



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Lawrence E. Denney, Secretary of State

Lawrence G. Wasden, Attorney General

Brandon D Woolf, State Controller

Sherri Ybarra, Superintendent of Public Instruction

Dustin T. Miller, Director and Secretary to the Board

Be it remembered, that the following proceedings were had and done by the State Board of Land Commissioners of the State of Idaho, created by Section Seven (7) of Article Nine (IX) of the Constitution.

Final Minutes
State Board of Land Commissioners Regular Meeting
February 18, 2020

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, February 18, 2020 in the Boise City Council Chambers, Boise City Hall, 3rd Floor, 150 N. Capitol Blvd., Boise, Idaho. The meeting began at 9:00 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little
Honorable Secretary of State Lawrence Denney
Honorable Attorney General Lawrence Wasden
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Sherri Ybarra

For the record, all Board members were present.

1. Department Report – Presented by Dustin Miller, Director

Endowment Transactions

A. Timber Sales – January 2020

Discussion: Governor Little asked if the Department is forecast to be \$7 million below timber receipts from last year. Deputy Director Bill Haagenson said yes, the Department expects to be a bit below last year based on current figures. The two orange lines on the graph represent the potential low and high values for the forecast. The Department expects to be within that range, but behind last year. Governor Little asked if that is based on the new timber policy [Forest Asset Management Plan] that the Board adopted. There will not be yield off that increase this fiscal year, but there will be increase in outgoing years. Mr. Haagenson replied that is correct; it is a four-year ramp-up to the new volume level. The volume will start to increase beginning with fiscal year 2021. Governor Little noted that if the Department meets the minimum level it will be \$7 million short, but if it meets maximum level that could be as much as \$10 million more. Governor Little observed the fiscal year is half over and the Department should have a good idea which it will be. Mr. Haagenson indicated the Department will likely be closer to the low end of the range than to the high

end. Governor Little inquired if the Department is embedding that \$7 million shortage expectation in projections and return numbers, in conjunction with EFIB and budget staff. Mr. Haagenson replied that the Department does communicate the low end and high end of the forecast with EFIB; typically, EFIB bases assumption on the low end of the forecast.

B. Leases and Permits – January 2020

Discussion: None.

Status Updates

C. Legislative Summary

Discussion: Controller Woolf asked about direct sales; is that included in a rulemaking or legislation? Director Miller replied that direct sales, or delivered product sales, is currently a pilot program. Funding is being requested in the Department's budget for the next fiscal year, \$500,000, for a pilot program to determine whether offering the delivered product sales is going to be an additional revenue generator for the Department. In other states, Montana in particular, between 10-20% additional revenue has been generated through a delivered product sales program. This is just a pilot program; if that half million-dollar portion of the budget is approved for next fiscal year, the Department will evaluate moving forward.

Governor Little referred to the constitutional amendment and inquired if the Department has any leases that are triple net. How will that impact the Land Board's constitutional obligation on a high valued piece of property, for example, if a lessee did not anticipate paying taxes and suddenly, the lessee starts paying 1 or 2% property taxes on it. Does the Department's real estate division have a fiscal note impact as that constitutional amendment makes its way through the process? Director Miller responded that the Department has not discussed the proposed amendment in detail. If this constitutional amendment moves forward, Department staff will work with the Attorney General's office in addressing that issue. Governor Little suggested that the Department be prepared.

D. Resource Protection and Assistance Bureau Update

Discussion: Governor Little asked if the revenue number [page 2, last paragraph] is a 40% variation from normal. Mr. Thomas said yes. The Department is working with the Attorney General's office to update language in the lease templates and get submerged land leases back into effect.

Controller Woolf mentioned that many constituents that live on the Spokane River contact him about the buoys and wakes on the river. Is the Department continuing to work with the Kootenai County Sheriff's office and residents regarding the buoys on the river? Mr. Thomas said the buoy activity is much improved from 18-24 months ago. The Department found only four unpermitted buoys during an inspection in 2019. Two years ago, a significant number of buoys were discovered. That comes down to enforcement, working with Kootenai County authorities to ensure everyone knows the rules about where buoys may be placed. The Department enforces the law as it is written; there has been much better compliance with the whole population on the river.

Governor Little inquired about delinquencies on the bond assurance fund; there were payments due on November 1, 2019. Mr. Eric Wilson responded that the billing was sent last fall, with a November 1 due date. Mr. Wilson offered to provide information about delinquencies following the meeting.

2. Endowment Fund Investment Board Report – Presented by Chris Anton, EFIB Manager of Investments

- A. Manager's Report; and
- B. Investment Report

Discussion: Mr. Anton recalled that prior to the last Land Board meeting, the portfolio was up about 9.9%. In late January, however, the market sold out sharply as the world learned of the coronavirus and became concerned that China would be closed off to world trade and affect the global economy. At the end of the month, the fund was down 0.2% for the month of January and the portfolio was up 6.6% fiscal year-to-date. Uncertainty over the virus, which has now affected more than 71,000 people and resulted in over 1800 deaths, has disrupted world trade, affected supply chains, depressed asset prices, and forced multinational companies to make tough decisions about how to operate in China with little information. The U.S. and Europe have both blocked visitors from returning to the country and have oftentimes held them in quarantine. OPEC¹ has called a meeting to scale back production because of soft demand for oil. Fortunately, financial markets over the last week or two have concluded that this is temporary, that for the most part the impact to the market should be the next quarter or two. Through the close of markets yesterday, the fund was up 9.7%.

Mr. Anton indicated that earnings reserves were fully funded as of the end of December: 6.3 years for public schools and 6.9 years or more for all the other funds. The Investment Board met last Thursday and approved, as temporary, EFIB's fee rule for the credit enhancement program for public schools should the legislature elect to adjourn without approving the rules. The Investment Board reviewed the status progress of Callan's effort to review the State Insurance Fund (SIF) portfolio, and at its May meeting plans to update the investment policy and make changes to the SIF portfolio. The Investment Board also looked at the performance of the endowment fund for the last calendar year; the fund ranked in the top 5th percentile of all public funds in the last calendar year. EFIB had its budget setting meeting with JFAC and the budget was approved.

Governor Little remarked that the international fund manager is knocking the cover off the ball. Mr. Anton agreed that WCM is really good; it is not often a manager is 6% above benchmark. Governor Little added particularly in a volatile market.

Consent—Action Item(s)

3. Approval of Minutes – January 21, 2020 Regular Meeting (Boise)

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

¹ Organization of the Petroleum Exporting Countries

Regular—Action Item(s)

4. Omnibus Rulemaking – Adoption of Temporary Rules – Presented by Dustin Miller, Director

Recommendation: Adopt as conditional temporary rules all of the Department's temporary and pending rules, as set forth in Attachment 2. The rules will become effective only if the temporary and pending rules are not otherwise approved or rejected by the 2020 Idaho Legislature and/or not extended pursuant to the Idaho Administrative Procedure Act.

Discussion: None.

Board Action: A motion was made by Attorney General Wasden to adopt the rules identified in Attachment 2 of the Department's memo as temporary rules to be effective *sine die* of the 2020 session of the Idaho Legislature. This approval and adoption is conditional and will only become effective if the rules previously adopted by this Board as final rules and currently pending before the Idaho Legislature are not otherwise effective upon *sine die* pursuant to Idaho Code § 67-5291 and § 67-5292. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

At 9:30 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 74-206(1)(f) to communicate with legal counsel for the Land Board to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. 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:* Denney, Wasden, Woolf, Ybarra, Little; *Nay:* None; *Absent:* None.

Executive Session

- A. Idaho Code § 74-206(1)(f) – to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: GNA Timber Sale]
- B. Idaho Code § 74-206(1)(f) – to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: Recommended Order]

At 10:06 a.m., a motion was made by Attorney General Wasden that the Board resolve out of Executive Session. Attorney General Wasden requested that the official minutes of the meeting reflect that no action was taken by the Board during the Executive Session. Attorney General Wasden asked for an opportunity to make a statement for the record after his motion was considered. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

For the record, Attorney General Wasden stated that during the Executive Session, the Board had a discussion on the Hanna Flats GNA² litigation. The Department advised the Board that it is planning on participating in that litigation by filing an amicus brief. Attorney General noted that a decision was not required of the Board, and the Board took no action during Executive Session.

² Good Neighbor Authority

Regular—Action Item(s)

- 5. Review Recommended Decision and Order – Sharlie-Grouse Neighborhood Association v. State Board of Land Commissioners** – Presented by Becky Ophus, Section Chief-Fair Hearings Unit, Office of the Attorney General

Discussion: None.

Board Action: A motion was made by Attorney General Wasden that the Land Board issue a final order, without modification, that was recommended by the hearing officer, former Justice Jim Jones. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Information

None

There being no further business before the Board, at 10:07 a.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.

Idaho State Board of Land Commissioners

/s/ Brad Little

Brad Little
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Lawrence E. Denney

Lawrence E. Denney
Secretary of State

/s/ Dustin T. Miller

Dustin T. Miller
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the April 21, 2020 regular Land Board meeting.