ANACONDA DEER LODGE COUNTY
COMMISSION MEETING
6:00 P.M. THURSDAY, AUGUST 18, 2020
Webex

Commission Meeting Started at 6:00 p.m.

Commissioner Hart – Performed a Roll Call of Commission

Present: District 1, Commissioner Terry Vermeire 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

Webex Facilitator – Kimberly Richardson

Members of the Press: Kathie Miller, Leader

Members of the Public: Per Webex Sign-In

Commissioner Hart – Last Tuesday's meeting became emotional and some comments were uncalled for and were unproductive. It was not our finest hour. I always granted a generous amount of latitude toward public comment for a healthy debate allowing citizens to be heard and to participate in their in government. The statement that "Making a Public Policy is not always a pretty process" is absolutely true and was proven that night. ADLC has been criticized for many years for impeding progress and growth. That is not the case with this Commission or CEO. . We all want what is best. For ADLC and making the best use of the funds that we have. The fight with ARCO is over and the settlement agreement is done. Now is not the time to start fighting amongst others but start the healing process for over 40 years of decline and stagnation since the smelter closed. We need to get behind the good projects, when they are financially ready, have been through the planning and permit process and are ready to break ground. We need to let developers know that even though we may disagree about issues that we stand collectively as a community behind them.

Commissioner Hart - For all future meetings as Chairman I am going to require the following:

- Speakers and presenters must stay on topic
- Outbursts and interruptions will not be tolerated
- Disrespect for other presenters will not be tolerated
- When a Point of Order is Called, the speaking will stop until the issue is resolved.
- If the Chairman interrupts any comment or discussion , that person will stop talking and yield to the Chairman
- Attempts to talk over someone else will not be tolerated
- Unless approved by the Chairman, lengthy public comment will not be allowed
- And continual rebuttal comments are not guaranteed, especially if repetitive
- When given the opportunity to speak, be direct
- Public Comment is not open public discussion or argument.
- All Comments will be directed to the Commission.

Approval of Minutes

Approval of Minutes from the Commission Meeting of August 4, 2020 Commission Meeting, August 11, 2020 Closed Session Meeting, August 11, 2020, Work Session Meeting, August 11, Special Commission Meeting and the August 13, 2020 Special Commission Meeting.

Motion made by Commissioner Smith to take action to approve the Minutes from the Commission Meeting of August 4, 2020 Commission Meeting, August 11, 2020 Closed Session Meeting, August 11, 2020 Work Session Meeting, August 11, Special Commission Meeting and the August 13, 2020 Special Commission Meeting; Seconded by Commissioner Gates.

Motion Carried 5-0

Approval of Claims

Motion made by Commissioner Huotte to take action to authorize the payment of claims numbered 134588 through 134692 in the amount of $793,770.00 excluding claim number 134661 in the amount of $4,304.25 Seconded by Commissioner Vermeire.

- **Commissioner Hart** - That total amount does not include the amount being withheld.
  Motion Carried 5-0

Reports of Boards, Committees and Officials

- **Commissioner Mike Huotte:** On August 13th I attended the Greenway Service District meeting.
- **Commissioner Steve Gates**: - Nothing to Report
- **Commissioner Smith** – Nothing to Report
- **Commissioner Vermeire**: Nothing to Report
- **Commissioner Hart:** Nothing to Report
- **CEO Bill Everett:** We have been busy with construction and laying down blacktop today and will do more tomorrow. You will see 3 blocks on West Third and we only did one lift. The final lift will be done when West Third is ready. I don't like the seams on the top lift. We wanted to do dust control and make the road more navigable. It will be a month before you see a final project. Commissioner Gates had asked how we are on the timeline. We are a bit behind on dates. We have lofty goals. Today I had Senator Daines' team and we went over Mill Creek. I have worked for over 2 years trying to get 15 million dollars to complete the Mill Creek road and straighten the S curves. Those people have never been on Mill Creek and were amazed at how horrific and dangerous that road is during the summer let alone the winter. They were

in awe how beautiful that Big Hole Valley corridor is. Asked them to pay attention to the license plates you see. Almost every plate we saw was from out of state. This is not a county road, and we should not be liable to pay for the funding for this road. This is a state if not a federal thoroughfare. . Senator Daines was going to contact the secretary of the Department of Transportation. He is pitching for us. That is a 15-million-dollar project. Also talked to Gary Chilcott regarding the RV park. Everything looks good, we got over a few hurdles and work will be done later this fall. Gary has contractors lined up and the funding is put together and has his marketing plan. We have some huge things happening in our community.

- **County Attorney Krakowka:** Attended a Multi-Disciplinary meeting for abused children and a DUI Task force meeting. I also met with a young man to put together an ordinance regarding local regulations regarding medical marijuana shops or non-medical shops pending this year's election

Public Hearing

Major Development Permit Application from Matt Smith and Glen Wyant to operate a septage land application business to operate on Mr. Smith's property in the East Valley Development District.

Carl Hamming, Planning Director - Property is in the East Valley Development District and is owned by Mr. Smith. The address is 1680 Old Highway 10. The land septage application is overseen by the Montana Dept. of Environmental Quality, the waste management division. Part of the permitting process requires local zoning approval. For Mr. Wyant to secure a permit from DEQ he needed the planning board and commission approval for an MDP special permit. On July 20th the planning board met and recommended approval of the MDP permit for all 3 proposed locations. Locally this would be overseen by Chad Lanes, would act as the extension of DEQ.

Commissioner Hart – The Planning Board did recommend approval of the MDP to operate with five recommendations.

OPEN for PUBLIC Comment 6:15 p.m.

Glen Wyant – Here to answer questions.

Marilyn Hagan Smith – Asked where the Major Development Permit was taking place?

Carl Hamming – It is called a Major Development Permit . . . is a catch all term. The precise location the address is

1680 Old Highway 10. This is about a half mile to a mile south of the rest area at the interchange of highway 1.

CEO Everett – This is a tough one. I have spent hours on the topic. The 2 gentlemen who are proposing this are good guys. Unfortunately, I must be the regulator. I have contacted five other counties asked what they were doing with these situations and most asked "Why are you even thinking about this?" I have spent years fighting to clean up Anaconda and get rid of waste. Fighting with Atlantic Richfield, they always want to come up with an excuse as why it is not their liability and are not responsible. We just spent. 5.5 million redoing the Waste treatment plant. The reason we did this wastewater treatment plant was so everyone who live in ADLC . . . we will process their waste. We are responsible to the residents of ADLC and that is it. If you live in Granite County or Silver-Bow you are not our problem. We do not want waste from another county coming into our county. You do not want waste getting dumped around your county. Inside of the waste are many different things. It is not simply human feces, as we have pumped things out of mines. There are huge dangers. Explained about the issue of the wastewater liner and being careful not to tear the liner. We pumped it carefully so as not to tear it. If it was torn there could have been bleeding into the water aquifer and that could have contaminated the county. Atlantic Richfield could come back and say possibly that contamination occurred that way. That is all they would need to get rid of the liability on the issue. The DEQ advised not to give them an inch. This specific plant being discussed is on land that has just been reclaimed. Atlantic Richfield just reclaimed it and it has a beautiful topsoil. It is distanced from any neighbors and located close to the rest area. If we start dumping waste. . . if anything or an issue that needs to be remediated over the years. . . Atlantic Richfield will say that it came from the dumping. Atlantic Richfield will no longer be liable. Explained that the aquifer is the whole aquifer that spreads through the entire valley and we need to be careful. Everyone in our county has a place to dump their waste at a reasonable cost. This facility is designed for people outside of our county , because we don't allow them to dump at our facility. Why would we want Phillipsburg, Butte, or Deer Lodge dumping in our county? If Granite county or Silver Bow needs a place to dump. . . put it in your own county. We do not want this by any means.

Because someone owns the land there is a certain ability for them to do what they want. This landowner won't own the land for eternity. When the property turns over someday there are certain rights and expectancies that people have when they get the new property. By you allowing this it could fall back on the county. DEQ oversees this . . . but this is an antiquated way to get rid of waste. We have a 5.5-million-dollar facility for every one of our residents. Strongly urge you to be against this. Apologize about going against this but.it is not in the best interest of our community

- **Glen Wyant** – Long winded and possibly uneducated. The reason for this has nothing to do with the facility. Wish we could take care of other counties and make some money. The reason for the

land application is to keep my business. With losing the out of county business, my business came from maintaining the west end of town; that is approximately 200 customers I will never get back. Georgetown is about three fourths out of the county. I have lost 73% of my business. This land application site it will allow me to get some back. This is heavily guarded by the DEQ. There is ground depths, soil samples Water tables slope and distances from buildings to meet the requirements. ARCO is okay with what we are doing. Two sections of the land ARCO has nothing to do with it and it is the Department of Environmental Quality that had it reclammated and is responsible. I understand what Bill is saying; but I am looking at this from a business standpoint. I need this site and will not come back on the county and not come back on the landowner. This is Guarded by measures of Department of Environmental Quality. I am not dumping chemicals, just septage and grey water. Just plain sewage. Believes the CEO is scaring you with the ideas of chemicals.

- **Marilyn Hagan Smith** – There are so many tourists. Would this be taking care of that type of sewage from RV's?
- **Glen Wyant** – No that would not include campers. There is an RV dump in Anaconda. This would not apply to the field

CLOSED Public Hearing 6:32

UNFINISHED BUSINESS

Mask Recommendation from the Health Department

Leigh Ann Homes, Public Health – We have 6 active cases today. They go up and down. It would be more consistent if we had a mandatory mask requirement. Supportive of the Board of Health and the request.

- **Commissioner Huotte** – I have a few issues such as applicability. This rule of order will be in effect until health department revokes this. I think the Commission should also have the opportunity to revoke it. I would like to some side barriers such as if the Governor revokes his mask mandate that this would come off or something that this would be evaluated in 45-day intervals. Shows that we are actively looking at this.
- **Melissa Roseleip, Public Health** – Ask the Commission to please consider this recommendation. This ensures our public health department in promoting our program with the community the safety of all that resides in our community . This helps us to even out the load that is on our shoulders. A mask recommendation or requirement would help us do our job better.
- **Rose Nyman** – Support of the request. It is an Inexpensive, easily resolved prevention tool. Protects us as individuals, our families, the public and especially our businesses. I hope the

Commission would approve this. Thanked the public health department and board who have worked tirelessly through the pandemic.

- **Amy Lynn Kellogg** - Nearly everyone in my family is considered at risk. I have family members who have contracted the virus. Does the risk of this illnesses warrant taking drastic measures of requiring everyone to be wearing a mask? Provided a comparison of COVID deaths to deaths from cancer and highway deaths. Does wearing a mask reduce the number of cases? Believes the mandate would not be enforceable and gave the example of trailer parking not being enforced. Concerned about passing a law that is either not enforced or not equally enforced. Encouraged to reject.
- **Marilyn Hagan Smith** – We ask our family members to be careful because we have some elderly family members. We want the rest of the population to resume a bit of normal. Amy had some good points. What are the parameters of wearing a mask and what do you do if someone is not in compliance?
- **Commissioner Hart** – I think the Governor's order is necessary. I do see some confusion with 4 or less active cases. One item brought up is lack of testing. The numbers appear to be decreasing, but question if that is the case when we have difficulty getting testing to hospital staff. Pointed out news articles about states anticipating spikes and Montana is one. Nationwide COVID-19 is the Number 3 killer in the nation.

This Item Dies for lack of a motion

Fiscal Year 2020-2021 Budget Request from CCCS, Inc. – Discovery House in the Amount of $3,500

Commissioner Smith – Disclosed that he works for CCCS but does not feel he needs to abstain because I have no benefit either way if approved or not approved.

- **Commissioner Hart -** Asked the County Attorney if he aggress.
- **County Attorney Krakowka** – Concur
- **Commission Gates** – This is great, and they do a wonderful job.
- **CEO Everett** – Full support of CCCS. They provide a benefit to our community

Motion made by Commissioner Gates to take action to approve Fiscal Year 2020-2021 Budget Request from CCCS, Inc. – Discovery House in the Amount of $3,500; Seconded by Commissioner Huotte.

Motion Carried 5-0

Fiscal Year 2020-2021 Budget Request from Anaconda Adult Learning Center in the amount of $3500.00

Motion made by Commissioner Vermeire to take action to approve Fiscal Year 2020-2021 Budget Request from Anaconda Adult Learning Center in the amount of $3500.00; Seconded by Commissioner Smith.

Motion Carried 5-0

TRI – County Fair

CEO Everett – We have no contract to approve. There has been no success. If we give them money, we are assuming liability. We don't know what the money is used for.

- **Kimberly Richardson** - Reached out to the extension agent in Powell County and they are to get me a complete report on what the money is spent for and what portion goes to 4H. In speaking with my boss, the regional dept head in the western region, he stated most money from Granite County and Deer Lodge County covers the 4H portion. Will get the itemized copy of having the fair done. I will get a hard copy and get it to the commissioners.
- **Commissioner Hart** – At the time they were asking for the increase from 3000 to 4500 there was a letter from them based on an average number of youths that were participating in 4H. I have looked through multiple boxes of paperwork. I have not found that yet. I wonder if Deer Lodge office would have a copy of letter sent at that time..
- **Kimberly Richardson** – Will ask if they have a copy.
- **Commissioner Vermeire** – Asked Kimberly how many kids participate in 4H
- **Kimberly Richardson** - Deer Lodge County alone has about 100 youths Combined with the other counties there is about 280 to 350. With this year the numbers are down.
- **County Attorney Krakowka** - Programs are fantastic, goals to work towards, youths are learning but at the same time this county needs to look after itself. The donation needs to be accompanied by an agreement signed off detailing what exactly our responsibility is. It needs to be in place.
- **CEO Everett –** Agree with the County Attorney . This needs to be resolved before we go further.

Motion made by Commissioner Gates to take action to TABLE action with the Tri–County Fair; Seconded by Commissioner Huotte

Motion to TABLE 5-0

TASK Order 20-25-5-41-160-0 – A-DLC Unified Government Master Contract that Covers the Period of July 1, 2020 – June 30, 3025, Healthy Montana Families Home Visiting Program.

Leigh Ann Holmes, Public Health – This is the Healthy Montana families home visiting order. It was tabled because we did not have the actual Task Order. This is part of a 5-year contract. We have had significant impact in the community with this program in the zero to five population and low-income families. Ask that it be approved.

Motion made by Commissioner Huotte to take action to approve TASK Order 20-25-5-41-160-0 – A-DLC Unified Government Master Contract that Covers the Period of July 1, 2020 – June 30, 3025, Healthy Montana Families Home Visiting Program; Seconded by Commissioner Gates.

Motion Carried 5-0

Cooperative Agreement between Butte-Silver Bow County Health Department and Anaconda-Deer Lodge Health Department - Chronic Disease Prevention and Health Promotion Program Subcontractor Agreement.

Leigh Ann Holmes, Public Health – Same scenario as the previous order. The electronic signature has been approved by Butte Silver Bow. This is approximately $115,000 a year. This covers the asthma home visiting program and the tobacco prevention program. Both are important programs in the community. Butte Silver Bow is the hub with the programs for the state and they subcontract with us.

Motion made by Commissioner Vermeire to take action to approve the Cooperative Agreement between Butte-Silver Bow County Health Department and Anaconda-Deer Lodge Health Department - Chronic Disease Prevention and Health Promotion Program Subcontractor Agreement; Seconded by Commissioner Smith

Motion Carried 5-0

Special Event Permit – Mini Photo Sessions in Washoe Park, August 15-16, 2020 and August 29-30, 2020

Commissioner Huotte – Did a good job of planning for social distancing and making appointments.

- **Commissioner Hart** – Concur with Commissioner Huotte. A small event with appointments. Agree they have taken the necessary precautions.

Motion made by Commissioner Gates to take action to approve the Special Event Permit – Mini Photo Sessions in Washoe Park, August 15-16, 2020 and August 29-30, 2020; Seconded by Commissioner Huotte.

Motion Carried 5-0

Special Event Permit – Dead Ringer Horseshoe League Picnic August 29, 2020, pending Certificate of Insurance

CEO Everett - They decided not to do the event.

Leigh Ann Homes, Public Health – Talked to Jodee Barkell and they have decided to withdraw the permit and cancelled the event.

This Item Dies for lack of a motion

NEW BUSINESS

Mike Martelli is Requesting approval to publish an updated Invitation for Development Proposals for the Smelter Road Industrial Park – Lot 2I to consider development proposals for the land.

CEO Everett – We sold Mr. Martelli some land about 9 months ago. He went to have a building designed and found there are 3 lots and the very center lot he did not get. He is missing a central part of where he needs to build.

Carl Hamming – Clarification the location of the lot is the far eastern end of Smelter Road Industrial Park. Hoping to make it buildable for his shop.

Motion made by Commissioner Huotte to take action to approval to publish an updated Invitation for Development Proposals for the Smelter Road Industrial Park – Lot 2I to consider development proposals for the land; Seconded by Commissioner Gates.

Motion Carried 5-0

Appointment of a Commissioner to make the investigation of the end of Washington Street pursuant to the petition

Commissioner Hart – Commissioner Huotte and Commissioner Vermeire voiced working on this together.

- **Commissioner Vermeire** – Commissioner Huotte wants to take it on; I have gathered the paperwork and I will help all I can
- **Commissioner Huotte** – I will be good with that and get the information from Terry.

- **County Attorney Krakowka** – Statute indicates one commissioner appointed, (one member of the board and county surveyor). Carl Hamming as the planning director would fall into the category of the county surveyor.
- **Commissioner Hart –** On the table then is for Commissioner Huotte to be appointed. Do not think we need to appoint a county surveyor. That appears to be statutory required. We are only required to appoint the Commission representative.
- **County Attorney Krakowka** – Surveyor would be Carl Hamming

Motion made by Commissioner Smith to take action to appoint Commissioner Huotte to investigate Washington Street pursuant to the petition; Seconded by Commissioner Gates.

Motion Carried 5-0

Commissioner Hart – The next item came out of the closed meeting that was held last week. **That is for the Commission to take Action to Clarify that the vote taken at the meeting in August of 2019 to take action to approve the abandonment of a portion of Washington Street did not result in abandonment because no petition for abandonment had been filed. That portion of Washington Street remains a dead-end city street.** The language we received had two items a and b and it appears to me that these are 2 separate items that could not be in the same motion, and so that is how we will deal with them.

a. For the Commission to amend the Minutes of 8/20/19, to reflect that the Commission voted only to "take action to approve" abandonment. The Commission received no written petition from any party, therefore there was no abandonment, and that portion of Washington Street remains a dead-end city street.

Motion made by Commissioner Gates to take Action to For the Commission to amend the Minutes of 8/20/19, to reflect that the Commission voted only to "take action to approve" abandonment. The Commission received no written petition from any party, therefore there was no abandonment, and that portion of Washington Street remains a dead-end city street; Seconded by Commissioner Smith.

Motion Carried 5-0

b. For the Commission to consider placing signage on this portion of Washington Street, to clarify that it is a "Dead End Street/Not a Through Street".

Motion made by Commissioner Vermeire for the Commission to placing signage on this portion of Washington Street, to clarify that it is a "Dead End Street/Not a Through Street"; Seconded by Commissioner Huotte.

Motion Carried 5-0

Miscellaneous

Commissioner Huotte – Asked about the updates on West Valley sewer hookups and if we will be seeing those on

the taxes this year.

- **CEO Everett** – Language has not been written but that is the intent. Hope to have it on a Work Session
- **Commissioner Gates** – Follow up have people been hooking up.
- **CEO Everett** - We have had some, maybe 5. Finding contractors is impossible.
- **Commissioner Hart**– Have people contacted the contractor or are they just waiting to see if it is going to be enforced. It would be a shame to drop the ball and not enforce this.
- **CEO Everett** – Need to move forward. They have had an extra few years.

Commissioner Smith – No Miscellaneous
Commissioner Vermeire – No Miscellaneous
Commissioner Hart – No Miscellaneous
CEO Everett – No Miscellaneous

County Attorney Krakowka – Talked about driving up and down main street. Sees the progress on the Vietnam Vet Memorial. I see the progress on third street. In between the two is the warming shack. Could Rose give us an update? How far along is the project to being completed. How far along will the project be by ice skating season.

- **Rose Nyman** – It was with difficulty to find a contractor to do the work for the ADA accessibility. His intent is to start soon, maybe this week. I asked him that once excavated to finish the job quickly because of the people who walk laps daily. Everything has been arranged.

Public Comment

Rose Nyman – Procedural question, last week in the Leader there was an ad for a public hearing on the budget. It was not under legal notices. Question does it have to be in the section titled Legal notices. Never have seen this happen.

- **County Attorney Krakowka** – Requirement of items of sign public interest . . . My instant call is that if it published in the newspaper that is enough. There is not a requirement that it be published under Legal notices. It is a statutory term and is designed to give people notice if they are being sued by notice in the paper. No specific requirement where it must be advertised in the newspaper.
- **Rose Nyman–** That's where contractors' look for bids and Request for Proposals. Tidy if it appears in the same place.

Janice Hagan Delaney – Questioned minutes of August 13 and I asked about hotel. Still curious to know about the investors.

- **Commissioner Hart** – Those minutes are approved. Already stated that no one in the county has any listed investors and never required for any work. There are other federal grants that have been given that don't list the investors. That is something that the developer wishes to disclose that they would be able to do that.

Janice Hagan Delaney – Agree with what Rose said for people to find information in the legal notices. Also, a kudos to Leigh Ann in the Health Department

- **Kimberly Richardson** – There is a chat message from Jim. Would you like me to read it?
- **Chat Bubble from Jim:** Does the new designation give JEBCO the access to the five city lots? Did the district court state that you needed to say the abandonment was undone? What you did was make it a different designation.
- **Commissioner Hart** - No what we have done is stated that the road was not abandoned by our previous action and therefore it remains a city road. It also remains as a dead-end road.
- **County Attorney** – Not so much that it was undone but never actually done because there was no petition. In the second part you indicated that road remains a road but that it is designated a dead-end road.
- **Rose Nyman** – Pointed out that Jim did not give his last name or address. We are all required to do that.
- **Jim Liebetrau –** Provided name and address. Didn't district court tell you to put the designation of Washington street back to what it was and not to change the designation to a dead-end street? Second question. . . if it is a dead end . . . do I have access to my 5 city lots and the plant?
- **Commissioner Har**t – We are dealing with the information provided by the attorney. Encourage you and your attorney to get with the attorney for the county.
- **County Attorney Krakowka** – I believe it would be appropriate for Mr. Liebetrau to speak with his counsel and then to consult with our counsel

Discussion continued between Mr. Liebetrau, Commissioner Hart, and the County Attorney. Consensus was for Mr. Liebetrau to get with his attorney and talk with the county attorney appointed by MMIA.

County Attorney Krakowka– Provided a more detailed explanation of publication of meeting notices. Named a case of Jones vs Missoula County. In that case the court decided that if something was published in a newspaper at all . .

.it meets the requirement of being advertised. Taking the loose application for publishing . . . if we advertised anywhere within the newspaper it is considered advertised.

ADLC Public Meeting Dates –

Commissioner Hart read the meeting dates and times.
Following this meeting we will have a special work session.

Adjournment Meeting adjourned at 7:31 p.m.

Lori Sturm
Clerk of Commission

Kevin Hart
Commission Chair