

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 2, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale, Vice Chairman - OUT OF OFFICE  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**APPROVED CLAIMS ORDER NO. 1/6/20**

The Board of Commissioners approved payment of County claims in the amount of \$372.50 for accounts payable.

**APPROVED CLAIMS ORDER NO. 2007**

The Board of Commissioners approved payment of County claims in the amount of \$1,639,717.47 for a County payroll.

Detailed minutes to follow at a later date for the following items:

Medical indigency appeal hearings

Action Item: Consider applications on appeal of initial determination [names and other information withheld pursuant to Idaho Code §74-106(4) and (6)]

Meeting with Indigent Services staff

Action Item: Consider approval/denial of indigent decisions

Meeting with county attorneys for legal staff update

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 3, 2020**

**PRESENT:** Commissioner Pam White, Chair - OUT OF OFFICE  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**APPROVED EMPLOYEE STATUS CHANGE FORM AND/OR KEY & SECURITY ACCESS REQUEST FORM**

The Board approved a salary rate request and/or key & security access request form for Taylor Reeves and Rider Hofer.

Meeting with county attorneys for legal staff update – Detailed minutes to follow at a later date

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 6, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**MEETING WITH COUNTY ATTORNEYS FOR A LEGAL STAFF UPDATE AND TO CONSIDER ACTION ITEMS**

The Board met today at 9:05 a.m. with county attorneys for a legal staff update and to consider action items. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Clerk Chris Yamamoto, Controller Zach Wagoner, PIO Joe Decker, Chief Probation Officer Elda Catalano left at 9:09 a.m., Deputy P.A. Mike Porter, Deputy P.A. Dan Blocksom left at 9:12 a.m., Lt. Ben Keyes left at 9:12 a.m., Election Supervisor Haley Hicks, Chuck Stadick, Larry Olmstead, Rachel Spacek from the Idaho Press, Sheila and Darryl Ford and Deputy Clerk Jenen Ross. The action items were considered as follows:

***Consider signing Juvenile Justice Annual Financial Report for October 1, 2018 thru September 30, 2019:***

Ms. Catalano explained this is the annual report to be submitted to the Idaho Department of Juvenile Corrections to account for all the funds the county receives from them. The report is prepared by the Controller's office and outlines the overall expenditures of the funds we receive and what is being carried over in the lottery division. The carry over amount is approximately \$22,000 which will be used for continued training and provide equipment to the Juvenile Probation offices. Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to sign the Juvenile Justice Annual Financial Report for October 1, 2018 thru September 30, 2019. A copy of this report is on file with this day's minutes.

***Consider signing Idaho Department of Parks and Recreation request for reimbursement/close out report for grant #WW20-3-14-1:*** These grant monies were used for the purchase of a new motor for a boat and this report is to outline how the funds were used and a detailed breakdown showing the match amount. The new motor was \$15,843, \$1800 was received in trade-in value, leaving a remaining balance of \$14,043. The grant amount was for \$11,882.15 so the match amount is \$3961. Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to sign the Idaho Department of Parks and Recreation request for reimbursement/close out report for grant #WW20-3-14-1. A copy of this document is on file with this day's minutes.

***Consider signing agreement with Hart InterCivic, Inc. for elections voting equipment sales and service:*** Mike Porter said there is possibly one change in regards to billing and the cap on increases related to licensing and service fees requested by the Controller that may be different from what was previously sent to the Board.

Haley Hicks read a statement into the record explaining the reason for new equipment and specifically the Hart Verity Duo system.

Mike Porter spoke about the process thus far in regards to sole source. Throughout the process and negotiation with Hart a contract has been worked out that lays out the key terms of Hart and the county. There is also a 9 page scope of work document that lays out what Hart would provide to the county as far as deliverables as well as warranties and exclusions. There is also the attachment of exhibits which primarily relates to costs. This contract, in total, in year one would be \$3,176,952 and of that \$117,386 are licensing and support service fees; the 4% cap of how much can be charged in addition is on the \$117,386 in years 2 and 3. The equipment will be purchased in year one, in year two we intend to purchase the licensing and servicing fee sections.

Commissioner Van Beek said that on October 23<sup>rd</sup> there was a public meeting where questions were generated that she feels have still not been answered. On December 21<sup>st</sup> the Board received the draft contract, the scope of work and the quote from Hart but there has not been a full quorum since before that date, until today, to discuss the merits and the liabilities of the contact and she feels a vote today would be premature.

Mr. Porter said time is of the essence today, per the Clerk we are looking towards a March Presidential Primary. The contract is intended to have the equipment delivered on the 15<sup>th</sup> of this month.

Commissioner Van Beek said she recognized there are some upgrades which are potentially necessary to the elections equipment but the Board has the sole authority under Idaho code to approve this agreement and has the right and responsibility to examine, analyze and ask questions relating to this agreement and in the absence of that this contract should not go forward. There are a number of unanswered questions including issues related to IT, cloud storage and transportation. One of the things she asked for in the last meeting was a comparative analysis which was received in comparing the Hart system to the current ES&S system but nothing as to whether or not there are upgrades to the ES&S system that have taken place since the county purchased the product. She wonders what it would take to build a page where an error on a document would not allow that to go forward in the absence of incomplete information. Is there a possibility the touchscreen portion could be expanded? She feels there are a number of questions that have not yet been answered in addition to the vetting by our IT department as they have not looked at this. She has questions about their ability to do cloud storage and who is going to perform the required maintenance and back up, there is a question about errors on the software programs and the onus on the county to have Hart be able to reproduce that and a clause that says they don't have to fix every error that occurs, so what does that mean? There are clauses that specifically exclude the county's right and ability to provide input, whether it's intellectual property or anything else that goes

along with this contract that, to her thinking, hasn't been analyzed. There is also a 10 day period in which to inspect and evaluate the integrity of more than 3600 pieces of software and hardware which is insufficient time to do that. If the equipment is damaged Hart reserves the right to replace the equipment with refurbished equipment without extending the warranty. She appreciates Ms. Hicks providing the garage draft, but it looks like that is about a \$4000 commitment on the part of the county that is in addition to this. She has received a number of requests from the public to vote against this until the county has a chance to include an evaluation of the capital improvements program which she continues to hear is a priority but hasn't been prioritized to date in evaluating the needs of the county and she thinks, in what she is hearing from the public, that the department of motor vehicles is in need of having some relief at the Graye Lane location to handle the amount of traffic that is coming thru. There is also no dedication of funds by resolution to improve the needs for public safety. There are too many unanswered questions for her on the longevity of this proposal going forward including the scope of work, which she understands would probably precede the language in the draft contract that she feels is pretty tight where the scope of work is not. They work in tandem so if there is something legally that is going to come down, the scope of work is going to be exercised as we've seen with the ADS contract. It's a pretty easy comparison to point back to legal documents to say this is not our responsibility, it falls on the county. Also, she read in the Press Tribune where Ada County is considering an upgrade to their voting system, she has heard nothing about a piggyback procurement process under a proprietary agreement with a vendor where their software has to be run on specific hardware, she thinks that should be evaluated to make sure the county is really getting the best deal possible. She believes perhaps there was a meeting between Clerk Yamamoto and Chairman White to discuss questions that she brought forward regarding this contract. In the event that other questions were raised she believes it is fair to the Board to have the benefit of that information. She believes if additional information was provided to the chairman it should available to the rest of the Board.

Commissioner White clarified that when she met with the Clerk on the day referenced by Commissioner Van Beek it was to discuss another project. She noted that the correspondence that has been received often references that this is nothing more than to enhance the experience of voting for the public but she thinks that is a misconception, this is about the security guarantees for the people. She feels this is about public safety, especially considering the way the voting experience in the US has been compromised in the last decade. She is tired of Canyon County being the example of elections gone bad.

Clerk Yamamoto said no one else in Idaho is using this particular system but Hart equipment is used in Idaho and certified with the State of Idaho. He clarified that there are two different types of systems - a centralized count which is what the county currently uses and a precinct count which is what Ada County is doing and Canyon County is talking about switching to.

Commissioner White said that during the budget time a capital needs line item was added to the budget. \$500K is what was allocated to the line item this budget year with the intention of adding the same amount each fiscal year moving forward to address several capital need items facing the county and she appreciates the work Commissioner Van Beek has done in addressing the capital needs plan. She believes this equipment falls under public safety and

that is her no. 1 priority. If something can be done here in Canyon County to ensure the integrity, security and accuracy of our elections then she believes we can do that.

Commissioner Van Beek clarified her position on questioning Commissioner White about her meeting with the Clerk and appreciates the explanation of the subject of that meeting. As we talk about major expenses, she feels there are some unanswered questions that the full Board has not had the opportunity to evaluate. There is a lot of information contained in the contract and the last time there was a meeting with Mr. Porter and Mr. Laugheed they indicated that the questions that were raised would need to be addressed by the Clerk and the Board has not had the opportunity to meet with the Clerk to have those questions answered; in the absence of that this is a premature decision. She noted that what we're talking about is a class of voters heavily weighted in the senior citizen area and that she would still like to talk to Bob Perkins to find out what Ada County is upgrading to. Mr. Perkins indicated to Commissioner Van Beek that the county has the opportunity to take advantage of group or discount pricing that is offered to other entities. She understands that the deadline is coming up and that there is a \$2500 reschedule fee should we go past the 15<sup>th</sup> and if we're not there by the 17<sup>th</sup> that the contractor has the right to rescind the offer as presented but she still feels there are too many unanswered questions.

Commissioner White asked what the drop-dead date is. Clerk Yamamoto said that in order to get the ballots started we're basically at that date, the 14<sup>th</sup> of this month is the absolute drop-dead date.

Mike Porter said today is for the Board to sign the contract and for Hart to begin delivery. If it's not signed today then Hart won't begin their job today, they won't begin until the Board signs the contract which could be more pressure on that deadline.

In an effort to expedite the process several questions were addressed as follows:

In regards to transportation of the equipment Clerk Yamamoto said Hart can be utilized to do that for a fee which they plan on using for at least the first cycle. They have not been happy with the provider that is currently being used. Wrong equipment is being delivered to the wrong precinct and they are rough on the equipment.

Commissioner Van Beek spoke about IT having not had the opportunity to review the contract and address storage and back-up. Clerk Yamamoto said that the county IT would not be utilized for this system.

Mr. Porter addressed questions he received Friday evening as follows:

*Increasing cost in subsequent years:* the maximum is 4% on the licensing and servicing fees and in year two the maximum would be \$4695.

*Jurisdiction and how it relates to the scope of work and the contract:* legally it's been articulated in the contract in the venue section that the laws of Idaho will apply. Jurisdiction elsewhere in the contract relates to where things are going to be delivered and where a case would be held, that reference is filled out in the signing contract that Canyon County is the

jurisdiction. We've elected for Idaho law to apply to any dispute and for Idaho to be the place for any case to be held. He doesn't anticipate there being any cases as Hart has a track record with Idaho and there haven't been any to date.

*Warranty:* pages 5-8 in the scope of work deals with warranties to which there are a lot of "boiler-plate" items. The first pages of section 4 deals with what the county gets: we get certification that the equipment we're receiving complies with all relevant things include the Secretary of State's standards; paragraph 2 talks about warranties: the one year warranty for new equipment, 90 days for refurbished equipment and consumables; replacement requirements and Hart's opportunity to replace or repair equipment at their prerogative to make it work; several paragraphs address if the county does something to the equipment that they will not warranty it. There is a warranty for the software and partial services. There are a lot of exclusions which Mr. Porter would summarize things we break it, hire a contractor that they don't approve of to repair equipment, force majeure clause or if a 3<sup>rd</sup> party software is used they won't warranty those things; however, in a subsequent paragraph they agree to pass thru to us any warranties from 3<sup>rd</sup> parties they use. The state has warranties that they read into every contract, specifically the merchantability clause, Idaho code says that every contract has a merchantability clause so a line was inserted into the boiler plate items stating "to the maximum extent permitted by applicable law" Mr. Porter's belief and understanding is that if Idaho has a law that gives us a warranty that is still in affect because we put that clause in there. There are a lot of warranties that companies can be held to in common law and they are basically opting out of any that the law doesn't require them to give us. The same with the limitations on liabilities. Another section was noted stating that if something fails and we have an out of pocket cost that exceeds the value of the contract without this clause we can sue Hart for that difference, he believes we've mitigated that because of the section on insurance. Basically, Hart is saying they are not going to pay us more than the value of the contract and we conceded to that. This is a product of compromise. We want their services and product and they want to sell it to us.

*Scope of work and contract:* the contract is meant to work in tandem with itself, meaning the scope of work, the contract and the quote are all co-equal. If there is a conflict between languages then normal legal contract interpretation would apply. Mr. Porter doesn't believe there is any direct conflict between the scope of work and the contract. The scope of work may not be as tight as the contract but he reviewed again this weekend and didn't see anywhere there was any conflict of language.

Mr. Porter spoke about the need for this equipment just due to the ES&S AutoMark portion of the current voting system coming to the end of its useful life and would need to be updated, additionally we have 600 poll workers and despite extensive training there are still errors introduced by the poll workers. Based on those needs and the timeline from July to present to get this done there are some compromises in the contract.

Although the agreement doesn't articulate what we would pay if we need additional services for a Hart employee to come out and fix something that isn't covered by the contract they have agreed in the contract that it will be their regular rate which we've agreed to take their word that it's a reasonable rate. Mr. Porter spoke about how there is a practicality to not negotiating contracts to that level as an agreement may never be reached. There was a

conscience decision not to drill down to that level because of the timeline. Commissioner Van Beek spoke about another contract where the exact cost is broken down and she feels in the absence of that it leaves the county vulnerable to the prevailing rate and really no recourse on the part of the county to dispute that effectively outside of a court of law. Mr. Porter said that is all true and that if Hart decided to gouge us the only remedy would be to not sign the invoice. Clerk Yamamoto said that with the ES&S contract it depends on the circumstances as to what the charges will be. Clerk Yamamoto said what this boils down to is that you have to look at the historical performance of the company you're dealing with to see whether you can trust somebody – there are always ways you can end up in court. Clerk Yamamoto said we are specifically looking at this system because there are poll workers who will override what they are told to do and will sometimes allow voters to talk them into the ballot they want. Sometimes there are 400+ ballot styles, there is a very real possibility of someone getting a wrong ballot. The Hart system will not will allow a poll worker to override the system. The Clerk is tired of bad elections and voters in the country are hyper-sensitive to what is going on in the voting centers. This is the best system he's seen and they know they're going to have a heavy turnout in March, the issues with the Tenex system at the state level are known and he believes with this system they will be able to overcome some obstacles with the state in a better way. He thinks it's imperative that we move forward and the reason he's looking at spending the \$3M is to protect the integrity of the democratic vote.

Commissioner White asked about an extended warranty upfront which Mr. Porter said there is a clause to allow for an extended warranty to allow for pricing which has not yet been worked out and would be a separate agreement.

Commissioner Dale spoke about one of the challenges of county government is to balance all the needs that need to be funded. There are some who have suggested that all needs be put on the backburner until a new jail has been built and that every extra dollar should be put into a savings account to fund the jail although that would still be years down the road. He just doesn't think this is a sustainable course to follow. He is in favor of implementing a capital improvement fund but doesn't believe everything else should be put on hold. Short and long-term needs have always been evaluated and he is supportive of a capital improvement plan although even with a plan in place priorities can change from year to year as needs arise. Per the Clerk this system has been evaluated for 3 years now, this has not been a short process. The money has been budgeted, the contract has been extensively evaluated. He said we are not rushing this decision, it has been a long term process and believes it's time to make a decision.

Commissioner Van Beek would like the opportunity to discuss as a Board and have other questions answered. Her goal is to work in tandem with a high level of transparency for the Elected Officials and citizens to make decisions they can defend. She would like to have this reconvened on Thursday or Friday.

Ms. Hicks noted that in order to meet deadlines required by the state they have to send out mail-out ballots on January 24<sup>th</sup>. With this continuing to be pushed out the elections office is at a stand-still and not able to move forward in creating a ballot with the current process because if we move forward with Hart it would be invalid. Maintenance has stated that they

have time this week to renovate the garage for the Hart equipment to be delivered but after this week they may not have the assistance of maintenance for the renovations. They are very concerned because the upcoming election is a presidential primary. She recently conducted a practice election run-thru with poll workers and saw the exact same errors happening repeatedly. In having senior citizens as the poll workers this equipment will make their processes easier, they don't have as much to remember and the machines will not allow them to continue making the same errors or retro back to old ways of doing things. The current process would require quite a bit of upgrades and they are concerned they are running out of time to have those done if a decision isn't made one way or the other.

Discussion ensued regarding continuing this meeting to a later time or date. Commissioner Van Beek reiterated that the Board reserves the right to evaluate a decision of this magnitude and thoroughly look at whether the questions have been answered to go forward. Commissioner White said there was an initial 3 hour meeting and presentation with the Hart representatives and there has also been a lot of feedback from the public.

Controller Wagoner pointed out that the Clerk has been elected to his position just as the Board has been elected to theirs. He has 10 years hands-on experience running elections, he knows what works and what doesn't. The idea of spending \$3M on any project doesn't excite the Clerk. He has personally gone thru this top to bottom many, many times. The reason this is before the Board is to protect the vote and the voters.

Commissioner Dale agrees the Board has the right to carefully evaluate all contracts and all request but in his opinion there has been sufficient time to do that with this project. There has been a multiplicity of questions that have been addressed by the Clerk, Controller and legal staff. He is satisfied with the answers that have been provided. He is ready to make a decision today.

Commissioner White said she is also ready to make a decision but respects Commissioner Van Beek's request for additional time, she then made a motion to continue this meeting 3:00 p.m. today. The motion was seconded by Commissioner Van Beek and carried unanimously. The meeting concluded at 10:15 a.m. An audio recording is on file in the Commissioners' Office.

#### CONTINUATION OF MEETING TO CONSIDER SIGNING AGREEMENT WITH HART INTERCIVIC, INC. FOR ELECTIONS VOTING EQUIPMENT SALES AND SERVICE

The Board met today at 3:05 p.m. for a continuation of the meeting to consider signing the agreement with Hart InterCivic, Inc. for elections voting equipment sales and service. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Clerk Chris Yamamoto, Controller Zach Wagoner, PIO Joe Decker, Elections Supervisor Haley Hicks, Rachel Spacek with the Idaho Press, a concerned citizen and Deputy Clerk Jenen Ross. After receiving a response from Bob Perkins in the Ada County procurement office Commissioner Van Beek initially understood there to be a significant cost difference between the prices quoted to Canyon County and what was quoted Ada County. Discussion ensued to clarify that the information provided to Commissioner Van Beek was only for the electronic poll books

and not the entire voting system as Canyon County is looking to purchase. Commissioner White read into the record security and manufacturing information she located on the Hart website and Clerk Yamamoto spoke about the importance of having a voting system built in the United States. Commissioner Van Beek asked why cybersecurity insurance is written into the contract providing the system will never be connected to either the inter or intra-net and how the thumb drives will be kept safe. Mr. Porter addressed the question about cybersecurity stating that he inserted that into the contract at the concerns raised at a previous meeting about risk to the county. Ms. Hicks spoke about the security for the USB drives explaining that is part of the renovations that have been requested; part of their garage area will be turned into a secure location to hold all the precinct counters and USB drives. Mr. Porter reiterated the reason for going to sole source wasn't just because of Hart but because of the e-poll pads, Hart's core system and the Duo system that really drove the Clerk from consideration of other potential vendors to this one being the only one that can provide the services that we need. Commissioner Dale gave his thoughts on the system, purchase and appreciation of the Clerk's Office for the work they've put into this. Commissioner Dale then made a motion to approve signing the contract with Hart InterCivic for election equipment. The motion was seconded by Commissioner White who then provided her comments along with Commissioner Van Beek and Clerk Yamamoto. A vote was taken on the motion with Commissioners Dale and White voting in favor of signing the contract and Commissioner Van Beek voting against. The motion carried in a 2-to-1 split vote. A copy of the agreement is on file with this day's minutes (see agreement no. 20-001). The meeting concluded at 3:43 p.m. An audio recording is on file in the Commissioners' Office.

**CONTINUATION OF PUBLIC HEARING - REQUEST BY TROOST FAMILY TRUST FOR  
A COMPREHENSIVE PLAN MAP AMENDMENT AND REZONE, CASE NOS. OR2019-  
0002 & RZ2019-0004**

The Board met today at 10:25 a.m. for a continuation of a public hearing that was held on December 11, 2019 regarding the request by Troost Family Trust for a comprehensive plan map amendment and rezone, Case Nos. OR2019-0002 and RZ2019-0004. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, DSD Planner Jennifer Almeida, Greg Bullock, TJ Wellard, and Deputy Clerk Monica Reeves. At the conclusion of the previous hearing the Board was looking for a conceptual plan as well as information on the development costs for a one-acre lot. According to Jennifer Almeida the updated staff addendum was submitted by Director Nilsson last week. Commissioner Dale asked, based on the development costs, if the project still falls within the affordable housing range. Greg Bullock said it does qualify for affordable housing when you consider the fact that it's a one-acre parcel for labor intensive people who need it for the industry, and he said they can obtain a rural residential loan which entitles them to the lower interest rate which lowers the monthly mortgage amount. On a competitive bidding process these numbers would be lower than what is before the Board as far as the cost of construction. Mr. Bullock said the numbers are high for construction and the cost of the improvement but they will be doing it for a lot less than that. Commissioner White asked if it's anticipated that the commercial development will pick up some of that cost. Mr. Bullock

said yes, it will reduce the numbers for cost. Commissioner Van Beek had questions regarding the commercial development and the potential for fuel contamination caused by the existing gas station; the conceptual design; and ingress/egress. With the existing subdivision in the area it could be considered a blighted area, and she expressed concern about protecting and maintaining the scenic byway in the wine country and the Sunnyslope area. She questions if the proposal is considered affordable housing. Mr. Bullock said the motive is for housing for ag-employees and he knows of two large projects for vineyard development that include housing for workers. He said Mr. Troost is one of the top three landowners in the County and he's trying to solve a problem with this ag-driven proposal. He also noted the scenic byway is on Lowell Road and goes around this property by a mile and a half. Commissioner Van Beek said the Sunnyslope area is a scenic byway and she'd like to see higher-end development occupy that ground. TJ Wellard testified about that the neighbors have said they do not want connectivity to the adjacent subdivisions, which is why there is no connectivity and the highway district has no problem with that. He said the highway district had requested possible connectivity to the property to the north which is owned by the LDS church but they said they wanted no connectivity to the subdivision. He spoke with Southwest District Health regarding the gas station to see if there were any contamination or well log problems and they indicated there weren't any issues. Mr. Wellard said the applicant owns thousands of acres and he chose this site for its location and what is located around it. He also said a brand new structure on a one-acre lot is affordable. Commissioner Van Beek suggested a development agreement should limit the staging of equipment of properties and prohibit the dumping of oil and gas. Commissioner Dale said staging and maintaining equipment is part of the legitimate use of this kind of development, it does not contaminate the ground. Affordable housing is an issue and he would hate for this area to become like Blaine County where people commute from Twin Falls because they cannot afford to live in Blaine County, and that's the same kind of situation we could find ourselves in if we don't allow this of establishment to provide affordable housing. He believes this is an innovative approach to supply and it's affordable based on what's happening in the market and the rural residential programs that are available. Commissioner White said a housing development like this would be under the Troost Family's philanthropic desires and they take a lot of pride in the things they do for the community. She does believe there needs to be some CC&R's and restrictions for basic things dealing with health and safety. She hopes the development isn't just limited to farm workers, but that it will be affordable housing for everyone. Commissioner Van Beek sees merits in this but she is not able to overcome her concern for the kind of development out there and some of things that she hopes would be in place, including the ingress/egress and the scenic byway. Commissioner Dale made a motion to approve the request by Troost Family Trust for a comprehensive plan map amendment and rezone, and to approve the resolution, ordinance and findings of fact, conclusions of law and order (FCO's) for Case No. 0R2019-0002 and RZ2019-0004. The motion was seconded by Commissioner White. Ms. Almeida said there are no FCO's because staff recommended denial so she needs to prepare the documents reflecting the Board's approval and she will bring those documents at a later date. Commissioner Dale amended his motion to remove the signing of the resolution, FCO's and ordinance, and Commissioner White seconded the amended motion. The amended motion carried by a two-to-one split vote, with Commissioner Van

Beek casting the dissenting vote. The Board will consider the written documents on January 21, 2020 at 9:30 a.m. The hearing concluded at 10:58 a.m. An audio recording is on file in the Commissioners' Office.

#### CONSIDER NEW ALCOHOL LICENSE FOR CRAFTSMAN UNLIMITED HAIRCUTS

The Board met today at 11:01 a.m. to consider the new alcohol license for Craftsman Unlimited Haircuts. Present were: Commissioners Pam White and Tom Dale and Deputy Clerk Monica Reeves. The applicants are seeking approval of the alcohol license for property located at 16554 Midland Blvd., in Nampa. Commissioner White said the paperwork looks good, they have explained how the haircut business is related to the alcohol license. Upon the motion of Commissioner White and the second by Commissioner Dale, the Board voted unanimously to approve the alcohol beverage license for Craftsman Unlimited Haircuts. (See Resolution No. 20-001.) The meeting concluded at 11:02 a.m. An audio recording is on file in the Commissioners' Office.

#### PUBLIC HEARING - REQUEST BY DANA & ARLINE DEVLIN FOR A CONDITIONAL REZONE, CASE NO. CR2019-0012

The Board met today at 1:33 p.m. to consider a request by Dana and Arline Devlin for a conditional rezone, Case No. CR2019-0012. Present were: Commissioners Pam White and Leslie Van Beek, DSD Planner Dan Lister, Hethe Clark, Dana and Arline Devin, Jerome Mapp from the City of Caldwell, and Deputy Clerk Monica Reeves. Commissioner Tom Dale arrived at 2:32 p.m. Dan Lister gave the oral staff report. The request is for a rezone from agricultural to M-1 (light industrial). The property contains two original parcels; here is a small wedge that is .24 acres that came through an adjustment from the eastern part of the adjacent portion and all they will have to do is merge it through a land division process to fix that. It is surrounded by agricultural zones, and the comprehensive plan designates the area as residential, however, the subject parcel is located adjacent to a large area designated for industrial use by the City of Nampa. The subject parcels are within Nampa's impact area and designated for industrial use. To the south is a conditional rezone that came through the Board of Commissioners for an M-1 zone that was approved with a development agreement with berms and landscaping around a batch plant which is currently being constructed. To the east, Nampa has been working with the Union Pacific Railroad to establish an industrial corridor to service an industrial park in the future. A wastewater pipeline from Northside Boulevard is currently being designed. Annexation of this area is foreseen to be in the next 2-5 years. The City of Nampa supports this rezone; the area is designated in the city's comprehensive plan as the North Nampa Industrial Area Development and the objective is to enhance infrastructure in that area and promote industrial development in this area. Within a one-mile radius there are lot of subdivisions with most being within the City of Caldwell. There is a floodplain to the north of the subject property and the developers will have to meet the County's floodplain requirements at the time of development. Staff acknowledges there are potential impacts: the west side, which is the City of Caldwell

and with the original application for Roderic Lewis they did have some concerns about potential uses that could impact then Adams Ridge Subdivision and Arbor Subdivision as well as the schools. There are concerns that some industrial uses could potentially create an impact. When staff looked at the Lewis case there was a development agreement with conditions to reduce those impacts by limiting certain uses such as mineral extraction and requiring them to follow Nampa's code which has performance measures and landscaping requirements. There a list of uses that could potentially be an impact to this area: batch plants, mineral extraction, light industrial, manufacturing uses, lumber yard, vehicle services facility, impound and sales of salvaged goods, but with the following conditions in the development agreement staff believes it can be mitigated: the development has to comply with federal, state and local laws; they have to meet the performance measurers by the Nampa code, including noise standards, lighting, flammable and combustible liquids, gases, power safety emission, waste product, open storage, and fabrication. There a landscaping provisions similar to the Roderic Lewis case that will have to be met; Nampa's city code for landscaping, including industrial zone, parking lot and corridor landscaping provisions. They are not proposing a berm with landscaping because they don't know who is going to take over. They are selling the lots and they don't know who the buyer will be. They know it's turning into light industrial area and they want to open the market. They are proposing to have a license qualified, professional landscape architect or designer review and make up the landscaping plan that would meet Nampa's minimum requirements. Mineral extraction is prohibited. Asphalt and concrete batch plants are prohibited without conditional use approval. Written permissions should be obtained by Pioneer Irrigation District, the Bureau of Reclamation and the Army Corp of Engineers for any modification to the drains. Staff has a commitment from the applicant that at the time of development the developers will dedicate right-of-way along Midland and Ustick for their future roundabout and future expansion needs, as well as extend Spruce Street. ITD has no opposition to the request, however, they do want a way to review upcoming development of uses and so they are requesting that it be added to the development agreement that they have some type of review. If a traffic impact study is required they will have to do it at that point. The P&Z Commission recommended approval and staff is recommending approval as well. Hethe Clark testified on behalf of the applicants and stated this request is similar to an application that came before the Board a few months ago, the Roderic Lewis case. The areas is planned for heavy industrial in Nampa and the rezone is intended to bring it in conformity with the Nampa comprehensive plan. The main difference between this case and the Roderic Lewis case is that in that case the berm went in because they wanted to have a use that is allowed under the County standards, a batch plant, allow that to forward so the berm went in and the other safeguards went in then in lieu of a conditional use permit that would come later. In this case they are proposing no mineral extraction and there would be a conditional use permit if there is a batch plant, so in other words, all of that mitigation would come into effect at the time of a future application if there were to be one. The roundabout right-of-way has already been dedicated, there is a condition of approval for the right-of-way adjacent to the roadways that would be dedicated at the time of an actual use coming in. The reason for that is that this is going to continue to be farmed until someone comes and there's irrigation along the roadway so it makes more sense for that to be dedicated at the time of an actual project. Spruce Street is also

something they have discussed with the highway district and agreed upon, but they are not sure at this point whether Spruce Street will be extended given that there's some interference on the other side, but it's on the table when a use comes in. They are in agreement with the language staff has proposed regarding ITD's comments. They do not know what someone will be requiring in connection with future development so they reserve that right to have that conversation with ITD, but it'd be standard operating procedure for ITD and the highway district to provide comment. Mr. Clark said they haven't had any opposition to the request despite the nearby residential development. Commissioner Van Beek had questions about the conditions imposed on the Lewis property regarding slopes and fencing. Mr. Clark said he hasn't been involved with that property since the previous hearing a few months ago, but the property changed ownership and the new property owner is subject to the conditions and the development agreement included landscape plans and they were required to come before DSD with their landscape plan. That's separate ownership from the Devlins and separate from his former client, the Lewis's. If there were to be a batch plant that came into existence on this property they would have to go through a conditional use permit process. That's an above and beyond commitment, if this were to just be rezoned to industrial within the County a batch plant would be a permitted use so they are committing to something beyond what the County would require typically in an industrial zone. The Devlins have been in contact with the City of Nampa about what is intended for this larger area including discussions about urban renewal, the wastewater line, and the future timeframes for annexation, but they don't have any current partners. Jerome Mapp, the Caldwell Planning Director, said the city has had discussions with property owner regarding whether it was going to Nampa or Caldwell over updating the comprehensive plan. His concern is the proximity to the residential development and the school. The term heavy industrial in planning terms means it's a land use that has certain types of impacts, such as noise, vibration, odor, or sound, something that is environmentally hazardous to property owners or areas. Industrial is a different land use – in Caldwell they have areas identified as industrial but under the new comprehensive plan they will be called manufacturing and production. Industrial can also have some land uses which may not be appropriate next to residential. He spoke of the general practice to separate those type of uses from residential development. He's talked with City of Nampa officials regarding mitigation and they talked about landscaping but that depends on what type of landscaping you're talking about and the impact it will have on adjacent property owners. He spoke of how notification requirements for a conditional use permit hearing will be outside of the school and the residences in the area, therefore the notice boundary should be increased. The City of Caldwell's major concern is how there's been a transition between industrial and residential land use. Commissioner Van Beek expressed her concern with the request and suggested the cities of Nampa and Caldwell should talk about what could be a compromise to mitigate the big difference that exists. She suggested there be a stand-down from industrial to C-2 which would eliminate rendering plants, automotive salvage yards, things that are significantly harmful and impactful. Mr. Mapp said the suggestion of C-2 would be favorable next to a low-density residential development. Mr. Lister explained the difference between this case and the Lewis case, and he reviewed the uses and the small amount of uses that would be potentially impactful, noting that they added performance measures and landscaping requirements

from the City of Nampa to have that type of use, if approved. (Commissioner Dale arrived at 2:32 p.m.) Hethe Clark said the suggestion that what Nampa has done here is contrary to the planning processes is problematic. Caldwell is on the other side of the impact area agreement and they had the opportunity to negotiate with the County for an area of impact agreement. Nampa reviewed this and they identified this area has heavy industrial and they have spent a lot of time and effort planning for an industrial park so the suggestion that because Caldwell approved uses that are residential, Nampa on their side of the area of impact doesn't get to do what they have agreed with the County to do is incredibly problematic for a number of reasons. To take this out of industrial and move it to C-2 would be to throw away the planning that the Nampa has done and it would violate the impact area agreement with Nampa. He's really concerned about the testimony that was given because it's not factually accurate. He said the notice that went out 600 feet brought it in 30 neighbors and they talked to the Devlins and they said the only thing they don't want is a convenience store. The Devlins are not proposing heavy industrial. Nampa has planned it for heavy industrial, but the Devlins are proposing M-1 light industrial which is a different set of uses that allows for a number of commercial and the types of uses. They are asking the Board to uphold the plan that's been in place for quite some time that Nampa has spent a lot of time promoting. Commissioner Van Beek objected to Mr. Clark's statement that the testimony provided by Jerome Mapp was not factual. There has to be some mitigation to account for the disparity that exists between Nampa and Caldwell separated only by Midland Blvd., and if they are determined to not compromise then her proposal would be to exclude asphalt batch plants and mineral extraction. Mr. Clark said the question is whether the Board is going to rezone this property in accordance with the Nampa comprehensive plan and whether the conditions that have been identified on the development agreement are adequate to bring the Board comfort that any future uses are adequately addressed. The Devlins have proposed that the County has the ability to come back and look at uses in a way that you wouldn't otherwise if this were just zoned industrial. Nampa standards are far more restrictive than what the County applies and Nampa will ultimately be the jurisdiction that controls this property once it's annexed. Commissioner Van Beek spoke of uses that would be problematic given the location of the schools and residences and she said to stand down to a C-2 designation, which would allow development similar to what's happened at the Smeed Parkway in Caldwell, appears to be a compromise that could be a better fit than the current proposal. Mr. Lister said a lot of those are conditional uses so they would have to come back through a public hearing to see if they are appropriate or not. There is an enforcement we can look at noise, lighting, fumes, and open storage to get it consistent with the codes in that area. Mr. Mapp suggested the City of Nampa meet with the City of Caldwell to review final designs to reduce any impact on residential properties. Commissioner Van Beek said where there is no buyer why would we not be able to meet that compatibility standard of a C-2 designation and take some of the problem off of having that M-1 classification. Mr. Clark said it's a question of due process – any applicant has the right to rely on the codes and ordinances in effect at time of the application and those in effect say this is supposed to be heavy industrial under the Nampa comprehensive plan so they have submitted an application in conformance with that planning. Caldwell is essentially asking the County to take over Nampa's planning process and toss it to the side. There was an area of impact renegotiation between

Caldwell and Nampa and they decided Nampa would handle things on the east side of Midland and Caldwell would handle things on the west side of Midland. The Devlins are asking for an approval that's in accordance with the planning that Nampa did east of Midland, and to come in and say because Caldwell has approved residential subdivisions within the last 18 months and Nampa cannot do what they have been planning for a decade is horribly problematic. Commissioner White spoke of the Devlins property rights having owned the property for over 40 years. Commissioner Van Beek said property rights extend to not only the applicant but those around the property, and to come to a compromise she agrees that both cities should talk about the difference that exists and we should work in tandem and see it develop in a way that benefits citizens for the long term. Mr. Clark said a lot of what we're talking about with property rights is predictability and those plans have been in place and the County has a contract with the City of Nampa for its area of impact and this is what was agreed to years ago. This applicant shouldn't be held hostage to a process that requires two cities to agree on certain standards. Commissioner Dale arrived approximately one hour after the hearing began, and he helped broker the agreement for this area between Nampa and Caldwell and it was with the understanding that Nampa has limited industrial space and this area was designated to be protected for that use. Commissioner White made a motion to close public testimony. The motion was seconded by Commissioner Van Beek and carried unanimously. Upon the motion of Commissioner White and the second by Commissioner Dale, the Board voted unanimously to continue the hearing to January 13, 2020 at 1:30 p.m. to allow time for Commissioner Dale to listen to the today's testimony and participate in the Board's deliberation at the continued hearing. The hearing concluded at 2:44 p.m. An audio recording is on file in the Commissioners' Office.

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 7, 2020**

**PRESENT:**    **Commissioner Pam White, Chair**  
                  **Commissioner Tom Dale**  
                  **Commissioner Leslie Van Beek**  
                  **Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED PURCHASE ORDERS**

The Board approved the following purchase orders:

- TO Engineers in the amount of \$3,500.00 for the County Fair
- Sun Belt Controls in the amount of \$2,950.00 for the Facilities Department
- CDP Elevator Supply in the amount of \$3,398.00 for the Facilities Department
- Elevate Technology in the amount of \$9,939.96 for the IT Department
- EDU: Business Solutions in the amount of \$1,870.20 for the IT Department

## MEETING WITH THE DIRECTOR OF FACILITIES TO DISCUSS GENERAL ISSUES, SET POLICY AND GIVE DIRECTION

The Board met today at 8:31 a.m. with the Director of Facilities to discuss general issues, set policy and give direction. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Facilities Director Paul Navarro, Assistant Director of Facilities Rick Britton and Deputy Clerk Jenen Ross.

Director Navarro and Assistant Director Britton updated the Board on the following:

- An Eagle Scout group assisted in taking apart the ADA fishing docks at Lake Lowell so they are now ready for new decking and railing
- There are now a couple of designs to choose from for the animal shelter roof project; Director Navarro showed drawings of what the design would look like. He recently toured the new Ada county shelter for ways to mitigate noise. This project is not budgeted for in FY2020 and may need to be done in more than one fiscal year. In order to get an accurate budget number he will start looking to get a professional cost estimate
- A new roof was recently installed on the CCOA building
- Appliances and cabinets are being installed in the kitchen and bathrooms at the Crossroads dormitory
- The elections office has put in a request for the remodel of the garage in order to store the new election equipment. Renovations are not expected to exceed \$3800. They will be starting the project today and it should take about a week
- Many trees needed to be removed or heavily pruned on Storybook Trail at Lake Lowell
- Dan Blocksom requested the facilities department to take some cybersecurity training and help identify some whistleblower things in order to potentially receive a 5% discount from ICRMP
- Three people will be attending the Idaho Nurseryman's Landscape Association Convention this month
- POD 6 update: the exterior fence is erected and fabric (chain-link) should start to be installed today. Inside partitions are up; some wings are complete. Most of the data and coaxial cable is pulled; the PLC is being tested and is working. Completion is anticipated for mid to end of the month with inmates probably not being housed until next month. The county side of things are mostly complete. Commissioner White requested a copy of the SUP which Director Navarro said he would email. Mr. Britton and Captain Ward will be meeting today with Jerome Mapp at the City of Caldwell regarding the SUP and Commissioner White has asked to join. Discussion ensued regarding amendment of the SUP regarding fence slats, although Director Navarro is concerned about how it could affect the timing. Commissioner Van Beek requested a bulleted layout of the discussion points with Mr. Mapp to which Commissioner White said she would compile along with other notes about previous discussions with Brent Orton.

- The ADA parking at the Juvenile Justice Center has been monitored for the last 30 days due to a concern brought forth by a citizen and on average only one space was used at a time.

The meeting concluded at 8:57 a.m. An audio recording is on file in the Commissioners' Office.

**PUBLIC MEETING TO CONSIDER A RESOLUTION GRANTING MATERNE NORTH AMERICA CORPORATION A PROPERTY TAX EXEMPTION PURSUANT TO IDAHO CODE §63-602NN**

The Board met today at 9:00 a.m. for a public meeting to consider signing a resolution granting Materne North America Corporation a property tax exemption pursuant to Idaho Code §63-602NN. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Deputy P.A. Brad Goodsell, Brian Gunnell from Materne North America, Assessor Brian Stender arrived at 9:02 a.m., Chief Deputy Assessor Joe Cox arrived at 9:02 a.m. and Deputy Clerk Jenen Ross. Brad Goodsell said that letters were sent to the taxing districts notifying them of this meeting but no one has appeared to offer comment. Beth Ineck with the City of Nampa sent an email to Mr. Goodsell in support of the exemption which he read into the record. This request is for an expansion of the facility and a draft resolution has been provided to Materne to which they have provided a letter stating they agree to the terms of the resolution. Mr. Goodsell reviewed the amounts that will be exempted and the timeframe. Mr. Gunnell gave a review of the growth they've experienced over the past 5 years, what they are planning with this new expansion and suppliers that are used for their product. Assessor Stender spoke about how this exemption is different from the first exemption. Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to sign the resolution granting an exemption to Materne North America Corporation (See resolution no. 20-002). The meeting concluded at 9:15 a.m. An audio recording is on file in the Commissioners' Office.

**MEETING TO DISCUSS INFRASTRUCTURE COST FOR CANYON COUNTY FAIR BUILDINGS**

The Board met today at 2:36 p.m. to discuss infrastructure cost for Canyon County Fair buildings. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Controller Zach Wagoner, Facilities Director Paul Navarro, Fair Director Diana Sinner, Rachel Spacek from the Idaho Press left at 2:48 p.m. and Deputy Clerk Jenen Ross. Director Navarro said they were asked to come up with some infrastructure costs ideas in order to approach the Urban Renewal Agency to ask for funding. He provided an overview of the fairground property, other agencies involved and showed the Board the building concept ideas. He spoke about how some of the landscaping will need to be redone due to the city sloping the property for drainage. Additionally, because it was re-sloped it changed the FEMA floodplain and it is now part of the 100-year floodplain. It will also affect the building itself such as a retaining wall may need to be built or perhaps the building may need to be elevated but these are items that could be included in infrastructure cost. Some other items that are being required by the city for the Special Use Permit include oil and grease separators and a

leaching field beneath the swales; curb, gutter and sidewalks around the property; city standard lighting around the property. Discussion was had about the design and features of the building and property.

The following is the intended list of items to request from the Urban Renewal Agency:

- Sidewalk - \$37,300
- Curb/gutter - \$17,800
- Main pedestrian bridge - \$230,000
- Overflow bridge #1 - \$120,000
- Overflow bridge #2 - \$120,000
- Decorative street pole lighting - \$47,500
- Storm water retention (oil/water separator, leach field/swale) - \$65,000
- Parking lot improvements - \$285,000
- Pedestrian path thru Wilson's Creek - \$33,288
- Equestrian path thru Wilson's Creek - \$23,800
- Additional lighting along pedestrian/equestrian path - \$67,500
- Retaining wall for flood water retention - \$125,000
- Power line relocation underground - \$80,000
- IPCO connection fees for 480V 3-phase power to site and transformer - \$55,000
- Drive aisle/roundabout buildout - \$65,000
- Concrete pad and power connection for concert venues - \$55,000
- Decorative fencing along Georgia and Stocktrail - \$285,000
- Digital signage along Blaine St. w/power - \$75,000
- Fiber optic connectivity from existing fairgrounds building to expo site - \$35,000
  - Project subtotal - \$1,822,188
  - Project contingency and unknowns, A&E fees and permitting, 3<sup>rd</sup> party construction management/owners rep. - \$253,996.92
    - Project total to be requested from the Urban Renewal Agency- \$2,167,294.32

The architect solicited a professional cost estimate from Ellsworth Kincaid Construction for this project which came back at \$4.9M. This number includes the items that will be requested from the Urban Renewal Agency. Zach Wagoner believes there should be a balance of \$3.5M in urban renewal dollars available to the county at the end of the fiscal year. At Board direction, Director Navarro said he will work on a prioritization list in case the URA won't fund the all the projects. The Board is in support of Directors Navarro and Sinner presenting to the URA Board Monday.

Prior to the conclusion of the meeting a purchase order was presented to the Board for TO Engineering to conduct a survey on the county's portion of the fair property now that the floodplain has moved.

The meeting concluded at 3:19 p.m. An audio recording is on file in the Commissioners' Office.

**PUBLIC HEARING – APPEAL BY ROBERT TURNER REPRESENTING WILD ROSE LANE HOA AND THE TWO TOWERS SUBDIVISION HOA REGARDING THE DECISION TO GRANT A C.U.P. TO COPE SAND AND GRAVEL, CASE NO. APL-CU2019-0019**

The Board met today at 10:11 a.m. to conduct a public hearing in the matter of an appeal by Robert Turner representing the Wild Rose Lane Homeowners Association and the Two Towers Subdivision Homeowners Association regarding the P&Z Commission's decision grant a conditional use permit to Cope Sand and Gravel, Case No. APL-CU2019-0019. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Deputy P.A. Zach Wesley, DSD Director Tricia Nilsson, DSD Planner Dan Lister, Claudia Frent, George Bonovan, Monte Holt, Robert Turner, Christeen Barron, Mark Blackwell, Kurt Batey, Marilyn Tanner-Wolford, Ed Wofford, Flavious Frent, LaRae Sizer, Philip Shearer, Austin Shuler, Anne Turner, Ashley Shearer, Ray Sizer, Jose Arids, Katherine Adams, Steve Adams, Terry Hagler, Bayne Just, Julie Parsons, Ted Bustos, Cristian Stanciu, Patricia Denis, Elspeth Turner, Kristi Rachel-Lawson, Ronald Parsons, Jaye-Jaye Johnson, Amy Haskew, Spencer Asay, Tom Wedeven, Victor Rodriguez, Timothy McMahan, David Oldenkamp, Robert Turner, Wilma Huston, Al McGlinsky, Lee McGlinsky, Christina Dennis, Dean Flint, Tyler Flint, Linda Flint, Brandon Behymer, Emma Bussolini, Gregg Lasher, Stacey Stanciu, Anne Marie Bussolini, Suzanne Kelley, April Scholtec, Alan Scholtec, Sue Morton, Gabriel Harry, Danny Robinson, Barbara Bussolini, Mark Bussolini, Rebecca Woolsey, Matthew Woolsey, Laura BeBeau, Jessica Milbourne, Barry Martin, Steve Bishop, Sheryl Mansfield, Barbara McIntosh, Herman McIntosh, Kim Lasher, JoAnn Butler, Brett Cope, Paul Cope, Cody Cope, Angie Robinson, Marshall Anderson, Boyd Schaffer, John Babcock, Leslie Robinson, Jacque Cope, Dave Cockrum, Marca Taverniti and Deputy Clerk Monica Reeves. Dan Lister gave the oral staff report. The appeal was filed by Robert Turner representing Wild Rose Lane HOA and Two Towers Subdivision HOA regarding the request by Cope Sand and Gravel for a conditional use permit (C.U.P.) approved by the P&Z Commission. The CUP would allow an expansion of the Copes existing site to a 12-acre portion on a different parcel. The appeal is requesting the Board overturn the P&Z Commission's decision and deny the CUP based on many reasons, one is the impact to the surrounding use, the use is an eyesore, there's residential growth within the area, specifically in the City of Nampa's area where there is a proposed school within 1,000 feet; Carriage Hill West is adjacent to the existing gravel pit; the expansion moves closer to the Wild Rose Subdivision which decreases the buffer; and the gravel trucks along Lake Lowell are a dangerous situation to cars, buses, walkers, joggers, cyclists; they believe this is a property rights violation to their property rights; and the previous decisions in 2016 and 2017 were appealed and denied in the expanded use so they believe this should be denied based on those previous denials. The pit was approved in 2002 when the Board overturned the P&Z Commission's denial; there is an active pit with an expiration date of March 20, 2032. In 2016 there was a proposal on the north side of Lake Lowell to expand the pit about 64 acres as the current pit was depleting. The P&Z Commission approved it and the Board denied it on appeal because residential growth was foreseen in that area; it would have expanded the timeframe of that use to 2052, as it was a 40-year expiration date. In 2017 Cope Sand and Gravel requested a CUP to do a smaller expansion of 23.3 acres to be transitioned from their current pit. This was approved by the P&Z Commission but on May 9, 2018 the Board denied the expansion on appeal saying it was inconsistent with the comprehensive plan and injurious to the immediate area, but the Board listed actions the Copes could take to possibly obtain approval, such as addressing noise, dust generation, traffic, and negative impacts to property values. The Copes came in with another proposal for the same location

but a smaller pit of 12 acres only for mining and stockpiling, there'd be no new access or crushing. The crushing would stay on the existing pit – all the operations would stay on the existing pit except for the mining and they propose a conveyor to bring the materials over to the crusher on the other side so the only thing that would change is that it would be 12 acres and there'd be mining within that 12 acres but other than that the operations would stay on the existing 40 acres. The expiration date for the expansion is 10 years, it ends two years before the expiration date of their existing pit. The area is predominantly zoned agricultural, however, the future land use plan designates the area as residential, which is consistent with the Nampa future land use plan. Staff's report included the existing uses – the ones that were there prior to Cope Sand and Gravel and the residential uses that came afterward. The Copes took heed of the Board's request to provide more information about how they're going to manage dust, noise and they plan to meet all OSHA and MSHA and DEQ requirements for dust control, which is watering the access roads and the stockpile area. This is an existing gravel pit, the only thing changing from the existing use is the mining of the 12-acre area and the conveying of it to the existing site. The rest of it is an approved use already. A noise study was done and the results demonstrate it is consistent with MSHA's permissible exposure levels. The applicant has provided conditions that will help with that such as requiring visible strobe lights instead of the backup sounds on the loaders, and to keep the crusher at least 300 feet away from the expansion property. The crusher doesn't move at all, it stays where it's at now. Based on water contamination well logs were reviewed and a geology review was done which shows there has been no contamination since the Copes have started and there is a very low chance of that occurring, especially since they have to meet state and federal regulations regarding groundwater contamination, fuel storage and hazardous materials so based on that report the operation doesn't show any water contamination and they plan to keep it that. There is evidence that property values have not been affected by the gravel pit from the time Cope has been there until now. The assessments have increased in that area, which probably has to do more with population and growth of the area. The applicants recognize the neighbors have complained about the landscaping; the original conditions required trees to be placed along Midway Road and Lake Lowell and the trees have died and they try to keep working at it but it's a dry pit, there's no water, no irrigation to provide for that. They are proposing a condition to better mitigate for that and they propose gravel landscape at the front with some rocks and vinyl fencing that is consistent with the residential fencing in the area. The P&Z Commission recommended approval with conditions. Staff is recommending the appeal be denied and the CUP be approved. Mr. Lister responded to questions from the Board following his report.

**The following people testified in support of the appeal:**

Claudia Frent testified that the application for a new CUP was denied in 2016 and 2017, both times because of land use. She spoke about how the City of Nampa is considering putting the Two Towers Subdivision, the Wild Rose Subdivision and the surrounding area back in the impact area. Ms. Frent said the proposed use is not consistent with the 2040 comprehensive plan goals and policies. The proposed gravel extraction site is designated in residential on the future land use map, the comprehensive plan describes residential designation as a zone specifically set aside for residential development, therefore the plan states that the residential developer should be encouraged in or near the areas of city impact, or within the areas that demonstrate a development pattern of residential land uses. Residential development surrounds the area. The Babcock property is near the impact area and is designated as residential on the future land use map. The proposed use will be injurious and it will change the essential character of the area. Approving the CUP is not in compliance with the future proposed use of the land. Ms. Frent has contacted the Idaho Department of Lands, DEQ, and DSD, to find out on the original CUP. The neighbors are very concerned about the depth of the pit because it can affect their well water. It was stated the pit would only be 30-50 feet deep, but the

neighbors hired a drone that flew over the pit and measured it to be about 95 feet. Ground water in our area is between 60-115 feet. The Copes did not keep the berms in the condition they were supposed to and they have never been held accountable for that. The neighbors want clarification on how the sound test was done, and how the noise was measured. She said the Copes have not been good neighbors because they are in violation of their original CUP by violating the pit depth and not maintaining the berms. Robert Turner is the President of the Wild Rose HOA and he presented a slideshow depicting the area. He thanked Commissioner Dale for looking at the property and said at the last appeal they asked the P&Z Commissioners to go to the property and they said they could not do that. He spoke about the number of people who visit Lake Lowell. In 2002 there were 49 homes within a one mile radius of the new gravel pit and at that time the documents stated there were 40,000 residents in Nampa and they estimated with the 2020 plan they would have an additional 40,000 move here. The infringement up to Midway Road is incredible. Approximately 2,500 homes have been completed within a one-mile radius. The City of Nampa reports that 1,000 homes are requesting permits and that doesn't include all of the annexed properties on Midway, near Karcher Road. The pit is not consistent with the neighborhood. There has been no mechanism with the County to be able to file complaints/concerns about the permit. According to Mr. Turner there are 6-7 pits that are abandoned within a five mile radius and almost all of them are less than 50 feet deep. The depth of the pit is a concern so they hired an independent licensed drone pilot, which showed a measurement of 95 feet and that creates a problem for homeowners that draw their water at 65 feet. They have concerns of truckloads of dirt going into the pit and the doubling of traffic in the area. For 45 years well drillers have done monthly tests on the residents' quality of water and every three years they have to spend about \$2,000 to do the major tests, and this year they have spent \$4500 to manage their water quality. Despite years of excellent water quality, in February of last year they had an extensive water problem in Wild Rose with hydrogen sulfide, chloroforms, iron bacteria, and they spent thousands of dollars to have the water tested weekly. The disturbance of the ground at 80-100 feet could cause issues with the aquifer. According to Mr. Turner they have spent nearly \$10,000 to treat their water system for chloroforms, lead bacteria and hydrogen sulfide. Jaye Jaye Johnson testified she is an engineer in the oil field and has worked for Phillips Petroleum and Schlumberger and performed well logging. Her credentials include an MBA and she is one-third of the way through her PhD. She spoke of the geology report prepared by Dave Cockrum and the reference to the geology being both impermeable and low permeability, but it cannot be both. She referenced maps showing proximity to Lake Lowell and where the gravel is being pulled from, and she questioned the location of the clay. She gave technical testimony regarding earthquakes, micro fissures, and faults in the gravel pit which can impact wells. She questioned the tool Dave Cockrum used to take noise measurements, noting it was a noise meter purchased from Radio Shack, which should be used for hobby use only. Victor Rodriguez spoke of land use decisions he's made as Nampa city councilmember. He spoke about growth in the area and said he wanted to purchase in the Carriage Hill development but knowing about this gravel pit caused him to change his mind. He spoke of the protection of property rights and how he wants to see this area reopened as an impact area. Elspeth Turner lives adjacent to the subject property and is a farmer operating an agricultural business from her personal property and she is concerned how the proposal will affect her plans to expand her business. The depth of the pit concerns her, she is on a well system and lives directly adjacent to the proposed pit. The Copes were issued a CUP in 2002 which they have violated on many terms, not just the depth of the pit, but also they were supposed to limit truck traffic to eastbound only. At this point limiting truck traffic near residences is near impossible because there are so many homes going in. There berms are lacking and they have had many MSHA violations and paid fines. She is concerned the mine will decrease the value of her home and affect her quality of life. Rebecca Woolsey owns two homes in the Wild Rose Subdivision, and she read an email from neighbors Bill and Shara Rapp who are opposed to the proposed CUP. She said the Copes have breached the existing permit by mining to depths of over 90 feet. The request does not fit with the long term plan for this area. She is concerned about the quality of life and

how the proposal will negatively affect the growing neighborhoods. Julie Parsons testified that a corner of her family land touches a corner of the proposed mineral extraction site. She has not heard any pro arguments that explain why a gravel pit is an appropriate use of land in the midst of a rapidly growing residential area. She said homeowners concerns are seemingly dismissed based on the reasoning that they had moved into the area when there was an existing pit in place. She offered a historical perspective of her family's ownership of property in the area for several decades. In 1975 her parents donated a small parcel of land to Canyon County to develop the county park which they believed would provide wonderful recreational opportunities to residents of the County and hoped the donation would ensure the land would never be developed in a way that would negatively impact the residential nature of the neighborhood. Ms. Parsons said gravel trucks barrel down Midway Road and roll through the stop sign at Midway and Lake Lowell. Expansion of this pit in the middle of a neighborhood and this close to a recreational site with foot and bicycle traffic is not an appropriate use of this land. Patricia Dennis testified about her family's long history in the area and how their wells are being affected noting that eight years ago they had to drill a lower well and have the motor changed. Had they known about the previous hearing they would have objected to starting a gravel pit in the neighborhood. She objects to the Copes request. Al McGlinsky testified that he purchased five acres in the early 1980s and it was a peaceful area surrounded by long existing homes, agricultural land, a park, the lake, and the wildlife refuge but that changed when the Board granted a CUP for the Copes to begin mining gravel a few hundred yards from their house. They share a back fence with the Babcock property which the Copes want to mine and the McGlinsky's dream home is less than 200 feet away which will decrease his property value. He spoke of concerns about noise, dust, and silicants. He said the Copes have failed to follow requirements on their existing mine and they paid over \$3200 in fines for 33 MSHA violations between 2007 and 2017. Repeated violations deemed it was easier to pay the fines than fix the problems. The gravel pit is not a good fit in this residential area. Lee McGlinsky read a statement from neighbor Diane Eckles who had researched the health risks associated with silica dust which can become air born and transmitted to surrounding areas during mining operations and by the wind. The proposed site is too close to homes and Lake Lowell Park. It's a public health issue impacting quality of life and medical expenses. Silica dust is not the same as ordinary dust, it's too small to be seen but can easily enter the human respiratory system. Public health agencies have identified crystalline silica as a human carcinogen. Larae Sizer stated as a community they are not against the Copes current operation, but said to grant them more mining rights would be a disservice to the neighboring communities. She questioned what agency has oversight and authority to see that conditions and restrictions are followed? She doesn't want to put them out of business but she wants them to be a good neighbor. Marilyn Wolford, who is opposed to the Cope expansion request, submitted a video depicting traffic concerns with large gravel trucks in a residential neighborhood. Large trucks with trailers need both lanes to make turns. With a new subdivision going in the traffic will be much heavier than it is currently. Ed Wolford submitted video of a person who worked around limestone and sandstone and spoke about the severe health impacts it's had on his life. Silicosis is caused by exposure to crystalline silica which comes from chipping, cutting, drilling or grinding soil, sand, granite or other minerals. Greg Lasher testified that he was the original developer of the Two Towers Subdivision and it's been mentioned that he knew it was there and the residents weren't supposed to fight it but he said they did not object to the existing pit, they are fighting the expansion because they don't want them to continually expand the operation into the residents' backyards. They have concerns about the gravel operation negatively affecting property values in the area. Tom Wedeven spoke of the amount of detailed and scientific research that's been done by the neighbors. He wants to see Nampa revived and people stepping up and integrating and investing in the community. The proposed expansion results in an ugly, unhealthy, uncreative response to the land in the middle of a growing population.

**Testimony in opposition to the appeal was as follows:**

JoAnn Butler, the attorney representing the Copes, stated there was a two-page letter of appeal that was filed before today by Mr. Turner and there were a lot of things that have been said today that the applicants were not aware of so she posed the concept that perhaps it would be worthwhile to defer so that the appellants can see what the applicants submitted and vice versa and provide some comments in writing. They did a 20-page letter of intent in which they summarized the application and all of the various studies and it addresses everything that has happened over the last 20 years and it addresses the law and the comprehensive plan. Some people have said there was depth required in the first approval, but a depth was not stated in the conditions of approval. It was mentioned that Canyon Highway District regarding eastbound truck traffic to leave eastbound only from the site, that was a condition the district has imposed for this application. She wants to correct the things that have been said that are not factually accurate. The other gravel operations are hundreds of acres in size and have no time limit, whereas the Copes have limitations of 10 and 12 years so it begs the question of how the Copes might be treated as compared to other gravel operations when they're looking for 12 acres to keep their business alive. The Cope business is not a big gravel operation as found elsewhere in Canyon County, instead it has served as retail source of gravel for smaller construction jobs providing cost savings. Over 90% of the end users are located within 8 miles of the gravel operation. The Copes are very concerned about the neighbors and they listened to them and had their consultants change the application: In 2017 over 23 acres of the Babcock property were proposed for extraction, today it's just 12 acres pushing the buffer further out. In 2017 there was a portable crusher proposed at various locations on the Babcock property, but today there is no crusher. In 2017 an additional access road was proposed to Lake Lowell Avenue, but today there isn't one. In 2017 retail sales were proposed on the Babcock property, but not today. They have proposed increased landscaping along Lake Lowell and Midland. It has been difficult to maintain trees on the berm but they are willing to talk about that in terms of a landscape plan to the extent they can. There will be a berm, solid fence, and decorative stone and rock along that area so that it is neat and tidy. There are no additional employees at the site, no additional truck traffic. In 2017 they asked for a 20-year term, but today that term is 10 years, two years less than the existing conditional use permit. Regarding reclamation, the 12 acres in the expansion would take nine years to gravel and the reclamation plan, which is bonded with the Department of Lands, would take the year on the expanded 12 acres, then the Copes would step back into the original and clean up the stockpiles and reclaim that area and that will take about two years. The dirt that comes into the pit is for the reclamation purpose, it's continuous over time trying to plan for the future for that reclamation. Other government agencies have reviewed the application, none are opposed. The level of traffic associated with the site is so low that Canyon Highway District did not require a traffic analysis, however, the district did recommend trucks turning from the site should go eastbound only and the Copes included that in their conditions of approval. There is an email from Southwest District Health stating that drain field installers are having a very tough time getting the correct sand and gravel for their work, making it more expensive and sometimes impossible to do drain fields, but this is exactly the type of gravel that's available from Cope Sand and Gravel, which many other mines do not make available because they are going for the bigger jobs. (The letter was written in August and according the SWDH Director it is still the case today.) The gravel can only be mined where it's located, this is one of three main gravel veins beneath the 12 acres of the Babcock property. The interests of the County are wisely served by extracting this natural resource at this small location before residential takes over. The ability to provide this type of gravel is disappearing rapidly. The application is not the same application as the one filed in 2017, it's been designed to address neighbors' concerns, and the Copes concern to keep the family business alive. In 2017 the Board directed very specifically the applicant on what it needed to do to obtain a conditional use permit; it focused on noise, dust, traffic and property values. The applicant has made the demonstration that the noise from the proposed use does not cause injury to or interfere with the uses of the properties in the immediate vicinity. Sound levels are typically found at the

range of 50-60 decibel range, well within EPA guidelines. The Board asked the Copes to demonstrate that the dust generated from the proposed use does not cause injury or interfere with the use of properties in the vicinity and they have made that demonstration. Dust is contained by regularly watering roads, equipment work areas, unlike farming operations in the area that have no regulations. They have stringent state and federal regulations that have to be met. There have been no MSHA violations so the factual evidence provided shows that the DEQ inspections have found they comply with all dust emission requirements. The Board asked the Copes to demonstrate that the traffic generated from the proposed use won't cause injury or interfere with the use of property in the vicinity. She pointed out the level of service, no additional trucks, no additional employees; it's been deemed accessible to ITD and Canyon Highway District. The Board asked them to demonstrate that the proposed use will not negatively impact property values in the immediate vicinity and so they provided factual information from the Assessor's Office and the Realtors' Multiple Listing Service to show that assessments and sales prices have consistently increased over the years. Other residential areas, such as Carriage Hill West, have been approved for hundreds of homes immediately across the street from Cope Sand and Gravel. The area is trending residential, but the zone is agriculture and that zone says gravel operations are allowed uses with a conditional use permit. So Mr. Babcock and his potential gravel operation have a property interest and an interest in understanding that you have a legislatively approved zone for this area and with the right to request a conditional use permit. It is up to us to show we meet all the conditional use criteria and they believe they have done that. You cannot strip away somebody's property right or right to request a conditional use under a legislatively zoned piece of property. The P&Z Commission approved the request. The comments of the appellants in their appeal letter did not provide any basis to overturn the decision of the P&Z Commission. They do not dispute that the applicants meet the County's conditional use criteria and the direction of the Board in 2017, rather, that letter shows that they have strong-felt general concerns about residential growth and builders who, according to their letter, just want to build homes and not deal with growth issues. They have concerns of increase of traffic "from new homeowners that flood our streets with more cars." Again, no additional traffic is being generated by this use. We are glad to hear the neighbors don't want to put the Cope family out of business, but they state in their letter that the homeowners have property rights but imply that neither Mr. Babcock nor the Copes have the right to request a conditional use. Because it is zoned agriculture and when you make that zoning statement legislatively you have said it is in compliance or in accord with the comprehensive plan. The appellants incorrectly state in their letter the existing conditional use permit was approved because fewer people were notified in 2002 implying that pure numbers of people in opposition to a project will guarantee that a project will be denied, and she thinks that's what the neighbors are saying today. They believe they've taken those concerns, reduced the area to 12 acres and adjusted so they can be a good neighbor and provide for the County as a whole. The appellants have asked the Board to overturn the P&Z Commission just because the Board has done so in the past, but this would not be right, it would take this application today and say it's like what was done four years ago and two years ago – it's not the same application. They asked the Board to recognize that the applicant has developed a good application, tried to take into consideration the code, the Board's direction, and the P&Z Commission thoroughly analyzed the app making its decision. The Board took a break at 12:31 p.m. and went back on the record at 12:40 p.m. Dave Cockrum, a registered professional geologist with Geodyssey testified he performed a noise test for the Cope operation. He has calibrated the machine and it's not going to be more than two decibels wrong, if at all. You cannot hear the operation 400 feet east of the west boundary of the proposed expansion area; you cannot hear it in the Wild Rose Subdivision. You can barely hear it on Memory Lane, but you cannot hear it in the Two Towers Subdivision. The noise levels in the existing pit range in an acceptable way to MSHA who comes in and tests from time to time. No noise reduction measures are required. They took 108 sound measurements, 72 were in the pit, 16 were in the proposed expansion area, 3 were in Wild Rose, 1 was on Memory Lane and 1 was in the Two Towers Subdivision. The highest reading was 92 decibels on the C scale and that was at the

crusher. 60-68 decibels on the C scale was what they came up with routinely along the property boundary which would be on the back side of the berm. Sound levels on the existing property boundary are lower than passing vehicular traffic which is typically 70-72 decibels. Sound attenuates 800 feet west of the crusher and at that point you can still hear the crusher but it doesn't overpower the sound that's already there and caused by vehicles, airplanes, wind, etc. The sound propagation from the crusher and the active parts of the mining operation stay inside the existing pit and those average sound levels are within MSHA and EPA guidelines for rural residential properties. The average sound levels in the expansion area range between 59 and 63 decibels with a crusher operating in the existing operation. It meets EPA rural residential guidelines and with it in operation – because they are not proposing a crusher in the expansion area, that's the noise level you'd expect in the expansion area when mining is taking place. With the addition of the crusher belts, feeder bins, those kind of things that are part of the mining operation they sampled in the existing operation when the crusher wasn't running and determined they were in the 65-70 decibel range. It is well within MSHA and EPA noise requirements and it won't add to background noise in the area. Dust is generated by crushing gravel, it's also generated by running across the screen, and from dumping material from front end loaders as they are mining or dumping material from dump trucks. MSHA is interested in dust from the point of view of silicosis and in the coal mining areas of the world, black lung disease so they test. They perform tests by measuring dust picked up and from that they know the size of the dust, the amount of the dust and whether it's a violation or whether it's okay. The Copes have never had a violation. To make the dust less of a problem they propose to put up spray bars in the expansion area above the feeder bin to knock down all kinds of dust. The pit will be located below ground level which minimizes the effect of the wind which minimizes dust generation as well. If there was a silicosis problem in the pit someone would be sick or going to the doctor with chronic lung conditions and that has not occurred. The Copes have a regular watering program for dust and they continue to do the best they can. Regarding ground water, they analyzed 11 water wells, and they sent out a letter asking those in the area if they'd like to have their wells sampled, but no one responded. They sampled two locations on the Babcock and Lester properties, which are the two closest wells to the operation and the expansion. There is no petroleum in the groundwater on either site; there is a little bit malidum but not cadmium and those are things you routinely send to labs to look for contamination. The metal comes from the breakdown of engines and grease and is something would have spilled it would be in the ground water and it's not. We can never say there's no risk, but the potential for a spill is low because of how it's operated. They stay on a schedule that localizes the petroleum generating spills in one area and it won't be in the expansion area unless a machine explodes or a diesel tank leaks. There is no way we can say categorically there's no reason to worry but for 18 years nothing has happened. In reference to the geology map referred to by Jaye Jaye Johnson, Mr. Cockrum said it's a surface map, it doesn't tell you anything about what's below the surface, which is what we're interested in when looking at well contamination. Those maps are good for knowing what's there in terms of the surface geology, but what they're looking at for ground water is what is below the surface and the best way to do that is to look at existing data regarding water wells that were drilled in the last 50 years. Regarding fracture lines, there's no blasting that takes place for the mining so it's not really jarring the rocks and it's not going to have a catastrophic effect on a water well that's a ½ mile away, the highest risk would be on the Lester well and they sampled that well and didn't see anything ground disturbance-wise that would give any indication that there was active faulting or things going. Mr. Cockrum responded to questions from the Board. Brett Cope testified they demand for gravel is increasing with the growth and the amount of material they've sold proves that. This location is one of the key factors when they originally were asked to be permitted in 2002 because they could see demand was coming this way. The property they're currently on is not the best farm ground, it's sloped, and is dry with no irrigation rights. They have a huge irrigation well to irrigate and that's why they chose that location, it makes economic sense. He said they could go out farther out, but they are running into the same problem with people wanting to build on view lots. We have gravel with this expansion, it's

agricultural, it's zoned properly and it's right next door. SWDH is finding a problem with suppliers in the gravel industry and the Copes have been on their suppliers list for years. A lot of larger companies are no longer supplying to SWDH and that is creating a huge problem. Those companies want larger projects, and are not interested in serving residences. The Copes strive to supply to homeowners, residential developments, and local agencies. Mr. Cope responded to questions from the Board regarding the location of gravel vein and former pits. He believes the County is running out of gravel due to the amount of growth that's occurring on gravel ridges. Commissioner Van Beek said the objection is not necessarily to the current operation, it may be to the feeling that the Copes have not been a good neighbor. She's heard some disappointment in the fulfillment of those conditions and she asked why the Cope be proactive and help bridge that gap where's there's been some violations. Mr. Cope said in 2002 they said they would berm and landscape Lake Lowell Road; they were still farming everything along Midway and as they came closer they would berm it, but they did not landscape it. They came back with conditions of approval this time and said they will totally landscape everything and put in a \$75,000 landscape plan with 6-foot vinyl fence and a 3-foot elevation. The Department of Lands holds them to reclaiming the pit. In response to questions from Commissioner Dale, Dan Lister said staff's recommended conditional approval states they have to have that in prior to starting their expansion. They have to provide a plan and show how it will look and then execute it. Regarding the 2002 conditions, Mr. Cope is correct, the wording only required landscaping, pines and spruces along Lake Lowell with berming and then as the operation got closer to Midway it was only berming, no landscape. Back then they just had to meet state and federal requirements, have a reclamation plan, and have a dust mitigation plan. The only thing that comes up with code enforcement was the trees along Lake Lowell and they recognize that and that's why they are trying to fix it with this application; however, if this request is denied they still need to fix that because it is in violation. If this were to be approved they would reinforce it with the landscaping they are proposing. The appellant is correct in that there was discussion that the pit would be 30-50 deep but it was never conditioned to not exceed that depth. Paul Cope testified it is an agricultural area with farming, cattle, gravel pits and homes. On the 2002 permit they were only going to do the trees and landscape with berm on Lake Lowell and when they got to Midway it would be a berm with a 4-foot fence because they were still farming the ground. There are no conditions regarding the pit depth. The pit depth averages 65 feet, and the gravel is good and rich which is why they were able to go deep. They are in compliance with the 2002 CUP. He wants to be neighborly and he wishes the neighbors would have said they didn't like the berm and they would have worked with them. They want to refresh the look because of the heard complaints. There is a former gravel pit dump site by the Carriage Hills development that the City of Nampa uses for backfill, and houses will be developed around it which shows that housing can coexist with gravel pits in an agricultural area. He is the safety supervisor for Cope and testified they have been fined for a headlight on a loader, and a taillight, and something on the conveyor, but 90% of the time they have it fixed before the inspector leaves the site. They take dust seriously and they water the roads daily. Safety is a huge aspect of their operation, they have never had a serious and significant fine in 17 years. Mr. Cope responded to questions from the Board. Commissioner Van Beek said the Copes former legal counsel, Todd Lakey, who represented them on a previous case that was denied expressed to her that the biggest reason the case didn't go forward was because of the lack of compliance with the 2002 CUP on the landscaping portion. She asked if they have considered putting in designated truck lanes to handle the traffic. Mr. Cope said they have not considered it. The traffic count on Lake Lowell is a low density volume road and the highway district hasn't asked us to put in a truck lane. Regarding the berm violation, twice they've had trees stolen from the property and they've replaced them in the past. It will take 2 to 4 weeks to furbish the berm and install a vinyl fence and they will start when the weather gets better in the spring. They currently rent from the Babcocks and the Lesters and they have an agreement to purchase the property. If they obtain approval today they will purchase it. The expansion property is owned by John Babcock and he does not want to sell it. After they mine the 12-acre piece they will slope the sides and put

the grass on the sides and that will take roughly 10 years and they will sign off with the Department of Lands and then they will have two years left on the current site to remove stockpiles and to sign off for the Department of Lands in 2032. Mr. Cope responded to additional questions from Commissioner Van Beek. Dan Lister said John Babcock wants to make it a campground of some sort, but the Department of Lands allows for the minimum requirements for that reclamation and in the end it will require a CUP in that area to see if it can be a campground. The tree farm thing is already said and done, however, with the proposed expansion they looking at a Boy Scout campground as the reclamation of that 12 acres. Commissioner Van Beek wants to see a conceptual design for that. John Babcock that he owns the subject property. His grandparents farmed the property, followed by his parents, and then he farmed it with his parents. He has an irrigation well with a 20 horsepower pump and the Lester property has an irrigation well they use to fill their water trucks. Since the Copes have started mining he hasn't had any trouble with his well and he doesn't think the Lesters have had any trouble with theirs either. In 1980 his well had pumped a lot of sand because something caved in underground and it wore out the pump and he had to drill a new well at a cost of \$30,000. Approximately 30 years ago they lowered the water in the lake so they could work on the dam and when the lake went down his irrigation well went dry. The people in Wild Rose Subdivision are less than 100 yards from the lake so perhaps that could have also affected their wells. Mr. Babcock gave spoke of the history of the gravel pits that have been in the area. Regarding the reclamation plan he has specified to the Copes that they are to retain all of the topsoil on the farm and put it back on top when they are finished mining. They are not allowed to sell any topsoil. He said if the permit is denied it will give the Rambo pit a monopoly and they will control the price of gravel in the area and they will be hauling it for longer distances. The safest and closest distance is from the Cope pit. He said he protested the original Cope pit, but he also protested Wild Rose Subdivision being built. Once the Copes dug the pit they have been good neighbors. This property has been zoned residential by the City of Nampa and two summers ago the neighbors protested being annexed into the impact area and the Nampa P&Z Commission removed everything west of Midway Road from their impact area. Mr. Babcock said he will never subdivide his property. With the original reclamation plan they were going to have a pond and campsites all around the outside and they had plans for a soccer field and a shooting range, and they were going to plant pine trees in between the campground. They are still planning on having the dirt reclaimed on the bottom and the sides and still plan on having trees on the outside edges, they just might have a smaller pond. He said when they backed off to try to keep Wild Rose residents happy about the noise concerns it made the project smaller and caused the reclamation plan to be reduced. Claudia Frent offered rebuttal testimony and said the residents of Two Towers Subdivision never received a letter asking for their wells to be tested from Mr. Cockrum and she does not believe the residents of Wild Rose or Memory Lane got any such letter either. Mr. Babcock says Copes currently own the pit they're in now, but she heard Mr. Cope say they are wanting to purchase the pit if this new CUP goes through. Which is it? She was one of the biggest opposition to the Cope operation on all three requests and they have not reached out to her or the community to try to mitigate the concerns. She said the neighbors want to protect their investment and the community. Today she's heard them say they will go a deep as they can, not only in this pit but in the 12 acres and once they mine out the 12 acres they will ask for the rest of the property from John Babcock. She asked the Board to not allow new land to be destroyed, and if you do allow it they must state what they are going to do and they must comply before they are able to touch the new land. She said the residents have no problem with the existing gravel pit, they just want them to follow the conditions of the original CUP, and to make those berms beautiful. We are not trying to put them out of business, we just don't want them to expand. Their opposition is to the new C.U.P. Commissioner White said Ms. Butler said there was new information and they want some time to further examine it. She believes the hearing should be continued. Commissioner Dale said at the continuation we are not going to re-hash everything that's already been discussed today. As far as new information that needs to be evaluated he heard concerns about the depth of the pit and he didn't see that in the present CUP, but for the 12 acres that is being

considered for expansion he suggests we look at a depth restriction as well and that would be new information that needs to be considered as well. Commissioner White said there was a lot of information on both sides and she wants to continue the hearing. Commissioner Van Beek supports the request to continue the hearing and she suggested the Copes look at the findings of fact and conclusions of law and order that were cited in the staff report and take a look at that from the side of the people they are trying to coexist with. There's been testimony that there's been some minimization of their concerns so if we evaluate this from their side that is a good suggestion to get the intent and what neighbors can expect going forward on the record that will help form decision-making in light of those findings of fact, conclusions of law. She made a motion to continue the hearing to January 29, 2020 at 10:00 a.m. The motion was seconded by Commissioner Dale and carried unanimously. The hearing concluded at 2:21 p.m. An audio recording is on file in the Commissioners' Office.

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 8, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**APPROVED PURCHASE ORDERS**

The Board approved the following purchase orders:

- HP, Inc., in the amount of \$3,934.36 for the IT Department
- IAED in the amount of \$1,195.00 for the Sheriff's Office
- Hanson Janitorial in the amount of \$2,899.40 for the Sheriff's Office

**APPROVED CLAIMS ORDER NO. 1/10/20**

- The Board of Commissioners approved payment of County claims in the amount of \$96,529.98, \$13,765.00, \$4,870.18, \$132,664.23, \$132,839.19 and \$79,661.52 for accounts payable

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 9, 2020**

**PRESENT:** **Commissioner Pam White, Chair**  
**Commissioner Tom Dale**  
**Commissioner Leslie Van Beek**  
**Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED CLAIMS ORDER NO. 1/10/20**

- The Board of Commissioners approved payment of County claims in the amount of \$741,728.10, \$11,590.55, \$43,279.23, and \$194,202.63 for accounts payable

Detailed minutes to follow at a later date for the following items:  
Meeting with county attorneys for legal staff update

**MEETING TO CONSIDER INDIGENT DECISIONS**

The Board met today at 8:49 a.m. to consider indigent decisions. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Director of Indigent Services Yvonne Baker and Deputy Clerk Jenen Ross.

The following cases do not meet the eligibility criteria for county assistance: 2020-0243, 2020-0241, 2020-0118, 2020-0259, 2020-0237, 2020-0246, 2020-0225, 2020-0331, 2020-0264, 2020-0324 and 2020-0300. Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to issue initial denials with written decisions within 30 days on the cases as read into the record.

Commissioner Van Beek made a motion to issue initial approvals on case nos. 2020-0122, 2020-0329, and 2020-0333 with written decisions to be issued within 30 days. The motion was seconded by Commissioner Dale and carried unanimously.

The meeting concluded at 8:51 a.m. An audio recording is on file in the Commissioners' Office.

**BOARD OF EQUALIZATION 2019 OCCUPANCY TAX ROLL HEARINGS TO CONSIDER APPROVAL/DENIAL OF 2019 OCCUPANCY TAX ROLL PROTEST FORM 19336 FOR COSTEL AND EMILIA STOICA**

The Board of County Commissioners, sitting as a Board of Equalization, met today at 9:00 a.m. to conduct an occupancy tax roll hearing for Costel and Emilia Stoica, Account No. 32713012 0. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Administrative Property Appraisal Supervisor Greg Himes, Administrative Analyst Jennifer Loutzenhiser, Sr. Property Appraiser Ken Watters, Assessor Brian Stender arrived at 9:04 a.m. and Deputy Clerk Jenen Ross. Costel and Emilia Stoica did not appear. Greg Himes and Ken Watters offered testimony on behalf of the Assessor's Office. Following testimony,

Commissioner Dale made a motion to agree with the Assessor's revised value for this property of \$461,500. The motion was seconded by Commissioner Van Beek and carried unanimously. The hearing concluded at 9:22 a.m. An audio recording is on file in the Commissioners' Office.

PUBLIC HEARING – REQUEST BY ELIZABETH JETT FOR A REZONE, CASE NO. RZ2019-0029

The Board met today at 10:04 a.m. to conduct a public hearing in the matter of a request by Elizabeth Jett for a rezone, Case No. RZ2019-0029. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, DSD Planner Jennifer Almeida, Elizabeth Jett, and Deputy Clerk Monica Reeves. Jennifer Almeida gave the oral staff report. The subject property is 4.98 acres and is currently zoned agricultural. The future land use map shows this area as residential; it is not located within an impact area or a flood zone. The surrounding area contains primarily agricultural properties, however, the parcels surrounding the property are utilized for residential purposes. The subject property is located within a platted subdivision, Valley View Ranch Subdivision. Within one mile there are 17 platted subdivisions for a total of 251 lots, with an average lot size of 3.81 acres. The property is not located within a nitrate priority area. It has frontage on Ranch View Drive, which will provide access to the new lot. The applicant will have to do a replat and access will be determined at that time. The Nampa Highway District has no objection as long as their requirements are met, and the Idaho Transportation Department does not anticipate any significant traffic impacts. No objections from the public have been received. The P&Z Commission recommended approval of the rezone on November 21, 2019, and staff is recommending approval as well. Elizabeth Jett testified they want to subdivide and build a larger house on the adjoining lot in order to accommodate their expanding family, and it's likely they will sell their other house. Upon the motion of Commissioner Van Beek and the second by Commissioner Dale, the Board voted unanimously to close the public testimony. Upon the motion of Commissioner Dale and the second by Commissioner Dale, the Board voted unanimously to approve the rezone for Elizabeth Jett, Case No. RZ2019-0029, and to authorize the Board to sign the findings of fact, conclusions of law and order as well as the ordinance. (See Ordinance 20-001.) The hearing concluded at 10:11 a.m. An audio recording is on file in the Commissioners' Office.

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 10, 2020**

**PRESENT:**   Commissioner Pam White, Chair  
                  Commissioner Tom Dale  
                  Commissioner Leslie Van Beek  
                  Deputy Clerk Monica Reeves / Jenen Ross

APPROVED EMPLOYEE STATUS CHANGE FORM AND/OR KEY & SECURITY ACCESS REQUEST FORM

The Board approved a salary rate request and/or key & security access request form for Mark Tolman (job title change from Fleet Manager to Fleet Director).

## APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- WASP Barcode Technology in the amount of \$9,129.33 for the IT Department
- SHI – Pure Storage in the amount of \$15,489.96 for the IT Department
- D&B Supply in the amount of \$2,176.00 for the Solid Waste Department
- Norbryhn Equipment in the amount of \$3,652.00 for the Facilities Department

Detailed minutes to come a later date for the following items:

Meeting with county attorneys for legal staff update

Action Item: Consider signing a resolution granting a refund for a mechanical permit fee to YMC Mechanical

Action Item: Consider signing FY2020 Idaho State Historic Preservation office certified local government subgrant application

Action Item: Consider signing Canyon County Historic Preservation support award agreement with Historical Society of Middleton

Action Item: Consider signing Canyon County Historic Preservation support award agreement with American Legion Joseph H. Murray Post 18

Action Item: Consider signing resolution classifying records of the Canyon County Prosecuting Attorney's Office and authorizing the destruction of certain criminal case files/records

Action Item: Consider signing resolution classifying records of the Canyon County Prosecuting Attorney's Office and authorizing the destruction of certain juvenile case files/records

Action Item: Consider signing resolution classifying records of Canyon County Misdemeanor Probation and authorizing destruction of closed offender supervision files

Public hearing - Consider approval/denial of a request by Jeff & Amy Barnes for a conditional rezone; Case No. CR2019-0014; Action Item: Consider signing findings of facts, conclusion of law & order and ordinance; Case No. CR2019-0014

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 13, 2020**

**PRESENT: Commissioner Pam White, Chair**

**Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED PURCHASE ORDERS**

The Board approved the following purchase orders:

- Mtn. Home Auto Ranch in the amount of \$42,384.00 for the Fleet Department
- Curtis Blue Line in the amount of \$31,700.00 for the Sheriff's Office

**APPROVED CLAIMS ORDER NO. 1/10/20**

- The Board of Commissioners approved payment of County claims in the amount of \$96,529.98, \$13,765.00, \$4,870.18, \$132,664.23, \$132,839.19 and \$79,661.52 for accounts payable

Detailed minutes to follow at a later date for the following items:

Meeting with Commissioners' office staff to review upcoming calendar events

Meeting with county attorneys for legal staff update

Action Item: Consider signing Historic Preservation support award agreement with Greenleaf Historical Society

Action Item: Consider signing Historic Preservation support award agreement with Melba Valley Historical Society

Meeting with the Director of Development Services to discuss general issues, set policy and give direction

Public hearing (Continued)

Action Item: Consider approval/denial of a request by Trent White for an appeal of the P&Z Commission's denial of a variance; Case No. ZV2019-0001

Action Item: Consider signing findings of fact, conclusions of law & order; Case No. ZV2019-0001 - \*Continued to February 20, 2020 at 9:30am

Public hearing (Continued)

Action Item: Consider approval/denial of a request by Dana & Arline Devlin for a conditional rezone and development agreement; Case No. CR2019-0012

Action Item: Consider signing findings of fact, conclusion of law & order and ordinance; Case No. CR2019-0012 - \*Board deliberation only (public testimony closed)

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 14, 2020**

**PRESENT:** **Commissioner Pam White, Chair**  
**Commissioner Tom Dale**  
**Commissioner Leslie Van Beek**  
**Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED PURCHASE ORDERS**

The Board approved the following purchase orders:

- BOE in the amount of \$18,141.00 for the IT Department
- Platt in the amount of \$2,431.36 for the Facilities Department

**APPROVED CLAIMS ORDER NO. 1/16/20**

- The Board of Commissioners approved payment of County claims in the amount of \$1,918.00 and \$27,945.83 for accounts payable.

Detailed minutes to follow at a later date for the following items:

Meeting with the Director of Information Technology to discuss general issues, set policy and give direction

Meeting with Director of Human Resources to discuss general issues, set policy and give direction

Meeting with county attorneys for legal staff update

Action Item: Consider signing legal notice inviting public comment on revisions to Pickles Butte Sanitary Landfill operations plan

Action Item: Consider signing JobScore employer service agreement

Public hearing - Consider approval/denial of a request by Trent White for an appeal of the P&Z Commission's denial of a variance; Case No. ZV2019-0001

Action Item: Consider signing findings of fact, conclusions of law & order; Case No. ZV2019-0001 - \* Will be continued to a later date

Meeting with Judge Petty to discuss communitywide mental health project initiative

Meeting with Development Services staff

Action Item: Consider signing final plat for Saddleback Ridge Estates Subdivision; Case No. SD2019-0027

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 15, 2020**

**PRESENT:** **Commissioner Pam White, Chair - OUT OF OFFICE**  
**Commissioner Tom Dale – Attending District III meeting in Gem County**  
**Commissioner Leslie Van Beek**  
**Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED PURCHASE ORDER**

The Board approved the following purchase order:

- Boise River Industries in the amount of \$5,400.00 for the Facilities Department

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 16, 2020**

**PRESENT:** **Commissioner Pam White, Chair**  
**Commissioner Tom Dale**  
**Commissioner Leslie Van Beek**  
**Deputy Clerk Monica Reeves / Jenen Ross**

**MEETING TO CONSIDER INDIGENT DECISIONS**

The Board met today at 8:47 a.m. to consider indigent decisions. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Director of Indigent Services Yvonne Baker, Customer Service Specialist Robin Sneegas and Deputy Clerk Jenen Ross. The following cases do not meet the eligibility criteria for county assistance: 2020-0247, 2020-0261, 2020-0266, 2020-0263, 2020-0171, 2020-0366, 2020-0160 and 2020-0262. Commissioner Van Beek made a motion to issue initial denials with written decisions to be issued within 30 days on the cases as read into the record. The motion was seconded by Commissioner Dale and carried unanimously. The meeting concluded at 8:49 a.m. An audio recording is on file in the Commissioners' Office.

**CONSIDER INDIGENT MATTERS**

The Board met today at 8:58 a.m. to consider indigent matters. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Director of Indigent Services Yvonne Baker, Hearing Manager Kellie George, Deputy P.A. Jim Cornwell, Customer Service Specialist Robin Sneegas and Deputy Clerk Jenen Ross.

Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to issue final approvals with written decisions to be issued within 30 days on case nos. 2020-7, 2019-1341 and 2019-1419.

Commissioner Van Beek made a motion to continue case no. 2019-1321 to March 12, 2020 and case no. 2019-1417 to February 13, 2020. The motion was seconded by Commissioner Dale and carried unanimously.

The meeting concluded at 9:00 a.m. An audio recording is on file in the Commissioners' Office.

#### MEDICAL INDIGENCE HEARING FOR CASE NO. 2019-1344

The Board met today at 9:06 a.m. to conduct a medical indigency hearing for case no. 2019-1344. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Deputy P.A. Jim Cornwell, Hearing Manager Kellie George, Director of Indigent Services Yvonne Baker, Timothy Ryan for St. Alphonsus, Attorney Elizabeth Sonnichsen for St. Alphonsus, Applicant and her husband and Deputy Clerk Jenen Ross. Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to continue the case to March 12, 2020. The hearing concluded at 9:39 a.m. An audio recording is on file in the Commissioners' Office.

#### CONSIDER INDIGENT MATTERS

The Board met today at 9:49 a.m. to consider indigent matters. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Director of Indigent Services Yvonne Baker, Hearing Manager Kellie George and Deputy Clerk Jenen Ross. Neither the hospital nor the applicant appeared on the following cases: 2019-1318, 2019-1462, 2019-1406, 2019-1399, 2019-467, 2019-1248, 2019-1283 and 2019-1347. Upon the motion of Commissioner Dale and second by Commissioner Van Beek the Board voted unanimously to issue final denials with written decisions within 30 days on the cases as read into the record. The meeting concluded at 9:50 a.m. An audio recording is on file in the Commissioners' Office.

Meeting with Development Services staff

Action Item: Consider signing findings of facts, conclusion of law & order, development agreement and ordinance for Dana & Arline Devlin conditional rezone; Case No. CR2019-0012

Meeting with county attorneys for legal staff update

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 17, 2020**

**PRESENT:** **Commissioner Pam White, Chair**  
**Commissioner Tom Dale**  
**Commissioner Leslie Van Beek - OUT OF OFFICE**  
**Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED CLAIMS ORDER NO. 1/24/20**

- The Board of Commissioners approved payment of County claims in the amount of \$265,639.63, \$70,730.22, \$38,452.38, \$84,731.69, and \$113,068.95 for accounts payable.

**APPROVED PURCHASE ORDERS**

The Board approved the following purchase orders:

- Elevate in the amount of \$1,817.88 for the IT Department
- QED Environmental Services in the amount of \$5,202.97 for the Solid Waste Department

**Detailed minutes to come at a later date for the following items:**

Meeting with Treasurer's staff

Action Item: Consider signing Treasurer's tax charge adjustments by PIN for December 2019

Meeting with county attorneys for legal staff update

Action Item: Consider signing FY20 Idaho STEM camp & out-of-school program grant award agreement

Action Item: Consider signing selection of Rural Landscape and Agricultural Resources Survey Consultant

Action Item: Consider signing Southwest Idaho Juvenile Detention Maintenance renewal

Action Item: Consider signing capital improvements plan independent contractor agreement with Connor Community Consulting

Action Item: Consider signing quote and purchase addendum to Spillman Technologies agreement

\*AMEND THE AGENDA: Meeting with Sheriff's Office and ADS regarding Pod 6

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 21, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

Detailed minutes to follow at a later date for the following items:

**MEETING WITH DIRECTOR OF JUVENILE DETENTION TO DISCUSS GENERAL ISSUES, SET POLICY AND GIVE DIRECTION**

The Board met today at 10:04 a.m. with the Director of Juvenile Detention to discuss general issues, set policy and give direction. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Director of Juvenile Detention Steve Jett, Deputy Director Sean Brown arrived at 10:11 a.m., Training Coordinator Shawn Anderson arrived at 10:11 a.m. and Deputy Clerk Jenen Ross.

Director Jett and Sean Brown updated the Board on the following:

- His last day will be February 28<sup>th</sup> and he indicated to the Board that Sean Brown is ready to take over the department if the Board so chooses;
- He spoke about how discretionary time is no longer allowed to be used by the PO's and how those decisions will now have to go back before the court. He gave an explanation of discretionary time and spoke about the Supreme Court ruling regarding misdemeanor arrests.
- They are looking at doing the drug and alcohol program in the Juvenile Detention Center similar to what is done in Ada County. Judge Onanubosi is not entirely on board but they will be meeting to with Ms. Catalano's and her supervisors to discuss further.
- Numbers are still down and in the future may need to look at reducing staff. Currently 15 juveniles in custody today.
- Training coming up on the 10<sup>th</sup> and 13<sup>th</sup> of February.
- POST is sending someone to evaluate two staff members to become certified instructors.
- MOUs are still being negotiated with the Department of Corrections for someone being housed at the Juvenile Detention Center until October.
- Currently they are paying about \$2500 year for radio maintenance but they have found less expensive radios that work well for their needs. He will be contacting AA-Tronics to discontinue the maintenance service agreement.

The meeting concluded at 10:19 a.m. An audio recording is on file in the Commissioners' Office.

**MEETING WITH DIRECTORS OF JUVENILE PROBATION AND MISDEMEANOR PROBATION TO DISCUSS GENERAL ISSUES, SET POLICY AND GIVE DIRECTION**

The Board met today at 10:19 a.m. with the Directors of Juvenile Probation and Misdemeanor Probation to discuss general issues, set policy and give direction. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Chief Probation Officer Elda Catalano, Director of Misdemeanor Probation Jeff Breach and Deputy Clerk Jenen Ross.

Director Breach updated the Board on the following:

- He is working on a rewrite of the Deputy Director job description to be a full time supervisor. He hopes to have the resolution before the Board in the next few weeks.
- They have been working with the Clerk's Office on inactivity dismissals which are warrants that have been out for a while but they aren't able to do anything with.
- Overview of active cases and bench warrants and year-to-year comparison.
- Stalking training will happen on February 5<sup>th</sup>.
- The Supreme Court is changing some rights and roles in Odyssey; Director Breach has concerns about how it may affect the receiving of money in future years.
- Discussion was had about a free lunch won by an employee. Director Breach has spoken with legal who does not have any concerns regarding ethics in government but asked him to check in with the Board as the lunch is sponsored by a local chiropractor who would like to speak at the lunch. The Board is okay with the lunch going forward.

Ms. Catalano updated the Board on the following:

- Her department has partnered with the Caldwell School District and St. Lukes to have speaker Jermaine Galloway give a speech regarding drug use this Friday from 8:00-1:30 at the Nampa Civic Center.
- The Job Corp. has changed the way they operate and trying to figure out how they will operate and who they will serve going forward. Ms. Catalano will be meeting with them tomorrow to figure out how to get her youth on probation into the program.
- Idaho Youth Ranch has invited Ms. Catalano out to visit about the youth programs; she will be going out there on January 30<sup>th</sup> for a tour.
- She is working to get a new PO on board with the hope he'll be able to start Monday.
- She is working with the Communications Manager in the Sheriff's Office to replace some of the radios used by her POs during home visits.
- Ms. Catalano was invited to attend a legislative session this Thursday with the Idaho Department of Juvenile Corrections to talk about their programing and probation

standards she was part of developing. Last week she attended the American Correctional Association conference; much of the cost is offset thru reimbursement so the county will only be responsible for her per diem.

The meeting concluded at 10:43 a.m. An audio recording is on file in the Commissioners' Office.

#### MEETING TO DISCUSS SECURITY DIRECTOR POSITION

The Board met today at 11:03 a.m. to discuss the Security Director position. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Chief Deputy Sheriff Marv Dashiell and Deputy Clerk Jenen Ross.

Commissioner Van Beek said she likes the job description and what the security committee put together. She thinks that what was developed in the document is a good working document and she's not sure there is much she'd want to change.

Commissioner Dale would like to have the security team and key stakeholders get together to evaluate the job description and see if there are points that could be modified. He feels it may not be a decision for just this Board but involve a greater group of people. Before we advertise for this position again he thinks it would be a good idea to re-evaluate this job description.

Commissioner White agrees with Commissioner Van Beek as this description is what the committee came up with and she feels they did a very adequate job and everyone agrees it's very comprehensive. Commissioner Dale asked, based on the experience that was just had with the previous Security Director, is there anything in the description that can be modified?

Commissioner White wondered if it should be addressed in the job description that this position works closely with the Sheriff's Office and there is a great deal of shared communications with the courts. She feels that with the previous director there was a real misunderstanding.

Commissioner Van Beek feels maybe there was a lack of clear communication of what his responsibilities would be. She thinks the Board needs to establish clear direction - that this person needs to be able to work with each remote location, elected officials and people covered under that. A big area where there were issues before was with the courts and it needs to be figured out what that looks like. She feels there was not a clear understanding and perhaps the previous director came with a different set of ideas about how to do that. She thinks maybe this is a bigger discussion with the TCA and ADJ about courthouse security. Commissioner Van Beek noted that there was a mission statement created by the previous director and thought that should also be looked at. Do we retain the mission statement created by another person? She liked the fact that one was developed and the core principals of it - she would like to be a part of the Board discussion as to whether this is a "one size fits

all" for the next person coming in. She would also like for the new person to be a part of the budget process for this department.

Commissioner White asked if Director Baumgart should start actively recruiting as it's going to take a little bit of time and we could already be into budget discussions.

Commissioner Dale reiterated that he would still like to hear from the key stakeholders and have a group debrief on what was experienced the last time, what we should be looking for and if the job description needs to be changed which is a much broader discussion that just the three of them.

Commissioner Van Beek said she is not opposed to hearing other opinions but that the Board needs to have confidence in what is being developed.

Commissioner Dale would like to hear from the Sheriff and the Directors of IT, Facilities and HR to find out if any adjustments need to be made to clearly define the position works closely with the Sheriff's Office among others.

Commissioner White asked if the Director of Security needs to be deputized as that seemed to be a sticking point with the previous director. Chief Dashiell said that he believes the resolution indicates that it's a shared authority granted by the Sheriff to get some limited powers moved across to the department. Commissioner Dale asked what that looked like and Chief Dashiell said he sees it as dealing with the courts and authority to carry a firearm would have to be authorized under the Sheriff. Commissioner White asked about the authority outside the confines of the building. Chief Dashiell said that previously they would not have been because they hadn't gotten to the stage of deputization. Staff members that did pursue authority outside the building had no authority any more than a citizen but that was one of the things that was going to be developed between the Sheriff's Office and Security department to give them limited powers of arrest and limited authorities outside the structure of the building. Commissioner Van Beek noted the use of the Marshals as mentioned in the Triad report. Chief Dashiell said he thinks one of the stumbling blocks they have with that right now is the authorities that are being granted under the court's authority as compared to the authority that the Sheriff has – that is something that would have to be stabilized and worked out. Currently, Marshals are paid by the state and hired by the TCA and the authorities they have given to them are thru the courts.

Commissioner Dale suggested a debrief in executive session to discuss the lessons learned from the previous experience.

Commissioner Van Beek said since this person is a Board employee there needs to be a clear understanding of what's in the job description, of the funding, of the budget. She would propose that there be a meeting with the courts first to find out about their needs although she's also okay with a bigger meeting too. This is a Board employee and the Board needs to have a clear direction. She is okay with input from other offices but the ultimate decision rests with the Board on the description.

Commissioner Dale said he'd like to meet with the stakeholders as soon as possible, including the courts. He doesn't know that a separate meeting with the courts about the Security Director would reveal much information that isn't already known. Those meetings about the shared employees is bigger than this group and no one is questioning that the security director falls under the administration of this body and reports to this Board.

Commissioner White spoke about the liability and how it doesn't all fall under this Board. If the Sheriff deputizes them then there is a liability there too. She feels that IT and Facilities have already done their part in the establishment of the security department and don't need to be a part of the meeting but would like to meet with the ADJ, TCA, Sheriff Donahue and Chief Dashiell and the civil attorneys. Commissioner Dale agrees with having that meeting and believes that part of the debrief is to discuss where there could have been a smoother transition and what could have been done differently.

Commissioner Van Beek spoke about a refresher of the Triad report, Commissioner White thinks that's a good idea but would like to take it a step further in that she would like to have a discussion on everyone's point of view on what was learned, what everyone saw or didn't see, what was expected or did not get what was expected. She also thinks that a meeting with the Controller should be set to establish a realistic budget for the department in order to hire the caliber of person needed for a business the size of the county. Commissioner Dale said this is not a short-term fix but a long-term vision.

The meeting concluded at 11:31 a.m. An audio recording is on file in the Commissioners' Office.

Meeting with the County Agent to discuss general issues

File in minutes Treasurer report for November 2019

#### LEGAL STAFF UPDATE AND CONSIDER SIGNING THE JANUARY 21, 2020 AGENDA ITEMS

The Board met today at 2:30 p.m. for a legal staff update and to consider the agenda items that were scheduled for the afternoon of January 21, 2020. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Chief Civil Deputy PA Sam Laugheed, Deputy PA Brad Goodsell, Deputy PA Zach Wesley, Deputy PA Dan Blocksom,

Landfill Director David Loper, Assessor Brian Stender, Chief Deputy Assessor Joe Cox, Clerk Chris Yamamoto, Controller Zach Wagoner, Chief Deputy Sheriff Marv Dashiell, Captain Daren Ward, Facilities Director Paul Navarro, and Deputy Clerk Monica Reeves.

(Sheriff Kieran Donahue joined the Executive Session via conference call from 3:21 p.m. to 3:30 p.m.) The items were considered as follows:

*Consider Signing Idaho Department of Water Resources Application for Permit for water use at Pickles Butte Sanitary Landfill* – Deputy PA Goodsell said a few months ago the County acquired

nine acres next to the landfill and that property had a domestic water right and this application is an attempt to enlarge that water right so we can have more water to use for dust control at the landfill. Director Loper said he is requesting .18 cubic feet per second, 50-60 gallons per minute. They will only be using the water on roads and certain spots at a time. Following a review of the application, Commissioner Dale made a motion to authorize the Board to sign the permit application for water use at the Pickles Butte Sanitary Landfill. The motion was seconded by Commissioner Van Beek and carried unanimously. (The signed application is on file with this day's minute entry.)

*Consider signing Application to the Idaho Association of Counties for Assistance in Economic Obsolescence and/or Property Value Litigation for City Development, Inc./U-Save Storage, LLC, CV14-19-04564; Consider signing Application to the Idaho Association of Counties for Assistance in Economic Obsolescence and/or Property Value Litigation for CTI-SSI Food Services, LLC, CV14-19-02264; Consider signing Application to the Idaho Association of Counties for Assistance in Economic Obsolescence and/or Property Value Litigation for Twin Islands, LLC, CV14-19-05106* - Chief Civil Deputy PA Laugheed said an Executive Session would be appropriate under Idaho Code Section 74-206(1)(d) and (f) for these items.

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND ATTORNEY-CLIENT COMMUNICATION, AND COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Dale made a motion to go into Executive Session at 2:45 p.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) discuss records exempt from public disclosure and attorney-client communication, and to communicate with legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Van Beek. A roll call vote was taken on the motion with Commissioners Dale, Van Beek and White voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Pam White, Tom Dale, Leslie Van Beek, Assessor Brian Stender, Chief Deputy Assessor Joe Cox, Clerk Chris Yamamoto, Controller Zach Wagoner, Chief Civil Deputy PA Sam Laugheed, Deputy PA Dan Blocksom, Deputy PA Zach Wesley, Deputy PA Brad Goodsell, and Deputy Clerk Monica Reeves. The Executive Session concluded at 2:59 p.m.

When the Board returned to open session Commissioner Dale said there was discussion in Executive Session about the necessity of moving forward in some lawsuits that have been percolating for quite some time in the Assessor's Office and at this time it is expedient to move forward with the applications to the Idaho Association of Counties for help in these outstanding litigation matters and to work towards signing an agreement with an outside attorney. He made a motion to authorize the Chair to sign the application to the Idaho Association of Counties for Assistance in Economic Obsolescence and/or Property Value Litigation. One is for Twin Islands, LLC, one is CTI-SSI Food Services, LLC, and the other is for City Development, Inc./U-Save Storage, LLC, with their appropriate case numbers noted on the agenda. The motion was seconded by

Commissioner Van Beek and carried unanimously. (The signed applications are on file with this day's minute entry.)

***Consider signing Agreement with Barclay Damon LLP to Provide Legal Services*** – Chief Civil Deputy PA Laugheed said this is something the Assessor's Office and Prosecutor's Office have been working on for quite some time and they have identified certain resource limitations in the Prosecutor's Office that prevent them from being lead counsel on these, although after the work that's been done so far they are confident in the case that's going to be presented and believe it's necessary for the Assessor to pursue these. They found outside counsel in the Syracuse, New York area who charges an amount comparable to the amounts of local counsel if they were not conflicted, as well as regional counsel in the Utah area. From the Prosecutor's perspective he is happy to represent that these are actual and necessary expenses. Dan Blocksom and other attorneys in the PA's Office will participate with the pro hac vice admission of this attorney because he's not licensed in Idaho and also to help provide communication, conduit and backstory on these. The Clerk and Controller have looked at the finances. Upon the motion of Commissioner Van Beek and the second by Commissioner Dale, the Board voted unanimously to sign the agreement with Barclay Damon, LLP, to provide legal services as articulated by legal counsel and as recommended by the Assessor's Office. (See Agreement No. 20-016.)

At 3:04 p.m. the Board reconvened into Executive Session as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND ATTORNEY-CLIENT COMMUNICATION, AND COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Dale made a motion to reconvene into Executive Session at 3:04 p.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) discuss records exempt from public disclosure and attorney-client communication, and to communicate with legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Van Beek. A roll call vote was taken on the motion with Commissioners Dale, Van Beek and White voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Pam White, Tom Dale, Leslie Van Beek, Chief Civil Deputy PA Sam Laugheed, Deputy PA Zach Wesley, Chief Deputy Sheriff Marv Dashiell, Jail Captain Daren Ward, Facilities Director Paul Navarro, and Deputy Clerk Monica Reeves. Sheriff Kieran Donahue joined the session via conference call from 3:21 p.m. to 3:30 p.m. Director Navarro, Captain Ward and Chief Dashiell left at 3:38 p.m. The Executive Session concluded at 4:06 p.m. with no decision being called for in open session.

An audio recording of the open portion of the meeting is on file in the Commissioners' Office.

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 22, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

Meeting with county attorneys for legal staff update

Action Item: Consider signing Historic Preservation support award agreement with Canyon County Historical Society

Action Item: Consider signing a resolution authorizing the acceptance of State Criminal Alien Assistance Program grant funds

Meeting with Public Information Officer to discuss general issues, set policy and give direction

Public hearing - Consider approval/denial of a request by Canyon County for a zoning ordinance amendment; Case No. OR2019-0010; Action Item: Consider signing findings of fact, conclusions of law & order and ordinance; Case No. OR2019-0010

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 23, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

Detailed minutes to follow at a later date for the following items:

**MEETING TO CONSIDER INDIGENT DECISIONS**

The Board met today at 8:50 a.m. to consider indigent decisions. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Director of Indigent Services Yvonne Baker and Deputy Clerk Jenen Ross. The following cases do not meet the eligibility criteria for county assistance: 2020-0294, 2020-0285, 2020-0283, 2020-0301, 2020-0311, 2020-0244, 2020-0222, 2020-0284 and 2020-0306. Upon the motion of Commissioner Van Beek and second by Commissioner Dale the Board voted unanimously to issue initial denials with written decisions to be issued within 30 days. The meeting concluded at 8:52 a.m. An audio recording is on file in the Commissioners' Office.

**MEETING WITH COUNTY ATTORNEYS FOR A LEGAL STAFF UPDATE**

The Board met today at 10:32 a.m. for a meeting with county attorneys for a legal staff update. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Chief Deputy P.A. Sam Laugheed, Chief Juvenile Probation Officer Elda Catalano arrived at 11:00 a.m. and left at 11:26 a.m. and Deputy Clerk Jenen Ross. Discussions were had regarding a claim for the 3<sup>rd</sup> District Youth Court, budget processes, District 1 department administrator invitation and meeting and the Power Plan training.

**EXECUTIVE SESSION – PERSONNEL MATTER REGARDING NAMED PERSONNEL, RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND ATTORNEY-CLIENT COMMUNICATION**

*A request was made to go into Executive Session as follows:*

Commissioner Dale made a motion to go into Executive Session at 11:29 a.m. pursuant to Idaho Code, Section 74-206(1) (b) and (d) regarding personnel matters involving named personnel, records exempt from public disclosure and attorney-client communication. The motion was seconded by Commissioner Van Beek. A roll call vote was taken on the motion with Commissioners Van Beek, White and Dale voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek. The Executive Session concluded at 11:54 a.m. with no decision being called for in open session.

The meeting concluded at 11:55 a.m. An audio recording of the open portion of the meeting is on file in the Commissioners' Office.

Public hearing - Action Item: Consider approval/denial of a request by Wild Rose Homeowner's Association, Inc. for a rezone; Case No. RZ2019-0033

Action Item: Consider signing findings of fact, conclusions of law & order and ordinance; Case No. RZ2019-0033

Consider personnel matter pursuant to Idaho Code, Section 74-206(1)(a) and (d); interview and candidate evaluations; Mosquito Abatement Board

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 24, 2020**

**PRESENT:**    **Commissioner Pam White, Chair**  
                  **Commissioner Tom Dale**  
                  **Commissioner Leslie Van Beek**  
                  **Deputy Clerk Monica Reeves / Jenen Ross**

Detailed minutes to follow at a later date for the following items:  
Meeting with county attorneys for legal staff update

Action Item: Consider signing landfill monitoring well agreement with Layne Christensen Company

Action Item: Consider signing Canyon County Historic Preservation support award agreement with Historical Society of Middleton

Quarterly jail inspection

Meeting with the Canyon County Clerk's Board

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 27, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**COMMISSIONERS OFFICE STAFF MEETING**

The Board met today at 8:31 a.m. for an office staff meeting. Present were: Commissioners Tom Dale and Leslie Van Beek, Deputy Clerks Jenen Ross, Jamie Miller and Monica Reeves. The Board reviewed this week's schedule with staff. Commissioner Pam White arrived at 8:46 a.m. The meeting concluded at 8:50 a.m. An audio recording is on file in the Commissioners' Office.

Detailed minutes to follow at a later date for the following:

Meeting with county attorneys for legal staff update

Action Item: Consider signing summary and ordinance of Canyon County, Idaho, amending Chapter 7, Article 18 Zoning Regulations

Monthly Elected Officials' meeting - Administration building - Public meeting room

Meeting with Administrative District Judge and Trial Court Administrator to discuss general issues

Meeting with Department Administrators for round table discussion

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 28, 2020**

**PRESENT:** Commissioner Pam White, Chair  
Commissioner Tom Dale  
Commissioner Leslie Van Beek

**Deputy Clerk Monica Reeves / Jenen Ross**

**APPROVED PURCHASE ORDER**

The Board approved the following purchase order:

- R&H Wholesale in the amount of \$3,790.50 for the Facilities Department

**APPROVED CLAIMS ORDER NO. 2/10/20**

- The Board of Commissioners approved payment of County claims in the amount of \$149,165.50, \$11,372.00, \$72,944.75, \$23,796.51, \$64,199.06, and \$53,579.21 for accounts payable.

Detailed minutes to come later for the following items:

Executive session pursuant to authority granted by Idaho Code § 74-206(1)(a) and (d)

Meeting with county attorneys for legal staff update

Public hearing - Consider approval/denial of a request by Tradition Capital Partners for a preliminary plat, irrigation & drainage plan for Star River Meadows Subdivision; Case No. SD2019-0032

Action Item: Consider signing findings of fact, conclusions of law & order for Star River Meadows Subdivision; Case No. SD2019-0032

Meeting with Public Defender to discuss general issues, set policy and give direction

Meeting with the Solid Waste Director to discuss general issues, set policy and give direction

Meeting with Canyon County Mosquito Abatement District

Action Item: Consider approval/denial of annual Mosquito Management Plan for 2020

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 29, 2020**

**PRESENT:** **Commissioner Pam White, Chair**  
**Commissioner Tom Dale**  
**Commissioner Leslie Van Beek**  
**Deputy Clerk Monica Reeves / Jenen Ross**

APPROVED PURCHASE ORDER

The Board approved the following purchase order:

- Thompson's Maytag in the amount of \$3,568.85 for the Facilities Department for use in the jail

APPROVED EMPLOYEE STATUS CHANGE FORM AND/OR KEY & SECURITY ACCESS REQUEST FORM

The Board approved a salary rate request and/or key & security access request form for Danielle Heitz.

QUARTERLY MEETING WITH THE WEED AND GOPHER CONTROL SUPERINTENDENT TO DISCUSS GENERAL ISSUES, SET POLICY, AND GIVE DIRECTION

Detailed minutes to follow; no Board action was taken.

CONSIDER SIGNING RESOLUTION TO ADOPT THE CHANGE TO THE JOB TITLE, JOB DESCRIPTION AND FLSA STATUS OF ONE POSITION IN MISDEMEANOR PROBATION

Board approved the resolution; detailed minutes to follow

CONTINUATION OF PUBLIC HEARING – APPEAL BY ROBERT TURNER REPRESENTING WILD ROSE LANE HOA AND THE TWO TOWERS SUBDIVISION HOA REGARDING THE DECISION TO GRANT A C.U.P. TO COPE SAND AND GRAVEL, CASE NO. APL-CU2019-0019

The Board met today at 10:05 a.m. to conduct a public hearing in the matter of an appeal by Robert Turner representing the Wild Rose Lane Homeowners Association and the Two Towers Subdivision Homeowners Association regarding the P&Z Commission's decision grant a conditional use permit to Cope Sand and Gravel, Case No. APL-CU2019-0019. Present were: Commissioners Pam White, Tom Dale and Leslie Van Beek, Deputy PA Zach Wesley, DSD Director Tricia Nilsson, DSD Planner Dan Lister, Claudia Frent, Bill Rapp, Larae Sizer, Ed Wofford, Patricia Dennis, Jaye Jaye Johnson, Robert Turner, Christian Stanciu, Elspeth Turner, Barry Martin, Dean Flint, Sherra Rapp, Marilyn Wofford, Christina Dennis, Laura BeBeau, Cheyanne Turner, Terri Hagler, Joan Perdue, Sheryl Mansfield, John Babcock, JoAnn Butler, Paul Cope, Brett Cope, Dave Cockrum, Jacque Cope, Robert Parrish, Casey Cope, Leslie Robinson, Angie Robinson, and Deputy Clerk Monica Reeves. Today's hearing was continued from January 7, 2020 to allow time for

the review of new information. Dan Lister reviewed the late exhibits that were submitted and following his report he responded to questions from the Board and discussion ensued.

**The following people testified in support of the appeal:**

Claudia Frent gave testimony regarding her discussion with City of Nampa representatives regarding the city's plan to include this area in its impact area, which the Two Towers Subdivision will not object to. She spoke about how MSHA (Mine Safety and Health Administration) only regulates what happens inside the pit, but when it comes to measuring dust and noise outside the pit that falls to the EPA and DEQ. She questions whether an accurate measurement of the noise has been taken given that the Copes used a hobby tool, rather than a calibrated measurement, to test noise. She spoke of how the residents of Two Towers Subdivision can hear the crusher when it's operating. She believes the previous Board did a disservice to the community by not addressing the depth of the pit. Because they haven't shown where the clay layer is she does not feel a 70-foot depth is acceptable, perhaps it should be 50 feet. At a previous hearing the Copes gave their word to the County and the community that they would not penetrate the water or mess with the aquifer because they were not going to go more than 30-50 feet, but they did go deeper. She noted the issues the Wild Rose Subdivision is having with some wells. Ms. Frent addressed a late exhibit referencing a social media email. Staff only has to provide notification to those within 300 feet of the subject property so there are many residents who were not notified, and so it is the job of the HOA President to make sure residents know what is going on in the community. She said the presentation was posted on social media by the appellants, it was sent to an HOA representative in Red Hawk Subdivision and what that person did does not fall on the appellants in this case. She spoke of concerns this proposal will have on traffic patterns, as well as her frustration that the Copes have not done anything to correct the violation or fix the berm, nor have they reached out to the community, instead they have done communicated through their attorney via a letter to the County. She does not believe a new CUP should be given to a company who's in violation of a previous CUP. Ms. Frent went to the Department of Lands to learn more about reclamation, and she believes the Copes plan is very sketchy, noting that a 3-to-1 slope is not sufficient. Furthermore they don't have the funds to make it into useable land. In response to previous testimony, she reached out to the Boy Scouts and they said they are not interested in doing a camp on the property. The Copes have said they will do things but in the end they are not held to anything, and if they are going to put in a reclamation plan they should be obligated to make it nice. Bill Rapp stated he believes the Copes have been less than ethical and honest because they do not do what they say they will do. He spoke about how the Copes consistently submit information at the last minute leaving the neighbors very little time to review that information. He said the request has been denied three times for the same reasons; the plan has not changed nor do they follow through with what they say they will do. Larae Sizer testified that each time the Copes have brought forth a request it has been denied, and nothing has been done to address the issues from 2002 to 2017 so why should they be rewarded. Ed Wofford gave testimony regarding his concerns about silica dust which is created through the crushing of rocks. He requested the Board not allow the Copes to expand toward the Wild Rose Subdivision. Patricia Dennis gave testimony about how her new washing machine was in need of repairs and it was determined that the problem was being caused by sand in the filter and control board which prevented it from working correctly. She expressed concern about how the proposal will affect her property in terms of if they plant trees where will those roots go, and, if she has to have a new well she want to know what her recourse is for compensation. Jaye Jaye Johnson said there was a lot of testimony regarding depths, but nowhere was the information given where the clay boundaries are located and that is pertinent to depths. She gave technical testimony on permeability and said the geologist submitted literature that was inconsistent because it included language that the clay is impermeable and has low permeability, but it can't be both, it has to be one or the other. Is it impermeable, or is it low permeability. Regarding the noise study, she said the residents don't benefit from the gravel pit and she quested who will monitor them.

Ms. Johnson said they had contextual knowledge of depth, the first application was submitted at 30-50 feet and the Copes knew that. There is an ethical point to business and that point binds you. Robert Turner testified there are thousands of homes within the one mile radius and history shows us that the things that were promised were not kept. Trying to restore trust in the community is very difficult because they don't believe the Copes are trustworthy. He said the homeowners have rights, and the sound is only going to get worse if the barrier is removed. He said there is no question about the depth of the pit, it's between 90-96 feet and regardless of their intent the Copes violated that in the original goal. Residents' concerns include: heavy traffic, dust and odor concerns from the pit, and recent persistent problems with water. Mr. Turner said there will be thousands of additional homeowners in this area and they will be concerned about the operation of the pit. Christian Stanciu said he is affected by traffic on a regular basis. He's on the downhill slope from the pit and when the trucks come down the road they use their jake brakes and it's very loud. He sells safety equipment and he has spent 20 years calling on gravel pits and most gravel pits you cannot get past the front gate without safety goggles. The intent is not to put the Copes out of business, but we have to be really careful about what we put amongst ourselves. It was said this valley is out of gravel, but that's not true, he bought some material from Rambo, so it's not true when they say we are out of gravel and therefore this pit needs to be amongst homes.

**Testimony in opposition to the appeal:**

John Babcock, who owns the subject property, wanted to correct a statement he made at the previous hearing when he said the Copes already own the property where the crusher is located. The Copes have plans to buy it when certain provisions are in place. Regarding the Nampa impact area, he protested plans at the time when they wanted to annex his property and he will oppose it again. Regarding the reclamation plan that was described as a 3-to-1 slope, he said as long as the Copes meet the requirements the Board approves as a reclamation he doesn't care whether the residents of Two Towers Subdivision like it or not, the Copes only have to please the County and himself. He testified that none of the wells on his property have been affected by the pit over the past 18 years. His irrigation well went dry when they lowered the water in the lake, which leads him to believe the lake is feeding this area. He spoke about a canal that leaks under the road and makes a swamp in the Wild Rose Subdivision. His property is zoned for farming and mining and he has a right to make a living from it. He said there is still a plan in place to have a campground as part of the reclamation plan but they are going to wait until the application is approved before they start to raise funds for structures that will be part of the campground. He said if the Copes have fulfilled all of the requirements imposed by the previous Board they are entitled to have this application approved, but if the permit is not approved he will immediately file a request for a regulatory taking analysis for loss of income on this property for over regulation of his property. He also said if the request is denied the County will be giving the Rambo operation a monopoly. Mr. Babcock responded to questions from Commissioner Van Beek.

JoAnn Butler said when the Copes came to her last spring regarding their plans for a gravel operation she looked at what they had done to date. Twice the P&Z Commission unanimously approved their operation, a different application then today because they have reduced the number of acres, because it met the criteria and standards of the County code and they noted that the Department of Lands has approved the reclamation plan. She said people are concerned about traffic, but the highway district has said there is not enough traffic from the operation to warrant a traffic impact study or to create any kind of issue other than saying trucks should travel eastbound when leaving the operation. People are concerned about growth, traffic, and new homes in the area, but it's not this operation's traffic, it's not what they are putting on the road. It is the influx of growth. Ms. Butler said the Board previously noted the actions the Copes could take to gain approval: make sure the sound levels for the nearest neighbors are met, mitigate for dust, show that property values haven't fallen; and they wanted to hear about traffic. The Copes submitted the noise studies they have done. The fact is if there is a crusher in the area, you might hear it; if there's a car in the area, you might hear it; if

there's farm equipment in the area, you might hear it. The issue is whether sound is kept to a reasonable level and they have done that in a number of ways such as visual backup alarms versus automatic alarms. The reports show the Copes are within the rural noise level studies for this area. The property values have not gone down. This area is agriculturally zoned and gravel operations are allowed with a CUP. The Two Towers Subdivision was approved as a CUP, and it was only approved when the Board said they must have a statement on the plat that said you acknowledge you are in an agricultural zone and that there are agricultural operations and gravel pits in the area. The Copes have worked hard to be neighborly. They acknowledge it's been difficult to maintain the trees on the berm and they have submitted a landscape plan and since the January 7 hearing they have obtained a bid from Meridian Fence to get started with the work and to show a good faith effort in taking care of the berm. The Copes have never been cited by the County for a violation. Ms. Butler said she identified with the Copes the various things that were raised by the neighbors and said it needs to be addressed upfront with their application. They have to comply with local, state and federal laws, rules and regulations; provide an annual report of what they're doing on site and what the communications have been with the County or state or federal agencies so we have it on record. Landscaping needs to be done even before they start any operation on the 12 acres and that language has been added to the conditions of approval. Regarding pit depth, they totally refute the trespassing drone that came onto the property took a depth measurement, it is not correct. The 30-50 feet people talk about were test wells that were dug, there was never a criteria to stay at 50 feet. They have never hit clay. The Board asked about phasing over time, it's noted on Page 4 where each step of the operation is identified. It means 8 years of graveling the operation and 2 years of reclaiming. Even though the P&Z Commission has approved the applications as being compliance, people have complained about the operation even though they are in an agricultural zone and there are inconveniences. They have worked hard to make sure this application provides the balance in the community. In this area there is gravel and if the Copes meet the conditions and criteria and the conditions of approval then yes, they should be allowed to continue for 10 years. Regarding the comments about the lack of trust, she said the Copes have complied with the conditions of approval, and they acknowledge the trees and they are working on the berm but that is one thing, it does not mean they are untrustworthy. Ms. Butler responded to questions from Commissioner Van Beek. Paul Cope testified that the Cope Sand and Gravel Company is one of only two retail sand and gravel operators in Canyon County, the other one is Rambo Sand and Gravel. There are larger operations who do sell but they don't sell every product. He takes offense to the neighbors' statements that the Copes are unethical and dishonest because it's not true, they are a third-generation company and they take pride in their business. He spoke about the studies performed by MSHA and he reported that they performed an unannounced site visit on January 15, 2020, and no violations were noted. Mr. Cope spoke of the donations their company has made to the community demonstrating their desire to be good neighbors. They are in compliance with their permit, and they are seeking a simple gravel extraction so they can continue their operation. Mr. Cope responded to questions from the Board regarding the landscaping condition. He said they will complete the landscape berm that will include a vinyl fence, landscaping and rocks on both sides at an estimated cost of \$80,000. Brett Cope testified they have been in business for 50 years and they have built a good name for themselves and they wouldn't have been in business this long if they weren't honest and good people. The Cope pit was in business before the Two Towers Subdivision was built by Mr. Lasher, who developed in an agricultural area and now the residents are opposing their gravel operation. He spoke about the drone trespassing onto his property and said their measurements were false. Mr. Copes said denying their CUP is denying small business owners a chance to stay competitive with the large corporations who have their own sources they save for themselves which will create a monopoly for projects. He said if the operation was farther away there would be even more traffic because contractors would need more trucks hauling to get their projects finished on time causing more wear on roads. Their retail business allows other contractors to stay in business without a monopoly with three or four large corporations controlling it all. Dave Cockrum

testified the existing reclamation plan is held by the Department of Lands, who is interested in water quality issues, mined land reclamation, and issues having to do with dust. The operation is bonded, not for 100% of the cost, but it's a good faith effort. He referenced the MHSA regulation book for mining. Several agencies work to make sure things run smoothly and that no one is hurt. He referred to regulations regarding employees working around dust. If there was a dust issue in the Cope pit they would be wearing respirators or respirators and oxygen if it was severe. How do we know when silicosis starts? It starts the first day you work in an operation where you're exposed to dust levels that exceed the standard. If a control plan is not in place for people who work in that crusher or in the pit and something happens then the Copes are liable for the damages and that's a serious and significant violation and the operation gets shut down. DEQ is another regulatory agency who categorically states if there is visible dust leaving the property they are in violation and they have to remediate it. You have MHSA working inside the pit; DEQ working outside the pit; and along with that the Department of Lands could be there could be something in the reclamation plan that is allowing dust to become a problem in the operation. In this case there has never been a dust violation nor any indication there is silicosis, or that the crushed rock that makes the kind of silica that everyone is talking about. MSHA has pages and pages of occupational noise exposure regulations. If there are violations the operation gets shut down until they remedy the situation. There isn't a permissible noise level, the EPA attempted to do it in the 1970s and said the recommended noise level for rural residential area is 70 decibels, but a lawnmower puts out 95 decibels and a car starting up puts out 85 decibels so there are too many variables and too many things that violate the idea. His noise meter which was purchased from Radio Shack has been calibrated at least six times over the last 10 years, the last time sitting next to an MSHA noise meter at an MSHA inspection. It typically is two decibels too high; it's pretty accurate and works well and is not affected by barometric pressure. He spoke about ground water samples and the well drillers reports that are filed with the Idaho Department of Water Resources. He's able to look at wells and get a general idea of the geology right away. In this case we're not looking at rock, it's unconsolidated material. Underneath is clay but the clay is not a clay stone or a rock – it's unconsolidated by very compacted clay that underlies the gravel all over the Boise valley. To get to consolidated material in this area you have to go down 300 feet. In comparison to gravel, clay is very impermeable. The clay sits anywhere from 70-100 feet below the natural ground surface in this area. He looked at as many wells as he could that were reasonable that had data that was reasonable that was useable and that clay confining layer sits under the gravel in all of them including the one at Wild Rose Subdivision. He said problems that have to do with bacteria are more than likely do to with individual septic tanks that are failing. Just because a gravel pit is located to the east doesn't mean it's to blame for everybody's problems. He said they have done the best they can do short of spending millions of dollars. Mr. Cockrum responded to questions from the Board. Robert Parrish testified that his company buys aggregate from several pits around the valley and he produces some material himself that he resells across the country. The Cope pit services the valley. To have a local company provides a resource that builds driveways, commercial businesses, and homes is invaluable. In many places you cannot buy a yard of rock, you have to go to businesses that charge exorbitant prices because they own all the resource and those companies control the market and they dictate what happens and this valley is getting dangerously close to being in that situation. Knife River and Sun Rock pretty much own everything and they produce rock for themselves, for their jobs – not for the smaller businesses and in a sense they dictate who can do business in the valley and if you don't have an account with them they won't sell to you. He spoke about the invaluable resource the Copes provide with the low cost material they provide to the community. He has a degree in agronomy (soils) and dust. He said silicosis is only caused by a certain size of dust. It is very small, between 1-2 microns and if it's smaller than that it goes through your system, if it's bigger than that it never enters your system. Regardless of farmers dust, dirt dust, or crusher dust, if it falls below that range or above that range it will not enter your lungs and cause silicosis. If the Copes produced dust like that they would be wearing air bags and MHSA would not allow them to operate. The one silica producing crushing pit in the valley –

Unimin – and it does not have operations that produce dust that cause silicosis and they crush silica. You don't even have to wear a respirator when you go on that site. During rebuttal Claudia Frent said we keep going back and forth on the pit. This side says we measured it at 95 feet, this side says it's only 52 feet. If you look at previous hearings, the Copes testified the pit depth was 70 feet, 80 feet, on average, but today they say it's 52 feet. She asked the County to measure the pit but she was told no and she wants to know whose job it is to make sure the community is protected. The appellants don't have anything personally against the Copes but they don't think the expansion request fits the area. There is plenty of land that is undeveloped and when they get close to mining everything she believes they will ask for another permit. On January 7<sup>th</sup> the Copes testified that another family is not interested in ever having residences on their property and she believes they will ask that family if they can mine gravel, if they can purchase land. It's good business for the Copes, but it is not good for the community or the residents. She spoke about how the gravel pit does impact property values. She believes the request should be denied because it is injurious to the community. JoAnn Butler said people in this area are living in an agricultural zone and if this truly is changing perhaps a rezone of the area should be considered and people should work with the County accordingly but right now it's an agricultural zone. Upon the motion of Commissioner Dale and the second by Commissioner Van Beek the Board voted unanimously to close public comment. The Board took a recess at 12:45 p.m. and went back on the record at 12:55 p.m. The Board's deliberation was as follows: Commissioner Van Beek said she finds merit in the idea that the intent and the neighborliness that needs to be demonstrated to coexist. Jaye Jaye Johnson's testimony spoke louder to her because she was definitive and she found her testimony more believable. Private property rights have to be evaluated on both sides, and the coexistence has to be mitigated by good neighbor relations in how things are laid out. The boundaries for defining it and what it will look like have not been established. Her position has not changed from the January 7 hearing, there were things over 18 years that could have been done and she disagrees with the attorney's position that the conditions in the CUP are the good faith effort to address concerns. Commissioner Dale spoke about how familiar he is with the history of area and said when the Copes first found the property to be suitable for the extraction of gravel he was concerned it would destroy the lives on those in the Wild Rose Subdivision but it hasn't done that. He appreciated Jaye Jaye Johnson's testimony and passion but she did not bring any studies that were based on the area, or facts based on studies in the area. She gave her opinion based on her experience. When he listened to the testimony of a certified professional with specific knowledge and studies based on this application he has to consider it more than just opinion. He doesn't see that there has been any kind of factual connection made with what is happening in the gravel pit with the presence of sand in area wells. He doesn't believe anything has been shown that the Copes are unethical or untruthful. They have complied with the conditions as imposed in 2002. There have been no violations other than minor things with MHSA but nothing as far as health and safety. He appreciated Robert Parrish's testimony that the presence of dust doesn't mean it's silica dust. Commissioner White said there has been no testimony about shutting down the gravel pit. When it came before a different Board they put some very strong sideboards on the requirement for them to do this and she likes that it was reduced from the original request of 23 acres to be done in 10 years. She would like a stipulation that says if there is a violation it will be tagged and they will be restricted from operation until that has addressed to the satisfaction of DSD. Zach Wesley said that might be an action that would be within the authority of one of the other agencies involved in managing this, but from a zoning perspective with what the County has under the state law to deal with there is a due process requirement for a hearing before the zoning could be revoked, even temporarily. Commissioner Van Beek likes Commissioner White's proposal. She the Copes have had 18 years to comply and they could have done things to help with mitigation, and if she were the applicant she would have wanted an independent third party to evaluate the data and provide feedback, maybe bring the two sides somewhere in the middle on the expert opinion that's been given. She is not able to overcome her concerns so she is going to side with the opposition in not granting an additional request when the terms of the original request

were not fulfilled. Commissioner White said the Board previously addressed the denial with required conditions and the applicants have met or exceeded those conditions. Commissioner Van Beek encouraged Commissioners Dale and White to include stronger language that would revoke the zoning. Commissioner White said if there is a violation we have the conditions and they have agreed to them and we have told them some of these things have to be accomplished before the start the new 12-acre piece. The depth of the operation shall not exceed 70 feet, and there are somethings that need to be taken care of immediately. We can say if there's a violation of the conditions they will have to come back and explain that to the Board. Commissioner Dale said this is a separate application from the prior one, and this one is half the size and it includes multiplicity of conditions that did not exist in that last application. Our laws allow observation of a CUP to be evaluated by staff and if there are conditions that are violated that can result in revocation of that CUP with due process and the Copes would end up back here to correct any kind of violation. It keeps surfacing that over 18 years they have had free rein, and not had any attention paid to the original CUP but that's not the case. There have been no documents or proof brought to this hearing or previous hearings that said they violated the conditions of their original CUP. Does it look exactly like we had hoped? No. The trees died and it is not a park-like setting but that's not a violation of the CUP. This application has been carefully analyzed by staff and the P&Z Commission and they approved it. Further, there has been no evidence shown that the 15 conditions of approval were in error, they have been agreed to by Copes and they are designed to mitigate the potential impacts. They have said they will not go deeper than 70 feet. There is evidence on both sides that indicate the water conditions have changed over the last 60 years – is it attributable to the pit? He doesn't think so based on the hydrology of the area. He has not seen any evidence that says in the original CUP that the Copes committed that they'd never go deeper than 30 feet. They dug test wells 30-50 feet, but there were no restrictions on that. He doesn't argue that you can hear the crusher in the Tow Towers Subdivision. Ms. Butler stated that in the original permitting of the Rivendale Subdivision there were agreements signed that anybody building in that subdivision had to sign an acknowledgment that they are building in an agricultural area with gravel operations and to expect inconvenience. That matters. This is 12 acres for 10 years with 15 very strict conditions of approval. Commissioner White said we will have to schedule a date consider the findings of fact, conclusions of law and order to include the 16<sup>th</sup> condition that states if there is a violation of the conditions the Copes will come before the Board. Dan Lister said the zoning ordinance already has those requirements for revocation. Director Nilsson said in section 07-07-21 (7) of the zoning ordinance which deals with conditional use permits it states: *"If any person, including staff or a member of the commission files a written notice presenting sufficient evidence, as determined by the Director, that the conditions of the conditional use permit have been violated the presiding party that made the final decision shall set the matter for a public hearing noticed in accord with article 5."* If you want it relative to activity at that time, if that's something you wanted to be more specific on that section doesn't address that. There has to be a hearing. Commissioner White proposes that if there's a violation the operation will cease until the hearing is held and it's taken care of. Director Nilsson recommended that during the notification of the hearing the operations could pause, but the notification has a bright line when we would start with those written notices because the hearing might have to be 30 days or more out. Does the Board want to be specific to excavation, you might want them to water or maintain the landscaping so if you want it to be no excavation during that time it would be helpful to know understand that a little more. Commissioner Dale said we just need to get the right wording to make sure it's legal and actionable. Ms. Butler said they would want due process because they don't want the operation shut down over a complaint without the Copes having the ability to prove they are not in violation. Commissioner White said everyone is entitled to due process. Commissioner Dale made a motion to deny the request of the appeal for the conditional use permit that was approved by the P&Z Commission, Case No. APL-CU2019-0019. Staff and Commissioner White said it denies the appeal. The motion was seconded by Commissioner White. The motion carried by a two-to-one vote, with Commissioner Van Beek voting against the motion.

The Board will sign the findings of fact, conclusions of law and order on February 11, 2020 at 10:00 a.m. The hearing concluded at 1:38 p.m. An audio recording is file in the Commissioners' Office.

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 30, 2020**

**PRESENT:** Commissioner Pam White, Chair - OUT OF OFFICE  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**APPROVED PURCHASE ORDER**

The Board approved the following purchase order:

- Uniforms 2 Gear in the amount of \$5,250 for the Sheriff's Office

**APPROVED CLAIMS ORDER NO. 2009**

The Board of Commissioners approved payment of County claims in the amount of \$1,646,261.98 for County payroll.

Detailed minutes to follow at a later date for the following items:

Medical indigency appeal hearings

Action Item: Consider applications on appeal of initial determination (names and other information withheld pursuant to Idaho Code §74-106(4) and (6))

Meeting with Indigent Services staff

Action Item: Consider approval/denial of indigent decisions

Meeting with county attorneys for legal staff update

**JANUARY 2020 TERM  
CALDWELL, IDAHO JANUARY 31, 2020**

**PRESENT:** Commissioner Pam White, Chair - OUT OF OFFICE  
Commissioner Tom Dale  
Commissioner Leslie Van Beek  
Deputy Clerk Monica Reeves / Jenen Ross

**APPROVED PURCHASE ORDERS**

The Board approved the following purchase orders:

- ESRI Developer Summit in the amount of \$1,275.00 for the IT Department
- Caldwell Glass in the amount of \$1,168.56 for the Facilities Department
- Boise Office Equipment in the amount of \$7,443.00 for the IT Department
- Right! Systems, Inc., in the amount of \$2,093.96

Detailed minutes to come a later date for the following items:

Board of Equalization

Action Item: Consider signing Equalize Occupancy PTR Application and Schedules

Canyon County Sheriff's Pod 6 Media Tour

\* Although a majority of the Board is expected to attend and participate, the Sheriff's Pod 6 Media Tour is not a Commissioner meeting. There will be no motions, action items, or Board direction entertained or given.

Meeting with county attorneys for legal staff update

Action Item: Consider signing resolution of the Canyon County Board of County Commissioners designating surplus personal property with nominal value

Action Item: Consider signing Southwest Idaho Juvenile Detention Center Memorandum of Understanding with Idaho Department of Correction to establish the parameters of housing a juvenile who has been convicted as an adult.

Public hearing - Consider approval/denial of a request by Kenneth Smart for an appeal for an address change; Case No. RD2019-0028-APL – Continued to February 27, 2020 at 2:00 p.m.

Notice - Canyon County Sheriff's Pod 6 EO Tour

\*Although a majority of the Board is expected to attend and participate, the Sheriff's Pod 6 Media Tour is not a Commissioner meeting. There will be no motions, action items, or Board direction entertained or given.

THE MINUTES OF THE FISCAL TERM OF JANUARY 2020 WERE READ AND APPROVED AND FOUND TO BE A PROPER RECORD OF THE PROCEEDINGS OF THE BOARD OF CANYON COUNTY COMMISSIONERS, CANYON COUNTY IDAHO.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020

CANYON COUNTY BOARD OF COMMISSIONERS

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Commissioner Tom Dale

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Commissioner Pam White

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Commissioner Leslie Van Beek

ATTEST: Chris Yamamoto, Clerk

By: \_\_\_\_\_, Deputy Clerk

DRAFT