

**\*\*\*Monday, March 30, 2015**, Commissioners met in regular session with Chairman Dan Dinning, Commissioner LeAlan Pinkerton, Commissioner Walt Kirby, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser.

Blue Sky Broadcasting Reporter Mike Brown was in attendance of the meetings on and off throughout the day.

Commissioners gave the opening invocation and said the Pledge of Allegiance.

9:00 a.m., Road and Bridge Superintendent Jeff Gutshall joined the meeting to give the departmental report. Mr. Gutshall did not present a written report. Mr. Gutshall said Road and Bridge has been working on the culvert near White Mountain Road. The culvert will have a device installed that will prohibit beavers from plugging it.

Mr. Gutshall said Road and Bridge has received a lot of requests for grading, but work had to be done on the culvert. Road and Bridge is now ready to start grading, but it isn't certain if the expected rain will affect that. Road and Bridge has picked up Durapatcher oil so as potholes dry out or become patchable, they will be filled.

Bonner County is bidding for road oil soon so Boundary County will piggyback on the best bid. Piggyback bidding is beneficial to possibly both Bonner and Boundary County as it makes the bidding process more competitive, according to Mr. Gutshall. Mr. Gutshall said he expects oil to be approximately \$40 to \$50 less per ton than last year.

Chairman Dinning said the House has decided to pass Secure Rural Schools (SRS) for two years, but there is nothing official. Clerk Poston asked about the 25% fund. Chairman Dinning said he hasn't heard about that, but it may just be deducted out of the SRS payment. It was said the Senate included full funding of payment in lieu of taxes (PILT).

Road and Bridge shut down the crusher to be in compliance with Department of Environmental Quality (DEQ), which has rules for not being allowed to operate the crusher in one location for too long. Mr. Gutshall said his staff will soon receive their Mine Safety and Health Administration (MSHA) training.

Commissioners and Mr. Gutshall spoke of SRS funding and dust abatement. Mr. Gutshall said the consequence of no longer providing dust abatement would be people putting down their own dust abatement. The other problematic aspect are the roads that were taken out of the dust abatement program. If the county receives SRS funds, it would be smart to get back into the dust abatement program and oil for the roads. Since Road and Bridge has plenty of rock, the crusher will not be used for a while and hauling rock will be limited in order to save fuel. If the county lets pavement maintenance go, it will be costly in the end, according to Mr. Gutshall.

Chairman Dinning asked if paving of Meadow Creek Road fell out of the federal program. Mr. Gutshall said it was just too much to get the third project in. Mr. Gutshall said he's keeping all that data for that project and he will probably put in an application for this project in the next cycle. The Myrtle Creek Bridge was identified as a critical need and while we have support from the Kootenai Tribe of Idaho and the Kootenai Wildlife Refuge it would be good to use that support.

Chairman Dinning asked which collector route has the most volume. Mr. Gutshall said Cow Creek Road has the most volume consisting of approximately 1,000 per day. The south end of Deep Creek Loop has a traffic count of approximately 800 and the north end of this road has a count of 500. Mr. Gutshall listed various collector routes, their volume of traffic, and spoke of the system of placing traffic counters.

Commissioners asked if Road and Bridge could apply dust abatement to the bus turnaround at the Three Mile area.

Commissioner Pinkerton thanked Mr. Gutshall for his work.

Chairman Dinning mentioned an issue involving the Local Highway Technical Assistance Council (LHTAC) and suggested Mr. Gutshall speak to Tony Poinelli with the Idaho Association of Counties.

The meeting with Mr. Gutshall ended at 9:30 a.m.

Commissioner Pinkerton moved to sign the junior college certificate of residency forms for L. Abeyta and A. Rushing. Commissioner Kirby second. Motion passed unanimously.

Commissioners tended to administrative duties.

9:50 a.m., Channing and Barbara Nagel stopped by Commissioners' Office to inquire about the proposed Union Pacific (U.P.) project to take out a few crossings and build a side road on Moyie River Road.

Chairman Dinning informed Mr. Nagel that Commissioners are waiting to see what U.P.'s proposal is. What was preliminarily said was the project would start at the curve just north of the Nagel's property. U.P. is to build a side road to county specifications to end just before the Nagel's property. This road will eliminate crossings and those residents who have a crossing will travel north on the side road to get to the county road. The Nagel's driveway will have a constructed approach for their use and it will be an extension of the Nagel's driveway. Justin Barager with U.P. is to send a schematic drawing of the proposed plan, according to Ms. Nagel. Ms. Nagel said U.P. is not doing right by her and by the county accepting the dedication of railroad property to the county where the Corson's will have to travel to the north is wrong, too, because it's putting the burden on the tax rolls. Putting in an access road for the county to have to maintain another mile and one half is a burden as there isn't enough money. As it is the county doesn't plow snow unless there is at least six inches, according to Ms. Nagel. Ms. Nagel said the other thing is the noise pollution along with a train diesel engine that will sit for 20 to 30 minutes in front of her house, which will devalue property, but she will still have to pay those same taxes.

There are designated wetlands south of her property and U.P. can put in a railroad through that with a purchase of a permit, according to Ms. Nagel. U.P. will park a train that will have leakers and she is not that far away from the railroad so she can smell the leakers to the point she has to go inside to get away from the smell. Mr. Nagel spoke of potential issues if a train is blocking the access and someone has a health issue.

Chairman Dinning said his assumption, however U.P. adjusts the Nagel's approach, was to not have to cross two approaches. Ms. Nagel said she had spoken to Mr. Barager and it is basically a death trap to her and her husband. Ms. Nagel said she was told there wouldn't be two trains, but now one train will have to pass another train that is sitting. This change will not be a problem for the Corson's as they will not have to cross the tracks any longer. Ms. Nagel said she would rather have the new road for access

instead of her own crossing for the tracks. The Nagel's said that is a two mile road and he asked if the county will maintain that. Chairman Dinning said it is his understanding that this is a road that will be brought to county standards with maintenance provided. Chairman Dinning said he thinks U.P. has the right to close a crossing as long as they provide another access. Then there is the question of who maintains a private road as this is a railroad. Chairman Dinning said once the schematic is received, Commissioners will hope to have more conservation and he suggested the county and the property owners go down this road together. Ms. Nagel said everyone she has talked to is against this project and they would like to have a meeting to voice opinions and find out what is happening.

Mr. and Ms. Nagel left at 10:03 a.m.

Sharlene Delaney with Boundary Abstract joined the meeting. Edith Pacillo, Deputy Attorney General, joined the meeting via conference call.

10:03 a.m., Commissioners Spoke with Ms. Delaney and Ms. Pacillo about the easement requested by the State Idaho Department of Lands (IDL). Commissioners said this process has been going on for quite a while and they have been ready to complete this for the last eight years, but there has always been a hitch. The state raised the issue as far as public access, but county residents would be giving up 60 feet and Commissioners didn't think the state would be against recreating on IDL property. Ms. Pacillo said from what she understands when the issue came up was that the county was fine with the location of this proposed new easement, but that the county wanted it to be public while not having any maintenance obligations. Maybe it's just a fundamental misunderstanding as to what this road or endowment is. The point of the easement is to reach IDL lands that are endowment lands that IDL needs access to. The issue is whether the access is public or not, which leads to maintenance. IDL is managing the land for some type of return on investment, which is timber in this case. That money goes to public schools and different endowments, according to Ms. Pacillo. The state doesn't think of the easement as public access, which is just sort of open and anyone can use it. This is managed land and the state would like a gate over the road since the land is managed for timber. The state isn't looking for this access to be public. Ms. Pacillo said the state has a lot of agreements since they have easements through property in which they share maintenance costs with people using the road. This easement should not be thought of as a way to get to public land for recreation. Chairman Dinning said the county is granting and losing 60 feet, in essence, but part of what the county understood was that private property owner Roger Miller was also allowing this easement as it was advantageous for him. Now there are philosophical differences as it appears the state doesn't want to allow use of their endowment land. The thought was there would be a gate at the IDL land border and people could come in and hunt. Chairman Dinning said he doesn't understand other than criteria IDL has to live within. To specifically represent not wanting people on endowment land is disconcerting to him.

Ms. Pacillo said this whole conversation is taking her by surprise because she wasn't expecting the access to be used publically. The state is asking the county to give up right-of-way property so IDL can get to their endowment land, pay to maintain that access, and the county is to maintain that county right-of-way all the way to the endowment land. Wanting to restrict access in addition to the endowment land was questioned. Ms. Pacillo said she came into this matter a few months ago, but maybe Commissioners have been hearing things that are not accurate. The state is not asking for anything as they do have access to the endowment land, but the title company asked the state to move their access. The state is not asking for anything, but was told that is where access would be and questioned if that would work for the state. This new access does work for the state, but they did not need for the current access to be moved at all. Ms. Pacillo reiterated that the state isn't asking anything.

The title company is asking the county if the road could be relocated. The state is saying now that this has been proposed as a location, if a public entity is involved, then maintenance costs should be shared. Ms. Pacillo said Hethe Clark, an attorney for the title company, would represent that statement as well. Ms. Pacillo said she wanted to say that the state isn't the driver of this transaction at all. Chairman Dinning said the representation the county received is, give us an easement, which was done eight years ago, but once the matter got above local individuals, it became a mess. Chairman Dinning said Commissioners are not trying to be difficult, but are just trying to get an understanding. Ms. Pacillo spoke of trying to have language about road standards and maintenance, but the twist here is that the county is a public entity and the state is saying this road is not public. In the way it was presented to her she was not aware the county was interested in that transaction. The state treated it as someone asked the state if they were willing to move their easement and they said, "sure." The state just wanted users of the road access to pay their share. Chairman Dinning said he will disagree about paying their fair share. The county has miles of road through state endowment lands and have expended a lot on the roads, but whenever the county decides to perform maintenance on a road or widen a road for safety issues they run into a brick wall at IDL. Even if the county wanted to acquire an additional 20 feet from the state, it requires a huge amount of effort to the point the county quits asking. This matter is going back 11 years now, according to Chairman Dinning. All the county wanted to do is to provide an easement, not demand standards, but just wanted the public to have access to the easement. It's not a matter of the public driving on state land.

Commissioner Pinkerton said he is only somewhat familiar with this area, but he can positively say that by providing this easement it would provide the state with a much better access to this property, and he doesn't suspect there has been any blading done on this current easement. The existing access is relatively non-existing and is up hill at a significant grade. The proposed road is quite beneficial to endowment land if IDL wants to harvest timber. The question is providing everyone, especially state endowment land, a much more usable access. Commissioner Pinkerton said the issue is not what is going to happen to endowment land, it's assisting with this process. A gate shouldn't be put up between the endowment land and the current county road. It's a stab in the back of the county taxpayers. The easement will provide great access to the endowment land and what happens to the road shouldn't concern endowment. Ms. Pacillo said the gate was thrown out as just an idea. The other issue is other maintenance costs. Ms. Pacillo said she is hearing and understanding that the county was fine with this location for the easement, but the county didn't want to have any maintenance responsibility even though they wanted the public to use it. The road is not really public for the state's purposes. Ms. Pacillo said to be clear the state is not trying to create public access, but just trying to work with the title company. The idea of the gate was just so the county wouldn't worry about maintenance since the public isn't using it. If the county is not comfortable with a gate, then is the county comfortable with paying maintenance.

Commissioner Pinkerton said what Mr. Miller wants to do with his property line is not his call to make and he is trying to let Ms. Pacillo know that he is not comfortable telling county citizens they cannot cross that road. The county could come to an agreement on maintenance sharing. Commissioner Pinkerton said if a vehicle is traveling the road, it will be far less damaging than a truck hauling timber that is going to come from the state endowment land. As far as a gate, it is not the county's place to gate the access when it's public. Mr. Miller's land is not Commissioners' call. The endowment will have a far superior access. The state needs to take a look at what is more beneficial for production of resources. Commissioner Pinkerton said putting a gate on county property is what he has an issue with.

It was said the relocation agreement just generally discusses the relocation. Ms. Pacillo said the easement is where the details are hashed out so it is good to get that done, but she would have to include her client for those types of discussions. Chairman Dinning said going forward the county will coordinate this with Mr. Miller from a county perspective and set up another call with Ms. Pacillo. Ms. Pacillo said the attorney for the state would be on the next call as well.

The call to Ms. Pacillo ended at 10:36 a.m.

Ms. Delaney said right now the new easement would not be built to county standards. The state just wants a 60 foot easement in order to build a large enough road. The field the easement will go through belongs to the county and those present further discussed the history of this property. If a private landowner in this vicinity wanted restricted access, he or she could put up a gate. Ms. Delaney said the state doesn't care about a gate. Where it's getting convoluted pertains to the maintenance costs of the road. The state will build the road, but if the public is allowed access they wanted the county to help pay for road maintenance. Chairman Dinning said the county has talked once about an alternative access on the north end of this property, but ultimately settled on access on that south end. Ms. Delaney said if Mr. Miller ever developed his property into a subdivision, it's up to him to build a road to county specifications. Ms. Delaney said maintenance is not snow removal at this point, but it would include gravel if there are potholes.

The meeting to discuss the easement for the state ended at 10:51 a.m.

Commissioner Kirby moved to approve four county inventory forms for the purpose of donating unused surplus items to the Head Start Program and to dispose of other items no longer working. Commissioner Pinkerton second. Motion passed unanimously.

10:55a.m. Commissioner Pinkerton moved to go into executive session under Idaho Code 67-2345(1)b, to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student. Commissioner Kirby second. Commissioners voted as follows: Chairman Dinning "aye", Commissioner Pinkerton "aye", and Commissioner Kirby "aye". Motion passed unanimously. 11:15 a.m., Commissioner Pinkerton moved to go out of executive session. Commissioner Kirby second. Motion passed unanimously. No action was taken.

Chief Deputy Clerk Tracie Isaac joined the meeting at 11:15 a.m.

Chief Deputy Clerk Isaac said she is going to send out a reminder about MedStar memberships. Those present discussed the comment about considering extending the memberships to employees' family members who don't live in the same household. Commissioners decided the memberships for MedStar will be treated the same as the employee's medical coverage and not be extended.

Chief Deputy Clerk Isaac left the meeting at 11:20 a.m.

Commissioners tended to administrative duties.

11:30 a.m., Clerk Poston said she is getting ready to send out budget information to the county departments and she briefly mentioned matters concerning payroll, GEM Plan, etc.

11:47 a.m., There being no further business, the meeting recessed until tomorrow at 9:00 a.m.

**\*\*\*Tuesday, March 31, 2015**, Commissioners met in regular session with Chairman Dan Dinning, Commissioner LeAlan Pinkerton, Commissioner Walt Kirby, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser.

9:00 a.m., Craig Wheatley of E.C. Enterprises, Inc., joined the meeting. County Civil Attorney Tevis Hull contacted Commissioners via telephone.

Commissioners said the documents sent by Attorney Hull pertaining to the mediation settlement agreement in regards to the purchase price of Mr. Wheatley's property are ready and the only document that needs to be signed is the mediated settlement agreement as the remaining paperwork is supporting documentation, Exhibits A and B.

Attorney Hull said Mr. Wheatley's attorneys stated they will prepare a corporate resolution finalizing the matter.

Attorney Hull explained that the only change is the addition of the review appraisal completed by Stan Moe of Columbia Valuation Group. The price of the transaction is also included in the appraisal done by Mr. Moe, which is included in Exhibit B. Attorney Hull said he forwarded this information to Mr. Wheatley's attorneys; Attorney Marc Lyons and Attorney Megan O'Dowd, and they responded they would sign the document and forward the signature page so it can be included with the remaining signatures.

Commissioner Pinkerton moved to sign and accept the Agreement of Mediation with E.C. Enterprises. Commissioner Kirby second. Motion passed unanimously.

The meeting with Mr. Wheatley ended at 9:10 a.m.

Commissioners tended to administrative duties.

10:00 a.m., Edith Pacillo, Idaho Deputy Attorney General, Hethe Clark, Attorney for Stewart Title, Ed Robinson representing Idaho Department of Lands, and property owner Roger Miller joined the meeting to continue the discussion on the request for an easement made by the Idaho Department of Lands.

Boundary County's only concern is being mandated to gate their road. The state can have its easement and improve it to any level. Mr. Clark said he's been working on this for a long time and he certainly appreciates the patience in getting the easement relocated. Mr. Clark said the ultimate goal is a new easement across Mr. Miller's property and the county's property and that is a full access easement. At some point in the future the state, county, and Mr. Miller could approach the county Road and Bridge Department to request the access become a public roadway. But what happens before we get to that point? Mr. Clarke said we just need to make sure we're on same page on what happens until that point. What is proposed is that Stewart Title will supply consideration for a new easement, pay to have a roadway built so that matter would be taken care of. The question is what kind of use will be made of the road in the meantime and will people contribute towards maintenance if that occurs. The idea of the gate was just thinking creatively as the state will have invested in that roadway to its state endowment ground, according to Mr. Clark. If the road is going to be used by someone else, the state just wants to

make sure everyone pays their own fair share. We all just need to understand what type of use will be made of the road in the short term.

Mr. Miller said he really has no problem with a gate as far as putting it on the edge of his property. Mr. Robinson said he could speak with Mr. Miller as to whether or not he wants the road open. If he doesn't want a gate at his border, it could be put at the state line, but if there is interest in having a gate on Mr. Miller's property, either way works for him. Mr. Miller said for the foreseeable future the county's land and his land will consist of a hay field. Mr. Robinson said the state can put the gate at the state endowment/county boundary. Mr. Miller said he has no problem with a gate on his boundary line with the state. Commissioner Pinkerton said Mr. Miller and the state both have rights to their own properties. It was said that people can get around a gate. Quads and ATV's will cross Mr. Miller's fields, but if you have a road most people will stay on the road. There is already a gate at the current county easement and people will just drive around it. Commissioner Pinkerton said from the county's standpoint that is county citizens' property. The traffic will already be limited by the need to access something. People will cross whether there is a gate or not, unless there is someone to police that, according to Commissioner Pinkerton.

Chairman Dinning said even if a gate is put at Mr. Miller's property line, it's only a 60 foot line and there is no fence now so people can just drive around it. Mr. Miller said it would be better to put a gate at the state's property line. Mr. Clark said he doesn't think the issue is wanting to restrict access. All three parties are looking for a road that could ultimately connect to the three properties for the benefit of the people. The question is what kind of use will there be and what kind of maintenance. In short of dealing with the date, maybe a sign could be placed saying "no outlet" or something that would discourage people from using the road.

Mr. Robinson said as far as maintenance, the use by the State IDL would be for timber management. The State's plan is only to construct the road. When using the road for logging part of the contract involving that sale will be the contractor to provide maintenance to that road. Mr. Robinson would anticipate an over-story removal in that area and from a commercial entry standpoint that could be quite a while. Chairman Dinning said there is no need for a two lane road all the way to the state land. Mr. Robinson said no, just a timber access road with gravel, but a county standard road. Chairman Dinning said the other concern is we have agricultural practices taking place on each side of this road and on Boundary County's land to the east. Will the state maintain weed control in the area of disturbance? Mr. Robinson said all roads that cross state land will be treated with weed control every so many years and there is no reason IDL couldn't do that stretch of road on the county's property to the state easement as well. Mr. Robinson said it is only one half mile so he didn't see why it would be a problem. Chairman Dinning suggested inserting that condition into the agreement. Chairman Dinning said everyone is fine with the easement, but the county and Mr. Miller don't want to get tied to maintenance if we are not using the road. Mr. Robinson said the typical thing is maintenance measured with use. Chairman Dinning said it appears the county would be responsible for use and he doesn't foresee the county even needing the road. Mr. Clark said hypothetically, if Mr. Miller were to develop a couple residential lots and that access will be used, it is fair to talk about Mr. Miller's contribution to maintenance, as with the county, out of a sense of fairness. In the meantime if Mr. Miller and the county are not using the road whatsoever, that is a different question. If the county is not actively using the road, but allowing the public to use it, that is the sticky point. Mr. Robinson said at this point, IDL will use this access for timber management so the road doesn't need to be in spectacular shape. If there was any development, the road would need to be brought up to county standards. Commissioner Pinkerton said if we just keep it simple, things would probably be fine. Mr. Miller said he would need to participate in maintenance if he developed his

property. The state would write the easement to list what the uses are now and not mention the future. If the use changed, the parties would need to come back and discuss it. Chairman Dinning said both the county and Mr. Miller's use is agricultural at this point. The county bought this property as a site to extract more ground cover for the landfill so that is what this ground was for. It was suggested to keep this process straight forward and as simple as possible. If housing goes in on these properties, there are road standards and if it's a private road, the details have to be negotiated with IDL. If it's a commercial use by the county, the county would have to bring the easement to county road standards. The easement is in place to allow expansion, but the road would have to be built to meet county standards so there is no need to say "if there are any changes." Mr. Robinson said he agrees. We just need an all-purpose easement for what the uses are. Mr. Clark said that is exactly what Ms. Pacillo is discussing as well as an all-purpose easement. Ms. Pacillo said the agreement won't state "50/50 or 40/60" as it pertains to maintenance, it will say "with use".

Chairman Dinning said Boundary County wants the state to know that Mr. Miller has the right to cross the county's portion of property. There is a 30 foot easement on the north side of the county property onto Mr. Miller's property so that access needs to be given up. Mr. Clark said he will draft an agreement based on the conversation today and he will include language for giving up that other easement, etc.

The meeting to discuss Idaho Department of Lands' request for an easement ended at 10:29 a.m.

Commissioners tended to administrative duties.

There being no further business, the meeting adjourned at 10:50 a.m.

3:00 p.m., Chairman Dinning returned to the office to participate in the Idaho Association of Counties District 1 legislative conference call. The call ended at 3:30 p.m.

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DAN R. DINNING, Chairman

ATTEST:

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GLENDIA POSTON, Clerk  
By: Michelle Rohrwasser, Deputy Clerk