

Why Did The Board Of Commissioners Of...

Lincoln County

Recently Decide

...To **Raise Our Taxes By \$103,000,000** Without Proper Notice To The Taxpayers Nor With A Lawful Resolution?

And Why Is Commissioner Schmidt So Brazenly Willing To Risk His Seat To Build A 'Taj Mahal' Jail, One That Would Be **Ten Times Larger** Than Our Eight Year Daily Average Prisoner Count?

On February 18, 2020, **by a 3-2 vote**, the Lincoln County, SD Commissioners passed a Resolution, under the cover of darkness, to obligate local taxpayers to repay \$50,000,000, money they want to spend on a new jail. With interest, taxpayers will have to cough up a projected \$68,000,000 for "lease payments". **But there's more - read on!** This vote tally was - **For: Poppens, Schmidt & Landeen. Against: Arends & Gillespie.**

But Wait!

The Agenda item, the amended Motion and the final Resolution to accomplish this were done illegally and we've asked the Commissioners to rescind that action and go back and do it lawfully. Why do we say it was illegal?

1. The jail matter on the Agenda sent to the Commissioners three days prior to the meeting, was limited to, "Consider a motion to bond for a public safety center." No draft of a Resolution went out with the Agenda.
2. At their February 18 meeting, **Commissioner James Schmidt** moved, "*Mr. Chairman, I Motion that the Lincoln County Board of Commissioners offer bonds for \$50,000,000 to build a new public safety facility.*" Later it was amended to say, 'Motion [was] for a **\$50 million bond** level funding under SDCL 7-25-19 & 20.'
3. During deliberations on the Motion, Schmidt asked, "*Did we draft a Resolution...?*" Todd Meierhenry, the lawyer for the Commissioner's public finance company (Dougherty & Company) held out one. Seeing him hold it **Chairman Mike Poppens** then asked if "*Bill (Deputy State's Attorney William Golden) has seen that then?*" **Neither the existence of the Resolution nor the legal review of it by the Lincoln County State's Attorney was known by the Commissioners at the very time they were voting on it.** The un-read Resolution itself was not even incorporated into the motion which they passed.
4. During deliberations, **Commissioner Joel Arends** objected stating, "*I don't believe in the Nancy Pelosi method of 'you got to pass something in order to know what's in it'.*"
5. **But** the Declaration paragraph of the 2,250 word Resolution, later published in the paper for most Commissioners to see for the first time, said **nothing about a bond**. It read, "Resolution relating to lease-purchase of new County Lincoln County Public Safety Center: Authorizing the execution and delivery of a ground lease agreement, a lease-purchase agreement, trust agreement,..." Read the entire Resolution in the Feb. 27 and March 2, 2020 editions of the **Sioux Valley News**.
6. **Worst of all**, SD Law 7-21-16.1 requires them to approve this lease by "more than" 60% of the vote. Three out of five votes (60%) is not sufficient to pass it. Yet, they are proceeding ahead anyway!

The Commissioners want the trust department of a St. Paul, MN, bank to buy the ground and build the jail. The county would borrow the money with something called **Certificates of Participation** (like they did with the courthouse addition and county garage west of Canton) and deposit it with the bank; and then let them pay for the jail. Then we lease it back from them. It is unclear to us what we have to come up with to own the jail after we pay \$68 million in taxes to cover these lease payments. If it sounds bizarre to you, it looks to us like they use this method to **get around a vote of the people** which a general obligation bond often requires.

The 'net' **new operating expenses** (including 35 new staff members) with this proposal would add an additional \$1.4 million annually or \$35 million over 25 years. (Net=\$3.2 mill. projected exp. minus \$1.8 mill current exp.).

\$68 mill. 'lease payments' plus \$35 mill. in net new operating expenses equals **total new taxes of \$103,000,000!**

To summarize, the Agenda sent to the Board Members (and the community at large); the Motion voted on; and the eventual Resolution were vastly different from each other, and they did not receive the (over 60%) majority required, all in violation of South Dakota Open Meetings and other laws. It appears intentional to us.

On February 18, 2020 Commissioner Schmidt Said He Doesn't Want to Put A Taj Mahal Image On This Jail. Oh Really?! So What Does He Call This?

The proposed jail would house 250 prisoner beds, while the 2009 thru 2016 average daily prisoner population (ADP) for Lincoln County was 22 inmates. **They want to build a jail ten times the eight year average daily prisoner count.** Does this incentivize patrol officers to go out and 'find crime' to help fill it? They want to build this **250-bed jail** with courtrooms, law enforcement facilities, 911 dispatch center and administrative offices for \$50 million. Woodbury County, Iowa is building a law enforcement center with all of these extras (except the 911 dispatch center) but for **450 beds**, also for \$50 million. Same money, nearly the same services but Woodbury County is getting nearly double the beds. Why are Commissioners Poppens, Schmidt and Landeen willing to do this?

Then Commissioner Schmidt Doubled Down

When making the motion to spend \$50,000,000 of taxpayer money, Schmidt on the record said, **"And if the people don't like that then they can go to the ballot box and vote me out."** Be careful what you allow for Commissioner Schmidt, as you just might get it!

After all, in 2009 the Wabasha County, MN, commissioners voted 5-0 to build a new jail in their county against large public opposition. All **five of those commissioners were later voted out of office**. One of the newly elected Wabasha Commissioners, Deb Roschen, later wrote, *"Our \$21,000,000, 72 bed jail continues to be a horrible abuse of tax payers. Our jail population has averaged 15-20 inmates for over a decade, yet in 2010 Sheriff Bartsh touted he would be generating revenue by housing prisoners from other counties. Today his jail has 6 inmates, costs property owners \$2M annually to operate and has placed a financial burden that we will feel from many years to come."* Think of that - ten years later and Wabasha County still only has an 8.3% occupancy.

Urgent Alert Closing Their 'New' Jail?!

At press time we learned from the Wabasha County Administrator that an April 21 vote by their Commissioners may occur to **close** their ten year old jail and pay a neighboring county to house their prisoners. Reports are that **this could save them \$1.3 million in annual operating expenses.** But for the next eight years their taxpayers will need to cover payments on the old debt suffered to build their jail!

Can Judges and Sheriffs Manipulate The Jail's Prison Population Count?

In 2006, Polk County, Iowa, voters approved a bond for a new jail. Why? Because they were told how overcrowded their jail was. Afterward, lawyers in the county began talking about how a senior Judge in Iowa Judicial District #5 convinced many of his fellow judges to use less sentencing discretion and give the maximum days under the law for most DUI's, etc. It is well known among prosecutors that increased jail time does little to reduce the re-offend rate of drunk drivers and those doing drugs. So what does increased jail time do then? **It causes unneeded jail crowding**, which makes for great video with local 'fake news'. A few months after it passed attorneys reported that the judges stopped giving the maximum sentences.

In 2008, Polk County tried it again with a proposed \$130 million courthouse addition, that was to be five times the size of their then-current one. This time the chief judge told the attorneys, 'No electronic filings and no telephonic court hearings, it all must be done in person in the courthouse.' Consequence? A "crowded" courthouse, again, for local fake news outlets! This time the opposition committee got a tip on it and exposed the judicial manipulation to make the Courthouse look crowded. Voters were angry and gave them a 'No vote' by a nearly 17% margin.

Is Someone Manipulating Our Prisoner Population Head Count?

The Lincoln County Commissioners' Sept 19, 2019 jail study done by **Casey Peterson of Rapid City** (p. 4) found that the average daily population (ADP) of prisoners rose in one year from 32.4 (2017) to 44.4 (2018). It's this recently discovered "growth" that these three commissioners are responding to. But did it grow...or decline? (Their ADP is calculated by using the Average Monthly Inmate Days times the Average Length of Stay (ALOS) divided by 365.) But wait, the ALOS rose by 47% from 7.14 days in 2017 to 10.54 days in 2018. **The average jail time for a Lincoln County prisoner increased by 47% in one year! How did that happen?** Did a rash of murderers get placed in the jail? Not that we've heard! If the ALOS of 7.14 days for 2017 was forward applied to the Average Monthly Inmate Days in 2018, our average daily jail population (ADP) would have **gone down to 30.1** per day in 2018, not up to 44.4. In fact, Chairman Poppens stated at the 4/7/2020 meeting that, "I think there's a [current] reduction in the number of detainees..." Then he added the nearly hopeful qualifier - "...for the moment," while spouting about some coming large increase in prisoner population.

How did Lincoln County's eight year average (2009 thru 2016) ADP of 22.4 **double** to 44.4 by 2018? Is someone manipulating the length of jail sentences for Lincoln County prisoners as was done in Polk County, Iowa? How does Poppens justify the current declining prisoner population while still assuring us an increase is coming? 2nd Judicial Circuit Court Judges **John Pekas, Rachel Rasmussen and Douglas Hoffman**; Sheriff **Steve Swenson**, and Lincoln County State's Attorney **Thomas Wollman** all stand to get new facilities under this proposal. Taxpayers might ask them to give an account of this one year explosion in the length of jail sentences in Lincoln County!

Jailhouse 'Huckstering'

As you can see, the huckstering for massive new jailhouses is not unique to Lincoln County. Building contractors, bond dealers, construction managers and law enforcement consultants often target County officials and Judges to pitch these taxpayer boondoggles to, at county government trade association meetings held in Pierre, St. Paul and Des Moines. Hotel hospitality rooms at such conventions (at taxpayers expense), ripe with free-flowing refreshments, are often where such schemes are first hatched. And don't be fooled, peer pressure is not limited to grade-school when it comes to spending taxpayer money!

In Light Of Covid-19, We See No Cost To The County In Backing Up And Doing This The Right Way - And With Community Input!

The 3/24/2020 *New York Post* reported that Trump Administration said the Covid-19 aid package would include \$4 trillion in lending power for the Federal Reserve as well as a \$2 trillion aid package currently being hammered out by Congress. This will be the single largest infusions of Federal Reserve "printed" and US government borrowed, cash in the history of the world. At the Lincoln County Commissioner's **April 7, 2020 meeting** (see their YouTube channel) their bond advisor **Tom Grimmond** of Dougherty & Company, Sioux Falls reported that the Covid 19 disruption in the market place finds municipal bond prices 'decoupled' from their historic relationship to US Treasury bond prices and are at "the lowest [interest] rates we've seen in 60 years." But "*if the municipal market ever aligns [sic. the traditional spread] with the treasury bond prices again, rates (sic. on municipal bonds) are going to come down even further.*" Grimmond also told our Commissioners that the interest rates on bonds similar to the \$46 million bond that **Minnehaha County** issued to build their jail **have since dropped**.

Grimmond warned, "*They could go down. They could go to zero. You could see **negative interest rates**. There's some countries where their treasuries are negative right now. Rates could go lower...*" Then imparting a sense of urgency to the Commissioners, he concludes, "*...but I think the pressure is **upward** right now.*" Yes Denmark, Japan, Germany, France, Belgium and the Netherlands currently pay negative interest rates on their bonds. President Trump was calling for them last September. What does this mean? Borrow \$1,000,000, for 20 years at -2.0% and your **total payments** could be \$900,000 over the 20 years. Negative rates indicate desperate times!

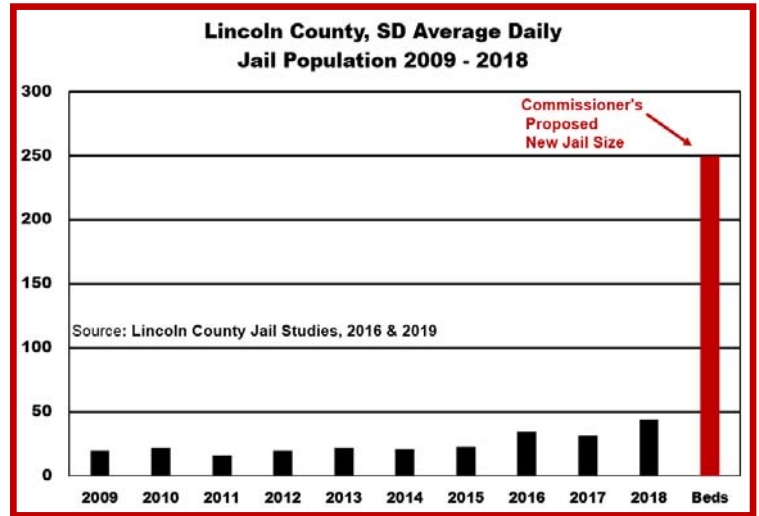
Upward? Who In Their Right Mind Thinks Interest Rates Are Going Up Anytime Soon?

With **\$6,000,000,000,000** (that's trillion) of new paper money being poured into the American economy in the last few weeks (more money than ever in recorded history) who in their right mind would think that pressure on the interest rates for Lincoln County **Certificates of Participation** on this proposed jail is "upward" anytime in the next year? Likely, only the guy who wants to collect his issuance fee (i.e. \$294,000 'total underwriters discount') before the Lincoln County taxpayers figure out they're getting scammed and demand the three Commissioners stop this foolish proposal. After all, Grimmond previously said (**Argus-Leader** 8/2/18) that it was a "**scare tactic**" for opponents to disclose the interest cost taxpayers would have to pay on proposed new public debt. Then does Grimmond also think we should repeal the 'Scary' full disclosure consumer protection laws in the Truth-In-Lending Act?

Yet Grimmond still warned, "*A lot of people say we're heading into a recession. **They've almost guaranteed it**. The S&P (Standard & Poor's rating service) has already given a negative outlook for all municipalities.*" The US Labor Dept. has reported 22.0 million jobless unemployment claims filed from March 15 thru April 11. Economic forecasts that predict unemployment will exceed its historic 25 percent peak during the Great Depression are becoming routine. President Ronald Reagan's former budget director, David Stockman recently wrote this "stimulus package will leave America with unspeakable debts, political dysfunction and economic debilitation for years, if not decades, to come." And at press time we learned of Smithfield Foods closing their Sioux Falls plant indefinitely!

With this backdrop Grimmond told them, "*There's just a lot of uncertainty [sic. in the municipal bond markets] because people are out of work or are going to be out of work, if they're not already. And then what's the payment on your [sic. property tax receipts] going to be. Are we still going to be at 99% collection rate like we have been historically throughout the state?*" They will need these property tax receipts to make their lease payments.

Grimmond is advising Commissioners of potentially serious risks to Lincoln County and to us taxpayers. Serious risks that he most likely knows they do not want to hear. He likely says this knowing that when this project does great harm to Lincoln County residents, he can always say, '*Don't look at me, I warned the Commissioners.*' After all of Grimmond's warnings **Chairman Poppens concluded, "I think we continue to move forward and getting the paperwork as he's indicated ..."** But who knows, when this boondoggle tanks Poppens, Schmidt and Landeen could be long gone and just laugh it off! Yet, Grimmond concluded on April 7, 2020, that, "*There's really no out-of-pocket expenses for the county [until you go in to the market and seek a rating] on the bonds.*"



At a Commissioner-projected \$42.50 levy rate in NEW property taxes per year or \$1,063 in new taxes over the 25 year life of these lease payments - **per \$100,000 of property valuation** - if they go ahead with this proposal. A **\$300,000 Sioux Falls home** will pay \$3,188 in new taxes over this same 25 years.

To conclude, the Commissioners need to correct the many defects in their Agenda and their 'manipulated' inmate projections. They need to seek real public input with transparency and then write a lawful Resolution for any project they want to proceed ahead with. It is far more likely that the interest rate costs to borrow money on any jail proposal will go down in coming months. This could save the county millions! And there are no out-of-pocket expenses yet. It would most likely be a cost savings for Lincoln County if they would back up and do it right!

A formal request has been submitted to the Commissioners to comply with South Dakota law, rescind their unlawful February 18, 2020 motion, and re-start this process. Then they were asked to be truly transparent and seek public testimony and input **before voting** on any future proposal.

Join with us and contact them and insist they do it right. They can be reached below. (We provided two email addresses for each as messages sent to county government addresses often seem to not get through.)

District #4
Chairman **Michael Poppens**
Ph 605-214-5379
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mjpoppens@gmail.com

District #5
Commissioner **Jim Schmidt**
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District #3
Commissioner **Tiffani Landeen**
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District #2
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District #1
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**Commissioner Seats
#2 Gillespie & #4 Poppens
are up again November 2020.
If you live in one of those dis-
tricts and want to run for
office time is of the essence.
Contact us **very soon**.
We can help.**

Brought to you By:

Lincoln County Citizens for Real Progress
P.O. Box 818, Tea, SD 57064-0818, Ph 605-670-8731
Email lccrprogress@yahoo.com, For documentation see: www.lccrp.org



To help support this effort please send a generous donation (payable to the committee) to the address above.

**With Covid-19 Economic Recession Upon Us
Why Are Three Lincoln County Commissioners
Wanting To Raise Our Taxes \$103,000,000 For A
Jail Ten Times The Size We Need?**

Lincoln County Citizens for Real Progress
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