



POWER COUNTY BOARD OF COMMISSIONERS

Meeting Minutes Commission Chambers 543 Bannock Ave. American Falls, ID 83211 www.powercounty.id.us

Monday, November 13, 2023, 9:05 a.m.

I. CALL TO ORDER

The Board of County Commissioners met in regular session Monday, November 13, 2023, and called the meeting to order at the hour of 9:05 am, in the Commission Chambers of the Power County Courthouse.

II. COMMISSIONERS/STAFF

PRESENT: Commissioner Ron Funk, Chair
Commissioner Delane Anderson
Commissioner Bill Lasley

ABSENT: Commissioner Anderson was absent until 10:30am
Commissioner Lasley left the meeting at 10:30am

STAFF: Sharee Sprague, Clerk
Mariano Villa Jr, Deputy Clerk
Cathy Miles, Deputy Auditor
Nate Cuoio, Legal Counsel

OTHER PARTIES PRESENT: Ryan Hill – NextEra Energy
Zairyk Schilousky – NextEra Energy
Andi Higgins – Building Administrator
Skyler Johns – Olsen Taggart

III. AGENDA

A. MOTIONS:

1. **Agenda:** A motion to approve the agenda for Monday, November 13, 2023, was presented by Commissioner Lasley with a second by Commissioner Funk. Commissioner Anderson was absent. Following audible call of the Board, motion unanimously carried.
2. **Landfill Surplus Truck:** Commissioner Lasley began by restating that originally, the appraisal for the trade in for the county pickup truck was below value. Because of this, the Commissioners wanted to formalize putting the truck up for bid and wanted it reflected in the minutes. In order to formalize it, Clerk Sharee Sprague stated that it needs to be published. Legally Counsel Nate Cuoio also agreed that it would be best that it be published. Commissioner Funk asked if a minimum needed to be placed on the vehicle. Commissioner Lasley stated that the minimum could be the amount Kelly Blue Book appraised it for. That minimum amount was \$10,620. After discussion the agreed minimum for the bid would start

at \$10,000. Mr. Cuoio then referred to Idaho Code section 60-106 that talks about advertising notice and it being supposed to be published no less than 10 calendar days prior to the auction. Clerk Sprague states that she can have it published in the newspaper on November 22nd so they can have it on the agenda for bids on December 11th. Clerk Sprague also states that the notice will be published on the County's website.

After discussion, Commissioner Lasley moves to surplus county vehicle, 2004 Dodge Ram R25 Pickup Truck; VIN#:3D7KU28D04G193953 and put to bid in order to remove it from the county inventory due to lack of county usage for it. Commissioner Lasley also includes to inform the buyer of issues with the front end of the vehicle, with a second from Commissioner Funk. Commissioner Anderson was absent. Following audible call of the board, the motion unanimously carried.

3. **Planning & Zoning:** Planning and Zoning Director Andi Higgins appeared before the Commission to discuss permits for large scale energy projects on private land. Ms. Higgins proceeded to inform the Commission that she has been receiving a high volume of calls for permits for solar facilities. As a result, the Planning & Zoning Board is requesting a Moratorium on commercial solar facility permits until they can update the County ordinance to properly govern such large projects and gather additional information on taxation. Commissioner Lasley followed up by asking when the Planning & Zoning board would like to have the ordinance in place. Ms. Higgins states that the board needed some time to be thorough and research what they felt needed to be in the ordinance but would like to have it in place and voted on and in their ordinances before a public hearing for the solar commercial projects. Commissioner Lasley states that May 13, 2024 is the furthest they can put a moratorium. Legal counsel Nate Cuoio stated that Idaho code 67-6523 provides that a moratorium may be effective for a period of no longer than one hundred eighty-two (182) days. He further added that because of this new technology, each county would be unique in setting its own ordinances. Ryan Hill from NextEra Energy Resources, began by stating that NextEra Energy Resources currently does not have any solar projects currently operating or under construction in Idaho, but that each county is different on this process. He further stated that they do have a conditional use permit for Power County for the land west of the Borah substation, it was not delineated by the County but there was an agreement that they would not interfere with any irrigated land in the county and are currently working with Lamb Weston to get in writing to cross their land. Legal Counsel Nate Cuoio inquired on the application from NextEra Energy with a response from Mr. Hill that it is for a 300 megawatt Solar and Storage Facility which they are then looking to extend the Federal Use Permit and possibly expand it, not by land mass but the ability to put more megawatts with the advancement and efficiency of new technology. Regarding the question on infrastructure and tying it to a substation, Mr. Hill that the location near the Borah Substation already has existing transmission infrastructure within that area. The difficulty is specific language with land zoned as agricultural but is not irrigated. They are willing to build infrastructure on pivot corners as long as they are not irrigating the corner of the fields. He further states that they have worked with tenant farmers and land owners to specifically design their facility's in order to work with their farm equipment (Clearance etc.). Mr. Cuoio asked how the farmer benefits from this, Mr. Hill states that they would sign a lease with Power County, which will then have a negotiated price per acre. In which NextEra pays the farmer a certain amount of money per year to not lease their land to anyone else to give them an opportunity to, if NextEra gets a new customer to then option their land to lease it for a solar facility. It normally is a 2 to 7-year option similar to a holding fee. Once building of the facility commences, whatever portion NextEra of the land they use for their facility is what they pay. The lease payment then increases significantly

and then there will be a negotiating on whether it be profit sharing structure or a percentage increase per year to match inflation. Mrs. Higgins then asked what happens to the tax base when it is either irrigated or dry farmland because once a utility is placed on it, they won't have the same tax based on it if it was agricultural. Mr. Hill responded by stating that NextEra is not classified as a utility they are a private company with private infrastructure on the land. In other states they get assessed what the increase value of their improvement on the land are which they then either pay that or go into negotiations in do a pay of lieu of taxes where they agree on an economic development plan or a price that they pay to the county. He further mentioned that it differs from state to state on how involved the state government is.

Commissioner Lasley then moved to put a moratorium on Power County's title 10-chapter 23 Solar Farms development code and any further projects until March 25, 2024 to be reconsidered until that time allowing Power County's planning and zoning, Building Administrator and Attorney to work and develop a better development code for the county's Solar Farms so it's better for Power County's residents and clearer for future projects with a second from Commissioner Funk. Commissioner Anderson was absent. Following audible call of the Board, motion unanimously carried.

Mr. Hill did inquire on an active special use permit that NextEra currently has with Power County for solar and storage facility's which is set to expire in April 2024. NextEra was asking for an extension date to what they currently have agreed upon. This extension will not involve expansion to any solar or storage facility's but just the date. For any future expansion, they will meet the new requirements of the new ordinance. A concern they have is that they don't want the permit to expire during the Moratorium and start all over again. After discussion on whether the moratorium would affect the ability for an extension and for any existing permits, it was agreed that an amendment to the motion was needed. The new motion is recorded as follows;

Commissioner Lasley then moved to put a moratorium on Power County's title 10-chapter 23 Solar Farms development code and any further projects until March 25, 2024 to be reconsidered until that time allowing Power County's planning and zoning, Building Administrator and Attorney to work and develop a better development code for the county's Solar Farms so it's better for Power County's residents and clearer for future projects with the exception that any existing permits continue moving forward effective if they are renewed and extended. Further any construction or planning that proceeds after the new ordinance is adopted will have to adhere to that new ordinance, with a second from Commissioner Funk, Commissioner Anderson was absent. Following audible call of the Board, motion unanimously carried.

4. **Election Canvass:** Clerk Sprague reported a voter turnout for the November 7, 2023 Election was between 7.5% for the cemetery race and 53.4% for the City of Rockland race. Clerk Sprague reports that although the cemetery race was decided by one (1) vote based on candidate activity she does not anticipate a recount for the Cemetery District; Precinct 3 polling location was moved to William Thomas Middle School, which she is working with the School District Superintendent to keep as the permanent location moving forward; there were 3 over voted ballots in precinct 4 that had to be thrown out, this was due to 3 instances where the voters voted for 3 people instead of the allotted two as described on the ballot, and 1 blank ballot was deposited in district 3.

Commissioner Funk wanted to discuss with Clerk Sprague about a call he received from a Power County resident who voiced her concern about there being no polling location at the

airport to vote for the Cemetery district. Clerk Sprague explained that the voter had stopped in the office expressing concern that she owned a plot at the cemetery but was not permitted to vote and it was explained to her that she had to live within the Cemetery District to be able to vote. The concerned resident advised that she understood explanation and was content with the provided answer.

With no further discussion, a motion to approve the consolidated election canvass for the November 7, 2023, election as reported was presented by Commissioner Lasley with a second by Commissioner Funk. Commissioner Anderson was absent. Following audible call of the board, the motion was unanimously carried.

5. **Contract for Prosecutor Services:** Clerk Sharee Sprague provided Justice Fund Prosecutor budget changes to accommodate contract expenditures versus having an elected prosecutor. Clerk Sprague reported that removing the budget balance for the Prosecutor salary and benefit lines created \$121,300.00 to be re-allocated to other lines for expenditure transparency. Clerk Sprague advised that a contract line (account number 0480-00) will need to be added to the budget to allow for the payment of the contract for services and advised better information will be available to adjustments in the next fiscal year. Clerk Sprague provided the following recommendations to transparent expenditures and tracking for this fiscal year;

	Amount	Transfer From	Transfer To
\$	300.00	08-03-0400-00	08-03-0480-00
\$	89,250.00	08-03-0401-00	08-03-0480-00
\$	6,422.98	08-03-0410-00	08-03-0480-00
\$	7,018.84	08-03-0411-00	08-03-0480-00
\$	1,2008.18	08-03-0413-00	08-03-0480-00
\$	2,000.00	08-03-0413-00	08-03-0439-00
\$	1,000.00	08-03-0413-00	08-03-0439-03
\$	2,975.00	08-03-0413-00	08-03-0528-00
\$	25.00	08-03-0416-00	08-03-0528-00
\$	300.00	08-03-0416-00	08-03-0559-00

Clerk Sprague advised that upon authorization to move funds by the Board, changes will be processed in the FY2024 Budget and solidified in Resolution No. 2024-01 to be executed at the conclusion of the current fiscal year. Following discussion, a motion to authorize the Auditor to transfer funds within the Justice Fund Prosecutor FY2024 Budget as reported was presented by Commissioner Funk with a second by Commissioner Anderson. Commissioner Lasley was absent. Following audible call of the Board, motion unanimously carried.

6. **U of I Extension Officer Budget:** A Memorandum of Understanding to promote and provide cooperative Extension Programs was brought before the Commission. After further discussion, a motion to accept the Memorandum of Understanding as proposed was presented by Commissioner Anderson with a second by Commissioner Funk. Commissioner Lasley was absent. Following audible call of the Board, motion unanimously carried.
7. **Airport Lease Agreement:** Commissioner Anderson began by stating that he had forwarded all lease information and square footage of the buildings for review to Legal Counsel Nate Cuoio. Commissioner Anderson also stated that they had agreed to approve the 15 cents per square foot on the leases. Clerk Sprague states that she will contact Nate to confirm the language in the agreement is correct. Following discussion, a motion to approve the airport leases as per square footage that has been submitted to Legal Counsel Nate Cuoio, to be billed at the rate of 15 cents per square foot, retroactive to January 1st until 2023, which is the due date, was

presented by Commissioner Anderson with a second with from Commissioner Funk. Commissioner Lasley was absent. Following an audible call of the board, motion unanimously carried.

8. **FY23 Audit Scope & Objectives:** Clerk Sharee Sprague presented the FY2023 audit scope and objectives from Deaton and Company confirming that with the exception of the inclusion of details regarding a single audit there were no substantive changes from last year’s form.

confirmed that it did stay the same with the. After no further discussion, Commissioner Funk moves to approve the Deaton and Company FY2023 Audit Scope & Objectives with a second by Commissioner Anderson. Commissioner Lasley was absent. Following audible call of the Board, motion unanimously carried.

9. **Claims:** Deputy Auditor Cathy Miles appeared and presented claims filed for payment. Mrs. Miles also asked the Commission regarding a claim for the museum book. Commissioner Anderson instructed Mrs. Miles to run a demand on the next report. Mrs. Miles also requested direction on a claim for Olsen Taggart PLLC. Due to there being a discrepancy this matter was tabled to a further date. Upon conclusion, a motion to approve the claims approval report in the amount of \$199,157.22 was presented by Commissioner Anderson, with a second by Commissioner Funk. Following audible call of the Board, motion unanimously carried. Upon approval of the Board, the summary of claims paid are as follows;

Fund	Paid
0001 GENERAL FUND (CURRENT EXPENSE)	\$26,873.35
0003 FAIR BOARD	\$250.00
0004 POWER COUNTY AMBULANCE DIST.	\$13,236.68
0006 DISTRICT COURT	\$3,910.11
0008 JUSTICE FUND	\$53,442.92
0009 DRUG COURT	\$2,781.20
0010 ENHANCED 911 SERVICES	\$1,741.25
0011 HEALTH DISTRICT	\$665.74
0015 ELECTIONS	\$10,517.72
0016 INDIGENT	\$3,454.87
0020 REVALUATION	\$12,707.78
0023 SOLID WASTE (LANDFILL)	\$43,018.35
0027 WEEDS	\$190.74
0038 WATERWAYS	\$848.86
0039 MUSEUM	\$19,309.94
0041 AMERICAN RESCUE PLAN ACT	\$845.17
0050 PAYMENT IN LIEU OF TAXES	\$4,922.14
0051 BOND - WATER RIGHTS	\$440.40
Total Amount Paid	\$199,157.22

10. **Building & Grounds:** Commissioner Anderson began by asking Clerk Sprague and Deputy Auditor Cathy Miles about the remaining balance on the invoice for Ralphs 208 Construction. The Commission were deliberating which fund they would use to pay the remaining balance for Ralphs 208 Construction. During the discussion, it was also agreed that funding for the fence on Whitnah Road will be paid out of 50-00-526 (PILT) to Affordable Fencing LLC. Commissioner Anderson noted that construction on the fence could not commence until a survey was done. It was also established that payment for the pumphouse and the slab were going to be paid out from 50-00-526 (PILT). Deputy Auditor Cathy Miles states that she spoke to Ron Anderson regarding the parking lot. Commissioner Anderson stated that Waterways

was going to pay for that out of their grant. After further discussion, Commissioner Anderson motioned to pay the remaining balance of Ralphs 208 Construction for the rehab of the new building that is reflected in the minutes of April 24, 2023, with the correction that it will be paid out of 50-00-526 (PILT) with a second from Commissioner Funk. Commissioner Lasley was absent. Following audible call, the motion unanimously carried.

B. POINTS OF ORDER:

1. **Clearwater Financial**: By consensus, the Commission tabled this matter to November 17th.
2. **Resolution 2023-17 Resolution Authorizing Fund Balance Carryover**: By consensus, the Commission tabled this matter to November 17th.
3. **Resolution 2023-18 Reserve Forgone Taxes for Abatement District**: By consensus, the Commission tabled this matter to November 17th.
4. **Resolution 2023-19 Appoint Contract Prosecuting Attorney**: By consensus, the Commission tabled this matter to November 17th.
5. **Sheriff's Update**: By consensus, the Commission tabled this matter to November 17th.
6. **Approval of Past Meeting Minutes**: By consensus, the Commission tabled this matter to November 17th.
7. **Museum Board Minutes**: By consensus, the Commission tabled this matter to November 17th.
8. **Personnel Update**: By consensus, the Commission tabled this matter to November 17th.

IV. EXECUTIVE SESSION:

1. **Executive Legal Advice Session pursuant to I.C. §74-206(1)(f) 9:48 am**: A motion to enter into executive session pursuant to I.C. §74-206(f), to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated was presented by Commissioner Lasley with a second by Commissioner Funk. Clerk Sharee Sprague conducted roll call on the motion;
 - Commissioner Funk, AYE
 - Commissioner Lasley, AYEFollowing roll call of the Board, motion unanimously carried. Upon conclusion of discussion, Commissioner Funk declared the meeting open at 10:09am.
2. **Executive Legal Advice Session pursuant to I.C. §74-206(1)(f) 10:46 am**: A motion to enter into executive session pursuant to I.C. §74-206(f), to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated was presented by Commissioner Anderson with a second by Commissioner Funk. Clerk Sharee Sprague conducted roll call on the motion;
 - Commissioner Funk, AYE
 - Commissioner Anderson, AYEFollowing roll call of the Board, motion unanimously carried. Upon conclusion of discussion, Commissioner Funk declared the meeting open at 11:04am.

V. ASSESSMENTS/CONCLUSIONS:

1. **Next Meeting**: The next regular session for the board to meet is slated for November 27, 2023
2. **Adjourn**: Having no further business to come before the Board, a motion to adjourn was presented by Commissioner Anderson with a second by Commissioner Funk.

Following audible call of the Board, motion carried and the meeting was adjourned at 11:59 am.

The foregoing minutes were approved by the Board of County Commissioners during the Special Board Meeting held December 18, 2023.

ATTEST:



SHAREE SPRAGUE, Clerk



COMMISSIONER FUNK, Chairman