

October 4, 2023

The Lincoln County Board of Commissioners met for a regular session on October 4, 2023, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Teske, Commissioner Letcher, Commissioner Hammons, Administrative Assistant Jennifer Brown and Clerk and Recorder Corrina Brown.

Meeting allows for Zoom participation. Present online were Michelle Byrd, Rebecca Nelson, Ray Stout, BreeAnna Adamson, Alaena Woody, Darren Short, Brent Faulkner, Jesse Haag, Melanie Howell, Alecia D, Alyssa Ramirez, Alison Moen, Connor Loughran and Chance Barrett.

Commissioner Letcher opened the meeting with the **Pledge of Allegiance and Prayer**.

09:30 AM Tax Levy Recertification Decision / Resolution 2023-34 A Resolution Fixing the Mill Levy for the State Equalization, County High School Equalization and County Elementary Equalization Mill Levy Authority for the Fiscal Year Beginning July1, 2023 and ending June 30, 2024: Present were Veronica Bovee-Anderson, Marcia Boris, Suzy Rios, Sedaris Carlberg, Wendy Drake and Scott Shindledecker

Commissioner Letcher provided a summary of the mills and school equalization history. Schools receive equalization mills from three different categories: elementary, high school and general. This year, the Department sent a letter to levy 77.9 mills, but the state still insists on 95 mills being levied. Several counties wrote to the state asking by what authority we would levy 95 mills, but they replied without addressing the question. County Attorney Marcia Boris concurred, pointing out the MCA seems to conflict. Commissioner Letcher stated given the conflict, whether we levy the 95 or the 77.9, we have two possible courses of action. One option is to levy the 95 mills, and taxpayers would pay the difference under protest, then file a complaint in district court, suing the county for overtaxing. Property owners would need to take this action to seek relief. The other option is for the county to choose to only levy 77.9 mills, and then the state may sue the county to increase taxes. Marcia interjected that the state has already sued Missoula county. Commissioner Letcher summarized that the county will face a lawsuit, either from taxpayers or from the state. Under the first option, if the county prevails that 77.9 is correct, only the taxpayer who paid under protest and filed a declaration action will receive relief. With the second option, if the county prevails with the 77.9 levy, then every taxpayer will receive relief. Commissioner Letcher offered a letter from the Montana Taxpayer Association, which provides a good synopsis of this situation. Marcia questioned where the additional money would come from if we levy the 77.9 and the state wins the lawsuit to levy 95. Commissioner Letcher advised we would have to send another assessment to taxpayers. County Treasurer Sedaris Carlberg pointed out that if people pay their taxes under protest, they have a different process and accounts, and sending another assessment is a comparable amount of work. Sedaris stated she has received emails from ten other counties who have levied 77.9 and only one county that did not. Commissioner Letcher clarified that one of the misconceptions is that this affects local schools, which it does not. This money goes into the state general fund, and it is one of a few ways to fund school equalization. This does not affect our local schools; they will still receive their funding. Commissioner Teske emphasized that the Department of Revenue stated 77.89 mills was the amount needed to collect for proper revenue. The question is are we going to collect the proper amount or if we are going to over-collect and burden the taxpayers because the state wants more money. Department of Revenue projected this spring the counties' increase was 0.82 and the school districts had a considerable increase. The majority of the individual taxpayer increase is due to school taxes. The county tax increased about \$247,000. Commissioner Teske expressed a preference for confronting the state on this issue rather than putting the burden on taxpayers to each fight individually. It seems this was the consensus at the MACO conference, and legal action will likely ensue regardless. Marcia responded that her concern is alleviated knowing an adverse ruling to levy 95 will not impact the county's finances. Commissioner Letcher concurred, stating that was the concern of most counties, as they do not have those kinds of funds. Commissioner Hammons agreed, expressing a willingness to take a chance with the state rather than passing this burden on to the taxpayers. Commissioner Letcher pointed out that many taxpayers have a mortgage, and their tax bill goes through a bank, so they may not see the notice that they can protest. Commissioner Letcher then read Resolution 2023-34 A Resolution Fixing the Mill Levy For The State Equalization, County High School Equalization and County Elementary Equalization Mill Levy Authority for the Fiscal Year Beginning July 1, 2023 and Ending June 30, 2024. **Motion** to approve Resolution 2023-34 by commissioner Hammons. Second by Commissioner Teske. Commissioner Teske questioned if County School Superintendent Suzy Rios had any feedback from school districts. Suzy stated she has received none. There were no public comments. Motion carried unanimously.

Note: all Resolutions are available on the county website: lincolncountymt.us

10:00 AM **USFS:** canceled

10:30 AM Administrative Issues/Old Business: Approve Minutes / Independent Contractor Agreement-Richard Stem / Action on Port Sewer Project Bid / Resolution 2023-33 Intent to Dissolve Troy Area Dispatch District: Present were Veronica Bovee-Anderson, Darren Short and Scott Shindledecker.

- Minutes of September 20, 2023, regular meeting for approval. **Motion** to approve the September 20, 2023 minutes by Commissioner Teske. Second by Commissioner Hammons. No comments. Motion carried.
- Minutes of September 28, 2023 Public Hearing - Amend Fisher River Valley Fire Service Area Fee Schedule. **Motion** to approve the September 28, 2023 minutes by Commissioner Hammons. Second by Commissioner Teske. No comments. Motion carried.
- Commissioner Teske presented an overview of an independent contractor agreement with Richard Stem for consideration. Mr. Stem has previously served as a consultant for the Forest Service and various other matters. This contract entails an hourly rate of \$95 for consultation, in addition to travel expenses, under a two-year agreement. Mr. Stem brings valuable prior experience in Forest Service Management. **Motion** by Commissioner Hammons to approve the Independent Contractor

Agreement with Richard Stem. Commissioner Teske added this is paid from PILT. Second by Commissioner Teske. No comments. Motion carried. Commissioner Teske mentioned his intention to introduce another individual with expertise in Forest Service matters for future consideration.

- LCPA Sewer Project Bid Action: Commissioner Teske informed the board that this was a request for qualifications for an engineer, and they received one response from Evensen Engineering, a highly capable firm. **Motion** to approve Evensen Engineering by Commissioner Hammons for the Port Sewer RFQ. Second by Commissioner Teske. No comments. Motion carried.
- Commissioner Hammons read Resolution 2023-33. **Motion** by commissioner Teske to approve Resolution 2023-33 A Resolution of Intent to Dissolve Troy Area Dispatch District and Permanently Transfer Dispatch Service to the Lincoln County Sheriff's Office. Second by commissioner Hammons. No comments. Motion carried.
- Commissioner Teske mentioned David Thompson Search and Rescue had requested funding for training some time ago and recently reported that the training was highly successful, with 28 attendees, including participants from outside the county and state. This initiative proved instrumental in establishing valuable contacts within the emergency services network.
- Commissioner Teske received a letter from Mark Blasdel of the Governor's office, inquiring about a candidate for the Hard Rock Mining Impact Board in Commissioner District 1 position. He noted that Commissioner Bennett had already provided him with information on this matter before leaving office. **Motion** by Commissioner Letcher to appoint Commissioner Teske to the Hard Rock Mining Impact Board. Second by Commissioner Hammons. No comments. Motion carried.
- Commissioner Teske pointed out that in October of 2022, the county sent a letter to Forest Supervisor Chad Benson expressing support for the mining operation of Montanore Minerals. At that juncture, they solicited public comment, to which we responded, yet we have not received any further communication. Consequently, we have prepared a follow-up letter inquiring about the status of the exploration permitting process. **Motion** by Commissioner Hammons to send the letter to Mr. Benson for information on the Montanore Mining permitting process. Second by Commissioner Teske. No comments. Motion carried.
- Commissioner Letcher mentioned his attendance at the MACO conference, where he was elected Vice Chair of Forested Counties Board. He expressed his hope to become more involved in Forest Service processes. He advised Leanne Marten delivered a presentation of Forest Service activities in Region 1, covering Montana, Idaho, Wyoming and parts of the Dakotas where she reported they set a goal of approximately 400 million board feet for the entire Region and achieved about 360 million board feet. Commissioner Letcher commented that they are 80 million board feet short on the Kootenai Forest. He stated it was intriguing to learn that South Dakota is supporting truckers in transporting timber all the way from California to North and South Dakota. He advised Sonny Capece, from Representative Zinke's office, inquired about plans to assist the Plumber mill, which is grappling with resource shortages. Unfortunately, it didn't seem like they had a solution in mind. This situation is disheartening for Lincoln County, as most of their timber sales are tailored for small-diameter fuel treatments and similar projects. It appears the Plumber mill was the sole facility equipped to handle such materials. Commissioner Teske noted that the closure of this lumber mill impacts over 40 families in Idaho, and the repercussions extend to log truck operators and others in our community.

10:45 AM Public Comment Time: Present were Deanise Killingsworth, Veronica Bovee-Anderson, Scott Shindledecker.

No public comment

11:00 AM Public Hearing – Intent to Amend Troy TV District Fee Schedule: Present were Deanise Killingsworth, Veronica Bovee-Anderson and Scott Shindledecker.

Commissioner Hammons read the Public Hearing Notice regarding a request received from the Troy TV District to amend Troy TV District Fee Schedule from \$15 per year to \$25 per year. Commissioner Teske inquired whether any public comments had been received, and the response was unanimous in the negative. Commissioner Letcher sought clarification on the nature of the Troy TV District. Board member Deanise Killingsworth explained that it is synonymous with the Libby TV Club, which has been providing over-the-air antenna TV services to the Troy and Lake Creek District since the 1960s. The transition to digital technology has expanded the channel offerings from 3 to approximately 23. However, since the switch in 2014, maintaining the new equipment has become more challenging. The existing equipment is now a decade old, and replacement or repair poses a significant financial burden. There are plans to extend the tower's height to reach a broader audience. Thanks to a generous gift from Jerry Bennett and some grant funding, there is now backup power available. The district's annual income is around \$9,000, while a single piece of equipment can cost up to \$40,000. Thus, careful financial planning is essential. Deanise emphasized that the service is open to anyone who can receive the signal, operating on the honor system. Efforts are underway to streamline the process of adding new homeowners to the subscriber rolls. Individuals who do not utilize the service can opt to be removed from the district. One governing board oversees two sets of three licenses, consolidating finances and simplifying state reporting. There is now one transmitter site. Local broadcasting Channels include 18 & 9 out of Kalispell/Missoula. The district is also working towards including all Spokane channels, including NBC, within FCC parameters. Commissioner Teske confirmed that a Resolution will be under consideration in the coming week.

11:15 AM Community Action Partnership Workplan: Present were Veronica Bovee-Anderson, Scott Shindledecker, Donna Martin, Cassidy Kipp, and Tracy Diaz.

Cassidy Kipp presented the Community Action Partnership Workplan, a biennial initiative supported by the Community Service Block Grant from the Federal government to benefit Montana. The allocation to each county is determined by the poverty rating within their respective communities. This program encompasses a wide range of comprehensive anti-poverty services, including instruction on self-sufficiency. To secure funding, a community needs assessment must be conducted every three years. This assessment evaluates the needs of clients, community members, elected officials, the education system, and faith-based organizations, providing valuable insights into the challenges faced by these communities and enabling a prioritization of assistance. Consistently, two recurring issues are housing and employment. We oversee the operations of Treasure Manor and collaborate with other organizations to facilitate growth. Identifying a significant gap in in-person home buyer education, we partnered with the Lower Foundation to offer this service along with

financial skill-building programs to the Lincoln County communities. Additionally, we work closely with realtors and lenders, and we've established a job employment and training program through the Office of Public Assistance, incorporating a work component to enhance job retention and skill development. In response to the needs of our workforce, we also offer daycare options, providing alternative avenues for supporting job growth. Our work plan outlines our intentions for the next couple of years, based on identified needs and past successful strategies. Tracy Diaz informed us that they provided COVID relief funds to supplement food banks across all four counties in the past year. The LEAP energy assistance program launched just this Monday and has already received 1200 applications. Cassidy noted that their most common program recipients are females over the age of 62. We are dedicated to consolidating housing resources and have brought in a housing navigator located in Libby. Tracy also mentioned that they have a dynamic part-time outreach person, an increase in social media outreach, and active participation in events like fairs, farmers markets, senior centers, and head start programs, as well as engagement with faith-based communities. Cassidy highlighted that they've initiated paid internships in collaboration with FVCC for high schoolers over the age of 18. Our Libby office, situated on Farm to Market in the old McGrade School, currently has three local staff members working five days a week. Commissioner Teske extended gratitude for the invaluable information and the support provided to our communities. Cassidy shared that they weatherize at least one house per week as part of our ongoing efforts to improve living conditions. **Motion** by Commissioner Teske to approve the letter for the Community Action Partnership of Northwest Montana Community Services block grant program for fiscal Years 2024 and 2025. Second by Commissioner Hammons. No comments. Motion carried.

11:30 AM **School Budget:** Present were Suzy Rios, Scott Shindledecker and Donna Martin.

County School Superintendent Suzy Rios disseminated the County School budget information, outlining the 77.9 mills. She will oversee the completion of the Office of Public Instruction FP9 form, ensuring it is signed and submitted, along with a copy of Resolution 2023-34 for clarification. Suzy expressed her satisfaction with the precise budget figures received. Commissioner Teske confirmed with Suzy that the total mills for county schools' amount to 69.57. Suzy advised the individual school districts use their own budgets based on needs and feels they will not be affected by this mill change. Suzy noticed a bigger gap from what the state and county reimburses and was told it's due to delinquent taxes. While two districts submitted their budgets late, she anticipates a smoother budgeting process in the coming year. Commissioner Teske inquired about the auditing process, to which Suzy confirmed that OPI conducts regular audits, typically taking place every 5-7 years. Suzy took a moment to commend some good Superintendents, as well as acknowledge the outstanding quality and longevity of District Clerks. **Motion** to approve signing the school budget reports by Commissioner Hammons. Second by Commissioner Teske. No comments. Motion carried.

11:45 AM **Budget Amendment Public Hearing and Resolution 2023-32:** Present were Scott Shindledecker.

Commissioner Letcher presented Resolution 2023-32, the Budget Amendment. Commissioner Teske identified each fund.

2110	\$561,048	expenses not anticipated	Road	2371	\$91,326	expenses not anticipated	Permissive sheriff retirement
2140	\$412	expenses not anticipated	Noxious weed	2389	\$878	expenses not anticipated	24/7 sobriety program
2171	\$12,110	expenses not anticipated	Airport fuel	2399	\$470	expenses not anticipated	Adoption, animal shelter
2180	\$16,388	expenses not anticipated	District court	2830	\$769	expenses not anticipated	Junk vehicle
2212	\$1,963	expenses not anticipated	County parks Troy	2888	\$770	expenses not anticipated	HAVA
2213	\$1,536	expenses not anticipated	County parks Eureka	2973	\$1,304	expenses not anticipated	MCH grant
2220	\$16,394	expenses not anticipated	Library	2992	\$675	expenses not anticipated	ARPA port
2224	\$4,125	expenses not anticipated	Library grant	2996	\$365,488	expenses not anticipated	ARPA
2250	\$24,423	expenses not anticipated	County planning	2998	\$574,229	expenses not anticipated	ARPA competitive landfill
2274	\$4,283	expenses not anticipated	MTUPP	4000	\$27,427	expenses not anticipated	Capital Projects
2275	\$54,933	expenses not anticipated	Crisis intervention	4401	\$28,304	expenses not anticipated	Eureka Airport Construction

Director of Finance Wendy Drake offered supplementary details. **Motion** by Commissioner Teske to approve Resolution 2023-32, Second by Commissioner Hammons. No comments. Motion carried.

11:54 PM **Break**

1:30 PM **Planning: Lakeshore Construction Permit – Moen & Barrett / Wilderness Club Phase 6 & 7- SIA Extension:** Present were Tom Kientz, Travis Roberts, Allison Moen, Bo Carponta, and Jessica Svendsbye.

Director of Planning Jesse Haag provided handouts and introduced Chance Barrett and Tom Kientz of Act V LLC: Lot 4 of Awesome Pines Subdivision on Island Lake. The property owner's application states they installed a 236-foot long and 4-foot-wide walkway. However, aerial photography suggests its length is comparable to Moen's 350-foot boardwalk traversing the wetlands into Island Lake. Additionally, a floating dock has been added to the end of the walkway. The property is in the Awesome Pines subdivision, originally approved in 2012 with restrictions on docks and homesites near the shore and identified habitat. These restrictions were removed by commissioners for the subdivision in 2014, but Lincoln County Lakeshore Protection Regulations still apply, necessitating a permit for lakeshore construction. After discovering the violation, a notice was issued, prompting the landowner to seek an after-the-fact permit and variance due to the length of the dock. The normal dock length is 50 feet and this dock's length exceeds the maximum limit by approximately 200 feet, requiring a variance. Planning Board recommendation is to deny the Barrett lakeshore application, require complete removal of the walkway, and impose a fine according to the published fee schedule of \$500 per MCA. Jesse reviewed MCA 76.10.209 variance criteria noting granting the variance would appear to negatively impact the natural environment and aquatic species. Jesse gave a brief history of FWP recommendations with original subdivision

approval. Jesse noted there is public access on Island Lake. Commissioner Teske inquired about the variance's scope for the existing dock. Jesse clarified it's for 236 feet, though it was initially measured at 350 feet. Commissioner Hammons asked about typical dock lengths. Jessa stated 50 feet, while recent variances issued were around 20 feet. Tom explained the longer dock is needed due to marshy terrain, with a significant distance to the water. Jessica emphasized the walkway minimizes disturbance compared to people traversing the marsh. Alison mentioned that docks like theirs are discreet due to vegetation cover. Commissioner Hammons questioned the FWP's initial recommendations. Jesse explained they were stringent to protect wildlife in 2012 but were later revised in 2014. Kristin noted the 2014 revision was based on incorrect information. Jesse clarified the process for future dock applications. Commissioner Letcher emphasized the issue pertains to the walkway, not the dock itself. Kristin stated the commissioners could, for the Barrett application, comply with the planning board recommendation to remove the walkway and grant approval to retain the dock. Jesse advised he is not sure if there are any FWP regulations regarding disturbance of wetlands and the very presence within the wetlands is a disturbance. He noted there are other docks on the lake. Kristin stated lakeshore rules mandate rough-cut, natural timbers for construction materials. Commissioner Teske inquired about FWP's opinion on its impact on wetlands, but Kristin reported no comment received. Commissioner Letcher asked if there was input when regulations changed; Jesse noted FWP and Planning Board were not consulted. Commissioner Teske noted according to the minutes this was not a typical action and acknowledged the need for dock access but expressed concern for wetland impact. He has visited the site. Commissioner Letcher raised concerns about unauthorized construction. Commissioner Teske asked about undeveloped lots. Kristin expressed concern with the real estate community, not fostering good relationships with county permitting agencies and advising property owners that even though they have property on the lake you may not have access to it. Commissioner Teske asked property owners if they were informed of lakeshore application and restrictions. Bo advised it was in the buy/sell if you can get this approved you can do it. We reached out to the county who said we were good to go. Commissioner Letcher noted the Moen permit lacks a dock, just pallets and boards in a walkway. Tom said it was part of the buy/sell. Travis emphasized lack of wetland protection in title reports. Jesse stated not all rules are in covenants, urging due diligence. Commissioner Letcher questioned if Moens' boards were a violation. Jesse clarified the lakeshore protection zone boundary. Commissioner Teske emphasized the marsh is lake property. Chance admitted lack of knowledge on permitting requirements and once we got a letter from Jesse, we have been trying to do our due diligence. We did not see any requirements on this walkway and would like to compromise to maintain access. Commissioner Letcher questioned if this is county authority as this is beyond the high-water mark and is in the lake. Jesse stated this extends from their property through the lakeshore protection zone. Commissioner Letcher questioned if by taking out the first 20 feet of pallets it no longer extends through their property, and they have a floating dock on a lake. He acknowledged that it might seem like splitting hairs, but we need to address this from both perspectives. Kristin advised the regulations have been in place since 1976 and this is the first time, we have seen something like this. Commissioner Teske commented that his concern is if they were misled in feeling this action was fine, adding we are finding issues with information being relayed to buyers and yet we still have to do lakeshore protection. He feels this revision action is extremely strange, wished FWP had commented and does not want to set a future president. Commissioner Teske asked does the county have any regulations for issuing just a floating dock. Kristin said they still issue a permit if under 400 square feet and there are some out there. Commissioner Teske stated this stemmed from a citizen complaint. Commissioner Teske asked if the floating end of the dock remained on the lake year around. Tom advised they pull the dock during ice months. Jesse mentioned he received notice today from someone who received a letter notifying them of the application, but they did not have enough time to prepare comments and hoped this would be extended to give time to present their concerns. Alison stated its open range, describing how they damage the shoreline. In a rain-deficient year, nine cows were stuck in the lake mud. Commissioner Teske noted the unfortunate death of one. Alison mentioned neighbors chasing loons with their boats. Commissioner Letcher asked about sinking without a boardwalk. Alison said you would not. Travis explained that people have excavated where the creek exits the lake. As a result, both our walkways are no longer near the high-water mark, requiring us to navigate through mud to access them. He clarified they haven't made any alterations to the shoreline apart from using the walkway. Travis pointed out that logs are scattered throughout the lake, recalling a time when there was a sawmill, and the lake served as a millpond. Commissioner Teske inquired about the comment period. Kristin indicated they have until October 28th. **Motion** by Commissioner Teske recommending postponing a decision on both Moen and Barrett applications for a week to collect anticipated public comment. Second by Commissioner Hammons. No comments. Motion carried.

Kristin reviewed 406 Engineering's request for Wilderness Club Phases 6 & 7 – subdivision improvement agreement extension request. This request is for an extension for a few items and includes a release of a portion of the original bonded amount and an updated SIA to reflect 125% of the balance of the remaining infrastructure to be installed. **Motion** by Commission Hammons to release \$341,293.75 back to the developer and enter into a new agreement reflecting the retained balance of \$264,000 and a new expiration date of September 1, 2024 based on Planning Staff recommendation. Second by Commissioner Teske. Connor questioned who the check will be issued to. Kristin stated it will be whoever was on the original check. No further comment Motion carried.

02:13 PM **Adjourned**

LINCOLN COUNTY BOARD OF COMMISSIONERS

Josh Letcher, Chairman

ATTEST: _____
Corrina Brown, Clerk of the Board