

Rose Nyman – Ms. Nyman realizes the Commission is only approving the grant application but noted it was due yesterday and the application process opened on September 11th. She stated she does not like smoking and does not want to be around it but it comes back to enforcement. She would love to see smoke free parks but does not think it can be reality.

As Katherine Basirico pointed out, Commission Chair Hart believes this may be better as a resolution rather than ordinance if it goes through due to enforcement issues.

Commissioner Mulvey moved to approve the Montana Tobacco Use Prevention Program Policy Grant Application Request for Tobacco Free Parks; seconded by Commissioner Lux-Burt.

Motion passed unanimously.

Agreement between Beaverhead County Health Department and Anaconda-Deer Lodge County Health Department to Extend Services of the Special Nutrition Program for Women, Infants and Children (WIC)

CEO Ternes Daniels reported the dollar figure for the agreement has decreased from last year even though the number of WIC participants has increased. The agreement has not changed from last year.

Commissioner Smith moved to approve the Agreement between Beaverhead County Health Department and Anaconda-Deer Lodge County Health Department to Extend Services of the Special Nutrition Program for Women, Infants and Children (WIC); seconded by Commissioner Mulvey.

Motion carried unanimously.

Contract between Anaconda-Deer Lodge County and Vauthier Ferguson to Maintain all Aspects of the Anaconda-Deer Lodge County Website

Commission Chair Hart believes it would benefit the County for Vauthier Ferguson to maintain the website since they created it. He believes the website is a good start and will only get better.

CEO Ternes Daniels informed the Commission that County Attorney Krakowka discussed the concerns he had with Adam Vauthier. County Attorney Krakowka confirmed the changes were discussed and made in the contract.

Commissioner Vermeire moved to approve the Contract between Anaconda-Deer Lodge County and Vauthier Ferguson to maintain all aspects of the Anaconda-Deer Lodge County website; seconded by Commissioner Mulvey.

Motion carried unanimously.

2015-2016 MACO/CRS Inmate Excess Medical Insurance Program Renewal

Commissioner Lux-Burt asked CEO Ternes Daniels to provide an update regarding the three outstanding claims discussed at last week's Work Session.

CEO Ternes Daniels informed the Commission she spoke with Harold Blattie from MACO regarding the claims. Sheryl Wood from MACO is the person in charge of the program and she is currently out of the office. The claims are in the amounts of \$16,000; \$34,000; and \$11,000. She noted the coverage is expensive but it would cost the County much more without the coverage.

Commission Chair Hart explained this is excess medical insurance to help cover medical expenses that are large. He noted counties that do not have this coverage have been put in a financial bind.

Commissioner Mulvey moved to approve the 2015-2016 MACO/CRS Inmate Excess Medical Insurance Program Renewal; seconded by Commissioner Vermeire.

Motioned carried unanimously.

Appointment of a Member to the Hearst Free Library Board of Trustees

Commissioner Mulvey moved to appoint Mary Lynn McKenna to the Hearst Free Library Board of Trustees to fill the remainder of Richard Verstraete's term through February 11, 2016; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Award of Bid for a 2015-2016 Pickup Truck for the Anaconda-Deer Lodge County Water Department

Commissioner Lux-Burt is glad to see bids coming from local vendors.

CEO Ternes Daniels recommended the low bid be awarded to Anaconda Motors in the amount of \$26,509.00.

Commissioner Smith moved to award the bid for a 2015-2016, ½ Ton 4x4 Chevy Pickup Truck for the Anaconda-Deer Lodge County Water Department to Anaconda Motors in the amount of \$26,509.00; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Award of Bid for a 2013-2014 Pickup Truck for the Anaconda-Deer Lodge County Coroner's Department

Commissioner Lux-Burt informed the Commission although the bid from Anaconda Motors was less than Dee Motors; the truck has 10,000 miles on it. However, the Coroner recommends the bid from Anaconda Motors.

Commissioner Vermeire informed the Commission the Coroner talked with him about the bids and he is recommending the one from Anaconda Motors.

Commission Chair Hart noted both vehicles are still under warranty.

Commissioner Smith pointed out the call for bids requested a minimum of a 6.0L engine. However, both of the trucks are 5.3L. Commission Chair Hart stated the Coroner has reviewed both bids and is recommending the vehicle from Anaconda Motors.

CEO Ternes Daniels recommends the vehicle from Anaconda Motors as that is the Coroner's recommendation as well.

Commissioner Smith moved to award the bid for a 2013-2014, 4-wheel drive pickup truck for the Anaconda-Deer Lodge County Coroner's Department to Anaconda Motor in the amount of \$30,989; seconded by Commissioner Mulvey.

Motion carried unanimously.

Authorization of the Call for Bids for a 2016 Police Package SUV – 4 door, 4x4

CEO Ternes Daniels reminded the Commission that Chief Tim Barkell spoke about this at last week's Work Session. This vehicle was approved in the budget. The County is working to get some other County vehicles updated, and she hopes other local dealers will get awarded bids.

Commissioner Vermeire moved to authorize the call for bids for a 2016 Police Package SUV – 4 door, 4x4; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

NEW BUSINESS

No new business was discussed.

MISCELLANEOUS

Commission Chair Hart informed the Commission work is moving forward on the sidewalk that extends on 4th Street into Benny Goodman Park, which will make it safer for people to access the park from 4th Street.

CEO Ternes Daniels announced the following two items:

- The Earthquake Shake Out Exercise will take place across the state tomorrow. Anaconda-Deer Lodge County is participating in conjunction with Community Hospital. The exercise begins at 10:30.
- TSEP came through with over \$300,000 for bridge repair. Representatives from the program will be here at the end of the week to do a site inspection and review how the County has managed the grant.

PUBLIC COMMENT

Carl Nyman, Superfund Coordinator, informed the Commission he was approached by a landowner who owns property at the top of Oak Street who has been hauling away dirt that slopes into their yard. Part of it is from their property but part of it comes down from C Hill. The Anaconda Company was the previous owner of the property and the work that took place years later with the underground pipeline and then the emissions from the smelter wiped out the vegetation. Over the years, vegetation has come back to C Hill. However, the steep slopes have been very slow to recover. Therefore, Carl Nyman and Jay Slocum have worked to put together a plan to do some steep slope reclamation. Residents are getting tired of waiting for ARCO to move forward. This is the first time in 20 years any steep slope reclamation has been done. Mr. Nyman informed the Commission

an orange snow fence will go up tomorrow to keep debris from rolling down onto the property they are trying to help.

Rose Nyman – Ms. Nyman informed the Commission that Montana has the strictest open meeting laws in the country. However, it was recently ranked 46th in the nation for access to public records. She recently attended two county board meetings wherein the meeting was adjourned but board business continued with a quorum present. She informed the Commission she remained in the rotunda of the Courthouse approximately 15 minutes after the October 6th Commission Meeting and a quorum of the Commission remained in the Courtroom. Although she is not accusing any Commissioners of discussing county business during that time, she stated perception is reality. In addition, Ms. Nyman informed the Commission she came across paperwork at the library that showed the TIFID No. 2 Board voted via email, but the State of Montana does not allow that. She informed the Commission she will be seeking legal options with regard to open meeting violations by county boards.

John Stewart, Galen Road: Mr. Stewart informed the Commission he is a Detention Center employee and a County resident who pays over \$2,000 a year in taxes. He has been employed at the Center for four years and loves his job. He stated there has been back room discussion to privatize the detention facility. He expressed concern that a new supervisor was hired a year ago, but it did not solve any issues and he has not seen a supervisor in three months. He informed the Commission cameras have been installed in “not so good places.” In addition, his hours were cut back to 16 hours per week due to a budget issue and he is no longer eligible for health insurance. He is concerned that Mr. Thatcher will take over the Detention Facility and will not hire local residents to fill the positions. He thinks the money should be kept here to make something valuable for our town.

Rose Nyman also heard about this last week and stated it was presented as fact and not rumor. She supports everything Mr. Stewart said. She was told RYO was closing and Mr. Thatcher has to find positions for 55 people. She stated she and Mr. Thatcher have a good relationship, but thinks the feeling on the street is that county employees are expendable.

ADLC PUBLIC MEETING DATES

Commission Chair Hart announced upcoming ADLC public meeting dates.

ADJOURNMENT

Commissioner Lux-Burt made a motion to adjourn the meeting. The meeting adjourned at 7:47 p.m.


Julie Hoffman
Clerk of the Commission


Kevin A. Hart
Commission Chair

BOARD OF HEALTH
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October 19, 2015

Re: Waiver of sewer/solid waste fees

To: ADLC Commissioners, CEO and County Attorney

From: ADLC Board of Health (BOH)

This letter is being written after our recent Board of Health meeting. It was brought to our attention there were three requests for waiver of sewer fees. One explanation was the structure on the property was uninhabitable. The Board requested this letter be written to urge you NOT to approve waivers for sewer and solid waste fees. If a structure is uninhabitable, it should be repaired or demolished. It is believed that granting waivers would promote blight and may contribute to public health and safety hazards in the community. Additionally, waiver of fees may set a precedent.

Thank you for your attention with this concern.

Sincerely,

A handwritten signature in cursive script that reads "B. Jane Dierenfeldt".

B. Jane Dierenfeldt, Chair

ADLC Board of Health