

**ANACONDA DEER LODGE COUNTY
COMMISSION MEETING
6:00 P.M. TUESDAY, SEPTEMBER 1, 2020
Webex**

Present: District 1, Commissioner Terry Vermeire, District 2 Commissioner Steve Gates, District 3 Commissioner Kevin Hart (Chair), District 4 Commissioner Paul Smith, CEO Bill Everett, County Attorney Krakowka, Clerk of Commission Lori Sturm and Webex Facilitator Kimberly Richardson.

Excused Absence: District 5 Commissioner Mike Huotte (Vice-Chair),

Members of the Press: Kathie Miller, Anaconda Leader

Members of the Public: Per Webex Sign-In

Commissioner Hart – Roll Call of Commission - Called the meeting to order.

Commissioner Hart performed all votes on the Agenda by roll call of commissioners.

Approval of Minutes

Approval of Minutes from the Commission Meeting of

Motion made by Commissioner Smith to approve the Commission Meeting of August 18, 2020; Special Commission Work Session Meeting, August 18, 2020; Special Commission Meeting, August 20, 2020; and the Commission Work Session of August 25, 2020; Seconded by Commissioner Gates.

Marylyn Hagan Smith – Had a questioned about changing prior minutes.

- Commissioner Hart – We are addressing these particular minutes.

Motion Carried 5-0

Approval of Claims

Motion made by Commissioner Huotte to take action to authorize the payment of claims numbered 134693 through 134785 in the amount of \$369,462.04 Seconded by Commissioner Vermeire.

Motion Carried 5-0

Reports of Boards, Committees and Officials

Commissioner Huotte – Attended the Health Board Meeting on August 27th.

Commissioner Smith – Nothing to Report

Commissioner Gates – Attended the first meeting on the use of alcohol at Kennedy Common.

Commissioner Vermeire – Attended the Airport Board meeting, there was no quorum. Provided an

update to the Commission on the Runways and resurfacing and lettered. This week the beacon is to be replaced.

Commissioner Hart – Nothing to Report

CEO Everett – Negotiations with the EPA and Atlantic Richfield on a couple of different topics. I don't think it will ever be over. Spent a lot of time in pursuing the BUILD Grant. We have given a lot of tours to our senators and different representatives. Hopefully we get some good news

County Attorney Krakowka – Attended a DUI Task Force meeting, and a family movie night put on by ACI and held at Cedar Park Bowling alley. Attended an Anaconda Sportsmen meeting, talked about updates on regulations at the upcoming legislative session.

UNFINISHED BUSINESS

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.

Commissioner Smith – Disclosed that Matt Smith is my cousin. Asked the County Attorney if he should abstain from voting.

- **County Attorney Krakowka** – Ultimately this is up to you. You have notified Commission of your relation. Abstaining would also be appropriate
- **Commissioner Smith** – Will abstain as there will be enough votes.
- **Commissioner Huotte** – Voiced concerns with this project such as it is located a half-mile away from Rest Area, Close to the Greenway Service Trails, and there is high ground water in the area. I will be voting against this.
- **Commissioner Vermeire** – My understanding this is an open pit. Sewage would be dumped on the ground. We have a state-of-the-art sewage facility for our residents. Feel we will be getting septage from other counties being dumped in our county. What will happen 20 years from now. Also concerned about the ground water and bringing septic from other counties. Pumping septic tanks in other counties should not be part of Anaconda-Deer Lodge Counties problem. Urge to vote against
- **Commissioner Gates** – I attended the planning board meeting and was impressed with the presentation that Matt and Glen put on. It is his personal property and they are trying to do this the right way. This is a process used throughout the United States. They are trying to fulfill a need. Wish there was a presentation for the Commissioners. The DEQ is Ok with this and the planning board voted in favor unanimously. The Rest Area has above grade septic and has not had problems with leaching into the ground water. Urge Commissioners to change their minds.
- **CEO Everett** – Unfortunately I am adamantly opposed to this concept. It is to bring in waste from other counties and that is the sole purpose of this. We have been a waste site for enough years. Pointed out that when they cleaned the Clark Fork the waste was brought back to Anaconda-Deer Lodge County. We have been abused enough. It is a bad idea, setting precedent. It is used. . . but is outdated. I have talked to Missoula and Helena it is not happening in civilized counties. This may be used in very rural areas.
- **County Attorney Krakowka** – Concerned about the ability to separate possible contaminated sewage from not contaminated sewage. Potentially you could be bringing in environmental

concerns into our community. Bringing in additional contamination is a concern, and possible subsequent clean up issues with ARCO.

- **Colleen Riley** – I am a member of the planning board, but I was a call-in member on the night it was presented. I was not able to vote. Claiming that it was voted on unanimously . . . that is incorrect. I should show as a member who did not have an opportunity to vote and I would have voted against this at the planning board. I would have voted No.
- **Glen Wyant** – I would like to assure you that ARCO has nothing to do with this; they did not reclaimate this site. It is waste from different counties, but it is regulated. This is a 3-acre piece of land; and it would be applied to a certain square footage. It is immediately dished into the ground and smells, odors, litters is not a concern. It will provide nutrients to the ground. Ground water will not be an issue. Missoula and Helena are taking these other counties waste. CEO Everett is not the expert I am the expert; Chad Lanes is the expert. The DEQ are the experts. ARCO has nothing to do with this. The DEQ has reclaimed the property. Everything we are doing is legal. Please ask me questions because this is needed. Don't let Mr. Everett scare you with this. Quoted zoning laws and what they are doing is acceptable. This is not the CEO's county it is our county the taxpayers and the business owners. Where are you getting the false accusations about land application?
- **Commissioner Hart** – Received information from the sanitarian's office that you have explored land application in Granite and Powell County. What happened with those processes?
- **Glen Wyant** – Several landowners wanted to do this, but they didn't meet the DEQ regulations with slope or high ground water. One neighbor didn't want it in the area. The ranchers that do want this did not meet all the qualifications, like this site does. This site exceeds all DEQ regulations. I am down 73% of my business. This is to get me through until I can get these other counties and ranchers on board with this.
- **Commissioner Hart** – With regards to Granite and Powell, have you inquired about dumping waste from those counties to use their treatment plants.
- **Glen Wyant** – Their wastewater facility certainly is not as good as ours. We can't dump there because they don't pass regulations. Feels Anaconda-Deer Lodge County is losing 3 to 4 thousand a month just from me not being able to dump. This is a horrible business decision. Surprised at the resistance.
- **Commissioner Vermeire** – Is this for your own business or will you allow other septic companies to dump there also
- **Glen Wyant** – No . . . This is just my business. DEQ regulations require that if another septic pumper wants to do this, they must set up their own site and have his own DEQ application.

Motion made by Commissioner Gates to take action to approve/the 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; **NO SECOND TO THE MOTION WAS MADE.**

Motion Fails for Lack of a Second

Resolution No. 20-22, A resolution of the Commission of Anaconda-Deer Lodge, Montana, Establishing Durston Park as an Official Park of Anaconda-Deer Lodge County (ADLC).

Commissioner Hart – I prepared the resolution and feel strongly that it should be an official park of Anaconda-Deer Lodge County. I was surprised to find out that this was not an official park.

- **County Attorney Krakowka** – After the last meeting I researched what if any potential problems there might be if we wanted to put this back to use. There was reference that we can make a park by resolution, but it requires a vote of the community to unmake a park. Did not find anything that if we wanted to change it from a park to something, we would have to put it up for vote. It appears that if we go through the appropriate steps in the statute, assess parks, assess needs of community and then follow through the appropriate sale procedure that we could dispose of this as any other property.

Motion made by Commissioner Smith to take action to approve Resolution No. 20-22, A resolution of the Commission of Anaconda-Deer Lodge, Montana, Establishing Durston Park as an Official Park of Anaconda-Deer Lodge County (ADLC); Seconded by Commissioner Vermeire

Motion Carried 5-0

Resolution No. 20-23, A Resolution to Amend Fund Budgets for Fiscal Year 2019-2020

CEO Everett – This statement pertains to the next 3 items as well. This is the largest budget we have put forth. Most of the increase is for Capital projects, and we are doing it for less mills. We are running a huge beautiful efficient county, huge capital infrastructure improvements and reducing taxes. I don't think we could do a better job than what this budget portrays.

Motion made by Commissioner Huotte to take action to approve Resolution No. 20-23, A Resolution to Amend Fund Budgets for Fiscal Year 2019-2020; Seconded by Commissioner Gates.

Motion Carried 5-0

Resolution No. 20-24, A Resolution Establishing the Mill Levy For Anaconda-Deer Lodge County For Fiscal Year 2020-2021

Motion made by Commissioner Gates to take action to approve Resolution No. 20-24, A Resolution Establishing the Mill Levy For Anaconda-Deer Lodge County For Fiscal Year 2020-2021; Seconded by Commissioner Vermeire.

Motion Carried 5-0

Resolution No. 20-25, A Resolution Adopting A Budget For Anaconda-Deer Lodge County For Fiscal Year 2020-2021.

Motion made by Commissioner Vermeire to take action to approve Resolution No. 20-25, A Resolution Adopting A Budget For Anaconda-Deer Lodge County For Fiscal Year 2020-2021: Seconded by Commissioner Gates.

Motion Carried 5-0

Resolution No. 20-26, A Resolution Requiring All Properties in the West Valley Sewer District to Pay Established Sewer Fees Set by Resolution.

Motion made by Commissioner Smith to take action to approve Resolution No. 20-26, A Resolution Requiring All Properties in the West Valley Sewer District to Pay Established Sewer Fees Set by Resolution; Seconded by Commissioner Vermeire.

Motion Carried 5-0

Fiscal Year 2020-2021 Budget Request from Copper Village Museum and Art Center for a donation in the amount of \$3500.00

Motion made by Commissioner Vermeire to take action to approve Fiscal Year 2020-2021 Budget Request from Copper Village Museum and Art Center for a donation in the amount of \$3500.00; Seconded by Commissioner Huotte.

Motion Carried 5-0

Position Description for a Public Health Emergency Preparedness Coordinator (PHEP)

Commissioner Hart – This was presented well last week from the Public Health Director.

Motion made by Commissioner Huotte to take action to approve the Position Description for a Public Health Emergency Preparedness Coordinator (PHEP); Seconded by Commissioner Smith.

Motion Carried 5-0

Lease Agreement between Anaconda-Deer Lodge County and the Smelter City Senior Citizens (Metcalf Memorial Senior Citizens Center)

Motion made by Commissioner Gates to take action to approve the Lease Agreement between Anaconda-Deer Lodge County and the Smelter City Senior Citizens (Metcalf Memorial Senior Citizens Center); Seconded by Commissioner Vermeire.

Motion Carried 5-0

Commissioner Hart – Provided an explanation about the next items on the agenda for abandonment. After last week's work session, it was determined that some of the signatures on the petition may not have met the requirements. Adam Vauthier asked that these items be rescinded and work off a subsequent petition that has been filed with additional signatures. The action we are taking is that these will be rescinded. The new petitions will be on the Work Session for next week to start the process again.

Petition for the Abandonment of a small portion of Deer Lodge Drive, a dead-end spur street that is adjacent to property along Deer Lodge Drive and Harrison Street

Rescinded (new Petition for next week's work session)

Petition for the Abandonment of a small portion of Polk Street, a dead-end spur street that is adjacent to property along near Deer Lodge Drive.

Rescinded (new Petition for next week's work session)

Grant of Trail Easement between Anaconda Local Development Corporation in favor of Anaconda-Deer Lodge County.

Motion made by Commissioner Gates to take action to approve the Grant of Trail Easement between Anaconda Local Development Corporation in favor of Anaconda- Deer Lodge County; Seconded by Commissioner Smith.

Motion Carried 5-0

Washington Street Road Petition Commission Review.

Commissioner Hart – Filed by Mr. Liebetrau and this was assigned to Commissioner Huotte for review.

- **Commissioner Huotte** – I looked at the signatures on the petition and only 4 of the 12 that were submitted were property owners in the county. Therefore, it does not meet the requirement of ten freeholder. I am requesting that the Commission reject the petition as invalid.
- **Commissioner Hart** - We do have another petition with additional signatures that Mr. Liebetrau has presented. The process will be the same as the road abandonments that the Local Development asked for. If this one is rejected, then the new petition will be placed on next week's work session and we will begin the same process.
- **Don Clark** – I support JEBSCO for the opening of the streets for access to 5 city lots and for delivery truck access. There would be no increase to truck traffic, noise or dust.
- **Ron Vetter** – Agree with Mr. Clark. Concerned that AFFCO and JEBSCO go out of their way to help the county. The Grumpy Old Men ask us for help with projects, Mitchel stadium steps we provided material, the county road department with Mill Creek, they hauled thousands of yards of fill at no

cost. We donated slag material for the slide at no cost to the county. I personally have done projects for the county. We try to do things for the county in good faith and would appreciate if it was returned.

- **Kevin Kovacich, General Manager** – We are trying to do something positive for the community and grow our business which would increase the tax base. We don't just want to operate a business but grow a business.

Motion made by Commissioner Gates to take action to officially reject the petition based on the findings of Commissioner Huotte regarding the Washington Street Road Petition; Seconded by Commissioner Vermeire.

Motion Carried 5-0

Commissioner Hart – For those that did offer comment this is based on the petition not meeting the requirements of Montana law. The new petition will be on the Work Session for next week to appoint a commission representative to investigate that petition.

Award the Willow Glenn Paving Project

CEO Everett – It is a fair bid right within engineer estimates.

- **Commissioner Hart** – Believe it was below the Engineer estimates.

Motion made by Commissioner Huotte to take action to award the Willow Glenn Paving Project to R and S Johnson Construction; Seconded by Commissioner Gates.

Motion Carried 5-0

Request for appointment to the Housing Authority Board by Camille Erickson. (one vacancy)

Motion made by Commissioner Vermeire to take action to appoint Camille Erickson to the Housing Authority Board; Seconded by Commissioner Smith.

Motion Carried 5-0

Request for appointment to the Local Emergency Planning Board as the Broadcast/Print Media Representative by Paul Johns

- **Kathie Miller, Leader** – I work with Paul Johns at the Leader and he would be a great asset to the board.

Motion made by Commissioner Huotte to take action to appoint Paul Johns to the Local Emergency

Planning Board as the Broadcast/Print Media Representative; Seconded by Commissioner Gates.

Motion Carried 5-0

Request for Appointment to the Anaconda-Deer Lodge County Airport Board by Monte Belgarde.

Commissioner Hart - Asked if you have any information on possible requirement of residency.

- **Commissioner Vermeire** – There is no requirement of residency. The airport manager reminded me that we had a Dr. from the Flathead area and flies down quite often and expressed interest of being on the board. It was deemed that he could be on the board, but because of his schedule he could not devote the time. Talked to Carlye and the County Attorney who said there was no residency requirement. I have looked through the Charter and admin code and found nothing in there. It looks like this is acceptable to be on the board.
- **CEO Everett** – I have met him multiple times, His experience in the flight world is unsurpassed. He runs a flight school out of Butte. He would be an asset to our airport board. IF he is willing to volunteer the time, I recommend you bring him on;
- **County Attorney Krakowka** – I discussed this with Commissioner Vermeire this afternoon. I reviewed charter and Administrative Code for ADLC and there is nothing indicating that he must be a resident to serve on our boards. I understand the question, but the question is being asked wrong. It should be what **nexus** does this person have to our community. He has leased a hangar at the airport for a significant period. He has a vested interest in the airport and community.

Motion made by Commissioner Vermeire to take action to appoint Monte Belgarde to the Anaconda County Airport Board; Seconded by Commissioner Smith.

Motion Carried 5-0

NEW BUSINESS

Resolution No. 20-17 (A), A Resolution to Place on the General Election Ballot a Question for Determination by the Qualified Electors of Anaconda-Deer Lodge County for the Levying of Twelve (12 Mills) Permanent for the Operation of the Hearst Free Library.

CEO Everett – Approved something a few weeks ago that was almost identical to this, but the statement was a bit misleading. It said continuing and this is not a continuance of a prior levy. This is different. The previous levy was for 4 mills and for a 4-year time frame. This is 12 mills and is a permanent mill levy. To clarify the language, I ask you to approve this. We don't want anyone to question the ballot.

- **Commissioner Vermeire** – Previously the 4 mills before was on top of what the Library received from the general fund. Now this is lumped together in 12 permanent mills and not coming out of the general fund and a 4-mill levy.

- **CEO Everett** – The Library will not receive any more money and the taxpayer will not be taxed any more. It will be a proper allocation. Instead of money going to the general fund it will go to the Library.
- **Commissioner Hart** – These 12 mills would be a direct funding to the library and the same amount would be reduced from the general fund.
- **Rose Nyman** – Hypothetical question posed to the Commission. If this should fail this would go back to the general fund and lose the 4 mills. Want to be sure the library is protected.
- **CEO Everett** – Most likely if this does not succeed. On the next ballot we would go forth with the 4 mills. But realistically we would just take this out of the general fund. Keep in mind that right now the general fund is paying for about 85% of their budget. There would be no implications to the library if it doesn't pass. The question is ten years down the road, having funds might be limited.

Commissioner Hart – The 4-mill levy has been reoccurring in the past. There was something specific that it was allocated for . . . do you know what that was?

- **CEO Everett** – At one time the Library was funded by private needs. There was a huge benefactor that paid for it. The need and demand on the county was extremely low. The donor has disappeared, the county has taken on the responsibility. We have never increased the mills to reflect that. It is misleading to the voter. We want the voter to understand what they are paying for and what they will get. It costs 12 mills out of the general to take care of this Library.

Motion made by Commissioner Smith to take action to approve Resolution No. 20-17 (A), A Resolution to Place on the General Election Ballot a Question for Determination by the Qualified Electors of Anaconda-Deer Lodge County for the Levying of Twelve (12) Permanent Mills for the Operation of the Hearst Free Library; Seconded by Commissioner Vermeire.

Motion Carried 5-0

Washington Street Petition requesting the south portion of Washington Street and the east portion of Seventh Street should remain closed.

Commissioner Hart – This is a petition with roughly 90 to 100 signatures. This will be to assign a Commissioner to review the petition. Asked Commissioner Huotte if he would be interested in asking this on?

- **Commissioner Huotte** - I would not mind, but would this be a conflict with a commissioner doing both?
- **Commissioner Hart** – We will cross that bridge when we get to it. The Petition from Mr. Liebetrau will go on next weeks work session for a Commissioner to be appointed to review at that meeting. This would be 2 weeks from now before voting for a commissioner to review that petition.
- **Commissioner Huotte** – I will take this on.

- **Jim Liebetrau** - #1 is that a legal petition. My understanding is that for the petition to be filed you have to have 51% of the property owners. Is that correct.
- **Commissioner Hart** – This is the same type that you submitted. Statue states 10 or a majority of the freeholders in the road district, which the County attorney has explained is the entire county. It is very confusing the way the legislature has written that . . . It is the same petition that you have filed.
- **Jim Liebetrau** – Except I was the property owner when I filed. A big difference.
- **County Attorney Krakowka**– The requirement is the ten individuals who signed the petition have to be free hold landowners. They have to have title to a property within that road district. There is not a requirement that the landowners be adjacent or have property connected to it.
- **Jim Liebetrau** – So if I got ten signatures to close the rest of Washington Street, it could be petitioned and be considered?
- **County Attorney Krakowka** - That would be possible
- **Jim Liebetrau** – The Petition also says that it would increase traffic. How would that increase traffic? Opening that portion, AFFCO is not going to double its business. It also said would increase the dust and we are trying to reduce the dust. By entering the plant there, we cut out a block each way of driving through the plant and that is where the dust comes from. I also question the safety and noise. How would it decrease property values? On July 28th you looked at a petition to undue an abandonment that was said by your attorney's was done improperly. You were supposed to give us an answer within 30 days and we still have not heard.
- **County Attorney Krakowka**– I think the petition referred to was not really a petition it was a letter with the word petition written across the top and no signatures from any freehold landowners and was signed by Mr. Liebetrau's attorney who is not a resident. Did not meet the basic requirements of a petition.
- **Jim Liebetrau** – You indicated that you were going to talk to your counsel and get back on a ruling. You never responded. Don't you think we should have the courtesy of hearing from you.
- **County Attorney Krakowka** – I thought I made that clear with your counsel. Ask Mr. Smith about my response; I spoke with him. Believe I sent him an email and might still have a copy.
- **Jim Liebetrau** – Hypothetical request to close Adam Street and get property owners and we could get that before the Commission. Property owners would have no say at that time. You are going to a lot of trouble from preventing us from increasing our business, solve dust problems, etc.
- **County Attorney Krakowka**– I am trying to ensure the statues are precisely followed so there isn't any confusion or problems in the future.

Motion made by Commissioner Gates to take action to appoint Commissioner Huotte to review the Washington Street petition requesting the south portion of Washington Street and the east portion of Seventh Street would remain closed; Seconded by Commissioner Vermeire.

Motion Carried 5-0

Discussion continued after the motion was made between Mr. Liebetrau, Commissioner Hart and the County Attorney. Mr. Liebetrau asked several questions about dead end streets. Commissioner Hart said the Commission would have to look into and review the question. Mr. Liebetrau asked that if they entered the street would they be arrested? The County Attorney stated that the people cutting down trees on a county were told that if they continued to damage county property they would be charged. Mr. Liebetrau continued hypothetical situations and the County Attorney continued to answer. The County Attorney stated that litigation is still pending, and they have not received an order from the judge.

Commissioner Hart – Getting beyond the scope of what we are talking about. The attorneys are working on this. You have an attorney and the county has an attorney representing our side. Until the litigation is complete and there is an order from the judge then we will know where to proceed. The attorney's need to have that discussion.

MISCELLANEOUS –

- **Commissioner Mike Huotte** – No Miscellaneous
- **Commissioner Steve Gates** – No Miscellaneous
- **Commissioner Paul Smith** – No Miscellaneous
- **Commissioner Terry Vermeire** – No Miscellaneous
- **Commissioner Kevin Hart** – No Miscellaneous
- **CEO Everett** – Would like to have a Public Hearing regarding the RV Park on a Major Development Permit. The RV Park will be before the Planning board on September 14th (not sure if it will be approved) but I would like to have it on the 15th. If not approved by the Planning board the Commission could still review with the understanding that the Planning Department did not approve. This is a huge project, most permitting and financing is under way. We need to get stuff in the ground so they can keep building during the winter. We could have a new RV park to open along with the new hotel and the improved golf course.
 - **Commissioner Hart** – That will probably work. We should have a recommendation from the Planning Board at that time.
 - **Commissioner Vermeire** – Can we meet the advertisement requirements
 - **Clerk of Commission** – It will be advertised on the 2nd and the 9th.
 - **Commissioner Hart** – Schedule that for the 15th.
- **County Attorney Krakowka** – No Miscellaneous

Public Comment

Rose Nyman – Have some comments about a proposed project at Durston Park. Waiting to see if the Commission approved the resolution making it an official park. As you are aware there is an Urban Renewal application for a new water project at Durston Park. This project needs to go to the Park and Recreation board and the Commission. It is not routine maintenance and it is not a simple repair. The first

page of the application says: Job Name: "New Water Feature" . . . I am not opposed but believe a presentation should be made to the Park and Recreation Board. The details of the project they will be removing the wildlife exhibit which will be replaced. It is a worthwhile project but opposed to it not going through the process as everything else placed on county property. Provided examples of boy scout projects coming to the commission. Believe the Commission would be enthused and would be supportive of the project. Asking we all be treated the same when wanting to do a project on county property. The URA board voted to approve a \$20,000 grant contingent upon the Commission dedicating Durston Park as an official park.

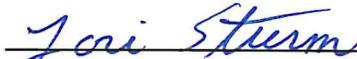
- **Commissioner Hart** – Tendency to agree that it needs to go to the Park and Recreation Board for a recommendation. Toni could get this on the agenda. We are about ready to start having our meetings. Asked if Rose get in touch with Toni.
- **Rose Nyland** – Would be happy to do this. One more minor thing regarding the Planning Board. A Major Development Permit DP application has to be approved or disapproved on certain criteria. If met it appears to me that we need to approve the project and send it to the Commission for a second public hearing for approval or disapproval. There is criteria that must be met.
- **Commissioner Hart** - Note that Rose and I discussed an issue with the Kennedy Common and they do not have a budget. The Ordinance that created that committee does require some meetings to take place. I have approved the advertisement for those meetings could come out of Commission budget or any budget the CEO would deem appropriate.

ADLC Public Meeting Dates

Commissioner Hart read the meeting dates and times.

Adjournment

Meeting was adjourned at 7:46 p.m.



Lori Sturm
Clerk of Commission



Kevin Hart
Commission Chair