

**REGULAR MEETING
STATE BOARD OF LAND COMMISSIONERS
October 8, 1991**

The regular meeting of the State Board of Land Commissioners was held Tuesday, October 8, 1991, at 9:00 a.m. in the conference room of the Joe R. Williams office building. Governor Cecil D. Andrus presided. Those members present were:

Honorable Cecil D. Andrus, President, and Governor of the State of Idaho
Honorable Pete T. Cenarrusa, Secretary of State
Honorable Larry EchoHawk, Attorney General
Honorable J. D. Williams, State Auditor
Honorable Jerry Evans, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

Consent Agenda

- A. Official Transactions -- August 1991
- B. Proposed Timber Sales:
 - 1. CR-1-0233, Lost Smokey
 - 2. CR-4-0498, West Fork Butte Creek
- C. Request to Dispose of Property Declared Surplus -- Idaho Department of Transportation -- 36.07 acres, Owyhee County
- D. Easement Request -- City of Boise, Sewerline

Larry EchoHawk moved to approve the consent agenda. J. D. Williams seconded. The motion passed unanimously.

Regular

Patent Presentation for Twin Buttes III Land Exchange -- Jerry Kidd, BLM

Mr. Hamilton said that this is the culmination of an extensive three-part land exchange in the Idaho Falls area and asked that Jay Biladeau provide some background information regarding those three exchanges.

Mr. Biladeau explained that this is the third phase of a three-phase plan with the BLM in the Twin Buttes and Big Desert area. This originated about five years ago and with the completion of this phase, we will have exchanged about 35,000 acres for approximately the same acreage through the Big Desert north of Arco and to the east.

Mr. Jerry Kidd, BLM, on behalf of Director Delmar Vail, presented the patent to Governor Andrus for the Twin Buttes Phase III state/BLM land exchange conveying 7,549.35 acres of public land in eastern Idaho to the State of Idaho.

Lease for Lakeview Village -- Discussion and Recommendation

Mr. Hamilton said there are a number of people present today who have expressed an interest in speaking on this subject, notably the current tenants -- the Lakeview Village Homeowners Association, the two cottage site associations, and State Parks' representatives. First, he asked Don Hobbs, chief of the department's surface leasing unit, to provide background on the issue and some suggestions for dealing with this process in the immediate future.

Mr. Hobbs used a large aerial photo to illustrate the area involved. He pointed out that the Lakeview Village property has about 1,380 feet of shoreline on the lake. There is a county road going through the parcel which goes to the access of Ponderosa Park. In the developed portion, there is a completely furnished cabin, a six-bay garage, an office with a reception area and a residence overhead; there are two storage sheds, a laundromat with public restrooms and showers. The undeveloped area lies east of the road and contains large ponderosa pine trees. There are about 18.5 acres in the developed part and about 30 acres in the undeveloped portion.

Mr. Hobbs said that the department has been careful to emphasize to the residents that the state has no commitment to the existing use. The Stan-Harrah Corporation transferred the improvements to the department and dropped their lease in 1988. Currently, the gross receipts are about \$116,000 with a net of about \$50,000 each year. The department feels this return is well below the potential for the site. As directed by the board, the department has contracted an appraisal to determine the fee simple value and a reasonable rental value.

Mr. Hobbs stated that the appraisal is being kept confidential to maintain the integrity of the application process. However, two points that were emphasized by the appraiser were that the highest and best use of the parcel is as a destination resort facility or some related large scale operation involving a marina and guest services and that a short-term lease could limit the market value. The parcel is zoned urban-agricultural-recreational. The current use does not conform to the zoning, but such use is permitted as a historical use. The department has requested the parcel be zoned commercial to permit the current use, allow expansion or allow a conversion in use. At this point, the two zoning commissions have refused to consider a zone change.

Mr. Hobbs explained that there are several options for future use, depending on the zoning. One is to lease to the current occupants; the Lakeview Village Homeowners Association is asking for the exclusive right to negotiate a lease for the entire forty-eight acres. Their proposal is to maintain the existing use and expand facilities on at least part of the undeveloped land. The association has stated that \$150,000 in net revenue could be generated, however, the department has some doubts that such revenue is possible with this use and also does not believe it can lease to the current occupant without going through the competitive bidding process.

Another option is for the board to establish an acceptable use and offer the parcel for application. There currently are three applications on file. There is a very strong market for this site. Twenty-eight people and corporations have asked to be put on the mailing list when the land is offered for bid. Mr. Hobbs explained the criteria that would be necessary for any applicant to follow such as a demonstrated financial capability, a proposal of land use satisfactory to the board, providing a satisfactory rental schedule,

specifying use and disposition of the buildings, a ten-year lease with preference right to renew, and submitting a \$5,000 bid deposit. The board would reserve the right to reject applications and bids.

The department recommendation is that the board reject all applications currently on file prior to issuance of a formal invitation for lease applications; determine acceptable uses for the parcel by consideration of proposals submitted by qualified applicants considering the zoning designation and the board's trust responsibilities; authorize the department to invite applications for issuance of a ten-year lease with a preference right to renew for a second ten-year term under the criteria set out in the draft application; authorize the department to widely advertise the invitation to apply for lease; accept applications for lease for acceptable uses by qualified applicants with a conflict auction held if necessary.

Governor Andrus commented that you can't ignore the fact that the state is now receiving less than 2% return on the value of those assets, and even at \$150,000 annual return -- that's only about a 5% return.

Jerry Evans said it is clear to him that the board is not meeting its responsibilities in terms of revenue from this property. He thinks that the board needs to say that the planning and zoning people really do not have the authority to restrict the state's ability to manage that property for revenue purposes through zoning, but simply go to those people for purposes of information, coordination, and input, but not necessarily for decisions.

Mr. Hamilton said that he asked the staff to visit with the zoning and planning commission, and they have been advised of the Attorney General's opinion which basically says that the endowment lands are not subject to local planning and zoning, however, we have indicated to them that we are interested in their opinion so that the board can better make their decision on the acceptable use for that property.

Larry EchoHawk said that it is true that an Attorney General opinion confirmed the principle that the endowment lands are not subject to local zoning, but he would be very interested in knowing what the community feeling is there before he casts a vote.

J. D. Williams said that as a former mayor, he believes very strongly in local planning. The board would be remiss in not trying to get the local input and should try to alleviate a confrontation.

Governor Andrus pointed out that the limiting factor there is the sewage treatment facility which is not capable of handling the existing level sewage and any large development would further complicate that problem, and the state is looking at the possibility of limiting the sewage capability of that plant.

Governor Andrus invited those who wished to speak to come forward.

Bill Dokken, Department of Parks and Recreation, said that it is still premature for them to make a statement. They are in the process of planning the future of Ponderosa State Park, and Parks and Recreation will likely submit a proposal if this recommendation is passed by the Land Board.

Jack Burton, 3920 Buckingham Drive, Boise, representing the Lakeview Village Homeowners Association, said that they believe the road through the parcel could be moved so that the two parcels could be together. Their proposal was one that they thought that would be best for the income because it could easily be developed. There is almost a complete absence in the state for full service RV hook-ups, and if there isn't going to be more, it would be hard to develop the back side of the parcel. They would like to see the area remain basically the way it is. They would like some direction from the board to the Land Department to sit down with the present occupants and see if there is some way they could come up with something that would satisfy the requirements set out.

Mr. Hamilton pointed out that the department would have no problem in sitting down with the existing tenants and working on a plan that would work for them.

J. D. Williams asked what is the status of the department's master plan for all of the state-owned lands in the area and what impact, if any, will that have on this piece of property.

Mr. Hamilton said that the master plan is underway. The draft should be ready for final staff review sometime around December 1.

Jerry Evans said the decision to sell or lease needs to be made and suggested a target or deadline be set to make that decision. He would like to see the decision date by at least the middle of February if that would allow time for public input, department research, etc.

Mr. Hamilton said that the department would make every effort to meet that date.

Hearing no objections, Governor Andrus so ordered that the issue would come back to the board at the February meeting for a resolution as to whether to lease or sell the property.

Forest Fire Protection Rules -- Final Adoption

Pete Cenarrusa moved to adopt the rules. Jerry Evans seconded. There was no discussion of the motion which passed unanimously.

Proposed Amendment of Surplus Real Property Statutes -- IDT

Mr. Hamilton said that from time to time, the department gets requests to deal with surplus property that other agencies no longer have a use for. A lot of those come from the Transportation Department, and a lot of them are for fairly small valued parcels. The Transportation Department has asked the department to prepare legislation which would amend the statutes to simplify the process for them.

Don McNarie, Bureau of Real Estate, briefed the board on some of the background. In 1986 this section of the code (58-3358) was established in a cooperative effort between the two departments with the purpose of simplifying the procedures for selling those surplus properties. The preliminary proposal did not specify a dollar limitation, but later a dollar limitation of \$1,000 was passed by the legislature. Any parcel valued at less than \$1,000 could be sold independently by the Transportation Department. The Transportation Department would like to raise this amount to \$25,000 to further

simplify the process. From 1985 to 1991, 81% of those parcels were appraised at less than \$25,000 and 32% of those were less than \$1,000. This recommendation would help the Transportation Department put these parcels out for sale sooner. IDT has staff available with the expertise and experience to handle these real estate transactions without coming to the board. It would also help reduce some of the work load in the Department of Lands. The legislation would pertain only to the Department of Transportation and would exclude the sale of administrative sites.

Jerry Evans moved to approve the department recommendation. Pete Cenarrusa seconded. The motion passed unanimously.

Executive Session

Jerry Evans moved, under the provision of Idaho Code 67-2345, to go into executive session to hear matters of pending potential litigation. Pete Cenarrusa seconded. The motion passed unanimously.

Report on Tribal Claim to Lake Coeur d'Alene -- Attorney General

In executive session, the board was briefed on this matter by State Auditor J. D. Williams, Deputy Attorneys General Clive Strong and Steve Strack.

State v. Meyer Property Settlement

The board was briefed on a proposed settlement in this case by Deputy Attorney General Steve Schuster.

Regular Session

State v. Meyer Property Settlement

The Board voted unanimously to accept the proposal.

Lake Coeur d'Alene Tribal Claim

Jerry Evans made a motion that the board respond to the inquiry from the tribe in a manner that would indicate its desire to litigate the resolution of this issue rather than negotiate it. The motion died for lack of a second. J. D. Williams then made a motion not to urge litigation but just to indicate that the board had found nothing in their research that leads them to take any different position than the position that has been taken by the state since statehood -- that the state owns the beds and banks and the board is not in a position to negotiate that. Jerry Evans seconded the motion. The motion passed 3-2; with Pete Cenarrusa and Larry EchoHawk opposed.

Information

Information items discussed briefly were the timber sale report; fire deficiency warrant report, and the gypsy moth report. Governor Andrus pointed out that this has been the best fire season for the state in a long time.

There being no further business brought before the board, the meeting was adjourned.

STATE BOARD OF LAND COMMISSIONERS


President, and Governor of the State of Idaho

Countersigned:


Secretary of State




Director