

**JEFFERSON COUNTY COMMISSIONER MEETING MINUTES
FEBRUARY 13, 2023**

Meeting called to order at 9:00. Those present are Commissioner Clark, Commissioner Young, Chairman Hancock, Prosecutor Mark Taylor, Emergency Management Rebecca Squires, Clerk Colleen Poole; Audrey Moon is clerk of the board. Pledge of Allegiance led by Commissioner Young. Prayer offered by Chairman Hancock.

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ELECTIONS – CATHY DABELL

• **DESIGNATION OF POLLING LOCATIONS – MARCH 14, 2023 ELECTION – (ACTION ITEM)**

9:02:18 AM Cathy said these are the precincts for the March 14 election. Chairman Hancock said there are bond elections. Cathy said one bond and two levies. Chairman Hancock said polling places are same as normal. Have Annis, Clark, Garfield, Grant, Hamer, Labelle, Lewisville, Lorenzo, Menan, Montevue, Rigby 1, Rigby 2, Rigby 3, Rigby 4, Rigby 5, Rigby 6, Rigby 7, Rigby 8, Ririe, Roberts, Terreton and Absentee here at the courthouse. **(Exhibit A)**

9:03:16 AM **Motion by Commissioner Clark to designate polling locations for the March 14, 2023 Elections. Second by Commissioner Young. Roll call taken. Commissioner Clark – aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

COMPLIANCE – KEVIN HATHAWAY

• **UPDATE**

9:04:21 AM Kevin said he will need an executive session to discuss some legal cases he is working on. Not sure they need to act yet. Follow up on previous compliance complaints. Chairman Hancock asked if he has a report for him. Kevin said it is primarily the same he has mainly been doing follow-ups. If he receives a complaint that does not result in further action where it does not meet criteria for further action. Chairman Hancock said they would still like to see that list. Really like to know what is going on with letters. Commissioner Young said he is seeing letters that go out as violations are these being sent through Mark? Mark said no there was a template. Commissioner Young said he is a bit worried has seen a few but it is important that the letters are not ambiguous. Need to be careful with that so the county is not at risk.

9:06:47 AM Kevin said these are templates that have received input on these. Commissioner Young said they may want to see these. Commissioner Clark said when they send letters out this is what their meeting weekly is for so they know who the letters are being sent to so they are not blindsided. They do not have to speak about individual names. Need to be aware even if he could have a list of where these are going so if they get calls they know what the issue is. That is the importance of coming in on Monday to report on these activities. Kevin said most of these are initial contacts. A lot of these have not received any response. Felt it might be a waste of the time. Commissioner Clark said that is the reason he is added to the agenda is to report on his activities. Chairman Hancock said they do not have to have a legal issue just want a reason he sent a letter. Just something to look at. Otherwise when they get a call they do not know the issue. Kevin said if they received a letter its in response to a complaint and investigation of the complaint warranted a letter. Commissioner Clark said the requirement when he sends letters. Kevin asked if they want to see all the letters. Commissioner Young said he could email them. Commissioner Clark said they are not getting any information on reporting from him. Commissioner Young said he got waylaid a couple of times and saw one of the letters they were upset about. If he had known more of the particulars but had to be quiet because he did not know anything about it. They would like to have something to go on.

9:10:27 AM Kevin said that is another issue they are the appellant board. If they have knowledge during the entire process they would have ongoing involvement in the case. Basically, they will see in the letters the entire case. Commissioner Young said they have Mark to review these. Mark said they did work on a template but does not review each letter that goes out. Can if they would like him to. Chairman Hancock said the question is there a conflict for them to know what is going on prior. Mark said this is a quasi-judicial function. So, they are acting like a judge. They should only have the evidence from the hearing. If there is an appeal hearing this decision needs to be based on information from the hearing. Anything outside is ex parte communication and has to be disclosed. Is an awkward situation because there needs to be accountability without getting into specifics. There is a way he needs to be accountable without getting into specifics on things that can come in for an appeal. Just data and the reasons of violations. Some type of checklist. There are ways for him to be accountable without them getting into the details of the case.

9:12:39 AM Commissioner Young said he wants to make sure these are carried out in a legal fashion. If they have an actual hearing. Mark said in theory they meet weekly with Milton and Rob going over complaints. Has not reviewed the letters because he was not asked to. If they want him to review these letters he is happy to do this if they want. Is in the loop on the cases that are progressing toward litigation and those that are resolving. Have a checklist they go over. Does not see every complaint that comes in. Kevin said he gives Mark the ones that have not responded. This would be a timely issue. Does not want to waste Mark's time. Commissioner Young said the initial letter might not be as big of a deal. They had patrons that raised issues in a meeting on some letters. Kevin said he was on Zoom. If they are confronted about these issues may be more appropriate that they do not speak to them about this because it may conflict them from hearing this. Commissioner Young said that is what they do is they listen because there are always two sides to every story.

9:15:12 AM Commissioner Clark said they are getting off topic. They do not need a copy of every letter they just want some accountability. They want to know how many letters are being sent. Right now, they do not know what is going on. Unless he comes in and reports and then he is not really reporting on any activity if it's a first letter or a third letter. Want to know the complaints they are dealing with. Mark said this could be given

out as data without specifics of the case. Commissioner Clark said they do not need all the information on each individual. Right now, they have nothing to go off of. Commissioner Young said they appreciate what he is doing. Is getting feedback most of it is not pleasant but they are doing something. Commissioner Clark said it is nice to see what is going on.

[9:16:49 AM](#) Kevin has been pleased with the response. Have snow removal and watering the roads. These create various problems. Whole goal is they want people to realize there are standards that need to be followed that are not arbitrary. These are for safety issues for residents in the county. There are maintenance issues for the county. That is what he understands his job is. If the public confronts them about this and they respond with that broad overview. Chairman Hancock said they have had some people that are in violation when they call. Kevin said he does not go out and kick doors in. No swinging through windows on ropes. That is not his style. Does not view his role as someone creating hate and discontent. Trying to let them know there is a problem and help them. Commissioner Clark said the point is they need some reporting. Kevin said he doesn't mind that is just one more step. Is already busy with everything.

[9:19:22 AM](#) Chairman Hancock said the second thing if he is overwhelmed do they need to move the impact fees. Really need to move this along. Kevin said he just got an email from Rob that he has finished with his input. Thought this might be better to transition this at this point because they will have to proceed with public hearings. Give this to Milton at that point. Not sure he wants it that bad but will work with him on that and hope to see some progress. Chairman Hancock thinks if they get this to Milton it will be great.

SHERIFF'S OFFICE - SERGEANT LELAND SMITH

- **WATERWAYS - RECREATIONAL BOATING SAFETY (RBS) GRANT – (ACTION ITEM)**

[9:20:59 AM](#) Sergeant Smith said this time of year they have their RBS grant. Has a copy. Chairman Hancock said this is the one they normally get. Sergeant Smith said this is based on boatable acres, inspections, classes and their citations. Is a grant for \$6,640 and they match \$3,320 for a total of \$9,960. They do have the funds in their waterways account to cover this. Chairman Hancock asked about them having to move their boat pretty quick. Sergeant Smith said they will have to find a new home both boats and jet skis. The equipment out here in the back is yard equipment. Chairman Hancock said they have discussed adding onto that building. Sergeant Smith said there was some talk about another building. Been speaking with Mr. Anderson and they are okay but the time is coming. Chairman Hancock asked how much do they charge for storage? Sergeant Smith does not have that number. Would have to guess. Even with the charge but it's the fact with ambulances coming in they will not have the room. Chairman Hancock said the total amount is \$9,960.

[9:23:54 AM](#) **Motion by Commissioner Clark to approve the Recreational Boating Safety Grant for \$9,960. Second by Commissioner Young. Roll call taken. Commissioner Clark – aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

[9:24:42 AM](#) Chairman Hancock asked how much space would they need for storage. Sergeant Smith said the big boat is twenty-two feet. With the tongue trailer at least thirty feet. Will have the big boat, little boat and jet skis. Rebecca said they will probably need to move the Mobile Command Unit as well. Chairman Hancock said they would need at least four bays. Sergeant Smith said it is a need with the college growing but they get a lot of calls with boats that are coming through that are not actual residents. There is a lot of traffic coming down the river. Chairman Hancock asked how much patrol they do. Sergeant Smith said as many as they can. Sending out two they lost two waterways guys so they have two going to the next certification. There will be five people certified once they come back. Chairman Hancock asked if they have any divers. Sergeant Smith said they have six approved divers. Have the divers and waterways crew that work together. This money will help with that training in the water. Need to have two on a boat for safety at any given time. Get quite a bit of calls.

COMMISSIONERS

- **BUILDING UPGRADES – (ACTION ITEM)**

[9:27:46 AM](#) Rebecca said she has been working with Scott Nielson, Jill, Nicky and Judges in the Courts. Looking at an expansion for the courts. Think they are getting pretty close to a decision point to move forward with full design and send for bid or they move back and wait. Let those here speak for themselves. Thinks this is where they are at may have a few tweaks here and there. Chairman Hancock asks Jill to come up. Court Supervisor Jill McElligott said she has seen this. Opinion is this is the best option they have been presented with and they can grow with this. Not sure how long they can grow with this. Is really not positive how long but would handle an additional Judge. Chairman Hancock asked possibly ten years. Jill pleads the fifth she really does not know. Does not know how big the County will grow. Commissioner Young said they still have a visiting Judge area and a third Judge room. Rebecca said this adds a small office that is 6X8 that is more for a Clerk. This does expand the work area. Will expand the service counter from one to three. Chairman Hancock said that will go along the room. Rebecca said this will allow some security upgrades. Commissioner Young likes that this keeps them centralized better than anything else they have seen. Jill agrees with this.

[9:31:08 AM](#) Commissioner Clark asked if this gives them any extra work stations or will they fill them up now. Jill said they still have ten Clerks will be able to move them a bit apart to make better work stations. Chairman Hancock said they could have twelve if they had to. Jill said they have eight now squished in that room. This would be much better than it is currently. Will allow them to clean out their storage in the Jury Room which is helpful. Rebecca said is a twenty to thirty-year solution probably not but this is possibly a ten-year solution. Is listed as action item because they are at the point they push forward and go out to bid. Commissioner Young would like to see them go forward. Commissioner Clark agrees. Chairman Hancock agrees. The architect still has more work to do. Commissioner Young asked if they need to authorize that they continue.

[9:33:06 AM](#) Rebecca said Colleen might want to see as well. The Judges have had input on this. Spoke with both of them and the Court Clerks have been involved in the planning. The people that are using the space have weighed in. Jill said Judge Clark can come up if they need his input. Chairman Hancock said there will be lots of questions on heating and ventilation systems. Rebecca said that will be in the next step. Chairman Hancock said they will need to see if it is big enough. Commissioner Young does not see any structure issues. Rebecca said these will be where windows are now so the headers are already there. Notice they are pushing out to the north and west. Commissioner Young said HVAC will be a

question. Chairman Hancock would like to see electrical lines. Rebecca said that was put together where the big entry box was designed with this in mind. Colleen asked about getting into the election room. Rebecca said they will not be able to back in will be more of a tilt in. Colleen said as the building is going on they need to have access to the area at all times. Rebecca said they will preserve the action for the sallyport and the jail kitchen at all times as well. Chairman Hancock said they need to have NBW produce a final design.

[9:35:55 AM](#) **Motion by Commissioner Clark to approve NBW to provide a final design for the court addition. Second by Commissioner Young. Roll call taken. Commissioner Clark – aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

[9:36:24 AM](#) Rebecca asked if she needs to start looking at a shed. Chairman Hancock thinks they will have to.

- **APPROVE CLAIMS – (ACTION ITEM)**

[9:37:38 AM](#) Commissioner Young said the one he questioned he found out what it was. Chairman Hancock asked on Omni Security on building and grounds yearly door control for \$4,900. Might need to ask Travis. Seemed pretty pricey. Unless this was a new system. This was under building and grounds. Colleen wonders if this is annual fee. Chairman Hancock said that is a lot of money. Then Roto Rooter on cleaning out a p-trap. Commissioner Young said they might have used a power snake. Chairman Hancock said Omni one is for the City of Rigby. Rebecca said one is video system and the other was door locks. Chairman Hancock said this was about \$11,000. Rebecca said these were grant reimbursed. Chairman Hancock wanted to ask about \$800 to put a cord on a welder. Commissioner Clark said it depends how many feet. Commissioner Young said this is a special cord. Chairman Hancock has another for R&B on Jelly Belly change maker candies. There are two of these. Will need to ask Rob. Audrey provides the information on the claim for the doors on Omni. Chairman Hancock said this is air access for \$9 a month per door. This is pricey.

[9:41:46 AM](#) Chairman Hancock asked Rob on Jelly Belly change maker candies. Rob said he had them order this for a candy dish in the office. Commissioner Young said the Omni is the security system on the doors. Chairman Hancock said so that is just a candy dish. Commissioner Young asked on Creation Station they print annual passes. What did they do before? Commissioner Clark said Mitch has a \$4,500 panel. Chairman Hancock said this is for a 100-amp panel. Commissioner Clark is not sure what this is. Chairman Hancock said they cannot tell from this. Chairman Hancock said on the annual passes not sure how many are printed. Audrey said these are stickers still that Creation Station prints. Commissioner Clark asked on the American Rescue Plan had \$2,400 from CHP Logistics. Line haul final trailer. Rebecca said she is not aware of this. Commissioner Clark asked if this was trailers for R&B. Rebecca asked if this was coming out of ARPA. Did she buy the trailers out of ARPA? Need to tell her these things. If she does not have this tracked it causes problems with reporting. Really important that she knows these claims. Chairman Hancock said anything in the future out of ARPA needs routed through Rebecca. Commissioner Clark said that is all he had. Chairman Hancock said they will need to ask Mitch on the one. Asked Rob on hooking up the welder for the electrical. Rob said they had to rewire the connections. Had outlets in the shop for the welder that the new welder was not compatible with. Chairman Hancock said that is a pretty big job. Had five or six locations this can be plugged in. Rob thinks four. Audrey said on Mitch's claim the invoice just says 100-amp panel.

[9:48:04 AM](#) **Motion by Commissioner Clark to approve claims from 1/23/2023 to 2/9/2023 for \$450,976.01. Second by Commissioner Young. Roll call taken. Commissioner Clark – aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.**

- **APPROVE COMMISSIONER MEETING MINUTES – (ACTION ITEM) - CANCELLED**

[9:49:04 AM](#) Recess until 10:00

Open session 10:00

NEIL BROWN

- **PLANNING & ZONING ISSUES**

[10:00:53 AM](#) Milton said that they need to be aware that they do have an application in process with Mr. Brown. Chairman Hancock said they cannot discuss certain aspects. Milton said not only that but there is an appeal process if a person does not like a Planning & Zoning Commission decision.

[10:01:23 AM](#) Neil Brown said he does not know them other than Scott. Has lived in Jefferson County his whole life. Has had several businesses. Has done his part for Jefferson County. Has come before the Commission several times but it is usually to compliment them. The question is why someone that is a hard-working citizen of Jefferson County gets treated the way they do by the Planning & Zoning Committee that represents them. About a year ago came to the Planning & Zoning Office has a piece of property on the Archer Highway and 250 N. Wanted to subdivide eighteen acres. Been told by the county they had changed this to R-1 several years ago because that is where they wanted to have the growth. Without needing a zone change thought this would be a simple process. Received a packet and he hired an engineer who checked off the boxes. Got onto the schedule for the Planning & Zoning meeting. Go to the meeting and he was told he needed a traffic study and sewage deal. That is fine except why did they did not tell him this the first time. Why is he now in front of the committee and feels like they changed the rules? Had not been asked to do this the first time. Went back and got these studies for \$7,000 for two-hundred pages. Bring this back in and meet with Milton. Asked if this was going to be enough. Was told this would be. Asked if there was anything else to let him know. Did not want to come to the meeting and have something else. Get to the meeting and they read a last-minute letter from Road & Bridge stating he has too many approaches. Could have been notified of that but this was last minute. Then they read a last-minute letter from someone in opposition that complained about things. That letter referenced the letter that was from Road & Bridge. Milton had told him he would inform him of anything. Thought he would have been told about this when apparently the guy that opposed him was told. Does not like having the rules change every time. Just trying to find out.

[10:06:18 AM](#) Neil said that four approaches were too many for this subdivision. Across the property they have eleven approaches but he cannot have four on his side of the road. Feels like there is something fishy with the deal. After he got turned down at the first Planning & Zoning meeting went to Road & Bridge with this plan asking for issues and they looked this over and said it was fine. They even drove out and looked at the

corner. All of a sudden, it's not right. Will take another engineer. Rules are changing every time they come. Honestly, he does not appreciate Milton not notifying him.

[10:07:50 AM](#) Chairman Hancock said he appreciates his concern. They try very hard to let people know what they need to do. Knows it is costly when they find more things that need to be done. Milton is working hard to correct this. Does not know what information that was given out. Neil said maybe the guy knew the guy at Road & Bridge. Somehow, he knew before he did.

[10:08:40 AM](#) Milton said he is right to a point. The subdivision ordinance was recently re-written. Now have opportunities to send these notices to the agencies. Get comments back from agencies allow the applicant to respond. They are upgrading their processes to make sure applicants are aware of concerns. Not only from Road & Bridge but other agencies and neighbors. Are improving this. Does not suspect something like this would happen again. Would be best to speak with himself and Road & Bridge. The challenge the Planning Commission had they had the comment from Road & Bridge and then the private road access being limited to three lots. Needs to be talked through. They did not deny the application. Maybe there is no change maybe this really is the best scenario. There were four subdivisions and they asked all of them to do more. Was not the only applicant. Already had one in his office asking what they need to do to meet the requirements. There are two parts to a subdivision. There is a preliminary plat and a final plat with separate regulations on each one. The traffic study and NP study is only required for a final plat. There are two sets of rules for each section. This is all in the ordinance. Any person can read the subdivision ordinance and see all the requirements that are there. Assume the engineers and surveyors are aware of these rules and everything that needs to be completed for a subdivision but this is two phases. Updating these to make them easier to understand. This was not the only one they asked to do additional items.

[10:11:52 AM](#) Neil said they did not approve anything. Milton said two were approved with conditions that they fix things going forward. Neil said the one before him was 148 feet away from another road. Planning & Zoning Commission caught this that they would need a special permit. For some reason Road & Bridge did not catch that. Milton said they did. Neil said they did not have a response from Road & Bridge but they responded to someone that requested four accesses. If they keep updating the rules how do they keep up with all the changes? Chairman Hancock said this is based on the rules when they start. This is based on those rules. Neil said it does not feel that way. Chairman Hancock said that is the intent. As Milton has said they have discussed preliminary plats having a traffic and NP study. Felt it was unfair if they are not allowed to move forward they are out those fees. But could be required for the final plat. Neil asked Milton to let him know if there was anything else. Chairman Hancock thinks he would have. Rob said this was January 25. Milton said he is not sure why that did not go out. Was not working directly on that file. They should have notified him. This never used to happen. They were never notified in the past. Trying to get these processes in place to change the habit of the department to better communicate. This is a process. Neil asked if this process will be before or after his deal. Chairman Hancock said they are unsure why he didn't get this. Milton said what Planning & Zoning told him is what needs to happen. Need to sit down with Road & Bridge. Neil said he sat down with Road & Bridge already. Milton said those positions have been changed. Neil said this was already in play.

[10:16:10 AM](#) Chairman Hancock suggests to work with Rob and see what they can come up with and best fit this circumstance. Then once Rob signs off they take this back to Planning & Zoning Commission for a hearing and thinks this would be resolved. Neil said this is two or three months to get back on an agenda. Tabled everything from the last meeting. Chairman Hancock said that Milton is working hard to speed up the process. Neil said they should help development in the county and not stop it. Chairman Hancock said they are not trying to stop this. They are doing this for controlled development. Want to make sure they are doing this the right way. Realize he thought he had everything taken care of. If he could meet with Rob and Milton will put this back on as soon as he can. Commissioner Young said it sounds like this is close. Milton has been fixing these issues with the process. Has not been here very long neither has Rob. Neil felt good about working with Milton until he was not notified. Chairman Hancock said this sounds like an oversight. Is a man of his word and does not sound like this was intentional. Neil asked who Rob is. Chairman Hancock introduces Rob.

[10:19:14 AM](#) Prosecutor Mark Taylor thinks what they are seeing here they have seen numerous times. There is a misunderstanding on how government works. In the defense of Milton and Rob and any other county process this entire process is governed by law. These are published and they can read them. It is no county employee's responsibility to read or interpret the law and tell them how to follow them. That is legal advice they are not allowed to give. If they are trying to be helpful they need to realize this is their opinion. They are not the decision maker. The Planning & Zoning Commission is the one that will decide based on the law and what is brought to a hearing. Either may say it is good to go. Then it is turned down by the Planning & Zoning Commission. They apply the law to the facts. Too often the public wants legal advice from county employees. Then they are mad when this does not turn out the way they wanted. This is unfair to county employees who cannot give legal advice. In all fairness they need to understand the process and not ask people for more than they should be expected to do more than they can. They are not an attorney. This is their opinion and this needs to be understood throughout the process. Neil said they need an attorney to do anything in the county. Mark said they can read the law and do what they see fit. Could go to Milton and see how he would apply the law but he could be wrong. They could all be guessing wrong. The only people that know is the Planning & Zoning Commission that applies the laws to their case. Chairman Hancock said he sees the frustration but speak with Rob and come back to Milton.

PLANNING & ZONING – MILTON OLLERTON

• UPDATE

[10:22:24 AM](#) Milton has the permits from January. They are down a few. Chairman Hancock said they had thirty-five permits. Have a lot of solar permits. Milton said those door-to-door salesmen are really going to town. Commissioner Clark said they had five single family dwellings. Chairman Hancock said that is way down. It has been cold and the interest rates are up. Milton said he may need to speak about some of the files in executive session to get some legal advice on. Chairman Hancock said that is fine with them. Milton said they are interviewing for the Administrative Assistant to fill this position. Doing second interviews tomorrow afternoon. There Building Inspector should be back with a full release. Chairman Hancock said he has been working. Heard they had forty-seven applicants. Milton said they did. Commissioner Young said that is good. Chairman

Hancock said they should be able to get a good person. Milton said they are a busy office. March have four files on the agenda. Three files for April agenda already. Going to need to retrain the public on the subdivision process. Plat amendments do not have to go to Planning & Zoning Commission will be administrative. Will need to retrain the processes.

[10:25:18 AM](#) Chairman Hancock said back to Mr. Brown he knows they did not intentionally not send this information to him. Trying to let them know. Want the Traffic and NP Study after the preliminary plat so they do not spend the money. Milton will need to go back and look knows that they had the conversation on sending this out and knows these were sent out to other applicants. Not sure if this went to his right email. Will have to double check. This is something they are trying to get done sooner so they can react. Maybe they sent it to the surveyor and not applicant. This is part of the process they need to communicate what they get from folks.

[10:26:41 AM](#) Milton said the other thing they talked about Larimer County started the "Code of the West" this is guidelines for folks that are new to the area. Things to expect in a rural county. Move to a rural county because it is sexy then they are stuck with water coming from a hole in the ground. Chairman Hancock asked if he has this believes his wife has this. She was a Farm Bureau President for years. Milton said if there is one here they can just update it. Chairman Hancock said he will get that to him between him or Commissioner Clark because Alan may have it. Milton thinks this would help. Commissioner Clark said he has heard of it. Chairman Hancock said he can get this. Milton said they can print this off to hand out.

[10:28:42 AM](#) Commissioner Young said what the attorney said today was very good. On occasions with people coming in for subdivisions that they are just giving advice. They need to understand the rules right up front. Chairman Hancock said the Commission makes the decision. Can appeal it. Commissioner Young said if they know the rules upfront. Chairman Hancock said they are getting good suggestions. It is the Planning & Zoning Commission that will try and apply the law the best that they can. Trying to do the right thing the right way. Not trying to stop development.

[10:29:58 AM](#) Mark said it is not their jobs to navigate that process. Hopes he was appropriate there but gets defensive of their employees. Employees want to help the best they can they are trying to be helpful. They could have not been helpful at all. Chairman Hancock said they try and do the best they can. Milton said the price of progress is the pain of change. Commissioner Young said a lot in the county needs to be changed.

PUBLIC WORKS – ROB CROMWELL

- **UPDATE**

[10:30:56 AM](#) Rob said sorry for the delay but did get the impact fee calculations done and sent. Sent a copy to Kevin. The only part he did not complete is the narratives. Not sure if he does this or if this is left to BBC Consulting. Chairman Hancock said he does not know. Rob said he will get with Kevin to see if there is anything else.

[10:32:22 AM](#) Rob has been working on a replacement loader out at Circular Butte. With the cold weather most of the time they cannot get the loader started. At this time does not think the larger loader is in the cards. Went back to a CAT 950 or John Deere 644 something in that size range. Comparable size from Volvo is L110 or L120. Has a few used machines. Also has a Sourcewell quote for new machines on the back. Commissioner Clark asked for any quotes from CAT or John Deere. Rob said he does have one from John Deere for a 644 that is very basic. Same size as the 110 from Volvo. The G is the base model with nothing extra on it. Then have 644P this has load assist, joy stick controls and remote monitoring. This helps them diagnose issues. The basic one has a steering wheel and levers for the bucket. The two new models from John Deere were within \$10,000 of each other. This comes down to what options are available. Chairman Hancock asked on the XMG. Rob will see about getting a quote on that.

[10:37:39 AM](#) Chairman Hancock said went by a CAT dealer had over twenty loaders thinks it was in Pocatello. Rob wished someone from CAT would call him back. Call everyone at the same time. As things change he calls them all. Chairman Hancock said he has spoken to them about servicing them. Rob said their service department is great it's the sales. This is where he is at on the loader. Will bring something before the end of the month because that is when Sourcewell quote expires. Chairman Hancock said he may try CAT to see what is going on. Rob said he has been buying mainly John Deere but is trying to find the best option available. Tough to do that when they do not respond.

[10:40:35 AM](#) Rob said the rotary machine is limping along. It is on its last leg. This is for the snow. As an option to look at is one that goes on a skid steer. Not pushing into heavy stuff, they are using the grader to take snow from the side of the road and using the snow blower to put this out further. Chairman Hancock said they had some ten-foot drifts out on the westside. Rob wants to demo a skid steer snow blower to see if this would be an option. Requested a demo from CAT off of their national website to see if they are more responsive.

[10:42:29 AM](#) Rob said they are trying to come up with a priority list on equipment that needs replaced next budget year. Might want to look at putting in an order before too long so they are not so far down on the list. Commissioner Clark asked on trucks are they still a long way out. Rob said a year to eighteen months. Looking at three trucks for next year. With the additional subdivisions they have they almost need a fourth loader with a hanky to open these roads in the subdivisions. Coming up with that priority list. Out at Solid Waste will probably need a new dozer. The one they have does not perform the way they need it to. Not able to push. This is one of the methods they have for compacting and they are not getting the compaction they should. Commissioner Clark asked if they are still on top of the pile. Rob said they are into the new cell. If they drive on cell four can tell the compaction is not great. Commissioner Clark said this is hard to finish a cell in the winter. Rob said they will not close out this cell yet they may revisit it.

[10:45:59 AM](#) Commissioner Clark asked on any information on the distributor and truck that is coming. Rob said they are supposed to see this by May 15. Got a call from Tadd Jenkins last week and one of the two pickups has a March build date. Solid Waste is down a vehicle so may pre-order a pickup to replace the missing vehicle for next year. May want to order this now for delivery in the next budget. Chairman Hancock asked what is down. Rob said the red one that sold at auction Solid Waste was using. This goes out and fuels the equipment. Looking at replacing a pickup for sampling and the pickup that is used for sampling will put a slip tank in that. The pickup needs to be four-wheel drive in order to go out and refuel. Chairman Hancock wondered in operations if they need to bring the equipment in so they can plug it in. Rob said one of the purposes of the power

plants he bought is so they do not have to bring that equipment in. Can plug them into the light tower to keep them warm. Chairman Hancock said that is important on the big equipment. Rob said this spring will look at electrical service run out there so they do not have to run the power plants.

[10:50:11 AM](#) Chairman Hancock said he will come out and meet with him on a few things. Rob said talking with a metal building manufacturer will talk about both the transfer station building and what it would take and a new shop for Road & Bridge. Chairman Hancock said they have Iron Man, Steel Vision, Ultimate Steel Erection, Teton West and Titan just in this area. Rob has reached out to at least three of the listed ones. Will meet with all of them. Chairman Hancock said there are six local ones. Rob said Ultimate Steel has not called back yet. Sounds like they are really busy.

HR – REBECCA SQUIRES

- **EXECUTIVE SESSION 74-206 (B) – PERSONNEL – (ACTION ITEM)**

[10:52:10 AM](#) Motion by Commissioner Young to go into executive session 74-206 (B) - Personnel. Second by Commissioner Clark. Roll call taken. Commissioner Clark – aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.

Open session 11:30

[11:30:39 AM](#) Chairman Hancock said they discussed personnel items. Will now act on that discussion.

[11:30:48 AM](#) Motion by Commissioner Young to regrade employee #335 from a grade four step fifteen to a grade six step twelve. Second by Commissioner Clark. Roll call taken. Commissioner Clark – aye, Commissioner Young – aye, Chairman Hancock – aye. Motion passed.

[11:31:29 AM](#) Recess until 4:00 when they will have a work meeting on canal setbacks.

[11:31:49 AM](#) Rebecca reminds anyone that is still online they have Courthouse Procedures on Wednesday from 8:00 to 12:00 or 1:00 to 4:00.

Open session 4:00

COMMISSIONERS – PLANNING & ZONING – MILTON OLLERTON – CANAL BOARDS

- **WORK MEETING ON CANAL SETBACKS**

[4:01:14 PM](#) Chairman Hancock said they want to discuss changing an ordinance. Want to make it easier to determine setbacks for canals. Not every canal is the same. Need to see what is required. The canal companies have the best knowledge of what they need. Will turn some time over to Milton to give a synopsis of what they are looking at.

[4:02:04 PM](#) Milton said currently with canals the comprehensive plan guides how policies and ordinances are written in the county. Comprehensive plan that talks about canals. “Due to the varied nature of the Canal Companies and the extreme variation between different canal types, it is the intent of the County to have proposed development coordinate developments directly with adjacent Canal Companies, with regards to setback and other requirements. Reasonable setbacks should be negotiated by a developer in consultation with the local Canal Company that supports the company’s interest in maintaining unobstructed maintenance access and the protection of property. Access should be mutually negotiated by the developers and canal companies.” Interesting this paragraph is close to what state law says. Currently the canal setback require sixty-foot setback measured from the high-water mark to the edge of the structure. If it is a non-habitual structure then this can be allowed with discretion of a reasonable setback as long as they have canal maintenance. The last sentence does not indicate who determines the discretionary for a reasonable setback. So, there is no guidance on how this is supposed to be approved. This is a concern that has come up. Second that has come up is the sixty-foot setback appears to be quite a bit of property. See some of these break down into one acre lots. A sixty-foot setback and they have an eighty-foot setback from the road. Take a lot away from the property with these two setbacks. Becomes really small with both of these setbacks. In reviewing history in the county there are projects that are twenty-five feet from the canal. There were some that are twenty feet. Non-habitual structures that are as close as sixteen feet from a canal. They vary in all of that. The ordinance continues and speaks about elevated canal systems this requires an eighty-foot setback and lists the canals this relates to. Commissioner Young said they are not all there. Milton said this is good information too. Need to capture that. The waters of the Unites States are eighty feet away from the high-mark. As he looks at these questions come in it is easy to look around at similar counties and how they address this issue. They all address this differently. If the waterway is not moving is a smaller setback. With the waterways moving the way they are here this is typical of the setbacks. Can show the reasons why. The floodplain is associated often times with waters of the United States. Wetlands are associated with the waters of the United States as well. County has regulations on floodplain but waterway affect the county because a flood season can straighten and change these streams and rivers. Can obviously cause flooding. There are ordinances that address these. Perhaps the eighty feet is an accurate number for those waterways.

[4:07:58 PM](#) Milton said the statute pulled up that matched the comprehensive plan is a sentence out of Statute 42-1102 “The right to enter the land across which the right-of-way extends for the purposes of accessing, inspecting, operating, cleaning, maintaining, and repairing the ditch, canal, conduit, embankments, and irrigation structures, and to occupy such width of the land along the ditch, canal, conduit, and embankments as is necessary to properly perform such work with personnel and with such equipment.” They have looked at this the last few months with canal setbacks, building permits and land use permits. Someone said there was a state requirement of twenty-foot setback from all canals. If someone said it must be true. Looked at the statutes pretty close and could not find anything that said this. Says what the comprehensive plan says whatever is reasonable. Brought them to this point. Have folks that continually ask if they can build inside the setback and if they can how do they go about that. Puts the county at odds with the Canal Company because it leaves the County deciding for the Canal Company that they may not like. Do they leave this at sixty feet? Understands property owners’ concern that they cannot use this land. Understands the Canals and the concerns they have for the need for that setback. Have heard that in some instances sixty feet may not be necessary. These comments have brought this discussion to the forefront. One idea they started going down that road but took a step back. Had looked at having the property owner work with the Canal Company to determine what the setback is. Had one canal guy call and asked a really good question about what do they do if the canal is going through property is 100 acres and they are not building close to the canal. Have to wait for their building permit because of the

code change. Based on that comment it makes sense. They do not want to create a ton of work for the county or a Canal Company. In contacting Canal Companies using addresses registered with State Department of Water Resources. Not all of them have addresses registered. Trying to meet with them all was not possible. This meeting seemed the appropriate avenue. Neighboring counties that have canal setbacks as far as he can find none had a sixty-foot setback. Vary between fifteen to fifty feet. Some say work it out with the Canal Company. In those instances, it may be easier for those counties. Here there are fifty different irrigation companies. One idea is they could decrease the setback that is reasonable and then if the property owner wants to decrease this setback further the owner would work with the Canal Company to determine what this should be. If they put this in the ordinance the County does not have to issue a variance for the setback. Determine this is thirty feet they could change the ordinance to be thirty feet from any canal, unless approved by the appropriate Canal Company. Thinks doing something like that would solve both problems of the county trying to listen to the concerns of the public and also meeting the requirements and concerns of the Canal Company. Interesting to see other counties require more than we do. Example a subdivision required them to cover the canal or have it fenced. Does not know enough to understand this. Has lived on edges of canals. His point is there are lots of ways to address concerns. Today the discussion is do they leave the setback at sixty-feet and when do they bring in the Canal Company? Goal is they want to eliminate the need for a variance. The need for the County to approve variances the Canal Company does not agree with. Putting in the setbacks will be this amount unless the Canal Company agrees to the lesser setback. Will address variances.

[4:16:27 PM](#) Chairman Hancock said right now for example currently the setbacks are sixty-feet. Because of that someone went to a Canal Company and wanted forty feet if this is not a levied canal it would be up to the Canal Company to agree to forty feet. The individual has to then file for a variance pay \$450 and wait for a hearing to take place. Can do nothing with the property until this has taken place. This summarizes a scenario that has happened. Milton said to that point March and April Planning & Zoning Commissions are already full would be going into May.

[4:17:40 PM](#) Calvin Kinghorn 426 N 3700 E. Is on more than one Canal Board but on the Parks & Lewisville Canal they have a diversion where they have a split can drive pickups up there but the homes are right there. Last season was curious so grabbed the tape measure the house was fifty-six feet from the setback. Had to back up onto their lawn. They plant grass right up to the canal. Getting themselves in over their head. Stick with the sixty feet. Live and die by the sixty feet. House may be far enough but the grass is planted right up to it canal bank. They do not build the house and leave bare dirt. Chairman Hancock said that is a good point. As these subdivisions that come in these requirements that need to be addressed. Has same situations and have to back out to turn around because there is no room to turn around at a head gate or diversion. Really trying to put together an ordinance that addresses this but is not taking away from the people's property. Most of these are on personal property already. Cannot take away personal property rights but they need to have access and that is what state code says. As these subdivisions come they have a diversion with a major head gate where a subdivision is being developed they may need to add a turnaround. Then they can identify these. Have the Canal Company involved. Twenty feet may be fine for part of it but may need more in other areas. Feels like many of the subdivisions feel that the ditch or canal is an access to the dump. Dump animals and tree trimmings. Being sued for flooding someone when they threw clippings in this. Is aware and concerned. There are things they are doing. On plats will show there is a canal there and the easement so they know when they buy a lot. There is an easement with a canal there. Cannot build on this or run a fence along it.

[4:21:53 PM](#) Commissioner Young said this is not to get rid of the sixty feet but to get more involvement from the Canal Companies to see if the plats work. May need them to sign off on some of these with either the developer or the homeowner.

[4:22:24 PM](#) Kevin Walker 4101 E 400 N. Concern he has as Canal Companies they do not have any enforcement ability. The county holds a permit. They can ask them really nice. Unless he is mistaken they have no way to enforce a setback. Chairman Hancock said the attorney Miss Mortimer may have something to say with requirements with Idaho Code.

[4:23:16 PM](#) Michelle Mortimer is the Great Feeder Attorney and others that are here. There is a difference between a setback and easement. Setback is what the County can do saying they can build this here. The Canal does not have enforcement on the setback. They have enforcement authority on the easement for the maintenance, operations and access. Can say they have placed something such as a fence or shed in the easement because they cannot get equipment through. That is different than a setback. If a house is in the easement they cannot say they need to move the deck that is attached to the house. This becomes hard for a Canal Company where they built something they have no authority to tell them to move. They can only enforce the easement under 1102 because setbacks are under County jurisdiction. Need to hire an attorney on the issues with something being in the easement. Keeping the sixty feet setback for habitable structures then they only have to worry about the items within their easement. Milton said his question if they added language unless the property owner lessens this setback with the Canal Company. Not making Canal Company enforce the setback they just agree to a lesser setback. Chairman Hancock said they want the canal to make that decision. Want the canal to do this instead of the County doing a variance. Commissioner Young said they want them to have authority on these setbacks.

[4:26:13 PM](#) Luke Hicks 263 N 3600 E. Had not been made aware of any proposed setback. The new terminology that was presented and then cancelled in the last hearing process was land adjacent to a canal has to seek permission for a permit. There was not forty or a specific distance it was any property that touched a canal. Now mentioning forty. Chairman Hancock said that was just an illustration. Luke is curious and some of the questions when the hearing was presented they sought legal counsel to seek an opinion. Then the hearing is withdrawn and still stuck with the bill. If the County wants more involvement from the Canal Company they want more involvement from the County. The sixty feet came from a federal oversight. In 2008 FEMA was questioned about how thirty-three houses made insurance claims when the permits were very new. As they get closer to a waterway some of them know they have gravel as big as their head they know the water will transfer. The sixty feet was developed to help provide an under and over ground buffer. Allow the easements be large enough to turn around. This was all discussed with previous commissioners. The necessity to change this is understood. Mr. Ollerton said this takes a lot of property when they have one acre lots and have county roads and canals. Are they proposing to lower the setback on County roads? In the beginning the new language was reasonable discretion with the developer. Reasonable and developer cannot be used in the same paragraph. The sixty feet for everyone and finding opportunity for smaller canals or those that run below ground level very quickly. Where an agreement can be reached. If the variance is the process for the Canal Company

to take sixty feet and negotiate on anything less. Has rolled around many nights the last few months that the Canals and County is represented. Canal takes the sixty feet and, in some instances, allow for less property required. Did negotiate right on the Burgess twenty feet. Then the developer did not follow through to see how this unfolds. When the county creates these nuances, the discretionary idea. People take the opportunity for negotiation to not be forthright. So many challenges to place this on all property that touches a canal. This is a lot of property. The example came from himself that a property is one mile in length will have to seek Canal approval will burden them for something that is not required. Burgess is the largest entity size wise financially. They do not have full-time anything. Directors get a dinner. Secretary is paid at a low rate for the billing and the Water Master is paid for part of the year for water delivery. No skin in the game or the burden they place. These are county things they entrust the County to perform. The County hires staff and trains them to work in these areas. If the permitting burden from development is created by the County has resources and the Canal Company has little or no financial or man power for the burden it should stay with the county.

[4:32:58 PM](#) Chairman Hancock said he brought up a lot of good points. The biggest issue is if this is sixty or less they want to change the language wants to change to not have to provide a variance. Want the Canal Company to do this. Otherwise they have to agree with them then file for a variance pay \$450 and wait to have a hearing. Would like the canals to say if this is good or not. Does not have a problem with leaving this at sixty feet. Milton said not at all. Luke does not have an issue on case-by-case analysis. They do not want to have to have a variance that is their process. This is different than changing canal setbacks. Chairman Hancock said they want to find out. Luke thinks they can speed this up if the sixty feet remains and the hearing process became a permit or piece of paper the county has a sign-off does not think they want anything else created. How this is signed off on not sure they are concerned if this is a hearing process or a Board member authorizing this.

[4:35:19 PM](#) Milton said this paragraph that requires the sixty-foot setback add a sentence is a sixty-foot setback unless approved in writing by the Canal Board for a lesser setback. That means the owner or developer could go to the Canal Company to negotiate a shorter setback. Then the Canal Company can analyze this portion and sign off on the lesser setback. Then they would bring this back to the County and they would move forward. Would no longer have to have a variance. Luke said this does not sound as bad as what was initially proposed.

[4:36:24 PM](#) Stan Hawkins is here for the Harrison Canal and member of the Great Feeder Board. Do they know when this ordinance was adopted. Chairman Hancock thinks in 2007 or 2008. Commissioner Young believes this was 2006. Stan asked if they were Commissioners at that time. Chairman Hancock said no. Stan said all of the Great Feeder Board had Blair Grover hired to represent them and this was a hard-fought battle to get this ordinance in place because every time a subdivision was put in they headed to court. Did not matter what they did someone was mad. Could not believe they needed the room they did. It was a case-by-case combat. It was horrible. Had people doing stupid things for instance a person drilled a well right on the canal bank on the Enterprise and moved the house away. The canal overflowed and water went into the basement. They were off to court. If the well would have been further back that would have been solved. This does not speak to enough things in his opinion. Should be strengthened not weakened. Had several counties where he owns property that wish they had the same ordinance. Had several Planners say that. When the ordinance is considered the subdividers and developers show up and the fight is on. The world has changed. Seeing a lot of subdivisions and will see more. Thinks this needs strengthened not weakened. Twenty feet is not enough. Is disappointed that a Canal Company would ever go to twenty feet. The person that wants to be twenty feet will take the tape measure to the water's edge and they end up with sixteen usable feet. Twenty is not enough in most cases. As soon as one canal does the rest of the subdivision will request this. They do not have the time, manpower or budget to deal with all of these. Remind them Great Feeder had a tree that lobbed over they took the tree down and next thing they know they are in court. Attorney said they need to survey the property so they did find out the property owner did not own the property or the tree. Then the attorney came up with the roots went over to the property so there was still liability. This goes on and on. Insane some of the things they have to deal with.

[4:41:23 PM](#) Michelle said her comment was covered. Cannot remember but it was covered. Do want to mention that Mr. Hawkins is right. If more authority is given to the Canal Companies they will be taken to court because developers have more money and feel like they have the power. This is the only recourse they have. The County has more enforcement.

[4:42:08 PM](#) Greg Price 20 N 4000 E. Something that was brought up earlier on the plats are marking the canals. Would bring up the latest subdivision proposed on the Harrison the original plat did not show their canal. For Steel Water Ranch. They had to do some looking on the County parcel. Was not sure on the terrain. Had a letter sent asking for comment. The plat did not reflect their canal. Without foresight of Board members, they probably would not have been at the meeting if they had not noticed. The most recent one they saw was not. Chairman Hancock said they come for final approval and they watch for this as they approve these. Milton said this was preliminary. Greg said when do they decide this is getting real. Asked when they need to define this. Chairman Hancock thinks this needs to be on the preliminary. Will request that because that needs to be seen. Greg said they looked at a parcel map. It was not on the plat that was submitted. Chairman Hancock said they only see the final.

[4:44:15 PM](#) Calvin asked on the North Rigby where the structure got built within sixteen feet. Chairman Hancock said they have had numerous discussions on this. That was a major one. Had to apply for a variance.

[4:44:42 PM](#) Kevin said they thought this was a ditch so it didn't matter but these are all the same. Chairman Hancock is glad that is brought up. If they have an irrigation ditch that runs through property how do they maintain this. Has ton of ditches that go a mile before they hit his place to irrigate. Commissioner Young said this is something they need to look at. Chairman Hancock would like discussion because this is a concern. People come from out of state and have never had to deal with ditches or canals. Going to put the fence right along this and is flooding their backyard. Cannot fix it because there is not room. This is a concern.

[4:45:45 PM](#) Luke appreciates the ditch comment. Has the longest ditch in the Universe. Cal used to have this now he has it. The difference is they can discuss ditches and many of them would like to but the main difference the ditch is a private ditch that person has their ability with litigation. As Board members they are obligated by State Code to deliver water. The setbacks and easements are the burdens they face. The paperwork involved. The burden is placed on them but they are obligated to deliver water that is the crux why they cannot have this burden be too great to deliver water. The ditch owner going to court will fare better or be seen through the court process getting water to the land. These are canal boards.

If they are a ditch owner could buy the land or work with previous landowners or previous owners. Canal Company's must deliver water to shareholders and the obligation they have. They wish to continue this since before Jefferson was a County. There is area to discuss the ditches but wants to get canal situation settled because of those obligations. Some of them deliver water to 700 people. Each individual may have their own case-by-case landowner to deal with.

[4:48:38 PM](#) Chairman Hancock appreciates that the point he is trying to make is if they are correcting the ordinance it is nice to also help all portions of the deliver. Canals are very important and a solution there is easy. As they put in subdivisions they need to have an easement to clean these. Some of these canals are well established. When people put in subdivisions people dump their trash in the smaller ditch thinking it is not needed when they only run water one or two days. Need to strengthen both of these. If he cannot irrigate the land is worthless. Canal Company can deliver this to the head gate but is useless. If they want to strengthen this they want to do the entire ordinance.

[4:50:07 PM](#) Douglas Scott 3934 E 600 N is here for the West Labelle Canal. Is opposed to having these setbacks any less then the sixty feet and eighty feet on the elevated. They are to protect the homeowner as much as the canal. Have high subwater. This always leaks and brings up the sub table. As they are talking about canals last fall on the West Labelle have someone that built a fence through the canal to stop the tubers and does not want people floating down the canal. Have steel posts and wire fencing that has backed up all the trash. Go and look at this and they call the Sheriff who comes out against them because they do not know the rules either. Being charged with trespassing while they were trying to clean out the canal. Need to educate the Sheriff these are problems they run into in this county.

[4:51:51 PM](#) Stan Hawkins said a thought occurred maybe this building permit process could be changed. Knows of several violations on setbacks. This is when variances come up. On the Harrison had someone on County Line that got a building permit assumed they had to have a plot plan. Built their building and they violated the eighty foot from center line requirement and the canal setback both. Then immediately they came and asked for a variance. Question is doesn't the building permit process make them have a plot plan on where these will sit in relationship to the setbacks and giving them variances? Now every time someone builds an outbuilding they measures the same distance.

[4:53:19 PM](#) Milton said there is no doubt that this is a good conversation. The county this last year has upgraded the GIS mapping system to show all of the irrigation systems. Now Canal Companies will get notices if they have land use files. Can see which company these properties are in. Also, have named all of the canals so they know where they are on the mapping system. Is a lot easier for staff when reviewing a building permit and the applicant may call this a ditch they can verify if this is a ditch or a canal? Continually striving to upgrade and better themselves to prevent these errors. No fun for the Canal Company and really no fun for the County. Stan asked if they require a plot. Milton said yes, they require a plot. Stan asked if they state the length. Milton said not all of them show the canals on their plot. The applicant may just show the property lines especially if they are not experienced. Stan asked about making them identify canals and ditches so they are responsible. What can they do if someone builds within the setbacks.

[4:56:16 PM](#) Commissioner Young said this becomes an issue with a variance. First place they go to is the Canal Company. Canal Company needs to hold strong because then it makes it easier for the County to not approve it. Stan said if someone had to tear out foundation just once. Calvin said they have that right now at the North Rigby it is sixteen feet from the bank. That is why they are here. Chairman Hancock said that one is taken care of. In the answer they do require this and it is required for them to show canals. Do not always do it that is the problem. Being more diligent on looking at this. This is another issue a lot of the smaller ones are not placed on there. Stan asked before they build do they inspect the lot. Look for stakes and evidence of what is being done. Milton said they do not they do a foundation inspection.

[4:57:51 PM](#) Ty Scott 3721 E Menan Lorenzo Highway is part of the Long Island Canal. If the County does not have a setback set in stone the questions will always come to the Canal and if they do not back them up they will always lose. Commissioner Young said if they say no they will back this up. Chairman Hancock said they are trying to make this simpler without a hearing. If they need something different they have to go to the canals.

[4:58:54 PM](#) Carl Kinghorn 440 N 3600 E. Just has a question. Seems as though the Railroad rights-of-ways are etched in stone and no one messes with them. What do they have set in stone over us. Chairman Hancock will let the attorney answer that. Michelle appreciates the heads up on the question. These are set in stone because the Railroad has gone to the landowner and purchased the easement or land. The Canal Companies did not purchase any land so the easement is statutory. Have right to access and use but they do not own the land. The Railroad owns the land. Cannot build anything because they own this on deeds. On everything they can see. They have that protected and that is not how Canal Companies are. When the farmers dug these everyone was involved some got shares of water. The Railroad had the money and bought the land. They have case law and Railroad easements are as high as they can get. According to the State Planning & Zoning has the power for setbacks for roads and canals. Developers have to go to the County who says if they can or cannot do something.

[5:01:09 PM](#) Daryl Kerr 4861 N 44 E Idaho Falls. Appreciates the conversation. Already know he has a low IQ so need to re-emphasize a couple things. Does the County allow the canal to have sixteen feet? Chairman Hancock said this is in State Code 1102 that says they have the right does not state the distance. Daryl asked if the Enterprise could get at least sixteen feet. Chairman Hancock knows where he is going. Daryl said he needs to have this conversation was hauled in here for keeping water in the canal bank. Someone did not like him because he made their mother mad. Came in and had to take an excavator and tore out half the road. Pile was only ten feet wide. Guess his question is can the canal have at least sixteen feet. Chairman Hancock said there has not been an established width. Daryl asked why they are discussing this if they do not have an established width. Got pulled in because they had a ten-foot road on the bank. Now they want to protect everyone which is okay they just want the same protection. Milton said they are speaking about a setback for a structure not a road. This ordinance is for setbacks for habitual and non-habitual structures. Daryl asked if that is the case that is okay. In the same token if the canal is there before the road and they are delivering water getting beat up for maintaining this where they are a levied dike canal. Need to determine what fair is. Question is if they can work out a common boundary. Chairman Hancock said the problem they have to go back a lot of these roads were dug side-by-side in the 1880s. In the result of that they were not thinking about how wide the road needs to be and how far away these canals should be. These have evolved over time. Look at the Harrison it follows the County Line the road is right there at least ten miles. These are issues they will need to work with. Cannot solve it today but

can solve the setbacks. They can leave these and change some verbage to have everyone work together. Want the necessary input to make sure the Developers know what to do.

[5:06:06 PM](#) Ty said in the same example why would they make the setbacks smaller where they do not know what is changing in the future with roads getting bigger? Commissioner Young said that would be more of a Canal Company decision if they allow a lesser setback. Milton said as they look at subdivision development want to look at where roads are being developed next to canals.

[5:07:15 PM](#) Douglass has heard a lot of discussion. Would like to hear what the proposal is so they can say yes or no. Milton said he presented this in the beginning. Leave the setback at sixty feet add unless approved in writing from the Canal Board for a lesser setback. Thinks this would be the best way on this particular issue. Has made some notes on preliminary plat requirements need to make sure they have canal on there. Need to address ditches in their subdivision plats. Then roads in the subdivision plats. Then other things regarding subdivisions that need to be addressed that will come down the road. What would help is the availability of their information to send this out before he sends this out to the paper for a public hearing. The phone call from Luke widened his perspective and what he had researched needed that understanding. Give him what they think is best. Could have called him and they could have had this conversation and made these decisions. Luke appreciated talking to him. The knowledge they knew before was they had a hearing. Wanted a unified stance. Did hire Michelle for that. Did not have this step prior. This step means more in the beginning. Milton said they stopped this as soon as they saw there was a problem so it never went to a hearing.

[5:10:31 PM](#) Commissioner Young complements Milton they are going through everything because Jefferson County is growing. Need to start doing things better. This information is needed from the Canal Companies.

[5:10:57 PM](#) James Bazil 502 N 4300 E is representing East Labelle. They did meet as a Board and for the record they would like to keep the sixty-foot setback. Wanted them to know where they stand.

[5:11:33 PM](#) Michelle said she is hearing the sixty feet is going to stay if a variance is needed they need to go to the Canal Company to see if this is possible. If they do not agree the sixty feet stands. There is no question if they do not agree there is no way to get around that. Milton said the setback is sixty feet unless the Canal Company approves it in writing. They are not going to request a variance it is up to the Canal Company to agree to this. Michelle said they are asking them for a variance. Milton disagrees they are asking them to approve a variance. This requires a public hearing. Asking them if this is the appropriate location to have a lesser setback. Michelle said if the developer wants anything closer than sixty feet would need a written agreement and should be recorded with the county then there can be recourse. Milton thinks that would be good.

[5:14:04 PM](#) Luke said he was just commenting sixty feet setback and property owner would work with the Canal if they can have any less of a setback otherwise the sixty is what is used by the county.

[5:14:41 PM](#) Shane Shippen 715 N 3500 E is the Long Island President. Wants to be on the record for their canal they agree with what is being said. Agrees with what Michelle said on a variance if they say yes then everything is peachy keen but when they say no that is where the problems start. If they get the wording right they will not have to deal with so many problems. If they say no to someone it is like cutting their arm off. If they can defer that back to the County.

[5:15:36 PM](#) Calvin would like to reiterate this should have language that no means no it should stop the fight.

[5:15:53 PM](#) Holly Hancock 3849 E 200 N. With all the canal presidents here was looking at the GIS map. Milton said the one they use is not public facing. Holly said they still may want to check on the maps. One of their farms canals is not there and others are misnamed. Chairman Hancock said the one mislabeled is the Rudy Canal. Rebecca said they may want to clarify the parcel map online is not the one Planning & Zoning uses. Milton said the maps they use are not public facing.

[5:17:00 PM](#) Kevin mentioned there was an article in the paper agreeing to something. There is a difference between the Rigby Canal and the North Rigby Canal. Could have been a mistake by the paper.

[5:17:16 PM](#) Stan feels like they are moving toward a decision. Not clear in his mind what the problem is. Do they want to make sure they have more ground to use? Is opposed to that. If they want developers able to sell one more lot? I'm opposed to that. Want to make sure they all love one another. Sometimes they do not all love one another. Was late getting here not as late as Daryl but was there something in the introduction speaking about the year problem? Chairman Hancock said the biggest issue right now is the timeframe it takes. They have a landowner go to the Harrison Canal who cannot get a building permit they are fifty-five feet from the canal. Go to the President to see if they can get permission at fifty-five feet. Then they have to come back to the County and file a variance. Pay \$450 and then need to have a public hearing. Then they have Planning & Zoning grant that variance. Calvin said if there is a no then its no. Chairman Hancock said they can say no but there are some circumstances these can be different. Calvin said they have to make the decision does not understand why it cannot just be no. Chairman Hancock said an example wants a shop it is not habitable but is further from his house because of a drain field. May not hurt anything moving this five feet but they needed a shop fifty-five feet from a canal and have a drain field they cannot build over. Never flooded. Calvin said he wouldn't because he was told no because no is no. Feels they are trying to shift this back to the Canal. Milton said this is already there. For non-habitual structure may be allowed within sixty feet with discretion of a reasonable setback. The sixty feet is for houses. The deviation for non-habitable structures. Asking that this be expanded. Commissioner Young said some areas there are laterals at the end. Easy to maintain to a main road. Being sixty feet away is not always necessary.

[5:21:59 PM](#) Stan said when he commented on this and about it being strengthened with discretion of a reasonable setback to allow for cleaning the canal. What is reasonable? Milton agrees. Commissioner Young said this is in Idaho Code. Stan said reasonable to California is five feet. Just spent their life savings to buy a lot. Another area he thinks needs strengthen does not think it is reasonable to put a septic tank right along a ditch bank. Commissioner Young said that is the Health Department. Stan said they woke up one morning which a check plugged that went over a septic tank had their whole family there ready for a wedding. They were bedded down in the basement. Septic tanks and wells should not be next to canals. Milton asked on sixty feet. Stan said that is a good place to start. If they are tinkering with this ordinance they need some offsets too. One for him would be septic tanks and wells and anything else susceptible to water damage. Had one on County Line guy was a hound hunter. Neighbors

hated the dogs barking all the time. Dug a big pit and put the dogs in the ground and put straw bales around it. Guess what happened the next year. Dogs had to learn how to swim. The list goes on and on with the insanity. They want some offsets if they tinker with this ordinance.

5:25:26 PM Chairman Hancock said these are comments they want so they can do this better. Commissioner Young said they cannot fix California mentality. Chairman Hancock said they will send these drafts out to the canals.

5:25:50 PM Michelle knows there was not any proposed change to the eighty feet along the Great Feeder. Does want to say this should not change. They are protected by the State and Federal Government. Really need to watch that. Chairman Hancock said they will not be touching that or the Snake River. Luke understands Milton and his concern on the hearing process and added length that is created on these instances and the \$450. Those would not be the reasons he would use to change a working ordinance. They own the property and have all the time to build. The Jefferson County fee structure should never be used because they could change that at any time. The monetary is understandable for the landowner. They could charge a fee and the County can change their fee. Not sure monetary part should be a main player. In servicing these properties for ever one to three months is of no consequence.

5:27:57 PM Public Works Administrator Rob Cromwell wanted to address what was said earlier on the Enterprise Canal was a permeant structure that was built along a County road. Was constructed without a right-of-way permit. Had two accesses that were not permitted. Not sure what story was imagined to make them feel better. Has nothing to do with personal relations. Chairman Hancock said they will not get into this. Some of these canals have been in existence since 1880. As far as setbacks in summary they are not changing the setbacks. They may change the language to strengthen this ordinance and prevent instances where they have problems with setbacks and people building inside setbacks and canal banks. Still need to look at preserving the ditches as well.

5:29:32 PM Commissioner Clark agrees with what has been said. Agrees with the sixty-foot setback. As far as strengthening these as they look at this the twenty feet they have from the high-water mark that is something they could increase people's knowledge on that are buying lots so they know they do have the right to work on these canals. Is a bigger problem all the time as they are building different structures. Is a sixty-foot setback they are still building little things right on the bank. Need to strengthen these or make them aware that the canal has the ability to clean these. Also, have right to deposit material on these banks. Chairman Hancock said Planning & Zoning and Milton is working on information to hand out to new homeowners. Used to be a term Code of the West. Will update this and try to get this out to people. Will do their best on controlling these setbacks.

5:31:46 PM **Motion by Commissioner Clark to adjourn at 5:31. Second by Commissioner Young. All in favor – aye. Motion passed.**

Scott Hancock
Chairman of the Board

4/17/23
Date

Audrey Moon
Clerk of the Board

4/17/23
Date

Collin C. Poole
County Clerk

4/17/23
Date

