

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 1, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED CLAIMS

- The Board has approved claims 589995 ADV in the amount of \$265.50
- The Board has approved claims 589996 to 590036 in the amount of \$75,201.00
- The Board has approved claims 590037 to 590073 in the amount of \$89,840.55
- The Board has approved claims 590074 to 590109 in the amount of \$91,972.25

APPROVED PURCHASE ORDER

The Board approved the following purchase order:

- Cardio Partners in the amount of \$2,726.00 for the Parks Department

APPROVED CATERING PERMITS

- The Board approved an Idaho Liquor Catering Permit for Raising Our Bar to be used 12/3/22, 12/7/22, 12/8/22, 12/10/22, and 12/11/22.

CONSIDER SIGNING A RESOLUTION GRANTING A TRANSFER ALCOHOLIC BEVERAGE LICENSE FOR CALDWELL BOWL

The Board met today at 1:23 p.m. to consider signing a resolution granting a transfer alcoholic beverage license for Caldwell Bowl. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek and Deputy Clerk Jenen Ross. There were no questions or comments regarding the transfer and upon the motion of Commissioner Van Beek and second by Commissioner White the Board voted unanimously to sign the resolution granting a transfer alcoholic beverage license for Caldwell Bowl (resolution no. 22-238). The meeting concluded at 1:23 p.m. An audio recording is on file in the Commissioners' Office.

MONTHLY MEETING WITH DIRECTORS TO DISCUSS GENERAL ISSUES, SET POLICY AND GIVE DIRECTION AND TO CONSIDER ACTION ITEMS

The Board met today at 1:31 p.m. for a monthly meeting with Directors to discuss general issues, set policy and give direction and to consider action items. Present were: Commissioners Keri

Smith, Pam White and Leslie Van Beek, Chief Deputy P.A. Sam Laugheed (left at 1:39 p.m.), Solid Waste Director David Loper and Deputy Clerk Jenen Ross. The action items were considered as follows:

Director Loper explained this project has been budgeted for in FY2023 and will include improvements to the ingress and egress off Missouri and improve asphalt around the site. Mr. Laugheed said this is a standard IFB template. The project architect has supplied names for several companies that may be interested in submitting a bid that this IFB will be sent to along with being open to the public. The project won't begin until the spring or summer and Mr. Loper will need to work with the contractor on timing and logistics regarding security and ensuring the landfill remains open during business hours.

Consider Signing Legal Notice Inviting Bids – Canyon County Pickles Butte Sanitary Landfill Beautification Project: Hardscaping: Upon the motion of Commissioner Van Beek and second by Commissioner White the Board voted unanimously to sign the legal notice inviting bids for the Canyon County Pickles Butte Sanitary Landfill Beautification project: Hardscaping.

Action Item: Consider Signing Invitation for Bids: Pickles Butte Sanitary Landfill Beautification Project: Hardscaping: Upon the motion of Commissioner Van Beek and second by Commissioner White the Board voted unanimously to sign the invitation for bids for Pickles Butte Sanitary Landfill Beautification project: Hardscaping.

Other updates included: tonnage numbers for October and November; notification that IFBs for the dust control system and for the building of the gas collection system will be coming forth in 2023; household hazardous waste event will take place on December 14th at O'Connor Fieldhouse; Director Loper will work with Code Enforcement Supervisor Eric Arthur on free dump events for residents with current code enforcement issues.

The meeting concluded at 1:45 p.m. An audio recording is on file in the Commissioners' Office.

PUBLIC HEARING: AN APPEAL BY DUSTIN AND KRISHINA RIGGS OF THE HEARING EXAMINER'S APPROVAL OF CU2022-0022, CASE NO. CU2022-0022-APL

The Board met today at 9:08 a.m. to conduct a public hearing in the matter of an appeal by Dustin and Krishina Riggs of the Hearing Examiner's approval of Case No. CU2022-0022, a conditional use permit (CUP) on Parcel R32942010A to allow a telecommunications facility within an agricultural zoning district. The case was approved on August 17, 2022. The 0.20-acre property is located roughly 875 feet south from the intersection of Karcher Road and Wagner Road in Caldwell. Present were: Commissioners Keri Smith and Leslie Van Beek, DSD Planning Official Dan Lister, DSD Planner Maddy Vander Veen, Dustin Riggs, Krishina Riggs, Stacy Gulley, Colby Lampman, Mary Tomlinson, Jennifer Boersma, Lamon Loucks, Andy Cockle with Maverick Towers, Tera Hudson, and Deputy Clerk Monica Reeves. Commissioner Pam White arrived at 9:35 a.m.

Commissioner Smith said the Board has received a lot of late exhibits and she and Commissioner Van Beek discussed taking the representative's testimony and hearing the staff report this morning and taking a break at 10:00 a.m. so they can have time to read the exhibits to have a full understanding of everything that's been presented. The hearing will resume at 3:00 p.m. this afternoon and the rest of the case will be heard. Commissioner Smith disclosed that she knows Colby Lampman on a professional level but has not discussed this case. She is very familiar with the site as she drives by it frequently.

Maddy Vander Veen gave the oral staff report. On April 15, 2022, Andy Cockle with Maverick Towers, LLC, representing Lamon and Melissa Loucks, submitted a CUP application for a telecommunications facility. On August 17, 2022, the Hearing Examiner approved the request. On August 31, 2022, Dustin and Krishina Riggs filed an appeal and described multiple concerns: the distance of the tower to the house located at 15775 Wagner Road, and the proximity of other houses; the flight paths of migratory birds; and the impact on property values and aesthetics of the area. The tower height was originally proposed to be 199 feet, but was reduced to 150 feet at the previous hearing. Public comments include concerns about: radio frequency emissions which are regulated by the FCC; and a negative impact to migratory birds, property values, crop dusting pilots, and to the skyline. Two letters of support state that cell towers do not decrease property values and argue against the opposing comments. Ms. Vander Veen reviewed the late exhibits that were submitted. Staff is recommending the Board deny the appeal and uphold the Hearing Examiner's approval of Case No. CU2022-0022.

The following people testified in favor of the appeal/opposition to the conditional use permit:

Krishina Riggs is the property owner at 15775 Wagner Road in Caldwell, and she asked the Board to overturn the Hearing Examiner's decision for the following reasons:

The staff report and accompanying exhibits did not accurately include or portray the close proximity to the home she and her husband built next to the .02-acre parcel of which the applicant is seeking a CUP. Dustin and Krishina Riggs own Idaho Impact Homes and they build beautiful quality homes on acreages in the country where people can experience their dream of rural living. They were unaware of the necessity to submit evidence prior to the hearing and did not provide the Hearing Examiner exhibits to present their case. The Hearing Examiner expressed being very divided on the decision he had to make with only the evidence he had in front of him and felt the proximity of the Riggs house to the structure would have some effect on the resale value of their property and its livability. The appeal is intended to bring accompanying evidence forward so the Board can decide with complete and accurate evidence. Ms. Riggs referenced a scaled rendering; the sheer mass of the tower being alarming close to her house, the neighbor's house and the Snake River Valley Wine Region surrounding it. The updated comprehensive plan states this region needs to be protected as it's a major source of tourism and agriculture. The feedback from potential buyers has been overwhelming negative to having a 5G tower in the area, and when buyers learn a tower could go up next door the interest has died time and time again. The Riggs have decreased the asking price of their home by \$300,000, and as of today have yet to sell the home with the possibility of a tower being constructed next to it. If they were to sell for the current

asking price they would incur a devastating loss of \$200,000. They are 17 months into and well over \$900,000+ into this project and the only prospect they have of selling the home is with a buyer who is awaiting the outcome of this appeal. The Riggs' and private investors have significantly more at risk than Maverick Towers in this case as their home cannot be moved, but the proposed site for the tower can be moved.

In response to questions from the Board, Dan Lister gave testimony regarding property divisions, including requirements and exceptions. The parcel where the cell tower is being proposed is an illegally divided parcel which is why a CUP would give it a use. It's not a buildable lot for residential use, it was a split that was done to create the applicant's parcel, and for the wireless site; it was not done according to County code.

(Commissioner Pam White arrived at this point in the hearing at 9:35 a.m.)

Stacy Gulley testified she is an investor in Idaho Impact Homes and when they were looking at this piece of property, they were told the small piece that was split off the property would be used as an entrance to a subdivision behind the house. At no time was it disclosed that a tower would be put there. As part of the investing group, they would not have invested in the property had they known a tower was going there. The tower going on the property has hurt their investment by several hundred thousand dollars already. Following her testimony, Ms. Gulley responded to questions from the Board.

Mary Tomlinson testified she has lived on Wagner Road for 50 years and is opposed to the placement of a 15-story cell tower in a country setting. She is also concerned about the flight patterns of migratory birds and the impacts on the bee population which is vital to agriculture. She submitted a photo of a large cell tower in the area. Commissioner Smith noted the cell tower shown in the photo is located near her previous home on Farmway Road and Linden Street.

Jennifer Boersma lives in close proximity to the proposed cell tower, and she stands in opposition to the application. The size, stature, and lack of appeal violates CUP condition #4 as it is injurious to other properties as well as the Snake River Valley region, and the residents one mile north and one mile south of the site. This is an agricultural area and the residents expect a rural lifestyle. She is not against development but the nature of this development is very opposed to a rural lifestyle. Furthermore, the property is a suboptimal location for a tower and is in the flight pattern of migratory birds. She believes an environmental impact study should be requested prior to the construction of the tower. Ms. Boersma and DSD staff responded to follow-up questions from the Board. Mr. Lister advised that a hearing notice was sent to the Deer Flat National Wildlife Refuge, but they did not provide comment. Ms. Boersma said she spoke with the refuge biologist who indicated to her he was surprised he had not heard about the application.

Commissioner Smith said the Board should not consider alternative locations; the application is for the subject property and we should not be considering whether it could be located in a different location.

Colby Lampman, a real estate broker, offered testimony regarding the negative impacts and the loss of value for properties that are within visible range of cell towers, and his personal experience is clients have turned away from them. The National Association of Realtors is a reliable source of information and there is a lot of research and economic studies, specifically three different ones that the NAR website provides, and he shared that information with Dustin Riggs. One study found the homes that are close to cell towers sell for a discount of up to 7.6% and that any noticeable affect or decrease in value disappears at 1,500 feet away from the property that's been sold. Another study found on average the potential external costs of wireless tower have a negative impact of 9.7% and is much more severe for properties within visible range of a tower compared to those not within visible range of a tower. The negative impact vanishes at distance exceeding .72 kilometers. A third study found that cell towers negatively affect adjacent property values, and the negative impact decreases with the distance to the tower, and the largest effect occurring within the first 200 meters. Despite various towers having different visual affects which demonstrate that the residents' concern is more on the health impact and visual effects and that's the reason it impacts property values because people have that concern, assumption, or overbearing fear. There is a range of anywhere between \$83,600 up to \$107,600 based on the data and the statistics, and he knows the Riggs are having to sell the home for significantly less than that, the difference could be a reflection of how unsightly the tower might be or other factors. There has been an impact in property values naturally overall, but he wholeheartedly believes a big portion of what the Riggs' loss in value is, is attributed to the cell tower. Mr. Lampman believes the cell tower is injurious to properties in the area. He offered testimony regarding property appraisals and market economics, and there were follow-up questions from the Board and further discussion ensued.

Commissioner Smith wants staff to provide information regarding the \$225,000 value that was included on the building permit. She referenced information on Zillow that shows the home had a price cut on November 10 and is priced at \$799,000. Mr. Lampman said Zillow has limited information and is known for following the agent's asking price when they do their estimates of what they predict the value to be. He said Mr. Riggs just closed on another property with the exact same floor plan in the same vicinity, with a buyer at \$1,050,000. Commissioner Smith said Zillow shows the listing in May at \$1.1M and it shows a continual price drop until today at \$799,000 with a home value of \$777,000. She asked for confirmation of what the comparable home was and the date of sale, including comparable location. Commissioner Van Beek said the Associated Taxpayers of Idaho have experts evaluating residential and we could look at that website for home valuation sales, how long they're on the market.

At 10:16 a.m. Commissioner Van Beek made a motion to continue the hearing to this afternoon at 3:00 p.m. The motion was seconded by Commissioner White and carried unanimously.

The hearing resumed at 3:08 p.m.

Commissioner Van Beek said she Googled 5G emissions and said the applicant references ionized versus non-ionized radiation but makes no distinction on what types of emissions are from the proposed tower. Dan Lister said as stated in the staff report, the FCC regulates RF emissions as part of their review of wireless facilities. Typically, they need local approval first and they go to

the FCC for their final review and approval and at that point they are making sure it meets their standards and requirements for RF emissions that are guided and mandated by the FCC. Staff's conditions of approval say they have to meet the regulations and standards of the FCC. The County cannot decide based off RF emissions. Commissioner Van Beek disclosed that on July 18, 2022, she scheduled a tour with Eddie Owens, the manager of the Deer Flat National Wildlife Refuge and highlighted nesting areas for an endangered species. It is Manager Owens' job to provide protection and habitat for that species and we are absent that information. Commissioner Smith said the property is very close to the reserve and a comment from them would be helpful when we are looking at whether it would be injurious. That conversation could be had at the end of the hearing. Commissioner Van Beek disclosed that she contacted the Associated Taxpayers of Idaho and they agreed provide information on housing sales and what that's doing for this area, but she has not yet received the information but asked if the Board wants it produced. Commissioner Smith said maybe; she knows housing prices are dropping versus the impact on value because of a cell tower. Commissioner Van Beek disclosed that she had the County's facilities director measure 100 feet so she could get a visual of what the height looks like. Discussion ensued with staff about the height of the tower.

Testimony in favor of the appeal/opposition to the conditional use permit was as follows:

Dustin Riggs is a homebuilder and the owner of the property at 15775 Wagner Road and he testified about the sales data for comparable homes that are not located adjacent to a cell tower. A property that is an exact comparable for his house on Wagoner Road sold a few weeks ago for \$1,085,000. An appraisal for the home on Wagner Road shows the house was given a value as determined by a licensed appraiser of \$1,056,000, but buyers are not buying because a 150-foot cell tower has been approved to be installed. They had an offer to purchase the property for \$1,099,990, but it was rescinded by the buyer once they discovered a cell tower was going next to the property. Mr. Riggs said he would not have invested so much time and money had he known a tower was being built next to the home. He spoke about other proposed sites, but Commissioner Smith said the Board cannot consider alternative sites. Mr. Riggs spoke about cell tower safety. In March of 2021 a settlement was reached by plaintiffs in the collapse of a cell tower and the judgement was for \$3.2M due to loss of life and property. OSHA has detailed over a dozen cases of tower deaths in a two-year span from 2011 to 2013, several of those were from towers or equipment falling or collapsing.

Dan Lister provided testimony on the program DSD staff used to determine the value that was listed on the building permit, see Exhibit #21.

Tera Hudson is the listing agent for the property and for the Riggs and she testified that marketing efforts have been halted in producing a buyer for this property. There have been over 11,000 contacts on this property; 1,779 visits to the property, and several buyers that have come to the property in hopes to buy, but due to the proposed cell tower buyers have backed out time and time again. Concerns include: the tower's proximity to a residence, and the impact to migratory birds.

Testimony in opposition to the appeal/in favor of the conditional use permit was as follows:

Andy Cockle testified that Maverick Towers is a small locally owned wireless infrastructure development and tower owner company that has been in business for quite a while. All the issues mentioned today were brought up at the CUP hearing and there hasn't been anything new that wasn't considered by the Hearing Examiner, nor has he seen any new evidence. He referenced Attorney Josh Leonard's letter dated November 30, 2022 which covers a lot of the concerns raised by the appellants from a legal perspective and it provides a substantial amount of evidence countering all the concerns raised by the appellants. Mr. Riggs stated they were not aware of the tower but that's not true. Lamon Loucks, the property owner, is present today and he will speak about his conversations regarding the tower and when he sold the property to Impact Homes to build their speculative home. Mr. Loucks' attorney, David Leroy, submitted a letter which Mr. Cockle summarized as follows: Loucks and Maverick Towers negotiated reciprocal quitclaim deeds with Dustin Riggs of Idaho Impact Homes. The transaction from the outset through Pioneer Title with two contemporaneously prepared documents was designed to accomplish two purposes: obtain and utilize a building permit for a residence for Impact Homes, and reserve allowing a 60-foot-wide parcel site for the T-Mobile cell tower. It was also stated that when they first heard about this Mr. Loucks was seeking an access road instead of a tower, but that's not true. If he wanted an access road he would have requested an easement; there was no reason to parcel off the property. The only intent in parceling off the property was to place this tower on it and that was disclosed to Mr. Riggs before he purchased the property. When he did disclose it he asked if he would like to buy the property back and he made the decision to move forward and build the home knowing the tower was being proposed next door.

The Board asked questions about the documents referenced in Mr. Leroy's letter. Dan Lister said staff found the quitclaim deeds conveying the 0.205 acres from Impact Homes to Mr. Loucks on March 30, 2022, recorded on April 1, 2022.

Mr. Cockle said they are claiming it was for an access road, but there is no need for Lamon Loucks to have an access road, he didn't own other property in the area. You would not do that through quitclaim deed, you'd do it through an easement. He said the Riggs have identical properties listed in the valley and one has been for sale since March of 2021, the other has been on the market since July 10, the same as the property on Wagner Road, and they've had similar price reductions on both properties. The market conditions have changed, interest rates have doubled. He believes they inflated the values of homes; the appraisal would need to be done based on the current real estate market. Properties have been on the market and they've had repeated price reductions similar to the Wagner Road house. It's the market that has changed dramatically since last year. There are no windows in the house that look toward the tower, it won't be visible from inside the house. Regardless of where he builds a tower, there are birds and he has to address that each time. The industry is regulated by the federal communications Commission (the FCC) and it's one of the most regulated industries in the U.S. Part of the approval process includes the National Environmental Protection Agency, the State Historical Preservation Office, and Indian Tribes; hazmat testing, soils testing, as part of the environmental review at the federal level he has to go through the Endangered Species Act and they evaluate if there is a problem with migratory

birds and he either has to mitigate those issues or they tell him he cannot build a tower in that location. He is vetted very heavily at every level and the federal government will not let him install a tower if it's a problem for migratory birds or he must come up with some type of mitigation on the tower, whether that's netting or a nesting platform or some kind of deterrent that would keep the birds away from the tower. There is a rigorous approval process at the state and federal levels. The first part of the process is getting the land use approval before he spends a lot of money to jump through the hurdles. The Board had follow-up questions regarding his experience with the FAA and FCC review/approval process. Mr. Cockle has provided recent studies that found there is no measurable impact on the value of real estate from cell towers. The appellant has not provided any evidence, other than oral testimony, to show a difference and the Board should make it's a decision based on the evidence presented. He agrees with the recommendations from staff and from the Hearing Examiner. Following his testimony, Mr. Cockle responded to questions from the Board.

Commissioner Smith believes the Hearing Examiner exceeded his scope by approving it at 150-foot as a condition of approval, because we can only look at 100 feet until we have FAA approval. Mr. Cockle said 100 feet won't work because when they did their analysis of this location they used software that analyzes certain heights, topography, and demographic and they came up with a general height they thought would work and that is 199 feet. After getting some pushback they used radio instruments and measurement tools and did a drive test to figure out the level of coverage/noncoverage in the area and they determined they could lower the height to 150 feet. That's the minimum height that will accommodate multiple carriers and provide the coverage. Setbacks are determined based on the engineering of the structure, and he has met the County's standard setbacks. There was further discussion regarding setbacks, height restrictions, insurance coverage, location selection based on search ring, radio frequency technology, radio frequency emissions. Mr. Cockle said the emissions are regulated by the FCC and he is not required to provide health related information per the 1996 Telecom Act, and it cannot even be considered in this hearing as a reason for denial of the tower. Commissioner Smith said this site is a thoroughfare to the number one recreational area in the County and this is the main road to the dam so it should look nice. She asked if irrigation is available. Mr. Cockle said there's been no need for irrigation at this point but if the Board is considering some kind of landscaping buffer he is open to that if required. Commissioner Smith said it would be nice to have the approval from the FAA, so we understand what they require and it's more of a partnership working together on mitigation conditions. What about a response from the wildlife refuge? Mr. Cockle is not opposed to it but he'll defer to federal regulators and the experts in the environmental review. He is willing to comply with any rules and regulations imposed. In response to a question asked by Commissioner Smith regarding injurious, Mr. Cockle said he's aware of court cases with other developers that are in federal lawsuits with Ada County and Boise County because they met all the conditions of the code and the counties used certain criteria to deny the towers that is not allowed by the 1996 Telecommunications Act.

Lamon Loucks testified that he sold the entire parcel to the Riggs and then they quitclaimed a piece of the land to Mr. Loucks knowing he was going to apply for a cell tower. He stated he disclosed the tower to Dustin Riggs, with Pioneer Title Company and attorneys involved. The

property behind that Mr. Riggs said was going to be used for a road was either under contract with or already sold to the Troost Family Trust and he had already received a check from the Troosts for \$350,000 because he had to wait until a certain date before they could close. He said Dustin Riggs called him approximately four (4) weeks after the deal and said he did not make a very good deal so Mr. Loucks offered to return his money so Mr. Riggs could find something else, but Mr. Riggs said he had already pulled the building permit. The 1.5-acre parcel was created before 2013 and was owned by Scott Frerichs. The 60-foot parcel was the only one his engineers created. He believes the parcel may have water rights but they are not deliverable, because if they were his family would have farmed it. There is no water on that side of the canal, they would have had to pump it from somewhere and get it on the other side of the canal. He may be able to get an easement from the Troosts to get water to the property if they need to make that happen. Mr. Loucks is a real estate professional and has sold many listings. He spoke about property appraisals, comparable properties, and the increase in interest rates. Mr. Loucks said he would consider buying the property back from Mr. Riggs at a value of \$700,000 to \$750,000. Following his testimony, Mr. Loucks responded to questions from the Board.

Rebuttal testimony was offered by Krishina Riggs who addressed the questions about the height of the tower. She testified that the claims by the applicant's representative that this case is "wild and baseless" have been proven to be inaccurate as shown in the testimony, legal real estate documents, and photographic evidence. The only baseless claim is the claim that the Riggs had prior knowledge of the .20-acre parcel being intended for the site of a 150-foot cell tower. The first time they heard about the tower was the letter they received from Maverick Towers for the public hearing notice and community meeting. They were unable to attend the meeting because they were out of state. The only reason they reluctantly agreed to quitclaim the property back to Lamon Loucks was because they were looking for land to build upon for their next project, and land was hard to come by and they didn't know a lot of people and they were introduced to Mr. Loucks. They agreed to purchase the 1.5 acres on Wagner Road with the understanding that it was ready to build on. The land did not have a building permit as they were told. The purchase and sale agreement expired in the timeframe it took Mr. Loucks to acquire the building permit, and the Riggs still intended to purchase the 1.5-acre parcel. When the building permit came through and it was time to pay for the property they were aggressively told they would need to quitclaim him back 60-feet off the 1.5-acre parcel for a road access for the property behind Wagner Road to the west to access the future subdivision was intended for 5-acre parcels. Mr. Loucks said if the Riggs would not quitclaim the 60-feet he would raise the price of the land they had previously agreed upon. The Riggs felt strongly the property would be a great investment even with the .20-acre loss so they verbally agreed to quitclaim it. Dustin Riggs had a conversation after the purchase and wanted to discuss with Mr. Loucks the possibility of being compensated for the .20 acres they gave back to him, but Mr. Loucks was very upset by the request and threatened to sue if the Riggs did not quitclaim back the acreage. The Riggs consulted an attorney and were advised that it would cost more money than they were seeking to resolve it in court with Mr. Loucks. The Riggs never knew the land was intended for a tower and they were never approached by Mr. Loucks to buy it back from them. People do not like cell towers which is why they have been unable to sell the home. They realize the current market has affected the sales of houses and the house is being compounded by the difficult market with the potential of a cell

tower being its neighbor. The significant financial loss they are incurring is not just because of the decrease in the real estate market; their house was put on the market before the downturn of the market showing that the tower is the primary reason why property has not sold. Their property on Chanel Drive in Wilder has been on the market for quite some time, but it's not a comparable property to the Wagner Road property due to its location. Mr. Loucks represented the buyer and the seller on that property and there is an easement directly north of that property that is affecting the desirability of the specific home. Despite the unique challenges of Chanel Drive, that property is pending at a full list price. The property at 25388 Bur Oak in Caldwell has been on the market for an amount of time that is within the expected timeframe given the current state of the market for a million-dollar listing. They have several interested buyers who are waiting for their homes to sell before the Riggs will accept an offer; they are will not willing to take the house off the market for a contingent offer at this time. The distance of the tower from the house is too close, if the tower were to fall, 40 feet of the equipment would crash into the RV garage, primary bedroom and living room. The purpose of including the letters for the landowners in the area that were never approached to be considered for the site of the tower is only to prove the statement made by the applicant in the initial hearing that there are no properties willing to lease them land, is untrue. Ms. Riggs said the Hearing Examiner was surprised to find out the house they built was not included in the photos provided at the hearing and said it would have been helpful evidence for him to make a decision. The evidence is accurate, factual, has merit and multiple reasons why the CUP must be denied. Ms. Riggs responded to questions following her rebuttal testimony.

Upon the motion of Commissioner White and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. Commissioner Van Beek said both sides have persuasive arguments that are well researched. She can make a finding that the cell tower would negatively change the essential character of the area which is heavy, large scale agriculture. Also, there could be impacts to crop dusting activities. The area is a gateway to one of the most heavily used amenities in Canyon County which is Lake Lowell, and the wine region. She said it appears a cell tower may impact property values. She also believes the appellant's statement that there was an aggressive intimidation to get what they wanted on a cell tower. She believes the testimony provided by the Riggs outweighs the applicant's testimony. Commissioner Smith said in her opinion there is no legal evidence that it will change the agricultural character because there are cell towers in the agricultural areas and agriculture still thrives. There isn't any evidence for a finding for the Board to make that conclusion. During the hearing she said the Board cannot consider different sites for the tower because that's not what the application is for. There was a recent case where a judge looked at the Board's decision on a land use case and he stated there will be a decrease in property values which is a form of being injurious, and so if we can craft a finding that there was evidence that proved that it was injurious in that nature that would help with a single negative finding. Commissioner Van Beek said in the testimony there appears to be injury based on the evidence provided that a buyer would purchase the property if not for the cell tower. That is injurious. We have nothing indicating there was an offer to buy back property and so the property owner appears to be injured in the process or a potential buyer would be injured in the process. Commissioner White said there is a compatibility issue with placing a tower right next to a home. Commissioner Smith said there could be a condition that the tower be no more than 150 feet with FAA approval, but if we do that we are giving up conditions that could be

required based on aerial spraying, or the light on the tower. Commissioner Van Beek said she stands on her position that the tower changes the character of the area. Commissioner Smith said the comprehensive plan appears to be silent on telecommunication facilities, and she feels like that should be improved in what's said in the conclusions section. The conclusion said read: The proposed use is consistent with the comprehensive plan map and the written plan; however, there should be a statement that it's consistent because the plan is silent for the most part on these types of facilities. She agrees with population policy #2 that we should be looking at planning a base for anticipated populations and providing those services and back to the relevant testimony about the need for a cell tower and the need for highspeed internet. That is supportive of those policies, but she directed staff to address the plan and the map in the conclusion and the add information for the finding. There should be a reference for the question about whether it's injurious to other property in immediate vicinity – review the attachments that were provided and be specific on including the verbal testimony from a professional broker in the area on not the loss of value, but specifically the testimony regarding the loss of value with homes within 200 meters. We have two people in opposition who live within 200 meters that would be impacted. We should add a statement that there isn't anything in the area that has that type of character with that look and feel, however, she thinks a judge would throw it out because they place towers in residential areas all the time and they don't look like residential areas. We should focus on whether it will be injurious, however, there should be a general statement that it does not fit the character. Commissioner White said it's not about the zoning, it's in an agricultural area but she cannot approve it in the close proximity of the residential aspect of this farming area. Commissioner Van Beek said there is no way to impose a condition that would adequately mitigate for the aesthetics and the site. Commissioner Smith said the findings should state adequate irrigation is not provided in the proposal to adequately condition the property with landscaping that could help mitigate the character of the area concerns. With regard to what actions the applicant could take to gain approval, Commissioner Smith said they could: Provide an irrigation and landscaping plan; obtain preapproval from the FAA on the height and what the light restrictions or requirements would be so that the BOCC can evaluate what that impact would look like on the surrounding property; and obtain information from an independent source on the impacts of aerial spraying for agriculture so the Board can adequately condition the tower to minimize those impacts. There was evidence provided on the reduced property value on properties within 200 meters, and so the applicants could propose some type of mitigating condition that would be to perhaps pay a fair value for the loss of the road expansion. The applicant could obtain a statement from the Deer Flat National Wildlife Refuge regarding impacts and/or potential conditions that would reduce those changes to the character of the area or impacts to the property in the vicinity. Commissioner Van Beek made a motion to reverse the Hearing Examiner's approval and deny the CUP for Case No. CU2022-0022, with the changes to the FCO's as per the Board's discussion and to add what the applicant could do to obtain approval. The motion was seconded by Commissioner White and carried unanimously. Staff will make changes to the FCO's and bring them back for Board approval. Commissioner Smith read into the record the request for reconsideration/judicial review procedures. The hearing concluded at 5:46 p.m. An audio recording is on file in the Commissioners' Office.

ACTION ITEM: CONSIDER SIGNING NOTICE OF LIEN FOR ABATEMENT OF PROPERTY LOCATED AT 11488 W. FLAMINGO AVE., NAMPA

The Board met today at 5:46 p.m. to consider signing a notice of lien for abatement of property located at 11488 W. Flamingo Avenue in Nampa. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek, and Deputy Clerk Monica Reeves. The property was previously approved for abatement by the Board and the work was completed and the invoice was paid and today's approval will meet the requirement for the County to put a lien on the property and recoup the money the County spent on abatement. Upon the motion of Commissioner Van Beek and the second by Commissioner White, the Board voted unanimously to approve the notice of lien on the property in the amount of \$4,900 for work performed by Northwest Land Services on Parcel R31451. The meeting concluded at 5:48 p.m. An audio recording is on file in the Commissioners' Office.

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 2, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Dell in the amount of \$1162.51 for the Information Technology department

APPROVED CLAIMS ORDER NO. 2305

The Board approved payment of County claims in the amount of \$2,083,667.90 for a County payroll (approved electronically)

APPROVED EMPLOYEE STATUS CHANGE FORMS

The Board approved employee status change forms for Devin Krasowski, Engineer; Debra Stufflebeam, Clerk IV (Magistrate Judicial Secretary Lead); Cassie Lamb, Permitting Supervisor.

DETAILED MINUTES TO COME AT A LATER TIME

Public Hearing to consider an appeal by Sage Point RV, LLC, of the P&Z Commission's denial of a conditional use permit to allow a planned unit development, Case No. CU2021-0009-APL

Meeting with County attorneys for legal staff update

*Agenda Amendment: Meeting to discuss salaries in the Sheriff's Office

The meeting was originally scheduled as an Executive Session regarding a personnel matter, pursuant to Idaho Code, Section 74-206 (1)(b) and (d)

*Amended: 12/2/2022 at 3:36 p.m.

Action Item: Consider signing Claim and Risk Management Services Agreement with ESIS, Inc.

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 5, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- United Rentals in the amount of \$28,395.00 for the Facilities department
- ACCO in the amount of \$8,227.00 for the Facilities department

APPROVED CLAIMS

- The Board has approved claims 590110 to 590143 in the amount of \$96,287.26

MEETING TO CONSIDER MATTERS RELATED TO MEDICAL INDIGENCY

The Board met today at 8:49 a.m. to consider matters related to medical indigency. Present were: Commissioners Keri Smith and Leslie Van Beek, Case Manager Kellie George and Deputy Clerk Jenen Ross.

Case nos. 2023-3 and 2023-4 meet the eligibility criteria for county assistance and upon the motion of Commissioner Van Beek and second by Commissioner Smith the Board voted

unanimously to issue initial approvals with written decision within 30 days on the cases as read into the record.

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

MEETING TO CONSIDER ACTION ITEMS

The Board met today at 8:54 a.m. to consider action items. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek and Deputy Clerk Jenen Ross. The action items were considered as follows:

Consider signing a resolution granting a changed alcohol beverage license to Italianesque: The only change is to the address; there were no other changes or fees collected. Upon the motion of Commissioner Van Beek and second by Commissioner White the Board voted unanimously to sign the resolution granting a changed alcohol license beverage license to Italianesque (see resolution no. 22-239).

Consider signing ballot confirming appointment of Payette County Commissioner Jennifer Riebe to the SWDH Board of Health: This is the recommendation by Payette County which is supported by SWDH Director Nikki Zogg. Upon the motion of Commissioner White and second by Commissioner Van Beek the Board voted unanimously to sign the ballot confirming appointment of Payette County Commissioner Jennifer Riebe to the SWDH Board of Health. A copy of the appointment ballot is on file with this day's minutes.

The meeting concluded at 8:58 a.m. An audio recording is on file with this day's minutes.

MONTHLY MEETING WITH DIRECTORS TO DISCUSS GENERAL ISSUES, SET POLICY, AND GIVE DIRECTION

The Board met today at 9:01 a.m. for a monthly meeting with director to discuss general issues, set policy and give direction. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek, Director of Juvenile Probation Elda Catalano, Juvenile Probation Division Supervisor Linda Hall, Director of Juvenile Detention Sean Brown, Sr. Administrative Specialist Sue Britton, Mental Health Clinician Troy Mikolyski, Director of Jeff Breach and Deputy Clerk Jenen Ross. updates and action items were provided as follows:

Director of Juvenile Detention:

- Introduction of Sue Britton and Troy Mikolyski
- Population numbers ranging between 19-31; generally, numbers are reduced during the holidays.
- 3 current openings - one starting on the 19th, one is in background, one is still outstanding.

- Smoking cessation recently conducted a class and teamed up with Fine Arts to create posters which will be hung at the Mayor's office; Caldwell Fine Arts put on an exhibition to support the program; working with schools for the CWI GED program and getting the program loaded on the Chromebooks; a science class is now coming in once a month along with several groups coming in right now.
- A self-defense program happening in December for POs.
- The new gym floor will start to be installed on December 12th.
- Christmas party for juveniles will be held December 23rd hosted by the Public Defender's office.
- Team decoration contest is happening; may ask the BOCC to judge.

Director of Juvenile Probation:

- 5 new POs have been hired in the last 6 months; one open position is still outstanding.
- For Thanksgiving the department provided 5 complete meals for 5 families in with the juvenile probation system and will do the same for Christmas.

Consider signing the Annual Juvenile Justice report to the Idaho Department of Juvenile Corrections:

Ms. Hall provided an overview and explanation of the report numbers and a copy of the report is on file with this day's minutes. Upon the motion of Commissioner Van Beek and second by Commissioner White the Board voted unanimously to sign the Annual Juvenile Justice report to the Idaho Department of Juvenile Corrections.

Consider signing the Juvenile Justice Annual Financial report: Director Catalano provided an overview of the 3 sources of funding and dollar amounts that make up this report. All of the funds were used last year so there is no rollover. Commissioner Van Beek made a motion authorizing the Chair's signature on the report. The motion was seconded by Commissioner White and carried unanimously.

Director of Misdemeanor Probation:

- They are in the middle of replacing computers but not enough was budgeted so some replacements will have to be delayed to next year.
- POs will be getting laptops with docking stations so they will have access to case files while working in the field or while in court. Most files have been scanned into Odyssey and will be available digitally.
- There is currently one vacant position and one that will be coming vacant at the end of the month so they are in the process of getting those filled.
- Senior POs have just completed a rewrite of the FTO manual. Additionally, they are also taking on more supervisory roles and responsibilities.
- The Board is supportive of staff front loading the week of December 19th so the office can close early on the 23rd.

The meeting concluded at 9:31 a.m. An audio recording is on file in the Commissioners' Office.

CONSIDER APPROVING PUBLIC OFFICIAL BONDS AND CRIME INSURANCE AS TO FORM AND LEGAL SUFFICIENCY

The Board met today at 9:32 to consider approving public official bonds and crime insurance as to form and legal sufficiency. Commissioner Smith said that Director Rice assisted in collecting signatures and legal has reviewed and approved the forms. Upon the motion of Commissioner Van Beek and second by Commissioner White the Board voted unanimously to approve the public official bonds and crime insurance as to form and legal sufficiency. Copies of each form is on file with this day's minutes.

The meeting concluded at 9:34 a.m. An audio recording is on file in the Commissioners' Office.
MEETING WITH DIRECTORS TO DISCUSS GENERAL ISSUES, SET POLICY, AND GIVE DIRECTION

The Board met today at 10:16 a.m. with directors to discuss general issues, set policy and give direction. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek, Director of Facilities Rick Britton (left at 10:37 a.m.), Assistant Director of IT Eric Jensen and Deputy Clerk Jenen Ross.

Facilities:

- A sample of the new project tracking software built by IT was provided to the Board.
- The Board is supportive of continuing the lease agreement for the building being used by the Guardian ad Litem program (previously known as the CCOA building).
- Discussion was had in regard to bids received for a deep cleaning of the expo building once construction is complete. The lowest bid was over \$9000 however it was not budgeted for. Director Britton believes he has some monies available that could be used and the Board thought perhaps the Fair budget may have something available that could also be used. Additional information may be necessary from the Controller on options available for this expense.
- Footings for the pedestrian bridges were poured Friday and the bridges arrived Friday. Director Britton is hoping for TCO tomorrow. Pedestrian bridge forms, abutments and the flagpole base will be poured this week. Phase 3 will begin once these items are complete.
- Before the ribbon cutting is scheduled Director Britton would really like to make sure everything is complete.
- The Pod 5 roof is completed. Director Britton is not entirely happy with the esthetics but it does not affect the functionality or security of the roof.
- Christmas lights have been installed on the Courthouse and the Admin. Building will be done today. The goal is to add more each year.
- There are continued discussions with the City of Caldwell regarding the LID to add streetlighting along Albany St. in front of the courthouse.

- The Facilities department is nearly fully staffed; only down one employee.
- The Board has requested a small tabletop podium be built for use during public hearings.

IT:

- Audio in the BOCC meeting room will continue to be worked on by both the IT team and Neurilink.
- The open Computer Network Technician position and an IT Operations position have been filled; two open positions still remain.
- The public portal website is still being worked on; the Android application is being worked on first and then will move to the Apple IOS system.
- The panic button system is still being worked through.
- Citizen access for BOCC minutes is being worked on.
- The Fair expo building fiber has been connected, the wireless is set up and Facilities is now working on the security.
- Avaya phone system servers are being installed this week and once tested they will start migrating users over.
- .gov transition has gone well.

The meeting concluded at 10:48 a.m. An audio recording is on file in the Commissioners' Office.

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 6, 2022

PRESENT: Commissioner Keri K. Smith, Chair - **OUT (Called in for a meeting)**
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED CLAIMS

- The Board has approved claims 590144 to 590184 in the amount of \$230,678.38
- The Board has approved claims 590185 to 590224 in the amount of \$239,793.63
- The Board has approved claims 590266 to 590292 in the amount of \$27,103.00
- The Board has approved claims 590293 to 590335 in the amount of \$131,334.12
- The Board has approved claims 590336 to 590411 in the amount of \$38,621.35
- The Board has approved the November Elections claim in the amount of \$39,241.00
- The Board has approved claims 590225 to 590265 in the amount of \$120,608.50

There were no Board of Equalization matters that came before the Board.

APPROVED CATERING PERMIT

- The Board approved an Idaho Liquor Catering Permit for Slicks Bar to be used 12/17/22.

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Intermountain Wood in the amount of \$5491.74 for the Facilities department

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

The Board met today at 9:09 a.m. for a legal staff update and to consider action items. Present were: Commissioners Pam White and Leslie Van Beek, Deputy P.A. Alex Klempel, Deputy P.A. Zach Wesley, IT Director Greg Rast (left at 9:14 a.m.), EOM Christine Wendelsdorf (left at 9:14 a.m.), Chief Deputy Sheriff Doug Hart (left at 9:16 a.m.), Cpt. Harold Patchett (left at 9:16 a.m.), Sgt. Rob Whitney (left at 9:12 a.m.), County Agent Tasha Howard (left at 9:24 a.m.) and Deputy Clerk Jenen Ross. The action items were considered as follows:

Consider signing Resolution Declaring Sole Source Procurement for Certain Personal Property, Digital Information Management System and agreement with Linear Systems for upgrade to Digital Information Management System: Prior to the meeting there was additional information requested from Linear Systems that has not yet been received. As part of the sole source procurement process it was noted that there were no comments received from any member of the public. Commissioner Van Beek made a motion to continue these items to Thursday, December 8th at 10:00. A vote was taken with the Board voting unanimously to continue these items to Thursday.

Consider Signing FEMA Integrated Public Alert and Warning System (IPAWS) MOU: Ms. Wendelsdorf explained this system allows for her to put alerts out to the public in the event of a disaster. Commissioner Van Beek made a motion to sign the FEMA Integrated Public Alert and Warning System (IPAWS) MOU. A vote was taken on the motion with the Board voting unanimously to sign the FEMA Integrated Public Alert and Warning System (IPAWS) MOU (see agreement no. 22-145).

Consider Signing Resolution Designating Surplus Personal Property with Nominal Value – Old and Unserviceable Canyon County Sheriff's Office Uniforms and Coats: Cpt. Patchett explained there are a fair number of jackets that go with a class of uniform that is no longer used. He has reached out other agencies and the vendor that supplied the jackets and there is no one is using this style of jacket any longer. They will be donated to the Boise Rescue Mission who will have the jackets destroyed by a company who will then provide proceeds back to the rescue mission. There is no

value to the surplus property. Upon the motion of Commissioner White and second by Commissioner Van Beek the Board voted unanimously to sign the resolution designating surplus personal property with nominal value – old and unserviceable Canyon County Sheriff's Office uniforms and coats (see resolution no. 22-240).

Consider signing University of Idaho Extension Office Cooperative Agreement for University of Idaho Extension Programs and Agreements for Loaned Employees with University of Idaho: Mr. Wesley provided a history of how these agreements come to be and the lengthy discussions between the county and the university to work thru the details. The basic MOU specifies all the duties, legal authority and budget for fiscal year 2023. The loaned employee agreements are for each of the three (3) county employees that work at the extension office under the direction of the University of Idaho. Responsibility for the employee will fall to whichever entity provided the direction to the employee. The university would not have the authority to discipline or terminate the employee, that would be at the discretion of the county. If the university is unhappy with the loaned employee the solution would be to terminate the contract and the employee would revert back to being solely a Canyon County employee to determine the best course forward. The contract can be terminated at any time by either party. Ms. Howard spoke about the three employees and what they provide for the extension office. Upon the motion of Commissioner White and second by Commissioner Van Beek the Board voted unanimously to sign both the University of Idaho Extension Office Cooperative Agreement for University of Idaho Extension Programs (see agreement no. 22-144) and Agreements for Loaned Employees with University of Idaho (see agreement nos. 22-141, 22-142 and 22-143).

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

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND TO COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner White made a motion to go into Executive Session at 9:25 a.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) regarding records exempt from public disclosure 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 by Deputy Clerk Jenen Ross with Commissioners Van Beek and White voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Pam White and Leslie Van Beek, Deputy P.A. Zach Wesley and Deputy P.A. Alex Klempel. The Executive Session concluded at 9:41 a.m. with no decision being called for in open session.

The legal staff update will be continued to 4:30 p.m. today.

The meeting concluded at 9:41 a.m. An audio recording is on file in the Commissioners' Office.

CONTINUED LEGAL STAFF UPDATE

The Board went on the record at 4:32 p.m. for a continued legal staff update. A request to go into executive session was made as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND TO COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Smith made a motion to go into Executive Session at 4:33 p.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) regarding records exempt from public disclosure 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 by Deputy Clerk Jenen Ross with Commissioners Van Beek and Smith voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Keri Smith and Leslie Van Beek and Deputy P.A. Zach Wesley. The Executive Session concluded at 4:48 p.m. with no decision being called for in open session.

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 7, 2022

PRESENT: Commissioner Keri K. Smith, Chair - **Out of the office**
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White – **Out of the office**
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDER

The Board approved the following purchase order:

- HC Company in the amount of \$90,000 for the Facilities department

APPROVED EMPLOYEE STATUS CHANGE FORMS

The Board approved employee status change forms for Jacob Petras, Deputy Sheriff – Inmate Control 51003; Jodi Edwards, Sr. Customer Service Specialist; Cristina Mares, Customer Service Specialist (Training Coordinator); and Cassandra Betram, Customer Service Lead.

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 8, 2022

PRESENT: Commissioner Keri K. Smith, Chair - **OUT**
Commissioner Leslie Van Beek, Vice Chairman

Commissioner Pam White - OUT (Participated remotely)
Deputy Clerks Monica Reeves/Jenen Ross

MEETING TO CONSIDER MATTER RELATED TO MEDICAL INDIGENCY

The Board met today at 8:54 a.m. to consider matters related to medical indigency. Present were: Commissioner Leslie Van Beek, Case Manager Kellie George and Deputy Clerk Jenen Ross. Commissioner Pam White participated via teleconference.

Commissioner White made a motion to continue case no. 2022-501 to January 3, 2023 at 8:45 a.m. The motion was seconded by Commissioner Van Beek and carried unanimously.

Commissioner Van Beek made a motion to sign a release of lien for case no. 2008-892. A vote was taken on the motion which carried unanimously.

The meeting concluded at 8:56 a.m. An audio recording is on file in the Commissioners' Office.

MEETING WITH COUNTY ATTORNEYS FOR LEGAL STAFF UPDATE AND CONSIDER ACTION ITEMS:

The Board met today at 10:02 a.m. with county attorneys for a legal staff update and to consider action items. Present were: Commissioner Leslie Van Beek, Commissioners Pam White and Keri Smith participated via teleconference, Deputy P.A. Oscar Klaas, Deputy P.A. Alex Klempel, Fleet Director Mark Tolman (left at 10:11 a.m.), DSD Planning Official Dan Ister, DSD Planner Jenna Petroll, Weed and Gopher Superintendent AJ Mondor (left at 10:07 a.m.), Lead Weed Applicator Cory Flatt (left at 10:07 a.m.), DSD Director Sabrina Minshall (arrived at 10:04 a.m.) and Deputy Clerk Jenen Ross. The action items were considered as follows:

Consider signing Addendum No. 1 to Canyon County Request for Proposals for Weed and Gopher Services Assistance: There were no attendees at the proposers' conference and no questions have been submitted. The only item the addendum addresses is a change in time of the proposals being opened. Upon the motion of Commissioner Van Beek and second by Commissioner Smith the Board voted unanimously to sign addendum no. 1 to Canyon County request for proposals for Weed and Gopher Services Assistance.

Consider signing Legal Notice of Intent to Sell Surplus Property to City of Wilder Police Department: Director Tolman said these are vehicles that have been taken offline. The City of Wilder has several vehicles in disrepair and these will help get them thru until they are able to purchase newer vehicles. At the request of Commissioner Van Beek, Director Tolman addressed how idle time is converted to mileage (a copy of Commissioner Van Beek's calculations are included with this day's minutes) Upon the motion of Commissioner Van Beek and second by Commissioner White the

Board voted unanimously to sign the legal notice of intent to sell surplus property to the City of Wilder Police Department.

Consider signing FCO's for Sage Point RV, Case No. CU2021-0009-APL: Commissioners White and Smith confirmed they had a chance to review the FCOs prior to the meeting. Ms. Petroll put on the record the changes they made to the findings based on information received at the public hearing. Discussion points included buffering around the site, commencement and completion timeframes, parking and building design and review and roadway improvements. Based on the Board's requests, DSD will make adjustments to the FCOs. Commissioner Smith made a motion to approve the FCOs as amended. The motion was seconded by Commissioner Van Beek and carried unanimously.

A request to go into executive session was made as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND TO COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Smith made a motion to go into Executive Session at 10:21 a.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) regarding records exempt from public disclosure 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 by Deputy Clerk Jenen Ross with Commissioners Van Beek, White and Smith voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioner Leslie Van Beek, Deputy P.A. Alex Klempel and Deputy P.A. Oscar Klaas. Commissioners Pam White and Keri Smith participated via teleconference. The Executive Session concluded at 10:24 a.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.

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 9, 2022

PRESENT: Commissioner Keri K. Smith, Chair - **OUT**
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White - **OUT** (participated remotely)
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDER

The Board approved the following purchase order:

- Capital Cleaning in the amount of \$9,286.00 for the Facilities department

EXECUTIVE SESSION TO CONSIDER PRELIMINARY NEGOTIATIONS INVOLVING MATTERS OF TRADE OR COMMERCE IN WHICH THE GOVERNING BODY IS IN COMPETITION WITH GOVERNING BODIES IN OTHER STATES OR NATIONS, PURSUANT TO IDAHO CODE § 74-206(1)(E)

Commissioner Van Beek made a motion to go into Executive Session at 9:17 a.m. pursuant to Idaho Code, Section 74-206(1) (e) to consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. The motion was seconded by Commissioner White. A roll call vote was taken on the motion by Deputy Clerk Jenen Ross with Commissioners Van Beek and White voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioner Leslie Van Beek, Commissioner White participated by teleconference, Chief Deputy Assessor Joe Cox, Steven Jenkins with the City of Caldwell and the project representative participated by teleconference. The Executive Session concluded at 9:37 a.m. with no decision being called for in open session.

CONSIDER SIGNING A RESOLUTION GRANTING A NEW ALCOHOLIC BEVERAGE LICENSE FOR 208 BURGER Q

The Board met today at 10:02 a.m. to consider signing a resolution granting a new alcoholic beverage license for 208 Burger Q. Present were: Commissioner Leslie Van Beek and Deputy Clerk Jenen Ross. Commissioner Pam White participated via teleconference. Commissioner Van Beek noted that that the application indicates the business is within 300' of a school. The Board has requested additional information that the Middleton City Council or the school district has signed off on this.

The Board went off the record from 10:05 a.m. to 11:36 a.m. in order to obtain the requested information.

Once back on the record documentation was provided by the Recorder's office indicating that the Middleton City Council approved of the license in a 2-to-1 vote.

Commissioner Van Beek made a motion to approve the resolution granting an alcoholic beverage license to 208 Burger Q. The motion was seconded by Commissioner White and carried unanimously. See resolution no. 22-241.

The meeting concluded at 11:38 a.m. An audio recording is on file in the Commissioners' Office.

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED CLAIMS

- The Board has approved claims 590413 to 590446 in the amount of \$34,143.37
- The Board has approved claim 590412 ADV in the amount of \$88.50
- The Board has approved claim 590447 in the amount of \$123.75

APPROVE EMPLOYEE STATUS CHANGE FORMS

The Board approved an employee status change form for Michael Bruce Mauldin, Deputy Judicial Marshal.

APPROVED PURCHASE ORDERS

- Coble Company Promotional in the amount of \$1190.00 for the Sheriff's Office
- Smart Deploy in the amount of \$8010.00 for the Information Technology department
- Avaya, Inc. in the amount of \$13885.20 for the Information Technology department
- SHI in the amount of \$8147.80 for the Information Technology department
- Henrickson Butler in the amount of \$5940.07 for the Prosecutor's Office
- Intermountain Wood Products in the amount of \$1868.83 for the Prosecutor's Office

CONSIDER SIGNING AMENDED FCO'S FOR PECKHAM ROAD TRUST, CASE NO. CU2020-0001

The Board met today at 8:30 a.m. to consider signing the amended Findings of Fact, Conclusions of Law and Order (FCO's) for Peckham Road Trust, Case No. CU2020-0001. Present were: Commissioners Pam White and Leslie Van Beek, Deputy PA Zach Wesley, DSD Director Sabrina Minshall, Todd Lakey, other interested citizens, and Deputy Clerk Monica Reeves. Because Commissioner Keri Smith was not present for this item, which was scheduled for this morning at 8:15 a.m., Commissioner Van Beek said the matter would be rescheduled to this morning at 9:30 a.m. so all three Commissioners can be in attendance.

The matter resumed at 9:41 a.m. with the following persons in attendance: Commissioners Keri Smith, Pam White and Leslie Van Beek, Deputy PA Zach Wesley, DSD Director Sabrina Minshall, Todd Lakey, Brenda Abbott, other interested citizens, and Deputy Clerk Monica Reeves.

Deputy PA Wesley said DSD staff prepared draft amended FCO's. There was a digital file prepared for the Board that has the record which contains the original staff report, the original FCO's, and

all of the exhibits submitted during the original proceedings, as well as the transcripts from the Board's deliberation in those hearings. A judicial review case came back from Judge Petty who found that we had an erroneous finding in the original written record concerning the consistency with the comprehensive plan finding which is found in the ordinance in section 07-07-05(3). The first page of the amended FCO's sort of how we got we here, the record, and includes a note that we are not taking additional testimony or written comment and are just engaging in a new written finding and deliberation. There is a draft finding that begins on Page 2 just for section 07-07-05(3) and the question there is, is the proposed use consistent with the comprehensive plan. Between Pages 2 and 10 staff has gone through the record as it exists and the Board's deliberation and put together a point-by-point walk through of the comprehensive plan and made findings based on prior comments and testimony. This goes through the 13 components of the comprehensive plan and evaluates each policy and goal in that plan and provides a finding based on the prior deliberation and the evidence that's in the record. Deputy PA Wesley referenced Page 10 of the amendment and said it readopts the original findings for the rest of the document because Judge Petty only found the error with this single component portion of the prior written decision and so you have that prior written decision from August 2, 2021 and this would readopt that original finding with this amendment to the section 07-07-05(3) finding and had all the original conditions of the development agreement and conditional use permit remain in place if the Board adopts the finding. Deputy PA Wesley presented the Board with the amended findings, the original August 2, 2021 findings, and the 2020 comprehensive plan for the Board to review point-by-point.

Commissioner Van Beek asked Deputy PA Wesley to address the perceived injury because in her mind that was not something that the Judge remanded back to the Board or was an issue of contention. Deputy PA Wesley said the finding that the Judge has to make in order to find that error to set the Board's findings aside has to first find the error and then find that there was an injury. That finding is one that the Judge takes based on the assertion of the applicant and so our job on remand is not to go through that and argue with the Judge on those points but to look at the error that was pointed out to the County in the original decision and see if it's possible for the Board to make a new finding or to correct the error that was found on the 07-07-05 (3) finding, on Page 2 of the original decision. The finding says that the conclusion is the proposed use is consistent with the Canyon County Future Land Use Map which designates the original as agriculture, and in the original finding the Board did not address the comprehensive plan affirmatively. We pointed to the map when we should have pointed to the comprehensive plan and that's what this amended finding does, it goes through that component of the CUP procedures the Board has to answer in issuing a CUP and response to that. We do not have anything that addresses the perceived injury or where the Judge finds on injury, that is not something we would address in these original findings.

Commissioner Van Beek said we did establish that this has been operating as a feedlot since 1966 and it's acknowledged that it was agriculture and the comprehensive plan has not changed from that designation and with the change in ownership to a new person with good faith that those are the mitigating and amending forces that would drive this in a way that helps for the perceived injury on the comprehensive plan map. This has been there and predates most of the people that

have chosen to locate in that area and even with some of the complaints that have been their right to submit, but there hasn't been anything that would substantiate an injury even to the original CUP. Deputy PA Wesley said that touches upon some of these findings that are in the amended FCO's that are based on the Board's original hearing and deliberation to that end so you will find every point she just spoke to is in here somewhere and so on the first component of the property rights, this document goes through the record, there is an aerial photo that shows the feedlot was in use as early as 1966 and with the CUP as of 2004 and the Board in the economic development component and the land use component, in its original deliberations had found that based on the testimony of the local business operators and the applicant, that this would improve the conditions out there. There are findings in this amended document that would address those comments and the issue of when everything came into place is in the document as well, both in discussing the hazardous area component which had to do with the village of Wilder's use of that as a dumping ground partially. The community design component talks about those issues and when you go through the document you will find that original finding and deliberation the Board had those points are represented in the document in the appropriate place in the comprehensive plan discussion.

Commissioner Van Beek said there is some debate pertaining to the follow-up remittitur that was issued by the Court on October 14, 2022, and she's looking for clarification on that. To comply would be to amend the findings as we propose to do today on specifically addressing the comprehensive plan for this decision. Deputy PA Wesley said that is the position the County has taken in this judicial review litigation. The Judge's order did not give the County a specific directive on what was necessary for the Board to do on the remand and so in review of this order, the 07-07-05(3) finding was the only error that was attributed to the County's written decision and so because the error is in the written decision there is no need to have an additional hearing, or re-notice this for additional public testimony, nor is there a need to take additional exhibits, but the Board is within its jurisdiction to correct its error and proceed from that point.

Commissioner Van Beek asked Deputy PA if it's his opinion that Judge Petty's decision did not invalidate the CUP? Deputy PA Wesley said he wouldn't use that term; it did partially set aside the CUP because we now do not have complete findings and so the County's position has been because that one finding is in complete, the corrective step is to issue a new finding if it's possible, and if it would not be possible then the CUP would be dead.

Commissioner Smith said Legal and DSD staff did an excellent job reviewing the comprehensive plan and those policies and she supports the updates as presented.

Commissioner Van Beek said she's tried to look at the substantive points in addition to the document in its entirety to make sure we are complete and so we have addressed the remittitur and that there was no specific directive from the judicial review process other than to meet the goal of the comprehensive plan in that. She asked Deputy PA Wesley if it would be typical of a Judge to overturn a Board decision on that. Deputy PA Wesley said in the County's argument in judicial review we acknowledged that there was a problem with that finding, it's superficial. In the course of the number of applications the County processes and the speed we go through these

things because there is so much development pressure in the County, the Board reads through staff's prepared documents and so that 07-07-05(3) finding is a normal one that you make but when we got to the Court we said there was a scrivener's error or a clerical error. The finding was phrased one way at the P&Z Commission level and we carried it over to the Board's finding and said there is a problem in the paper form. We had argued to the Court that the Board had made the finding orally, verbally, and deliberated on it but the Court said our written finding was insufficient anyway and that's why we are back here.

Commissioner Van Beek asked if we are hearing from the applicant's attorney? Deputy PA Wesley said we had this on the calendar one month ago and engaged in some negotiation about what that would look like but were not able to come to a resolution. The Board had proposed at one point having an expedited hearing and taking additional testimony but we couldn't reach an agreement on that and so that's why we are back here with our original plan. These documents are drafted in a way where no additional testimony or written comment is taken, we are simply going back to the original record that's in place and making the finding for 07-07-05(3) based on that original record with no new information.

Commissioner Van Beek said our job is to decide whether the Board, our Legal staff and DSD staff has met the conditions laid out in what we believe in our interpretation from Judge Petty in deciding this case in the affirmative by addressing the comprehensive plan and with that the documentation that's been provided. She believes the Board has met its diligence for that and she made a motion to sign the amended FCO's for Peckham Road Trust, Case No. CU2020-0001. The motion was seconded by Commissioner White. Commissioner Smith asked if this action will result in two (2) sets of FCO's as we are amending one section and the remainder of the FCO's will be applicable. Deputy PA Wesley said the order would be to first amend the written findings from the August 2, 2021 order to replace the 07-07-05(3) finding with this one and then make a finding that there was no other alteration to that original order and then the Board will re-issue that August 2, 2021 order with the amendment and all the original findings and terms and development agreement as they were from August 2, 2021. The motion carried unanimously. Commissioner Smith read into the record the request for reconsideration/judicial review procedures. The signed document is on file with this day's minute entry. The meeting concluded at 10:03 a.m. An audio recording is on file in the Commissioners' Office.

PUBLIC HEARING - REQUEST BY KENTON REED FOR A CONDITIONAL REZONE, CASE NO. CR2021-0014

The Board met today at 9:05 a.m. to conduct a public hearing in the matter of a request by Kenton Reed, represented by Craig Kulchak of RCK Consultants, for a conditional rezone of parcel R33188010B, approximately 3.98 acres, from an "A" (Agricultural) zone to a CR-R-1 (Conditional Rezone - Single-Family Residential) zone, Case No. CR2021-0014. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek, DSD Director Sabrina Minshall, DSD Planner Cassie Lamb, Craig Kulchak, Jerry Bates, Susan Anderson, other interested citizens, and Deputy Clerk

Monica Reeves. Commissioner Smith disclosed that Jerry Bates made a brief statement to her about this case prior to the start of the hearing but she informed she cannot talk about the case. Cassie Lamb gave the oral staff report. The subject property is located at 0 Lonkey Lane in Caldwell. In 1991 approximately 16 acres were split off Parcel R33188 creating two parcels for an additional homesite. In 1992 approximately 17.5 acres were divided into two additional parcels. Following these divisions there have been multiple divisions of the abovementioned parcels that are not in accordance with the zoning ordinance. The subject parcel was created via a split in 1991, but there is no record of this administrative land division. The surrounding properties are zoned primarily agricultural with an average lot size of 7.9 acres. The parcel consists of moderately suited soils and is considered prime farmland if irrigated. Most of the land within a one-mile vicinity is in agricultural production with scattered homesites on large parcels. There are seven platted subdivisions within a one-mile radius with an average lot size of 2.46 acres, all of which were approved prior to 2008 and are still zoned agricultural. City services are not available to the parcel, therefore, individual domestic wells and septic systems would be required. The property is located within a nitrate priority area with wells in the area exhibiting high levels of nitrates. Future development will be required to go through the platting process and a nitrogen pathogen study with the health department may be required if platted. The property has a valid water right. The roads around the parcel are private and are not in accordance with the zoning ordinance therefore future development will either be required to gain access from Lonkey Lane or bring the existing roads to County code. If the rezone is approved it could establish a development pattern that is inconsistent with the current zone of the area as well as the future land use designation in the 2020 comprehensive plan. The request is not in general conformance with some of the policies and goals of the comprehensive plan. The Boise Project Board of Control was the only agency to comment and stated the property does have a valid water right, but there are no irrigation facilities located on the parcel. The P&Z Commission recommended denial on July 7, 2022. Following her report, Ms. Lamb responded to questions from the Board. Craig Kulchak is the owner's representative and he testified in support of the request. In addition to the surrounding parcels that have manufactured homes, there are several custom homes across the street and in the surrounding area. They want to split the 4 acres into 2 separate lots with access off Lonkey Lane. They have the proper width for the road that accesses down the middle; they plan to have two separate wells with the stipulation that the homes that are built on the two lots will have a reverse osmosis system. Due to high nitrate content, they will stipulate within a development agreement that the septic systems will be designed to address the nitrogen contents in the soil. This area whether agriculture or not has several custom homes and they are only asking for four acres to be changed to residential zoning that would match the existing homes in the area with two-acre lots. The remaining areas are agriculture. This is a good project, and it will not affect the agricultural community or be a detriment and it will match the surrounding areas as far as custom homes. Upon the motion of Commissioner Van Beek and the second by Commissioner White, the Board voted unanimously to close public testimony. Commissioner Smith agrees with the findings which recommend denial. The parcels were created through administrative land divisions and conditional use permits and they did not set a precedence for a predominately single-family area, and she would not want to rezone the property and create that precedence. If the applicant had requested a conditional rezone to rural residential she would support it so they could build on the lot. Commissioner Van Beek doesn't necessarily think it's a bad application but to meet the

criteria, there needs to be a little due diligence especially with it being outside the impact area, and in the truest sense she cannot make positive findings on all of that. Commissioner Smith made a motion to uphold the P&Z Commission's decision to deny the case in accordance with the proposed FCO's as presented. Staff should amend the FCO's to include the actions the applicant could take for approval in the future: wait until the property is within an area of city impact, or included on a comprehensive plan map change, or consider a rural residential request that is more in character with the area. The motion was seconded by Commissioner Van Beek. Commissioner White was opposed to the motion to deny. The motion carried by two-to-one split vote. Commissioner Smith read into the record the request for reconsideration/judicial review procedures. The hearing concluded at 9:40 a.m. An audio recording is on file in the Commissioners' Office.

DETAILED MINUTES TO FOLLOW:

MEETING REGARDING PROPOSED PAY SCALE/SCHEDULE FOR CANYON COUNTY SHERIFF'S OFFICE SWORN PERSONNEL

Action Item: Consider signing resolution adopting proposed pay scale/schedule for Canyon County Sheriff's Office sworn personnel

CONSIDER SIGNING FCO'S FOR THE APPEAL BY SYMMS FRUIT RANCH, INC., FOR A CONDITIONAL USE PERMIT, CASE NO. CU2022-0007-APL, AND FCO'S FOR THE APPEAL BY DUSTIN AND KRISHINA RIGGS, CASE NO. CU2022-0022-APL

The Board met today at 1:20 p.m. to consider signing the FCO's for the appeal by Symms Fruit Ranch, Inc., for a conditional use permit, Case No. CU2022-0007-APL, and the FCO's for the appeal by Dustin and Krishina Riggs, Case No. CU2022-0022-APL. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek, DSD Planning Official Dan Lister, DSD Planner Cassie Lamb, DSD Planner Jenna Petroll, and Deputy Clerk Monica Reeves. The items were considered as follows:

Appeal by Symms Fruit Ranch, Inc., for a conditional use permit, Case No. CU2022-0007-APL – DSD Planner Jenna Petroll reviewed the changes that were made to the FCO's as follows: They added a summary to finding #3 as to why it's not consistent with the 2020 comprehensive plan; they changed finding #4 and tied in the testimony and late exhibits that were provided during the hearing as to why the proposed use would be injurious to other property in the immediate vicinity and negatively change the essential character of the area; to finding #7 they added information regarding the two new access points on Highway 55 that the applicant added to the application and site plan; and they added information about the allowed uses that the applicant was proposing to do on site that was not included in the traffic impact study and therefore the study was not adequate.; and to finding #8 they stated the Marsing Fire Department is a volunteer fire department and the response time is inadequate for the requested use. In the order they added steps the applicant may take to gain approval: provide a development plan that reduces the RV

density and increase agritourism operations; coordinate with local agencies, such as the Marsing Fire Department, and the Boise Project Board of Control, Canyon County Sheriff's Office, Canyon Highway District, Idaho Transportation Department, etc., to ensure adequate services and infrastructure will and can be provided including fair share in to future infrastructure improvements. There was Board review and discussion of the proposed language. Commissioner Van Beek made a motion to approve the FCO's as amended for Symms Fruit Ranch, Inc., as per the Board's discussion on Case No. CU2022-0007-APL. The motion was seconded by Commissioner Smith. Commissioner White was opposed to the motion to deny. The motion carried by a two-to-one split vote.

Appeal by Dustin and Krishina Riggs, Case No. CU2022-0022-APL – Planning Official Dan Lister reviewed the proposed FCO's as follows: Staff noted the request is consistent with the comprehensive plan, however, the plan doesn't provide much guidance regarding telecommunication facilities. They added a policy that talks about encouraging the co-location of these type of facilities. The request will be injurious to other property in the immediate vicinity and will negatively change the character of the area. Testimony includes information from professional broker Colby Lampman of Homes of Idaho who demonstrated the appellants' difficulty in selling the property due to the location of the telecommunications facility and the loss of property value within 200 meters. The area consists of large agricultural properties with residential dwellings near the site; the site plan does not provide landscaping for fencing design that would mitigate use impacts. The plan does not adequately provide information regarding FAA approval, aerial spray operations and Deer Flat National Wildlife Refuge review regarding migratory birds and that the refuge is less than one mile from the site. Commissioner Smith noted that there had been concern by Legal counsel regarding some of the wording of the FCO's. Mr. Lister said the FCO's were drafted them in line with what Legal recommended. The language was changed to show the appeal was approved which overturns the Hearing Examiner's decision and they provided actions the applicant could take to gain approval, which are: submit an irrigation, fencing, and landscaping plan that would mitigate the use near adjacent properties; provide FAA approval, and any restrictions and improvements required by the FAA; obtain information from an independent source to evaluate aerial spray operation impact and any mitigation measures to minimize potential impacts; obtain comments from the wildlife refuge regarding potential impacts to migratory birds and mitigation measures to minimize potential impacts; and proposed mitigation measures to pay a fair share value of the loss in property values in the area. Commissioner Smith said Legal advice was we should not worry about fair value aspect. She also wants the Board's order to clearly state that the conditional use permit is denied. Language was added to finding #5 and staff stated it meets the adequate facilities requirements, however, the applicant does not adequately demonstrate irrigation water rights and the use of surface water rights. The Board finds adequate irrigation information and an irrigation plan are necessary to consider landscaping conditions that could mitigate potential impacts. Following the Board's review, Commissioner Van Beek made a motion to amend the order and to uphold the Board's decision to overturn the Hearing Examiner's recommendation of approval and deny the application. The motion was seconded by Commissioner White. Commissioner Smith stated the motion is to approve the FCO's with the changes read into the record, to approve the appeal and overturn the Hearing Examiner's decision to deny the case for a telecommunications facility. The

motion carried unanimously. The meeting concluded at 1:40 p.m. An audio recording is on file in the Commissioners' Office.

PUBLIC HEARING: REQUEST BY MASON & ASSOCIATES REPRESENTING ESSEX HOLDINGS VI, LLC, FOR A REZONE FROM AN "A" ZONE (AGRICULTURAL) TO AN R-1 ZONE (SINGLE FAMILY RESIDENTIAL), AND A PRELIMINARY PLAT FOR GENEVA ESTATES, CASE NOS. RZ2020-0023 AND SD2020-0042

The Board met today at 1:45 p.m. to conduct a public hearing in the matter of a request by Mason & Associates representing Essex Holdings VI, LLC, for a rezone of Parcels R32989 and R32989010 from an "A" Zone (Agricultural) to an R-1 Zone (Single Family Residential). The request includes a preliminary plat with an irrigation and drainage plan for Geneva Estates Subdivision, a 28-lot residential subdivision. The 40.43-acre property is located at 12064 Lone Star Road in Nampa. Present were: Commissioners Keri Smith, Pam White, and Leslie Van Beek, DSD Planning Official Dan Lister, D. Roy Bassett, Scotty Miller, and Deputy Clerk Monica Reeves. Commissioner Smith noted that neither the applicant nor their representative were present today but they did receive notice of the hearing. Dan Lister gave the oral staff report. At the last hearing which was held on October 5, 2021, Mason & Associates presented an idea to do a conditional rezone to meet City of Nampa requirements and to provide services to the development, however, the property is located outside of the Nampa area of city impact and they cannot bring services outside of that. One year has gone by with no information from the applicant on this proposal. State law requires the Board to make a decision on the application, we cannot prolong or table a case indefinitely so staff is bringing it back to put it rest and let the applicant reapply when they can bring information forward. Mr. Lister summarized the request which was for a zoning map amendment of 40 acres from an agricultural zone to an R-1 single-family residential zone. They submitted an application for a 28-lot subdivision, with five common lots. The proposal includes internal roads off Midway and Lonestar Road, and it will be served by domestic wells and septic systems. Irrigation will be provided through water rights from the Nampa Meridian Irrigation District. On July 28, 2021, the Board denied the rezone because the request would impact existing viable farm ground and the rural character of the area. Also, the City of Nampa plans to have medium-density residential in this location when annexed into the city. The Board found the request does not promote orderly growth; it promotes sprawl into an agricultural zone, and the extension of infrastructure and services would ultimately create an enclaved parcel. The applicant had testified they would be willing to do a conditional rezone subject to bringing services, however, there is no path at this point until the area of impact includes other properties so they could meet these smaller lot sizes and bring services into a pre-annexation agreement. Today staff presented the Board with the original FCO's from October of 2021 and has added as part of the denial order that the applicant should consider a conditional rezone subject to section 07-06-07 of the zoning ordinance and the new comprehensive plan. The rezone shall include working with the City of Nampa on the extension of services and the pre-annexation agreement and prior to that the impact area boundary must be amended to include this property. Following his staff report, Mr. Lister responded to questions from the Board. Commissioner Van Beek said the Board provided the applicant an opportunity to come back and they could have developed it with that plan in working

with the City of Nampa. Commissioner Smith said this is beautiful farm ground and there is a lot of criticism from the community on the amount of farm ground between Nampa and Caldwell that's being developed. We should protect this farm ground. Scotty Miller testified that his family farms in the area and due to the increase in population it's become more difficult to safely move their farming equipment down the roads. The roads are too narrow and there are too many people on the road during all hours of the day. D. Roy Bassett testified it will be a shame if farmland is turned to concrete. Upon the motion of Commissioner White and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. Commissioner Van Beek made a motion to uphold the recommendation of denial and sign the FCO's as presented for Case NO. RZ2020-0023 and SD2020-0042. The motion was seconded by Commissioner White and carried unanimously. Commissioner Smith read into the record the request for reconsideration/judicial review procedures. The hearing concluded at 2:06 p.m. An audio recording is on file in the Commissioners' Office.

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 13, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Western Building Supply in the amount of \$2,397.18 for the Facilities Department
- A-Core in the amount of \$3,735.00 for the Facilities Department
- LEDLightExpert.com in the amount of \$1,049.95 for the Facilities Department
- Fulcrum Biometrics in the amount of \$1,149.00 for the Information Technologies Department
- Dell in the amount of \$1,162.51 for the Information Technologies Department
- Curtis Blue Line in the amount of \$1,819.00 for the Sheriff's Office

MEETING WITH COUNTY ATTORNEYS FOR A LEGAL STAFF UPDATE AND TO CONSIDER AN ACTION ITEM

The Board met today at 10:04 a.m. with county attorneys for a legal staff update and to consider an action item. Present were: Commissioners Keri Smith and Leslie Van Beek, Deputy P.A. Zach Wesley, Deputy P.A. Alex Klempel, HR Director Kate Rice, Wage and Salary Analyst Bosco Baldwin, DSD Director Sabrina Minshall, Engineer Devin Krasowski, DSD Planning Official Dan Lister and Deputy Clerk Jenen Ross. The action item was considered as follows:

Consider Signing Agreement with Salary.com: Commissioner Smith noted that is an agreement for \$4800 and requested by HR. This is a standard contract to help with salary analysis. Ms. Klempel said terms within the order form supersedes terms on the Salary.com website, especially in regard to indemnification related to Idaho law. HR intends to mainly use the service for research on salary analysis and do not intend to upload any personnel information; if any information were to be uploaded it would be anonymous. Upon the motion of Commissioner Van Beek and second by Commissioner Smith the Board voted unanimously to sign the agreement with Salary.com (see agreement no. 22-146).

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

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND TO COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Van Beek made a motion to go into Executive Session at 10:07 a.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) regarding records exempt from public disclosure and to communicate with legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Smith. A roll call vote was taken on the motion by Deputy Clerk Jenen Ross with Commissioners Van Beek and Smith voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Keri Smith and Leslie Van Beek, Deputy P.A. Alex Klempel and Deputy P.A. Zach Wesley. DSD Director Sabrina Minshall, DSD Planning Official Dan Lister, Engineer Devin Krasowski participated from 10:07 a.m. to 10:34 a.m. Oscar Klaas participated from 10:34 a.m. to 10:37 a.m. The Executive Session concluded at 10:37 a.m. with no decision being called for in open session.

The meeting concluded at 10:37 a.m. An audio recording of the open portion of the meeting is on file in the Commissioners' Office.

OPENING OF REQUEST FOR PROPOSALS FOR CANYON COUNTY'S WEED AND GOPHER SERVICES ASSISTANCE

The Board met today at 10:37 a.m. to open the request for proposals for Canyon County's Weed and Gopher services assistance. Present were: Commissioners Keri Smith and Leslie Van Beek, Deputy P.A. Oscar Klaas, Weed and Gopher Superintendent AJ Mondor, Lead Weed Applicator Cory Flatt and Deputy Clerk Jenen Ross.

One proposal was received from Code 4 Home Defense and Maintenance on December 13, 2022 at 9:14 a.m. The proposal will be reviewed by legal and Director Mondor.

The meeting concluded at 10:39 a.m. An audio recording is on file in the Commissioners' Office.

MEETING TO DISCUSS MOU BETWEEN CANYON COUNTY, BY AND THROUGH ITS DEPARTMENT OF PARKS, CULTURAL AND NATURAL RESOURCES, AND THE US FISH AND WILDLIFE SERVICE DEER FLAT NATIONAL WILDLIFE REFUGE

The Board met today at 11:05 a.m. to discuss the MOU between Canyon County, by and through its Department of Parks, Cultural and Natural Resources, and the US Fish and Wildlife Service Deer Flat National Wildlife Refuge. Present were: Commissioners Keri Smith and Leslie Van Beek, Parks Director Nicki Schwend, Assistant Park Director Laura Barbour, Facilities Director Rick Britton, Weed and Pest Superintendent AJ Mondor, Lead Weed Applicator Cory Flatt, Eddie Owens and Charlie Kidawa with Deer Flat National Wildlife Refuge, CCSO Lt. Ray Talbot (arrived at 11:10 a.m.), Sgt. Jason Roberts (joined by phone at 11:17 a.m.) and Deputy Clerk Jenen Ross.

Director Schwend explained that there has been an agreement in place for several decades but it is no longer relevant. General discussion ensued regarding the cooperative efforts between Deer Flat National Wildlife Refuge and county departments and Offices including Parks, Weed & Pest, Facilities and the Sheriff's Office – all have been working together well for many years this MOU would just memorialize each area's roles and responsibilities. A copy of the draft MOU is on file with this day's minutes. Commissioners Van Beek and Smith are both in favor of the MOU and moving the document forward. Commissioner Smith encouraged the Sheriff's Office to make any comments prior to the MOU being signed.

The Board requested another meeting with an action item to sign the MOU be added to the calendar for the first week of January.

The meeting concluded at 11:49 a.m. An audio recording is on file in the Commissioners' Office.

DETAILED MINUTES TO FOLLOW:

PUBLIC HEARING TO CONSIDER A REQUEST BY SAMUEL & MARIA GARCIA, GISELLE GARCIA & LYNETTE GARCIA FOR A CONDITIONAL REZONE AND SHORT PLAT; CASE NOS. RZ2021-0025 AND SD2021-0014

The Board met today at 1:36 p.m. to conduct a public hearing in the matter of a request by Samuel and Maria Garcia, Giselle Garcia and Lynette Garcia for a conditional rezone of approximately 2.71 acres from an "A" (Agricultural) zone to an "CR-R-1" (Conditional Rezone - Single Family Residential) zone which includes a development agreement. Also requested is a Short Plat for Lakhota Subdivision.

The request was approved

EXECUTIVE SESSION TO CONSIDER PERSONNEL MATTER PURSUANT TO IDAHO CODE 74-206(1)(A)
AND (D) - INTERVIEW AND CANDIDATE EVALUATION FOR CHIEF OPERATING OFFICER POSITION

The session was continued to December 14, 2022

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 14, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman – **Out of the office**
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED CLAIMS

The Board approved claim no. 2306 in the amount of \$2,196,309.56 for county payroll.

DETAILED MINUTES TO COME AT A LATER TIME

Public Hearing regarding an increase to the Canyon County Assessor's Department of Motor Vehicles Administrative Fee
Action Item: Consider signing resolution increasing the Canyon County Assessor's Department of Motor Vehicles Administrative Fee
See resolution no. 22-243

Executive Session - Interview and Candidate Evaluation for Chief Operating Officer
Continued from December 13, 2022

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 15, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Bob Barker in the amount of \$5,201.64 for the Sheriff's Office
- Apex Container in the amount of \$10,000.00 for the Facilities Department

APPROVED EMPLOYEE STATUS CHANGE FORMS

The Board approved employee status change forms for Carlin Taylor, Juvenile Detention Officer; and Marcus Gomez, Permit Technician I.

DETAILED MINUTES TO COME AT A LATER TIME

Meeting with County attorneys for legal staff update and action items:

Consider signing legal notice of public hearing to consider increasing the on-site credit card fee for the Pickles Butte Sanitary Landfill

Consider signing Notice of Intent to Award Contract for Canyon County's Weed and Gopher Services Assistance

Consider signing FY2023 Master Agreement for Professional Engineering and Surveying Services with B & A Engineers, Inc.

Consider Signing Agreement Between Robobem PREA Auditing LLC and Southwest Idaho Juvenile Detention Center Canyon County Idaho

Action items:

Consider signing the Treasurer's tax charge adjustments by PIN for November 2022

Consider signing resolution approving new alcoholic beverage license for Eskimo Hut

Action Item: Consider signing Declaration and Notice of Sole Source Procurement with Avolve Software Corporation for a remotely hosted software as a service ("SAAS")

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 16, 2022

PRESENT: Commissioner Keri K. Smith, Chair – Out of the office
 Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
 Commissioner Pam White – Out of the office

Deputy Clerks Monica Reeves/Jenen Ross

No meetings were held this day.

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 19, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 20, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED EMPLOYEE STATUS CHANGE FORMS

The Board approved employee status change forms for James Insley, Deputy Judicial Marshal and Jennifer Battiato, DSD Permit Technician.

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- W2W Flooring in the amount of \$45,800.00 for the Facilities department
- Curtis Blue Line in the amount of \$3321.60 for the Sheriff's Office
- Monday.com in the amount of \$2053.33 for the Development Services department
- Henricksen Butler in the amount of \$17,653.89 for the Prosecutor's Office

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 21, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED CATERING PERMIT

- The Board approved an Idaho Liquor Catering Permit for Legends Sports Pub & Grill to be used 1/14/23.

PUBLIC HEARING - REQUEST BY TAYLOR JENE HOMES, INC., AND FTERA VIEWS SUBDIVISION (FORMERLY VALLEY VIEW RANCH #4) FOR A CONDITIONAL REZONE AND PRELIMINARY PLAT, CASE NOS. RZ2020-0019 AND SD2020-0035

The Board met today at 9:01 a.m. to conduct a public hearing in the matter of a request by Taylor Jene Homes, Inc., and Valley View Ranch Subdivision for a conditional rezone and preliminary plat, Case Nos. RZ2020-0019 and SD2020-0035. Present were: Commissioners Keri Smith and Pam White, DSD Director Sabrina Minshall, DSD Planning Official Dan Lister, County Engineer Devin Krasowski, Deputy PA Zach Wesley (left at 9:30 a.m.), Larry Leasure, Erin Sorenson, Mike Woodworth, Rebekah Ames, Casey Ames, Claudia Haynes, Kim Yanecko, Ken Yanecko, Amy Weidner, Dean Littlefield, Ray Eide, Jeanie Amen (via telephone call), Beverly Cavazos, Manuel Cavazos, Deborah Kane, Walter Kane, Sherry Wilkinson, Rachelle Campbell, Cynthia Sandford, Benjamin Scott Wood, Kerry Greenfield, Thomas Bratcher, Angela Bratcher, and Deputy Clerk Monica Reeves.

Commissioner Smith disclosed that she has a friend who lives in Deer Sky Ranch Subdivision which is near the subject property and she has driven past the site and observed that it's dry and hilly. She said accusations have been made regarding the legitimacy of today's hearing, but she believes the County has followed code. Deputy PA Zach Wesley said the case was originally heard by the P&Z Commission who recommended approval. The case came before the BOCC on July 26, 2021 and the hearing was subsequently continued to August 2, 2021 for deliberations where the Board voted unanimously to deny the request. Because this is a rezone application the hearing procedure in the ordinance is applicable as well as in the Local Land Use Planning Act. Idaho Code, Section 67-6511 is the zoning ordinance change statute that specifies the Board is to follow the hearing procedure in Idaho Code, Section 67-6509. Section 67-6509(b) requires, if the Board issues a decision that is materially different in the recommendation or alternative options from the P&Z Commission, a second hearing must be held before it can issue a written decision on the change. That hearing would have been required after August 2, 2021, before the Board could issue its formal written findings and conclusions. Commissioner Smith said it was made very clear the Board was going to follow the code because there was a substantial change in the application and another hearing would be required. Deputy PA Wesley said there was an assertion that 67-6509(d) prevented the County from proceeding. It has to be the integrals in which the County can rehear an amendment to an application concerning an area after there's been a decision issued already. The County could elect to have a code that prevents someone from reapplying immediately, but we don't have it on the books. Because we have not even completed the initial hearing process this one wouldn't be completed. There was a reference to the County's ordinance

01-17-13 which relates to the County's guidelines to issue a written decision after a hearing and the requirement there according to the ordinance is 30 days after a hearing is complete the governing body is supposed to have the written decision issued. There is not an opportunity under state code to issue a written decision until we've had today's hearing so that part of the ordinance is not applicable to this hearing. It was noted that there have been a number of emails requesting the hearing be continued but the Board decided to move forward with the hearing.

Dan Lister gave the oral staff report. (mark 11:38 a.m. to 28.21) Taylor Jene Homes, Inc. is requesting a conditional rezone of approximately 122.51 acres from an "A" (Agricultural) zone to a "CR-R-R" (Conditional Rezone-Rural Residential zone). The request includes a development agreement. Also requested is approval of a preliminary plat (including grading/drainage) for Ftera Views Subdivision (formerly Valley View Ranch #4). The plat contains a total of 33 residential lots. The subject properties, R30113010 & R30101011C are located on the east side of Sky Ranch Road, approximately 1565 ft. north of the intersection of Deer Flat Road & Sky Ranch Road. The P&Z Commission recommended approval of the rezone and preliminary plat (including grading /drainage) on April 15, 2021 and their recommendations were forwarded to the Board who denied the rezone request on August 2, 2021. The original request included a plat for Valley View Ranch Subdivision #4 for 45 lots. In September of 2022 an amended application was provided as a CR from an ag zone to a rural residential and a new plat for Ftera View Subdivision containing 33 residential lots. On September 12, 2022, the Board tabled the hearing for re-noticing to consider the amended application for a conditional rezone and preliminary plat. On October 27, 2022, the 2030 Canyon County Comprehensive Plan was adopted, but this request is not consistent with that plan because the property is designated as agriculture; however, the application was submitted prior to the plan's adoption and therefore it has to be consistent with the 2020 Canyon County Comprehensive Plan. The future land use maps designate the property as residential. The property does not have water rights. It is surrounded by residential subdivisions or properties created by land division or conditional use permit. Most of the development surrounding the property was approved before the adoption of the 2020 Comprehensive Plan and the current Canyon County Code. There are a number of large agricultural properties with historic agricultural use in the area, and there is also an aerial spraying operation in the area. The property is not located within a nitrate priority area; however, there was information demonstrating there are arsenic issues in the area. Individual domestic wells and septic systems are proposed; however, it cannot be a normal septic system, it will have to be an extended treatment system on each lot. Individual wells are proposed to be regulated by the CC&R's to regulate well depth of 150 feet below the static water level and to restrict irrigation from wells to one-quarter of an acre.

Devin Krasowski (mark 28:21 to 31:30) reviewed the water reports and said an adequate water source could be provided in the area given good well construction, adequate well depth, adequate pump setting depth, and properly operating equipment. Given the proposed water use the impacts to existing ground water users in the area would likely be negligible compared to the seasonal fluctuations of the water table that already exist. It's very unlikely the proposal would have negative impacts on the area related to water supply. If reasonable due diligence is put into understanding the groundwater source in the area, all individual wells can be reliable and a safe source of drinking water south of the lake. Equipment or electrical issues, bad well construction,

or well material failure or inadequate well depth can affect water supply but there is water down there. The most robust way of providing a clean and reliable source of water is a public water system because those systems are engineered and operated by professionals and regulated by the state.

Dan Lister (mark 31:30 to 47:50) resumed his staff report and said staff is recommending the applicant put in a public water system for Ftera Views Subdivision. He reviewed the access points for the project and the agency comments that were received. Staff received over 70 comments in opposition expressing concerns regarding: impacts to the aquifer south of the lake and to existing wells, re-drilling issues and expense due to water quality issues (arsenic in the area), traffic impacts on South Ranch Road due to the site distance and the slope of the road, a lack of infrastructure, no city services, amenities, or improved roads, impacts to existing agricultural character, open space and wildlife, a lack of fire protection, impact to existing agricultural uses, not a growth area, residential density is out of character, impact to school district and school buses, and unenforceable CC&R's. After reviewing the applicant's development agreement, staff removed the language for the CC&R's because it would mean they are enforcing those CC&R's but they do not have the manpower to enforce those. They changed the language to say it has to be generally consistent with all county, state, and federal laws, and they listed the departments they need to be in compliance with. The property has to go through the platting process and has to be in compliance with the landscaping plan, and it cannot exceed 33 lots. They must preserve the rural character of the area, and each lot would have a building envelope no larger than one-acre in size, and it must be noted on the final plat. Areas outside of it must be retained in open space with native grasses and trees, and firewise landscaping buffer standards shall be implemented in the open space landscaped design. Prior to final signature, the landscape plan design maintenance measures and enforcement shall be demonstrated by strict enforcement measures within the CC&R's. Domestic wells shall be provided through a community public water system. Prior to preliminary plat approval, the development on slopes over 15% will be required to meet County standards. The applicant has said when they place the lots showing the one-acre building envelope, they will make sure they are off slopes over 15%. The applicant shall submit a landscaping plan demonstrating the location of a designated bus stop as required by the Nampa School District. The applicant shall submit an approval letter from the Nampa School District approving the bus stop location and design. Historic irrigation laterals and drain ditch flow patterns shall be maintained and protected and modifications shall be approved in writing by the local irrigation district and the use of the irrigation water rights shall comply with Idaho Code Sections 31-3805 and 67-6537 and evidence shall be provided at the time of platting. There will be timing requirements. If the subdivision is considered today the conditions staff has applied are that all improvements must be completed or bonded prior to final plat approval. Historic irrigation laterals, drain ditch flow patterns shall be maintained unless approved in writing by the local irrigation district or ditch company. Finished grades at subdivision boundaries shall match existing finished grades, and runoff shall be maintained on the property unless otherwise approved. The development must comply with SWDH requirements, and must meet the improvement requirements of the variance approval. The applicant shall submit a plan for fire suppression and firewise buffering with the application for final plat and the plat shall be included in their CC&R's for the development upon review by the Upper Deer Flat Fire District. At the time of final plat

submittal, Lot #4 serves as the only access to a portion of Parcel R30117 to the north. The applicant shall either allow access to the owner or work with the owner to purchase the land and make it part of Lot #4. Common lot #37 does not have access, it shall include an easement for access. The final plat shall comply with the development agreement.

(The Board took a break from 9:50 a.m. to 10:00 a.m. so the IT department could assist with some technical issues with the equipment.)

The hearing resumed at 10:09 a.m., with the following people testifying in support of the request:

Larry Leasure (mark 1:20 to 15:00) with White Leasure Development Company, is the applicant's representative. He agrees with staff's report with one exception: individual wells versus a community water system. The intent is to provide the information the Board requested last September and additional information that has been presented over the last nine months. The project is an infill site for residential and fits within the 2020 comprehensive plan as residential and they are hopeful the Board will approve the project based upon the staff report only with the one discussion point, the protection of the single wells for the 25 units in this part of the project. The other 8 units are being handled through the existing subdivision that's a part of this. They held a number of community meetings to get information from the neighbors about their concerns, and they feel they have made major changes in the recommendation to the developer. The main concern was the availability of water, but according to the experts there is water. The developer is proposing CC&R's.

Erin Sorenson (mark 15:01 to 18:52) said within the last month they received variance approval from the Nampa Highway District to enlarge the lane to accommodate for a pull-out, and they will work with the Nampa School District for the bus stop approval. Since the last hearing they have focused on well construction standards. One of the major elements would be drilling to accommodate for the seasonal fluctuation, a minimum of 150 feet below the first source of water that's found. If necessary they will language built into deed restrictions.

Mike Woodworth (mark 19:20 to 26:44) provided testimony regarding wells that IDWR has been monitoring in the area and said there appears to be sufficient groundwater resources in the area to support the development. He summarized the data consultants have looked at and the takeaway is they have looked at the groundwater resources in the area and in working with IDWR, they have arrived at the same conclusion that IDWR has, and the same conclusion that HDR and SPF have that there appears to be sufficient groundwater resources to support the development in the area. The amount of water the proposed development would use would have a negligible impact on the surrounding wells and the aquifer. IDWR notes that in the center the aquifer levels in the area appear to be stable or rising on a long-term basis. IDWR recently issued a water right in the area for significantly more water than this development proposes. The number of lots has been reduced from 45 to 33, with a limitation on the amount of irrigation. The new plan is just over 6 acres of irrigated landscape which is an approximate 2/3 reduction from the original application.

Casey Ames (mark 26:45 to 35:21) addressed the ½ acre to ¼ acre issue and said his preference would be to do ½ acre. He testified about the water conservation for landscaped plans; he understands there are well issues, but professional consultants have said there is consistent water.

The following people testified in opposition to the request:

Kim Yanecko (mark 36:48 to 1:02:25) reviewed information from IDWR's well site and spoke about the water issues in the area. There has been a decline in water and the residents are especially concerned the water issues during the summer because the drawdown is the greatest and the demand is the highest and the aquifer does not keep up. She addressed concerns with the location of the proposed bus stop at the subdivision entrance given issues with line of site; road safety issues; concerns about nitrites; and conflicts between agricultural and residential growth and the fact that CC&R's are not enforceable.

Kerry Greenfield (mark 1:02:31 to 1:04:36) testified about her concerns with the water problems in the area and the impacts the proposed development will have on existing wells. She has a well that's 40 years old and it's estimated it will cost \$32,000 to have new well drilled. The neighbors have provided evidence that there is water problem and the Board should listen to the people who have experienced the problems.

Dean Littlefield (mark 1:04:55 to 1:16:05) has been in the excavating business for 32 years and has installed over 4,000 septic tanks and drain fields. He brought a device to demonstrate how he measures water and said when he measured his well water last month it was 400 feet to the first water. When he first moved to the area the first water was at 360 feet, but said the water is declining all the time. He estimates that each house will use 1,000 gallons of water a day just through the septic tank, not counting irrigation.

Claudia Haynes (mark 1:16:27 to 1:27:30) gave testimony regarding her communications with Gary Spackman and Dennis Owsley from IDWR regarding water issues and the monitoring wells in the area. A neighbor had a new monitoring well recently installed and it showed an increase in water going into the well and into the area where the incline is and when the irrigation season began a drop occurred. She spoke about how wells have caved in and damaged pumps, and how the residents in the area have spent over \$500,000 on well repairs and drilling new wells. Ms. Haynes spoke about well drilling reports and the fluctuation of the water table and said dropping a well or doing a community well at more than 150 feet is not going to solve the problem.

(The Board took a brief recess from 11:27 a.m. to 11:28 a.m.)

Ray Eide (mark 00:25 to 10:00) gave testimony regarding impacts to the flight paths of an aerial applicator as well as the loss of views. He is in charge of his subdivision's community well and said the water table fluctuates a lot in the summer.

Claudia Haynes (mark 10:05 to 13:23) responded to questions from Commissioner Smith regarding aerial spraying.

Amy Weidner (mark 14:55 to 20:00) testified that during the CUP process for Foothill Ranch Subdivision there were concerns about water. There is a global water problem and the comprehensive plan does not override human rights to water. She said wells are not failing if they are sucking air, that's an aquifer problem. She spoke of her concerns regarding wells going dry, and CC&R's not being fool proof; as well as the need to preserve farmland. Ms. Weidner believes with a water right they could make a farm out of property that would conserve water and create recharge.

Jeanie Amen offered testimony via telephone (mark 22:51 to 27:20). She responded to questions about aerial applications, specifically the flight path for takeoff and landing and the corridor they have along the subject property. The corridor is what they use to get in/out of the field and get out of the subdivision to the east. They cannot fly over homes, but around them and the corridor was helping them do that. They had to quit flying due to complaints by residents in a subdivision. Ms. Amen said if the subject property has homes it will set them off on that side completely.

Beverly Cavazos (mark 29:11 to 35:04) brought in water filters that are stained by silt and she said they become so dirty she has to remove them every month. Water levels do not replenish fast enough to serve the existing homes let alone another 35-40 homes. Her concerns include: traffic and road safety concerns; sight distance issues; and questioned how they will be able to build a left turn on a two-lane road with no shoulders. She said the County is approving developments when there is not sufficient water supply.

Benjamin Scott Wood (mark 35:50 to 41:00) testified that in 2018 he developed 30 acres into three 10-acre parcels. He originally wanted eight lots but reduced it to three once they learned about the water problems in the area. He is concerned about the well water and the impacts to existing residents.

Rebuttal testimony was offered by Mike Woodworth, Larry Leasure, Erin Sorenson, and Casey Ames. The Board had follow-up questions for the development team and for DSD staff. (Mark 41:45 to 1:39:10)

(The Board took a lunch break at 1:08 p.m., and went back on record at 1:58 p.m.)

Larry Leasure's rebuttal testimony resumed after the break, and Casey Ames responded to additional questions from the Board (mark 1:50 to 12:30). Late exhibits 144-172 were entered into the record.

Upon the motion of Commissioner White and the second by Commissioner Smith, the Board voted unanimously to close testimony. The Board's deliberation was as follows: (mark 14:01 to 47:06) Commissioner Smith wants to set aside the subdivision until there is a decision on the rezone. Commissioner White said at the last hearing we had a lot of requests for different information and

she hears the residents' concerns and it is bothersome that the well construction is problematic. If the request is approved there will be well standards that will be required. The applicant is agreeing to do the things the Board asked and they are confident it will be a lasting improvement. Regarding the traffic and hillside concerns, she encouraged people who live in the area to voice those concerns to the highway district. Commissioner White said her concerns have been addressed and we have workable solutions, especially with the community water system. Commissioner Smith said this has been a difficult case with a lot of detailed information weighing both sides of the water issue. She previously worked for IDWR and has additional knowledge of water rights and water concerns. There are concerns for water; however, the water concerns are from well construction standards and all of the data and evidence shows the wells were failing because of construction standards not being where they should have been. With the agreement to have a community water system the developer has met the Board's standards so she can support the project. Staff did a detailed job of going through the standards of approval and answering those in a way that considers the conditions of approval. She wants staff to bring back changes in the language to add in the standard for the community water system; remove the canal fencing from the site plan requirement; remove common lot #20 as well as the northern common lot; and reduce the common lot of the entryway to just include the main signage feature as well as a bus pick up area. Landscaping is limited to what would be required for the homes, and staff should evaluate what type of landscaping it could enforce or the firewise information that was provided. There shall be no golf courses or secondary residences. There shall be no development on slopes over 15%. There was discussion regarding building envelopes. It's more characteristic of the area to just have a no-build area on the slopes. The County will not enforce what and where they build. Of the three common lots, two are removed and one is reduced. We need to be very specific on the difference between phase 1 and phase 2 on what the proposals are and remove the CC&R information. Thee turn lane is important. The one-acre building envelope should be removed, and there should be a condition requiring a plan to be submitted for a pathway at the time of platting. Commissioner Smith made a motion to approve the conditional rezone and development agreement for Case No. RZ2020-0019 and have staff amend the FCO's and the conditions of approval based on the Board's summary and obtain the signature on the development agreement from the applicant in agreement with those terms. The motion was seconded by Commissioner White and carried unanimously. Upon the motion of Commissioner Smith and the second by Commissioner White, the Board voted unanimously to continue the preliminary plat to January 3, 2023 at 9:30 a.m. The approval documents for the conditional rezone will be brought back at a later date. Commissioner Smith read into the record the process for filing a request for reconsideration/judicial review. The hearing concluded at 2:45 p.m. An audio recording is on file in the Commissioners' Office.

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDER

The Board approved the following purchase order:

- Coble Company in the amount of \$2,196.00 for the Sheriff's Office

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 23, 2022

PRESENT: Commissioner Keri K. Smith, Chair
Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
Commissioner Pam White
Deputy Clerk Jenen Ross

APPROVED CLAIMS

- The Board has approved the Grand Jury Nov claim in the amount of \$618.82
- The Board has approved the Nov Jury claim in the amount of \$6,121.79
- The Board has approved claims 590448 to 590493 in the amount of \$247,508.29
- The Board has approved claims 590494 to 590541 in the amount of \$32,693.57
- The Board has approved claims 590542 to 590581 in the amount of \$170,343.39
- The Board has approved claims 590582 to 590630 in the amount of \$81,970.62
- The Board has approved claims 590631 to 590650 in the amount of \$10,242.00
- The Board has approved claims 590651 to 590695 in the amount of \$77,784.35
- The Board has approved claims 590696 to 590727 in the amount of \$63,369.91
- The Board has approved claims 590728 to 590789 in the amount of \$292,326.81
- The Board has approved claims 590790 to 590818 in the amount of \$27,995.19
- The Board has approved claims 590819 to 590878 in the amount of \$92,103.60
- The Board has approved claims 590879 to 590895 in the amount of \$265,137.15
- The Board has approved claim 590896 ADV in the amount of \$28,395.00

APPROVED PURCHASE ORDER

The Board approved the following purchase order:

- Linear Systems, Inc., in the amount of \$69,248.80 for the Sheriff's Office

APPROVED EMPLOYEE STATUS CHANGE FORMS

The Board approved employee status change forms for Masie Hancock, Court Clerk I (Underfill II); Kristina Estrada-Radke, Court Clerk I (Underfill II); Denisa McCallum, Court Clerk I; Bernie Ramirez, Juvenile Detention Officer; Dominic Antone Bertalotto, Deputy Sheriff; Eric Pesina, Deputy Sheriff; Dolan Adams, Deputy Sheriff; Kevin Manlord, Deputy Sheriff; Brian Richard, Deputy Sheriff; Tammy Bartlett, Corporal; Jaycob Rush, Deputy Sheriff; Garrett McRae, Deputy Sheriff; Hayden Stauffer, Corporal; Beau Bolinder, Deputy Sheriff; Steven Roberts, Deputy Sheriff; and Drake Logan Neiderer, Deputy Sheriff.

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 27, 2022

PRESENT: Commissioner Keri K. Smith, Chair
 Commissioner Leslie Van Beek, Vice Chairman - **Out of the office**
 Commissioner Pam White
 Deputy Clerk Monica Reeves

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Pake Handling Tools, LLC., in the amount of \$3,099.99 for the IT Department
- Elevate in the amount of \$1,560.00 for the IT Department
- Elevate in the amount of \$1,560.00 for the IT Department

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 28, 2022

PRESENT: Commissioner Keri K. Smith, Chair
 Commissioner Leslie Van Beek, Vice Chairman
 Commissioner Pam White
 Deputy Clerks Monica Reeves/Jenen Ross

APPROVED CLAIMS

The Board approved claim no. 2307 in the amount of \$2,197,897.79 for county payroll.

DECEMBER 2022 TERM

CALDWELL, IDAHO DECEMBER 29, 2022

PRESENT: Commissioner Keri K. Smith, Chair – participated remotely
Commissioner Leslie Van Beek, Vice Chairman – out of the office
Commissioner Pam White
Deputy Clerks Monica Reeves/Jenen Ross

APPROVED PURCHASE ORDERS

The Board approved the following purchase orders:

- Nemo Arms in the amount of \$2795.00 for the Sheriff's Office

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

The Board met today at 9:06 a.m. with county attorneys for a legal staff update and to consider action items. Present were: Commissioner Pam White, Commissioner Keri Smith via teleconference, Deputy P.A. Zach Wesley, Deputy P.A. Oscar Klaas, Sgt. Jason Roberts (left at 9:14 a.m.), Lt. Ray Talbot (left at 9:14 a.m.), Landfill Director David Loper (left at 9:10 a.m.) and Deputy Clerk Jenen Ross. The action items were considered as follows:

Bid Opening for Pickles Butte Sanitary Landfill Beautification Project - Hardscaping Invitation for Bids:
No bids were received for this project so Director Loper will work with Mr. Laugheed to determine the best way to proceed. Possible options could be to put the project out for re-bid or direct solicitation. The Board is supportive of moving forward as discussed.

Consider Signing Notice of Sole Source Procurement of 2022 SJX Jet Boat Model SJX2170 from SJX Jet Boats, Inc.: This boat will be used for search and rescue especially in shallow areas. The grant has been approved and this is just for the purchase of the boat. Sole source is due to this boat not being available from any other vendor and/or at a comparable price. Additionally, SJX Jet Boats, Inc. is a local Idaho manufacturer. A hearing will be held on January 19, 2023 and absent any objections the Board can move forward with the purchase agreement. Upon the motion of Commissioner White and second by Commissioner Smith the Board voted unanimously to sign the notice of sole source procurement of a 2022 SJX jet boat model SJX2170 from SJX Jet Boats, Inc.

Mr. Wesley presented the Board with the annual health benefit plan fidelity coverage for the health board trustees in their fiduciary capacity to insure against any theft or malfeasance on their part.

This year's bid from Travelers Insurance came in at \$4413 which is reduced from last year. The Board provided support for Mr. Wesley to move forward with binding coverage and then a purchase order will be put through for Board signatures.

Commissioner Smith requested that Mr. Wesley get in touch with Commissioner Van Beek regarding a recently discussed personnel matter. She would like Commissioner Van Beek to hear the legal perspective and feels at this point she has only heard the perspective of the department administrator. Mr. Wesley indicated that he would send an email on the subject copying the entire Board.

The meeting concluded at 9:17 a.m. An audio recording is on file in the Commissioners' Office.

EXECUTIVE SESSION PURSUANT TO IDAHO CODE, SECTION 74-206(1)(E) TO CONSIDER PRELIMINARY NEGOTIATIONS INVOLVING MATTERS OF TRADE OR COMMERCE IN WHICH THE GOVERNING BODY IS IN COMPETITION WITH GOVERNING BODIES IN OTHER STATES OR NATIONS

Commissioner White made a motion to go into Executive Session at 10:06 a.m. pursuant to Idaho Code, Section 74-206(1) (e) to consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. The motion was seconded by Commissioner Smith. A roll call vote was taken on the motion by Deputy Clerk Jenen Ross with Commissioners White and Smith voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioner Pam White, Commissioner Keri Smith via teleconference, Assessor Brian Stender, Chief Deputy Assessor Joe Cox, Steven Jenkins with the City of Caldwell and Representatives for the applicant. The Executive Session concluded at 10:24 a.m. with no decision being called for in open session.

DECEMBER 2022 TERM
CALDWELL, IDAHO DECEMBER 30, 2022

PRESENT: Commissioner Keri K. Smith, Chair – Out of the office
Commissioner Leslie Van Beek, Vice Chairman – Out of the office
Commissioner Pam White – Out of the office
Deputy Clerks Monica Reeves/Jenen Ross

No meetings were held this day.

THE MINUTES OF THE FISCAL TERM OF DECEMBER 2022 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 _____, 2022.

CANYON COUNTY BOARD OF COMMISSIONERS

Commissioner Leslie Van Beek

Commissioner Keri K. Smith

Commissioner Pam White

ATTEST: CHRIS YAMAMOTO, CLERK

By: _____, Deputy Clerk