

Anaconda-Deer Lodge County
Commission Meeting Minutes
6:00 p.m. March 1, 2016
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 K. Pooley, Clerk of the Commission and Kathie Miller, Anaconda Leader

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 February 16, 2016 and the Commission Work Session of February 23, 2016

CEO Ternes Daniels clarified from the minutes of February 23, 2016 that the flag is in Kalispell, not Thompson Falls.

Commissioner Smith moved to approve the minutes from the Commission Meeting of February 16, 2016 and the Commission Work Session of February 23, 2016 with the change noted by the CEO; seconded by Commissioner Mulvey.

Motion carried unanimously.

APPROVAL OF CLAIMS

Commissioner Vermeire moved to approve claims 121724 through 121799 in the amount of \$117,029.50; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

REPORTS OF BOARDS, OFFICIALS, COMMITTEES

A. Kip McGuire, Field Director for Congressman Ryan Zinke

Mr. McGuire was not present during this part of the meeting to present information to the Commission.

Commissioner Vermeire attended the Airport Board Meeting.

Commissioner Lux-Burt attended two Superfund Global Settlement Meetings.

Commissioner Mulvey attended the Western Montana Mental Health Board Meeting.

CEO Ternes Daniels went with some members of the Anaconda Trails Society to Missoula and met with representatives from Adventure Cycling to discuss options for our community regarding bike trails.

County Attorney Krakowka attended a Sportsmen meeting and attended a Forest Service meeting with Commission Vermeire to discuss options regarding alternate routes into the Modesty Creek area.

PUBLIC HEARING

Ordinance No. 245, an Ordinance Establishing Requirements for Pawnbrokers, Junk Dealers and Dealers in Secondhand Goods within Anaconda-Deer Lodge County

County Attorney Krakowka informed the Commission this ordinance would require the use of software to track any items bought or sold in order to identify stolen items. One shop in town already uses the software and it has already assisted in the recovery of \$50,000 worth of stolen property and led to approximately 7 to 9 felony charges.

Commissioner Hart opened the public hearing at 6:08 p.m.

Janet Kittleson – 42 Town Pump Road: Ms. Kittleson informed the Commission she does not have any kind of software but does make police reports as required by law. County Attorney Krakowka informed her that the software is free and the County will pay for the access, and the software keeps track of inventory. He explained the items are entered into a national database so merchandise can be linked to the original offense and the persons responsible can be charged with a crime. Ms. Kittleson informed Mr. Krakowka that the article in the Leader stated the police will have access to the system, which she believes goes against her 4th amendment rights. She also does not believe the software will stop the theft and she does not want the police having access to her personal information. Mr. Krakowka reiterated that the police would not have access to any personal information. Ms. Kittleson informed him she already provides the necessary information to law enforcement and does not want to be forced to switch over to the software or be faced with a \$500 fine or jail time for not doing so.

Mike Grayson, Attorney – 112 E. Commercial: Mr. Grayson expressed several concerns regarding the ordinance and stated he philosophically disagreed that the ordinance will regulate all businesses that deal in secondhand goods. He is concerned the ordinance will deter businesses from coming to Anaconda. Mr. Grayson believes the definition of secondhand goods dealer is too broad and potentially encompasses used card dealers, art galleries that sell on consignment, thrift shops, garage sales, antique stores, estate sales, auction companies and EBay businesses. In particular, he spoke on behalf of his clients, Anaconda Coin and Jewelry. Since they buy gold and silver, the 10-day holding period is of particular concern as the price of gold and silver can fluctuate greatly within that timeframe. His clients have been in business in 20 years, keep appropriate records, have video surveillance, cooperate with law enforcement, do not accept stolen items, and are aware of people who are known drug users away. Mr. Grayson noted that Butte, Helena and Bozeman have similar ordinances and the 10-day holding period only applies to pawnbrokers as typically, they have room to hold items for that length of time. Mr. Grayson also expressed concern over privacy issues, noting security concerns with the database being national and accessible by police departments all over the country. He noted that data breaches are an all too common occurrence these days and cited examples of Target and the IRS not being immune to getting hacked.

Mr. Grayson would like to see the language “visibly intoxicated” in the ordinance since pawnshops and secondhand dealers do not have equipment to test people to determine whether they are actually intoxicated. Lastly, he believes the penalty is a bit stiff as each day the business owner could incur a separate violation.

Hank Senn, 307 E. Park: Mr. Senn informed the Commission his situation is different from most pawn shops and secondhand dealers because he deals exclusively in coins and jewelry. He is most concerned about his elderly customers who do not trust banks. If they knew their names and addresses were going to be in a national database, he would lose their business. He asked the Commission for an exemption from the database if they were to approve the ordinance.

Rosemary Miller, 514 W. 4th Street: Ms. Miller believes privacy has gone by the wayside. She believes the pawn shops in Anaconda are great. She has had personal items stolen from her several times in the past, and she is in favor of having a system in place where the police can help people find the things that are important to them. She thinks everyone should sit down together and work on the ordinance if there are problems with it.

Annie Senn, 307 E. Park: Ms. Senn started an EBay business in 1998 and she still has it and noted that others in the community have them as well. She stated it would be tough on thrift stores if they fell under this ordinance because they help so many people in the community. She believes this is a wide-spectrum ordinance that needs to be tailored to Anaconda to meet its needs.

Ryan Eamon – ADLC Detective: Mr. Eamon informed the Commission and public that the ordinance and software was recommended by the Billings Police Department and that it provides mutual ground for the police and the pawn shop to work together to prevent these types of crime. He informed the public the police cannot “troll” through the system. They only have access to the specific item that has been stolen. In terms of hacking, Detective Eamon believes every business and agency is vulnerable and noted that if the IRS can get hacked, anybody can. He acknowledged that the Anaconda Gold and Silver does a great job and cooperates with law enforcement. He understands the 10-day hold issue but noted he is looking for specific items that have been reported stolen and not every item is subject to the 10-day hold. He considers the software valuable not only for law enforcement but also for the community. It saves time for law enforcement as it does not require an officer to collect slips and a full-time dispatcher to enter the manual slips.

Mike Grayson cautioned that although A-DLC is self-governing, it may be instructive to look at MCA regarding municipalities and what rules and laws they can impose on businesses.

Wes Wyant, 19 Thorton Court: Mr. Wyant believes junk dealers should be eliminated from the ordinance. He also believes, as Detective Eamon stated, that the pawnshops already keep good records. He also does not believe the county is under any obligation to be a part of a national database and believes it will discourage businesses from coming to Anaconda. He does not feel the ordinance will deter crime and that the County is just adding more rules that it does not need.

Rose Nyman: Ms. Nyman informed the Commission this is one of the best public hearing in years and she thanked everyone for participating. She stated there is no way to control an estate sale. She was at BSW on Saturday morning and there was a gentleman in the store who was hot about the ordinance and thought it a violation of his constitutional rights. Ms. Nyman encouraged Mr. Krakowka to take the comments from tonight’s hearing and revise the ordinance.

Russ Goddard, 104 N. Main: Mr. Goddard informed the Commission that nobody steals junk from around the country and sells it here. He believes a price limit should be placed in the ordinance.

County Attorney Krakowka noted that many people come to Anaconda to deal in junk. In fact, \$44,000 worth of radiators and car parts were stolen and then crushed and sold in Butte. He also cited the value of copper wire.

Ben Harrison, Mountain Man Pawn, 200 E. Commercial: Mr. Harrison was glad to see everyone’s perspective regarding the ordinance. He stated the Leads Online software makes his job easier. However, he asked everyone to think about the victims with regard to the 10-day holding period.

Detective Eamon also noted that Leads Online also covers scraps and pharmacy products so it tracks Sudafed as well.

After three more calls for public comment and no public comment, Commission Chair Hart closed the public hearing at 7:16 p.m.

UNFINISHED BUSINESS

Kipp McGuire, Field Representative for Congressman Ryan Zinke

Mr. McGuire introduced himself to the Commission. He is the Western Montana Field Director for Congressman Zinke. He would like to establish traveling office hours for ADLC residents and asked the Commission if they had any suggestions regarding venues in Anaconda where this could take place. CEO Ternes Daniels thought this was a great idea and suggested using the conference room at the Community Service Center. Mr. McGuire went on to discuss his background. He attended Drummond High School, served five (5) years in the Marines, and graduated from the University of Montana.

Anaconda-Deer Lodge County Americans with Disabilities Act (ADA) Transition Plan

CEO Ternes Daniels informed the Commission this needed to be done some time ago and is necessary to access CDBG funding.

Commissioner Mulvey moved to approve the Anaconda-Deer Lodge County Americans with Disabilities Act (ADA) Transition Plan; seconded by Commissioner Smith.

Motion carried unanimously.

Bill of Sale Among Northwestern Energy, Atlantic Richfield Corporation, ARCO Environmental Remediation, LLC and Anaconda-Deer Lodge County for the Opportunity Triangle Development Compressor Site Lift Station and Force Main

CEO Ternes Daniels noted Dan Manson did a thorough job reviewing this, but informed the Commission a few loose ends still need to be resolved.

Carl Nyman, Superfund Coordinator respectfully requested the Commission approve the Bill of Sale but asked that CEO Ternes Daniels hold off on signing it until Ed Janney (DOWL) completes the fee structure for the lift stations. Mr. Nyman anticipates having this information ready for the March 8th or March 22nd Work Session.

Commissioner Vermeire moved to approve the Bill of Sale Among Northwestern Energy, Atlantic Richfield Corporation, ARCO Environmental Remediation, LLC and Anaconda-Deer Lodge County for the Opportunity Triangle Development Compressor Site Lift Station and Force Main; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

CDBG Economic Development TIG Welding Lab Project – Award of Bid for Electrical Services for the TIG Welding Lab Project

Commissioner Lux-Burt is glad to see local businesses bidding on this project.

CEO Ternes Daniels informed the Commission that Jim Davison reviewed each bid. CDBG and Job Corps have reviewed the bids as well, and she would respectfully requested that the Commission move forward with his recommendations.

Commissioner Vermeire moved to award the bid for Electrical Services for the TIG Welding Lab Project to Ray Peterson Electric in the amount of \$7, 500; seconded by Commissioner Mulvey.

Motion carried unanimously.

CDBG Economic Development TIG Welding Lab Project – Award of Bid for Welding Tools and Supplies for the TIG Welding Lab Project

Commissioner Mulvey moved to award the bid for Welding Tools and Supplies for the TIG Welding Lab Project to General Distributing in the amount of \$77,706.94; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

CDBG Economic Development TIG Welding Lab Project – Award of Bid for the Construction Trailer for the TIG Welding Lab Project

Commissioner Lux-Burt moved to award the bid for the Construction Trailer for the TIG Welding Lab Project to Standard Pacific, LLC in the amount of \$98,998; seconded by Commissioner Mulvey.

Motion carried unanimously.

CDBG Economic Development TIG Welding Lab Project – Award of Bid for a Ventilation System for the TIG Welding Lab Project

Commissioner Mulvey moved to award the bid for a Ventilation System for the TIG Welding Lab Project to General Distributing in the amount of \$12,000; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Award of Bid for Bathroom Renovations at Washoe Park, Legion Field and Benny Goodman Park to Harris Construction

Commissioner Hart is glad to see this project moving forward.

CEO Ternes Daniels reminded the Commission this project went out for bid twice and no bids were received. As a result, she worked with Jeremy Fadness from WWC Engineering to negotiate a bid with local contractors. Harris Construction submitted a bid in the amount of \$169,900, which was a little higher than the engineer's and architect's estimate. However, the bid was reviewed with Mr. Harris and Jeremy Fadness believes it is reasonable and recommends the Commission move forward and award the bid.

Commissioner Smith moved to award the bid for Bathroom Renovations at Washoe Park, Legion Field and Benny Goodman Park to Harris Construction in the amount of \$169,900; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Agreement between Anaconda-Deer Lodge County and Steiner Thuesen, LLC to Rebid the New Hill Cemetery Irrigation Project

CEO Ternes Daniels informed the Commission the proposal is in the amount of \$3698.64 and requested that this amount be part of the motion.

Commissioner Lux-Burt moved to approve the Agreement between Anaconda-Deer Lodge County and Steiner Thuesen, LLC in the amount of \$ 3698.64 to Rebid the New Hill Cemetery Irrigation Project; seconded by Commissioner Mulvey.

Motion carried unanimously.

Authorization to Advertise the Request for Bids for the Anaconda-Deer Lodge County Fuel System

Commissioner Lux-Burt asked if the price per gallon will change, and CEO Ternes Daniels informed her it will as it is tied to the market.

Commissioner Mulvey moved to authorize to advertise the Request for Bids for the Anaconda-Deer Lodge County Fuel System; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Resolution No. 16-11, a Resolution to Place on the Primary Ballot a Question for Determination by the Qualified Electors of Anaconda-Deer Lodge County for the Levying of Four (4) Mills Providing for the Operation of the Anaconda-Deer Lodge County Head Start

Commissioner Vermeire moved to approve Resolution No. 16-11; seconded by Commissioner Mulvey.

Motion carried unanimously.

Approval of the Anaconda-Deer Lodge County Head Start Enrollment Improvement Plan for the period February 1, 2016 through January 31, 2017

Commissioner Lux-Burt moved to approve the Anaconda-Deer Lodge County Head Start Enrollment Improvement Plan for the period February 1, 2016 through January 31, 2017; Commissioner Mulvey.

Motion carried unanimously.

Agreement between Anaconda-Deer Lodge County and the Anaconda Police Protective Association

CEO Ternes Daniels informed the Commissioner some minor grammatical errors were found and changed in the contract. She thanked all of the bargaining units and noted the process went pretty well this year. She stated it is difficult at times as she feels she is in an adversarial role during this process.

Commissioner Hart thanked CEO Ternes Daniels and all of the bargaining units, noting that negotiations tend to bring out both the best and worst in people.

Commissioner Mulvey moved to approve the Agreement between Anaconda-Deer Lodge County and the Anaconda Police Protective Association; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Proclamation for Irish American Heritage Month

Commissioner Hart read the Proclamation.

CEO Ternes Daniels informed the Commission she presents the proclamation each year to the AOH but will be in Helena this year. However, she will make sure it gets to them and gets read.

Commissioner Lux-Burt moved to proclaim March as Irish American Heritage Month; seconded by Commissioner Mulvey.

Motion carried unanimously.

Resignation of Carol Ann Durham from the Airport Board, Solid Waste Board and as the Commission Ex-Officio Representative to the Health Board and Authorization to Advertise to Fill the Vacancies

CEO Ternes Daniels informed the Commission the County will send her a letter of thanks for her years of service on these boards.

Commissioner Smith moved to approve the resignation of Carol Ann Durham from the Airport Board, Solid Waste Board and as the Commission Ex-Officio Representative to the Health Board and give Authorization to Advertise to Fill the Vacancies; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Appointment/Reappointment of a Member to the Tri-County Fair Board

Commissioner Mulvey moved to reappointment Amanda Amberg to the Tri-County Fair Board for a two-year term; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Appointment/Reappointment of a Member from Commission District 5 to the Anaconda-Deer Lodge County Weed Board

Commissioner Lux-Burt will abstain from voting as Mike Burt is her husband.

Commissioner Mulvey moved to reappoint Mike Burt from Commission District 5 to the Anaconda-Deer Lodge County Weed Board for a three-year term; seconded by Commissioner Vermeire.

Motion carried unanimously 4-0 with Commissioner Lux-Burt abstaining.

Appointments to the Anaconda-Urban Renewal Agency Board

CEO Ternes Daniels advised the Commission no one expressed interest in the Business Owner position on the board, so it will be advertised again. She suggested board members draw lots at the first meeting to determine the length of their initial terms.

County Attorney Krakowka suggested the Commission should decide the length of terms. However, CEO Ternes Daniels pointed out that the Resolution does not specify that the Commission determine this.

Commissioner Smith moved to approve Adam Vauthier as the Economic Development Representative, Kristy McKay as the Banking Representative, and Jamie Roessler as the Citizen-at-Large to the Anaconda Urban Renewal Agency Board with initial terms to be drawn by lots; seconded by Commissioner Lux-Burt.

Motion carried unanimously.

Submission of the Montana Personal Responsibility Education Program (PREP) Grant Application

CEO Ternes Daniels informed the Commission the grant is due Monday and no match is required.

Rose Nyman informed the Commission she has no objection to the grant. However, she is concerned about the school coming on board. She tried to do alcohol education when she was a Commissioner and stated the former administrator at the high school was only willing to do a P.E. class. However, the new administrator seems willing to be more involved, and she hopes he will be more open to discussion.

Commissioner Hart agreed with Ms. Nyman but noted that the curriculum is extremely important and hopes the school will be open to the discussion.

Commissioner Mulvey moved to approve the submission of the Montana Personal Responsibility Education Program (PREP) Grant Application; seconded by Commissioner Vermeire.

Motion carried unanimously.

NEW BUSINESS

Montana Department of Commerce Contract Amendment #MT-15-MMS-60-001A (Downtown Master Plan)

CEO Ternes Daniels informed the Commission this is an amendment to extend the deadline to submit the Downtown Master Plan to multiple funders.

Commissioner Smith moved to approve the Montana Department of Commerce Contract Amendment #MT-15-MMS-60-001A (Downtown Master Plan); seconded by Commissioner Vermeire.

Motion carried unanimously.

MISCELLANEOUS

No miscellaneous.

PUBLIC COMMENT

Carl Nyman, Superfund Coordinator informed the Commission that the new environmental attorney for Cocca sent him another round of questions on Sunday. The extension agreement expires March 19th and he would not be surprised if they ask for a fourth extension. Mr. Nyman noted this attorney is working very hard to ensure Shopko makes a good decision and is looking at the site very closely. He believes he will have something to bring before the Commission at next week's Work Session.

Mr. Nyman informed the Commission the County has a franchise agreement with NorthWestern Energy whereby the County can make a request regarding moving infrastructure. He should have something to bring forward to the Commission at the Work Session with regard to the gas line in the East Yards next week.

ADLC PUBLIC MEETING DATES

Commission Chair Hart read the ADLC Public Meeting Dates.

ADJOURNMENT

Commissioner Lux-Burt made a motion to adjourn the meeting. The meeting adjourned at 7:48 p.m.


Julie K. Pooley
Clerk of the Commission


Kevin A. Hart
Commission Chair