

Montana Coal Board
Meeting Minutes
March 12, 2020
Billings, MT

Board Members Present

Chairman John Williams, Vice-Chair Sidney Fitzpatrick, Amber Henning, Marianne Roose, Tim Schaff, Sean Smith, and Veronica Small-Eastman.

Montana Department of Commerce Staff Present

A.C. Rothenbuecher, Operations Manager; Rachel Young, Administrative Officer; Anita Proul, Executive Assistant.

Public Present

Tami Ontireros	Northern Cheyenne Tribe
Rhea Bearcomesout	Northern Cheyenne Tribe
Becky Bey	KLJ
Nicole M. Borner	Musselshell County
Bill Neumiller	CPRD
Lucinda Burns, CCDF	Northern Cheyenne Tribe
George Real Bird III	Big Horn County Commissioner
Lane Spotted Elk	Northern Cheyenne Tribe
Julie Emmons	SEMDC
Jim Atchison	SEMDC
Bob Keele	Hysham Public Works Director
Ed Joiner	Rosebud County Commissioner
Bob Lewindowski	Superintendent, Colstrip Public School District
Tyler Bush	Mckinstry
Bruce Brown	Colstrip School Trustee
Ron Coleman	Hawk Creek VFD
Vonda Redfox	Northern Cheyenne Tribe
Rep. Ken Holmlund	House District 38
Bill Kennedy	MSU Billings Foundation
Dax Simek	Stahley Engineering

Welcome – Call to order

Chairman Williams called to order the meeting of the Montana Coal Board at 8:45 a.m.

Roll call

Ms. Young called the roll for board members. The following board members were present: Chairman Williams, Vice-Chair Sidney Fitzpatrick, Tim Schaff, Sean Smith, Marianne Roose, and Veronica Small-Eastman. On the phone via conference call was Amber Henning.

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Commerce Updates

Ms. Rothenbuecher discussed the Coal Impact Report, designated vs. non-designated units, what Commerce is currently doing to update that report, and the effects on awarding for both fiscal years.

Opportunity for Public Comment

- Jim Atchison, SEMDC – Thank you for award and provided handout for Colstrip update.
- Bob Lewindowski, Colstrip Public Schools – Thank you for the previous awards, especially the bleachers.
- Bill Hodges, Big Horn County Hospital Association – Thank you and provided a construction update as well as invited the Board to Big Horn County Hospital for June meeting.
- Bill Kennedy, MSU Billings Foundation – Gave update on project
- Nicole Borner, Musselshell Cnty Commissioner – Provided Information and thank you.
- Julie Emmons, SEMDC – Just received email, City of Miles City unable to get extension request in by 10-day deadline; just forwarded request to Ms Rothenbuecher and Ms. Young.
- Ed Joiner, Rosebud Cnty Commissioner – Pass along a sincere Thank You from the Northern Cheyenne Ministerial Association.

Approval of Minutes (December 12, 2019)

- Chairman Williams called for a motion to approve minutes.

Action by the Board: Mr. Schaff made a motion to approve minutes. Mr. Smith seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Minutes were approved.

Budget Status Update

- Ms. Rothenbuecher discussed the Budget Update and Revenue History reports.

2021 Biennium

• Legislative Appropriation (HB 2 and HB 292):	\$6,961,000.00
• FY 2020 (7/1/19-6/30/20) Appropriation:	\$3,479,000.00
• FY 2020 Revenue Available to Date:	\$1,328,180.99
• FY 2020 Awards Made to Date:	\$2,693,682.00
• FY 2020 Revenue Available to Award:	(\$1,365,501.01)
• FY 2020 Remaining of Appropriation:	\$ 785,318.00
• FY 2021 (7/1/20-6/30/21) Appropriation:	\$3,482,000.00
• FY 2021 Revenue Available to Date:	\$0.00
• FY 2021 Awards Made to Date:	\$0.00
• Funds Reverted:	\$0.00
• FY 2021 Revenue Available to Award:	(\$1,365,501.01)

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- 2021 Biennium Awarded: \$2,693,682.00
- 2021 Biennium Appropriation Remaining to Award: \$4,267,318.00

- Revenue Available: (\$1,365,501.01)
- Revenue Available with Reverted Funds (to award this meeting): (\$1,365,501.01)

- Tribal 7% limitations are being tracked and so far this fiscal year, the Board has made no awards to State or Tribal projects. Currently the available balance for such is \$243,530.00. Also, Designated vs. Non-Designated funds are being tracked. Statute identifies funds can be spent anywhere but 51% must be in designated impact areas and any other projects must meet statute criteria.
- Under contract for all the awards made in September; not under contract for anything in December as there is insufficient revenue.

Project Updates

- Applicant #0742 – Town of Lodge Grass requesting contract extension to December 2020
- Chairman Williams – confirmed contract was awarded in 2014 and expressed concerns on their ability to complete and asked for comments from Commerce.
- Ms. Rothenbuecher replied that Lodge Grass had also requested an extension on their TSEP contract, which is part of this same project, and anticipated that it would be approved. Would want to have the same extension for consistency.

Action by the Board: Ms. Small-Eastman made a motion to extend the contract to December 2020. Ms. Roose seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

- Applicant #0854 – Northern Cheyenne Tribe requesting contract extension to December 2020.
- Ms. Young made recommendation to extend to March 2021 so that expended funds are spent in the time frame before it needs to be closed
- Becky Bey, KLJ – Spoke on behalf of Northern Cheyenne Tribe and explained delay and fairly assured they will be able to finish this construction season.

Action by the Board: Ms. Small-Eastman made a motion to extend contract to March 2021. Vice-Chair Fitzpatrick seconded. Discussion from the Board and comments from the public – no additional discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

- Applicant #0863 – Rosebud County requesting contract extension to June 2020.
- Ms. Young explained that Commerce Staff suggest September 2020 so that it is not at the end of the fiscal year.

Action by the Board: Ms. Roose made a motion to extend contract to September 2020. Ms. Small-Eastman seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

- Applicant #0864 – City of Colstrip requesting contract extension to December 2020.

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Action by the Board: Mr. Smith made a motion to extend contract to December 2020. Ms. Roose seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes except Chairman Williams abstained. Motion passed.

- Applicant #0866 – Rosebud County, Chief Dull Knife College, requesting contract extension to December 2020.

Action by the Board: Vice-Chair Fitzpatrick made a motion to extend contract to December 2020. Mr. Smith seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

- Applicant #0867 – Big Horn County requesting contract extension to June 2020.
- Ms. Young explained that Commerce Staff suggest September 2020 so that it is not at the end of the fiscal year.

Action by the Board: Ms. Small-Eastman made a motion to extend contract to September 2020. Mr. Schaff seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes except Vice-Chair Fitzpatrick abstained. Motion passed.

- Applicant #0868 – Big Horn County requesting contract extension to December 2021.

Action by the Board: Ms. Small-Eastman made a motion to extend contract to December 2021. Mr. Schaff seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes except Vice-Chair Fitzpatrick abstained. Motion passed.

- Applicant #0869 – Big Horn County requesting contract extension to December 2021.

Action by the Board: Ms. Roose made a motion to extend contract to December 2021. Mr. Schaff seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes except Vice-Chair Fitzpatrick abstained. Motion passed.

- Applicant #0870 – Big Horn County requesting contract extension to June 2020.
- Ms. Young explained that Commerce Staff suggest September 2020 so that it is not at the end of the fiscal year.

Action by the Board: Ms. Small-Eastman made a motion to extend contract to September 2020. Mr. Schaff seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes except Vice-Chair Fitzpatrick abstained. Motion passed.

- Applicant #0742 – Town of Lodge Grass
- Ms. Rothenbuecher notified the board that Commerce just routed the TSEP contract extension for the Town of Lodge Grass with an extension date of March 31, 2021 and suggested matching that for consistency.

Action by the Board: Mr. Schaff made a motion to change the contract extension date to March 31, 2021. Mr. Smith seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes except Ms. Small Eastman absent for voting. Motion Passed.

- Ms. Young provided open and closed project status and discussed 2021 projects and prioritization of contracts.

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- Dax Simek – Absolutely. The plan is to get under construction by late summer or fall this year. The City of Hardin has committed \$100,000 of their reserve funds. That would put us about 2/3 of Phase 1 cost.

Action by the Board: Ms. Small-Eastman made a motion to award half, \$250,000, contingent upon funding, and priority one. Mr. Schaff seconded. Discussion from the Board and comments from the public:

- Dax Simek – Able to speak with the mayor, and while he had hoped for full funding, he is sympathetic to the position the Board is in and thankful for any funding they receive.

Ms. Young called for a vote: Vice-Chair Fitzpatrick abstained, remaining members yes. Motion passed.

New Business

Application #0898 Town of Hysham – Wastewater System Rehabilitation, Phase 1 **\$125,077**

- The applicant is requesting \$125,077 to complete Phase 1 of the community wastewater system rehabilitation.
- Bob Keele, Public Works Director – Discussed/explained previous applications submitted and the direction received to arrive at the current application. Discussed previous work that was able to be completed because of Coal Board funding. Explained leveraging Coal Board grant funds to receive other funding; TSEP, DNRC, etc. The Town of Hysham has committed \$10,000.
- Jim Atchison, SEMDC – This project has been in regional infrastructure needs list for quite a while. We do support it as well.

Action by the Board: Vice-Chair Fitzpatrick made a motion to fund at full amount dependent on revenue, priority two. Ms. Small-Eastman seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

Application #0899 Colstrip Public Schools – LED Lighting Project **\$229,470**

- The applicant is requesting \$229,470 to replace remaining fluorescent lighting with LED lighting at Pine Butte Elementary and Colstrip High School, which includes classrooms and gym.
 - The environmental resolution was not signed, and no meeting minutes were included.
- Bob Lewindowski, Superintendent Colstrip Public School Dist. – provided resolution and minutes. Spoke to the need and benefits of the project. Thanked Board for previous support.
- Tyler Bush, McKinstry – clarified the funding and previous expenditures by school district on this project.
- Bruce Brown, Board Trustee – thanked Board for previous support.
- **Questions and Comments from the Board** – With Coal Board’s limited funds remaining, you have two projects, one for the water main, can it be assumed that has a higher priority than LED lighting? How much do you have in reserves? Have you pursued any energy grants that are out there for LED lighting?

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- Bob Lewindowski – the water main is urgent for the functionality of the school. We have a building reserve and we have approximately \$600,000 and we also have projects that you have approved that we are working on that we have contingencies that we cover with those reserves. And, we try to keep money in reserves for some calamity we might face that would affect the functionality of the school. Yes, those numbers include the rebates; the balance after receiving the rebates.

Action by the Board: Mr. Schaff made a motion to table Application #0899 until June meeting. Ms. Roose seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion Passed.

Application #0900 Musselshell County – Hawk Creek VFD Concrete and Gutters **\$33,118**

- The applicant is requesting \$33,118 to install concrete floor at the Hawk Creek VFD building.
- Nicole Borner, Musselshell County Commissioner – asking for your help funding the second phase of a project you previously funded.
- Ron Coleman, Hawk Creek VFD – provided a handout and reviewed for the Board; the history of and region served by the Hawk Creek VFD, recapped the previous project awarded by Coal Board, and the need for this additional phase.
- **Questions and Comments from the Board** – does that include a drain system in the cement pad? How does this relate to coal? How many volunteers do you currently have and how many work in the coal industry?
- Ron Coleman – yes it does. We currently respond to the Signal Peak Mine and Hawk Creek is closest to the mine. 29 active volunteers, unsure how many work in coal.

Action by the Board: Ms. Small-Eastman made a motion to fully fund this project contingent on revenue and priority number three. Mr. Schaff seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion Passed.

Application #0901 Colstrip High School – Replace Cast Iron Water Main **\$121,273**

- The applicant is requesting \$121,273 to replace a cast iron water main at Colstrip High School.
 - The environmental process is incomplete.
- Bob Lewindowski, Colstrip Public Schools – showed a sample of the corroded cast iron water pipe and explained the need for replacing the water main.
- **Questions and comments from the Board** – is the required documentation, i.e. meeting minutes and public comments, is all of that in front of the board at this time?
- Bob Lewindowski – yes, I just disbursed that.
- Ms. Rothenbuecher – confirmed that a resolution from Colstrip Public Schools and minutes documenting their categorical exclusion were received.

Action by the Board: Ms. Small-Eastman made a motion to fully fund this project contingent on revenue and priority number four. Vice-Chair Fitzpatrick seconded. Discussion from the Board and

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comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion Passed.

Action by the Board: Mr. Schaff made a motion to waive 10-day rule. Ms. Roose seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

- Representative Holmlund – you had two motions on the floor at the same time. The motion to allow information must be redone.

Action by the Board: Mr. Schaff made a motion to waive 10-day rule. Vice-Chair Fitzpatrick seconded. Discussion from the Board and comments from the public – no discussion or comments. Ms. Young called for a vote: all yes. Motion Passed.

Application #0902 Colstrip Parks & Recreation District – Replace HVAC System at Community Center

\$250,000

- The applicant is requesting \$250,000 to replace the HVAC system at the Community Center.
 - No environmental review documentation was included in the application. It is unclear if this is an eligible applicant.
- Julie Emmons, SEMDC – Handed out copies of environmental documentation – affidavit of publication, minutes, and a resolution executed by Colstrip Parks and Recreation District Board.
- Bill Neumiller, President Colstrip Parks & Rec Board – gave history of recreation center. For eligibility, explained that they have been a tax district since 1987 and after legislature changed rules for parks districts in 2005, we continued to receive coal proceeds, to collect taxes, and operate our district under the guidance of Rosebud County. Strongly feel we are a tax district and eligible for Coal Board funds. Provided a copy of a letter of support from a community member.
- Jim Atchison, SEMDC – impacts and planning – CPRD is one of 5 tax districts in the community. Also listed on our infrastructure needs list. Provided employment numbers and explained expanded need for the Rec Center in the community; provided an informational handout about the Rec Center.
- Ed Joiner, Rosebud County Commissioner – provided/read a handout; copy of the resolution #257 creating the Colstrip Park District, dated April 1987. Colstrip Park & Rec District is still a working district funded by taxpayers. If there is still some kind of conflict, Rosebud County would probably sponsor this grant. Rosebud County is in full support of this project.
- **Questions and Comments from the Board** – the issue of whether or not the Park & Rec Dept is an appropriate entity to bring this application forward needs to be researched more. The statutes under which the Parks & Rec Dept was created has since been repealed in 2005; therefore, I am unsure whether or not the statutes that they were created have any force and affect at this point in time. Therefore, I would ask that we submit this to our attorney, Amy Barnes for a legal memo on this. If possible, suggest that Rosebud County take on this application. Chairman Williams, my suggestion to CPRD is to withdraw your application and

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resubmit it under the county? Would you consider that? Recognize that you will receive some NO votes as a result of that; that's what I anticipate. We need to have this researched with our legal department if it were to continue the way it is currently being presented, otherwise, if it is resubmitted, it would be in better condition with the legal aspects. Ms. Henning, two things: needs to be addressed by legal counsel, and as far as at this meeting, substituting Rosebud County as the applicant, I feel we can't do that at this time. The reason being the application has been submitted through the Parks Dept., which is a non-designated unit, Rosebud County is a designated unit, therefore the application changes. We cannot verbally substitute Rosebud County in as the applicant at this time.

- Julie Emmons – we researched everywhere possible to find documentation that this entity is eligible. In order to facilitate this process today, that's why Rosebud County stepped up and offered to be the sponsor for that application. I know Rosebud county has been determined to be an eligible applicant by this Board numerous times and for that reason we offer that solution. We would respectfully ask the Board to consider the application with Rosebud County as the sponsor at this meeting if that would be possible? Rosebud county has been determined to be an eligible applicant by the Board. Had we known this information sooner, we could have potentially changed that prior to this meeting, but we did not have clear information about that.
- Bill Neumiller – based on the information we are hearing, we will withdraw our application and resubmit in June time frame.

Application #0903 Northern Cheyenne Tribe – Construct Childcare & Community

Center Building

\$50,000

- The applicant is requesting \$50,000 to construct a childcare and community center building.
 - No environmental review documentation was included in the application and no waiver of sovereign immunity was included. Need clarification of scope of work.
- Vonda Redfox, Economic Development Planner Northern Cheyenne Tribe – currently working on the infrastructure for the reservation. Explained the multiple needs for the construction of the combined building and the potential multiple uses. In regard to the deficiency on the grant application, on March 16th we will be having our council meeting and we will be having our hearing for the environmental review and we will be doing a resolution to pass for the environmental review. The second deficiency of the tribal immunity, we have contacted the tribal attorney and that issue will also be addressed in the council meeting. Suggested that they would like to increase the requested amount to \$125,000.
- **Questions and Comments from the Board** – You said you are increasing your request to \$125,000? As a suggestion, with the changes of items that you need to do, would you consider addressing the issues identified from the staff on reconstructing your application with the sovereign immunity and everything put together; would you consider withdrawing it in its current format and resubmit it? We can accept your verbal withdrawal but please follow-up with a letter.

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- Vonda Redfox – yes, \$125,000. Yes to withdrawing and resubmitting.
- Ms. Rothenbuecher – Staff at Commerce are happy to walk through scope of work, walk through timelines, where you want to focus your request; staff are happy to help and get you ready for the next application due date. We need an email or letter stating withdrawal.

Opportunity for Public Comment

- Bob Lewindowski, Superintendent Colstrip Public Schools – Thank you very much on behalf of #901 and all the work that you did today, that was a difficult day. We're so thankful that we have you here working for greater Montana and Coal Country, thank you.
- Ron Coleman, Hawk Creek VFD – On behalf of the entire Hawk Creek VFD, we thank you very much for your gracious award.

Board Matters

- Confirmation of next meeting date
- June 11, 2020
 - Held in Hardin.
- Ms. Rothenbuecher – staff clarification on work session
 - When would you like that to start?
 - 2:00 pm Wednesday before meeting
 - Will be noticed to public
 - Will have a meal.

Adjournment

With no other business, Chairman Williams called for a motion to adjourn. Vice-Chair Fitzpatrick made a motion to adjourn. Ms. Roose seconded. Meeting adjourned at 1:17 p.m.