



Cassia County Board of Commissioners REGULAR MEETING MINUTES

Monday, January 9, 2023

Cassia County Courthouse ▪ Commission Chambers
1459 Overland Ave ▪ Room 206 ▪ Burley ID 83318

9:00 AM

The Cassia County Board of Commissioners met today at the place and time as posted by agenda pursuant to Idaho Code § 74-204 for Open Meetings Law.

ACTION AGENDA ITEMS

- 1) 9:03 AM Call to order
- 2) Pledge of Allegiance and prayer
- 3) 9:05 AM Roll call

Roll Call.

Present: Leonard M. Beck - Chair, Kent R. Searle - Member, Bob Kunau - Member, Kerry McMurray - Assistant to Board (Not voting), Cally Velasquez - Deputy Clerk (Not voting).

- 4) 9:06 AM Calendar, meetings, committee reports, and correspondence were reviewed.
 - a) 1/11/2023 - Mini-Cassia Transportation meeting at 7:00 AM - Beck
 - b) 1/12/2023 - Fair Board meeting at 7:00 PM - Beck
- 5) 9:10 AM Approve payables for 1/9/2023

9:10 AM **Motion and Action:** Approve payables as presented on 1/9/2023, **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member.
Motion passed unanimously.

- 6) 9:14 AM Approve minutes from 1/3/2023

9:14 AM **Motion and Action:** Approve minutes from 1/3/2023 as presented, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.
Motion passed unanimously.

- 7) 9:15 AM Approve December 2022 Synopsis

9:15 AM **Motion and Action:** Approve December 2022 Synopsis as presented, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.
Motion passed unanimously.

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Instrument # 2023000224

BURLEY, CASSIA, IDAHO

1-30-2023 11:15:29 AM No. of Pages: 13

Recorded for : CASSIA COUNTY COMMISSIONERS

JOSEPH LARSEN

Fee: 0.00

Ex-Officio Recorder Deputy

Index to: COMMISSIONERS MINUTES

EV

8) 9:16 AM Approval of Clerk's Office recommendations regarding junior college Certificates of Residency

9:16 AM **Motion and Action:** Approve Clerk's Office recommendations to approve three and deny one junior college Certificates of Residency as presented, **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member.

Motion passed unanimously.

9:15 Prosecutor Larsen entered the meeting.

9) 9:18 AM Personnel Matters - Change of Status Requests

- a) Assessor - Becky Mallory - Head Office Clerk - new hire
- b) Assessor - Cyndi Teal - Office Clerk - grade change
- c) Assessor - Julie Salinas - Office Clerk - grade change

9:19 AM **Motion and Action:** Approve Change of Status Requests as presented **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member.

Motion passed unanimously.

10) 12:23 PM Executive Sessions

12:24 PM **Motion and Action:** Enter Executive Session pursuant to Idaho Code § 74-206 (1) (b) to consider personnel issues, **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3).

Yes: Kent R. Searle - Member, Bob Kunau - Member, Leonard M. Beck - Chair.

12:35 PM Upon exit of Executive Session, the board took the matter under advisement.

11) 9:41 AM Adopt Resolution No. 2023-001 adopting the Title VI Nondiscrimination policy statement; Discrimination Complaint Procedure; and Assurances, Organization and Compliance Responsibilities for Cassia County, Idaho

9:43 AM **Motion and Action:** Approve adoption of Resolution No. 2023-001 adopting the Title VI Nondiscrimination Policy statement as presented, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.

Motion passed unanimously.

12) 9:45 AM Adopt Resolution No. 2023-002 adopting general notice of regular open public meetings for Cassia County, Idaho

9:47 AM **Motion and Action:** Adopt Resolution No. 2023-002 adopting general notice of regular open public meetings for Cassia County, Idaho as presented, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.

Motion passed unanimously.

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- 13) 9:48 AM Adopt Resolution No. 2023-003 classifying certain Assessor's Office records as semi-permanent and ordering their destruction

9:49 AM **Motion and Action:** Adopt Resolution No. 2023-003 classifying certain Assessor's Office records as semi-permanent and ordering their destruction as presented, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.
Motion passed unanimously.

- 14) 12:35 PM Adopt Cassia County Ordinance 2023-01-01 to approve amendments to Title 9 Zoning Regulations and Title 10 Subdivision Regulation.

- a) Matter will be postponed until the special meeting of the Board of County Commissioners scheduled for Thursday, January 12, 2023 at 10:00 AM.

- 15) 9:50 AM Discuss fuel pricing and billing issues, and possible RFP

- a) Correspondence was received regarding issues with county fuel purchases and billing issues. Ever since another company bought out Mr. Gas there have been problems with billings being either incorrect, double billed or nonexistent. They've also had several struggles talking to people at the company in order to get the matters straightened out. The frustration has gotten to the point that something needs to be done.
- b) Three options were discussed. They could talk to the City of Burley about an agreement to provide fuel for all of the County's vehicles, they could send out an RFP, or they could use the underground tanks at the Weed & Pest building.
- c) The first option was most favorable since the city already works with Law Enforcement vehicles. The third option is least favorable since it would require time and resources to bring the tanks up to code and then researching what it would take to maintain those tanks on a continuing basis.
- d) The Board asked Sheriff Warrell to talk with the City of Burley about a possible arrangement and Deputy Auditor Wallace to work with Clerk Larsen in contacting other counties to see what they do.

- 16) 12:23 PM Discuss building needs of proposed new building

- a) A special meeting of the Board of County Commissioners will be held Thursday, January 12, 2023 at 10:00 AM to discuss this matter.

- 17) 12:20 PM Appoint member(s) to P&Z Commission

- a) Two positions were up for vacancies. Kent Durfee was seeking reappointment for one seat and Nate Francisco was applying for the second seat.

12:20 PM **Motion and Action:** Approve the reappointment of Kent Durfee and appoint Nate Francisco as Planning & Zoning Commissioners, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.
Motion passed unanimously.

SCHEDULED ACTION AGENDA ITEMS

- 18) 9:20 AM Administer Oath of Office for County Elected Officials from the November 2022 Election

- a) Elected Official sworn into office by Chair Beck:
- i) Clerk of the District Court - Joseph W. Larsen
- b) Elected Officials sworn into office by Clerk Larsen
- i) District #2 County Commissioner - Robert J. Kunau

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- ii) District #3 County Commissioner - Kent R. Searle
- iii) County Treasurer - Laura S. Greener
- iv) County Assessor - Martin K. Adams
- v) County Coroner - Craig J. Rinehart
- c) Pictures of the newly elected officials were taken.
- d) 9:41 AM Board of County Commissioners appointment of Chair of the Board

9:41 AM **Motion and Action:** Approve nomination of Commissioner Leonard M. Beck to serve as Chair of the Board of County Commissioners, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member. Motion passed unanimously.

19) 10:05 AM Discussion regarding ProAct RX matters

- a) Some county employees experienced problems filling prescriptions this last week since the change in the prescription insurance that took effect January 1, 2023. They believe the issues have been corrected.
- b) New prescription cards are being issued to all county employees. Phyllis Merrill from MBA Insurance encouraged all employees who were experiencing problems to contact MBA immediately.

10:15 Prosecutor Larsen exited the meeting.

20) 10:26 AM Public Hearing on proposed amendments to zoning ordinance and subdivision ordinance

- a) Chair Beck asked for those in attendance to sign the Attendance Log.
- b) He asked for those speaking to go to the podium and announce their name, address, and proposed ordinances with which they have concern.

10:27 AM **Motion and Action:** Enter public hearing for proposed amendments to zoning and subdivision ordinances, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member. Motion passed unanimously.

- c) The Board received and reviewed letters from Ag Professionals and Skyline Dairy which were entered into the record as written testimony to the proposed ordinance changes.
- d) 10:29 AM Don Pickett testimony. Pickett represents Pickett Ranch and Sheep Company. He submitted written comments for the record. Pickett referenced the Idaho Right to Farm Act stating he felt the proposed ordinance is in direct conflict with natural rights addressed in that Act. He said that puts the taxpayers of Cassia County in apposition to pay a lot of legal fees he hoped to help avoid. He stated that inalienable rights cannot be taken away from producers of agriculture.
- e) Pickett referenced the Land Use Planning Act which outlines the confines with which the County Commissioners have to work. He cited Idaho Statute § 67-6529 which limits "board of county commissioners to enact any ordinance or resolution which deprives any owner of full and complete use of agricultural land for production of any agricultural product." He further cited from that statute, "Agricultural land shall be defined by local ordinance or resolution." Pickett said there is no definition of agricultural land in the existing county ordinance.
- f) Pickett noted an Idaho Supreme Court case from 1982, Olson vs. Ada County where the plaintiff was denied a zoning certificate by Ada County Planning & Zoning Board. The District Court ruled that Ada

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County was denying “full and complete use of agricultural land.” Ada County appealed that decision to the Idaho Supreme Court.

- g) In reference to modification of waste management systems, Pickett said the ordinance proposal states it must meet the requirements of County Code Section 9-11-6. That is the section Cassia County wants to limit to irrigable acres only in the calculation of how many animal units can be placed on that facility. Pickett believes that is a problem.
- h) 10:41 AM Reed Gibby Testimony. Gibby asked what the Board’s purpose was for the ordinance. Commissioner Searle said his number one concern was water. Chair Beck said that was fair to say that is a concern. Commissioner Kunau stated he was told the proposed ordinance was a modest language change. He had received more phone calls regarding this issue than any in the past twelve years. He hadn’t reviewed the language thoroughly but pledged to do so going forward. Kunau stated he was getting tired hearing about water stating that a few years ago we couldn’t get it all down the Snake River. He further stated it wasn’t the obligation of Commissioners to regulate water; that is done by the Idaho Department of Water Resources (IDWR).
- i) Gibby said this change would take away he and his family’s right to be able to utilize property and businesses they have purchased. He desired to know that if this ordinance is to control the water, how it was going to help the water situation. It was agreed that the common concern was to help the whole of Cassia County. Gibby concluded that he would assume giving up his rights would help all of Cassia County.
- j) 10:50 AM David Heida Testimony. Heida provided written testimony for the record. Heida is General Manager and In-House Counsel for Millenkamp Cattle/East Valley Cattle. He referred to the Commissioners requirement to take into account the most recently adopted Comprehensive Plan. That plan outlines promoting the preservation of agricultural ground for agricultural purposes. Heida said that nutrient management and regulation is a requirement from the Idaho State Department of Agriculture (ISDA). He stated further that all water in the State is regulated by the IDWR. As such, he said the Commissioners do not have the statutory authority to regulate water that has already been allocated for use, first in time, first in right priority.
- k) Chair Beck discussed and asked questions about the declining aquifer with Heida, who stated the Commissioners are attempting to fix a problem that doesn’t exist. Heida continued by referring to a need for additional milk processing and Cassia County is a prime location for that. He referenced multiple companies looking to invest as much as \$1 billion investment and job creation to accomplish that. With this ordinance, Heida said the Commissioners are going to kill the possibility of another dairy processing facility in this valley.
- l) Heida referred to other county CAFO ordinances. Gooding is anywhere from five to seven animal units per acre, and Jerome is 10. Twin Falls, Elmore, Minidoka, and Bingham do not have any animal units tied per acre. He stated that is because they recognize that when they have a CAFO permit or expansion come before them, those issues can be addressed when brought before them.
- m) Based on the serious impact to this community, Heida asked the Commissioners to table this matter and form an exploratory committee to look at the actual impacts to Cassia County before there is an ad hoc arbitrary decision that would have a tremendous affect.
- n) Heida and Commissioner Searle agreed that it is prudent to pump water back into our aquifer to further use it for agricultural purposes rather than send it down the Snake River. Commissioner Searle stated that last year Southwest Irrigation District got only 20% of the water they normally get because it wasn’t there. Heida stated the proposed addition of irrigable acres is an IDWR issue and not a county

commissioner issue. He felt the implementation of the proposed ordinance isn't solving the ultimate problem.

- o) 11:07 AM Ben Gibby Testimony. Gibby stated CAFO possibilities of a farm or ranch are banked into the value of a property. If this ordinance passes, land values will be very severely decimated. He further stated it is very discriminatory based on the footprint required to sustain hogs and chickens with that argument is saving the county water because they are mostly small grains and feed imported from the Midwest. He agreed with earlier testimony that animal units per acre is very arbitrary. Taking this away from dry ground would assume that dry ground has zero yield potential, which is not true.
- p) 11:10 AM Matt Thompson Testimony. Thompson is with Ag Professionals and provided written testimony to the Board. He stated he lives in Twin Falls, but most of those present during this hearing adversely affected by the proposed ordinance have been clients of his at one time or another. He stated that Cassia County has the strictest requirement in the State of Idaho at only two animal units per acre. Thompson admired the straight forward language of the current ordinance but that this amendment is very ambiguous. He agreed that ground water is definitely an issue. He asked if cattle really is the issue driving the problem. Thompson provided water right statistics in the State of Idaho from IDWR and University of Idaho for irrigated and cattle operations. Chair Beck pointed out that actual water usage for irrigation differed from the statistics he cited. Thompson stressed that if all cattle in Cassia County were euthanized, the water issue would not be solved.
- q) He agreed with Ben Gibby that the overall value of dry ground property would take a hit. Chair Beck stated that assessed value of dry ground has not been diminished even though there is not a lot of dry ground that has been attached to a CAFO permit. Commissioner Searle said there is nothing in this proposed ordinance that changes the nutrient management plan. Thompson stressed that the overall concern by a lot of those present in the hearing was the short public notice about the hearing was that Title 9 Zoning Regulations was going to be changed. No other information was given unless you went to the County website and begin searching to find what the proposal is all about. He said that decisions are being made without people being made sufficiently aware of it which has led to a lot of those present at the hearing being upset about it.
- r) 11:21 AM Rick Naerebout testimony. Naerebout is the CEO of the Idaho Dairyman's Association. Their organization advocates on behalf of dairy farms. He reiterated that animal density requirements are the strictest of any in the State of Idaho. That is not a small thing to overlook. He underscored the regulations for water use and nutrient management is that of the IDWR and the ISDOA. He referred to page 51 of the Cassia County Comprehensive Plan and quoted, "In forming those regulations, caution must be exercised to assert appropriate county control, while dove-tailing with, but not impinging upon, applicable state regulations of CAFOs." He said so there isn't appearance of animas towards animal agriculture, it would be appropriate that the Commissioners consider similar provisions for sugar beets, potatoes, and other high water use crop production. This proposal presents a significant policy shift from what the county has had in the past. He also suggested a working group to work together through changes.

- s) 11:25 AM Further testimony of Don Pickett. Pickett presented additional points:
 - i) Pickett is a member of the Southwest Irrigation District Board. He said that this proposal will hurt, not help water management. He implored the Commissioners to deny this proposal.
 - ii) Referring to Commissioner Searle's statement that this ordinance will not affect waste management plans. Pickett said that is not the case as it adds to Cassia County Code in 9-11-6 language that precludes dry ground.
 - iii) The Oakley Canal Company is currently negotiating a multimillion-dollar plan that includes a pipeline to address flood water. If that is not specifically in the zoning chart, it has to be prohibited under the county's own language, which is a problem.
 - iv) The Right to Farm Act contains a list of various agricultural activities that are a right to farm. He asked where on the zoning chart does it addressed beekeeping.
- t) 11:29 AM Chair Beck asked a question about digestors. Heida addressed the importance of digestors as it allows the processing of manure into a valuable resource, in particular green water, fiber, potassium, and nitrogen. It also produces an additional revenue stream for natural gas. He said it is the way of the future for mitigating concerns with nutrient management.
- u) Chair Beck thanked all those who attended and acknowledge the challenge with notification. He said they would work on that.

11:34 AM **Motion and Action:** Exit public hearing for proposed amendments to zoning ordinance and subdivision ordinance, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.

21) 11:40 AM IACRC Election Conference follow up and polling place matters

- a) Elections Director Susan Keck and Chief Elections Officer Clerk Joe Larsen reported on the Idaho Association of County Recorders and Clerks annual Elections Conference this past week. Topics covered included cybersecurity, physical security at polling places, along with election funding and grants.
- b) It was recommended at the conference that counties look to changing their web domain from .org to .gov to assist in mitigating adverse cybersecurity issues.
- c) In working with ICRMP attorney, Carl Erickson, the Temporary Use Agreement in place with the Church of Jesus Christ of Latter-day Saints is not going to be changed for elections. That will preclude the use of their facilities for elections at this point in time. The affected church polling places include Declo, View, Unity, Pella, Starrh's Ferry, and the Burley 3rd and 7th Ward building west of Dairy Queen. Alternate polling places will need to be secured as soon as possible as the deadline to designate polling places for the upcoming 3/14/2023 Consolidated Election is 2/6/2023.
- d) That situation needs to be addressed quickly to advise affected voters of the change. The Board was also encouraged to have a commissioner assigned to work directly with the Elections officers as a liaison.
- e) Potential locations that were discussed included a Cassia County Fairground facility, Stoker's Straw Maze and Events Center, the Burley Events Center and the Zion Lutheran Church. Options to consider include additional mail-in precincts, combining one or more precincts to a single polling place, and cost-saving considerations.
- f) It was also pointed out that it is critical that locations decided upon need to be available for the 2024 General Election to cause the least amount of disruption to voters.
- g) Chair Beck said he would check out the Burley Event Center. Commissioner Searle will check with Stoker's Event Center.

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22) 12:36 PM Adjourn

12:36 PM **Motion and Action:** Adjourn, **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member.
Motion passed unanimously.

APPROVED:



Leonard M. Beck, Chair

DEPUTY CLERK OF THE BOARD:



Cally Velasquez

SUMMARY CLAIMS APPROVAL REPORT INCLUDING BUDGET BALANCES

BOTH UNPAID CLAIMS & DEMANDS GENERAL GOVERNMENT FUNDS

27% OF FISCAL YEAR ELAPSED

* UNAPPROVED DEMANDS APPEAR IN ACTUALS AND ALSO AS AN INVOICE .

Fund	Budget	Actual	Demand/Claims Amt	Budget Remaining	% Budget Remaining
0001 GENERAL FUND (CURRENT EXPENSE)	5,237,898.00	1,412,961.77	72,630.87	3,824,936.23	73%
0002 ROAD & BRIDGE	579,720.00	133,370.04	5,118.82	446,349.96	77%
0006 DISTRICT COURT	374,120.00	98,939.68	5,688.81	275,180.32	74%
0008 JUSTICE FUND	12,291,405.00	2,855,661.93	193,970.63	9,435,743.07	77%
0012 M-C MISDEMEANOR PROBATION	1,098,450.00	274,535.82	17,471.10	823,914.18	75%
0013 911 COMMUNICATIONS	871,000.00	29,936.77	13,144.39	841,063.23	97%
0015 CONSOLIDATED ELECTIONS	217,865.00	8,432.50	249.82	209,432.50	96%
0016 SOCIAL SERVICES-ASSISTANCE	747,118.00	53,163.11	1,538.00	693,954.89	93%
0018 CASSIA COUNTY FAIR	270,708.00	19,226.69	1,392.00	251,481.31	93%
0020 REVALUATION	452,825.00	111,117.57	8,664.44	341,707.43	75%
0023 SOLID WASTE DISTRICT	828,700.00	0.00	414,345.50	828,700.00	100%
0027 NOXIOUS WEED & PEST	426,030.00	71,473.51	4,175.00	354,556.49	83%
0028 SNOWMOBILE	86,450.00	10,208.47	1,478.11	76,241.53	88%
0029 PHYSICAL FACILITIES	274,300.00	494,993.10	17,009.43	-220,693.10	-80%
0048 EMPLOYEE BENEFITS FUND	3,621,490.00	677,832.58	77,720.57	2,943,657.42	81%
		Total Amount Paid	834,597.49		

STATE OF IDAHO
CASSIA COUNTY

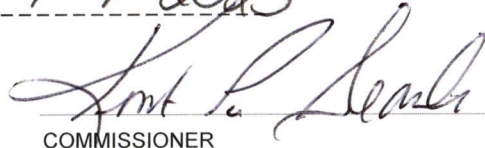
WE, THE CASSIA COUNTY COMMISSIONERS, BEING DULY SWORN DO HEREBY CERTIFY AND DECLARE THAT
WE HAVE REVIEWED THE DEMANDS ENUMERATED AND REFERRED TO IN THE FOREGOING REGISTER, AND THAT THE SAME ARE
TO THE BEST OF OUR KNOWLEDGE ACCURATE AND ARE JUST CLAIMS AGAINST THE COUNTY, AND THAT THERE ARE FUNDS
AVAILABLE FOR PAYMENT THEREOF IN THE COUNTY TREASURY.

APPROVED FOR DISTRIBUTION AS OF

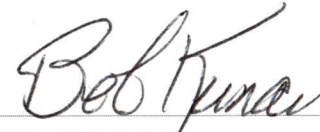
1-9-2023



COMMISSIONER



COMMISSIONER



COMMISSIONER

* WARNING: This fund is over budget

Cassia County Commissioner Meeting

Attendance Log

Date: 01/09/2023

	NAME (Please Print)	TOWN	REPRESENTING
1.	Ben Gibby		
2.	Jordan Bowen	Oakley	IFS
3.	Joe Larsen	Burley	CLERK
4.	Martin Adams	Burley	Assessor
5.	Felipa Cano	Burley	citizen
6.	Luella Adams	Burley	citizen
7.	Jay Howard	Burley	self
8.	J. Thompson		CCSO
9.	Craig Rinchart	Burley	Coroner
10.	Michelle Wallace	Rupert	Auditor
11.	Shari Becke	Burley	Treasurer
12.	Laura Greener	Burley	Treasurer
13.	BC Wright	Burley	Citizen
14.	Boye Adams	Oakley	citizen
15.	Blake Adams	Oakley	Citizen
16.	Janet Molina	Burley	assessor
17.	Kara Shu	Burley	Assessor
18.	Isabel manias	Burley	DMV
19.	Krisha Adams	Oakley	Citizen
20.	Dan Jones	Burley	Assessor office
21.	Grace Withman	Burley	Extension
22.	Don F. Pickett	Oakley	Pickett Ranch & Sheep Co. et al
23.	Kelly Bowen	Burley	Bowen Ins
24.	Todd Taylor	Burley	

Cassia County Commissioner Meeting

Attendance Log

Date: _____

	NAME (Please Print)	TOWN	REPRESENTING
1.	Joshua Webb	Raft River	Huglar Creek Dairy
2.	Arvid Carlson	MALTA	Five Rivers Cattle Feeding
3.	Reed Cohn	Burley	Cohn Livestock
4.	Nolan Branch	Matta	Branch Farms
5.	Rhett Miller	Burley	Silver Canyon Construction
6.	Justin Praegitzer	Oakley	Skyline Dairy
7.	Connor Bosma	Oakley	Skyline Dairy
8.	Brant Bosma	Oakley	Skyline Dairy
9.	Logan Bosma	Oakley	Skyline Dairy
10.	Clancy Rogers	Oakley	Skyline Dairy
11.	Adam Taylor	Oakley	Skyline Dairy
12.	Spencer Black	Alamo	Blacklivestock / ICA
13.	David Gerratt	Dedo	Midway Dairy / Idaho Gold Farms
14.	Valene Wiley - AGPRO	TWF	AGPROFESSIONAL
15.	David Heide	Ag Dedo	Millenkamp / East Valley Cattle
16.	Matt Thompson	TWF	Ag Pro's
17.	Jake Millenkamp	Dedor	Millenkamp / East Valley cattle
18.	Rick Naerabost	Kimberly	Idaho Dairyman's Assoc
19.	Tyson Nelson	Burley	Gubby Group
20.	Mark Mottay	Burley	
21.	Alan Stuebner	Twin Falls	Magic Valley Milk Pro
22.	Tyrel Brower	Burley	
23.	Seaton Brower	Burley	
24.	Randy Robinson	Oakley	ACME Dairy

Cassia County Commissioner Meeting

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NAME (Please Print)	TOWN	REPRESENTING
1. Susan Keck	Almo	Elections
2. George Warrell	Carley	Sheriff
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