

**JEFFERSON COUNTY COMMISSIONER MEETING MINUTES
FEBRUARY 11, 2019**

Meeting called to order at 9:00. Those present are Commissioner Clark, Commissioner Young, Chairman Hancock, Public Works Dave Walrath, Clerk Colleen Poole; Audrey Moon is clerk of the board. Pledge of Allegiance led by Chairman Hancock. Prayer offered Commissioner Young.

PUBLIC WORKS – DAVE WALRATH

• **UPDATE**

[9:01:58 AM](#) Dave mentions he was on the phone with the Forest Service about Kelly Canyon.

• **SNOWPLOWING MEMORANDUM OF UNDERSTANDING (MOU) – FREMONT COUNTY – (ACTION ITEM)**

[9:02:48 AM](#) Dave said this MOU with Fremont County was negotiated with the previous commission last summer. This is the resolution. This basically goes over what roads they will maintain. Worked out a trade on roads. They only have fourteen miles of road out in the Egin-Hamer area. Will keep the Egin-Hamer road open and they will do some of the roads that are easier to get to.

[9:03:51 AM](#) Chairman Hancock said they would go to the Countyline move the plow up for seven to eight miles and then put the plow back down. The road they were having to do had some children that had to have a bus come and pick them up. If they do not go through this then the bus gets stuck. Sat down with the Fremont County Commissioners and their Road & Bridge person was there and this is the solution they came up with. Will continue on this road and do all of Egin-Hamer Road and another road that is attached. Dave said they can turn around and go back. Commissioner Clark saw the map that was sent. Chairman Hancock asked a resolution number. Have they been doing this already? Dave said no Fremont County advised them not to until this is signed. Audrey said #2019-17. Dave asked to have two signed and will take this to Brandon to have Fremont County sign.

[9:06:17 AM](#) Chairman Hancock said this is a resolution #2019-17 which they discussed is approving between Jefferson County and Fremont County regarding the exchange of snowplowing services. Dave said that Weston did review and he had minor changes.

[9:06:43 AM](#) **Motion by Commissioner Clark to approve the resolution #2019-17 for a memorandum of understanding with Fremont County. Second by Commissioner Young. Roll call taken. Commissioner Clark - aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

• **BOSS PLOW FOR PICKUP – (ACTION ITEM)**

[9:08:22 AM](#) Dave said last year they purchased a pickup for the westside. Utilize the three quarter ton pickups to augment the snowplowing. Use the six-way plows. Would like to purchase one more of these. They are very useful for subdivisions. Chairman Hancock said they try and have the Eastern Idaho Public Health building done on the westside on Thursdays when they are open. This is from First Street Welding. Dave said they have one left in stock. If they wait the price will be going up. At times if they are shorthanded he can jump in a pickup and do the subdivisions.

[9:10:13 AM](#) Chairman Hancock said he knows that First Street Welding is great to work with but wonders about a comparison price or list price online. Knows this is \$5,577 but is there any competition. Dave knows Karey called another supplier and they were quite a bit higher on this and it was not a Boss. Chairman Hancock asked if this includes installation. Dave said the electronics are already on the truck so this is fairly simple to install so the crew can do this. Getting toward the end of winter so they can wait if they need to but will be at least \$450 more. Commissioner Young asked how soon this would be on. Dave said within a couple of days. They mainly use the blades on the westside. Chairman Hancock said there are only so many operators out there.

[9:12:31 AM](#) Dave said they have three operators and the foreman out on the westside. This helps at the shop at the landfill and the health department. Chairman Hancock asked where they are at in the budget. Dave said they are fine still early on and had budgeted \$300,000 for capital equipment. Commissioner Young thinks this is something that will be used. Commissioner Clark thinks it is better to buy these at this time of year. Chairman Hancock knows they use these on intersections with the tighter radiuses. In addition to subdivisions. Dave said they have so many subdivisions so the pickups end up plowing there.

[9:14:50 AM](#) **Motion by Commissioner Clark to allow Road & Bridge to purchase a Boss snowplow for \$5,577.38 from First Street Welding. Second by Commissioner Young. Roll call taken. Commissioner Clark - aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

• **DUMP TRUCK – (ACTION ITEM)**

[9:15:40 AM](#) Dave said they have not gotten a new dump truck in eight years and it is starting to show with the down time they are seeing. Would like to buy a new one. Have talked with Kenworth and Peterbilt. Have a nationwide service called Sourcewell they are a cooperative contract service that utilizes bids nationwide. Part of the statutory requirements is they either have to bid out or piggyback off other public agency purchases. This is what Sourcewell is but on a nationwide basis. Both Kenworth and Peterbilt are in this program. Would like to have a truck with two push axels and a bigger bed. Now that they do a lot of overlays and chip sealing it makes sense to haul more. Have quotes for both the Peterbilt truck is a year out. That is how good the economy is at this point. Kenworth is lower price wise. The truck and chassis for Kenworth is \$136,466 with a 485 horsepower motor and thirteen speed transmission. The dump body is \$77,300.

[9:19:12 AM](#) Chairman Hancock asked what type of dump body. Dave said it is from Legacy Equipment. It has a force united front hydraulics and express plow. Does have roll up tarp on this. Is a duraclass heavy duty dump body. Chairman Hancock asked on the Williamsen. Peterbilt did not have a price.

[9:20:43 AM](#) Chairman Hancock asked if they are trading one off. Dave said D-5 this is a 2008. Chairman Hancock said this is fairly new and they are only giving them \$20,000. Dave said it has some issues. Chairman Hancock thinks they have a lot in the bed. Dave said they have some beds at Circular Butte too that are in fair condition. Chairman Hancock said they don't want to use one on this new truck. Dave said they cannot use these with the two push axels. If they can get back into a regular program at replacing trucks. At some point looking at getting a dump trailer to haul as well. Chairman Hancock asked on the quotes how they know the prices are the best because there are no demonstration of costs.

[9:23:30 AM](#) Dave said on the Peterbilt pricing look at the back page. Looking at \$217,000 and the Sourcewell price is \$144,000. Kenworth is \$170,602 plus options that add onto that. Sourcewell is taking over the industry. Similar program was in place prior but are now marketing this nationwide. Had a vendor both at the IACERS conference last fall. If they are interested in reading more he has the information. Chairman Hancock said this is \$213,746 for Kenworth. Dave knows this is a big number. The discounted price is \$136,466 for the truck and chassis and the dump body is \$77,300. If they get into replacing a truck every other year they will be where they need to be. Has been eight years so they have aging trucks. Chairman Hancock said they want to stay away from the emission systems. Dave said they will keep the stronger trucks as much as they can. The suspension that is quoted is a different type of suspension it utilizes the rubber disks rather than spring. This is taking over the industry. It is very durable and the price is actually less. Both trucks are similar other than the price. Then Kenworth they would be looking for a slot in June so would get this around July. Commissioner Clark asked if he likes the Kenworth. Dave is fine with the Kenworth. They are brother companies. Looking at \$214,000 with the chassis and dump body. Chairman Hancock asked on the dump body if they are the same. This is out of Salt Lake. Dave believes they build them in Salt Lake.

[9:31:11 AM](#) Dave said that Bonneville has used these two push axel trucks recently and is high on them even for plowing. Chairman Hancock asked on the two push axels don't the others have a differential lock on them. Dave just knows it adds capacity. Commissioner Clark goes over the added weight. It is a significant increase. Dave said Bonneville started with one and have recently gotten more.

[9:33:45 AM](#) Dave talked with Brock who is the mechanic and he is versed with diesel engines. These are domestically produced diesel engines that they get now. Could also get Cummins. CAT does not make truck motors anymore due to the emissions. Has heard nothing bad on Packard motors and have been making them for about ten years. Commissioner Clark said there was hesitance when these came out because they had not worked on them. But now there are a lot around. Dave said the force limited hydraulics does limit the size of the engine. Chairman Hancock said they are looking for approval to proceed. Dave would like to do he knows it is painful to proceed on this much money.

[9:35:47 AM](#) Chairman Hancock knows they were looking at another blade. Have one leased right now. Dave is thinking next year on the blade. They really need to start replacing trucks. Have more than one having issues. The 2007 to 2015 timeframe the emissions systems has given them fits. It is constant. When they designed this they were looking at long-haul type trucks. That is not what they do. They are short-haul fifteen to forty miles. Trucks do not get to temperatures so when they do the burn it is not a big deal. For them it is because they are looking at a few hours down with this. These are hard use with a dirty environment. Chairman Hancock knows they mentioned looking at taking the emission off. They as a government agency do not have to have the emissions on. Dave said they have done this to one and they just got this back Saturday. Commissioner Young asked the cost. Dave said it cost \$2,700 to do this. Thought is to go forward will wait until the truck is out of warranty and do the same thing. Commissioner Clark said most of this is computer programing. Commissioner Young asked on a trade in after they have this. Dave said this has to go as off road so only to another government agency. Thought is to just keep these because they repurpose their trucks and move them to a water truck or something so they are not getting the same everyday use.

[9:40:06 AM](#) Chairman Hancock said they want to get rid of the 2008 but have older ones. Dave said this is their biggest problems has transmission issues and does not want to put a bunch of money into this truck. Chairman Hancock said a transmission is \$15,000. Commissioner Clark would rather they trade this off. If they keep it and continues to have problems it would just sit out there. Dave said D-6 would be the next one it is a 1999 Peterbilt. Chairman Hancock asked if they would switch these out. Dave said they usually repurpose their trucks. Chairman Hancock said they would only give \$20,000 on the trade in does this includes the dump bed. Dave assumes it would. Chairman Hancock has been working with Dave to get a schedule on when they need to get pieces of equipment. Trying to put aside \$300,000 every year. Need to get a roller. Dave said they sold the one but have another one for \$2,500 more. Commissioner Clark asked how much these are. Dave said \$37,500. Chairman Hancock said that was less than the one that was rented and was more versatile. Dave said they can use impact fees possibly for a roller. Commissioner Young said they need this but are they going to have enough left in the budget for other equipment.

[9:45:05 AM](#) Chairman Hancock said they will need to address the roller. Need to do this now if they wait until May it will not be there. Commissioner Clark thinks if the money is there they need to use this. Does not want to put money into equipment and then trade it off. Commissioner Young asked if the impact fees would the Kenworth fit into this. Chairman Hancock said maybe the roller but not with the truck where they are replacing equipment it needs to be additional equipment. Trading off does not fit into this category. Commissioner Clark knows it is hard to plan out but would be nice to know the budget amount and have a list of things that he is planning on. Dave said when he put this in the budget. Chairman Hancock worked on this and needs to finish this analysis. Dave has a plan. Commissioner Clark would like to see a spreadsheet of the equipment where he is there every day and they know what is going on. If they need to go ahead on the truck then they need to. Dave said this is low compared to the scraper replacement. The only way to avoid repairs is to not use the equipment. Chairman Hancock said they have some options on the scraper. Go over equipment. Chairman Hancock said they had a demo on a scraper out at Circular Butte. This had eight wheels and was like a truck. Chairman Hancock only asked the cost on the tire differential but they did not know. Dave said this is a harsh environment.

[9:52:33 AM](#) Chairman Hancock asked what the water tank was. Dave does not have a formal quote on this. Commissioner Young asked if they could get the trade-in price and have a final price on this. Commissioner Clark asked how fast they need to move on this. Dave said they need to move on this if they want the June slot. It is crazy that Peterbilt is thirteen months out. Chairman Hancock said to find out on the trade and get a final price on the trade. Make sure the dump bed is per the Sourcewell price. Would also like to see another comparison. Commissioner Clark asked on a purchase agreement. Chairman Hancock said they may look at having purchase orders for large equipment. Dave said they do issue numbers. Chairman Hancock is looking for paper for terms and conditions for the county. This would be more formal and regimented process. Will be working on this.

- **WATER TRUCK TANK – (ACTION ITEM) – TABLED**

[9:54:55 AM](#) Dave will come back on this next week. Chairman Hancock wants to get prices on the roller this is what he is concerned about.

- **PUBLIC SURPLUS AUCTION RESULTS**

[9:55:24 AM](#) Dave said this is public surplus auction. Provides the pricing on the public auction. Was very pleased with the prices. The broom is actually going to Mexico. Brought in just shy of \$14,000 is what they got. Chairman Hancock is glad he brought this into their attention. This goes into the general fund. Audrey said it does not go line specific it goes into their cash. Dave said he should have put the aluminum water trailer on there but will do this next time. It leaks. Rebecca asked how large of a water tank they are looking for. Knows that Hamer Fire just got themselves one and may be getting rid of one that he may want to look into.

[9:59:34 AM](#) Dave said they are trying to keep the roads open during these storms. Will be out putting some brine on the roads for another storm on Wednesday. Did put some salt out on some of the roads to help get the ice off.

NOXIOUS WEEDS & INVASIVE SPECIES – MITCH WHITMILL

- **REPORT ON COUNTY PUBLIC SURPLUS AUCTION**

[10:01:02 AM](#) Mitch has a full report on this for them. This is on everything. Commissioner Clark asked if they got rid of everything. Mitch said this opened January 23 and was open for two weeks. In working with the attorney they got everything taken care of. Listed twenty-eight items and sold eighteen. Not too bad had some old fax machines and other miscellaneous items that did not sell. For the most part it was successful. Are averaging fifteen to thirty percent more using the auction site. Most of these items were sold to people that were coming from out of state. Especially on the equipment. Will do another auction every quarter so will start this in April. This is the first big auction they have had with the other departments. Did a small one with their office because they wanted to make sure this functioned smoothly.

[10:05:50 AM](#) For the payment his department has a revolving trust fund this is put in. Then it is available to use for purchases. Colleen thinks everyone else is going into their cash. Mitch said that they have a unique department. Have to have these items out within five days. Can schedule a pickup date if they need to. The payments are handled through an independent agency. There is a lot of documentation. There are reports that they are able to provide as well.

- **REPLACEMENT ROADSIDE SPRAY TRUCK – (ACTION ITEM)**

[10:11:13 AM](#) Mitch does not have a price yet. Was looking at going to a heavy duty truck. Had a trailer break down so they had to buy another cargo trailer. Will end up going with a different truck it will be another 450 which is a duplicate. Then in the next budget year will try and go for a heavy. Have enough to purchase through the state bid with Goody Motors it is right around \$51,000. Chairman Hancock asked if they checked Smiths have been using them mostly. Mitch said they both have state bid. Problem with Chevrolet is going to a bigger series. Hauling almost 700 gallons of water. This helps with efficiency out on the roads the fewer they have to go back to the shop and load. Mitch will look not sure that Chevy has a 450. Ford is unique they are really pushing a fleet program. Wanted to let them know they have changed since they need three roadside trucks. Will buy the 450 this year and look at a heavy truck next year. The price of the heavy trucks are pushing \$100,000.

JEFFERSON COUNTY FAIR – CARL ANDERSON

- **WELL AGREEMENT – (ACTION ITEM)**

[10:16:29 AM](#) Carl said he was asked to look at the meter. They do have a separate meter on the well. On the bill they presented the power bill of \$942.50 was what they use through the year so they are assessed twenty percent of this. It is on its own meter. Do pay the twenty percent of the electricity amount. Chairman Hancock said that answers that question. Is unsure if Weston had any other changes. Will table this until Weston comes in with the agreement. If there are no issues they can sign this later in the day.

PARK & RECREATION – MICKEY EAMES

- **AGGRESSIVE DOG ISSUE – (ACTION ITEM)**

[10:18:24 AM](#) Mickey said the aggressive dog issue is with Mr. Randle. Has a letter here that Weston put together and needs signed by the Commissioners. Provides a copy so they can read through this. Chairman Hancock reads the letter. "To Mr. and Mrs. Donald Randle, The Jefferson County Board of County Commissioners was recently notified of an August 11, 2017 incident where your white dog, while on a leash, bit a young child. Due to the risk of safety to the public, his dog is no longer welcome at the Jefferson County Lake from this time forward. To be clear, you are still welcome to come to the lake, however, your white dog is not." Chairman Hancock said that Mr. Randle did call him and said it did not bite the child just pulled on the child's coat. Mickey said it bit its bum the lady pulled the diaper down and there were bite marks. It did not break the skin. Chairman Hancock said he said the dog was playing. Mickey said this all came out on Facebook. The little guy was on a scooter and moved over and the dog grabbed his bum. The whole conversation was not good. He can still come out but the dog needs to stay home. The time needs changed to 2017. Wants to be able to get an ordinance for aggressive dogs to not be allowed at the park. This particular dog scared some of the staff and has been an issue. When they were working on the parking lot this fall it was barking. Does not want this dog there anymore but Mr. Randle is fine. Wants to get something in their ordinances. This could be punishable by a misdemeanor fine. Chairman Hancock knows they could have the dogs be muzzled. Mickey does not want that out there. It is fun for those with good dogs but they have to be careful.

[10:23:38 AM](#) Mickey said she will have the Sheriff's Office deliver this. The Sheriff's Office wanted something signed by the commissioners. Chairman Hancock said they have this letter they will need a motion on. One letter with once incident. Knows the Sheriff does not want to enforce for a dog off a leash. Does believe that there is a risk where they already had an incident so they should do something.

[10:24:18 AM](#) **Motion by Commissioner Young to issue a letter to Mr. and Mrs. Donald Randle on an aggressive dog no longer being allowed in the park. Second by Commissioner Clark. Roll call taken. Commissioner Clark - aye, Commissioner Young - aye, Chairman Hancock - aye. Motion passed.**

- **CORRAL DRAINAGE – (ACTION ITEM)**

[10:25:52 AM](#) Mickey has a farmer across the street that has a drainage from his corral into the parking lot. Did not realize this was there until they made the parking lot bigger. Was told she could not block the drain. Had Dennis dig and found the drain from out of the corral under the road into the parking lot area. Cannot have this there where they have a parking lot here. Talked with Mitch said this is not a good idea. Mitch said they looked at this it is not an irrigation channel. This is a discharge draining from his corrals onto other property. With DEQ restrictions the manure cannot discharge onto someone else's property. Mickey said he rents this ground and has for several years. Asked Dave on this they may have put the drain in before if there was water over the road. May not be a need for this now. Did not know this was part of the park. Sure there is some back story to this. At this point they have made such an issue on this. Only time he has seen this close is when he does not watch the water in the field. It is an in case of.

[10:29:13 AM](#) Mitch said the Road & Bridge would have used this to keep water off the roads. Mickey said there are two fenced panels in front of this. Commissioner Clark asked if this is a corral. Mitch said it is. He could correct this by putting his own sediment pond onto the property. Chairman Hancock asked Mickey to talk to GIS on who owns this property. They as commissioners will go out and look at the area. Mickey goes over where this is at. Commissioner Clark said there had been some cows right along the fence. Chairman Hancock said to find out who owns this and rents it. Is wondering if this was an irrigation ditch at one point and irrigated in the back area where they have homes now. This has all been abandoned and as a result used this as a drain. Mickey will get some more information for them.

[10:32:35 AM](#) Commissioner Clark said they could look at the runoff laws are and the specifics of these. Department of Ag should have an inspector that could come out so they are not running off into streams or rivers. Will have some guidelines there. Mitch said they can meet with them and see what the regulations are before contacting DEQ. Chairman Hancock said that Mike Jones used to own this area.

- **IMPACT FEES – (ACTION ITEM)**

[10:34:20 AM](#) Mickey said that Rebecca had got ahold of her. From what she understands in either 2014 or 2015 they had used some of the impact fee but it was used incorrectly. This is something that needs addressed and decide what to do. This probably needs to be put back into the impact fees because it was not within the guidelines. Commissioner Clark asked what they did with it. Colleen thought they did a sidewalk path but it did not qualify. Chairman Hancock said if this goes around the lake they think this should qualify. Rebecca said this was repair and upgrade to the walking path. The only eligible project would be to increase the acres per person. If they provide more acreage to keep the acres per person the same. Chairman Hancock asked where this was use. Rebecca said the walk path around the lake in 2014 and 2015. Three roots had pushed this up so they resurfaced and leveled this path. It was before either of their time.

[10:37:49 AM](#) Chairman Hancock said in his opinion where this has happened so long ago not sure they can rectify something from five years ago when they do not know all of the circumstances. Hard to say what was done. Commissioner Young said they could ask Weston on this.

[10:38:59 AM](#) Chairman Hancock said this may need to be discussed in an executive session. Rebecca pointed this out to Weston and pulled the records and asked if this was a problem. Chairman Hancock said they can look into this further. Mickey wanted to bring this up so they all knew.

ELECTIONS – SHONNA ALLRED

- **DESIGNATE POLLING LOCATIONS - #252 LEVY ELECTION – (ACTION ITEM)**

[10:40:58 AM](#) Shonna is here to designate polling places. This is a school district #252 election for a supplemental levy. Will vote at the Ririe Senior Citizens center. The Clark strip is less than eighty people and they will mail these ballots out to them. Colleen said if they have a precinct under 125 voters they can mail out the ballots. This is handy so they do not have to have a polling location and pay the workers. Shonna said this is a joint election with Bonneville and Jefferson. Bonneville County votes up at the High School. Chairman Hancock asked if they notify Bonneville County. Shonna said when they are looking at the abstracts they send these to each other so they have the totals. Colleen said they are the home county. Shonna notified the Chief Judge in Clark to post that there is not an election and the polling place for new voters would be the courthouse.

[10:45:48 AM](#) **Motion by Commissioner Young to approve the designated polling location for the March 12, 2019 School District #252 levy election. Second by Commissioner Clark. Roll call taken. Commissioner Clark - aye, Commissioner Young - aye, Chairman Hancock - aye. Motion passed.**

COMMISSIONERS

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

[10:47:38 AM](#) Colleen asked on the insurance if D.L Beck is covering the annex now and then they will take this over once they are finished. Chairman Hancock said that is what will happen. It will be around four million. Colleen said they will need to remember to get this on their insurance. Colleen provides a progress report. Chairman Hancock said they discussed Friday they are supposedly going to turn the heat on and the power should be on today with the heat sometime this week. Colleen asked about the power. Chairman Hancock said they never mentioned anything with taking the power down again. Temporary power that got cut will put a box out there. Talked about that they may need to resurface the asphalt in the back. Point was they are not doing much outside work in this weather. Talked about the pumps in the pumping systems and what had happened had initial price of \$110,000 for the pumps. Engineer Ryan Loftus came back with pricing for half of that cost. Did go everything looked pretty good. Will give them a price on the changes in the assembly room.

[10:52:11 AM](#) Colleen had met on the changes on the assembly room. Chairman Hancock appreciates this. Does have another item they need the departments moving over to work on the plaque signs. Asked Rebecca to contact departments to meet with Loren.

[10:53:30 AM](#) Rebecca asked if they are looking at plaques inside the suites. Chairman Hancock said they wanted their input but should be the departments input. Rebecca asked it would be helpful to know where Emergency Management will be moving to or if they are staying her. Chairman Hancock thinks they will be moving. Colleen had two rooms designated for the law clerk and court reporter may only be moving one over. Chairman Hancock thinks they may move her into the front of the Commissioners area. Rebecca thought about this and wants to go over her preferences.

Comes with a certain amount of luggage. Chairman Hancock said this is a huge room. Rebecca said there is not a decent room for the big cabinet. The other part of this the function of what she does some is clerical but very little of it really is. Personally and professionally she is not a clerk that is not what she does. She is still in limbo on some of her jobs. She is not a receptionist that is not her function. Would prefer to have an office. This is her opinion would prefer to have an office. Chairman Hancock said they will need to discuss this. Rebecca said they are looking at signage. Chairman Hancock said they are not sure what they are going to do. Will discuss this is not sure what they are planning to do.

[10:57:00 AM](#) Recess until 11:00

[10:57:00 AM](#) Deputy Prosecutor Weston Davis is in the room

Open session 11:02

SOCIAL SERVICES – JACKIE MAUPIN

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

[11:02:45 AM](#) Motion by Commissioner Young to go into executive session 31-874 & 74-206 (D) – Records exempt from disclosure.

Second by Commissioner Clark. Roll call taken. Commissioner Clark - aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.

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

Open session 12:36

[12:36:34 PM](#) Recess

[12:36:41 PM](#) Deputy Prosecutor Weston Davis left room

[12:44:41 PM](#) Deputy Prosecutor Weston is in room

Open session 12:45

COMMISSIONERS - 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)

JAN & TAMARA CLEMENTS – DEBBIE MADSEN

- CELL PHONE TOWER

[12:46:24 PM](#) Jan & Tamara Clements at 20 N 3737 E and Debbie Madsen at 3728 E 20 N in the Aspen Heights Subdivision. Chairman Hancock said the last they were here they were going to file with the District Court. Do they not have a verdict back from the District Court? Weston said he has not seen anything. Did have an application he could not give advice on and was going to seek an answer from a Judge. Colleen believes they returned this. Debbie said they have some of these answers in their opening. Chairman Hancock turns the time to them.

[12:47:30 PM](#) Debbie Madsen is here for the other homeowners in Aspen Heights Subdivision. Obviously they disagree with the approval of the cell phone tower. They are here to petition their grievances to their local government on their experiences so that lessons can be learned for the future. Knows that Commissioner Young and Commissioner Clark were not included in this decision since they are newly elected. Awareness is the first step to change. As citizens they do not feel they received due process. Along the way especially in the October 9 appeal by Verizon to the commissioners. In the efforts to petition this grievance were unable to get procedure from elected officials or employees so they turned to Jefferson County ordinances and Idaho Code. In the end their submitted appeal was rejected because it was in the wrong format. They were told to get an attorney to accomplish what they want. An ideal scenario that would have been the first step. These are costly and the private neighborhood fund is no match for the Verizon machine. Since the board overlooked their appeal on their decision representing themselves was their only option. Ultimately they did not get a hearing. Even if they did not get their voices heard they did learn a lot. Original objective is to bring to light things in their experience that is not in line with county ordinance and Idaho Code. Wants to turn some time to Tammy to go over a brief overview of the items that happened. Want to go over what happened and where the precedence is laid. Do they like how this landed as a county and learn from these things as they go. Technology is going to advance and need to know where there is the need. How does this all come together with the scenario.

[12:51:00 PM](#) Chairman Hancock had given this a lot of thought since then. They were faced with following state and federal law. If they had county ordinances put in place. Thought about this a great deal. One would be as an example for cell towers they would have a distance requirement of 500 feet from any residential area. This is just an example. This is something they are looking at because of what they brought up. Felt bad on this because they had to follow the laws. This is where they learn and do what they can on ordinances. Can work with Planning & Zoning to have a buffer area. Debbie is right on board with what you are saying. Chairman Hancock said he really had a lot of thought on this and how to handle this properly in the future. Knows they will be asking again on another tower. Commissioner Young said that is where they citizens can participate. They need citizen input on the comprehensive plan. Chairman Hancock wants to put this in the ordinance so it has a buffer. So this is not as intrusive to the residents in the area. Have thought on this. Wished they would have put this where it was originally designed but the airport district would not allow this.

[12:53:19 PM](#) Jan appreciates this. One of the main issues was the limit on commercial zoning areas. Know they cannot spot zone but does not understand all of the zoning laws. If they put a limit of say 500 feet for a buffer around the airport is there anything commercial left they could put this on. Seemed like they could have a residential area with a veterinary office on it with a special permit on a non-commercial lot. Could do the same and make an exception. Chairman Hancock said this is back to the plan and ordinances which is being looked at. The situation they have gone through really highlighted situations and circumstances they are facing in the county. Have spoken a lot about Planning & Zoning. There are a lot of

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issues. The airport put them in a predicament with the commercial area but cannot put anything there because of the air space. Also had Verizon showing Federal Law. Also they have to locate it in a certain area to be effective. Had all kinds of constraints that made this difficult.

[12:56:01 PM](#) Tammy appreciates the time this is for the benefit of the new commissioners. This is going over the procedural errors and improper information they were given. On August 3, 2017 was a Planning & Zoning meeting to change the zoning on George Olaveson property from residential to commercial. Adds that George in his additional letter stated this was because that Verizon wanted to put a tower here. If this had been flagged for a future tower. Someone neglected this and George Olaveson representative really downplayed this and it was deceptive. May 3, 2018 a Planning & Zoning meeting for a conditional use permit to build a 150 foot cell phone tower on the Olaveson property. This was tabled until June 4, 2018 after Jan showed up and pointed out the notice of the meeting had the wrong address on this. Was tabled until June 4, 2018. Got notice a week before the June 4, 2018 meeting that there was another error and was pushed to July 5, 2018. Only July 5, 2018 they showed up it was tricky after a major holiday but still had a large crowd in opposition of the cell tower. After a lot of debate the conditional use permit was denied five to one vote in favor of the neighbors and residential landowners. On October 9, 2018 county board meeting heard Verizon appeal on the decision. County board reversed this decision and they feel there were a lot of errors in the manner this meeting was conducted. On November 26, 2018 the three of them came in to raise concerns and ask that they reconsider their decision. Mr. Davis mentioned they were not sure if the county could reconsider. Needed to wait until the written decision was released and would be given instructions on the bottom of that with what legal proceedings they needed to follow. Really did not get into this discussion. December 3, 2018 the written decision was signed. Will talk about this later there were some major errors with false information that was provided by the legal counsel. Who is the legal person over Planning & Zoning? Jan said this is the written decision for the county. Chairman Hancock said this came through Planning & Zoning. Tamara said on December 28, 2018 some of residents had submitted a petition for judicial review. On January 29, 2019 the court returned the petition stating this was not filed correctly and encouraged them to get legal help. They are citizens that do not have an extra \$10,000 floating around to hire legal counsel. Will now let Jan go over the rest.

[1:01:21 PM](#) Chairman Hancock as Debbie indicated they are trying to help so they do not have these issues. Trying to work on being more precise and doing a better job on appeals as well.

[1:01:38 PM](#) Jan hands out the petition that they submitted. Items number one and two are following the format specified by Idaho Civil procedure for judicial review. Does not think they need to go through these are laying the ground work. Based this off of Rule 84 and that is how they presented this. Item four talks about administrative hearing on October 9, 2018. There was an audio recording of the hearing. Item five goes over requesting a judicial review because they felt the board did not follow procedures based on Idaho Code section 67 Chapter 52 Idaho Administrative Procedure Act. Had requested from the county this information and was told this was not a public record. Went to Idaho code 67-5242 all parties should include information. This is date, time, and location of the appeal. Idaho Code 67-5201 (13) states "Party means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party." This is not a clear case of one party against another but that this would not be a concern to the people within the subdivision. Most people were neighbors that owned property. Thinks a precedence may be set by allowing this tower by an existing subdivision. Knows it's been said they are addressing this. Never felt this was them against Verizon. Verizon appealed the Planning & Zoning Commission decision. No effort was made to make sure the parties were notified after the Planning & Zoning meeting. No one that spoke was notified. Some of the neighbors attended and reached out to the county in the appeal process to make sure their concerns were heard. Tammy mentions when she did call to see if they could get on the agenda for the same day were told they would not be able talk at the meeting. Had the scheduler allowed them to talk they would have gotten on the agenda. Were told they could not get on the agenda for that day. Could not come in and talk about the issue. Even after they attempted to get on this agenda were told they would be biasing them as commissioners. Made two different attempt to discuss this and were told both times they could not come and discuss this. Jan said those attempts for the appeal process with the county. Was told that no one would be able to present additional information. Had asked if Verizon could and were told that Verizon would not be able to give additional information either. At the board they would only consider the evidence from the Planning & Zoning Commission meeting. Not seeing how making all parties aware of this and how this happened. Tammy feels they have been squashed at every turn during this.

[1:07:45 PM](#) Jan goes over in Idaho Code 67-5042 3(a) at a hearing the presiding officer in this case it was Chairman Farnsworth should regulate the proceedings to assure that there is a full disclosure of all relevant facts and issues, including cross-examination as necessary. Relevant acts were not fully disclosed. For example they did not disclose the seventy-five name petition to deny the conditional use permit. Phone calls were made to board members after and they were not aware of this petition. Have a copy here. There were seventy-five neighbors that did not want them to build the tower here. Tammy said this was a major factor in the decision was the opposition of the residents during the Planning & Zoning meeting and was not mentioned to them. Debbie said this was not in their packets. If they are coming from the outside they only know what they were given. Tammy said it was taken as an exhibit in the Planning & Zoning meeting.

[1:09:30 PM](#) Jan said in the minutes from the Planning & Zoning meeting they mention exhibits A,B and D they do not specifically state C but assumes there were four exhibits that never made to the county board when they hear the appeal. Petition was one another was a map. Debbie said there were articles from multiple realtors. Jan said there were four exhibits that never made it to the board. Nothing was said about local realtors were consulted about the effect on values on property they had stated this would lower the values on the homes nearby. This was briefly mentioned in the minutes. There was no effort to find out why the Planning & Zoning Commission denied the conditional use permit. Three facts were given. Had spoken out from the audience that they had specific reasons for denying the conditional use permit. No acknowledgment was given. Asked if they would listen to anyone else on the other side of the appeal and they denied to listen to him. Was denied by Chairman Farnsworth because Verizon was the only one on the agenda. There was a discussion with legal if this was a public hearing or an administrative hearing. Decided it was an administrative hearing but that did not mean they could not speak. Was later allowed to speak from the audience and had asked why they had changed the tower size which would be new information. Verizon did introduce new information than what had been presented on July 5, 2018 beside the change in size they changed this to a monopole. Verizon representative falsely claimed they never had an option to offer this in the Planning & Zoning commission meeting. Even though he had three chances to speak during that meeting. Was not asked by Planning & Zoning any

options to mitigate these effects. Did not voluntarily offer any of this on his own either. Felt like in his opinion they were playing for all of the marbles. Presented two cell phone coverage maps. They presented a map of all cell phone tower locations. New information was presented. This information was not presented in the Planning & Zoning hearing. Idaho Code 67-5242 3(b) presiding officer shall afford all parties the opportunity to respond and present evidence and argument on all issues involved, except as restricted by a limited grant intervention or by a prehearing order.

[1:14:39 PM](#) Jan continues there was no pretrial hearing ordered that he knows of. None of the three names that were in attendance at the hearing were allowed to speak or provide evidence. None of them were allowed to present any information. Did not have information with them because they were told they could not bring in information. Weston asked who told them they could not bring in information. Jan said Brian would not listen to the other side. Tammy said the county clerk and several secretaries that would find out information. That the only thing that would be done is that Verizon would read their appeal paper and only other information they would review the Planning & Zoning minutes and all of the decisions would be based on that. Were uninformed on what they needed to make a decision on. This was very one sided.

[1:16:43 PM](#) Debbie said this was one sided with Verizon displaying their case with their attorney. Were in the audience trying to sit on their hands. Jan could tell the commissioners were reading though the minutes as they spoke. Commissioner Hancock did ask questions and Verizon addressed these but it's like asking a tobacco company about second hand smoke. There was an attempt made. Were asked if they could comment and were told no. The written decision contained errors of fact. The official write up on page one talks about the May 3, 2018 meeting states Mr. Clement the address to surrounding property owners had the Olaveson's home address instead of site location. This is incorrect stated the location was 4503 E 266 N which is not Mr. Olaveson home address and this is false information. Does not know why this was put in there it is false. Does have a recording from this meeting. In the written decision it states that county attorney Weston Davis went over the notice requirements were not perfect but were adequate to the standard. Mr. Davis never make this comment during this hearing and is not sure why this was inserted into the written decision. Does have the recording. Was said is paraphrasing that the posting was correct, the paper was correct but the address sent out to some of the homeowners was incorrect. Weston asked when this was. Jan said this was the May 3, 2018 meeting. The written decision states he had said this but he did not. Is not trying to put words in anyone's mouth. Debbie said they are trying to point out the inconsistencies of the write up and recording. Tammy said if the write up was more consistent they could have stated the way they voted and why they did. Chairman Hancock asked if there was anything else. Can see some of the errors.

[1:22:18 PM](#) Jan wants to finish on these last few points. Chairman Hancock said they are perfectly aware of some of these errors. Working with ordinances to help with placement of these towers. Jan states also in the written decision stated that the meeting was moved due to another error by the Planning & Zoning department. Cannot remember the error it was minor. Page six on finding and facts states Planning & Zoning Commission did not appropriately consider health concerns that is part of federal law. There was no objective evidence. Written decision only stated that Albertson denied conditional use permit request based on testimony throughout the hearing. This is the closest thing that they based this off of health concerns which is against federal law. No objective evidence that they used health concerns. Warren Albertson denied request and discussed the petition and that there was no way to mitigate the visual impact. Ed Mortensen talked about 3.7.6.1 stating health concerns cannot be considered but they cell phone towers may affect home values. Verizon clearly stated that they everything they had they could get something saying cell phone towers are desirable and does not affect property values.

[1:27:37 PM](#) Jan said they found a lot of different articles. Another gentleman spoke that he thought they could go to another area. It was not clear why these were not in the Planning & Zoning study. Agreed with Verizon that they had a vague statement to deny this. Seemed like when the appeal was made they would have read through this that this was vague and have it rewritten so they address the issues.

[1:28:35 PM](#) Tammy said as county commissioners as they read through this where it was a five to one vote with a vague answer and investigate more because they believe in their Planning & Zoning Commission. Jan said the written decision was based off of health issues but this is not supported. Written decision does not support this only Verizon's claim supports this.

[1:29:26 PM](#) Last paragraph a statement was made this is up for a judicial review within twenty eight days from the written decision. Pursuant to Idaho Code 67-5215 and 67-5216.

[1:29:53 PM](#) Tammy came in and tried to address them November 26, 2018 and were told by Mr. Davis they needed the written decision first. Would give them their legal options on appealing the process. Mr. Davis had said he was not sure if the board could reconsider or if they have to go to a judicial review process. Waited for the document and both herself and Debbie looked they gave them two different statutes. Filed within twenty-eight days pursuant to Idaho Code 67-5215 and 67-5216. They look and look and cannot find this so they knew the process of judicial review. Finally frustrated and called the Idaho Legislative library under judicial library did research and called back. Codes were written in 1965 and both of these were repealed in 1992. So from 1992 to 2018 they have put this statute on these and it does not exist. Repealed twenty-six years ago. Can you imagine their frustration having been shut down at every door. Trying to protect their interest and land and find out they do not have correct information. Replaced one of these. Seems they are the only ones doing research on this at the time. No one had done a judicial review but no one was looking into this. According to the law that she read the county commissioners have fourteen. By the time the figured this out they were out of time. Thought legal would let them know what their recourse was. Tried to appeal turned in the paperwork and wrote out checks for proposed costs and they did not do this correctly. Lawyers have counseled them to say they cannot give them legal advice. We're not told why they were wrong. It was a lawyer believes it was Butikofer Jan said it was gratifying to hear from Mr. Davis that the court clerk contacted Weston and he told them he could not help her. Did talk to a lawyer and was told it was in the wrong format. Still sounds like some type of conflict. But appreciates that Mr. Davis did not comment on this.

[1:35:48 PM](#) Chairman Hancock feels for their situation trying to follow the right protocol glad they have brought out this information. Are looking at ordinances for the future. Try to do the right thing for the right reason. Had kind of felt there was some new information presented.

[1:36:45 PM](#) Debbie appreciates this and realize they are sunk since it was in the wrong format. Also though how do they trust them if they also gave them a law that was repealed twenty-six years before. Been a lengthy process. Big frustration along the way was being told they do not know on questions that are asked or that they cannot give them legal counsel. We're asking the procedure and what happens next. Never asking for

legal counsel or instruction. Trying to figure out what the procedure is. When this is a new situation where this is new could take this answer but they should follow up and find out since these are paid elected positions. This was not one or two phone calls is sure they are well known by this point. Frustration of being told they do not know. Who does know really someone should know. Referred to Jefferson County ordinance and Idaho Code they did the best they could. Gave this the best shot and this was in the wrong format so they are done. Looks like something can be learned while they move forward. Chairman Hancock said he has learned and are learning more on the appeals process.

[1:39:43 PM](#)

Commissioner Clark said this is a new process for him because of the points they have brought up. What is in the Planning & Zoning written statement so they are aware of what they are reviewing and make their decisions off of. Tammy would request based on the state code that the process of an appeal Planning & Zoning could have an administrative hearing where they do what they were told. They did not follow the procedure for this. Or they could have an open hearing similar to Planning & Zoning. Did not follow the law. Know what they are supposed to do in this process. Chairman Hancock said they have learned a lot. Commissioner Young knows they cannot give legal advice. Weston said the decision was not in bad faith. Looking at the statute that was cited. This came to him on Friday night and needed a decision on Monday and did this as quickly as he could in the amount of time he had. Nothing was done in bad faith. This was probably brought over from prior language and the wrong timeframe with the crunch from Planning & Zoning. This comes through him he had very little time to review this. Tammy asked if he put this written decision together. Weston went through this but did not put it together. Does not know where the citation came from. Jan said they quote this in Planning & Zoning ordinances. The only option was to go with a judicial review. Idaho Code allows them to have a reconsideration within two weeks. Were told that some counties allow this. They would recommend they add this into the county code. Verizon could pay the county to do an appeal to them but if they want to bring in information they would need to do a judicial review with a lawyer.

[1:44:11 PM](#)

Chairman Hancock said that they have done this. Weston said he brought this up and have added this to try and make this clearer.

[1:44:27 PM](#)

Tammy asked Mr. Davis on November 26, 2018 assured them when legal counsel would review this since he was not sure on the fourteen days thought he would let them know. This is heart wrenching when he knew their concerns. Because of a time crunch they were the casualty of this. Would find out what the options were. This was a breach of duty. Weston understands her frustrations. Believes they have outlined in the decisions the rights for regulatory analysis on an appeal. Even if the statute does not have the right number. Without lining out every way they would be looking at the rules of reconsideration. The commissioners recognize they want to clarify these rules.

[1:46:22 PM](#)

Tammy said in Jefferson County ordinances do not say if they can appeal fourteen days. State law allows this but county needs to allow this. Debbie said the only thing on the written decision stated a judicial review. Met the twenty-eight day appeal. Tammy said based on assurances if this was an option and they would find out this would be included at the end. Weston asked if he implied or said this. Chairman Hancock appreciates them coming in does not want to beat anyone up. Thinks they have learned a lot from this. Wants to move forward and take the information presented and work on new ordinances. One of the topics is the fourteen day re-appeal that they need to incorporate into their ordinances. Have not had that many appeals and they are learning too. Realize what they brought in is information to help them. Are aware of these issues. Jan recognizes the irony they have to live with these errors while their appeal was denied because of their errors. They have to live with their mistakes. Realize they are not perfect.

[1:49:41 PM](#)

Commissioner Clark asked if they ever consulted an attorney. Jan said they spoke with several attorneys but it would cost them \$5,000 to \$10,000. Could not justify spending that money. If the ultimate goal was to get the commission to look at this again and possibly decide not build a cell phone tower then they felt there was enough written evidence they had no doubt the court would say they need to do this the correct way. Thought they had a slam dunk. If they came back but what are the chances the county board saw these other statements. Would there be sufficient evidence on property values because they both had different opinions? Did they want to spend this money to have it go back to the board and still build a cell phone tower? If the board had listened to both sides and still come with this conclusion they would have disagreed but would have been heard.

[1:52:17 PM](#)

Tammy said they would have had their day. Chairman Hancock understands had specifically asked Verizon about different locations. Aware of what had went on prior. Specific and gave names of some people. Jan knows this is a hard process for Verizon. Chairman Hancock appreciated the monopole and make the pole shorter. Jan does appreciate the monopole but disagrees with the process. Chairman Hancock wished there was more locations available. Appreciates them coming in. Commissioner Young said this was an educational experience.

[1:55:24 PM](#)

Recess to review claims

[2:02:39 PM](#)

Deputy Prosecutor Weston Davis left room

Open session 2:15

JEFFERSON COUNTY FAIR – CARL ANDERSON

• WELL AGREEMENT – (ACTION ITEM)

[2:15:34 PM](#)

Chairman Hancock said this was tabled from earlier. Had asked Weston if there were any other changes. Weston had only wanted the clarification on the issues he had brought up.

[2:15:34 PM](#)

Motion by Commissioner Clark to approve the well agreement with the Jefferson County Fair Board, Mud Lake Water Users and Sunview Dairy. Second by Commissioner Young. Roll call taken. Commissioner Clark - aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.

COMMISSIONERS

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

[2:16:35 PM](#) Rebecca comes back in had met with Loren and there may have been a communication hiccup on the signage. This is exactly what was in the plans. None of the suite numbers were acknowledged. In visiting with Derick and Loren she has called all department heads and thinks they have this ironed out. Will have to order a bunch of different signs. Usually a customer is involved is what Loren said. Commissioner Young thought they spoke on this before and had gone over that they were not using what was on the plans. Rebecca said only a few signs were hung but is pretty sure they have this ironed out. Wanted to let them know in case they hear anything on this in a meeting. Chairman Hancock thinks this will be another change order. Rebecca had talked with Derick he used the plans and had a stack of signs.

COMMISSIONERS

• **APPROVE CLAIMS – (ACTION ITEM)**

[2:21:02 PM](#) Chairman Hancock asked on Arbor Tech claim are they putting fertilizer out right now. Audrey pulls this it was applied on September 18, 2018 and shows it was past due. Colleen remembers hearing that they never received this bill. Chairman Hancock asked also on the Arbor Tech for tree trimming what were the dates. Audrey pulls claim to look at dates. There are various dates but some are from after meeting with them on January 31, February 1 and February 5. Chairman Hancock calls Dave to make sure these were authorized. Dave said they were authorized and have been good to work with. Colleen said that they will need to watch this line. Commissioner Clark mentioned they wanted to keep some in this fund in case of an emergency. Chairman Hancock said they paid Twisted Technology and Phase Four on the wiring.

[2:27:02 PM](#) **Motion by Commissioner Clark to approve claims from 1/26/2019 to 2/8/2019 for \$324,682.96. Second by Commissioner Young. Roll call taken. Commissioner Clark - aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

• **APPROVE COMMISSIONER MEETING MINUTES – (ACTION ITEM) – CANCELLED**

[2:28:14 PM](#) **Motion by Commissioner Young to adjourn at 2:28. Second by Commissioner Clark. All in favor – aye. Motion passed.**

Chairman of the Board

Date

Clerk of the Board

Date

County Clerk

Date