

Montana Coal Board
Meeting Minutes
June 11, 2020
Conference Call

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

Jennifer Olson, Division Administrator; A.C. Rothenbuecher, Operations Manager; Rachel Young, Administrative Officer; Anita Proul, Executive Assistant; Craig Woods, Accountant.

Public Present

Bill Hodges	Big Horn Hospital Association
Jim Atchison	Director, SEMDC
Bill Kennedy	MSU Billings Foundation
Bob Lewindowski	Superintendent Colstrip Public Schools
Liz Jensen	Executive Director, CPRD
Becky Bey	KLJ Engineering

Welcome – Call to order

Chairman Williams called to order the meeting of the Montana Coal Board at 8:30 a.m.

Roll call

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

Commerce Updates

Ms. Young updated the Board on the Coal Impact Report:

- Responses from approximately half of those contacted
- Report will be updated on the website and will be sent out through gov delivery
- Those actions will be effective starting July 1, 2020 through June 30, 2021

Ms. Young also reminded the Board, when grantees are asking for extensions that there is a time difference between the actual award date and the contract execution date. So when looking at extensions, it is important to note the just because someone was awarded funds on a certain date, a lot of those funds are contingent upon revenue and that means we don't contract with those folks until the revenue is actually in the bank.

Opportunity for Public Comment

- Bill Hodges, Big Horn Hospital Association – Gave update on phase 3 Big Horn Hospital remodel.
- Jim Atchison, SEMDC – Gave invitation to all for the Energy Open golf tournament.
- Bill Kennedy, MSU Billings Foundation – Gave update on project

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Approval of Minutes (March 12, 2020)

- Chairman Williams called for a motion to approve minutes.

Action by the Board: Mr. Smith made a motion to approve minutes. Ms. Roose 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: | \$1,978,288.66 |
| • FY 2020 Awards Made to Date: | \$3,223,150.00 |
| • FY 2020 Revenue Available to Award: | (\$1,244,861.34) |
| | |
| • 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: | (\$1,244,861.34) |
| • 2021 Biennium Awarded: | \$3,223,150.00 |
| • 2021 Biennium Appropriation Remaining to Award: | \$3,737,850.00 |
| | |
| • Revenue Available: | (\$1,244,861.34) |
| • Revenue Available with Reverted Funds (to award this meeting): | (\$1,244,861.34) |
| | |
| • 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. | |

Craig Woods, Accountant Montana Department of Commerce – Shared an analysis of revenue:

Revenue collected as of end of May \$1,978,000.00

- Last year end of May \$2,696,000.00
 - Decrease of 26.6%

Trends over last 10 years

- Typically, by end of May have collected 77.9% of total annual revenue
- Use that figure to project total revenue for the end of this year of \$2,539,000.00

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- Last year total revenue \$3,554,000.00
- Project fiscal year revenue for 2020 to be \$1,000,000.00 less than last year

Awards for fiscal year 2020 are \$3,223,000.00

- Subtract projected revenue and still in the hole \$684,000.00 at end of year – what that really means is that we have already committed \$684,000.00 of next year’s revenue with this year’s grants.
- I understand your intention at this meeting is to table applications, based on my analysis of the revenue, I absolutely think that’s the right decision to make, in fact I would encourage you to hold off on making awards until next year’s revenue has caught up with what has already been awarded and fill that \$684,000.00 hole so to speak.

Vice-Chair Fitzpatrick – Addressed Craig Woods – Inquired as to any transfer of funds regarding the Coal Natural Resource Account. Asked if there was \$500,000 transferred out of the account several years ago and if anyone had information regarding this transfer.

Craig Woods – indicated that he was not aware of any \$500,000 transfer out of the account from the Coal Board account but indicated it was a question better asked of the program staff and deferred to Ms. Rothenbuecher.

Ms. Rothenbuecher – Indicated that she did not have any history on a transfer and deferred to Ms. Olson

Ms. Olson – Asked Vice-Chair Fitzpatrick for additional information about his recollection of a transfer and if the potential transfer was possibly related to a budget report that indicated revenues came in over the appropriation and authority and the money would then have remained in the account or was there something more specific?

Vice-Chair Fitzpatrick – Asked Chairman Williams if he recalled the discussion to which Chairman Williams indicated that he did not have a recollection of any transfer regarding \$500,000. Vice-Chair Fitzpatrick indicated that he had asked Senator Ankney and the state representative from Miles City several years ago and recalled the discussion was in the past and didn’t want to get stuck in it, but if it was the case, he would like to know more about it.

Chairman Williams – Recommended looking into the previous account activity.

Ms. Olson – Advised the Board of the coordination between Commerce and the legislative fiscal division, that is typically held before a legislative session, of a reconciliation of the financial activities in showing what is obligated and unobligated in the account. This would have been reported to the Board and could be what Vice-Chair Fitzpatrick is recalling.

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Conference Call abruptly ended due to technological reasons.

Second Call to Order and Roll Call

Due to the conference call disconnecting, Chairman Williams called the meeting back to order at 9:00 a.m. and asked for a second roll call. Ms. Young called the roll for board members. The following board members were present: Chairman Williams, Vice-Chair Sidney Fitzpatrick, Amber Henning, Marianne Roose, Tim Schaff, Sean Smith, and Veronica Small-Eastman.

Chairman Williams – Commented about the transfer of funds discussion, in reference to Vice-Chair Fitzpatrick’s comments, and noted it may have been a difference in what was appropriated and what was actually collected that would make up a number of \$500,000 and that Ms. Olson would look back historically.

Ms. Olson – Clarified that any revenue that comes into the Coal Natural Resource account which is where the Coal Board is able to fund to award grants stays in the Coal Natural Resource account, even if the revenue came in over the appropriation and authority. The Department of Commerce cannot remove or move these funds to other accounts. However, the Legislature has the authority to move money between accounts through legislative action, but Ms. Olson did not have a recollection that had happened and agreed to look into it.

Project Updates

- Applicant #0825– Lame Deer Public Schools requesting contract extension, staff recommends extension to March 31, 2021.

Action by the Board: Ms. Roose made a motion to extend the contract to March 31, 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 Ms. Small-Eastman abstained. Motion passed.

- Applicant #0831 – Miles City requesting contract extension to December 31, 2020.
- 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: Mr. Smith made a motion to extend contract to December 31, 2020. Mr. Schaff seconded. Discussion from the Board and comments from the public:

- Jim Atchison, SEMDC – Spoke in support of project

No additional discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

- Applicant #0846 – Hardin Public Schools requesting contract extension to December 31, 2020.

Action by the Board: Mr. Schaff made a motion to extend contract to December 31, 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 Ms. Small Eastman not present. Motion passed.

- Applicant #0848 – BSED requesting contract extension to March 31, 2022.
- Ms. Small-Eastman rejoined call at 9:13 a.m.

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Action by the Board: Ms. Roose made a motion to extend contract to March 31, 2022. 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.

- Applicant #0853 – City of Lewistown requesting 90-day contract extension, staff would recommend December 31, 2020.

Action by the Board: Mr. Smith made a motion to extend contract to December 31, 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 #0902 – Colstrip Parks and Recreation requested to withdraw application.

Action by the Board: Mr. Schaff made a motion to approve application withdrawal. 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 #0903 – Northern Cheyenne Tribe requested to withdraw application.

Action by the Board: Mr. Schaff made a motion to approve application withdrawal. 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 #0897 – UM Western Foundation requested to withdraw application.

Action by the Board: Mr. Smith made a motion to approve application withdrawal. Mr. Schaff seconded. Discussion from the Board and comments from the public:

- Ms. Young – Notified board that upon initial application, there were some questions whether they qualified and they do qualify under a state agency, but there is an ARM #8.101.306 that talks about the types of projects that are eligible under state agencies. Requested, for the record, when the board goes back to looking at applications and updating those applications, the staff is requesting something stated in the application about the ARM and state agencies and the types of projects that are eligible.
- Ms. Rothenbuecher – 0909 UM Western Foundation is actually the withdrawal because they are a non-profit 501c3 so they were ineligible and staff worked with them and advised them to come in and apply as a state agency next meeting and discussed the previously mentioned ARM.

No additional discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

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

Old Business

Application #0899 Colstrip Public Schools – LED Lighting Project

\$249,433

- Application tabled at last meeting.
- Chairman Williams recommended for Board to un-table and re-table application to keep it viable.

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Action by the Board: Ms. Henning made a motion to remove application #0899 from table. Ms. Small-Eastman seconded. Discussion from the Board and comments from the public:

- Bob Lewindowski, Superintendent Colstrip Public Schools – Thanked the Board for keeping the application viable.

No additional discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

Action by the Board: Mr. Schaff made a motion to table application #0899 until next meeting. 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 to table application for discussion at next meeting.

Application #0889 Town of Hardin

- Board voted on 10-day waiver for application awarded contingent at March meeting.

Action by the Board: Vice-Chair Fitzpatrick made a motion to waive 10-day rule. 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.

New Business

Application #0904 Rosebud County – Colstrip Parks and Recreation Dist. HVAC	\$250,000
Application #0905 Big Horn County – Hospital Improvements	\$498,759
Application #0906 City of Forsyth – City Pool Upgrades	\$ 95,000
Application #0907 Big Horn County – Cemetery District No. 1	\$124,870
Application #0908 Big Horn County – Sheriff’s Office	\$250,000

- All applications addressed as a group to be tabled until the next meeting.
- Chairman Williams called for a motion to table all New Business applications.

Action by the Board: Mr. Smith made a motion to table all New Business applications until next meeting. Mr. Schaff seconded. Discussion from the Board and comments from the public:

- Vice-Chair Fitzpatrick – Expressed concerns from the revenue analysis provided by Craig Woods and questioned when the Board would want to notify the applicants about the lack of revenue.
- Chairman Williams – That would be addressed at next meeting – un-table and discuss available monies at that time.
- Ms. Rothenbuecher – Provided comments and recommendations: hope to have revenue at September meeting, maybe not until December, hopeful to have a sense of total revenue received for end of fiscal year/June. Likely not to have knowledge of revenue for fiscal year 2021 until December meeting, historically been the case. Additional consideration, the awards that were contingent upon, all of September contracted but have only contracted two from December, and depending on how the revenue comes in for fiscal year 2020, you will have awards sitting on the table that were awarded contingent upon and the staff would need some guidance as to are you going to continue that order, award them under fiscal year 2021 funds,

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or are you going to rescind them? Staff are going to be looking for guidance from the Board over the next two meetings as you are unlikely to be able to meet, under contract under fiscal year 2020, the ones that are already awarded contingent upon.

- Vice-Chair Fitzpatrick – Provided insights as to the struggles that the coal mines in Big Horn County are having and that potential impact on the Coal Board revenues.
- Ms. Henning – Agreed with Vice-Chair Fitzpatrick’s concerns given the forecast with the revenue. In support of tabling the applications at this time but asked the Board members to think about what the reality is and what the Board can do as they go into the September meeting. Cautioned against continuing to table applications as they come in because of insufficient revenue and may have to look at denying applications and they can reapply as more revenue comes in. Unfortunate and hard on entities that rely on this money to have it denied but we do not want projects just out there waiting for funds that may never show up.
- Ms. Rothenbuecher – Reminder to projects that are currently not under contract with the Department of Commerce because there is insufficient revenue, that were awarded contingent upon, if you proceed with those projects it is at your own risk as those funds are not under contract with the Department of Commerce and are not secure from Coal Board. Echoing Ms. Henning about the projects that are hanging out there, if they move forward, they may or may not go under contract depending on what the Board decides at the September or December meeting. To clarify to those applicants that may be on the phone.
- Ms. Henning – Addressed Ms. Rothenbuecher and asked if it would be possible to send out a letter to the projects not on the call documenting the Board’s financial situation.
- Ms. Rothenbuecher – Good suggestion and asked the board to specify exactly what they want, and staff can send out.

No further discussion or comments. Ms. Young called for a vote: all yes. Motion passed.

Opportunity for Public Comment

- No additional public comment provided.

Board Matters

- Confirmation of next meeting date
 - September 10, 2020 – Telephone Conference
 - December 10, 2020 – Telephone Conference??
 - March 11, 2021
 - June 10, 2021
 - Ms. Olson – To support Governor’s directive, staff still teleworking, no travel, and Board will be supported through electronic means through the end of 2020.
- Ms. Young – Reminded Board about the work sessions for updating the application and asked if they still wanted to move forward with that.
 - Chairman Williams – Requested paper copies be mailed out and put on agenda for discussion – draft Application and draft Administration Manual

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Adjournment

With no other business, Chairman Williams called for a motion to adjourn. Mr. Schaff made a motion to adjourn. Mr. Smith seconded. Meeting adjourned at 9:58 a.m.