



# Cassia County Board of Commissioners SPECIAL MEETING MINUTES

Tuesday, February 21, 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, Cally Velasquez - Deputy Clerk (Not voting).

- 4) 9:06 AM Calendar, meetings, committee reports, and correspondence were reviewed.
  - a) 2/21/2023 - Fair Board Meeting at 7:00 PM - Beck
  - b) 2/22/2023 - South Central Public Health trustee meeting at 4:00 PM - Kunau
  - c) 2/22/2023 - Solid Waste District Meeting - Beck
  - d) 2/25/2023 - Lincoln Day Luncheon by the Mini-Cassia Republicans at 11:00 AM
  - e) 3/1/2023 - Invitation from ITD to review proposed changes on ramps 208 and 216
  - f) The USFS has emailed an update on their Badger Creek fencing project. They've let the contract out to a company from Nevada in the amount of \$880,000.00.
- 5) 9:10 AM Approve payables for 2/21/2023

9:11 AM **Motion and Action:** Approve payables as presented on 2/21/2023, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member.  
Motion passed unanimously.

- 6) 9:13 AM Approve minutes from 2/13/2023

9:13 AM **Motion and Action:** Approve minutes from 2/13/2023 as presented, **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member  
Motion passed unanimously.

CASSIA COUNTY COMMISSION  
SPECIAL SESSION  
Tuesday, February 21, 2023

**Instrument # 2023000512**

BURLEY, CASSIA, IDAHO

2-27-2023 11:57:58 AM No. of Pages: 10

Recorded for : CASSIA COUNTY COMMISSIONERS

JOSEPH LARSEN Fee: 0.00

Ex-Officio Recorder Deputy

Index to: COMMISSIONERS MINUTES

EV

7) 9:13 AM Approval of January 2023 synopsis

9:13 AM **Motion and Action:** Approve January 2023 synopsis as presented, **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member

Motion passed unanimously.

8) 9:14 AM Approval of Clerk's Office recommendations regarding junior college Certificates of Residency

a) There were none to be considered at this time.

9) 9:14 AM Personnel Matters - Change of Status Request

a) MCCJC - Cheyenne Heaton - Jail Tech Control - new hire

9:15 AM **Motion and Action:** Approve Change of Status Request as presented **Moved by** Bob Kunau - Member, **Seconded by** Kent R. Searle - Member.

Motion passed unanimously.

10) 9:32 AM Executive Sessions

9:32 AM **Motion and Action:** Enter Executive Session pursuant to Idaho Code § 74-206 (1) (b) to consider personnel issues, Idaho Code § 74-206 (1) (f) to communicate with legal counsel regarding pending/imminently-likely litigation, and Idaho Code § 74-206 (1) (i) to communicate with risk manager/insurer regarding pending/imminently-likely claims, **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.

9:56 AM Upon exit of Executive Session, the board took the matter under advisement.

11) 10:56 AM Sign Professional Services Agreement with erstad for design services of new office building

a) This item will be put on next week's agenda to afford Prosecutor Larsen time to review the contract.

#### **SCHEDULED ACTION AGENDA ITEMS**

12) 9:16 AM VSO periodic update - Chuck Driscoll

a) Mr. Driscoll presented a quarterly report. He noted asterisks on certain report numbers dealing with hours and military funerals and explained that in the past they had only been counting hours from one person. During one of their meetings, it was discussed that they should be giving credit for all of the hours donated and miles donated rather than just from one individual.

b) Mr. Driscoll was pleased to announce they now have a Veteran's Pantry which has been supplied mainly by other Veterans. He said they were able to keep up quite well with the needs of veterans and their families.

c) Commissioner Searle asked about medical coverage. Driscoll reported that coverage has diminished and relayed his own experience with the matter. Driscoll said the quality of the health care is as good as it ever was. He stated that the issue lies within the veterans' ability to pay the bills that come due and

**CASSIA COUNTY COMMISSION**

**SPECIAL SESSION**

**Tuesday, February 21, 2023**

contributed the new fee structures and practices of turning veterans over to collection agencies rather than garnishing their social security to the current government administration.

- d) Commissioner Kunau was asked to work with Mr. Driscoll on sending a letter to Congressman Simpson's office regarding the matter if they don't get back with him in the next little while.
- e) Pat Field from the Republican Central Committee noted that the key-note speaker for the Lincoln Day Luncheon on Saturday will be Senator Mike Crapo. He also said that the Governor and Lt. Governor will also be in attendance.
- f) The Vietnam Veterans' Recognition dinner will be held 3/29/2023 at the Minidoka County Senior Center from 6:00 PM to 8:00 PM.

9:23 AM Prosecutor Larsen entered the meeting.

9:26 AM Mr. McMurray entered the meeting.

13) 9:27 AM Schedule Tax Deed Hearing date and time for 2019 Delinquent Properties - Treasurer

- a) Treasurer Greener requested to set a date for a Tax Deed Hearing. This will allow her office to start the formal letters to those that still owe 2019 taxes.
- b) There are still 108 parcels owned by 34 owners on the list. That number is up from last year at this time when there were 87 parcels with 30 owners. Some of the current parcels on the list have just been sold in the last week so those taxes should be brought to a current status soon.
- c) It is likely that this tax deed hearing will be cancelled if the Treasurer can get every owner to bring their taxes current. Cassia County has not had a tax deed hearing in three years due to those efforts.
- d) Tax Deed hearing was scheduled for 5/22/2023 at 9:30 AM.

14) 9:32 AM Review & approve Idaho Dept of Parks & Recreation Agreement re: Boat Safety Grant - Taylor

- a) This item was cancelled and will be put on the next week's agenda.

15) 9:57 AM Hearing on amendments to zoning ordinances, Ordinance 2023-01-01, amended

9:57 AM **Motion and Action:** Approve entering hearing on proposed amendments to zoning ordinances, Ordinance 2023-01-01, amended, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member. Motion passed unanimously.

- a) Mr. McMurray first reviewed all of the amendments being proposed.
  - i) Appeals processes were being amended due to a case brought before the Planning and Zoning Commission in which there were two different sets of rules the case could fall under. For the sake of efficiency, the Commission decided to make one set of rules for both situations. Appeal rules set in Title 10 were being repealed and referred to rules set forth in Titles 9-5-6 and 9-5-7 for those processes.
  - ii) A case in Boundary County spawned the proposed changes to the zoning chart of uses being submitted. It involved Idaho Code Title 67-65-12. He said the Supreme Court stated that zoning administrators cannot make judgement calls with amendment processes. Those must go through the Board of County Commissioners. Mr. McMurray pointed out the sentence that seems to be causing concern in the proposed amendment, which states, "If it is not listed in these regulations, then it is not eligible for a permit." He reminded the Board that they can opt to remove that language if it is of concern to them.

**CASSIA COUNTY COMMISSION**  
**SPECIAL SESSION**  
**Tuesday, February 21, 2023**

- b) 10:21 AM Mr. Samuel Parry representing the Gibby Group. They are opposed to most of the language being put forth. They argue that the amendment changes give undue advantage to the county at the expense of the tax payers. He pointed out County Ordinance 9-3-3 which says that no amendment should be considered unless it promotes more fully the objectives and purposes of the zoning ordinance.
  - i) He stated opposition to the zoning chart and Mr. McMurray's interpretation of the case Gardner v. Boundary County. He contended the language of the ordinance in Boundary County allowed for any use even if it was not found on their chart which contradicted the Local Land Use Permit Act or "LLUPA". He said the chart was not supposed to be exhaustive of uses permitted by land owners. He said that in his letter they suggest language that could be used that also honors the Right to Farm Act and LLUPA.
  - ii) A second opposition was the appeal deadline being shortened as found in Title 10-3-4. He said the removal of deadlines allowed the County to respond indefinitely.
  - iii) Third was the surety options found in 10-4-6 and 10-5-6 removed all flexibility for developers and seemed unjustified. It removes all options for surety to only cash and increases the amount of surety from 125% to 150%. It benefits the County and not the tax payers, residents or applicants.
- c) Commissioner Beck made everyone aware that they are going to request a legal review of the case in question with Boundary County so that the Board is more educated on the issue.
- d) 10:29 AM Don Pickett Representing Pickett Ranch and Sheep Company. The letter submitted he said was on behalf of Southwest Irrigation rather than himself. He then submitted his own written testimony.
  - i) Mr. Pickett recited Idaho Code 42-201 (7), which delegates to the department of water resources exclusive authority over the appropriation of the public surface and ground waters of the state. No other agency, department, county, city, municipal corporation or other instrumentality or political subdivision of the state shall enact any rule or ordinance or take any other action to prohibit, restrict or regulate the appropriation of the public surface or ground waters of the state, and any such action shall be null and void. This was in response to the January 9<sup>th</sup> meeting in which Commissioner Beck stated the amendments were spawned from concerns about water in the County.
  - ii) He contended title 9-9-4I (7) and (8) were inconsistent with each other.
  - iii) Heart of concern is the chart found in 9-8-2. He requested the restrictive sentence previously pointed out be removed so as to allow for innovations in technologies and the creativity of farmers to achieve their goals in their pursuits.
  - iv) Brent Stoker and Randy Harris yielded 3 minutes each of their own time to help Mr. Pickett finish his testimony. Mr. Pickett read again Idaho Code 67-6529(1) - No power granted hereby shall be construed to empower a 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. Agricultural land shall be defined by local ordinance or resolution. He contended that the restrictive sentence found in the proposed amendment 9-8-2 is denying them full and complete use of their land. If there is an activity the Commissioners don't want to take place, simply list it on the chart and don't put a letter next to it.

- e) 10:40 AM Bart Thompson stated his biggest concern was a new dairy operation happening near his parents' place. He is concerned about the water usage and the natural springs found in the area are going to be contaminated. Other complaints brought forth were under the jurisdiction of either the City of Burley or Minidoka County.
- f) 10:44 AM Brent Stoker reiterated Mr. Pickett's concerns. He asked that the list be able to expand as technologies come about.
- g) 10:47 AM Randall Harris requested a constitutional analysis on any of the proposed changes. He argued the Planning & Zoning commission had no constitutional authority.
- h) 10:52 AM Tyson Nelson asked if a procedural error had occurred in that the amendments brought before the Board today had not been submitted to the Planning and Zoning Commission beforehand. Prosecutor Larsen stated 67-6509 (b) the Board had the authority to make decisions without the Planning and Zoning Commission's review. Mr. Nelson argued the notice was insufficient.

10:55 AM **Motion and Action:** Approve exiting hearing on amendments to zoning ordinances, taking under advisement the testimonies received, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member. Motion passed unanimously.

- 16) 10:58 AM Executive Sessions pursuant to Idaho Code § 74-206 (1) (b) - to discuss personnel matters and (d) - to consider records exempt from public disclosure

10:59 AM **Motion and Action:** Enter Executive Session pursuant to Idaho Code § 74-206 (1) (b) to consider personnel issues, Idaho Code § 74-206 (1) (d) to consider records that are exempt from public disclosure, Idaho Code § 74-206 (1) (f) to communicate with legal counsel regarding pending/imminently-likely litigation, and Idaho Code § 74-206 (1) (i) to communicate with risk manager/insurer regarding pending/imminently-likely claims, **Moved by** Kent R. Searle - Member, Seconded by Bob Kunau - Member.

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

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

11:42 AM Upon exit of Executive Session, the board took the matter under advisement.

#### **UNFINISHED BUSINESS ACTION ITEMS**

- 17) 11:42 AM Discuss water supply advisory committee
  - a) The time for the meeting set on 3/6/2023 was changed to 10:00 AM and was requested to allow for an hour for presentations.
  - b) Commissioner Kunau was asked to contact Mr. Rick Naerebout from the Idaho Dairyman's Association to represent the livestock industry's interests and participation on the committee.
  - c) As a point of clarification, the point of the meeting on the 6<sup>th</sup> is for them to give a forecast of water availability this upcoming season and if they foresee any negative impacts for their patrons. The water advisory committee won't be formed until that point.

**CASSIA COUNTY COMMISSION  
SPECIAL SESSION  
Tuesday, February 21, 2023**

- d) Mr. Heida also informed the Board of Raft River district's interest in being on that committee. Part of the loan agreement they are receiving from the state says that they form an irrigation district so that will come before the Board in the next several months as well.

18) 11:48 AM Review and discuss Lava Ridge resolution

- a) Mr. Kunau and Mr. Searle both expressed hesitation on signing the resolution just yet.
- b) It was also decided to have the Prosecutor's Office review the resolution for legal reasons. It will be put on the agenda for next week.

19) 11:54 AM Adjourn

11:54 AM **Motion and Action:** Adjourn, **Moved by** Kent R. Searle - Member, **Seconded by** Bob Kunau - Member. Motion passed unanimously.

APPROVED:

A handwritten signature in cursive script, appearing to read "Leonard M. Beck", written over a horizontal line.

Leonard M. Beck, Chair

DEPUTY CLERK OF THE BOARD:

A handwritten signature in cursive script, appearing to read "Cally Velasquez", written over a horizontal line.

Cally Velasquez

# SUMMARY CLAIMS APPROVAL REPORT INCLUDING BUDGET BALANCES

**BOTH UNPAID CLAIMS & DEMANDS GENERAL GOVERNMENT FUNDS**

**38% 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	1,888,023.56	6,772.42	3,349,874.44	64%
0002 ROAD & BRIDGE	579,720.00	198,482.72	345.32	381,237.28	66%
0006 DISTRICT COURT	374,120.00	128,326.78	70.00	245,793.22	66%
0008 JUSTICE FUND	12,291,405.00	4,560,475.93	56.08	7,730,929.07	63%
0016 SOCIAL SERVICES-ASSISTANCE	747,118.00	71,455.86	5,157.75	675,662.14	90%
0017 COMMUNITY COLLEGE	200,000.00	82,300.00	1,300.00	117,700.00	59%
0028 SNOWMOBILE	86,450.00	20,278.36	170.19	66,171.64	77%
0029 PHYSICAL FACILITIES	274,300.00	630,595.76	21,055.00	-356,295.76	-130% *
0048 EMPLOYEE BENEFITS FUND	3,621,490.00	1,093,440.75	44,280.37	2,528,049.25	70%
0061 COURT INTERLOCK FUND	5,000.00	2,080.00	65.00	2,920.00	58%
<b>Total Amount Paid</b>			<b>79,272.13</b>		


STATE OF IDAHO  
CASSIA COUNTY

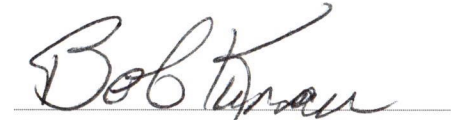
WE, THE CASSIA COUNTY COMMISSIONERS, BEING DULY SWORN DO HEREBY CERTIFY AND DECLARE THAT  
WE HAVE REVIEWED THE DEMANDS ENUMERATED AND REFERRED TO IN THE FOREGOING REGISTER, AND THAT THE SAME ARE  
TO THE BEST OF OUR KNOWLEDGE ACCURATE AND ARE JUST CLAIMS AGAINST THE COUNTY, AND THAT THERE ARE FUNDS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

APPROVED FOR DISTRIBUTION AS OF

2-27-2023

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

\* WARNING: This fund is over budget

# Cassia County Commissioner Meeting

1311 normal

## Attendance Log

Date: 2-21-2023

Bar Thompson

NAME (Please Print)	TOWN	REPRESENTING
1. Maria Brown		Committee
2. J. Thompson		CCSO
3. Pat Field	Albion	
4. Laura Greener	Burley	Treasurer
5. Leon Robinson	Burley	Self
6. Randall Harris	Burley	Self
7. George Warrell	Oakley	Sheriff
8. Kevin Horan		Sheriff's Office
9. Tommy Thelison	Elba	Self
10. E. H. Walker	Albion	Farms
11. Von Gibby	Burley	Valley View LLC
12. Ter Searle	Burley	Ward Dairy LLC
13. SHANE HOLT	Burley	Moo Mountain Dairy
14. Rob Wybenga	Oakley	Wybenga Dairy
15. Brent Stoker	Burley	Simply Natural Compost
16. David Neils	Palo	East Valley Cattle
17. K Wells	Oakley	Self
18. Pete Jones	Burley	Oak Valley Agriculture
19. Clancy Rogers	Oakley	Skyline Dairy
20. Connor Bosma	Oakley	
21. Logan Bosma	↓	↓
22. Justin Pray	↓	↓
23. Don F. Fickett	↓	Pickett Ranch
24. Ben Gibby	View	Gibby
Kelly Bowen	Dorley	BSG

# Cassia County Commissioner Meeting

## Attendance Log

Date: pg 2 of 2

NAME (Please Print)	TOWN	REPRESENTING
1. Craig Searle	Burley	Self
2. Bob Brown	Burley	
3. Zack Lanier	Rupert	Idaho Farm Bureau
4. Earl M. Allen	Oakley	Self
5. Justin Praegitzer	Oakley	Skyline Dairy
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		