

**JEFFERSON COUNTY COMMISSIONER MEETING MINUTES
SEPTEMBER 10, 2018**

Meeting called to order at 9:01. Those present are Commissioner Hancock, Commissioner Martinez, Chairman Farnsworth, Probation Tammy Adkins, Clerk Colleen Poole; Audrey Moon is clerk of the board. Pledge of Allegiance led by Chairman Farnsworth. Prayer offered by Commissioner Martinez.

PROBATION – TAMMY ADKINS

- **RESOLUTION #2018-28 – DESTRUCTION OF RECORDS – (ACTION ITEM)**

[9:02:47 AM](#) Tammy has a resolution for destruction of records. They have to keep these files for two years. Preparing for the move so they are cleaning out old files they can get rid of. Did run this past Weston and he only had them remove one file that was close to two years.

[9:03:43 AM](#) **Motion by Commissioner Hancock to approve resolution #2018-28 for destruction of county records. Second by Commissioner Martinez. Chairman Farnsworth said this did pass through the legal counsel. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **MEMORANDUM OF AGREEMENT WITH DEPARTMENT JUVENILE CORRECTIONS – (ACTION ITEM)**

[9:04:26 AM](#) Tammy has the memorandum of agreement with Department of Juvenile Corrections. They do these every two years. This is the money they get from county incentive project monies, re-entry monies and mental health funds. These are funds the state puts into a pot where they can write mini grants to them and request these funds to pay for treatments, wraparound or counseling. Have signed this every two years for as long as she has been here. Weston did review and did not have any issues with this said it was okay.

[9:06:07 AM](#) **Motion by Commissioner Martinez to approve Memorandum of Agreement with Department of Juvenile Corrections. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

IT – GARN HERRICK

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

[9:08:09 AM](#) Garn has the personnel action form to create a new position. Have had Rebecca run through this and now needs their approval. Will now do the advertising for the interviewing process. Garn wants them available the first couple of weeks in October. Commissioner Hancock knows that Bonneville does not pay this much. Garn said the upper ones do make similar amounts. Are trying to stay above the trenches. Wants someone that can help with ways to be more preventative. Chairman Farnsworth said this is one department they don't want to bring multiple individuals in. Commissioner Hancock said this is the way everything is going. Garn said they will work a lot with the Sheriff's Office. Will learn the radios so they can have a backup. Commissioner Hancock said if they are going to do that they could have the emergency line pay for a portion of this salary. Garn thinks after the first year they may need to re-evaluate this. Commissioner Hancock said they have a lot of money in the 911 account. Thinks they could use a portion of this money. Chairman Farnsworth thinks it would be best to go through a year to know because right now would be a shot in the dark.

[9:12:55 AM](#) **Motion by Commissioner Martinez to approve personnel action form for new employee for the IT Department. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

NOXIOUS WEEDS & INVASIVE SPECIES

- **RESOLUTION #2018-27 – DESTRUCTION OF RECORDS – (ACTION ITEM)**

[9:14:06 AM](#) Colleen provides resolution for Mitch. Chairman Farnsworth reads resolution. "At a meeting of the Board of County Commissioners, State of Idaho on the 10th Day of September, the following was adopted to wit: Whereas, Idaho Code 31-871 requires the Board of County Commissioners to authorize destruction of records that are not required to be retained as permanent records and that have met the minimum retention period provided by the County's record retention schedule and are no longer required by law or for County Business; and, Whereas, the Noxious Weed & Invasive Species Department has proposed for destruction certain records that have exceeded the minimum retention; and Whereas, approval for the destruction of the below listed records has been obtained from the Idaho State Historical Society, when required, and the County Attorney as provided by Idaho Code 31-871. Be it therefore resolved that the Board of Jefferson County Commissioners hereby authorize the immediate destruction of the original paper records that such destruction occur under the supervision of the Jefferson County Noxious Weeds & Invasive Species Department Superintendent. 2013 application records and 2014 application records. Approved and adopted this 10 day of September, 2018."

[9:15:33 AM](#) **Motion by Commissioner Martinez to approve resolution #2018-27 for destruction of records. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

COMMISSIONERS

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

[9:17:08 AM](#) Scott Nielson has a couple things that need to be taken care of. Have tried to combine the IT room and electrical room. Moving the IT room across the hall they incurred additional costs. This is about \$9,000 with the previous credits. Does not see this cost changing. As they indicated right now everyone has done so much work they are charging \$15,891.15.

[9:19:14 AM](#) Commissioner Hancock said they have gone back and forth on this multiple times.

9:20:13 AM Motion by Commissioner Hancock to approve PCO number eleven division one for \$15,891.15. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

9:20:39 AM Scott said the next one is a credit for eliminating the ceilings in a mechanical room. There is no need for these. Recommends this change for a \$1,006 credit.

9:21:52 AM Motion by Commissioner Hancock to approve PCO sixteen for a credit of \$1,006. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

9:22:11 AM Scott said the last one this morning is an item they would like their input on. Typically in buildings they do not put heat in the vestibules. The area in question is the connector. They took a look at this and they could add two electric wall heaters. They need to have an answer soon on this. Commissioner Hancock said that Loren had brought up the concern because there is some of the fire sprinkler system in there. If they do not add this they could end up having this freeze. Scott said original was \$3,600 worked this down to \$2,583.08. Commissioner Hancock said knowing that is in there he thinks they need this to stay above freezing.

9:25:12 AM Motion by Commissioner Martinez to approve PCO order number eighteen for \$2,583.08. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

9:25:44 AM Scott said they are pumping about 700 gallons a minute. Question they have been discussing is how much they up the pump size. Think they need to be closer to 1,200 gallons per minute. Another thing that is prudent is to look at raising the floor to fourteen inches. Does not know what the cost difference will be. Feels they are going slowly through this process but there has been so much to analyze. Need something that works. Have heard that Burgess will not turn out the water until mid-October. Have spoken with Ryan Loftus this morning had been talking with a pump supplier. Thinks they are closer to having a final price. Inside they are coming along well. There are a few areas of drywall. Upstairs passed the electrical inspection this morning. Commissioner Hancock said the water is the biggest issue.

- **AMBULANCE SERVICE AGREEMENT WITH CITY OF IDAHO FALLS – (ACTION ITEM)**

9:28:46 AM Colleen said the only change was the price. Weston has reviewed and his only concern was the increase. Had received a letter and they did budget for this amount. Commissioner Hancock mentions Madison may want to give them a bid on this service.

9:30:52 AM Motion by Commissioner Hancock to approve the ambulance service agreement with the City of Idaho Falls and Jefferson County for fiscal year 2019 for \$154,752. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

- **SEARLE HART & ASSOCIATES PROPOSAL LETTER – (ACTION ITEM)**

9:32:30 AM Colleen provides the proposal letter from Searle Hart & Associates. This is estimated at \$30,000 and has been the same in previous years. Weston has reviewed this and did not see any issues. They estimate \$30,000 and budgeted \$32,000.

9:33:30 AM Motion by Commissioner Hancock to approve the proposal letter from Searle Hart & Associates for the audit and financial statements for Jefferson County for fiscal year 2018-2019 with an estimated amount of \$30,000. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

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

9:35:38 AM Chairman Farnsworth goes over the alcoholic beverage license have one for BJ's Bayou, Don's Lounge, El Andante, Ike's Exxon, The Office Bar, The Old Ririe Bar and Valley County Store.

9:36:28 AM Motion by Commissioner Martinez to approve alcoholic beverage licenses for BJ's Bayou, Don's Lounge, El Andante, Ike's Exxon, The Office Bar, The Old Ririe Bar and Valley County Store. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

- **SIGN CERTIFICATES OF RESIDENCY – (ACTION ITEM)**

9:38:54 AM Motion by Commissioner Martinez to approve certificate of residency for the College of Western Idaho for Riley Danielson. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

9:39:16 AM Motion by Commissioner Hancock to approve certificates of residency for the College of Eastern Idaho for Robyn Bond, Tammie Harris, Celeste Killian, Katrina Schroeder and Thomas Thompson. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

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

9:44:24 AM Motion by Commissioner Hancock to approve commissioner meeting minutes from August 13, 2018 with noted changes. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

9:56:46 AM Deputy Prosecutor Weston Davis is in the room

WARD WHITMORE – JAY HILL – BILL SMITH

- **CHALLENGER PALLET ISSUES – (ACTION ITEM)**

10:00:38 AM Bill Smith citizen and taxpayer wants to address the commissioners. (Exhibit A) Bill reads statement "The Idaho Code, Title 31, Chapter 2603(a), empowers a Board of County Commissioner to petition a District Judge to appoint a Special Prosecutor, to act in cases where the County Prosecutor, or the Commissioners, believe there is reason that the Prosecutor has a conflict of interest, or cannot, or will not effectively take action on a case. We are at that point today." Bill said they will be requesting the commissioners' move forward with an enactment of a special prosecutor for the Challenger matter. Bill reads section of the code. "When the prosecuting attorney for the county is absent from the court, or when he has acted as counsel or attorney for a party accused in relation to the matter of which the accused stands charged, and for which Commissioner Meeting Minutes
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he is to be tried on a criminal charge, or when he is near of kin to the party to be tried on a criminal charge, or when he has a business connection or kinship with the complainant or defendant, or when he is unable to attend to his duties, the district court may, upon petition of the prosecuting attorney or board of county commissioners, by an order entered in its minutes, stating the cause therefor, appoint some suitable person to perform for the time being, or for the trial of such accused person, the duties of such prosecuting attorney, and the person so appointed has all the powers of the prosecuting attorney, while so acting as such." Bill said in Idaho they have a set of formal rules. These were passed by the legislature and enacted by the Supreme Court. These are the Rules of Professional Conduct which is an interesting read. These are clearly stated and are straightforward. Bill reads statement "Mr. Butikofer has blatantly and admittedly violated several of those Rules of Professional Conduct. Will clearly describe these violations and the text of the rule that has been violated. We submit that Mr. Butikofer's self-admitted and self-evident misconduct under the rules disqualifies him and his entire office from all further action in the Challenger case. Thus enabling the Board of County Commissioners to act to obtain a Special Prosecutor to handle this case from this point forward. A formal complaint about Mr. Butikofer's transgression has been filed with the State Bar Association, which maintains a staff of lawyers and investigators for these complaints. When this will be completed is unknown. But will be investigated by the State Bar Association."

[10:05:50 AM](#) Bill continues to read his statement "As we are all aware, having been asked by the Commissioners and Mr. Hathaway to prosecute the misdemeanor charges against Challenger for violation of the county's zoning and nuisance ordinances. Mr. Butikofer stated he would need a full thirty days to review the evidence and make a decision about how to proceed. Mr. Hathaway and the Sheriff, submitted written reports and evidence to Mr. Butikofer. These reports and evidence clearly indicated, by any interpretation, violations of the zoning and nuisance ordinances. On July 9, after the full thirty days for his review, Mr. Butikofer released a public statement saying that he had three criteria for deciding whether to prosecute: 1) Has a violation been committed? 2) Can it be proven? 3) Is it "ethical" to prosecute? Mr. Butikofer also stated that despite all the submitted reports and evidence to the contrary, he had decided to not prosecute Challenger for violations of the county's nuisance and public disturbance ordinances. He apparently ignored his responsibility to investigate and make any judgement about Challenger's alleged violations of the county zoning ordinance. Mr. Butikofer's cryptic statement, which contained no information about how he judged his three criteria has left virtually everyone stunned except perhaps Mr. Tad Hegstead, owner of Challenger, especially when anyone can easily observe the violations are occurring on a daily basis and anyone could easily prove it using the large quantity of photographic, video and empirical measurements evidence for both. The fact that neither the County nor Hegstead can produce the required county permits for this facility in its present state including the important zoning certificate. As for Mr. Butikofer's "ethical" criterion to whose ethical standpoint and judgments against that standard? This criterion and Mr. Butikofer's bizarre decision to do nothing have literally been laughed at by multiple attorneys with whom we the citizens have consulted. This criterion exceeds Mr. Butikofer's prosecutorial discretion by any rational interpretation. It is his role and duty to prosecute violations of the county's ordinances. The only way to make sense of this decision to do nothing is to suspect that Mr. Butikofer is either completely incompetent, ignored the submitted evidence from Mr. Hathaway and the Sheriff, or has some undisclosed conflict of interest relative to this case and this defendant." It is very likely the State Bar investigators will be looking into these situations. "To the best of our knowledge, neither Mr. Hathaway nor the Sheriff, nor the Commissioners ever got a verbal nor written explanation from Mr. Butikofer about his decision. This is a violation of Rule 1.4 communication subparagraph (a) (3), which requires a lawyer to keep his client "reasonably informed about the status of a matter." As of this date, despite repeated requests by the citizens, the Commissioners and Mr. Hathaway, Mr. Butikofer continues to refuse to explain himself, nor his reasoning in making his decision to do nothing. By refusing to communicate he has also violated rule 1.4 communication subparagraph (a) (4), which requires an attorney to "promptly comply with reasonable client requests for information." At the Commissioners meeting on August 13, when the public and the commissioners were commenting on Mr. Butikofer's request for a generous raise in his county salary, especially when he refused to prosecute such a blatant misdemeanor offense, he challenged the attendees with the absurdly pretentious exclamation, "Do you doubt the word of six attorneys?" He stated that he had consulted three other attorneys, outside of his office, to reach his decision to do nothing on the Challenger case. When asked who these six attorneys were, he replied, "I am one of them, Weston Davis, and Mike Winchester of my office are two others." When asked who the other three attorneys were, he said he would not reveal their names. By refusing to communicate the names of the parties to whom he shared confidential County information, he has again violated Rule 1.4 communication, subparagraph (a) (4), which requires an attorney to "promptly comply with reasonable client requests for information." Further Rule 1.6 one of the most important is on confidentiality of information. An attorney cannot spill client information outside of the confines of the legal situation. The county is the client. Mr. Butikofer is the attorney, yet in this public examination, Mr. Butikofer freely admitted three counts of violating the confidentiality of his client's information with three persons who are not County employees nor members of his office. To the best of my knowledge, Mr. Butikofer did not inform any of the Commissioners, nor any of the department heads, of his intent to divulge county information to his three "consultants", nor did he obtain their informed consent for him to do so." Bill stops there before he proceeds to ask the three Commissioners and Mr. Hathaway did in fact Mr. Butikofer come to them about divulging county information to three outside parties. Did they give him their informed consent to do this? Asked they raise their hands if he did. Let the record show no hands were raised.

[10:15:20 AM](#) Weston Davis interrupts that he is not going to allow him to manipulate the commissioners into this. Bill said he is trying to be accurate. Weston said to be accurate do they have evidence that any information he may have shared could not have been presented in a public hearing. If so this would have all been public information correct. They can request a recording it is public information. Bill said he is addressing the commissioners not him. Weston said he is trying to paint them into some attorney-client privilege violation. Are relying on the public record and has no information that anything that was shared was not already public record. Bill said the failure to share this is a violation of Rule 1.4. It has been inquired of him from the citizens and the commissioners and he has refused to divulge this information. Has refused to divulge the names of the three parties this was shared with. Weston is not sure he is required to. Bill said that he is.

[10:16:36 AM](#) Bill continues reading statement "I believe that Mr. Butikofer's sharing of County information with three undisclosed persons any of whom might have been Mr. Hegsted's attorneys, friends, associates or Mr. Hegsted himself. Could have allowed that disclosed information to make its way promptly to Mr. Hegstead. Rule 1.6 is sometimes referred to as the "client-attorney privilege." In this contract, the privilege is all the

clients. He or she expects to have their information protected. The attorney has no expectation whatsoever. Mr. Butikofer admitted in open session to violating attorney-client privilege with three unknown persons. At the Commissioners' meeting on August 20, Commissioner Brian Farnsworth asked Mr. Butikofer to name the three persons whom he had consulted on County business for the Challenger case. Mr. Butikofer again refused to divulge the three names to his client. With this refusal, Mr. Butikofer violated Rule 1.4 which "requires an attorney to promptly comply with reasonable client requests for information." Mr. Butikofer's refusal to disclose the names of those who he considered worthy of advice is puzzling at best. One more time: I hereby request the Commissioners to ask unfortunately Mr. Butikofer is not present so they cannot do this so never mind." Will bypass this because Mr. Butikofer is not present. In terms of the alleged advice that Mr. Butikofer received he basically pointed the finger at five other attorneys. Have Mr. Davis, Mr. Winchester and three unknown that advised him. Would personally like to see and encourages the commissioners to act to see written statements from these five attorneys. Since Mr. Butikofer would not share the advice he received. Would like to see written statements feels they are entitled to see this.

[10:20:20 AM](#) Bill reads statement "The State Bar investigators will be looking at Mr. Butikofer's professional and familial relationships, client lists and campaign contributors to determine if there is some conflict of interest or hidden connection with Challenger or Mr. Hegsted. In a now somewhat famous newspaper article, Mr. Hegsted asserted that someone in the County government "has his back", and he won't be charged in any way for disobeying County ordinances. From all apparent evidence, the person who "has his back" is Mr. Butikofer and his office. Finally, Mr. Butikofer has committed several other very clear violations of the Rules of Professional Conduct. These have been discussed in the several of the Commissioner's Meetings, and are detailed in the formal complaints to the State Bar Association. For the sake of brevity, we will not detail these now. Mr. Butikofer's self-admitted, self-evident violations of Rules 1.6 and 1.4 of the Idaho Rules of Professional Conduct. Have completely and irrevocably compromised and disqualified him and his office from further representation of the County in the Challenger case. We hereby demand that the Commissioners immediately petition the District Court to appoint a Special Prosecutor, consistent with their powers and duty as specified in Idaho Code 31-2603 (a)."

[10:22:20 AM](#) Commissioner Hancock comments that one of the things they are not privy to is they did receive a very detailed confidential document from Mr. Butikofer's Office. Went through all of the reasons why they did not act. This was very detailed. They went into the law and went into each of the provisions. Gave them as clients a lot of information on why they did not act. There was a lot of background research done. Cannot say they did not give them any information. Bill states that from his part then he does stand corrected. Commissioner Hancock said they did cover the law in great detail. This was not just based on a small decision. Bill asked if they would share this with the public. Commissioner Hancock said this is marked confidential and they cannot release this at this time. That would be a breach of client confidential privileges. Bill said the commissioners have the ability to waive their attorney-client privilege to show the residents transparency. Commissioner Hancock said this would have to be done as a commission not by himself. Bill hereby asks that the commissioners waive their attorney-client privilege in this manner to show transparency. Commissioner Hancock said they would need to discuss this in an executive session. A lot of these questions need to be discussed in an executive session since these are legal questions. Bill agrees and still asks that they waive their attorney-client privilege and share this with the public.

[10:24:55 AM](#) Weston said so they are aware they can waive this. If they do waive this both the residents as well as Challenger Pallet would have this. It would be waived for everyone to have. Would ask all of his clients not to waive the attorney-client privileges. Not sure what this would open up with future discussions. Would never encourage a client to waive this and does not think any other attorneys in the state would. Commissioner Hancock believes there has been a lot of information on this. They are trying to protect the county. They are concerned about the citizens. Important to realize they are trying to do what is best for all parties involved.

[10:25:57 AM](#) Jay Hill comments that he cannot believe he just said they have their interest in mind. This is the biggest cluster he has ever seen for something that is really not that difficult. These are misdemeanors. Has a lot of experience with misdemeanors and has never seen anything like this. The Prosecutor's Office in his opinion has made this into a situation that just feeds upon itself. How long have they been dealing with this? This is not a difficult case. When looking at the report from the Planning & Zoning Administrator shows they are still breaking the law. A child can read this and see they are not following the law. Woke up to the same noise they have woke up to for the last two years. How hard is it for the county to do what is right. Just asking them to follow their own laws. That is what they are asking. Chairman Farnsworth said they need to discuss looking at a special prosecutor. Bill said that Ward has a statement that will supplement this discussion.

[10:27:12 AM](#) Ward Whitmore directs this statement to commissioners. **(Exhibit B)** Ward reads "Challenger Pallet and Supply is zoned light industrial. The Jefferson County Zoning and Planning Administrator issued a report dated May 18, 2018 that cited multiple justifications for his conclusion that "a compelling argument can be made that the plant operations are now more of a heavy industrial designation, than light industrial." The report confirmed "migration of material, noise, sawdust, light issues, general safety, quality of life issues and potential fire safety issues" observed through site visits when the plant was not in full operation. The report stated that it "appears there is enough evidence to support a 'nuisance' or 'disturbing the peace' complaint per Idaho Code." The report documents that Challenger is unwilling to participate in a joint effort to resolve residents' complaints. Jefferson County Zoning & Planning (JCZP) issued a letter dated August 2, 2018 stating that Challenger is operating unpermitted. Mr. Butikofer took over thirty days after receipt of overwhelming evidence to state that after "full review" he will not take criminal action at that time against Challenger Pallet for nuisance or disturbing the peace. Mr. Butikofer's statement identifies three factors he used in his screening process regarding whether to criminally prosecute Challenger: 1) was a crime committed and 2) can it be proven beyond a reasonable doubt? We believe the answer is "yes" to both based on the large amount of evidence provided by JCZP, residents and Jefferson County Sheriffs Office. (JCSO) 3) is prosecution the ethical thing to do? We believe it would be unethical not to prosecute if a crime was committed and could be proven beyond a reasonable doubt. This third factor suggests the Prosecutor's Office may not believe that enforcement of county ordinances needs to be done objectively. Sergeant Johnson of JCSO told me that Mr. Butikofer did not request all evidence in possession of the JCSO. Mr. Butikofer could not have completed a full review if he didn't look at all evidence. Mr. Butikofer's statement does not state how he resolved his three factors nor does it specifically state whether he addressed these factors at all. When asked why he refused to prosecute, Mr. Butikofer stated that this was privileged

attorney client information between the Prosecutor's Office, JCZP and JCSO. Kevin Hathaway of JCZP stated that he has no written information that sheds any more light on Mr. Butikofer's decision beyond what was in Mr. Butikofer's written statement. We still don't know why Mr. Butikofer refused to prosecute. The Prosecutor's Office has been combative with residents. We suggested that the County use OSHA and EPA criteria for injurious and nuisance noise after which Weston Davis asked a derisive question whether we were asking the county to enforce laws of other entities. Mr. Butikofer and Mr. Davis have repeatedly suggested that residents sue Challenger so the Prosecutor's Office can avoid wasting money and shouldering its official responsibilities of enforcing County ordinances. JCZP issued a letter on August 2, 2018 instructing Challenger to apply for a "Conditional Use Permit" by September 6, 2018 otherwise structures within the plant would require "red tagging" or "stop work" orders. The deadline for Challenger to act to avoid a "red tag" has passed. I believe the Prosecutor's Office dictates and obstructs the County's scheduling regarding Challenger issues through absurdly protracted review and influence regarding preparation of letters and actions of county officials. It doesn't take thirty days to determine whether to prosecute a nuisance misdemeanor. It takes minutes to fill out a "conditional use permit" application, but Challenger was given five weeks to do this even after stating they have no intention of resolving complaints against their facility and have not responded in writing to prior JCZP correspondence. Granting five weeks to Challenger delayed addressing residents' complaints and required us to endure continuing unsafe and extremely irritating nuisances from Challenger. I'm not surprised that Challenger did not respond; more delay. It has been over a year since residents first complained to County Commissioners about Challenger nuisances and almost four months since JCZP issued their report documenting that Challenger is not operating in compliance with light industrial zoning. It is the County's responsibility to enforce their ordinances. Unfortunately the Prosecutor's Office has refused to do so to date. I believe the Prosecutor's Office has no intention of impartially enforcing county ordinances based on their lack of action to date, combative interaction with residents, violation of attorney client privilege with County officials, lack of transparency regarding why they will not prosecute Challenger for nuisances and extreme leniency allowing Challenger to operate while not responding to County letters and demands. Based on residents' discussions with Bonneville County government, I believe that had Challenger been located outside of Jefferson County, they would have been shut down months ago and forced to comply with that county's ordinances. I believe that the Prosecutor's Office is enabling Challenger to operate in violation of ordinances and without permits considering nothing has been done to date and Challenger is still running without constraints. I want to enjoy my property without suffering continuing nuisance noise, light and sawdust from Challenger. A Challenger owner has said that Jefferson County has his back. To date, the Prosecutor's Office has not confronted Challenger. I believe the Prosecutor's Office is impeding the opportunity for my grievances to be adjudicated in a proper manner. I requested on August 13, 2018 that Jefferson County Commissioners' secure outside legal counsel to provide unbiased assessment of applicability and implantation of Jefferson County Ordinance 3.16.2 because of lack of action by the Prosecutor's Office to remedy Challenger zoning issues via ordinance 3.16.1. Outside legal counsel should also review all evidence and determine whether remedy via ordinance 3.16.1 is warranted. Commissioners set an action item for their August 20, 2018 meeting regarding securing outside counsel. Commissioners deferred this decision until after September 6th. It is after September 6th. I request that the Commissioners prohibit the Prosecutor's Office from taking further action regarding Challenger Pallet for reasons stated above and retain a special prosecutor consistent with section 31-2603(a) of Idaho statutes to address Challenger issues. I believe the Prosecutor's Office has shown that they cannot represent the County's interest against Challenger in an unbiased manner or act impartially regarding residents' complaints."

[10:35:03 AM](#) Jay Hill asked where the Prosecutor is. Weston states he is in courtroom 2. Jay said this is the eighth time they have been here. Have talked to two people from the previous meeting that he was here and walked away. Also heard from two people that when Mr. Farnsworth and Mr. Davis went in the other room they saw Mr. Butikofer go in from the back. They feel Mr. Butikofer has caused this and he does not have the apparent guts to come in here. Also mentions down County Line Road there is a gravel pit there and they put in some grain silos. Talked to this gentleman and he had to come in and spend money to do a ground compaction study. What did Mr. Hegstead do before erecting his equipment that is not permitted? Are they going to enforce the law on some people and not on other people? Mr. Hegstead and his partner have no damn right to make decisions that affect his life. Mentions specifically about noise affecting residential areas. Going back even further his family sold the property to be residential. Finds it hard to believe that Mr. Hegstead did not know this would be residential. Mr. Hegstead sits over and does what he wants to do when he wants to. Knows because he was a commissioner and they would have his back. Ridiculous that they have been back so many times. Understands this is not something any of them are enjoying. But they have to leave this meeting and go home to this. They have to stay inside their homes because they cannot enjoy their yards. Please gentleman lets stand up and do what is right.

[10:38:48 AM](#) Ward comments the factor that Mr. Hegstead was a former commissioner. They believe he should know the zoning and regulations. Now they have the County Zoning and Planning showing they are operating outside of their zoning and without permits. This is months after the information has come out. The administrator asked Challenger to participate and they said no. Now they have to come to the commissioners meetings after they have stated they will not resolve this. Have had nothing but delays. When this is so clear that they are in violation. Asked for a chance to have their grievances aired.

[10:41:49 AM](#) Commissioner Martinez said this is an action item today. Wants something to be done if their laws can be enforced or if they can red tag this. Unless Mr. Hegstead is present and he has something to bring forward. If not he requests to go into executive session.

[10:42:12 AM](#) Tom O'Reilly President of the Snake River Estates Property Association. Comments based on the things that have happened here. First of all reiterates what Jay had said. It is unfair the farmers in the county have to obey the laws. They get no pass. They have to get permits. These permits are to protect those that work in these areas. Finds it unfair on the farmers that they are giving this business a pass. After the initial letter was sent does not remember the dates. This was early in the year asking about changes of process. Had ten days to reply. Claimed they never received this even though the mail was delivered certified. During this time they had requested a meeting who was there? Kevin said Mr. Hegstead, Kelly Bennion, his son Cole and Commissioner Hancock. Tom asked how Commissioner Hancock heard of this. Commissioner Hancock said he had gotten a call from Tad who said it would be nice if he came. Also called Kevin to ask if there was a meeting. Tom said they were not called to participate in this. Wanted to clarify this because he sees this as a conflict of interest. Commissioner Martinez proposes they need to go into executive session to understand what they can do legally.

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)**

[10:46:01 AM](#) Motion by Commissioner Martinez to go into executive session 74-206 (F) - Legal. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

Open session 11:40

[11:40:41 AM](#) Chairman Farnsworth goes over this has been a heated and controversial subject. However they are informed that Challenger Pallet has agreed and will be submitting permits on structure number two and structure number four. Structure number two was constructed approximately two years ago. This is the building next to the green bins. Structure number four is what holds the kiln and will have this done within the next seven days. Also suggests they get a permit on number three as well. There is controversy as whether this is equipment or structure. This is where they are letting this lie. Have visited and at this time they are going to hold off on the special prosecutor. They have agreed to file for permits. Will give them this and will move on. Have agreed to move forward with permits. Have beat this horse to death and is no longer taking any more comments. Will encourage they file for permits on structure three and should have these filed by Friday. Ward asked if any of these permits include rotating equipment. Chairman Farnsworth said they are looking at number two, number four and number three. Bill asked on the permit process and if the public would be able to be involved. Chairman Farnsworth asked if this goes before the Planning & Zoning Commission.

[11:44:03 AM](#) Kevin said there would be a public hearing on conditional use permit. Commissioner Hancock said they do not have to have a public hearing for a permit. This is already built but the decision is how they permit them and how they do. It is not necessarily a conditional use permit. If they fall within the requirements of the zoning permits. This is already there with what Planning & Zoning requires. Bill asked if they will retro actively permit all of the height restrictions that have been violated will need to fall under this retroactive permitting. There are a whole bunch of other violations. Chairman Farnsworth said this will not be cut and dry. They will have to file for a permit. Laurie asked on red tagging them. Chairman Farnsworth said they are not at this time. Laurie stated they are stepping on their own toes because of the letter from September 6. Even if they apply today they will be four days after the deadline. Chairman Farnsworth said they have them coming in and are not going to red tag this. This is where they are at and where they are going to stop. Ward comments as far as permits will they have anything on the sawdust and noise will this be included or will it be a separate issue. Chairman Farnsworth said this will be up to Planning & Zoning. Kevin said this will all be addressed. Ward is not sure that the structures are what are producing the issues. Chairman Farnsworth said this will be done within Planning & Zoning. Ward asked if this permit will be a public process.

[11:47:09 AM](#) Weston said that is incorrect. When a builder submits for a building permit they do not have a hearing for each one. They do for a conditional use permit. They will be filing for a permit not a conditional use permit. This process is transparent because they can make a request for any permit that has been issued. Would not be conducive to allow Kevin to do his job involving the public in something he is in charge of doing. Are available to have these records. Could go and get any other building permit. Do not put themselves in this process when they have someone they trust to do the job. They expect people to be accountable for what they do. Can ask for copies of these permits. Does ask that they respect Mr. Hathaway and his staff and their ability to handle their job as they see fit with what they have. Tom mentions what he sees is interference. Chairman Farnsworth said they are going to rein this in and move onto the next item on the agenda. Hopes they have answered some questions. Tom said they are very disappointed. Feels Scott should never vote on this because he has a conflict of interest. Thinks that Scott is pushing to make these standard permits and based on this will not be conditional. They will red stamp all of these. Being out in the hall during the break and they feel this is all their fault. This is ridiculous. Chairman Farnsworth said that is enough. Ward is not arguing but they are still here after months and still do not have an avenue to handle the impacts. Kevin said the process is they will evaluate the structure. Will look at mitigating circumstances. Linda Higgins goes over the sawdust. This is their reality after working thirty years for their homes. Chairman Farnsworth goes over they need to move forward on the agenda. They can take any other questions to Kevin.

EMERGENCY MANAGEMENT – CARL ANDERSON – COLLEEN POOLE

- **BURN BAN – (ACTION ITEM)**

[11:53:27 AM](#) Central Fire Carl Anderson said that Rebecca is in classes asked if he would come today. Would be his suggestion to lift the burn ban sometime this week. BLM and Bonneville County have both lifted their burn bans. Humidity and temperatures are down. His recommendation is to lift this.

[11:54:46 AM](#) Motion by Commissioner Hancock to lift the burn ban as of September 13, 2018. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

- **GRANT AWARD – (ACTION ITEM)**

[11:55:16 AM](#) Colleen has this for Rebecca it is the same grant award. What they paid for the robot has already been deducted. Chairman Farnsworth said this is \$41,909.08.

[11:56:00 AM](#) Motion by Commissioner Hancock to approve the agreement with Idaho Office of Emergency Management with Jefferson County for the SHSP grant for \$41,909.08. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

PUBLIC WORKS – DAVE WALRATH

- **UPDATE**

[12:00:12 PM](#) Dave Walrath said they will be in gravel hauling mode this week. Will have a skeleton crew. Do have a crew at the railroad track to flatten this some. Chairman Farnsworth asked if they are finishing out to Howe. Dave said yes they are getting gravel from Western. Commissioner Martinez requests on this was headed to Montana on Thursday and noticed a couple of the ten-wheelers were heaped up pretty good. Need to keep an eye on overloading these. Dave said he thinks they were and he did speak with Western and asked them not to fill these so full. Do still have the zipper will be working on some spots on 500. Will have the hot plant going until November. Will be transitioning to winter operations. Did go over and look at the Bobtails last week. These are pretty good outfits. Chairman Farnsworth said they spoke about these last week. Dave said they want around \$35,000 per truck. They are eight years old and not that heavily used. They drove the one that had the least amount of hours. Commissioner Martinez asked if they would have to purchase dump beds. Dave said these have dump beds on them. Commissioner Hancock said these are heavy duty ones. Chairman Farnsworth said the Bobtail they have is not in the best shape has a hole in the floor. For salt brine they should look into getting one of the sprayers. Dave said what they have works. Will see if he can negotiate some kind of a deal on one of these. Commissioner Hancock thinks maybe one.

- **FUEL DISPENSING SYSTEM – (ACTION ITEM)**

[12:04:37 PM](#) Dave wants to get the fuel dispensing system in. Tried to get some bids from out of state to no avail. Had some response from Salt Lake but they never followed through. Chairman Farnsworth said that Leonard's is the only place in town. Dave said they do good work. The price is without the card security system that would be another \$7,000. Would like to go that direction because it is much easier to bill out other departments and is also more secure. This estimate was from April 16 but the price will still be good. Chairman Farnsworth said this has tank fittings. Dave said the tank has already been set. On page one it does show a price for a pig tank. Chairman Farnsworth said that makes sense because the back page has pig pumps. Commissioner Hancock is not sure what a pig tank is. Dave said this must be something within the system. Thinks they should see fuel come down and want to be able to take advantage. Chairman Farnsworth said there is a lot of stuff on here. What do they want to do? Commissioner Hancock thinks they need to move forward with this they need to get this in. Chairman Farnsworth said this is another \$7,000 for a card reader. Commissioner Hancock would like to see the card reader because they can take advantage of the fuel. Dave would like to see the deputies coming in and out of the facility getting fuel. Commissioner Martinez mentions they would need to look at an electronic gate. Does not care for the card reader but if everyone would fuel up there it would save money. Should also look at an electronic gate.

[12:10:18 PM](#) **Motion by Commissioner Hancock to approve the purchase from Leonard Petroleum Equipment for the fuel dispensing system for Road & Bridge with an estimate of \$34,131.32 will have adjustment for setting of the tanks and price for a card reader system. Will need to bring the additional price back in. Chairman Martinez asked if they need a new bid this is from April. Dave said Kerry called last week and will honor this quote. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

PLANNING & ZONING – KEVIN HATHAWAY

- **UTILITY EASEMENT – (ACTION ITEM)**

[12:14:12 PM](#) Kevin said they have not gotten any of this back from them yet.

[12:14:46 PM](#) **Prosecutor Paul Butikofer is present**

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

[12:15:04 PM](#) Kevin asked how the new hire works without a name. Commissioner Hancock said they need to approve the position. Would need him to create the form and then he can proceed with advertising and hiring.

[12:16:03 PM](#) **Motion by Commissioner Martinez to approve the personnel action form for a new position in the Planning & Zoning Department. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

SOCIAL SERVICES – JACKIE MAUPIN

- **EXECUTIVE SESSION 31-874 & 74-206(D) – RECORDS EXEMPT FROM DISCLOSURE**

[12:16:46 PM](#) **Motion by Commissioner Hancock to go into executive session 31-874 & 74-206 (D) – Records exempt from disclosure. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **APPROVAL OR DENIAL OF INDIGENCY APPLICATION – (ACTION ITEM)**

Open session 12:28

[12:30:19 PM](#) Recess to review claims

Open session 12:57

COMMISSIONERS

- **APPROVE CLAIMS – (ACTION ITEM)**

[12:57:58 PM](#) Chairman Farnsworth goes over Cate Equipment on page nine have three claims for \$5,000. Commissioner Hancock said they had the roller and used this it was beneficial to the county. Chairman Farnsworth said they did use this he had two weeks to demo this. Should have demoed others and brought in three bids so they could buy. The first bid finally came in last week. Did a motion for demo only. Cannot go out and

rent something like this and make the county pay for it. Commissioner Hancock said they have the ability to rent within the department. Chairman Farnsworth said they did not want to rent this piece of equipment they wanted to buy so the motion was specific. This sat for a month not being used.

[1:00:28 PM](#) Chairman Farnsworth asked on the weight tickets. The tonnage is the same but the prices are different. Commissioner Martinez brings up on page twenty-four under Arbor Tech under shelters. Asked if they knew what this was about. Commissioner Hancock said they have Dennis Merrill out there working on the volleyball courts. Chairman Farnsworth said she should have come in about putting in volleyball pits. Commissioner Hancock said they cannot micromanage these departments. Commissioner Martinez thinks they are not micromanaging them they are doing their job running the county. Chairman Farnsworth is not going to approve the \$15,000 for the roller. Commissioner Hancock asked how they would do the job. Chairman Farnsworth said he had two weeks to demo this and bring in three bids. They wanted to demo and buy. Not wasting money on a rental. Does not have the latitude to buy. Commissioner Hancock said Dave was not sure what the best equipment was. Found out this did not work for chip sealing. Had to have it long enough to try it on both. Feels Dave thought he was doing what was in the best interest of the county.

[1:06:30 PM](#) **Motion by Commissioner Martinez to approve claims from 8/27/2018 to 9/7/2018 for \$393,717.29. Second by Commissioner Hancock. Commissioner Hancock points out he thinks they are liable to pay for the \$15,000. Chairman Farnsworth thinks they are not because they did not give approval and had given specific direction on this. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed**

COMMISSIONERS

• MAINTENANCE/JANITORIAL PRE-PROPOSAL CONFERENCE

[1:07:31 PM](#) Chairman Farnsworth said they will move toward the janitorial walk-through. Colleen has everyone sign in. **(Exhibit C)** Commissioner Hancock said they can answer any questions they have. Sheriff Anderson asked if they are looking at the whole facility. If they intend to do the maintenance there will be no knives or anything allowed within the jail. Commissioner Hancock asked everyone to go around and introduce themselves.

[1:09:48 PM](#) Aaron Cristman with Cristman Cleaning, Tony Rogers with Night Owl, Anthony Mullaney with Varsity, Corey and Kris Smith with High Mountain Cleaning and Bryan Briggs with Briggs Construction.

[1:10:42 PM](#) Commissioner Hancock said there are a few things that are unique they have a facility being constructed now. Chairman Farnsworth said this will be 16,000 square feet of area. Commissioner Hancock said there are three offsite facilities that will then be dissolved. Have Extension Office, Probation and Prosecuting Attorney. Set this up so that the Sheriff's cleaning portion can be separate. There is also a bid item for the maintenance portion of this. Bryan said the Prosecutor is cleaned by someone else until they move over here. Sheriff Anderson asked if the amount in his budget is just for cleaning. Commissioner Hancock said it is because the maintenance is tied throughout the whole courthouse.

[1:14:17 PM](#) Aaron asked if they bid in the cost of maintenance. Commissioner Hancock said the minor is their responsibility but not the major such as HVAC or electricity. Leave to tour the courthouse and auxiliary buildings. Have Commissioner Hancock, Commissioner Martinez, Chairman Farnsworth, Sheriff Anderson, Colleen Poole, Audrey Moon, and Kristine Lund go through the buildings with the bidders.

Start in the Clerk's Office. Will need to vacuum and empty all garbage's. Clean the windows and blinds. Clean the carpets two times a year. The breakroom floor needs mopped. Clean restrooms. Any doors that are shut and locked do not need to be cleaned. Commissioner Hancock mentions that anyone that will be inside cleaning any of the locations will have to have security clearance. Go into the courts. Have the offices that all generally need garbage emptied and vacuumed. All restrooms need to be cleaned. Have four courtrooms. One and four are smaller and two and three are larger. These need to be cleaned daily. Have two Judge Chambers and a visiting Judge's Chamber that needs cleaned. Go outside they do have to maintain the lawn.

Go into the Sheriff's Office. Sheriff Anderson said as far as cleaning they have the lobby, offices, and bathrooms. Sidewalks do need to be shoveled. Need to remember they are open 24/7. Do not handle the parking lot this is done by the Weed Department. Go in through dispatch. This is where the individual cleaning will end. Only individuals interested in doing maintenance will need to proceed. All of the individuals proceed. Sheriff Anderson goes over that inmates clean the jail. This is for general maintenance which would normally include light bulbs, shower issues, toilets and other small tasks. Go into sallyport area. Bryan Briggs goes over the equipment that has to be maintained in this area. Mentions to make sure if a vendor comes in they leave with everything they brought cannot be leaving items in the jail. Need to understand the boiler. Do not clean the fire system it is best to call 3D Fire for help. They do inspect the system yearly. Generator starts up every Saturday to make sure it is running correctly. Do have to put fuel in this are at about fifty-eight percent full right now. Commissioner Hancock said they will be in charge of making sure all maintenance inspections are done and keep track of this. Bryan said he has a file. Commissioner Hancock said they leave this up to the maintenance individual and if they have any issues they can request this. Sheriff Anderson mentions they do have real criminals in the jail. There are a lot of state and federal prisoners and the community needs these contracts. Wants them to know the environment and realize they will say things to them while in the pods. They will have a deputy with them. Go into the control room. Go back out and into the kitchen. They maintain the equipment in here usually have someone brought in to work on the appliances. Go up onto the roof to look at equipment. Go around the backside of the Sheriff's Office. Into the Assessors, Planning & Zoning and Treasurer side. These are same as the rest of the offices. They need vacuumed and the restrooms need done. Take the individuals over to the Extension Office and Probation. These areas need to be cleaned as well. Probation will need to check on their hours because they are open later to work out a cleaning schedule. Tammy mentions the bathroom is what needs to be the cleanest. They have a lot of individuals in these taking drug tests.

[2:49:15 PM](#) Chairman Farnsworth asked if there are any questions. Need these submitted by September 20 at the Clerk's Office to be opened on September 21 at 1:00. Anthony asked on square footage of carpet and tile. Chairman Farnsworth is not sure all of the offices will be carpet, bathrooms and the halls are tile.

[2:50:54 PM](#)
passed.

Motion by Commissioner Hancock to adjourn at 2:51. Second by Commissioner Martinez. All in favor – aye. Motion

Chairman of the Board

Date

Clerk of the Board

Date

County Clerk

Date