

**JEFFERSON COUNTY COMMISSIONER MEETING MINUTES
TUESDAY, OCTOBER 9, 2018**

Meeting called to order at 9:00. Those present are Commissioner Hancock, Commissioner Martinez, Chairman Farnsworth, Prosecutor Paul Butikofer, Clerk Colleen Poole; Audrey Moon is clerk of the board. Pledge of Allegiance led by Chairman Farnsworth. Prayer offered by Colleen Poole.

NATIONWIDE INSURANCE – JARED WILLIAMS

• **CONVERSION TO STATE OF IDAHO PLAN – (ACTION ITEM)**

[9:01:00 AM](#) Jared is the Nationwide representative. Have worked with Nationwide for ten years. Want to help the various counties they serve. To date Jefferson County still remains on their NACO plan. This is not adding something just replacing something that already exists. This will decrease the expenses to county employees. A 457 plan works like a 401(k). This is to save in addition to their pension. This is a supplemental retirement plan. In a 401(k) plan they have restrictions to withdraw early. The 457 does not have this restriction. This also offers to withdraw tax free if it is being used for health care. The 457 plan has a price structure of .7 to .9 percent. The state of Idaho plan is zero percent. The State of Idaho has a state board. Holds them accountable to the structures they are offering. This is a beneficial plan. They are not raising fund prices. Have the NACO plan and the proposed State of Idaho Plan. Have a \$100 incentive to enroll for participant with three percent or more. Some of the neighboring counties have adopted this plan so they are seeing new enrollment. If they are members and they increase their deferral by two percent they will receive \$100.

[9:07:56 AM](#) Jared said there is a benefit for pretax. Can mix and match. This is high level benefits. Is new to this area worked for the City of Phoenix plan. Is here to encourage and engage participants. Want to see some engagement. Want to be able to educate employees and the benefits of saving for retirement. Chairman Farnsworth said he has visited with Marilyn and Colleen. Colleen said they felt they needed to bring this to the commissioners it would depend if they want to offer this.

[9:09:53 AM](#) Commissioner Hancock said they currently have PERSI and have their retirement available. Also offer a 401(k) fund. How would this differ?

[9:10:22 AM](#) Jared said they have the competition in every entity they enface with. They both allow them to save money each year. The 457 removes the age restriction so there is never a penalty. They offer a Roth offer and a 401(k) does not. Offer target dates and risks funds. This is something that is easier. Offer account management. Making changes quarterly. Offer access have a chartered financial consultant. More bells and whistles but they are both good options.

[9:12:55 AM](#) Commissioner Hancock asked if they have the equity funds. Jared said they have these. Do offer a guaranteed fixed fund. This is 3.56 percent. Then can move them to the retirement funds. Do have a whole host of funds. Commissioner Hancock asked if they can move PERSI 401(k) into the 457. Jared said they can at time of retirement but not prior.

[9:14:33 AM](#) Colleen said she clarified with Marilyn they already offer this it is just not something they advertise. Jared said they would get in touch with those that have the plan and move them over so it would not be any additional work.

[9:16:25 AM](#) Chairman Farnsworth said it sounds like they are already offering this. Commissioner Hancock said they could let the employees know. Colleen asked if he could come and do presentations. Jared said that is his job it is just the matter of having access. A lot of times this travels by word of mouth. Colleen said they could have some employee meetings here and then he could go to other departments. Commissioner Hancock asked on the funds. Jared said they are not affiliated with one fund family provides a list. Commissioner Hancock said this will allow more opportunities to their employees. Jared appreciates their time will get with Colleen to set up times for presentations.

EMERGENCY MANAGEMENT – REBECCA SQUIRES

• **DIGB6 APPOINTMENT – (ACTION ITEM)**

[9:20:23 AM](#) Rebecca said she had been out last week. This needs to be by a resolution. Audrey gives her #2019-1. Rebecca said this allows all of the entities to talk to each other. Bill Pope had been put on this appointment but is no longer with Central Fire. After going out to the entities it has gone back to Central Fire to fill and they have listed Jared Giannini. Jared is well versed on how all of this works as far as logistics. Would like to appoint Giannini to this board. Basically the state legislature mandates they have these boards. He is Central Fire's logistics guy. They have three full time and their admin assistant.

[9:23:57 AM](#) **Motion by Commissioner Hancock to approve resolution #2019-1 for Jared Giannini as the DIGB6 appointment with Central Fire. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

COMMISSIONERS

• **RECERTIFY L-1 LEVIES – (ACTION ITEM)**

[9:27:19 AM](#) Colleen said has to send these to the state. There was one mistake with West Jefferson Fire. Will need them to recertify these. Chairman Farnsworth said there was a mistake with West Jefferson Fire. This made the levy go down.

[9:28:13 AM](#) **Motion by Commissioner Martinez to recertify the L-1 levies for Jefferson County for 2019. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

• **MAINTENANCE/JANITORIAL CONTRACTS – (ACTION ITEM)**

[9:29:26 AM](#) Corey Smith and Bryan Briggs are present. Bryan had some issues with the pricing structure. Corey said his is where it should be and he has signed his contract. Had gotten this explained and he understood this. Bryan said when he read the contract thought they would

spread this out for the whole year. Would like to see the whole bid divided by twelve months. Colleen said when they totaled them up but it all depends on when the annex comes on. Commissioner Hancock said they do not know when the new annex will go on. That is why they added a monthly rate for this. Had put in the bid for the courthouse was \$2,000 a month. Colleen said he feels like he is cleaning the satellite locations now so he didn't add a lot into for the annex but didn't really include them in the courthouse. Would like to take the total of the bid and divide this into twelve months. Commissioner Hancock said he has a \$2,500 increase for the annex. Bryan said they incorporated this in. Commissioner Hancock said he should have brought this back in before when they re-discussed the numbers. Bryan said that something was messed up it was confusing to figure out this bid. Commissioner Hancock said this was not that confusing. Have an adjustment to have the annex but should know how much it costs for the courthouse janitorial.

[9:39:40 AM](#) Commissioner Hancock said he does not believe he can do this for \$2,000 a month. Bryan said he must have made mistakes in the bid while not understanding everything. Chairman Farnsworth mentions that it was confusing. Commissioner Hancock said there was just an increase for the annex per month. Chairman Farnsworth said in the \$24,000 he did not add in the satellite buildings. Commissioner Hancock said if they add \$1,200 it brings this up higher than the other bidder. Chairman Farnsworth said the satellite locations are out of sight out of mind. Corey said he did not include the satellite locations either. Corey thinks this was added into the annex. Commissioner Hancock said they are not even cleaning the annex right now. Commissioner Hancock said that Bryan can withdraw his bid because based on the contracts they cannot give him more money per month. Not sure they can change this now. Paul thinks they would have to rebid this because the issue is that the satellite buildings were not included. Corey is not sure if they were put in with the annex or the courthouse on his bid he would have to review. Commissioner Hancock is not sure why they would add this into the annex. Paul said if this was not included in the others bid could open this up to bid again.

[9:49:40 AM](#) Bryan said if they do nothing he would be stuck with \$2,000 until January and then they would add in the other to be \$4,500. Is there is no way to add this together. Commissioner Hancock said this would be paying him for work not being performed. Paul thinks they should keep them separate. Commissioner Hancock said they can negotiate this price after three months when it comes on. Paul said the issue may need to have a new bid submitted for the new buildings. Commissioner Hancock said High Mountain would have to see if they had this in the bid. Chairman Farnsworth said they could just pay \$1,875 for twelve months instead of \$2,500 once the annex comes on. Corey comes up to review his bid. Chairman Farnsworth said they could pay the \$1,875 plus the \$2,000 for a total of \$3,875 each month. Commissioner Hancock said then this would be the same. Chairman Farnsworth said they would not have to change any prices once the annex comes online. Bryan would rather go with this it would help make it simpler. Chairman Farnsworth said then they write a check for \$3,875 and will not have to change anything later on. Colleen asked if they need to adjust the check from October. Chairman Farnsworth said they can add whatever difference on the next check. Commissioner Hancock amends the contract to add this change in.

[10:07:47 AM](#) Chairman Farnsworth said this will be \$2,000 a month \$2,500 month will change this to \$1,875 a month to start on October 1, 2018.

[10:10:21 AM](#) **Motion by Commissioner Hancock to approve changes and reallocation on the payments for the courthouse and annex janitorial. Will be over a twelve month period prorated at \$1,875. Second by Chairman Farnsworth. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez - nay, Chairman Farnsworth - aye. Motion passed.**

- **NEW BUILDING PROJECT – (ACTION ITEM)**

[10:12:52 AM](#) Chairman Farnsworth said the change order is on the IT room. Audrey mentions Garn had some discussion on this that he had added to the next agenda. Kristine went to get Garn. Garn talked with Scott on Friday and they may have room upstairs so they may not even need the room downstairs. Then they would not have the humidity issues and the large cost. Is on the agenda next week because Scott will have all the numbers to change a storage room that everything would fit in perfectly upstairs. Commissioner Martinez thinks this would be best to keep this out of the moisture. Chairman Farnsworth said they will table this change order until they find if room 203 works. Commissioners review through the signs and colors. Will have Colleen respond saying these are fine.

[10:20:36 AM](#) Commissioner Hancock said they have not come back with any pricing for subwater yet. Colleen asked if they are digging this down deeper. Commissioner Hancock said they are getting ready to put the cisterns in.

- **ALCOHOLIC BEVERAGE LICENSE – (ACTION ITEM)**

[10:21:25 AM](#) **Motion by Commissioner Martinez to approve the alcoholic beverage license for Good 2 Go Store #108. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez - aye, Chairman Farnsworth - aye. Motion passed.**

- **APPROVE COMMISSIONER MEETING MINUTES – (ACTION ITEM)**

[10:22:24 AM](#) **Motion by Commissioner Hancock to approve commissioner meeting minutes from September 4, 2018. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez - aye, Chairman Farnsworth - aye. Motion passed.**

NOXIOUS WEEDS & INVASIVE SPECIES – MITCH WHITMILL

- **RESOLUTION #2018-29 – TRANSFER OF FUNDS – (ACTION ITEM)**

[10:22:58 AM](#) Mitch is here to transfer funds from the resolving funds. Colleen said they do this every year. They want to do this before they close the budget. Charmin Farnsworth reads resolution #2018-29 “ Be it ordained by the Commissioners of Jefferson County, Idaho that monies be transferred from Weed Trust #9136 to Weed Fund #27 in the amount of \$30,000.”

[10:24:14 AM](#) **Motion by Commissioner Hancock to approve resolution #2018-29 for transfer of funds. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez - aye, Chairman Farnsworth - aye. Motion passed.**

- **UPDATE**

[10:24:37 AM](#) Mitch said last week they approved the cargo trailer. Will have the department logo put on this so it is clearly visible. Commissioner Hancock asked if they will add shelves. Mitch said they will and have places for their equipment to be more organized. All of this will be protected inside the trailer. Do not want any issues on being noncompliant. The equipment have come from a basic ATV to electronic data loggers. This is expensive stuff.

[10:28:34 AM](#) Have a lot of shop work to be doing. Will be stripping down a truck that will be replaced this year. This will be for long range spraying. Had the spray day last week. Packed 300 gallons of water with the mules. The wind was going up the canyon since there was a lot of acreage they moved to the other side of the mountain. Had folks from Extension Office, BLM, Forest Service, Bingham, Bonneville, Jefferson and Madison County. Usually get a lot done on these kinds of projects. This is pre-emergent herbicides that they are using. Most of this stuff is dead have the advantage to treat now. Can reduce what they find up there. Invited to Portland with a company they purchase products from for the sealed unit. Got authorization to take pictures of their mixing equipment. Want to go away from the two and half gallon jugs. Will make the loading process easier. Trying to see if this can be added into their containment area they are building. There are a lot of different mixes and can get some of these blended from the factories. When handling the raw product will be able to load so many gallons.

[10:35:57 AM](#) Commissioner Hancock asked if they have been over to Simplot and looked at their loading area. Mitch said some of these are smaller than the agricultural producer uses. Will go and look at this. This is a calibrated system. Will look at costs and see if this may be an option. Took two of his other staff to see this system. Have a barcode systems. Want to get this together for next year. Commissioner Hancock said that Valley Ergonomics has one down in Pocatello as well.

[10:41:50 AM](#) Mitch said they will be out working on their fence as well. If there is spray work to do that will take precedence.

PUBLIC WORKS – DAVE WALRATH

- **MOU WITH BONNEVILLE COUNTY FOR COUNTY LINE - SHARED MAINTENANCE – (ACTION ITEM)**

[10:42:23 AM](#) Dave put this as an action item in case he heard back from Bonneville County. They are still haggling over a couple of things. Got this to Weston who forwarded this to Paul because of a conflict. Provides a draft. Have always had the bridges maintained by Bonneville County this time they have included to share these. This is year round. Winter maintenance is addressed on certain segments of roads. If they are on our side. One change that was made under responsibilities the road maintenance put perform winter maintenance from 4000 to 3900. This is something they have already been doing. Still working out some of the details.

[10:46:24 AM](#) Commissioner Hancock thinks they need to update from 3900 to Ririe. Dave said he thinks they mistook that they would take care of this whole section. Commissioner Hancock said the road was widened down from 3900 but the rest is too narrow.

- **RECERTIFICATION OF THE OPERATION PLAN FOR CIRCULAR BUTTE LANDFILL – (ACTION ITEM)**

[10:49:54 AM](#) Dave did run this past Weston. Did not know what it was all about. All this is they have to update their plan every three years. This has had minor changes from 1996. Signed this last in 2015.

[10:51:50 AM](#) **Motion by Commissioner Hancock to approve the recertification of operation plan at Circular Butte Landfill with State of Idaho Health Department and DEQ. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **2017 FLOODING CULVERT REPLACEMENT HYDROLOGIC & HYDRAULIC STUDY REPORT**

[10:52:39 AM](#) Dave provides a copy of the hydrologic and hydraulic report. This was for out in Roberts. In the executive summary is where it talks about the results of the study. Said there was fourteen sights they looked at for FEMA reimbursement. Eight of them everything was okay. Six of the locations were undersized with what they did. The paved road that washed out on 400 N they recommended four more pipes.

[10:55:04 AM](#) Chairman Farnsworth said it gives the locations. Commissioner Hancock asked what happens if they do not upgrade them. Rebecca talked with Jared Dick they did upgrade but not quite enough. Any change made is an improvement. Will be able refer to this if they want to go back with mitigation funding. May come back and say they need to have all of these put in for the next hundred year event.

[10:56:40 AM](#) Dave said the guys that did this study were amazed at the flows. Rebecca has submitted this to FEMA. It was a requirement. Dave thinks this will be around \$20,000 but they will recoup this with the reimbursement.

- **UPDATE ON ANNIS HIGHWAY PROJECT**

[10:58:32 AM](#) Dave said they got the charter report back with all of the signatures. Did do the horizontal line. Commissioner Hancock said in LHTAC commented that these take so long. The costs go up so high while waiting and then they do not have the funds because the prices have gone up. Paul asked what the project is. Dave said this is pavement rehab to the Menan Lorenzo Highway. Will depend on the budget. Since they are doing this to the road a realignment was warranted for safety reasons. This is all preliminary. Commissioner Hancock said this is two years out. Chairman Farnsworth said this is scheduled for 2021. Dave said if they can get this designed and on the shelf they can advance it if they come up with additional funds.

- **UPDATE**

[11:02:59 AM](#) Chairman Farnsworth said they received a letter from Eastern Idaho Public Health that items with Freon are being kept longer a year and are too many on the pad and stumps are not being covered by the operating plan. Dave said they have until October 26 to rectify these situations. They accumulate scrap metal and get bids once the price is up. Not really sure why the daily cover thing is such a big deal it hasn't been for years. Have started covering this up. This is out at County Line.

[11:05:02 AM](#) Dave said they have material onsite since they purchased the Walter's pit. It is down to where the permit allows. Have topsoil and rejects there. Everything else is covered. This is just the north face. Dave said it is in the operation plan. We're planning to be on 500 N but may wait until next week because of the weather. Do not want frost heaves out there. Will have more guys back next week as well.

[11:08:25 AM](#) Commissioner Martinez brings up the ditch. Commissioner Hancock said he has a plan to haul this off. Dave said if they have some area for water to run it would be a huge improvement. Thinks that Commissioner Hancock can make this better. Commissioner Hancock said

that he talked to Jack his daughter who was upset. Chairman Farnsworth said they should have hauled this off from the start. Commissioner Hancock said they are going to haul this off. Chairman Farnsworth said whatever they need to do. Commissioner Martinez said that they wanted to get this taken care of before it freezes. Dave said this is around 155 N. Commissioner Hancock said the one on the west is worse and they have never dug this out. Goes over the area. Other problem is they have telephone and gas lines in this bank.

[11:13:07 AM](#)

Dave said they really needed to widen more than they did. To do this how it needed to be done it would have been an enormous undertaking.

[11:15:16 AM](#)

Dave gives them from the manual. This goes over how stop signs are addressed. Commissioner Hancock said if the traffic is equal.

[11:16:30 AM](#)

Cami Espinosa 625 Annis Highway. Lives right on this road and sees the traffic all day. The big problem is the speeders. Will be providing a video to the city. It is scary how fast they are going considering it changes from a 40mph to a 25mph. Is pushing for this stop sign. Chairman Farnsworth said this was on the agenda last week and told Mitch that patrolling this would be helpful. Cami said that her husband went to the city council meeting last week. Chairman Farnsworth said they are not necessarily opposed to this but would need to have a traffic study. Cami said a change in speed limit from the county into the city may help. Commissioner Hancock asked if they should drop this down from the 40mph to 35mph. Dave said if they are not paying attention to the 40mph the 35mph will not change this. The fire station is right in this area. Worried about traffic conflicting with the fire trucks. Dave thinks with a stop sign it would eliminate some of this. Chairman Farnsworth said it would be good to have Carl's opinion from Central Fire. Cami said it is frustrating to see them speeding past when she is with her kids out playing in their yard.

[11:21:18 AM](#)

Dave goes back to the charter report showed 1,400 vehicles a day. Could do a speed count. Chairman Farnsworth thinks east to west would be heavier. The City will be doing a study and we could do a traffic count.

PARK & RECREATION – MICKEY EAMES

- **2019 FIREWORK CONTRACT – (ACTION ITEM)**

[11:24:10 AM](#)

Mickey has a contract for the next year for fireworks. This has all of Weston's changes. Will be up to \$12,000 from last year. If Tadd Jenkins matches this again it would be another \$12,000. It is the same insurance. Commissioner Hancock said they may still have Weston review this again to verify.

[11:26:35 AM](#)

Motion by Commissioner Hancock to approve the firework contract with Jefferson County and Lantis for \$12,000 with half paid now pending legal review. Second by Commissioner. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

PLANNING & ZONING – KEVIN HATHAWAY

- **VEHICLE PURCHASE – (ACTION ITEM)**

[11:29:50 AM](#)

Kevin said they budgeted for two vehicles. Need a vehicle now. Want to get two pickups or a pickup and an SUV. Commissioner Hancock asked how many they have. Kevin said they have two. Will probably end up trading one in. Commissioner Hancock asked how the Equinox compares. Kevin said this is a mid-size. Commissioner Hancock asked on the years. Kevin said the one in stock Equinox is a 2019 and the Edges are 2018. The Equinox is more equipped. Chairman Farnsworth asked if the preference is the Ford Edge. Kevin said it is a little bit bigger and not as fancy. Both are four cylinder engines. Commissioner Hancock thinks they need to know specifically which vehicle. Chairman Farnsworth said this is up to you. Kevin asked if they approve up to the Edge amount and he can look at both and go with the cheaper one if they decide. Commissioner Hancock said a lot of time they do not have the dealer prep included. Kevin said this is included since it is a state bid.

[11:43:31 AM](#)

Motion by Commissioner Martinez to approve a vehicle for Planning & Zoning for \$26,495. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

- **AWARDING SERVICE CONTRACT FOR LEGAL SERVICES – (ACTION ITEM)**

[11:44:24 AM](#)

Kevin said he worked with Weston on the scope of work for the legal services.

[11:44:48 AM](#)

Recess

Open session 11:49

[11:49:26 AM](#)

Kevin provides the proposals he has received one from Paul Ziel and one from Wiley Dennert. Commissioners review. Commissioner Hancock said one has an hourly rate and the other does not. Kevin said this is discussed in our contract. Paul said that Ziel would do this for \$36,000. Commissioner Hancock said his concern is if they have an attorney they call five times a day and they say it occupies five hours of their time. That is \$150 an hour times five hours. It will not take a lot of time to eat up \$3,300. Then have spent this \$3,300 and will charge the amount above the retainer. Kevin said that our contract states this specifically that it would not exceed this. Have also spoken with both applicants. Colleen said sometimes the retainers will be different. Chairman Farnsworth said they would realize if the phone line was busy. Kevin said that Weston put the contract and the scope of work together. Commissioner Hancock would change the payment to be different. Kevin said this is what Weston created. Paul knows that Weston has been working on this. Commissioner Hancock said they could have a specific retainer in this then there is no question on if they spent longer. Kevin said that is one of the differences in the proposals. Commissioner Hancock asked if Paul Ziel will be doing this himself or would it be an associate. Kevin said that he will may have an assistant helping. The legal information, advice and attending meetings will be him.

[11:56:58 AM](#)

Kevin said both candidates would be good and are very qualified. Came down to that the contract with Mr. Ziel was very clear that this would not exceed \$36,000. Stated that it will be more hours at first. Mr. Dennert is not as clear. Kevin would propose Mr. Ziel for the price and he has done this before. Chairman Farnsworth thinks some months will be busier than others. Kevin said they have the codification coming up and the codes that need worked through. Feels Mr. Ziel knows what the workload will be like. There was some concern with Mr. Dennert's over the retainer amount. Paul thinks either one would do a great job. Wiley would be good because he is in the same office as Weston and could be brought

up to speed but Paul would hit the ground running with his past experience in Planning & Zoning. Have worked with both of them. Commissioner Hancock thinks they are both good attorneys but if Paul is good with a ceiling of \$3,000 a month for however many hours they need. Will not want to renew this if they abuse them. Kevin recommends approving Paul Ziel.

[12:03:04 PM](#)

Motion by Commissioner Martinez to approve the contract with Planning & Zoning and Paul Ziel for legal counsel for \$3,000 a month not to exceed \$36,000. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

[12:05:21 PM](#)

Recess until 1:00

Open session 1:02

PLANNING & ZONING – KEVIN HATHAWAY – JENNY KERR

- **APPEAL – VERIZON WIRELESS – CELL PHONE TOWERS – (ACTION ITEM)**

[1:02:50 PM](#)

Weston Davis is in the room

[1:02:50 PM](#)

Jenny Kerr goes over the staff report. The original meeting was July 5, 2018 with the Planning & Zoning Commission. George Olaveson is property owner. Applicant is Verizon Wireless and Jared White for a conditional use permit for a cell tower. Located approximately at 3745 County Line Road. Zoning is C-1. Surrounding zoning is C-1, C-2 and R-1. Parcel size is 12.220 acres. Surrounding land use is commercial and there is a subdivision there. Purpose is to lease 80 x 87 from George Olaveson or Olaveson Holdings to place the tower and equipment. Once constructed this will provide enhanced 4G coverage in the areas. Submitted application on March 30, 2018. It was submitted to Jefferson Star on April 5, 2018 to publish on April 18 & 25. Notice to property owners was mailed on April 16. Parcel is not in flood plain or impact area. Have not received any written letters to read into the record. Conforms to the land use table. Conforms to the zoning map 3.3.12.3. Commissioner Hancock asked the address again. Jenny said this is 3745 County Line road. Chairman Farnsworth said they are here to hear an appeal from Verizon Wireless.

[1:05:18 PM](#)

Christian Hendrickson with Sherman & Howard out of Colorado. Works with Verizon throughout the west. Are here because they would like to request them to reverse the Planning & Zoning Commission decision that denied their application. Verizon wants to invest in the area. They serve the residents, businesses, emergency service providers and those traveling through. Verizon Wireless has licenses to provide this service. With this they are federally required to provide good coverage in these areas. Concern with this denial prevents them from providing this service. This facility is essential and desirable to public convenience and welfare. They are aware of how the use of cell phones have expanded this makes them need stronger coverage. This does meet the code design standards. Here to discuss their problems. Problem one is the decision itself was insufficient under local code and federal law. Second this prohibits Verizon from providing coverage. First will talk about the decision believe it violates county code 3.15.2 there are two different provision C(5) and 2(D). First talks about there has to be finding of facts and conclusion of law. The decision did not have either of those. Under 2(D) has to have three things has to address the ordinance provisions and standards used, the reasons for approval or denial and further actions, if any, that the applicant could take to obtain a permit. These were not here. Stated that the concerns and information raised were discussed and they denied the application with no reasoning. This does not comply with the code. Similarly this decision violates federal law which is the Telecommunication Act of 1996 dealing with these facilities before 47(USC)337(c)(7)(b)3 requires denials of facilities should be in writing and supported by substantial evidence. Not saying this was not a written position but there has to be a reason why when this is denied so when the courts are looking at what has happened they can realize why a decision was made. Here there was contested positions taken some people stated about being concerned about things. If a commission is going to take one side or the other they have to have a basis on why they are doing so. Looking at this across the country there are some as recent as this summer reiterating that general comments are these are unsightly and worried about property values. These are legitimate concerns but that is not enough to deny this facility under the Telecommunication Act. Especially in this case they were refuted by other testimony. Did not take either into account. Eleven of sixteen that spoke in Planning & Zoning raised health concerns under the Telecommunications Act. This is not a permissible basis on denying an application. Planning & Zoning Commission based this off of everything they said to deny this so it is unclear if they based this on health concerns. Mr. White testified that Verizon Wireless operates well below the standards on radio frequencies. Conclusory statements like in this decision they have are not sufficient for this denial of the application per county code and the Telecommunication Act. Final point, this decision prohibits Verizon from serving this area. This is 332(c)(7)(d)12 of the Telecommunication Act. Jared can tell them there is a significant gap in the area. Verizon has been around trying to fill this gap. The airport and county have been involved. They are running out of alternatives because it has to be on specific property and zoned a specific way.

[1:11:33 PM](#)

Jared White coordinator that has handled this application. First part of the law they want to address the county cannot prohibit a tower if they show a gap in coverage. In the appeal exhibit three they show the propagation map that shows the gaps in coverage. This is how they identify gap in coverage. Biggest thing is that Verizon will not build a site they do not need. Weston asked him to explain the colors. Jared said that green is in building coverage cover, yellow is in vehicle coverage and gray you would have to be outside to have coverage. Weston asked if these are marked in the packets to distinguish. Christian shows two maps one is with the coverage now and one would be after they put in this tower. Jared said in the second map is where they fill in the coverage gaps. The in building coverage has become more crucial as more people no longer use land lines. In most cases many new houses never get a land line. The cell phone is their only way of communication. Makes a higher standard for them because to keep their licenses they have to provide in building coverage for emergency services. The other issue the run into is the capacity of the existing towers. So many users that use their phones so much. Each cell site can only accommodate so much traffic which can be a phone call or a video whatever they are using the phone for. As more users use this areas they could technically get a signal to the tower can be overloaded. The towers can be overloaded once the tower cannot handle any more traffic. This will offload the existing towers so the surrounding towers can function more efficiently so calls are not dropped. Have been working on this site for over two years almost two and a half years. About a year and a half ago Verizon submitted a conditional use to the county. Had significant opposition from the Airport Board. This was denied with

instruction given and had specific reason on the safety concern of the airport were given specific instruction that they needed to work with the Airport Board to look at further locations. It is further complicated in order for a site to be valid it has to be zoned, permitted and have a willing landlord. With these standards need all of these for a site. Per county code cell phone towers are only allowed in the light blue, pink and yellow sections. Was never discussed that they have other space they can go but it would be prohibited by county code. The brown and light yellow are not viable locations. After this was rejected by the Airport Board and were given direction by the county they have looked all through this area. Shows on the map where the airport run way is. Ideal area is the pink section. Because the airport rejected the first one he submitted five different locations to the airport that were all rejected. Airport told him they need to be so far away and out of their flight path which gives them a small area to work in. It wasn't that they haven't looked at any alternatives have looked at five or six different locations and even submitted a permit that was denied. Feel this is the only location that is left that meets the direction they were given when they were denied. Part of the code is if they deny they have to give them a reason and direction on how they can be permitted. Have been to the airport board and followed county code. With these restrictions they are very limited. The other item the airport said they would like to see this a little bit lower. Went back to their engineer they were proposing one hundred fifty lattice tower they can drop this to one hundred twenty feet can construct a monopole design which is less visually intrusive. Was not able to present this to the Planning Commission. Have spoken with the engineer they would not lose a significant amount of coverage. Would be willing to lower this and change to a monopole design. It is less visually intrusive. Feels in doing this they are meeting all of the conditions of the code. One part that came into question is the design asking if it was the least visually intrusive. Coming in and have changed this to make this a little less intrusive. Does not make the tower go away but it does put them in compliance with this part of the code.

[1:19:28 PM](#) Christian said they are open to questions. Legally the decision does not comply with the code or law. There is a coverage gap and this is the only way they can service this area and meet the federal mandates and complying with the code. Are not going anywhere and want to make this workable for everyone. With this facility they have tried their best to try and get the best solution. Are backed into a corner. Would ask under this to affirm what has happened which they hope they do not, have a modification, or reverse what they have done and approve this as applied.

[1:20:41 PM](#) Commissioner Hancock asked on the monopole if this is the one that looks like a tree. Jared said these are monopines but having one this tall would be gigantic. What they have proposed is a lattice tower with four legs taper up at the top. The monopole would be like a light pole. The design in the packet is the lattice design. Monopole is the same size will have to do geotechnical to see how deep this goes. They are smaller have less cross members and would be thirty feet lower. Commissioner Hancock did not see the exact location on the property. Jared said this is on C100 of the drawings. Commissioner Hancock said they are proposing this in the back.

[1:22:29 PM](#) **Prosecutor Paul Butikofer is in the room**

[1:22:36 PM](#) Jared said the vast majority of these towers go in the corner on a parcel. Commissioner Hancock asked the distance to the closest property owner. Jared said they did measure this on the google earth which is not official but thinks it is around one hundred seventy to one hundred eighty feet. Commissioner Hancock is seeing how close they would come to residential people if the tower ever tipped over. Jared said they are more than the one hundred fifty proposed but reducing to one hundred and twenty they have a lot of distance. Commissioner Hancock asked if they are proposing a shorter tower the one hundred twenty foot tower. Jared said yes with a monopole instead. Christian said unless they like the original design. Commissioner Hancock asked if they checked with Tuckers next to KLIM. Jared is not sure what he means is it closer to the road. Commissioner Hancock said more to the east. Jared said they spoke with KLIM and they were not able to make contact with any of the other land owners. The airport wants them as far west as possible. Commissioner Hancock said they still have a bunch of land that Tuckers have. Jared said the airport told them they need to be as far west as they can go. They have a calculation. The other problem they have to have a willing landlord. Tucker had never gotten back with them who owns this they do not know how they will develop this. Does not feel changing this a few hundred feet will make the impact different. Commissioner Hancock thinks this could appease the homeowners in the subdivision moving it east would be pleasing. Surprised that Tucker did not want to discuss this. Jared said multiple messages where left. Talked with KLIM had some concern because they may possibly expand. The criteria is they need a willing property owner and going off what the airport has said to them. Commissioner Hancock knows there is undeveloped area in this zone that is farther away from the people. Jared it is maybe a hundred yards. Their feeling is not sure a hundred yards would fix the problems that the residents had. Will still be in this view profile. Regardless they did not receive any calls back.

[1:28:48 PM](#) Chairman Farnsworth asked if legal has anything to add. Weston said as far as the legal analysis he has no issue with what they have presented. This seems to be consistent with his review of the law. If they are do deny this they have to specifically state why this is being denied keeping in mind they cannot consider certain things such as adverse health effects and the height of the tower. Basically would have to show another option or give direction to have them go elsewhere. Based on the zoning he does not see any legal concerns with the argument they have presented.

[1:30:17 PM](#) Chairman Farnsworth thinks this has met the requirements. Knows there were concerns on the adverse effects on health. Planning & Zoning Commission did not give a reason for the denial. Weston said it was not articulated in the written decision. In the event they are going to deny this make sure they have their purposes written down. Chairman Farnsworth reads "Warren Albertson made a motion to deny the request for a conditional use to place a cell tower by the applicant based off of testimony and information noted throughout the hearing." This was carried five to one. The testimony and information noted is this the health concerns and health issues. Jared said eleven of sixteen applicants spoke on health concerns. Of the hour and a half of testimony the vast majority was about health concerns and the visual impact. This is why they have federal protection. That is why they have the Telecommunication Act because they cannot be prohibited. They can guide them where to go with height restrictions and reasonable constrictions but not because it is a visual impact. Visual impact can not be a reason or every cell tower would be denied. Realizes this is his opinion that this was focused on health concerns.

[1:33:45 PM](#) Christian said with the increased use of phone for everything. The easy stuff is built now they have to get these facilities closest to the users as close as they can. To be fair they will be hearing Verizon. Do not want this close to them but want to be able to watch videos off of

their phones in the basement. This is the challenge they face across the country. Want it as fast as possible but keep it away from residential but that is where this is used the most. Different than New York where there is a tower on each corner.

[1:35:07 PM](#) Jared said they hear the terms 1G, 2G, 3G each generation. Back when they used analog they could put a tower on top of the mountain and blast this for sixty miles. The G stands for generation. As they are launching 5G the technology gets faster but requires them to be in closer proximity to those using the devices. Jan asked if they are not going to allow the other side to talk. Chairman Farnsworth said this is not a public hearing. This is for the appeal for Verizon Wireless.

[1:36:14 PM](#) Chairman Farnsworth asked if this should be a public hearing. Weston said the way the code is set up the ordinances state that Planning & Zoning Commission is a subsection under the County Commission they held the public hearing. Notice was published for that hearing and sent out. The public hearing in front of the commission has already taken place. If they want to opt for another hearing they can but they have already had a hearing. The record they have is in front of them. Understands that Verizon is reiterating the argument from below. Already have the argument from the homeowners in front of them in the minutes. Chairman Farnsworth said they do have the minutes. Commissioner Hancock said most are concerned about health issues.

[1:37:46 PM](#) Chairman Farnsworth said while going through this the Planning & Zoning Commission asked all of the questions. If they cannot consider health or height then it looks like they meet the requirements. Commissioner Hancock said they do have a requirement on height and they are over the height restrictions. Have proposed to reduce the tower. Jared said the code states this but every tower exceeds the height restrictions. Need to have the least amount of height that they need. Could make an argument that one hundred fifty is ideal. Going down to one hundred twenty is not as significant so to be in compliance they can come down. Jan comments that they have brought in additional information. Commissioner Hancock asked if it was in their proposal to go to one hundred and twenty feet. Jared said there was never a discussion about this being a possibility. Can stick to the proposal they have if this is additional information. Are trying to present what they can do. Christian said looking at 3.7.4 standard governing conditions this talks about locating these to serve the immediate area and install to mediate the effect of the scenic values. Knows this is not a perfect world and the towers do have some visual impact. Verizon is not opposed to hearing peoples' position on this.

[1:41:41 PM](#) Commissioner Hancock said a few of these were talking about property values going down. What studies do they have? Some have read studies that these could decrease. Jared said they have a subjective argument. Also have studies that this will take property values up because homeowners want good coverage in their homes. Every argument one appraiser makes they have arguments that show it won't. Have never seen a home sold for less due to a cell phone tower. Can counter arguments on both sides.

[1:45:49 PM](#) Commissioner Martinez said it sounds like they meet the requirements like the pole idea better but is not opposed to having the tower. Everyone has cell phones. Believe that if there is an issue with radioactivity they would already get something from having a phone up to their heads all the time. Need progress in the area to be able to move forward with these types of things. Commissioner Hancock said the majority of the concerns are health issues and is concerned about that. Commissioner Martinez said that is always a concern but that is why you have to go exercise and it is up to each person to watch their health habits. Commissioner Hancock said the federal government has stated that they as decision makers cannot look at this. Jared said he can argue his opinion as why they think this is not a health concern. The way the law is written is that it should not be considered. Christian reads "no state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless service facility on the basis of environmental effect of radio frequency admissions to the extent that such facilities comply with conditions regulations concerns." Basically they comply with the FCC commission. Jared did testify to this that they are significantly below the threshold that they have set. Weston said that is his review of the law. Does not know what studies the FCC did on health concerns. Imagines that this was based off of these studies for more urban areas like New York. Do not have anything to refute this. If this decision was to affirm the Planning & Zoning Commission would need to be on a basis of a different location that would be better suited. Would need to show that. If they were going to reverse the decision then they can input conditions that are reasonable and still allow them to proceed with their purpose. Did look at the ordinance regarding hearings they do have an option to hold an additional hearing if they would like. Can decide if they have enough based on reading what the public testified. Based on his understanding the commission has not elected to do that.

[1:51:07 PM](#) Michael Jenkins President of the Airport Board wanted to make sure that the airport ordinance is taken into consideration. Would like them to have lighting on the towers if appropriate.

[1:51:49 PM](#) Jared said per what he is saying they do not put lights on towers by default but the FAA dictates what light they require and where they are located. Honestly does nothing other than turning in a piece of paper to the FAA. Chairman Farnsworth said reading they are not required but most have lights. Jared said there are some that have lights and some that do not. Does not know how they calculate this they just comply with what they are told to do. Chairman Farnsworth said this was given approval by the Airport Board. Commissioner Hancock said this is a one mile radius for the airport. Jared said going back to the zoning map this has to be in a commercial zone and the airport runs directly through the commercial zone. This forces them to the very edge of the commercial zone. By denying this they are prohibiting them because there is no way they could meet all of the requirements they have been given.

[1:53:46 PM](#) Jan Clements nearest homeowner were told by the County Clerk or Planning & Zoning that no additional information would be presented in this hearing. If so they would have taken whatever steps to come and present information. They have been giving them misleading information. Chairman Farnsworth said the only change that is not in the appeal has been a monopole going to one hundred twenty feet. If they eliminate this they would make a decision on a hundred and fifty foot tower. Jan said they mentioned the zoning this did not stop them from going to a residential homeowner and asking them amend this to commercial. Jared said this was spoken about in the meeting. They did not hide this. They did meet with Olaveson and this was disclosed in the Planning & Zoning Commission meeting. Jan said they can build in a residential area if they can get the area rezoned. Had this farm land rezoned commercial. Really can go into a residential area. Commissioner Hancock said on this rezoning this was already being used as commercial and abutted existing commercial zoning. Did not go into an island to make it commercial it was adjacent to other commercial zoning. Weston said the code restricts spot zoning. Cannot pick a spot and make it commercial. Recollection that Verizon said they did contact Olaveson and may have even paid the fees to put this application through and this was all presented. Jared said a

rezone is almost harder than a conditional use permit. Very seldom on rezoning a parcel it is not a simple thing to do. The application came in after this decision was made.

[1:57:29 PM](#) Chairman Farnsworth asked if they have enough information to make a decision. Commissioner Martinez thinks they do. Chairman Farnsworth said they will look for a motion to affirm or reverse the Planning & Zoning decision. Commissioner Hancock said that with conditions this is the key that they have this ability. Commissioner Martinez asked if Planning & Zoning has any conditions. Kevin said if they reverse the decision need to consider the airport, FAA and the lighting requirements. Commissioner Hancock said this is outside of the one mile radius. Jared said yes just barely. Some see this as a problem but their hands are tied on where they can go. Commissioner Hancock thinks that reducing the height thirty feet will help. Jared said this is not new information just ways to add conditions. Ideally they would prefer the one hundred fifty feet.

[2:02:12 PM](#) **Motion by Commissioner Martinez to reverse the Planning & Zoning decision for denial of the Verizon Wireless tower and approve the tower. Will add conditions to change this to a monopole at one hundred twenty feet, approval by the FAA and approved by the Airport Board. Second by Commissioner Hancock.** Commissioner Hancock said they are trying to be fair to everyone that comes to Planning & Zoning but does not always make everyone happy. Chairman Farnsworth said they have health concerns but until they come up with any ruling on this their hands are tied. **Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **PLAT AMENDMENT – SPRING CREEK MEADOWS – (ACTION ITEM)**

[2:07:06 PM](#) Jenny goes over the staff report that was presented to the Planning & Zoning Commission on August 9, 2018. Owner and applicant is Mike Van Steenkiste. This is a plat amendment application. Location is 655 N 3110 E the three parcels around this. Zoning is Ag10 and RCO. Surrounding zoning is the same. Parcel sizes are 5 acres, 5.1 acres, 5.07 acres and 5.19 acres prior to the change. Surrounding land use is agricultural and recreation. Want to change the lot lines of parcels one, two, three and four to match the road and run down the center of the road. Received application on July 19, 2018. These lots are partially located in a flood plain but not in the area of impact.

[2:08:21 PM](#) Commissioner Hancock asked how long ago they did the original plat. Kevin said it has been at least five years. Commissioner Hancock said it's been longer since they changed the zoning. Kevin said the primary reason is they have lot lines that are a mess this would clean the lines up. Kevin said they are not changing owners. Commissioner Hancock said there are two homes. Commissioner Martinez said these seem to flood every year. Chairman Farnsworth said this is to clean up the lot lines. Commissioner Hancock said they are not increasing or decreasing just changing lot lines. Kevin said the other concern is the navigable waters and there was discussion about this. Weston said the commissioners are the only ones that can amend a plat. Kevin said the recommendation was to approve from the Planning & Zoning Commission.

[2:11:57 PM](#) **Motion by Commissioner Hancock to approve the Spring Creek Meadows first plat amendment. Second by Chairman Farnsworth. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – nay, Chairman Farnsworth – aye. Motion passed.**

COMMISSIONERS

- **APPROVE CLAIMS – (ACTION ITEM)**

[2:17:21 PM](#) Recess to review claims

Open session 3:02

[3:03:16 PM](#) Chairman Farnsworth said an issue is on miscellaneous expenses for the fair for \$1,940. Wants to be able to see something to substantiate the \$1,940.

[3:05:34 PM](#) **Prosecutor Paul Butikofer and Deputy Prosecutor Weston Davis left room**

[3:06:40 PM](#) Call Extension Office to talk to Ruth Hale. Commissioner Martinez goes over they are going through expenses was wanting to know what the miscellaneous expense was. Ruth pulls up her information. This is the rest of the county support money. This was the last of the funds that had not been taken out before. Colleen asked to have more description added next time this way they know it is not for a lot of different items.

[3:08:19 PM](#) **Prosecutor Paul Butikofer and Deputy Prosecutor Weston Davis are in room**

[3:09:50 PM](#) Commissioner Hancock brings up the one for Mickey and the packet that she left. Thought that Mitch was going to do this fertilizer treatment. Chairman Farnsworth said that he had talked to Jed with Arbor Tech and they already had bought the fertilizer. Commissioner Hancock thinks that Mitch was planning to do this. Chairman Farnsworth said Mitch would have been cheaper. Commissioner Hancock thinks Arbor Tech should have given them a cost before doing this. Chairman Farnsworth said that is what happens when they hire a professional service. Can see that now Mickey is backtracking on this. Commissioner Hancock thinks Arbor Tech could have returned the fertilizer. Figured they were going to be too high this is over \$800 difference. Paul asked if this is coming out of the Park & Recreation budget. Commissioner Hancock said it would come from the Park budget. Chairman Farnsworth did not clarify enough this was \$400 for the fertilizer and \$400 to spread plus additional for the island.

[3:16:01 PM](#) Weston does not have a problem with the firework contract from earlier. Also had a change for Kevin that he gave to Jenny to fix and bring back before the board.

[3:16:31 PM](#) **Motion by Commissioner Martinez to approve claims from 9/10/2018 to 9/28/2018 for \$764,617.60. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **EXECUTIVE SESSION 74-206 (B) – PERSONNEL**

[3:18:52 PM](#) **Motion by Commissioner Martinez to go into executive session 74-206 (B) - Personnel. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock - aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

Open session 4:50

- **PERSONNEL ACTION – (ACTION ITEM)**

DEPUTY PROSECUTOR – WESTON DAVIS

- **LEGAL COUNSEL: EXECUTIVE SESSION IC 74-206 FOR PERSONNEL, HIRING CONSIDERATION, EMPLOYEE EVALUATION AND COMPLAINTS (1)(A) & (B), PENDING LITIGATION (1)(F), OR DELIBERATIONS ON LABOR NEGOTIATIONS OR PURCHASE OF PROPERTY (1)(C) – (AS NEEDED)**

4:51:06 PM **Motion by Chairman Farnsworth to adjourn at 4:51. Second by Commissioner Martinez. All in favor – aye. Motion passed.**

Chairman of the Board

Date

Clerk of the Board

Date

County Clerk

Date