

**ANACONDA DEER LODGE COUNTY  
COMMISSION WORK SESSION  
6 P.M. TUESDAY, MARCH 10, 2020  
COURTHOUSE COURTROOM**

Present: District 2 Commissioner Steve Gates, District 3 Commissioner Kevin Hart (Chair), District 4 Commissioner Paul Smith), District 5 Commissioner Mike Huotte, (Vice-Chair), CEO Bill Everett, County Attorney Krakowka, and Clerk of Commission Lori Sturm

Excused Absence: District 1 Commissioner Terry Vermeire

Members of the Press: Kathie Miller, present for Public Hearing

Members of the Public: Per Sign-In Sheet

**Commission Chair Hart called the meeting to order at 6:00 p.m. Commission Chair Hart explained the Commission rules of procedure.**

**Public Hearing – Funding and Settlement Agreement between A-DLC and Atlantic Richfield.**

Mike Grayson, Attorney – Explained that he has been working with the county Superfund task force for over 3 years. Provided background information of the agreement and started with the 2016 IC Agreement which means Institutional Control Agreement. This is a legal device that protects a clean path of soil that has been placed over waste. We want to protect these areas from being disturbed. I did not like the agreement and had some concerns. It was not passed by the Commission. I worked with the negotiating team and we met on an average monthly. Mr. Benevento came and told us we had to reach an agreement by the end of July 2018 or else there would be issued a “Unilateral Administrative” order directing ARCO to finish the clean-up. We buckled down and tried to come to an agreement. We reached a hand-shake agreement; an then developed a basic outline called the Conceptual Settlement Agreement. Part 1 of the agreement was the Golf Course and that came before the Commission, and was approved. We passed a new Golf Course Ordinance and hired a new management company. This settlement is a written deal between the county and ARCO. Our county doesn’t get to be part of the consent decree. We are not a signatory to that document because we are not a potentially responsible party. We do not have to sign off on the “CD” when it comes out. Our county is not on the hook for any clean-up . . . ARCO is.

Mike Grayson – Provided an explanation of the difference between Economic Development and Community Enhancement (old language). The reason for “Economic Development” is answered by asking the question: What have we lost due to Superfund? We lost the ability to fairly compete with other communities. We have watched a number of developers and businesses come in . . . look at things such as restrictive covenants, and the amount of red tape and they go elsewhere. We had ShopKo interested in buying grounds in the East Yards, and we had others. What we needed was this “Economic Development” money. We could put out a grant application, and they could put in for extra grant dollars. Next were the idea of “Non-Profits” and the history of giving a non-profit money. Mentioned

the Center for Excellence; we gave them land for free I believe, and didn't have a problem with them building the school, it supplied good jobs. The downside of Non-Profit is they do not build up our tax base. I have heard that A-DLC has some of the highest taxes in Montana. We need to expand the base of taxable properties. Some of the best development we have had was the Gates Power Plant. They came in and pay a lot of taxes. We need more development like that. If a Non-Profit wants to come and buy vacant property, they could still apply for grant money but will need to contractually agree with the county not to file a Department of Revenue Property Tax Exemption Application. All the non-profit facilities such as the hospital, churches, AWARE, MT Behavioral Health, the START prison facility, etc. They are all non-profit. They don't pay a dime of property taxes. The workers . . . many of them live in town, pay taxes, shop here and I am not criticizing those facilities. If we are using the grant money we want to build up the tax base.

Bill Everett – There were 8-10 of us that put this together. Everyone had different interests and viewpoints. We converged the ideas into a package that is in the best interest of the community. The overall emphasis of the agreement was Community Health and Safety. We want a safe community it is not about money. The following areas were addressed: yard clean-up, attic clean-up, and the blood lead testing program. We have a very robust IC program that will be administered by the county or a contractor chosen by the county and paid for by Atlantic Richfield. That will maintain the levels of health and safety for forever basically. We are obligated to run this program for 50 years.

Bill Everett – Another big part is Economic Development. Five and a half million is going to be allocated to the Waste Water Treatment Plant. That was directly impacted from the slag. The plant should be completed by this summer and we should be able to lower sewer fees. The other part is for business development. The Commission next fall will develop a new board for economic development. There will be public meetings where you will have a say where you think this money should be best directed. One of the first things looked at was the Hotel Property. This would help the hospital, visitors, traveling nurses and doctors. The school district could have sporting events and tournaments. We could be a host to the tournaments and this would be a huge economic benefit to the community. Restaurants and bars would benefit. The Golf Course would benefit. A huge loss for the golf course is that there is no lodging facility. This would help Discovery, hunting fishing, recreation and tourist events. This would create a tax base. The hotel property we are looking at is about a 10 million dollar facility. A commercial hotel facility would bring cash flow to the county. We are only giving them 1 million dollars; we would be paid back in about 7.4 years. Hotels have a life span of 35 years, so that means for the next 28 years we have a positive cash flow from this investment. This would also create jobs. This would not compete with the current hotels we have, it would be a different group of people. We are looking at a full bar, restaurant, pool, fitness facility and higher end functions. An entity like this could generate about 5 million dollars of economic development for the community. This would also help the local businesses. Last and biggest factor of this agreement removes the liability that we inherited in 1994 with the conveyance agreement. Atlantic Richfield is willing to take all of those liabilities back and that is huge.

Carl Nyman, Superfund Coordinator – It is important to recognize the agreement for what it is . . . it is a “Funding Agreement”. There are attachments to this agreement that go into the details that have been talked about. These are all Superfund documents that are structured a certain way. All of the attachments are listed in the table of contents. If you have problems finding anything you want to look at please let one of know and we can help direct you. Bill talked about Community Health and Safety and that was a big item to all of this. The Parks, playgrounds, day cares, Kennedy Common and Washoe Park are all residential action levels and will be treated accordingly. Alleys were originally considered open space but due to the proximity to residential properties they will now be sampled.

Loren Burmeister, Atlantic Richfield – I have been working on the Anaconda/Butte Superfund sites for about 10 years. I am here on behalf of AR to voice our support for this agreement. We have been working hard to put together a settlement agreement that transforms the conceptual settlement reached in 2018 into a substantial agreement that benefits the community. By approving this agreement the Commission will be putting A-DLC on the path to further protect public health, ensuring that the representatives are kept aware of and staying involved in the process. If approved this agreement will provide immediate funding to A-DLC to stimulate economic development and further protect the welfare of A-DLC citizens. This agreement is good for A-DLC, good for Atlantic Richfield, and good for the environment. This agreement does relieve A-DLC obligation of liability on the 94 conveyance. It also transfers the Opportunity triangle industrial park from Atlantic Richfield to A-DLC so that hopefully you will be able to find some developers. Transfer of property from A-DLC to AR in the East Yard area so that perform capping of the slag pile. Essentially we agree in the agreement to not sue each other. Encourage you to approve this agreement in the current form.

#### **Commissioner Hart Opened the Meeting for Public Comment**

Dave McKernan – Questioned if the clean-up of Mill Creek, and Willow Creek if these were included in the consent decree.

Carl Nyman - There are still additional remedies to be performed. There is a surface water management plan. This agreement is part of a limited CD; the components that have to do with our agreement are part of the limited CD. Surface water will be part of the larger CD that will be coming up. Warm springs creek and tailings that had been deposited on the flood plain; each deals with specific clean-up of the streams themselves. The concern is the surrounding soil and the contaminants that have been built up over the years. It tends to stay in place; except during storms. The Natural Resource Damage Program has gone out there with a lot of experimental and innovative ideas. They want to accelerate the natural recovery that is occurring. All of those things serve to protect the streams.

Lauren Burmeister, Atlantic Richfield – The Agreement before you only addressed 3 remedy issues (the attic program, maintenance of the Old Works Golf Course, implementation of institutional controls). All other remedial requirements will be laid out in the coming consent decrees.

Robin McKernan, Citizen and President of the Trail Society – One of the best things of living here is the recreation and trails. Is there going to be funds available for maintenance on the trails we have and maybe some further advancement on the trails. We have talked about advancement that goes over

Stucky Ridge to Lost Creek. Will any money be set aside?

- Bill Everett – Not in this particular agreement. We were given 24 million dollars for the Greenway Service Trails, those funds have been dwindled. There is some money left and we are trying to bring that to Anaconda. It is an area of huge frustration. I would ask you to go to the next Greenway Service Meeting, I need some backing. There is money and it needs to be put in Anaconda.
- Teah Fuller, Arrowhead – Expressed support of the agreement.

Ed Dulaney, President of Smelter City Recreation – The Smelter City Recreation representatives would like to ask the Commissioners to consider changing the language of the Economic Development to allow Non-Profit organizations to apply for funding. You could still screen applicants and select those that best meet the criteria that would include increased tax base and increase family jobs. It is the non-taxing entities in the county such as the hospital, school district, AWARE, etc. They produce a large percentage of the family wage jobs in our area. This agreement is being moved quickly towards completion with only a series of meetings for public input. We are not against the hotel project, but the process used to move it forward without public input and eliminating non-profits.

Jim Davison – The Commission is given the ability to look at viable projects that do have merit in the community. I have spent half of my 37 years scrounging for money and trying to fund projects and how to fund the match. (The trails we have, the skate board park, the tennis courts etc.) Pointed out the Mill Creek Tax Increment District and there were no tools at the time, no funding authority and no ability to build that sewer line out to Mill Creek. NW Energy said that if you build that sewer line we will build that plant. How much has that plant brought to the county government and schools?

- Bill – About 4.6 million last year.
- Jim Davison – That money came out of the increased tax base. Happy to pay the additional tax mills for lighting district, head start, senior citizens, library. If we increase the tax base and use the tool of leverage there will be a lot more money to support some of these agencies.

JH Delaney – Mr. Grayson mentioned developers coming into the sites. What are the sites? Could there be a list of the tax base businesses?

Rose Nyman – Thanked the County and BP/ARCO for their thousands of hours that have brought this draft. For many years I have advocated for human public safety in the Superfund site. I know there is a great deal of progress in this draft. Questioned some of the statistical information. Economic development can be an allusive thing. Mentioned Concern of Economic Development funding on page 18, paragraph 5 . . . “that is projects that contribute to property tax revenues”. I don’t feel that “Property Taxes are the total focus of the economic development”. I am opposed to the funding in restrictive projects that increase property tax revenue; they are important but I believe they are just one passage. Non-Profits and tourism are being excluded and believe that is a mistake. Forty-one percent of our population is low income. One of the goals of economic development is to reduce that number thru job creation. Another role of Economic development is to attract young families and career jobs. My second concern is that of Tourism Dollars. There are limited amenities to attract tourists; but we can become a tourist town. Provided the example of Norman Maclean’s short story “A River runs through

it”; Robert Redford made a movie from it. After that movie came out tourism exploded in Montana. People came from across the nation, Spain, Germany France, Italy, England Canada, Norway, Sweden and they all said the same thing; “We came to see if it really was that beautiful”. Would also like to hear from each Commissioner on Economic Development and what it means; and does ARCO have to approve the economic development committee. Respectfully ask the Commission not to vote right away.

Mark Peterson, resident of MT – Looking at the values in the decree I feel the value is woefully short compared to what Anaconda has lost. The loss of the smelter and the increased liabilities. How many acres of hazardous waste sites do we have in this county? I know of at least 3: the smelter, the contaminated soils in the yards and they brought everything from Mill town dam that they didn’t want in Missoula and third is the slag pile. The slag pile has interfered with the wastewater treatment plant. Would like to see the hazardous waste, the sites and dumps taken out of this county and remediated. Put it back in the pit. . . I don’t care. Feels we are poisoned for eternity. We are not a waste dump.. Feels AR has done the absolute minimum and managed to change the laws. In exchange for the liabilities, ARCO has taken almost all of the water, land, tax base, and jobs. Concerned about the loss of water and land due to contamination; and would like EPA to do remediation of ground water. Who will monitor the hazardous waste sites? Also not happy with the Golf Course plan. If BP/ARCO thinks it is such a fantastic vacation get away, why isn’t BP/ARCO holding a tournament here every year? They should have their people attend, fill our hotels, the restaurants and bars and build our economy.

Public Comment Closed at 7:09

Commissioner Hart asked if there were any responses to comments?

Bill Everett – British Petroleum will have no influence on our economic development board or committee.

Mike Grayson – There is no prohibition for non-profits to apply for the grant monies. The Commission will have to develop their own committee, processes and rules. It does have to enhance the property tax basis of the county. Any non-profit who is willing to build and sign the property tax exemption and contract with us . . . they become eligible for the grant funding. This is money that can be used for hard economic development. Some comments are sort of beyond the scope of this agreement.

Commissioner Hart – Have there been any written comments received?

- Bill Everett – I had a question from John Fitzpatrick about the development of the hotel and who is the developer? There is none, we don’t have one yet. We hope to RFP in the next week and all that information will be public.

Commissioner Hart – It was brought up as to what the Commission feels is economic development. . . , I look at those things that do increase the tax base. When the tax base is increased there will be more dollars to assist with the non-profits. With economic development there will be more people moving to Anaconda. We have seen the study where there is a need for a median type of household. The need for a housing complex in the \$150,000.00 to \$200,000.00 because of employees who cannot find suitable

housing. All of those things will help increase the population and the tax base; the non-profits would certainly benefit from those things.

Commissioner Gates – Overall this is a good deal for the Community. After 40 years we need to move on. We will never make everybody happy, never enough money; but I would like to see Anaconda improve in my lifetime. As far as the problem with non-profit . . . it can be negotiated. Thanked everyone that has brought this together. It is not a perfect world.

Bill Everett – To Mr. Mark Peterson. . . we obviously we went for huge money. The problem is what legally the EPA can force Atlantic Richfield to do. It was extremely limited. There were a lot of closed door meetings. EPA cannot tell anybody to give you funding for a golf course. There is no legal ability. They can work on health and human safety. You made some good points with economic losses, but Atlantic Richfield is not legally obligated to give us any of those dollars. If there was a Unilateral Order, there would be clean-up but not one nickel. If the county doesn't want this, they don't have to take it; but you don't get the money. I wish we had enough money to use for everybody's pet project. I had a group wanting a new football stadium, a beautiful idea but I don't have that money. The swimming pool, but there is not enough money here. Judge Dayton came to me requesting money to renovate the courthouse. This is the only amount of money we have, so when you a small amount, we need it to make a cash machine. Our taxes are too high, but we need certain services such as a police force, streets, someone to plow streets. I don't have the commercial tax base. The only people I get to tax is your house. Most communities have a ratio of corporate tax to personal tax. We need the cash machine to get the level of services we all want and cut your taxes. It is a good agreement, but not a miracle agreement. It will give us a chance of success.

Commissioner Hart – Requested Bill to cover the information about the 30 acres ARCO will get and the 108 we will get.

- Bill Everett – We are going to get some of the Opportunity Triangle. There is roughly 108 acres that has already been developed. It has utilities such as water, sewer, and electricity. That is land that is ready to be utilized. This would be good for industrial business. We would give some land back to AR, the land is about 30 acres that is closest to the slag pile. In the next rolling out, the slag pile will be covered.
- Commissioner Hart – The important thing is that the 108 acres that we would be getting would be able to be used for economic development. We have heard from a Solar Company that wanted to utilize some land.
- Bill Everett – We are working with AR on a few large scale projects to help utilize some of this contaminated land. It has some unique features that make it very valuable if used in the right way.

Commissioner Hart – There is another meeting at noon at the Library. We will entertain written comments if anyone submits some.

**Resolution 20-09, A Resolution Requesting Distribution of Bridge and Road Safety and Accountability Program Funds**

CEO Everett – This is our allotment we get to use on road and county access. This is money the Commission has to approve for road projects. This will be used for the West 3<sup>rd</sup> side streets. This allows us to get a check from the MDT.

Place on Agenda

**Fiscal Year 2020 County Motor Vehicle Graveyard Grant for Anaconda-Deer Lodge County**

CEO Everett – This is the same concept. This is for our junk vehicle recycling program. We need Commission authorization to receive money from the state. This is money that is used for different purposes such as towing wrecked vehicles.

Place on Agenda

**Bid Results for West Third and Side Streets Pavement Restoration and Recommendation of Bid Award**

Mike Johnson, Copper Environmental - Four bids were received and would like to recommend the low bid of Mungus Company. We would like to be on the agenda to go forth with the project with Mungus.

Bill Everett – This is the earliest you have seen a bid come out for road construction. The highlight is that 34 blocks will be repaved in the community. The engineer estimate was close to 2.5 million and the bid came in close to 1.8 million; this means there is extra money. With the extra money saved we will add more blocks maybe 41 to 42 blocks repaved. Mungus is the only local large scale road contractor in our county.

Commissioner Hart – Questioned Mr. Johnson that with Mungus being the low bid, is there anything that would stand out that we should anticipate any change orders?

Mike Johnson, Copper Environmental - There were 24 bid items and there was a comparison of all of the items. There was a big savings on cost on traffic control. I did compare individual items.

Place on Agenda

**Request for Proposals – Hotel Facility and Related Developments – East Yards**

Bill Everett – This is an RFP for a hotel project in the East Yards. Would like the Commission to put this out for the next few weeks. Let's see what kind of proposals we get. Everyone has the opportunity to supply a bid and the Commission is under no obligation to accept any bids. If we decide not agreeing on the funding agreement then obviously this will not be applicable. This will only be agreeable if (a) the funding agreement applies, (b) and if the Commission picks a suiter. We are going to go out of our way to advertise.

Carl Nyman – For starters we want to make sure that a copy is mailed to the local motels. Town Pump has a history of developing hotels/motels across the state; we want to get a copy directly to them. I

spoke today with an individual in the MT Lodging and Hospitality association and they have a large membership; and similar to the Golf Course RFP the details are being geared to what they would be looking for. We would probably be able to advertise this on their website.

Bill Everett – We can add on different things to this. We are looking for something in the 75 to 80 rooms type facility; having a bar, restaurant, hot breakfast, athletic facility, pool, and a conference center. As we are putting in some of our own money we want to make some demands. Rose brought up tourism dollars. We could put in the demand for a room tax to generate money to advertise Anaconda. Hopefully this goes forth like the Golf Course Management RFP. The terms that we can offer will make this attractive.

Rose Nyman – Had a question on the terms of the revolving loan being 5 years at 1% interest; semi-annual interest only payments will be required followed by a balloon principal payment at the end of the term. Does this tie up a 2 million dollar loan for 5 years?

Bill Everett – I would say yes, it might be paid earlier . . . but maybe not.

Rose Nyman – There is a resident in Anaconda that insists that there is only an 8 inch sewer line out where the hotel would go.

- Wayne Wendt – There are two sewer lines in front of the areal, one is a 24 inch and an 18 inch.
- Rose Nyman – The map was difficult to see and could not find lot G.
- Carl Nyman – Explained that there are 4 lots in the L shaped parcel. They are labeled sequentially, it is a bit confusing because it is a boundary line relocation from the original lot numbers. An enlarged map might help.
- Commissioner Hart – Asked Carl if there a better map that I could have next week. If we could get that it would be appreciated.

Place on Agenda

Commissioner Hart – Item # 6 is being deleted from this evening's agenda.

Bill Everett – This is not needed for what we are doing and does not need to go before the Commission.

**First Reading/Introduction of Ordinance #260, An Ordinance Establishing the Anaconda-Deer Lodge County Urban Renewal Agency Board and to Establish Powers and Duties.**

Adam Vauthier, Administrator of Urban Renewal Agency – This takes the Resolution and codifies to how the board should be set-up. A few changes were made such as a requirement of the planning director or interim planning director, and took out the Economic Developer and made it as a citizen at large. The board members will have to reapply for those positions.

County Attorney – Appreciate Adam coming to the office and working on this ordinance. The Commission will have the responsibility to look at who is applying, what experience they have, what will they bring to the board.

Place on Agenda

Marilyn Haggin Smith, Helena – Would you expand on the powers and duties?

Adam Vauthier – The Urban Renewal Agency is a law statute. With a Urban Renewal Plan that you can find tools to revitalize downtown buildings, build up the tax base, create new business. The TIF is an instrument where we take an increment of tax money to create grants for public infrastructure projects and allowed to go into private contracts with business owners to increase building values.

**First Reading/Introduction of Ordinance #261, An Ordinance Adopting and Incorporating the International Building Code, International Residential Code, International Existing Building Code, International Energy Conservation Code, International Fire Code & NFPA 70**

Bill Everett – These are new codes that the state department of planning are mandating that we approve.

County Attorney – The CEO is correct. The state is mandating that we adopt the international building codes for residences for everything that is being built. They want a unified minimum standard. Every couple of years they come out and update. This is bringing us into compliance with the state law.

Place on the Agenda.

**Request for Reappointment to the Housing Authority Board by Sharati Pia.**

Place on Agenda

**Special Event Request – Anaconda After Hours – Friday Evening Summer Events at Kennedy Common.**

CEO Everett – They would like to shut off another street, part of third street. Everyone needs to be aware that it is going to be under construction this summer.

Wayne Wendt – We will be finishing the street lighting project and then after Mungus will be coming in and doing some work. Third street will be busy.

Rose Nyman – Asked about the military hours and requested clarification of hours. Also received a call that they were planning on having alcohol, where a different bar will participate at each event. There is a committee to study this and I doubt it will be resolved in time. There is no mention of alcohol in the permit.

Commissioner Hart – Explained the times, 2:30 till about 10:00 p.m.

Commissioner Huotte – A follow-up to Rose’s comment. I was also asked about the alcohol. I think that until the committee gets the issue resolved, they should be held to the same standards that we held the Chamber to last year.

Commissioner Hart – This is the same event that was formerly “Alive after Five” Until the public vetting has been completed through the committee that has been formed . . . Commissioner Huotte is correct and we hold them to the same standards as the Brewfest with the sale and consumption of alcohol. They should have a report back to the Commission within 4 months, and that places it well into summer.

Place on Agenda

**Opportunity Volunteer Fire Department – East Egg Hunt at Beaverdam Park April 11, 2020**

Place on the Agenda

CEO Everett – Would the Commission would give me permission to give approval for the last minute Easter Egg events.

Commissioner Hart – On the next work session would like to see agenda item for the Commission to consider giving the CEO authority to approve the Easter Egg Hunts and to make sure they meet the criteria for the events and the insurance.

Place on Agenda

**Miscellaneous**

Commissioner Huotte – Contacted by a citizen at Georgetown Lake regarding 2 roads that they have trouble with dust control and erosion. The county does grade the roads every year.

Commissioner Smith – No Miscellaneous

Commissioner Hart – No Miscellaneous

Commissioner Gates – No Miscellaneous

CEO Everett – Introduced the request for reappointment/appointment of Mr. Dunn to the Communication Board and to be placed on the agenda.

County Attorney – No Miscellaneous

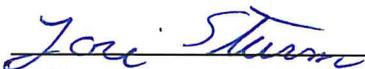
**Public Comment**

Rose Nyman – I am sure many of you have followed the robotics club. They are going to Texas in April. Montana Tech is fronting them the money, but it has to be paid back. I would like to see a donation to the group from Deer Lodge County. Sports teams are taken care of. It is a lot of money to raise. This club could serve as a role model for adults. They deserve community support.

**A-DLC Public Meeting Dates** – Commissioner Hart read the meeting dates and times.

**Adjourn**

The meeting was adjourned at 8:09 p.m.

  
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Lori Sturm  
Clerk of Commission

  
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Kevin Hart  
Commission Chair