

**October 25, 2023**

The Lincoln County Board of Commissioners met for a regular session on October 25, 2023, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Teske, Commissioner Hammons, Commissioner Letcher, Assistant Jennifer Brown and Clerk and Recorder Corrina Brown.

Meeting allows for Zoom participation. Present online were Chanel Geer, Melanie Howell, Darren Short, Ray Stout, Michelle Bianco, Rebecca Nelson, Thomas Lane, Michelle Byrd, Wendy Drake, Heather Benjamin, Jesse Haag and Alison Moen.

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

10:00 AM **Monica Tranel – Congress Candidate Western District:** Present were Monica Tranel, Dori Gilels, Veronica Bovee-Anderson and Darren Short.

Monica Tranel emphasized the importance of connecting on Lincoln County issues and the need to build relationships while seeking support from federal partners. She also inquired about the progress of the fiber service. Commissioner Teske commented on Zply Fiber's active service and mentioned a new cell tower serving T-Mobile in the Happy's Inn area. Sheriff Short informed about their use of AT&T First Net and the plan to connect to the mentioned tower soon. There was a discussion about the need for infrastructure in the growing Happy's Inn area. Sheriff Short highlighted the use of two mobile Starlink systems by the Sheriff's Office. Commissioner Letcher noted Interbel's effective fiber dispersal in the Eureka area but mentioned the need for more work in a couple rural and urban areas. When she asked about their immediate wishes, Commissioner Letcher expressed a desire for reduced litigation on timber sales, citing a record low sale of five million board feet resulting in a lack of material to support industry in our communities. Commissioner Teske pointed out that hindrances like the Wildland Urban Interface (WUI) and Bears Outside of Recovery Zones (BORZ) are affecting local commerce and industry. The Forest Service attributes the lack of timber sales to lawsuits, which impacts about 78% of county acreage. Commissioner Letcher raised concerns about residents in town struggling to get homeowners insurance due to their proximity to federal land. Commissioner Teske discussed the PILT formula, highlighting concerns of funding allocation based on forest land and populations. He expressed a preference for seeing people employed rather than relying on SRS handouts. Commissioner Letcher expressed concern over having to add BORZ areas as the bear are expanding, asking if logging hurt the bear, why it is moving into timber sales. He emphasized we could be managing to create habitat for the bear instead we're creating more hardship for the bear as a result of these lawsuits. Commissioner Teske added that the focus is on bear security and not habitat. Monica continued her inquiries. Commissioner Letcher advised the studies he's read show selenium is under the standard and is concerned if we lower the state standard from what is natural, it will be detrimental to industry growth like mining. Commissioner Teske mentioned that MACO has filed on behalf of 49 counties that levied 77.9 mill on State School Equalization to the State Supreme Court to get a ruling. Monica emphasized the importance of partnerships across government branches. Commissioner Letcher raised concerns about the Columbia River Treaty's impact on Lincoln County, noting the need for fair compensation for losses including towns, farm and timber land. He mentioned the ongoing negotiations, highlighting the potential effects on water levels in Koocanusa and downstream activities. He also expressed disappointment in unfulfilled promises regarding recreational facilities, stating one of the selling points for Lake Koocanusa was that recreation would be on equal footing with water storage and electricity production. He advised that the federal government promised over 20 recreational facilities on Lake Koocanusa but only built 11, which led to a reduction in revenues. Commissioner Teske praised local hospital and clinics but noted a lack of mental health care options in the communities.

10:30 AM **Administrative Issues/Old Business: Approve Minutes / Board Appointments / Resolution 2023-38 Amend Meal Rates / VNR Agreement:** Present were Veronica Bovee-Anderson and Scott Shindledecker.

- Minutes of October 18, 2023, regular meeting for approval. **Motion** to approve the October 18, 2023 regular minutes by Commissioner Hammons. Second by Commissioner Teske. No comments. Motion carried.
- Minutes of October 18, 2023, Public Hearing – Dissolution of Troy Area Dispatch District and Permanent Transfer of Dispatch Services to the Lincoln County Sheriff's Office. **Motion** to approve the October 18, 2023 public hearing minutes by Commissioner Hammons. Second by Commissioner Teske No comments. Motion carried.
- Clerk and Recorder Corrina Brown advised of advertising five boards with openings and the receipt of two applications. **Motion** to appoint Trudy Doble to the Fortine/Trego Cemetery District by Commissioner Teske. Second by Commissioner Hammons. No comments. Motion carried. **Motion** to appoint Paul Brown to the Lincoln County Weed Board by Commissioner Hammons. Second by Commissioner Teske. No comments. Motion carried.
- Commissioner Letcher read Resolution 2023-38 A Resolution to Amend Resolution 2023-01 Meal Reimbursement Rates. **Motion** by Commissioner Teske to approve Resolution 2023-38. Second by Commissioner Hammons. Commissioner Teske stated this came out of HB 13 this legislative session. Commissioner Hammons confirmed the \$17 rate of the evening meal is a dollar more than set by statute. No public comments. Motion carried.
- Commissioner Teske reviewed Voluntary No-Fault Resolution Agreement from MACO, a communication issue involving an individual with a hearing impairment who faced difficulty using the phone resulting in a small cash amount as well as some training in the detention center. Sheriff Short affirmed adding they are in the process of repairing the phone. **Motion** by Commissioner Teske to approve the Voluntary No-Fault Resolution Agreement HRB Case No. 0230136. Second by Commissioner Hammons. No comments. Motion carried.
- Commissioner Letcher mentioned Glenn Lake Irrigation District project, ARPA funding request and culverts.

10:45 AM **Public Comment Time:** Present were Scott Shindledecker and Veronica Bovee-Anderson.

Michelle Bianco from Fortine (via Zoom) commented on the lawsuits, stating she has contacted the Forest Service and they got back to her. In four of the lawsuits most impactful to Lincoln County, she was shocked that some of our specialty license plates directly fund those groups suing us. Another shocker was the DOJ selects the attorneys who will represent the defendant. There is some question about taxpayers having to pay those legal fees. She stated Montana State Representative Tanner Smith mentioned that the governor has the ability to pardon us and allow those logging projects to take place. She is not sure if this is legally allowed, as there is a group defendant involving both a federal and a county entity. Her final comment was the general public seems to think the lawsuits revolve around logging itself, when in fact the Judge halted all four cases due to concerns about motorized vehicles. Her concern lies in the potential success of stopping motorized vehicles in those regions. She worries if this could be used as legal precedence to put an end to motorized vehicles altogether, including snowmobiles and side-by-sides. This could pose difficulties for residents living in forested areas, especially when it comes to moving equipment onto their properties. Michelle wanted to publicly express her concerns. Commissioner Teske offered a counterpoint, agreeing with all comments except for his skepticism regarding the Governor's jurisdiction over federal lands. He believes that the most effective approach is to inform the public about these concerns, as they lie at the heart of the matter. He pointed out that opposition often employs environmental strategies to hinder logging, rather than objecting to the logging itself. He commended Michelle for her efforts in delving into this issue and educating the public. Michelle advised that the judge noted a lack of scientific evidence on the defendants' side in all four cases. She would like to see the Montana State University sponsor research to demonstrate what we, as residents living here, know. Commissioner Letcher remarked that in some respects, those groups are correct. The Forest Service has set expectations for the number of Grizzly bears that are unattainable given the available habitat, and this number was never scientifically accurate. He pointed out that the Forest Service has established rules that are currently the subject of litigation. For instance, in the 2015 Forest Plan, they initially stated they were going to halt illegal motorized use on closed roads but did not follow through. Then, they claimed it wasn't within their jurisdiction to stop motorized use. Commissioner Letcher questioned why they included it in the Forest Plan, especially since they just lost litigation on this issue. He asserted that they created the problem, lost in court, and then blamed environmental groups. Michelle concurred citing studies showing grass does not grow in overgrown forests, deer follow the grass to urban areas and bear and wolf follow the deer. Commissioner Teske voiced frustration with the emphasis of the FWP biologist, highlighting that the Forest Service should prioritize the health of the forest, WUI concerns, and work together on habitat preservation for the bears. Michelle asked about the resulting budget shortfall. Commissioner Letcher clarified that it would be relatively simple to show that our forest revenue has declined, but assessing the impact on the county budget is a more complex task. One of the most valuable pieces of information would be historical logging data from 1960-present. Michelle mentioned that the forestry department is also unsure of this figure.

11:00 AM **LCSO Dispatch Staffing:** Present were Darren Short, Undersheriff Faulkner, Scott Shindledecker and Veronica Bovee-Anderson.

Sheriff Short stated the Troy Area Dispatch has been dissolved and integrated into the Lincoln County Dispatch. Currently, we have one temporary dispatcher, increasing our staff from 5 to 6. In the long term, we will need to increase this number to 7 dispatchers to cover all shifts without resorting to excessive overtime. Undersheriff Faulkner mentioned they have already budgeted for a 6th dispatcher. Commissioner Teske sought clarification, asking if official recognition is being sought for a 7th dispatch position but adding one position to this budget cycle. Undersheriff Faulkner concurred, stating that having 2 dispatchers with family insurance would amount to about \$180,000. Commissioner Hammons inquired if this increase is a result of taking over Troy. Undersheriff Faulkner explained that the call volume for the administrative lines for both Troy and Libby was substantial, and they have implemented a messaging system through the phone tree. Sheriff Short provided a couple of letters, one detailing requests regarding Troy EMS radio funding to redesign the dispatch communication room all the way to the top of the tower in Troy, stating the 911 fund balance of \$65,656.85 should adequately fund the improvements. Commissioner Teske inquired if this balance is after all debts have been paid. Undersheriff Faulkner believes these 911 funds should be reinvested directly into the Troy site by funding this upgrade, while acknowledging they left with a \$58,000 negative balance that will need to be sorted out. Sheriff Short emphasized the urgency of purchasing this equipment immediately using the emergency procurement procedure, citing Gold Communications' assessment that the current site radio equipment is likely to fail. He noted that they are not commercial grade, and the radios are not serviceable. Sheriff Short expressed concern that if this procurement process has to go out to RFP (Request for Proposal), there's a potential risk of losing radios during that timeframe. According to the rules, this radio purchase is permissible using those E911 funds.

Commissioner Hammons asked if an estimate has been received, and Sheriff Short advised that it has not been finalized. Commissioner Hammons agreed that this money should indeed be allocated for radios. Commissioner Letcher questioned the total 911 funds for the year, and Undersheriff Faulkner informed that it's about \$25,000, with the first quarter already being diverted from Troy to Libby. He also mentioned that they have redirected the \$1,200 a year from the Forest Service to Libby. Sheriff Short stated that the Troy Police Department will likely contract for record storage. Undersheriff Faulkner also advised that the Troy lobby is now open and secured with a camera. A phone with direct dial to Libby, has been ordered. This will allow a person to pick up the phone and be in direct contact with Libby dispatch. Libby dispatch can also reverse call the lobby, providing a place for people to go. Commissioner Teske stated Wendy Drake Finance Director, advised the most appropriate course of action would be a budget amendment from PILT as a one-time solution to achieve this number. **Motion** by Commissioner Teske to approve the additional Dispatcher position for a total of seven within the Lincoln County Dispatch Center. Second by Commissioner Hammons. No comments. Motion carried.

11:45 AM **Island Lake Lakeshore Construction Permit – Moen & Barrett:** Present were Scott Shindledecker, Michael Hobbs, Jessica Svendsbye, Scott Rodich, John Damon, Tom Kientz, Bo Carpenter and Chance Barrett.

- Barrett and Kientz, Lot 4 Awesome Pines subdivision on Island Lake; Planning Board recommendation is deny based on findings of fact requiring complete removal of the walkway, impose a fine pursuant to the fee schedule.
- Moen, Lot 3 Awesome Pines subdivision on Island Lake; Planning Board recommendation is to deny based on findings of fact requiring complete removal of the walkway, impose a fine pursuant to the fee schedule.

Jesse Haag, County Planner (via Zoom), informed about Alison Moen's lakeshore construction application for a permit after the fact. The application pertains to Lot 3 of the Awesome Pines subdivision on Island Lake. The review has been postponed for a few weeks to allow time for the recently received Fish Wildlife and Parks (FWP) report. The proposed construction involves a 350' x 4' wide boardwalk extending from the shoreline across the wetlands and into Island Lake, along with the addition of a 12' x 12' floating dock at the end, using untreated wood. The properties in the Awesome Pines subdivision were initially approved in 2012 with restrictions on building docks and requirements for placing home sites a certain distance from the shore, based on identified sensitive species. However, two years later, after the final plat for Awesome Pines, the developer sought to have these restrictions removed, and the County Commissioners at that time agreed to do so. It's important to note that the Lincoln County Lakeshore Protection Regulations still apply, necessitating a permit for construction within the lakeshore protection zone. In this specific case, the county was notified of unpermitted construction at this location. Consequently, a notice was issued, and the landowner responded by seeking an after-the-fact permit and a variance in the length of the dock (which is typically limited to 50'). The planning staff's recommendation is to deny the Moen Lakeshore application based on the findings of fact. The Planning Board also recommends denying the application, requiring the complete removal of the walkway, and imposing a fine. Since the previous discussion, comments have been received from FWP. They have raised concerns that these developments could alter the physical characteristics of the lakeshore, potentially leading to disruption of the riparian and wetland buffer. They also noted the presence of nesting loons on the lake, with only 50-70 in the entire state, and nearby public boat ramp access. Jesse later clarified that the regulations address limitations and dredging is a multilevel process, which doesn't apply in this case. The planning staff's reports are based on legal requirements set by state law to mitigate identified impacts, and if these mitigations cannot be met, then the application is denied. Jesse also noted that there is no precedent for a 300' length of dock in Lincoln County.

Commissioner Letcher mentioned that he conducted some research and expressed concern about situations in other areas where different permissions and variances have been granted. He also raised the issue of potential damage that may occur from removing a long-standing walkway. He believes that people may be hesitant to use a crowded dock and might instead opt to navigate through wetlands while dragging canoes. He emphasized that this could impact numerous lakeshore property owners who won't be able to fully enjoy the property they purchased.

Commissioner Teske addressed future development and stressed the necessity of establishing clear guidelines moving forward. He emphasized the importance of equipping the Planning Board with the necessary tools to thoroughly evaluate each application.

Commissioner Hammons voiced concerns about disregarding the recommendations of both the Planning Board and FWP. Regarding historical inconsistencies from the county, he emphasized that correcting one mistake with another is not a viable solution. We cannot continue to allow this to occur.

Michael Hobbs of Lincoln County Planning Board advised these are a blatant violation of a Lakeshore permit. He stated we are here to uphold the regulations of the county from every aspect that is legal and required by the rules and regulation. These are both built without considering the lakeshore permit. After getting caught they came in for an after the fact permit. He added they don't meet the requirements of a variance and has concerns regarding setting precedence.

Chance advised when we bought this property we thought we had the appropriate approval. We are two families trying to use the properties we bought. I know you can't open a can of worms, we will pay a fine and understand if you limit the scope of approval.

Jessica advised she had spoken with former Lincoln County Planner Jake Mertz and was told as long as the soil is not disturbed you can put in some sort of a walkway. We know the appropriate steps to get a permit, we'd applied for a permit to change the septic system as it needed to be moved and we were not trying to evade.

Michael stated he was on the Planning Board at the time Jessica referenced and this was not brought before them. He added from the Planning Board perspective, if we'd had the information that verbal approval was given we may not have recommended the fine.

**Motion** by Commissioner Hammons to deny both lakeshore permit applications per planning board recommendations; require removal of the walkways and enforcement of the fines. Second by Commissioner Teske. \*Commissioner Hammons later amended the motion to exclude fines due to a unique situation.

Alison Moen (via Zoom) talked about minimum impacts, uniqueness to this lake and open range allowing cows to walk along this lake all the time. She said there is currently a dead cow in the lake. She mentioned they rescued nine cows from the lake edge a couple years ago. She noted the lake will not be rising any higher than what it currently is as it now has an outflow bringing down the former highwater mark. She advised our boardwalk is not permanent and nature has taken over probably half of it, the cattle, deer and moose walk across it. You can walk all the way out to the water with wet feet from puddles. The neighbor's dredged and have a 50' dock, they destroyed their waters edge. We will remove our request for an additional 12' X 12' dock and to remove the walkway would be bad in portions because it is grown over. At the end touching the lake it is about three inches deep and no fish live there, just mud for the cows to get stuck in. Like our neighbor, we have minimized human impact. You can't even see our dock from any of the neighbor's areas or from across the lake as it's so grown over and a minimum nuisance. I have seen the lake end roped off in past years during the nesting period of the loons. Our dock is untreated boards thrown across some logs that sunk into the mud. It's a rickety thing.

Commissioner Teske spoke to the issue of the fine, highlighting that it was based on information that couldn't be verified or disproved. Commissioner Hammons concurred and agreed to remove the fine from the motion.

Commissioner Letcher, we have a motion and a second any further comments. All those in favor say eye; Commissioners Hammons and Teske, eye. All opposed; Commissioner Letcher, eye. Motion carried.

12:44 AM **Adjourned**

## **LINCOLN COUNTY BOARD OF COMMISSIONERS**

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Josh Letcher, Chairman

**ATTEST:** \_\_\_\_\_  
Corrina Brown, Clerk of the Board