

# IDAHO ASSOCIATION OF COUNTIES INDUSTRIAL LITIGATION COMMITTEE

*Conference Call 208-717-1950*

*Tuesday, June 12, 2018 – 2 PM*

## MEETING MINUTES

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2:00 PM

### **Call to Order - Chair, Mike McDowell, Kootenai County Assessor**

- Welcome and Introductions
- Approval of February 2018 Meeting Minutes  
***Dan Anderson made a motion to approve the minutes from February 2018. Brian Stender seconded. Motion carried.***

2:05 PM

### **Village Management v. Shoshone County -**

Keisha Oxendine reviewed the Shoshone County case with the committee. There are 108 parcels that make up the property. Prior to the closing of the sale of the resort the property was split into multiple LLCs. The LLCs/property management appealed the value of the property to the Board of Equalization (BOE) and asked the BOE if each LLC was eligible for the \$100,000 property tax exemption. Shoshone County prevailed again when Silver Mountain appealed the BOE decision to the Board of Tax Appeals (BTA).

The value is Shoshone County's concern. The Silver Mountain value is ~\$22M which is what Shoshone County submitted to BTA. Silver Mountain is arguing that the value of the property is ~\$5M. Shoshone County had an appraiser out to the property to review most of the parcels, coming up with a value of \$15.5M. The BTA determined the value of \$6M for the remaining parcels our appraiser did not review.

The impact to taxing districts will be over \$300,000. Shoshone County met with the city of Kellogg to discuss this issue. The city desired to appeal the value to district court. Shoshone County has filed a petition for review. The record has been prepared. Shoshone County is unable to obtain any financial records to determine the value using the income approach. Shoshone County's appraiser was also denied access to that financial information. The denial of information set up red flags of concern. The Shoshone County appraiser was only able to access to records from Silver Mountain (that Silver Mountain prepared) and it is unknown if those records are accurate because they have not been audited.

The whole appeals process has been dictated by Silver Mountain. Shoshone County feels that there is more information out there that would give an accurate value using the income approach. The property is quite a large property with many amenities. It is not an easy property to assess, especially without the needed information. Shoshone County feels that this case will set a precedent and there could be a large number of appeals based on this.

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Dan Anderson asked Shoshone County what information was provided to the appraiser. Keisha Oxendine explained that Silver Mountain provided a spreadsheet with data that they put on there. There is no way to determine whether it is accurate. Dan Anderson stated that spreadsheet could have contained an error and so an improper appraisal was done.

With this case moving forward through district court, Shoshone County will have access to the proper information through the discover process. Shoshone County hopes to have access to the actual sale information of the property and this should tell us whether it was a fire sale or not. There are many factors that lead to the owners wanting to unload this property quickly.

Mike McDowell verified the amount of funds Shoshone County is requesting from the fund. Shoshone County is requesting \$170,000. Keisha Oxendine explained that Shoshone County has already spent \$60,000 on an appraiser and used that amount as an estimate for future costs. Shoshone County anticipates using the same appraiser because he has already done a lot of work on this case. Research assistant is estimated to be \$10,000. The legal aspect of the case is the biggest part. Shoshone County's attorney Keisha has spent a lot of time on this case and she would like to have the commissioners be able to contract with someone with more knowledge and time into this case. The \$100,000 can help Shoshone County hire an attorney that can put maximum effort into this case.

Brian Stender inquired whether the property an industrial property or a commercial property because the name of the fund is Industrial Litigation. Mike McDowell stated that the history is that industrial owners were picking upon counties. The fund has had other cases that were commercial and industrial. Dan Anderson stated that the fund was labeled "industrial" because sawmills were getting picked one. The fund shouldn't let the word "industrial" get in the way because there is such a possible impact that the issue should be addressed. This property has so many features that it is hard to determine or qualify it.

***Dan Anderson made a motion that the IAC Industrial Litigation committee would recommend to the IAC board an approval in the amount not to exceed \$170,000 for the defense of Shoshone County. Bryan Taylor seconded. Motion carried.***

2:40 PM

### **Chobani v. Twin Falls County - Nancy Austin - Rosemary Emory**

Brad Wills explained that Chobani appealed their property value through the BOE and the BTA in January 2018. Twin Falls County used the trimmed investment with their investment report to come up with the assessed value in FY17 of \$495,000,000. Twin Falls County has been using this system for 5 years and this is the first time Chobani has appealed. The BOE reduced the value to \$425,000,000. The BTA upheld part of Twin Falls County's value but reduced the building value. Between the time the BOE and the BTA, Chobani hired an appraiser. The appraiser valued the property at \$100,000,000. This is a huge impact to all taxing districts. This property is also in an Urban Renewal Area.

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Scott Erwin appraised the property for Twin Falls County. Mr. Erwin passed away and therefore was unable to testify on behalf of Twin Falls County.

Dave McGraw inquired about any offer that may have been made. Brad Wills explained that Twin Falls County was willing to settle with the amount \$322,000,000, which was on the BTA application. Chobani had an in depth analysis and Twin Falls County was willing to move forward with their number. Twin Falls County offered to avoid the BTA. Dave McGraw asked Brad Wills what number the county is going to try to defend. Brad Wills stated that the county would need some outside help because there are outside factors that need to be reviewed but the county will defend values between \$325M and \$375M.

Twin Falls is Mike requesting \$35K for a basic appraisal and a lawyer. Twin Falls County is looking at hiring Robert Lewis. Brad Wills understands that this case may cost more than the request and may need to apply for additional funding.

***Dave McGraw made a motion that the IAC Industrial Litigation committee would recommend to the IAC Board an approval not to exceed \$35k for the defense of Twin Falls County. Brian Stender seconded. Motion carried.***

3:15 PM

## **Financials**

Kelli Brassfield reviewed the financial balance sheet and proposed budget. The committee asked that Kelli provide an explanation of what is included in "other expenses" and why the IAC fees have increased. The additional information will be provided at another time.

***Bryan Taylor made a motion to amend the assessments in the FY19 proposed budget to \$200,000, to exclude those counties that don't pay. Dan Anderson seconded. Motion carried.***

3:30 PM

## **Open Discussion**

3:45 PM

## **Adjourn**

### Members Present:

Mike McDowell, Kootenai County,  
Chair  
Bryan Taylor, Canyon County  
Dan Anderson, Nez Perce County  
Dave Radford, Bonneville County  
Brian Stender, Canyon County

### Members Not Present:

Cresley McConnell, Lincoln County  
Dwight Davis, Cassia County

### Guests:

Kelli Brassfield, IAC Staff  
Nancy Austin, Twin Falls County PA  
Brad Wills Twin Falls County  
Assessor  
Rosemary Twin Falls County Deputy  
PA  
Keisha Oxendine, Shoshone County  
PA  
Jerry White, Shoshone County  
Assessor

### Haven't paid:

Ada - not paying per email  
Benewah - not paying per email  
Blaine  
Bonner  
Butte  
Camas  
Gooding - not paying per email  
Jefferson  
Lemhi - not paying per email  
Lewis - not paying per email  
Lincoln - not paying per email  
Madison  
Oneida

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