



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board
Ben Yursa, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D. Woolf, State Controller
Tom Luna, Superintendent of Public Instruction

Tom Schultz, Secretary to the Board

Final Minutes
State Board of Land Commissioners' Regular Meeting
December 15, 2014

The regular meeting of the Idaho State Board of Land Commissioners was held on Monday, December 15, 2014 in the State Capitol Lincoln Auditorium (Room WW02) at 700 West Jefferson, Boise, Idaho. The meeting began at 1:00 p.m. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Yursa
Honorable Attorney General Lawrence Wasden
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Tom Luna

For the record, Governor Otter recognized the presence of all Board members.

A motion was made by Attorney General Wasden that the item on the agenda, not numbered, but listed in red print and entitled *Refreshment Break in Legislative Dining Room* be placed on the agenda at the conclusion of the regularly scheduled meeting, that is after the Executive Session and after the meeting is adjourned. Governor Otter asked if that was a unanimous consent request. Attorney General Wasden replied it was made as a motion and stated his good faith reasons that this is a procedural not a substantive portion of the meeting, that the Board should first finish its business before the refreshment break, that no one will be deprived of participating in this meeting or observing the meeting by moving it to the end and that it is more efficient for the Board to conclude its business first. Attorney General Wasden indicated, yes, he was making a unanimous consent request on his motion. Governor Otter stated a unanimous consent request has been made and asked for objections. Hearing no objections, the Governor so ordered the motion.

1. Department of Lands Year in Review

Video Presentation

Following the Department's video presentation, Director Schultz and Department staff presented Secretary of State Yursa and Superintendent Luna several mementos to express the Department's recognition and appreciation for Secretary Yursa's and Superintendent Luna's years of service on the Land Board and their support of the Department.

2. Presentation by Superintendent Tom Luna

A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

3. Director's Report

A. Interest Rate on Department Transactions – December 2014

B. Timber Sale Activity and Information Report – November 2014

DISCUSSION: Governor Otter noticed on the chart on page 5, the Inland composite lumber price is a couple hundred dollars over the Department's stumpage price, cumulative, and asked if that was due to species. State Forester Groeschl stated that chart is included to show the relationship or trend of how closely lumber does correlate with stumpage. There is a difference in that the lumber is a finished product; it has gone through all the process versus stumpage is still the raw logs. The cost of processing, drying and sawing the lumber is added; there is usually \$150-\$200 in addition to stumpage that is related to producing the lumber itself. The Department tracks the lumber price just to show the correlation with stumpage.

C. Division of Lands and Waterways Activity and Information Report – November 2014

DISCUSSION: Director Schultz remarked that many cottage site leases have been signed as the year end approaches and as a requirement to be eligible for a voluntary auction. Director Schultz drew attention to cottage site lease assignments, particularly at Priest Lake. The Department has processed 36 assignments to date. There were 11 family assignments and 25 arms length assignments; that number is up significantly. Looking at the prior three years for 2011, 2012, and 2013 there were about 17 total assignments each year on average. This year there have been more than twice the last three years of averaging. The assignments that are arms length transactions are about three times more than seen over the last three years. That seems to be an indication that the market for the leases has picked up and people are expressing confidence in the auction process.

D. Legal Matter Summary – November 2014

4. Endowment Fund Investment Board Manager's Report – Presented by Larry Johnson, EFIB Manager of Investments

A. Manager's Report

DISCUSSION: Mr. Johnson commented that distributions for the Endowments are well secured given land income received. Mr. Johnson noted that the Investment Board met on November 18 and reviewed the three major issues that came out of the Callan study that apply to the Endowment Fund. The Investment Board agreed to begin analysis of the pros and cons of a U.S. institutional broadly diversified core real estate fund. The Investment Board also agreed to defer consideration of increasing the funds allocation of international stocks or adjusting the equity fixed income ratio. Those items will be addressed after completion of the in-depth study of the pros and cons of a real estate fund. Mr. Johnson stated there are no compliance issues to report.

B. Investment Report

DISCUSSION: Mr. Johnson reported the Fund had modest returns in November of 1.3%, which resulted in a positive 1.8% for fiscal year-to-date. Regretfully, the month of December has been tough. The Fund lost 2.6% through yesterday; on a fiscal year-to-date basis the Fund is at a negative 0.8%, just a bit below breakeven. Mr. Johnson remarked all investment managers are performing as expected in this environment.

• **CONSENT**

5. Timber Sales for Approval – Staffed by Eric Besaw, Regional Operations Chief-North, and Kurt Houston, Regional Operations Chief-South

<u>NORTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
A. Blanchard North OSR	CR-20-0316	2,100	MBF	Bonner	Pend Oreille (Sandpoint)
B. Rusty Dodge OSR	CR-20-3010	5,200	MBF	Boundary	Pend Oreille (Sandpoint)
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
C. Rack of Yak	CR-42-5067	2,595	MBF	Idaho	Maggie Creek (Kamiah)

6. Conservation Easement: FY2012 Boundary Connections (Kootenai Bluff) – Staffed by Karen Sjoquist, Forest Legacy Program Coordinator

RECOMMENDATION: Authorize the Idaho Department of Lands to acquire the Kootenai Bluff conservation easement, comprising 748 acres.

DISCUSSION: Governor Otter asked if the Department is buying a problem with this easement acquisition. There are likely endangered species, grizzly and lynx, in that area. Governor Otter inquired if the Department knows what kind of limitation there will be on activity in the area. Director Schultz responded the conservation easement is on private ground. It is wildlife habitat for grizzly bear and lynx, but it is private ground; the Department is providing these federal funds through the state to conserve habitat and allow for continuing ongoing timber management. The terms of the easement would allow for timber management but would restrict development of that site, primarily for homes. Governor Otter asked if the \$800,000 in funds is a pass through. Director Schultz replied the funds are a pass through. Governor Otter wondered how that is in accord with Article IX, Section 8. Director Schultz explained the Forest Legacy Program is a regulatory program and it really is not bound by Article IX, Section 8, because the funds are not being applied on state endowment lands they are being applied on private lands. This is a willing seller; the landowner wants this easement to be put in place for the protection of those values.

7. Approval of Minutes – November 18, 2014 Regular Meeting (Boise)

CONSENT AGENDA BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Consent Agenda. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

- **REGULAR**

8. Disclaimer of Interest, *Sand Hollow Sixteen, LLC v. State*, Gem County Case No. CV2014-807 – Staffed by Steve Schuster, Deputy Attorney General

RECOMMENDATION: Direct the Department to issue a disclaimer of interest in sand and gravel for the above-referenced parcels. A proposed disclaimer is included as Attachment 5. This disclaimer of sand and gravel does not change the State's claim to title to all other minerals reserved pursuant to Idaho Code § 47-701, including oil and gas, or impact the existing State oil and gas lease.

DISCUSSION: Attorney General Wasden noted that in his recollection of the Treasure Valley case the court specifically made the determination that at that time period there was not a reservation of sand and gravel and the State fit squarely within the confines of that case. Attorney General Wasden asked if that was Mr. Schuster's analysis as well. Mr. Schuster replied yes, under Treasure Valley Concrete at that time, it would not include sand and gravel. Attorney General Wasden commented on parcel number 2 the fact that the deed itself shows a physical striking of the words; in the State's reservation of rights, the deed struck out the words 'including sand, gravel, and pumice.' Attorney General Wasden reasoned that with that striking the State would have a very difficult factual presentation in court to say that it somehow reserved those minerals, and asked if Mr. Schuster concurred. Mr. Schuster agreed it would be difficult to argue around that.

Mr. Schuster stated for the record that at the end of this Board memo there is a disclaimer placed at the request of Sand Hollow Sixteen and Little Enterprises, LLC to identify that this involved Lt. Governor Little's property.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation that is direct the Department to issue a disclaimer of interest in sand and gravel for the parcels referenced here and as shown in Attachment 5 of this memo. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

9. Selection Numbers for Future Voluntary Auction for Ownership Participation – Presented by Kate Langford, Bureau Chief-Real Estate Services

RECOMMENDATION: The Department recommends that: 1) no numbers be issued to the one hundred eight (108) lots not nominated for the Pre-application Group selection process that was completed on December 3rd; and 2) lot leaseholders who choose to opt out of the 3-Year VAFO Plan process, do not attend a pre-application meeting or do not submit an application will be removed from the Plan list and the next available lot will advance.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

For the record, Director Schultz noted that in the recommendation, item 1, the figure should be corrected to one hundred seven (107) lots rather than one hundred eight (108) lots.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation as outlined on page 2 of 2 on Item 9. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

10. Governance Implementation Plan – Presented by Tom Schultz, Director and Larry Johnson, EFIB Manager of Investments

A. Land Bank Fund

RECOMMENDATION: Authorize the Treasurer to immediately transfer the Land Bank balance that exceeds \$5,000,000 to the appropriate endowments' Permanent Funds.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation as outlined on Agenda Item 10A, page 2 of 2: authorize the Treasurer to immediately transfer the Land Bank balance that exceeds \$5,000,000 to the appropriate endowments' Permanent Funds. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

B. Governance Recommendations

RECOMMENDATION: The Subcommittee recommends that the Land Board adopt the following governance structure:

1. With regard to Timber Sale Contracts
 - a) The Land Board approves the annual timber sale plan and delegates authority to the Director to approve individual timber sales that fall within established Land Board policies.
 - i) Direct timber sales and salvage sales of less than 1 MMBF do not require Land Board approval.
 - b) The Land Board approves only those individual sales that fall outside of established Land Board policies such as:
 - i) sales with clear cut harvest units over 100 acres,
 - ii) sales with development credits that exceed 50% of net appraised sale value (33% of the gross), or
 - iii) sales where there are written citizen concerns.
 - c) A table is added to the Director's Monthly Timber Sale Activity Report showing the proposed sales for the next month.

2. With regard to Routine Land Investment Decisions
 - a) Transactions <\$500,000 the IDL Director may authorize,
 - b) Transactions >\$500,000 require Land Board approval, and
 - c) An audit of IDL procedures shall be conducted every 3-5 years.

3. With regard to Other Land Investment Decisions
 - a) Transactions >\$100,000 require Land Board approval and may require review by the Land Board's Land Investment Advisor at the Board's discretion,
 - b) Transactions >\$1,000,000 shall be subject to a post-audit every three (3) years, and the Land Board's Land Investment Advisor shall review such post-audit, and
 - c) Transactions <\$100,000 the IDL Director may authorize; however, those that are complex or controversial may be vetted by the Land Investment Advisor.

4. The outlined governance structure shall supersede all previous policy, operations memorandum and procedures that pertain to these governance issues.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation as outlined on Agenda Item 10B, pages 2 of 3 and 3 of 3, with the addition that this be scheduled for review at the Board's December 2015 meeting. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

C. Investment Policy

RECOMMENDATION:

1. Approve the sunset of the Land Board Subcommittee on Endowment Investment Governance Strategy effective December 15, 2014.

2. Authorize the establishment of the Investment Subcommittee with one EFIB Board member, EFIB Manager of Investments, and the IDL Director.

The purpose of the Subcommittee is to:

- a) Administer the contract for the General Consultant,
- b) Work with the General Consultant to identify the Land Board's Land Investment Advisor and the Land Board's Commercial Real Estate Investment Advisor and to administer the associated consulting contracts,
- c) Work with the General Consultant to vet the Investment Policy Statement and Asset Management Plan and make recommendations to the Land Board with regard to those documents, and
- d) Coordinate consideration of investment issues that cross both the endowment fund and endowment lands.

3. Authorize the establishment of a five member Land Board Audit Committee that is comprised of the three members of the current EFIB Audit Committee, the State Controller or designee, and the Attorney General or designee. The Audit Committee will review and advise on EFIB and IDL joint audit results.
4. Direct the Department to discontinue the practice of having an appraiser complete mass land appraisals on timberland, rangeland and agricultural land.
5. Direct the Department to utilize the land expectation value (LEV) method (constant real annual cash flow / real annual discount rate) approach for the valuation of timberland and rangeland and reviewed by the auditor.
6. Direct the development of a draft Investment Policy Statement and revised Asset Management Plan with the following general concepts driving the long term strategy:
 - a) Discontinue the policy of acquiring Idaho commercial buildings.
 - b) Manage or dispose of existing Idaho commercial property in a prudent manner consistent with the recommendations from the Commercial Real Estate Investment Advisor.
 - c) Manage or dispose of lowest return grazing land as opportunities arise consistent with the recommendations from the Land Investment Advisor.
 - d) Increase timber investment (or other land investments with similar risk and return ratios) as attractive opportunities emerge which meet or exceed our predicted statewide average return.
7. Direct the Investment Subcommittee to develop a draft policy regarding implementation of land exchanges on endowment lands.
8. Direct the Investment Subcommittee to develop a draft policy (consistent with Idaho Code § 58-133) regarding proceeds from the disposal of assets (e.g. cabin sites, commercial real estate, grazing lands) utilizing the Land Bank Fund to hold a portion of the proceeds to be used for land acquisition (excluding commercial buildings), and to purchase access to currently owned endowment lands and to block up ownership of endowment lands.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation on Agenda Item 10C as outlined on pages 1 of 2 and 2 of 2. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

D. Implementation Plan

1. Policy
2. Budget

RECOMMENDATION: 1) Authorize the Implementation Plan with a timeline for adoption of the Investment Policy and the revision of the Asset Management Plan by mid-November 2015; 2) Approve the Department's Fiscal Year 2015 supplemental budget request and the Fiscal Year 2016 budget enhancement request to be immediately submitted to the Division of Financial Management and the Legislative Services Office.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation as outlined in Agenda Item 10D on page 2 of 2. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

E. Callan Contract

RECOMMENDATION: Authorize the Secretary of the Land Board to enter into a contract on behalf of the Land Board substantially in accordance with the Scope of Work in the draft agreement.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board adopt the Department recommendation as outlined on Agenda Item 10E, page 2 of 2, that is to authorize the Secretary of the Land Board to enter into a contract on behalf of the Land Board substantially in accordance with the Scope of Work in the draft agreement attached as Attachment 1. Secretary of State Ysursa seconded the motion. The motion carried on vote of 5-0.

- **INFORMATION**

NONE

Attorney General Wasden asked to take a moment of personal privilege and thank his colleagues who have served on this Land Board for an extensive period of time. Attorney General Wasden recognized Superintendent Luna's eight years of service on this Board, and many hours, many days he dedicated to public service including his time at a local school board that happened to be schools that the Attorney General's children attended. The Attorney General thanked Superintendent Luna.

Attorney General Wasden also thanked his friend of many years, Secretary Ysursa. Attorney General Wasden pointed out, as he has done at many other Land Board meetings, Secretary Ysursa's presence at the Land Board began when the Attorney General was a junior in high school. Attorney General Wasden admitted he has taken opportunity on occasion to lightheartedly mock the Secretary in that regard. Attorney General Wasden expressed his appreciation for Secretary Ysursa's efforts, his integrity, his honesty. Attorney General Wasden acknowledged he and Secretary Ysursa did not always agree; they agreed most of the time, but not all the time. Attorney General Wasden believes that is healthy in terms of how a democracy, a republic operates. Attorney General Wasden stated it has been an honor and a privilege to serve with Secretary Ysursa.

At 2:36 p.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1) subsection (b) to consider the evaluation of Director Thomas Schultz. Attorney General Wasden requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Controller Woolf seconded the motion. Roll Call Vote: Aye: Ysursa, Wasden, Woolf, Luna, Otter; Nay: None; Absent: None.

- **EXECUTIVE SESSION**

- A. Idaho Code 67-2345(1)(b)(d) – 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, and to consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code. [TOPIC: Performance Evaluation – Director, Department of Lands]

At 3:13 p.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

- **REGULAR**

11. Personnel Action

BOARD ACTION: Upon completion of the Board's performance review of Director Schultz, a motion was made by Attorney General Wasden to increase the Director's salary by 5% and give the Director a \$2,000 bonus. Secretary of State Ysursa seconded the motion. Superintendent Luna inquired if the Board needs to specify the increase retroactive to December 7th. Attorney General Wasden amended his motion to state the increase is retroactive to December 7, 2014. Secretary of State Ysursa approved the amendment to the motion. The motion as amended carried on a vote of 5-0.

Governor Otter commented it is an expression of the Board's gratitude and appreciation for the great job Director Schultz has been doing. Director Schultz extended his thankfulness to the Board in return.

There being no further business before the Board, at 3:15 p.m. a motion to adjourn was made by Attorney General Wasden. Controller Woolf seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

