

**IN THE OFFICE OF THE VALLEY COUNTY BOARD OF COMMISSIONERS  
CASCADE, IDAHO  
June 30, 2014**

**PRESENT: GORDON L. CRUICKSHANK (CHAIRMAN)  
ELTING G. HASBROUCK (COMMISSIONER)  
BILL WILLEY (COMMISSIONER)  
DOUGLAS MILLER (CLERK-Excused Absence)**

Meeting called to order by Chairman Cruickshank at 9:04 a.m.

Trudy Eiguren, Chief Deputy Clerk, taking minutes.

Trudy Eiguren led the Pledge of Allegiance.

Chairman Cruickshank discussed adding the Van Wyck Boat Grant to the agenda under Commissioner discussion at 9:05 a.m. and Commissioner Hasbrouck asked to add the Cascade School Geothermal MOU to the agenda as well. Commissioner Willey moved to approve the agenda with the additions. Second by Commissioner Hasbrouck. Motion carried.

Chairman Cruickshank discussed two corrections that needed to be made to the meeting minutes of June 23<sup>rd</sup>. Commissioner Hasbrouck moved to approve the meeting minutes of June 23<sup>rd</sup>, 2014 as amended. Second by Commissioner Willey. Motion carried.

Payette National Forest Lower Big Creek Road Service Agreement was presented by Road Superintendent Curtis Bennett. It is a pass-through, tracked by the US Forest Service. It involves replacing a culvert with a bridge so it is more fish friendly. Commissioner Hasbrouck moved to accept the Lower Big Creek Road Service agreement with PNF and authorize the Chairman to sign. Second by Commissioner Willey. Motion carried.

The Wellington Park Grant was discussed. It is for \$46,800 with a Matching Share of \$11,000 for a total cost of \$57,800. Commissioner Hasbrouck discussed the number of acres that are being purchased. The grant received through IDPR will help with the purchase. Chairman Cruickshank mentioned that we only have to leverage 20% to get 100%. Motion by

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Commissioner Willey to accept the Wellington Park Grant, second by Commissioner Hasbrouck. Motion carried.

The Francis Wallace Lot Grant was presented by Chairman Cruickshank. The grant request is \$60,420 with a matching share of \$11,000 for a total project cost of \$71,420. Motion by Commissioner Hasbrouck to approve the Frances Wallace IDPR grant, second by Commissioner Willey. Motion carried.

Chairman Cruickshank presented the Brush Creek Lot Grant. It is \$26,836.48 with a matching share of \$8,000.00 for a total cost of \$34,836.48. It is to be used to improve the Brush Creek overflow, complete the parking lot and driveway. Motion by Commissioner Willey to accept the Brush Creek Grant, second by Commissioner Hasbrouck. Motion carried.

The Lake Cascade - VanWyck dock and ramp improvement grant was discussed. Waterways will be putting in \$61,400 in matching share, IDPR contributing \$173,600 in grant funds for a total of \$235,000. There will be 320 ft. of new steel docks as well as concrete ramp improvements. Motion by Commissioner Hasbrouck to accept the VanWyck Grant, second by Commissioner Willey. Motion carried.

The Pointes at Horsethief Shores No.3, Final Plat was presented by Cynda Herrick, Planning & Zoning Administrator. Cynda stated that this is the completion of what was originally approved in 2003. It has taken this long to get through DEQ approval. It is Gary Johnson's project. It was previously platted as common area in Plat #2 just in case they were unable to get it finalized. It is off Warm Lake Road and Lost Basin. Curtis Bennett mentioned that in the past, the area has been used for a short period of time for kids that are ice fishing. Chairman Cruickshank discussed that there would still be access around the lake for fishing. Motion to approve the final plat for The Pointes at Horsethief Shores No. 3 and authorize the Chairman to sign the plat was made by Commissioner Hasbrouck. The motion was made with the understanding that Pointes Road is a private road; and, Valley County has no responsibility thereto. Second by Commissioner Willey. Motion carried.

Skip Clapp, Court Services Director, presented the Alcohol Monitoring Products and Services Agreement. He presented that it is a master renewing of the contract in 2011. There are no changes (except for the dates) – it is a basic and standard agreement. Chairman Cruickshank questioned the 3-year duration of the contract (until 2017) and asked whether the monitor was paid for by the person wearing it. Skip confirmed that the monitoring is paid for by the person wearing it for tracking purposes. The service and upkeep are paid for by users and it is not obligating the County. Motion to approve the AMS contract was made by Commissioner Hasbrouck, second by Commissioner Willey. Motion carried.

The Clinical Services MOA for the Juvenile Detention Center was also presented by Skip Clapp. Anytime a juvenile is in custody, a clinician counsels and reviews. The budget from the State is \$13,000; we have only spent about 12% YTD. Jake Wilson's MOA with Valley County needs to be updated. The Clinician is paid by the State at no cost to the County. We are in Region IV, the same as the Judicial District. Commissioner Hasbrouck noted that we are the smallest county as regards funding. Skip explained that very few smaller counties have a detention center. Commissioner Hasbrouck moved to approve the MOA for Clinical Services at the Juvenile Detention Center, second by Commissioner Willey. Motion carried.

David Crawford, IT Administrator, explained the ESRI Maintenance Contract Agreement for \$1,900 for software support. It is budgeted at \$2,000. Motion to approve the ESRI Contract and authorize the Chairman to sign was made by Commissioner Willey, second by Commissioner Hasbrouck. Motion carried.

An agreement with the Cascade School District concerning geothermal piping was discussed. It was agreed that we would give the School District \$10,711 to upgrade the geothermal pipeline to provide for the possible hook-up of County facilities in the future. Motion by Commissioner Hasbrouck to sign the MOU with Cascade School District, second by Commissioner Willey. Motion carried.

A draft resolution to destroy old, unnecessary county emails was presented by David Crawford. The resolution is not complete and is being reviewed by legal counsel, Jay Kiiha. Chairman Cruickshank asked David to include wording such as “ongoing litigation/legal matters or other issues or matters of importance shall be maintained and not destroyed”. It was also discussed that some of the wording should be more general and not so specific. It should also pertain to electronic correspondence and not just to email. David will correspond with Jay and return to the Commissioners with a corrected draft.

Chairman Cruickshank left the meeting for a conference call at 9:59 a.m.

Jay Kiiha, Prosecuting Attorney, Sue Probst, Chief Deputy Assessor and Laurie Frederick, Cartographer, appeared to present the D.L. Evans Right of Way & Boundary issue. Jay stated that it was in regard to TJ Properties and he gave the document to Sue to check the legal descriptions. They feel that the legal descriptions are incomplete and that the document should be sent back to D.L. Evans legal counsel for correction. Sue stated that there is not an error in the metes and bounds description but that the property goes into another section, township and range that was not completely described. Jay stated that he would send a letter to their legal counsel with Sue’s notes. The Commissioners agreed and felt that the burden of proof is on D.L. Evans and not on the County.

Mr. Kiiha presented the proposed State of Idaho Easement Agreement No. ES5000026. He has reviewed the agreement at the request of Curtis Bennett, and feels that the decision is a matter of business judgment rather than a matter of law. Jay asked that Curtis present the easement agreement and explain his general knowledge. Curtis explained that the area is by Warren Wagon Road going over to Lick Creek on the north end of Payette Lake. The State would like \$22,000 in payment for the easement. Commissioner Hasbrouck asked if we are going to improve the road – he doesn’t ever remember paying for an easement. Curtis explained that it would take the easement from 50’ to 70’. This is something that Jerry Robinson, the previous Road Supervisor, started several years ago. Jay said that there is an existing road there now and the County maintains it. Jay noted the responsibilities of the County for maintenance in the agreement. It states that we shall provide drainage, grading, cleaning of culverts and abating of dust. He also noted that the State could terminate the easement within 90 days if we do not follow the contract. Commissioner Hasbrouck mentioned that the road is used to reroute traffic during the 4<sup>th</sup> of July. Curtis discussed that Jerry Robinson had gotten a grant to replace the Lemah box culvert in this area. The goal is to widen this portion of the road for safe passage and make it wide enough for 2 cars. The road is around North Beach and ties into Lick Creek Road – It is a small stretch owned by the State. The County plows approximately 2-3 miles. Curtis asked why we should pay for the easement – should we quit maintaining? Jay stated there were more questions about the agreement such

as an indemnification clause, liability issues, a 3<sup>rd</sup> party clause – It seems contradictory. The State Land Board could also do the maintenance and then charge the County for it. There is also an issue with the timber around the property – it has to be cut in specific lengths or we may have to buy the timber. The State would also be allowed to put other easements on top of ours. Rod Skiftun did the initial work on this agreement and IDL then wrote the agreement. If we don't do anything to improve the road in 5 years, the State can give us 90 days and then consider the road abandoned. Commissioner Hasbrouck said that we are usually given a dedicated ROW and not an easement. Jay asked if 20 ft. of road is worth \$22,000. The Commissioners discussed presenting a counter offer to the State and also putting the replacement of the culvert on Lemah Creek on hold. The Commissioners are not in favor – it is too expensive and restrictive. It was discussed that this was probably a standard lease but that we needed to contact the State and try to renegotiate the lease. Curtis was also directed to write a letter to the Department of Recreation to get the Lemah box culvert project delayed. Commissioner Hasbrouck felt that the public would be upset if the road was closed and that we need more information.

Scott Erikson and Jay Kiiha were both present to discuss the Public Defender contract, budget and pending State action. Scott presented that a judge assigns a defendant a public defender based on 187% of the Federal Poverty Guidelines. It is on a sliding scale depending on the number of dependents and a judge can also take other factors into account such as land, vehicles, an interest in a Trust, type of offense, etc. Reimbursement to the County for the Public Defender is up to the Judge. In simple cases, there is generally no reimbursement. The Judge may set reimbursement in more complex cases. Reimbursement goes into the General Fund.

Chairman Cruickshank returned to the meeting at 11:05 a.m.

Commissioner Hasbrouck stated the Commissioners feel it is the best business decision to move the Public Defender in-house. Scott presented an analysis of a budget for the Public Defender as compared to the Prosecutor's budget. He considered expenses that were criminal vs. civil. He added in the cost for one legal assistant, a secretary, a second attorney and discussed the cost of benefits as well. It was discussed whether Scott could take on private cases if he were brought in-house and also possible locations for the office. Scott does not feel that the Public Defender should be moved in-house – he feels the cost to the County would be a lot more. His estimate does not include equipment or getting the office set up.

Even if the State mandates regulations, it may be a long process – possibly 18 months to 2 years. If the office is in place, there is also a possibility that the State could fund part of it. Chairman Cruickshank suggested renewing Scott's contract. The County has a good relationship with the Public Defender and has not received any complaints. The law states that we cannot have a flat fee contract – the contract will need to be restructured as allowed by law. Chairman Cruickshank asked how we can protect the tax payers and give them the best deal? A fee by case load was discussed as well as hourly tiered contract. Case load ceilings are set by national standards – the contract could also be based on types of cases (felony, misdemeanor). Scott felt the benefit of allowing a Public Defender to also have a private practice would be an incentive for someone to come up to this area. There are not many attorneys who do criminal defense work. Splitting the contract between attorneys and other County's contracts were discussed. The Commissioner's asked Scott to look into the issue further. A decision will need to be made by August.

Ralph McKenzie appeared to present the RFP's for the asphalt at the Transfer Site. Commissioner Hasbrouck asked about the quality of the asphalt. A sealant will need to put on each year. \$50,000 was budgeted for the project. Sealed bids were opened in the Clerk's office at 10:00 a.m. on Thursday, June 26<sup>th</sup>. The results were as follows:

	Asphalt, lay down, rolling	Transport	Total
Granite Excavation, Inc	\$43,450.00	\$39,930.00	\$83,380.00
Valley Paving & Asphalt Inc	\$41,502.29	\$ 2,925.00	\$44,427.29

A bid was also received by email from C&A Paving Co, Inc in the amount of \$106,635.50 but was not considered.

Motion by Commissioner Willey to accept the Valley Paving & Asphalt's bid in the amount of \$44,427.29, second by Commissioner Hasbrouck. Motion carried.

Commissioners adjourned for lunch at 11:55 a.m.

Commissioners returned from lunch at 2:05 p.m. after attending the Grand Opening of the Cascade Food Pantry.

Commissioner Willey made a motion to go into Executive Session per I.C. 67-2345 (1)(a)-Contract Consideration. Commissioner Hasbrouck seconded the motion. No further discussion. All Commissioners voted "aye" to go into Executive Session per I.C. 67-2345 (1)(a)-Contract Consideration at 2:07 p.m.

Chairman Cruickshank brought the Commissioners out of Executive Session at 2:42 p.m.

No decision was made after Executive Session.

Commissioners adjourned the meeting at 2:45 p.m.

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Gordon Cruickshank, Chairman

Attest:

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Trudy Eiguren, Acting Clerk