Anaconda-Deer Lodge County
Commission Work Session Minutes
6:00 p.m. Tuesday, September 27, 2016
Courthouse Courtroom

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

Others Present: Julie K. Pooley, Clerk of Commission

Members of the Press: Kathie Miller, Anaconda Leader

Members of the Public: per sign-in sheet

Commission Chair Hart called the meeting to order at 6:01 p.m. and explained the Commission Rules of Procedure.

Professional Services Agreement between Anaconda-Deer Lodge County and Water and Environmental Technologies (WET) for Superfund Technical Services

CEO Ternes Daniels acknowledged Mike Grayson in the audience, stating it was nice to see him tonight. She went on to state that she made a mistake. The County went out for a Request for Qualifications (RFQ), and WET was the only company that submitted a RFQ – this was back in June 2013. CEO Ternes Daniels informed the Commission she had Julie Pooley go back and listen to the tape. CEO Ternes Daniels read Commissioner Vermeire's motion – "Madam Chair I'd like to move that we approve the Statement of Qualifications for WET for the Superfund Technical Services and enter into a Professional Services Agreement." CEO Ternes Daniels indicated that the Professional Services Agreement was not before the Commission at this particular meeting that night, but it was supposed to come back before them. This was a couple a couple of years ago, and she did not realize this had happened. She informed the Commission this agreement was approved in February 2014. It went under various scrutiny and legal review, and she signed the agreement thinking she was either authorized to do it or the Commission had approved it. However, she stated it was a mistake, she made a mistake, and she would like to correct it.

County Attorney Krakowka explained that at this point the contract was not authorized to be signed. In the meantime, WET has been doing a substantial amount of work for the County, it is equitable and there is no way to turn back the clock. He stated the pay has been equitable for the work they have done, and there could certainly be an argument that WET has been acting in good faith with a contract WET believed was in force. County Attorney Krakowka stated that unfortunately, keeping track of everything is not always possible, an accident occurred, and this is the best way to potentially correct it.

CEO Ternes Daniels explained to the Commission that an earlier agreement was entered into in 2012. After Kuipers stepped down as the Superfund Technical Advisor, there were discussions with EPA and WET was a subcontractor for Kuipers and had been doing a lot of environmental work in Anaconda for

a number of years. An agreement was in place, and the County had one year to get an RFQ and to go out for bid. WET was the only responder at the time, and they have done outstanding work for the community. It was a mistake, and she thinks it can be corrected. She believes the Commission had every intention of entering into an agreement with WET that very night.

Mike Grayson, Grayson Law Firm, 112 E. Commercial – With regard to the contract that the Commission will place on the agenda for approval, Mr. Grayson asked when the contract will start and expire. CEO Ternes Daniels informed him it is dated February 17, 2014, and it is a five-year contract. Mr. Grayson noted that the RFQ was reviewed and approved in June 2013, and he asked why the contract would not start at that time and go from there. He advocated consideration, agreeing with CEO Ternes Daniels that there was no reason that the contract did not go before the Commission purposefully. He sent an email to the County requesting information that he believes called this to the County's attention. Mr. Grayson would advocate for consideration to allow this contract to go through the end of the fiscal year and allow whoever the people choose to elect this fall to look at it and perhaps go out and do a new RFQ next April or May. In no way is he saying anything bad about WET as he has never heard anything bad about the work they have done. However, he believes the process in 2012 was wrong. Kuipers resigned which created a supposed emergency. It took six weeks to get a contract before the Commission, the Commission approved it unanimously, and Connie signed it the next day. This was the interim contract in 2012. The EPA told the County there should be an RFQ/bid process and to go back and do that starting in May 2013. Mr. Grayson believes the RFQ should have been done right away. He feels it is a mistake to hire somebody – according to the minutes Mr. Kuipers recommended WET. However, Mr. Grayson explained that Title 18 (MCA) requires a bid process for any engineering contract that will be in excess of $20,000, and he pointed out that this contract is well in excess of that. The 2013 RFQ was approved on May 7th by the Commission, advertised in the Leader on May 8th and May 15th of 2013 with a response date of May 24th. This was a total of 16 days, and Mr. Grayson pointed out that for some engineering outfit to find out – it was only in the Leader, not in the Standard or anywhere else and was not sent to any of our other contracted engineering firms. Mr. Grayson acknowledged that WET put together an excellent proposal that was well-done and meritorious of selection. However, in his opinion there was not enough time for anyone who had only been on the job for a year to come in and compete with WET and there should have been. Mr. Grayson stated that WET has nothing to fear from competition – they will do fine and they will very likely be who the Commission and CEO choose, but he does not think the process was followed. He would like to see the term of the contract go through this fiscal year, get all of WETs bills paid, but give whoever is elected, whether Connie is re-elected or if Mr. Everett is elected, six months to look at this and work with WET, noting there is an option in there for renewal, but give it a chance to go through the process.

Rose Nyman expressed disappointment. She stated that CEO Ternes Daniels likes to tell us that she has served two terms as a Commissioner and knows the laws and regulations and understands government and Mrs. Nyman concurs with some of that. However, she pointed out that this is not a tiny mistake. She feels that the Commissioners paid claims when they knew they did not approve the contract. She stated she was especially disappointed with Chairman Hart and Commissioner Vermeire because she considers them to be the two on the Commission with the highest IQs. She believes they are logical thinkers and objective and does not understand why this is happening. Mrs. Nyman referenced the Administrative Code, which is an ordinance, pointing out that an ordinance is a law. Section 18 states

"Contracts shall be entered into by resolution of the Commission, and shall then be executed by the Chief Executive." Mrs. Nyman stated oversight and mistakes cannot happen at this magnitude. She noted that this was not a $10,000 invoice, but about $2 million. She thinks the lesson for the principals of Water and Environmental Technologies is if it is working for a governmental agency it has to be aware of open meeting laws and familiar with the documents that govern it. Mrs. Nyman believes the Charter is very clear. She read the following passage from the Charter with regard the to the office of the Chief Executive, "The office of Chief Executive shall become vacant upon the Chief Executive's violation of any express prohibition of this Charter." Mrs. Nyman believes this means to "forbid by law." The Charter states that the Chief Executive may execute bonds, notes, contracts, and written obligations of the local government, subject to Commission approval, and Mrs. Nyman believes the Commission is aware of this and she is preaching to the choir. Mrs. Nyman requested the CEO resign from Anaconda-Deer Lodge County because of the violation of Section 3, subtitle G, Article IV and Section 1, subtitle B. She requested the same thing of the Commissioners, noting it is not a logical request because it would throw our government into chaos. She also informed the Commission that recall petitions have been organized and ready to be registered with the Clerk and Recorder. 774 signatures are needed. Once the signatures are validated, Commissioners have five days to resign. If they do not resign, Mrs. Nyman explained it goes to a recall election. She acknowledged that she has made mistakes but she believes this is a big one. Mrs. Nyman read Item 5 of the WET contract which states "at all times during the term of this Agreement Water & Environmental Technologies shall be an independent contractor. Neither Water & Environmental Technologies nor anyone employed by it shall be, represent, act, purport to act or be deemed to be the agent, representative, employee or servant of the Client," this is concerning to her because she understands an employee of WET has been signing off on development permit applications. She does not believe this is allowed and it is not a legal contract. Mrs. Nyman concluded her remarks by stating she thinks it is outrageous.

Carl Nyman asked the Commission if he could refresh the memories of those who were not here when Jim Kuipers elected to leave. At the time, the County was in the middle of negotiations with ARCO and both parties were pushing quite hard to get done; so losing Jim Kuipers was absolutely an emergency situation. The situation was discussed with the EPA and they viewed it the same way – Mr. Nyman did not put those words to it, they did. The EPA asked the County to follow a process and the County followed it. The EPA understood what was at stake and, like the County, wanted to see a favorable outcome. Mr. Nyman stated that this is not easy work to do, and it is very technical in terms of the program, equipment that is used and the qualifications of the staff and the rapport that has been established with the community. He feels that Jim Kuipers was a generous man who fought tooth and nail for the community. He made all of the purchases for the equipment the County has, and he hired all of the staff. Mr. Nyman stated that Jim was good enough to maintain continuity and ensure the County was adequately represented in Institutional Controls participation and Community Development participation and planning discussions. Mr. Nyman noted that people's jobs were on the line, as well as the programs and the negotiations. The EPA saw it for what it was and called it an emergency and asked the County to submit a Sole Source justification, which the County did and the EPA approved. When the County moved forward under EPA's timeline, the negotiations were going on longer than what had been envisioned, and it was important to create continuity. Mr. Nyman indicated that the contract not only provides for the program, but also for technical and legal services for the County's participation in Superfund. He added that Jim Kuipers, Becky Guay and the Commission fought very hard for it. He believes these are important details so that the past does not

repeat itself in terms of the County's participation in all of this. He explained that a five-year contract was the minimum, and he actually pushed for a ten-year contract to continue the success of the program. Mr. Nyman stated that unless they have experience, this is not something anyone can step into and be off and running – it is just the nature of the program and the unique ICs that are on this site. Additionally, he stated that this is not a political agreement tied to Commissioners and CEOs coming and going; it is about protecting the human health and environment of this community and making sure we are adequately prepared and represented for our participation. The County did not have that in 1994 and that is what this about. He argued strongly against terminating this agreement during the current fiscal year, noting if new people do come on board they will have other things to get up to speed on without jeopardizing what is provided in this agreement. Mr. Nyman informed the Commission the agreement will be coming up for renewal in two years, and he does not have a problem with what Mr. Grayson suggested of the contract being retroactive to when the Commissioners approved the execution of it. He stated there was a lot of back and forth between the County and WET to get the agreement to where it needed to be. Mr. Nyman stated that the Superfund Cooperative Agreement was in place until that happened. He informed the Commission that the County met all of the qualifications for advertising the RFP, and if the guidelines are not adequate then perhaps they should be changed at the state level. Mr. Nyman does not disagree that more time would have allowed others to respond but they did not and the fact is the County was in an emergency situation and more than anything the County met the requirements of the law. He appreciates Mr. Grayson's ability to keep this in context – it is not a witch hunt, and he did not make this request hoping to turn something over and is in favor of a reasonable resolution. However, he feels to suggest that something like this demands someone's resignation is out of line. Mr. Nyman believes the motion that was made at the meeting authorized the CEO to sign the agreement. However, he acknowledged that listening to the exchanges on the tape, it was something different than that, but the officials are owning up to the mistake, bringing it forward, and it should not change what was trying to be achieved. The County got what it needed, and it is at a critical juncture and it needs to continue.

Linda Sather commented that Mr. Nyman mentioned the emergency situation twice, and she would like to know what the emergency was. Mr. Nyman informed her that Jim Kuipers stepped aside during the middle of the contract, and the program had been implemented. He explained that Mr. Kuipers went out on a limb with the agencies, Atlantic Richfield and the County in implementing the program because no one thought the County was ready. It was one of the most insightful things he did for the community because it has made a world of difference in terms of Superfund. Mr. Kuipers subcontracted with WET. The County was poised to lose its technical and possibly its legal representation when Jim Kuipers left. Mr. Nyman explained that these things needed to continue under a contract. The EPA reviewed the situation and the request – this was the emergency.

Blake Hempstead, 803 W. Park – Mr. Hempstead respects Carl Nyman's statements. However, Mr. Hempstead is running for Commissioner and believes the crux of what was brought up is the responsibility of the Commission and the CEO to correctly govern the people, especially given the amount of money involved. He questioned if there is going to be someone legally responsible for this. He acknowledged and understands that people make mistakes but stated mistakes like this cannot happen and there has to be some sort of responsibility. Mr. Hempstead admitted that he has made a ton of mistakes that he would like to go back and change. However, when it comes to this and this amount of money and when it has been this long – people wonder what else has happened. Although

Mr. Hempstead does not believe anything else has happened, he does think the public's trust has gone away a little bit.

Mike Grayson – 112 E. Commercial – Mr. Grayson understands and appreciates what Carl Nyman said about the EPA Sole Source agreement, noting it takes care of the federal aspect. However, he pointed out the County has to follow the State bid laws which require a bid for any engineering contract over $20,000. This was not followed in 2012. The discussion of an emergency took place at the July 10, 2012 Work Session. When Carl told the Commission that Mr. Kuipers was terminating and informed the Commission he would have a contract before them at the next Commission Meeting – it was six weeks later that the contract was actually approved. Mr. Grayson believes it was plenty of time to put the RFQ out, acknowledging that the law is vague. He agrees with Mr. Nyman that it is not specific but it is common sense to do so. It should have been done and he does not buy the emergency stuff. He thinks the other problem with the current contract relates to the scope of work which was signed in the middle of 2013. Legal services are not listed in the scope of work or in the RFQ. As a subcontractor of WET, Mr. Manson has billed. He believes there should be a contract for his services. He agrees with Mr. Nyman that the contract should clearly state that it is retroactive to legally cover the county back through all of the claims that have been paid to WET over the past three years.

Rose Nyman asked Chairman Hart for permission to address the County Attorney. With permission granted, Mrs. Nyman noted that the Charter is clear - that if the Commission and CEO are performing their official duties they are covered by the County's liability insurance. Mrs. Nyman asked the County Attorney if the coverage extends if their behavior violates the Charter. County Attorney Krakowka informed her that ultimately this is a question for the insurer. He noted that errors happen routinely in county governments, which is why local governments have insurance. County Attorney Krakowka believes an intentional criminal act would need to take place before insurance would not cover the County, and at this point, he does not see anything that was done with intent. He sees an error, but one that is being corrected. Mrs. Nyman informed the Commission she tried to find this contract. She went back to January 1, 2013, went through the archives at the library and also went through all of the agendas trying to see if the contract was listed. She tries to be very careful not to involve County staff with some of her questions and to do as much as she can on her own.

Carl Nyman added that in the many letters to the editor that have been written recently and the comments that people have been making whether they are about WET, the contract or Dan Manson – Mr. Nyman stated that all of the people the County contracts with are carefully selected because of their reputations and the services they provide. He stated there is an implication that they are getting money for nothing and the County is doling out cash "willy nilly." Mr. Nyman told the Commission that nothing could be further from the truth. The County sets forth deliverables and expects a high standard of performance. Each of these contractors sets examples, in many ways, for the County to follow. Mr. Nyman looks to them and he appreciates their standards and what they put forth. The contractors get paid money for what they do and emphasized that point. He reiterated that they work very hard and go above and beyond, and he believes the County could not be better represented in any of the County's contracts. He believes this is especially true with the WET contract. Dan Manson is an environmental engineer and has a law degree. He has experience with financials, land transfers and agreements. The same goes for WET in terms of program and technical assistance with negotiations. He stated this was the biggest goal with the Superfund Cooperative Agreement – that the County be

able to participate and be adequately staffed so that the County's resources (County Attorney, Chief Executive, Commissioners, and other staff) were not being drained. Mr. Nyman stated the County needs people with WET's background to represent it because they have experience, know the facts and can represent us in order to make a better decision, unlike what happened in 1994. He emphasized the great value in every one of those contracts and the services the contractors provide in this community.

Commissioner Lux-Burt did not catch the error and admitted that none of the Commissioners and even the watchdogs in the audience caught the error. She remembers reading the RFQ and still has a copy of it. It was the only one received, and she was quite happy they received it because she believes WET is well qualified. She has said before that science is not her strong point, not because she is ignorant or has a low IQ, but rather it was something she chose not to study. Commissioner Lux-Burt was thankful to have WET, Carl Nyman and Jim Kuipers because they are the experts. Last week she said she was probably the least qualified on the committee, but she does not know if that is true. With regard to contracts, business law, finance, and negotiating, Commissioner Lux-Burt believes she is well-versed. However, in the areas of engineering and science she relies on the experts. She is sorry she missed the error and admitted she is not perfect. She stated she is not a professional commissioner; she works for next to nothing, puts in tons of hours, goes over all of the claims, and has approved all of the claims. She has no regrets about that. Had the contract been put before her she would have approved it. Whatever the Commission wants to do in terms of the contract, they will decide that. She stated she is very thankful that the professionals like WET are taking care of and watching over the safety of the community. Commissioner Lux-Burt emphasized that we live on a Superfund site, it is waste in place and it is not the safest place in the world, and we need professionals to see us through this. To her, it is more important than procedural things. It is absolutely serious that the contract was not approved, but it is not as important as the health of her grandchildren who do live near the smelter. Commissioner Lux-Burt is thankful for people like the Ericksons, Carl Nyman, who loves this community and is looking out for the community, and Connie Daniels who she believes loves this community more than she does and cares about the health and welfare of it. She stated that all of the Commissioners work hard and do the best they can for the Community, and if they made a mistake she is very sorry. Commissioner Lux-Burt had a boss who used to tell her "if she was perfect he couldn't afford her." Commissioner Lux-Burt knows she cannot walk on water, and if she tried she would get really wet. As far as being underhanded, Commissioner Lux-Burt stated it was just an error and a mistake. She cannot guarantee she will not make any in the future, but she will try not to.

Commissioner Mulvey stated that Commissioner Lux-Burt said it all and said it better than she could have with her low IQ. She reiterated about an article that was in the paper not too long ago and all the mudslinging, back stabbing and all of the bad politics. Commissioner Mulvey stated she never participated in any of that but yet she was told that she stole money for her telephone. She paid it back but those rumors are still circulating. She told Rose Nyman that she is the reason those rumors are still circulating. From the audience, Mrs. Nyman said she knows nothing about this and asked Chairman Hart to stop these comments. Commissioner Mulvey stated Mrs. Nyman had it in the paper. Chairman Hart asked Commissioner Mulvey to stop the comments. Commissioner Mulvey stated she was sorry and the comments ended.

When Commissioner Vermeire found out that the agreement had not been brought back to the Commission, he was very embarrassed. He stated it was one of those things that fell through the cracks and from now on he is going to be very vigilant about following up on things. It seems to him that every week more and more is put on the plate, some things get put on the back burner and then things fall through the cracks. Unfortunately, this agreement was one of them. Commissioner Vermeire stated that when Jim Kuipers left it created an emergency. Jim Kuipers was the one that got the IC program started. At the time, the EPA, DEQ and Atlantic Richfield thought it was a bad idea. This is what the new IC Agreement has morphed into and without WET's help it would have been tough especially with all of the different properties and remedies. He stated it is mind boggling to look at the map and noted that every yard in Anaconda has a different remedy. However, as far as the agreement goes, the Commission dropped the ball and this is the attempt to make it right.

Item placed on the agenda.

Construction Contract between Anaconda-Deer Lodge County and Mild Fence to Construct Improvements at the Bowman Field Airport Consisting of a New Wildlife Fence AIP 3-30-0002-017-2016

Tyler Reed from Morrison and Maierle informed the Commission this contract is between Anaconda-Deer Lodge County and Mild Fence out of Kalispell for the upcoming wildlife fence project at the airport. Once the contract is signed it will get the ball rolling and the project started. Mr. Reed spoke with the contractor and they expect to start the project mid-to-late October. Mr. Reed is not sure how much they will accomplish; however, there is an area that can be worked on during the winter and the rest will be completed in the spring.

Julie Pooley, Clerk of Commission, informed the Commission and CEO that Michelle Sievers is doing a legal review of the contract.

Commissioner Vermeire remarked this project has been a longtime coming.

Item placed on the agenda.

Task Order Twenty to Professional Services Term Agreement No. 04-HKM-0420 between Anaconda-Deer Lodge County and DOWL for Groundwater Discharge Permit Application

Ed Janney from DOWL indicated this Task Order is to prepare the application for the wastewater discharge permit for the original permitted site that was built in 1995. At that time surface waste in place was discovered and that aspect of the plant was abandoned and the location at Lost Creek was established to discharge the water. The original site permit application was reviewed during the Preliminary Engineering Report (PER) planning process that occurred in 2011 and 2012. The County steered away from the location at the time because of the proximity of Superfund and conversations that were held with EPA Manager, Charlie Coleman. Carl Nyman became aware of what was happening and used his contacts with engineers and scientists to help overcome concerns associated with the site. Mr. Janney went to Helena a few months ago and met with the DEQ, and they are very supportive of Anaconda looking at the site. Because of the vast amount of Superfund information

available, it should make the groundwater discharge application simple. Mr. Janney explained the application process takes approximately 270 to 300 days for a complete review and includes information gathering and public meetings. He also explained that the permit will remain in place even if the County decides not to utilize the site.

CEO Ternes Daniels informed the Commission Mr. Janney was charged with looking at other alternatives. The County can actually do things on the land now that is was unable to do in the past and it will benefit the community. Instead of developing systems that in the past had to be maneuvered around waste, that land can be utilized as is. Years of studies have provided the County with this valuable information, and the CEO encouraged the Commission to look at these alternatives.

Carl Nyman added that it is important to look ahead noting this is at the core of what local government does for its citizens – providing the best services possible. He explained the current wastewater treatment plant is old and the ways of looking at land down there have changed, and the County wants to make improvements without increasing rates. He explained that many people have been involved in trying to get water for the Anaconda Country Club. Through that exercise, the County has learned how precious water is and that there are no water rights out there. If the County can get the water rights, they are very expensive. Moving forward with this permit and developing this site would provide water resources for future development/redevelopment. He pointed out that many other communities use waste water and noted there could be a real need for this sometime down the road. If the County can do this inexpensively, it could be very important in the future. Mr. Nyman believes if the project advances it will be pretty exciting for the community.

Commissioner Lux-Burt stated this is an excellent project and is glad the County has engineers who are experts in wastewater treatment to help it through this process. She is very much behind it.

Commissioner Vermeire believes this is a very good project and a real benefit to the County.

Item placed on the agenda.

Task Order No. 3 for 2017 Anaconda Water System Improvements for Ogden Street Water Mains, West Side Valves & Hydrants and Warms Springs Evaluation

Sarah Jones with Copper Environmental informed the Commission this is the third task order for the waterlines project. It includes replacement of water mains on Ogden Street, replacement of 29 valves and 22 hydrants west of Larch Street and south of Park Street and an engineering evaluation of the Warm Springs pipeline. Ms. Jones indicated that Copper Environmental's contract also covers surveying, soils investigation, engineering evaluation, and design and construction services – all of which will be utilized to complete these projects. Ms. Jones stated the value of the contract is set at 18% of the estimated constructed value plus an additional $20,000 for the Warm Springs line evaluation. However, the value is a maximum value since the contract is time and materials, and Copper Environmental has been able to bring the last two contracts in under budget.

CEO Ternes Daniels informed the Commission the County is evaluating how to get the best bang for its buck and this is a top priority.

Commissioner Lux-Burt believes this is another important project for the community and she is glad to see Sarah Jones working on it. She believes Sarah has the expertise to plan it out. Commissioner Lux-Burt is glad to see Ogden Street being done because it is one of the most dismal streets in the County and has so many potholes and is hard to drive on. She is glad to see it being addressed.

Item placed on the agenda.

Memorandum of Understanding between Anaconda-Deer Lodge County and Anaconda School District #10 Regarding Use of District Buildings to Provide Shelter to Persons in Case of Emergency or Natural Disaster

CEO Ternes Daniels has not had a lengthy conversation with the DES Coordinator; however, this MOU addresses what the County's responsibility would be in an emergency. The County would be able to use school district buildings.

County Attorney Krakowka discussed the MOU with Bill Converse; however, he would like to review the MOU before next Tuesday's Commission Meeting.

CEO Ternes Daniels informed the Commission that the school district has already signed the MOU.

Commissioner Lux-Burt attended a large gathering about four years ago that was led by Barb Andreozzi. The discussion focused on the need for a shelter in case of an emergency. Commissioner Lux-Burt is glad to see this come forward because most people do not think an emergency is going to happen. She hopes more discussions and meetings take place and the County gets prepared sooner rather than later.

Item placed on the agenda.

Easement Termination by Anaconda-Deer Lodge County and Patricia Johnson and Sherri Ann Johnson, 116 N. Maple St., Anaconda, MT 59711

County Attorney Krakowka explained to the Commission it was necessary to go through the Johnson's property when waterlines were being installed this summer. However, the waterlines ended up being installed in a different area, but the easement is still in place. Understandably, the Johnsons are asking to terminate the easement. County Attorney Krakowka believes this is a reasonable request and advised the Commission to terminate the easement.

CEO Ternes Daniels deferred to County Attorney Krakowka and Sarah Jones with Copper Environmental for additional comments.

Item placed on the agenda.

DPHHS Amendment No. 2 to Task Order No. 16-07-5-01-081-0; Maternal, Infant and Early Childhood Home Visiting Program (MIECHV)

Katherine Basirico, Public Health Director, was not in attendance. CEO Ternes Daniels informed the Commission this amendment to the task order was overnighted last week and is the subject of tonight's Special Commission Meeting. She read Ms. Basirico's staff report to the Commission. It read as follows:

You have before you tonight is Amendment 2 to Contract #16-07-5-01-081-0 which will extend the contract period for an additional three (3) months (October 1, 2016 - December 31, 2016). This amendment brings the total contracted amount to $ 221,584.11.

As you may remember Federal funding has been cut by about 30%. This resulted in the State having to issue a new RFP to all the currently contracted sites which took much longer than expected. Our reply to the RFP was submitted September 19th. The State hopes to have new contracts ready by 1/1/2017.

The deliverables and tasks remain the same and are detailed in the task order itself.

The Parents as Teachers Model of home visiting and family support services we provide is an evidence-based home visiting model which has had great success in assisting our families to strengthen their parenting skills. The ages served by this grant range from prenatal to age 5. Children and families who complete the voluntary program also increase their school readiness and protective factors. The Parents as Teachers model includes Café Connections which offer families opportunities to socialize with community members and create new support systems.

Should you have any questions related to this Task Order, please do not hesitate to contact me at your convenience. I will not be at the Commission meeting because of training.

Item is on the Special Meeting Agenda

Professional Services Contract Extension through December 31, 2016 between Anaconda-Deer Lodge County and Anaconda Family Resource Center for the Maternal, Infant and Early Childhood Home Visiting Program (MIECHV)

CEO Ternes Daniels informed the Commission that this contract extension is part of the above task order as the Anaconda Family Resource Center provides some of the services for the home visiting program.

Item placed on the agenda.

Special Event Permit for Pintler Pets Walk of Terror to be held October 28th and 29th in Washoe Park

CEO Ternes Daniels noted that Pintler Pets has done this event for several years, and it is almost Halloween.

Commissioner Mulvey hopes they are successful with their event.

Commission Chair Hart indicated that all signatures have been obtained, and the insurance certificate is in order.

Item placed on the agenda.

Appointment/Reappointment of a Member to the Greenway Service District Authority Board for a three-year term (Kay Eccleston has requested reappointment)

CEO Ternes Daniels reminded the Commission that Kay Eccleston's current appointment was to fill the remainder of Lorry Thomas' term. She is now requesting reappointment, and the CEO believes she is a great choice.

Commissioner Smith feels that Kay is a good asset to the board.

Item placed on the agenda.

Appointment/Reappointment of a Member to the West Valley Mosquito Control Board for a three-year term (Joanne Jense has requested reappointment)

CEO Ternes Daniels stated that Joanne Jense has served on this board for some time and is requesting reappointment.

Commissioner Lux-Burt is thankful for all of the volunteers that work so hard to make our community a better place.

Item placed on the agenda.

Miscellaneous

No miscellaneous.

Public Comment

Mike Grayson – 112 E. Commercial – Mr. Grayson commented about what happened at last week's Commission Meeting. Under Reports of Boards, Officials and Committees, a lengthy discussion took place about the IC Agreement and a lot of things related to it. Reviewing the draft minutes, Mr. Grayson noted three pages of discussion on the topic. He believes when County contractors and staff are coming in to report to the Commission it should be publicly noticed on the agenda as a separate item. He knows for a fact had the public known this was on the agenda, the public would have been here and been engaged in the discussion. Mr. Grayson stated it violates open meeting laws to have this kind of discussion when there is nothing on the agenda about the topic. This was the Superfund Coordinator, the CEO, WET, and Mr. Manson presenting a detailed report. Mr. Grayson thinks it should have been noticed to the public when it is going to occur, otherwise the public cannot comment and they are shut out. He is missing a Boy Scout meeting tonight, and is here tonight so he can state this. Within the comments made at last week's meeting, he specifically objects to comments made by Mr. Nyman referring to several people who have written letters to the Leader and spoke at the August 10th meeting. Mr. Nyman referred to them as the "opposition." Mr. Grayson stated for the record that he is not the opposition. He is here because of his honest, deep-felt concern about parts of the

agreement. He is making suggestions since he is shut out of a secret process that he cannot attend. He is making suggestions publicly about things he thinks are wrong. He does not appreciate being labeled the "opposition." Mr. Grayson quoted the following from the last week's Commission Meeting minutes, "a couple of individuals who were part of the problem back in the 1990's and early 2000's when they worked for the county.....they wanted to stick it to Atlantic Richfield." Mr. Grayson assumes that this is a reference to him and Mr. Elias. He would like to know what problems he created when he was the County Attorney, as he stands behind everything he did for the eight years he was in the position. He did the best he could for the County and the people of this community and stated he does not appreciate these remarks being made when he is not present. Mr. Grayson believes it is below the belt. With all due respect, he wishes that Commissioner Hart would have shut it down noting that there comes a point when something like that is on the agenda and those attacks are being waged that the Chair has the right to state it is not the right time for it. When Mr. Grayson was the County Attorney, he was forced to work with the 1994 Agreement and he did not like parts of it but did the best he could with it and worked with ARCO. He pointed out that Mr. Nyman worked for the Leader at the time doing sports and later became the editor and later worked for Project Facilitators which was grant-funded by ARCO. Mr. Grayson does not believe he was trying to "stick it" to Atlantic Richfield - he was advocating for this community. He does not appreciate these kinds of things being said behind his back, and if Mr. Nyman has something specific he would like to hear it. Mr. Grayson thought Connie may remember an issue with industrial revenue bonds that ARCO pursued. Mr. Grayson asked that ARCO make a concession and give something back to the County but the Commission voted not to do that. He never once had a legal fight with ARCO or threatened to sue them and worked very well with them for eight years.

CEO Ternes Daniels informed the Commission that Dan Manson called her last Tuesday and requested to be on the agenda to talk to the Commissioners. He did not say about what, and as far as she knows she does not think anyone in the audience had any idea. She was personally concerned because she thought Mr. Manson was going to tell the Commission he was done. Certainly there was public comment, but she stated there was no indication of what it was going to be about.

Kathie Miller with the Leader stated that she did not attend last week's meeting as she was working on the special section about the golf course's 20th anniversary. However, before she decided not to attend the meeting she looked at the agenda and there was nothing on there about the IC Agreement. Had she known this was going to be on the agenda she would have been here. Ms. Miller thinks it is a cop out for the CEO to say she did not know what Mr. Manson was going to say because he is contracted to be part of the negotiations so obviously he was going to be talking about the IC Agreement. She also believes it is a violation of open meeting laws, and she thinks it should have been included on the agenda - even if he called 20 minutes before the meeting. Although she believes it must have been more than that because he drives over from Butte. She does not think it is fair to the public and was a violation of open meeting laws and wants to go on record. Ms. Miller pointed out the County has had numerous closed door meetings with Dan Manson and with representatives from WET. The one time it is discussed in a public forum it was not noticed, and she thinks it is a violation. She thinks it leaves a bad taste in people's mouths especially when comments that the public have brought up were discussed at the meeting last week.

Commission Chair Hart stated that Mr. Manson's report fell under the guidelines although it went far beyond what he expected. He usually tries to allow as much liberty as possible for the public to speak without shutting them down. He believes people have a right to speak at these Commission meetings, but it did go further than it needed to. Commission Chair Hart stated he does not welcome the personal attacks and acknowledged that they have been numerous with regard to the IC Agreement. He feels it speaks to the fact that people are very passionate about the agreement and the issues that surround it. He noted that Mr. Grayson has been through the agreement with a fine toothed comb and Commission Chair Hart does not believe Mr. Grayson is doing anything but being a concerned citizen for Anaconda-Deer Lodge County. Hopefully, the Commission can put a stop to the personal attacks at the meetings. Nonetheless, he has always been of the belief that he should not try to impede people from having their say at the meetings and everyone has the right to have their say. He does not intend to change anything. He believes the public has a right to speak and does not believe in time limits. He cautioned people in the audience that the personal attacks with regard to the agreement are not doing any good. Commission Chair Hart stated that the process is going to continue, likely with more heated discussions, and hopefully everyone can remain respectful and refrain from personal attacks.

Kathie Miller asked for a guarantee that if the IC Agreement is going to be discussed between now and the next public meeting that it will be done publicly and noticed on the agenda. Commission Chair Hart indicated it absolutely will be.

Billy Laws with Search and Rescue invited the Commission, CEO, County Attorney, and the public to an open house on October 8th from 11 a.m. to 1 p.m. It will take place at the Search and Rescue building. Refreshments will be served and it will allow the public to view the facilities and antiquated equipment prior the mill levy vote.

Mike Merino, 1101 Heather Drive #13 – Mr. Merino thinks this is the right time to bring an issue forward that he has been thinking about for a while. Since the IC Agreement is a hot topic and a very emotional one with a lot of opinions on both sides, he challenged the Commission to consider making it a referendum vote. Mr. Merino encouraged the Commission to give the public time to study the agreement and make the decision. He does not believe this is a decision that a small group of people should be making for the entire County. Mr. Merino feels everybody should know about it. If the Commission believes that people are going to support it and if it is good for the county then they should trust the people to vote on it. If it is right then everyone will vote for it.

Rose Nyman expressed concern last week that the public had not been notified that Mr. Manson would be at the meeting. At that time, she questioned if it was a violation of open meeting laws because she believes the exact statement that was made at the meeting was "Do you have something for us Dan?" The public was called on and the Superfund Coordinator and Elizabeth Erickson spoke as members of the public. However, the rest of the public were not given the opportunity. Mrs. Nyman told Commission Chair Hart that she tries to follow the rules and procedures. Personally, she is sick to death of hearing about the letters to the editor as this is a constitutional right and nothing the Commission has jurisdiction over. Mrs. Nyman and Kathie Miller have had discussions regarding the Reports of Boards, Officials and Committees, and she feels public comment should be asked for. However, Commission Chair Hart feels it is not an action item so public comment is not necessary.

Mrs. Nyman stated again that she has constitutional rights and she is prepared to spend money to fight for them. In going through all of the records from January 2013 to present, she counted 57 Superfund meetings, Superfund negotiation meetings, IC Agreement meetings or global settlement meetings. In January of each year, two Commissioners are appointed to that committee. Mrs. Nyman reminded the Commissioners that the law reads that every board, committee or subcommittee meeting is subject to open meeting laws. She does not care if the meeting has to be closed for executive session but feels the public should be notified that they are taking place. Mrs. Nyman stated that is why everyone is talking about secret meetings and noted that Butte is fighting it tooth and nail. She referenced the March 15th meeting, noting that the County Attorney may not be aware it was not properly noticed. Mrs. Nyman stated there was a supplemental notice in the paper regarding a public hearing, but the statutory requirement was not met so she is not sure the County Attorney has a pawn shop ordinance.

Carl Nyman stated it has been a horrific six weeks after working so hard on the IC Agreement and trying to bring something forward that is positive. Mr. Nyman stated he even reached out to Mr. Grayson in a civil fashion and he declined. What Mr. Nyman saw the night of the public meeting is that he was peppered with snide, sarcastic remarks. He believes there are ways to have discussions with people without accusing and trying to make them look bad. Mr. Nyman apologized for things he has said that are inflammatory. He stated it is very difficult to live in this community of late because he opens the paper every Wednesday and sees his name dragged through editorials and opinion pieces. It is not Mr. Nyman's agreement and he is not the sole negotiator. He represents the County. If people want to do this professionally, then he believes the personalities need to be taken out of it. Mr. Nyman stated he did not start any of this, and he is getting incredibly frustrated with people who are spewing things out in the paper and blanketing the entire town with it and then complaining about something he says at a meeting. He stated it is his right to say these things at the meeting. He thinks the County has a very good agreement, and the team is open to suggestions and incorporating those suggestions. He would also like to put last week's Commission Meeting into context. According to Mr. Nyman, Mr. Manson asked to talk to the Commission about seeking a second opinion and that is all he came here to talk about. In a nutshell, Mr. Manson stated he would never advise any client from seeking a second opinion. Mr. Nyman stated what he said was spontaneous; what Connie added and what Elizabeth added – that is what happens in these dialogues and this is why people come to the meetings. If people are concerned, Mr. Nyman believes they need to come to the meetings. If they do not, they are liable to miss something. That is how it goes sometimes, but there was nothing beyond that discussion.

Mike Grayson informed the Commission he has never declined to sit down with Carl to discuss the agreement since it became public. An announcement was made to the Montana Standard and the Leader that the County had reached a $120 million agreement with ARCO, and the County was going to be announcing it at a meeting on August 10th. Mr. Grayson put a comment on a web form for the Standard noting he was looking forward to seeing it and hoped the County had made a good deal. Mr. Grayson believes that Mr. Nyman saw that and called him a day or two later. During the conversation, Mr. Nyman indicated he would come talk to Mr. Grayson and tell him some stuff about the agreement. However, Mr. Grayson told Mr. Nyman he would not agree to a confidentiality agreement so no meeting took place. A week after the public meeting, Dave Erickson called David Elias and set up a meeting. It was understood that Mr. Manson would be in attendance as well. David Erickson called and canceled the meeting the day before it was scheduled and stated that Mr. Manson would call Mr.

Grayson but that has not happened. Mr. Grayson told the Commission he refuses to be under the confidentiality agreement that he thinks legally is wrong. He stands ready to meet with WET, Carl or anyone to discuss his concerns about the agreement. He came up and sat through the three hour meeting and stated if Carl wonders why his name is mentioned so much, Carl was the one who provided the hour and a half explanation at the public meeting. Mr. Grayson stated that Carl has made himself the spokesperson and noted that he is the front person so he should expect to take some heat. Mr. Grayson was in that position for eight years as County Attorney. He can understand and sympathize with how uncomfortable it is to read letters to the editor about yourself, especially if they are misinformed or wrong.

Kathie Miller again stated that if the Commission knew that Dan Manson was coming over to discuss whether or not his client needed a second opinion, in her mind it should have been noticed on the agenda so people could have expressed their opinion about the IC Agreement. She stated that people have not been able to do so since August 10th. It is hard to make knowledgeable comments about something you have not had time to read or do not have before you. She went on record again to say she believes open meeting laws were violated by not having Dan Manson on the agenda. Ms. Miller pointed out that every other discussion has been held behind closed doors, and the public has not had access to make any comments on it.

ADLC Public Meeting Dates

Commission Chair Hart read the ADLC Public Meeting dates.

Adjournment

Commissioner Lux-Burt moved to adjoin the meeting. The meeting adjourned at 7:33 p.m.

Julie K. Pooley
Clerk of the Commission

Kevin A. Hart
Commission Chair