



## 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

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*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  
March 19, 2019

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, March 19, 2019, in the Boise City Council Chambers, Boise City Hall, 3rd Floor, 150 N. Capitol Blvd., Boise, Idaho. The meeting began at 9:02 a.m. The Honorable Governor Brad Little presided. The following members were present:

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.

Director Miller announced a number of employees in attendance at the meeting as part of the Department's onboarding process for new hires, which is a quarterly event that includes observing the Land Board in action at a regular meeting. Director Miller asked the employees to stand and thanked them for being there.

### **1. Department Report** – Presented by Dustin Miller, Director

#### **Endowment Transactions**

##### A. Timber Sales – February 2019

**Discussion:** Controller Woolf referred to the first table on page 1, noting that two of the three sales did not have any up-bid. Controller Woolf asked if that was due to current market conditions. Director Miller replied that it is a reflection of current market conditions; the Department expects prices to start picking up in the second quarter.

Governor Little asked who the purchaser was of the South Mountain Ton sale in Owyhee County. Attorney General Wasden observed that it is a proposed sale, not yet auctioned.

##### B. Leases and Permits – February 2019

**Discussion:** None.

## Status Updates

### C. Legislative Summary

**Discussion:** None.

### D. VAFO Payette Lake

**Discussion:** Controller Woolf inquired if these three lots are the only lots that will be auctioned this summer at Payette Lake. Director Miller asked Sid Anderson to respond. Mr. Anderson indicated that these three are the leased lots in the voluntary auction. The Department will include some unleased lots as well; there are potentially five unleased sites that will be part of the 2019 Payette Lake auction.

Governor Little remarked that a 2% increase in lakefront property from 2012 to 2019 seems like fantasy and wondered if the 2012 value was too high, or the 2019 value was too low. Mr. Anderson noted the appraisal process for cottage sites has been difficult over the years and explained that in 2012 the Department used four different appraisers to value lots, whereas in 2019 a single appraiser was used, which may account for the disparity.

## 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 said the positive momentum that the capital markets experienced in January continued into February. The portfolio was up 2.3% for the month and is up 3.2% fiscal-year-to-date. Mr. Anton commented that while the global economy seems to be slowing, there is positive optimism that the efforts of central banks around the world are starting to bear fruit, and some growth will be seen later in the year, particularly in China and in Europe. The markets are generally moving sideways, but there is potential for growth in the second half of the year.

Mr. Anton explained that earnings reserve calculations are always a month in arrears; as of January 31st there was 5.8 years of reserves in the Public School endowment, and between 6.3-8 years of reserves in all the other endowments based on the FY20 distribution. Mr. Anton noted that with the gains in February, and so far in March, it is fair to conclude that reserves are now fully funded. Mr. Anton mentioned that at its February 13th meeting, the Investment Board discussed that the portfolio manager for Systematic Financial left the firm due to health reasons; the Investment Board authorized the commencement of a search. Two candidates, American Century and Sycamore, will give presentations to the Investment Board on Monday, March 25th, and soon a new mid-cap value manager will be selected.

## Consent—Action Item(s)

### 3. Timber License Plate Fee Recommendation – Presented by Betty Munis, Director, Idaho Forest Products Commission

**Recommendation:** Direct the Department to proceed with the recommended educational projects developed jointly with the Idaho Forest Products Commission.

**Discussion:** Controller Woolf commented that currently there is \$41,000 in the fund, and asked for assurance that there will always be funds before the \$50,000 is expended. Ms. Munis stated that timber license plate money is swept into the fund each month as plates are sold; it is a continual cycle. Ms. Munis confirmed that no dollars will be spent before they are in the fund. Controller Woolf shared his understanding that this may be the last time Ms. Munis presents this request to the Board, due to future plans in the coming months. On behalf of the Board, Controller Woolf thanked Ms. Munis for her service and work for the Idaho Forest Products Commission. Ms. Munis said it has been a pleasure for the past 27 years to work with the State and the forest products industry. Superintendent Ybarra thanked Ms. Munis for her service on behalf of the students of Idaho. Superintendent Ybarra recognized Ms. Munis for her leadership in the Forest Products Commission, and remarked that the impact Ms. Munis has had on the economy, and all the education programs for the kids in Idaho, will have enduring effect. Ms. Munis thanked the Board and strongly encouraged everyone to consider purchasing timber license plates.

For the record, Governor Little requested that the Board vote on item 4 separately from the Consent agenda because it is an increase in taxes. Attorney General Wasden stated he would make a motion to remove it from the Consent agenda and place it on Regular agenda after presentation of the materials.

**4. Forest Practices Act Annual Assessment Increase** – *Presented by Craig Foss, Division Administrator-Forestry and Fire*

**Recommendation:** Approve increasing the Forest Practices annual assessment rate to \$0.13 per acre effective July 1, 2019.

**Discussion:** None.

**Board Action:** A motion was made by Attorney General Wasden that the Board amend the agenda to remove item 4 from the Consent agenda and consider it independently. Controller Woolf seconded the motion. Attorney General Wasden explained the reason for his motion is the Governor requested that item 4 be a separate vote, and the Attorney General also requests that it be separate. This item is for an increase in fees and it is appropriate for the Board to consider it separately from the Consent agenda. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

**5. Approval of Minutes** – February 19, 2019 Regular Meeting (Boise)

**6. Approval of Minutes** – March 4, 2019 Special Meeting (Boise)

**Consent Agenda Board Action:** A motion was made by Attorney General Wasden that the Board adopt and approve the Consent Agenda, with the exception of item 4, which has been removed for independent consideration. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

## Regular—Action Item(s)

### 4. **Forest Practices Act Annual Assessment Increase** – *Presented by Craig Foss, Division Administrator-Forestry and Fire*

**Board Action:** A motion was made by Attorney General Wasden that the Board approve the Department recommendation to increase the Forest Practices annual assessment rate to \$0.13 per acre effective July 1, 2019. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

### 7. **Negotiated Rulemaking IDAPA 20.03.02, Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

**Recommendation:** Authorize the Department to proceed with negotiated rulemaking and development of a temporary rule for IDAPA 20.03.02 *Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities*.

**Discussion:** Attorney General Wasden expressed his understanding that this request is for conditional approval to go forward, because of the timing requirement in House Bill 141 proposing a temporary rule be in place by August 1st. The timing requirement cannot be met unless rulemaking is started now. Mr. Wilson indicated that in order to have meaningful public input from stakeholders, the Department has to start now. If for any reason the Senate does not pass House Bill 141, or the Governor does not sign it, then the Department will vacate the rulemaking and nothing will happen.

Controller Woolf asked if the Department has the bandwidth and time to accomplish this rulemaking in the time frame set forward in the schedule. Mr. Wilson stated that the Department will make the bandwidth. There are several parts of House Bill 141 that the Department has been wanting to get done for the last several years; not having the ability to require bonding for everything that is in a reclamation plan is a fundamental flaw in the current Surface Mining Act, so fixing that flaw is critical. Mr. Wilson noted that the bill also introduces the concept such as post-closure. The Department used to operate under the premise that a party could mine a site, reclaim it, and walk away. The Department now knows that is no longer the case. There are several mines in Idaho that have ongoing water treatment plants, and this concept of post-closure will allow the Department to require planning and bonding for those in the future. Mr. Wilson indicated the Department has two more rulemakings planned for this year. Other Department staff members will spearhead those, and Mr. Wilson said his task is to spearhead this rulemaking for IDAPA 20.03.02.

**Board Action:** A motion was made by Attorney General Wasden that the Board approve the Department recommendation, that is authorize the Department to proceed with negotiated rulemaking and development of a temporary rule for IDAPA 20.03.02 *Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities*. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

**8. Approval to Auction Watertower Lots** – Presented by Sid Anderson, Program Manager-Real Estate

**Recommendation:** Direct the Department to offer the seven Watertower Lots for disposition through public auction in Ada County.

**Discussion:** Superintendent Ybarra inquired about the original cost of the lots when the Department acquired them. Mr. Anderson replied that the lots were acquired in 2000 through a land exchange. The appraised value of the eleven lots acquired was \$1,722,000, which is an average of just over \$156,000 per lot. The average price of the seven lots being offered now is just over \$209,000 per lot.

**Board Action:** A motion was made by Attorney General Wasden that the Board approve the Department recommendation and direct the Department to offer the seven Watertower Lots for disposition through public auction in Ada County. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

At 9:41 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. The mere presence of legal counsel at an executive session does not satisfy this requirement. [**Topic:** Lease M500031]

At 10:46 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

**Regular—Action Item(s)**

**9. Lease M500031**

**Discussion:** None.

**Board Action:** A motion was made by Attorney General Wasden that the Board authorize the Department and the Office of the Attorney General to meet with the relevant parties, which may include the current holder of Lease M500031, and the owners of the Tamarack Bay Condominiums, and their respective legal counsel, to see if it is possible to come to an acceptable negotiated resolution of this issue in accordance with the Land Board's fiduciary and constitutional responsibility, and to report to the Land Board at the next Land Board meeting. Controller Woolf seconded the motion. Governor Little asked if the Attorney General's motion states just two parties. Attorney General Wasden clarified that his motion says relevant parties, which includes the two named. The motion carried on a vote of 5-0.

