



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, 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

July 18, 2023

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 18, 2023 at the State Capitol, Lincoln Auditorium WW02, Lower Level, West Wing, 700 West Jefferson St., 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 Phil McGrane
Honorable Attorney General Raúl Labrador
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Debbie Critchfield

For the record, all Land Board members attended at the physical location.

[Editor's note: the Discussion portions, if any, for agenda items may be written in first-person format. This is not a verbatim transcript.]

1. Department Report – Presented by Dustin Miller, Director

Trust Land Revenue

A. Timber Sales – June 2023

Discussion: Governor Little noticed one GNA sale sold for more than 300% of appraised value and asked if the Forest Service plays a role in the valuation or is it Department of Lands' foresters? Director Miller replied that the Forest Service does play a role. The Department uses its contracting procedures and advises the Forest Service; rates are set according to Forest Service procedures. Director Miller added that an adjacent sale had no bids, and this sale was set at a rate that was a dollar per ton less. It was interesting to see that carry out.

B. Leases and Permits – June 2023

Discussion: Controller Woolf commented on the revenue being one million dollars more than expected and inquired if that is expected to continue at that rate again, especially in the commercial area which had much more revenue received. Is that expected in the next fiscal

year? Director Miller responded that in the commercial category the Department issued new leases that were not anticipated; there is a lot of interest in the energy sector, renewables, on endowment land. There was higher than anticipated increases in CPI as well, based on rents and gross receipts. Director Miller indicated the Department is seeing more income in those categories given the interest in utilizing endowment lands for various purposes and the increase in CPI based rent and is doing its best to continue pushing that number up for the endowments, in the non-timber category. Superintendent Critchfield asked if the Department's expected revenue takes into account additional revenue based on changes with leasing, as will be discussed in a later agenda item. Director Miller answered that any future discussions and the likelihood of getting projects under lease will be factored into the Department's expected revenue forecast moving forward.

Status Update

C. Fire Season

Discussion: Governor Little remarked that there are fixed costs and variable costs with aviation contracts and requested that the Department provide at the next Board meeting the amount and percentage that the fixed costs have gone up since last year. Director Miller affirmed the request. Secretary of State McGrane commented for clarification that the aviation and prepositioned engines costs, as listed in the second table on page 2, are existing contracts to have the resources available, and the variability of costs is based on fire occurrence. Director Miller confirmed that those are just the costs for having resources available for Department use.

D. Land Bank Fund

Discussion: Controller Woolf asked when the University of Idaho plans to use their \$17 million from the Land Bank Fund. Director Miller replied that the Department will find out when the Ag College is going to be drawing on that.

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

A. Manager's Report

B. Investment Report

Discussion:

Chris Anton: Governor, members of the Land Board, good morning. The fund ended the fiscal year strong. The portfolio was up 4.1% during the month of June which left it up 10.9% for the fiscal year. Financial markets were up during the month of June as Congress reached an agreement to raise the debt ceiling. Technology stocks were bolstered by emerging applications for artificial intelligence and, most significantly, inflation continued to moderate. Investors seemed increasingly optimistic that the Federal Reserve will tame inflation without pushing the economy into a serious recession. Headline inflation peaked at 9.1% last spring and through June now is declined to 3%, while keeping the labor markets strong. In May employers added 339,000 jobs, well above the estimate of 195,000. Investors believe the U.S. is going to get through this inflation challenge without having a serious recession and that kept the financial markets healthy.

Reserves are in a healthy place at year end. For those members who are new to the Land Board, by statute one of the things EFIB does is move earnings above inflation from the permanent fund

into reserve funds. The calculated inflation for the year is a 12-month average and was about 6.5%. Given that the fund was up 10.9%, that difference moved from the permanent fund into the reserve funds at fiscal year-end. EFIB has not yet closed the books and started the audit, but preliminary calculations are that the years of reserves will be healthy at the end of the year. The Public School Fund will be about 6.8 years, slightly below the 7-year target. A couple of the smaller funds may have reserves slightly above their targets.

Thanks to the Governor, EFIB has a new Investment Board member, Mary Pat Thompson. She will be replacing Richelle Sugiyama, who is CIO at PERSI and who has served on the Investment Board for the last 17 years. The Investment Board and staff greatly appreciate her service. EFIB had an orientation for Mary Pat, and she will be at the August Land Board meeting. EFIB will also recognize Richelle for her service during that meeting.

Secretary of State McGrane: For clarity and education sake, if there was a bad year in terms of the Endowment Fund, in terms of timber revenue, or other, that is when the Land Board would tap into the reserve funds to keep public education whole in terms of distributions.

Mr. Anton: Governor, Secretary McGrane, for each beneficiary there is a permanent fund and a reserve fund. The permanent funds cannot be tapped into, and they have to grow at least at inflation. All the revenue that the Department of Lands generates comes into the reserve funds and out of the reserve funds EFIB makes beneficiary payments, pays Lands' expenses, and pays EFIB expenses. That is the operating account. The two buckets are invested the same way but there is flexibility on the reserves. Why seven years for Public School reserves? EFIB did a lot of modeling with Callan and determined based on the asset allocation the fund has, based on the investment strategy the Investment Board has, which is fairly aggressive, seven years of reserves is needed for the reasons mentioned: one is volatility in the financial markets, there could be a 20-30% drop; the other is there could be a year where Lands' revenue was soft, for whatever reason, perhaps the housing market was soft. The goal is to maintain steady and consistent distributions to the beneficiaries.

Attorney General Labrador: Your report was pretty rosy about the economy. I read a couple of articles yesterday that said in spite of inflation being down, prices are well above what they should be, and there was thought that there is going to be a recession this year. Many experts believe there is that possibility. What is EFIB doing to keep on top of things like that?

Mr. Anton: People are asking why the Federal Reserve is still talking about another one, maybe two, interest rate increases; it is because the goal is to bring inflation down to 2%. There are different inflation measures; some areas are still growing at a higher rate. Inflation is going up at a slower rate but, relative to where it was, it is still very elevated which has impacted people's standard of living, particularly people on the lower end of the pay scale. Inflation is very real; costs are still very high. The Federal Reserve has work to do. The Federal Reserve is concerned if it cuts rates too fast, there could be rebound in inflation and the rates could pick up. There is concern that if the Federal Reserve keeps rates high to make sure inflation comes down to the 2% target that eventually there will be a recession. Certain interest rate sensitive sectors like housing and automobiles have slowed down because most automobiles are financed, and manufacturing is somewhat slow right now. The markets are fairly optimistic there will not be a recession. I think there is a chance there will be a slowdown.

Consent—Action Item(s)

3. Approval of Draft Minutes – June 20, 2023 Regular Meeting (Boise)

Consent Agenda Board Action: A motion was made by Superintendent Critchfield that the Land Board approve the minutes as written. Secretary of State McGrane seconded the motion. The motion carried on a vote of 5-0.

Regular—Action Item(s)

4. Ohio Gulch Commercial Ground Lease Request for Proposal (RFP) – Presented by Roger Hall-Bureau Chief, Real Estate Services

Recommendation: Direct the Department to enter into negotiations for a ground lease of the Ohio Gulch property with CZ LLC, followed by the Department's Conflict Auction Process.

Discussion:

Controller Woolf: Thank you for that background. When I first became Controller, there was a storage unit that was a hot topic. To clarify, the difference with this one is that the Department will only own the dirt, CZ LLC will own the structure and will manage it and handle everything, is that correct?

Mr. Hall: That is correct. The Department will not be operating the business at all, just collecting rent for the dirt.

Controller Woolf: What type of work has the Department done, or will we be doing, with neighbors and other stakeholders in the area of these three parcels?

Mr. Hall: Thank you for the question. The immediate surrounding area does not have a lot of infrastructure. There is a shooting range across the street that is also a tenant of the Department, and a landfill and compost operation down the road. There has not been much outreach with members of the different towns for this lease.

Controller Woolf: There is mention about fencing around this. Would these be privacy, especially in parcels 2 and 3 where the memo listed those being more of a construction place?

Mr. Hall: The fencing primarily would be for parcels 2 and 3 to separate the different companies who will be leasing from CZ. If needed, slats will be provided in the chain link, if that is the type of fencing CZ is providing, to give more privacy and kind of cover up the look of what is in there.

Controller Woolf: What is the expected timeline between now and negotiation and then to bring this back before the Land Board again.

Mr. Hall: That timeline would be determined by the negotiations and how many redlines the parties have. Typically, it is a few months before a final lease product.

Governor Little: It seems a little peculiar that you are going to have an auction, but there is one preferred person that is going to write the contract, obviously to their betterment, rather than having the auction first and then have the winner of the auction work out the lease. It is good for the Board to look at the last item because it is kind of a chicken and egg: if there are five

potential buyers and one of them writes the contract for the way that they want it, that buyer obviously has advantage over everyone else bidding on it. Why is it an auction if one party stipulates what happens in it. That is my analysis of it. It is unique; having a shooting range next to it that is leased from the Department, that means that someone is not going to put a childcare facility or residential facility there. As we get to the last item on the agenda, the Board has to figure out how to do these things, complying with the constitutional obligation to maximize yield and not make it where one vendor in particular has an advantage over everybody else.

Secretary of State McGrane: To echo on the commentary, what is the process for the Board to have time, aside from regular monthly meetings, to philosophically discuss how the Board wants to approach things.

Governor Little: The last item does a good job of providing a continuum of things that the Department does and how the Board looks at it. I appreciate the Department and the senior staff coming up with that proposal.

Director Miller: Governor, Jim will be up here for item 8 and talk a little more about the process. A few years ago, the Department went back to the drawing board to ensure that its leasing procedures were even more transparent, that we were following a set process to make sure the Department is complying with statute, rule, and the constitution, as well as how leases are advertised: go through the RFP process, advertise leases, make sure that there is an auction if there is interest other than just the applicant.

Attorney General Labrador: The AG's office requests that we get this material a week before the staff gets together. We have an attorney who looks at the overall picture of how this affects the Land Board, how it affects the constitutionality, whether there is anything that is proper or improper in the deals that the Board is doing. We need the time to assess because there are two different kinds of assessments that are being done. One is more legally specific: is the contract well written; that is what the DAGs are doing sometimes. The other one is whether this is something that is good for the Land Board and whether the Land Board should be voting yea or nay. In order for our office to give that legal assessment of the broader picture, we need the documents well ahead of the staff meeting. I think all of the members would like to have that.

Secretary of State McGrane: One thing in particular from my interest as the Department enters those negotiations is the revenue sharing piece, trying to make sure we maintain that. That is where some of the tension rises with the Board's goal to maximize things is to make sure we are not stuck in a lease that with time, as the value of the property increases, we are not receiving that increase.

Governor Little: One more question, does the Department do a liability analysis. If they are going to store a bunch of vehicles on it, battery acid, antifreeze, compared to a grazing lease or a timber lease, do we factor into these leases the potential liability or do we put that in the lease that the person who is leasing has to have a multiple million dollar liability policy and name the State as the beneficiary?

Mr. Hall: In addition to insurance requirements that are typically in the lease template, the Department also requires some bonding should any of those issues arise.

Board Action: A motion was made by Secretary of State McGrane to follow the recommendation to enter negotiations on the lease on the Ohio Gulch property. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Information

5. Proposed Rule IDAPA 20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho – Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance

Discussion:

Superintendent Critchfield: I am supportive of making the fees reflective of more than 30 years ago. Is there a long-term plan so that we do not wait 30 years to make adjustments.

Governor Little: We were informed that the funds that we have for abandoned properties is not going to be sufficient over time. Where is the Department in the pathway to not having to use either general fund money or the reserve fund? You mentioned in your opening remarks that there is not enough to cover the rehab after mining.

Mr. Wilson: For clarification, if a mine has been regulated under the Dredge and Placer Protection Act or the Mined Land Reclamation Act, it is not going to be covered by the Abandoned Mine Land Reclamation Fund. The Department has a couple of other dedicated accounts to supplement if there are shortfalls in the bonding. There is also litigation we could pursue if there is a shortfall in dredge and placer bond forfeiture. The number one reason the Department does a bond forfeiture and cancels a permit is due to bankruptcy; we are at the end of the line in bankruptcy; we are not a secured creditor. The best answer for that issue is to change the statute and get the rules updated.

Superintendent Critchfield: The broad question is what is the overall management plan? Is it every 30 years the Board is going to take a look at the permitting fee or is there a plan to look at that differently?

Mr. Wilson: Under the executive order, these rules will come up every 5 years for review. There is currently a built in mechanism for reviewing these at least every 5 years.

Governor Little: Do I understand that there are only 30 of these permits right now?

Mr. Wilson: There are approximately 30, yes.

6. Proposed Rule IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund – Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance

Discussion: None.

7. Proposed Rule IDAPA 20.03.05, Riverbed Mineral Leasing in Idaho – Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance

Discussion: None.

8. Endowment Land Leasing Continuum – Presented by Jim Elbin, Division Administrator-Trust Land Management

Discussion:

Governor Little: I appreciate this; it is what the new Board members have been asking for because this is complex. The fact that the Department has less residential income is because the Board took a position years ago to get rid of the residential and commercial; that was a Board policy, maybe not done from a 30,000 foot view as proposed here. Director Miller and Jim, how do you want the Board to proceed, how would you have us operate this?

Mr. Elbin: We are all happy to answer any questions you may have today. The Department needs to improve this program to not miss opportunities to do what we can do. We have a process, and it has been sound. The Department needs to start taking advantage of opportunities, getting a comfort level from Board members' perspective on what opportunities to consider. Is the vertical, hypothetical line in the right place, or does the Department need to go back to the drawing board and really explore everything, work with our advisors and our legal team.

Director Miller: Time spent with the Board's respective staff members on these concepts and ideas to boost revenue on the non-timber side of things while ensuring a level of comfort for each individual Land Board member is needed. Individual meetings that I hold regularly with Land Board members is helpful, as well as getting feedback on potential ideas for endowment leasing. More communication, more ideas brought to Land Board staff members, regular communication to keep moving the ball forward here is what it is going to take.

Attorney General Labrador: On the spectrum, the first chart, it shows really green to really red. I suppose it is not based on returns; it is just based on ease. Is there one particular thing the Department does that is the most cost effective and brings the most returns to the state? Tell me what you think about it and why we do not do it more.

Mr. Elbin: It is residential leasing. If that had been structured properly, that is one of the Department's opportunities for the highest rates of return. We do not want to be in the business of owning commercial buildings, but the Department could lease the land; that would be the other one. We should lease the land and allow the private sector to develop on it. Both of those are big opportunities and if the state's growth continues, the endowments own some prime real estate there. The other side of it is having an idea of what the comfort level of this is: advertise, if there is no interest, then that helps the Department know where we can start disposing of lands. We have statutory limitations on how much disposition we can do. It is in the Department's best interest as an agency for long-term management to get ahead of this, be proactive, see what opportunities are out there. Those first two I mentioned are highest opportunity for good return.

Attorney General Labrador: Looking at the Ohio Gulch commercial ground, there was a huge discrepancy in the return; that is what you are talking about.

Mr. Elbin: Yes, sir.

Superintendent Critchfield: Board members and staff will have the discussions as mentioned; do you have an overall timeline? Is there something the Department is trying to back up against so that the Board has an idea of how quickly to set something up with you.

Mr. Elbin: Department staff can be available whenever. The clock is not ticking on anything other than missing opportunities; we really do not know how many of them are out there, but I would rather build a mature process that is going to stand up, be fair, open, and transparent so everyone coming to the bidding table knows what they are getting into and move into this much quicker when the Department goes into a leasing process. To move the needle on income, we do not have to get thousands of acres under lease. If we get a couple hundred under lease, we are going to move the needle on the revenue and perfect the process as we go.

Governor Little: This Ohio Gulch lease is either overtly or covertly going to send a message and the Department is going to get more applications for something similar as a result. How many diverse residential leases do we have like Ohio Gulch?

Mr. Elbin: I will have to get back to you on the exact number.

Controller Woolf: In the sense of constitutional or statutory, we are dealing with the 320-acre issue or blocking up other parcels to make it more valuable, are those expectations included in this review?

Mr. Elbin: The Department did not really address that here; we have more dispositions that we are going to do in Land Bank funds, then we not only look at our current asset class, do we now look at investing beyond that, and does it make sense to do some privatization and sell endowment land to pick up endowment land elsewhere and secure more revenue. It is all part of the whole asset management portfolio.

Secretary of State McGrane: I appreciate us having these conversations; I look forward to meeting and chatting more. Regarding one of the issues that you articulated well, especially around some of our resort communities, land appreciation has been significant over the last decade and trying to hold on to the land is one of the best things the Board can do. Use the Land Bank and purchase additional land. As we explore the opportunities for recreation, including some of the forest land, because along with the population growth it is not only the resort communities, finding camping sites in some instances is hard. We do not need glamping, just a dirt spot and someone will put a tent there. The value of the land is becoming such that the Board has to confront the leasing opportunities. What the Governor said earlier, and what Jim pointed out, is that the Department is better positioned if it is putting out solicitations for anybody, rather than a first come, first served approach which seems to be where we are right now. If we can start to foresee, like any other developer or anybody else with land in an area, what is headed, we can be strategic about that; that is important. The Department is always going to have a portfolio with undesirable land versus some of the coveted land. Looking back, some of that land we had around the lake sites would be nice if we had that land. I think now it is just the risk profile, having those conversations, how do we manage that risk appropriately.

Governor Little: Reference this Ohio Gulch lease about how we want to do that. Two things that come to mind to me: one, we compare these to an appraisal. We have not done a great job of appraising real estate in some instances recently; we need to talk about that. The other thing is the hurdle rate. You just heard the EFIB tell us that their rate is 6%. Our hurdle rate is two?

Mr. Elbin: I think we are 3.15% now.

Governor Little: When you are trying to do a present value analysis, if you do not have accurate inflation data, you are not doing the right analysis. The hurdle rate, looking at the appraisal, and how you do the discounted net present value going forward is part of the process.

Mr. Elbin: To that point, I can do the financial analysis and look at lease terms. It is not only exploring these other opportunities that are outside the Department's usual strengths but being a good steward of that resource as well. The Department does a really good job of that. It is looking at where we can expound, find the common good, where we can do multiple uses, and then identify places where it makes sense to move this land into a new asset class that gets much higher returns than the usual. I appreciate the comments on that.

Secretary of State McGrane: A couple of other thoughts that are indirectly related that I want to look at as we take this 30,000-foot view. Timberland is where the Department is getting the money, as you highlighted really well. How are we calculating the risk of wildfires into that. On a 40-year rotation that means that every year there is the opportunity to lose your entire asset class. Making sure that we are appropriately valuing that land versus some of these alternative approaches in terms of how we manage that land. The other piece, and this one is particularly sticky and complicated, is looking at local governments. What the Board hears about every time we buy land is the tax revenue. Benewah County, in particular, where they have a lot of valuable resources but a very small tax base. We have limitations as a Land Board, but I think we also can be voices at the legislature to try and find ways; even the legislature benefits when the Board is making distributions to the beneficiaries. What can the Board do to help make those communities whole as we look at some of these opportunities.

Governor Little: When we take a whole bunch of state ground in Valley County and Bonner County, put it on their tax rolls, the Board does not get any calls from those guys. *[laughter]*

Director Miller: Those are things the Department is very aware of and looking at certain parcels that maybe do not make sense for us to own anymore. Maybe we are not making much income off that ground, it may be in the path of development, it is better suited to be reclassified. Those are things we look at when we make these acquisitions. The point about recreation is spot on. We are getting overrun on endowment lands. It is no secret why people want to be here and to really focus on how the Department monetizes recreation through leasing or other opportunities while still maintaining that ground for traditional ground use activities is a huge priority for us. We are working closely with the Parks Department on various concepts and ideas. As Mr. Elbin mentioned, the Department is working on a more comprehensive recreation plan that we will bring to the Land Board later this year.

Executive Session

None

There being no further business before the Land Board, at 10:20 a.m. a motion to adjourn was made by Controller Woolf. Secretary of State McGrane 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/ Phil McGrane

Phil McGrane
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 August 15, 2023 Land Board meeting.