



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, 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 December 15, 2020

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, December 15, 2020 in the State Capitol, Lincoln Auditorium (WW02), 700 W Jefferson Street, Boise, Idaho, and via webinar. 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, due to the Governor's Stage 2 Stay Healthy Order, dated 11/13/2020, gatherings, including public meetings, are limited to 10 persons or less in physical attendance. Secretary of State Denney and Controller Woolf were present at the physical meeting location with all other Board members joining via Zoom webinar.

Director Miller commented that as is done every December, the Department has two presentations to make at this meeting. First was a virtual big check presentation to Superintendent Ybarra for more than \$52.5 million.

- Big Check: Public School Endowment FY2021 Distributions

Director Miller mentioned the second presentation is the Department's annual year in review video of activities which showcases many of the things the agency does to generate income for endowment beneficiaries, and to manage the state's natural resources.

- Department of Lands' Year-in-Review

Director Miller remarked that folks like those seen in the video make this agency a great agency. It is because of their hard work, passion, and dedication that more than \$52 million was allocated to public schools this year. Director Miller thanked the Department of Lands staff for their hard work and all that they do for making this year and every other year a success. Director Miller said he is proud of the employees in the Department. Director Miller thanked Scott Phillips, Robbie Johnson,

and others on the communication team for putting this video together. Governor Little noted that at this time of the year the state is past the fire season; all of those firefighters not only stayed safe but were on those fires early and kept everybody safe. Governor Little expressed appreciation for the fire crews and all the people that were out in the field prepping timber sales, doing forest health projects, and generating cash for Idaho public schools, teachers, and students.

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

Trust Land Revenue

- A. Timber Sales – November 2020
- B. Leases and Permits – November 2020

Discussion: None.

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

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

Discussion: Mr. Anton reported that equity markets had one of the strongest months ever during November and pushed all-time highs as Pfizer, Moderna and AstraZeneca all demonstrated during trials that their vaccines were more than 90% effective in preventing COVID-19. The portfolio was up 8.8% for the month and at the end of November was up 13.9%. Through yesterday [November 14] the fund was up 15.6%; a heck of a start for the fiscal year. Mr. Anton mentioned the Food and Drug Administration did approve earlier this week emergency distribution of Pfizer's vaccine and is considering Moderna's today. The first vaccinations in Idaho were yesterday. People are feeling very positive that process is underway. Mr. Anton noted that one of the things seen during the month of November was that small cap and value stocks finally started to participate in the rally that has been previously dominated by large cap and technology companies. Historically all the online retailers, the companies like Zoom that permit individuals to work from home, have done really well. A lot of the smaller companies just did not participate in the rally, but are finally starting to as investors look out and have hope that by spring and summer the vaccine will be distributed, the economy will begin to move more toward normal, and everyone will participate in the economic recovery. Mr. Anton commented the other thing that happened obviously during November was the presidential and congressional elections. While not everyone may be excited about the outcome, there is some relief that it appears there will likely be a divided Congress which will help create some balance in the process. Discussions are currently taking place among both the House and the Senate for a modest stimulus package. It will likely be \$750-900 billion, which is a lot of money, but modest relative to what was being considered before the election. Hopefully something will be passed because it is important to have some support for these smaller businesses to carry them through into the summer when things begin to return more to normal. Governor Little said he likes to see all the green ink. Mr. Anton stated it has been a good start to the year. Mr. Anton noted there were no significant decisions in terms of changes in the portfolio. EFIB's budget hearing is scheduled on February 5, 2021 and the next Investment Board meeting is on February 11, 2021. Governor Little thanked Mr. Anton and the Investment Board for their service.

Consent—Action Item(s)

3. **Forest Legacy-Fleming West and Fleming East Conservation Easements** – *Presented by Craig Foss, State Forester and Division Administrator-Forestry and Fire*

Recommendation: Authorize the Department to acquire the Fleming West and Fleming East conservation easements.

Discussion: Governor Little referenced passage of the Great Outdoors Act and asked about any indication that the amount of revenue available for Forest Legacy projects is going to go up or down given the expectations of people all over the United States having access to that land water conservation fund which Forest Legacy has had an inside track on. Mr. Foss replied that program staff have been in contact with the Forest Service and staff is hearing it is likely that funding for the Forest Legacy Program will go up. It is possible that the ceiling will be raised on the size of projects that can be submitted. The Department has been working with its project partners trying to prepare for that; no specifics yet. Mr. Foss agreed with the Governor's comment; there are many folks that have an eye on those increased funds, but the Department fully expects funding for Forest Legacy to increase.

4. **Jerome Surplus Property (Idaho Military Division)** – *Presented by Josh Purkiss, Program Manager-Real Estate*

Recommendation: Direct the Department to sell the Property to Jerome County for the price of \$28,500 as proposed.

Discussion: Governor Little inquired if this is related to the new National Guard facility that is going to be adjacent to the freeway. Mr. Purkiss clarified that this is a vacated road adjacent to the Jerome Readiness Center, about half an acre; the City of Jerome vacated it about a year and a half ago to the Idaho Military Division. Governor Little commented that National Guard facility is going to be shut down and there is going to be a new one next to the freeway exit. Governor Little asked if the Land Board did something with this alley issue at a previous Board meeting. Mr. Purkiss responded yes. The Surplus Property Act requires that any time a surplus property is sold to a tax-supported agency the Department come back to the Land Board with public comment, but none was received. The Department is asking permission to sell this surplus property to Jerome County. It is the same property brought to the Land Board in August.

5. **Approval of Draft Minutes** – November 17, 2020 Regular Meeting (Boise)

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

Regular—Action Item(s)

6. **Contested Case Hearing Request for Lease M700086** – Presented by Darrell Early, Division Chief-Natural Resources, Office of the Attorney General

[Editor's note: The Discussion portion of this item is written in first-person format. This is not a verbatim transcript.]

Discussion:

Darrell Early: Governor, members of the Land Board, for the record my name is Darrell Early. I'm the Division Chief of the Natural Resources Division for the Office of the Attorney General and counsel to the Land Board. You have before you two requests submitted by the Idaho Conservation League and the Sawtooth Interpretive and Historical Association, dated October 22, 2020 and October 24, 2020, respectively, related to lease number M700086. As the Director described, this relates to the lease that was awarded pursuant to public auction to New Cingular Wireless in the vicinity of Stanley, Idaho and Redfish Lake. This issue was presented to the Land Board as an information item at its July 21, 2020 meeting. During that meeting, Mr. Montoya from the Department of Lands described the auction process that was used, the location of the lease, etc. as information. The Board also heard public testimony related to this issue from a number of people including representatives of New Cingular Wireless and Custer Telephone Company and the FirstNet entity that is coordinating the overall national effort for cellular connection. The Board also took testimony from the mayor of Stanley, Idaho; Jonathan Oppenheimer from Idaho Conservation League; Mr. Paul Hill, a board member of the Sawtooth Interpretive and Historical Association; and Mr. Laird Lucas, representative of Advocates for the West. Also at the time of that July 21, 2020 meeting, the Board was in receipt of voluminous written comments related to this lease. I counted up the pages of comments in preparation for this meeting; there were roughly 262 pages of written comments received at that time. Subsequent to that meeting the Board received additional written comments totaling roughly 67 pages, all of which relate to concerns about the location of this particular cellular tower. The requests by Idaho Conservation League and the Historical Association seek a contested case related to the issuance of this lease. I am here today to talk a little bit about the standards that the Board should consider in deciding whether or not to grant that contested case. Contested cases are available under Idaho law and are mandatory where provided by statute; however, this is not a case where a contested case is mandatory by statute. In fact, Idaho Code Section 58-122 makes it clear that when acting in its proprietary capacity, with respect to the disposition of lands, the Board is not required to conduct a contested case. The statute provides that concerning the direction, control, or disposition of public lands of the state pursuant to Sections 7 and 8 of Article IX of the Idaho Constitution, such actions shall not be considered contested cases unless the Board, in its discretion, determines that a contested case hearing would be of assistance to the Board in the exercise of its duties and authorities. I'll note for the record, that the Board's rules in IDAPA 20.01.01.104.02 [Idaho Administrative Procedure Act] also provide that using the contested case process is a discretionary function by the Board. The Board's discretion is exercised consistently with its constitutional obligations under Article IX Section 8 of the Idaho Constitution which provide that it is the duty of the State Board of Land Commissioners to provide for the location, protection, sale, and rental of all lands in such manner as will secure the maximum long-term financial return to the institution to which granted. That's just a paraphrase of that section. Those are the legal standards that are applicable to this decision. It's

important to note for your benefit that because this is a matter of discretion of the Board, it is essential that the Board recognizes that it is such an exercise of discretion and that it recognizes the legal standards governing that. One more aspect that I would note for purposes of the legal process and the legal discussion is the function of a contested case. Under the Idaho Administrative Procedure Act, a contested case is defined as a proceeding which will result in an order, and likewise an order is defined as a decision that affects the legal rights, obligations, privileges, and immunities of specific persons and individuals. Those are the legal standards that are applicable to this decision. With that, the question before you and before the Board is whether or not in the exercise of your discretion you believe that conducting a contested case with respect to this particular issue would provide additional information or assistance to you in the exercise of your duties. Towards that end, I will point out a few facts that are related to this issue. The leasing of lands such as this is an item that the Board has delegated to the Department of Lands pursuant to its delegation policies. The Department, in executing those policies, including the recently revised leasing process, followed all of those applicable leasing procedures, including advertising of the lease in the local paper, putting it up on its website, and providing ample time. The lease was actually advertised and put up for lease in December 2019 and ultimately the auction occurred in January 2020 and closed. There was only one bidder at that time. At the close of that lease advertising process, the lease was awarded to the one applicant that participated in the lease application process. I think the other piece that is relevant is that the Board has received significant public comment on this process both before the July 21, 2020 information hearing that you held and then subsequently afterwards. We have looked at the issues raised in the contested case petitions that have been filed, the two documents, and the issues they have pointed out as requiring or reflecting a need for a contested case, and those issues are largely consistent with the written public comments that the Board has received throughout this process as well as the information that we received both from ICL and the Historical Association at the July 21, 2020 hearing; they don't raise any issues that have not been presented to the Board already at this point. Moreover, the issues raised are largely related to the effects on the Sawtooth National Recreation Area values and the viewshed, the effects on the Central Idaho Dark Sky Reserve, and raising issues about co-location or other locations without any specific information being offered by any of the comments received to date. All of these issues have been presented to the Board previously, including during that July 21, 2020 meeting. The Board received and saw a PowerPoint presentation from the FirstNet and New Cingular folks showing how this tower would be located and what it would look like. The contested case requests don't identify any specific information that would be added by virtue of the contested case proceedings at this time. With that, I will stand for any further questions about the contested case petitions, and/or the process, and if you have no questions, I will return it to you to discuss and exercise your discretion with respect to this decision.

Controller Woolf: The item on today's agenda then is not an up or down vote, it's truly only respective to the contested case, is that correct?

Darrell Early: The issue before you is whether or not to grant a contested case to consider additional information related to the award of this lease. The issue of whether or not to award this lease is not before you; it is just the issue of whether to hear a contested case and take additional information.

Attorney General Wasden: What I would like to do is talk about my view. I do have a motion, but I'd like to talk about our responsibilities here for a moment. First, under Article IX Section 8 of the Idaho Constitution, we are required to obtain the maximum long-term financial return to these lands. That duty is not dissipated in any way. Further, with regard to this lease, we've had a request by two entities, the Idaho Conservation League and the Sawtooth Interpretative and Historical Association, for a contested case hearing. Those requests are made in good faith and I certainly applaud them for their effort. However, in this matter, whether we hold a contested case is within our discretion. We cannot abuse that discretion, but we have to exercise that discretion appropriately. In this instance, Idaho Code Section 58-122 says that we determine whether a contested case hearing would be of assistance to the Board in the exercise of its duties and authorities. Here, since that question is will it assist us, my view of this is that it will not assist us in our efforts and here's the reason why. We have heard from all of these respective groups. We've heard from the Idaho Conservation League. We've heard from the SIHA. We've heard from Advocates of the West. We've had many written comments from a variety of people. We've received all of that information; we already had that in this process. In taking a look at what this process has been, this is a matter that was submitted to the Director of the Department of Lands for his exercise of his authority; to the best of my knowledge they've applied the appropriate leasing procedures. The application for the lease was in December 2018, the property was offered for lease in December 2019, the advertising process was closed in January 2020, the lease was awarded in January 2020. We received comments in opposition after that lease was already offered and prepared. Now a year later, we've heard these comments. The question is would additional comments be of assistance to us? In my view, they would not be of assistance to us because they would simply be cumulative – we've already heard these comments. I am not saying they're not important, but I am saying most of them as I have seen them have been contrary to fulfilling our constitutional duty to obtain the maximum long-term return. Based upon that, essentially what they're saying is that the values and viewshed of the SNRA would be diminished; they're saying that there would be a negative effect to the Idaho Dark Sky Reserve; they've also suggested alternatives including a co-location with Custer Tel. All of those things have been considered. I do not believe that repetition of that information would be of assistance to us. From my perspective, having a contested case proceeding would not assist us in fulfilling our duties. I am interested if other members have other ideas or thoughts. I am certainly willing to hear them. The most important thing is a contested case is not intended to be a public comment process; we've already engaged in the public comment process. A contested case is intended to end up in an order. That is not a helpful process to us. We've already received the public comments, repeating that will not get us any closer to the end of this process. It won't give us any new insight because we've already received all that. Our constitution provides that we offer lands for disposition via a public auction, that public auction has occurred. Therefore, in my view, I don't think receiving additional information or a repetition of this information would be of assistance. I am interested what other Board members may have to say.

Board Action: A motion was made by Attorney General Wasden that the Land Board, in the exercise of discretion given to the Land Board by Article IX Section 8 of the Idaho Constitution and Idaho Code § 58-122, deny the requests for a contested case hearing made by the Idaho Conservation League and Sawtooth Interpretive and Historical Association dated October 22, 2020 and October 24, 2020, respectively. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Information

Background information was provided by the presenter indicated below. No Land Board action is required on the Information Agenda.

7. Payette Endowment Lands Strategy – Written Proposal – Presented by Ryan Montoya, Bureau Chief-Real Estate Services

[Editor's note: The Discussion portion of this item is written in first-person format. This is not a verbatim transcript.]

Discussion:

Ryan Montoya: First, I would like to thank Department staff for the time and commitment to get this strategy before the Land Board today. This morning I am presenting the draft written Payette Endowment Lands Strategy. I will provide a quick background and then provide some additional details of the strategy. Part of that will be pointing attention to some of the pages of the strategy itself. At the Land Board meeting on June 16, 2020, the Land Board directed the Department to prepare a plan for management of endowment lands in the vicinity of the City of McCall. At the November 17, 2020 meeting the Department presented a concept of the strategy with the written strategy to follow. The written strategy aligns with the presentation last month. It seems like there may be some misinformation or misunderstandings of the Department and what this strategy is. There has been continued reference to 28,000 acres. That number is tied to a proposal that we heard last month from a third party, not the Department. Also, I have received feedback that some people have read this plan and interpret it as a disposition or development plan. I have also read that this plan will outline the agency's preferred outcome. This strategy is a management plan for the approximate 5,500 acres of endowment land in McCall's area of impact. The strategy outlines how the Department will implement endowment land management within the area of impact for the next 20 years. The property outside of the area of impact will be managed through other Land Board-approved plans including the Statement of Investment Policy, Asset Management Plan, Strategic Reinvestment Plan, and the Forest Asset Management Plan. Those plans can be found on the Department's website. This plan is a strategy that explains a situation that the Department is in and actions for potential resolution. The Department has identified concerns it needs to address. Without action, there will continue to be a need to seek opportunities to maximize revenue through revenue-producing activities. As I have explained in previous meetings, there is a gap between revenue and value for certain lands around McCall. One way to explain this is to look at a parcel of endowment land in an isolated area of St. Maries, Idaho. That parcel is valued as timberland. The activity is timberland management and the associated revenue is commensurate as timberland. Accordingly there would be no financial revenue gap. Now, take a parcel of land on the frontage of Payette Lake. The endowment land is timberland but has a value of 5 to 10 times the value of timberland and revenue that can be produced by that timberland. That parcel is considered to be underperforming and therefore has a gap, specifically in the revenue it could be producing. What this plan does is identify parcels the Department has recognized as having high value that should be evaluated to minimize the gap. The goal is to identify the gap and discuss a process to find revenue-producing activities for those lands. In certain situations the gap is large and others marginal. For example, in the Tier 4 properties. Each situation requires different actions, resources, and evaluation. There are many resolutions to the gap including repositioning of

lands, which includes land exchanges; disposition for reinvestment, which includes investment of the proceeds in financial assets or other land assets; and leasing. The Department is not saying that one is better than the other, or to dispose of the lands, only that something needs to happen. Each option depends on the situation of that property. For example, if there is no application or opportunities for revenue-producing activities over an extended period of time, the Department may propose a land exchange or disposition of a certain parcel. However, if there is a revenue-producing activity on that parcel, at the rate of return needed, there would be little reason to dispose of the property or take alternative action by the Department. The strategy seeks to guide land management and growth patterns influencing the Department's ability to implement traditional land management and take advantage of opportunities for higher revenue production. The strategy explores short-, mid-, and long-term time frames on certain properties. The strategy is intended to be an adaptive management plan that will be reviewed and updated regularly as community development, land use patterns, and market trends develop over time. While the Department may be the instrumentality of the Land Board, it is ultimately up to the Land Board to decide what is in the best interest of the endowment.

Attachment 1 is the written draft of the strategy. I will be turning to that in a second. Please note that the values provided in the strategy are only preliminary. The properties will need to have formal appraisals prior to any final value allocated to a certain property. Only three properties have had appraisals, which are parcel G, Shellworth Island, and Cougar Island. Otherwise these values are used for informational purposes only. If Land Board members could turn to page 8, this begins the tier designation. You will see certain classifications of the properties as well as management strategies for each of the tiered properties. You will notice that in Tier 1 these are planned lands that have a 1-5 year expected transition time frame. Part of the strategies for the Department includes working with third party advisors to develop preliminary site scenarios, performing preliminary and formal valuations of the property, as well as working with third party brokers to market the property within appropriate markets for leasing or sale of the properties. This is similar and goes through Tier 2 and Tier 3 properties, as well as the Tier 4 Transition not Planned properties. Turning to page 10, you will see that there is a table outlining what we're calling the transition lands matrix. This provides a baseline for us to evaluate certain properties against, on where they are in terms of having certain conditions for transition. You will see that some of these categories include a final plat, how they're zoned, whether they're current leasing, whether or not they are utilities, and so forth. Turning to page 12, this is where we start talking about individual parcels. You will see that these parcels are broken down into certain designated letters; parcels A through M is what we've designated the properties. For example, parcel A, which is the Deinhard commercial property. That's where our Payette Lakes area office is currently located. You will see within that table that there's certain elements within the designated categories: acreage, current asset class, current leasing activity, and then some financial evaluation. On this parcel there's current annual revenue of \$28,750, current estimated value of \$1.1 million, target rental rate based on a commercial use of 4-8%, target yearly revenue which would be \$69,000, which provides a revenue gap of roughly \$40,000. That's where we're talking about making up that gap and providing some sort of target for us to get to which is that yearly revenue gap. As I mentioned before, we have Tier 1 through Tier 4. On page 16 we talk about the Tier 4 properties. These properties are more northern on the area of impact. For example, parcel H, we have current annual revenue of \$48,000, with a target yearly revenue of \$62,000, which would be a gap of roughly \$13,000; the difference is not as drastic as a Tier 1 property. Page 14 is the implementation strategies. These are the actions the Department will

take for each property type. Appendix A is a more detailed property profile. We will be including in the Appendix a map that outlines the ownership. Many of these lands were acquired in different means. For example, land exchanges, the land grants – multiple different ownership endowments which means that there are different grants through time for ownership – and we also have in lieu land selections. We will be providing a map that shows those different designations of ownership. We understand that there has been public review of the strategy presented today. I would ask that those who are going to provide comment visit our website and a specific page that we have developed that has the plan as well as the presentation. This afternoon an updated strategy will be available for download as well as the presentation from November. Those documents are available for comment on our website. The updated strategy is merely formatting and other grammatical updates; the substance has not been materially changed. The Department has already received comments from several stakeholders; those comments will be added to the comments that will be accepted from the strategy web page. There will be an area on the webpage to provide comments. The Department will accept comments until February 12 that will be added to the record and included with the final strategy anticipated to be presented in March of 2021. You will see on the second page of the Land Board memo the anticipated schedule moving forward. Again, this is anticipated based on where we see the comments coming in from and determine whether or not there needs to be additional revisions to the strategy. The Department will be posting the written draft of this plan on its website for public comment. That concludes my presentation and I am happy to answer any questions.

Attorney General Wasden: Mr. Montoya, I just have done a quick calculation: Tier 1 Planned Transition on page 12, parcels A, K, and M totals about 38 acres give or take, and that's within the short range 1-5 years. I just want to confirm that is what we're talking about. Tier 2 is 5-10 years and about 130 acres give or take; Tier 3 which is 10-20 years looks like about 240-acre range. Am I reading that correctly?

Ryan Montoya: Yes, that's correct. We actually point out that there's roughly 390 acres that's affected in this plan.

Controller Woolf: I have several questions. Thank you to you and the Department for all of your work on this. At the first you mentioned this PELS plan only is reviewing 5,478 acres and not the other 23,000 acres in the whole Payette Lakes area. Can you expand on what you mean by that, and why this plan is only dealing with these 5,000 acres? And maybe a supplemental to the Attorney General's question of just the 300-plus acres.

Ryan Montoya: If you will turn to page 3 of the plan, under Roman numeral II – Planning Area, you will notice that the supervisory area manages 183,411 acres. Within there is 105,229 timber acres with the remaining 78,182 acres classified as non-timber. When we're managing these areas, we look at the whole management under a certain area office. As we have explained before, a majority of that ground is timberland. Coming back to that 28,000 acres that everybody's talking about – that number is only relevant because Trident keeps saying it. However, we're really talking about 183,000 acres that is under Payette Lakes area management. We're talking about areas that we see growth, and that growth being due to increasing populations around McCall, specifically within the area of impact. That's where we see the highest growth potential, where we can focus our efforts to try and plan accordingly. Additionally, many of those other areas that we are talking about outside of the area of impact

are classified and designated as timberland. Those will be managed under the other plans that we've talked about today. We don't see any other management regimes being applicable unless there's a specific application for a use within those areas. If there were an application within those areas, we would bring that to the Land Board after evaluation from the Department. What I am saying isn't that we will not look at applications or other opportunities in the area outside of the impact, but we would be changing the scope of this plan to account for 183,000 acres of a plan compared to a manageable area within the area of impact that we can see growth patterns and other uses besides just timber management.

Controller Woolf: On page 2, and a couple of other places – you also mentioned it in your presentation – you talked about a 20-year time horizon for this plan. Can you explain your thought process behind the 20-year plan; why not more or less?

Ryan Montoya: The reason for a 20-year plan is we wanted to identify parcels that span from immediately being right for some sort of transition to those that we see moving into the future. We didn't want to lock in a certain timeframe that would prohibit us from acting. The difficulty with a plan like this is that based on the constitutional mandate, we have to maximize revenue for the endowments which means that anytime the Department receives a proposal, it needs to evaluate that proposal, bring it forward to the Land Board if it has merit, and make a determination based on that proposal itself. We can make plans that go 50 years into the future, however it really depends on what the use and proposed application is for any one given parcel. That means that if we're saying that a parcel is only going to be looked at in 50 years, but tomorrow we get an application for a land exchange out there, or let's just say a commercial recreation activity for a zipline. We didn't foresee that coming and nor was it in the plan that this is going to happen in 50 years. What we've identified is to look at those parcels that we see in a growth area that we believe within 20 years the Department needs to focus on in order to maximize revenue and be ahead of the discussion, as opposed to being here where we are at today saying we need to do something. That is why we're looking at a 20-year spectrum where we see growth and also the alignment with other jurisdictional plans like the City of McCall's annexation plan and comprehensive plan and seeing where they're prioritizing the growth.

Controller Woolf: Staying on page 2, in the footnote, it talks about your review and what took place in Whitefish, Montana. You go on to talk about a comprehensive plan. Share your thoughts about the concern of having a comprehensive plan versus the plan you put together here.

Ryan Montoya: We did look at a comprehensive plan. Some of the Department staff made an alternate presentation regarding a comprehensive plan. When we started to look at the time that would be required, the necessity to hire additional experts, and the costs associated with that, we looked at that in context of how Montana performed theirs and what some of our constitutional differences are. Montana has a different set of rules and laws that it works within for its own management of the endowment lands, which have more impact from the public and other concerns. For us, we looked at that in the context of maximizing revenue and what type of properties that we're looking at. There were similarities between the plan Montana had for Whitefish and ours; however, we do have different mandates that we have to live within. When we looked at the comprehensive plan, we thought while that plan may be appropriate in a given set of circumstances it may not be in the best interest of the endowments in this situation where we have unique rules and laws that require us to auction off leases, and other constraints that are really driven to property by property opportunities. Let's just say we have White Pine Heights

that we've talked about which is off of Lick Creek Road. That is in an area that's timbered right now. We put out an RFP for that property because we're looking for opportunities and we get an RFP that's for a commercial use for a hotel, we get another that's for residential use, and we get another one for a high-end RV park. We have to take those plans and those applications and review them based on what the highest revenue is and other factors and present that to the Land Board. A plan that is comprehensive and says you can only do this activity on this ground, or this activity on this ground, can potentially limit the ability for the Land Board to act and make decisions that are in the best interest and produce the maximum revenue. If we went through a comprehensive plan and said this parcel is only used for residential because it aligns with the jurisdiction zoning of the City of McCall, that would limit other opportunities for us to seek higher revenue-producing opportunities. These challenges are a little distinct from other jurisdictions who can make decisions based on other parameters. I am not saying that we can't do that, I am just saying that for us to be able to act in a way that maximizes the revenue there has to be the flexibility on the ground to do so. There would be a potential conflict with a comprehensive plan that is very rigid that says this is only what you can do on these pieces of property.

Controller Woolf: You've talked in your presentation today about putting [the plan] on the website and seeking comment, and we have received quite a bit of stakeholder engagement and communication. Could you elaborate anything further...what are we working towards? On page 19, you have the implementation strategies for the different tiers. For example, on Tier 1 you have 1.3 to convene a stakeholder group to review proposed strategies and garner feedback for consistency with community vision within IDL's constitutional limitations and mandate. Maybe you could talk a little bit further and explain what the Department's plans are from the stakeholder engagements, those in McCall and Valley County, as well as those throughout Idaho.

Ryan Montoya: We've heard from the Land Board and staff the importance of engaging with the public. We have been engaging with the public regarding the presentation and this strategy, and we will continue to do so. That's why we have from this meeting until February 12th to take comment. The first phase of the stakeholder engagement...internally the Department has been discussing a focus group. The focus group would have multiple levels – one would be for educational purposes to discuss our endowment missions and some of the rules and policies that we work within. The other part of the stakeholder group would be to have them review the plan and provide us with feedback on how they see the community needs and issues that we're dealing with and potential changes to the plan. That focus group would be a moderated focus group; we would have a Land Board agreed-upon moderator, Land Board staff, but also leaders in the community. We would like to have a broad range of involvement including NGO [non-governmental organization] groups, different agencies, other private owner leaders in the McCall industry, as well as potentially some of the local representatives of that community. If we could have the moderated group to review the plan that would be the first step, to get through this planning session and then see if there's any additional areas that we need to improve within the plan. The second phase is convening with stakeholder groups throughout this strategy – working with different interest groups that can help us champion these properties and these plans. Without any proposals, the Department, unless it's going to be on its own initiative to do some sort of activity on the ground, is really relying on proposals and applications from the community. We would be working with stakeholders to try to find where those opportunities are. We don't have that in a concrete decision at this point, but I see us having advisory groups that help us work through some of these properties and look for opportunities and discuss ways that the

Department may not be thinking of as best use but may look at other opportunities. For example, we've had discussions with certain interest groups who are positioning for potentially long-term conservation easements, wanting to discuss whether or not we can do conservation easements and what does that look like. So some of those ideas we need to talk about. If we can get support of the community and also the revenue to fill that gap and bring that to the Land Board for a potential solution, then that would be how we would see it as a benefit to the endowments, and that's how we're trying to work with stakeholders for that type of activity.

Controller Woolf: This is more philosophical and is maybe a follow up for what Governor Little asked last month. This is a plan for the Payette Lake area. You look at our thoughts or plans for Henry's Lake and Henry's Fork and Priest Lake, etc., the rest of our state endowment lands, do we have a plan going forward of how we can maximize the long-term revenue for all state endowment lands, not just McCall. I just want to know your thoughts and the Director's thoughts on that.

Ryan Montoya: The agency looked at having a plan that could be implemented and shared across the different areas within the state. Controller, you very pointedly asked a question that we've been asking ourselves during this whole planning process: how we can create a plan that we can use in multiple different areas that we're not having to redesign and retool each time. That was one of the decisions with the comp plan as well...if we're going to have a comp plan specific to McCall, does that really help us with decision making in Priest Lake. We've seen growth not only in Boise and McCall but areas in eastern Idaho that are having high-growth rates as well as in northern Idaho. We wanted to be efficient and effective with our strategy. That's why if you look at this strategy beyond page 11, the front end of it is applicable to our other lands; it's just you're changing an area office, you're changing some of the numbers regarding that management land, and recalculating it based on the current situation on that area. We see a plan like this being used in areas like Priest Lake and other areas around the state. With that I will turn it over to the Director to provide any additional comments to your question.

Director Miller: Thank you, Ryan, for your presentation. Ryan and his team have done a remarkable job with this strategy. This has been one with a great deal of complexity, making sure that we are looking at these lands and areas where we need to close that gap between the value of the lands and the income from those lands, in this case in particular in McCall, and come up with strategies and options for the Land Board to move forward with to help us close that gap and meet our constitutional mandate. Certainly the McCall lands are front and center; there's been a lot of attention; there's been a proposal for a pretty large-scale land trade which has generated a lot of concern and a lot of opinions. This is our opportunity to take a look at where we need to put our emphasis and make sure we are looking at these lands in a way we are coming up with solutions here to provide to the Land Board for consideration again to meet that mandate. We've got other areas of the state where, as Mr. Montoya mentioned, we could engage in a similar planning effort. This being the first plan can serve as a foundation and sort of a template for how we do this in other areas where we are seeing some similar problems, again where we need to try to find a way to close the gap between land values and income off of those lands. The public engagement and outreach are important as we move forward. We want to make sure we are meeting our mandate and we are getting this plan right and we are considering opinions from leaders and folks in the community. However, it is vitally important to me and the Department that we preserve the Land Board's decision-making authority and

remain compliant with our constitutional mandate. I do believe that this plan can be used as a foundation to assist us in other areas where we are seeing similar challenges.

Governor Little: You talked about platting and zoning. Have we got other places in the state where your division shows up at the planning and zoning meeting, and the platting, and sits there on the bench with other people that are doing developments?

Ryan Montoya: Yes, we do. We've done that through the Lot Solution process that was part of the cottage sites. We've done that up at Priest Lake, we've done that in McCall, and we've also done that in other jurisdictions including most recently in Elmore County when we had the alternative energy proposal. We met with the commissioners as well as P&Z. We've met with the City of McCall and planning and zoning when we've looked at annexation for White Pine and other parcels and shown them conceptual plans that we've worked through. We have gone through that process in different instances.

Governor Little: What if they tell you no?

Ryan Montoya: If they tell us no then we probably need to have a conversation with the Land Board to make sure that it's what the Land Board is wanting us to do to move forward in certain situations.

Governor Little: McCall is kind of our beta test model on how we handle the revenue gap and the transition lands. I think the big issues are the revenue gap in those transition lands and then what we decide to put together as a model for perhaps better public input. Do you think that we can vet a model for better input in what we do on transition lands by February; is that enough time?

Ryan Montoya: Are you asking as part of this plan, or are you referring to all transition lands in general and the public participation for transition lands in general, or is it specific to this plan?

Governor Little: Kind of all of the above. As I said, if McCall is the beta test model on how we address areas where we have a significant gap, that we shouldn't set policy here in a vacuum. I think it's fair for other stakeholders around the state to say we did this special deal for McCall because it's a big area, why won't you do it for us? Whether it is addressing the gap or a model for input, it looks to me like you're kind of proposing, and maybe I don't have this correct, that we set an example of how we do this in McCall with the expectation that if there's other areas where there's transition lands and a revenue gap, we make it applicable there. We've got to think about those other areas.

Ryan Montoya: Yes, that is fair, and if we were looking at this in totality for the entire state and a comprehensive strategy for stakeholder input, I don't believe the two months would be adequate. We would need to work towards a more in depth and vast scale of who we're looking at in those certain communities to make sure that we're not missing certain stakeholders, which may be different from McCall. The idea with what we're looking at in McCall was more of a tiered approach where we would start off with a focus group to look at the plan individually to make sure that we weren't missing anything with how we were evaluating the plan. Then when we get into the property discussion itself, once the Land Board has approved the strategy, to then have a different stakeholder group that would effectively help us with evaluating the different uses on those grounds. That would be different in my mind than what you're talking about.

Governor Little: Have we got applications on either Deinhard or White Pine right now? I know we've got applications on Shellworth and Cougar, but do we have applications on that commercial and those residential blocks?

Ryan Montoya: We do not have any active applications on Deinhard. There have been applications in the past submitted on White Pine for commercial recreation purposes; that is a different topic. Not for Deinhard; we have in the past for White Pine.

Governor Little: But we do have applications for Cougar and Shellworth.

Ryan Montoya: Shellworth currently has a cottage site on it that is leased; the lessee is currently the occupant. I believe that their lease extends until the end of the cottage site lease cycle which is 2024. On Cougar, we also have a lessee. We were working with that lessee to bring that property to sale as part of the cottage site sale process which has been approved. There was a window that was missed. The lessee still has applied, and we are working through that currently to determine how we're going to process that application.

Governor Little: If first thing we do is place this where we have legitimate applications, that might change your Tier 1 a little bit because we do have applications.

Ryan Montoya: Yes, that would definitely change the way that we categorize that property.

Governor Little: This is part of the discussion that is in the [last month's] minutes that we approved, and I still have a hard time getting my head around the fact that the previous Board basically made the determination to get out of residential cabin sites, to get out of commercial property, and I know there's a definitional issue of whether leasing the land for the commercial or the residential is different than being in the commercial and residential; I have a hard time drawing that dark line that the Land Board's direction was to get out of commercial property and residential property and it's a little bit in the gray area to me that taking a piece of ground and doing all of the work and making it available for residential and commercial isn't being in the residential and commercial. That's one of my fundamental problems, particularly to Tier 1 projects that we're talking about.

Ryan Montoya: The Department is not proposing residential or commercial leasing. And I believe last time you said if it walks like a duck..., right. I truly understand that. Ultimately it is the Land Board's decision how far the Department goes within some of those activities. Some of the proposals that we've explained, for example going through an annexation and rezone process for residential purposes, that looks a lot like we're prepping it for residential use and probably would fall under any other definition for residential. However, the activity that we would be doing is adding value to the property for potential transition. If the Land Board wanted to get back into cottage site leasing or we want to make land available for people to put an improvement on this ground for commercial or residential purposes and directed the Department to do that, then we would certainly look at doing that and start implementing that policy and plan, just the same way that we were instructed to dispose of the cottage sites. We look at opportunities to maximize revenue through value-add situations where we can do that in a way that we believe doesn't limit the Department to having to exercise practices that have been avoided in the past like residential leasing. For us to go and meet with the city and pre-fly a potential residential development where we can then provide a conceptual plan that's been improved and effectively entitled, that adds value where we can then say that we've increased the revenue and the

potential for monetizing that asset. That's really what we're looking at as opposed to going through a process to prep, install utilities, develop the roads, and go through that process where we are then acting like the developer and going in and making the site improvements itself.

Governor Little: If you would humor me...to my way of thinking, if you go in and negotiate with the city on what the conditions are going to be on a piece of property, some future possible buyer, somebody that came in and applied for it, might not be very excited about the limitations we put on the property that they might buy. Let's do a little exercise in that, and maybe even get some outside people to look at it. If I recall, Callan, when they were looking at the commercial property, made a recommendation to the Board that we just didn't have enough critical mass to be fast enough on our feet to compete with the commercial market in Boise. That's what's ringing in the back of my mind in this particular instance where we're given the commercial business; we may not be getting into it, but we're getting awful close to the edge as you alluded to. I worry if we get into the zoning process and then we preclude some opportunity to some future person that might add more value and they might bid more...we don't have time to do that today, but that would be a good exercise.

Ryan Montoya: Understood; thank you, Governor.

Secretary Denney: The Governor made some very good points and got me to thinking; if we're missing our target income by \$2 million on an annual basis, how can we justify stretching this process out for 10 or 20 years, or not considering a proposal like the one that we have from Trident, if the money were right?

Ryan Montoya: The Department works in a special box. That box is surrounded by the constitution and the statutes. We can change those, potentially, if we go through the legislative process, etc. Let's say today we're living in a world that we just live in that box. There is a revenue gap like we've alluded to within this document as you correctly point out. What we're identifying is the obvious. Obviously, there's growth in McCall; obviously there's certain properties that have higher value and that are highly desired and highly desirable. What we are saying is that if we had a crystal ball, we would say there is going to be growth in these areas, and this is where we should focus our attention to be able to transition these lands into producing higher revenue. When we do that, we're acting unilaterally based on what the Land Board has directed us to do. Compare that with the situation where Trident is involved; they come to the Department, they go to your offices, and they make a proposal based on 28,000 acres. Now, they are doing that without solicitation from the Department. We haven't received an application, so it is hard for us to evaluate. We don't know what lands that they potentially have to trade. We're trying to look at the situation as there are this many applications on these lands and how can we process those applications. Without an application, without any other information, we're trying to make the best use of that ground which in the past has been timber management. With the growth, learning that there's a need both on the private side – people who would like to own the property – and on the other side who want to conserve the property. We're saying we're in a situation where we have to make money. Unless there's an opportunity to make money, or unless there's some direction from the Land Board to unilaterally act, which is to dispose or go find a land exchange or go get out of the ground or do something, we are waiting for people to apply for these grounds. We aren't out there saying we have 28,000 acres or we have 51,000 acres or we have "X" acres, someone please come to us from anywhere in the world and use those or exchange those or come up with an idea. What we're trying to say is we

have a problem, we're trying to have bite size pieces of this elephant to try and logically progress through the growth where we see that we can maximize our efforts on grounds that we know will be valuable in the future in certain timeframes. A lot of the ground that we're talking about outside of the area of impact doesn't have access, it doesn't have utilities, it's in areas that are very hard to get through. I have no idea what someone would want to do out there. Someone may have an idea for ziplines, for snowmobiles, and that's great. They can come to us. Every time they come to us, that minimizes that gap. We have 2.5 million acres of land in Idaho that we're trying to maximize every acre for. The reason why we're looking at it as 1 to 20 years, the comprehensive plan is for the City of McCall that shows growth patterns, that identifies the anticipated infrastructure that can handle the growth. That's what we're trying to model around. Otherwise at the Payette Lakes area office we've got to figure out something to do with on an acre by acre basis and that is a pretty difficult task.

Secretary Denney: I understand the political ramifications, but still I wonder about our fiduciary responsibility and whether we should even be concerned about what the City of McCall thinks in their impact area, if that fits into our fiduciary responsibility.

Ryan Montoya: You're one hundred percent correct. The reason why we look towards the City of McCall's comprehensive plan is because that's what the private industry is going to be working towards to adhere to. As the Governor mentioned, you can have a conditional use process that you can change the zoning, but for us to just guess what someone would want in those areas, we would be guessing all day long. What we've done is identified what the city and other local jurisdictions are putting in place for their population to grow as and saying okay this is a logical next step use. However, let's just say you have a residential area, but we get an application for a high-end RV park. We would take that to the Land Board and say here's the anticipated revenue on that property; it's not aligning with the zoning and the comp plan for the City of McCall – you're exempt from that zoning requirement – here's the revenue; do you accept the Department's recommendation to move forward on that based on the revenue. If the Land Board says yes, then we move forward with that. We're just trying to align with those different rules that the private side has to work in as a guiding barometer for us to act within.

Governor Little: Why did Callan recommend to the Board that they get out of commercial real estate because we didn't have expertise, and then we're talking about having expertise to run an RV park; what am I missing?

Ryan Montoya: The distinction there is the Department wouldn't be proposing to be the owner/operator of an RV park; it would be proposing the use of a ground lease. Ultimately, what the Department would be doing is leasing the ground to an RV park operator and getting certain revenue based on the conditions within that lease – a percentage of gross receipts or base land value. It would be similar to the situation at Tamarack. We're not running Tamarack; we're leasing the ground and Tamarack has its ski operations. The same principle would apply there. And the distinction is, if you remember Affordable Self-Storage, where we actually owned the business itself and ran it. We're not proposing to do that in the commercial area. We're just wanting to own the ground and rent that.

Governor Little: Affordable Storage was a triple-net lease where we had a lessee and all we did was clip a coupon. We got a check every month or every year, whatever it was, with somebody to operate it. Granted, we had the title not only to the ground but the buildings on top of it. The

only difference between Affordable Storage, and I was not on the Land Board when Affordable Storage was there, and I hate to pick that scab, but in essence, we owned the ground and the buildings on top of it with a triple-net lease with somebody that did everything. In this instance, you're talking about an RV park where we own the ground and we're doing the permitting for it. I just have a hard time drawing a hard line between those two things because, as you said quoting me, it kind of looks like a duck and quacks like a duck.

Ryan Montoya: Understood, Governor, and if we have a proposal in that nature we will want to discuss that with Land Board and walk through some of those gray areas to make sure that the decision by the Land Board to move forward with that type of proposal would be in its best interest and desires.

Governor Little: I totally agree with that. I think it's a great idea to put some meat on the bones...we spend so much time, you do, and we do, on public input into some of these decisions that are sometimes very difficult to make. I think we do want the local people involved, but I also think we need an education component. We almost need some outside people to look at it and say we've got to fulfill our trust responsibility of return; if you let every local group talk about every parcel of state land there'd be a natural tendency to say we just want that to be open space that we can all enjoy for our own benefit, and we lose that trust doctrine. I would ask the other Land Board members if maybe we ask the Department to put some meat on the bones of how we do this, not only with McCall in mind as our beta test model, but also looking at the whole state. I think there's great merit in that given a lot of things we have to do on this Land Board, and I would be interested in any other Board members' thoughts on that. *[lengthy pause]* Or maybe we won't do that.

Controller Woolf: Governor, you're not making a motion?

Governor Little: No, this goes to the issue...if you look at the very beginning of Ryan's proposal, it talked about our June [16th] Land Board meeting. The request from us to the Department was look at this proposal and come back to this. Subsequent to that, we've had multiple meetings where we've had input from the public, and we always come this tipping point of how we maximize our constitutional responsibility and our trust responsibility with basically being good neighbors; I think that's the issue. Sometimes we do it at our Land Board meetings and sometimes we don't. Given the residential aspect, the commercial aspect, this is one that we ought to try and develop a public input plan that takes into account our trust responsibility...or we can do like we've always done and say the door is open, come in and apply to buy it.

Controller Woolf: My thoughts on that are...it kind of alludes to my question of what a stakeholder engagement was for all of this. I think my mindset is being collaborative. At the end of the day, our beneficiaries have to win. I think there are opportunities where we can have win-win situations. With that, I think being able to hear the input from stakeholders and have some type of engagement is beneficial. At the end of the day, it's an opportunity that we make sure still that our constitutional mandate is the first and foremost. That is where I stand.

Attorney General Wasden: I am not sure we can resolve that issue today. First of all, this matter is on the informational agenda; it's not an action item therefore we can't take that kind of action. Second, the overarching responsibility we have is to obtain the maximum long-term financial return. I understand the issues of good neighbor and I think we can work with folks, but again it

is our constitutional responsibility that outweighs everything else, including previous statements by previous Boards, and all the rest of it. It is based upon the facts we have in front of us: what is in the best interest of the beneficiaries. That essentially is a case by case approach. I don't know that we are here today setting a precedent as to how we have to deal with things. I think we always have to be cognizant of that, but I am not sure we can resolve that here today.

Governor Little: Well, my interpretation of the information item we have is we've got a report back from the Department based on our request to the Department to give us a timeline of what they want to do. I assume, and Ryan and Dustin can respond to this, that they want some indication from us whether we think their proposal should go on as it was drafted and as Ryan explained it.

Ryan Montoya: Through this whole process our intention has been to get to a plan that the Land Board believes is in the best interest of the endowment. We are always open to the Land Board's feedback. This isn't an action item; it is an information item. I would defer to legal counsel on what can and can't be decided during the meeting. We want to make sure that the Land Board stands behind this plan. We want to have the ability to move forward with the Land Board's support, so if there is additional direction or information that the Department needs to consider from the Land Board, it is always open and welcome to that feedback.

Director Miller: To add onto what Ryan has said, we've been working through this process and building this out in close dialogue with each individual Land Board staff member, having conversations, making sure we are on the right track in developing this strategy and now the draft plan. We certainly want to continue operating in a fashion where, as always, we're transparent, we're not building this plan in a vacuum, and we are engaged with people in dialogue. I appreciate the Attorney General's reminder of our focus on the beneficiaries and our constitutional obligation. It is our intent to continue to be transparent and work through this planning strategy in the appropriate fashion. I appreciate the work and the advice of Land Board staff members as we've gone through this process. As Ryan has indicated, input from the Land Board at any time is always welcome.

Executive Session

None

Prior to adjournment, Superintendent Ybarra remarked that the celebration around the endowment check is a big deal for the Department of Education every year and is actually referred to as the "big check celebration." Even though the big celebration with the school choir could not be held this year, Superintendent Ybarra expressed tremendous gratitude on behalf of every educator in the state of Idaho, for all of the hard work on behalf of Idaho's schools for the Public School Endowment check.

There being no further business before the Land Board, at 11:02 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 January 19, 2021 regular Land Board meeting.