



Cassia County Board of Commissioners

Cassia County Courthouse
Commission Chambers
1459 Overland Ave. – Room 206
Burley, ID 83318
www.CassiaCounty.org

Board Members:

Chairman Dennis Crane (District #3) ~ dcrane@cassiacounty.org
Paul Christensen (District #1) ~ pchristensen@cassiacounty.org
Bob Kunau (District #2) ~ bob.kunau@cassiacounty.org

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Monday, December 15, 2014

8:00 AM

The Board of Cassia County Commissioners met this day in regular session. They convened at the Mini-Cassia Criminal Justice Center (MCCJC) with the Minidoka County Board of Commissioners for a Quarterly Jail Review.

9:00 AM

The Board convened in the Commission Chambers of the Cassia County Courthouse.

THOSE PRESENT:

County Commissioners:

Dennis Crane, Chairman
Prosecuting Attorney:
Doug Abenroth

Paul Christensen
Administrator:
Kerry D. McMurray

Bob Kunau
Clerk of the Board:
Joseph W. Larsen

Bob Moore, Chairman

Minidoka County Commissioners:

Sheryl Koyle

Kent McClellan

Others:

Patty Temple, Minidoka Clerk
Ruthe Hobbs, Citizen
Casey Anderson, City Councilman

D. K. Dayley, Citizen
Russell Rasmussen, MCCJC
Laurie Welch, Times News
Russ Mallory, City Councilman

Tony Morley, Citizen
Ann Harper, MCCJC
Amber Prewitt

1) 9:34 AM AMENDMENT TO AGENDA

- a) According to Mini-Cassia Criminal Justice Center (MCCJC) office manager Ann Harper, information came in to them after publishing the agenda regarding the ongoing audit from the Department of Labor that requires timely considerations of the Board.

9:34 AM

MOTION: COMMISSIONER KUNAU MOVED TO ADD DISCUSSION OF DEPARTMENT OF LABOR AUDIT CONSIDERATIONS COMMUNICATED TO THE MCCJC AFTER PUBLISHING THE BOARD AGENDA. COMMISSIONER CHRISTENSEN SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

- b) Harper detailed to the Board that calculations for some overtime expenditures with jail employees had not been calculated correctly with the current programming of the County payroll system. She also commented on med passes and transports that had not been calculating regular rates correctly and instead had been paying at a time and a half overtime rate.

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- c) Larsen and deputy auditor Heather Evans met with Bob Stephenson and Barry Watson from Stephenson Computer Consulting, who provides current programming for the payroll calculations. Appropriate changes in that programming is in process to rectify accuracy that was not being accounted for properly.
- d) Harper reached final numbers as of this past week to satisfy the requirements of the Department of Labor to rectify past calculation errors.
- e) Harper said the Auditor's office has worked closely with the jail to get to the bottom of the issues at hand to correct the problems.
- f) Through the process of investigation, it was discovered that sometime in 2009, U.S. Marshall transports at the jail as well as waterways compensation had all been paid out at time and a half the normal rate.
- g) In conversations with Stephenson's and with the Department of Labor, it was determined that our payroll system was one of the most complicated systems either entity has dealt with. Their recommendations included placing all pay possible in each employee's base pay rather than complicating pay beyond that.
- h) Larsen said the Auditor's office has identified several areas that can be streamlined to help.
- i) The amount the County will need to pay to rectify the payroll programming calculation errors is about \$1,100 for the past two years. Most employee amounts were very small but any over \$20 will need to be paid to the Department of Labor auditors.

9:50 AM

MOTION: COMMISSIONER CHRISTENSEN MOVED TO ACT ON THE RECOMMENDATIONS OF THE DEPARTMENT OF LABOR TO SATISFY APPROXIMATELY \$1,100 IN EXPENDITURE LIABILITY FOR PAYROLL SYSTEM PROGRAMMING MISCALCULATIONS OF SOME OVERTIME PAY AT THE MCCJC. COMMISSIONER KUNAU SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

- j) Once final numbers are determined, the board asked to be advised of such.
- 2) 9:00 AM CALL TO ORDER, PLEDGE OF ALLEGIANCE, REVIEW CALENDAR, MINUTES, CORRESPONDENCE, PERSONNEL, CSI RESIDENCIES, COUNTY PAYABLES, COUNTY ROAD AND BRIDGE, BUILDING AND GROUNDS MATTERS, GATEWAY MATTERS, AUDITOR MATTERS
- 3) 9:02 AM PUBLIC DEFENDER
 - a) Abenroth discussed with both boards' concerns of fair representation of individuals served by public defenders and different interpretations of the new statutes set forth.
 - b) Cassia and Minidoka Counties individually have first level conflict public defender contracts with attorney Clayne Zollinger. Currently when second level conflict public defender issues arise, counsel is appointed by judges and are required to be paid by the county. Changes to Idaho Statute § 19-859, effective July 1, 2014, preclude contracts entered into or renewed to include a single fixed fee. Zollinger's contract was up for renewal on October 1, 2014. Inasmuch as that contract includes a single fixed fee, it is not renewable with the current language after the effective date of the new law.
 - c) The joint powers agreement between Cassia and Minidoka Counties for the existing Public Defender's office meets those statutory changes.
 - d) Minidoka County has continued past the renewal date of that contact in August paying Zollinger at the contractual monthly rate of pay. Cassia County met with Zollinger and determined, according to the Public Defender Interim Committee interpretation of the new statute, the contact was no longer valid. Cassia County began paying for first level conflict public defender services from Zollinger at an hourly rate rather than at the previous monthly contractual rate of \$2,800 which was without regard to the number of cases assigned. The statute was intended to do away with fixed rates in favor of an hourly rate.

- e) Minidoka County Prosecuting Attorney Lance Zollinger interpreted the statutory provisions to be applicable to the public defender and not to conflict public defenders. Thus, according to Stevenson, the restriction does not apply to Zollinger's contract. Minidoka County Board Chairman Bob Moore also expressed disappointment that Zollinger never even contacted them regarding the matter. Minidoka County has planned to do what Twin Falls County has done.
- f) Larsen commented about the presentation at the Idaho Associations of Commissioners and Clerks meeting in McCall regarding public defender issues. The interpretation then seemed to indicate public defender designations include all who provide public defender services.
- g) Abenroth suggested that unfortunately interpretation of the statute would likely be a costly protracted event in the courts to test its intent and meaning more fully.
- h) It has been pointed out on several occasions that the joint powers public defender approach as Minidoka and Cassia Counties operate with is a model for conflict public defense as well.
- i) Chairman Crane suggested that more research needed to be done. He further suggested consideration of a joint conflict public defender office in Rupert be considered to coincide with what is being done in Burley with the joint Public Defender office. The Boards will discuss the matter further after talking with Prosecutor Stevenson.
- j) Commissioner Moore discussed the matter of cost effectiveness of establishing an office as being less expensive compared to paying an hourly rate.
- k) The Boards further discussed establishing a contract with other attorneys for second and third level conflict public defender needs.
- l) Research a little more according to Chairman Crane. He suggested in a month to further discuss the conclusions of both prosecutors.
- m) 9:05 AM CALENDAR
 - i) Public Hearing at 9:15 a.m. Monday, December 22nd to adjust the budget for FY2014 to reflect unscheduled revenue and/or expenses.
 - ii) Cassia Republican Central Committee meeting at 7:00 p.m. December 16th at the Commission Chambers
 - iii) Planning and Zoning luncheon 12:30 p.m. Thursday, December 18th in the Commission Chambers
 - iv) Potluck Christmas luncheon for County employees sponsored by the Extension office from 12:00 p.m. to 2:00 p.m. Friday, December 19th
- n) 9:05 AM CORRESPONDENCE
 - i) Ordinance No. 2014-004943 and maps for the amendment of the Urban Renewal Plan for the Burley Urban Renewal Project by the Burley Development Authority (BDA) for the City of Burley was provided to the Auditor's office. Larsen provided a copy to be reviewed by the board.
 - ii) Various Christmas cards were received by the board
- o) 9:08 AM PERSONNEL
 - i) A Change of Status request was not completed appropriately by Snowmobile Committee Chairman Chuck Larson. He will need to re-do that request at the Auditor's office to correct a hiring date that pre-dates the Board's consideration for hiring.
 - ii) Larsen explained that no department had budgeted for funds for sick bank payouts for FY2015. A report was included for the Board's review to know which department heads need to monitor that sick bank accumulations so as to not go over their budgets.

p) 11:17 AM APPROVAL OF MINUTES

11:17 AM

MOTION: COMMISSIONER CHRISTENSEN MOVED TO APPROVE MINUTES OF THE BOARD FROM DECEMBER 8, 2014. COMMISSIONER KUNAU SECONDED THE MOTION. THE MOTION PASSED WITH A YE A VOTE FROM COMMISSIONER CHRISTENSEN AND COMMISSIONER KUNAU. CHAIRMAN CRANE ABSTAINED AS HE WAS EXCUSED LAST BOARD MEETING.

q) 11:03 AM JUNIOR COLLEGE RESIDENCY APPLICATIONS

i) The Board reviewed 58 CSI Junior College Residency Applications; five high school dual credit and 53 non-dual credit.

11:03 AM

MOTION: COMMISSIONER CHRISTENSEN MOVED TO APPROVE 58 CSI JUNIOR COLLEGE RESIDENCY APPLICATIONS AS PRESENTED. COMMISSIONER KUNAU SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

r) 11:14 AM COUNTY PAYABLES

CURRENT EXPENSES	104	\$6,146.15
INDIGENT FUND	105	\$7,477.06
DISTRICT COURT FUND	106	\$681.16
COUNTY ROAD & BRIDGE FUND	107	\$260.02
WEED & PEST FUND	108	\$12,353.73
COMMUNITY COLLEGE FUND	113	\$1,050.00
REVALUATION FUND	114	\$828.44
911 COMMUNICATIONS FUND	115	\$4,413.55
COUNTY SNOWMOBILE FUND	118	\$1,142.02
JUSTICE FUND	130	\$29,232.93
CASSIA DRUG TASK FORCE	136	\$50.00
D.A.R.E TRUST	137	\$524.52
PHYSICAL FACILITIES FUND	144	\$4.78
ADULT MISDEMEANOR PROBATION	149	\$4,102.11
	TOTAL	\$68,266.47

11:14 AM

MOTION: COMMISSIONER KUNAU MOVED TO APPROVE COUNTY PAYABLES DATED DECEMBER 12, 2014. COMMISSIONER CHRISTENSEN SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

s) 11:09 AM COUNTY ROAD AND BRIDGE

i) Chairman Crane reported there had been a little snow over the weekend but that things were going well.

t) 11:09 AM BUILDING AND GROUNDS MATTERS

i) McMurray reported on brackets that had been placed on the bicycle rack at the CCJC.

ii) Algot Coltrin had been looking at the downspout issues at the CCJC but they do not know where that is at currently.

u) 11:11 AM GATEWAY MATTERS

i) Commissioner Kunau stated they had received a letter from attorney Doug Balfour and that the BLM was aggressively doing things to keep from using the County's proposed route for the Gateway West power line.

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- ii) He also reported that a bill has been sent to President Obama that cuts funding for one year that would likely delay any declaration of Sage Grouse as endangered species.
- v) 11:16 AM AUDITOR MATTERS
 - i) Larsen advised the Board that at Idaho Association of Counties Initiation and Continuing Education training, it was pointed out by Jim McNall from ICRMP that an employee with accumulated accrual time cannot provide that time to another employee. Where the accrued time is specific to an employee, it must remain with that employee.
 - ii) Larsen felt the board needed to be advised of that inasmuch as the providing of one's accrued time has been provided other employees for various reasons upon board approval in the past.
- 4) 9:35 AM RATIFY PURCHASES OF ADDITIONAL SCRAM UNITS FOR ADULT MISDEMEANOR PROBATION (AMP)
 - a) Amber Prewitt, director of AMP, reported that all of their SCRAM units are currently in use and they desire to purchase additional units to meet their needs.
 - b) The Joint Board pre-approved their purchase and desired our Board's ratification of that decision.
 - c) Judge Bollar from Minidoka County was adamant about increasing the number of units. The determination was for the purchase of two additional units by each county at a total cost of \$4,800 through Alcohol Monitoring Systems, Inc. (AMS); \$2,400 for each county.
 - d) Commissioner Christensen inquired as the revenue while the units are in use. Prewitt explained that it costs the user \$10 per day and they are paid for in advance.
 - e) The Board talked of hosting a lunch meeting with judges regarding the use of SCRAM units to discuss how they might be used more by some of the judges.
 - f) Prewitt stated that units are sent back to AMS when they have problems and a new replacement is provided. The software is also updated at no cost. We have used SCRAM units for about five years.
 - g) Larsen asked if Prewitt had discussed with Judge Cannon the purchase and if he was in agreement to use available Interlock Funds. Prewitt affirmed that contact with Judge Cannon.
 - h) Prewitt further stated that Minidoka County sends units out on pre-trial especially on misdemeanor DUI cases. They are just not used as much in Cassia County.
 - i) Chairman Crane asked Abenroth to arrange for the County to host a meeting after the holidays for judges, City and County prosecutors, as well as Prewitt to review the disparity between the two counties in inmate population. Prosecutor Stevenson from Minidoka County could provide insight on this as well.

9:39 AM

MOTION: COMMISSIONER CHRISTENSEN MOVED TO RATIFY THE PURCHASE OF TWO ADDITIONAL SCRAM UNITS FOR ADULT MISDEMEANOR PROBATION FROM THE AMS COMPANY IN THE AMOUNT OF \$2,400. COMMISSIONER KUNAU SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

- 5) 9:50 AM DISCUSSION OF VETERAN ADVISORY BYLAWS
 - a) Commissioner Kunau met with the Veterans Advisory Committee this past week.
 - b) An updated copy to the Veterans Advisory Committee would likely solve any issues presently and McMurray will work with that Committee on the matter.
- 6) 9:52 AM REVIEW AND CONSIDER FOR APPROVAL EXIT 208 MAINTENANCE EXPENSE FOR 2014
 - a) The Exit 208 maintenance expense for 2014 for the area around the freeway off ramp between Heyburn, Paul, and Burley totaled \$21,813.23. Cassia County's share is 15% which amounts to \$2,135.86.
 - b) The Board discussed the matter and had a number of questions. They determined to table the matter until they receive answers to those questions.

- c) Chairman Crane wondered about how the county has been involved with this agreement for maintenance and asked for some history on the situation.
- 7) 9:56 AM EXECUTE AMENDED RESOLUTION REGARDING FLOATING HOLIDAY POLICY
 - a) McMurray stated a question came up regarding part time employees and the floating holiday policy. Many of those employees were left out and contribute quite a bit to the County.
 - b) In last Board meeting, the board determined to extend employees requirement of using the floating holiday until February 15th.
 - c) The board determined to grant non-seasonal part time employees pro-rated hours for a floating holiday based on average hours worked on a regular basis.

9:59 AM

MOTION: COMMISSIONER KUNAU MOVED TO APPROVE A FLOATING HOLIDAY FOR NON-SEASONAL PART TIME EMPLOYEES AS PRESENTED. COMMISSIONER CHRISTENSEN SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

- d) The Board desired to get a list of part time employees to make further considerations.

10:00 AM

MOTION: COMMISSIONER KUNAU MOVED TO RESCIND THE APPROVAL FOR A FLOATING HOLIDAY FOR NON-SEASONAL PART TIME EMPLOYEES UNTIL FURTHER INFORMATION IS PROVIDED. COMMISSIONER CHRISTENSEN SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

- 8) 10:01 AM DELIBERATE ON ZONING ORDINANCE AMENDMENT REQUEST REGARDING TRANSFER STATIONS IN INDUSTRIAL COMMERCIAL ZONES
 - a) Chairman Crane went on the record for the continuation of a hearing that had previously been tabled to consider an amendment to County Zoning Ordinance to allow waste transfer stations in industrial commercial zones with a conditional use permit as recommended by the County Planning and Zoning Commission.
 - b) McMurray recapped that a Planning and Zoning hearing was held October 16, 2014, where approval was recommended with the issuance of a conditional use permit granted by the Board of County Commissioners. A hearing of the Board of Commissioners was held October 19, 2014, where additional evidence, information, and testimony was presented.
 - c) Commissioner Crane asked each Board member consider and comment on:
 - i) Evaluation of request to determine the extent and nature of the amendment
 - (1) Chairman Crane said the conditional use permit is to protect the property rights of neighboring property owners from unreasonable negative impacts. Also, landowners seeking to use their property in a certain way and the adjoining landowner have some balance of their property rights.
 - (2) Commissioner Christensen stated that not only the property in question is being impacted but all properties in industrial commercial zones are impacted and he felt that was a broad sweep. Additionally, it would open the door for other applications in those zones of the County.
 - (3) Commissioner Kunau stated that the requirement of a conditional use permit would help deal with neighboring and local issues with permission granted for a waste transfer site.
 - ii) Effects of the proposed zoning change upon the delivery of services of any political subdivision providing services including schools
 - (1) Chairman Crane stated the effect is on the City of Burley's delivery services and wear and tear on City equipment which would benefit City residents in the County. It would also benefit the County with its obligation, which this would not change, to facilitate management of solid waste in the County.

- (2) Commissioner Kunau said there would be a decrease in cost to City residents by hauling waste to a closer location to the City. He further stated that it would have no negative effect on schools. Any other potential adverse effects could be addressed in the conditional use permit.
- (3) Commissioner Christensen said after consultation with Southern Idaho Solid Waste Director Josh Bartlome, he did not see any evidence when amortizing all relative costs this would provide a beneficial change to City residents. He felt that, in fact, it would increase costs to all County residents for providing a building, personnel, and equipment needed. While eliminating wear and tear on current equipment, it would add a whole new network of equipment and needed maintenance. He said continuing what is currently being done would provide less economic impact on the citizenry.
- iii) Consideration of the Comprehensive Plan and other evidence gathered during the hearing process
 - (1) Chairman Crane felt all evidence presented has been considered.
 - (2) Commissioner Christensen talked of the takings issue and felt that whatever decision is made would fall within the Comprehensive Plan.
 - (3) Commissioner Kunau felt that even though transfer stations were not permitted in the Comprehensive Plan as written in the early 1990's, it was not deliberate. He said placement of a waste transfer station would fit within requirements to be placed in industrial commercial zones of the County.
- iv) Analyze the proposed changes of the zoning ordinance to ensure they are not in conflict with the qualities of the adopted Comprehensive Plan
 - (1) Chairman Crane said the efficiency and convenience afforded County residents with the four existing waste transfer stations would also be afforded City residents with the additional placement. He further stated that with a conditional use permit, it fits in the industrial commercial zone.
 - (2) Commissioner Christensen said that in addition to what he stated earlier, the benefits do not outweigh the negative impacts, considering the financial impacts and the full gamut.
 - (3) Commissioner Kunau stated there would be no conflict with the Comprehensive Plan and that it would be no different than other industrial uses currently allowed. He further said the requirement of a conditional use permit would protect the rights of adjacent property owners.
- v) Commissioner Christensen complimented Abenroth for his legal opinion which has given a good foundation for a decision to be made.
- vi) Commissioner Kunau stated that all County residents pay the solid waste transfer fee. The outlying areas of the County receives the transport of their garbage to the landfill. There is no reason to say that the City of Burley residents would not be entitled to do that as well. If it requires an increase in the solid waste transfer fee that everyone in the County pays, there should be a somewhat corresponding reduction city residents would see in their costs. The total cost should be similar to what they are presently paying.
- vii) Commissioner Christensen said, "You can never achieve total equity in fees and taxes where current transfer stations do not provide equity to Raft River and Jackson area residents as well."

10:17 AM

MOTION: COMMISSIONER CHRISTENSEN MOVED TO NOT ALLOW SOLID WASTE TRANSFER STATIONS IN COMMERCIAL INDUSTRIAL ZONES WITH AN ACCOMPANYING REQUIREMENT FOR A CONDITIONAL USE PERMIT. THE MOTION FAILED FOR LACK OF A SECOND TO THAT MOTION.

10:18 AM

MOTION: COMMISSIONER KUNAU MOVED TO ALLOW SOLID WASTE TRANSFER STATIONS IN COMMERCIAL INDUSTRIAL ZONES WITH THE REQUIREMENT OF A CONDITIONAL USE PERMIT. CHAIRMAN CRANE SECONDED THE MOTION. THE MOTION PASSED WITH A YEA VOTE FROM COMMISSION KUNAU, A YEA VOTE FROM CHAIRMAN CRANE, AND A NAY VOTE FROM COMMISSIONER CHRISTENSEN.

- viii) Chairman Crane stated he felt this was the proper thing to do even though he was not sold on it. He counseled the City of Burley to consider property they have on Hiland Avenue by their waste water treatment plant. He further stated that most of the fight until now would fit in the hearing for the conditional use permit. A lot of questions remain unanswered such as to whether or not this was just for eliminating the hauling of waste to the landfill. Chairman Crane also stated it would only be fair for all county citizens to be able to use the transfer station as they do with the other four transfer sites.
- ix) Chairman Crane asked McMurray to prepare the appropriate paperwork based on the decision of the Board.

9) 10:24 AM INDIGENT MATTERS

10:24 AM EXECUTIVE SESSION

MOTION: COMMISSIONER KUNAU MOVED TO CONVENE IN EXECUTIVE SESSION REGARDING MEDICAL INDIGENT MATTERS UNDER IDAHO CODE SECTION 67-2345(1)(D). COMMISSIONER CHRISTENSEN SECONDED THE MOTION. A ROLL CALL VOTE WAS UNANIMOUS WITH CHAIRMAN CRANE, COMMISSIONER CHRISTENSEN, AND COMMISSIONER KUNAU VOTING IN THE AFFIRMATIVE.

Welfare Director Susan Keck presented the following cases for review and approval of the Board:

- a) Case Presentation: 2014102, 2014101
- b) Certificate of Denial: 2014100
- c) Certificate of Approval: 2014036, 2014095
- d) Order of Reimbursement: 2014095
- e) Notice of Lien and Application for Medically Indigent Benefits: 2014117, 2014118, 2014119, 2014120
- f) Medical Records/Utilization Management Review: 2014109
- g) Determination of Suspension: 2014099

10:40 AM

MOTION: COMMISSIONER KUNAU MOVED TO APPROVE THE MEDICAL INDIGENT ACTIONS AS PRESENTED. COMMISSIONER CHRISTENSEN SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY. THE BOARD RETURNED TO REGULAR SESSION AT 10:40 AM.

10) 11:25 AM ADJOURNMENT

APPROVED:

/s/ _____

Dennis Crane, Chairman of the Board

ATTEST:

/s/ _____

Joseph W. Larsen, Clerk of the Board