



# Montana Board of Livestock Meeting Minutes

August 2, 2018

MT Department of Livestock Board Room #319  
301 N. Roberts, Helena, Montana

## Board Members Present

John Lehfeldt, Chairman (sheep producer)

John Scully, Vice-chair (cattle producer)

Lila Taylor (cattle producer)

Nina Baucus (cattle producer)

Sue Brown (dairy & poultry)

(Ed Waldner and Brett DeBruycker were not present)

## Staff Present

Mike Honeycutt, EO

Brian Simonson, Deputy EO

Gary Hamel, Meat & Poultry Bureau

George Edwards, Livestock Loss Board

Leslie Doely, Brands Administrator

Donna Wilham, Adm. Asst. to EO

Dr. Marty Zaluski, State Veterinarian

Dr. Tahnee Szymanski, Animal Health

Dr. Eric Liska, Animal Health

Evan Waters, Centralized Services

## Public Present

Rob Stutz, Legal Services Division

Sarah Clerget, Legal Services Division

Justin Mauler

John Youngberg, MFBF

Korie Anderson, MSGA

Les Graham, MALAM

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## MEETING CALLED TO ORDER

7:59 AM

Chairman John Lehfeldt called the meeting to order at 7:59 AM

## APPROVAL OF BOARD MINUTES

8:00 AM

## **MOTION/VOTE**

**8:02 AM**

Nina Baucus moved to approve minutes from the BOL 6/26/18 meeting. John Scully seconded. The motion passed

## **APPROVAL OF BOARD ADMINISTRATIVE CONSENT AGENDA ITEMS**

**8:02 AM**

## **MOTION/VOTE**

**8:02 AM**

John Scully moved to approve the Consent Agenda Bureau Reports from Brands Enforcement Division and the Meat & Poultry Inspection Bureau but requested that the report from the Milk Control Bureau be removed for further discussion. Sue Brown seconded. The motion passed

## **MOTION/VOTE**

**8:02 AM**

Nina Baucus moved that out of state travel requests on Consent Agenda be approved for Animal Health, Brands Enforcement Division and the Veterinary Diagnostic Lab. John Scully seconded. The motion passed

## **BOL DISCUSSION on MILK CONTROL BOARD**

**8:05 AM**

John Scully posed some questions to Rob Stutz, Agency Legal Services, regarding Milk Control Board rulemaking:

- Mr. Stutz said that the Milk Control Board has the authority to make their own rules, but by statute (MCA 2-15-121), they are passed through the DOL, its administratively-attached agency, who file the rules on their behalf
- Typically, the agency and the department to which they are attached are both listed on the headers of rules when they are filed
- Because the DOL's name has been listed on rulemaking paperwork, there has been some confusion by some of the public that Mike Honeycutt is the one signing off on new milk pricing paperwork, with the BOL's approval, rather than the Board of Milk Control
- Mr. Stutz said he would speak with the Board of Milk Control to see if there is another approach to possibly not having the DOL's name appear on a Board of Milk Control rule when it is filed
- Mr. Stutz said he would query the Secretary of State's office as to whether or not the DOL is responsible for printing and disseminating required notices, and the rules that have been adopted, amended or repealed by the Board of Milk Control

- There is a public hearing regarding the new milk pricing rule scheduled for August 3, 2018 and Mr. Stutz will be receiving the public comment during that time

Mr. Honeycutt reported that he is responsible for making decisions regarding the personnel evaluations of the employees of the Livestock Loss Board and the Milk Control Bureau, but he does consult with both of their boards regarding staffing situations for those people

## LEGAL COUNSEL UPDATE

**8:22 AM**

### **8:22 am – Park Street Pasties Oral Hearing –**

Sara Clerget, Agency Legal Services, reported as Special Master for the BOL regarding the Park Street Pasties case oral arguments

- Ms. Clerget said that the BOL had two initial choices to make today regarding the case
  - Accept the motion to dismiss the case
    - ✓ In this choice, the case would be dismissed with prejudice, meaning it cannot be refiled or appealed
  - Deny the motion to dismiss the case
    - ✓ In this choice, the BOL would act on the proposed findings of fact and conclusion of law by the administrative law judge and open up a potential appeal
- Rob Stutz stated that the Meat & Poultry Inspection Bureau does not oppose the dismissal request for Park Street Pasties and has not filed any exceptions on the merits of the case and does not have any oral arguments on the merits of the case. He added that the Meat & Poultry Inspection Bureau recognizes that the hearing officer's findings are the facts of record under MAPA

## MOTION/VOTE

**8:30 AM**

**John Scully moved to approve the motion to dismiss the Park Street Pasties case, with prejudice, as filed. Nina Baucus seconded. The motion passed**

### **8:30 am – Legal Update from Legal Counsel, Rob Stutz –**

Mike Honeycutt requested input from Rob Stutz regarding the request for sale of a Montana livestock market

- The potential buyer of the market had requested by letter a provisional license until an official license is processed
- Mr. Stutz said that there is no statutory authority for a provisional license for a livestock market

Rob Stutz reported on current litigation involving the DOL:

- Coremark

- Motions for some re-judgements have been filed
- A number of pretrial deadlines were vacated to allow the judge the time to make a decision on whether to grant summary judgement on the cross motions for summary judgement
- It had been reported previously that Coremark had dismissed all of their claims against the DOL except for free speech claims and it is on these narrowed-down claims that both the DOL and Coremark have filed cross motions for summary judgement
- Cottonwood Bison Litigation
  - Motions to dismiss on behalf of all the State agencies mentioned in the suit have been filed because the questions they raise only apply to Federal agencies
  - Mr. Stutz said that the plaintiff is seeking to amend and add some additional claims, and that after being in communication with counsel from the Governor's office and for Fish Wildlife and Parks, he anticipates that opposition will be filed on August 3, 2018
- S&T Project Meats
  - Mr. Stutz said he is waiting for a response from Risk Management & Tort Defense after giving them documents a summary of the case discussing settlement
- Berger
  - The Brands Enforcement Division office continues to hold around \$60,000 in funds from a livestock market sale where necessary documentation proving ownership of livestock was not filed
  - Those who have not filed the necessary documentation are involved in bankruptcy proceedings and now multiple parties are claiming ownership of the money
  - Mr. Stutz said the appropriate response to the case is an inter pleader where the DOL would take the money and give it to the court to sort it out
- K&C Foods
  - The DOL filed a lawsuit against K&C Foods of Missoula after a DOL enforcement action against this processor resulted in inspection services being suspended, but the business continued to process and sell meat

Mike Honeycutt reported that at the August 1, 2018 IBMP meeting, a management document was presented that listed the DOL as responsible for using helicopter hazing in their current management activities

- The DOL in the past used helicopter hazing as a tool, but there is no helicopter hazing funding or program at the present time
- There is an MOU between the DOL and FWP with protocols in place to ensure there is no impact on grizzly bears if helicopter hazing were to take place, because while the DOL is not required to use helicopter hazing, it is still a tool that can be used
- With helicopter flights costing from \$750-\$1000 per hour, it is not always a cost-efficient way to deal with an issue

- Mr. Honeycutt said he feels what was written in the IBMP document regarding the DOL and helicopter hazing, an activity they were not engaged in, is potentially part of what was to blame for temporary restraining orders and injunctions against the DOL

## **MOTION/VOTE**

**8:46 AM**

**John Scully moved that the BOL support Mike Honeycutt's removal of the DOL's required responsibility of using helicopter hazing in the IBMP document, but that the DOL maintain the right for its staff to use helicopters, drones or other tools that might be required by them to do their job effectively and efficiently. There was no second. Mr. Scully removed his motion**

- The statutory obligation for the DOL regarding wild buffalo or wild bison still stands under statute MCA 81-2-120

## **EXECUTIVE SESSION**

**8:55 AM**

## **RECONVENE**

**10:26 AM**

## **OLD BUSINESS**

**10:26 AM**

### **10:26 am – Personnel Committee Update – Executive Officer Evaluation**

Mike Honeycutt reported to the BOL that he had not done his self-evaluation but said that other than not accomplishing his goal of putting together a cohesive DOL annual report, he felt in all other areas of the evaluation that he would meet expectations in each category:

- John Scully rated Mr. Honeycutt as exceeding or meeting expectations in all categories
- Lila Taylor commented that her ratings for Mr. Honeycutt were pretty much the same as Mr. Scully's, but added that she appreciates Mr. Honeycutt's care of his employees and is really glad that he is at the DOL
  - Updates from Mr. Honeycutt should be short and sweet
  - She was concerned that Mr. Honeycutt was not present at the DOL office during the FMD simulation
- Sue Brown rated Mr. Honeycutt as meets and exceeds in every category
  - She appreciates Mr. Honeycutt's wonderful work with the public
  - Mr. Honeycutt works great with staff and everyone does a wonderful job at the DOL because of his leadership

- Nina Baucus said that she did not rate Mr. Honeycutt with exceeds, not that he didn't deserve them, but he has some goals to meet to get to exceeds
  - Commitments made to legislators or government offices should be made in writing
  - All departments of the DOL should be utilizing IT information better
  - Mr. Honeycutt should start working with the BOL on some long-range goals
  - Department heads should be made more familiar with their budgets
  - She was surprised that Mr. Honeycutt was not present at the FMD exercise
- Brett DeBruycker wrote a statement saying that Mr. Honeycutt pretty much exceeds in all categories, is doing a good job and is well liked by the government and industry
  - Mr. DeBruycker said that Mr. Honeycutt keeps him well informed and doesn't bother him when he doesn't need to be informed
  - He appreciates the job Mr. Honeycutt is doing and his commitment to the industry
- John Lehfeldt said he vocals Brett DeBruycker's statements that said Mr. Honeycutt pretty much exceeds and does a good job in all areas and is well-liked by the government and industry
- Ed Waldner rated Mr. Honeycutt with meets expectations in nearly every category, he has really straightened out the budget, sticking with it, and noted that the BOL made the right choice in hiring him

Mr. Honeycutt responded to the BOL's review:

- He publicly thanked the BOL for their support and kind comments
- He would appreciate guidance from the BOL on his communication with them as some feel there is not enough and others want it pulled back. There was also some concern regarding violation of the public meeting law by sharing enough information outside of the opportunity for the public hearing it
- Mr. Honeycutt said his schedule was planned before the FMD exercise date was announced, but he participated in the exercise remotely
- The DOL has been focusing more on safety, especially for those working outdoors, regarding the heat, air quality, policies for driving vehicles and better communication regarding where employees are located during the work day

### **10:44 am – Personnel Committee Update – Transition Planning**

Mike Honeycutt reported that he had requested staff to look at high-priority positions to determine how to maintain continuity in succession situations:

- Succession has been built into the Agency's Organizational Chart
- Dr. Zaluski met with Dan Turcotte to discuss possibly filling a long-vacant FTE in the Milk & Egg Bureau to begin training to assure a continuity of operations
- Within the next few weeks, the Assistant Brands Administrator will be stepping up into the Brands Administrator position temporarily
- The new Deputy Executive Officer is hired and in place
- An Assistant State Veterinarian is in place

John Scully reminded the BOL that Mike Honeycutt's salary increase needed to be part of the budget planning process

### **10:50 AM – Legislative Audit Update 2018 – Financial Audit**

Mike Honeycutt reported that the measure to comply with the findings of the Financial Audit have been put in place and that was reported to the Legislative Audit Committee:

- There was a request by the BOL to the Legislative Audit staff that they consider, when reviews come up in the future, to include the entire BOL

## **NEW BUSINESS**

### **10:53 AM**

### **10:53 AM – Missoula Livestock Market Discussion**

Leslie Doely reported that a letter of intent was received from the Missoula Livestock Exchange notifying the DOL they intend to transfer ownership and shared the statutory procedures to be addressed by the DOL:

- ARM 32.15.103 states that a certificate can't be transferred without permission of the DOL and that the certificate cannot be sublet
- ARM 32.15.104 states that the owner must immediately notify the department of any intent to change ownership and hold a public hearing
  - The hearing follows MAPA procedures
  - The department must give 10-day's notice to the public for the hearing
  - Rob Stutz has offered his services as a hearings officer to preside over the hearing
  - Because the market is already existing, the public necessity and convenience for it have already been proven
  - Because there are multiple parties who are listed as owners of the market and some are deceased, Ms. Doely said that it will be required that all owners' signatures are accounted for and presented as part of the hearing
- ARM 32.15.105 states that a request for change must be submitted by written petition for department approval
- There are required attachments for the petition that would allow the department to assess the viability of the new market owner

## **MOTION/VOTE**

### **11:01 AM**

**John Scully moved to ask Rob Stutz to be the Hearings Examiner for the hearing regarding the Missoula Livestock Exchange real estate transaction and for him to make a recommendation as to his findings. Nina Baucus seconded. The motion passed.**

Les Graham, MALAM, introduced Justin Mauler, the person interested in purchasing the Missoula Livestock Exchange:

- Mr. Mauler said that he and his partner in the purchasing of the Missoula Livestock Exchange, Robb Horlacher, both live in Stevensville
- Mr. Mauler said that his closing date on the purchase is August 22, 2018, but even if that date is pushed back a little, he is hoping to tie the transfer prior to Fall Run. He stated that his closing is contingent upon approval from the BOL
- It was pointed out to Mr. Mauler by the BOL that they do not have authority to grant a subletting of the license but suggested that his legal counsel may be able to work out some kind of an agreement that may be simpler than transfer of ownership for a short period of time until all the details are worked out for the sale

## **COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS/COMMENTS FROM PRODUCER ORGANIZATIONS**

### **11:21 AM**

- John Youngberg announced that Kelsie Harbert, who represents the Montana Farm Bureau at the BOL meetings, gave birth to a baby girl and would be back to work on August 16, 2018
- Mr. Youngberg encouraged the BOL to expedite the sale of the Missoula Livestock Exchange and keep it viable, as it is the only means of marketing livestock in that area
- Mike Honeycutt informed Mr. Youngberg that the DOL is planning a get-together with industry stakeholders in the near future and before the 2019 Legislative Session, to discuss the current and future financial status of the DOL
- Advice was requested from both Les Graham and John Youngberg to bring to the industry financial meeting regarding the use of HB3 to make up for the \$400,000 shortfall in salary funds authority from the Legislature

## **NEW BUSINESS CONTINUED:**

### **11:24 AM**

#### **11:24 AM – Biennium Budget Planning**

Mike Honeycutt explained that the MDOL Priority documents were a compilation of information from division heads who he had asked to determine increases they felt they needed to add to their base budget with impacts in the 2020-2021 year and some beyond that:

- The list of requests on the sheet were in order of priority and by fund source, basically, general fund and per capita, and were open for negotiation
- If everything on the list was granted in the amounts given, it would reduce the fund balance by \$700,000 for 2020-2021
- Although the DOL bank balance shows that nearly the whole budget is in the bank, Mr. Honeycutt reminded the BOL that the department has just come



through a collection period and has not yet realized all of this year's expense. Some funds are also hung up statutorily in unearned income and dispersed on a schedule

#### Increased General Fund Requests –

- **MDOL Priority #1 – Additional Brucellosis funding for Montana's DSA**
  - Most of the DSA funds were spent this last biennium with nothing available on a general fund basis to transfer elsewhere, so an additional \$100,000 for testing is being requested to handle the current DSA expansion, with an additional \$200,000 for testing to address future expansion that might hit in the biennium
  - A concern was raised that the additional \$300,000 requested funding would be earmarked for testing and would not allow for an extra FTE with the added work. The Federal umbrella grant exists under HB2 now as well, somewhat limiting restrictions

#### **MOTION/VOTE**

**11:45 AM**

**John Scully moved to approve MDOL Priority List item #1, to provide additional brucellosis funding for Montana's DSA for \$300,000, which would include both \$100,000 to cover the costs of testing additional animals brought in by a proposed DSA expansion and \$200,000 to address the annual increase in costs of testing. Lila Taylor seconded. The motion passed**

- **MDOL Priority #2 – Additional Leased Vehicles in the Meat & Poultry Inspection Bureau**
  - Two additional leased vehicles were requested in the Meat & Poultry Inspection Bureau anticipating the hire of two new inspectors
  - The cost of \$7,000/year for each lease will come out of general fund and is an ongoing expense

#### **MOTION/VOTE**

**11:52 AM**

**Sue Brown moved to okay MDOL Priority List item #2, to acquire two leased vehicles to be allocated to two new Meat & Poultry Inspection Bureau inspectors. Lila Taylor seconded. The motion passed.**

- **MDOL Priority #3 – Eight laptops, four printers and three fat analyzers in the Meat & Poultry Inspection Bureau**

- FSIS loaner computers, ready to be cycled out, must now be purchased from FSIS; three 15-year-old fat analyzers are also due to be replaced – Total one-time-only cost is \$19,700

## **MOTION/VOTE**

**11:53 AM**

**Sue Brown moved to approve MDOL Priority List item #3, the purchase of eight laptop computers to replace Federal loaner computers in the Meat & Poultry Inspection Bureau, along with four printers and replace three aging fat analyzers. Nina Baucus seconded. The motion passed.**

- **MDOL Priority #4 – Increased sampling costs in the Meat & Poultry Inspection Bureau**
  - Federal requirements have increased the number of samples to be taken and the public health lab (currently 692 tests/year are conducted there) utilized for the testing has raised their prices
  - The expense for this is not one-time-only, but has no FTE impact
  - The public health lab utilized for the testing is at the Department of Health and Human Services (DPHHS). Currently, the VDL has an agreement with DPHHS to do lab work for them and it was suggested that a more holistic agreement with them be written to include testing by them for the Meat & Poultry Inspection Bureau as opposed to throwing money back and forth between labs

## **MOTION/VOTE**

**11:56 AM**

**Nina Baucus moved to approve MDOL Priority List item #4, to increase sampling costs in the Meat & Poultry Inspection Bureau. John Scully requested that the public health lab utilized by the Meat & Poultry Inspection Bureau be defined as the Department of Health and Human Services Public Health Lab located in Helena, MT. Sue Brown seconded. The motion passed.**

Per Capita Fund Requests –

- **MDOL Priority #1 – Predator Control (USDA Wildlife Services)**
  - This request would add \$150,000/year in per capita funds on top of the \$350,000/year the DOL is already statutorily obligated to spend for predator control, for a total of \$500,000/year
  - Although Wildlife Services has expressed increased needs in the past, there was concern expressed by the BOL of adding a \$150,000 on-going cost without a plan to justify it. The question was raised, at what amount

of money spent each year would it be better for the DOL to stop contracting out predator control and do it themselves

## **MOTION/VOTE**

**12:07 PM**

**Lila Taylor moved for approval of MDOL Priority List item #1, Increase in Predator Control funds of \$150K. Nina Baucus seconded. Lila Taylor withdrew her motion at 12:12 PM**

- 10%-11% of per capita funds were spent on the predator control mission a decade ago, but with the increase in per capita fee collections, the statutory appropriation has stayed static, and now 6%-7% of per capita funds is spent on predator control
- There was a constituency at the last Legislative session asking for an increase in the statutory appropriation the DOL is required to spend on predator control each year, and the BOL is hoping that agreeing to raise it themselves will be a satisfactory increase for them without going to the Legislature

## **MOTION/VOTE**

**12:17 PM**

**John Scully moved for approval of MDOL Priority List item #1, Increase in Predator Control funds, but for \$75,000/year rather than \$150,000/year. Lila Taylor seconded. The motion passed.**

- **MDOL Priority #2 – MDOL Attorney**
  - The request for in-house counsel at the DOL would not alleviate the need for use of outside counsel, but would reduce the cost of paying \$106/hour to outside counsel every time a legal issue requires counsel
  - The request for an MDOL attorney would be an ongoing expense and add an FTE. Hiring a person in the \$35-\$40/hour range with salary and benefits would cost the DOL around \$100,000/year
  - The rush of legal issue have been in the Meat & Poultry Inspection Bureau and one comment made was that by not hiring an in-house attorney, it pushes the DOL to improve their process. Another concern mentioned is that an in-house attorney position is not a full-time job

## **MOTION/VOTE**

**12:22 PM**

John Scully moved to not approve MDOL Priority List item #2, the hiring of an in-house attorney for the DOL. Lila Taylor seconded. Sue Brown abstained. The motion passed.

## LUNCH

12:27 PM

## RECONVENE

1:10 PM

## OLD BUSINESS CONTINUED:

1:10 PM

### 1:10 PM – Biennium Budget Planning Continued:

The BOL continued Biennium Budget Planning:

- **MDOL Priority #3 – Replace Essential Law Enforcement Equipment**
  - Request is to replace handguns used in the Brands Enforcement Division in FY20 because they were purchased in 2008 and will be going beyond their recommended replacement rate of 10 years
  - Request is to replace the ballistic vests used in the Brands Enforcement Division in FY21 because they will be going beyond their 5-year replacement rate. Estimated cost/vest is \$450 – 16 District Investigators, 3 Managers, 2 Bison LEOs
  - Although there was discussion regarding older firearms still working, Mr. Honeycutt mentioned the liability concerns if an outdated vest or an outdated firearm failed to work in a situation
  - The idea to give the request line item approval was rejected because it would lock the funding in for use only for vests and weapons and could not be spent on anything else

## MOTION/VOTE

1:19 PM

Sue Brown moved to okay MDOL Priority List #3 (Replace essential law enforcement equipment in the Brands Enforcement Division, including hand guns 10 years of age or older and ballistic vests 5 years of age and older). John Scully seconded. The motion passed.

- **MDOL Priority #4 – Additional lease vehicles to replace four DOL-owned District Investigator vehicles**

- The four vehicles to be replaced are in the Brands Enforcement Division investigator program, and are ready to be surplus and replaced with new, leased vehicles at a cost of approximately \$6,041.12/vehicle/year
- The order from the Governor's office some years ago mandated that new State vehicles be leased rather than purchased.

## MOTION/VOTE

**1:23 PM**

**Sue Brown moved to okay MDOL Priority List item #4 (Additional lease vehicles to replace four DOL-owned District Investigator vehicles). Lila Taylor seconded. The motion passed.**

- **MDOL Priority #5 – Lab Equipment**

- Mike Honeycutt pointed out to the BOL that some of the equipment that is requested to be replaced, especially in the Serology section of the VDL is being used in a way that speaks to general fund expenditures rather than per capita, and so general fund will not be increased, but per capita will

## MOTION/VOTE

**1:24 PM**

**John Scully moved to approve MDOL Priority List item #5 (Replace an aging and malfunctioning centrifuge in Serology and some microscopes in Pathology, Parasitology/Microbiology and Histology) Nina Baucus seconded. The motion passed.**

- **MDOL Priority #6 – Staff Veterinarian**

- Opinions were shared on hiring a Staff Veterinarian to primarily address the emergency preparedness business continuity activities in the DOL, a task formerly done by Dr. Emily Kaleczyc, who took the EIAO position in the Meat & Poultry Inspection Bureau
  - ✓ Although many agencies have full-time emergency preparedness staff, some of the BOL members felt it would not require a full-time position
- The Staff Veterinarian position could be funded through Federal cooperative agreement by repurposing a former position in bison management without going through the EPP process or it could be funded with per capita dollars
- 

**The BOL decided to delay their decision on MDOL Priority #6 (hiring a Staff Veterinarian) until later in the day**

- **MDOL Priority #7 – Replace End-of-Life Software Systems at DOL**
  - Mike Honeycutt explained that the DOL is still working to pull together a more comprehensive IT plan:
  - Dan Olson had the opportunity to visit with Computer Aid, the same company that provides USAHerds about a product called Safe Inspect, that has some potential to solve the IT issue in the Milk & Egg Bureau and also have some potential uses in the Brands Enforcement Division and the Meat & Poultry Inspection Bureau
  - As of now, there is no concrete plan for the funding of an IT plan, but a one-time-only cost of \$1.3 million for each year of the biennium was proposed
    - ✓ A vision of data integration for each are of the DOL, called meta-data would be pursued
    - ✓ It was suggested that when the outline of the request is presented to the Legislature, with a question mark on it rather than the amount adding that the request is subject to the final plan to be presented
    - ✓ There was a concern that if no monetary amount is listed, it may not be input into the Executive budget

## **MOTION/VOTE**

**2:05 PM**

**Sue Brown moved to approve MDOL Priority List item #7 (Replace software systems in Milk & Egg Bureau, Meat & Poultry Inspection Bureau and the Milk Lab), without listing the amount, just a question mark and come back with more information later. Nina Baucus seconded. The motion passed.**

- **MDOL Priority #8 – Hiring Extra Staff in the Brands Enforcement Division for Rerecord**
  - Leslie Doely explained that the Brands Enforcement Division has always hired temporary staff to get through the rerecord period:

## **MOTION/VOTE**

**2:13 PM**

**John Scully moved to approve MDOL Priority List Item #8 (Additional temporary staff for Brands re-record period, utilizing a staffing agency and another as a DOL employee). Sue Brown seconded. The motion passed.**

- **MDOL Priority #9 – Hire Public Information Officer**
  - Mike Honeycutt explained that it has been recommended by the Executive Branch that the DOL have a Public Information Officer, whether hiring one or sharing part of the Department of Agriculture's:

- If no Public Information Officer is hired, the Governor's office will write press releases for the DOL
- Concerns raised about hiring a full-time Public Information Officer were that they do not have enough to do in a full-time position and that no matter what is presented to the media from them, the media prints what they feel like

## **MOTION/VOTE**

**2:29 PM**

**Sue Brown moved to approve MDOL Priority List item #9 (Public Information Officer) but only as a .5 FTE at \$50K/yr or contract out the position. John Scully seconded. The motion passed.**

- **MDOL Priority #10 – Replace Hematology Analyzer in the Clinical Pathology section of the VDL**
  - The hematology analyzer, the unit in the Clinical Pathology section of the VDL that does the most tests, would cost \$115,000 to replace
  - Currently, the Clinical Pathology section of the VDL utilizes an enterprise fund but the prices charged for testing are not enough to cover the cost of operating Clinical Pathology. Marketwise, the VDL is limited from charging what it takes to replace those costs and so it is being subsidized with per capita and general fund fees
  - Many private labs have purchased their own hematology analyzers, cutting down the volume of tests being done at the VDL

## **MOTION/VOTE**

**2:31 PM**

**Nina Baucus moved to accept MDOL Priority List item #10 (Replace Hematology Analyzer in the Clinical Pathology section of the VDL). Sue Brown seconded. The motion passed.**

- **MDOL Priority #11 – Invest Funds in Staff Training and Development**
  - There was no discussion regarding this request

## **MOTION/VOTE**

**2:35 PM**

**John Scully moved to adopt MDOL Priority List item #11 (Invest funds in staff training and development). Nina Baucus seconded. The motion passed.**

- **MDOL Priority #12 – Update Hardware to Allow Gigabit Speeds for MVDL Network**
  - Mike Honeycutt explained that although the VDL is housed in a university building, the network speed needed for certain applications in the Lab are not adequate:
  - Initial cost for the network switch required is a one-time-only expense of \$40,000, but on-going maintenance is \$5000/yr

## **MOTION/VOTE**

**2:37 PM**

**John Scully moved to adopt MDOL Priority List item #12 (Update hardware to allow gigabit speeds for MVDL network). Nina Baucus seconded. The motion passed.**

- **MDOL Priority #13 – Vehicle for Animal Health Bureau Veterinarian**
  - Dr. Tahnee Szymanski explained that both she and Dr. Liska have been assigned trucks mounted with veterinary boxes, but that her vehicle may be due for replacement by the end of the next biennium
  - Dr. Szymanski asked for \$25,000 to purchase a vehicle rather than lease a vehicle because of the modifications that have to be made to the truck to house the veterinary box

## **MOTION/VOTE**

**2:40 PM**

**Sue Brown moved to okay MDOL Priority List item #13 (Vehicle for Animal Health Bureau Veterinarian). John Scully seconded. The motion passed.**

- **MDOL Priority #14 – Hire an additional .75 FTE in the Brands Enforcement Division**
  - Leslie Doely said that hiring temps from Westaff has required additional training with each new temp, and so that is why she felt that hiring a staff person for 30 hours/week for a two-year period, would cut down on training time and would cost only 50 cents more/hour than a Westaff temp

## **MOTION/VOTE**

**2:48 PM**

**Sue Brown moved to okay MDOL Priority List item #14, (Hire a 0.75 FTE to be used as a temp in the Brands Enforcement Division Helena office). John Scully seconded. Lila Taylor voted no. The motion passed.**



- **MDOL Priorities #15 – Add Additional Funding for 2% PCF Collection Paid to DOR**
- **#16 – Spending Authority in Animal Health Fund #02427**
- **#17 – Import Office Fund #02426 reduction if needed**
  - Mike Honeycutt explained that because per capita and the 2% paid to DOR has been going up, more authority needs to be put into the budget to pay the bill
  - Mr. Honeycutt also explained that the because more money is being collected, the bill owed to DOR increases and the authority to pay that bill needs to go with it. If the bill goes down, the authority will be in place, but won't be needed

## **MOTION/VOTE**

**2:50 PM**

**John Scully moved to approve MDOL Priority List item #15 (Add additional funding for 2% PCF collection paid to DOR), #16 (Spending authority in the Animal Health Fund #02427) & #17 (Import Office Fund #02426 reduction as needed). Nina Baucus seconded. The motion passed.**

- **Return to MDOL Priority #6 – Hire a Staff Veterinarian**
  - Per a request by Nina Baucus, MDOL Priority #6, to hire a staff veterinarian had been tabled
  - With Dr. Emily Kaleczyc accepting the EIAO position in the Meat & Poultry Inspection Bureau, the request is to fill the emergency preparedness portion of her vacant position with a staff veterinarian, who would not only be responsible for emergency preparedness but for disease control duties as well; it would be a new FTE
    - ✓ The primary focus of the position would be for emergency preparedness planning and about 20% of the position would be for assisting Dr. Szymanski and Dr. Liska with veterinary issues
  - The Brucellosis Compliance position that Dr. Kaleczyc also handled, would be hired separately
  - Two ways were suggested for the funding of the position:
    - ✓ \$100,000 in per capita fees could be offset by up to 25% with cooperative agreement funds, the same way Dr. Szymanski and Dr. Zaluski's salaries are currently being paid.
    - ✓ Full cooperative agreement funding could also be utilized because of not filling Rob Tierney's Bison Manager position, which has been vacant for about 1 ½ years – the position could be filled this way without the Legislative process because there is an FTE available

## **MOTION/VOTE**

**2:59 PM**

Sue Brown moved to, okay the money for the Staff Veterinary position, but refine the position of the job at a later time. She withdrew her motion at 3:01 pm.

## **MOTION/VOTE**

**3:01 PM**

John Scully moved that MDOL Priority List item #6 (Staff Veterinarian responsible for emergency preparedness and disease control duties) be funded through cooperative agreement funds, not per capita. Lila Taylor seconded. The motion passed.

## **CENTRALIZED SERVICES DIVISION REPORTS**

**3:03 PM**

### **3:03 PM – Livestock Loss Board**

- George Edwards reported that the LLB is about \$25,000 ahead of last year at this time in predation payments, a total of around \$72,000:
- In the past 1 ½ weeks 13 more head have been added to predations, mostly driven by mountain lions
- Wolf and grizzly predation are currently ahead of last year, but grizzly predations are expected to go up in the fall. In calendar year 2017, 2/3 of paid claims were for grizzly bears and 1/3 of paid claims were for wolves
- Mr. Edwards said that his predation account has a little over \$274,000 to last until June 2019
- Mr. Edwards said he was just interviewed today by the Montana Standard for a article focusing on loss prevention in the Big Hole Valley

### **3:03 PM – Continued Discussion on Hiring a Staff Veterinarian**

John Scully requested information relative to what the incremental expense is for a change in the job description for hiring a staff veterinarian vs a Brucellosis Compliance Specialist position:

- The staff veterinarian would be hired at \$35-\$42/hour
- Mr. Scully said that an incremental amount of money would need to be added to this budget consideration for the new FTE

## **FISCAL BUREAU**

**3:12 PM**

### **3:12 PM State Special Revenues**

Evan Waters, Finance Accounting Bureau Chief, reported on DOL year-to-year comparison of revenues including revenue estimates:

- The Brands Enforcement Division came in a little bit over \$107,000 more than last year, ending up with around \$3 million in revenues.

- Brands local inspections are down around \$30,000, possibly due to more local inspectors doing the work than the State Market Inspectors
- Per capita fee shows \$5 million more than last year because an audit requirement says all of this fiscal year's per capita revenue must be recognized as opposed to deferring to next fiscal year
- Animal Health fees, which include Trich tags and Veterinarian inspection books, are running about the same as last year, but more than estimated revenues
- Milk inspection fees show more than revenue estimates, but about the same as last year, but more than estimated revenues
- Egg grading is a new revenue that has been added to the report showing that \$131,000 has been brought in for the year
- The VDL is short about \$140,000 of the estimated revenue
- General fund dollars discovered by the Governor and sent to the DOL will be used to restore authority for next fiscal year

### **3:21 PM June Year-End (June 30, 2018) Budget Status Report**

Evan Waters explained that to close out the fiscal year, there was some transferring of authority:

- Per BOL direction, authority in the Shielded Egg Grading Program and Milk Inspection were reduced and transferred into per capita authority. That per capita authority was then transferred into the Centralized Services Division and the Brands Enforcement Division
- The general fund dollars discovered by the Governor and sent back to the DOL will be used to restore authority for the next fiscal year.
- Mr. Honeycutt said there is a natural ebb and flow of revenues, but in the VDL he wants to use a cost analysis to gauge whether or not the loss there is in a particular section of the Lab which might indicate a systemic problem

### **3:29 PM FY2019 Budget and Carry-Forward Authority**

Evan Waters explained the budget comparison Report:

- The negative figures shown in the Shielded Egg Program and Milk Inspection were from the transferred authority into the Centralized Services Division and the Brands Enforcement Division
- When the Milk Control Bureau moved into another building, their rent payment decreased, leaving excess rent that are restricted funds and cannot be spent on anything else so, the authority for that was moved into the Centralized Services Division per capita because there was not enough rent budgeted there
- \$215,000 of general fund dollars were moved from the VDL into the Meat and Poultry Inspection Bureau because the Meat & Poultry Inspection Bureau is funded by both general and Federal matching funds
- Contract negotiations in the Meat & Poultry Inspection Bureau set salaries above what 80% of market was, shorting general fund around \$15,000 with the next negotiations due mid-biennium
- In the Livestock Loss Board's Budgetary Expense Comparison Report under operations, it is run down to a 0 balance because any excess over \$300,000 was transferred into a new fund and 10% of that could be used to pay for operations

### **3:44 PM FY2019 Standard Budget and FY2018 Actuals**

Evan Waters reported on the 2019 budget to the 2018 actuals:

- The DOL had a carryforward amount of \$149,029 and an estimated \$114,045 for FY17 and FY18, respectively
- The \$274,075 balance of budget available came about due to savings mitigation during the year to make budget (including leaving positions vacant and delaying purchase decisions) and will need to be adjusted with a possibility that HB3 may still need to be requested
- Mr. Waters said he pulled some one-time-only expenses from the adjusted year-to-date actual expenses, including the Milk Fee Study and the 2% PCF revenue collection fee was paid 2x in FY18
- With a return of some general funds from the Governor into the DSA, it will help mitigate some of the increased expense that comes from expansion

## **ANIMAL HEALTH AND FOOD SAFETY DIVISION REPORTS**

### **3:51 PM**

### **3:51 PM – VETERINARY DIAGNOSTIC LABORATORY (VDL)**

#### **3:51 PM – Request to Hire a Veterinary Pathologist**

Dr. Zaluski discussed the VDL's request to hire a Veterinary Pathologist:

- The Veterinary Pathologist is an existing position that would replace Dr. Marshall who has delayed his retirement and is now only working part-time
- The position is a Veterinary Band 7, paying in the upper \$70,000s range
- Payout for Dr. Marshall's position is minimal as he had already used much of it previously

## **MOTION/VOTE**

### **3:53 PM**

**Sue Brown moved to hire the Veterinary Pathologist position in the Veterinary Diagnostic Lab. Lila Taylor seconded. The motion passed**

### **3:54 PM – ANIMAL HEALTH BUREAU**

#### **3:54 PM – Request to Hire a DSA Compliance Technician**

Dr. Zaluski requested of the BOL to allow the hire of a DSA Compliance Technician to replace the position vacated by Emily Kaleczyc:

- The position will pay in the \$17-\$18/hour range and will work with Dr. Liska

## **MOTION/VOTE**

**3:56 PM**

**Lila Taylor moved to hire a DSA Compliance Technician in the Animal Health Bureau. Sue Brown seconded. The motion passed**

**3:56 PM – Request to Hire a Bison Manager**

Mike Honeycutt explained the series of events leading up to the need to hire a Bison Manager:

- The West Yellowstone bison program had three employees and that has been scaled down to two after Rob Tierney retired – one on the North side of the Park and one on the West side of the Park
- Jeff Mount, who took the lead position in the West Yellowstone bison program made a decision to retire at the end of July and Clay Vines, who has worked in that program since January, may be interested in taking the lead position
- There was concern by the BOL regarding Dr. Zaluski's request that in anticipation of Clay Vines applying for the lead position, that his worker crew position be advertised immediately to alleviate any gaps in employment because Mr. Vines is scheduled to attend a 3-month POST training starting in September

## **MOTION/VOTE**

**4:01 PM**

**John Scully moved to fill the vacant Bison Manager position. Lila Taylor seconded. The motion passed**

**4:01 PM – Request to Publish ARM Changes for Public Comment**

Dr. Tahnee Szymanski brought forward ARM changes for the BOL's approval:

- ARM 32.3.1401 – Definition of Exposed Equids
  - Request to change paragraph (3). Currently, the definition just includes animals that have been in a herd or in close proximation of those animals. The request is to add, or determined by the state veterinarian to be otherwise at risk
  - Request to change paragraph (4) regarding the Official EIA test report form to include language that says if you aren't using the standard APHIS 10-11, the form you use must not just require that the state veterinarian approves the form, but also "the USDA" as well.
  - Request to change paragraph (5) to align with the USDA updated standards regarding the description needed to be included on the submission form for a Coggins or ESA test for a horse. The change would move brands and tattoos into the list of permanent markings included on the description
  - Request to change paragraph (6) regarding official tests for EIA. The requested change would clarify how official tests other than the ELISA or

- Request to change paragraph (7) regarding the definition of “a reactor.” Because, at times, some animals are positive on an ELISA test and negative on an AGID test, the change would clarify that only AGID positive are reactors
  - Paragraph (8) is an entirely new addition to the rule stating that a suspect animal is one found positive on any official test that would capture ELISA-positive animals as well
- ARM 32.3.1406 – Testing of Exposed Equids
  - Request to change the amount of time an exposed equid is under a hold order from 45 to 60 to account for the incubation period of the disease

## **MOTION/VOTE**

**4:15 PM**

**Lila Taylor moved to publish ARM changes in 32.3.1401 and 32.3.1406 as discussed. Nina Baucus seconded. The motion passed**

### **4:15 PM – ARMAR After-Action Report/CAP**

Emily Kaleczyc gave a final followup on the ARMAR Exercise, the four-day FMD exercise that was completed in May 2018:

- There were four major areas evaluated after the exercise was completed for improvement
  - Planning – considered preparation and planning of the exercise and whether the appropriate documents were in place
  - Training – considered whether or not people were trained in the necessary activities to fulfill the objective of the exercise
  - Resources – were staff, equipment, etc. adequate during the exercise
  - Communication – looked at ways to improve communication before and during an event
- The DOL met with the Montana Disaster and Emergency Services, DPHHS, the Montana USDA and all other agencies who participated in the exercise, after the exercise was completed, to get their feedback and comments, along with the DOL’s comments and produced an action plan which was turned in to the national organizers. Sometime this winter a national document that incorporates all participating states’ information will be produced
- Ms. Kaleczyc said that the Montana Animal Health Emergency Management Plan that was written in 2007 should continue to be updated to include the many significant changes that have occurred since then and also incorporate some changes that were learned during the exercise
  - The 2007 version was written before Avian Influenza and should incorporate changes in the way people are thinking about the FMD food bank

- Draft templates that can just be filled in with specifics during the emergency to save time: Governor’s Declaration of Emergency, initial press release, stop movement order
- Develop a Montana-specific Secure Food Supply Plan that will consider if a nationwide stop-movement order is needed or just a particular area of the country to hopefully alleviate killing the industry.
- The BOL discussed the best place to seek funding, whether the Governor’s office or APHIS or the Legislature, to complete the recommended amount of work to put an emergency preparedness plan together for Montana
  - The Animal Health Bureau said that they would put a plan together before Legislature begins to present to the BOL, that would give a general idea of the priorities, time frame needed, number of people and the cost of implementing an emergency preparedness plan for Montana
- Mr. Honeycutt said that at the Department of Emergency Services, DPHHS, the Department of Environmental Quality and the Department of Natural Resources and Conservation, there is funding because they have crisis management personnel and plans in place already
- Being considered the “index” state in the FMD exercise, extra people were brought on-site to man the instant-command team. However, the new veterinarian position who will be dealing with emergency preparedness will be able to work with other people and agencies as counterparts if an emergency arises in the future

Dr. Zaluski clarified some issues that had arisen regarding the proposed rule requiring brucellosis vaccination in counties adjacent to the DSA:

- If other states expand their DSA, the DOL would have to go through an entire administrative rules process to add Montana counties to the list of counties adjacent to the DSA that require brucellosis vaccination. Therefore, the proposed rule will likely change from counties adjacent to the DSA to listing specific counties
- Public comment on the proposed rule came in suggesting that Big Horn County should be added to the list of counties required to brucellosis vaccinate and so Dr. Liska will schedule a public meeting to talk about brucellosis vaccination in that area

## **BRANDS ENFORCEMENT DIVISION REPORTS**

**4:55 PM**

### **4:55 PM – Requests to Hire**

Leslie Doely said that she had an open Market Inspector position in Billings to fill and that the previous week, another Market Inspector in Billings had given notice and so she was requesting to fill the vacant Market Inspector position

## **MOTION/VOTE**

**4:58 PM**

**John Scully moved to hire the vacant Market Inspector position in Billings. Nina Baucus seconded. The motion passed.**

Ms. Doely proposed leaving the Mortgage Clerk position vacant for a time for potential vacancy savings to possibly increase the salaries of Market Inspectors to \$15/hour effective October 1, 2018 and then raise the salaries again in May 2019:

- Base salary of Market Inspectors is currently \$13.98/hour and to implement that raise across the board to \$15/hour would cost the DOL \$24,000 additional per year, including salary and benefits
- There was concern raised by the BOL that the Market Inspectors would be given a raise but no one else in the DOL would. It was suggested by the BOL that Ms. Doely would need to find additional funding above and beyond vacancy savings for the raises
- Mike Honeycutt said that part of the reason he feels it has been difficult to fill Market Inspector positions is not just salary, but because the 4% unemployment rate nationwide means many people are already working

## **MOTION/VOTE**

**5:04 PM**

**John Scully moved for a raise to \$15/hour base salary for the Market Inspectors in the Brands Enforcement Division, effective October 1, 2018, but not to give another raise in May 2019. Sue Brown seconded. The motion passed.**

John Scully commented that he did not want to put the key function of the DOL in jeopardy by not hiring a Mortgage Clerk

## **MOTION/VOTE**

**5:11 PM**

**John Scully moved to fill the vacant Mortgage Clerk position in the Brands Enforcement Division. Lila Taylor seconded. The motion passed.**

### **5:11 PM – Request to Modify Position and Hire**

Leslie Doely requested to modify the vacant Administrative Assistant to the Brands Supervisor (vacant since December 2017) to a supervisory position:

- There was disagreement from the BOL regarding modifying the position to a supervisory or management role, which would increase the current salary by \$4-\$5/hour
- Mike Honeycutt suggested modifying it to a “lead worker” position that would increase the current salary by around \$1/hour



- It was decided to postpone action on the position until Ms. Doely returns from leave

The BOL discussed the possibility of having a long-range planning meeting:

- Nina Baucus suggested that the BOL sit down and brainstorm regarding where the DOL should be in five to 10 years down the road so the department is not spending money over and over again for the same items
- John Scully mentioned that the BOL still has a commitment to training, as there had only been one training session for the BOL
- Mike Honeycutt added that Brian Simonson had asked that early on when he began at the DOL, "Where is the plan?"

## **MOTION/VOTE**

**5:30 PM**

John Scully moved that an amount be added to the EPP budget that was left out relative to the position conversion in the Animal Health Bureau (Staff Veterinarian). Lila Taylor seconded. The motion passed.

John Scully requested that the BOL prepare within the next few months to be able to answer questions regarding how the DOL will fulfill their funding obligation for the proposed combined lab complex when the Long-Range Building Committee submits their report to the Legislature

- There is cash in the per capita account, but the proposed combined lab complex has been left off of any kind of capital requirement

Mike Honeycutt said that the next Economic Affairs Interim Committee meeting is scheduled for September 6, 2018 and that the DOL is on the agenda to talk about DSA expansion and vaccination rules and possibly meat inspection

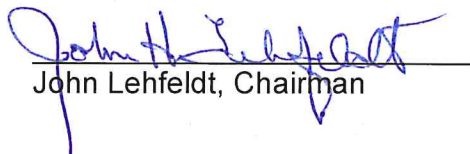
## **SET DATE FOR NEXT BOARD MEETING**

**5:34 PM**

The next BOL meeting was scheduled for September 19, 2018 to assure that August financials were completed

## **MEETING ADJOURNED**

**5:36PM**

  
John Lehfeldt, Chairman